Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Peoples Resource Center
Crownsville, Maryland
February 6, 2002

AGENDA

1:00 p.m. – 1:05 p.m.	Approval of Minutes for January 9, 2002	John C. North, II Chairman

PROJECTS

1:05 p.m. – 1:20 p.m.	VOTE: SHA – Woodrow Wilson Bridge Construction Staging Area Prince George's County	Lisa Hoerger

PROGRAMS

1:20 p.m. – 1:35 p.m.	Refinement: Anne Arundel County: Mapping Mistake, Clark's Landing	Lisa Hoerger
1:35 p.m. – 1:50 p.m.	VOTE: Amendment - Town of Centreville, Queen Anne's County, Comprehensive Review	Roby Hurley
1:50 p.m. – 2: 00 p.m.	Refinement: Harford County, Bills 01-35 and 01-36: Stormwater Management in the IDA, 10% Rule	Dawnn McCleary
2:00 p.m. – 2:15 p.m.	Refinement: Somerset County Covington Cove Growth Allocation	Claudia Jones

OLD BUSINESS

2:15 p.m. – 2:30 p.m.	Legislative Update	Ren Serey
2:30 p.m. – 2:35 p.m.	Legal Update	Marianne Mason, Esq.

NEW BUSINESS

2:35 p.m. – 2:45 p.m.		John C. North, II Chairman

• Have asked for State Boat for Apr. 18 (no response yet) Hart Miller Island

• Mtg in July held on 10th instead of 3rd (2nd Wed)

• Cong. Gilchrist at April Mtg. re: Conserv. Corridor

• June mtg in O.C.

approved

Chesapeake Bay Critical Area Commission
People's Resource Center
Department of Housing and Community Development
Crownsville, Maryland
January 9, 2002

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

Bailey, Margo, Kent County
Barker, Philip, Harford County
Bourdon, Dave, Calvert County
Duket, Larry, Md. Dept. of Planning
Foor, Dr. James, C. QA Co.
Giese, Wm. Jr. Dorchester County
Jackson, Joseph, Worcester County
Jones, Paul, Talbot County
Myers, Andrew, Caroline County
Samorajczyk, Barbara, Anne Arundel Co.
Wynkoop, Samuel, Prince George's County
Halligan, Don for Andrews, Meg, Md. Department of Transportation
McLean, Jim, Governor's Office of Business and Economic Development
Wenzel, Lauren, Md. Department of Natural Resources
Pugh, Michael, Cecil County
Goodman, Robert, Dept. Housing and Community Dev.
Johnson, Samuel Q. Wicomico County
Setzer, Gary, Md. Department of the Environment
Witten, Jack, St. Mary's County

Not In Attendance:

Graves, Charles C., Baltimore City
Evans, Judith, Western Shore Member at Large
Cooksey, Dave, Charles County
Rice, William, Somerset County
Lawrence, Louise, Md. Dept. Agriculture
Olszewski, John A., Baltimore County

The Minutes of December 5th, 2001 were approved as read.

Julie LaBranche, Planner, CBCAC presented for VOTE, the State Highway Administration's proposal to construct a new pedestrian walkway in conjunction with an existing bridge on MD 286 over Back Creek in the Town of Chesapeake City in Cecil County. She described the technical details of the project. The required mitigation for disturbance to the 100-foot Buffer is 3:1 and a Buffer Management Plan has been prepared. The 10% rule is not applicable as this project is within the LDA. There are no threatened or endangered species and no in-stream work is proposed

during construction. Tidal wetland impacts will be determined through the MDE wetland permit process. It was determined that this project is consistent with COMAR 27.02.06, the Commission's regulations for conditional approval of State or Local Agency Programs in the Critical Area, and meets the requirements for State projects on State-owned land. Bob Goodman moved to approve this project as presented subject to the two conditions: 1) All MDE permits shall be acquired prior to any construction. 2) The State Highway Administration will coordinate final review and approval of the Buffer Management Plan by Commission and Town staff, and mitigation plantings will be completed in conjunction with replacement of the bridge. The motion was seconded by Mike Pugh and carried unanimously.

Wanda Cole presented for VOTE the DNR/St. Mary's County proposal to upgrade its facilities at the Elms Power Plant Site to provide better accessibility to visitors with special needs. Ms. Cole described the technical details of the project. There will be Buffer mitigation for impervious surface impacts and any loss of trees will be mitigated according to the appropriate ratio. A maintenance agreement will address any unforeseen erosion problems that might occur. The 10% rule does not apply as this is not an IDA. There will be no impacts to any other Habitat Protection Areas. It was determined that this project meets the requirements of a conditional approval according to COMAR 27.02.06., the Commission' regulations for conditional approval of State or Local Agency Programs in the Critical Area. Bob Goodman moved to approve the Conditional Approval for the DNR/St. Mary's County project at the Elms Power Plant Site as presented. The motion was seconded by Jack Witten and carried unanimously.

Dawnn McCleary, Planner, CBCAC presented for VOTE, the Maryland Port Administration's (MPA) proposed projects at the Dundalk Marine Terminal, the reconstruction of Berths 5 and 6 and a shed 5B construction and area 600 surcharge, both in the Critical Area and the 100-foot Buffer. Ms. McCleary described the technical details of the projects. The MPA will meet the 10% Pollutant Reduction calculations in treating the sites for post-development condition of 100% impervious, with offsets and revised calculations as the projects evolve and will apply a credit from another project to these projects. Bob Goodman moved to approve the projects as presented with the three conditions as stated in the staff report: 1) That all required Maryland Department of the Environment permits be obtained prior to any construction; 2) that MPA revise the 10% calculations for approval by Commission staff; 3) that Commission staff continue to work with MPA on the proposed offsets to meet the 10% pollutant reduction requirement. Commission staff will report back to the Commission within 60 days regarding the suitability of the proposed offsets to meet the pollutant removal requirement. The motion was seconded by Jim McLean and carried unanimously.

Wanda Cole, Planner, CBCAC presented for Concurrence with the Chairman's determination of Refinement, a Text Amendment regarding Growth Allocation in St. Mary's County that will correct the language regarding the deduction for growth allocation which was not consistent with the Commission's Growth Allocation Policy. This change is pursuant to a Consent Decree executed by and between the Board of County Commissioners of St. Mary's County and Judge John C. North, II, Chairman,

Chesapeake Bay Critical Area Commission and awarded as part of a settlement of three growth allocation awards by the County that were appealed by the Commission. The Commission supported the Chairman's determination of Refinement.

Mary Owens, Program Chief, CBCAC presented for Concurrence with the Chairman's determination of Refinement, a mapping amendment request by the Town of Chesapeake Beach to rectify a mapping mistake that involved the designation of a portion of a parcel of land as an RCA when it should have been designated as an IDA. Ms. Owens iterated the supporting reasons for a determination that this property meets the criteria for an IDA and the zoning map amendment has been approved by the Town Council that the subject area should have been mapped IDA and that a mistake was made in evaluating the use of the property at the time of initial mapping. The Commission supported the Chairman's determination of Refinement.

Charisa Morris, U.S. Fish and Wildlife Service, gave a presentation to the Commission on Delmarva Fox Squirrels. She stated that the population appears stable at this time and although they are not on the verge of extinction and do not fit the endangered species criteria, regulatory programs are working with other agencies in securing land which is the biggest step in downlisting the species.

Old Business

Ren Serey, Executive Director, CBCAC, gave a legislative update to the Commission. He said that Delegate Weir and Senator Dyson still intend to propose legislation on the variance Bill exactly as it was proposed last year. The Bill, which included a couple of amendments, will be exactly as it was last year when passed in the Senate. The Governor's office is very involved and will lead an effort to get it passed this year. The Secretary of DNR, Chuck Fox, has been working behind the scenes with the Environmental Matters Committee in the House in support of the Bill. The Chairman of the Environmental Matters Committee, Delegate Hurson, is pushing the variance bill for the Commission. Mr. Serey said that an editorial appeared in the Annapolis Capital newspaper which states that it is time that this protection measure be implemented and that according to the Governor, it is necessary to do it. He said that regarding the Coastal Bays, the Governor is serious about proposing some protection and that his intention is to incorporate the Coastal Bays into the Critical Area Program although a Bill has not emerged yet.

Mr. Serey, reporting on the North Bay Project in Elk Neck State Park in Cecil County, said that the Erickson Foundation is doing some redesign of the project with DNR, which has informed them that the project needs to be scaled down quite a bit. DNR would like to concentrate any development that might occur there on the footprint of the old Camp Chesapeake Site, a former YMCA camp. Consideration is also being given to moving other administration buildings over to the adjacent Bower's Center. These proposed changes would allow less impact to the forest cover and FIDS habitat. The Erickson Foundation asked that the project be taken from the agenda this month. Commission Member Larry Duket expressed his concerns with this project stating that he believes that it needs the "Public Process" involvement and to go thru a Master Planning Process with an affirmative plan by DNR, held to the same standards as the private sector, and requiring DNR to show why this proposed project meets the requirement for conditional approval and why they believe that it is good for the Chesapeake Bay Critical Area Program. He said that this is all in question. Dr. Foor expressed other serious concerns with the project, questioning whether this is in fact a "camp" project or "resort" project. Mike Pugh commented that about one month ago the County Planning Office wrote the Erickson Foundation a letter advising them that they consider this a matter that would require a local approval process in the form of a special exception to the Board of Appeals and a subsequent site plan review through the Critical Area Program. The County believes that they have jurisdiction over this issue because of the "third party" nature of this matter. Marianne Mason stated that she is not aware whether this issue has been referred to the Attorney General's office at DNR for an opinion. There was much discussion among the Commission members before Chairman North directed Ren Serey the Commission's Executive Director to convey the sense of the Commission's dialogue to DNR.

Marianne Mason, Esquire, Assistant Attorney General and Commission Counsel told the Commission that

she, Ren Serey, and Claudia Jones, Science Advisor, CBCAC, attended another session of a hearing on the Old Trails project in Harford County. There are three or four more hearings which will be held in February and March. This project involves a developer who has proposed 56 houses on an undeveloped site in an IDA. Ms. Mason stated that she has an argument in Circuit Court in Queen Anne's County on one of the Kent Island Defense Leagues' lawsuits which challenges the Commission's approval of the Four Seasons development. The Judge is hearing arguments on all pending motions.

New Business

Chairman North appointed a panel for the Town of Centreville's Comprehensive Review. Lauren Wenzel, Chair; Margo Bailey, Andrew Myers and Paul Jones.

The Chairman told the Commission that former Commission member, Bob Pinto of Somerset County, passed away about two weeks ago at his home. The Commission is very saddened by this loss.

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Coordinator

Chesapeake Bay Critical Area Commission

STAFF REPORT
February 6, 2002

APPLICANT:	Department of Transportation State Highway Administration
PROPOSAL:	Woodrow Wilson Bridge (WWB) Construction Staging Area for Contract BR-3
JURISDICTION:	Prince George's County
COMMISSION ACTION:	Vote
STAFF RECOMMENDATION:	Conditional Approval with Conditions
STAFF:	Lisa Hoerger
APPLICABLE LAW/ REGULATIONS:	COMAR 27.02.06 - Conditional Approval of State or Local Agency Programs in the Critical Area

DISCUSSION:

At the June 6, 2001 Commission meeting, the Construction Staging Area (CSG) for the foundation contract for the Woodrow Wilson Bridge project was approved with the following conditions:

1. All structures and associated facilities, including gravel, sediment and erosion control measures, stormwater measures, the proposed bulkhead and barge, must be removed from the site, and the site shall be restored to its pre-construction conditions at the conclusion of use by State Highway Administration and its contractors.
2. Mitigation shall be performed at a 3:1 ratio for all disturbances to the 100-foot Buffer. This mitigation may be in the form of plantings off-site.
3. Prince George's County Department of Environmental Resources will assist in the selection of the off-site Buffer mitigation.
4. The Buffer shall be clearly marked in the field using fencing, signs, or some other means in order to delineate the extent of the 100-foot Buffer.
5. State Highway Administration shall report to Commission staff every 30 days.
6. All required federal, State and local permits be obtained.

This staging area was obtained for the foundations contractor. The next phase of the bridge construction involves the construction of the bridge superstructure. This phase is

contract BR-3. The CSA selected for the BR-3 contract is located along the Smoot Cove shoreline, south of the existing Woodrow Wilson Bridge and north of the existing CSA.

