

Committee Meetings & Correspondence May 1992

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AGENDA

CHESAPEAKE BAY CRITICAL AREA COMMISSION MEETING

Department of Housing and Community Development  
100 Community Place  
Crownsville, Maryland, 21032-2023

May 6th, 1992

SUBCOMMITTEES

Program Amendment & Implementation	9:30 a.m. - 12:00 p.m. Conference Room C
Project Evaluation	11:00 a.m. - 12:00 p.m. Conference Room D
MDOT	9:30 a.m. - 10:30 a.m. Conference Room 1100 A

**Conference Room 1100 A**

1:00 p.m. - 1:10 p.m.	Approval of Minutes of April Meeting	John C. North, II, Chairman
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**PROJECTS**

1:10 p.m. - 1:30 p.m.	Masonville Marine Terminal Md. Port Administration MDOT - VOTE	Dawnn McCleary, Planner Greiner Engineering Mr. Watt Bowie
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**AMENDMENTS & REFINEMENTS**

1:30 p.m. - 2:00 p.m.	Talbot County - 9 Growth Allocations - INFORMATION	Theresa Corless, Planner
2:00 p.m. - 2:20 p.m.	Elkton Mapping Mistake Information Item	Anne Hairston, Planner
2:20 p.m. - 2:25 p.m.	Town of Secretary Refinement	Tom Ventre, Planner
2:25 p.m. - 2:30 p.m.	Queen Anne's County Refinement	Claudia Jones, Planner
2:30 p.m. - 2:45 p.m.	Talbot County - Bachelor's Point / Growth Allocation	Pat Pudelkewicz, Planner
2:45 p.m. - 3:05 p.m.	Cecil County - Special Growth Allocation - (Small Lots) - INFORMATION	Anne Hairston, Planner
3:05 p.m. - 3:30 p.m.	Port Deposit Subdivision Ordinance - Information	Anne Hairston, Planner

O V E R

LEGAL UPDATES

3:30 p.m. - 3:45 p.m.

Queen Anne's County - VOTE

John C. North, II,  
Chairman/CBCAC Staff

Betterton Bay Club STATUS

Calvert Industrial Park and  
Chesapeake Estates STATUS

3:45 p.m. - 4:00 p.m.

Old Business

John C. North, II  
Chairman

*Carroll's Case*

New Business

John C. North, II  
Chairman

Program Amendment

A) Panel Appointments for Cecil County ✓  
Town of Elkton ✓

Comprehensive Program Review

B) Panel Appointments for Baltimore City ✓  
Anne Arundel County ✓  
Baltimore County ✓

June 3rd Meeting: Security requirement  
Name, Drivers License Number, Auto Tag #

*MDU. MDOT*

*Mailout*

CHESAPEAKE BAY CRITICAL AREA COMMISSION  
Attman-Glazer Building  
45 Calvert Street  
Annapolis, Maryland 21401  
April 1, 1992

The Chesapeake Bay Critical Area Commission met at the Commission offices in Annapolis, Maryland. The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

Blake, Russell	Little, J. Rodney, DHCD
Barker, Philip	Bostian, William J.
Bowling, Samuel Y.	Corkran, William H., Jr.
Elbrich, Joseph J., Jr.	Gutman, James E.
Hickernell, Ronald	Jarvis, Thomas L.
Krech, Dr. Shepard	Langner, Kathryn D.
Phillips, G. Steele	Price, Robert R., Esquire
Whitson, Michael J.	Williams, W. Roger
Hearn, J. L., Md. Dept. of Environment	Fred Samadani, Md. Dept. of Agriculture
Peck, Jim, Md. Dept. of Natural Resources	Schoeplein, Robert, DEED
Parris Glendening	Larry Duket for Ronald Young Office of Planning

The Minutes of March 4th, 1992 were read and approved as written.

Chairman North asked Ms. Claudia Jones to report on Somerset County's request for growth allocation for Coulbourn's Cove.

Ms. Jones reminded the Commission members that this project was presented to them for information at the meeting in January. She updated the members on the project in a staff report which was disseminated to them and is as follows: The Somerset County Commissioners have requested 16 acres of growth allocation for the project known as Coulbourn's Cove. The site is currently RCA. The majority of the site is farm field/prior converted wetlands with a small portion of the property being forested nontidal wetlands.

The total acreage of the parcel is 68 acres, with 57 acres in the Critical Area. The applicant is proposing the creation of 20 lots ranging in size from 2 acres to 4.6 acres; 16 lots are entirely in the Critical Area, 2 lots are partially in and partially out. The majority of the site has been farmed. A sizable portion of this farmed area is mapped as hydric soils and has been designated by the Soil Conservation Service as being Prior Converted. The farmed portion of the property currently has several ditches crossing it for drainage. It is very wet, but would not meet the definition of wetlands in the Somerset County Program due to the presence of the drainage ditches.

There is a forested area that covers portions of lots 9, 10 and 11. Sections of the forested area are also mapped as having hydric soils. Field visits have confirmed that the majority of this forested area is a wetland. The property owner has agreed to put a conservation easement on the entire forested area as well as on the adjacent 25-foot buffer.

There is also a small section of scrub/shrub wetland along Coulbourn's Cove that will be protected from development.

The property owner is proposing to fill the existing drainage ditches that go from the road to the southwest portion of the property (toward Coulbourn's Cove) and create new ditches that run along the property lines between the lots. Creation of a new drainage system on the property is being required by the Somerset County Health Department before it will approve on-site septic systems.

The County's program requires that 1 acre of growth allocation be deducted for each detached single family site provided that the development pad is limited to no more than 20,000 square feet. The County Program also requires that the portion of the lot outside of the development pad be restricted from further development and maintained in natural vegetation.

#### ISSUES

1. The development pad is not shown on the site plan. There is no indication on the site plan that there are any restrictive covenants on the portion of the lots outside of the development pad. The Somerset County Commissioners' Findings of Fact require that the development for the parcels in the Critical Area be limited to 20,000 square feet. However, the County's Finding on this point is incomplete. The County's requirement will only preclude the placement of structures, but would allow lawns and gardens, etc. This is not consistent with the County's definition of development pad as follows:

Development Pad--The area of a lot, within a larger overall lot area that is devoted to structures and septic systems. In general, where a development pad is prescribed the remaining area of the lot must be maintained in natural vegetation. (Emphasis added)

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2. The road and the pond will be a disturbed area (approximately 8.5 acres), that is not represented in the deduction for the single lots.
3. The lots that are partially in and partially out of the Critical Area need to have the dwelling and disturbance restricted to the portion of the lot outside of the Critical Area since they are not being counted against growth allocation at all. This may not be possible for lot number one.

PANEL RECOMMENDATION: Approval with the following conditions:

1. That the County be required to deduct the 8.5 acres that will be disturbed for the road and pond area.
2. That an additional two acres of growth allocation be deducted for the two lots that are partially in and partially out of the Critical Area or restrictions be placed on these lots that will limit development impacts to that portion of the lot outside of the Critical Area.
3. That the County require that property owners maintain the portion of their property outside of the development pad in natural vegetation.

Commissioner Robert Price made a motion to approve the request with conditions as stated in the Staff report. The motion was seconded.

Commissioner Ron Hickernell stated that he saw no basis for approval of the proposal except for the fact that Somerset County has a Program that recognizes what no one else does. He stated that there is no reasonable expectation that the balance of any of those tracts of land sold to individual property owners will be protected and retain RCA characteristics. He said that the Somerset County Plan does not meet the Criteria, and was adopted by default. He said that he believed that the Commission is not bound by these circumstances to approve a request. He said that he believes the proposal should be rejected.

Commissioner Sam Bowling said that originally he felt much the same as Mr. Hickernell, however when he visited the site and discussed the project, he discovered that everything that was required had been done according to their Program. He said that although he does not agree with their determination of growth allocation, he came away believing that it would be unfair to impose a requirement in an after-the-fact situation and the mistake is on the part of the County and the Commission. He asked how the Somerset County Program had been approved.

Mr. Thomas Ventre, CBCAC Planner stated that the Somerset Program was approved by operation of Law according to an Attorney General's Opinion. This same Attorney General's Opinion provided negotiations to resolve seven issues outstanding at the time of Program adoption continue. He said that those issues were negotiated, reaching an impasse on the issue of growth allocation in 1990 when the Commission voted to accept the results of that negotiation and their incorporation into the Somerset Program.

The Commission members discussed their conflicting views on whether to approve or reject the request.

As a result of the question posed by Commissioner Gutman of whether this would set a precedent for every other plan from Somerset County, much discussion was generated.

Commission Counsel George Gay stated that if the Commission acts as if it is bound by the local program as it exists now with respect to this application, unless there was a very clear caveat position, then the Commission would be bound to follow such a position until the Program was changed.

Commissioner Gutman asked how this situation qualifies as unique.

Commission Counsel stated that Mr. Bowling's comments would lead to a caveat in this instance and so as not to set a precedent it should be carefully worded.

Chairman North called the question. The motion carried with thirteen (13) in favor and six (6) opposed.

Mr. Bowling made a motion to include a caveat. The motion was seconded.

Mr. Bostian asked for a clarification of the caveat.

Commission Counsel Gay stated that the term "informal" notification meant that a notification be sent stating that the local Program is problematic, and that during the course of the approval the Commission perceived some problems

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with its growth allocation provisions.

Mr. Bowling elaborated that it should be stated that the Commission is not in agreement with their growth allocation process but would not hold this particular development hostage and then to say no more.

Mr. Schoeplein seconded Mr. Bowling's motion for a caveat.

Commission Counsel, Mr. Gay, stated the caveat: advice to the local jurisdiction that the Commission finds the growth allocation provisions of the local program problematic and that the Commission intends to seek correction of the problematic areas during the course of the Comprehensive review.

Chairman North called the question. The motion was carried with two abstentions. (Russ Blake and Bill Bostian)

Chairman North asked Mr. Thomas Ventre to report on Dorchester County's growth allocation request for Taylor's Island.

Mr. Ventre recapped the history of the Ferry Landing proposal and the growth allocation request. He said that the language that Dorchester now has is more in alignment with the language of the Criteria regarding growth allocation. After the first denial and before the change in the local program and ordinance language, the County did request the Commission's reconsideration, through a letter to the Chairman of the Commission. He said that the staff believed that the points made by the applicant were valid and the facts cited were enough to warrant a reconsideration. A reconsideration was voted on by the Commission at the St. Mary's City meeting last year. He said that the Dorchester panel held an advertised public hearing to receive comment on the request. That hearing was in Cambridge on March 9th, 1992. Mr. Ventre said that he believed that the request satisfied all the requirements of both the local program and the State's criteria for growth allocation on this property.

Mr. Bob Schoeplein made the motion that the Critical Area Commission approve Dorchester County's request for growth allocation for 6.23 acres and for reclassification of the applicant's property from RCA to IDA.

The motion was seconded by Dr. Shep Krech.

Chairman North called the question and the motion carried unanimously.

Chairman North updated the Commission members on Queen Anne's County. He said that he had personally delivered to Chairman Riggs of the Queen Anne's County Commissioners a letter outlining the Commission's concern with the Queen Anne's County Program. He said that the negotiations had no real success and the point was made that the Commission believed that the matter had to be resolved in order to bring Queen Anne's County's program into compliance. He said that a response letter had been received that morning and that it, in essence, says that the Commission is making unreasonable demands, that they are amenable to making certain concessions but not amenable to others.

Commission Counsel stated that the Commission may wish to grant to the Chairman operating discretion which he may exercise between now and April 17th when the 30 days have run.

The Commission members unanimously supported Counsel's recommendation.

Chairman North asked Ms. Dawnn McCleary to report on the Calvert County Amendments and Refinements.

Ms. McCleary stated that there were 24 amendments/refinements.

Ms. McCleary first presented Calvert County's request for refinements to its program. 1) Change "Forest, Park and Wildlife Service" to "Resource Conservation Service" throughout Calvert County's Critical Area Program document and Zoning Ordinance; 2) CATA 91-11.B.10 (pg 10) Revise last sentence to read, "It shall be allocated at a rate no greater than 10% per annum". It was not the intent of the

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proposed legislation to force use of growth allocation in every given year; 3) CAMA 91-6 (pg 32). Clarify that Calvert County will be adopting the State Tidal Wetland Maps and will be using the County maps as guidance; 4) to change the term "certified engineer, professional engineer" from their text amendment 91-2B5 to read "registered professional engineer".

The Commission members supported the Chairman's determination for the refinements.

Ms. McCleary then presented 14 non-controversial amendments to Calvert County's Program, which the panel had recommended for approval.

Amendments described pertained to the following areas:

CATA 91-8	Eagle Nesting Site Protection Measures
CATA 91-9 & 91-10	State Listed Species and Locally Significant Habitat
CATA 91-12	Anadromous Fish Propagation Areas
CATA 91-4	Clustering within LDA and LDA-3 Areas
CATA 91-11	Growth Allocation
CAMA 91-1	Plum Point Neeld Property Map Amendment
CAMA 91-3	Olivet Road & Joy Road Map Amendment
CAMA 91-4	Glascok property, Solomons Map Amendment
CAMA 91-5	Eagle Nesting Site Revision
CAMA 91-6	Changes in Map Line To Conform to Tidal Wetlands Maps
CAMA 91-7	Add Fresh Creek to Propagation Water
CAMA 91-8	Waterfowl Staging and Concentration Areas
CAMA 91-10	Natural Heritage Area

Mr. Bowling stated that the property owner (CAMA 91-10) has already been granted the right to build an erosion control structure and the fact that the Commission believes it does not designate heritage areas, but that a group within DNR does, he, therefore, made a motion that the 14 amendments be approved as presented.

The motion was seconded and the vote carried unanimously.

Ms. McCleary then presented proposed controversial amendments for Intense Development Area Text/Zoning Ordinance Amendment: CATA 91-13 - Use of LDA Criteria for Residential IDA Lots. She stated that the panel recommended denial of the amendment as it was not consistent with the Criteria.

Mr. Bowling made a motion to reject the proposed text amendment 91-13. The motion was seconded and carried unanimously. (20)

Forest Conservation Text/Zoning Ordinance Amendment: CATA 91-15 Replanting Program. Ms. McCleary stated that the panel recommended approval of the proposal with conditions.

Mr. Bowling made a motion to approve the amendment with the conditions that for all designated forests, development plans shall be maintained to the extent practical through conservation easements, covenants or other protective instruments. The motion was seconded and the motion carried unanimously.

Mr. Bowling corrected Ms. McCleary's error in that 91-15 should have read that the forested area shall be maintained as forest through easements, covenants or other protective instruments to the maximum extent possible. And he modified his motion to reflect the same. The amended motion was seconded and the motion was carried unanimously as amended.

CATA 91-2 LDA and RCA Forest Clearing Regulations:

Ms. McCleary stated that the panel recommended approval of the amendment because once Critical Area staff had received approval from the Calvert County's Bay Forester that the above proposed Forest Maintenance Program Amendment was an appropriate one for what Calvert County was doing.

Mr. Bowling made a motion to approve the amendment with the conditions that

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all forests designated, development plans shall be maintained to the extent practical through conservation easements, covenants or other protective instruments. The motion was seconded and the motion carried unanimously.

Critical Area Buffer: CATA 91-7 - Extended Buffer: Panel recommendation was for deletion of the last line in the Calvert County's proposed amendment. According to the panel "The maximum extended Buffer shall be 300 feet" is not consistent with the criteria. With the above deletion, the panel will consider whether approval of the rest of the language in the above proposed amendment is appropriate. She stated that George Gay, Assistant Attorney General, provided for the panel, his legal opinion on the above proposed amendment. He has noted (to staff in a letter) that CATA 91-7 is inconsistent with the Criteria. COMAR 14.15.09C(7) does not permit a "Buffer Cap." Ms. McCleary stated that the panel recommended approval of the language without the 300' cap.

Mr. Bowling made a motion to approve deleting the last sentence of the proposed amendment which read "the maximum extended Buffer shall be 300' since it appears that a cap cannot be placed upon the Buffer". Also recommended was to measure the extended Buffer.

Mr. Bowling read the conditions that the proposed language will include that "the percent of the slope will be measured as an average of the entire extent of the steep slopes beyond the slope, 100' from mean high tide and from the edge of tidal wetlands and tributary streams. The extension of the Buffer shall be perpendicular to the shoreline, wetlands or streams to be protected."

The motion was seconded and carried unanimously.

CATA 91-1 Buffer Management Program: Panel recommendation: After staff and Department of Natural Resources review it is recommended: DELETE:[to avoid root damage to structural shore erosion control devices, deep rooted vegetation will not be required in any area within 30 feet of the device.] ADD:The Buffer shall be replanted with woody vegetation with the assistance of the Bay Forester, who will provide a selection of species in order to avoid root damage to Structural Shore Erosion Control Devices.

Mr. Bowling made a motion to approve the recommendation as amended from "who will assist in the selection - to who will provide the selection".

Mr. Brownlee said there was an additional sentence "the extent of the Buffer shall remain the same as the pre-development Buffer."

Mr. Bowling made a motion to include this sentence in the motion.

Mr. Hickernell seconded the motion and it carried unanimously.

CATA 91-16 Buffer Exemption Areas: The Panel recommended withdrawal or denial of the amendment if the County cannot produce proof that development in the Critical Area prevents the Buffer from fulfilling the function stated in COMAR 14.15.09.01 C (8).

Mr. Bowling made a motion to deny the amendment. The motion was seconded and carried unanimously.

CAMA 91-9 Addition of new Residential buffer exemption Areas for all lots and parcels: The panel recommended the same as for 91-16. Ms. McCleary stated that this is a map amendment associated with the text amendment on Buffer Exemption Areas.

Mr. Bowling made a motion to reject map amendment 91-9 and the motion was seconded and carried unanimously.

Chairman North asked Ms. McCleary to report on Maryland Environmental Service - Point Lookout State Park - Water Treatment Plant.

Ms. McCleary introduced Mr. Duane Wilding, of the Maryland Environmental

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Service to speak.

