

Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland
June 4, 2003

SUBCOMMITTEES

10:00 a.m. – 12:00 p.m. Project Evaluation Subcommittee

Members: *Bourdon, Giese, Cooksey, Setzer, Jackson, McLean, Andrews, Jones, Rice, Mathias, Wilson*

Department of Natural Resources: Greenwell State Park
Playground Construction at Quarter Creek
(St. Mary's County) Mary Owens

Anne Arundel County: Department of Public Works
Broadneck Water Reclamation Facility Improvements
Conditional Approval Lisa Hoerger

DELETED →

Department of Transportation / State Highway Administration
MD 450 / CSX Grade Improvements – Final Mitigation Plan
(Prince George's County) Lisa Hoerger

Department of Transportation / Maryland Port Administration
South Locust Point Marine Terminal – Cargo Shed
(Baltimore City) Dawnn McCleary

Department of Natural Resources / Erickson Foundation
NorthBay Camp at Elk Neck State Park: Update and Discussion
(Cecil County) Regina Esslinger

10:30 a.m. – 12:00 p.m. Program Implementation Subcommittee

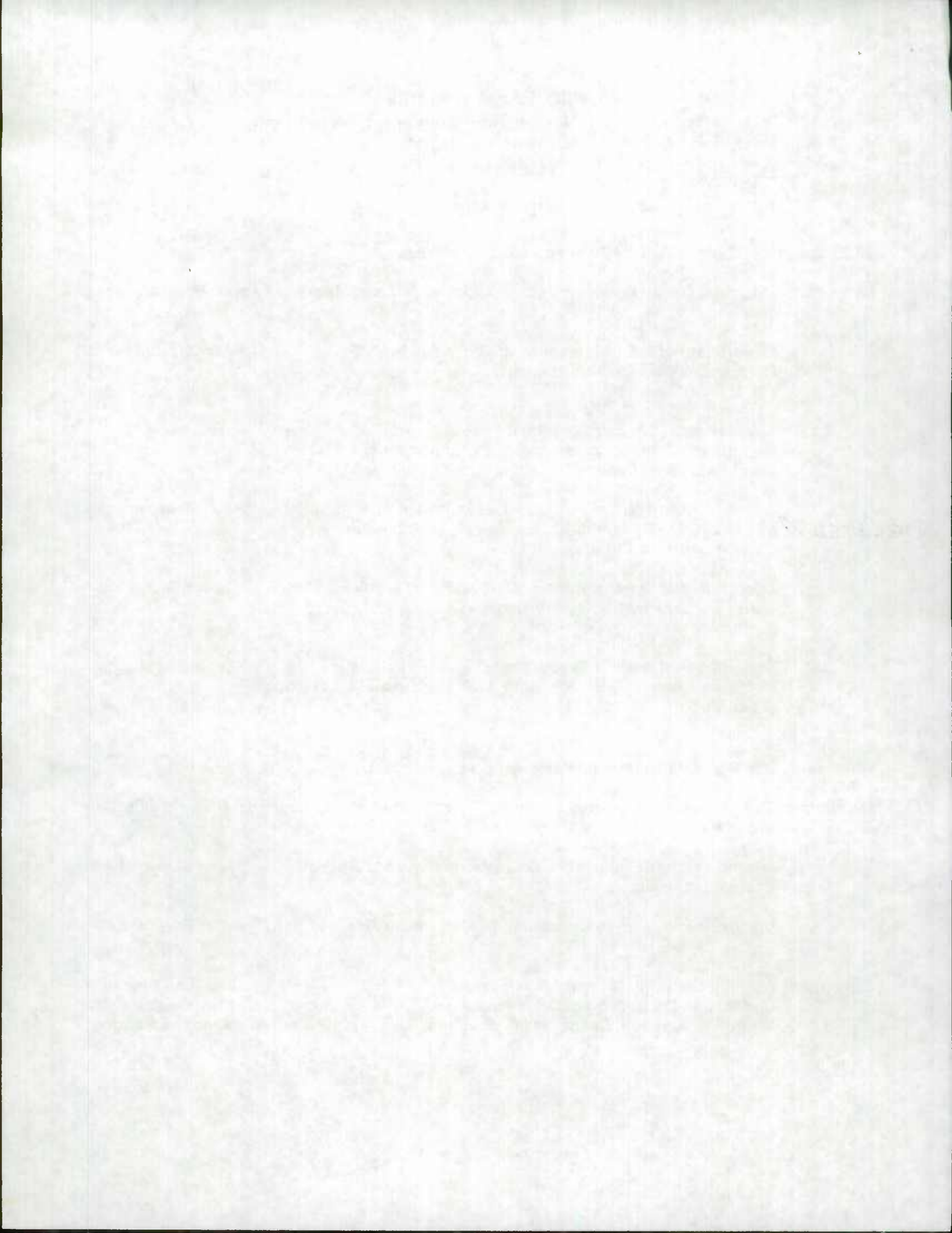
Members: *Bailey, Evans, Johnson, Lawrence, Duket, Samorajczyk, Stephens, Blazer, Gilliss, Richards*

Information and Discussion: Calvert County: Gertz Buffer
Exemption Area Julie LaBranche

Discussion: Resource Conservation Area Density Issues Mary Owens
Lisa Hoerger

12:00p.m Panel: Ocean City Critical Area Program
Update and Discussion of Draft Program
Members: Jackson, Duket, Evans, Stephens LeeAnne Chandler
Mary Owens
Marianne Mason

12:00 p.m Lunch



Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland
June 4, 2003

AGENDA

1:00 p.m. – 1:05 p.m. Approval of Minutes for May 7, 2003 Chairman
Martin G. Madden

PROJECTS

1:05 p.m. – 1:20 p.m. *DELETED* → VOTE: Department of Transportation / State
Highway Administration: MD 450 / CSX
Grade Improvements – Final Mitigation Plan
(Prince George's County) Lisa Hoerger

1:20 p.m. – 1:25 p.m. VOTE: Department of Natural Resources:
Greenwell State Park: Playground
Construction at Quarter Creek (St. Mary's
County) Mary Owens

1:25 p.m. – 1:35 p.m. VOTE: Anne Arundel County: Department of
Public Works: Broadneck Water Reclamation
Facility Improvements – Conditional
Approval Lisa Hoerger

1:35 p.m. – 1:45 p.m. VOTE: Department of Transportation /
Maryland Port Administration: South Locust
Point Marine Terminal – Cargo Shed Dawnn McCleary

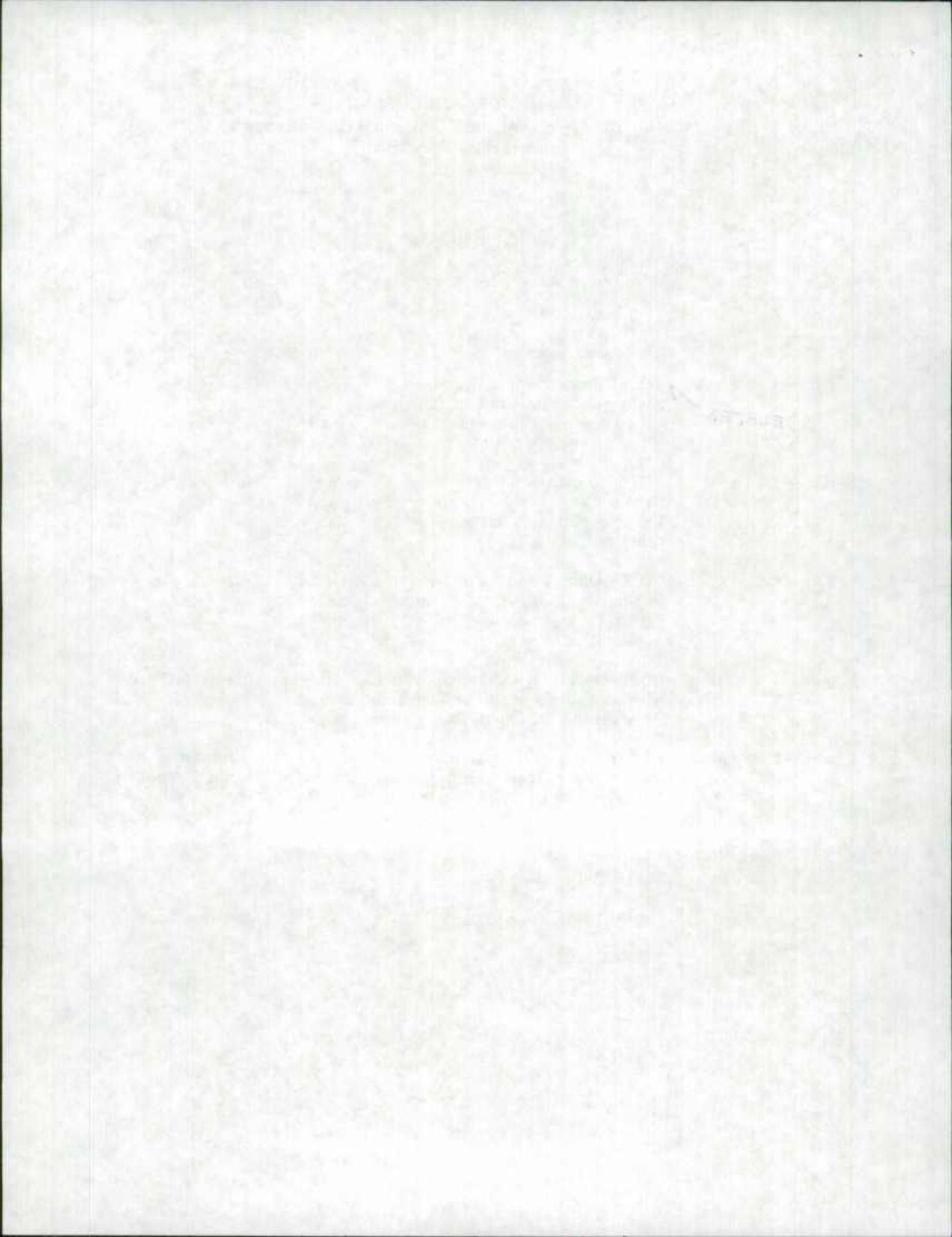
1:45 p.m. – 2:00 p.m. Update and Discussion: Department of
Natural Resources / Erickson Foundation:
NorthBay Camp at Elk Neck State Park Co
(Cecil County) Chairman
Martin G. Madden
Regina Esslinger

2:00 p.m. – 2:05 p.m. OLD BUSINESS

Legal Update Marianne Mason

2:05 p.m. – 2:10 p.m. NEW BUSINESS

Adjourn



Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
100 Community Place
People's Resource Center
Department of Housing and Community Development
Crownsville, Maryland
May 7, 2003

approved

The full Critical Area Commission met at the People's Resource Center Crownsville, Maryland. The meeting was called to order by Chairman Martin G. Madden with the following Members in **Attendance**:

Margo Bailey, Kent County; Dave Blazer, Worcester County Coastal Bays; Dave Bourdon, Calvert County; Dr. Earl Chambers, Queen Anne's County; Dave Cooksey, Charles County; Judith Evans, Western Shore Member-at-Large; William Giese, Dorchester County; Ed Gilliss, Baltimore County; Q. Johnson, Eastern Shore Member-at-Large; Louise Lawrence, Maryland Department of Agriculture; Barbara Samorajczyk, Anne Arundel County; Douglas Wilson, Harford County; Robert Goodman, DHCD; Gary Setzer, Maryland Department of the Environment; James McLean, DBED; Meg Andrews, Maryland Department of Transportation, Craig Chcek, Maryland Department of Natural Resources; Douglas Stephens, Wicomico County; Samuel Wynkoop, Prince George's County

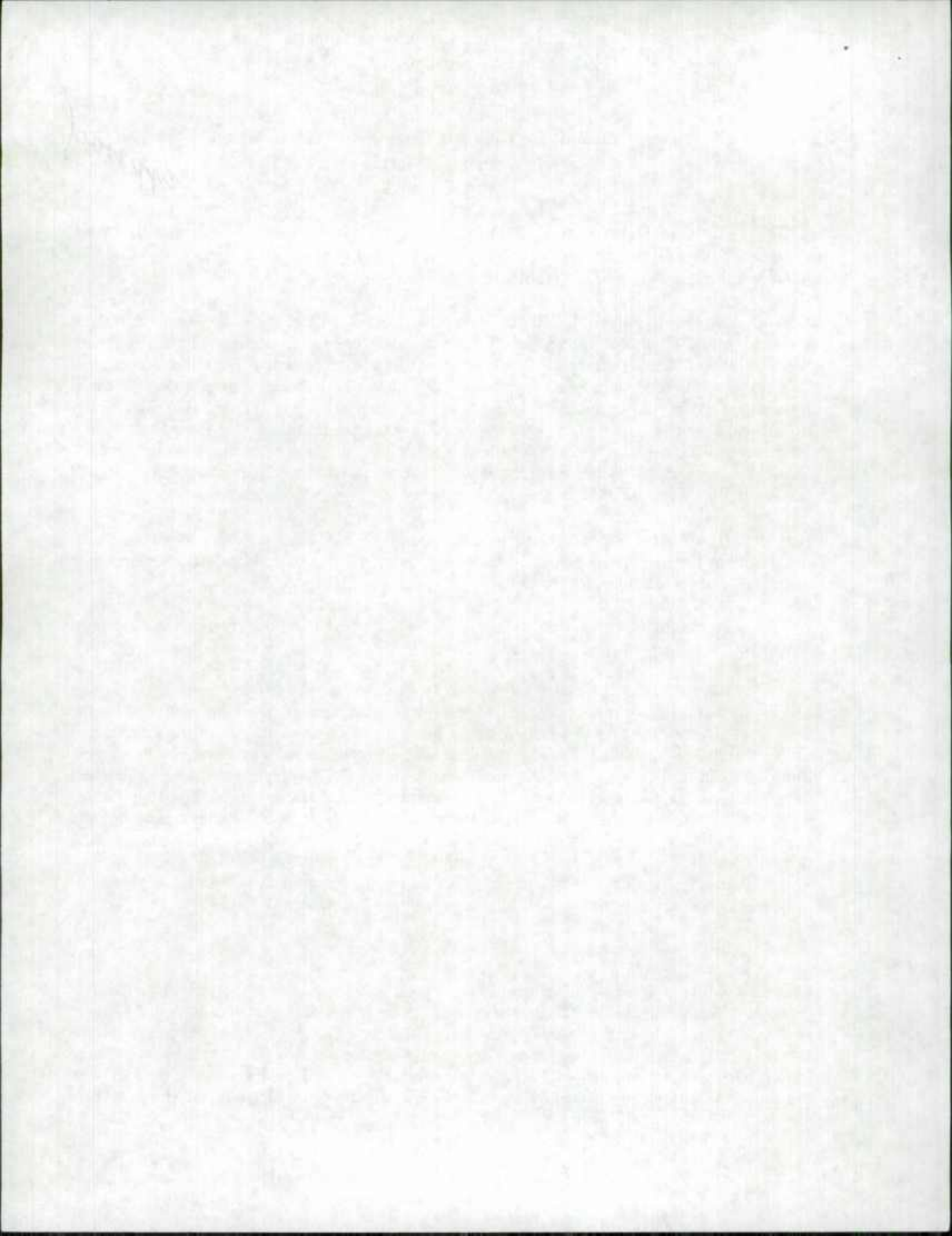
Not in Attendance: William Rice, Somerset County; Joseph Jackson, Worcester County; Paul Jones, Talbot County; Edwin Richards, Caroline County; Larry Duket, Maryland Department of Planning; James N. Mathias, Jr., Ocean City.

