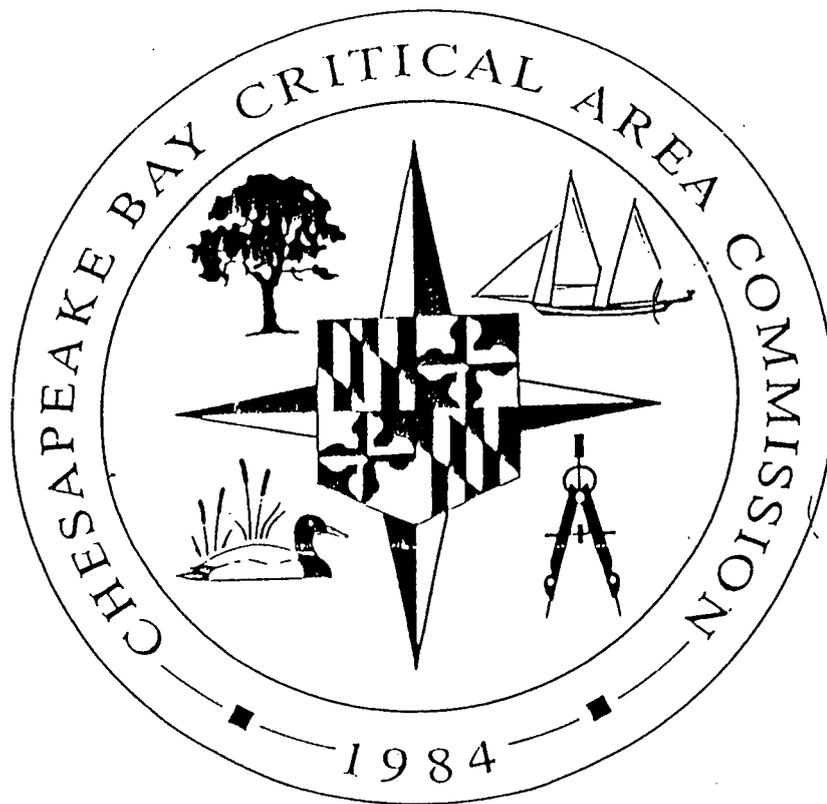


Commission Meetings & Corresp.

June 1991

MSA-51832-83

CHESAPEAKE BAY CRITICAL AREA COMMISSION



LAND AND RESOURCE UTILIZATION IN THE ST. MARY'S RIVER ESTUARY:
PAST, PRESENT, AND FUTURE

SYMPOSIUM
HISTORIC ST. MARY'S CITY AUDITORIUM
JUNE 05, 1991

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION
275 WEST STREET, SUITE 320
ANNAPOLIS, MARYLAND 21401
(301) 974 - 2426

CBCAC COMMISSIONERS

Judge John C. North II, Chairman, Ronald Hickernall, Baltimore County, Albert W. Zanhiser, Calvert County, William J. Bostian, Wicomico County, Victor K. Butanis, Harford County, Parris Glendening, Prince George's County, James E. Gutman, At Large Member - Western Shore, Dr. Shepard Krech, Jr., At Large Member - Eastern Shore, Kathryn Langer, Cecil County, Robert R. Price, Jr., Queen Anne's County, William H. Corkran, Jr., Talbot County, G. Steele Phillips, Dorchester County, Ronald Adkins, Somerset County, Samuel Y. Bowling, Charles County, Michael J. Whitson, St. Mary's County, Thomas L. Jarvis, Caroline County, W. Roger Williams, Kent County, Joseph J. Elbrich, Jr., Anne Arundel County, Robert Schoplein, Department of Economic and Employment Development, James L. Hearn, Department of the Environment, James Peck, Department of Natural Resources, Louise Lawrence, Department of Agriculture, Ronald Kreitner, Maryland Office of Planning, Ardath Cade, Department of Housing and Community Development.

CBCAC STAFF

Dr. Sarah J. Taylor, Executive Director, George Gay, Assistant Attorney General, P. Ren Serey, Project Evaluation Division Chief, Patricia J. Pudelkewicz, Program Amendment and Implementation Division Chief, Dr. O'Wole A. Alade, Geographic and Information Systems Division Chief, Elizabeth E. Zucker, Scientific Advisor, M. Claudia Jones, Thomas H. Ventre, Dawnn T. McCleary, Anne B. Hairston, and Theresa Corless, Natural Resource Planners. Veronica Nichols, Administrative Coordinator, Margaret Mickler, Administrative Aide, Young-Min Pyo and Kenneth Feldman, G.I.S. Cartographers, Madeline S. Larmore, Jennifer Delve, Secretaries, and Tera L. Harnish, Receptionist.

Scientists directly link the precipitous decline in the Chesapeake Bay's once bountiful populations of anadromous fish, crustaceans, wildlife, and waterfowl to a parallel decline in the quality of its water; a consequence of man's ever increasing activity within its vast watershed. Researchers have determined that approximately sixty percent of the pollutant and nutrient loading of the Bay's waters result from storm water run-off, groundwater, and other non-point sources.

In 1984, the State of Maryland resolved to reverse this deterioration of the Bay's environment by enacting a law creating the Critical Area Commission, a twenty-five member panel, charged with creating a land and resource management program designed to mitigate the damaging impact of non-point pollution. The Law recognized that the land immediately surrounding the Bay and its tributaries has the greatest potential to affect its water quality and wildlife habitat and thus designated all land within 1000' of the waters edge or from the landward edge of adjacent wetlands as the "Critical Area". The Commission was charged by the Governor, the Legislature, and the citizens of Maryland with developing, implementing, and monitoring a Critical Area Protection Program designed to meet the following long-term goals:

- * Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances that have run-off from surrounding lands;
- * Conserve fish, wildlife, and plant habitat in the Critical Area; and
- * Establish land use policies for development in the Chesapeake Bay Critical Area which accomodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in an area can create adverse environmental impacts.

The pioneering land and resource management regulations drafted by the Commission, commonly known as the Critical Area Criteria, were promulgated by the Commission on December 1, 1985 and enacted by the Maryland General Assembly during the 1986 session. The Governor, President of the Senate, and Speaker of the House signed the criteria into law on May 13, 1986.

These Criteria are the basis for local Critical Area Programs adopted by the 16 Counties and 44 municipalities surrounding the Bay. Primary responsibility for implementing and enforcing their individual Critical Area Programs rests with the local jurisdictions. Aspects of these innovative and successful criteria have been or are being adopted by estuarine protection programs nationwide.

The Law, hailed as a major "first-step" toward protecting the Chesapeake Bay, called for protection of lands most intimately in contact with the estuary: shorelines, marshlands, submerged lands. The Chesapeake Bay Critical Area Commission recognizes that, while the land are over which it exercises jurisdiction has the "greatest potential" to affect the water quality of the Chesapeake Bay, the number, movement, and activities of persons throughout the Bay's vast watershed have equally great environmental consequence." If the Critical Area has a failing" according to noted environmental author Tom Horton "... it is a thousand foot strip. It is not the whole watershed." It has further been said that " Political support for a continuance of existing growth regulations, and support for new or expanded growth laws, will be found to the extent the public perceives that, as a result of the growth practices fostered by environmental laws; the deterioration of the environment surrounding the Bay has been arrested." This understanding argues for a specific role for the Commission: to continually assess the effectiveness and success of the Program, to make this assessment subject to widespread public awareness, understanding, and review, and to make the Program's success a basis for encouraging and fostering environmentally sound growth practices throughout the Bay's watershed.

From 1985 to 1990, the greatest rates of growth occurred in historically rural counties: Calvert (a 63 percent increase in the amount of developed land), Charles (a 39 percent increase) and Cecil (a 31 percent increase).The Maryland Office of Planning projects the population of Maryland will further increase twenty-one percent (21%) to 5.7 million by the year 2020. To accommodate this growth, under present development practices, Maryland will develop in 30 years the equivalent of 66 percent of the land area developed in the state's 350 year history. Because of its unique quality of life and convenience to metropolitan centers, Southern Maryland can expect to absorb much of this growth. Although economically desirable, this growth, unless efficiently managed, will consume forests and farms and further burden the already taxed public infrastructure and the environment.

Maryland and Marylanders are challenged to find a way to accommodate this expected growth and expand our economy while protecting our fragile environment and unique quality of life. Recent experience shows achieving this goal will not be easy. The Critical Area Commission believes that public awareness of the history, dynamic, and consequences of present development practices, public awareness of the successes being achieved by Maryland's Critical Area Law, and spirited public discussion of growth issues will result in the political will to effectively manage future growth. The Commission's objective for today's symposium is to promote environmental literacy and public awareness and discussion of growth issues.

Growth management is a complex and emotional multi-disciplinary issue that requires extensive study and understanding. Today's panelists, moderated by Sen. Bernie Fowler (D-29th), well known friend of the environment and Southern Maryland's favorite son, are uniquely qualified to tackle many aspects of growth and to provide a fresh perspective. The panel includes:

- Dr. Henry M. Miller** - Director of Research and Chief Archeologist, Historic St. Mary's City and author of *Transforming a "Splendid and Delightful Land": Colonists and Ecological Change in the Chesapeake 1607-1820*. Dr. Miller will offer historical insight into the history of growth in Southern Maryland and evidence that, judging by archaeological finds, the relatively small population of the 17th century had a significant impact on the ecology of the Chesapeake.
- Dr. Michael L. Berger** - Professor in, and Head of, St. Mary's College Division of Human Development and author of *The Devil Wagon in God's Country: The Automobile and Social Change in Rural America, 1893-1929* and numerous other publications. Dr. Berger will discuss the impact of the automobile on the culture, society, and economy of Southern Maryland. Growth, and changes in growth patterns, in the United States, have, historically, followed advances in transportation technology.
- Dr. Kent Mountford** - A marine scientist with 27 years of experience in estuarine biology and Senior Scientist for the United States Environmental Protection Agency Chesapeake Bay Project Office in Annapolis. Dr. Mountford, a resident of Southern Maryland, will discuss the environmental consequences of continuing current growth patterns and advocate more stringent growth management practices.
- Mr. Joseph Mitchell** - Director, St. Mary's County Department of Economic and Community Development. Mr. Mitchell will outline local jurisdictions immediate reaction to recent state attempts to regulate land use, review principal arguments against the legislation, and present possible alternatives for achieving efficient growth management.
- Mr. Henry M. Kay** - A planner in the Comprehensive Planning Unit of the Maryland Office of Planning and a staff member of the Governor's Commission on Growth. Mr. Kay will review the Commission's data and conclusions concerning the future of growth in Southern Maryland.

Chairman North and the Chesapeake Bay Critical Area Commission extend their sincere thanks to Sen. Fowler and the panelists for their participation in today's event. The C.B.C.A.C. would also like to thank St. Mary's College, the College's Director of Public Affairs Ms. Chris Cihlar, Historic St. Mary's City, and its' Executive Director Burton Kummerow for the use of their facilities and their dedication to the environment of the Chesapeake Bay.

PUBLICATIONS AVAILABLE FROM
THE
CHESAPEAKE BAY CRITICAL AREA COMMISSION

Chesapeake Bay Critical Area: Law, Amendments, Criteria; (July, 1988).

Chesapeake Bay Critical Area Commission: Subtitle 19. Regulations For Development in the Critical Area Resulting from State and Local agency Programs; (April, 1988).

A Guide to the Chesapeake Bay Critical Area Criteria; (May 1986).

A Report to the Governor and General Assembly Recommending State Policies and Goals for the Chesapeake Bay Shorefront Access and Reforestation and Forest Preservation within the Critical Area; (1986).

The Prospects and Problems of Economic Instruments as Complements to the Chesapeake Bay Critical Area Program; (1987).

The Changes in the value and Geographic Origin of the Commercial Landing in Finfish and Shellfish in Chesapeake Bay and Associated River Systems in Maryland (1975 - 1986); (January, 1988).

Guidance Paper #1: A Guide to the Conservation of Forest Interior- Dwelling Birds in the Critical Area;(July, 1986).

Guidance Paper #2: Transferable Development Rights:An Analysis of Problems and Case Law; (December 1986).

Guidance Paper #3: Guidelines for Protecting Non-Tidal Wetlands in the Critical Area; (July, 1988).

Guidance Paper #4: A Guide To The Conservation and Management of Forest Resources in The Critical Area; (January, 1990).

Guidance Paper #5: A Framework for Evaluating Compliance With the 10% rule in the Chesapeake Bay Critical Area; (October 1987).

The Cost of Government Regulations, Volume I:Impact of Rural Open-Space Zoning on Property Values in the New Jersey Pinelands; (August,1988).

The Cost of Government Regulations, Volume II:A Baseline Study for the Chesapeake Bay Critical Area; (August, 1988).

The Spatial Effects of Land Use Control: The Chesapeake Bay Critical Area Interim Citizens' Report; (April, 1988)

A Strategy to Save The Chesapeake Shoreline; (March 1987).
Background on The Chesapeake Bay Critical Area Commission.

A Summary of the Chesapeake Bay Critical Area Commission's Criteria and Program Development Activities 1984 - 1988; (August, 1989)

Chesapeake Bay Critical Area Program and How It Affects You.
(Brochure)

All publications are available free from the Commission. To order, please call Tera Harnish at (301) 974-2426. Please refer to all publications by their full title.

Chesapeake Bay Critical Area Commission
June 5, 1991
St. Mary's College, St. Mary's City

AGENDA

10:00 - 10:45 a.m. Subcommittee Meetings

Project Evaluations	Ren Serey
Panel: Forestry General Approvals	Anne Hairston
Program Amendments	Pat Pudelkewicz

10:45 - 10:50	Approval of Minutes of May 1, 1991	John C. North, II Chairman
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PROJECTS

10:50 - 11:05	Continuation - Tobin Ferry Project Dorchester Co.	Tom Ventre, Planner
11:05 - 11:25	Wastewater Treatment Facilities - Point Lookout State Park, St. Mary's Co.	Dawnn McCleary, Planner Sam Bowling, Ch. Kathryn Langner, Ch.
11:25 - 11:40	DNR/Capital Programs Deal Island Shop Facility	Tom Ventre, Planner Sam Bowling, Ch. Kathryn Langner, Ch.
11:40 - 11:50	Presentation of Development for North Point State Park/ Black Marsh Wildlands	Anne Hairston, Plnr. John Wilson, Sean Clotworthy, Greenways, DNR
11:50 - 12:00	Point Lookout State Park Elevated Walkway	Claudia Jones, Pl. Donnie Hammett Forest, Park & Wildlife, DNR

AMENDMENTS, REFINEMENTS, PROGRAMS

12:00 - 12:05	Pier One Marina Mapping Mistake, Queen Anne's Co.	Ren Serey, Plnr. Shep Krech, Ch.
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LEGAL MATTERS

12:05 - 12:10	Davis Appeal, Dorchester County	George Gay, AAG.
12:10 - 12:15	OLD BUSINESS NEW BUSINESS	John C. North, II Chairman
12:15 - 12:25	ANNOUNCEMENTS Summer Staff	Sarah J. Taylor, Executive Director

EVENT PLAN

CHESAPEAKE BAY CRITICAL AREA COMMISSION
St. Mary's City and St. Mary's College
June 5, 1991

- 10:00 A.M. Chesapeake Bay Critical Area Commission Meeting in Montgomery Fine Arts Center, St. Mary's College, St. Mary's City, Maryland
- 12:30 P.M. Lunch for C.B.C.A.C. and Guests. Dougherty - Palmer Commons, St. Mary's College - St. Mary's City, Maryland
C.B.C.A.C. Commissioners (25)
C.B.C.A.C. Staff
Symposium Speakers (6)
Sen. Bernie Fowler
Dr. Michael Berger
Dr. Henry Miller
Dr. Kent-Montford
Mr. Joe Miller
Mr. Henry Kay
Hosts (10)
St. Mary's College (5)
Ms. Chris Cihlar

St. Mary's City (5)
Mr. Burt Kommerow - Director

Guests (19)
J. Frank Railey (?) ask S.J.T.
Media - Press Release by HMS by 5.17.91
Southern Maryland Pols and Planners
HMS ask S.J.T. by 5.17.91

Michael Whitson Suggestions.
- 2:00 P.M. Symposium in St. Mary's City Auditorium Entitled Land and Resource Management in St. Mary's River Estuary: Past, Present, Future moderated by Senator Bernie Fowler.
Participants:

Dr. Henry M. Miller - St. Mary's City. Archaeologist
Author of Transforming a "Splendid and Delightful Land":
Colonists and Ecological Change in the Chesapeake 1607 -
1820.

Dr. Michael Berger - St. Mary's College; Author of The
Devil Wagon in God's Country: The Automobile and Social
Change in Rural America, 1893 - 1929

Dr. Kent Montford - Senior Scientist: Environmental
Protection Agency Chesapeake Bay Program.

Mr. Joe Mitchell - St. Mary's County Economic and
Community Development

Mr. Henry Kay - Maryland 2020 Growth Commission
Representative (HMS will generate Press Release and
Symposium Program 5.17.91)

3:30 P.M.

Adjourn. Commission members and guests are invited
to tour grounds of St. Mary's City

NOTE:

Docking Facilities for Commission members and guests who
come by water are available at St. Mary's College dock.
(HMS will provide chart by 5.17.91)

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
May 1, 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 John C. North, II with the following Members in attendance:

Ronald Adkins	Russell Blake
William J. Bostian	Samuel Y. Bowling
Victor K. Butanis, Esquire	Kendra L. Bonderud
William H. Corkran, Jr.	for Ardath Cade, DHCD
Joseph J. Elbrich, Jr.	Carolyn Watson for
James Peck of the	Parris Glendening
Dept. of Natural Resources	James E. Gutman
Ronald Hickernell	Thomas L. Jarvis
Dr. Shepard Krech, Jr.	Ronald Kreitner of
Kathryn D. Langner	Md. Office of Planning
Louise Lawrence of the	James L. Hearn of the
Dept. of Agriculture	Department of Environment
G. Steele Phillips	Robert R. Price, Esquire
Robert Schoeplein of	J. Michael Whitson
DEED	Albert W. Zahniser

A motion was made to amend the minutes of March 6, 1991 to include in the attendance record, Larry Duket for Ronald Kreitner of the Maryland Office of Planning. The motion was seconded and the minutes were approved to include the amendment, unanimously.

Chairman North asked Mr. Tom Ventre to report on the Ferry Farms Subdivision Project in Dorchester County.

Mr. Ventre stated that in January 1991 the Commission considered a request for a growth allocation for a proposed residential subdivision in Dorchester County. The request was for approximately 59 acres of land to be reclassified LDA in order to accommodate the proposed development and the corresponding growth allocation. He said that at that time, it was noted that there were several areas on the plat identified as "residue" areas and after extensive discussion, the Commission agreed with the requested allocation and gave its approval as long as an additional 16 acres were added in order to accommodate the "residue" area. Since that time, the subdivider had to reconfigure some of the lots in that subdivision and it was determined after that reconfiguration that less growth allocation was needed than was originally requested, then the question became in order to accommodate that, would the application have to go through the entire program amendment growth allocation process - again.

Mr. Ventre said that in the reconfiguration several lots were removed and open space was added where there had been none designated originally and that it was learned that "residue lands" in Dorchester County have a specific meaning that allow certain things to happen while it precludes other things. Mr. Ventre introduced Ms. Karen Hales of the Dorchester County Planning and Zoning Office and a representative from the consulting engineers firm in Cambridge, Mr. Keith Schwabb.

Ms. Hales stated that the residue of 16 plus acres created problems in writing up an ordinance because the County Commissioners approved only 59.8 acres and the Critical Area Commission had approved 76.25 acres. She stated that she wrote a letter to Judge North requesting an extension because the April 9th deadline had already passed for adoption of the ordinance. She said that since the "residue land" is less than 20 acres, a house could not be constructed on it with an RCA designation as the maps would not be changed

Critical Area Commission
Minutes - May 1, 1991

from an RCA designation to an LDA, because the map change was originally approved for the 59.8 acres.

Mr. Robert Price asked if a separate tax bill was received for the residue acreage as a separate parcel and could it be conveyed to a third person.

Ms. Hales stated that she did not know how the assessment office would handle it, that it could be purchased by someone but be limited with what could be done with it.

Mr. Schwabb stated that it was not a buildable lot and if someone did want to build on it, it would have to go through Planning and Zoning. He said that a larger issue would be sewerage disposal, and currently the land was maximized for sewerage disposal facilities with two bermed infiltration ponds and the Health Department would not approve it. He said that because the reconfiguration of the land was to avoid any wetland impact, a non-tidal wetlands permit would no longer be required to build on the land. He said that the request is for only 58 acres now of growth allocation.

Mr. Ventre's concern was that some procedural and perhaps some legal questions have been raised by this request for reconsideration for 58 acres when 59.8 was approved, but he wanted to know if the County proceed with that allocation as it stands or would they have to come back before the Critical Area Commission for growth allocation approval.

Mr. Hickernell said that he remembered that in January the approval was with the condition of adding the 16 acres of residue to the growth allocation, and that the sixteen acres could only be utilized for growth allocation or public services extension, and that he could see no reason to be concerned, but the Commission could take subsequent action to clarify their position on the 16 acres but no more than that.

Mr. Gutman asked the staff's position.

Mr. Ventre stated that he agreed with what Mr. Hickernell and the County's position and that he was satisfied that the treatment of the residue in Dorchester County's subdivision application requirement in counting against the growth reserve.

Mr. Gutman asked if the problem was that it was past the deadline set to adopt the ordinance.

Mr. Ventre stated, yes.

Mr. Robert Price asked if the lot could be built on, for whatever reason the Health Department would not approve it.

Ms. Hale stated that it would have to go through all the County approvals, but it also would not have to come back for growth allocation.

Mr. Gutman made a motion to recess the topic until the Assistant Attorney General, Mr. George Gay, arrived for a legal opinion.

Chairman North agreed that a recess was in order.

Chairman North asked Mr. Tom Ventre to report on the Tobin Ferry Project in Dorchester County.

Mr. Ventre reminded the Commission members that in 1989 a request to award a growth allocation to reclassify certain lands on Taylor's Island to accommodate a landing facility for a proposed trans-bay ferry service was received and that the request was returned in September without approval because it did not satisfy certain ordinance requirements of the Dorchester Code pertaining to the requirement of Buffer exemptions on lands classified as IDA, which is the classification the applicant was seeking at the time.

Mr. Ventre said that since that time, the applicant and the County have done some additional research and the County agrees with the applicant that the decision may warrant the Critical Area Commission's reconsideration. He

Critical Area Commission
Minutes - May 1, 1991

said that the request was made to Judge North in March 1991 in a letter based on new information and the applicant's sense that the Commission misinterpreted certain definitions in the COMAR Regulations and misinterpreted certain applications of the Dorchester County Code with particular sections of the Zoning Ordinance pertaining to this case.

Mr. Robert Price stated that he was on the panel and he remembers that the request was for a reclassification of land use from RCA to IDA and that the determination was made that there was no way to get to RCA from IDA and that their program requires going through LDA.

Mr. Ventre stated that the issue did come up but not as the reason cited in the Commission's response to Dorchester County. (Mr. Ventre explained that Dorchester County has an unusually stringent, perhaps unique condition in its Ordinance regarding growth allocation which is: in Dorchester County lands may not be reclassified directly from RCA to IDA, but the Ordinance states that in order to be classified as IDA in Dorchester County, land must be first classified as LDA. He said that this is not the case where Mr. Tobin's - the property owner, is concerned.) Mr. Ventre said that the land is classified as RCA and the request sought for an IDA classification; however, that was not the point the Commission made to the Dorchester Commissioners, but the principal item in that decision was the need for Buffer exemption which was not requested. Mr. Ventre stated that Mr. Dodd raises that issue in his letter to Judge North as a point that would merit reconsideration from the Commission.

Mr. Price asked if the Dorchester County Commissioners are requesting a reclassification from RCA to LDA.

Mr. Ventre stated, no. He said that depending on how certain definitions in the COMAR Regulations are interpreted, and depending on how one applies certain elements of the Dorchester County Zoning Code, the proposal could be accommodated on LDA land, the underlying zoning permits it - which they have never asked for, but which further reinforces the County's and Mr. Tobin's position that it was a decision arrived at with incomplete information or incorrect definition. He said that they are only asking for a reconsideration today, not an action or a vote.

Mr. Paul Tobin, property owner, said that it was believed that the ferry would fit into an LDA, originally, and then in securing guidance from the Critical Area Commission staff, the staff stated that it should be an IDA with a Buffer exemption. He said that after looking at the Code, as far as an IDA is concerned, "new development is only allowed in intensely developed areas except industries that are water-dependent and also except those necessary to serve local development or where regional interstate facilities must cross tidal waters"; so, when he originally asked for IDA with Buffer exemption that is what he was told they needed. Mr. Tobin stated that by interpretation, a ferry boat landing does not fit into any of the classification definitions - a ferry boat landing does not have to be in an IDA or have a Buffer exemption because of the exception of a water-dependent facility, which is a ferry boat landing. He said the landing has been endorsed as being good for tourism, public benefit and local economy and would qualify for both exceptions. He further stated that in classifying a ferry landing as a port related facility, Dorchester County classified a landing as a special exception which agreed with the underlying zoning of a use similar to a marina and should be treated not as a port facility but as a marina and related water-dependent facility. He said that the County did not ask for the Buffer exemption but that his application did include the Buffer exemption. However, because it was not brought up at the hearing, the Critical Area Commission considered that as not being approved. He restated

Critical Area Commission
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that under the County Code, a water-dependent facility does not require a Buffer exemption. He said that his request is based on the Buffer exemption consideration. He said that as far as the progression in classification from RCA to LDA to IDA, ferry landings in other areas - Talbot County, Somerset County and two in Wicomico County - only one is in IDA with a Buffer exemption.

Mr. Tobin said that the one in Oxford is because the Town is there and not the ferry boat and the landing in Talbot County and Wicomico are in LDA and the Zoning Officials stated that is because the houses are there not the ferry landing; the one in Somerset County is in RCA without a house for miles.

Mr. Gutman asked where a ferry boat landing was described as a marina.

Mr. Tobin stated that in a letter sent to the Critical Area Commission on April 10, 1991 the definition of a port related facility and for a marina is: the criteria to define port means a facility or area established by the State or local jurisdictions for purposes of water born commerce; and, Webster's Collegiate Dictionary defines commerce as the exchange or buying and selling of commodities on a large-scale involving transportation from place to place; Webster further defines port as a place where ships may rest secure from storms or a harbortown or city where ships may take on or discharge cargo. He said that the definition of a ferry boat landing consisting of a road ending at the water did not fit these definitions. He said that he believed that they did not need the Buffer exemption or IDA because they are water-dependent.

Mr. Bowling stated that he believed that what is needed is an "appropriate application" which is not what was submitted originally.

Ms. Hale said that when it was brought to the County, the County told him to request LDA, however Abigail Rome wrote a letter to Karen Phillips telling her it had to be IDA which now creates a problem for the County because it cannot give him the Buffer exemption he needs according to the Critical Area map amendment.

Mr. Hickernell asked if the Commission took the position that IDA is needed for this particular use, and if it was based upon similar operations around the State. He explained that similar facilities are in different classifications and it would be very difficult for the Commission to insist and direct a County to classify land in a way that is not consistent with Critical Area approvals and compliance in a jurisdiction. Mr. Hickernell suggested the request be reconsidered, to wait 30 days and have the Commission staff make a recommendation to the Commission and at the same time have the County work with the Staff for some clarification.

Chairman North remanded the matter held over until the next Commission meeting while the Assistant Attorney General reviews and examines the matter.

Chairman North asked Mr. Ren Serey to report on the University of Maryland, Wye Research and Education Center, Pump House.

Mr. Serey stated that the University of Maryland proposes to add a pump house and pipelines to provide water for aquatic toxicology research at the Wye Research Center in Queen Anne's County. He said that the water will be pumped from DeCoursey Cove through underground pipelines to an existing research building located in the northern portion of the project area. Approximately 380 feet of a new pipeline system will be laid to connect with an existing pipeline. A 15' x 15' pump house will be established 30 feet from Mean High Water (MHW). He said that notable elements of the project include:

- The project is not in an Intensely Developed Area (IDA). The total

Critical Area Commission
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impervious surface of the Research Center is about 12%. The net increase of impervious surface due to the pump house will be negligible.

- The pump house and pipelines will be located in grassed areas. Trees will not be removed to establish the structures.

- The pump house is considered to be "water-dependent." It will be necessary to locate it in the 100-foot Buffer.

- All permits have been obtained including a U.S. Army Corps of Engineers permit for work in DeCoursey Creek, a State Water Appropriation permit, and a State NPDES permit for discharge of wastewater.

- The Maryland Forest, Park and Wildlife Service (MFPWS) has been contacted concerning potential Habitat Protection Areas (HPAs) in the area. Response from the MFPWS is pending.

