

Committee Meetings & Correspondence October 1991

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AGENDA
 Chesapeake Bay Critical Area Commission
 275 West Street, Suite 320
 Annapolis, Maryland 21401
 October 2, 1991

1:00 - 1:05pm * Minutes of September 4, 1991 John C. North, II, Chairman

AMENDMENTS & GROWTH ALLOCATIONS

1:05 - 1:10p	* St. Mary's County Impervious Surface Refinement	Ren Serey, Planner	} Refinement determination sustained
1:10 - 1:50p	* St. Mary's County -Growth Allocations as Presented	Ren Serey, Claudia Jones, Planners Bob Schoeplein, Panel Chair	} Remainder approved
1:50 - 2:10p	* Dorchester County Text Amendment	Tom Ventre, Planner Bob Schoeplein, Panel Chair	} Remainder denied
2:10 - 2:20p	* Town of Easton Amendment	Theresa Corless, Planner Joe Elbrich, Panel Chair	} Ordinance Program document approved
2:20 - 2:25p	Town of Easton Refinement	Theresa Corless, Planner	} support Judge's determination
2:25 - 2:35p	Town of Queenstown- Program Text Refinements	Ren Serey, Planner	} support Judge's determination

Information Item

2:35 - 2:55p	Harford County Growth Allocation Bata Corporation	Andy Meyer, Harford Co. Dawnn McCleary, Planner
2:55 - 3:10p	Charles County - Impervious Surface Amendments	Ren Serey, Planner

PROJECTS

3:10 - 3:25p	* Eastern Shore State Hospital Channel Markers, Developer DITMHT - Not for Profit	Tom Ventre, Planner Kathryn Langner, Co Chair Sam Bowling, Co Chair	
3:25 - 3:45p	* University of Maryland Solomons Island Redevelopment a. Fleet Operations Bldg b. Chemical Storage	Liz Zucker, Scientific Advisor Kathryn Langner, Co Chair Sam Bowling, Co Chair	} need to see the specs
3:45 - 4:00p	X* St. Mary's Soil Conservation District Demonstration Shore Erosion Control Project at St. Mary's City	Theresa Corless, Planner Kathryn Langner, Co Chair Sam Bowling, Co Chair al Stewart, SCD.	} 12. favored in the motion supposed

12
5

Information Item

4:00 - 4:20p	North Point State Park	Anne Hairston, Planner
4:20 - 4:30p	Legal	George Gay, Assist. Atty. Gen.
4:30 - 5:00p	Old Business	John C. North, II, Chairman
	New Business	John C. North, II, Chairman
	* Policy Amendment/ Refinement Submittal	James E. Gutman, Chairman Pat Pudelkewicz, Planner

* Vote Needed

** Growth Allocation Issue needs to be assigned to the Programs Amendment Subcommittee because they have had to make the decisions on these things.*

*Panel - Hayford Co. Growth Allocat.
Bob Price
~~Joe Smith~~ Chair
Kay Langner
Bob Schieplein
Ron Hichernell
~~J. J. Hearn~~
~~Sheppard Bush~~
Jim Bowling*

*Approved and
read*

Chesapeake Bay Critical Area Commission
Minutes of Meeting Held
September 4, 1991

The Chesapeake Bay Critical Area Commission met at the Newton White Mansion in Mitchellville, Maryland in Prince Georges County. The meeting was called to order by Chairman John C. North, II with the following members in attendance:

Judge John C. North, II, Ch.	William J. Bostian
Phillip Barker	Samuel Y. Bowling
William H. Corkran, Jr.	Joseph J. Elbrich, Jr.
Parris Glendening	James E. Gutman
Ronald Hickernell	Thomas Jarvis
Dr. Shepard Krech, Jr.	Kathryn Langner
G. Steele Phillips	Ardath Cade of DCHD
Michael J. Whitson	W. Roger Williams
Robert Schoeplein, of DEED	Anthony Bruce
Louise Lawrence, of Dept. of Agriculture	James L. Hearn, of Dept. of the Environment
James Peck, of Dept. of Natural Resources	Larry Duket for Ronald Kreitner of Md. Office of Planning

The Minutes of July 10, 1991 were read and approved as written.

Chairman North presented Dr. and Mrs. Wilson Coudon of Prince George's County with a Governor's Citation as well as to Ms. Carolyn Watson, Prince George's County Critical Area Coordinator and Mr. Jim Stasz, Coordinator of the Maryland National Capital Park and Planning Commission's Greenways and Open Space Program for their assistance to the Coudon's in their efforts in cleaning up their property in the Critical Area.

Carmen Gilotte was given the Governor's Certificate of Recognition for his contribution to the Critical Area Commission.

Chairman North announced that a video presentation entitled "A Year In The Life of a River" would be shown to the Commission members, courtesy of Commissioner Parris Glendening.

Commissioner Glendening said that Newton White Mansion was purchased as part of an open-space program by Prince George's County which was implemented before the State program in the early 1970's. He said that it originally was the estate of Admiral White, Captain of the U.S. Aircraft Carrier U.S.S. Enterprise. He said that additionally, at the MAACO meeting recently, Prince George's County won the Governor's award for planting the most trees in one year - 135,715.

Chairman North extended congratulations to Commissioner Ardath Cade for her recent appointment as Planning and Zoning Officer of Anne Arundel County. Commissioner Cade will be attending the October meeting of the Critical Area Commission before assuming her new position.

Chairman North asked Ms. Claudia Jones to report on the Choptank River Fishing Piers State Park.

Ms. Jones informed the Commission members of the plan outlined in a staff report which follows:

She said that the Department of Natural Resources has prepared a master

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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., were distributed; however, she said, 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. Ms. Jones said that it was the recommendation of the staff that any interpretive materials developed for the park include information regarding the Critical Area program.

Dorchester County Side Ms. Jones told the Commission that the Critical Area Commission 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. There are approximately 3 acres. The PROJECT PROPOSALS are: Parking (50 car), comfort stations (2), fish cleaning station, paved pedestrian walk under the bridge, stone revetment with walkway. The EXISTING IMPERVIOUS SURFACE area is approximately 13,650 sq. ft; and the ADDITIONAL IMPERVIOUS SURFACE PROPOSED is approximately 16,250 sq. ft.

Talbot County Side Ms. Jones said that the Talbot County side is not an area of intense development and that the staff considers the site to be the equivalent of an RCA due to the undeveloped nature of the site. There are approximately 25 acres. The PROPOSED IMPERVIOUS SURFACE is approximately 47,000 sq. ft; The PROJECT PROPOSALS are: 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. She cited the following sections of the "green regs" as being 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

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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).

Ms. Jones said that the STAFF RECOMMENDATION is for 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.

Ms. Jones introduced Mr. Bill Triggs with the Greenways and Resource Planning Program in the Department of Natural Resources who briefed the Commission on the draft plan for the State Park.

Mr. Triggs gave a detailed technical description of the project to the members and said that there would be different methods of shore erosion protection on the Choptank, such as marsh grass plantings, revetments and a series of breakwaters.

Commissioner Cade ask if swimming would be allowed.

Mr. Triggs said that it was not conducive to swimming because of the shallowness of the water and because there was not enough land area for swimming or for boating.

Commission Counsel, George Gay, asked if there were any development activities proposed within the 100' Buffer.

Mr. Triggs replied just the revetment and a walk.

Commissioner Jim Gutman asked if all the Critical Area Regulations provisions were going to be followed or if there would be exceptions.

Ms. Jones stated that the provisions would be met.

Commissioner Kathryn Langner made a motion to approve the Master Plan for the Choptank River Fishing Pier State Park with the conditions that: 1) development proposals be brought to the Commission for approval before construction; 2) that between this Commission meeting and the time of Park development, the use of forest pavers and other types of paving in lieu of asphalt be researched by the Critical Area Staff and the Greenways Resource Planning Staff. The Motion was seconded by Commissioner Sam Bowling and the vote was unanimously in favor.

Chairman North asked Ms. Elizabeth Zucker to report on Open Water Marsh Management.

Ms. Zucker briefed the Commission on the situation in Somerset County regarding control activities in a habitat protection area. She said that in January, 1990 the Critical Area Commission signed a Memorandum of Understanding with the Department of Agriculture on mosquito control and under that MOU, the Commission agreed to work with the Department of Agriculture to ensure that their mosquito control activities are consistent with the Critical Area criteria. She said that insecticidal sprays and ditching, (open marsh management which is ditching of tidal marsh to change the hydrology of the tidal marsh) are the methods used to control mosquito breeding. Ms. Zucker stated that as part of the MOU, the Commission agreed to serve as a Committee member on the Mosquito Control Advisory Committee and in March, 1991, the Mosquito Control staff brought to the attention of the

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members that there was ditching which was being performed at the Deale Island Wildlife Management Area, State lands regulated by the Department of Natural Resources. She said that this area is also habitat for the Black Rail, a State listed species in need of conservation. She said that the Department of Natural Resources is doing a research study for the Black Rail (funded by the tax monies from the endangered species checkoff list on the tax forms) and when DNR learned that the mosquito ditching was being done they were very concerned because their study was not completed and there is not enough information to determine whether or not the ditching activities will have adverse impacts on the Rail habitat. She said that as a result, Gary Taylor, FPWS Director of Wildlife at that time, wrote a letter to the Mosquito Control staff requesting the activities of ditching cease in that area. Ms. Zucker stated that the activities continued which caused a lot of concern. Dr. Torrey Brown visited the site and subsequently wrote a letter in August to Secretary Cawley of the Maryland State Department of Agriculture requesting the activities to cease. Secretary Cawley responded that the activities would cease until the research could be completed and an assessment could be made of the population and the impacts on the habitat of the Black Rail. Ms. Zucker said that Judge North wrote a letter to Secretary Cawley to clarify the Commission's approval procedures and to make sure that Mosquito Control Staff realize that they need to bring the ditching proposals/projects to the Commission before initiating ditching in this area.

Commissioner Jim Gutman asked the time-of-year for controlling mosquitos with chemicals.

Ms. Zucker said that mosquitos can be controlled with insecticidal sprays from Spring through the Fall.

Commissioner Steele Phillips clarified the concept of "ditching" as being designed to trap water in certain areas to try to maintain a water level specifically for small fishes to live there and to eat the mosquitoes as they hatch. He said that he did not believe that Rail habitat was being destroyed but that waterfowl habitat was being created by the digging out for ditching when the marshes grow back. Mr. Phillips said that he did not understand why it is thought to destroy Rail habitat and that "ditching" would be the preferred method of mosquito control because there have been fewer mosquitoes in the area and there has been less of a need for spraying.

Ms. Zucker stated that ditching is a permanent alteration of the habitat and that research should be done before that method is used in habitat of a rare species. She said that spraying can be used for mosquito control in the meantime.

Commissioner Anthony Bruce asked when the results of the study would be available.

Ms. Zucker stated that the data would be gathered and analyzed by the beginning of the next mosquito control season.

Commissioner Bruce asked if the Critical Area Commission would be apprised of the research results.

Chairman North said that the data would be made available to the Commission members as soon as it is available.

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Chairman North asked Ms. Patricia Pudelkewicz to report on the Program Amendment to the Talbot County Zoning Ordinance.

Ms. Pudelkewicz stated that 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). She stated that 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 following chart presents new uses proposed in the RCA:

NEW USES PROPOSED IN TALBOT COUNTY'S RCA

<u>USE</u>	<u>TYPE</u>	<u>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

She said that 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.

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Ms. Pudelkewicz said that it was Commission Counsel's recommendation that the full package of amendments be given to all Commission members; therefore, she distributed the full package to each Commission member. Ms. Pudelkewicz stated that most of the uses in the RCA were non-controversial to the Commission in July, with the exception of Day Care Center, which Talbot County has brought back. She said that at the July Commission meeting, Dan Cowee, Talbot County Planning Director, stated that Group Day Care was a very important item in Talbot County with a lot of citizen concern over being able to have day care facilities throughout the entire county. She stated that the original recommendation of the panel was that this use be approved in the RCA if it was in a dwelling existing as of December 1, 1985. She said that Group Day Care Centers are defined as being for 13 or more clients. She said that it has been resubmitted as a permitted use in the RCA by the County.

Commissioner Bill Bostian asked if a recycling collection center is approved or not.

Ms. Pudelkewicz stated that after discussion of the definition of a recycling center by the Commission, (a small area set aside for use with bins in order to be able to accept recyclable material) that it was the Commission's belief that it was an acceptable use in the RCA with the definition clarified as such.

Commissioner Joseph Elbrich made a motion to approve all 39 amendments intact of the Talbot County Critical Area Program including the Childcare facilities. The motion was seconded by Commissioner Langner. The vote was unanimously in favor.

Chairman North asked Ms. Pudlekeewicz to report on the Talbot County Bill 450 Program refinements.

Ms. Pudelkewicz said that the County Council has given the Critical Area Commission authority to review Bill 450 on a piecemeal basis.

She said that Talbot County has submitted a set of refinements from that legislation to the Critical Area Commission. These 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. She told the Commission members that Chairman North has determined the changes to be refinements.

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 (Village Center) and TR (Town Resident) (both LDA) zoning districts.

The Commission members supported Chairman North's determination that the changes are refinements.

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Chairman North asked Mr. Tom Ventre to report on the Growth Allocation, Land Reclassification request by Dorchester County.

Mr. Ventre stated that the Dorchester County Commissioners have requested a Growth Allocation, Land Reclassification from Resource Conservation Area (RCA) to Limited Development Area (LDA) in the amount of 14 acres in the Critical Area growth reserve to allow development of a residential subdivision at building densities higher than current classification allows. He said that a local award of growth allocation was granted by Dorchester County Commissioners on May 28, 1991 and that the proposal is currently in local subdivision review.

Mr. Ventre had disseminated a briefing packet to the Commission members with a technical description of the request.

He told the Commission that the site is an old farm in a rural area of Dorchester County, west of Cambridge. The Subdivision that has been proposed totals 43 acres, half of which are inside the Critical Area. The 28-acre portion of the parcel inside the Critical Area is further divided for growth allocation purposes into two 14 acre pieces. 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. Mr. Ventre stated that this proposed subdivision apparently satisfies applicable local Critical Area program and ordinance requirements. He said that the State of Maryland nontidal wetland guidance maps indicate palustrine nontidal wetlands on the site.

Mr. Ventre stated that there was a public hearing in Cambridge on August 19, 1991. He said that there was much opposition to the proposed subdivision and that much of it had nothing to do with Critical Area issues but mostly issues of an aesthetic nature.

Mr. Ventre said that the principal growth allocation issues are: 1) the requested growth allocation does not conform to this Commission's expressed, adopted policy of February, 1988, that any open-space reserved in such a manner must be a minimum of twenty acres; 2) that non-tidal wetlands bisect the site inside the Critical Area. The State of Maryland's non-tidal wetland regulations do not apply but, the Corps of Engineer Regulations and Critical Area Regulations do apply. He said that the Corps of Engineers has determined that the non-tidal portion falls into two categories: a) prior converted cropland for which a permit is waived and b) the remaining is "farmed wetlands" for which permits are still required from the Corps of Engineers. He said that the Corps has identified the non-tidal wetlands as a swale, 7' wide and 1,400' in length across the site leading to the tidal wetland.

Mr. Ventre stated that the Critical Area interest in the non-tidal wetlands is because they are one of the five types of habitat protection areas regulated by the Critical Area. He said that there is still some vagueness as to how the Critical Area Commission deals with what the Corps designated as "prior converted croplands" and that so far, it has been done on a case-by-case basis. He said that if a field inspection warrants that

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more serious consideration be given, it will be done and recommendations would be made. He said that the larger issue of non-tidal wetlands is water quality; 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.

Mr. Ventre told the Commission that the record for public comment on a Corps of Engineer permit application would be open through the following day, September 5, 1991.

Commissioner Robert Schoepflein, Co-Chairman on the Panel to review the Growth Allocation Request, commented that the motion was passed in Panel by a vote of 3-1. He said that the motion has two elements: 1) the basis by which the Panel recommends denial of Dorchester County's Growth Allocation Request, and the Panel's need to find "one element" of substance in Statute or Regulation for Commission Policy as the basis for denial; 2) the second element puts Dorchester County on notice and also the Principals and professional staff that should Dorchester County apply for growth allocation in the future involving this parcel in another format or argument that there should be further consideration of water quality and habitat protection. Mr. Schoepflein read his motion: that the Chesapeake Bay Critical Area Commission deny the request for Dorchester County for an allocation of 14 acres from the County's Growth Reserve because: the County does not conform to the Commission's expressed policy of February 1988 regarding the minimum 20 acres of dedicated open space to remain in developments of this type. The Commission also presents a concern based on testimony and evidence presented that this parcel be further reviewed with regard to growth allocation criteria for impact on habitat protection areas and on water quality on the parcel and adjacent wetlands.

The motion was seconded by Dr. Shep Krech.

Commissioner Bowling commented that the water quality concerns were based on the fact that testimony was received from a State law officer to the effect that bermed infiltration ponds in that area were overflowing.

Commissioner Bill Bostian commented that when the policy was passed in February of 1988, it was passed as a "safe harbor" situation so that if the County followed this policy then the growth allocation would be approved; but it was not law, only policy, and after the law was passed, the Dorchester County plan was approved and it was approved with the ordinance that it has in place and that Ms. Barnett and her attorney have followed the letter of the Dorchester ordinance to get to this stage. So, therefore, if they come back for 20 acres instead of 14 acres, water quality notwithstanding, it should be approved. He said the policy was designed as a harbor and never has been the law and technically, perhaps the Commission cannot enforce it as law.

Mr. Ventre stated that Dorchester County does acknowledge the policy, but not in the ordinance, and does say that there shall be clustering and an open space reserve, but there is no acreage number of the amount of open space that would be dedicated, but do as follow the Commission policy of February, 1988 for Dorchester County's approval of their Program.

