

Commission Meetings & Correspond.

Feb 1991

MSA-S1832-79



CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held  
January 9, 1991

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 North with the following Members in attendance:

William J. Bostian  
Samuel Y. Bowling  
James E. Gutman  
Thomas L. Jarvis  
Kathryn D. Langner  
Robert R. Price, Jr.  
Albert W. Zahniser  
Carolyn Watson  
for Parris Glendening  
Larry Duket  
for Ronald Kreitner of  
Md. Office of Planning  
Deputy Secretary Cade  
DCHD

Russell Blake  
Victor K. Butanis  
William H. Corkran, Jr.  
Shepard Krech, Jr.  
G. Steele Phillips  
Michael J. Whitson  
Ronald Hickernell  
Fred Samadani  
for Louise Lawrence  
Robert Schoeplein  
of DEED  
James L. Hearn of  
Dept. of Environment

The Minutes of the Meeting of December 5, 1990 were approved as written.

Chairman North asked Mr. Tom Ventre to report on the two requests for Growth Allocation for Dorchester County.

Mr. Ventre stated that requests for growth allocation were sent to the Commission in October and at that time it was thought that they could be handled as program refinements, but with a clearer understanding of the new law, they could not, and so they were treated as growth allocations. He said that because of adverse weather, a public hearing scheduled in Cambridge on January 7th was canceled with notification to all required interests. He said that the 90-day period is about to run out in the case of request number DC-A18 ( expiration date of January 23rd), and the DC-A19 the expiration date is January 30th. He said that the hearing was the only opportunity for the panel hearing and the Commission to consider the panel's recommendation before the 90-day time period was up. However, fortunately, there are no issues of growth allocation in regard to the request and he recommended to the panel that the requests be approved and that the growth allocation be granted. Mr. Ventre said that according to the law at 8-1809(e)(2), the allocation requests will be approved by operation of law and not need the recommendation of the panel or an action by the Commission.

Mr. Ventre explained that DC-A18 is a subdivision proposal known as Ferry Farm. There are 21 lots in a rural area west of Cambridge. The total site of the subdivision is 123.8 acres and the requested growth allocation is 59.8 acres. On the 21 lots, 41.8 acres ; roadways, rights-of-way 5.3 acres; sewerage reserve areas 6.4 acres. There are approximately 35 acres of open space and approximately 16 acres of "residue" - not subdivided, not part of the dedicated open space - just there, and according to County Staff, they may or may not be developed at some time in the future. Mr. Ventre described the land as low, flat, with little relief. The highest elevation indicated was five feet, near the center of the site. He said that tidal wetlands and associated nontidal wetlands indent the Trippe Bay shoreline; one wetland forms a portion of the site's northern side. He said that aside from wooded areas and woody scrub-shrub the land is barren, which is, unmanaged land with sparse

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vegetation and patches of bare soil. He said that the U.S. Department of Agriculture Soil Conservation Service soil survey data indicated that there are three dominant soil types on the site: Elkton silt loams, Elkton silt clay loams (low) and Keyport silt loams. He stated that the drainage characteristics range from poorly drained to moderately well drained, with long periods of high water table. He commented that "special means" of sewage disposal are suggested because of the site being poorly suited for septic fields. He said that the site lies directly adjacent to and between two small rural residential settlements, at the northeast and southeast corners. The areas are classified and mapped as Limited Development Areas in the local Critical Area Program.

Mr. Ventre said that the proposed subdivision was granted variances necessary to accommodate a cemetery on the site, and to allow a roadway and utility line to cross or enter the Buffer area. Mr. Ventre said that there were no issues of procedure as far as the growth allocation, nor with other aspects of the of the Critical Area Program, especially the HPA's. However, he said that the Commission Staff has reservations about certain aspects of the subdivision plan as approved, such as: whether the clustering layout is appropriate for this particular site; documentation of the presence of signification environmental features; assessment of impacts on the natural environment and the built environment.

Mr. Zahniser stated that his understanding was that if the houses weren't clustered and if there was no certain amount of open space set aside and the houses weren't set back 300' from the water that the parcel would count against growth allocation.

Mr. Ventre stated that the subdivision is a cluster although not a very satisfactory one.

Mr. Robert Price asked if the open space and the residue was in the center of the development.

Mr. Ventre pointed out on a map where the open space was and stated that there was 16 acres of residue.

Mr. Price asked if both the residue and the open space would remain Resource Conservation, and if it was in the Critical Area.

Mr. Ventre said, yes.

Mr. Zahniser asked if in their County Zoning ordinance they were maximizing the density on this parcel.

Mr. Ventre said they do have a density clause.

Mr. Zahniser inquired that if the open space has been used for maximizing the density, why would it not be included in the LDA. He said that he would be for counting the entire parcel against growth allocation.

Mr. Larry Duket said that this may have been a new subdivision plat for a piece of property from an earlier one that was reviewed by State Planning in the interim findings process which now seem to have half as many lots.

Mr. Ventre said that it had a history that went back to 1981 and most of the lots are around 2 acres in size.

Mr. Hickernell asked about the "residue" which seems to be a "lot" having all the same characteristics the other pieces of land have except that they have open space, and it ought to be recognized as such and counted in growth allocation.

Mr. Price said that it would be a lot that did not conform with the classification of RCA.

Ms. Carolyn Watson stated that regardless of whether it is called a

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residual parcel or a lot, the Commission needs to focus on the guidelines that it established where growth allocation is concerned; wherein, local programs that have had specific language different from the Commission's policy and there was some reluctance to approve something different than the guidelines, the Commission approved it anyway because it was in the local program. She said that the Commission needs to be consistent. In her opinion, this does not meet the minimum policy guidelines that the Commission set for debiting growth allocation. Ms. Watson said that the question seems to be not whether its okay to use growth allocation but how much to deduct.

Mr. Ventre pointed out to Ms. Watson that Dorchester County does have four situations wherein they apply their interpretation of the Commission policy. He read the applicable one from the County's program: "In the case of cluster development proposing some amount of common open space and individual lot sizes in excess of one acre, a development envelope encompassing all active recreation areas, roads and other common facilities such as sewage treatment and disposal facilities and stormwater management facilities and the area proposed to be physically disturbed on each individual lot will be determined".

Mr. Bostian stated that the guidelines were passed as policy guidelines and not regulations and made very clear then that it was not a closed question to be outside the policy guidelines.

Mr. Ventre clarified that there are guidelines that are part of the criteria, and there is the Commission's February 1988 Policy Statement.

Ms. Watson asked if what they are proposing is consistent with what the Commission approved as part of their program.

Mr. Ventre replied that Dorchester County prefaced their specification as such: "The Chesapeake Bay Critical Area Commission recognizes that under certain circumstances, the goals of the Critical Area Law would be enhanced if an area less than the full parcel being developed were deducted from the growth allocation". He stated that their guidelines suggest that "a development envelope be determined for each development project on a case by case basis and that the area of the development envelope plus other common facilities be deducted from the growth allocation" - is based on the 1988 Policy Statement.

Mr. Hickernell asked what the difference is between a lot and the 16 acres of residue, and stated that he would prefer to call it a lot because it has all the characteristics of a lot, it is geographically defined, and "saleable" after subdivision.

Mr. Bostian stated that perhaps it would be better if that portion of land had a covenant.

Mr. Hickernell said then it would be open space and with that he would have no problem and it should be approved but he disagreed with the term "residue".

Mr. Whitson asked if in order to be called "open space" it would require a certain degree of land.

Mr. Ventre replied, yes, by designation.

Mr. Robert Price asked if this portion of "residue" was considered in the deduction.

Mr. Ventre explained that it was not a part of the 59 acres.

Mr. Bowling stated that he believed that it should be a part of the growth allocation.

After much discussion, Chairman North asked for a motion on the

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question.

Mr. Hickernell asked that a conditional approval be given to the project pertaining to the land called "residue" and that the condition be that growth allocation be utilized to cover the "residue" in addition to the other lots or if that portion is designated as "open space" then no growth allocation would be utilized.

Mr. Gutman seconded that motion; however,

Mr. Bostian asked if there must be a hearing on it.

Mr. Ventre stated that he did not know the procedure.

Chairman North called the question.

The vote was 6 in favor with 8 nays. Motion failed.

Mr. Bostian stated that his reason for voting against it was that the Commission should have the procedural discretion to vote.

Chairman North asked if there was another motion.

Mr. Zahniser motioned that the entire parcel be designated for growth allocation because a cluster development was not in the spirit of enhancing the objectives of the Critical Area Law as prefaced in their statement regarding what clustering development should be for exemption.

Mr. Bowling proposed an amendment to the motion in that the open space would not be developed - the 35 acres portion and it would not count as growth allocation.

Mr. Hickernell seconded the amendment.

Mr. Zahniser rejected the amendment to his motion.

The vote was 3 in favor of the motion and 4 opposed.

The motion failed.

Mr. Bowling motioned to approved the application as proposed but to include the residue as part of the development envelope.

Mr. Gutman asked what effect that would have on the growth allocation.

Mr. Bowling stated 16.5 acres would be added to the growth allocation and it would exclude the 35 acres of the open space and the 13 acres of tidal wetlands.

The motion was seconded;

Mr. Steele Phillips asked if the residue was a developable lot would his motion stand.

Mr. Bowling stated that since it was the highest portion of land and if they could develop it there would be no problem because sewerage was not a problem with bermed infiltration ponds there.

Mr. Phillips asked if the lot was accessible.

Mr. Bowling said that there was a right-of-way.

Mr. Bostian asked if the BIP had the capacity to deal with the residue portion as a buildable lot.

Chairman North called the question.

The vote was 10 in favor with five opposed.

Mr. Ventre then reported on the second Dorchester request for growth allocation, file DCA-19, a residential subdivision known as Huntington Crossing. He said that the request is for an 8.3 acre portion of the subdivision lying inside the Critical Area.

Mr. Ventre described the area of north Dorchester close to the Caroline County line as being one of farms and woodlots, and small rural communities, described as agricultural land. Mr. Ventre said that their reason for requesting growth allocation was to allow residential density greater than allowed by existing classification, and to bring into

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conformance with the balance of the subdivision lying outside the Critical Area; to reclassify an RCA to LDA. He told the Commission members that there were no habitat areas identified and no tidal or nontidal wetlands on the site. Mr. Ventre said that a subdivision of fifty residential lots and one commercial lot was being proposed to be developed in four phases. The upland limit line demarcating the Dorchester Critical Area runs through the subdivision along the southwestern side and all or parts of six lots of the fifty proposed lie inside the Critical Area; these comprise the 8.3 acres. He stated that the allocation/reclassification award will allow the lots to be developed at the same density as the larger part of the subdivision outside the Critical Area.

Mr. Zahniser made a motion to approve the request for growth allocation for Dorchester County DC-A19. The motion was seconded and the vote was unanimously in favor.

Chairman North asked Ms. Claudia Jones to report on the Greensboro Impervious Refinement.

Ms. Jones stated that the Town of Greensboro has made application to amend their local ordinance to incorporate the new impervious surface limitations mandated by HB 1060 in the 1990 session of the General Assembly. She said that the Town would also like to add the following language from the Criteria that would allow for expansion of the Buffer in certain situations.

"The local jurisdiction shall expand the Buffer beyond 100 feet to include contiguous, sensitive areas, such as, steep slopes, hydric soils, or highly erodible soils, whose development or disturbance may impact streams, wetlands, or other aquatic environments. In the case of contiguous slopes of 15% or greater the Buffer shall be expanded 4 feet for every 1% slope or to the top of the slope whichever is greater in extent.

She said that Chairman North had determined that this request could be handled as a refinement.

The Commission supported the Chairman's decision.

Chairman North asked Ms. Patricia Pudelkewicz to report on the Town of Millington's impervious surface refinement.

Ms. Pudelkewicz stated that the Town of Millington wants to amend their local ordinance to incorporate language of HB 1060 on the impervious surface, viewed as a refinement.

The Commission supported the Chairman's decision of treating the request as a refinement.

Chairman North asked Mr. James Gutman to update the Commission members on the Memorandum of Understanding with the Department of Transportation, as well as on the Stadium Authority project.

Mr. Gutman said that the minutes of the last Commission meeting reflect the discussion of the construction of Camden Yards baseball park - football field. He said that because of some problems, the ultimate decision on their proposed development has not been forthcoming. He stated that at that meeting an extension of time was authorized that extends to the 2nd of February but there has not been a resolution of how to handle

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stormwater management on that portion of the parcel that was in the Critical Area and the Department of the Environment and the Stadium Authority are trying to resolve exactly how the stormwater management procedures should be handled and they have not reached that resolution as of this meeting date, 1-9-91. He said that the extension that was granted would expire on February 2nd and because the next Commission meeting would be held 4 days after that time, something had to be done if the ultimate program would be addressed if it was brought before the Commission, which could be at the February meeting. He stated that there were significant cost elements to the various alternatives identified to handle the stormwater thusfar. Mr. Gutman made a motion to grant an extension for the review of the Camden Yards Project through April 3rd.

The motion was seconded and the vote to extend the timeframe for review of the Stadium Authority proposal was carried unanimously.

Mr. Gutman described the effort to develop the MOU between the Critical Area Commission and the Department of Transportation to the Commission members saying that effort had been going on for years. He stated that a panel was appointed to develop the MOU and there was considerable concern about how State Highway was doing their work in the Critical Area. Mr. Gutman said that all of the elements for an agreement have been agreed to by every one of the members of the panel and that the text has only minor alterations and will be ready to be mailed out to the full Commission for the next meeting. He said that at that meeting if there are any questions, they could be resolved during the course of the meeting so that approval of the MOU can proceed. He said that it is a unique document that involves the Governor's office and entails an oversight opportunity for the Commission on a quarterly basis to review the work of State Highway.

Chairman North appointed a panel to examine a proposed map amendment in Leonardtown. He said that the amendment had to be voted on at the March 6th meeting. The appointees were Mr. Sam Bowling, Mr. "Skip" Zahniser, Mr. Michael Whitson, Mr. Jim Gutman, and Ms. Carolyn Watson. He appointed Mr. Bowling as Chairman of the panel.

Chairman North updated the Commission on the Birney Golf Course situation by reading a letter prepared by Mr. Tom Deming, Commission Counsel, in response to several inquiries received from Mr. John Murphy, Attorney for the Citizens for the Preservation of Queenstown Creek. Chairman North stated that Mr. Murphy on behalf of his client and particularly on behalf of Mr. John Carroll who is perhaps the most concerned individual with the Preservation of Queenstown Creek, had asked for some further assurance from the Chairman or Commission with respect to how future developments on this parcel of ground was to be reviewed and considered. The letter was read as follows:

Mr. John Lee Carroll  
Citizens for the Preservation of Queenstown Creek, Inc.  
P.O. Box 199  
Queenstown, Maryland 21658

Dear Mr. Carroll:

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On March 26, 1990, the Queen Anne's County Department of Planning and Zoning forwarded to the Critical Area Commission a copy of site plans and supporting documentation submitted to the County for approval of a golf course on certain Resource Conservation Area lands in the County. The County asked the Commission for a determination whether golf course development is an appropriate RCA use under the Commission's Criteria. A panel of 3 Commission members held a hearing on this issue.

At its meeting on July 6, 1990, the Commission approved the Panel's Report, which stated that the golf course proposed by the Washington Brick and Terra Cotta Company was an appropriate use within the Resource Conservation Area. The Panel Report also recommended several conditions, including:

- A. Even if it were possible to place some dwellings at a density not exceeding one per twenty acres in that portion of the Resource Conservation Area occupied by the golf course, this should not be permitted. The additional use of this portion of the Resource Conservation Area for residential development would represent a compounding of permissible uses, and raise serious questions about the consistency of such compounded use with the goals for resource protection in the Resource Conservation Area.
- B. Existing water dependent facilities on Queenstown Creek should not be permitted to be used or expanded for access for the golf course. Again this would represent a compounding of uses in the Resource Conservation Area and raise the same serious questions noted above.

The above-quoted recommendations addressed the Commission's concern that, if a golf course was to be developed on RCA land, other uses of RCA land that are authorized by the Criteria should not be permitted on the same site.

The Queen Anne's County Planning Commission approved the golf course but did not condition its approval upon Washington Brick's compliance with the Critical Area Commission's recommendations. The Critical Area Commission subsequently authorized intervention in an appeal of the approval of the site plan, in order to have the recommended conditions made applicable to the development and use of the golf course.

The Critical Area Commission reached agreement with Washington Brick that it would voluntarily subject the property to the Commission's recommendations through a Declaration of Restrictions and Covenants to the County. Based on this assurance, the Commission's intervention was terminated. In consultation with Commission counsel, Washington Brick developed language which in pertinent part restricts water access to the property so long as the property is designated Resource Conservation. The Declaration of Restrictions and Covenants was accepted by the County on November 27, 1990.

You have pointed out that the pertinent language might conceivably permit the reclassification of a portion of the property to Limited Development (LDA) and the gaining of water access through this means. Counsel advises me that we could not have required a condition restricting LDA use since no proposal for LDA use was before the Commission.

In order to respond to your concern, I wish to reiterate that it is the position of the Commission that there should not be water access to the property which would lead to a compounding of permissible RCA uses on the site. As long as a golf course occupies all of the site as indicated in

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the plans reviewed by the Commission, I am sure the Commission members would take an exceedingly dim view of any future application by the developer to reclassify to LDA the area around the existing dock and boathouse. However, the Commission cannot and will not take up the question you pose unless and until an application to do something like you fear is before the Commission.

I will provide a copy of this letter to the members of the Commission and I will ask that it be made a part of the minutes of the next meeting of the Commission. Very truly yours, Judge John C. North, II.

Chairman North stated that he hoped that this letter would terminate the concerns evidenced by the letters and phone calls that he and Tom Deming have continually received from those who previously opposed the Golf Course.

A motion was made to incorporate the letter into the minutes; it was seconded and the vote was carried unanimously.

Chairman North stated that at the last meeting of the 2020 Commission which was held on January 7th at the Department of Transportation, there was a near unanimous vote in favor of the proposed Draft Legislation except for 1 dissent. He said that there was considerable discussion concerning the issue of timing and the issue of the effective date of the proposed legislation. He stated that a number of people had voiced concern that there had been inadequate opportunity for input from local government and that the whole procedure was going too quickly. He said that it was suggested that the Draft Legislation be submitted to the Governor on the basis that he might consider submitting it to the General Assembly for immediate approval and implementation/or, alternatively he might suggest to the Legislature that it in effect be enacted in principle but that a time be allocated over the next year for regional meetings throughout the State to provide an opportunity for the public to speak to the issues presented for a more thorough examination of the issues.

Chairman North stated that the Governor will receive a letter with the Draft with the two suggestions.

Mr. Gutman commented that the local government as well as the Department of Agriculture has problems with the document because of the provisions that would modify the utilization of land that is currently held for agricultural purposes. He said that two other groups that have been an important force in the whole design are those that represent the commercial interests and the environmental community. He said that these two communities of the 2020 panel uniquely resolved many differences and perhaps would be the strongest proponents of the Document as it is currently developed.

Chairman North stated that a current amended update of the 2020 Draft Legislation would be sent to all Commission members.

Mr. Bostian asked for comment of Mr. Kreitner's view of the 2020 Draft.

Chairman North stated that the gist of Mr. Kreitner's comment was that he felt "that the more measured approach to implementation of the proposed legislation was the better approach to take and would provide local government as well as interested individuals an opportunity to make comment before matters were finalized."

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Chairman North asked Mr. George Gay, Commission Counsel, to update the Members on various projects.

Mr. Gay reported on a Variance application by Mr. and Mrs. Davis to locate an inground swimming pool in the Buffer in Dorchester County on the edge of the Choptank River. He said that the Dorchester County Board of Appeals granted the variance request and the Critical Area Commission noted an appeal. He stated that the Dorchester County Zoning Ordinance and Article 66.B of the State Code do not provide for an "automatic stay" and therefore, the applicant during that appeal period could and did go forward with the plans to build the pool in accordance with the project approval. He said that it is premature for the Commission staff to make recommendations of what to do next but it should be considered.

Mr. Gay also stated that under the Law there is a very wide range of equitable relief and that he was not reluctant to go the limit but that he would be guided by the Commission's recommendations.

It was stated that neither the Dorchester Code or the Criteria allow for the pool and that the applicants were notified that there was a 30 day appeal process. After much discussion, a motion was made and seconded to proceed with the appeal but not to the point of having the applicants remove the pool. The vote was unanimously in favor with one abstention.

Mr. Gay reported on the Wharf at Handy Point. He said that when the Commission last met, the Wharf at Handy Point had been argued before the Circuit Court but an opinion had not been issued. At that time, the Commission had appealed the decision of the Planning Commission in Kent County arguing that their decision was contrary to the local program and the State criteria. He said that Judge Wise had heard the argument on appeal and on December 11, 1990 issued his opinion and he remanded the matter down to the Planning Commission for further Findings of Fact. He said that Judge Wise held that the Planning Commission did not provide him with sufficient reasons for their decision to rule whether it was right or wrong. On January 3, 1991 the Planning Commission heard the matter in a hearing and that same night after 5 hours of evidence, they decided to again grant site plan approval with recorded oral Findings of Fact and reasons why they were granting final site plan approval. The Critical Area Commission filed an Order for Appeal from that second decision and a Petition on Appeal and a new Motion for Stay until the matter can be heard in the Circuit Court for Kent County. The Motion for Stay is pending. Mr. Gay said that he has been trying to get Judge Wise to hear it as soon as possible because the construction crew is on site and ready to begin clearing the land for development. He stated that if the Motion for Stay is not granted they would begin clearing the site on Thursday morning, January 10th. Mr. Gay stated that if Judge Wise did deny the Stay then it could be appealed to the Court of Special Appeals.

Mr. Gay reported on the Bellanca case. He said that an Appeal by a developer from the Critical Area Commission's decision and Kent County's decision to deny a Zoning Map Request was argued in the Court of Special Appeals on December 10th and there is no decision yet from the Court of Special Appeals.

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Mr. Gay reported on the Queenstown Golf Course. He said that the developer, Washington Brick and Terra Cotta Company, filed a Motion to Dismiss the Appeal of the neighbor and that Motion was argued before Judge Wise in Caroline County on December 17th. He stated that Judge Wise granted the Motion to Dismiss and the Order was signed January 2nd or 3rd. He said that in that case the reason to dismiss was granted because the Judge felt that the Critical Area Commission's recommendations to the Queen Anne's County Planning Commission were simply recommendations and that the final order in that case to allow construction of a golf course came from Queen Anne's County and if an appeal were to lie in that case it would be from a decision from the Planning Commission and not a decision from the Critical Area Commission. He said that the Critical Area Commission's appeal has been dismissed and that decision could be appealed within 30 days of January 2nd. Since it was Mr. Murphy's appeal, the Critical Area recommendations stand. He said that the recommendations were adopted in part by Planning Commission and in full in the Declarations and Covenants recorded in Queen Anne's County by the County Commissioners. He said that the Critical Area Commission got what it wanted and there would not be reason for it to appeal.

Mr. Gay then reported on the Pethel Variance for a shed in the Buffer in Anne Arundel County. He said that a landowner located a shed in the Buffer in a manner that the Staff of the Commission believed violated the Anne Arundel County local program. He said that the property owner applied for a variance after the shed was erected to allow it to remain. A hearing officer for A.A. County granted the variance. An appeal of that decision was filed at the recommendation of the Chairman of the Critical Area Commission, Judge C. John North, II. That appeal goes to the Board of Appeals in Anne Arundel County under the Anne Arundel County Code. That appeal was noted January 2nd.

Mr. Gay reported on Findings of Fact in general. He said that Judge Wise remanded the case of the Wharf at Handy Point back to the Planning Commission because the Findings of Fact weren't done in a clear manner and the decision in the Bellanca case, which may discuss the sufficiency of the Commission's Findings of Fact, would be down from the Court of Special Appeals. With those two decisions in hand, he would solicit comments from the Commission; however, since the Bellanca case had not come down and it was not known what the decision was, his suggestion was to postpone the Findings of Fact until the next meeting.

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Old Business

There being no old business, the meeting proceeded.

New Business

Mr. William Bostian stated that since the Governor has a shortfall in his projections of his budget, perhaps the Critical Area Commission has areas that could be examined and solicit opinions, other than the obvious quick ones, from the lower shore on how to save some money. He stated that he had asked Wicomico and Somerset County to provide him with some ideas.

Dr. Sarah Taylor, Executive Director, informed the Commission Members of the cuts already made by the Commission, unfilled classified positions (3) totalling about \$45,000; two contract positions, \$35,000; local technical assistance grants \$77,000; and in FY 92 the Commission was asked to take a 5% cut across the board of the entire budget, which was done - representing a few hundred thousand dollars; \$350,000 more or less has been cut for the FY 92 budget. She said that FY 91 local technical assistance grants were cut by \$50,000 and the internship part of the budget was cut, about \$25,000. So, the interns at the Critical Area Commission are here now because they want the experience or they are volunteers.

Chairman North introduced Ms. Leeza Sprinkle, intern from the University of Maryland.

There being no further business, the meeting was adjourned.

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: SO - A 4

JURISDICTION: Somerset County

TYPE: Map Amendment

ALLOCATION: N.A.

RECLASSIFICATION: Resource Conservation Area (RCA) to  
Limited Development Area (LDA)

REASON: Error in original classification and mapping

LOCAL STATUS: Request for map amendment and reclassification  
approved by Somerset County Commissioners

DESCRIPTION: The site in this case is a triangular parcel  
at the very northern end of Deal Island. In the  
documentation submitted by the County  
Commissioners, the size of the parcel is stated  
as 7.35 acres. (It is noted, however, that tax  
assessment data for the parcel state 10 acres  
as the area.)

The parcel is bound by the Upper  
Thorofare/Laws Cove on the northeast side, by  
the right-of-way of Maryland Route 363 on the  
northwest side, and by vacant land to the  
south. The Route 363 bridge over the Upper  
Thorofare is nearby.