Mr. Wilding gave an update on the portable water service at Point Lookout Park in St. Mary's County. He stated that they are trying to upgrade the system in taking a few pieces of equipment out of an existing building. They would install a new tank, and add a new small (10' x 10') building to house the chlorination equipment.

Mr. Bowling reminded the Commission members that this proposal follows a previously presented concept plan which had been presented to them. He made a motion to approve the project as presented.

Mr. Gay asked if the local jurisdiction had been contacted.

Mr. Wilding replied, "through the clearinghouse process as this is a State project and they had no objections.

Chairman North called the question. The motion carried unanimously.

Chairman North asked Dr. Sarah Taylor to give a legislative and Fiscal update to the Commission.

Dr. Taylor, Executive Director, Chesapeake Bay Critical Area Commission, stated that two Bills are alive on the Senate side. She said that on March 27th, Chairman North represented the Commission in front of the Senate Economic & Environmental Affairs Committee and testified on the Impervious Surface Bill which had been approved by the House. She said that a vote was expected out of the full Senate soon. She stated that favorable action would also occur on the legislation that will provide that the Department of Transportation Secretary be an Ex-Officio member of the Commission.

Dr. Taylor said that the Bill pertaining to property owners of 10 acres or less being permitted to perform indestructible maintenance on renewable vegetation without disturbing the substrate on 50% of their property, failed in the House Environmental Matters Committee. Dr. Taylor extended thanks to the work effort of Parris Glendening's Department and in particular, Vicky Greenfield, Carolyn Watson and George Chakhtoura who contributed facts in speaking with the applicant and addressed the concerns of Delegate Proctor who sponsored the Bill. Commissioner Glendening added that Delegate Guns was also instrumental in the process.

Dr. Taylor said that the Bill which dealt with shore erosion control measures, specifically bulkheads, in that individual property owners could bulkhead their property at any time they wished even though the shore erosion rate maps might show that the device would not be needed on that site also failed in Committee.

Dr. Taylor said that the Commission has received a positive response from DNE as to the Department of Commerce approval for the use of Coastal Zone Management Program monies, taking effect January 1st, 1992 and extending until September 30, 1992 for the local jurisdictions to continue implementation of their Critical Area Plans.

Chairman North asked Ms. Patricia Pudelkewicz to report on Talbot County's Bachelor's Point's mapping mistake.

Ms. Pudelkewicz stated that she would be focusing her comments on the status of the sewerage for this property as of December 1, 1985, which was the issue in question at the last Commission meeting. She stated that, as a group effort of the panel, research for the water and sewer plan as of December 1, 1985 had been completed. She said that at the last Commission meeting, the Talbot County water and sewer plan had a draft stamp on it, and the question arose as to whether it was the official adopted version or was it just a draft. She said that it became adopted as the official version without any changes, so it was the "official"

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Talbot County water and sewer plan presented at the last Commission meeting. This plan stated that there was additional treatment plant capacity in the Town of Oxford for expansion; however, it did not say whether that expansion was to extend to the Bachelor Point area or where for that matter, it was just expansion. She said that the Plan showed no planned service to Bachelor Point. She stated that as of December 1985, the inground sewer line on which the Bachelor Point area would connect was approximately 1300 feet away. (She said that determination was made by looking at a 1987 sewer agreement with the Town of Oxford in which it was specifically stated that the sewer line would be connected to, Riverview Avenue and Thompson Drive). She said that prior to December 1, 1985, the Town of Oxford in 1983 and 1984 was considering annexing the Bachelor Point area into the Town which included discussions of the extension of water and sewer, but there was a referendum of the citizens of Oxford and they killed the proposal for the annexation. In conclusion, she stated that as of December 1, 1985, the panel discovered that there was "no" planned service for the Bachelor Point area.

Chairman North asked for rebuttal comments from either representatives of Talbot County and/or the owners of Bachelor's Point with respect to items presented that day.

Mr. Roger Truitt, Pieper and Marbury, on behalf of Tred Avon Limited Partnership, stated that they submitted a letter at last month's Commission meeting regarding the issue of water and sewer. Appended to the letter were two documents, an Attorney General's opinion which discusses water and sewer plans which would be available. He stated that if that fact were insufficient, then two factors discussed in the letter are the capacity and the proximity of sewer to water, and the fact that the property is now served by water and sewer. He stated that their further research has been in alignment with Ms. Pudelkewicz's report. He stated that another exhibit attached to the March 4th letter indicates that the distance of availability of the sewer system to be 70' supplied to them by the former Director of the Planning Department of Talbot County.

Counsel Gay asked how the panel arrived at the measurement.

Ms. Pudelkewicz stated that it was measured from the point at Riverview Avenue and Thompson Drive, down Bachelor Point Road to the property and it measured 1300'.

Commissioner Elbrich stated that the panel reviewed the material and believed that there is no basis for a mapping mistake on the basis of existing water and sewer or on the use of the property as it existed on December 1st, 1985. He did state that the approvals for the development that now exists on the property were granted during the program interim time period, were consistent with LDA, and should have garnered a Growth Allocation which was not done. He stated that the panel's recommendation subject to Commission Counsel's concurrence, is that the property should be designated LDA by the County with a deduction of Growth Allocation on the basis of the full parcel in accordance with the approvals that were given to it as of 1987, when the project was expanded and approved at that time.

Mr. Corkran seconded the motion.

Counsel Gay asked whether their recommendation would be better taken in two parts.

Chairman North replied that it would be better and asked for a revised motion.

Mr. Elbrich made a motion that the Commission not approve the Bachelor's Point mapping mistake on the basis that water and sewer was not available in 1985 and that the use in existence on December 1, 1985 does not warrant an LDA classification.

The motion was seconded by Mr. Corkran. The motion was carried with one nay (Commissioner Bostian).

*Corrected in  
May*

Counsel Gay commented that having denied the application for a change in designation based upon mistake, did the Commission members believe that they were under a time constraint within which to impose upon the County growth allocation if the Commission, in fact, has the power to do it.

Mr. Elbrich replied that he was not sure if there was a time constraint.

Chairman North called on Mr. Dan Cowee to speak to the issue.

Commissioner Bostian asked if something could be passed that suggests it be done rather than to say, do it.

Counsel Gay stated that since the application has been dealt with and been denied, he did not believe that there is any time constraint within which growth allocation is imposed.

Mr. Cowee said that with the action just taken by the Commission, it is now a mistake that the County has made and that the County, back in 1989, should have deducted these from the Growth Allocation. He said that since this action, perhaps now the formal way to proceed is for the County to write a letter to the Commission making a request stating that this is how the County will proceed in the future and debit this number of acres based upon a mistake.

Counsel Gay asked Mr. Cowee if, under the County program, he had the authority to apply Growth Allocation to the property.

Mr. Cowee stated that the County had already done that in 1987 by giving them the permits to build.

Mr. Cowee said that under §14.15.02.07, grandfathering, it states that if any such land has received a building permit subsequent to December 1, 1985, (which those buildings did receive) but prior to local program approval (which in the County's case was August of '89), and is located in a Resource Conservation Area (which it is now, since you just took this action), that land must be counted by the local jurisdiction against the growth increment permitted in that area under COMAR 15.15.02.06 which in the County's case is 25054 acres, unless the Commission determines that at the time of program approval that steps have been taken to conform the development to the Criteria insofar as possible. He said the County thought that had been done but the action taken by the Commission this meeting has accomplished that. He stated that as long as Talbot County will agree, he believes that it should be resubmitted as a mistake of 1987 and to debit the Growth Allocation acreage.

Counsel Gay asked if there were provisions in Talbot County grandfathering language that will permit it.

Mr. Cowee said that it is in the language of the Criteria. He said that it was in a non-conformance situation, with no law other than the Growth Allocation procedures for new growth allocation. He said that the condition would be that the County Council understand what is going on in Talbot County so that they could write a letter to the Commission and make a request.

Chairman North asked Counsel Gay to update the Commission on legal matters.

Counsel Gay said that the Wharf at Handy's Point matter was argued at the Court of Special Appeals on March 31st, 1992. He said that the presentation was adequate and flushed out all the issues on both sides and that the decision is pending. He said that the primary issue before the Court is whether or not in Code Home Rule counties, such as Kent County, appeals from decisions of the Planning Commission have to be appealed to the Board of Appeals regardless of where the County would like for them to go. He said that this matter will affect all Code Home Rule counties.

Counsel Gay stated that in the matter of the State's application concerning North Point State Park - Black Marsh Wildlands the DNR attorneys have filed a Motion to Dismiss and the attorneys for the Coalition to Preserve Black Marsh have

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filed a reply suggesting that the matter should not be dismissed and be heard by the Circuit Court. He stated that the issue on the Motion to Dismiss is one that is going to affect the Commission in the future. Essentially the issue is whether or not the Commission is making contested case decisions under the Maryland Administrative Procedures Act. If, in fact, the Commission is making such decisions which affect due process rights of property owners, then the Commission panel hearings will have to be full-blown evidentiary hearings where the Commission will follow all the formalities and procedures of the Administrative Procedures Act. He said that a recent decision from the Court of Appeals discussed what contested cases are and who has the right to a contested case hearing. As a result of that decision, many hearings conducted by State agencies and local governments will be affected.

Counsel Gay said that there had been some problem in the settlement document that was being used as a baseline in trying to reach a Consent Decree on the Betterton Triad matter. After the original document of February 10th, 1992, there had been negotiations and sometime after those negotiations the applicant changed the ground rules - changed the document that he wanted to use as a baseline. He stated that has been corrected and some progress has been made toward making a final agreement and a meeting with the developer is scheduled for April 9th.

Counsel Gay said there were a couple of St. Mary's County appeals. One involves a request to build a gazebo and that matter has been fully briefed and does not have a hearing date at this time. Another involves Mr. Burris who constructed a pool in the Buffer with a variance before the Commission noted an Appeal. Mr. Burris is following a similar approach as did a Mr. Davis in Dorchester County. He cautioned the Commission members to use their best discretion in dealing with this and all other matters that are in litigation.

Commissioner Glendening asked whether an ex-parte note could be filed for the record with some broad parameters of any conversations held.

Counsel Gay stated that it could be filed through Dr. Taylor, Commission Executive Director, and that if a Commission member is a member of a panel discussing this matter they should use caution. He stated that the ex-parte communication filing may not be required under the Critical Area Act, but may be required under the Administrative Procedures Act if the Commission is found to be operating in a contested case format.

Counsel Gay reported on Pier One in Queen Anne's County. He said that recently there were pleadings filed; that the merits were argued by the Commission on Pier's One's Appeal of the Commission's denial of their requested redesignation based upon mistake. After the argument, the applicant's Counsel filed a pleading suggesting that the Critical Area Act was unconstitutional for a variety of reasons and the Commission filed a Motion to Strike the Pleading because the time had expired to file such challenge.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Dr. Taylor reminded the Commission members to file their Disclosure Statements by the deadline of April 30th and to send them directly to the Ethics Commission. She informed them that the next Commission meeting, May 6th, 1992, would be held at the Department of Housing and Community Development Conference Room, Crownsville, Maryland.

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There being no further business, the meeting adjourned at  
3:35 p.m.

STAFF REPORT

May 1992

ITEM: Memorandum of Understanding between the Maryland Department of Transportation and the Critical Area Commission (MOU-MDOT)

COMMISSION ACTION REQUIRED: VOTE

SUMMARY

After considerable deliberation the MOU-MDOT Subcommittee has developed a memorandum of understanding with the Maryland Department of Transportation. This includes:

State Highway Administration  
Maryland Transportation Authority  
Maryland Aviation Administration  
Mass Transit Administration  
Maryland Port Administration  
Motor Vehicle Administration  
State Rail Administration

The document outlines the process for handling of DOT projects beyond that provided for in the "Green Regs" as well as provides for a general approval for projects meeting specific conditions.

The main points of the document include:

- A process for determining which projects the Commission would like to see;
- Provisions for a general approval for projects that fall within certain classes and meet certain conditions;
- an agreement by the Department of Transportation to treat the Critical Area as a sensitive area to be automatically targeted for additional erosion and sediment controls;
- Limitations on the use of herbicides. Only those herbicides found acceptable to the Commission will be allowed.
- A provision for a quarterly meeting with the Department of Transportation, the MD Department of the Environment, the Governor's Office and the Commission on the effectiveness of MOU itself, the general approval process, and specific projects.

STAFF CONTACT: Claudia Jones

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE MARYLAND DEPARTMENT OF TRANSPORTATION AND**

**THE CHESAPEAKE BAY CRITICAL AREA COMMISSION**

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

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1992 memorializes the understanding reached by the Maryland Department of Transportation (hereafter, "the Department") and the Chesapeake Bay Critical Area Commission (hereafter, "the Commission").

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

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

uniform manner along shoreline areas of the Chesapeake Bay and its tributaries so as to minimize damage to water quality and natural habitats.

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

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

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

WHEREAS, the Commission has established regulations permitting development undertaken by State and local agencies in the Critical Area even though the development has not been approved by a local jurisdiction with an approved Critical Area program, and

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

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

**GENERAL OBJECTIVE**

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

The Commission, the Department, Maryland Department of the Environment (hereinafter "MDE") and the Governor's Office will meet on a quarterly basis to assess the project design and review

process, to assess the success of the Action Plan, and to address problems of mutual concern pertaining to project construction and enforcement. Other parties in addition to the ones named may be involved as deemed necessary by the parties hereto. Topics to address may include but are not necessarily limited to standards for clearing and stabilization, sequencing of construction activities, off-site options for sediment and erosion control, priorities for training, water quality monitoring and consequences of the general approval provisions set forth in appendix A of this MOU, to name a few. Visits to construction sites may be a part of the process as needed. The first quarterly meeting will take place within three months after the adoption of this document.

**AFFECTED MODAL ADMINISTRATIONS IN THE MARYLAND DEPARTMENT OF TRANSPORTATION**

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

The Department has entered into agreement with the Commission on behalf of these agencies. The term "administration" used hereafter refers to any of the above.

**THE DEPARTMENT AGREES:**

- 1) To comply with the regulations as set forth in COMAR 14.19 regarding development in the Critical Area by a State Agency.
- 2) To treat the Critical Area as a sensitive area as defined in the State Highway Administration's Chesapeake Bay Initiatives Action Plan of August 15, 1990, and including perennial and intermittent streams. Therefore sensitive areas and perennial and intermittent streams will automatically be targeted for additional erosion and sediment controls. Therefore, sensitive areas and perennial and intermittent streams will automatically be targeted for additional erosion and sediment controls which, to the extent reasonable and necessary, will include the controls set forth in that document.
- 3) To provide the Chairman of the Commission with a copy of the Maryland State Report on Transportation (SRT), consisting of the Maryland Transportation Plan and the Consolidated Transportation Program, each January.
- 4) To distribute the initial list of projects set forth in the SRT that the Commission has determined to be in the Critical Area to the various modal administrations within the Department for

their review. Staff of the modal administrations shall consult with the Commission staff regarding the location, scale, status, etc. of the listed projects in order to confirm the need for Commission review. Within three weeks of receiving the Commission's list, the Department will submit an annual finalized listing of projects subject to Commission approval. This listing will include projects determined by the Department to be eligible for general approval for the administrations mentioned under the General Objective of this MOU. (Appendix A).

5) To consult with the Commission during the planning and design stages of all projects for which the Commission's general approval has not been obtained to clarify the effects that the Critical Area criteria will have on the proposed development. The Department's modal administrations will include Commission staff at inter-agency review sessions and at other meetings involving siting and impacts of projects in the Critical Area. The Department's modal administrations will also send the Commission all environmental reports and documents that are distributed to other State agencies for review. As projects are reviewed by the staff of the Commission, there will be written communication by the staff with the modal administration in discussing the information or in requesting more information.

6) For all State Highway Administration projects impacting the Critical Area, a monitoring program, as agreed to by MDE, the Governor's Office, and the Department, the Commission and any other entity deemed necessary by the parties hereto shall be implemented by the department.

7) When all information required by the Commission and/or listed in Appendix B is available, to submit to the Commission site plans, a Critical Area Report, and a request for approval. The report shall include all the site information required by Appendix B, findings which demonstrate that the development is consistent with the Critical Area criteria, and the timeframe for project design and construction.

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

9) To send a copy of the Notice to Proceed to the Chairman of the Commission at the same time it is sent to the contractor.

10) To notify the Commission of projects not listed in the Maryland State Report on Transportation, unless the project would be otherwise excluded under general approval of the MOU, but which occur in the Critical Area, and to follow the approval process as

outlined in this MOU before undertaking development.

**THE COMMISSION AGREES:**

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

2) To review the listing of projects submitted by the Department for general approval and respond to the MDOT Office of Systems Planning and Evaluation within 60 days as to the results of this review.

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

4) To respond to the appropriate administration regarding the completeness of a project submittal (identified in item #7, page 4) within ten working days of its receipt. If incomplete, Commission staff will notify the modal administration proposing the development of the type of additional information needed. When the submittal is determined to be complete, the Chairman of the Commission will send a letter stating its completeness to the Administrator of the modal Administration with a copy to the Department's Office of Systems Planning and Evaluation.

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

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

7) To contact the appropriate administration and the Department's Office of Systems Planning and Evaluation by letter from the Chairman of the Commission if the Commission is notified of violations of State and Federal Environmental Laws or Regulations including erosion and sediment control and stormwater management during construction or maintenance activities. The appropriate state or local enforcement agency will receive a copy of the communication, and Commission staff will continue to be

involved until the problem is resolved.

8) To authorize the Chairman of the Commission to approve, deny or to condition his approval upon the administration agreeing to modifications to a state agency action when an administration must initiate the development at issue in a time frame less than that provided in paragraph 6 above.

