

Committee Meetings
& Correspondence May 89

MSA_S1832-59

Carol Rigg
PCO / D-4



JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING, D-4
ANNAPOLIS, MARYLAND 21401
974-2418 or 974-2426

SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

COMMISSIONERS

Thomas Osborne
Anne Arundel Co.

James E. Gutman
Anne Arundel Co.

Ronald Karasic
Baltimore City

Albert W. Zahniser
Calvert Co.

Thomas Jarvis
Caroline Co.

Kathryn D. Langner
Cecil Co.

Samuel Y. Bowling
Charles Co.

G. Steele Phillips
Dorchester Co.

Victor K. Butanis
Harford Co.

Wallace D. Miller
Kent Co.

Parris Glendening
Prince George's Co.

Robert R. Price, Jr.
Queen Anne's Co.

J. Frank Raley, Jr.
St. Mary's Co.

Ronald D. Adkins
Somerset Co.

Shepard Krech, Jr.
Talbot Co.

Samuel E. Turner, Sr.
Talbot Co.

William J. Bostian
Wicomico Co.

Russell Blake
Worcester Co.

CABINET MEMBERS

Wayne A. Cawley, Jr.
Agriculture

J. Randall Evans
Employment and Economic Development

Martin Walsh, Jr.
Environment

Ardath Cade
Housing and Community Development

Torrey Brown
Natural Resources

Constance Lieder
Planning

April 19, 1989

Dear Commission Member:

The next Meeting of the Chesapeake Bay Critical Area Commission is scheduled for May 3rd, 1989, at the Commission Office on West Street at 1:00 p.m. The Minutes of the Meeting of April 5th and the Agenda for the Meeting are enclosed. Also enclosed are items pertaining to the Meeting that you will need to review prior to May 3rd. These are:

- 1) Copy of a Baltimore County amendment;
- 2) Copy of a St. Michael's amendment;
- 3) Cecil County's Point System for Growth Allocation;
- 4) Project description for the Solomon's Island Boat Ramp Facility; and
- 5) Copy of a guidance procedure for the State Agency Regulations.

Remember that during the morning of May 3rd, the three Subcommittees will be meeting as follows:

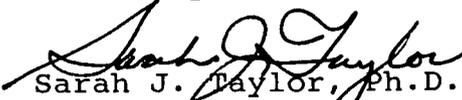
Subcommittee on Special Issues - 9:30 a.m. Sarah Taylor's office

Subcommittee on Project Evaluation - 9:30 a.m. in the Conference Room

Subcommittee on Program Implementation - 10:30 a.m. in Judge North's office

Please note that lunch will be provided. We look forward to seeing you on the 3rd.

Sincerely,


Sarah J. Taylor, Ph.D.
Executive Director

SJT/jjd

Enclosures

CHESAPEAKE BAY CRITICAL AREA COMMISSION

AGENDA

275 West Street
Suite 320
Annapolis, Maryland

May 3 1989

1:00 - 6:00 p.m.

1:00 - 1:10	Approval of Minutes of April 5, 1989	John C. North, II Chairman
1:10 - 2:15	<u>Program & Amendments</u>	
	Vote on Kent County Tax Amendment	Victor Butanis, Ch./ Charles Davis
	Discussion of Baltimore County Amendment	Charles Davis
	Discussion of St. Michaels Amendment	Charles Davis
	Vote on Somerset County Program (Perhaps) & Update	Tom Ventre
	Presentation of Cecil County Point System	Anne Hairston
2:15 - 3:00	<u>Projects</u>	
	Vote on Widgeon Pavillion (Dorchester County)	Abi Rome
	Update on Somerset Springs (Somerset County)	Tom Ventre
	Presentation of Solomons's Island Boat Ramp (Calvert County)	Robert Ellsworth, Waterway Improvement Division, DNR
3:00 - 3:15	Break	
3:15 - 3:50	<u>Policies & Procedures & MOUs</u>	
	Vote on Procedure Guidance Paper for State Agency Projects	Abi Rome
	Presentation with Possible Vote on Septic Policy	Sarah Taylor
	Update on Agriculture MOU	Abi Rome/ Louise Lawrence

3:50 - 4:30 Subcommittee Updates

Project Evaluation

Kathryn Langner, Ch./
Sam Bowling, Ch.

Program Amendment

Ron Karasic, Ch.

Special Issues

James E. Gutman, Ch.

4:30 - 4:45 Legal Updates

Lee Epstein

4:45 - 5:00 Housekeeping
next meeting
cards
Judge Liss Memorial

Sarah Taylor

5:00 - 5:30 Old Business

John C. North, II
Chairman

New Business

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
April 5, 1989

The Chesapeake Bay Critical Area Commission met at the Chesapeake Bay Critical Area Commission Office, 275 West Street, Annapolis, Maryland. The meeting was called to order by Vice-Chairman Price with the following Members in attendance:

Samuel Bowling
Wallace Miller
Victor Butanis
William Corkran
Ronald Adkins
William Bostian
Ronald Karasic
J. Frank Raley, Jr.
Robert Perciasepe of DOE
Robert Schoeplein of DEED
Acting Secretary Kreitner of DSP
Secretary Brown of DNR

Thomas Jarvis
Kathryn Langner
G. Steele Phillips
Russell Blake
Shepard Krech, Jr.
James E. Gutman
Albert Zahniser
Ronald Hickernell
Parris Glendening
Louise Lawrence for
Secretary Cawley

The Minutes of the Meeting of March 1st and 2nd were approved with the correction of adding Robert Schoeplein to the list of attendees on March 1st.

Dr. Taylor announced that a memorial service would be held honoring Judge Solomon Liss on April 10th, at 3:00 p.m., at the Court of Special Appeals, Courtroom #1, and that all were welcome to attend.

Vice-Chairman Price asked Dr. Krech, Panel Chairman, to report on the Program for the Town of Church Hill. Dr. Krech reported that the Town had no plans for expansion. He said that the Program was basically the Commission's "generic program", and that the Panel recommends approval. Ms. Hairston added that the Town held its hearing in January, and that the Program was ready for vote.

A motion was made and seconded that the Commission, pursuant to the Critical Area Law, Section 8-1809(d), approve the Town of Church Hill's local Critical Area Program, and direct that pursuant to Section 8-1809(e), within 90 days, the Town shall adopt the Program together with all relevant ordinance changes. The vote was 21:0 in favor.

Vice-Chairman Price asked Ren Serey to report on the Town of North Beach. Mr. Serey reported that the Town had made all of the Commission's requested changes. He said that all of the Town is IDA, with small sections of the northern portion being undeveloped land with adjacent wetlands. The Town had held its public meeting, and the Panel now recommends approval.

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A motion was made and seconded that the Commission, pursuant to the Critical Area Law, Section 8-1809(d), approve the Town of North Beach's local Critical Area Program, and direct that pursuant to Section 8-1809(e), within 90 days, the Town shall adopt the Program together with all relevant ordinance changes. The vote was 21:0 in favor.

Vice-Chairman Price asked Mr. Serey to report on the Program for Charles County. Mr. Serey reported that there were a few items that the Commission had suggested the County should change. The County had since made those changes, and the Panel thought the Program to be a good one.

A motion was made and seconded that the Commission, pursuant to the Critical Area Law, Section 8-1809(d), approve Town of Charles County's local Critical Area Program, and direct that pursuant to Section 8-1809(e), within 90 days, the County shall adopt the Program together with all relevant ordinance changes. The vote was 21:0 in favor.

Vice-Chairman Price asked Mr. Serey to report on the Program for St. Mary's County. Mr. Serey reported that the Panel had met to discuss several outstanding issues. He said that the County had developed a set of maps, and the staff had developed its own set. He is now meeting with the County to resolve the differences.

Mr. Gutman, Panel Chairman, added that there had been good communication between the staff and the County, and that the issues are well understood. He said that the development stage had been a difficult one, and the Panel members are anxious to bring this Program to a swift and satisfactory conclusion.

Mr. Epstein asked if the current review was of the County's Program or the Commission's "generic program". Vice-Chairman Price answered that the Commission had taken-over the development of the County's Program some time ago. Mr. Serey said that the County had made significant changes in the text. The Panel will be deciding whether to use the County's Program or the "generic program" and will continue to work with the County, at the next Panel meeting. ✓

Vice-Chairman Price asked Charles Davis to report on the Program for Talbot County. Mr. Davis reported that the County had submitted its changes to the revised Program in February. He said that at the last Commission Meeting, the Panel met to review these changes and had concerns regarding the clarity of language, and the way that the Program described the full use of the 5% Growth Allocation. Mr. Davis explained that while the County may

ultimately qualify for placing more than 2 1/2% of the growth allocation in Resource Conservation Area, the Commission staff and Panel believed that it is premature to approve its use now, since opportunities exist to use that portion within existing Limited Development Areas. The County should resubmit its request to the Commission when it is unable to utilize a portion of its growth allocation. He said that the County had made all other changes requested by the Commission and staff.

Mr. Gutman, Panel Chairman, added that the Panel believes the Program, as a whole, is a good one, and that it satisfies the intent of the criteria.

A motion was made and seconded that the Commission, pursuant to the Critical Area Law, Section 8-1809(d), approve Talbot County's local Critical Area Program, subject to the County's agreement to make a final change of eliminating and revising as necessary, those portions of the Program (both the Plan and Zoning Ordinance) that allow the use of more than 2 1/2% of the growth allocation within the Resource Conservation Area, at this time, and direct that pursuant to Section 8-1809(e), within 90 days, the County shall adopt the Program together with all relevant ordinance changes. The vote was 20:0 in favor.

Vice-Chairman Price asked Tom Ventre to report on the Program for the City of Salisbury. Mr. Ventre reported that the City's Program was returned last September for changes. In February, the City Council took action to adopt and forward the Program to the Commission, with the Commission's recommended changes. The Panel recommends approval of the Program.

Mr. Ventre also noted that the City's Program is closely tied, particularly with regard to its implementation, to Wicomico County's Program. The County Council had just taken action to incorporate the Commission's suggested changes, and will be re-submitting the Program to the Commission.

Vice-Chairman Price asked if the City's and County's planning office was the same. Mr. Ventre answered affirmatively.

A motion was made and seconded that the Commission, pursuant to the Critical Area Law, Section 8-1809(d), approve the City of Salisbury's local Critical Area Program; and direct that pursuant to Section 8-1809(e), within 90 days, the City shall adopt the Program together with all relevant ordinance changes. The vote was 21:0 in favor.

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Vice-Chairman Price then asked Mr. Ventre to report on the status of the Program Amendment for Dorchester County. Mr. Ventre reported that the Commission had received a request for approval of growth allocation for a four-lot subdivision, and to approve the reclassification of 28.2 acres from RCA to LDA in the Dorchester Critical Area. The Panel held a public hearing in Cambridge based on this request. He said that subsequent to that hearing, the Panel discussed the matter. The consensus was to recommend to the Commission, approval of this growth allocation.

Mr. Schoeplein added that the County was very cooperative, and agreed to continue to work with the Commission staff and Panel on the design of the project.

Mr. Epstein asked if this recent growth allocation approval met the habitat protection requirements? Mr. Schoeplein answered that there were no habitat protection issues.

Vice-Chairman Price remarked that it was his understanding that this development proposal was grandfathered as a growth allocation amendment, and that the Panel conducted this hearing on the growth allocation request. Subsequent thereto, the Dorchester County Planning Commission would consider approval of the subdivision of that LDA land, at which time the Commission would receive the detail necessary on the project and could intervene if needed on project design. He said that the locational requirements in the criteria were not to be considered in regard to the 19 interim subdivisions. The Panel did discuss with Mr. Dodd the possibility of the County Commissioners merging the remaining interim subdivisions into one amendment process and hearing by the Commission.

A motion was made and seconded that the Commission, pursuant to the Critical Area Law, Section 8-1809(g) and (h) approve the Dorchester County Critical Area Program Amendment, and direct that pursuant to Section 8-1809(e), within 90 days, the County shall adopt the Program Amendment together with all other relevant map or other changes. The vote was 21:0 in favor.

Vice-Chairman Price asked Mr. Ventre to report on the status of Somerset County's Program. Mr. Ventre reported that progress had been slow, but that some progress had been made. He said that he will be meeting with the County to discuss the remaining issues of growth allocation, and that hopefully, there could be a resolution by the next Commission Meeting.

Vice-Chairman Price then asked Abi Rome to report on the Sandy Point State Park redevelopment plan. Ms. Rome said that the Boat Ramps and Marina Panel had met and had a site visit of

the South and East Beaches proposed for redevelopment. The Panel recommended approval of the project with conditions. On the South Beach: 1) that the grading indicated next to the ball field at the southern end of the site be restricted to areas outside of the Buffer; 2) that an infiltration trench be installed next to the nearby play court/ice skating area to treat runoff; 3) that the small parking lot on the east side of the site be surfaced with permeable material. On the East Beach: that the revised plan which locates non-water-dependent structures (i.e., picnic pavillions, play courts, etc.) out of the Buffer, be implemented. She said that the final design plans should be submitted to the Commission when available.

Mr. Zahniser added that the stormwater management devices for the new parking lots should treat the runoff for water quality, and not just runoff quantity. He said that the Panel recommended approval of the redevelopment with these conditions.

A motion was made and seconded that the Commission approve the redevelopment plans for Sandy Point State Park East and South beaches, with the Panel recommended conditions. The vote was 19:0 in favor.

Vice-Chairman Price asked Kay Langner, Panel Chairman, to report on Queen Anne's Park at Port America. Ms. Langner reported that the MNCPPC requested Commission approval of an access ramp (Ramp 1-A), access roads related to Ramp 1-A, and a stormwater management facility in the proposed waterfront park at the Port America site. She said that the Panel had made a site visit to the proposed project, and recommended approval with the following conditions: 1) that water quality treatment shall be provided for all stormwater runoff from Ramp 1-A and related access roads to the ramp and to the Visitor Center; 2) that runoff from the east side of Ramp 1-A should be directed to the north of the ramp and be infiltrated; 3) that runoff from the west side of the ramp should be collected and discharged out of the Buffer to the east of the ramp near the parking lot, and that infiltration is the preferred method of treatment; 4) that the MNCPPC shall conduct a forest stand assessment. Planting and reforestation shall be provided to the minimum distance which the State Highway Administration requires as cleared area. Planting shall conform to the minimum standards for forest cover as provided by the National Forest Service; 5) that sediment controls during construction shall exceed minimum standards, to provide Buffer protection; 6) that there be a letter from the State Highway Department stating there is no other feasible solution than to place the one road in the Buffer; and 7) that the staff review final stormwater and sediment design plans, and 8) That the final letter of approval be reviewed by Lee Epstein.

Mr. Steve Lotspeich of MNCPPC, explained by use of map, where the access ramps would be placed, and described their size and design. He said 400-500 linear feet of Buffer area will be lost, but the majority of the ramp is outside of the Buffer.

Mr. Gutman asked what mitigation would be provided for the loss of the Buffer. Mr. Lotspeich answered that the lost forest cover would be mitigated as part of the forest mitigation for the park plan tract at a 3:1 ratio. He said that because the on-site reforestation will not be adequate to compensate the loss, off-site reforestation is planned.

Mr. Gutman asked if the final details of the plans, especially concerning the water quality treatment and sediment control in the Buffer, could be submitted to the Commission staff for final review. Mr. Lotspeich said that that would be possible.

Secretary Brown asked if the developers were in concurrence with the Commission's conditions. Mr. Serey answered affirmatively. Secretary Brown noted that the developers, during the development process, have been extremely cooperative and environmentally considerate.

A motion was made and seconded that the Commission approve items 1 through 3, as listed on the Panel Report of the Queen Anne's Park Project, subject to the six stated conditions, and that the conditions that staff review all final plans, inclusive of the letter from the Highway Department, and Mr. Epstein's review of the letter of approval be included in the approval. The vote was 21:0 in favor.

Vice-Chairman Price asked Ms. Langner to report on the Queen Anne Fishing Area at Patuxent River Park. Ms. Langner reported that the MNCPPC proposes to provide parking and picnic facilities at an existing fishing area on the Patuxent River. She said that the Panel recommends approval with the following conditions: 1) that facilities be kept out of the Buffer to the extent possible; 2) that gravel or porous brick be used for the parking area; 3) that stormwater should be managed for water quality treatment. Infiltration should be used if possible; 4) that there should be no improvement or use of the old road, other than for pedestrian use; and 5) that replanting should be according to the applicant's plans as submitted.

Mr. Serey added that the Panel Chairman was concerned that the MNCPPC coordinate all of the archeological inventories with the Maryland Historical Trust, and this has since been done.

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Vice-Chairman Price asked Ms. Langner if these conditions were agreeable to the MNCPPC. Ms. Langner answered affirmatively.

A motion was made and seconded that the Commission approve the Queen Anne Fishing Area project inclusive of the conditions 1 through 5 of the Panel Report. The vote was 21:0 in favor.

Vice-Chairman Price then asked Ms. Langner to report on the Canoe Launch Area at the 4-H Center in Patuxent River Park. Ms. Langner reported that the MNCPPC proposes to upgrade the existing canoe launch area at the 4-H Center, because the site is undergoing severe erosion. The Panel recommends approval with the following conditions: 1) that stormwater should be managed for water quality treatment and that infiltration should be used, if possible; 2) that motorized vessels shall not be permitted to use the facility, except for emergency or regulatory use; 3) that the facility shall not be upgraded to accommodate motorized vessels; 4) that any future restroom facilities shall be located out of the Buffer; 5) that no jet skis or sleds be used in the area.

Mr. Hickernell said that he did not feel the exclusion of jet skis or sleds was a matter upon which the Commission should comment.

Secretary Brown stated that he thought prohibition of jet skis and sleds may be beyond the jurisdiction of the Commission.

Mr. Zahniser answered that the Panel was concerned about the erosion of the shoreline, disturbance of the nesting area, etc. He said that it was the Panel's finding that this area of the Patuxent is fragile and needs to be protected, and if it became a launching ramp to which motorized vessels were allowed access this close to Washington, DC, it might be quite heavily used. The Panel's precedence for this was disapproval of a rather large launching facility at Prince George's Island in St. Mary's County, because it was located on the upper reaches of a relatively fragile creek.

Mr. Bowling added that the serenity of the site would definitely be disturbed by motorized vessels and jet skis.

Secretary Brown said that he was in agreement with the intent of the prohibition, but did not feel that it was within the Commission's jurisdiction to prohibit jet skis.

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Mr. Lotspeich explained that this site is intended as a canoe launch, and the intent is to have it remain so in the future. The launch is not designed for launching boats, especially with trailers.

Mr. Adkins suggested that, instead of making the prohibition of the jet skis a condition to the approval, the Commission make the prohibition a recommendation, because of the sensitivity of the river.

Acting Secretary Kreitner said that since the submitted project is intended to be a canoe launch and limited to non-motorized vessels, the Commission should not repeat those restrictions in the form of conditions.

A motion was made and seconded to approve the Canoe Launch Area project at the 4-H Center as submitted, with the inclusion of Conditions 1 - 5 of the Panel Report. The vote was 10:8 opposed. The motion was defeated.

A motion was made and seconded that the Canoe Launch project be approved as submitted, with the inclusion of Conditions 1 and 4 only.

Mr. Epstein asked what the difference was between Condition 4 and 3 in regard to time-frames. Mr. Bostian answered that Condition 4 allows future development outside of the Buffer, without necessitating a review by the Commission.

A call for the question was requested. The vote was 14:5 in favor.

Vice-Chairman Price asked Ms. Rome to report on the status of the Cambridge State Marine Terminal project. Ms. Rome said that redevelopment was proposed for the Marine Terminal to replace the bulkhead and extend the timber pier. The question had been raised by the Commission as to whether this site was in the Critical Area and required Commission review, because the City of Cambridge had excluded the waterfront from the Critical Area. She reported that the finding was that the project location was not in the Critical Area, and therefore, not an issue the Commission need consider.

Vice-Chairman Price asked Mr. Steve Lotspeich, MNCPPC, to present the Magruder's Landing Boating Facility project. Mr. Lotspeich gave a brief explanation of the existing conditions of the site and the intent of development of the project. He said that the proposal is to upgrade the existing boat launch facility to provide improved and safer public access to the Patuxent River

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and that the area is heavily used, primarily by fishermen. Mr. Lotspeich also noted that the project will also correct existing erosion and sedimentation problems, and prevent future sedimentation of the river from this location. He said that the proposed development has been designed to minimize adverse impacts to the Critical Area, especially the 100-foot Buffer, and that the mitigation is intended to exceed the minimum requirements for forest replacement and stormwater management.

Vice-Chairman Price then asked Ms. Rome to introduce the proposed Sludge Permit Application, Hohensee Tract project. Ms. Rome reported that this was a project proposed by the City of Bowie, affecting a site in Prince George's County to deposit sludge along the Patuxent River in the Critical Area. The Commission staff had decided that this project was one of major development and significance because of its controversial nature and required Commission review. She introduced Mr. Dane Bower of MES on behalf of the City of Bowie, to make the presentation.

Mr. Bower said that the project was not a "State of Maryland Project", but a "City of Bowie Project". The Maryland Environmental Service was functioning as the City's engineering and technical services agent in order to acquire the necessary permits, and design the project to meet Department of the Environment regulations.

Mr. Bower described the location of the site and explained that specific crops would be grown on-site to utilize and uptake nutrients in the sludge. He said that analysis of Bowie's sludge indicates that heavy metals are well below the limits set by DOE for land application of sludge. The Soil Conservation Service will be assisting the City in developing BMPs for the control of sediment and stormwater runoff. He said that as an added safeguard, groundwater monitoring wells will be installed and monthly analysis performed. No sludge will be applied closer than 500' to the shoreline, and that the Buffer area will remain fully forested.

Ms. Rome explained that the application is reviewed by the County for consistency with the local Critical Area Program, with a copy sent to the Commission.

Mr. Charlie Moore, City Manager, explained that the City will be conducting its own monitoring, and that, in addition, the City intends to hire an outside consultant to perform the inspections that the Department requires. This information will be provided directly to the Department.

Mr. Blake said that if the City contends that this is a local project and not an issue of major development, it might not be an issue for the Commission.

Dr. Krech asked what the population of Bowie was. Mr. Bower answered it was 42,000. Dr. Krech then asked if it was certain that there exists no toxins or heavy metals in the sludge that is going to be applied. Mr. Bower said that in the analyses that have been done and are ongoing, none have been found to exist.

Ms. Nancy Hill, Aide to Delegate William McCaffrey, said that she had been asked by Senator Mike Miller, and Delegates McCaffrey, Valerio and Alexander, as well as Councilman Cristaldi, to voice their opposition to this project. She said that a letter had been sent to Dr. Taylor expressing their concern, in detail, to sludge depositing in the Critical Area.

Mr. Gutman asked Ms. Hill, that if there are restrictions as to the amount of sludge that may be applied, and the nature of the sludge is within required standards, in that there exist no heavy metals, what would the danger be, especially if the crop is not intended for human consumption. Ms. Hill answered that in the future, considering the commercial development in and around the Bowie area, it is not known if the content of the sludge would remain the same.

Mr. Gutman asked what exactly the role of MES was. Mr. Bower explained that the City hired someone to find different sites that might be suitable for sludge application. It is a continuing process. When a site is found, MES has a contract to do the technical assessment of the site.

Mr. Miller said that at the depth of sixty feet, there was found to be nitrogen infiltration in Kent County as a result of standard nitrogen application for farm usage.

Mr. Glendening commented that the County supports the City's position that this is not a major project. The City has been cooperative in that every reservation that had been raised on this project had been examined. He said that the real issue is opposition to sludge disposal, not an opposition to an action that will violate the Critical Area. He said that the County has been vigilant in its protection of the Critical Area, and will continue to be, and would not permit this project if it felt it was in violation of the philosophy of the Critical Area.

Mr. Miller said that the long-range potential effects should be considered.

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Mr. Glendening answered that it would then be a State-wide problem addressing the issue of land application of sludge.

Mr. Perciasepe remarked that DOE does not feel that this is necessarily a Critical Area issue. The Department does not agree that this a major development. He said that even if the Commission agreed that this project required Commission review, the criteria that the Commission would need to apply is based on COMAR 14.15, which states that agricultural use of sludge under appropriate approval when applied in appropriate method in an approved application, may be permitted in the Critical Area, except in the 100-foot Buffer, or if it affects the local Critical Area Program. He further stated that the project has already been subjected to the review requirements of the criteria and it was not found to be in violation. He added that the City of Bowie has been extremely cautious and cooperative, and he feels that this might be an issue for someone other than the Commission.