The site has been used as a dredge-spoil  
disposal area since at least 1985, according  
to Department of Natural Resources (DNR)  
aerial photography taken in that year. The  
site has several features common to spoil  
areas: fine, silty soils; dominance of  
Phragmites, a tall reed characteristic of  
disturbed wetland areas; several large, barren  
patches; trees and/or shrubs at the shoreline  
edge; interior elevations noticeably higher  
than those of adjacent undisturbed lands.  
There appear to be no significant natural  
features on the site. The site can be  
described as "barren".

There are houses along the northwestern side,

separated from the fill area by a single-lane dirt drive providing ingress/egress for the houses. On the parcel itself, near the northern tip, is a mobile-home residence with accessory structures.

As of the date of this briefing material (January 21, 1991), it had not been learned definitively when filling of this site began and under what circumstances.

These agencies were contacted for information regarding the history of this site as a dredge-spoil disposal area:

- US Army Corps of Engineers/Baltimore District
- MD DNR/Waterway Improvement Division
- MD Department of Transportation/State Highway Administration-District Engineer (Salisbury)
- Somerset Soil Conservation District
- Somerset County Roads Commission

According to the 1966 Somerset County Soil Survey, this site was identified and mapped as "tidal marsh". (The 1966 Survey is the most recent available for Somerset County.) As noted earlier in this description, 1985 aerial photography shows that filling had occurred by then.

The attached photocopy of the Somerset Board of Commissioners' findings regarding this case contains additional descriptive information. However, the items referenced in the statements of findings were not among the documentation submitted for this Commission's review.

**PROGRAM  
COMPLIANCE/  
CONFORMANCE:**

The original Critical Area mapping and classification of this site by the County comply with the criteria at COMAR 14.15.02.05.A, and with local program mapping requirements.

**SITE VISIT:** Friday, December 14, 1990. By vehicle and on foot to interior of site. Shoreline buffer

not visited. No approach from seaward was made.

LOCAL PANEL

HEARING: January 31, 1991/6:30 p.m./Princess Anne

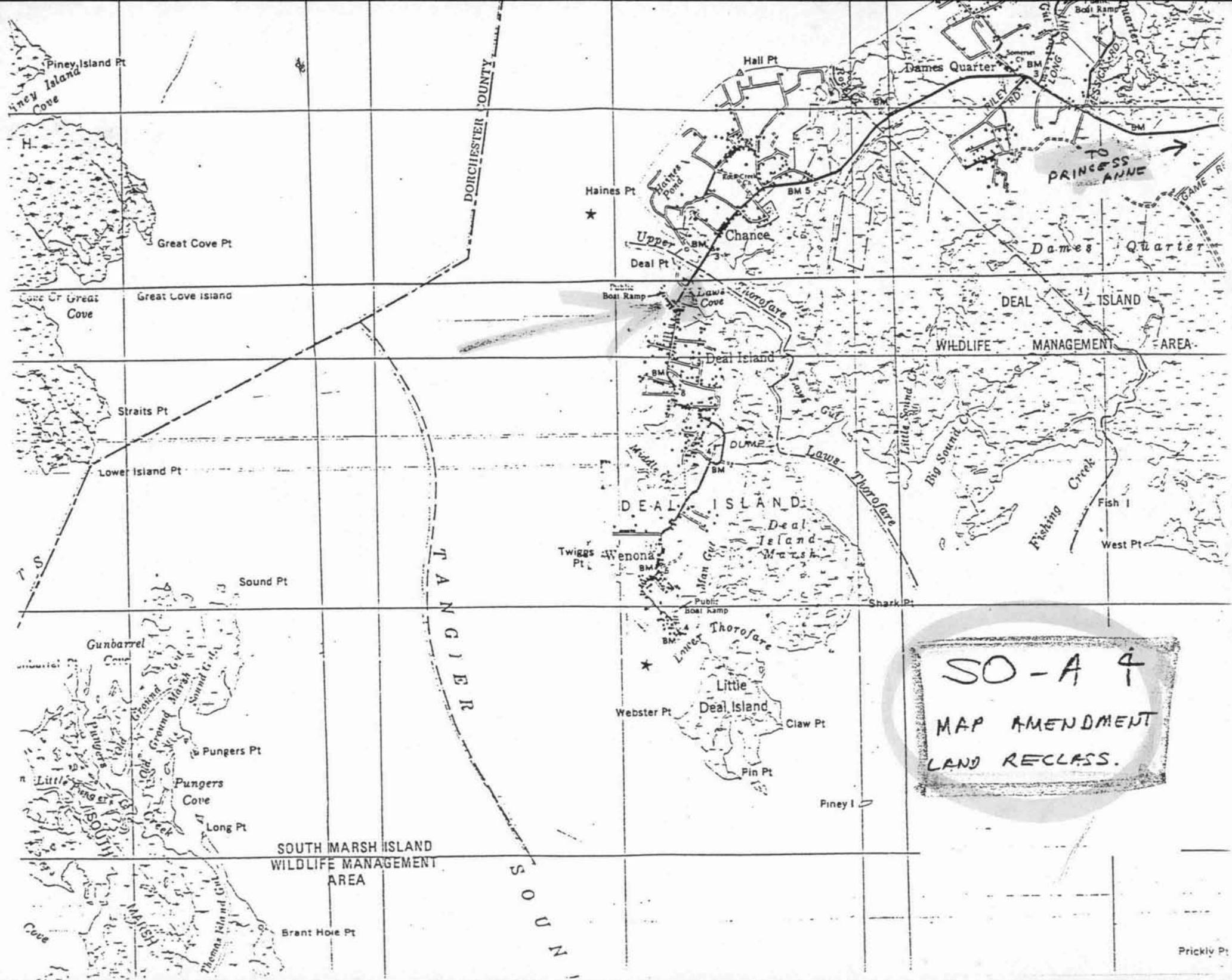
STAFF

RECOMMENDATION: Approve

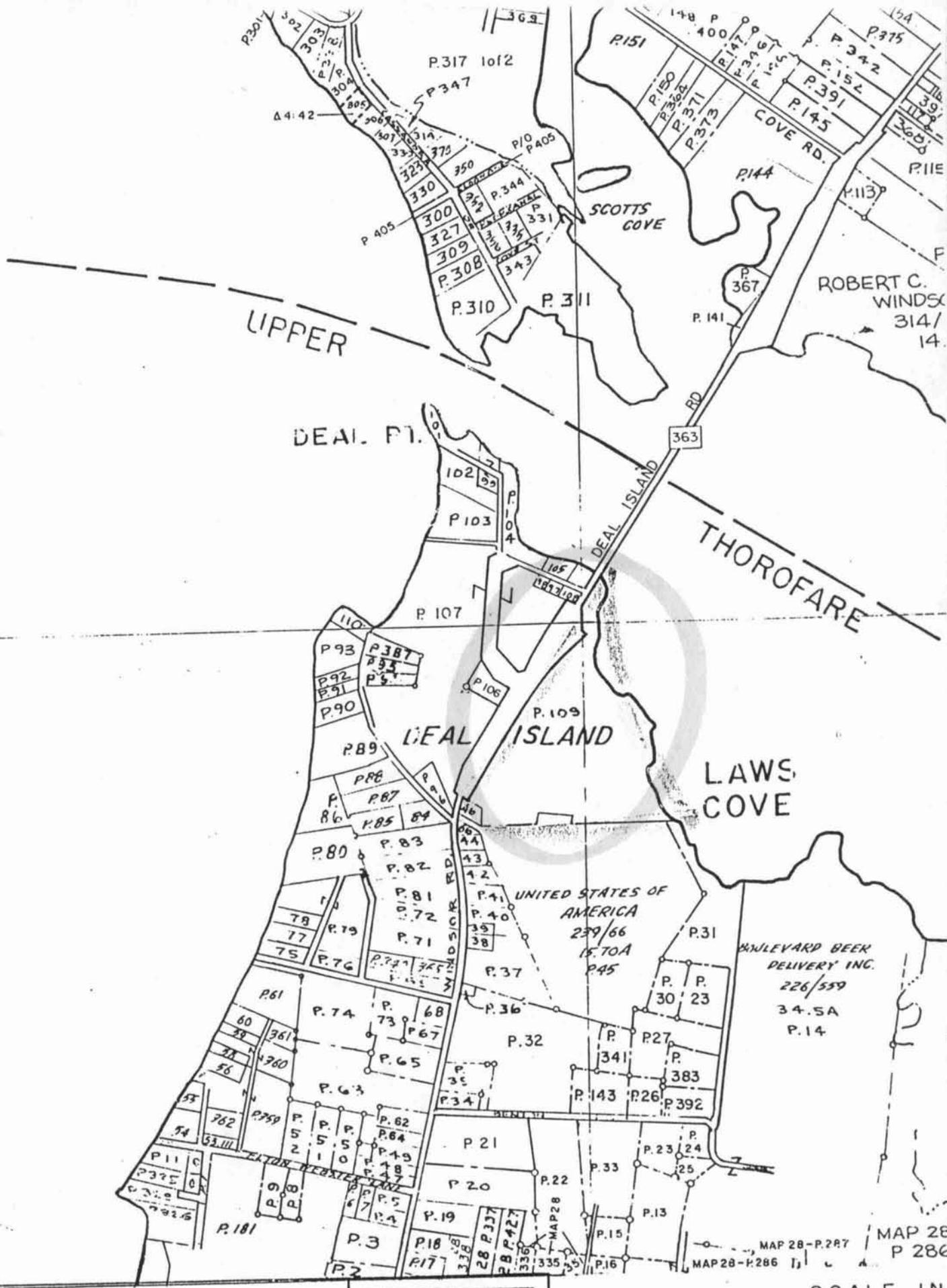
PANEL

RECOMMENDATION:

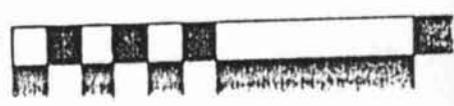
CBCAC ACTION BY: February 6, 1991



SO-A 4  
MAP AMENDMENT  
LAND RECLASS.

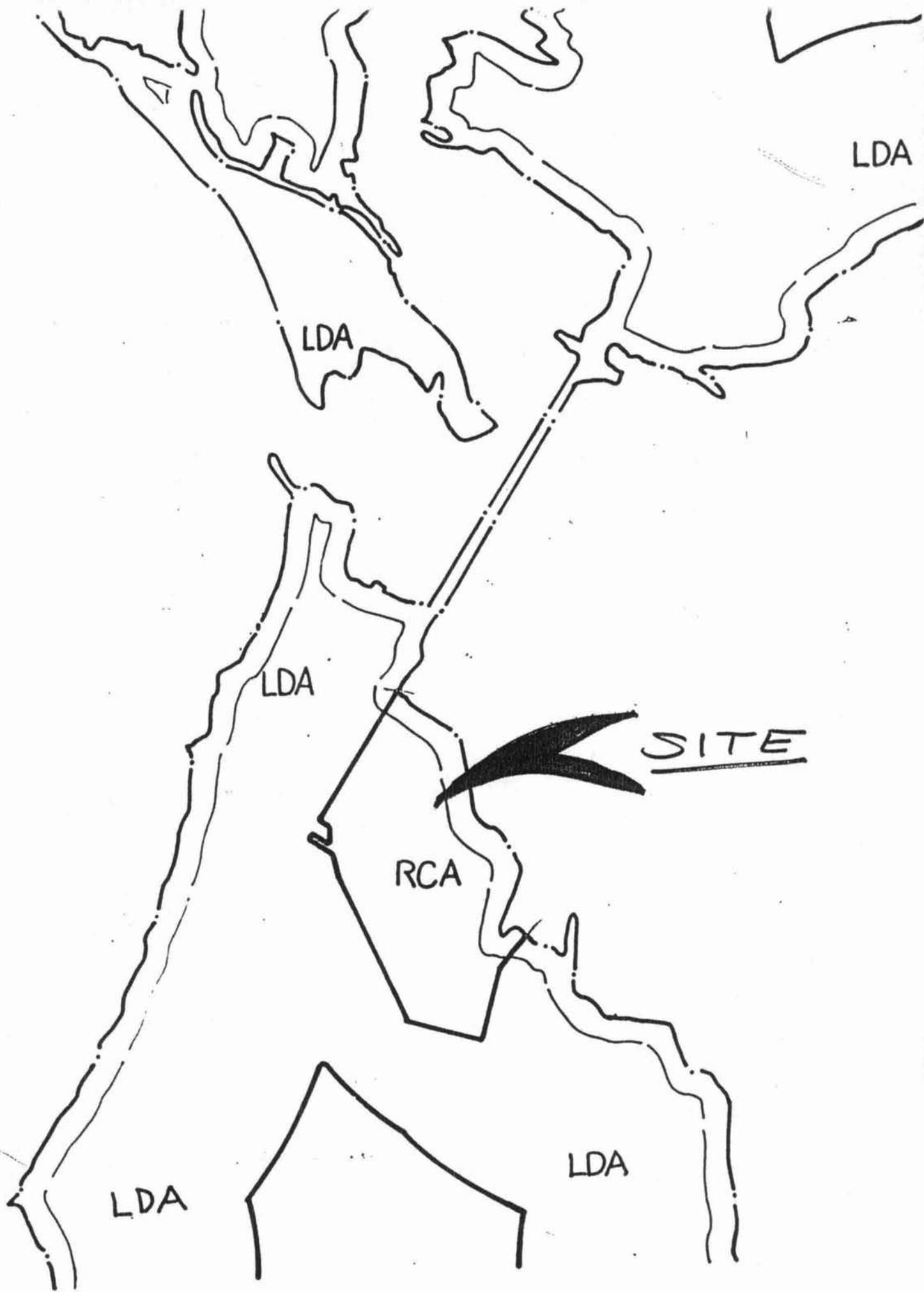


--- LINE ---  
 --- BOUNDARY ---  
 --- OWNERSHIP --- Z I E --- Z --- Z --- Z --- Z ---  
 --- NUMBER --- P 349 ASSIGNED TO IDENTIFY AND INDEX



MAP 28 P 286  
 MAP 28-P.287  
 MAP 28-P.286 T1





LOOKING WEST...



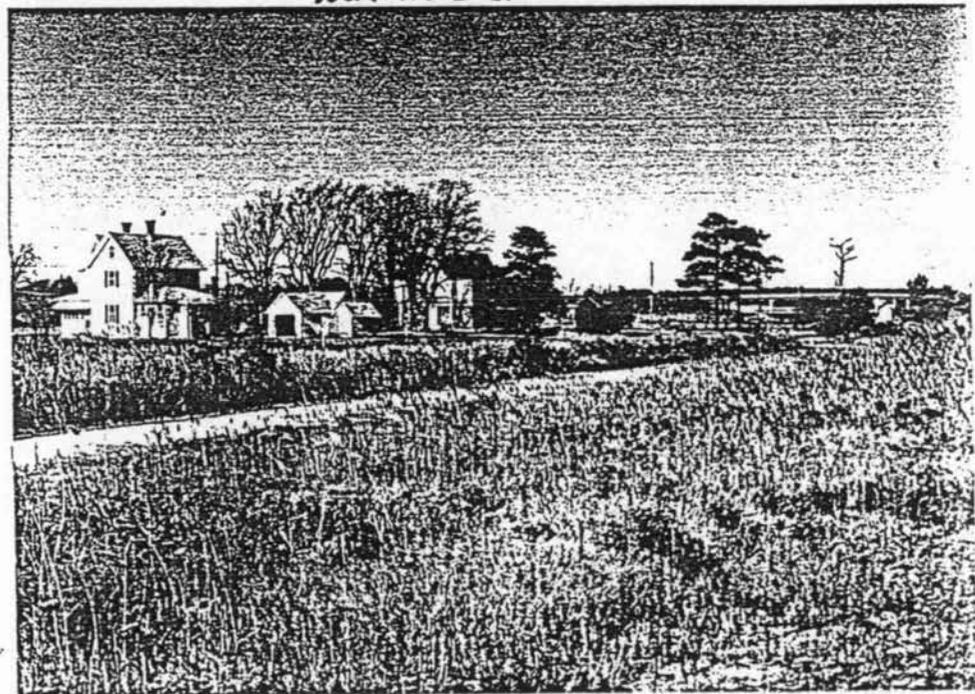
EAST...



SOUTH WEST...



NORTHWEST

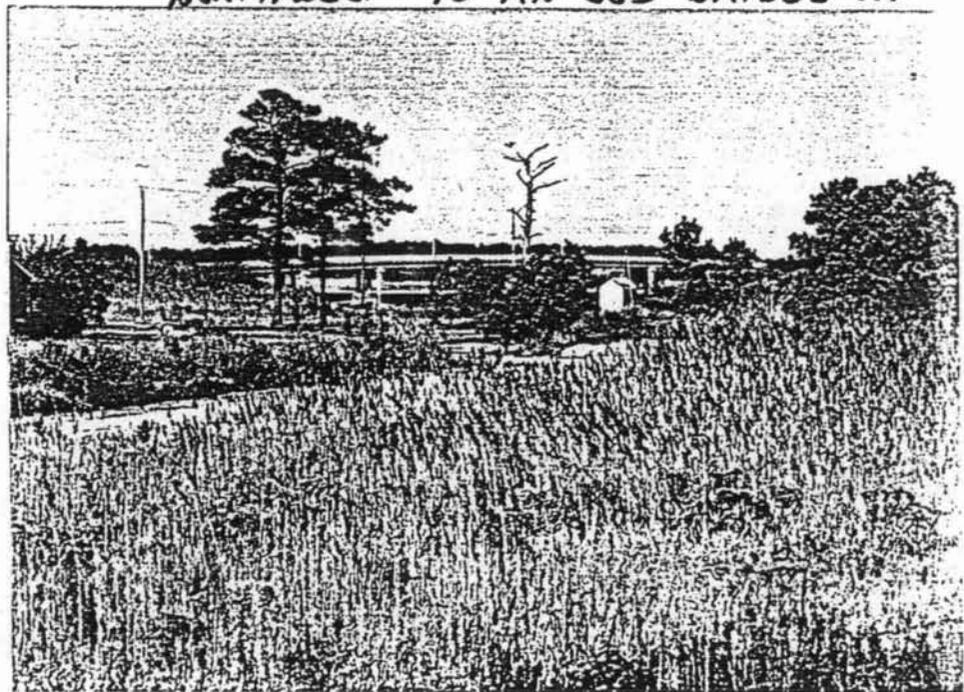


CBCAC / THU 12.14.90

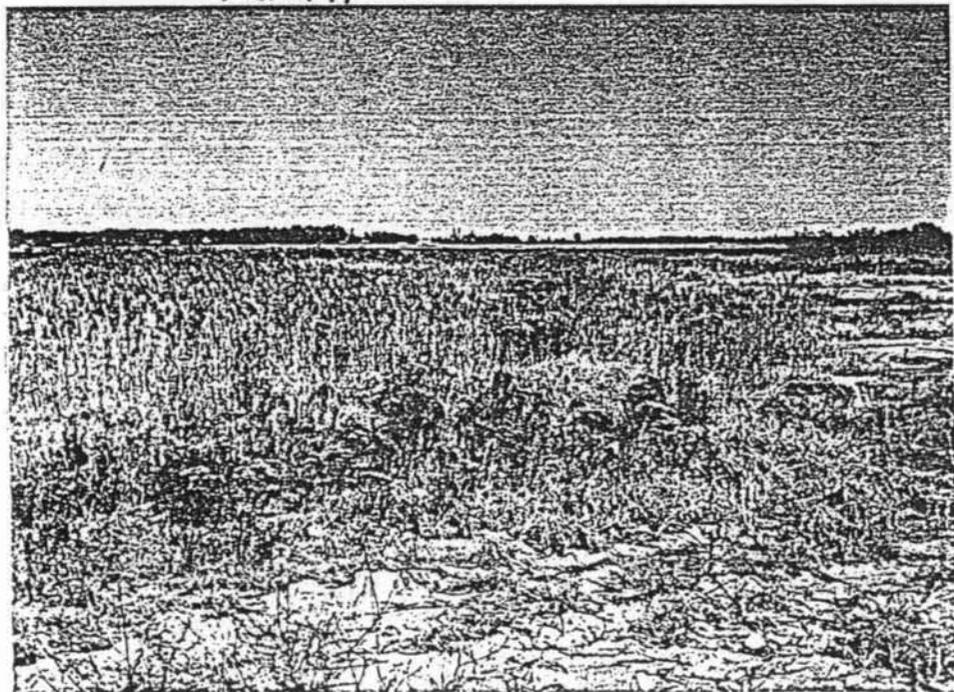
LOOKING SOUTH...



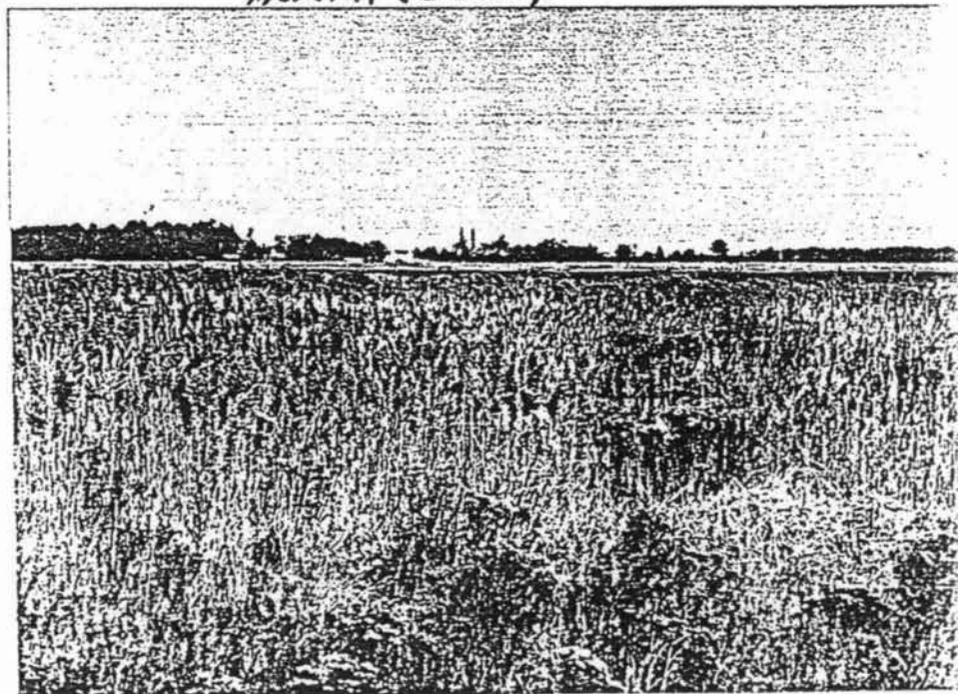
NORTHWEST TO RT. 363 BRIDGE ...



NORTH ...



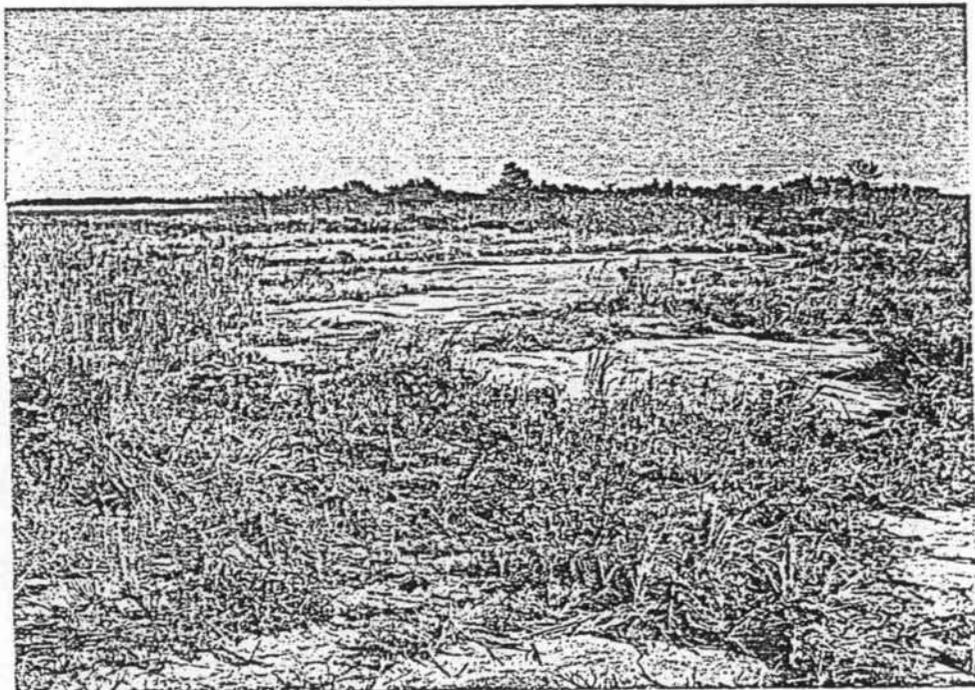
NORTH (300M)



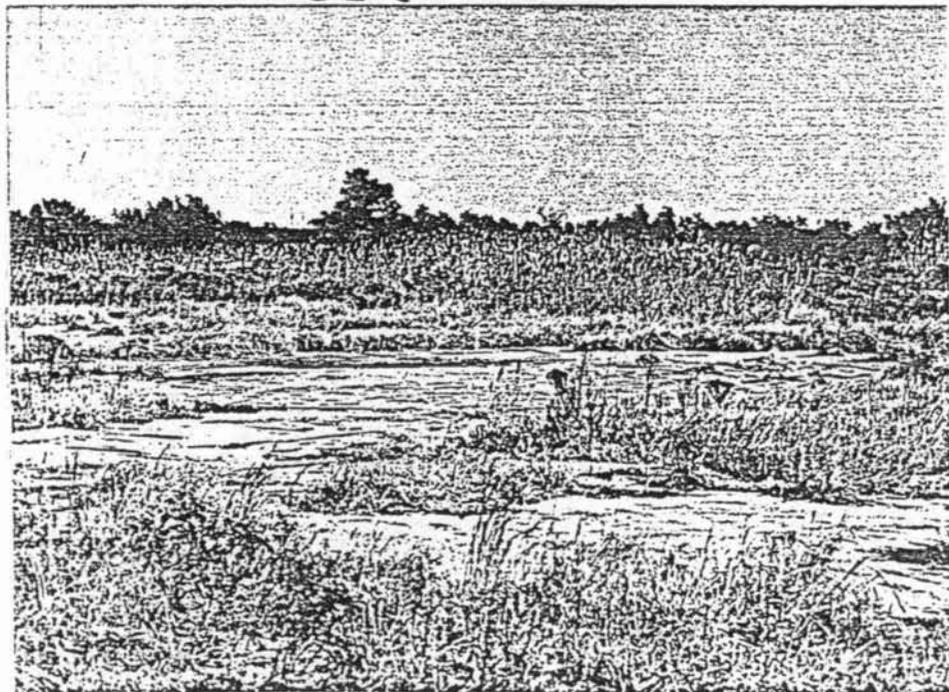
LOOKING SSW...



