Balt. Mtg. - Find Doc.

Patterson Park Mtg - Re: Dave Burdon

not July or Aug.

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

AGENDA

1:00 p.m. - 1:05 p.m.	Approval of Minutes of February 7, 2001	John C. North, II, Chair
1:05 p.m. - 1:35 p.m.	Continuation of Discussion: House Bill 99 Expansion of the Critical Area into the Coastal Bays of Worcester Co. Vote -	John C. North, II, Chair Joe Jackson, Comm. Member

PROGRAM AMENDMENTS and REFINEMENTS

1:35 p.m. – 1:45 p.m.	Eagan Subdivision Growth Allocation Talbot County / Refinement Concur	Wanda Cole, Planner
1:45 p.m.–1:55 p.m.	Bridgeview Office Building Growth Allocation Calvert County / Refinement Concur	Wanda Cole, Planner
1:55 p.m. - 2:05 p.m.	Ayres Growth Allocation – Talbot Co. Refinement Concur	Lisa Hoerger, Planner
2:05 p.m. - 2:15 p.m.	VOTE / Charles County - Continuation of Comprehensive Review: RCA Uses Postpone	LeeAnne Chandler, Plnr.

PROJECTS

2:15 p.m. – 2:30 p.m.	VOTE / DHCD - Patterson Park Road and Parking Improvements – Calvert Co.	Wanda Cole, Planner
2:30 p.m. – 2:45 p.m.	VOTE / SHA – Woodrow Wilson Bridge Sediment and Erosion Control Plan Contract #1 - Prince George's County	Lisa Hoerger, Planner
2:45 p.m. – 2:55 p.m.	VOTE / Talbot County – Tilghman Elem. School Expansion: Conditional Approval	Lisa Hoerger, Planner
2:55 p.m. - 3:05 p.m.	**Old Business** Legal Update	John C. North, II, Chairman Marianne Mason, Esq.
3:05 p.m. - 3:15 p.m.	**New Business** Discussion: Legislation	John C. North, II Marianne Mason, Esq. Ren Serey, Ex. Dir.

OLD BUS

B. Gill - Hyatt -
interest in prot. Great Blue Heron
a pair of Bald eagles have gone
to site + set up shop
Herons have left

M.G.M. - 1st case - G.A. - Bridgeman
C.A. Co.
appl. granted variance → 70% on parcel
I.S.
sugg. go for G.A. - we filed appeal
granted G.A. / will dism
C.C. appeal

BOA - Wi. Co - 6 Houses in Buffer
Bd - final appr - deny variance
applic appr. to appeal

Wi Co. - House in 100' Buffer
Com. testified
Co. ordered 6-1 mitigation for
distrib. in Buffer

So. Co. testified Colin in much
BOA - no dec. yet

AA Co. - ~~CAA~~ appeal variance House in Buffer
2 locations (one chosen by Board
600 feet closer to water)

New Business - Legislation
Bills ist no in House + Senate -
661 - + 607
Good hearing! Gov Hughes spoke in House -
no opposition -
Senate - opposition by MACCO - generally
favorable
Del. Gwen Cbr. of Hse Env. Com. not
sympathetic to Bill -
Gov. Hughes will talk c Gov + Del. Gwen
to urge passage of Bill -

Chesapeake Bay Critical Area Commission
People's Resource Center
Department of Housing and Community Development
Annapolis, Maryland 21410
February 7, 2001

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
Bourdon, Dave, Calvert County
Jones, Paul, Talbot County
Dr. Foor, James C., Q.A. County
Jackson, Joseph A. Worcester County
Cooksey, David, Charles County
Rice, William J., Somerset County
Samorajczyk, Barbara D., Anne Arundel Co.
Johnson, Samuel Q. ,Wicomico
Olszewski, John A. Baltimore County
Setzer, Gary for Hearn, J.L., Md. Department of Environment
McLean, James, Md. Department of Business and Economic Development
Wenzel, Lauren, Md. Department of Natural Resources
Witten, Jack, St. Mary's Co.
Duket, Larry, Md. Department of Planning
Goodman, Robert, DHCD
Andrews, Meg , Md. Department of Transportation
Evans, Judith, Western Shore Member at Large
Wynkoop, Sam, Prince George's County
Myers, Andrew, Caroline County

Not in Attendance:

Philip Barker, Harford County
Giese, Bill, Dorchester County
Lawrence, Louise, Dept. of Agriculture
Cain, Debbie, Cecil County
Graves, Charles C., Baltimore County

The Minutes of January 3, 2001 were approved as read.

Andrew Der, Planner, CBCAC presented for VOTE the four-year comprehensive review of the Critical Area Program for Dorchester County. In July, 2000 the Commission approved changes and updates to the zoning ordinance as a refinement. Program amendments were approved by the County Commissioners in October 2000. Dorchester's Critical Area Program is primarily implemented through the zoning ordinance and subdivision regulations and provides background information and a broad outline of the goals and objectives of the Critical Area Act. The changes to the program include minor text revisions and updates of the program document as well as mapping changes that reflect the addition of four new Buffer Exemption Areas. Karen Hautman, Dorchester County Planning and Zoning described the updates to the ordinance. The County is presently soliciting Habitat Protection Area Updates from the DNR. Andrew Myers moved to approve the Dorchester County Comprehensive Review Program Document as submitted. The motion was seconded by Paul Jones and carried unanimously.