The reading of the Minutes of April 2, 2003 was waived and the Minutes were approved as written.

Chairman Madden acknowledged the good works of the past 13 years of the former Chairman, Judge North, and said that he had lunch with him after his appointment by the Governor. The Chairman stated that he would be taking advantage of some of the insights and advice that Judge North had offered. Chairman Madden announced that Commission member Bob Goodman of the Department of Housing and Community Development will be retiring and this would be his last meeting with the Commission. The Chairman thanked Bob for his dedication to the efforts of the Critical Area Commission. Bob's devotion of time to meetings and hearings is a sterling example to us all of what it means to be a good steward. Best wishes go with Bob. He will be greatly missed! Dr. Earl Chambers the new Queen Anne's County representative was introduced. Craig Chcek was present representing the Department of Natural Resources as well as Duncan Stewart who was in attendance to represent Baltimore City.

The Commission welcomed Chairman Madden aboard.

Charles County: Wanda Cole presented for **VOTE** the Maryland Transportation Authority's proposal to replace an existing, deteriorating Nice Memorial Bridge Salt Dome, a Wash Bay and a new Storage and Maintenance Building in Charles County. The existing dome is located in the 100-foot Critical Area Buffer and the new dome will be located in the Critical Area but outside the Buffer. Compliance with the 10% Rule has been met for impervious surface. No Habitat Protection Areas will be affected. Proposed clearing will be replaced 1:1 in the Buffer. **Dave**

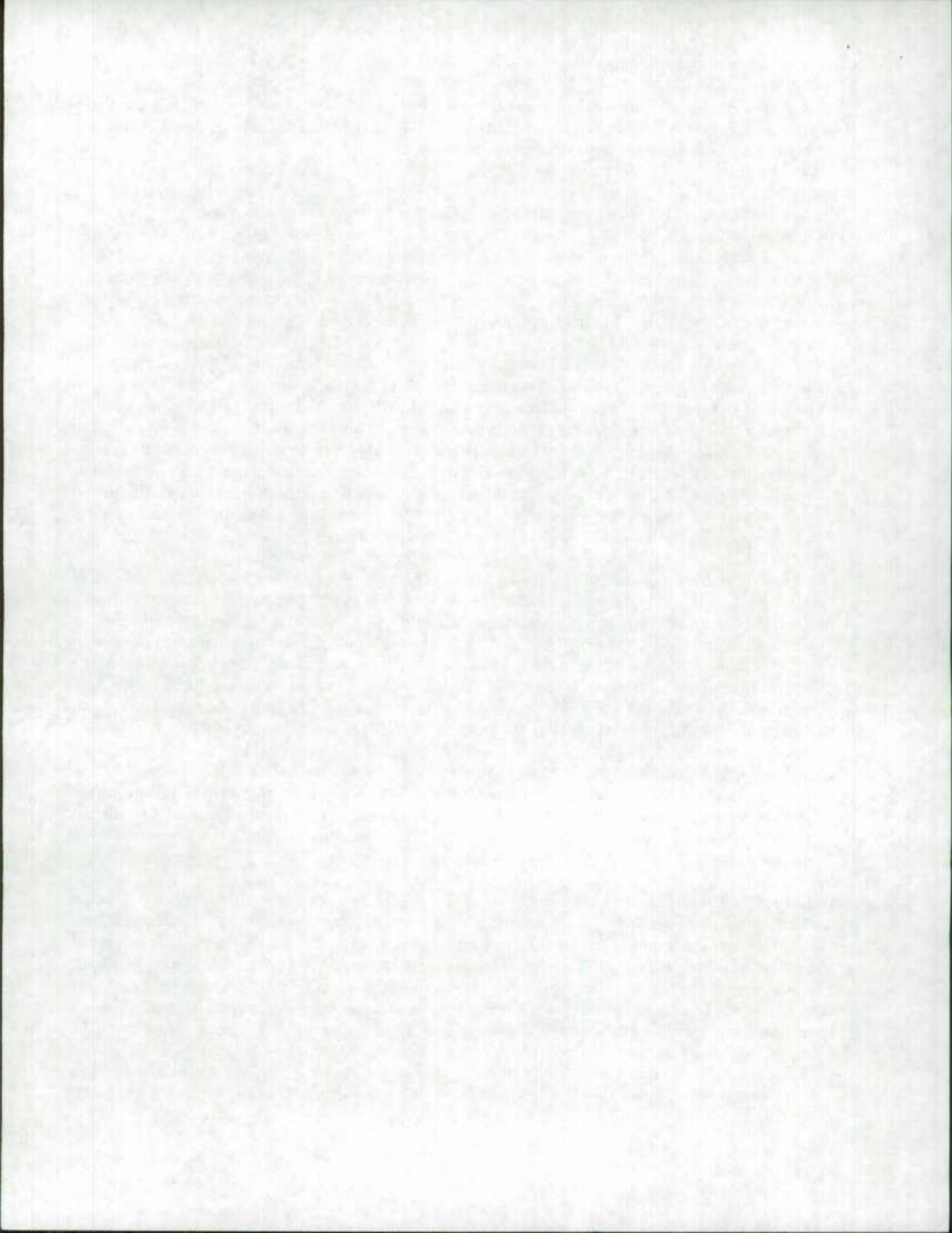


Bourdon moved to approve the proposal to replace Nice Memorial Bridge Salt Dome, a Wash Bay and a new Storage and Maintenance Building in Charles County as presented. The motion was seconded by Dave Cooksey and carried unanimously.

Highland Beach: Lisa Hoerger presented for VOTE by conditional approval the proposal by the Town of Highland Beach to expand its Town Hall. This building is not inadequate to accommodate the community's needs and the municipal functions of the town, nor does it meet the current standards regarding existing code and safety requirements and compliance with the ADA. This is the only site location that can be utilized, a non-waterfront lot in a LDA, which exceeds the 25% impervious surface limit. There are no rare, threatened or endangered species on the site. No Habitat Protection Areas impacts are proposed. Ms. Hoerger explained how this project meets the conditional approval process with the necessary characteristics. These conditional approval requirements were met and are outlined in the staff report. Mayor Langston of Highland Beach addressed the Commission regarding the proposal. **Dave Bourdon moved to approve the proposal to expand the Highland Beach Town Hall with two conditions: 1) The Town shall submit all plans to Anne Arundel County for review and compliance with the County's stormwater management ordinance and Critical Area program requirements other than for impervious surfaces. 2) The Town will work with Commission staff regarding the proposed species proposed for landscaping, and the size and type of plantings that will occur offsite at the town park. The motion was seconded by Jim McLean and carried with 17 in favor and one abstention, Judith Evans, Western Shore Member At Large.**

Charles County: Wanda Cole presented for VOTE the proposal by the Department of General Services, agent for Department of Natural Resources to implement improvements at Smallwood State Park to meet ADA requirements for accessibility on public lands to include walkways, an elevated campsite pad, resurfacing of parking pads, and a concrete apron around an information sign. These improvements are in the Critical Area of Mattawoman Creek. Ms. Cole described the technical details of the project. She said that no trees will be removed and there will be 3:1 mitigation on site in the Buffer for new disturbances proposed in the Buffer for the walkway. No mitigation plantings are required for the new impervious areas outside the Buffer. Compliance with the 10% Rule is not required and stormwater quality improvements will be provided by mitigation plantings. No other Habitat Protection Areas will be affected. A 5-year Planting Agreement will be required for this project. **Dave Bourdon moved to approve the proposed project by the Department of General Services to implement improvements at Smallwood State Park as presented. The motion was seconded by Dave Cooksey and carried unanimously.**

Baltimore County: Wanda Cole presented for VOTE the proposal by the Maryland Aviation Administration, Martin State Airport to develop and improve several projects through the year 2010 to meet increased security needs and growing demands of private aviation. The Airport is considered IDA. Based on the stormwater management needs for 100% development of each project area into impervious surfaces, there will remain 6.96 pounds of pollutant requirement that cannot be met. Discharge from the sand filters will go into the existing storm drain system. Airports must meet Federal requirements regarding stormwater facilities and ground management that reduce the risk of hazards created by wildlife striking aircraft. The Airport will provide offsets for stormwater and will work with other agencies in accomplishing this goal. Ms. Cole described this offset approach and stated that this may provide better environmental improvements than on-site



Critical Area Commission Minutes

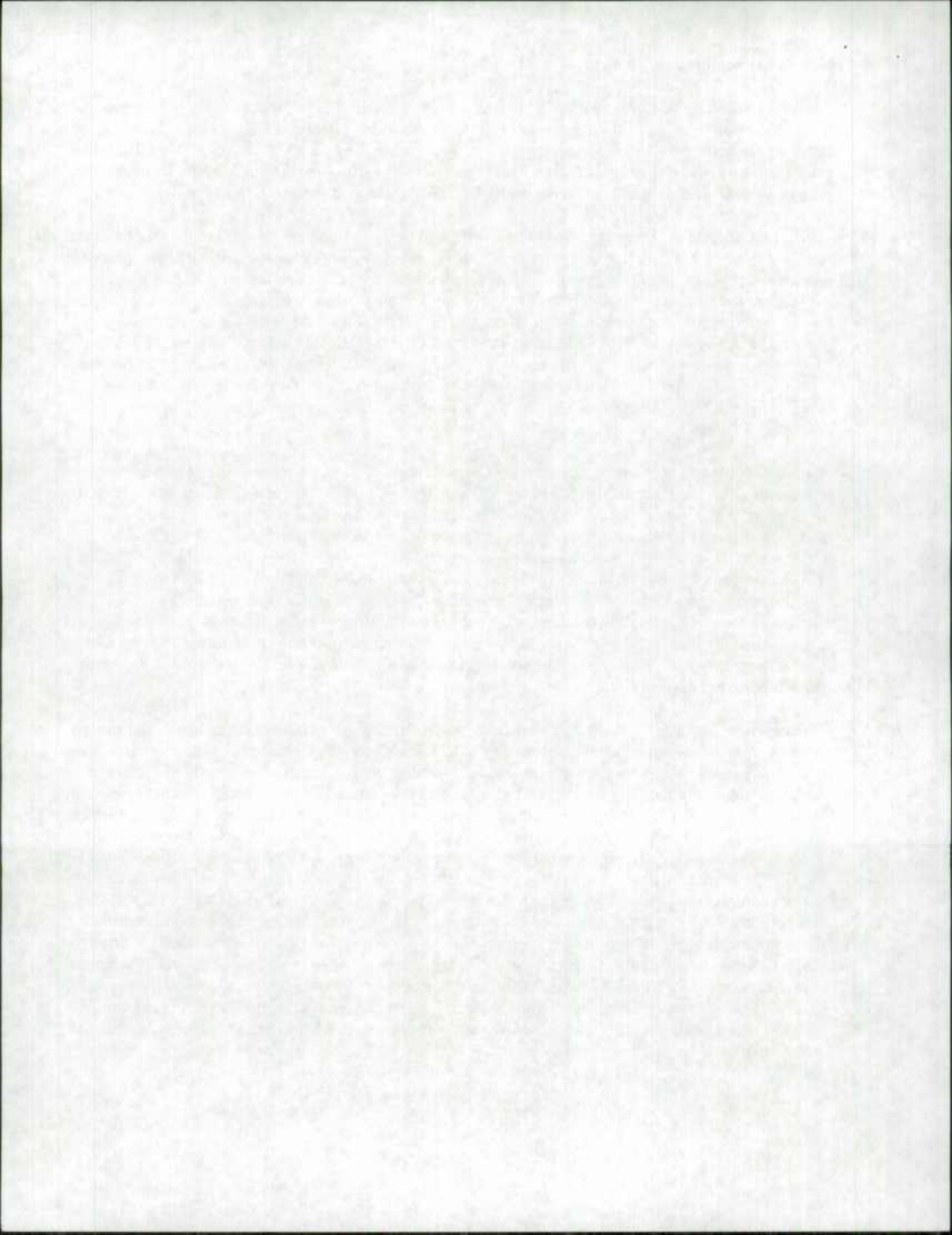
May 7, 2003

facilities would. Each project must be submitted to the Commission for approval. There are no proposed impacts in the Buffer. Any lost forest cover will be mitigated at a 1:1 ratio. There are no rare, threatened or endangered species and no work will occur on steep slopes. **Dave Bourdon moved to approve the request by the Maryland Aviation Administration, Martin State Airport as presented. The motion was seconded by Bob Goodman and carried unanimously.**

Talbot County: Ren Serey **updated** the Commission on the progress of the Talbot County program changes. He reminded the Commission of the changes to the County's Critical Area program required last year by the Commission's action under Section 8-1809 of the law. He said that of the four items the Commission addressed in the County's program, the remaining issue that the County is not working on is the counting of guest houses as dwellings for the purpose of determining residential density in the RCA. Mr. Serey stated that Commission staff met with the County Council two weeks ago and had a very productive meeting. In it's meeting this morning, the Program Subcommittee outlined issues concerning guesthouses and RCA density for further discussion in June. Under a previous extension of time, the County must submit required changes to its program by June 23rd of this year.