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Commissioner Ronald Hickernell asked that should the Corps approve the application and should the owner of the property challenge the Commission's position, would the Commission be able to defend itself.

Commission Counsel, George Gay, stated that the Commission could rely upon policy to make a determination, but he elaborated on the issues of water quality and 14 acres vs 20 acres. He stated that he thinks the acreage policy might be a more slender reed than the water quality issue which is expressly set forth in the regulations.

Commissioner J.L. Hearn stated that the Maryland Department of the Environment must issue a permit for bermed infiltration ponds and the decision is based upon a technical analysis of the site and a water quality certification.

Mr. Schoepflein suggested a substitute motion for the second part because of the two arguments for denial, and the second would be that the request has not been demonstrated to meet the water quality standards.

Dr. Shep Krech, as the seconder to the motion, accepted the amendment to the motion.

Mr. Schoepflein read the amended motion: it is moved that the Chesapeake Bay Critical Area Commission deny the request of Dorchester County for an allocation of 14 acres from the County's growth reserve because the proposal does not meet the requirements of the Critical Area growth allocation criteria, the impact on habitat areas and on water quality in adjacent streams. Dr. Krech seconded the motion. The motion was carried by 15 votes in favor, 4 nays (Ms. Cade had left the meeting).

Chairman North asked Ms. Patricia Pudelkewicz to report on Kent County's Mapping Mistake Amendment Request.

Ms. Pudelkewicz said that Kent County has requested an amendment for a mapping mistake because of an error in the location of the Critical Area line 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 map. She said that 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. She said that this mapping is a net loss of 40.98 acres in the Resource Conservation District of the Critical Area. Ms. Pudelkewicz said that the panel recommendation was for approval.

A motion was made to approve the request. The motion was seconded and the vote was unanimously in favor.

Chairman North asked Ms. Pudelkewicz to report on the Kent County Text Amendment Request.

Ms. Pudelkewicz reported that Kent County has proposed an amendment to its zoning ordinance. She said that Code Home Rule Emergency Bill 5-91, which removes private schools as a conditional use in the Resource Conservation District (RCD). The bill also amends the Non-Conforming Use Section of the Zoning Ordinance to allow the expansion of existing private

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schools and churches in the RCD. The current zoning ordinance does not permit the enlargement or expansion of a non-conforming use. She said that the amendment request would allow the expansion in the RCD for private schools and churches which existed as of the adoption of the Kent County Program. Ms. Pudelkewicz stated that the number of private schools and churches impacted by this amendment (existing as of April 1988) are very few, two churches and 3-4 private schools. Ms. Pudelkewicz stated that the Panel spent much time discussing means by which to place some limitation on the amount of expansion permitted, since most non-conforming uses are not allowed to expand without some restrictions. However, the Panel decided to recommend approval as submitted.

A motion was made to approve the request as presented. The motion was seconded and the vote was unanimously in favor.

Chairman North asked Ms. Pudelkewicz to report on the Kent County request for Refinements contained in Code Home Rule Code Emergency Bill 4-91. These are minor text changes to Kent County Zoning Ordinance.

Ms. Pudelkewicz reported that 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. The refinement requests are:

- 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,

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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

Ms. Pudelkewicz stated that Chairman North had determined these changes to be refinements.

The Commission supported the Chairman's determination.

Chairman North asked Ms. Pudelkewicz to report on the Town of Easton's request to incorporate the recently annexed Dudrow Farm as a refinement.

Ms. Pudelkewicz stated that the request is a program refinement rather than an amendment because it is consistent with the Town's Program. She said that the Town of Easton has annexed a piece of land within the Critical Area known as Dudrow Farm, 27 acres. The Easton Critical Area Program specifically mapped this area as an area designated for growth. She said that the Talbot County Critical Area Program also specifically mapped this area as an area to be annexed and an area of future growth for the Town. It is mapped as RCA in Talbot County and will be RCA in Easton.

Ms. Pudelkewicz said that Talbot County has also requested this change as a refinement to its Critical Area Program. She said that Chairman North has determined the request to be a refinement to both Talbot and Easton's Critical Area Programs.

The Commission supported the Chairman's determination.

Chairman North asked Mr. Ren Serey and Ms. Claudia Jones to report on St. Mary's County Growth Allocation request.

Mr. Serey told the Commission that a new process for informing the Commission on multiple requests for growth allocation before they are required to vote would begin with a briefing this meeting. The next step would be a panel hearing and finally a presentation by the Staff for a vote at the next Commission meeting. He said that the reason that they were being presented at once is because the County has a yearly process where they accept application by landowners once a year, are reviewed by the County and go through a point system by the County Commissioners. He said that a panel hearing would be held on September 5, 1991 in Leonardtown and that the Commission members could use this opportunity to ask the panel members to ask questions for them that they might have. Mr. Serey and Ms. Jones alternately presented the requests that St. Mary's has proposed for Growth Allocation Amendments for six parcels. The individual amendments range from 6 to 16 acres. The total request for use of Growth Allocation acreage is 57.08 acres. Mr. Serey stated that 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. A brief outline of each amendment follows:

1. Avenmar Community Center - The County requests use of 16

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Minutes - September 4, 1991

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 use 13 acres of growth allocations. It will include meeting rooms, a riding stable, tennis courts and a fishing pier.

Mr. Serey said that the site is 492 acres and about 220 are in the Critical Area. RCA residential housing is proposed for the Critical Area. Three to three and one half acres are proposed for residential, to make up for RCA density lost when the County's 20 acre easement for major projects was subtracted for density calculation purposes. Two growth allocation areas are connected by a right of way of several hundred feet which is also proposed for growth allocation. There is a 300' buffer proposed so the community center will be set back from the wetlands and water.

Commission Counsel, George Gay, asked what the "Causeway" (the right-of-way in pink on the map) was for.

Mr. Serey said that he believed it was because the two main areas proposed for growth allocation could be connected and not seen as separate LDA's within the RCA.

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).

Ms. Jones stated that what is already existing is Light Industrial of 1.5 acres which already has some apartments. What is proposed is 4 acres of light industrial with townhouses. There are woods and steep slopes on the site and a stream which runs onto the site. She said that is located adjacent to an IDA. The total acreage is 28.4 acres. The total acreage in Critical Area is 24.6 acres.

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.

Ms. Jones said that it is an existing RCA site. There are 65 acres total, 64.07 is in the Critical Area. Nine lots are proposed. The acreage of the proposed lots total 23.93 acres. The growth allocation acreage requested is 15.83 acres. She said the entire acreage proposed is at issue. She said that there was the question of whether there will be an area with a 20 acre easement on it. There will be two clusters in one area. There is a 100' buffer.

Mr. Elbrich asked if they would be subject to a 300' buffer. Ms. Jones said that is the question.

Mr. Hickernell asked if the proposal as represented was recommended for approval as presented. Ms. Jones said that it had been sent to the County Commission for approval.

Mr. Schoeplein asked about the access roads.

Chesapeake Bay Critical Area Commission
Minutes - September 4, 1991

Ms. Jones said that there were access roads.

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.

Eppard: Mr. Serey said that the Eppard parcel is 14 acres total. A pink area on the map, growth allocation is RCA to LDA. There are 4 lots of 1 and 1/2 acres each. The main driveway is also proposed for growth allocation. Two areas (blue on the map) are each approximately 4 acres. The site plan says that it is a common area, no building or clearing proposed for it. He said that he was not sure whether it was supposed to qualify under the County's easement requirement. He said that it came under the County's minor subdivision growth allocation process. In that process, individual lots are restricted to a maximum of 1 and one half acres and these meet that test. He said that the parcel is set back from the water and it is not waterfront so there is no 300' buffer issue. He said that the 20 acre easement would be an issue under the Commission's policy and an issue under the County Program also.

Commissioner Glendening said that St. Mary's seems to be including the access roads to the developable property as part of the acreage and wanted to know if that had been done in the past or if it was something unique to St. Mary's. He said that was something he believed the Commission may want to question.

Lore's Landing: Ms. Jones said it was presently RCA. That it is a 15.9 acre site, 11.9 acres of it is in the Critical Area. The County is proposing to create four - 1.5 acre lots. They are also proposing that there will be open space. There will be a 100' Buffer, there is an indication that much of the soil is hydric and a large portion of the site has been farmed and that there is wooded area. She said that the Commission's growth allocation policy comes into play. The project is across the street from an existing LDA and the 300' Buffer for growth allocation is complied with.

Maydel Manor: Mr. Serey said that the request was for 4 residential lots. Six acres of growth allocation is requested. The total acreage is 24 and 1/2 acres. Each lot has a 1 and 1/2 acre deduction. The County's maximum lot size comes into play here. For minor subdivisions for growth allocations, individual lots are limited by the County Program to 1 and 1/2 acres. These lots are 5,5,5, and 9 acres in size, but the deduction proposed is for 1 1/2 acres each. In other words, the maximum lot size has now become the development area of each lot. When the St. Mary's Program was approved by the Critical Area Commission, the county was informed that the entirety of individual lots would have to be deducted.

Mr. Serey stated that the reason, as he understands it from meetings with the County Commissioners and Planning Commission, that the County has approved five-acre lots but requested only the small deductions is that the County is trying to save growth allocation and to give as many opportunities to land owners as possible to use it.

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The question of whether covenants were on the lots was brought up and would be asked by the panel. The question was raised whether conserving growth allocation was the sole motivation for developing in this fashion.

Mr. Serey said that was also a good question for the panel.

Mr. Bowling stated that the size is to get a maximum amount of waterfront lots.

Mr. Whitson said that it was not necessarily to get a maximum number of lots but to ensure that the use of growth allocation would not all be townhouse subdivisions and be strictly uniform; the formula is that there is a certain percentage of growth for clustering reserved for each year's usage as growth allocation for single lot and minor subs, to be sure that it would not all be clustered townhouses there would be access in each cycle for some individual homeowners in minor subdivisions.

Mr. Glendening said that it may be all right to deduct only 60% of a proposed lot. He said, however, that determining the proper minimum lot size and the amount to be deducted is the important question for the Commission. He said that there are some potentially serious problems concerning calculating growth allocation in this instance.

Mr. Elbrich said that there is also an existing barn and should that be a part of the development area or not, and are there any other structures allowed in the yellow (nondeducted) area? If so, then the development is no longer just the pink (deducted) area but is in fact more of that area depending on what types of uses are not acceptable in that area.

Mr. Bowling said that St. Mary's County has a lot of waterfront development of large lots which looks very nice and this is an attempt to maintain what looks very nice.

Mr. Glendening stated that he believes it must be examined for possible future repercussions because of ultimate other uses of the land.

Mr. Serey said that at the time of Program approval one very real concern was that if an individual bought a lot it would be difficult to always maintain what that individual's impact in the RCA was going to be. That was the philosophy behind the requirement that individually owned lots have to be deducted in their entirety and it was left to the County to decide how large or small those lots would be. St. Mary's decided to make them 1 and 1/2 acres. Other counties have various minimum lot sizes.

Commissioner Langner commented that it does say parcel A open space, and parcel B, building lot.

Mr. Hickernell asked if there was a proposal to assure long-term preservation of the yellow (nondeducted) mapped area.

Mr. Serey said that there is a requirement for larger projects to have a 20 acre easement set aside, modeled on the Commission's policy. For minor subdivisions that go through Growth Allocation, the deduction is the maximum lot size and the entirety of lots would have to be deducted.

Mr. Hickernell asked in the long term what assures the preservation of the yellow (nondeducted) areas.

Mr. Serey said that he assumed that the County would be requiring

Chesapeake Bay Critical Area Commission
Minutes - September 4, 1991

covenants.

Jon Grimm, St. Mary's County Planning Director, said the County would require plat notes and deed restriction.

Mr. Hickernell asked if the County would require the implementation of the covenant before local approval or afterwards.

Mr. Glendening said that if we are assuming that this RCA is to be limited disturbance, and a person owns the lot, even though they knew a covenant exists on the property, they are going to put swing sets, gardens and things like that even though they can't develop it.

Mr. Grimm said that there is the same issue under regular subdivision outside the Critical Area and zoning ordinance provisions are very specific.

Mr. Gutman asked if the County has an enforcement section and have they ever had to enforce such a covenant, and if so, what was the outcome.

Mr. Grimm replied yes, but we would have to go to court to get a structure removed. He said that this is a relatively new ordinance and he could only cite probably two cases where we had to resort to the courts.

Mr. Jarvis said that restricting the portion of the lot for human use is a pretty broad statement.

Mr. Glendening stated that he believes that there are two different issues. One is that the local government have the ability to designate their growth allocation any place that they want. He said he has always believed that local governments can use their growth allocation any place that they want, as long as it is consistent with the State law. The other issue is that the Commission should be concerned with is whether this is an appropriate calculation of the amount of growth allocation to be deducted, and whether it is consistent with other sections of the law.

Mr. Bowling said that when there is a problem with the criteria and the county plan, it should be reconciled. He said if there is not a way in the law to do that, then it ought to be changed.

Commission Counsel, George Gay, stated that there is an interim mechanism that can be used to address programs believed to be inconsistent with the criteria. The mechanism in the New 1809 section of the law, which provides that the Chairman of the Commission can write to a local government stating that a particular provision is deficient and inconsistent with the criteria and until the deficiency is corrected, the local government cannot issue a valid permit pursuant to that particular section. He said that he does not know if that mechanism has ever been used, but the Commission may wish to use it in the future. Ren Serey said that it is in the 1989 amendments to the Critical Area law.

Dr. Taylor stated that the updates to the Law & Criteria will be distributed to the members within three weeks.

The Commission members were provided technical documentation with maps regarding the requests. He said that the Commission will vote on the proposed amendments at the October meeting.

Chesapeake Bay Critical Area Commission
Minutes - September 4, 1991

Chairman North asked Mr. Serey to report on the Queenstown Refinement. Mr. Serey reported that Queenstown has submitted its impervious surface amendments, HB 1060 from 1990 and HB 323 from 1991. All the requirements for the RCA and LDA have been incorporated. Mr. Serey said that Chairman North has determined them to be refinements.

The Commission supported the Chairman's determination.

OLD BUSINESS

Dr. Sarah Taylor, Executive Director, told the Commission that in a recent letter to Chairman North from Ms. Rosemary Roswell, Assistant Secretary of the Department of Agriculture, dated August 26, 1991 - a county by county compilation of farms in the Critical Area which have Soil Conservation and Water Quality Plans in place as well as cooperator's agreements were signed. Dr. Taylor stated that the letter and documentation was in response to Senator Winegrad's inquiry at the Oversight Committee Critical Area meeting as to what the Critical Area Commission was doing about farms that are not in compliance.

Dr. Taylor stated that the statistics show that 92% of all the farms in the Critical Area have plans in place or cooperators agreements signed which encompasses 93% of the agricultural acreage in the Critical Area. She said that meetings would be scheduled in a number of jurisdictions, with agriculture and soil conservation districts, the Commission staff and planning offices to talk about the needs of some counties for additional staff or to explore additional incentives to get the remaining farms into compliance.

Ms. Louise Lawrence, Executive Secretary at the Maryland State Department of Agriculture said that when the agreement was developed between the Critical Area Commission and MDA, MDA's role was one to try to transfer information to the Critical Area Commission about what kinds of accomplishments were occurring in the Soil Conservation Districts. She said that the law requires the counties to work with the Soil Conservation Districts as part of the requirement and in order to collect the data, MDA spent 2 weeks working with the 16 Soil Conservation Districts to get the statistics. She said that when the first survey was done in 1987, shortly after the regulations had passed when the inventory was done by the districts based on tax records, it appeared that there were about 2500 farms in the Critical Area. In 1990 the districts were asked to reevaluate the data Statewide, not just in the Critical Area, to get better numbers because Statewide the numbers had been off in terms of how you define a farm - what is agricultural and what is an ag unit. She reported that based on that number, and some other characteristics, double to triple ag units were found in the State besides the Critical Area.

Ms. Lawrence said that the Soil Conservation Districts, already understaffed, are dependant upon by the Federal, State and County to do a lot of work and that their efforts have been commendable. She said that because of the economics and work load involved, the actual implementation may take several years even though the farms have agreements.

Chesapeake Bay Critical Area Commission
Minutes - September 4, 1991

Chairman North asked Ms. Patricia Pudelkewicz to report on the Special Issues procedure for voting on amendments.

Ms. Pudelkewicz said that as a result of the July meeting of the Critical Area Commission, a "Submittal Policy" was developed for Program Amendments and Refinements in order to allow the Commission to review a single piece of legislation on a piecemeal basis. She said that based on the discussion of the Special Issues Subcommittee which met on the morning of September 4, 1991, a revised draft copy of the Policy would be sent to the Commission members for review and for a vote in October.

Chairman North asked that the Commission go into Closed Session to discuss the Davis variance appeal.

After discussion of the appeal, a vote was taken on a motion made and seconded to send a letter to Mr. Davis informing him that he had 10 days to accept the offer previously made by the Critical Area Commission to resolve the issue or the Commission would proceed with full litigation. The vote was 15 in favor and the motion was carried, with one abstention.

NEW BUSINESS

There being no new business the meeting adjourned.

John C North II
J. L. Heary Dept. of Env't.
Councilman Tony Ambledge
Larry Dubet for Ron Young
Bob Price
Joe Elbrich
Tony Bruce
Michael J Whitson
Ron Hechernell
Dr. Shup Kesch
Carolyn Watson for Parris
Glendering
Ardath Cade
James Peck
Jim Gutman
Roger Williams
Bob Schoeplein
Counc. Phil Barber
Kay Langner
Bill Corkran
Sam Bowling
Fred Samadani
A Steele Phillips
Russell Blakes

Chairman
Dof E
Balt City
OSP
QA. Co.
AA. Co.
Somerset Co.
St. Mary's Co.
Balt Co.
Tallot Co.
Pr. Ho. Co.
D&D
DNR
AA Co.
St. Mary's Co.
DEED
Harford Co.
Cecil Co.
Tallot Co.
Charles Co.
Agriculture
Dorchester Co.
Worcester Co.