LeeAnne Chandler, Planner, CBCAC presented for VOTE the four-year comprehensive review of the Critical Area Program for the Town of Indian Head. This

review includes the Town's Critical Area Program documents, Overlay Zoning Ordinance, and the mapping. Because significant revisions were necessary, a model Critical Area Ordinance was used rather than amending the existing Program and

Ordinance(which was 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. Ms. Chandler described the new regulations in the ordinance which include specific conditions for enforcement of violations in the Critical Area; new provisions relating to impervious surface limits; and, clearer language about Buffer, water-dependent facilities, and shore erosion control. There are no existing or proposed BEAs, but if one should be proposed, measures to ensure protection of water quality and habitat will be developed by the Town and approved by the Critical Area Commission. DNR was consulted regarding an update to the resource inventory within the Town. No new Habitat Protection Areas have been designated. A new Critical Area map is being produced by the Town's consultant to include a municipal boundary change resulting from an annexation in 1991. Dave Bourdon moved to approve the comprehensive review of the Critical Area Program for the Town of Indian Head with the condition that the Town provide a revised and approved map acceptable to the Commission staff. The motion was seconded by Dave Cooksey and carried unanimously.

Ms. Chandler presented for VOTE the Comprehensive Review of the Charles County Critical Area Program and Overlay Zoning Ordinance and maps. She said that this review process has been going on since 1998 with several versions and comments. A calculation of the acreage of the three land use categories and evaluation of the growth allocation status was conducted. An updated resource inventory has been provided and incorporated into the Program via a Habitat Protection Areas map. Ms. Chandler iterated the most significant changes to the County's Program and Ordinance: the Program is updated with the latest information on the County's environmental programs; the chapter on Shore Erosion Protection Strategy has been expanded providing further detail on the recommended methods of shore erosion control; the Habitat Protection Program Chapter has been updated with further information on the location of Buffer Exemption Areas throughout the County and includes a discussion on the ecological and historical value of the cliffs along the Potomac River. The latest FID guidelines are included. Also included is a unique alternative for the Buffer Exemption Area in Swann Point, with a variable width for the Buffer with required mitigation planting twice the impervious surface. The County's Critical Area Overlay Zoning Ordinance was revised to add several significant definitions from the Critical Area Criteria and modified others for clarity and consistency. There was some re-organization of the Buffer section to provide further detail as to the functions of the Buffer; a list of proposed uses permissible in the RCA (will come back to the Commisison for a vote) was included; Habitat Protection Area requirements have been codified by the County through a referral back to the Program document; a Shoreline Erosion Control section has been added. There are no conditions of approval for the program document. There are however, recommended conditions (11) of approval for the changes to the Ordinance that Ms. Chandler discussed and were included in a staff report disseminated to the Commission. Dave Bourdon moved to approve the Charles County Comprehensive Review with the condition that the first 10 conditions in the staff report, striking number 11 and adding the new condition, which is now #11: corrects a reference in section 130 ,takes out lots of record and

development on lots created prior to 1984. The motion was seconded by Jim McLean. Larry Duket suggested amending the motion to state that this motion not indicate approval of the language in the physical document, existing now ,related to RCA uses.

Dave Bourdon accepted the amendment to the motion and reiterated the motion: moved for approval of the Charles County Program with the first 10 conditions as enumerated in the staff report, striking condition number 11 because the County has at their request, through Zak Krebeck, County Chief of Comprehensive Planning, put on hold the discussion of RCA uses and adding the final condition as discussed (corrects a reference in section 130, takes out an incorrect reference regarding lots of record and development on lots created prior to 1984) and should not be construed as approving the RCA table of uses as currently contained in the draft. The motion was seconded by Mr. McLean and carried unanimously.

Old Business

Chairman North, referring to an article regarding the Four Seasons Development, commented that the Eastern Shore is exploding with development, both residential and commercial. He also commented on an article from the *Chesapeake Business Ledger* pertaining to a third village style neighborhood proposed for the Eastern Shore relating to the Ratcliffe Manor site on the Tred Avon.

Dr. Foor told the Commission that a very productive meeting was held in the project subcommittee that morning with Wicomico County relating to their comprehensive review. The original program was adopted in October 1989 and their first update is due in June, 2001.

Marianne Mason, Esquire, Critical Area Commission Counsel updated the Commission on legal matters. She said that Critical Area Staff gave testimony in January to the Anne Arundel County Board of Appeals on a variance case for a house on a fairly large lot. The house had not been built but there were two possible locations for the house and the one chosen by the applicant impacted sensitive steep slopes.

In Wicomico County, the Board of Appeals will adopt formal findings in the Edward Lewis case next week. This case generated substantial publicity. The property is marshland off the Nanticoke where six buildings were built and then a variance was sought to legalize all of them. The board preliminarily turned down the variance, and it is believed that the Board will deny the variance. The applicant said that he will appeal.

There will be a hearing in Wicomico County next week on a case involving an already built house that encroaches into about every feature imaginable - buffer, wetlands, etc. Working with this person has not been successful and therefore the CAC has asked the Board to order removal of the structure.

Later in the month in Somerset County there will be a hearing similar to the Lewis case, a large area of marshland where a cabin has been built. The Commission is looking to have mitigation and to have part of the 1,600 foot cabin taken out.

New Business

Mary Owens told the Commission that on Wednesday, March 28th, 9 a.m. - 3 p.m. the Critical Area Commission will meet at the Wye Research Center for a Workshop. She said that an agenda will be forthcoming.

Ren Serey, Executive Director, CBCAC described for the Commission two Bills upcoming in the legislature. A Critical Area Bill that will address the three cases decided by the Court of Appeals that effectively eliminated most of the difficulty in getting a variance, particularly in the Buffer. Senate Bill #607, House Bill#661, companion bills, will try to rectify some of the problem. Chairman North will schedule an appointment with Delegate Guns, Chairman of the House Environmental Committee, to discuss the Bill, and will also schedule an appointment with the House Speaker, Cas Taylor to inform him of the Bill. Marianne Mason, Commission Counsel has met with the Governor's legal counsel to explain this legislation. Chairman North urged the Commission members to communicate with the legislators to support the Critical Area Commission's efforts on this Bill.

