

Commission Meetings ¹/₂ ~~2~~ Corresp.

Sept 1991

MSA-51832-86

5652 Beach Haven Road
East New Market, MD 21631-9763

August 19, 1991

Mr. George E. H. Gay
Assistant Attorney General
Department of Natural Resources
580 Taylor Avenue, C-4
Annapolis, MD 21401

RECEIVED

AUG 21 1991

DNR LEGAL SECTION

Dear Mr. Gay:

In spite of my good intentions from the onset in taking all the proper steps to apply for (and receive) a buffer zone variance (it has actually resulted in a 30' variance), and the fact that all parties to whom I have consulted recognize my innocence and agree that I am merely a victim of unfortunate circumstances, due to the mental anguish which continues to bear on my family and me, I am hopeful the Critical Area Commission can agree on a resolution to settle this issue in a fair and conclusive manner.

In lieu of the imposition of a financial hardship, and for the betterment of preserving the Chesapeake Bay, I am offering, for the Commission's consideration, "payment in kind" through volunteering my time to assist the local authorities in designing a system acceptable to the Critical Area Commission that will ensure clear and thorough, written and verbal communications to property owners about the purpose and role to be played by the State of Maryland's Critical Area Commission in matters involving variances granted within 100' buffer zones in the Chesapeake Bay and its tributaries. I would estimate 80-100 hours time, or whatever it may take to get the job done, to include "field testing" of the new communication system to ensure its effectiveness in future cases. In addition, I would ask that the Commission provide me with a landscaping plan so that I could initiate additional plantings within the buffer zone in my particular case.

I am making a sincere attempt to resolve any differences we may have had in dealing with this matter in the past, and believe this to be a worthy effort to resolve the issue.

I would appreciate your sharing this letter with all members of the Critical Area Commission for their thoughtful consideration. I am hopeful of a positive response so that we may begin making amends as soon as possible.

Sincerely,

Harvey J. Davis

Harvey J. Davis

c: The Honorable Michael Weir
The Honorable Samuel Q. Johnson, III
The Honorable Frederick C. Malkus, Jr.
The Honorable John C. North, II
Ms. Margaret G. McHale
Mr. G. Steel Phillips

AUG 29 1997

STAFF REPORT

JURISDICTION: St. Mary's County
ITEM: Growth Allocation Amendments
COMMISSION ACTION: Information

DISCUSSION: St. Mary's County has proposed Growth Allocation Amendments for six parcels. The individual amendments range from six to 16 acres. The total request for use of Growth Allocation acreage is 57.08 acres. A brief outline of each amendment follows.

1. Avenmar Community Center - The County requests use of 16 acres of Growth Allocation for development of a Community recreation center, a part of a residential subdivision. The Critical Area portion of the subdivision is designated Resource Conservation Area (RCA). The 16 acres will be designated Limited Development Area (LDA). The Community Center will include meeting rooms, a riding stable, tennis courts and a fishing pier.
2. Calvert Estates and Chesapeake Industrial Park - The County requests use of 9.25 acres of Growth Allocation for expansion of an industrial parcel, and development of an adjacent high density residential project. Growth Allocation will change the Critical Area Designation from LDA to Intensely Developed Area (IDA).
3. Bashford Creek Estates - The County requests use of 13.83 acres of Growth Allocation for development of a nine-lot subdivision. The current Critical Area designation is RCA. The request is to change the designation to LDA.
4. Eppard Property / 5. Lore's Landing / 6. Maydel Manor - Each of these Growth Allocation Amendments listed are for six acres, for development of a four-lot subdivision. Each parcel currently is designated RCA and is proposed for a change to LDA.

Page Two
Staff Report
St. Mary's Co.

St. Mary's County has submitted all six proposed Growth Allocation Amendments with supporting documentation regarding adherence to the County's adjacency and clustering policies; review by the Maryland Forest, Park and Wildlife Service for Habitat Protection Areas; and approval by the County Commissioners.

No Commission action is scheduled for September 4, 1991. These proposed amendments are on the agenda for staff briefing and Commission discussion. The panel hearing is scheduled for September 5, 1991 in Leonardtown. The Commission will vote on the proposed amendments at the October meeting.

STAFF: Ren Serey
Claudia Jones

Serving People and Maryland's Number One Industry - Agriculture

William Donald Schafer
Governor

Melvin A. Steinberg
Lt. Governor

Wayne A. Cawley, Jr.
Secretary

Robert L. Walker
Deputy Secretary

STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE

OFFICE OF RESOURCE CONSERVATION

August 26, 1991

The Honorable John C. North, II
Chairman
Chesapeake Bay Critical Area Commission
275 West Street
Suite 320
Annapolis, Maryland 21401

Dear Judge North:

I am pleased to report to you that over 90% of agricultural land in the Chesapeake Bay Critical Area is in compliance with the Critical Area Regulations!

The enclosed report provides detailed information about compliance as well as information about the ability of Soil Conservation Districts to assist in achieving compliance.

After investigation and review of the status of Soil Conservation and Water Quality Planning in all counties with Critical Area programs, I am suggesting that we give priority to visiting together the following counties and Soil Conservation Districts:

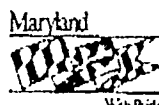
Baltimore	Cecil
Charles	St. Mary's

In these counties, our investigation indicates efforts might be better coordinated and managed to focus on timely compliance with Critical Area requirements.

You will see that Dorchester, Kent and Talbot have significant numbers of SCWQ Plans to complete. It may be helpful to visit with these counties to discuss the possibility of additional county support for the farm planning effort.

50 HARRY S TRUMAN PARKWAY, ANNAPOLIS, MARYLAND 21401

(301) 841-5700
Baltimore/Annapolis Area

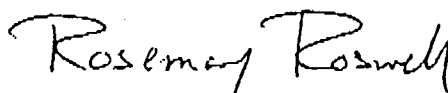


(301) 261-8108
Washington Metro Area

The Honorable John C. North, II
August 26, 1991
Page 2

I would be happy to meet with you to further discuss our report and recommendations. Please do not hesitate to give me a call at 841-5865 if you have questions about the information provided or would like additional comment.

Sincerely,



Rosemary Roswell
Assistant Secretary

RR:ecg

Enclosures

cc: W. A. Cawley, Jr.
S. Taylor
L. Lawrence

CHESAPEAKE BAY CRITICAL AREA COMPLIANCE

8/23/91

District	Total Number (1)		With Current Plans		Without Current Plans				% Non-Compliance
					W/Cooperator Agreements (2)		W/O Cooperator Agreements (3)		
	Ag Units	Acres	Ag Units	Acres	Ag Units	Acres	Ag Units	Acres	
Anne Arundel	114	9574	90	6840	13	1610	11	1124	9.6
Baltimore	77	3991	19	896	16	568	42	2527	54.5
Calvert	291	22223	233	19925	25	1179	32	1119	11.3
Caroline	187	24464	183	24214	--	--	4	250	2.1
Cecil	170	31744	123	24895	--	--	47	6849	27.6
Charles	170	29912	83	14604	19	3343	68	11965	40.0
Dorchester	843	104440	300	52453	505	48580	38	3407	4.5
Harford	37	2496	37	2496	--	--	--	--	--
Kent	387	62516	221	38664	152	23080	14	772	3.6
Prince George's	83	6109	83	6109	--	--	--	--	--
Queen Anne's	263	44050	245	42795	8	1255	--	--	--
St. Mary's	329	42897	238	33995	27	2199	64	6703	19.4
Somerset	473	41062	305	27749	168	13313	--	--	--
Talbot	665	83694	380	56372	265	25416	20	1906	3.0
Wicomico	300	24206	188	17515	109	6307	3	384	.01
Worcester	<u>141</u>	<u>17164</u>	<u>110</u>	<u>14583</u>	<u>22</u>	<u>1801</u>	<u>9</u>	<u>780</u>	6.4
Totals:	4520	550542	2838	384105	1329	128651	352	37786	
Percentage:	0		63	70	29	23	8	7	

% Compliance:

Ag Units 92% - Acres 93%

(1) "Ag Units" are: ag-assessed parcels on which there is current ag activity; does not include land which is primarily woodland or land which is lying fallow and planned for development; may not include all parcels under 10 acres which have current ag activity. Number of acres may reflect total farm acres when only part of the farm is in the Critical Area.

Number of landowners involved is less than number of ag units since landowners may own more than one ag-assessed parcel, e.g. Caroline County ag units not in compliance are all owned by one person.

(2) These numbers include some Cooperators who have plans which may need to be updated, e.g. Somerset SCD reports 168 ag units with old plans.

(3) These numbers include some ag units for which landowners have agreed to plan development but have not yet signed a Cooperator's Agreement, e.g. 25 in Baltimore County.

Factors Affecting Critical Area Accomplishments in Agriculture

Voluntary compliance with the Critical Area requirement (to be implementing a Soil Conservation and Water (SCWQ) Plan or to be signed up as a conservation district cooperator) is primarily dependent on landowners' knowledge and understanding of the requirement. Experience has shown that landowners who have been contacted personally (face to face or via telephone) and therefore have had the opportunity to have the Critical Area goals and requirements explained to them individually have been very willing to agree to SCWQ Planning.

The obstacles to achieving 100% voluntary compliance have been investigated. The Soil Conservation Districts report the following as the major impediment to meeting this goal: inability to make personal contact with the landowner.

Contributing to this inability to make contact are a number of factors but primarily:

1. lack of District staff to make contact,
2. land ownership by absentee landowners,
3. lack of familiarity with Critical Area Regulations and the need to contact District for assistance.

Where Districts have been most successful in obtaining cooperators agreements and developing SCWQ Plans, there has been

1. manageable less Critical Area workload or fewer competing workload demands, and/or greater staff availability to direct towards Critical Area efforts;
2. earlier and more frequent interaction between the District and the County regarding planning, implementation and enforcement of Critical Area requirements.

Soil Conservation District Staffing

Soil Conservation Districts' technical field staff make contact with landowners to promote SCWQ planning, work with farmers in developing Plans, and design and oversee installation of BMPs to implement Plans.

In FY 1984, MDA provided 15 of these technical staff positions to Districts Statewide. Chesapeake Bay Program Initiatives increased the staffing to the Districts beginning in FY85. (It should be noted that some of the staff increases were managerial and secretarial and would not directly result in increased SCWQ planning.)

While there were several years in which we received new technical field staff positions, there have also been years in which (a) we had a reduction of existing positions through legislative budget action, and (b) we requested additional positions but these requests were denied by the Legislature.

Legislative action has resulted in the abolishment of 16 Resource Conservation positions as follows:

<u>Fiscal Year</u>	<u>No. of Positions</u>
89	1
90	2
91	1
92	12

Requests for additional Resource Conservation staff were made but not granted by the Legislature as follows:

<u>Fiscal Year</u>	<u>No. of Positions</u>
85	1
87	10
88	7
90	2

As well as experiencing difficulty in acquiring positions, the Department has had difficulty recruiting and retaining field employees. We have serious difficulty recruiting trained individuals to fill positions at State salary levels so we must hire untrained staff and wait for full productivity. Technical training provided to field employees qualifies them for higher paying private sector jobs so we experience high turnover (14% in FY90). Turnover rate in FY91 was increased by the imposed hiring freeze to 22%.

We now have 68 technical field staff positions of which 11 are currently vacant and we must await lifting of budget restraints before we fill them.

Funding of Information/Education Efforts

Recognizing that informing landowners about the need for SCWQ Planning is critical to achieving cooperation and compliance with Critical Area requirements, the Department has attempted to obtain funding for and provide assistance to Districts in information efforts.

For FY90 and FY91 the Department requested new general funds for information and education. These requests were denied by the Legislature.

The Department provides assistance to Soil Conservation Districts for local information efforts through district operating grants. Due to the budget crisis in FY91, total district operating grants were reduced by more than \$100,000 or 27%. At the same time grants to Districts for temporary staff assistance were reduced by \$100,000 or 80%. This significantly limited the Districts' ability to communicate with landowners.

Soil Conservation District Workload

Soil Conservation Districts are responsible for a wide variety of conservation programs. As well as planning and implementing local programs, Districts are mandated by law to implement several State and Federal programs. Since 1984 the workload of the Districts has increased exponentially. Described below are some, but by no means all, of the programs which Districts deliver.

Chesapeake Bay Ag Nonpoint Source Program

In 1984, it was estimated that 18,000 farms in Maryland needed SCWQ Plans. This estimate was based on Agricultural Statistics which considered farm income levels in defining "farms". Since then an inventory of ag-assessed parcels on which there is farming activity revealed that there are about 36,000 "agricultural units" which could need SCWQ plans.

The State Soil Conservation Committee recognized in 1984 that there was a need to identify Priority Watershed areas within Maryland where the potential of nps pollution to the Bay was greater. Districts were asked to direct staff efforts to the Priority Watersheds and MDA field positions were assigned accordingly. Districts are directing efforts to about 19,000 ag units in these Priority Watersheds (of which only about 2,500 are also in the Critical Area).

Urban Erosion and Sediment Control Program

Soil Conservation Districts are mandated by the Maryland Sediment Control law to review and approve Erosion and Sediment Control Plans for construction sites. Staffing for this program was not provided by the State to the Districts. In 1984, the Soil Conservation Districts in Maryland certified plans covering about 21,000 acres. By 1990 this workload had tripled to about 69,000 acres.

U.S.D.A. Programs

The 1985 Food Security Act (FSA) and the 1990 Food, Agriculture, Conservation and Trade Act (FACT) included several programs which require Soil Conservation District staff support. A few of these are described below.

To participate in USDA programs, farmers with Highly Erodible Lands (HEL) needed to have SCWQ Plans developed for those lands by January 1, 1990. They must have Plans implemented by 1995. This required District staff to make HEL determinations on farms participating in USDA programs and to develop Plans for those HEL areas. This required that conservation planning priority be given to over 7,000 farms with approximately 300,000 acres of HEL. It also requires that priority be given to technical assistance to these farms for designing and overseeing construction of BMPs to treat HEL by 1995.

The FSA also required wetland determinations on about 14,000 farms.

The Conservation Reserve Program (an FSA program) put additional demands on Soil Conservation Districts for promoting the program, certifying eligibility, and developing practices on CRP land.

The USDA programs require ongoing efforts in performing status reviews, developing and revising plans.

Chesapeake Bay Critical Area

When the impact of the Critical Area Regulations were first estimated in 1985 (for the FY87 budget) it was estimated that SCWQ Plans were needed for about 2,600 farms covering approximately 263,000 acres. The process of identifying the actual workload varied by county until MDA required use of a standard definition (ag unit) during FY91. Some Districts have had difficulty completing an actual inventory for a variety of reasons. However Critical Area workload is at least twice that which was projected originally. (see attached)

SCD Accomplishments

Given the Critical Area Program, the programs described above and several other programs staffed by Soil Conservation Districts, great strides have been made in agricultural nps pollution control.

Since 1985 over 10,000 SCWQ Plans covering more than a million acres have been completed. Districts are developing on the average Statewide about 1,500 Plans for 200,000 acres per year. BMPs are being installed with District technical assistance at a great rate - less than 15% of which have been cost-shared. Last year alone over 10,000 BMPs were applied.

Workload and accomplishments for any one program need to be considered within the full scope of Soil Conservation Districts' responsibilities and activities. Given the need to balance demands from all levels of government and integrate these demands into comprehensive district programs, districts have performed outstanding public service.

FINAL AGENDA
CHESAPEAKE BAY CRITICAL AREA COMMISSION
 Newton White Mansion
 2708 Enterprise Road
 Mitchellville, Maryland
 September 4, 1991

- 12:00 - 1:00 Lunch Newton-White Mansion
- Special Recognition Awards
Governor's Citation:
 Dr. and Mrs. Wilson Coudon
 Ms. Carolyn Watson
 Mr. Jim Stasz
Award of Recognition:
 Carmen Gilotte
- John C. North, II,
 Chairman
- Video - "A Year in the Life
 of a River"
- Commissioner Glendening
- 1:00 - 1:05 * Approval of the Minutes of
 July 10, 1991
- John C. North, II,
 Chairman
- STATE AGENCY PROJECTS**
- 1:05 - 1:20 * Choptank River Fishing Piers
 (Dorchester & Talbot Cos.)
 Dept. Natural Resources
- Claudia Jones,
 Planner, Bill Triggs,
 Greenways &
 Resources Planning
- 1:20 - 1:35 Open Marsh Water Management
 - Information Item
- Liz Zucker, Science
 Advisor;
 John C. North, II, Ch.
- AMENDMENTS & REFINEMENTS**
- 1:35 - 1:50 * Growth Allocation -
 Dorchester Co., Barnett
 Property - RCA to LDA
- Tom Ventre, Planner,
 Bob Schoeplein, Panel Ch.
- 1:50 - 2:20 * Amendments - Talbot Co.
 Program Resubmittal
- Pat Pudelkewicz, Planner
 Joe Elbrich, Panel Ch.
- 2:20 - 2:30 * Refinements - Talbot Co.
 Resubmittal
- Pat Pudelkewicz, Planner
- 2:30 - 2:40 * Kent County - Mapping
 Mistake
- Pat Pudelkewicz, Planner
 Bill Corkran, Panel Ch.
- 2:40 - 2:50 * Kent County - Text
 Amendment
- Pat Pudelkewicz, Planner
 Bill Corkran, Panel Ch.
- 2:50 - 3:00 * Kent County - Refinement
- Pat Pudelkewicz, Planner
- 3:00 - 3:10 * Town of Easton - Refinement/
 Annexation
- Theresa Corless, Planner

3:10 - 3:40 *	St. Mary's County Growth Allocations	Ren Serey, Claudia Jones, Planners; Bob Schoeplein, Panel Ch.
3:40 - 3:45 *	Queenstown - Refinement, Impervious Surface	Ren Serey, Planner
3:45 - 3:50 *	Charles County - Zoning Ordinance Changes	Ren Serey, Planner
3:50 - 3:55 *	St. Mary's County - Zoning Ordinance Changes	Ren Serey, Planner
3:55 - 4:30	Old Business	John C. North, II, Chairman
	Soil Conservation & Water Quality Plans - Status	Sarah J. Taylor, Ph.D. Louise Lawrence
	<u>Tentative</u> - Special Issues Procedures for Accepting and Voting on Amendments	Special Issues Subcommittee
	Davis Variance Appeal	John C. North, II, Ch.; Geo. Gay, Assist. Atty. General
4:30 - 4:45	New Business October Meeting Appointment of Panels	Hugh Smith John C. North, II, Chairman

* Items requiring a vote or endorsement of action by Chairman North

** Optional Tour of the Mansion after the Meeting

Chesapeake Bay Critical Area Commission
Minutes of July 10, 1991
275 West Street
Annapolis, Maryland 21401

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:

Anthony Bruce	Russell W. Blake
William J. Bostian	Samuel Y. Bowling
Councilman Philip Barker	Ardath Cade
Joseph Elbrich	Parris Glendening
James E. Gutman	Ronald Hickernell
Kathryn D. Langner	Robert Price, Esquire
Michael J. Whitson	Louise Lawrence of
Robert Schoeplein of	Dept. of Agriculture
DEED	J. L. Hearn of
Robey Hurley for	Dept. of Environment
Ronald Kreitner of Md. Office of Planning	

The Minutes of June 5, 1991 were read and approved as written.

Chairman North introduced a new voting member to the Chesapeake Bay Critical Area Commission - Councilman Philip Barker of Harford County, appointed by the Governor on May 20th, 1991, served on the Havre de Grace City Council for eight years and is currently Technology Manager for the J. M. Huber Corporation Chemicals Division. Chairman North also introduced Mr. Charles Johnson, serving on the Commission staff for the summer. Mr. Johnson has a degree from the University of Maryland in mechanical engineering.

Chairman North asked Ms. Anne Hairston to report on Baltimore County's impervious surface refinement.

Ms. Hairston stated that Baltimore County has submitted their bill with all the necessary language based on House Bills 1060 and 323 and has been classified as a refinement. She explained that what has been happening for the past year and a half is that the State Legislature has passed two bills regarding impervious surfaces in the Critical Area. Essentially, instead of having a flat 15% limitation on impervious surfaces within the LDA and the RCA, the new State laws allow projects to go up to 25% impervious on lots less than 1/2 acre that were in residential use before 1985. The Bill was amended the following year to take the residential use up to residential zoning as a broader applicability. The legislation also allows lots a 1/4 acre or less that are in other types of zoning, i.e., commercial or industrial, to go up to 25% because of their small lot size. She said that any new subdivisions would still have to meet the 15% impervious limitation overall, although individual lots within the subdivision may go up to 25%.

Ms. Hairston, by request, explained a refinement to be program amendments which come in for legal changes to an approved program. She said that two years ago a process was established to make minor changes to the programs; the changes classified as refinements are those which would be editorial or would not change the program beyond what was already

Chesapeake Bay Critical Area Commission
Minutes - July 10, 1991

contemplated by the original program.

Ms. Hairston stated that Church Hill has also incorporated all the requirements of House Bills 1060 and 323. She said that there were some additional changes within the legislation in reference to another State law regarding annexed land and that there are some changes that clarify the requirements of other portions of the State Code in terms of zoning on annexed land, and corrects some references to ownership that were made in the original program. She said that there is one annexation and one parcel that changes from State to town ownership. It states that zoning on annexed land will remain the same as what the county had it for five years after the annexation.

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

Chairman North asked Ms. Patricia Pudelkewicz to report on a Refinement in Kent County subdivision.

Ms. Pudelkewicz said that Kent County proposes to add new language to the zoning ordinance for the Resource Conservation District. She said that parcels of more than one acre improved by more than one dwelling unit, existing as of December 1, 1985, may be subdivided into parcels of land of not less than one-half acre each for each dwelling unit situated on the one-half acre, or more, being subdivided. Ms. Pudelkewicz stated that the panel recommendation was to accept the language as refinement because it does not change the way in which land in the RCA is used and does not impact density but allows an administrative subdivision to occur around an existing dwelling unit existing as of December 1, 1985.

