

Committee Meetings & Correspondence November 1991

MSA 5.1832-88

*J. Rodney Little DABD  
(for Ardath - or  
Sacqueline Rogers)*

FINAL AGENDA  
CHESAPEAKE BAY CRITICAL AREA COMMISSION  
November 6, 1991

- |                                     |   |   |  |
|-------------------------------------|---|---|--|
| 1:00 - 1:05 p.m.                    | * | Vote on the Minutes<br>of October 2nd   | John C. North, II,<br>Chairman   |
| <b>AMENDMENTS &amp; REFINEMENTS</b> |   |   |  |
| 1:05 - 1:20 p.m.                    | * | <del>Reconsideration of the<br/>Growth Allocation -<br/>RCA to IDA - Ferry Terminal -<br/>Dorchester County</del> | Bob Schoeplein, Ch.<br>Tom Ventre, Planner   |
| 1:20 - 1:45 p.m.                    | * | Talbot County - Amendments<br>to the Zoning Ordinance<br><i>Talbot refinement - Pat</i>                           | Joseph Elbrich, Ch.<br>Pat Pudelkewicz,<br>Planner                                     |
| 1:45 - 1:55 p.m.                    | * | Charles County - Amendments<br>Habitat Protection Plan<br>Impervious Surface Amendments                           | Michael Whitson, Ch.<br>Ren Serey, Planner   |
| <b>Information Items:</b>           |   |   |  |
| 1:55 - 2:05 p.m.                    |   | 3 Amendments/Refinements<br>Anne Arundel County   | Anne Hairston,<br>Planner  |
| 2:05 - 2:15 p.m.                    |   | St. Mary's County -<br>Amendment Buffer Waiver  | <del>Sam Bowling, Ch.<br/>Ren Serey, Planner</del><br><i>Claudia Jones</i>             |
| <b>PROJECTS</b>                     |   |   |  |
| 2:15 - 2:30 p.m.                    | * | <del>Mosquito Control Projects<br/>Dorchester county</del>  | Liz Zucker, Sc. Adv.<br><del>Stan Joseph, Dept. Agri.<br/>Cy Lesser, Dept. Agri.</del> |
| 2:30 - 2:45 p.m.                    | * | Choptank River State Park<br>Fishing Pier - Dorchester<br>County, Revetment - DNR                                 | Claudia Jones, Plnr.   |
| <b>Information Items:</b>           |   |   |  |
| 2:45 - 3:00 p.m.                    |   | North Point State Park<br>- DNR (Baltimore Co.)   | Anne Hairston,<br>Planner  |
| 3:00 - 3:15 p.m.                    |   | Randall Cliffs ( <del>Charles</del> <i>Calvert</i> Co.)   | Claudia Jones, Plnr.   |
| 3:15 - 4:15 p.m.                    |   | Critical Area Geographic<br>Information System<br>Presentation & Questions  | O'luwole Alade<br>Ken Feldman<br>Min Pyo<br>Larry Newman,<br>Compton                   |
| 4:15 - 4:30 p.m.                    |   | Legal Matters<br><i>#2 - Bachelor's Point Marina</i>  | George Gay, AAG.   |
| 4:30 - 4:45 p.m.                    |   | <i>#1 - Policy for Reconsideration - FAX it.</i><br><i>#3 - St Mary's Co. Growth Allocations</i><br>Old Business  | John C. North, II, Chairman  |
| 4:45 - 5:00 p.m.                    |   | <i>#4 - Belkerton Bay Club</i><br>New Business<br><i>Date - Black March</i><br>December Meeting                   | John C. North, II, Chairman<br>Hugh Smith  |

FINAL AGENDA  
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November 6, 1991

*Call*

*approved as circulated*

- |                                     |                          |   |   |
|-------------------------------------|--------------------------|---|---|
| 1:00 - 1:05 p.m.                    | * ✓                      | Vote on the Minutes of October 2nd  | John C. North, II, Chairman   |
| <b>AMENDMENTS &amp; REFINEMENTS</b> |                          |   |   |
| 1:05 - 1:20 p.m.                    | * ✓                      | <del>Reconsideration of the Growth Allocation - RCA to IDA - Ferry Terminal - Dorchester County</del>                     | Bob Schoepflein, Ch.<br>Tom Ventre, Planner   |
| 1:20 - 1:45 p.m.                    | * ✓                      | Talbot County - Amendments to the Zoning Ordinance  | Joseph Elbrich, Ch.<br>Pat Pudelkewicz, Planner                                       |
|                                     |                          | <i>Talbot Co. - refinement</i>  |   |
| 1:45 - 1:55 p.m.                    | * ✓                      | Charles County - Amendments Habitat Protection Plan Impervious Surface Amendments   | Michael Whitson, Ch.<br>Ren Serey, Planner  |
| <b>Information Items:</b>           |                          |   |   |
| 1:55 - 2:05 p.m.                    | ✓                        | 3 Amendments/Refinements Anne Arundel County  | Anne Hairston, Planner  |
| 2:05 - 2:15 p.m.                    | ✓                        | St. Mary's County - Amendment Buffer Waiver   | <del>Sam Bowling, Ch.<br/>Ren Serey, Planner</del><br>Claudia Jones                   |
| <b>PROJECTS</b>                     |                          |   |   |
| 2:15 - 2:30 p.m.                    | * ✓                      | Mosquito Control Projects Dorchester county <i>staff</i>  | Liz Zucker, Sc. Adv.<br><del>Stan Joseph, Dept. Agri.</del><br>Cy Lesser, Dept. Agri. |
|                                     |                          | <i>rept only.</i>   |   |
| 2:30 - 2:45 p.m.                    | * ✓                      | Choptank River State Park Fishing Pier - Dorchester County, Revetment - DNR   | Claudia Jones, Plnr.  |
| <b>Information Items:</b>           |                          |   |   |
| 2:45 - 3:00 p.m.                    | ✓                        | North Point State Park - DNR (Baltimore Co.)  | Anne Hairston, Planner  |
| 3:00 - 3:15 p.m.                    | ✓                        | Randall Cliffs ( <del>Charles</del> <i>Calvert</i> Co.)   | Claudia Jones, Plnr.  |
| 3:15 - 4:15 p.m.                    | ✓                        | Critical Area Geographic Information System Presentation & Questions  | O'luwole Alade<br>Ken Feldman<br>Min Pyo<br>Larry Newman, Comptroller                 |
| 4:15 - 4:30 p.m.                    | <i>Motion to Recons.</i> | Legal Matters<br>#2 - Bachelor's Point Marina<br>#1 - Policy for Reconsideration<br>#3 - St Mary's Co. Growth Allocations | George Gay, AAG.  |
| 4:30 - 4:45 p.m.                    |                          | Old Business  | John C. North, II, Chairman   |
| 4:45 - 5:00 p.m.                    |                          | <del>St. Mary's Co. Growth Allocations</del><br>New Business  | John C. North, II, Chairman   |
|                                     |                          | December Meeting  | Hugh Smith  |

*Pat [unclear]*

*FAX it.*

George -

AA Co.

gen'l appr.

mosquito project

Chesapeake Bay Critical Area Commission  
Minutes of Meeting Held  
October 2, 1991

The Chesapeake Bay Critical Area Commission met in the Commission Office, 275 West Street, Annapolis, Maryland 21401. The meeting was called to order by Chairman John C. North, II with the following members in attendance:

Judge John C. North, II, Ch.	Anthony Ambridge
Philip Barker	Samuel Y. Bowling
William H. Corkran, Jr.	Joseph J. Elbrich, Jr.
Russell Blake	James E. Gutman
Ronald Hickernell	Robert Price, Jr.
Dr. Shepard Krech, Jr.	Kathryn Langner
G. Steele Phillips	Ardath Cade of DHCD
Michael J. Whitson	W. Roger Williams
Robert Schoeplein, of DEED	Anthony Bruce
Fred Samadani for Louise Lawrence of DOA	James L. Hearn, of Dept. of the Environment
James Peck, of Dept. of Natural Resources	Larry Duket for Ronald Young of Md. Office of Planning

The Minutes of September 4, 1991 were read and approved as written.

Chairman North presented Commissioner Ardath Cade of the Department of Housing and Community Development with the Governor's Certificate of Appreciation.

Chairman North asked Mr. Ren Serey to report on the St. Mary's County Impervious Surface Refinement.

Mr. Serey said that St. Mary's County has completed the impervious surface requirements for the legislation of 1990-1991 and incorporated these into the local program. The county has submitted a request for a refinement to the local zoning ordinance. Judge North has determined it to be a refinement as the changes are consistent with the Critical Area Law.

The Commission supported the Chairman's decision.

Chairman North asked Mr. Serey to report on St. Mary's County Growth Allocation request.

Mr. Serey stated that he and Ms. Claudia Jones would be reporting on the requests alternately, and that Ms. Jones would provide the Commission a brief introduction.

Ms. Jones reminded the Commission that the requests were being voted on at this meeting. She said that at the September meeting the Commission was briefed on the requests. Ms. Jones said that the six growth allocation requests were divided up into two categories, three in the Design Competition category, with a point system; the other three in the minor subdivision category, based on a lottery. She said that because there were not as many requests received as the County thought there would be, the lottery system was not effectuated.

AVENMAR

Mr. Serey said that the County proposes to use Growth Allocation to change 16 acres of a 222 acre RCA site to LDA. He said that the request concentrates development impacts. The 222 acre site can absorb the LDA impacts while maintaining a functioning RCA. Mr. Serey stated that the staff recommendation was for approval. He cited the statistics of the request:

Type of Growth Allocation	RCA to LDA
Growth Allocation requested	16 acres
Total site	492 acres

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

Acreage in Critical Area	222 acres
Proposed use	Community recreation center; residential
Existing Use	Farm
Location	South of Leonardtown on Breton Bay

Mr. Serey said that 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. 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.

Mr. Serey stated that the staff recommended 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.

Commissioner Robert Schoepflein made a motion to approve the St. Mary's County Growth Allocation Request entitled "Avenmar Community Center and Residential Project" request for 16 acres of growth allocation from RCA to LDA. The motion was seconded and the vote was carried unanimously.

CALVERT INDUSTRIAL PARK and CHESAPEAKE ESTATES

Ms. Jones said that 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. She stated that the staff recommendation was for denial and that the denial was based on the requirement of the County Program to set aside 20 acres under easement for projects under the Growth Allocation Design Competition. She cited the statistics of the request:

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

Ms. Jones said that 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

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

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). She said that 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. Ms. Jones stated that 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, she said that 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.

Commissioner Michael Whitson asked whether the 20 acres set aside is a requirement when changing from RCA to LDA even though the Program does not explicitly state that requirement; and, if the Program was amended or refined to make that distinction and the 20 acres were not a requirement of conversion from LDA to IDA, would that be permissible and could that be done as a refinement as opposed to an amendment.

Commission Counsel, George Gay stated that he did not know but would like to take a look at the Program and compare it to language in the Criteria.

Mr. Larry Duket, Maryland Office of Planning, stated that the County provision was not intended to comply with a designation already LDA, but talks about a parcel retaining its natural features like agriculture and forestry, something not normally associated with a parcel whose base designation is an LDA.

Ms. Jones stated that the parcel is all LDA already and the County is proposing it to become IDA, with 15 acres as open space.

Mr. Duket stated that he thinks the rule really meant that what is left over must retain its RCA attributes and must be 20 acres in size but not apply to parcels that are already in LDA.

Commission Counsel, Mr. Gay, paraphrased Mr. Whitson's question: if that is in fact the intent of the Program and the local jurisdiction would like to make that more clear, can that be done by refinement as opposed to amendment, and he stated that ultimately it must be the Chairman's call.

Chairman North asked Mr. Gay to examine the specific language and set up a conference meeting to sort it out.

Mr. Robert Schoepflein made a motion to deny the St. Mary's County Growth Allocation Request for Calvert Industrial Park and Chesapeake Estates for 1.25 acres of land to be reclassified from LDA to IDA, because it does not meet the requirements of the County Program to set aside 20 acres under easement for projects under the Growth Allocation Design Competition.

The motion was seconded and the vote was 18 in the affirmative and 2 nays.

EPPARD PROPERTY

Mr. Serey stated that the remaining requests are under the County's alternative process for awarding growth allocation FOR minor subdivisions. He said that these requests did not have to go through a point system to qualify and the 20 acres set-aside is not required, under the County

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

Program.

Mr. Serey said that 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. He said that the staff recommendation was for denial. He cited the statistics of the request:

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

Mr. Serey said that 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.

Mr. Serey said that 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 sometimes 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.

Mr. Schoepflein made a motion, based on panel recommendation, for denial of the St. Mary's Growth County Allocation Request for the Eppard Property for 6.0 acres from RCA to LDA because the amount of acreage being requested is insufficient for RCA protection, that is the 5.9 acres would not retain its RCA character as defined by the Criteria. The motion was seconded.

Mr. Whitson commented that the kind of restrictions and covenants that the County is going to impose on the rest of the parcel meets the test of retaining it in the RCA characteristics and that it meets the spirit of the Law. He said that the amount of deduction is the question as the other issues seem to have been satisfied.

Commissioner Elbrich commented that an isolated IDA would be of more concern than an IDA that is adjacent to a residue which would not

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

necessarily be a problem.

Chairman North suggested that it should be looked at more closely by the Program Amendment Subcommittee. The vote was carried 16 affirmative with 4 nays.

LORE'S LANDING

Ms. Jones reported that 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. She said that the staff recommendation was for denial. She cited the statistics of the request:

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

Ms. Jones said that 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. 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. Ms. Jones said that 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.

Mr. Schoepflein made a motion for denial of the St. Mary's County Growth Allocation Request identified as Lore's Landing for 6.0 acres from RCA to LDA because the amount of acreage being requested for growth allocation leaves insufficient acreage for RCA protection. The motion was seconded. The vote was 17 affirmative with 3 nays.

BASHFORD CREEK ESTATES

Ms. Jones said that 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. The staff recommendation was for denial. The statistics of the request were cited:

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

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

Existing Use  
Location

Fields, Christmas tree farm  
Route 238 near Chaptico

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 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, these restrictions are inappropriate and insufficient on individual lots. Ms. Jones said that no matter what restrictions are placed on these lots, they will still not function as RCA as defined by this Commission.

Mr. Duket stated that the position of the Office of Planning is that if this growth allocation is approved, every future subdivision in RCA land which comes in for conversion to LDA would not have the 100' Buffer counted toward deduction and that should be a basic policy decision that the Critical Area Commission has to make. He said that basically, the County proposes not to deduct the 100 foot Buffer.

Mr. Hickernell stated that some years ago the Critical Area Commission took a sensible position on this very issue. He said that once a lot is subdivided, that lot in its entirety must be counted as utilization of growth.

Mr. Schoepflein stated that this request mostly illustrates the general issue of "footprinting" because of the intensive use of the land instead of the non-intensive use of the lot.

Commission Counsel Gay stated that from an enforcement standpoint it seemed to him to be very difficult for the Commission staff to enforce compliance with deed restrictions that are recorded in the local

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

jurisdictions' courthouses, an element the Commission should consider if it accepts the county position.

Mr. Schoeplein made a motion to deny the St. Mary's County Growth Allocation Request identified as Bashford Creek Estates for 13.83 acres from RCA to LDA. The non-growth allocation portion of each individual lot is insufficient to retain RCA characteristics as defined by the Criteria. The motion was seconded. The vote was 18 affirmative and 3 nays.

MAYDEL MANOR

Mr. Serey said that St. Mary's County requests Growth Allocation to change six acres of a 99 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. Although deed restrictions may prevent development on areas not deducted, 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. The staff recommendation was for denial. The request statistics were cited:

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

Mr. Serey said that St. Mary's County proposes the deduction of six acres of Growth Allocation for the development of four residential lots. 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." He said that 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

Mr. Serey said that 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.

Mr. Serey stated that 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

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

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.

Mr. Schoeplein made a motion based on panel recommendation to deny the St. Mary's County Growth Allocation request identified as Maydel Manor for 6.0 acres from RCA to LDA because the non-growth allocation portion of each individual lot is insufficient to retain RCA characteristics as defined by the Criteria. The motion was seconded.

Mr. Bruce asked what the minimum acreage was required to remain to retain the characteristics.

Mr. Serey said the minimum necessary to function as RCA is 20 acres. The vote was 19 affirmative and two nays.

Chairman North asked Mr. Thomas Ventre to report on Dorchester County's Text Amendment, DC-A-21.

Mr. Ventre said that Dorchester County has asked the Chesapeake Bay Critical Area Commission's approval of their amendments to their local implementing ordinances that will 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. He said that the proposal was approved by the Dorchester County Commissioners on July 2, 1991, following an earlier public hearing. He said that the 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. Mr. Ventre stated that 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 the Chesapeake Bay Critical Area Commission. Although the denial was not based solely on this ordinance language, the County decided subsequently to change it.

Mr. Ventre said that 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. Mr. Ventre had provided copies to Commission members of both the current and the proposed language.

Mr. Ventre told the Commission that the Dorchester panel held an advertised local panel hearing in Cambridge on the request on September 30, 1991.

Mr. Robert Schoeplein stated that the request of Dorchester County is

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

for Commission approval of amendments to their subdivision regulations and zoning ordinance and it is not a request for a growth allocation. He also noted that Dorchester County requested the Commission to consider amendments to the subdivision regulations and zoning ordinance, but did not request the Commission's simultaneous consideration of an amendment to their Program. He said that he believed that it was a genuine oversight on behalf of Dorchester County and, therefore he would make a conditional motion that Dorchester County amend its Program to reflect the changes in the two ordinances. Mr. Schoeplein made a motion that the Chesapeake Bay Critical Area Commission approve the proposed Dorchester County Ordinance Amendments subject to the following condition: that the Dorchester County Program be amended to render it consistent in all respects with the proposed Dorchester County Ordinance Amendments at issue today and further, that the conditional approval take effect on the day in which the Critical Area Commission staff notifies County authorities that the Program has been amended to render it consistent to the proposed ordinances. The motion was seconded and the vote was unanimously in favor.

Chairman North asked Ms. Theresa Corless to report on the Town of Easton Amendment.

Ms. Corless stated that the amendment is to add the parcel (tax map 34, parcel 122) called Woodland Farms to their Growth Areas Map. She said that 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.

Commissioner Joseph Elbrich made a motion to approve the request to add the parcel to the Growth Area Map. The motion was seconded and the vote carried unanimously.

Chairman North asked Ms. Theresa Corless to report on a Refinement request from the Town of Easton.

Ms. Corless said that the request is to give 6.62 acres of Growth Allocation to the parcel called Papermill Place. She said that Chairman North has determined this to be a refinement. It 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 Growth Allocation 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 includes 3.32 acres of land under water. Ms. Corless said that these acres are not used by the town to calculate dwelling unit densities.

The Commission supported the Chairman's decision.

Chairman North asked Mr. Ren Serey to report on the Town of Queenstown Program Text Refinements.

Mr. Serey stated that 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. He said that other changes are: 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.

The Commission supported the Chairman's determination.

Chairman North asked Ms. Dawnn McCleary to report on the Harford County Growth Allocation for the Bata Corporation.

Ms. McCleary stated that Harford County is requesting Growth Allocation for the Bata Corporation Riverside South 40 Residential. She said that the site is located South of U.S. Route 40, North of the Bush River, West of the Church Creek River and East of the existing Bata Shoe Factory and Warehouse. 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 168 units as condominiums and 132 units as townhouses.

Ms. McCleary said that Harford County has been faced with four (4) growth allocation requests. 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).

Ms. McCleary said that 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 residential development for Bata Land to receive growth allocation. She said that the considerations are:

- 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.

Commissioner Barker commented that Bata Land Company has done an excellent job throughout all their projects and that Harford County has been very supportive of Bata Land and the type of developments that they have put into the entire area. He also commented that an interchange alleviating the Route 40 traffic and located outside the Critical Area would be constructed if this request is approved.

Chairman North asked Mr. Serey to report on Charles County's Proposed amendments.

Mr. Serey said that 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

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

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.

Mr. Serey said that 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. He said that the proposal is a substantial change from what staff believed to be the policy. Chairman North determined that the proposal was an amendment and should go through a public hearing and then to the Commission for a vote.

Chairman North asked Mr. Tom Ventre to report on the Eastern Shore State Hospital Channel Markers.

Mr. Ventre said that the State Department of Health and Mental Hygiene and a private, nonprofit corporation called Channel Marker Foundation, Inc., based in Easton, Maryland have submitted a joint proposal 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. Channel Marker Foundation, Inc. provides 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.

Mr. Ventre said that 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 utility 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.

Mr. Ventre said that 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. 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.

Mr. Ventre said that 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.

Mr. Ventre said that 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.

Commissioner Kathryn Langner made a motion that the Chesapeake Bay Critical Area Commission approve the project to develop a rehabilitation service facility for the mentally ill at the Eastern Shore Hospital Center in Cambridge with the condition that the project as proposed be redesigned to bring into compliance with the impervious surface requirements of the COMAR regulations governing such projects.

The motion was seconded and the vote carried unanimously.

After the vote, the Commission Counsel advised that the motion be modified to require the applicant to submit to the Commission project plans redesigned to show compliance with the impervious surface requirements. Ms. Langner offered a modified motion, which was seconded and the vote carried unanimously.

Chairman North asked Ms. Elizabeth Zucker to report on the University of Maryland Solomons Island Redevelopment project.

Ms. Zucker stated that two requests were received from the University of Maryland, Chesapeake Biological Laboratory, Research Fleet Operations Building. She stated that 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. She said that the 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

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

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.

Ms. Zucker said that the staff recommendation was for 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.

Commissioner Jim Gutman asked where the storage tank would be located and would it be in the Buffer.

Ms. Zucker stated that the final decision has not been made and that the whole facility is in the Buffer because it is a peninsula.

Mr. Gutman stated that a storage tank is not water-dependent and perhaps it is not a good idea to put a storage tank at this location.

Ms. Zucker said that there is not really another option and the current activity for storage is at an adjacent marina, piped underground.

Mr. Gutman then said that there would be much less fuel adjacent to the water under the current conditions.

Ms. Zucker said that she did not know where the fuel is stored off-site but under this proposal the University of Maryland would have control over their own fuel and the handling of it.

Mr. Gutman stated that there should be some concern by the Chesapeake Bay Critical Area Commission as to a new fuel storage facility being adjacent to a river.

Ms. Zucker said that there is already fuel there, although in an underground pipe.

Chairman North asked what the advantage to having the tank was vs a fuel line.

Ms. Zucker stated the fact that the University of Maryland would have control of their own fuel would be the advantage.

Mr. John Coffee, University of Maryland Engineering and Architectural Services stated that it is unknown if the existing lines would be removed or left in place but, they would no longer be necessary.

Commissioner Hickernell asked besides dealing with the problem of tank rupture how would spill containment be dealt with.

Mr. Gutman asked if there was a trench around the facility to deal with the 3,000+ gallons.

Mr. Coffey stated that he did not believe there was a plan for that but that he could check out the feasibility for it.

Mr. Anthony Ambridge asked if mitigation requirements would be monitored.

Mr. Coffey said that the off-site mitigation would be achieved as outlined.

Ms. Zucker said that the Maryland Department of the Environment reviews State projects for stormwater management.

Mr. Bowling commented that it is a question of an in-ground invisible leak vs an above-ground visible leak.

Commissioner Cade asked if the project had been through the Capital Budget process and if one bid would include both the tank and the structure.

Mr. Coffey stated that it had been through the process and they were ready to put it out for bid; that it would be done by the same bidder.

Ms. Cade asked if the bid could be separated if the Commission were to require more information on tank location.

Mr. Coffey said that it could be done.

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

Commissioner Corkran commented that he feels confident with the proposal because there are so many regulations and monitoring agencies regarding fuel storage.

Mr. Vernon Gingell, a private citizen who is also with the South County Environmental Commission, stated that he had a tremendous amount of experience with aviation fuel and the problems experienced at the Washington National Airport and he said that despite all the rules and regulations there is a real possibility of a leak occurring. He stated that in his opinion the tank should be placed as far away from the water as possible.

Ms. Cade asked if the default option was to continue using the old system and if the bottom line was which system would be better for the environment.

Mr. Coffey replied, yes the default option is to continue to use the existing system.

Mr. Hickernell said that he believes that the foremost consideration is not the lowest bid or the lowest cost, but the most environmentally safe location which the University has the capability to do; but it has not been defined where the tank would be located. He stated that he believed that it is reasonable to expect the University Research Center to be sensitive to the concerns of protection of any spill and to locate the tank according to that concern.

Mr. Gutman asked when the request was received by the Critical Area Commission and if it had been determined if it is a complete submittal.

Ms. Zucker said that it was received about September 20th, that there were time constraints with the bidding.

Mr. Gutman made a motion that without the details of where the tank is to be located, the Commission does not have a complete submittal and will not consider the matter; the motion was seconded.

Ms. Cade suggested that if the "construction of building" part of the proposal is acceptable to the Critical Area Commission but the placement of the tank and whether it is better to have the tank or not, then for the purpose of obtaining the best bid price, it should be separated into two requests/approvals.

Mr. Gutman indicated that he was amenable to the suggestion.

Mr. Coffey stated that the entire site is very small and the location of the tank will be near the water no matter where it is located.

Commissioner Whitson commented that because the facility is a research facility dealing with water quality, they obviously care about the quality of the water and it can be assumed that the facility would be sensitive to these issues.

Mr. Coffey commented that the University's handling of the fuel would present a safer situation than the existing situation, no matter where the tank is located.

After much discussion, it was decided that a visible structure vs an invisible one, a double walled tank vs a single walled tank was probably safer.

Commission Counsel George Gay asked if the panel considered whether the facility constituted a transportation facility; if so the decision would have to be for denial based upon COMAR Chapter 5, Activity on State owned lands, as the Commission does not have the discretion to allow a transportation facility. The panel decided that it was not a transportation facility.

Ms. Langner made a motion that the University of Maryland Chesapeake

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

Biological Laboratory Research Fleet Operations Building be approved with the conditions: that the University of Maryland provide the 10% reduction of pollutant loadings off-site but within the Critical Area laboratory complex and the proposed plans be reviewed by the Maryland Department of the Environment.

Chairman North reminded the Commission that there was already a motion which was seconded and asked Mr. Gutman to repeat his motion.

Mr. Gutman indicated that he would modify his motion to include a conditional approval of the application with the stated condition of Ms. Langner and in addition that the entire matter of installing a 3,000 gallon fuel tank would be subject to further review and final approval by the Commission.

Mr. Anthony Bruce stated that he would stand by his original second and that the private party should not have been allowed to make a statement to the Commission.

Mr. Corkran seconded the motion to the modified motion of Jim Gutman.

Ms. Cade stated that her understanding of the motion does not preclude that if the Commission does not approve the oil tank that they can go ahead and use their existing system.

Chairman North said that the Commission does not have the authority to do that.

Mr. Williams asked if Mr. Gutman wanted the tank located at any location on the property.