He said that the staff recommendation was for approval with conditions that comments from the MFPWS be obtained. If HPA impacts are identified, the plan must be coordinated through Critical Area Commission staff.

Mr. Serey introduced Mr. Michael Myers from the University of Maryland.

Mr. Myers stated that in December of 1989, the Critical Area Commission approved construction of a new lab facility at the Wye Research Institution. He said that researchers will house aquatic organisms for both research and toxicity testing. The toxicity tanks would be separate from the culturing tanks and water from the toxicity tanks would be syphoned off and disposed of by proper means.

Mr. Samuel Bowling made a motion to approve the adding of a pump house and pipelines for aquatic toxicology research at the Wye Research Center in Queen Anne's County as the staff has recommended with conditions that comments from the MFPWS be obtained and if HPA impacts are identified, the plan must be coordinated through Critical Area Commission staff.

The motion was seconded and the vote was unanimously in favor.

Chairman North asked Mr. Ren Serey to report on Bladensburg Gardens Balloon Park proposed by the Maryland-National Capital Park and Planning Commission.

Mr. Serey reported that the Maryland-National Capital Park and Planning Commission (MNCPPC) proposes to design a passive recreation garden area on U.S. Route 1 in Bladensburg, in Prince George's County. He said that the 1.1 acre park will commemorate the first hot-air balloon launch in the United States.

He described the site as being located in a wide, grassy median strip between the north- and south-bound lanes of Route 1. Prince George's County has designated most of the Bladensburg area as Intensely Developed Area. Development will consist of walkways, a sitting area, planting beds and other landscaping. The site is not within the 100-year floodplain; there are no tidal or nontidal wetlands present. Stormwater will be managed by grass swales and check dams. Planting consists of 44 trees and 545 shrubs.

Mr. Serey said that the recommendation was for approval with conditions as follow:

1. Submit letter of Critical Area consistency from Prince George's County Department of Environmental Resources. Plans must be adjusted as recommended by Prince George's County.

2. Obtain County sediment and erosion control, stormwater management and grading permits.

3. Submit review letter from Maryland Forest, Park and Wildlife Service. Plans must be adjusted as needed.

Mr. Bowling made a motion to approve the proposal as presented subject to the conditions outlined in the staff report.

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The motion was seconded and the vote was unanimously in favor.

Chairman North then asked Ms. Dawnn McCleary to update the Commission members on the Stadium Project in Baltimore City.

Ms. McCleary stated that the changes to the extended detention pond were mainly issues concerning the fence and stormwater inlets. The subcommittee had already voted to accept the site plan as is, with conditions: that the fence be placed further down to allow mowing; that an 8 foot fence be placed around the pond; and, that there would be maintenance of the pond and water quality sampling, which would be stated in an MOU.

Ms. Kay Langner made a motion to approve the site plans for the Maryland Stadium Project extended detention pond as proposed to include the relocation of the surrounding fence line and the height of the fence to be 8 feet. The motion was seconded and the vote was carried with 20 in favor with one abstention, Mr. William Corkran.

Chairman North asked Ms. Anne Hairston to report on the Cecil County Growth Allocation Policy.

Ms. Hairston said that Cecil County has requested renewed approval to use the proposed growth allocation method for one cycle (a maximum of 57 acres), or for two years.

Ms. Hairston stated that Cecil County's growth allocation point system was given conditional approval at the time of original program approval. The County was to use the proposed point system and deduction methodology for one year, then the Commission was to reevaluate the proposal to see if it met the intent of the Commission's policy on deducting growth allocation (which, at the time of the County's program approval, had not been distributed). Cecil County has previously requested and twice received extension of the conditional approval to use the growth allocation system proposed. Because one cycle of growth allocation has still not been completed, the County is requesting a further extension for two years.

Ms. Hairston said that the growth allocation point system awards points for design elements in a development which go above and beyond the required Criteria. A minimum number of points is needed for a proposal to be considered in the design competition. The greatest numbers of points are awarded for additional open space (clustering) and expanded buffers. Other categories for which points are awarded are the location, forest and woodland protection, protection of Habitat Protection Areas, minimizing impervious surfaces, continued resource utilization activities (forestry, farming), shore erosion control, and shared water-dependent facilities. Bonus points are awarded when the proposals include correcting areas of failing septic systems with sewer extensions, public access to waterfront, establishment of a natural park, or agricultural land preservation.

Ms. Hairston said that the conditional approval of the growth allocation system was due to concern over the deduction methodology, which was based on a development envelope, rather than a complete parcel. The development envelope was expanded from the draft program and currently is defined in the approved County program as:

"Individually owned lots and required Buffers, any part of which is not subject to a restrictive conservation easement running to the County or community association, impervious surfaces, utilities, stormwater management measures, on site sewage disposal measures; any areas subject to regular human use such as active recreation areas; and any additional acreage needed to meet the development requirements of the Critical Area criteria".

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She said that the staff recommendation was for approval for 1 cycle (57 acres) or 2 years, whichever comes first.

Mr. Ronald Hickernell asked is Cecil County has used any of their Growth Allocation.

Ms. Hairston replied, no. She stated, after inquiry, that Cecil County believed its system was workable and had stated that in its submittal letter.

Ms. Kay Langner made a motion to renew the approval to use the proposed growth allocation method in Cecil County for one cycle for a maximum of 57 acres or 2 years, whichever comes first. The motion was seconded and the vote was unanimously in favor.

Chairman North asked Ms. Claudia Jones to report on the impervious surfaces refinements of Prince George's County and for the Town of Federalsburg.

Ms. Jones stated that P.G. County as well as the Town of Federalsburg has come in to amend their local ordinances to incorporate the impervious surface limitations according to HB 1060 and that Chairman North has been determined that these are refinements.

The Commission was in support of the refinements.

Chairman North asked Mr. George Gay, Assistant Attorney General, Commission Counsel to give an opinion on the Ferry Farms Subdivision matter.

Mr. Gay, after reviewing the matter and according to the applicable Section of the Law, 1809, Title 8 in the Natural Resources Article, stated that it is a reasonable and appropriate interpretation of 1809 to have the Critical Area Commission determine that the applicant does not need to go through the amendment process again as a result of the lot configuration changes and as a result of the alteration in growth allocation acreage.

Mr. Schoepflein asked Mr. Gay if that meant that the growth allocation was revised downward.

Mr. Gay replied, yes. His recommendation was to approve the 59 acres, and he said that the Commission's prior approval was all that was needed to do so. No further action was required at that time.

Mr. Gay updated the Commission on the Wharf at Handy's Point in Kent County which involved the Kent County Planning and Zoning Commission and a developer in Kent County who wanted to expand a marina on Warton Creek. He said that the Kent County Planning Commission granted site plan approval and the Circuit Court, on appeal by the Critical Area Commission, directed the Planning Commission to reconsider the matter. The Planning Commission did so and granted approval once again. The Critical Area Commission noted appeal once again and on appeal the second time, the Circuit Court agreed with the Commission and determined that site plan approval was unlawful. He said that the Wharf at Handy's Point, Inc. has elected to appeal the decision of the Circuit Court to the Court of Special Appeals. He said that the appellant now has to file the record of the hearing before the Circuit Court and once that is done, it has to file a Brief in the Court of Special Appeals. This will probably occur 2 - 3 months from now. Then the Critical Area Commission will need to file a responsive Brief.

Mr. Gay gave an update on the Bellanca case in Kent County. He said that the Bellanca's would like to develop a parcel of land on the Sassafras River. In order to do so, they sought a change in Critical Area designation. The Kent County Commissioners recommended to the Critical Area that the

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change be approved. However, the Critical Area Commission recommended that the change not occur, finding that a change was inconsistent with the Criteria and that there was no mistake in the original Critical Area designation. He said that the County Commissioners, in response to that recommendation, denied the application. The matter went to the Circuit Court for Kent County and then to the Court of Special Appeals where the Critical Area Commission's decision was upheld in a published opinion. The Bellanca's have filed a Petition for Writ of Certiorari to the Court of Appeals to have that matter reconsidered. Mr. Gay said that the Court of Appeals doesn't have to hear the case, but would hear the case if it believed that it was of Statewide importance with novel issues. He told the Commission that they need to file an answer to that Petition in the next week or so.

Mr. Gay reported on the Burton Appeal. He said that the property owned by the Burton's is in the critical area in Dorchester County and that they would like to build a pool in their backyard. He said that they had applied to the County for a variance so that they could locate their desired pool about 60 feet from the water and that the County, despite a letter from Mr. Ventre, Commission Staff member, suggesting denial of the variance, granted the variance. He said that Chairman North directed him to note an appeal of that decision to the Circuit Court, which was done and in conjunction with the appeal, he sought an injunction to enjoin the Burton's from building a pool while the appeal was pending. He said the Circuit Court granted the request for an injunction.

Chairman North announced that the Davis Appeal is in litigation at this time in Dorchester County. He stated that Mr. Davis was present, unrepresented by Counsel, had spoken with Dr. Taylor as well as with Chairman North, but that his case would not be discussed in his presence and therefore the Commission went into Executive Session for discussion of the Davis matter and all spectators were excused.

In a closed session, the Critical Area Commission members discussed the Davis Appeal and decided that for the next 30 days Mr. George Gay, Assistant Attorney General for the Commission, should review all the information regarding the Davis Appeal and talk with Mr. Steve Dodd about suggested resolutions.

The executive session thus ended, and the meeting resumed.

OLD BUSINESS

There being no old business, the meeting proceeded to new business.

NEW BUSINESS

Chairman North announced that the Carr-Lowrey Glass Factory in Baltimore will have a planting of trees on May 13th at 10:00 a.m. He welcomed any members of the Commission or Commission staff to attend.

Chairman North announced that Hugh Smith, the Commission Public Affairs

Officer, is now retained through the aid of Federal funds through the end of September. He also announced that Mrs. Toni Richards is on loan from the Tidewater Administration to help assess policies for approval by the Commission and to look at special issues.

Mr. Hugh Smith announced that the next Chesapeake Bay Critical Area Commission meeting will be held at St. Mary's City on June 5, 1991. The meeting will be held in the facilities of St. Mary's College with lunch to

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follow and a walk to historic St. Mary's City. He said that a symposium would be held to discuss land and resource management in the St. Mary's estuary -1607 - to the present and the future. Mr. Smith stated that Senator Fowler has agreed to moderate the panel.

There being no further business, the meeting was adjourned.

**SYNOPSIS OF THE PROPOSED IMPROVEMENTS
TO THE WASTEWATER TREATMENT FACILITIES
FOR THE POINT LOOKOUT STATE PARK WHICH IS
LOCATED WITHIN THE CRITICAL AREA IN
POINT LOOKOUT, ST. MARY'S COUNTY, MARYLAND**

BACKGROUND:

This project is necessary due to the poor condition of the existing wastewater treatment plant and the wastewater collection system serving the park.

This project is not intended to support new development, it is limited to upgrading of the existing wastewater treatment and collection facilities.

The entire project is located within the 1,000' critical area and a limited amount of the new construction will be in the 100 foot buffer zone. The portion of the existing facility in the 100 foot buffer zone, which is also a tidal wetland, will be decommissioned after new construction is complete. No part of the old or new treatment facility will be located in the buffer zone or a designated wetland area. The park has been classified by St. Mary's County as a Resource Conservation Area.

DESCRIPTION:

The project consists of the following elements:

- o Removal of both the existing metal wastewater treatment units, and replacement with a new

reinforced concrete treatment structure. The new facility will be constructed within the original 0.680 acre site. Approximately 7% of this site is in the 100 foot buffer zone. This area will not be used for the new plant. The existing impervious area within the site is 0.182 acres. After improvements are completed, the impervious area will be slightly smaller 0.156 acres.

- o Elimination of five (5) of the fourteen (14) pneumatically operated wastewater lift stations. Areas formerly served by these stations will now be served by new gravity sanitary sewers and one centralized pre-case concrete pumping station with electrically operated pumps. The area disturbed during decommissioning the stations should be limited to an area of ten feet around all sides of each unit.
- o Conversion of nine (9) of the fourteen (14) pneumatically operated lift stations to electrically operated pump stations. Construction activities will be confined within the existing lift stations.
- o Construction of two small buildings to house emergency generators - one of these will be adjacent to the existing marina, and within the 1000 foot

critical area.

- o It will be necessary to run new buried power cables to each of the pump stations.

- o Construction of approximately 2,000 linear feet of eight (8) inch diameter gravity sanitary sewer to replace an equal amount of abandoned force mains. The 8" sewers will be constructed along the right-of-way for the original force mains. These right-of-ways were cleared of trees during the original construction and are still remain clear. Therefore few, if any, trees will need to be removed during construction. Allowing for a 15 foot wide working area, the total area disturbed during installation of the sewer lines will be 0.964 acres.

- o The anticipated date of the start of construction is July 1991, with a completion date of July 1992.

- o For additional clarification, the following drawings are enclosed:
 1. Vicinity Map
 2. Site Plan - Wastewater Collection
 3. Site Plan - Wastewater Treatment Plant

VICINITY MAP

Maryland Environmental Service
 Point Lookout State Park
 Wastewater Treatment Plant
 Lake Conoy/Chesapeake Bay
 St. Mary's County, Maryland
 Sheet 1 of 3
 November 1990



LEGEND

- HIGHWAY CLASSIFICATION**
- Interstate System
 - Multilane Divided Highway Access Fully Controlled
 - State Primary System (or Travel Way)
 - Multilane Divided Highway Access Fully Controlled
 - Multilane Divided Highway
 - Undivided Highway
 - State Secondary System
 - Multilane Divided Highway Access Fully Controlled
 - Multilane Divided Highway
 - Undivided Highway
 - County Highway System
 - Multilane Divided Highway
 - Undivided Highway
 - Message Between Arrows

- HIGHWAY DESIGNATION**
- Interstate Highway
 - U.S. Highway
 - State Highway

- AREA DESIGNATION**
- Incorporated City
 - Forest Park Recreation Area
 - Reservation
 - State Capital
 - County Seat

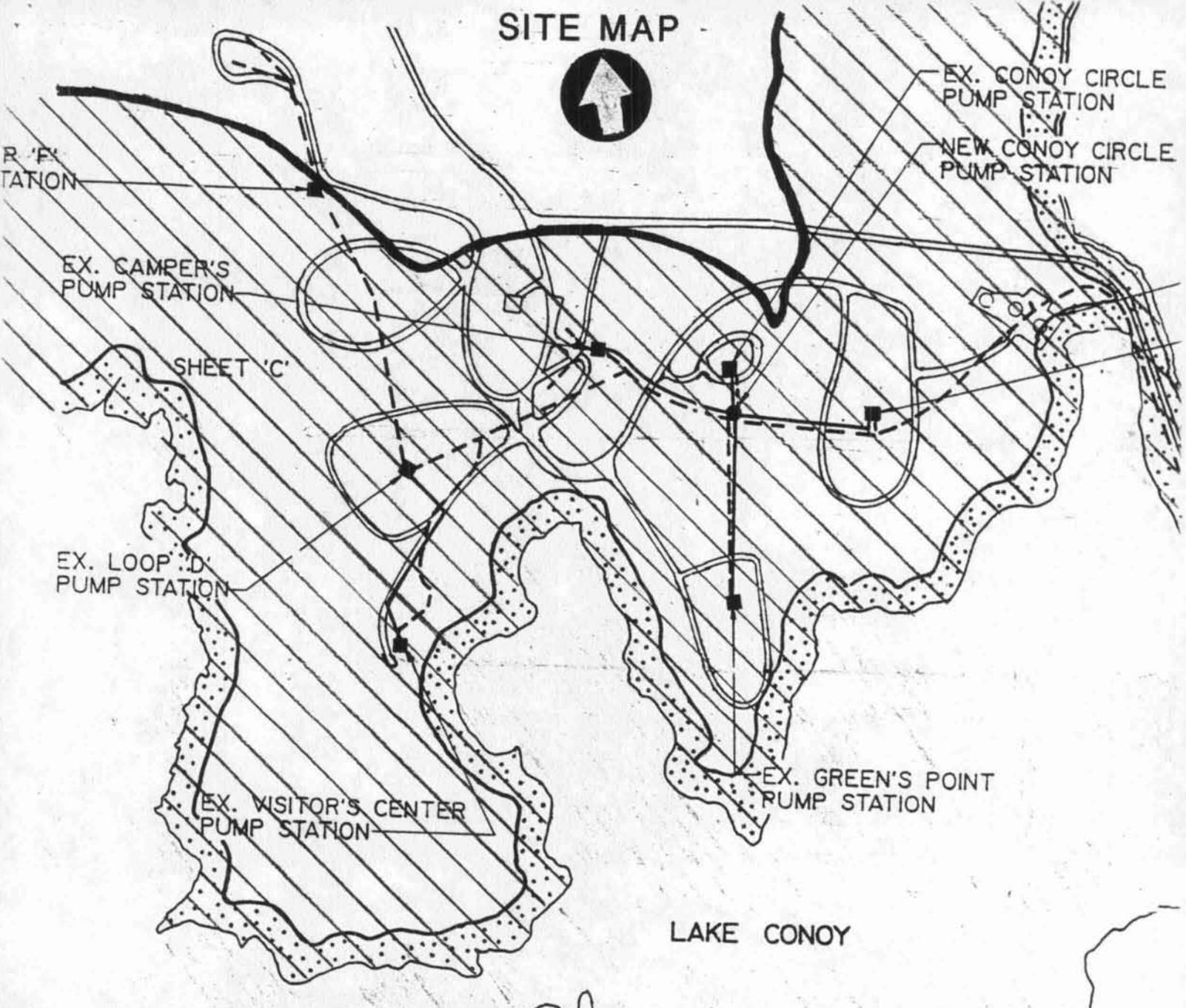
ROADSIDE CULTURE

- Airport
- Camping Site
- Cemetery
- Church, Religious Inst.
- City - Town Hall
- College
- County Police
- Courthouse
- Firehouse
- Hospital
- Library
- Picnic Site
- Post Office
- Rest Area with Restrooms
- Quarry
- School



PROJECT 578

SITE MAP



LEGEND



Limit of 100' Buffer Area



Limit of 1000' Critical Area

--- Ex. Sanitary Collection Sewer

— New Sanitary Collection Sewer

LAKE CONOY

EX. PUMP STATION NO. 5

Maryland Environmental Service

Point Lookout State Park

Wastewater Treatment Plant

Lake Conoy/Chesapeake Bay

St. Mary's County, Maryland

Sheet 2 of 3

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SITE MAP

EXISTING STRUCTURES

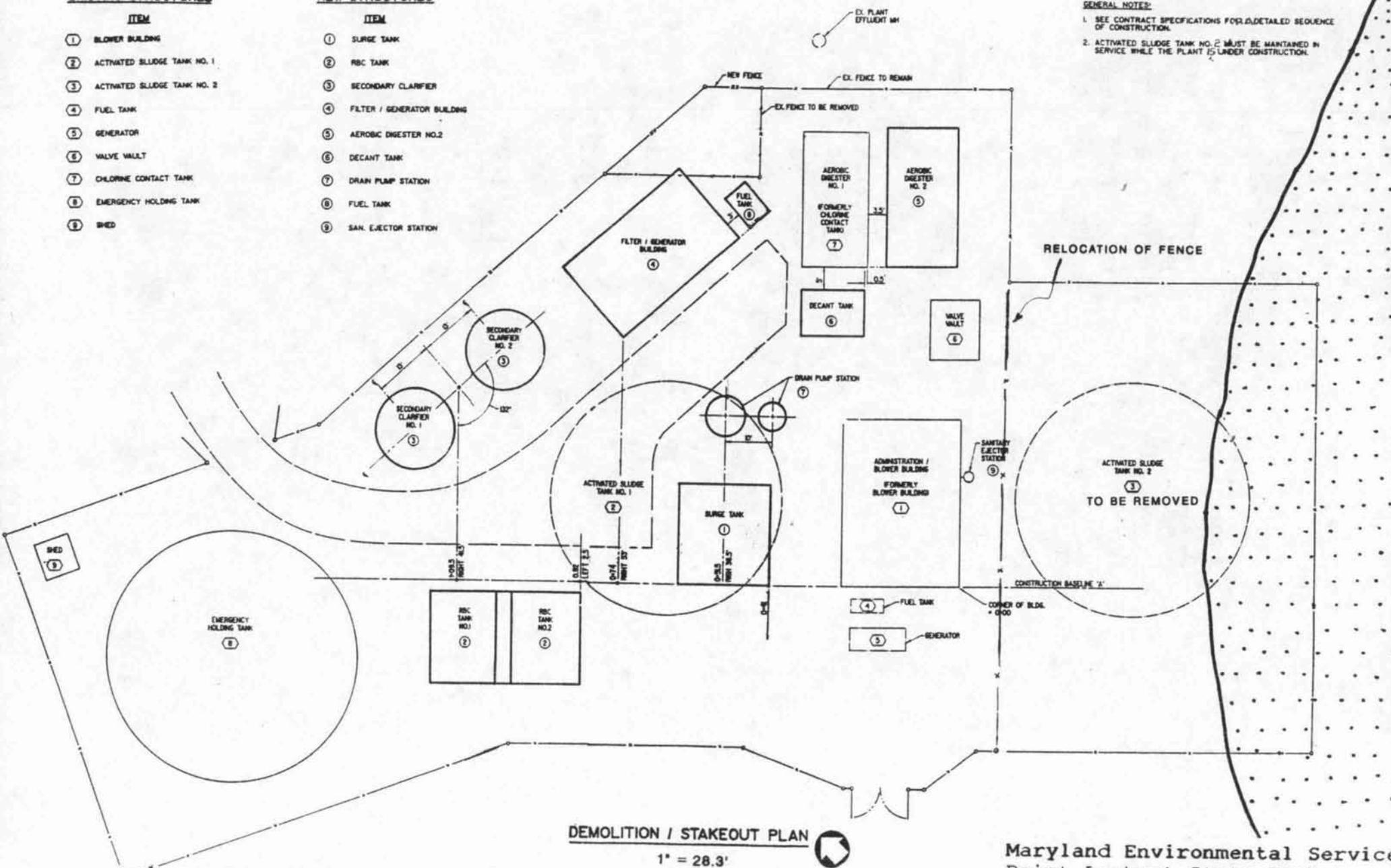
- | ITEM | DESCRIPTION |
|------|-----------------------------|
| 1 | BLOWER BUILDING |
| 2 | ACTIVATED SLUDGE TANK NO. 1 |
| 3 | ACTIVATED SLUDGE TANK NO. 2 |
| 4 | FUEL TANK |
| 5 | GENERATOR |
| 6 | VALVE VAULT |
| 7 | CHLORINE CONTACT TANK |
| 8 | EMERGENCY HOLDING TANK |
| 9 | SHED |

NEW STRUCTURES

- | ITEM | DESCRIPTION |
|------|-----------------------------|
| 1 | SURGE TANK |
| 2 | RBC TANK |
| 3 | SECONDARY CLARIFIER |
| 4 | FILTER / GENERATOR BUILDING |
| 5 | AEROBIC DIGESTER NO. 2 |
| 6 | DECANT TANK |
| 7 | DRAIN PUMP STATION |
| 8 | FUEL TANK |
| 9 | SAN. EJECTOR STATION |

GENERAL NOTES:

- SEE CONTRACT SPECIFICATIONS FOR DETAILED SEQUENCE OF CONSTRUCTION.
- ACTIVATED SLUDGE TANK NO. 2 MUST BE MAINTAINED IN SERVICE WHILE THE PLANT IS UNDER CONSTRUCTION.



DEMOLITION / STAKEOUT PLAN

1" = 28.3'



Maryland Environmental Service
 Point Lookout State Park
 Wastewater Treatment Plant
 Lake Conoy/Chesapeake Bay
 St. Mary's County, Maryland
 Sheet 3 of 3

AN ASSESSMENT OF THE CONSISTENCY OF THE
NORTH POINT STATE PARK DRAFT PLAN

WITH

THE CRITICAL AREA CRITERIA
DESCRIBED IN
REGULATIONS .14.19.05.01 -- .14.19.05.14

Submitted by
Greenways and Resources Planning

April, 1991

Background

The purpose of this assessment report is to examine the North Point State Park Draft Plan to determine its consistency with the Critical Area Regulations and to allow for the Commission's review. The following material refers to COMAR 14.19.05.01 through 14.19.05.14 contained in "Regulations For Development In The Critical Area Resulting From State and Local Agency Programs." This document identifies the Draft Plan's relationship to the general requirements of the Critical Area Law, and indicates the way in which proposals are consistent with specific Critical Areas' criteria. (Please note: This assessment is to be used in conjunction with the Draft Master Plan and the Plan map.)

.01 General Provisions

The draft plan for the North Point State Park/Black Marsh Wildlands is consistent with the Critical Areas Law and the criteria outlined in COMAR .14.19.05. The State considered the criteria during the process of developing the basic concepts represented in the draft plan. The criteria, in general, guided the preparation of the draft plan in several areas:

- A majority of the proposed improvements are to be clustered in an area previously occupied by Bay Shore Park;
- The erosive characteristics of the shoreline and suggested stabilization measures have been identified (preliminarily) by Shore Erosion Control;
- The existing forests and measures to protect and expand them have been identified;
- Measures for conducting agricultural operations to minimize adverse impacts have been described;
- Provisions for establishing a vegetated buffer area have been described;
- Non-tidal wetlands and habitats of threatened and endangered species and measures for their protection have been identified;
- The Department is not requesting natural park designation for the property. Six Hundred-sixty seven (667) acres have been designated a State Wildland by the General Assembly. The balance of the property will be used and managed under the draft plan in ways that uphold the integrity of the wildland, and assume the protection of other sensitive areas.

.02 Commission Review

In compliance with the requirements of this Section, the Department is submitting to the Commission a description of proposed uses for the property (Draft Master Plan and map), and the findings that this project is consistent with Regulations .14.19.05.03 - .14.19.05.14. This submission is seeking general approval from the Commission for a group of activities that are incorporated into a unified draft plan. Individual projects will be re-submitted to the Commission for review at the design and engineering stage before the commencement of construction, such submissions will include stormwater management and sediment control plans.

.03 Development

The following section presents a brief description of the proposed improvements followed by an assessment of consistency with the criteria identified in Regulation .03. This format should expedite the Commission's review.

Project Description

A. NORTH POINT STATE PARK NUCLEUS

The following improvements have been proposed for this area:

- a) A two-story all-purpose building to be utilized as a visitor/interpretive center, a park office/first aid station/comfort station and classroom/dormitory/ lab (4400 square feet of impervious surface added to existing impervious surface).
- b) Rehabilitation of the existing trolley station to be utilized as a food concession stand and patio area for park visitors, a food service area (same kitchen as for food concession) for overnight environmental education classes as well as an interpretive area. The patio totals 750 square feet of impervious surface. The patio will extend Bayward from the trolley station, lending a vista up Bay Shore Pier and beyond. The patio will stop short of intruding into the Bay Buffer.
- c) Rehabilitation of a central fountain for historic re-creation purposes and aesthetics (no net gain in impervious surface).
- d) A stage and 350 seats which would consist of seven (7) sets of concrete bleachers one foot in width and running a total of 525 feet (525 square feet).
- e) A 50-foot wooden boardwalk ten feet in width spanning a non-tidal wetland which will act as part of the main visitor entrance. The structure transects what was formally the site of Bay Shore Park's intricate dance pavilion that was dismantled following closure. A small non-tidal phragmites wetland (> 1/3 acre in size) has emerged in its place. It is proposed that the area be planted with native vegetation and visitors allowed to walk through for interpretive purposes. The boardwalk will ensure preservation of the site-line and layout of Bay Shore Park.

- f) A 150-car gravel parking lot (45,000 square feet) roughly superimposed on the old Bay Shore Park parking lot (48,000 square feet).
- g) A small sitting area (roughly 200 square feet) off the fountain to round out the layout's symmetry and form a staging area for bikers and hikers near the trailhead.
- i) A 4-acre family picnicking area, consisting of a landscaped area with 16 picnic tables (#4 per acre). The comfort station is available in the main building.

Existing sidewalks are adequate in width and length as well as alignment. The above improvements, excluding the parking lot, amount to a net gain of 5875 square feet of impervious surface from what was originally a vegetated surface. Two short one-lane gravel roads 10 feet in width, with a combined length of 300 feet, are necessary for servicing the two main structures.

