

**Chesapeake Bay Critical Area Commission  
Department of Housing and Community Development  
United States Naval Academy Officers Club  
Annapolis, Maryland  
December 5, 2001**

**SUBCOMMITTEES**

**9:30 a.m. – 10:15 a.m. Project Evaluation Subcommittee**

**Members:** Bourdon, Witten, Giese, Goodman, Cooksey, Setzer, Graves, Olszewski,  
Jackson, McLean, Andrews, Jones, Rice, Pugh

**SHA/DOT: Maryland 18C – Sidewalks and Drainage  
Improvements. Town of Queenstown, Queen Anne's Co.**

**LeeAnne Chandler**

**9:30 a.m. – 10:15 a.m. Program Implementation Subcommittee**

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

**Town of Queenstown: Comegys Growth Allocation**

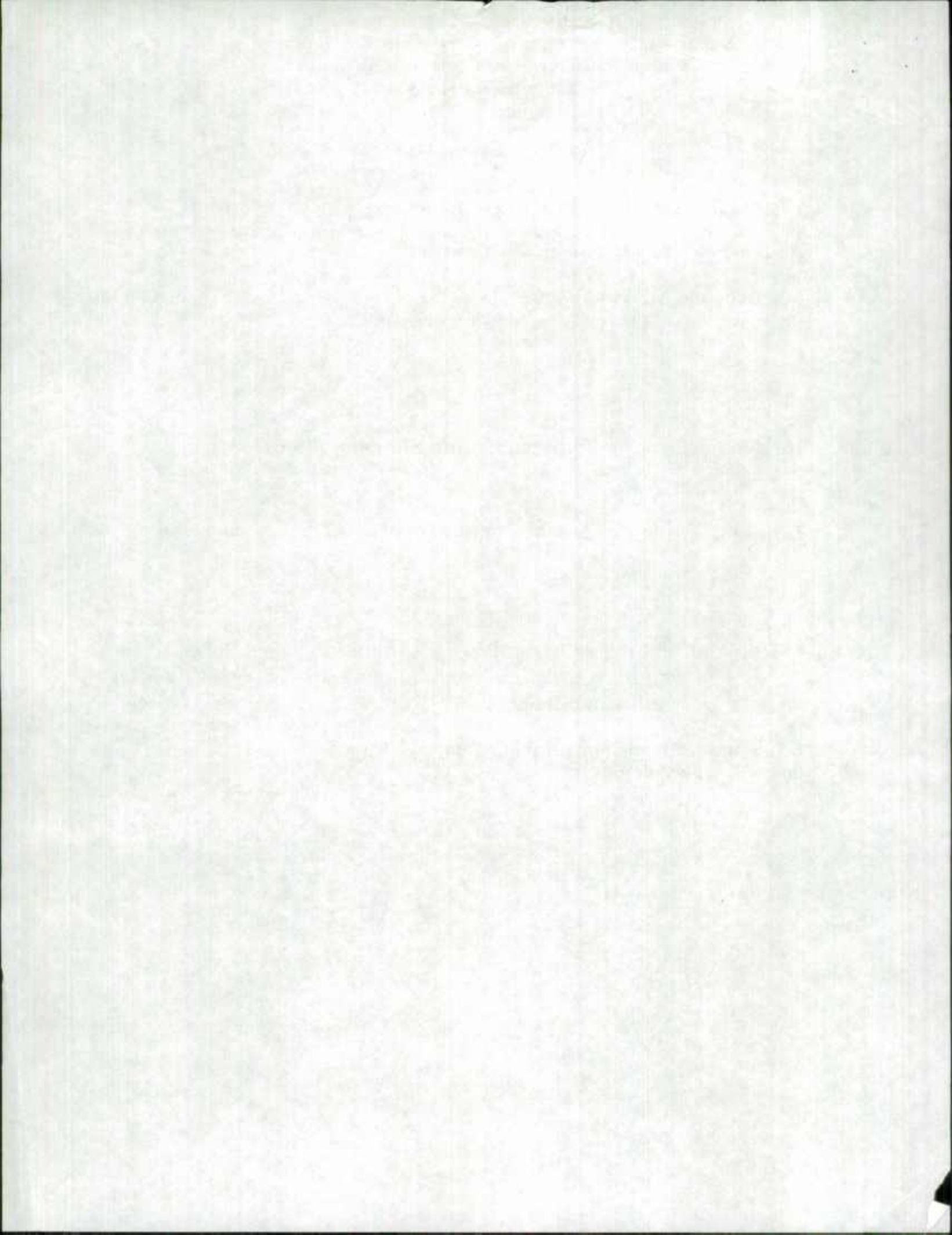
**Roby Hurley**

**10:15 a.m. – 11:45 a.m. Joint Meeting of Project Evaluation  
and Program Implementation  
Subcommittees**

**DNR/Erikson Foundation: NorthBay Camp at Elk Neck  
State Park, Cecil County**

**Julie LaBranche  
Claudia Jones  
Mary Owens  
Ren Serey**

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



Chesapeake Bay Critical Area Commission  
Department of Housing and Community Development  
United States Naval Academy Officers Club  
Annapolis, Maryland  
December 5, 2001

**AGENDA**

1:00 p.m. – 1:05 p.m.      Approval of Minutes  
of November 7, 2001      John C. North, II  
Chairman

**PROGRAM AMENDMENTS / REFINEMENTS**

1:05 p.m. - 1:15 p.m.      Refinement – Town of Queenstown  
Comegys Growth Allocation      Roby Hurley

**PROJECTS**

1:15 p.m. – 1:25 p.m.      VOTE – SHA/DOT: Maryland 18C  
Sidewalks and Drainage Improvements  
Town of Queenstown      LeeAnne Chandler

**UPDATE/DISCUSSION**

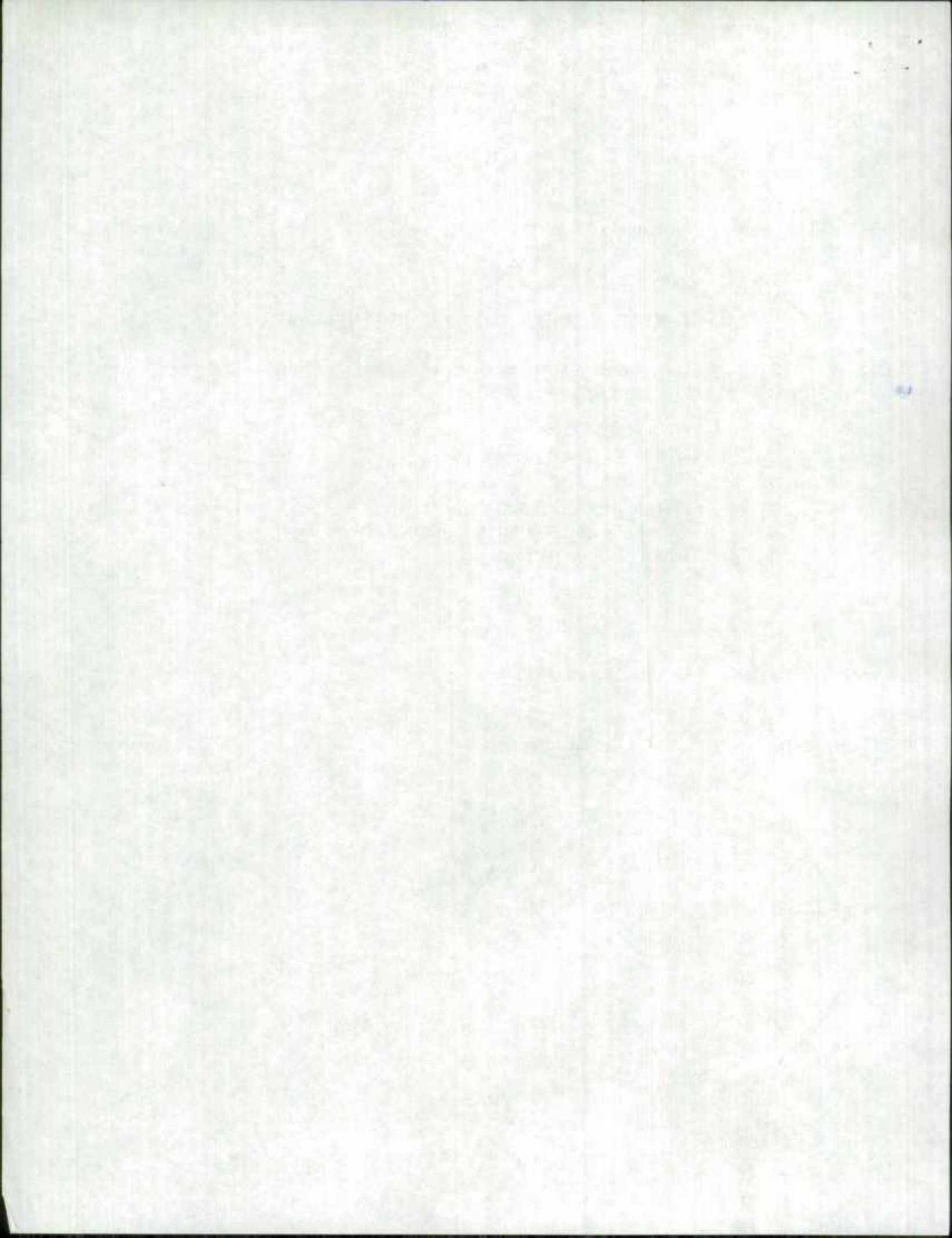
1:25 p.m. – 2:00 p.m.      Coastal Bays Legislation      Ren Serey

2:00 p.m. - 2:15 p.m.      Old Business      John C. North, II  
Chairman

Update – Other Legislation      Ren Serey

Legal Update      Marianne Mason, Esq.

2:15 p.m. - 2:25 p.m.      New Business      John C. North, II  
Chairman



*approved*

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

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

Barker, Philip, Harford County	Bradley, Clinton, Eastern Shore Member at Large
Evans, Judith, Western Shore Member at Large	
Foor, Dr. James, C. QA Co.	Goodman, Robert, Dept. Housing and Community Dev.
Jackson, Joseph, Worcester County	Johnson, Samuel Q. , Wicomico County
Jones, Paul, Talbot County	Pugh, Michael, Cecil County
Rice, William, Somerset County	
Samorajczyk, Barbara, Anne Arundel Co.	Witten, Jack, St. Mary's County
Wynkoop, Samuel, Prince George's County	Setzer, Gary, Md. Department of the Environment
Andrews, Meg, Md. Department of Transportation	
Lawrence, Louise, Md. Dept. Agriculture	McLean, Jim, Governor's Office of Business and Economic Development

**Not In Attendance:**

Bailey, Margo, Kent County  
Bourdon, Dave, Calvert County  
Cooksey, Dave, Charles County  
Duket, Larry, Md. Dept. of Planning  
Giese, Wm. Jr. Dorchester County  
Graves, Charles C., Baltimore County  
Myers, Andrew, Caroline County  
Olszewski, John A., Baltimore City  
Wenzel, Lauren, Md. Department of Natural Resources

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

Chesapeake Bay Critical Area Commission Executive Director, Ren Serey, updated the Commission on legislative affairs. He said that the Commission has been invited to take part in the discussion of the Commission's Bill that was submitted last year by Del Weir and Senator Dyson. Both Legislators intend to reintroduce their bills in the upcoming session. Mr. Serey said that the Maryland Association of Counties has started a work group to talk about the bill. Secondly, Governor Glendening has decided to propose incorporating the Coastal Bays into the Critical Area Program and Mr. Serey believes that will help the Commission's bill regardless of whether the Coastal Bays are included in the Critical Area Program or something separate. The emphasis placed on the Coastal Bays will increase the recognition of the importance of plugging the loopholes created by the Court of Appeals. He said that Worcester County has drafted what they call "a Coastal Bays Critical Area Bill", an ordinance modeled on the Critical Area, and a hearing will be held but no vote will be taken because the County is waiting to see what, if anything, will come out of the new legislative session while they continue to work with the Governor.