ATTENDEANCE FOR THE CHESAPEAKE BAY CRITICAL AREA COMMISSION
FOR THE MONTHLY COMMISSION MEETINGS
FOR THE CALENDAR YEAR 1991

COMMISSION MEMBERS:	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.
✓ Ambridge, Anthony Baltimore City										X	✓	
✓ Barker, Philip Harford County										X	✓	
✓ Blake, Russell Worcester County										X	✓	
✓ Bostian, William Talbot County										X	✓	
✓ Bowling, Samuel Charles County										X	✓	
✓ Bruce, Anthony Somerset County										X	✓	
✓ Cade, Ardath DHCD										X	✓	
✓ Corkran, William Talbot County										X	✓	
✓ Elbrich, Joe, Jr. A.A. County										X	✓	
✓ Glendening, Parris P.G. County										X	✓	
✓ Gutman, James E. A.A. County										X	✓	
✓ Hearn, J.L. MDE										X	✓	
Hickernell, Ron Baltimore County										X	✓	
Jarvis, Thomas Caroline County										X	✓	
Krech, Shep Talbot County										X	✓	
Langner, Kathryn Cecil County										X	✓	
Lawrence, Louise Dept. Agriculture										X	✓	
Peck, Jim NR										X	✓	
Phillips, G. Steele Borchester County										X	✓	
Price, Robert, Jr. Queen Annes County										X	✓	
Schoepflein, Robert DEED										X	✓	
Whitson, Michael St. Mary's County										X	✓	
Williams, Roger Kent County										X	✓	
Young, Ronald MOP										X	✓	
Zahniser, Albert Clvert County										X	✓	
North, Judge Chairman										X		
Watson, Carolyn P.G. County										X		
Duket, Larry for MOOP										X		
George Gay Commission Counsel										X		
Sarah Taylor Executive Director										X		
Margaret Mickler Commission Secretary										X		
Fred Samadani, Fred for Dept. Agr.										X	✓	

Louise out of town



STATE OF MARYLAND
EXECUTIVE DEPARTMENT

OFFICE OF THE SECRETARY OF STATE
DIVISION OF STATE DOCUMENTS

P.O. BOX 802
ANNAPOLIS, MARYLAND 21404
301/974-2486

RECEIVED

AUG 1 1991

DNR
CRITICAL AREA COMMISSION

TO: DRAFTERS TRAINING CLASS PARTICIPANTS
FROM: ROBERT J. COLBORN *RJC*
SUBJECT: CONFIRMATION & QUESTIONNAIRE
DATE: 7/31/91

This is to confirm your registration for the regulations drafters training class on October 24, 1991 at the Division of State Documents.

You will be sent additional information about the class later.

Please fill out and return immediately the attached questionnaire. The information you give us will help us make the class more effective.

If for any reason your plans change and it becomes impossible for you to attend, please contact us immediately so that we may assign your seat to someone on our waiting list.

Please call us if you have any questions.

MAIL TO:

Courier

Division of State Documents
11 Bladen Street, Old Armory Bldg.
Annapolis, MD 21401

U.S. Mail

Division of State Documents
P.O. Box 802
Annapolis, MD 21404

PLEASE RETURN THE QUESTIONNAIRE NO LATER THAN FRIDAY, AUGUST 16.

*Margaret Gilman
Please mail attached to
Glx*

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

Anthony Ambidge
new member
Cratto.

TO: Judge North
SUBJECT: Anne Arundel County
Amendments

FROM: Anne Hairston
DATE: 10-1-91

Anne Arundel County has submitted three amendments, so we need a panel. Can you appoint one at the meeting tomorrow? The original panel was:

James E. Gutman (chair)
Thomas Osborne (AA Co.) - now Joe Elbrich
Bob Perciasepe (Dept of Env.) - now J. L. Hearn
Skip Zahniser Paris
Ron Karasie (Balto. City) - vacant Shep.

STAFF REPORT

*Approved
Motion
unan.
approved.*

Jurisdiction: Town of Easton

Amendment: To add the parcel (tax map 34, parcel 122) called Woodland Farms to their Growth Areas Map

Discussion: The parcel is currently designated RCA, and is 283.73 acres in extent with approximately 117 acres in the Critical Area. The parcel in question is already part of the Town of Easton, and already appears on the Talbot County Growth Areas Map. It was an omission from the Easton Growth Areas Map. Once the parcel has been added to the Easton Growth Areas Map the owner will be able to apply for Growth Allocation.

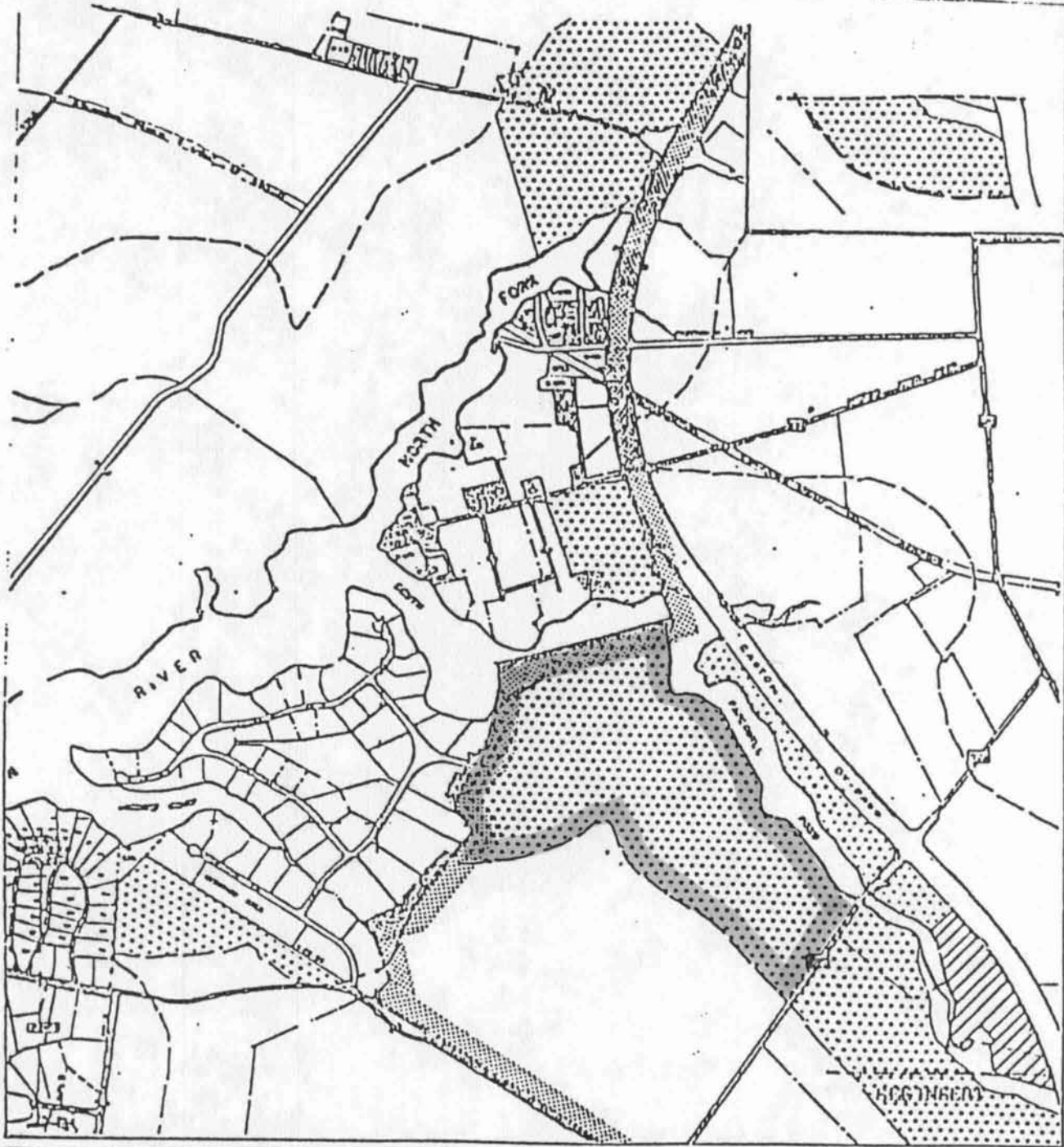
Panel Recommendation: Approval

Staff: Theresa Corless

Lynn L. L...

TALBOT COUNTY


19.14




Area Allocated for Town Development

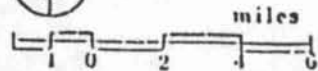
TOWN OF EASTON

Talbot County, Maryland

 RCA for Annexation or Rezoning

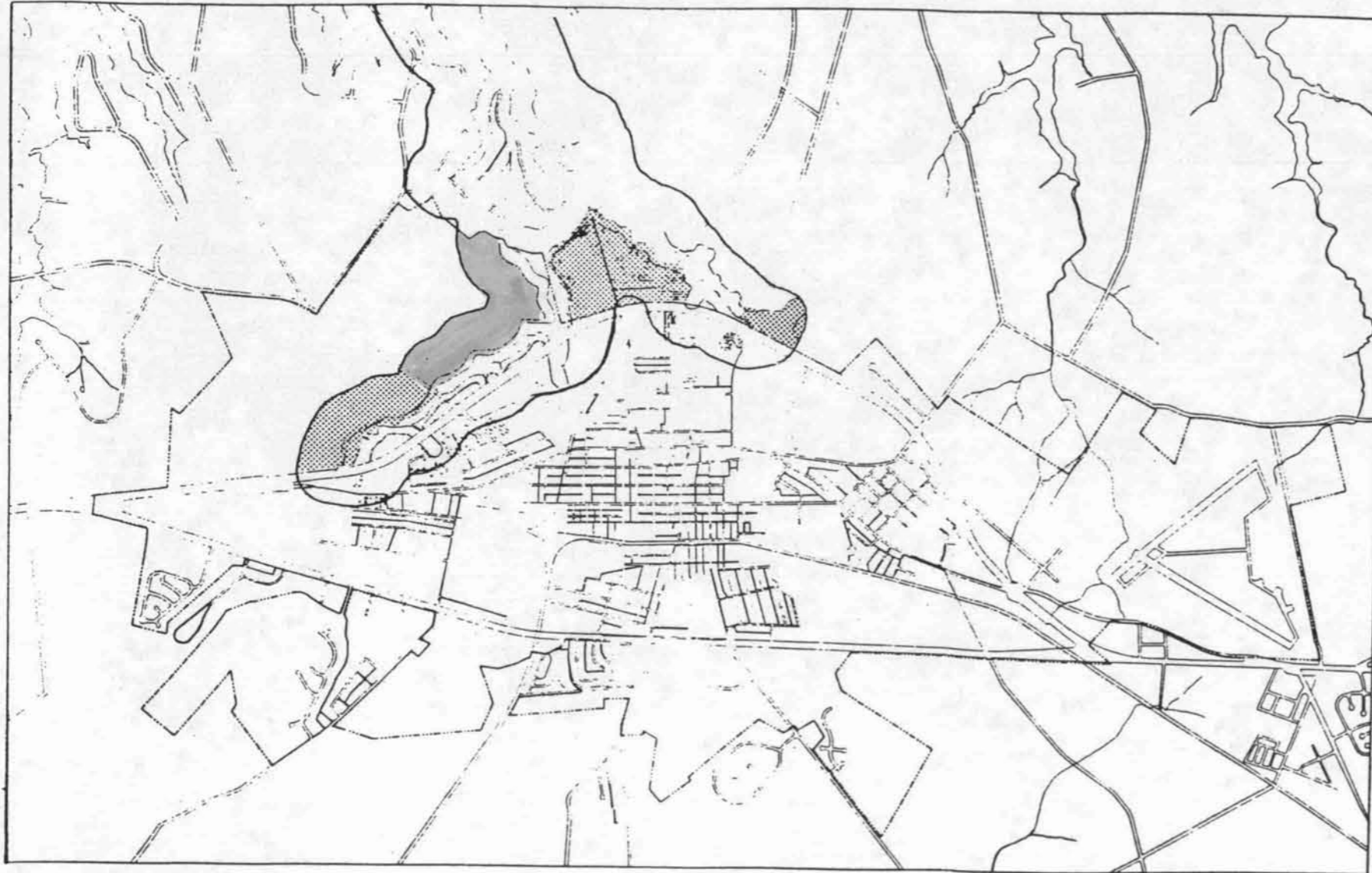
 LDA for Rezoning

Map No 1



Wiles Dailey Pronske
Horton Va Sarasota, Fla.

**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.

STAFF REPORT

Jurisdiction: Town of Easton

Amendment: To add the parcel (tax map 34, parcel 122) called Woodland Farms to their Growth Areas Map

Discussion: The parcel in question is already part of the Town of Easton, and already appears on the Talbot County Growth Areas Map. Once the parcel has been added to the Easton Growth Areas Map the owner will be able to ask for Growth Allocation.

Staff Recommendation: Approval as this is consistent with Easton's Critical Area Program.

Staff: Theresa Corless

Unanimous approval.

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: DC-A-21

JURISDICTION: Dorchester County

TYPE: Amendment to local ordinances

REASON: To bring local ordinance language regarding eligibility of lands for growth allocation into closer conformance with the locational guidelines stated in the Code of Maryland Regulations (COMAR) at 14.15.02.06B.

LOCAL STATUS: Approved by the Dorchester County Commissioners on July 2, 1991, following earlier public hearing

DESCRIPTION AND ANALYSIS: Current language in Dorchester County's subdivision ordinance enumerates criteria and standards that a parcel of land must meet in order for it to be considered for growth allocation. One of these criteria specifies that only lands with a Limited Development Area (LDA) classification may be reclassified to Intense Development Area (IDA) in the growth-allocation process. Lands classified as Resource Conservation Area (RCA) cannot be directly reclassified to IDA.

This ordinance language became an issue in 1989 when a local property owner sought to reclassify his RCA parcel to IDA using the growth allocation process. The request was granted locally, but denied by this Commission. Although the denial was not based solely on this ordinance language, the County decided subsequently to change it.

The County's ordinance language is unusual in this regard, and may be unique among the Critical Area jurisdictions. There is no statutory or regulatory mandate to reclassify lands sequentially by degree of intensity. The growth-allocation regulation of the Code of Maryland Regulations (COMAR) at 14.15.02.06 does not require such a sequence, although it may be argued that one is implied. With this amendment, the County wishes to remove the restrictive language on growth allocation eligibility from the subdivision chapter of the County Code, and to substitute in its place the COMAR language at 14.15.02.06B. The same

language would be added in a new subsection of the County Code's Zoning Chapter, which presently contains no language regarding growth allocation requirements. Photocopies of both the current language and the proposed language are attached.

LOCAL PANEL

HEARING: September 30, 1991 at 7:30 p.m., Cambridge.

CBCAC ACTION

BY: October 10, 1991

PANEL

RECOMMENDATION:

STAFF: Tom Ventre



CURRENT LANGUAGE
DORCHESTER COUNTY CODE (SUBDIVISION)
SEC. 140-51. GROWTH ALLOCATION
SUBSECTION B

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. *the Environment*



PROPOSED LANGUAGE

Section 140-51. Growth Allocation.

B. Eligibility requirements. To be considered for growth allocation a proposed development project shall meet the following criteria: (note- conversion from a higher to a lower development zone shall not require growth allocation.)

(a) The county shall use the following guidelines when considering requests for growth allocation:

- (I) New Intensely Developed Areas should be located in Limited Development Areas or adjacent to existing Intensely Developed Areas;
- (II) New Limited Development Areas should be located adjacent to existing Limited Development Areas or Intensely Developed Areas;
- (III) No more than one half of the allocated expansion may be located in Resource Conservation Areas; [however, if the county is unable to utilize a portion of the growth allocation within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the growth allocation which cannot be allocated may be located in the Resource Conservation Area in addition to the expansion allocated in this section;]
- (IV) 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;
- (V) New Intensely Developed Areas should be located where they minimize their impacts to the defined land uses of the Resource Conservation Area;
- (IV) 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.

[] - indicates revised language

STAFF REPORT

*decision
of Judge
North II
sustained*

Jurisdiction: Town of Easton

Refinement: To give 6.62 acres of Growth Allocation to the parcel called Papermill Place.

Discussion: This is considered a refinement because the parcel is on the Town of Easton's Growth Areas Map. The parcel is currently designated RCA and with Growth Allocation will become IDA. The only unusual thing about this proposal is that the entire parcel is 9.94 acres. The request is for only 6.62 acres because only 6.62 acres of the parcel are "fast land". This parcel is an old land grant and 3.32 acres of it are under water. These acres are not used to calculate dwelling unit densities by the Town.

Staff Recommendation: Approval as it is consistent with the Town of Easton's Critical Area Program.

Staff: Theresa Corless

STAFF REPORT

October 1, 1991

*support
Judge's
determination*

Jurisdiction: Queenstown

Subject: Proposed Refinements to Critical Area Ordinance

Discussion:

The Town of Queenstown, in Queen Anne's County, has submitted changes to its Critical Area regulations. Several of the changes are made to correct typographical errors and page numbers.

Judge North has determined these changes to be refinements to the Town's Critical Area Program. Other changes are outlined below.

1. Page 1.1: Specify that the Town Center zone includes LDA and IDA; specify that the Critical Area designations and regulations operate as overlays to the Town's Zoning map and ordinance.
2. Page 3.2: Incorporate the definition of Buffer into Tidewater Buffer.
3. Page 3.16: Add forestry, fisheries activities, or aquaculture as examples of activities which define the RCA; eliminate surface mining as an activity which defines the RCA.
4. Page 7.12A: Specify that Habitat Protection Area regulations apply to development activities in the IDA.