Talbot County: Lisa Hoerger presented for Concurrence with the Chairman's determination of **Refinement**, County Council Bill #891 for Administrative Variance Procedures, which is legislation to correct a deficiency (a method by which the County permitted expansion of existing structures located within the 100-foot Buffer without a variance or mitigation) in the County's Program. COMAR 27.01.09.01C(2) prohibits new development activities within the Buffer without a variance. This Bill was passed by the Talbot County Council on April 8, 2003 and provides for an administrative variance procedure that will allow the Planning Officer to grant variances to applicants thereby eliminating the need to appear before the Talbot County Board of Appeals. The Bill requires the Planning Officer to review expansions of nonconforming structures in the 100-foot Buffer using the five- variance standards and requires 2:1 mitigation. **The Commission supported the Chairman's determination of Refinement.**

Wicomico County: LeeAnne Chandler presented for Concurrence with the Chairman's determination of **Refinement**, the proposal by Wicomico County to amend one of their Critical Area maps to correspond to a revised State wetland boundary map. The revision to the State wetland boundary map was the result of a 1992 request for a re-evaluation of the tidal wetland line by a private property owner. After State field personnel conducted a site investigation, which confirmed that the 1971 tidal wetland boundary was incorrect, the State notified all affected property owners and held a public hearing. There was no opposition to the change and the corrected map was filed in the County Courthouse as the official tidal wetlands boundary map in 1994. The Critical Area map did not automatically change according to the revised map. The County Council had to take specific action to amend the corresponding Critical Area map. The County Council held a public hearing on the map amendment and approved it on March 4, 2003. Wicomico County subsequently submitted the map amendment to the Commission as a refinement to their Program. The map change is consistent with the Critical Area law. The map amendment removes 51.3 acres of RCA from the Critical Area. Due to this reduction in RCA, there will be a reduction of 2.56 acres in the County's growth allocation reserve. **The Commission supported the Chairman's determination of Refinement.**

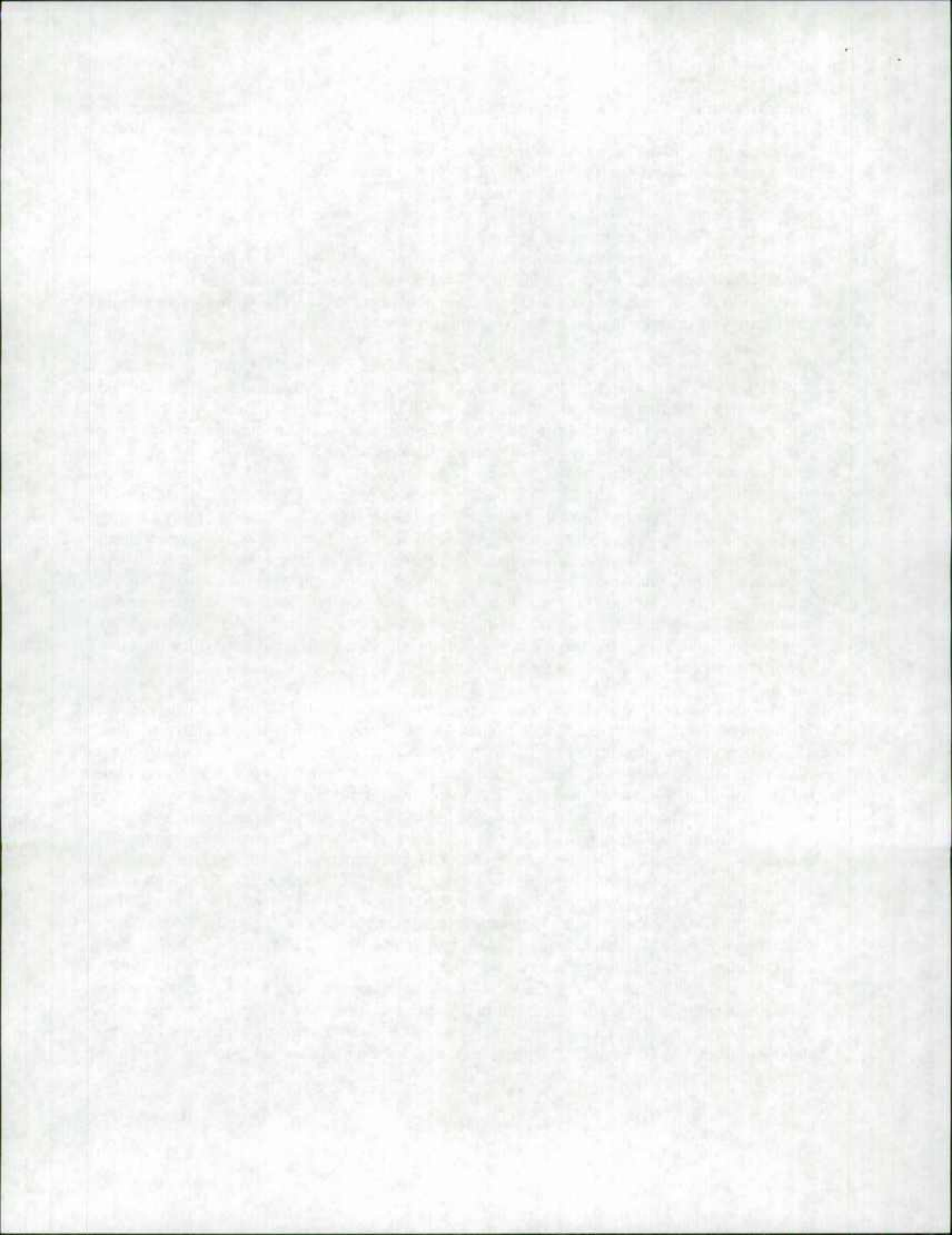


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Harford County: Dawnn McCleary presented for Concurrence with the Chairman's determination of **Refinement**, the request for 4.25 acres of growth allocation owned by the Bush River Boat Club to change the Critical Area overlay designation from an LDA (BEA) to IDA. This granting of growth allocation will bring an existing use into compliance with the Critical Area Program and provide a mechanism to improve stormwater quality through the application of the 10% pollutant reduction requirements. The proposed improvements will increase imperviousness of the site to 47% from 42%. There is no significant vegetation or wildlife habitat within the growth allocation area. There is a fragmented riparian forest, which will be maintained during all proposed and future development activities. Standard erosion control measures will be used. There are no designated Habitat Protection Areas other than the 100-foot Buffer. **The Commission supported the Chairman's determination of Refinement.**

St. Mary's County Wanda Cole presented for Concurrence with the Chairman's determination of Refinement the request by St. Mary's County for 7.341 acres of growth allocation to change the Critical Area overlay designation of Tax Map 58, Block 24, Parcel 18 from RCA to LDA in Park Hall. This change in designation will allow the County to approve a minor one-lot subdivision of Parcel 16, the Bohanan property and will accommodate sewage reserve areas for four adjacent lots. The Bohanans applied for growth allocation in July 2001. The St. Mary's County Planning Commission held a hearing in March 2002 and they recommended approval with conditions. The Board of County Commissioners held a public hearing on July 16, 2002 and approved the use of 7.341 acres of growth allocation on August 20, 2002. Resolution No. Z02-04 was adopted on November 19, 2002 and included conditions that Parcel 18 in its entirety be designated LDA, that the official zoning map include notes that no further subdivision may occur within the 7.341 mapped as LDA and the final subdivision plat shall conform to all other comments and requirements to approve the final subdivision plat. There are no known Habitat Protection Areas. **The Commission supported the Chairman's determination of Refinement, which includes the conditions set out by the County Commissioners.**

St. Mary's County: Wanda Cole presented for Concurrence with the Chairman's determination of **Refinement** the request by St. Mary's County for 11.51 acres of growth allocation to change the Critical Area overlay designation of Tax Map 38, Block 24, Parcel 33 from RCA to LDA of Canoe Neck Creek in Avenue. This change in designation will allow the County to approve a one-lot subdivision of an agricultural parcel so that the owner can provide a lot for his daughter to build upon. Mr. Colton applied for growth allocation in November 2000. A public hearing was held by St. Mary's County Planning Commission in March 2002, which recommended approval with conditions. The Board of County Commissioners held a hearing on July 16, 2002 and approved the use of 11.51 acres of growth allocation on August 20, 2002. Resolution No. Z02-03 was adopted on November 19, 2002 and included conditions that the Critical Area portion be designated LDA. The County also required that the official zoning map include notes that no further subdivision may occur within the 11.51 acres mapped as LDA; and that the final subdivision plat shall conform to all other comments and requirements as noted on the plat. There are no known Habitat Protection Areas located on this parcel except in the 100' Buffer to a tributary stream, which does not occur on the area being proposed for development. The 15% afforestation of the site requirements will be addressed during the final subdivision approval. **The Commission supported the Chairman's determination of Refinement, which includes the conditions set out by the County Commissioners.**

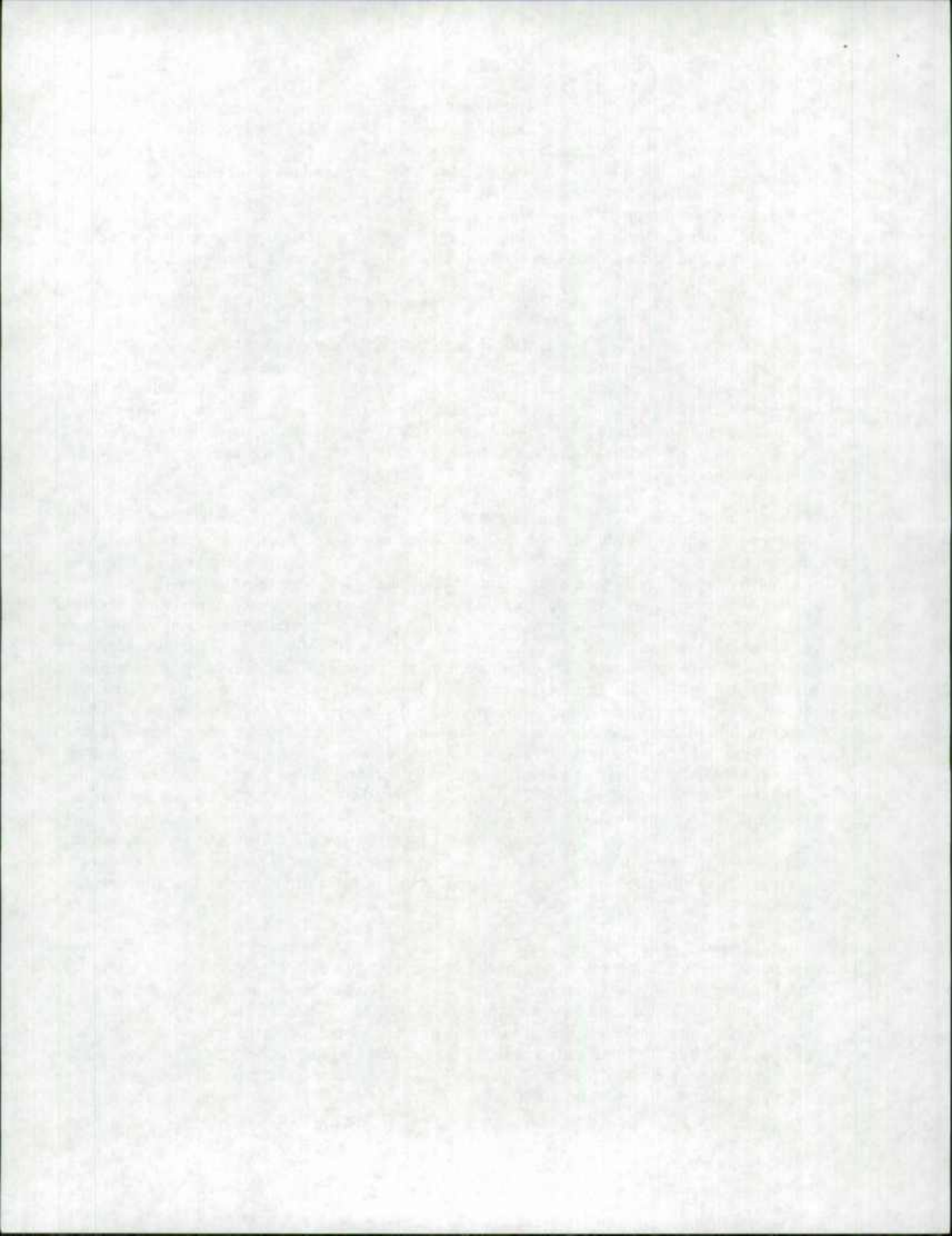


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St. Mary's County Wanda Cole presented for Concurrence with the Chairman's determination of Refinement, St. Mary's County's request of the use of 1.303 acres of growth allocation to change the Critical Area overlay designation of Tax Map 40, Block 17, Parcel 92 and part of Parcel 94 (Outparcel B) from RCA to LDA for Breton Bay. The change will allow the County to approve a minor one-lot subdivision that will create Lot 18. The lot owner, Mr. Henderson, applied for growth allocation in April 2000. St. Mary's County Planning Commission held a hearing in March 2002 and recommended approval with conditions. The Board of County Commissioners held a public hearing on July 16, 2002 and approved the use of 4.374 acres of growth allocation, which has now been revised to 1.303 acres in order to comply with the RCA density requirements of the previous subdivision. Resolution No. Z02-05 was adopted on November 19, 2002. Conditions proposed by the County to maintain the RCA character of the parent parcel not included in the new lot: 1) The road along the shoreline shall be removed and the abandoned roadbed revegetated; 2) a note shall be included on the plat to state new development or disturbance to the 300-foot buffer on the parent parcel shall be prohibited; 3) the 5.42 acre RCA density reserve parcel and the 300-foot buffer shall be labeled on the plat as not buildable and 4) a note shall be included on the plat that no further subdivision may occur on this site. **The Commission supported the Chairman's determination of Refinement, which includes the conditions set out by the County Commissioners.**