Mr. Serey reported on the Elk Neck State Park in Cecil County. He said that the Department of Natural Resources (DNR) staff has been working with the Commission staff for a couple of months and some very serious issues have been raised. He believes that the Secretary of DNR will request the Commission to do something that is a little out of order for the Commission which is to make a decision before the Commission has all the information and even before the Commission has heard the project presented by DNR or the developers, i.e. just what *the best area* would be for this project. The project is a large scale camp for disadvantaged youth, approximately 500 kids at a time operating all year long, built by the non-profit Erickson Foundation. Mr. Serey stated that the concerns focus primarily on the FIDS habitat and the forests disturbance, the Buffer and steep slopes which should be minimized and mitigated in the Buffer. He described the project and said that 97 acres were to be leased by the Board of Public Works to the Erickson Foundation and the DNR has promised the foundation the use of about 320 acres. There are SAV and stormwater concerns as well. He said that this will be looked at more closely over the next few weeks before bringing it to the Commission. After much discussion and concern, Chairman North determined that a letter will be drafted to the DNR summarizing the problems discussed at the meeting and stating upfront that the Commission does not have adequate information to intelligently consider this matter so as to provide anything in the nature of a definitive determination to make a decision by the next meeting.

Keith Underwood, an Environment Consultant in the private sector with particular expertise in the coastal plains



Arundel County is the most biologically diverse ecosystem of the bogs which outperform all other wetlands vital to the health of the Chesapeake Bay. They are the most easily damaged by agriculture or development activity. These bogs exist only on the east coast of the United States and a minimum of 300 foot buffer is required to support these systems on which they are wholly dependent. He said that in a 100 -year period 73% of Maryland's wetlands have been lost. The Maryland Bog Task Force was convened in 1999 and the Maryland Department of Environment adopted all non-tidal wetlands listed on the Mountain Road peninsula as non-tidal wetlands of special State concern in January of 2001. They were defined as having exceptional educational and ecological value of statewide significance and provide a 100- foot buffer around these wetlands. Anne Arundel County Bog Task Force followed that initiative to solve problems that could only be addressed at a local level. Legislation is intended to be introduced to the County Council in November to protect the bogs. Anne Arundel County has ongoing efforts for forest conservation as part of their long range plans. The Department of Public Works are also involved in the protection of the bogs. Mr. Underwood stated that there needs to be a mandated buffer zone of 300' including a forest buffer.

LeeAnne Chandler, Planner, CBCAC presented for VOTE the Wicomico County four-year Comprehensive Review. She said that Wicomico County is proposing a number of text changes as well as a County-wide set of "Special Buffer Area" maps approved by the County Council in June 2001. The maps were approved in October 2001. A calculation of the acreage of the three land use categories and evaluation of the growth allocation status was conducted. The habitat protection maps are continually updated on the County's GIS system as new information is provided by DNR. Ms. Chandler told the Commission about the most significant changes to the County's Ordinance which were disseminated to them in a staff report. Q. Johnson moved to approve Wicomico County's proposed Program Amendments and Special Buffer Area Maps. The motion was seconded by Joe Jackson and carried unanimously.

Ms. Chandler presented for concurrence with the Chairman's determination of Refinement, Queen Anne's County's request for growth allocation of 2.124 acres from LDA to IDA for the Maryland General Land Company located in the Chester Growth area, zoned Town Center. One of the three currently divided commercial lots is proposed to be further subdivided into five commercial lots and this request is for one of the five new lots and the stormwater management facility necessary to serve the development. The proposed use is for an office/warehouse for a marine component distribution business which the change to IDA will allow. The area proposed to be designated IDA is adjacent to existing LDA and was pre-mapped for growth allocation. Ms. Chandler said that no Habitat Protection Areas exist and stormwater issues have been addressed on this site and the 10% pollutant reduction has been met. The request meets the adjacency guidelines of the Criteria and is consistent with the Commission's policy on the use of growth allocation. The Commission supported the Chairman's determination of Refinement.

Mary Owens, Program Chief, CBCAC presented for concurrence with the Chairman's determination of Refinement the Cecil County Airport Critical Area Boundary Extension and the Cecil County Airport Growth Allocation. She said that earlier this year the Cecil County Commissioners awarded 18 acres of growth allocation to the Cecil County Airport using the "development envelope concept" without receiving formal comments from the Commission staff and the resulting development envelope was not consistent with the Commission's policy. She told the Commission that the County Commissioners reconsidered a revised growth allocation request and a Critical Area boundary extension and approved both changes to the County's Critical Area Program. The property owner has acquired additional RCA lands to the south and placed an easement on the total acreage to ensure that it is not developed. The County has approved a map change to extend the Critical Area boundary in order to increase the remaining RCA acreage to the north. This extension is consistent with the "Commission's Policy for Extension of the Critical Area". Ms. Owens described the requirements and the categories of guidelines that must be met for approval. The Commission supported the Chairman's determination of Refinement for the Critical Area boundary extension. The Commission also supported the Chairman's determination of Refinement for the use of 24 acres of growth allocation to change the Critical Area designation of the Cecil County Airport from RCA to IDA.

Ms. Chandler presented for VOTE the proposal by the Department of Natural Resources together with the Chesapeake Bay Foundation for a shoreline restoration and fisheries habitat enhancement project at the Horsehead Wetlands Center in Grasonville in Queen Anne's County. This property is designated RCA under the County's Critical Area Program. Ms. Chandler described the technical aspects of the project and stated that with the exception of a single access point, there is no disturbance proposed within the Buffer. No trees are proposed to be removed and there are no threatened or endangered species within the project vicinity. The DNR's Waterfowl Project Manager was contacted for recommendations for reducing impact from construction and the islands will be located to minimize impacts on the existing SAV.. This project is generally supported by the various agencies and all permit applications have been submitted. Bob Goodman moved to approve the project request for shoreline restoration and fisheries habitat by the DNR with four conditions: 1. All permits will be acquired from MDE prior to any construction. 2. Once MDE permits are in hand, the applicant will provide necessary information to the Queen Anne's County Soil Conservation District. 3. Project design will incorporate recommendations from the Waterfowl Project Manager to minimize impact to waterfowl. 4. The area of the Buffer disturbed for shoreline access will be restored and any trees removed will be replaced at a 1:1 ratio. The motion was seconded by Bill Rice and carried unanimously.

Lisa Hoerger, Planner, CBCAC presented for VOTE the proposal by the State Highway Administration to replace culverts on MD 168 at Holly Creek in Anne Arundel County. This project is entirely within an RCA of the Critical Area.





She said that the slopes near the culverts need stabilization to halt the deterioration of the roadway supporting the slopes. She described the project which will require no additional imperious surface. Impacts to the 100' Buffer will require a 1:1 mitigation ratio. The applicant has obtained a Maryland State Programmatic General Permit from the Maryland Department of the Environment (MDE) for impacts to the stream. Other than the disturbance to the 100-foot Buffer, the project is in full compliance with Comar as well as other State and Federal regulations. Bob Goodman moved to approve the Holly Creek project in Anne Arundel County with the following conditions: 1. The applicant shall provide mitigation at a 1:1 ratio for all new disturbance within the Buffer. 2. The applicant shall retain as much existing vegetation as possible and afforest those areas along the stream bank to the extent possible once construction is complete. 3. The applicant will initiate a Plantings Agreement with Critical Area staff. 4. That SHA and the Critical Area Commission staff will evaluate the downstream conditions prior to and proceeding the project, and will report to the Project Subcommittee within one year. The motion was seconded by Bill Rice and carried unanimously.

### **Old Business**

Commission Counsel, Marianne Mason, Esquire gave a legal update to the Commission. She said that in Wicomico County in the Ed Lewis case (where variances were sought after six cabins were built in the Buffer) that went to Circuit Court, the Judge ruled from the bench in the Commission's favor and Lewis filed an Appeal in the Court of Special Appeals. Ms. Mason will be arguing and briefing that case for a couple of months. She stated that she believes that this is a good case for the Commission because the Board gave detailed findings about the harm the structure caused in the Buffer and the Judge affirmed this and the Judge and Court are on the Commission's side.

Ms. Mason told the Commission that in the Andreaka case in Anne Arundel County, the Board of Appeals had issued a variance for the construction of a house in the Buffer where there was an alternate location out of the Buffer. The applicant's justification was so that he could exercise his rights for a water view from his house. The Commission was successful in getting that decision reversed in the Circuit Court and the Court held that there is no legal right to a water view. The Board then reversed itself and got rid of the variance generally. The staff has been working with the applicant and is ready to tell the County that the Commission staff will approve the location of the house outside the buffer, although it will have some impact on the steep slopes.

Ms. Mason said that Chairman North has sent a letter with a written decision to the Anne Arundel County Board of Education confirming that the Commission had denied their request for conditional approval for a new site for the Mayo school. She said that it remains to be seen whether they will appeal.

Ms. Mason reported that there are four hearings scheduled for next month in Harford County on the Old Trail site with multiple variances requested. This site has disturbances of just about everything environmentally imaginable, steep slopes, forests, birds, endangered species, trees - a giant housing project having 56 sites.

In Queen Annes' County the approval of a growth allocation for the Four Seasons development has gone forth in Circuit Court. She said that she had argued motions on two cases in Queen Annes' last month and got those dismissed. The Kent Island Defense League Organization filed two administrative appeals and one action by way of Mandamus. The judge dismissed the Organization, which he believes has no standing, and that left two individuals as plaintiffs.

The cases that remain alive in Queen Annes' are one against the State of Maryland claiming that the State owes a duty to the plaintiff to do something other than what the Commission did in approving the growth allocation. She stated that she will be filing a motion to dismiss that case in a couple of weeks.

Another case against the County challenges the award of growth allocation in an administrative appeal.

And a final case that is still alive is where the Kent Island Defense League obtained signatures to try to get the County ordinances, including growth allocation, put on the ballot for referendum at the next election. The Election Board for Queen Annes' County asked advice from the Attorney General's office as to whether a local ordinance enacted pursuant to state law could be petitioned to referendum and the AG's office advised that "NO" a statewide law enacted by local jurisdiction could not be petitioned to referendum.

### **NEW BUSINESS**

Chairman North told the Commission that an article appeared in the Star Democrat pertaining to a proposed subdivision just outside Easton which read that the Talbot County Zoning Administrator suggested conditions upon the proposed development including the reestablishment of the 100' buffer area into native plants. He stated that this would suggest that the Talbot County zoning people have their eye on the ball and are doing what the Commission would all like them to do.

The Chairman announced that the December 5<sup>th</sup> meeting of the Commission will be held at the Naval Academy Officers' Club Dining Room.

There being no further business, the meeting adjourned.

Minutes respectfully submitted by:  
Peggy Mickler, Commission Coordinator



## *Chesapeake Bay Critical Area Commission*

### **STAFF REPORT**

**December 5, 2001**

**APPLICANT:** State Highway Administration

**PROPOSAL:** MD 18C Sidewalk and Drainage Improvements

**JURISDICTION:** Town of Queenstown

**COMMISSION ACTION:** Vote

**STAFF RECOMMENDATION:** Approval with conditions

**STAFF:** LeeAnne Chandler

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

### **DISCUSSION:**

The State Highway Administration is proposing to construct a new sidewalk and a boardwalk partially over tidal wetlands and to install an improved drainage system on MD 18C (Main Street) in the town of Queenstown in Queen Anne's County. The area is considered to be an area of intense development due to the extent of existing impervious coverage. The proposed sidewalk and boardwalk will extend approximately 253 feet and will connect two existing concrete sidewalks. The boardwalk will be built on wood piles using recycled plastic decking. The sidewalk will be concrete and will be four feet wide. Impervious surfaces in the project area will increase by approximately 1,000 square feet. Stormdrain improvements involve replacing existing stormdrain pipes and outfalls, so as to provide better drainage in the project area.

The project is located within the 100-foot Buffer to Little Queenstown Creek. The total area of Buffer to be cleared or disturbed is 1,512.5 square feet. The required mitigation for Buffer disturbance is 3:1 or 4537.5 square feet. Little Queenstown Creek and all of its tributaries are classified as Use I Waters with no in-stream work permitted from March 1<sup>st</sup> through June 15<sup>th</sup>, inclusive. According to the Department of Natural Resources, there are no records for threatened or endangered species within the project area.

