Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
People's Resource Center
Crownsville, Maryland
February 8, 2001
7

SUBCOMMITTEES

9:00a.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 George's County	Lisa Hoerger, Planner
David Taylor Site – Anne Arundel County	Regina Esslinger, Project Chief Lisa Hoerger, Planner Ren Serey, Exec. Director

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

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

Wicomico County Comprehensive Review	LeeAnne Chandler, Planner Mary Owens, Program Chief David Nutter, Wicomico Co. Plng. Dir.

PANELS

11:00 a.m. - 12:00 p.m. Indian Head Panel / Charles County Panel

LeeAnne Chandler, Planner
Mary Owens, Program Chief
Wanda Cole, Planner

Bourdon, Cooksey, McLean, Goodman

11:45 a.m. – 12:00 p.m. Dorchester County Panel

Andrew Der, Planner

Giese, Jones, Johnson, Myers

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

Witten, OOB, yes
Myers - yes
Johnson - Maybe

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Peoples Resource Center
Crownsville, Maryland
February 7, 2001

Dr. Fici - yes
June 14
get certificate for ~~July~~ June

AGENDA

1:00 p.m. - 1:05 p.m.	Approval of Minutes Of January 3, 2001	John C. North, II, Chair

PROGRAM AMENDMENTS and REFINEMENTS

1:05 p.m. - 1:20 p.m.	VOTE Dorchester County Comprehensive Review c/u	Andrew Der, Planner
1:20 p.m. - 1:35 p.m.	VOTE Town of Indian Head Comprehensive Review c/u	LeeAnne Chandler, Planner
1:35 p.m. - 2:00 p.m.	VOTE Charles County Comprehensive Review c u	LeeAnne Chandler, Planner
2:00 p.m. - 2:10 p.m.	Old Business	John C. North, II, Chairman
	Legal Update	Marianne Mason, Esq. Commission Counsel
2:10 p.m. - 2:20 p.m.	New Business	John C. North, II
	Discussion: Legislation	Marianne Mason, Esq. Commission Counsel Ren Serey, Exec. Dir.

Mary - wk. shop 3/28 - 9-3, Wye Ed. Center

Legislation - Ren 3 Bills - 1 address 3 areas which eliminated Wine need for
Bill to notify - HB 661 intro by Weir, Bo
Cadden & Young
SB 407 - Dyson,

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
People's Resource Center
Crownsville, Maryland 21401

approved OFFICIAL

January 3, 2001

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

Barker, Philip, Harford County
Bradley, Clinton, Eastern Shore MAL
Bourdon, Dave, Calvert County
Cain, Deborah, Cecil County
Foor, Dr. James C., Queen Anne's County
Graves, Charles, Baltimore County
Jones, Paul, Talbot County
Rice, William, Somerset County
Samorajczyk, Barbara, Anne Arundel County
Wynkoop, Samuel, Prince George's County
Setzer, Gary for Hearn, J.L., Md. Department of Environment
Duket, Larry, Md. Department of Planning
McLean, James, Md. Department of Business and Economic Development
Andrews, Meg, Md. Department of Transportation
Wenzel, Lauren, Md. Department of Natural Resources

Not in Attendance:

Cooksey, David, Charles County
Witten, Jack
Evans, Judith, Western Shore MAL
Giese, Jr., William , Dorchester County
Jackson, Joseph A., Worcester County
Johnson, Sam Q., Wicomico County
Myers, Andrew, Caroline County
Olszewski, John A., Baltimore County
Goodman, Robert, Md. Department of Housing and Community Development
Lawrence, Louise, Md. Department of Agriculture

The Minutes of December 6, 2000 were approved as read.

Chairman North introduced Mr. William Rice, the newest Commission Member representing Somerset County.

Andrew Der, Planner, CBCAC, presented for Concurrence with the Chairman's determination of Refinement, Cecil County's request for 12.45 acres of growth allocation to change the Critical Area designation of a property from RCA to LDA in order to construct an education center, animal sanctuary, kennels and associated parking/driveway near the Sassafras River. Of the 158 acre site, 100 acres are in the Critical Area. Mr. Der told the Commission that the proposed site area is approximately 12% wooded and that afforestation will be provided to achieve 15% coverage with no forest impacts proposed. The proposed development is away from the Buffer, wetlands and steep slopes and complies with the impervious surface criteria. Stormwater runoff will be managed for quality and a specific management plan will be provided to the Commission for review . Mr. Der said that the project is consistent with Cecil County's program and the County's Zoning Ordinance and the Critical Area's growth allocation policy. The Commission supported the Chairman's determination of Refinement.

Roby Hurley, Circuit Rider, CBCAC presented for VOTE the Town of Federalsburg's Comprehensive Review which included the Town's Critical Area Program, Ordinance and Critical Area Maps. He said that after reviewing the Program document and the associated implementation language, it was determined that

significant revisions were necessary. A model ordinance was used to replace the existing Critical Area Program document and related ordinance language. He described the most significant changes to the Program and maps and said that the new model ordinance was designed to be sufficiently comprehensive so that a separate program document would no longer be required. This model ordinance addresses specific conditions in the Town and is designed as a stand alone Critical Area Ordinance. A calculation of the acreage of the three land use categories and evaluation of the growth allocation status was conducted. The ordinance includes updated information from the Heritage Division of the Department of Natural Resources on Habitat Protection Areas. It also includes specific provisions for enforcement of violations in the Critical Area, new provisions relating to impervious surface limits, and clearer language about grand fathering, variances, water-dependent facilities, and shore erosion control. Land use in the RCA is addressed. The new ordinance also includes the provisions of the Commission's current policies on growth allocation and Buffer Exemption Areas. There currently are no existing Buffer Exemption Areas but the Town is proposing one new BEA. This unique new ordinance includes unified Forest and Woodland protection provisions that apply both inside and outside the Critical Area throughout the Town. Mr. Hurley said that new maps were produced and resource inventory mapping was done to reflect the updates in Critical Area boundaries caused by changes in the shoreline and mistakes on the original maps. The proposed new BEA is also reflected. The Mayor and Commissioners voted to approve the revised Ordinance and Maps. Lauren Wenzel moved to approve the Town of Federalsburg's Comprehensive Review as presented. The motion was seconded by Dr. Foor and carried unanimously.

LeeAnne Chandler, Planner, CBCAC presented for VOTE the proposal for improvements to MD 347 through the historic village of Quantico in Wicomico by the State Highway Administration of the Maryland Department of Transportation. The proposed improvements to the highway will add about 0.18 acres of impervious surface within the project limits and is within an area of intense development which makes it subject to the 10% pollutant reduction requirement. She described the land use within the project area and said that Quantico Creek located at the southern limit of the project has a restricted time frame for instream work and the bridge crossing this creek will not be affected. The stormwater issue on the site was resolved by the use of a level-spreader which dissipates stormwater velocity and releases it slowly into naturally existing wetlands. Dave Bourdon moved to approve the project with four conditions: 1. All necessary permits and approvals will be acquired from MDE prior to any construction. 2. Mitigation will be provided at 3:1 ratio for all Buffer disturbance and 1:1 for forest removed outside the Buffer . 3. A planting plan will e provided to Commission staff for review. 4. Staff approval of water quality design. The motion was seconded by Jim McClean and carried unanimously.

Wanda Cole, Planner, CBCAC presented for VOTE the proposal by the Maryland Transportation Authority (MTA) to construct a second track to parallel the existing 0.7 mile long, single, light rail track, Section 6, which will run from the Patapsco Avenue station to the I-895 Overpass in Baltimore County. The project will include the construction of a platform at the Baltimore Highlands station, one traction power stubstatin, and one central instrument house with associated gravel access roads within the Critical Area. The project area is IDA with 7.36 acres in the Critical Area. Although there are no impacts to the 100' Buffer, there will be an increase in impervious surface and the removal of some trees and shrubs. There will be some filling of nontidal wetlands which may be exempt from MDE mitigation requirements and the vegetation will be replaced or relocated. Stormwater quality will be managed by the use of a sand filter. No other Habitat Protection Areas will be impacted. Dave Bourdon moved to approve the Maryland Transportation Authority's proposed project in Baltimore County for a light rail track with two conditions: 1) That a planting plan will be finalized by the time of the pre-construction meeting and forwarded to Commission Staff for review and approval prior to implementing any construction within the Critical Area portions of the project. 2) A maintenance agreement for stormwater practices will be developed by MTA and approved by Commission Staff. The motion was seconded by Mr. McLean and carried unanimously.