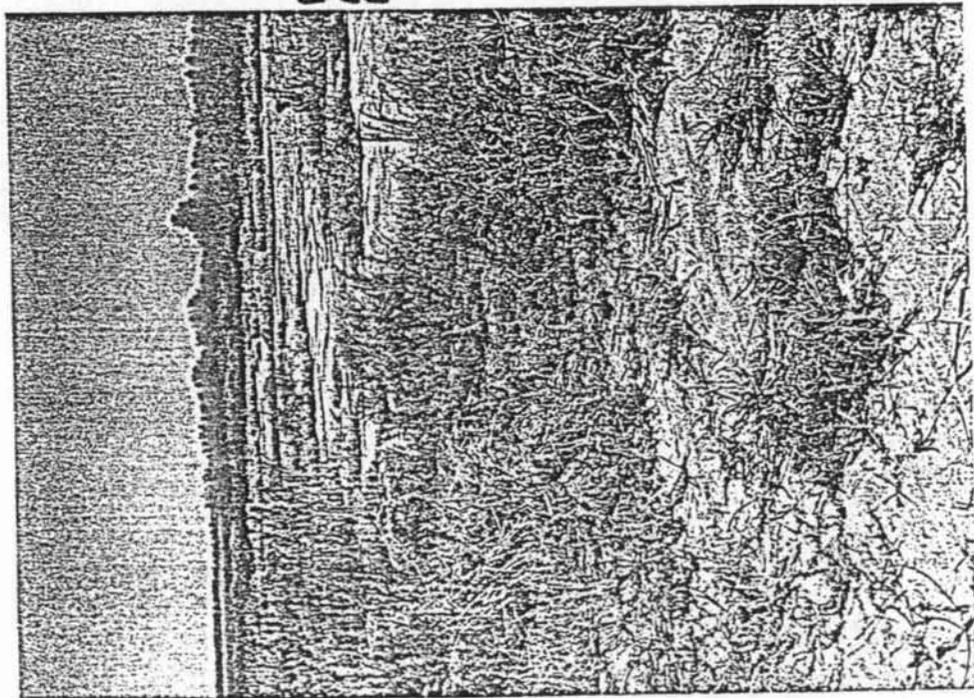
ESE...



ESE (ZOOM) ...



ESE



CBCAC/THU 12.14.90

In The Matter of The  
Application of The Deal  
Island Partnership LTD.  
to Amend the Chesapeake  
Bay Critical Area Overlay  
District Map

RECEIVED

OCT 4 1990

DNR  
CRITICAL AREA COMMISSION

Before the Board of  
County Commissioners for  
Somerset County, Maryland  
Application No. CBCA/MA90-01

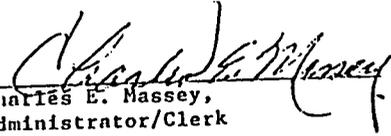
Upon the testimony and documentary evidence produced in the above matter, the Board of County Commissioners for Somerset County at its 18 September, 1990 public hearing made the following findings of fact:

- Item 1. That the property in question is owned by the Deal Island Partnership LTD of 7917A Cessna Avenue, Gaithersburg, Maryland. The applicant in the case is Mr. Laurence Christ, a general partner of the partnership.
- Item 2. That the Board received testimony and written evidence on the matter from Mr. Dale Withers of Berlin, Maryland, a general partner in the ownership of the property.
- Item 3. That the evidence presented was regarding the existing land use of the property as of December 1, 1985 and its relationship to COMAR 14.15.02.05 and 14.15.02.06 and the Somerset County Chesapeake Bay Critical Area Program.
- Item 4. That the parcel can be identified as being on County Tax Map #19, Block #23, Parcel #109 and consisting of 7.35 acres of land.
- Item 5. That the evidence presented regarding existing land use included copies of the Somerset County Tax Assessment office records as of April 28, 1984; photographs of the existing structures confirming their existence and relationship to the tax records; a survey of the property indicating the acreage and aerial photography depicting the structures present as of March 1982.
- Item 6. That the soils present on the site had changed as indicated in a letter from the District Manager of the Somerset Soil Conservation District. The soil classification present on the parcel is Made Land (MA) and is due to dredge material placed on the parcel since 1966.
- Item 7. That the parcel is adjacent to a Limited Development Area and would not act as a "stand alone" LDA.
- Item 8. That the use present on the parcel as of December 1, 1985 included five dwelling units. These units were in the form of two mobile homes and a three unit apartment building. The density present as of 12-1-85 was 1.46 dwelling units per acre.
- Item 9. That the Somerset County Planning and Zoning Commission held a public hearing on the matter as directed by the Somerset County Chesapeake Bay Critical Area Program and recommended approval of the map amendment based on an error in the land classification. Their complete findings were issued on August 1, 1990 and made a part of the Board's hearing record.

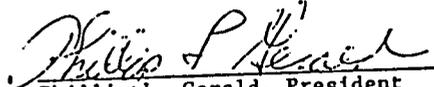
Item 10. That pursuant to rule 2 for delineating land use management areas Section One of the Somerset County Chesapeake Bay Critical Area Program and COMAR 14.15.02.05 and 14.15.02.06, the Board found there was a mistake in the original land classification of parcel 109 on Tax Map 19. The correct land classification should be LDA.

Upon motion made by Commissioner Vice-President W. Elmo Dryden and seconded by Commissioner Thomas H. Foxwell, it was unanimously carried to approve the application CBCA/MA 90-01 to amend the Somerset County Chesapeake Bay Critical Area Overlay Map (Tax Map 19, Block 23, Parcel 109) to reflect the land classification as a Limited Development Area.

Attested By:

  
Charles E. Massey,  
Administrator/Clerk

Board of County Commissioners  
for Somerset County, Maryland

  
Phillip L. Gerald, President

JUDGE JOHN C. NORTH, II  
CHAIRMAN  
301-822-9047 OR 301-974-2418  
301-820-5093 FAX

SARAH J. TAYLOR, Ph.D.  
EXECUTIVE DIRECTOR  
301-974-2418/26  
301-974-5338 FAX



WESTERN SHORE OFFICE  
275 WEST STREET, SUITE 320  
ANNAPOLIS, MARYLAND 21401

EASTERN SHORE OFFICE  
31 CREAMERY LANE  
EASTON, MARYLAND 21601

STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION

January 24, 1991

MEMORANDUM

TO: Commission Members

FROM: Sarah Taylor, Ph.D.

RE: Legislation - Governor's Commission on Growth

Enclosed you will find a copy of Senate Bill 227, the Maryland Growth and Chesapeake Bay protection Act.

Please note that the Bill, as introduced, is substantially different from the proposal that was previously given to you. The earlier proposal has been dropped from consideration. Senate Bill 227 is the so-called "phased in approach." We will discuss the Bill at our February meeting.

SJT/pgm

cc: Judge John C. North, II  
Mr. George Gay, Assist. Attorney General  
Mr. Ren Serey  
Ms. Patricia Pudelkewize

BETWEEN

MARYLAND DEPARTMENT OF TRANSPORTATION AND  
THE CHESAPEAKE BAY CRITICAL AREA COMMISSION

AUTHORITY: Natural Resources Article, Section 8-1814, Annotated Code of Maryland; COMAR 14.19.05

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1991 memorializes the understanding reached by the Maryland Department of Transportation (hereafter, "the Department") and the Chesapeake Bay Critical Area Commission (hereafter, "the Commission").

THIS AGREEMENT is based upon the Findings of the General Assembly as noted in Natural Resources Article § 8-1801 (a)(1)-(9) which declares that:

- (1) The Chesapeake Bay and its tributaries are natural resources of great significance to the State and the nation;
- (2) The shoreline and adjacent lands constitute a valuable, fragile, and sensitive part of this estuarine system, where human activity can have a particularly immediate and adverse impact on water quality and natural habitats;
- (3) The capacity of these shoreline and adjacent lands to withstand the continuing demands upon them, without further degradation to water quality and natural habitats is limited;
- (4) National studies have documented that the quality and productivity of the waters of the Chesapeake Bay and its tributaries have declined due to the cumulative effects of human activity that have caused increased levels of pollutants, nutrients, and toxics in the Bay System and declines in more protective land uses such as forestland and agricultural land in the Bay region;
- (5) Those 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 restoration of the quality and productivity of the waters of the Chesapeake Bay and its tributaries;
- (7) The restoration of the Chesapeake Bay and its tributaries is dependent, in part, on minimizing further adverse impacts to the water quality and natural habitats of the shoreline and adjacent lands;
- (8) The cumulative impact of current development is inimical to these purposes; and
- (9) There is a critical and substantial State interest for

the benefit of current and future generations in fostering more sensitive development activity in a consistent and uniform manner along shoreline areas of the Chesapeake Bay and its tributaries so as to minimize damage to water quality and natural habitats.

WHEREAS, the Department is responsible for the planning, funding, and administration of the State's transportation activities pursuant to the Transportation Article, and

WHEREAS, the Department recognizes the goals, objectives and policies of the Commission's regulations, specifically Chapter 14.19.05 state agency actions resulting in development on State-owned lands, and

WHEREAS, the Commission is vested with the authority for implementing the State's Chesapeake Bay Critical Area Protection Program, and

WHEREAS, the Commission has established regulations for development undertaken by State and local agencies in the Critical Area which has not been subject to approval by a local jurisdiction with an approved Critical Area program, and

WHEREAS, the Commission is vested with the authority to approve, deny, or request modifications to State agency actions resulting in development on State-owned lands based on assessment of the extent to which the project conforms with COMAR 14.19.05, and to grant general approval for certain programs or classes of such activities,

NOW, THEREFORE, be it resolved that the parties named above hereby mutually agree to the following:

GENERAL OBJECTIVE

This memorandum constitutes an agreement to clarify the terms and procedures by which the Department will conduct development activities in the Critical Area to ensure that they are consistent with the Commission's criteria for protecting the water quality and plant and wildlife habitat of the Chesapeake Bay. It sets out the process to be used by both parties in order for the Department to gain approval of the Commission for projects in the Critical Area. In addition, it defines the programs, activities and classes of development eligible for General Approval (Appendix A) and establishes the responsibilities of both parties for granting such general approvals for the Maryland Transportation Authority, Maryland Aviation Administration, State Railroad Administration, Mass Transit Administration, Maryland Port Administration, Motor Vehicle Administration, and State Highway Administration.

The Critical Area Commission, Maryland Department of

Transportation, Maryland Department of the Environment and the Governor's Office will continue to meet on a quarterly basis to assess the project design and review process, to assess the success of the Action Plan, and to address problems of mutual concern pertaining to project construction and enforcement. Other parties in addition to the ones named may be involved as deemed appropriate. Topics to address may include standards for clearing and stabilization, sequencing of construction activities, off-site options for sediment and erosion control, priorities for training, or water quality monitoring to name a few. Visits to construction sites may be a part of the process as needed.

AFFECTED MODAL ADMINISTRATIONS IN THE MARYLAND DEPARTMENT OF TRANSPORTATION

- 1) State Highway Administration
- 2) Maryland Transportation Authority
- 3) State Aviation Administration
- 4) State Railroad Administration
- 5) Mass Transit Administration
- 6) Maryland Port Administration
- 7) Motor Vehicle Administration

The Department has entered into agreement with the Commission on behalf of these agencies.

THE DEPARTMENT AGREES:

1) To comply with the regulations as set forth in COMAR 14.19 regarding development in the Critical Area by a State Agency.

2) To treat the Critical Area as a sensitive area. Therefore, any perennial or intermittent stream located within the Critical Area will automatically be targeted for additional erosion and sediment controls.

3) To provide the Chairman of the Commission with a copy of the Maryland State Report on Transportation (SRT), consisting of the Maryland Transportation Plan and the Consolidated Transportation Program, each January.

4) To distribute the initial list of projects that the Commission staff has determined to be in the Critical Area to the various modal administrations within the Department for their review. Staff of the modal administrations shall consult with the Commission regarding the location, scale, status, etc. of the listed projects in order to confirm the need for Commission review. Within three weeks of receiving the Commission's list, the Department will submit the annual finalized listing of projects subject to Commission approval. This listing will include projects determined by the Department to be eligible for general approval for the administrations mentioned under the General Objective of

this MOU. (Appendix A).

5) To consult with the Commission during the planning and design stages of all projects subject to Commission approval to clarify the effects that the Critical Area criteria will have on the proposed development. The Department's modal administrations will include Commission staff at inter-agency review sessions and at other meetings involving siting and impacts of projects in the Critical Area. The Department's modal administrations will also send the Commission all environmental reports and documents that are distributed to other State agencies for review. As projects are reviewed by the staff of the Commission, there will be written communication with the modal administration in discussing the information or in requesting more information.

6) When all appropriate information required by the Commission (listed in Appendix B) is available, to submit to the Chairman of the Commission site plans and a Critical Area Report. The report shall include all pertinent site information, findings which demonstrate that the development is consistent with the Critical Area criteria, and the timeframe for project design and construction.

7) For all State Highway Administration projects impacting the Critical Area, a monitoring program, as agreed to by the Department of the Environment, the Governor's Office and the Maryland Department of Transportation, the Critical Area Commission and others will be mandated.

8) When design is 50% completed or when all information required by the Commission and listed in Appendix B is available, whichever is sooner, to submit to the Chairman of the Commission site plans, a Critical Area Report, and a request for Commission approval. The report shall include all the requested site information (in Appendix B), findings which demonstrate that the development is consistent with the Critical Area criteria, and the timeframe for project design and construction.

9) To notify the Chairman of the Commission immediately of any changes in the plans as approved or of changes that occur during construction of the project, if these changes affect animal and plant habitat, water quality and/or runoff to the Chesapeake Bay Critical Area waters. Input will be sought from Commission staff and recommendations, if any, will be adopted.

10) To send a copy of the Notice to Proceed to the Chairman of the Commission three weeks prior to initiating construction of projects.

11) To notify the Commission of projects not listed in the Maryland State Report on Transportation or not otherwise excluded under the general approval of the MOU, but which occur in the

Critical Area, and to follow the approval process as outlined in this MOU.

THE COMMISSION AGREES:

1) To review the Maryland State Report on Transportation submitted to it in January, and to determine which projects lie within the Critical Area and require Commission approval. The Chairman will, within 2 weeks of receipt of the SRT, send the Office of Transportation Planning a list of such projects.

2) To review the listing of projects submitted by the Department for general approval and respond to the Office of Transportation Planning as to the results of this review.

3) To participate in meetings and inter-agency review sessions which deal with transportation projects in the Critical Area and to provide comment and guidance regarding the impact of the criteria on these projects.

4) To respond to the Department regarding the completeness of a project submittal within ten working days of its receipt. If incomplete, Commission staff will notify the modal administration proposing the development of the type of additional information needed. When the submittal is determined to be complete, the Chairman of the Commission will send a letter stating its completeness to the Director of the relevant modal administration with a copy to the Office of Transportation Planning.

5) To send copies of the site plan and Critical Area Report to the local jurisdiction(s) impacted by the project and to solicit comments from those jurisdictions.

6) To notify the Department of its decision to approve, deny, or approve with conditions the project within 30 days of receiving it or, if the project is substantial and/or has potential adverse impacts on the Critical Area, to make a decision with 90 days. If more than 30 days is required, the Commission shall notify the Department within 15 days of receiving the complete project submittal, regarding the timeframe needed.

7) To contact the appropriate modal administration and the Office of Transportation Planning by letter from the Chairman of the Commission if the Commission is notified of violations during construction or maintenance activities. The appropriate state or local enforcement agency will receive a copy of the communication, and Commission staff will continue to be involved until the problem is resolved.

MODIFICATIONS TO SCOPE

This Memorandum of Understanding may be amended at any time. Modifications must be made in writing and must be agreed upon by both parties.

MERGER

This Memorandum embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations, referring to the subject matter other than those contained herein.

IN WITNESS WHEREOF, the parties have executed this Memorandum by causing the same to be signed on the day and year first above written.

Chesapeake Bay Critical Area Commission

\_\_\_\_\_  
Judge John C. North II, Chairman

Maryland Department of Transportation

\_\_\_\_\_  
James Lighthizer, Secretary

Approved as to form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Assistant Attorney General

Appendix A.

CONDITIONS AND CLASSES OF PROJECTS ELIGIBLE FOR GENERAL APPROVAL

Under COMAR 14.19.05, State Agency actions resulting in Development on State-Owned Lands the Commission may grant General Approval to state agencies for programs, activities and classes of development on state-owned lands in the Critical Area. Granting of general approval by the Commission allows implementation of the approved program, activity or projects in accord with the policies and requirements as set forth in COMAR 14.19.05.

A) Because no perceived adverse environmental impacts will be incurred, activities identified as one or more of the following will be approved for General Approval by the Critical Area Commission.

1) Installation/repair of fencing, signs, pavement markings and traffic signals.

2) Safety improvements consisting of: guardrail installation performed from the roadside, railroad warning devices, improved crossing surfaces at grade for railroads only, roadway grooving, glare screens, safety barriers, energy attenuators, lighting and navigational aids.

3) Indigenous landscape planting and landscape maintenance for existing roads and/or to fulfill objectives of a beautification program.

4) Modification, renovation but no expansion of existing buildings or stationary equipment which do not alter ground or at-grade surfaces and increase or lessen quality of runoff.

5) Equipment replacement or installation within existing transportation facility which does not alter ground surfaces and increase or lessen quality of runoff.

6) Rehabilitation projects at existing marine terminal, consisting of bulkhead repairs, fender replacement or addition, utility repair or rehabilitation, crane rail improvements or replacement and similar projects that do not alter ground or at-grade surfaces and increase or lessen quality of runoff.

7) Work related to normal railroad maintenance-of-way including, but not limited to, tie, timber and rail replacement, ballast regulation and replacement, tamping, surfacing and alignment of track, and brush trimming. These activities shall not use herbicides nor shall they increase or lessen quality of runoff.

B) Activities identified in this section would cause or result in negligible adverse impacts. For this reason the following activities are eligible for general approval by the Commission. For development to qualify under this section the net increase in area of impervious material must be less than ten percent of the original area, or no nontidal wetlands are impacted.

- 1) Construction of bicycle and pedestrian lanes, paths and facilities.
- 2) Pavement resurfacing and rehabilitation including milling and patching.
- 3) Bridge redecking with overlay and minor rehabilitation.
- 4) Roadway and parking lot maintenance and intersection reconstruction comprising pavement replacement and/or resurfacing, ditch trimming and drainage structures.

C) Certain situations and conditions jeopardizing public safety and welfare may require emergency action by the Department. The Department may undertake the necessary remedial actions without prior Commission approval. However, the Department is to notify the Commission of the development activities in a timely manner.

## Appendix B.

### INFORMATION REQUIRED FOR REVIEW OF CRITICAL AREA PROJECTS

The environmental reports prepared by the Maryland Department Of Transportation, will include the following information to the extent required by the Critical Area Commission to determine consistency with the Critical Area regulations COMAR 14.19.05.03 - .14. This information will be provided commensurate with the project contemplated and subject to acceptance by the Commission.

#### To be shown on maps:

##### Geographic

Critical Area boundary  
Local development area designations (IDA, LDA, RCA) and boundaries  
Area of disturbance  
Buffers: Minimum 100 ft. from tidal waters, tidal wetlands, and tributary streams;  
Minimum 25 ft. from nontidal wetlands  
According to that specified in a Protection Plan for Plant and Wildlife Habitat

##### Physical

Topographic lines, including designation of slopes 15% or greater  
Soil series, with K Factor if slopes 5% or greater and indication of hydric soils  
Streams

##### Biological

Forest cover: existing  
to be removed  
to be replaced  
Agricultural lands and open fields  
Tidal wetlands  
Nontidal wetlands  
Threatened and endangered species sites  
Plant and Wildlife Habitats:  
Colonial water bird nesting sites  
Waterfowl staging and concentration areas  
Riparian forests  
Forest interior dwelling bird sites  
Natural Heritage Areas  
Other critical habitat areas  
Anadromous fish propagation waters  
Submerged aquatic vegetation

Shellfish beds

Development

Layout of roads, structures (with uses indicated), septic fields, parking lots, utilities, etc.  
Sediment and erosion control measures  
Stormwater management facilities  
Water quality facilities

To be included in text:

Total acreage of property  
Total acreage in Critical Area  
Total acreage of each development area designation (IDA, LDA, RCA)  
Total acreage to be disturbed and a description as to how the disturbance will be minimized  
Total acreage of impervious surface to be created and total impervious area after development with a description as to how the impervious area will be minimized

Description and acreages of forest communities existing and to be removed and the development of a Forest Management Plan/Buffer Protection Plan and Reforestation Plan to meet the requirements for tree removal in the criteria. This applies also to timber harvesting of one acre or more as well.

Description as to how soil erosion and sedimentation will be contained on site complete with a Control plan for both erosion and sediment.

Description as to how stormwater is to be handled so as to minimize impact to water quality complete with a Stormwater Management Plan.

If project is in an IDA:

Provisions of computations indicating how the reduction of pollutant loadings will be accomplished by at least 10% on site or through offsets provided.

If project is water-dependent or must affect tidal waters:

Description of the impact on water quality and how the impact will be reduced;  
Description of impact on fish, plant and wildlife habitat and how that impact will be mitigated;  
Description of water circulation patterns and flushing and impacts on salinity regimes and what changes will occur as a result of the project and how these

changes will be mitigated;  
Description of the impacts on submerged aquatic vegetation, shellfish beds, and other aquatic habitat and how these impacts will be mitigated; and  
Indication of where the dredged material will be placed, and if in the Buffer, what it will be used for and how the Buffer impact will be mitigated.

If shore erosion protection is planned:

Description of the structural measures used with a demonstration that there is significant shore erosion taking place to use these measures and how fish, plant and wildlife habitat will be mitigated and conserved while constructing and maintaining the structure.

If there is activity proposed for the Buffer that is nonwater-dependent:

Demonstration that the existing pattern of development prevents the buffer from fulfilling its 5 functions along with a description as to how mitigation will be carried out for the disturbance to the Buffer.

If there are nontidal wetlands, threatened and endangered species, plant and wildlife habitat, or anadromous fish areas on the site, a protection plan consisting of management measures that will be taken to protect these resources will be developed and provided. These measures will also include mitigation measures if the resources cannot be protected.

With respect to all of the above, if there are several alternatives from which a selecting still needs to be made, all alternatives will address the information requirements to enable a comparison to be made among the alternatives.

CRITICAL AREA COMMISSION

STAFF REPORT

January 31, 1991

PROJECT: Maryland Department of Natural Resources,  
Boating Administration (BOA), Somers Cove  
Marina, Maintenance Building

DISCUSSION: The BOA proposes to add an additional 2400 sq. ft. building to its Somers Cove Marina facility in Crisfield. The building will be used for sandblasting and painting of buoys. It will be located adjacent to an existing building that is currently used for the same activities. Approximately 3000 sq. ft. of asphalt paving will be established around the building to accommodate a crane and other equipment needed to transport materials. Notable elements of the project include:

- The building and paving will be located in an open grassed area. No forest vegetation will be removed to establish structures.
- The building will be located a minimum 200 feet from Somers Cove.
- Stormwater will be managed to meet a 10% reduction in pollutant loadings. Plans will be reviewed by the MD Department of the Environment (MDE).
- Sandblasting will occur entirely within the contained area of the building. The debris will be transported by truck to a landfill. According to information provided by MDE, the sandblasted debris is considered non-hazardous waste and can be disposed of by incineration or hauling to a rubble landfill.
- The Forest, Park and Wildlife Service (FPWS) has been contacted about Habitat Protection Areas (HPAs). A response from FPWS is pending.

STAFF CONTACT: Liz Zucker

STAFF  
RECOMMENDATION: Approval of the conceptual plans with conditions that final project plans be submitted to the Commission for approval, that final stormwater plans be reviewed and approved by MDE, that any comments from FPWS on HPAs be fully addressed and that the Commission receives copies of documentation from all appropriate reviewing agencies.

CHESAPEAKE BAY CRITICAL AREA COMMISSION  
FEBRUARY 6TH, 1991 MEETING  
STAFF REPORT

SUBJECT: Cecil County Map Amendment, mistake in mapping on the Lewis property

CRITICAL AREA COMMISSION ACTION NEEDED: Vote by February 26, 1991

DESCRIPTION: The proposed map amendment changes the designation of 20 acres of the Lewis property at 370 W. Lewis Shore Road from Resource Conservation Area (RCA) to Limited Development Area (LDA) and Buffer Exemption Area on the basis of mistake in mapping. The property is on the north shore of Perch Creek and lies south of Elkton. The parcel has 25 dwelling units, of which at least 15 are seasonal residences. The houses are individually owned, although the land beneath them is not. The development predates the County's subdivision ordinance, and the landowner wishes to subdivide so that he can sell individual lots and the house owners can own the land under their houses. No new development is planned. The landowner believes that a mistake in mapping was made, that in treating the area as one parcel, the existence of 25 dwelling units on a portion of the property was not reflected in the mapping. The Cecil County Commissioners have approved this amendment. The Critical Area Commission held a public hearing on this amendment on Tuesday, January 29, 1991.

If the area is treated as subdivided property, it meets the requirements for LDA under Cecil County's mapping rules, because of the density of dwelling units, size of the area, and proximity to Elkton. The dwelling units existed before December 1, 1985. There is LDA nearby, across the mouth of Perch Creek at Locust Point. The LDA is not immediately adjacent by land because the upper reaches of the tidal area of Perch Creek are RCA. The houses are currently served by wells and septic systems. If the area is subdivided, improvements in the septic systems are likely to be required, perhaps by using a community sewage treatment facility.