State Highway Administration is requesting approval of this CSA in order to prepare for the upcoming BR-3 contract and to provide immediate but temporary construction staging and laydown areas for the existing contractors.

The CSAs are a critical component to the timely and successful completion of the Woodrow Wilson Bridge Project. The size and complexity of the project compounded by the highly urbanized area have challenged SHA and it's contractors thus far in finding suitable staging areas. SHA has secured the temporary use of a small portion of the National Harbors property through an agreement with the Peterson Companies.

The Foundations Contractor, TKC, is currently using the southern half of that area for construction staging, as approved by both MDE and CBCA in June of 2001. TKC has made efficient use of the space but has consistently requested additional area for "laydown" or storage of materials. Since June, contracts MA-1A (Rosalie Island Improvements) and MA-1 (I-295 Interchange) have started, each also constrained in reference to staging area.

Currently, SHA is diligently preparing for the start of the BR-3 contract. This "Superstructure" contract is the largest of the project and use of the designated BR-3 staging area will be a top priority to the BR-3 contractor. A sediment basin currently exists on the BR-3 site and occupies a large portion of the usable area. This basin was required through the National Harbor's Sediment and Erosion Control Plan, authorized by Prince George's County. A number of field and office meetings between MDE, Prince Georges's County SCD, Peterson Companies, and SHA have culminated in the determination that SHA will seek Sediment and Erosion Control/SWM approval from MDE, thus relieving PG County from jurisdiction of the area. Once SHA obtains approval from MDE, along with approval from the CBCA, SHA may proceed with the CSA preparation.

The BR-3 CSA is included in this request for approval. Interim improvements include a gravel parking lot used for BR-2 and MA-1A overflow parking, a temporary topsoil stockpile, and potential temporary laydown area for the existing contractors. Use will include storage of materials such as gravel, sand, or fill; storage of inert construction material such as geotextile fabric, steel, reinforcement bar, and wood; and parking of equipment and/or construction vehicles. These temporary activities will be outside of the 100-foot Buffer and will be protected by a stone base and super silt fence along the western edge of the BR-3 CSA.

Aside from parking and laydown, SHA intends to appropriately fill existing Sediment Basin #1 once approval is granted by MDE. Once the BR-3 contractor is selected, the interim use of the BR-3 CSA by existing contractors will be suspended, and the BR-3 contractor will be required to produce a plan to be submitted for approval by both MDE and CBCA detailing their specific use of the site. It is envisioned that the contractor will

request water access along with multiple trailers and laydown area for construction materials.

An additional future complication to the BR-3 CSA is that as the ramps to the National Harbor site are being constructed (as part of future contract MA-2/3) the construction causes a multi-phased alteration of the BR-2 and BR-3 CSA's, eventually resulting in a completely segmented site from north to south, requiring access under a proposed ramp bridge. Amidst these phases, the CSA becomes more elongated, expanding to the north as it reduces in size from east to west.

The existing MA-1A haul road branches off of the existing main haul road, just north of the designated BR-3 CSA northern border and continues around Smoot Cove to Rosalie Island. As plans for the BR-3 CSA phasing, the BR-3 contract, and contract MA-2/3 have been developed, it has become evident that this haul road alignment will eventually be in conflict with the future BR-3 CSA phasing and will also conflict with the installation of twin 78-inch culverts to be installed in 2002. In an effort to provide the MA-1A contractor with a haul road located in an alignment in concert with the future activities the haul road will require realigning.

Between the BR-3 CSA and the proposed MA-1A haul road is an area well suited for additional laydown space to be shared by the existing WWB contractors. As with the BR-3 CSA, the existing contractors may utilize the area to include storage of materials such as gravel, sand, or fill; storage of inert construction material such as geotextile fabric, steel, reinforcement bar, and wood; and parking of equipment and/or construction vehicles. These temporary activities will be outside of the 100-foot Buffer and will be protected by a stone base, super silt fence along the western edge of the area, and silt fence along the northern edge of the area. Though contract MA-2/3 will eventually be building ramps to National Harbors in this area, the site will be available until at least June of next year. While invaluable to the BR-2 contractor, this timeline is critical for the MA-1A contractor to store fill material on-site to separate delivery from placement operations. This advantage will help the contractor to recover critical lost time due to equipment and fill issues thus far.

In accordance with COMAR 27.02.06, TKC and the SHA provided justification to the Critical Area staff for conditional approval to permit certain activities within the 100-foot Buffer.

01 Criteria

B.(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;

As with the foundations contractor, this area provides a clear and level parcel with direct water access. An additional advantage is the close proximity to the bridge.

The site plan submitted by SHA does not show details due to the current uncertainty of who the contractor will be for this site. However, SHA has told Commission staff that the site will likely provide an area for aggregate storage, a lay-down area, and some type of water access. No other staging area was identified in the vicinity of this size and proximity. Also, it is directly adjacent to the existing CSA for the foundations contractor.

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

As with the previous CSA, this site is an integral part of the construction process. It is a temporary site, designed with minimal impact to the environment. The completion of the bridge will have future substantial public benefits due to the creation of the Potomac River Waterfront Community Park. This will provide alternative means of transportation (bicycling and walking), increased public access to the Potomac River, opportunities for environmental education and restoration, eradication of invasive species, and the establishment of more desirable, native species. Also, the completion of the project will included a substantially improved transportation corridor, currently in need of repair and serious improvement.

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

The project is otherwise in conformance with this subtitle, as SHA has told Commission staff that the next contractor to utilize this site will do so in conformance with the allowances provided to the foundations contractor at the existing CSA. As with the previous CSA, SHA has promised a high level of environmental sensitivity and avoidance and minimization of impact as almost all activities have been removed from the 100-foot Buffer area. Only a "lay-down" area will be permitted in the 100-foot Buffer. This area will be used for inert construction materials such as steel plates, sheet piles, steel piles, steel forms, and reinforcement bar. All other activities of the contractor will be located outside the 100-foot Buffer. The aggregate areas will be contained and the downgradient portions of the site will be fenced with super silt fencing.

C.(1)
A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State or local agency program or project;

The literal enforcement of this provision would prevent the support necessary to complete the construction of the superstructure for the Woodrow Wilson Bridge which would prevent the transfer of traffic from the existing bridge to the proposed outer loop span by 2004. Due to the deteriorating condition of the existing bridge weight restrictions may be required beyond 2004. This would force a substantial amount of heavy truck traffic through Washington DC or onto a much longer and arduous detour route (such as the west and north side of the Capital Beltway or MD Route 301).

C.(2)
A proposed 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;

SHA and the selected contractor will work with the Commission staff and Project Subcommittee to maintain commitments and resolve issues such as mitigation (see C (3)). The project will meet with the Commission staff bi-weekly until the mitigation plan is agreed to by the Commission and SHA. Beyond the mitigation task, TKC and SHA will meet quarterly (on site, if deemed appropriate by the Commission) to discuss site issues, maintenance, and mitigation progress (as necessary). SHA has committed to keep the public and interested parties informed through press releases and public meetings as the project continues.

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

The site is mapped as an Intensely Developed Area (IDA). While 10% pollutant reduction calculations are usually required for sites in the IDA, this disturbance is temporary; therefore, it was agreed upon by Critical Area Commission staff and staff of Prince George's County that the 10% pollutant removal requirement will be the responsibility of the ultimate developer of this site. The contractor is required to restore this area to its original state once operations cease. The owner/developer of this property will propose a development plan and will be responsible for 10% pollutant reduction calculations. This agreement was made during the consideration of the first CSA.

This site is mostly cleared. Any additional clearing will be calculated as part of the overall reforestation requirement for this project.

Remaining Critical Area Issues

The site does not support other Habitat Protection Areas (HPAs). The only HPA that occurs on the proposed site is the 100-foot Buffer to the Potomac River. Proposed activities in the Buffer are the subject of this conditional approval.

The sediment and erosion control plans were submitted by SHA and are pending final approval by the Maryland Department of the Environment. That approval is expected within the next few days of the writing of this staff report (1/23/02).

Commission staff contacted staff of Prince George's County Department of Environmental Resources to obtain comments. Those comments are pending, but will be reported to the Commission at its meeting.

Conditions:

1. All structures and associated facilities, including gravel, sediment and erosion control measures, and stormwater measures, shall be removed and the site shall be restored to its pre-construction conditions at the conclusion of use by State Highway Administration and its contractors.
2. Mitigation shall be performed at a 3:1 ratio for all disturbances to the 100-foot Buffer. This mitigation may be in the form of plantings off-site.
3. Prince George's County Department of Environmental Resources will assist in the selection of the off-site Buffer mitigation.
4. The Buffer shall be clearly marked in the field using fencing, signs, or some other means in order to delineate the extent of the 100-foot Buffer.
5. State Highway Administration shall report to Commission staff every 30 days.
6. All required federal, State and local permits be obtained.

BETTY BLUME
NEIGHBORHOOD PARK

MEL-MARA DRIVE

NORTH POTOMAC VISTA

ALEXANDRIA DRIVE

WOODROW WILSON
BRIDGE PROJECT
BR2 CONSTRUCTION
STAGING AREA

NATIONAL HARBOR
WATERFRONT
PARCEL

EXISTING
PROPERTY LINE

EXISTING APPROVED HAUL ROAD

HAUL ROAD

MDOT

TKC
OFFICE

MA-2/3 PROPOSED
BRIDGE STRUCTURES
(FUTURE)

M-NCP&PC
PARCEL

PROPOSED TEMPORARY
24' WIDE HAUL ROAD

TEMPORARY CONSTRUCTION
STAGING AREA FOR BR-2,
MA-1 AND BR-3
(FUTURE MA-2/3 CONTRACT AREA)
SEE "NOTES"

GRAVEL
PARKING
LOT
(OVERFLOW)

MATERIAL
STORAGE

BATCH PLANT

100'

BULKHEAD

BARGE

EXIST.
BERM

EX. TEMPORARY
MA-1A HAUL ROAD
CONNECTOR

EXISTING SUPER
SILT FENCE

FUTURE CONSTRUCTION
STAGING AREA FOR CONTRACT BR-3

Woodrow
Wilson
Bridge
Project

PROPOSED DITCH

PROPOSED CULVERT

POND TO BE FILLED
FOLLOWING APPROVAL
BY PG COUNTY

ADDITIONAL SSF TO BE
INSTALLED BEFORE
TRAP IS FILLED

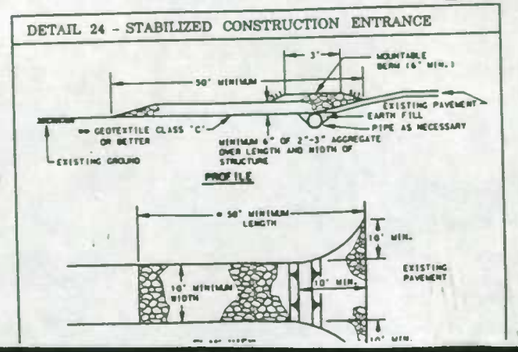
Next
Proposed
Construction
Staging
Area

TEMPORARY
TOPSOIL
STOCKPILE

APPROXIMATE LOCATION
OF MA-1A HAUL ROUTE

EXISTING
SUPERSILT
FENCE

DETAIL 24 - STABILIZED CONSTRUCTION ENTRANCE



SEQUENCE OF (

1. The Contracto
(410) 631-3510, a

Chesapeake Bay Critical Area Commission

STAFF REPORT
February 6, 2002

APPLICANT:	Anne Arundel County
PROPOSAL:	Refinement - Mapping Mistake Clark's Landing at Shady Side, Inc.
COMMISSION ACTION:	Concurrence
STAFF RECOMMENDATION:	Concur with Chairman's Determination
STAFF:	Lisa Hoerger
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article §8-1809(h), §8-1809(p)

DISCUSSION:

Anne Arundel County has submitted a mapping amendment to correct a mapping mistake for a property known as Clark's Landing at Shady Side, Inc. The property is located in southern Anne Arundel County off Parrish Creek and currently supports a commercial marina business. It has a Maritime Group District C zoning classification.

Clark's Landing at Shady Side, Inc. property is 13.33 acres with most of the site designated as a Limited Development Area (LDA), while the western edge of the site is designated as a Resource Conservation Area (RCA). The area of RCA is 1.19 acres. This is the area that is believed to be a mistake and is to be corrected.