Mr. Gutman said that his concern was a location with additional square footage to put in further holding capacity of the 3,000 gallons even if it means buying other property.

The vote was 15 affirmative and 5 opposed.

Ms. Zucker stated that in addition to the renovation of the Fleet operations, the University of Maryland, Chesapeake Biological Laboratory, is proposing a chemical storage building. They are 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 50 by 60 feet (3,000 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. Ms. Zucker said that 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).

Ms. Zucker said that the staff recommendation was for approval with the conditions that the UM provide 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.

Ms. Zucker said that some of the labs are outdated and there is no overall strategy for storing the chemicals and therefore the security of

handling and storing the chemicals would be improved.

Ms. Langner made a motion that the University of Maryland Chesapeake Biological Laboratory Chemical Storage Building be approved with the following conditions: that 10% reduction be provided on the site; that any trees removed by construction are replaced in the official area of the laboratory complex. The motion was seconded and the vote carried unanimously.

Chairman North asked Ms. Theresa Corless to report on St. Mary's Soil Conservation District.

Ms. Corless stated that the State Department of Natural Resources, Shore Erosion Control Division project is being carried out by the St. Mary's Soil Conservation District. She said that Broomes Howard Beach Project is a nonstructural shoreline erosion control demonstration 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. She said that 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 erosion. 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 archaeologists. 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.

Ms. Corless introduced Mr. Al Stewart from St. Mary's Soil Conservation District who explained to the Commission the technical aspects of the project, as presented in a staff report and disseminated to the Commission members, as well as explaining the financial aspect to accomplish the project. He said that money for the project was received from EPA two years ago, has been channeled through DNR's Shore Erosion Program; and, the St. Mary's Soil Conservation District will act as the contractor.

He said that all other State and federal permits have been obtained.

Ms. Kay Langner made a motion that the St. Mary's Soil Conservation District Demonstration Shore Erosion Control Project at St. Mary's City be approved with the following conditions:

1. A letter must be received from the Maryland Forest, Park and Wildlife Service regarding Habitat Protection Areas. Any recommendations they 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. The motion was seconded and the vote carried unanimously.

Chairman North asked Ms. Anne Hairston to update the Commission on North Point State Park.

Ms. Hairston said that North Point State Park Draft Master Plan

Chesapeake Bay Critical Area Commission  
Minutes - October 2, 1991

Proposal was presented and a hearing was held on September 25th and about 250 people were in attendance. Some were testifying in favor and some opposed. There were basically three philosophies presented, one was in favor of the master plan; one favored the historical and educational aspects of the master plan and preferred only the structures adjacent to the grove. Another philosophy favored incorporating the historical and preservational aspects of DNR's plan close to the visitor center facilities and with a shuttle down to a picnic area.

She said that there will be another panel site visit scheduled on November 1st. There will be a detailed discussion by the panel in another meeting, and then there will be a presentation to the Commission to discuss issues that are being raised. Approval is expected at the December meeting since 60 days extension has been requested under COMAR 14.19.

Commission Counsel George Gay gave an update on legal issues. He said that the Chairman authorized his office to note an appeal of another variance grant in Dorchester County in this particular case, a variance to the tidewater buffer setback was granted and Commission staff felt that it was granted without the necessary showings of unwarranted hardship, no impact to water quality, plant, fish & wildlife habitat, etc., etc.

#### OLD BUSINESS

Mr. Hickernell asked what the status is of the drilling regulations for oil and gas exploration.

Ms. Zucker stated that with respect to the Department of Natural Resources recently published in the Maryland Register were Draft Regulations for the whole State. She said that as part of the Commission's comment to the Department of Natural Resources on their regulations, issues were raised with respect to authority of the Commission's approval for conditions of permit in the Critical Area; another issue of the timing and procedural requirements in Critical Area regulations that were believed not to be adequately incorporated into the DNR regulations. Further, she stated that she believed that Commission regulations need to be coordinated with DNR's.

Mr. Hickernell asked if that was an ongoing activity and is it working cooperatively at this point.

Commission Counsel George Gay stated that the interaction of DNR's regulations with the Critical Area regulations is the question that is being reviewed by the Attorney General's Office. He said that there is some debate over whether the Statute that authorizes promulgation of Commission Regulations intended that the Commission have "veto" authority over DNR approval in the Critical Area or whether something less was intended for the Commission's role in a kind of a "comment and discussion" type of authority. It has not been resolved yet.

#### NEW BUSINESS

Chairman North appointed a panel to consider 3 amendments submitted by Anne Arundel County as the panel that existed had lost several members. He named Jim Gutman, Chairman, Joe Elbrich, J.L. Hearn, Parris Glendening and Shep Krech to sit on that panel.

Chairman North named Bob Price, Chairman, Kay Langner, Bob Schoepflein, Ron Hickernell and Sam Bowling to sit on a panel for Harford County's growth allocation request.

Chairman North asked Ms. Patricia Pudelkewicz to report on the Policy

Amendment Refinements Submittal.

Ms. Pudelkewicz stated that a submittal policy was developed because of a packet of amendments submitted to the Critical Area Commission by Talbot County, and passed at the local level as a single piece of legislation. At the time of their presentation to the Commission, the Commission realized that it was not able to break up a single piece of legislation and approve certain provisions while denying others. A single piece of legislation had to be voted up or down as a whole. She reminded the Commission that at the July meeting the Talbot Zoning Ordinance was denied because pieces could not be approved; therefore, in the Special Issues Subcommittee a "Program Amendments/Refinements Submittal Policy" was developed on how to review amendments and refinements that are submitted. The Policy was sent out to all Commission members for review. She read over the main points of the policy, attached to the minutes.

Mr. Jim Gutman made a motion to adopt the language of the policy. The motion was seconded and the vote carried unanimously.

Dr. Sarah Taylor, Executive Director of the Chesapeake Bay Critical Area Commission, briefed the Commission on the current affairs of the State's Budget problems. She said that at this point, as far as the Department of Natural Resources' approach in handling the budget cuts that all Critical Area Commission staff have been retained. Further, with respect to local technical assistance grants, the Commission has sustained two cuts: 1) \$400,000 in general funds; a request is in to the Department of Commerce for a like amount of federal funds; 2) another cut of \$204,000 by the Dept. of Budget and Fiscal Planning at the Governor's directive was sustained.

There being no further business, the meeting was adjourned.

poses when other biogeographic information is available.

4. This species was not included in our analyses because it only occurred in one canyon.

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my notes on  
 Commission  
 mtg November 6th  
 Ag.

North	Duck	Barber
Bowling	Young	Keck
Lawrence	Quinn	Little (DAED)
Phillips	Dubet (Young)	<del>Watson</del> Glendening
Langner	J. H. Hearn	Blake (arrived after vote on Am.) Talbot Co.
Corkran	Elbrich	
Jamies	Whitson	
Pastan	Hickernell	
Schoepflein	Bruce	
Hutman		

came in to  
 mtg. ard. 2:10 p.m.  
 Watson present  
 from beginning

1) I convinced by their entity request-  
 ing reconsideration that the Commission  
 has acted <sup>in error</sup> via:  
 a) mistake - <sup>e.g. property outside C.A.</sup> procedural -  
 b) irregularity - <sup>e.g. We addressed an item belonging to Dock Co. but held hearing in A.H.</sup>  
 c) fraud - mis-representations of fact.  
 d) newly discovered evidence  
 that is substantial in nature  
 and could ~ have been  
 found under due diligence  
 by the applicant

Amend the By-Laws to reflect the  
 4 exceptions but the maximum time  
 frame possible. (w.i. 30 days) for  
 the By-Laws w.i. 60 days for  
 the 4 exceptions.

George Hay  
Orris Glendening  
Tony Bruce  
Robert Price

$$\frac{26}{13+1} = 14$$

PANEL REPORT

*Commission  
approve those  
submitted  
& those com-  
ments  
made -  
all to be  
handled*

JURISDICTION: Talbot County

AMENDMENTS: Bill 452, parts of Bill 459 - Revisions to Talbot County Zoning Ordinance

PANEL  
RECOMMENDATION:

Panel voted to recommend approval of all of the Critical Area amendments as submitted by the County, and to endorse the recommendations contained in the Staff Report for each amendment, with the following additions:

*refinement  
except  
for  
non-  
tidal  
+  
Bed +  
Breakf.  
approved  
19-0*

1. Add in "trailer park" language of HB 323 and HB 1060 to Amendments #10 and #11 as well as #8.
2. Clarify the language of Amendment #17 to read, "Have a minimal impact or cause an improvement to stormwater, floodplain and stream characteristics.
3. Clarify the language of Amendment #21 to read, "Special Exception uses within the Critical Area may only be approved by the Board of Appeals after receipt of notification by the Critical Area Commission.
4. Panel recommends the County submit Section Five and Section Forty-Four in Bill 459 (addressed in "Additional Comments" section of the Staff Report) as refinements to the Talbot County Program.
5. Panel recommends that County be notified that nontidal wetlands definition in the Critical Area and Bed and Breakfast provisions have not yet been approved by the Critical Area Commission.

PANEL MEMBERS: Joe Elbrich, Ch., Bill Corkran, Tom Jarvis

STAFF CONTACT: Pat Pudelkewicz

STAFF REPORT

*Determined  
by Judge North  
to be a  
Refinement*

JURISDICTION: Talbot County

REFINEMENT: Amendment Process

DISCUSSION: As part of the new Zoning Ordinance, Talbot County provided clarification to the process for County review of Critical Area text amendments and growth allocations, and submittal of these to the Critical Area Commission.

Process clarifications included:

- Amendments must be referred to the Critical Area Commission for its review and approval;
- Clarification of who may file an amendment, where to file;
- The Planning Office and Planning Commission will submit recommendations to the County Council within 60 days of filing an application;
- A site visit is required by a majority of County Council members for growth allocations.

STAFF CONTACT: Pat Pudelkewicz

STAFF REPORT

November 6, 1991

*approve  
amendments  
as  
submitted  
20-0  
approved*

Jurisdiction: Charles County

Subject: Program Amendments

Commission Action: Vote

Recommendation: APPROVAL

Discussion:

A Commission panel conducted a public hearing October 28, 1991 on the proposed Charles County Program amendments outlined below. Staff briefed the Commission on the amendments at the meeting on October 2, 1991.

1) Bald Eagle protection plan - The County will add ten Bald Eagle sites to its 1989 inventory. These sites contain over 30 nests. The Department of Natural Resources (DNR) identified the sites and has reviewed the County maps.

The County Office of Planning and Growth Management has prepared a generic habitat protection plan for Bald Eagles. The plan is based on guidelines prepared by the National Wildlife Federation and incorporates DNR recommendations. The plan applies a quarter-mile protection area with three concentric regulatory zones. The County's intent, based on a DNR recommendation, is to leave the generic plan in place until development is proposed that may effect one or more of the sites. Under the plan, existing development activities may continue, but new activities at a Bald Eagle site will be regulated. When a specific plan is needed, the County, the landowner and DNR will negotiate a protection agreement. A public hearing is required.

2) Impervious surface provisions - The County currently limits the increase in impervious surfaces to 25% above the existing level a) in Buffer Exempt areas and b) on lots that are less than 200 feet deep, measured from tidal waters, tidal wetlands and tributary streams. The County does not use the date of program adoption as the basis for measuring existing coverage. Therefore, increasingly larger incremental increases are allowed. The ultimate impervious surface limit is set by the State in amendments to the Critical Area Law.

The County proposes to eliminate the need for successive increases and allow the site maximum to be reached in one application.

Staff Report  
November 6, 1991  
Page Two

The impervious surface changes required by HB 1060 and HB 323 also are included in this amendment package. The County has met all requirements of these bills.

Panel Members: Michael Whitson, Chair  
Louise Lawrence  
James E. Gutman

Staff contact: Ren Serey

STAFF REPORT

November 6, 1991

Jurisdiction: Anne Arundel County

Subject: Critical Area Program Amendments

Commission Action: For information at this meeting; vote at the December meeting

Discussion:

Anne Arundel County has submitted three bills as amendments to their Critical Area Program. County Council Bill 63-91 expands the uses of the reforestation fees-in-lieu fund to include planting of shore grasses and purchase of developable forested land. The planting of shore grasses is limited to 5% of the money collected for the fund in the previous fiscal year, and must be adjacent to buffers, Resource Conservation Area, or tidal wetlands. The purchase of developable forested land does not have a cap, but must be approved by the County Executive and the Office of Planning and Zoning. Advice on the purchase is sought from the Executive Director of the Critical Area Commission, the Natural Heritage Program, and a designee of the Anne Arundel County Forest Conservation Board. The intent of the bill is to allow an avenue for protection of existing mature forested land, not just reforestation with small trees which need time to mature. Funding the planting of shore grasses is expected to augment the functions of the buffer. The bill was apparently motivated by the fact that the County had collected a substantial amount in the fee-in-lieu fund, and had not yet started spending the money on replanting, because it was still in the process of identifying sites. Some plantings are being carried out this fall, and will be the first expenditures of the fund.

Bill 66-91 establishes a process for the County to award growth allocation and to reclassify on the basis of mistake in mapping. Applications for growth allocation are accepted twice a year and application for reclassification by mistake are accepted four times a year. The bill identifies information required in the submittal. The information required for evaluating the proposals includes: 1) public need; 2) maximization of environmental benefits; 3) minimization of negative environmental impacts; 4) compliance with all requirements of development for the proposed project without offsets or mitigation; 5) reforestation, mitigation, and the provision of easements that exceed the requirements of development for the proposed project; 6) energy-efficient use of design, siting, and development methods; 7) preservation of archeological sites and historic structures; and 8) affordable housing, where applicable. Anne Arundel County has 58 acres to change RCA to LDA, and 102 acres to change LDA to IDA.

Bill 67-91 reserves 11 acres of growth allocation for the City of Annapolis. The Mayor and City Council must still request the growth allocation from the County Council in order to award it. However, the 11 acres is officially segregated from the growth allocation acreage available for the County. The 11 acres represents 5% of the RCA within the City of Annapolis.

A panel hearing is scheduled for November 25, 1991, 7PM, in the Department of Agriculture Conference Room (50 Harry S. Truman Parkway, Annapolis).

Panel: James E. Gutman, Shep Krech, Parris Glendening,  
J. L. Hearn, and Joe Elbrich.

Staff: Anne Hairston

**FINAL**

AMENDED  
July 15 and August 19, 1991

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 1991, Legislative Day No. 33

Bill No. 63-91

Introduced by Mrs. Evans, Councilwoman  
Mr. Boschert, Vice Chairman, and Mrs. Lamb, Councilwoman

By the County Council, July 1, 1991

SEAL OF ANNE ARUNDEL COUNTY  
JULY 1 1991

JUL 23 1991

CRITICAL AREA COMMISSION

Introduced and first read on July 1, 1991  
Public Hearing set for and held on July 15, 1991  
Public Hearing on AMENDED BILL set for and held on August 5, 1991  
Public Hearing on SECOND AMENDED BILL set for and held on September 3, 1991

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Critical Area - Fees in lieu of Replanting

2  
3 FOR the purpose of permitting fees paid in lieu of replanting in the critical area to be used  
4 for certain purposes

5  
6 BY repealing and reenacting, with amendments: Article 21, §§2-208(g) and 2-314(d)(4);  
7 and Article 26, §3-110(e)(4)  
8 Anne Arundel County Code (1985, as amended)

9  
10 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
11 That Section(s) of the Anne Arundel County Code (1985, as amended) read as follows:

12  
13 ARTICLE 21 FLOODPLAIN MANAGEMENT, SEDIMENT CONTROL,  
14 AND STORMWATER MANAGEMENT  
15 Title 2. Grading and Sediment Control

16  
17 2-208. Fee.

18  
19 (g) Fees paid in lieu of replanting for development sites located in the critical area shall  
20 be maintained in a separate fund to be used by the County for:

21  
22 (1) acquisition of land or easements for reforestation;

23  
24 (2) replanting in the critical area, INCLUDING THE PLANTING OF NATURAL  
25 VEGETATION SUCH AS SHORE GRASSES CONTIGUOUS TO RESOURCE CONSERVATION  
26 AREAS, BUFFERS, OR TIDAL WETLANDS ~~THAT WOULD AUGMENT THE REPLANTING OF~~  
27 ~~SHRUBS AND TREES ON CONTIGUOUS PARCELS~~ FOR THE PURPOSES OF PROTECTION,  
28 STABILIZATION, OR ENHANCEMENT OF SHORELINES, WITH THE PLANTING OF GRASSES  
29 LIMITED TO A MAXIMUM OF FIVE PERCENT OF THE FEES COLLECTED IN THE PRIOR  
30 FISCAL YEAR;

EXPLANATION: CAPITALS indicate new matter added to existing law.  
[Brackets] indicate matter stricken from existing law.  
Underlining indicates amendments to bill.  
Strikeover indicates matter stricken from bill by amendment.

1 (3) ACQUISITION OF FORESTED DEVELOPABLE LAND OR EASEMENTS ON SUCH  
2 LAND WITHIN LIMITED DEVELOPMENT AREAS OR RESOURCE CONSERVATION AREAS, TO  
3 ~~A MAXIMUM OF ONE THIRD OF THE FEES COLLECTED IN THE PRIOR FISCAL YEAR WITH~~  
4 ~~THE REVIEW AND APPROVAL OF THE OFFICE OF PLANNING AND ZONING AND THE~~  
5 ~~COUNTY EXECUTIVE, AND THE ADVICE OF THE EXECUTIVE DIRECTOR OF THE~~  
6 ~~CHESAPEAKE BAY CRITICAL AREA COMMISSION AND A DESIGNEE OF THE ANNE~~  
7 ~~ARUNDEL COUNTY FOREST CONSERVATION BOARD AND THE MARYLAND NATURAL~~  
8 ~~HERITAGE PROGRAM; and~~  
9

10 (4) resource staff for project and plan review and approval.

11  
12 2-314. Critical area criteria.

13  
14 (d) When woodland or forest is not replaced onsite or offsite, the applicant shall pay a  
15 fee to the County in accordance with the following:

16  
17 (1) for up to 20% of a site that has been cleared of forest or developed woodland,  
18 the fee is \$0.40 per square foot of cover disturbed;

19  
20 (2) for more than 20% of a site that has been cleared of forest [and] OR developed  
21 woodland but less than 30%, the fee is \$0.60 per square foot of the total area that has been  
22 disturbed;

23  
24 (3) for any area that contains forests or woodlands that were cleared in excess of the  
25 30% limitation on clearing permitted in a critical area, or if cleared after August 22, 1988,  
26 without obtaining a grading permit, the fee is \$1.20 per square foot for any area cleared or  
27 disturbed; and

28  
29 (4) fees paid in lieu of replanting for development sites located in the critical area  
30 shall be maintained in a separate fund to be used by the County for:

31  
32 (I) acquisition of land or easements for reforestation;

33  
34 (II) replanting in the critical area, INCLUDING THE PLANTING OF NATURAL  
35 VEGETATION SUCH AS SHORE GRASSES CONTIGUOUS TO RESOURCE CONSERVATION  
36 AREAS, BUFFERS, OR TIDAL WETLANDS ~~THAT WOULD AUGMENT THE REPLANTING OF~~  
37 ~~SHRUBS AND TREES ON CONTIGUOUS PARCELS FOR THE PURPOSES OF PROTECTION,~~  
38 ~~STABILIZATION, OR ENHANCEMENT OF SHORELINES, WITH THE PLANTING OF GRASSES~~  
39 ~~LIMITED TO A MAXIMUM OF FIVE PERCENT OF THE FEES COLLECTED IN THE PRIOR~~  
40 ~~FISCAL YEAR;~~  
41

42 (III) ACQUISITION OF FORESTED DEVELOPABLE LAND OR EASEMENTS ON  
43 SUCH LAND WITHIN LIMITED DEVELOPMENT AREAS OR RESOURCE CONSERVATION  
44 AREAS, ~~TO A MAXIMUM OF ONE THIRD OF THE FEES COLLECTED IN THE PRIOR FISCAL~~  
45 ~~YEAR WITH THE REVIEW AND APPROVAL OF THE OFFICE OF PLANNING AND ZONING AND~~  
46 ~~THE COUNTY EXECUTIVE, AND THE ADVICE OF THE EXECUTIVE DIRECTOR OF THE~~  
47 ~~CHESAPEAKE BAY CRITICAL AREA COMMISSION AND A DESIGNEE OF THE ANNE~~  
48 ~~ARUNDEL COUNTY FOREST CONSERVATION BOARD AND THE MARYLAND NATURAL~~  
49 ~~HERITAGE PROGRAM; and~~  
50

51 (IV) resource staff for project and plan review and approval.

52  
53 ARTICLE 26 SUBDIVISIONS  
54 Title 3. Design Standards and Requirements

55  
56 3-110. Critical area environmental controls.

1 (e) When woodland or forest is not replaced onsite or offsite, the applicant shall pay a  
2 fee to the County in accordance with the following:

3  
4 (1) for up to 20% of a site that has been cleared of forest or developed woodland,  
5 the fee is \$0.40 per square foot of cover disturbed;

6  
7 (2) for more than 20% of a site that has been cleared of forest [and] OR developed  
8 woodland but less than 30%, the fee is \$0.60 per square foot of the total area that has been  
9 disturbed;

10  
11 (3) for any area that contains forests or woodlands that were cleared in excess of the  
12 30% limitation on clearing permitted in a critical area, or if cleared after [the effective date  
13 of Bill No. 49-88] AUGUST 22, 1988 without obtaining a grading permit, the fee is \$1.20  
14 per square foot for any area cleared or disturbed; and

15  
16 (4) fees paid in lieu of replanting for development sites located in the critical area  
17 shall be maintained in a separate fund to be used by the County for:

18  
19 (I) acquisition of land or easements for reforestation;

20  
21 (II) replanting in the critical area, INCLUDING THE PLANTING OF NATURAL  
22 VEGETATION SUCH AS SHORE GRASSES CONTIGUOUS TO RESOURCE CONSERVATION  
23 AREAS, BUFFERS, OR TIDAL WETLANDS THAT WOULD AUGMENT THE REPLANTING OF  
24 SHRUBS AND TREES ON CONTIGUOUS PARCELS FOR THE PURPOSES OF PROTECTION,  
25 STABILIZATION, OR ENHANCEMENT OF SHORELINES, WITH THE PLANTING OF GRASSES  
26 LIMITED TO A MAXIMUM OF FIVE PERCENT OF THE FEES COLLECTED IN THE PRIOR  
27 FISCAL YEAR;

28  
29 (III) ACQUISITION OF FORESTED DEVELOPABLE LAND OR EASEMENTS ON  
30 SUCH LAND WITHIN LIMITED DEVELOPMENT AREAS OR RESOURCE CONSERVATION  
31 AREAS, TO A MAXIMUM OF ONE THIRD OF THE FEES COLLECTED IN THE PRIOR FISCAL  
32 YEAR WITH THE REVIEW AND APPROVAL OF THE OFFICE OF PLANNING AND ZONING AND  
33 THE COUNTY EXECUTIVE, AND THE ADVICE OF THE EXECUTIVE DIRECTOR OF THE  
34 CHESAPEAKE BAY CRITICAL AREA COMMISSION AND A DESIGNEE OF THE ANNE  
35 ARUNDEL COUNTY FOREST CONSERVATION BOARD AND THE MARYLAND NATURAL  
36 HERITAGE PROGRAM; and

37  
38 (IV) resource staff for project and plan review and approval.

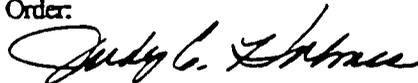
39  
40 SECTION 2. And be it further enacted, That should any part of this Ordinance be  
41 disapproved by any duly established approval authority, the disapproval shall not affect the  
42 remaining parts of the Ordinance.

43  
44 SECTION 2. 3. And be it further enacted, That this Ordinance shall take effect 45 days  
45 from the date it becomes law.

AMENDMENTS ADOPTED July 15 and August 19, 1991

READ AND PASSED, as amended, this 3rd day of September, 1991

By Order:



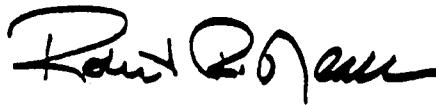
Judy C. Holmes  
Administrative Officer

PRESENTED to the County Executive for his approval this 4th day of September, 1991



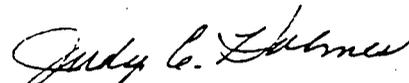
Judy C. Holmes  
Administrative Officer

APPROVED AND ENACTED this 5<sup>th</sup> day of September, 1991



Robert R. Neall  
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO. 63-91,  
THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE COUNTY COUNCIL.



Judy C. Holmes  
Administrative Officer

AMENDED  
August 5, 1991

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 1991, Legislative Day No. 34

**FINAL**

Bill No. 66-91

Introduced by Mrs. Clagett, Chairman  
(by request of the County Executive)

By the County Council, July 15, 1991

---

Introduced and first read on July 15, 1991  
Public Hearing set for and held on August 5, 1991  
Public Hearing on AMENDED BILL set for and held on August 19, 1991

By Order: Judy C. Holmes, Administrative Officer

---

A BILL ENTITLED

1 AN ORDINANCE concerning: Chesapeake Bay Critical Area

2  
3 FOR the purpose of establishing a growth allocation process and a reclassification process  
4 for map changes in the Chesapeake Bay Critical Area, and making technical corrections

5  
6 BY repealing: Article 28, §11-103(f)  
7 Anne Arundel County Code (1985, as amended)

8  
9 BY adding: Article 3, §2-106; and Article 28, §§1A-108, 11-102.3, and 11-103(f)  
10 Anne Arundel County Code (1985, as amended)

11  
12 BY repealing and reenacting, with amendments: Article 3, §§1-102(d); 2-101; 2-102(a),  
13 (c), (d), and (f); and 2-103(b) and (e); and Article 28, §§11-102(c); 11-103(a), (b), (c),  
14 (d), (g) and (h); 11-104(a) and (b) (prefatory language); 11-105; 11-106; 11-107;  
15 11-108(a), (c), and (e); 11-109(b) and (e); 11-110 (a) and (c); 11-111(a) and (c); and  
16 11-112  
17 Anne Arundel County Code (1985, as amended)

18  
19 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
20 That Article 28, §11-103(f) of the Anne Arundel County Code (1985, as amended), be and  
21 it is hereby repealed.

22  
23 SECTION 2. *And be it further enacted.* That Section(s) of the Anne Arundel County  
24 Code (1985, as amended) read as follows:

**RECEIVED**

SEP 25 1991

DNR

**CRITICAL AREA COMMISSION**

---

EXPLANATION: CAPITALS indicate new matter added to existing law.  
[Brackets] indicate matter stricken from existing law.  
Underlining indicates amendments to bill.

ARTICLE 3 COUNTY BOARD OF APPEALS  
Title 1. In General

1-102. Right of appeal.