Mr. Price ask if it establishes two lots where there was only one.

Ms. Pudelkewicz stated that each lot must have an existing dwelling unit on it and have no increase in density.

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

Chairman North asked Mr. Thomas Ventre to report on the Somerset County Growth Allocation request.

Mr. Ventre stated that the Commission received a request from the Somerset County Commissioners for Commission concurrence with a local award of growth allocation made in Somerset County on one acre of land in the northern part of the County on the Wicomico River. Mr. Ventre said that the request was accepted and an advertised public hearing was scheduled which took place in Princess Anne on June 19th. At the time there was no quorum, so a procedural issue came up related to this request. Mr. Ventre explained that the request involves a transferral of property to two brothers. He said that it involved both a business and land, and to equalize the requests a selling-off of some portion of their land is necessary. The County Planning Commission heard the request and recommended approval to the County Commissioners who then approved it, being satisfied that it met the terms of the County's program.

Commissioner Russell Blake stated that there was no opposition at the hearing and both he and Commissioner Shep Krech, who was also present at the

Chesapeake Bay Critical Area Commission
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hearing, agreed with Critical Area staff that the request should be approved if it was procedurally possible.

Mr. Ventre stated that because there were last minute cancellations, he was unable to find substitutes for a hearing but the meeting was recorded, questions were asked and information was exchanged.

Commission Counsel, George Gay, stated that the law provides that a panel hearing shall be held in the jurisdiction and that the quorum requirement for such a hearing is 3 members. If a quorum is not satisfied at the panel level, then in effect, there has been no panel hearing. Technically, the panel hearing requirement was not satisfied in this matter because only two attended the hearing. Consequently, the Commission must approve the application. He said that the appropriate approach would be to defer action on this project which would result in its approval.

Commissioner Cade asked if the panel requirements were established in the Law or by regulation.

Counsel Gay replied that they are established in the Law.

Chairman North agreed with Counsel Gay to not vote on the request.

Commissioner Sam Bowling made a motion "to defer action" on the request. The motion was seconded. The vote was 14 in favor with Mr. Bostian and Mr. Bruce abstaining.

Chairman North asked Mr. Ventre to report on the Impervious Surface Refinement requests by the Town of Crisfield and the City of Cambridge.

Mr. Ventre stated that the requests are refinements to the local ordinances to reflect the changes in the Statute that were made by recent legislation.

The Commission supported the Chairman's decision to treat the request as a refinement.

Chairman North asked Ms. Patricia Pudelkewicz to report on Talbot County's requested changes to their Zoning Ordinance.

Ms. Pudelkewicz stated that Talbot County has submitted a list of Critical Area changes to the new Talbot County Zoning Ordinance, including five mapping mistakes. The new Zoning Ordinance combines the County's 1974 Zoning Ordinance and the 1989 Critical Area Ordinance. She listed the changes in six categories: 1) definitions; 2) land use regulations by zoning districts; 3) development design standards; 4) nonconforming uses; 5) administration; and 6) mapping mistakes. She said that there was a public hearing held in June and all five members of the panel attended the hearing.

Ms. Pudelkewicz outlined the changes: Section 19.2 Definitions: definitions of berm, jetty, marina (divided into commercial, community, yacht club), and nontidal wetlands. She stated that the recommendation of the panel was that the changes were consistent with the Critical Area Law and criteria, with the exception of nontidal wetlands. The panel recommended adding language to ensure that the Critical Area definition of nontidal wetlands shall apply where there are conflicts with the Federal Manual. Section 19.4 Land Use Regulations: New Uses Proposed in RCA:

Chesapeake Bay Critical Area Commission
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1. Agriculture Research Facilities (commercial)
2. Aquaculture (retail)
3. Aquaculture (wholesale)
4. Greenhouse & Plant Nursery (retail commercial) (old zoning ordinance allows wholesale commercial as a permitted use in RCA)
5. Single family residence (duplex)
6. Kennel (commercial)
7. Bed & breakfast (operated as a home occupation)
8. Group Day Care Center
9. Cottage Industry (existing dwelling)
10. Shared Facilities for Sewage Collection, Treatment, Disposal
11. Septage Land Application
12. Recycling Collection Center
13. Solid Waste Transfer Station
14. Substations for Gas/Oil Pipeline
15. Nursing Home (existing structure)
16. Private Bridge Which Crosses Tidal Waters Useable by Marine Craft
17. Private Bridges
18. Antenna Tower

Commissioner Bowling asked about item #10, if it was a sewage treatment plant.

Mr. Dan Cowee said that their concern was that there would be a maintenance fund available if the County ever did anything with it and that it could include a small wastewater treatment plant.

Commissioner Bostian asked how many units would be in it.

Mr. Cowee replied 25 - 30 units because that is the way the new agriculture protection program is set up.

Commissioner Whitson asked why #12 was denied.

Ms. Pudelkewicz said that basically it is stated that there are certain facilities which should be located outside the Critical Area and it does talk about solid waste collection.

Mr. Bostian said that he thought that a distinction should be made for recycling as opposed to solid waste, to encourage recycling.

Mr. Bowling said that it should be more restrictive than the simple wording that is used.

Ms. Pudelkewicz said that there is a definition for recycling in the County Ordinance. She read the definition: "Recycling center - a community collection center for common recyclable goods such as newspapers, glass, cans and plastic."

Mr. Cowee said that there is another restriction which is that the site must be approved by the Talbot County Recycling Committee. He said that the idea is just to have a drop-off center.

Mr. Whitson said that he would personally like to see it approved if it is defined to be precisely as a recycling center.

Mr. Bowling asked about item #8 if the facilities would be for children or for adults as a Group Day Care.

Mr. Cowee responded that a group day care facility had not been allowed anywhere but in a commercial area within the County and there had been heavy

Chesapeake Bay Critical Area Commission
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lobbying for it. He said that since it still requires a special exception and still requires a hearing and the impact factors would be looked at during the public hearing before the Board of Appeals, that was why it was changed.

Mr. Bowling asked if #8 and #15 could generate a lot of waste, such as diapers.

Mr. Whitson stated that because of the economics in facilities such as that such a facility would have to be extremely large and extremely liable. He said that in the case of a group day care, people want them but not in their back yard and making them more restrictive would not be good policy.

Ms. Pudelkewicz stated that the panel had recommended a restriction of whether a dwelling existed as of December 1, 1989, or 1985 (this is not the County's qualification but the panel's qualification) because when Kent County Zoning Ordinance was approved in 1989 restrictions were made that the dwelling had to exist as of a certain date because larger structures in regard to buildings in the RCA were not being created but limited to "dwellings" and not a "structure". The County had a nursing home in their Zoning Ordinance as "existing structure" which could be interpreted for other structures but could be a large barn or a large warehouse that existed in the RCA and that could be converted into a very large facility. She said that in the RCA an "existing dwelling" would limit the size and makes use of the existing dwellings and no further development for these types of uses.

Mr. Cowee stated that there were three categories in the Zoning Ordinance for this type of facility. The first one is the family day care facility and under State law when a license is issued to operate this type of facility it can only be operated for 8 or fewer clients and the second category - a small group day care center; the State has allowed 9 - 12 where before it was 6 - 12. The third category is a group day care center and those types of centers could handle more than twelve clients. In the category of family day care facility, this will occur in a dwelling unit and in category two, a small group day care center will probably be in a dwelling unit, but it may exist in a structure that may not be used in a residential structure as well; and then the third category, which is the topic of discussion - a group day care center is designed to be outside the dwelling unit in a structure that is specifically designed for that use - a toddler center in housing upwards of 50 kids, which does not preclude supervision of adults which would then fall into the nursing category rather than a day care. He said that it was a very "hot" issue because it had not been allowed as a special exception or permitted use in those residential zone classifications.

Commissioner Price asked if there had not been enough LDA or IDA for a sewer system.

Mr. Cowee said that they had a very small amount of commercially classified land area. People usually want day care centers to be on the outside of town because of the environment.

Commissioner Schoepfle asked #1 to be clarified and whether it is a special exception for an existing enterprise.

Mr. Cowee explained that there is only one Agricultural Research Facility in the County and this particular one was designed for one specific company and that company had since moved into the County. He said that the

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idea was that when the agricultural conservation program was designed, it could be called a C-zone classification and included this in an RC because the two were very much compatible. He said that there are two or three pages of regulations in the ordinance that go with that classification.

Commissioner Glendening said that if #10 was a recycling center, he would expect that it would generate a lot of activity, become noxious and large; however, if these were the green county collection bins it would make sense for recycling as a convenience. He suggested that it be permitted but with a clear definition that it is a community collection point and not recycling processing in any way.

Ms. Pudelkewicz said that there are two definitions in the County Ordinance and one is for a recycling collection center and another is recycling processing.

Mr. Cowee said that recycling processing is only allowed in an industrial zone classification.

Ms. Pudelkewicz said that the "center" is a collection point and that recycling processing is a recyclable material recovered facility where material is sorted, processed and packaged for direct distribution to users of recyclable material. She explained that in the definition for center, collection was used in the definition but not in the name. She read the definition of a recycling center as a community collection center for common recyclable goods such as newspapers, glass, cans and plastic with no wording to limit the scale of the center.

Mr. Glendening recommended that it be approved but be clearly generically defined to limit it as a neighborhood drop-off point and not an open door for any type of processing because it would be a mistake to deny 40% of the County this type of service. Mr. Glendening also recommended that if a date for restriction were set that he believes it should be a date such as the date that the Critical Area adopted the amendments or at least a date of rationale such as when the last structure that was built.

Ms. Pudelkewicz explained that the dates chosen were because of their relevance to when the law was enacted.

Commissioner Cade said that under the County there is already required a special exception for the group day care. She said that there are a of licensing requirements for trash disposal and this is not a heavy water use facility and ideally, they should be located near schools for before and after school care. Ms. Cade said that because there cannot be more than 12 in an existing dwelling by definition, she proposed there not be a restriction on the group day care but to allow the County, under its special exception, a process to deal with those environmental issues.

Commissioner Hickernell asked if the limiting State regulation factor is 12 would Talbot County's proposal be the absolute limit, or if there would be no cap in place to the limit.

Ms. Cade said that group day care would be 12.

Mr. Cowee said that there are different categories and the largest ones he has seen are limited to 50.

Mr. Hickernell said that his concern is that in an RCA area dealing with no public facilities where there is no limitation, the concern is that the public facilities would have to be created.

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Commissioner Whitson asked why the local ordinance did not address that. Mr. Cowee said that the special exception process would dictate it. Commissioner Gutman asked if there was an adequate public facilities law.

Mr. Cowee said, not yet, but that would follow.

Mr. Bostian asked what the rationale would be for denying the Kennel, #6.

Ms. Pudelkewicz said it is because of limiting new commercial uses and a Kennel is a commercial use.

Mr. Cowee said that Talbot County believes that Kennels don't work well in industrial/commercial areas or in suburban/residential medium density areas. He said that they are allowed in the RC only because there is more space.

Mr. Price asked if there were any the Critical Area and Mr. Cowee replied that they were outside the Critical Area.

Mr. Bostian asked if there was a limit to the size in the Ordinance.

Mr. Cowee said that there was none to his knowledge.

Mr. Gary Coit, a private citizen from Talbot County, said that he wished to address the Commission regarding the new zoning ordinance and the proposed amendments to the Ordinance. He said that he lives on Boone Creek and is speaking for the Boone's Creek Association organized by citizens in 1988 to protest and oppose the building of a bridge on the creek. He said that the bridge is now built without wetlands permits or building permits from Talbot County which is illegal. He stated that the changes in the Ordinance would affect and weaken the enforcement procedures and under the new Ordinance there is a question of whether infractions will be pursued even in the Critical Area. He said that the Critical Area Commission is not protected against the County Council of Talbot County as it can override its own Board of Appeals and amend its own Ordinance, including matters affecting Critical Areas.

Ms. Pudelkewicz said that it was the recommendation of the town staff to deny the zoning ordinance with comments rather than approve with conditions so that the concerns can be met and that it would be given to the County so that they can incorporate them and come back for approval of the zoning ordinance. She said that certain concerns would be better addressed by growth allocation, such as the nursing home or a large day care center.

Ms. Pudelkewicz said that Section 19.13 Non-Conforming Uses: An amendment was enacted to the zoning ordinance (Bill 452) to grandfather certain structures erected prior to April 11, 1991, as accessory structures, though they may not have been the subject of specific building permits. These structures include driveways, culverts, private bridges, light standards or poles, mailboxes, ornamental entrance gates, and any similar accessory structures customarily associated with the principal use of the property. Under Section 19.13 (d)(2) -expansion of non-conforming structures in the buffer should be landward only, not shoreward. Ms. Pudelkewicz stated that the panel recommended that the language state at least within the Critical Area the expansion be landward and not shoreward so that the buffer

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would not be impacted even further. The panel believes as proposed, Bill 452 must work in conjunction with the Critical Area grandfathering criteria that is found in COMAR 14.15.02.07. However, she said, these criteria have not been incorporated into the County's zoning ordinance. It was stated in the Talbot County Critical Area Program that grandfathering language would be included in the County Zoning Ordinance after Program adoption. Under Section 19.14 Administration, she said that there were some changes made to the "Amendments to the Critical Area provisions of the Zoning Ordinance" but all were consistent with the Critical Area Law and criteria.

Ms. Pudelkewicz reported that there were also changes made to the "Growth Allocation District Boundary Amendments in the Critical Area" which the panel had several recommendations regarding a) design standards meeting growth allocation submittals, b) to add "or improve on quality and quantity of stormwater", c) clearly state that the Critical Area Commission only receives those growth allocations which have been approved by the County Council and d) if applicant is going from LDA to another LDA or IDA to another IDA, then growth allocation is not needed. Ms. Pudelkewicz further reported to the Commission that the Zoning ordinance does not clearly indicate how the County zones and the Critical Area designations (RCA, LDA and IDA) are related, especially with regard to IDA designations and that it should be clearly spelled out; that HB 323 on impervious surfaces should be incorporated into the zoning ordinance; that the section dealing with Special Exceptions should indicate that the Critical Area Commission must be sent all Special Exceptions within the Critical Area for review and comment.

Ms. Cade asked if the County could deal with these recommendations.

Mr. Cowee that he would prefer more time to discuss them with Ms. Pudelkewicz and that he was confused about what the Commission was doing, are they going to deny all or a part or what would he be required to do.

Chairman North announced that Commission Counsel had suggested to him that it would be best to simply deny everything and to send it back with comments but that there would be an open door for communications with the Commission staff.

Mr. Elbrich said that because the local jurisdiction has taken action on the request, they have a bona fide ordinance to allow them to proceed operationally even though it may not meet the approval of the Critical Area Commission; so, anything they need approval for by the Commission would possibly come into conflict. He made a motion to deny the approval of the entire ordinance subject to notification and reevaluation and modifications to bring it into compliance with the recommendations set forth in the panel report. The motion was seconded by Mr. Bob Price.

Mr. Bostian asked about the possibility of deferring it until the next meeting and to try to have the staff work out the differences.

Ms. Pudelkewicz replied that it would go beyond the 90 days for Commission to act and then it would be automatically approved.

Mr. Glendenning asked if it was possible to divide the denial on the request and on the areas of clear agreement to approve the request.

Chairman North said that it would be possible by proposing an amendment to the motion.

Counsel Gay stated that he did not think it appropriate for the

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Commission to take an amendment package sent to the Commission by the local legislative body and treat it differently than the way in which it was proposed.

Mr. Glendening asked if another jurisdiction or county brought an amendment before the Commission and if only 2 out of 3 of the issues were approved would it normally be approved as such.

Counsel Gay stated that in the mapping mistake context, a package of proposed amendments have been reviewed by the Commission separately. He suggested that this practice continue. However, he said that a zoning ordinance package should be examined as a "whole".

Mr. Cowee stated that he did not understand how to get through the Commission by bringing a package before it.

Counsel Gay said that a list of modifications to the proposed changes would be provided and if the County Council was willing to go along with them, then it could bring the proposals back and undoubtedly they would be approved.

Mr. Glendening said that he believed that procedure to be cumbersome and what he understands Counsel to say to Talbot County is that in the future the amendments should be submitted separately.

Mr. Elbrich restated his motion that the request be denied for the ordinance for Talbot County and be remanded for consideration based upon the modifications and or changes submitted with the panel report.

Mr. Bostian asked if Talbot County understood what was they had to do once they get it back.

Counsel Gay said that he believed that the County will have to initiate the process anew.

Chairman North agreed with Mr. Cowee that there should be a way around the procedural problem wherein most of the amendments may be approved and only one being unacceptable causing the whole package to be remanded. He said that perhaps the submittal should be in a piecemeal fashion so that the Commission could deal with it in that way. He called the question. The vote was 14 in favor, one naye, and Ms. Cade abstaining.

Mr. Glendening suggested that the Special Issues Subcommittee study the process and if in fact this is the alternative then anyone submitting amendments ought to be advised in advance that they should make the package of amendments as discreet as possible.

Ms. Cade suggested that it be a written policy and communities could be instructed.

Ms. Pudelkewicz stated that HB 1062 gives the Commission the authority to write regulations for the amendments and refinements process.

Ms. Pudelkewicz enumerated five mapping mistake amendments:

1. The County requested a zoning change from RC to VC, an LDA designation for 10.5 acres parcel on Tilghman Island. Ms. Pudelkewicz read the findings of fact and stated that the panel recommendation was for approval. A motion was made to approve the request and seconded. The vote was unanimously in favor.

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2. The second mapping mistake is a parcel of land in the northern part of Talbot County which lies both in the Town of Queen Anne and Talbot County. It is a total of 10.69 acres with 5.52 in Talbot County. A cannery operation existed on this parcel in 1985, with industrial uses occurring on both the Queen Anne and Talbot County portion of the site. The portion within the Town of Queen Anne was mapped IDA. The County is requesting a change from RC to LI (Limited Industrial), an IDA designation. She read the findings of fact and stated that the panel recommendation was to deny the request based on mapping mistake. She said that this parcel met the RCA mapping criteria to include the balance of the Critical Area not previously designated as IDA or LDA. IDA mapping criteria require 20 contiguous acres; however, the County Critical Area Program does not specifically state that areas outside of the County can count toward meeting that criteria. Therefore, the panel recommended denial of the mapping mistake. Much discussion ensued, with the majority of the Commission members agreeing that since it was an existing industrial use, and since it could meet the 20 contiguous acres of IDA rule if you included the IDA in Queen Anne, that a mapping mistake was warranted. A motion to approve the request as a mapping mistake was made by Mr. Bostian and Ms. Cade seconded it. The vote was unanimously in favor.

3. Four parcels for mapping mistake were presented on tax map 42; parcel 58 (3.5 acres); parcel 274 (4 acres); parcel 173 (3.8 acres); and, parcel 65 (4.4 acres). The request was for change from RC to GC (General Commercial), an IDA designation. After reading the findings of fact, Ms. Pudelkewicz said that the panel recommendation was for denial because no mistake was made based on mapping criteria and land use in 1985. She said that growth allocation was an alternate means to change the zoning of these parcels. A motion was made to deny the request based on the mapping criteria and land use in 1985 and with the stipulation that growth allocation would be the appropriate method of change. The motion was seconded and the vote to deny was unanimously in favor.

4. The fourth request for mapping mistake was on tax map 32. It is a strip of commercial property outside St. Michaels along Route 33. A request for zoning change from RC to IDA for 11.5 acres in the Critical Area was requested by the County. Ms. Pudelkewicz read the findings of fact and the panel recommendation was that parcel 86 was correctly mapped at time of Program adoption and met LDA criteria. The remainder of the request met the RCA mapping criteria in that it included the balance of the Critical Area not previously designated as IDA or LDA. Much discussion among Commission members ensued over the long-standing commercial use existing along Rt. 33. Based on the existing commercial uses which existed along this strip in 1985, a majority of the Commission felt a mapping mistake was warranted. A motion to approve the request based on a mapping mistake was seconded and the vote was carried unanimously.

5. The fifth request was from tax map 53, parcel 86, for an existing marina, Bachelor's Point Marina. The request was for a mapping mistake from RC to LC, an LDA designation for 13.9 acres.

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Ms. Pudelkewicz read the findings of fact: 1) the site had an existing marina in 1985 (slips and limited development - two structures); 2) the majority of the site was barren land; 3) the parcel did not have public water or sewer; 4) area met RC mapping criteria where dominant land use was barren land; and, 5) the parcel is contiguous to both RC land and LDA land.

She said that the panel recommendation that no mistake was made based on mapping criteria and land use in 1985. A motion was made to deny the request on the basis that there was no mistake and that the marina is an appropriate use and that it was existing and is permissible in the RCA classifications. The motion was seconded. The vote was unanimously in favor to deny the request.

Chairman North called on Mr. Bob Miller, Deputy Director of Water Resources Administration for DNR to make a presentation on the development trends "Waterward" in the Critical Area.

Mr. Miller said that since the early 1970's the State adopted a statutory treatment of a common law that governed the common use of riparian land and that area from mean high tide waterward. The State's tidal wetland statute was adopted in 1970 and it provided that before a riparian property owner could do anything in that area he would have to have a license issued by the State Board of Public Works and prior to issuing of that license, the DNR tidal wetlands program would conduct an evaluation and make a recommendation to the Board. The Statute was drafted in such a way that the primary emphasis was on dredging activities and field activities in the area. The Statute also specifically provided that there would be a recognition of certain fundamental rights and so it was carefully crafted to provide for marine access and the right to wharf-out and also the fundamental notion that you have a right to protect your property from erosion.

In the late 80's an interesting phenomenon occurred which was a recognition of some riparian property owners that there was a tremendous potential for development waterward of their property since nobody owned it and nobody really cared they could just wharf-out. This led to an adoption of a statutory amendment of the State's tidal wetland Statute referred to as the "Housing on Piers Act" of 1989. The specific wording uses non-water dependent activities are also prohibited and they were not only looking at environmental issues but land use practices. There are loopholes in the States' tidal wetland statute and potentially in the Critical Area's approach to management of this area.

