

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Peoples Resource Center
Crownsville, Maryland
January 3, 2001

SUBCOMMITTEES

10:00 a.m. - 11:00 a.m. Project Evaluation

Members: Bourdon, Cain, Witten, Giese, Goodman, Cooksey, Hearn, Graves, Olszewski, Jackson, McLean, Andrews, Jones, Rice

Update / Woodrow Wilson Bridge - Prince Georges's County	Lisa Hoerger, Planner
SHA/MD 347 Wicomico County Streetscape/drainage improvements	LeeAnne Chandler, Planner
Maryland Transportation Authority / Light Rail - Double Track, Sections 5 & 6 Baltimore City and Baltimore County	Dawnn McCleary, Planner Wanda Cole, Planner
Anacostia Pilot Wetlands Project - Prince George's County	Claudia Jones, Science Advisor

10:00 a.m. - 11:45 p.m. Program Implementation

Members: Foor, Myers, Barker, Wynkoop, Johnson, Lawrence, Duket, Samorajczyk, Bradley, Evans, Wenzel

Refinement / Cecil County Growth Allocation National Humane Education Society	Andrew Der, Planner
Update / Talbot County Comprehensive Review	Lisa Hoerger, Planner Mary Owens, Program Chief
Discussion / Talbot County, Whitehall Farm Growth Allocation Conditions	Lisa Hoerger, Planner Mary Owens, Program Chief Ren Serey, Executive Director
Discussion / Charles County RCA Uses Bourdon, Cooksey, Goodman, McLean, Witten	LeeAnne Chandler, Planner Mary Owens, Program Chief

11:45 a.m. - 12:00 p.m. Federalsburg Panel

Wenzel, Cooksey, Bradley, Foor

Roby Hurley, Circuit Rider
Mary Owens, Program Chief

12:00 p.m. - 1:00 p.m. - LUNCH

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Peoples Resource Center
Crownsville, Maryland
January 3, 2001

AGENDA

1:00 p.m. - 1:05 p.m. Approval of Minutes
Of December 6, 2000 John C. North, II, Chair

Approval

PROGRAM AMENDMENTS and REFINEMENTS

1:05 p.m. - 1:15 p.m. VOTE (Tentative) Talbot County
Comprehensive Review Status
Discussion Mary Owens, Pgrm. Chief
Lisa Hoerger, Planner

[Handwritten signature]

Approved

1:15 p.m. - 1:25 p.m. Refinement / Cecil County
National Humane Education
Society - Growth Allocation Andrew Der, Planner

1:25 p.m. - 1:35 p.m. VOTE / Federalsburg Comprehensive
Review Roby Hurley, Circuit Rider

By Approval

PROJECT EVALUATION

1:35 p.m. - 1:50 p.m. VOTE / SHA - MD 347 Streetscape
Drainage Improvements
Wicomico County LeeAnne Chandler, Planner

By approved

1:50 p.m. - 2:10 p.m. VOTE / Maryland Transportation Authority
Light Rail - Double Track,
Sections 5 & 6
Baltimore City and Baltimore
County Dawnn McCleary, Planner
Wanda Cole, Planner

By approval

2:10 p.m. - 2:20 p.m. Old Business
Legal Update John C. North, II, Chairman
Marianne Mason, Esq.
Commission Counsel

2:20 p.m. - 2:35 p.m. New Business
Discussion: Legislation John C. North, II
Marianne Mason, Esq.
Commission Counsel

Chesapeake Bay Critical Area Commission
Maryland Department of Housing and Community Development
Annapolis, Maryland 21401
December 6, 2000

approved

The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

- Bradley, Clinton, Talbot County, Eastern Shore Member At Large
- Evans, Judith, Western Shore, Member-at-large
- Bourdon, Dave, Calvert County
- Cooksey, David, Charles County
- Dr. Foor, James C., Q.A. County
- Jackson, Joseph, Worcester County
- Myers, Andrew, Caroline County
- Wynkoop, Sam, P.G. County
- Olszewski, John Anthony, Baltimore County
- Setzer, Gary for Hearn, J.L., Md. Department of Environment
- Goodman, Robert, Md. Department of Housing and Community Development
- McLean, James, Md. Department of Business and Economic Development
- Wenzel, Lauren, Md. Department of Natural Resources
- Duket, Larry, Md. Department of Planning
- Andrews, Meg Md. Department of Transportation
- Witten, Jack, St. Mary's County
- Lawrence, Louise, Md. Department of Agriculture
- Langner, Kay for Cain, Debbie, Cecil County
- Graves, Charles C., Baltimore County
- Jones, Paul, Talbot County
- Giese, Wm., Jr. Dorchester County
- Johnson, Sam Q., Wicomico County
- Samorajczyk, Barbara D., Anne Arundel Co.
- Barker, Philip, Harford County

Vacancies

Kent County

The Minutes of November 1, 2000 were approved as submitted.

Ren Serey, Executive Director, CBCAC presented an overview of the request of Queen Anne's County for an amendment to its Critical Area Program for growth allocation for the Four Seasons project on Kent Island for a VOTE. He told the Commission that this project is a very large growth allocation that has attracted a lot of attention and comment. A Panel of Critical Area Commission members appointed by the Chairman, John C. North, II held a hearing on September 12, 2000 at the Kent Island High School where about 500 people attended and there were several hours of testimony and a lot of comment was received. He said that the panel conducted a site visit and has conducted several meetings to discuss the project.

Mr. Serey introduced Mr. Steve Cahoon, Queen Anne's County Planner, who described the technical details of the project (also described in the Staff reported disseminated to the Commission members). Mr. Cahoon stated that this is in a planned, pre-mapped growth area from the late '80's reaffirmed in 1993 and reaffirmed again twice through sub-area growth plans and features premapped growth allocation in the County's different planning programs included in its Critical Area Programs. The request involves the conversion of 293.25 acres of RCA to IDA and the redesignation of 79.55 acres of previously awarded growth allocation from LDA to IDA. The entire area of the site is approximately 562 acres, with approximately 522.2 acres within the Critical Area. The project plan is for 1,505 homes, including a 35,00 square foot community center, a

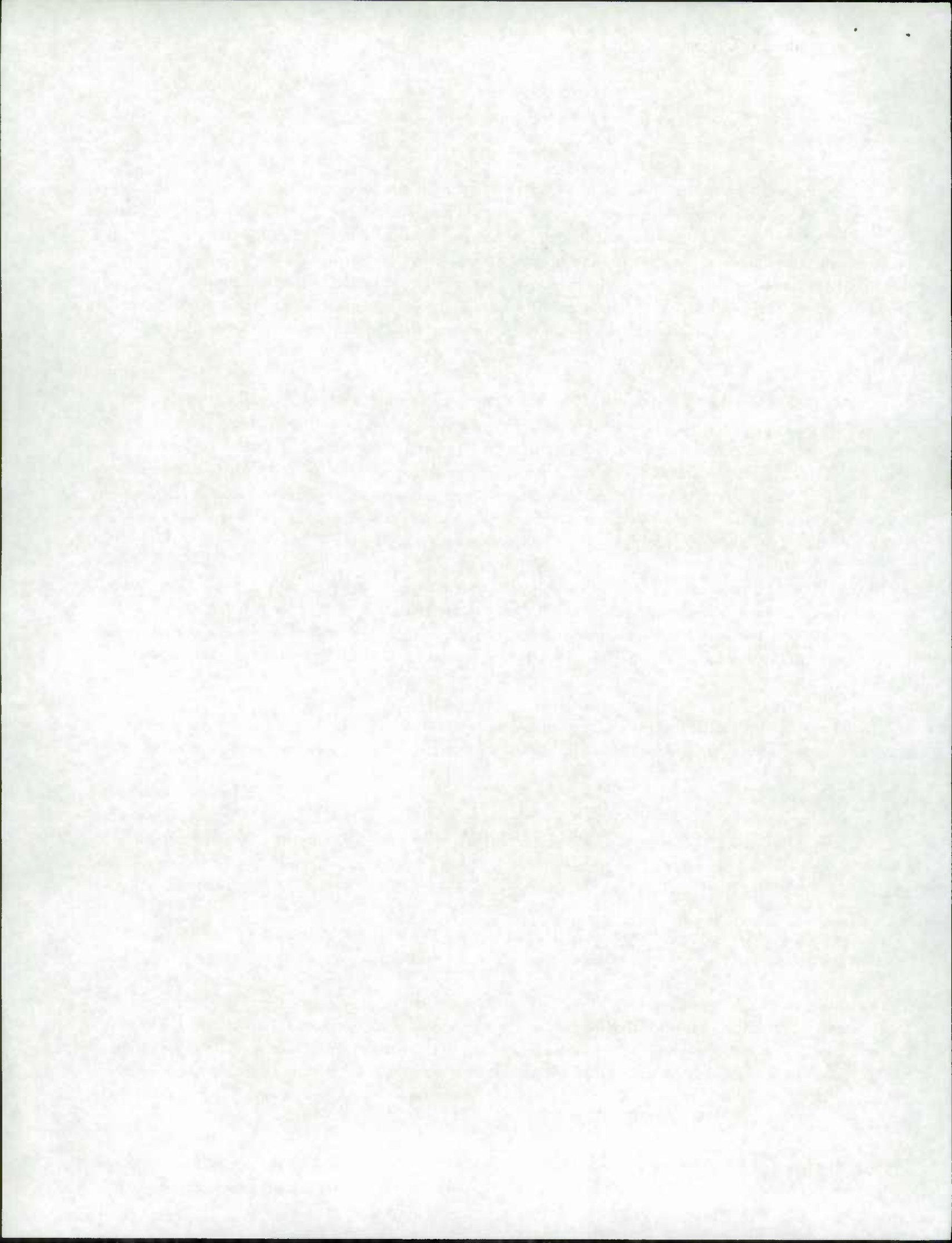
Jan 1948

community pier, and a 95,000 square foot shopping center.

This project is located in Stevensville on portions of the Chester River, Macum Creek and both sides of Cox Creek. The environmental issues concern a large tidal pond with associated wetlands along the Chester River portion of this site, and linear wetlands along both sides of Cox Creek and adjacent to Macum Creek as well as three forested areas on the site. The five member panel focused on the field delineation of several streams on the property, flooding of the property, the habitat and water quality function of the tidal pond adjacent to the Chester River, the size and location of the community marina, the waterfowl staging and concentration areas on the Chester River and Macum Creek, and location and effectiveness of the proposed stormwater management ponds.

Commission Member Larry Duket,, Md. Department of Planning and chair of the five member study panel for this project stated that the panel decided to recommend approval only after extensive deliberations and research on the environmental issues and the testimony given, as well as consideration of the planned and premapped growth allocation areas in the Critical Area. The panel followed the law and Criteria and were aware of the close public scrutiny of their work and recommendations. They recommended the site as appropriate for growth allocation. Mr. Duket moved on panel recommendation to approve the amendment to the Queen Anne's County's Critical Area program for growth allocation with the 10 conditions as amended:

- 1) The new IDA shall be located at least 300 feet beyond the landward edge of tidal wetlands and tidal waters adjacent to Cox Creek and Macum Creek. This 300 foot setback shall not be used for structures, roads, parking, utilities, active recreation areas or stormwater management except as shown on the site plan approved by the Commission. It may be used for passive recreation. This setback shall be established in multi-layered forest vegetation.
- 2) A fully forested 100 foot Buffer shall be established from the landward boundary of the structural erosion control measure on the Chester River. The Buffer shall be established in multi-layered forest vegetation.
- 3) A fully forested 150-foot setback shall be established from the edge of tidal or non-tidal wetlands around the tidal pond (adjacent to the Chester River) in order to provide habitat protection. The edge of tidal or non-tidal wetlands from which the 150-foot setback will be established shall be delineated in the field and approved by Commission staff. In addition, all Phragmites in the area of the tidal pond shall be eradicated and established with appropriate native species. The 150-foot setback shall be established in multi-layered forest vegetation.
- 4) A fully forested 100 foot Buffer shall be established on each side of all tributary streams and the stream crossing and any development activity within the Buffer shall be eliminated.
- 5) The Commission shall coordinate with the Maryland Department of the Environment (MDE) and the Department of Natural Resources (DNR) regarding the assessment of environmental impacts associated with a community pier and compliance with the standards set forth in the Critical Area Criteria. The applicant agrees to ensure that these standards are met and to comply with the recommendations and/or conditions of approval of MDE and DNR regarding the community pier. The applicant also agrees to comply with MDE regulations for community marinas in COMAR 26.24.04.03 G.
- 6) Best Management Practices for stormwater shall be located outside of the 100-year flood plain or shall be designed in such a way that a flood event would not inundate the ponds or detention structures causing



pollutants to be flushed out unless staff determines after a review of detailed storm water engineering plans that superior water quality or habitat benefit can be achieved through other techniques.

7) At least half of the site shall incorporate Best Management Practices for storm water that provide habitat benefits in addition to water quality benefits. Best Management Practices that provide habitat benefits include bioretention, shallow marsh, extended detention, wetlands, and pond/wetland systems.

8) Shoreline access within the approved setback and/or Buffer shall be designed and constructed to minimize impacts to the 100-foot Buffer and to maintain the "Resource Conservation Area" character of the setback and/or Buffer. Pathway widths shall be limited to six feet in width (including the path itself and associated clearing) within the setback and should be constructed of pervious or semi-pervious materials wherever possible. Tree canopy shall be maintained over pathways. Prior to recordation of any subdivision plats or final approval of any site plans, building permits, or grading permits, a Buffer Management Plan for the entire Buffer and/or setback area of the project shall be reviewed and approved by the full Critical Area Commission.

9) Structural shore erosion control measures shall be limited to those that currently exist on the site. If additional erosion control measures are warranted, non-structural measures shall be used.

10) The final plan for the Four Seasons at Kent Island growth allocation request that is approved by the Queen Anne's County Commissioners shall contain each of the conditions of this approval and shall be submitted for review by the Critical Area Commission.

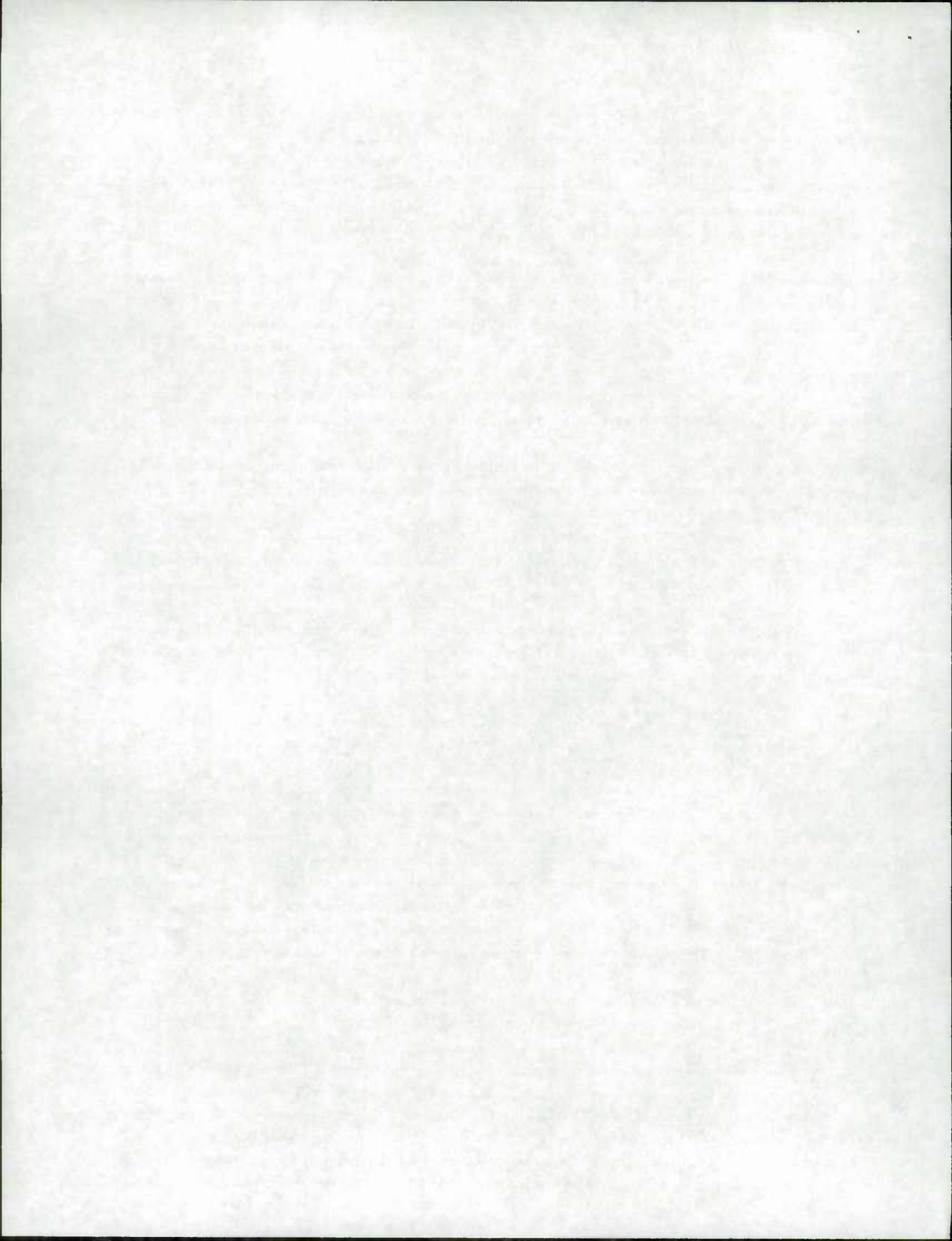
Joe Stevens, who represented the land owner K. Hovnanian, told the Commission that there will be no commercial component with 1350 homes, not 1500, that there will be 250 acres of open space, 3 miles of 300 foot shore buffer in an effort to reduce the perceived intensity of this project.

The Chair invited citizens of Queen Anne's County to speak. Winn Krozack, Diana Harris, George Petrakis, Kit Davis and Richard Moser, president of the Kent Island Defense League, spoke in opposition to the plan.

There was considerable discussion among the Commission members regarding the County's "conceptual approval process" for growth allocation requests and whether this type of approval was sufficient to meet the growth allocation procedures in the Critical Area Act. Also discussed was whether the Commission will be processing future growth allocation requests before Queen Anne's County's program is amended. Commission Counsel, Marianne Mason and Chairman North determined that the process was consistent with the Law, but that the nature of the "concept approval process" did not fully comply with the purpose and intent of the process which is to ensure that growth allocation requests are not approved by the Commission and then later denied by a local government. It was the general consensus that the County's growth allocation process will need to be amended.

Bob Goodman seconded the motion made by Mr. Diuet and the motion carried 15-6. Dr. Floor, Chairman of the Queen Anne's County Planning Commission, abstained.