Vice-Chairman Price asked if DOE licenses this permit. Mr. Perciasepe answered affirmatively, and he said it then provides inspectors to work with the applicant.

Mr. Bowling remarked that the review process for site selection needs to be examined.

Ms. Langner said that in view of the disastrous handling at the C & D Canal banks, proper application and monitoring should be ultimately stressed.

Mr. Glendening assured the Commission that not only will the County be strictly monitoring this project, but so will the City itself.

Vice-Chairman Price said that the Commission must decide whether or not this is a major project. He then asked Mr. Epstein what determination would need to be made. Mr. Epstein said that Mr. Perciasepe correctly stated the State regulations concerning sludge application, and that it does not provide a great amount of guidance. He said that the Commission needs to decide if this issue is subject to Chapter 4, or Chapter 2 of the State and Local Regulations, or if the Commission wants to review this project at all.

Vice-Chairman Price asked if the Commission voted this day, would it be binding on all future sludge applications in the Critical Area. Mr. Epstein answered that it would set a precedent, but it is not binding, per se.

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Mr. Epstein asked if there was a SCWQP on the site. It was answered that the City had contracted with SCS to develop one and that City will comply with the Plan once completed.

Mr. Perciasepe added that because of the concern of the Commission, he would be willing to have DOE sludge experts address the Commission to inform it of the appropriate rates and approval methods.

A motion was made and seconded that sludge application not be an issue for the Commission's review if it is applied in the Critical Area in compliance with DOE regulations and approved by the local jurisdiction. The vote was 14 in favor with 6 opposed.

Vice-Chairman Price asked Mr. Phillips to report on the Forestry General Approvals. Mr. Phillips reported that after several Panel meetings and site visits, the Panel was ready to send the general approval papers with the staff and Panel recommended changes and Mr. Epstein's comments on the legal issues, back to Forest, Park and Wildlife Service for some reconstruction.

A motion was made and seconded that the Commission return the Forestry General Approval with staff and Panel recommendations and Mr. Epstein's comments to the Forest, Park and Wildlife Service for reconstruction. The vote was 17:0 in favor.

Vice-Chairman Price asked Dr. Taylor to report on the status of the Department of Transportation MOU and the MOU with Baltimore City and Maryland Port Authority. Dr. Taylor said that DOT's MOU was being developed was subject to Baltimore City and Baltimore County working on an agreement with MPA. The MOU with DOT has undergone changes and the staff's comments have been sent. In approximately 30 days, the MOU should be finalized.

Vice-Chairman Price then informed the Commission that Mr. Epstein had a few legal matters to discuss with the Commission, regarding the status of Langford Farms litigation, the new Bellanca appeal, Hillsmere Shores, the City of Crisfield, and certain Commission Meeting procedures. By unanimous vote, the meeting was then closed for legal counsel by authority of State Government Article §10-508(a)(7). No new action was taken as the result of the discussion.

Vice-Chairman Price then asked Dr. Taylor to report on the activities of the Legislative Session. Dr. Taylor reported that HB 1045 was killed; SB 169 was killed; SB 578 was killed; SB 608 and SB 515 were held because the Senate Economic and Critical

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Environmental Affairs Committee did not want to withdraw the Bills, nor vote on them. This issue will be open to Summer Study. This means that in addition to the oversight Committee, the Commission will be working with the Economic and Environmental Affairs Committee on compensation. She reported that HB 156 passed with amendments, SB 191 has been killed.

UNDER OLD BUSINESS

Vice-Chairman Price asked Dr. Taylor to report on the Commission's Budget. Dr. Taylor said that Senate Budget and Tax cut the funds for the contract staff positions and the Commission's computer system. They kept the \$400,000 supplemental funds intact to the local governments for continued implementation of the local Critical Area Programs. The House Appropriations Committee restored the funds for the staff and the computer system, and cut \$200,000 of the \$400,000 for local technical assistance. The staff will be meeting with the Department of Budget and Fiscal Planning to find a way to acquire the funding for local grants.

Dr. Taylor then informed the Commission of the correspondence from Mr. Roy Hoagland, Chairman of the Severn River Commission asking questions with respect to the Commission's regulations and how they applied to State Highway Administration projects. Dr. Taylor and Mr. Epstein composed an answer to these questions, and she said she thought it would be helpful to the Commission to read it.

NEW BUSINESS

Dr. Taylor reported that the Special Issues Subcommittee will be meeting at 9:30 on May 3rd, Program Amendment Subcommittee and Project Evaluation Subcommittees will also meet that day.

Dr. Taylor informed the Commission that this was the last Meeting to be Chaired by Vice-Chairman Price. The Commission then commended Vice-Chairman Price on the work that he had accomplished:

There being no further business, the Meeting was adjourned.

May 3, 1989

STAFF PROJECT REPORT

Project

Widgeon Pavilion

Applicant and Location

University of Maryland Center for Environmental and Estuarine Studies (UMCEES), Horn Point, Maryland

Project Description

The proposal is to build a 1296 sq. ft. picnic pavilion. It will be constructed on a concrete pad with a waist-high brick wall on one side. The roof will be supported with rustic wood columns, and a brick or stone fireplace will be located in the center of the structure. Water and electricity will be available through existing lines.

Site Description

The pavilion will be located on the side lawn of the UMCEES Center Operations building, and will be 150-200 ft. from the shorelines of the Choptank River and Lakes Cove. The site is covered with grass and supports no trees or other vegetation.

Other Issues

Stormwater runoff will be insignificant. However, the intention is to enhance the area with additional planting, if funds are available. No additional parking areas are proposed.

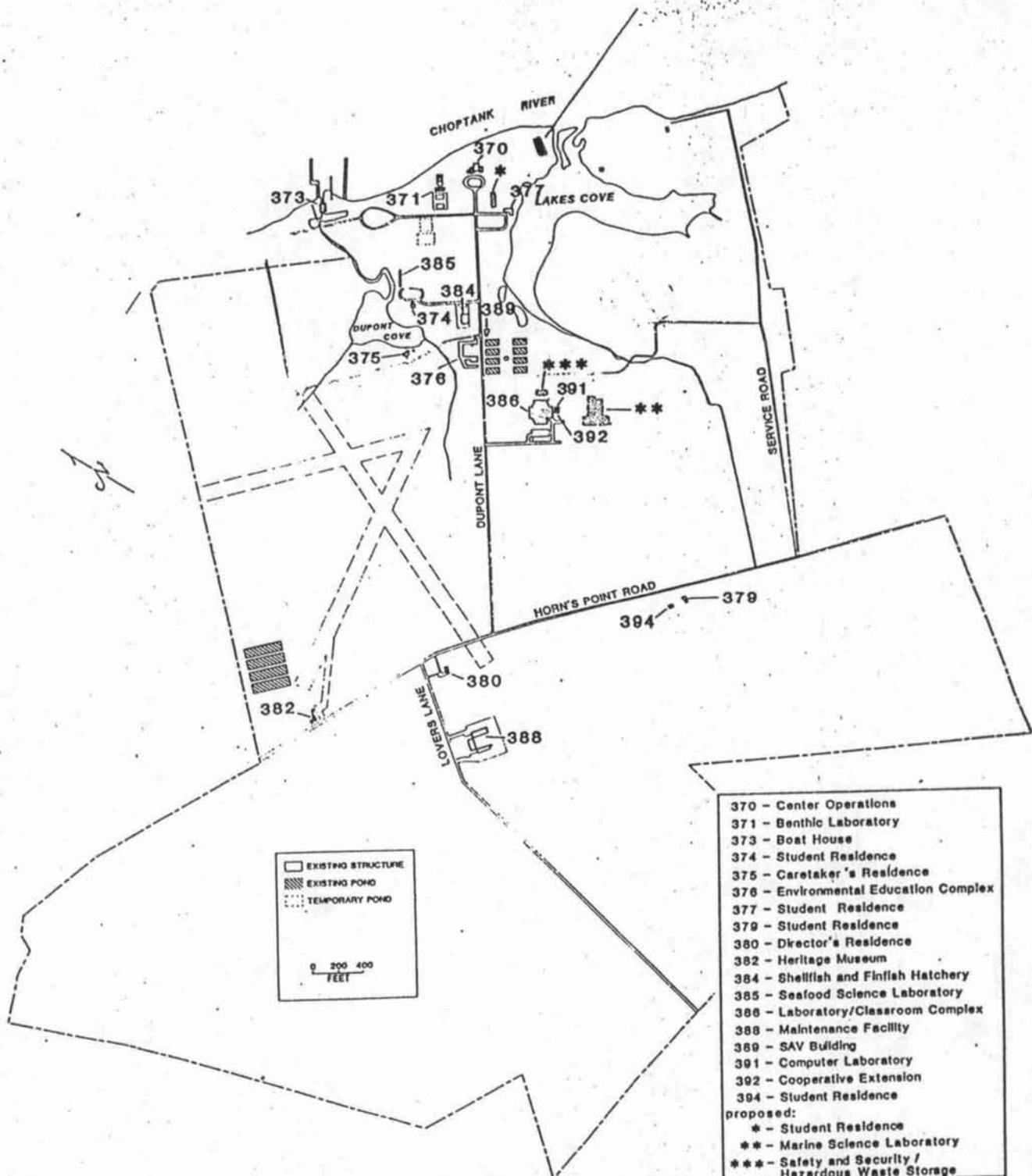
Staff Recommendation

Approve with the provision that shade trees be planted.

Staff Contact

Abi Rome

WIDGEON PAVILION



- 370 - Center Operations
 - 371 - Benthic Laboratory
 - 373 - Boat House
 - 374 - Student Residence
 - 375 - Caretaker's Residence
 - 376 - Environmental Education Complex
 - 377 - Student Residence
 - 379 - Student Residence
 - 380 - Director's Residence
 - 382 - Heritage Museum
 - 384 - Shellfish and Finfish Hatchery
 - 385 - Seafood Science Laboratory
 - 386 - Laboratory/Classroom Complex
 - 388 - Maintenance Facility
 - 389 - SAV Building
 - 391 - Computer Laboratory
 - 392 - Cooperative Extension
 - 394 - Student Residence
- proposed:
- * - Student Residence
 - ** - Marine Science Laboratory
 - *** - Safety and Security / Hazardous Waste Storage

PROPOSED WATERFOWL HABITAT
IMPROVEMENT PROJECT

FOREST, PARK & WILDLIFE SERVICE
DEPARTMENT OF NATURAL RESOURCES

WYE ISLAND NATURAL RESOURCE
MANAGEMENT AREA

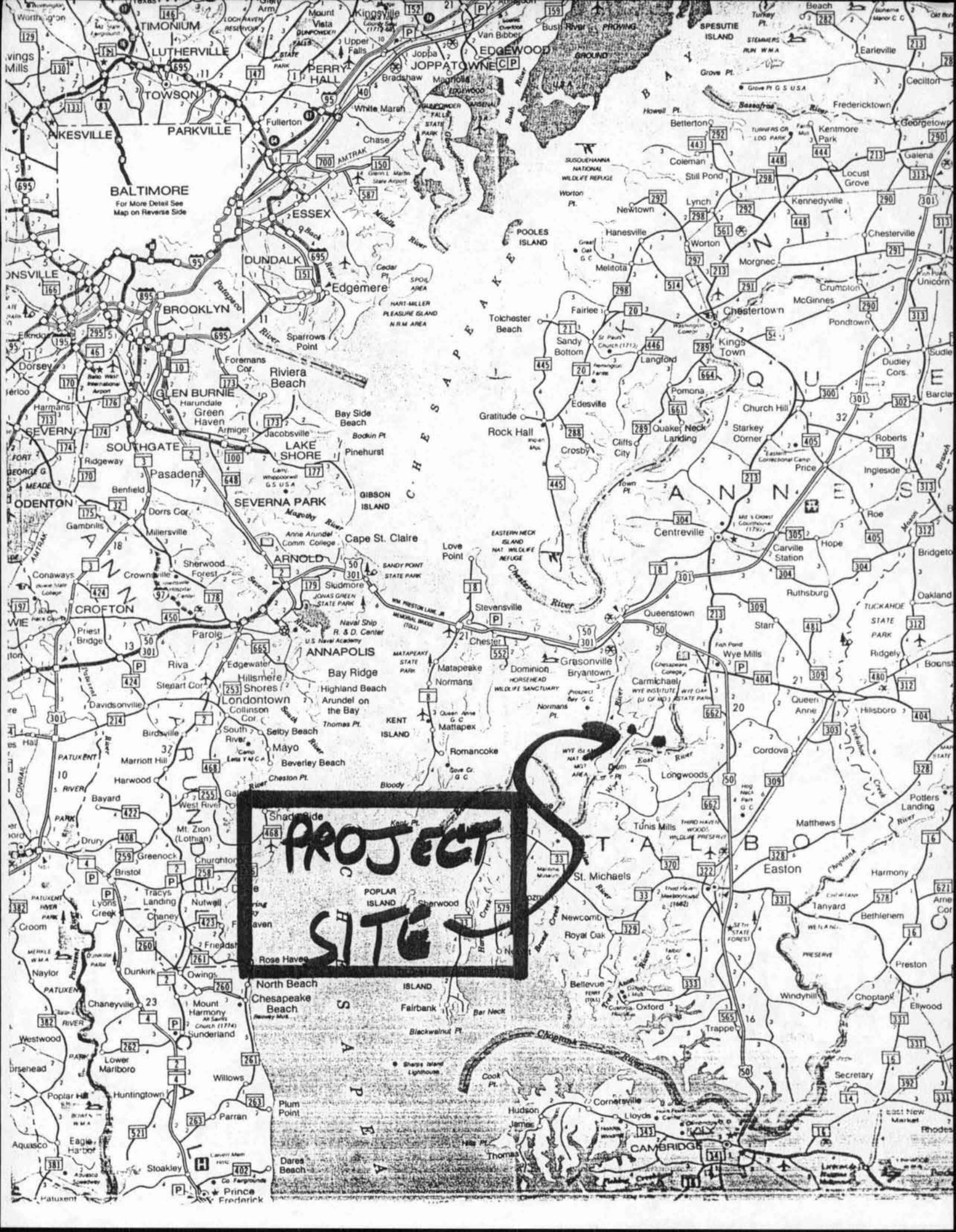
The Migratory Bird Program of the Forest, Park and Wildlife Service is proposing to construct two impoundments within the Critical Area on Department Property in Queen Anne's County. The impoundments are an integral part of a larger (400 acre +) Canada Goose sanctuary project on the Management Area. In the face of declining goose populations, the Department is seeking to enhance available habitat to provide safe roosting and feeding areas for these birds. One impoundment involves the renovation and modest expansion (from 0.9 ac to 1.3 ac +) of an existing deepwater roosting pond. The second impoundment involves creation of a 5+ acre shallow "moist soil"/loafing area in a low lying agricultural field. This later site is in all probability a previously drained non-tidal wetland. Neither site is tidal.

Specific Critical Area concerns cited under Chapter 5.01 of Subtitle 19 are dealt with below.

- 5.03: This project does not represent an "Area of Intense Development" as defined in this section.
- 5.04: This project is not a "water-dependent facility" as defined in this section. Located outside of the 100' Buffer, the project is essentially an upland project located adjacent to the Buffer.
- 5.05: This project does not involve any shoreline activities.
- 5.06: This project will not involve "forests" or "developed woodlands" as defined in this section.
- 5.07: This project will remove approximately 8 acres of ground from tillage and put it into either grass strips or recreated emergent wetlands. These activities should reduce agricultural impacts to water quality in the Bay.
- 5.08: Surface mining is not a part of this proposal.
- 5.09: Project activities are further than 100 feet from mean high tide and do not involve activities which increase run-off. In fact activities should serve to improve water quality within the affected areas through the mitigating influence of the artificial non-tidal wetlands.

- 5.10 This project does not alter any non-tidal wetlands under the definition in this section.
- 5.11: Critical Area Staff Biologist have already reviewed the project sites and have found that no Threatened, Endangered species or species in Need of Conservation will be impacted. Waterfowl, one group of species in need of conservation, would be directly benefited by the project.
- 5.12: As mentioned under 5.11 above, this project is beneficial to waterfowl and has no detrimental impact on other species groups of concern under 5.12.
- 5.13: No Anadromous Fish waters are involved in this project.
- 5.14: Wye Island NRMA already serves as a "Natural Park." This project should enhance this function on the property.

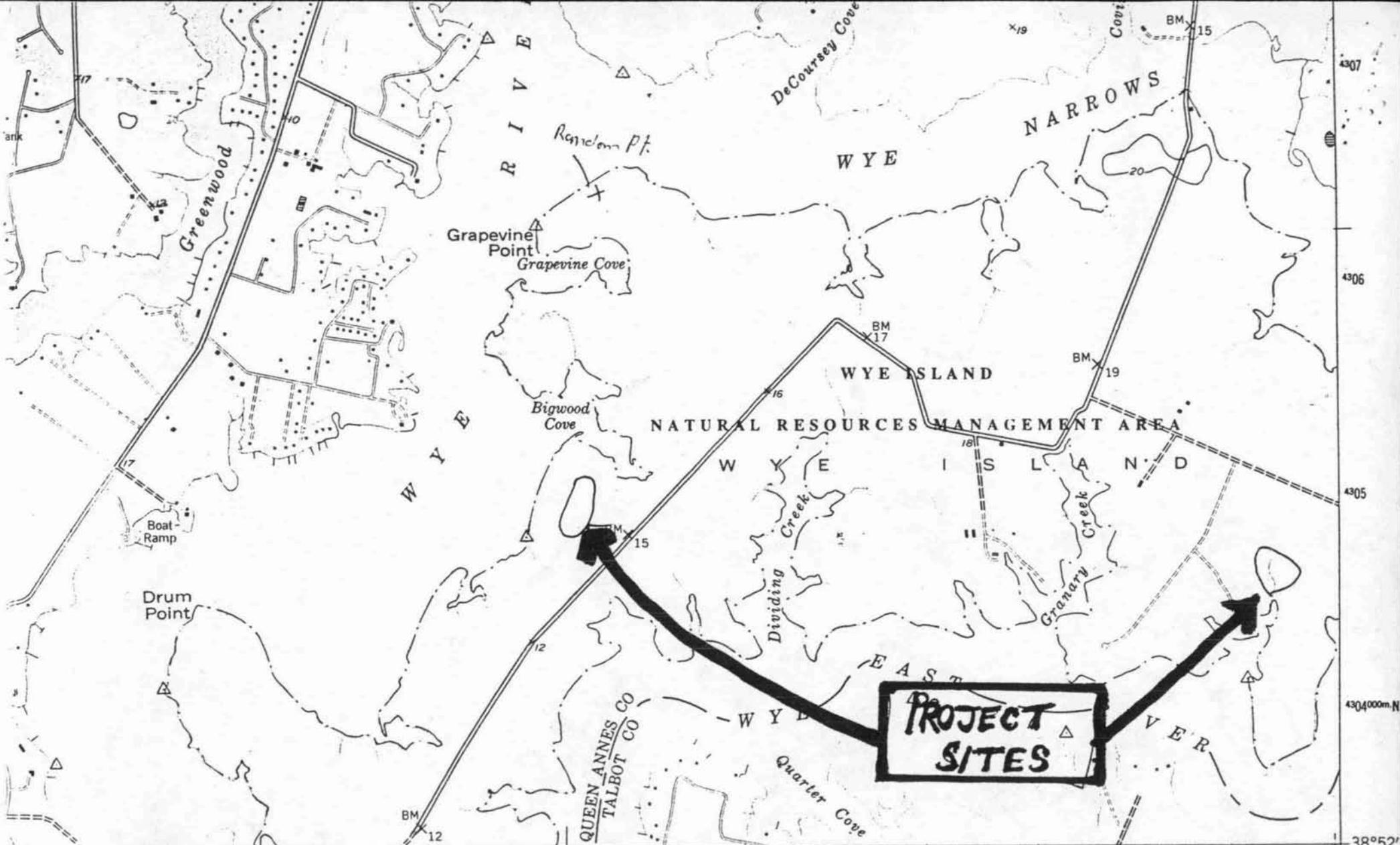
In summary, it is the Department's view that this project is in no way detrimental, or in conflict with, either the letter or spirit of Critical Areas Regulations. In fact, with respect to waterfowl habitat, non-tidal wetlands and agricultural runoff, it is in direct support of program goals.



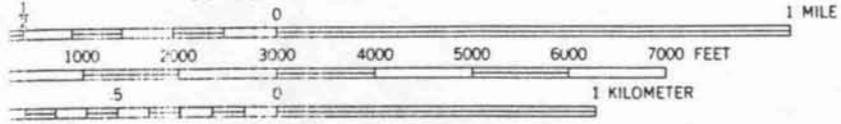
BALTIMORE
For More Detail See
Map on Reverse Side

**PROJECT
SITE**

CAMBRIDGE

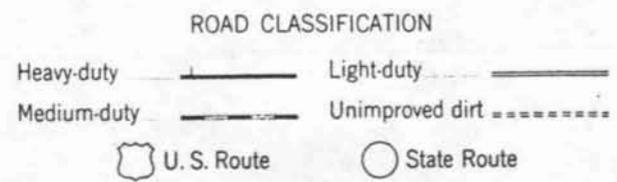


(ST. MICHAELS)
5761 1 SW
SCALE 1:24 000



CONTOUR INTERVAL 20 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929

LINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER
THE MEAN RANGE OF TIDE IS 1.3 FEET



QUADRANGLE LOCATION

QUEENSTOWN, MD.

INTERIOR—GEOLOGICAL SURVEY, RESTON, VIRGINIA—1988
402000m.E.

38°52'
76°07'30"

(EA 5761)

PROPOSED WATERFOWL HABITAT
IMPROVEMENT PROJECT

FOREST, PARK AND WILDLIFE SERVICE
DEPARTMENT OF NATURAL RESOURCES

ELK NECK STATE PARK

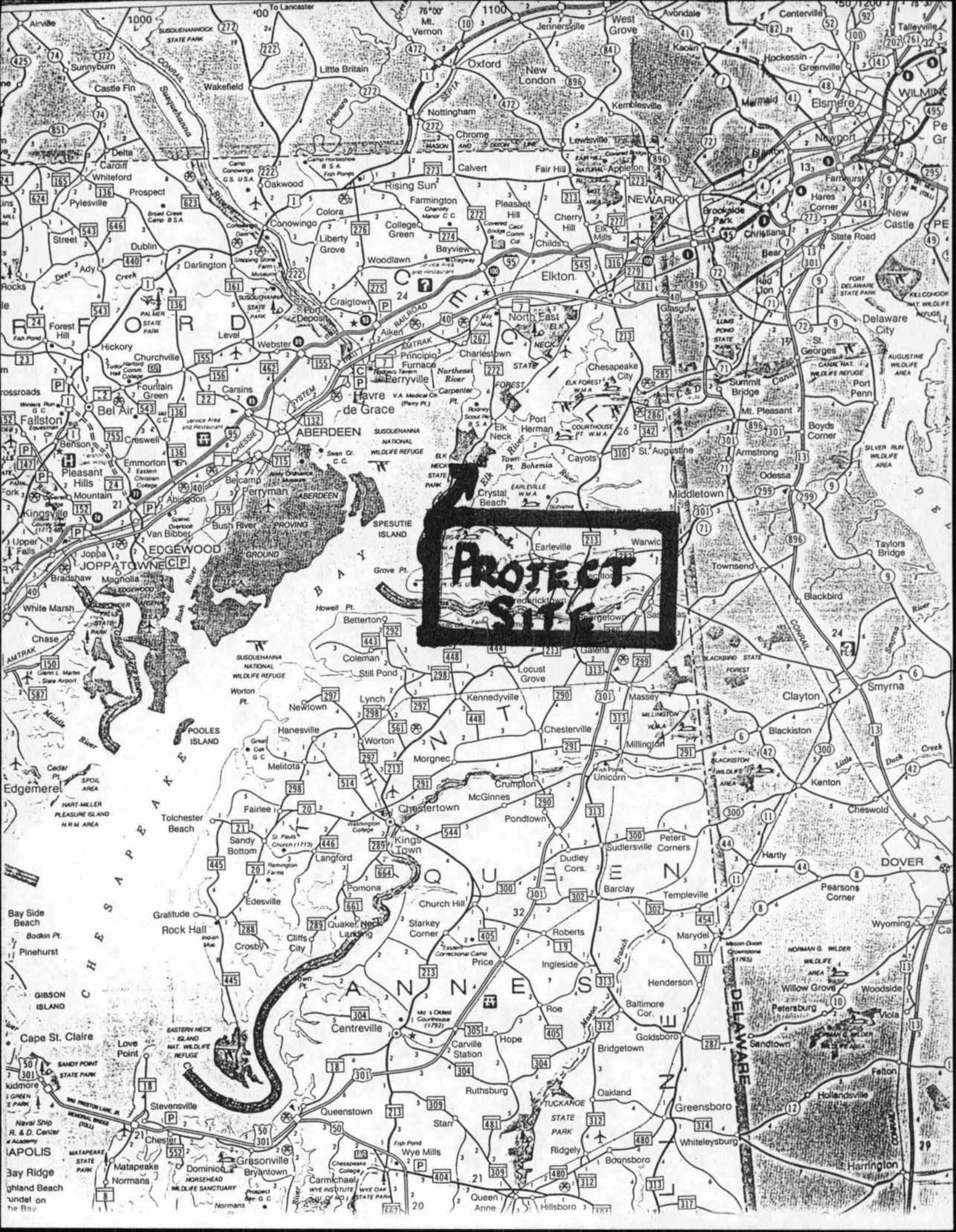
The Migratory Bird Program of the Forest, Park and Wildlife Service is proposing to rehabilitate two existing impoundments located within the Critical Area on Department property in Cecil county. Both impoundments are located along an unnamed tributary of the Elk River. The upper impoundment is approximately 20 acres in size and was originally constructed as a dredge disposal site by the U.S. Army Corps of Engineers but was not utilized. The impoundment is still intact but needs to be redesigned and the water control structure replaced. The lower impoundment (14 + ac) was created by a road embankment which has been breached. The area has been choked with an almost pure stand of phragmites. This embankment needs to be re-worked and a water control structure placed. The project would enable the restoration and management of two valuable waterfowl habitat types (deep water and emergent marsh) adjacent to one another.