Dawnn McCleary, Planner, CBCAC presented for VOTE the proposal by the Mass Transit Administration (MTA) to construct footings for the remaining piers at the Middle Branch Bridge and footings for the Kloman Street Bridge, a central instrument house, and a traction power substation with associated gravel access road in an area of intense development. MTA also proposes to construct a second pier parallel to Pier No. 14 within the 100-foot Buffer as well as a parallel bridge with the same pier spacing as the existing single bridge. Other double piers already exist. Ms. McCleary described the details of the project . She said that a Buffer mitigation plan has already been identified on site. There are no rare, threatened and endangered species on this site. Stormwater runoff will be treated offsite at 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.

Ms. McCleary told the Commission that the Critical Area Commission first approved the Central Light Rail Line for Baltimore County, Baltimore City and Anne Arundel County in 1989. The report documented the existing natural resources and the environmental impacts created by the original MTA's light rail construction and several conditions were eventually met by MTA. She said that when a State or local agency project/s does not satisfy all regulations in full the project requires a conditional approval as set out in COMAR 27.02.06. In order for the Commission to consider this request it must contain certain characteristics, and thereafter the conditional approval request must contain *particular conditions* relating to the project. Dave Bourdon moved to approve MTA's project proposal in Baltimore City subject to two 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. The Motion was seconded by Jim McLean and carried unanimously.

OLD BUSINESS

Marianne Mason, Esquire, Commission Counsel and Assistant Attorney General, DNR, updated the Commission on legal matters. She said that there are now two cases in the briefing stage awaiting arguments are: a hearing scheduled in Wicomico County was postponed at the last moment at the request of the applicant,(an after- the- fact hearing) for a Buffer intrusion andwill be heard later on in February. A hearing in Somerset County will be coming up later this month, an after- the- fact hearing as well.

NEW BUSINESS

Chairman North appointed a panel for the Town of Indian Head's Comprehensive Review in Charles County: Dave Bourdon, Chair; Dave Cooksey, Bob Goodman, Jack Witten, Jim McLean. A public hearing is scheduled for Jan 9 in Indian Head.

A Panel for the Comprehensive Review for Dorchester County was also appointed: Bill Giese, Chair; Q. Johnson, Andrew Myers and Paul Jones. A hearing is scheduled in Cambridge for Jan 17 at the County office Building in Cambridge.

Skip Buppert, Assistant Attorney General, DNR presented for a Vote to support legislation at the upcoming session of the Maryland General Assembly who discussed what might be done to ameliorate the unfortunate effects of the recent Court of Appeals decisions which undermines, to some degree, the Commission's authority by the Maryland Supreme Court. This culminated in the Mastandrea case which had particular grievous effects. In an attempt to improve upon these state of affairs, this was discussed with the Oversight Committee for corrective legislation.

Mr. Buppert, based upon information from the Executive Director of the Critical Area Commission, Ren Serey, and Assistant Attorney General and Commission Counsel, Marianne Mason, has drafted a Bill for the Critical Area Commission predicated upon the information from the White, Belvoir and Mastandrea cases

Mr. Buppert discussed the structure of the Bill as well as the technical and legal language and style. Barbara Samorajczyk moved to approve the enactment of the Critical Area Bill drafted by Skip Buppert, Assistant Attorney General, DNR. The motion was seconded by Dr. Foor and carried 14-1 (Mr. Wynkoop abstained..)

Chairman North announced that another Commission retreat is being considered and the details will be coordinated by Mary Owens, Program Chief of the CBCAC and would be held March 28th. Details will be forthcoming.

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Coordinator

HOUSE BILL 99

M1

1lr0551

By: **Delegates Morhaim and Weir**
Introduced and read first time: January 12, 2001
Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Chesapeake Bay Critical Area – Addition of Coastal Bays

FOR the purpose of adding the coastal bays of the State to the areas designated as being within the Chesapeake Bay Critical Area.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1807
Annotated Code of Maryland
(1990 Replacement Volume and 2000 Supplement)

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

Article – Natural Resources

8–1807.

(a) The initial planning area for determination of the Chesapeake Bay Critical Area consists of:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 9 of this article; [and]

(2) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of this article; AND

(3) ALL COASTAL BAYS OF THE STATE.

(b) (1) (i) In determining the Chesapeake Bay Critical Area within its boundaries, a local jurisdiction may exclude those portions of the planning area designated in subsection (a) of this section which the local jurisdiction finds to be:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

Joe Jackson
were among
a presentation by
the Ex. Dir. of the
Coastal Bays Program in Wo. Co.

1. Part of a developed, urban area in which, in view of available public facilities and applicable laws and restrictions, the imposition of a program would not substantially improve protection of tidal water quality or conservation of fish, wildlife, or plant habitats; or

2. Located at least 1,000 feet from open water and separated from open water by an area of wetlands which it is found will serve to protect tidal water quality and fish, wildlife, or plant habitats from adverse impacts of development in the excluded area.

(ii) A portion of urban area to be excluded shall be at least 50% developed and may not be less than 2,640,000 square feet in contiguous area or the entire initial planning area located within the boundaries of a municipality, whichever is less.

(2) A local jurisdiction shall include in any program submitted to the Commission under § 8–1809 of this subtitle a designation of those portions of the Chesapeake Bay Critical Area proposed for exclusion under paragraph (1) of this subsection, together with all factual information and expert opinion supporting its findings under this subsection.

(3) The Commission shall approve a local jurisdiction's designation of portions to be excluded unless the Commission finds, based on stated reasons, that the decision of the local jurisdiction was:

(i) Not supported by competent and material evidence; or

(ii) Arbitrary or capricious.

(4) If the Commission develops the program to be applied in a local jurisdiction, the Commission shall exclude areas as appropriate to meet the intent of paragraph (1) of this subsection.

(c) The Chesapeake Bay Critical Area shall consist of:

(1) Those areas designated in subsection (a) of this section, except any areas excluded in accordance with subsection (b) of this section; and

(2) Additional areas proposed for inclusion by local jurisdictions and approved by the Commission.

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

Eff. Oct. 1 2002

15 K for Wo. Co. — 1
40 K O.C. (Commer. Inville)
+ 40 K for Wo. Co.

All L.O.A. Appropriations — Review —

Joe Jackson wants 2yr. window to develop; Del Bozman wants Bill withdrawn. Bill introduced 5 Consultation c̄ E.S. Delegation

Fiscal note of CAC — Wo Co. + O.C. City needs 1 extra planner position + 7 grants by $35,000 for Wo. Co. (now $5) Co to hire 1 mo. — O.C. — addt. $20

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

MEMORANDUM

To: Project Subcommittee

From: Lisa Hoerger

Date: February 7, 2001

Subject: David Taylor

The David Taylor site is on your morning agenda as a discussion item. The County Council approved a site plan for this redevelopment project in January, and Commission staff is awaiting the formal project submittal by the County.

In the meantime, staff will continue the discussion of the site plan with the subcommittee at the February meeting. Since this project will likely be a program amendment, staff will request that Chairman North appoint a panel.

Please contact Regina Esslinger or myself if you have any questions prior to the meeting at (410) 260-3460.