Lisa Hoerger, Planner presented for Concurrence with the Chairman's determination of Refinement the request by Talbot County for growth allocation amendment for Whitehall Farm in Tunis Mills. Talbot County is requesting to use 16.34 acres of growth allocation to change the Critical Area designation of a portion of a property from RCA to LDA. The parcel area in the Critical Area is zoned RC and is approximately 73 acres. The area outside the Critical Area is zoned Town Residential. The County has approved a growth allocation for four new waterfront lots in addition to two "by right" lots. A problem arose from having to cross



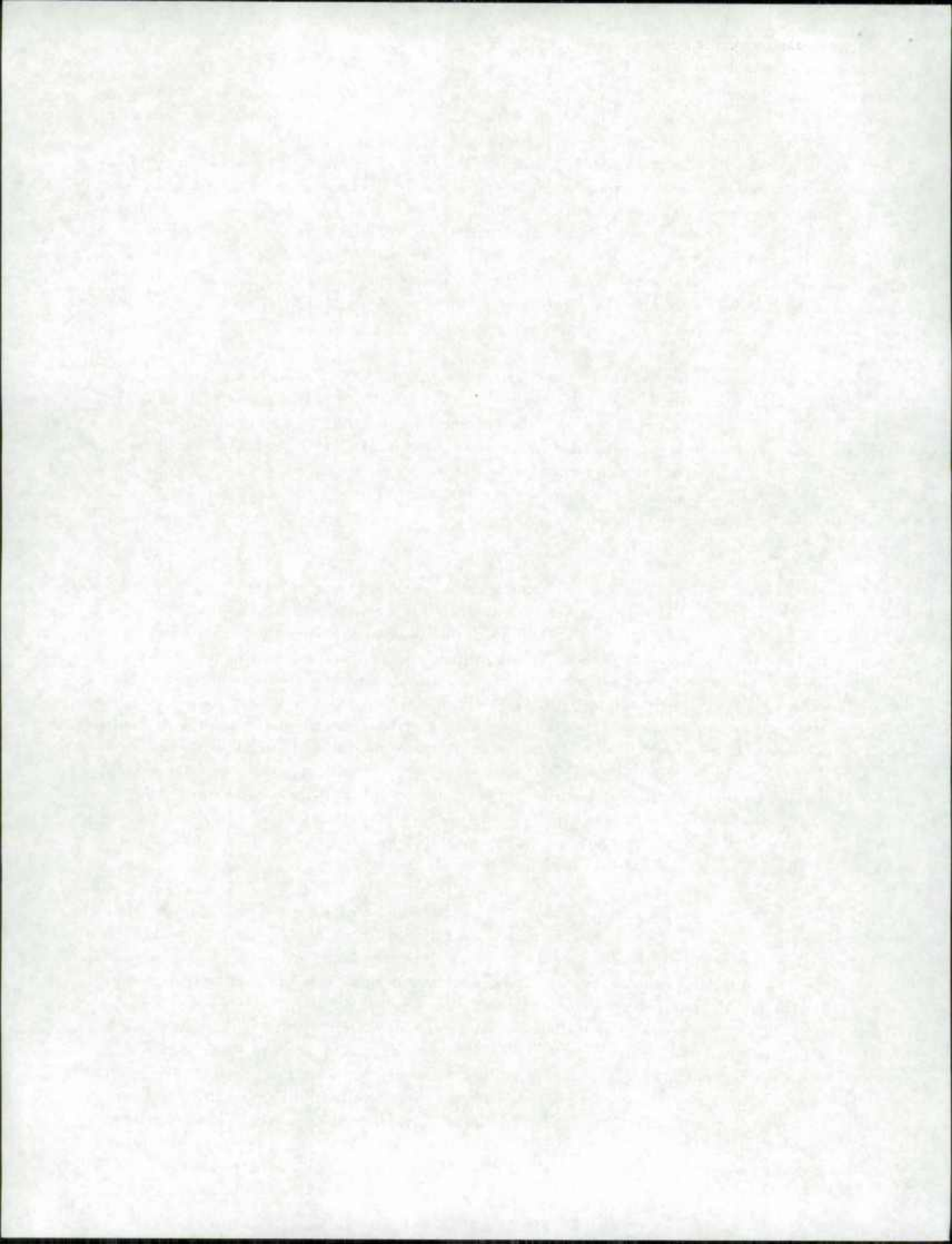
an existing stream to access the "by right" lots which are not part of the growth allocation request. Private roads require a variance to disturb the 100-foot Buffer. The Commission's policy is to not support new lots creations when they will require a variance for future development.

Ms. Hoerger said that the developers have amended their plan to fully comply with the Commission's policy on growth allocation. The development envelope is the same and has been approved by the County Commissioners. The developers have exchanged a perpetual conservation easement of all the non-critical area lands for the four lots on Leeds Creek with a condition that: the Buffer must be established and maintained in natural vegetation sufficient to ensure the water quality and habitat functions specified in the Critical Area Criteria; and, appropriate notes shall be placed on the plat and restrictions placed in each deed to ensure that the Buffer on each lot is maintained. These legal instruments shall be reviewed and approved by Commission staff. There will be a total of seven lots. The Commission supported the Chairman's determination of Refinement.

Ms. Hoerger presented for VOTE the storm water management plan for the Woodrow Wilson Bridge project by the State Highway Administration (SHA) in Prince George's County. The project was approved conditionally at its July meeting. SHA proposed to reconstruct the interchanges to meet the 10% Pollutant Reduction Requirement as this project is in an area of intense development. Ms. Hoerger explained the details of the reconstruction design. Six retention facilities, both inside the Critical Area and outside the Critical Area, will remove a combined 419 pounds of phosphorus a year which exceed the required removal rate of 387 pounds per year. Because the facilities will be constructed at different times under different contract the design could change.

The project must be brought back to the Commission for review and approval of any changes as one of the three conditions for approval. SHA continues to work with MDE to secure permits for both the storm water management and erosion and sediment control. Dave Bourdon moved to approve the Storm water Management Plan for the Woodrow Wilson Bridge in Prince George's County with three conditions: 1) As the design contracts progress, any changes to either the storm water management or erosion and sediment control plans shall be resubmitted to the Commission for review and approval. 2. Since a portion of the removal requirement is dependent upon offsite Best Management Practices (i.e. storm water management facilities) at the MD 210 interchange, the applicant shall resubmit revised 10% Pollutant Removal Calculations if the MD 210 interchange reconstruction is not completed. 3. The applicant shall be required to provide continued maintenance of all facilities used to comply with the 10% Pollutant Reduction Calculations in order to insure the facilities are properly functioning. A maintenance plan shall be developed between SHH and the Commission staff. The motion was seconded by Dave Cooksey and carried unanimously.

Roby Hurley, Cirenit Rider, CBCAC presented for VOTE the Comprehensive Buffer Management Plan for the entire project of the Hyatt Regency, Chesapeake Resort for the City of Cambridge as required in the conceptual approval of the growth allocation request granted by the Commission in 1998. The Commission staff has visited the site and met with engineering, legal and environmental consultants and considered all of the impacts to the Buffer. Mr. Hurley described those impacts as well as the mitigation and provided the Commission with a table that identified those impacts and appropriate mitigation ratios, sites and types of mitigation. In addition to the required mitigation plan, the developer has also provided a Landscape Plan for the entire project site that includes supplemental plantings that enhance the water quality and habitat functions of the Buffer and generally exceed the reforestation requirements. Betsy Weinkam, the project environmental consultant, described the Buffer establishment and restoration. Ken Usab of Andrews Miller Engineering firm and Jim Michael, Planning Director of the City of Cambridge were on hand to answer any questions. Dave Bourdon moved to approve the Comprehensive Buffer Management Plan for the Hyatt Regency,



Chesapeake Resort for the City of Cambridge with the condition that a Buffer maintenance agreement be developed between the applicant, Town of Cambridge & the Commission which shall be recorded in the land records. The motion was seconded by John Olszewski and carried unanimously.

Old Business

Marianne Mason, Esquire, Commission Counsel, updated the Commission on legal matters. She reported on an old case involving a challenge filed by Karen Eggloff and Bonnie Bick in Prince George's County to both the County's and Commission's approval of growth allocation for the National Harbor development. She said that the Circuit Court dismissed the challenges to growth allocation and the plaintiff filed an appeal to the Court of Special Appeals which could be heard in the spring.

In Anne Arundel County, LeeAnne Chandler, Planner, CBCAC provided testimony to the Board of Appeals on behalf of the Commission for a new pool in the Buffer.

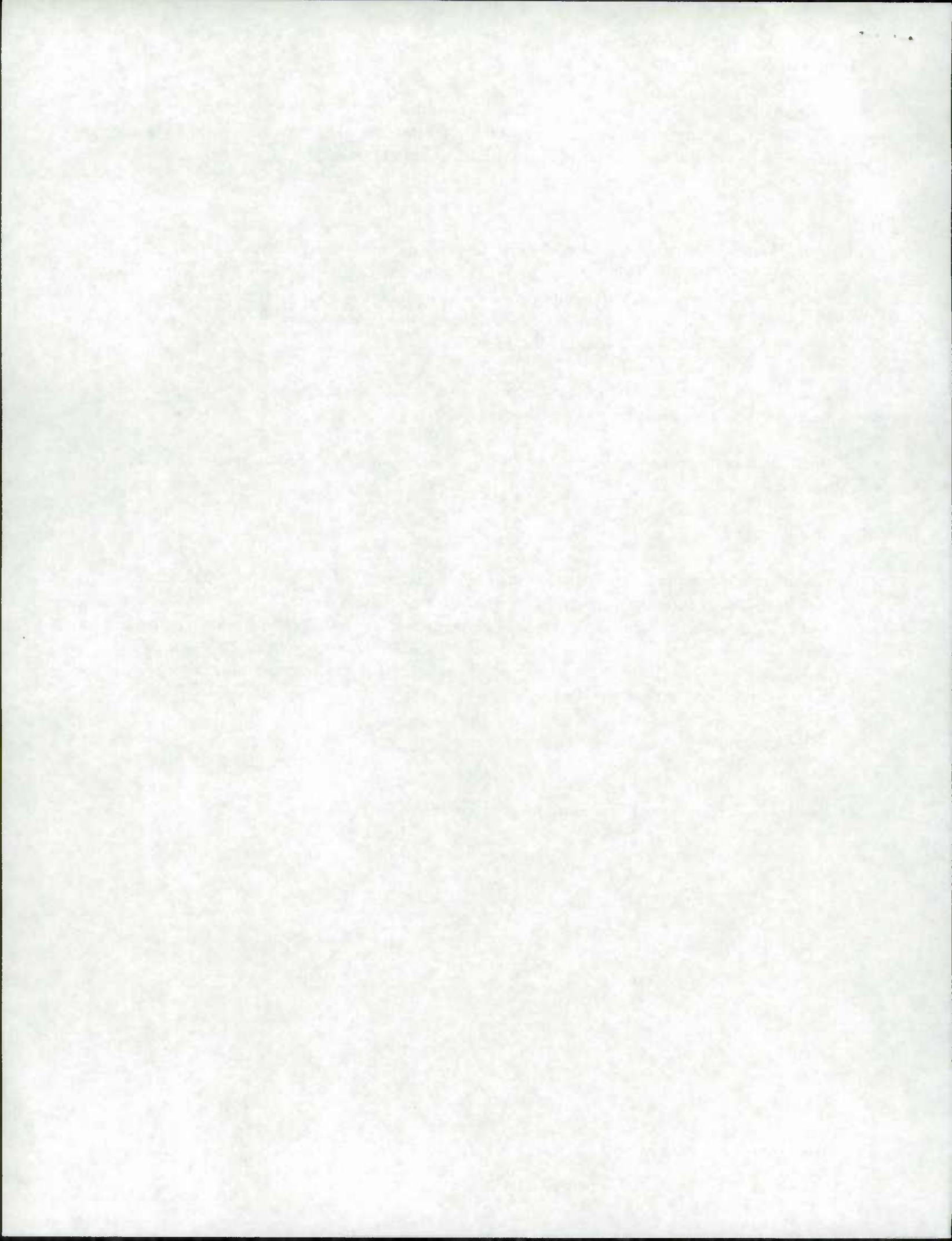
Chairman North recognized Kay Langner, former Commission member, who was in attendance for Debbie Cain of Cecil County.

New Business

In response to the question from Commissioner Sam Wynkoop regarding whether the Chairman will receive suggestions of how to deal with the growth allocation process in Queen Anne's County and whether the Commission will receive any more requests for growth allocation, much discussion again ensued among the members. It was determined that the Commission staff will meet with Queen Anne's County to discuss and assist in updating their program. In addition, a letter is to be sent to ALL jurisdictions setting out a growth allocation policy to be updated in their programs.

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Coordinator



AN ACT concerning

Chesapeake Bay Critical Area Protection Program

For the purpose of providing certain criteria for local critical area programs; providing for appeals by certain parties concerning the denial or granting of a variance; defining certain terms; and generally relating to the Chesapeake Bay Critical Area Protection Program.

BY repealing and reenacting, without amendments,

Article - Natural Resources
Section 8-1801
Annotated Code of Maryland
(2000 Replacement Volume)

BY adding,

Article - Natural Resources
Section 8-1802 (a) (12) and (13)
Annotated Code of Maryland
(2000 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Natural Resources
Section 8-1808
Annotated Code of Maryland
(2000 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Natural Resources

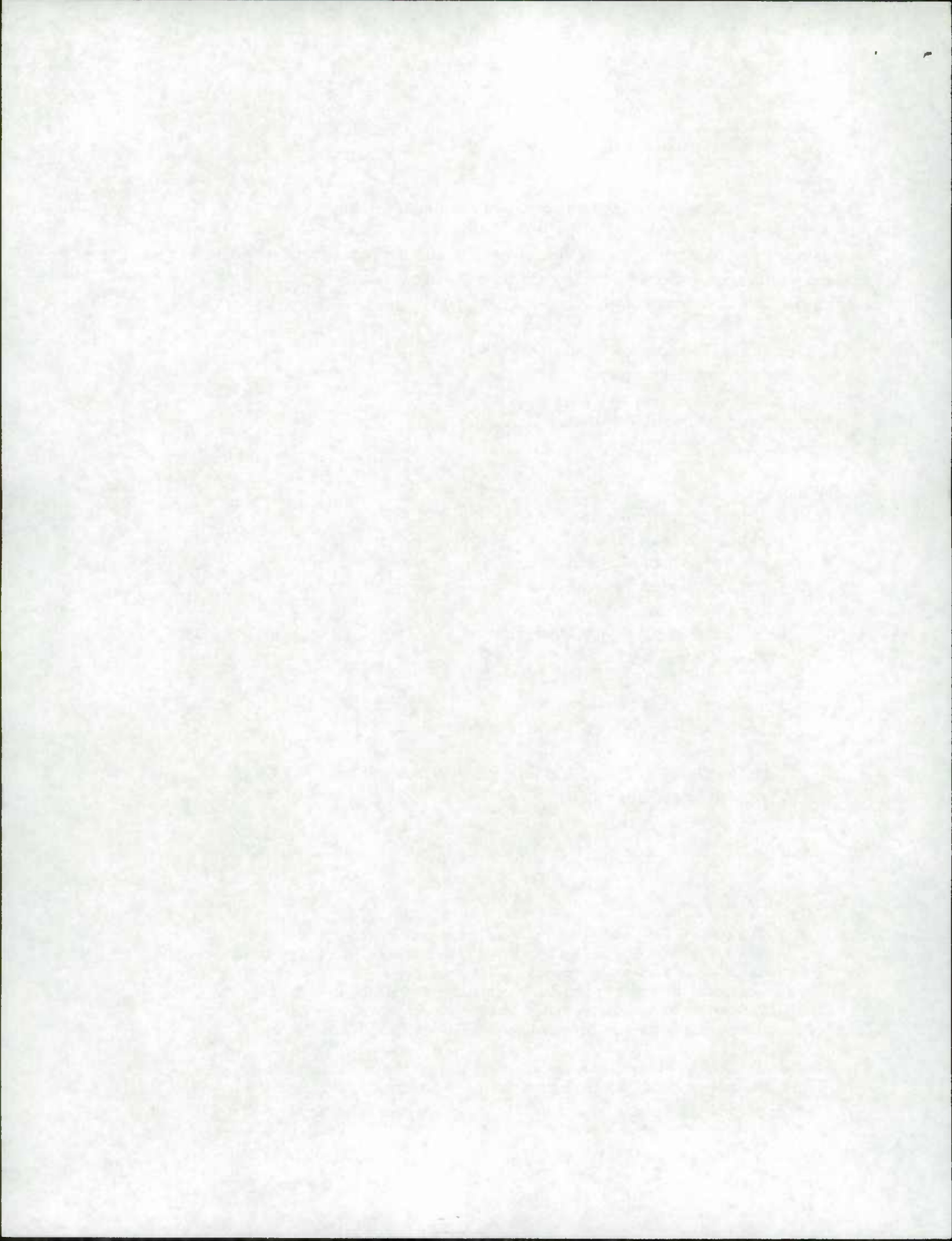
§ 8-1801.

(a) *Findings.* — The General Assembly finds and 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 continuing demands without further degradation to water quality and natural habitats is limited;



(4) The cumulative impact of current development and other activities on 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 toxics 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.