9) To grant general approval for certain classes of development as specified in this MOU. (Appendix A)

**MODIFICATIONS TO SCOPE:**

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

**MERGER**

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

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

Chesapeake Bay Critical Area Commission

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

Maryland Department of Transportation

\_\_\_\_\_  
O. James Lighthizer, Secretary

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

\_\_\_\_\_  
Assistant Attorney General, CBCAC

\_\_\_\_\_  
Assistant Attorney General, MDOT

## Appendix A.

### CONDITIONS AND CLASSES OF PROJECTS ELIGIBLE FOR GENERAL APPROVAL

Under COMAR 14.19.05, State Agency Actions Resulting in Development on State-Owned Lands the Commission may grant General Approval to state agencies for programs, activities and classes of development on state-owned lands in the Critical Area. Granting of general approval by the Commission allows implementation of the approved program, activity or projects in accord with the policies and requirements as set forth in COMAR 14.19.05. Furthermore, use of herbicides by the Department will be limited to only those chemical agents found acceptable to the Commission.

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

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

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

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

4) Modification, renovation of existing building within the same footprint or stationary equipment which do not alter ground or at-grade surfaces or increase or lessen quality of runoff.

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

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

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

B) Activities identified in this section would cause or result in negligible adverse impacts. For this reason the following activities are eligible for general approval by the Commission.

For development to qualify under this section the net increase in area of impervious material must be less than ten percent of the original area, and/or no nontidal wetlands impacted.

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

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

**Appendix B.**

**INFORMATION REQUIRED  
FOR REVIEW OF CRITICAL AREA PROJECTS**

The Critical Area reports prepared by the Administration, will include the following information and any additional information deemed necessary by the Commission to determine consistency with the Critical Area regulations COMAR 14.19.05.03 - .14. This information will be provided commensurate with the project contemplated and subject to acceptance by the Commission.

**To be shown on maps:**

**Geographic**

Critical Area boundary  
Local development area designations (IDA, LDA, RCA) and boundaries  
Area of disturbance  
Buffers: Minimum 100 ft. from tidal waters, tidal wetlands, and tributary streams  
          mimimum 25 ft. from non-tidal wetlands  
          plant and wildlife habitat, as per protection plan

**Physical**

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

**Biological**

Forest cover: existing  
                  to be removed  
                  to be replaced  
Agricultural lands and open fields  
Tidal wetlands  
Non-tidal wetlands  
Threatened and endangered species sites  
Plant and wildlife habitats: colonial water bird nesting sites  
                                  waterfowl staging and concentration areas  
                                  riparian forests  
                                  forest interior dwelling bird sites  
                                  Natural Heritage Areas  
                                  other critical habitat areas  
Anadromous fish propagation waters  
Submerged aquatic vegetation  
Shellfish beds

## Development

Layout of roads, structures (with uses indicated), septic fields, parking lots, utilities, etc.

Sediment and erosion control measures

Stormwater management facilities

Water quality facilities

### To be included in text:

Total acreage of property

Total acreage in Critical Area

Total acreage of each development area designation (IDA, LDA, RCA).

Total acreage to be disturbed and a description as to how the disturbance will be minimized

Total acreage of impervious surface to be created and total impervious area after development with a description as to how the impervious area will be minimized

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

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

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

If project is in an Intensely Developed Area:

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

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

Description of the impacts on water quality and how the impact will be reduced;

Description of impacts on fish, plant and wildlife habitat and how that impact will be mitigated;

Description of water circulation patterns and flushing and impacts on salinity regimes and what changes will occur as a result of the project and how these changes will be mitigated;

Description of the impacts on submerged aquatic vegetation, shellfish beds, and other aquatic habitat and how these impacts will be mitigated; and

Indication of where the dredged material will be placed, and if in the Buffer, what it will be used for and how the Buffer impact will be mitigated.

If shore erosion protection is planned:

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

If there is activity proposed for the Buffer that is not water-dependent:

Demonstration that the existing pattern of development prevents the buffer from fulfilling its functions as specified in Comar 14.15.09.01.B(1-5) along with a description as to how mitigation will be carried out for the disturbance to the Buffer.

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

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

May 1992

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

TO: Chairman North

FROM: Bob Schoeplein

SUBJECT: A Motion for Commission Action

DATE: April 1, 1992

IT IS MOVED that the Critical Area Commission approve Dorchester County's request for growth allocation of 6.23 acres and for reclassification of the applicant's property from Resource Conservation Area to Intense Development Area.

*approved  
unanimously  
20 in  
favor*

*S*

**ATTACHMENT 'A'**  
**SYNOPSIS OF THE PROPOSED IMPROVEMENTS  
TO THE POINT LOOKOUT STATE PARK WHICH IS  
LOCATED WITHIN THE CRITICAL AREA IN  
SCOTLAND, ST. MARY'S COUNTY, MARYLAND**

**BACKGROUND**

This project is required to make improvements to the water treatment facilities at the Point Lookout State Park which are located within the 1000 foot critical area. The water treatment facilities are composed of two parts: the North Park and the South Park Water Systems. Improvements to the North Park water system consist of enhancing the water supply and finished water storage facilities, replacing the electrical control system and providing a separate building for the storage of chlorine disinfection equipment and cylinders. In the North Park there is no back-up water supply when the existing well experiences pump failure. Line pressure to the system is supplied by a in-line booster pump which operates on a 24-hour basis. A second well is being added and the storage tank is being replaced with a hydropneumatic tank in which the water entering the tank will be pressurized through the use of a compressor which operates only when the wells are on. This system will maintain pressure in the distribution system as well as save the State money on electrical costs. Improvements to the South Park water system will only consist of relocating the electrical controls and radio equipment out that portion of the structure with the existing groundwater well and into its own section.

The impervious area of the two water systems totals to 571 square feet before construction and 678 square feet after construction. The increase in the impervious area is due to the construction of the chlorine storage building in the North Park and the

building addition in the South Park to relocate the electrical equipment. These additions are equivalent in size to a building 10 foot by 10 foot.

This project is not intended to support new development or expansion, but is limited to upgrading of the existing water treatment facilities for the Park only. The Park has been classified by the St. Mary's County as a Resource Conservation Area.

## **DESCRIPTION**

The project consists of the following elements:

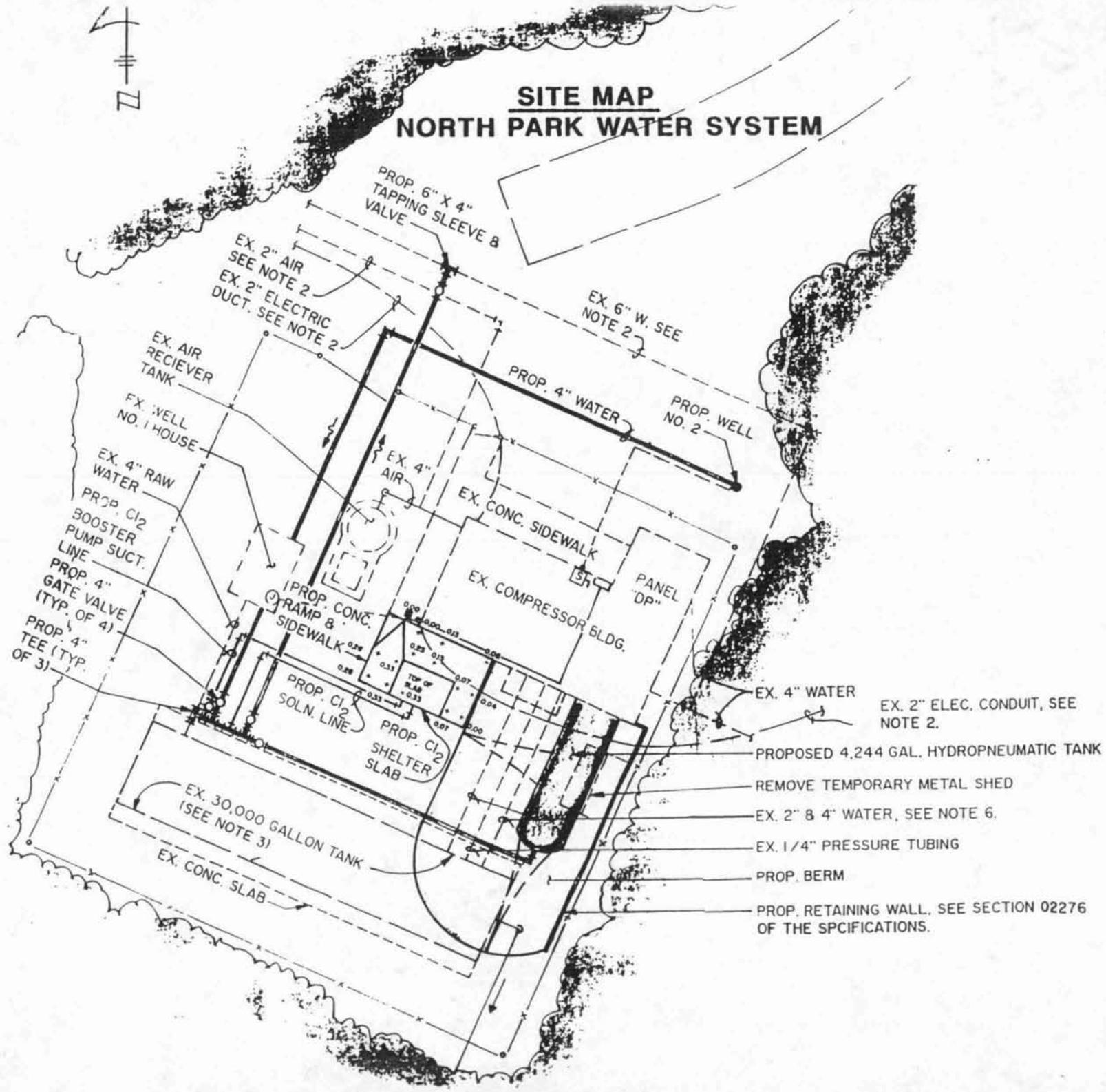
### **NORTH PARK**

- Drilling of a back-up well and installation of approximately 85 linear feet of water line from the new well to the hydropneumatic tank. All piping will be installed within 15 feet of the water treatment facility. No trees will have to be disturbed.
- Installation of approximately 100 linear feet of four (4) inch water line within the compound of the water treatment facility.
- Removal of the air compressors which are needed to operate the collection system. They will no longer be required after the improvements to the wastewater treatment facility.
- Removal of 4 abandoned water storage bladder tanks which have not been used in several years.
- Replacement of obsolete electrical equipment in existing treatment building.
- Installation of a 4,500 gallon hydropneumatic tank to replace the existing storage tank and in-line booster pump which must operate continuously to maintain constant line pressure.

### **SOUTH PARK**

- Construction of an addition to the treatment building so that the electrical controls can be relocated to a room separate from the ground water supply well.

# SITE MAP NORTH PARK WATER SYSTEM



EX. AIR RECIEVER TANK  
 EX. WELL NO. 1 HOUSE  
 EX. 4" RAW WATER  
 PROP. C12 BOOSTER PUMP SUCT. LINE  
 PROP. 4" GATE VALVE (TYP. OF 4)  
 PROP. 4" TEE (TYP. OF 3)

EX. 2" AIR SEE NOTE 2  
 EX. 2" ELECTRIC DUCT. SEE NOTE 2

PROP. 6" X 4" TAPPING SLEEVE & VALVE

EX. 6" W. SEE NOTE 2

PROP. 4" WATER

PROP. WELL NO. 2

EX. 4" AIR

EX. CONC. SIDEWALK

EX. COMPRESSOR BLDG.

PANEL "DP"

PROP. CONC. RAMP & SIDEWALK

PROP. C12 SOLN. LINE

PROP. C12 SHELTER SLAB

EX. 4" WATER

EX. 2" ELEC. CONDUIT, SEE NOTE 2.

PROPOSED 4,244 GAL. HYDROPNEUMATIC TANK

REMOVE TEMPORARY METAL SHED

EX. 2" & 4" WATER, SEE NOTE 6.

EX. 1/4" PRESSURE TUBING

PROP. BERM

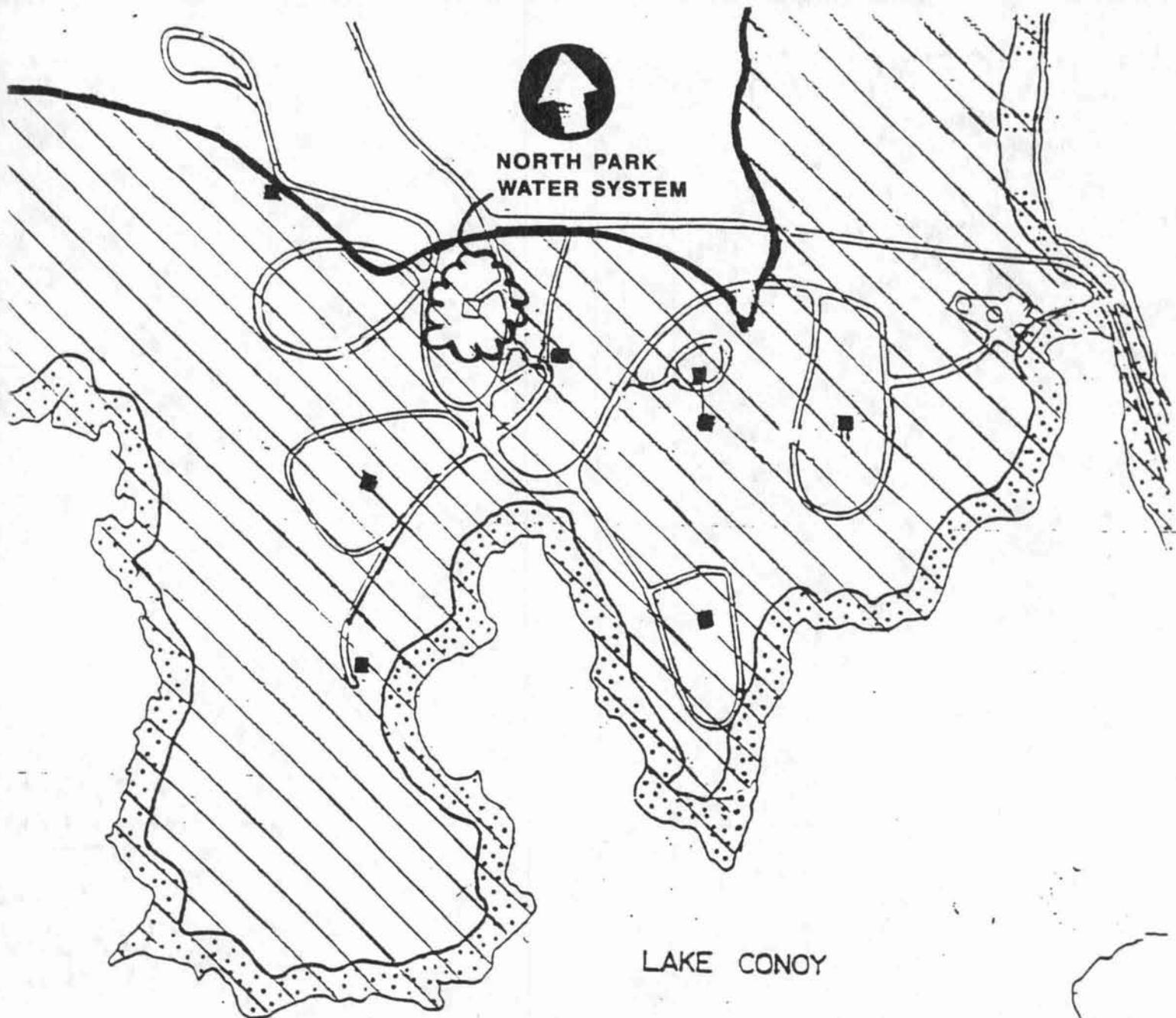
PROP. RETAINING WALL. SEE SECTION 02276 OF THE SPCIFICATIONS.