Specific Critical Area concerns cited under Chapter 5.01 of Subtitle 19 are dealt with below. Sections that are not pertinent to the project (5.03, 5.05, 5.06, 5.07, 5.08) are not included.

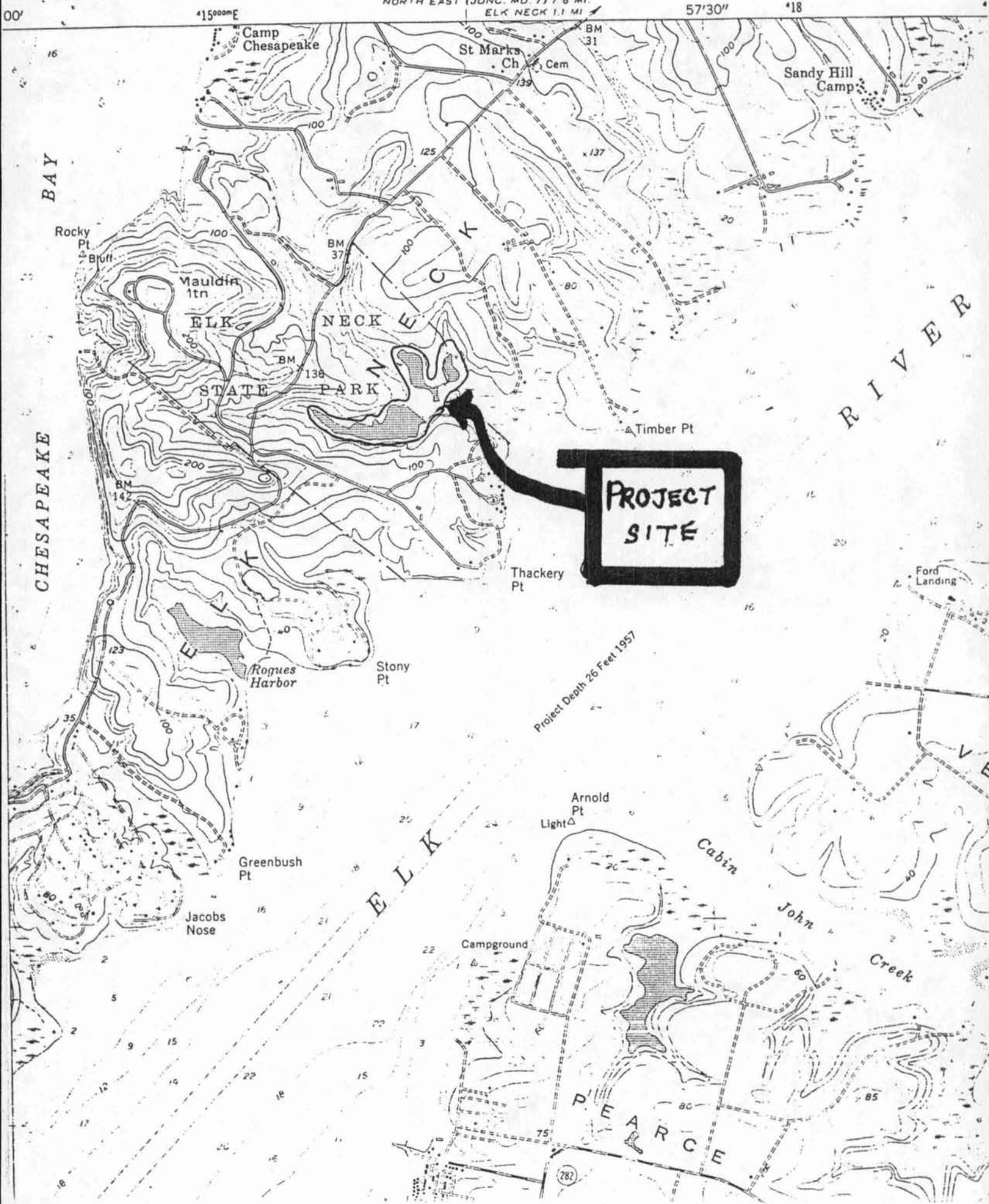
5.04: This project is fully water-dependent and could function no where else. The project meets a public need by helping fulfill the Agency's mandated goal of enhancing waterfowl habitat. Waterfowl populations are a key part of the cultural, economic, biological, ecological and aesthetic values of the Chesapeake Bay. Fishery, water quality and wildlife habitat will all be positively impacted. Water salinity and circulation patterns will only be moderately influenced. Any disturbance to the associated wetlands and aquatic habitats will be during actual construction. Beyond that the project should provide net benefit to these areas. Dredging, sand movement and shellfish beds are not impacted by this project.

5.09: Project activities will not involve the placement of any facilities or structures that will increase erosion or runoff and a buffer is not therefore applicable. No additional facilities will be placed as a part of the project. The actual work on the lower impoundment is within the 100' Buffer. All necessary steps will be taken to minimize disturbances.

- 5.10: Although both impoundment sites are classified as non-tidal wetlands by the National Wetland Inventory, both are man-made or impounded. Under 5.10 A(2) neither is considered a non-tidal wetland for the purposes of the Critical Area.
- 5.11: Staff Critical Area Wildlife Biologists and Natural Heritage personnel have reviewed the site. No threatened or endangered species or species in need of conservation will be negatively impacted by the project. One group of the "species in need of conservation", waterfowl, will be directly benefited by the project.
- 5.12: As designated in 5.11 above, habitat will be enhanced by this project for waterfowl but will not negatively impact other habitat types as outlined in this section.
- 5.13: According to the Power Plant Siting and Review section of the Tidewater Administration, the Elk River itself is an important Striped Bass spawning area. Specific records for the site in question are not available though. No concrete or other artificial surfaces, channelization, or other associated land activities are a part of the project. Natural vegetation, and therefore water quality, will be improved. Sedimentation rates should actually be reduced. Construction activities will not occur between March 1 and May 15.
- 5.14: The project site currently functions as a "Natural Park," a condition that should be enhanced by this project.



PROJECT SITE



NORTH EAST (JUNC. MD. 7) 7.6 MI.
ELK NECK 1.1 MI

57°30' W
38° N

1:15,000

**PROJECT
SITE**

Project Depth 26 Feet 1957

Arnold Pt
Light

PEARCE

282

PROPOSED WATERFOWL HABITAT
IMPROVEMENT PROJECT

FOREST, PARK AND WILDLIFE SERVICE
DEPARTMENT OF NATURAL RESOURCES

BUSH RIVER NATURAL RESOURCES
MANAGEMENT AREA

The Department of Natural Resources is proposing a waterfowl habitat improvement project on the Bush River Natural Resources Management Area. The actual project would involve placing a variable-crest weir under a railroad bridge where the grade crosses the Bush River. This approximately 100' wide sheeting and piling structure would enable full movement of water at selected times of the year, while enabling water-level control at others. The goal would be to provide optimum water regimes in a 160 acre + high phase marsh. The marsh is currently degraded by excessive runoff and channel erosion (and thus drainage). As a result this marsh is highly mono-typic (Typhus latifolia), is being invaded by woody brush (Alnus and Acer spp.) and has only marginal value for waterfowl. Furthermore habitat for aquatic organisms is greatly reduced in quality.

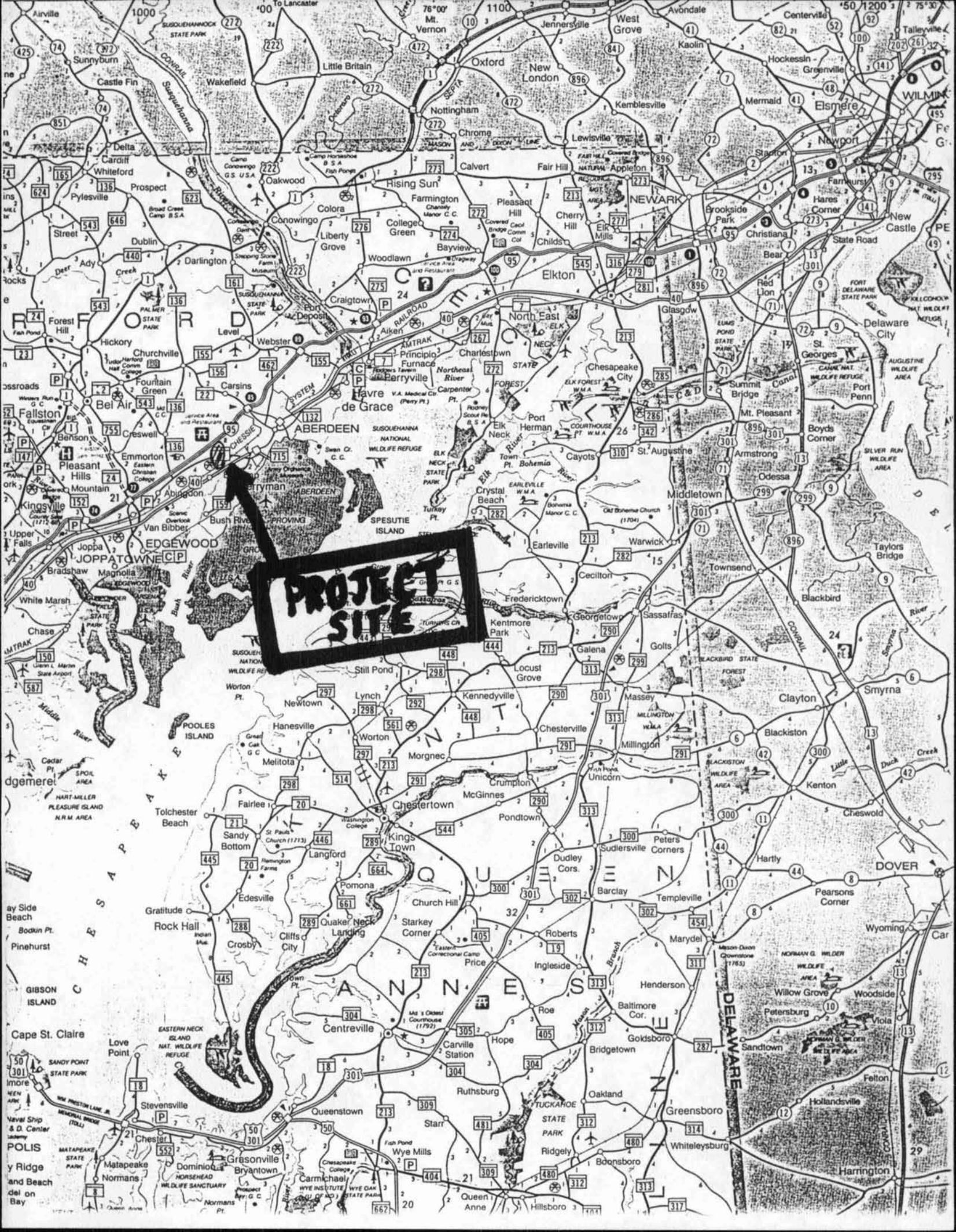
The proposed project would enable submerged aquatic vegetation (SAV) to become established which in turn would enhance water quality. Sediment export would be reduced by reduced water velocities behind the weir. Fisheries value would increase with increased water quality. Lastly, the principle project goal of improving waterfowl habitat would be realized through greater species and structural diversity and the establishment of SAV.

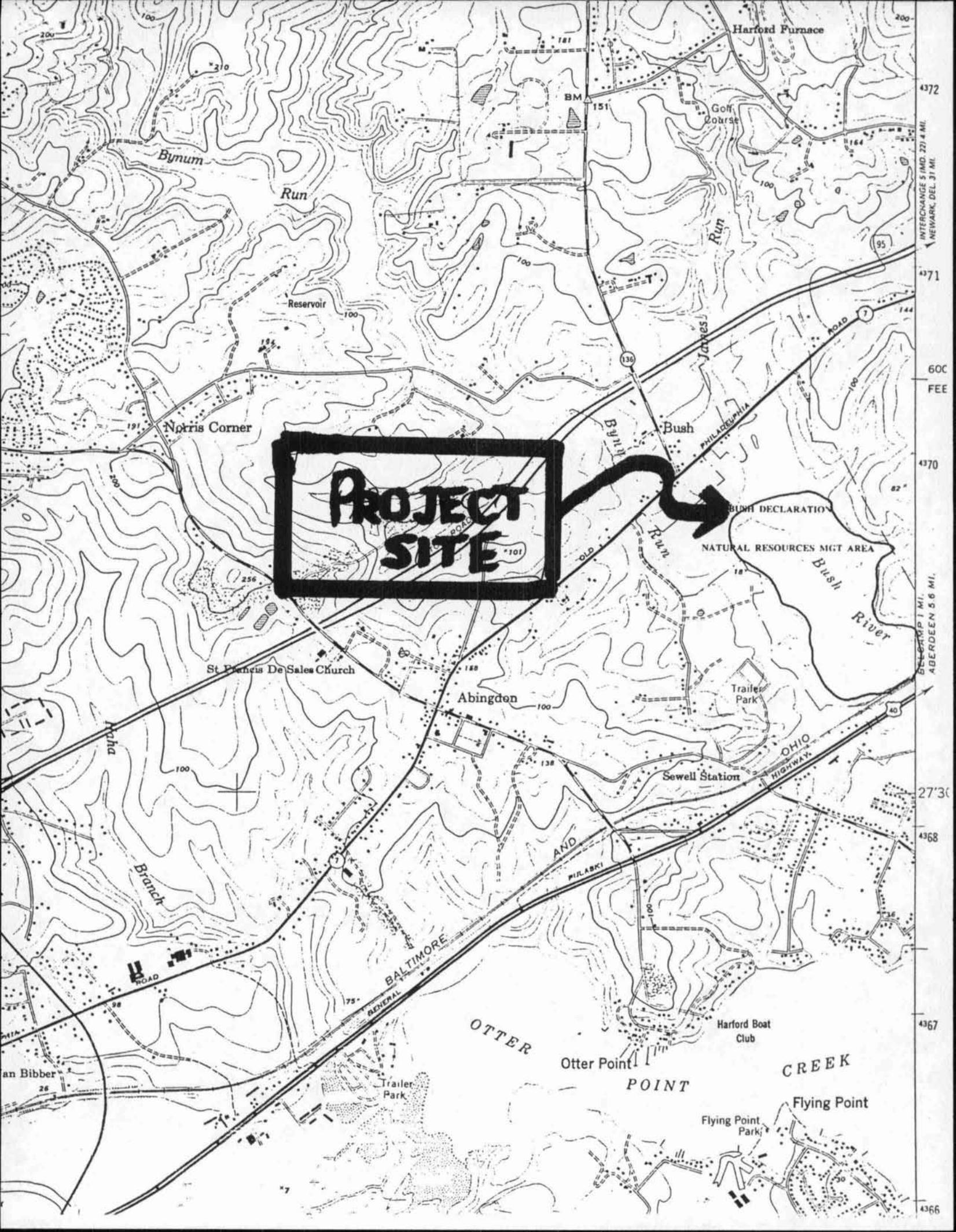
Specific Critical Area concerns cited under Chapter 5.01 of Subtitle 19 are dealt with below. Sections that are not pertinent to the project (5.03, 5.05, 5.06, 5.07, 5.08, 5.10) are not included.

- 5.04: This project is fully water-dependent and could function no where else. The project meets a public need by helping fulfill the Agency's mandated goal of enhancing waterfowl habitat. Waterfowl populations are a key part of the cultural, economic, biological, ecological and aesthetic values of the Chesapeake Bay. Fishery, water quality and wildlife habitat will all be positively impacted. Water salinity and circulation patterns will only be moderately influenced. Any disturbance to the associated wetlands and aquatic habitats will be during actual construction. Beyond that the project should provide net benefit to these areas. Dredging, sand movement and shellfish beds are not impacted by this project.

- 5.09: Project activities will not involve the placement of any facilities or structures that will increase erosion or runoff and a buffer is not therefore applicable. No support facilities will be placed as a part of the project. The actual project, however will be within the 100' Buffer. Necessary steps will be taken to minimize disturbance from construction.
- 5.11: Staff Critical Area Wildlife Biologists and Natural Heritage personnel have reviewed the site. No threatened or endangered species or species in need of conservation will be negatively impacted by the project. One group of the "species in need of conservation", waterfowl, will be directly benefited by the project.
- 5.12: As designated in 5.11 above, habitat will be enhanced by this project for waterfowl but will not negatively impact other habitat types as outlined in this section.
- 5.13: Bush River at the project site is an Anadromous Fish Propagation Area. No placement of rip-rap or fill or channelization shall occur as a result of this project. Water quality should be improved as well as increasing natural vegetation in the project area. The structure (weir) to be placed will be designed to allow full unimpeded passage of fish during the spawning period.
- 5.14: The project site currently functions as a "Natural Park," a condition that should be enhanced by this project.

The Department considers this project to be an enhancement to overall agency goals as well as to the Critical Areas.





**PROJECT
SITE**

BUSH DECLARATION
NATURAL RESOURCES MGT AREA

4372
INTERCHANGE 5 (MD. 22) 4 MI.
NEWARK, DEL. 31 MI.
4371
60C
FEE
4370
BELLEGRIP 1 MI.
ABERDEEN 5.6 MI.
27'30"
4368
4367
4366

ORDINANCE NO. 191

AN ORDINANCE TO AMEND THE TOWN OF ST. MICHAELS ZONING ORDINANCE NO. 109, AS AMENDED, TO AMEND THE CRITICAL AREA OVERLAY DISTRICT, SECTION 5, PARAGRAPH 10.

WHEREAS, the Maryland Code (1957) Article 66B, as amended empowers the Commissioners of St. Michaels to enact a Zoning Ordinance, and

WHEREAS, by Ordinance No. 109, dated December 9, 1975 the Commissioners of St. Michaels deemed it necessary to enact, and did enact, a Zoning Ordinance (No. 109) for the purpose of promoting the health, safety, morals, and general welfare of the Town of St. Michaels, and

WHEREAS, the said Ordinance No. 109 was amended by Ordinance No. 115, dated June 14, 1977; by Ordinance No. 118, dated February 14, 1978; by Ordinance No. 124, dated June 27, 1980; by Ordinance No. 137, dated October 11, 1983; by Ordinance No. 139, dated May 22, 1984; by Ordinance No. 141, dated July 10, 1984; by Ordinance No. 152, dated September 18, 1984; by Ordinance No. 157, dated January 8, 1985; by Ordinance No. 162, dated May 14, 1985; by Ordinance No. 171, October 8, 1985; by Ordinance No. 172, dated July 8, 1986; by Ordinance No. 173, dated September 9, 1986; by Ordinance No. 177, dated February 17, 1987; by Ordinance No. 181, dated September 8, 1987; by Ordinance No. 182, dated

December 8, 1987; by Ordinance No. 183, dated May 10, 1988; and by Ordinance No. 185, dated June 14, 1988, by Ordinance No. 187, dated August 9, 1988, and by Ordinance No. 186, dated October 10, 1988, by Ordinance No. 189, dated February 14, 1989 (collectively referred to as the "Zoning Ordinance"); and

WHEREAS, the St. Michaels Planning Commission, after giving due public notice on December 14, 1988 and December 21, 1988 and conducting a public hearing on January 12, 1989 on the textual amendments and additions which it has deemed necessary and advisable; and

WHEREAS, the St. Michaels Planning Commission, after holding the aforesaid public hearing and taking into consideration the comments made at the hearing, has recommended to the Commissioners of St. Michaels that the said St. Michaels Zoning Ordinance (Ordinance No. 109, as amended) be amended by certain textual changes; and

WHEREAS, as a result of receiving the aforesaid recommendations of the St. Michaels Planning Commission, amendments to the Zoning Ordinance substantially in the form as hereafter set forth, the Commissioners of St. Michaels ordered that a public hearing be held and notice given thereof be published; and

WHEREAS, after giving due public notice on January 18, 1989 and February 1, 1989, the Commissioners of St. Michaels conducted a public hearing on February 14, 1989, to receive public comment on the aforesaid amendments; and after such public hearing these amendments were introduced and read for the first time and ordered posted on the Town bulletin board;

WHEREAS, all the requirements of the Maryland Code (1057) Article 66B, as amended, and Section 14 of the St. Michaels Zoning Ordinance (Ordinance No. 109, as amended), have been satisfied; and

WHEREAS, the Commissioners of St. Michaels are empowered to do so by Maryland Code (157) Art. 23A, Section 2, as amended, and by the Charter of the Town of St. Michaels (1980), Article I, Section 3, and Article III, Section 1.

SECTION 1.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS OF ST. MICHAELS, that the following Ordinance No. 191, entitled, "An Ordinance To Amend The Town Of St. Michaels Zoning Ordinance 109, as amended, to amend the Critical Area Overlay District, Section 5, paragraph 10," be and the same is hereby enacted as follows:

AMEND Section 5 .Zone Regulations, paragraph 10, Critical Area Overlay District, d General Buffer Regulations to read as follows:

d. General Buffer Regulations

1) New Buildings, structures, activities, and facilities permitted in the underlying zoning district (base zoning district) are prohibited within the Buffer, except the following:

a) Boat houses, community piers, individual private piers, docks, launching ramps, and mooring facilities.

i) For community piers, only the following uses shall be permitted to locate in the Buffer:

- Mooring buoys and slips;
- Docks, piers, launching ramps, access roads, paths; and
- Loading/unloading areas.

ii) Where community slips, community piers, or community mooring buoys are to be provided in a subdivision that is approved after [date of the St. Michaels Critical Area Program adoption], the number of slips, piers, mooring buoys shall be the lesser of (1) or (2) below:

- Up to one slip for every fifty (50) feet of shoreline in subdivisions in the Limited Development Areas (LDA) and Intensely Developed Areas (IDA), and one slip per three

AMEND Section 5 .Zone Regulations, paragraph 10, Critical Area Overlay District, d General Buffer Regulations to read as follows:

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1) New Buildings, structures, activities, and facilities permitted in the underlying zoning district (base zoning district) are prohibited within the Buffer, except the following:

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- Docks, piers, launching ramps, access roads, paths; and
- Loading/unloading areas.

ii) Where community slips, community piers, or community mooring buoys are to be provided in a subdivision that is approved after [date of the St. Michaels Critical Area Program adoption], the number of slips, piers, mooring buoys shall be the lesser of (1) or (2) below:

- Up to one slip for every fifty (50) feet of shoreline in subdivisions in the Limited Development Areas (LDA) and Intensely Developed Areas (IDA), and one slip per three

hundred (300) feet of shoreline in the subdivision in the Resource Conservation Area (RCA); or

- A density of slips, piers, or mooring buoys to platted lots or dwellings in the subdivision according to the following schedule:

Platted Lots or Dwellings

in the Critical Area

up to 15

16 - 40

41 - 100

101 - 300

over 300

Slips and Moorings

1 for each lot

15 or 75%, whichever is greater

30 or 50%, whichever is greater

50 or 25%, whichever is greater

75 or 15%, whichever is greater

SECTION 2.