(b) *Purposes.* — It is the purpose of the General Assembly in enacting this subtitle:

(1) To establish a Resource Protection Program for the Chesapeake Bay and its tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and

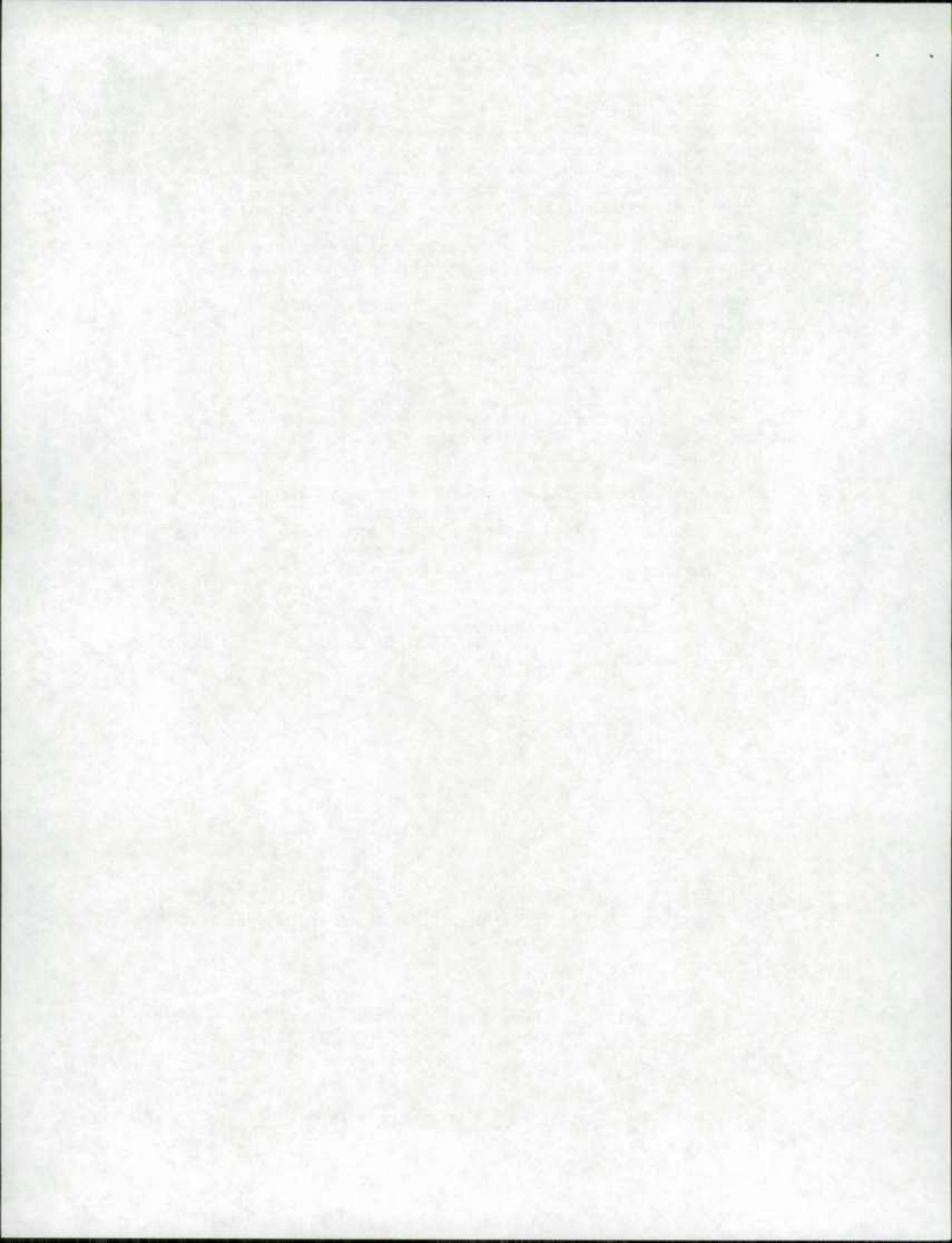
(2) To implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and oversight.

8-1802.

(a)(1) In this subtitle the following words have the meanings indicated.

(12) "RIGHTS COMMONLY ENJOYED" MEANS A USE OF LAND PERMITTED UNDER THE JURISDICTION'S CRITICAL AREA PROGRAM. IT DOES NOT INCLUDE USES WHICH EXISTS AS NON-CONFORMING OR GRANDFATHERED USES UNDER THE CRITICAL AREA PROGRAM.

(13) "UNWARRANTED HARDSHIP MEANS THE DEPRIVATION OF REASONABLE AND SIGNIFICANT USE OF THE ENTIRE PROPERTY OR LOT FOR WHICH THE VARIANCE IS REQUESTED.



§ 8-1808.

(a) *Local jurisdictions to implement; grants.* — (1) It is the intent of this subtitle that each local jurisdiction shall have primary responsibility for developing and implementing a program, subject to review and approval by the Commission.

(2) The Governor shall include in the budget a sum of money to be used for grants to reimburse local jurisdictions for the reasonable costs of developing a program under this section. Each local jurisdiction shall submit to the Governor by October 31, 1984 a detailed request for funds that are equivalent to the additional costs incurred in developing the program under this section.

(3) The Governor shall include in the budget annually a sum of money to be used for grants to assist local jurisdictions with the reasonable costs of implementing a program under this section. Each local jurisdiction shall submit to the Governor by May 1 of each year a detailed request for funds to assist in the implementation of a program under this section.

(b) *Goals of program.* — A program shall consist of those elements which are necessary or appropriate:

(1) To minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

(2) To conserve fish, wildlife, and plant habitat; and

(3) To establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

(c) *Elements of program.* — At a minimum, a program sufficient to meet the goals stated in subsection (b) of this section includes:

(1) A map designating the critical area in a local jurisdiction;

(2) A comprehensive zoning map for the critical area;

(3) As necessary, new or amended provisions of the jurisdiction's:

(i) Subdivision regulations;

(ii) Comprehensive or master plan;

(iii) Zoning ordinances or regulations;

(iv) Provisions relating to enforcement; and

(v) Provisions as appropriate relating to grandfathering of development at the time the program is adopted or approved by the Commission;

(4) Provisions requiring that project approvals shall be based on findings that projects are consistent with the standards stated in subsection (b) of this section;

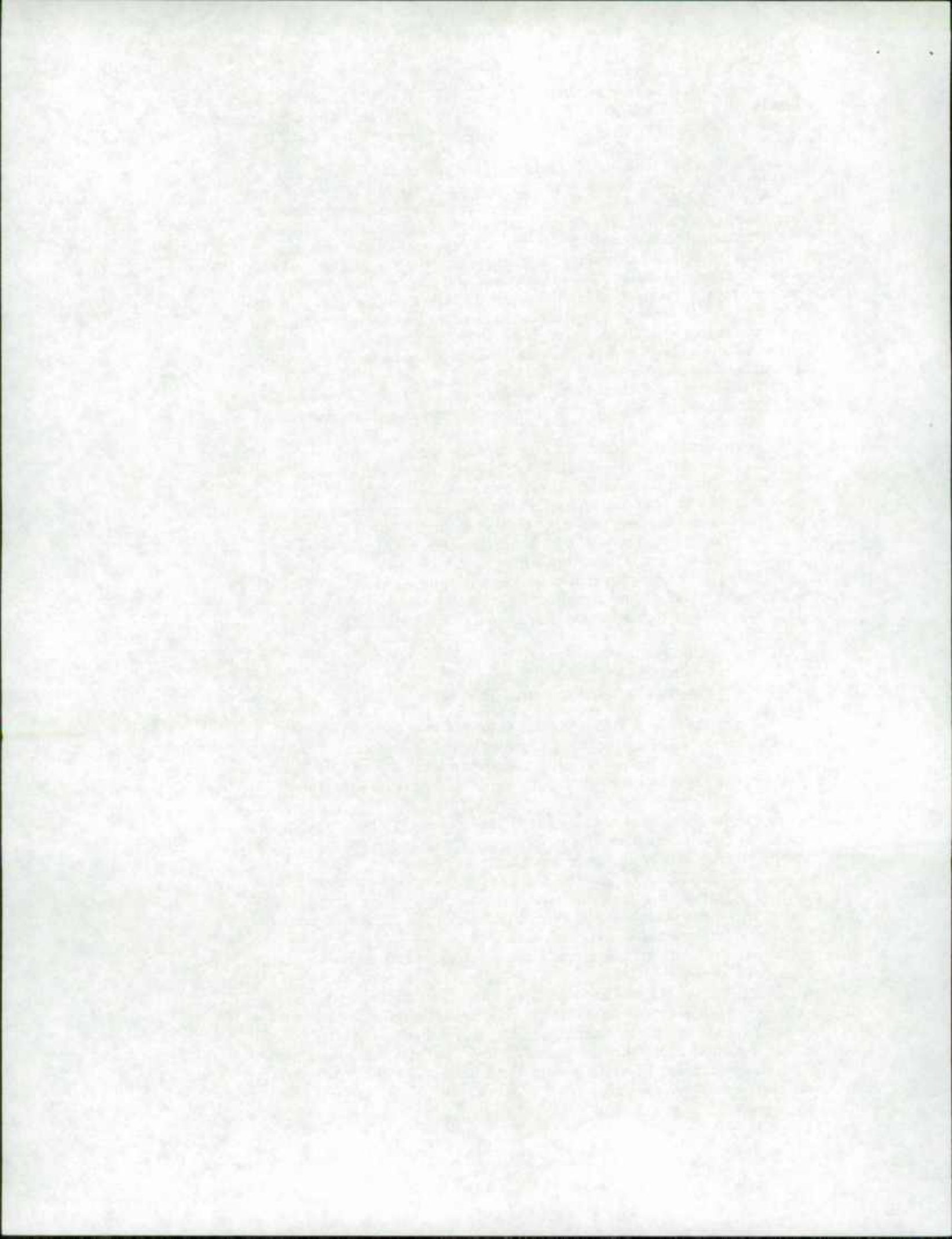
(5) Provisions to limit the amount of land covered by buildings, roads, parking lots, or other impervious surfaces, and to require or encourage cluster development, where necessary or appropriate;

(6) Establishment of buffer areas along shorelines within which agriculture will be permitted only if best management practices are used, provided that structures or any other use of land which is necessary for adjacent agriculture shall also be permitted in any buffer area;

(7) Requirements for minimum setbacks for structures and septic fields along shorelines;

(8) Designation of shoreline areas, if any, that are suitable for parks, hiking, biking, wildlife refuges, scenic drives, public access or assembly, and water-related recreation such as boat slips, piers, and beaches;

(9) Designation of shoreline areas, if any, that are suitable for ports, marinas, and industries that use water for transportation or derive economic benefits from shore access;



(10) Provisions requiring that all harvesting of timber in the Chesapeake Bay Critical Area be in accordance with plans approved by the district forestry board;

(11) Provisions establishing that the controls in a program which are designed to prevent runoff of pollutants will not be required on sites where the topography prevents runoff from directly or indirectly reaching tidal waters; and

(12) Provisions for reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability, including provisions that authorize a local jurisdiction to require removal of a structure that was installed or built to accommodate a physical disability and require restoration when the accommodation permitted by this paragraph is no longer necessary.

Added by amendment to address Macdonald Case

(D) (1) IN THE PREPARATION OF A LOCAL PROGRAM, A LOCAL JURISDICTION SHALL MAKE PROVISION FOR THE GRANTING OF A VARIANCE TO THE LOCAL JURISDICTION'S CRITICAL AREA PROGRAM WHERE, OWING TO SPECIAL FEATURES OF A SITE OR OTHER CIRCUMSTANCES, LOCAL GOVERNMENT IMPLEMENTATION OF THIS SUBTITLE OR A LITERAL ENFORCEMENT OF PROVISIONS WITHIN THE JURISDICTION'S CRITICAL AREA PROGRAM WOULD RESULT IN UNWARRANTED HARDSHIP TO AN APPLICANT. THESE VARIANCE PROVISIONS SHALL BE DESIGNED IN A MANNER CONSISTENT WITH THE SPIRIT AND INTENT OF THIS CHAPTER AND ALL LOCAL CRITICAL AREA PROGRAM ELEMENTS. AT A MINIMUM, THE VARIANCE PROVISIONS SHALL PROVIDE THAT:

It's the spirit of the Community Council

(I) FINDINGS ARE MADE BY THE LOCAL JURISDICTION WHICH DEMONSTRATE THAT SPECIAL CONDITIONS OR CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE LAND OR STRUCTURE WITHIN THE JURISDICTION'S CRITICAL AREA PROGRAM, WOULD RESULT IN UNWARRANTED HARDSHIP;

(II) A LITERAL INTERPRETATION OF THIS SUBTITLE OR THE LOCAL CRITICAL AREA PROGRAM AND RELATED ORDINANCES WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN SIMILAR AREAS WITHIN THE CRITICAL AREA OF THE LOCAL JURISDICTION;

(III) THE GRANTING OF A VARIANCE WILL NOT CONFER UPON AN APPLICANT ANY SPECIAL PRIVILEGE THAT WOULD BE DENIED BY THIS SUBTITLE OR THE LOCAL CRITICAL AREA PROGRAM TO OTHER LANDS OR STRUCTURES WITHIN THE JURISDICTION'S CRITICAL AREA;

(IV) THE VARIANCE REQUEST IS NOT BASED UPON CONDITIONS OR CIRCUMSTANCES WHICH ARE THE RESULT OF ACTIONS BY THE APPLICANT, NOR DOES THE REQUEST ARISE FROM ANY CONDITION CONFORMING, ON ANY NEIGHBORING PROPERTY;

Handwritten notes in the top left corner, possibly including a date and some illegible text.

Handwritten notes in the middle left margin, possibly including a name or a short phrase.

(V) THE GRANTING OF A VARIANCE WILL NOT ADVERSELY AFFECT WATER QUALITY OR ADVERSELY IMPACT FISH, WILDLIFE, OR PLANT HABITAT WITHIN THE JURISDICTION'S CRITICAL AREA, AND THAT THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL SPIRIT AND INTENT OF THE CRITICAL AREA LAW AND THE REGULATIONS ADOPTED IN THIS SUBTITLE; AND

(VI) APPLICATIONS FOR A VARIANCE WILL BE MADE IN WRITING TO THE LOCAL APPROVING AUTHORITY WITH A COPY PROVIDED TO THE COMMISSION.

(2) A VARIANCE MAY NOT BE GRANTED UNLESS THE LOCAL JURISDICTION MAKES FINDINGS THAT EACH OF THE FOREGOING VARIANCE PROVISIONS HAS BEEN MET.

(3) A LOCAL JURISDICTION MAY ESTABLISH ADDITIONAL, MORE RESTRICTIVE STANDARDS FOR THE GRANTING OF VARIANCES CONSISTENT WITH THE INTENT AND PURPOSES OF THIS SUBTITLE AND THE APPROVED LOCAL CRITICAL AREA PROGRAM, AND SHALL ESTABLISH NOTIFICATION PROCEDURES TO PERMIT COMMISSION REVIEW OF FINDINGS MADE IN THE GRANTING OF THE VARIANCES.

(4) AN APPEAL FROM A DECISION CONCERNING THE GRANTING OR DENIAL OF A VARIANCE SHALL BE TAKEN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND PROCEDURES OF EACH LOCAL JURISDICTION FOR VARIANCES. A DECISION ON A VARIANCE BY A LOCAL BOARD OF APPEAL OR THE LOCAL LEGISLATIVE BODY MAY BE APPEALED TO THE CIRCUIT COURT IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE. AN APPEAL MAY BE TAKEN BY ANY PERSON, FIRM, CORPORATION, OR GOVERNMENTAL AGENCY, AGGRIEVED OR ADVERSELY AFFECTED BY ANY DECISION MADE UNDER THIS SECTION, AND THE CHAIRMAN MAY APPEAL AN ACTION OR DECISION EVEN IF THE CHAIRMAN WAS NOT A PARTY TO OR IS NOT SPECIFICALLY AGGRIEVED BY THE ACTION OR DECISION.

[(d)] (E)

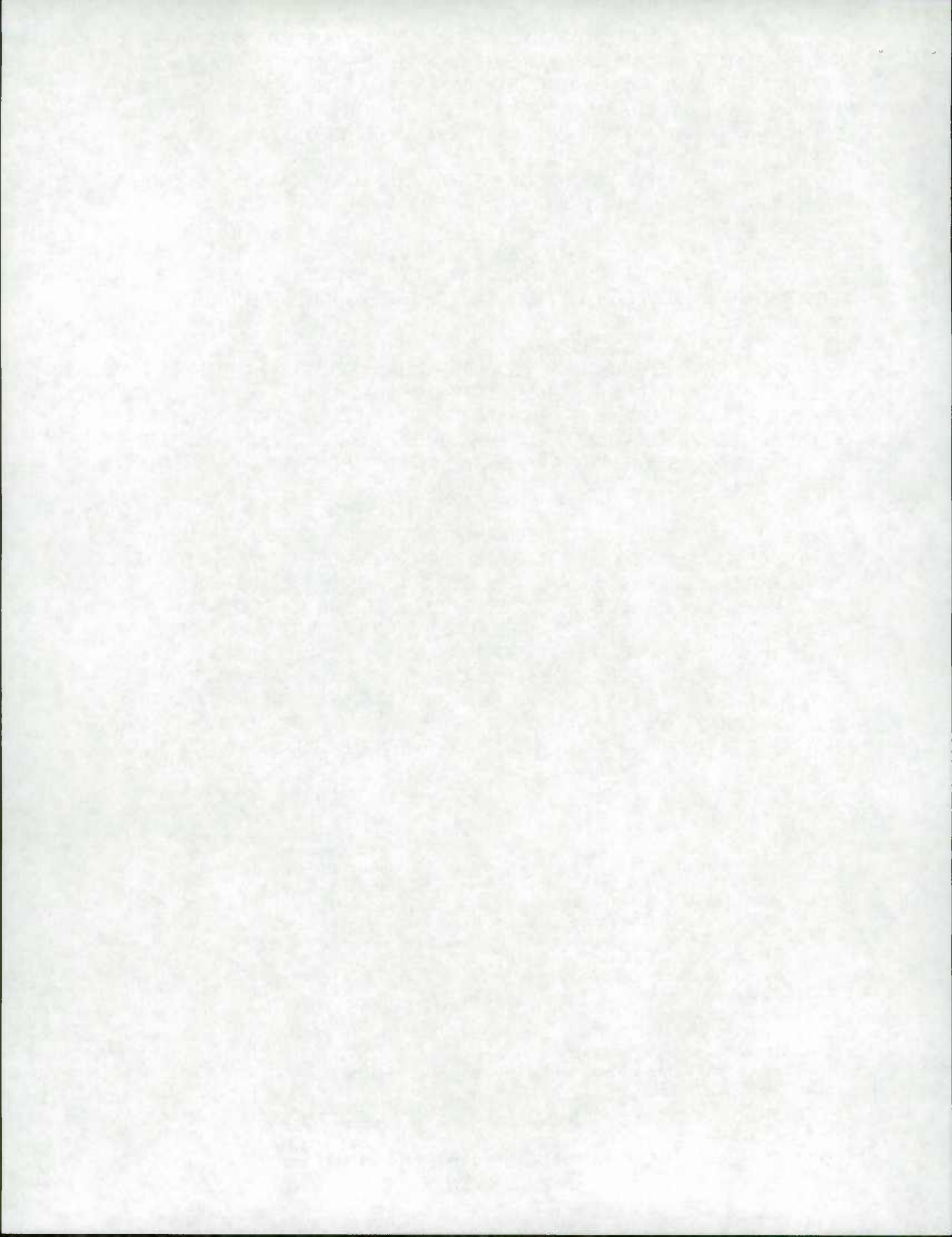
(1) The Commission shall adopt by regulation on or before December 1, 1985 criteria for program development and approval, which are necessary or appropriate to achieve the standards stated in subsection (b) of this section. Prior to developing its criteria and also prior to adopting its criteria, the Commission shall hold at least 6 regional public hearings, 1 in each of the following areas:

- (i) Harford, Cecil, and Kent counties;
- (ii) Queen Anne's, Talbot, and Caroline counties;
- (iii) Dorchester, Somerset, and Wicomico counties;
- (iv) Baltimore City and Baltimore County;
- (v) Charles, Calvert, and St. Mary's counties; and
- (vi) Anne Arundel and Prince George's counties.

