

Committee Meetings & Correspondence June 1992

MSA-S.1832-95

AGENDA

Chesapeake Bay Critical Area Commission
NAVORDSTA
Indianhead, Maryland
June 3, 1992

SUBCOMMITTEES

- 10:00 a.m. - 11:30 a.m. Special Issues
To review proposed changes to the Criteria
for the Legislature
- 10:00 a.m. - 12:00 p.m. Program Amendment & Implementation
- 10:30 a.m. - 12:00 p.m. Project Evaluation
A) To discuss & approve the Mosquito General
Approval with Dept. of Agriculture
B) WSSC Hyattsville Gravity Sewer Project
- 11:00 a.m. - 11:30 a.m. MDOT-MOU
To tie loose ends together if there are any prior
to MOU approval
- 12:00 p.m. - 1:30 p.m. LUNCH/PRESENTATION
- Presentation by the Navy on their non-structural efforts
Presentation of Governor's awards of Recognition

AGENDA

- 1:30 p.m. - 1:40 p.m. Approval of Minutes John C., North, II, Chairman
of May 6, 1992

PROGRAM AMENDMENT & REFINEMENTS

- 1:40 p.m. - 2:00 p.m. Talbot County - Theresa Corless, Planner
9 Growth Allocations VOTE
passed
- 2:00 p.m. - 2:20 p.m. Elkton Mapping Mistake Anne Hairston, Planner
UPDATE ✓
- 2:20 p.m. - 2:40 p.m. Cecil County - Special Anne Hairston, Planner
Growth Allocation -
Small Lots - VOTE
passed

PROJECT EVALUATIONS

- 2:40 p.m. - 3:00 p.m. WSSC - Hyattsville Theresa Corless, Planner
Sewer Project - VOTE
passed
- 3:00 p.m. - 3:20 p.m. North Point State Park Anne Hairston, Planner
~~UPDATE~~ *passed*
VOTE

O V E R

POLICIES AND PROCEDURES

3:20 p.m. - 3:35 p.m.	General Approval for Mosquito Control, Maryland Dept. Of Agriculture	Elizabeth Zucker, Science Advisor VOTE
3:35 p.m. - 3:50 p.m.	MOU - MDOT - VOTE	Jim Gutman, Chair Claudia Jones, Planner
3:50 p.m. - 4:35 p.m.	✓ Growth Allocation Policy - Discussion	Pat Pudelkewicz, Planner
4:35 p.m. - 4:50 p.m.	Legal Issues - Status	George Gay, Assist. Atty. Gen.
	A) Queen Anne's County B) Betterton Bay Club C) Other	
4:50 p.m. - 5:00 p.m.	Old Business New Business	John C. North, II, Chairman
	Adjourn	

CHESAPEAKE BAY CRITICAL AREA COMMISSION

May 6th, 1992

Department of Housing and Community Development
100 Community Place, Conference Room 1100 A
Crownsville, Maryland

The Chesapeake Bay Critical Area Commission met at the Department of Housing and Community Development in Crownsville, Maryland. The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

Blake, Russell	Bowling, Samuel
Corkran, William	Elbrich, Joseph
Glendening, Parris	Gutman, James
Hearn, J.L. MDE	Hickernell, Ron
Jarvis, Thomas	Krech, Shep
Langner, Kathryn	Lawrence, Louise DOA
Little, J. Rodney DHCD	Peck, Jim DNR
Phillips, Steele	Price, Robert, Jr.
Schoeplein, Robert DEED	Whitson, Michael
Williams, Roger	Young, Ronald, MOOP

The Minutes of the April meeting were read and an amendment to an entry of 25054 acres of growth allocation for Talbot County was corrected to 2054 acres on page 8.

Chairman North asked Ms. Dawnn McCleary to report on the State of Maryland's **Maryland Port Administration Surface Paving Project at Masonville Marine Terminal.**

Ms. McCleary briefed the Commission in a staff report which was disseminated to them which provided as follows:

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.

Stormwater Management Information attached include: 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) Greiner, 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.

Ms. McCleary introduced Mr. Wat Bowie, Greiner, Inc., who gave a presentation to the Commission on the Masonville Marine Terminal. He stated that about 14 years ago the land was purchased by the Maryland Port Administration from the Arundel Corporation and at that time steps were taken to develop portions of the land for the use of various marine terminal facilities. He described the proposed paving site. He said that the site had a drainage swale which exits to the north of the property and enters the Bay waters directly. The proposal for the paving would be to take this existing ditch and convert it from its current

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course by allowing it to drain into a retention/extended detention pond. He said that the pond will also handle runoff from future paving for the entire site.

Commissioner Ron Hickernell asked if the water quality enhancement would handle just the retention pond or would it also include sediment input.

Mr. Bowie responded that there are a series of ditch checks; that the newly relocated ditching would be installed on the east side; that ditch checks in the existing ditch currently drained (which was done under the '88 permits) into the pond; and, then there are buffer type areas along the side slopes.

Mr. Hickernell asked if anything would be done for oil slicks.

Mr. Bowie said that there was a maintenance commitment within the Water Quality Certification from MDE which provides for an outlet structure with a concrete baffle.

Mr. David Moriconi, of Greiner, Inc. explained that the outlet structure has a concrete baffle which goes into the permanent pool and the surface waters are not directly drained into the Bay. He said that the maintenance schedule would provide for adequate cleaning and the oil would be retained in the pond.

Commissioner Gutman asked if there was an NPDES permit from MDE for this facility.

Mr. Moriconi said that a Water Quality Certification was granted for the pond under the original permit in 1988 and it is still in effect, but MDE is reviewing the plans for the 10%.

Mr. Gutman asked if there was any off-site drainage into this pond.

Mr. Moriconi said that it was only on-site drainage.

Mr. Gutman asked when the determination had to be made on this request and how long has the Commission had the project.

Ms. McCleary responded that the project came very quickly to the Commission and it has been up for review for one month. She said that it must be voted on this month.

Mr. Mike Hild, Chief Engineer, Maryland Port Administration, stated that the urgency of the determination is that Hobelman Port Services who leases an area for parking of import foreign automobiles, has said that Acura, one of their major clients, has put them on notice that they will no longer allow their cars to be parked on the site unless it is paved by the end of June.

Mr. Gutman asked if any other permits from any State or Federal agency are required for this project or if they had all the permits required.

Mr. Moriconi stated that the only one that they do not have is the final approval from MDE and they are reviewing the plans.

Commissioner Langner made a motion to approve the Masonville Marine Terminal Surface Paving with 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.
3. A detailed maintenance plan must be provided by Greiner, Inc. and Maryland Port Administration for the pond.

The motion was seconded and carried unanimously.

Chairman North asked Ms. Theresa Corless to report on Talbot County's Growth Allocation Amendments.

Ms. Corless gave a detailed informational report to the Commission in a staff report disseminated to them which provided as follows:

1. J. McKinney Willis - North Bend II. Map 33, parcel 43. The County requests 37 acres of Growth Allocation for the development of

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- 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.
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.
 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.
 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.
 5. Lyles Carr et al - Winterbottom Acres. Map 31, parcel 93. The County requests 14.72 acres of Growth Allocation for a 9 l o t s 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.)
 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.
 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.
 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.
 9. FUS Inc., James & Beatrice Harrison, Robert T. Fuller, and William & Christine Hunter. Map 42, parcels 58, 65, 274, 173 and a ~~part~~ 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.

Chairman North asked Ms. Anne Hairston to report on the **Town of Elkton Map Amendment.**

Ms. Hairston briefed the Commission on the request and disseminated a staff report to them which provided as follows:

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./ Remie 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)

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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.

Commissioner Kathryn Langner stated that at the time the panel was reviewing the program for approval the panel members were not aware that there was sewer on the property because the report said that there were no sewer lines on that property.

Ms. Hairston said that there has been discussion that the property is adjacent to the old sewer treatment plant, and that it had sewer lines on the property but there may be some question as to whether those sewer lines are there to serve that property or some of the adjacent existing development.

Mr. Sam Bowling asked if there was capacity at the time of program development.

Ms. Hairston stated that she assumed so and that she didn't think that Elkton had a lot of limitations in terms of capacity. Ms. Hairston said that there is a new treatment plant up by the Elk River.

Mr. Gutman said that he was a member of the panel and this parcel was examined with great detail. He said that the panel was aware of the pipe that was just mentioned however, he did not believe that the pipe was in use or connected anywhere for usage. He said that he did not remember clearly all the factors involved but that he was not happy to hear that he had made a mistake. Mr. Gutman said that he would request that the Commission staff do a literature search of what was discussed and what was approved by that earlier panel as well as what was approved by the Commission.

Ms. Hairston said that some of that information, such as the minutes of the meeting at the time the Elkton Program was approved, was included in the consultants' report. The minutes included some discussion of this parcel. She said that if there was any more information in the files, it would be forwarded to Mr. Gutman.

Chairman North asked Mr. Thomas Ventre to report on the **Town of Secretary's request for Refinement.**

Mr. Ventre stated that the Town of Secretary has proposed an amendment to its ordinance to add language mandated by the General Assembly's amendments to the Critical Area Statute regarding allowable limits for impervious surfaces on certain lots.

The Town requested that the changes be deemed a program refinement by the Chairman, and the staff recommended this to the Chairman. The Chairman agreed, and now seeks the Commission's concurrence with his determination. The Commission supported the Chairman's decision.

Chairman North asked Ms. Claudia Jones to report on **Queen Anne's County Refinement request.**

Ms. Jones disseminated a staff report to the Commission which provided as follows: 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.

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Judge North has determined that this change can be handled as a refinement. The Commission supported the Chairman's decision.

Chairman North asked Ms. Patricia Pudelkewicz to report on Bachelor's Point Growth Allocation request in Talbot County.

Ms. Pudelkewicz stated that at the last meeting of the Commission in April a mapping mistake for this parcel was denied but the possibility of debiting growth allocation under a grandfathering clause in the Criteria was considered. She disseminated a staff report to the Commission members which provided as follows:

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

Ms. Pudelkewicz stated that Chairman North has determined this to be a refinement.

The Commission supported the Chairman's decision.

Mr. Gutman asked what mechanism would be used to enforce the stipulation.

Mr. Dan Cowee replied that it will be annexed with the growth allocation. He said that if and when the 2-acre parcel came up for development it would have to go through the growth allocation process.

Chairman North asked Ms. Anne Hairston to report on Cecil County's Special Growth Allocation request.

Ms. Hairston briefed the Commission on the request in a staff report disseminated to them which provided as follows:

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

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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 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.

Commissioner Joseph Elbrich asked if Cecil County's regulations govern the entire parcel or just that portion inside the Critical Area, because it appears that there is sufficient area outside the Critical Area for additional lots to be developed.

Ms. Hairston replied that there was no road access to that area at this time and that there is a plat note that says that the lots cannot be further subdivided, which is a condition imposed on the parcel in its entirety. In general, the Critical Area Regulations apply only to the Critical Area portion. She said that because of the lot schedule for the "Special Growth Allocation", the number of lots allowed would be the same whether the entire acreage or only that in the Critical Area was used in this situation.

Chairman North asked Ms. Hairston to report on **Port Deposit's Subdivision Ordinance**.

Ms. Hairston disseminated a staff report outlining the request to the Commission members which provided as follows:

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.

Ms. Hairston said that Chairman North has determined this to be a refinement. The Commission supported the Chairman's determination.