Staff Contact: Ren Serey

Information only

**STAFF REPORT
HARFORD COUNTY'S RIVERSIDE SOUTH 40
RESIDENTIAL GROWTH ALLOCATION**

DATE: October 2, 1991

PROJECT: Riverside South 40 Residential 1991 Critical Area
Growth Allocation Request

COUNTY: Harford County

LOCATION: The site is located South of U.S. Route 40, North of the Bush River, West of the Church Creek River and East of existing Bata Shoe Factory and Warehouse.

DESCRIPTION:

The site contains 111 acres of land. The change in Land Use Management Area designation from Resource Conservation Area (RCA) to Intensely Development Area (IDA) is for 23 acres of the 111 acre tract. The type of development proposed is a mixture of both single family attached and multifamily dwelling units. There will be a total of 300 units proposed with 294 units as condominiums and 298 units as townhouses.

HISTORY OF ENTIRE SITE:

Harford County has been faced with four (4) growth allocation request. They are: 1) Riverside Business Park (31.8 acres), 2) Riverside Phase II Residential (26 acres), 3) Riverside South 40 Residential (23 acres) and 4) Otter Creek Landing (19.5 acres).

In the 1970's, Harford County granted concept plan approval to a Planned Unit Development for Bata Land Corporation, Inc. When the Critical Area Program came into effect, Harford County agreed to give Bata growth allocation for its planned residential areas. So far, Riverside Business Park and Riverside Phase II Residential have been given growth allocation approval by Harford County and the Critical Area Commission. Riverside South 40 Residential is the last development residential development for Bata Land to receive growth allocation.

Con't, Oct. 2. 1991
Page Two

ISSUES OF FOCUS:

- 1) The condominium and townhouse units consist of cluster development.
- 2) There is a 300 foot buffer from Church Creek.
- 3) There is a need to justify the road disturbance right next to Route 40.
- 4) A look at encroachment of habitat protection areas is needed.
- 5) One (1) acre of forest land will be disturbed and reforested.

PLANNER: Dawnn McCleary

STAFF REPORT

October 1, 1991

Information Item

Jurisdiction: Charles County

Subject: Program Amendments

Commission Action: Information

Discussion:

Charles County has proposed three amendments to its Critical Area Program. A Commission panel will conduct a public hearing on the amendments during October. The Commission vote will take place at the November 6, 1991 meeting.

The proposed amendments are outlined below.

1) The County has updated and expanded its Habitat Protection Plan for Bald Eagles. The Maryland Department of Natural Resources has identified ten additional Bald Eagle sites in the County since the 1989 listing. The County will add these sites to its inventory. In addition, the County has developed specific protection measures for a one-quarter mile area surrounding each site.

2-3) Charles County has specific development requirements for lots in Buffer Exempt Areas and for lots that are less than 200 feet in depth, measured from tidal waters, tidal wetlands and tributary streams. On lots in these areas, impervious surfaces are limited to 25% above existing levels. The maximum impervious coverage is set by amendments to the Critical Area Law.

The County proposes to eliminate the restriction of a 25% increase, and allow the State limits to control. The County maintains that this amendment presents no significant alteration of impervious surface limits. The County's reasoning is that local policy currently allows a lot owner to obtain a succession of 25% increases to the State-imposed limits.

Staff Contact: Ren Serey

Approved w/ condition
to redesign to bring
into compliance

PROPOSED STATE AGENCY PROJECT

Unanimously
Carried

PROJECT: To develop a 2-acre parcel of land on the grounds of the Eastern Shore Hospital Center at Cambridge, Dorchester County, and to construct and operate a rehabilitation service facility for the mentally ill.

STATE AGENCY: Department of Health and Mental Hygiene, Baltimore

DEVELOPER/
OPERATOR: Channel Marker Foundation, Inc., Easton, Maryland

DESCRIPTION: The developer is a nonprofit corporation providing rehabilitation services to the mentally ill in Caroline, Dorchester and Talbot Counties. The developer currently operates three facilities in those respective counties. The current proposal seeks to construct a new facility to replace its existing older facility in downtown Cambridge. The Cambridge facility serves the Dorchester County area.

The project requires the conveyance to the developer of a 2-acre piece of the grounds of the Eastern Shore Hospital Center at Cambridge. The land title conveyance will facilitate obtaining private financing for at least 50% of the development. The developer has retained architectural and design services to plan a structure of conventional wood-frame construction for the site. The structure will accommodate daytime activities for program clients. Activity rooms, a kitchen/dining area, office space and activity space are included. Usable interior space will be between 7,000 and 8,000 square feet (estimated). The structure will have the exterior appearance of a single-story residential structure. Site improvements will include paved parking areas. The balance of the site will be landscaped. Currently, the site is maintained as lawn. There are no structures on the site, although there are structures adjacent to it.

This proposed development will be financed partially by the sponsoring Department's (DHMH) Community Bond Program. At this point, DHMH is "qualifying" the proposal for inclusion in its bond package, to be presented to the Maryland General Assembly. (General information on the Community Bond Program is attached.) Therefore, this proposed development activity has been submitted for Commission review according to the regulations at COMAR 14.19.05, State Agency

Actions on State-Owned Lands.

ISSUES: In reviewing this proposal according to COMAR 14.19.05, the development appears to satisfy the applicable regulations, with one exception.

That exception has to do with the allowable amount of impervious surface relative to the parcel. The regulation at COMAR 14.19.05.03(B)(3)(h) limits allowable impervious surface to 15% of the parcel area. On this 2-acre parcel, the impervious limit is 13,068 square feet. As presently proposed, the development indicates 22,756 square feet.

Several design/layout alternatives are available that can reduce the amount of impervious surface and bring it into compliance with the regulation. The developer has indicated willingness to modify the design as necessary.

Additional material is attached.

STAFF: Tom Ventre

*unanimously
Approved
10/2/91*

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.

CRITICAL AREA COMMISSION
STAFF REPORT
October 2, 1991

PROJECT: University of Maryland, Chesapeake Biological Laboratory,
Research Fleet Operations Building

DISCUSSION: The University of Maryland (UM) has a research fleet operations building located at the tip of Solomon's Island, in Calvert County. The building is used for the staging and repair of scientific equipment, maintenance and minor repair of vessels, administration of fleet operations, and the collection and storage of research samples. It is proposed that the existing, outdated building be razed and a new, renovated building be established in the same location. The plans also include an above-ground 3,000 gallon petroleum storage tank to provide fuel to the research vessels.

Notable aspects of the project include:

The site is within an Intensely Developed Area (IDA) that is Buffer-exempt. It is completely impervious (i.e. covered by the existing building, paved parking and roads).

There will not be an increase in impervious area.

Pollutant loadings must be reduced by 10%, however this requirement can not be met onsite.

There are no Habitat Protection Areas that will be affected by the project as documented by the Maryland Forest Park and Wildlife Service.

Calvert County has reviewed the project and has commented that the 10% requirement must be met. (mitigation offsite if necessary).

The project is currently under review by the Maryland Dept. of Environment (MDE) for stormwater management requirements.

Fuel for vessels is currently transported by underground pipe from an adjacent marina to the docking area. The new storage tank will be equipped with a secondary steel containment providing 110% volume capacity to prevent spillage.

STAFF CONTACT: Liz Zucker

STAFF RECOMMENDATION: Approval with the condition that the UM provide a 10% reduction in pollutant loadings offsite within the CBL complex under a stormwater management plan reviewed by MDE, and that the Commission receive these plans to approve prior to construction, and that the location of the tank be located in an acceptable manner.

CRITICAL AREA COMMISSION
STAFF REPORT
October 2, 1991

PROJECT: University of Maryland, Chesapeake Biological Laboratory,
Chemical Storage Building

DISCUSSION: The University of Maryland (UM) is proposing to construct a new chemical storage building at the Chesapeake Biological Laboratory (CBL) research complex on Solomon's Island in Calvert County. The facility will be 45 by 40 feet (1800 square feet) in area. Approximately 1375 square feet of an existing paved parking area and a small 15 by 20 foot shed will be removed to establish the building. The facility will provide centralized storage of chemicals which are currently kept in various locations throughout the laboratory research complex.

Notable aspects of the project include:

The site is within an Intensely Developed Area (IDA). It is located over 500 feet from the nearest waterbody.

Three or four small trees may have to be removed to construct the building.

There are no Habitat Protection Areas that will be affected by the project as documented by the Maryland Forest, Park and Wildlife Service.

The storage building will have a spill recovery system, improved ventilation and greater security.

Stormwater management requirements are under review by the Maryland Dept. of the Environment (MDE).

STAFF CONTACT: Liz Zucker

STAFF RECOMMENDATION: Approval with the conditions that the UM provides 10% pollutant reduction from the CBL site under a stormwater plan reviewed by MDE and that all trees removed are replaced within the Critical Area of the CBL complex.

*Unanimously
Approved*

CHEMICAL STORAGE

BUILDING

MALTRY ST.

CHARLES ST.

WILLIAMS ST.

ST.

FARREN AVE.

PATUXENT RIVER

FLEET OPERATIONS BUILDING

- 450 ADMINISTRATION BUILDING
- 451 RESEARCH BUILDING
- 452 NICE HALL
- 453 RY TRUITT LAB
- 456 MAINTENANCE FACILITY
- 457 TEACHING LAB.
- 458 RESEARCH FLEET OPERATION
- 459 CHEMISTRY BUILDING
- 461 WHITE TRAILER
- 463 KOPP HOUSE
- 469 BLUE TRAILER
- 470 YORKER HOUSE
- 473 CHILLER ENCLOSURE
- 474 PUMP HOUSE
- 475 MUD SHACK
- 476 HARTEN HOUSE
- 477 PARISH HOUSE
- 478 PARISH HOUSE GARAGE
- 479 CHEMICAL STORAGE



CHESAPEAKE BIOLOGICAL LABORATORY

UNIVERSITY OF MARYLAND
Center for Environmental and Estuarine Studies

SOLOMONS, MARYLAND

Engineering & Architectural Services
The University of Maryland
March 1988 G.P. 87/1/90

STAFF REPORT

approved
unanimously

Applicant: Department of Natural Resources, Shore Erosion Control Division

Project: Broomes Howard Beach Shoreline Nonstructural Erosion Control Demonstration Project

Recommendation: Approval with Conditions

Discussion:

This nonstructural shoreline erosion control demonstration project is proposed for an area of Historic St. Mary's City. This project will create 475 linear feet of perched beach in front of a rapidly eroding 40 foot high bluff. A low pervious stone sill will be placed 30 feet channelward of mean high water. The area behind the sill will be filled in with clean sand fill to create a perched beach. The beach will be planted with Spartina patens and Spartina alterniflora to stabilize and maintain it.

The only grading work to be done on the bluff will be to pull back an approximately six feet high vertical escarpment on top of the bluff which is experiencing severe eroison. The soil material from the escarpment will be used to build a berm to divert overland surface flow from the bluff face. All areas where grading is to occur have been investigated by archeologists.

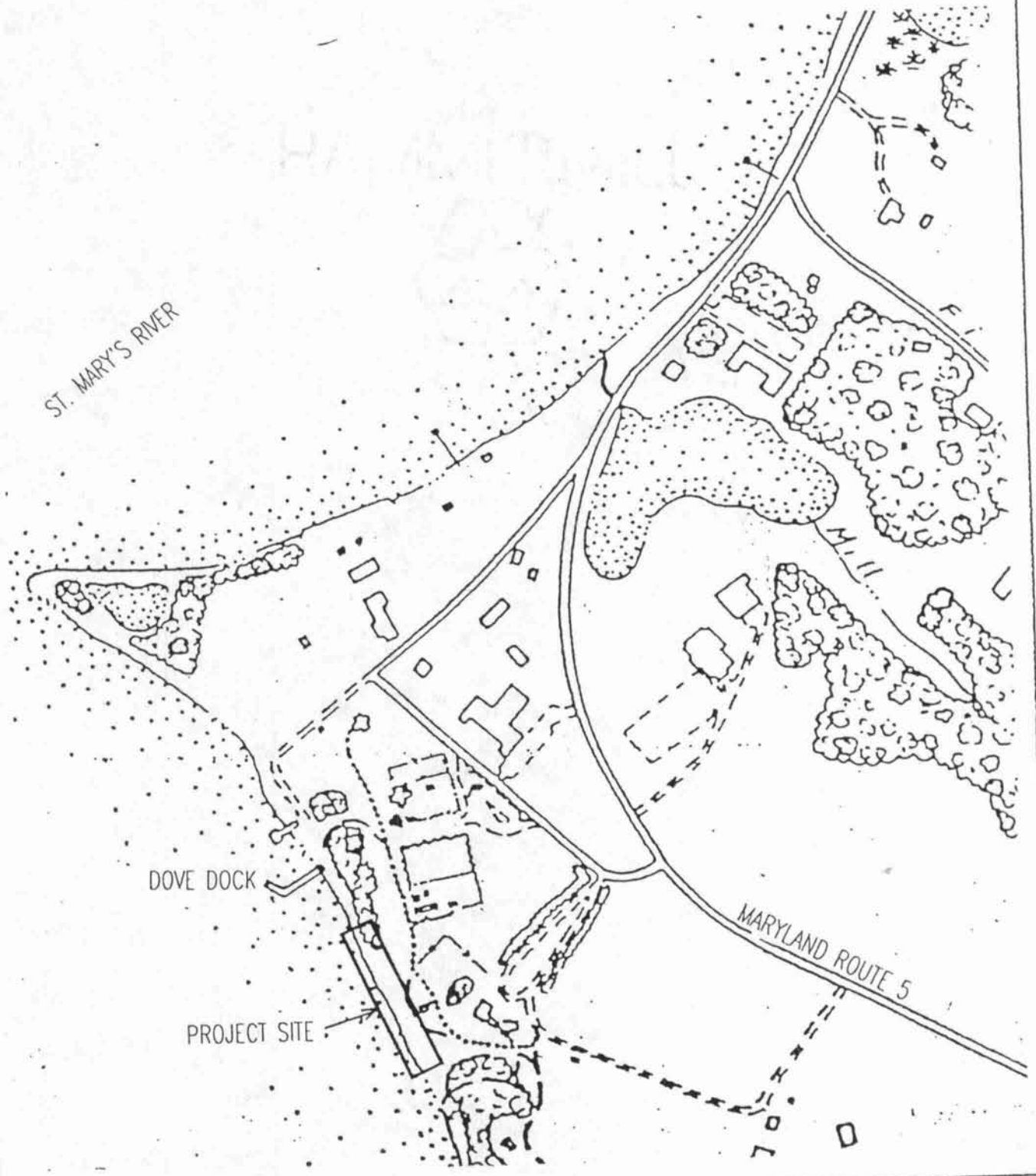
Bare eroding areas on the bluff will be hand raked and are proposed to be seeded with tall fescue and flat pea. Approximately 210 feet of the bluff will be treated with lime and fertilizer to encourage existing vegetation to grow. All trees which are removed will be replanted on a greater than 2:1 basis.

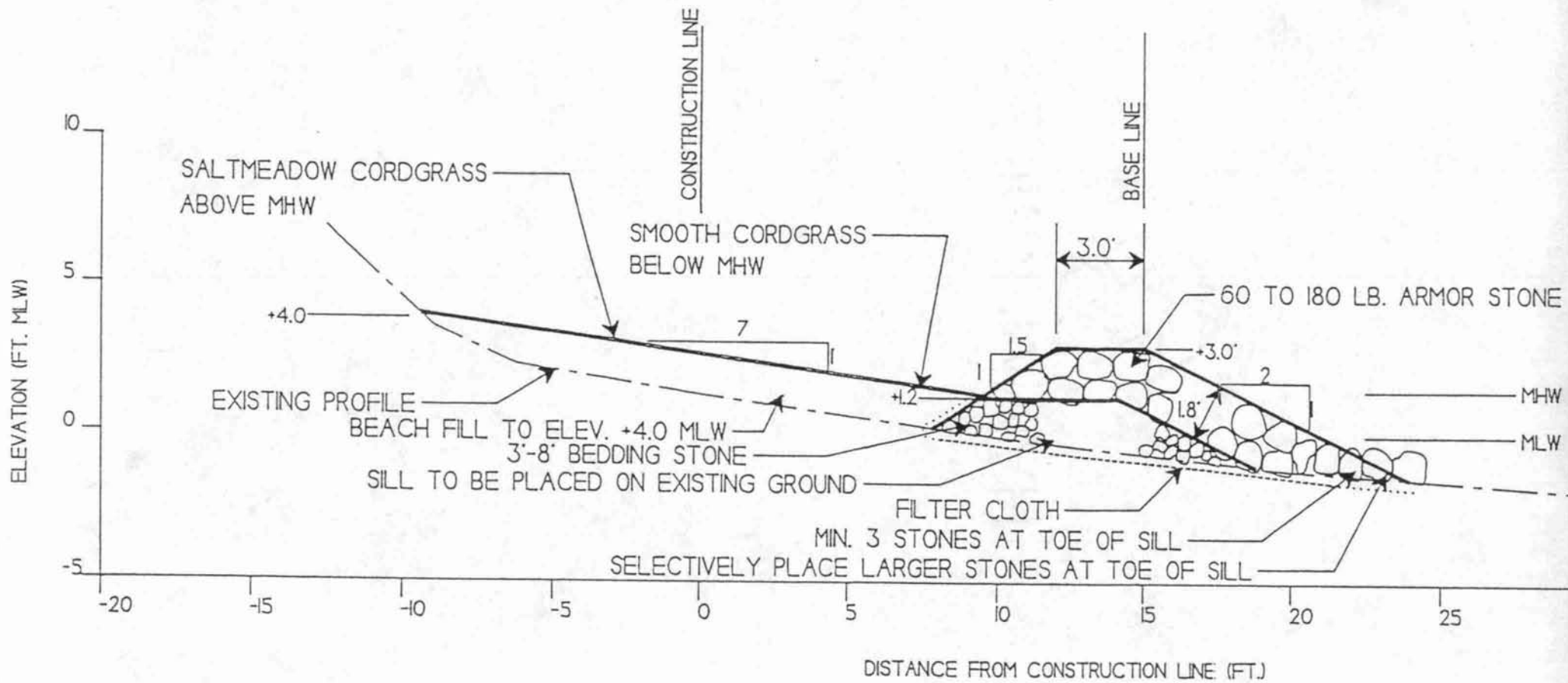
Recommended Conditions:

1. A letter must be received form the Maryland Forest, Park and Wildlife Service regarding Habitat Protection Areas. Any recommendations thay have must be incorporated into the project.
2. A planting plan must be developed with the Bay Watershed Forester and Critical Area Commission staff. The plan must include the replacement of removed trees on at least a 2:1 basis and replacement of any other removed vegetation with appropriate native vegetation.