EX. 30,000 GALLON TANK (SEE NOTE 3)

EX. CONC. SLAB



**NORTH PARK  
WATER SYSTEM**



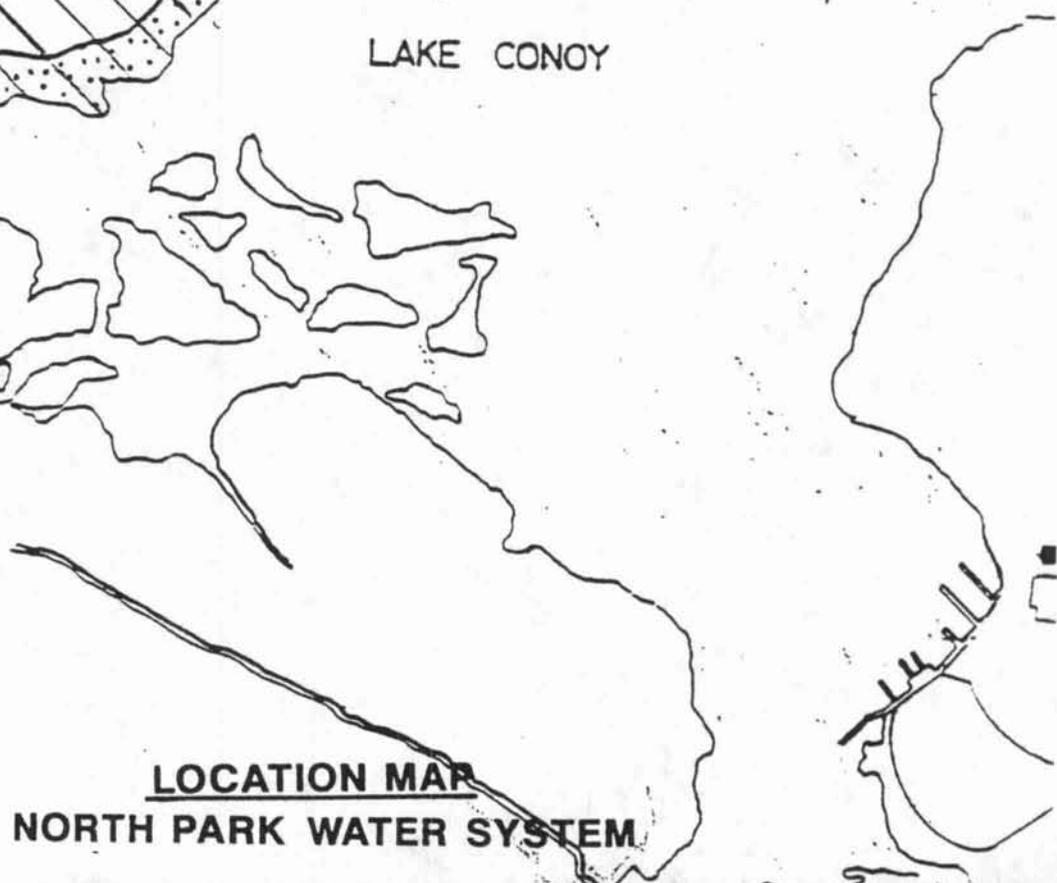
LAKE CONOY

**LEGEND**

 Limit of 100' Buffer Area

 Limit of 1000' Critical Area

**LOCATION MAP  
NORTH PARK WATER SYSTEM**





SOUTH PARK  
WATER SYSTEM

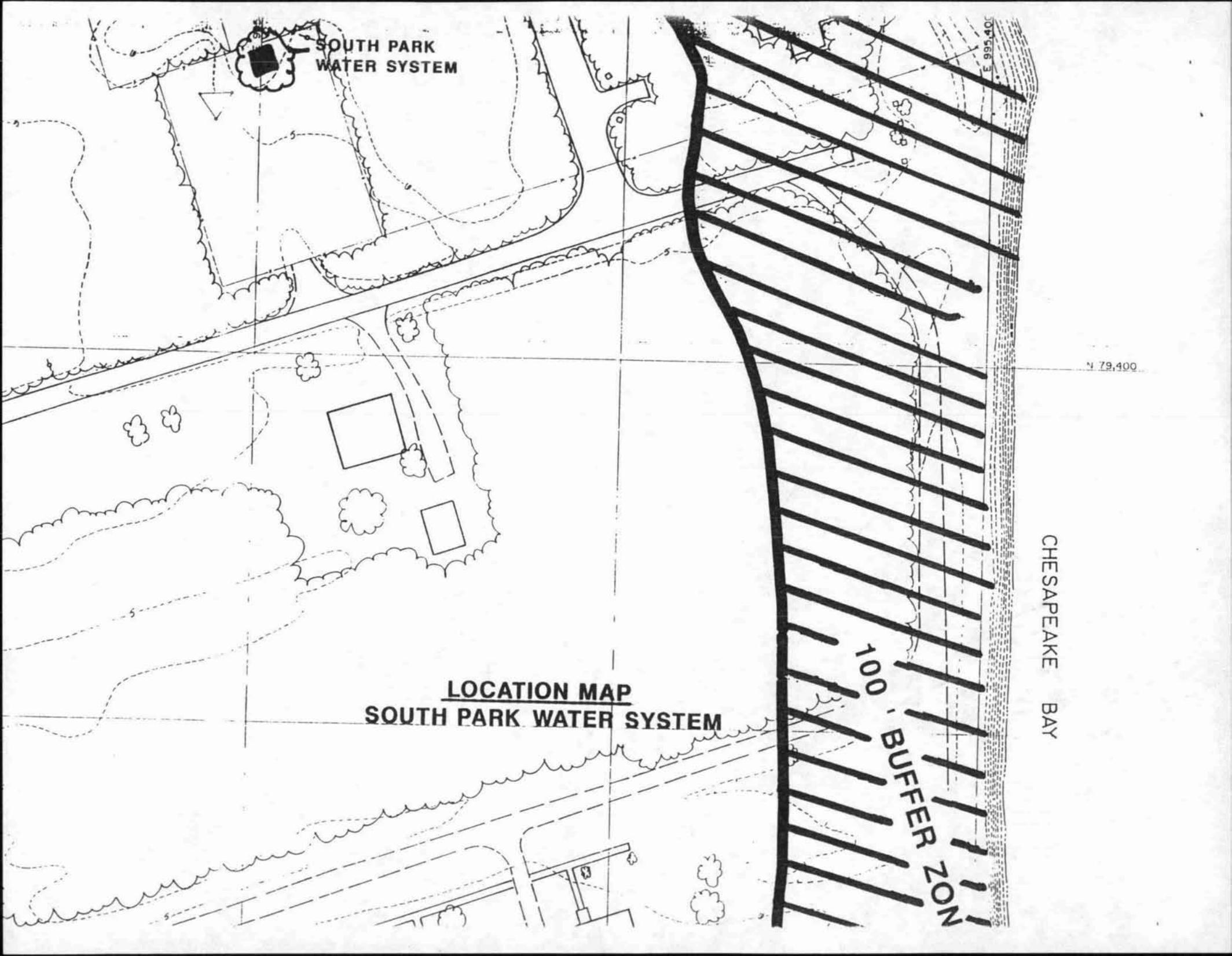
E 995,40'

N 79,400'

LOCATION MAP  
SOUTH PARK WATER SYSTEM

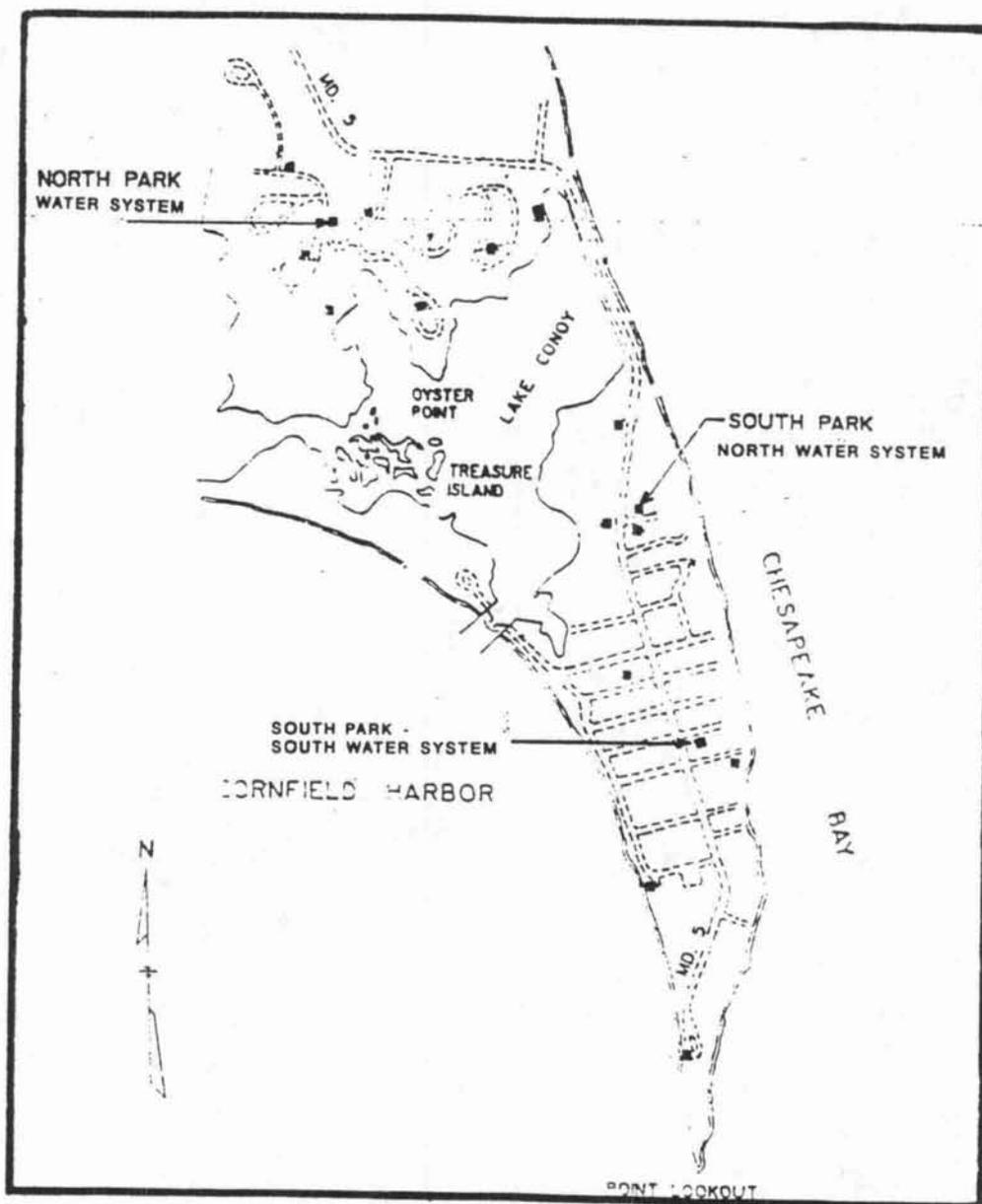
100' BUFFER ZONE

CHESAPEAKE BAY



Anticipated date of the start of construction is July 1992, with a completion date of January 1993. For additional clarification, the following drawings are enclosed:

1. Vicinity Map
2. Location Map - North Park System
3. Site Map - North Park System
4. Location Map - South Park System
5. Site Map - South Park System



**VICINITY MAP**  
**WATER TREATMENT FACILITIES AT  
 POINT LOOKOUT STATE PARK**



CALVERT COUNTY  
DEPARTMENT OF PLANNING & ZONING

176 Main Street  
Prince Frederick, Maryland 20678  
(410) 535-2438 (301) 855-1243  
TDD (410) 535-0291 (301) 855-1862

Director

Frank A. Jaklitsch

March 12, 1992

Judge John North  
Chesapeake Bay Critical Area Commission  
45 Calvert Street, 2nd Floor  
Annapolis, MD 21401

Board of Commissioners  
Patrick M. Buehler  
Mary M. Krug  
Hagner R. Mister  
Michael J. Moore  
Joyce Lyons Terhes

RECEIVED

MAR 16 1992

DNR  
CRITICAL AREA COMMISSION

Dear Judge North,

Calvert County submitted (November 12, 1991) a set of amendments to the Calvert County Critical Area Program and later (January 2, 1992) submitted a supplemental information packet. These documents were recently (March 11, 1992) reviewed at a Critical Area Panel meeting in Calvert County. As a result of discussions concerning the amendments, some clarifications and editorial changes were deemed necessary. We request that you consider approving the clarifications and editorial changes listed below:

Change "Forest, Park and Wildlife Service" to "Resource Conservation Service" throughout the Critical Area Program document and Zoning Ordinance.

CATA 91-11.B.10 (pg 10). Revise last sentence to read, "It shall be allocated at a rate no greater than 10% per annum". It was not the intent of the proposed legislation to force use of growth allocation in every given year.

CAMA 91-6 (pg 32). Clarify that we will be adopting the State Tidal Wetland Maps and will be using the County maps as guidance. (See attached letter from Doldon Moore, Jr., 3-10-92 in support of this proposal).

Sincerely,

David C. Brownlee, PhD.  
Environmental Planner

c. Dr. Richard Holler  
Mr. Frank Jaklitsch

File For  
April

JUDGE JOHN C. NORTH, II  
CHAIRMAN  
410-822-9047 OR 410-974-2418  
410-820-5093 FAX

SARAH J. TAYLOR, PhD.  
EXECUTIVE DIRECTOR  
410-974-2418/26  
410-974-5338 FAX



WESTERN SHORE OFFICE  
45 CALVERT ST., 2ND FLOOR  
ANNAPOLIS, MARYLAND 21401

EASTERN SHORE OFFICE  
31 CREAMERY LANE  
EASTON, MARYLAND 21601

STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION

April 14, 1992

Via Federal Express

The Honorable William Riggs  
President  
County Commissioners of Queen Anne's County  
208 North Commerce Street  
Centreville, Maryland 21617

RE: Amendments to the Queen Anne's County Critical Area  
Program

Dear President Riggs:

I am encouraged by your letter and proposed amendments of March 31, 1992. In the main, they respond to the primary concerns of the Critical Area Commission as expressed in my March 17, 1992 letter to you. However, several of the Commission's concerns have not been satisfactorily addressed.

1. Review of all Development Activities for Criteria Consistency.

Although the County has made progress on this point, further steps must be taken. As noted in my March 17, 1992 letter, the Critical Area Criteria require that all development activities be conducted in a manner consistent with the Criteria. (See COMAR 14.15.02.03D, 14.15.02.04C and 14.15.02.05.C(7)). This includes development activities that require only a building permit to proceed.

While the County's proposed amendment concerning this point encourages the review of such development activities, it does not require that they fully comply with the Criteria. Consequently, it is insufficient. This problem can be rectified by the County via any one of the following options.

1. Adopt the proposed amendment language in my March 17, 1992 letter concerning this point which provided as follows: Development and redevelopment shall be done in a manner that protects Habitat Protection Areas as defined in the Queen Anne's County Critical Area Program.
2. Incorporate into proposed Sections 6005 (E), 6006(E), 6007(E) language similar to that which exists in Section 5000 (Note:) of the County Program while deleting existing paragraph 2 of these sections.

The Honorable William Riggs  
April 14, 1992  
Page 2

3. Adopt the second option noted above while also including in the County Program an administrative variance provision similar to that which was recently incorporated into the St. Mary's County Program, but covering fully all Habitat Protection Areas. (See attached).
2. Development activities on grandfathered lots. The County's proposed amendments correct the deficiencies noted by the Commission concerning this point.
3. Buffer exemption. The County has not submitted any proposed amendments to correct the deficiencies noted by the Commission regarding this point. As noted in my March 17, 1992 letter, the County's existing buffer exemption process is in direct conflict with the Criteria. (See COMAR 14.15.09.01(C)). The County Program currently allows the County's Planning Commission to grant buffer exemptions for certain reasons on an ongoing basis after receipt of recommendations by the Critical Area Commission. COMAR 14.15.09.01(C) does not permit such a process. This deficiency can be corrected by the County through deletion of the existing buffer exemption provision.
4. Program amendment submittal. For the reasons set forth in my March 17, 1992 letter, the County's amendment procedure is problematic. It conflicts with the Criteria and omits certain provisions provided in the Critical Area law, NR §8-1801, et seq. The Commission's concerns regarding this point were set forth in my March 17, 1992 letter. In addition, the County Program does not provide that the County shall incorporate a program amendment approved by the Commission. (See NR 8-1809(O)(2)). Furthermore, the County's program does not provide that a program amendment may not be adopted by the County without the approval of the Commission. NR 8-1809(I) provides: "A program may not be amended except with the approval of the Commission."

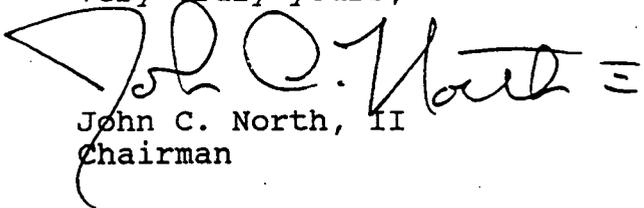
As of this date, the County has proposed amendments which satisfactorily address one of the four deficiencies noted in my March 17, 1992 letter. The proposed amendments submitted to me by the County on March 31, 1992 correct the deficiencies noted in numbered paragraph 2 of my March 17, 1992 letter. Consequently, the Commission's notice of deficiency concerning this point will be generally delayed until further notice so that the County may officially adopt the proposed amendment. The deficiencies noted in numbered paragraph 1 of my March 17, 1992 letter have not been completely corrected to my satisfaction. However, it appears to me that the County is genuinely making progress on this point. Consequently, I am delaying the effective date of my March 17, 1992 letter an additional 30 days to May 18, 1992 concerning this point, so that the County and the Commission can continue to work on this area of concern. Although there has been no progress with respect

The Honorable William Riggs  
April 14, 1992  
Page 3

to the deficiencies raised in numbered paragraphs 3 and 4 of my March 17, 1992 letter, I am optimistic that the County and the Commission can appropriately address these deficiencies while working further on correcting the deficiencies noted in numbered paragraph 1 of my March 17, 1992 letter. Consequently, I am also delaying the effective date of my March 17, 1992 letter to May 18, 1992 concerning these two points.

As I noted at the outset of this letter, I am encouraged by the headway that the County has made. Accordingly, I suggest that we make arrangements to meet to discuss the remaining deficiencies in the County's program as soon as possible. Please contact me at your earliest convenience to arrange a suitable time to meet.

Very truly yours,



John C. North, II  
Chairman

cc: Mr. Archibald MacGlashan, III  
Mr. Oscar A. Schulz  
Robert Price, Jr., Esq.  
Mr. Thomas Jarvis  
Mr. Joseph Stevens  
George E. H. Gay, Esq.  
Dr. Sarah J. Taylor  
Ms. Claudia Jones



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APR 13 1992

COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND  
COURT HOUSE  
EASTON, MARYLAND 21601-3178  
DNR  
CRITICAL AREA COMMISSION

CLINTON S. BRADLEY, III, President  
ROBERT D. HIGGINS, Vice President

PHONE 410-822-2401

ANDREW H. ANDERSON  
NANCY J. CLEM  
THOMAS G. DUNCAN

April 9, 1992

Ms. Pat Pudelkewicz  
Chesapeake Bay Critical Area Commission  
Attman-Glazier Building  
45 Calvert St.  
2nd Floor  
Annapolis, MD 21401

RE: Bachelors Point Mapping Mistake

Dear Ms. Pudelkewicz:

As a result of the Chesapeake Bay Critical Area Commission's recent action denying the County's request on the Bachelors Point mapping mistake, the Talbot County Council is requesting that 13.223 acres of growth allocation be debited from the current total.

This request is made pursuant to COMAR 14.15.02.07 B.(2)(b) which states:

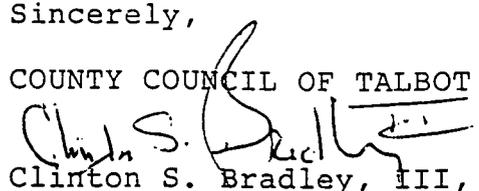
"If any such land has received a building permit subsequent to December 1, 1985 but prior to local program approval, and is located in a Resource Conservation Area, that land must be counted by the local jurisdiction against the growth increment permitted in that area under COMAR 15.15.02.06, unless the Commission determines at the time of the program approval that steps had been taken to conform the development to the criteria in this Subtitle insofar as possible."