B. MAINTENANCE COMPLEX

The existing residence/maintenance area will be rendered obsolete once a master plan for North Point State Park is adopted and implemented. Furthermore, the existing area is located 100 feet from mean high tide of the Chesapeake Bay in the area proposed for family picnicking. Therefore, the existing facility will be torn down, removed and the area revegetated and planted with shade trees. Whether the new maintenance area is considered redevelopment or new development may revolve around the fact that we intend to move the facility roughly 900 feet upland. The existing elements include a park office, maintenance shed, pole barn, ranger residence, parking lot and entrance road totaling 15,000 square feet of impervious surface. The following elements are proposed within the new maintenance area:

- a) Physical movement of an existing 1200 square foot ranger residence 750 feet from its existing location. An 800 square foot parking area with adequate area for 3 vehicles plus maneuvering is also proposed.
- b) Construction of a 4000 square foot maintenance shed with a complementary 8000 square foot gravel parking lot for maintenance vehicles.
- c) Short entrance drives to each facility, 10 feet in width, with a combined length of 600 feet.

The above improvements amount to a net gain of 5000 square feet of impervious surface over what was originally an old field. This figure includes gravel surfaces.

C. GROUP PICNICKING

The group picnicking area is located near Shallow Creek and consists of the following elements:

- a) One 1800 square foot picnic shelter;
- b) One 3000 square foot picnic shelter;
- c) One 600 square foot Clivus Multrim comfort station;
- d) Construction of a 60-car capacity gravel parking lot, 18,000 square feet in size.
- e) Gravel entrance road, 18 feet wide, 1200 feet in length.

Two gravel paths 6 feet in width, 400 feet in length will connect the picnic shelters to the comfort station.

These improvements, including gravel surfaces, total 47,400 square feet of paved surface over what was formally a cultivated surface.

D. CONTROL STATION

The control station and turn-around area as proposed will be located where the 50-car interim use parking lot is now located. The following elements are proposed:

- a) A control station with square footage not to exceed 200 square feet.
- b) A fifteen (15) car gravel parking lot roughly 4500 square feet in size.

The remaining acreage is slated for reforestation, including most of the existing 15,000 square foot parking lot. Thus, the effect of park development at this particular location with respect to stormwater runoff could be indiscernible.

E. SHAW AREA

The Shaw House area of North Point State Park is proposed to be the main interpretive area for the Battle of North Point. The site now contains old structures and mobile homes and is the current nucleus of an agricultural lease. Once the lease is terminated and the master plan implemented, most

impervious surfaces will be removed. The following elements are proposed:

- a) Restoration of the Shaw House atop its existing foundation.
- b) A fifteen (15) car gravel parking lot, roughly 4500 square feet.

The remaining area will be vegetated. The effect of park development at this particular location could be negligible in terms of stormwater runoff.

F. HIKER/BIKER PARKING AREA

A final area of park development is located on the corner of the park entrance road and Sparrows Point Road, where a 25-car gravel parking lot 7800 square feet in size is proposed to allow motorists to access the heart of the park by bicycle or on foot. The site is now occupied by a mobile home and parking lot leased to a community service organization. Once the lease is terminated and the draft plan implemented, the effect of a parking lot at this particular (satellite) location could be a net reduction in stormwater runoff.

G. CIRCULATION AND ACCESS

As noted in .03(2)d, the Department proposes that public access to the Critical Area and its associated natural resources be facilitated through the use of scenic drives, foot paths and hiker/biker trails.

PARK ENTRANCE ROAD

The main vehicular access road connects Route 151 with the heart of the park, terminating at the main parking lot (see master plan map). The road will be finished with asphalt and have a width of 22 feet and a length of 11,200 feet. Roughly two-thirds of the road, or 6500 feet, will be superimposed on an existing gravel road 40-feet in width, which was designed for heavy equipment and thus has a deep cross-section. The remaining length of road will be superimposed on an existing asphalt road. Reforestation and landscaping along the park access road, as well as controlled speed limits, will provide visitors with an attractive and safe scenic approach to the park.

HIKER/BIKER TRAILS

The hiker/biker trails are proposed to be finished with gravel, and have a width of eight (8) feet. The combined length of all hiker/biker trails is approximately 20,000 feet. Roughly 6500 linear feet of gravel trail actually exists as part of the existing 40-foot gravel road mentioned above.

Another 2500 feet of proposed trail will be superimposed on existing dirt roads.

.HIKING TRAILS

All proposed hiking (only) trails will be located along existing dirt roads, hunting roads, farm roads, or along mowed avenues through managed meadows. All hiking trails will have a maximum width of eight feet and will be surfaced with natural organic material.

.03 Development

Criteria

The "Areas of Intense Development" have been described in the above project description and their locations depicted on the map included in this package. This section of the assessment describes the manner in which this "recreational development" is consistent with Regulation .03.

In accordance with .03(B)(1), the proposed development is directed, as much as possible, towards existing Areas of Intense Development. All proposals have been superimposed, to the extent possible, over the remains of Bay Shore Park.

Although proposed development at North Point State Park may be considered limited redevelopment, the Department expects to adhere to the standards and regulations required for intensive development. As per 03B.(2)(b), the Department will utilize technologies to mitigate adverse impacts on water quality from any augmented stormwater runoff directly associated with all proposed development. Given the flat nature of local topography as well as the strategic location of non-tidal wetlands downstream, extraneous runoff can be slowed and retained with only minor additional controlling devices. Nonetheless, if these technologies do not reduce pollutant loadings by at least 10 percent below the level of pollution on the site before redevelopment, offsets will be provided, probably on-site, as per .03(2)(b)(iv).

As noted in .03(2)(d), the Department proposes that public access to the Critical Area and its associated natural resources be facilitated through the use of scenic drives, foot paths and hiker/biker trails.

To meet the requirements of .03(2)(f), recreational uses have been clustered to reduce impervious areas and to maximize areas of natural vegetation. A major portion of the recreational use is clustered in the park nucleus which is less than 2% of the entire 1,310 acres.

To meet the requirements of .03(2)(g), no more than seven (7) acres of young second growth woods is proposed for removal. Approximately 120 acres of fields are proposed for reforestation for the purpose of extending the wooded buffer around Black Marsh and providing much needed habitat for forest interior dwelling birds. Reforestation will be implemented in the form of planting as well as natural succession (within wildland boundaries).

To adhere to the criteria of .03(3)(a), the draft plan proposes the use of existing roads as much as possible. In addition, utility lines will be laid beneath the existing entrance road, where appropriate, in order to concentrate infrastructure corridors and avoid undue forest fragmentation, and to maintain the scenic qualities of the property.

As stated earlier, no more than seven (7) acres of young second growth woods is proposed for removal. Forest cover will be replaced, but on a more favorable scale than outlined in the regulations, .03(3)(b), (c), (d), (e), (f) and (g). Trees will be replaced on the magnitude of at least 10-to-1, and concentrated along fields contiguous to higher quality forest on the property within the same watershed, as well as along marsh/field borders (see master plan map). Reforestation will be in the form of planting as well as natural succession (within wildland boundaries). Roughly 120 acres are proposed for reforestation. As required, permits will be obtained by the Department before any clearing commences.

If gravel surfaces are included as identified in the project description, adding the proposed new development to the existing development would total 11.29 acres of impervious surface, or less than 1% of the entire 1,310 acres. All proposed new development (including gravel roads) would total only 4.4 acres of impervious surface, or .34 percent of the site. These figures are well below the 15 percent allowable within the Critical Area as stated in .03(3)(h).

In accordance with .03(3)(i), road standards will be modified to reduce potential impacts to the site as well as Critical Area resources. Rather than having wide asphalt shoulders, the entrance road will have grassy shoulders, thus reducing significantly the potential impact of stormwater runoff.

In accordance with .03(3)(j) the concept of cluster development as a method of limiting impervious surfaces has been closely followed. The park nucleus has been sited on footprint of the former Bay Shore Park. The park nucleus calls for only a minimal amount of additional impervious surface relative to what is existing. The concrete base of the trolley station as well as much of the roof, hundreds of linear feet of concrete sidewalk, a foundation, 48,000 square feet of gravel parking, and finally, a central fountain are existing impervious features. For these reasons the park nucleus proposal may be considered 'redevelopment'

as per the critical area regulations. Furthermore, the nucleus is

900 feet from the nearest habitat protection area boundary; and all development, except public access to the shoreline and water dependent facilities has been sited outside the 100' Bay Buffer.

A soil erosion and sedimentation control plan will be developed and submitted along with engineering drawings once these have been compiled, as per .03(4)(a) and (b). Once again, the Department does not anticipate any appreciable increase in soil erosion and sedimentation due to the limited development and flat topography.

.04 WATER DEPENDANT FACILITIES

A. BOAT DOCKING FACILITY:

Project Description

The boating facility will be located along the northeastern side of the existing 1000-foot Bay Shore Pier. The facility will accommodate no more than fifty (50) shallow draft boats of lengths not exceeding 20 feet, and a single tie-up will be provided for educational vessels such as those used by the Chesapeake Bay Foundation. The facility will not provide gasoline, pump-out or any services other than docking for boaters wishing to visit the park during the day.

Criteria

The criteria for water dependency is met: the boat tie-ups are water-dependent by their intrinsic nature and must penetrate the Buffer area. Adverse effects on water quality and biota are minimized by the fact that the area of disturbance will be the minimum required for docking boats only. The facility will not include a harbor of refuge.

Preliminary dredging estimates will be developed by the Boating Administration as part of the park planning review process. Such estimates will be forwarded to the Critical Areas Commission when available.

In accordance with .04B. (2) (a)-(e), the selected site for docking will be located in an area that has been utilized in the past for intensive recreation, with acceptable flushing characteristics, located away from tidal and non-tidal wetlands as well as submerged aquatic plant beds. Boating tie-ups will be attached to an existing pier (Bay Shore Pier) where existing water circulation patterns and littoral drift will not be significantly affected. Small trees are proposed to line either side of the existing earthen pier.

In accordance with .04B.(2) (f) and (g), dredging will be handled in an environmentally sound fashion, either placing spoils within a spoils disposal area beyond the buffer, or, using it to backfill and establish wetlands as part of a shore stabilization project.

In accordance with .04(6)(a), (b), (c), the boating facility will be publicly-owned. No related services are contemplated in the buffer.

B. FISHING PIER

Project Description

The fishing pier will extend 30-feet outward from the terminus of the earthern Bay Shore Pier. The pier will be constructed of treated wood including wooden pilings and will be handicap accessible. The pier will have a total rail length of 100 feet.

Criteria

The pier is water dependant by its intrinsic nature and must penetrate the Buffer. Due to the pier's small size and its relation to an existing pier, adverse impacts have been evaluated and are considered minimal.

In accordance with .04B(6), and as stated above in BOAT DOCKING FACILITY, no related services are contemplated in the buffer.

C. WADING BEACH

Project Description

A stretch of sand for purposes of informal sunbathing and wading is proposed to extend from the northern base of Bay Shore Pier and run five hundred (500) feet northwest, with a width not to exceed one hundred (100) feet at mean high tide. The site was proposed for this particular location due to its historic use as a beach, the remaining vestiges of beach, and its close proximity to the North Point State Park nucleus (see map).

Criteria

The beach is water dependent by its intrinsic nature and must penetrate the Buffer. In accordance with .04B(2) (a)-(e), the beach has been sited away from tidal and non-tidal wetlands, shellfish beds, and submerged aquatic plant beds. The existing open shoreline is dominated by sand, gravel and slag intended originally for shoreline stabilization. What scant vegetation exists include exotic species dominated by

the Cericea lezpedizea. The existing shoreline is considered 'stable'. (see Assessment of Shore Erosion Control Requirements..., Shore Erosion Control, 1990, pg. 1).

As the buffer along this reach is open in nature, the area upland from the proposed beach will be afforested with canopy, understory, shrub as well as herbaceous vegetation, to a width of fifty (50) feet.

In accordance with .04B(6), and as stated above in BOAT DOCKING FACILITY, no related facilities are contemplated in the buffer.

.05 SHORE EROSION PROTECTION WORKS

SHORE EROSION PROTECTION

Shore Erosion Control has recommended stabilization for much of the shoreline along the Chesapeake Bay and Back River. (Their preliminary analysis is included for the Commission's Review). While many of these proposals are not priorities of the Department at the moment, and will require further study (particularly in the wildlands), the stabilization of Bay Shore Pier itself is urgently needed.

The earthen pier extends 1000 feet into the Bay, where an 8-mile fetch precludes non-structural protection as an effective means of stabilization. Shore Erosion Control has proposed it be treated with 2200 feet of timber bulkhead. In accordance with .05B (2) (b), the erosion control structure is sited away from areas with submerged aquatic vegetation as well as away from habitat where concentrations of fish congregate. Bay Shore Pier is integral to the waterfront park concept proposed in the draft plan, and its stabilization will assure the provision of limited public access to the Bay.

.06 FOREST AND WOODLAND PROTECTION

The above section addresses forests to be managed for timber production and is not applicable to this project.

.07 AGRICULTURE

The existing (leased) farms are currently operating using Best Management Practices as specified in Soil Conservation and Water Quality Plans approved by the local Soil Conservation District, as per .07B. (5)(6) and (7). No clearing for additional farm land is proposed. For additional information, see section .09 BUFFER.

.08 SURFACE MINING

No surface mining is proposed for this project.

.09 BUFFER

As per .09B.(1), a minimum 100 foot buffer will be established along the tidal edge of all use areas as well as non-use areas.

As per .09B.(2), no improvements other than those necessary for water-dependant facilities will penetrate the Buffer.

As per .09B.(3), the Buffer will be established using planted vegetation where natural vegetation does not already exist. Special plantings will be considered in the buffer that is part of the waterfront park.

As per .09B.(4) a minimum 25-foot vegetated filter strip will be employed on the landward side of mean high tide where agricultural activities occur. For additional information on agricultural matters and the Critical Area, see the Soil Conservation and Water Quality Plans prepared by the Soil Conservation Service in concert with the Park Service and the local farmer.

As per .09B.(5), cutting within the Buffer is prohibited.

As per .09B.(5)(c), where necessary, such as to gain access to Bay Shore Pier or to construct shore erosion devices, removal of natural vegetation will be followed by replanting of multi-strata vegetation.

As per .09B.(6), buffers will be established when areas formerly used for agricultural purposes will be used for other purposes.

As per .09B.(7),

buffers are recommended, and in many cases already exist, beyond 100 feet where contiguous to sensitive areas (Shallow Creek, Black Marsh, etc.).

.10 NON-TIDAL WETLANDS

As per .10B.(1),

the Department has identified all non-tidal wetlands mapped by the National Wetlands Inventory. Before design and engineering plans are prepared, the Department will conduct site surveys to determine if any additional non-tidal wetlands exist.

As per .10B.(2),

the Department will develop protection measures for the non-tidal wetlands identified, including employment of 25-foot buffer strips around wetlands adjacent to proposed areas of development. Furthermore, proposed development activities will minimize alterations to the surface or subsurface flow of water into or from the wetland and not cause impairment of water quality or biotic habitat value.

As per .10B.(2)(c),

a mitigation plan will be prepared for activities which cause unavoidable and necessary impacts to the wetlands. These will include on-site mitigation measures that will provide water quality benefits and plant and wildlife habitat equivalent to the wetland altered. These plans will be submitted to the Commission for review before being implemented.

As per .10B.(2)(e),

see Soil Conservation and Water Quality Control Plans for the leased agricultural areas. No clearing or draining for agricultural purposes is proposed for this project.

.11 THREATENED AND ENDANGERED SPECIES...

As per .11B.(1),

the Department has identified habitats of listed species.

As per .11B.(2),

the Department will develop programs for the protection of the habitats of listed species with assistance from the Natural Heritage Program.

As per .11B.(3),

this proposal provides for a protection area, specifically a 667-acre state-designated wildlands superimposed on a 550-acre natural heritage area. A management program for listed species will be developed by the Natural Heritage Program, and will be submitted to the Commission for review.

.12 PLANT AND WILDLIFE HABITAT

As per .12B.(1),

the Department has identified the plant and wildlife habitats that may be affected by the proposed development, including colonial water bird nesting sites, historic waterfowl concentration areas, existing riparian forests, forested areas utilized by forest interior dwelling birds, as well as, of course, the Black Marsh Natural Heritage Area and Wildland, which includes most of these areas. Shallow Creek is also recognized as a significant habitat area.

As per .12B.(2),

the Department will develop protection measures for plant and wildlife habitats by establishing buffer areas and programs for plant and wildlife habitat sites as well as for off-site colonial water bird nesting areas, where necessary, as determined by the Non-Game Wildlife Agency and the Natural Heritage Program. Proposed water-dependent facilities and the park nucleus are so located as to prevent disturbance to sites of significance to wildlife.

As per .12B.(2)(d),

forested areas will be protected and supplemented with adjacent reforestation for the purpose of conserving and enhancing riparian habitat, and forest interior wildlife habitat. Conservation is assisted by employing cluster development as the basic site design criteria.

As per .12B.(2)(e),

corridors of existing forest vegetation will be maintained to provide effective connections between wildlife habitat areas.

As per .12B.(2)(f),

the Black Marsh Natural Heritage Area and the larger wildland are sufficiently buffered from proposed development to insure that the structure and species composition of the Area is maintained.

.13 ANADROMOUS FISH

As per .13B.(1),

the Department will determine whether proposed development occurs within watersheds of anadromous fish spawning streams, and if so, practices will be followed to avoid damage to fish populations.

As per .13B.(2),

the Department proposes that no artificial surfaces be constructed along the bottoms of natural streams nor does it propose channelization of natural streams.

As per .13B.(2)(c),

the Department will develop measures for avoiding adverse impacts to anadromous fish spawning streams by minimizing development activities, maintaining/improving water quality, minimizing sediment discharge, and increasing the natural vegetation of the watershed.

As per .13B.(3),

no new structures are proposed that will interfere with the movement of anadromous fish. Furthermore, the

Department will insure that all construction, repair or maintenance of stream crossing structures be prohibited between March 1 and May 15.

.14 NATURAL PARKS

As per .14C.(2),

the Department is not requesting Natural Park designation for North Point State Park. Six Hundred sixty-seven (667) acres of the property have been designated a state wildland by the General Assembly. The balance of the property will be used and managed under the provisions of a final master plan in ways that uphold the integrity of the wildland, and assure the protection of other sensitive areas. Under management of the Department's Park Service, visitation to North Point State Park will be carefully monitored and regulated in keeping with the capacity of the various resource and use areas to tolerate human impact.

NORTH POINT STATE PARK/BLACK MARSH WILDLAND
DRAFT PLAN
(January 1991)

DESCRIPTION OF BLACK MARSH

Black Marsh is a remarkable 1,310 acre waterfront property recently acquired by the Department of Natural Resources in southeastern Baltimore County near the community of Edgemere. The tract is irregularly shaped and includes more than six miles of shoreline along Chesapeake Bay, Back River and Shallow Creek. Several wetland areas are located on the tract, including a large bayside marsh, Black Marsh, which serves as the namesake for the entire property. The bayside marsh is considered to be one of the finest examples of a tidal marsh on the upper Chesapeake; and together with the other marsh areas and surrounding woodlands found on the larger tract, there is a rich biological diversity unmatched in a setting so close to a metropolitan area.

The majority of the Black Marsh tract is covered by woods, active agricultural areas and unmanaged fields. For almost 350 years the area has been continuously farmed, and evidence of human occupation and use of the land dates back 9,000 years. During the War of 1812 the Black Marsh area was the site of skirmishes between local colonialists and British troops invading Baltimore from the southeastern flank. The route to Baltimore (and back during retreat) passed through the Black Marsh tract and is known today as the "Defenders Trail".

During the first half of this century, a small part of the Black Marsh tract (perhaps 50-60 acres) was the site of an impressive amusement park. Bay Shore park in its heyday was a bustling and attractive park; offering recreation and relaxation on Chesapeake Bay in a setting of gardens, pathways and Edwardian architecture. The park was accessible by trolley from Baltimore, and was probably the premiere facility of this kind ever located on the Bay.

The Black Marsh property is a diverse and unique natural area, especially considering its location so near to Baltimore City. Its wetlands and vegetative cover are of enormous benefit to the Bay in terms of maintaining water quality, and supporting the living resources that thrive in the estuary and on its adjoining lands. Black Marsh is a property of significant archeological and cultural value, and at one time for more than 50 years it provided the citizens of Maryland with a variety of waterfront recreational opportunities that were not readily available to the general public anywhere else. The draft master plan for Black Marsh reflects the many roles played by the property in the past, and takes great care to protect sensitive environmental areas while recommending limited people serving activities where they can be accommodated and appreciated.

A primary philosophy of Black Marsh (North Point State Park) is to offer educational programs and activities with an emphasis on programs that involve children and young adults. Programs and activities provide opportunities for people to learn about the environment and history of the area. A major goal is to instill in others a sense of commitment to stewardship within the context of the broader community. Park activities will be designed to promote an appreciation of the environment, to create an awareness of the local history, and to instill a desire to become involved in life-long efforts to protect natural resources. The park will emphasize learning programs for children and young adults so that they can become future leaders and protectors of the environment.

ACQUISITION AND SITE EVALUATION

The Black Marsh property was acquired by the Department of Natural Resources late in 1987 with the assistance of The Nature Conservancy and Baltimore County. It had been owned by Bethlehem Steel for many years and was considered surplus to their needs. Months before acquisition the Department promulgated regulations officially designating 550 acres (of the total 1,310 acre tract) as a Natural Heritage Area (NHA).

The NHA designation applies to the large bayside marsh (Black Marsh) and surrounding woodlands. The designation also includes small marshes and extensive woodlands along Back River, and a small marsh-woodland complex on the Bay, separated from the larger marsh. The NHA is a mapped area which is considered to be the essential habitat for a number of rare and threatened plant and animal species. Designated Natural Heritage Areas are prevented from being used in ways that might alter the habitat to the detriment of the species identified for protection. During acquisition of the Black Marsh property, The Nature Conservancy requested additional protection for a core area within the designated NHA; and this was done by including appropriate language in the deed of conveyance.

Acquisition of the Black Marsh tract, which lies predominately in the regulated Chesapeake Bay Critical Area, and the placement of significant additional environmental constraints on the most sensitive parts of the property, assure the long term protection and public enjoyment of this outstanding natural resource.

Once acquired, aerial photographs were taken of the property and accurate topographic base maps were made for site evaluation purposes. Soil types, vegetative features, slope ranges, and water features were among the site attributes mapped and evaluated in the development of alternative land use concepts. Also, experts in a variety of natural resource fields and other professions were consulted, and asked to speak frequently at meetings before the Black Marsh Citizens Advisory Committee. A comprehensive archeological and cultural inventory prepared early in the planning process was most useful in revealing the long term influences man has had on the Black Marsh property

REVIEWING THE PLAN

The draft master plan for North Point State Park is the product of more than a year of collaboration between the Department of Natural Resources and a 15 member Citizens Advisory Committee (CAC). Information and proposals were collected and reviewed at numerous public meetings held by the CAC, and several hundred letters expressing opinions about the future of the property were sent to the Department.

Extraordinary public review and comment were provided by a substantial coalition of environmental organizations and individuals. Coalition members attended and participated in public meetings held by the CAC, held informational meetings of their own, appeared before other organizations, and circulated a petition; and the leadership of the Coalition met on a number of occasions with representatives from the Governor's Office, and with the Secretary and other officials of the Department.

Background information and plan concepts were also presented by the Department and the CAC to several interested community organizations in the area, and most recently six of the organizations adopted formal positions in support of the draft plan.

Five general steps remain to be taken in the process of advancing the draft master plan to the stage of a final plan ready for the Secretary's signature. The process is expected to be completed by mid-summer, barring unanticipated events.

1. Review summary draft plan/site layout with the Citizens Advisory Committee at public meeting, change if necessary, and request endorsement.
2. (a) Submit summary draft plan/site layout to the Critical areas Commission for review and approval.
(b) Submit summary draft plan/site layout to other DNR units for environmental review.
 - Natural Heritage Program
 - Forests, Parks and Wildlife
 - Tidewater Administration
 - Water Resources Administration
 - Maryland Historical Trust (DHCD)
 - etc.

3. Re-evaluate and revise draft plan/layout plan as necessary; and add full text, maps, charts, appendices, etc.
4. Review revised draft plan document with the Citizens Advisory Committee at public meeting, change if necessary, and request endorsement.
5. Hold one or more public informational meetings to present revised draft plan and receive questions/comment.

SUMMARY OF DRAFT PLAN

This draft plan summary for Black Marsh supplements the 11 X 17 inch draft site layout (map) distributed to the Citizens Advisory Committee and the public in November 1990. The two fundamental goals of the draft plan are to:

- I. Protect, enhance and interpret the natural, archeological and historical resources of the property.
- II. Establish a small park on the waterfront which offers public access, and recreational and educational opportunities on Chesapeake Bay.

General guidelines: The following guidelines provide criteria which help steer the planning process in a direction that serves to carry out the goals of the plan:

1. Assure the protection of Black Marsh and other sensitive areas on the property, and the living resources that inhabit or depend on these areas.
2. Emphasize environmental education, interpretation and research as the primary elements of the park program.
3. Emphasize regional and local historical education and interpretation.
4. Coordinate uses in ways that are compatible with uses at other public lands within the area and along the Bay.
5. Retain a level of agriculture that will permit the exhibition of a modern, working farm using best management practices, as well as a colonial farm using historic practices.

6. Identify and set aside selected areas for reforestation.
7. Limit the focus of recreational facilities and leisure activities to an area of 10-20 acre on and adjacent to old Bay Shore Park. Re-create the architecture and atmosphere reminiscent of the early 20th century.
8. Provide access to the park nucleus via land and water.
9. Utilize the 'haul road' as means of primary visitor access to and from the park.
10. Allow for a small network of trails serving to accommodate hikers and bikers in some instances, and exclusively hikers in other instances.
11. Delineate and set aside two land parcels for use as small neighborhood parks for the communities of Miller Island and Fort Howard.
12. Locate, survey and protect all archeological and historic features within the property. Interpret these features where practical.
13. Use soil, vegetation and slope studies, as well as other relevant information, to locate sites for various park elements away from sensitive areas and to non-sensitive areas. Give preference to development on open land, where possible; and minimize disturbances to forested areas.
14. Re-evaluate and amend the draft plan as necessary after review by the Critical Areas Commission, and departmental environmental review.

Proposed Site features:

(Natural Heritage Area) --- The 550-acre designated Natural Heritage Area will remain in its present natural condition. No improvements are proposed in the area other than a small observation deck at the terminus of an existing trail. Furthermore, the NHA will be buffered by reforested fields along its edges.

(Park Drive) --- The entrance road will follow the alignment of the haul road and connect with Bay Shore Road (the existing entrance road). The combined road, known as Park Drive, will run 11,200 linear feet from Route 151 to the main parking lot located in the park nucleus. The road will have a width of 22 feet and have a hard surface.

Grass shoulders on either side of the road will vary from a width of 2 feet to 8 feet depending on space requirements for the road and the adjacent hiker/biker trail, as well as space availability. A colonnade of shade trees 20 feet on center will line the grass strip between Park Drive and Defender's Trail.

Two-way stop signs will be posted where Park Drive crosses each of the five local intersections. Speed bumps will be placed at appropriate intervals to promote safety.

The old train bridge abutments will be removed.

(Defender's Trail) --- The Defender's Trail will run 14,800 feet from the general location of Sparrows Point Road and Park Drive, and follow the alignment of Park Drive before running along Old North Point Road. The trail will have a width of 10 feet and be finished with crushed limestone. It will be necessary to cross Old North Point Road in two places along its stretch. The trail will run along the south side of the haul road, not the north side as shown on the draft site layout map.

A 25-car gravel parking lot will be located off Park Drive near Sparrows Point Road for motorists wishing to use the trail. Access to the parking lot will be cut off from Sparrows Point Road and provided solely by Park Drive.

(Bay Shore Trail) --- The Bay Shore Trail is a 10-foot wide hiker/biker trail beginning close to the circuit trailhead and running 5,200 feet through open field and field-woodland edge to the park nucleus. The Bay Shore Trail, like the Defender's Trail, will be finished with crushed limestone, similar to the North Central Trail. Visitors who park at the Defender's Trail parking lot will be able to use the Bay Trail to get to the center of the park.

(Shaw House Historical Site) --- The Shaw House Historical Site is a small self-guided interpretive facility. Visitors can walk or park at the 5-car gravel parking lot located just off Park Drive. The main portion of the Shaw House where the foundation remains will be rebuilt according to general specifications provided by the Maryland Historical Trust. An attractive interpretive sign will front the structure. At some point in the future, when and if the Shaw House is furnished with antiques appropriate to late 18th and early 19th centuries, guided tours, and perhaps self-guided tours within the structure will be considered.

(Wildlife Enhancement Areas) --- The purpose of these areas is to provide cover and forage for edge-loving wildlife species. The following elements are typically used to improve habitat:

1. managed meadows: fields of grass and wildflowers mowed no more than two times annually for the purpose of providing cover;
2. hedgerows: linear bands of woody vegetation composed of species chosen for their ability to provide cover and winter forage, such as red cedar, dogwood and winterberry. Other elements for cover include brush piles and snags.
3. food plots: small cultivated fields of grain, typically millet, planted to provide forage.
4. fruit trees: any species of trees yielding pomes or berries capable of providing food for wildlife.