(d) In appeals other than appeals from a decision of the Administrative Hearing Officer granting or denying an application for rezoning OR CRITICAL AREA RECLASSIFICATION, the County Board of Appeals may sit in panels of less than six members.

Title 2. Zoning Appeals

2-101. Appeals of rezoning, critical area reclassifications, and special exception decisions.

The County Board of Appeals shall transmit to the Purchasing Agent and the Office of the County Executive written confirmation of the date scheduled for each appeal to be heard relating to rezonings, CRITICAL AREA RECLASSIFICATIONS, or special exceptions. The confirmation or notice shall be transmitted within three days following the scheduling of a hearing. Each appeal shall be scheduled sufficiently in advance to meet the advertising and mailing requirements of §§2-102 and 2-103 of this title.

2-102. Same--Advertisements.

(a) Whenever the law requires advertisement of notice of an appeal to the County Board of Appeals that relates to a rezoning, CRITICAL AREA RECLASSIFICATION, or a special exception, the advertisement shall be published in the manner specified in this section.

(c) The advertisement shall be published at the times and in the newspaper or newspapers required by other provisions of law relating to the advertising of notice of appeals that relate to rezonings, CRITICAL AREA RECLASSIFICATIONS, and special exceptions.

(d) The advertisement shall be a display advertisement and shall be in substantially the form and contain the information specified below:

"NOTICE OF HEARINGS  
REZONINGS, CRITICAL AREA RECLASSIFICATIONS, AND SPECIAL EXCEPTIONS  
ANNE ARUNDEL COUNTY, MARYLAND

The following case(s) will be heard before the County Board of Appeals:

Councilmanic District \_\_\_\_\_

Case and file numbers (include case number before the Administrative Hearing Officer)

Name of applicant

Nature of appeal

Location of property (including assessment district and nearest intersecting roadway)

Date, time, and location of hearing

Further information on the case(s) listed above may be obtained from the Office of Planning and Zoning (telephone number)."

(f) The County Board of Appeals may not conduct a hearing on an appeal that relates to a rezoning, CRITICAL AREA RECLASSIFICATION, or a special exception unless the Purchasing Agent certifies that advertisement of the appeal has been published in accordance with this section.

1 2-103. Same--Notice to community associations and interested persons.  
2

3 (b) At least two weeks before an appeal that relates to a rezoning, CRITICAL AREA  
4 RECLASSIFICATION, or a special exception is heard by the County Board of Appeals, the  
5 Office of the County Executive shall mail to each community association, person, and  
6 organization on the list the same information advertised in accordance with §2-102 of this  
7 title.  
8

9 (e) The County Board of Appeals may not conduct a hearing on an appeal that relates to  
10 a rezoning, CRITICAL AREA RECLASSIFICATION, or a special exception unless the County  
11 Executive or a designee of the County Executive certifies that notification has been mailed  
12 in accordance with this section.  
13

14 2-106. Standards and procedures for granting or denying critical area reclassifications.  
15

16 (A) CRITICAL AREA RECLASSIFICATIONS SHALL BE GRANTED OR DENIED IN  
17 ACCORDANCE WITH COMPATIBILITY WITH THE UNDERLYING ZONING DISTRICT, BUT A  
18 RECLASSIFICATION MAY NOT BE GRANTED EXCEPT ON THE BASIS OF AN AFFIRMATIVE  
19 FINDING THAT:  
20

21 (1) THERE WAS A MISTAKE IN THE APPROVED CHESAPEAKE BAY CRITICAL AREA  
22 MAP BASED ON LAND USES IN EXISTENCE ON DECEMBER 1, 1985;  
23

24 (2) THE PROPOSED CRITICAL AREA CLASSIFICATION CONFORMS TO THE STATE  
25 AND COUNTY CHESAPEAKE BAY CRITICAL AREA MAPPING CRITERIA;  
26

27 (3) THE PROPOSED CRITICAL AREA CLASSIFICATION CONFORMS TO THE  
28 ENVIRONMENTAL GOALS AND STANDARDS OF THE GENERAL DEVELOPMENT PLAN;  
29

30 (4) THERE IS COMPATIBILITY BETWEEN THE USES OF THE PROPERTY AS  
31 RECLASSIFIED AND SURROUNDING LAND USES, SO AS TO PROMOTE THE HEALTH,  
32 SAFETY, AND WELFARE OF PRESENT AND FUTURE RESIDENTS OF THE COUNTY AND TO  
33 PROMOTE EFFECTIVE ENVIRONMENTAL LAND USE MANAGEMENT; AND  
34

35 (5) THE APPLICANT HAS NOTIFIED THE CHESAPEAKE BAY CRITICAL AREA  
36 COMMISSION OF THE PROPOSED CRITICAL AREA RECLASSIFICATION IN WRITING AT  
37 LEAST 30 DAYS BEFORE ANY HEARING.  
38

39 (B) THE GRANTING OF A CRITICAL AREA RECLASSIFICATION DOES NOT:  
40

41 (1) OPERATE AS A WAIVER OF ANY LAW OR REGULATION INsofar AS THE  
42 DEVELOPMENT OF THE RECLASSIFIED PROPERTY IS CONCERNED; OR  
43

44 (2) CONSTITUTE A COMMITMENT ON THE PART OF ANY AGENCY OR DEPARTMENT  
45 TO PROVIDE ROADS, SEWERS, OR WATER SERVICE TO THE PROPERTY.  
46

47 (C) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE COUNTY BOARD OF  
48 APPEALS MAY:  
49

50 (1) IMPOSE ANY ADDITIONAL RESTRICTIONS, CONDITIONS, OR LIMITATIONS ON A  
51 NEW CRITICAL AREA CLASSIFICATION AS IT CONSIDERS APPROPRIATE TO PRESERVE,  
52 IMPROVE, OR PROTECT THE GENERAL CHARACTER AND DESIGN OF THE LANDS AND  
53 IMPROVEMENTS BEING RECLASSIFIED, OR OF THE SURROUNDING OR ADJACENT LANDS  
54 AND IMPROVEMENTS; AND  
55

56 (2) ON THE RECLASSIFICATION OF LAND IN THE CRITICAL AREA, RETAIN OR  
57 RESERVE THE RIGHT TO APPROVE OR DISAPPROVE THE DESIGN OF BUILDINGS,  
58 CONSTRUCTION, LANDSCAPING, OR OTHER IMPROVEMENTS AND CHANGES MADE OR TO  
59 BE MADE ON THE LAND TO ENSURE CONFORMITY WITH THE INTENT AND PURPOSE OF  
60 THIS ARTICLE AND ARTICLE 28 OF THIS CODE.

1 (D) THE APPLICANT FOR A CRITICAL AREA RECLASSIFICATION HAS THE BURDEN OF  
2 PROOF, INCLUDING THE BURDEN OF GOING FORWARD WITH THE EVIDENCE AND THE  
3 BURDEN OF PERSUASION, WITH RESPECT TO ANY QUESTION OF FACT.  
4

5 (E) THE OFFICE OF PLANNING AND ZONING NEED NOT PAY THE FILING FEE IN CASES  
6 IN WHICH THAT OFFICE APPEALS A DECISION OF THE ADMINISTRATIVE HEARING  
7 OFFICER TO THE COUNTY BOARD OF APPEALS.  
8

9 ARTICLE 28 ZONING  
10 Title 1A. Critical Area

11  
12 1A-108. Growth allocation process.  
13

14 (A) WITHIN THE CHESAPEAKE BAY CRITICAL AREA, THERE IS A GROWTH  
15 ALLOCATION PROCESS.  
16

17 (B) APPLICATIONS FOR GROWTH ALLOCATION SHALL:  
18

19 (1) BE MADE BY THE COUNTY OR A PERSON HAVING AT LEAST A 10% FINANCIAL,  
20 CONTRACTUAL, OR PROPRIETARY INTEREST IN THE PROPERTY TO BE AFFECTED;  
21

22 (2) INCLUDE THE FOLLOWING INFORMATION:  
23

24 (I) TAX MAP, BLOCK, AND PARCEL NUMBERS OF THE PROPERTY TO BE  
25 AFFECTED;  
26

27 (II) CURRENT ZONING OF THE PROPERTY;  
28

29 (III) CURRENT CRITICAL AREA CLASSIFICATION; AND  
30

31 (IV) REQUESTED CRITICAL AREA CLASSIFICATION;  
32

33 (3) CONTAIN A CRITICAL AREA ENVIRONMENTAL REPORT THAT INCLUDES:  
34

35 (I) ALL NECESSARY PLANS, MAPS, DRAWINGS, AND DOCUMENTS TO SUPPORT  
36 THE REPORT; AND  
37

38 (II) DEMONSTRATION OF COMPLIANCE WITH THE CRITICAL AREA CRITERIA  
39 FOR THE REQUESTED CRITICAL AREA CLASSIFICATION;  
40

41 (4) INCLUDE A MAP AT THE SCALE OF ONE INCH EQUALS 100 FEET SHOWING ALL  
42 TOPOGRAPHY ON AND WITHIN 200 FEET OF THE PROPERTY TO BE AFFECTED, IN  
43 ACCORDANCE WITH §8-1808.1 OF THE NATURAL RESOURCES ARTICLE OF THE STATE  
44 CODE; AND  
45

46 (5) INCLUDE A DETAILED EXPLANATION AND DESCRIPTION OF THE PROJECT  
47 PROPOSED FOR THE GROWTH ALLOCATION THAT ADDRESSES:  
48

49 (I) PUBLIC NEED;  
50

51 (II) MAXIMIZATION OF ENVIRONMENTAL BENEFITS;  
52

53 (III) MINIMIZATION OF NEGATIVE ENVIRONMENTAL IMPACTS;  
54

55 (IV) COMPLIANCE WITH ALL REQUIREMENTS OF DEVELOPMENT FOR THE  
56 PROPOSED PROJECT WITHOUT OFFSETS OR OFFSITE MITIGATION;  
57

58 (V) REFORESTATION, MITIGATION, AND THE PROVISION OF EASEMENTS THAT  
59 EXCEED THE REQUIREMENTS OF DEVELOPMENT FOR THE PROPOSED PROJECT.  
60

1 (VI) ENERGY-EFFICIENT USE OF DESIGN, SITING, AND DEVELOPMENT  
2 METHODS:

3  
4 (VII) PRESERVATION OF ARCHEOLOGICAL SITES AND HISTORIC STRUCTURES;  
5 AND

6  
7 (VIII) AFFORDABLE HOUSING, WHERE APPLICABLE.

8  
9 (C) APPLICATIONS FOR GROWTH ALLOCATIONS SHALL BE ACCEPTED ACCORDING TO  
10 THE FOLLOWING SCHEDULE:

<u>SUBMITTED</u>	<u>ACCEPTED FOR FILING</u>
JANUARY THROUGH JUNE	JULY
JULY THROUGH DECEMBER	JANUARY

11  
12  
13  
14  
15  
16  
17  
18 (D) AN APPLICATION FOR GROWTH ALLOCATION MAY NOT BE ACCEPTED FOR FILING  
19 BY THE OFFICE OF PLANNING AND ZONING IF THE APPLICATION FAILS TO CONFORM  
20 WITH THE REQUIREMENTS OF THIS SECTION.

21  
22 (E) ALL COMPLETED APPLICATIONS SHALL BE REVIEWED BY THE OFFICE OF  
23 PLANNING AND ZONING FOR RECOMMENDATION TO THE PLANNING ADVISORY BOARD  
24 WITHIN 60 DAYS OF THE LAST DAY OF THE MONTH OF ACCEPTANCE OF THE  
25 APPLICATION.

26  
27 (F) THE PLANNING ADVISORY BOARD SHALL REVIEW AND CONSIDER THE  
28 APPLICATIONS FOR GROWTH ALLOCATION ALONG WITH RECOMMENDATIONS OF THE  
29 OFFICE OF PLANNING AND ZONING AT REGULARLY SCHEDULED MEETINGS OR MEETINGS  
30 CALLED FOR THAT PURPOSE NOT LATER THAN 60 DAYS AFTER RECEIPT OF THE  
31 APPLICATIONS FROM THE OFFICE OF PLANNING AND ZONING.

32  
33 (G) THE PLANNING ADVISORY BOARD SHALL MAKE RECOMMENDATIONS ON  
34 APPLICATIONS FOR GROWTH ALLOCATION TO THE COUNTY EXECUTIVE FOR PROPOSED  
35 LEGISLATION FOR CRITICAL AREA MAPPING CHANGES.

36  
37 (H) APPROVAL OF A GROWTH ALLOCATION IS RESCINDED BY OPERATION OF LAW IF:

38  
39 (I) ACTION TO COMMENCE THE USE IS NOT BEGUN WITHIN ONE YEAR OF THE  
40 DATE OF APPROVAL BY THE COUNTY COUNCIL OR CHESAPEAKE BAY CRITICAL AREA  
41 COMMISSION, WHICHEVER IS LATER; AND

42  
43 (II) THE APPROVED USE IS NOT AT LEAST 50% COMPLETE WITHIN THREE YEARS  
44 OF THE DATE OF APPROVAL BY THE COUNTY COUNCIL OR CHESAPEAKE BAY CRITICAL  
45 AREA COMMISSION, WHICHEVER IS LATER; OR

46  
47 (III) THE USE OR CONSTRUCTION ON THE PROPERTY DEVIATES FROM ANY  
48 APPROVED SITE PLAN.

49  
50 (I) FOR INTENSE DEVELOPMENT AREAS GRANTED THROUGH THE GROWTH ALLOCA-  
51 TION PROCESS, THE DEVELOPER SHALL COMPLY WITH THE FOREST PRESERVATION AND  
52 REFORESTATION REQUIREMENTS OF ARTICLE 21, §§2-315 AND 2-317 OR ARTICLE 26,  
53 §§2-304.1 AND 2-304.2 OF THIS CODE, AS APPLICABLE, BEFORE GRADING PERMIT  
54 APPROVAL OR FINAL SUBDIVISION APPROVAL.

55  
56 Title 11. Rezoning, Special Exceptions, and Variances

57  
58 11-102. Requirements for and effect of rezoning.

59  
60 (c) Rezoning shall be granted or denied in accordance with appropriate zoning regula-  
61 tions, but a rezoning may not be granted except on the basis of an affirmative finding that

1 (5) for a property located in the [criteria] CHESAPEAKE BAY CRITICAL area:  
2

3 (i) the permitted uses in the proposed zoning classification are compatible with  
4 the critical area land use designation and development standards for the property; and  
5

6 (ii) the Chesapeake Bay Critical Area Commission has approved the zoning if  
7 the basis for the rezoning is that the character of the neighborhood has changed to such an  
8 extent that the zoning map should be changed.  
9

10 11-102.3. Requirements for and effect of Chesapeake Bay critical area reclassification.  
11

12 (A) APPLICATION FOR CHESAPEAKE BAY CRITICAL AREA RECLASSIFICATION:

13 (1) MAY BE FOR A MORE OR LESS RESTRICTIVE CLASSIFICATION; AND  
14

15 (2) MAY COVER MORE THAN ONE TRACT, PORTIONS OF WHICH ARE PROPOSED TO  
16 BE DESIGNATED IN THE SAME CLASSIFICATION OR ONE OR MORE CLASSIFICATIONS.  
17

18 (B) THE APPLICANT FOR A CRITICAL AREA RECLASSIFICATION HAS THE BURDEN OF  
19 PROOF, INCLUDING THE BURDEN OF GOING FORWARD WITH THE EVIDENCE AND THE  
20 BURDEN OF PERSUASION WITH RESPECT TO ANY QUESTION OF FACT.  
21

22 (C) CRITICAL AREA RECLASSIFICATIONS SHALL BE GRANTED OR DENIED IN  
23 ACCORDANCE WITH COMPATIBILITY WITH THE UNDERLYING ZONING DISTRICT, BUT A  
24 RECLASSIFICATION MAY NOT BE GRANTED EXCEPT ON THE BASIS OF AN AFFIRMATIVE  
25 FINDING THAT:  
26

27 (1) THERE WAS A MISTAKE IN THE APPROVED CHESAPEAKE BAY CRITICAL AREA  
28 MAP BASED ON LAND USES IN EXISTENCE ON DECEMBER 1, 1985;  
29

30 (2) THE PROPOSED CRITICAL AREA CLASSIFICATION CONFORMS TO THE STATE  
31 AND COUNTY CHESAPEAKE BAY CRITICAL AREA MAPPING CRITERIA;  
32

33 (3) THE PROPOSED CRITICAL AREA CLASSIFICATION CONFORMS TO THE  
34 ENVIRONMENTAL GOALS AND STANDARDS OF THE GENERAL DEVELOPMENT PLAN;  
35

36 (4) THERE IS COMPATIBILITY BETWEEN THE USES OF THE PROPERTY AS  
37 RECLASSIFIED AND SURROUNDING LAND USES, SO AS TO PROMOTE THE HEALTH,  
38 SAFETY, AND WELFARE OF PRESENT AND FUTURE RESIDENTS OF THE COUNTY AND TO  
39 PROMOTE EFFECTIVE ENVIRONMENTAL LAND USE MANAGEMENT; AND  
40

41 (5) THE APPLICANT HAS NOTIFIED THE CHESAPEAKE BAY CRITICAL AREA  
42 COMMISSION OF THE PROPOSED CRITICAL AREA RECLASSIFICATION IN WRITING AND  
43 WITH A COPY OF THE APPLICATION AT LEAST 30 DAYS PRIOR TO ANY HEARING.  
44

45 (D) THE GRANTING OF A CRITICAL AREA RECLASSIFICATION DOES NOT:  
46

47 (1) OPERATE AS A WAIVER OF ANY LAW OR REGULATION INSOFAR AS THE  
48 DEVELOPMENT OF THE RECLASSIFIED PROPERTY IS CONCERNED; OR  
49

50 (2) CONSTITUTE A COMMITMENT ON THE PART OF ANY AGENCY OR DEPARTMENT  
51 TO PROVIDE ROADS, SEWERS, OR WATER SERVICE TO THE PROPERTY.  
52

53 11-103. Application for rezonings, critical area reclassifications, special exceptions, and  
54 variances--In general.  
55

56 (a) An application for a rezoning, CRITICAL AREA RECLASSIFICATION, special  
57 exception, or variance may be made only by the County or a person having at least a 10%  
58 financial, contractual, or proprietary interest in the property to be affected.

1 (b) An application for a rezoning OR CRITICAL AREA RECLASSIFICATION shall include  
2 an affidavit by the person who signs the application that the information shown in the  
3 application and accompanying the application is true upon the personal knowledge of the  
4 person signing the application.  
5

6 (c) An application for a rezoning, CRITICAL AREA RECLASSIFICATION, special  
7 exception, or variance shall be submitted to the Office of Planning and Zoning in triplicate  
8 on a form supplied by the Office of Planning and Zoning.  
9

10 (d) An application for a rezoning, CRITICAL AREA RECLASSIFICATION, special  
11 exception, or variance shall be accompanied by the filing fee shown below:  
12

13 (9) FOR A CRITICAL AREA RECLASSIFICATION, \$150 PLUS \$15 FOR EACH ACRE OR  
14 FRACTION OF AN ACRE;  
15

16 [(9)] (10) for a special exception, \$75;  
17

18 [(10)] (11) for a variance, \$75; and  
19

20 [(11)] (12) for each sign to be posted, \$10.  
21

22 (F) APPLICATIONS FOR REZONING OR CRITICAL AREA RECLASSIFICATIONS SHALL BE  
23 ACCEPTED ACCORDING TO THE FOLLOWING SCHEDULE:  
24

<u>SUBMITTED</u>	<u>ACCEPTED FOR FILING</u>
JANUARY, FEBRUARY, MARCH	APRIL
APRIL, MAY, JUNE	JULY
JULY, AUGUST, SEPTEMBER	OCTOBER
OCTOBER, NOVEMBER, DECEMBER	JANUARY

25  
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33  
34 (g) A separate application shall be submitted for each zoning OR CRITICAL AREA  
35 reclassification for which the applicant applies.  
36  
37

38 (h) An application for a rezoning, CRITICAL AREA RECLASSIFICATION, special  
39 exception, or variance may not be accepted for filing by the Office of Planning and Zoning  
40 if the application fails to conform with the requirements of this section[,] and §§11-104 and  
41 11-105 of this title. The Office of Planning and Zoning shall accept an application if the  
42 applicant has fulfilled the application requirements.  
43

44 11-104. Same--Information.  
45

46 (a) An application for a rezoning, CRITICAL AREA RECLASSIFICATION, special  
47 exception, or variance shall include:  
48

49 (5) THE PRESENT CHESAPEAKE BAY CRITICAL AREA CLASSIFICATION AND THE  
50 CRITICAL AREA CLASSIFICATION PROPOSED;  
51

52 (6) A STATEMENT AS TO THE JUSTIFICATION FOR A PROPOSED CRITICAL AREA  
53 RECLASSIFICATION.  
54

55 [(5)] (7) the area, in square feet or acres, of the property proposed for  
56 reclassification, special exception, or variance;  
57

58 [(6)] (8) the application number and date of application;

1            [(7)] (9) the dates and action taken on applications filed within the three previous  
2 years for REZONING, CRITICAL AREA reclassification, special exception, or variance of the  
3 whole or part of the land specified in the application; and  
4

5            [(8)] (10) information concerning existing vegetative communities, nontidal  
6 wetlands, proposed disturbance, replanting, and habitat protection areas for sites located in  
7 the critical area.  
8

9            (b) In addition to the information required by subsection (a) of this section, the  
10 following information shall be submitted with each application for a rezoning, CRITICAL  
11 AREA RECLASSIFICATION, or special exception:  
12

13 11-105. Same--Maximum number of filings; modification of application.  
14

15            (a) After an application has been acted on by the Administrative Hearing Officer, the  
16 same property may not be considered for substantially the same rezoning, CRITICAL AREA  
17 RECLASSIFICATION, special exception, or variance, or for a less restrictive CRITICAL AREA  
18 RECLASSIFICATION OR rezoning, within 18 months after the date of [final action] DENIAL  
19 by the Administrative Hearing Officer, the County Board of Appeals, or a court, whichever  
20 is latest.  
21

22            (b) After acceptance for filing, an application for rezoning OR CRITICAL AREA  
23 RECLASSIFICATION may be modified or amended only for a more restrictive use until the  
24 date of hearing only if the rezoning OR CRITICAL AREA RECLASSIFICATION is readvertised  
25 in accordance with the provisions of this article.  
26

27 11-106. Same--Effect of withdrawal.  
28

29            An application for a rezoning, CRITICAL AREA RECLASSIFICATION, special exception,  
30 or variance that is withdrawn after the first public notice of hearing shall be considered  
31 denied.  
32

33 11-107. Same--Forwarding to Administrative Hearing Officer, notice of application to be  
34 given by sign and publication.  
35

36            (a) (1) At the end of each filing period enumerated in §11-103(f) of this title, the Office  
37 of Planning and Zoning shall submit a list of applications for rezonings AND CRITICAL  
38 AREA RECLASSIFICATIONS to the Administrative Hearing Officer for the scheduling of  
39 hearings. Not less than 20 days before the day for each hearing, the Office of Planning and  
40 Zoning shall transmit to the Administrative Hearing Officer its entire file for each  
41 application for a rezoning OR CRITICAL AREA RECLASSIFICATION, along with the written  
42 position of the Office on each proposed rezoning OR CRITICAL AREA RECLASSIFICATION.  
43

44            (b) (1) Not less than 30 days before the day of a hearing on an application for a rezoning  
45 OR CRITICAL AREA RECLASSIFICATION or not less than 14 days before the day of hearing  
46 on an application for a special exception or variance, one or more signs shall be erected on  
47 the subject property to give notice of the application. Signs giving notice of applications  
48 for rezonings OR CRITICAL AREA RECLASSIFICATIONS shall be erected by the Office of  
49 Planning and Zoning. Signs giving notice of applications for special exceptions or  
50 variances shall be furnished by the Office of Planning and Zoning to the applicant and  
51 erected by the applicant.  
52

53            (6) Each sign posted to give notice of an application for a rezoning, CRITICAL AREA  
54 RECLASSIFICATION, or special exception shall conspicuously include the following  
55 information:  
56

57            (i) the nature of the application:

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58

(ii) the nature of the request;

(iii) case and file number;

(iv) a statement that the case is pending;

(v) the following statement: "Further information may be obtained by contacting the ["] Office of Planning and Zoning."; and

(vi) the telephone number of the Office of Planning and Zoning.

(c) The Administrative Hearing Officer shall cause each application for a rezoning, CRITICAL AREA RECLASSIFICATION, special exception, or variance to be published in two newspapers published in the County and selected so as to give notice in the section of the County where the property is located. The publication of each application shall contain the following information:

(1) the nature of the request;

(2) the case and file number;

(3) the date of the hearing;

(4) the following statement: "Further information on the case(s) listed above may be obtained from the Office of Planning and Zoning.";

(5) the assessment district and the nearest intersecting roadway; and

(6) the telephone number of the Office of Planning and Zoning.

11-108. Rezoning, critical area reclassifications, or special exceptions--Notice of hearing before Administrative Hearing Officer.

(a) Whenever the law requires advertisement of notice of a hearing before the Administrative Hearing Officer that relates to a rezoning, CRITICAL AREA RECLASSIFICATION, or a special exception, the advertisement shall be published in the manner specified in this section.

(c) The advertisement shall be a display advertisement and shall be in substantially the form and contain the information specified below:

"NOTICE OF HEARINGS  
REZONINGS, CRITICAL AREA RECLASSIFICATIONS, AND SPECIAL EXCEPTIONS  
ANNE ARUNDEL COUNTY, MARYLAND

The following case(s) will be heard before the Administrative Hearing Officer

Councilmanic District \_\_\_\_\_

Case and file numbers.