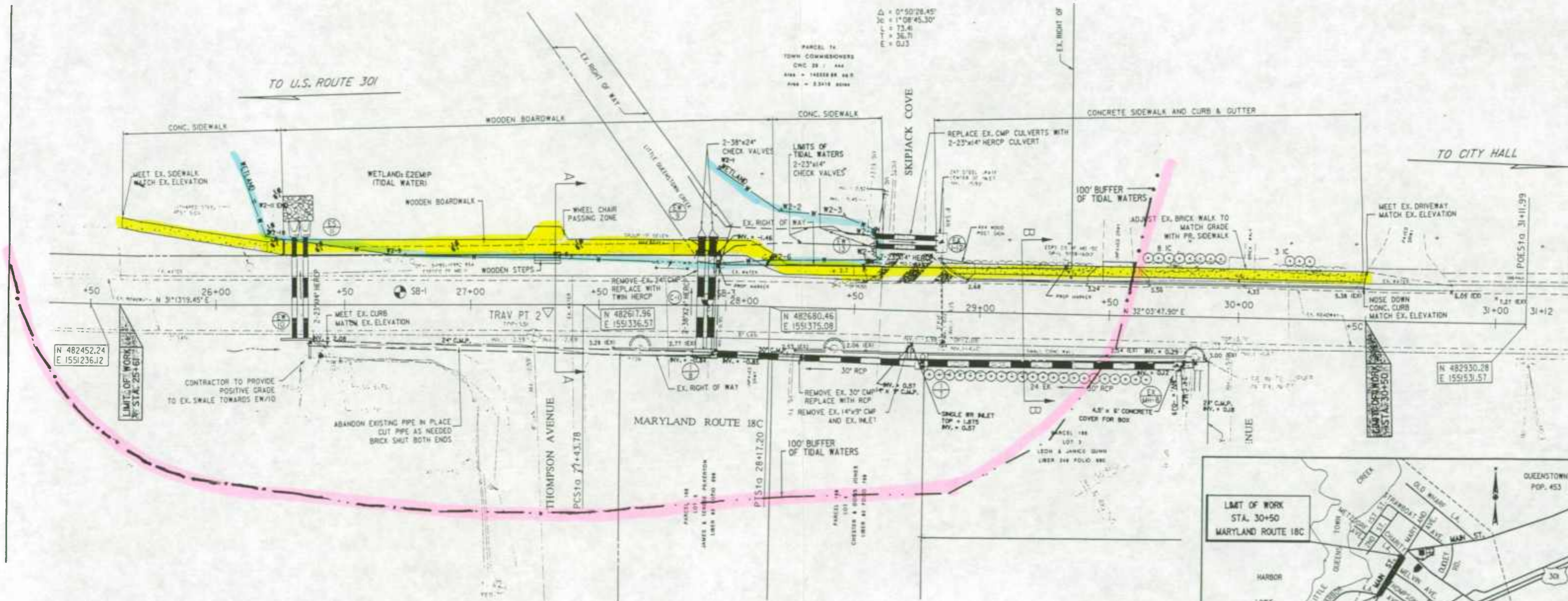
As indicated above, the project is within an area of intense development. As such, the 10% pollutant reduction requirement must be addressed. The 10% calculations indicate a removal

requirement of 0.481 pounds of Phosphorus. Due to the limited area of right-of-way, it is not possible to construct a stormwater management facility to address the new impervious areas. The 10% guidelines provide for a number of offset options for those instances where on-site treatment is not feasible. While these options are typically not encouraged on State projects, the small removal requirement and limited project scope make the offset options more practical. One of the options is to implement a riparian reforestation project at 0.5 acres of tree planting per pound of removal requirement. For this project, this option would require 10,476 square feet of plantings (in addition to the 4,537 square feet for Buffer mitigation). The town owns a waterfront parcel of land at the northern end of the project limits that could be used as a planting site. The Buffer on the property currently contains some trees but also many invasive shrubs and vines. The proposal could involve removal of invasive species and planting a combination of trees and shrubs to restore the area to a functioning Buffer. Commission staff is working with the Town and SHA to develop a Buffer Management Plan for this property. Additional information will be provided at the Commission meeting.

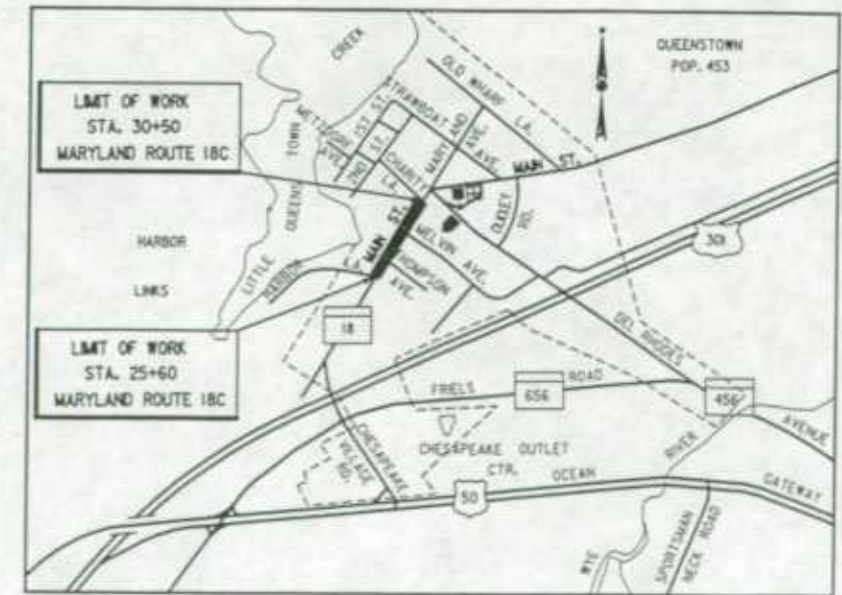
Commission staff recommends approval of this project with two conditions:

1. All MDE permits will be acquired prior to any construction;
2. A Buffer Management Plan will be prepared and implemented by SHA with review and approval by Commission and Town staff.

# MD 18C Sidewalk & Drainage Improvements



- Tidal water/wetlands
- New sidewalk/boardwalk
- 100' Buffer



SCALE: 1" = 1000'  
 LOCATION MAP  
 PROJECT LENGTH = 0.093 MILE  
 QUEEN ANNE'S COUNTY

## *Chesapeake Bay Critical Area Commission*

### **STAFF REPORT**

**December 5, 2001**

**APPLICANT:** Town of Queenstown

**PROPOSAL:** Refinement – Comegys' Growth Allocation

**COMMISSION ACTION:** Concurrence

**STAFF RECOMMENDATION:** Approval

**STAFF:** Roby Hurley, LeeAnne Chandler

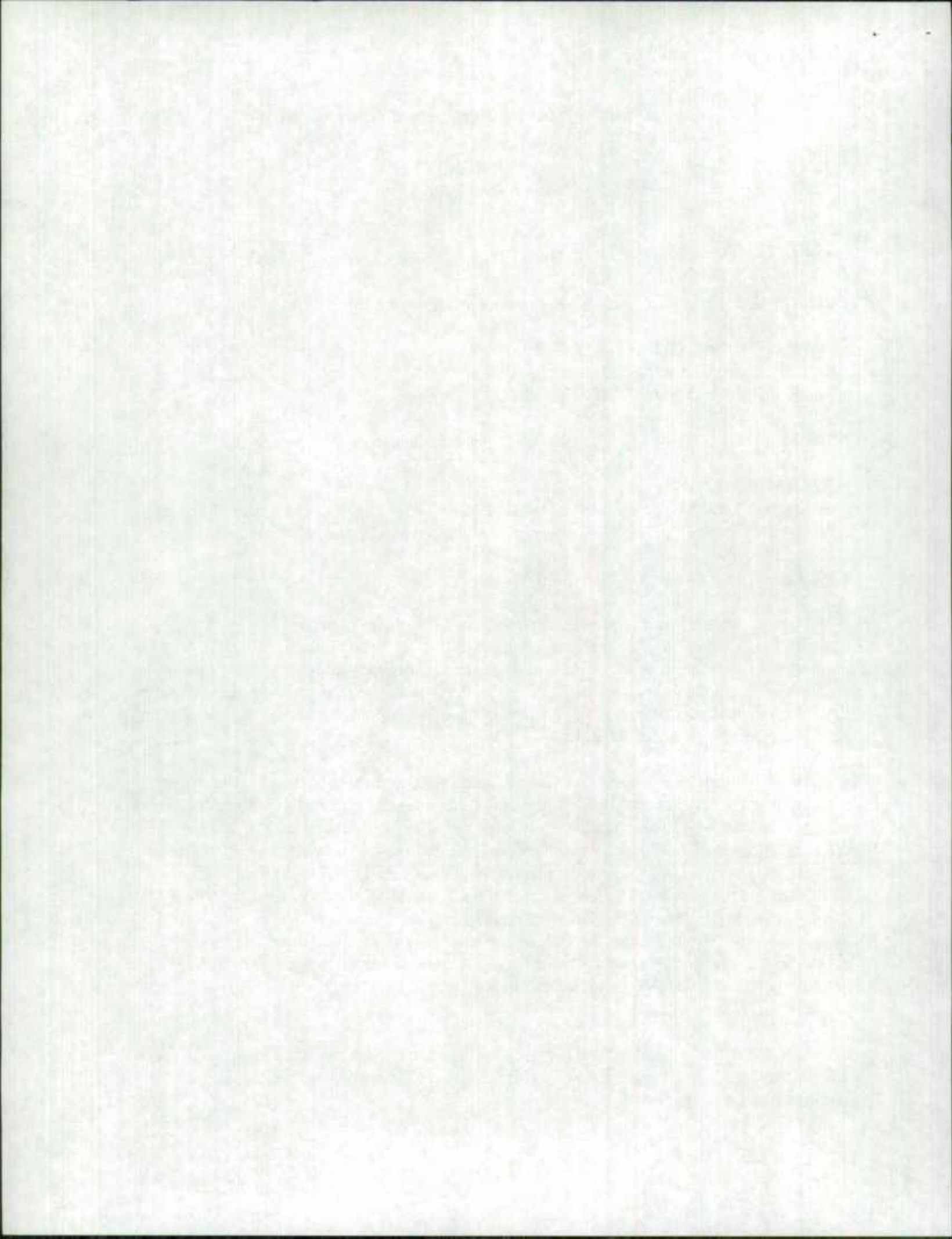
**APPLICABLE LAW/  
REGULATIONS:** COMAR 27.01.02.06 - Location and Extent of Future Intensely Developed and Limited Development Areas

### **DISCUSSION:**

The town of Queenstown is requesting approval of a Critical Area map amendment that uses growth allocation to change 3.46 acres from LDA to IDA for a residential subdivision. The two properties involved are zoned R-2 and already contain two single-family dwellings. One of the properties (the Comegys property of 3.15 acres) is proposed to be further subdivided into seven lots for residential development. The Town Commissioners approved this request after holding a public hearing on November 7, 2001.

The town of Queenstown is a designated growth area for Queen Anne's County. The subject property is not waterfront and there are no Habitat Protection Areas on site. The undeveloped portion of the Comegys property consists of lawn and fallow agricultural land so no forest clearing is proposed. The property will be served by public sewer and water. The property is adjacent to existing LDA and therefore meets the adjacency guidelines in the Town's Zoning Ordinance and the Criteria. The total acreage of both parcels will be deducted. The Town's Critical Area Program allows the Town the option to review a growth allocation proposal "not tied to a specific development proposal" under certain conditions. The Town is pursuing that course, so subdivision plans and 10% calculations will be forwarded to Commission staff for review at a later date. If the growth allocation is approved, the project will be held to all applicable IDA standards.

Chairman North has determined that this growth allocation request can be approved as a refinement to the Town of Queenstown's Critical Area Program and he is seeking the Commission's concurrence.