Chairman North updated the Commission on **Queen Anne's County Program**. He said that on April 14th he wrote a letter of response to the County Commissioners' letter to him of March 31st suggesting that several matters required further thought and attention. He said that he received no direct response to the issues which he had raised in that letter, but instead he received a letter signed by Joe Stevens in which Mr. Stevens requested, under the "Freedom of Information Act", the production of a number of public records. Following the receipt of that letter and after consultation with Dr. Sarah Taylor and Commission Counsel, George Gay, it was suggested to Counsel Gay that a discussion with the Attorney for Queen Anne's County, Chris Drummond was in order. Counsel Gay did that and indicated that as a result of that conference it would be helpful if a meeting were set up between the Critical Area Commission and the Commissioners. Chairman North stated

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that on the "process issue" the County seems adamant but that there is ground for further discussion with respect to some of the other items. Chairman North stated that Counsel Gay has replied in a memorandum to him outlining in further detail a suggestion that the request for the detailed information made by Joe Stevens be for the moment set aside; and, rather than go to the very involved and extensive efforts required in digging out all the material that the issue be put on the back burner until there is an opportunity to have further discussion directly with the County. Chairman North stated that it would seem appropriate that this matter be continued for another 60 days to give time for further conferences and negotiations.

Mr. Gutman made a motion to continue the negotiations for another 60 days. The motion was seconded and carried unanimously.

Chairman North asked Dr. Sarah Taylor to update the Commission on the **Betterton Bay Club**.

Dr. Taylor stated that there have been a couple of phone calls and a meeting with Mr. Savino since the last Commission meeting. She said that Mr. Savino has submitted his last set of corrections on the Consent Decree but the Commission Staff has not had the opportunity to examine them yet. She stated that a meeting has been suggested for Mr. Savino, his attorney, Mr. Bowman, Judge North and Counsel Gay, Pat Pudelkewicz, CBCAC Planner and Elizabeth Zucker, CBCAC Science Advisor and Dr. Taylor on May 14th so that the matter can be resolved. Dr. Taylor stated that after the Consent Decree and Exhibit are signed a request is expected from the Town of Betterton for growth allocation for this project.

Chairman North added that he had received a letter dated April 24th from the Department of the Army regarding Betterton in which the Aberdeen Proving Ground has said that according to the plan, "Betterton is located in zone #2, an area where high and low frequency noise can be considered unacceptable".

Commissioner James Peck asked if a copy should be forwarded to Mr. Savino. Chairman North agreed that Mr. Savino should and would be provided with copies of the letter.

Chairman North asked Mr. Ren Serey to update the Commission on **Calvert Industrial Park and the Chesapeake Estates**.

Mr. Serey said that last fall the Commission was presented with six growth allocations in St. Mary's County, of which five of the requests were denied by the Commission and the County had appealed three. He said that a fourth growth allocation request was appealed by the landowner - which is the Calvert Industrial Park and Chesapeake Estates. He stated that it is his understanding that the appeal, because of filing and other procedural errors, has now been dismissed, with prejudice. He further stated that it may possibly be seen again through another growth allocation request in the future. He said that the request was denied by the Commission because the County Program required a minimum of 20 acres set aside in a permanent easement plan and this property had only 16 acres.

OLD BUSINESS

Chairman North stated that he had received a letter from Somerset County dated May 5th asking for a clarification of the growth allocation approval for Colbourn's Cove which was voted on at the April 1st meeting.

Ms. Claudia Jones stated that the project contains 57 acres in the Critical Area and that under the Somerset County Program one acre per lot could be deducted

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if they could limit the development to 20,000 square feet but the remainder of the property has to be in natural vegetation. She said that the applicant does not believe that that is practical. The County wanted a clarification on what the repercussions would be if that couldn't be done, whether the entire 57 acres would be deducted.

Mr. Hickernell asked if the applicant did not like the response of the Commission would Somerset County alter its application based on the applicants request.

Ms. Jones said that there were several conditions and one was a requirement that they keep the remainder of the property in natural vegetation with one option to deduct the entire 57 acres.

Chairman North summarized the request from the letter received from the County: "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. 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 imperiling the project itself."

Ms. Jones added that what Somerset County was hoping for was that another condition could be added at this meeting so that the developer would not be detained; and, that they would like the option of deducting the entire 57 acres. She further stated that if the applicant and the County wanted to reconfigure somehow to set aside 20 acres that the project would have to come back to the Commission.

Mr. Hickernell stated that his position is that the entire site be deducted.

Commissioner Bob Price made a motion that the following option be added to the previously approved conditions for the Somerset County growth allocation request: that the County may request the entire 57 acres to be reclassified as LDA and to deduct the 57 acres from its growth allocation. The motion was seconded.

It was suggested that request be amended in the motion to "be granted" which Mr. Price agreed to. Chairman North called the question. The vote was unanimously in favor.

Chairman North asked Ms. Claudia Jones to report on the Department of Transportation's Memorandum Of Understanding.

Ms. Jones stated that the Subcommittee and the Department of Transportation have agreed on an MOU and it will be mailed to the Commission members for their review and for a vote at the next meeting.

NEW BUSINESS

Chairman North appointed a panel for Cecil County for a Special Growth Allocation: Ronald Young, Chair; Bill Corkran, Roger Williams, Phil Barker and Jim Gutman.

The panel appointments for the Elkton Mapping Mistake: Ron Hickernell, Chair; Bob Schoeplein, Shep Krech, Phil Barker and James Gutman.

The panel appointments for the Comprehensive Review of Anne Arundel County: James Gutman, Chair; Ron Hickernell, Parris Glendening, Shep Krech, J.L. Hearn and Sam Bowling.

The panel appointments for the Comprehensive Review of Baltimore County: J.L. Hearn, Chair; Kay Langner, Phil Barker, Roger Williams and Anthony Ambridge.

The panel appointments for the Comprehensive Review for Baltimore City: Judge North, Chair; Jim Gutman, Bill Bostian, Rodney Little and Bob Schoeplein.

Mr. Hugh Smith, Public Affairs Officer for the Critical Area Commission, informed the Commission that the next meeting of the Commission would be held in

Chesapeake Bay Critical Area Commission
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Charles County at the Naval Surface Warfare Station, Indian Head, Maryland - the former Naval Ordnance Station, at the "Mix House". For security purposes, the facility is requesting the name, drivers license numbers and tag numbers of any participants of that meeting.

Commissioner Parris Glendening announced that the video shown to the Commission entitled "A Year in the Life of a River" involving the Anacostia River, has been selected by several national groups as part of both the Clean Air Act and Clean Water Act observed Earth Day and is being shown nationwide on television.

Mr. Glendening also announced that there had been a formal transfer of the Fort Meade property to Prince George's County adding land to the Patuxent Wildlife Area which-more than doubles the size of that facility.

Dr. Taylor stated that the Oversight Committee will be playing an active role this summer in reviewing the accomplishments of the Critical Area Program and reviewing proposed changes for the Criteria. She stated that there had been a discussion with Chairman Ron Guns, Co-Chair Delegate Weir and with Senator Bernie Fowler of the Oversight Committee, regarding five areas to begin deliberations. Three are areas of process and procedure. She said that the State's Non-tidal Wetland Program is now in effect, the Forest Conservation Act and Regulations and the New Growth Management Act are in effect. She said that there are procedures dealing in all three areas that are completely within the complement of the Critical Area program. Procedures are being established for Growth Management Act, and there are procedures and processes under the Forest Conservation Act and Non-tidal Wetlands Act. She stated that since there are 60 jurisdictions affected by all four pieces of legislation, whatever can be done to take the processes and procedures between all pieces of legislation and make them less onerous to the local jurisdictions will be done. She said that a subcommittee of the Critical Area Commission would be involved as well as the local jurisdictions and the Oversight Committee and that the subcommittee would be formulated within the next two weeks.

The other two areas suggested by the local jurisdictions were to revisit the water dependent use portion of the criteria and forests and developed woodlands. She said that the Oversight Committee appears receptive to the review of these five areas.

Dr. Taylor informed the Commission that the Economic Incentives Handbook is about ready to go to print and she thanked the Office of Planning, particularly Mr. Larry Duket, for support with this project. This handbook is for local government officials, not for planners. She told the Commission that workshops in economic incentives are being planned and that the handbook would probably be distributed in July. Dr. Taylor said that the rewriting of the 10% criterion handbook has involved a second draft submittal. A turnaround third draft will be distributed to the local governments that have been participating with the Commission in revising the handbook for one last review. It will then be printed by the MWCOG and workshops will be held.

Commissioner Steele Phillips asked if the mapping mistakes as far as "head of tide" would be addressed anywhere.

Dr. Taylor responded that it was an area that should be addressed.

There being no further business, the meeting adjourned at 2:50 p.m.

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CHESAPEAKE BAY CRITICAL AREA COMMISSION (CBCAC)
STAFF REPORT

PROJECT: General Approval of Maryland Department of Agriculture's (MDA) mosquito control activities

DISCUSSION: The CBCAC and MDA have a Memorandum of Understanding (MOU) for control of mosquitoes in the Critical Area through use of Open Marsh Water Management (OMWM) and insecticide application. The MOU calls for a General Approval of mosquito control activities. A draft General Approval has been developed by CBCAC and MDA staff. Notable elements of the document include:

- A process for CBCAC staff review of OMWM projects on State-owned lands is described.
- CBCAC staff determines if OMWM projects are consistent with water quality and natural habitat goals of the Critical Area criteria.
- Only if CBCAC staff find that certain issues can not be resolved for a particular OMWM project, will the project be brought to the CBCAC for discussion and a vote.
- CBCAC staff will review MDA's proposed insecticide applications for consistency with the Critical Area criteria through the Department of the Environment's Toxics Permit annual approval process. Only if certain issues cannot be resolved at the staff level, will the spray projects be brought to the CBCAC for discussion and a vote.
- The General Approval for the spray program contains an emergency public health exemption for spraying areas where there is a disease outbreak.

STAFF RECOMMENDATION: Approval of the General Approval with the condition that legal review by the Assistant Attorney General is completed.

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INTRODUCTION

In response to the decline of water quality and biological resources of the Chesapeake Bay ecosystem, in 1984, the Maryland General Assembly enacted the Chesapeake Bay Critical Area Law. Under the Law, the Critical Area Commission (CAC) was created and was directed to promulgate regulatory criteria for protecting water quality as well as fish, plant and wildlife habitat from land development activities along the shoreline of the Bay. In 1988, the Commission established a set of regulations (COMAR 14.19) for development proposed by State and local agencies on lands and waters of the Chesapeake Bay Critical Area.

Under COMAR 14.19, the Critical Area Commission may grant general approval to State Agencies for programs or classes of activities that result in development within the Critical Area. This document contains guidelines for a general approval of projects proposed by the Mosquito Control Section (MCS) of the Maryland Department of Agriculture. As required under the regulations, the following information is provided:

1. A description of the program or class of activities to be considered for general approval;
2. An assessment of the extent to which development resulting from the program or class of activities will be consistent with the applicable Critical Area criteria; and
3. A process by which the program or class of activities will be conducted so as to conform with applicable Critical Area requirements.

MOSQUITO CONTROL SECTION PROGRAM DESCRIPTION

The Maryland Department of Agriculture, MCS is responsible for administering and implementing mosquito control within the State of Maryland. Typical projects undertaken by MCS include mosquito surveillance activities, open marsh water management (OMWM) and aerial and ground insecticide spraying. The Program has existed since 1957 and currently operates under authority of Sections 5-401 through 5-404, Agriculture Article, Maryland Annotated Code. The Department has entered into cooperative agreements with 22 counties and 10 municipalities for mosquito control services at the local level.