Name of applicant

Nature of request

Location of property (including assessment district and nearest intersecting roadway)

Date, time, and location of hearing

1 Further information on the case(s) listed above may be obtained from the Office of Planning and  
2 Zoning (telephone number)."  
3

4 (e) The Administrative Hearing Officer may not conduct a hearing that relates to a  
5 rezoning, CRITICAL AREA RECLASSIFICATION, or special exception unless the Purchasing  
6 Agent certifies that advertisement of the hearing has been published in accordance with this  
7 section.  
8

9 11-109. Same--Notice to community associations and interested persons.  
10

11 (b) At least two weeks before a rezoning, CRITICAL AREA RECLASSIFICATION, or a  
12 special exception hearing by the Administrative Hearing Officer, the Office of the County  
13 Executive shall mail to each community association, person, and organization on the list the  
14 same information advertised in accordance with §11-108 of this article.  
15

16 (e) The Administrative Hearing Officer may not conduct a hearing that relates to a  
17 rezoning, CRITICAL AREA RECLASSIFICATION, or a special exception unless the County  
18 Executive or the designee of the County Executive certifies that notification has been mailed  
19 in accordance with this section.  
20

21 11-110. Scheduling of hearings; notice of individual hearings.  
22

23 (a) Not more than 30 days after receipt of the list of applications for rezonings AND  
24 CRITICAL AREA RECLASSIFICATIONS from the Office of Planning and Zoning, the  
25 Administrative Hearing Officer shall set a time and place for the hearing and shall notify  
26 each petitioner of the scheduled hearing. Notice for individual hearings shall be published  
27 once a week in two newspapers published in the County and selected so as to give notice in  
28 the section of the County where the property is located for two consecutive weeks before  
29 the date of hearing.  
30

31 (c) If a postponement of a hearing on an application for a rezoning OR CRITICAL AREA  
32 RECLASSIFICATION is granted by the Administrative Hearing Officer, the property shall be  
33 readvertised in accordance with subsection (a) of this section, and the cost therefor shall be  
34 paid by the person requesting the postponement.  
35

36 11-111. Advertising and mailing fees.  
37

38 (a) In addition to the filing fee required by §11-103 of this title, each person filing an  
39 application for a rezoning, CRITICAL AREA RECLASSIFICATION, or a special exception  
40 shall pay a fee of \$35 to the County to defray the cost of advertising and mailing required  
41 by §§11-108 and 11-109 of this title.  
42

43 (c) The Office of Planning and Zoning may not accept an application for a rezoning,  
44 CRITICAL AREA RECLASSIFICATION, or a special exception for filing unless it is  
45 accompanied by the fee required by subsection (a) of this section.  
46

47 11-112. Rescission of approval of rezoning, critical area reclassification, special exception,  
48 or variance.  
49

50 (a) The approval of a rezoning OR CRITICAL AREA RECLASSIFICATION, or the grant of  
51 a special exception or variance shall be rescinded if:  
52

53 (1) the approval or grant is based on a fraudulent misrepresentation of material  
54 information stated in the application, testimony, site plans, or other supporting documents;  
55 or

1 (2) the use of the respective property deviates from the approved site plan or  
2 CRITICAL AREA RECLASSIFICATION OR zoning conditions imposed.  
3

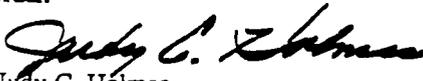
4 (b) If an approval of a rezoning OR CRITICAL AREA RECLASSIFICATION or a grant of a  
5 special exception or variance is rescinded as provided in subsection (a) of this section, then  
6 in addition to other remedies at law or equity, the use of the property shall be restricted to  
7 THE use permitted immediately before the approval or grant.  
8

9 SECTION 3. *And be it further enacted*, That this Ordinance shall take effect 45 days  
10 from the date it becomes law.

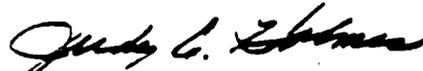
AMENDMENT ADOPTED August 5, 1991

READ AND PASSED, as amended, this 19th day of August, 1991

By Order:

  
Judy C. Holmes  
Administrative Officer

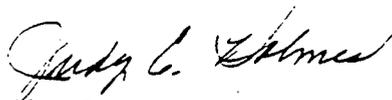
PRESENTED to the County Executive for his approval this 20th day of August, 1991

  
Judy C. Holmes  
Administrative Officer

APPROVED AND ENACTED this 20<sup>th</sup> day of August, 1991

  
Robert R. Neall  
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF  
BILL NO. 66-91, THE ORIGINAL OF WHICH IS RETAINED IN THE  
FILES OF THE COUNTY COUNCIL.

  
Judy C. Holmes  
Administrative Officer

# FINAL

AMENDED  
August 5, 1991

## COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 1991, Legislative Day No. 34

Bill No. 67-91

Introduced by Mrs. Clagett, Chairman  
(by request of the County Executive)

By the County Council, July 15, 1991

RECEIVED

SEP 05 1991

DWR  
CRITICAL AREA COMMISSION

Introduced and first read on July 15, 1991  
Public Hearing set for and held on August 5, 1991

By Order: Judy C. Holmes, Administrative Officer

### A BILL ENTITLED

1 AN EMERGENCY ORDINANCE concerning: Growth Allocation in the Chesapeake Bay  
2 Critical Area - City of Annapolis

3  
4 FOR the purpose of transferring growth allocation to the City of Annapolis

5  
6 WHEREAS, §8-1808.1 of the Natural Resources Article of the Annotated Code of  
7 Maryland established certain growth allocations for the Intensely Developed Area  
8 classification of the Chesapeake Bay Critical Area for each county having land  
9 within the Critical Area; and

10  
11 WHEREAS, the proportionate growth allocation within Anne Arundel County for  
12 the City of Annapolis is 11 acres; and

13  
14 WHEREAS, the City of Annapolis is now or will be considering requests for  
15 growth allocation; and

16  
17 WHEREAS, the City of Annapolis has developed or is developing criteria for the  
18 granting of growth allocation within the City limits; now, therefore,

19  
20 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
21 That 11 acres of growth allocation within Anne Arundel County for the Intensely  
22 Developed Area classification be and it is hereby ~~transferred to the City of Annapolis for~~  
23 growth allocation within the City limits segregated from the growth allocation otherwise  
24 available within the County for transfer to the City of Annapolis for growth allocation  
25 within the City limits on request, by resolution, of the Mayor and City Council for all or  
26 part of that 11 acres.

27  
28 SECTION 2. *And be it further enacted.* That, in accordance with §21.67.130 of the  
29 Code of the City of Annapolis, no more than 11 acres of land in the critical area may be  
30 changed from limited development to intensely developed or from resource conservation to  
31 another classification.

32  
33 SECTION 2: 3. *And be it further enacted,* That this Ordinance is hereby declared to be  
34 an emergency ordinance and necessary for the immediate preservation of the public peace,  
35 health, safety, welfare, and property, and being passed by the affirmative vote of five  
36 members of the County Council, the same shall take effect from the date it becomes law.

37  
38 AMENDMENTS ADOPTED August 5, 1991

READ AND PASSED, as amended, this 5th day of August, 1991

By Order:



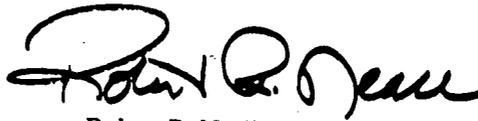
Judy C. Holmes  
Administrative Officer

PRESENTED to the County Executive for his approval this 6th day of August, 1991



Judy C. Holmes  
Administrative Officer

APPROVED AND ENACTED this 7<sup>th</sup> day of August, 1991



Robert R. Neall  
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO. 67-91,  
THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE COUNTY COUNCIL.



Judy C. Holmes  
Administrative Officer

STAFF REPORT

November 6, 1991

*not sure  
under Article 66B  
that this auth-  
ority can  
be granted.*

Jurisdiction: St. Mary's County

Subject: Amendment - Administrative Buffer  
Variance

Commission Action: Information - Vote required at the  
December meeting

Discussion:

St. Mary's County has proposed an amendment to their Critical Area Program that would allow County Planning & Zoning staff to approve certain variance requests within the 100-foot Buffer without the applicant having to go before the Board of Appeals. The process would apply to construction of an accessory structure, an addition to an existing residential structure or repair to an existing failing septic system on existing lots of record.

The following requirements would apply:

- the footprint of the addition can be no longer than 500 square feet (cumulative);
- the construction of the addition cannot require the removal of any vegetation except for where the construction itself is located;
- a Critical Area Buffer Planting Plan is agreed to;
- the addition is located no closer than 50 feet from Mean High Water;
- the addition is not within a nontidal wetland buffer;
- all projects requiring a variance for work within the 100-foot Buffer would be reviewed by the Critical Area Commission staff prior to any administrative action by the County staff.

There are also requirements that the County notify contiguous property owners prior to administrative approvals. These property owners may appeal the administrative approvals to the Board of Appeals within 30 days.

All applicant appeals from an administrative denial may be appealed to the Board of Appeals within 30 days.

Staff Report  
November 6, 1991  
Page Two

Issues to consider:

- Tidal wetlands or tributary streams are not included in the description of the 100-foot Buffer, only Mean High Water.
- There is a discrepancy in the County's language between the section entitled Requirements for Staff Review which refers to the proposed construction being an accessory structure, an addition to an existing residential structure or repair to an existing failing septic system, and the section entitled Decision, which refers to approval of proposed construction of principal or accessory structures. Principal structures are not in the first section.
- The determination of what constitutes an existing lot of record is not defined. It is not clear whether the policy applies just to grandfathered lots or also to lots created since the Program went into effect.
- There is no reference to Habitat Protection Areas.
- Would the Critical Area Commission be able to appeal variance approvals made administratively the same as those made by the Board of Appeals?
- There is no stated mitigation requirement.

Staff contact: Claudia Jones

## ZONING DECISION 91-CA

### BOARD OF APPEALS POLICY

**PURPOSE:** To Delegate Approval Authority to Staff to apply the standards for variance for certain expansions or additions to existing noncomplying structures or other proposed construction covered by this policy which does not result in the construction of more than 500 square feet and no closer than 50 feet from MHW within the Critical Area 100 foot Buffer under Zoning Ordinance 90-11 (amended) and the St. Mary's County Ordinance for the Critical Area Program 90-02.

### **BACKGROUND JUSTIFICATION:**

The Board wishes to expedite the approval process for minor additions or expansions of existing noncomplying structures and accessory structures/uses within the 100 foot Buffer on existing lots of record. This policy applies only to the administration of Critical Area Buffer variances which conform to the requirements herein. The following policy is proposed for the purpose of requiring only those projects which may have an impact on the Buffer or water quality to apply to the Board of Appeals

### **REQUIREMENTS FOR STAFF REVIEW:**

Proposed construction is not required to receive Board of Appeals approval if it can meet the following guidelines:

1. The proposed construction is an accessory structure, an addition to an existing residential structure, or a repair to an existing failing septic system approved by the Health Department;
2. The footprint of the addition(s) is no larger than 500 square feet;
3. The construction of the addition does not require the removal of existing vegetation except for the proposed construction itself;
4. A Critical Area Buffer Planting Agreement is agreed upon by the applicant and staff and executed by the applicant;
5. The addition is located no closer than 50 feet from Mean High Water (MHW) and/or;
6. The addition is located no closer than 25 feet from any nontidal wetland;
7. The cumulative impervious surfaces of the existing and proposed structures on the site do not exceed 15% (or 25%), as permitted by the St. Mary's County Ordinance for the Critical Area;
8. All projects applying for approval within the 100 foot Buffer shall be reviewed by the Maryland Critical Area Commission consistent with COMAR 14.20, prior to any administrative action by staff.

Staff approval delegated by this policy is strictly limited to 500 square feet and this policy shall be cumulative; that is, this is a total of 500 square feet per parcel only. Any proposed construction in excess of 500 square feet, including phased or subsequent construction, must be submitted to the Board. Additions shall be limited to attached decks (open or covered), porches, sheds, garages (detached or attached), patios, breezeways, and other structures for residential use and incidental storage use. In administering this policy, staff shall apply

the standards for variance contained in the St. Mary's County Critical Area Ordinance, p. 31, Part 8. Environmental permits, consistent with all Critical Area requirements, are required in all cases and building permits when provisions of the Zoning Ordinance or BOCA/CABO are applicable.

DECISION:

- A) Approval of proposed construction of principal or accessory structures within the 100 foot Critical Area Buffer which meets the aforementioned policy requirements are hereby delegated to administrative staff.
1. Staff is to notify all contiguous property owners in writing no less than ten (10) calendar days of an applicant's proposal prior to all administrative approvals authorized by this policy. The contiguous property owners, if aggrieved, may appeal these administrative approvals to the Board of Appeals within thirty (30) calendar days.
  2. All applicant appeals resulting from an administrative denial may be appealed to the Board of Appeals within thirty (30) calendar days.
  3. Staff is to report all such administrative approvals to the Board of Appeals within thirty (30) days of the approval or at the second Board of Appeals meeting each month.
- B) Expansion or Addition to A STRUCTURE WHICH RECEIVED PRIOR BOARD OF APPEALS APPROVAL FOR A BUFFER VARIANCE:
- 1) For Board of Appeals approvals prior to the adoption of this policy, staff may approve future expansions or additions consistent with this policy, UP TO A TOTAL OF 500 SQUARE FEET, provided that future Board review was not a condition of approval.
  - 2) For Board of Appeals approvals after the adoption of this policy, staff may approve future expansions or additions consistent with this policy, UP TO A TOTAL OF 500 SQUARE FEET.

Approved this date:

\_\_\_\_\_  
Thomas A. Bowles  
Chairman

INSERT BEHIND PAGE 31, SMCCAO

*Info Item*

CRITICAL AREA COMMISSION

STAFF REPORT

October 24, 1991

PROJECT: Maryland Department of Agriculture, Mosquito Control Project, Dorchester County

DISCUSSION: As part of the State's mosquito control program, the Maryland Department of Agriculture (MDA) is conducting Open Marsh Water Management (OMWM) in several locations within Dorchester County. The activities conform to standardized procedures developed by the Maryland Mosquito Control Advisory Committee. They include:

- A. 6 sites in Dorchester County (Taylor Island, Punch Island Road, Andrews, Lakeville\Crapo Road, Shorters Wharf and Becker Island Marsh along Transquaking River)

OMWM work plans include 26 ponds, 15 sill ditch outlets and open ditch outlets

- B. Wingate/Toddville area

Work plans include an OMWM system of eight ponds, new ditches 30" wide by 30" deep, and maintenance of existing ditches

The projects have been designed to reduce breeding of salt marsh mosquitoes by non-chemical means that include fish predation and the adjustment of water levels. There is an extensive history of mosquito production for each location.

The projects are under review by the Maryland Forest, Park and Wildlife Service to determine if any Habitat Protection Areas could be affected by the activities.

STAFF CONTACT: Liz Zucker

STAFF RECOMMENDATION: Staff recommendations are pending Maryland Forest, Park and Wildlife review of the projects.

STAFF REPORT

20-0  
approved.

November 6, 1991

Applicant: MD Department of Natural Resources

Project: Stone Revetment for Choptank River  
Fishing Piers State Park

Recommendation: APPROVAL

Project Description:

The Maryland Department of Natural Resources, Shore Erosion Control Division, proposes to construct a stone revetment on the Dorchester County side of the Choptank River Fishing Piers State Park. The Master Plan for the Choptank River Fishing Piers State Park was approved by the Commission at the September meeting. The project is located adjacent to Rt. 50 on the property with the "goose monument." There is also an eight-foot gravel path proposed behind the revetment. The length of the revetment is 256 feet. The maximum encroachment into the water is ten feet. The area is considered to be an Area of Intense Development based on the existing use (parking) and that the City of Cambridge has designated the surrounding areas as IDA.

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

- Areas of public access to the shoreline, such as foot paths, scenic drives, and other public recreational facilities, should be maintained and, if possible, encouraged to be established. COMAR 14.19.05.03(B)(2)(d). Development in Areas of Intense Development.
- If shore erosion protection is planned on State-owned lands, the agency proposing the protection should determine which of the... characteristics describes the shoreline area and provide that structural control measures only be used where nonstructural control measures would be impractical or ineffective. COMAR 14.19.05.05(B). Shore Erosion Protection Areas.
- The agency shall establish a minimum 100-foot Buffer landward from mean high water. COMAR 14.19.05.09(B)(1). Buffer.
- 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). Buffer.

Staff Report  
November 6, 1991  
Page Two

- 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). Buffer.

The staff believes that the Criteria has been satisfied. The site is undergoing severe erosion. Nonstructural erosion control would not be practical. The walkway behind the revetment is in the buffer; however, the site is in an Area of Intense Development and public access to the shoreline is encouraged. There is not enough room on the site to mitigate for the encroachment into the Buffer; however, DNR is afforesting 48% of the site on the Talbot County side (15% required) and staff believes that this balances it out.

Staff Contact: Claudia Jones

**STAFF REPORT**

November 6, 1991

Jurisdiction:

Chesapeake Beach

Project:

Proposed Park at Randle Cliffs

Commission Action:

Information - Vote on Concept Plan  
at December Meeting

Discussion:

The Maryland Office of Planning is working on a preliminary development plan for Randle Cliff Beach Natural Heritage Area. The property is at present privately owned and is a designated Natural Heritage Area. The Office of Planning would like to receive concept approval from this Commission for the park plan that they have developed prior to trying to purchase the property. The cliffs along the site support the Puritan Tiger-beetle (Cicindela puritana), an endangered species in Maryland. The wetlands and ravines on the property also support two threatened species, Red Turtlehead (Chelone obliqua) and Glade Fern (Athyrium pycnocarpon), and an uncommon plant, Whorled Water-pennywort (Hydrocotyle verticillata). These species are not known to be present on the portion of the property where the park development is to take place, but across Route 261 within the Natural Heritage Area. The site is approximately 70 acres in size and is primarily forested. The site is potential forest interior-dwelling bird habitat (FIDS). A dirt road through the site is presently used as access to the beach and the water. There are existing trails on the property that area currently used for dirt bikes to some degree.

The State has proposed the following:

- A parking lot in the northwest corner of the property. A portion of this area is disturbed. This would require some clearing and grading. Stormwater management would have to be provided. This may be within the 100-foot Buffer or tidal wetlands.
- Comfort station and picnic tables in an old borrow pit area. This would not require the removal of trees.
- Utilization and stabilization (wood chips) of existing trails and dirt roads. No tree removal would be necessary for this.
- Gazebo/observation platform on the Bay cliff. This would be within the Buffer.

Staff Report  
November 6, 1991  
Page Two

MD Forest, Park and Wildlife has indicated that the concept plan as proposed to them will conserve FIDS habitat provided that the parking lot is located in existing disturbed areas and it is located as close to Route 261 as possible, that no trees are removed for the placement of the comfort station and picnic tables, and that no trees are removed for the hiking trails.

Heritage is concerned about the proposed parking lot, the clearing and grading that would be necessary for its construction, and any precedent that would be set for development in a Natural Heritage Area. They are also concerned about the proposed observation deck/gazebo in the Buffer.

Forest, Park & Wildlife Service has also recommended that the parcel of land west of Route 261 owned by the same landowner should be included in any purchase and managed in its natural state to help conserve the FIDS habitat in the area.

Issues to be addressed include impacts to the protected species within the Natural Heritage Area and proposed structures in the Buffer.

Staff Contact: Claudia Jones

BACHELORS POINT MARINA  
TAX MAP 53, PARCEL 86  
PROCEDURAL HISTORY

*Motion  
made that*

*We  
reconsider*

*this  
case*

*referred  
to a*

*Panel*

*13-2no*

- The mapping mistake was submitted by Talbot County to the Critical Area Commission on April 30, 1991, together with a package of other amendment requests. The mapping mistake read: "Tax Map 53, Parcel 86 - 30 acres: Existing marina originally zoned commercial, but mistakenly rezoned as an RCA classification when the Critical Area Program was adopted in 1989. The mapping error is being corrected".
- A legal notice was placed in the Star Democrat on June 9, 1991, and a public hearing was held by a panel of Critical Area Commission members on June 24, 1991.
- At the Critical Area Commission meeting on July 10, 1991, the Panel recommendation was made to the Critical Area Commission that no mistake was made based on the mapping criteria and land use in 1985. The Findings of Fact cited by the Panel were:
  1. This site had an existing marina in 1985 (slips and limited development - two structures).
  2. The majority of the site was barren land.
  3. The parcel did not have public water or sewer.
  4. Area met RC mapping criteria where dominant land use was barren land.
  5. This parcel is contiguous to both RC land and LDA land.
- The Critical Area Commission voted to deny the mapping mistake on July 10, 1991.
- In a letter to Clinton Bradley, III, President of Talbot County Council, from Pat Pudelkewicz dated July 25, 1991, the County was informed that the Critical Area Commission had denied the rezoning request for the Bachelor Point Marina site.
- In a letter dated August 16, 1991 (copy attached), from Dan Cowee, Talbot County Planning Director, to Pat Pudelkewicz, the County requested a reconsideration of the Bachelor Point mapping mistake based on additional evidence the County wanted to present.



DANIEL R. COWEE  
Planning Officer

TALBOT COUNTY OFFICE  
OF  
PLANNING AND ZONING  
COURTHOUSE  
EASTON, MARYLAND 21601  
PHONE 301-822-2030

BARRY F. GRIFFITH  
Assistant Planning Officer

August 16, 1991

RECEIVED

AUG 19 1991

DNR  
CRITICAL AREA COMMISSION

Pat Pudelkewicz  
Chesapeake Bay Critical Area Commission  
275 West Street  
Suite 320  
Annapolis, Maryland 21401

Dear Pat:

Upon further investigation of the Bachelor Point Critical Area mapping mistake, the Talbot County Council requests that the Critical Area Commission reconsider their current position. New information has been found which confirms that a mistake in mapping did in fact take place.

An application by the owners of Bachelor Point to develop 19 lots and increase the size of the Marina was discussed by the Talbot County Planning Commission April 9, 1986 at a regular meeting. At that time the Planning Commission was operating under the interim rules of the Critical Area Criteria. Approximately 20 LDA requests were reviewed during this period and were later included in the overall County mapping. The interim period ended with the adoption of the Critical Area Ordinance (August 1989).

The minutes of April 9, 1986 indicate that Bachelor Point was considered an LDA (see minutes enclosed). During the mapping phase of the County's program a portion of the Bachelor Point area was mapped LDA and the remainder was left in RC.

A mistake was made in the mapping by failure to map the remaining property under the ownership of the Bachelor Point Marina based upon the previous LDA classification granted in April 1986. "Criteria For Delineation of Limited Development Areas", found in the Talbot County Critical Area plan, lists specific criteria used in determining LDA classifications (see enclosure). Item number 3 states:

"3. Areas were designated as LDA by Planning Commission hearing."

Since the Planning Commission had taken action on the Bachelor Point property prior to the Critical Area comprehensive mapping it was mistakenly mapped. Building permits were issued allowing certain marina buildings to encroach into the 100 foot buffer setbacks in compliance with 14.15.03.03 and .06 of the State Critical Area Criteria. This action provides further evidence that the property was classified an LDA during the interim period.

Table 1 of the 1989 Critical Area Zoning Ordinance listed C-1 Commercially Zoned properties of less than 20 acres in size as LDA's (see enclosure). This confirms again that a mapping mistake was made.

In summary the Bachelor Point property was classified an LDA by the Planning Commission during the interim period, was mapped in error based upon criteria for delineation of Limited Development Areas in the Talbot County Critical Area Plan, was granted building permits encroaching the 100 foot buffer setback in compliance with 14.15.03.03 and .06 of the State law and was allowed to be less than 20 acres in size based upon the rules that were used in delineating LC Commercial areas.

I would appreciate your review of this material at your earliest convenience. If you have any questions please feel free to contact me at the Talbot County Planning Office.

Sincerely,

TALBOT COUNTY OFFICE OF PLANNING AND ZONING



Daniel R. Cowee  
Planning Officer

DRC/jc

enclosures  
c.c. Blenda Armistead, County Manager  
County Council Members  
James M. Slay, Jr., County Attorney

The regular meeting of the Talbot County Planning Commission took place on April 9th, 1986. Those present were: Jim Heikes/Chairman, Ralph Simmons, John Sewell, Deborah A. Bauer/Director of Planning, Andrew Hollis/Assistant Planning Director.

### Subdivisions

#### Locust Grove - Preliminary #753

Preliminary review was considered by the Planning Commission on a proposed subdivision consisting of 3 lots, located on Sanderstown Rd. zoned A-2. The 3 lots proposed are greater in size than the proposed 1 per 20 acre density for land in a Resource Conservation Area. Environmental Assessment has been completed and reviewed by the Commission, noting that a minor action assessment was required. Motion was made by John Sewell, seconded by Ralph Simmons to recommend preliminary approval.

Heikes - aye  
Simmons - aye  
Sewell - aye

#### Richland Farms #698 - (division of lot #1)

A plat was presented to the Planning Commission for their recommendation on whether lot No. 1 of Richland Farms could be classified as a Limited Development Area. After reviewing the proposed plat, the Commission delayed action in order to allow them, and the Planning Office, to formulate mapping strategies for land classification within the Critical Area. The Commission should be prepared to take further action at the next regular meeting.

#### Polar Bear #718

A two lot subdivision was reviewed by the Commission for property owned by Wilma F. Wagener, located off Landing Neck Rd. in the A-1 Zone. It was noted that development has already occurred in the surrounding area. Motion was made by Ralph Simmons, seconded by John Sewell and carried unanimously to recommend approval of this subdivision.

Heikes - aye  
Simmons - aye  
Sewell - aye

#### Annexation - Gannon

The Commission reviewed a proposal from the Gannon's to request the annexation of their property abutting Rt. 50 outside the boundaries of Easton, and the rezoning of same. While the Commission was in favor of the request for R-10A zoning, it was concerned about the impact of multiple access points onto Rt. 50. In light of this concern, the following recommendation was made: "As the petitioned site is geographically divided by Chapel Rd. access points for each site should be considered individually. The site to the north of Chapel Rd. should be denied total access to Rt. 50 with ingress and egress provided only from Chapel Rd. Due to the Rts. 322 and Rt. 50 crossover, the volume and speed of traffic generated in that area, no additional access points should be considered onto Rt. 50. The site south of Chapel Rd. should be limited to one access point onto Rt. 50 nearer the current

developer to address the intent section of the subdivision regulations as well as the adequacy of public facilities to serve the proposed subdivision. Due to soils constraints High Banks Farms Associates decided to halt proceedings for this proposal at the current time.

#### Bachelor Pt. Harbor Subdivision

The Bachelor Pt. Partnership approached the Planning Commission with a proposal to expand this subdivision with an 81 slip expansion and 19 homesites. The Town of Oxford will be approached concerning annexation and the expansion of water and sewer facilities. It was noted that 1,800 sq.ft. of wetlands will be excavated but the developer proposed to offset this with the creation of approximately 4,500 sq.ft. of saltmarsh. The proposal was considered to be a limited development area. The Comprehensive Plan of Oxford says that growth in that particular area is desirable, as the land surrounding has a limited development land use.

#### Board of Appeals

##### O.P. Large #599 - Variance and Allegation of Error

Octavus P. Large requests a variance from the strict interpretation of the Talbot County Zoning Ordinance to allow a two-family residence on his property located on Bayview Ave. Oxford Maryland zoned R-10. Applicant wishes to house the second dwelling in an existing garage, however, in checking with the Planning Office he found that in the R-10 zone, the only provision for a two-family dwelling is to have both dwellings housed under one roof. The Talbot County Zoning Ordinance states under the description of Dwelling, Two-Family, Section 19-26 that a detached residential building containing two dwelling units, designed for a occupied by not more than two families. Application as presented for such use would be in violation of the Zoning Ordinance. Under these conditions the Director of Planning denied issuance of a building permit. Therefore, the applicant must make application to the Board of Appeals on an Allegation of Error. After review of the application the Planning Commission recommends that the Board of Appeals not grant approval of the variance request of O.P. Large, due to the precedent that would be established and the fact that it would circumvent the intent of the zoning regulations. Motion was made by Ralph Simmons and seconded by John Sewell.