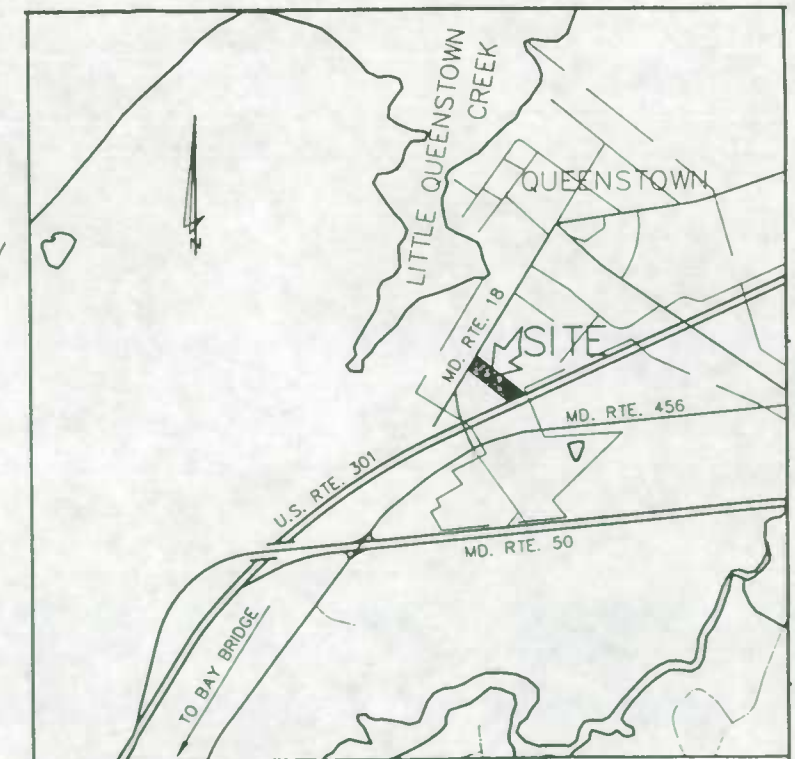
Comegys Growth Allocation

RICHARD K. & KAYE F. POTTER  
 6736 MAIN STREET  
 QUEENSTOWN, MARYLAND 21658  
 ZONED: R-2 (LDA)

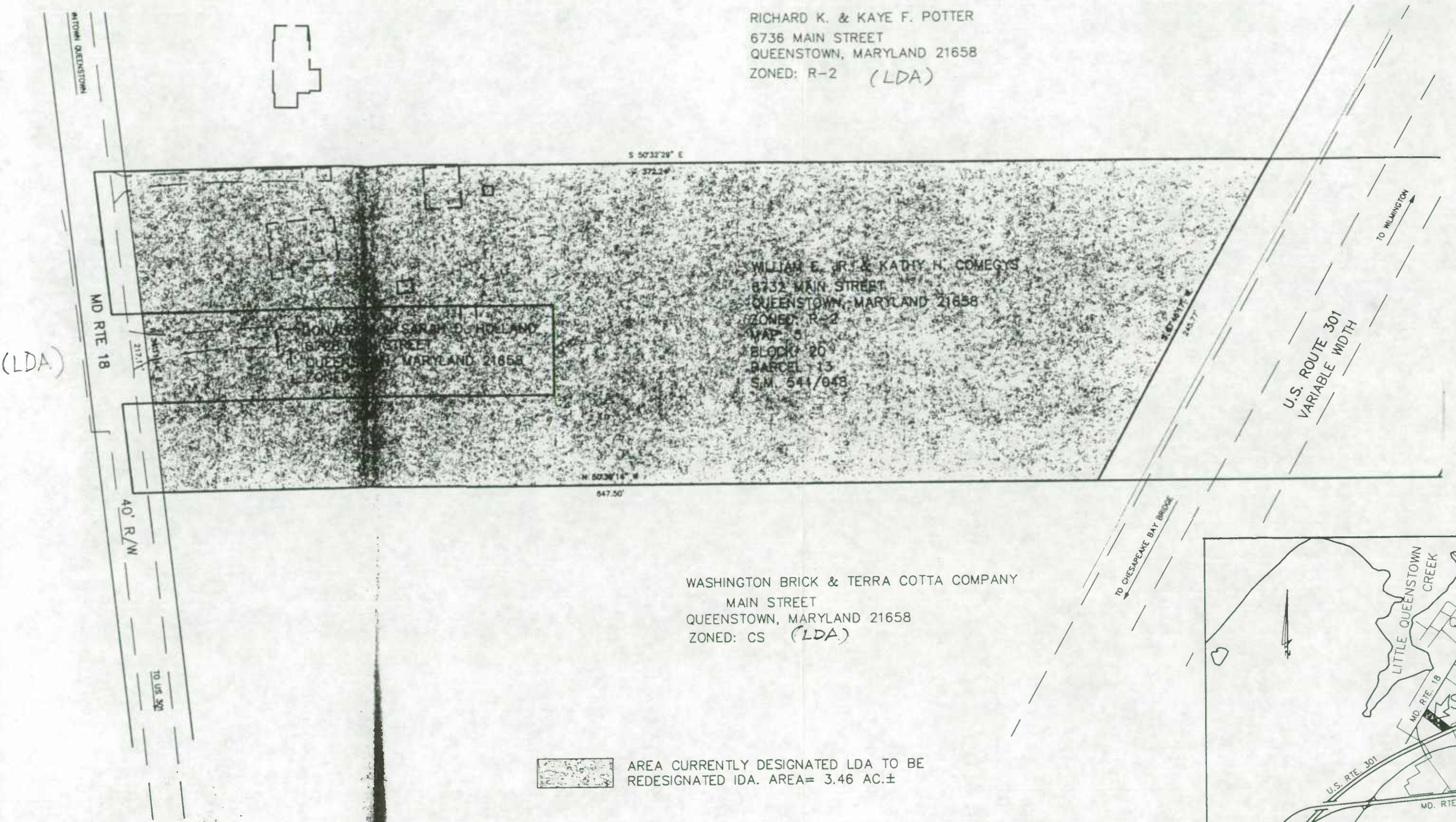
WILLIAM E. JR. & KATHY H. COMEGYS  
 6732 MAIN STREET  
 QUEENSTOWN, MARYLAND 21658  
 ZONED: R-2  
 MAP 5  
 BLOCK 20  
 PARCEL 13  
 S.M. 641/048

WASHINGTON BRICK & TERRA COTTA COMPANY  
 MAIN STREET  
 QUEENSTOWN, MARYLAND 21658  
 ZONED: CS (LDA)

 AREA CURRENTLY DESIGNATED LDA TO BE REDESIGNATED IDA. AREA= 3.46 AC.±



VICINITY MAP  
 SCALE: 1" = 1,200'



(LDA)



## *Chesapeake Bay Critical Area Commission*

### **STAFF REPORT**

**December 5, 2001**

**APPLICANT:** Department of Natural Resources

**PROPOSAL:** NorthBay Camp, Elk Neck State Park

**JURISDICTION:** Cecil County

**COMMISSION ACTION:** Informational Presentation

**STAFF RECOMMENDATION:** N/A

**STAFF:** Julie LaBranche

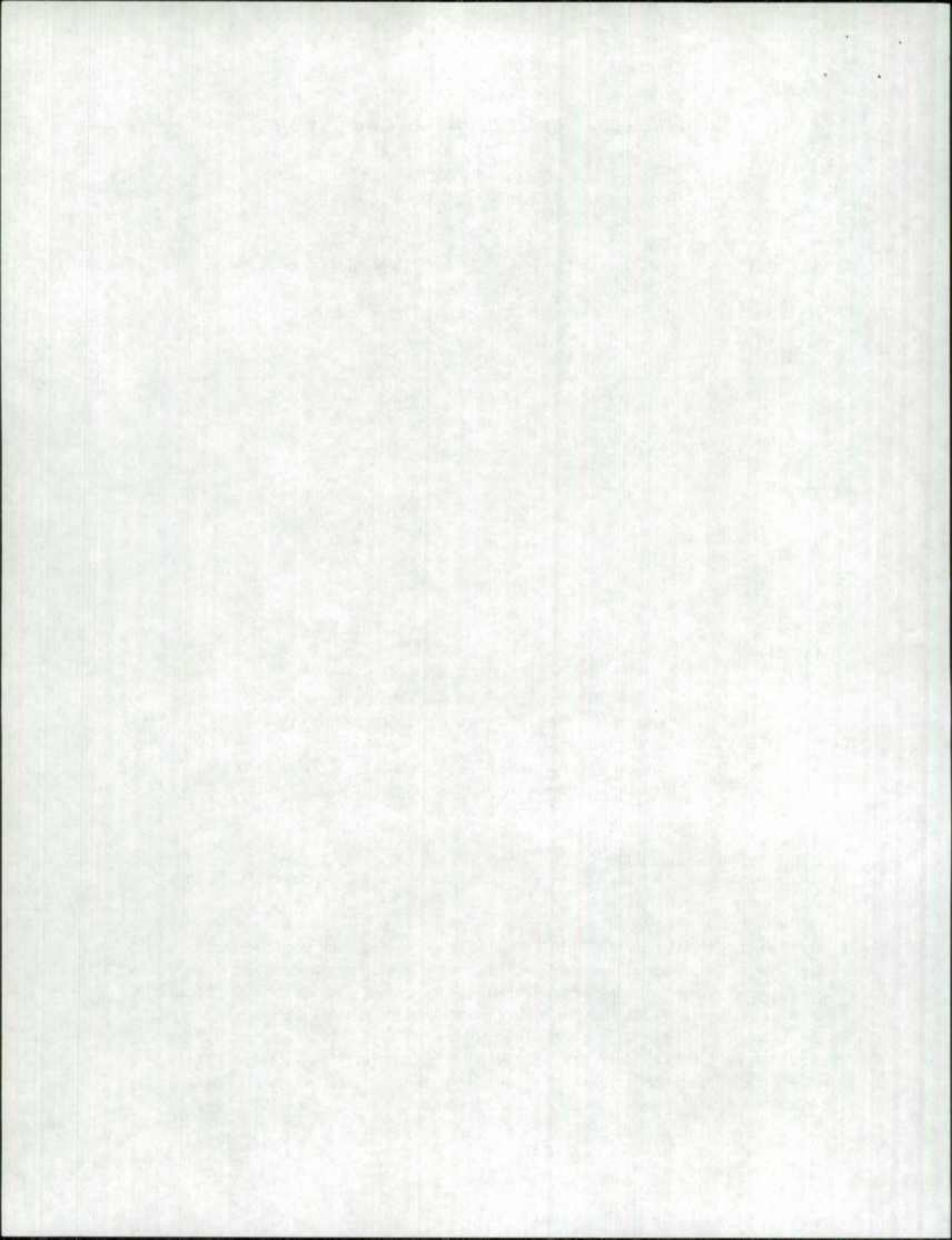
**APPLICABLE LAW/  
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State or Local Agency Programs in the Critical Area

### **SUMMARY:**

The Department of Natural Resources is working with the Erickson Foundation on a lease agreement, including 97 acres at Elk Neck State Park and easements on an additional 253 acres, for the NorthBay Camp, an environmental education camp for underprivileged youth. The camp will serve 300-500 children at a time, plus staff, on a year-round basis. The site is located between the Bowers Conference Center and Camp Rodney on the western shore of Elk Neck State Park.

The project would result in impacts to the Critical Area Buffer, Forest Interior Dwelling Bird (FID) habitat, steep slopes, highly erodible soils, and possibly to tidal and nontidal wetlands.

Due to these impacts, the project would require waivers through a Conditional Approval from the Commission under provisions of COMAR 27.02.06 of the Commission's regulations for development on State lands. The Conditional Approval provisions cover development proposals by State agencies that do not meet the requirements of the Critical Area regulations. Because of the scale of the project, we have scheduled a joint presentation for both the Project Evaluation Subcommittee and the Program Implementation Subcommittee in order to provide guidance to the Department of Natural Resources and the Erickson Foundation for development of the project site plan. Preliminary review of the project by Commission staff identified several concerns and outstanding issues, which are summarized below.