The State's Statute is primarily directed toward the notion of regulating dredge and fill activities on the Bay. The "Housing on Piers Statute" being very poorly drafted presents challenges to the efforts to implement that Statute; amendments to the Statute are now being considered; there are some arguments that a license or a favorable recommendation for a license or a permit for a structure (house on a pier) cannot be issued; however, for 20 years all that has been issued are permits for dredge and fill activities. Now, WRA has argued that placement of a structure out in the water is a fill activity and also that we regulate structures by regulating bulkheads along the waterway, but legally and politically there have been a lot of problems with this argument because of the demand. He

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said that he believed that the problem is beyond the Water Resources Administration and the Tidal Wetlands Division and the Board of Public Works. He stated that cooperation of the Critical Area Commission to take their response to the county levels to look at this phenomena that is developing is necessary because it is as much a land-use problem as a regulatory problem.

Mr. Gutman asked Mr. Miller about the taxing authority over the State's waters.

Mr. Miller stated that other states have charged ground rent for the use of this tidal area and the Department has thought of doing that as well as for marinas.

Mr. Bostian asked about the permitting for these activities by any agency.

Mr. Miller stated that the Corps of Engineers has in recent years generally "looked away" treat them nationwide and view them under general comments and are more interested in whether they have an impact on navigation under Section 10 rather than treating it under Section 404 the Clean Water Act.

Ms. Carolyn Watson asked if State waterway permits were needed as well as Federal.

Mr. Miller replied, yes, from Tidal Wetlands but until 1989 there was no regulation of structures on pilings of any kind.

Ms. Watson asked if WRA had environmental review authority.

Mr. Miller stated that they are trying to assert that jurisdiction even though they are not on the strongest statutory foundation because of the 20 year precedent of not dealing with this.

Mr. William Burgess, Director of Enforcement for WRA, stated that some degree things are being prohibited in the Critical Area Buffer but now people are conversing the use of an "existing" pier and putting things like gazebos over water. He said that they will have to begin to work on giving a "lifetime" authorization to maintain jurisdiction over a conversion over the use of a pier. He said that there would need to be a tightening up at the County, State and Federal level.

Chairman North said that there was no question that these things do concern the Critical Area Commission, concern with the Bay in a very general sense in addition to the specific responsibilities under the Critical Area Law. He said that in Talbot County there is a prohibition against the construction of boathouses by local zoning ordinance.

Tony Bruce.....said that Worcester County has a shoreline Commission so that there are three permits required to build on the water which is a citizen's commission which meets once a month.

Counsel Gay asked Mr. Miller how the Critical Area Commission Statute on piers and structures dovetails with Tidal Wetlands.

Mr. Miller said that it is being legally researched for definition of water-dependency.

Mr. Gutman suggested to the Commission that the Special Issues Subcommittee should study this and discuss potential ways to assist and to become involved.

Chairman North agreed with the suggestion to take an overview of the problem.

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OLD BUSINESS

Mr. Bostian asked Ms. Anne Hairston about the Forestry General Approvals.

Ms. Hairston stated that there are no current developments.

Counsel Gay said that at the current stage the only problem seems to be the time frame for when a mitigation plan is required for activities that will have a necessary and unavoidable impact on non-tidal wetlands.

Ms. Hairston updated the Commission on the Black Marsh Wildlands and the North Point State Park proposal stating that at the last Critical Area Commission there more information was requested and when it was forthcoming a public hearing would be scheduled. She said that Chairman North was chairing the panel; Jim Peck, Kay Langner and Tony Bruce were on the panel.

Mr. Gutman stated that the panel dealing with MOU with State Highway met and is awaiting the comments on the last draft. He said there was a change of leadership in DOP and the change should be forthcoming in the next month or two. He said that there was some discussion regarding the Route 450 Bridge which occasioned the potential of a grandfathering approach to some projects of State Highway.

Counsel Gay updated the Commission on the Bellanca Case out of Kent County which was argued in the Court of Special Appeals. He said that the the Court of Appeals denied a requested Writ of Certiorari by the developer.

Counsel Gay told the Commission that the Critical Area Commission staff went down to Wicomico County to present testimony in conjunction with a variance request involving a Mr. Simon Liang who wanted to build a house in the Buffer where there was some endangered species of plants. Mr. Liang had built the foundation and applied for a permit afterwards. Counsel Gay said that the requested variance was denied and the denial was consistent with both Wicomico County Planning and Zoning staff and the Critical Area staff.

Counsel Gay reported on the Pethel variance appeal in Anne Arundel County. The Commission staff attended a variance hearing involving the location of a 10' x10' storage shed in the Buffer. He said that the Zoning Administrative Hearing Officer suggested that a variance was appropriate for this and the structure should stand. On appeal, the Board of Appeals overruled the hearing officer and denied the variance and the denial was consistent with Commission staff recommendations and the County Planning & Zoning group.

Mr. Gutman ask what the penalty provision was.

Counsel Gay stated that he believed that the County Planning and Zoning may have the authority to go to the County Council who then has to take steps to ensure removal and in the event that did not happen.

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NEW BUSINESS

Chairman North said that Mr. Hugh Smith, Chesapeake Bay Critical Area Commission Public Relations Officer, has asked him to announce that a photograph will be taken of all new members of the Commission on August 7th meeting and the entire Critical Area Commission at the September 4th meeting.

There being no new business, the meeting was adjourned.

PROGRAM AMENDMENT/REFINEMENT

SUBMITTAL POLICY

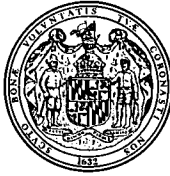
At the July 10, 1991 meeting of the Chesapeake Bay Critical Area Commission, the Commission Counsel expressed concern over the Commission's authority to review and approve a single piece of legislation, submitted by a local governing body as a program amendment or refinement, on a piecemeal basis. Many times a single piece of legislation may address numerous changes to a Critical Area Program or local zoning ordinance. Cases often arise where the Commission may wish to approve some of these changes, but deny others. Therefore, the Commission recognized that a mechanism to allow the Commission to approve submittals in part is needed. This policy proposes the mechanism.

It is the Critical Area Commission policy that program amendments and refinements be submitted and reviewed in the following manner:

- If a single piece of legislation is submitted as a program amendment or refinement, and it addresses more than one Critical Area issue, then the local jurisdiction shall individually number or designate each respective change to a local program; and, it shall grant to the Critical Area Commission the power to approve or deny each individual change independently of all other changes.
- The granting of this authority to the Commission by the local governing body shall be done through formal notification to the Commission and shall accompany each amendment package.
- Without a formal grant of this power to the Critical Area Commission, all pieces of legislation which are submitted as a program amendment or refinement shall be voted up or down as a whole.

JUDGE JOHN C. NORTH, II
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**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

August 23, 1991

Dear Subcommittee Member:

For at least two years, the Commission has carried out its responsibilities through three subcommittees: 1) project evaluation subcommittee, 2) program amendment and implementation subcommittee, and 3) special issues. These subcommittees have enabled members to examine projects, programs and policies at the level of detail necessary for the members to make well informed decisions on the various items requiring Commission action.

I would like to offer each of you, new members, as well as members assigned to a particular subcommittee to select and change to another subcommittee if you so desire. Attached is a sheet describing the function of each subcommittee as well as a list of current subcommittee composition. I would ask that you make your selection by October 1st and notify either me or Dr. Sarah J. Taylor as to your preference. The subcommittees, with changed membership will begin January 1, 1992.

Very truly yours,

A handwritten signature in black ink that reads "John C. North, II".

John C. North, II
Chairman

JCN/mm

Enclosures: cited

PROJECT EVALUATION SUBCOMMITTEE - (Ren Serey central staff support) reviews and recommends a position on all State and local government sponsored projects affecting the Critical Area. The regulations entitled: COMAR 14.19 "Regulations For Development In The Critical Area Resulting From State And Local Agency Programs", Chesapeake Bay Critical Area Commission: Subtitle 19 provide guidance to the Subcommittee as to what information must be submitted with a project as well as time frames within which the full Commission must vote on a project. Field trips are usually taken by the Subcommittee for large, complex projects.

PROGRAM AMENDMENT & IMPLEMENTATION SUBCOMMITTEE - (Pat Pudelkewicz central staff support) reviews and recommends a position to take by the Commission on amendments proposed by local governments to their Critical Area Program, assesses local government submittals to assure that consistency is being maintained on decisions made by the Commission affecting the local government programs as well as the overall Critical Area Program criteria. Formulates policies that are needed to give guidance to the local governments as well as to Commission decisions (e.g., developing examples depicting refinements vs. amendments).

SPECIAL ISSUES SUBCOMMITTEE - (Sarah Tavlör central staff support) - develops policies for Commission vote pertaining to areas where the criteria might not have been clear and guidance is needed. The Subcommittee also develops policies for procedures to be followed by the Commission (e.g., program submittals, growth allocation, septic systems in the Critical Area) and handles review of legislation proposed for the General Assembly that affects the Critical Area Law and/or criteria.

SUBCOMMITTEE MEMBERSHIP

MOU-MDOT:

- James E. Gutman, Chairman
- Sam Bowling
- Skip Zahniser
- Shep Krech
- Bill Corkran
- J. L. Hearn

SPECIAL ISSUES:

- James E. Gutman, Chairman
- Bill Bostian
- Parris Glendening (Carolyn Watson)
- J.L. Hearn
- Robert Price
- Skip Zahniser
- Jim Peck
- Louise Lawrence

PROJECT EVALUATION:

- Kay Langner, Chairwoman
- Sam Bowling
- Bill Corkran
- Tom Jarvis
- G. Steele Phillips
- Russell Blake
- Ardath Cade
- Robert Schoeplein

PROGRAM AMENDMENT:

- Philip Barker, Chairman
- Tony Bruce
- Ron Young
- Ron Hickernell
- Joe Elbrich
- Michael Whitson
- Roger Williams

STAFF REPORT (Revised)

September 4, 1991

PROJECT: Choptank River Fishing Piers State Park
Master Plan

APPLICANT: Department of Natural Resources.

The Department of Natural Resources has prepared a master plan for the development of the Choptank River Fishing Piers State Park. The park is located on either side of the Choptank River in both Dorchester and Talbot Counties. The focus of the park is the old Choptank River bridge which was partially left in place to be used for fishing. The master plan includes additional parking, facilities for day use recreation, and walkways/interpretive nature trails. Draft maps showing proposed locations of walkways, picnic areas, comfort stations, observation decks, reforestation areas, etc., are attached; however, some of these have already been relocated or reconfigured.

The plantings and design of the park provide educational opportunities particularly with respect to the Critical Area goals and requirements. It is the recommendation of the staff that any interpretive materials developed for the park include information regarding the Critical Area program.

Dorchester County Side

CRITICAL AREA
DESIGNATION:

The staff recommends that the site be considered an area of intense development. This is based on the existing use (parking) and that the City of Cambridge designated the area as IDA.

ACREAGE: Approximately 3 acres.

PROJECT PROPOSALS: Parking (50 car), comfort stations (2), fish cleaning station, paved pedestrian walk under the bridge, stone revetment with walkway.

CHPTNKCL.
SIF
Attachment
A

STAFF REPORT (Revised)

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The staff recommends that the site be considered an area of intense development. This is based on the existing use (parking) and that the City of Cambridge designated the area as IDA.

ACREAGE: Approximately 3 acres.

PROJECT PROPOSALS: Parking (50 car), comfort stations (2), fish cleaning station, paved pedestrian walk under the bridge, stone revetment with walkway.

EXISTING IMPERVIOUS

SURFACE: Approximately 13,650 sq. ft.

ADDITIONAL IMPERVIOUS

SURFACE PROPOSED: Approximately 16,250 sq. ft.

16,500 TRAILS CRUSHED STONE

Talbot County Side

CRITICAL AREA

DESIGNATION: Not an area of intense development. The staff considers the site to be the equivalent of an RCA due to the undeveloped nature of the site.

ACREAGE: 25

PROPOSED IMPERVIOUS

SURFACE: Approximately ~~47,000 sq. ft.~~

69,800 TRAILS CRUSHED STONE

53,700 sq. ft.

PROJECT PROPOSALS: Interpretive trail (1.3 miles), group picnic areas (2), picnic shelter with barbecue grills (2), comfort stations (2), fish cleaning station, family picnic area, parking (100 car), park office/ranger station, greenshores planting (8 acres) butterfly and hummingbird garden, flammable materials storage building, underground fuel system, paved service yard.

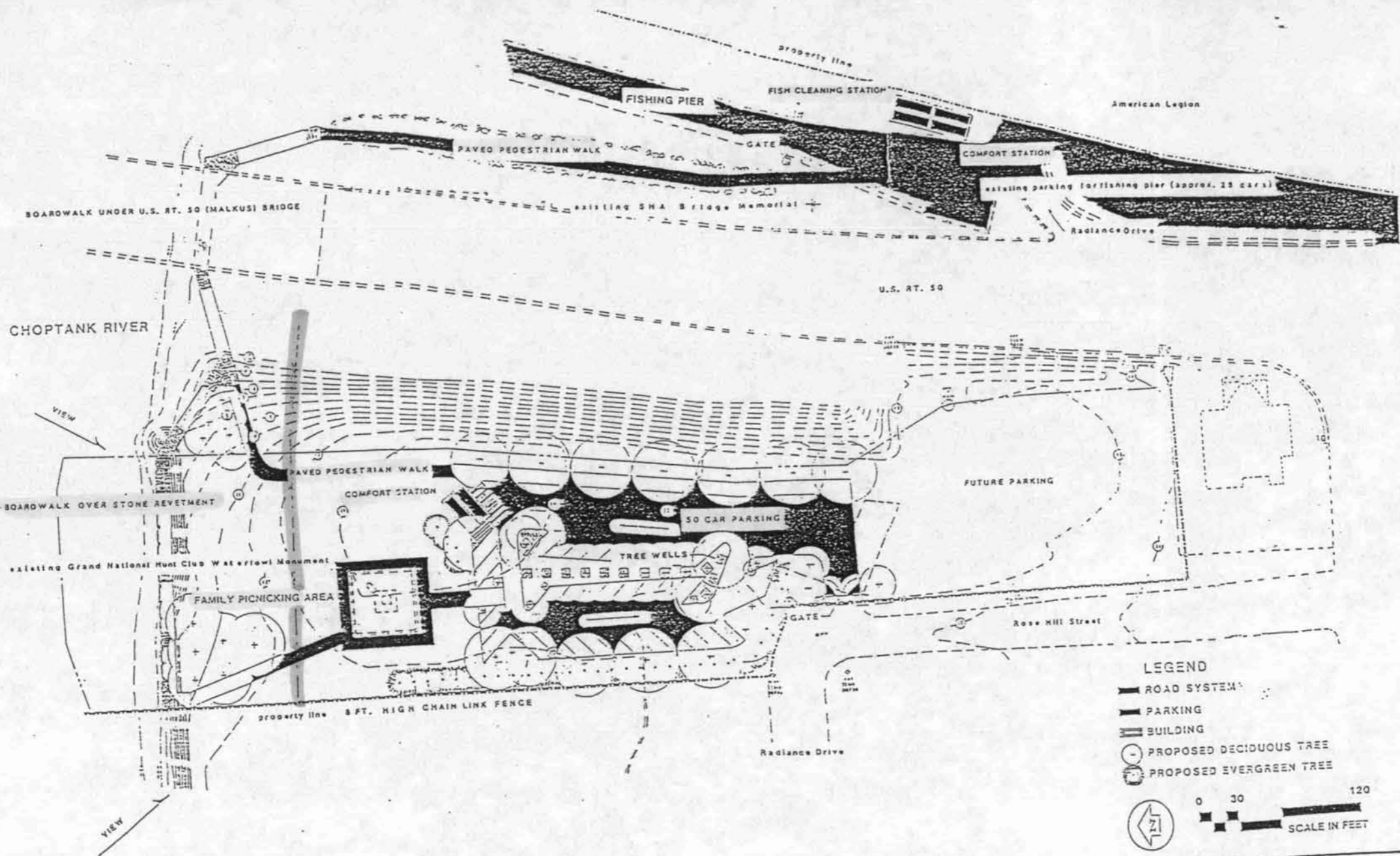
The following sections of the "green regs" are particularly relevant.

- New development activities...and other impervious surfaces are not permitted in the Buffer except for those necessarily associated with water-dependent facilities. COMAR 14.19.05.09(B)(2).
- The agency shall establish a minimum 100-foot Buffer landward from mean high water. COMAR 14.19.05.09(B)(1).
- The Buffer shall be maintained in natural vegetation, but may include planted vegetation where necessary, to protect, stabilize or enhance the shoreline. COMAR 14.19.05.09(B)(3).
- Natural parks...should be planned to include examples of coastal ecosystems that are found within the State each with its geological and biological resources intact. COMAR 14.19.05.14(C)(1).
- The State agency shall require, at the time of the development or redevelopment, technologies as required by applicable State laws and regulations to minimize adverse

impacts to water quality caused by stormwater. Either a 10% reduction of existing pollutant loadings must be provided on site or offsets may be provided off site to reduce pollutant loadings by at least 10 percent of the predevelopment levels COMAR 14.19.05.03(B)(2)(b)(i-iv).

STAFF RECOMMENDATION: APPROVAL, provided that 1) to the extent possible, trails are located outside of the Buffer; 2) to the extent possible, the Buffer is reestablished with native vegetation; 3) a 10% reduction of pollutant loadings is achieved on the Dorchester County side; 4) detailed development proposals will be brought to the Commission for approval before construction.

STAFF CONTACT: Claudia Jones



LEGEND

- ROAD SYSTEM
- ▬ PARKING
- ▭ BUILDING
- PROPOSED DECIDUOUS TREE
- PROPOSED EVERGREEN TREE

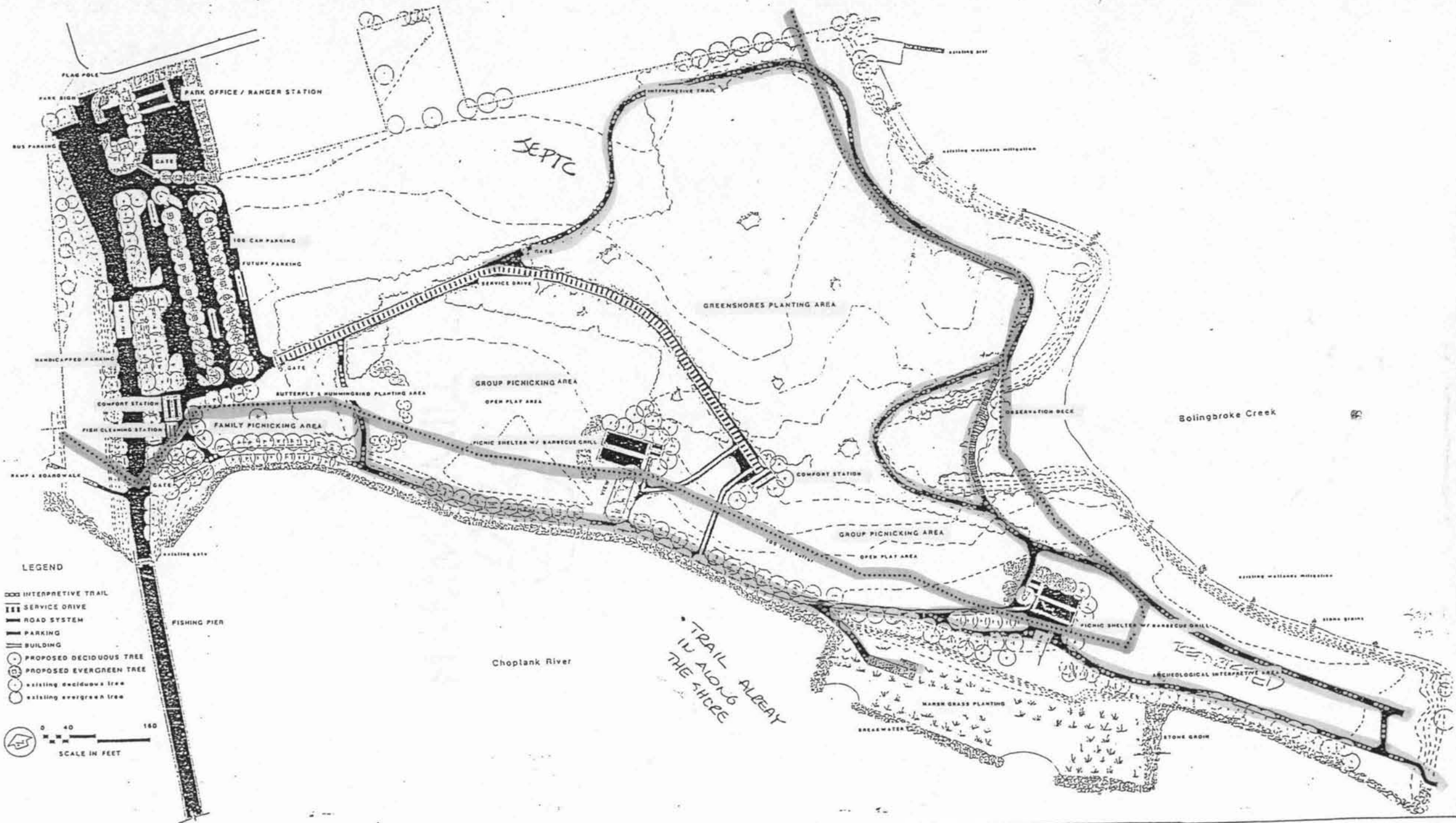
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MASTER PLAN

CHOPTANK RIVER FISHING PIERS STATE PARK

DORCHESTER COUNTY AREA

DEPARTMENT OF NATURAL RESOURCES
CAPITAL PROGRAMS ADMINISTRATION
LAND PLANNING SERVICES-FALL 1990 wdt



LEGEND

- INTERPRETIVE TRAIL
- SERVICE DRIVE
- ROAD SYSTEM
- PARKING
- BUILDING
- PROPOSED DECIDUOUS TREE
- PROPOSED EVERGREEN TREE
- existing deciduous tree
- existing evergreen tree