Calvert County: Julie LaBranche presented for Concurrence with the Chairman's determination of **Refinement** Calvert County's request to amend their Critical Area program as part of Phase II of the comprehensive review for the Designation of Buffer Exemption Areas (BEA) and Provisions for Subdivision in Buffer Exemption Areas. The amendments were approved by the Board of Commissioners on April 29, 2003. Ms. LaBranche reviewed the proposed amendments for the Commission including Critical Area Text Amendments, - to revise the proposed subdivision provisions for consistency with the Commission's new BEA policy for residential development and similar BEA provisions adopted by other jurisdictions; and, the Critical Area Map Amendments - the designation of Buffer Exemption Areas. In the revised staff report, under the Criteria for Subdivision of Buffer Exemption Areas, Section 4-4.07.E.3 of the Zoning ordinance, d., iii is revised (**in bold**) to state "The total area of existing and new accessory structures per lot in the subdivision shall not exceed 1,000 square feet **within the Buffer**". A further condition recommended by the subcommittee and Commission staff and agreed to by the Board of County Commissioners was to defer the designation of two BEAs until the parcels can be further evaluated. David Brownlee representing the Calvert County Commissioners confirmed the agreement by the County. **The Commission supported the Chairman's determination of Refinement as set out in the revised staff report deferring designation on certain parcels until the parcels are further evaluated and to add "within the Buffer" under the appropriate section.**

Anne Arundel County Lisa Hoerger presented for Concurrence with the Chairman's determination of **Refinement**, Anne Arundel County's proposal for map amendment to correct a mapping mistake on the property of Glorious Shenton in Shady Side. The property is approximately .772 acres and has a Critical Area designation of RCA that the County determined was a mistake made in the original classification of the property because the reviewer thought that this property was wetlands and reclassified it as such. Upon further review of the aerial photographs and testimony from the Army CORPS of Engineers and a private consultant it was determined that there were no wetlands on the site as of 1984. Moreover, the existing pattern of



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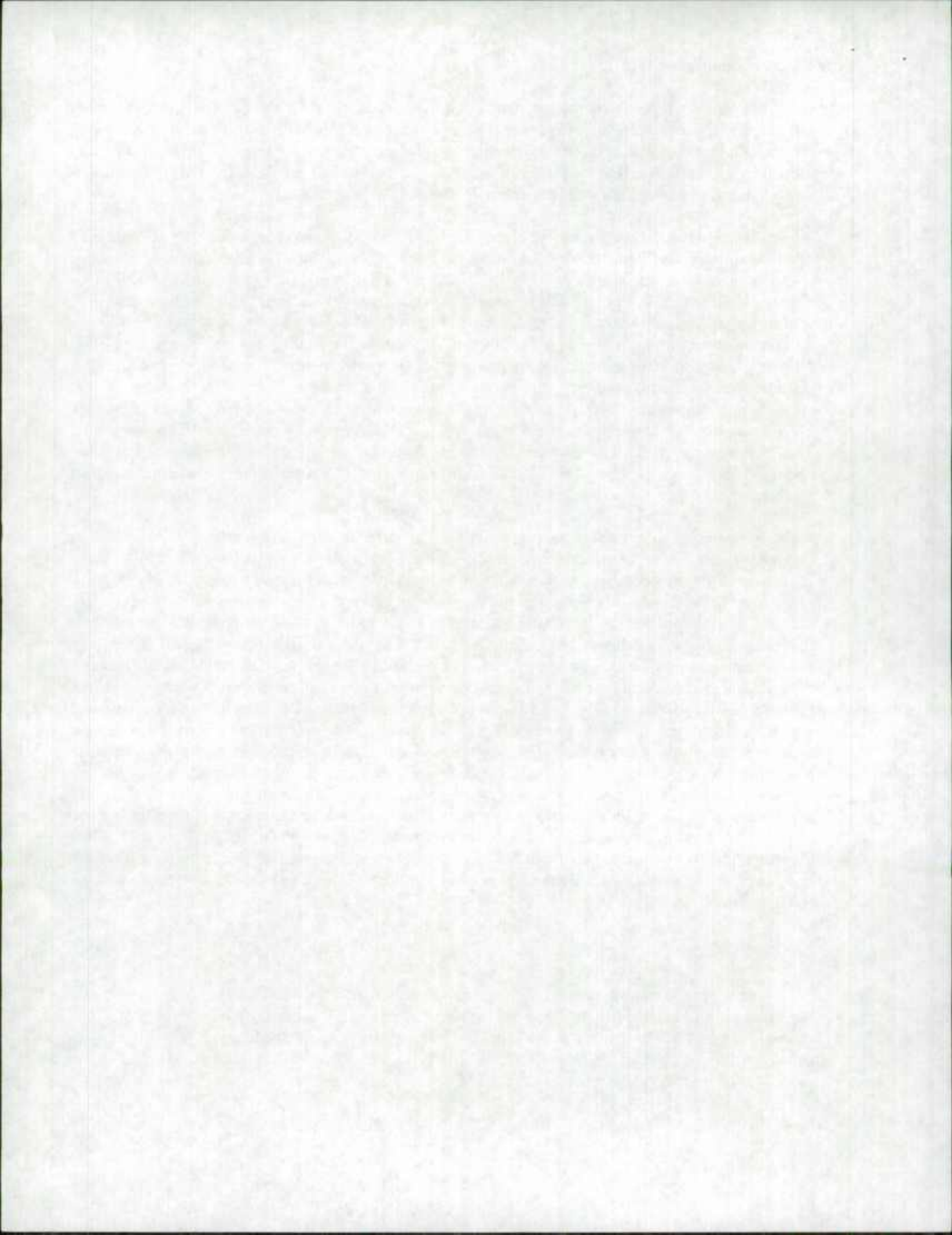
development on the site is consistent with an IDA as determined by the Administrative Hearing Officer who approved a request to amend the zoning map to IDA on July 10, 2002. After reviewing the information provided and the Commission staff believe that the site meets the IDA criteria and mapping standards for IDA and that it was mistakenly mapped an RCA. **The Commission supported the Chairman's determination of Refinement.**

Anne Arundel County: Lisa Hoerger presented for Concurrence with the Chairman's determination of **Refinement**, Anne Arundel County's proposal for map amendment to correct a mapping mistake on the property of Joseph J. Hock, Inc. The property is approximately 12.7 acres near the Baltimore City line. In determining that a mistake had been made, the County reclassified a split designation of the property to 2.4 acres of RCA to IDA and 4.4 acres of LDA to IDA. The Administrative Hearing officer approved a request to amend the zoning map on November 7, 2002 after reviewing the Criteria and the mapping of the subject property. It was determined that a mistake was made in the original mapping which should have been IDA because of the surrounding land uses, underlying zoning, environmental goals and standards of the County's Development Plan and that the site met all of the IDA mapping standards in 1985 based on the 1984 aerial photograph. The Commission staff believe that the site meets the mapping standards and land use for an IDA. **The Commission supported the Chairman's determination of Refinement.**

Calvert County: Julie LaBranche presented for Concurrence with the Chairman's determination of **Refinement**, Calvert County's request for growth allocation to change 0.43 acres of RCA to LDA on the Allor property near the mouth of Battle Creek. The use of growth allocation to change the Critical Area designation of the property, and correct a mapping mistake will ultimately enhance Buffer function by increasing the development setback. The property was originally a 5.44 acre RCA parcel that was subdivided and resulted in a split designation of RCA/LDA, a very poor mapping error which created such a small portion of LDA that it is now not buildable because of the sewage reserve placement and density limitation on the RCA. Mary Owens stated that because this property has multiple problems resulting from subdividing, that this is not the typical way to deal with an error in designation, but it is the best way to deal with this particular situation to accomplish all the goals of correcting the mistake, the allowing a property owner to construct a house and to have that house situated in such a way as to advance environmental goals through setback. Additionally, she stated that the typical way to correct the mapping mistake would require the deduction of the entire 5.44 acres from growth allocation and the County does not allow the use of growth allocation for the single purpose of constructing a house. Dave Blazer, spokesman for the Program subcommittee, stated that the subcommittee was comfortable with the proposal for the best environmental benefits. **The Commission supported the Chairman's determination of Refinement.**

Old Business

Marianne Mason, Assistant Attorney General for DNR and Commission Counsel, updated the Commission on legal matters. Ms. Mason said that in **Cecil County** the County Board of Appeals has denied a variance for additional boat slips in a residential subdivision. The Board asked for the Commission's support in Court. Ms. Mason has filed a Memorandum of Law. This case is going up for oral argument the 20th of May.



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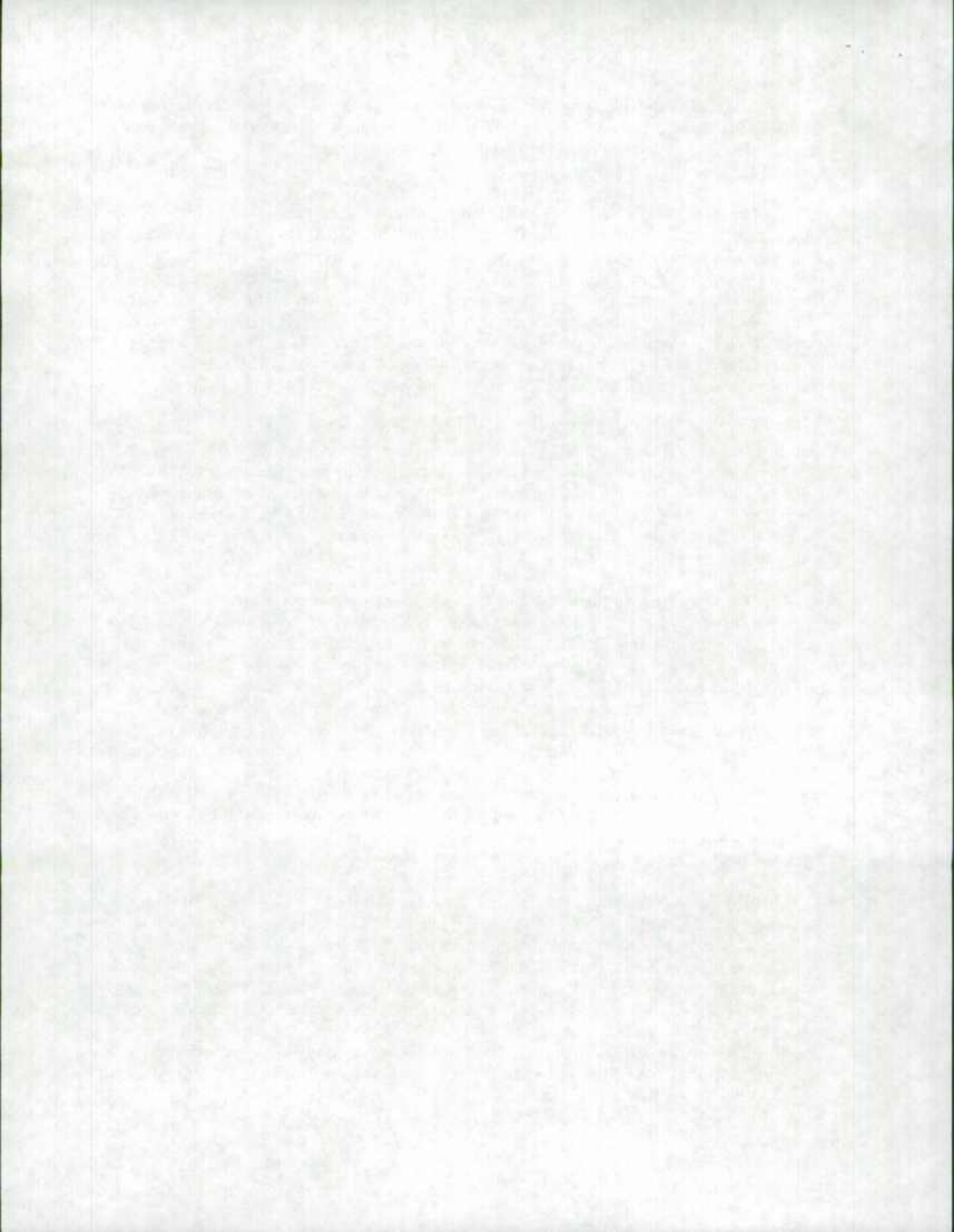
In **Anne Arundel County**, Ms. Mason reported on a case, which has been the subject of previous variances, and is now before the Board of Appeals for a variance to construct a new in-ground pool on the Severn River. She said that she would be preparing testimony to go before the Board of Appeals to support the County.

In the **Old Trails case in Harford County**, Ms. Mason said that it is currently in Court and that the Commission is supporting the County Council, acting as the Board of Appeals, decision that granted a modified variance for construction of homes on steep slopes and in the Buffer. The County Hearing Examiner's recommended position was to grant all requested variances for construction of 56 homes and the County Council- Board of Appeals modified these variances more in accordance with the Commissions' and Peoples Counsel position. That position is that some development can be allowed in less sensitive areas of the site. The Peoples Counsel for Harford County and the Commission is are supporting the County Council in court. A Memorandum of law is due May 27, 2003 and the argument is set for July in Circuit Court.