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

INTRODUCED, read for the first time and ordered posted on the Town bulletin board at the Public Meeting of The Commissioners of St. Michaels held on the _____ day of _____, 1989, at _____ o'clock p.m., in the meeting room at the Town Office, St. Michaels, Maryland.

(SEAL)

WILLIAM B. NICHOLSON, JR.

Town Clerk/Manager

HAVING BEEN READ for the second time and passed by a yeas and nay vote of The Commissioners of St. Michaels at a Public Meeting of the Commissioners of St. Michaels held on this _____ day of _____, 1989, at _____ o'clock p.m., in the meeting room of the Town Office, St. Michaels, Maryland.

Brewer	-	_____
Camper	-	_____
Dunlap	-	_____
Meara	-	_____
Wilson	-	_____

I HEREBY CERTIFY that the above Ordinance No. 189 was passed by a yea and nay vote of The Commissioners of St. Michaels of the 14 day of March, 1989.

ATTEST; THE COMMISSIONERS OF ST. MICHAELS

WILLIAM B. NICHOLSON, JR. President
(SEAL)

I HEREBY CERTIFY that an exact copy of the foregoing Ordinance No. 189 was posted from the _____ day of _____, 1989 at _____ o'clock _____ m. to the _____ day of _____, 1989 at _____ o'clock _____ m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a summary of the aforesaid Ordinance No. 189, the date of its passage, its effective date and the fact that the entire text of the Ordinance may be read on the bulletin board at the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once a week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

Date: _____ (SEAL)
WILLIAM B. NICHOLSON, JR.
Town Clerk/Manager

OFFICE OF
PLANNING &
ZONING



CECIL
COUNTY,
MARYLAND

Room 300,
County
Office
Building
Elkton,
Maryland
21921
(301) 398-0200,
Ext. 144
FAX:
(301) 392-9226

April 11, 1989

RECEIVED

APR 12 1989

DNR
CRITICAL AREA COMMISSION

Miss Ann Hairston
Critical Area Commission
DNR
West Garrett Place
Suite 320
275 West Street
Annapolis, Maryland 21401

Dear Ann:

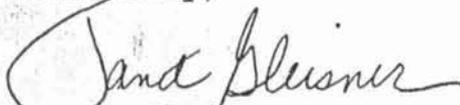
In order to conduct this year's Critical Area Growth Allocation, a point system had to be established. Cecil County, with the help of representatives from the Critical Area staff, Maryland Forest, Park and Wildlife Service, the Departments of Agriculture, Environment, Natural Resources & State Planning, the Soil Conservation Service, and Redman/Johnston Associates, devised a point system based on the model included in our program.

The proposed system was reviewed and approved by the Cecil County Planning Commission at their meeting of January 17, 1989. A copy of the recommendation has been enclosed. The point system is now scheduled for a hearing before the County Commissioners on April 24, 1989. Any recommendation for approval by the County Commissioners will be subject to obtaining the approval of the Critical Area Commission.

Please find enclosed a copy of the proposed point system. I request that this be placed on the Commission's agenda for the May 3, 1989 meeting. Upon receipt of the Commission's approval, we will move forward with announcing this year's contest.

If you have any questions regarding the point system, please do not hesitate to call. Thank you for your assistance in this matter.

Sincerely,


Janet Gleisner
Director

JG/lb

Encl.



OFFICE OF
PLANNING &
ZONING

RECEIVED

APR 12 1989

DNR
CRITICAL AREA COMMISSION

January 20, 1989

CECIL
COUNTY,
MARYLAND

Room 300,
County
Office
Building
Elkton,
Maryland
21921
(301) 398-0200,
Ext. 144
FAX:
(301) 392-9226

Cecil County Commissioners
Room 101, County Office Building
Elkton, MD 21921

Gentlemen:

Please be advised that the Cecil County Planning Commission, at their meeting of January 17, 1989, made the following recommendations:

1. Point System for the 1989 Cecil County Chesapeake Bay Critical Area Growth Allocation Contest.

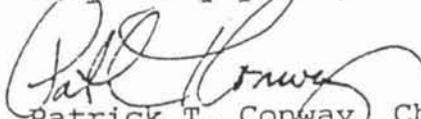
APPROVAL.

2. Application received from Samuel L. and Barbara J. Clugston to rezone approximately 1/4 acre of land (100' x 100'), located on the East side of Route 213, South of Frenchtown Road, property owned by Samuel L. and Barbara J. Clugston, 788 Augustine Herman Highway, Elkton, MD 21921, in the Third Election District of Cecil County, from R-1 to C-1, for the purpose of commercial use.

DISAPPROVAL, as applicant failed to meet the burden of proof for establishing mistake in the comprehensive rezoning, by clear and convincing evidence.

Should you have any questions regarding these recommendations, please do not hesitate to contact our office.

Very truly yours,


Patrick T. Conway Chief
Zoning & Inspection Division

PTC/dal



Establishing the Annual Point Schedule

The Planning Commission shall annually publish a notice of the opening of the annual Growth Allocation point competition and the proposed point system. The public shall have thirty (30) days in which to comment in writing on the proposed point awards after which a final point system shall be adopted by resolution of the County Commissioners. Points will be assigned by the County in, but not limited to, the following categories:

1. Development type
2. Buffer enhancement
3. Location
4. Forest and Woodland protection
5. Habitat protection
6. Water Quality protection
7. Resource utilization
8. Water Dependent Facilities
9. Erosion control

Applications for Growth Allocation must be consistent with the current zoning of the property. No project for Growth Allocation will be accepted which is not consistent with the density permitted in the current base zoning classification. Scoring of each proposed development project by the Planning staff and Planning Commission will be based on the point award system set forth below.

Proposed First Annual Cycle Scoring Schedule

Scoring Thresholds

A two tiered scoring threshold will be established to screen projects. Only those projects scoring a total score at or above the first tier (56 points) threshold shall be considered for Growth Allocation. At a minimum, all projects scoring at or above the second tier (94 points) threshold will be awarded Growth Allocation and granted the Growth Allocation floating zone. Bonus points shall not qualify for inclusion in the first tier threshold.

General Provisions

The following general provisions shall apply in the award of Growth Allocation:

1. For residential subdivisions, the maximum lot size permitted in a RCA conversion is the minimum lot size permitted on the site by Health Department Regulations.
2. In a RCA to LDA conversion, higher points will be awarded for having a 60 percent open space ratio. This will allow the majority of the site to continue to provide the benefits of RCA, since it will be dominated by agriculture, wetlands, forest, barren land, surface water, or open space and

protective land uses. The impact of the Growth Allocation conversion will be less than if a smaller open space ratio is achieved. Tidal wetlands, reforested areas, and Buffer extensions may be counted in the 60 percent open space ratio provided that at least three-quarters of the open space is upland.

3. In a LDA or RCA to IDA conversion, higher points will be awarded for providing a 30 percent open space ratio if evidence is included that the site continues to exhibit the characteristics of a LDA, i.e., containing areas of natural plant and animal habitats, and that the quality of runoff is not substantially altered or impaired. If these conditions can be demonstrated, it is assumed that the impact of the Growth Allocation conversion is less than if a smaller open space ratio is achieved. Tidal wetlands, reforested areas, and Buffer extensions may be counted in the 30 percent open space ratio, provided that at least three-quarters of the open space is upland areas.
4. All proposed projects located adjacent to a municipality will be scored in the same manner as all other projects, except that such projects may be designed to the development codes of the adjacent municipality (including the municipality's Critical Area Program) if it is to be annexed. In addition, projects endorsed by a municipality will be awarded special bonus points, provided the entire proposed development site is to be annexed into the municipality. Such projects shall be incorporated into the municipality within one (1) year of approval.
5. In an RCA to LDA conversion, which involves land only in the Critical Area, calculation of the maximum permitted density will be based on Critical Area acreage. The maximum permitted density within the Critical Area portion of the site may not exceed the base zone density for the Critical Area portion of the site or 3.99 units per acre, whichever is less.
6. In an RCA to LDA conversion, where non-Critical Area portions of a site are included in the development, the maximum permitted density may not exceed the base zoning density calculated for the entire site, or 3.99 units per acre as calculated based on the size of the Critical Area portion of the site, whichever is less.
7. In a RCA or LDA conversion to IDA the permitted maximum density or intensity shall not exceed that permitted by the base zoning.
8. Large Lot Residential is defined as lot size in excess of the minimum required by the Health Department.
9. A development pad (permitted area of disturbance) is defined as the area of a lot devoted to structures, drives and parking areas.
10. In projects that include water-dependent facilities, locating such facilities in the Buffer will not be reason for denying Buffer points, if a Buffer is

provided on portions of the site that are not required for locating such facilities. In such cases Buffer points for water-dependent facilities will be awarded as set forth below, provided non-water dependent facilities are not located in the Buffer.

11. These criteria shall apply to lots of record as of July 5, 1988.

12. Parcels having already utilized the Special Growth Allocation are not eligible for this contest.

Point Criteria and Values

1. Development Type (maximum possible points = 25)

Clustering

- Where dwelling units are concentrated in a selected area of the development tract so as to provide natural habitat or other open space uses on the remainder. Points = 3

Conversion of RCA to LDA

- Where a 60 percent open space ratio is maintained throughout the entire Critical Area portion of the site only. Points = 12

OR

- Where a 60 percent open space ratio is maintained throughout the entire site, and where open space outside the Critical Area portion of the site is a minimum of 20 acres. Points = 22

Conversion of LDA and RCA to IDA

Community sewer facilities are an *a priori* requirement for conversion to IDA. If a community sewer facility is not present or not proposed as part of the development, conversion to IDA will not be permitted.

- Where a 30 percent open space ratio is maintained throughout the entire Critical Area portion of the site only. Points = 12

OR

- Where a 30 percent open space ratio is maintained throughout the entire site, and where open space outside the Critical Area portion of the site is a minimum of 20 acres. Points = 22

2. Buffer Enhancement (maximum possible points = 20)

<u>Minimum Depth of Buffer</u>	<u>Points</u>
Required	0
Required plus 50 feet	4
Required plus 100 feet	6
Required plus 150 feet	7
Required plus 200 feet	9

Required = 110 feet plus any expansion required by location of the Buffer adjacent to sensitive areas.

	<u>Portion of Buffer afforested by Applicant</u>				<u>Depth of Buffer</u>
	<u>25%</u>	<u>50%</u>	<u>75%</u>	<u>100%</u>	
Points	1	2	3	4	Required (as above)
Points	1	2	3	4	Required + 50'
Points	1	2	3	4	Required + 100'
Points	2	3	4	5	Required + 150'
Points	2	3	4	5	Required + 200'

Drainageways are: Minor watercourses which are defined either by soil type or by the presence of intermittent or perennial streams or topography which indicates a swale where surface sheet flows join, including the land, except where areas are designated as floodplain, on either side of and within fifty (50) feet of the centerline of any intermittent or perennial stream shown on the U. S. Geological Service's 7 1/2 minute Quadrangle sheets covering Cecil County.

- Where a 50-foot forested buffer, which remains in open space, is established along all drainageways on the site. Points = 4

OR

- Where a 50-foot forested buffer, which remains in open space, is established along all drainageways on the site, including those portions of the site located outside the Critical Area. Points = 6

3. Location of Development (maximum possible points = 15)

- Conversion of LDA or RCA to new IDA which is located in existing LDA or adjacent to existing IDA. Points = 10

OR

- Conversion of RCA to new LDA which is located adjacent to existing LDA or IDA. Points = 10

AND, all proposed projects that are located adjacent to a municipality will be evaluated and scored in the same manner as all other projects, except that such projects may be designed based on development codes of the adjacent municipality, including that municipality's Critical Area Program, if intended to be annexed. In addition, if the projects are endorsed by the municipality, said endorsement consisting of a letter from the municipal officials, they will be awarded points provided that the ~~entire proposed development site is to be annexed into the adjacent municipality. A condition of approval for such projects will be that the site will be incorporated into the adjacent municipality within one year of approval.~~ Points = 4

4. Forest and Woodland Protection (maximum possible points = 10)

- If 40 percent or more of the Critical Area portion of the site is wooded, and less than 15 percent of the existing forest and woodlands are cleared. Points = 1
- If 40 percent or more of the Critical Area portion of the site is wooded, and less than 10 percent of the existing forest and woodlands are cleared. Points = 4.
- Where forest cover exclusive of Buffer Area and existing forest is increased as follows:

<u>Afforestation</u>	<u>Area of Forest Cover increased by:</u>		
	<u>30%</u>	<u>50%</u>	<u>70%</u>
Critical Area portion of site	3	4	5
Entire site where non-Critical Area portion is 5 acres or more.	4	5	6

5. Habitat Protection (maximum possible points = 10)

- Where a disturbance, of palustrine, non-tidal wetlands or hydrologic regime of non-tidal wetland, mitigation not withstanding, is avoided. Points = 1
- Where permanent environmental easements on existing plant, wildlife and related habitat enhancement areas are donated. Points = 4
- Where the following existing Habitat Protection Areas are not present on the site: rare, threatened and endangered species, Natural Heritage Areas, and colonial waterbird nesting areas. Points = 4
- If the developed portion of the site is located the maximum distance possible from a habitat protection area minimum setback. Points = 2
- If measures are implemented which enhance the Habitat Protection Areas in the area of the site as recommended by the Cecil County Planning Commission and the Maryland Forest, Park and Wildlife Service. Points = 2
- If there is implementation of a forest management program which is designed to protect the habitat values of existing and newly created riparian forests and large forested areas (if the site includes 5 acres or more outside of the Critical Area), and this program is prepared in conjunction with the Cecil County Planning Department and the Maryland Forest, Park and Wildlife Service. Points = 1

6. Water Quality (maximum possible points = 8)

RCA to LDA conversion

For impervious surfaces less than 15 percent, points assigned as follows:

<u>Impervious surface</u>	<u>Points</u>
15% or less	0
14% or less	1
12% or less	2
10% or less	5
8% or less	8

LDA and RCA conversion to IDA

For impervious surfaces less than 70 percent, points assigned as follows:

<u>Impervious surface</u>	<u>Points</u>
70% or less	0
60% or less	1
50% or less	2
40% or less	5
30% or less	8

7. Resource Utilization (maximum possible points = 6)

- Where agriculture or silviculture is continued on the open space portions of the site in the Critical Area. Points = 3

OR

- Where agriculture or silviculture is continued on the open space portions of the entire site, where the site includes at least 20 acres in agriculture outside the Critical Area. Points = 6

8. Erosion Control (maximum possible points = 3)

- Where shore erosion protection measures are installed on 50 percent of the remaining shoreline where needed, and use of non-structural shore erosion controls where feasible. Points = 2

- Where shore erosion protection measures are installed on 100 percent of the remaining shoreline, and use of non-structural shore erosion controls where feasible. Points = 3

9. Water-Dependent Facilities (maximum possible points = 3)

- Where community or shared piers are provided. Points = 3

10. Bonus Points

These points shall not be used for the first tier scoring threshold of 56 points, but may be accumulated for the second tier threshold.

- Where a proposed development includes community sewer facilities and the developer is able to expand the system to serve existing developed areas of failing septic systems, thereby correcting a documented existing water quality problem. The award of these points will be based on the feasibility of servicing adjacent areas as determined in consultation with the Health Department and the Department of Public Works. Actual points awarded will vary depending on the number of units served, the severity of the problem and other factors relating to feasibility. A general guideline will be that the correction of all failing septic systems in adjacent areas will earn maximum points. Maximum Bonus Point Value = 25
- Where a proposed development project provides free public access to the shoreline. Bonus Points = 25
- Where a natural park is designated and approved by the Cecil County Planning Commission, and, provisions are made to permit limited access to the natural park for educational purposes (e.g., periodically permitting the local school system to conduct field trips to the park), points will be credited. To receive these points a natural park management plan and program must be developed and include the recommendations of the Maryland Forest, Park and Wildlife Service. Bonus Points = 10
- Placing all remaining agricultural lands in the open space portion of the site in a Maryland Agricultural Preservation Program District. Bonus Points = 5

DISCUSSION OF RELATIVE CRITERIA
OF
PARKING LOT EXPANSION
AT
SOLOMONS ISLAND BOAT RAMP FACILITY
CALVERT COUNTY, MARYLAND

MARYLAND DEPARTMENT OF NATURAL RESOURCES
BOATING ADMINISTRATION
WATERWAY IMPROVEMENT PROGRAM
905-A COMMERCE ROAD
ANNAPOLIS, MARYLAND 21401

May 3, 1989

SOLOMONS ISLAND BOAT RAMP FACILITY
PARKING LOT EXTENSION

(Discussion of Relative Criteria)

The existing Solomons Boat ramp facility is a public water oriented recreational facility constructed by the State of Maryland for the general boating public in 1986. The property is owned by the State of Maryland and the facility is operated by the County under a 30 year lease-management agreement with the Calvert County Board of County Commissioners.

The proposed construction discussed here-in includes the extension of the existing parking lot to accomodate an additional 39 cars with trailers and 3 cars without trailers.

The following paragraphs refer to COMAR 14.19.01 through 14.19.18 "CHESAPEAKE BAY CRITICAL AREAS COMMISSION REGULATIONS FOR DEVELOPMENT IN THE CRITICAL AREA RESULTING FROM STATE AND LOCAL AGENCY PROGRAMS."

para. 14.19.05.03 Development

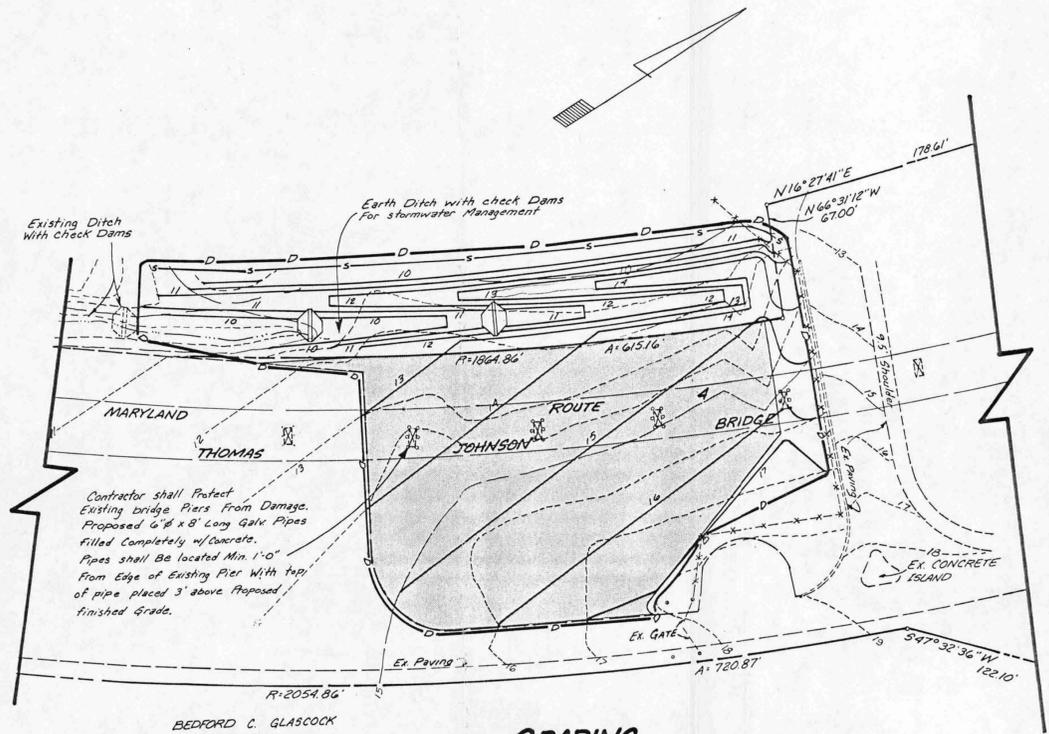
- Sub para. B(1)(b) The proposed development is required to occur in the Critical Area, however, it is continued development of an existing recreation area of intense development.
- Sub para. B(1)(e) The proposed parking lot expansion will occur above the Mean high tide and does not require State and Federal Wetlands Permits. However, all applicable State permits will be obtained.
- Sub para. B(2)(b) The Site will have a stormwater management plan which will reduce pollutant loading from the site.
- Sub para. B(2)(c) The landscape plan for the proposed parking lot includes the establishment of turfed areas and permeable areas which will contribute to reduced levels of pollution.

para. 14.19.05.04 Water Dependand Facilities

- Sub para. A(1)(b) The Solomons Island Launching Facility is a water dependent facility as it is dependent upon the water by reason of the intrinsic nature of its operation.
- Sub para. B(1) The proposed expansion of the parking area will be located outside of the 100 ft. buffer.
- Sub para. B(2)(a) The proposed expansion of the parking area will not alter existing water circulation patterns or salinity regimes.
- Sub para. B(2)(b) At the proposed site, the Patuxent River has adequate flushing characteristics.
- Sub para. B(2)(c) There will be no disturbance to wetlands, SAV beds or other aquatic habitats.
- Sub para. B(2)(d) Sewage discharge from vessels is strictly prohibited. Boat cleaning and maintenance operations are not permitted at the site.
- Sub para. B(2)(e) Any shellfish beds that may be located in the area will not be disturbed or affected in any way.
- Sub para. B(2)(f) There is no dredging associated with the proposed expansion of the parking area.
- Sub para. B(2)(h) There will be no interference with the natural transport of sand.

The proposed expansion of the parking area is necessary due to the demand placed on the facility by recreational boaters. Presently, the area available for parking, approximately 70 cars with trailers, is filled to capacity during peak use hours and users are forced to park on the existing upland grassed areas and along Md. Route 2. Our office has proposed that the additional parking spaces be constructed on that grassed area in order to provide for an orderly and efficient use of the facility.

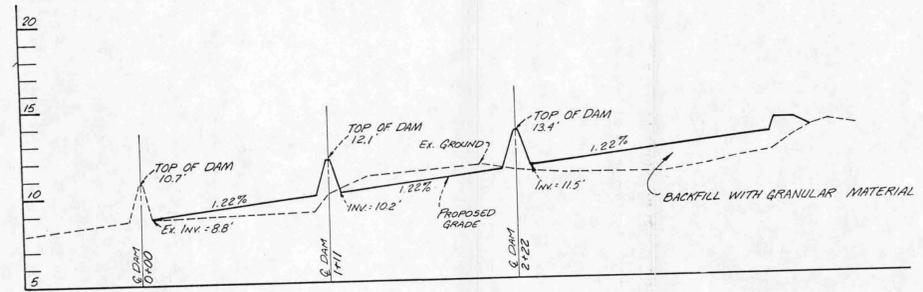
The existing stormwater retention ditch will be extended to accomodate the overland flow of stormwater runoff from the proposed parking area. The proposed project will have an approved sediment and erosion control plan prior to commencement of work at the project site.