MASTER PLAN
TALBOT COUNTY AREA

CHOPTANK RIVER FISHING PIERS STATE PARK

DEPARTMENT OF NATURAL RESOURCES
CAPITAL PROGRAMS ADMINISTRATION
LAND PLANNING SERVICES FALL 1950 wot

STAFF REPORT
September 4, 1991

PROJECT: CHOPTANK RIVER FISHING PIERS STATE PARK - MASTER PLAN

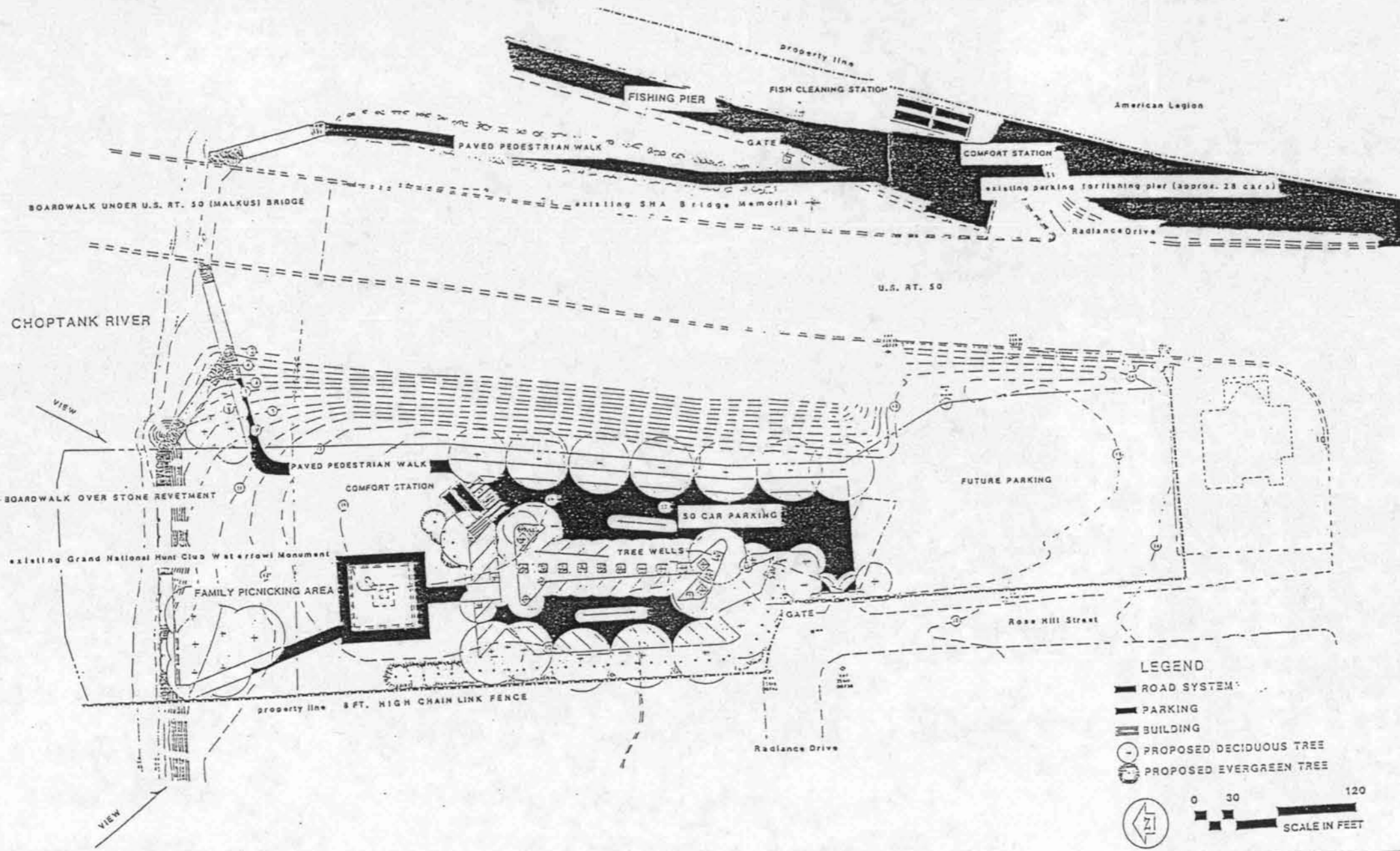
The Department of Natural Resources has prepared a master plan for the development of the Choptank River Fishing Piers State Park. The park is located on either side of the Choptank River in both Dorchester and Talbot Counties. The focus of the park is the old Choptank River bridge which was partially left in place to be used for fishing. The master plan includes additional parking, facilities for day use recreation, and walkways/interpretive nature trails. Draft maps showing proposed locations of walkways, picnic areas, comfort stations, observation decks, reforestation areas, etc., are attached; however, some of these have already been relocated or reconfigured.

The plantings and design of the park provide educational opportunities particularly with respect to the Critical Area goals and requirements. It is the recommendation of the staff that any interpretive materials developed for the park include information regarding the Critical Area program.

Mr. Bill Triggs of Greenways & Resource Planning will be presenting the project to the Commission. Mr. Triggs will present more specific information on the proposal including the latest changes that incorporate recommendations made by Commission staff regarding reforestation and location of the trails.

Staff recommendation: APPROVAL provided that, to the extent possible, trails are located outside of the Buffer and the Buffer is re-established with native vegetation.

Staff Contact: Claudia Jones

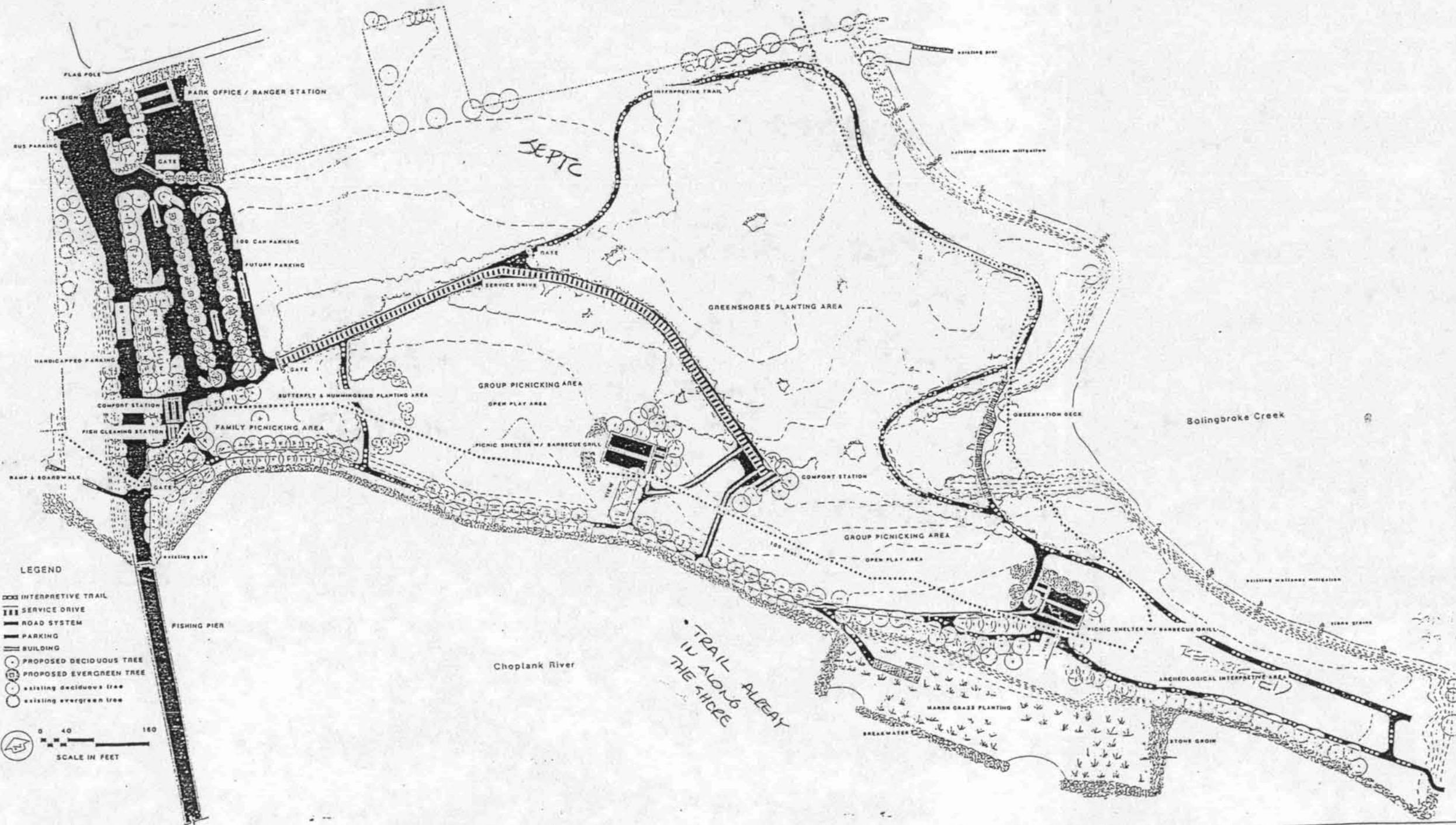


MASTER PLAN

CHOPTANK RIVER FISHING PIERS STATE PARK

DORCHESTER COUNTY AREA

DEPARTMENT OF NATURAL RESOURCES
 CAPITAL PROGRAMS ADMINISTRATION
 LAND PLANNING SERVICES-FALL 1990 wdt



LEGEND

- INTERPRETIVE TRAIL
 - SERVICE DRIVE
 - ROAD SYSTEM
 - PARKING
 - BUILDING
 - PROPOSED DECIDUOUS TREE
 - PROPOSED EVERGREEN TREE
 - EXISTING DECIDUOUS TREE
 - EXISTING EVERGREEN TREE
- 0 40 160
SCALE IN FEET

MASTER PLAN
TALBOT COUNTY AREA

CHOPTANK RIVER FISHING PIERS STATE PARK

DEPARTMENT OF NATURAL RESOURCES
CAPITAL PROGRAMS ADMINISTRATION
LAND PLANNING SERVICES FALL 1990 wot

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: DC-A-21

JURISDICTION: Dorchester County

TYPE: Growth Allocation, Land Reclassification

ALLOCATION: 14 acres requested

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

REASON: To allow development of a residential
subdivision at building densities higher than
current classification allows

LOCAL STATUS: Local award of growth allocation granted by
Dorchester County Commissioners on May 28,
1991. Proposal currently in local subdivision
review.

DESCRIPTION
AND ANALYSIS:

The site in this case lies approximately 2.5 miles west of the western corporate limits of Cambridge. It can be reached via Maryland Route 16 and Dailsville Road. The parcel lies on the south side of the intersection of Dailsville and Town Point Roads. A site locator map is attached.

This is a rural area. Individual houses stand on large parcels or are strung out along the two-lane roadways that cross the area. Clusters of houses occur occasionally at intersections as well as along nearby creeks. This area lies between the Choptank River to the north and the upper tributaries of the Little Choptank River to the south. This particular parcel lies nearer the latter. Its Critical Area is demarcated from a wetland at the head of the North Branch of Fishing Creek.

The landscape is typical of South Dorchester, very low-lying and very flat. Agricultural land uses predominate. Most fields are planted in crops, although there are many fallow fields. There are forest stands of varying sizes, and forest edges along streams. Signs along nearby roads advertise subdivided lots for sale (for subdivisions predating the Critical Area Program, apparently), but almost no development has occurred at these locations.

In this case, a 43-acre parcel of farmland is proposed for subdivision into 19 building lots, a 14-acre open space reserve and two sites for bermed infiltration ponds (BIPs) for wastewater disposal.

The subdivision is proposed in two phases. Phase 1, comprising eight building lots and one BIP site, lies outside of the demarcated Critical Area. The balance of the parcel -- 28 acres -- is Phase 2, and is the subject of this growth-allocation request. Phase 2 comprises 11 building lots, a BIP, and the 14-acre open space reserve. Specifically, the owner has requested an allocation of 14 acres from the Dorchester Growth Reserve for the developed portion of the site, and the reclassification of that acreage to allow higher development density. The open space reserve would become dedicated open space, its ownership divided and shared equally among the owners of the eleven building lots. Photocopies of the subdivision plat and plat notes are attached. (Due to equipment limitations, neither the entire parcel nor all of the Phase 2 portion could be photocopied onto a single sheet. Principal features are shown, however.)

This proposed subdivision apparently satisfies applicable local Critical Area program and ordinance requirements. These include requirements to cluster residential lots, to provide community sewerage and to designate permanent open space and its ownership. Photocopies of these applicable ordinance sections are attached.

The proposal meets local requirements for demarcation and protection of the 100-foot tidewater Buffer. There are apparently no habitats of threatened and endangered species or species in need of conservation on the site. There are no plant and wildlife habitats of the types identified for Critical Area Program protection on this farm field site. Documentation regarding the presence or absence of habitat protection areas on this site was obtained from the Maryland Forest, Park and Wildlife Service, and made part of the subdivision application. A copy of the FPWS letter is attached.

State of Maryland nontidal wetland guidance maps indicate palustrine nontidal wetlands on the site. In Dorchester County, however, nontidal wetlands do not include cropland, as a matter of policy as well as ordinance definition. A photocopy of the zoning ordinance definition is attached.

There is a nontidal wetland swale bisecting this site from north to south. The Army Corps of Engineers has determined that this swale constitutes "farmed wetlands", and any development activity requires a Corps permit. Application has been made to the Corps for a permit to fill the swale. A photocopy of the Corps' Public Notice is attached. The Corps has determined that the balance of the nontidal wetlands on the site comprises "prior converted cropland" for which no permits are required.

(Regarding nontidal wetlands generally, such wetlands inside the designated Chesapeake Bay Critical Area are not subject to State of Maryland nontidal regulations, but are subject to local and State Critical Area regulations for nontidal, and to Corps permit review requirements. If the Corps determines that these are "farmed wetlands", the Corps permit is required. If the determination is "prior converted cropland", no Corps permit is required, but Critical Area Commission staff may apply the Critical Area nontidal regulation (COMAR 14.15.09.02) if field observation warrants.

Information on soil types on the site is provided on the attached photocopy of the soils map of the site and its vicinity. The specific soil types are described briefly on the reverse side of that photocopy.

This requested growth allocation does not follow the six guidelines for locating new growth that are outlined in the Critical Area regulations at COMAR 14.15.02.06.B (photocopy attached). Regarding the area to be deducted from the growth reserve, this request does not completely meet the terms of this Commission's expressed policy adopted in February, 1988. A photocopy of that policy statement is attached.

There is local opposition to this proposed subdivision and to the development that could result. The opposition stems at least in part from the change in this rural area's character that would occur from the addition to the local landscape of a cluster of detached single family houses on 9 building lots. On this issue of "prevailing character", those in opposition have noted the language of the regulations at COMAR 14.15.02.04.B.(3)(b) which refers to this standard. A photocopy of that COMAR section is attached, on the reverse of which is the Dorchester Program language based on that same section.

SITE VISIT: July 30, 1991

LOCAL PANEL

HEARING: August 19, 1991, 7:30 p.m., Cambridge

- ISSUES:
1. The requested growth allocation does not conform to this Commission's expressed, adopted polity of February, 1988, that the balance of land outside the development envelope of a growth-allocation parcel be at least twenty acres in size. Dorchester County's method of calculating the amount to be deducted from the growth reserve, however, does not fully reiterate the Commission's policy. A photocopy of the Dorchester County policy is attached.
 2. Nontidal wetlands and water quality, COMAR 14.15.02.06B(4).
 3. Compliance with regulations regarding intensity of development in certain areas, COMAR 14.15.02.04.B(3)(b).
 4. Farm drainage ditches may be influenced by tides. A determination will have to be made. If determined to be tidal tributaries, Buffer demarcation on this site will have to be modified.

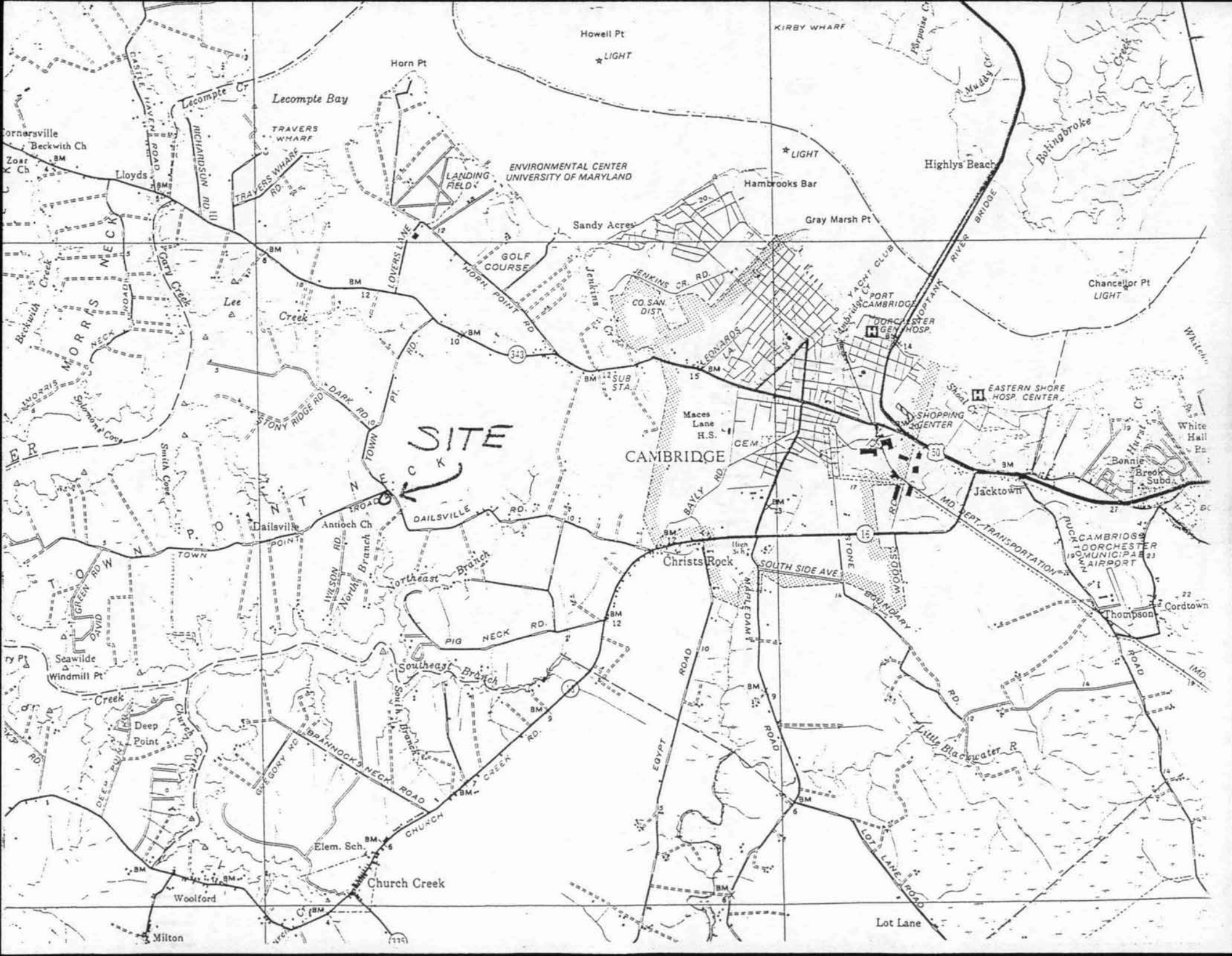
CBCAC ACTION BY: September 4, 1991

PANEL
RECOMMENDATION:

STAFF: Tom Ventre

SOURCES:

1. Dorchester County Planning and Zoning Office
2. _____, Soil Conservation Service
3. MD Department of Natural Resources, Nontidal Wetlands Division
4. US Department of Agriculture, Soil Conservation Service, Soil Survey of Dorchester County, MD 1963 and 1982
5. US Army Corps of Engineers, Baltimore District Office, Eastern Shore Permits Section



14 ACRES
ENTIRE OPEN SPACE
TO BE REFORESTED

PHASE 2

PHASE 1

PROP. 25' WIDE DRAINAGE
EASEMENT

NON-TIDAL WETLANDS
BOUNDARY LINE

N 26°44'03"W
80.68

N 09°11'05"W
64.50'

100' BUFFER
BOUNDARY LINE

JULIAN FARMS
235/949 INC.

DITCH

N 23°24'00"E
23.23'

N 35°11'45"W
86.85'

N 32°08'44"N
103.99'

55°03'23"W
102.88'

E OF
DITCH

2'54"W
89'

S 16°30'58"W
268.56'

100' BUFFER
BOUNDARY LINE

S 54°18'45"

SEWAGE RESERVED AREA
PARCEL - B
POND AREA
41,750 SQ. FT.

100 YEAR FLOOD PLAIN
AS SHOW ON FIMA
MAP.

SEWAGE RESERVED
AREA

POND AREA
22,500 SQ. FT.

LOT 9
10,000 SQ. FT.

LOT 10
10,000 SQ. FT.

LOT 11
41,600 SQ. FT.

LOT 12
40,000 SQ. FT.

LOT 13
40,000 SQ. FT.

LOT 14
10,000 SQ. FT.

LOT 15
40,000 SQ. FT.

LOT 16
41,600 SQ. FT.

LOT 19
10,000 SQ. FT.

LOT 18
40,000 SQ. FT.

LOT 17
10,000 SQ. FT.

LOT 7
20 ACRES

LOT 6
20 ACRES

LOT 5
20 ACRES

LOT 4
20 ACRES

LOT 2
20 ACRES

LOT 1
20 ACRES

CRITICAL AREAS BOUNDARY
60' B.F.L.