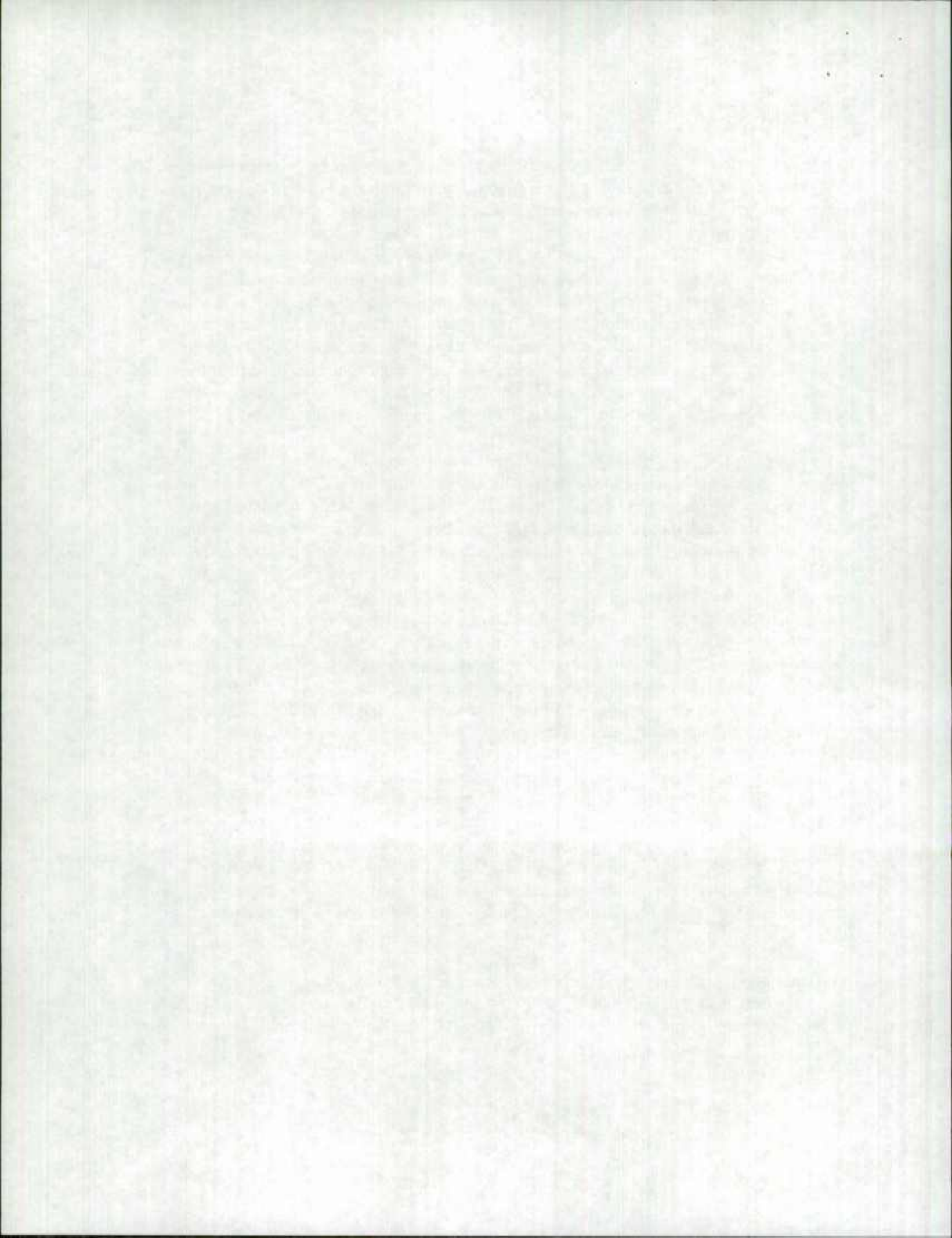


## DISCUSSION:

**Expanded Buffer.** Along several areas of the shoreline, the presence of steep slopes requires expansion of the minimum 100-foot Buffer (Cecil County requires a 110-foot Buffer). At the request of the consultant, Commission staff delineated the expanded Buffer along the shoreline. Because the topographic characteristics vary widely across the shoreline, we applied a uniform method to expand the Buffer. Transects were located where significant changes in slope occurred across the area. At each transect, the average percent slope was calculated across a distance of 100 feet, measured perpendicularly from the zero contour landward, as specified in the Critical Area Criteria and the Cecil County Critical Area Program. The percent slope calculation was multiplied by four feet. This value was measured landward from the zero contour, at each transect, to establish the expanded Buffer. The consultant expanded the Buffer further to include streams, wetlands, and steep slopes contiguous to wetlands and streams. However, the expanded Buffer may need to be adjusted in some areas following additional project evaluation.

**Forest Interior Dwelling Bird (FID) Habitat.** Commission staff and the Department of Natural Resources have determined that the entire 97-acre lease area is FID habitat and part of a larger habitat extending several hundred acres. Of the 25 species of FIDs that have been documented as breeding in the Critical Area, 17 have been documented as most likely breeding within the Northeast Quadrangle that includes this area of Elk Neck State Park. This does not necessarily mean that all of these species are within the proposed lease area for NorthBay, but it does mean they are in the vicinity in large part because of the extent of high quality deciduous forest coverage in the area. Seven of these species are classified as *highly area-sensitive*, meaning they not only need large forest tracts in which to breed successfully, but also are especially vulnerable to forest loss, fragmentation and other disturbance. One of these species, the Cerulean Warbler, was documented in the latest Breeding Bird Atlas that includes Maryland. The Northeast Quadrangle was one of the two eastern-most breeding sites documented in Maryland. Declines in this species in the region have been so severe that they are now candidates for federal listing as a threatened or endangered species. The current site plan will impact a significant area of FID habitat, including areas of riparian forest and forest interior. In particular, the main access road and accessory roads, which bisect a large wooded area in the center of the property, and buildings in the main camp area, will impact substantial areas of FID habitat, including forest interior. The current proposal will impact approximately 16 acres of FID habitat directly by clearing. This will result in the loss of approximately 62 acres of forest interior of the total 97 acres that is currently considered interior habitat on site. Site design and mitigation need to be considered under the Commission's Guide to the Conservation of FID Habitat.

**Wetlands.** At this time, the proposed storm water management plan and road alignment will impact wetlands and their buffers within the Critical Area. Commission staff evaluated National Wetlands Inventory data from MERLIN, which is part of the State's Geographic Information



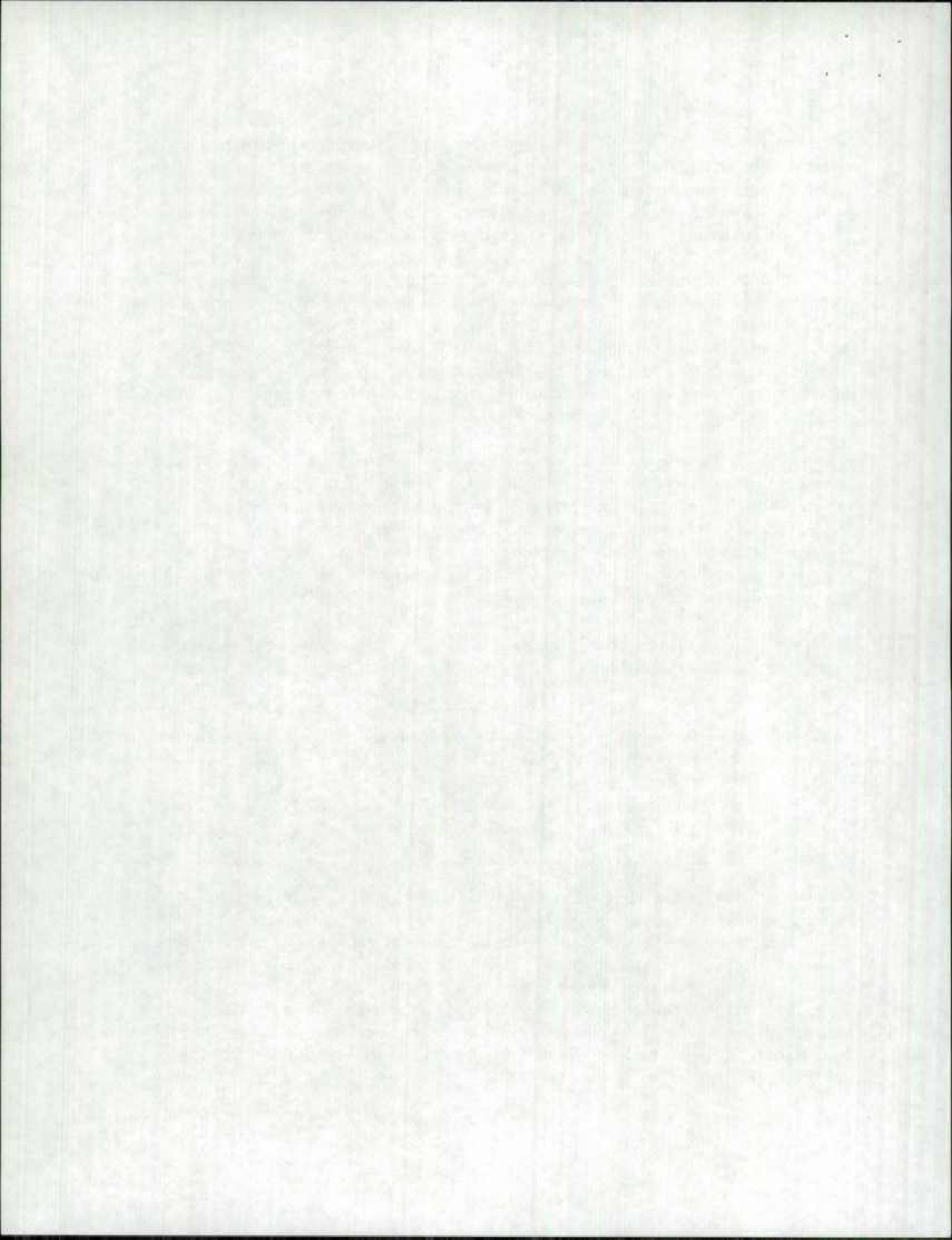
System, and the 1972 Tidal Wetlands maps, and found that tidal wetlands may be more extensive within the Critical Area than shown on the site plans. Several areas are labeled nontidal wetlands, which appear to be tidal-fresh wetlands. This may require expansion of existing Buffers shown on the site plans. A site evaluation will be necessary to accurately delineate these wetlands and to further evaluate other resources that may be present, such as streams.

A pier and dock are proposed for the site; however, detailed plans for these structures have not been provided. It is unclear as to the type of activities, the amount and type of equipment, or how many persons the structures are expected to accommodate. Initial surveys along shoreline and shallow water areas, by Commission staff and MDE (Rick Ayella, Chief, Tidal Wetlands Division) identified three species of SAV established in near shore areas. The proposed pier, dock, and other water uses along the shoreline require that an SAV survey be conducted in the spring and summer months. (MDE comments are included with this report.)

**Sensitive, Rare, Threatened and Endangered Species.** Location and extent of threatened and endangered wetland, and other plant species is unknown. A tidal fresh wetland of Special State Concern is located north of the project area. This wetland contains numerous sensitive and rare species that are particular to tidal fresh wetlands, a unique wetland type. An assessment will be necessary to document whether similar species exist in the tidal fresh wetlands within the project area. Given the substantial disturbances associated with this project, the following situations need to be evaluated during the project review process:

- Additional impervious surfaces and storm water management could alter the habitat requirements of wetland species, such as hydrologic regime, vegetation, and soils.
- Secondary impacts to FID habitat, and other resources, could result from intensive use by camp participants.
- The beach needs to be surveyed to determine if it is currently being used by the Maryland Terrapin and if so, impacts to Terrapin nesting habitat need to be evaluated.

**Soils.** Soils on the site include those in the Beltsville, Keyport, Chillum, Butlertown, and Sassafras series, as well as those referred to as Loamy and Clayey. According to the Cecil County Soil Survey, some of these soils are limited for certain uses due to slopes, susceptibility to erosion, impeded drainage, a seasonally perched water table, and slow movement of subsoil moisture. The specific location of these soils on the site could affect the location of the Buffer due to additional areas that are considered highly erodible and the type of storm water management that will be effective on the site. Other specific considerations include the possible disturbance of any highly erodible soils near or adjacent to the tidal/nontidal wetlands that contain sensitive species.



**Critical Area Impacts.** The applicant has provided preliminary calculations for forest clearing within the Buffer and the expanded Buffer, which are summarized in the table below. Impacts to resources from other development activities are as yet unknown.