BEDFORD C. GLASCOCK
JLB 178-84
JLB 223-301

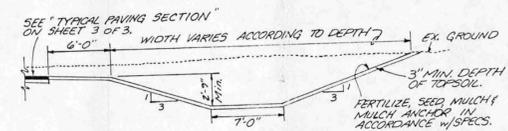
**GRADING,
SEDIMENT & EROSION CONTROL
PLAN**

SCALE: 1" = 50'



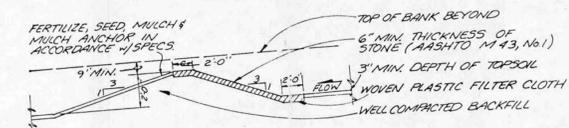
DITCH PROFILE

VERT: 1" = 5'
SCALE: HOR: 1" = 50'



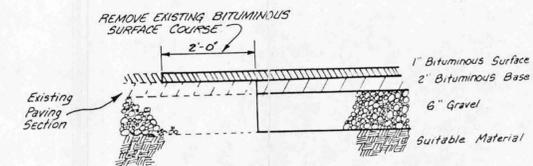
TYPICAL DITCH SECTION

NOT TO SCALE



TYPICAL CHECK DAM SECTION

NOT TO SCALE

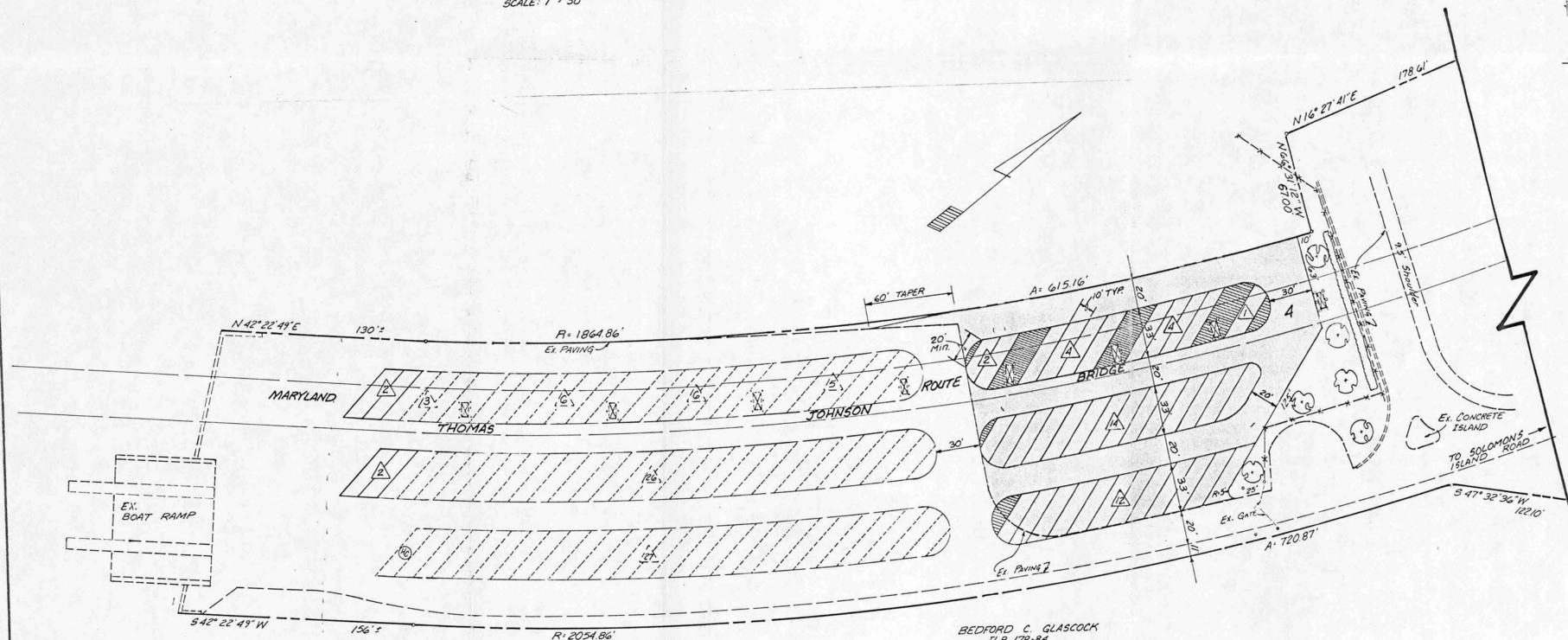


TYPICAL PAVING SECTION

NOT TO SCALE

LEGEND

- EXISTING CHECK DAM
- EXISTING BRIDGE COLUMNS
- EXISTING FENCE
- EXISTING GATE POST
- EXISTING BRIDGE ABOVE
- EXISTING CONTOURS
- PROPOSED PAVING
- PROPOSED CONTOURS
- PROPOSED SILT FENCE
- PROPOSED LIMIT OF DISTURBANCE
- PROPOSED CHECK DAM



BEDFORD C. GLASCOCK
JLB 178-84
JLB 223-301

STRIPING & LANDSCAPING PLAN

SCALE: 1" = 50'

PLANTING SCHEDULE

SYMBOL	BOTANICAL NAME	COMMON NAME	QTY.	SIZE	DESCRIPTION
(Symbol)	QUERUS PILAESTRIS	PIN OAK	6	1 1/4" - 2" Cal.	BAGGED & BALLED
(Symbol)	RHAMNUS FRANGULA (COLUMNARIS)	TALLHEDGE BUCKTHORN	55	18" - 24" HIGH	BARE ROOT

PREPARED FOR:
**CALVERT CO. COMMISSIONERS
COURTHOUSE
PRINCE FREDERICK 20678**

**PROPOSED ADDITIONAL PARKING
FOR BOAT RAMP FACILITY
FOR STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
WATERWAY IMPROVEMENTS DIVISION**

SITE PLAN

DESIGNED		DATE		REVISIONS	
DATE	BY	DATE	BY	DESCRIPTION	
M.D.R.	FEB 89				
V.R.P.	FEB 89				
R.T.	FEB 89				

Dewberry & Davis
ENGINEERS — ARCHITECTS — PLANNERS — SURVEYORS

101 Skipjack Road, Prince Frederick, MD. 20678
2594 Riva Road, Annapolis, Maryland, 21401
8411 Arlington Boulevard, Fairfax, Virginia, 22030



Mail to
Marcus Pollak

Bill No. 180-88

Mr. Ronald Hickernell, Councilman

By the County Council, December 5, 1988

A BILL
ENTITLED

AN ACT concerning

Official Zoning Map, Critical Area Map and Growth Allocation procedure

FOR the purpose of authorizing certain changes to the Official Critical Area Map and Official Zoning Map by the County Board of Appeals, the County Planning Board and the County Council outside of the authorized time frames and establishing a system for awarding growth allocations in the Chesapeake Bay Critical Area.

BY Repealing and Reenacting

Section 2-58.1(a), (d), (i), (j) and (m)
Article V. Boards and Commissions
Title "Administration"
Baltimore County Code, 1978, 1986 Cumulative Supplement, as amended.

BY Adding

Subsections 22-21 (g) and (h)
Subsections 22-22 (d) (1) (2) and (3)
Article III. Zoning.
Title "Planning, Zoning and Subdivision Control"
Baltimore County Code, 1978, 1987 Cumulative Supplement, as amended.

1. SECTION 1. Be it enacted by the County Council of Baltimore
2. County, Maryland, that Section 2-58.1 of Division 3 of Article V, Title
3. "Administration", of the Baltimore County Code, 1978, 1987 Cumulative
4. Supplement, as amended, be and it is hereby repealed and reenacted with
5. amendments, to read as follows:

6. Sec. 2-58.1. Delegation to board of appeals of interim power to
7. change zoning classification of property, INCLUDING CORRECTIONS TO THE
8. OFFICIAL CRITICAL AREA MAP OR IN CONJUNCTION WITH ANY APPLICATION FOR
9. THE USE OF GROWTH ALLOCATION; method of interim zoning reclassifica-
10. tion; method for early action on reclassification due to public inter-
11. est or emergency.

12. (a) (1) The board of appeals shall have the power to make a
13. change as to the district, division or zone within which a particular
14. piece of property is classified (zoning reclassification) as hereinaf-

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Bractes] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

1. ter provided. As used in this section, the term "use" includes develop-
2. ment, except where otherwise indicated by the context (.);

3. (2) IN ADDITION TO THE AUTHORITY VESTED IN THE BOARD OF
4. APPEALS AS DESCRIBED IN (a) (1) ABOVE, THE BOARD SHALL HAVE THE POWER TO
5. CORRECT THE OFFICIAL CRITICAL AREA MAP ADOPTED PURSUANT TO SECTION
6. 22-203, BALTIMORE COUNTY CODE, SUBJECT TO THE REQUIREMENTS OF THIS
7. SECTION;

8. (3) THE BOARD OF APPEALS SHALL BE ABLE TO APPROVE IN CON-
9. JUNCTION WITH (a) (1) OR (a) (2), ABOVE, ANY APPLICATION FOR THE USE OF
10. GROWTH ALLOCATION PURSUANT TO THE AUTHORITY VESTED AND PROCEDURE SET
11. FORTH HEREIN AND PURSUANT TO SUBSECTIONS 22-21(g) AND (h);

12. (4) FOR THE PURPOSE OF THIS SECTION, THE TERM "ZONING
13. RECLASSIFICATION" SHALL INCLUDE ALL OF THE ABOVE.

14. (d) With the exception of those reclassification petitions ex-
15. empted under the procedure set forth in subsection (i) of this section,
16. copies of all zoning reclassification petitions accepted for filing by
17. the board of appeals shall be transmitted within five (5) days after
18. receipt to the office of the zoning commissioner, who shall make the
19. facilities and staff of his office available to the board of appeals
20. for the purpose of:

21. (1) Reviewing all such petitions for compliance with appli-
22. cable statutes and regulations;

23. (2) Preparing the appropriate advertisements;

24. (3) Causing said advertisements to be published; and

25. (4) Posting the individual properties involved in the
26. cycle; all as required by this section and rules of practice and proce-
27. dure of the board of appeals. No later than five (5) days prior to

1. Period I of the following cycle, the petition and appropriate comments
2. shall be transmitted by the office of the zoning commissioner to the
3. board of appeals.

4. (5) IN THE CASE OF EACH PETITION PERTAINING TO ANY LAND
5. WITHIN THE CHESAPEAKE BAY CRITICAL AREA AS DEFINED IN SECTION 22-202, A
6. COPY OF THE PETITION AND COMMENTS SHALL SIMULTANEOUSLY BE TRANSMITTED
7. TO THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RE-
8. SOURCE MANAGEMENT. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
9. PROTECTION AND RESOURCE MANAGEMENT MAY ADOPT AND, FROM TIME TO TIME,
10. MAY AMEND, ADMINISTRATIVE REGULATIONS TO BE UTILIZED BY THE OFFICE OF
11. THE ZONING COMMISSIONER WHEN REVIEWING ALL SUCH PETITIONS FOR COMPLI-
12. ANCE WITH APPLICABLE STATUTES AND REGULATIONS.

13. (6) The board of appeals shall transmit the petition and
14. comments to the director of planning and zoning within the first five
15. (5) days of Period I of the following cycle. Within fifteen (15) days
16. thereafter, the director of planning and the board of appeals shall
17. publish a listing of all such petitions, together with a map showing
18. the locations of all properties under petition, in two (2) newspapers
19. of general circulation in the county for a period of at least two (2)
20. weeks. They also shall make such listing and map available in the form
21. of a press release and, for a period of at least three (3) weeks, shall
22. publicly display a copy of such listing and map in the county office
23. building or other appropriate place for public inspection.

24. (i) In any case where the planning board certifies to the county
25. council that early action upon a zoning reclassification petition is
26. manifestly required in the public interest or because of emergency, and
27. the county council by an affirmative vote approves said certification,
28. such petition shall be exempted from the regular, cyclical procedure of
29. subsections (c) through (h) of this section, and also from the suspen-
30. sion of reclassification-petition filing required under section 2-58.2
31. of this article. For any such petition, the board of appeals shall
32. schedule a public hearing for a date not less than thirty (30) nor more
33. than ninety (90) days after the county council's approval of the plan-

1. ning board's certification. For a period of at least fifteen (15) days
2. prior to the time of such hearing, notice of the time and place of the
3. hearing relating to the property under petition shall be conspicuously
4. posted thereon and shall be given in at least two (2) newspapers of
5. general circulation in the county. Such notice shall describe the
6. property under petition and the action requested therein. Within five
7. (5) days after receipt of such a petition, the board of appeals shall
8. forward a copy of such petition to the office of the zoning commission-
9. er and the director of planning (or his deputy) AND, IN THE CASE OF
10. EACH PETITION PERTAINING TO ANY LAND WITHIN THE CHESAPEAKE BAY CRITICAL
11. AREA, A COPY TO THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PROTEC-
12. TION AND RESOURCE MANAGEMENT, for consideration and written report
13. thereon containing their findings thereon with regard to compliance
14. with zoning regulations, [and] planning factors, OR CRITICAL AREA STAN-
15. DARDS, SUBJECT TO SUBSECTIONS 22-21(g) AND (h) AND 22-22(d) OF THE
16. BALTIMORE COUNTY CODE.

17. (j) Before any property is reclassified pursuant to this sec-
18. tion, the board of appeals must find:

19. (1) That, EXCEPT AS LIMITED BY THE TERMS OF PARAGRAPH (3),
20. BELOW, there has occurred a substantial change in the character of the
21. neighborhood in which the property is located since the property was
22. last classified, or that the last classification of the property was
23. established in error; and

24. (2) That the prospective reclassification of the property
25. is warranted by that change or error. Any finding of such a change or
26. error and any finding that the prospective reclassification is warrant-
27. ed may be made only upon consideration of factors relating to the pur-
28. poses of the zoning regulations and maps, including, but not limited
29. to, all of the following: Population trends; availability and adequacy
30. of present and proposed transportation facilities, water-supply facili-
31. ties, sewerage, solid-waste-disposal facilities, schools, recreational
32. facilities, and other public facilities, compatibility of uses general-

1. ly allowable under the prospective classification with the present and
2. projected development or character of the surrounding area; any perti-
3. nent recommendation of the planning board or office of planning and
4. zoning; and consistency of the current and prospective classifications
5. with the master plan, the county plan for sewerage and water-supply
6. facilities, and the capital program.

7. (3) ANY RECLASSIFICATION PERTAINING TO LAND WITHIN THE
8. CHESAPEAKE BAY CRITICAL AREA IS SUBJECT TO THE FOLLOWING LIMITATIONS:

9. (A) (i) IN ACCORDANCE WITH SECTION 8-1809(h) OF THE
10. NATURAL RESOURCES ARTICLE OF THE MARYLAND ANNOTATED CODE, A RECLASSIFI-
11. CATION, EXCEPT FOR CHANGES INVOLVING GROWTH ALLOCATION THAT DO NOT
12. REQUIRE CHANGES TO THE UNDERLYING ZONES, MAY BE GRANTED ONLY ON PROOF
13. OF A MISTAKE IN THE EXISTING ZONING, OR IN THE EXISTING BOUNDARIES
14. SHOWN IN THE OFFICIAL CRITICAL AREA MAP, OR BOTH; CHANGE IN THE CHARAC-
15. TER OF THE NEIGHBORHOOD SHALL NOT BE A BASIS FOR GRANTING RECLASSIFICA-
16. TION.

17. (ii) A RECLASSIFICATION INVOLVING GROWTH ALLOCA-
18. TION THAT DOES NOT REQUIRE CHANGES TO THE UNDERLYING ZONE OR ZONES MAY
19. BE GRANTED PURSUANT TO THE CRITERIA SET OUT IN SUBSECTION
20. 2-58.1(J) (3) (B), BELOW.

21. (B) IN EVALUATING REQUESTS FOR RECLASSIFICATION, THE BOARD
22. SHALL CONSIDER THE CRITERIA IN COMAR 14.15.02 AND THE STANDARDS IN
23. APPENDIX IV-B OF THE LOCAL PROTECTION PROGRAM ADOPTED BY COUNTY COUNCIL
24. RESOLUTION NO. 13-88. NO RECLASSIFICATION MAY BE GRANTED UNLESS THE
25. BOARD HAS MADE WRITTEN FINDINGS THAT THE PROPOSED RECLASSIFICATION WILL:

26. (i) MINIMIZE ADVERSE IMPACTS ON WATER QUALITY
27. THAT RESULT FROM POLLUTANTS THAT ARE DISCHARGED FROM STRUCTURES OR
28. CONVEYANCES OR THAT HAVE RUN OFF FROM SURROUNDING LANDS;

29. (ii) CONSERVE FISH, WILDLIFE, AND PLANT HABITAT;

30. AND

1. (iii) BE CONSISTENT WITH ESTABLISHED LAND USE POLI-
2. CIES FOR DEVELOPMENT IN THE CHESAPEAKE BAY CRITICAL AREA WHICH ACCOMMO-
3. DATE GROWTH AND ALSO ADDRESS THE FACT THAT, EVEN IF POLLUTION IS CON-
4. TROLLED, THE NUMBER, MOVEMENT, AND ACTIVITIES OF PERSONS IN THAT AREA
5. CAN CREATE ADVERSE ENVIRONMENTAL IMPACTS.

6. (C) RECLASSIFICATIONS IN CASES INVOLVING GROWTH ALLOCATION
7. SHALL BE REFERRED TO THE COUNTY PLANNING BOARD BY THE BOARD OF APPEALS
8. FOR CONSIDERATION AND WRITTEN REPORT THEREON, SUBJECT TO SECTION 22-
9. 21(g), AND (h) OF THE COUNTY CODE.

10. (m) A zoning reclassification petition (including any documenta-
11. tion relating to the proposed use of the property under petition) may
12. be amended only during a required public hearing proceeding on the
13. petition. When a proposed amendment to such a petition is introduced,
14. the hearing proceedings shall immediately be suspended and, within two
15. (2) business days thereafter, the hearing authority shall transmit a
16. copy of the proposal to the director of planning who:

17. (1) IN ANY CASE WHERE A PETITION HAS BEEN EXEMPTED UNDER
18. PROVISIONS OF SUBSECTION (i), SHALL PROMPTLY REFER THE AMENDMENT TO ANY
19. AGENCY THAT HE CONSIDERS APPROPRIATE, TOGETHER WITH A REQUEST THAT THE
20. AGENCY PROVIDE HIM WITH COMMENTS ON THE AMENDMENT. WITHIN FORTY-FIVE
21. (45) DAYS AFTER THE AMENDMENT HAS BEEN TRANSMITTED TO THE DIRECTOR OF
22. THE OFFICE OF PLANNING, HE SHALL TRANSMIT TO THE HEARING AUTHORITY A
23. REPORT ON THE AMENDMENT.

24. (2) IN ALL OTHER CASES, THE DIRECTOR OF THE OFFICE OF
25. PLANNING shall [then] promptly transmit copies to the members of the
26. planning board. The director of planning shall also promptly refer the
27. amendment to the office of the zoning commissioner and any other agency
28. that he considers, upon reviewing files on the petition, to have an
29. interest therein, together with a request that the agency provide him
30. with comments on the amendment for distribution to the planning board,
31. by a time he shall specify. Within forty-five (45) days after the copy

1. of the amendments has been transmitted to the director of planning, the
2. planning board shall adopt and transmit to the hearing authority a
3. resolution embodying a report on the amendment.

4. (3) Any documentation that relates to the proposed use of
5. the property upon petition and that is submitted by the petitioner or
6. his authorized agent after the first public newspaper advertisement of
7. the filing of the petition as required in Period I shall be considered
8. an amendment to the petition, whether or not documentation of that
9. nature was included within the original petition, and shall be subject
10. to the provisions of subsection (1) as well as this subsection.

11. SECTION 2. Be it further enacted, that Subsections 22-21 (g) and
12. (h) be and they are hereby added to Article III. Zoning, title "Plan-
13. ning, Zoning and Subdivision Control, Baltimore County Code, 1978, 1986
14. Cumulative Supplement, as amended, to read as follows:

15. Section 22-21. Preparation of zoning regulations, [and]
16. zoning maps AND GROWTH ALLOCATION PROCEDURE.

17. (g) GROWTH ALLOCATION MAY BE AWARDED SUBJECT TO THE FOLLOWING
18. DISTRIBUTION CONSTRAINTS:

20. (1) THE TOTAL GROWTH ALLOCATION FOR BALTIMORE COUNTY IS
21. 462 ACRES OF WHICH UP TO ONE-HALF MAY BE USED TO RECLASSIFY RESOURCE
22. CONSERVATION AREAS TO EITHER LIMITED DEVELOPMENT AREAS OR INTENSELY
23. DEVELOPED AREAS. THE REMAINING PORTION MAY BE USED TO RECLASSIFY LIMIT-
24. ED DEVELOPMENT AREAS TO INTENSELY DEVELOPED AREAS.

25. (a) THE APPORTIONMENT OF THESE 462 ACRES SHALL BE
26. DETERMINED AS FOLLOWS:

27. (I) 100 ACRES SHALL BE RESERVED FOR THOSE
28. PROJECTS ACCEPTED BY THE COUNTY REVIEW GROUP AS OF DECEMBER 1, 1985;

1. (II) 22 ACRES HAVE BEEN APPROVED BY THE COUNTY
2. COUNCIL THROUGH THE PHASE 1 GROWTH ALLOCATION PROCESS AS ADOPTED BY
3. BILL NO. 35-88;

4. (III) 170 ACRES MAY BE AWARDED THROUGH PERIODIC
5. DESIGN COMPETITIONS, AS SET FORTH IN SUBSECTION 22-21(h) BELOW, BY
6. DECEMBER 31, 1991;

7. (a) FROM THESE 170 ACRES, 34 ACRES SHALL BE
8. RESERVED FOR MINOR DEVELOPMENTS WHICH ARE DEFINED AS RESIDENTIAL,
9. COMMERCIAL, OR INDUSTRIAL USES THAT REQUIRE A MAXIMUM OF 10 ACRES OF
10. ALLOCATION PER PROJECT. AN ADDITIONAL 34 ACRES SHALL BE RESERVED FROM
11. THE REMAINING GROWTH ALLOCATION ACREAGE SET ASIDE FOR ALLOCATION AFTER
12. DECEMBER 31, 1991 FOR MINOR DEVELOPMENTS WHICH ARE DEFINED AS RESIDEN-
13. TIAL, COMMERCIAL, OR INDUSTRIAL USES THAT REQUIRE A MAXIMUM OF 10 ACRES
14. OF ALLOCATION PER PROJECT.

15. (b) THERE SHALL BE TWO SEPARATE DESIGN
16. COMPETITIONS, ONE OCCURRING IN THE YEAR 1989 AND THE OTHER OCCURRING IN
17. 1991. THE PLANNING BOARD MAY RECOMMEND THAT A PORTION OF THE 170 ACRES
18. OR NONE OF THE 170 ACRES BE AWARDED. IF SUPERIOR PROJECTS ARE SUBMIT-
19. TED, THE PLANNING BOARD MAY RECOMMEND THAT SOME OF THE ALLOCATION
20. RESERVED FOR FUTURE USE BE AWARDED.

21. (c) BY DECEMBER 31, 1991, THE DEPARTMENT OF
22. ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT, IN CONJUNCTION WITH THE
23. GROWTH ALLOCATION REVIEW COMMITTEE, SHALL EVALUATE THE GROWTH ALLOCA-
24. TION SYSTEM ESTABLISHED IN THIS SECTION AND FORWARD AN EVALUATION AND
25. RECOMMENDATIONS TO THE COUNTY COUNCIL FOR LEGISLATIVE REVIEW. NO FUR-
26. THER GROWTH ALLOCATION MAY BE AWARDED UNTIL SUCH TIME AS THE COUNTY
27. COUNCIL ADOPTS LEGISLATION AMENDING, CHANGING OR CONTINUING THE EXIST-
28. ING PROCESS. A PROCESS BY WHICH THE REMAINING GROWTH ALLOCATION MAY BE
29. AWARDED SHALL BE ADOPTED BY JULY 1, 1992 AND IMPLEMENTED BY DECEMBER
30. 31, 1993; SAID REMAINING GROWTH ALLOCATION, HOWEVER, NEED NOT BE
31. COMPLETED BY THAT DATE.

1. (2) ALL GROWTH ALLOCATION APPLICATIONS SHALL BE SUBJECT TO
2. THE DESIGN COMPETITION EVALUATION FACTORS SET FORTH BY THE GROWTH ALLO-
3. CATION REVIEW COMMITTEE ESTABLISHED PURSUANT TO SECTION 22-21(h).
4. THESE FACTORS SHALL BE USED FOR COMPARATIVE EVALUATION OF THE DEGREE TO
5. WHICH THE GROWTH ALLOCATION APPLICATIONS ACHIEVE THE OBJECTIVES OF
6. RESOURCE MANAGEMENT AND PROTECTION, QUALITY OF DESIGN, LOCATION, AND
7. OFF-SITE COMMUNITY ENHANCEMENT. EXCEPT FOR MINOR DEVELOPMENTS, THE
8. BURDEN OF PROOF IS UPON THE APPLICANT TO DEMONSTRATE THAT THE APPLICA-
9. TION FULFILLS THE ENVIRONMENTAL AND COMMUNITY ENHANCEMENT FACTORS.