Section 27.01.02.07(C) of the Critical Area criteria states that, "For purposes of implementing this regulation, a local jurisdiction shall have determined, based on land use and development in existence on December 1, 1985, which land areas fall within the three types of development areas described in this chapter."

The Criteria further explain that LDAs are those areas which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats, and the quality of runoff from these areas has not been substantial altered or impaired. These areas shall have at least one of the following features:

(1) Housing density ranging from one dwelling unit per 5 acres up to four dwelling units per acres;
(2) Areas not dominated by agriculture, wetlands, forest, barren land, surface water, or open space;
(3) Areas meeting the conditions of Regulations .03A, but not .03B, of this regulation;
(4) Areas having public sewer or public water, or both.

After reviewing the Criteria and the mapping of the subject property, the Administrative Hearing Officer approved the request to amend the zoning map on November 17, 2001. The Hearing Officer believes a mistake was made in the original mapping and that the area should have been mapped LDA based on the following reasons.

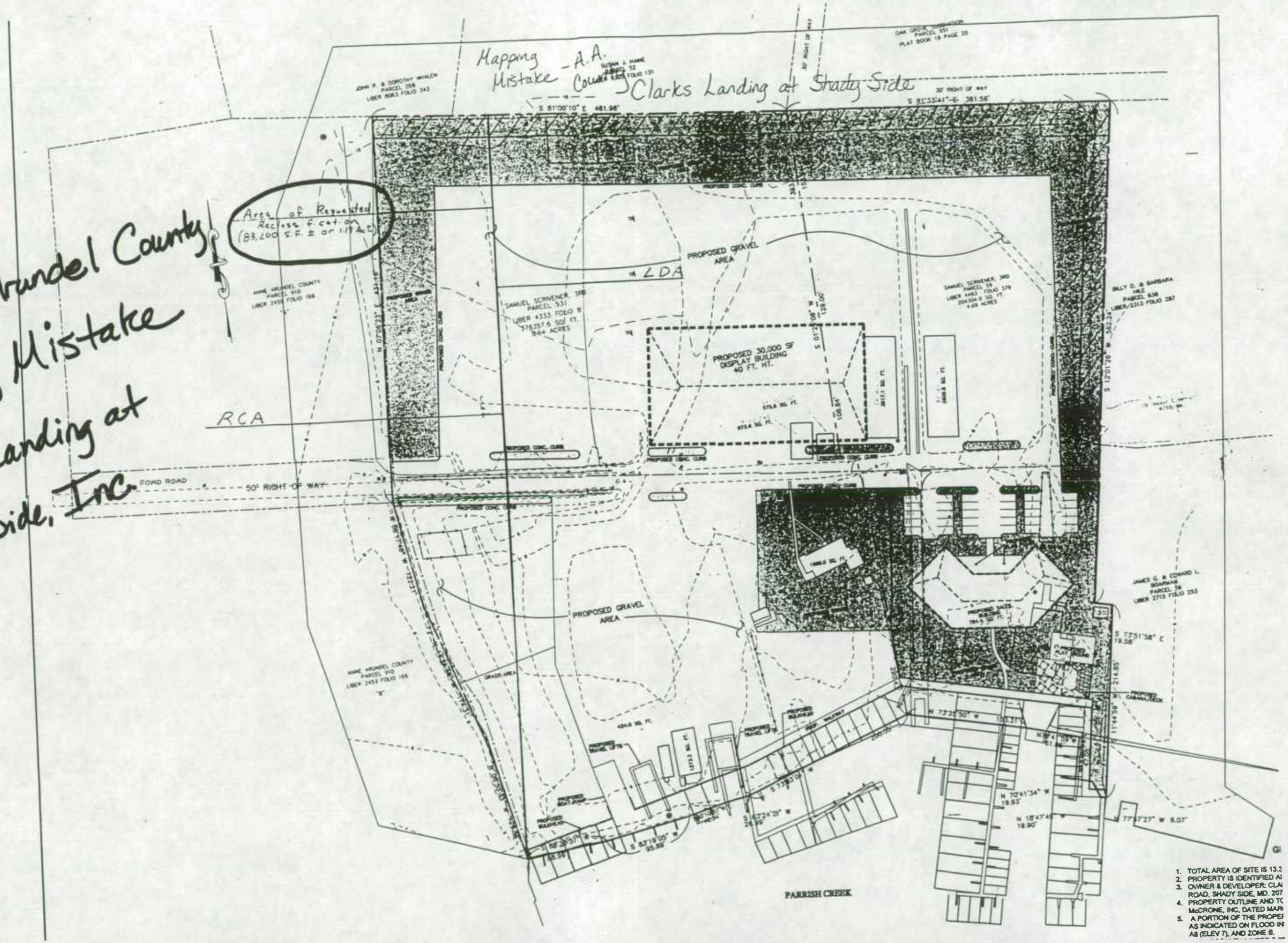
1. The County checked the 1984 aerial photographs which show that the area mapped as RCA was used as boat storage for the marina in 1984 (aerial closest to December 1, 1985 and aerial used for initial mapping). Due to the use of the property in 1984, the County maintains a mistake was made on this map. The County found that the use that existed on the property in 1985 is compatible with the LDA designation.

2. The County maintains that there was a drafting error when the zoning line was drawn on this Critical Area map. The adjoining property to the west is a County park. It is zoned Open Space with a Critical Area designation of RCA. The zoning line and Critical Area designation follow the same line. It appears the location of this line was meant to be drawn along the property boundary based on existing land use at the time. The area to the left of the zoning line would be the County park and the area to the right of the zoning line would be the marina property.

Anne Arundel County completed the comprehensive zoning process for the Deale/Shady Side small area planning area last year. The zoning line between Clark's Landing and the County park was moved to the property boundary line.

Chairman North is seeking your concurrence with his determination that this mapping mistake is a refinement to the County's Critical Area program.

Anne Arundel County
Mapping Mistake
Clarks Landing at
Shady Side, Inc.



Chesapeake Bay Critical Area Commission

STAFF REPORT
February 6, 2002

APPLICANT:	Town of Centreville
PROPOSAL:	Amendment – Four-Year Comprehensive Review
COMMISSION ACTION:	Vote
PANEL:	Lauren Wenzel (chair), Margo Bailey, Paul Jones and Andrew Meyers
PANEL RECOMMENDATION:	Pending
STAFF RECOMMENDATION:	Approval
STAFF:	Roby Hurley, LeeAnne Chandler
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article §8-1809(g)

DISCUSSION:

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

ZONING ORDINANCE/PROGRAM:

The Town's new Critical Area Ordinance was designed to be sufficiently comprehensive so that a separate Program document would no longer be required. The model ordinance has been customized to address the specific conditions in the Town of Centreville and it is designed to be integrated into the Town's Zoning Ordinance. The Town uses the overlay system for implementation of its Program. Calculation of the acreage of the three land-use categories and evaluation of the growth allocation status was conducted. The Town is located in Queen Anne's

County and the County has given 186 acres of growth allocation to the Town. To date, the Town has not used any growth allocation.

The new Critical Area Ordinance includes updated information from the Heritage Division of the Department of Natural Resources on Habitat Protection Areas. The Natural Parks, Agriculture and Surface Mining sections were customized to reflect existing and planned land use relative to the Town.

The new ordinance also includes specific provisions for enforcement of violations in the Critical Area, new provisions relating to planting agreements, 10% mitigation, impervious surface limits and clearer language about grandfathering, variances, water-dependent facilities and shore erosion control.

The new ordinance includes the provisions of the current Commission Growth Allocation and Buffer Exemption Area Policies. With regard to growth allocation, the Planning Commission expanded on the Commission's Policy, adding further requirements that they felt were necessary to properly award Growth Allocation. There are three (3) existing Buffer Exemption Areas (BEAs) in the Town and no new BEAs are proposed.

MAPPING:

Queen Anne's County's planning office produced a new land-use map. The Town Planning Commission studied both infill and annexation growth areas and the County planning office produced a growth area map for the Town. Resource inventory mapping, which is included on the land-use map, was updated based on correspondence with the Heritage Division and the Environmental Review Unit at the Department of Natural Resources.

The original Program was adopted on August 3, 1989. The Town Planning Commission held its public hearing on November 28, 2001. No public comments were received. Subsequently, the Critical Area Commission Panel held a joint public hearing with the Town Council on January 17, 2002. No public comments were received. The Town Council approved the ordinance adopting the new Critical Area Ordinance on January 17, 2002. A Panel recommendation will be discussed at a panel meeting on the morning of the Commission meeting and will be presented in the afternoon.

CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT
February 6, 2002

Concur

APPLICANT:	Harford County
PROPOSAL:	Harford County Comprehensive Review Amendment Bills 01-35 & 01-36 Refinement Request
JURISDICTION:	Harford County
COMMISSION ACTION:	Concurrence with Chairman's Determination
STAFF RECOMMENATION:	Approval
STAFF:	Dawnn McCleary
APPLICATION LAW\ REGULATIONS:	Annotated Code of Maryland, Section 8-1809 (g)

DISCUSSION:

On December 18, 2001, the Harford County Council approved Bills 01-35 and 01-36. This legislation addressed the conditions established by the Critical Area Commission as part of the approval of Harford County's Comprehensive Review.

Based on the information provided by the County, there is one change to the conditions established by the Commission when they approved the County's Comprehensive Review on September 5, 2001. This language change is in Section 267-41.1F(3)(a)(2) of the Harford County Development Code. (See attached change) The revision to Bill 01-35 was reviewed and approved by the Commission staff prior to approval by the County Council. The County requests that this amendment to the Bill be approved as a refinement to the County's program.

The change clarifies the application of the pollutant reduction requirements in Intensely Developed Areas. The clarification specifies that the 10% Rule applies to the construction of accessory structures and minor additions that disturb greater than 250 square feet and result in permanent construction of an improved surface area greater than 250 square feet. The County staff requested this clarification so that there would not be confusion regarding stormwater requirements for projects that involve the installation of a septic system, grading, and landscaping.

somewhat smaller than this since what the County approved included a substantial area of State tidal wetlands. The lot lines have since been changed to eliminate tidal wetlands from the lots. Colored in **pink** on attached map.

There are 27.3 acres remaining as RCA.

Most of the property is agricultural fields. Wildlife and Heritage has records of two rare plants *(Bidens coronata* and *Ammania latifolia)* documented in the vicinity of the project site, however, they are not known to occur on the project site. Since the project does not contain any proposals for fishing piers, it is not a concern at this time.

The roads going into and through the property have been taken over by the County and are paved.

Growth Allocation Policy

Development Envelope- It appears that all of the parcel will be deducted except for a contiguous area that is greater than 20 acres in size, and a small portion of RCA colored in yellow on the attached map. This small area of RCA is bordered by LDA on one side and tidal wetlands on the other. This was mapped as RCA during the original Critical Area Program development prior to the Commission's Growth Allocation Policy going into effect. The applicant has not provided a map showing all the boundaries that encompass this subdivision to make a final determination on this.

Parcel History – Portions of the parent parcel had been subdivided prior to December 1, 1985, resulting in thirteen lots totaling 28.53 acres. This area was originally mapped as LDA. During the interim period 31.25 acres of growth allocation were granted that created fourteen additional lots.

Area Deducted vs. Area Mapped – There are some mapping discrepancies that need to be rectified before this project is finalized. The County approved 34 acres of Growth Allocation that included portions of State tidal wetlands. Calculations should be done using the exact area that will be given Growth Allocation after these wetlands are taken out of the lots. This has been done on a map, but we do not have a new acreage figure. There are several places where the existing LDA/RCA boundary, on the most current site plan dated 6/27/01, do not exactly match other maps from the County. These discrepancies need to be resolved.

Site Features – Tidal wetlands have been identified and shown on the site plan. Rare plants have been identified in the project area, but are not a concern at this time.

The forest on the site has been shown on the site plan, but the acreage needs to be calculated. All areas of forest within the Buffer must be maintained. Any other forest that is cut for development must be replanted on site.

Harford County Program

and to the special conditions and regulations set forth in this section. In the event of conflicts between existing zoning regulations, subdivision regulations and other overlay district regulations and this section, the more restrictive section shall apply.

(3) Development activities. Permitted development activities are regulated in accordance with §267-41.1G and the following standards for the specific management area categories within which such activities are proposed:

(a) Intensely developed areas (IDA).