In **Wicomico County** in 1999, Mr. Edwin **Lewis** built seven cabins in a marshy area off the Nanticoke River without permits. He later applied for variances to keep all the cabins after the County issued a stop-work order. The case made its way all the way up to the State Court of Appeals, the highest court in Maryland. Ms. Mason stated that she argued the case on May 1st. This is the last stop for the case. The County and the Commission have been successful up to this point. It will probably be a month or two before the decision comes down from the State Court of Appeals.

Ron Serey presented an update on the **Ocean City program review process**. He said that the Commission staff met with the Ocean City Council last week to go over the changes to their Critical Area Program that the Commission had sent back to Ocean City. The Town had 40 days to submit those changes and they were given one extension last month. Following last week's meeting, the Commission staff suggested to the Council that they seek another extension because there are some significant issues outstanding, but significant progress has been made. The Town is requesting a further time extension until July 2nd to submit those changes. The law says that the Ocean City program must be in place and in effect by September 29th of this year. Mr. Serey stated that if they are given the July 2nd extension and the Commission staff continues to work with them in the interim, by July they would probably have a set of changes that will meet the Law and Criteria. **Bob Goodman moved to extend the time for Ocean City to submit changes to its program until July 2nd, 2003. The motion was seconded by Doug Wilson and carried unanimously.**

Mary Owens presented an update on the **McIntosh Run Golf Course in St. Mary's County**. She said that last year when the Commission approved the Golf Course project, the Maryland Stadium Authority and the developers were given some conditions for approval including the condition to develop a Buffer Management Plan and a FIDS Mitigation Plan. Since that time, they have been working on the financing for the project and it has been moving very slowly. They have not yet prepared either plan even though they are still committed to doing so and have asked for an extension of time until August 15th to have either the plans in hand or they will request another extension of time. **Bob Goodman moved to approve the request by Stadium Authority and the McIntosh Golf Course to extend their time until August 15th**



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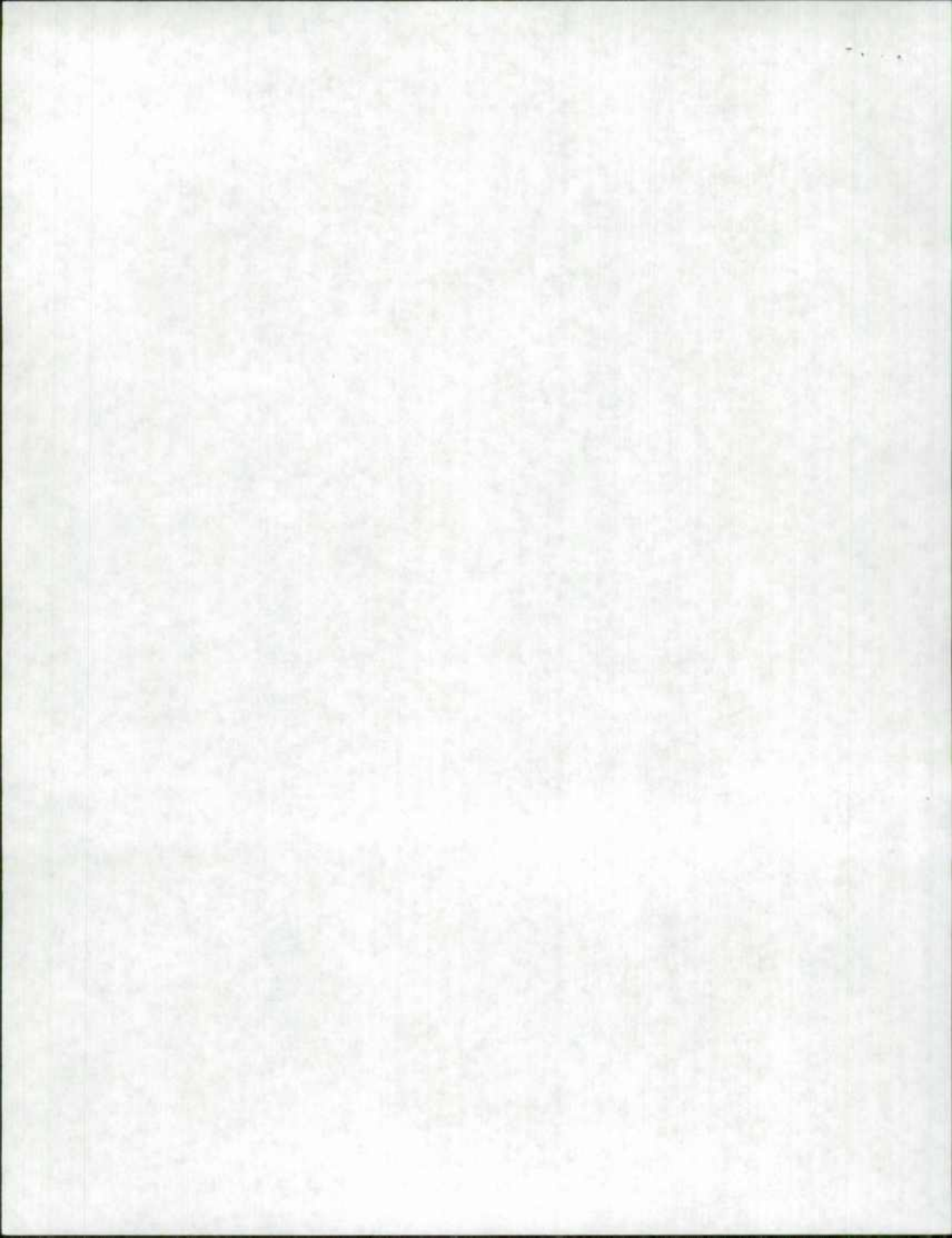
for submitting their plans. The motion was seconded by Jim McLean and carried unanimously.

New Business

There was no new business reported.

They're being no further business, the meeting adjourned at 2:30 p.m.

Minutes submitted by: Peggy Mickler, Commission Coordinator



Critical Area Commission

STAFF REPORT

June 4, 2003

APPLICANT: Maryland Port Administration

PROPOSAL: 300,000 square foot Cargo Shed at South Locust Point Marine Terminal

JURISDICTION: Baltimore City

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with condition

STAFF: Dawnn McCleary

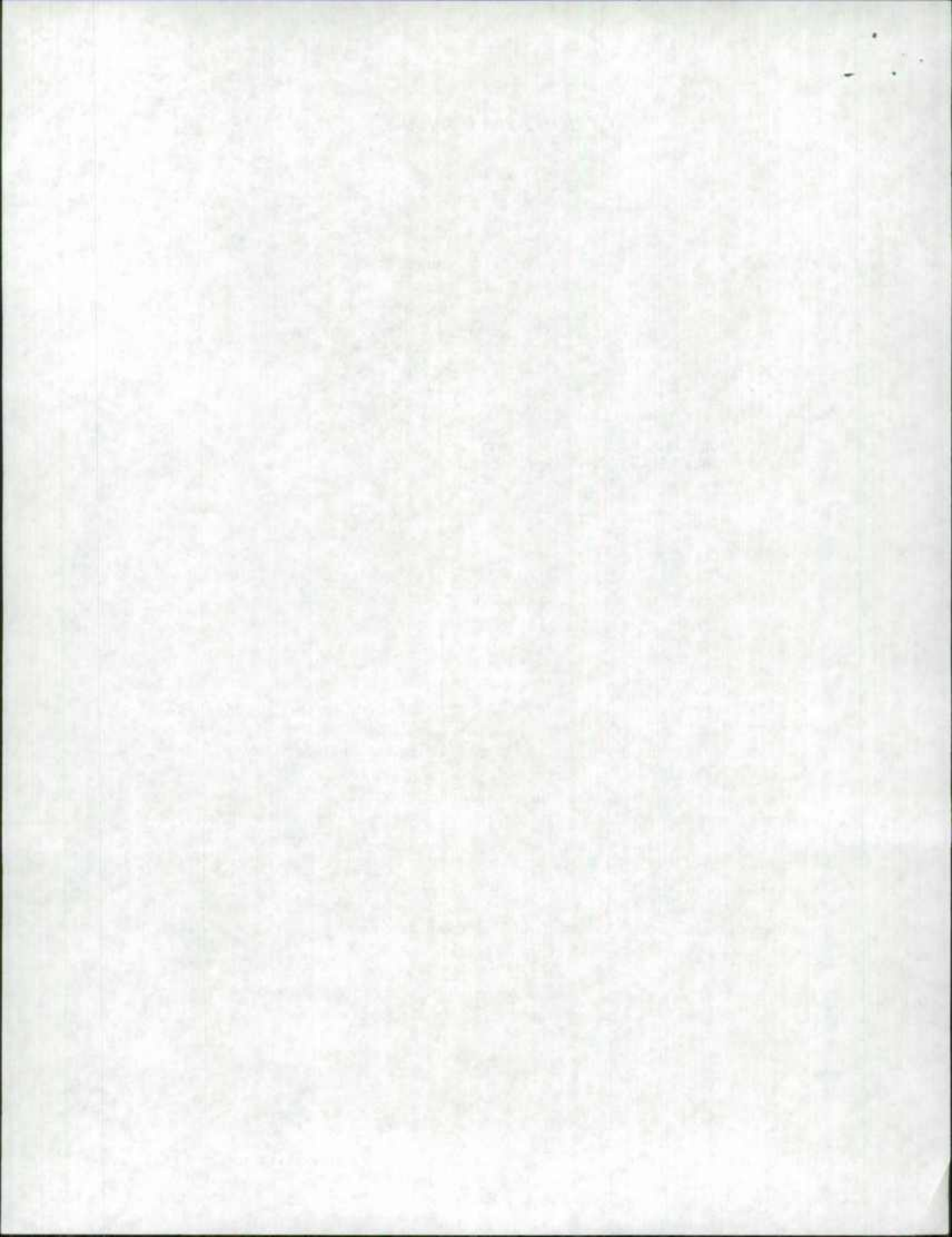
**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05 - State Agency Actions Resulting in Development on State-Owned Lands

DISCUSSION:

The Maryland Port Administration (MPA) is proposing to build a 300,000 square foot cargo shed at South Locust Point Marine Terminal in Baltimore City. The project site totals 11.26 acres and is an area of intense development. The site has been used as a storage area for container vehicles, but is presently being surcharged with stone for the new shed. MPA is proposing to remove the stone and place it in an existing slip. Ultimately, the slip fill will be part of a larger redevelopment proposal, which will come to the Commission once funding is available. The phosphorus reduction requirement for the cargo shed is 9.43 pounds. No treatment is proposed on site. The site is out of the Buffer and no impacts to Habitat Protection Areas are proposed.

MPA is proposing to address the 9.43 pounds of phosphorus through future treatment projects off-site. Currently, MPA owes treatment of 23.42 pounds of phosphorus from previous projects. This project would put the new deficit at 32.85 pounds.

On December 4, 2002, the Commission approved MPA's conceptual phosphorus reduction plan for Gunpowder Falls State Park at the Hammerman Area.



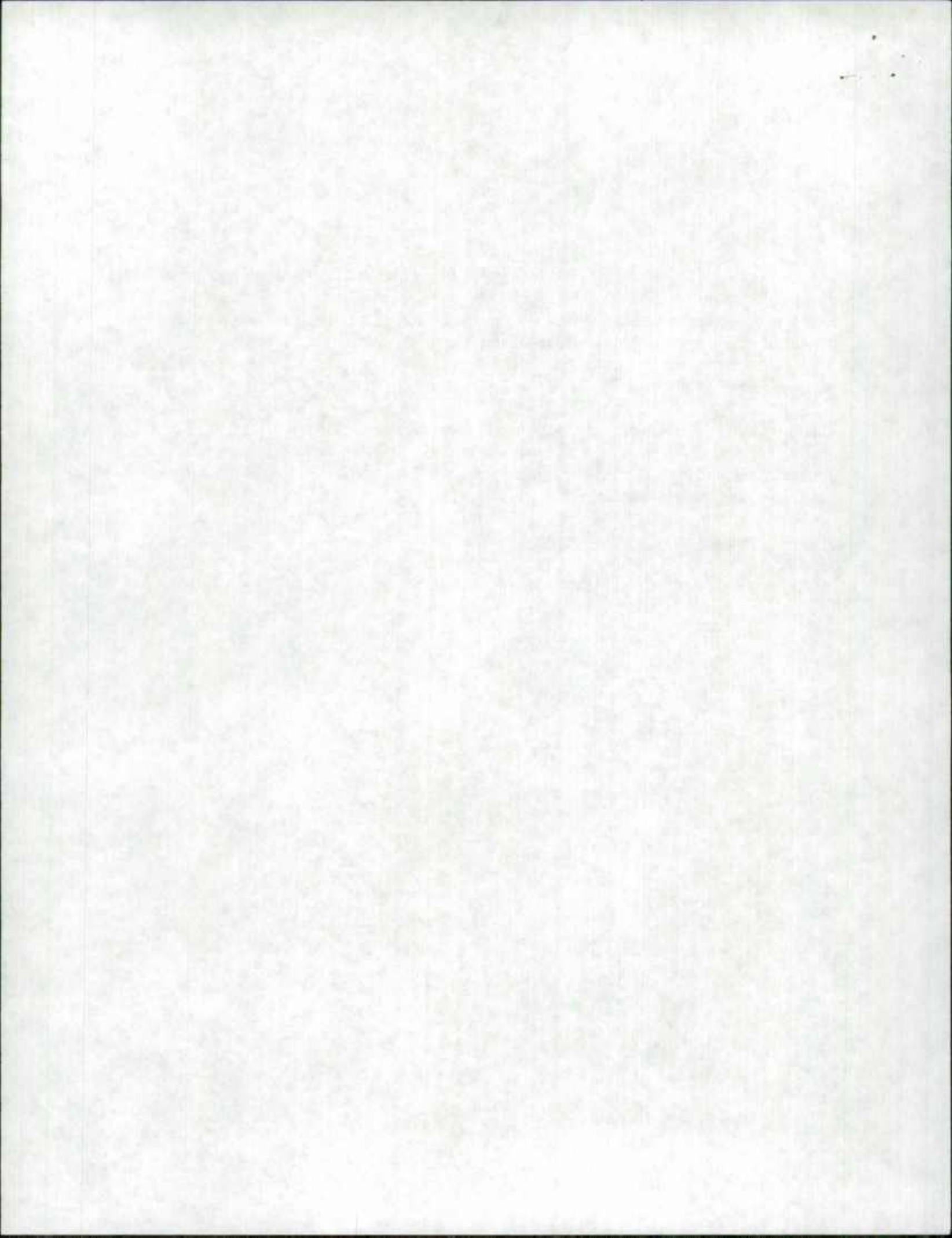
*Continued, Page Two
Cargo Shed at South Locust Point
Marine Terminal
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The approval included a condition that MPA and Commission staff develop a formal process for tracking phosphorus banking. MPA has been working with the Maryland Department of the Environment since January to address their comments on the plans and we anticipate that the individual best management practices will come back to the Commission for approval this summer. As proposed, the retrofit best management practices at Gunpowder Falls State Park at Hammerman Area will treat 29.13 pounds of phosphorus.