Upon examination of the application of O.P. Large the Planning Commission finds no grounds for the applicant's claim of an allegation of error on the part of the Planning Officer. Upon review of the zoning ordinance and application, the Commission finds that the Planning Officer acted within the language and intent of the Zoning Ordinance. Motion was made by Ralph Simmons, seconded by John Sewell and carried unanimously.

Heikes - aye  
Simmons - aye  
Sewell - aye

##### Kurt Petzold #607

Mr. Petzold is requesting a special exception for the construction of a boathouse on a proposed pier located on his property in Travellers Rest Subdivision, zoned W-5. The proposed pier will be 85 feet in length, with a 26x45 ft. boathouse placed on the end. Lateral lines extended have been complied with, After review of the site

## **CRITERIA FOR DELINEATION OF LIMITED DEVELOPMENT AREAS**

LDA's included any area of twenty or more contiguous acres developed in low or moderate intensity uses. The areas had a developed residential density of one dwelling unit per five acres up to four dwelling units per acre. The areas were not subject to extensive re-subdivision. And, they had an historic identification and concentration of rural development such as a village or crossroads area zoned for such development. In addition, the following characteristics were used:

1. Areas were not dominated by agriculture, wetlands, forest, barren land, surface water or open space;
2. Areas had public water or sewer system or both; and
3. Areas were designated as LDA by Planning Commission hearing.

## **DELINEATION OF RESOURCE CONSERVATION AREAS**

RCA's included the balance of the Critical Area not previously designated as an IDA (Intensely Developed Area) or a LDA (Limited Development Area). This remaining land was reviewed for qualification for RCA, characterized by housing densities of less than 1 dwelling unit per 5 acres, and the dominant land use was agriculture, forests, barren land, wetlands, surface water or open space.

### **Summary of Critical Area Classification**

The following Table 2.1, Critical Area Classifications, indicates the total area for each of the three development area classifications. An appendix to this Plan records and catalogs each of the individual development areas, and is on file at the Planning Department. This catalog of IDA's and LDA's contains the following information for each of the 76 individual areas, as illustrated on Map 1.

1. IDA or LDA identification number;
2. Tax map (1" = 600") with IDA or LDA outline;
3. Tax map number;
4. Number of residential acres;
5. Number of residential lots;
6. Number of developed residential lots;
7. Percentage of lots developed;
8. Developed Density (DU/ACRE);
9. Non-residential acres; and
10. Total acres.

these policies when addressing water-dependent facilities:

A. Limit development activities in the Buffer, specified in COMAR 14.15.09, to those that are water-dependent; and

B. Provide by design and locational criteria, that these activities will have minimal individual and cumulative impact on water quality and fish, wildlife, and plant habitat in the Critical Area.

#### **.03 General Criteria.**

In developing their Critical Area Programs, local jurisdictions shall follow these criteria when addressing water-dependent facilities:

A. Except as otherwise provided in this Chapter, new or expanded development activities may be permitted in the Buffer in Intensely Developed and Limited Development Areas provided that it can be shown:

- (1) That they are water-dependent;
- (2) That the project meets a recognized private right or public need;
- (3) That adverse effects on water quality, and fish, plant, and wildlife habitat are minimized;
- (4) That, in so far as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the Buffer; and
- (5) That the facilities are consistent with an approved local plan as set forth below.

B. Except as otherwise provided in this regulation, new or expanded development activities may not be permitted in those portions of the Buffer which occur in Resource Conservation Areas.

#### **.04 Local Plan Requirements for Water-Dependent Facilities.**

A. Local jurisdictions, with the assistance of appropriate State agencies, shall develop a plan and associated policies and implementation programs for approving areas suitable for new or expanded water-dependent facilities in accordance with Regulation .03, above, and others in this Chapter. The plans and programs should include the re-evaluation of areas currently zoned or approved for these facilities to determine if current policies are consistent with the Critical Area Programs.

B. The plan shall specify a process which considers the following factors in planning for areas suitable for water-dependent activities:

- (1) That the activities will not significantly alter existing water circulation patterns or salinity regimes;
- (2) That the water body upon which these activities are proposed has adequate

quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area, generally;

(7) That dredged spoil will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:

(a) Backfill for permitted shore erosion protection measures;

(b) Use in approved vegetated shore erosion projects;

(c) Placement on previously approved channel maintenance spoil disposal areas; and

(d) Beach nourishment; and

(8) That interference with the natural transport of sand will be minimized.

C. The information necessary for evaluating the above factors, if not available locally, should be obtained from appropriate State and federal agencies.

#### **.05 Industrial and Port-Related Water-Dependent Facilities**

New, expanded, or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas exempted from Buffer designation in COMAR 14.15.09 and are subject to the requirements set forth in Regulation .03A, above.

#### **.06 Marinas and Other Water-Dependent Commercial Maritime Facilities**

A. New or expanded marinas and related facilities may be permitted in the Buffer within Intensely Developed Areas and Limited Development Areas subject to the requirements of Regulation .03A, above.

B. New marinas or related maritime facilities may not be permitted in the Buffer within Resource Conservation Areas, except as provided in Regulation .08, below.

C. Expansion of existing marinas may be permitted by local jurisdictions within Resource Conservation Areas provided that it is sufficiently demonstrated that the expansion will not adversely affect water quality, and that it will result in an overall net improvement in water quality at or leaving the site of the marina.

D. New and existing marinas shall meet the sanitary requirements of the State Department of Health and Mental Hygiene as required in COMAR 10.17.02.

E. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

(3) The facilities are associated with residential development approved by the local jurisdiction for the Critical Area and consistent with all criteria and local regulations for the Critical Area;

(4) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and

(5) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

B. The number of slips, piers, or moor-

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#### **Platted Lots or Dwellings in the Critical Area**

up to 15

16-40

41-100

101-300

over 300

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#### **.08 Public Beaches and Other Public Water-Oriented Recreation or Education Areas.**

A. Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas.

B. These facilities may be permitted within the Buffer in Limited Development Areas and Resource Conservation Areas provided that:

(1) Adequate sanitary facilities exist;

(2) Service facilities are, to the extent possible, located outside the Buffer;

(3) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;

(4) Disturbance to natural vegetation is minimized; and

(5) Areas for passive recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas, if service facilities for these uses are located outside of the Buffer.

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## **14.15.04 Shore Erosion Protection**

Work

TABLE 1

NEW ZONING DESIGNATIONS WITHIN CRITICAL AREA

Critical Area Development Areas

Former Zoning Districts		Resource Conservation Area RCA	Limited Development Area LDA	Intensely Developed Area IDA
		New Zoning Districts		
Agricultural	A-1	Rural Conservation RC	Rural Residential RR	Not Applicable
Agricultural	A-2	Rural Conservation RC	Rural Residential RR	Not Applicable
Agricultural	A-5	Rural Conservation RC	Rural Residential RR	Not Applicable
Agricultural/ Conservation	A-10	Rural Conservation RC	Rural Residential RR	Not Applicable
Waterfront Residential	W-2	Rural Conservation RC	Rural Residential RR	Not Applicable
Waterfront Residential	W-5	Rural Conservation RC	Rural Residential RR	Not Applicable
Waterfront Residential/ Conservation	W-10	Rural Conservation RC	Rural Residential RR	Not Applicable
Residential	R-10	Rural Conservation RC	Town Residential TR	Not Applicable
Village	V-1	Rural Conservation RC	Village Center VC	Not Applicable
Village Residential	V-2	Rural Conservation RC	Village Center VC	Not Applicable
Commercial <20 acres	C-1	Rural Conservation RC	Limited Commercial LC	Not Applicable
Commercial >20 acres	C-1	Rural Conservation RC	Not Applicable	Limited Commercial LC
Commercial <20 acres	C-2	Rural Conservation RC	General Commercial GC	Not Applicable
Commercial >20 acres	C-2	Rural Conservation RC	Not Applicable	General Commercial GC
Industrial <20 acres	M	Rural Conservation RC	Limited Industrial LI	Not Applicable
Industrial >20 acres	M	Rural Conservation RC	Not Applicable	Limited Industrial LI

# PIPER & MARBURY

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August 28, 1991

Chesapeake Bay Critical Areas Commission  
275 West Street  
Annapolis, MD 21401

Re: Bachelor Point

Dear Sirs:

On behalf of Tred Avon River Limited Partnership (the "Partnership"), we hereby request that the Chesapeake Bay Critical Areas Commission reconsider its decision of July 10, 1991 to deny Talbot County's proposed correction of a mapping mistake for Tax Map 53, Parcel 86, Bachelor Point. This parcel was mistakenly mapped in 1989 as in a Rural Conservation Zone in a Resource Conservation Area ("RCA"). The correct zoning for the parcel was Limited Commercial inasmuch as the parcel was previously zoned C-1, is less than 20 acres and was designated as part of a Limited Development Area ("LDA") by the Talbot County Planning Commission in 1986.

It has come to our attention that information that confirms the existence of a mapping mistake was not before the Commission at the time of its decision. That information is presented here and in correspondence dated August 16, 1991 from Mr. Daniel Cowee, Planning Officer for the Talbot County Office

Critical Areas Commission  
August 28, 1991  
Page 2

of Planning and Zoning, to Ms. Pat Pudelkewicz of the Critical Areas Commission, Exhibit A. Based on this information, we believe you will concur that a mistake was made in the 1989 mapping of this parcel.

1. On April 9, 1986, Mr. Henry Gibbons-Neff, on behalf of the Partnership, presented a proposal to the Talbot County Planning Commission. That proposal included a sketch plan for a 20 lot residential subdivision of part of Bachelor Point and an expansion of the Marina Basin to accommodate 81 additional boat slips, as well as a classification of the entire Bachelor Point property, including the C-1 parcel, as a Limited Development Area.

In 1986, the County operated under the Interim Critical Areas Criteria which, although adopted by the Commission, were not effective at the time of the April hearing. The criteria for delineating LDAs were as follows:

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

(1) Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acre;

(2) Areas not dominated by agriculture, wetland, forest, barren land, surface water or open space;

(3) Areas meeting the conditions of Regulation .03A, but not .03B, above [Areas less than 20 acres or not within a municipality having at least one of the following features: (1) Housing density equal to or greater than four dwelling units per acre; (2) Industrial, institutional, or commercial uses are concentrated in the area; or (3) Public sewer and water collection and distribution systems are currently

Critical Areas Commission  
August 28, 1991  
Page 3

serving the area and housing density is greater than three dwelling units per acre];

- (4) Areas having public sewer or public water, or both.

COMAR 14.15.02.04B (emphasis added). The Talbot County Critical Areas Plan, passed in 1989, specified the following criteria for LDA designations:

LDA's included any area of twenty or more contiguous acres developed in low or moderate intensity uses. The areas had a developed residential density of one dwelling unit per five acres up to four dwelling units per acre. The areas were not subject to extensive resubdivision. And, they had an historic identification and concentration of rural development such as a village or crossroads area zoned for such development. In addition, the following characteristics were used:

1. Areas were not dominated by agriculture, wetlands, forest, barren land, surface water or open space;
2. Areas had public water or sewer system or both; and
3. Areas were designated as LDA by Planning Commission hearing.

Exhibit B (emphasis added).

With respect to the LDA classification, Mr. Neff specifically described Bachelor Point at the April 9, 1986 Planning Commission hearing as approximately 170 acres meeting the density specified for LDAs. In the case of Bachelor Point, the density was 1 unit per 4.25 acres (40 lots on 170 acres), well within the density criterion of the interim rules. In addition, Mr. Neff indicated that public water and sewer hook-ups were planned for Bachelor Point, by annexation to the Town of Oxford if necessary. This was accomplished by entering a Sewer Agreement with the Town of Oxford on April 1, 1987. Furthermore, the parcel at issue here was in a C-1 (Commercial) Zone and was dominated by activities associated with the John Todd Boat Works. In April, 1986, commercial properties were automatically considered to be Limited Development Areas. Exhibits C, E.

Critical Areas Commission  
August 28, 1991  
Page 4

On the basis of Mr. Neff's proposal and in conformance with the interim rules, the Planning Commission designated the whole of Bachelor Point an LDA. This is explicitly confirmed in the minutes of the April 9, 1986 Planning Commission hearing (Exhibit D) and in Mr. Neff's affidavit (Exhibit E).

2. The Critical Area regulations were effective in May, 1986. Those regulations prohibited new development activities in the mandatory 100 foot minimum Buffer "except for those necessarily associated with water dependent facilities, as set forth in COMAR 14.15.03." COMAR 14.15.09.01C(2).

COMAR 14.15.03.03 provides that new or expanded development activities are not permitted in those portions of the Buffer which occur in Resource Conservation Areas but may be permitted in Buffers in LDAs or Intensely Developed Areas ("IDA") if certain criteria are met.

In August, 1986, the Partnership obtained a Special Exception to expand the marina basin and to construct two buildings in the Buffer on the C-1 parcel, the parcel at issue here. The Talbot County Board of Appeals granted the Special Exception applying the criteria in COMAR 14.15.03.03A. Exhibit F. The minutes of the public hearing specify that "Under the critical areas criteria, this is a Limited Development Area." Exhibit F at 6. The critical area regulations would have prohibited construction in the Buffer if it were within an RCA.

3. At the April, 1986 hearing, the Planning Commission gave sketch plan approval to the proposed 20 residential lots. The sketch plan approval did not appear in the official record, however. Exhibit D. In response to local opposition to the subdivision and at the direction of the Planning Office, the Partnership reapplied for sketch plan approval for the subdivision in January, 1987. On January 14, 1987, the Planning Commission met and gave formal approval to the sketch plan. The minutes of that meeting explicitly acknowledge the prior LDA designation. Exhibit G.

4. The designation of the C-1 parcel as in an LDA is consistent with the 1989 Talbot County Critical Area Zoning Ordinance. Table 1 of that ordinance designated former C-1 properties of less than 20 acres in an LDA as being in a Limited Commercial (LC) zone. Exhibit H.

5. The former Planning Director of the County Planning Office, Deborah Renshaw, concurs that the parcel in question was designated LDA in 1986 by the Planning

Critical Areas Commission  
August 28, 1991  
Page 5

Commission. Under the interim program in place in 1986, the Planning Commission designated as LDA properties with residential densities of one unit or more per five acres (up to four units per acre) as well as properties with existing commercial zoning and/or land use. Exhibit C.

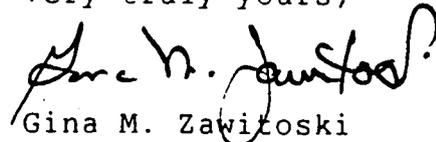
6. The County Office of Planning and Zoning also acknowledges that the subject parcel was mistakenly mapped RC in 1989. Exhibits A and I.

The overwhelming evidence confirms that the property, formerly zoned C-1, was designated by the Planning Commission as within an LDA in 1986 and was treated as within an LDA from that time forward. The Talbot County Critical Area Zoning Ordinance requires that C-1 parcels under 20 acres in LDAs be zoned LC. The LC designation is thus the only appropriate zoning for this property.

The Critical Areas Commission denied the County's proposal to correct this mapping mistake without the benefit of the information contained herein. The parcel was and is dominated by marina activities with land reserved for expansion of those activities. Public water and sewer hookups were planned in 1986 and were accomplished shortly thereafter. Appropriate residential density was demonstrated in 1986. Most importantly, the Planning Commission designated the property as LDA in 1986. A mistake in mapping merely failed to record this determination.

In light of the foregoing, we urge the Commission to approve Talbot County's proposal to amend this error.

Very truly yours,

  
Gina M. Zawitoski

GMZ/tsc

cc: George Gay, Esquire  
Ms. Pat Pudelkewicz

Critical Areas Commission

August 28, 1991

Page 6

INDEX TO EXHIBITSExhibit

- A Letter from Daniel Cowee, Planning Director for the Talbot County Office of Planning and Zoning, to Ms. Pat Pudelkewicz, Critical Areas Commission, dated August 16, 1991
- B Excerpt from Talbot County Critical Areas Plan
- C Affidavit of Deborah Renshaw
- D Minutes of April 9, 1986 Hearing before the Talbot County Planning Commission
- E Affidavit of Henry Gibbons-Neff
- F Minutes of August 25, 1986 Hearing before the Talbot County Board of Appeals
- G Minutes of January 14, 1987 Hearing before the Talbot County Planning Commission
- H Table 1, Talbot County Critical Areas Zoning Ordinance
- I Letter from Daniel Cowee, Planning Director for the Talbot County Office of Planning and Zoning, to Ms. Pat Pudelkewicz, Critical Areas Commission, dated March 6, 1991 with relevant enclosure

576-1640



DANIEL R. COWEE  
Planning Officer

TALBOT COUNTY OFFICE  
OF  
PLANNING AND ZONING  
COURTHOUSE  
EASTON, MARYLAND 21601  
PHONE 301-822-2030

BARRY F. GRIFFITH  
Assistant Planning Officer

August 16, 1991

Pat Pudelkewicz  
Chesapeake Bay Critical Area Commission  
275 West Street  
Suite 320  
Annapolis, Maryland 21401

Dear Pat:

Upon further investigation of the Bachelor Point Critical Area mapping mistake, the Talbot County Council requests that the Critical Area Commission reconsider their current position. New information has been found which confirms that a mistake in mapping did in fact take place.

An application by the owners of Bachelor Point to develop 19 lots and increase the size of the Marina was discussed by the Talbot County Planning Commission April 9, 1986 at a regular meeting. At that time the Planning Commission was operating under the interim rules of the Critical Area Criteria. Approximately 20 LDA requests were reviewed during this period and were later included in the overall County mapping. The interim period ended with the adoption of the Critical Area Ordinance (August 1989).

The minutes of April 9, 1986 indicate that Bachelor Point was considered an LDA (see minutes enclosed). During the mapping phase of the County's program a portion of the Bachelor Point area was mapped LDA and the remainder was left in RC.

A mistake was made in the mapping by failure to map the remaining property under the ownership of the Bachelor Point Marina based upon the previous LDA classification granted in April 1986. "Criteria For Delineation of Limited Development Areas", found in the Talbot County Critical Area plan, lists specific criteria used in determining LDA classifications (see enclosure). Item number 3 states:

- "3. Areas were designated as LDA by Planning Commission hearing."

Since the Planning Commission had taken action on the Bachelor Point property prior to the Critical Area comprehensive mapping it was mistakenly mapped. Building permits were issued allowing certain marina buildings to encroach into the 100 foot buffer setbacks in compliance with 14.15.03.03 and .06 of the State Critical Area Criteria. This action provides further evidence that the property was classified an LDA during the interim period.

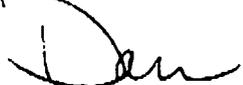
Table 1 of the 1989 Critical Area Zoning Ordinance listed C-1 Commercially Zoned properties of less than 20 acres in size as LDA's (see enclosure). This confirms again that a mapping mistake was made.

In summary the Bachelor Point property was classified an LDA by the Planning Commission during the interim period, was mapped in error based upon criteria for delineation of Limited Development Areas in the Talbot County Critical Area Plan, was granted building permits encroaching the 100 foot buffer setback in compliance with 14.15.03.03 and .06 of the State law and was allowed to be less than 20 acres in size based upon the rules that were used in delineating LC Commercial areas.

I would appreciate your review of this material at your earliest convenience. If you have any questions please feel free to contact me at the Talbot County Planning Office.

Sincerely,

TALBOT COUNTY OFFICE OF PLANNING AND ZONING

  
Daniel R. Cowee  
Planning Officer

DRC/jc

enclosures

c.c. Blenda Armistead, County Manager  
County Council Members  
James M. Slay, Jr., County Attorney

## CRITERIA FOR DELINEATION OF LIMITED DEVELOPMENT AREAS

LDA's included any area of twenty or more contiguous acres developed in low or moderate intensity uses. The areas had a developed residential density of one dwelling unit per five acres up to four dwelling units per acre. The areas were not subject to extensive re-subdivision. And, they had an historic identification and concentration of rural development such as a village or crossroads area zoned for such development. In addition, the following characteristics were used:

1. Areas were not dominated by agriculture, wetlands, forest, barren land, surface water or open space;
2. Areas had public water or sewer system or both; and
3. Areas were designated as LDA by Planning Commission hearing.

## DELINEATION OF RESOURCE CONSERVATION AREAS

RCA's included the balance of the Critical Area not previously designated as an IDA (Intensely Developed Area) or a LDA (Limited Development Area). This remaining land was reviewed for qualification for RCA, characterized by housing densities of less than 1 dwelling unit per 5 acres, and the dominant land use was agriculture, forests, barren land, wetlands, surface water or open space.

### Summary of Critical Area Classification

The following Table 2.1, Critical Area Classifications, indicates the total area for each of the three development area classifications. An appendix to this Plan records and catalogs each of the individual development areas, and is on file at the Planning Department. This catalog of IDA's and LDA's contains the following information for each of the 76 individual areas, as illustrated on Map 1.

1. IDA or LDA identification number;
2. Tax map (1" = 600") with IDA or LDA outline;
3. Tax map number;
4. Number of residential acres;
5. Number of residential lots;
6. Number of developed residential lots;
7. Percentage of lots developed;
8. Developed Density (DU/ACRE);
9. Non-residential acres; and
10. Total acres.

AFFIDAVIT OF DEBORAH RENSHAW

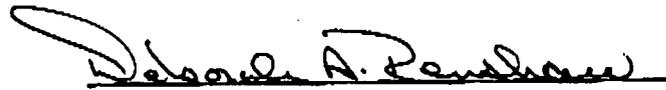
I, Deborah Renshaw, being at least 18 years of age and competent to testify to the matters stated herein, do depose and say:

1. I was the Planning Director for the Talbot County Planning Office in 1986.

2. The minutes of an April 9, 1986 hearing before the Planning Commission, attached hereto as Exhibit 1, document that Bachelor Point was designated a Limited Development Area by the Planning Commission on that date.

3. In the early days of the Interim Critical Areas Program, the Planning Commission used State guidelines to designate property as Resource Conservation Areas (RCA), Limited Development Areas (LDA), or Intensely Developed Areas (IDA). Under those guidelines, agricultural properties greater than five acres in size were designated RCA. Property with residential density of one unit per five acres up to four units per acre were designated LDA. Existing commercial properties were designated either LDA or IDA based on zoning and/or land use.

I solemnly affirm under penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

  
Deborah A. Renshaw  
Deborah Renshaw

Dated: August 28, 1991

The regular meeting of the Talbot County Planning Commission took place on April 9th, 1986. Those present were: Jim Heikes/Chairman, Ralph Simmons, John Sewell, Deborah A. Bauer/Director of Planning, Andrew Hollis/Assistant Planning Director.

### Subdivisions

#### Locust Grove - Preliminary #753

Preliminary review was considered by the Planning Commission on a proposed subdivision consisting of 3 lots, located on Sanderstown Rd. zoned A-2. The 3 lots proposed are greater in size than the proposed 1 per 20 acre density for land in a Resource Conservation Area. Environmental Assessment has been completed and reviewed by the Commission, noting that a minor action assessment was required. Motion was made by John Sewell, seconded by Ralph Simmons to recommend preliminary approval.

Heikes - aye  
Simmons - aye  
Sewell - aye

#### Richland Farms #698 - (division of lot #1)

A plat was presented to the Planning Commission for their recommendation on whether lot No. 1 of Richland Farms could be classified as a Limited Development Area. After reviewing the proposed plat, the Commission delayed action in order to allow them, and the Planning Office, to formulate mapping strategies for land classification within the Critical Area. The Commission should be prepared to take further action at the next regular meeting.

#### Polar Bear #718

A two lot subdivision was reviewed by the Commission for property owned by Wilma F. Wagener, located off Landing Neck Rd. in the A-1 Zone. It was noted that development has already occurred in the surrounding area. Motion was made by Ralph Simmons, seconded by John Sewell and carried unanimously to recommend approval of this subdivision.

Heikes - aye  
Simmons - aye  
Sewell - aye

#### Annexation - Gannon

The Commission reviewed a proposal from the Gannon's to request the annexation of their property abutting Rt. 50 outside the boundaries of Easton, and the rezoning of same. While the Commission was in favor of the request for R-10A zoning, it was concerned about the impact of multiple access points onto Rt. 50. In light of this concern, the following recommendation was made: "As the petitioned site is geographically divided by Chapel Rd. access points for each site should be considered individually. The site to the north of Chapel Rd. should be denied total access to Rt. 50 with ingress and egress provided only from Chapel Rd. Due to the Rts. 322 and Rt. 50 crossover, the volume and speed of traffic generated in that area, no additional access points should be considered onto Rt. 50. The site south of Chapel Rd. should be limited to one access point onto Rt. 50 nearer the current

developer to address the intent section of the subdivision regulations as well as the adequacy of public facilities to serve the proposed subdivision. Due to soils constraints High Banks Farms Associates decided to halt proceedings for this proposal at the current time.

### Bachelor Pt. Harbor Subdivision

The Bachelor Pt. Partnership approached the Planning Commission with a proposal to expand this subdivision with an 81 slip expansion and 19 homesites. The Town of Oxford will be approached concerning annexation and the expansion of water and sewer facilities. It was noted that 1,800 sq.ft. of wetlands will be excavated but the developer proposed to offset this with the creation of approximately 4,500 sq.ft. of saltmarsh. The proposal was considered to be a limited development area. The Comprehensive Plan of Oxford says that growth in that particular area is desirable, as the land surrounding has a limited development land use.

### Board of Appeals

#### O.P. Large #599 - Variance and Allegation of Error

Octavus P. Large requests a variance from the strict interpretation of the Talbot County Zoning Ordinance to allow a two-family residence on his property located on Bayview Ave. Oxford Maryland zoned R-10. Applicant wishes to house the second dwelling in an existing garage, however, in checking with the Planning Office he found that in the R-10 zone, the only provision for a two-family dwelling is to have both dwellings housed under one roof. The Talbot County Zoning Ordinance states under the description of Dwelling, Two-Family, Section 19-26 that a detached residential building containing two dwelling units, designed for a occupied by not more than two families. Application as presented for such use would be in violation of the Zoning Ordinance. Under these conditions the Director of Planning denied issuance of a building permit. Therefore, the applicant must make application to the Board of Appeals on an Allegation of Error. After review of the application the Planning Commission recommends that the Board of Appeals not grant approval of the variance request of O.P. Large, due to the precedent that would be established and the fact that it would circumvent the intent of the zoning regulations. Motion was made by Ralph Simmons and seconded by John Sewell. Upon examination of the application of O.P. Large the Planning Commission finds no grounds for the applicant's claim of an allegation of error on the part of the Planning Officer. Upon review of the zoning ordinance and application, the Commission finds that the Planning Officer acted within the language and intent of the Zoning Ordinance. Motion was made by Ralph Simmons, seconded by John Sewell and carried unanimously.