Mosquito control in Maryland is conducted according to the concept of Integrated Pest Management (IPM). IPM is based on ecological principles and integrates multidisciplinary methodologies in developing ecosystem management strategies that

are practical, effective, economical and protective of public health and the environment. An IPM program consists of surveillance for larvae and adult mosquitoes; establishment of action thresholds; and selection of appropriate control strategies.

Mosquito Surveillance

Modern pest management requires surveillance data in order to plan control work, and field surveys are the foundation of an effective program. Data on the mosquitoes with the greatest potential to adversely affect public health and comfort, and information on density and distribution of the mosquito population, are essential in order to plan and conduct effective control measures.

Within the Critical Area, the species occurring in greatest abundance and that have the greatest impact on human comfort, economic growth and public health are Aedes sollicitans, Aedes taeniorhynchus, Aedes cantator, Anopheles bradleyi and Culex salinarius. All of these species belong to the salt marsh breeding group of mosquitoes and most of the control effort in the Critical Area is directed toward them. The Aedes species are particularly noteworthy because they are found in explosively large numbers and migrate many miles. Aedes sollicitans is implicated in the transmission of eastern equine encephalitis to humans and dog heartworm in canines.

Larval surveillance requires extensive logistical preparation due to the size and remoteness of the Chesapeake Bay marshes. High level aerial photography and satellite imagery are used to locate potential breeding areas based on plant community associations. Breeding areas are vegetationally characterized by salt hay (Spartina patens), Distichlis spicata and short form smooth cordgrass (Spartina alterniflora). Other plant species, such as needlegrass (Juncus roemerianus), salt marsh threesquare (Scirpus robustus), common reed (Phragmites australis) and panicgrasses (Panicum virgatum) are also associated with mosquito breeding habitat on the high marsh.

Potential breeding areas are subjected to ground truthing to confirm the location of the sites and to measure the presence of mosquito larvae. Confirmed breeding areas, mapped on United States Coast and Geodetic topographic maps (scale 1:24,000), are used as a reference for future surveillance. Frequent and regular inspections of breeding areas are conducted from March through September to determine larval density and species composition.

Larval surveillance data are used to guide the course of the control program and are the most important field data available to the mosquito control manager. This information is used in the decision-making process to determine the effectiveness of the control.

Breeding areas which produce large numbers of salt marsh Aedes, with five or more generations produced per season, located within 20 miles of a community are designated as primary sites for control. Areas producing fewer Aedes less frequently are classified as secondary sites and are assigned a lower priority for control. Culex and Anopheles mosquitoes have a much more restricted flight range than do Aedes mosquitoes and breeding areas for these former species more than two miles from a community are not considered for control. All breeding sites within a community, or less than two miles from the perimeter of a community, are designated as primary control sites.

Surveillance for adult mosquitoes is conducted using light traps and landing rate counts. The adult mosquito annoyance level as determined by a New Jersey style light trap, the most common type of trap used, is 24 female mosquitoes per trap night. This means that a collection of more than 24 female mosquitoes per night of trap operation elicits discomfort and/or complaints from the majority of people and control efforts are required.

Landing rate collections are more reliable, immediately available indicators of adult mosquito activity. The counts are taken for a short period of time (1 to 5 minutes) at specific, predetermined locations. Inspectors serve as "bait" to attract adult mosquitoes which attempt to blood feed.

Mosquito Control Options

After surveillance and demographic data are analyzed and a decision is made that control efforts are justified, several options are available. These range from complex to simple, inexpensive to costly, short-term to long-term. The selection of an appropriate option is dictated by the extent of the mosquito problem and the resources available.

Open Marsh Water Management (OMWM) - This technique is directed toward the control of salt marsh Aedes mosquitoes. It is the most complex control strategy utilized in the Critical Area and accomplishes control without the use of insecticides. It accomplishes control by incorporating physical control and biological control. It is a long-lasting form of control and a system, if properly designed, has a life expectancy of 20 years or longer. Due to this longevity, OMWM is the most economical form of control. OMWM provides effective control of mosquitoes at their source. It also utilizes wildlife management techniques

to provide habitat for a variety of game and non-game species of wildlife. The ponds constructed for OMWM projects provide habitat for submerged aquatic grasses, and the sill ditches can enhance the tidal marsh food web. A full description of the OMWM techniques used in Maryland is contained in the document "Standards for Maryland Open Marsh Water Management".

Marsh management work within the Critical Area requires a US Army Corps of Engineers permit and State permits. Prior to submission of permit applications, the Department of Agriculture prepares a plan of the project showing the site to be managed for review by the Maryland Mosquito Control Advisory Committee prior to submission to the State agencies and Corps of Engineers. This allows the Committee to resolve potential problems prior to the issuance of a Public Notice. The Advisory Committee is composed of a diverse group of State and federal environmental agencies and has been instrumental in guiding the mosquito control program since 1976.

Two comprehensive studies have been conducted to determine the impact of the OMWM program on Chesapeake Bay high marsh communities. These studies have been used to develop the current techniques used in the program. Since these studies have been completed, there have been continued improvements of the program, including longer sills to avoid muskrat damage and erosion, and larger ponds to improve waterfowl habitat. Other projects have utilized flashboard riser water control structures to regulate water depth so that a seasonal management scheme can be followed to maximize mosquito control and resource enhancement.

Control with Insecticides - Control of mosquitoes through the use of insecticides is commonly referred to as temporary control because the non-residual insecticides used in the Maryland program provide only short-lived reduction of mosquito numbers. The temporary control program is divided into two categories, larviciding and adulticiding. All insecticide applications must be done by or under the supervision of a certified pesticide applicator, category VIII, who is certified by the Maryland Department of Agriculture.

Larviciding - Larviciding (insecticide application directed against the larval stages of mosquitoes), is the most efficient type of insecticide control. The primary mission of the Maryland mosquito control program is to prevent, or significantly reduce, adult mosquito annoyance to humans and domestic livestock. It is far easier and more economical to eradicate, or to substantially diminish, a brood of mosquitoes while they are concentrated as larvae in the aquatic habitat than to control them as adults. For example, the adult mosquitoes produced on one acre of breeding area can disperse over 50,000 acres, assuming a flight range of only five miles. Therefore, larviciding that one acre of breeding area will kill the same number of mosquitoes as could

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adulticiding 50,000 acres.

All larvicide applications are based on a demonstrated presence of mosquito larvae. No spraying is done on a scheduled basis. Larval inspections are conducted by trained personnel capable of identifying instar, or larval stages, and of distinguishing among Aedes, Culex and Anopheles larvae. Inspections for Aedes larvae must be carried out quickly after heavy rains or flooding tides because during the summer, larvae develop at a rate of almost an instar per day. Therefore, breeding sites must be located and treated within five days after flooding. In most instances, when widescale flooding has occurred, only a small portion (1% or less) of the breeding area can be inspected and a determination made on the need for treatment. The sites selected for sampling are representative and serve as indicators for the larger area.

Larvicides are applied using manually-carried or vehicle-mounted spraying equipment or from specifically equipped aircraft. Ground application is more economical and has the advantage of being able to apply insecticides to specific larval breeding sites only, as opposed to aerial application where an entire area is treated and much insecticide falls on non-target areas. However, aircraft are needed when large areas must be treated within the short time available for treatment. Aircraft also are able to apply an insecticide very evenly over large areas that would be difficult or impossible to traverse on the ground.

Larvicide applications can only be made under a permit of authority issued by the Maryland Department of the Environment. Permit applications are issued on a county basis for specific areas within the county for individual insecticides. The permit allows a limited number of insecticide application within a specific time frame.

The insecticides currently used for larviciding in the Critical Area include Bacillus thuringiensis var. israelensis (B.t.i.), a naturally produced bacterial toxin; methoprene (Altosid), a synthetically produced insect growth regulator; and temephos (Abate) an organophosphate. B.t.i. is the least toxic material available for larviciding and, when applied from the ground, it is usually effective. It is the most commonly used larvicide for ground application. However, B.t.i. has been largely ineffective in controlling mosquito populations when aerially applied to salt marsh areas. B.t.i. must be ingested by Aedes larvae in sufficient concentration to cause death by disruption of the function of the larval midgut. This often is not realized due to the large number of larvae present, the abundance of natural food in salt marsh pools and the loss of B.t.i. through evaporation and drift when applied by aircraft. Temephos is the most commonly used larvicide for aerial application because it is highly effective. Methoprene is the

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least used larvicide because it is not permitted by the Department of the Environment for general use. It is used in isolated areas where translocation to an estuary is unlikely due to a concern regarding its toxicity to oysters.

Adulticiding - Despite all efforts to prevent adult mosquito populations from reaching annoyance levels, it is inevitable that outbreaks will occur. When this happens, it is the mosquito control manager's responsibility to reduce mosquito numbers to a point below the action threshold to protect public health and comfort. Adulticiding is most effective when the adult mosquito population is localized, or when spraying is carried out uniformly over a large area to prevent reinfestation of treated areas.

Localized adult mosquito populations are generally suppressed with applications of insecticide dispersed from truck-mounted, ultra-low-volume (ULV) aerosol generators. ULV units disperse concentrated insecticide (Cythion) at about 0.66 fl. oz. per acre over an effective swath width of 300 feet. Applications ideally are made when wind velocity is 2 to 8 mph, air temperature is between 70 to 85 degrees F, relative humidity is high and a temperature inversion exists. The annoyance level to justify a ground ULV application varies from a landing rate count of one mosquito per minute to one mosquito per five minutes. The higher annoyance level (1/minute) is used in the southern Eastern Shore region because of the human population's greater tolerance to mosquitoes. The lower annoyance rate is used in the remainder of the Critical Area. In the event of an outbreak of mosquito transmitted disease within the human population, adulticiding would occur wherever mosquitoes were found within a populated area.

Aerial spraying for adult mosquito control is conducted when large numbers of mosquitoes infest a community or populated area of 500 acres, or more, and is generally directed against salt marsh Aedes. Spraying is conducted with a variety of aircraft types. The principal insecticide used for aerial adulticiding is naled (Dibrom) applied at the rate of 0.109 lbs per acre. Spraying is conducted when weather conditions favor high mosquito activity and maximum retention of the spray particles within the treatment area. The annoyance level used to justify aerial adulticiding is 20 mosquitoes per minute as an average of several landing rate counts taken in the proposed treatment area. Due to the high mosquito population needed for justification, most aerial spraying is carried out in the southern Eastern Shore region of Maryland. A permit from the Maryland Department of the Environment is required for the aerial application of adulticides within the Critical Area.

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CRITICAL AREA CONSISTENCY

In striving to maintain consistency with the Critical Area criteria, the MCS utilizes Integrated Pest Management and Best Management Practices for suppression of mosquitoes. The following section describes the type of measures used for the OMWM and insecticide application spray programs.

OMWM - The utilization of OMWM within the Chesapeake Bay wetlands has been shown to preserve the vegetative types present on the high salt marshes while producing some habitat diversity; enhancing the survival of native fish that provide biological mosquito control; increasing, or in many marshes, providing stands of submerged aquatic vegetation; and creating food, habitat and nesting sites for waterfowl.

Studies have shown that sill ditch outlets maintain a high water table on the marsh. Water exchange at high tide improves marsh water quality, especially pH and dissolved oxygen, characteristics necessary for healthy fish populations in ditches and ponds.