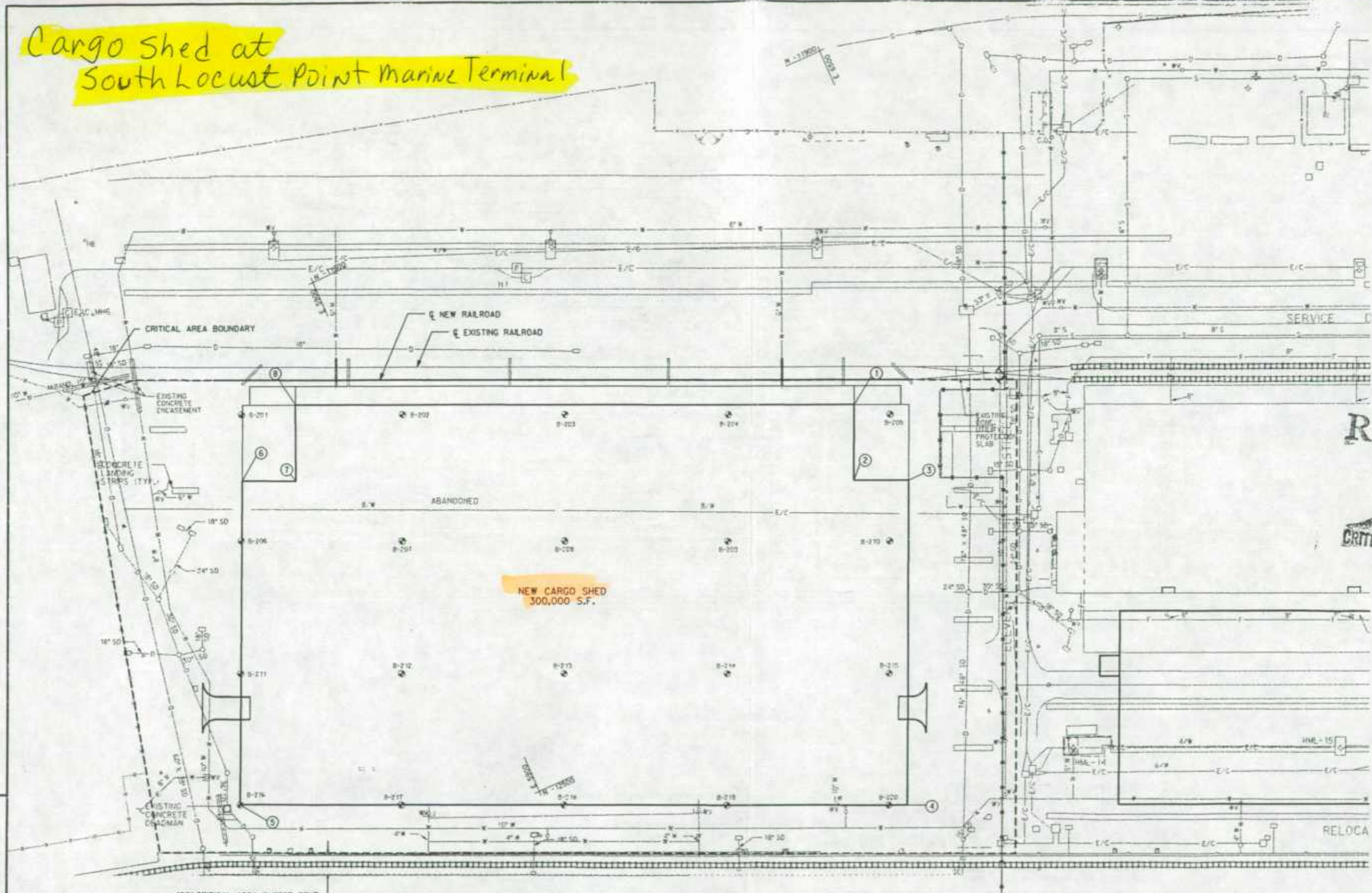
Therefore, once the Hammerman Area projects are approved, the deficit will drop to 3.72 pounds. MPA has been working with Commission staff to develop a plan for future mitigation projects in relation to this deficit and future proposed MPA projects. Staff will bring this plan to the Commission once it is completed.

Staff recommends the following condition:

MPA report back to the Commission within 60 days on the progress made to address the deficit.



Cargo Shed at South Locust Point Marine Terminal



RECEIVED
 APR 23 2003
 CHESAPEAKE BAY
 CRITICAL AREA COMMISSION

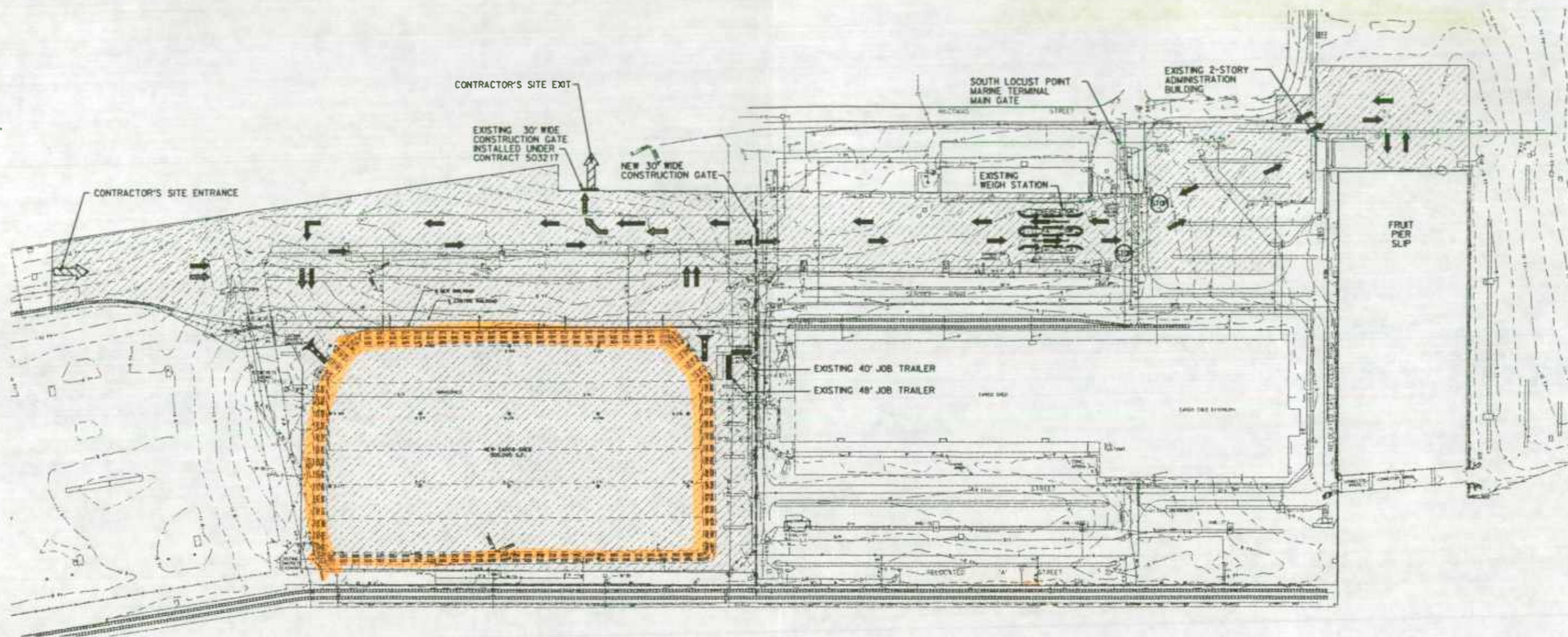
SURVEYED BY: K.M.A.
 DESIGNED BY: K.M.A.
 DRAWN BY: K.M.A.
 CHECKED BY: D.S.S.
 DATE: 04/10/03

WORKING POINTS			
	NORTHING	EASTING	DESCRIPTION
①	-12,259.56	6,378.24	BUILDING CORNER
②	-12,332.55	6,345.50	BUILDING CORNER
③	-12,356.56	6,399.02	BUILDING CORNER
④	-12,675.90	6,255.77	BUILDING CORNER
⑤	-12,381.20	5,598.84	BUILDING CORNER
⑥	-12,062.74	5,742.43	BUILDING CORNER
⑦	-12,086.75	5,795.96	BUILDING CORNER
⑧	-12,012.88	5,828.37	BUILDING CORNER

PATAPSCO RIVER



NO.	DATE	REVISION	BY
MARYLAND PORT ADMINISTRATION DIVISION OF ENGINEERING SOUTH LOCUST POINT MARINE TERMINAL NEW CARGO SHED 300,000 S.F. SITE PLAN STV/MOFFATT & NICHOL JOINT VENTURE			
DATE: APRIL 2003		CONTRACT NO. 503209	DRAWING NO.
SCALE: 1" = 50'			



PATAPSCO RIVER

MAINTENANCE OF TRAFFIC - ALTERNATE 'B'

1. INSTALL MOT CONTROLS INCLUDING MOVABLE JERSEY BARRIERS AND SIGNS.
2. TRANSFER SURCHARGE MATERIAL TO SLP.
3. REMOVE MOT CONTROLS.

NOTES

1. INSTALL MAINTENANCE OF TRAFFIC AND SIGNAGE.
2. THIS AREA SHOWS SEDIMENT AND EROSION CONTROL DEVICES AROUND THE SURCHARGE AREA. FOR DETAILS OF SEDIMENT AND EROSION CONTROL DEVICES TO BE INSTALLED AROUND THE SLP, SEE DRAWINGS C-11 THROUGH C-13.
3. EXISTING SEDIMENT AND EROSION CONTROL DEVICES AT THE SURCHARGE AREA WERE INSTALLED UNDER MPA CONTRACT NO. 503217, "SITE STABILIZATION FOR NEW 300,000 SF CARGO SHED".
4. CONTRACTOR TO MAINTAIN SEDIMENT AND EROSION CONTROL DEVICES AT THE SURCHARGE AREA DURING CONSTRUCTION.
5. AFTER REMOVAL OF ALL SURCHARGE MATERIAL TO THE SLP, THE MAINTENANCE OF SEDIMENT AND EROSION CONTROL DEVICES AT THE SURCHARGE AREA WILL BE TRANSFERRED TO MPA CONTRACT NO. 503219, "NEW 300,000 SF CARGO SHED".
6. SWEEP HAUL ROAD DAILY AS DIRECTED BY THE ENGINEER.
7. PROVIDE DUST CONTROL BY WATERING THE SITE AND/OR HAUL ROAD AS DIRECTED BY THE ENGINEER.
8. PROVIDE FLAGMEN AT EAST ACCESS ROAD AS DIRECTED BY ENGINEER.

LEGEND

- CONSTRUCTION SITE ACCESS/EGRESS
- CONSTRUCTION HAUL ROUTE - ALTERNATE 'B'
- CONSTRUCTION HAUL ROUTE - ALTERNATE 'C'
- MOVABLE JERSEY BARRIERS - ALTERNATE 'B'
- CONTRACTORS WORK ZONE
- CONSTRUCTION FENCE
- STABILIZED CONSTRUCTION ENTRANCE

NOTE

1. SITE SHOWN WITH STONE SURCHARGE PLACED UNDER MPA CONTRACT NO. 503217 REMOVED. STONE SURCHARGE REMOVAL IS ANTICIPATED TO BEGIN ON OR ABOUT NOVEMBER 10, 2003 AND WILL BE COMPLETED BY JANUARY 2, 2004. CONTRACTOR SHALL COORDINATE HIS WORK WITH CONTRACTOR PERFORMING THE REMOVAL OF STONE SURCHARGE.