7.1

7.2

6.2

20' B.F.L.

7.4

20' B.F.L.

6.0

324.82'

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279.51'

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NOTES:

CRITICAL AREA NOTES:

1. SITE DATA:

A. Total area of parcel to be subdivided in critical area =	28Ac. +/-	100%
B. Total area within tidal/water envelope =	9.7	35
C. Area of lot within buffer =	0.6	2
D. Total area within driveway =	0	0
E. Total area within public road =	2.0	7
F. Total area within county ditching =		
G. Shared facility pond =	1.7	6
H. Total area of growth allocation request =	14.0Ac. +/-	50%
I. Open space =	14.0	50
J. Existing land use:		
Woods =	0.5	
Cultivated field =	26.0	
Marsh =	1.5	
Other =	0	
Total:	28.0Ac. +/-	%
K. Proposed usage:		
Lot = 11		
Single family dwellings = 11		
Open space =	14.0	
Forested area to be cleared =	0	
Dwellings per acre = 1 per	2.54Ac. +/-	
L. Areas lost to development:		
Cultivated field lost =	26	93
Woods lost =	0	
Marsh lost =	0	
Totals:	26 Ac. +/-	93%

2. Under the Dorchester County Critical Areas Program, parcel owners will be required to re-forest land on 15% of their parcel prior to any building permit being issued for that lot.
3. A portion of this property is within the 100 year flood plain.
4. Open space will be planted in trees and will be owned as 1/11 interest per lot.

OWNER & DEVELOPER: Robert L. Barnett
Route 1, Box 131
Rhodesdale, MD 21659
301-943-3064

1. Zoning R1
2. Tax Map 40, Block 4, Parcel 33
3. Area of site = 43 Acres
4. Preliminary Plat not to be recorded.
5. Restrictions will be those which are stated in Dorchester County Zoning Ordinance.
6. Water: Private Water Systems
7. Sewage: Shared BIP
8. Minimum Lot Size: 2 Acres
9. Road Frontage: 140' Minimum
10. Perc Test Shown Thus
11. Sewage Reserved Area Shown Thus
12. Proposed Well Shown thus
13. All Interior Lot Distances are More or Less
14. Subdivision is in Zone A & B as shown on FIMA Map 240026 0175 A, Dated October 15, 1981
15. Subdivision is Partially in Critical Areas.
16. Topography is based on NGVD Datum.
17. Portion of Subdivision in Critical Areas is in The RCA Zone
18. This Site is Agricultural Land, Uplands, Pine & Hardwood Tree
19. This site is not in a fish or Wildlife Habitat Area.
20. There are Non-Tidal or Tidal Wetlands in this boundary
21. Existing Sewage Systems and Wells within 100' of the propose property lines are shown
22. Building Restriction Lines: Front 50', Side 20' and Rear 60'
23. Critical areas boundary is the Division Line between Phase 1
24. This site is Hydric Soils
25. Phase 2 requires growth allocation.

REC

(ZONING)

E. Cluster development. The following regulations shall apply to cluster development within the critical area:

- (1) When planning the future development, cluster development shall be used where practicable in order to promote orderly growth, create permanent open space, and protect natural resources.
- (2) The minimum required land area for a cluster development shall be twenty (20) resource conservation areas.
- (3) Buildings and lots may be used or occupied for the following purposes, alone or in combination, subject to the provisions of the underlying zoning district:
 - (a) Single-family detached dwellings.
 - (b) Two-family dwellings, including twins and duplexes.
 - (c) Single-family attached dwellings, including townhouses, triplexes or quadruplexes.
 - (d) Public buildings or structures.

- (e) Open space and recreation areas, including indoor recreation facilities, community facilities or similar uses, provided that they are intended for the prospective residents of the development or are public facilities.
 - (f) Farming.
 - (g) Aquaculture.
 - (h) Accessory uses and structures clearly incidental and customary to, and associated with, the permitted uses.
- (4) Buildings and lots in resource conservation areas may be used or occupied for the same purposes as those preceding, except that public buildings, structures and facilities shall be prohibited.
 - (5) The overall residential density in a cluster development may be increased by twenty percent (20%) over the density normally permitted in the underlying zoning district, except that the density in resource conservation areas shall be limited to one (1) dwelling unit per twenty (20) acres.
 - (6) In intensely developed areas and limited development areas, the minimum lot area, setback and other dimensional requirements applicable to the underlying zoning district may be reduced by the Dorchester County Planning Commission in direct proportion to the amount of open space reserved. In no case may these requirements be reduced below the following standards: twenty-thousand-square-foot minimum lot size; one-hundred-foot minimum lot width; twenty-foot minimum side yards (each); and fifty-foot front yard setback. The required minimum one-hundred-foot setback from tidewater areas cannot be reduced.
 - (7) All cluster developments shall be served by community or individual water supply and sewerage systems approved by the Dorchester County Health Department. Shared waste facilities for sewage disposal are recommended.

- (8) Permanent open space shall comprise at least thirty percent (30%) of the tract, exclusive of lot areas and street rights-of-way. Each open space area shall contain not less than twenty thousand (20,000) square feet.
- (a) Open space areas shall be designed as a continuous system of open space and shall be interconnected with open space areas on abutting parcels whenever possible. Open space shall be configured so as to create areas of adequate size and shape to permit a variety of uses, active or passive, throughout the system. Such open space shall not be a part of any lot within the development.
- (b) Permanent open space shall consist predominantly of natural features or planted and maintained vegetation, and may contain walking, biking or equestrian trails. Permanent open space may also contain impervious surface areas such as tennis courts, clubhouses or other active recreation facilities, but such active recreation facilities shall consist of less than twenty-five percent (25%) of the open space.
- (9) Provision for ownership and maintenance of permanent open space shall be made in a manner so as to ensure its preservation. This shall be accomplished in one (1) of the following ways:
- (a) The county or a municipality may accept dedication of the permanent open space or any interest therein for public use and maintenance, but the government entity need not require that the open space be dedicated nor accept a dedication of the open space if offered.
- (b) With permission of the county or municipality, the developer may transfer the fee simple title in the permanent open space or a portion thereof to a private, nonprofit organization among whose purposes is the conservation of open space land or natural resources.

- (c) The developer shall provide for and establish an entity for the ownership and maintenance of the permanent open space.
- (10) The developer shall assess and provide for the recreational needs of the residents of the proposed development. This recreational area may be a part of the required permanent open space and may contain active or passive recreation facilities. The development shall incorporate proposed recreational facilities into an integrated whole with other such existing or proposed facilities in the community.
- (11) Each development shall include a transition area to separate it from adjoining residential areas. Said transition area shall be at least fifty (50) feet in width measured from the tract boundary line, shall contain no structures or parking areas, shall contain only the required ingress and egress of streets and may be included in the individual lots.

From
DORCHESTER CODE (SUBDIVISION)
@ 140-51: GROWTH ALLOCATION

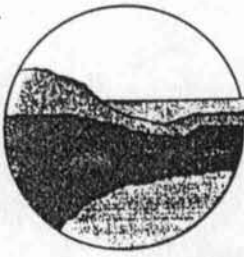
B. Eligibility requirements. To be considered for growth allocation, a proposed development project shall meet the following criteria:

- (1) The site must be located in a Resource Conservation Area within the Dorchester County Critical Area to be considered for conversion to a Limited Development Area, or within a Limited Development Area to be considered for conversion to an Intensely Developed Area.
- (2) The tract of land for the proposed development must exceed five (5) acres in size.
- (3) A proposed residential development must exceed one (1) dwelling unit per twenty (20) gross acres.
- (4) The site must have frontage on and be accessible from a public road, or a private road with right of access.
- (5) The site must be serviceable by the extension of existing public sanitary sewer and water systems, or must be demonstratively capable of supporting

on-site sewer and water systems acceptable to the Maryland Department of Health and Mental Hygiene *Its Environment*

C. Cluster development requirements.

- (1) Proposed residential developments shall be planned in accordance with the cluster development option of the Dorchester County Critical Area Protection Program if the total tract of land exceeds twenty (20) acres in size.
- (2) Proposed residential developments on tracts of land between five (5) and twenty (20) acres in size may be planned in accordance with the cluster development option or may be planned as a conventional subdivision--until such time as fifty (50) percent of the net 2,300-acre growth allocation for the county has been used, at which point all development projects over five (5) acres in size shall be clustered.



Maryland Department of Natural Resources

Forest, Park and Wildlife Service
Tawes State Office Building
Annapolis, Maryland 21401

William Donald Schaefer
Governor

Torrey C. Brown, M.D.
Secretary

Donald E. MacLauchlan
Assistant Secretary

September 13, 1990

Mr. James H. Michael
P.O. Box 307
Cambridge, MD 21613

710

Re: Robert L. Barnett Subdivision

Dear Mr. Michael:

This is in response to your request for information regarding the above referenced project. There are no known Federal or State threatened or endangered plant or wildlife species present at this project site.

Phase II is located within the Critical Area and Phase I is located outside the Critical Area. According to Dorchester County Code 155-47a section (G)(7), forest trees must be planted on 15 percent of the acreage in phase II. Furthermore, the subdivision plan for phase II must address section (J) of the code concerning cutting of trees and building set backs for the Tidewater Buffer. For additional information, please contact John Bidwell, Bay Watershed Forester for Dorchester County at (301) 228-1861.

Sincerely,

James Burtis, Jr.
Director, Planning and Program Development

JB:dec

cc: Russ Hill
Lynn Davidson
John Bidwell
Jeff Horan
Steve Dodd
ER# 90.08.605

cc Bill Costlow
(9-20-90)

RECEIVED

AUG 19 1991

DNR
CRITICAL AREA COMMISSION

(ZONING)

§ 155-47.1

DORCHESTER COUNTY CODE

§ 155-47.1

quality of stormwater runoff from these areas has not been substantially altered or impaired. "Limited development areas" have a residential density ranging from one (1) dwelling unit per five (5) acres up to four (4) dwelling units per acre; no domination by surface water, wetlands, agriculture, forests, barren land or other open space uses; or a public water or public sewerage system.

NONTIDAL WETLANDS — Land areas that have a predominance of hydric (wet) soils, are usually inundated or saturated by surface water or groundwater and that normally support a prevalence of hydrophytic (water-loving) vegetation. "Nontidal wetlands" do not include tidal wetlands, cropland or areas dominated by existing gravel or borrow pits, farm ponds and other man-made bodies of water, the purpose of which is to impound water for water supply, recreation, agriculture or waterfowl habitat purposes. (A more precise definition of "nontidal wetlands" can be found in the Dorchester County Critical Area Protection Program, Volume 1, Chapter 3, reference to the same is hereby made and incorporated herein by reference.)

PLANT AND WILDLIFE HABITAT — Plant communities and wildlife areas which have statewide or local significance because of their uniqueness, rarity or uncertain future. These areas include, but are not limited to, colonial water bird nesting sites, waterfowl concentration areas, forests with breeding populations of forest interior bird species, riparian forests and designated natural heritage areas.

REFORESTATION — The establishment of a forest through artificial reproduction or natural regeneration.

RESOURCE CONSERVATION AREA — An area characterized by natural environments, such as wetlands or forests, or by resource utilization activities, such as agriculture or surface mining. "Resource conservation areas" have a residential density less than one (1) dwelling unit per five (5) acres or domination by surface water, wetlands, agriculture, forests, barren land or other open space uses.



**US Army Corps
of Engineers**
Baltimore District

Public Notice

In Reply Refer to Application Number

Date August 6, 1991

CENABOP -RS (BARNETT, HELEN) 90-4645-6

Comment Period: August 6, 1991 to September 5, 1991

THE PURPOSE OF THIS NOTICE IS TO SOLICIT A RESPONSE FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

This District has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) as described below:

APPLICANT: Ms. Helen Barnett
c/o William Ludlow, Jr. & Assoc., Inc.
15 Washington Street
Cambridge, Maryland 21613

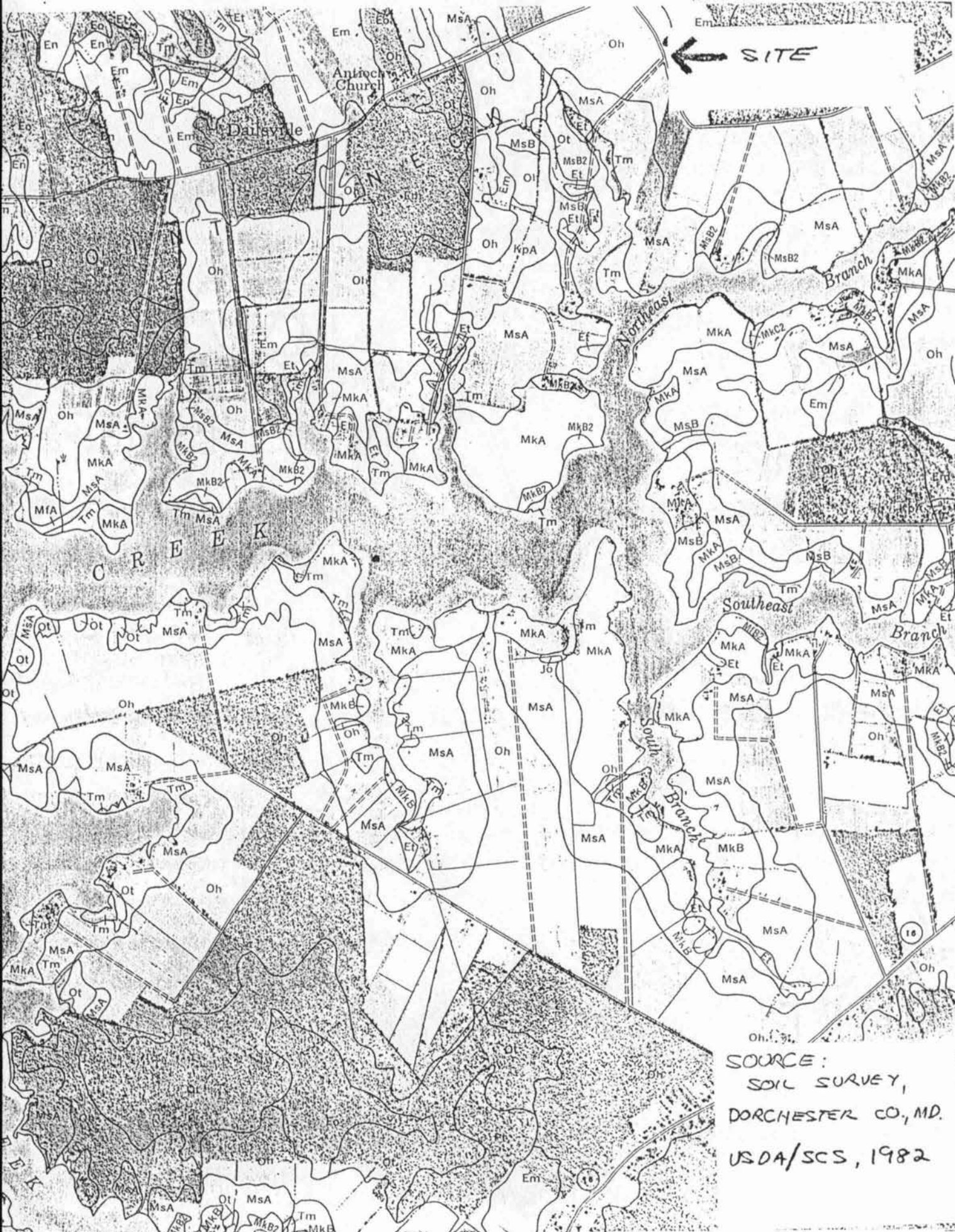
WATERWAY: In a non-tidal wetlands swale adjacent to Fishing Creek near
Cambridge, Dorchester County, Maryland

WORK:

The applicant proposes in accordance with the attached plans to fill approximately 10,150 square feet of non-tidal wetlands to construct portions of two berms for separate bermed infiltration ponds (BIP), part of a house site and community roadway. The remainder of the proposed structures, including 19 house sites, driveways, and the remainder of the two BIP's and community roadway are located in prior converted cropland, and therefore, are not subject to Corps jurisdiction. For additional information, contact Mr. Richard Bulavinetz of this office at (301) 962-4500.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

"The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity."



← SITE



(Joins sheet 20)

CREEK

Antioch Church

Daisyville

Northeast

Southeast

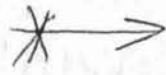
South

SOURCE:
SOIL SURVEY,
DORCHESTER CO., MD.
USDA/SCS, 1982

Scale 1:20,000 0 5000 Feet

(Joins sheet 27)

over



- (MsB) Mattapex silt loam, 2 to 5 percent slopes.
- (MsB2) Mattapex silt loam, 2 to 5 percent slopes, moderately eroded.
- (Oh) Othello silt loam.
- (Ot) Othello silt loam, low.
- (Pm) Plummer loamy sand.
- (Po) Pocomoke loam.
- (Ps) Pocomoke sandy loam.
- (Pt) Portsmouth silt loam.
- (Ru) Rutledge loamy sand.
- (WdA) Woodstown loam, 0 to 2 percent slopes.
- (WoA) Woodstown sandy loam, 0 to 2 percent slopes.
- (WoB2) Woodstown sandy loam, 2 to 5 percent slopes, moderately eroded.

Group 8.—The soils of this group are unsuitable for use as fields for septic tanks. They are subject to flooding from streams or by normal high tides. The following soils are in this group:

- (Bm) Bibb silt loam.
- (Jo) Johnston loam.
- (Mx) Mixed alluvial land.
- (Sw) Swamp.
- (Tm) Tidal marsh.

Use of the soil survey in community planning

In making plans for construction or zoning, a knowledge of the soils helps in determining the best use of an area. As a rule, the soils that are the best for agriculture are the ones that are also suitable for building sites. Therefore, some plan for land use is needed so that the most fertile soils will be reserved for agriculture.

In the section "Soil Groups for Sewage Disposal," the soils are grouped according to their suitability as fields for septic tanks, and this same grouping can also be used in planning the use of the areas for other purposes. Groups 1 and 2 include most of the soils that are the best for agriculture. Some of the soils in groups 7 and 8, however, can be improved for agricultural use if they are adequately drained. The soils of group 8, are flooded occasionally to very frequently.

The soils of group 7 can also be used as sites for residences if a complete system for disposing of sewage is installed. They are not suitable as fields for septic tanks, because they are likely to be wet during most of the year. A drainage system is needed that will drain the soils and that will also dispose of the excess surface water.

Suburban communities and some rural communities need land for public recreational areas. The soils that are difficult to manage for crops and that are not suitable for building sites should be reserved for that purpose. The sloping to steep soils of group 3 are best suited to recreational areas and parks. Because they are susceptible to erosion, the soils of group 3 need to be protected by a cover of plants, and many of the areas are now in forests. Some soils in groups 7 and 8, particularly in the scattered, small areas, should also be used for community parks.

If feasible, parks should be kept in forests. Few areas need to be cleared, and the areas that must be cleared can be reforested. Forests not only increase the esthetic value of an area, but they retard excessive runoff and help to reduce the hazards of erosion and flooding.

Topsoil of good quality is important in establishing a protective cover of plants on areas that have been disturbed. The cost is usually high for revegetating or otherwise stabilizing cuts, fills, roadbanks, shoulders,

SOURCE:
SOIL SURVEY
DOUGHERTY CO.
USDA/SCS, 1963

→ *Group 7.*—The soils in this group are either poorly suited to use as fields for septic tanks, or they are not suitable. They are poorly drained to moderately well drained and have a water table that is seasonally high. In some areas the permeability of the subsoil is very slow. In general, the soils are not subject to flooding. The impeded drainage, however, generally causes septic tanks located on these soils to fail if there is no special means of disposing of the effluent. Even if water moves through the soils, there is no place for it to go if the water table is high. The following soils are in this group:

- (Ba) Bayboro silt loam.
- (Bb) Bayboro silty clay loam.
- (Ek) Elkton loam.
- (Em) Elkton silt loam.
- (En) Elkton silt loam, low.
- (Eo) Elkton silty clay loam.
- (Et) Elkton silty clay loam, low.
- (Fa) Fallsington sandy loam.
- (KcA) Keyport loam, 0 to 2 percent slopes.
- (KpA) Keyport silt loam, 0 to 2 percent slopes.
- (KpB) Keyport silt loam, 2 to 5 percent slopes.
- (KsA) Klej loamy sand, 0 to 2 percent slopes.
- (KsB) Klej loamy sand, 2 to 5 percent slopes.
- (MpA) Mattapex fine sandy loam, 0 to 2 percent slopes.
- (MsA) Mattapex silt loam, 0 to 2 percent slopes.

COMAR

14.15.02

.06 Location and Extent of Future Intensely Developed and Limited Development Areas.

A. Intensely Developed and Limited Development Areas may be increased subject to these guidelines:

(1) The area of expansion of Intensely Developed or Limited Development Areas, or both, may not exceed an area equal to 5 percent of the county's portion of the Resource Conservation Area lands that are not tidal wetlands or federally owned;

(2) When planning future expansion of Intensely-Developed and Limited Development Areas, counties in coordination with affected municipalities shall establish a process to accommodate the growth needs of the municipalities.

B. When locating new Intensely Developed or Limited Development Areas, local jurisdictions shall use these guidelines:

(1) New Intensely Developed Areas should be located in Limited Development Areas or adjacent to existing Intensely Developed Areas;

(2) New Limited Development Areas should be located adjacent to existing Limited Development Areas or Intensely Developed Areas;

(3) No more than one half of the allocated expansion may be located in Resource Conservation Areas;

(4) New Intensely Developed Areas and Limited Development Areas should be located in order to minimize impacts to Habitat Protection Areas as specified in COMAR 14.15.09 and in an area and in a manner that optimizes benefits to water quality;

(5) New Intensely Developed Areas should be located where they minimize their impacts to the defined land uses of the Resource Conservation Area;

(6) New Intensely Developed Areas and Limited Development Areas in the Resource Conservation Area should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.