10. (3) NEW INTENSELY DEVELOPED AREAS MUST BE AT LEAST 20
11. ACRES.

12. (4) RECORD PLATS FOR PROJECTS AWARDED GROWTH ALLOCATION
13. SHALL NOT BE RENEWED UNLESS APPROVED BY THE GROWTH ALLOCATION REVIEW
14. COMMITTEE. IF SUCH A PLAT IS DENIED RENEWAL, THE ALLOCATION SHALL BE
15. REAPPLIED TO THE COUNTY'S TOTAL.

16. (5) THE GROWTH ALLOCATION REVIEW COMMITTEE SHALL ADOPT
17. AND, FROM TIME TO TIME, MAY AMEND ITS ADMINISTRATIVE PROCEDURES FOR THE
18. REVIEW OF GROWTH ALLOCATION APPLICATIONS UNDER THE PROVISIONS OF THIS
19. SECTION.

20. (h) THE FOLLOWING DESIGN COMPETITION PROCEDURE SHALL
21. BE USED TO AWARD GROWTH ALLOCATIONS IN THE CRITICAL AREA:

22. (1) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RE-
23. SOURCE MANAGEMENT SHALL ANNOUNCE THE OPENING OF THE GROWTH ALLOCATION
24. DESIGN COMPETITION THROUGH A NOTICE IN TWO NEWSPAPERS OF GENERAL CIRC-
25. LATION IN THE COUNTY. AT THE TIME OF THE NOTICE, THE DEPARTMENT OF
26. ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT SHALL HAVE COPIES OF
27. THE PROCEDURAL AND SUBMITTAL REQUIREMENTS AND THE EVALUATION OBJECTIVES
28. AVAILABLE FOR DISTRIBUTION.

1. (2) GROWTH ALLOCATION PLANS AND DATA MUST BE SUBMITTED TO
2. THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
3. WITHIN NINETY DAYS OF THE PUBLIC NOTICE. WITHIN FIFTEEN BUSINESS DAYS
4. OF THE RECEIPT OF THE REQUEST AND PLANS, THE DEPARTMENT OF ENVIRONMEN-
5. TAL PROTECTION AND RESOURCE MANAGEMENT SHALL REVIEW THE PLAN FOR COMPLI-
6. ANCE WITH THE GROWTH ALLOCATION SUBMISSION REQUIREMENTS; AND IF THE
7. PLAN IS IN COMPLIANCE, THE PLAN SHALL BE ACCEPTED FOR FILING AND COPIES
8. OF THE PLAN SHALL BE FORWARDED TO THE GROWTH ALLOCATION REVIEW COMMIT-
9. TEE (GARC) FOR ITS ACTION. AN INCOMPLETE PLAN SHALL BE RETURNED TO THE
10. APPLICANT WITH AN EXPLANATION FOR ITS RETURN.

11. THE GARC SHALL CONSIST OF THE DIRECTORS, OR THEIR DESIGNAT-
12. ED REPRESENTATIVES, OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND
13. RESOURCE MANAGEMENT, OFFICE OF PLANNING AND ZONING, DEPARTMENT OF PUB-
14. LIC WORKS, DEPARTMENT OF RECREATION AND PARKS, AND THE ECONOMIC DEVELOP-
15. MENT COMMISSION. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PRO-
16. TECTION AND RESOURCE MANAGEMENT OR HIS DESIGNATED REPRESENTATIVE SHALL
17. SERVE AS CHAIRPERSON.

18. (3) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RE-
19. SOURCE MANAGEMENT SHALL PREPARE COPIES OF THE OFFICIAL BALTIMORE COUNTY
20. CHESAPEAKE BAY CRITICAL AREA MAP AND, IF APPLICABLE, THE OFFICIAL BALTI-
21. MORE COUNTY ZONING MAP SHOWING THE LOCATION OF THE REQUESTED GROWTH
22. ALLOCATIONS.

23. (4) THE GROWTH ALLOCATION REVIEW COMMITTEE SHALL REVIEW
24. THE SUBMISSIONS PER THE DESIGN COMPETITION EVALUATION OBJECTIVES, AND
25. MAKE WRITTEN RECOMMENDATIONS TO THE PLANNING BOARD WITHIN NINETY DAYS
26. OF THE OFFICIAL ACCEPTANCE DEADLINE.

27. (5) SUBJECT TO THE GIVING OF AT LEAST TWENTY DAYS PUBLIC
28. NOTICE IN TWO NEWSPAPERS OF GENERAL CIRCULATION, THE PLANNING BOARD
29. SHALL HOLD ONE OR MORE PUBLIC MEETINGS TO REVIEW THE RECOMMENDATIONS OF
30. THE GROWTH ALLOCATION REVIEW COMMITTEE. THE MEETING(S) SHALL INCLUDE:

To: Charlie Dams

FAX # 974-5340

CAC

Critical Areas Comm.

- 1. -A PRESENTATION OF THE PLAN BY THE APPLICANT
- 2. -GARC RECOMMENDATIONS
- 3. -PUBLIC COMMENT

4. DURING THE PERIOD OF NOTICE, THE PLANS WITH ACCOMPANYING
 5. TEXT AND DATA, AS WELL AS THE GARC'S RECOMMENDATIONS, SHALL BE AVAIL-
 6. ABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF ENVIRONMENTAL PROTEC-
 7. TION AND RESOURCE MANAGEMENT.

8. (6) NOTICE OF THE DATE, TIME, AND PLACE OF THE PLANNING
 9. BOARD'S PUBLIC MEETING(S) SHALL BE CONSPICUOUSLY POSTED BY THE COUNTY
 10. ON THE LOT, PARCEL, OR TRACT WHICH IS THE SUBJECT OF THE PLAN AT LEAST
 11. FIFTEEN BUSINESS DAYS PRIOR TO THE MEETING.

12. (7) WITHIN THIRTY DAYS OF THE FINAL PUBLIC MEETING, THE
 13. PLANNING BOARD SHALL ACT ON THE GARC'S RECOMMENDATIONS. RECOMMENDA-
 14. TIONS THAT REQUIRE A RECLASSIFICATION WILL BE FORWARDED TO THE BOARD OF
 15. APPEALS FOR FINAL DETERMINATION PURSUANT TO SECTION 2-58.1 OF THE BALTI-
 16. MORE COUNTY CODE. RECOMMENDATIONS THAT REQUIRE A ZONING CHANGE TO THE
 17. OFFICIAL ZONING MAP SHALL BE FORWARDED TO COUNTY COUNCIL FOR APPROVAL
 18. AND BE SUBJECT TO THE PROVISIONS OF SUBSECTION 22-22(d).

19. (8) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RE-
 20. SOURCE MANAGEMENT SHALL FORWARD THE APPROVED AMENDMENTS TO THE
 21. OFFICIAL CRITICAL AREA MAP OR ZONING MAP, OR BOTH AND ALL RELE-
 22. VANT INFORMATION TO THE CHESAPEAKE BAY CRITICAL AREA COMMISSION
 23. FOR THEIR APPROVAL PER SECTION 8-1809 OF THE CRITICAL AREA LAW.

24. Section 3. Be it further enacted, that Subsections 22-22(d) (1)
 25. and (2) be and they are hereby added to Article III, Zoning, title
 26. "Planning, Zoning and Subdivision Control, Baltimore County Code, 1978,
 27. 1987 Cumulative Supplement, as amended, to read as follows:

28. Section 22-22. Action by county council on adoption of zoning
 29. regulations and zoning maps AND CHESAPEAKE BAY CRITICAL AREA MAP

- 1. -A PRESENTATION OF THE PLAN BY THE APPLICANT
- 2. -GARC RECOMMENDATIONS
- 3. -PUBLIC COMMENT

4. DURING THE PERIOD OF NOTICE, THE PLANS AND
5. TEXT AND DATA, AS WELL AS THE GARC'S RECOMMENDATIONS,
6. SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF ENVIRONMENTAL
7. PROTECTION AND RESOURCE MANAGEMENT.

8. (6) NOTICE OF THE DATE, TIME, AND PLACE OF THE
9. BOARD'S PUBLIC MEETING(S) SHALL BE CONSPICUOUSLY POSTED
10. ON THE LOT, PARCEL, OR TRACT WHICH IS THE SUBJECT OF THE
11. APPLICATION FIFTEEN BUSINESS DAYS PRIOR TO THE MEETING.

12. (7) WITHIN THIRTY DAYS OF THE FINAL PUBLIC MEETING,
13. THE PLANNING BOARD SHALL ACT ON THE GARC'S RECOMMENDATIONS.
14. RECOMMENDATIONS THAT REQUIRE A RECLASSIFICATION WILL BE FORWARDED TO THE
15. BOARD FOR FINAL DETERMINATION PURSUANT TO SECTION 2-58 OF THE
16. BALTIMORE COUNTY CODE. RECOMMENDATIONS THAT REQUIRE A ZONING MAP
17. SHALL BE FORWARDED TO COUNTY COUNCIL FOR APPROVAL OF AN
18. OFFICIAL ZONING MAP AND BE SUBJECT TO THE PROVISIONS OF SUBSECTION 22-22(d).

19. (8) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND
20. RESOURCE MANAGEMENT SHALL FORWARD THE APPROVED AMENDMENT TO
21. AN OFFICIAL CRITICAL AREA MAP OR ZONING MAP, OR BOTH, TO THE
22. CHESAPEAKE BAY CRITICAL AREA COMMISSION FOR THEIR APPROVAL PER SECTION 8-1809 OF THE CRITICAL AREA
23. REGULATIONS.

24. Section 3. Be it further enacted, that Subsections (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (44), (45), (46), (47), (48), (49), (50), (51), (52), (53), (54), (55), (56), (57), (58), (59), (60), (61), (62), (63), (64), (65), (66), (67), (68), (69), (70), (71), (72), (73), (74), (75), (76), (77), (78), (79), (80), (81), (82), (83), (84), (85), (86), (87), (88), (89), (90), (91), (92), (93), (94), (95), (96), (97), (98), (99), (100) and (2) be and they are hereby added to Article III, Zoning and Subdivision Control, Baltimore County Code, 1987 Cumulative Supplement, as amended, to read as follows:

28. Section 22-22. Action by county council on adoption of
29. regulations and zoning maps AND CHESAPEAKE BAY CRITICAL AREA REGULATIONS.

1. PROCEDURES.

2. (d) NOTWITHSTANDING ANY OTHER PROVISION OF THE CODE RELAT-
3. ING TO RECLASSIFICATIONS OR REZONING OF LAND, THE COUNTY COUNCIL MAY
4. AMEND AT ANY TIME THE OFFICIAL ZONING MAP IN CONJUNCTION WITH THE AP-
5. PROVAL OF GROWTH ALLOCATION APPLICATIONS AND THE RELATED AMENDMENT OF
6. THE OFFICIAL CRITICAL AREA MAP ENACTED PURSUANT TO SECTION 22-21 (g) OF
7. THE BALTIMORE COUNTY CODE BUT ONLY AFTER RECEIPT OF RECOMMENDATIONS
8. FROM THE PLANNING BOARD PURSUANT TO SUBSECTIONS 22-21 (g) and (h) AND
9. SUBJECT TO THE PROCEDURES ESTABLISHED IN THIS SUBSECTION BELOW:

10. (1) THAT ALL REQUESTS FOR GROWTH ALLOCATION THAT
11. INVOLVE CHANGES TO THE UNDERLYING ZONE OR ZONES NOT SUBJECT TO SECTION
12. 2-58.1(j) (3), BALTIMORE COUNTY CODE, SHALL BE SUBMITTED TO THE DIRECTOR
13. OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT,
14. WHO SHALL PROCESS SUCH REQUESTS PURSUANT TO SUBSECTIONS 22-21(G) and
15. (H);

16. (2) WITHIN A REASONABLE PERIOD FROM RECEIPT OF THE
17. RECOMMENDATIONS FROM THE PLANNING BOARD, PURSUANT TO SUBSECTION
18. 22-21 (h), AND SUBJECT TO THE GIVING OF AT LEAST TWENTY DAYS PUBLIC
19. NOTICE IN TWO NEWSPAPERS OF GENERAL CIRCULATION, THE COUNTY COUNCIL
20. SHALL HOLD A PUBLIC HEARING ON THE PROPOSED ZONING CHANGES.

21. (3) WITHIN SIXTY DAYS OF THE COUNTY COUNCIL'S PUBLIC
22. HEARING, THE COUNTY COUNCIL SHALL TAKE ACTION ON THE PLANNING BOARD'S
23. RECOMMENDATIONS.

24. Section 4. And be it further enacted, that this Ordinance is
25. hereby declared to be an emergency measure affecting the public health,
26. safety or welfare, and having been passed by the affirmative vote of
27. five members of the County Council, the same shall take effect from the
28. date of its enactment.

PROCEDURE FOR COMPLYING WITH
CRITICAL AREA COMMISSION REVIEW OF
STATE AGENCY ACTIONS RESULTING IN
DEVELOPMENT ON STATE-OWNED LANDS

COMAR 14.19 contains regulations for development projects in the Critical Area proposed by State and local agencies. It describes the procedures and criteria which the agencies must follow under the Chesapeake Bay Critical Area Law (NRA§8-1801-1816). The purpose of this paper is to clarify the process by which State Agencies (hereafter, "the Agency") will work with the Critical Area Commission ("the Commission") to receive approval for development (defined below) on State-owned land. It is intended to supplement the above-mentioned regulations and shall not preempt anything in this subtitle.

The regulations (COMAR 14.19.01) define development as:

- (a) the construction or substantial alteration of residential, commercial, industrial, institutional, or transportation facilities or structures;
- (b) any activity that materially affects the condition and use of dry land; or
- (c) any activity that materially affects the condition and use of land under water within the designated Critical Area.

Conceptual project planning phase

1) In the early, conceptual stages of planning development or in acquiring or disposing of land within the Critical Area, the Agency should familiarize itself with the findings and purposes of the Critical Area Law and with the regulations in COMAR 14.19. It should consider the effects of development on the water quality and the plant and wildlife habitat of the Chesapeake Bay and realize that it will be required to demonstrate that proposed actions are consistent with the criteria in COMAR 14.19.05.03-14. (Note that not all criteria will apply in every project.)

2) During this initial planning phase, the Agency should confer with Commission staff in order to clarify the regulations or for other assistance. When the Agency has drawn up a concept plan or at some other early stage in project planning (i.e, when there is something substantive to convey), the Agency should submit to the Commission a description of the proposed project and a preliminary site design sketch. A narrative addressing the requirements and recommendations specified in the criteria is also recommended in order to facilitate Critical Area review. Finally, the contact person from the Agency and the proposed time frame for the project should be specified. This constitutes the consultation mandated under COMAR 14.19.05.01D.

3) Commission staff will notify Commission members of receipt of the proposal and may contact certain Commission members in order to form a review committee for the project. A meeting with Agency staff may also be scheduled. Although the Commission staff does not speak for the Commission, it may make recommendations to the Agency prior to submission of the plan to Commission members. In accordance with COMAR 14.19.05.01E, the Commission shall submit to the Agency any comments it may have regarding the extent to which the proposed project appears to be in conformance with the criteria in COMAR 14.19.05. These comments shall not prevent the Agency from seeking funds, or from acquiring or disposing of lands.

4) In cases in which the proposed project is prohibited from occurring by the criteria in COMAR 14.19.05, the Agency may wish to seek conditional approval for the proposed action. The Agency must determine whether the project meets the requirements for conditional approval (as outlined in COMAR 14.19.10.01B). Specifically, it must be prepared to demonstrate that the project provides substantial public benefits to the Chesapeake Bay Critical Area Program and that special circumstances exist that prevent the project from being conducted in conformance with the criteria. The Agency shall then justify its request for conditional approval by addressing the points in COMAR 14.19.06.01C. Subsequent procedure follows that outlined below with the additional requirement for a public hearing in the local jurisdiction in which the development would be located.

Submission of projects for approval

5) When the Agency feels that it is ready, and prior to the earliest occurring stage of plan development listed in COMAR 14.19.05.02B, it shall formally submit the development proposal to the Commission. The submission shall include the site plan, a written description of the development, and an explanation of findings demonstrating that the project is consistent with the criteria in COMAR 14.19.05.03-14. Thirty copies of the narrative sections and three copies of the site plan should be provided.

6) The Commission staff will have 5 days in which to determine whether the submission is complete and to notify the Agency. Once the determination of completeness has been made, the timed review period shall begin. As described in COMAR 14.19.07.04B & C, the Commission will, in most cases, have 30 days in which to review and give notice of decision to the Agency. Projects of substantial complexity and potential adverse impact on the Critical Area may require additional review time. Sixty additional days will be provided as long as the Commission notifies the Agency within 15 days of the receipt of the completed proposal. Finally, if the project will adversely affect a local jurisdiction's growth allocation or if a conditional approval is being requested, the Commission will be afforded 90 days in which to respond. The Agency will be notified if growth allocation is to be affected.

7) Agency staff may be invited to attend a Commission meeting (usually the first Wednesday of each month) in order to present the project to the full Commission. It will be asked to describe the development, showing the design plans developed thus far, and to answer any questions. A subcommittee of Commissioners will be assigned to review the project and to give recommendations to the full Commission.

8) The Commission will send a copy of the site plan and accompanying narrative to the head of the government in the local jurisdiction in which the project is located. It will also send copies to the local planning director. Comments will be solicited and must be received by the Commission within 15 days.

Commission review and decision-making

9) In order to carry out an informed review of the development proposal, the Commission may request a visit to the site. This will include the Commission subcommittee, a Commission staff member and the Agency staff assigned to the project. Agency staff should be prepared to give a tour of the site and to respond to any concerns that were raised at the Commission meeting. Alternatively, or in addition, the Commission may request a meeting with project engineers or architects to discuss some of the technical aspects of the plan.

10) In any case, the Commission subcommittee will meet in open session to discuss the proposal and to develop recommendations to be given to the full Commission regarding final approval. It may also conduct public hearings in the local jurisdiction and seek public comment on the plan.

11) The subcommittee will present its recommendations for approval, denial, or approval with conditions to the full Commission at its monthly meeting. Agency staff may choose to be present at the meeting in order to answer any further questions which arise. The Commission will vote on the proposal and the results of the vote will be sent to the Agency within 5 working days of the rendering of a decision. These will be in the form of a letter listing conditions made, if any, for approving the project, or reasons for denial.

Appeals

12) If a development proposal is denied by the Commission, the Agency may file an appeal within 30 days of receipt of the Commission's decision. The appeal should consist of a letter of explanation and/or technical materials specifically addressing the issues upon which the Commission based its denial of the project. Within 30 days of receipt of the appeal, the Agency will be given the opportunity to bring its case before the full Commission.

13) The Commission will notify the affected local jurisdiction of the appeal and will, once again, solicit comments. It will issue its final decision to the Agency in writing within 15 days of the reconsideration.

14) If necessary, and after the exhaustion of the above process, the State Agency or any other aggrieved party may bring an appeal or other appropriate civil action before the courts of the State.



JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING, D-4
ANNAPOLIS, MARYLAND 21401
974-2418 or 974-2426

SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

COMMISSIONERS

May 9, 1989

Thomas Osborne
Anne Arundel Co.

James E. Gutman
Anne Arundel Co.

Ronald Karasic
Baltimore City

Albert W. Zahniser
Calvert Co.

Thomas Jarvis
Caroline Co.

Kathryn D. Langner
Cecil Co.

Samuel Y. Bowling
Charles Co.

G. Steele Phillips
Dorchester Co.

Victor K. Butanis
Harford Co.

Wallace D. Miller
Kent Co.

Parris Glendening
Prince George's Co.

Robert R. Price, Jr.
Queen Anne's Co.

J. Frank Raley, Jr.
St. Mary's Co.

Ronald D. Adkins
Somerset Co.

Shepard Krech, Jr.
Talbot Co.

Samuel E. Turner, Sr.
Talbot Co.

William J. Bostian
Wicomico Co.

Russell Blake
Worcester Co.

Dear Commission Member:

The next meeting of the Chesapeake Bay Critical Area Commission is scheduled for 1:00 p.m. on May 24, 1989 in the Commission's conference room. This is a special meeting as a vote on the growth allocation for Somerset Springs must be taken at that time.

An agenda for the meeting, the minutes of the last meeting and copies of the following items are enclosed:

1. Draft paper of "Possible Changes to the Critical Area Law" and "New Regulations to Clarify the Amendment Process"; and
2. Draft "Policy on Shared Facilities (used to be septics) for the LDA and RCA".

Separate subcommittee meetings will be arranged for and notification will be sent to you in a separate mailing.

Sincerely,


Sarah J. Taylor, Ph.D.
Executive Director

CABINET MEMBERS

Wayne A. Cawley, Jr.
Agriculture

J. Randall Evans
Employment and Economic Development

Martin Walsh, Jr.
Environment

Ardath Cade
Housing and Community Development

Torrey Brown
Natural Resources

Constance Lieder
Planning

SJT/vn
Enclosures

AGENDA

May 24, 1989

CHESAPEAKE BAY CRITICAL AREA COMMISSION MEETING
275 West Street, Suite 320
Annapolis, Maryland 21401

1:00 - 1:10	Approval of Minutes of May 3, 1989	John C. North, Chairman
1:10 - 1:45	<u>Program Amendments and Programs</u>	
	Vote - Somerset Springs (Somerset County)	Tom Ventre
	Vote - Dorchester County Growth Allocation Amendment	Tom Ventre
	Vote - Extension of Cecil County Growth Allocation Time-Frame	Anne Hairston
	2 Possible Vote Items:	
	Text Amendment on St. Michaels Program	Charlie Davivs
	Baltimore County Text Amendment	Charlie Davis
1:45 - 2:15	<u>Projects</u>	
	Vote - Elk Neck State Park - Waterfowl Pond	Pat Pudelkewicz
	Vote - Wye Island - Waterfowl Pond	Pat Pudelkewicz
	Vote - Bush River	Pat Pudelkewicz
2:15 - 3:00	<u>Policies, Procedures, MOU's</u>	
	Vote - Procedural Guidance Paper for State Agency Projects (Green Regs.)	Abi Rome

Vote - Shared Facilities
Policy

James Gutman/
Sarah Taylor

Discussion - Program
Amendment Process and
Changes to Critical Area
Law

Charlie Davis

3:00 - 3:45

Updates

Meeting with State Highway
Administration

Judge North, II

Legal Issues

Lee Epstein

Subcommittees:

- a) Project Evaluations
- b) Program Amendment
- c) Special Issues

3:45 - 4:00

Old Business

Judge North, II

New Business

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
May 3, 1989

The Chesapeake Bay Critical Area Commission met at the Chesapeake Bay Critical Area Commission Office, 275 West Street, Annapolis, Maryland. The meeting was called to order by Chairman John North, II with the following Members in attendance:

Ronald Hickernell	Samuel Bowling
Thomas Jarvis	Wallace Miller
Robert Price, Jr.	Ronald Karasic
Victor Butanis	Kathryn Langner
Albert Zahniser	William Corkran
Ronald Adkins	James E. Gutman
Deputy Secretary Cade of DHCD	G. Steele Phillips
Larry Duket for	Shepard Krech, Jr.
Ronald Kreitner	Parris Glendening
Louise Lawrence for	Susan Scotto for
Wayne Cawley, Jr.	Robert Perciasepe

The Minutes of the Meeting of April 5, 1989, were approved as written.

Chairman North asked Mr. Charles Davis to report on the text amendment for Kent County's Program. Mr. Davis reported that the County submitted a proposed amendment to the text of its ordinance, asking for greater flexibility within its Limited Development Area (LDA) category, with regard to the 15% impervious criterion. He asked Ms. Elinor Gawel, Critical Area Planner for Kent County Planning Office, to give a brief explanation of the County's request.

Ms. Gawel stated that the amendment was for certain intense business uses that exist in LDA. The reason these existing uses were not designated as Intensely Developed Areas (IDA) was because they did not meet a criterion that requires a minimum size of 20 acres for the uses. As these uses could only be classified as LDA, the 15% impervious criterion requirement which must be met inhibits any expansion of these businesses, even for the creation of parking space. The County's amendment would allow those uses to expand if they improved stormwater runoff by 10%, as required for IDAs.