(1) Pollutant loadings associated with new development or redevelopment in an IDA shall be reduced by a minimum of 10% from predevelopment levels through the use of on-site stormwater management/best management practices or similar measures located off site within the same watershed and within the critical area. Stormwater management/best management practice sites will only be considered outside of the critical area and outside of the same watershed if the County Department of Planning and Zoning determines that no feasible alternative within the critical area can be provided. The procedures contained in technical reports entitled "Applicant's Guide for 10% Rule Compliance - Urban Stormwater Quality Guidance for the Maryland Chesapeake Bay Critical Area in IDA, and the Technical Guide for 10% Rule Compliance - Urban Stormwater Quality Guidance for the Maryland Chesapeake Bay Critical Area in Intensively Developed Areas (IDA)" (Appendix C of the Harford County Chesapeake Bay Critical Area Management Program, as amended) shall be used to determine the amount of reduction required and what specific measures are needed to meet this requirement.

~~(2) Pollutant loadings associated with construction outside of the critical area buffer of accessory structures and minor additions that [increase the total impervious~~

~~surfaces by] DISTURB greater than 250 square feet on residential lots of record as of 12/31/85 in the IDA shall be mitigated by the use of stormwater management/best management practices (BMPs) as specified in Appendix C, as amended, and/or through the use of additional landscaped plantings on that lot or parcel.~~

(2) POLLUTANT LOADINGS ASSOCIATED WITH CONSTRUCTION OUTSIDE OF THE CRITICAL AREA BUFFER OF ACCESSORY STRUCTURES AND MINOR ADDITIONS THAT DISTURB GREATER THAN 250 SQUARE FEET AND RESULT IN THE PERMANENT CONSTRUCTION OF AN IMPERVIOUS SURFACE AREA GREATER THAN 250 SQUARE FEET ON RESIDENTIAL LOTS OF RECORD AS OF 12/31/85 IN THE IDA SHALL BE MITIGATED BY THE USE OF STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES (BMPS) AS SPECIFIED IN APPENDIX C, AS AMENDED, AND/OR THROUGH THE USE OF ADDITIONAL LANDSCAPING PLANTINGS ON THAT LOT OR PARCEL.

(a) BMPs are specified in the "The Applicant's Guide for 10% Rule Compliance - Urban Stormwater Quality Guidance for the Maryland Chesapeake Bay Critical Area in Intensively Developed Areas (IDA)" (Appendix C of the Harford County Chesapeake Bay Critical Area Management Program, as amended).

(b) Mitigative plantings shall be permeable areas equal to or greater in area than the increase of impervious surfaces, shall be planted with at least one tree per 100 square feet of impervious surface added to the lot, and shall be established and maintained in accordance with a landscaping plan and covenant as approved by the Department of Planning and Zoning. Where possible, such new plantings should be located between the new construction and

Chesapeake Bay Critical Area Commission

STAFF REPORT

Concur

APPLICANT:	**Somerset County**
PROPOSAL:	Covington's Cove Growth Allocation
COMMISSION ACTION:	Concurrence with Chairman's Determination of Refinement
STAFF RECOMMENDATION:	Approval with Conditions
STAFF:	Claudia Jones
APPLICABLE LAW/ REGULATIONS:	Annotated Code of Maryland §8-1808.1 – Growth Allocation in Resource Conservation Areas

needs 380 total acre of parcel

DISCUSSION:

The Somerset County Commissioners have requested 34 acres of growth allocation for a project known as Covington Cove. The subdivision consists of three areas totaling 93.78 acres. There are two residue RCA parcels totaling approximately 30 acres. (A site plan provided to the Commission Staff indicates that there are 149 acres in the Critical Area, but it appears the number is incorrect.) The majority of this is within the Critical Area. There are 300 acres remaining of the original farm. This is both inside and outside of the Critical Area. There are currently twenty-seven (27) lots of record on the parcel. All of these lots originally came from one parent parcel. Thirteen of the existing lots will be re-numbered and fourteen will be re-configured. There will be thirty-five lots upon completion of the growth allocation and subdivision, a net increase of eight additional lots.

There are several existing subdivisions on record for various portions of this property. There are currently twenty-seven lots already of record.

- **Area A** –Three areas (28.53 acres) of the subdivision were mapped as LDA at the time of original Critical Area mapping. Outlined in **green** on attached map
- **Area B** – This section received growth allocation during the Interim Period, before the County's Critical Area Program was in effect. This area is includes 31.25 acres and 14 lots. Outlined in **blue** on attached map.

Chesapeake Bay Critical Area Commission

STAFF REPORT

APPLICANT: Somerset County

PROPOSAL: Comprehensive Zoning Map Amendment

COMMISSION ACTION: Concurrence with Chairman's Determination of Enhancement

STAFF RECOMMENDATION: Approval with conditions

STAFF: Claudia Jones

APPLICABLE LAW/REGULATIONS: Annotated Code of Maryland §8-1809(d) – Growth Allocation in Resource Conservation Areas

DISCUSSION:

The Somerset County Commissioners have requested a growth allocation for a proposed change in the Comprehensive Zoning Map. The growth allocation consists of three areas totaling 30.7 acres. These areas include RCA parcels totaling approximately 30 acres. (Area B, described below, is the Somerset County Small Business Park, where there are 249 acres in the Critical Area but it appears the entirety is IDA.) The majority of this is within the Critical Area. There are 30.7 acres totaling 31 in the original form. This is both inside and outside of the Critical Area. There are currently twenty-seven (27) lots of record on the parcel. All of these lots are clearly outside the Critical Area. Therefore, of the existing lots, will be re-configured and consolidated with the re-configuration. There will be many alterations upon approval of the growth allocation and subdivision, with addition of about additional lots.

There are several separate subdivisions contained for various portions of this property. These are described briefly as follows:

- Area A – Three acres (2.5 acres) of the subdivision were assigned an IDA in the Somerset County Critical Area mapping. Outlined in green on the attached map.
- Area B – This area has received growth allocation during the Somerset County's Critical Area Program was in effect. This area is outlined in 2.5 acres and 1.4 lots. Outlined in blue on attached map.

somewhat smaller than this since what the County approved included a substantial area of State tidal wetlands. The lot lines have since been changed to eliminate tidal wetlands from the lots. Colored in **pink** on attached map.

There are 27.3 acres remaining as RCA.

Most of the property is agricultural fields. Wildlife and Heritage has records of two rare plants *(Bidens coronata* and *Ammania latifolia)* documented in the vicinity of the project site, however, they are not known to occur on the project site. Since the project does not contain any proposals for fishing piers, it is not a concern at this time.

The roads going into and through the property have been taken over by the County and are paved.

Growth Allocation Policy

Development Envelope- It appears that all of the parcel will be deducted except for a contiguous area that is greater than 20 acres in size, and a small portion of RCA colored in yellow on the attached map. This small area of RCA is bordered by LDA on one side and tidal wetlands on the other. This was mapped as RCA during the original Critical Area Program development prior to the Commission's Growth Allocation Policy going into effect. The applicant has not provided a map showing all the boundaries that encompass this subdivision to make a final determination on this.

Parcel History – Portions of the parent parcel had been subdivided prior to December 1, 1985, resulting in thirteen lots totaling 28.53 acres. This area was originally mapped as LDA. During the interim period 31.25 acres of growth allocation were granted that created fourteen additional lots.

Area Deducted vs. Area Mapped – There are some mapping discrepancies that need to be rectified before this project is finalized. The County approved 34 acres of Growth Allocation that included portions of State tidal wetlands. Calculations should be done using the exact area that will be given Growth Allocation after these wetlands are taken out of the lots. This has been done on a map, but we do not have a new acreage figure. There are several places where the existing LDA/RCA boundary, on the most current site plan dated 6/27/01, do not exactly match other maps from the County. These discrepancies need to be resolved.

Site Features – Tidal wetlands have been identified and shown on the site plan. Rare plants have been identified in the project area, but are not a concern at this time.

The forest on the site has been shown on the site plan, but the acreage needs to be calculated. All areas of forest within the Buffer must be maintained. Any other forest that is cut for development must be replanted on site.

Buffer – A 300-ft Buffer is not possible on this site since the road is already in place and the lots would not be deep enough. The Buffer needs to be shown correctly on all of the lots and the County has agreed to ensure that the Buffer is properly delineated.

The 100-foot Buffer must be naturally vegetated in forest vegetation. This applies to all of the lots that are currently receiving growth allocation as well as those that are currently being reconfigured as a part of this proposal and not individually owned.

Adjacency – The areas that are proposed to receive growth allocation and go from RCA to LDA are both adjacent to LDA.

Recommended Conditions for Approval

1. A site plan needs to be provided that shows the entire parcel, clearly marking the areas that will remain as RCA. Acreage figures for each area must total the Critical Area acreage and be included on the plan. Commission staff will review the plan prior to recordation. Also needed are the existing forest cover, tidal wetlands, and the entire100-foot Buffer as determined from the edge of tidal wetlands.
2. The Buffer needs to be established in forest vegetation. Plat notes need to indicate that the Buffer will need to be established in forest vegetation and that any forest existing on a lot must be maintained or mitigation must be provided.
3. Calculations need to be provided for existing forest cover to determine if there is a minimum of 15% forest coverage on the site.

Add to #2 . . "and Deed restrictions"

Buffer – A 300-ft Buffer is not possible on this site since the road is already in place and the lots would not be deep enough. The Buffer needs to be shown correctly on all of the lots and the County has agreed to ensure that the Buffer is properly delineated.

The 100-foot Buffer must be naturally vegetated in forest vegetation. This applies to all of the lots that are currently receiving growth allocation as well as those that are currently being reconfigured as a part of this proposal and not individually owned.

Adjacency – The areas that are proposed to receive growth allocation and go from RCA to LDA are both adjacent to LDA.

Recommended Conditions for Approval

1. A site plan needs to be provided that shows the entire parcel, clearly marking the areas that will remain as RCA. Acreage figures for each area must total the Critical Area acreage and be included on the plan. Commission staff will review the plan prior to recordation. Also needed are the existing forest cover, tidal wetlands, and the entire 100-foot Buffer as determined from the edge of tidal wetlands.
2. The Buffer needs to be established in forest vegetation. Plat notes + deed restriction need to indicate that the Buffer will need to be established in forest vegetation and that any forest existing on a lot must be maintained or mitigation must be provided.
3. Calculations need to be provided for existing forest cover to determine if there is a minimum of 15% forest coverage on the site.

Chairman accepts amended recommendation – reconfirms requirement

Outline – SB 247 – Coastal Bays

Membership:

2 elected or appointed officials from Worcester County
1 from Chesapeake Bay watershed
1 from Coastal Bays watershed
1 private citizen from the Coastal Bays watershed

Advisory Committee

Commission may establish, to make recommendations re: Coastal Bays; members of Commission who reside in Coastal Bays watershed shall serve on any Committee.

April 17, 2001

Established date for (1) a parcel of land on record for allowable intrafamily transfers; (2) impervious surface limitations (25% v. 15%); (3) date for classification of land areas (IDA, LDA, RCA); and (4) "grandfather date" (approved subdivision after this date must conform to critical area law or count against growth allocation).

June 1, 2002

In approving applications for plat or subdivision approval completed after this date, local jurisdiction must make specific findings that the proposed development will minimize impacts to water quality and wildlife habitat.

Program Approval Date

Program established on or before September 29, 2002.
Lots of record on date of program approval shall conform to program as far as possible.

Additional Requirements

To meet the 10% pollutant loading reduction requirement, use bioretention and other nonstructural measures for redevelopment in intensely developed areas where the cost of redevelopment exceeds 50% of the property's assessed value, unless the applicant demonstrates that use of such measures is not feasible.

Forest cover of 15% in IDAs after development or a fee-in-lieu payment

Critical area buffer requirements up through the watershed.

25-foot limit on piers over state and private vegetated wetlands.