Development Activity	Disturbances	Impacts (acres)
Impervious Surface	buffer, steep slopes, FID habitat	undetermined
Forest Clearing	buffer, steep slopes, FID habitat, wetland buffer, streams	15.8 (est.)
Grading	buffer, steep slopes, FID habitat, wetland buffer, streams	undetermined
Access Roads	buffer, steep slopes, FID habitat, wetland buffer, streams	undetermined
Storm Water Management	buffer, steep slopes, FID habitat, tidal and nontidal wetlands, streams	undetermined
Mitigation	buffer and other Critical Area disturbances, forest clearing	undetermined

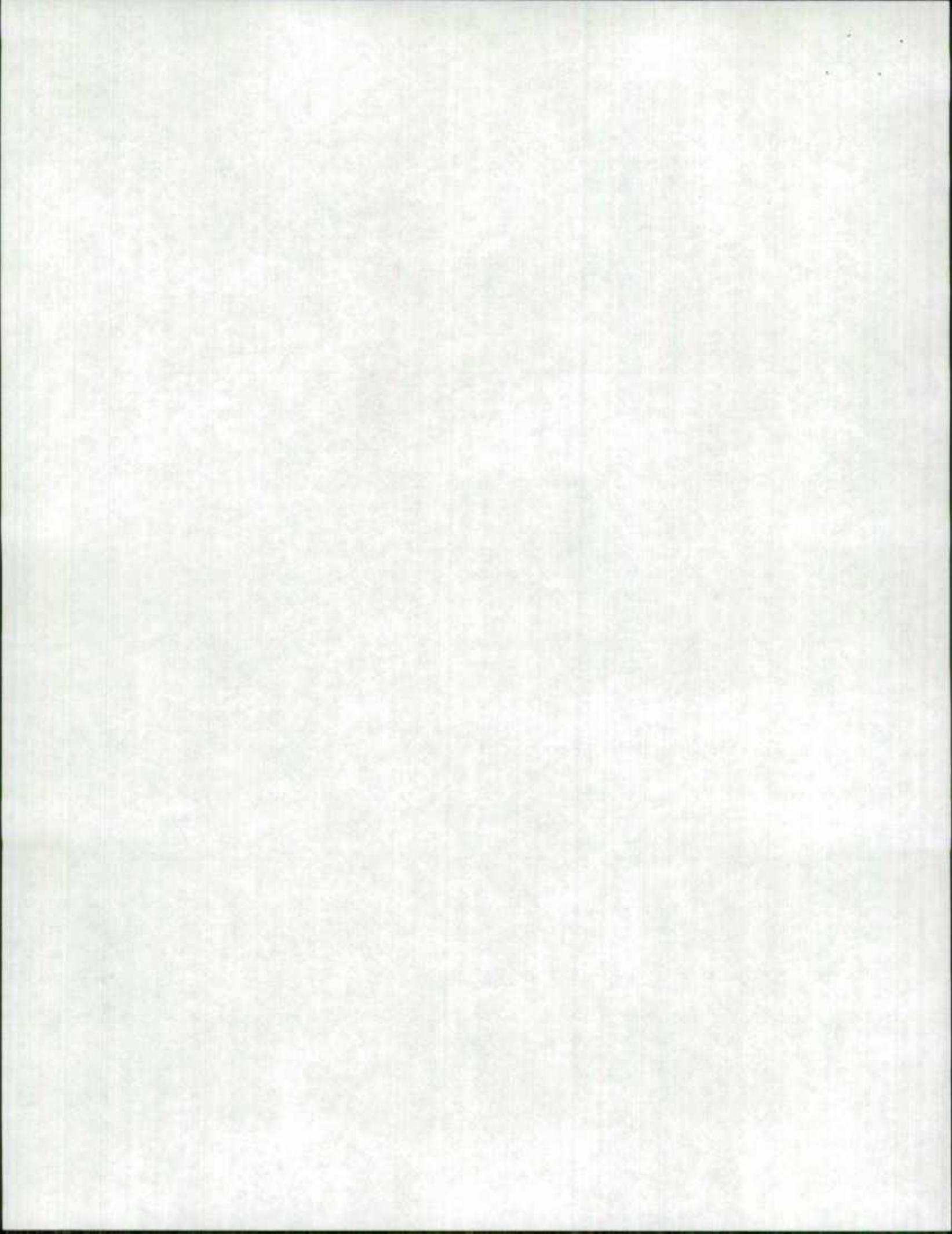
**Required Authorizations.** The proposed project will require several MDE authorizations, including ground water appropriations, nontidal wetlands and waterways, tidal wetlands, and storm water management. We understand that applications for these authorizations have not been submitted. MDE permits and approvals are required prior to Conditional Approval of the project by the Commission. The applicant has not provided a storm water management plan, preventing a comprehensive review of the potential resource impacts associated with this project.

**Resource Policy Issues.** Commission staff has identified several resource policy issues that may be relevant to compliance with the Critical Area Criteria for Conditional Approval of projects on State owned lands.

- 1) The effect of the project on Forest Legacy lands and Rural Legacy lands in the surrounding area. The project is located within a Forest Legacy Area designated by the Department of Natural Resources. Private holdings that have placed perpetual easements on forest lands as part of the Forest Legacy program include portions of the Boy Scout Camp just north of the NorthBay site.
- 2) The alternative sites investigated and the reasons why were they not selected.
- 3) The degree to which the overall proposal is consistent with the Critical Area Commission's guidance for conservation of Forest Interior Dwelling bird habitat.

Summary of Outstanding Issues For Critical Area Review

- 1) Delineation of the expanded Buffer has not been finalized due to discrepancies in the identification of steep slopes, wetlands, and streams on the site.





- 2) Impacts to the expanded Buffer have not been quantified (square feet, acres or percent cover).
- 3) Impervious surface calculations (square feet, acres or percent cover) have not been completed within the expanded Buffer and the Critical Area.
- 4) Impacts to steep slopes have not been quantified or justified.
- 5) Commission staff evaluated the revised FID calculations and found inconsistencies with the methods contained in the FID guidance document. The current proposal is not consistent with FID guidance for development in the Critical Area.
- 6) Mitigation for impacts to the Buffer, Critical Area and FID habitat has not been addressed.
- 7) MDE authorizations are needed for the project to be considered for conditional approval by the Commission.
- 8) An overall environmental site assessment is needed which will include the wetland area on the southern project boundary.

Requirements of Conditional Approval by the Commission

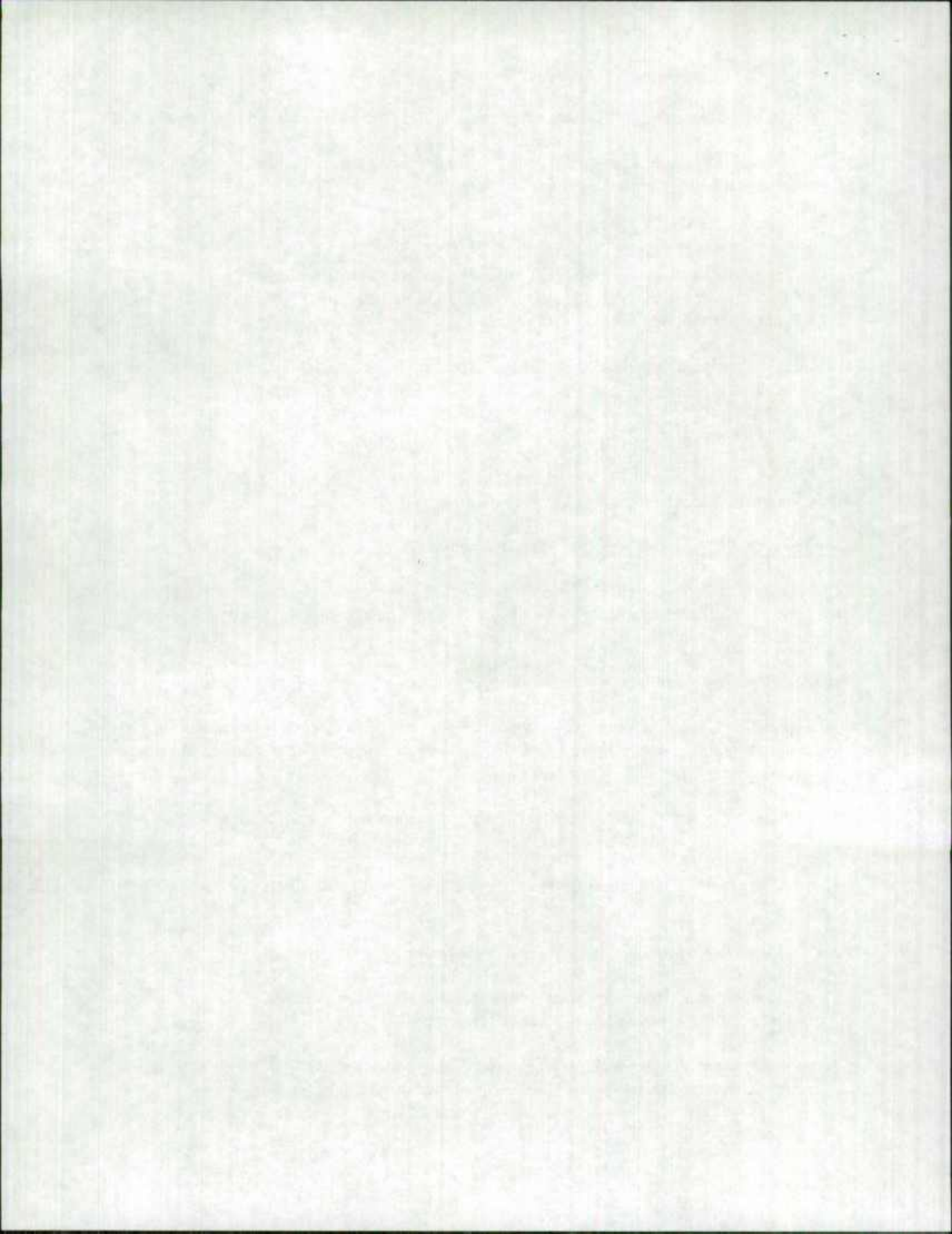
COMAR 27.02.06, Conditional Approval of State or Local Agency Programs in the Critical Area, sets out specific criteria that must be addressed in consideration of a Conditional Approval. These criteria are listed below.

***The sponsoring agency must show that the project 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;
- 2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program; and
- 3) That the project or program is otherwise in conformance with this subtitle.

***The Conditional Approval request must contain the following:***

- 1) A showing that a literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State or local program or project;
- 2) A proposed process by which the project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program; and