OMWM can work to promote a diverse marsh environment, and at the same time the ditches, sill ditches, ponds and pond radials, reduce mosquito populations by 90-95%. OMWM has reduced or eliminated the need for pesticide applications to mosquito breeding marshes and to adjacent communities as well.

OMWM systems are planned and designed for water retention. Ponds and pond radials are closed systems that retain water at marsh level and are subject to tidal replenishment on an average of several times per month. Sill ditches allow for limited water discharge and tidal replenishment maintaining a water level 2 to 4 inches below the marsh surface. Some open outlets are utilized where water discharge from uplands is required to maintain agriculture and woodland protection.

Efforts to mitigate the impact of ditch and pond construction and spreading of spoil on the marsh surface involve the use of amphibious rotary ditchers that spread excavated spoils in a very thin layer (1 to 2 inches) so that revegetation occurs within several weeks during the growing season. When ponds are constructed, spoil is spread to a depth of several inches. In these areas, full vegetative cover may require one or two growing seasons for full recovery. However, impacted sites represent a small percentage of the total marsh area (1 to 5% depending on the number of ponds per unit area). Ponds are expected to persist for more than 50 years without maintenance of any type. Buffer areas of marsh along the shore are not impacted, except for sill outlets. These outlets do not completely penetrate the root mat. Open ditch outlets are constructed or cleaned in the buffer areas for the reasons

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previously mentioned.

The importance of fish and natural mosquito predators in managed marshes is recognized. In order to assure fish survival in managed sites, especially closed pond systems on high salt marshes, MCS will continue to document a pond water quality monitoring activity designed to detect adverse impacts caused by dry-downs, or insufficient flushing action.

Insecticide Application - Integrated Pest Management concepts govern pesticide use throughout the state in both county and state directed control efforts. The use of surveillance data; mosquito action levels; correct timing of pesticide applications; biodegradable, third generation pesticides; and biological control are utilized for effective control, and comprise the pest control best management practices available for conducting a scientific insect control program. Maryland's toxic permit review process provides additional safeguards, as the Department of the Environment and the Department of Natural Resources review and approve the application of toxic materials to Maryland wetlands.

Integrated Pest Management for mosquito control presently includes the application of insecticides under a system of established action thresholds. Surveillance of larval and adult mosquito populations provides the information required to justify the time and location of each insecticide application. One goal of best management pest control practices is to reduce the quantity of insecticide applied and to utilize biological control whenever possible. This works to reduce impacts on nontarget organisms.

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PROCEDURES FOR GENERAL APPROVAL

In the following section, procedures for implementing a general approval process of mosquito control projects are outlined. A procedure is described for OMWM activities on State lands under COMAR 14.19.05, as well as a procedure for OMWM activities proposed on private or local lands under COMAR 14.19.02. or COMAR 14.19.04. Also included is an outline of CAC review procedures for MCS spray program activities.

A. OMWM Projects - State Agency Actions on State-owned Lands (COMAR 14.19.05)

Step #1 MCS sends information on the proposed project to the CAC staff. Projects shall be submitted before the commencement of construction or the issuance of requests for proposals for site development, whichever is the earliest.

At a minimum, the information package should include maps (of State lands) showing:

- a. the Critical Area Boundary (as determined from the State Wetlands Boundaries Map);
- b. the minimum 100-foot shoreline Buffer and its expansion (where required);
- c. all Habitat Protection Areas (HPAs) as described in COMAR 14.19.05.09 through .13 and as identified with assistance from the Department of Natural Resources (DNR);
- d. areas of proposed disturbance (temporary and permanent).

The information package should also include a written discussion of:

- a. type of activities proposed (e.g. number and size of ponds, ditches, sill systems) and approximate timing;
- b. potential environmental impacts from the project;

- c. mitigation measures to be taken to avoid or minimize potential impacts;
- d. copies of written communication with DNR regarding the identification and protection of HPAs;
- e. status of permits or approvals required from local, State and federal agencies.

Step #2 When necessary, MCS holds a site visit and/or meeting with CAC staff (and any other appropriate regulatory officials) to discuss the project proposal.

Step #3 CAC staff determines whether the information package is complete. Once a determination of completeness is made, CAC staff reviews the proposal for consistency with the general approval. To gain a determination of consistency, it must be established that the project:

- a. implements current standards of OMWM;
- b. includes measures to insure no significant change in wetland vegetation communities;
- c. includes measures to insure the activities will not result in significant adverse effects to water quality as well as non-target organisms and their habitat;
- d. will not adversely affect any HPAs as defined in COMAR 14.19.05.09 through .13.

The CAC staff will consult with MCS, DNR and other appropriate agencies and organizations in making a determination of consistency.

Step #4 If a determination of consistency is made for the project, CAC will send MCS a final letter of consistency. A determination of consistency will be made within 30 days following the staff's determination that the information package from MCS is complete.

Step #5 If, however, Commission staff find that unresolved issues remain with respect to the project's consistency with the water quality and habitat protection goals of the Critical area criteria, MCS will be informed that project will be submitted individually for full CAC vote under procedures outlined in COMAR 14.19.05. through 14.19.08.

Step #6 MCS and any other involved agencies and organizations will be given the opportunity to present information on the project to the full CAC at the next meeting following CAC staff's decision that a CAC vote is necessary. The CAC will then approve, approve with conditions, or deny the project proposal.

Step #7 If the project is denied, MCS may appeal the denial to the CAC according to procedures outline in COMAR 14.19.08.

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B. OMWM Projects - State Agency Actions on Private or Local Lands (COMAR 14.19.02 and .04)

Step #1 MCS will work with local jurisdictions and CAC staff according to procedures outlined in COMAR 14.19.02.

Step #2 If during the local certification process, CAC staff determines that the project is considered major development as defined in COMAR 14.19.04, then MCS and CAC staff will follow the procedures for a general approval as outlined for OMWM projects in A., Step #3 through Step #7, above (the procedure section for development on State lands). An example of projects that may be considered major development are those that may adversely affect HPA's, as described in COMAR 14.19.05.09 through .13.

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C. Insecticide Application Projects

Step #1 MCS will submit a copy of the application for a Maryland Department of the Environment Toxics Permit to CAC staff for review and comment.

Step #2 CAC staff will review the permit application to determine if the proposal is consistent with the general approval. To gain a determination of consistency, it must be demonstrated that the insecticide application program:

- a. implements current methods, rates and standards of pesticide application;
- b. includes measures to insure that spraying will not result in adverse effects to water quality or populations of nontarget organisms and their habitat;
- c. will not adversely affect any HPAs as defined in COMAR 14.19.05.09 through .13.

The CAC staff will consult with MCS, DNR and other appropriate agencies and organizations in making a determination of consistency.

- Step #3 If a determination of consistency is made for the proposed spray program, CAC will send MCS a final letter of consistency within 30 days following receipt of the complete permit application.
- Step #4 If, however, Commission staff find that unresolved issues remain with respect to the spray program's consistency with the water quality and habitat protection goals of the Critical area criteria, MCS will be informed that the unresolved element(s) of the spray program will be submitted individually for full CAC vote.
- Step #5 MCS and any other involved agencies and organizations may be given the opportunity to present information on the spray program element(s) to the full CAC at the next meeting following the staff's determination that unresolved issues remain. The CAC will then approve, approve with conditions, or deny the proposal.
- Step #6 If the spray program element(s) is denied, MCS may appeal the denial to the CAC according to procedures outline in COMAR 14.19.08.
- Step #7 A public health exemption will be issued to allow necessary insecticide application to any area denied a spray permit as described above during a mosquito-borne disease outbreak. The procedure for obtaining a public health exemption will consist of:
- a. A statement for MCS to CAC and the Maryland Department of Health and Mental Hygiene (DHMH) that a threat to public health and safety exists due to an actual outbreak of mosquito-borne disease based on clinical observation of laboratory isolation of etiologic agents;

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- b. The vector species involved;
- c. The areas involved and the reasons that a permit to allow treatment of the area was originally denied;
- d. The pesticide(s) MCS proposes to apply, the rate of applications and manner of applications;
- e. CAC staff will review the statement and respond to the request for a Public Health Exemption within 24 hours;
- f. If the exemption is not approved, an explanation for the denial will be made, along with CAC recommendations for alternative action;
- g. If the exemption is approved it will state the specific period of time for which the exemption is valid;
- h. MCS will implement necessary control, collect data as necessary to document the control program and the results and submit a report to CAC within 90 days after completion of the control efforts.

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PROJECT: Hyattsville Gravity Sewer

APPLICANT: Washington Suburban Sanitary Commission (WSSC)

JURISDICTION: Prince George's County

STAFF: Theresa Corless

STAFF RECOMMENDATION: Approval, with conditions.

This project is a phase in a much larger project to replace a number of aging pumping stations and sewer lines. Eventually, seven pumping stations will be taken off-line and replaced with the new Hyattsville Pumping Station which the Commission approved in 1990. In addition, many old and leaking sewer lines will be replaced with new lines.

This phase of the project proposes to install approximately 4,320 feet of sewer line to connect the existing Bladensburg and Baltimore Avenue Pumping Stations with the new Hyattsville Pumping Station. Eventually, the sewage that went through the two existing pumping stations will be pumped through the new station.

The proposed right-of-way for the new sewer lines will vary from 30 feet to 100 feet in width and will cross land currently in use as a utility right-of-way, public space, and Maryland National Capital Park and Planning Commission (MNCPPC) park land. The total Critical Area land involved is 17.25 acres, of which 5.25 acres are IDA and 12 acres are RCA. The project is out of the 100 foot Buffer with the exception of the crossing of the Northeast Branch, a tributary of the Anacostia River.

This project has been found to be consistent with Prince George's County's Critical Area program. The site was reviewed by the Maryland Natural Heritage Program and no threatened or endangered species were found. All areas of disturbance are to be revegetated where possible. Some areas of disturbance along the water will have to have rip-rap installed to prevent further erosion. MNCPPC has required a planting plan to be developed for areas of their land that are disturbed.

Conditions: Appropriate reforestation for right-of-way areas to be permanently cleared.