Heikes - aye  
Simmons - aye  
Sewell - aye

#### Kurt Petzold #607

Mr. Petzold is requesting a special exception for the construction of a boathouse on a proposed pier located on his property in Travellers Rest Subdivision, zoned W-5. The proposed pier will be 85 feet in length, with a 26x45 ft. boathouse placed on the end. Lateral lines extended have been complied with. After review of the site

AFFIDAVIT OF HENRY GIBBONS-NEFF

I, Henry Gibbons-Neff, being at least 18 years of age and competent to testify to the matters stated herein, do depose and say:

1. I am a real estate broker for the firm of Walsh & Benson, Inc. located in Easton, Maryland. I have 14 years experience in zoning and related matters.

2. I am authorized to act as agent for the Tred Avon River Limited Partnership (the "Partnership") in matters relating to Bachelor Point and have been so authorized since 1986.

3. Prior to April 9, 1986, in preparation for the development of Bachelor Point, I reviewed the Chesapeake Bay Critical Areas Law, the Oxford Comprehensive Plan, the Talbot County Comprehensive Plan, and the Talbot County zoning ordinance. The project was compatible with each of the above.

4. On April 9, 1986, I presented a proposal to the Talbot County Planning Commission which included a 20 lot residential subdivision of part of Bachelor Point, an expansion of the marina basin to accommodate 81 additional boat slips, and a designation of the entire Bachelor Point property as a Limited Development Area ("LDA").

5. At that time, LDAs required a density of 1 unit per 5 acres up to 4 units per 1 acre. Also at that time, areas

with Commercial zoning were automatically considered to be within an LDA.

At the April 9, 1986 Planning Commission hearing, I testified that the Bachelor Point property met the definition of an LDA by virtue of meeting the density criterion. Bachelor Point consisted of 170 acres with 40 residential lots with a resulting density of 1 unit per 4.25 acres. I further testified (1) that the Partnership intended to hook up to the Town of Oxford's public water and sewer system, (2) that the existing John Todd Boat Works would be demolished and that new facilities would be constructed on the parcel then zoned as C-1 (the "C-1 Parcel"), (3) that the project was consistent with the specific goals and objectives of the Comprehensive Plan, and (4) that the Project presented an opportunity for growth for the Town of Oxford, historically a maritime town, which had no room for expansion of its downtown area.

6. The Planning Commission approved the LDA designation at this meeting. They also approved the 20 proposed residential lots.

7. In August, 1986, I attended and was a witness at a Public Hearing held by the County Board of Appeals to address an application filed by the Partnership for a Special Exception to permit the construction of marina facilities within 20 feet of mean high water on the property then zoned C-1. The minutes of the public hearing accurately reflect those proceedings.

The Board of Appeals acknowledged at the public hearing that the C-1 Parcel was in a Limited Development Area. The Board of Appeals granted the Special Exception to allow construction in the Shoreline Development Buffer. Construction in the Buffer would have been prohibited in a Resource Conservation Area, but was permitted at Bachelor Point because it was in a Limited Development Area, was water-dependent, and met regulatory criteria.

8. In January, 1987, the Planning Office instructed the Partnership to re-submit the sketch plan for the residential subdivision of Bachelor Point to the Planning Commission for approval. The reason for this was that the April, 1986 approval did not appear in the minutes of that meeting and the Planning Commission had received letters noting local opposition to the subdivision. On January 14, 1987, the Planning Commission approved the sketch plan. It also specifically noted that Bachelor Point was previously designated an LDA.

9. The Partnership has relied heavily on the 1986 LDA designation in planning the development of Bachelor Point.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

  
Henry Gibbons-Neff

Dated: 8/28/91

#7

MINUTES OF PUBLIC HEARING  
TALBOT COUNTY BOARD OF APPEALS

August 25, 1986

Appeal No. 618

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Court House, Easton, Maryland, at 7:30 p.m., on August 25, 1986, on application of Tred Avon Limited Partnership for a Special Exception pursuant to Sections 9.06, 19.40 B. 2. and 28.02 (10) of the Talbot County Zoning Ordinance to expand an existing boat basin, construct 81 additional slips, relocate and/or build certain boat maintenance and administration buildings and other support facilities, and for a variance pursuant to Sections 19.11 and 19.40 C. 4 of the same ordinance to permit construction of certain facilities within 20 feet of mean high water for property located in a C-1 Zone abutting Bachelor Point Road at the confluence of the Tred Avon and Choptank Rivers, Talbot County, Maryland.

Among those present were Mr. Warner, the chairman, Messrs. Huntington, Turner, and Walker and Judge Clark, constituting the Board of Appeals. W. Thomas Fountain, attorney for the Board of Appeals, was present.

The Applicant was represented by Philip E. L. Dietz, Jr., Esquire, and Christopher Burlee Kehoe, Esquire.

Mr. Dietz called Charles F. Benson, who was sworn and gave his address as Route 1, Box 222, Easton.

At this point the following exhibits were entered into evidence as indicated:

81  
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45

1. Application for a Variance and Special Exception.
2. Tax Map Tracing of Map 53 Showing the Property in Question.
3. Appeals Notice of Public Hearing.
4. Certification from the The Star-Democrat of publication of Notice of Hearing.
5. Notice of Hearing with List of Property Owners Attached and Owners Notified at the Request of Mr. Dietz.

At this point Applicant's Exhibit, No. 1 was entered into evidence, consisting of eight letters commenting on the Application.

- 5.A. Three letters received by the Talbot County Board of Appeals commenting on the Application.
6. Special Exception and Variance Requirements.
7. Planning Commission Comments
8. Sign Maintenance Agreement.
9. Site Plan consisting of four sheets, three prepared by Rauch, Walls and Lane, Inc., and one by Tidewater Building & Supply Co., Inc.
10. Environmental Assessment Plan.

At this point Mr. Turner noted for the record that all members of the Board had visited the site.

Mr. Dietz then called Mr. Benson to the stand who testified that he had been a real estate broker in Talbot County for 26 years and was president of Walsh & Benson and qualified to testify in court as to real estate matters. He

identified himself as the general partner of Tred Avon Limited Partnership.

Mr. Benson testified that the first act of the partnership was to talk to the environmentalist, Ronald Gatton, as to the proposed expansion. He further testified that the road would be brought up to county standards for its entire length and that the partnership had agreed to contribute to the cost of up-grading John L. Thompson Drive, Second Street and East Pier Street.

Applicant's Exhibit No. 2, letter from the Commissioners of Oxford and plans, was introduced at this point.

Mr. Benson testified that the dredging would be accomplished to increase the flow of water within the basin and that the partnership had already built a waterfowl sanctuary pond. He testified that there would be no gas dock, travel lift, no major boat building or below water line work and no haul out. He testified that the proposed location of the buildings within the 50 foot setback was much more practical than moving them back the full 50 feet. In addressing the Special Exception requirements, it was Mr. Benson's testimony that the proposed expansion would be a plus to the neighboring property owners and that the re-surfacing of the road would alleviate the problems of dust. He further testified that the proposed expansion would be consistent with the general character of the neighborhood.

He testified that construction would begin as soon as weather permits and that the expansion would require more employees.

The Applicant's next witness was Dr. Everett C. Carter of 10509 Unity Lane, Potomac, Maryland 20854, who was admitted to testify as an expert on transportation matters.

Applicant's Exhibit No. 3, Dr. Carter's resume was admitted into evidence. Dr. Carter testified that he had visited Bachelor Point on August 9, 1986, and that a traffic survey had been conducted between the hours of 7 and 10:30 a.m. and 4 and 6:30 p.m. on August 9 and 10 and August 16 and 17, 1986. The results of that study were introduced as Applicant's Exhibit No. 4. It was Dr. Carter's testimony that the existing street system would handle the increased marina traffic in an adequate manner and that there would be no adverse affect on vehicular traffic or pedestrian traffic or the health, safety or security of workers or visitors in the area.

The next witness was Philip Conner of Oxford, Maryland, who testified that he was the owner and operator of Crockett Bros. Boatyard and that normally there are three to four cars in front of his store and perhaps a half of dozen in the yard itself. He testified that Crockett Bros. is a full service boatyard with 71 slips and it was his testimony that Bachelor Point expansion would not create an inordinate amount of traffic in Oxford and that Bachelor Point has sufficient space for parking.

The next witness was Henry Neff of P.O. Box 1085, Easton, Maryland, who testified that he was an associate broker with Walsh & Benson. He testified that he had reviewed the Talbot County and Oxford comprehensive plans and it was his testimony that the Bachelor Point plan is consistent and totally conforms to the Talbot County Comprehensive Plan and in no way conflicts with the Oxford Plan. He testified that the homes in the area are mainly waterfront with shallow water and severe exposure on the Tred Avon and Choptank sides.

Applicant's Exhibit No. 5, Proposed Rules and Regulations for Bachelor Point, was entered into evidence at this point. Mr. Neff testified that the proposed expansion would have a positive affect on property values. Applicant's Exhibit No. 6, a study of marinas in Talbot County, showing building distance from the water and done by Mr. Neff, was entered into evidence. The study shows that every marina has improvements within 50 feet of the water.

He testified that there would be no on-shore storage of boats and that the existing facilities are 12 feet and 6 feet back from the water and that the granting of the variance would confer no special privilege upon the Applicant. Mr. Neff testified that permits have been granted from the Department of Natural Resources and Corps of Engineers and that only the grading permit was required. Applicant's Exhibit No. 7, copies of the permits, was entered into evidence.

Under the critical areas criteria, this is a Limited Development Area.

The next witness was Vance Strausburg of Box 657, St. Michaels, Maryland, who testified that he is a real estate broker, he is familiar with Bachelor Point and the proposal before the Board, and it is his testimony that it would be beneficial to the surrounding properties and in keeping with the neighborhood.

The next witness was Kurt Petzold of Route 5, Box 550, Easton, Maryland, who testified that he is a real estate broker and a boater also. He knows Bachelor Point, has reviewed the plans and believes that the expansion would result in an increase in value of surrounding properties.

The next witness was Ronald D. Gatton of Island Creek Road, Trappe, Maryland, who testified that he is an Environmental Consultant with offices in Chestertown and has testified in court previously. Applicant's Exhibit No. 8, Mr. Gatton's resume, was entered into evidence at this point.

Mr. Gatton testified that he had worked for 12 years at the Oxford lab adjacent to the site and knows the site and addressed the points made in the environmental assessment plan which had previously been entered into evidence at Board's No. 10. Mr. Gatton testified that fish, wildlife and animals had been identified and that it was his opinion that none would be adversely affected. Mr. Gatton testified that it was his opinion that there would be no adverse

environmental impact by reason of granting the Special Exception.

The next witness was Erik Straub of Route 7, Easton, Maryland, who testified that he is a General Marine Contractor with offices in Cambridge and that his company would do the site work, dredging, bulkheading and pier construction, that the piers would be of conventional timber construction and all timber would be salt treated. He testified that there would be 81 additional slips and that there would be more than the normal space between piers.

Mr. Dietz's final witness was Thomas D. Lane of 405 South Harrison Street, Easton, Maryland, who testified that he is a licensed Property Line Surveyor with Raugh, Walls and Lane, Inc., in Easton.

Mr. Lane testified that the sanitary facilities had been placed for convenience, that the parking areas met the Talbot County Zoning Ordinance requirements, that the lighting would be of low-profile, non-glare mushroom type, and that the roads would be constructed in accordance with county requirements.

Turning to the disposition of spoils, Mr. Lane testified that the primary disposition would be the Town of Oxford, and that there would be two other sites. He testified that a fence would completely enclose the work area, that a pump-out facility will be provided, and that there are presently 55 slips and the proposed 81 additional with two additional existing slips, would provide a maximum

number of slips of 138. He testified that there would be a total a 157 parking spaces.

At this point Mr. Dietz moved to amend the Application to place an additional sanitary facility to serve existing slips opposite the proposed facilities, which motion was granted.

There being no further witnesses for the Applicant, the Chairman called for comments from the audience and George Orr of Bachelor Point, Oxford, Maryland, came forward and testified that he was a retired Electrical Engineer and that he favors the project but suggested that the peak traffic hours are Friday night hours and not Saturday and Sunday as when the traffic study had been made.

There being no further witnesses to come before the hearing, Mr. Dietz summed up and the Chairman adjourned the hearing and immediately reconvened in Executive Session for the purpose of arriving at a decision. Upon motion duly made and seconded, the following findings of fact and law were made by the Talbot County Board of Appeals:

1. That all legal requirements pertaining to the notice of public hearing have been fully complied with.

2. The Board finds from the testimony of Messrs. Benson and Neff and others that the proposed expansion will be consistent with the general plan of physical development in the County and will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of proposed structures and

intensity and character of activity, traffic and number of similar uses.

3. The Board finds from the testimony of Mr. Benson, Mr. Neff, Mr. Petzold and Mr. Strausburg that the proposed use will not be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding neighborhood and from the testimony of the above gentlemen and Mr. Lane, that the proposed use will not cause any objectionable noise, vibration, fumes, odors, dust, glare or physical activity.

4. The Board notes Mr. Orr's comments with regard to the traffic survey but finds from Dr. Carter's testimony as well as others that the proposed expansion will have no detrimental affect on vehicular or pedestrian or marine traffic and that it will not adversely affect the health, safety, security or general welfare of workers or visitors in the area. The Board finds that the Applicants have addressed the questions of safety satisfactorily.

5. The Board finds that the proposed expansion will not, in conjunction with existing development or permitted development, overburden public services and facilities and that it meets the definitions and standards set forth for such use.

6. The Board further finds that there are special conditions and circumstances existing which are peculiar to a marina or boat basin which dictate the placement of buildings closer than the required setback and further finds

by virtue of Mr. Neff's survey, that a literal interpretation of the provisions of the ordinance would deprive the Applicant of rights commonly enjoyed by other marinas in the county and that the granting of the variance requested would not confer a special privilege on the Applicant which is denied to others in the same zone.

7. The Boards finds from Mr. Gatton's testimony that the critical areas criteria have been satisfactory addressed.

HAVING MADE THE AFOREGOING FINDINGS OF FACT AND LAW, IT IS BY THE TALBOT COUNTY BOARD OF APPEALS

RESOLVED that in Appeal No. 618, the Applicant, Tred Avon Limited Partnership, be and it is hereby granted a Special Exception as requested for the expansion of existing boat basin involving the construction of 81 additional slips and relocation and/or construction of certain boat maintenance and administration buildings and other support facilities and is further granted a variance as requested to permit the construction of certain of said facilities within 20 feet of mean-high-water in accordance with the specifications presented to the Board subject to the following conditions:

1. That the Board be furnished copies of all permits, specifically including those of the Fire Marshal, if required, and the Talbot County Health Department.

2. That all signs be constructed in accordance with the Talbot County Zoning Ordinance.

3. That a sanitary facility be provided as per the amendment offered by Mr. Dietz to the application.

4. That construction be completed within two years from the date of this opinion or the same shall be void.

The vote of the Board was unanimous for granting the Special Exception and the Variance.

Given over our hands and seals this 8th day of September, 1986.

Unanimous

TALBOT COUNTY BOARD OF APPEALS

*James E. Warner*

James E. Warner, Chairman

*Edzel L. Turner*

Edzel L. Turner

*W. Aubrey Walker*

W. Aubrey Walker

*Harry E. Clark*

Harry E. Clark

*Robert K. Huntington*

Robert K. Huntington

Bachelor's Pt. Subdivision - Sketch Plan approval

Bachelor's Pt. subdivision was presented to the Commission for sketch plan approval with an L.D.A. justification received at a prior date. Property lies within the A-1 zone and conforms with the Comprehensive Plan for development around the towns. Plat shows location of an existing 34 ft. wide private road with a proposed public road to be constructed. Number of lots proposed are 19. Architectural control will be over all construction. Motion was made by Ralph Simmons for sketch plan approval as presented, seconded by Ricahrd Hutchison. Motion was unanimous.

All - aye

Penco #74 - Revised Site Plan

A revised site plan for the Penco Corporation was presented by Philip Deitz for property located off Rt. 662 and Rt. 50. Changes will be for the entrance building, and office space will remain the same, along with parking area. Motion was made by Richard Hutchison, seconded by John Sewell to recommend approval of the revised site plan as presented. Motion was unanimous.

All - aye

Board of Appeals  
Bennett Wilkins #645

Variance for yard requirements for placement of a house and for the reduction of setbacks for a garage was requested by Bennett Wilkins for property located on Hayward Trail, Doncaster in the W-2 zone, on a non-conforming lot. Applicant is requesting 16 foot reduction from the side property line. Motion was made by Ralph Simmons, seconded by John Sewell to recommend approval of the variance as being consistent with the Comprehensive Plan. Motion was unanimous.

All - aye

Emmerson Watts #642

Emmerson Watts, contractual purchaser of property located on Cedar Grove Ave., Newcomb, current location of the Newcomb Post Office, requests special exception from the Board of Appeals to locate a roadside stand for the sale of locally grown produce. Concern was expressed with the parking and access onto R. 33. Tom Crouch, Realtor, representing MR. Watts, told the Commission that extended parking might be located on the property and that Mr. Watts would be to use only the Cedar Grove Rd. for access. Motion was made by Richard Hutchison, seconded by Ralph Simmons to recommend approval of this request to the Board of Appeals as being consistent with the Comprehensive Plan, however, they strongly urge that the access from this property be from Cedar Grove Rd.. Motion was unanimous.

All - aye

C. J. Van Bourgondien L.D.A. Justification and Line Revision, Sketch Plan Approval

Frederick L. McEnany, Jr. representative for the Van Bourgondien property presented the Commission with a request for a line revision, L.D.A.

TABLE 1

NEW ZONING DESIGNATIONS WITHIN CRITICAL AREA

Former Zoning Districts		Critical Area Development Areas		
		Resource Conservation Area RCA	Limited Development Area LDA	Intensely Developed Area IDA
		New Zoning Districts		
Agricultural	A-1	Rural Conservation RC	Rural Residential RR	Not Applicable
Agricultural	A-2	Rural Conservation RC	Rural Residential RR	Not Applicable
Agricultural	A-5	Rural Conservation RC	Rural Residential RR	Not Applicable
Agricultural/ Conservation	A-10	Rural Conservation RC	Rural Residential RR	Not Applicable
Waterfront Residential	W-2	Rural Conservation RC	Rural Residential RR	Not Applicable
Waterfront Residential	W-5	Rural Conservation RC	Rural Residential RR	Not Applicable
Waterfront Residential/ Conservation	W-10	Rural Conservation RC	Rural Residential RR	Not Applicable
Residential	R-10	Rural Conservation RC	Town Residential TR	Not Applicable
Village	V-1	Rural Conservation RC	Village Center VC	Not Applicable
Village Residential	V-2	Rural Conservation RC	Village Center VC	Not Applicable
Commercial <20 acres	C-1	Rural Conservation RC	Limited Commercial LC	Not Applicable
Commercial >20 acres	C-1	Rural Conservation RC	Not Applicable	Limited Commercial LC
Commercial <20 acres	C-2	Rural Conservation RC	General Commercial GC	Not Applicable
Commercial >20 acres	C-2	Rural Conservation RC	Not Applicable	General Commercial GC
Industrial <20 acres	M	Rural Conservation RC	Limited Industrial LI	Not Applicable
Industrial >20 acres	M	Rural Conservation RC	Not Applicable	Limited Industrial LI



DANIEL R. COWEE  
Planning Officer

TALBOT COUNTY OFFICE  
OF  
PLANNING AND ZONING  
COURTHOUSE  
EASTON, MARYLAND 21601  
PHONE 301-822-2030

BARRY F. GRIFFITH  
Assistant Planning Officer

**RECEIVED**

MAR 13 1991

DNR  
**CRITICAL AREA COMMISSION**

March 6, 1991

Ms. Pat Pudelkewicz  
Chief, Program Implementation  
Chesapeake Bay Critical Area Commission  
275 West St.  
Suite 320  
Annapolis, MD 21401

Dear Pat:

Enclosed is a copy of Talbot County's updated Zoning Ordinance including a list of changes to the current Critical Area Ordinance.

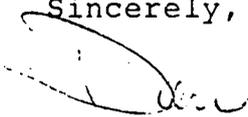
The Council has introduced the legislation to adopt the Ordinance and has scheduled a public hearing for March 19, 1991 at 7:00 p.m. at the Easton High School. If all goes well, the Council will adopt the new Ordinance on March 26, 1991 and it will go into effect 60 days later, except for changes to the Critical Area Ordinance. They will not go into effect until the Critical Area Commission approves them.

You will see from the list that many if not all of the changes are refinements and should be easy to deal with.

Please let me know if you intend to hold hearings for any of the changes, and when we can expect final action. We are anxious to complete the final stages of our update.

If you have any questions, feel free to call me or members of my staff.

Sincerely,

  
Daniel R. Cowee  
Planning Officer

enclosures

**RECEIVED**

REFINEMENTS TO THE CRITICAL AREA ORDINANCE

MAR 13 1991

FOR  
CRITICAL AREA ORDINANCE

Section 19.2

Page 2-3: Berm - 2) "A mound of earth used for landscaping and as a buffer to separate or visually screen one area from another." - added to old definition.

Page 2-14: Jetty - Deleted "A Pier".

Page 2-16: Marina definition divided into commercial, community, and yacht club.

Page 2-18: Substantial changes were made to the Nontidal Wetlands definition for more clarity.

Section 19-4

Page 4-3: Agricultural Processing added to Limited Industrial with a 200 foot setback.

Page 4-3: Agriculture Research Facilities (commercial) - special exception in RC, previously not allowed in the Critical Area.

Page 4-3: Accessory Agricultural Uses and Structures are allowed in RC, RR, TR and VC. Omitted in current Critical Area Ordinance by mistake.

Page 4-3: Aquaculture (retail) added as a special exception in RC, VC and LI.

Page 4-4: Aquaculture (wholesale) added as a permitted use in RC and LI, and a special exception in VC.

Page 4-4: Grain Processing, Drying and Storage (wholesale/commercial) added to VC as a special exception.

Page 4-4: Greenhouse and Plant Nursery split into wholesale commercial and retail commercial. Wholesale commercial added the use as a special exception in the TR and VC zones. Retail commercial added to RC, TR and VC as a special exception and changed from special exception to permitted use in LC and LI. Also, setbacks in RC for growing of plants and trees are decreased to 20 feet. Minimum lot size deleted.

Page 4-5: Employee Residence size not limited in RC where parcels are 20 acres or more.

Page 4-6: Guest Residence added as an accessory use in the TR and VC zones. No size limitations on parcels 20 acres or larger in the RC zone.

Page 4-6: Single-Family Residence (duplex) added to all zones in an effort to create more affordable housing throughout the County.

Page 4-7: Accessory Residential Uses - horse stables included in the TR zone. More restrictions placed on private satellite dishes.

Page 4-8: Conservation Areas (public or private) added to RR, TR, VC, LC, GC and LI zones as a permitted use.

Page 4-8: Indoor Shooting Range added to VC, LC, GC and LI zones as a special exception.

Page 4-8: Exposition Center or Fairgrounds are allowed as a special exception in the LI zone.

Page 4-8: General Outdoor Commercial Recreation Activities added to the GC zone.

Page 4-9: Building Supply and Lumber Yards with Outside Storage added as a special exception in the VC zone.

Page 4-9: Farm Machinery and Supplies added as a special exception in the LC zone. The 200 foot setback applies to all zones now.

Page 4-10: Automobile Service Repair, Washing and Fuel Sales - increased gross floor area from 1,000 to 2,000 square feet. Underground storage of flammable liquids is no longer required.

Page 4-11: Kennel (commercial) is a new provision added to the RC, LC and GC zones as a special exception.

Page 4-11: General Services - gross floor area increased from 1,000 to 2,000 square feet.

Page 4-12: Professional Services added to the LI zone as a permitted use. Gross floor area increased from 1,000 to 2,000 square feet.

Page 4-13: Community and Cultural Facilities - gross floor area increased.

Page 4-14: Family Day Care Facility now allows up to 8 clients.

Page 4-14: Group Day Care Center added as a special exception in RC, RR, TR and VC zones.

Page 4-15: Studios for instructions in Art, Music, Dance, Drama, Crafts or Physical Education - gross floor area increased to 2,000 square feet.

Page 4-15: Flammable Liquid Storage and Wholesale Distribution - setbacks decreased from 600 feet to 100 feet.

Page 4-16: Mini-Warehouse Storage is a new provision.

Page 4-16: Temporary Paving Material Compounding was previously prohibited in the Critical Area; now allowed in the LI zone.

Page 4-16: Sawmills added as a special exception in the VC zone.

Page 4-17: Cottage Industry is a new provision.

Page 4-18: Septic Systems changed from a permitted use to an accessory use in all zones.

Page 4-18: Shared Facilities for Sewage Collection, Treatment and Disposal is a new provision.

Page 4-18: Sludge Application for Agricultural and Horticultural purposes has more stringent regulations and now allowed in the LI zone.

Page 4-19: Septage Land Applications is a new provision.

Page 4-19: Recycling Collection Center is a new provision.

Page 4-19: Solid Waste Transfer Station is a new provision.

Page 4-19: Utility Structure and Services deleted.

Page 4-20: Private Bridges is a new provision -.

Page 4-21: Antenna provisions are added.

Page 4-22: Produce Stands' floor area has been increased to 600 feet. Can stay erected until November 30th, 15 days longer. A provision has been added to include a 25 foot area around the structure for the display of products.

Page 4-25: Square footage on Accessory Structures for Home Occupations has been increased to 1,500 square feet.

Section 19:10

Page 10-7: Density Table has been omitted under Rural Conservation District Density Transfer.

Page 10-14: Special setbacks from State Highway - setbacks in VC and TR have been reduced to 50 feet.

Page 10-15: Lot Frontage provision has been reworded for more clarity.

Section 19:14

Page 14-~~15~~<sup>13</sup>: Amendments to the Critical Area provisions of the Zoning Ordinance section has been substantially changed.

Page 14-17: Growth Allocation provisions have been substantially changed.

RECEIVED

MAR 13 1991

MAPPING ERRORS

DNR  
CRITICAL AREA SUBMISSION

Tax Map 3, Parcel 4 - 11.6 acres, approximately 7 acres in the County: Existing cannery operation that was zoned as RC (RCA classification) in 1989 when Talbot County's Critical Area Program was adopted. The property is in both the Town of Queen Anne (an incorporated town) and Talbot County, with the portion in the town limits zoned as IDA. The Planning Office decided that since the parcel located in the County is contiguous with at least 20 acres of IDA, located in the Town of Queen Anne, and the industrial use was existing prior to the Critical Area Program, the property should rightfully be zoned in an IDA classification to avoid future problems associated with a non-conforming use.

Tax Map 42, Parcel 58 - 3.5 acres; Parcel 274 - 4 acres; Parcel 173 - 3.8 acres: Existing car dealerships that were originally zoned as a commercial use, but mistakenly rezoned as a RCA classification when the Critical Area Program was adopted in 1989. The properties are being rezoned to their original status.