Detailed wildlife enhancement plans will be prepared by the Department's Wildlife Administration, consistent with the other uses anticipated for Black Marsh.

(Reforestation) --- Approximately 120 acres of fields are proposed for reforestation for the purpose of extending wooded buffer around Black Marsh and providing much needed habitat for forest interior dwelling birds. Accordingly, reforestation will be concentrated along fields within reasonable proximity to the Marsh. It is proposed that the 35-acre field adjacent to the old trolley bed be considered for active tree-planting, while the balance be allowed to undergo mostly natural reforestation.

(Circuit Trail and Trailhead Parking) --- A 15-car gravel parking lot located approximately where the existing interim parking area is situated will provide a rendezvous spot for field trips to the Marsh and guided tours through the agriculture lands. Two spaces for buses will also be provided. Located adjacent to the lot is a trailhead for a Marsh circuit hiking trail, which will have a width of no more than 8 feet with a natural surface. A 1,100-foot hiking trail spur leading from the main path will take visitors to a Black Marsh overlook. The overlook, or small observation deck, will be located on fastland adjacent to the wetlands. The deck will rise ten feet from grade in order to provide a vista. The existing boardwalk leading out into the marsh will be dismantled and removed.

A 1000-foot segment of the Bay Shore Trail will be used to complete the circuit (see map).

(Commercial Agricultural Preservation) --- Approximately two hundred acres of agricultural land will remain in commercial agriculture, and will feature Bay-oriented best management practices that may be interpreted for local school children and other groups. Crop selection, management practices and an interpretive program will be developed by the Department in cooperation with the Soil Conservation Service.

(Ridgely Todd House Curatorship) --- Restoration of the Ridgely Todd House will be undertaken in accordance with agreements specified in contract form between the curator and the Department of Natural Resources. Included in the curatorship will be one acre of grounds.

(Todd Tenant House Curatorship) --- Restoration of the Todd Tenant House will be undertaken in accordance with agreements specified in contract form between the curator and the Department of Natural Resources. The curator, in addition, has proposed to establish a colonial farm around his 10 acres of grounds in order to offer an element of living history within the park program. It should not be difficult to integrate a colonial farm experience into a meaningful interpretive program for school children and other groups.

(Fort Howard Neighborhood Park) --- A 10-15 acre parcel of land located near the old elementary school on Rt.20 will be considered for a neighborhood park. Once local interest has been established, planning and development of the facility will be considered by Baltimore County Parks and Recreation.

(Miller Island Neighborhood Park) --- A 3-acre tract of land located on Baylight Road has been reserved for a neighborhood park. The County is already working with citizens in the community to plan and develop the facility.

(Group Picnicking Area) --- A group picnicking area will be located off the extreme northeastern cusp of land adjacent to Shallow Creek. An 800-foot gravel road will connect the area to Park Drive. The facility will be composed of the following

elements: 1). One 120-person capacity picnic shelter; 2). One 60-person capacity picnic shelter; 3). One Clivus Multrum comfort station complete with sinks and toilets; 4). A 60-car gravel parking lot; 5). A 2-acre mowed open play area; and, 6). A managed meadow along the periphery of the open play area.

Picnic shelters are typically composed of round steel posts providing support for an asphalt-shingled roof over a concrete pad. Tin roofs are an option, as are 8x8 wooden posts. A hearth is typically located at one end of the structure; and the Department generally provides a short 10-foot wide gravel trail connecting the parking lot to the shelter, so that picnic supplies can be carried by vehicle rather than on foot. Such a road should not be necessary for both shelters.

Note on the draft site layout map the 20-foot pier with observation deck. This structure is proposed to be omitted from the plan and replaced by a landside observation platform in the Plantation Historical Area.

(Plantation Historical Area) --- The land area located immediately west and northwest of the park nucleus will be the archeological focal point of the park. The reasons are two-fold. First, the location is convenient to visitors who park at the main parking lot; and second, the archeological sites here are interesting but not extremely sensitive. This provides an appropriate setting conducive to interpretation.

Twelve foot mowed avenues through managed meadows provide access from the park nucleus and through archeological sites spanning from the Archaic Period to the 20th Century. These include the foundations of a farm house and well, a tenant house, and a site where indians apparently gathered. As recommended in the Cultural Resources Survey of the Black Marsh Area, one or two small archeological excavations could be open for public view.

The Department will work closely with the Maryland Historical Trust in order to insure careful stewardship of the resources and to develop a coherent interpretive program.

An observation platform will be constructed along Shallow Creek in the Plantation Historical Area to draw attention to the wildlife and natural features in this part of the park.

(Ranger Residence) --- The ranger's residence has been located between the park nucleus and the maintenance complex, in order that both areas can be most effectively managed. A 200-foot gravel drive, 20-feet in width, will provide access to the residence from Park Drive.

The facade of the structure as planned should harmonize with the architecture at the park nucleus. If this is not practical, then the residence will be effectively screened from the main parking lot with an evergreen screen.

(Maintenance Complex) --- The maintenance area is located far enough away from the park nucleus in order that it not become too obtrusive, and close enough to the ranger residence so that it can be effectively monitored. The complex will include a parking lot, a shop building and a storage barn for maintenance equipment. The size of the barn and parking lot will be determined in the near future with assistance from the Park manager. The size of the area should not be more than 2 acres including parking and fencing.

No less than eight (8) rows of evergreen trees, spaced six (6) feet on center, are necessary to effectively screen the complex from Park Drive. The remainder of the field not utilized for the maintenance facility will be reforested.

(Park Nucleus) --- The center of park activity will occur on the site of old Bay Shore Park, where the following elements will be located (see map):

1. Multi-Purpose Building/Stage and Seating
2. Restored Trolley Barn Pavilion
3. Restored Fountain
4. Boat Tie-Ups
5. Fishing Pier
6. Lighthouse Re-Creation
7. Central Parking
8. Pier Promenade
9. Informal Picnic Area
10. Informal Bathing Beach

The atmosphere intended to be conveyed at the park nucleus will be turn-of-the-century --- re-created by following some of the design features and architecture used at old Bay Shore Park.

- Multi-Purpose Building/Stage and Seating -

The multi-purpose building will accommodate most of the park's indoor programs, including a nature and cultural interpretive center, an environmental research center with classrooms and dormitory, park offices, a first aid station, as well as Clivus Multrum comfort facilities. A one-way gravel service road for pick-up and delivery will run directly to the building from Park Drive.

The stage and seating will provide an inspiring setting for outdoor interpretive programs as well as local gatherings. The stage will abut the northwest side of the multi-purpose building. Fanning out from the stage will be approximately seven (7) bands of ground level concrete-capped bleachers forming a lawn-type setting. Sufficient linear seating for 350 persons will be provided. Beyond the bleachers will be adequate open lawn area for an additional 350 people. This improvement will be carefully designed and constructed to settle into the landscape, and appropriate vegetation will be planted to quickly establish a park setting and atmosphere matching the rest of the park nucleus.

- Trolley Station Pavilion -

An enclosure within the pavilion will house a food service facility for students and park visitors, as well perhaps as a restored trolley car. A veranda/open cafe area will be located outside of the pavilion on the Bay side. This will provide an attractive setting with a view of the Bay for visitors who make use of the food service facility.

It is possible that the 'trolley barn' in its present state is beyond restoration and will require removal and re-creation. The Department's engineering section is still studying what alternatives are available.

- Boat Tie-Ups -

The design and construction of a small day-use boating facility in the area of the park nucleus will be guided by the following considerations:

1. The number of boat tie-ups to be constructed will be limited to no more than 50; and use of the tie-ups will be on a day-use basis only.
2. A separate tie-up will be considered to accommodate research and educational vessels such as those operated by the Chesapeake Bay Foundation.
3. The 1000-foot Bay Shore Pier will be used as the pier from which the tie-up facility will be built.
4. Any necessary dredging will be kept to a minimum.
5. Buoys or other markers will be placed in the waters off Black Marsh to guide boaters to the tie-up facility; and to prevent the inappropriate use of sensitive off-shore areas.

- Lighthouse -

A new or de-commissioned lighthouse will be considered for location at the end of Bay Shore pier. If appropriate, the lighthouse will be equipped to function as a navigational aid. It will also be retrofitted or designed to serve as a viewing tower.

- Central Parking -

The central parking lot at the park nucleus will be designed to accommodate no more than 150 cars, plus space for two buses. The lot will be finished with 12 inches of crushed gravel, and will be landscaped with shade trees spaced 20 feet on center. A circle will allow vehicles to drop people off along a pathway to the visitors center. The lot's location falls generally within the same area used for parking when Bay Shore Park was an active waterfront park attraction. The parking lot must be carefully designed and constructed to be attractive and environmentally safe.

- Fountain Re-creation -

The fountain that provided the focal point for the old amusement park will be re-created in its original location. Original appearance will also be maintained as much as possible; and landscaping and gardens will be established along the lines of old Bay Shore Park.

- Fishing Pier -

A substantial fishing platform will be located at the end of Bay Shore Pier. It will project out 30 feet from the rounded end of the pier, and wrap around the curvature of the pier. The platform will be constructed of wooden pilings, beams, joists and floor boards; and it will be designed as handicap accessible.

- Pier Promenade -

Bay Shore Pier will be reconditioned and up-graded to serve as an attractive promenade. A colonnade of shrubbery or small trees will line either side; and a formal walking surface, such as a boardwalk or brick pathway, will be provided to link the landside park area to the boat tie-ups and the fishing platform. Benches will be located along the promenade at convenient sites.

- Picnic Area -

A picnic area will be located northeast of the proposed parking lot where the park office is presently located. The park office, ranger residence, and maintenance facilities will eventually be moved to sites identified elsewhere in this plan. The picnic area will be landscaped and minor cosmetic grading will be employed to smooth out the abrupt grade change just northwest of the park office. The area will be regularly mowed; and it will be screened by evergreens from the parking lot and ranger residence. The picnic area will provide a quiet 'backyard' to compliment the more formal and active park nucleus.

- Wading Beach -

A small informal beach for visitors to sunbath and wade along will be established on the shore just north of the base of Bay Shore Pier. The beach will not be supported by a bathhouse or lifeguard service.

PROJECT PHASING

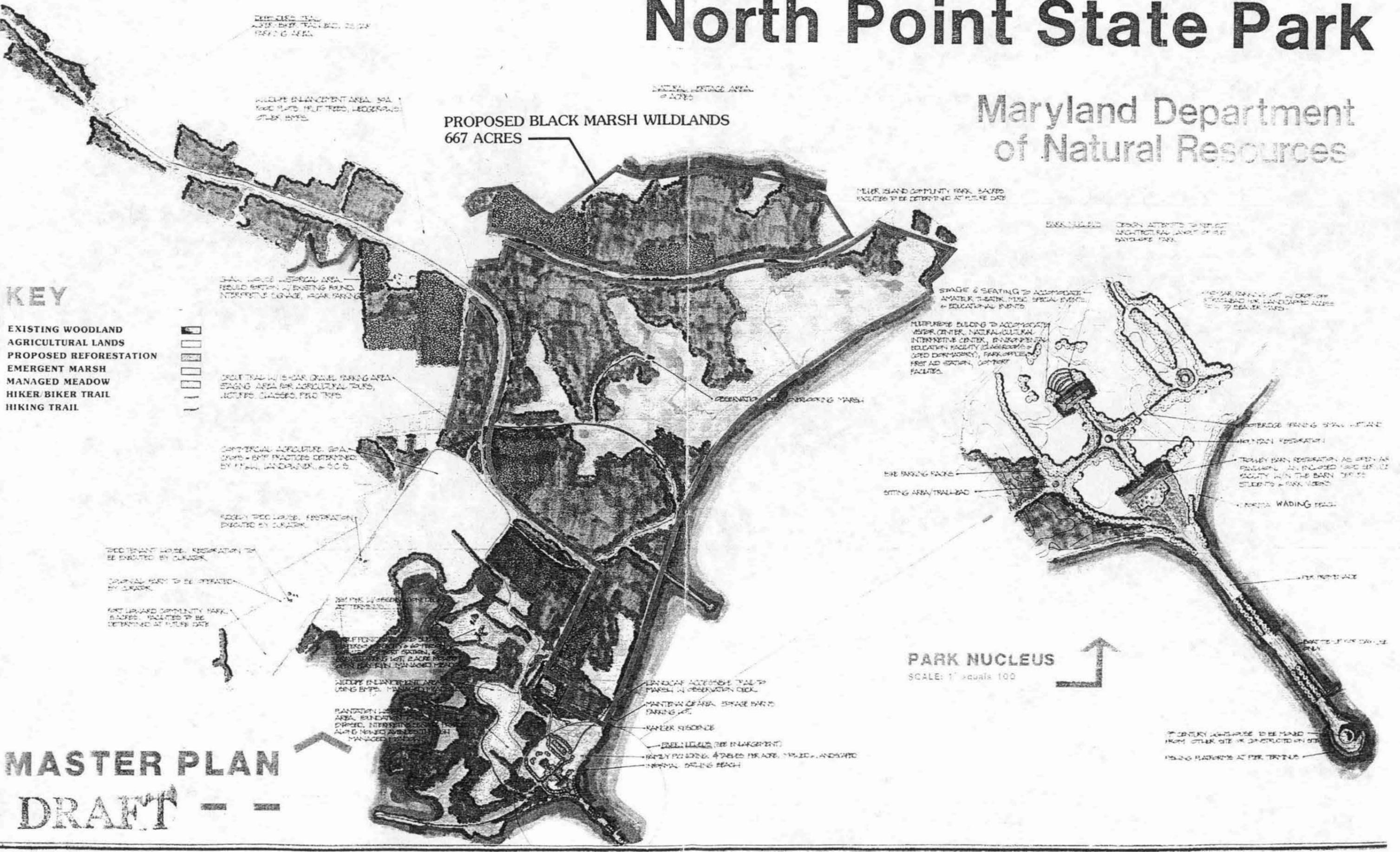
(to be developed)

North Point State Park

Maryland Department
of Natural Resources

KEY

- EXISTING WOODLAND
- AGRICULTURAL LANDS
- PROPOSED REFORESTATION
- EMERGENT MARSH
- MANAGED MEADOW
- HIKER/BIKER TRAIL
- HIKING TRAIL



EXISTING TRAIL
ALONG BAY TRAILHEAD TO THE
RECREATION AREA

WILDLIFE ENHANCEMENT AREA 300 ACRES
1000 PLANT, 1500 TREES, 1000000
OTHER PLANTS

NATURAL HERITAGE AREA
2000 ACRES

PROPOSED BLACK MARSH WILDLANDS
667 ACRES

MILLER ISLAND COMMUNITY PARK 50 ACRES
FACILITIES TO BE DETERMINED AT LATER DATE

EXISTING TRAILHEAD DESIGN ATTEMPTS TO REFLECT
ARCHITECTURAL LANGUAGE OF THE
BAYWATER PARK

SHAW WOODS RECREATION AREA
RELOCATED SECTION OF EXISTING ROAD
INTERPRETIVE SIGNAGE, HOAR PARKING

STAGE & SEATING TO ACCOMMODATE
AMATEUR THEATRE, MISC. SPECIAL EVENTS,
& EDUCATIONAL EVENTS

WILDLIFE ENHANCEMENT AREA
1000 PLANT, 1500 TREES, 1000000
OTHER PLANTS

DRIFT TRAIL (15-CAR DRIVE) PARKING AREA
STAGING AREA FOR AGRICULTURAL TOURS,
HUNTERS, CLASSICS, PRO TRIPS

MULTIPURPOSE BUILDING TO ACCOMMODATE
VISITOR CENTER, NATURAL/CULTURAL
INTERPRETIVE CENTER, BAYWATER PARK
EDUCATION FACILITY (CLASSROOMS &
FIELD DEMONSTRATION), PARK OFFICE,
FIRST AID STATION, RESTROOM
FACILITIES

COMMERCIAL AGRICULTURE 300 ACRES
CATTLE & SWINE PRACTICES DETERMINED
BY MPAL, LANDOWNERS, & SOCS

OBSERVATION OF EMERGING MARSH

ROCKY TRAILHEAD RESTORATION
EXECUTED BY CUNYER

BIKE PARKING PARKS

SITTING AREA/TRAILHEAD

PROPOSED TRAILING SPRAWL WETLAND

WETLAND RESTORATION

TRIMBLE BARN RESTORATION AS OPEN AS
PRACTICABLE. ALL INCLUDED WOODS WILL
REMAIN IN THE BARN. TRAILHEAD
STATION & PARK VISITOR

WETLAND WADING BEACH

TRAILHEAD RESTORATION TO BE
EXECUTED BY CUNYER

PARK NUCLEUS

SCALE: 1" equals 100'



TRAILHEAD RESTORATION TO BE
EXECUTED BY CUNYER

TRAILHEAD RESTORATION TO BE
EXECUTED BY CUNYER

MASTER PLAN

DRAFT

ASSESSMENT
OF
SHORE EROSION CONTROL REQUIREMENTS
FOR THE
BLACK MARSH PROPERTY
BALTIMORE COUNTY, MARYLAND

PREPARED
BY
DEPARTMENT OF NATURAL RESOURCES
CAPITAL PROGRAM ADMINISTRATION
SHORE EROSION CONTROL

June, 1990

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BACKGROUND

Black Marsh State Park, located near Edgemere in Eastern Baltimore County, features almost (3) three miles of shoreline on the Chesapeake Bay, over 1/2 miles on Back River and additional water frontage on Shallow Creek. The property, much of which was recently acquired by the State of Maryland from Bethlehem Steel Corp., consists of extensive marsh areas, woodlands, meadows and the former site of Bay Shore Park. (see exhibit 1, vicinity map and exhibit 2, location map)

Long range plans for development of the park will provide recreational opportunities and public access to the Bay while maintaining a large amount of open space, and natural areas in the heavily populated and industrial Eastern Baltimore County area. The marsh and surrounding woodlands are an important natural area, providing wildlife habitat for many species, including bald eagles, and offer opportunities for environmental observation, education and research.

The historic erosion rates for the property, as mapped by the Maryland Geological Survey for the period from 1846 to 1944, are as high as 6.1 feet per year on the Bay and up to 2.5 feet per year on Back River. (see exhibit 3, shoreline comparison map) This results in the loss of valuable property and important habitat area, and contributes to pollution of the Bay through sedimentation.

For the purpose of this report the property has been divided into eight areas (see exhibit 2, location map). This report contains an assessment of the shoreline and severity of erosion for each area, as well as recommended corrective actions, cost estimates and priorities.

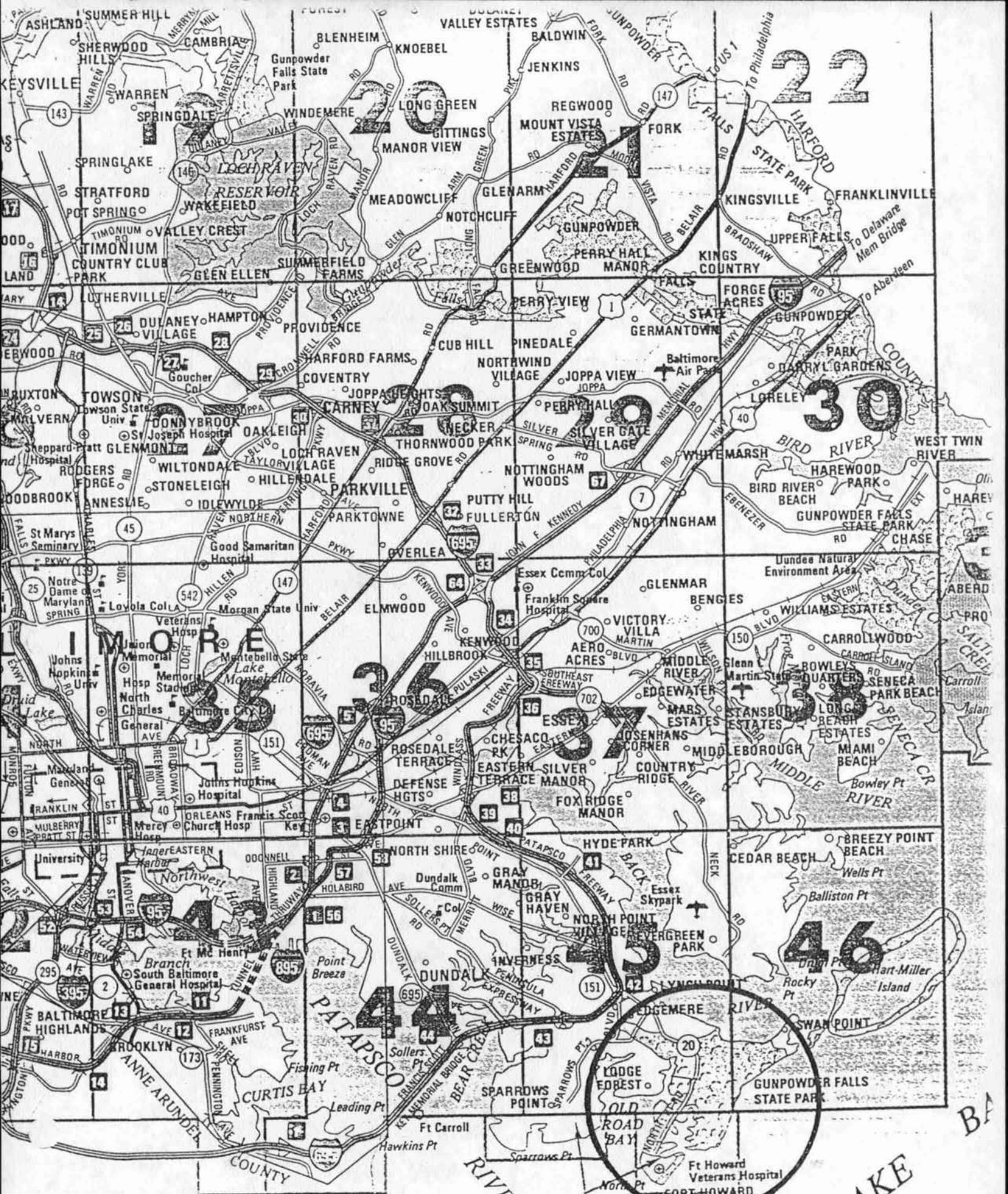
SHORELINE ASSESSMENT

AREA I (see photo #1)

From the mouth of Shallow Creek approximately 1,000 feet north along Chesapeake Bay, the shoreline consists primarily of eroding marsh in and above the tidal zone. The historic erosion rate for this section is primarily in the slight range (less than 2 feet yr). However, a portion of this area shows a rate of up to 4 feet per year.

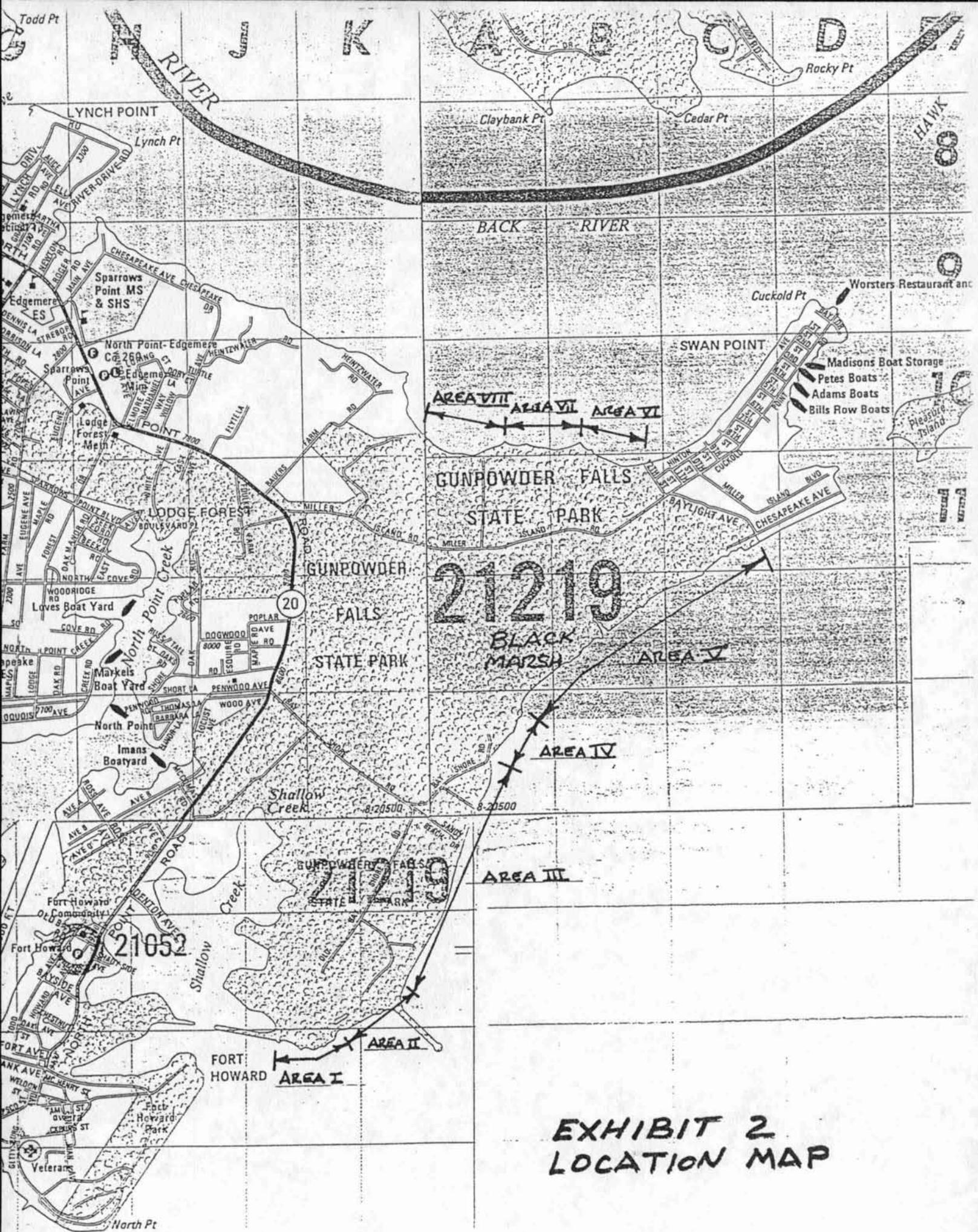
AREA II (see photographs #1 thru 3)

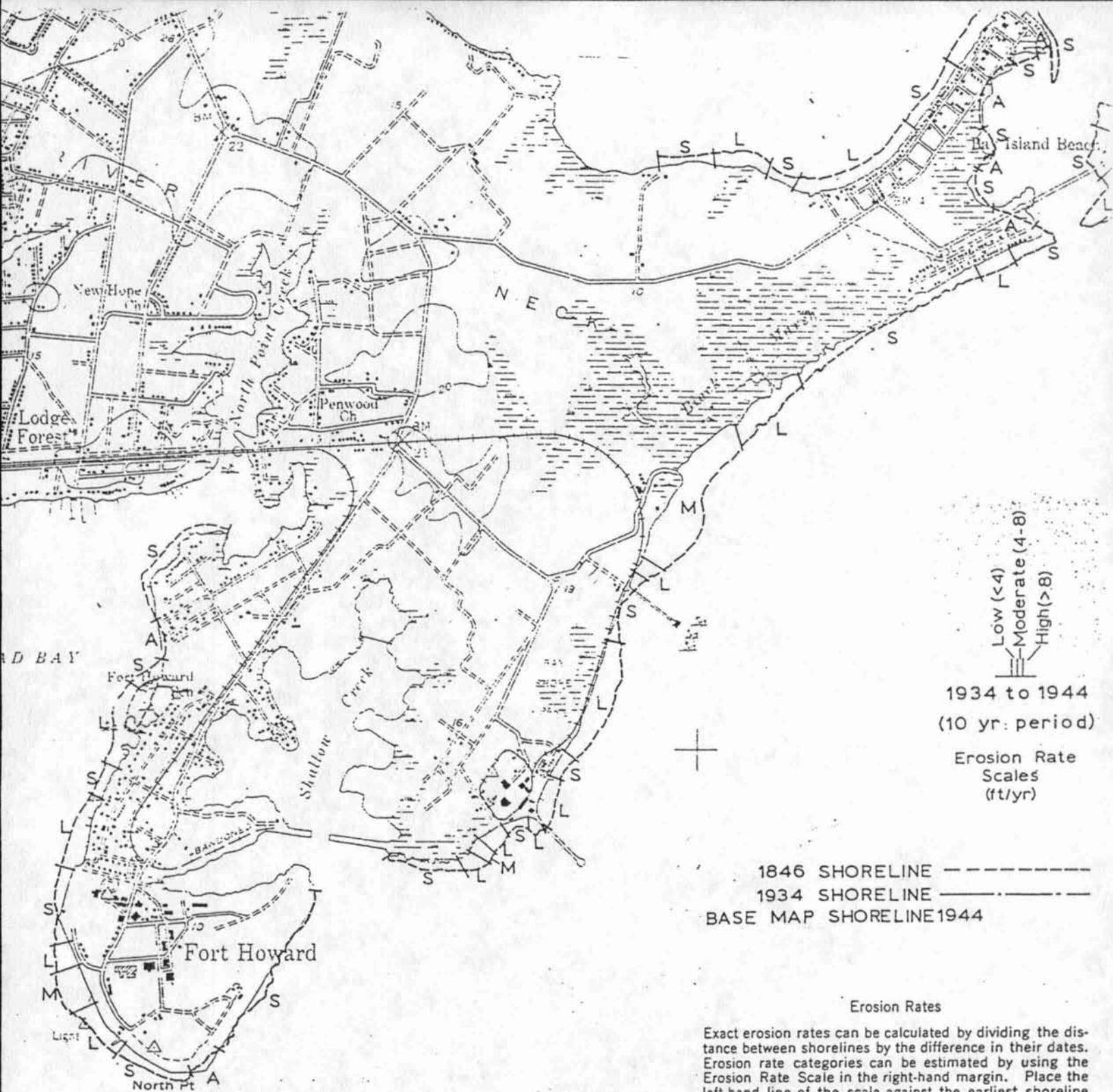
This area, consisting of 1400 feet of shoreline, extends from the north end of Area I approximately 1000 feet to a 40 foot wide earthen pier and continues north for an additional 400 feet. The 1000 feet of shoreline south of the pier consists of a deteriorating masonry bulkhead and rubble revetment which partially protects a woodland area. The pier extends approximately 1000 feet into the Bay and is protected on both sides by a deteriorating concrete bulkhead. The 400 feet of shoreline north of the pier consists of a sandy beach which appears to be in a stable condition.