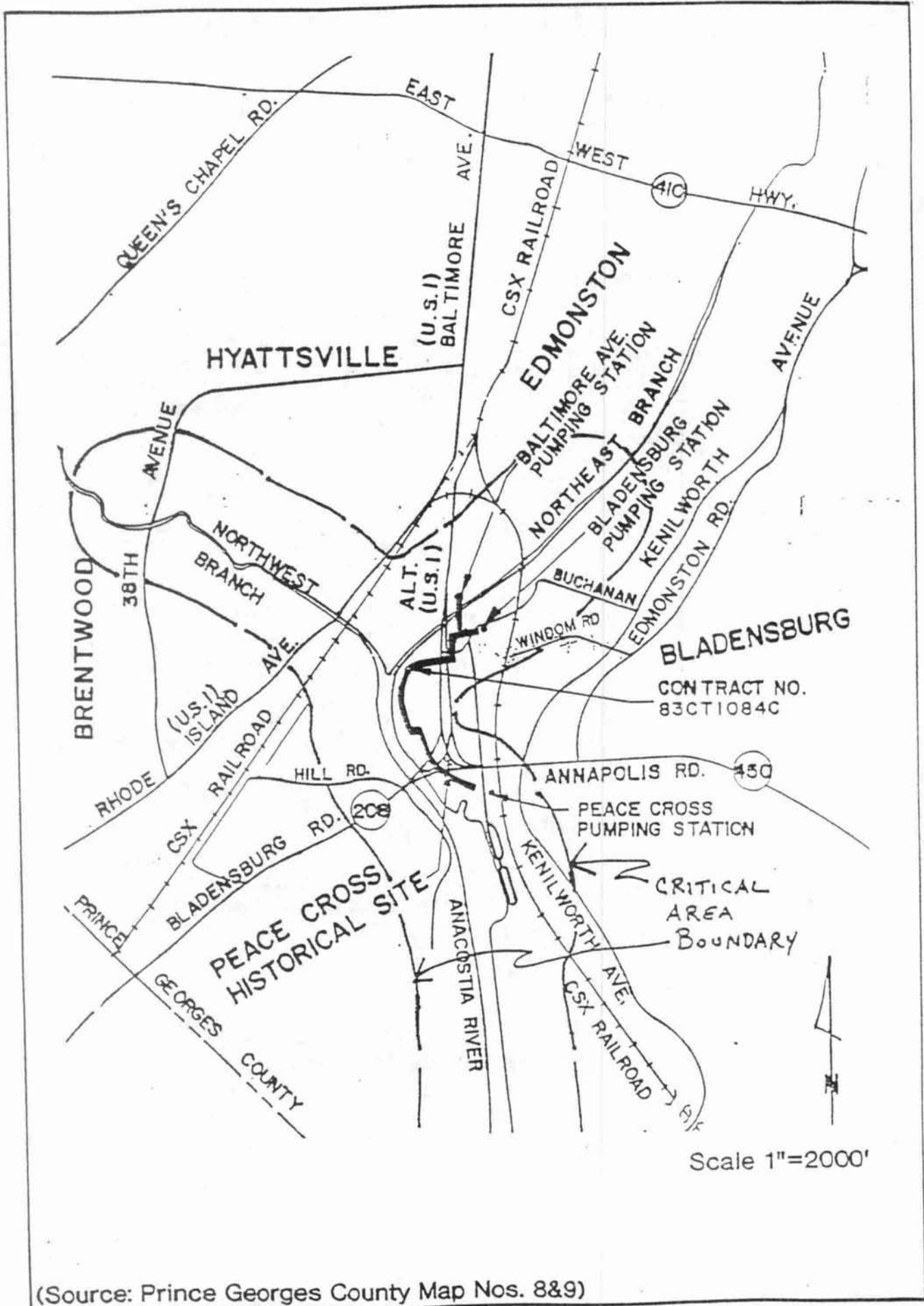


Figure 1. Vicinity of the Hyattsville Sewer Extension Project.



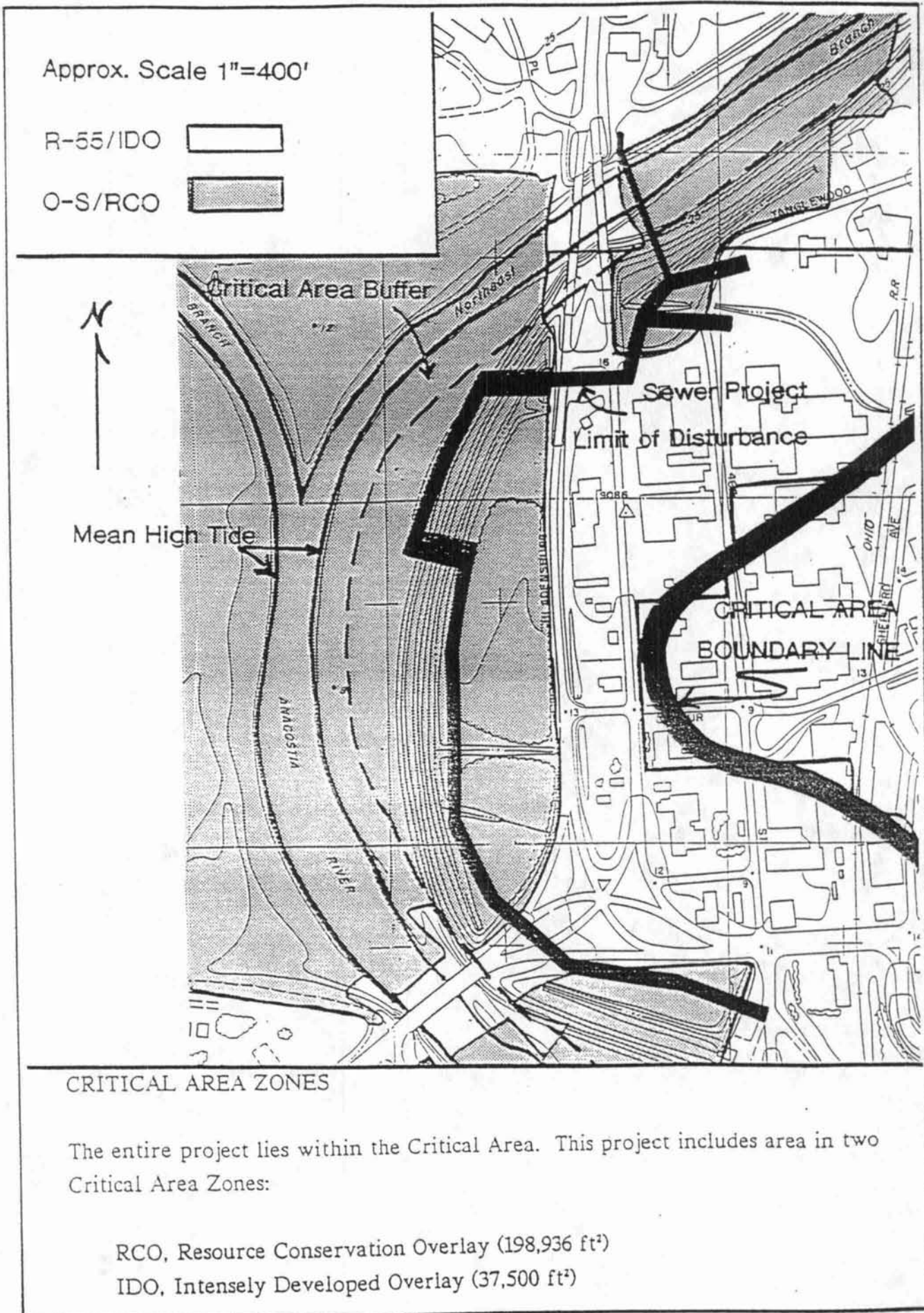


Figure 3. Zoning Map (Source: MNCP&PC)



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
minimum 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

STAFF REPORT

JURISDICTION: Talbot County

ITEM: Growth Allocation Amendments

COMMISSION ACTION: Vote

STAFF: Theresa Corless

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

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.

Panel Recommendation: Approval.

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.

Panel Recommendation: Approval.

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.

Panel Recommendation: Approval. The panel also recommends that non-structural, vegetative shore erosion control methods be used.

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.

Panel Recommendation: Approval.

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.)

Panel Recommendation: Approval.

6. John Sullivan Map 46, parcel 146. The county originally requested 5 acres of Growth Allocation for a two lot subdivision. The entire parcel has 23 acres in the Critical Area. The current designation is RCA. This would have changed 5 acres to LDA, and would have left the remainder of the parcel, 18 acres, as RCA. Granting of Growth Allocation would have been inconsistent with recent Commission decisions, such as those in St. Mary's County and Caroline County, in which at least a 20 acre RCA residue must remain. The County has revised their growth allocation request. They are now requesting only 2 acres of growth allocation. This leaves 21 acres as RCA, and is consistent with previous Commission actions.

Panel Recommendation: Approval.

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.

Panel Recommendation: Approval.

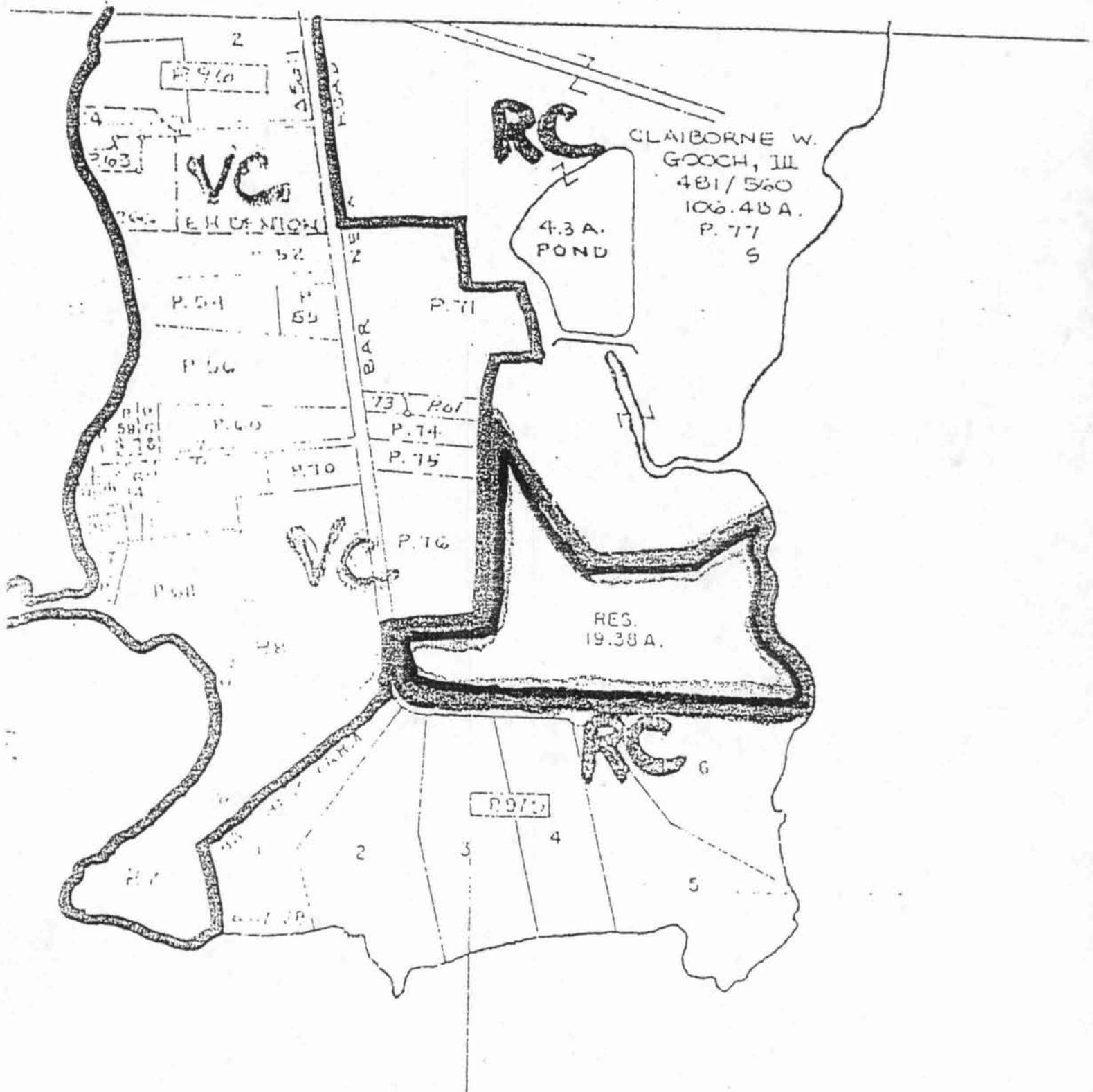
8. William Hunter - Peachblossom. Map 42, parcel 7. The County requests 38.78 acres of Growth Allocation. This is part of a much larger parcel, of which approximately 89 acres are in the Critical Area. The developer plans to put the remaining 50 acres of Critical Area land into a conservation easement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

Panel Recommendation: Approval.