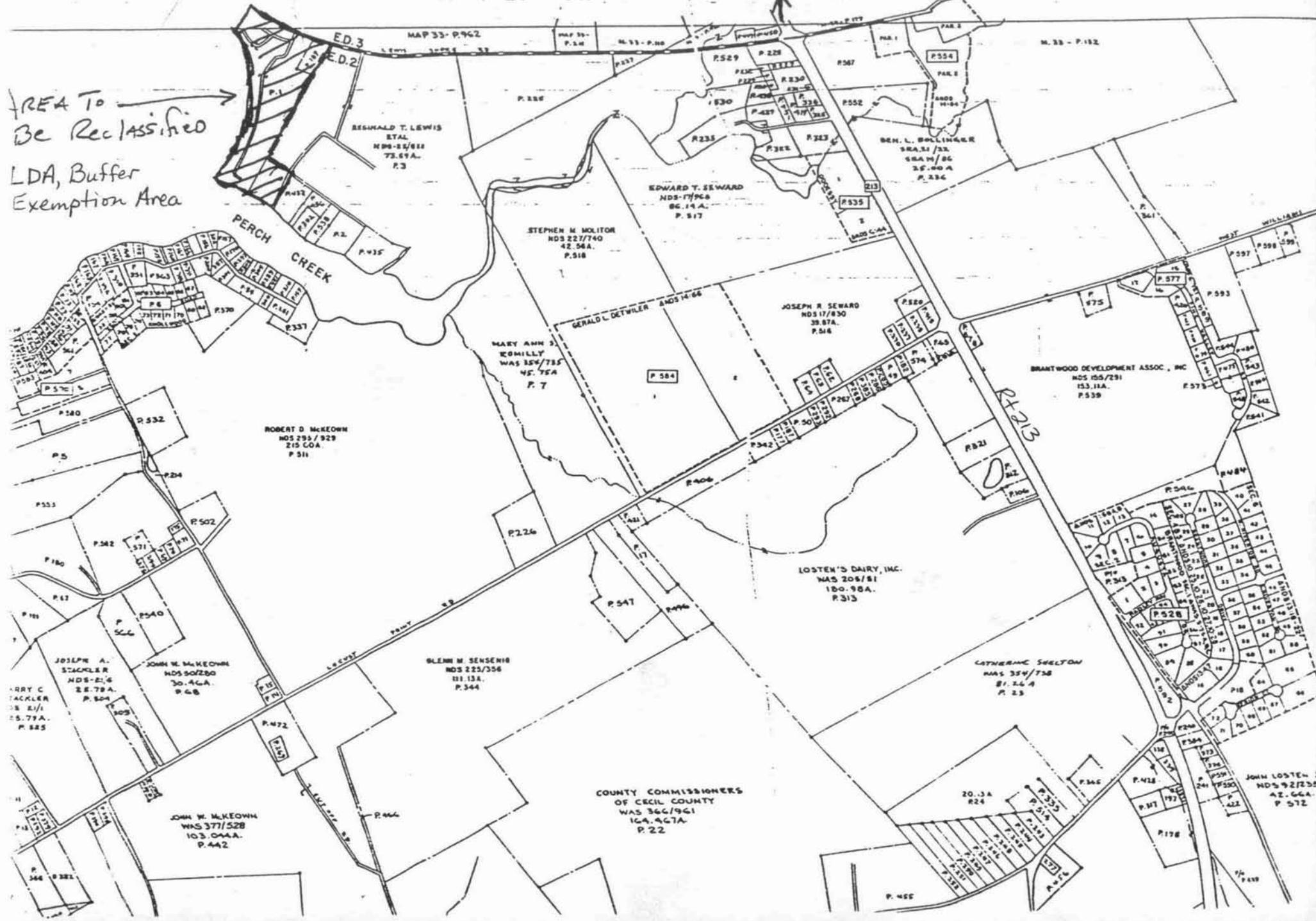
The area meets the terms for creating a Buffer Exemption Area because the existing development pattern does not allow the buffer to carry out its intended functions for water quality and habitat. The houses, walkways, patios, and road are currently located within the 110-foot buffer, and are claimed to occupy at least 50% of the area of the buffer.

PANEL RECOMMENDATION: The panel believes that a mistake in mapping was made in this area and recommends approval of this amendment. However, it is strongly suggested that when lots are created, they be of sufficient depth to allow all the requirements of the Cecil County Buffer Exemption Program to be met, including the requirement that structures that are removed or destroyed be replaced behind the 110-foot buffer.

STAFF CONTACT: Anne Hairston

To Elkton

AREA To Be Reclassified  
LDA, Buffer  
Exemption Area



ED.3  
ED.2

MAP 33 - P. 962

MAP 35 - P. 124

MAP 35 - P. 124

MAP 33 - P. 132

REGINALD T. LEWIS  
ETAL  
NDS 88/811  
72.57A.  
P. 3

EDWARD T. SEWARD  
NDS 17/968  
86.14A.  
P. 517

STEPHEN M. MOLITOR  
NDS 227/740  
42.54A.  
P. 518

BEN. L. BOLLINGER  
SRA. 31/32  
SRA. 34/35  
25.40A  
P. 234

MARY ANN  
KOMILLY  
WAS 154/735  
45.75A  
P. 7

JOSEPH R. SEWARD  
NDS 17/830  
38.87A.  
P. 516

ROBERT D. McKEOWN  
NDS 295/329  
215.60A  
P. 311

BRANTWOOD DEVELOPMENT ASSOC., INC  
NDS 155/291  
153.11A.  
P. 539

LOSTEN'S DAIRY, INC.  
WAS 204/81  
180.98A.  
P. 313

GLENN M. SENSENB  
NDS 225/356  
111.13A.  
P. 344

CATHERINE SHELTON  
WAS 354/758  
81.44A  
P. 23

COUNTY COMMISSIONERS  
OF CECIL COUNTY  
WAS 366/961  
164.467A  
P. 22

JOHN W. McKEOWN  
WAS 377/528  
103.04AA.  
P. 442

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CRITICAL AREA COMMISSION

STAFF REPORT

January 31, 1991

PROJECT: Maryland Department of Natural Resources,  
Boating Administration (BOA), Somers Cove  
Marina, Maintenance Building

DISCUSSION: The BOA proposes to add an additional 2400 sq. ft. building to its Somers Cove Marina facility in Crisfield. The building will be used for sandblasting and painting of buoys. It will be located adjacent to an existing building that is currently used for the same activities. Approximately 3000 sq. ft. of asphalt paving will be established around the building to accommodate a crane and other equipment needed to transport materials. Notable elements of the project include:

- The building and paving will be located in an open grassed area. No forest vegetation will be removed to establish structures.
- The building will be located a minimum 200 feet from Somers Cove.
- Stormwater will be managed to meet a 10% reduction in pollutant loadings. Plans will be reviewed by the MD Department of the Environment (MDE).
- Sandblasting will occur entirely within the contained area of the building. The debris will be transported by truck to a landfill. According to information provided by MDE, the sandblasted debris is considered non-hazardous waste and can be disposed of by incineration or hauling to a rubble landfill.
- The Forest, Park and Wildlife Service (FPWS) has been contacted about Habitat Protection Areas (HPAs). A response from FPWS is pending.

STAFF CONTACT: Liz Zucker

STAFF  
RECOMMENDATION: Approval of the conceptual plans with conditions that final project plans be submitted to the Commission for approval, that final stormwater plans be reviewed and approved by MDE, that any comments from FPWS on HPAs be fully addressed and that the Commission receives copies of documentation from all appropriate reviewing agencies.

J. JOSEPH CURRAN, JR.  
ATTORNEY GENERAL  
JUDSON P. GARRETT, JR.  
DENNIS M. SWEENEY  
DEPUTY ATTORNEYS GENERAL



THOMAS A. DEMING  
ASSISTANT ATTORNEY GENERAL  
COUNSEL TO SECRETARY  
MARIANNE D. MASON  
ASSISTANT ATTORNEY GENERAL  
DEPUTY COUNSEL  
M. BRENT HARE  
JUDITH F. PLYMYER  
PAMELA D. ANDERSEN  
LEE R. EPSTEIN  
MAUREEN O'F. GARDNER  
PAMELA P. QUINN  
SEAN COLEMAN  
SHARON B. BENZIL  
MEREDITH E. GIBBS  
GEORGE E.H. GAY  
ASSISTANT  
ATTORNEYS GENERAL

STATE OF MARYLAND

**OFFICE OF THE ATTORNEY GENERAL**

DEPARTMENT OF NATURAL RESOURCES  
TAWES STATE OFFICE BUILDING  
ANNAPOLIS, MARYLAND 21401  
(301) 974- 2501

February 6, 1991

MEMORANDUM

TO: Judge John C. North, II  
Chairman,  
Chesapeake Bay Critical Area Commission

FROM: George E. H. Gay   
Assistant Attorney General

RE: General Approvals - Forestry

On December 6, 1989, the Chesapeake Bay Critical Area Commission ("Commission") approved, with conditions, two Maryland Forest, Park and Wildlife Service ("Service") requests for general approval. One of the imposed conditions provided:

A task force shall be set up and composed of members from the Forest, Park and Wildlife Service, District Forestry Board, Critical Area Commission staff, local agencies and other involved parties charged with refining the General Approvals and resubmitting revised General Approvals one year from the date of Commission approval.

Commission Minutes - 12/6/89. In accordance with this condition, a task force was formed in 1990, and after thorough and commendable effort, it submitted revised general approvals for the Commission's

consideration.<sup>1</sup> You have asked me to analyze and comment on the legality of the revisions.

COMAR 14.15.03.01(B) sets forth the procedure the Service followed to obtain the existing general approvals. This procedure is implicitly applicable to their renewal:

Agencies wishing to apply for general approval shall submit the following information to the Commission:

(1) A description of the program or class of activities;

(2) An assessment of the extent to which development resulting from the program or class of activities will be consistent with the criteria described in COMAR 14.15; and

(3) A proposed process by which the program or class of activities could be so conducted as to conform with the requirements of COMAR 14.15.

(emphasis added). COMAR 14.15.03.01(D) sets forth the standards that the existing general approvals should have met before they were approved by the Commission. These standards are also implicitly applicable to their renewal:

The Commission may approve requests for general approval upon considering the comments of the affected local jurisdictions and after finding that the programs or activities conform with the requirements of COMAR 14.15 and will not cause any significant adverse effects on the growth allocation of a local jurisdiction as described in COMAR 14.15.02.06....

(emphasis added). As provided by the emphasized clauses in the quoted provisions, the proposed general approvals must conform, in

---

<sup>1</sup> As noted in the submitted changes to the general approvals, one of them enables the Service to prepare Resource Conservation and Timber Harvest Plans and the other one enables District Forestry Boards to approve Timber Harvest Plans. District Forestry Boards act on behalf of and pursuant to the authority of the Service; consequently, District Forestry Boards and the Service will be referred to herein collectively as the Service. Additionally, Resources Conservation and Timber Harvest Plans will be referred to herein collectively as "Plans".

their entirety with COMAR 14.15 ("Criteria") before the Commission may lawfully approve them. A review of the revisions reveals that they do not do so.

Each revision or, as termed by the Service's submittal, "change" is discussed below.

Change #1:

This change relates to the approval process. The original language did not allow approval, without a variance, of a Plan that conflicts with the Criteria. The proposed language does:

If any conflict with the Critical Area Criteria exists in the Plan, or management recommendations from the FPWS for approval. Conflicts are identified and possibly resolved following the procedures described in Appendix D. Upon approval or disapproval of the plan, the property owner will be notified in writing by the Bay Watershed Forester.

Submittal, p.2. Plans that conflict with Criteria cannot conform to them. Thus, contrary to this change, Plans which conflict with the Criteria must be disapproved unless a variance is secured. Consequently, this change does not conform to the Criteria.

Change #2:

This change adds certain conflict resolution procedures. No such procedures existed in the original language. The proposed language will allow approval of a Plan that conflicts with the Criteria. To the extent it does, it does not conform with the Criteria. Simply put, a Plan that conflicts with the Criteria may not be approved by the Service unless a variance is obtained.

Change #3:

This change extends, in certain instances, the life of a plan from two years to three years. The length of Plan validity is not addressed in the Criteria. Consequently, this change conforms with the Criteria.

Change #4:

This change relates to mitigation for timber harvesting activities that impact non-tidal wetlands. The original language was virtually identical to COMAR 14.15.09.02(c)(3)(b)(iii) which provides:

Provide for the preparation of a mitigation plan by the proposer of activities or operations which are water-dependent or of substantial economic benefit, and will cause unavoidable and necessary impacts to the wetlands. These activities include, but are not limited to, development activities, tree cutting operations, and those agricultural operations permitted under COMAR 14.15.06.02C and D for which mitigation is required. The plan shall specify mitigation measures that will provide water quality benefits and plant and wildlife habitat equivalent to the wetland destroyed or altered and shall be accomplished, to the extent possible, on-site or near the affected wetland.

The only difference between the two is that the original language employed an "and" between "water dependent" and "of substantial economic benefit" where the companion criterion employed and "or". The change corrects this minor error. However, it also reduces and perhaps confuses those instances in which timber harvesting activities in a non-tidal wetland must be carried out pursuant to a mitigation plan. This reduction is accomplished by the first sentence of proposed language, an addition, which provides: "If the use of BMPs cannot prevent permanent adverse impacts to the wetlands, the harvest may occur under the following circumstances." Submittal, p.6. As a result of this sentence, a mitigation plan is necessary only in those instances where BMPs cannot prevent permanent adverse impacts<sup>2</sup> to the wetlands. By contrast, the companion criterion provides that a mitigation plan is necessary in every instance where the timber harvesting activity necessarily and unavoidably impacts the wetland. The longevity or intensity of the impact is irrelevant. Consequently, this change does not conform with the Criteria.

Change #5:

This change clarifies certain variance provisions. The original language is very similar to COMAR 14.15.11, the variance provisions of the Criteria. However, it fails to incorporate the requirement of COMAR 14.15.11.01(A)(4) which provides:

---

<sup>2</sup> Arguably, every impact upon a natural system is permanent. The system simply alters itself so that the impact is not, after time, discernable by man.

That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.

Consequently, the original language did not conform to the Criteria.

The proposed language adopts the original language and establishes that the landowner, not the bay forester or bay wildlife biologist, must seek the variance. It does not correct the omission which occurred in the original language. As a result, it also does not conform with the criteria.

At this point, it is appropriate for me to note that the Assistant Secretary for the Service is the final arbiter of variance requests under the existing general approvals. Consequently, this person will be called upon from time to time to interpret the Criteria. Sometimes these interpretations will be of "first impression". As a result, they could constitute "precedent" that the Commission could be encouraged to apply to the Criteria in subsequent matters. Perhaps this fundamental role should be played by the Commission.

Change #6:

This change relates to access through buffers coincident with habitat protection areas. The original language is identical to COMAR 14.15.02.04(C)(1)(b). This criterion generally addresses development activities in LDAs and RCAs. However, it does not incorporate the more specific, overlay provisions which occur in 14.15.09.01(C)(5) which provides:

(5) The Buffer shall be managed to achieve or enhance the functions stated in Sections B(1) through (5) above. Cutting or clearing of trees within the Buffer shall be prohibited except that:

(a) Commercial harvesting of trees by selection or by the clearcutting of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the Mean High Water Line of tidal waters and perennial tributary streams, or the edge of tidal wetlands, provided that this cutting does not occur in the Habitat Protection Areas described in COMAR 14.15.09.02, .03, .04, and

Memorandum to Judge John C. North, II  
February 6, 1991  
Page 6

.05 and that the cutting is conducted pursuant to the requirements of COMAR 14.15.05 and in conformance with a buffer management plan prepared by a registered, professional forester and approved by the Maryland Forest, Park and Wildlife Service. The plan shall be required for all commercial harvests within the Buffer, regardless of the size of the area to be cut, and shall contain the following minimum requirements:

(i) That disturbance to stream banks and shorelines shall be avoided;

(ii) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife, and reestablishes the wildlife corridor function of the Buffer; and

(iii) That the cutting does not involve the creation of logging roads and skid trails within the Buffer.

The provisions clearly apply to timber harvesting activities in the Buffer. Because the original language fails to incorporate the protections in this criterion, it does not conform to the Criteria.

The proposed language perpetuates the oversight discussed above. It adds this sentence: "Where any road, bridge, or utility must cross a buffer coincident with another type of Habitat Protection Area, a variance must be obtained through the process described in 5F, above." Submittal, p.8. To conform with the Criteria, the proposed language must include the applicable restrictions set forth in 14.15.09.

Please consider this advice of counsel and not an opinion of the Attorney General.

GEHG:sed

cc: Sarah J. Taylor, Ph.D.  
Donald E. MacLauchlan  
G. Steele Phillips  
Pamela P. Quinn, Esquire  
Anne B. Hairston  
Jeff Horan  
Russ Hill  
Wayne Tyndall

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By: The President (Administration)  
Introduced and read first time: January 21, 1991  
Assigned to: Economic and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 Maryland Growth and Chesapeake Bay Protection Act

3 FOR the purpose of establishing a statewide program for growth management and  
4 environmental and resource protection; specifying the types of development and  
5 land alternations that are permitted in certain sensitive areas; requiring a local  
6 jurisdiction to adopt a growth and resource management program within a certain  
7 time; expressly authorizing a local jurisdiction to use certain techniques to manage  
8 growth; providing for certain program submission requirements; providing for  
9 approval of the program by the Office of Planning; allowing a local jurisdiction to  
10 amend the program; requiring the Office of Planning to certify local compliance;  
11 authorizing the State to withhold certain funds for noncompliance; providing for  
12 certain interim programs; establishing a Growth Management Appeals Board;  
13 allowing a local jurisdiction to appeal certain actions by the Office of Planning;  
14 establishing a Growth Management Infrastructure Fund; providing State grants to  
15 local jurisdictions for certain eligible projects; providing certain grandfather  
16 provisions; providing for certain intrafamily transfers; requiring the Office of  
17 Planning to adopt regulations for land classification, program components, and  
18 performance criteria; defining certain terms; and generally relating to the Maryland  
19 Growth Management and Resource Protection Program.

20 BY adding to

21 Article - State Government

22 Section 15-101 through 15-904 to be under the new title "Title 15. Maryland  
23 Growth Management and Resource Protection Program"

24 Annotated Code of Maryland

25 (1984 Volume and 1990 Supplement)

26 Preamble

27 WHEREAS, During the next 30 years, Maryland's population is projected to  
28 increase by over 1 million persons living in approximately 640,000 new households; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.

1 WHEREAS, Preparing for this growth and meeting the needs of the nearly 5  
2 million persons already living in the State requires the establishment of a new private,  
3 local, and State partnership to ensure more efficient use and protection of Maryland's  
4 resources; and

5 WHEREAS, It is estimated that the improved management of development can  
6 reduce the local capital needs for utilities and facilities by as much as \$1.2 billion over a  
7 20-year period; and

8 WHEREAS, As a result of the Chesapeake Bay Agreement, signed by the  
9 Governor in 1987, a report was issued that established 6 important visions to protect the  
10 environment and natural resource base of the State, while simultaneously encouraging  
11 the future growth and economic development of the State; and

12 WHEREAS, These 6 linked visions are as follows:

13 VISION I: Development is concentrated in suitable areas;

14 VISION II: Sensitive areas are protected;

15 VISION III: Growth is directed to existing population centers in rural areas and  
16 resource areas are protected;

17 VISION IV: Stewardship of the Bay and the land is a universal ethic;

18 VISION V: Conservation of resources, including a reduction in resource  
19 consumption, is practiced throughout the region; and

20 VISION VI: Funding mechanisms are in place to achieve all other visions; and

21 WHEREAS, In 1989 the Governor appointed the Commission on Growth in the  
22 Chesapeake Bay Region to prepare an action agenda of the steps Maryland must take to  
23 provide for a health economy and expand efforts to improve the environmental quality of  
24 the Chesapeake Bay; and

25 WHEREAS, The centerpiece of the Commission's action agenda is the Maryland  
26 Growth and Chesapeake Bay Protection Act; now, therefore,

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That the Laws of Maryland read as follows:

## Article - State Government

TITLE 15. MARYLAND GROWTH MANAGEMENT AND RESOURCE  
PROTECTION PROGRAM

## SUBTITLE I. DEFINITIONS; GENERAL PROVISIONS; LOCAL POWERS

15-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ADEQUATE PUBLIC FACILITIES ORDINANCE" MEANS AN ORDINANCE WHICH CONTROLS PHASING AND TIMING OF DEVELOPMENT BY SPECIFYING LEVEL OF SERVICE STANDARDS FOR CERTAIN PUBLIC FACILITIES AND CONDITIONING DEVELOPMENT APPROVAL UPON A FINDING THAT THE INFRASTRUCTURE IS PRESENT OR WILL BE PROVIDED WITHIN AN ESTABLISHED TIME PERIOD TO SERVE THE PROPOSED DEVELOPMENT.

(C) "CLUSTER DEVELOPMENT" MEANS THE GROUPING OF RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL USES WITHIN A SUBDIVISION OR DEVELOPMENT SITE, PERMITTING A REDUCTION IN THE OTHERWISE APPLICABLE LOT SIZE, WHILE PRESERVING SUBSTANTIAL OPEN SPACE ON THE REMAINDER OF THE PARCEL.

(D) "DEVELOPMENT" MEANS THE ACT OF BUILDING STRUCTURES OF INSTALLING SITE IMPROVEMENTS BOTH PUBLIC OR PRIVATE, OR SUBSTANTIAL ALTERATION OF STRUCTURES.

(E) "DEVELOPMENT RIGHT" MEANS THE ABILITY TO IMPROVE A PARCEL OF REAL PROPERTY MEASURED IN DWELLING UNITS OR UNITS OF COMMERCIAL OR INDUSTRIAL SPACE EXISTING BECAUSE OF ZONING CLASSIFICATIONS IN EFFECT ON APRIL 15, 1991.

(F) "FLOATING ZONE" MEANS A ZONE WHICH IS DESCRIBED IN THE TEXT OF A ZONING ORDINANCE, BUT IS UNMAPPED. A PROPERTY OWNER MAY PETITION FOR THE ZONE TO BE APPLIED TO A PARTICULAR PARCEL THROUGH LEGISLATIVE ACTION.

(G) "INCENTIVE ZONING" MEANS A PROVISION IN A LOCAL ZONING ORDINANCE GRANTING ECONOMIC AND LAND USE INCENTIVES TO DEVELOPERS WHO PROVIDE PROJECT OR COMMUNITY AMENITIES.

(H) "LOCAL JURISDICTION" MEANS ANY COUNTY OR MUNICIPALITY IN THE STATE WITH PLANNING OR PLANNING AND ZONING POWERS, OR LAVALE, AN UNINCORPORATED TAXING DISTRICT WITH ZONING POWERS.

1 (I) "OFFICE OF PLANNING" MEANS THE MARYLAND OFFICE OF  
2 PLANNING.

3 (J) "PERFORMANCE ZONING" MEANS ZONING WHICH SPECIFIES A  
4 MINIMUM REQUIREMENT OR MAXIMUM LIMIT ON THE EFFECTS OF A  
5 LAND USE RATHER THAN SPECIFYING THE USE ITSELF,  
6 SIMULTANEOUSLY ASSURING COMPATIBILITY WITH SURROUNDING  
7 DEVELOPMENT AND INCREASING A DEVELOPERS'S FLEXIBILITY.

8 (K) "PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE,  
9 GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY, OR  
10 REPRESENTATIVE OF ANY KIND, OR ANY PARTNERSHIP, FIRM,  
11 ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OTHER  
12 ENTITY.

13 (L) "PROGRAM" MEANS A COUNTY OR MUNICIPAL GROWTH AND  
14 RESOURCE MANAGEMENT PROGRAM ADOPTED BY THE LOCAL  
15 GOVERNING BODY AND APPROVED BY THE OFFICE OF PLANNING  
16 PURSUANT TO THIS TITLE.

17 (M) "MIXED USE DEVELOPMENT" MEANS A SINGLE, HIGH DENSITY  
18 DEVELOPMENT PROJECT, COMMERCIAL IN NATURE, WHICH INCLUDES 2  
19 OR MORE TYPES OF USES.

20 (N) "PLANNED UNIT DEVELOPMENT" MEANS A RESIDENTIAL  
21 DEVELOPMENT PROJECT COMPRISED OF HOUSING OF DIFFERENT TYPES  
22 AND DENSITIES, AND SOME COMMERCIAL USES. A PLANNED UNIT  
23 DEVELOPMENT PLAN IS NEGOTIATED BY A LOCAL JURISDICTION AND A  
24 DEVELOPER, AND ESTABLISHED PRIOR TO DEVELOPMENT.

25 (O) "REDEVELOPMENT" MEANS THE ACT OF BUILDING,  
26 REBUILDING, OR ALTERING STRUCTURES OR INSTALLING SITE  
27 IMPROVEMENTS BOTH PUBLIC OR PRIVATE ON LAND WHICH HAS BEEN  
28 PREVIOUSLY DEVELOPED OR DEVELOPMENT OF INFILL PARCELS.

29 (P) "STATE" MEANS THE STATE OF MARYLAND.

30 (Q) "TRANSFER OF DEVELOPMENT RIGHTS" MEANS A PROGRAM  
31 WHERE AN UNUSED DEVELOPMENT RIGHT MAY BE REMOVED FROM 1  
32 PARCEL AND TRANSFERRED TO ANOTHER.

33 (R) "TRANSPORTATION DEMAND MANAGEMENT" MEANS ANY  
34 METHOD OF REDUCING DEMAND FOR ROAD CAPACITY DURING THE  
35 PEAK PERIOD, INCLUDING ALTERNATIVE WORK HOURS PROGRAMS,  
36 CARPOOLS, VANPOOLS, SUBSIDIZED TRANSIT PASSES, PREFERENTIAL  
37 PARKING, AND PEAK PARKING CHARGES.

1 (S) "ZONING ORDINANCE" MEANS THE LOCAL ORDINANCE WHICH  
2 CONTROLS THE DIVISION OF LAND INTO ZONES ACCORDING TO PRESENT  
3 AND FUTURE PLANNED USE OR DEVELOPMENT OF PROPERTIES AND IS  
4 ENABLED IN THIS TITLE, ARTICLE 25A, ARTICLE 28, OR ARTICLE 66B OF  
5 THE ANNOTATED CODE OF MARYLAND.