**EXHIBIT 1
VICINITY MAP**

ESAPEAKE





Low (<4)
 Moderate (4-8)
 High (>8)

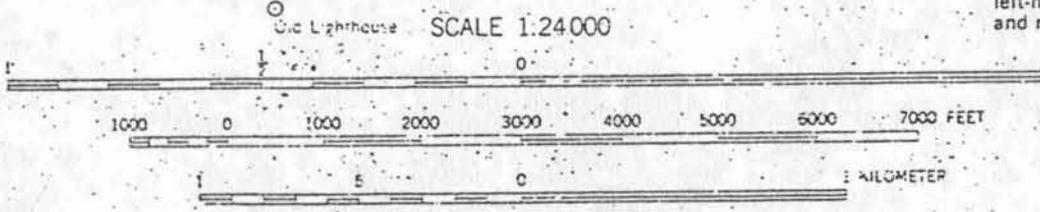
1934 to 1944
 (10 yr: period)

Erosion Rate
 Scales
 (ft/yr)

1846 SHORELINE - - - - -
 1934 SHORELINE _____
 BASE MAP SHORELINE 1944

Erosion Rates

Exact erosion rates can be calculated by dividing the distance between shorelines by the difference in their dates. Erosion rate categories can be estimated by using the Erosion Rate Scale in the right-hand margin. Place the left-hand line of the scale against the earliest shoreline and read the name of the erosion rate category.



CONTOUR INTERVAL 20 FEET
 DATUM IS MEAN SEA LEVEL

SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER
 THE MEAN RANGE OF TIDE IS APPROXIMATELY 1 FOOT

Erosion Rate Graphs

- A. Line graphs represent a measured rate of erosion for specific points along the shoreline.
- B. Histograms indicate prevalent erosion rate categories for different shoreline areas.

Erosion Rate Symbols

1846-1934	1934-1944
A.....	accretion.....a
S.....	slight.....s
L.....	low.....l
M.....	moderate.....m
H.....	high.....h
F.....	fill.....f

**EXHIBIT 3
SHORELINE COMPARISON**

AREA III (see photographs 4 thru 7)

This area extends approximately 3800 feet north of the sand beach in Area II. The landscape in this location consists of low lying woodlands, marshlands and a clearing where the current park office and service buildings are situated. The shoreline has some degree of protection in the form of deteriorating sections of concrete bulkheads and rubble revetments consisting of bricks, granite paving blocks, broken concrete, stone riprap, chunks of iron slag and sections of broken concrete bulkheads. These bulkheads and revetments range in elevation from 3 feet to 6 feet above mean low water. The historic erosion rate for this location is as high as 3.6 feet per year.

AREA IV (see photographs 8 thru 12)

Area IV extends north from area III for a distance of approximately 1250 feet. A line of stone and rubble, apparently remnants from a failed seawall, exists 50 to 100 feet offshore which provides little or no protection of the shoreline. Approximately 750 feet of shoreline at the south end of this area consists of 20 feet high eroding banks. The remaining 500 feet of shoreline consists of eroding tidal marsh and more undercut and eroding banks. There are many fallen trees on the beach and several more being undercut and in danger of falling. Area IV has the highest historic erosion rates for the Black Marsh property at 6.1 feet per year.

AREA V (see photographs 13 thru 15)

This area, consists of approximately 4,300 feet of shoreline, in front of an expansive wetlands area known as Black Marsh, which extends to the north end of the State's property. Approximately 1000 feet of shoreline at the southern portion of this location has a 5 to 10 foot wide beach (above M.H.W.) with a 3 to 4 foot high berm, between the beach and the marsh. The beach here appears to be retreating, with storm waves rolling sand over the berm and causing the beach and berm to migrate into the marsh. The remaining 3300 feet of shoreline becomes jagged, with areas of eroding marsh, and pocket beaches. There is also a large "gut" which allows for flooding and draining of the marsh during tidal changes. The erosion rates for this area range from 5.1 feet per year at the south end to 1 foot or less per year at the north end.

AREA VI (see photographs # 16)

This area, located on Back River, runs approximately 600 feet in a westerly direction from the property line at the community of Swan Point, and consists of an eroding marsh. Phragmites reeds, which are the dominant vegetation here, have formed a tight root mat which may be helping to slow the erosion. The historic erosion rates for this area ranges between 2 and 2.5 feet per year.

AREA VII (see photographs 17 thru 20)

Area VIII extends from the end of the marsh at area VI westward for approximately 1200 feet. This area has a narrow beach (average width 5 to 10 feet) and eroding banks 5 to 7 feet high. The banks are near vertical with evidence of undercutting due to wave action. The narrow beach is cluttered with chunks of clay and loose soil and many fallen trees. Additional trees are in danger of falling due to the erosion of the bank. Erosion rates in this area range from 1 to 2 feet per year.

AREA VIII (see photograph 21) .

This area extends approximately 1100 feet westward from the end of area VII to the end of the State property. A small sand beach, and a large marsh area dominate this location. Erosion appears to be minimal and there is no historical erosion data available for this area.

RECOMMENDATIONS AND COST ESTIMATES

The following are recommended shore erosion control measures for each area covered in this report. For the purposes of potential future funding, the areas are listed in priority order based on a combination of erosion rates, existing improvements and potential plans for future improvements and land uses.

AREA II :

Since there is a potential for this location to be developed to serve as a nucleus for park activities, shoreline protection needs should be addressed here first. There has been interest expressed to develop the area to the south of the earthen pier into a swimming beach. This is not recommended due to the predominant direction of long shore sediment transport for this stretch of shoreline. (see exhibit 4, littoral drift map). The protrusion of the earthen pier into the Bay traps any sand moving from north to south thereby depriving the shoreline on the south side of the pier from the natural drift and deposition of sand. This, as in most similar situations, causes the area immediately to the south of the pier to erode. Any sand artificially deposited in this area would be eroded away in a short period of time. It is therefore recommended that a stone revetment be considered to replace deteriorating concrete bulkheads and rubble revetments for the 1000 feet of shoreline south of causeway.

The concrete bulkhead protecting the 1000 foot pier is in poor condition and needs to be replaced. Because there is a potential for recreation oriented improvements for the pier, a timber bulkhead is recommended.

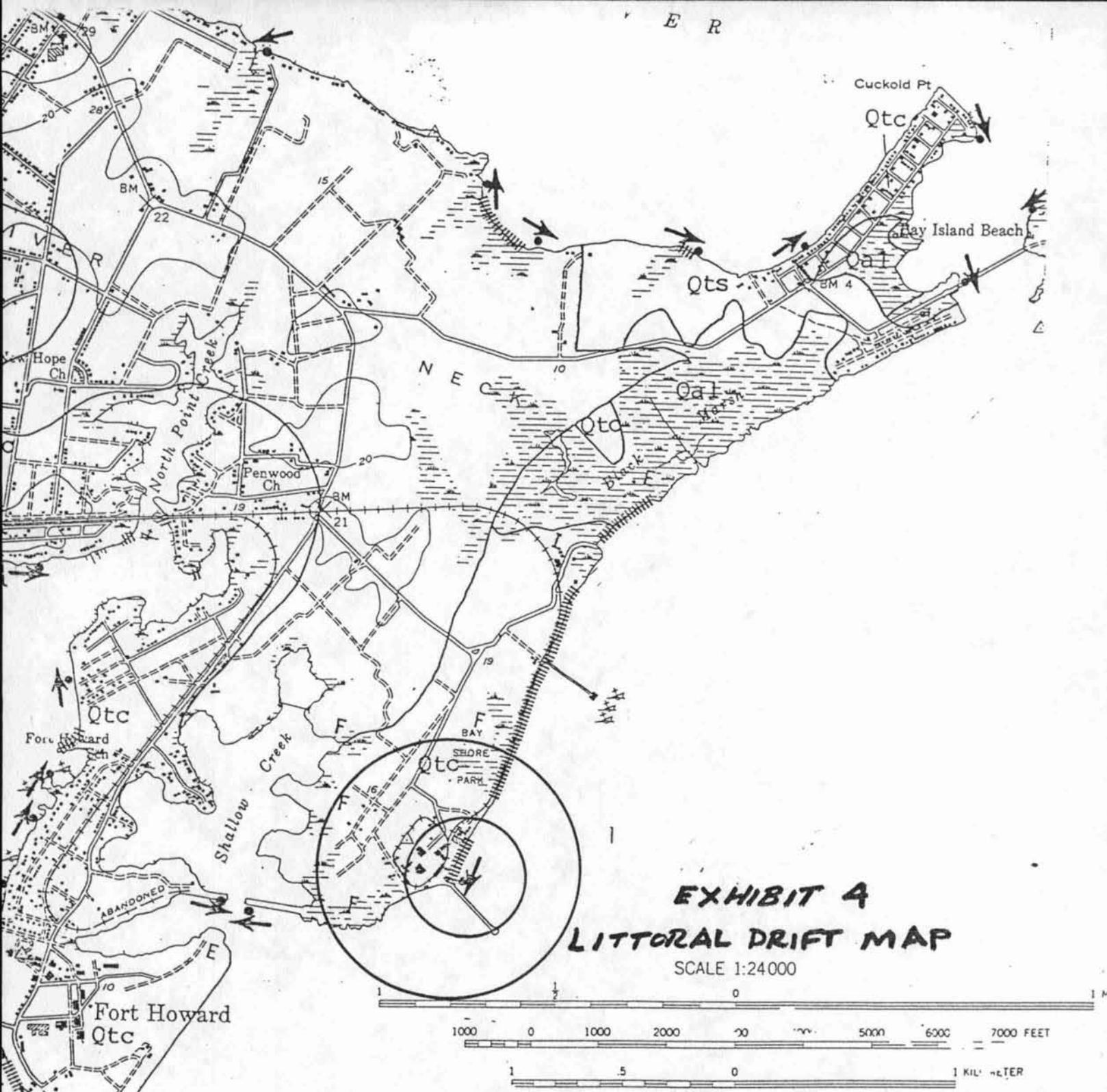
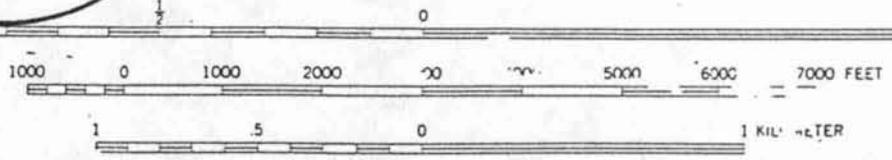


EXHIBIT 4
LITTORAL DRIFT MAP
 SCALE 1:24000



SYMBOLS

- Shoreline Without Beach or Bluff
- ||||| Beach > 20 Ft. Wide
- ▒▒▒▒ Beach Against Headland < 20 Ft. High
- ▒▒▒▒ Beach Against Headland > 20 Ft. High
- ▒▒▒▒ Headland < 20 Ft. High, No Beach
- Headland > 20 Ft. High, No Beach
- Spit
- ➔ Longshore Transport Direction (Air Photo)
- F - Fringing Marsh
- I - Intermediate Marsh
- E - Extensive Marsh
- ⊙ Drillers Log
- ⊗ Log by Cuttings
- S - Sand
- G - Gravel
- St - Silt
- C - Clay
- X - Crystalline

North Pt
 Old Lighthouse

Fort Howard
 Qtc

Hope Ch

North Point Creek

Penwood Ch

Shallow Creek

SEGRE BAY PARK

Cuckold Pt

Qtc

Bay Island Beach

Qts

BM 4

Qtc

Qtc

Qtc

Fort Howard

ABANDONED

Fort Howard
 Qtc

The 400 feet of shoreline north of the causeway, consisting of a stable beach, does not require shoreline protection at this time. This area should be considered for the swimming beach rather than the area to the south of the causeway.

ESTIMATED COST AREA II

1. Stone revetment south of causeway:		
1000 L.F. stone revetment @ \$400./L.F.	= \$	400,000.00
2. Pier:		
2200 L.F. timber bulkhead @ \$450./L.F.	= \$	990,000.00
3. Engineering Design	= \$	<u>30,000.00</u>
	TOTAL AREA II	= \$1,420,000.00

AREA IV:

Since there is no protection of the 20 ft high eroding banks in this area, there is a high volume of silts entering the Bay. In an effort to keep the area as natural as possible plus enhance the existing marsh, it may be possible to treat this area with a marsh creation project. This could be achieved by constructing a series of breakwaters along the existing off shore bulkhead remains, filling the area with sand along the shoreline and planting the fills with marsh vegetation.

ESTIMATED COST AREA IV: This estimate includes the cost of stone breakwaters, sand fill and marsh grass planting.

1. 1250 L. F. of shoreline @ \$400/L.F.	= \$	500,000.00
2. Engineering Design	=	<u>20,000.00</u>
	TOTAL AREA IV	= \$ 520,000.00

AREA VII:

This area is also totally unprotected and the eroding 5 to 7 ft high banks are depositing high volumes of sediments into Back River. A stone revetment is recommended for this location.

ESTIMATED COST AREA VII

1. 1250 L.F. of stone revetment @ \$ 400/L.F.	= \$	500,000.00
2. Engineering Design	=	<u>10,000.00</u>
	TOTAL AREA VII	= \$ 510,000.00

AREA III:

This area is considered next in priority due to existing improvements in this area, the location is close to the park's proposed nucleus and the existing bulkheads and rubble revetments are inadequate in providing shoreline protection. A stone revetment to replace the existing inadequate shore protection is recommended.

ESTIMATED COST AREA III

1.	3800 L.F. stone revetment @\$400/L.F.	= \$1,520,000.00
2.	Engineering Design	= <u>30,000.00</u>
	TOTAL AREA III	= \$1,550,000.00

AREA I, V AND VI :

All three of these locations consist of low eroding marshes. In recommending shoreline protection, consideration must be give for allowing tidal actions to flow freely across the marshes. This is best achieved by constructing off-shore stone sills or breakwaters in front of a vegetated sand fill.

ESTIMATED COST: THE FOLLOWING ESTIMATES ARE LISTED IN PRIORITY ORDER. ESTIMATES INCLUDE STONE BREAKWATERS, SAND FILL AND PLANTING MARSH GRASS.

Area V:

1.	4300 L.F. of shoreline @ \$300/L.F.	= \$1,290,000.00
2.	Engineering Design	= <u>30,000.00</u>
	TOTAL AREA V	= \$1,320,000.00

Area I:

1.	1000 L.F. of shoreline @ \$300/L.F.	= \$ 300,000.00
2.	Engineering Design	= <u>10,000.00</u>
	TOTAL AREA I	= \$ 310,000.00

Area VI:

1.	600 L.F. of shoreline @ \$300/L.F.	= \$ 180,000.00
2.	Engineering Design	= <u>7,000.00</u>
	TOTAL AREA VI	= \$ 187,000.00

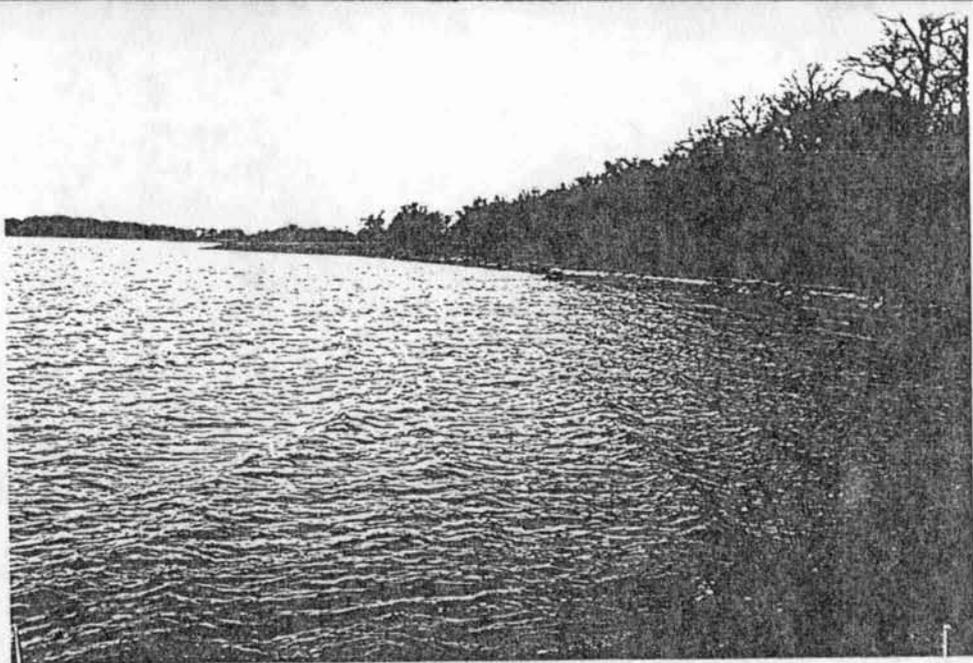
Area VIII:

Since there is very little to no erosion evident in this location no action for shoreline protection is recommended at this time.

SUMMARY OF SHORE EROSION CONTROL RECOMMENDATIONS AND ESTIMATED PROJECT COSTS IN PRIORITY ORDER

<u>AREA</u>	<u>RECOMMENDED STRUCTURE</u>	<u>ESTIMATES COST</u>
II	Stone revetment & Timber bulkhead	\$1,420,000.00
IV	Breakwaters with sand fill & Planting	\$ 520,000.00
VII	Stone Revetment	\$ 510,000.00
III	Stone Revetment	\$1,550,000.00
V	Breakwater with sand fill & planting	\$1,320,000.00
I	Breakwaters with sand fill & planting	\$ 310,000.00
VI	Breakwaters with sand fill & planting	\$ 187,000.00
VIII	No Action	-0-
	Total SEC Needs	\$5,817,000.00

IT SHOULD BE NOTED THAT ESTIMATES PROVIDED ARE PRELIMINARY BASED ON COSTS OF SIMILAR PROJECTS.

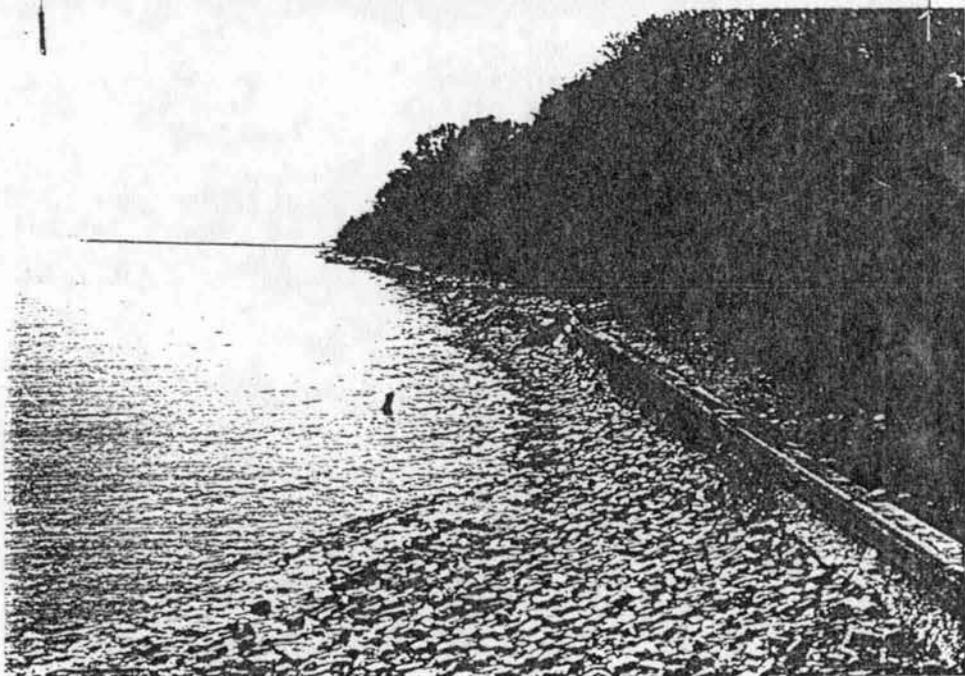


2.



3.





5.

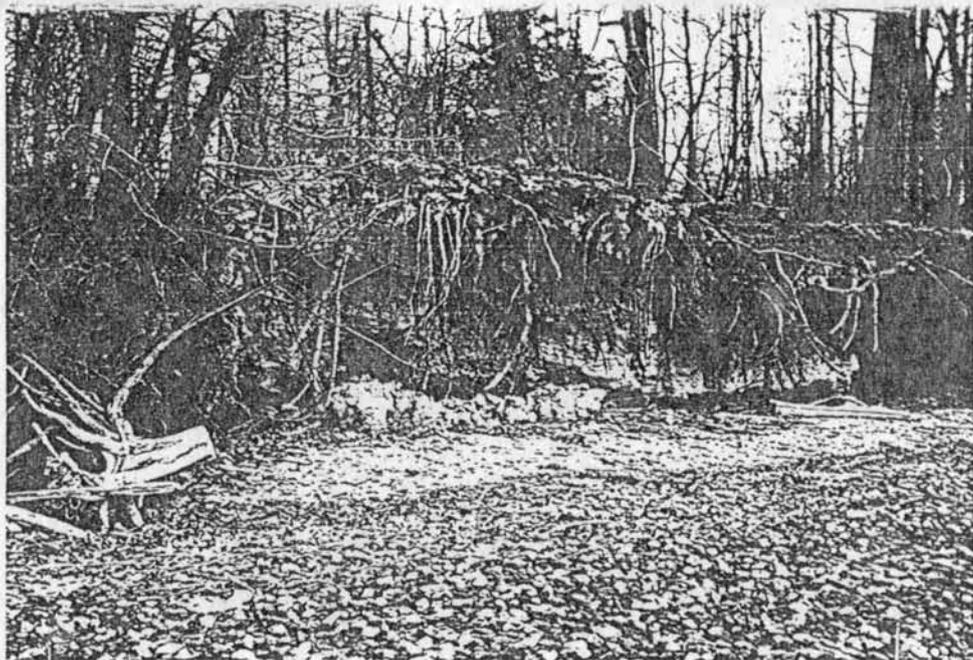
6.



8.



9.



10.



11.



12.

13



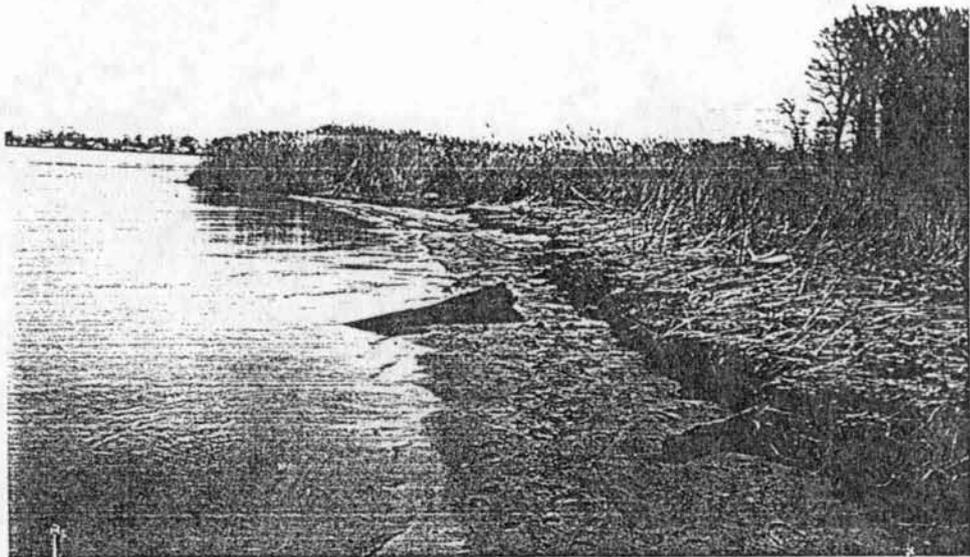
14.



15.



16.

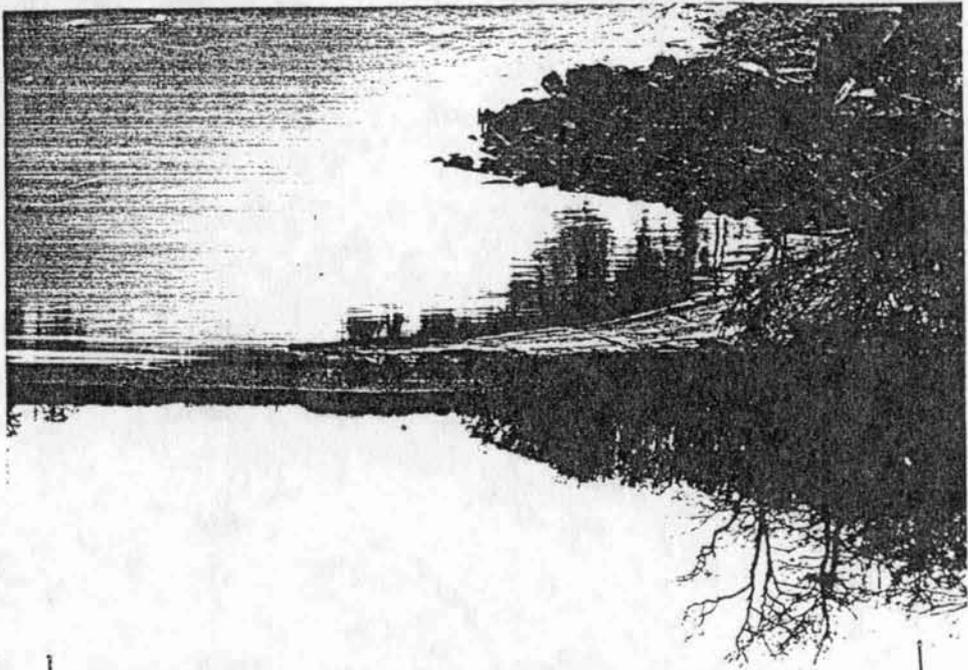


17.