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 (located along Rt. 50). 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.

Panel Recommendation: Approval.

#3 Robert Pascal - Bar Neck Farm
Phase II



CRITICAL AREA COMMISSION
STAFF REPORT

June 3, 1992

ISSUE: Cecil County Special Growth Allocation

COMMISSION ACTION: Vote to approve or deny at this meeting or the July 1st meeting

DISCUSSION: This issue was presented to the Critical Area Commission at the May 6th meeting. An advertised public hearing was scheduled for May 27th and continued on June 1st in Elkton. No opposing testimony was received.

To summarize the amendment, Cecil County has submitted a map amendment granting 1.15 acres of growth allocation on a 16.95-acre parcel (15.15 in the Critical Area), changing the designation from Resource Conservation Area (RCA) to Limited Development Area (LDA). The site is owned by the Earl White Estate, and located near Chesapeake City, on Knight's Corner Road by Long Branch Creek.

The amendment results from the recorded will of Earl N. White, which created 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. Growth allocation is the only other option to allow the remaining two lots created by the will.

The Special Growth Allocation category is available in Cecil County for small 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 segment of the County Program has been given conditional approval by the Commission. The intent of the conditional approval was to grant growth allocation based on the proposed approach, then evaluate its appropriateness in implementing the Critical Area Law and Criteria. This is the first growth allocation submitted by the County. The growth allocation deduction may not conform entirely to the Commission policy, but the deduction methodology and Special Growth Allocation category were part of the approach given conditional approval for later evaluation. The Comprehensive Review for Cecil County is due by September 1992, and may be an appropriate mechanism for review of the approach.

The growth allocation submitted deducts the two individual lots, and has required the project to conform to all the requirements for the Special Growth Allocation category. 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 and nontidal wetlands. The fifth lot consists of the remainder of the parcel, 13.8 acres. 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, unless there is an adjacent area protected from development which would combine with the excluded area to meet the 20-acre minimum. There is no adjacent parcel known to have a conservation easement or similar protective instruments. However, because of the parcel's location adjacent to Long Branch Creek, the buffer and nontidal wetland area on the property are contiguous to the 110-foot buffer surrounding the creek, which is required by County law both inside and outside of the Critical Area. Consequently, there are contiguous habitat areas characteristic of the RCA remaining, due to the combination of the remaining parcel and the County-wide stream buffer requirements, but these are not protected by any other means.

PANEL RECOMMENDATION: The panel recommends approval of 1.15 acres of growth allocation for the Earl White Estate, based on the application meeting the requirements of the Cecil County Program for Special Growth Allocation, as conditionally approved.

DRAFT

GROWTH ALLOCATION

The Program Amendment Subcommittee has been at work for several months in an attempt to formulate regulations for the use of growth allocation. We have examined this issue as a result of problems associated with applying the 1988 Commission policy statement as it relates to various growth allocation projects, in particular, from Harford, St. Mary's, and Somerset Counties. We understand that this proposal by no means answers all possible questions.

We have identified a number of issues (see attachment) that we hope will be the foundation of the regulations. As proposed regulations move through the approval process, we anticipate the Commission using the principles of the draft regulations as the basis for interim growth allocation decisions.

Our goal is to provide a fair and consistent application of the criteria and program goals. Our first concern is the question of the area to be deducted. We believe the Commission should insist on the full deduction of the parcel proposed for growth allocation with the sole exception of the development envelope concept. We also believe that a 300' Buffer is mandatory for parcels in the RCA receiving growth allocation. It should be noted that the Buffer is also to be deducted with the exception of a proposal where the Buffer is a part of a contiguous conservation easement. Any proposal using the development envelope concept which yields less than a 20-acre residue in the RCA, cannot meet the test in the retention of RCA characteristics which must be adhered to; therefore, the residue must also be deducted. This is necessary to meet both the goals of the program, and the demands of the criteria. We also wish to stress that the strict adherence to this method of deduction should be observed in order to assure that growth allocation is, in fact, a 5% utilization of the available RCA land. Deviations which allow for a mathematically greater creation of LDA and IDA lands are not consistent with the law.

The final major principal which we have attempted to adhere to is the use of the date of December 1, 1985 as a basis for determining the underlying parcel size. We understand that it will be difficult at times to track the subdivision process subsequent to that date; however, in order to be faithful to the spirit of the law and support the principles upon which the designation of RCA, LDA, and IDA were based, this date should be used. It is also consistent with its use as a basis for allowing certain grandfather densities.

We invite your comments and suggestions.

ISSUE: Parcel less than 20 acres

If original parcel is less than 20 acres in the RCA, then the acreage of the entire parcel must be deducted. This requirement is based on the principle that at least 20 acres are needed to maintain the RCA character.

ISSUE: Development Envelopes and Residue

If a development envelope is proposed in the RCA and less than 20 acres remain outside of the envelope, then the entire parcel must be deducted.

If there is a protected resource conservation area (ex. protected by easement) adjacent and contiguous to the less-than-20-acre residue, resulting in a minimum 20-acre residue, then the entire parcel does not have to be deducted.

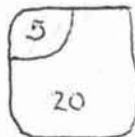
The remaining 20-acre residue may be developed at an RCA density.

ISSUE: Parcel as of December 1, 1985

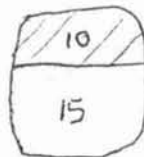
The date of December 1, 1985 was the original mapping date for the Critical Area, and should be used for growth allocation as a beginning point of analysis.

Subdivision of a parcel after December 1, 1985 will affect the amount of growth allocation deducted whenever the RCA density is exceeded.

example: undeveloped parcel as of December 1, 1985: 25 acres



Growth allocation proposed for 5 acres; remaining 20 acres may be developed with one dwelling



Growth allocation proposed for 10 acres; remainder must be deducted because less than 20 acres remain

The CAC can deny a growth allocation if it looks at the subdivision history since December 1, 1985, and determines that the subdivision circumvented the growth allocation process. All parcels may not be appropriate for growth allocation.

The primary reason to go back to December 1, 1985 is to protect the existing RCA features as of the date that the Critical Area designations were made.

ISSUE: 300-foot Buffer

All growth allocation projects in the RCA must be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.

The 300-foot Buffer is part of the acreage deduction unless it is contiguous to a minimum 20-acre area that will be conserved in the long term through some legally effective instrument (such as a conservation easement or deed restriction), and maintains its RCA characteristics.

ISSUE: Specific development projects

Growth allocation does not have to be tied to a specific development proposal if the total parcel acreage is deducted (or at least 20-acres remain), HPA issues are identified, and the local government certifies that the Critical Area criteria must be met for project development.

ISSUE: Size of new IDAs

New IDAs must be at least 20-acres in size unless they are contiguous to an existing IDA.

ISSUE: New Critical Area designation

The particular project should determine the Critical Area designation; projects of an LDA nature should receive LDA designation and IDA designation should be given only to projects requiring IDA. The use should be the prime factor in the determination of the request. The Commission may deny a growth allocation request where the use does not meet the definition for which the Critical Area designation was applied.

ISSUE: Acreage deducted vs. area mapped

The amount of growth allocation deducted must equal the area mapped.

If a jurisdiction has a clause in its Program which sets a time limit within which the growth allocation must be used, then it must be specified what is to happen should this time lapse. If the jurisdiction "decertifies" this area with the Commission, then the acreage goes back into the growth allocation reserve for the jurisdiction, and this may be handled as a Program refinement.

ISSUE: Site features

Site features should not be used by the CAC as a means to deny a growth allocation; however, identification of site features should be done in order to alert the CAC and local government that HPA issues could restrain future development.

ISSUE: Adjacency

Jurisdictions are encouraged to meet the adjacency guidelines in COMAR 14.15.02.06.

Any additional growth allocation granted to a parcel of land which has already partially received growth allocation must be located adjacent to the first growth allocation.

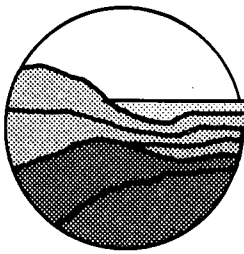
ISSUE: Intra-family transfer

Growth allocation may be granted to parcels subdivided by Intrafamily Transfer.

The Intra-family transfer provision of the Law at E(1) states,

"A local jurisdiction may approve the subdivision of a parcel of land into the number of lots indicated in this subsection by means of a bona fide intrafamily transfer, and may not approve any greater subdivision of the parcel of land or any portion of it."

Since the Law allows no further subdivision, the language may need to be changed in order to allow growth allocation.



Maryland Department of Natural Resources

Public Lands

Tawes State Office Building
Annapolis, Maryland 21401

William Donald Schaefer
Governor

Torrey C. Brown, M.D.
Secretary

James W. Dunmyer
Assistant Secretary

May 7, 1992

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

RECEIVED

MAY 11 1992

**DNR
CRITICAL AREA COMMISSION**

Dear Judge North:

In July 1992, the Department of Natural Resources will begin maintenance and repairs on the existing trolley station at North Point State Park in Baltimore County. This type of activity does not appear to be subject to COMAR 14.19., since it is not the construction or substantial alteration of a structure. However, since the station is within 1000' of tidal waters, the DNR feels that the Commission may be interested in the details of this activity.

Following is a brief narrative description of the structure and the scheduled work items.

Description of Structure

The trolley station was built around 1905 by the United Railway Company to serve as the terminal for the Bay Shore Park. It was designed by Messrs. Simonson and Tietsch, local Baltimore architects who also planned and designed the entire park. It is an open pavilion type structure, 50' x 209'. The entire structure is at least 119' landward of MHL.

Description of Maintenance and Repairs

1. Replace roofing material and rotted roof sheeting, as necessary.
2. Replace ventilating monitor (a raised element above the roof along the ridge).

Telephone: (410) 974-3666

DNR TTY for Deaf: 301-974-3683

3. Repair or replace structural timber members, as necessary.
4. Repaint structure.

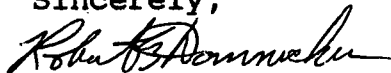
Points for Consideration

1. The structure may be eligible for the National or the Maryland Historic Register. This work will be done in accordance with the higher standards.
2. No land disturbance or vegetative clearing, other than necessary for working access, will be undertaken.
4. No alterations or additions within the structure will be undertaken.

Although the restoration of the trolley station is a part of the park's draft master plan previously approved by the Commission, this work item is distinct and should not be considered as the implementation of the draft master plan.

Please let me know if you would like additional information or a presentation at a Commission meeting.