Ren Serey told the Commission about House Bill #99, which would add the coastal bays of the State to the areas designated as being within the Chesapeake Bay Critical Area. Worcester County and Ocean City are the two jurisdictions under this bill as it is written. Lauren Wenzel, DNR, said that there is a chain of coastal bays beginning in Ocean City and going south which have had most of their management issues resolved by the E.P.A.'s National Estuary Program of which they are a part. This program is based on the national model Chesapeake Bay Program. One unresolved issue is the issue of "Buffers". She said that currently there is a 25' Buffer. She said that Wicomico County, beginning October '99, has two years to go through a watershed planning process to determine what the watershed needs are and to adopt them through a watershed planning process vs. having a regulatory or legislative approach, which the local officials do not want. She said that there is a lot of building activity in anticipation of future restrictions on the Buffer which is doing a lot of harm to the environment and this is of great concern to the environmentalists. There was much discussion of the Bill. Joe Jackson, Worcester County representative told the Commission that he favors the two year period to deal with this issue. This Bill was introduced by Baltimore County delegates without consultation with the Eastern Shore delegation. There was much discussion regarding the impacts of this Bill and how the Commission will respond. Mr. Jackson will arrange a presentation on the Coastal Bays for the Commission, by the Coastal Bays Program of Worcester County.

There being no further business, the meeting adjourned.

Minutes submitted by:
Peggy Mickler, Commission Coordinator

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

February 7, 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
Bourdon, Dave, Calvert County
Foor, Dr. James C., Queen Anne's County
Jones, Paul, Talbot County
Samorajczyk, Barbara, Anne Arundel County
Bradley, Clinton, Eastern Shore MAL
Cain, Deborah, Cecil County
Graves, Charles, Baltimore County
Rice, William, Somerset 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
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.

Ruby 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 eonsider 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 eontinue 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 Wieomico 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

People's Resource Center
Department of Housing and Community Development
Crownsville, Maryland 21401
March 7, 2001

approved

The Chesapeake Bay Critical Area Commission met at the People's Resource Center in Crownsville, Maryland . The meeting was called to order by John C. North, II, Chairman, with the following Members in attendance:

Barker, Philip, Harford County
Bradley, Clinton, Eastern Shore MAL
Bourdon, Dave, Calvert County
Cain, Deborah, Cecil County
Cooksey, David, Charles County
Evans, Judith, Western Shore MAL
Foor, Dr. James, C. QA County
Giese, William, Jr., Dorchester County
Graves, Charles C., Baltimore County
Jackson, Joseph A., Worcester County
Olszewski, John A. Baltimore County
Samorajczyk, Barbara, Anne Arundel County
Witten, Jack, St. Mary's County
Wynkoop, Samuel, Prince George's County
Setzer, Gary for Hearn, J.L., Maryland Department of the Environment
Goodman, Robert, Maryland Department of Housing and Community Development
Duket, Larry, Maryland Department of Planning
Lawrence, Louise, Maryland Department of Agriculture
McLean, James, Maryland Department of Business and Economic Development
Andrews, Meg, Maryland Department of Transportation
Wenzel, Lauren, Maryland Department of Natural Resources

Not In Attendance:

Johnson, Samuel Q., Wicomico County
Jones, Paul, Talbot County
Myers, Andrew, Caroline County
Rice, William, Somerset County

The Minutes of February 7, 2001 were approved as read.

Lisa Hoerger, Planner, CBCAC presented for VOTE, the Contract 1 of the Sediment and Erosion Control Plans for the Woodrow Wilson Bridge in Prince George's County. The Commission at its December meeting approved the stormwater management design for compliance with the 10% Pollutant Reduction Rule for this project with several conditions. Because of the large scope of this project the construction will occur in several phases and have multiple contracts. If there are any changes under these multiple contracts then the plans have to be submitted to the Commission for review and approval. The sediment and erosion plans were not ready for review at the time of the approval of the stormwater designs. This project has received conceptual approval from MDE and is currently awaiting final approval. The technical details of the plan were described for the Commission. Dave Bourdon moved to approve the project as presented with the condition that the Commission staff receive monthly updates of the status of the site inspections. The motion was seconded by Debbie Cain and carried unanimously.

Joe Jackson, Worcester County Critical Area Commission Representative introduced Jeanne Lynch, President of the County Commissioners for Worcester County and Sandy Coyman, Director of the County Office of Comprehensive Planning. They gave a presentation to the Commission explaining their opposition to House Bill #99 for adding the Coastal Bays to the Critical Area Program. Dave Blazer, Director of the Maryland Coastal Bays Program and John Roder, Citizens Advisor for the Coastal Bays Program were also in attendance. Ms. Lynch explained the major new initiatives of the Coastal Bays Comprehensive Management Plan (CCMP) involving the Federal Government, State Agencies and County Government, local government representatives

character of the County, and that the focus is not on Buffer issues. Mr. Coyman said that Worcester County is meeting its commitment in protecting and restoring the coastal bay watershed stating that the concern is about whether the County is able to meet the commitment and obligations of the CCMP. He reviewed the highlights of the CCMP - forestry, wetlands, rural legacy issues, subwatershed planning, shore erosion, and said that as part of the subwatershed planning process options for protecting the existing 25 foot Buffer are being discussed. Mr. Coyman said that under the subwatershed plan (under an October 1, 2001 deadline) the CCMP states that the County must make "substantial progress towards implementing, increasing the buffer capacity of coastal waters". Further, the CCMP policy committee has been looking at condensing some of the work on the remaining watersheds and has come up with some interim measures which have been discussed. The County opposes HB 99 because it wants the opportunity to meet its commitment under the plan. This CCMP plan has over 430 different actions in it and it is believed that the County is doing a great job implementing it but the buffer issue and the subwatershed plans are the most contentious. House Bill #99 has advanced discussion of the coastal bays. He said that if a management plan or a consensus is not achieved through the process, then the County would expect that some type of Critical Area legislation would come from the State and be scheduled next year. Erin Fitzsimmons, a member of the Ocean City Council, spoke in support of House Bill #99 and said that the bays need protection beyond a 25 foot buffer.