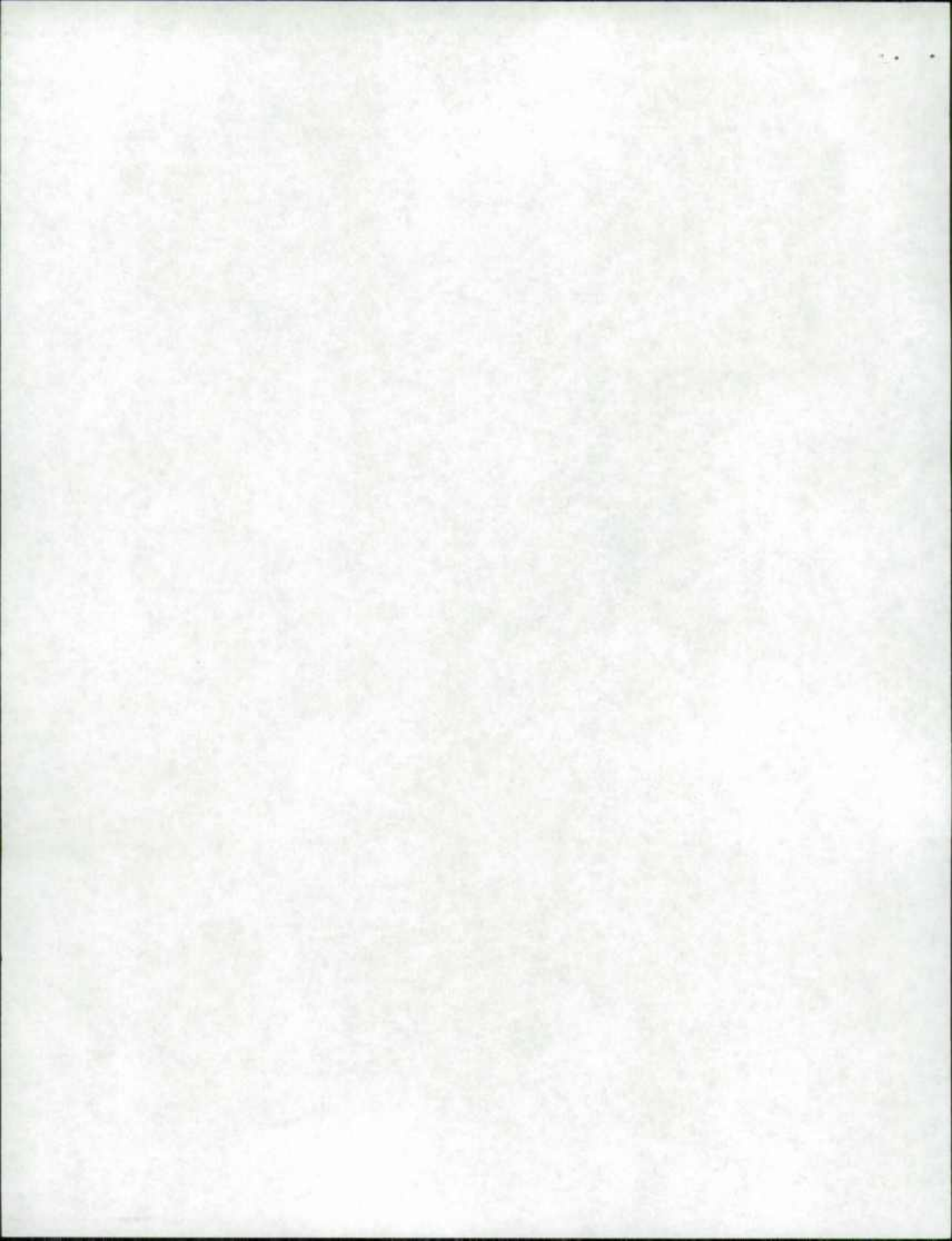
(2) During the hearing process, the Commission shall consult with each affected local jurisdiction.

[(e)] (F)

- Nothing in this section shall impede or prevent the dredging of any waterway in a critical area. However, dredging in a critical area is subject to other applicable federal and State laws and regulations.



SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1,
2001.



Chesapeake Bay Critical Area Commission

STAFF REPORT

January 3, 2001

APPLICANT: State Highway Administration

PROPOSAL: MD 347 – Streetscape and Drainage Improvements

JURISDICTION: Wicomico County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with conditions

STAFF: LeeAnne Chandler

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05 - State Agency Actions Resulting in
Development on State-Owned Lands

DISCUSSION:

The State Highway Administration (SHA) of the Maryland Department of Transportation is proposing improvements to MD 347 through the historic village of Quantico in western Wicomico County. Improvements will include some widening, resurfacing, drainage improvements and placement of curb, gutters and sidewalks. The improvements will add approximately 0.18 acres of impervious surface within the project limits. The project is within an area of intense development and is therefore subject to the 10% pollutant reduction requirement.

Land use within the project area is characterized by historic residential structures set back only a short distance from the existing edge of roadway. The existing sidewalks consist of a mix of concrete and brick. They are not continuous and have deteriorated in some locations. There is no evident outfall for drainage and local flooding exists on the lawn and sidewalks adjacent to the roadway. Quantico Creek is located at the southern limit of the project. Quantico Creek is located within the Nanticoke watershed and is classified as Use I Waters (Recreational/Water Contact and Anadromous Fish) with no instream work permitted from March 1 to June 15, inclusive, during any year. The existing bridge crossing Quantico Creek at the southern limit of this project will not be affected by the proposed improvements.

The proposed drainage improvements will consist of installation of curb and gutter and inlets into a closed storm drain system. This storm drain will collect runoff from the approximately 4-

acre project site (including the area both inside and outside of the Critical Area). The 10% pollutant reduction requirement is approximately two pounds of Phosphorus. Drainage naturally flows towards Quantico Creek. In order to manage the stormwater and dissipate the velocity, a level-spreader is proposed on the eastern side of the roadway in the vicinity of Quantico Creek. The level-spreader will dissipate the velocity of the stormwater and release it slowly into the adjacent naturally existing wetlands.

Considerable effort was put into finding a viable solution to the stormwater issue on this site. Directly downstream of the MD 347 bridge crossing the creek is a designated Habitat Protection Area (HPA). This HPA contains several species of rare intertidal wetland plants that would have been affected by previous proposals. The Department of Natural Resources' Regional Ecologist visited the site with Commission staff and met with representatives of SHA to discuss the stormwater issue. The plan for the level-spreader was the result of that meeting. The Ecologist is satisfied that the HPA will be adequately protected from the stormwater with the level-spreader in place.

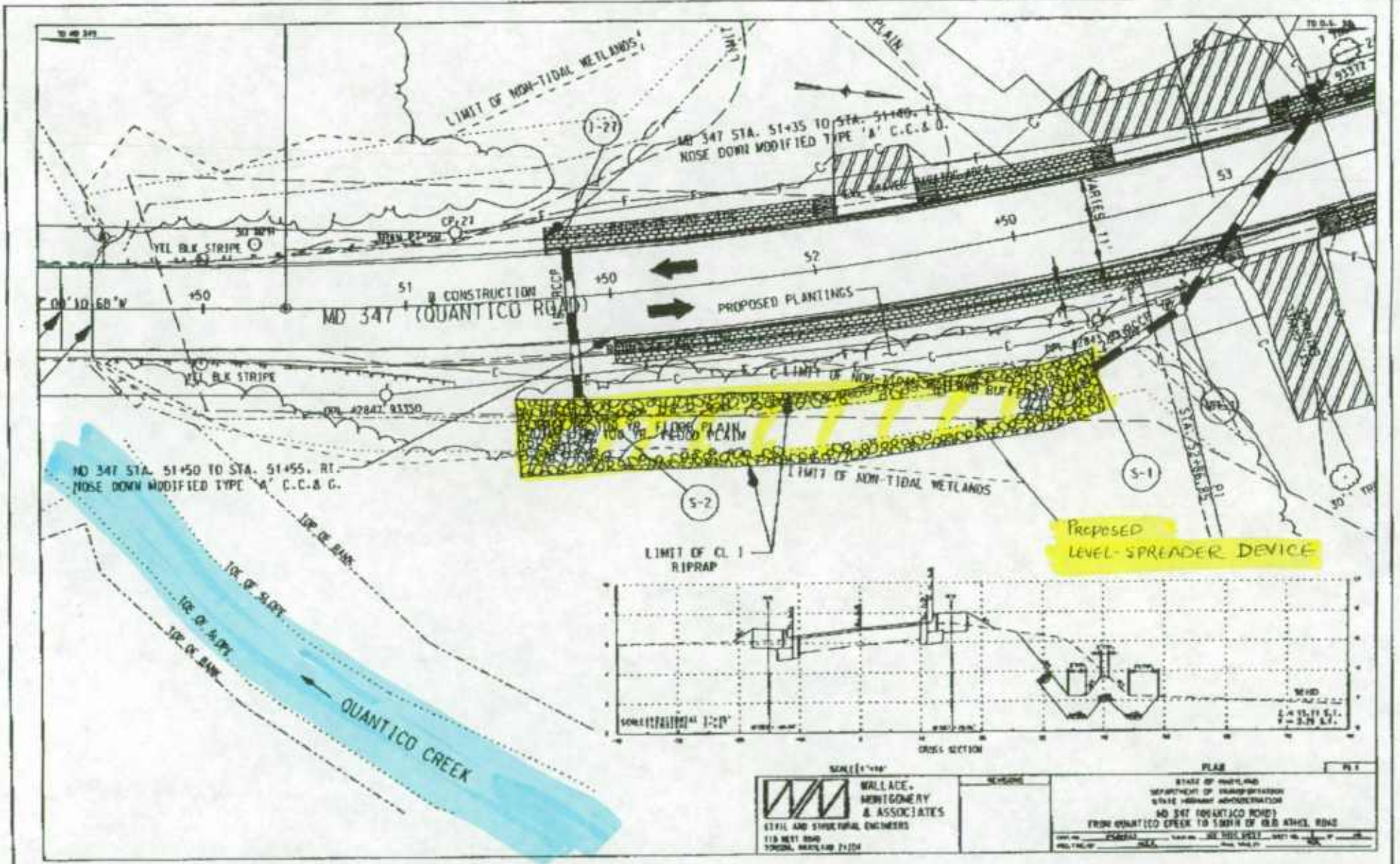
Some wetland and wetland buffer impacts will occur from the proposed device. These impacts will be quantified prior to the Commission meeting. A detailed site plan is not yet available to send with this report, so one will be distributed at the meeting. Representatives of SHA will be attending the meeting to discuss the project in more detail and to answer any questions which may arise.

Commission staff recommends approval of this project with the following conditions:

1. All necessary permits and approvals will be acquired from MDE prior to any construction.
2. Mitigation will be provided at a 3:1 ratio for all Buffer disturbance. *+ 1:1 for*
3. A planting plan will be provided to Commission staff for review. *forest*

4. *St* approval of water quality designs. *removed outside*
2/2/02

*D. Boudon must approve E and
McLean seal / en*



<p> WALLACE, MONTGOMERY & ASSOCIATES CIVIL AND STRUCTURAL ENGINEERS 110 WEST ROAD SPRING BRIDGE, VIRGINIA </p>	<p>SCALE: 1"=40'</p>	<p>PLANNING</p>
	<p>STATE OF MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION</p> <p>NO. 347 (QUANTICO ROAD) FROM QUANTICO CREEK TO SOUTH OF OLD ATHLETIC ROAD</p>	<p>PLAN</p>

Steve ?

D. Coudon must approve

Chesapeake Bay Critical Area Commission

STAFF REPORT

January 3, 2001

APPLICANT: Maryland Transportation Authority

PROPOSAL: Light Rail Double Track, Section 6

JURISDICTION: Baltimore County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval With A Condition

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:**

COMAR 27.02.05. State Agency Actions Resulting in Development on State-Owned Lands

DISCUSSION:

Condition
2. maintain agree must be des.
by MTA & approved by Staff

The Maryland Transportation Authority is proposing to construct a second track to parallel the existing 0.7 mile long, single, light rail track that runs from the vicinity of the Patapsco Avenue station to the I-895 Overpass in Baltimore County. The project will include the construction of a southbound platform at the Baltimore Highlands station, one traction power substation, and one central instrument house with associated gravel access roads within the Critical Area.

Jones 2/4
CY

This area is designated an Intensely Developed Area (IDA). A total of 7.36 acres of the project's limits of disturbance are located within the Critical Area. There are no impacts to the 100-foot Critical Area Buffer.

Impacts include an increase in impervious surface by 0.26 acres; the filling of ten (10) square feet of nontidal wetlands (which may be exempt from MDE mitigation requirements); and the removal of a small number of existing trees and/or shrubs. Vegetation will be relocated or replaced depending on actual field conditions.

A total of 11,365 square feet of impervious area will be created to accommodate the following facilities:

- Central Instrument House and associated gravel access road= 2,460 square feet
- Platform, parking lot and sidewalk= 3,100 square feet
- Traction power substation and associated gravel access road= 5,805 square feet

Handwritten text at the top left, possibly a date or reference number.

Handwritten text at the top right, possibly a name or title.

Main body of handwritten text, including a signature and possibly a date.

MTA Double Track Light Rail, Section 6
January 3, 2001
Page Two

The stormwater quality for the site will be managed by the use of a sand filter. This sand filter is designed to remove pollutants at a rate of 2.79 lbs/yr. The 10% Rule calculations show that 2.77 lbs/yr total pollutant removal are required. MDE has conceptually reviewed this design and has approved the location as well as the design of this facility. Therefore, it is not expected that the location or footprint for this facility will change.

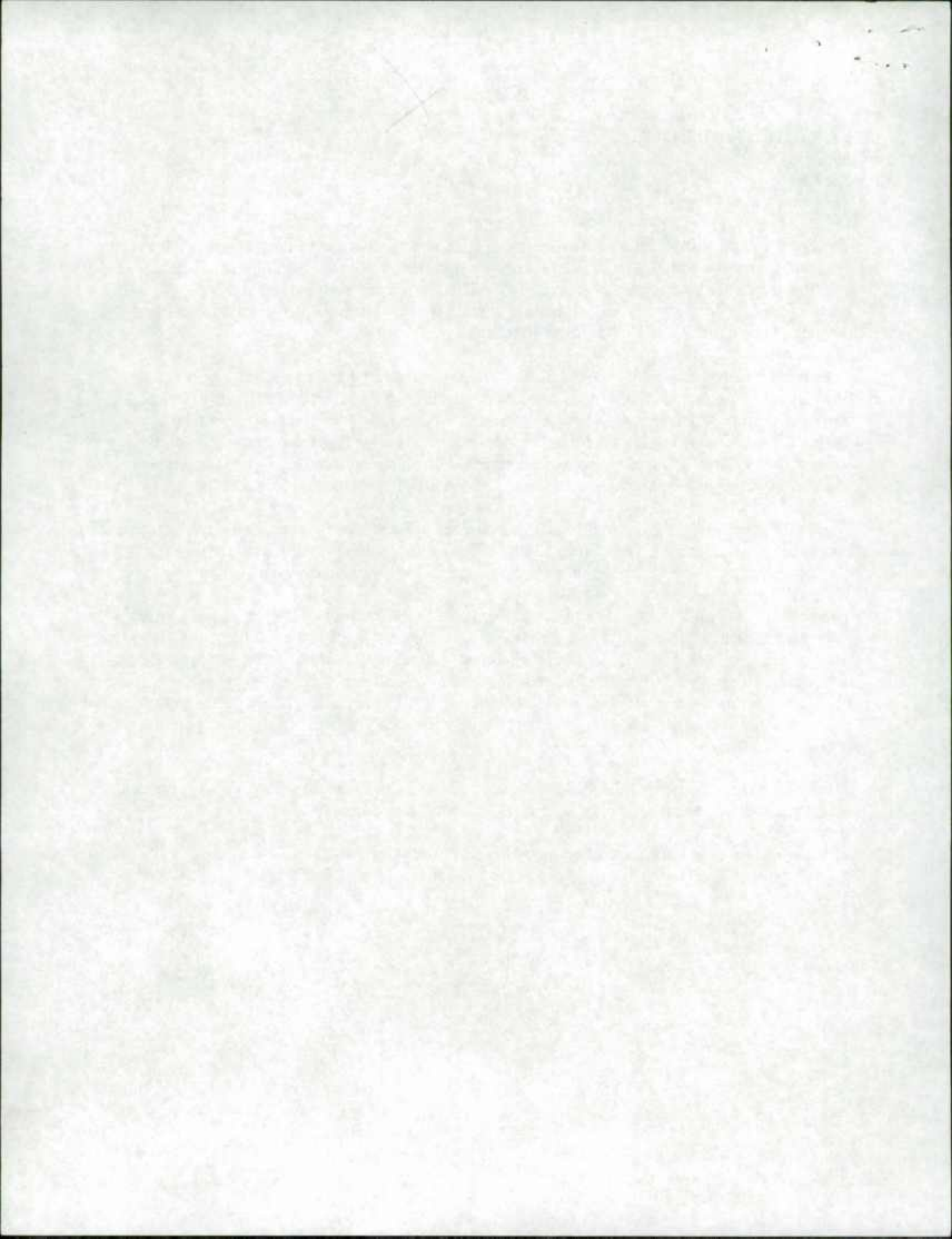
The planting plan for the displacement of trees and shrubs has reached the 89% stage. A copy of this plan will be presented during the Commission meeting. It is expected that some existing trees and shrubs are salvagable and can be relocated for use in landscaping the platform area. This will be determined by the health of the individual trees, as well as the contractor's ability to work with the plants. Therefore, an exact determination on the replacement of impacted trees and/or shrubs may not be known until the pre-construction meeting.