6 15-102.

7 (A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

8 (1) THE ENVIRONMENT AND NATURAL RESOURCES OF THE  
9 STATE, MOST NOTABLY THE CHESAPEAKE BAY, BUT ALSO ITS FORESTS,  
10 AGRICULTURAL LANDS, WETLANDS, WATERS, FISHERIES, WILDLIFE, AIR,  
11 MINERALS AND OTHER RELATED RESOURCES, ARE VITAL TO THE  
12 STATE'S ECONOMY;

13 (2) A HEALTHY ENVIRONMENT, ALONG WITH THESE NATURAL  
14 RESOURCES AND TRADITIONAL PATTERNS OF DEVELOPMENT HAVE  
15 DEFINED THE QUALITY OF LIFE THAT THE CITIZENS OF MARYLAND  
16 TREASURE AND SEEK TO PROTECT;

17 (3) RECENT PATTERNS OF SCATTERED DEVELOPMENT  
18 THREATEN THE INTEGRITY OF NOT ONLY THE CHESAPEAKE BAY, BUT  
19 ALSO THE STATE'S ENVIRONMENT AND NATURAL RESOURCE BASE, THE  
20 ABILITY OF LOCAL AND STATE GOVERNMENT TO PROVIDE NECESSARY  
21 PUBLIC SERVICES, THE LONG-TERM VIABILITY OF THE STATE'S  
22 ECONOMY, AND THE HIGH QUALITY OF LIFE THAT MARYLAND'S  
23 CITIZENS ENJOY;

24 (4) THE STATE HAS A VITAL INTEREST IN ENSURING THAT AN  
25 IMPROVED METHOD OF LAND USE PLANNING AND GROWTH  
26 MANAGEMENT IS ESTABLISHED AS QUICKLY AS POSSIBLE, WHICH BUILDS  
27 ON THE STRONG FOUNDATION OF LOCAL LAND USE PLANNING,  
28 PROTECTS UNIQUE ASPECTS OF THE STATE'S HERITAGE AND  
29 ENVIRONMENT, INCLUDING CULTURAL, HISTORICAL, OR  
30 ARCHAEOLOGICAL RESOURCES, ENCOURAGES APPROPRIATE USES OF  
31 THE STATE'S NATURAL RESOURCES, GUIDES SOUND ECONOMIC  
32 DEVELOPMENT, AND ENSURES PROSPERITY FOR MARYLAND'S CITIZENS  
33 IN ALL REGIONS OF THE STATE;

34 (5) THE REVITALIZATION AND REDEVELOPMENT OF  
35 MARYLAND'S OLDER, DECLINING DEVELOPED AREAS IS CRITICAL TO  
36 MARYLAND'S FUTURE AND THE FULL AND EFFECTIVE USE OF  
37 DEVELOPED AREAS WILL CONSERVE LAND, PROMOTE AN IMPROVED  
38 QUALITY OF URBAN LIFE, AND RELIEVE GROWTH PRESSURES IN  
39 RESOURCE AREAS;

1 (6) WHEN DEALING WITH OLDER AND DECLINING AREAS, ANY  
2 PROGRAM OF GROWTH MANAGEMENT MUST PROMOTE OPPORTUNITIES  
3 FOR HOUSING AND EMPLOYMENT SO THAT THESE AREAS CAN ACHIEVE  
4 OPTIMUM GROWTH; AND

5 (7) GROWTH, ENVIRONMENT, AND RESOURCE MANAGEMENT  
6 POLICIES APPLIED CONSISTENTLY ACROSS THE STATE, AND  
7 IMPLEMENTED BY LOCAL JURISDICTIONS, WILL ENHANCE ORDERLY  
8 DEVELOPMENT AND REDUCE DEVELOPMENT COSTS.

9 (B) IT IS THEREFORE THE PURPOSE OF THE GENERAL ASSEMBLY IN  
10 ENACTING THIS TITLE TO:

11 (1) ESTABLISH A GROWTH AND RESOURCE MANAGEMENT  
12 PROGRAM FOR THE STATE WHICH WILL SERVE TO FOSTER EFFICIENT  
13 DEVELOPMENT, ENCOURAGE REDEVELOPMENT, CONSERVE  
14 LAND-BASED RESOURCES, PROTECT SENSITIVE AREAS, AND THEREBY  
15 ADDRESS THE GOALS OF THE CHESAPEAKE BAY AGREEMENT;

16 (2) PROVIDE MARYLAND CITIZENS THE OPPORTUNITY TO  
17 PARTICIPATE IN THE FORMATION OF STANDARDS NECESSARY TO  
18 ENSURE ORDERLY AND EFFICIENT DEVELOPMENT WITHIN THE STATE  
19 THROUGH THE DESIGNATION OF AREAS WHERE GROWTH AND  
20 DEVELOPMENT WILL BE FOSTERED AND THOSE AREAS IN WHICH  
21 ENVIRONMENT AND RESOURCE PROTECTION MEASURES WILL FURTHER  
22 LIMIT GROWTH AND DEVELOPMENT;

23 (3) PROVIDE FOR EFFICIENT AND ENVIRONMENTALLY  
24 SENSITIVE DEVELOPMENT IN THE GROWTH AND DEVELOPED AREAS, SO  
25 THAT THE NEW HOUSEHOLDS AND JOBS ESSENTIAL TO MAINTAINING A  
26 SOUND ECONOMY IN MARYLAND CAN BE ACCOMMODATED;

27 (4) COMPLEMENT AND ENHANCE THE PROTECTION AFFORDED  
28 BY EXISTING STATE AND LOCAL PROGRAMS TO AGRICULTURAL LANDS,  
29 FORESTED AREAS, TIDAL AND NONTIDAL WETLANDS, TIDAL AND  
30 NONTIDAL FLOODPLAINS, ANADROMOUS FISH SPAWNING AREAS,  
31 SUBMERGED AQUATIC VEGETATION, WILDLIFE AND WATERFOWL  
32 HABITAT, LANDS DEDICATED TO NATURAL RESOURCE AND OPEN SPACE  
33 PURPOSES, AND MINERAL AND RESOURCE EXTRACTION AREAS BY  
34 ESTABLISHING RURAL AND RESOURCE AREAS;

35 (5) PROVIDE LOCAL JURISDICTIONS WITH THE TOOLS AND  
36 RESOURCES TO PLAN FOR AND ACCOMMODATE INCREASING  
37 POPULATION, AND TO MANAGE EXISTING AND FUTURE DEVELOPMENT;

1 (6) PROVIDE STATE AGENCIES AND LOCAL JURISDICTIONS  
2 WITH A FRAMEWORK WHICH ENSURES COORDINATED AND  
3 COOPERATIVE GROWTH MANAGEMENT, REDEVELOPMENT,  
4 ENVIRONMENT AND RESOURCE PROTECTION IN ACCORDANCE WITH  
5 THIS TITLE;

6 (7) REQUIRE STATE AGENCIES TO DIRECT INFRASTRUCTURE  
7 INVESTMENTS CONSISTENT WITH THIS TITLE;

8 (8) REQUIRE GROWTH, ENVIRONMENT, AND RESOURCE  
9 MANAGEMENT PROGRAMS OF ALL LOCAL JURISDICTIONS EXERCISING  
10 PLANNING AND ZONING POWERS IN A MANNER CONSISTENT WITH THIS  
11 TITLE; AND

12 (9) PROVIDE FOR AN ORDERLY AND PHASED TRANSITION, TO  
13 BEGIN JULY 1, 1991, FROM A LOCAL JURISDICTION'S CURRENT SYSTEM OF  
14 LAND USE PLANNING TO PLANNING IN THE CONTEXT OF A PROGRAM FOR  
15 MANAGEMENT OF GROWTH AND PROTECTION OF RESOURCES.

16 15-103.

17 (A) (1) THIS TITLE APPLIES TO ALL LAND AND WATER AREAS OF  
18 THE STATE EXCEPT AREAS GOVERNED BY THE CHESAPEAKE BAY  
19 CRITICAL AREA PROTECTION LAW (NATURAL RESOURCES ARTICLE, §§  
20 8-1801 THROUGH 8-1816).

21 (2) EXCEPT AS EXPRESSLY AUTHORIZED IN THIS TITLE, THIS  
22 TITLE MAY NOT REPEAL OR AMEND, BUT IS IN ADDITION TO EXISTING  
23 LAWS, PROGRAMS, REGULATIONS, PERMITS, AND OTHER APPROVAL  
24 REQUIREMENTS OF THE STATE.

25 (B) (1) A PROVISION OF THIS TITLE THAT CONFLICTS WITH A  
26 FEDERAL REQUIREMENT FOR THE GRANT OF FEDERAL FUNDS TO A  
27 LOCAL JURISDICTION, TO THE STATE, OR TO A STATE UNIT IS  
28 INOPERATIVE TO THE EXTENT OF THE CONFLICT AND WITH RESPECT TO  
29 A UNIT THAT THE CONFLICT DIRECTLY AFFECTS.

30 (2) TO THE EXTENT NECESSARY TO COMPLY WITH A  
31 CONFLICTING FEDERAL REQUIREMENT, A LOCAL JURISDICTION OR  
32 STATE UNIT MAY MODIFY A NOTICE, TIMING, HEARING, OR RELATED  
33 PROCEDURAL REQUIREMENT OF THIS TITLE.

1 SUBTITLE 2. GROWTH MANAGEMENT, ENVIRONMENT, AND RESOURCE  
2 PROTECTION

3 PART I. DEFINITIONS

4 15-201.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

7 (B) "AGRICULTURAL ACTIVITY" MEANS FARMING ACTIVITY  
8 INCLUDING PLOWING, TILLAGE, CROPPING, SEEDING, CULTIVATING, AND  
9 HARVESTING FOR PRODUCTION OF FOOD AND FIBER PRODUCTS (EXCEPT  
10 FOREST PRODUCTS); THE GRAZING, RAISING, AND FENCING OF  
11 LIVESTOCK; AQUACULTURE; SOD PRODUCTION; CHRISTMAS TREES;  
12 NURSERY; AND OTHER PRODUCTS CULTIVATED AS PART OF A  
13 RECOGNIZED COMMERCIAL ENTERPRISE.

14 (C) "APPROVAL" MEANS A FINAL DECISION OF COMPLIANCE OF A  
15 LOCAL PROGRAM WITH THIS TITLE ISSUED IN WRITING BY THE OFFICE  
16 OF PLANNING.

17 (D) "APPROVAL WITH CONDITIONS" MEANS A FINAL DECISION OF  
18 COMPLIANCE OF A LOCAL PROGRAM WITH THIS TITLE CONTINGENT  
19 UPON REQUIREMENTS SET FORTH IN WRITING BY THE OFFICE OF  
20 PLANNING.

21 (E) "BEST MANAGEMENT PRACTICES" MEANS CONSERVATION  
22 PRACTICES OR SYSTEMS AND MANAGEMENT MEASURES THAT CONTROL  
23 SOIL LOSS, REDUCE WATER QUALITY DEGRADATION, AND PROTECT  
24 WILDLIFE HABITAT.

25 (F) "CAPITAL IMPROVEMENT PROGRAM" MEANS A MULTIYEAR  
26 PROGRAM WHICH INCLUDES PUBLIC WORKS AND MAJOR CAPITAL  
27 IMPROVEMENT PROJECTS TO BE UNDERTAKEN OR RECOMMENDED TO  
28 BE UNDERTAKEN BY THE STATE OR ANY LOCAL JURISDICTION WHETHER  
29 FUNDED BY BOND AUTHORIZATIONS, OPERATING BUDGET FUNDS, OR  
30 CAPITAL LEASES. PUBLIC IMPROVEMENTS INCLUDE ANY CONSTRUCTION,  
31 MAINTENANCE, OR REPAIR OF ANY BUILDING, STRUCTURE, OR OTHER  
32 PUBLIC WORK:

33 (1) OWNED OR CONSTRUCTED BY THE STATE OR LOCAL  
34 GOVERNMENT OR ANY UNIT OF STATE OR LOCAL GOVERNMENT; OR

35 (2) ACQUIRED OR CONSTRUCTED IN WHOLE OR IN PART WITH  
36 STATE OR LOCAL FUNDS.

37 (G) "COMMERCIAL" MEANS WHOLESALE AND RETAIL TRADE,  
38 FINANCE, INSURANCE AND REAL ESTATE, AND SERVICES.

1 (H) "CRITICAL HABITAT FOR ENDANGERED SPECIES" MEANS A  
2 HABITAT OCCUPIED BY A CURRENT STATE-LISTED ENDANGERED  
3 SPECIES WHICH IS KNOWN FROM 5 OR FEWER SITES, OR BY A FEDERALLY  
4 LISTED SPECIES, WHICH:

5 (1) IS RESTRICTED IN ITS POTENTIAL TO INCREASE IN  
6 NUMBERS DUE TO LIMITED MOBILITY RATES; AND

7 (2) WILL BENEFIT FROM CRITICAL HABITAT AREA  
8 DESIGNATION DUE TO ITS BIOLOGICAL REQUIREMENTS.

9 (I) "CRITICAL HABITAT AREA" MEANS A CRITICAL HABITAT FOR  
10 ENDANGERED SPECIES AND ITS SURROUNDING PROTECTION AREA. A  
11 CRITICAL HABITAT AREA SHALL:

12 (1) BE LIKELY TO CONTRIBUTE TO THE LONG-TERM SURVIVAL  
13 OF THE SPECIES;

14 (2) INCLUDE AN ADJACENT BUFFER WHICH IS DEEMED BY THE  
15 SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES, IN  
16 CONSULTATION WITH THE LOCAL JURISDICTION IN WHICH THE SITE IS  
17 LOCATED, TO BE THE MINIMUM NECESSARY TO INSURE THE PROTECTION  
18 OF THE SPECIES;

19 (3) BE LIKELY TO BE OCCUPIED BY THE SPECIES FOR THE  
20 FORESEEABLE FUTURE; AND

21 (4) CONSTITUTE HABITAT OF THE SPECIES WHICH IS DEEMED  
22 CRITICAL UNDER TITLE 10, SUBTITLE 2A OF THE NATURAL RESOURCES  
23 ARTICLE.

24 (J) "FOREST" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY  
25 TREES AND WOODY PLANTS, INCLUDING AREAS THAT HAVE BEEN CUT  
26 BUT NOT CLEARED, AND AREAS PLANTED IN SEEDLINGS.

27 (K) "FORESTRY" MEANS THE PLANTING, SEEDING, MAINTENANCE,  
28 OR HARVESTING OF FOREST RESOURCES FOR NONCOMMODITY BENEFITS  
29 OR COMMODITY BENEFITS, INCLUDING CUTTING, TRANSPORTING,  
30 MILLING, AND STORING WOOD AND WOOD PRODUCTS.

31 (L) "INDUSTRIAL" MEANS CONTRACT CONSTRUCTION,  
32 MANUFACTURING, PROCESSING ASSEMBLY, TRANSPORTATION,  
33 COMMUNICATION, STORAGE, ELECTRIC, GAS, AND SANITARY SERVICES  
34 AND MAJOR INDUSTRIAL GROUPS AS IDENTIFIED IN THE U.S. STANDARD  
35 INDUSTRIAL CLASSIFICATION MANUAL.

1 (M) "INFRASTRUCTURE" MEANS THE BASIC FACILITIES NEEDED  
2 FOR THE GROWTH AND FUNCTIONING OF A COMMUNITY, INCLUDING  
3 BUT NOT LIMITED TO WATER, SEWERAGE, SOLID WASTE, UTILITIES,  
4 TRANSPORTATION FACILITIES, SCHOOLS, PARKS, AND PUBLIC SAFETY.

5 (N) "INTERMITTENT STREAM" MEANS A STREAM SHOWN AS  
6 INTERMITTENT ON THE MOST RECENT 7.5 MINUTE TOPOGRAPHIC  
7 QUADRANGLE PUBLISHED BY THE UNITED STATES GEOLOGICAL  
8 SURVEY.

9 (O) "MINERAL RESOURCE AND EXTRACTION AREA" MEANS LAND  
10 IDENTIFIED BY A LOCAL JURISDICTION UNDER ARTICLE 66B, §  
11 3.05(A)(1)(V) OF THE ANNOTATED CODE, AND LAND HAVING COAL OR  
12 PEAT DEPOSITS.

13 (P) "NATURAL VEGETATION" MEANS THOSE PLANT COMMUNITIES  
14 THAT DEVELOP IN THE ABSENCE OF HUMAN ACTIVITIES, OR ARE  
15 PLANTED TO ESTABLISH A NATURAL PLANT COMMUNITY THAT IS  
16 INDIGENOUS TO THE SITE.

17 (Q) "NONSTRUCTURAL LAND ALTERATION" MEANS ANY ACTIVITY  
18 THAT MATERIALLY AFFECTS THE CONDITION OR USE OF DRY LAND,  
19 LAND UNDER WATER, OR NATURAL VEGETATION.

20 (R) "NONTIDAL WETLAND" MEANS AN AREA THAT IS INUNDATED  
21 OR SATURATED BY SURFACE WATER OR GROUNDWATER AT A  
22 FREQUENCY AND DURATION SUFFICIENT TO SUPPORT, AND THAT UNDER  
23 NORMAL CIRCUMSTANCES DOES SUPPORT, A PREVALENCE OF  
24 VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL  
25 CONDITIONS, COMMONLY KNOWN AS HYDROPHYTIC VEGETATION. THE  
26 DETERMINATION OF WHETHER AN AREA IS A NONTIDAL WETLAND  
27 SHALL BE MADE IN ACCORDANCE WITH THE PUBLICATION KNOWN AS  
28 THE "FEDERAL MANUAL FOR IDENTIFYING AND DELINEATING  
29 JURISDICTIONAL WETLANDS," PUBLISHED IN 1989 AND AS MAY BE  
30 AMENDED.

31 (S) "ONE HUNDRED YEAR FLOODPLAIN" MEANS AN AREA ALONG  
32 OR ADJACENT TO A STREAM OR A BODY OF WATER, EXCEPT TIDAL  
33 WATERS OF THE STATE, THAT IS CAPABLE OF STORING OR CONVEYING  
34 FLOODWATERS DURING A 100-YEAR FREQUENCY STORM EVENT. A  
35 100-YEAR FLOOD IS A FLOOD WHICH HAS A 1% CHANCE OF BEING  
36 EQUALLED OR EXCEEDED IN ANY GIVEN YEAR. EXCEPT FOR CLASS III  
37 WATERS (NATURAL TROUT STREAMS), A BODY OF WATER WITH A  
38 WATERSHED LESS THAN 400 ACRES IS EXCLUDED.

39 (T) "PERENNIAL STREAM" MEANS A STREAM SHOWN AS PERENNIAL  
40 ON THE MOST RECENT 7.5 MINUTE TOPOGRAPHIC QUADRANGLE  
41 PUBLISHED BY THE UNITED STATES GEOLOGICAL SURVEY.

1 (U) "STEEP SLOPE" MEANS AN AREA WITH A SLOPE OF 25% OR MORE  
2 COVERING AN AREA OF AT LEAST 5,000 SQUARE FEET.

3 (V) "STREAM BUFFER" MEANS ALL LANDS LYING WITHIN THE  
4 DISTANCES INDICATED BELOW, MEASURED FROM THE TOP OF EACH  
5 NORMAL BANK OF A PERENNIAL STREAM OR TOP OF EACH NORMAL  
6 BANK OF AN INTERMITTENT STREAM:

7 (1) IN INTERIM RURAL AND RESOURCE AREAS AND  
8 SUBSEQUENTLY IN THE RURAL AND RESOURCE AREAS, 100 FEET FROM  
9 THE BANKS OF PERENNIAL STREAMS AND OF INTERMITTENT STREAMS;  
10 AND

11 (2) IN INTERIM GROWTH AND DEVELOPMENT AREAS, AND  
12 SUBSEQUENTLY IN GROWTH AREAS AND DEVELOPMENT AREAS, 100 FEET  
13 FROM THE BANKS OF PERENNIAL STREAMS AND 50 FEET FROM THE  
14 BANKS OF INTERMITTENT STREAMS.

15 (W) "SUBDIVISION" MEANS ANY DIVISION OF A PARCEL OF LAND  
16 INTO 2 OR MORE LOTS OR PARCELS FOR THE PURPOSE, WHETHER  
17 IMMEDIATE OR FUTURE, OF TRANSFER OF OWNERSHIP, SALE, LEASE, OR  
18 DEVELOPMENT.

19 PART II. MARYLAND GROWTH AND RESOURCE MANAGEMENT  
20 PROGRAM

21 15-202.

22 (A) THERE IS A STATEWIDE PROGRAM FOR GROWTH MANAGEMENT  
23 AND RESOURCE PROTECTION.

24 (B) A LOCAL JURISDICTION IS EXPRESSLY AUTHORIZED TO USE THE  
25 FOLLOWING TECHNIQUES TO MANAGE GROWTH:

- 26 (1) ADEQUATE PUBLIC FACILITIES ORDINANCES;  
27 (2) REQUIREMENTS FOR OFF-SITE IMPROVEMENTS OR  
28 DEDICATION OF LAND OR MONEY IN LIEU THEREOF;  
29 (3) PURCHASE AND TRANSFERS OF DEVELOPMENT RIGHTS;  
30 (4) INCENTIVE ZONING;  
31 (5) CLUSTER DEVELOPMENT;  
32 (6) PLANNED UNIT DEVELOPMENTS;  
33 (7) MIXED USE DEVELOPMENT;  
34 (8) TRANSPORTATION DEMAND MANAGEMENT;

1 (9) PERFORMANCE ZONING; AND

2 (10) FLOATING ZONES.

3 (C) THE ITEMS ENUMERATED IN SUBSECTION (B) OF THIS SECTION  
4 ARE NOT INTENDED TO LIMIT A LOCAL GOVERNMENT'S ABILITY TO  
5 CONTINUE CURRENT PRACTICES NOT SPECIFIED IN THIS SECTION OR TO  
6 ADOPT OTHER METHODS FOR MANAGING GROWTH BY ORDINANCE OR  
7 OTHER MEANS.

8 15-203.

9 (A) THE OFFICE OF PLANNING SHALL ADOPT REGULATIONS TO  
10 ADDRESS THE FOLLOWING:

11 (1) LAND DESIGNATION WITHIN A LOCAL JURISDICTION  
12 CONSISTENT WITH THE FOLLOWING:

13 (I) DEVELOPED AREAS, WHICH ARE LARGELY  
14 COMMITTED TO EXISTING USES, ALTHOUGH SOME MAY CONTAIN  
15 SUBSTANTIAL OPPORTUNITIES FOR INFILL, INCREASING DENSITY, OR  
16 REDEVELOPMENT;

17 (II) GROWTH AREAS, WHICH WILL CONTAIN NEW  
18 RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT OVER  
19 THE NEXT 20 YEARS; AND

20 (III) RURAL AND RESOURCE AREAS, WHICH REQUIRE  
21 SPECIAL MANAGEMENT BECAUSE OF THE VALUE OF THEIR  
22 CONTRIBUTION TO THE ECONOMY AS WELL AS TO THE ENVIRONMENT OF  
23 THE STATE.

24 (2) PROGRAM COMPONENTS INCLUDING:

25 (I) INFORMATION AND ASSUMPTIONS;

26 (II) PROGRAM MAP;

27 (III) INTERJURISDICTIONAL COMPATIBILITY; AND

28 (IV) PROGRAM IMPLEMENTATION.

29 (3) PERFORMANCE CRITERIA FOR A PROGRAM AND PROGRAM  
30 AMENDMENTS.

31 (B) THE REGULATIONS SHALL BE CONSISTENT WITH THE GOALS  
32 AND PURPOSES OF THIS TITLE AND THE JANUARY 1991 REPORT OF THE  
33 GOVERNOR'S COMMISSION ON GROWTH IN THE CHESAPEAKE BAY  
34 REGION.

## PART III. SENSITIVE AREAS

1  
2 15-204.

3 SENSITIVE AREAS SHALL INCLUDE:

- 4 (1) 100-YEAR FLOODPLAINS;  
5 (2) INTERMITTENT AND PERENNIAL STREAMS AND THEIR  
6 BUFFERS;  
7 (3) CRITICAL HABITATS OF ENDANGERED SPECIES; AND  
8 (4) STEEP SLOPES.

9 15-205.

10 (A) BEGINNING ON JULY 1, 1991, ALL SENSITIVE AREAS IN A LOCAL  
11 JURISDICTION SHALL BE CONTROLLED UNDER THE REQUIREMENTS OF  
12 THIS SECTION.

13 (B) THIS SECTION DESCRIBES THE SPECIFIC TYPES OF  
14 DEVELOPMENT OR NONSTRUCTURAL LAND ALTERATIONS THAT ARE  
15 PERMITTED IN SENSITIVE AREAS. EXCEPT AS PROVIDED IN SUBSECTIONS  
16 (C), (D), AND (E) OF THIS SECTION, ALL OTHER DEVELOPMENT OR  
17 NONSTRUCTURAL LAND ALTERATION IN SENSITIVE AREAS IS  
18 PROHIBITED.

19 (C) (1) IN ANY SENSITIVE AREA EXISTING STRUCTURES MAY BE  
20 REMOVED, RESTORED, REPAIRED, MAINTAINED, OR ENHANCED,  
21 PROVIDED THAT:

22 (I) FOR ANY DEVELOPMENT OTHER THAN  
23 AGRICULTURAL ACTIVITIES, THE AREA OCCUPIED BY A STRUCTURE MAY  
24 NOT BE ENLARGED BY MORE THAN 20% AND THE ENLARGEMENT SHALL  
25 BE DONE IN CONJUNCTION WITH THE ESTABLISHMENT OF BEST  
26 MANAGEMENT PRACTICES WHICH REDUCE THE LEVEL OF NEGATIVE  
27 ENVIRONMENTAL IMPACTS, SUCH AS RUNOFF, WHICH EXISTED PRIOR TO  
28 ENLARGEMENT; AND

29 (II) FOR ANY AGRICULTURAL ACTIVITY, THE AREA  
30 OCCUPIED BY A STRUCTURE MAY BE ENLARGED IF A SOIL  
31 CONSERVATION AND WATER QUALITY PLAN, APPROVED BY THE LOCAL  
32 SOIL CONSERVATION DISTRICT, ESTABLISHES BEST MANAGEMENT  
33 PRACTICES FOR THE ENLARGEMENT.