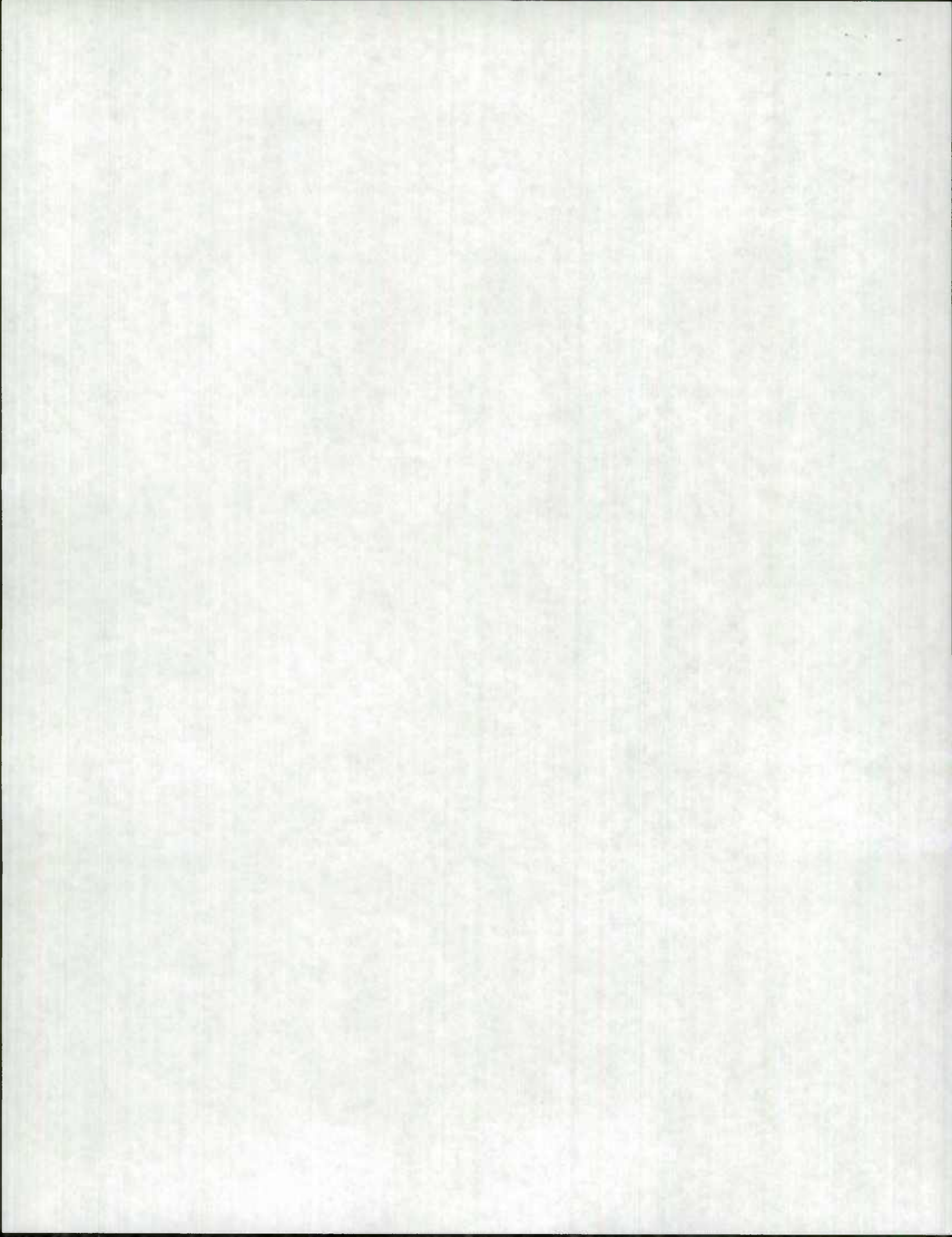


- 3) Measures proposed to mitigate any adverse effects of the project on an approved local Critical Area program.

***The Commission shall approve, deny or request modifications to the request for Conditional Approval based on the following factors:***

- 1) The extent to which the project is in compliance with the requirements of the relevant chapters of this subtitle;
- 2) The adequacy of any mitigation measures proposed to address the requirements of this subtitle that cannot be met by the project; and
- 3) The extent to which the project, including any mitigation measures, provides substantial public benefits to the overall Chesapeake Bay Critical Area Program.

If you have any questions regarding this project, please contact me at (410) 260-3475.





## MARYLAND DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway • Baltimore, Maryland 21224

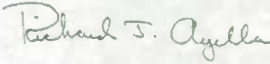
410-631-3000 • 1-800-633-6101 • <http://www.mde.state.md.us>

Parris N. Glendening  
Governor

Jane T. Nishida  
Secretary

### MEMORANDUM

To: Claudia Jones, Chesapeake Bay Critical Area Commission  
Julie LaBranche, Chesapeake Bay Critical Area Commission

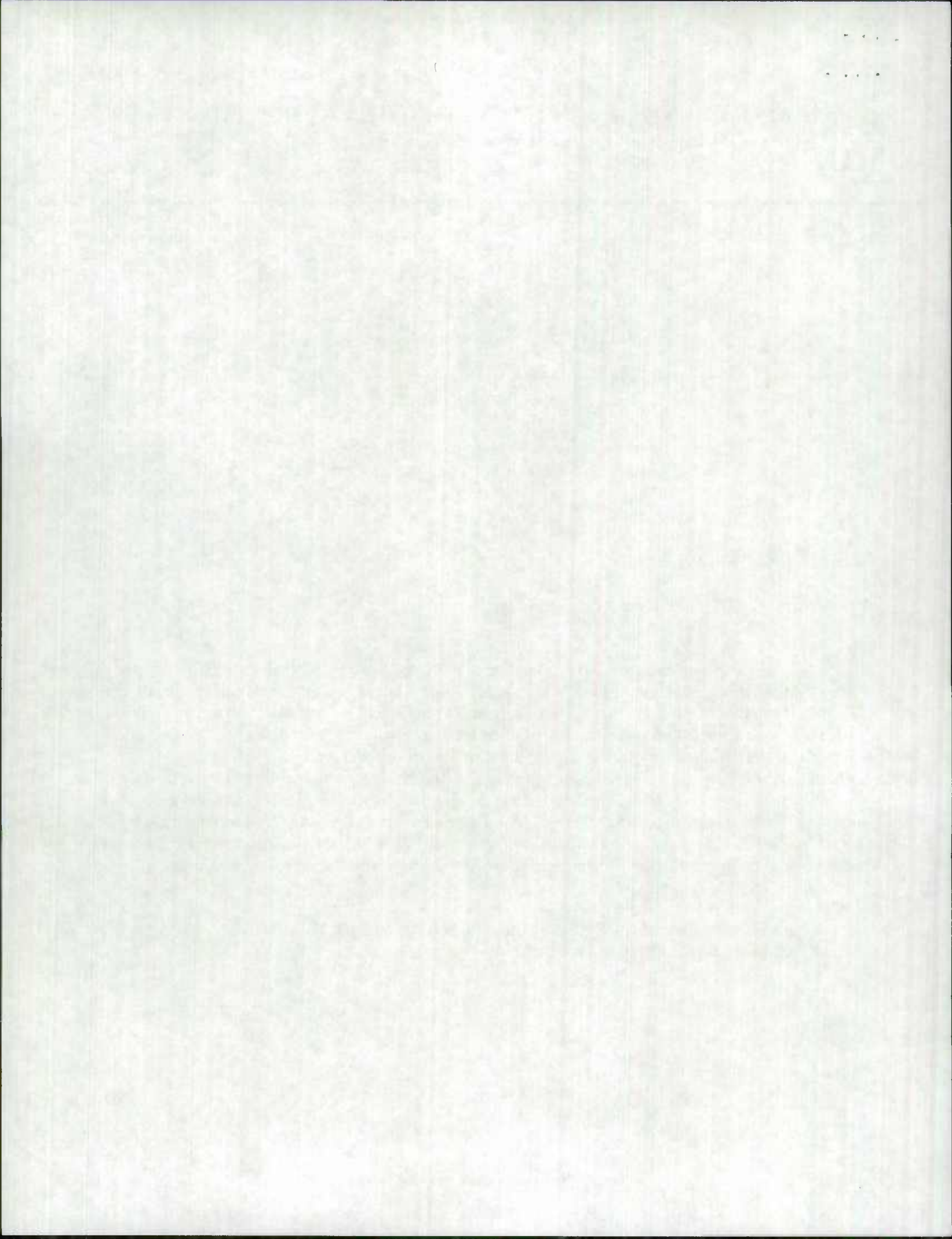
From: Rick Ayella 

Date: November 5, 2001

Subject: Elk Neck State Park SAV Survey

I surveyed the Chesapeake Bay shoreline of Elk Neck State Park in the vicinity of the Bowers Conference Center on Friday November 2, 2001. The tide was above normal due to strong southerly winds and a full moon. A wide sandy beach, and a pebbled intertidal zone characterize the site. A rack line composed primarily of dried submerged aquatic vegetation (SAV) was located just above the spring tide elevation. Intermittent clumps of live and rooted SAV were present from about the mean low water line to about 25 feet channelward of mean high water line. Deep water depths caused by the abnormally high tides that day precluded surveying farther than about 25 feet channelward of mean high water. Three SAV species were present, namely *Hydrilla verticillata*, *Vallisneria americana*, and *Myriophyllum spicatum*. The *Hydrilla* and *Vallisneria* were rooted and appeared to be in good health as compared to the *Myriophyllum* that was floating and in a somewhat degraded condition.

Based on this site visit information I recommend that a spring and summer SAV survey be conducted if any development of this waterfront is proposed.





# NorthBay Fact Sheet

## Summary

To create a property and experience, which will reach students from all across the Maryland community, with a state of the art **environmental education center**, focused on teaching and experiencing real environmental science in the field. Serving over 300 students each week of the school year with a 3-4 day/overnight experience, the living and group activity center will be consolidated in a minimal footprint of the old Camp Chesapeake, carefully planned to minimize impact on the land, and enhance the existing features of the property. From this outstanding base, NorthBay's entire 352 acres then provide the learning laboratory, where students will have their most meaningful Bay experience. Interactive learning imparts the foundation for student's...always dialogical, hands on, and centered on the theory that students will retain far more of what they discover for themselves.

**We are committed** to build this project and manage this land with the utmost respect toward nature, and pass that respect on to all who enter its gates.

**We are committed** to real science, including partnerships with local and regional science centers for meaningful data collection and documentation, and by reporting (graphing, mapping, counting, etc.) for the advancement of Bay science and preservation.

**We are committed** to providing students with a dialogical and interactive experience, where they are never bored by learning, or by their instructors.

**We are committed** to students designing and acting on their own environmental projects, which have significant local, regional and home based impact.

**We are committed** to technology and its interface with student experience...to plot and correlate data, merge databases etc., in order to fully integrate the NorthBay experience with the environmental science world at large.

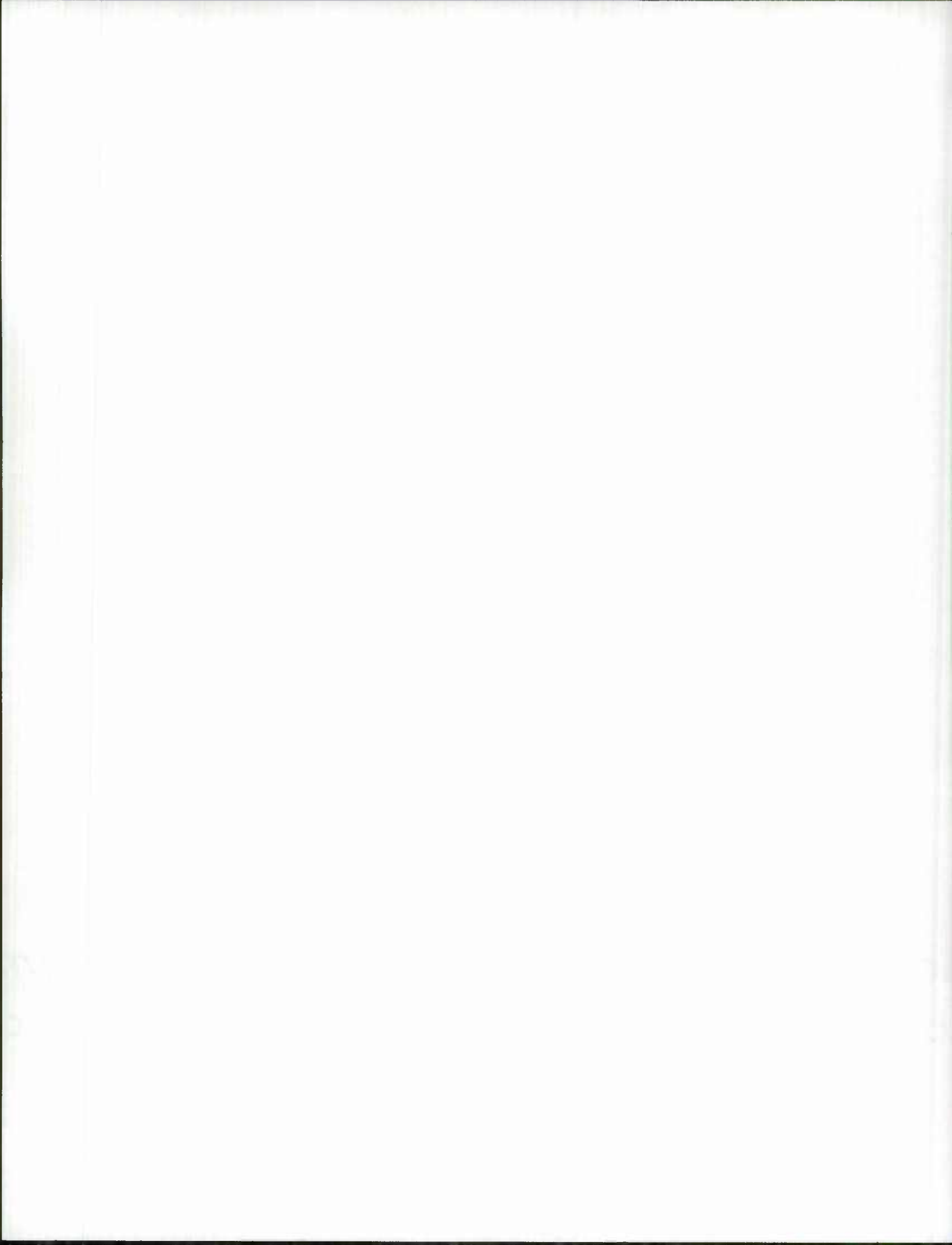
**We are committed** to precursor learning and especially follow-up learning for schools and students through a superb interactive website, and ongoing relationships with the staff, bringing students, teachers and schools back again and again to their NorthBay experience.