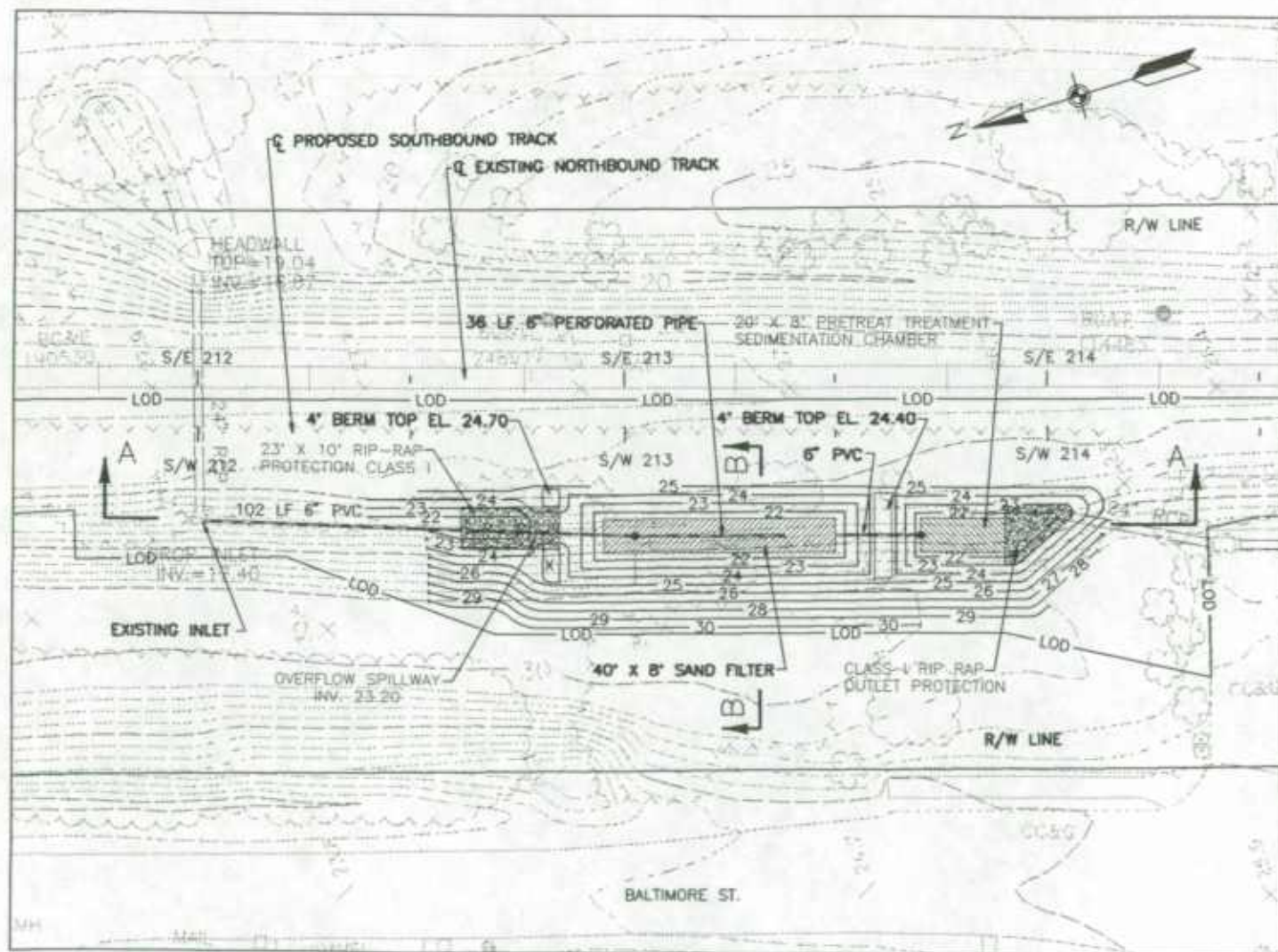
During the approval of the original single-track project, afforestation was required. Afforestation was accomplished through natural regeneration. The applicant will provide details at the Commission meeting as to the location and existing condition of this afforestation area.

The permanent nontidal wetlands impacts consists of ten (10) square feet in an area that appears to be the remnants of an old ditchline. MDE has asked MTA to calculate cumulative impacts that will be used in determining whether this project will be subject to mitigation of permanent nontidal wetland losses. Currently, the entire eight-segment project appears to permanently displace 3,000 square feet of nontidal wetlands, qualifying it for an exemption from mitigation requirements. Should mitigation be required, a mitigation area and planting plan will become necessary.

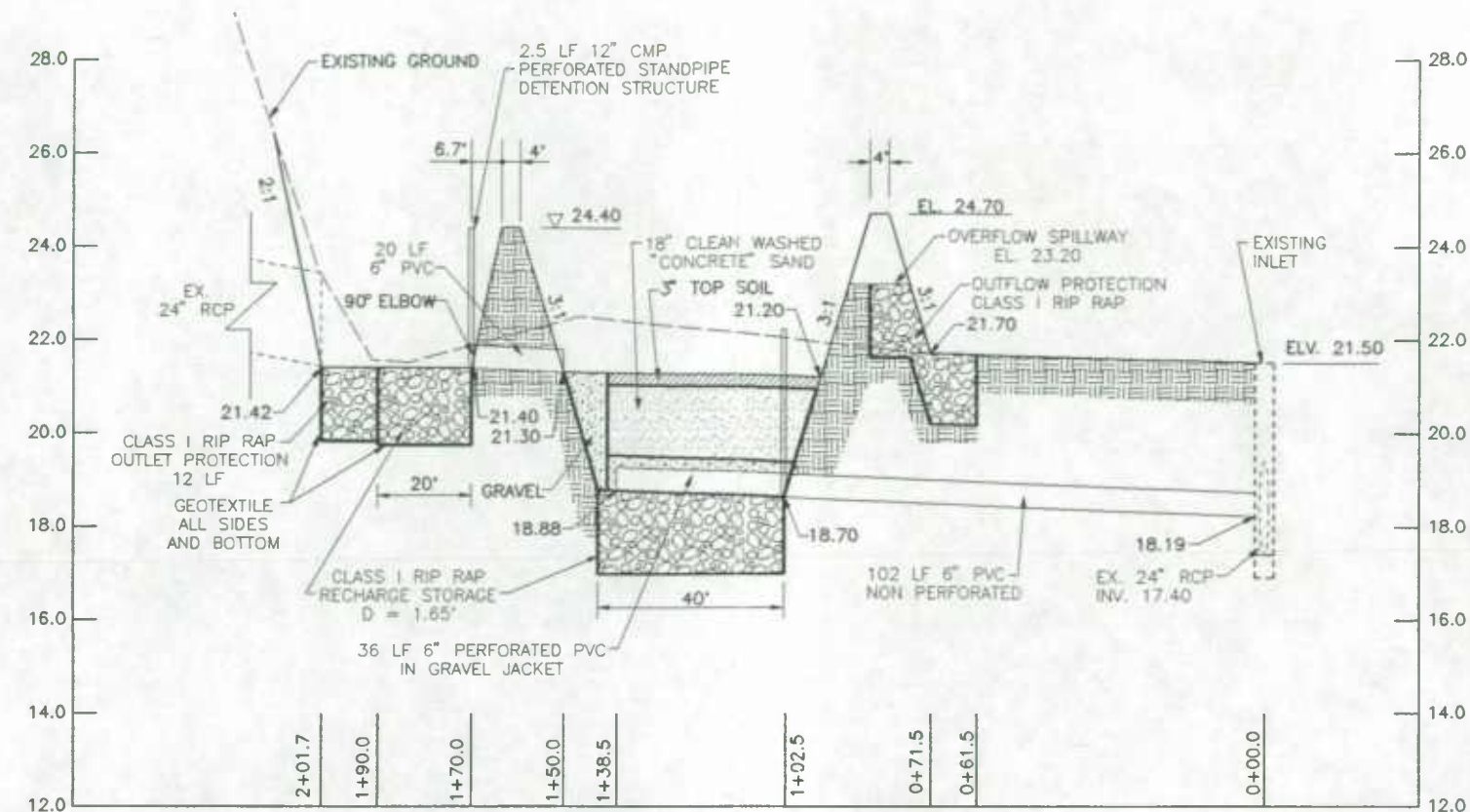
There will be temporary nontidal wetland impacts caused by equipment moving across the area. These impacts will be restored upon completion of work in that area.

There are no proposed impacts to any other Habitat Protection Areas.



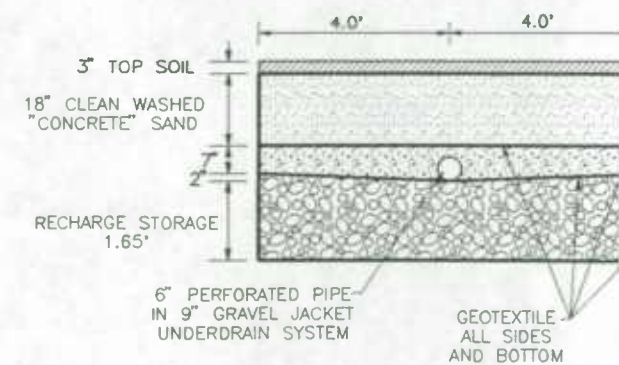


SURFACE SAND FILTER PLAN
SCALE: 1" = 20'



SURFACE SAND FILTER PROFILE -- SECTION A-A

SCALE: HOR. 1" = 20'
VER. 1" = 2'



SURFACE SAND FILTER TYPICAL SECTION SECTION B-B

SCALE: 1" = 2'

NOTE:
INSTALL GEOTEXTILE ALONG ALL SIDES AND BOTTOMS FOR RIP RAP PROTECTION, CLEAN WASHED "CONCRETE" SAND, GRAVEL JACKET, AND RECHARGE STORAGE AREA. ALSO INSTALL GEOTEXTILE ON THE TOP OF "CONCRETE" SAND.

MARYLAND DEPARTMENT OF TRANSPORTATION



NO.	DESCRIPTION	BY	DATE

	KGH
	KGH
	KBR

LIGHT RAIL DOUBLE TRACK PROJECT
SECTIONS 5 AND 6 - CIVIL WORK
HAMBURG STREET TO I-895

SURFACE SAND FILTER PLAN AND DETAILS

DATE: DECEMBER 20, 2000 SCALE: SEE PLAN

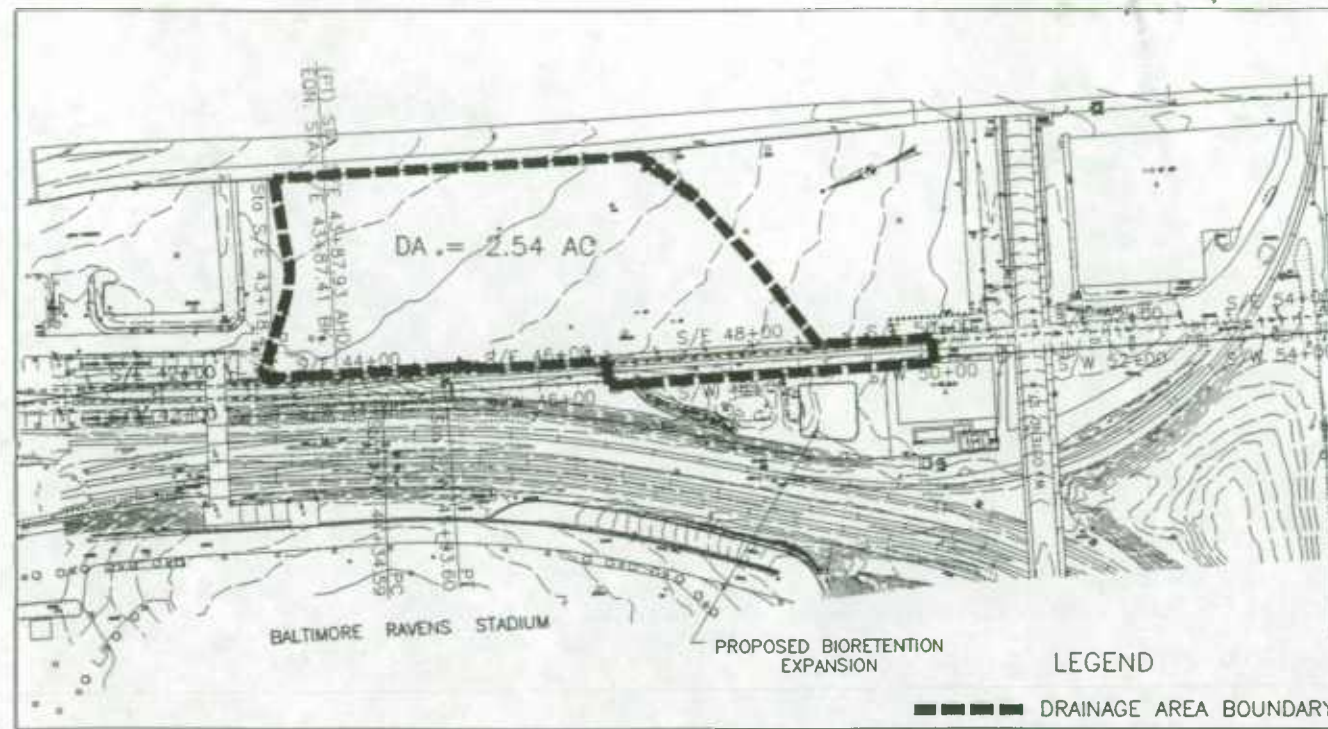
CONTRACT NO.
T-0492-0240

DRAWING NO.
SW-02

OF

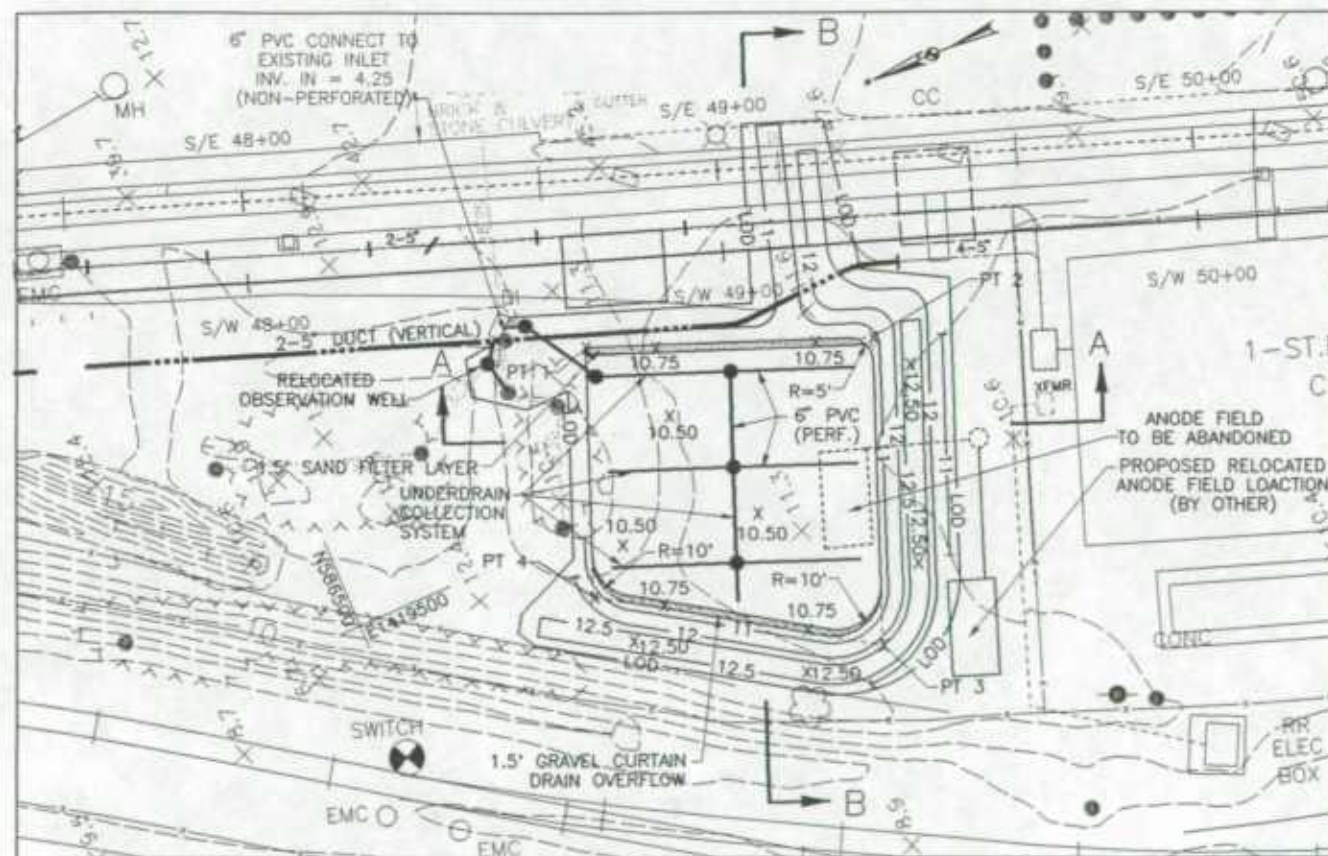
PLOTED, DATED, BY, REVISIONS, FILE

SW 11 PLOT TCG



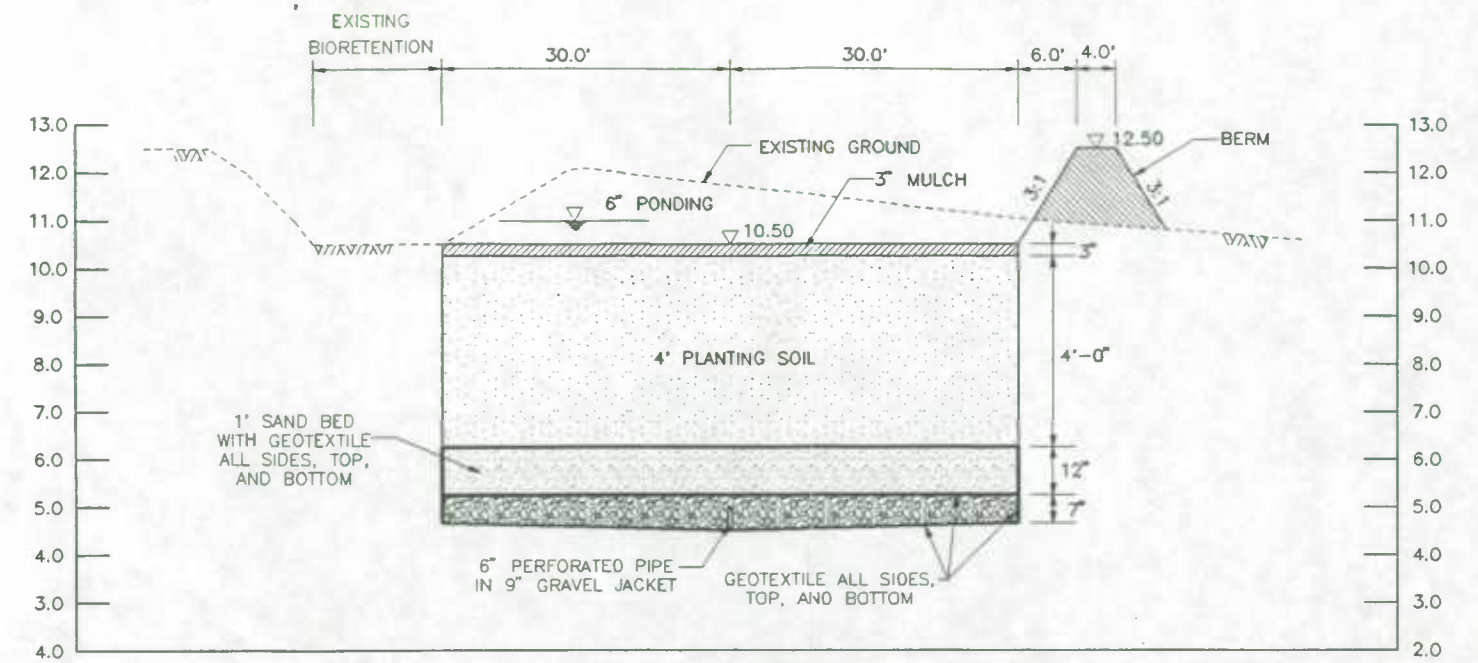
DRAINAGE AREA MAP - PROPOSED CONDITIONS

SCALE: 1" = 100'