Mr. Butanis, Panel Chairman, said that the hearing for this amendment had been held. He said that he received a letter that Mr. Price had sent to Mr. Davis, concerning the legality of the proposed amendment. It is his understanding that Mr. Epstein has reviewed the amendment, and agrees with Mr. Price, that the Commission does not have the power to approve this amendment as it is not in accordance with the Critical Area criteria. He said that the Panel does not recommend approval of this amendment.

Deputy Secretary Cade asked what the solution was for a business or community with this type of problem?

Mr. Davis answered that in the Commission's original criteria, there was a 15% limitation on impervious surfaces in LDAs. If the rule had remained solely in the criteria, there may have been room for flexibility via a variance, but the Legislature amended the Law, inserting the 15% limitation in the Law. He said that because it is in the Law, it is probably beyond the Commission's jurisdiction to change. Action would probably necessitate a change to the Law in order to increase the flexibility.

Mr. Miller asked how common these situations have become over the years, and was Kent County's problem unique? Mr. Davis answered that the issue is relatively widespread.

Mr. Adkins asked that if the jurisdiction had a variance procedure within its local Program, would it have the ability to vary these standards. Mr. Epstein answered that normally the answer would be yes, but this requirement is in the Law, not solely in the criteria, and local jurisdictions do not have the ability to change a statutory requirement. He suggested that the way to change this requirement would be to request a statutory change.

Mr. Zahniser added that the problem was probably widespread, and that he agreed that perhaps the Commission should propose a change, or at least make note of it to the Legislature.

A motion was made and seconded that the Commission deny approval of Kent County's Program text amendment. The vote was 15 in favor with 1 abstention.

Mr. Price asked Mr. Davis why he felt that growth allocation would not be a solution to that problem, and that in the criteria, half of the growth allocation was dedicated to increasing LDA to IDA. Mr. Davis answered that in some circumstances, it may be appropriate, but then the other requirements for IDA may hamper the ability to carry out the intent of the landowner.

Mr. Miller said that this situation should be corrected, but that it appeared that the only alternative the County had would be to put the problem before the Legislature. The problem, however, is that the County needs an immediate solution.

Chairman North suggested that Mr. Epstein review the situation and give the County a formal opinion as to what avenues might be available, and perhaps it would be possible to draft a suggestion with respect to an approach to the Legislature.

Chairman North then asked Mr. Davis to report on the Program amendment for Baltimore County. Mr. Davis reported that the County had made an amendment to its zoning ordinance that affected the Critical Area process and the Program. He said that the amendment involved the creation of a system for growth allocation. What had happened was that the County moved forward with the amendment to its Program without the Commission having seen the ordinances before they were adopted. The amendment has been approved and enacted locally.

Mr. David Flowers, Critical Area Planner for Baltimore County, explained that the County wishes to work with the Commission in order to not impede the development of its growth allocation process, while it implements its Program.

Mr. Gutman asked if this issue was or was not a Program amendment. Mr. Davis answered that the words in the ordinance are words that the Commission had not approved as part of the initial Program. He said that he believed it to be a Program amendment, and therefore, needed to proceed through the Program amendment process.

Mr. Gutman then asked that if it was a Program amendment, would it be correct to say that the time restriction had not yet begun for the Commission to take action.

Mr. Hickernell said that the County Council believes this to be an amendment to the local Program. The confusion came about because the County mistakenly forwarded the amendment to a former Commission staff member, instead of a current staff member; thereby causing delay in the Commission's review and approval of this item. He said that the County Council was formally presenting the amendment now to the Commission for eventual approval.

Mr. Davis said that to date, the amendment met the essence of what was proposed in the Program. He said that Mr. Epstein had reviewed it and had some concerns regarding the language.

Mr. Epstein said that he felt he and staff would need to confer on this amendment.

Mr. Gutman suggested that the Commission not take action on the amendment this day, pending further examination by Mr. Epstein and the Baltimore Panel. He asked whether a public hearing by the Panel would be necessary.

Mr. Epstein answered that if the Commission decides that this day is the day the Commission formally receives the amendment to the County's Program, then the 90-day time frame would begin and a Panel would need to be scheduled.

Mr. Davis said that there were also zoning map changes and asked Mr. Flowers to explain these. Mr. Flowers said that the County was in the process of inspecting zoning petitions, etc., and discovered that the zoning changes that had occurred on the zoning maps were possibly in conflict with the approved Critical Area Map. He said that the County was attempting to correct the situation.

It was decided that a hearing for the Baltimore County amendment would be scheduled, with approval of the amendment by the Commission at a later date.

Chairman North asked Mr. Davis to report on the amendment to the St. Michaels Program. Mr. Davis reported that the Town had made an amendment to its ordinance for clarification and consistency, under the mistaken understanding that the change had been requested by the Commission. He said that the Program remains in compliance with the criteria, but that procedurally, it is a Program amendment. Mr. Davis informed the Town that a letter would be forthcoming from the Commission to explain what would need to be accomplished to be in compliance with the Critical Area statute, i.e., whether another public hearing needed to be held.

Mr. Bowling asked Mr. Davis what his recommendation would be at this point. Mr. Davis answered that to be consistent with the Law, another public hearing needed to be held.

Chairman North concurred that the easiest solution would be to hold another hearing and suggested that the Commission Panel do so. This was agreed to by the Commission.

Chairman North then asked Mr. Tom Ventre to report on the Somerset County Program. Mr. Ventre said that progress had been made, and there now remains only the larger issues, i.e., the development footprint question for counting of growth allocation and the calculation of LDA densities. He said that these issues will need further staff review and discussion with the County.

Mr. Hickernell asked what the County was utilizing as its Program. Mr. Epstein answered that the Attorney General had rendered an opinion concerning the County's Program. He said that many questions were asked, but the main question was whether the County had what could be called an approved local Critical Area Program, under the Critical Area Law. The Attorney General's opinion was affirmative. Mr. Epstein further explained that the Attorney General believed that the Commission does have the authority and the right to review Critical Area Programs for completeness, thereby triggering the statutory review process and time frame of the process. Once completion is determined, the date begins from the time the Program is received, and while the Commission has the discretion to determine completeness, it cannot take five weeks to make that determination. The Commission does not have the discretion to extend the review period by not giving a decision as to completeness, i.e., the completeness review must be done in a reasonably short amount of time. He further stated that the Attorney General did not opine that the Somerset Program was acceptable to the Commission. By default, a Program is in place, but there has never been a judgment made by the Commission that the Program meets the criteria, and because there is some question as to the legal position of such a Program, the Attorney General encouraged the Commission and the County to continue to work together so that both parties are content that a complete and acceptable Program is in place.

Mr. Adkins said that the policy of the County will always be to continue to work with the Commission toward mutual satisfaction.

Mr. Gutman asked that when all issues are resolved, will they be considered as a Program amendment? Mr. Epstein answered affirmatively.

Chairman North asked Mr. Ventre to report on the City of Salisbury's Program. Mr. Ventre reported that at the last Commission Meeting, he had stated that the City had resubmitted its Program, which he had reviewed and recommended for approval. He had since discovered that there were a number of issues that had been overlooked, in that some of the Commission's requested changes had not been made. He said that these issues needed to be resolved before the Commission could approve the City's Program. He suggested the Commission rescind its previous approval.

A motion was made and seconded to rescind the Commission's vote to approve the local Critical Area Program for the City of Salisbury. The vote was 15:0 in favor.

Chairman North then asked Ms. Anne Hairston to report on the Point System for Cecil County's application of growth allocation. The intent of the point system is to award growth allocation to projects that provide greater levels of resource protection than the criteria require. The County is seeking Commission approval of the System before the County adopts it for use for the first year. This growth allocation approach was conditionally approved, to be reevaluated by the Commission after one year.

Ms. Hairston further explained that the greater number of points are reserved for a development which preserves more than 60% open space, and for projects which expand the Buffer more than 300 feet along open tidal waters and intermittent streams. She said that points are earned for features which are above and beyond the criteria requirements, and if a project does not earn more than 56 of the possible total of 100 points, it will not be considered for growth allocation. She said that any growth allocation award must come before the Commission as a formal amendment.

Mr. Price asked if it were not correct that the County gave the experimentation a one-year trial period?

Dr. Taylor answered affirmatively, and that if the Commission did not approve of the manner in which the County counted its growth, once allocated, then the County would have to use the policies and guidelines of the Commission for the counting of growth. If, however, after comparison the Commission felt that it was an acceptable approach, then it would at that time, need to take a vote on the growth counting approach as part of the County's Program.

Mr. Glendening said that his understanding was a County can allocate its growth as it sees fit.

Mr. Epstein answered that that was correct to a limited extent. He said that he did not think that this should be treated as a Program amendment, but on the other hand, he thought that this kind of detail was something that the staff needs to review and comment upon, because without input, those who are affected by changes in the point system might feel that the Commission did not do what it should have done (i.e., have knowledge of and approve of the concept).

Parris Glendening suggested that perhaps a letter could be sent to the County informing them of the Commission's receipt of the point system and of no objection to the proposal.

A motion was made and seconded that a letter be sent to Cecil County expressing those suggestions posed by Mr. Glendening. The vote was unanimously in favor.

Chairman North then asked Mr. Ren Serey to present the Widgeon Pavillion Project. Mr. Serey said that the project was being proposed by the University of Maryland, Center for Environmental and Estuarine Studies at Horn Point. He explained that this was a relatively minor project with a pavillion which would not be fully enclosed, but which would be placed over a concrete pad, and will have a small wall running along one edge. He said that it was 150 - 200 feet from the water and therefore, outside of the Buffer. He said that the University representatives have spoken with Ms. Abi Rome several times concerning this project, and between them, have made some adjustments to the project. He noted that the only recommendations that the Commission had in addition to what the University proposed, was to plant trees in the Buffer area to accommodate any additional stormwater run-off. The University had not indicated that that was something it was going to do, but possibly would do it if they found the funding for it. The staff and Subcommittee recommendation was that the planting of trees be made a condition for approval and felt that the project be approved.

A motion was made and seconded that the Widgeon Pavillion project be approved, with the condition that trees be planted in the Buffer area. The vote was unanimously in favor.

Chairman North then asked Mr. Thomas Ventre to give an update on Somerset Springs. Mr. Ventre informed the members that the only development with regard to Somerset Springs was that a panel public hearing had been scheduled for Thursday evening, May 11th, in the Courtroom on the second floor of the Somerset County Courthouse in Princess Anne. It was advertised in four newspapers and the panel will be ready to report on that hearing at the next meeting of the Commission.

Chairman North asked Mr. Robert Ellsworth of Waterway Improvement Division, DNR, to present the Solomons Island Boat Ramp project. Mr. Ellsworth reported that the Solomons Boat Ramp Facilities were constructed originally in 1986, consisting of four launching lanes, two access piers, and paved parking for approximately 70 cars. A comfort station and a boat docking area also exist. He said that the property was owned by the State of Maryland, Department of Transportation (State Highway Administration), and the Department of Natural Resources was leasing the property from them. He said that the property was subleased to Calvert County and that the County is responsible

for the management and operations of the facility. The proposed project involved the extension of the existing paved parking lot because 70 parking spaces were not enough. The four existing launching lanes could support 200 parking spaces. Mr. Ellsworth said that the extension of the parking would include 37 car trailer spaces, and 3 car parking spaces. Extension of the existing stormwater management structure with dikes to serve as a retention measure, is also included in the proposal.

A discussion followed focussing on the need for additional parking. A question was asked if there was a limit to the number of cars that are allowed to use the ramps. Mr. Ellsworth answered that access is controlled by the County. He mentioned that there was a fee, and that last year the County charged \$3.00 or \$4.00 to launch a boat. Mr. Ellsworth said that construction will occur sometime during the Fall of 1989. He said that because there is no more room to expand on State Highway's leased property, the only way to increase the facility would be to purchase private property adjacent to the site.

Mr. Gutman requested Mr. Ellsworth to again review the figures involved. Mr. Ellsworth answered that currently there are 73 parking spaces. Waterway Improvement Division is proposing 37 car/trailer spaces and 3 car spaces. Mr. Gutman then asked if the Commission would be receiving another application such as this, in the near future for further expansion of the facility? Mr. Ellsworth answered that basically all of the property is being used, and that there is no room for expansion.

Chairman North asked Mr. Ren Serey to present the Procedure Guidance Paper for State Agency Projects. Mr. Serey reported that these guidelines were drafted by Ms. Rome, and that they pertained to the regulations for development in the Critical Area resulting from State and local agency actions. He said that the guidance paper was intended to help State agencies with the process that was developed by the regulations, but the paper does not change any of the rules or regulations. Mr. Serey said that the Subcommittee and Mr. Epstein, had reviewed the paper, and that those comments have been incorporated. He then explained the paper's content and said that the guidance paper would be distributed to all State agencies.

Mr. Bowling expressed his concern that usage of the word "prohibit" might preclude an approval. Mr. Serey answered that a change could be made in the language to indicate that the conditional approval would be for those projects that substantially meet the regulations, but contain minor technical problems that need to be corrected.

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Chairman North stated that he was scheduled to make a presentation for the Cabinet sometime in the near future and would present the guidance paper at that time.

Mr. Epstein reiterated the intent of the conditional approval language. He stated that Chapter 6 in the regulations was essentially the same thing as a variance granted at the local level. Without Chapter 6 in these green regulations, there would be no ability for State agencies to obtain a variance, similar to those granted by the local jurisdiction to private individuals.

Mr. Corkran noted previous State Highway projects and asked why these projects were not brought before the Commission. Mr. Serey answered that the staff had discussed with the State Highways Administration, various projects that the Administration has. He said that these regulations provide a point at which the State agencies are required to submit information to the Commission for approval. He said that the State Highway Administration procedure was so complicated and time-consuming that Commission staff had not been able to address them, and to know at what point in time State Highways should apply to the Commission for approval. He said that as a result, a Memorandum of Understanding is being developed to address the process as a whole.

Mr. Epstein stated that the memorandum would not affect projects coming to the Commission, only the overall process that will be followed. Mr. Epstein said that he agreed with Mr. Corkran that projects should be brought before the Commission.

Ms. Langner asked if it was possible to have someone from the Highway Administration on the Commission. Dr. Taylor responded that the suggestion had been made to the Governor's Office to see if the Commission can be expanded to have the Department of Transportation as a member of the Commission. She said that at the time the Commission was formed, the Department had decided that it was not necessary for it to be a member, but now the Governor's Office was considering expanding the Commission to include the State Highway Administration and the Department of Transportation.

Mr. Gutman then stated that there were two elements which had been raised--the nature of the design for much of the work for State Highways, and the major issue of the lack of compliance with the Laws for the control of sediment, that he felt needed to be addressed. He said that there was a woeful lack of enforcement on State Highway projects.

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Mr. Serey said that he had received a couple of projects from the SHA, but that they were sent to inform the Commission of the projects, without an acknowledgement that they fell under the green criteria. No projects have been received for approval since June 1988. The SHA is developing an MOU with the Commission, but continues to proceed with projects in the meantime.

Dr. Taylor informed the Commission that a meeting with Mr. Hal Kasoff of SHA to discuss the Kent Island Visitor Center and the MOU was scheduled for Friday, May 5.

Mr. Gutman suggested that the Commission request a list of SHA projects currently in the planning process. Mr. Epstein said that the Commission might not have jurisdiction over projects beyond the stage referred to in the green criteria.

Mr. Bowling asked at what point could the Commission intervene concerning SHA projects. Mr. Epstein answered that with State projects, there was no procedure designed for Commission intervention and that contacting the Governor may be the best alternative.

Mr. Bowling said that while the contractor may be using improper procedures, the State Highway Administration, through its contract and inspection duties, was responsible for the project.

Mr. Adkins asked if the Commission's concern had been voiced to SHA. Dr. Taylor answered that SHA has been contacted regarding the necessity to submit projects to the Commission at three separate meetings.

Chairman North suggested that a representative from SHA be invited to a Commission meeting to apprise the Department of the Commission's concerns.

Because there existed no quorum for a vote, Mr. Serey requested an endorsement for the use of the guidelines for State projects, incorporating the few changes discussed.

Chairman North then asked Ms. Louise Lawrence to report on the draft Agriculture MOU. Ms. Lawrence reported that the Department of Agriculture had received staff comments from the Commission regarding the draft MOU and supplemental information for general approvals, submitted formally in March. Dr. Taylor reported that the next meeting to discuss these comments was scheduled for May 9th.

Chairman North asked Mr. Bowling, Subcommittee Chairman, to present the Project Review Subcommittee report on three waterfowl impoundments. Mr. Bowling reported that these impoundments were proposed for Wye Island, Bush River, and Elk Neck State Park. The Wye Island project will revitalize a small pond and create a new non-tidal wetland. He said that two impoundments are planned for Elk Neck along a highway to convert the area from phragmites to another type of usable submerged aquatic vegetation (SAV). Two impoundments are also planned for the Bush River, the largest of the three projects, and will also convert phragmites to more palatable SAV. He said that the Subcommittee noted no environmental problems, only an improvement in water quality and sediment control. The Bush River project mitigated possible effects to the anadromous fish population using tide gates.

Chairman North then asked Mr. Karasic, Subcommittee Chairman, to report on the activities of the Program Amendment Subcommittee. Mr. Karasic reported that the Subcommittee had discussed categories of program amendments and appropriate procedures for processing the amendments. He said that Mr. Charles Davis had prepared suggested amendments to the Law and that these changes would give the Chairman greater authority to address amendments and necessary procedures. The Subcommittee requested that Mr. Davis incorporate the refinements discussed this day and return the draft to the Subcommittee.

Chairman North asked Mr. Gutman, Subcommittee Chairman, to report on the two topics discussed by the Special Issues Subcommittee. He reported that the septic policy had had a fourth revision, which included a name change to shared facilities policy, to allow for other sewage disposal methods. The Subcommittee discussed uses appropriate for RCAs, based on a compilation and analysis of uses allowed in underlying zones. He said that the Subcommittee needs to review and discuss this issue further.

Chairman North asked Mr. Epstein to give an update on the legal issues at hand. Mr. Epstein reported that the Langford Farm case, in which the Commission was a party, had been dismissed. However, he said, the case did raise an issue concerning when extension of the Critical Area was appropriate. Mr. Epstein suggested that the Commission prepare and adopt guidelines to judge proposals to extend the Critical Area. He reported that the Bellanca appeal is still going forward.

Mr. Epstein then mentioned some enforcement problems on the local level. He said that the City of Crisfield is not able or not willing to enforce its Critical Area Program. Chesapeake Beach has some problems with a development in a wooded area on

the bluff. Based on the site review by Commission staff, the Commission instructed that trees be left in certain areas. However, the DOE had to cite the developer for sediment and stormwater control violations. Sediment control devices have now been placed and improperly cleared trees will be replanted on a 3 to 1 basis. He said that the project of concern was the one proposed by Mr. Bob Rodgers.

Mr. Epstein reported that work with the Public Service Commission was continuing, and Ms. Pat Pudelkewicz was developing an MOU which will eventually go to the Commission for review, so that the Commission and the Public Service Commission can work together in reviewing and approving applications for power plants and generating stations in the Critical Area. He also reminded the Commission that regulations on oil and gas drilling must begin to be developed this Summer, probably by the Special Issues Subcommittee.

Dr. Taylor announced that the next meeting will be May 24th so that the 90-day time frame does not run out for the Commission to vote on the Somerset Springs Project growth allocation. The meeting in June may be cancelled because of the late May meeting. She suggested that Subcommittees who need to meet should meet at noon, or earlier if necessary.

Dr. Taylor asked whether the Commission members would find professional cards useful. Several Commission members responded that they would be helpful, and the decision was made to have some cards printed for Commission use.

Dr. Taylor reported on the Judge Liss' memorial. She said that the Heart Ball for this year has been scheduled and will be in honor of Judge Liss. Secretary Brown will announce that there will be a park and a grove of trees dedicated to the honor of Judge Liss and it is the thought that the Commission and Commission staff could contribute to have a plaque placed at the sight in recognition of Chairman Liss from Commission members and staff. Everyone was in agreement. Ron Karasic also made a suggestion that naming the Commission in honor of Judge Liss be considered.

Dr. Taylor reported that the Oversight Committee had contacted the Commission office, and will be working with the Commission and staff to examine the criteria. A series of regional public hearings were also mentioned, directed for public officials - July 25, August 15, August 29, and September 12th. Hearings are to be held during the day. Mr. Miller indicated that County Commissioners meet on Tuesdays, on which the public hearing dates fall. Further discussion revealed that local

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officials habitually meet on Tuesday in all of the jurisdictions and the hearing dates will have to be rescheduled. Dr. Taylor said that she will contact Mr. Myron Miller to reschedule. Wrap-up sessions are scheduled for October 10 and at a later date. Recommendations by the Oversight Committee will be completed by January 1990 and submitted to the leadership of the General Assembly. Dr. Taylor requested assistance for finding meeting places from the following people: Mr. Bowling for the Lower Western Shore, Mr. Miller for the Upper Eastern Shore, Mr. Boston for the Lower Eastern Shore, and Mr. Hickernell for the Upper Western Shore. Dr. Taylor indicated that presentations at the public hearings and briefings to the Oversight Committee will be needed from Commission members, and the Commission will have the opportunity to comment at the June 13th meeting, the public hearings, and the wrap-up sessions. Several members expressed the desire to report on local problems and perceived inadequacies of the Law. Mr. Price suggested that Myron Miller be asked if the Commission could submit something in August or September, to allow discussion time over several meetings.

There being no further business, the Meeting was adjourned.



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MEMORANDUM

TO: Special Issues Subcommittee

James E. Gutman, Chairman/Parris Glendening/
Shepard Krech/Bill Bostian/Wayne Cawley/
Skip Zahniser/Torrey Brown/Robert Price, Jr.

FROM: Sarah J. Taylor

DATE: May 3, 1989

SUBJ: 4th Revision - Policy on Shared Facilities for the
Limited Development Area and Resource Conservation
Area

Presented below are the three revised ~~septic~~ ^{Special Issues SC} situations as discussed by the ~~Septic Panel~~ and as modified by the Department of the Environment for our May 3rd meeting.

Situation 1: There is a non-percable lot in the Critical Area and a percable lot in the Critical Area. Is the percable lot able to be used to treat the non-percable lot's wastes?

Yes, but only if the lot meets the following conditions:

- a) The lot must have been legally recorded as of December 1, 1985 in compliance with 14.15.02.07 of the criteria (COMAR 14.15.) which took effect on May 13, 1986;
- b) the system for the percable lot must have received Health Department approval;

CABINET MEMBERS

- Wayne A. Cawley, Jr.
Agriculture
- J. Randall Evans
Employment and Economic Development
- Martin Walsh, Jr.
Environment
- Ardath Cade
Housing and Community Development
- Torrey Brown
Natural Resources
- Constance Lieder
Planning

- c) the treatment of wastes must not occur in floodplain soils pursuant to COMAR 26.04.02 of the Department of the Environment's Regulations;
- d) the 100 foot Buffer requirement of COMAR 14.15.09.01 is followed as a setback from open tidal waters or the landward side of tidal wetlands;
- e) the cutting of trees to provide for an area to treat the wastewater shall be in conformance with the applicable criteria in COMAR 14.15.02 and COMAR 14.15.09 which became effective on May 13, 1986;
- f) the percable and non-percable lots must be owned by the same person but, if there is to be a long term easement or lease involving different parties, the percable lot must be abutting the non-percable lot;
- g) the owner is to be the one financially responsible for the maintenance, upgrading or replacement of the system under normal operational standards or in case of system failure;
- h) the county must have an approved Groundwater Protection Plan before situations of this nature can receive approval;
- i) the treatment system must comply with the Department of the Environment's current applicable regulations (§9-217 of the Environment Article);
- j) the land area for the treatment system on the percable lot shall be counted against the growth allocation if densities on the buildable lot exceed the prescribed density of the local Critical Area Program's designation. The excess density will require growth allocation to be used and this constitutes an amendment to a local Program which must be approved by the Critical Area Commission.

Situation 2: There is a lot in the Critical Area which does not perc. There is a lot outside of the Critical Area which does perc. Is it acceptable to the Commission to use the percable lot outside the Critical Area to treat the wastes

from the buildable lot inside the Critical Area which is non-percable?