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

MEMORANDUM

To: Program Subcommittee

From: LeeAnne Chandler

Date: January 29, 2001

Subject: Wicomico County Comprehensive Review Status

Representatives of the Wicomico County Department of Planning, Zoning and Community Development will be at the February 7, 2001 Program Subcommittee meeting to discuss the status and progress of the County's Comprehensive Review. The County's original Program was adopted in October 1989. The first Comprehensive Review, due in 1993, has yet to be completed. Commission staff submitted comments and a list of necessary changes in 1995. Despite numerous meetings with the County, progress towards completion, until last year, was minimal. In the last year, Commission and County staff completed a County-wide mapping of potential Buffer Exemption Areas. The County has also been given the model ordinance, the new BEA policies and ordinance language, and numerous examples from other jurisdictions.

The County has been invited to discuss the progress of the Comprehensive Review and any questions or issues of concern with the Program Subcommittee. The County has indicated that a draft will be forthcoming in February. We are meeting now to resolve any problems such that a final version can be introduced during the County Council's June legislative session.

If you have any questions or if you would like to discuss any issues prior to the Commission meeting, please contact me at (410) 260-3477.

Chesapeake Bay Critical Area Commission

STAFF REPORT
February 7, 2001

APPLICANT:	Dorchester County
PROPOSAL:	Program Amendments
JURISDICTION:	Dorchester County
COMMISSION ACTION:	Concurrence
STAFF RECOMMENDATION:	Approval
STAFF:	Andrew Der
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article Section 8-1809

DISCUSSION:

Dorchester County has conducted their third four-year comprehensive review of their Critical Area Program this summer. The Program document provides the framework and background for the local zoning ordinance and subdivision regulations. The Commission approved changes and updates to the zoning ordinance as a refinement in July of 2000. The changes corrected several omissions and clarified sections of the County ordinance.

In Dorchester County, the Critical Area Program is primarily implemented through the zoning ordinance and subdivision regulations. The Program document is used primarily to provide background information and broadly outline the goals and objectives of the Critical Area Act. County Staff proposed only minor changes to this document at this time but plan to comprehensively revise the document during the next four-year review.

The County Commissioners approved the Program amendments in October 2000 and forwarded them to the Commission. The Critical Area Commission advertised a local public hearing in the January 4, 2001 issue of the Daily Banner. The hearing was held at

the County Office Building in Cambridge January 17, 2001. No public comments were received.

The proposed Program changes supplement some of the earlier approved regulation changes and are similar in intent. The changes include minor text revisions and updates of the Program document as well as mapping changes to reflect the addition of four new Buffer Exemption Areas. The proposed modifications are summarized as follows.

PROGRAM:

1) Language has been added to clarify existing statements and intents to be more explicit.
2) Language and some figures that are redundant or no longer applicable have been removed.
3) Language has been modified to make the text more readable and current.

The most pertinent examples of these types of changes are as follows:

a) The introduction further defines the Program elements.
b) The sections pertaining to nontidal wetlands and streams now acknowledges that wetland protection and identification is generally deferred to MDE although language is retained which allows the county to establish its own protection guidance and make design recommendations as necessary. A U. S. Army Corps of Engineers' determination is added as another means of defining streams. Previously it was USGS mapping only – now either can be used.
c) The sections pertaining to forest interior dwelling birds and waterfowl now refer applicants to the Commission and DNR for specific guidance.
d) The section regarding growth allocation will addresses the conversion of both RCAs and LDAs as opposed to the former RCA only.
e) Water-dependent facilities are defined.
f) The section regarding shoreline protection now references innovative practices and references the Maryland Shore Erosion Task Force as a source of technical assistance.

MAPPING:

The County has requested the designation of four areas as Buffer Exemption Areas (BEA) because existing development conditions prevent the Buffer from fulfilling the functions established in the Criteria. Three BEAs are in the same vicinity of Hoopers Island, Fishing Creek and the other is off of Taylor Island Road on Church Creek (see attached maps and BEA evaluations).

The County is presently soliciting Habitat Protection Area Updates from the DNR. The County has provided the required statement quantifying acreage within each land classification, the growth allocation used and the growth allocation remaining and Commission staff has verified its accuracy.

BUFFER EXEMPTION AREA EVALUATIONS

HOOPERS ISLAND, AREA 'A' (TAX MAP 93, PARCEL 133, 64 AND 65)

Dorchester County requests that Hoopers Island, Area 'A' be designated as a BEA because the existing pattern of development prevents the buffer from fulfilling the functions established in the Criteria. The following factors were considered:

1. The buffers ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised because of residences and accessory structures in the Buffer. (Parcel 133 is entirely within the buffer, Parcel 64 has residence within 50' of Bay and 2/3rds of the parcel is Buffer, Parcel 65 half of residence in Buffer and accessory structures are entirely in the Buffer.)

2. The Buffers 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 close to the shoreline because of the location of existing development. There are minimal areas of natural vegetation within the Buffer and the shoreline is developed and actively used.

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 is actively used by residents. There is little natural vegetation to provide food or cover for wildlife or to provide water quality protection or enhancement. Most of the shoreline has been altered through the installation of bulkheads, lawn maintenance, and structural erosion control measures.

4. The Buffer does not function to maintain the natural environment of streams, because there are no streams on these properties.

5. The Buffer's capacity for protecting wildlife habitat on these sites is severely limited because the Buffer is developed and is actively used as yard areas by property owners. Human disturbance to wildlife would be unavoidable because of the intensity of the development of this area.

GOOTEE/HOOPERS ISLAND, AREA 'B' (TAX MAP 93, PARCEL 99)

Dorchester County requests that the Gootee property, Area 'B', be designated as a BEA because the existing pattern of development prevents the buffer from fulfilling the functions established in the Criteria. The following factors were considered:

1. The buffers ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised because of residence and accessory structure in the Buffer.

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 close to the shoreline because of the location of existing development. There are minimal areas of natural vegetation within the Buffer and the shoreline is developed and actively used.

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 is actively used by residents. There is little natural vegetation to provide food or cover for wildlife or to provide water quality protection or enhancement. Most of the shoreline has been altered through the installation of bulkheads, and lawn maintenance.

4. The Buffer does not function to maintain the natural environment of streams, because there are no streams on this 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 as yard area by property owner. Human disturbance to wildlife is unavoidable due to development on the parcel.

HOOPERS ISLAND – DOCS PT., AREA 'C' (TAX MAP 93, PARCEL 14, 86, 83, 181, 164, 77, 93, 174, AND 104).

Dorchester County requests that Hoopers Island-Docs Pt., Area 'C' be designated as a BEA because the existing pattern of development prevents the Buffer from fulfilling the functions established in the Criteria. The following factors were considered:

1. The buffers ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised because there are many residences and accessory structures in the Buffer. The area is developed primarily with single family residences and one parcel has boat building business in the Buffer. (Parcel 14 has accessory structure in Buffer, Parcel 77, residence placed with variance from BOA Case #1943, Parcel 83 entirely within the Buffer, Parcel 86 – residence and accessory in the Buffer, Parcel 93 – accessory structure entirely in Buffer and house partially in the Buffer, Parcel 104 – residence located in Buffer, Parcel 174 – residence and accessory structure in the Buffer, Parcel 181 – residence and septic area in the Buffer, and Parcel 164 – entire property is Buffer.

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 close to the shoreline because of the location of existing development. There are minimal areas of natural vegetation within the Buffer and the shoreline is developed and actively used.

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 is actively used by residents. There is little natural vegetation to provide food or cover for wildlife or to provide water quality protection or enhancement. Most of the shoreline has been altered through the installation of bulkheads, lawn maintenance, and structural erosion control measures

4. The Buffer does not function to maintain the natural environment of streams, because there are no streams on these properties.

5. The Buffer's capacity for protecting wildlife habitat on these sites is severely limited because the Buffer is developed and is actively used as yard areas by property owners. Human disturbance to wildlife would be unavoidable because of the intensity of the development of this area.

CHURCH CREEK/BROOKS PROPERTIES, AREA 'D' (TAX MAP 51, PARCEL 98 AND 204)

Dorchester County is requesting that the "Church Creek/Brooks Properties" identified as Area 'D' be designated as a BEA because the existing pattern of development prevents the Buffer from fulfilling the functions established in the Criteria. 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 in the Buffer. The parcels are developed with single family residences on properties that are less than three quarters of an acre. Existing vegetation is primarily lawn grass and very few 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 close to the shoreline because of the location of existing development. There are minimal areas of natural vegetation within the Buffer and the shoreline is developed and actively used.