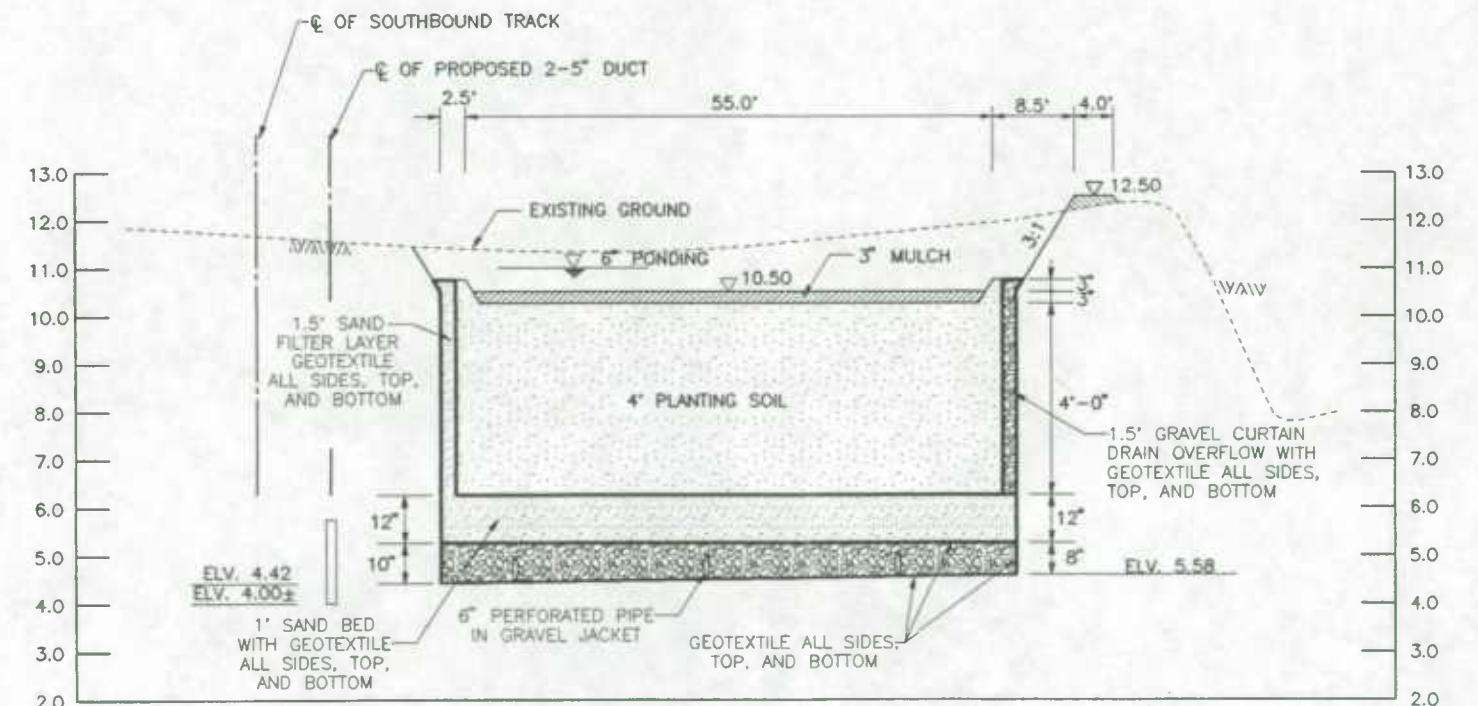
BIORETENTION GRADING PLAN

SCALE: 1" = 20'



SECTION A-A

SCALE: HOR: 1" = 10'
VERT: 1" = 2'



SECTION B-B

SCALE: HOR: 1" = 10'
VERT: 1" = 2'

POINT	COORDINATES		LOCATION REFER TO S/W	
	NORTH	EAST	STATION	OFFSET
PT 1	586433.51	1419534.44	47+70.00	18.0' RT
PT 2	589377.70	1419512.39	49+30.00	20.0' RT
PT 3	586401.28	1419452.70	49+27.83	84.4' RT
PT 4	586452.61	1419486.07	48+68.36	70.0' RT

MARYLAND DEPARTMENT OF TRANSPORTATION



Plotted: 5/04/01
By: SUSEP/AVS
File: 3/1/01

NO.	DESCRIPTION	BY	DATE
REVISIONS			

LIGHT RAIL DOUBLE TRACK PROJECT
SECTIONS 5 AND 6 - CIVIL WORK
HAMBURG STREET TO I-895

BIORETENTION PLAN AND DETAILS

DATE: OCTOBER 20, 2000

SCALE: SEE PLAN

CONTRACT NO.
T-0492-0240

DRAWING NO.
SW-01

OF

CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT

January 3, 2001

APPLICANT: Mass Transit Administration

PROPOSAL: Light Rail Double Track , Section 5

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with Conditions

STAFF: Dawnn McCleary

**APPLICATION LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State or
Local Agency Programs in the Critical Area

DISCUSSION:

Project History:

On September 6, 1989, the Critical Area Commission first approved the Central Light Rail Line for Baltimore County, Baltimore City and Anne Arundel County. The approved Critical Area report documented the existing natural resources and the environmental impacts created by the original Mass Transit Administration (MTA) light rail construction within the Critical Area limits. Several conditions required by the Commission were eventually met by MTA many years ago.

Proposed Development Activity:

The double track for the Central Light Rail at the Middle Branch is located in the Gywnns Fall watershed. The areas requiring water quality control measures include the proposed footings for the remaining piers at the Middle Branch Bridge and all the footings for the Kloman Street Bridge, one central instrument house, and one traction power substation with associated gravel access road. The traction power station is located approximately 600 feet south of the Middle Branch shoreline and the central instrument house is located approximately 150 feet south of Westport Station platform. The project is located in an area of intense development.

THE STATE OF TEXAS

STATE REPORT

January 3, 2001

1. In 1999, the Commission

2. The Commission

3. The Commission

4. The Commission

5. The Commission

6. The Commission

7. The Commission

8. The Commission

9. The Commission

10. The Commission

11. The Commission

Continued, Page Two
MTA Double Track, Section 5
January 3, 2001

The Mass Transit Administration is also seeking approval to allow a second pier to be constructed parallel to Pier No. 14 within the 100-foot Buffer. There are other bridge piers that already exist as double piers except for Piers 1 thru 7, 13 and 14 which are currently single piers. The existing single Pier No. 14 located in the Middle Branch is currently constructed in the 100-foot Buffer. The pier is located in a grassy area approximately ten feet south of the Stockholm Street curb line at the northern end of Middle Branch Bridge. The MTA is planning on constructing a parallel bridge with the same pier spacing as the existing single bridge. The span spacing between piers is typically 80 feet. When utilizing the existing piers with the new piers, the new pier spacing must be maintained with the same span lengths, which therefore places the new Pier No. 14 in the 100-foot Buffer.

Since Pier No. 14 must be located in the 100-foot Buffer, the applicant must mitigate on site or somewhere else in the Buffer. According to MTA's environmental consultant, a site for Buffer mitigation has been identified, but more information is still forthcoming. I anticipate having more information at the Commission meeting.

Finally, a letter from the Department of Natural Resources Heritage and Biodiversity Division indicates that no rare, threatened and endangered species are present on this site.

Pollutant Removal Requirements:

All impervious surface computed in the Critical Area limits are within MTA's right-of-way boundaries. MTA determined that it is not feasible to treat stormwater runoff at each impervious area location, therefore stormwater runoff will be treated offsite. The offsite water quality treatment will be a new expansion to an existing bioretention facility located on the north end of the Middle Branch and adjacent to PSI Net Stadium parking lot. The expanded bioretention for the PSI Net Stadium parking lot will serve the Middle Branch Bridge pier, traction power station, central instrument house and the Kloman Street Bridge pier.

Continued, Page Three

Commission Retreat - Saturday or Wednesday
in March - 21st Δ 28th

at Wye

Adjourned

Conditional Approval Process

Conditional approval is required under the Commission's regulations for State and local agency projects when proposed development activities do not satisfy all regulations in full. The conditional approval process is set out in COMAR 27.02.06. In order to qualify for consideration by the Commission for conditional approval, the proposing agency must show that the project or program has the following characteristics:

(1) That there exist special features of a site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;

There exist special features and special circumstances of the site that preclude MTA from siting Pier No. 14 outside the Buffer. There is already an existing Middle Branch Bridge Pier No. 14 that was constructed in the 100-foot Buffer. The existing pier is currently located in a grassy area approximately ten feet south of Stockholm Street. The MTA is planning on constructing a parallel bridge with the same type of pier spacing as the existing bridge. When utilizing the existing piers with new piers, the new pier spacing must be maintained. Because the existing pier is already in place, there is no alternative location out of the 100-foot Buffer.

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

The light rail system provides substantial public benefits because it is powered by electricity that produces minimum pollutants. The elevated bridges and the ballast track construction do not require water quality management. The only areas requiring water quality control measures include the proposed footings for the remaining piers at the Middle Branch Bridge, all the footings for the Kloman Street Bridge, the central instrument house, and one traction power substation with a gravel access road.

(3) That the project or program is otherwise in conformance with this subtitle.

The project is in conformance with the State Criteria and the City of Baltimore's Critical Area Program except for the 100-foot Buffer impacts from Pier No. 14. Critical Area staff and the environmental consultant evaluated the site earlier this year to ensure that the project is otherwise consistent with COMAR 27.02.06.

New business
Legislation

Stip Buppert, Asst Atty Gen, OK. talked about
what to do to ameliorate
effects of recent C.O.A. decision
to some degree undermining
Commission's authority.

(Mr. Kalc is
Bill draft-format (based on 3 cases) - for legislation

Belvoir - ~~to~~ boat slips

White - sp. in Buffer

Mastarden - brick walk way
in Buffer

I talked about proposed
legislation

discussed legal usage
language technicalities

Maybe intro. in House - in
Env. Matters Committee

Ch. North Thy to Mr. Buppert
Called for support of Bill

"stated that Court of appeals may take notice
of action of legislature -"

Same. moved -
For sec. -
Wynkoop abstain

C. with 14 - / abstain

January 3, 2001

The Commission must find that the conditional approval request contains the following:

(1) That a literal enforcement of the provision of this subtitle would prevent the conduct of an authorized State or local agency program or project;

A literal enforcement of the provisions would prevent MTA from expanding the light rail's double track design in Baltimore City. Expansion is needed and a double track would eliminate delays in the trains getting to each stop in a timely manner.

(2) There is a process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or, if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05; and

The second pier for No. 14 that will go into the 100-foot Buffer is not consistent with the City's program. However, all disturbance to the 100-foot Buffer will be minimized and the proposed planting will result in improved habitat value and water quality leaving.

(3) Measures proposed to mitigate any adverse effects of the project or program on an approved local Critical Area program or, if on State owned lands, on the criteria set forth in COMAR 27.02.05.

Mitigation in the form of plantings for the Buffer impact will be provided by MTA. Critical Area staff was informed that a mitigation site has been found and is currently being investigated by MTA's environmental consultant. Critical Area staff will determine whether the proposed mitigation site is suitable.

Along with conditions listed below, the conditional approval request is consistent with COMAR 27.02.06, the Commission's regulations for Conditional Approval of State Agency Programs in the Critical Area.

*Continued, Page Five
MTA Light Rail, Section 5
January 3, 2001*

Marionne Mason
Guthrie in
Briggs Stge.

Briggs - Wi. Co. postal parcel
at
vanice for buffer entrance

hr. - So. Co. - of - the fort
vanice.

New Business

Panel apts.

1) Ch. Co.
Julia Hel.
Dave Boulder - Chair

2) Do. Co.
Comp. Rev
Bill Guise, Chair

D. Boudon - approval, subject to 2 cond. in staff report.
McLean - 2nd - C/2

CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT
January 3, 2001

APPLICANT: Mass Transit Administration
PROPOSAL: Light Rail Double Track , Section 5
COMMISSION ACTION: Vote
STAFF RECOMMENDATION: Approval with Conditions
STAFF: Dawnn McCleary
**APPLICATION LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State or
Local Agency Programs in the Critical Area

DISCUSSION:

Project History:

On September 6, 1989, the Critical Area Commission first approved the Central Light Rail Line for Baltimore County, Baltimore City and Anne Arundel County. The approved Critical Area report documented the existing natural resources and the environmental impacts created by the original Mass Transit Administration (MTA) light rail construction within the Critical Area limits. Several conditions required by the Commission were eventually met by MTA many years ago.

Proposed Development Activity:

The double track for the Central Light Rail at the Middle Branch is located in the Gywnns Fall watershed. The areas requiring water quality control measures include the proposed footings for the remaining piers at the Middle Branch Bridge and all the footings for the Kloman Street Bridge, one central instrument house, and one traction power substation with associated gravel access road. The traction power station is located approximately 600 feet south of the Middle Branch shoreline and the central instrument house is located approximately 150 feet south of Westport Station platform. The project is located in an area of intense development.

Handwritten text at the top of the page, possibly a title or header, which is mostly illegible due to fading and blurring.

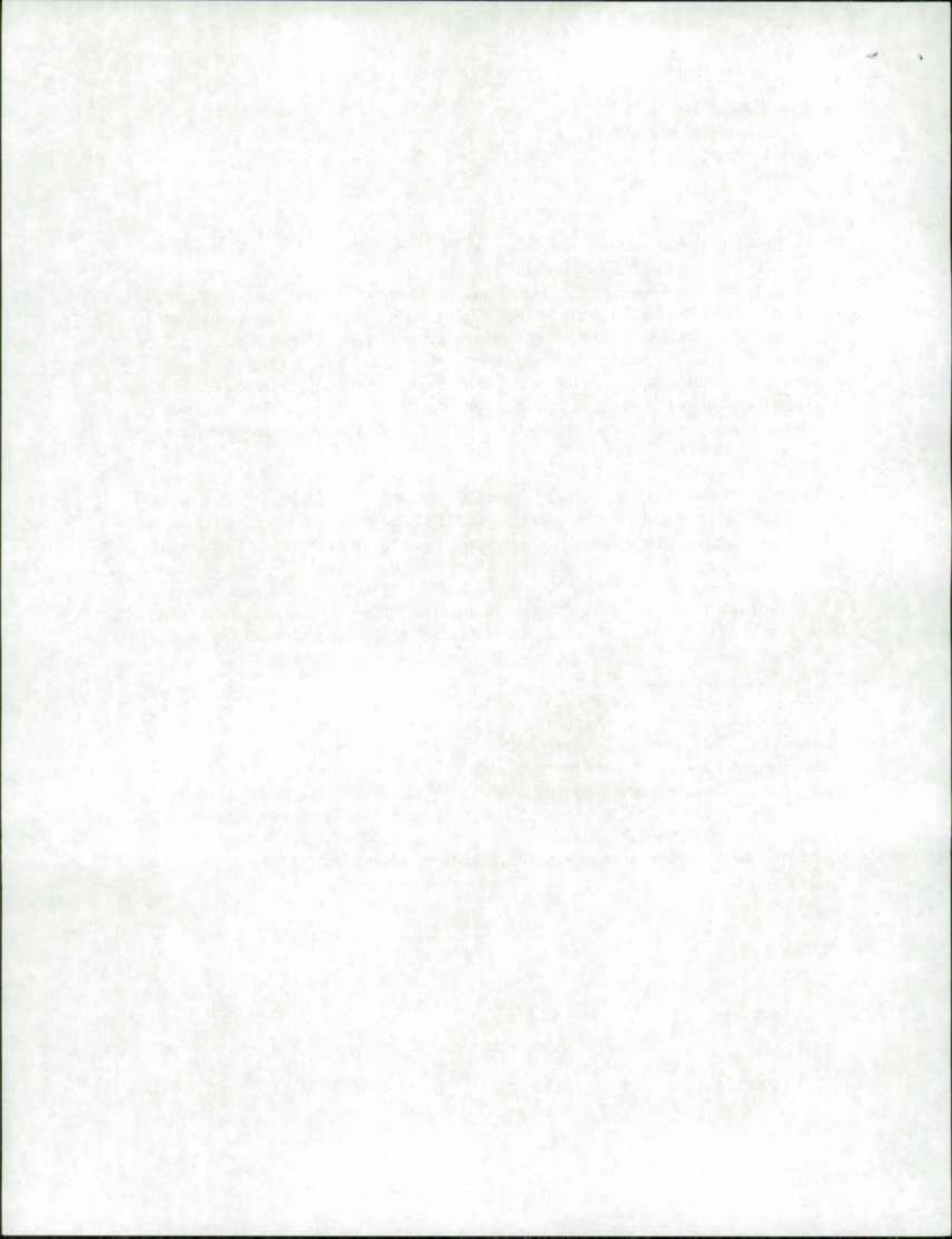
The Mass Transit Administration is also seeking approval to allow a second pier to be constructed parallel to Pier No. 14 within the 100-foot Buffer. There are other bridge piers that already exist as double piers except for Piers 1 thru 7, 13 and 14 which are currently single piers. The existing single Pier No. 14 located in the Middle Branch is currently constructed in the 100-foot Buffer. The pier is located in a grassy area approximately ten feet south of the Stockholm Street curb line at the northern end of Middle Branch Bridge. The MTA is planning on constructing a parallel bridge with the same pier spacing as the existing single bridge. The span spacing between piers is typically 80 feet. When utilizing the existing piers with the new piers, the new pier spacing must be maintained with the same span lengths, which therefore places the new Pier No. 14 in the 100-foot Buffer.

Since Pier No. 14 must be located in the 100-foot Buffer, the applicant must mitigate on site or somewhere else in the Buffer. According to MTA's environmental consultant, a site for Buffer mitigation has been identified, but more information is still forthcoming. I anticipate having more information at the Commission meeting.

Finally, a letter from the Department of Natural Resources Heritage and Biodiversity Division indicates that no rare, threatened and endangered species are present on this site.

Pollutant Removal Requirements:

All impervious surface computed in the Critical Area limits are within MTA's right-of-way boundaries. MTA determined that it is not feasible to treat stormwater runoff at each impervious area location, therefore stormwater runoff will be treated offsite. The offsite water quality treatment will be a new expansion to an existing bioretention facility located on the north end of the Middle Branch and adjacent to PSI Net Stadium parking lot. The expanded bioretention for the PSI Net Stadium parking lot will serve the Middle Branch Bridge pier, traction power station, central instrument house and the Kloman Street Bridge pier.