Sincerely,



Robert B. Dannecker
Director
Engineering and Construction

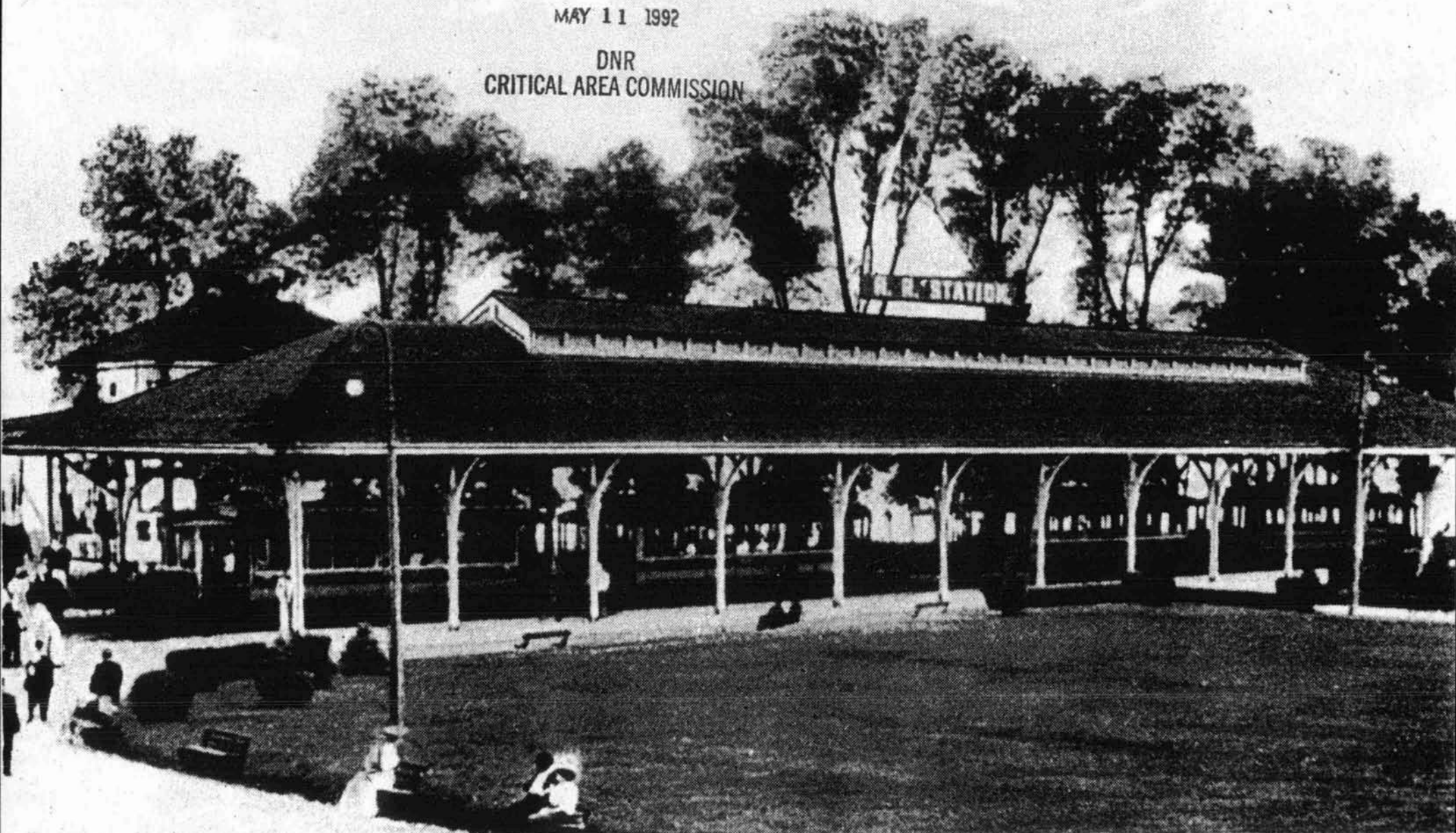
RBD:rad

cc: Sarah Taylor

RECEIVED

MAY 11 1992

DNR
CRITICAL AREA COMMISSION



North Point State Park

Maryland Department
of Natural Resources

BLACK MARSH WILDLANDS
667 ACRES

KEY

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



SHAW HOUSE HISTORICAL AREA
REBUILD PORTION W/ EXISTING FOUND.
INTERPRETIVE SIGNAGE, VECAR PARKING

CIRCUIT TRAIL W/ 15-CAR GRAVEL PARKING AREA
STAGING AREA FOR AGRICULTURAL TOURS,
LECTURES, CLASSES, FIELD TRIPS

COMMERCIAL AGRICULTURE (BOA-
CRAPS) - EMP PRACTICES DETERMINED
BY FF&W, LANDOWNER, & SC 5

SEEBY TPOD HOUSE, RECREATION
EXECUTED BY CURATOR

TPOD TENANT HOUSE, RECREATION TO
BE EXECUTED BY CURATOR

ORIGINAL FARM TO BE OPERATED
BY CURATOR

FORT HOWARD COMMUNITY PARK
20 ACRES - FACILITIES TO BE
DETERMINED AT FUTURE DATE

RECREATION TRAIL AND STAGE
AREA - 15-CAR GRAVEL PARKING AREA
STAGING AREA FOR AGRICULTURAL TOURS,
LECTURES, CLASSES, FIELD TRIPS

WILDLIFE ENHANCEMENT AREA
USING BMP'S - MANAGED MEADOW

PLANTATION HISTORICAL AREA
RECONSTRUCTION OF 18TH CENTURY
DROPPED, INTERPRETIVE CENTER
ALONG NAMED AVENUE THROUGH
MANAGED MEADOWS

LANDSCAPE ACCESSIBLE TRAIL TO
MARSH W/ OBSERVATION DECK
MAINTENANCE AREA, STORAGE BARN,
DIPPING LOT
RANGER RESIDENCE
BIKE/BIKING (SEE ENHANCEMENT)
BIKING PLATFORMS, 2 TABLES, 10 SEATERS, LANDSCAPED
WILDLIFE WADING BEACH

MEER ISLAND COMMUNITY PARK, 20 ACRES
FACILITIES TO BE DETERMINED AT FUTURE DATE

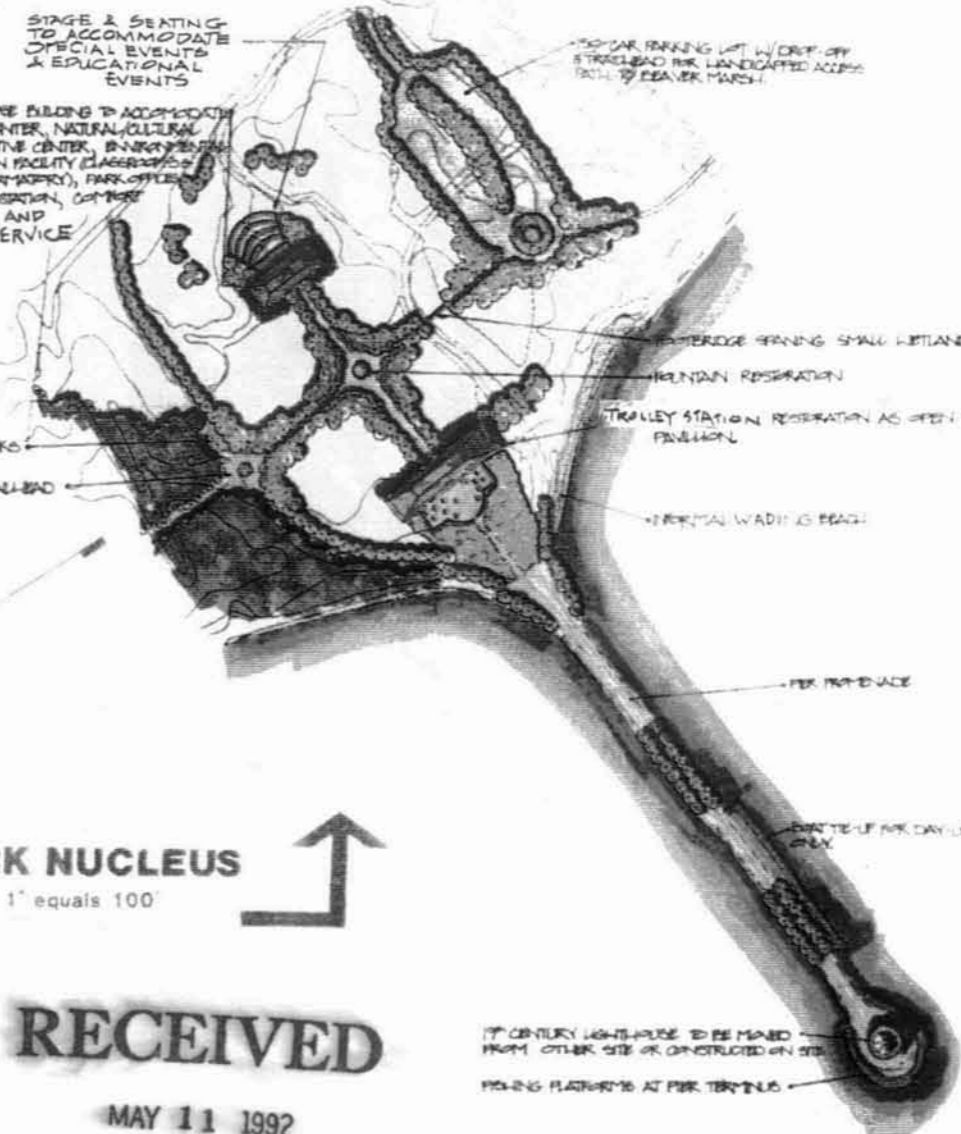
PARK NUCLEUS DESIGN ATTEMPTS TO REFLECT
ARCHITECTURAL LANGUAGE OF OLD
BAYSHORE PARK

STAGE & SEATING TO ACCOMMODATE
SPECIAL EVENTS & EDUCATIONAL
EVENTS

MULTIPURPOSE BUILDING TO ACCOMMODATE
VISITOR CENTER, NATURAL/CULTURAL
INTERPRETIVE CENTER, B-NR, B-NR
EDUCATION FACILITY (CLASSROOMS,
SPEED DIRT-WORK), PARK OFFICE,
FIRST AID STATION, GIFT SHOP,
FACILITIES AND FOOD SERVICE

BIKE PARKING RACKS
SITTING AREA/TRAIL-BAD

150-CAR PARKING LOT W/ DRIVE OFF
STREET-BAD FOR LANDSCAPED ACCESS
TO/TO DEANER MARSH



PARK NUCLEUS
SCALE: 1" equals 100'



RECEIVED

MAY 11 1992

DNR
CRITICAL AREA COMMISSION

17th CENTURY LIGHT-HOUSE TO BE MAINTAINED
FROM OTHER SIDE OR OPERATED ON SITE

BIKING PLATFORMS AT PARK TERMINUS

MASTER PLAN
DRAFT

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

May 21, 1992

Mr. Robert B. Dannecker
Director
Engineering and Construction
Maryland Department of Natural Resources
Public Lands
Tawes State Office Building
Annapolis, Maryland, 21401

Dear Mr. Dannecker:

Thank you for your letter of May 7, 1992 describing the work that the Department wishes to conduct on the existing trolley station at the North Point State Park in Baltimore County. The update of work does not appear to involve construction or substantial alteration of the structure, nor does it appear to involve much disturbance to the land in order to perform the necessary work. However, given the fact that the entire project for North Point State Park has been a controversial one, I believe a presentation by you or someone on your staff would be the best approach to take, followed by a vote of the Commission.


I will see to it that the Commission members have a copy of your letter before them so that they are informed prior to your presentation on June 3, 1992. With respect to your presentation, you may want to have a copy of the plans available as part of the presentation in case the Commission members want to see what the project entails. I would also suggest that you have a visual that shows the area that will need to be disturbed in order for the equipment to gain entry to the construction site to repair the roof and so forth.

Our June meeting will be in Indian Head at the Ordnance Station of the Navy. You will need to let us know your car license plate number and your driver's license number for entry onto the base as they have requested this information for security reasons. A copy of the agenda is enclosed for your review. Please call Ms. Peggy Mickler with the information needed for access onto the base.

Mr. Robert B. Dannecker
May 21, 1992
Page Two

We look forward to your presentation.