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 is actively used by residents. There is little natural vegetation to provide water quality protection or enhancement. Most of the shoreline has been altered through the installation of bulkheads and maintenance of lawns.

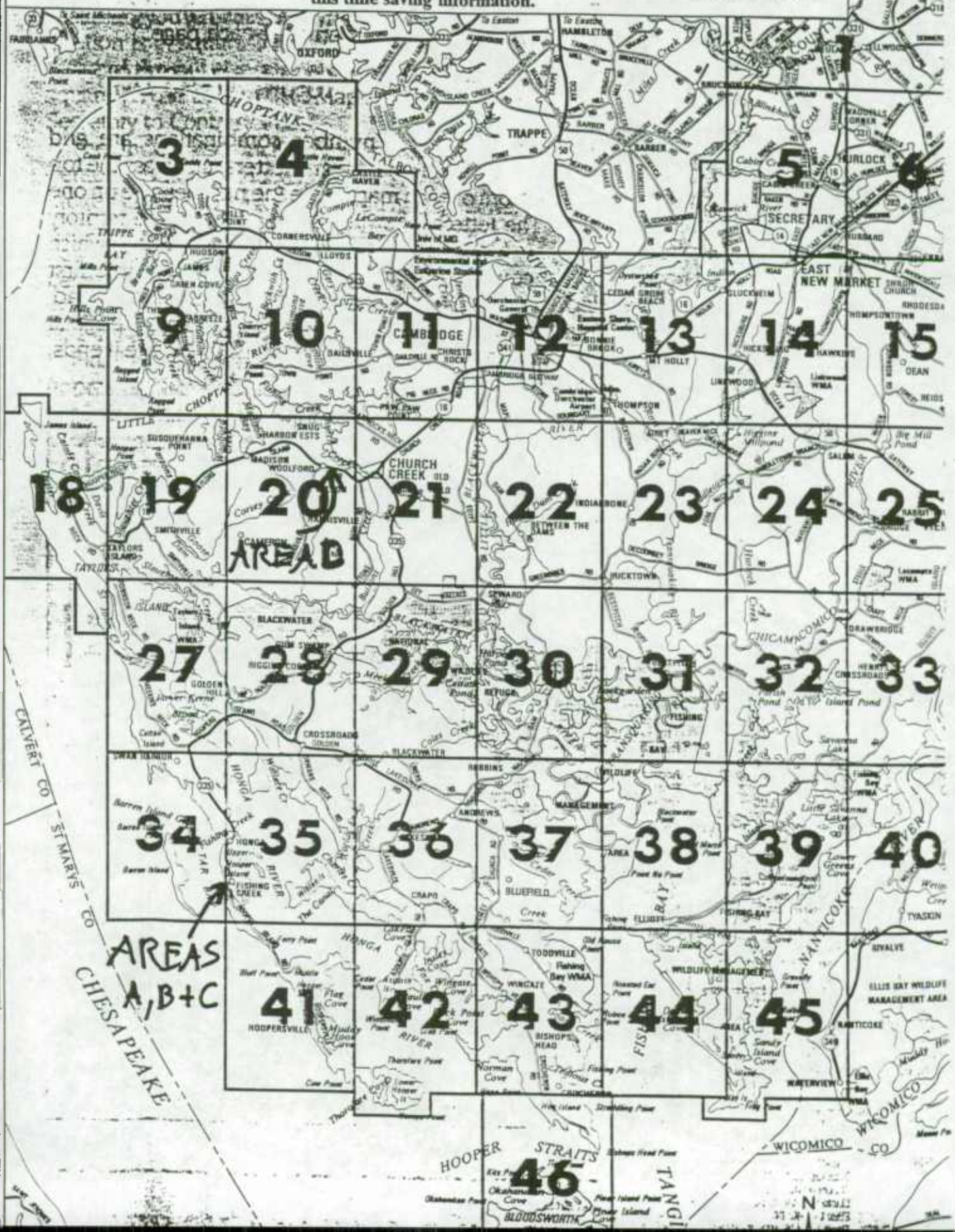
4. The Buffer does not function to maintain the natural environment of streams, because there are no streams on these properties.

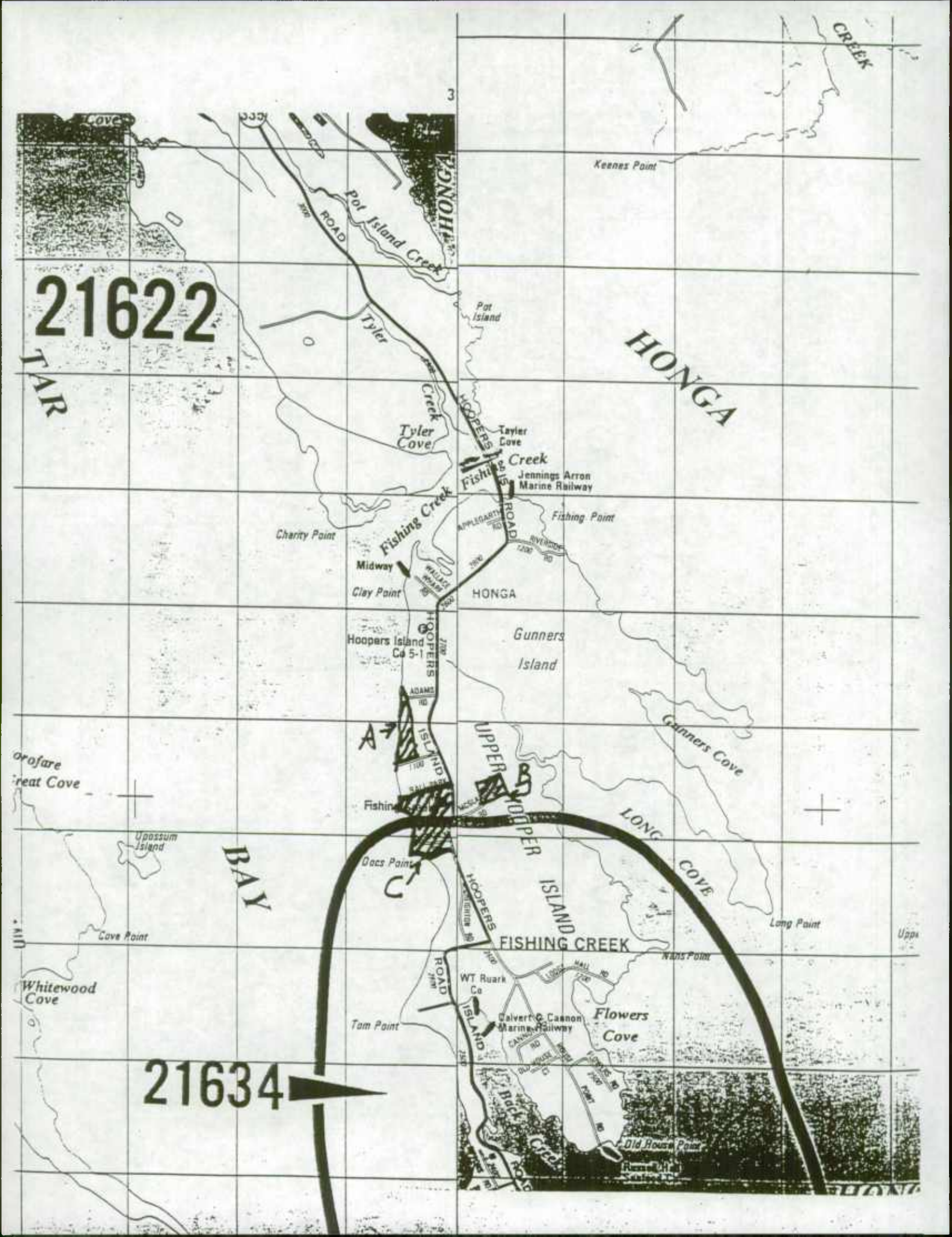
5. The Buffer's capacity for protecting wildlife habitat on these sites is severely limited because the Buffer is developed and is actively used as yard areas by property owners. Human disturbance to wildlife would be unavoidable due to development on the site.