Conditional Approval Process

Conditional approval is required under the Commission's regulations for State and local agency projects when proposed development activities do not satisfy all regulations in full. The conditional approval process is set out in COMAR 27.02.06. In order to qualify for consideration by the Commission for conditional approval, the proposing agency must show that the project or program has the following characteristics:

- (1) That there exist special features of a site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;**

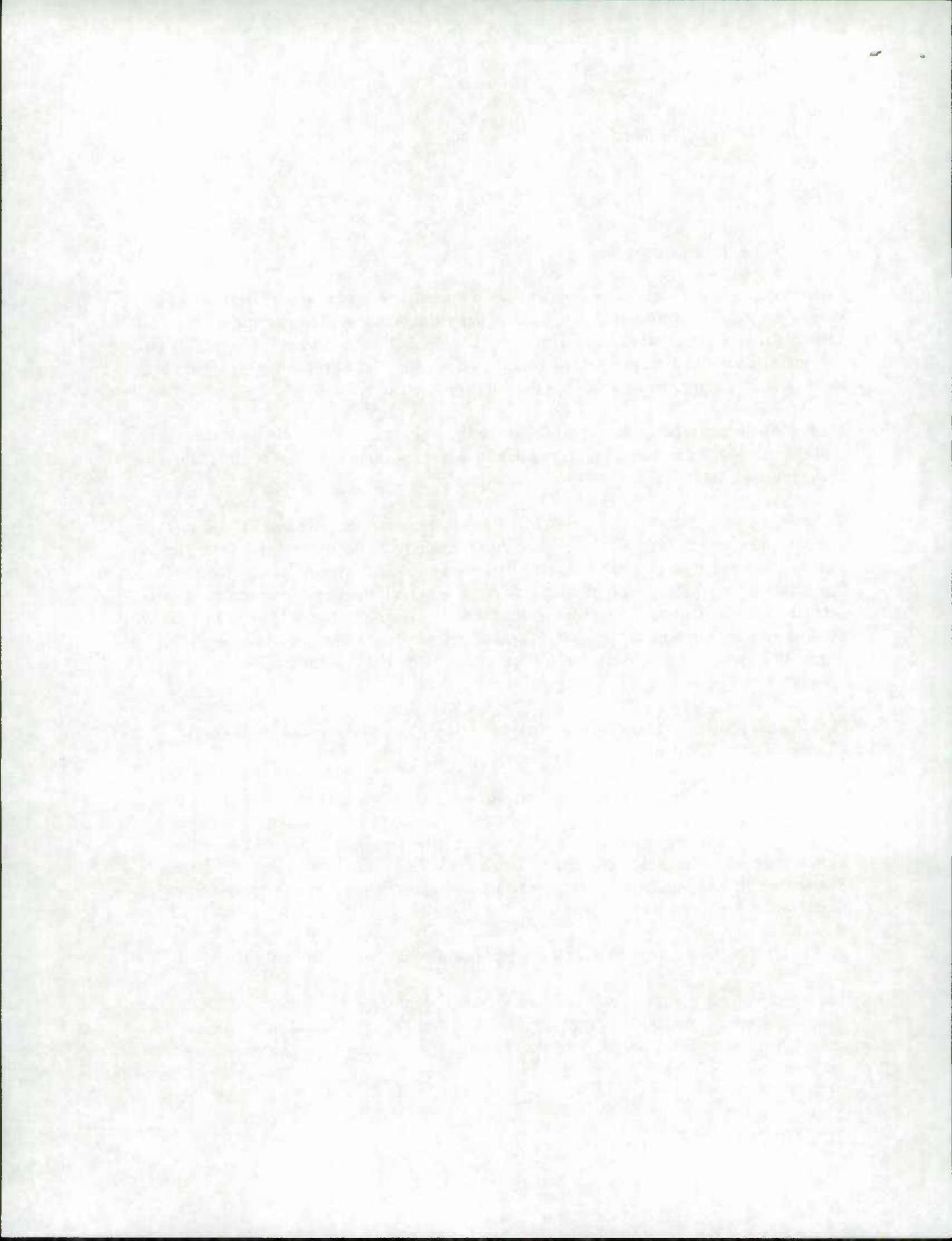
There exist special features and special circumstances of the site that preclude MTA from siting Pier No. 14 outside the Buffer. There is already an existing Middle Branch Bridge Pier No. 14 that was constructed in the 100-foot Buffer. The existing pier is currently located in a grassy area approximately ten feet south of Stockholm Street. The MTA is planning on constructing a parallel bridge with the same type of pier spacing as the existing bridge. When utilizing the existing piers with new piers, the new pier spacing must be maintained. Because the existing pier is already in place, there is no alternative location out of the 100-foot Buffer.

- (2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;**

The light rail system provides substantial public benefits because it is powered by electricity that produces minimum pollutants. The elevated bridges and the ballast track construction do not require water quality management. The only areas requiring water quality control measures include the proposed footings for the remaining piers at the Middle Branch Bridge, all the footings for the Kloman Street Bridge, the central instrument house, and one traction power substation with a gravel access road.

- (3) That the project or program is otherwise in conformance with this subtitle.**

The project is in conformance with the State Criteria and the City of Baltimore's Critical Area Program except for the 100-foot Buffer impacts from Pier No. 14. Critical Area staff and the environmental consultant evaluated the site earlier this year to ensure that the project is otherwise consistent with COMAR 27.02.06.



The Commission must find that the conditional approval request contains the following:

(1) That a literal enforcement of the provision of this subtitle would prevent the conduct of an authorized State or local agency program or project;

A literal enforcement of the provisions would prevent MTA from expanding the light rail's double track design in Baltimore City. Expansion is needed and a double track would eliminate delays in the trains getting to each stop in a timely manner.

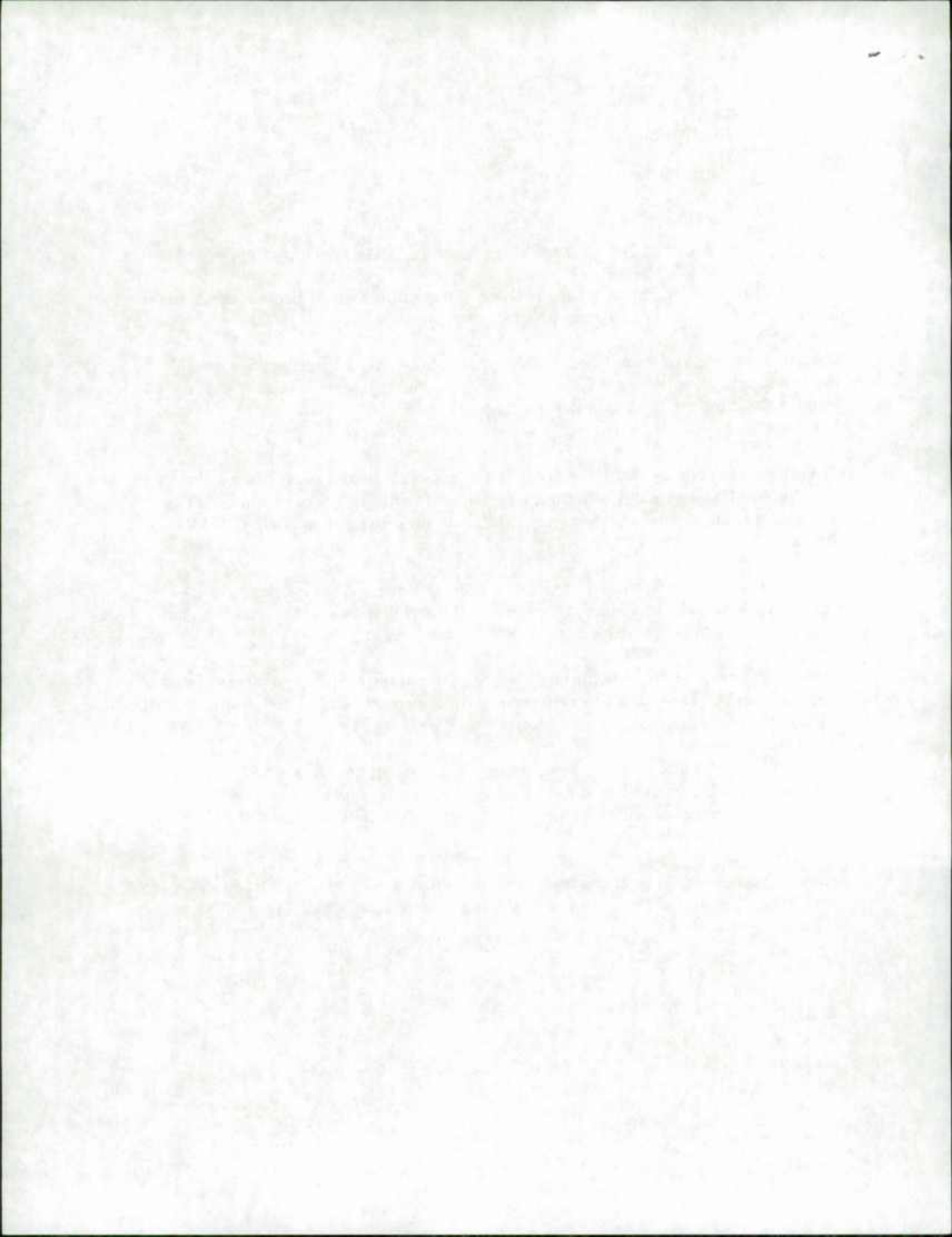
(2) There is a process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or, if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05; and

The second pier for No. 14 that will go into the 100-foot Buffer is not consistent with the City's program. However, all disturbance to the 100-foot Buffer will be minimized and the proposed planting will result in improved habitat value and water quality leaving.

(3) Measures proposed to mitigate any adverse effects of the project or program on an approved local Critical Area program or, if on State owned lands, on the criteria set forth in COMAR 27.02.05.

Mitigation in the form of plantings for the Buffer impact will be provided by MTA. Critical Area staff was informed that a mitigation site has been found and is currently being investigated by MTA's environmental consultant. Critical Area staff will determine whether the proposed mitigation site is suitable.

Along with conditions listed below, the conditional approval request is consistent with COMAR 27.02.06, the Commission's regulations for Conditional Approval of State Agency Programs in the Critical Area.



Continued, Page Five
MTA Light Rail, Section 5
January 3, 2001

Conditions:

1. That MTA will finalize and submit a mitigation site for the Buffer area impacted by the second Pier No. 14. MTA will continue to work with Critical Area staff regarding mitigation for all impacts that will take place in the Buffer as well as coordinate follow-up site visits for future monitoring of the planted areas, and
2. That the Stormwater Management plans will need to be approved by the Maryland Department of the Environment before construction.

Mr. Carson explained pre-construction
contracts -

Has pre-approval on bio-retention

Buffer mgmt - 3:10 ^{mitigation} impact ratio

The above is a copy of the
original document.

Very truly yours,
John F. Kennedy

~~Conditional Approval~~

The subcommittee recommends conditional approval subject to the following;

Conditions:

1. That MTA will finalize and submit a mitigation site for the Buffer area impacted by the second Pier No. 14. MTA will continue to work with Critical Area staff regarding mitigation for all impacts that will take place in the Buffer as well as coordinate follow-up site visits for future monitoring of the planted areas, and
2. That the Stormwater Management plans will need to be approved by the Maryland Department of the Environment before construction.

Conditions

1. That the... will... and... in the... imposed...
2. That the... will... in... with...
3. That the... will... in... follow...
4. That the... will... in...

5. That the... will... to be... in...
6. That the... will... in...

The stormwater quality for the site will be managed by the use of a sand filter. This sand filter is designed to remove pollutants at a rate of 2.79 lbs/yr. The 10% Rule calculations show that 2.77 lbs/yr total pollutant removal are required. MDE has conceptually reviewed this design and has approved the location as well as the design of this facility. Therefore, it is not expected that the location or footprint for this facility will change.

The planting plan for the displacement of trees and shrubs has reached the 89% stage. A copy of this plan will be presented during the Commission meeting. It is expected that some existing trees and shrubs are salvagable and can be relocated for use in landscaping the platform area. This will be determined by the health of the individual trees, as well as the contractor's ability to work with the plants. Therefore, an exact determination on the replacement of impacted trees and/or shrubs may not be known until the pre-construction meeting.

During the approval of the original single-track project, afforestation was required. Afforestation was accomplished through natural regeneration. The applicant will provide details at the Commission meeting as to the location and existing condition of this afforestation area.

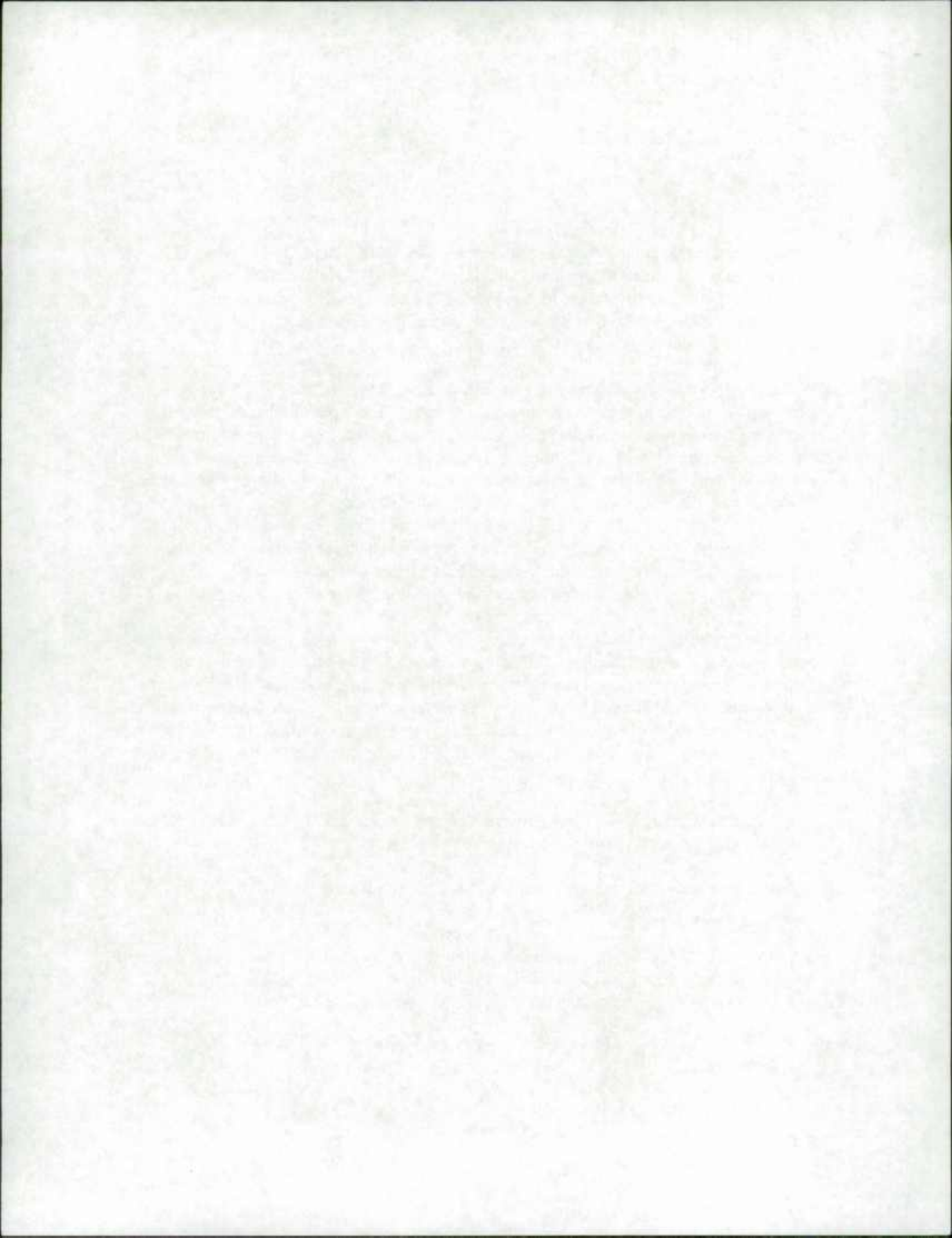
The permanent nontidal wetlands impacts consists of ten (10) square feet in an area that appears to be the remnants of an old ditchline. MDE has asked MTA to calculate cumulative impacts that will be used in determining whether this project will be subject to mitigation of permanent nontidal wetland losses. Currently, the entire eight-segment project appears to permanently displace 3,000 square feet of nontidal wetlands, qualifying it for an exemption from mitigation requirements. Should mitigation be required, a mitigation area and planting plan will become necessary.

There will be temporary nontidal wetland impacts caused by equipment moving across the area. These impacts will be restored upon completion of work in that area.

There are no proposed impacts to any other Habitat Protection Areas.

RECOMMENDATION: Approval with Condition ⁽¹⁾ that planting plan be finalized by the time of the pre-construction meeting and forwarded to staff for review and approval prior to implementing any construction within the Critical Area portions of the project.