**We are committed** to raising up a new generation of Maryland "soon-to-be" adults, who are profound thinkers and doers around the prominent issues facing our environment and especially our Chesapeake Bay.

Through a partnership of Maryland's Department of Natural Resources with the Erickson Foundation of Baltimore, and the tremendous efforts of a group of determined individuals, **NorthBay** is proposed now on over 352 acres and ½ mile of beachfront, at the northern end of the Chesapeake Bay.

701 Maiden Choice Lane  
Baltimore, MD 21228  
410.242.2880 ext. 8044  
Fax 410.247.7881

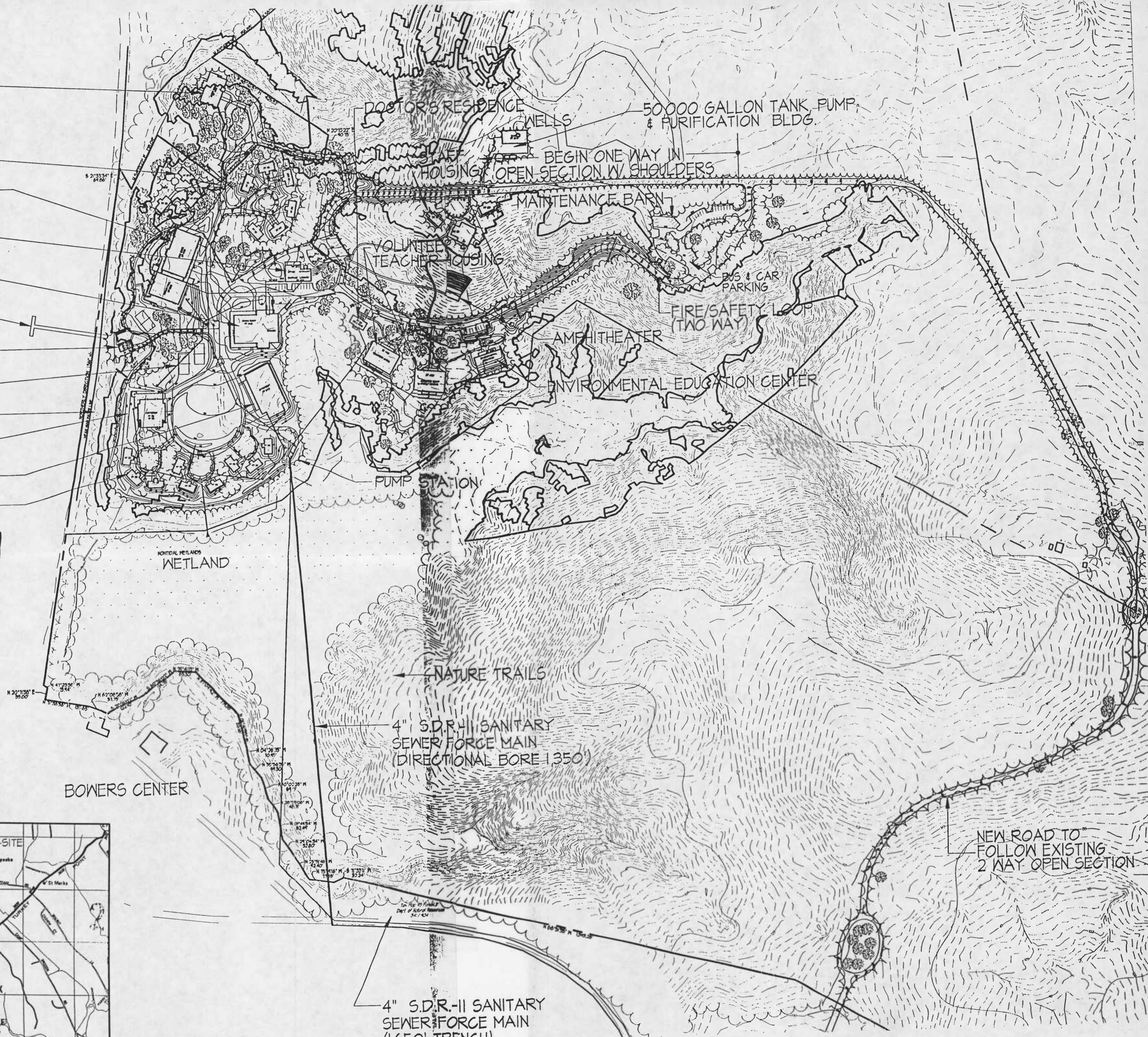
[www.northbayadventure.com](http://www.northbayadventure.com)





- GUEST HOUSING
- CAMPER HOUSING
- RECREATION COMPLEX W/ INDOOR POOL
- OFFICE, INFIRMARY & LAUNDRY
- DINING
- DOCKS
- BOAT HOUSE & WATER LAB
- VOLLEY BALL COURTS
- CANOEES & SAIL BOATS
- AUDITORIUM
- GYMNASIUM
- CAMPER HOUSING

Scale = 1" = 200'



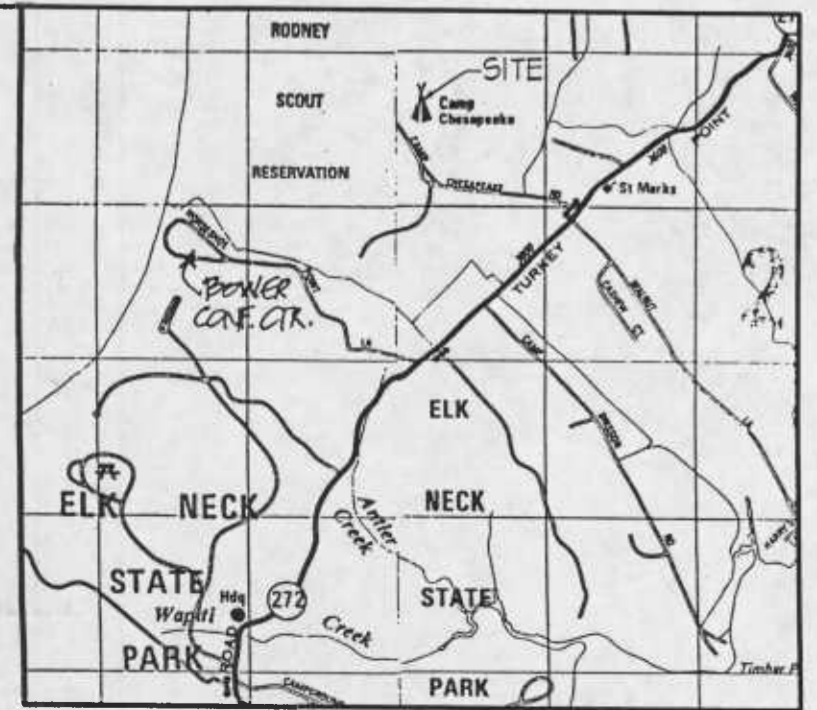
BOWERS CENTER

NORTHERN WETLANDS WETLAND

4" S.D.R.-II SANITARY SEWER FORCE MAIN (DIRECTIONAL BORE 1,350')

4" S.D.R.-II SANITARY SEWER FORCE MAIN (1,650' TRENCH)

NEW ROAD TO FOLLOW EXISTING 2 WAY OPEN SECTION



VICINITY MAP 1" = 2000'

North Bay

# Cecil County Soil Survey Approximate lease area

(Joins inset)



1 Mile

5 000 Feet

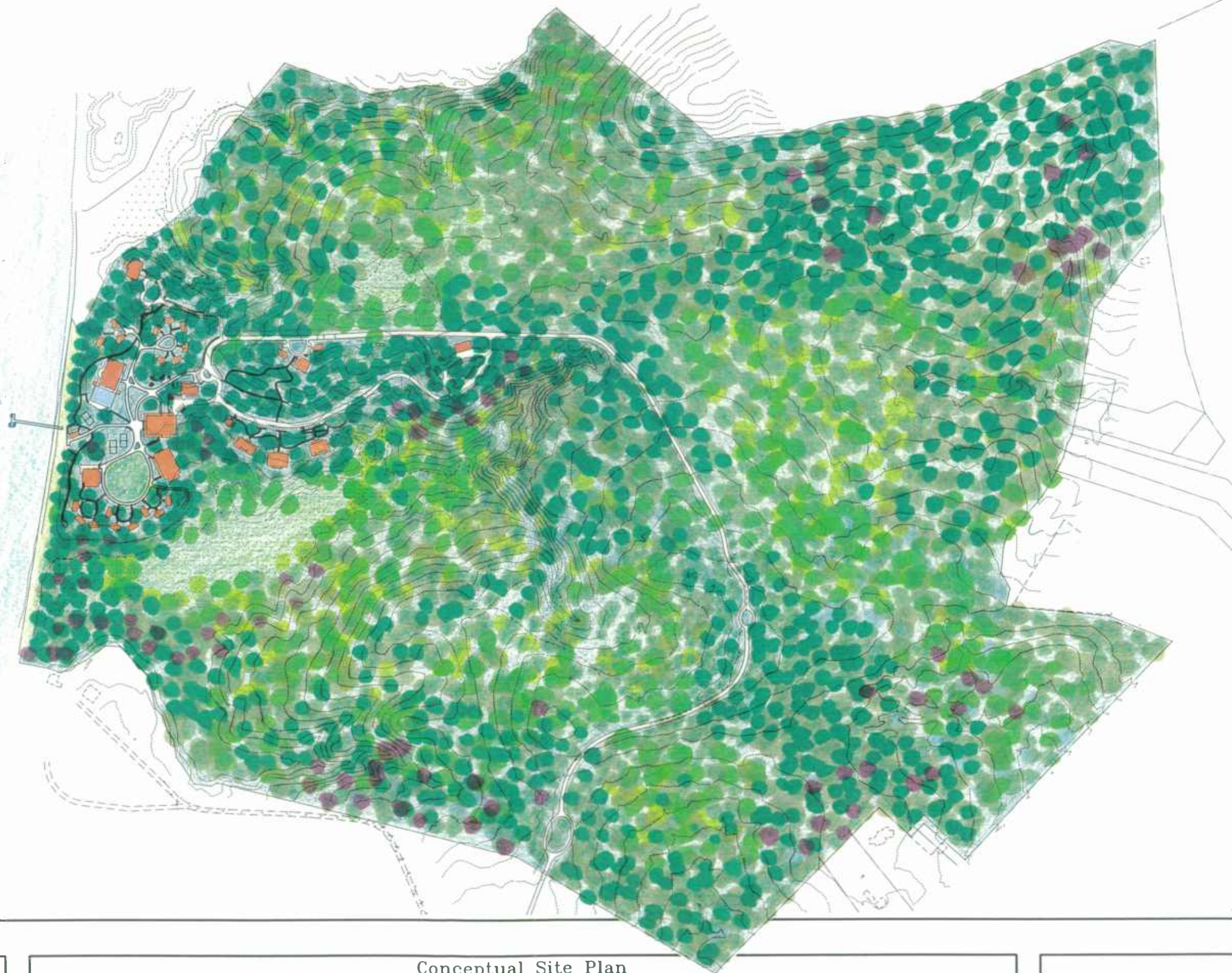


heet 34)

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MARKS, THOMAS AND ASSOCIATES INC.  
ARCHITECTS

3300 NORTH CHARLES STREET - BALTIMORE, MARYLAND 21240 - (410) 467-8800

Conceptual Site Plan  
**NorthBay**

Cecil County, Maryland