FINAL SUBMITTAL

NO.	DATE	REVISION	BY
MARYLAND PORT ADMINISTRATION DIVISION OF ENGINEERING SOUTH LOCUST POINT MARINE TERMINAL			
NEW CARGO SHED 300,000 S.F.			
STONE SURCHARGE HAUL ROUTE - ALTERNATES 'B' & 'C'			
STV/MOFFATT & NICHOL JOINT VENTURE			

DESIGNED BY: K.M.A. TRACED BY: D.S.S.
 DRAWN BY: K.M.A. CHECKED BY:

Critical Area Commission

STAFF REPORT

June 4, 2003

APPLICANT: Department of Natural Resources

PROPOSAL: Playground Construction Near Quarter Creek at Greenwell State Park

JURISDICTION: St. Mary's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

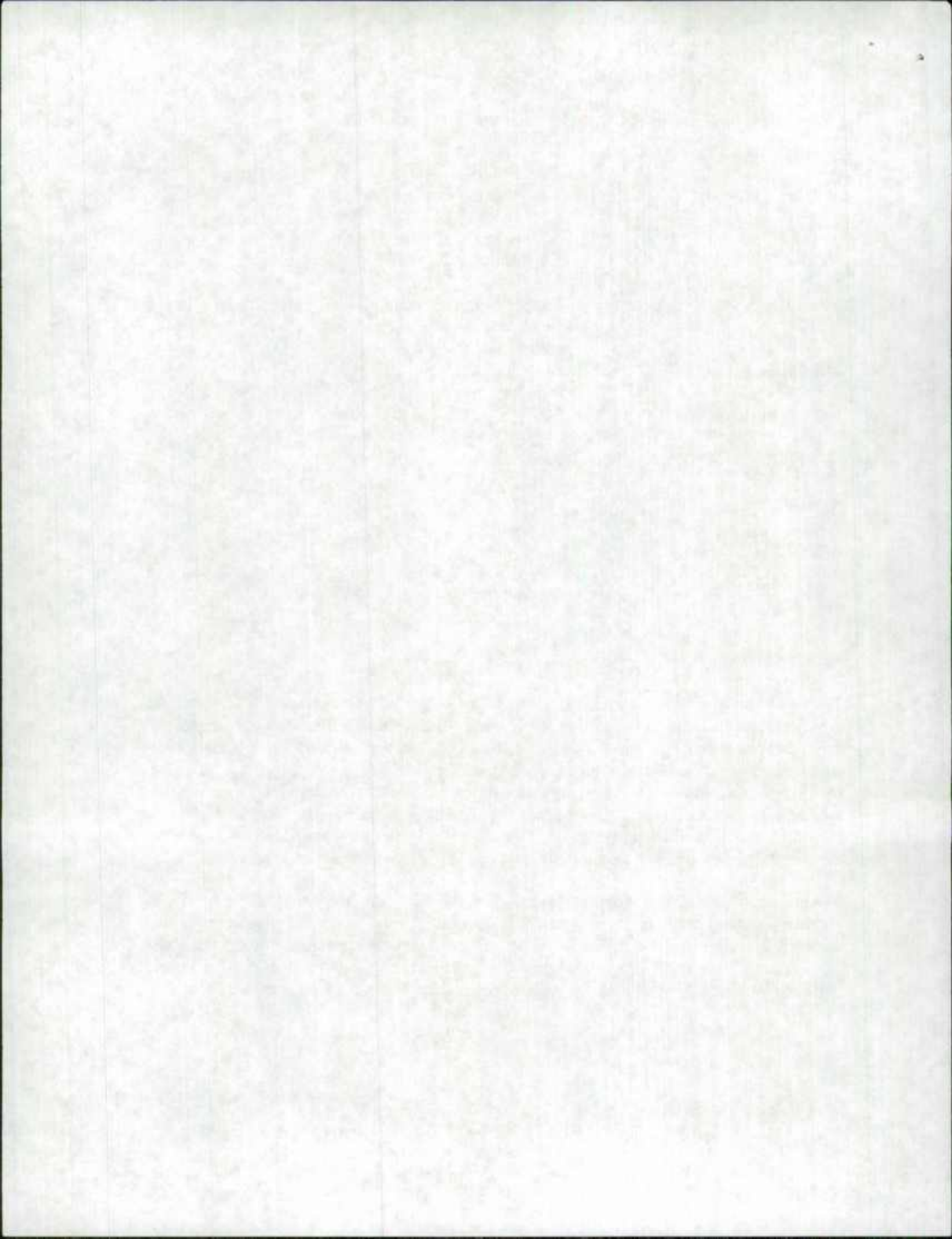
STAFF: Mary Owens

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

DISCUSSION:

The Department of Natural Resources is proposing to construct a playground in an open field area near Quarter Creek at Greenwell State Park. The playground will consist of components salvaged from Sandy Point State Park, as well as several modern, ADA accessible components to be added when funds become available for acquisition. The playground will consist of a 60-foot by 40-foot area framed by 6" by 6" landscape timbers and filled with sand. The area will be located near the Quarter Creek Recreational Pavilion and approximately 60 feet east of the existing restroom facilities there. A 4-foot wide by 60-foot long ramp will also be constructed to connect the playground's main platform to the existing sidewalk serving the restroom.

The project is located in an existing grassy field and is not within the 100-foot Buffer. There is no clearing associated with the project. The project involves only minimal areas of impervious surfaces, so stormwater run-off can be easily infiltrated into the surrounding field area. No Best Management Practices (BMPs) are proposed. According to the Department of Natural Resources, there are no records for threatened or endangered species within the project area.



PLAYGROUND CONSTRUCTION AT QUARTER CREEK

SCALE: 1" = 40' - 0"

PROPOSED 10000 S.F. SEWAGE RESERVE AREA 150'x70'

CONC. DISTRIBUTION BOX

PERC TEST # E 4-95 APPROXIMATE LOCATION

INSTALL THE SANITARY SEWER SYSTEM IN ACCORDANCE WITH NOTE NO. 22 OF THE STANDARD SEDIMENT AND EROSION CONTROL NOTES.

LIMITS OF DISTURBANCE

EXISTING PICNIC PAVILION

NEW PLAYGROUND

4" PERFORATED P.V.C. PIPE SCH. 40
110 L.F. TRENCH 5'-1/2" DEEP
x 2 FT. WIDE x 4 FT. OF GRAVEL

PROPOSED 4" DEEP GRAVEL PATH ON PROOF ROLLED SUBGRADE

FROST PROOF HOSE BIBB W/ COPPER 1" WATER SERVICE FROM COMFORT STATION (SEE ARCH. FOR LOCATION)

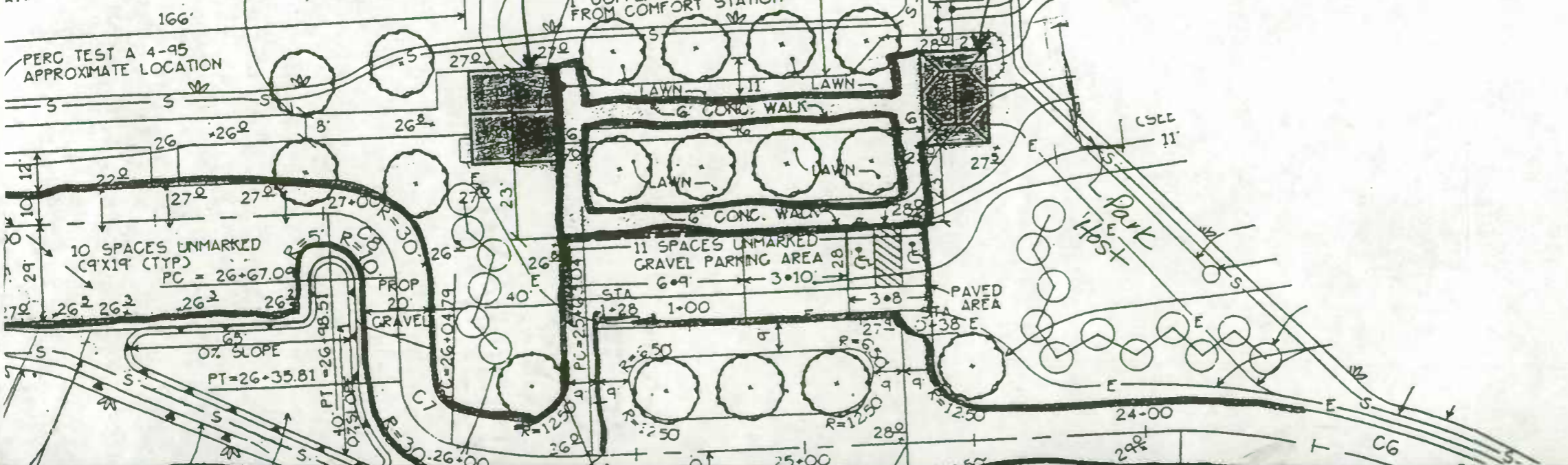
PROPOSED 6" CONCRETE SIDEWALK (SEE DETAIL SHEET C-5) 1" COPPER WATER SERVICE FROM COMFORT STATION

EXISTING RESTROOMS

T.C. 4-95 APPROXIMATE LOCATION

PERC TEST A 4-95 APPROXIMATE LOCATION

100-FOOT BUFFER



HEINER



HEINER



HEINER

Critical Area Commission

STAFF REPORT

June 4, 2003

APPLICANT: Anne Arundel County Department of Public Works

PROPOSAL: Broadneck Water Reclamation Facility
Holding Pond Expansion Project

JURISDICTION: Anne Arundel County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Conditional Approval with condition

STAFF: Lisa Hoerger

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

DISCUSSION:

Anne Arundel County Department of Public Works is proposing to expand an existing holding pond at its Broadneck Water Reclamation Facility (WRF). The Broadneck WRF is an existing public water reclamation facility treating domestic sewage. The facility is located between Log Inn Road to the northwest, Fair Acres Road and the Chesapeake Bay to the northeast, and Sandy Point State Park on the other sides. The site is approximately 50.32 acres with 22.20 acres inside the Critical Area. There are 13.41 acres in the Limited Development Area (LDA) and 8.59 acres in the Resource Conservation Area (RCA).

The Maryland Department of the Environment requires a wastewater facility discharging to shellfish harvesting waters to have a holding capacity equal to its design capacity. Since the 1999 Master Plan for Water Supply and Sewerage Systems provides for a planned expansion to nine million gallons per day (mgd), the shellfish holding pond's emergency holding volume must be increased from its current capacity of six mgd to nine mgd.

Due to site constraints the only feasible area for expansion of the holding pond will encroach into an expanded Buffer due to hydric soils to a tributary stream. Since the pond is lined, it is considered an impervious surface and the expansion will exceed the 15% impervious surface limitations in the LDA and RCA; therefore, the project will require a conditional approval by the Commission.

The Department of Natural Resources has confirmed there are no rare, threatened or endangered species on this site. The Anne Arundel County Soil Conservation District has approved the erosion and sediment control plans. The stormwater management plans include improving an existing trap pond, installing a shallow wetland Best Management Practice and placing 14.8 acres of forest, wetland, and floodplain area in a permanent forest conservation easement to use as a Forest Conservation Credit.

Approximately .14 acres of natural vegetation, plus an additional 40 individual trees will be removed for the pond expansion project. The County proposes to reforest on-site inside and outside the expanded Buffer. The total impervious surface inside the Critical Area portion of the site will result in 15.8% impervious, which represents an 8% increase over the allowable limits.

Since the proposal is a local government project and the pond expansion will impact the 100-foot expanded Buffer and will exceed the 15% impervious surface limitations, this project requires a Conditional Approval by the Commission as found in Chapter 2 of the Critical Area Commission's regulations for State and local government development.

Conditional Approval Process

In order to qualify for consideration by the Commission for conditional approval, the proposing local agency must show that the project or program has the following characteristics:

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

The proximity of the existing holding pond to the tributary stream, the required expansion of the 100-foot Buffer due to hydric soils, and the size of the pond represent special physical features unique to this site that would prevent the County from complying with other State water quality standards. Relocation of the existing holding pond is restricted by the existing plant facilities, the plant hydraulics and the existing topography.

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

The public benefits of this project include the continued 24-hour holding capacity of wastewater to ensure that nearby shellfish waters will not be negatively impacted by this facility, and the availability of sewer service for current and future property owners. The availability of sewer service will reduce the overall number of future septic systems in the watershed, which should result in lower nitrogen loads to the Chesapeake Bay and its tributaries.

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

The project conforms in all other ways to the Critical Area Program.

C. *The conditional approval request shall, at a minimum, contain the following:*

(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;

A literal enforcement of the provisions of this subtitle will prevent construction of the planned expansion of a holding pond to meet the regulations of the Maryland Department of the Environment, which require a wastewater facility to have a holding capacity equal to its design capacity.

(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;

The disturbance is the minimum necessary for the proposed holding pond expansion and will conform, insofar as possible, to the Anne Arundel County Critical Area Program.

(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 County proposes to provide reforestation at a 3:1 ratio for clearing that will occur inside the Buffer and at a 1:1 ratio for clearing that will occur outside the Buffer.