34 (2) NATURAL RESOURCES AND ENVIRONMENTAL  
35 PROTECTION, MANAGEMENT, MONITORING, RESTORATION, AND  
36 ENHANCEMENT MAY BE IMPLEMENTED, PROVIDED THAT IN CRITICAL  
37 HABITAT AREAS THE MEASURES MAY INCLUDE ONLY:

1 (I) MEASURES IMPLEMENTED TO PROTECT CRITICAL  
2 HABITATS FOR ENDANGERED SPECIES; AND

3 (II) AGRICULTURAL ACTIVITIES OR AGRICULTURAL  
4 MANAGEMENT MEASURES THAT DO NOT THREATEN CRITICAL HABITATS  
5 AND ARE DONE ACCORDING TO A PLAN APPROVED BY THE DEPARTMENT  
6 OF AGRICULTURE AND THE DEPARTMENT OF NATURAL RESOURCES.

7 (3) AGRICULTURAL ACTIVITY EXISTING, OR PLANNED AS PART  
8 OF A CONVENTIONAL ROTATIONAL CYCLE OR ON AREAS SET ASIDE  
9 UNDER A FORMAL PROGRAM FOR AGRICULTURE AUTHORIZED BY THE  
10 UNITED STATES DEPARTMENT OF AGRICULTURE OR THE MARYLAND  
11 DEPARTMENT OF AGRICULTURE AS, OF JULY 1, 1991, SHALL BE ALLOWED  
12 PROVIDED THAT ANY CONSTRUCTION OR SUBSTANTIAL ALTERATION OF  
13 THE LAND IS DONE IN ACCORDANCE WITH SUBSECTION (D)(2) OF THIS  
14 SECTION.

15 (D) IN ADDITION TO ACTIVITIES AUTHORIZED IN SUBSECTION (C)  
16 OF THIS SECTION, IN 100-YEAR FLOODPLAINS, INTERMITTENT AND  
17 PERENNIAL STREAMS AND THEIR BUFFERS, AND ON STEEP SLOPES:

18 (1) NEW STRUCTURES OR ALTERATION OF EXISTING  
19 STRUCTURES FOR TRANSPORTATION FACILITIES, TRANSMISSION LINES,  
20 AND SEWER, WATER, AND GAS LINES MAY BE CONSTRUCTED IN THE  
21 SENSITIVE AREA ONLY IF NO PRACTICABLE OR FEASIBLE ALTERNATIVE  
22 EXISTS FOR LOCATING THE STRUCTURE OUTSIDE OF THE SENSITIVE  
23 AREA. IF A STRUCTURE MUST BE LOCATED IN A SENSITIVE AREA,  
24 DISTURBANCE OF THE SENSITIVE AREA SHALL BE MINIMIZED;

25 (2) CONSTRUCTION AND ALTERATION OF THE LAND FOR  
26 AGRICULTURAL PURPOSES, INCLUDING INSTALLATION OF BEST  
27 MANAGEMENT PRACTICES, SHALL BE ALLOWED IN ACCORDANCE WITH  
28 PROVISIONS OF A SOIL CONSERVATION AND WATER QUALITY PLAN,  
29 APPROVED BY THE LOCAL SOIL CONSERVATION DISTRICT; AND

30 (3) NONSTRUCTURAL LAND ALTERATION FOR COMMERCIAL  
31 FORESTRY SHALL BE ALLOWED IN ACCORDANCE WITH PROVISIONS OF A  
32 FOREST MANAGEMENT PLAN, PREPARED BY A REGISTERED FORESTER  
33 OR LANDSCAPE ARCHITECT, THAT IS APPROVED BY THE DEPARTMENT  
34 OF NATURAL RESOURCES AND ASSURES PROTECTION OF NATURAL  
35 RESOURCES IN THE SENSITIVE AREA. IN STREAM BUFFERS, A  
36 COMMERCIAL FORESTRY ACTIVITY MAY NOT BE UNDERTAKEN WITHIN 50  
37 FEET OF THE BANKS OF INTERMITTENT AND PERENNIAL STREAMS,  
38 EXCEPT THAT ACTIVITIES MAY BE UNDERTAKEN TO PERMIT FOREST  
39 CONSERVATION PRACTICES CONSISTENT WITH AN APPROVED FOREST  
40 MANAGEMENT PLAN. DISTURBANCE OF A SENSITIVE AREA SHALL BE  
41 MINIMIZED.

1 (E) IN ADDITION TO ACTIVITIES AUTHORIZED IN SUBSECTIONS (C)  
2 AND (D) OF THIS SECTION:

3 (1) IN 100-YEAR FLOODPLAINS, STRUCTURES AND  
4 NONSTRUCTURAL LAND ALTERATIONS APPURTENANT TO MINERAL  
5 RESOURCE EXTRACTION AREAS, AGRICULTURE, STORMWATER  
6 MANAGEMENT FACILITIES, DAMS AND RESERVOIRS, WATER SUPPLY AND  
7 WASTEWATER FACILITIES, FLOOD MANAGEMENT ACTIVITIES OR  
8 FACILITIES, AND PUBLICLY OWNED OR OPERATED RECREATIONAL  
9 FACILITIES MAY BE ALLOWED PROVIDED THAT:

10 (I) THEY ARE OUTSIDE OF STREAM BUFFERS UNLESS  
11 DONE IN ACCORDANCE WITH SUBSECTION (D)(2) OF THIS SECTION; AND

12 (II) DISTURBANCE OF THE 100-YEAR FLOODPLAIN IS  
13 MINIMIZED;

14 (2) ON STEEP SLOPES, NEW STRUCTURES OTHER THAN THOSE  
15 PERMITTED IN SUBSECTION (D)(1) OF THIS SECTION MAY BE  
16 CONSTRUCTED IF CONSTRUCTION DISTURBS A TOTAL OF 5,000 SQUARE  
17 FEET OR LESS OF STEEP SLOPE AREA, OR ARE DONE IN ACCORDANCE  
18 WITH SUBSECTION (D)(2) OF THIS SECTION, AND ARE LIMITED TO 1  
19 STRUCTURE PER 20 ACRES; AND

20 (3) IN STREAM BUFFERS, ROADS, CAUSEWAYS, OR BOAT RAMPS  
21 THAT ARE NECESSARY FOR RECREATIONAL ACCESS TO A STREAM MAY  
22 BE PERMITTED, PROVIDED THAT THE AREA DISTURBED BY  
23 DEVELOPMENT OR NONSTRUCTURAL LAND ALTERATION IS MINIMIZED.

24 (F) (1) EXCEPT FOR ACTIVITY AUTHORIZED IN SUBSECTION (E) OF  
25 THIS SECTION AND FOR CONSTRUCTION OF A SINGLE RESIDENTIAL  
26 DWELLING DURING THE INTERIM GROWTH MANAGEMENT PERIOD, AND  
27 SUBSEQUENTLY AFTER A PROGRAM BECOMES EFFECTIVE, WHEN  
28 DEVELOPMENT OR NONSTRUCTURAL LAND ALTERATION OF LAND  
29 CONTAINING A STREAM BUFFER IS PROPOSED FOR ANY PURPOSE, THE  
30 PROPOSAL WILL BE APPROVED BY THE LOCAL PLANNING AUTHORITY  
31 ONLY IF IT ESTABLISHES PLAT CONDITIONS AND DEED RESTRICTIONS  
32 THAT:

33 (I) MAINTAIN AN EXISTING BUFFER IN NATURAL  
34 VEGETATION OR ESTABLISH A NEW BUFFER; AND

35 (II) PROVIDE THAT THE BUFFER WILL BE PERPETUALLY  
36 MAINTAINED IN NATURAL VEGETATION.

37 (2) LOCAL JURISDICTIONS MAY ESTABLISH PROGRAMS TO  
38 ENCOURAGE LANDOWNERS TO ESTABLISH AND MAINTAIN NATURAL  
39 VEGETATION IN STREAM BUFFERS.

1 (G) (1) IF A PARCEL OR PARCELS OF LAND INCLUDES SENSITIVE  
2 AREAS TO THE EXTENT THAT ANY REASONABLE USE OF THE LAND IS  
3 PROHIBITED BY THE REQUIREMENTS OF THIS SECTION, THE OWNER OF  
4 THE LAND MAY APPLY IN WRITING TO THE LOCAL JURISDICTION IN  
5 WHICH THE PROPERTY IS LOCATED FOR A SPECIAL USE EXCEPTION.

6 (2) IN THE APPLICATION THE OWNER SHALL DESCRIBE THE  
7 PROPOSED SPECIAL USE AND SHALL DEMONSTRATE THAT:

8 (I) THE LOT WAS RECORDED ON OR BEFORE JULY 1, 1991;

9 (II) IF THE LOCAL JURISDICTION IN WHICH THE PROPERTY  
10 IS LOCATED HAS ADOPTED A PROGRAM FOR THE TRANSFER OF  
11 DEVELOPMENT RIGHTS, THE OWNER HAS MADE A GOOD FAITH EFFORT  
12 TO SELL THE DEVELOPMENT RIGHTS AND HAS BEEN UNSUCCESSFUL;

13 (III) SPECIAL PHYSICAL CIRCUMSTANCES OR CONDITIONS  
14 EXIST THAT ARE UNIQUE TO THE PARCEL, SUCH AS THE SIZE AND SHAPE  
15 OF THE PARCEL IN RELATIONSHIP TO THE SENSITIVE AREA BOUNDARY;  
16 AND

17 (IV) THE REQUEST IS NOT BASED UPON CONDITIONS OR  
18 CIRCUMSTANCES WHICH ARE THE RESULT OF ACTIONS TAKEN BY THE  
19 OWNER.

20 (3) THE LOCAL JURISDICTION MAY NOT APPROVE THE  
21 APPLICATION UNLESS IT FINDS THAT:

22 (I) THE PROPOSED SPECIAL USE IS GENERALLY  
23 CONSISTENT WITH THE PURPOSES AND INTENT OF THIS TITLE AND WITH  
24 THE PROVISIONS OF THE LOCAL JURISDICTION'S PROGRAM; AND

25 (II) ADVERSE IMPACTS TO THE SENSITIVE AREA ARE  
26 MINIMIZED THROUGH DEVELOPMENT DESIGN, BEST MANAGEMENT  
27 PRACTICES, OR OTHER APPROPRIATE MITIGATION MEASURES.

28 (4) BEFORE MAKING A DECISION ON AN APPLICATION FOR A  
29 SPECIAL EXCEPTION PERMIT, THE LOCAL JURISDICTION SHALL SEND A  
30 COPY OF THE APPLICATION TO THE OFFICE OF PLANNING FOR COMMENT.

31 (5) A LOCAL JURISDICTION SHALL PROVIDE FOR PUBLIC  
32 NOTICE ON AN APPLICATION.

33 (6) AN APPEAL OF A GRANT OR A DENIAL OF A SPECIAL USE  
34 EXCEPTION SHALL BE TAKEN IN ACCORDANCE WITH THE APPLICABLE  
35 LAWS AND PROCEDURES OF THE LOCAL JURISDICTION, WITH NOTICE TO  
36 THE OFFICE OF PLANNING. A DECISION BY A BOARD OF APPEALS OR A  
37 LOCAL LEGISLATIVE BODY MAY BE APPEALED TO THE CIRCUIT COURT IN  
38 ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

1 15-206.

2 FOR SENSITIVE AREAS, A LOCAL JURISDICTION MAY ESTABLISH THE  
3 FOLLOWING PROGRAMS FOR PARCELS PARTIALLY OR WHOLLY LOCATED  
4 WITHIN A SENSITIVE AREA:

5 (1) CLUSTERING ON THE NONSENSITIVE PORTION OF THE  
6 PROPERTY TO ACHIEVE THE DENSITY OTHERWISE PERMITTED ON THE  
7 PARCEL; OR

8 (2) A PROGRAM FOR TRANSFER OF DEVELOPMENT RIGHTS TO  
9 A RECEIVING AREA OUTSIDE THE SENSITIVE AREA.

10 PART IV. PROGRAMS - PREPARATION, ADOPTION, APPROVAL

11 15-207.

12 (A) A LOCAL JURISDICTION SHALL DEVELOP AND ADOPT A  
13 GROWTH AND RESOURCE MANAGEMENT PROGRAM (THE "PROGRAM")  
14 WITHIN 18 MONTHS AFTER FINAL ADOPTION OF REGULATIONS BY THE  
15 OFFICE OF PLANNING. A LOCAL JURISDICTION SHALL ADVERTISE AND  
16 HOLD AT LEAST 1 PUBLIC HEARING PRIOR TO ADOPTION OF THE  
17 PROGRAM. PLANNING GRANTS CREATED IN SUBTITLE 5 OF THIS TITLE  
18 MAY BE UTILIZED FOR THIS PURPOSE.

19 (B) A MUNICIPALITY MAY, WITH THE CONCURRENCE OF THE  
20 COUNTY, ASSIGN THE RESPONSIBILITY TO PREPARE THE PROGRAM TO  
21 THE COUNTY WITHIN 90 DAYS AFTER FINAL ADOPTION OF REGULATIONS  
22 BY THE OFFICE OF PLANNING.

23 (C) COUNTIES ARE REQUIRED TO IMPLEMENT THE INTERIM  
24 GROWTH AND RESOURCE MANAGEMENT PROGRAM (THE "INTERIM  
25 PROGRAM"), ESTABLISHED IN SUBTITLE 3 OF THIS TITLE.

26 (D) MUNICIPALITIES ARE NOT REQUIRED TO IMPLEMENT AN  
27 INTERIM PROGRAM.

28 (E) COUNTY AND MUNICIPAL ZONING ORDINANCES, ZONING MAPS,  
29 SUBDIVISION REGULATIONS, SITE REVIEW ORDINANCES, AND OTHER  
30 LAND USE REGULATIONS SHALL BE IN CONFORMANCE WITH A LOCAL  
31 JURISDICTION'S PROGRAM WITHIN 18 MONTHS OF APPROVAL.

32 (F) CAPITAL IMPROVEMENT PROGRAMS, IF ANY, SHALL BE IN  
33 CONFORMANCE WITH A LOCAL JURISDICTION'S APPROVED PROGRAM.

34 15-208.

35 (A) THE LOCAL JURISDICTION SHALL SUBMIT 10 COPIES OF ITS  
36 PROGRAM TO THE OFFICE OF PLANNING.

1 (B) THE LOCAL JURISDICTION SHALL ADVISE THE OFFICE OF  
2 PLANNING OF ITS PROPOSED SCHEDULE FOR SUBMISSION OF ITS  
3 PROGRAM WITHIN 180 DAYS AFTER THE OFFICE OF PLANNING HAS  
4 ADOPTED REGULATIONS. THE SCHEDULE MAY BE AMENDED IN  
5 CONSULTATION WITH THE OFFICE OF PLANNING.

6 15-209.

7 (A) WITHIN 5 DAYS OF RECEIPT OF A LOCAL PROGRAM, THE OFFICE  
8 OF PLANNING SHALL NOTIFY THE LOCAL JURISDICTION THAT THE LOCAL  
9 PROGRAM HAS BEEN RECEIVED.

10 (B) WITHIN 10 DAYS FROM THE DATE OF THE NOTICE OF RECEIPT,  
11 THE OFFICE OF PLANNING SHALL NOTIFY THE LOCAL JURISDICTION  
12 THAT THE PROGRAM IS COMPLETE, OR SHALL RETURN THE PROGRAM TO  
13 THE LOCAL JURISDICTION WITH A LIST OF INCOMPLETE ITEMS. A  
14 DETERMINATION BY THE OFFICE OF PLANNING THAT A LOCAL PROGRAM  
15 IS COMPLETE MAY NOT BE INTERPRETED AS APPROVAL OF A LOCAL  
16 PROGRAM.

17 (C) WITHIN 45 DAYS AFTER THE OFFICE HAS DETERMINED THAT A  
18 PROGRAM IS COMPLETE, THE OFFICE SHALL SUBMIT WRITTEN  
19 COMMENTS TO A LOCAL JURISDICTION.

20 (D) THE OFFICE OF PLANNING SHALL SCHEDULE A REVIEW  
21 CONFERENCE WITH THE LOCAL JURISDICTION WITHIN 15 DAYS FROM  
22 THE DATE COMMENTS ARE SENT TO THE LOCAL JURISDICTION. A LOCAL  
23 JURISDICTION MAY REQUEST A POSTPONEMENT OF THE REVIEW  
24 CONFERENCE.

25 (E) WITHIN 30 DAYS FROM THE DATE OF THE REVIEW CONFERENCE,  
26 THE OFFICE OF PLANNING SHALL ISSUE FINAL COMMENTS WITH A  
27 STATEMENT OF APPROVAL, APPROVAL WITH CONDITIONS, OR  
28 DISAPPROVAL OF A LOCAL PROGRAM.

29 (F) IF THE OFFICE OF PLANNING DISAPPROVES A PROGRAM, IT  
30 SHALL CLEARLY STATE REASONS FOR DISAPPROVAL AND SPECIFIC  
31 ACTIONS REQUIRED TO ENSURE APPROVAL OF THE PROGRAM.

32 15-210.

33 (A) VIOLATORS OF THE PROVISIONS OF PROGRAMS APPROVED BY  
34 THE OFFICE OF PLANNING SHALL BE SUBJECT TO PROSECUTION OR SUIT  
35 BY LOCAL AUTHORITIES, WHO MAY INVOKE THE SANCTIONS AND  
36 REMEDIES AFFORDED BY STATE OR LOCAL LAW.

37 (B) WHENEVER THE DIRECTOR OF THE OFFICE OF PLANNING HAS  
38 REASON TO BELIEVE THAT A LOCAL JURISDICTION IS FAILING TO  
39 ENFORCE THE REQUIREMENTS OF A PROGRAM APPLICABLE TO A

1 PARTICULAR DEVELOPMENT, THE DIRECTOR SHALL SERVE NOTICE TO  
2 THE LOCAL JURISDICTION. IF WITHIN 30 DAYS AFTER SERVICE OF  
3 NOTICE, THE LOCAL JURISDICTION HAS FAILED TO INITIATE AN ACTION  
4 TO REMEDY OR PUNISH THE VIOLATION, THE DIRECTOR MAY REFER THE  
5 MATTER TO THE ATTORNEY GENERAL.

6 (C) UPON REFERRAL OF AN ALLEGED VIOLATION UNDER  
7 SUBSECTION (B) OF THIS SECTION, THE ATTORNEY GENERAL MAY  
8 INVOKE ANY SANCTION OR REMEDY AVAILABLE TO LOCAL  
9 AUTHORITIES, IN ANY COURT IN WHICH THE LOCAL AUTHORITIES  
10 WOULD BE AUTHORIZED TO PROSECUTE OR SUE THE VIOLATOR.

11 (D) IN ADDITION TO ANY OTHER SANCTION OR REMEDY  
12 AVAILABLE, THE ATTORNEY GENERAL MAY BRING AN ACTION IN  
13 EQUITY TO COMPEL COMPLIANCE OR RESTRAIN NONCOMPLIANCE, AND  
14 TO COMPEL RESTORATION OF LANDS OR STRUCTURES TO THEIR  
15 CONDITION PRIOR TO ANY MODIFICATION WHICH WAS DONE IN  
16 VIOLATION OF PROVISIONS OF A PROGRAM.

17 15-211.

18 (A) A LOCAL JURISDICTION MAY SUBMIT AMENDMENTS  
19 CONSISTENT WITH THE REGULATIONS ADOPTED BY THE OFFICE OF  
20 PLANNING.

21 (B) AMENDMENTS MAY NOT BE APPROVED BY THE OFFICE OF  
22 PLANNING UNLESS:

23 (1) THE JURISDICTION DEMONSTRATES THAT DEVELOPMENT  
24 ACTIVITY HAS BEEN OCCURRING IN A MANNER CONSISTENT WITH THE  
25 APPROVED PROGRAM; AND

26 (2) THE LOCAL JURISDICTION DEMONSTRATES THAT IT HAS  
27 TAKEN ADVANTAGE OF EVERY REASONABLE OPPORTUNITY TO  
28 REDEVELOP LANDS OR INCREASE DENSITIES IN THE DEVELOPED AND  
29 GROWTH AREAS IN ORDER TO ACCOMMODATE THE PROJECTED  
30 ADDITIONAL GROWTH.

31 (C) IN ITS PROGRAM AMENDMENT, A LOCAL JURISDICTION SHALL  
32 USE THE MOST CURRENT DATA AVAILABLE, INCLUDING POPULATION  
33 AND EMPLOYMENT PROJECTIONS AND LOCATION OF SENSITIVE AREAS,  
34 INCLUDING DESIGNATION OF CRITICAL HABITATS FOR ENDANGERED  
35 SPECIES.

36 15-212.

37 (A) A PROGRAM, ONCE APPROVED BY THE OFFICE OF PLANNING,  
38 SHALL BE VALID FOR 3 YEARS.

1 (1) ON OR BEFORE 90 DAYS PRIOR TO THE END OF THE 3-YEAR  
2 PERIOD, A LOCAL JURISDICTION SHALL SUBMIT A REPORT TO THE  
3 OFFICE OF PLANNING DOCUMENTING PROGRESS TOWARD ACHIEVING  
4 THE GOALS OF ITS PROGRAM.

5 (2) THE REPORT SHALL DOCUMENT THE DEGREE TO WHICH  
6 DEVELOPMENT HAS BEEN OCCURRING CONSISTENT WITH THE  
7 PERFORMANCE CRITERIA ESTABLISHED IN THE REGULATIONS. IF  
8 DEVELOPMENT HAS NOT BEEN CONSISTENT WITH THE PERFORMANCE  
9 CRITERIA, THE REPORT MUST IDENTIFY CORRECTIVE ACTION TO BE  
10 TAKEN.

11 (3) THE OFFICE OF PLANNING SHALL EVALUATE PROGRAM  
12 PERFORMANCE CONSISTENT WITH THE PURPOSES OF THIS TITLE.

13 (B) UPON COMPLETION OF ITS REVIEW, THE OFFICE OF PLANNING  
14 SHALL CERTIFY LOCAL COMPLIANCE, CERTIFY COMPLIANCE WITH  
15 CONDITIONS, OR CERTIFY THAT THE LOCAL JURISDICTION IS OUT OF  
16 COMPLIANCE.

17 (C) DURING ANY PERIOD OF NONCOMPLIANCE, THE INTERIM  
18 PROGRAM OR PREVIOUSLY APPROVED PROGRAM SHALL CONTINUE TO  
19 GOVERN.

20 (D) A LOCAL JURISDICTION MAY APPEAL A FINDING OF  
21 NONCOMPLIANCE TO THE GROWTH MANAGEMENT APPEALS BOARD.

22 15-213.

23 (A) DURING ANY PERIOD OF NONCOMPLIANCE, AS DETERMINED BY  
24 THE OFFICE OF PLANNING, THE STATE MAY WITHHOLD STATE FUNDS  
25 FOR DEVELOPMENT ACTIVITIES.

26 (B) THE STATE MAY ONLY WITHHOLD THOSE FUNDS THAT ARE  
27 SUBSTANTIALLY RELATED TO THE PROGRAMMATIC AREA OF  
28 NONCOMPLIANCE.

29 SUBTITLE 3. INTERIM PROGRAMS

30 15-301.

31 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
32 MEANINGS INDICATED.

33 (B) "INTERIM GROWTH AND DEVELOPMENT AREA" MEANS ANY  
34 AREA:

35 (1) WITHIN THE BOUNDARIES OF A MUNICIPALITY EXISTING  
36 AS OF JULY 1, 1991;

1 (2) ZONED AS OF APRIL 15, 1991 FOR 2 OR MORE RESIDENTIAL  
2 UNITS PER ACRE OR MORE; AND

3 (I) HAVE EXISTING SEWER SERVICE AS DEFINED IN THE  
4 CURRENT COUNTY WATER AND SEWERAGE PLAN; OR

5 (II) ARE PLANNED FOR SEWER SERVICE WITHIN 5 YEARS  
6 AS DEFINED IN THE CURRENT COUNTY WATER AND SEWERAGE PLAN;

7 (3) CONTIGUOUS WITH AREAS DESCRIBED IN PARAGRAPH (1)  
8 OR (2) OF THIS SUBSECTION AND ZONED AS OF APRIL 15, 1991 FOR  
9 BETWEEN AND INCLUDING 1 AND 2 RESIDENTIAL UNITS PER ACRE; AND

10 (I) HAVE EXISTING SEWER SERVICE AS DEFINED IN THE  
11 CURRENT COUNTY WATER AND SEWERAGE PLAN; OR

12 (II) ARE PLANNED FOR SEWER SERVICE WITHIN 5 YEARS  
13 AS DEFINED IN THE CURRENT COUNTY WATER AND SEWERAGE PLAN; OR

14 (4) ZONED AS OF APRIL 15, 1991 FOR COMMERCIAL OR  
15 INDUSTRIAL USES; AND

16 (I) HAVE EXISTING SEWER SERVICE AS DEFINED IN THE  
17 CURRENT COUNTY WATER AND SEWERAGE PLAN; OR

18 (II) ARE PLANNED FOR SEWER SERVICE WITHIN 5 YEARS  
19 AS DEFINED IN THE CURRENT COUNTY WATER AND SEWERAGE PLAN.

20 (C) "INTERIM RURAL AND RESOURCE AREA" MEANS AN AREA NOT  
21 DEFINED AS AN INTERIM GROWTH AND DEVELOPMENT AREA OR  
22 SENSITIVE AREA.

23 (D) "INTERIM GROWTH MANAGEMENT PERIOD" MEANS THE TIME  
24 BETWEEN JULY 1, 1991 AND THE DATE THAT A PROGRAM TAKES EFFECT  
25 IN A LOCAL JURISDICTION.

26 15-302.