MOTIONS: Joe Jackson moved to give the County enough time to effectively implement their Program and that the Commission not endorse House Bill #99 at this time because it is premature. Sam Wynkoop restated Mr. Jackson's motion as taking an affirmative position in opposition to the Bill, accepted by Mr. Jackson. Mr. Wynkoop seconded the motion. There was more discussion of this issue among the Commission members. Dr. Foor moved to amend the motion: that the CBCAC opposes Bill #99, as it is premature, the Critical Area Commission taking an affirmative position in opposition to the bill and to revisit it within 12 months. Mr. Jackson accepted the amendment to his motion.

Chairman North called for a vote: the motion failed with 9 in favor and 10 opposed.
Lauren Wenzel moved that the CBCAC remain neutral on House Bill #99 at this time, to monitor the progress of the County and only take action if it is warranted. Dave Bourdon seconded the motion with an amendment that the Commission will remain neutral on the Bill until October of this year and will revisit the issue next year. Ms. Wenzel accepted the motion. Chairman North called for a vote and the motion carried unanimously.

Wanda Cole, Planner, CBCAC presented for Concurrence with the Chairman's determination of Refinement the use of 6.3 acres of growth allocation requested by St. Mary's County to change the Critical Area overlay designation from RCA to LDA for the creation of a minor subdivision of the Eagan property to create two lots. The entire property is in the Critical Area of St. Catherine's Bay in Avenue, Maryland. Ms. Cole said that there will be no new development in the 100 foot Buffer and in fact the Buffer for lot 2 will be expanded to 200 feet. This project has been approved by the St. Mary's County Board of County Commissioners and the Planning Commission with conditions. There are no known Habitat Protection Areas on the property other than the Buffer. The conditions recommended by the staff for approval of this project are: * that clearing for Lot 2 be limited to 30 percent of the existing forest cover as required by the St. Mary's County Zoning Ordinance. * that forest mitigation is required at a ratio of 1.5:1 for Lot 2 and 1:1 for Lot 1. Reforestation will first be directed to the site's 100-foot Critical Area Buffer and Expanded Buffer in order to complete the establishment of the Buffer. * that the limits of disturbance on Lot 1 be modified during the site plan phase to allow equipment to work around the house and pool without encroaching into the 100-foot Critical Area Buffer. The Commission supported the Chairman's determination of Refinement.

Ms. Cole presented for Concurrence with the Chairman's determination of Refinement the request for approval of the use of .33 acres of growth allocation to change the Critical Area overlay designation of the Thomas Daugherty property from LDA to IDA in Calvert County. This entire property lies within the Critical Area of Back Creek in Solomons Town Center, Solomons, Maryland and does not have its own growth allocation acreage. The County has approved a change in the use of the property from residential to commercial

and the proposed commercial use will exceed the LDA limits for impervious surface. This change in use and in the use of growth allocation will provide a public benefit, as required by the Calvert County Critical Area Program, by the creation of professional office space and jobs. The proposed growth allocation request has been approved by the Calvert County Planning Commission and the Board of County Commissioners of Calvert County. The growth allocation is consistent with the Commission's growth allocation policy. There are no known Habitat Protection Areas on the property and the 100-foot Buffer is not present on this property. The Commission supported the Chairman's determination of Refinement.

Lisa Hoerger, Planner, CBCAC presented for Concurrence with the Chairman's determination of Refinement the request by Talbot County to use 23.92 acres of growth allocation to change the Critical Area designation from RCA to LDA on the Ayres Property on the Choptank River. This site is adjacent to parts of a known historic waterfowl concentration area. The 100-foot Buffer shown on the site plan must be re-established in native Buffer vegetation. This growth allocation has been approved by the Talbot County Council and by the Planning Commission and staff. Dr. Foor read the condition recommended by the Program Subcommittee for support of this Refinement because of the deficiency in the County's Program at this time wherein they are silent on protection of the Buffer. The condition: that the 100-foot Buffer must be established and maintained in natural vegetation sufficient to ensure the water quality and habitat functions specified in the Critical Area Criteria. A plat note shall be placed on the plat and appropriate language inserted in each deed to ensure that the Buffer on each lot is established and maintained; the plat notes and draft deed language shall be reviewed and approved by Commission staff. The Chair accepted the condition and the Commission supported the Chairman's determination of Refinement.

Ms. Cole presented for VOTE the proposal by the Maryland Department of General Services to upgrade the existing roads and to construct a new parking lot, a bio-retention facility, a bituminous sidewalk and an infiltration basin for Jefferson Patterson Park and Museum in Calvert County. The area is a designated RCA and there will be no impacts to the 100-foot Critical Area Buffer. There will be minor impacts, within the required limits and there will be mitigation. Dave Bourdon moved to approve the project as presented with three conditions: 1) copies of the MDE approvals for nontidal wetlands, stormwater management, and sediment and erosion control shall be provided to the Commission prior to construction. If these approvals result in significant changes in the footprint within the Critical Area, these changes must be presented to the Commission for approval. 2) Forest mitigation using native species shall be provided on-site at a 1:1 ratio. The planting plan must be provided to staff for review and approval 3) maintenance agreements for the bioretention facilities and infiltration basin are required. DGS staff shall coordinate with Commission staff to ensure appropriate agreements are executed. The motion was seconded by Dave Cooksey and carried unanimously.