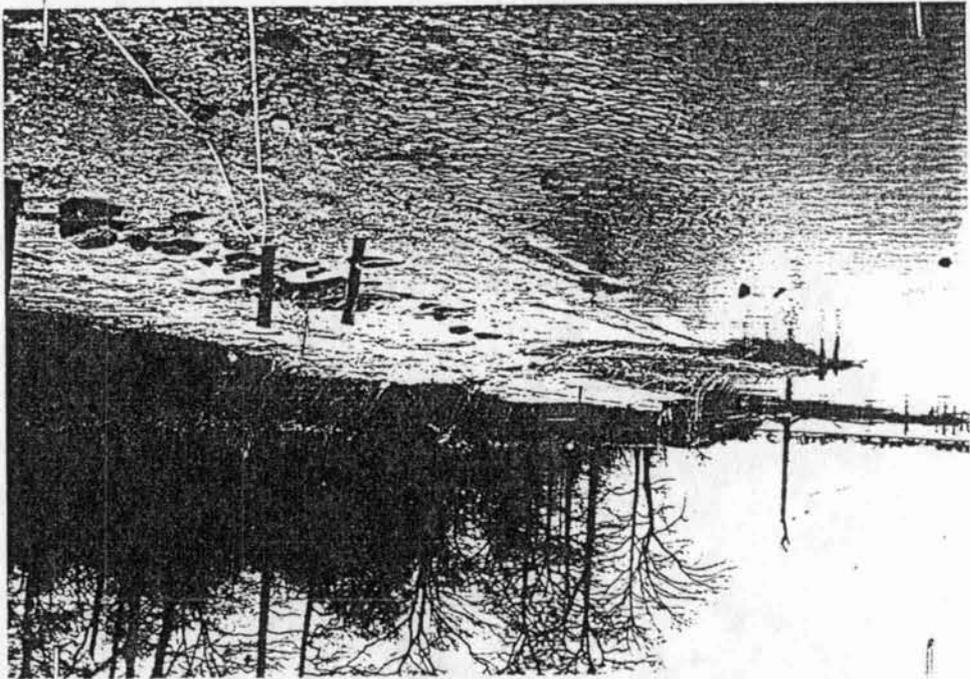


18.

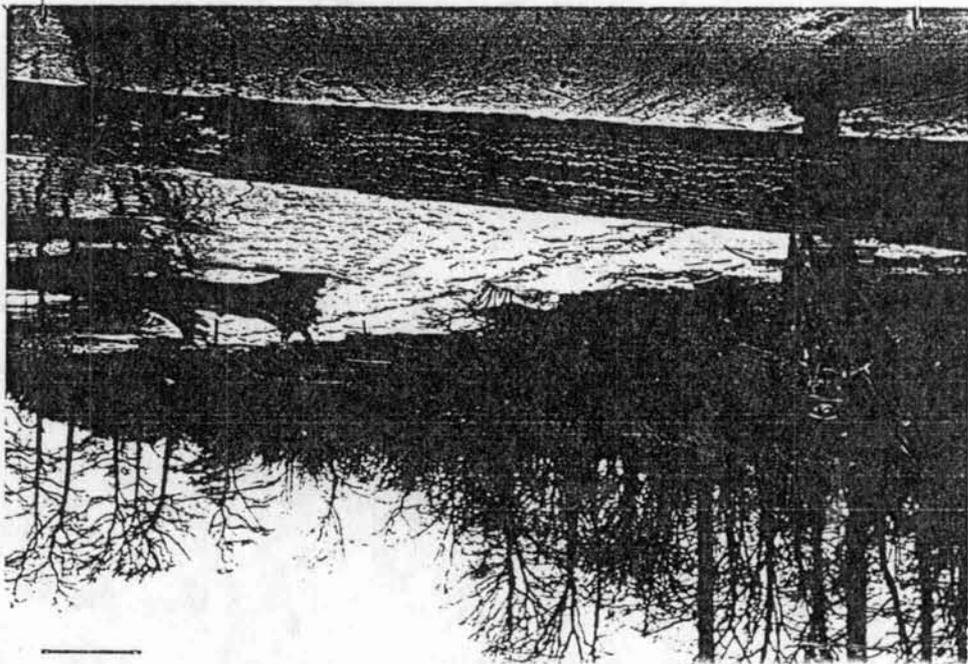




12



13



14

Chesapeake Audubon Society, Inc.

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4 June 1991

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Judge John C. North II
Chairman
Critical Area Commission
275 West Street Suite 320
Annapolis, Md. 21401

Dear Judge North,

Chesapeake Audubon Society is the Baltimore metropolitan area local chapter of the National Audubon Society, with over 2300 members in the Baltimore metropolitan area. Chesapeake Audubon Society is strongly oriented to providing environmental educational opportunities for children and adults in the Baltimore area and in the State. Chesapeake Audubon Society owns and operates the Pickering Creek Environmental Center, a 350 acre environmental educational facility on the waterfront in Talbot County, which served over 2000 school children and 400 adults with environmental programs and field trips in the past year. Chesapeake Audubon sponsors environmental classes and provides free environmental educational materials to schools in Baltimore City, Baltimore County, and Anne Arundel County, serving over 3000 children in the past year. Chesapeake Audubon also sponsors ecology scholarships for public school teachers to help them improve their skills in environmental education.

Chesapeake Audubon Society has reviewed the "Black Marsh State Park Draft Plan" (January 1991) and "An Assessment of the Consistency of the North Point State Park Draft Plan with the Critical Area Criteria" (April 1991) prepared by the Greenways and Resources Planning Section of the Department of Natural Resources. Following are our comments and concerns about the DNR plan for the development of this State Park, especially as related to environmental education.

We believe that North Point State Park and Black Marsh Wildland present a unique opportunity for the development of a natural park with outstanding opportunities for utilization as an environmental educational resource for both children and adults. Black Marsh is unique not only because it is one of the few remaining natural shorelines on the Western Shore of the bay, but also because of proximity to the Baltimore metropolitan area. What other major

city can boast of a tract of undeveloped land of over 1300 acres which is within ten miles of City Hall? Not only is it undeveloped, it abounds in the natural wildlife for which Maryland is justly famous; crabs and fish, turtles and muskrats, ducks and geese, eagles and ospreys! It is a natural wonder which, if properly developed, could be just as marvelous as any existing feature of the metropolitan area. Black Marsh provides a golden opportunity for use as a natural park and environmental educational center. In the future, Black Marsh may well represent the only opportunity for many metropolitan citizens, children, and visitors to experience, and be sensitized to, the beauty and magic of the natural features of Chesapeake Bay.

We are concerned that, although the DNR Draft Plan includes environmental education as a goal for the utilization of the park, the details of the development plan do not address this goal, but instead emphasize development of recreational facilities, to the detriment of preservation of natural features, sensitive habitat, and the ambiance so necessary to the successful interaction of people with a wild natural environment, which the critical area law strongly encourages.

Our major concerns and recommendations can be summarized as follows;

1. Natural Park Designation - The DNR plan and assessment does not consider the designation of all or any portion of North Point State Park as a natural park, even though the Critical Area law strongly encourages such consideration. Rather, the assessment refers to the fact that a major portion of the tract has been designated as Wildland, with the implication that this removes the obligation to consider the possibility of a natural park for the remainder of the critical area. We do not agree and feel that the State is obligated to consider the remaining critical area for a natural park designation. The purpose of a Wildland and a natural park are quite different. The Wildland designation is for the purpose of providing maximum protection to the most sensitive and unique natural features in the State. A natural park is to encourage the creation of opportunities for interaction between people and natural environments without destroying the fragile components of natural habitats. One does not and cannot substitute for the other. The Critical Area law clearly encourages the creation of natural parks. It is unlikely that the opportunity for the creation of a major natural park within the critical area and within the highly populated metropolitan area will occur again in the foreseeable future. If not here and now, where and when will such a park be created?

We recommend that the Commission request the DNR to consider the designation of North Point State Park as a Natural Park as encouraged by the Critical Area Criteria.

2. Intensity of Development - A major feature of the DNR Draft Plan is a re-creation of portions of old Bay Shore Park, a local amusement park of local renown in the past century. This proposed park nucleus is located near the bay waterfront in the critical area, and includes a 700 seat amphitheater, visitors center, food service facilities, beach and picnic area, small boat tie-up and docking facilities, and restored fountain and gardens. In addition, the plan proposes to cluster all the park service and maintenance facilities in the same area. All these facilities are to be provided with access roads

and parking lots for more than 150 vehicles. The assessment states that this feature of the park will be designated an area of intensive development.

Our concern is that intensive development, even for recreational purposes, is not appropriate for this park. Intensive development at the proposed location is not compatible with preserving adjacent natural habitats, including non-tidal wetlands, forests, and the critical area buffer. It is also not compatible with utilization of the park as an environmental educational resource. Interaction between people and sensitive wildlife areas requires public access to sensitive areas in small, dispersed groups, not a concentrated assembly of large groups, as would be provided for by the proposed facilities.

Chesapeake Audubon Society is especially opposed to certain features of the DNR Draft Plan; the 700 seat amphitheater, restaurant, cafe, trolley barn, and boat piers. Such development, even on a portion of the property, will have a major impact on the ecology of the entire property and does not represent the best use of this unique and irreplaceable natural resource. We question the need for more facilities of this type in this area, and believe that, even if such a need exists, such facilities could be developed on other properties and/or at other locations within the park which are not so ecologically sensitive and environmentally unique.

We recommend that the DNR be requested to revise the park plan to reduce the scale of the proposed development and to eliminate the area of intense development.

3. Park Layout and Location of Facilities - Chesapeake Audubon believes the the general layout of the facilities proposed in the draft plan is not compatible with environmental educational goals of maximizing interactions between people and the natural features of the park, while at the same time providing adequate protection so that those very features are not destroyed.

Our concern is that the location of the proposed recreational and service facilities is wrong for the use of the park as an environmental educational resource. The Draft Plan contains several major defects in this regard. All park service facilities, including the visitor center, park headquarters, maintenance facilities, ranger residence, recreational facilities, and food service facilities, are located in the interior of the park at the bay front, distant from the entrance, and near sensitive wildlife habitats. This arrangement makes it nearly impossible to limit or control access to sensitive areas of the park, because all park visitors, no matter what their purpose, must travel through a major portion of the park to reach any of the park facilities. This includes not only people who want to visit the natural areas of the park, but anyone who comes to the park for any reason (all service workers, for example). The proposed arrangement clearly does not minimize the impact of the proposed development on the ecology of the existing natural areas of the park.

A better plan in this regard would be to locate the service facilities at the periphery of the park, near the park entrance and existing major roads. This would allow these facilities to be serviced without encroachment on the

sensitive areas in the interior of the park and also place these facilities and the park staff in a much better location to act as a buffer for the reception, control and monitoring of park visitors. Such a plan also reduces the need for roads and parking lots in the interior of the park. There are numerous examples of natural parks with this general arrangement. Caladon in Virginia and Assateague National Seashore, also in Virginia, are two local examples.

Chesapeake Audubon Society recommends that the DNR be requested to revise the park plan, placing more emphasis on the requirements for interaction between the public and the natural features of the park, including consideration of the needs for delivering environmental educational programs. As a minimum, such a revision should relocate the park service and maintenance facilities at the periphery of the park and not in the interior.

There are two visions of how North Point State Park should be utilized. One vision looks back to the 19th century and maximizes the impact of man on the natural features of the land and water. This vision was wonderful and perhaps appropriate for the time, when there was plenty of undeveloped land on the bay front. But times and circumstances have changed, as has our knowledge and awareness of how the impact of man affects the land and water.

The other vision looks forward to the 21st Century, and recognizes that undeveloped land with the natural features of the Black Marsh property is a rare and precious commodity, especially in such close proximity to a major metropolitan area. This vision sees Black Marsh as an observation post on what is left of our natural world, with man looking in and learning from the periphery and treading only lightly on the interior.

Chesapeake Audubon supports the second vision, which we believe is in concert with both the spirit and letter of the Critical Area Requirements.

Thank you for your consideration of our comments and recommendations.

Sincerely,



Richard O. Schurmann
President
Chesapeake Audubon Society

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Coalition to Preserve Black Marsh, Inc.

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PRESENTATION
to
CHESAPEAKE BAY CRITICAL AREA COMMISSION
June 5, 1991

- I. Introduction
 - A. Linowes and Blocher
 - B. Coalition to Preserve Black Marsh
 - C. Coalition's Goals

- II. Process and Procedure: Legal Matters
 - A. Inadequacy to Date
 - B. Critical Area Consistency Process
 - C. General Approval Request by DNR

- III. Existing Areas of Intense Development
 - A. Area Does Not Qualify
 - B. What Area Actually Is
 - C. Coalition's Alternative Proposals

- IV. Specific Critical Area Criteria
Consistency Issues
 - A. Water-dependent Facilities
 - B. Shore Erosion Control
 - C. Non-tidal Wetlands
 - D. Threatened and Endangered
Species/Plant and Wildlife
Habitat/Anadromous Fish Habitat
 - E. Wildlife Corridors
 - F. Buffer
 - G. Coalition Vision: Natural Park

- V. Public Use Issues: Local Commercial
Fishing, Crabbing

- VI. Conclusions

SUMMARY OF CITIZENS' CONCERNS

1. Coalition's Vision:

Natural and historical park
Showcase existing features
(nature, history, archeology)

2. Ideal Natural Park:

Unique in area
Finest marsh in upper bay
Rare & endangered species
Access to Baltimore area

3. Coalition's Goals:

Protect/improve habitat
Single ecosystem
Highlight natural/cultural features
Enjoyment & education for all

4. Coalition's Objections:

Incompatible development for Natural/Historical Park
Adverse environmental impacts
Fragmentation of ecosystem

5. Complete Inventory and Studies First:

Study natural resources
Assess public's desires and need
Determine potential to improve habitat
Consider reforestation
Consider compatible uses adjoining Wildlands

6. Honor Spirit of Law:

State should set example
Foster sensitive coastal development
Protect/improve buffer & Critical Area

7. Bay Access:

Give people what they really want
Chance to see & visit where Bay meets land

STAFF REPORT

Applicant: Maryland Department of Natural Resources-Point
Lookout State Park

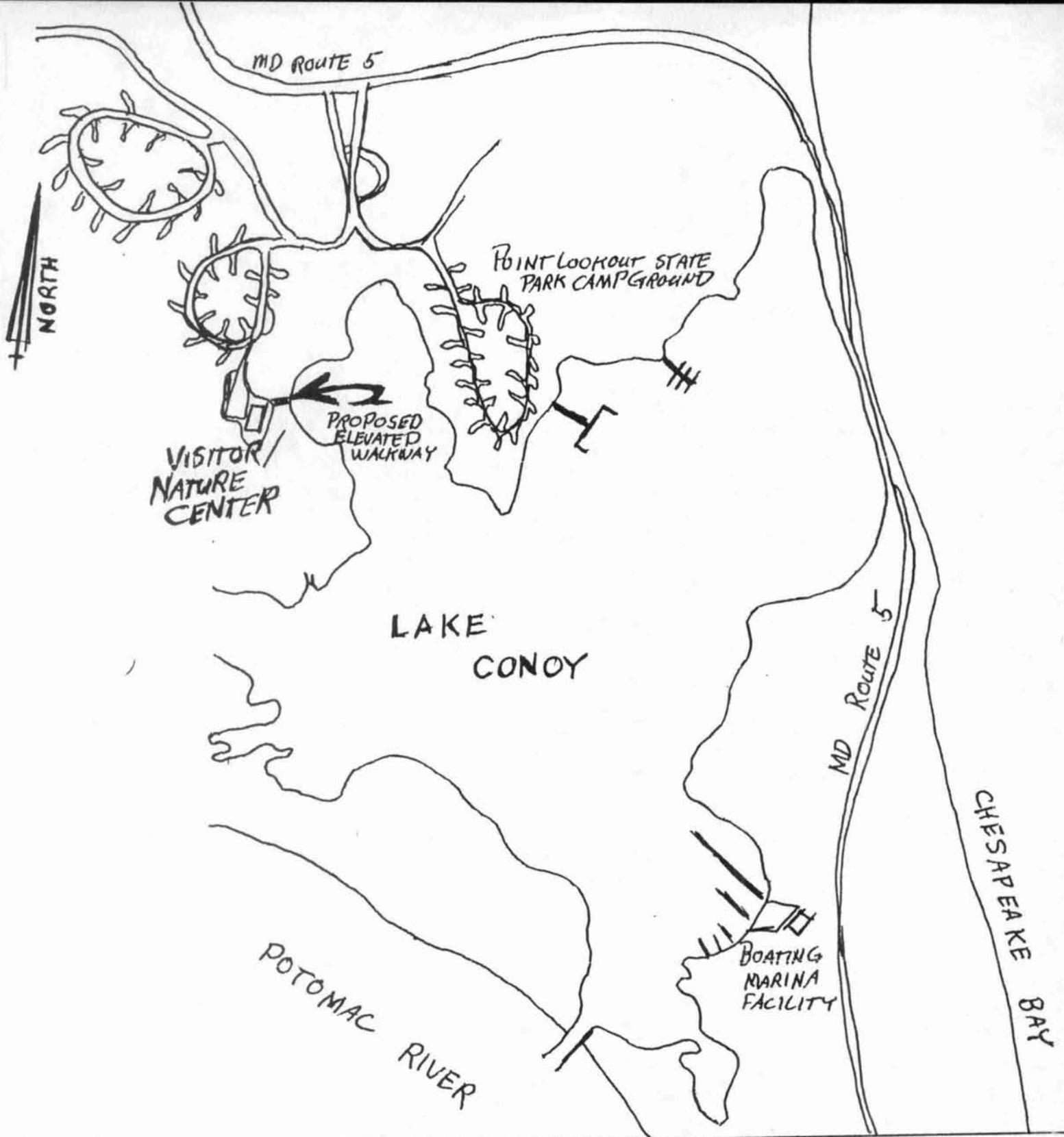
Project: Construction of elevated walkway

Recommendation: Approval

Project description:

The Department of Natural Resources is proposing to construct an elevated wooden walkway from the Parks Nature Center to the edge of Lake Conoy, a distance of 64 feet. The width of the proposed walkway is four feet. The purpose of the project is to replace and restore an existing muddy walkway through tidal wetlands. The project should help to alleviate erosion in an area of existing disturbance and should have minimal adverse impacts.

Staff Contact: Claudia Jones



PURPOSE: VISITOR ACCESS TO
LAKE CONOY / RESTORE
WETLAND DAMAGED BY
EXISTING MUD FOOT PATH.

PLAN VIEW
NTS.
DRAWN BY:
DONNIE HAMMETT
872-4046

PROPOSED ELEVATED WALKWAY
IN: LAKE CONOY
POINT LOOKOUT ST. PARK
ST. MARYS COUNTY MD
APPLICATION BY:
POINT LOOKOUT ST. PARK
PO. BOX 48
SCOTLAND, MD 20687

OWNER

STATE OF MARYLAND
CRITICAL AREA COMMISSION
WEST GARRETT PLACE, SUITE 320
275 WEST STREET
ANNAPOLIS, MD 21401
(301) 974-2426

TO: Margaret

FROM: Tom

SUBJECT: Material for the Meeting Record

DATE: 6.6.91

Mr. Paul Zahin requested that these photocopies of letters pertinent to his case with the Commission be included as part of his remarks made to the Commission at its June 5, 1991 meeting.

Mr. Steve Dodd, Director
Dorchester County Planning & Zoning
P.O. Box 26
Cambridge, Md. 21613

Paul A. Tobin
P.O. Box 104
Taylor's Island, Md. 21669

22 October 1990

Dear Mr. Dodd:

In reference to our meeting and discussion of September 24, 1990, enclosed is information concerning our application for growth allocation with an IDA designation and buffer exemption. This designation request was as per Dorchester County Planning & Zoning and based on a letter of comment from the Critical Area Commission staff. (see attachment A)

In reviewing the growth allocation process, we believe the interpretation of Dorchester County Code by the Critical Area Commission staff to be in error and enclose the following as documentation.

The above letter states in part:

" In addition, the growth allocation applied for must be to zone the property as an Intensely Developed Area with a buffer exemption. This is to comply with sections D(5) and J(5 and 6) of the above referenced section of the County Code."

I would like to take exception to the above comment for the following reasons.

First of all, the Critical Area classification is a designation and not a zone. The property is zoned R-2 residential with a special exception to operate a ferry business use with restrictions placed by the Dorchester County Board of Appeals. (see attachment B)

Secondly, Section 155-47A sectionD(5) states:

" Certain new development, or redevelopment activities or facilities, are not permitted in the Critical Area except in Intensely Developed Areas, and only after the activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improve-

ment in water quality to the adjacent body of water. These activities include the following:

- (a) Heavy industry, except industries that are water dependent.
- (b) Transportation facilities and utility transmission facilities, except those necessary to serve local development or where regional or interstate facilities must cross tidal waters.
- (c) Permanent sludge handling, storage.....

Clearly, the ferry landing is a water dependent facility by it's nature, therefore in section D(5)a the exception applies and IDA designation is not specified.

Also, section D(5)b excepts projects necessary to serve local and regional development. The project is strongly endorsed by both the Dorchester County Economic Development Commission and the Dorchester County Chamber of Commerce as being necessary and beneficial to local development. (see attachment C,D,E,F,G)

Therefore section D(5) does not require IDA designation for this project.

Next, section 155-47A (J5) states:

Tidewater buffer. The following regulations shall apply to the tidewater buffer area:

- (5) New or expanded water-dependent development activities are permitted in the tidewater buffer within Intensely Developed Areas and Limited Development Areas only. Such projects must meet a recognized public need or private right, and adverse effects to water quality and to plant, fish, or wildlife habitat must be minimized.

With reference to attachment C,D,E,F,G we feel a recognized public need will be met.

Also with reference to the site plan, adverse effects have been minimized by the limited amount of development and the location of the improvements.

Also note that according to this section a tidewater buffer exemption is not specified.

In addition, Section J6 states in reference to the tidewater buffer:

- (6) New, expanded, or redeveloped industrial or port-

related water-dependent facilities, and the replacement of these facilities, are permitted only in those portions of Intensely Developed Areas that are exempt from tidewater buffer designation. Ports and industries which use water for transportation and derive economic benefits from shore access shall be located near existing port facilities.

This section should be applied to industrial and port related facilities such as Port of Cambridge marine terminal or Arundel Corporation barge unloading facility. These facilities entail large areas of asphalt; cranes; deep-sea shipping and other intense uses.

Section J(7) is more correctly applied because the landing is a use similar to a marina.

- (7) New or expanded marinas and related water-dependent facilities are permitted in the tidewater buffer within Intensely Developed Areas and Limited Development Areas. New marinas shall not be permitted in the buffer within Resource Conservation Areas, except in compliance with paragraph 9 below. In the case of expanded marinas, it must be sufficiently demonstrated that the facility will not adversely affect water quality.

Please note the zoning special exception approval (attachment B) specifically limits the site to a ferry landing. Also the special exception was run as a use similar to a marina (see attachment H). A marina is an allowed use in an LDA and may have numerous vessels arriving and departing; LP gas sales; fuel; groceries; pumpout facilities; etc. The ferry landing as proposed is very limited by comparison and as noted above, is allowable in an LDA.

According to J(7), water dependent facilities related to a marina are permitted in the tidewater buffer within an IDA or LDA. Therefore a buffer exemption is not required for this project.

In summary, our application for growth allocation has been delayed by lack of inclusion of a buffer exemption. According to J(7) this is not required.

The critical area designation should be run as an LDA in keeping with Dorchester County Code and the nature of the project.

In reference to the letter of comment:

J(5) Designation not specified. Could be either IDA or LDA.

J(6) Not applicable (see J(7)).

J(7) Buffer exemption not required.

D(5)a Water dependent facility is the exception. Ferry landing is water dependent.

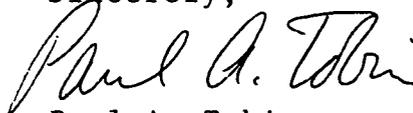
D(5)b The project is necessary to serve local development, and has the potential to become a major attraction for Dorchester County.

D(5)c N/A.

I will look forward to your response to the above points.

Thankyou for your consideration.

Sincerely,



Paul A. Tobin



JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION

SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING, D-4
ANNAPOLIS, MARYLAND 21401
974-2418 or 974-2426

COMMISSIONERS

January 12, 1989

Thomas Osborne
Anne Arundel Co.

James E. Gutman
Anne Arundel Co.

Ronald Karasic
Baltimore City

Albert W. Zahniser
Calvert Co.

Thomas Jarvis
Caroline Co.

Kathryn D. Langner
Cecil Co.

Samuel Y. Bowling
Charles Co.

G. Steele Phillips
Dorchester Co.

Victor K. Butanis
Harford Co.

Wallace D. Miller
Kent Co.

Parris Glendening
Prince George's Co.

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

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

Ronald D. Adkins
Somerset Co.

Shepard Krech, Jr.
Talbot Co.

Samuel E. Turner, Sr.
Talbot Co.

William J. Bostian
Wicomico Co.

Russell Blake
Worcester Co.

Ms. Karen Phillips
Dorchester County
County Office Building
P.O. Box 26
Cambridge, Maryland 21613

Re: Paul Tobin - Chesapeake Bay
Ferry Service

Dear Ms. Phillips:

This letter is in response to your request for comments regarding Paul Tobin's application for a special exception for a Chesapeake Bay Ferry Service.

As we discussed on the phone this morning, "Section 155-47A Critical Area Protection District" of the Dorchester County Code states in section H(3) that:

"New commercial and industrial facilities are not permitted in Resource Conservation Areas, and additional land may not be zoned for these purposes unless that land is designated for intense or limited development as part of the future growth allocation for the county."

Therefore, the granting of a special exception must be contingent on receiving growth allocation.

In addition, the growth allocation applied for must be to zone the property as an Intensely Developed Area with a buffer exemption. This is to comply with sections

CABINET MEMBERS

Wayne A. Cawley, Jr.
Agriculture

J. Randall Evans
Employment and Economic Development

Martin Walsh, Jr.
Environment

Ardath Cade
Housing and Community Development

Torrey Brown
Natural Resources

Constance Lieder
Planning

Mr. Karen Phillips

January 12, 1989

Page Two

D(5) and J(5 and 6) of the above-referenced section of the County Code.

The Commission will respond to the technical aspects of the proposed development when growth allocation is applied for. Please inform us when Mr. Tobin applies for growth allocation, and continue to send us other related materials. Thank you.

Sincerely,



Abigail Rome
Natural Resources Planner

AR:msl

DORCHESTER COUNTY BOARD OF APPEALS

P. O. Box 307
CAMBRIDGE, MARYLAND 21613
PHONE: 228-3234

MEMBERS:

EVERETT SIMMONS, JR.
WARREN McWILLIAMS
ERNEST SUMR
H. W. HECKLER
JAMES JONES, III

ATTORNEY:

EDWARD H. NABB



EXECUTIVE SECRETARY:
LINDA M. NABB

CODES ADMINISTRATOR:
MABEL N. RAHE

ZONING INSPECTOR:
ALLEN B. TOLLEY

Date: January 20, 1989

Reference: Appeal Case #1093

Special Exception - Ferry Business Use
R-2 Residential District

Mr. Paul Tobin
404 Wheeler Street
St. Mary's, Georgia 31558

Dear Mr. Tobin:

The Dorchester County Board of Appeals, after a public hearing of your request on Thursday, January 19th, hereby notifies you of their action taken. Their decision was to: Approve the request with no special conditions.
XX Approve the request with the following stipulations:

B

1. State entered objection - See letter.
2. Work must commence within 2 years of Critical Area approval.
3. Site plan must return to Planning Commission.
4. Highway Dept. must approve road through applicant's land.
5. No other commercial operations on subject property.
6. Subject to approval of all other affected agencies.
7. Weight limits are governed by bridge limits.

Your approved request, either with or without stipulation/conditions, entitles you to obtain a building permit (zoning certificate) from the Department of Planning and Zoning. This department will also be responsible for the enforcement of any stipulations/conditions the Board of Appeals has placed on this approval.

If you have any questions regarding the above, please contact this office immediately and speak with the undersigned.

Sincerely yours,

DORCHESTER COUNTY BOARD OF APPEALS

Steve Dodd
Executive Secretary

SD/ral

cc Attorney

DORCHESTER COUNTY ECONOMIC DEVELOPMENT OFFICE

P.O. BOX 26

CAMBRIDGE, MARYLAND 21613

301-228-0155



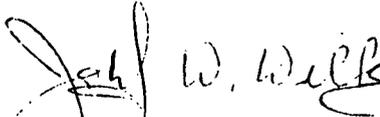
October 25, 1988

Paul A. Tobin
3067 Bryant Road
Mobile, Ala. 36605

Dear Mr. Tobin:

This is to advise you that at the regular meeting of the Dorchester County Economic Development Commission on the above date it was decided to approve your project regarding the ferry boat service between Dorchester and Calvert Counties in the form as outlined by you at our public meeting held on Sept. 26th as a condition of approval, the Commission asks that all necessary road improvements to the ferry site be upgraded to accommodate the increased traffic flow and that you provide adequate parking for those vehicles awaiting the use of your service.

Sincerely,


Josef W. Wilke
Acting Director

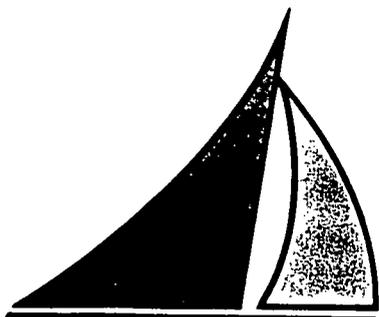
JWW/sk

C

DORCHESTER CHAMBER OF COMMERCE, INC.