SITE MAP

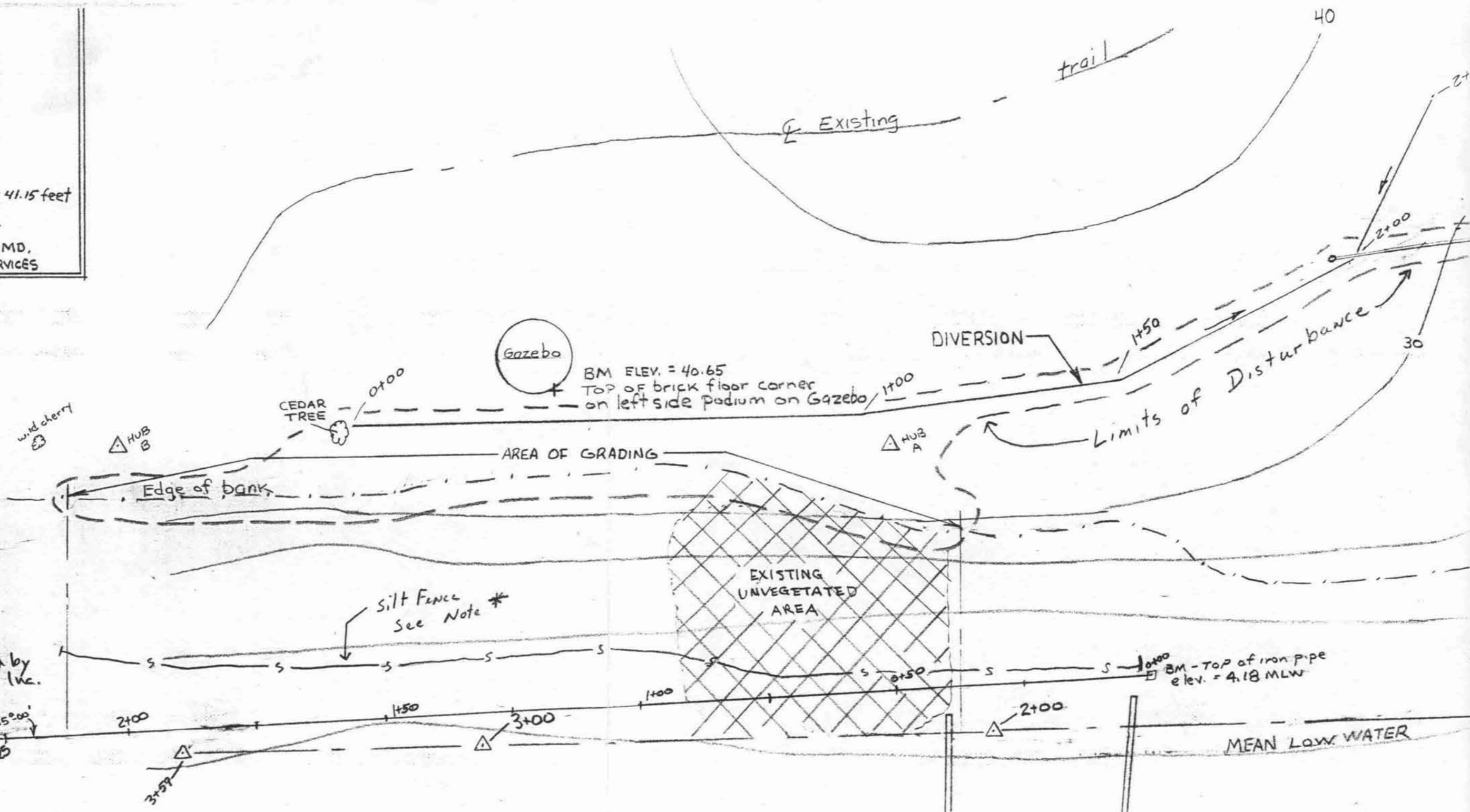
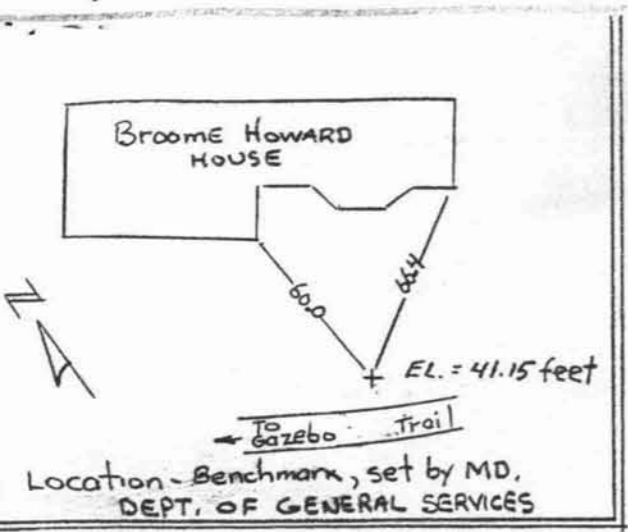
SCALE 1"=440'





TYPICAL PROFILE AND EROSION CONTROL CROSS SECTION 4+25

SCALE 1"=5'



LEGEND

- △ Survey hub
- centerline
- 20 — contour line
- S — SILT FENCE
- Benchmark

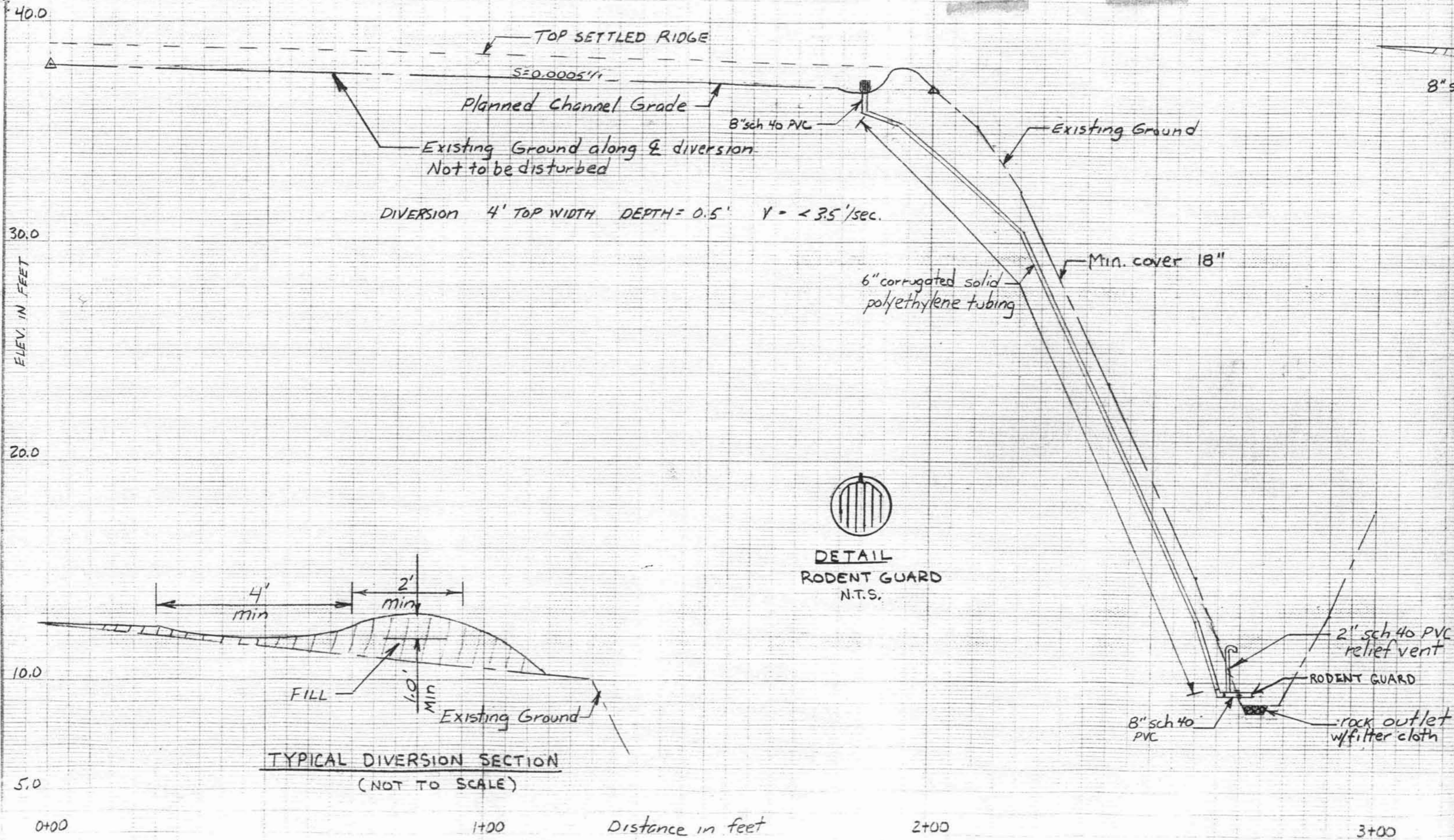
Note * Silt Fence or Straw Bale Dike to be placed 3 to 5 feet above Toe of Slope.

— Limits of Disturbance

— SC — Silt Curtain

40.0

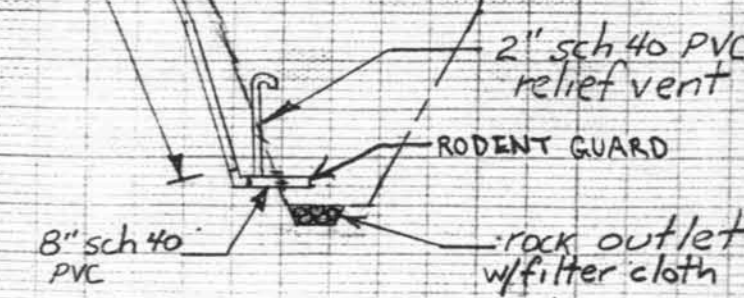
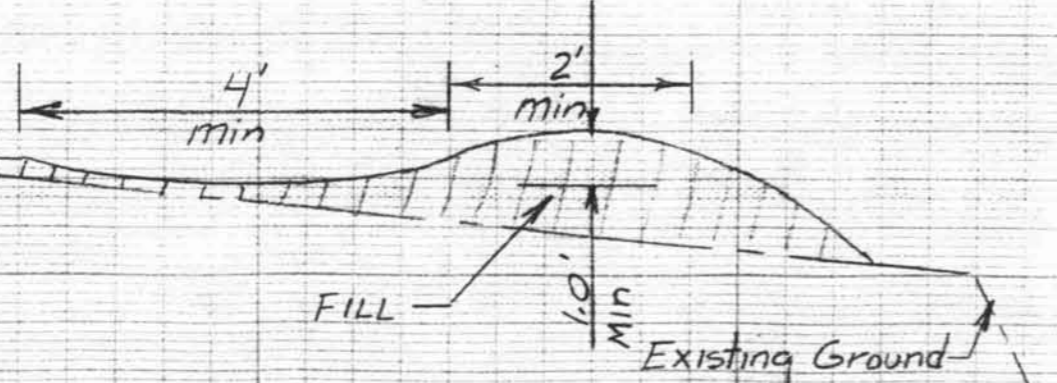
TOP SETTLED RIDGE



DIVERSION 4' TOP WIDTH DEPTH = 0.5' $V < 3.5'/\text{sec.}$



TYPICAL DIVERSION SECTION
(NOT TO SCALE)



*Approved
as suggested by
proposed
motion*

STAFF REPORT

September 26, 1991

**AVENMAR COMMUNITY CENTER
AND RESIDENTIAL PROJECT**

ST. MARY'S COUNTY GROWTH ALLOCATION

Summary

The County proposes to use Growth Allocation to change 16 acres of a 222 acre RCA site to LDA, in order to develop a community center and a residential area. The request concentrates development impacts. The 222 acre site can absorb the LDA impacts while maintaining a functioning RCA.

Recommendation: **APPROVAL**

Information and Discussion

Type of Growth Allocation	RCA to LDA
Growth Allocation requested	16 acres
Total site	492 acres
Acreage in Critical Area	222 acres
Proposed use	Community recreation center; residential
Existing Use	Farm
Location	South of Leonardtown on Breton Bay

St. Mary's County proposes a deduction of 16 acres of Growth Allocation for development of a community recreation center and for a three-acre residential area. Both areas proposed for deduction are within the RCA residential section of the Avenmar project. The 222 acres in the RCA will be developed, generally, on lots ranging from five to nine acres. Conservation easements cover approximately 175 acres of the RCA.

Avenmar Community Center
and Residential Project
September 26, 1991
Page Two

Two distinct Growth Allocations are proposed, although the areas are connected by a right-of-way. The community recreation center will occupy 13 acres. It will include a building to be used for meetings, a riding stable, tennis courts, parking lot and fishing pier. The residential area will be developed with two or three dwellings.

The staff recommends approval of the proposals for the following reasons: 1) the 222-acre site is of sufficient size to accommodate the LDA sections without adverse impacts to the functioning of the RCA; 2) the community center project is concentrated within the Growth Allocation area, yet the deduction of a larger area protects the immediately-adjacent RCA; 3) the LDA residential area is adjacent to the RCA residential development, thereby concentrating development impacts.

Staff: Ren Serey

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
278/121
ZONED: RPD

SEE NOTE 7

SEE NOTE 6

SEE NOTE 7

N/F
E. G. BRUFF
ZONED: RPD

AVENMAR
ON THREE

AVENMAR
SECTION TWO

AVENMAR
SECTION ONE

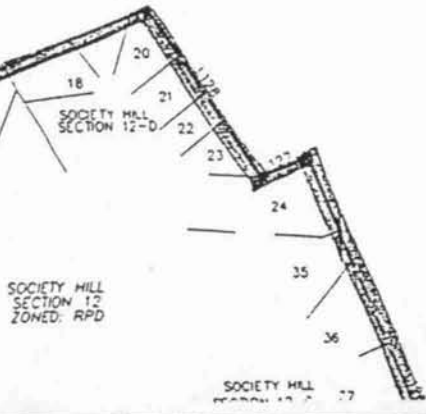
BRETMAR
COURT
45' R.O.W.

16' R.O.W.

AVENMAR DRIVE

AVENMAR COURT
45' R.O.W.

BRETMAR DRIVE
50' R.O.W.

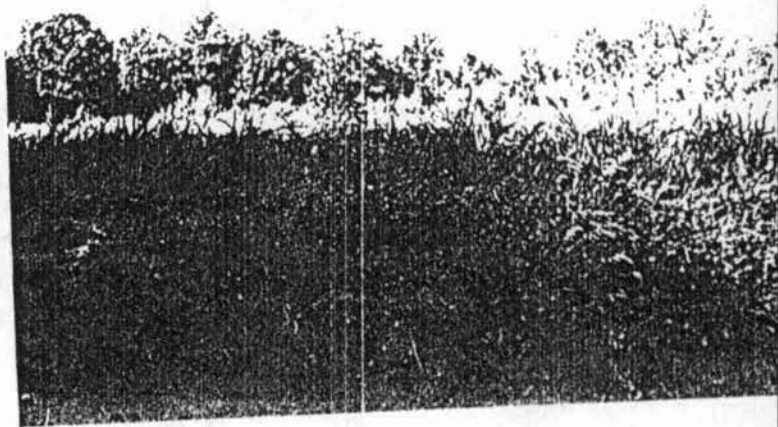
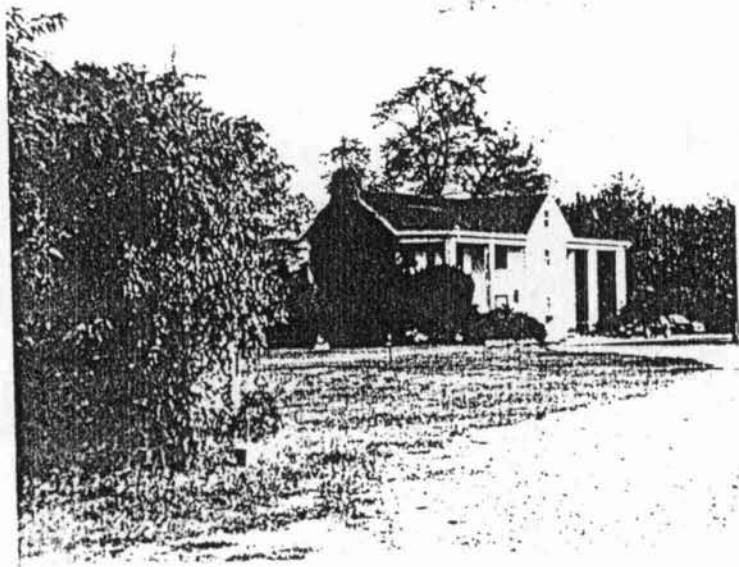


N/F
L. CUSIC
133/296
ZONED: RPD

N/F



AVENMAR



*Motion made
2 opposed
18 in favor*

STAFF REPORT

September 26, 1991

CALVERT INDUSTRIAL PARK
and
CHESAPEAKE ESTATES

ST. MARY'S COUNTY GROWTH ALLOCATION

Summary

The County proposes to convert 9.25 acres of a 24.6 acre LDA parcel to IDA. The 9.25 acres of proposed growth allocation encompasses the area where the development impact will occur. The remaining portion of the property will be protected by easements and remain as LDA. The County Critical Area Ordinance requires that major projects which fall into the Design Competition category set aside 20 acres that will be restricted from development. This project has a set aside of only 14.96 acres.