Yes, but under the following conditions:

- a) the lot inside the Critical Area must have been legally recorded as of December 1, 1985;
- b) the system for the percable lot outside the Critical Area must have received Health Department approval;
- c) the treatment of wastes must not occur in the floodplain soils pursuant to COMAR 26.04.02;
- d) the criteria must be followed for the lot in the Critical Area when development takes place;
- e) the percable and non-percable lot must be owned by the same person or, if there is a long term easement or lease allowed, the percable lot must abut the non-percable lot;
- f) the owner is to be the one financially responsible for the maintenance, upgrading or replacement of the system under normal operational standards or in case of system failure;
- g) the county must have an approved Groundwater Protection Plan before situations of this nature can receive approval;
- h) the treatment system must comply with the Department of the Environment's current applicable regulations (§9-217 of the Environment Article);
- i) densities on the buildable lot inside the Critical Area shall comply with the prescribed density of the local Critical Area Program's designation or count against the growth allocation, unless the lots are grandfathered. If density is exceeded, the situation requires the use of growth allocation and is to be considered an amendment requiring Critical Area Commission approval.

Situation 3: An applicant owns a lot inside the Critical Area which percs. The same applicant also owns land outside the Critical Area which does not perc. The applicant wishes to handle the wastes from the area outside the Critical Area on the lot inside the Critical Area. The applicant may or may not want to build on the lot inside the Critical Area as well. Is this acceptable to the Commission?

Yes, but only if the following conditions are met:

- a) treatment of wastes in the Critical Area is the only option a developer has;
- b) the lot inside the Critical Area must have been legally recorded as of December 1, 1985, in compliance with 14.15.02.07 of the criteria (COMAR 14.15) which took effect on May 13, 1986;
- c) the system for the percable lot must have received Health Department approval;
- d) the treatment of wastes must not occur in floodplain soils pursuant to COMAR 26.04.02 of the Department of the Environment's Regulations;
- e) the 100 foot Buffer requirement of COMAR 14.15.09.01 is followed as a setback from open tidal waters or the landward side of tidal wetlands for the treatment system;
- f) the cutting of trees to provide for an area to treat the wastewater shall be in conformance with the applicable criteria in COMAR 14.15.02 and COMAR 14.15.09 which became effective on May 13, 1986;
- g) the percable and non-percable lot must be owned by the same person but, if there is to be a long term easement or lease involving different parties, the percable lot must abut the non-percable lot;
- h) the owner is to be the one financially responsible for the maintenance, upgrading or replacement of the system under normal operational standards or in case of system failure;

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- i) the county must have an approved Groundwater Protection Plan before situations of this nature can receive approval;
- j) the treatment system must comply with the Department of the Environment's current applicable regulations (§9-217 of the Environment Article);
- k) the land area for the treatment system on the percable lot shall be counted against the growth allocation if densities allowed on the buildable lot, together with the units outside the Critical Area, exceed the prescribed density of the local Critical Area. Exceeding the density involves the use of growth allocation which is an amendment to a local Program and requiring Commission approval.

SJT:msl

NOTE: In all three situations, and in addition to the other conditions so noted, if there is more than one lot involved, an agreement must be signed between the owners of the lots and the county specifying ownership, responsibility for operation and replacement of the system, and specifying responsibility and action to be taken in case of system failure.

cc: Kay Langner
Bob Schoeplein
Anne Hairston
Tom Ventre
Abi Rome
Pat Pudelkewicz
Dawnn McCleary



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MEMORANDUM

TO: Members, Subcommittee for the Review of Program
Amendments and Implementation

FROM: Charlie Davis *CD*

DATE: April 28, 1989

SUBJ: Draft of Possible Changes to Critical Area Law
and New Regulations to clarify program amendment
process

Sorry for the delay in pulling this together. As I
got into the amendment issues, additional problems
become evident, so I attempted to address all the issues
at once. The rest of the staff, including Judge North
and Lee have not yet reviewed this draft. As you will
see, the thrust of these amendments is to give the
Chairman greater authority to determine the level of
full Commission involvement. Also, there are some gray
areas where I wasn't sure if the language should be in
new law or new regulation-but I'm sure the Judge and Lee
will sort that out.

CD:lp

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**yet
NOT REVIEWED BY STAFF, or CHAIRMAN**

FOR DISCUSSION PURPOSES

April 28, 1989
C. DAVIS ~~Staff~~ Draft 1A
/progrev4/cal89/

POSSIBLE AMENDMENTS TO THE CRITICAL AREA LAW TO CLARIFY THE PROGRAM
AMENDMENT PROCESS

AMEND NRA subsection 8-1802. Definitions; obligation imposed by subtitle on Prince George's County and Commission. To amend section (a)(6). To add new section (a) (7), (8) and (10). And to renumber old section (7) to new section (9):

(a) (6) "Program" means the critical area protection program of a local jurisdiction including any program amendments or program refinements to it and other supporting ordinances or decisions that affect the actions of landowners that may influence the land use and/or management of the Critical Area resources.

(7) "Program amendment" means any proposed change to an adopted critical area protection program or other action of a local jurisdiction that reduces or increases the obligation of person(s) as specified in the approved program.

(8) "Program refinement" means any proposed change to an adopted critical area program or other action of a local jurisdiction that does not reduce or increase the obligation of persons as specified in the approved program.

(9) "Project Approval" means the approval of development, other than development by a state or local government agency, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

(10) "Obligation" means a course of action imposed by the local program by which persons are bound or restricted.

AMEND NRA subsection 8-1809. Approval and adoption of Program.

Subsection (g) and (h). To read as follows:
Add new (K) and (L), (m), (n) & (o)

(g) proposed amendments by local jurisdictions - comprehensive program review.--Each jurisdiction shall review its program at least once every four years. The starting date for the four year interval is the date of initial program approval. Program review shall be submitted to the Commission before each four year anniversary of that starting date. At a minimum, the review shall include:

(i) a statement of the local program accomplishments since the last review;

(ii) a request for program recertification (?);

purpose to establish major/minor amendment categories

But copies distributed to them

(iii) a request for program refinements or amendments, if appropriate;

(iv) growth allocation requests, if appropriate;

(v) a statement of alternative ideas for implementing difficult portions of the program; and

(vi) a record of public comment on the results of the comprehensive program review

(v) a resource inventory update

(h) proposed amendments by local jurisdictions - piecemeal changes.--Local jurisdictions shall submit to the Commission all program amendments necessary to bring the local program into conformance with the Law [NRA 8-1801 through 8-1817] and Criteria [COMAR 14.15.]. Approval by the Commission of a deficient program shall not be the cause for continuing to implement a deficient program.

(i) [no change]

(j) [no change]

(k) notification of program deficiency by the Commission.-- If the Commission discovers that a local program does not contain the necessary elements that are necessary or appropriate to achieve the goals of the ~~program~~ ^{law and criteria}, then it shall notify the jurisdiction of the deficiency and (?) state a proposed solution. The Commission shall begin to promulgate the revised language within _____ days of notifying the local jurisdiction of the necessary changes unless the local jurisdiction acknowledges the need for the change, presents to the Commission a schedule for incorporating the change and follows the proposed schedule for program amendment procedures. In no case shall the schedule show more than _____ days to incorporation.

(l) On or before _____ (date) _____ the Commission shall promulgate regulations that describe the procedures for refining and amending a local program. These regulations shall supercede any inconsistent elements of procedures in local programs approved by the Commission. At a minimum, these regulations shall include:

(i) frequencies that local jurisdictions may submit program amendments and program refinements;

(ii) classes of program amendments, such as regulatory, administrative, editorial;

(iii) a description of the minimum types of information required as part of a proposed program change;

(iv) procedures for the affected public to comment on the proposed program amendments and program refinements; and

(v) procedures for processing program amendments and program refinements.

(m) program may not be amended ~~without approval of the Commission~~.--A program may not be amended except with the approval of the Commission.

(?) DROP (?) Except for amendments developed during program review under subsection (g) of this section, an amendment to a zoning map may be granted by a local approving authority only on proof of a mistake in the existing zoning.

(?) (n) The Commission has the authority to appeal the enactment of any local ordinance, policy, procedure, order or other official action if that action is inconsistent with the purpose of the Resource Protection Program or inconsistent with the goals or objectives of the Criteria.

(o) The Commission shall send a copy of the proposed regulation required by (l), above, to all affected jurisdictions so that they may comment on it prior to its adoption by the Commission.

(p) The Commission may process certain program amendments for specific local programs as program refinements, if the local jurisdiction demonstrates to the Commission that (their strategy) will result in a more effective program. The Commission may rescind that approval.

(?) ADD new NRA 8-1818

8-1818 (?) Authority of Local Boards of Appeals - local boards of appeals shall not have the authority to amend a local program.

POSSIBLE NEW REGULATIONS TO BE PASSED BY THE COMMISSION TO CLARIFY THE
PROGRAM AMENDMENT AND REFINEMENT PROCESS

COMAR 14.XX.01 GENERAL PROVISIONS

.01 DEFINITIONS

A. As used in this subtitle, the following terms have the meanings indicated.

B. Terms Defined. *- which are needed?*

(1) "Local Critical Area Protection Program" means

COMAR 14.XX.02 Purpose of Regulation; relationship to other Laws and local ordinances.

.01 Purpose. - The local Critical Area Programs are agreements between the local jurisdictions and the Commission which contain the specific policies and courses of action that the local governments will pursue to accomplish the objectives of the Law and Criteria. From time to time, as new information about the Bay ^{and} upland resources and about the effectiveness of the agreed upon programs becomes available, both the local jurisdiction and the Commission may wish to change the local program to increase or decrease its detail, scope or content within the bounds of the Critical Area Law and Criteria. The purpose of these regulations is to guide and clarify the procedures to allow changes to local programs.

.02 Authority. - The authority for this regulation to establish procedures for the review and approval of amendments and refinements to local Critical Area Protection Programs is pursuant to [new] NRA 8-1809(1).

.03 These procedures and requirements shall supercede any inconsistent elements or procedures in local programs regardless of their approval by the Commission prior to (the date of promulgation of this ordinance). This regulation does not replace any requirements specified in NRA 8-1801 through 8-1817.

COMAR 14.XX.03 Classes of Program Changes

.01 Introduction. Changes to a local program can affect the function of a program in various ways. Some changes affect administrative process but do not affect the obligation on the landowners within the Critical Area. Some changes may alter the obligations on landowners within the Critical Area but still be well within the intent of the Law and criteria. Other proposed changes--and perhaps existing subcomponents of programs--may be found to be inconsistent or not as thorough as required by the Law and Criteria or ineffective in accomplishing the goals of the Law and Criteria.

As stated in the Law [NRA 8-1801(b)(2)] its purpose is to

"Implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and oversight." And as stated in NRA 8-1808(a) the intent of the Law is "...that each jurisdiction have primary responsibility for developing and implementing a program, subject to review and approval by the Commission." The Commission must maintain an approval process for all Program changes. The intent of this section is to establish a decision-making system that allows the Commission to differentiate types of program changes and to match appropriate approval procedures for each.

[[NOTE: Since programs were required to contain all changes that were necessary to bring local actions into conformance with the Criteria, therefore future actions that were not listed within the words of the written, approved program would be considered Program changes, if they alter the requirements for landowners within the Critical Area.]]

.02 (? should this be in the Law rather than in regulation ?) Authority for Determining Class of Change - The Chairman of the Commission shall have the ~~final~~ authority for determining the ~~Class of Change~~ and shall exercise that authority using procedures as described for intervention authority in NRA 8-1812. *Category*

.03 The Chairman shall use the class of change, and other relevant information to determine whether the requested program change is a program amendment or program refinement. *By local jurisdiction*

.04 Determination of class of change shall be resolved prior to the local jurisdiction advertising its initial public hearing for that change ... (?) or _____ if no public hearing is required.

.05 Classes Described.

A. Editorial - those changes that are not substantive and mostly related to grammar, clarity and organization of the text. This category may include these types of changes even though they may also be included in any of the other categories. *Category*

B. Administrative - these changes would result in modification to the local procedure through which the approved program is implemented. These changes would not lessen the coverage or effect of the local program.

C. Policy - includes changes to any of the local jurisdiction's guiding principles as documented through Comprehensive Plans and other statements of jurisdiction intent.

D. Regulation - Any change to any implementing ordinances, such as: zoning, subdivision, floodplain, sediment control, stormwater management, building codes and other special ordinances established to implement a local program.

E. Zoning Map Change - includes any changes to base zoning maps and/or overlay and or assignment of a floating zone. May take the form of a mapping "mistake".

F. Growth Allocation - includes any proposed land use change that requires a change in the land use classification (e.g., IDA, LDA, RCA)

G. Inventories - any of the inventories that were required as part of program development or that are part of the local program.

H. Non-regulatory Program implementation element - this category includes action agenda portions of programs that are not being implemented through regulation, e.g., street planting programs, environmental education, establishing natural parks.

I. Modification of Critical Area Boundary - includes extensions and deletions to the Boundary as allowed by NRA 8-1807. Changes may affect growth allocation by modifying the total RCA land area.

J. Town Annexations -

K. Relationship of local program to local jurisdiction and State projects - Based on NRA 8-1814(a) certain types of local projects may not require Commission review if they are subject to the local jurisdiction's program.

M. Buffer Exemption Areas -

N. Actions beyond the Written Program - these may include modifications to the base ordinances, administrative procedures and new initiatives that are not mentioned in the originally approved program but that would change the obligations of landowners within the Critical Area concerning land management and land-use requirements.

COMAR 14.XX.04 Information required for program Amendment Applications

.01 A statement indicating the class or classes of amendment included in the application.

.02 Administrative information requested on the submittal form.

.03 A transcript of the local public hearing that was held for that amendment

.04 Information required for ^{the specific} ~~various classes~~(s) of program change.

(a) Editorial.

(i) currently approved element and its location in the approved program.

(ii) proposed new language or change

(iii) brief explanation of the reason for the change.

(b) Administrative.

(i) description of existing process and its deficiencies

(ii) location of description of existing process in approved program

(iii) proposed changes to existing program

(iv) statement of expected benefits of proposed process

(c) Policy.

(i) Description of existing policy to be revised and its location within adopted program

(ii) statement of deficiency or undesirable affect in existing policy

(iii) words for proposed policy and proposed location in local program document

(iv) statement of expected new benefits of proposed policy

(d) Regulations.

(i) existing regulation to be changed and its location in the adopted program.

(ii) statement of deficiency of existing regulations

(iii) proposed regulation in to-be-adopted format

(iv) statement of expected benefits and effects

(e) Zoning Map Change.

(i) acreage of subject property

(ii) acreage of subject property in the Critical Area

(iii) tax map and parcel number

(iv) the subject property shall be identified on a location map and the Critical Area map

(v) the existing and proposed zoning classifications, and critical Area classification

(vi) if mapping mistake is claimed, evidence of proof of mistake in the existing zoning

(f) Growth Allocation

(i) map of area affected by the new classification showing the boundary of the growth allocation

(ii) existing classification

(iii) proposed classification

(iv) statement of current land use and proposed land use

(v) County's current growth allocation budget

(vi) amount of growth allocation to be requested for this site

(vii) if municipality is making request, evidence of growth allocation granted by the County for this project

(viii) statement of resource impact so that Commission can Judge COMAR 14.15.02.06B(4)&(5)

(ix) statement of proximity of the project to tidal wetlands and tidal waters. If within 300 feet then explain why the growth allocation must occur so close to the water.

(x) if less than the full tract is proposed for growth allocation, then additional information will be required so the Commission can determine the extent of the land-use conversion [based on the maximum allowed used (?)]

(g) Inventories

(i) updated version of inventory

(ii) for those requiring public hearings (See COMAR 14.15.09.) a copy of the public hearing record

(h) Non-regulatory Implementation Element.

(i) description of existing program element

(ii) statement of existing deficiency or undesirable effect of that element

(iii) proposed text of replacement element

(iv) statement of expected benefits to resource

protection to result for the new element

(i) Modification of Critical Area Boundary

- (i) all information required for section e, above.
- (ii) statement to satisfy conditions of NRA 8-1807
- (iii) modifications to Critical Area inventories
- (iv) effect of boundary modification on growth allocation if RCA land is added or deleted
- (v) a map of the new Boundary location at the same scale as the Critical Area base map for that jurisdiction.
- (vi) ? special controls on development to minimize concentration toward the shoreline

(j) Relationship of Local Program to Local and State Projects

- (i) description of the kinds of local projects that will be subject to the local program
- (ii) description of the procedures to be followed

(k) Town Annexations -

(l) Buffer Exemptions -

- (i) map of new Buffer Exemption Area
- (ii) statement of land use as of December 1, 1985
- (iii) explanation as to how the land uses continue to prevent the buffer from fulfilling the functions for the Buffer stated in COMAR 14.1215.09.01B.
- (iv) a description and action plan for other measures that will be undertaken to achieve the water quality and habitat protection objectives

(m) Actions Beyond the Written Program -

- (i) a description of the action
- (ii) a statement to indicate the degree of consistency of the proposed action with the Law And Criteria
- (iii) a suggestion as to how to handle this type of

action in the future

(iv) a statement indicating where this action is proposed to be appended to the written program

.05 The Commission may require additional information

COMAR 14.XX.05 Procedure for Commission review of program amendments

.01 Frequency of submittals. -

.02 Response time. -

.03 All requests for program amendments and for ~~reports of~~ refinement shall be filed with the Chairman using a prescribed form.

.04 All proposed program amendments and refinements must be submitted by the ~~elected officials~~ of the local jurisdiction *governing body*

.05 A pre-submittal inquiry to the Critical Area Staff is recommended ?

.06 The Commission will begin processing a request once it receives and verifies that all necessary and relevant information is included in the application.

.07 The Commission Chairman will indicate whether the request is a program amendment or program refinement.

.08 *Notify Commission*

COMAR 14.XX.06 Public Comment

.01 Public Hearing Requirements

.02 For Program amendments and program refinements, a local jurisdiction shall hold at least one public hearing on the proposed action, for which 2-weeks notice shall be published in a newspaper of general circulation in the local jurisdiction. A copy of that announcement shall be filed concurrently with the Commission.

.03 The Commission may hold a public hearing on a program refinement.

.04 The Commission shall hold a public hearing for all program amendments.

.05 The location of Commission-sponsored public hearings shall be determined by the Chairman after consultation with the local public officials. (*It may be at the CAC monthly meeting.*)

.05 All Commission-sponsored public hearings shall be advertised for 2 weeks prior to the hearing in a paper of local circulation to the affected jurisdiction.

COMAR 14.XX.07 Approval of Program Refinements.

.01 Chairman may approve or deny program refinements, [but the Commission may override that approval using procedures similar to NRA 8-1812]

.02 Program Amendments shall require a decision from the Commission

.03

COMAR 14.XX.08 *Notification of Local Action*

.01 Local jurisdiction shall inform the Commission of all (?) "actions beyond the written program". [NOTE: The Commission must take some of this responsibility.]

NOTE: THIS IS A SEPERATE ISSUE

[COMAR 14.19.XX Local Review Authority. - Local jurisdictions shall designate a reviewing authority as called for in COMAR 14.19.XX and notify the Commission of that person]

COMAR 14.XX.09

Adoption of Program changes by local jurisdictions

.01

.02

.03

and declines in more protective land uses such as forestland and agricultural land in the Bay region;

(5) Portions of the Chesapeake Bay and its tributaries within Maryland are particularly stressed by the continuing population growth and development activity concentrated in the Baltimore-Washington metropolitan corridor;

(6) The quality of life for the citizens of Maryland is enhanced through the

Editor's note.—Section 2, ch. 794, Acts 1984, provides that “of the initial members of the Chesapeake Bay Critical Area Commission, the member from Anne Arundel County, 2 members at large, and the members from Kent, Queen Anne's, Talbot, and Dorchester counties serve for terms of 4 years; the members from Baltimore City and Wicomico, Somerset, Calvert, Charles, and St. Mary's counties serve for terms of 3 years; and the members from Baltimore, Prince George's, Harford, Cecil, Caroline, and Worcester counties serve for terms of 2 years.”

Section 3 of ch. 794 provides that “the

§8-1802. Definitions; obligation imposed by subtitle on Prince George's County and Commission.

(a) *In general.*—(1) In this subtitle the following words have the meanings indicated.

(2) “Commission” means the Chesapeake Bay Critical Area Commission established in this subtitle.

(3) “Development” means any activity that materially affects the condition or use

development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and

(2) Implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and oversight. (1984, ch. 794.)

criteria promulgated by the Commission under Natural Resources Article, §8-1806 and §8-1808 may not be implemented unless the General Assembly at the 1986 Session affirms by joint resolution that the criteria are reasonable and acceptable to accomplish the goals of this subtitle. If a joint resolution of affirmation is not enacted by the General Assembly at the 1986 Session, the criteria shall be revised by the Commission and resubmitted to the General Assembly on the first day of the 1987 Session and the effective date of the criteria shall be delayed until June 1, 1987.”

of dry land, land under water, or any structure.

(4) “Includes” means includes or including by way of illustration and not by way of limitation.

(5) “Local jurisdiction” means a county, or a municipal corporation with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area as defined in this subtitle, is located.

(6) “Program” means the critical area protection program of a local jurisdiction including any amendments to it.

(7) “Project approval” means the approval of development, other than development by a state or local govern-

§8-1804. Composition of Commission.

(a) *In general.*—The Commission consists of 25 voting members who are appointed by the Governor, as follows:

(1) A full-time chairman, appointed with the advice and consent of the Senate, who shall serve at the pleasure of the Governor;

(2) 11 individuals, appointed with the advice and consent of the Senate, each of whom is a resident and an elected or appointed official of a local jurisdiction. At least 1 of these 11 individuals must be an elected or appointed official of a municipality. These individuals shall serve on the Commission only while they hold local office. Each shall be selected from certain counties, or from municipalities within said counties, as follows, and only after the Governor has consulted with elected county and municipal officials:

(i) 1 from each of Baltimore City, and Anne Arundel, Baltimore, and Prince George's counties;

(ii) 1 from Harford or Cecil County;

(iii) 1 from Kent or Queen Anne's County;

(iv) 1 from Caroline or Worcester County;

(v) 1 from Talbot or Dorchester County;

(vi) 1 from Wicomico or Somerset County; and

(vii) 2 from Calvert, Charles or St. Mary's County, both of whom shall not be from the same county;

(3) 8 individuals appointed with the advice and consent of the Senate, who shall represent diverse interests, and among whom shall be a resident from each of the 6 counties that are listed and from which an appointment has not been made under paragraph (2) of this subsection and 2 of the 8 members

appointed under this item shall be at large members; and

(4) The Secretaries of Agriculture, Economic and Community Development, Health and Mental Hygiene, Natural Resources, and State Planning, *ex officio*, or, instead of any of the Secretaries, another representative of that Secretary's department appointed at the request of the Secretary.

(b) *Compensation.*—A member of the Commission who does not hold another office of profit at the State or local level shall be entitled to compensation as provided in the budget. Members of the Commission shall be entitled to reimbursement for expenses as provided in the budget.

(c) *Length of terms; removal of members; filling vacancies.*—Except for the chairman and *ex officio* State officers or their representatives:

(1) The term of a member is 4 years;

(2) The terms of members are staggered as required by the terms provided for members of the Commission on July 1, 1984;

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies;

(4) A member who is appointed after a term is begun serves for the rest of the term and until a successor is appointed and qualifies;

(5) A member may serve no more than 2 terms; and

(6) Any member of the Commission appointed by the Governor who shall fail to attend at least 60 percent of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the non-attendance with the statement of non-attendance, and the Governor shall there-

(f) *Programs effective within 760 days.*—Within 760 days after criteria adopted by the Commission become effective, there shall be in effect throughout the Chesapeake Bay Critical Area programs approved or adopted by the Commission.

(g) *Proposed amendments.*—Each local jurisdiction shall review and propose any necessary amendments to its program, including local zoning maps, at least every 4 years. Amendments shall be submitted to and acted on by the Commission in the same manner as the original program.

(h) *Program not to be amended without approval of Commission.*—A program may not be amended except with the approval of the Commission. Except for amendments developed during program review under subsection (g) of this section, an amendment to a zoning map may be granted by a local approving authority only on proof of a mistake in the existing zoning.

(i) *Standards for approval by Commission.*—The Commission shall approve programs and amendments that meet:

- (1) The standards set forth in § 8-1808
- (b) (1) through (3) of this subtitle; and
- (2) The criteria adopted by the Commission under § 8-1808 of this subtitle.

(j) *Program to be available for public inspection.*—Copies of each approved program, as it is amended from time to time, shall be maintained by the local jurisdiction and the Commission in a form available for public inspection. (1984, ch. 794.)