Since the Commission has determined that a mapping mistake did not occur and building permits were issued in 1986 for the Bachelors Point Marina facilities, the Commission should debit the County's growth allocation acreage by 13.223 acres. This debit did not occur in 1989 at the time Talbot County's Critical Area Program was adopted.

We will appreciate your prompt attention to this matter.

Sincerely,

COUNTY COUNCIL OF TALBOT COUNTY

  
Clinton S. Bradley, III, President

CSB/egj

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APR 13 1992

DNR  
CRITICAL AREA COMMISSION



# RECEIVED

APR 10 1992

Maryland Port Administration  
Maritime Center at Point Breeze  
2200 Broening Highway  
Baltimore, Maryland 21224-6621

April 7, 1992

**DNR  
CRITICAL AREA COMMISSION**

William Donald Schaefer  
*Governor*

Maryland Port Commission  
O. James Lighthizer  
*Chairman*

The Honorable John C. North, II  
Chairman  
Chesapeake Bay Critical Area Commission  
45 Calvert Street  
Annapolis, Maryland 21401

J. Owen Cole  
William K. Hellmann  
Thomas T. Koch  
Milton H. Miller, Sr.  
John M. Waltersdorf  
Fred L. Wineland

Dear Judge North:

Reference: Surface Paving Project at the  
Masonville Marine Terminal,  
Baltimore, Maryland

Adrian G. Teel  
*Executive Director*

The Maryland Port Administration is proposing to construct a one and one-half inch (1½") bituminous concrete surface over an existing subbase of CR-6 material in an 8.5 acre area of the existing Masonville Marine Terminal in the City of Baltimore, Maryland. Both the overall terminal property and the proposed area to be paved are indicated on the attached Exhibit 1.

This proposed project was originally designed as part of an overall grading and paving project for which the following permits and licenses were obtained:

- Wetlands License No. 88573, issued by the Maryland Wetland Administration on September 7, 1988.
- U. S. Army Corp. of Engineers Permit CENAB-OP-RW (Maryland Port Administration) 88-3001-5, dated September 30, 1988.
- MDE Water Quality Certification No. 88-WQ0570, dated August 8, 1988.
- MDE Stormwater Management and Sediment and Erosion Control Permit No. 88-SF-03-2, dated August 15, 1988.

All documentation prepared and submitted to obtain these permits included the paving of the 8.5 acre parcel shown on Exhibit 1, but the paving was not done at the time of the lot grading. It is only now that demand for improving this site for a client of the current tenant that we are proposing to install this paving. The existing wet pond constructed under the above permits was designed and built to accommodate surface runoff from the entire 51.4 acre site, of which 45.8 acres (including this 8.5 acre area) were assumed to be paved.

My telephone number is 410- 631-1150

Fax: 1-410-631- 1140

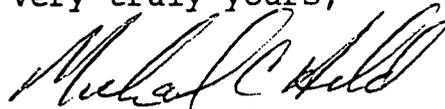
Honorable John C. North, II  
April 7, 1992  
Page Two

Runoff from the area to be paved will be directed to the existing wet pond via two existing open ditches along the east and west sides of the site. The western ditch currently outlets into the pond, while the eastern ditch, which presently bypasses the pond, will be rerouted through the existing dike surrounding the pond. This rerouting of the ditch was included in the permit applications for the permits obtained in 1988.

We have met with the Technical Review Committee on April 1, 1992, in order to discuss the nature of our future submissions. We intend to have our package of materials ready for presentation at the next meeting of the Commission and would certainly appreciate your inclusion of our project for that meeting.

Should you have any questions concerning this request, please feel free to contact me at your convenience at (410) 631-1150.

Very truly yours,



Michael C. Hild, P. E.  
Chief Engineer  
Maryland Port Administration

MCH:rr:A:North

cc: Mr. Mike Angelos  
Mr. Trip Bailey  
Mr. Bill Mangels, MDOT  
Mr. Bradley Brown, Greiner

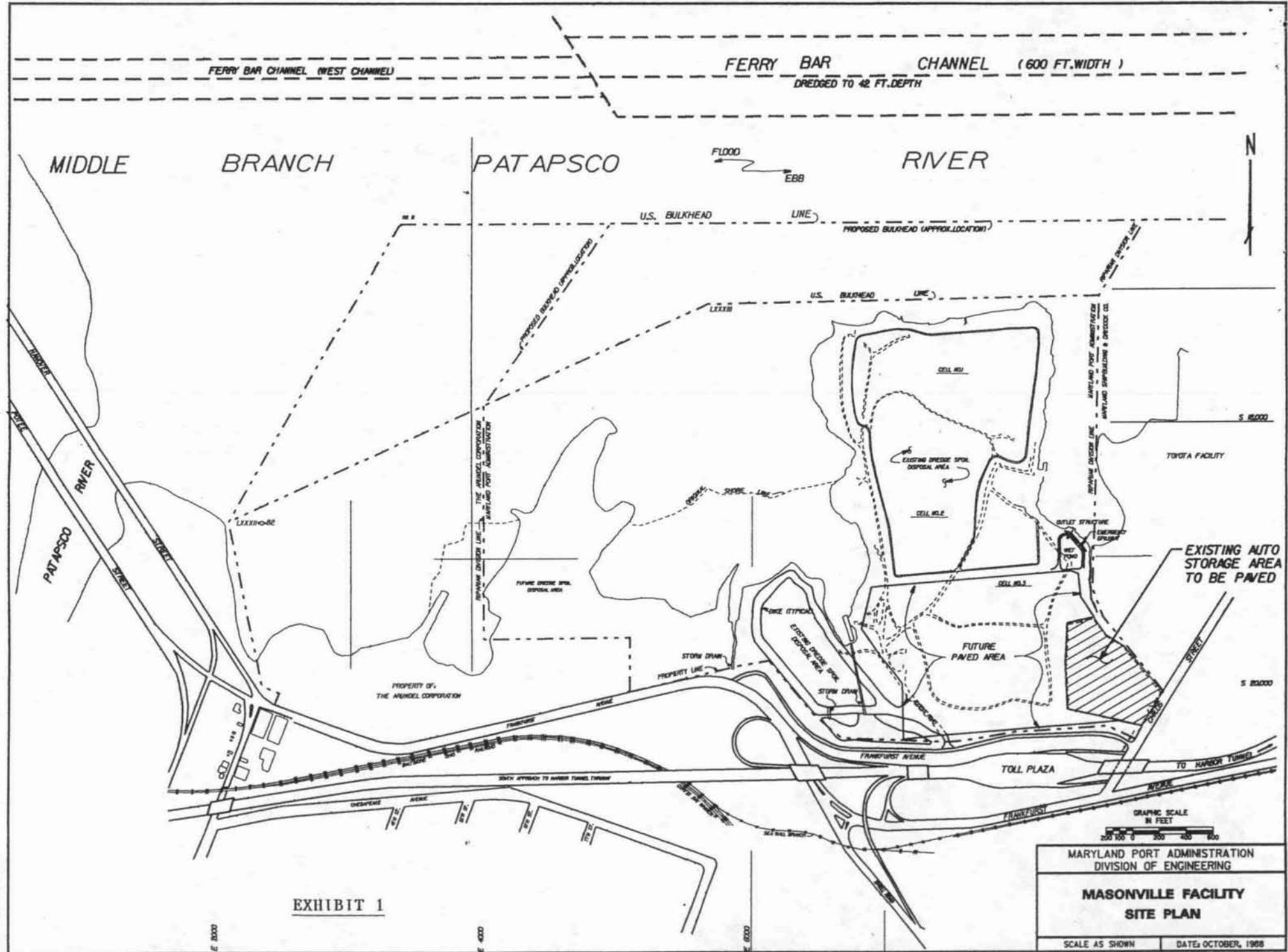


EXHIBIT 1

GRAPHIC SCALE  
IN FEET  
0 100 200 300 400 500 600

MARYLAND PORT ADMINISTRATION  
DIVISION OF ENGINEERING

**MASONVILLE FACILITY  
SITE PLAN**

SCALE AS SHOWN      DATE: OCTOBER, 1988



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY ABERDEEN PROVING GROUND  
ABERDEEN PROVING GROUND, MARYLAND 21005-5001

April 24, 1992



Office of the Deputy  
Installation Commander

*File*  
**RECEIVED**

APR 30 1992

DNR  
CRITICAL AREA COMMISSION

Judge John C. North III  
Chairman  
Chesapeake Bay Critical Area Commission  
45 Calvert Street, 2nd Floor  
Annapolis, Maryland 21401

Dear Judge North:

I recently was provided a copy of an article in the February 5, 1992 issue of the Kent County News concerning the proposed Betterton Bay Club. Because of the close proximity of Betterton to Aberdeen Proving Ground (APG), I would like to provide you with some information about APG, its mission and how it affects Kent County. I have provided similar information to the Betterton Mayor, the Betterton Planning and Zoning Commission, the Triad Partners Development Group, and the Kent County News.

Since 1918, weapons and explosives have been tested at APG, creating various levels of off-post noise through the propagation of sound in the lower atmosphere. The Army studied the levels of noise it creates in the communities surrounding APG and established noise zones based on guidelines developed by the National Academy of Sciences.

From its study, the Army developed the Installation Compatible Use Zone (ICUZ) plan. This plan is designed to promote land use development in adjacent communities in a manner which not only protects these communities from environmental noise associated with military operations, but also preserves the operational integrity of Army installations.

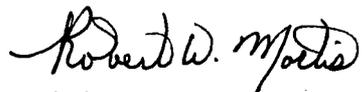
According to the plan, Betterton is located in Zone II, an area where high and low frequency noise can be considered unacceptable. Residential uses are not recommended in Zone II areas unless noise insulation or shielding is used in construction and around the proposed building site. I have enclosed a copy of the ICUZ program booklet that describes the noise study covering the communities surrounding APG.

Although APG continually employs noise prediction and abatement efforts to control or minimize community noise impact, surrounding communities periodically experience noise impulses which many people find objectionable. Kent County is of particular concern to us.

While it is the responsibility of the local government to protect the quality of life and individual and community investments, we at APG have an obligation to bring this matter to your attention. We also would welcome an opportunity to meet with you to discuss our concerns in greater detail.

If we can be of further service to you, please call Ms. Athena Petry at the U.S. Army Test and Evaluation Command Public Affairs Office. Her telephone number is (410) 278-3807.

Sincerely,

A handwritten signature in cursive script that reads "Robert W. Mortis".

Robert W. Mortis  
Colonel, U.S. Army  
Deputy Installation Commander

Enclosure

**STAFF REPORT**

May 6, 1992

**JURISDICTION: Queen Anne's County**

**ITEM: Refinement - Clarification of density allowances on grandfathered lots.**

Queen Anne's County has requested that the following language be added to the grandfathering section of the County's Program.

Section 5000 - Grandfathering existing uses, parcels or land and subdivided lots

C. Notwithstanding contrary density requirements of this ordinance, land subdivided into lots of record prior to December 1, 1985 may be developed for any permitted residential use at a density not exceeding the following:

1. The number of existing lots in the subdivision; or
2. Density requirements of the zoning ordinance, whichever is less.

This language clarifies what was already allowed in the Queen Anne's County Ordinance and it does not change what is allowed under the grandfathering section of the Critical Area Criteria.

Judge North has determined that this change can be handled as a refinement.

**STAFF CONTACT: Claudia Jones**



# RECEIVED

APR 10 1992

Maryland Port Administration  
Maritime Center at Point Breeze  
2200 Broening Highway  
Baltimore, Maryland 21224-6621

April 7, 1992

**DNR  
CRITICAL AREA COMMISSION**

William Donald Schaefer  
*Governor*

Maryland Port Commission  
O. James Lighthizer  
*Chairman*

The Honorable John C. North, II  
Chairman  
Chesapeake Bay Critical Area Commission  
45 Calvert Street  
Annapolis, Maryland 21401

J. Owen Cole  
William K. Hellmann  
Thomas T. Koch  
Milton H. Miller, Sr.  
John M. Waltersdorf  
Fred L. Wineland

Dear Judge North:

Reference: Surface Paving Project at the  
Masonville Marine Terminal,  
Baltimore, Maryland

Adrian G. Teel  
*Executive Director*

The Maryland Port Administration is proposing to construct a one and one-half inch (1½") bituminous concrete surface over an existing subbase of CR-6 material in an 8.5 acre area of the existing Masonville Marine Terminal in the City of Baltimore, Maryland. Both the overall terminal property and the proposed area to be paved are indicated on the attached Exhibit 1.

This proposed project was originally designed as part of an overall grading and paving project for which the following permits and licenses were obtained:

- Wetlands License No. 88573, issued by the Maryland Wetland Administration on September 7, 1988.
- U. S. Army Corp. of Engineers Permit CENAB-OP-RW (Maryland Port Administration) 88-3001-5, dated September 30, 1988.
- MDE Water Quality Certification No. 88-WQ0570, dated August 8, 1988.
- MDE Stormwater Management and Sediment and Erosion Control Permit No. 88-SF-03-2, dated August 15, 1988.

All documentation prepared and submitted to obtain these permits included the paving of the 8.5 acre parcel shown on Exhibit 1, but the paving was not done at the time of the lot grading. It is only now that demand for improving this site for a client of the current tenant that we are proposing to install this paving. The existing wet pond constructed under the above permits was designed and built to accommodate surface runoff from the entire 51.4 acre site, of which 45.8 acres (including this 8.5 acre area) were assumed to be paved.

My telephone number is 410- 631-1150

Fax: 1-410-631- 1140

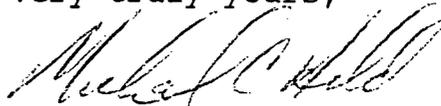
Honorable John C. North, II  
April 7, 1992  
Page Two

Runoff from the area to be paved will be directed to the existing wet pond via two existing open ditches along the east and west sides of the site. The western ditch currently outlets into the pond, while the eastern ditch, which presently bypasses the pond, will be rerouted through the existing dike surrounding the pond. This rerouting of the ditch was included in the permit applications for the permits obtained in 1988.

We have met with the Technical Review Committee on April 1, 1992, in order to discuss the nature of our future submissions. We intend to have our package of materials ready for presentation at the next meeting of the Commission and would certainly appreciate your inclusion of our project for that meeting.

Should you have any questions concerning this request, please feel free to contact me at your convenience at (410) 631-1150.

Very truly yours,



Michael C. Hild, P. E.  
Chief Engineer  
Maryland Port Administration

MCH:rr:A:North

cc: Mr. Mike Angelos  
Mr. Trip Bailey  
Mr. Bill Mangels, MDOT  
Mr. Bradley Brown, Greiner

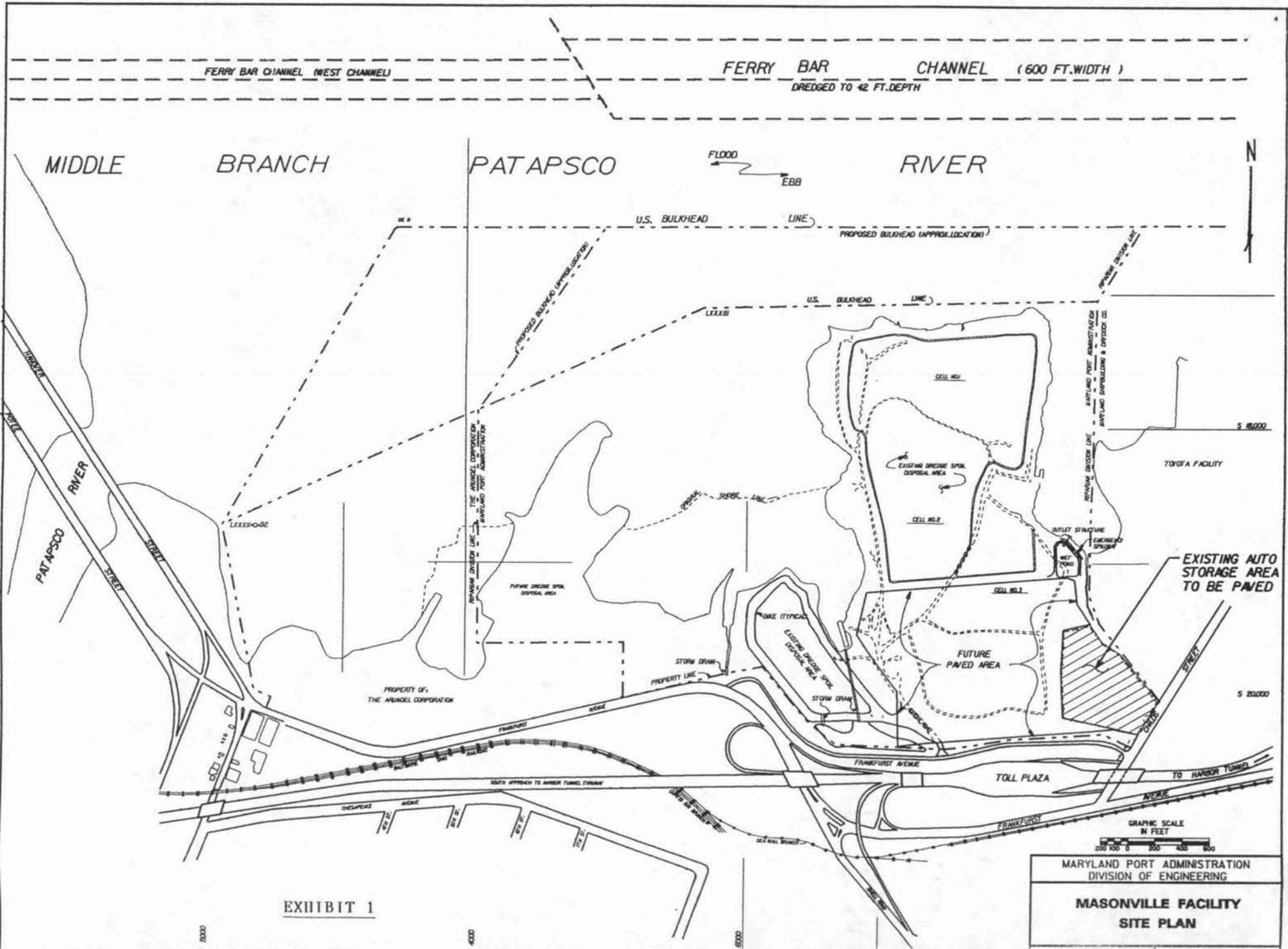


EXHIBIT 1

GRAPHIC SCALE  
IN FEET  
0 100 200 300 400 500

MARYLAND PORT ADMINISTRATION  
DIVISION OF ENGINEERING

**MASONVILLE FACILITY  
SITE PLAN**

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

**FINAL PROJECT EVALUATION  
STAFF REPORT**

**APPLICANT:** State of Maryland's Maryland Port  
Administration: Surface Paving Project  
at Masonville Marine Terminal

**JURISDICTION:** Baltimore City

**DATE:** May 6, 1992

**LOCATION\HISTORY  
OF PROJECT(S):**

This project is located near Frankfurst Ave and Childs Street in the Masonville Area of Baltimore City.