Recommendation

DENIAL. The staff bases its recommendation of denial on the requirement of the County Program to set aside 20 acres under easement for projects under the Growth Allocation Design Competition.

Information and Discussion

Type of Growth Allocation	LDA to IDA
Growth Allocation requested	9.25 acres
Total site	28.4 acres
Acreage in Critical Area	24.6 acres
Proposed use	Light industrial - 4 acres Residential - 3.73 acres
Existing Use	Light industrial - 1.52 acres
Location	Route 5 next to Leonardtown

Calvert Industrial Park
and Chesapeake Estates
September 26, 1991
Page Two

The majority of the undeveloped portion of the site is forested as well as containing steep slopes. The area proposed for growth allocation is adjacent to MD Route 5. There is an existing apartment complex (3.08 acres) between the area proposed for growth allocation (9.25 acres) and the area that would be restricted from future development (14.96 acres).

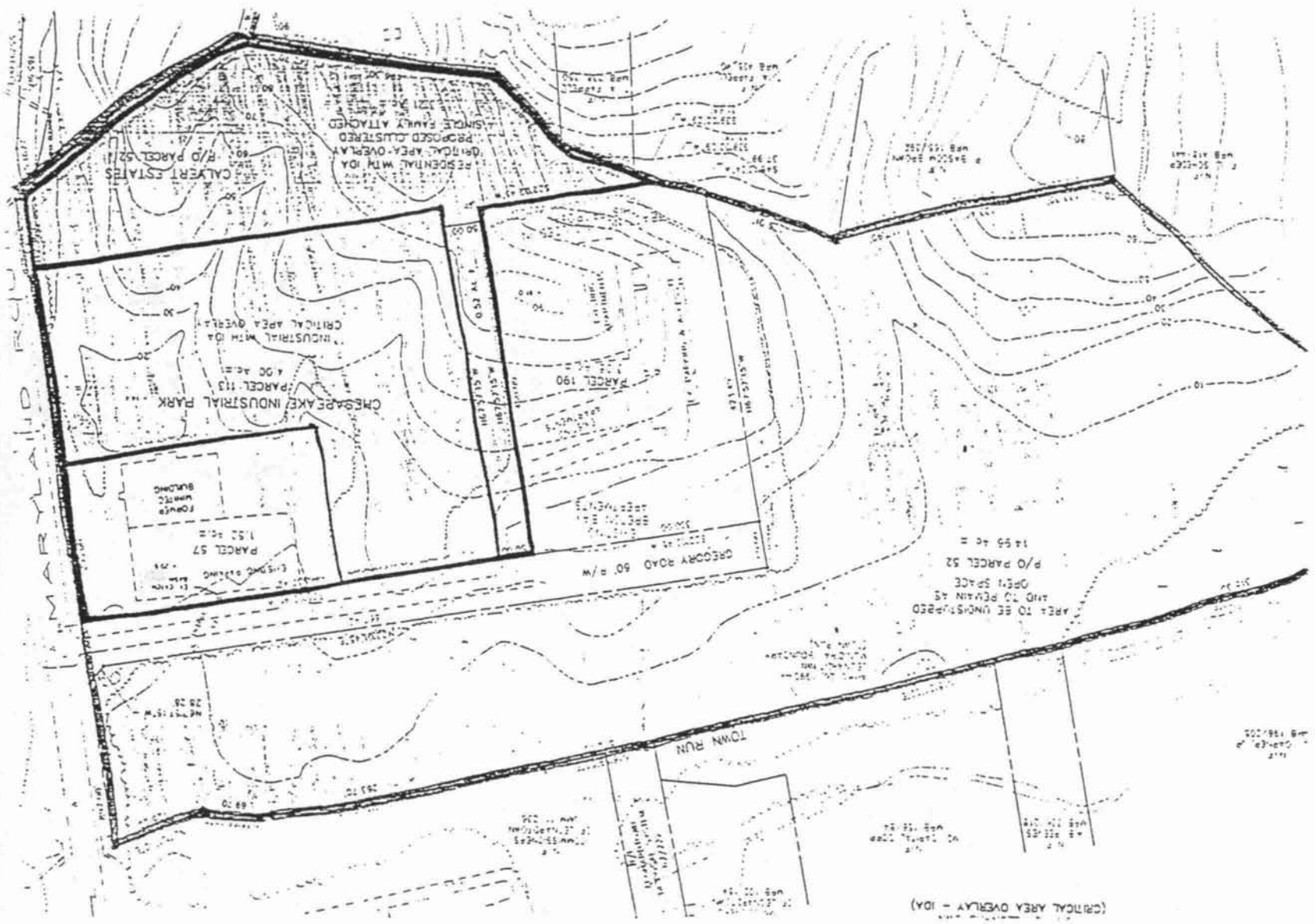
This project was considered to be a major project by the County and therefore fell into the Design Competition category. Under this process new areas of LDA or IDA shall include the entire parcel for growth allocation or a development envelope concept may be used provided a minimum 20 acres of the parcel are restricted from future subdivision and/or development by covenants or easements.

This project has not met this condition of the County Ordinance and the County appears to have waived it.

If the entire parcel were forced to become IDA, minimal protection would exist for steep slopes and forest. The growth allocation, as the County has proposed it, is the most protective from a water quality and habitat protection standpoint. However, the staff must recommend denial due to the County requirement that has not been met to set aside 20 acres for growth allocations associated with major projects.

Staff contact

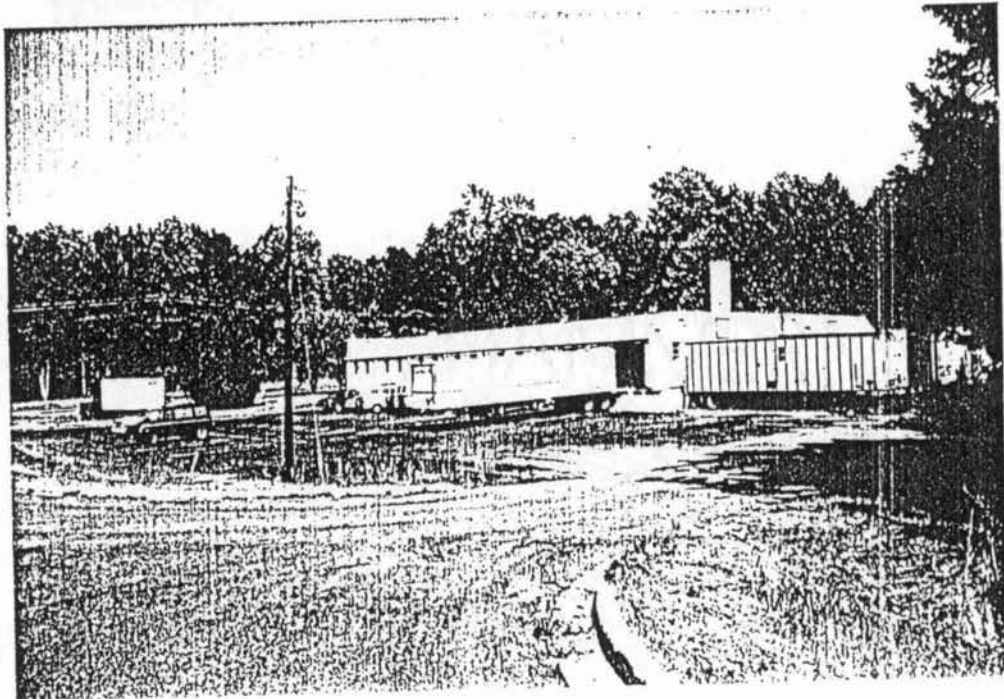
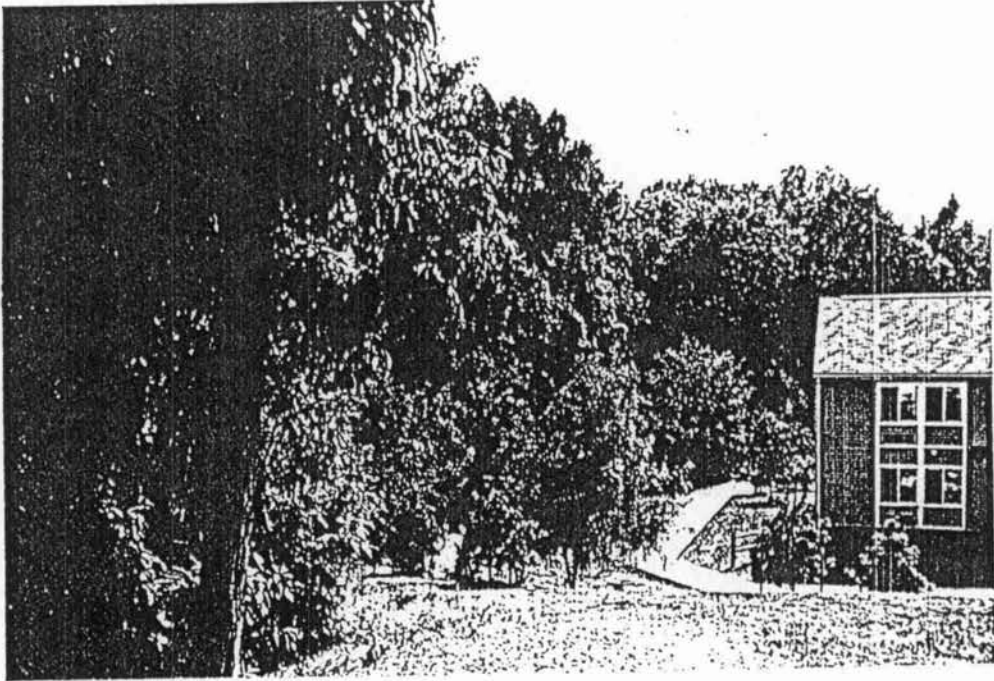
Claudia Jones



(CRITICAL AREA OVERLAY - IDA)

AREA TO BE UNDISTURBED
AND TO REMAIN AS
OPEN SPACE
P/O PARCEL 52
14.55 AC. =

112
100-181-200
100-181-200



CALVERT ESTATES †
CHESAPEAKE INDUSTRIAL PARK

STAFF REPORT

September 26, 1991

*Motion
to deny.
3 mos
20 in favor*

BASHFORD CREEK ESTATES

ST. MARY'S COUNTY GROWTH ALLOCATION

Summary

St. Mary's County is proposing to convert from RCA to LDA 13.83 acres out of 22.93 acres of proposed lots. The development pads proposed for deduction are portions of individual lots. Deed restrictions would exist on the lots outside of the development pads as well as on an additional area of the property. The total lot area, 22.93 acres, should be deducted because it represents the area of RCA altered by the introduction of nine dwellings.

Recommendation

DENIAL

Information and Discussion

Type of Growth Allocation	RCA to LDA
Number of proposed lots	9
Acreage of proposed lots	22.93 acres
Growth Allocation requested	13.83 ● acres
Total site	65.43 acres
Acreage in Critical Area	64.07 acres
Proposed use	Residential
Existing Use	Fields, Christmas tree farm
Location	Route 238 near Chaptico

The Bashford Creek property is a 65.43 acre parcel, 64.07 acres of which are in the Critical Area. Nine lots are proposed for a total

of 22.93 acres. The requested growth allocation for these lots is 13.83 acres. The area of each lot is listed below.

Lot 1 - 4.59 acres		
Growth allocation	1.94	acres
Restricted area	2.65	acres
Lot 2 - 3.13 acres		
Growth allocation	1.65	acres
Restricted area	1.70	acres
Lot 3 - 3.13 acres		
Growth allocation	1.38	acres
Restricted area	1.74	acres
Lot 4 - 3.45 acres		
Growth allocation	2.34	acres
Restricted area	1.11	acres
Lot 5 - 1.93 acres		
Growth allocation	1.93	acres
Restricted area	-	
Lot 6 - 1.63 acres		
Growth allocation	1.63	acres
Restricted area	-	
Lot 7 - 1.60 acres		
Growth allocation	1.09	acres
Restricted area	.51	acres
Lot 8 - 1.61 acres		
Growth allocation	1.15	acres
Restricted area	0.46	acres
Lot 9 - 1.81 acres		
Growth allocation	0.78	acres
Restricted area	1.03	acres

The County has said that 20 acres of the parcel will be set aside with deed restrictions as required by the County Ordinance in the Design Competition for major development projects. The staff believes that although the above standard has been met, the total

area of lots to be developed should be the area deducted for the following reasons.

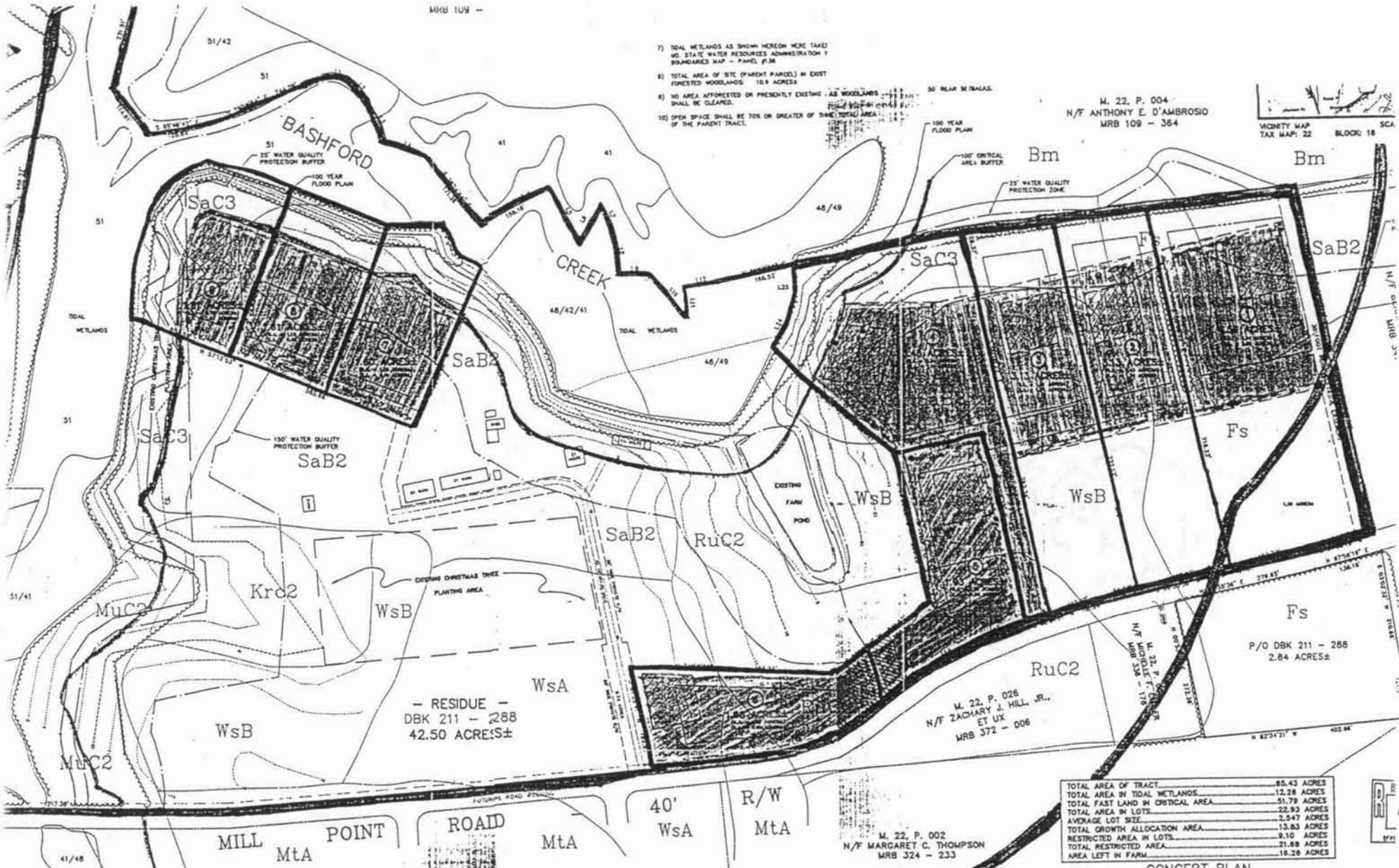
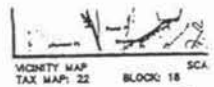
- The division of the property as proposed will create segmented sections of the RCA.
- These small sections of RCA will no longer function as RCA due to development on the property and associated human activities and the surrounding residential land use.
- Although the lots are somewhat clustered providing some water quality and habitat benefits, it is the total area of the residential cluster that should be deducted because of the impacts will be distributed over the larger area.
- Development restrictions are proposed on individual lots. Although deed restrictions are necessary and required by the County for the 20-acre set aside discussed above, these restrictions are inappropriate and insufficient on individual lots. No matter what restrictions are placed on these lots, they will still not function as RCA as defined by this Commission.