Ms. Hoerger presented for VOTE the proposal to build additions to the existing Tilghman Elementary School with additional parking. The proposed site is approximately ten acres and is located entirely within the Critical Area and is designated LDA. This is the only location that can be utilized for the purpose of providing additional school classroom space and community services. This project requires a conditional approval for State and local government development since it exceeds the 15% impervious surface limitation.
Ms. Hoerger described the technical details of the project and said that this project meets the qualifying characteristics for consideration of a conditional approval and is consistent with COMAR 27.02.06. This conditional approval request also contained the elements required within a conditional approval. Dave Bourdon moved to approve the conditional approval for the project for the Tilghman Elementary School as presented with the three conditions: 1) the applicant shall resubmit any revisions to the plan to the Commission for approval; and 2) the applicant shall resubmit any revisions for the stormwater management and sediment and erosion control plans; 3) the applicant will work with Commission staff regarding the proposed species proposed for landscaping, and will coordinate follow-up site visits to monitor the survivability of the planting areas. The motion was seconded by Dave Cooksey and carried unanimously.

Old Business

Bill Giese reported that in the last few months there has been considerable activity at the Hyatt site in Cambridge in Dorchester County. A protection area was set up for great blue herons nesting on the site and apparently a pair of bald eagles have come onto the site and the herons have left. He commented that it will be interesting to see whether the herons return as the construction did not deter the bald eagles.

Commission Counsel, Marianne Mason, Esquire, gave a legal update to the Commission. She reported on the Refinement, in which the Commission concurred with the Chairman's determination, involving a growth allocation in Calvert County. The Board of Appeals previously granted a variance for impervious surfaces. The Commission had recommended that growth allocation was the appropriate method of allowing additional development on this site. The Commission filed an appeal in Circuit Court consequently bringing everybody to the table which resulted in the applicant applying for growth allocation . The Commission will be dismissing the Circuit Court appeal.

She reported on three other cases, all at the Boards of Appeal level: One in Wicomico County wherein the Board issued a formal opinion denying a variance in a case involving a gentleman who built six structures in the Buffer. Another in Wicomico County involving a house originally built entirely in the 100-foot buffer. The Commission staff testified and the County ordered 6:1 mitigation for all the disturbance to the Buffer and, in Somerset County there has been no decision regarding a house built in the marsh.

Ms. Mason said that later on in the month she will argue in Anne Arundel County on our appeal of a variance for a house to be built in the Buffer. This case was reported last year where the Board issued a variance for the house to be built on a lot 600 feet closer to the water in the middle of a riparian forest when there were two alternate locations.

New Business

Chairman North reported on legislation and said that at the Commission's last meeting, it was indicated that there was to be a Bill introduced in the House and a companion Bill in the Senate the purpose of which was to deal with the regrettable undermining of the critical area concepts, particularly with the concept of variances that have resulted from the three unfortunate decisions of the Court of Appeals. He said that there was a good hearing in the House and Senate, that Governor Hughes spoke on behalf of the legislation for the House hearing and there was no opposition. He said that there was opposition in the Senate from MACO, but generally the reception was favorable. Despite the overwhelming testimony in favor of the bill, there remains some question as to whether or not Delegate Ron Guns, the Chairman of the House Environmental Matters Committee would handle it favorably in committee. Governor Hughes will personally speak with Governor Glendening and with Delegate Guns to urge passage of the Bill. Dr. Taylor-Rogers has spoken with the Speaker in respect to enlisting his assistance in this direction and had a favorable response generally from the Speaker.

Ren Serey, Executive Director of the CAC, reported on two other bills: The first, House Bill 1026, introduced by Delegate Weir who Chairs the Oversight Committee, regards sewer hook ups in the RCA and intrafamily transfers regarding a particular situation in Baltimore County which has since been resolved and the bill has been withdrawn. A second, Senate Bill 563, introduced by Senator Colburn, has had a hearing. This Bill intended to change the forest conservation act periodic reviews from a 2 year period to a 6 year period and the Critical Area Comprehensive Reviews from a 4 year period to a 6 year period. He said that DNR did not support the forest conservation act portion of the bill but the Critical Area Commission testified in favor of the Critical Area portion on the theory that every jurisdiction either has completed at least one comprehensive review or has a

coordinate these local reviews with the existing requirements so that they would all be done at the same time.

The Commission was reminded of the Workshop for the Commission members to be held on March 28th at Wye Island. Information will be forthcoming in two days.

Chairman North reported that the Day on the Bay on the State Boat, Maryland Independence, is scheduled for June 14th. Because of the Poplar Island destination this outing will be an all day (8:30 a.m. – 5:00 p.m.) affair. There has been an excellent response in interest and for attendance from the Commission members. As soon as the Commission Coordinator finalizes the logistics of this outing, which involve a transfer boat from the State Boat to the Island, the information will be sent out. The Joint Legislative Oversight Committee will be invited.

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Coordinator

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 7, 2001

APPLICANT:	St. Mary's County
PROPOSAL:	Refinement- Eagan Subdivision Growth Allocation
COMMISSION ACTION:	Concurrence with Chairman's Determination
STAFF RECOMMENDATION:	Approval
STAFF:	Wanda Cole
APPLICABLE LAW/ REGULATIONS:	COMAR 27.01.02.06 Location and Extent of Future Intensely Developed and Limited Development Areas

DISCUSSION:

St. Mary's County is requesting approval of the use of 6.3 acres of growth allocation to change the Critical Area overlay designation of the Rex and Francis Eagan property from Resource Conservation Area to Limited Development Area. The site is located along River Springs Road in Avenue, Maryland. The entire property lies within the Critical Area of St. Catherine's Bay.