CRITICAL AREA COMMISSION

GUIDELINES

Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where all or part of the parcel is identified by the local jurisdiction as a Growth Allocation area, shall result in the acreage of the entire parcel not in tidal wetlands, counting against the jurisdiction's Allocation, unless conditions such as the following obtain.

On Qualifying Parcels as described below, on which a change in classification would be requested, a development envelope should be specified, the acreage of which would be counted against the County's Growth Allocation. The envelope should include:

Individually owned lots, any required Buffers, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria.

The remainder of the parcel, including any tidal wetlands, would not count against the County's growth allocation if it was contiguous and at least 20 acres in size, retained its natural features or its use by resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture) and was restricted from future subdivision and/or development through restrictive covenants, conservation easements, or other protective measures approved by the Commission. A Forest

Management Plan would be required for any forested areas in the undeveloped portion of the parcel. Replanting should be accomplished on lands abandoned from agriculture.

QUALIFYING PARCELS

Parcels of land that qualify for application of the above guideline are the following:

1. Those parcels designated as new IDA's which are located within an LDA or adjacent to an existing IDA, and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands or tributary streams providing such designation:
 - a) minimizes adverse impacts to agriculture, forest lands, fisheries or aquaculture;
 - b) Minimizes adverse impacts to Habitat Protection Areas; and
 - c) Optimizes benefits to water quality.
2. Those parcels designated as new LDA's which are located adjacent to existing LDA's or IDA's and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams providing such designation conforms to the requirements of 1.(b) and (c) above.
3. In those jurisdictions listed in Section 8-1808.1(B)(5) of the Critical Area Law as amended, the adjacency requirements of guidelines 1. and 2. above, may be waived by the Commission provided that the jurisdiction
IDA's.



enhancement of forest and developed woodland resources such as programs for urban forestry (for example, street tree plantings, gardens, landscaping, open land buffer plantings);

(b) Establishment by regulation that development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation; and

(c) Protection for existing forests and developed woodlands identified as Habitat Protection Areas in COMAR 14.15.09.

.04 Limited Development Areas.

A. Limited Development Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired. These areas shall have at least one of the following features:

- (1) Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acre;
- (2) Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
- (3) Areas meeting the conditions of Regulation .03A, but not .03B, above;
- (4) Areas having public sewer or public water, or both.

B. In developing their Critical Area Programs, local jurisdictions shall follow these policies when addressing Limited Development Areas:

- (1) Maintain, or, if possible, improve the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries;
- (2) Maintain, to the extent practicable, existing areas of natural habitat; and
- (3) Accommodate additional low or moderate intensity development if:
 - (a) This development conforms to the water quality and habitat protection criteria in §C, below; and
 - (b) The overall intensity of development within the Limited Development Area is not increased beyond the level established in a particular area so as to change its prevailing character as identified by density and land use currently established in the area.

C. In developing their Critical Area Programs, local jurisdictions shall use all of the following criteria for Limited Development Areas:

- (1) For all development activities in the Limited Development Areas, the jurisdiction shall require that the developer identify any environmental or natural feature described below, and shall meet all of the following standards of environmental

cross or affect streams shall be designed to:

(i) Reduce increases in flood frequency and severity that are attributable to development;

(ii) Retain tree canopy so as to maintain stream water temperature within normal variation;

(iii) Provide a natural substrate for streambeds; and

(iv) Minimize adverse water quality and quantity impacts of stormwater.

(d) All development sites shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in COMAR 14.15.09. Local jurisdictions shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts, and other organizations.

(2) For the cutting or clearing of trees in forests and developed woodland areas which are associated with current or planned development activities in the Limited Development Area, all jurisdictions shall:

- (a) Require that the developer consider the recommendations of the Maryland Forest, Park and Wildlife Service when planning development on forested lands;
- (b) Provide regulations that development activities be designed and implemented to minimize destruction of woodland vegetation; and
- (c) Provide protection for forests and developed woodlands identified as Habitat Protection Areas in COMAR 14.15.09.

(3) For the alteration of forest and developed woodland in the Limited Development Area, the jurisdiction shall apply all of the following criteria:

- (a) The total acreage in forest coverage within a jurisdiction in the Critical Area shall be maintained or, preferably, increased.
- (b) All forests that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis.
- (c) That no more than 20 percent of any forest or developed woodland may be removed from forest use, except as provided in §C(4), below. The remaining 80 percent shall be maintained through recorded, restrictive covenants or similar instruments.

COMAR 14.15.02.04.B.(3)(b)

*

(5) I adhere; and we (a) I sion fo or deve the loc assure quired (b) C before cleared: (c) I before exceed §C(4) s areal ex (d) If the ap C(5)(c), reforest by the tent wit to con woodla Alterna in-lieu p ensure t an equi (e) If posed d be pla develop percent; (f) A ment p extent p easemen protectiv (g) Tl ject to tion, a n not fore (h) Tl tained a restrictiv instrum (6) De 15 perc ment, sh ect is the improve consist (7) Fo impervie percent (8) Lo modifier potential Area res ards do (9) To areas at vegetatic consider develop

most heavy industry, transportation facilities and utility transmission facilities, and permanent sludge handling, storage, and disposal facilities.

Development or redevelopment will be permitted in Intensely Developed Areas, provided that water quality is improved, any Habitat Protection Areas are conserved to the extent possible, and expansion of such areas into Resource Conservation Areas is minimized. Dorchester County will establish a strategy for reducing any adverse impacts on water quality resulting from existing development.

New development or redevelopment will be covered by stormwater management measures. The destruction of forests and developed woodlands, particularly those identified as Habitat Protection Areas, will be minimized. The county will promote increased public access to the water, provide for the location of ports and industries which use water for transportation, and encourage programs to be established for enhancing biological resources.

New low or moderate intensity development will be permitted in Limited Development Areas if such development does not increase the overall intensity of development beyond the established level, and does not change the prevailing character of the area as identified by current density and land use. Thus, continuing development and infill will be permitted at the low and moderate intensities that already characterize those areas.

In providing for new low or moderate intensity development, requirements will be imposed that protect water quality and stream habitat; minimize the cutting or clearing of trees in forests and developed woodlands; limit the amount of impervious surfaces created on a site; protect Habitat Protection Areas; and limit development on steep slopes and soils having development constraints. Existing state laws and regulations concerning soil erosion and stormwater management will be observed.

In Resource Conservation Areas, some new growth will be permitted if it is residential in character and if the resulting overall density does not generally exceed one dwelling unit per 20 acres. New commercial and industrial facilities will not be permitted, and additional land will not be zoned for such purposes except in association with the provisions for expansion of development described below.

DORCHESTER
PROGRAM
DOCUMENT,
CHAP. IV

4. Determination of Growth Allocation Deductions 

The distribution of the available county growth allocation is expected to be geographically widely dispersed throughout the Critical Area. County experience with development proposals and events in the past three years in general, and especially in 1987 and early 1988, suggests that the available growth allocation may be quickly consumed. How quickly the growth allocation will be used up is a function of the methodology that will be used to determine the acreage of new developments that must be deducted from the total allocation available.

The methodology used to calculate the amount of land area involved in conversion of a Resource Conservation Area to a Limited Development Area in a development project is of particular importance in Dorchester County, not only because of the net 2,300-acre limit on the aggregate amount of land area that may be converted but more importantly because of the impact of current development practices and preferences.

As a result of local soil conditions and ever-tighter health restrictions governing on-lot sewage disposal systems, recent residential development along the waterfront in Dorchester County is occurring primarily in the form of extensive, very low density subdivisions typically comprised of 4- to 5-acre lots.

If the entire area of these large-lot subdivisions were to be deducted from the county growth allocation, the net 2,300 acres of growth allocation available will be exhausted very quickly. If the entire area of all subdivisions approved within Resource Conservation Areas from December 1, 1985 to January 1, 1988 were to be deducted from the total county growth allocation, the total area deducted would be approximately 900 acres for only 200 dwelling units.

It is obvious, however, that the area of actual physical disturbance from such large-lot developments is much less than the entire tract area. Typically, considerably less than 1 acre of land is actually disturbed in the process of constructing an individual single-family dwelling in such low density subdivisions.

Because of this fact, it is unreasonable to count the entire parcel against the county growth allocation in the case of low density developments. The Chesapeake Bay Critical Area Commission recognizes that under certain circumstances the goals of the Critical Area Law would be enhanced if an area less than the full parcel being developed were deducted from the growth allocation. Their guidelines suggest that a "development envelope" be determined for each development project on a case-by-case basis, and that the area of the development envelope plus other common facilities be deducted from the growth allocation.

In recognition of the above-described special circumstances and concerns, and in response to Critical Area Commission guidelines, the methodology that will be used by Dorchester County in determining the growth allocation for any individual development is as follows:

- * In the case of conventional (nonclustered) small lot developments at a density at or in excess of one dwelling unit per acre, the entire development parcel will be defined as being within a development envelope and will be counted against the county growth allocation.
- * In the case of conventional (nonclustered) large lot developments at a density less than one dwelling unit per acre, a development envelope encompassing all areas proposed to be physically disturbed for buildings, roads, driveways, patios, tennis courts, swimming pools, on-site sewage treatment and disposal facilities, and so forth will be determined on a lot-by-lot basis. If the development envelope for an individual lot exceeds 1 acre in size, the entire envelope will be counted, but in no case will the area counted be less than 1 acre per dwelling unit.
- * In the case of cluster developments proposing some amount of common open space and individual lot sizes of 1 acre or less, a development envelope encompassing all of the collective actual lot areas, plus any active recreation areas, roads, driveways and other common facilities such as community sewage treatment and disposal facilities and stormwater management

facilities, will be determined for the development as a whole and will be counted against the county growth allocation.



* In the case of cluster developments proposing some amount of common open space and individual lot sizes in excess of 1 acre, a development envelope encompassing all active recreation areas, roads and other common facilities such as sewage treatment and disposal facilities and stormwater management facilities, and the area proposed to be physically disturbed on each individual lot will be determined. As in the second case above, if the development envelope for any individual lot exceeds 1 acre in size, the entire individual lot development envelope will be deducted, but in no case will the area counted for each dwelling unit be less than 1 acre.

In all cases, the deduction from the county growth allocation will be determined by delineating a specific development envelope. This area will include all or portions of any individually owned lots plus any required common buffers, impervious surfaces, utilities, on-site sewage disposal and stormwater management facilities or areas, and any areas subject to significant human use such as active recreation areas.

The open space remaining in the parcel, if any, including any tidal wetlands, will not be counted against the growth allocation if it is contiguous and retains its natural features or is used for resource utilization activities and is restricted from any future development.

Cluster development requiring a minimum of 30 percent common open space will be required for all new developments over 20 acres in size, and strongly encouraged for developments of from 5 to 20 acres in size. Cluster development with higher than minimum open space ratios will be encouraged by means of density bonuses. All sites proposed for development will be required to continue to exhibit the natural qualities associated with the prior Development Area classification to the maximum extent possible.

STAFF REPORT

JURISDICTION: Talbot County

AMENDMENT: Portions of Bill 450 - Talbot County Zoning Ordinance

DISCUSSION: Talbot County has resubmitted to the Critical Area Commission a list of amendments to their Critical Area Program contained in the new Talbot County Zoning Ordinance (Bill 450). The Talbot County Council has granted the Critical Area Commission the authority to review each amendment and refinement to the Critical Area Program contained in Bill 450 individually and separately from one another.

The following amendments were presented to the Commission at its meeting on July 10, 1991, and were mostly found to be non-controversial and acceptable to the Commission at that time.

The attached chart presents new uses proposed in the RCA.

In addition to new uses in the RCA, a number of amendments pertained to new uses in LDA and IDA zones. None of the uses are prohibited in the Critical area. Among these uses proposed in the LDA/IDA are: agricultural processing, accessory agricultural uses/structures, grain processing, greenhouse/plant nursery, guest residence, duplex, horse stables, indoor shooting range, professional services, flammable liquid storage and wholesale distribution, temporary paving material compounding, mini-warehouse storage, sawmills and other general uses.

STAFF: Pat Pudelkewicz

NEW USES PROPOSED IN TALBOT COUNTY'S RCA

<u>USE</u>	<u>TYPE</u>	<u>Staff Recommendation</u>
1. Agriculture Research Facilities (commercial)	S	Approve
2. Aquaculture (retail)	S	Approve
3. Aquaculture (wholesale)	P	Approve
4. Greenhouse & Plant Nursery (retail commercial) (old zoning ordinance allows wholesale commercial as a permitted use in RCA)	S	Approve
5. Single family residence (duplex)	P	Approve
6. Group Day Care Center	S	Approve, if in dwelling existing as of December 1, 1985
7. Cottage Industry (existing dwelling)	S	Approve
8. Septage Land Application	P	Approve
9. Recycling Collection Center	P	
10. Private Bridges Which Cross Tidal Waters Useable by Marine Craft	S	Approve
11. Private Bridges	A	Approve
12. Antenna Tower	S	Approve
13. Accessory Agricultural Uses and Structures	A	Approve

S = Special Exception
P = Permitted Use
A = Accessory Use

CHART - PAT

STAFF REPORT

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11. Private Bridges	A	Approve
12. Antenna Tower	S	Approve
13. Accessory Agricultural Uses and Structures	A	Approve

S = Special Exception
P = Permitted Use
A = Accessory Use

Talbot County Critical Area Program Amendments:

- | | | |
|-----|--|--------------------|
| 1. | Section 19.4(a), page 4-3: Allow "Agricultural Processing" as a permitted use in the LI Zoning district. | LDA/IDA |
| 2. | Section 19.4(a), page 4-3: Allow "Agricultural Research Facilities (Commercial)" as a special exception use in the RC zoning district. | RCA |
| 3. | Section 19.4(a), page 4-3: Allow "Accessory Agricultural Uses and Structures" as an accessory use in the RC, RR, TR and VC zoning districts. | RCA/LDA/ID. |
| 4. | Section 19.4(a), page 4-4: Allow "Aquaculture (retail)" as a special exception use in the RC, VC and LI zoning districts. | RCA/LDA/ID. |
| 5. | Section 19.4(a), page 4-4: Allow "Aquacultural (wholesale)" as a permitted use in the RC and LI zoning districts and as a special exception use in the VC zoning district. | RCA
LDA |
| 6. | Section 19.4(a), page 4-4: Allow "Grain Processing, Drying and Storage (wholesale/commercial)" as a special exception use in the VC zoning district. | LDA |
| 7. | Section 19.4(a), page 4-4: Allow "Greenhouse and Plant Nursery (wholesale commercial)" as a special exception use in the TR and VC zoning districts. | LDA |
| 8. | Section 19.4(a), page 4-4: Allow "Greenhouse and Plant Nursery (retail commercial)" as a permitted use in the LC and LI zoning districts and as a special exception use in the RC, TR and VC zoning districts. | LDA/IDA
RCA/LDA |
| 9. | Section 19.4(a), page 4-5: Revise to allow for unlimited size "Employee Residence" in the RC zoning district when lot size is 20 acres or more. | RCA |
| 10. | Section 19.4(a), page 4-6: Allow "Guest Residence" as an accessory use in the TR and VC zoning districts and allow for unlimited size "Guest Residence" in the RC zoning district when lot size is 20 acres or more. | LDA
RCA |
| 11. | Section 19.4(a), page 4-6: Allow for "Single-Family Residence (duplex)" as a permitted use in the RC, RR, TR and VC zoning districts and as an accessory use in the LC, GC and LI zoning districts. | RCA/LDA
LDA/IDA |
| 12. | Section 19.4(a), page 4-7: Allow "Horse stables" as an accessory use in the TR zoning district. | LDA |

13. Section 19.4(a), page 4-8: Allow "Conservation Areas (public or private)" as a permitted use in the RR, TR, VC, LC, GC and LI zoning districts. LDA/IDA
14. Section 19.4(a), page 4-8: Allow "indoor Shooting Range" as a special exception use in the VC, LC, GC and LI zoning districts. LDA/IDA
15. Section 19.4(a), page 4-8: Allow "Exposition Center or Fairgrounds" as a special exception use in the LI zoning district. LDA/IDA
16. Section 19.4(a), page 4-8: Allow "General Outdoor Commercial Recreation Activities" as a special exception use in the GC and LI zoning districts. LDA/IDA
17. Section 19.4(a), page 4-9: Allow "Building Supply and Lumber Yards with Outside Storage" as a special exception use in the VC zoning district. LDA
18. Section 19.4(a), page 4-9: Allow "Farm Machinery and Supplies" as a special exception use in the VC zoning district. LDA
19. Section 19.4(a), page 4-10: Maximum gross floor area for "Automobile Service Repair, Washing and Fuel Sales" increased to 2,000 square feet in the VC zoning district. LDA
20. Section 19.4(a), page 4-11: Maximum gross floor area for "General Retail" and "General Services" increased to 2,000 square feet in the VC zoning district. LDA
21. Section 19.4(a), page 4-12: Allow "Professional Services" as a permitted use in the LI zoning district. Maximum gross floor area for "Professional Services" increased to 2,000 square feet in the VC zoning district. LDA/IDA
LDA
22. Section 19.4(a), page 4-13: Maximum gross floor area for "Community and Cultural Facilities" increased to 2,000 square feet in the VC zoning district. LDA
23. Section 19.4(a), page 4-14: Revise to allow up to 8 clients in a "Family Day Care Center".
24. Section 19.4(a), page 4-14: Allow "Group Day Care Center" as a special exception use in the RC, RR, TR and VC zoning districts and as a permitted use in the LC and GC zoning districts and as an accessory use in the LI zoning district. RCA/LDA
LDA/IDA
25. Section 19.4(a), page 4-15: Maximum gross floor area for "Studios for Instruction in Art, Music, Dance, Drama, Crafts or Physical Education" increased to 2,000 square feet in the VC zoning district. LDA

26. Section 19.4(a), page 4-15: Allow 100 foot setback for "Flammable Liquid Storage and Wholesale Distribution" in the LI zoning district. LDA/IDA
27. Section 19.4(a), page 4-16: Allow "Mini-Warehouse" storage as a permitted use in the LC, GC and LI zoning districts. LDA/IDA
28. Section 19.4(a), page 4-16: Allow "Temporary Paving Material Compounding" as a permitted use in the LI zoning district. LDA/IDA
29. Section 19.4(a), page 4-16: Allow "Sawmills" as a special exception use in the VC zoning district. LDA
30. Section 19.4(a), page 4-16: Allow "Cottage Industry" as a special exception use in the RC and VC zoning districts. RCA/LDA
31. Section 19.4(a), page 4-18: Allow "Septic Systems" as an accessory use in all zoning districts. RCA/LDA/ID
32. Section 19.4(a), page 4-18: Allow "Sludge Application for Agricultural and Horticultural Purposes" as a permitted use in the LI zoning district. LDA/IDA
33. Section 19.4(a), page 4-19: Allow "Septage Land Application" as a permitted use in the RC zoning district. RCA
34. Section 19.4(a), page 4-19: Allow "Recycling Collection Center" as a permitted use in all zoning districts. RCA/LDA/IDA
35. Section 19.4(a), page 4-20: Allow "Private Bridge which Crosses Tidal Waters Useable by Marine Craft" as a special exception use in all zoning districts. Allow "Other Private Bridges" as an accessory use in all zoning districts. RCA/LDA/IDA
36. Section 19.4(a), page 4-21: Allow "Antenna Towers for Radio and Television Transmissions and Other Non-Essential Radio Communications" as a special exception use in the RC zoning district and as a permitted use in the LC, GC and LI zoning districts. RCA
LDA/IDA
37. Section 19.4(a), page 4-21: Allow "Antenna Tower for Essential Communications" as a special exception use in the RC, RR, TR and VC zoning districts and as a permitted use in the LC, GC, and LI zoning districts. RCA/LDA
LDA/IDA
38. Section 19.4(b)(2): Revised regulations for produce stands.
39. Section 19.4(b)(3)(i)[a]: Maximum size of home occupation in an accessory structure shall not exceed 1,500 square feet.

STAFF REPORT

JURISDICTION: Talbot County

REFINEMENT: Portions of Bill 450 - Talbot County Zoning Ordinance

DISCUSSION: Talbot County has resubmitted some of the Critical Area changes approved by the Talbot County Council in Bill 450 as Program refinements. The County Council has given the Critical Area Commission authority to review Bill 450 on a piecemeal basis.

Refinements submitted by the County are minor changes to the text which meet the definition of refinement in that these changes will result in a use of the land and water in the Critical Area in a manner consistent with the local adopted program.

Refinements proposed are:

- Revised definition of berm, jetty and marina;
- Section revised to clarify lot frontage provisions;
- Table explaining density transfer provisions was omitted because it led to much confusion; and
- Section revised to provide for a 50' building setback from major state highways in the VC and TR (both LDA) zoning districts.

STAFF: Pat Pudelkewicz

STAFF REPORT

JURISDICTION: Kent County

AMENDMENT: Mapping Mistake - Critical Area Boundary Line
Zoning Maps 27 and 36

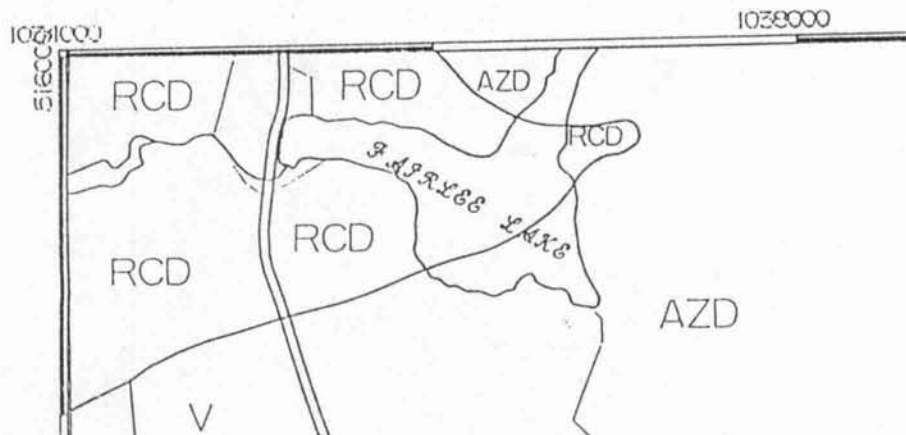
DISCUSSION: An error in the location of the Critical Area line is being corrected near the tidal headwaters of Fairlee Creek. The existing Critical Area line is not consistently 1,000 feet from the wetlands line shown on the Maryland Tidal Wetland maps. Using the County geographic information system, new zoning maps were drawn with the Critical Area line at 1,000 feet from the tidal wetland boundary.