DORCHESTER COUNTY, MD

INDEX TO MAPS

Page 2, 3, and 4 provide you a complete Step-by-Step guide to using your Street Map Book, Map Legend, Table of Contents and Key to Abbreviations. Take a few minutes to familiarize yourself with this time saving information.

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Fishing Creek
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Fishing Point
Charity Point
Fishing Creek
Midway
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Cove Point
Whitewood Cove
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Calvert C Cannon Marine Railway
Flowers Cove
Tom Point
Old House Point
Rock Creek

BEA REVISED

FRANCES P. SIMMONS, ET AL.
221/389
67.25 A.
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UPPER HOOPER ISLAND

Area 'A'

Area 'B'

Area 'C'

FISHING CREEK

DOGG PT.

DAVID A. EWING
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P.84
P.14
P.178
P.99
P.83
P.86
P.87
P.88
P.89
P.152
P.164
P.90
P.91
P.92
P.98
P.100
P.17
P.16
P.77
P.101
P.93
P.115
RD.
P.174
P.103 1 OF 2
P.104
P.116
P.117 1 OF 2
P.105
P.102 2 OF 2
P.122
P.118
P.119
P.120
P.160
P.121
P.157
P/O P.117 2 OF 2
P.143
P.108
P.123
P.124
P.125
P.126
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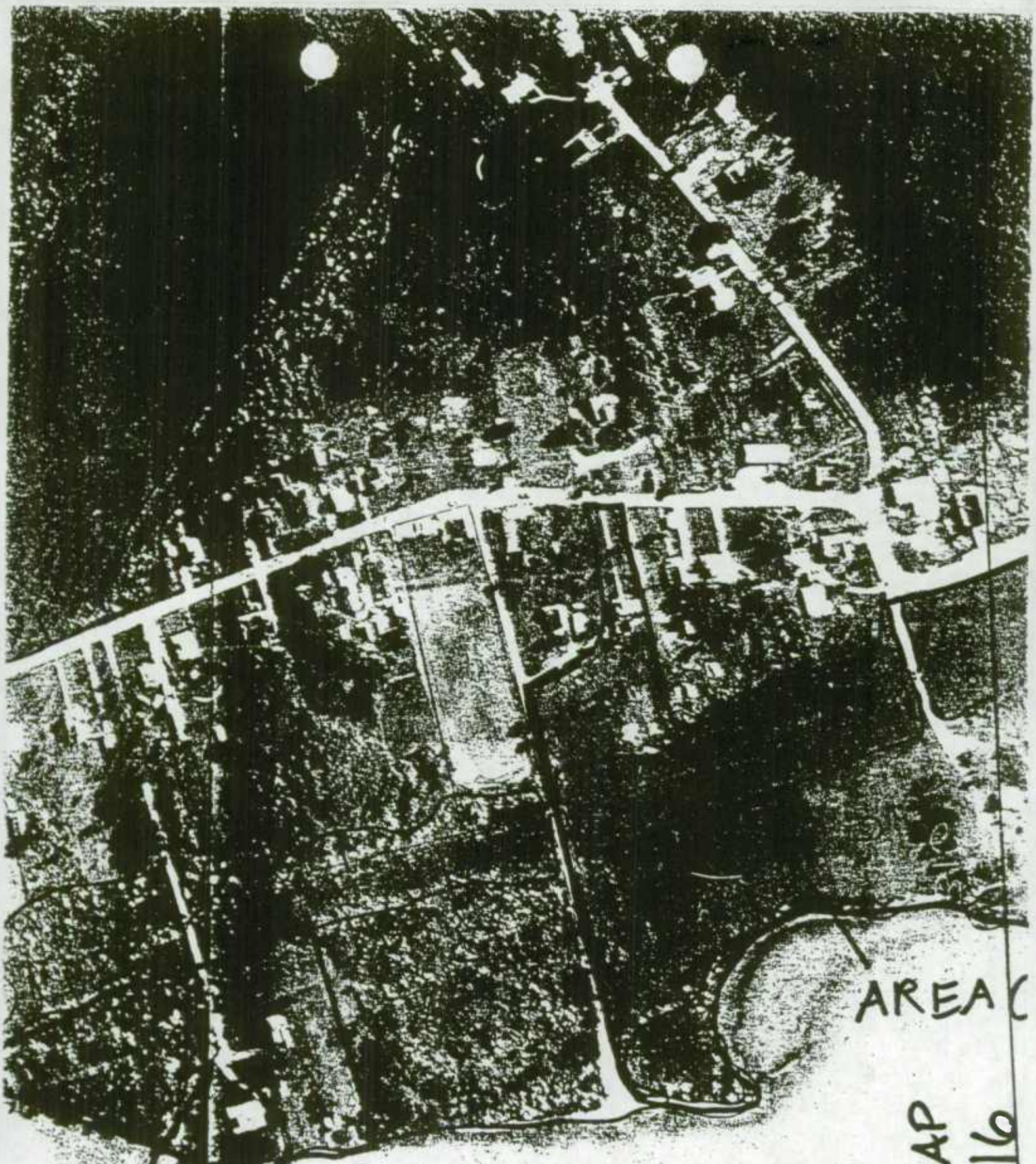
P.107
P.109
110
P.128
P.129
P.172
P.130
P.135
P.140
P.132
P.171 2 OF 3
P.170
P.137
P.112
P.113
P.114
P.127
P.173
P.171
A
B
C
D
43.263
P.13
LONG