The County is requesting growth allocation to change the designation of the property to LDA in order to approve a minor subdivision of the property to create two lots. This minor subdivision would exceed the RCA density requirements of one dwelling unit per twenty acres. Adjacent properties on the north and west sides of this site are designated LDA.

The property is currently residential with two existing, deteriorated structures. These structures would be razed and replaced with one dwelling on each of the two proposed lots. No new development is proposed in the 100-foot Critical Area Buffer, and the Buffer for Lot 2 will be expanded to 200 feet, as recommended by the County's Zoning Ordinance for the use of growth allocation. A 300-foot Buffer could not be established and maintain zoning setbacks for the proposed development. Due to the location of suitable soils for septic, the lots have an unusual configuration where Lot 1 wraps around Lot 2. The sewage reserve area for Lot 2 will be located at least 218 feet away from the proposed homesite.

Mr. and Mrs. Eagan applied for growth allocation in July 1999. The application went through the St. Mary's County Environmental Review Team in August 1999. Comments were addressed by the applicant and the project was resubmitted for public hearings before the St. Mary's County Planning Commission in May 2000 and recommended for approval with conditions in June 2000. Hearings were held by the Board of County Commissioners in

October 2000 and the project was approved for the use of growth allocation by the Board on November 28, 2000.

There are no known Habitat Protection Areas on the property other than the 100-foot Critical Area Buffer on Lot 1 and the Expanded 200-foot Buffer on Lot 2.

Staff recommends approval with the following conditions:

- That clearing for Lot 2 be limited to 30 percent of the existing forest cover as required by the St. Mary's County Zoning Ordinance.

- That forest mitigation is required at a ratio of 1.5:1 for Lot 2 and 1:1 for Lot 1. Reforestation will first be directed to the site's 100-foot Critical Area Buffer and Expanded Buffer in order to complete the establishment of the Buffer.

It is also recommended that the Critical Area Commission reiterate the condition of the County Commissioners' January 16, 2001 decision:

- That the limits of disturbance on Lot 1 be modified during the site plan phase to allow equipment to work around the house and pool without encroaching into the 100-foot Critical Area Buffer.

Chairman North has determined that this growth allocation may be approved as a refinement with conditions and is seeking your concurrence.

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 7, 2001

APPLICANT:	Calvert County
PROPOSAL:	Refinement- Bridgeview Office Building Growth Allocation
COMMISSION ACTION:	Concurrence with Chairman's Determination
STAFF RECOMMENDATION:	Approval
STAFF:	Wanda Cole
APPLICABLE LAW/ REGULATIONS:	COMAR 27.01.02.06 Location and Extent of Future Intensely Developed and Limited Development Areas

DISCUSSION:

Calvert County is requesting approval of the use of 0.33 acres of growth allocation to change the Critical Area overlay designation of the Thomas Daugherty property from Limited Development Area to Intensely Developed Area. The site is located at 90 Hospitality Drive in Solomons and is surrounded by other parcels designated as LDA. The entire property lies within the Critical Area of Back Creek.

The property is also located in the Solomons Town Center. Solomons is a priority area for receiving growth allocation as it is the only Town Center located in the Critical Area that does not have its own growth allocation acreage. Calvert County has set aside growth allocation for the Chesapeake Beach and North Beach Town Centers.

The County is requesting growth allocation to change the designation of the property to IDA because the County has approved a change in the use of the property from residential to commercial and the proposed commercial use will exceed the LDA limits for impervious surface. LDA properties are limited to 25% impervious area. The impervious area to be created by the construction of the Bridgeview Office Building at this site is 76%.

The property is currently in residential use and is developed with a one-story frame house. This property is surrounded by commercial uses. The County finds that the change in use and the use of growth allocation will provide a public benefit by the creation of professional office space and the jobs.

Last summer, the owner of the property applied for a variance from the impervious surface requirements. In a letter dated July 26, 2000, the Critical Area Commission opposed the variance and recommended that the applicant apply for growth allocation. The County Board of Appeals then granted the variance on September 7, 2000. On October 10, 2000, the Critical Area Commission then filed a Petition for Judicial Review, stating its intent to appeal the variance that was granted to Mr. Daugherty. The case is still pending.

The Calvert County Planning Commission and the Board of County Commissioners of Calvert County held public hearings on the proposed growth allocation and approved the request on February 20, 2001. The proposed growth allocation is consistent with the Commission's growth allocation policy.

There are no known Habitat Protection Areas on the property. The 100-foot Critical Area Buffer is not present on this property.

Chairman North has determined that this growth allocation can be approved as a refinement to the County's Program and is seeking your concurrence.

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 7, 2001

APPLICANT:	Talbot County
PROPOSAL:	Refinement - Ayres Growth Allocation
COMMISSION ACTION:	Concurrence with Chairman's Determination
STAFF:	Lisa Hoerger
APPLICABLE LAW/ REGULATIONS:	COMAR §8-1808.1

DISCUSSION:

Talbot County is requesting to use 23.92 acres of growth allocation to change the Critical Area designation of a portion of a property from Resource Conservation Area (RCA) to Limited Development Area (LDA). The property is known as the Ayres Property and is located on the Choptank River off of Windy Hill Road. The area of the parcel within the Critical Area is zoned RC (RCA) and totals approximately 23.92 acres.