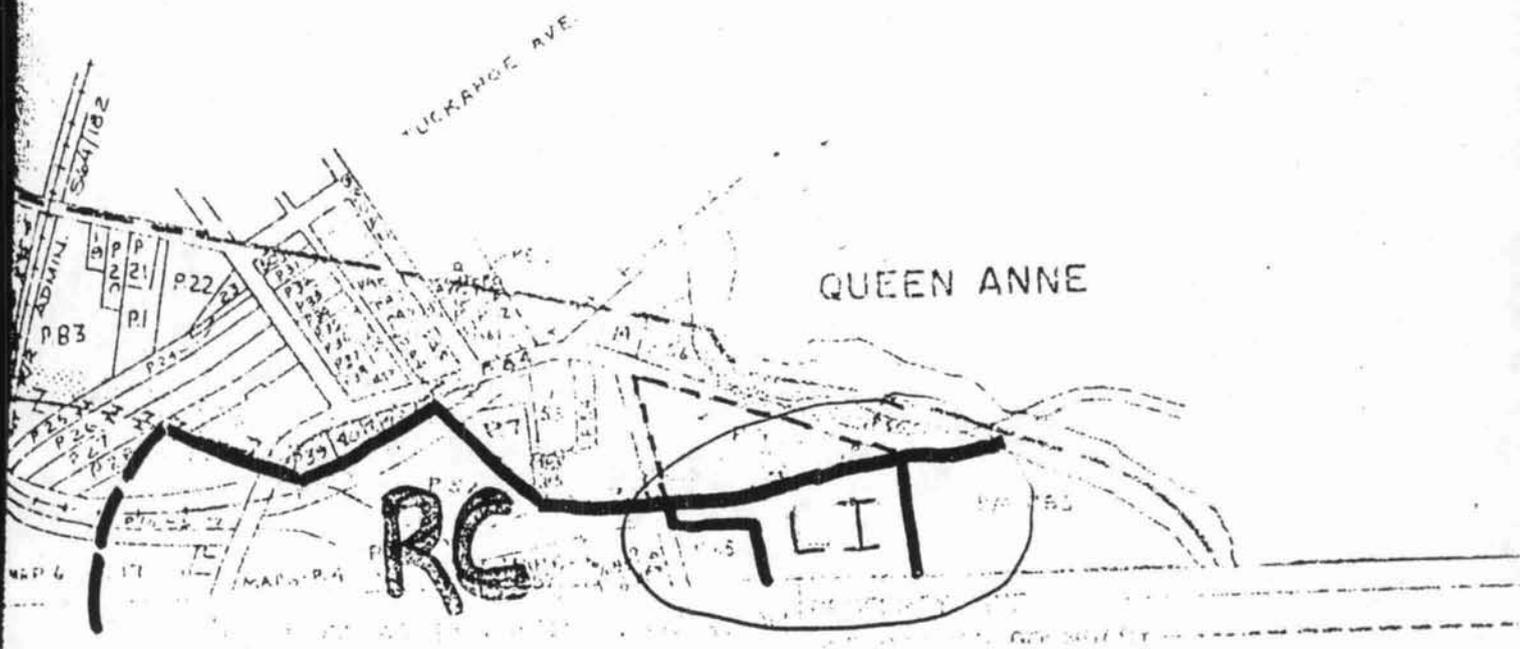
Tax Map 42, Parcel 65 - 4.4 acres: The property owner has requested that the zoning for this property be changed from an RCA classification to an LDA classification since it is located between two commercial car dealerships. The Planning Office feels this change will bring us closer to complying with the 20 acre contiguous rule for LDA and IDA zoning areas.

Tax Map 53, Parcel 86 - 30 acres: Existing marina originally zoned commercial, but mistakenly rezoned as an RCA classification when the Critical Area Program was adopted in 1989. The mapping error is being corrected.

Tax Map 32: A strip of existing commercial developments located outside of St. Michaels (an incorporated town) that were originally zoned as commercial, but mistakenly rezoned as an RCA classification in 1989. The mapping error is being corrected.

Tax Map 44, Parcel 4: RCA to LDA (need an acreage figure and justification from County).

Map 3



Map 42

CHARLES W. LYONS  
257/412  
565/354  
122 44 A.  
P. 61

SCHWANINGER

RR

RC

P. 60

W. HAROLD LYONS  
452/525  
111.15A  
P. 62

58  
GC

65  
GC

ALI MEHRIZI  
485/525  
16.04 A.  
P. 164

RC

WILLIAM T. HUNTER, JR.  
R. A. FISHER  
518/115  
74.75 A.  
P. 7

P. 246

P. 270

P. 63

P. 155

MARTIN M. PETITT, JR.  
465/2  
8 A.  
P. 71

JAMES E. PRICE,  
560/45  
29.63 A.  
P. 262

TR

LI

SOPHIA J. BIDDLE  
452/701  
11.50 A.  
P. 67

LC

P. 25

P. 208

P. 191

P. 236

P. 141

P. 95

P. 237

P. 182

P. 94

P. 102

P. 21

P. 92

P. 103

P. 102

P. 91

P. 107

P. 103

P. 90

P. 104

P. 103

P. 89

P. 105

P. 103

P. 88

P. 106

P. 103

P. 87

P. 107

P. 103

P. 86

P. 108

P. 103

P. 85

CONSTANCE J. TOWNSEND  
583/2  
9.14 A.  
P. 195

P. 210

P. 149

YOR

ROAD

7

P. 105

P. 104

P. 103

P. 102

P. 101

P. 100

P. 99

P. 98

P. 97

P. 96

P. 95

P. 94

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P. 93

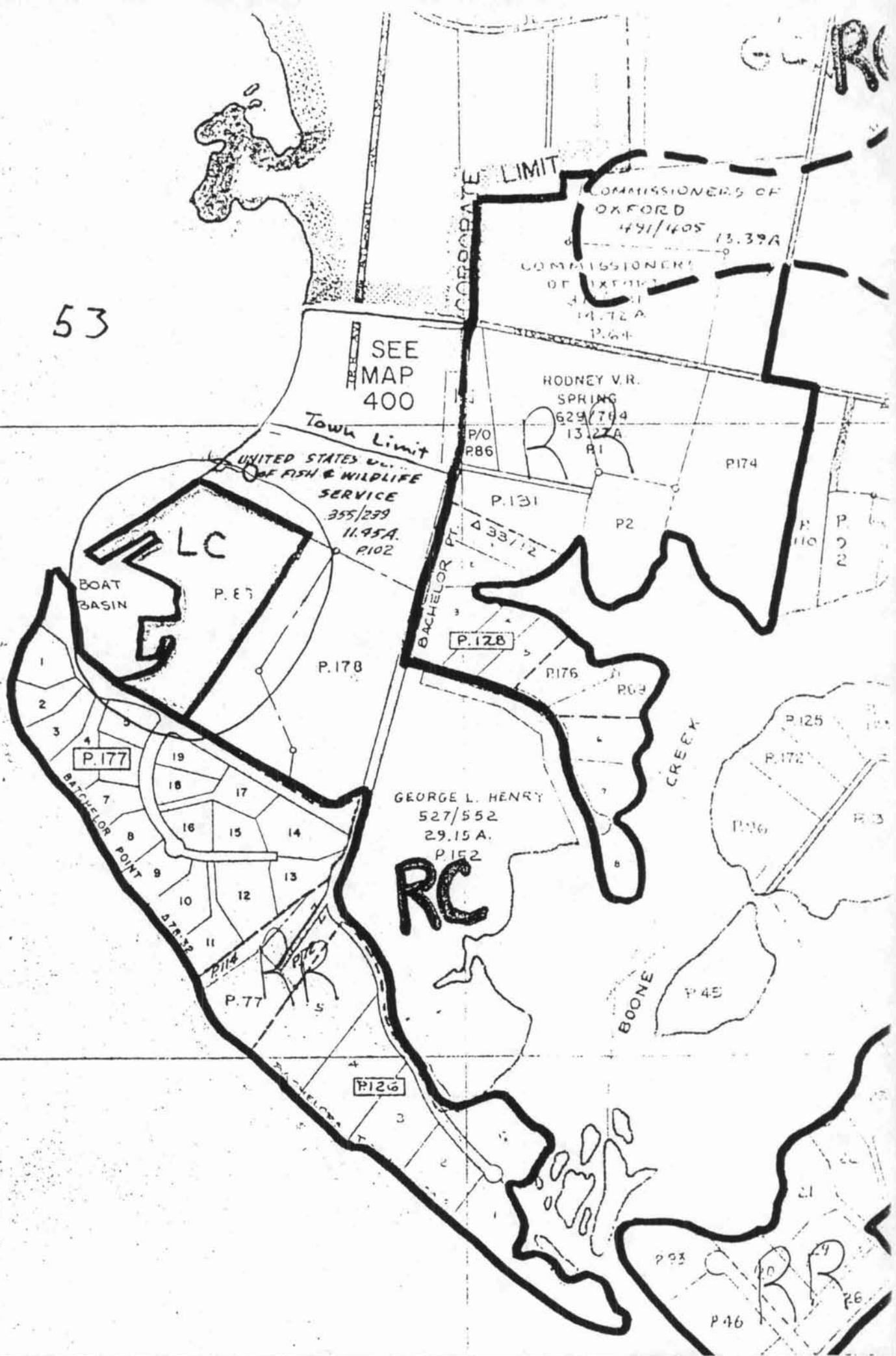
P. 92

P. 91

P. 90

GL RC

Map 53



SEE MAP 400

Town Limit

CORPORATE LIMIT

UNITED STATES DEPT. OF FISH & WILDLIFE SERVICE  
355/299  
11.95A.  
P.102

COMMISSIONERS OF OXFORD  
491/405  
13.39A  
COMMISSIONERS OF EXETER  
14.72A  
13.64

RODNEY V.R. SPRING  
629/714  
13.27A  
P.1

LC

BOAT BASIN

P. 87

P.178

P.177

P.128

P.131

433/12

P.2

P.174

P.110  
P.22

P.176

BOONE CREEK

P.125

P.172

P.170

P.173

GEORGE L. HENRY  
527/552  
29.15A.  
P.152

RC

BOONE

P.45

P.77

P.126

P.93

P.46

P.26



# PIPER & MARBURY

CHARLES CENTER SOUTH

36 SOUTH CHARLES STREET  
BALTIMORE, MARYLAND 21201-3010

301-539-2530

FAX: 301-539-0489

31 WEST 52ND STREET  
NEW YORK, NEW YORK 10019

212-261-2000  
FAX: 212-261-2001

14 AUSTIN FRIARS

LONDON EC2N 2HE  
071-638-3833  
FAX: 071-638-1208

1200 NINETEENTH STREET, N.W.

WASHINGTON, D.C. 20036

202-861-3900

FAX: 202-223-2085

117 BAY STREET

EASTON, MARYLAND 21601

301-820-4460

FAX: 301-820-4463

WRITER'S DIRECT NUMBER

(410) 576-1792

November 1, 1991

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

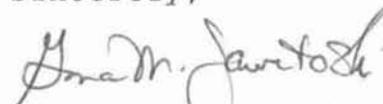
Re: Bachelor Point

Dear Judge North:

On August 28, 1991, Tred Avon River Limited Partnership requested that the Chesapeake Bay Critical Areas Commission reconsider its decision of July 10, 1991 to deny Talbot County's proposed correction of a mapping mistake for Tax Map 53, Parcel 86, Bachelor Point. I understand from Pat Pudelkewicz of the Commission staff and from Assistant Attorney General George Gay that the Commission will consider that request as well as the County's request for reconsideration of this issue at its November 6, 1991 meeting.

I am writing to request an opportunity to make a brief presentation to the Commission on this matter at the November 6, 1991 meeting.

Sincerely,

  
Gina M. Zawitoski

GMZ/tsc

cc: Mr. Henry Gibbons-Neff  
George Gay, Esq.

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NOV 4 1991

DNR  
CRITICAL AREA COMMISSION



## ST. MARY'S COUNTY GOVERNMENT

DEPARTMENT OF PLANNING & ZONING  
P.O. BOX 3000 • 328 WASHINGTON STREET • LEONARDTOWN, MARYLAND 20650  
(301)475-4670 • FAX (301)475-4635

October 29, 1991

RECEIVED

NOV 1 1991

DNR  
CRITICAL AREA COMMISSION

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

Dear Judge North,

Thank you very much for the opportunity to meet with you and your staff to review the Critical Area Commission's action on St. Mary's County's 1991 growth allocation requests. I am sorry that I did not understand the procedures of the full Commission's meeting and that I could have requested the opportunity to make comments about the County's request. It was not apparent to me at the outset and there was no statement made or request for comment outside your staff, the panel, and the full Commission during consideration of our request. I am accustomed to a structured agenda format which provides "applicants" (St. Mary's County in this case) an opportunity to present their case.

I can appreciate your concern for efficiency in the conduct of the Commission's meetings and understand the panel hearing process you have established. I agree with you that for the full Commission to hear all the arguments of the panel would be redundant and inefficient. If the staff and panel presentation adequately presented the County's position and its request, I also believe the full Commission would not need to rehear all the arguments. Had the staff presentation adequately conveyed the County's position, I would not feel the need to comment on the County's request.

The purpose of this letter is to specifically request that St. Mary's County have the opportunity to present the County's position on our minor subdivision proposals to the full Commission.

After the panel's public hearing in Leonardtown on September 5, 1991, several of the panel members and your staff complimented Scott Kudlas of our staff on the excellent job he had done in presenting the County's request, noting that no many local staffs do that well. My basic concern is that the County's position in making the growth allocation request was not advanced in the staff/panel report. The panel made a report and recommendation,

Correspondence Judge North, Critical Area Commission - Continued

Page Two

---

but the context of our minor subdivision requests and the method of calculating the growth allocation amount that is specifically contained in our approved Critical Area Ordinance was not fully explained. Our method is unique within the State and was the result of many months of intensive debate with your staff prior to the County, and subsequently State, approval of the St. Mary's County Critical Area Ordinance.

We will be prepared at your next meeting to present our position. Your consideration of this request will be greatly appreciated.

Very truly yours,



Jon R. Grimm  
Director

JRG:am

cc: Board of County Commissioners  
Planning Commission  
Michael J. Whitson  
Joseph R. Densford  
Scott Kudlas

CACOPCOM

STAFF REPORT

November 6, 1991

Jurisdiction: St. Mary's County

Subject: Reconsideration of Growth  
Allocation Amendments

Discussion:

- 1) St. Mary's County proposed six growth allocation amendments to the Commission.
- 2) Staff briefed the Commission on the amendments at the September 4, 1991 meeting in Prince George's County.
- 3) A Commission panel conducted a public hearing on the amendments in St. Mary's County on September 5, 1991. The panel members are:

Robert Schoepflein, Chair  
Michael Whitson  
Louise Lawrence  
James E. Gutman  
Samuel Bowling

- 4) The Commission and panel received a staff report prior to the Commission's meeting on October 2, 1991. The panel met to discuss the amendments and made the following recommendations to the Commission.

- a) Avenmar Community Center and residential area: Approval
- b) Calvert Industrial Park and Chesapeake Estates: Denial
- c) Eppard property: Denial
- d) Lore's Landing: Denial
- e) Bashford Creek Estates: Denial
- f) Maydel Manor: Denial

- 5) St. Mary's County has requested Commission reconsideration of the following amendments for minor subdivisions:

- c) Eppard property
- d) Lore's Landing
- f) Maydel Manor

- 6) The Panel recommended denial of growth allocation for these minor subdivisions for the following reasons:

Eppard property - The original Resource Conservation Area (RCA) parcel is 14 acres. The County proposed a four-lot subdivision for growth allocation, with a proposed deduction of six acres. The panel determined that the nondeducted eight acres, although remaining RCA, would be too small to continue functioning as RCA and

should be deducted also.

Lore's Landing - The original RCA parcel within the Critical Area is 11.9 acres. The County proposed six acres of growth allocation for a four-lot subdivision. The panel determined that the remaining RCA acreage, split by the new subdivision, would not continue to function as RCA and should be deducted also.

Maydel Manor - The original parcel within the Critical Area is 50 acres. The County proposed a four-lot subdivision on 24.5 acres. Growth allocation was requested for six acres. Each lot is divided into parcels A and B. The B parcels were proposed for growth allocation. The panel determined that the entirety of the proposed lots should be deducted.

7) Jon Grimm, County Planning Director, formally requested reconsideration in a letter to Chairman North on October 29, 1991. The letter is attached. The request is based on two arguments: a) the Commission staff did not fully and adequately explain the County's interpretation of growth allocation deduction for minor subdivisions, and b) although Mr. Grimm was in attendance at the Commission meeting, he did not understand that he could have requested to be heard.

Staff contacts: Ren Serey  
Claudia Jones



## ST. MARY'S COUNTY GOVERNMENT

DEPARTMENT OF PLANNING & ZONING  
P.O. BOX 3000 • 328 WASHINGTON STREET • LEONARDTOWN, MARYLAND 20650  
(301)475-4670 • FAX (301)475-4635

October 29, 1991

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NOV 1 1991

DIR  
CRITICAL AREA COMMISSION

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

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After the panel's public hearing in Leonardtown on September 5, 1991, several of the panel members and your staff complimented Scott Kudlas of our staff on the excellent job he had done in presenting the County's request, noting that no many local staffs do that well. My basic concern is that the County's position in making the growth allocation request was not advanced in the staff/panel report. The panel made a report and recommendation,

Correspondence Judge North, Critical Area Commission - Continued

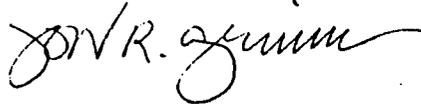
Page Two

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but the context of our minor subdivision requests and the method of calculating the growth allocation amount that is specifically contained in our approved Critical Area Ordinance was not fully explained. Our method is unique within the State and was the result of many months of intensive debate with your staff prior to the County, and subsequently State, approval of the St. Mary's County Critical Area Ordinance.

We will be prepared at your next meeting to present our position. Your consideration of this request will be greatly appreciated.

Very truly yours,



Jon R. Grimm  
Director

JRG:am

cc: Board of County Commissioners  
Planning Commission  
Michael J. Whitson  
Joseph R. Densford  
Scott Kudlas

CACOPCOM

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

TO: Chairman North/Dr. Taylor

FROM: Tom Ventre 

SUBJECT: Agenda Change

DATE: November 1, 1991

Please delete the item for reconsideration of a Dorchester County growth allocation from this Wednesday's meeting agenda.

The Dorchester Panel's scheduled local hearing on the matter was cancelled, thus precluding Commission action at this time.

Steve Dodd of Dorchester County pointed out to me that Commission reconsideration now would be premature, as the County had not yet enacted locally certain ordinance and Program amendments that this Commission had made a condition for reconsideration. I acknowledged my error and informed and advised members of the Panel, who agreed that the hearing be cancelled. A letter and a cancellation bulletin were sent to Steve Dodd via facsimile transmission (copies attached). Copies of the bulletin were posted. Announcements were broadcast on local radio stations as well.

Commission reconsideration will be placed on a future agenda, after the necessary local actions have occurred.

/jjd

Attachments

CHESAPEAKE BAY CRITICAL AREA  
INTEGRATED PROGRAM AND PROJECT EVALUATION SYSTEM  
PRESENTATION TO THE COMMISSION

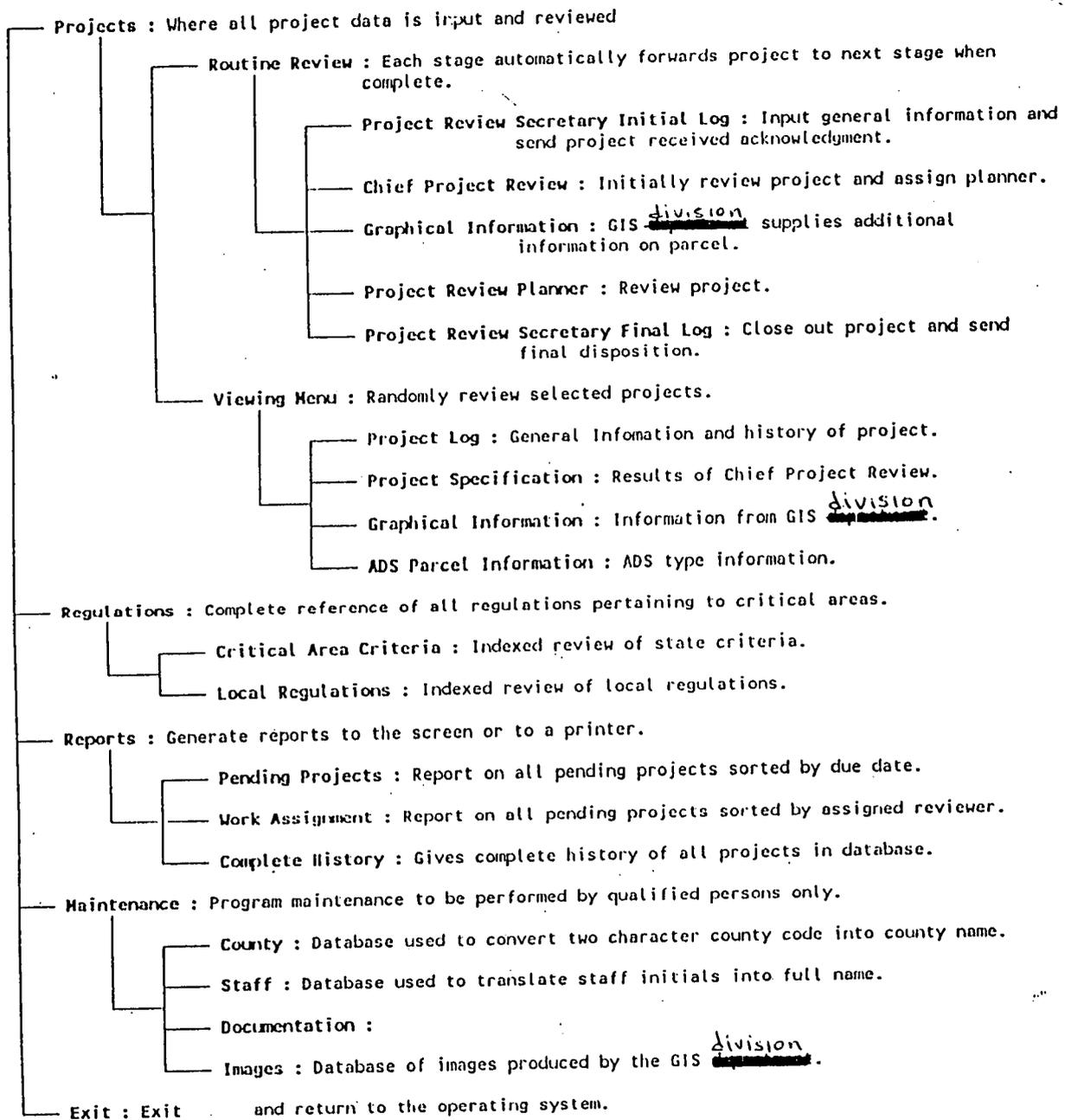
- Commission's responsibilities as an Oversight body/agency
  - \* Review local Programs and initiate amendments
  - \* Evaluate projects for compliance with the local implementation plans
  - \* Implement the overall Critical Area Program efficiently
  - \* Assess the cumulative effects of the overall program
- In carrying out these responsibilities, the Commission's Tasks include:
  - \* Comprehensive review of each of the 60 local Programs against the complex State Regulations (CA criteria with 580 elements)
  - \* Evaluation of projects ranging from 700 to 750 projects annually
  - \* Concurrent reviews of amendments to the local Programs
  - \* Synthesizing statistics on activities within the Critical Area for periodic report to the legislature
- In light of these Tasks, the goal of the Commission was to automate the processes involved in the review of Programs and the evaluation of projects so as to ensure consistency, thoroughness and efficacy. The use of Computer-Technology becomes imperative and of course, most desirable in order to:
  - \* Automate the tasks associated with the Program and Project Review process - e.g., generating work flow
  - \* Automate the office work flow by tracking the progression of projects (from receipt to completion)
  - \* Aide in comparisons and review of local Programs
  - \* Produce formatted summary reports automatically
  - \* Assure consistent evaluation of projects
  - \* Provide timely access to available data for project evaluation

- \* Help assess cumulative effects of activities in the Critical Area e.g., determine the magnitude of land use changes or conversion of land cover types
- The Conceptual Framework for IPPES (5 modules)
  - \* Module 1 - Program Review Module - Criteria/Local Program Database.
    - \* Cross-referencing -- Prototype developed- - Cecil County
  - \* Module 2 - Project Evaluation Module
    - \* Coordinates office work flow
    - \* Accesses the Matrix for Project Evaluation Decision-Making

Note: The purpose of the Matrix is to segregate the review requirements of the criteria according to Activity/Development Types that are typical of projects. This matrix translates the broad categories of Activity types into relevant criteria (as interpreted into the corresponding language of the local Program and ordinances).

- \* Module 3 - Geographic Information Systems
  - \* Provides spatial and descriptive data for project impact assessment.
- \* Module 4 - Report Assembly
  - \* Function - compile quantitative data
  - \* Provides information for periodic Commission briefings
  - \* Provides information for reports to the legislature
- \* Module 5 - Reference Archive
  - \*Stores decisions and statistics for each reviewed project.

# SCHEMATIC OF IPPES MENU SYSTEM



Step	Who has it	Activity	Next Person	Time Needed	Notes
1	Receptionist (Tera)	<ul style="list-style-type: none"> <li>. Receives project application</li> <li>. Checks for project notification form</li> <li>. Stamps arrival date</li> </ul>	Project Review Secretary (Madeline)		95% arrive by mail remainder hand delivery
2	PRS (Madeline)	<ul style="list-style-type: none"> <li>. Logs in project to written logbook</li> <li>. Logs in project to computer file</li> <li>. Assign CAC internal review number</li> <li>. Sends out post-card notification of receipt</li> <li>. Checks for related files - search by name of subdivision name of owner county</li> <li>. If related to earlier file, then pulls old file and places with current application and</li> <li>. Signs out old file.</li> <li>. Creates new file for application</li> <li>. Forwards files to Chief Project Review(CPR)</li> </ul>	Chief Project Review (Ren)	24 hours	
3	CPR (Ren)	<ul style="list-style-type: none"> <li>. Superficial review of file</li> <li>. Notes significant, evident issues particularly legal issues on post-it(attaches to file)</li> <li>. Assigns planner for project review</li> <li>. Returns files to out basket</li> </ul>	PRS	3 days	

Step	Who has it	Activity	Next Person	Time Needed	Notes
4	PRS (Madeline)	<ul style="list-style-type: none"><li>. Pick up files from CPR</li><li>. Logs in planner to corresponding project #</li><li>. Logs in Response required date</li><li>. Branch A</li><li>. Distributes application to planner for review</li></ul>	Project Review Planner		
5	PRP	<ul style="list-style-type: none"><li>. Reviews project application based on local approved program.</li><li>. PRP decides if comment is required<ul style="list-style-type: none"><li>if "NO" branch B</li><li>if "YES" branch C</li></ul></li><li>. Checks project for other state permits that maybe required</li></ul>			

**BRANCH A.**

Step A1 - PRS

- . Monitors approach of response required date or 3 weeks since project was given to project review planner.
- . At approach of deadline notifies CPR.