The Maryland Port Administration is proposing to construct a one and one-half inch (1 1/2") Bituminous concrete surface over an existing subbase of CR-6 material in an 8.5 acre area of the existing Masonville Marine Terminal. Both the overall terminal property and the proposed area (8.5 acres) to be paved are indicated on the attached site plan.

The proposed site (which presently is graveled) was not paved as planned back in 1988. The demand for improving the site for a client of the current tenant is the main reason for proposing to install the paved area.

There is also an existing wet pond to accommodate surface runoff from the entire 51.4 acre site; 45.8 acres including the 8.5 acres were assumed to be paved. Runoff from the area to be paved will be directed to the existing wet pond via two existing open ditches along the east and west sides of the site. Currently, the western ditch outlets into the pond, while the eastern ditch, which presently bypasses the pond, will be rerouted through the existing dike surrounding the pond.

Please see attached Stormwater Management Information on: 1) Pre-Development Conditions, 2) Post-Development Conditions, 3) Best Management Practices(BMP), 4) Habitat Enhancement Plan and 5) The 10% Worksheet for the Masonville-Auto Storage Facility.

**DEPARTMENTS AND CONTRACTORS INVOLVED WITH THE PROJECT**

- 1) Griener, Inc.,
- 2) Maryland Department of the Environment, and
- 3) Baltimore City's Environmental Planning Division and Public Works Department.

**PROJECT STAFF RECOMMENDATION(S)\CONDITIONS:**

The Critical Area staff recommends approval of the project subject to the following conditions:

1. Maryland Department of the Environment must certify that the 10% pollution reduction calculations are correct and that the Commission will receive a copy of the certification before construction can begin.
2. If the 10% pollution reduction calculations are determined not to be in compliance, the project should be redesigned to meet these requirements or the project must comply with the development requirements of Baltimore City's Critical Area Management Program.

**STAFF PLANNER:** Dawnn McCleary, Natural Resources Planner

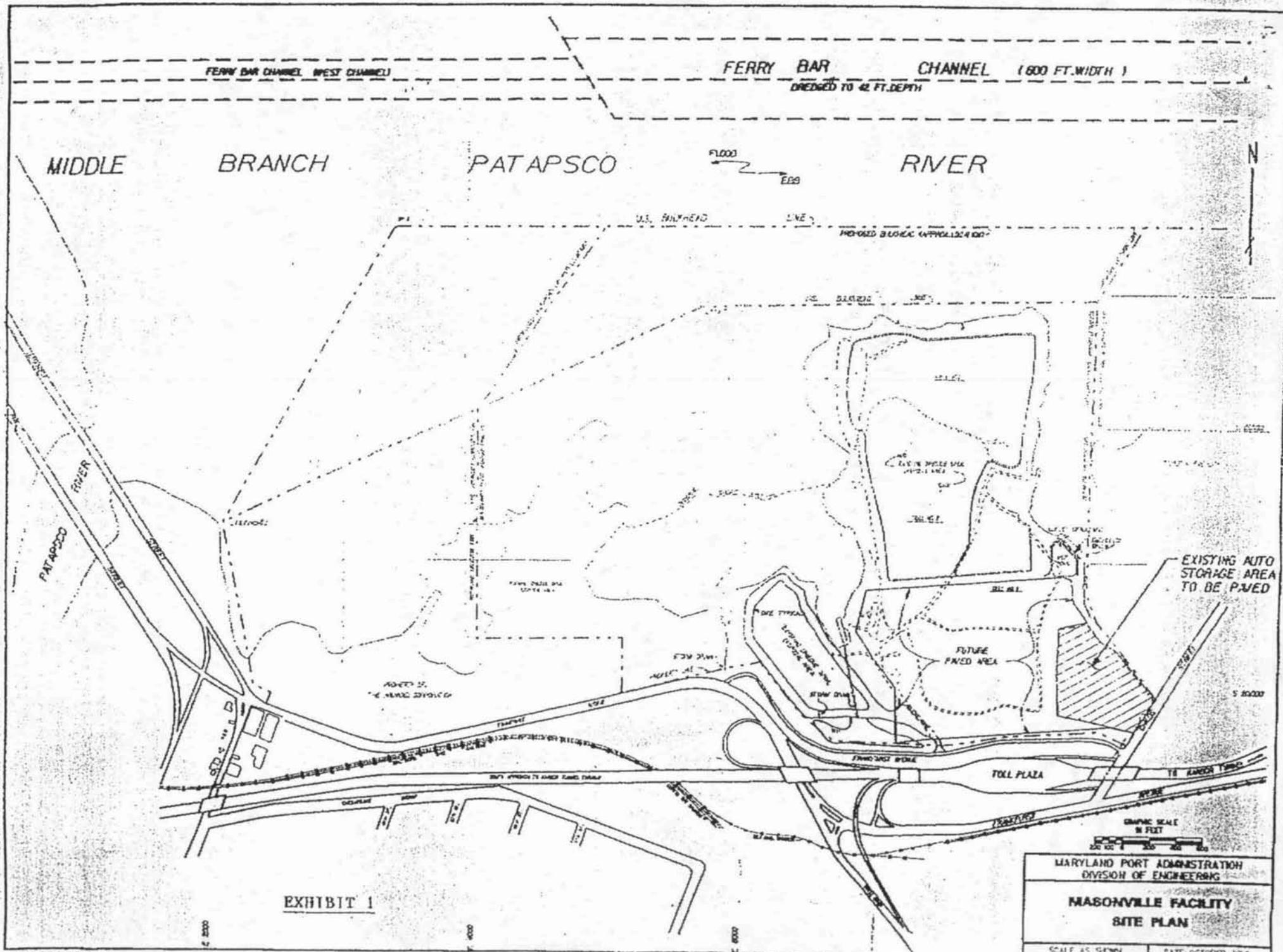


EXHIBIT 1

GRAPHIC SCALE IN FEET  
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 MARYLAND PORT ADMINISTRATION  
 DIVISION OF ENGINEERING  
**MASONVILLE FACILITY**  
**SITE PLAN**  
 SCALE AS SHOWN

STAFF REPORT

JURISDICTION: Talbot County

ITEM: Growth Allocation Amendments

COMMISSION ACTION: Information

STAFF: Theresa Corless

DISCUSSION: Talbot County has submitted nine requests for Growth Allocation. A brief outline of each proposed amendment follows.

*No 2's*  
1. J. McKinney Willis - North Bend II. Map 33, parcel 43. The County requests 37 acres of Growth Allocation for the development of a seven lot subdivision. The entire parcel is 79.38 acres. Phase I is not in the Critical Area. Phase II is the entirety of the parcel in the Critical Area. The current designation is RCA. The request is to change the designation to LDA.

*No 2's*  
2. Claiborne Gooch Map 51, parcel 77. The County requests 16 acres of Growth Allocation for an eight lot subdivision. The rest of the lot has been developed since December 1, 1985, without the use of Growth Allocation at a proper density for RCA. The entire parcel is 106.48 acres. The current designation is RCA. The request is to change it to LDA.

*No 2's*  
3. Robert Pascal - Bar Neck Farm Phase II. Map 51, parcel 97. The County requests 19.38 acres of Growth Allocation for a ten lot subdivision. Phase I was approved prior to December 1, 1985. The requested acreage is the remainder of the parcel. The current designation is RCA. The request is to change it to LDA.

*D. Cause*  
4. Fred McEnany Map 31, parcel 18 lot 4. The County requests 2.12 acres of Growth Allocation for a 2 lot subdivision. The current designation is RCA. The request is to change it to LDA.

*Wickham  
2's  
Banking -  
All lots correct?*  
5. Lyles Carr et al - Winterbottom Acres. Map 31, parcel 93. The County requests 14.72 acres of Growth Allocation for a 9 lots subdivision of 2 lots. (The subdivision is to occur on parcels 325 and 93. Parcel 325 already has an LDA designation. Parcel 93 is made up of two lots, a large one and a much smaller one. The entirety of parcel 93 is being deducted. Parcel 325 and the large lot of parcel 93, with one existing house, are being subdivided into eight lots. The smaller lot of parcel 93, also with one existing house, is being left as is.)

No 7's

6. John Sullivan Map 46, parcel 146. The county requests 5 acres of Growth Allocation for a two lot subdivision. The entire parcel is 23 acres. The current designation is RCA. This would change 5 acres to LDA. This would leave the remainder of the parcel, 18 acres, as RCA. Granting of Growth Allocation would be inconsistent with recent Commission decisions such as those in St. Mary's County and Caroline County.

No 2's

7. William Hunter - Springfield. Map 42, parcel 56. The County requests 31.5 acres of Growth Allocation. The entire parcel in the Critical Area is 131.5 acres. The applicant is in the process of subdividing the remaining 100 acres into 5 lots without the use of Growth Allocation. The 5 lots will be clustered and the remaining land put into a conservation easement. The current designation is RCA. The request would change 31.5 acres to LDA.

12.

8. William Hunter - Peachblossom. Map 42, parcel 7. The County requests 38.78 acres of Growth Allocation. This is part of a much larger parcel, of which approximately 89 acres are in the Critical Area. The developer plans to put the remaining 50 acres of Critical Area land into a conservation easement and plans to do habitat enhancement.

~~7's~~

9. FUS Inc., James & Beatrice Harrison, Robert T. Fuller, and William & Christine Hunter. Map 42, parcels 58, 65, 274, 173 and a portion of 56. The County requests 14.43 acres of Growth Allocation. These parcels were submitted last summer to the Commission as a mapping mistake. The Commission denied the mapping mistake. The current designation is RCA. The request would change the designation to LDA. No project at this time.

Mr. Cane 2.1 acres could include a strip, to not develop -



#2 Claiborne Gooch

JAMES E. STANSBURY  
648/657  
175.09 A.  
P.21

RC

P.18

P.19

BLACK WALNUT  
COVE

MAP 51-P.96

UC  
P.18  
P.19

MAP 51-P.77

P.96

RC

CLAIBORNE W.  
GOOCH, III  
481/560  
106.48 A.  
P.77

4.3 A.  
POND

VC

F.H. DENTON

P.52

P.54

P.55

P.71

P.56

732 P.61

P.60

P.74

P.75

VC

P.76

RES.  
19.38 A.

P.68

P.8

WALNUT COVE

RC

6

P.97

A 67:28

BAR HECK FARM

P.7

2

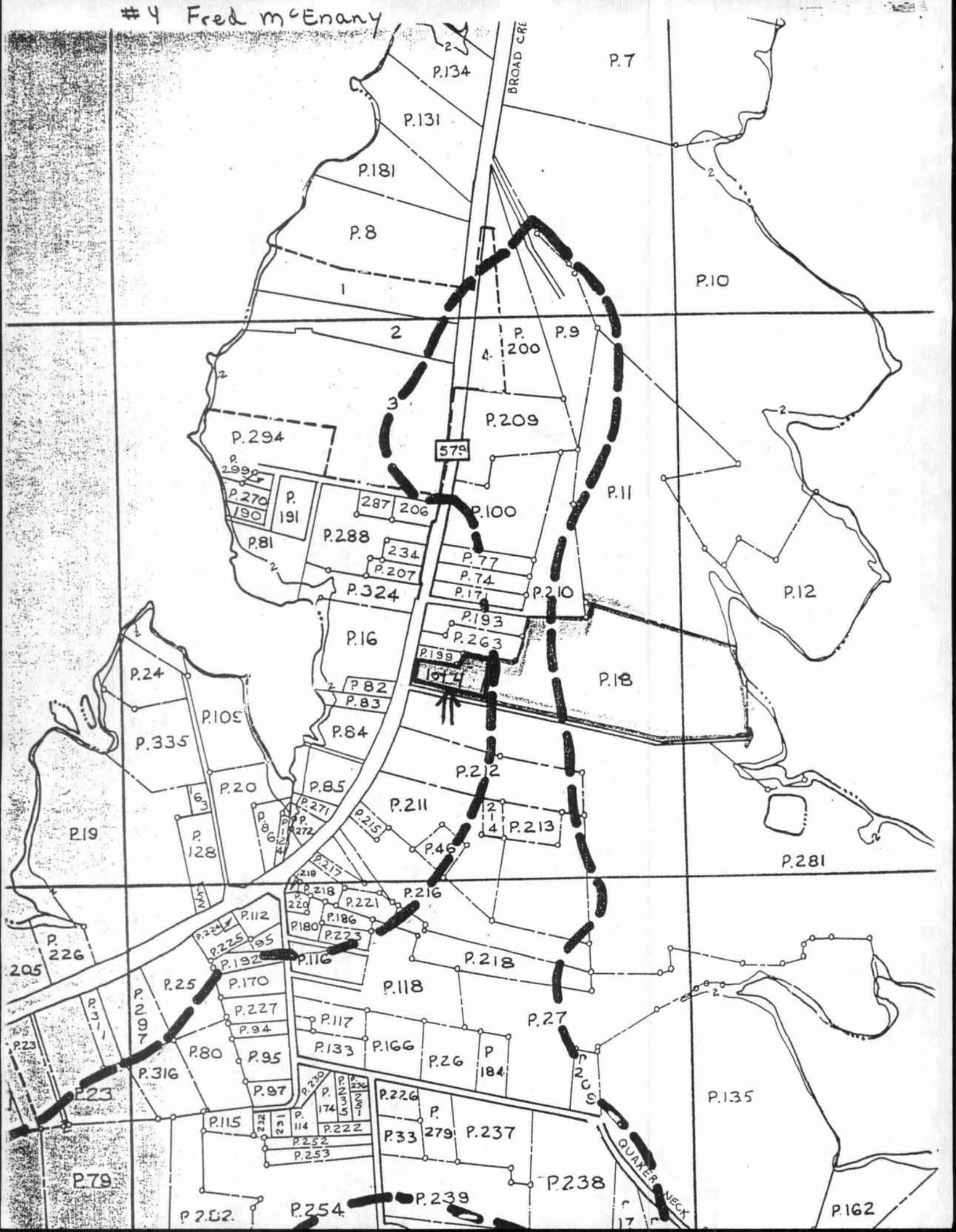
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4

5



#4 Fred McEnany



#5 Lyles Carr et al

VIRGINIA M. LAPE  
ARG. 30/117  
23.93A  
P. 68

RABBIT COVE

MILLERS  
SOMERSET  
19.63A  
P. 70

0.66

P. 29  
P. 27  
P. 26

THOMAS H.  
BOGGS  
524/554  
18.07A  
P. 17

SOZMAN

BETTY R. CARR  
628/518  
14.07A  
P. 93

STEPHEN YELO  
393/155  
17.79A  
P. 92

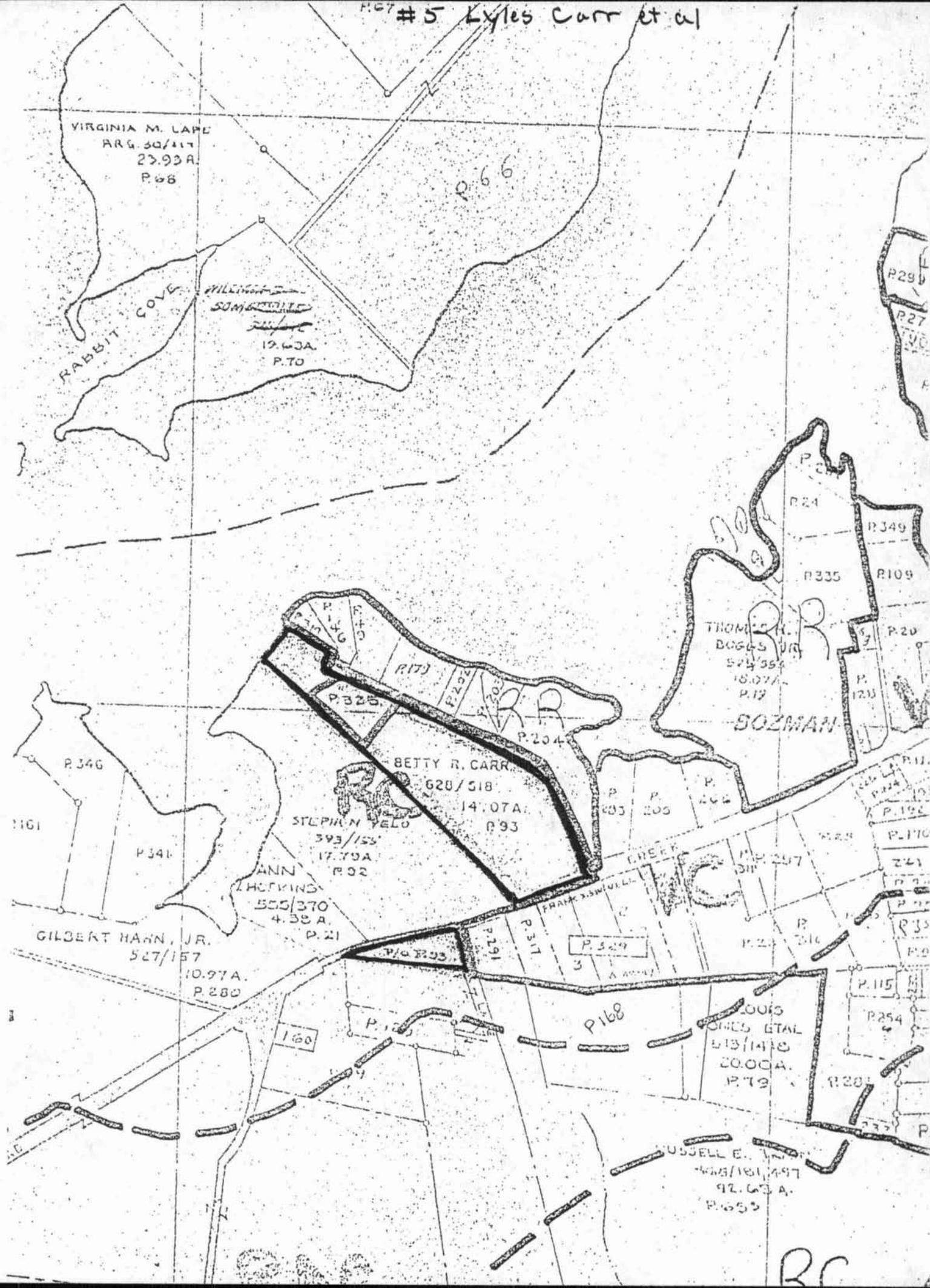
ANN  
HOPKINS  
555/370  
4.38A  
P. 21

GILBERT HARN, JR.  
527/157  
10.97A  
P. 280

LOUIS  
ONES ETAL  
613/148  
20.00A  
P. 79

RUSSELL E.  
463/161  
92.63A  
P. 53

BC





#7 William Hunter - Springfield.