SENATE BILL 247

M1 21r0185
CF 21r0186

By: **The President (Administration)**
Introduced and read first time: January 18, 2002
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Atlantic Coastal Bays Protection Act

FOR the purpose of preserving, protecting, and improving the water quality and natural habitats of the Atlantic Coastal Bays and certain tributaries and streams by designating certain lands and waters as critical areas that require especially sensitive consideration with regard to development; making certain legislative findings; renaming the Chesapeake Bay Critical Area Commission to be the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays; defining certain terms; adding members representing the Atlantic Coastal Bays watershed to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays; authorizing the Commission to establish a certain Advisory Committee; designating certain areas of lands and waters to be included in the Atlantic Coastal Bays Critical Area, subject to exclusion of certain types of land after certain findings are made; requiring that every part of the Atlantic Coastal Bays Critical Area be subject to an approved critical area protection program by a certain date; requiring the Governor of Maryland to include a certain amount of funds in the budget for certain purposes of this Act; requiring each local jurisdiction under this Act to submit certain information to the Commission on or before a certain date; requiring certain public hearings during program development by a local jurisdiction and during program development or approval by the Commission; requiring that a local jurisdiction review its program within a certain time period and providing that within that certain time period, certain changes may only be made under certain circumstances; requiring certain local authorities to make certain findings relative to certain applications for certain land use approvals after a certain date and prior to an approved program becoming effective; requiring certain local jurisdictions to permit certain uses of land in the Atlantic Coastal Bay Critical Area under certain circumstances; prohibiting certain extensions of improvements under certain circumstances; requiring a certain local jurisdiction to include certain provisions regarding land use in the critical area and certain tributaries of the Atlantic Coastal Bays; and generally relating to establishment and enforcement of a comprehensive State and local resource management program for certain land areas critical to the quality and productivity of the tidal waters of the Atlantic Coastal Bays and its tributaries.

BY repealing and reenacting, with amendments,

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

Article – Natural Resources
Section 8–1801, 8–1802, 8–1803, 8–1804, 8–1806, 8–1807, 8–1808, 8–1808.1, 8–1808.2, 8–1808.3, 8–1809, 8–1810, 8–1811(a), 8–1812(a), 8–1813, 8–1815.1, and 8–1817
Annotated Code of Maryland
(2000 Replacement Volume and 2001 Supplement)

BY adding to
Article – Natural Resources
Section 8–1808.8 and 8–1813.1
Annotated Code of Maryland
(2000 Replacement Volume and 2001 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 16–201 and 16–304
Annotated Code of Maryland
(1996 Replacement Volume and 2001 Supplement)

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

Article – Natural Resources

8–1801.

(a) The General Assembly finds and declares that:

(1) The Chesapeake [Bay and its] AND THE ATLANTIC COASTAL BAYS AND THEIR tributaries are natural resources of great significance to the State and the nation;

(2) The shoreline and adjacent lands constitute a valuable, fragile, and sensitive part of this estuarine system, where human activity can have a particularly immediate and adverse impact on water quality and natural habitats;

(3) The capacity of these shoreline and adjacent lands to withstand continuing demands without further degradation to water quality and natural habitats is limited;

(4) National studies have documented that the quality and productivity of the waters of the Chesapeake Bay and its tributaries have declined due to the cumulative effects of human activity that have caused increased levels of pollutants, nutrients, and toxics in the Bay System and declines in more protective land uses such as forestland and agricultural land in the Bay region;

(5) Those portions of the Chesapeake [Bay and its] AND THE ATLANTIC COASTAL BAYS AND THEIR tributaries within Maryland are particularly stressed by the continuing population growth and development activity concentrated in the Baltimore–Washington metropolitan corridor AND ALONG THE ATLANTIC COAST;

(6) The quality of life for the citizens of Maryland is enhanced through the restoration of the quality and productivity of the waters of the Chesapeake [Bay and its] AND THE ATLANTIC COASTAL BAYS, AND THEIR tributaries;

(7) The restoration of the Chesapeake [Bay and its] AND THE ATLANTIC COASTAL BAYS AND THEIR tributaries is dependent, in part, on minimizing further adverse impacts to the water quality and natural habitats of the shoreline and adjacent lands;

(8) The cumulative impact of current development is inimical to these purposes; and

(9) There is a critical and substantial State interest for the benefit of current and future generations in fostering more sensitive development activity in a consistent and uniform manner along shoreline areas of the Chesapeake [Bay and its] AND THE ATLANTIC COASTAL BAYS AND THEIR tributaries so as to minimize damage to water quality and natural habitats.

(b) It is the purpose of the General Assembly in enacting this subtitle:

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

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

8–1802.

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

(2) "ATLANTIC COASTAL BAYS" MEANS THE ASSAWOMAN, ISLE OF WIGHT, SINEPUXENT, NEWPORT, AND CHINCOTEAGUE BAYS.

(3) "ATLANTIC COASTAL BAYS CRITICAL AREA" MEANS THE INITIAL PLANNING AREA IDENTIFIED UNDER § 8–1807 OF THIS SUBTITLE.

(4) "CHESAPEAKE BAY CRITICAL AREA" MEANS THE INITIAL PLANNING AREA IDENTIFIED UNDER § 8–1807 OF THIS SUBTITLE.

[(2)] (5) "Commission" means the [Chesapeake Bay] Critical Area Commission FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS established in this subtitle.

(6) "CRITICAL AREA" MEANS THE CHESAPEAKE BAY CRITICAL AREA AND THE ATLANTIC COASTAL BAYS CRITICAL AREA.

[(3)] (7) "Development" means any activity that materially affects the condition or use of dry land, land under water, or any structure.

[(4)] (8) "Growth allocation" means the number of acres of land in the Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA that a local jurisdiction may use to create new intensely developed areas and new limited development areas.

[(5)] (9) "Includes" means includes or including by way of illustration and not by way of limitation.

[(6)] (10) "Land classification" means the designation of land in the Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in accordance with the criteria adopted by the Commission as an intensely developed area or district, a limited development area or district, or a resource conservation area or district.

[(7)] (11) "Local jurisdiction" means a county, or a municipal corporation with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA, as defined in this subtitle, is located.

[(8)] (12) (i) "Program" means the critical area protection program of a local jurisdiction.

(ii) "Program" includes any amendments to the program.

[(9)] (13) (i) "Program amendment" means any change to an adopted program that the Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA in a manner not provided for in the adopted program.

(ii) "Program amendment" includes a change to a zoning map that is not consistent with the method for using the growth allocation contained in an adopted program.

[(10)] (14) (i) "Program refinement" means any change to an adopted program that the Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA in a manner consistent with the adopted program.

(ii) "Program refinement" includes:

1. A change to a zoning map that is consistent with the development area designation of an adopted program; and

2. The use of the growth allocation in accordance with an adopted program.

[(11)] (15) (i) "Project approval" means the approval of development, other than development by a State or local government agency, in the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA by the appropriate local approval authority.

(ii) "Project approval" includes:

1. Approval of subdivision plats and site plans;

2. Inclusion of areas within floating zones;

3. Issuance of variances, special exceptions, and conditional use permits; and

4. Approval of rezoning.

(iii) "Project approval" does not include building permits.

(b) Wherever this subtitle requires Prince George's County to exercise any power or authority Prince George's County shares with the Maryland–National Capital Park and Planning Commission, the obligation imposed by this subtitle rests on both the county and the Maryland–National Capital Park and Planning Commission in accordance with their respective powers and authorities.

8–1803.

(a) There is a [Chesapeake Bay] Critical Area Commission FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS in the Department.

(b) The Secretary has no authority under Title 1 of this article:

(1) To approve, alter, or amend the policies or programs of the Commission;

(2) To transfer, assign, or reassign statutory functions or activities to or from the Commission; or

(3) To adopt, approve, or revise regulations of the Commission.

8–1804.

(a) The Commission consists of [27] 29 voting members who are appointed by the Governor, as follows:

(1) A full–time chairman, appointed with the advice and consent of the Senate, who shall serve at the pleasure of the Governor;

(2) [11] 13 individuals, appointed with the advice and consent of the Senate, each of whom is a resident and an elected or appointed official of a local jurisdiction. At least 1 of these [11]13 individuals must be an elected or appointed official of a municipality. These individuals shall serve on the Commission only while they hold local office. Each shall be selected from certain counties or from municipalities within the counties as follows, and only after the Governor has consulted with elected county and municipal officials:

(i) 1 from each of Baltimore City and Anne Arundel, Baltimore, and Prince George's counties;

(ii) 1 from Harford County or Cecil County;

(iii) 1 from Kent County or Queen Anne's County;

(iv) 1 from Caroline County [or Worcester County];

(v) 1 from Talbot County or Dorchester County;

(vi) 1 from Wicomico County or Somerset County; [and]

(vii) 2 from Calvert County, Charles County, or St. Mary's County, both of whom may not be from the same county; AND

(VIII) 2 FROM WORCESTER COUNTY, 1 OF WHOM SHALL BE A RESIDENT OF THE CHESAPEAKE BAY WATERSHED AND THE OTHER OF WHOM SHALL BE A RESIDENT OF THE ATLANTIC COASTAL BAYS WATERSHED;

(3) 8 individuals, appointed with the advice and consent of the Senate, who shall represent diverse interests, and among whom shall be a resident from each of the [6] 5 counties that are listed and from which an appointment has not been made under paragraph (2) of this subsection and [2] 3 of the 8 members appointed under this item shall be at large members, 1 OF WHOM SHALL BE A PRIVATE CITIZEN AND RESIDENT OF THE ATLANTIC COASTAL BAYS WATERSHED; and

(4) The Secretaries of Agriculture, Business and Economic Development, Housing and Community Development, the Environment, Transportation, [and] Natural Resources, and [the Director of] Planning, ex officio, or the designee of the Secretaries [or the Director].

(b) A member of the Commission who does not hold another office of profit at the State or local level shall be entitled to compensation as provided in the budget. Members of the Commission shall be entitled to reimbursement for expenses as provided in the budget.

(c) Except for the chairman and ex officio State officers or their representatives:

(1) The term of a member is 4 years;

(2) The terms of members are staggered as required by the terms provided for members of the Commission on July 1, 1984;

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies;

(4) A member who is appointed after a term is begun serves for the rest of the term and until a successor is appointed and qualifies;

(5) A member may serve no more than 2 terms; and

(6) Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the nonattendance with the statement of the nonattendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public.

(d) If a vacancy arises other than by the expiration of a term, the Governor shall appoint within 30 days, with the advice and consent of the Senate, a successor of like qualification to serve the remainder of the term.

(e) (1) A quorum of the Commission consists of 1 member more than a majority of the full authorized membership of the Commission.

(2) A quorum of a panel of the Commission consists of 3 members.

(3) The Commission or a panel of the Commission may not hold a public hearing unless a quorum is present.

(4) The Commission or a panel of the Commission may not take any official action unless:

(i) A quorum is present; and

(ii) A majority of the members who are present and eligible to vote concur in or vote for the action.

8–1806.

(A) The Commission has all powers necessary for carrying out the purposes of this subtitle, including the following:

(1) To adopt regulations and criteria in accordance with Title 2, Subtitle 5 (Joint Committee on Administrative, Executive and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article;

(2) To conduct hearings in connection with policies, proposed programs, and proposed regulations or amendments to regulations; [and]

(3) To contract for consultant or other services; AND

(4) TO ESTABLISH AN ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS TO THE COMMISSION WITH RESPECT TO ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAMS.

(B) THE MEMBERS OF THE COMMISSION WHO RESIDE IN THE ATLANTIC COASTAL BAYS WATERSHED SHALL SERVE ON ANY COMMITTEE ESTABLISHED UNDER SUBSECTION (A)(4) OF THIS SECTION.

8–1807.

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

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article; and

(2) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title [9] 16 of the Environment Article.

(B) THE INITIAL PLANNING AREA FOR DETERMINATION OF THE ATLANTIC COASTAL BAYS CRITICAL AREA CONSISTS OF:

(1) ALL WATERS OF AND LANDS UNDER THE COASTAL BAYS AND THEIR TRIBUTARIES TO THE HEAD OF TIDE AS INDICATED ON THE STATE WETLANDS MAPS, AND ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE ENVIRONMENT ARTICLE; AND

(2) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES DESIGNATED UNDER TITLE 16 OF THE ENVIRONMENT ARTICLE.

[(b)] (C) (1) (i) In determining the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA within its boundaries, a local jurisdiction may exclude those portions of the planning area designated in subsection (a) OR (B) of this section which the local jurisdiction finds to be:

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

2. Located at least 1,000 feet from open water and separated from open water by an area of wetlands which it is found will serve to protect tidal

water quality and fish, wildlife, or plant habitats from adverse impacts of development in the excluded area.