Deduction Methodology

The total area of the parcel will be deducted in its entirety since the site does not have sufficient area for twenty, contiguous acres to remain as RCA. The parcel proposed for LDA designation is contiguous to other LDA lands which surround the parcel in the Critical Area.

Habitat Protection Areas

A letter from the Department of Natural Resources (DNR) indicates the site is adjacent to or parts of a known historic waterfowl concentration area. No other Habitat Protection Areas were identified by the Department for consideration. The 100-foot Buffer is shown on the site plan. In a comment letter to the County concerning the proposed subdivision, it was stated that the Buffer must be reestablished in native Buffer vegetation.

Issue for Consideration

The growth allocation was approved by the Talbot County Council following a public hearing and favorable recommendation by the Planning Commission and County Planning staff.

Chairman North seeks your concurrence with his determination that this growth allocation request is a refinement to the Talbot County Critical Area Program.

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 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:
Last month, the Commission approved with conditions the four-year review of the Charles County Critical Area Program with the exception of the RCA uses section. At the suggestion of the Commission's Chairman and the formal request by the County, the RCA uses section has been placed on hold pending a meeting. The meeting is scheduled for March 5, 2001, just two days prior to the Commission meeting. While it is likely that a revised staff report will be prepared and distributed at the March 7, 2001 meeting, the following is a brief background on the RCA uses issue and the suggested changes to the County's proposed language.

The County is proposing new language and a list of uses to be permitted in the RCA. 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. The following is the proposed RCA uses section with the suggested additional language in ***BOLD ITALICIZED CAPS*** and deletions in **~~strikeout~~** : (These suggested changes have evolved from previous discussions on the RCA uses issue with other jurisdictions during their comprehensive reviews.)

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 Lessor 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)***

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 7, 2001

APPLICANT:	Maryland Department of Housing and Community Development
PROPOSAL:	Jefferson Patterson Park and Museum: Upgrade Existing Roads, Construct New Parking
JURISDICTION:	Calvert County
COMMISSION ACTION:	Vote
STAFF RECOMMENDATION:	Approve With Conditions
STAFF:	Wanda Cole
APPLICABLE LAW/ REGULATIONS:	COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands

DISCUSSION:

The Maryland Department of General Services, on behalf of Jefferson Patterson Park and Museum proposes to upgrade existing roads and provide additional parking area. The portion of the project that occurs within the Critical Area will include the widening of the existing alignment with new bituminous pavement and/or overlay of existing aggregate/deteriorated pavement with bituminous pavement along 3,370 linear feet of roadway. The creation of a new paved parking area, bituminous sidewalk, bio-retention facility, and an infiltration basin are also proposed.

This area is a designated Resource Conservation Area located along the confluence of St. Leonard Creek and Patuxent River in Calvert County. There will be no impacts within the 100-foot Critical Area Buffer.

Impacts will include a small loss of forest cover, an increase in impervious surface, and a permanent loss of non-tidal wetlands. The exact extent of these impacts and the location of their mitigation areas are not known at this writing, however, the project drawings suggest that the impacts are minor, well within the required limits, and that mitigation is being provided. More detailed information will be presented by Commission staff at the meeting.

A search on the MERLIN database indicates that there are no sensitive species in the project area. Although there is FIDS habitat on the property, the affected forest cover is most likely not FIDS habitat. The loss of forest cover occurs along a short section of roadway where the existing road corridor has already created a break in the canopy. In addition, this part of the forest is a narrow finger, making it unsuitable for FIDS needs. However, the forested areas on this property provide riparian forest habitat in an area where surrounding agricultural activities have displaced riparian habitat.

Stormwater quality will be managed by one infiltration basin and a bioretention facility (see attached drawing and details.)

A landscape planting plan is provided but it is not known at this time how much of this plan is intended as mitigation of lost forest cover. Some species listed are ornamental, non-native species which are intended to provide screening around the parking facility.

One nontidal wetland occurs adjacent to the roadway and will be affected by the road widening. A Nontidal Wetland Permit will be required from Maryland Department of the Environment for this impact. Mitigation will be required for all wetland losses.

RECOMMENDATION: Staff recommends approval with the following conditions:

- Copies of the MDE approvals for nontidal wetlands, stormwater management, and sediment and erosion control shall be provided to the Commission prior to construction. If these approvals result in significant changes in the footprint within the Critical Area, these changes must be presented to the Commission for approval.

- Forest mitigation using native species shall be provided on-site at a 1:1 ratio. The planting plan must be provided to staff for review and approval.

- Maintenance agreements for the bioretention facilities and infiltration basin are required. DGS staff shall coordinate with Commission staff to ensure appropriate agreements are executed..

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 7, 2001

APPLICANT:	State Highway Administration
PROPOSAL:	Contract 1, Sediment & Erosion Control Plan
JURISDICTION:	Prinee George's County
COMMISSION ACTION:	Vote - Tentative
STAFF RECOMMENDATION:	Pending information
STAFF:	Lisa Hoerger
APPLICABLE LAW/ REGULATIONS:	COMAR 27.02.05.03 Development in the Critical Area Resulting from State and Local Agency Programs

DISCUSSION: At it's Deeember meeting, the Commission voted to approve the stormwater management design for compliance with the 10% Pollutant Reduetion Rule with several conditions. Beeause of the large scope of this projeet, the construction will oeeur in several phases, hence multiple contracts. One condition of the approval of the stormwater management facilities was to ensure that as the contracts progress, any ehanges to either the stormwater management or erosion and sediment eontrol plans shall be resubmitted to the Commission for review and approval.

In order to ensure adequate eonditions to support the bridge and roadway structures, Contraet 1 ineludes the soil consolidation process of Rosalie Island. The sediment and erosion control plans for this contraet were not ready for review at the time of the approval of the stormwater designs. They are being submitted for review and approval this month due to scheduling of the bidding process.