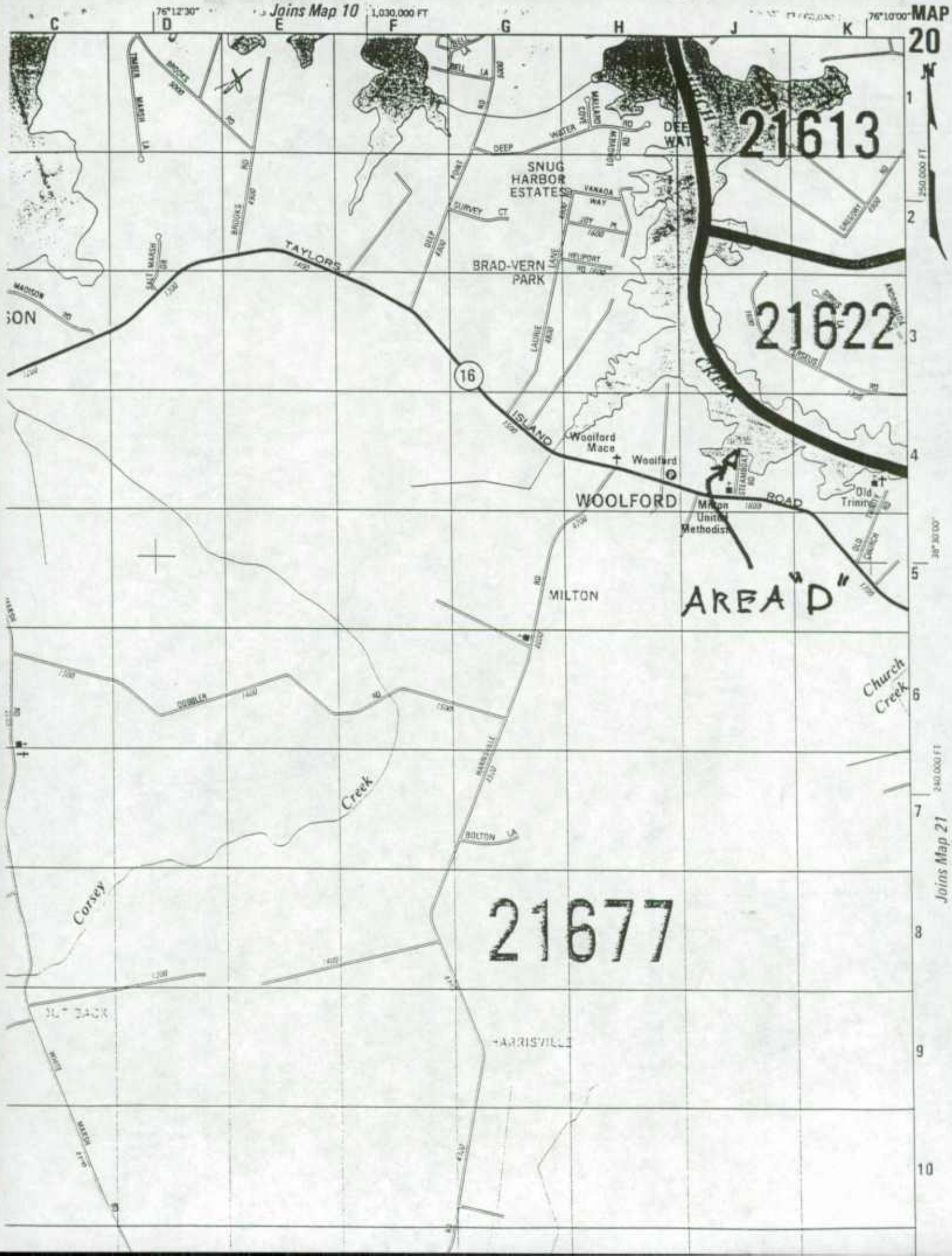
SCALE IN FEET

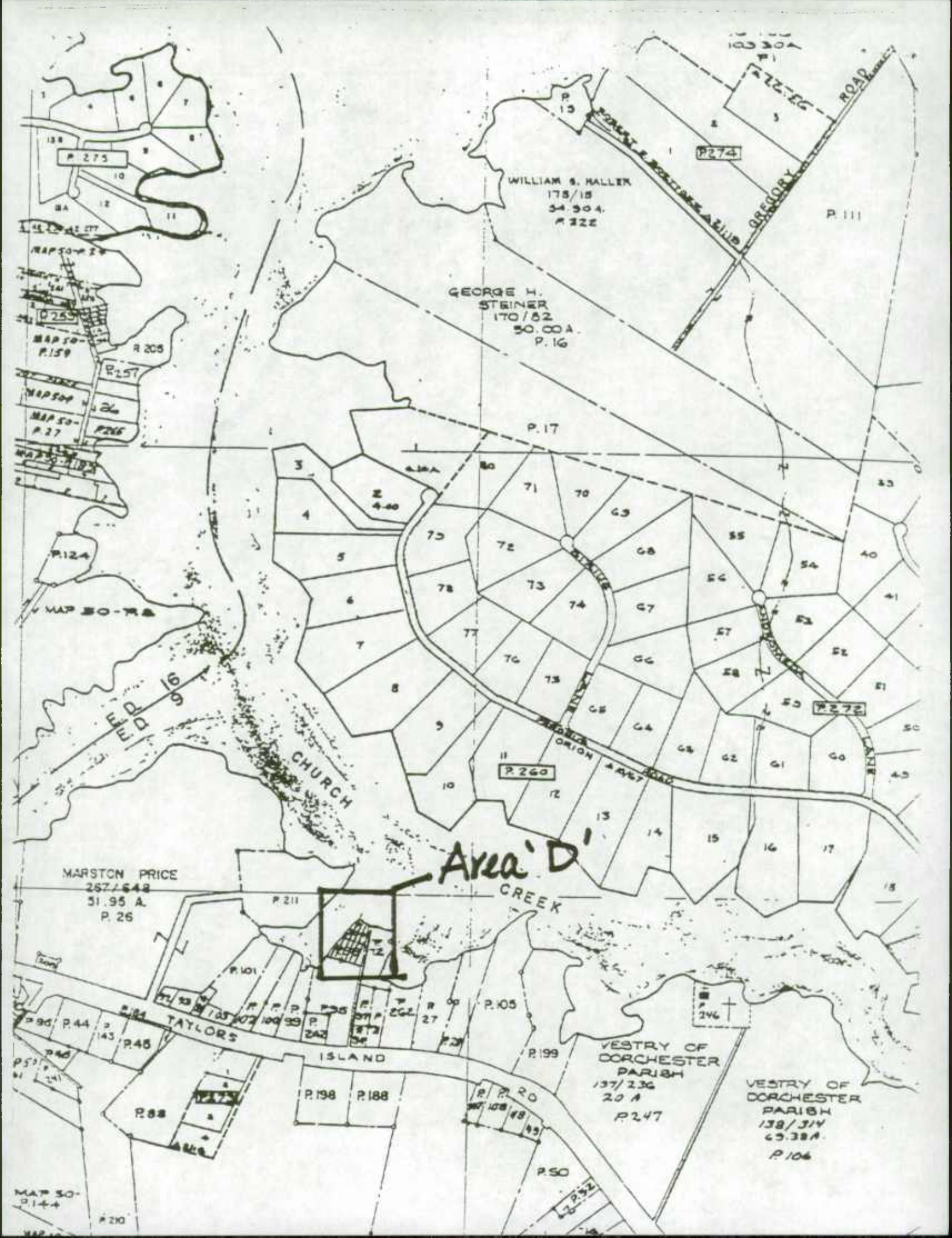
600 0 600 1200



HOOPER ISLAND AREA
A, B & C

DNR MAP #316


MAP 20
Joins Map 10
1,030,000 FT
76°12'30"
76°10'00"
C
D
E
F
G
H
J
K
21613
21622
21677
SNUG HARBOR ESTATES
BRAD-VERN PARK
TAYLORS ISLAND ROAD
16
Woolford Mace
Woolford
WOOLFORD
Mason United Methodist
Old Trinity
MILTON
AREA "D"
Church Creek
Creek
Corsey
HARRISVILLE
Joins Map 21


Area 'D'
WILLIAM S. HALLER
178/18
34.90 A.
P. 322
GEORGE H. STEINER
170/82
50.00 A.
P. 16
P. 17
P. 111
P. 274
P. 275
P. 260
P. 272
P. 246
P. 247
P. 106
P. 105
P. 199
P. 198
P. 188
P. 50
P. 211
P. 101
P. 44
P. 46
P. 88
P. 124
P. 205
P. 257
P. 266
P. 159
P. 27
MARSTON PRICE
267/648
51.95 A.
P. 26
VESTRY OF DORCHESTER PARISH
137/236
20 A
P. 247
VESTRY OF DORCHESTER PARISH
138/314
65.38 A.
P. 106
CHURCH
CREEK
TAYLORS ISLAND
ORION AREY ROAD
GREGORY ROAD
MAP 50-P. 144
MAP 50-P. 159
MAP 50-P. 27
MAP 50-P. 28

Chesapeake Bay Critical Area Commission

STAFF REPORT
February 7, 2001

APPLICANT:	Town of Indian Head
PROPOSAL:	Comprehensive Review of Indian Head's Critical Area Program
COMMISSION ACTION:	Vote
STAFF RECOMMENDATION:	Approval
PANEL:	Dave Bourdon, David Cooksey, Bob Goodman, Jim McLean
PANEL RECOMMENDATION:	Pending
STAFF:	LeeAnne Chandler
APPLICABLE LAW/ REGULATIONS:	Annotated Code of Maryland, §8-1809(g)

DISCUSSION:

The Town of Indian Head has recently completed the required four year review of their Critical Area Program. The review included the Town's Critical Area Program documents, the Critical Area Overlay Zoning Ordinance, and the Critical Area map. After reviewing all the information, it was determined that significant revisions were necessary. Rather than amending the existing Program and Ordinance, the consultant hired by the Town utilized the model Critical Area Ordinance provided by Commission staff. The existing Program and Ordinance were repealed in their entirety and replaced with new regulations contained in the Town's new Zoning Ordinance. There is no longer a separate Program document.