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

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

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

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

(ii) Arbitrary or capricious.

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

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

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

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

(E) THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL CONSIST OF:

(1) THOSE AREAS DESIGNATED IN SUBSECTION (B) OF THIS SECTION, EXCEPT ANY AREAS EXCLUDED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION; AND

(2) ADDITIONAL AREAS PROPOSED FOR INCLUSION BY LOCAL JURISDICTIONS AND APPROVED BY THE COMMISSION.

8–1808.

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

(2) (I) The Governor shall include in the budget a sum of money to be used for grants to reimburse local jurisdictions for the reasonable costs of developing a program under this section.

(II) Each local jurisdiction shall submit to the Governor by October 31, 1984 a detailed request for funds that are equivalent to the additional costs incurred in developing the program under this section.

(III) THE GOVERNOR SHALL INCLUDE IN THE FISCAL YEAR 2003 BUDGET A SUM OF MONEY TO BE USED FOR GRANTS TO REIMBURSE LOCAL JURISDICTIONS IN THE ATLANTIC COASTAL BAYS CRITICAL AREA FOR THE REASONABLE COSTS OF DEVELOPING A PROGRAM UNDER THIS SECTION.

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

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

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

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

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

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

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

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

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

(i) Subdivision regulations;

(ii) Comprehensive or master plan;

(iii) Zoning ordinances or regulations;

(iv) Provisions relating to enforcement; and

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

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

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

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

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

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

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

(10) Provisions requiring that all harvesting of timber in the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA be in accordance with plans approved by the district forestry board;

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

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

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

(i) Harford, Cecil, and Kent counties;

(ii) Queen Anne's, Talbot, and Caroline counties;

(iii) Dorchester, Somerset, and Wicomico counties;

(iv) Baltimore City and Baltimore County;

(v) Charles, Calvert, and St. Mary's counties; and

(vi) Anne Arundel and Prince George's counties.

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

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

(F) THE PROVISIONS OF THIS SUBTITLE AND TITLE 27 OF THE CODE OF MARYLAND REGULATIONS APPLY TO THE ATLANTIC COASTAL BAYS CRITICAL AREA.

8–1808.1.

(a) This section is intended to establish conditions for development in the Chesapeake Bay Critical Area AND THE ATLANTIC COASTAL BAYS CRITICAL AREA in addition to those established in criteria of the Commission. However, in the event of any inconsistency between the criteria and the provisions of this section, this section shall control.

(b) The growth allocation for a local jurisdiction shall be calculated based on 5 percent of the total resource conservation area in [the] A local jurisdiction:

(1) IN THE CHESAPEAKE BAY CRITICAL AREA at the time of the original approval of the local jurisdiction's program by the Commission, not including tidal wetlands or land owned by the federal government; OR

(2) IN THE ATLANTIC COASTAL BAYS CRITICAL AREA AT THE TIME OF THE ORIGINAL APPROVAL OF THE LOCAL JURISDICTION'S PROGRAM BY THE COMMISSION, NOT INCLUDING TIDAL WETLANDS OR LAND OWNED BY THE FEDERAL GOVERNMENT.

(c) When locating new intensely developed or limited development areas, local jurisdictions shall use the following guidelines:

(1) New intensely developed areas should be located in limited development areas or adjacent to existing intensely developed areas;

(2) New limited development areas should be located adjacent to existing limited development areas or intensely developed areas;

(3) Except as provided in paragraph (5) of this subsection, no more than one–half of the expansion allocated in the criteria of the Commission may be located in resource conservation areas;

(4) New intensely developed or limited development areas to be located in the resource conservation area shall conform to all criteria of the Commission for intensely developed or limited development areas and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with § 8–1809(g) of this subtitle; and

(5) In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the county is unable to utilize a portion of the growth allocated to the county in paragraphs (1) and (2) of this subsection within or adjacent to existing intensely developed or limited development areas as demonstrated in the local plan approved by the Commission, then that portion of the allocated expansion which cannot be so located may be located in the resource conservation area in addition to the expansion allocated in paragraph (3) of this subsection. A developer shall be required to cluster any development in an area of expansion authorized under this paragraph.

(D) (1) THE GROWTH ALLOCATION FOR A LOCAL JURISDICTION BASED ON 5% OF THE TOTAL RESOURCE CONSERVATION AREA IN THE CHESAPEAKE BAY CRITICAL AREA IN A LOCAL JURISDICTION IN THE CHESAPEAKE BAY CRITICAL AREA UNDER SUBSECTION (C)(5) OF THIS SECTION SHALL BE UTILIZED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.

(2) THE GROWTH ALLOCATION FOR A LOCAL JURISDICTION BASED ON 5% OF THE TOTAL RESOURCE CONSERVATION AREA IN THE ATLANTIC COASTAL BAYS CRITICAL AREA IN A LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA UNDER (C)(5) OF THIS SECTION SHALL BE UTILIZED WITHIN THE ATLANTIC COASTAL BAYS CRITICAL AREA.

[(d)] (E) In calculating the 1–in–20 acre density of development that is permitted on a parcel located within the resource conservation area, a local jurisdiction may permit the area of any private wetlands located on the property to be included, under the following conditions:

(1) The density of development on the upland portion of the parcel may not exceed 1 dwelling unit per 8 acres; and

(2) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps.

8–1808.2.

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

(2) "Bona fide intrafamily transfer" means a transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

(3) "Immediate family" means a father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

(b) Notwithstanding density limitations established in criteria of the Commission, as part of its local program, a local jurisdiction may submit provisions by which an owner of a parcel of land in the resource conservation area may be permitted to make bona fide intrafamily transfers.

(c) If a local jurisdiction includes provisions for bona fide intrafamily transfers as part of its local program, the local jurisdiction shall permit a bona fide intrafamily transfer to be made only from parcels of land that:

(1) Were of record on March 1, 1986 IN THE CHESAPEAKE BAY CRITICAL AREA OR ON APRIL 17, 2001 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA; and

(2) Are 7 acres or more and less than 60 acres in size.

(d) A bona fide intrafamily transfer from a parcel of land shall be a subdivision of the parcel of land that is subject to local approval under the "Subdivision Control" subtitle of Article 66B of the Code, under Title 7 of Article 28 of the Code, or under any subdivision control provisions of a charter county.

(e) (1) A local jurisdiction:

(i) May approve the subdivision of a parcel of land into the number of lots indicated in this subsection by means of a bona fide intrafamily transfer; and

(ii) May not approve any greater subdivision of the parcel of land or any portion of the parcel of land.

(2) A parcel that is 7 acres or more and less than 12 acres in size may be subdivided into 2 lots.

(3) A parcel that is 12 acres or more and less than 60 acres in size may be subdivided into 3 lots. The lots may be created at different times.

(f) (1) As a condition of approval, a local jurisdiction shall require that:

(i) Any deed for a lot that is created by a bona fide intrafamily transfer shall contain a covenant stating that the lot is created subject to the provisions of this section; and

(ii) A lot created by a bona fide intrafamily transfer may not be conveyed subsequently to any person other than a member of the owner's immediate family, except under procedures established pursuant to subsection (g) of this section.

(2) This subsection does not prevent the conveyance of the lot to a third party as security for a mortgage or deed of trust.

(g) If a local jurisdiction includes provisions for bona fide intrafamily transfers as part of the local jurisdiction's local program, the local jurisdiction shall establish standards and procedures, subject to the approval of the Commission, by which the

local jurisdiction will permit the subsequent conveyance of lots to persons other than immediate family members. The standards and procedures shall assure that:

(1) The lot was created as part of a bona fide intrafamily transfer and not with the intent of subdividing the original parcel of land for purposes of ultimate commercial sale; and

(2) (i) A change in circumstances has occurred since the original transfer was made that is not inconsistent with this subtitle and that warrants an exception; or

(ii) Other circumstances that are consistent with this subtitle and with the Commission's criteria to maintain land areas necessary to support the protective uses of agriculture, forestry, open space, and natural habitats in resource conservation areas warrant an exception.

8–1808.3.

(a) This section applies notwithstanding:

(1) Any other provision of this subtitle; or

(2) Any criteria or guideline of the Commission adopted under this subtitle.

(b) This section controls over any other requirement concerning impervious surfaces limitations in limited development areas and resource conservation areas in the critical area.

(c) On or before December 31, 1996, a local jurisdiction shall amend its local critical area protection program to meet the provisions of this section.

(d) (1) Except as otherwise provided in this subsection for stormwater runoff, man–made impervious surfaces are limited to 15% of a parcel or lot.

(2) If a parcel or lot one–half acre or less in size existed on or before December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR ON OR BEFORE APRIL 17, 2001 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, then man–made impervious surfaces are limited to 25% of the parcel or lot.

(3) If a parcel or lot greater than one–half acre and less than one acre in size existed on or before December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR ON OR BEFORE APRIL 17, 2001 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, then man–made impervious surfaces are limited to 15% of the parcel or lot.

(4) If an individual lot 1 acre or less in size is part of a subdivision approved after December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR AFTER APRIL 17, 2001 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, then man–made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15%.

(e) This section does not apply to a trailer park that was in residential use on or before December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR ON OR BEFORE APRIL 17, 2001 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA.

(f) A local jurisdiction may allow a property owner to exceed the impervious surface limits provided in subsection (d)(2) and (3) of this section if the following conditions exist:

(1) New impervious surfaces on the property have been minimized;

(2) For a lot or parcel one–half acre or less in size, total impervious surfaces do not exceed impervious surface limits in subsection (d)(2) of this section by more than 25% or 500 square feet, whichever is greater;

(3) For a lot or parcel greater than one–half acre and less than one acre in size, total impervious surfaces do not exceed impervious surface limits in subsection (d)(3) of this section or 5,445 square feet, whichever is greater;

(4) Water quality impacts associated with runoff from the new impervious surfaces can be and have been minimized through site design considerations or use of best management practices approved by the local jurisdiction to improve water quality; and

(5) The property owner performs on–site mitigation as required by the local jurisdiction to offset potential adverse water quality impacts from the new impervious surfaces, or the property owner pays a fee to the local jurisdiction in lieu of performing the on–site mitigation.

(g) All fees collected by a local jurisdiction under subsection (f)(5) of this section must be used to fund projects that improve water quality within the critical area consistent with the jurisdiction's local critical area protection program.

(h) A local jurisdiction may grant a variance from the provisions of this section in accordance with regulations adopted by the Commission concerning variances as part of local program development set forth in COMAR 27.01.11 and notification of project applications set forth in COMAR 27.03.01.

8–1808.8.

(A) EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL INCLUDE THE FOLLOWING ELEMENTS IN THE JURISDICTION'S LOCAL CRITICAL AREA PROTECTION PROGRAM:

(1) A PROVISION REQUIRING THE USE OF BIORETENTION AND OTHER NONSTRUCTURAL STORMWATER BEST MANAGEMENT PRACTICES FOR REDEVELOPMENT IN INTENSELY DEVELOPED AREAS WHERE THE COST OF REDEVELOPMENT EXCEEDS 50% OF THE ASSESSED VALUE OF THE PROPERTY, UNLESS THE APPLICANT FOR PROJECT APPROVAL DEMONSTRATES THAT USE OF SUCH MEASURES IS NOT FEASIBLE;

(2) A PROVISION REQUIRING AN APPLICANT FOR PROJECT APPROVAL WHO IS NOT SUBJECT TO THE PROVISIONS OF ITEM (1) OF THIS SUBSECTION OR WHO DEMONSTRATES THAT USE OF THE MEASURES SPECIFIED IN ITEM (1) OF THIS SECTION ARE NOT FEASIBLE SHALL COMPLY WITH THE STORMWATER MANAGEMENT PROVISIONS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS AND TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE;

(3) PROVISIONS REQUIRING PROPOSED DEVELOPMENT SITES IN INTENSELY DEVELOPED AREAS TO PROVIDE A FOREST OR DEVELOPED WOODLAND COVER OF AT LEAST 15% AFTER DEVELOPMENT OR A FEE–IN–LIEU PAYMENT IF THE FEE IS ADEQUATE TO ENSURE THE RESTORATION OR ESTABLISHMENT OF AN EQUIVALENT FOREST AREA; AND

(4) A PROVISION APPLYING THE BUFFER REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS TO TRIBUTARY STREAMS LOCATED OUTSIDE THE CRITICAL AREA AND WITHIN THE ATLANTIC COASTAL BAYS WATERSHED THAT ARE NOTED AS PERENNIAL AND INTERMITTENT STREAMS IN THE ATLANTIC COASTAL BAYS WATERSHED WHICH ARE SO NOTED ON THE MOST RECENT U.S. GEOLOGICAL SURVEY 7–1/2 MINUTE TOPOGRAPHIC QUADRANGLE MAPS (SCALE 1:24,000) OR ON MORE DETAILED MAPS OR STUDIES AT THE DISCRETION OF THE LOCAL JURISDICTIONS.