Permits from the Maryland Department of the Environment (MDE)

The project continues to work with MDE to seeure the permits for the sediment and erosion control plans for Contraet 1. The projeet reeeived conceptual approval from MDE is currently awaiting final approval. Approval of these designs is antieipated by early March. At the time of writing this staff report (2/26/01) the plans had not yet been submitted to Commission staff for review; however, we have tentatively seheduled this projeet for vote in anticipation of those plans.

If the plans are aeceptable to Commission staff and the members of the Project Subcommittee, the approval may require eonditions. These eonditions will be provided at the time of the next meeting.

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 7, 2001

APPLICANT:	Talbot County Department of Education
PROPOSAL:	Tilghman Elementary School
COMMISSION ACTION:	Vote
STAFF RECOMMENDATION:	Conditional Approval
STAFF:	Lisa Hoerger
APPLICABLE LAW/ REGULATIONS:	COMAR 27.02.06 Conditional Approval of State or Local Agency Programs in the Critical Area

DISCUSSION:

Talbot County Public Schools is seeking approval to build additions to the existing Tilghman Elementary School and provide additional parking. The site is located on Tilghman Island on the corner of Maryland Route 33 and Foster Road. It is approximately 3,000 feet south of the Knapps Narrows Bridge. There is an existing single-story, public elementary school, portable classrooms, shed, and parking areas. Most of the property is maintained in mowed lawn. It is bound to the north by developed residential lots, to the east by Maryland Route 33, to the south by Foster Avenue, and to the west by Talbot County Parks and Recreation ball fields. The site is approximately ten acres and is located entirely within the Critical Area. The County designated this site a Limited Development Area (LDA).

The site is the only location that can be utilized for the purpose of providing additional school classroom space and community services. The County proposes to utilize the proposed additions for a variety of public uses that include educational, health care, and recreational opportunities. The building will be used to house a public library, a Health Department with a Wellness Center, a PTA volunteer center, expanded Parks and Recreation Program, a Hot Spots Program meeting and counseling space, and a training area for the Volunteer Fire Department.

Since the proposed additions will exceed the 15% impervious surface limitations, this project requires a Conditional Approval by the Commission as found in Chapter 2 of the Critical Area Commission's regulations for State and local government development.

Staff met with County staff to perform a site visit on Tuesday, January 9, 2001. Three additions are planned to the existing building. Also, the parking are will be reconfigured,

and a stormwater management pond will be sited on the northern portion of the parcel to accommodate the increase in runoff leaving the site. Minimal grading is required since the site is very flat. The existing impervious area is 47,202 square feet (1.08 acres). The proposed impervious area is 78,405 square feet (1.80 acres). Since the site is 10.3 acres, the proposed impervious area constitutes 17.5%. The applicant will provide reforestation for the 14 trees proposed for removal.

The Department of Natural Resources Heritage and Biodiversity Division indicates that no rare, threatened or endangered species are present on this site. The applicant is close to obtaining approval from the Talbot Soil Conservation District and the Department of Public Works for a the proposed sediment and erosion control plan and the stormwater management plan. No permits are required from the Maryland Department of the Environment since no wetlands are proposed to be impacted. Finally, no Habitat Protection Areas are proposed to be impacted.

Conditional Approval Process

In order to qualify for consideration by the Commission for conditional approval, the proposing local 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 exists both special features and special circumstances on this site that preclude the Talbot County Public Schools from siting the proposed building additions and parking areas without increasing the impervious areas. The impervious areas are proposed in order to expand an existing school facilities to provide additional classroom space and a variety of community services. Since the purpose of these expansions is for the community's welfare, alternative locations were not feasible given the relative isolation of the Tilghman community. This site is the only feasible location for expansion of these operations. Also, it will not be necessary to construct a second, stand-alone facility.

Special circumstances include the relatively small project area owned by the County, and the need for community services in this rural community.

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

The Talbot County Public School system will provide additional classroom space for the students of Tilghman Elementary School, and several public services currently not available on Tilghman Island. Those public services include a Heath Department, training space for the Fire Department, full-time public library, and expanded Parks and Recreation Program. Also, the stormwater management pond will reduce on-site

pollutants from leaving the site, and can serve as an environmental education facility for the school children and community at large.

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

Except for the proposed increase in impervious area over the 15 % limitation, the project is otherwise in conformance with the state criteria and the Talbot County Critical Area Program. Critical Area staff and County staff conducted a site investigation to ensure this 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 would prevent the Talbot County Board of Education from providing sufficient learning space and community services to which provide public benefits in a rural community.

(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 County determined the project to be consistent with the local Critical Area program. The increase in proposed impervious surfaces are not consistent with the Talbot County Critical Area Program; however, the additional impervious areas will be offset by the proposed stormwater management facility. This facility is designed to reduce pollutant loadings by 10% over predevelopment levels. The applicant is also providing plantings on the school grounds. This program will provide community services that are centrally located.

(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.

The proposed plantings will result in increased water quality benefits and improved habitat protection. The stormwater management facility will provide an increase in water quality and quantity protection for this site. The design will provide for a 10% pollutant reduction of pollutant loadings. Currently, there is no stormwater management on this site.

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

Conditions:

1) The applicant shall resubmit any revisions to the plan to the Commission for approval; and
2) The applicant shall resubmit any revisions for the stormwater management and sediment and erosion control plans.
3) The applicant will work with Commission staff regarding the proposed species proposed for landscaping, and will coordinate follow-up site visits to monitor the survivability of the planting areas.

TALBOT COUNTY

Tilghman Elementary School Site