This mapping is a net loss of 40.98 acres in the Resource conservation District of the Critical Area.

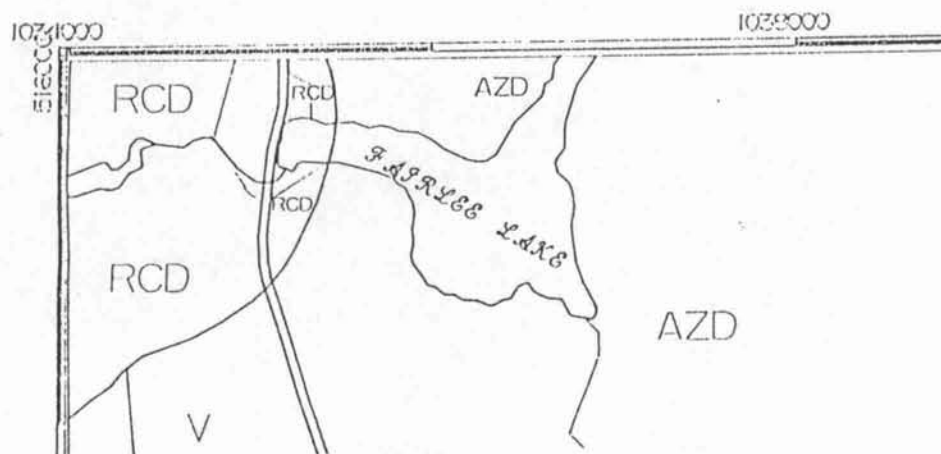
PANEL
RECOMMENDATION: Approval

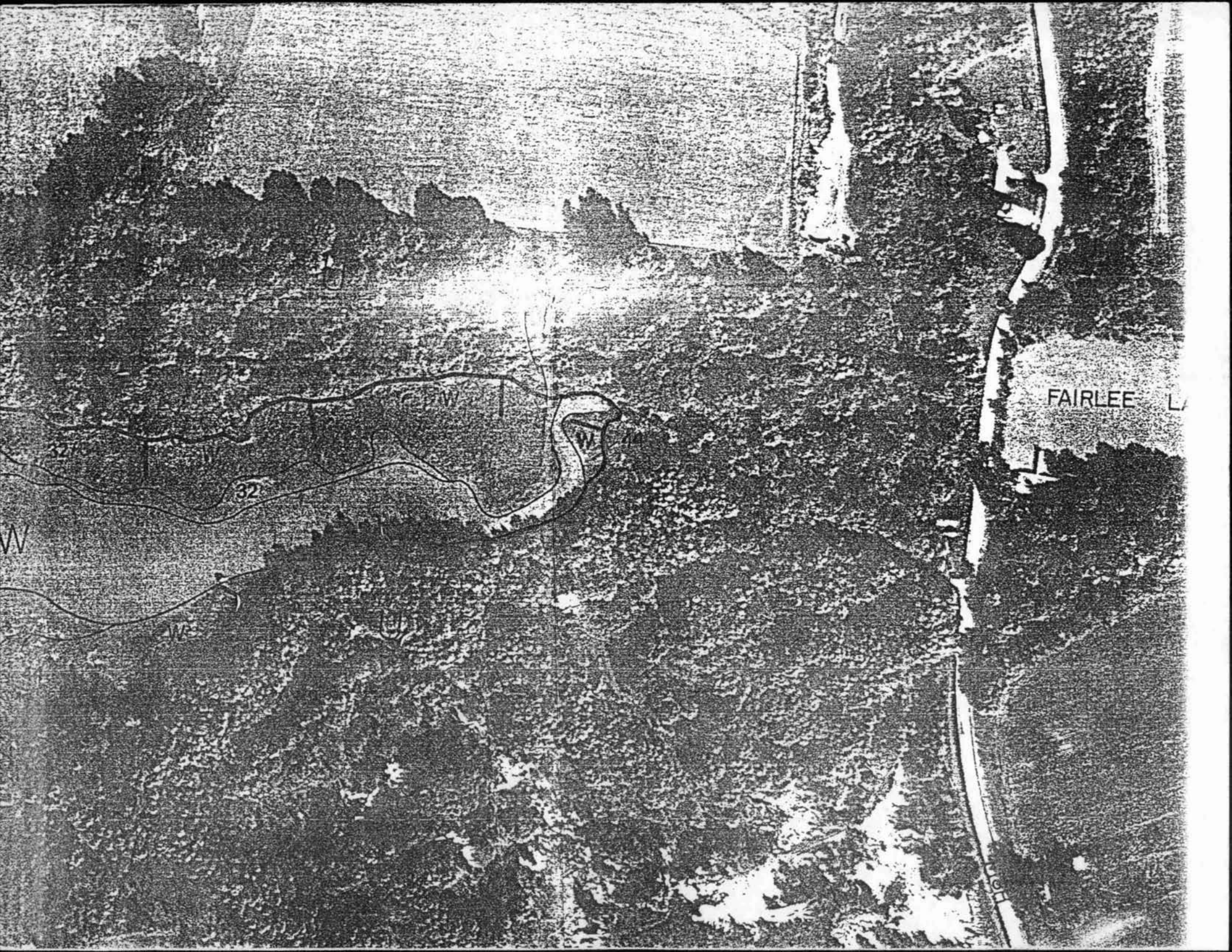
STAFF: Pat Pudelkewicz

Existing Map:



Proposed Change:





FAIRLEE LA

32

MS

W

W

W

STAFF REPORT

JURISDICTION: Kent County

AMENDMENT: Mapping Mistake - Critical Area Boundary Line
Zoning Maps 27 and 36

DISCUSSION: An error in the location of the Critical Area line is being corrected near the tidal headwaters of Fairlee Creek. The existing Critical Area line is not consistently 1,000 feet from the wetlands line shown on the Maryland Tidal Wetland maps. Using the County's geographic information system, new zoning maps were drawn with the Critical area line at 1,000 feet from the tidal wetland boundary.

PANEL
RECOMMENDATION: Public hearing to be held August 28, 1991.
Panel recommendation to be made after this hearing.

STAFF: Pat Pudelkewicz

STAFF REPORT

JURISDICTION: Kent County

REFINEMENT: CODE HOME RULE EMERGENCY BILL 4-91
Minor text changes to Kent County Zoning Ordinance

DISCUSSION: Bill 4-91 addresses numerous minor changes to the Kent County zoning Ordinance which basically result in a clarification of criteria without changing their meaning. These text changes meet the definition of a Program Refinement in that these changes will result in a use of the land and water in the Critical Area in a manner consistent with the local adopted program.

Some examples of these changes are:

- Add in sentence "Criteria may be found in the development handbook" in the nontidal wetlands section;
- Delete sentence "Protective measures are outlined in the development handbook" in the timber harvest section.
- Add "forester" into sentence "A forestry management plan prepared by a registered professional forester and approved by the Maryland Forest, Park and Wildlife Service..." into the criteria for Limited Marine district.

STAFF: Pat Pudelkewicz

STAFF REPORT

JURISDICTION: Kent County

AMENDMENT: CODE HOME RULE EMERGENCY BILL 5-91
Text Amendment - Use in RCA

DISCUSSION: This bill removes private schools as a conditional use in the Resource Conservation District (RCD). The bill also amends the Non-Conformance Use Section to allow the expansion of existing private schools and churches in the RCD. The current zoning ordinance does not permit the enlargement or expansion of a non-conforming use.

PANEL
RECOMMENDATION: Public hearing to be held August 28, 1991.
Panel recommendation to be made after this hearing.

STAFF: Pat Pudelkewicz

KENT COUNTY REFINEMENTS

- 1) Add "Criteria may be found in the development handbook" - Sections 2.6B9, 4.6C9(b) & (c), 6.6C8(b)&(c), 7.6C7(b) & (c), 9.7C8(b) & (c), 10.16.9(b) & (c)
- 2) Add comma for clarification; delete "Protective measures are outlined in the development handbook" - Sections 2.6B12(c)(3), 4.6C12(c)(3), 6.6C12(c)(3), 6.6C11(c)(3), 7.6C10(c)(3), 9.7C11c(3), 10.16.12c(3)
- 3) Add "forester" into sentence "A forestry management plan prepared by a registered professional forester and approved by the Maryland Forest, Park and Wildlife Service..." into the criteria for Limited Marine district.
- 4) Add "These areas are identified in Article VI, Section 3.8" - Section 6.6C(8)
- 5) Correct names of zones - Sections 6.5, 7.5, 9.6
- 6) Delete as a conditional use in LDA "Day nurseries or child care centers if located in structures existing on the date of enactment of this ordinance" and replace it with "Day Care Group" - Section 4.3.6
- 7) Add "Day Care Home" as accessory use in LDA zone - Section 4.4(11)
- 8) Add Appeal of Planning Commission decision - Section 4.2 (Article VI)
- 9) Change date from "time of enactment of this Ordinance" to "December 1, 1985" for day nursery existing as of this date in RCA - Section 3.13. Article VII
- 10) Add LDA zone (CAR - Critical Area Residential) for listing of Conditional Uses for "Day Care Group" - Section 3.14, Article VII
- 11) Add to the conditional use section of Limited Marine (LDA) and Intense Marine (IDA) Zones: "Multi-level boat storage building, OR STRUCTURE, EXCLUDING DINGHY STORAGE, IN LM AND IM" - Sections 6.3(5), 7.3(5), 3.30 (Article VII)
- 12) Distinguishes Buffer definition within and outside of Critical Area - Article X, Section 2.
- 13) Tributary stream definition now not limited to Critical Area - Article X, Section 2.183

Final Commission Draft
February 1988

GUIDELINES FOR THE COUNTING OF GROWTH ALLOCATION
CRITICAL AREA COMMISSION

INTRODUCTION

The Critical Area criteria require that lands are to be classified into one of three management categories based on certain characteristics of land use that existed as of December 1, 1985. For each of those categories, [Intensely Developed (IDA), Limited Development (LDA) and Resource Conservation (RCA) Areas], policies and criteria are specified to guide the nature and location of future development. Under the conditions of COMAR 14.15.02.06, some subsequent expansion and intensification of new development beyond that provided in the original land management classification is allowed, but subject to overall acreage limitation for each jurisdiction and to guidelines for the location of such development. The area of expansion permitted is called Growth Allocation and is defined as an area equal to 5% of a County's Resource Conservation lands that are not tidal wetlands or federally owned. The question has arisen as to what portion of a given development site should be considered development in this context and, therefore, subtracted from a jurisdiction's Growth Allocation. The purpose of this paper is to explain the Commission's position on this issue.

CRITERIA REQUIREMENTS

As provided for in the criteria, the potential grandfathering of land uses is based on legal parcels of land that were recorded as of December 1, 1985. In determining whether development on such lands counts against a jurisdiction's Growth Allocation during the interim period (that is between December 1, 1985 and the date of local Program approval), the criteria refer to the "land that was subdivided" and state that the "area of land" (e.g., the parcel that existed as of December 1, 1985) is to be charged against the Growth Allocation [see COMAR 14.15.02.07B (2), (3) and (4)]. Similarly, for any parcel of land described above which is to be subdivided after December 1, 1985, and, after local Program approval, designated for new IDAs or LDAs, the total acreage of the parcel should logically be counted against the Allocation, even though the entire parcel may not actually be developed or fully designated as a new IDA or LDA. This would treat the counting of growth allocation uniformly both before and after local Program approval.

DISCUSSION

The land classification system required by the criteria was adopted by the Commission to address the goals of the Critical Area Law: the minimization of adverse impacts on water quality; the conservation of fish, wildlife, and plant habitat; and the accommodation of development while avoiding the adverse environmental effects associated with that development. Conservation of the protective land uses of agriculture and

forests was also an objective of the Commission. Thus, the density criterion for the Resource Conservation Area and the development standards for the Limited Development Area were based on water quality considerations, the protection of extensive habitat areas of regional significance and the retention of farm and forest land. The subdivision and development of RCA lands beyond the density permitted by the criteria, and the intensification of development on lightly or moderately occupied LDA lands was considered by the Commission to result in a significant reduction in these values. Thus, the Commission provided that the total acreage of land so developed should be counted against the Growth Allocation.

It has been suggested that only the development "pad" or area of direct disturbance in a new development or subdivision should be counted against Growth Allocation. For example, if a 100-acre parcel in an RCA was to be subdivided into 20 two-acre parcels, and 60 acres were to remain in open space, it is argued that only a 20,000 square foot development pad associated with each two-acre lot should be counted and therefore, only 10 acres of Growth Allocation would be used. There are several objections to this approach. First, it runs counter to the third goal of the Critical Area Law which recognizes that the number, movement, and activities of persons can cause adverse environmental impacts even if direct pollution from development is controlled. This goal suggests that the area of disturbance from new development clearly extends well beyond the immediate development pad. Second, the Commission sought to address the habitat protection

goal of the Law, and the conservation of forest and farm land, by establishing the 1 unit per 20 acres density criterion for RCA lands. When this density is exceeded by conversion to IDA or LDA development, then a parcel no longer exhibits RCA characteristics and the total acreage should be counted against Growth Allocation. Finally, the approach given in the example above would permit nearly a ten-fold increase in development in RCA lands over that originally contemplated by the Commission when it proposed Growth Allocation as a means to provide some flexibility in accommodating new development in the Critical Area. Thus, a jurisdiction with 5,000 acres of Growth Allocation could, in theory, convert nearly 50,000 acres of RCA lands to LDA uses, a situation clearly not intended in the original formulation of Growth Allocation.

The Commission recognizes however, that there may be circumstances where the overall goals of the Critical Area Program would be enhanced if an area less than the full parcel being developed was to be deducted from a jurisdiction's Growth Allocation. For example, clustering of development, while encouraged by the criteria, may be limited by the full application of this rule. In order to provide for these special cases, the Commission will consider the goals stated in the criteria for the land management areas and the recommendations for the location of future IDA's and LDA's stated in COMAR 14.15.02.06. and will entertain alternative proposals such as the following in determining the amount of Growth Allocation used.

GUIDELINES

Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where all or part of the parcel is identified by the local jurisdiction as a Growth Allocation area, shall result in the acreage of the entire parcel not in tidal wetlands, counting against the jurisdiction's Allocation, unless conditions such as the following obtain.

On Qualifying Parcels as described below, on which a change in classification would be requested, a development envelope should be specified, the acreage of which would be counted against the County's Growth Allocation. The envelope should include:

Individually owned lots, any required Buffers, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria.

The remainder of the parcel, including any tidal wetlands, would not count against the County's growth allocation if it was contiguous and at least 20 acres in size, retained its natural features or its use by resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture) and was restricted from future subdivision and/or development through restrictive covenants, conservation easements, or other protective measures approved by the Commission. A Forest

Management Plan would be required for any forested areas in the undeveloped portion of the parcel. Replanting should be accomplished on lands abandoned from agriculture.

QUALIFYING PARCELS

Parcels of land that qualify for application of the above guideline are the following:

1. Those parcels designated as new IDA's which are located within an LDA or adjacent to an existing IDA, and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands or tributary streams providing such designation:
 - a) minimizes adverse impacts to agriculture, forest lands, fisheries or aquaculture;
 - b) Minimizes adverse impacts to Habitat Protection Areas; and
 - c) Optimizes benefits to water quality.
2. Those parcels designated as new LDA's which are located adjacent to existing LDA's or IDA's and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams providing such designation conforms to the requirements of 1.(b) and (c) above.
3. In those jurisdictions listed in Section 8-1808.1(B)(5) of the Critical Area Law as amended, the adjacency requirements of guidelines 1. and 2. above, may be waived by the Commission provided that the jurisdiction

can demonstrate that it would not be practical to locate Growth Allocation areas adjacent to existing LDA's or IDA's.

STAFF REPORT

Jurisdiction: Town of Easton

Refinement: To change the Town of Easton's Program to incorporate the recently annexed Dudrow Farm.

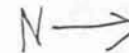
Discussion: This is a program refinement rather than an amendment because it is consistent with the Town's Program. It is consistent because this area was designated as a growth area in the Town's original Critical Area Program which was approved by this Commission.

Staff Planner: Theresa Corless

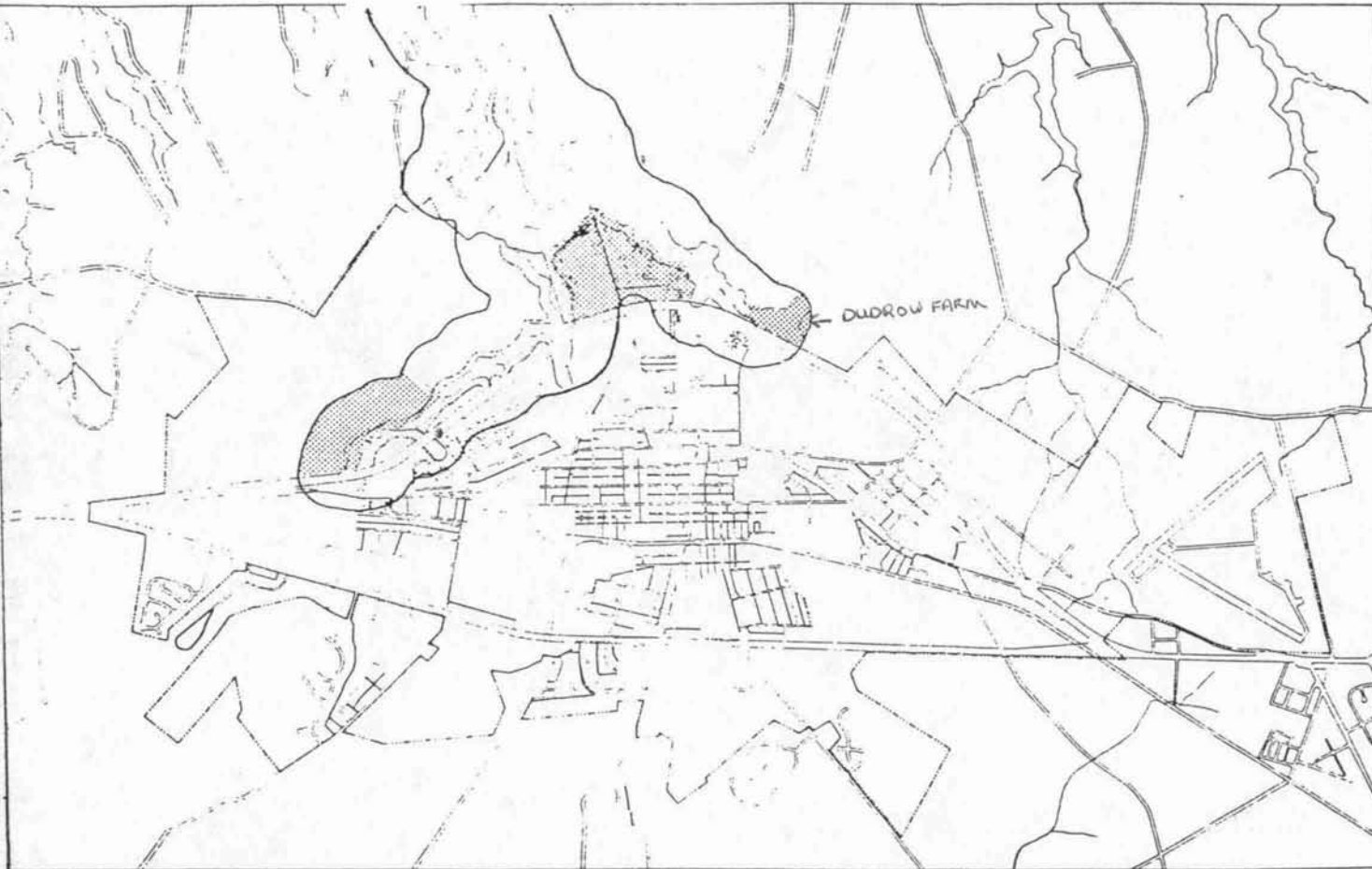
CRITICAL-AREA LOCAL PROGRAM
EASTON, MD

GROWTH AREAS

- Critical Area Boundary
- - - Corporate Limits
- · - · - Buffer Line



Easton Growth Areas



FEBRUARY 1988

APPROX. SCALE: 1" = 2000'

REDMAN/JOHNSTON
ASSOCIATES, LTD.

NOTE: Due to the reduced scaling of this map the Buffer is not shown.

September 3, 1991

STAFF REPORT

JURISDICTION:

St. Mary's County

ITEM:

Growth Allocation Amendments:
supplemental information

COMMISSION ACTION:

Information

DISCUSSION:

Following is specific site information on each of the six proposed St. Mary's County Growth Allocation Amendments. This information includes staff notes, which identify particular items for Commission discussion. Each outline is accompanied by a copy of the site plan or a portion of the plan indicating a specific item of interest.