Staff contact: Claudia Jones

MRB 109 -

- 7) TOTAL WETLANDS AS SHOWN HEREON WERE TAKEN BY STATE WATER RESOURCES ADMINISTRATION FROM INDETERMINATE MAP - PARCEL # 38
- 8) TOTAL AREA OF SITE (PARENT PARCEL) IN EXIST FORESTED WOODLANDS 18.8 ACRES
- 9) NO AREA AFFORRESTED OR PRESENTLY EXISTING AS WOODLANDS SHALL BE CLEARED.
- 10) OPEN SPACE SHALL BE 70% OR GREATER OF THE TOTAL AREA OF THE PARENT TRACT.

M. 22, P. 004
 N/F ANTHONY E. D'AMBROSIO
 MRB 109 - 364

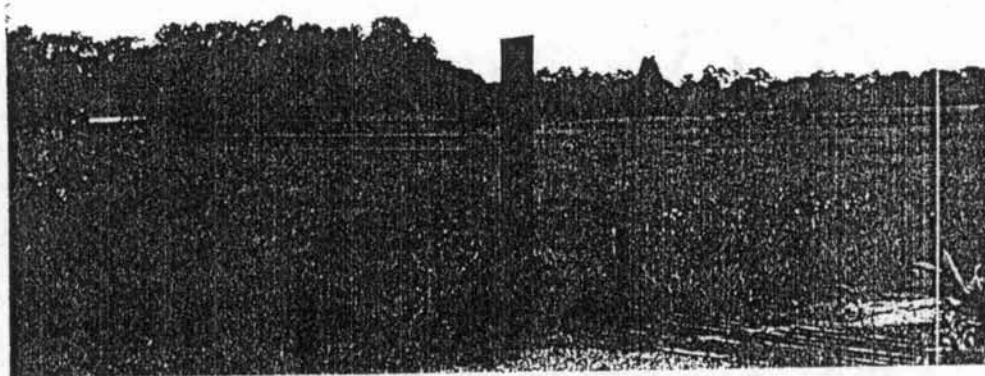
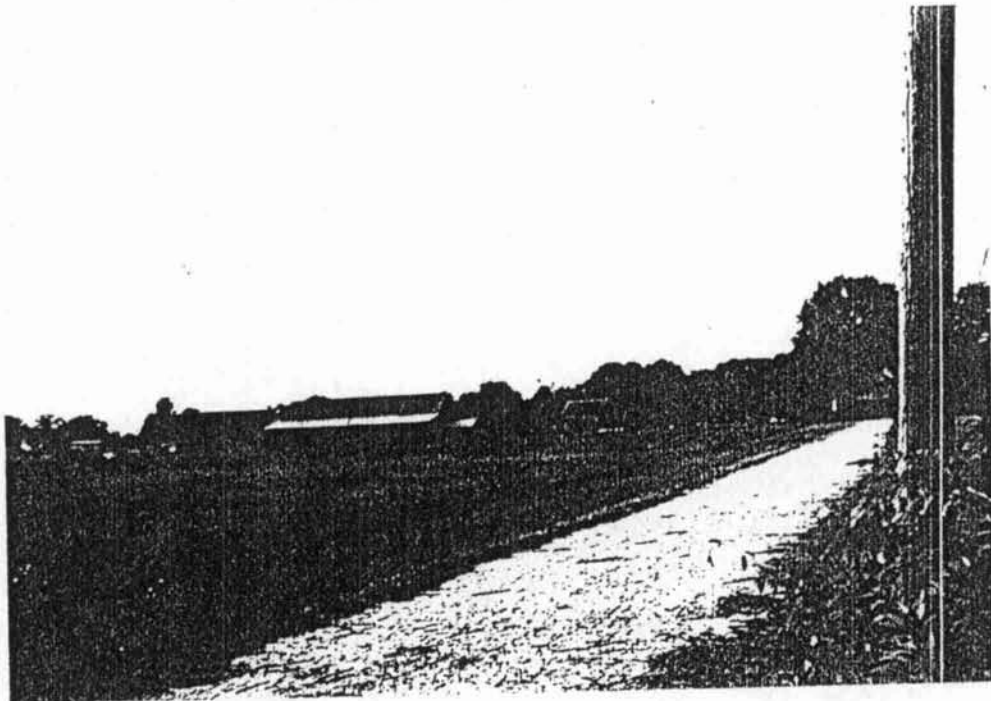


TOTAL AREA OF TRACT	85.43 ACRES
TOTAL AREA IN TIDAL WETLANDS	12.28 ACRES
TOTAL FAST LAND IN CRITICAL AREA	51.79 ACRES
TOTAL AREA IN LOTS	22.93 ACRES
AVERAGE LOT SIZE	2.547 ACRES
TOTAL GROWTH ALLOCATION AREA	13.83 ACRES
RESTRICTED AREA IN LOTS	9.10 ACRES
TOTAL RESTRICTED AREA	21.88 ACRES
AREA LEFT IN FARM	18.28 ACRES

CONCEPT PLAN
'BASHFORD CREEK ESTATES'
 4TH ELECTION DISTRICT
 ST. MARY'S COUNTY, MARYLAND



Fig. 111



BASHFORD
ESTATES

STAFF REPORT

September 26, 1991

*Motion to deny
4 opposed to
Motion
16 in favor*

EPPARD PROPERTY

ST. MARY'S COUNTY GROWTH ALLOCATION

Summary

St. Mary's County proposes to designate as LDA six acres of a 14-acre site, leaving eight acres remaining as RCA. The 14-acre original parcel is not large enough to absorb four residential lots of LDA, while retaining its RCA character. Deed restrictions prohibiting development are proposed for the remaining eight acres. However, development of six acres alters the RCA characteristics of this parcel, regardless of deed restrictions. Therefore, the entire 14 acres should be deducted. This deduction will create a new growth area which will help concentrate future development, a central goal of the Critical Area Law and Criteria.

Recommendation: **DENIAL**

Information and Discussion

Type of Growth Allocation	RCA to LDA
Growth Allocation requested	6 acres
Total site	14 acres
Acreage in Critical Area	14 acres
Proposed use	Residential
Existing Use	Undeveloped wooded
Location	Route 243, near Compton

St. Mary's County proposes a Growth Allocation deduction of six acres, for four residential lots, on a 14 acre undeveloped, wooded parcel. The parcel is not waterfront. Growth Allocation is requested to change the Critical Area designation on six acres from

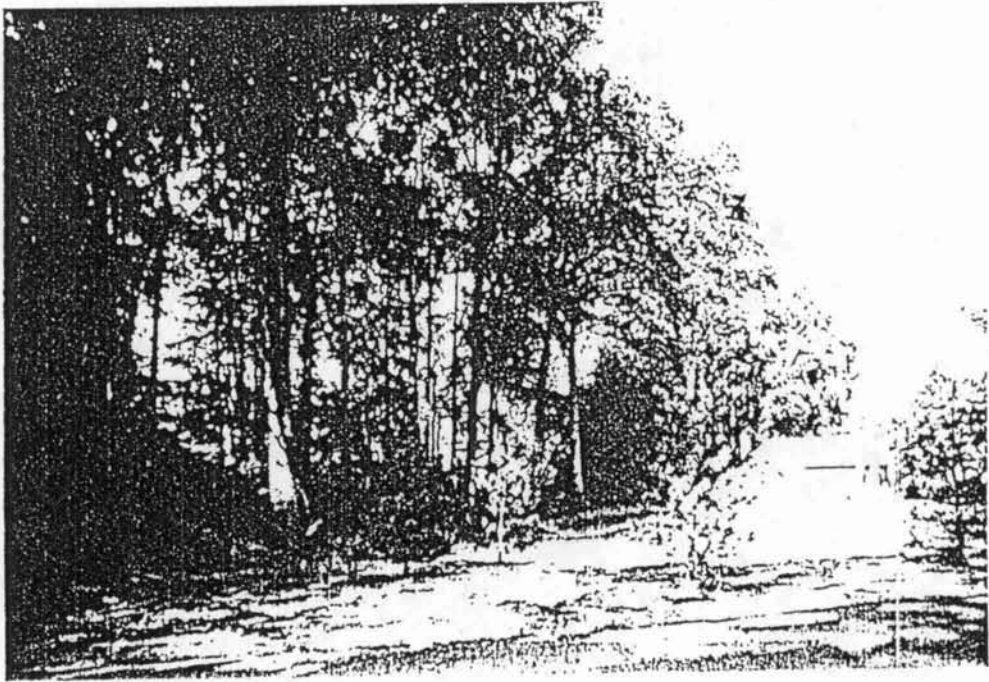
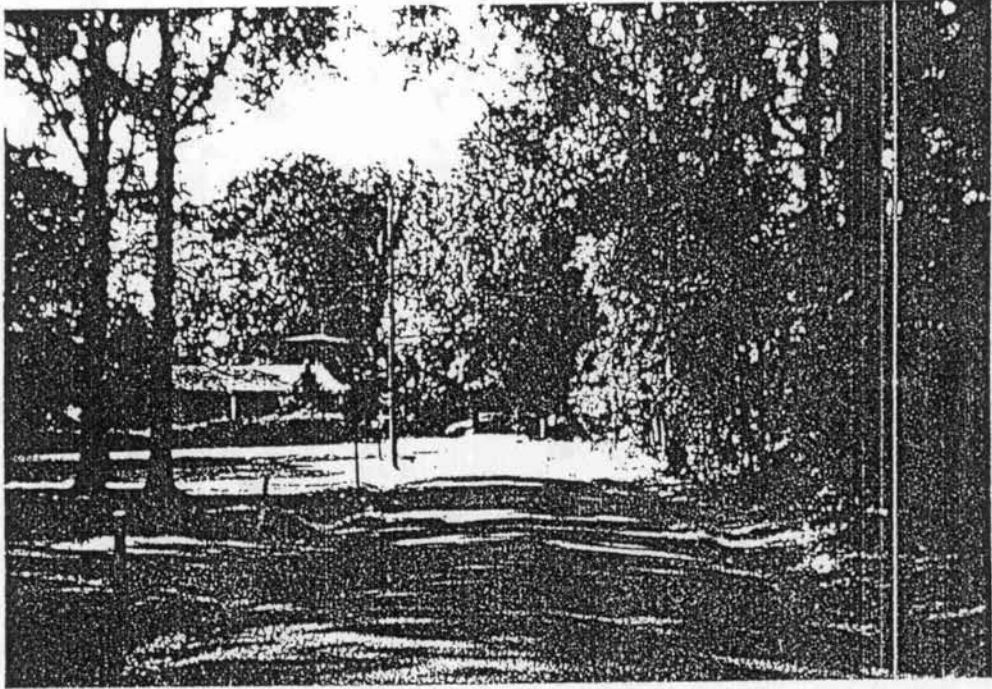
Eppard Property
September 26, 1991
Page Two

RCA to LDA. The main parcel is located adjacent to an existing LDA.

The parcel was originally designated RCA because it was "characterized by nature-dominated environments," as defined in the Criteria. Although the parcel is adjacent to LDA, it functions as RCA. The RCA functions cannot continue following the introduction of four dwellings on a 14 acre site. The clearing necessary for construction of the dwellings, the impervious areas, noise and human activities associated with development, will permanently alter the existing RCA character of the parcel. The parcel is too small to absorb the proposed uses without surrendering its RCA character.

The County proposes to protect the eight remaining acres of RCA with recorded deed restrictions, enforced by the County through its Zoning Ordinance. In certain instances, the staff supports this method of RCA protection. For example, on a larger parcel, greater than 20 acres, deed restrictions or covenants can ensure the continued functions of the RCA if new development is concentrated. In the current proposal, however, the base RCA on the Eppard property will be adversely affected by the introduction of six acres of LDA. The remaining eight acres are not of sufficient size to maintain water quality and wildlife habitat at the RCA level, as defined by this Commission in the Criteria. Therefore, the entire 14 acres should be deducted, creating an area for concentrated future development.

Staff: Ren Serey



EPPARD

STAFF REPORT

September 26, 1991

*Motion
to deny
3 opposed
18 in favor*

LORE'S LANDING

ST. MARY'S COUNTY GROWTH ALLOCATION

Summary

The County proposes to convert from RCA to LDA 6 acres out of 11.9 acres within the Critical Area. The proposed subdivision would divide the property such that two small RCA sections would remain. These two RCA sections would not retain an RCA character as determined by the Commission and the Criteria. Therefore, the entire 11.9 acres should be deducted.

Recommendation: DENIAL

Information and Discussion

Type of Growth Allocation	RCA to LDA
Number of proposed lots	4
Acreage of proposed lots	6 acres
Growth Allocation requested	6 acres
Total site	15.9 acres
Acreage in Critical Area	11.9 acres
Proposed use	Residential
Existing Use	Open fields
Location	Off Route 5 on Jutland Creek

The Lore's Landing property is a 15.9 acre parcel, 11.9 acres of which are located in the Critical Area. Four 1.5 acre lots are proposed for growth allocation with two separate parcels on each end remaining as RCA. One of these will be only 1.3 acres in size, the other 5.42 acres.

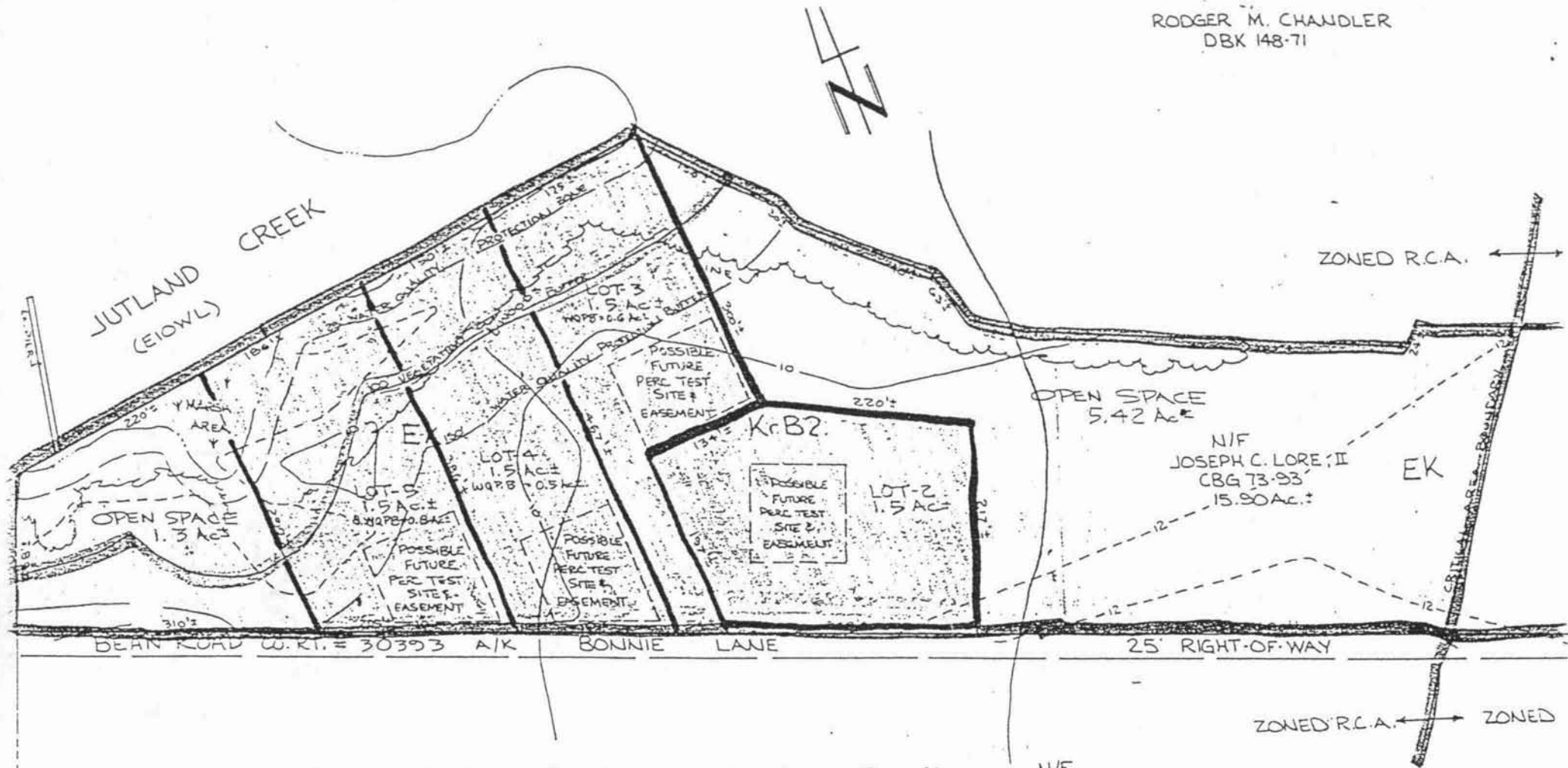
Lore's Landing
September 26, 1991
Page Two

The property is primarily fields with a forested buffer along most of the waterfront. There is an existing pier off of the proposed 1.3 acre RCA parcel.

The property is adjacent to an operating commercial marina, a residential subdivision is across the street. The way this growth allocation is proposed, two small RCA parcels will be created. Although they would be protected from development by deed restrictions, they would not be functioning as RCA. The entire 11.9 acres should be deducted from the County's growth allocation.