(B) THE PROVISIONS UNDER SUBSECTION (A) OF THIS SECTION SHALL BE IN ADDITION TO THE STORMWATER MANAGEMENT REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS AND TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE.

8–1809.

(a) (1) Within 45 days after the criteria adopted by the Commission under § 8–1808 of this subtitle become effective, each local jurisdiction shall submit to the Commission a written statement of its intent either:

[(1)] (I) To develop a critical area protection program to control the use and development of that part of the Chesapeake Bay Critical Area located within its territorial limits; or

[(2)] (II) Not to develop such a program.

(2) ON OR BEFORE JULY 15, 2002, EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL SUBMIT TO THE COMMISSION A WRITTEN STATEMENT OF ITS INTENT EITHER:

(I) TO DEVELOP A CRITICAL AREA PROTECTION PROGRAM TO CONTROL THE USE AND DEVELOPMENT OF THAT PART OF THE ATLANTIC COASTAL BAYS CRITICAL AREA LOCATED WITHIN ITS TERRITORIAL LIMITS; OR

(II) NOT TO DEVELOP SUCH A PROGRAM.

(b) If a local jurisdiction states the local jurisdiction's intent not to develop a program or fails to submit a timely statement of intent, the Commission shall prepare and adopt a program for the part of the Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in that local jurisdiction.

(c) (1) If a local jurisdiction states the local jurisdiction's intent to develop a CHESAPEAKE BAY CRITICAL AREA program, the local jurisdiction shall prepare a proposed program and submit the program to the Commission within 270 days after the effective date of the criteria adopted under § 8–1808 of this subtitle. However, if the local jurisdiction submits evidence satisfactory to the Commission that the local jurisdiction is making reasonable progress in the development of a program, the Commission may extend this period for up to an additional 180 days. Before submission of a program to the Commission within the time allowed by this subsection, a local jurisdiction shall hold at least 1 public hearing on the proposed program, for which 2 weeks notice shall be published in a newspaper of general circulation in the local jurisdiction.

(2) IF A LOCAL JURISDICTION STATES THE LOCAL JURISDICTION'S INTENT TO DEVELOP AN ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM, THE LOCAL JURISDICTION SHALL PREPARE A PROPOSED PROGRAM MEETING THE REQUIREMENTS OF THE CRITERIA ADOPTED UNDER § 8–1808 OF THIS SUBTITLE AND SUBMIT THE PROGRAM TO THE COMMISSION ON OR BEFORE JANUARY 1, 2003. HOWEVER, IF THE LOCAL JURISDICTION SUBMITS EVIDENCE SATISFACTORY TO THE COMMISSION THAT THE LOCAL JURISDICTION IS MAKING REASONABLE PROGRESS IN THE DEVELOPMENT OF A PROGRAM, THE COMMISSION MAY EXTEND THIS PERIOD FOR UP TO AN ADDITIONAL 30 DAYS. BEFORE SUBMISSION OF A PROGRAM TO THE COMMISSION WITHIN THE TIME ALLOWED BY THIS SUBSECTION, A LOCAL JURISDICTION SHALL HOLD AT LEAST 1 PUBLIC HEARING ON THE PROPOSED PROGRAM, FOR WHICH 2 WEEKS' NOTICE SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL JURISDICTION.

(d) (1) Within 30 days after a program is submitted, the Commission shall appoint a panel of 5 of its members to conduct, in the affected jurisdiction, a public hearing on the proposed program.

(2) (I) Within 90 days after the Commission receives a proposed CHESAPEAKE BAY CRITICAL AREA program from a local jurisdiction, the Commission shall approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither, the proposal shall be deemed approved.

(II) WITHIN 60 DAYS AFTER THE COMMISSION RECEIVES A PROPOSED ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM FROM A LOCAL JURISDICTION, THE COMMISSION SHALL APPROVE THE PROPOSAL OR NOTIFY THE LOCAL JURISDICTION OF SPECIFIC CHANGES THAT MUST BE MADE IN ORDER FOR THE PROPOSAL TO BE APPROVED. IF THE COMMISSION DOES NEITHER, THE PROPOSAL SHALL BE DEEMED APPROVED.

(3) A changed proposal shall be submitted to the Commission in the same manner as the original proposal, within 40 days after the Commission's notice. Unless the Commission approves a changed proposal or disapproves a changed proposal and states in writing the reasons for the Commission's disapproval within 40 days, the changed proposal shall be deemed approved.

(e) Within 90 days after the Commission approves a proposed CHESAPEAKE BAY CRITICAL AREA program OR A PROPOSED ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM, the local jurisdiction shall hold hearings and adopt the program in accordance with legislative procedures for enacting ordinances. If the governing body of the local jurisdiction wishes to change any part of the approved proposal before adoption, the governing body shall submit the proposed change to the Commission for approval. Unless the Commission approves the change or disapproves the change and states in writing the reasons for the Commission's disapproval within 30 days after the Commission receives the change, the change shall be deemed approved. A changed part may not be adopted until the changed part is approved by the Commission.

(f) (1) Within 760 days after criteria adopted by the Commission become effective, there shall be in effect throughout the Chesapeake Bay Critical Area programs approved or adopted by the Commission.

(2) ON OR BEFORE SEPTEMBER 29, 2003, THERE SHALL BE IN EFFECT THROUGHOUT THE ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAMS APPROVED OR ADOPTED BY THE COMMISSION.

(g) Each local jurisdiction shall review its entire program and propose any necessary amendments to its entire program, including local zoning maps, at least every 4 years beginning with the 4–year anniversary of the date that the program became effective and every 4 years after that date. Each local jurisdiction shall send in writing to the Commission, within 60 days after each 4–year anniversary, the following information:

(1) A statement certifying that the required review has been accomplished;

(2) Any necessary requests for program amendments, program refinements, or other matters that the local jurisdiction wishes the Commission to consider;

(3) An updated resource inventory; and

(4) A statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining.

(h) (1) As often as necessary but not more than 4 times per calendar year, each local jurisdiction may propose program amendments and program refinements to its adopted program.

(2) (i) Except for program amendments or program refinements developed during program review under subsection (g) of this section, a zoning map

amendment may be granted by a local approving authority only on proof of a mistake in the existing zoning.

(ii) The requirement in paragraph (2)(i) of this subsection that a zoning map amendment may be granted only on proof of a mistake does not apply to proposed changes to a zoning map that:

1. Are wholly consistent with the land classifications in the adopted program; or

2. Propose the use of a part of the remaining growth allocation in accordance with the adopted program.

(i) A program may not be amended except with the approval of the Commission.

(j) The Commission shall approve programs and program amendments that meet:

(1) The standards set forth in § 8–1808(b)(1) through (3) of this subtitle; and

(2) The criteria adopted by the Commission under § 8–1808 of this subtitle.

(k) Copies of each approved program, as the program is amended or refined from time to time, shall be maintained by the local jurisdiction and the Commission in a form available for public inspection.

(l) (1) If the Commission determines that an adopted program contains a clear mistake, omission, or conflict with the criteria or law, the Commission may:

(i) Notify the local jurisdiction of the specific deficiency; and

(ii) Request that the jurisdiction submit a proposed program amendment or program refinement to correct the deficiency.

(2) Within 90 days after being notified of any deficiency under paragraph (1) of this subsection, the local jurisdiction shall submit to the Commission, as program amendments or program refinements, any proposed changes that are necessary to correct those deficiencies.

(3) Local project approvals granted under a part of a program that the Commission has determined to be deficient shall be null and void after notice of the deficiency.

(m) (1) The Commission may adopt regulations that prescribe the procedures and information requirements for program amendments and program refinements.

(2) In the absence of regulations under paragraph (1) of this subsection, a local jurisdiction may propose changes to adopted programs. Within 10 working days of receiving a proposal under this paragraph, the Commission shall:

(i) Mail a notification to the local jurisdiction that the proposal has been accepted for processing; or

(ii) Return the proposal as incomplete.

(n) A local jurisdiction may specify whether it intends a proposed change to be a program amendment or program refinement. However, the Commission shall treat a proposed change as a program amendment unless the chairman determines that the proposed change is a program refinement.

(o) (1) For proposed program amendments, a Commission panel shall hold a public hearing in the local jurisdiction, and the Commission shall act on the proposed program amendment within 90 days of the Commission's acceptance of the proposal. If action by the Commission is not taken within 90 days, the proposed program amendment is deemed approved.

(2) The local jurisdiction shall incorporate the approved program amendment into the adopted program within 120 days of receiving notice from the Commission that the program amendment has been approved.

(p) (1) Proposed program refinements shall be determined as provided in this subsection.

(2) (i) Within 30 days of the Commission's acceptance of a proposal to change an adopted program, the chairman, on behalf of the Commission, may determine that the proposed change is a program refinement. Immediately upon making a determination under this paragraph, the chairman shall notify the Commission of that determination.

(ii) If a proposed change that was specifically submitted as a program refinement is not acted on by the chairman within the 30–day period, the Commission shall notify the appropriate local jurisdiction that the proposed change has been deemed to be a program amendment.

(3) (i) The Commission may vote to override the chairman's determination only at the first Commission meeting where a quorum is present following the chairman's determination.

(ii) If the chairman's determination is overridden, the proposed change is deemed a program amendment, which shall be decided by the Commission in accordance with the procedures for program amendments provided in this section, except that the Commission shall act on the program amendment within 60 days after a vote to override the chairman.

(iii) If the chairman's determination is not overridden, within 10 working days after the opportunity to override the chairman's decision under item (i) of this paragraph, the chairman, on behalf of the Commission, shall:

1. Approve the proposed program refinement and notify the local jurisdiction;

2. Deny the program refinement; or

3. Send the proposed program refinement back to the local jurisdiction with a list of specific changes to be made.

(iv) Within 10 working days of receiving a changed program refinement changed in accordance with item (iii)3 of this paragraph, the chairman shall approve or deny the program refinement.

(4) A local jurisdiction shall incorporate an approved program refinement into its adopted program within 120 days of receiving notice from the chairman that the program refinement has been approved.

(q) As necessary, a local jurisdiction may combine any or all proposed program amendments or program refinements required for a specific project approval into a single request to the Commission for program amendment, program refinement, or both. Approval by the Commission of a program amendment, program refinement, or both does not affect the Commission's authority to receive notice of or intervene in a project approval that was not specifically approved by the Commission as part of its approval of a program amendment or program refinement.

(r) Within 6 months after the adoption of amended criteria, a local jurisdiction shall send to the Commission:

(1) Proposed program amendments or program refinements that address the amended criteria; or

(2) A statement describing how the adopted program conforms to the amended criteria and certifying that the adopted program is consistent with the amended criteria.

(s) If the Commission adopts a regulation concerning the use of the growth allocation, any use of the growth allocation must be in accordance with that regulation for the change to be considered a program refinement.

8–1810.

(a) If a local jurisdiction fails to notify the Commission that the local jurisdiction will develop a program, fails to submit a proposed program or changed proposal on time, or fails to obtain Commission approval of a proposed program or changed proposal that is submitted, the Commission shall prepare and adopt a program that satisfies the criteria adopted under § 8–1808 of this subtitle for the part

of the Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in that local jurisdiction.

(b) Where a local jurisdiction failed to adopt or obtain Commission approval of a program, the Commission shall adopt a program for that jurisdiction by adopting regulations in accordance with Title 2, Subtitle 5 (Joint Committee on Administrative, Executive, and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State Government article. Before the full Commission adopts a program under this subsection, the Commission shall appoint a panel of 3 of the Commission's members to conduct in the affected jurisdiction at least 2 public hearings at least 10 days apart on the proposed program, for which 2 weeks notice shall be published in a newspaper of general circulation in the local jurisdiction. A program adopted by the Commission under this subsection shall supersede any inconsistent local laws, ordinances, or plans.