STAFF: Ren Serey and Claudia Jones

Page Two
St. Mary's County
September 3, 1991

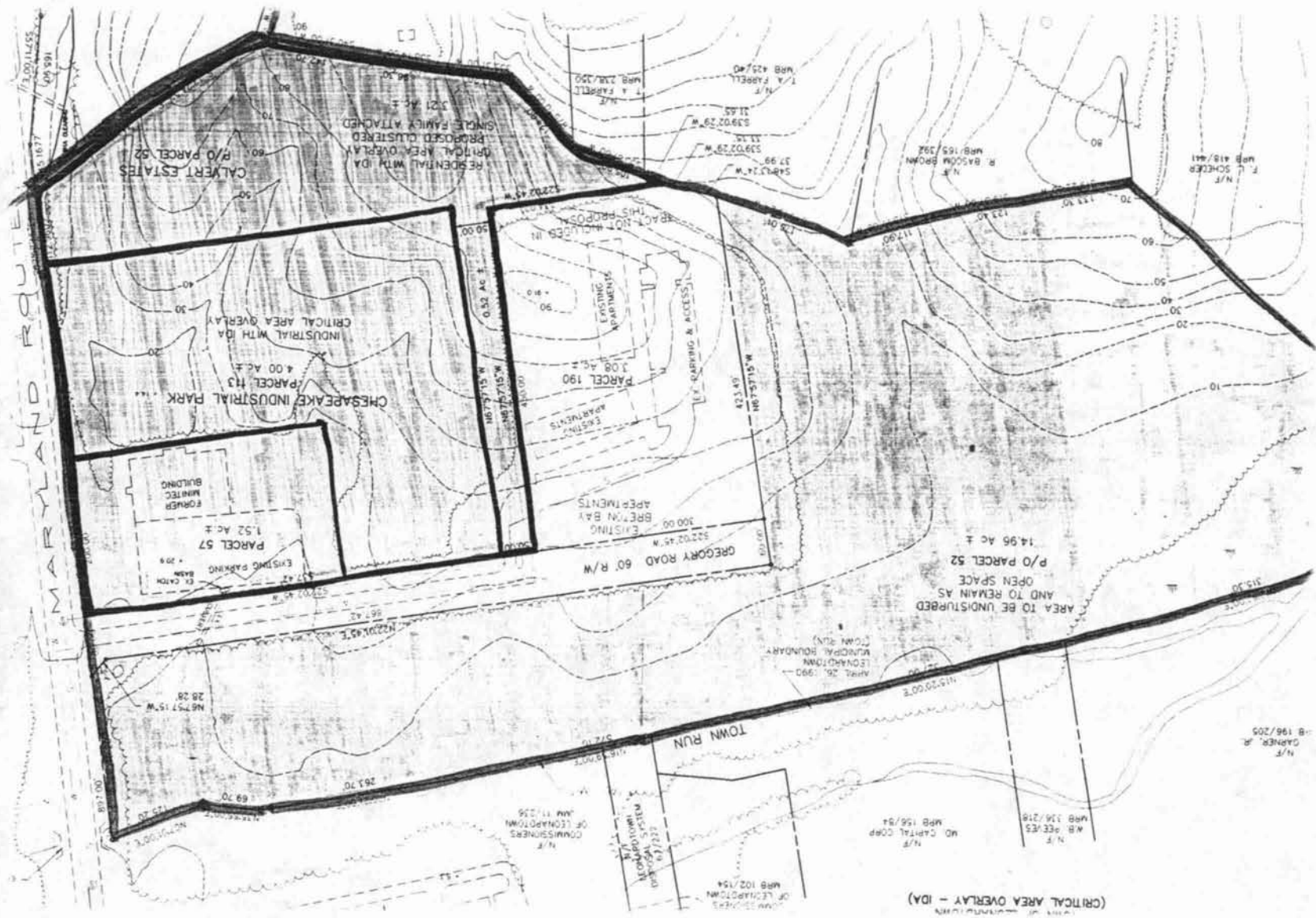
STAFF REPORT

Calvert Industrial Park and Chesapeake Estates:

Type of Growth Allocation	LDA to IDA
Growth Allocation acreage requested	9.25
Total acreage of site	28.4
Total acreage in Critical Area	24.6
Proposed use	Light industrial 4 ac. townhouse/residential 3.73 ac.
Existing development	Light industrial 1.52 ac.
Site description	forested steep slopes wetlands stream

NOTES:

The project is adjacent to an existing IDA within the town of Leonardtown.



CRITICAL AREA OVERLAY - IDA

N/F
GARNER, JR.
MB 198/205

N/F
MB 136/218

N/F
MO. Central Corp
MB 156/94

Commissioners of LEONARDTOWN
MB 102/154

SEWER SYSTEM
MB 102/154

N/F
Commissioners of LEONARDTOWN
MB 111/218

Area 26, 190
LEONARDTOWN
RURAL BOUNDARY
(OWN 21N)

AREA TO BE UNDISTURBED
AND TO REMAIN AS
OPEN SPACE
P/O PARCEL 52
14.96 Ac. ±

GREGORY ROAD 60' R/W
322.02 ± W

EXISTING
BROOM BAY
APARTMENTS

EXISTING
APARTMENTS

EXISTING
APARTMENTS

EXISTING
APARTMENTS

RESIDENTIAL WITH IDA
CRITICAL AREA OVERLAY
SINGLE FAMILY ATTACHED
3.21 Ac. ±

CALVERT ESTATES
P/O PARCEL 52

N/F
F. L. SCHAEFER
MB 418/441

N/F
R. BASCOM BROWN
MB 155/332

N/F
A. FARRELL
MB 425/40

N/F
MB 339/229 W

N/F
MB 339/229 W

N/F
MB 349/224 W

N/F
MB 339/229 W

N/F
MB 339/229 W

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STAFF REPORT

AVENMAR COMMUNITY CENTER

Type of Growth Allocation	RCA to LDA
Number of proposed lots	one for community center; three potential lots for residential area
Acreage of proposed lots	16
Growth Allocation acreage requested	16
Total acreage of site	492
Total acreage in Critical Area	222
Proposed use	Recreational and residential

NOTES:

- The Growth Allocation request is for two apparently distinct parcels located approximately 900 feet apart. The parcels are connected by a narrow right-of-way, which also is proposed for Growth Allocation.
- The Avenmar project as a whole is adjacent to existing LDA. The proposal LDA portion is not adjacent to existing LDA; it is contained within the RCA.
- The proposed includes a 300 foot Buffer.

McINTOSH RUN

N/F
L. P. KLEAR Jr.
235/30
ZONED: RPD

CONSERVATION EASEMENT AREA
27.065 acres ±

OPEN SPACE
153.059 acres ±

40' PEDESTRIAN/
EQUESTRIAN EASEMENT

CHESAPEAKE BAY
CRITICAL AREA LINE

BRETON
BAY

N/F
WALTERS
276/121
ZONED: RPD

SEE NOTE 7

SEE NOTE 6

N/F
E. G. BRUFF
ZONED: RPD

AVENMAR
SECTION THREE

AVENMAR
SECTION TWO

AVENMAR
SECTION ONE

BRETMAR
COURT

AVENMAR COURT

SOCIETY HILL
SECTION 12-D

SOCIETY HILL
SECTION 12-C

SOCIETY HILL
SECTION 12-B

SOCIETY HILL
SECTION 12
ZONED: RPD

SOCIETY HILL
SECTION 12-A

N/F
L. CUSIC
133/296
ZONED: RPD

N/F

40' R.O.W.

50' R.O.W.

45' R.O.W.

45' R.O.W.

50' R.O.W.

16' R.O.W.

AVENMAR DRIVE

BRETMAR DRIVE



STAFF REPORT

Eppard Property

Type of Growth Allocation	RCA to LDA
Number of proposed lots	4
Acreage of proposed lots	6
Growth Allocation acreage requested	6
Total acreage of site	14
Total acreage in Critical Area	14
Proposed use	Residential

NOTES:

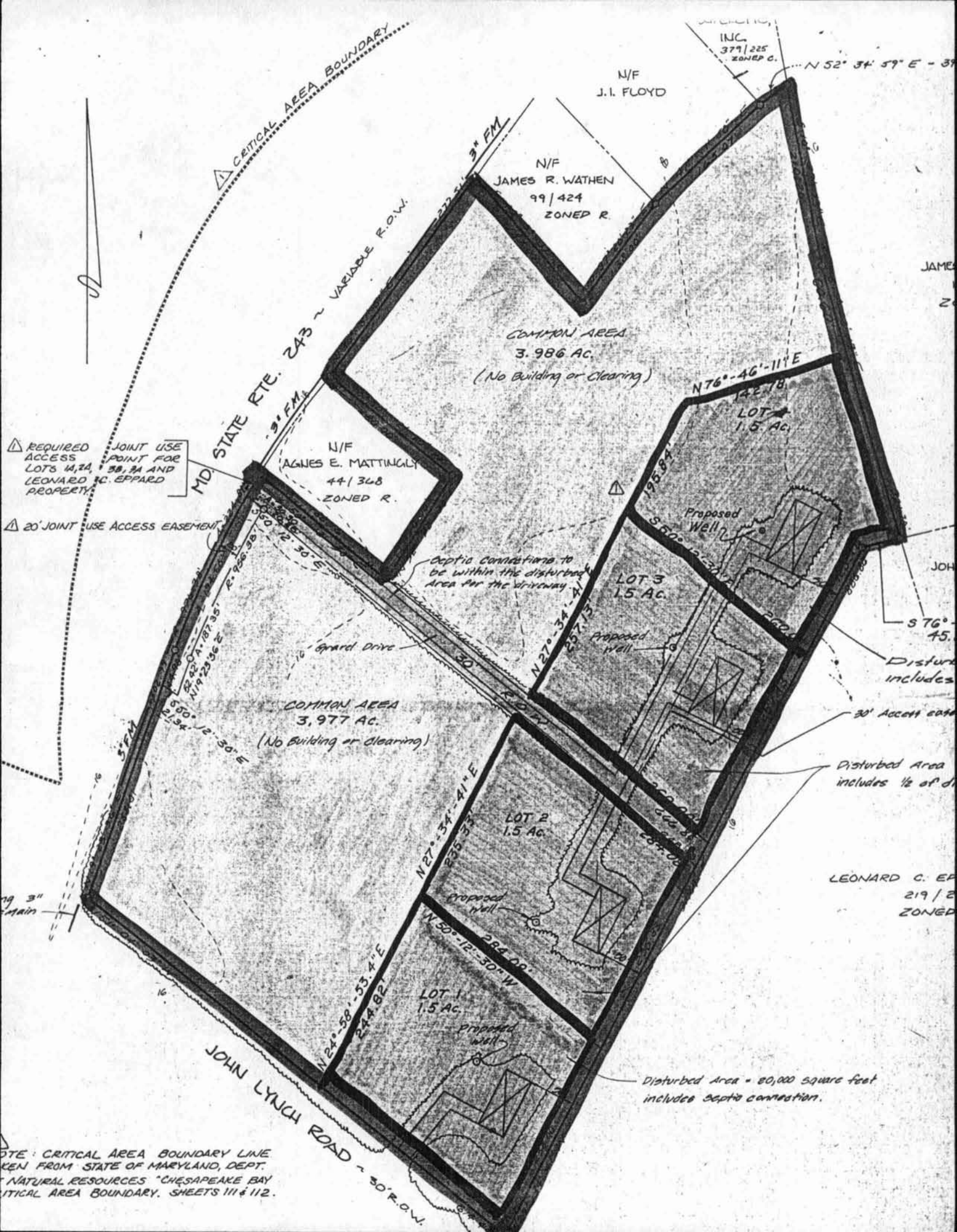
The Commission's Growth Allocation Policy states that the entire parcel should be deducted from the Growth Allocation except under the following circumstances:

1. A development envelope could be counted if individual lots, require buffers, impervious surfaces, utilities, stormwater management, sewage disposal and human use areas are included; and

2. The remainder of the parcel including any tidal wetlands would not count against the count's growth allocation if it was contiguous and at least 20 acres in size, retained its natural features or its use as resource utilization and was restricted from future subdivision and/or development through restrictive covenants, conservation easements, etc.

- The parcel is contiguous to existing LDA.

- The parcel is located more than 300 feet from tidal waters or tidal wetlands.



INC.
379/225
ZONED C.

N/F
J.I. FLOYD

N/F
JAMES R. WATHEN
99/424
ZONED R.

COMMON AREA
3.986 AC.
(No Building or Clearing)

N/F
AGNES E. MATTINGLY
44/348
ZONED R.

LOT 4
1.5 AC.

LOT 3
1.5 AC.

LOT 2
1.5 AC.

LOT 1
1.5 AC.

COMMON AREA
3.977 AC.
(No Building or Clearing)

REQUIRED ACCESS POINT FOR LOTS 14, 24, 38, 3A AND LEONARD C. EPPARD PROPERTY.

20' JOINT USE ACCESS EASEMENT

Septic connections to be within the disturbed area for the driveway

Grand Drive

Proposed Well

Proposed Well

Proposed Well

Proposed Well

Disturbed includes

Disturbed Area includes 1/2 of d

LEONARD C. EP
219/2
ZONED

Disturbed Area = 80,000 square feet includes septic connection.

NOTE: CRITICAL AREA BOUNDARY LINE TAKEN FROM STATE OF MARYLAND, DEPT. OF NATURAL RESOURCES "CHESAPEAKE BAY CRITICAL AREA BOUNDARY. SHEETS 111 & 112.

JOHN LYNCH ROAD - 30' R.O.W.

MD STATE RTE. 243 ~ VARIABLE R.O.W.

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STAFF REPORT

Lore's Landing

Type of Growth Allocation	RCA to LDA
Number of proposed lots	4
Acreage of proposed lots	6
Growth Allocation acreage requested	6
Total acreage of site	15.9
Total acreage in Critical Area	11.9

Proposed use Residential

Site description

- some forest cover along the northern edge of property
- Most of the property is farmed
- Contains a large portion of hydric (wetland) soils

NOTES:

The Commission's Growth Allocation Policy states that the entire parcel should be deducted from Growth Allocation except under the following circumstances:

1. A development envelope could be counted if individual lots, required buffers, impervious surfaces, utilities, stormwater management, sewage disposal and human use areas are included; and
2. The remainder of the parcel including any tidal wetlands would not count against the County's growth allocation if it

STAFF REPORT

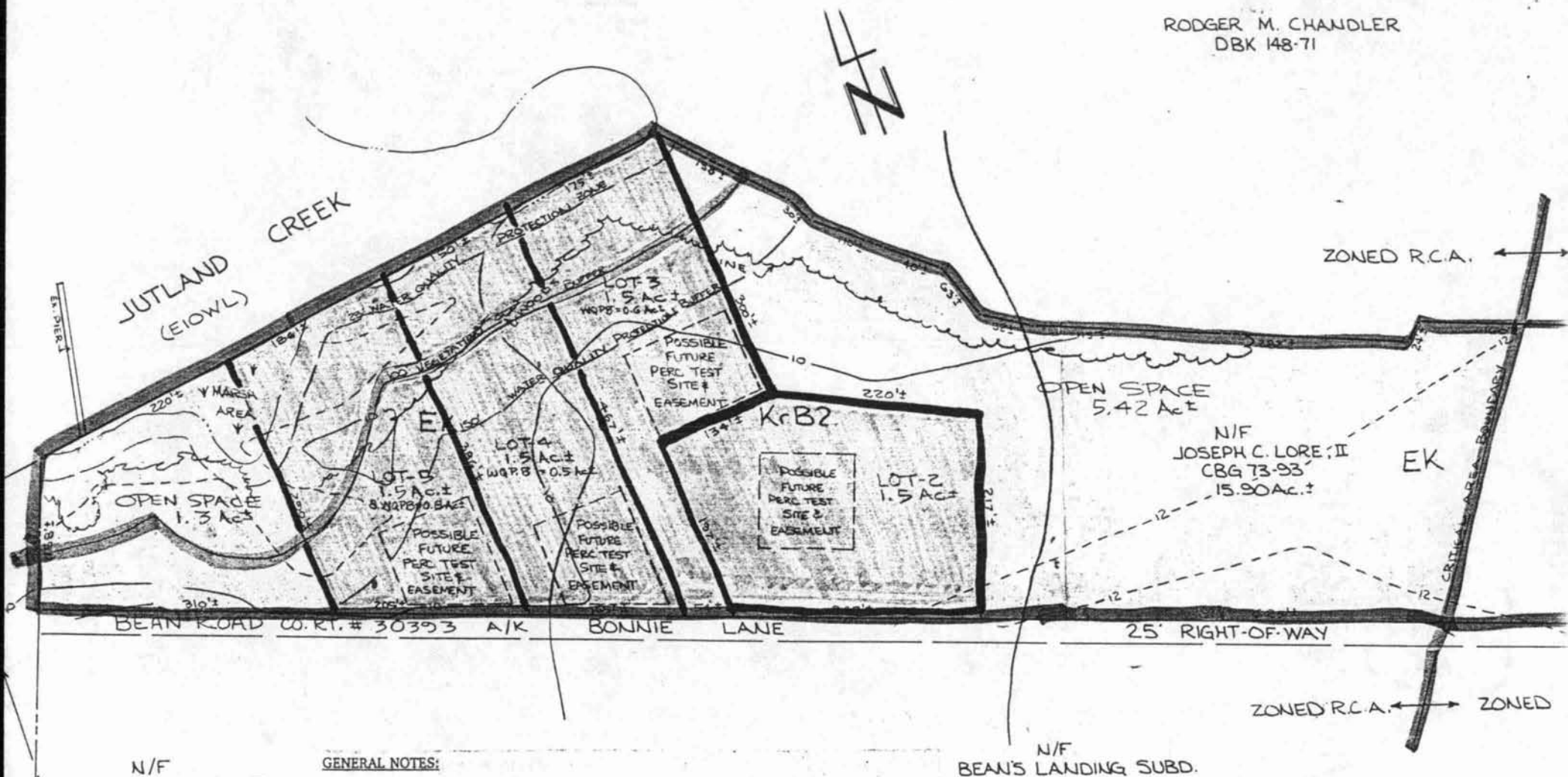
(Continuation of Lore's Landing)

was contiguous and at least 20 acres in size, retained its natural features or its use as resource utilization and was restricted from future subdivision and/or development through restrictive covenants, conservation easements, etc.

- The project is across the street from an existing LDA.

- The 300 foot buffer is not provided. The county's position is that "the 300 foot buffer requirement for the establishment of LDA's in the RCA for residential purposes is an extremely onerous regulation. Many parcels could not be developed in St. Mary's County through the use of Growth Allocation because they do not have sufficient depth."

RODGER M. CHANDLER
DBK 148-71



N/F
CORINTHIAN YACHT
CLUB
DBK 144-97

GENERAL NOTES:

1. Current Owner: JOSEPH C. LORE, II
2. Deed Reference: CBG 073-093
3. Current Zoning: RPD - 4.00 Ac± RCA - 11.90 Ac±
4. Total Area of Site: 15.90 Ac±
5. Total Number of Lots: 5 Lots
6. Lot Size: 1.5 Ac±
7. Average Lot Size: 3.18 Ac±
8. Lots to be served by individual water systems.
9. Lots to be served by individual sewerage systems.
10. The property lines, water line and marsh area as shown hereon was taken from a plat prepared by J.R. McCrone, Inc, dated July 25, 1960.
11. Predominate Soil Types for this area are KrB2(Keyport Silt Loam - 2-5% slopes), Ek(Elkton Silt Loam - nearly level) as delineated in the "SOIL SURVEY OF ST. MARY'S COUNTY, MARYLAND" Map # 34 and distributed by the United States Department of Agriculture, Soil Conservation Service.
12. The wetlands shown hereon were taken from the Wetlands Inventory Map entitled "St. George Island, MD-VA, and distributed by the Department of the Interior, Fish and Wildlife Service."
13. Total Area within the Water Quality Protection Buffer: 3.14 Ac±
14. The topography as shown hereon was field performed by McCrone, Inc., dated Sept. 26.

N/F
BEAN'S LANDING SUBD.

STAFF REPORT

Bashford Creek Estates

Type of Growth Allocation	RCA to LDA
Number of proposed lots	9
Acreage of proposed lots	22.93
Growth Allocation acreage requested	13.83
Total acreage of site	65.43
Total acreage in Critical Area	64.07

Proposed use Residential

Site description

- Approximately 10% of the site is forested
- Tidal Wetlands cover 12.28 acres
- Tree growing operation on site to continue

NOTES:

The Commission's Growth Allocation Policy states that the entire parcel should be deducted from Growth Allocation except under the following circumstances:

1. A development envelope could be counted if individual lots, required buffers, impervious surfaces, utilities, stormwater management, sewage disposal and human use areas are included; and

STAFF REPORT

(Continuation of Bashford Creek Estates)

2. The remainder of the parcel including any tidal wetlands would not count against the County's growth allocation if it was contiguous and at least 20 acres in size, retained its natural features or its use as resource utilization and was restricted from future subdivision and/or development through restrictive covenants, conservation easements, etc.

- Total restricted area on site including tidal wetlands = 21.68 acres

- The lots are in two separate clusters

- The 300 foot Buffer is not provided. The County's position is that "the 300 foot Buffer requirement for the establishment of LDA's in the RCA for residential purposes is an extremely onerous regulation. Many parcels could not be developed in St. Mary's County through the use of Growth Allocation because they do not have sufficient depth."

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STAFF REPORT

Maydel Manor

Type of Growth Allocation	RCA to LDA
Number of proposed lots	4
Acreage of proposed lots	24.5
Growth Allocation acreage requested	6
Total acreage of site	99±
Total acreage in Critical Area	50±
Proposed use	Residential

NOTES:

The Commission's Growth Allocation Policy states that the entire parcel should be deducted from Growth Allocation except under the following circumstances:

1. A development envelope could be counted if individual lots, required buffers, impervious surfaces, utilities, stormwater management, sewage disposal and human use areas are included; and

2. The remainder of the parcel including any tidal wetlands would not count against the County's growth allocation if it was contiguous and at least 20 acres in size, retained its natural features or its use as resource utilization and was restricted from future subdivision and/or development through restrictive covenants, conservation easements, etc.

- The County Program restricts individual lots to a maximum of 1.5 acres. The proposed lots range from 5 to 9 acres.

STAFF REPORT

(Continuation of Maydel Manor)

- The proposal is to deduct Growth Allocation under a 1.5 acre development pad concept.

The Critical Area Commission specified, when the St. Mary's County Program was approved, that the entirety of individually-owned lots must be deducted for Growth Allocation purposes.