Step A2 - CPR

- . Checks with planner assigned to project.

**BRANCH B.**

Step B1 - PRP

- . Checks to see if CPR had any comments in STEP 3
  - if "YES" then PRP confers with CPR to review concerns.
    - if concerns are satisfied then project deemed "No Response Required" by PRP and PRP delivers with "NRR" designation to PRS.
    - if concerns are not satisfied then proceed to BRANCH C.
  - if "NO" then project deemed "NO RESPONSE REQUIRED" by PRP
- PRP delivers project with "NRR" designation to PRS

Step B2 - PRS

- . Verifies whether the comment period has expired.
  - if "YES" then PRS
    - . records status in log described in STEP 2
    - . files application and related comments.
    - . no additional action required [END].
  - if "NO" then PRS
    - . sends "NRR" post-card to local government
    - . records status in log described in STEP 2
    - . files application and related comments
    - . no additional action required [END].

**BRANCH C**

**Step C1 - PRP**

- . drafts comment letter based on project review
- . Planner confers with CPR concerning content of comment letter
- . Planner revises comment letter if necessary
- . Planner forwards letter to PRS for typing

**Step C2 - PRS**

- . Verifies whether the comment period has expired
  - if "YES" then
    - . notifies CPR
    - . draft comments are filed with application
    - . records status in log described in STEP 2
  - if "NO" then
    - . types letter
    - . obtains signature of specific PRP
    - . mails comment letter to local jurisdiction
    - . records status in log described in STEP 2

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CPR - Chief Project Review

PRS - Project Review Secretary

PRP - Project Review Planner

## PROJECT TYPE DESCRIPTORS

PROJECT TYPE	LOCATION	ACTIVITY/DEVELOPMENT TYPE
subdivision rezoning special exception conditional use site plan grading permit building permit variances intra-family habitat protection others	IDA LDA RCA open bay others	residential development business water dependent facilities marina aquaculture port industrial development mixed use development commercial development redevelopment shore erosion protection works forest and woodland use agriculture surface mining natural park others

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



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

STATE OF MARYLAND

OFFICE OF THE ATTORNEY GENERAL

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

TELECOPIER COVER SHEET

DATE: NOV. 5, 1991

TIME: \_\_\_\_\_

PLEASE DELIVER TO:

NAME: Sarah Taylor

ADDRESS: CBCAC

TELECOPIER NO. 974-5338

FROM: Christy Ward

TELECOPIER NO. 974-5206 Office of the Secretary

WE ARE TRANSMITTING 8 PAGES (INCLUDING COVER SHEET). IF TRANSMISSION IS NOT COMPLETE, PLEASE CALL:

NAME: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_

George says he fayed the changes  
to my office & your office at approx.  
10:00 a.m. I didn't receive them here,  
please let me know if you rec'd his  
fax. Thanks.  
Christy

2501

November 4, 1991

MEMORANDUM

TO: Commission Procedures File  
FROM: George E. H. Gay  
Assistant Attorney General  
RE: Reconsideration

Two, possibly three, requests for reconsideration are on the Commission's November Agenda. The following is a brief synopsis of how they should be approached.

OVERVIEW

Ideally, the Commission's Bylaws dictate the process by which the Commission acts at its regular meetings. They provide in pertinent part:

Roberts Rules of Order, current edition, shall govern the meetings and hearings of the Commission and to all other cases to which they are applicable and in which they are not inconsistent with the by-laws and rules of procedure.

Looking to Robert's on the issue of reconsideration, it provides at page 156:

This motion is peculiar in that the making of the motion has a higher rank than its consideration, and for a certain time prevents anything being done as the result of the vote it is proposed to reconsider. It can be made only on the day the vote to be reconsidered was taken, or on the next succeeding day, a legal holiday or a recess not being counted as a day. It must be made by one who voted with the prevailing side. Any member may second it.

Unfortunately, Robert's is not very comprehensive as it addresses the question of reconsideration. Its provisions appear appropriate for the typical case. But, what about the unusual case where justice demands that the Commission take another look at the matter sometime after the meeting at which it rendered the decision in question. In such cases, Roberts seems too restrictive.

#### POWER TO RECONSIDER

Generally, agencies such as the Commission have the power, comparable to courts, to reconsider their prior actions. However, this power can be limited or extinguished by statute. 73A C.J.S. Public Administration Law and Procedure, §161(a). The Critical Area law contains no such restriction. As noted earlier, the restriction in Roberts appears to apply to only the typical case. One that does not present any unique circumstances. Therefore, it seems appropriate to assume that the Commission has some authority to reconsider its decisions in limited circumstances. This authority is implied by the Bylaws as noted earlier.<sup>1</sup>

#### SCOPE OF RECONSIDERATION

Two primary public policy concerns impact the scope of an agency's reconsideration powers. On the one hand, it is important that agency decisions be final. It is inappropriate to allow a matter to linger in the regulatory process. As noted in Zoning Appeals Board v. McKinney, 174 Md. 551 at 566:

Otherwise there would be no finality to the proceeding; the result would be subject to

---

<sup>1</sup> I understand that it has done so on a varying basis over the years.

change at the whim of members or due to the effect of influence exerted upon them, or other undesirable elements tending to uncertainty and impermanence.

On the other hand, there is a strong need for an agency to reach a correct decision. In Maryland, the general rule seems to be that "the power to reconsider is not an arbitrary one and its exercise should be granted only when there is justification and good cause." Id. In light of the previous decision, this rule should be applied by the Commission.

#### JUSTIFICATION AND GOOD CAUSE

So, what is "justification" and "good cause". Clearly, these elements must be based upon specific facts that can be set forth in the record and which are susceptible to review on appeal. McKinney, Supra, at 564 provides:

It may be conceded without discussion that the Board has the right to correct errors in its decisions caused by fraud, surprise, mistake or inadvertence, which any agency exercising judicial functions must have, to adequately perform its duties.

C.J.S., Supra, provides: "An agency has the power to vacate its own orders on the ground of fraud, mistake, illegality, or misconception of the facts." 2 Am. Jur. 2d Administrative Law §524 provides:

Regardless of whether a determination is or is not deemed to be quasi-judicial, and even though the court may otherwise take the view denying the existence of power in administrative agencies to reconsider or modify their determinations, the courts hold or recognize that administrative agencies may reconsider and modify their determinations or correct errors on the ground of fraud or

imposition, illegality, irregularity in vital matters, mistake, misconception of facts, erroneous conclusion of law, surprise, or inadvertence.

These factors are essentially the same which apply to reconsideration by the Courts in Maryland. Rules 2-535(b) and (c) provide:

(b) Fraud, Mistake, Irregularity. - On Motion of any party filed at any time, the court may exercise revisory power and control over the judgment in cause of fraud, mistake, or irregularity.

(c) Newly-Discovered Evidence. - On motion of any party filed within 30 days after entry of judgment, the court may grant a new trial on the ground of newly-discovered evidence that could not have been discovered by due diligence in time to move for a new trial pursuant to Rule 2-533.

Based upon this background, several procedural guidelines seem appropriate for the Commission. First, in accordance with Roberts, a request for reconsideration which does not include allegations of one or more of the Rule 2-535 factors must be made and ruled upon at the same meeting that the Commission ruled on the underlying issue. If not, the request is untimely and should be summarily denied by the Commission. If such a request is timely made, it should be resolved by the Commission pursuant to the overall set of guidelines, regulations and statutes applicable to the Commission. Second, in accordance with Roberts' reference to the Rules but in an effort to satisfy the two public policy concerns discussed previously, a request for reconsideration which includes allegations of one or more of the Rule 2-535 factors must be made within 30 days of the Commission's underlying decision. If not, it

is untimely and should not be considered by the Commission. If such a request is timely made, it should be granted only upon clear and convincing proof that the Commission's prior decision was based, substantially, upon fraud, mistake, irregularity or if substantial new evidence is discovered after a Commission decision which, upon due diligence, could not have been discovered prior to the Commission's decisions. Of course, all requests for reconsideration that are based on these factors should be in writing to the Chairman.

#### THE FACTORS

Now that we know what the "good cause" factors are, what do they mean? How do we apply them. Fraud is quite narrow in nature. It means "an act of deliberate deception designed to secure something by taking unfair advantage of someone" Hughes v. Beltway Homes, Inc., 276 Md. 382 at 386. An example of this would be our review of an application that was based upon intentional misrepresentation by the applicant. Mistake is also very narrow. As noted by the Maryland Courts the term mistake in the reconsideration context does not mean a unilateral mistake of judgment on the part of one of the parties rather it means a "jurisdictional mistake" Hamilos v. Hamilos, 52 Md. App. 488 at 497 (1982). Thus, for Commission purposes the question in the reconsideration context is: did the Commission have the authority to review the question in the first place. If not, a mistake sufficient to justify reconsideration exists. An example of "mistake" by the Commission would be a decision concerning property

located outside the Critical Area. Irregularity is also to be construed quite narrowly. Irregularity in the contemplation of reconsideration means an irregularity in administrative process or procedure. Weitz v. MacKenzie, 273 Md. 628 (1975). An example of this for Commission purposes would be failure to hold a panel hearing in the jurisdiction impacted by a proposed amendment. Finally, there is the Newly Discovered Evidence factor. Recall that this factor is also quite narrow. It includes only newly discovered evidence that could not have been discovered by due diligence in time to be presented at the hearing. No example here is necessary. This is self-explanatory.

#### PENDING REQUESTS

These guidelines lead to the same result on both requests. First, they are timely filed in writing to the Chairman. Thus, the Commission must review them. Second, they do not meet the reconsideration test. No factor is satisfied. In both cases, the applicant is simply hoping for a second bite at the apple. The Talbot County request is closest to the newly discovered evidence factor. But it does not satisfy it. The evidence relied upon was available prior to the Commission's initial ruling. It failed to surface in a timely manner due solely to the negligence of the applicant. The St. Mary's County request seems closest to the mistake factor. However, it does not satisfy it. The mistake alleged was that of the County for failing to exercise certain rights or opportunities. This "waiver" by the applicant is not a jurisdiction mistake. Consequently, both requests should be

denied.

PROCESS

Commission staff should present a procedural history concerning each request to the Commission. Then the Applicant County should be given a brief opportunity to meet its burden of establishing clear and convincing evidence that one of the Rule 2-535 factors exists. Then members of the public should be allowed to speak briefly. Finally, the Commission should discuss the request and a motion to either grant or deny it should be voted upon. It is essential that the Chairman insure that Commission discussion focuses on the reconsideration factors and not the substance of the original application. If a motion to deny the request is approved, that is the end of the matter. If a motion to grant the request is approved, the original application should be submitted to a Panel for a hearing and, thereafter, in accordance with applicable procedures for amendments, considered by the Commission.

GEHG:cjw

cc: The Honorable John C. North, II  
Mr. Ren Serey  
Ms. Patricia Pudelkewicz

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

SARAH J. TAYLOR, PH.D.  
EXECUTIVE DIRECTOR  
301-974-2418/26  
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WESTERN SHORE OFFICE  
275 WEST STREET, SUITE 320  
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EASTERN SHORE OFFICE  
31 CREAMERY LANE  
EASTON, MARYLAND 21601

STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION

October 23, 1991

Mr. Skip Zahniser  
P.O. Box 760  
Solomons, MD 20688

Dear Mr. Zahniser:

The November meeting of the Commission is scheduled for the 6th at 1:00 p.m at the Commission offices, 275 West Street, Annapolis. An Agenda for the meeting as well as the Minutes of October are enclosed. Also enclosed is supportive information for the meeting.

In a memorandum dated August 23rd of this year, I asked that you select a subcommittee and to change if you so desired. I also asked that you make that selection known to me by October 1st. At this time, I have received one notification by letter and 1 verbal notification. Please notify me or Dr. Sarah Taylor as to your preferences as soon as possible. The subcommittees, with changed membership, will begin on January 1, 1992.

I have also requested that you provide to Margaret Mickler, Commission Secretary, information to complete our records which will serve to expedite Commission business. That information has not been provided by some of you. Information requested was a home address, home telephone number, office fax number and Secretary or Assistant's name in addition to your business address and phone number. Your cooperation will be appreciated.

In order to ensure a quorum attendance, please call Margaret Mickler 301-974-2426 by noon on November 5th if you will be unable to attend. I look forward to seeing you at the meeting.

Very truly yours,

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

John C. North, II  
Chairman

JCN,II  
Enclosures: cited

STAFF REPORT

JURISDICTION: Talbot County

AMENDMENTS: Bill 452, parts of Bill 459 - Revisions to Talbot County Zoning Ordinance

DISCUSSION: Talbot County has submitted 21 amendments. A synopsis of each follows.

1. Section Two of Bill 459.

Comment: This table, correlating zoning districts to Critical Area designations, was in the original Critical Area Zoning Ordinance approved by the Critical Area Commission (CAC) in 1989, but was omitted from the revised Zoning Ordinance (Bill 450). CAC staff report requested the County to reinsert this for clarification purposes.

Recommendation: Approval.

2. Section Four of Bill 459.

Comment: This is a new addition, and would permit mineral extraction activities in the Resource Conservation Area.

Recommendation: Approval - consistent with Critical Area criteria. The Zoning Ordinance contains the criteria of COMAR 14.15.07 - Surface Mining in the Critical Area.

3. Section Six of Bill 459

Comment: This was in the original Critical Area Zoning Ordinance approved by the Critical Area Commission (CAC) in 1989, but was omitted from the revised Zoning Ordinance (Bill 450).

Recommendation: Approval.

4. Section Fourteen of Bill 459

Comment: This change was requested by the CAC. It will delete commercial kennels as a Special Exception use in the RCA.

Recommendation: Approval.

5. Section Fifteen of Bill 459

Comment: This change was requested by the CAC and is consistent with the Commission's Policy on Shared Facilities. It will add a clause which states that shared facilities for development outside of the Critical Area may not be located within the Critical Area.

Recommendation: Approval.

6. Section Sixteen of Bill 459

Comment: This change was requested by the CAC per COMAR 14.15.02.G. Solid waste transfer stations will not be permitted in the Critical Area.

Recommendation: Approval.

7. Section Seventeen of Bill 459

Comment: This change was requested by the CAC. It adds a clause to Nursing Homes in the RCA that they be located in a dwelling existing prior to December 1, 1985.

Recommendation: Approval.

8. Section Thirty-Seven of Bill 459

Comment: This change was requested by the CAC to incorporate the requirements of HB 323 on impervious surfaces.

Recommendation: Add in "trailer park" language of HB 323.

9. Section Thirty-Eight of Bill 459

Comment: This is a minor revision to the Buffer language to make it more consistent with the language of the criteria.

Recommendation: Approval

10. Section Thirty-Nine of Bill 459

Comment: Incorporates impervious surface requirements of HB 323 into the nonconforming use section.

Recommendation: Approval.

11. Section Forty of Bill 459

Comment: This change was requested by the CAC to incorporate the requirements of HB 323 on impervious surfaces.

Recommendation: Approval

12. Section Forty-Two of Bill 459

Comment: This change incorporates a general comment of CAC Staff Report that the design criteria for Critical Area projects be met in addition to general design criteria.

Recommendation: Approval

13. Bill 452

Comment: The CAC commented on Bill 452 in July and stated that it must work in conjunction with the grandfathering criteria of COMAR 14.15.02.07, which did not appear in the Zoning Ordinance. It has been found that these criteria are included in the Zoning Ordinance. Bill 452 grandfathers certain accessory structures erected prior to April 11, 1991, though they may not have been the subject of a building permit.

Recommendation: Approval; however, only in conjunction with Amendment 14 below (Section Forty-Three of Bill 459).

14. Section Forty-Three of Bill 459

Comment: This provision was requested by the Critical Area Commission. It basically changes the grandfather date in Bill 452 (above) in the Critical Area to the date of adoption of the Critical Area Program in Talbot County.

Recommendation: Approval.

15. Section Forty-Five of Bill 459

Comment: Typographical Error (noted in previous CAC comments to County).

Recommendation: Approval.

16. Section Forty-Six of Bill 459

Comment: This provision was requested by the Critical Area Commission. It will include a reference to Critical Area design criteria as well as general design criteria for growth allocation projects.

Recommendation: Approval. (Seventh line cited in this provision should be second line.)

17. Section Forty-Seven of Bill 459

Comment: This change was requested by the Critical Area Commission. It states that a growth allocation request should have a minimal effect, or improve on stormwater, floodplain and stream character.

18. Forty-eight of Bill 459

Comment: Typographical Error (noted in previous CAC comments to County).

Recommendation: Approval.

19. Section Forty-Nine of Bill 459.

Comment: This change was intended to comply with a request by the CAC to clearly state that the CAC only receives those growth allocations which have been approved by the County Council.

Recommendation: Approval. In addition, add:

1) first sentence in Section 19.14(c)(1)(iv)(g), requests submitted by County Council after growth allocation approved; and

2) second sentence in Section 19.14(c)(1)(iv)(g), CAC has 90 days to act on a request after amendment package has been accepted as a complete submittal by the CAC

20. Section Fifty of Bill 459

Comment: This clarification was requested by the CAC. It states that growth allocation is not needed for zoning changes within a Critical Area Designation.

Recommendation: Approval.

21. Section Fifty-One of Bill 459

Comment: This change was requested by the CAC. It states that Special Exception uses may only be approved after the CAC is notified.

Recommendation: Approval.

ADDITIONAL COMMENTS:

1. Section Fifty-seven of Bill 459 grants the CAC the ability to review the various sections of the Bill independently of each other.
2. CAC comments on nontidal wetlands definition were not addressed by the County. Nontidal wetlands definition not approved at this time.
3. CAC comments on "Bed and Breakfast" in the RCA were not addressed.
4. CAC needs to approve the Amendment Section of the Zoning Ordinance, Section 19.14.C(1)(iii), and the Growth Allocation Section 19.14C(1)(iv).
5. Section Eighteen of Bill 459 removes provision that "compounding industries" not be allowed in the Critical Area. This is a change from the original Critical Area Ordinance and the newly adopted Zoning Ordinance (Bill 450).
6. Section Five: Changes the word "substation" to "pump station" in the land-use chart: Substation for Gas and Oil Pipelines.
7. Section Forty-Four changes the wording in "Enlargement or Expansion of Nonconforming Situations" to "Enlargement or Expansion of Nonconforming Uses".

CRITICAL AREA AMENDMENTS

All of Bill 452, Critical Area Sections of Bill 459

1. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.3(a)(1) be amended to add the following Subsection (ix).

(ix) Critical Area Designations

The following table describes how the various Talbot County Zoning Districts within the Critical Area relate to the Critical Area designations of Intensely Developed Area (IDA), Limited Development Area (LDA) and Resource Conservation Area (RCA).

RCA Designation

Resource Conservation (RC)

LDA Designation

Town Residential (TR)

Village Center (VC)

Rural Residential (RR)

Limited Commercial (LC) less than 20 contiguous acres

General Commercial (GC) less than 20 contiguous acres

IDA Designation

Limited Commercial (LC) 20 contiguous acres or more

General Commercial (GC) 20 contiguous acres or more

Limited Industrial (LI) 20 contiguous acres or more

2. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.4(a) be amended to allow Mineral Extraction Activities as a special exception use in the RC district.
3. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.4(a) be amended to allow Utility Structures and Services - Excludes Essential Utility Services as a special exception use in all zoning districts.
4. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.4(a) be amended to delete Kennel (Commercial) as a special exception use in the RC district.
5. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.4(a) be amended to add a new condition for "Shared Facilities For Sewage Collection,

Treatment and Disposal" to read as follows:

- Shared facilities for development outside the Critical Area may not be located within the Critical Area.
6. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.4(a) be amended to delete Solid Waste Transfer Station as a special exception use in the RC and RR districts and add the following condition to read as follows:
- Not permitted within the Critical Area.
7. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.4(a) be amended to add a new condition for "Nursing Home (Existing Structure)" to read as follows:
- In Critical Area shall be located in a dwelling existing prior to December 1, 1985.
8. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.12(b)(5)(vi)[c][1][i]a. be amended to read as follows:
- a. Constructed impervious areas shall be limited to fifteen (15) percent (twenty-five [25] percent for a parcel or lot of 1/2 acre or less in size, that was in residential use or zoned for residential purposes on or before 12/1/85; twenty-five [25] percent for a parcel or lot of 1/4 acre or less in size, that was in non-residential use on or before 12/1/85; twenty-five [25] percent for a lot of one [1] acre or less in size, as part of a subdivision approved after 12/1/85, impervious surfaces of the lot may not exceed twenty-five [25] percent and the total impervious surface of the entire subdivision may not exceed fifteen [15] percent). A maximum impervious area shall be designated on the subdivision plat for each parcel or lot.
9. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.12(b)(5)(iii)[b], third sentence, be amended to read as follows:
- In the case of contiguous slopes of fifteen (15) percent or greater, the buffer shall be expanded four (4) feet for every one (1) percent of slope, or to the top of the slope, whichever is greater in extent.
10. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.13(d)(2)(i) be amended to read as follows:

(i) Nonconforming structures within the Shoreline Development Buffer may be expanded if the impervious area of the parcel or lot's Shoreline Development Buffer and of the entire parcel or lot on which the structure is located is limited to fifteen (15) percent (twenty-five [25] percent for a parcel or lot of 1/2 acre or less in size, that was in residential use or zoned for residential purposes on or before 12/1/85; twenty-five [25] percent for a parcel or lot of 1/4 acre or less in size, that was in non-residential use on or before 12/1/85; twenty-five [25] percent for a lot of one [1] acre or less in size, as part of a subdivision approved after 12/1/85, impervious surfaces of the lot may not exceed twenty-five [25] percent and the total impervious surface of the entire subdivision may not exceed fifteen [15] percent). In addition, setbacks from property lines for such an expansion, shall not be less than the setbacks of the existing nonconforming structure.

11. BE IT ENACTED by the Talbot county Council that Title 19 of the Talbot County Code, Section 19.13(d)(2)(ii) be amended to read as follows:

(ii) Nonconforming structures outside the Shoreline Development Buffer may be expanded if the impervious area of the entire parcel on which the structure is located is limited to fifteen (15) percent (twenty-five (25) percent for a parcel or lot of 1/2 acre or less in size, that was in residential use or zoned for residential purposes on or before 12/1/85; twenty-five (25) percent for a parcel or lot of 1/4 acre or less in size, that was in non-residential use on or before 12/1/85, twenty-five (25) percent for a lot of one (1) acre or less in size, as part of a subdivision approved after 12/1/85, impervious surfaces of the lot may not exceed twenty-five (25) percent and the total impervious surface of the entire subdivision may not exceed fifteen (15) percent).

12. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.13(c)(1), third sentence be amended to change the cross reference from Section 19.10 to Sections 19.10 and 19.12.

13. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code is amended by adding Section 19.13(g) to read as follows:

Certain Existing Structures Allowed to Remain in Use.

Notwithstanding any other provisions of this Ordinance, certain structures erected prior to April 11, 1991, though not the subject of specific building permits, are declared to be permitted accessory structures and are allowed to remain in use in their present location. These certain structures include driveways, culverts, private bridges, light standards

or poles, mailboxes, ornamental entrance gates, and any similar accessory structures customarily associated with the principal use of the property.

14. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.13(g), first sentence, be amended to read as follows:

Notwithstanding any other provisions of this Ordinance, certain structures erected prior to April 11, 1991 (August 13, 1989 in the Critical Area), though not the subject of specific building permits, are declared to be permitted accessory structures and are allowed to remain in use in their present location.

15. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.14(c)(1)(iii)[a] be amended to change the cross reference from Section 19.14(c)(1)(iv)[9] to Section 19.14(c)(1)(iv)[g].

16. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.14(c)(1)(iv)[b], seventh line, be amended to change the cross reference from Section 19.10 to Sections 19.10 and 19.12.

17. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.14(c)(1)(iv)[b][6] be amended to read as follows:

[6] Have minimal effect or improve on stormwater, floodplain and stream character.

18. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.14(c)(1)(iv)[j], second paragraph, first sentence, be amended to read as follows:

In determining whether the twenty (20) acre threshold has been reached, the contiguous areas of existing commercial and/or industrial zoning districts, whether located in the Critical Area or Non-Critical Area, shall be considered.

19. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.14(c)(1)(iv)[g], fourth sentence, be amended to read as follows:

A request approved by the County Council shall take effect sixty (60) days after adoption by the Council, and upon approval by the Critical Area Commission.

20. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.14(c)(1)(iv) be amended to revise Subsection [m] to read as follows:

[m] Zoning map amendments from one LDA zoning district to another LDA zoning district or from one IDA zoning district to another IDA zoning district shall not require growth allocation, but shall instead be required to follow the procedures for a non-Critical Area zoning map amendment as prescribed in Section 19.14(c)(1)(ii).

21. BE IT ENACTED by the Talbot County Council that Title 19 of the Talbot County Code, Section 19.14(b)(4)(i) be amended to add the following sentence at the end of the paragraph to read as follows:

Special Exception uses within the Critical Area may only be approved by the Board of Appeals after notification to the Chesapeake Bay Critical Area Commission.

NOTE:

Section Fifty-seven of Bill 459 allows each of the above amendments to be reviewed separately as refinements and or amendments. (See enclosure)

CRITICAL AREA COMMISSION

STAFF REPORT

October 24, 1991

PROJECT: Maryland Department of Agriculture, Mosquito Control Project, Dorchester County

DISCUSSION: As part of the State's mosquito control program, the Maryland Department of Agriculture (MDA) is conducting Open Marsh Water Management (OMWM) in several locations within Dorchester County. The activities conform to standardized procedures developed by the Maryland Mosquito Control Advisory Committee. They include:

- A. 6 sites in Dorchester County (Taylor Island, Punch Island Road, Andrews, Lakeville\Crapo Road, Shorters Wharf and Becker Island Marsh along Transquaking River)

OMWM work plans include 26 ponds, 15 sill ditch outlets and open ditch outlets

- B. Wingate/Toddville area

Work plans include an OMWM system of eight ponds, new ditches 30" wide by 30" deep, and maintenance of existing ditches

The projects have been designed to reduce breeding of salt marsh mosquitoes by non-chemical means that include fish predation and the adjustment of water levels. There is an extensive history of mosquito production for each location.

The projects are under review by the Maryland Forest, Park and Wildlife Service to determine if any Habitat Protection Areas could be affected by the activities.

STAFF CONTACT: Liz Zucker

STAFF RECOMMENDATION: Staff recommendations are pending Maryland Forest, Park and Wildlife review of the projects.