NORTH

MD. HWY. NO. 333

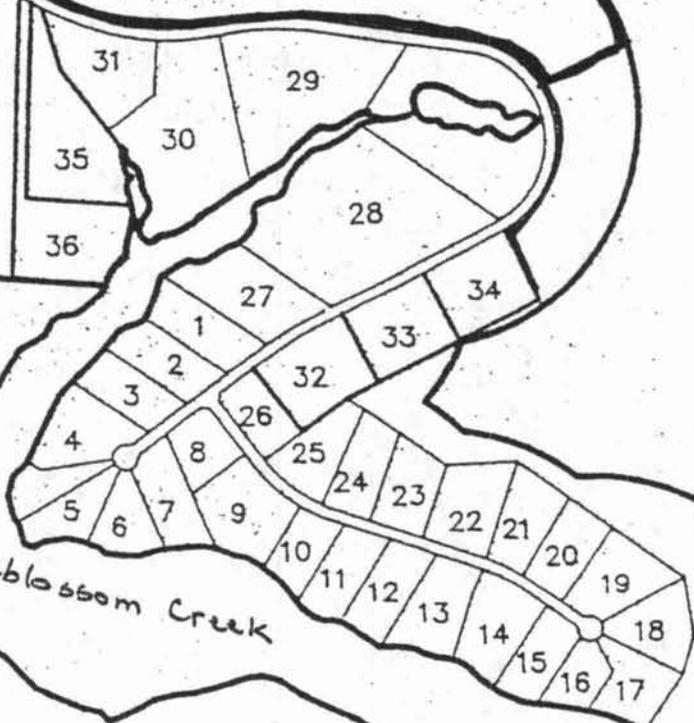


31.5 ac.



MD. HWY. NO. U.S. 50

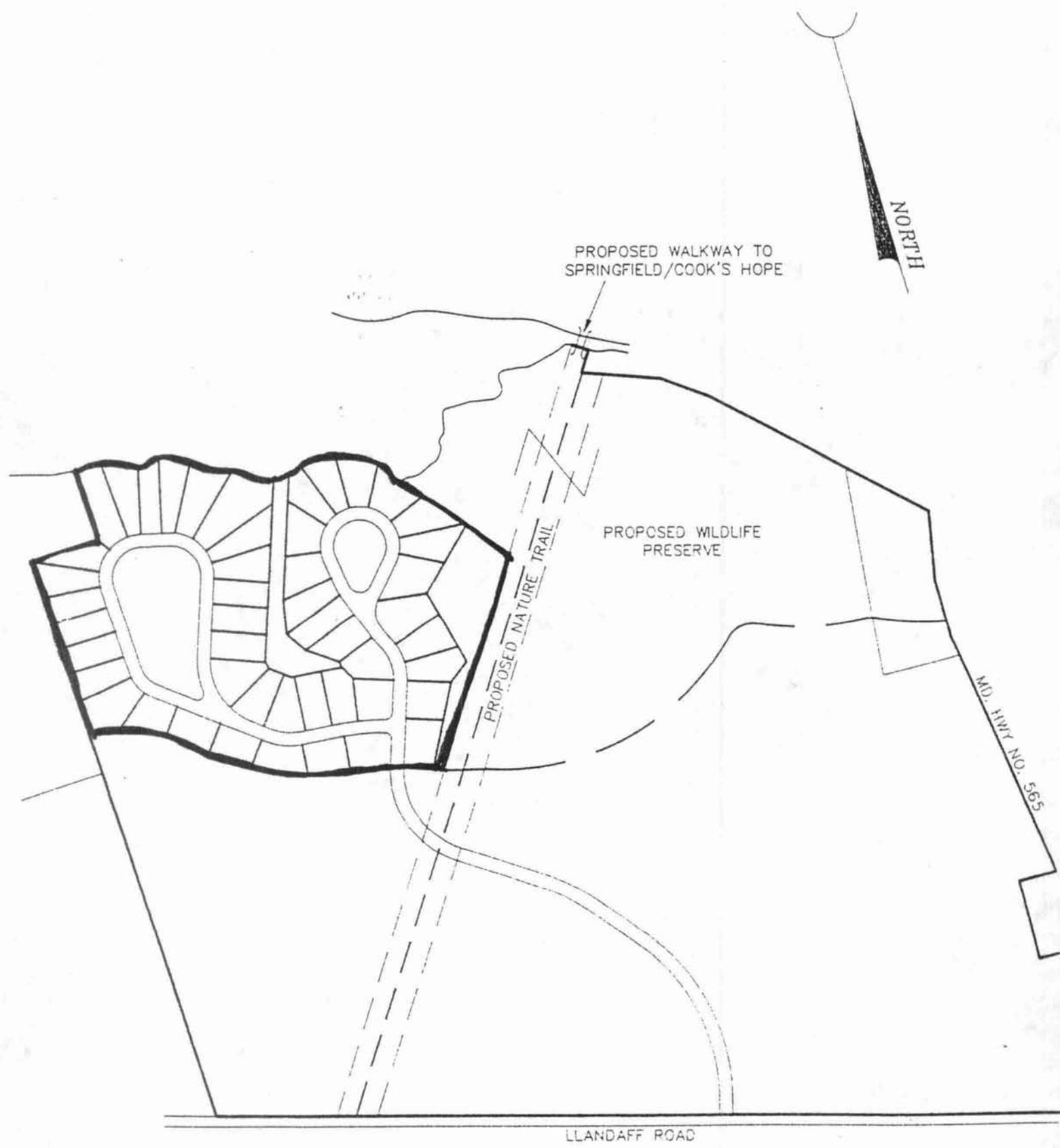
Peachblossom Creek



TOTAL OUTLINE  
SCALE: 1" = 1000'

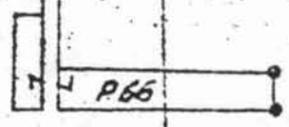
OWNING LAND OF  
W. T. HUNTER, JR.  
513/195

# 8 William Hunter - Peachblossom



TOTAL OUTLINE  
SCALE: 1" = 500'

RC



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

P. 56

P. 58

50

P. 98

P. 204

P. 65

GC

ALI MEHRIZI  
485/525  
16.04 A.  
P. 164

P. 248

ER, JR.

P. 274

R173

P. 270

P. 63

P. 155

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

JAME  
E  
2

P. 64  
1.3  
LI

P. 72

287  
280  
2.5  
26

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

P. 25

68

P. 236

P. 141

365

P. 237

P. 182

P. 96

P. 95

P. 94

P. 93

P. 92

P. 91

101

102

P. 53

376.4

2

284

ROAD

7

*info .*

CRITICAL AREA COMMISSION  
STAFF REPORT

May 6, 1992

ISSUE: Map amendment by reason of mistake, Town of Elkton

COUNTY: Cecil

COMMISSION ACTION: For information only at this meeting; vote by July 20, 1992 or before

DISCUSSION: The Town of Elkton has submitted a map amendment changing 35.4 acres of the property of Chesapeake Haven Land Corp./ Remle Inc. from Resource Conservation Area (RCA) to Limited Development Area (LDA). The site is within the municipal boundaries of Elkton, near the intersection of Rt. 213 and Whitehall Road. As of 1985, the property was 86.6 acres, 45.9 acres of which are in the Critical Area. A portion of the property, 35.4 acres, is proposed to change to LDA, while 10.5 acres dominated by nontidal wetlands remains RCA.

The property is adjacent to the old Elkton Sewage Treatment Plant, and sewer lines crossed the property prior to 1985. A portion (twelve dwelling units) of an adjacent existing subdivision, Elkwood Estates, is within the Critical Area. The property was mined for sand and gravel in the 1950's and 60's. The property had received final approval for a residential subdivision in the 1970's, but the plats were never recorded. Based on these circumstances, the Town determined that a mistake in mapping had occurred, and that the property should have been mapped LDA.

At the time of program approval, the Critical Area Commission panel evaluated this parcel and determined that because there was no existing development on the 46 acres of the parcel within the Critical Area, and land use was dominated by woodlands, wetlands, abandoned fields, or barren land, the designation was properly RCA.

According to the Critical Area Criteria, Limited Development Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and wildlife habitat and the quality of runoff from these areas has not been substantially altered or impaired. These areas should have at least one of the following features:

- housing density between one unit per five acres up to four units per acre;
- areas not dominated by agriculture, wetland, forest, barren land, surface water or open space;
- areas having the characteristics of the Intensely Developed Area, but less than 20 acres; or
- areas having public sewer or public water, or both.

Resource Conservation Areas are those areas characterized by nature-dominated environments (i.e., wetlands, forest, abandoned fields) and resource-utilization activities (i.e., agriculture, forestry, fisheries activities, or aquaculture). These areas should have at least one of the following features:

- density is less than one dwelling unit per 5 acres; or
- dominant land use is in agriculture, wetland, barren land, surface water, or open space.

The Critical Area mapping was based on land use as of December 1, 1985.

The public hearing is scheduled for 7PM, Monday, June 1, 1992 in Courtroom 1, County Office Building, Main St., Elkton.

*app'd  
unanimously*

**STAFF REPORT**

May 6, 1992

**JURISDICTION: Queen Anne's County**

**ITEM: Refinement - Clarification of density allowances on grandfathered lots.**

Queen Anne's County has requested that the following language be added to the grandfathering section of the County's Program.

Section 5000 - Grandfathering existing uses, parcels or land and subdivided lots

C. Notwithstanding contrary density requirements of this ordinance, land subdivided into lots of record prior to December 1, 1985 may be developed for any permitted residential use at a density not exceeding the following:

1. The number of existing lots in the subdivision; or
2. Density requirements of the zoning ordinance, whichever is less.

This language clarifies what was already allowed in the Queen Anne's County Ordinance and it does not change what is allowed under the grandfathering section of the Critical Area Criteria.

Judge North has determined that this change can be handled as a refinement.

**STAFF CONTACT: Claudia Jones**



RECEIVED

APR 13 1992

COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND  
COURT HOUSE  
EASTON, MARYLAND 21601-3178

CRITICAL AREA COMMISSION

CLINTON S. BRADLEY, III, President  
ROBERT D. HIGGINS, Vice President

PHONE 410-822-2401

ANDREW H. ANDERSON  
NANCY J. CLEM  
THOMAS G. DUNCAN

April 9, 1992

Ms. Pat Pudelkewicz  
Chesapeake Bay Critical Area Commission  
Attman-Glazier Building  
45 Calvert St.  
2nd Floor  
Annapolis, MD 21401

*approved  
as a  
requirement  
unanimous*

RE: Bachelors Point Mapping Mistake

Dear Ms. Pudelkewicz:

As a result of the Chesapeake Bay Critical Area Commission's recent action denying the County's request on the Bachelors Point mapping mistake, the Talbot County Council is requesting that 13.223 acres of growth allocation be debited from the current total.

This request is made pursuant to COMAR 14.15.02.07 B.(2)(b) which states:

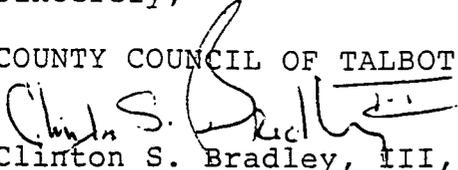
"If any such land has received a building permit subsequent to December 1, 1985 but prior to local program approval, and is located in a Resource Conservation Area, that land must be counted by the local jurisdiction against the growth increment permitted in that area under COMAR 15.15.02.06, unless the Commission determines at the time of the program approval that steps had been taken to conform the development to the criteria in this Subtitle insofar as possible."

Since the Commission has determined that a mapping mistake did not occur and building permits were issued in 1986 for the Bachelors Point Marina facilities, the Commission should debit the County's growth allocation acreage by 13.223 acres. This debit did not occur in 1989 at the time Talbot County's Critical Area Program was adopted.

We will appreciate your prompt attention to this matter.

Sincerely,

COUNTY COUNCIL OF TALBOT COUNTY

  
Clinton S. Bradley, III, President

CSB/egj

**RECEIVED**

APR 13 1992

DNR  
CRITICAL AREA COMMISSION

STAFF REPORT

May 5, 1992

JURISDICTION: Talbot County

ISSUE: Growth Allocation for Bachelor Point Marina, Tax Map 53, Parcel 86, per Grandfathering Criteria (COMAR 14.15.02.07B(2)(b)).

DETERMINATION: Refinement

The Critical Area Commission has received a request from the Talbot County Commissioners to deduct 13.223 acres from the County's growth allocation reserve for the Bachelor Point Marina property. The request has been made by the County pursuant to COMAR 14.15.02.07B(2)(b) which states:

"If any such land has received a building permit subsequent to December 1, 1985, but prior to local Program approval, and is located in a Resource Conservation Area, that land must be counted by the local jurisdiction against the growth increment permitted in that area under COMAR 15.15.02.06, unless the Commission determines at the time of the Program approval that steps had been taken to conform the development to the criteria in this Subtitle insofar as possible".

Development activities were authorized on this site in 1986 which were not in conformance with an RCA designation, and growth allocation was not debited for this site at the time of Program approval. The County is now requesting that this deduction be made in retrospect.

It should be noted that the 13.223 acres is the area of the parcel formerly zoned commercial which the County proposed as a mapping mistake and which was denied by the Commission at the April 1992 CAC meeting. There is a remaining 2-acre triangular section of Parcel 86 on the eastern edge of the property which is not proposed to receive growth allocation because it was not within the former commercially zoned area and was therefore not subject to development approvals granted during the interim period. The County will be made aware that any future development within this remaining 2-acre triangular area will require growth allocation.

STAFF: Pat Pudelkewicz

CRITICAL AREA COMMISSION  
STAFF REPORT

May 6, 1992

ISSUE: Cecil County Special Growth Allocation

COMMISSION ACTION: For information only at this meeting; vote by July 20, 1992 or before

DISCUSSION: Cecil County has submitted a map amendment granting 1.15 acres of growth allocation to the property of the Earl White Estate, changing the designation from Resource Conservation Area (RCA) to Limited Development Area (LDA). The site is near Chesapeake City, on Knight's Corner Road by Long Branch Creek. The property consists of 16.95 acres, 15.15 acres of which are in the Critical Area.

The proposal is attempting to carry out the recorded will of Earl N. White, which creates five lots for grandchildren. Three lots were subdivided under the intrafamily transfer provisions, which is applicable to this situation, but no more than three lots are permitted through this mechanism. The executor of the estate has applied for growth allocation to create the remaining two lots required by the will. Four of the lots are the minimum lot size required by the County Health Department and are clustered adjacent to the road, away from the stream. The fifth lot consists of the remainder of the parcel, 13.8 acres.

The Special Growth Allocation category was designed for small-scale, minor residential subdivisions. Additional lots through the Special Growth Allocation category are limited by a schedule in the County Program; for this parcel, only 2 additional lots are permitted. The maximum lot size cannot exceed the minimum lot size required by the County Health Department. All other Critical Area, subdivision, and zoning requirements must be met. If agricultural use is retained on a portion of the parcel, a cooperators agreement for a Soil Conservation and Water Quality Plan must be signed. A Forest Management Plan is required for forested portions of the property. The wildlife habitat on the entire site must be protected and improved. The growth allocation submitted deducts the individual lots, which are the minimum lot size required by the Health Department. No further subdivision is permitted, a Forest Management Plan is required for disturbance of forested areas, and Habitat Protection Areas (buffer and nontidal wetlands) have been identified and protected.

The Commission policy for deducting growth allocation does not have an avenue to count less than the full parcel (i.e., the development envelope) for parcels less than 20 acres. When the Cecil County Program was approved, the method for deducting growth allocation and process for granting it were given conditional approval to allow the Commission to evaluate the

*J. Elkins  
Can. Dev. C.A.  
Do This  
not  
sign*

result of the proposed point system and deduction methodology. The County argued that the proposed system would protect the character of the remaining RCA as intended by the Criteria, so the Commission allowed it to be given a trial run for one cycle of growth allocation. Because of a lack of growth allocation submittals, Cecil County has twice requested an extension of that conditional approval. This is the first growth allocation received from Cecil County.