(c) If the Commission adopts a program for a local jurisdiction, the program shall be implemented and enforced by local authorities in the same manner as if the program had been adopted by the local jurisdiction itself.

(d) If, at any time after the Commission has adopted a program for a local jurisdiction, the local jurisdiction submits an alternative program of its own that satisfies the criteria adopted under § 8–1808 this subtitle and is approved by the Commission, the alternative program supersedes the program adopted by the Commission.

8–1811.

(a) From the effective date of a program approved or adopted by the Commission, a project approval that involves land located in the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA may not be granted unless the project approval is consistent and complies with the program.

8–1812.

(a) After the Commission has approved or adopted a program, the chairman of the Commission has standing and the right and authority to initiate or intervene in any administrative, judicial, or other original proceeding or appeal in this State concerning a project approval in the Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA. The chairman may exercise this intervention authority without first obtaining approval from the Commission, but the chairman shall send prompt written notice of any intervention or initiation of action under this section to each member of the Commission. The chairman shall withdraw the intervention or action initiated if, within 35 days after the date of the chairman's notice, at least 13 members indicate disapproval of the action, either in writing addressed to the chairman or by vote at a meeting of the Commission. A member representing the local jurisdiction affected by the chairman's intervention or action may request a meeting of the Commission to vote on the chairman's intervention or action.

8–1813.

(a) From June 1, 1984 with regard to any subdivision plat approval or approval of a zoning amendment, variance, special exemption, conditional use permit, or use of a floating zone, affecting any land or water area located within the initial planning area identified in § 8–1807(a) of this subtitle, for which application is completed after that date, the approving authority of the local jurisdiction in rendering its decision to approve an application shall make specific findings that:

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

(2) The applicant has identified fish, wildlife, and plant habitat which may be adversely affected by the proposed development and has designed the development so as to protect those identified habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves.

(B) ON OR AFTER JUNE 1, 2002, WITH REGARD TO ANY SUBDIVISION PLAT APPROVAL OR APPROVAL OF A ZONING AMENDMENT, VARIANCE, SPECIAL EXEMPTION, CONDITIONAL USE PERMIT, OR USE OF A FLOATING ZONE, AFFECTING ANY LAND OR WATER AREA LOCATED WITHIN THE INITIAL PLANNING AREA IDENTIFIED IN § 8–1807(B) OF THIS SUBTITLE, FOR WHICH APPLICATION IS COMPLETED AFTER THAT DATE, THE APPROVING AUTHORITY OF THE LOCAL JURISDICTION IN RENDERING ITS DECISION TO APPROVE AN APPLICATION SHALL MAKE SPECIFIC FINDINGS THAT:

(1) THE PROPOSED DEVELOPMENT WILL MINIMIZE ADVERSE IMPACTS ON WATER QUALITY THAT RESULT FROM POLLUTANTS THAT ARE DISCHARGED FROM STRUCTURES OR CONVEYANCES OR THAT HAVE RUN OFF FROM SURROUNDING LANDS; AND

(2) THE APPLICANT HAS IDENTIFIED FISH, WILDLIFE, AND PLANT HABITAT WHICH MAY BE ADVERSELY AFFECTED BY THE PROPOSED DEVELOPMENT AND HAS DESIGNED THE DEVELOPMENT SO AS TO PROTECT THOSE IDENTIFIED HABITATS WHOSE LOSS WOULD SUBSTANTIALLY DIMINISH THE CONTINUED ABILITY OF POPULATIONS OF AFFECTED SPECIES TO SUSTAIN THEMSELVES.

[(b)] (C) With regard to any application for project approval described in [subsection (a)] SUBSECTION (A) OR (B) of this section, a local approving authority shall require any additional information from an applicant as is necessary in order to make the findings required by [subsection (a)] SUBSECTION (A) OR (B) of this section.

[(c)] (D) This section shall remain in effect in a local jurisdiction until such time as an approved program becomes effective.

[(d)] (E) This section does not apply to any application IN THE CHESAPEAKE BAY CRITICAL AREA initially filed prior to March 1, 1984 OR ANY APPLICATION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA FILED PRIOR TO JUNE 1, 2002.

8–1813.1.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL PERMIT A SINGLE LOT OR PARCEL OF LAND THAT WAS LEGALLY OF RECORD ON THE DATE OF PROGRAM APPROVAL TO BE DEVELOPED WITH A SINGLE FAMILY DWELLING, IF A DWELLING IS NOT ALREADY PLACED THERE, NOTWITHSTANDING THAT SUCH DEVELOPMENT MAY BE INCONSISTENT WITH THE APPROVED DENSITY PROVISIONS OF THE APPROVED LOCAL PROGRAM, AND PROVIDED THAT THE LOCAL JURISDICTION DEVELOPS, AS PART OF ITS PROGRAM, PROCEDURES TO BRING THESE LANDS INTO CONFORMANCE WITH THE LOCAL CRITICAL AREA PROGRAM AS FAR AS POSSIBLE, INCLUDING THE CONSOLIDATION OR RECONFIGURATION OF LOTS NOT INDIVIDUALLY OWNED, AND THESE PROCEDURES ARE APPROVED BY THE COMMISSION.

(B) LAND THAT WAS SUBDIVIDED INTO RECORDED AND LEGALLY BUILDABLE LOTS FOR WHICH THE SUBDIVISION RECEIVED THE LOCAL JURISDICTION'S FINAL APPROVAL AFTER APRIL 17, 2001 BUT PRIOR TO PROGRAM APPROVAL MAY BE DEVELOPED WITH A SINGLE FAMILY DWELLING, IF A SINGLE FAMILY DWELLING IS NOT ALREADY PLACED THERE, PROVIDED THAT:

(1) DEVELOPMENT OF THE LAND CONFORMS TO THE REQUIREMENTS OF THIS TITLE AND TITLE 27 OF THE CODE OF MARYLAND REGULATIONS; OR

(2) THE AREA OF LAND IS COUNTED BY THE LOCAL JURISDICTION AGAINST THE GROWTH INCREMENT IN ACCORDANCE WITH § 8–1808.1(B) OF THIS TITLE AND COMAR 27.01.02.06.

(C) FOR PURPOSES OF IMPLEMENTING THIS SUBTITLE, A LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL HAVE DETERMINED, BASED ON LAND USES AND DEVELOPMENT IN EXISTENCE ON APRIL 17, 2001, WHICH LAND AREAS FALL INTO THE THREE TYPES OF DEVELOPMENT AREAS IN ACCORDANCE WITH TITLE 27 OF THE CODE OF MARYLAND REGULATIONS.

8–1815.1.

(a) (1) The provisions of this section are in addition to any other sanction, remedy, or penalty provided by law.

(2) This section does not apply to any cutting or clearing of trees that is allowed under regulations adopted by the Commission under this subtitle.

(b) If a person cuts or clears or plans to cut or clear trees within the Chesapeake Bay critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in violation of regulations adopted by the Commission, the local jurisdiction may bring an action:

(1) To require the person to replant trees where the cutting or clearing occurred in accordance with a plan prepared by the State Forester, a registered professional forester, or a registered landscape architect;

(2) To restrain the planned violation; or

(3) For damages:

(i) To be assessed by a circuit court in an amount equal to the estimated cost of replanting trees; and

(ii) To be paid to the Department by the person found to have violated the provisions of this subsection.

(c) If the Chairman of the Commission has reason to believe that the local jurisdiction is failing to enforce the requirements of subsection (b) of this section, the Chairman shall refer the matter to the Attorney General as provided under § 8–1815 (b) of this subtitle.

(d) On the Chairman of the Commission's referral of an alleged violation under subsection (c) of this section to the Attorney General, the Attorney General may invoke the remedies available to the local jurisdiction under subsection (b) of this section in any court of competent jurisdiction in which the local jurisdiction would be authorized to prosecute or sue.

(e) On the request of a local jurisdiction or the Chairman of the Commission, the State Forester, a registered professional forester, or a registered landscape architect may prepare, oversee, and approve the final implementation of a plan to:

(1) [replant] REPLANT trees in any part of the Chesapeake Bay Critical Area where trees IN THE CHESAPEAKE BAY CRITICAL AREA are cut or cleared in violation of subsection (b) of this section; AND

(2) REPLANT TREES IN ANY PART OF THE ATLANTIC COASTAL BAYS CRITICAL AREA WHERE TREES IN THE ATLANTIC COASTAL BAYS CRITICAL AREA ARE CUT OR CLEARED IN VIOLATION OF SUBSECTION (B) OF THIS SECTION.

8–1817.

(a) By January 1, 1994, the [Chesapeake Bay Critical Area] Commission shall adopt criteria that assure the protection of land and water resources in the Critical Area and that shall apply throughout the [Chesapeake Bay] Critical Area for:

(1) Production of oil or natural gas on lands or waters leased by the State; and

(2) Exploration or production of oil or natural gas on any lands in the Critical Area.

(b) (1) In addition to other applicable provisions of law, an applicant for any production or exploratory drilling that will occur on, in, under, or through the [Chesapeake Bay] Critical Area, including wells drilled outside the Critical Area by a method known as slant drilling that will pass through the Critical Area, shall

complete and submit with the application an environmental impact study that addresses the potential for any adverse environmental effects on the Critical Area as a result of the drilling.

(2) (i) The Department shall forward a copy of the permit application and the environmental impact study referred to in paragraph (1) of this subsection to the [Critical Area] Commission for its review and comment.

(ii) The Department shall consider and comment in writing on the objections and concerns of the [Critical Area] Commission before issuing a permit under this subsection.

Article – Environment

16–201.

(a) (1) A person who is the owner of land bounding on navigable water is entitled to any natural accretion to the person's land, to reclaim fast land lost by erosion or avulsion during the person's ownership of the land to the extent of provable existing boundaries. The person may make improvements into the water in front of the land to preserve that person's access to the navigable water or protect the shore of that person against erosion. After an improvement has been constructed, the improvement is the property of the owner of the land to which the improvement is attached. A right covered in this subtitle does not preclude the owner from developing any other use approved by the Board. The right to reclaim lost fast land relates only to fast land lost after January 1, 1972, and the burden of proof that the loss occurred after this date is on the owner of the land.

(2) A PERSON EXERCISING THEIR RIGHT TO MAKE IMPROVEMENTS INTO THE WATER IN FRONT OF THE LAND TO PRESERVE THAT PERSON'S ACCESS TO THE NAVIGABLE WATER UNDER SUBSECTION (A)(1) OF THIS SECTION MAY NOT EXTEND THE IMPROVEMENTS MORE THAN 25 FEET OVER VEGETATED STATE WETLANDS IN THE ATLANTIC COASTAL BAYS CRITICAL AREA AS DEFINED UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.

(b) The rights of any person, as defined in this subtitle, which existed prior to July 1, 1973 in relation to natural accretion of land are deemed to have continued to be in existence subsequent to July 1, 1973 to July 1, 1978.

16–304.

(A) Notwithstanding any regulation adopted by the Secretary to protect private wetlands, the following uses are lawful on private wetlands:

(1) Conservation of soil, vegetation, water, fish, shellfish, and wildlife;

(2) Trapping, hunting, fishing, and catching shellfish, if otherwise legally permitted;

(3) Exercise of riparian rights to improve land bounding on navigable water, to preserve access to the navigable water, or to protect the shore against erosion;

(4) Reclamation of fast land owned by a natural person and lost during the person's ownership of the land by erosion or avulsion to the extent of provable preexisting boundaries. The right to reclaim lost fast land relates only to fast land lost after January 1, 1972. The burden of proof that the loss occurred after this date is on the owner of the land; and

(5) Routine maintenance and repair of existing bulkheads, provided that there is no addition or channelward encroachment.

(B) A PERSON EXERCISING THEIR RIGHT TO MAKE IMPROVEMENTS INTO THE WATER IN FRONT OF THE LAND TO PRESERVE THAT PERSON'S ACCESS TO THE NAVIGABLE WATER UNDER SUBSECTION (A)(3) OF THIS SECTION MAY NOT EXTEND THE IMPROVEMENTS MORE THAN 25 FEET OVER VEGETATED PRIVATE WETLANDS IN THE ATLANTIC COASTAL BAYS CRITICAL AREA AS DEFINED UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2002.