Very truly yours,

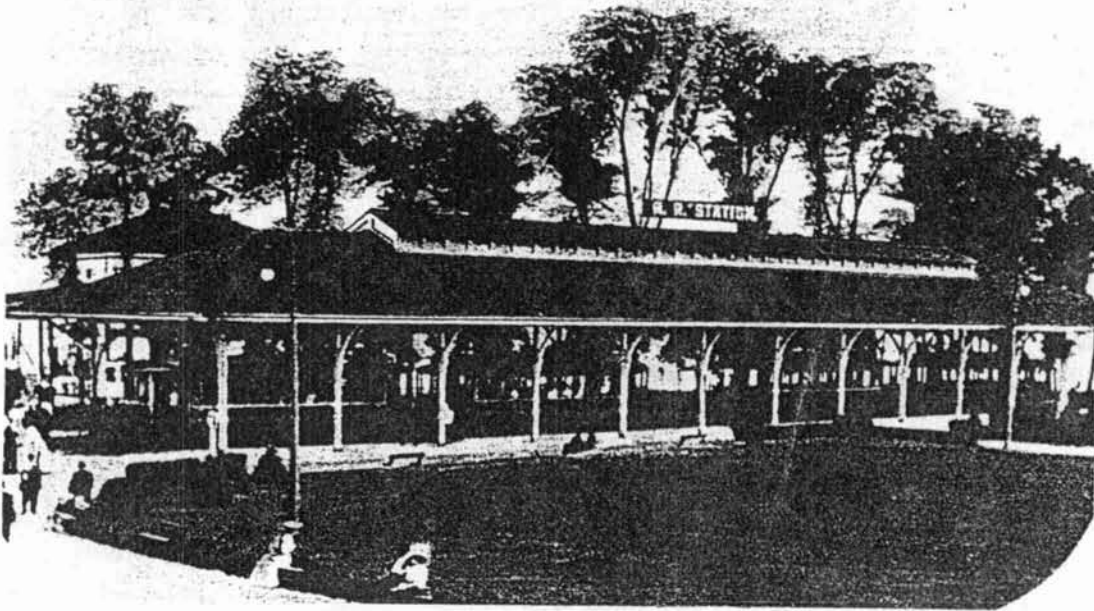

John C. North, II
Chairman

JCN, II/pgm

c:\wp51\jcn:dannker.ltr

NORTH POINT STATE PARK TROLLEY STATION RESTORATION

REPORT TO THE
CRITICAL AREAS COMMISSION



PREPARED BY:
MARYLAND DEPARTMENT OF NATURAL RESOURCES
ENGINEERING AND CONSTRUCTION

JUNE 3, 1992

NORTH POINT STATE PARK TROLLEY STATION RESTORATION

INTRODUCTION:

The Bay Shore Park Trolley Station, originally constructed in 1906, served the purpose of loading and unloading passengers during the first 30 years of the park's operation. In 1947, the Bethlehem Steel Corporation bought the park property with the intention of expanding their steel making facilities. All of the old Bay Shore Park structures were torn down with the exception of the power generating building and the old trolley station. The trolley station was spared because it was to serve as the engineer's headquarters during construction of the steel mill. A change in the international steel market doomed Beth Steels plans for expansion and the trolley station sat vacant, a lone reminder of a time when the area bustled with activity. By 1987, when the Department of Natural Resources bought the property, the structure had suffered significant deterioration. Presently, the roof of the structure is almost entirely gone, and some of the structural members supporting the roof have partially rotted. The concrete slab which mirrors the edge of the roof line remains in very good condition. It is now the Department's intention to restore the trolley station to its original condition, obviously excepting those items associated with the actual operation of the trolley cars.

RESTORATION:

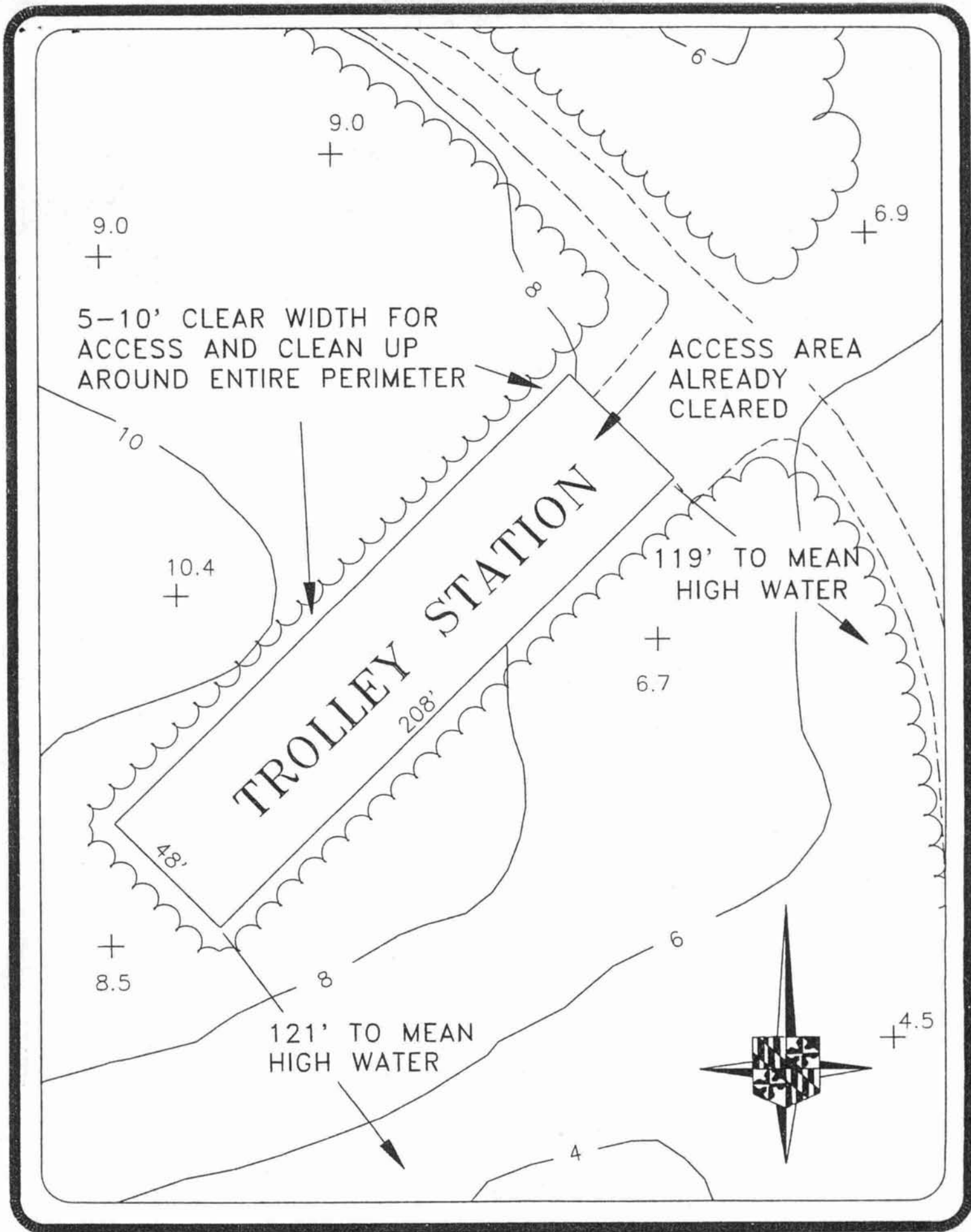
The Department of Natural Resources will restore the trolley station to maintain the historic integrity of the structure. All of the roofing will have to be replaced. The columns and trusses supporting the roof require only partial replacement. The structure will not be fully dismantled as each member will be replaced on an as needed basis.

There is adequate access to the interior of the structure from the northeast end. (see attached drawing). The entire perimeter of the structure may be cleared to a width of 5 to 10 feet beyond the roof edge to allow for the set up of ladders and other equipment. This clearing will be kept to a minimum and the root masses will be left intact. Trees with a diameter larger than 6" will not be cleared.

Material for the reconstruction of the station will be stored in the cleared area northeast of the structure or within the structure itself.

There will be no net increase in impervious area as a result of this project. Rooftop runoff will not be guttered but will run directly onto the ground and allowed to infiltrate, pond or dissipate exactly as it does now. There will be an improvement in water quality as the lead paint existing on the structure will be removed. Tests of the paint have shown a lead concentration of 200 mg/l which is 40 times the allowable level.

In summary, the environmental impacts from this project are anticipated to be minimal. There will be no clearing within the 100 foot buffer, and there will be no disturbance of any wetlands, threatened or endangered species habitat or any other habitat protection areas. It is the intention of the Department of Natural Resources to restore the trolley station to the highest standards possible with minimum impact on the surrounding natural environment.



NORTH POINT STATE PARK TROLLEY STATION RESTORATION

SCALE: 1" = 40'

NORTH POINT PENINSULA COMMUNITY COORDINATING COUNCIL

7741 North Point Creek Road
Baltimore, MD 21219

April 13, 1992

The Honorable William D. Schaeffer
Governor of Maryland
State House
Annapolis, Maryland 21401

Dear Governor Schaeffer,

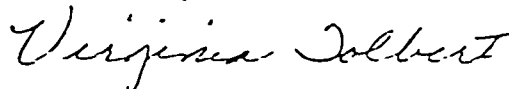
At the April meeting of our Council it was brought to our attention that the trolley barn at North Point State Park is deteriorating rapidly. Unless something is done immediately to protect this structure, we will lose another valuable historic part of our heritage. This trolley barn was the central part of Old Bay Shore Park and is the only remaining building.

Because of the emergency of the situation, this Council has agreed to encourage the restoration of the trolley barn even though the Haul Road-Park Drive was to be the first consideration in the development of the park.

To allow this building to deteriorate further would be shameful. It is our understanding that a picture of this trolley barn is on display in the Air and Space Museum of the Smithsonian Institution and we feel it would be a great asset to the park to have it there.

Knowing of your enthusiasm and interest in North Point State Park, we implore you to help us by using every means within your power to help us save this building

Sincerely,



Virginia Tolbert
President NPPCCC

Copies to

Senator Norman Stone
Dr. Torrey Brown
Delegate Lou DePazzo
Delegate Connie Galiazzo
Delegate John Arnick

Coalition to Preserve Black Marsh, Inc.

P.O. Box 56, Fort Howard, MD 21052-0056 • 477-0347

June 3, 1992

To: The Honorable Judge John C. North II,
Chairman, Chesapeake Bay Critical Area Commission

Re: North Point State Park Trolley Station
Restoration and/or maintenance and repair

1. The Coalition to Preserve Blackmarsh (Coalition) objects to proceeding with this project for several reasons:

- * It is the first project of a large park development scheme which is not fully planned or approved.
- * It is in fact implementation of the Department of Natural Resources (DNR) Draft Master Plan for North Point State Park.
- * No further action should be taken while this park Master Plan is in litigation.
- * We object to clearing of forest before required studies have been done about existing flora and fauna. In addition, the clearing of 5000 square feet to accommodate scaffolding and entry of heavy equipment such as cranes jeopardizes this forested area.

We request the Critical Area Commission to ask the DNR for assurances that any clearing be kept to a minimum.

2. The Trolley Barn is eligible for the National Historic Register as are other structures (Crystal Pier and fountain) remaining from Bay Shore Park.

- * We question why the DNR has not made a determination about National Historic status for any of these structures.
- * We recommend that the Critical Area Commission request the Maryland Historical Trust to review all stabilization and repair in detail.

Respectfully submitted,

Richard C. Pollock
Richard C. Pollock,
President