203 Sunburst Hwy., Cambridge, MD 21613

(301) 228-3575



Discover Dorchester
Chesapeake's Treasure

May 25, 1989

Calvin Travers, President
and the Dorchester County Commissioners
PO Box 26
Cambridge, MD 21613

Dear Sirs:

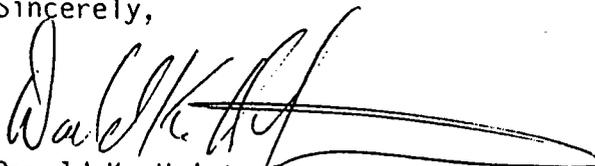
This letter is in support of the proposed car ferry service between Taylors Island and Solomon's Island.

According to Mr. Tobin's proposal, it will be a family owned and operated business; although he anticipates hiring approximately 10 people. The car ferry service will provide 5 round trips per day, increasing during peak seasons. The only construction required on the site, will be a steel-frame causeway ramp, tar and chip roadway, and a ticket building. He does plan to build a home for his family on the property.

With the above in mind, it is clear that Mr. Tobin's plans will not have a disruptive effect on the community of Taylors Island, and will only promote tourism for Dorchester County, which is beneficial to all County residents.

In support of the county's economic growth and promising tourism potential, the Chamber feels that this service can only be a step forward.

Sincerely,


Donald K. Heintzelman
President

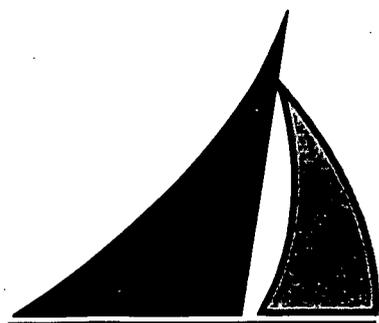
cc: Paul Tobin

/avh

DORCHESTER CHAMBER OF COMMERCE, INC.

203 Sunburst Hwy., Cambridge, MD 21613

(301) 228-3575



Discover Dorchester
Chesapeake's Treasure

August 14th, 1989

Hon. John C. North II
Chesapeake Bay Critical Areas Commission
275 West Street, Suite 320
Annapolis, MD 21401

E

Dear Mr. North:

At the Dorchester Chamber of Commerce Board of Directors meeting held on Thursday, August 10th, a motion was carried to reiterate the support of the proposed ferry service between Taylors Island and Solomons Island, proposed by Paul Tobin, of Georgia.

According to Mr. Tobin's proposal, it will be a family owned and operated business; although he anticipates hiring approximately 10 people. The car ferry service will provide 5 round trips per day, increasing during peak seasons. The only construction required on the site, will be a steel-frame causeway ramp, tar and chip roadway, and a ticket building. He does plan to build a home for his family on the property.

With the above in mind, it is clear that Mr. Tobin's plans will not have a disruptive effect on the community of Taylors Island. However, we are of the opinion that some basic concerns, voiced by residents of Taylors Island, such as trash pick-up, fire safety and parking, which could have a negative impact on the community, should be addressed. The roads to and from Taylors Island should also be reviewed.

In support of the county's economic growth and promising tourism potential, the Chamber of Commerce feels that this ferry service can only be a step forward to promote tourism for Dorchester County, which is beneficial to all County residents. Tourism is fast becoming the number one industry in Maryland.

Sincerely,

Donald K. Heintzleman
President

/avh

DORCHESTER COUNTY ECONOMIC DEVELOPMENT OFFICE

P.O. Box 26
Cambridge, Maryland 21613
301-228-0155



August 13, 1990

Mr. Steve Dodd, Director
Dorchester County Planning & Zoning Office
P.O. Box 307
Cambridge, Maryland 21613

RE: County Planning and Zoning Text Amendment;
Mr. Paul Tobin Application #184-1-90 and 185-2-90

Dear Mr. Dodd:

The Dorchester County Economic Development Commission supports and endorses Mr. Tobin's request to allow conversion from an RCA to an IDA for growth allocation under the County Critical Area Plan. This will expedite Mr. Tobin's development plans for his property, and ultimately create employment opportunities for our local labor force.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Amos Meredith'.

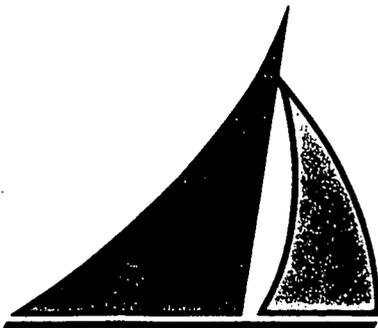
Amos Meredith
EDC Chairman

DORCHESTER CHAMBER OF COMMERCE, INC.

203 Sunburst Hwy., Cambridge, MD 21613

(301) 228-3575

September 4, 1990



Discover Dorchester
Chesapeake's Treasure

Dorchester County Planning Commission
P.O. Box 307
501 Court Lane, Room 107
Cambridge, MD 21613

Dear Sirs:

The Board of Directors of the Dorchester Chamber of Commerce has been contacted by Mr. Paul Tobin regarding the "Text Amendment" being presented at your September 5, 1990, hearing.

After researching the matter of RCA, LDA and IDA designations, and how development is effected here in Dorchester County, the Chamber would like to go on record as being in favor of this "Text Amendment."

Your approval of this adjustment would allow the necessary growth within the County, while, at the same time, continue to control the growth by existing zoning laws as well as Critical Areas and Non-Tidal Wetlands restrictions. The current procedure of movement from RCA to IDA both encumbers appropriate development as well as affects the area's growth allocations.

It is the opinion of this body that this would be a positive step toward facilitating desired development.

Sincerely,

Robert A. Woodard
President

cc: Paul Tobin

BOARD OF APPEALS
DORCHESTER COUNTY, MARYLAND

NOTICE TO CONTIGUOUS PROPERTY OWNERS

Refer to
Case No. 1093

H

Dear Sir/Madam:

An appeal, as applies to the property at Taylor's Island
Tax Map 67, Block 6, Parcel 1

has been filed by Paul Tobin

A request has been made which would authorize as a special exception,
a ferry business.

The property is located in an R-2 Residential District, and the
request requires Board of Appeals approval. Dorchester County Code:

Section 155-37C(21) Any use or structure which is determined by the
Board to be of the same general character as the above uses.

Section 155-37C(10) Public & private marinas

Section 155-19 Powers & duties of Board

A public hearing will be held on Thursday, January 19, 1989
at 7:50 P. M. in the County Office Building, Cambridge, at which time you are
invited to appear, if you so desire.

The hearing of this appeal is not limited to those receiving copies of this notice, and if you know of any
neighbors or affected property owners who, for any reason have failed to receive a copy, it would be appreciated
if you would inform them of this public hearing.

BOARD OF APPEALS



James H. Michael
Zoning Administrator

January 3, 1989

Date

DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 307
CAMBRIDGE, MARYLAND 21613
PHONE: 228-3234

DIRECTOR
STEVE DODD, AICP

ASSISTANT PLANNER
KAREN HALES

PLANNING SECRETARY
JULIA T. HENRY



ZONING ADMINISTRATOR
JAMES H. MICHAEL

CHIEF ZONING INSPECTOR
ALLEN TOLLEY

ZONING SECRETARY
MARNE COPPINGER

March 7, 1991

John C. North II, Chairman
Chesapeake Bay Critical Areas Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, Maryland 21401

RE: Paul A. Tobin
Tax Map 67, Block 6, Parcel 1
Trans-Bay Ferry
6.23 acres from RCA
to IDA: Growth Allocation

Dear Chairman North:

This letter requests that the Critical Areas Commission reconsider its decision on the above-referenced growth allocation request (see Attachment #1). We submit to you that the Commission, in making its findings, incorrectly applied State and Local Critical Area Law which was not relevant to the particular request before them. Furthermore, we request that the Commission correct its error and approve growth allocation for Mr. Tobin's project, or indicate to the County the reasons for its denial.

Allow me to provide you with some background information:

1. On January 19, 1989, the Dorchester County Board of Zoning Appeals granted Mr. Tobin a special exception to operate a ferry service on the above-referenced parcel. The Board found that the proposed ferry service was a use similar to a public or private marina, which is a permitted special exception in the R-2, residential zone. No change in the zoning designation was required. (see Attachment #2 for the minutes from that meeting).

2. Prior to the Appeals Board hearing, the Commission staff reviewed the proposal and submitted written comments in a letter dated January 12, 1989 (see Attachment #3). In that letter, Abigail Rome correctly cited Section 155-47.1 (H) (3) of the Dorchester County Code, which conditioned any special exception granted by the Board with the requirement for an award of growth allocation (either IDA or LDA). The letter goes on to

reference Section 155-47.1 (D) (5) and (J) (5 and 6) as evidence that (a) the growth allocation designation must be IDA (and not LDA) and (b) a buffer designation exemption must be granted. We would challenge this, as this appears to be the basis for the Commissions decision to return the growth allocation request to the County.

3. Mr. Tobin, in relying upon Ms. Rome's interpretation of the Critical Area Law, submitted a growth allocation request to Dorchester County for an IDA designation with a buffer exemption. This request was reviewed and approved by both the Dorchester County Planning Commission (April 5, 1989) and Dorchester County Commissioners (June 6, 1989). (see Attachment #4 for the minutes from that meeting). The growth allocation request was formally submitted to the Commission on June 21, 1989 (see Attachment #5). The issue of the buffer exemption was never formally discussed by either the Planning Commission or County Commissioners, and therefore, never approved. We would submit to you, however, that the Critical Area Laws when properly interpreted do not require a buffer exemption for Mr. Tobin's project. Therefore, the lack of a buffer exemption is not a valid reason to return the growth allocation request. Please allow me to elaborate.

In Ms. Rome's January 12th letter and subsequently in the Commissions September 6th decision, it is assumed that Mr. Tobin's proposal is classified as an "industrial or port-related water dependent facilities" and regulated as such under Section 155-47.1 (J) (6) of the County Code. Mr. Tobin contends, and I agree, that his ferry should be judged as a "marina and related water-dependent facility" as regulated under 155-47.1 (J) (5) and (7). I would note that neither of these terms are defined in either the Criteria or the local program. In such cases, it is my understanding that the Commission will defer to the County's underlying zoning regulations. In Dorchester County, Mr. Tobin's Ferry proposal can and has been accommodated under the current zoning classification of R-2 residential. In fact, the types of uses regulated under Section 155-47.1 (J) (6) would not be permitted in the County's R-2 zone but would require heavy industrial zoning (I-2).

Under Section 5 and 7 (of 155-47.1 J) Mr. Tobin's proposal could be permitted in either an LDA or IDA. In addition, it appears that no tidewater buffer exemption is required for "marinas and related water-dependent facilities." It appears that the criteria for approval of these activities is that a) the project must meet a recognized public need or private right and b) adverse effects to water quality and to plant, fish or wildlife habitat must be minimized. Therefore, if Mr. Tobin could meet these tests to the satisfaction of the Commission, approval could be granted.

In light of the above, I believe that the Commission should revisit this issue under the correct sections of the County's laws; those being 155-47.1 (J) (5) and (7).

Sincerely,



Steve M. Dodd
Director

Enclosures: Paul Tobin ✓
Tom Ventre

Attachments

Mr. Tom Ventre and Critical Area Commission Staff
Critical Area Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, MD. 21401

Paul A. Tobin
P.O. Box 104
Taylors Is., Md. 21669

10 April 1991

RE: Taylors Island Ferry Landing Growth Allocation

Dear Mr. Ventre and other Staff Members:

In reference to our on going application for growth allocation to establish a ferry landing at Taylors Island, I have found some additional information which I urge you to consider concerning the question of the treatment of our project as a port.

I have made an investigation of other existing ferry landings, located in the State of Maryland, and in the critical area.

In contact with the Talbot County Office of Planning & Zoning, it was found that the Bellevue landing of the Oxford-Bellevue ferry is located in an R/R (Rural-Residential) district which is an LDA designation in Talbot County.

Mr. Dan Cowee was familiar with the inception of the Critical Area Plan and said this was based on the housing density of the former village zoning which became village center zoning. He stated that the ferry landing was never considered to be anything different than part of the county landing and slips. In reference to the buffer exemption, he said there are no buffer exempt areas in Talbot County. Also, the former railroad ferry landing in Claiborne is in an LDA. He also stated that a water dependent facility is not required to have a buffer exemption under the criteria.

In contacting the Incorporated Town of Oxford, it was determined that the Oxford landing is in an IDA with buffer exemption. However, this is simply because the landing is located in the Town of Oxford, which is an IDA and buffer exempt.

For further clarification, Mr. Tony Redman of Redman-Johnston & Associates was contacted. Mr. Redman stated that the original mapping was based on a housing density greater than 3 per acre, and the presence of city water and sewer service. There was no question brought up about the ferry landing, and rather than create a spot zone, the landing was included in the IDA of the Town.

Mr. Tom Ventre, et.al.
10 April 1991
Page Two

When Mr. Redman was asked about a port and port related facility, he said this refers to an area such as the Port of Baltimore and major heavy industry next to the water which is directly related to the ships coming in such as cranes, container yards, warehouse facilities, grain elevators, etc.

Wicomico County Planning & Zoning officials were contacted with reference to the Whitehaven and Upper Ferry in Wicomico County.

The landing for the Upper Ferry is located in a LDA and the landing for the Whitehaven ferry is in an LDA. Mr. Frank McKenzie also stated that both are water dependent facilities and the parking for the Whitehaven ferry is located outside the buffer. He said there are enough houses near the Upper Ferry for the LDA designation. The Whitehaven landing is part of the town of Whitehaven LDA.

Somerset County Planning & Zoning officials were contacted to determine the classification of the southern landing of the Whitehaven ferry. Mr. Windsor stated that the landing is in an RCA on a spit of land out in a marsh and there are no houses within a mile of the landing. He said that based on the criteria and housing density it was not even considered anything but an RCA area.

Based on the above information and the fact that there are six ferry landings in use in Maryland in three different counties, all with approved mapping and critical area plans, we feel that the interpretation of the criteria to require the Taylors Island site to be Port related and buffer exempt is an inconsistent application of the rules.

Clearly, the correct interpretation would consider the proposed use a commercial maritime facility which is water dependent, similar to a marina and not requiring a buffer exemption. This use is permitted in either an LDA or IDA classification for new facilities. (please note that if certain conditions are met these activities are also allowable in an RCA under 14.15.03.08.) (also at 155-47a. J(5) &(7) in Dorchester County Code.)

Mr. Tom Ventre, et.al.
10 April 1991
Page Three

In reference to the definitions of a port and port related facilities versus marinas and other water-dependent commercial maritime facilities; the criteria define Port:

"Port" means a facility or area established by the State or local jurisdictions for purposes of waterborne commerce."

Webster's Ninth New Collegiate Dictionary defines Commerce:

"the exchange or buying and selling of commodities on a large scale involving transportation from place to place."

Further, Webster's defines Port:

"1: a place where ships may ride secure from storms. 2: a harbor town or city where ships may take on or discharge cargo."

A ferryboat landing consisting of a road ending at the water does not appear to fit any of these definitions.

More consistent with other landings in the state, a ferry landing is compared to a marina.

The criteria define marina:

"Marina " means any facility for the mooring, berthing, storing, or securing of watercraft,..."

Since the function of a ferry landing is to berth a ferryboat for brief periods, this definition describes a ferry landing.

Reflecting on the present interpretation that the proposed landing is a port, and that the landing consists of a road connecting an existing county road to a public body of water, then it could be concluded that any waterfront county road should be in an IDA, which is obviously not required.

Mr. Tom Ventre, et.al.
10 April 1991
Page Four

In summary, in order for the Critical Area Commission to be consistent in their application and interpretation of the Criteria; the conclusion that the proposed ferryboat landing is a port and requires a buffer exemption, should be revised.

In light of the new information presented here, that there are existing ferry landings in the Critical Area in all three land classifications, none of which are required to have a buffer exemption because of their water-dependent nature, the staff and commission can conclude the ferry landing should be treated as a commercial water-dependent facility similar to a marina. This facility is not required to have a buffer exemption because of its intrinsic water-dependency. The landing is allowable in a LDA or IDA, as other ferry landings are presently permitted. It can also be allowed in the RCA provided certain conditions are met.

It is hoped the above information will assist the staff in correctly revising the interpretation concerning this project to be consistent with existing ferry landing classifications.

Sincerely,


Paul A. Tobin

cc: Mr. Steve Dodd

DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 307
CAMBRIDGE, MARYLAND 21613
PHONE: 228-3234

DIRECTOR
STEVE DODD, AICP



ZONING ADMINISTRATOR
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ASSISTANT PLANNER
KAREN HALES

CHIEF ZONING INSPECTOR
ALLEN TOLLEY

PLANNING SECRETARY
JULIA T. HENRY

ZONING SECRETARY
MARNE COPPINGER

April 1, 1991

Mr. Tom Ventre
Critical Areas Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, MD 21401

RE: Meeting 3/28/91 Paul Tobin

Dear Tom,

We appreciate the opportunity to meet with you and the other staff members concerning Mr. Paul Tobin's effort to establish a ferry service on Taylor's Island in Dorchester County. I'd like to summarize my understanding of our meeting on the 28th.

1. The Critical Area Commission, on September 6, 1989, returned the growth allocation request for Paul Tobin to Dorchester County. The reason given for the action was that the project was required to be located in a buffer-exempted area. Since the Tobin parcel is not a buffer-exempted area, the project could not be granted growth allocation.

2. In addition to the formal reason given for returning the growth allocation request it is the consensus of the state and local staff that the project was/is not eligible for growth allocation in that local statute prohibits the reclassification of RCA lands to IDA.

3. Mr. Tobin's request for an IDA designation was based on a directive from Ms. Abigail Rome in a letter dated January 12, 1989 to Karen Phillips of the Dorchester County Planning & Zoning Office. Ms. Rome was a member of the Critical Area Commission staff at the time the letter was sent.

4. Mr. Tobin and the Dorchester County Planning staff take issue with Ms. Rome's interpretation of the Criteria as it applies to Mr. Tobin's ferry service. We have communicated the basis for our challenge to Judge North.

5. The Commission staff, as a result of our meeting, has agreed to revisit the issue and advise Dorchester County of its recommendations.

6. Despite the fact that the Commission returned the original growth allocation for lacking a buffer exemption, the Commission staff unanimously recommends that Mr. Tobin not pursue a buffer exemption for his parcel. A buffer exemption is only appropriate for those areas in which the buffer no longer serves its intended function.

7. Should the Commission find that Mr. Tobin's ferry service is a use which is similar to other "water-dependent commercial maritime facilities", the project could be approved in an IDA, without a buffer exemption.

8. The growth allocation request for Mr. Tobin's parcel has received approval(s) at the County level and that local approval has not expired. It appears that no further action needs to be taken at the local level in order to facilitate Mr. Tobin's request.

9. Should the Commission affirm its original decision, Mr. Tobin's proposal is not eligible for growth allocation in that a buffer exemption is required but Mr. Tobin is not eligible for a buffer exemption. (See point #6)

10. Should the Commission reverse its original decision and classify Mr. Tobin's project as a "water dependent commercial maritime facility", then a buffer exemption is not required for the project. We assume that a new panel hearing could be scheduled: local approval having been already granted.

11. Mr. Tobin can only pursue his IDA designation if Dorchester's Code is amended to permit this type of redesignation. If Dorchester County fails to amend its Code, Mr. Tobin's IDA request is not eligible for growth allocation.

12. Assuming that the Commission permits Mr. Tobin's project under either an LDA or IDA, even if the County fails to amend its Code, Mr. Tobin could refile a new growth allocation request for an LDA designation. This would be a new application and would first require local approval before forwarding to the Critical Areas Commission.

Let me know if you want to amend or add anything that I may have left out.

Sincerely,



Steve Dodd,
Director of Planning

SD:jh

cc: Paul Tobin

Mr. Tom Ventre and Critical Area Commission Staff
Critical Area Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, MD. 21401

Sent

Paul A. Tobin
P.O. Box 104
Taylors Island, MD. 21669

25 April 1991

RE: TAYLORS ISLAND FERRY LANDING GROWTH ALLOCATION

Dear Mr. Ventre and other Staff Members:

The proposed ferry landing would accomplish one of the main overall goals of the Critical Area legislation to provide greater public access to the Chesapeake Bay.

The Bay shore of Taylors Island is provided with public access to the Bay only at Taylors Island Family Campground and this is only for campers. All other bayfront property is privately owned.

The proposed ferry would provide easy public access and educational opportunities to a wide segment of the public, and would also expose many out of state tourists to the beauty and scenic views of the Chesapeake Bay.

In light of information concerning other ferry landings in neighboring eastern shore counties, we would like to discuss which critical area classification is proper for the proposed landing in Taylors Island.

All other ferry landings investigated were designated based on housing density in the area of the landing.

Various zoning officials have stated that the landings are in the areas they are in (RCA in Somerset, LDA in Worcester and Talbot, and IDA in Oxford) because of the prevailing housing density in the area of the landing. Therefore, since the proposed site for the Taylors Island ferry is presently located in a RCA with very low housing density; and the landing is an approved use compatible with the surrounding area (R-2 district with special exception for a ferry operation), then it would seem reasonable to conclude the ferry landing would be allowable in the present RCA area.

Mr. Tom Ventre, et.al.
25 April 1991
Page Two

This is further supported at both 155-47.1 J (7) & (9)a-d in the Dorchester County code, in the Criteria at 14.15.03.06 B, and by reference 14.15.03.08 B (1-5).

The above section of criteria states in part:

- .06B. New marinas or related maritime facilities may not be permitted in the Buffer within Resource Conservation Areas, except as provided in Regulation .08, below.
- .08B. These facilities may be permitted within the Buffer in Limited Development Areas and Resource Conservation Areas provided that:
 - (1) Adequate sanitary facilities exist;
 - (2) Service facilities are, to the extent possible, located outside the Buffer;
 - (3) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
 - (4) Disturbance to natural vegetation is minimized; and
 - (5) Areas for passive recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas, if service facilities for these uses are located outside of the Buffer.

By examination of the site plan and description of the proposed project, it can be seen that the proposed landing meets all of the above conditions:

- (1) Adequate facilities are provided to the satisfaction of Dorchester County health department and disposal will take place off premises.
- (2) All service facilities are outside the buffer except the road surface which is as direct as possible.
- (3) Permeable surfaces are used via tar and chip for the access road.
- (4) Disturbance to natural vegetation has been minimized by routing the proposed road to follow an existing farm road and existing power line cut to avoid the necessity of cutting trees on the adjacent property. The percentage of development is also an indication of the minimal disturbance.

Mr. Tom Ventre, et.al.
25 April 1991
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- (5) The proposed project will allow for passive enjoyment of the area while waiting for the ferry and simply gazing at the woods and bay. There are also excellent educational opportunities via displays and exhibits provided by various state agencies and local groups and museums for the benefit of passengers waiting and aboard the boat.

In summary, the ferry may be allowable in a RCA based on housing density in the area; previous precedent by the Critical Area Commission; agreement with the underlying zoning; and agreement with all requirements for this designation cited at .06 and .08.

We are interested in further discussing the above points to determine the correct classification of the proposed landing.

Sincerely,



Paul A. Tobin

DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 307
CAMBRIDGE, MARYLAND 21613
PHONE: 228-3234

DIRECTOR
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ALLEN TOLLEY

ZONING SECRETARY
MARNE COPPINGER

April 11, 1991

Mr. Tom Ventre
Critical Areas Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, MD 21401

RE: TOBIN FERRY-DORCHESTER COUNTY

Dear Tom:

Accompanying my letter is a letter dated April 10, 1991 from Mr. Paul Tobin. Mr. Tobin has investigated how ferry landings in our neighboring counties have been designated relative to the three Critical Area Classifications. I urge you and the other Commission staff members to review this material and, of course, verify its accuracy with those persons named in the letter.

I am hoping that the Commission staff will reach the same conclusion I have: the Commission's decision to return Mr. Tobin's application for growth allocation (for the reason's stated in its letter of September 5, 1989) is not supported by a reasonable application of the Criteria nor is it supported by the practical application of the Criteria in our neighboring counties. To ask Mr. Tobin to meet some more stringent test than that met by virtually every other ferry landing on the Eastern Shore is both inconsistent and unfair.

Sincerely,

Steve M. Dodd
Director

SMD:sb

Mr. Tom Ventre and Critical Area Commission Staff
Critical Area Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, MD. 21401

not sent

Paul A. Tobin
P.O. Box 104
Taylors Island, MD. 21669

25 April 1991

RE: Taylors Island Ferry Landing Growth Allocation

Dear Mr. Ventre and other Staff Members:

In reference to my letter of 10 April 1991, and Mr. Steve Dodd accompanying letter of 11 April 1991, and also the official Critical Area Commission response concerning our growth allocation request (6 September 1989 meeting in letter of 17 October 1989), I would like to bring this additional information to your attention.

The official written reason the Critical Area Commission gave for sending the growth allocation back without Critical Area Commission approval was stated that a tidewater buffer exemption was required and had not been approved by the county through an oversight during the hearings. As noted in the letter of 10 April 1991, it has been determined that other ferry landings in Maryland are considered water dependent commercial maritime facilities and do not require a buffer exemption (see 155-47.1 J(7) of the Dorchester County code and 14.15.03.06 of the Critical Area Criteria).

Therefore, the official reason for sending the growth allocation back to Dorchester County has been eliminated and there is nothing for Dorchester County to do to correct this oversight.

There is also an unstated reason which is referred to in the Critical Area Commission minutes of their meeting concerning this request, i.e. Dorchester County Code does not presently allow an IDA to be located in an RCA. However, in reference to the 10 April 1991 letter, ferry landings in Maryland are not required to be located in an IDA as stated by Critical Area staff member in a letter of January 12, 1989, but are in fact allowed and do exist in all three (RCA, LDA, and IDA) classifications. Therefore, the Commission would be consistent in allowing the ferry in a LDA.

Mr. Tom Ventre, et.al.
25 April 1991
Page Two

However, the original project was approved by Dorchester County officials as an IDA request based solely at the behest of the Critical Area staff member. Since this advice was apparently not correct, but Dorchester County has approved the acreage for growth allocation for this project, it seems reasonable for the Critical Area Commission to approve growth allocation for an LDA or IDA and return the request to Dorchester County.

Dorchester County could accept the lower classification as approved without further process as allowed at 155-47.1 N.(1)(a)...

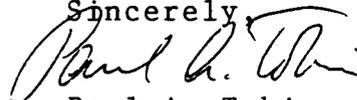
...Conversion from a higher to a lower development zone shall not require growth allocation.

The above conclusions can resolve both the stated and unstated reasons given by the Commission for not approving this growth allocation request.

It would also avoid repetition of the duly conducted and good faith hearing process of the original approved growth allocation request.

The original request, made with reliance on Critical Area Commission information, was properly processed and unanimously approved in all respects. It would be unfair hardship to require the applicant to repeat the county process since the error was not on the applicant's part.

Sincerely,



Paul A. Tobin

Tobin's Copy

DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 307
CAMBRIDGE, MARYLAND 21613
PHONE: 228-3234



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ZONING SECRETARY
MARNE COPPINGER

April 26, 1991

Mr. Tom Ventre, Regional Planner
Mr. George G. Gay, Assistant Attorney General
Chesapeake Bay Critical Areas Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, MD 21401

RE: Taylors Island Ferry Service
CAC Meeting: May 1, 1991

Dear Mr. ^{Tom}Ventre and Mr. ^{George}Gay

I am enclosing a letter which I received today from Mr. Paul Tobin. I believe this letter raises valid questions concerning not only Mr. Tobin's proposal, but the larger procedural question of how the Commission (and it's staff) goes about classifying the virtually unlimited potential uses of land into one of three categories: RCA, LDA and IDA. Perhaps this is an issue for another day, but I believe that for Mr. Tobin that day is today (or rather May 1st). I am hoping that the Commission staff has briefed Mr. Gay on the background of this case and if not, I would request that you do so.

It appears to me that Mr. Tobin is asking the Commission a two-part question:

-Part A: Did the Commission err in its decision to return Mr. Tobin's growth allocation request to Dorchester County for the reason stated in it's letter dated Oct. 17, 1989; that being that the request lacked a buffer exemption as required by Law?

-Part B: If the Commission finds that there was an error, what can or should be done to correct this error? In a similar case involving a growth allocation request from Mr. Richard McCauley, the Commission essentially reversed it's earlier decision to deny allocation to Mr. McCauley. The Commission recognized that the basis for its decision to deny was/were not supported by the Law. I certainly see no disgrace in the Commission's reversal. In fact to me it demonstrates that the Commission's

objective is to provide for a reasonable, fair and consistent application of the Law).