27 EFFECTIVE JULY 1, 1991, AND UNTIL THE PROGRAM IS APPROVED  
28 AND ENACTED, ALL LAND IN A LOCAL JURISDICTION WITHIN THE  
29 PURVIEW OF THIS TITLE SHALL BE CLASSIFIED IN ACCORD WITH THE  
30 FOLLOWING 3 CATEGORIES:

31 (1) INTERIM GROWTH AND DEVELOPMENT AREA;

32 (2) INTERIM RURAL AND RESOURCE AREA; OR

33 (3) SENSITIVE AREA.

1 15-303.

2 (A) WITHIN INTERIM GROWTH AND DEVELOPMENT AREAS,  
3 DEVELOPMENT SHALL BE GOVERNED BY THE LOCAL ZONING AND  
4 SUBDIVISION ORDINANCES, EXCEPT IN A SENSITIVE AREA, WHERE  
5 DEVELOPMENT AND NONSTRUCTURAL LAND ALTERATION SHALL BE  
6 GOVERNED BY THE PROVISIONS OF § 15-205 OF THIS TITLE.

7 (B) WITHIN INTERIM RURAL AND RESOURCE AREAS,  
8 DEVELOPMENT SHALL BE GOVERNED BY THE ZONING IN EFFECT ON  
9 APRIL 15, 1991, EXCEPT THAT:

10 (1) A LOCAL JURISDICTION MAY NOT APPROVE RESIDENTIAL  
11 DEVELOPMENT OF MORE THAN 1 DWELLING UNIT PER 20 ACRES AND  
12 SHALL REQUIRE CLUSTERING OF RESIDENTIAL DEVELOPMENT ON A  
13 PARCEL OR CONTIGUOUS PARCELS OF LAND IN MULTIPLES OF 20 ACRES;  
14 AND

15 (2) IN A SENSITIVE AREA, ALL DEVELOPMENT AND  
16 NONSTRUCTURAL LAND ALTERATION SHALL BE GOVERNED BY THE  
17 PROVISIONS OF § 15-205 OF THIS TITLE.

18 (C) EXCEPT ON PROOF OF A MISTAKE IN THE ZONING THAT WAS IN  
19 EFFECT ON APRIL 15, 1991, A LOCAL JURISDICTION MAY NOT ADOPT A  
20 CHANGE IN ZONING FOR A PARCEL OF LAND THAT WOULD SHIFT THE  
21 PARCEL FROM AN INTERIM RURAL AND RESOURCE AREA TO AN INTERIM  
22 GROWTH AND DEVELOPMENT AREA.

23 (D) A LOCAL JURISDICTION'S APPROVAL OF SUBDIVISIONS SHALL  
24 BE CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION. THE OFFICE  
25 OF PLANNING SHALL ADOPT REGULATIONS TO PROVIDE FOR A LOCAL  
26 JURISDICTION'S CERTIFICATION OF SUBDIVISION PLATS PRIOR TO  
27 RECORDATION. SUBDIVISION PLATS ARE NOT SUBJECT TO APPROVAL BY  
28 THE OFFICE OF PLANNING.

29 15-304.

30 (A) THE OFFICE OF PLANNING SHALL PROVIDE A COUNTY WITH A  
31 MAP WHICH DELINEATES THE INTERIM GROWTH AND DEVELOPMENT  
32 AREA AND THE INTERIM RURAL AND RESOURCE AREA FOR THAT  
33 JURISDICTION ON OR BEFORE JULY 1, 1991.

34 (B) MAPS PREPARED BY THE OFFICE OF PLANNING ARE  
35 ILLUSTRATIVE ONLY AND THE DEFINITIONS OF INTERIM AREAS IN THIS  
36 SUBTITLE, IN CONJUNCTION WITH CURRENT LOCAL ZONING MAPS AND  
37 CURRENT SEWER MAPS AS SPECIFIED IN THE APPROVED COUNTY WATER  
38 AND SEWERAGE PLAN, SHALL GOVERN DEVELOPMENT.

1 15-305.

2 (A) A MUNICIPALITY WITH A 1990 POPULATION OF MORE THAN 20,000  
3 PEOPLE THAT HAS LOST AT LEAST 10% OF ITS POPULATION BETWEEN 1970  
4 AND 1990 SHALL PREPARE AND SUBMIT TO THE OFFICE OF PLANNING A  
5 COMMUNITY STABILIZATION PROGRAM ON OR BEFORE JUNE 30, 1992.

6 (B) THIS COMMUNITY STABILIZATION PROGRAM, WHICH SHALL  
7 PROVIDE THE BASIS FOR THE GROWTH ESTIMATES IN A MUNICIPALITY'S  
8 PROGRAM, SHALL INCLUDE:

9 (1) A COMMUNITY PROFILE REFLECTING FULL UTILIZATION  
10 OF MUNICIPAL LAND TO ACHIEVE:

11 (I) THE OPTIMUM LAND USE MIX;

12 (II) PROJECTED POPULATION;

13 (III) NUMBER OF HOUSEHOLDS;

14 (IV) HOUSEHOLD INCOME CHARACTERISTICS; AND

15 (V) ESTIMATED EMPLOYMENT; AND

16 (2) A DELINEATION OF EXPECTED PROGRESS TOWARD FULL  
17 UTILIZATION OF MUNICIPAL LAND PLANNED FOR THE NEXT 20-YEAR  
18 PERIOD COVERED BY THE PROGRAM.

19 15-306.

20 FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE MAY,  
21 AT THE DISCRETION OF THE OFFICE OF PLANNING AND IN  
22 CONSULTATION WITH OTHER STATE AGENCIES, RESULT IN THE  
23 WITHHOLDING OF STATE CAPITAL FUNDS FOR DEVELOPMENT  
24 ACTIVITIES.

25 SUBTITLE 4. APPEALS

26 15-401.

27 THERE IS A GROWTH MANAGEMENT APPEALS BOARD IN THE OFFICE  
28 OF PLANNING.

29 15-402.

30 (A) THE BOARD CONSISTS OF 7 MEMBERS APPOINTED BY THE  
31 GOVERNOR AND APPROVED BY THE SENATE.

32 (B) OF THE 7 MEMBERS:

1 (1) 4 MEMBERS SHALL HAVE KNOWLEDGE OF AND  
2 EXPERIENCE IN ANY OF THE FOLLOWING DISCIPLINES: RESOURCE  
3 CONSERVATION, LAND DEVELOPMENT, PROPERTY REDEVELOPMENT,  
4 AGRICULTURE, OR OTHER RESOURCE-BASED INDUSTRY,  
5 ENVIRONMENTAL PROTECTION, OR LAND USE PLANNING AND GROWTH  
6 MANAGEMENT;

7 (2) 1 SHALL BE APPOINTED FROM A LIST OF CANDIDATES  
8 PROVIDED BY THE MARYLAND ASSOCIATION OF COUNTIES;

9 (3) 1 SHALL BE APPOINTED FROM A LIST OF CANDIDATES  
10 PROVIDED BY THE MARYLAND MUNICIPAL LEAGUE; AND

11 (4) 1 SHALL BE APPOINTED FROM A LIST OF CANDIDATES  
12 PROVIDED BY THE OFFICE OF PLANNING, AND SHALL HAVE EXPERIENCE  
13 IN STATE GOVERNMENT.

14 (C) THE GOVERNOR SHALL APPOINT THE CHAIRMAN OF THE  
15 BOARD.

16 (D) A MEMBER OF THE BOARD MAY NOT BE A CURRENT EMPLOYEE  
17 OF A STATE AGENCY, A COUNTY, OR A MUNICIPALITY, OR AN ELECTED  
18 OFFICIAL.

19 (E) (1) EACH MEMBER SERVES FOR A TERM OF 5 YEARS, AND  
20 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

21 (2) THESE TERMS ARE STAGGERED AS REQUIRED BY THE  
22 TERMS OF THE MEMBERS SERVING ON THE BOARD AS OF JULY 1, 1991.

23 (3) A MEMBER APPOINTED TO FILL A VACANCY IN AN  
24 UNEXPIRED TERM SERVES ONLY FOR THE REMAINDER OF THAT TERM  
25 AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

26 (4) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT, BUT MAY  
27 NOT SERVE FOR MORE THAN 2 FULL TERMS.

28 (F) EACH MEMBER OF THE BOARD SHALL RECEIVE COMPENSATION  
29 AS ESTABLISHED IN THE ANNUAL STATE BUDGET.

30 15-403.

31 (A) THE BOARD SHALL HEAR THE FOLLOWING APPEALS:

32 (1) A LOCAL JURISDICTION MAY APPEAL AN OFFICE OF  
33 PLANNING REJECTION OR APPROVAL WITH CONDITIONS OF THE LOCAL  
34 PROGRAM OR AMENDMENTS SUBMITTED BY THAT JURISDICTION;

1 (2) A NEIGHBORING JURISDICTION MAY APPEAL AN OFFICE OF  
2 PLANNING ACTION ON A LOCAL PROGRAM OR AMENDMENTS OR OFFICE  
3 OF PLANNING ACTION ON SUCH A PROGRAM IF EITHER HAS AN ADVERSE  
4 DEMONSTRABLE EFFECT ON THE NEIGHBORING JURISDICTION;

5 (3) A MUNICIPALITY MAY APPEAL A LOCAL PROGRAM OR  
6 OFFICE OF PLANNING ACTION ON A PROGRAM SUBMITTED BY THE  
7 COUNTY WHERE THE MUNICIPALITY IS LOCATED;

8 (4) A COUNTY GOVERNMENT MAY APPEAL A LOCAL PROGRAM  
9 OR OFFICE OF PLANNING ACTION ON A PROGRAM SUBMITTED BY A  
10 MUNICIPALITY LOCATED WITHIN ITS JURISDICTION;

11 (5) A LOCAL JURISDICTION MAY APPEAL A DETERMINATION  
12 BY THE OFFICE OF PLANNING MADE UNDER § 15-211 OF THIS TITLE; OR

13 (6) A LOCAL JURISDICTION MAY APPEAL A FINDING OF  
14 NONCOMPLIANCE MADE BY THE OFFICE OF PLANNING.

15 (B) AN APPEAL IS NOT A CONTESTED CASE AS DEFINED IN STATE  
16 GOVERNMENT ARTICLE, § 10-201(C).

17 15-404.

18 (A) A LOCAL JURISDICTION THAT OBJECTS TO AN APPROVAL,  
19 APPROVAL WITH CONDITIONS, OR REJECTION BY THE OFFICE OF  
20 PLANNING OF A LOCAL PROGRAM SHALL NOTIFY THE BOARD OF  
21 WRITING, WITHIN 30 DAYS AFTER RECEIPT OF THE OFFICE OF  
22 PLANNING'S DECISION, NOTIFICATION SHALL IDENTIFY ANY SPECIFIC  
23 OBJECTIONS AND STATE WHETHER THE LOCAL JURISDICTION IS WILLING  
24 TO NEGOTIATE WITH THE OFFICE OF PLANNING TO RESOLVE THE  
25 OBJECTIONS.

26 (B) EXCEPT AS PROVIDED IN THIS SUBSECTION, FILING AN APPEAL  
27 FROM A FINDING OF NONCOMPLIANCE DOES NOT STAY A DECISION OF  
28 THE STATE TO WITHHOLD FUNDS. THE BOARD MAY GRANT A REQUEST  
29 BY A LOCAL JURISDICTION TO STAY A DECISION OF THE STATE TO  
30 WITHHOLD FUNDS ONLY IF THE BOARD DETERMINES THAT  
31 WITHHOLDING THE FUNDS WOULD RESULT IN EXTREME HARDSHIP OR  
32 HAVE AN ADVERSE IMPACT ON PUBLIC HEALTH OR PUBLIC SAFETY.

33 (C) IF A LOCAL JURISDICTION IS NOT WILLING TO NEGOTIATE, THE  
34 BOARD SHALL HEAR THE APPEAL UNDER STATE GOVERNMENT ARTICLE,  
35 §§ 10-204 THROUGH 10-214. THE BOARD MAY ONLY REVERSE THE  
36 DECISION OF THE OFFICE OF PLANNING AS TO A SPECIFIC MATTER OF  
37 OBJECTION IF THE BOARD FINDS THAT THE DECISION:

38 (1) VIOLATES ANY PROVISION OF THE UNITED STATES OR  
39 MARYLAND CONSTITUTION;

1 (2) EXCEEDS THE STATUTORY AUTHORITY OF THE OFFICE OF  
2 PLANNING; OR

3 (3) WAS ARBITRARY AND CAPRICIOUS IN VIEW OF THE  
4 PURPOSES OF THIS TITLE.

5 (D) IF A LOCAL JURISDICTION IS WILLING TO NEGOTIATE, THE  
6 BOARD SHALL DOCKET THE APPEAL BUT TAKE NO ACTION PENDING  
7 NEGOTIATION.

8 (E) IF AN APPEAL BY A LOCAL JURISDICTION CONCERNS A  
9 PROGRAM OF ANOTHER LOCAL JURISDICTION, BOTH SHALL BE ENTITLED  
10 TO PARTICIPATE IN ANY NEGOTIATIONS WITH THE OFFICE OF PLANNING.

11 (F) NEGOTIATIONS TO RESOLVE OBJECTIONS SHALL BE  
12 UNDERTAKEN IN GOOD FAITH BY PARTICIPATING LOCAL JURISDICTIONS  
13 AND BY THE OFFICE OF PLANNING AND ARE TO BE RESOLVED WITHIN 180  
14 DAYS OF THE DATE OF APPEAL. FOR THE PURPOSES OF THIS SECTION,  
15 "GOOD FAITH" MEANS ACTING FAITHFULLY TO THE DUTIES AND  
16 RESPONSIBILITIES ASSIGNED UNDER THIS TITLE.

17 (G) NEGOTIATING SESSIONS MAY BE CONDUCTED WITH THE  
18 ASSISTANCE OF A MEDIATOR IF MEDIATION IS APPROVED BY BOTH THE  
19 PARTICIPATING LOCAL JURISDICTION AND THE OFFICE OF PLANNING.  
20 EITHER THE OFFICE OF PLANNING OR A LOCAL JURISDICTION MAY  
21 REQUEST A MEDIATOR AT ANY TIME DURING NEGOTIATION. THE  
22 FUNCTION OF THE MEDIATOR IS TO ENCOURAGE A VOLUNTARY  
23 SETTLEMENT BY THE OFFICE OF PLANNING AND THE LOCAL  
24 JURISDICTIONS. THE MEDIATOR MAY NOT COMPEL A SETTLEMENT. THE  
25 BOARD SHALL PROVIDE THE NAMES AND QUALIFICATIONS OF PERSONS  
26 WILLING TO SERVE AS MEDIATORS. IF THE OFFICE OF PLANNING AND  
27 THE LOCAL JURISDICTIONS CANNOT AGREE ON THE SELECTION OF A  
28 MEDIATOR, THE OFFICE OF PLANNING AND THE LOCAL JURISDICTIONS  
29 MAY REQUEST THE BOARD TO APPOINT A MEDIATOR.

30 (H) AS TO ANY OBJECTION NOT RESOLVED THROUGH  
31 NEGOTIATION, A LOCAL JURISDICTION MAY APPEAL TO THE BOARD AS  
32 PROVIDED IN SUBSECTION (C) OF THIS SECTION, EXCEPT THAT IF THE  
33 BOARD FINDS THAT THE LOCAL JURISDICTION NEGOTIATED IN GOOD  
34 FAITH ON THE MATTER OF OBJECTION, THE BOARD MAY ELECT TO SET  
35 ASIDE THE DECISION OF THE OFFICE OF PLANNING WITHOUT REGARD TO  
36 THE FACTORS ENUMERATED IN SUBSECTION (C) OF THIS SECTION AND  
37 ADOPT AN ALTERNATIVE DECISION THAT THE BOARD FINDS CONSISTENT  
38 WITH THIS TITLE.

1 (I) AN APPEAL OF A FINDING OF NONCOMPLIANCE THAT HAS  
2 RESULTED IN THE WITHHOLDING OF STATE FUNDS SHALL BE HEARD BY  
3 THE BOARD WITHIN 60 DAYS AFTER THE APPEAL HAS BEEN DOCKETED  
4 OR TERMINATION OF NEGOTIATION, WHICHEVER IS LATER.

5 (J) ONCE AN APPEAL HAS BEEN FILED BY A LOCAL JURISDICTION,  
6 ANY INTERESTED PERSON MAY SUBMIT WRITTEN VIEWS TO THE BOARD  
7 ON THAT CASE. THE BOARD SHALL REVIEW THIS SUBMITTAL DURING ITS  
8 DELIBERATIONS. THE BOARD SHALL PROVIDE PUBLIC NOTICE OF THE  
9 FILING OF AN APPEAL. THIS NOTICE SHALL BE GOVERNED IN  
10 REGULATIONS ADOPTED BY THE BOARD.

11 15-405.

12 IN ADDITION TO THE OTHER POWERS GRANTED AND DUTIES  
13 IMPOSED UNDER THIS SUBTITLE, THE BOARD SHALL ADOPT  
14 REGULATIONS TO GOVERN APPEAL PROCEDURES AND TO CARRY OUT  
15 THE RESPONSIBILITIES SET FORTH IN THIS SUBTITLE.

16 15-406.

17 A PARTY AGGRIEVED BY A DECISION OF THE BOARD MAY APPEAL  
18 ON THE RECORD TO CIRCUIT COURT AS PROVIDED IN MARYLAND RULES  
19 B1 THROUGH B13. THE COURT MAY REVERSE THE DECISION OF THE  
20 BOARD IF IT FINDS THAT THE BOARD'S DECISION:

21 (1) VIOLATES ANY PROVISION OF THE UNITED STATES OR  
22 MARYLAND CONSTITUTION;

23 (2) EXCEEDS THE STATUTORY AUTHORITY OF THE BOARD; OR

24 (3) WAS ARBITRARY AND CAPRICIOUS IN VIEW OF THE  
25 PURPOSES OF THIS TITLE.

26 15-407.

27 (A) THE BOARD ANNUALLY SHALL PREPARE A BUDGET REQUEST  
28 TO PERFORM ITS DUTIES UNDER THIS SUBTITLE.

29 (B) THE BOARD SHALL HAVE STAFF AS PROVIDED IN THE STATE  
30 BUDGET.

31 SUBTITLE 5. GRANTS

32 15-501.

33 (A) A LOCAL JURISDICTION SHALL BE ELIGIBLE FOR GRANTS TO  
34 ASSIST WITH COSTS ASSOCIATED WITH PREPARATION OF ITS INTERIM  
35 PROGRAM, PROGRAM, OR PROGRAM AMENDMENTS. PLANNING GRANTS  
36 SHALL BE ADMINISTERED BY THE OFFICE OF PLANNING.

1 (B) THE OFFICE OF PLANNING SHALL ADOPT REGULATIONS  
2 GOVERNING THE DISTRIBUTION OF GRANTS.

3 SUBTITLE 6. GROWTH MANAGEMENT INFRASTRUCTURE FUND

4 15-601.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

7 (B) "COUNTY AREA" MEANS THE COUNTY GOVERNMENT AND THE  
8 GOVERNMENTS OF ALL ELIGIBLE MUNICIPALITIES WITHIN THE COUNTY'S  
9 BOUNDARIES.

10 (C) "ELIGIBLE MUNICIPALITY" MEANS A MUNICIPALITY WHICH:

11 (1) HAS PLANNING OR PLANNING AND ZONING POWERS AND  
12 HAS ADOPTED A GROWTH AND RESOURCE MANAGEMENT PROGRAM;  
13 AND

14 (2) PROVIDES CAPITAL FUNCTIONS SUCH AS ROADS AND  
15 WATER TREATMENT.

16 (D) "FUND" MEANS THE GROWTH MANAGEMENT INFRASTRUCTURE  
17 FUND.

18 (E) "COMPETITIVE GRANTS" MEANS GRANTS WHICH ARE  
19 ESTABLISHED ON A COMPETITIVE BASIS FOR GROWTH AREAS AND FOR  
20 DEVELOPED AREAS.

21 (F) "FORMULA GRANTS" MEANS GRANTS WHICH ARE ESTABLISHED  
22 ON AN ENTITLEMENT BASIS.

23 (G) "WEALTH" HAS THE SAME MEANING AS § 5-202 OF THE  
24 EDUCATION ARTICLE.

25 15-602.

26 (A) THE GROWTH MANAGEMENT INFRASTRUCTURE FUND IS  
27 ESTABLISHED TO EFFECT A COOPERATIVE PROGRAM BETWEEN THE  
28 STATE AND A LOCAL JURISDICTION AS SET FORTH IN THIS SUBTITLE.

29 (B) THE PURPOSE OF THE FUND IS TO PROVIDE INFRASTRUCTURE  
30 AND REDEVELOPMENT GRANTS TO LOCAL JURISDICTIONS FOR USE IN  
31 IMPLEMENTATION OF THEIR PROGRAMS, AND WHICH ARE USED FOR  
32 ELIGIBLE CAPITAL PROJECTS IN ACCORDANCE WITH REGULATIONS OF  
33 THE OFFICE OF PLANNING. FORMULA GRANTS WILL PROVIDE A MORE  
34 FLEXIBLE FUND TO HELP JURISDICTIONS IMPLEMENT THEIR GROWTH  
35 MANAGEMENT STRATEGIES. COMPETITIVE GRANTS WILL FOCUS ON  
36 PROJECTS THAT ENCOURAGE DEVELOPMENT IN THE TARGETED

1 GROWTH OR REDEVELOPMENT AREAS. REDEVELOPMENT AREAS MAY  
2 ALSO INCLUDE OLDER NEIGHBORHOODS THAT REQUIRE SOME  
3 ASSISTANCE TO REMAIN STABLE AND HEALTHY.

4 15-603.

5 (A) THE FUND SHALL CONSIST OF MONEYS APPROPRIATED IN THE  
6 ANNUAL BUDGET.

7 (B) MONEYS IN THE FUND SHALL BE ALLOCATED TOWARDS  
8 FORMULA GRANTS, COMPETITIVE GRANTS FOR USE IN GROWTH AREAS,  
9 AND COMPETITIVE GRANTS FOR USE IN DEVELOPED AREAS.

10 (C) THE DEPARTMENT OF BUDGET AND FISCAL PLANNING SHALL  
11 ANNUALLY DETERMINE THE ALLOCATION OF FORMULA GRANTS AMONG  
12 COUNTIES AND ELIGIBLE MUNICIPALITIES.

13 15-604.

14 (A) A LOCAL JURISDICTION MAY NOT APPLY FOR FUND GRANTS  
15 UNLESS IT CAN DEMONSTRATE THAT:

16 (1) IT IS EXERCISING A REASONABLE LEVEL OF LOCAL FISCAL  
17 EFFORT AND HAS EXHAUSTED ALL OTHER RESOURCES FOR ELIGIBLE  
18 PROJECTS WHICH ARE AVAILABLE IN A TIMELY MANNER, PRIOR TO  
19 EXPENDING EITHER THE FORMULA OR COMPETITIVE GRANTS;

20 (2) ANY FUNDED PROJECT WOULD NOT BE FEASIBLE BUT FOR  
21 THE FINANCIAL ASSISTANCE FROM THE FUND; AND

22 (3) THE PROJECT SATISFIES PRIORITIES OF A LOCAL  
23 JURISDICTION'S INFRASTRUCTURE FUNDING PRIORITIES AS  
24 ESTABLISHED IN ITS PROGRAM, AND SUBSEQUENT TRIENNIAL REPORTS.

25 (B) (1) A LOCAL GOVERNMENT AWARDED A COMPETITIVE GRANT  
26 SHALL SHARE IN THE COST OF THE PROJECT FOR WHICH THE GRANT IS  
27 AWARDED. THE AMOUNT OF THE MINIMUM REQUIRED LOCAL SHARE  
28 SHALL BE A PERCENTAGE OF THE TOTAL PROJECT COST, AS FOLLOWS:

29 (I) FOR COUNTIES, THE LOCAL PERCENTAGE SHALL BE  
30 THE SAME AS THE MINIMUM LOCAL SHARE REQUIRED BY THE BOARD OF  
31 PUBLIC WORKS FOR PROJECTS IN THAT COUNTY FUNDED UNDER THE  
32 PUBLIC SCHOOL CONSTRUCTION PROGRAM; AND

33 (II) FOR MUNICIPALITIES, THE REQUIRED LOCAL  
34 PERCENTAGE SHALL BE DETERMINED BY DIVIDING THE PER CAPITA  
35 ASSESSED VALUE OF REAL PROPERTY IN THE MUNICIPALITY BY THE PER  
36 CAPITA ASSESSED VALUE OF REAL PROPERTY IN THE ENTIRE STATE AS  
37 FOLLOWS:

1                   1. IF THE RESULT EXCEEDS 1.3, THE REQUIRED  
2 LOCAL PERCENTAGE FOR THAT MUNICIPALITY SHALL BE 50%.

3                   2. IF THE RESULT EXCEEDS 1.0 AND IS LESS THAN OR  
4 EQUAL TO 1.3, THE REQUIRED LOCAL PERCENTAGE FOR THAT  
5 MUNICIPALITY SHALL BE 45%.

6                   3. IF THE RESULT EXCEEDS 0.7 AND IS LESS THAN OR  
7 EQUAL TO 1.0, THE REQUIRED LOCAL PERCENTAGE FOR THAT  
8 MUNICIPALITY SHALL BE 35%.

9                   4. IF THE RESULT IS LESS THAN OR EQUAL TO 0.7,  
10 THE REQUIRED LOCAL PERCENTAGE FOR THAT MUNICIPALITY SHALL BE  
11 25%.

12                   (2) (1) NO PART OF THE REQUIRED LOCAL SHARE SHALL BE  
13 PROVIDED, EITHER DIRECTLY OR INDIRECTLY, FROM FUNDS OF THE  
14 STATE, WHETHER APPROPRIATED OR UNAPPROPRIATED. NO PART OF  
15 THE REQUIRED LOCAL SHARE MAY CONSIST OF REAL PROPERTY,  
16 IN-KIND CONTRIBUTIONS OR FUNDS EXPENDED PRIOR TO THE AWARD  
17 OF THE GRANT.