Staff contact: Claudia Jones

RODGER M. CHANDLER
DBK 148-71

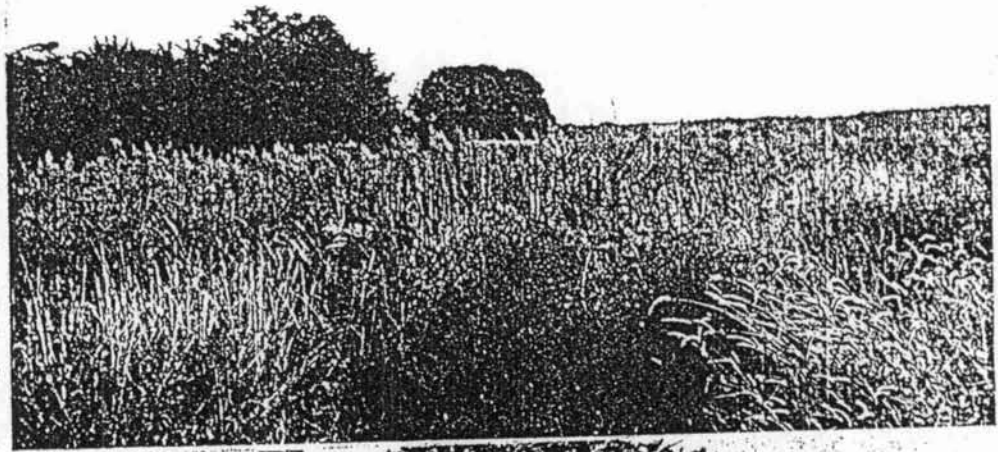
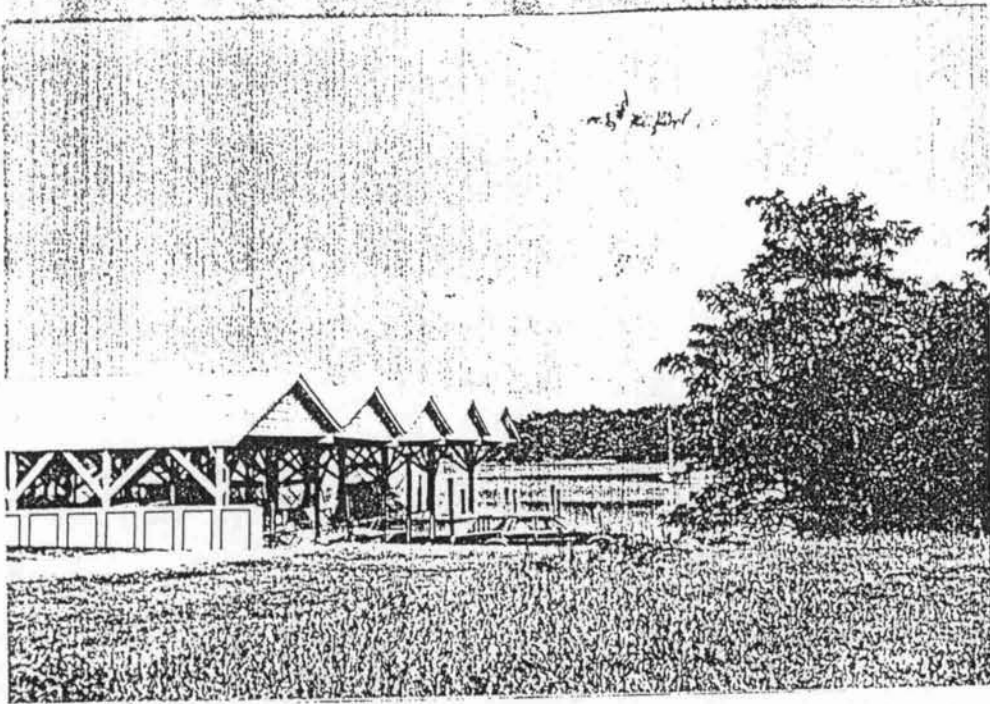


N/F
CORINTHIAN YACHT
CLUB
DBK 144-97

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.



LORE'S
LANDING

STAFF REPORT

September 26, 1991

*Motion
to deny
2 opposed
21 in favor*

MAYDEL MANOR

ST. MARY'S COUNTY GROWTH ALLOCATION

Summary

St. Mary's County requests Growth Allocation to change six acres of a 246 acre parcel from RCA to LDA. The proposed amendment would designate as LDA four development pads, which are portions of individual lots. These pads are not contiguous to each other; each represents a separate intrusion into the RCA. Deed restrictions can prevent development on areas not deducted; however, deed restrictions cannot maintain the functioning of the RCA on narrow strips between LDAs. Therefore, the entirety of the residential lots, 24.6 acres, should be deducted.

Recommendation: DENIAL

Information and Discussion

Type of Growth Allocation	RCA to LDA
Growth Allocation requested	6 acres
Total site	99± acres
Acreage in Critical Area	50± acres
Proposed use	Residential
Existing Use	Farm, open fields
Location	Off Route 244, southwest of Leonardtown

St. Mary's County proposes the deduction of six acres of Growth Allocation for the development of four residential lots. The original parcel is a 99 acre farm; 50 acres are in the Critical Area, designated RCA. Portions of the four lots are proposed for LDA.

Each of the four proposed lots is divided into two parcels, labeled A and B. Parcel A of each lot is designated as "open space." Parcel B of each lot is designated as the "building lot." The County proposes to deduct from Growth Allocation only parcel B of each lot. This method would result in a deduction of only six acres out of the 24.5 acres of total lot area. The area of each lot is listed below.

Lot 1

Parcel A, open space	3.7 acres
Parcel B, building lot	1.5 acres

Lot 2

Parcel A, open space	3.6 acres
Parcel B, building lot	1.5 acres

Lot 3

Parcel A, open space	3.5 acres
Parcel B, building lot	1.5 acres

Lot 4

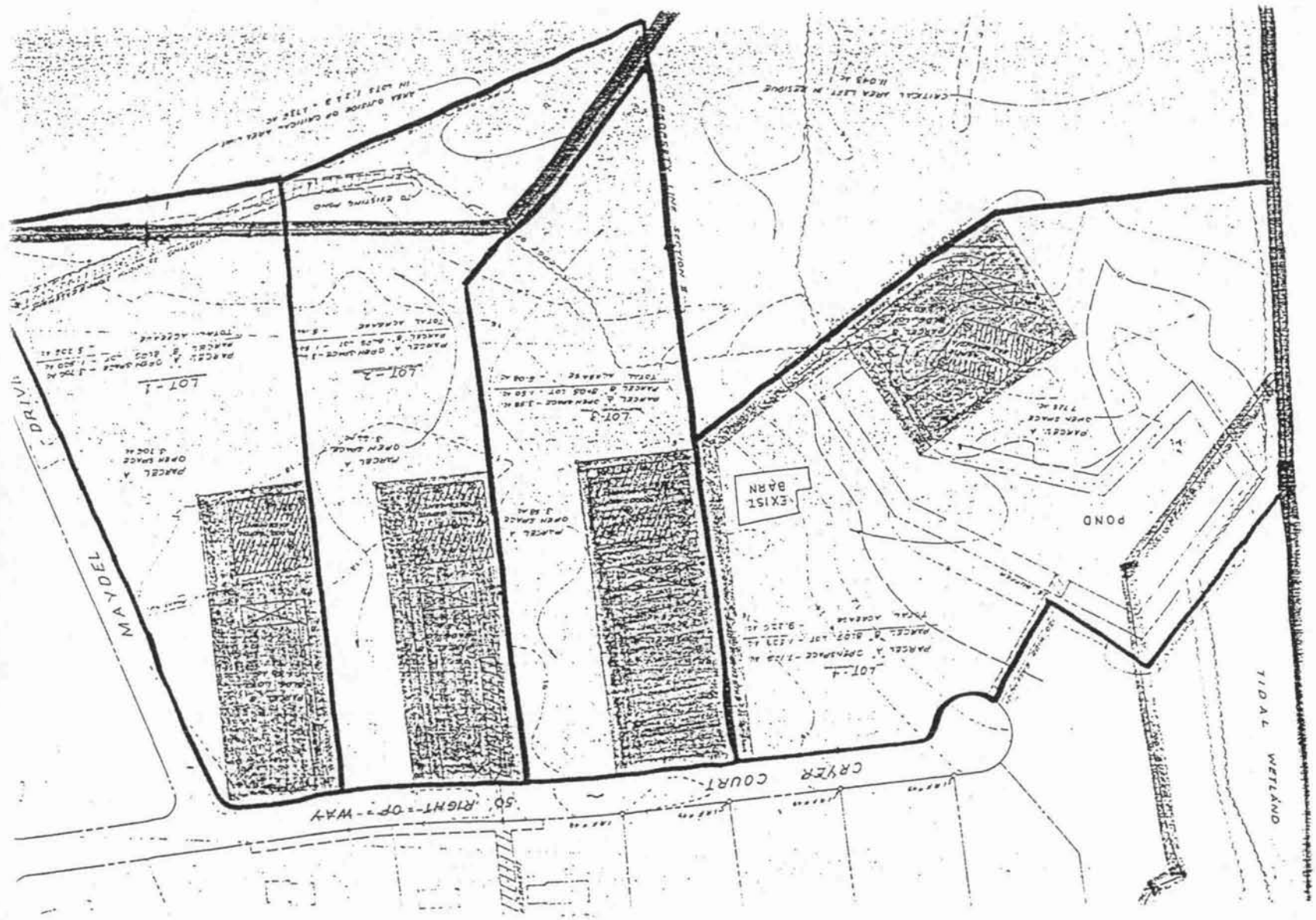
Parcel A, open space	7.7 acres
Parcel B, building lot	1.5 acres

None of the separate B parcels is located contiguous to any of the others, except that the driveway on lot 4 runs along parcel B of lot 3. Each of these Growth Allocation development pads is proposed as a distinct 1.5 acre LDA, surrounded by RCA. The County proposes that deed restrictions, enforced by the County, will prevent development activities in the remaining RCA strips, and thus will guarantee the functioning of the RCA.

Maydel Manor
September 26, 1991
Page Three

Deed restrictions cannot protect the continued functioning of the RCA on this site. Although water quality and wildlife habitat benefits emanate from a variety of land types, the Criteria characterize the RCA as nature-dominated, or for resource-utilization activities. St. Mary's County represents each of the nondeducted A parcels as farmsteads, proposing to satisfy the definition of RCA. What is actually proposed is a residential subdivision. The farmstead parcels are suburban back yards and side yards. The prohibition of development activities may keep these areas open, but will not retain them as RCA. The original RCA, fragmented by development pads, can no longer exist as such; therefore, the County should deduct the entire 24.5 acres comprising the proposed residential lots.

STAFF: Ren Serey



MAYDEL DRIVE

50' RIGHT-OF-WAY

CRYER COURT

TIDAL WETLAND

EXIST BARN

POND

LOT-1

LOT-2

LOT-3

LOT-4

AREA DIVISION OF CRITICAL AREA LEFT IN LOTS 1, 2, 3 - 11/25 AC

CRITICAL AREA LEFT IN RESERVE

PARCEL A OPEN SPACE - 1.700 AC

PARCEL A OPEN SPACE - 1.125 AC

PARCEL B OPEN SPACE - 1.500 AC

PARCEL A OPEN SPACE - 1.125 AC

PARCEL A OPEN SPACE - 1.125 AC

TOTAL ACRES - 5.102 AC

TOTAL ACRES - 5.102 AC

TOTAL ACRES - 5.102 AC

TOTAL ACRES - 5.102 AC

EXISTING POND

EXISTING POND

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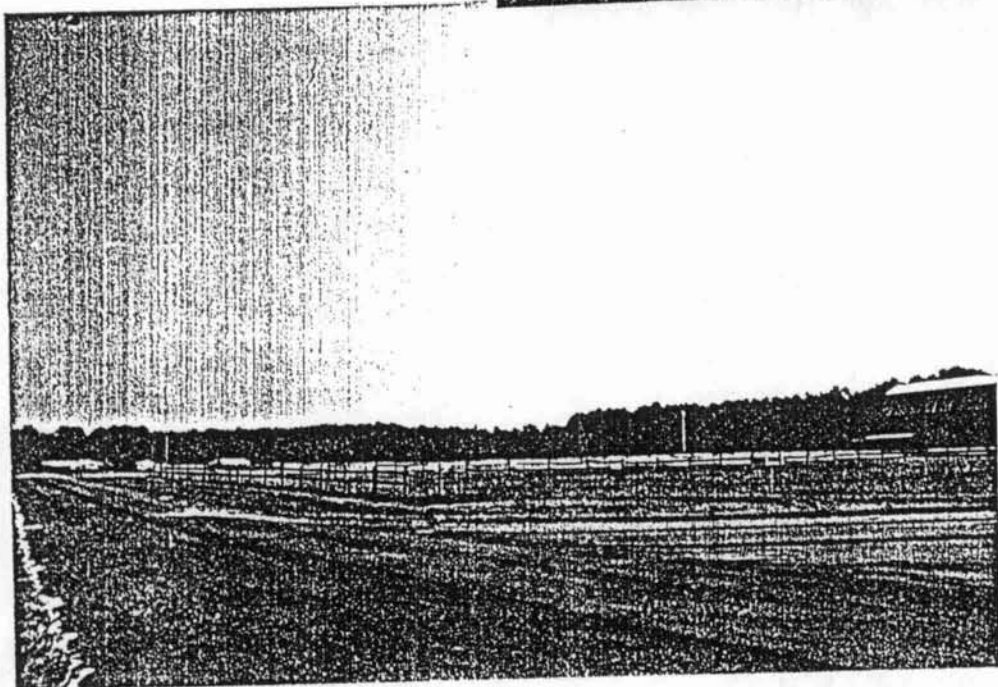
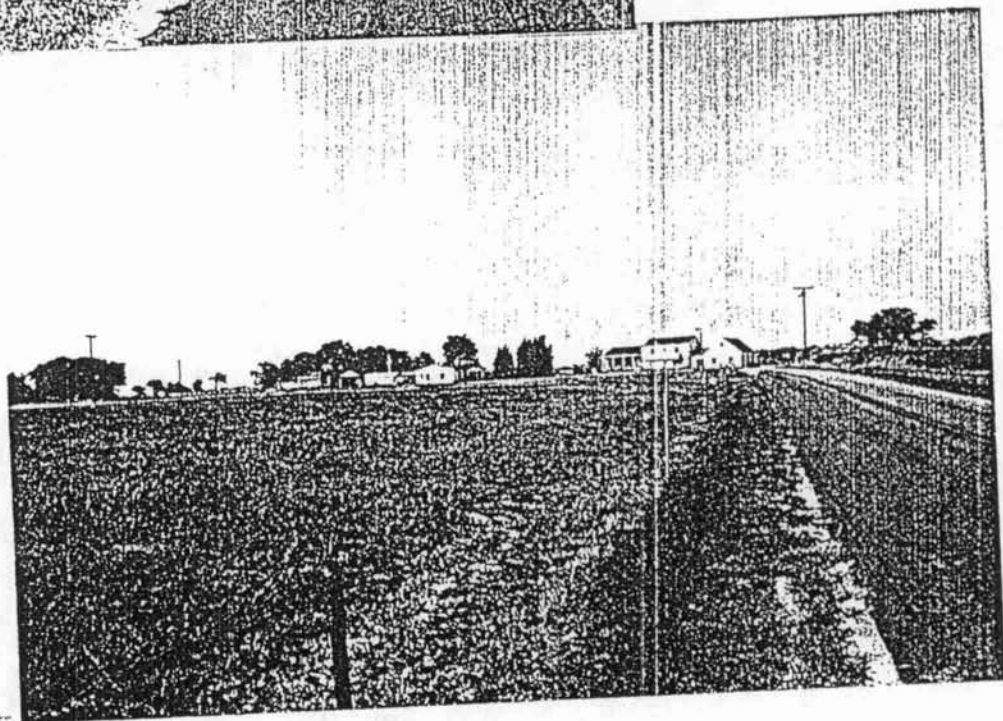
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MAYDEL

A: MONCOMLT. MAM
A: COMME. MAM
MAD

DRAFT
Minutes A: meeting. Its
Approval

Final
J.C.N.

September 23, 1991

^F1^

Dear ^F2^

The October meeting of the Commission is scheduled for the 2nd at 1:00 p.m at the Commission offices, 275 West Street, Annapolis. An Agenda for the meeting as well as the Minutes of September 4th are enclosed for your perusal.

Also enclosed is supportive information for the meeting:
1) the "Submittal Policy for Program Amendments/Refinements";
2) project analyses to date; 3) program amendments to date.

An assessment by the Chesapeake Bay Local Government Advisory Committee of restoration activities being carried out at the local level and a photo of the Commission members are enclosed.

Subcommittee Meetings to be held on October 2nd include:

10:30 - 11:30 Program Amendment
10:30 - 11:30 Special Issues
10:30 - 12:00 Project Evaluation

In order to ensure a quorum attendance, please call Margaret Mickler 301-974-2426 by noon, October 1st if you will be unable attend. I look forward to seeing you at the meeting.

Very truly yours,

John C. North, II
Chairman

JCN, II\mm

Enclosures: cited

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

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



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

EASTERN SHORE OFFICE
31 CREAMERY LANE
EASTON, MARYLAND 21601

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

October 28, 1991

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

Re: Cancellation of Scheduled
Chesapeake Bay Critical Area Commission
Panel hearing

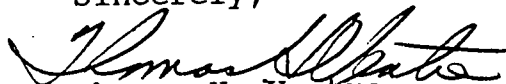
Dear Mr. Dodd:

This letter will confirm our telephone conversation this morning, and the Critical Area Commission-Dorchester Panel's decision to cancel its hearing scheduled for this evening in Cambridge.

The reason for the cancellation is that the panel could not properly consider the matter---the reconsideration of a growth allocation/land reclassification request---at this time, as certain prerequisite administrative and local legislative actions have not yet occurred. The panel's consideration at this time would have been out of sequence. Once those prerequisite actions have occurred, the panel will schedule and advertise a local hearing in Cambridge.

We apologize for our error, and we regret any inconvenience to you and your staff and to the citizens of Dorchester County.

Sincerely,


Thomas H. Ventre