2. A Maintenance agreement for storm water practices will be developed by NTA & approved by Commission staff.



CHESAPEAKE BAY CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

MEMORANDUM

To: Project Subcommittee

From: Claudia Jones, Lisa Hoerger

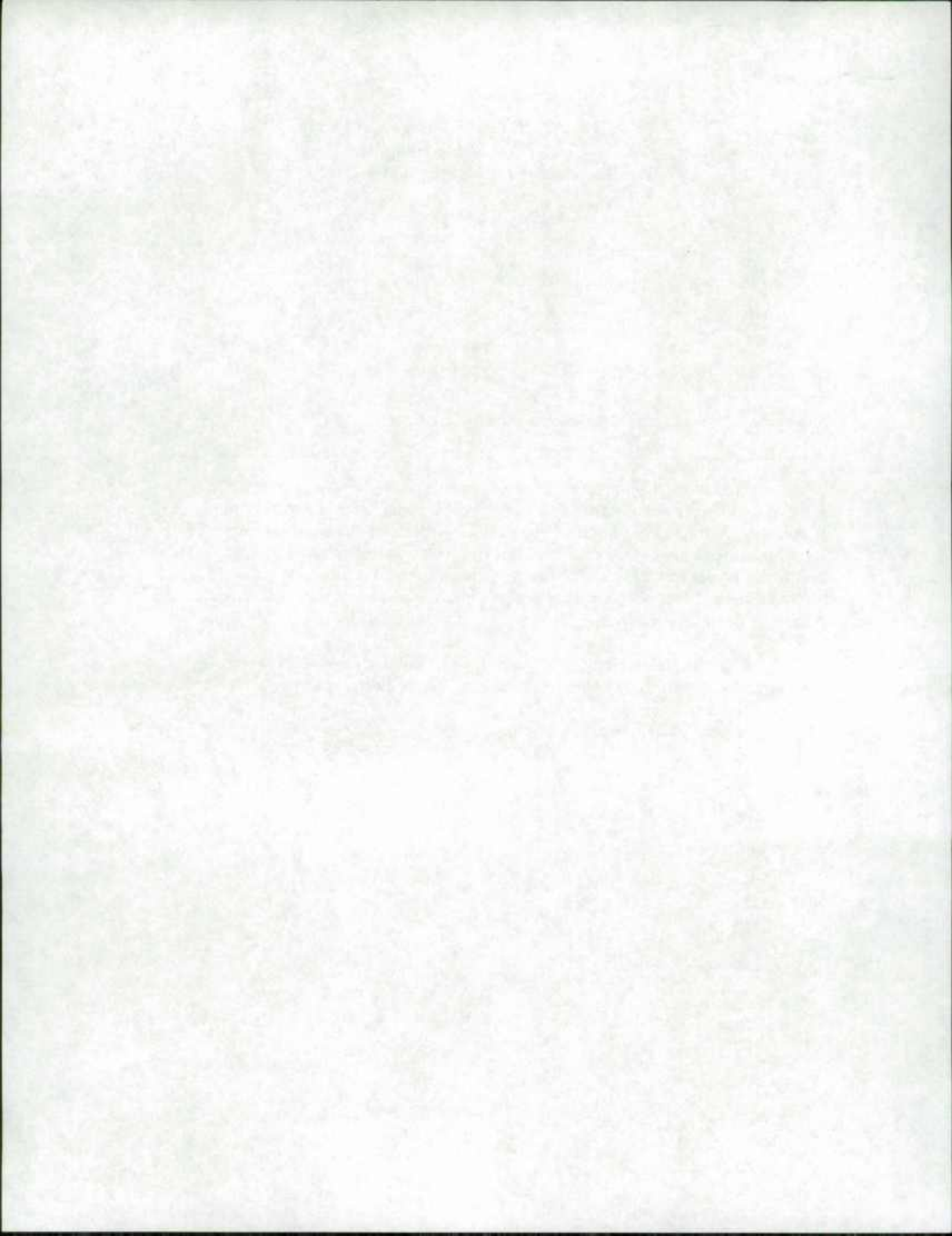
Date: January 3, 2001

Subject: Anacostia Pilot Wetland Creation Project

A biologist from Coastal Resources, an environmental consulting firm, will describe a wetland creation project on MNCPPC land in the Anacostia River just north of the Bladensburg Marina. The project will be an enhancement through wetland creation of approximately 6 acres of land adjacent to the river that is currently mowed grass. The re will be three types of wetlands created: one with regular tidal influence, a seasonally saturated wetland that will be tied in to an existing emergent wetland, and a wetland that is frequently flooded by the river.

The project will be presented to the subcommittee for information at this Commission meeting and will most likely be presented for a vote at the February Commission meeting.

The project is to be funded by Prince Georges County.



Chesapeake Bay Critical Area Commission

STAFF REPORT
January 3, 2001

Concurrence

APPLICANT: Cecil County

PROPOSAL: National Humane Education Society

JURISDICTION: Cecil County

COMMISSION ACTION: Concurrence

STAFF RECOMMENDATION: Approval

STAFF: Andrew Der

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article Sections 8-1802 and 8-1808:1

DISCUSSION:

The County is requesting to use 12.45 acres of growth allocation to change the Critical Area designation of a property owned by the applicant from RCA to LDA. The purpose is to allow the applicant to construct an education center, animal sanctuary, kennels and associated parking/driveway near the Sassafras River.

The site is 158 acres in size with a 100 acres in the Critical Area and contiguous to the terminus of Budd's Landing Road about one and a half miles from MD Rt. 301 in southern Cecil County. The property is adjacent to the north to agricultural lands, to the east on Duffy Creek and to the south to the Sassafras River.

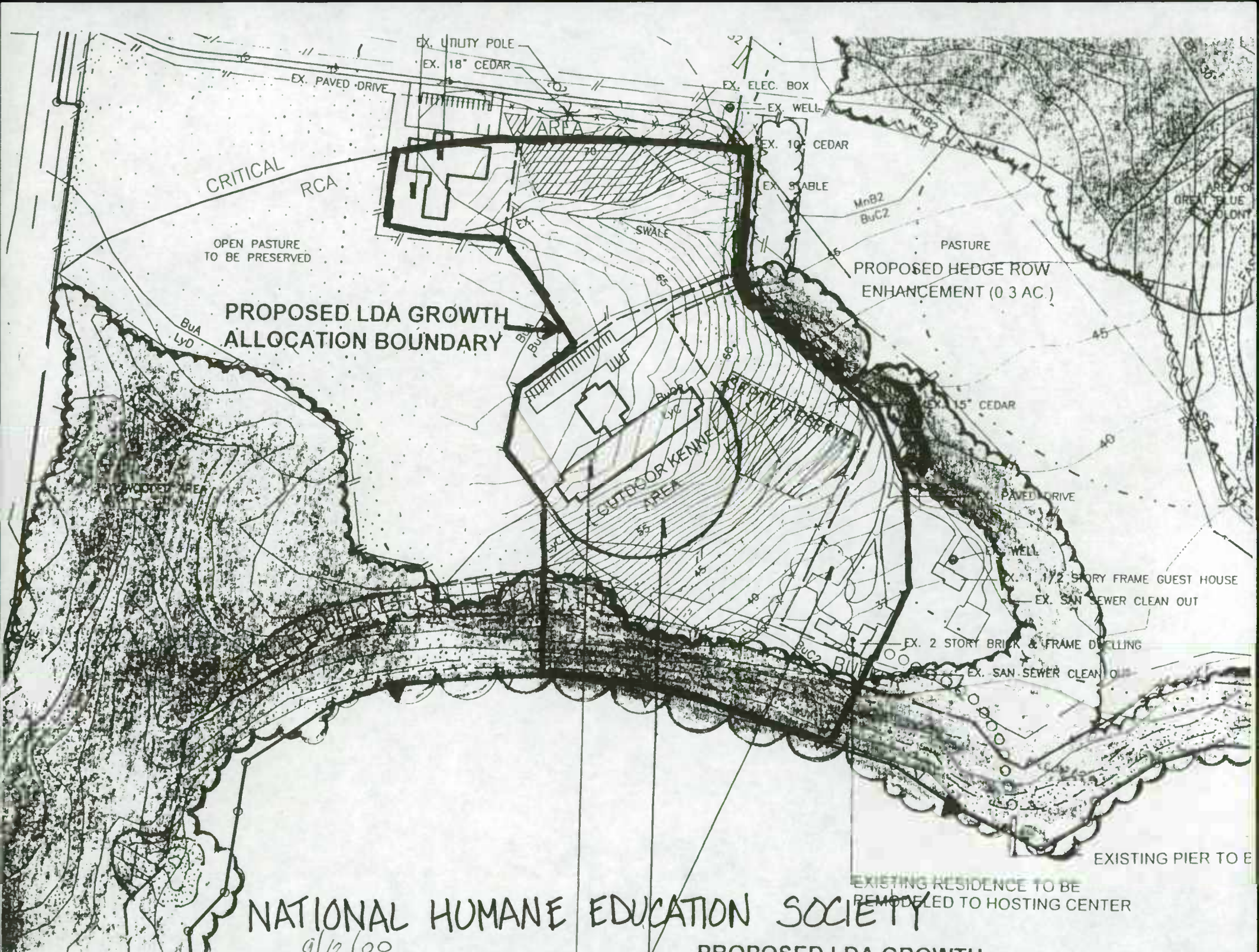
About one half of the property is wooded. The site area proposed for growth allocation has three existing structures with associated parking and driveway access and is approximately 12% wooded with hardwood deciduous species forming a riparian buffer around the eastern and southern perimeters. Uplands are level and areas of slopes exceeding 15% are limited to the eastern and southern waterfront boundaries. Afforestation will be provided to achieve 15% coverage.

Proposed development is in open pastureland away from the Buffer, wetlands and steep slopes and complies with impervious surface criteria by not exceeding 15%. Stormwater runoff will be managed for quality by overland filtration via vegetated buffers, swales and bioretention. A specific stormwater management plan will be provided to the Commission for review when available. No forest impacts are proposed and the activity is adequately buffered from the closest habitat protection area, a Blue Heron colony approximately 600' away toward Duffy Creek.

The County originally notified the Commission of this proposal in March of 1999 as a special exception request. The staff had no objection provided the applicant received a growth allocation for the proposed project and that a single development envelope be identified. The County Commissioners approved the growth allocation in October of 2000. The staff received the necessary documentation and revisions in November.

The effects of the proposed development activity are confined to the immediate area and the project is consistent with the local program. This request is consistent with Cecil County's Zoning Ordinance Sections 205 – 213, Natural Resource Article Sections 8-1802 and 8-1808.1, and the Commission's growth allocation policy allowing for this proposal to be reviewed as a refinement.

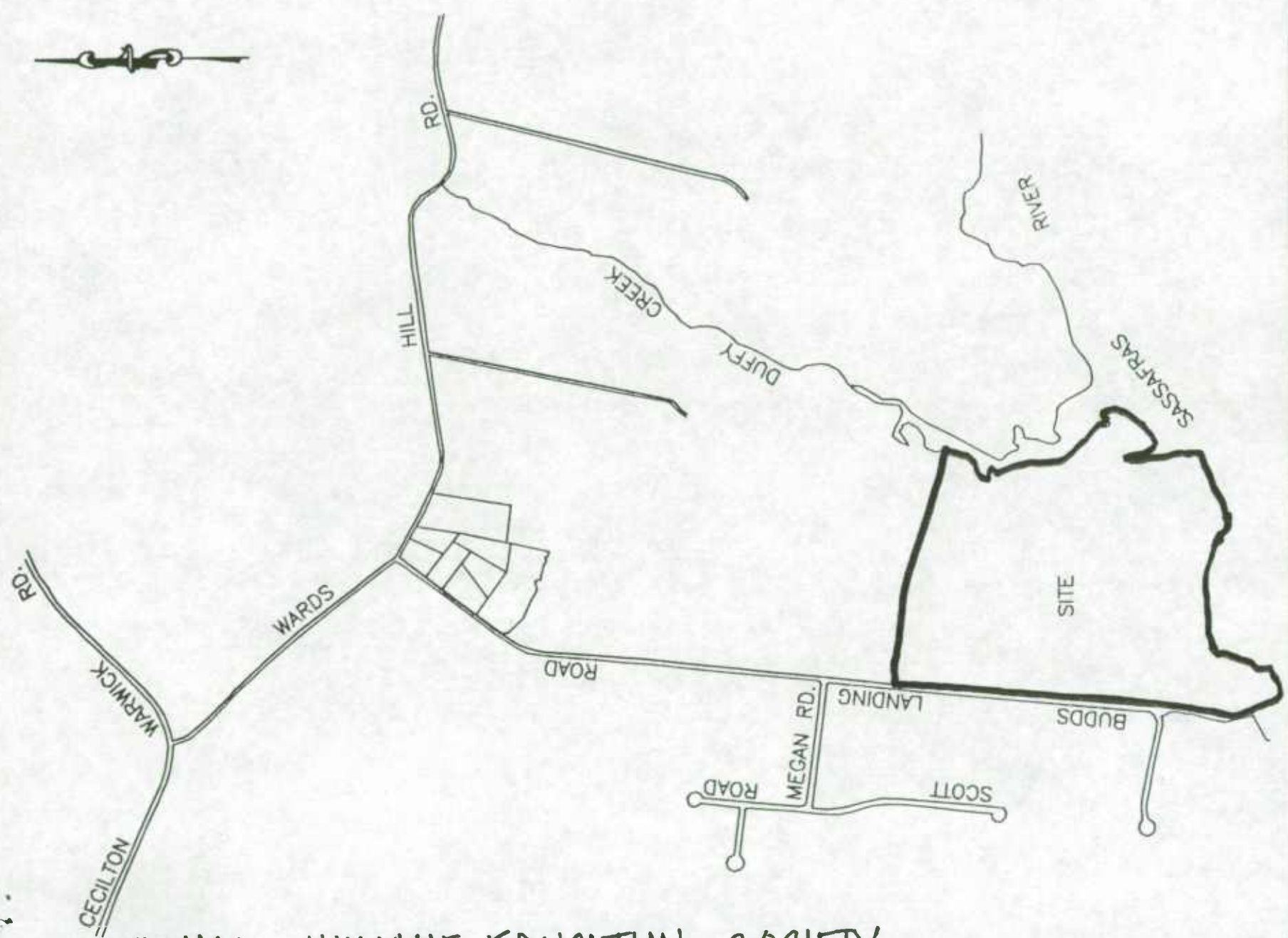
Chairman North has determined that this growth allocation request can be approved as a refinement and is seeking the Commission's concurrence.



NATIONAL HUMANE EDUCATION SOCIETY

9/17/00

PROPOSED LDA GROWTH



NATIONAL HUMANE EDUCATION SOCIETY

TAX MAP 63

PARCEL 6

VICINITY SKETCH

BLOCK 20

L. Wenzel - panel chair -
moved to approve comp. rev. Intro: Pay Green, Zoning Admin.
of Fed.
2nd - Dr. Foor
C/2

Chesapeake Bay Critical Area Commission

**STAFF REPORT
January 3, 2000**

APPLICANT: Town of Federalsburg
PROPOSAL: Town of Federalsburg Comprehensive Review
JURISDICTION: Town of Federalsburg
COMMISSION ACTION: Vote
STAFF RECOMMENDATION: Approval
STAFF: Roby Hurley
PANEL RECOMMENDATION: Pending
PANEL MEMBERS: Dr. James Foor, Clinton Bradley, David Cooksey and
Lauren Wenzel
**APPLICABLE LAW/
REGULATIONS:** Annotated Code of Maryland §8-1809

DISCUSSION:

The Town of Federalsburg has recently completed the required four year review of their Critical Area Program. The review included the Town's Critical Area Program, Ordinance and Critical Area Maps. After reviewing the Program document and the associated implementation language, it was determined that significant revisions were necessary. Department of Planning staff worked closely with the Town Planning Commission to use a model ordinance, similar to the one used in Greensboro, to replace the existing Critical Area Program document and related ordinance language. The most significant changes to the Town's Program and maps are as follows:

ZONING ORDINANCE/ PROGRAM:

The new model ordinance was designed to be sufficiently comprehensive so that a separate program document would no longer be required. The model ordinance has been customized to address the specific conditions in the Town, and it is designed to function as a stand alone Critical Area Ordinance. Calculation of the acreage of the three land use categories and evaluation of the growth allocation status was conducted. The Town is located in Caroline County, and the County maintains all growth allocation acreage for the Town. To date, the Town has not used any growth allocation.

The new Critical Area Ordinance includes updated information from the Heritage Division of the

Department of Natural Resources on Habitat Protection Areas. The Natural Parks, Agriculture and Surface Mining sections were customized to reflect existing and planned land use relative to the Town.

The new ordinance also includes specific provisions for enforcement of violations in the Critical Area, new provisions relating to impervious surface limits, and clearer language about grandfathering, variances, water-dependent facilities, and shore erosion control. Land use in the RCA is addressed with a provision stating that additional land in the RCA may not be zoned, used or developed for industrial, commercial, or institutional uses, except as provided by the Town's growth allocation provisions.

The new ordinance includes the provisions of the Commission's current policies on growth allocation and Buffer Exemption Areas. Presently, there are no existing Buffer Exemption Areas (BEAs), however the Town is proposing one new BEA. An evaluation of the BEA site was conducted by Commission staff and Town staff and that report is included herein.

The new ordinance is unique in that it includes unified Forest and Woodland Protection provisions that apply throughout the Town, both inside and outside the Critical Area. In an agreement between the Town, the Department of Natural Resources Forest Service and Critical Area Commission staff, these provisions were developed to facilitate forest resource protection for that part of Town outside of the Critical Area, thereby fulfilling the requirements of the Forest Conservation Act. The unified provisions apply two levels of forest protection to forest and developed woodlands within the Town, one level of protection for RCA and LDA within the Critical Area and residential areas outside the Critical Area, and a second level of protection for IDA in the Critical Area and commercial, industrial, and institutional land use zones outside the Critical Area.

MAPPING:

New land use maps were produced by the Department of Planning. Resource inventory mapping was done with assistance from the Heritage Division and the Environmental Review Unit at the Department of Natural Resources. Because of some mistakes on the original map and changes in the shoreline, minor changes were made to update the Critical Area boundary. The revised maps also reflect the one proposed BEA.

The original Program was adopted on March 6, 1989. The Town Planning Commission recommended approval of the updated Critical Area Ordinance and Maps on October 24, 2000. The Mayor and Town Commissioners reviewed the Ordinance and Maps and held a joint public hearing with the Critical Area Commission Panel on December 4, 2000. There was no public comment, and the Mayor and Commissioners voted to approve the revised Ordinance and Maps.

TOWN OF FEDERALSBURG
Buffer Exemption Area Evaluation
East Central Avenue Bridge Site

The Mayor and Council of Federalsburg are requesting that the East Central Avenue Bridge Site be designated as a Buffer Exemption Area (BEA) because the existing pattern of development prevents the Buffer from fulfilling the functions set forth in Section 27.01.09.01 of the Critical Area Criteria. The proposed BEA includes six parcels and a portion of Central Avenue. Most of the parcels are privately owned. Existing development on this site includes a paved municipal parking lot, a hike and bike trail, a house, a barn, several driveways, a guard rail, and a bridge abutment. Several structures are located within 20 feet of mean high water.

Existing vegetation within the Buffer is mowed lawn and scattered trees. The shoreline is comprised of a mix of natural vegetation (spatterdock, marsh hibiscus, arrow arum, pickerel weed, etc.), structural erosion control measures, and the bridge abutment.

In evaluating the site for designation as a BEA, the following factors were considered:

1. The Buffer's ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised because there are existing structures and parking lots in the Buffer. Existing development is located approximately 14 to 43 feet from the shoreline. There is very little natural vegetation. Existing vegetation is mowed lawn and scattered trees.
2. The Buffer's effectiveness at minimizing the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources is limited because human activities are taking place very close to the shoreline. Existing development is located close to the shoreline, and the municipal parking lot and trail are intensively used by the public. There are minimal areas of natural vegetation within the Buffer and the shoreline has been altered with structural erosion control measures. The East Central Avenue Bridge significantly affects all natural resources on the site.
3. The Buffer does not function optimally as an area of transitional habitat between aquatic and upland communities because this area is developed with structures and parking. There is minimal natural vegetation to provide food or cover for wildlife.
4. The Buffer does not function to maintain the natural environment of streams because there are no streams on this particular property.
5. The Buffer's capacity for protecting wildlife habitat on this site is severely limited because the Buffer is developed and is actively used for parking and recreation. Human disturbance to wildlife would be unavoidable because of the type and intensity of the development on this site.