BACKGROUND:

The Town of Indian Head is located in northwestern Charles County on a peninsula between the Potomac River and Mattawoman Creek. The tip of the peninsula is occupied by the US Naval Surface Warfare Center. The shoreline along the Potomac River is characterized by steep bluffs and cliffs, with limited opportunities for shoreline access. The Mattawoman Creek shoreline is characterized by a fringe of tidal and non-tidal wetlands. Access to Mattawoman Creek is

provided at a fishing pier and boat ramp at a town park. Mattawoman Creek is a renowned bass fishing spot and it is often busy with bass tournaments run out of nearby Smallwood State Park.

ORDINANCE:

The model ordinance was modified as necessary to address the specific needs of the Town of Indian Head. Calculation of the acreage of the three land use categories and evaluation of the growth allocation status was conducted. The Town has used nine acres of growth allocation, received from the County in 1994. The County controls the growth allocation acreage for the Town.

The new ordinance includes specific conditions for enforcement of violations in the Critical Area, new provisions relating to impervious surface limits, and clearer language about Buffers, water-dependent facilities, and shore erosion control. There are no existing or proposed Buffer Exemption Areas (BEAs), so specific provisions relating to the implementation of a BEA Program were not included. The ordinance does specify that should a BEA be proposed, the Town will develop measures to ensure protection of water quality and habitat. Any such measures would require approval from the Critical Area Commission.

The Department of Natural Resources was consulted regarding an update to the resource inventory within the Town. No new Habitat Protection Areas have been designated.

MAPPING:

A new Critical Area map is being produced by the Town's consultant. The only change from the previously approved map is a municipal boundary change resulting from an annexation which occurred in 1991.

The original Program was adopted in January 1989. The Town held a joint public hearing with the Planning Commission and Town Council on August 29, 2000. No comments were received. The Commission held a public hearing in Indian Head on January 9, 2001 and no comments were received.

Chesapeake Bay Critical Area Commission

STAFF REPORT
February 7, 2001

APPLICANT:	Charles County
PROPOSAL:	Comprehensive Review of the Charles County Critical Area Program and Overlay Zoning Ordinance
COMMISSION ACTION:	Vote
STAFF RECOMMENDATION:	Approval with conditions
PANEL:	Dave Bourdon, David Cooksey, Bob Goodman, Jim McLean
PANEL RECOMMENDATION:	Pending
STAFF:	LeeAnne Chandler
APPLICABLE LAW/ REGULATIONS:	Annotated Code of Maryland, §8-1809(g)

DISCUSSION:
Charles County has recently completed the required four-year review of their Critical Area Program. The review included the County's Program document, the Critical Area Overlay Zoning Ordinance, and the Critical Area maps. Calculation of the acreage of the three land use categories and evaluation of the growth allocation status was conducted. Of the 30,424 acres within the Critical Area, 278 acres are IDA, 2,197 acres are LDA and 27,949 acres are RCA. The County has awarded nine (9) acres of growth allocation (to a project in the Town of Indian Head) and has a growth allocation reserve of 1,121.1 acres. An updated resource inventory has been provided and incorporated into the Program via a Habitat Protection Areas map.
The most significant changes to the County's Program and Ordinance are as follows:

PROGRAM:
The Program is updated with the latest information on the County's environmental programs such as their participation in the Rural Legacy Program, the revision to the County's Land Preservation and Recreation Plan, and the development of the Mattawoman Creek Watershed Protection Strategy. They have expanded the chapter on Shore Erosion Protection, providing further detail on the recommended methods of shore erosion control. Structural shore erosion control measures are discouraged, except where non-structural measures would be ineffective. A

Buffer Management Plan is required for any disturbance to the Buffer which occurs as a result of installation of shore erosion control measures.

The Habitat Protection Program Chapter has been updated with further information on the location of Buffer Exemption Areas throughout the County. It has been expanded to include a discussion on the ecological and historical value of the cliffs along the Potomac River. Cliff setbacks are discussed as an effective way to conserve the cliffs while protecting property. The number of bald eagle nests is reported to have increased to a total of 67 as of 1999. Additional protective guidelines for colonial nesting water bird sites have been added. The section on Forest Interior Dwelling Birds (FIDs) has also been updated to reflect the new FIDs guidelines adopted by the Commission in June 2000.

The Program document also includes (as Appendix B) a unique alternative for the Buffer Exemption Area in Swan Point. (Swan Point is a large golf-course development in southern Charles County that was partially platted prior to 1985.) This alternative is applicable only in the grandfathered sections of Swan Point and was developed as a result of citizen complaints of the inconsistent application of Buffer Exemption regulations within Swan Point. It was developed on a cooperative basis between County and Commission staff to accommodate the unique situation in Swan Point. Basically, the Buffer is of variable width depending on the depth of each particular lot. Required mitigation includes establishing a vegetated Buffer and planting an area of twice the impervious surface created in the 100-foot Buffer. Sample calculations and planting plans are provided.

ZONING ORDINANCE:

The County's Critical Area Overlay Zoning Ordinance was revised to add several significant definitions from the Critical Area Criteria and to modify others for clarity and consistency. Some re-organization of the ordinance is proposed, particularly the section on the Critical Area Buffer. The Buffer section provides further detail as to the functions of the Buffer and requires establishment of the Buffer when there is a change in use.

The County is proposing a list of uses permissible in the Resource Conservation Zone (i.e., RCA). See below under CONDITIONS for a further discussion of this issue.

The County has codified the requirements for Habitat Protection Areas through a referral back to the Program document. If it is determined that a proposed development activity will affect a Habitat Protection Area, the applicant will be required to prepare a Habitat Protection Plan according to guidelines set out in the Program.

Lastly, a Shoreline Erosion Control section has been added to the Ordinance. It sets out the process and regulations for shoreline erosion control measures. It emphasizes the use of non-structural methods and requires a Buffer Management Plan for any disturbance in the Buffer which may occur during installation. A Zoning Permit is required from the Planning Division for any structures included in a shoreline erosion control project.

MAP CHANGES:

The County has provided an updated resource inventory via an updated Habitat Protection Area map located in Chapter 8 of the Program. No other map changes are proposed.

HISTORY:

The County's original Critical Area Program and Ordinance were adopted in June 1989. The first Comprehensive Review resulted in changes adopted in November 1994. County and Commission staff have been working on the current changes since 1997. The Charles County Planning Commission held a hearing on the proposed changes on March 20, 2000. They recommend approval to the County Commissioners. The County Commissioners held a hearing in September 2000 and submitted it to the Commission in November. Chairman North appointed a Panel and the Panel Hearing was held on January 9, 2000. One member of the public provided comments. After the public comment portion of the hearing, the Panel discussed a number of outstanding issues and questions with County staff. Several changes were recommended. County staff made all of the necessary changes to the Program Document and no conditions of approval are recommended. With regard to the recommended changes to the Ordinance, these are recommended to be conditions of approval.

CONDITIONS:

With the exception of the RCA uses issue, County staff has indicated that all of the recommended changes are acceptable to them. These include the following recommended conditions of approval:

1. **Section 131(a)i.b. [page 146] is inconsistent with the State Criteria in regard to Water-Dependent Facilities in allowing new or expanded industrial facilities in the LDZ or RCZ. Suggested revision (added language in *italics*, deleted language in ~~strikeout~~):**

i. New buildings, structures, activities, and facilities permitted in the underlying base zones shall be prohibited within the Buffer except for the following:

a. ...

b. New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities where permitted in the IDZ only where designated as Buffer Exempt.

c. New commercial marinas and other related commercial ~~and industrial~~ maritime facilities where permitted in the IDZ and LDZ, provided that non-water-dependent uses and activities are not located in the Buffer; and expansion of existing commercial marinas ~~and other related commercial and industrial maritime~~ in the RCZ, provided sufficient demonstration that the expansion will result in an overall net improvement in water quality at or leaving the site of the marina. While proposed water-dependent uses shall be reviewed on a case by case basis by the Planning Division, Figure VIII-1 generally distinguishes those water-dependent facilities which may be permitted in the Critical Area *(depending on the zone)*, within and outside of the Buffer.