18                   (H) THE BOARD OF PUBLIC WORKS MAY WAIVE THE  
19 REQUIREMENTS OF ITEM (1) OF THIS PARAGRAPH IF IT DETERMINES  
20 THAT, IN THE CASE OF A SPECIFIC PROJECT, THE REQUIREMENTS ARE  
21 NOT IN THE BEST INTEREST OF THE STATE AND THE PURPOSES OF THIS  
22 TITLE.

23 15-605.

24                   IN RECOMMENDING APPROVAL OF AN APPLICATION FOR A  
25 COMPETITIVE GRANT TO THE BOARD OF PUBLIC WORKS, THE OFFICE OF  
26 PLANNING SHALL USE AS THE GOVERNING CRITERION THE DEGREE TO  
27 WHICH OBJECTIVES OF THE PROGRAM WILL BE ADVANCED. IN APPLYING  
28 THIS CRITERION, THE OFFICE OF PLANNING SHALL CONSIDER:

29                   (1) THE DEGREE TO WHICH MORE EFFICIENT GROWTH  
30 PATTERNS AND DENSER GROWTH WILL BE ACHIEVED BY THE PROJECT;

31                   (2) THE DEGREE TO WHICH AVAILABLE LOCAL FUNDING  
32 SOURCES WILL BE COMMITTED TO THE PROJECT;

33                   (3) THE EXTENT TO WHICH GROWTH PRESSURE IS BEING  
34 EXPERIENCED IN DEVELOPED AND GROWTH AREAS OF THE POLITICAL  
35 SUBDIVISION;

36                   (4) THE FISCAL SITUATION OF THE APPLYING POLITICAL  
37 SUBDIVISION; AND

1 (5) THE DEGREE OF STATE ASSISTANCE NEEDED FOR THE  
2 PROJECT.

3 15-606.

4 (A) BOTH FORMULA AND COMPETITIVE GRANTS ARE INTENDED TO  
5 FUND THE COSTS OF ELIGIBLE PROJECTS WHICH CAN NOT BE FULLY MET  
6 THROUGH TRADITIONAL SOURCES. PRIOR TO EXPENDING EITHER  
7 FORMULA OR COMPETITIVE GRANTS, A JURISDICTION SHALL:

8 (1) DEMONSTRATE THAT IT IS EXERCISING A REASONABLE  
9 LEVEL OF LOCAL FISCAL EFFORT AND EXHAUSTED ALL OTHER  
10 RESOURCES FOR ELIGIBLE PROJECTS WHICH ARE AVAILABLE IN A  
11 TIMELY MANNER; AND

12 (2) ESTABLISH THAT ANY FUNDED PROJECT WOULD NOT BE  
13 FEASIBLE BUT FOR THE FINANCIAL ASSISTANCE FROM THE FUND.

14 (B) (1) PROJECTS SHALL CORRESPOND TO THE STATED  
15 INFRASTRUCTURE FUNDING PRIORITIES OF THE JURISDICTION'S  
16 PROGRAM AND SUBSEQUENT TRIENNIAL REPORTS;

17 (2) A LOCAL JURISDICTION APPLYING FOR COMPETITIVE  
18 GRANTS SHALL DEMONSTRATE THAT THE PROJECT SATISFIES THE  
19 PRIORITIES OF ITS PROGRAM; AND

20 (3) A LOCAL JURISDICTION RECEIVING FORMULA GRANTS  
21 SHALL DOCUMENT IN THE TRIENNIAL REPORT THAT THE PROJECTS  
22 FUNDED BY THESE GRANTS MEET THE PRIORITIES OF ITS PROGRAM.

23 (C) THE FOLLOWING PUBLIC INFRASTRUCTURE IMPROVEMENTS  
24 ARE ELIGIBLE FOR COMPETITIVE GRANTS:

25 (1) CONSTRUCTION OR RENOVATION OF SCHOOLS AND DAY  
26 CARE CENTERS;

27 (2) CONSTRUCTION OR REHABILITATION OF SEWERAGE  
28 SYSTEMS;

29 (3) CONSTRUCTION OR REHABILITATION OF WATER SYSTEMS;

30 (4) CONSTRUCTION OR REHABILITATION OF STORMWATER  
31 MANAGEMENT FACILITIES;

32 (5) CONSTRUCTION OR REHABILITATION OF  
33 TRANSPORTATION CAPITAL PROJECTS OR RELATED FACILITIES, OR  
34 ACQUISITION OF TRANSIT EQUIPMENT; AND

35 (6) ACQUISITION AND CLEARANCE OF LAND FOR  
36 REDEVELOPMENT.

1 (D) THE FOLLOWING PUBLIC INFRASTRUCTURE IMPROVEMENTS  
2 ARE ELIGIBLE FOR FORMULA GRANTS:

3 (1) ALL ITEMS DESIGNATED IN SUBSECTION (C) OF THIS  
4 SECTION;

5 (2) IMPROVEMENTS NECESSARY TO MEET STANDARDS  
6 SPECIFIED BY REGULATIONS GOVERNING GRANTS ADOPTED BY THE  
7 OFFICE OF PLANNING IN CONSULTATION WITH THE DEPARTMENT OF  
8 TRANSPORTATION, THE DEPARTMENT OF THE ENVIRONMENT, THE  
9 DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF NATURAL  
10 RESOURCES;

11 (3) ACQUISITION OF LAND FOR RESOURCE CONSERVATION  
12 PURPOSES CONSISTENT WITH THE JURISDICTION'S APPROVED GROWTH  
13 AND RESOURCE MANAGEMENT PROGRAM;

14 (4) ACQUISITION AND DEVELOPMENT OF PARKS;

15 (5) DEVELOPMENT OR REHABILITATION OF CAPITAL  
16 FACILITIES THAT ARE REQUIRED TO IMPROVE AMENITIES IN A  
17 DEVELOPED NEIGHBORHOOD TARGETED FOR STABILIZATION OR  
18 REDEVELOPMENT; AND

19 (6) OTHER CAPITAL IMPROVEMENTS THAT HAVE A MINIMUM  
20 15-YEAR LIFE AND REASONABLY RELATE TO THE PROGRAM.

21 (E) THE OFFICE OF PLANNING SHOULD MAKE THE FINAL  
22 DETERMINATION AS TO WHETHER A PROJECT IS ELIGIBLE FOR GRANT  
23 FUNDS. MONEY SPENT ON INELIGIBLE PROJECTS SHALL BE REFUNDED TO  
24 THE STATE.

25 15-607.

26 (A) THE FOLLOWING USES ARE INELIGIBLE FOR ALL  
27 INFRASTRUCTURE GRANTS:

28 (1) CAPITAL EQUIPMENT OTHER THAN TRANSIT EQUIPMENT;

29 (2) OPERATING EXPENSES OF THE LOCAL JURISDICTION;

30 (3) ROUTINE MAINTENANCE OF EXISTING CAPITAL FACILITIES;

31 OR

32 (4) ANY USE INCONSISTENT WITH A PROGRAM.

33 (B) THE OFFICE OF PLANNING WILL MAKE THE FINAL  
34 DETERMINATION AS TO ELIGIBILITY OF A PROJECT.

35 (C) THE JURISDICTION SHALL REFUND ANY STATE MONEY SPENT  
36 ON INELIGIBLE PROJECTS.

1 15-608.

2 (A) FINANCING MECHANISMS MAY ONLY BE USED IN  
3 REDEVELOPMENT AREAS.

4 (B) ELIGIBLE FINANCING MECHANISMS FOR REDEVELOPMENT FOR  
5 FORMULA AND COMPETITIVE GRANTS MAY INCLUDE:

6 (1) PREFERRED FINANCING FOR HOME BUYERS;

7 (2) PREFERRED FINANCING TO PROMOTE ECONOMIC  
8 DEVELOPMENT; OR

9 (3) REDUCTION OF INTEREST RATES FOR HOUSING AND  
10 ECONOMIC DEVELOPMENT PROJECTS FOR A SPECIFIED TIME PERIOD.

11 (C) APPROVED USES FOR GRANTS MAY INCLUDE:

12 (1) GRANTS PROVIDED TO LOCAL JURISDICTIONS TO  
13 INCREASE DOWN PAYMENTS, PURCHASE LOAN INSURANCE, REDUCE  
14 INTEREST RATES, OR OTHERWISE MAKE A ONE-TIME PAYMENT TO  
15 SUPPORT A FINANCING PLAN;

16 (2) GRANTS PROVIDED TO LOCAL JURISDICTIONS FOR THE  
17 ESTABLISHMENT OF A REVOLVING LOAN FUND BY THE LOCAL  
18 GOVERNMENT FOR REDEVELOPMENT PURPOSES. THE JURISDICTION  
19 MAY RETAIN THE LOAN PROCEEDS UPON REPAYMENT; AND

20 (3) FUNDS TRANSFERRED TO EXISTING STATE LOAN  
21 PROGRAMS TO FINANCE PROJECTS ELIGIBLE UNDER EXISTING  
22 REGULATIONS.

23 (D) IF THE LOCAL JURISDICTION PROVIDES LOANS, THE TERMS AND  
24 CONDITIONS SHALL BE AS FOLLOWS:

25 (1) THE LOAN SHALL BEAR INTEREST AT A RATE DETERMINED  
26 TO BE NECESSARY AND REASONABLE FOR THE PROJECT. IN  
27 EXCEPTIONAL CIRCUMSTANCES AND AT THE DISCRETION OF THE  
28 DIRECTOR OF THE OFFICE OF PLANNING, LOANS MAY BE NONINTEREST  
29 BEARING OR MAY BE REPAYABLE IN ACCORDANCE WITH A DEFERRED  
30 PAYMENT SCHEDULE; AND

31 (2) ALL REDEVELOPMENT FINANCING OF GRANTS OR LOANS  
32 SHALL BE USED TO STIMULATE REHABILITATION OR PRODUCTION OF  
33 HOUSING AND ECONOMIC DEVELOPMENT PROJECTS THAT CONFORM TO  
34 THE REDEVELOPMENT GOALS OF A LOCAL JURISDICTION'S PROGRAM.

1 15-609.

2 THE OFFICE OF PLANNING SHALL ADOPT REGULATIONS TO CARRY  
3 OUT THE PURPOSES OF THIS SUBTITLE.

4 SUBTITLE 7. STATE AGENCY RESPONSIBILITIES

5 15-701.

6 EACH STATE AGENCY HAVING A ROLE IN PHYSICAL DEVELOPMENT  
7 OR DEVELOPMENT APPROVAL SHALL:

8 (1) COOPERATE WITH THE OFFICE OF PLANNING IN THE  
9 REVIEW OF LOCAL JURISDICTION'S PROGRAMS FOR GROWTH  
10 MANAGEMENT;

11 (2) ASSURE THAT STATE FACILITIES PROGRAMMING,  
12 REGULATORY ACTIONS, AND PERMIT APPROVALS ARE MADE IN A  
13 MANNER CONSISTENT WITH APPROVED PROGRAMS;

14 (3) IF APPROPRIATE, AMEND STATE FACILITIES PLANS TO  
15 ASSURE COMPATIBILITY WITH APPROVED LOCAL GROWTH PLANS;

16 (4) IN RESOURCE ALLOCATION, ASSIGN FUNDING PRIORITY TO  
17 LOCAL JURISDICTIONS WITH APPROVED PROGRAMS IN SUCH A WAY AS  
18 TO SUPPORT THE LOCAL PRIORITIES REFLECTED IN THEM;

19 (5) AT THE REQUEST OF THE OFFICE OF PLANNING, WITHHOLD  
20 RESOURCES OTHERWISE PLANNED FOR ALLOCATION TO A LOCAL  
21 JURISDICTION DURING PERIODS OF NONCOMPLIANCE WITH THE  
22 PROGRAM;

23 (6) REVIEW ITS LEGISLATION, REGULATIONS, POLICIES, AND  
24 PRACTICES; IDENTIFY CHANGES NEEDED TO BRING THE AGENCY INTO  
25 CONFORMANCE WITH THIS TITLE; AND

26 (7) IDENTIFY ANY ADDITIONAL CHANGES TO LAW,  
27 REGULATIONS, POLICIES, AND PRACTICES AND SUBMIT TO THE OFFICE  
28 OF PLANNING DOCUMENTATION OF NEEDED CHANGES AND THE  
29 PROPOSED TIMING OF THOSE CHANGES WITHIN 90 DAYS AFTER THE  
30 OFFICE OF PLANNING HAS ADOPTED REGULATIONS AS REQUIRED IN  
31 THIS TITLE.

1 15-702.

2 THE OFFICE OF PLANNING SHALL:

3 (1) ADOPT REGULATIONS TO ASSURE LOCAL GOVERNMENT  
4 AND STATE AGENCY COMPLIANCE WITH THE PROVISIONS OF THIS TITLE  
5 AND ADMINISTER THE PROGRAM CONSISTENT WITH THE PURPOSES OF  
6 THIS TITLE;

7 (2) PARTICIPATE WITH THE DEPARTMENT OF THE  
8 ENVIRONMENT AND THE DEPARTMENT OF NATURAL RESOURCES TO  
9 DEVELOP A STRATEGY TO COORDINATE MANAGEMENT OF GROWTH AND  
10 DEVELOPMENT WITH WATER RESOURCE PROTECTION FOR INDIVIDUAL  
11 WATERSHEDS THROUGHOUT THE STATE;

12 (3) CONSULT WITH THE CRITICAL AREA COMMISSION TO  
13 ENSURE COMPATIBILITY WITH ITS INITIATIVES;

14 (4) PROVIDE TECHNICAL ASSISTANCE TO LOCAL  
15 GOVERNMENTS TO ACHIEVE THE PROVISIONS OF THIS TITLE;

16 (5) BE THE STATEWIDE REPOSITORY OF ALL APPROVED  
17 INTERIM PROGRAMS AND PROGRAMS AND ALL STATE AGENCY  
18 PROPOSALS, AND SHALL MAKE THIS INFORMATION AVAILABLE UPON  
19 REQUEST;

20 (6) COORDINATE STATE AGENCY REVIEW OF LOCAL  
21 PROGRAMS;

22 (7) RECOMMEND ADJUSTMENTS TO EITHER THE LOCAL  
23 PROGRAM OR THE STATE CAPITAL PROGRAMS TO ASSURE  
24 COMPATIBILITY BETWEEN STATE AND LOCAL INFRASTRUCTURE  
25 DEVELOPMENT PLANS, AS APPROPRIATE; AND

26 (8) CONSULT WITH LOCAL GOVERNMENTS TO RESOLVE  
27 PROBLEMS INTERNAL TO THEIR PROGRAMS OR CONFLICTS BETWEEN  
28 LOCAL JURISDICTIONS.

29 SUBTITLE 8. GRANDFATHERING

30 15-801.

31 (A) A PERSON WHO HOLDS A VALID BUILDING PERMIT GRANTED  
32 PRIOR TO JULY 1, 1991 MAY DEVELOP ACCORDING TO THE TERMS OF THE  
33 PERMIT PROVIDED THAT:

34 (1) THE TIME PERIOD DURING WHICH THE PERMIT IS VALID IS  
35 FINITE; AND

1 (2) THE PERMIT IS FOR A PERIOD, INCLUDING EXTENSIONS,  
2 NOT TO EXCEED 24 MONTHS FROM JULY 1, 1991.

3 (B) IF A JURISDICTION DOES NOT ISSUE A BUILDING PERMIT, BUT  
4 ISSUES A BUILDING NOTICE, A PERSON MAY DEVELOP ACCORDING TO  
5 THE TERMS OF THE BUILDING NOTICE CONSISTENT WITH SUBSECTION (A)  
6 OF THIS SECTION.

7 15-802.

8 (A) A PERSON HOLDING TITLE TO A PARCEL OF LAND IN THE  
9 INTERIM RURAL AND RESOURCE AREA AND SUBSEQUENTLY IN THE  
10 RURAL AND RESOURCE AREA. FOR WHICH A SUBDIVISION PLAT HAD  
11 BEEN FINALLY APPROVED AND RECORDED PRIOR TO JULY 1, 1991, MAY:

12 (1) SUBJECT TO § 15-801 OF THIS SUBTITLE, DEVELOP ANY LOTS  
13 FOR WHICH BUILDING PERMITS HAD BEEN OBTAINED PRIOR TO JULY 1,  
14 1991; AND

15 (2) DEVELOP ANY SECTION OF THE SUBDIVIDED PARCEL,  
16 PROVIDED THAT:

17 (I) INFRASTRUCTURE IS INSTALLED WITHIN 24 MONTHS  
18 FROM JULY 1, 1991;

19 (II) A BINDING PUBLIC WORKS AGREEMENT HAS BEEN  
20 EXECUTED BY JULY 1, 1991; OR

21 (III) A BINDING DEVELOPMENT AGREEMENT HAS BEEN  
22 EXECUTED WITH A LOCAL JURISDICTION BY JULY 1, 1991.

23 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, IF A  
24 DEVELOPER IS BUILDING A SUBDIVISION IN PHASES, AND  
25 INFRASTRUCTURE HAS BEEN INSTALLED IN AT LEAST 1 PHASE BY JULY 1,  
26 1991, ANY ADDITIONAL PHASE WHICH HAS RECEIVED PRELIMINARY PLAT  
27 APPROVAL MAY BE DEVELOPED IN ACCORDANCE WITH A LOCAL  
28 JURISDICTION'S APPROVAL PROCESS.

29 15-803.

30 NOTWITHSTANDING §§ 15-801 AND 15-802 OF THIS SUBTITLE, A  
31 PERSON WHO HOLDS TITLE OF RECORD TO A PARCEL OR CONTIGUOUS  
32 PARCELS OF LAND IN THE INTERIM RURAL AND RESOURCE AREA ON  
33 JULY 1, 1991 AND TALLING 20 ACRES OR LESS, MAY DEVELOP 1  
34 RESIDENTIAL UNIT ON THE TOTAL ACREAGE.

## SUBTITLE 9. INTRAFAMILY TRANSFERS

1  
2 15-901.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
4 MEANINGS INDICATED.

5 (B) "IMMEDIATE FAMILY" MEANS A FATHER, MOTHER, SON,  
6 DAUGHTER, GRANDFATHER, GRANDMOTHER, GRANDSON, OR  
7 GRANDDAUGHTER.

8 (C) "INTRAFAMILY TRANSFER" MEANS A TRANSFER TO A MEMBER  
9 OF THE OWNER'S IMMEDIATE FAMILY OF A PORTION OF THE OWNER'S  
10 PROPERTY FOR THE PURPOSE OF ESTABLISHING A RESIDENCE FOR THAT  
11 FAMILY MEMBER.

12 15-902.

13 (A) A LOCAL JURISDICTION MAY SUBMIT PROVISIONS AS PART OF  
14 ITS PROGRAM BY WHICH AN OWNER OF A PARCEL OF LAND IN THE  
15 RURAL AND RESOURCE AREA MAY BE PERMITTED TO MAKE  
16 INTRAFAMILY TRANSFERS, NOTWITHSTANDING DENSITY LIMITATIONS  
17 FOR RURAL AND RESOURCE AREAS ESTABLISHED IN THIS TITLE.

18 (B) A PROVISION MAY ONLY ALLOW INTRAFAMILY TRANSFERS  
19 FROM PARCELS OF LAND THAT WERE OF RECORD ON APRIL 15, 1991.

20 (C) A PROVISION FOR INTRAFAMILY TRANSFERS SHALL REQUIRE  
21 CLUSTER DEVELOPMENT.

22 15-903.

23 A LOCAL JURISDICTION SHALL REQUIRE THAT, AS A CONDITION OF  
24 APPROVAL:

25 (1) ANY DEED FOR A LOT THAT IS CREATED BY AN  
26 INTRAFAMILY TRANSFER SHALL CONTAIN A COVENANT THAT THE LOT IS  
27 CREATED SUBJECT TO THE PROVISION OF THIS SECTION; AND

28 (2) A LOT CREATED BY AN INTRAFAMILY TRANSFER MAY NOT  
29 BE CONVEYED SUBSEQUENTLY TO ANY PERSON OTHER THAN A MEMBER  
30 OF THE OWNER'S IMMEDIATE FAMILY, EXCEPT UNDER PROCEDURES  
31 ESTABLISHED UNDER § 15-904 OF THIS SUBTITLE.

32 15-904.

33 IF A LOCAL JURISDICTION INCLUDES PROVISIONS FOR INTRAFAMILY  
34 TRANSFERS AS PART OF ITS PROGRAM, THE LOCAL JURISDICTION SHALL  
35 ESTABLISH STANDARDS AND PROCEDURES BY WHICH THE LOCAL

1 JURISDICTION WILL PERMIT THE SUBSEQUENT CONVEYANCE OF LOTS TO  
2 PERSONS OTHER THAN IMMEDIATE FAMILY MEMBERS. THE STANDARDS  
3 AND PROCEDURES SHALL ASSURE THAT:

4 (1) THE LOT WAS CREATED AS PART OF AN INTRAFAMILY  
5 TRANSFER AND NOT WITH THE INTENT OF SUBDIVIDING THE ORIGINAL  
6 PARCEL OF LAND FOR PURPOSES OF ULTIMATE COMMERCIAL SALE; AND

7 (2) (I) A CHANGE IN CIRCUMSTANCES HAS OCCURRED SINCE  
8 THE ORIGINAL TRANSFER WAS MADE THAT IS NOT INCONSISTENT WITH  
9 THIS TITLE, AND THAT WARRANTS THE SUBSEQUENT CONVEYANCE; OR

10 (II) OTHER CIRCUMSTANCES THAT ARE CONSISTENT WITH  
11 THE PURPOSES OF THIS TITLE THAT WARRANT A SUBSEQUENT  
12 CONVEYANCE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor's  
14 Commission on Growth in the Chesapeake Bay Region shall make recommendations to  
15 the Governor for regulations to implement the Maryland Growth and Resource  
16 Management Act on or before January 31, 1992. The Commission shall consult with  
17 affected local jurisdictions and hold at least 6 public hearings to ensure citizen  
18 participation in the recommendations. The Office of Planning shall then promulgate the  
19 regulations pursuant to the recommendations of the Commission and the Governor and  
20 in accordance with Title 10, Subtitle 1 of the State Government Article.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 1991.

JUDGE JOHN C. NORTH, II  
CHAIRMAN  
301-822-9047 OR 301-974-2418  
301-820-5093 FAX

SARAH J. TAYLOR, PH.D.  
EXECUTIVE DIRECTOR  
301-974-2418/28  
301-974-5338 FAX



WESTERN SHORE OFFICE  
275 WEST STREET, SUITE 320  
ANNAPOLIS, MARYLAND 21401

EASTERN SHORE OFFICE  
31 CREAMERY LANE  
EASTON, MARYLAND 21601

**STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

February 20, 1991

Mr. Earnest Freeman  
Director  
Baltimore City Department of Planning  
417 E Fayette Street  
8th Floor  
Baltimore, Maryland 21202

Dear Mr. Freeman:

By now, I am sure you have been briefed on the content of a meeting, held last Friday afternoon, between the National Aquarium, represented by their assistant Director David Pittinger, the Baltimore City Department of Planning, represented by Mary Dolan and Bob Hewitt, and myself, representing the Chesapeake Bay Critical Area Commission. We met to discuss certain deficiencies that have come to light in the Aquarium's administration of educational programming cited in lieu of cash payment for buffer off set fees. It is my understanding that the 1989 calculation indicated the Aquarium owed \$96,250 in offset. By their own accounting, the Aquarium has spent, to date, \$67,780 in Bay related exhibits and educational programming leaving funds available, yet not applied, in the amount \$28,380. It is my further understanding that the Aquarium has offered to make a one-time cash payment in that amount or to accept Baltimore City Department of Planning's recommendations for application of those funds to fulfil their offset obligation.

I have given some thought to the best resolution of this outstanding issue and would like to offer the following proposal. The enforcement and collection of offsets are, of course, entirely within the jurisdiction of your program and this should only be taken as a suggestion.

Mr. Freeman  
February 20, 1991  
Page Two

It has come to my attention that the Critical Area Program, at both the State and local levels, has been remiss in educational and public awareness programming. This is a function of our complete focus on program implementation over the past several years and lack of staff and budget resources to implement this added dimension. Recently, the Commission has been taking steps to address this concern by adopting and implementing a Strategic Communications Plan created by a new, volunteer, member of our staff. Implementation of the plan is hampered by the current State budget crisis which has severely curtailed our planned procurement of teaching and visual aids, publications, and merchandising tools to reinforce our message.

Two of our greatest needs are a Critical Area video and/or canned slide presentation for use with school groups, professional associations, and community organizations and a three panel backdrop display for use at public awareness forums such as "Chesapeake Appreciation Days" and the like. My staff constantly receives appearance requests and opportunities of this sort but have precious little, other than their enthusiasm, to work with. I would like to suggest that you consider acquiring these items from the Aquarium as an offset mitigation and share them with the Commission.

The Aquarium is in the enviable position of being able to produce these items with fully staffed and equipped audio/visual and art departments that produce high quality work of this type. As an added inducement to accept an arrangement of this type, the Aquarium could be identified as a co-sponsor with Baltimore Planning and the C.B.C.A.C which would provide some promotional value for them.

Our initial concept for a video is about twelve minutes in duration that addresses the why?, how?, where?, and what? of the Critical Area Law. The Lady Maryland Foundation, Carr-Lowery glass factory, Maryland Science Foundation and other sites surrounding the Baltimore Harbor would furnish excellent, tangible, photographic documentation of Critical Area success. This documentation would, hopefully, also serve to quiet our rural critics who complain that the incidence of the law falls most heavily on them while the problem is ostensibly of urban genesis. We also would like to document the implementation of a rural program such as Talbot or Dorchester Counties. Our concept for the static display follows the same general story line. We estimate the cost of both items, commercially produced, to be approximately half the sum in question.

Mr. Freeman  
February 20, 1991  
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If this suggestion interests you, I would be glad to make Hugh Smith, our Communications consultant, available to discuss this concept further, estimate its cost, produce the story boards, and/or liaise with the Aquarium at your request. In any case, he is available to Baltimore City Planning at any time to help advance any Critical Area communications initiative you may want to implement.

I thank you for your consideration and look forward to your response.

Very truly yours,

*Signed & Mailed*

John C. North II  
Chairman

JCN/jjd

cc: Dr. Sarah Taylor  
Ms. Dawnn McCleary  
Mr. Hugh Smith