The public hearing is scheduled for 7PM, Tuesday, May 27, 1992 in Courtroom 1, 2nd Floor, County Office Building, Elkton.

*approved  
unanimous.*

CRITICAL AREA COMMISSION  
STAFF REPORT

May 6, 1992

ISSUE: Port Deposit Subdivision Ordinance

COUNTY: Cecil

COMMISSION ACTION: Opportunity to reverse the Chairman's determination of refinement

DISCUSSION: At the time of Critical Area Program approval, the Town of Port Deposit did not have a subdivision ordinance, but information and regulations were identified in the implementation section for inclusion in the subdivision ordinance when created. The Town has just adopted the subdivision ordinance with the Critical Area requirements included. Because the format and language of the basic ordinance differ from that assumed by the implementation section of the Town Critical Area Program, the incorporation of the Critical Area language has had to be modified to fit the adopted format.

All of the requirements described in the implementation section of the Town Critical Area Program have been incorporated in the subdivision ordinance, including requirements for Intensely Developed Areas, Limited Development Areas, Resource Conservation Areas, and Habitat Protection Areas. A couple of items were omitted which are not required by the State Critical Area Criteria. Additional information for commercial and industrial uses, such as intended use and waste type generated, has been required in the zoning ordinance, so the requirements were not repeated in the subdivision ordinance. The 10-foot limit on buffer expansion was omitted from the subdivision ordinance.

The Town of Port Deposit requested that this submittal be treated as a refinement. Because it merely incorporates the information previously identified in the Town Critical Area Program into the subdivision ordinance, it is recommended as a refinement, and is not considered to result in a change in land use inconsistent with the adopted Critical Area Program.

STAFF: Anne Hairston



DEPARTMENT OF PLANNING AND ZONING  
QUEEN ANNE'S COUNTY  
COUNTY OFFICE BUILDING  
208 N. COMMERCE STREET  
CENTREVILLE, MARYLAND 21617  
758-1255

*Copy  
Commission*

RECEIVED

APR 22 1992

DNR  
CRITICAL AREA COMMISSION

April 20, 1992

The Honorable John C. North, II, Chairman  
Chesapeake Bay Critical Area Commission  
45 Calvert Street, 2nd Floor  
Annapolis, Maryland 21401

Dear Judge North:

On behalf of the Queen Anne's County Commissioners and the Queen Anne's County Department of Planning and Zoning and pursuant to §10-611, et. seq., State Government Article, Annotated Code of Maryland, please accept this letter as a formal application for the production and inspection of (1) all "public records" prepared, received, or maintained by the Critical Area Commission on the Queen Anne's County Critical Area Program and Ordinance and (2) all "public records" prepared, received, or maintained by the Critical Area Commission regarding the compliance, or lack of compliance, by other Critical Area jurisdictions with Habitat Protection Area standards on "grandfathered" lots, the buffer exemption provisions of COMAR 14.15.09.01C, and the program amendment procedures of §18-1809(o) of the Act.

Without limiting the generality of the application, we request the production of the following "public records":

1. All correspondence from the Commission, its staff or attorneys, to any employee or representative of, or attorney for, Queen Anne's County regarding the Program and Ordinance as proposed and ultimately adopted.
2. All intra-agency letters or memoranda prepared between 1985 and the present regarding the review by the Commission, its staff and attorneys, of the Queen Anne's County Critical Area Program and Ordinance as proposed and ultimately adopted.
3. Similar correspondence to or from any other Critical Area jurisdiction and intra-agency documents concerning review of Critical Area Programs or Ordinances in such

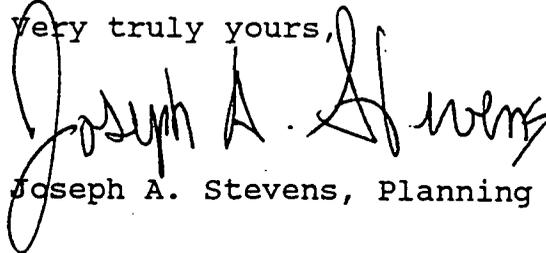
The Honorable John C. North, II  
April 20, 1992  
Page Two.

jurisdictions, as proposed or ultimately adopted, but limited to the issues of compliance, or lack of compliance, with Habitat Protection Area Standards on "grandfathered" lots, buffer exemption provisions, and program amendment procedures.

We look forward to hearing from you on a date before May 20, 1992 when we might travel to Annapolis to review these "public records". Alternatively, we would be pleased to receive copies under a "reasonable time schedule" as permitted in §10-620(a)(2), State Government Article.

Thank you for your cooperation.

Very truly yours,



Joseph A. Stevens, Planning Director

cc: William V. Riggs, III, President  
Oscar A. Schulz, Commissioner  
Archibald A. MacGlashan, Commissioner  
Patrick E. Thompson, Esquire  
Christopher F. Drummond, Esquire

**RECEIVED**

APR 22 1992

DNR  
CRITICAL AREA COMMISSION



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY ABERDEEN PROVING GROUND  
ABERDEEN PROVING GROUND, MARYLAND 21005-5001

April 24, 1992



Office of the Deputy  
Installation Commander

RECEIVED

APR 30 1992

Judge John C. North III  
Chairman  
Chesapeake Bay Critical Area Commission  
45 Calvert Street, 2nd Floor  
Annapolis, Maryland 21401

DNR  
CRITICAL AREA COMMISSION

Dear Judge North:

I recently was provided a copy of an article in the February 5, 1992 issue of the Kent County News concerning the proposed Betterton Bay Club. Because of the close proximity of Betterton to Aberdeen Proving Ground (APG), I would like to provide you with some information about APG, its mission and how it affects Kent County. I have provided similar information to the Betterton Mayor, the Betterton Planning and Zoning Commission, the Triad Partners Development Group, and the Kent County News.

Since 1918, weapons and explosives have been tested at APG, creating various levels of off-post noise through the propagation of sound in the lower atmosphere. The Army studied the levels of noise it creates in the communities surrounding APG and established noise zones based on guidelines developed by the National Academy of Sciences.

From its study, the Army developed the Installation Compatible Use Zone (ICUZ) plan. This plan is designed to promote land use development in adjacent communities in a manner which not only protects these communities from environmental noise associated with military operations, but also preserves the operational integrity of Army installations.

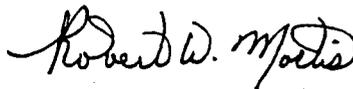
According to the plan, Betterton is located in Zone II, an area where high and low frequency noise can be considered unacceptable. Residential uses are not recommended in Zone II areas unless noise insulation or shielding is used in construction and around the proposed building site. I have enclosed a copy of the ICUZ program booklet that describes the noise study covering the communities surrounding APG.

Although APG continually employs noise prediction and abatement efforts to control or minimize community noise impact, surrounding communities periodically experience noise impulses which many people find objectionable. Kent County is of particular concern to us.

While it is the responsibility of the local government to protect the quality of life and individual and community investments, we at APG have an obligation to bring this matter to your attention. We also would welcome an opportunity to meet with you to discuss our concerns in greater detail.

If we can be of further service to you, please call Ms. Athena Petry at the U.S. Army Test and Evaluation Command Public Affairs Office. Her telephone number is (410) 278-3807.

Sincerely,

A handwritten signature in cursive script that reads "Robert W. Mortis".

Robert W. Mortis  
Colonel, U.S. Army  
Deputy Installation Commander

Enclosure

SOMERSET COUNTY  
DEPARTMENT OF TECHNICAL AND COMMUNITY SERVICES



Planning & Technical Services Division

May 5, 1992

*The full  
57 acres can  
be deducted.  
unanim  
app'd.*

The Honorable Judge John C. North, II  
Chesapeake Bay Critical Area Commission  
45 Calvert Street  
Second Floor  
Annapolis, Maryland 21401

Dear Judge North:

Somerset County is requesting a clarification of the approval for growth allocation for Coulbourn's Cove approved at the April 1, 1992 meeting.

The Commission approved an award of 26.5 acres, deducting 1 acre for each of the 18 lots all or partially in the Critical Area; and 8.5 acres for the disturbance due to road and pond. This method of deduction depended upon the restricting of each lot to a 20,000 square foot development pad, with the remainder to be in natural vegetation. Only the 26.5 acres counted would be given an LDA classification.

Minutes from the March meeting, provided to the County, indicated the Commission would prefer a deduction of the entire acreage, to be more in accordance with the Commission's Growth Allocation Policy. However, the findings did not reflect this position or offer this alternative.

Our own program requires that deduction be calculated on a case-by-case basis if the 20,000 square foot development pad cannot be met. Although the developer has been most cooperative, further meetings have raised a question as to whether the 20,000 square foot development pad and other conditions placed by the Commission can be met to the Commission's satisfaction.

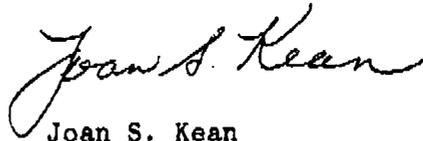
Somerset County, therefore, requests a clarification of the findings to determine if it is the intention of the Commission to approve the project for 26.5 acres, subject to conditions, and for the full 57 acres, if these conditions are not met.

May 5, 1992  
The Honorable Judge John C. North, II  
Page 2

Our other alternative is to request a refinement at a later date, which will delay the developer and require additional services of the surveyor, etc. We are hoping to resolve the situation without imperilling the project itself. The County Planning Commission and Board of County Commissioners have consistently viewed this subdivision as a valuable addition to the County's housing.

For these reasons, Somerset County asks that the Commission consider this request for clarification at its May 6, 1992 meeting. If any additional information is required, please let me know and it can be faxed to you.

Yours truly,



Joan S. Kean  
Planner

*Binell Assoc. Steve?*  
*R. Williams not at June 3rd*  
*S. Phillips - " " " " " "*  
*Alaska*

**COMMISSION MEMBERS**

- ✓ North, II, John C., Chairman
- Ambridge, Anthony, Baltimore City
- Barker, Philip, Harford County - *no*
- Blake, Russell W., Worcester County
- Bostian, William J., Talbot County - *no*
- ✓ Bowling, Samuel Y., Charles County
- ~~Bruce, Anthony (Tony), Somerset County~~
- ✓ Corkran, William H. Jr., Talbot County
- ✓ Elbrich, Joseph J. Jr., Anne Arundel County
- ✓ Glendening, Parris, Prince George's County
- ✓ Gutman, James E., Anne Arundel County
- ✓ Hearn, J. L., MD Dept. of Environment
- ✓ Hickernell, Ronald, Baltimore County
- ✓ Jarvis, Thomas L., Caroline County
- ✓ Krech, Dr. Shepard Jr., Talbot County
- ✓ Langner, Kathryn D., Cecil County
- ✓ Lawrence, Louise, Department of Agriculture
- ✓ Little, J. Rodney, DHCD
- ✓ Peck, Jim, Department of Natural Resources
- ✓ Phillips, G. Steele, Dorchester County
- ✓ Price, Robert R. Esquire, Queen Annes County
- ✓ Schoepflein, Robert, DEED
- ✓ Whitson, Michael J., St. Mary's County
- ✓ Williams, W. Roger, Kent County
- ✓ Young, Ronald, Maryland Office of Planning - *yes*

*(177)*

*yes [unclear] late - Jan*

*left before mtg*

**STAFF**

- ✓ Sarah J. Taylor, Executive Director
- ✓ Hugh Smith, Public Affairs Officer
- ✓ Peggy Mickler, Commission Secretary
- ✓ George Gay, Commission Counsel

- Liz Zucker, Science Advisor
- Pat Pudelkewicz, Planner
- Claudia Jones, Planner
- Tom Ventre, Planner
- Dawn McCleary, Planner

- ✓ Carolyn Watson, CA Coordinator, P. G. County - *Geo. Chalktown*
- ✓ Larry Duket, CA Coordinator, State Planning
- ✓ Janet Gleisner, Circuit Rider
- ✓ Robey Hurley, Circuit Rider

*Theresa*  
*Anne*



THE COUNTY COMMISSIONERS  
OF QUEEN ANNE'S COUNTY

COUNTY OFFICE BUILDING

208 N. Commerce Street

Centreville, Maryland 21617

Phone: (410) 758-0322

Fax: (410) 758-1170

A. A. MACGLASHAN, III

WILLIAM V. RIGGS, III

OSCAR A. SCHULZ

ROBERT D. SALLITT, Administrator

LYNDA H. PALMATARY, Clerk

PATRICK E. THOMPSON, Attorney

April 28, 1992

RECEIVED

MAY 4 1992

DNR  
CRITICAL AREA COMMISSION

The Honorable John C. North, II, Chairman  
Chesapeake Bay Critical Area Commission  
45 Calvert St., 2nd Floor  
Annapolis, Maryland 21401

Dear Judge North:

Please review the following revision to the Queen Anne's County Critical Area Ordinance. This amendment was recommended favorably by the Queen Anne's County Planning Commission on April 9, 1992. We ask that the Critical Area Commission review this amendment as a "program refinement", thereby eliminating the need for a public hearing at the State level.

We look forward to hearing from you.

Sincerely,

THE COUNTY COMMISSIONERS  
OF QUEEN ANNE'S COUNTY

Wm. V. Riggs III  
WILLIAM V. RIGGS, III, PRESIDENT

A. A. MacGlashan III  
A. A. MACGLASHAN, III

Oscar A. Schulz  
OSCAR A. SCHULZ

CC: Julius Lichter, Esquire



DEPARTMENT OF PLANNING AND ZONING  
QUEEN ANNE'S COUNTY  
COUNTY OFFICE BUILDING  
208 N. COMMERCE STREET  
CENTREVILLE, MARYLAND 21617  
410-758-1255

410-758-4088 Permits  
410-758-0366 Fax

[ ] - deleted

CAPS - new language

§ 5000 - GRANDFATHERING EXISTING USES, PARCELS OR LAND AND  
SUBDIVIDED LOTS

C. NOTWITHSTANDING CONTRARY DENSITY REQUIREMENTS OF THIS  
ORDINANCE, LAND SUBDIVIDED INTO LOTS OF RECORD PRIOR TO DECEMBER 1,  
1985 MAY BE DEVELOPED FOR ANY PERMITTED RESIDENTIAL USE AT A  
DENSITY NOT EXCEEDING THE FOLLOWING:

1. THE NUMBER OF EXISTING LOTS IN THE SUBDIVISION; OR
2. DENSITY REQUIREMENTS OF THE ZONING ORDINANCE, WHICHEVER  
IS LESS.

**RECEIVED**

MAY 4 1992

DNR  
CRITICAL AREA COMMISSION

J. JOSEPH CURRAN, JR.  
ATTORNEY GENERAL

RALPH S. TYLER, III  
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  
MAUREEN O'F. GARDNER  
PAMELA P. QUINN  
SEAN COLEMAN  
SHARON B. BENZIL  
MEREDITH E. GIBBS  
GEORGE E.H. GAY  
OLGA M. BRUNING  
EILEEN E. POWERS  
ASSISTANT  
ATTORNEYS GENERAL

STATE OF MARYLAND

OFFICE OF THE ATTORNEY GENERAL

**RECEIVED**

APR 30 1992

DNR  
**CRITICAL AREA COMMISSION**

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

April 28, 1992

MEMORANDUM

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

FROM: George E. H. Gay *George E. H. Gay*  
Assistant Attorney General

RE: In the Matter of an Appeal from the Decision of the Chesapeake Bay Critical Area Commission Concerning Chesapeake Industrial Park/Calvert Estates (STSP #89-1551) for Growth Allocation Approval, Case No. CA 91-1311

As indicated by the enclosed Order, the above-referenced case has been dismissed with prejudice. As a consequence, three St. Mary's County's growth allocations remain on my litigation list. In each case, the opposing party or Appellant is St. Mary's County.

If you have any questions with respect to this matter, please do not hesitate to contact me.

By copy of this memorandum, I am advising Ren that he need not put together an administrative record of proceedings for this matter unless I advise him to the contrary in the future.

GEHG:cjw

Enclosure (as stated)

cc: Sarah J. Taylor, Ph.D., Executive Director  
Mr. Ren Serey

IN THE CIRCUIT COURT FOR ST. MARY'S COUNTY, MARYLAND

IN THE MATTER OF AN APPEAL  
FROM THE DECISION OF THE  
CHESAPEAKE BAY CRITICAL AREA  
COMMISSION CONCERNING CHESAPEAKE  
INDUSTRIAL PARK/CALVERT ESTATES  
(STSP #89-1551) FOR GROWTH  
ALLOCATION APPROVAL

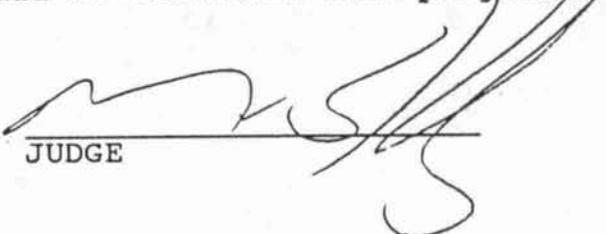
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CA 91-1311

\* \* \* \* \*

ORDER

On April 16, 1992, the parties to this appeal, by their respective counsel, appeared before this Court and orally entered upon the record a stipulation to dismiss this appeal with prejudice. Therefore, it is this 21<sup>st</sup> day of April, 1992 :  
ORDERED that this appeal is and shall be dismissed with prejudice.

  
\_\_\_\_\_  
JUDGE

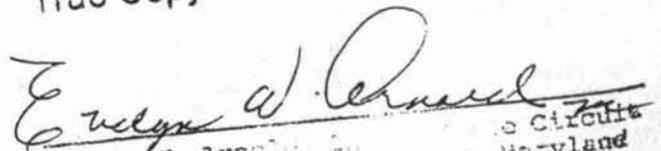
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APR 21 1992

GENERAL LEGAL DIVISION

**FILED**  
APR 21 1992  
CIRCUIT COURT  
FOR  
ST. MARY'S CO., MD.

True Copy Test

  
Evelyn W. Arnold  
Court for St. Mary's County, Maryland