2. **The proposed rules for development and redevelopment in Buffer Exemption Areas in Section 131(c)iii. [page 151] is not wholly consistent with the Commission's new policy for residential BEAs. Suggested additional language in *italics*:**

iii. Development and redevelopment rules. For all new development and redevelopment activities, applicants must demonstrate that the distance between the new development and the mean high water line has been maximized. *In no case shall new development or redevelopment be located less than 25 feet from the water (or the edge of tidal wetlands).* The following rules also apply:...

Also - added after G. on page 152:

H. Variances to local setback requirements should be considered before additional intrusion into the Buffer.

I. BEA designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer to create additional buildable land for new development or redevelopment.

3. **Section 131(c)iii.b.[page 151] - The last sentence contains an incorrect reference. It should read "...shall be offset as described in Subsection 131 (c)(iv) below."**

4. **Section 132 (d)iii. [page 156] - The word "unless" should be replaced with "and only after."**

5. **Section 132 (d)v. [page 157] - There is no definition for either "sand and gravel operation" or "surface mining" and they seem to be used interchangeably Appropriate definitions should be added to the definition section (Section 128). Suggested definition (from the Criteria) in *italics*:**

Surface Mining or Sand and Gravel Operation. The breaking of the surface soil in order to extract or remove minerals in the Critical Area; any activity or process constituting all or part of the process for the extraction or removal of minerals from their original location in the Critical Area; and the extraction of sand, gravel, rock, stone, earth, or fill from borrow pits for highway construction purposes or other public facilities. Surface mining also means operations engaged in processing materials at the site of extraction; removal of overburden and mining of limited amounts of any material when done for the purpose of prospecting and, to the extent necessary, to determine the location, quantity, or quality of any natural deposit; and mining operations, if the affected land exceeds one acre or more in area.

6. **Section 132(g)iii.[page 160] - First sentence should read "Roads, bridges and utilities serving development shall be so located, *designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and to maintain hydrologic processes and water quality."***

7. **Section 132 (g)iv. [page 160] - added to part b.** ***"and reduce increases in flood frequency and severity that are attributable to development."***

8. **Section 132(g)v. [page 160] - keep "reduce" and delete "LIMIT."**

9. **Section 132(g)vii.e.2. [page 161] - The last sentence contains an incorrect reference. It should read "Replacement of cleared area shall be done in accordance with Section 132(e)."**

10. **Section 132(g)viii. [page 162] - This section should read, "Development on slopes of 15% or greater shall be prohibited."**

With regard to the RCA uses issue, the County is proposing new language and a list of uses to be permitted in the RCZ. Some of these uses are clearly commercial in nature and are therefore not consistent with the State Criteria. This issue has been discussed at numerous meetings with County staff, including a meeting with the Program Subcommittee. Commission staff has been told by County staff that the County Commissioners are not receptive to making any changes to their proposed RCA uses text and list. Efforts are being made to continue discussions with the County. However, in order to ensure consistency with the State Criteria, the following is recommended as a final condition of approval:

11. **Section 132(d)ii. - RCA Uses [pages 155-156] Suggested additional language in *BOLD ITALICIZED CAPS* and deletions in ~~strikeout~~ :**

d. General Regulations

1. Except as provided below, permitted uses, accessory uses and special exception uses in the Critical Area shall be limited to those permitted within the existing applicable underlying base zone, as shown on the Official Charles County Zoning Maps.

2. Existing industrial and commercial facilities, including those directly supporting agriculture, forestry AND aquaculture, shall be allowed in the RCZ. Additional land may ~~[~~not~~]~~ be USED IN THE RCZ [zoned] for industrial or commercial development, ~~LIMITED TO THOSE USES AND REQUIREMENTS~~ ***EXCEPT AS PROVIDED*** IN FIGURE VIII-2. [except as provided in Section 134.] ~~NEW USES NOT LISTED IN TABLE VIII-2 SHALL BE ALLOWABLE IN THE RCZ ONLY IF STRUCTURAL ELEMENTS RESULTING IN SIGNIFICANT IMPERVIOUS SURFACE AREA, INCLUDING PARKING, FACILITIES AND ROOFED STRUCTURES, ARE LOCATED OUTSIDE OF THE RCZ.~~ ALL OTHER USES PERMISSIBLE IN THE UNDERLYING BASE ZONE SHALL REQUIRE A GROWTH ALLOCATION, AS ESTABLISHED IN SECTION 134.

(Section will read: "Existing industrial and commercial facilities, including those directly

supporting agriculture, forestry and aquaculture shall be allowed in the RCZ. Additional land may not be used in the RCZ for industrial or commercial development, except as provided in Figure VIII-2. All other uses permissible in the underlying base zone shall require growth allocation as established in Section 134.")

Figure VIII-2
USES PERMISSIBLE IN THE RCZ

Uses Permitted Without Additional Requirements Specific to the RCZ

Commercial Assembly/Repair of Agricultural Equipment (accessory to a farm)
Grain Dryers and Related Structures (accessory to a farm)
Hunting and Fishing Cabins
Greenhouses (no on-premise sales)
Commercial Kennels ***(MINIMUM 5 ACRES)***
Tenant Houses
Primary Residences with Accessory Apartment ***(SUBJECT TO 1 DU PER 20 ACRES)***
Seafood Processing & Operations (accessory to on-site waterfront access or products raised on-site)
Group Homes (no more than 8 occupants)
Day Care Homes (less than 7 care recipients)
Halfway Houses ***(NOT MORE THAN 9 OCCUPANTS)***
Elderly Care Homes (no more than 8 occupants)
Rooming Houses, Boarding Houses rented by the month
Bed and Breakfast, Tourist Homes
Shelters (not more than 8 rooms or efficiencies)
Migrant Workers Housing (occupants employed on owner's farm)
Helistops
Private and Family Burial Sites
Blacksmith Shops, Welding Shops, Ornamental Iron works, Machine Shops and Sheet Metal Shops
Saw Mills (accessory to on-site harvest)
Wineries
Wood/Stump Grinding (accessory to on-site harvest)

Uses Permitted with Maximum Impervious Surface
of the Lesser of 15% of the Site Area or 20,000 square feet

~~Group Homes (9 to 16 occupants)~~
~~Day Care Centers (between 7 and 30 recipients)~~
~~Elderly Care Homes (between 9 and 16 recipients)~~
Private Elementary & Secondary Schools
Churches, Synagogues & Temples
Private Libraries, Museums, Art Centers & similar uses

~~Social, Fraternal Clubs and Lodges, Union Halls, Meeting Halls and similar uses~~
SERVICE ORGANIZATIONS AND NON-PROFIT CHARITABLE ORGANIZATIONS OR INSTITUTIONS
Campground and Camps ***(PROVIDED THAT AREAS OF INTENSE ACTIVITIES (SUCH AS DINING HALLS, BATH HOUSES, TENNIS COURTS, ETC.) ARE LOCATED OUTSIDE OF THE RCZ OR OBTAIN GROWTH ALLOCATION)***
~~Nursing Care Institutions~~
Fire Stations, Rescue Squads & Ambulance Services ***(ACCESSORY USES SUCH AS A BINGO HALL WOULD REQUIRE GROWTH ALLOCATION)***
Private use airport
Veterinary Office and Hospitals ***(ONLY AS ACCESSORY TO A FARM)***
~~Nursery/Day Care Centers (more than 30 recipients)~~
~~Antique Shops & Art Galleries~~
Research Facilities & Laboratories ***(NON-COMMERCIAL ONLY)***

Commission staff anticipates further discussions with the County on the RCA uses issue prior to the Commission meeting on February 7, 2001. The Panel will meet the morning of the Commission meeting to further discuss and refine these conditions as necessary.