As Mr. Tobin points out in this and previous letters, all necessary public hearings, both at the County and Commission level, have been held. All persons having an interest in this project have been given an opportunity to be heard. It seems reasonable that, based on evidence provided by Mr. Tobin and this office and based on the precedent set by the Commission in the McCauley case, the Commission is within its authority to reconsider its October 17, 1989 letter and grant the allocation. As an aside issue, the undersigned would greatly appreciate it if both the staff and Commission would render an opinion concerning the correct and necessary Critical Area designation for the ferry landing proposed by Mr. Tobin.

Sincerely,



Steve M. Dodd
Director

SMD:sb

Mr. George Gay
Assistant AG
Dept. of Natural Resources
Taves State Office Bldg.
580 Taylor Ave.
Annapolis, MD. 21401

Mr. Paul A. Tobin
P.O. Box 104
Taylors Is., MD. 21669
(301) 397-3159

30 May 1991

Dear Sir:

In reference to our telephone conversation of 28 May 1991, I am enclosing a copy of the proposed text amendment. This is case # 184-1-90 (zoning) and case # 185-1-90 (sub-division regulations) since this part appears in two places in the code.

To summarize the points we discussed:

- 1.) A buffer exemption is not required for a water dependent facility as at J(5) of the Dorchester County Code.
- 2.) An IDA designation is not required at D(5), nor is it specified by past practice at any other ferry landing.
- 3.) Section J(6) is improperly cited and section J(7) should apply. The landing is not a port nor is it a port related industry. In keeping with Dorchester County Planning and Zoning and approved special exception, this use is similar to a marina and is allowable in an IDA or LDA.
- 4.) The ferry landing should be treated as a commercial water dependent facility similar to a marina and not a port or port related industry. As such we feel the commission can make a clear statement that the landing is allowable in an IDA or LDA. I will look forward to meeting with you on June 4th.

Sincerely,


Paul A. Tobin

Review Draft

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
May 1, 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 John C. North, II with the following Members in attendance:

Ronald Adkins
William J. Bostian
Victor K. Butanis, Esquire
William H. Corkran, Jr.
Joseph J. Elbrich, Jr.
James Peck of the
Dept. of Natural Resources
Ronald Hickernell
Dr. Shepard Krech, Jr.
Kathryn D. Langner
Louise Lawrence of the
Dept. of Agriculture
G. Steele Phillips
Robert Schoeplein of
DEED

Russell Blake
Samuel Y. Bowling
Kendra L. Bonderud
for Ardath Cade, DHCD
Carolyn Watson for
Parris Glendening
James E. Gutman
Thomas L. Jarvis
Ronald Kreitner of
Md. Office of Planning
James L. Hearn of the
Department of Environment
Robert R. Price, Esquire
J. Michael Whitson
Albert W. Zahniser

A motion was made to amend the minutes of March 6, 1991 to include in the attendance record, Larry Duket for Ronald Kreitner of the Maryland Office of Planning. The motion was seconded and the minutes were approved to include the amendment, unanimously.

Chairman North asked Mr. Tom Ventre to report on the Ferry Farms Subdivision Project in Dorchester County.

Mr. Ventre stated that in January 1991 the Commission considered a request for a growth allocation for a proposed residential subdivision in Dorchester County. The request was for approximately 59 acres of land to be reclassified LDA in order to accommodate the proposed development and the corresponding growth allocation. He said that at that time, it was noted that there were several areas on the plat identified as "residue" areas and after extensive discussion, the Commission agreed with the requested allocation and gave its approval as long as an additional 16 acres were added in order to accommodate the "residue" area. Since that time, the subdivider had to reconfigure some of the lots in that subdivision and it was determined after that reconfiguration that less growth allocation was needed than was originally requested, then the question became in order to accommodate that, would the application have to go through the entire program amendment growth allocation process - again.

Mr. Ventre said that in the reconfiguration several lots were removed and open space was added where there had been none designated originally and that it was learned that "residue lands" in Dorchester County have a specific meaning that allow certain things to happen while it precludes other things. Mr. Ventre introduced Ms. Karen Hales of the Dorchester County Planning and

Critical Area Commission

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Zoning Office and a representative from the consulting engineers firm in Cambridge, Mr. Keith Schwabb.

Ms. Hales stated that the residue of 16 plus acres created problems in writing up an ordinance because the County Commissioners approved only 59.8 acres and the Critical Area Commission had approved 76.25 acres. She stated that she wrote a letter to Judge North requesting an extension because the April 9th deadline had already passed for adoption of the ordinance. She said that since the "residue land" is less than 20 acres, a house could not be constructed on it with an RCA designation as the maps would not be changed from an RCA designation to an LDA, because the map change was originally approved for the 59.8 acres.

Mr. Robert Price asked if a separate tax bill was received for the residue acreage as a separate parcel and could it be conveyed to a third person.

Ms. Hales stated that she did not know how the assessment office would handle it, that it could be purchased by someone but be limited with what could be done with it.

Mr. Schwabb stated that it was not a buildable lot and if someone did want to build on it, it would have to go through Planning and Zoning. He said that a larger issue would be sewerage disposal, and currently the land was maximized for sewerage disposal facilities with two bermed infiltration ponds and the Health Department would not approve it. He said that because the reconfiguration of the land was to avoid any wetland impact, a non-tidal wetlands permit would no longer be required to build on the land. He said that the request is for only 58 acres now of growth allocation.

Mr. Ventre's concern was that some procedural and perhaps some legal questions have been raised by this request for reconsideration for 58 acres when 59.8 was approved, but he wanted to know if the County proceed with that allocation as it stands or would they have to come back before the Critical Area Commission for growth allocation approval.

Mr. Hickernell said that he remembered that in January the approval was with the condition of adding the 16 acres of residue to the growth allocation, and that the sixteen acres could only be utilized for growth allocation or public services extension, and that he could see no reason to be concerned, but the Commission could take subsequent action to clarify their position on the 16 acres but no more than that.

Mr. Gutman asked the staff's position.

Mr. Ventre stated that he agreed with what Mr. Hickernell and the County's position and that he was satisfied that the treatment of the residue in Dorchester County's subdivision application requirement in counting against the growth reserve.

Mr. Gutman asked if the problem was that it was past the deadline set to adopt the ordinance.

Mr. Ventre stated, yes.

Critical Area Commission

~~Minutes - June 6, 1990~~

Mr. Robert Price asked if the lot could be built on, for whatever reason the Health Department would not approve it.

Ms. Hale stated that it would have to go through all the County approvals, but it also would not have to come back for growth allocation.

Mr. Gutman made a motion to recess the topic until the Assistant Attorney General, Mr. George Gay, arrived for a legal opinion.

Chairman North agreed that a recess was in order.

Critical Area Commission
Minutes - June 6, 1990

Chairman North asked Mr. George Gay, Assistant Attorney General, Commission Counsel, to give an opinion on the Ferry Farms Subdivision matter.

Mr. Gay, after reviewing the matter, stated that the applicable Section of the Law, 1809, Title 8 in the Natural Resources Article and stated that it is a reasonable and appropriate interpretation of 1809 to have the Critical Area Commission determine that the applicant does not need to go through the amendment process again as a result of the lot configuration changes and as a result of the alteration in growth allocation acreage.

Mr. Schoepflein asked Mr. Gay if that means the growth allocation is revised, downward.

Mr. Gay replied, yes. His recommendation was to approve the 59 acres and also the imposition of the residue, the residue issue no longer with the Commission having approved the 59 acres and that the Commission's approval is all that is needed and no further action is required at this time.

Critical Area Commission
Minutes - June 6, 1990

Chairman North asked Mr. Tom Ventre to report on the Tobin Ferry Project in Dorchester County.

Mr. Ventre reminded the Commission members that in 1989 a request to award a growth allocation to reclassify certain lands on Taylor's Island to accommodate a landing facility for a proposed trans-bay ferry service was received and that the request was returned in September without approval because it did not satisfy certain ordinance requirements of the Dorchester Code pertaining to the requirement of Buffer exemptions on lands classified as IDA, which is the classification the applicant was seeking at the time.

Mr. Ventre said that since that time, the applicant and the County have done some additional research and the County agrees with the applicant that the decision may warrant the Critical Area Commission's reconsideration. He said that the request was made to Judge North in March 1991 in a letter based on new information and the applicant's sense that the Commission misinterpreted certain definitions in the COMAR Regulations and misinterpreted certain applications of the Dorchester County Code with particular sections of the Zoning Ordinance pertaining to this case.

Mr. Robert Price stated that he was on the panel and he remembers that the request was for a reclassification of land use from RCA to IDA and that the determination was made that there was no way to get to RCA from IDA and that their program requires going through LDA.

Mr. Ventre stated that the issue did come up but not as the reason cited in the Commission's response to Dorchester County. (Mr. Ventre explained that Dorchester County has an unusually stringent, perhaps unique condition in its Ordinance regarding growth allocation which is: in Dorchester County lands may not be reclassified directly from RCA to IDA, but the Ordinance states that in order to be classified as IDA in Dorchester County, land must be first classified as LDA. He said that this is not the case where Mr. Tobin's - the property owner, is concerned.) Mr. Ventre said that the land is classified as RCA and the request sought for an IDA classification; however, that was not the point the Commission made to the Dorchester Commissioners, but the principal item in that decision was the need for Buffer exemption which was not requested. Mr. Ventre stated that Mr. Dodd raises that issue in his letter to Judge North as a point that would merit reconsideration from the Commission.

Mr. Price asked if the Dorchester County Commissioners are requesting a reclassification from RCA to LDA.

Mr. Ventre stated, no. He said that depending on how certain definitions in the COMAR Regulations are interpreted, and depending on how one applies certain elements of the Dorchester County Code of Zoning, the proposal could be accommodated on LDA land, the underlying zoning permits it - which they have never asked for, but

Critical Area Commission
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which further reinforces the County's and Mr. Tobin's position that it was a decision arrived at with incomplete information or incorrect definition. He said that they are only asking for a reconsideration today, not an action or a vote.

Mr. Paul Tobin, property owner, said that it was believed that the ferry would fit into an LDA, originally, and then in securing guidance from the Critical Area Commission staff, the staff stated that it should be an IDA with a Buffer exemption. He said that after looking at the Code, as far as an IDA is concerned, "new development is only allowed in intensely developed areas except industries that are water-dependent and also except those necessary to serve local development or where regional interstate facilities must cross tidal waters"; so, when he originally asked for IDA with Buffer exemption that is what he was told they needed. Mr. Tobin stated that by interpretation, a ferry boat landing does not fit into any of the classification definitions - a ferry boat landing does not have to be in an IDA or have a Buffer exemption because of the exception of a water-dependent facility, which is a ferry boat landing. He said the landing has been endorsed as being good for tourism, public benefit and local economy and would qualify for both exceptions. He further stated that in classifying a ferry landing as a port related facility, Dorchester County classified a landing as a special exception which agreed with the underlying zoning of a use similar to a marina and should be treated not as a port facility but as a marina and related water-dependent facility. He said that the County did not ask for the Buffer exemption but that his application did include the Buffer exemption. However, because it was not brought up at the hearing, the Critical Area Commission considered that as not being approved. He restated that under the County Code, a water-dependent facility does not require a Buffer exemption. He said that his request is based on the Buffer exemption consideration. He said that as far as the progression in classification from RCA to LDA to IDA, ferry landings in other areas - Talbot County, Somerset County and two in Wicomico County - only one is in IDA with a Buffer exemption. Mr. Tobin said that the one in Oxford is because the Town is there and not the ferry boat and the landing in Talbot County and Wicomico are in LDA and the Zoning Officials stated that is because the houses are there not the ferry landing; the one in Somerset County is in RCA without a house for miles.

Mr. Gutman asked where a ferry boat landing was described as a marina.

Mr. Tobin stated that in a letter sent to the Critical Area Commission on April 10, 1991 the definition of a port related facility and for a marina is: the criteria to define port means a facility or area established by the State or local jurisdictions for purposes of water born commerce; and, Webster' Collegiate Dictionary defines commerce as the exchange or buying and selling of commodities on a large-scale involving transportation from place

Critical Area Commission
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to place; Webster further defines port as a place where ships may rest secure from storms or a harbor town or city where ships may take on or discharge cargo. He said that the definition of a ferry boat landing consisting of a road ending at the water did not fit these definitions. He said that he believed that they did not need the Buffer exemption or IDA because they are water-dependent.

Mr. Bowling stated that he believed that what is needed is an "appropriate application" which is not what was submitted originally.

Ms. Hale said that when it was brought to the County, the County told him to request LDA, however Abigail Rome wrote a letter to Karen Phillips telling her it had to be IDA which now creates a problem for the County because it cannot give him the Buffer exemption he needs according to the Critical Area map amendment.

Mr. Hickernell asked if the Commission took the position that IDA is needed for this particular use, and if it was based upon similar operations around the State. He explained that similar facilities are in different classifications and it would be very difficult for the Commission to insist and direct a County to classify land in a way that is not consistent with Critical Area approvals and compliance in a jurisdiction. Mr. Hickernell suggested the request be reconsidered, to wait 30 days and have the Commission staff make a recommendation to the Commission and at the same time have the County work with the Staff for some clarification.

Chairman North remanded the matter held over until the next Commission meeting while the Assistant Attorney General reviews and examines the matter.

MESSAGE CONFIRMATION

JUN-04-'91 TUE 14:41

TERM ID: MD. ENVIRON. TRUST P-0000

TEL NO: 301-974-5340

NO.	DATE	ST. TIME	TOTAL TIME	ID	DEPT CODE	OK	NG
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CHESAPEAKE BAY
CRITICAL AREA COMMISSION
275 WEST STREET
SUITE 320
ANNAPOLIS, MARYLAND 21401
301-974-2426 OFFICE
301-974-5338 FAX

DATE: June 4, 1991

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: Tom Ventre

UNIT: @ Dorchester Co. Planning & Zoning Office

PHONE: 301-228-3234

FAX #: 301-228-1563

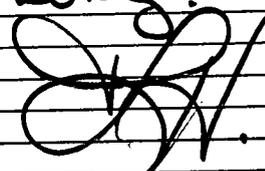
THIS FACSIMILE MESSAGE IS BEING SENT BY:

NAME: Teresa Ann Harvish

PHONE: 301-974-2426

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COMMENTS: Sorry it took so long.


Mr. Butanis, Panel Chairman, reported that the Panel had met that morning and briefly reviewed the changes that the County had made, and concurred that approval can be granted.

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

Chairman North then asked Mr. Ventre to report on Dorchester County's Program amendment concerning the proposed Trans-Bay Ferry and the Wigglesworth property. Mr. Ventre reported that the County Commissioners had awarded growth allocation and land reclassification for these two projects and Commission approval is now being sought.

He reported that a Panel hearing had been held. One issue concerned a landowner, Mr. Wigglesworth, who owned 20 acres in the County's RCA. He requested a growth allocation of 2 acres reclassifying those acres from RCA to LDA, in order to accommodate a second residence on his property for his son's sister-in-law. Mr. Wigglesworth did not wish to subdivide, and an intrafamily transfer could not be used because the recipient would not qualify according to the Critical Area Law as an immediate family member. Mr. Ventre stated that the size of Mr. Wigglesworth's property did not meet the criteria qualifying for growth allocation. Mr. Ventre said that the Panel had met to consider these factors, and did not recommend approval for the County's amendment.

Chairman North asked what the County's position was. Mr. Ventre answered that in violation of its own ordinances, the County had awarded growth allocation.

Mr. Glendening suggested that the Commission return the amendment to the County and note that in the Commission's review, there appeared to be a conflict of the County's rule, and ask the County how the Commission should treat this.

A motion was made and seconded that the Commission return the request to the County without approval, as the proposal does not meet the eligibility requirements of the Dorchester County Subdivision Ordinance for growth allocation, specifically Section 140-51.B.(1): "...the site must be located...within a Limited Development Area to be considered for conversion to an Intensely Developed Area".

Mr. Blake asked if the Commission received a formal written request from the County to consider this amendment. Mr. Ventre answered affirmatively.

Mr. Ventre then reported on an applicant's proposal of the development of a Ferry landing on Taylor's Island. The applicant had received from the County an award of growth allocation and a reclassification of the land in question, from RCA to IDA. He said that the land did not meet the requirements of the County's subdivision regulations pertaining to growth allocation, and that the Panel did not recommend approval of this amendment.

Chairman North introduced Emory Tamplin, Esq., of the Dorchester Bar. Mr. Tamplin said that in conversation with the County, it was found that the County had not recognized the oversight and did not realize that it had violated its own ordinances.

A motion was made and seconded that the Commission return the amendment to the County with the clear explanation that disapproval was not because of the Commission's judgement of whether or not growth allocation should be used in this instance, but because it was in violation of the County's own Program ordinances. The Commission would inform the County of its willingness to work with them toward a mutually agreeable conclusion. The vote was unanimously in favor.

Chairman North asked Mr. Larry Duket of the Maryland Office of Planning, to report on the status of the amendments procedure. Mr. Duket distributed the most recent changes to the amendments together with Mr. Epstein's comments on the changes. He suggested the Commission review both simultaneously to prepare for a discussion and vote at the next Commission meeting.

Chairman North asked Ms. Rome to report on the status of the MOU with Waterway Improvement Division. Ms. Rome reported that the Commission had been given copies of the MOU and the General Approval requested by the Waterway Improvement Division of the Boating Administration for projects involving construction of piers and boat ramps. She asked that the Commission review these, and send her any comments. She said that hopefully, there can be a vote at the next Commission meeting. The General Approval will be sent to the local jurisdictions to allow them to comment upon it.

Chairman North asked Ms. Rome to present the General Approval with the Department of Agriculture for Soil Conservation and Water Quality plans. The General Approval had been sent to

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Chairman North asked Mr. Thomas Ventre to report on the Tobin Ferry Project in Dorchester County.

Mr. Ventre reminded the Commissioners that at the May meeting, at the request of Dorchester County, the Commission began a reconsideration ^{of a} ~~of the~~ proposal ~~of the County~~ to develop a landing on Taylor's Island for a trans-bay ferry service. Mr. Ventre briefed the Commission on the history of the project: in 1989 the Critical Area Commission considered a request for growth allocation from the Dorchester County Commissioners to reclassify land at the site in order to accommodate the facility. He said that at that time, the Commission did not approve the request because of inconsistencies with the proposal and the Dorchester ordinances as well as the stated reason in the Commission's letter that there had been no request for a buffer exemption area which was necessary to develop and accommodate the facility. In the intervening time, the case was reviewed by the applicant and the Dorchester County staff, who then determined that there was sufficient reason that the Critical Area Commission should reconsider the earlier decision. It was brought to the attention of the Critical Area Commission staff who reviewed several of the items and issues involved over a period of several months, culminating in a meeting between the Dorchester staff, the applicant and Commission staff in the early spring. He explained that part of the issue dealt with definitions of "terms" and whether they did appropriately apply in this case. He said that he believes that there is sufficient reason to believe that they did were not appropriately applied and that the proposal

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could have stood as it was submitted. He further stated that the request also raises the issue of procedure, and on both counts, the Commission at the May meeting directed Commission Counsel, Mr. George Gay, to investigate the matters.

Mr. Gay said that at the direction of the Chairman and the Commission he did consider the question of whether the facility proposed by Mr. Tobin constituted a "port" as opposed to a "marina" or other water-dependent related facility under the Criteria. He said that his conclusion is that the facility could be interpreted by the Commission as either, however, the most appropriate would be a marina or other water-dependent facility. He stated that he also considered whether or not it was appropriate for the Commission to reconsider a matter that it had ruled on ~~over~~ a long period of time^{ago} and [✓] ~~but~~ there had been disapproval which occurred some time ago, and whether the [✓] Commission could reconsider the matter at its pleasure or was there some limitation on what can be reconsidered by the Commission. He said that there is a limitation which is essentially that ^{can} the administrative body can [✓] reconsider or modify its determinations or correct errors that it believes were made on the ground of "fraud", "mistake" or "irregularity". Mr. Gay said that with the interpretations of the Court of Appeals in Maryland, essentially a reconsideration of the determination can be made if good cause has been shown in the realm of mistake or irregularity in this instance. He stated that the Commission should make a determination on whether a mistake or irregularity had been made or exists before it could reconsider the Tobin Ferry matter.

Mr. Ventre stated that after review of the definitional matters just

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outlined by Mr. Gay that the facility could be accommodated with the present underlying zoning in Dorchester County, a residential zone. He stated that such uses were accommodated by special exception in residential zones. He also stated ^{his belief} ~~that he believed~~ that, according to the general State criteria refer^{-ence} to boat docking facilities and also to ~~points of~~ commercial maritime operations in the buffer in RCA's and LDA's, with these definitions that the facility could be accommodated without the need for reclassification or growth allocation. All the activities such as comfort stations, ticket booths and parking facilities will be located outside the 100' buffer.

Mr. Gay asked if the applicant could provide information to the Commission with respect to the issue of "mistake", "irregularity" so that the Commission could determine whether it does or does not have the authority to begin the reconsideration process. He said that in the event there is no mistake determined for a reconsideration, then additional information would not be needed from the applicant. He also advised that, if it is determined that it can reconsider, then the applicant could present his case on growth allocation.

Mr. Steve Dodd, Director of Planning in Dorchester County, addressed the issue of "mistake". He said that he thinks that the mistake began with the misinterpretation of the Critical Area Criteria (as it applies to this proposal) made by Ms. Abigail Rome who was a Critical Area Commission staff member in 1989 who corresponded with Karen Phillips in Dorchester County Planning and Zoning regarding Tobin's Ferry. Mr. Dodd read a portion of the

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letter from Abigail Rome: "In addition, the growth allocation applied for must be to zone the property as an Intensely Developed Area with a proper exemption. This is to comply with sections D5 & J5 and 6 of the Dorchester County Code". He said that prior to receiving the letter, his office had informed Mr. Tobin that he would be required to apply for an LDA because it they believed that an LDA would have accommodated the ferry project. Based on this information, Mr. Tobin amended his request for growth allocation to be consistent with what Dorchester County believed was a mandate from the Critical Area Commission staff. He stated that it had been only eight months since the issue was raised last October, 1990. He stated that according to the interpretation of the staff of the Critical Area Commission, Commission Counsel, Mr. Gay, and the staff of Dorchester County Planning and Zoning, that the general consensus is that it is not a port, nor is it a port-related industry. He stated that with a proper interpretation from the outset, the Commission would have no reason to deny the request. He said that on the basis of the decision of the Commission in September, 1989, the project did not have a buffer exemption granted to it by Dorchester County. When the growth allocation request was received at the local level the IDA was approved and forwarded to the Critical Area Commission but there was no buffer exemption requested. That request was denied and returned to the County on the basis that there was no buffer exemption requested. He stated that this project does not require a buffer exemption, so there is no basis in the law for denying it and therefore it is a "mistake" and enough reason to reconsider the request.

Upon direct inquiry of Mr. James Gutman, ~~Critical Area~~ Commission

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Counsel stated that it was his belief that there was an erroneous interpretation of the Dorchester County Program.

^{Commission} Mr. Robert Price stated that he was on the panel at the hearing, and ^{that} the issue before the panel was ^{the} that request from the County Commissioners ~~was~~ to go from RCA to IDA. He stated that the LDA and Abby Rome ^{were} ~~was~~ never an issue before the panel or public at the hearing. He stated that he remembered that the problem with the Program in Dorchester County was that a reclassification could not be made from RCA to IDA.

Mr. Dodd stated that he did not believe it fair to ask Mr. Tobin to start all over again, that the mistake should be corrected ^{and} allow him to proceed with his request in a proper fashion because all of the controversy has been because of conflicts between the County and State.

Mr. Price asked if the Critical Area Commission were to reconsider the request, would there be a public hearing?

Mr. Dodd said that the County ^{had} approved an IDA.

Mr. Price said perhaps there should be a new panel hearing.

Mr. Dodd stated that they were not amending the request at the local level, and the local hearing has already been held, so there would be no requirement to hold another one.

Mr. Price asked if the Commission could this day go from RCA to IDA and no be in violation of the Dorchester County code.

Mr. Dodd stated that was not a reason given for denial but if that was a problem, then the County would submit that the Commission condition their approval upon the local text amendment to allow this.

Mr. Paul Tobin reiterated the sequence of events in his request, citing

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Abby Rome's recommendation in her letter and the "mistakes" made which he believes should lead the Commission to reconsider his request.

Conveys
Mr. Samuel Bowling stated that if the Commission revisited the issue without a new public hearing, he believed that it would be unfair treatment to the opponents that were at the first hearing. He made a motion to start all over again at the beginning with a new panel hearing.

Mr. James Gutman seconded the motion.

Conveys
Mr. Ronald Hickernell *stated that* based on his understanding of the events, he was not in agreement with the motion and believed that the Commission should deal with the issue of reconsideration, because there has already been action by the Commission with a vote, and they could not revisit the issue and come to two conclusions on the record, which may differ.

Mr. Bowling stated that he could amend his motion to reconsider the issue.

Mr. Tobin stated that it did not seem fair that he would have to start over again because it was not his mistake.

Mr. Gutman asked that the motion be restated.

Mr. Bowling restated his motion that the Commission reconsider the request with the idea that the Commission will re-hear the issue from the panel's point of view. He stated that as a member of that panel he did not remember the buffer exemption as the reason it was denied. He also said that the issue should be revisited to be fair to the opponents who were at the first hearing.

Conveys
Mr. Parris Glendening stated that a very simple motion to reconsider on advice of Counsel that a "mistake" had been made in the original

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deliberations and once that is adopted, the other issues could be considered.

Mr. Gutman suggested that there be two distinct motions. He seconded Mr. Bowling's first motion. The ^{motion} ~~vote~~ was carried unanimously. ✓

Mr. Bowling made a second motion that (we renew a panel from the panel beforeThe motion was seconded.) ??

Mr. Glendening asked for clarification ^{whether} ~~if that~~ under the existing County plan they are not able to move into the RCA. ✓

Mr. Price answered that was his understanding.

Mr. Glendening asked if they could go into the LDA and, under the reconsideration, what would be asked for is that this be approved under the LDA, and he asked Mr. Tobin if his intention to come back and say whether it was a mistake and therefore we want the LDA or are you going for the IDA. ✓

Mr. Tobin stated that he would ultimately prefer the LDA.

Mr. Glendening commented that, if the Commission were to go back and hear the IDA, and an IDA is not authorized in the local plan, and it would be conditional, then the Commission would in the future be in a terrible position in that any applicant could come before the Commission and request anything and say that if it is approved, I will go back to the County and get that approved and the process works in the reverse. He recommended that they go back to the County under a mistake rule and get them to made an amendment. ✓

Mr. Hickernell recommended that it should be remanded to the County for a decision because it does have other options open to it.

There was much discussion on how to deal with the position. ^{Comm.} Mr. Jarvis said that he does not remember that it was denied because of buffer exemption. Mr. Ventre stated that the Minutes would show a reference to the ✓

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"leap-frogging" language in the Dorchester Zoning Ordinance and also refer in the same context to the need for buffer exemption and to the nature of a port. However, Mr. Ventre stated that the letter that went back to the County stated on the need for buffer exemption as the basis for denial. Steele Phillips asked what would happen to the buffer exemption if it goes IDA. Mr. Todd answered that as a buffer exemption relates to a ferry, the section of the law that requires a buffer exemption does not apply except for a port and it seems to be a dead issue.

Mr. Bowling withdrew his second motion and made a third motion to deny Mr. Tobin's request based on the fact that the Commission could not go from IDA to RCA based on the Dorchester County ordinance. The motion was seconded by Mr. Zahniser.

Mr. Ronald Adkins stated that he believed that a conditional approval was more appropriate and he opposed the motion.

Mr. Bowling said that he would like to get clearly stated facts based on the appropriate request and that it was not only the mistake of the Critical Area Commission but several mistakes have been made.

Mr. Glendening said that he believed the Commission has the responsibility to be fair and equitable, and should take no final action now. He recommended sending it back to the County to make an amendment and ask them which course of action they wish to take which will determine the course of action the Critical Area Commission can take.

There was more discussion and Chairman North called the question. The vote was 4 in favor; 16 opposed; Mr. Elbrich abstaining; The motion failed. (Mr. Schoeplein was late and not part of the vote).

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Mr. Glendening made a motion to send the letter to the County Commissioners indicating that the Critical Area Commission has reconsidered this matter, that the issue of the "leap-frogging" is of great concern; that the understanding is that they are considering legislation to permit moving from ^{RCA}~~LDA~~ to IDA and if they are going to adopt that, would they prefer the Commission to consider this action under their amended plan, assuming the amendment is approved by the Critical Area Commission, and if they are not, would they like it considered under the existing plan which would mean an automatic denial; at that time, the applicant has the right to withdraw and resubmit as an LDA if they wish to do so. The motion was seconded.

Mr. Price suggested in favor of the motion, but subject to a Public Hearing. Mr. Glendening accepted the amendment to his motion. The vote was unanimously in favor. (Mr. Glendening left meeting.)