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

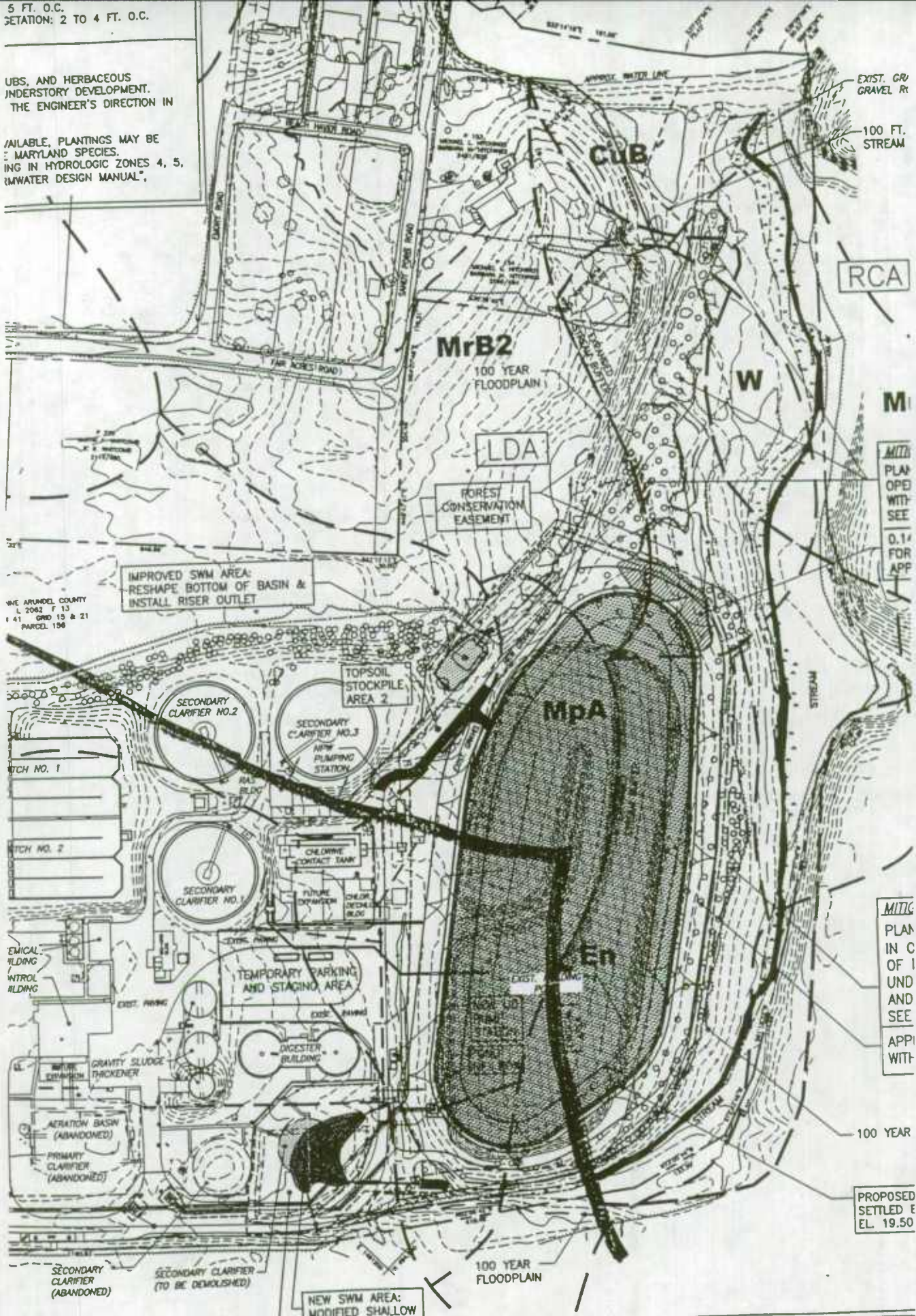
Condition:

The Department of Public Works shall provide mitigation at a 3:1 ratio for all disturbances to the expanded Buffer and 1:1 mitigation for clearing outside the expanded Buffer.

5 FT. O.C.
DETENTION: 2 TO 4 FT. O.C.

UBS, AND HERBACEOUS
UNDERSTORY DEVELOPMENT.
THE ENGINEER'S DIRECTION IN

AVAILABLE PLANTINGS MAY BE
MARYLAND SPECIES.
ING IN HYDROLOGIC ZONES 4, 5,
"WATER DESIGN MANUAL".



Anne Arundel County DPW Broadneck WRF HOLDING POND EXPANSION

May 19, 2003

MEMORANDUM

TO: Critical Area Commission Members

FROM: Martin G. Madden, Chairman

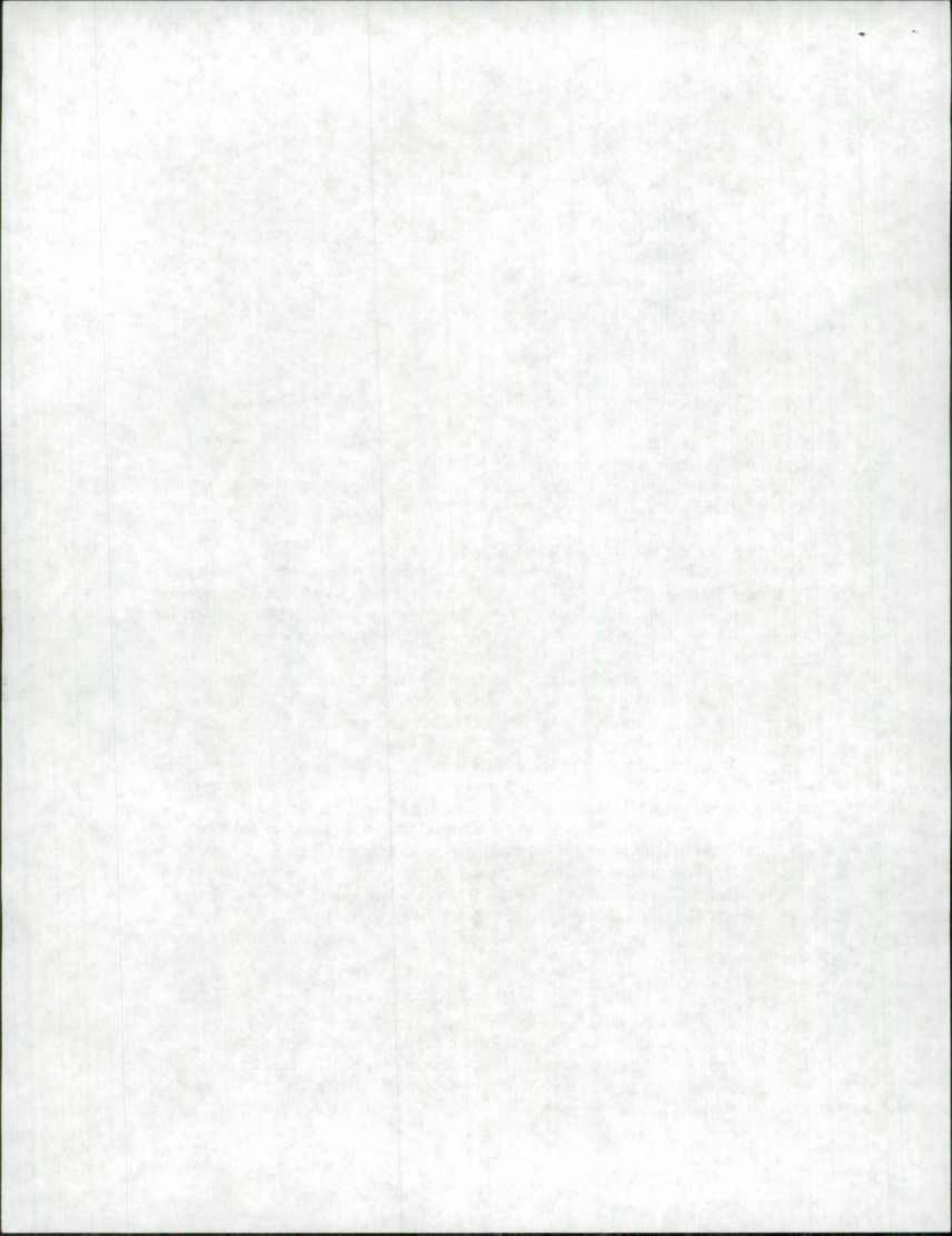
SUBJECT: DNR/Erickson Foundation NorthBay Camp – Review Procedure

The Critical Area Commission, as you know, has for some time reviewed various aspects of the DNR/Erickson Foundation proposed NorthBay Camp at Elk Neck State Park. Following the Project Subcommittee's latest discussion of the proposal on May 7, 2003, DNR and the Erickson Foundation requested an opportunity to brief me on the project.

A meeting was held on May 8th with me, Ren Serey, Regina Esslinger, and Marianne Mason, our Assistant Attorney General. Erickson Foundation representatives included Dr. Robert Bingham, Engineer Ken Usab and Attorney Sandy McAllister. Representing DNR were Gene Piotrowski, Director of Resource Planning, and Mike Slattery, Assistant Secretary for Resource Management. We discussed an innovative approach for moving the project forward that Gary Setzer suggested following the Commission meeting the previous day. His suggestion includes direct participation by Commission staff in MDE's wetlands and stormwater management permit reviews. I would like to present this approach for your consideration at our next Commission meeting on June 4, 2003.

As I understand from the latest Subcommittee meeting and discussions with Commission staff, DNR moved the NorthBay Camp to the Bowers Conference Center from an adjacent forested area within the park. The camp in this location requires far less clearing, but is constrained by the narrower site and therefore would still need a conditional approval because of disturbance to expanded Critical Area Buffers and steep slopes. To address these impacts, the Commission must weigh them against the project's relative benefits to the overall Critical Area program and the ability to mitigate for the disturbances. The NorthBay Camp is the largest project of its nature that the Commission has reviewed. The project will be built entirely with private funds for the State's benefit.

I asked both DNR and the Erickson Foundation to provide by the end of this week the information the Subcommittee requested on specific impacts and mitigation proposals. They also have been given a detailed checklist of items needed to complete their application to us. They promised to do so and I have asked Regina to contact you when it is received so you may have an opportunity, if you choose, to review it prior to our

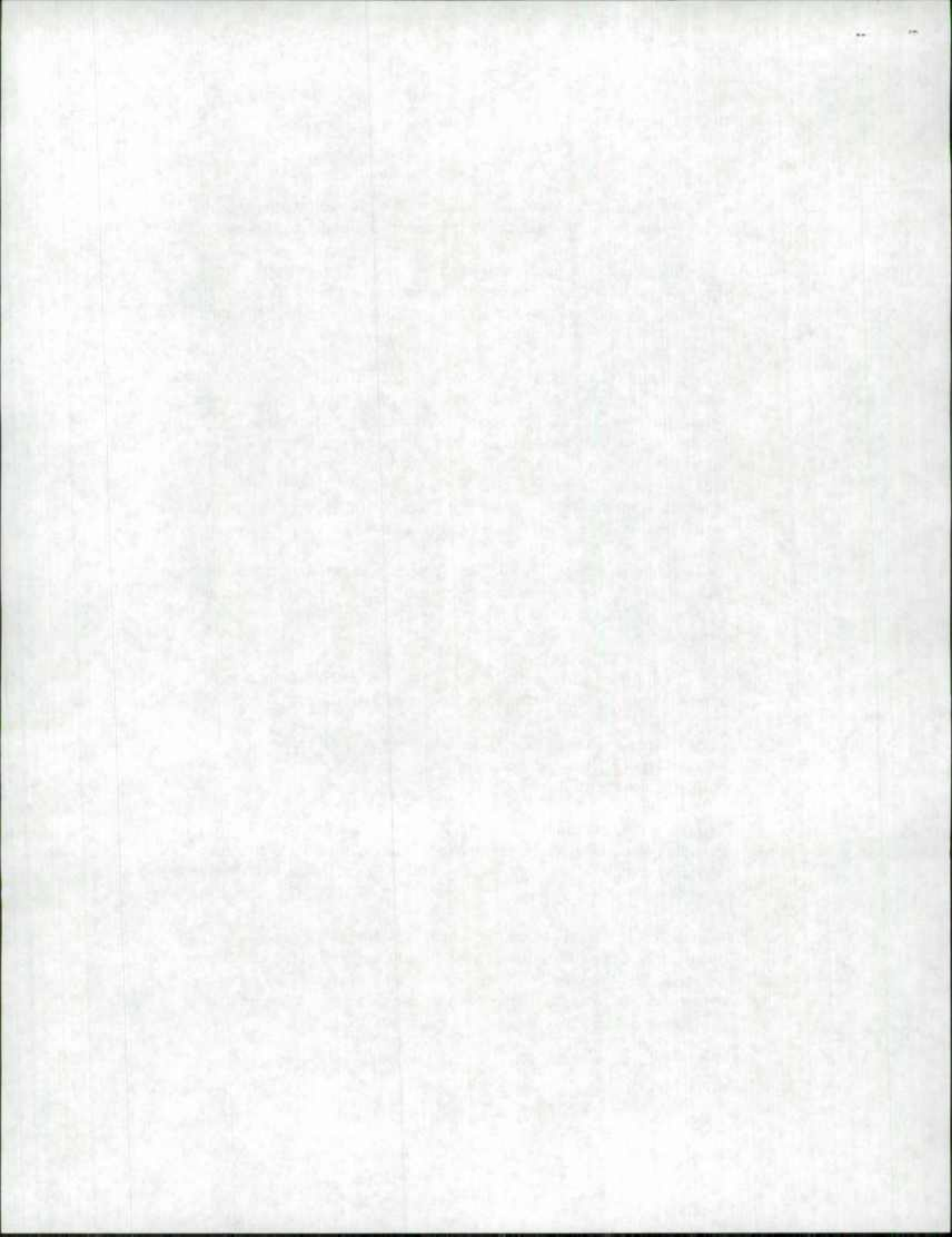


scheduled meeting in June. It is apparent, however, after discussions with MDE that they will not have the necessary stormwater and wetlands permits for at least several months.

In order to keep this project moving towards an ultimate decision, I propose the following: If we receive the impacts and mitigation information in the timeframe promised, as I expect we will, I propose to present the following for your consideration on June 4th.

1. If the Commission, following receipt of all required information (except the outstanding permits) and a public hearing in mid-June, favors the project, it could grant conditional approval of a concept site plan on July 2, 2003. Any conditional approval must satisfy the requirements of COMAR 27.02.06, including a determination that the project conforms insofar as possible with the Commission's Criteria for development on State-owned lands. This conditional approval of the concept site plan would contain conditions that would need to be satisfied for the project to obtain final conditional approval.
2. The conditional approval would require that Commission staff participate in other agency reviews of permit applications. MDE has agreed to include Commission staff in its reviews of wetlands and stormwater management permits.
3. Commission staff will report regularly to the Project Subcommittee, or as appropriate to the full Commission, on the status of the permit reviews.
4. The Commission and/or the Project Subcommittee will request The Erickson Foundation or DNR to provide periodic briefings as necessary on the project or the status of permits.
5. The Project Subcommittee and/or the Commission will notify The Erickson Foundation and DNR in a timely manner of any Critical Area concerns regarding changes to the concept plan resulting from the permit reviews or other reasons.
6. Acknowledging the prior concept approval, and factoring in any changes to the plan, the Commission would vote on a final conditional approval at a point following The Erickson Foundation's receipt of other necessary agency permits and approvals, or letters of assurance from those agencies that the permits are in their final stages and are approvable.

Such an approach would offer several significant advantages. For the first time, the Commission will participate directly in the MDE permit reviews, and will know the



Critical Area Commission Members

May 19, 2003

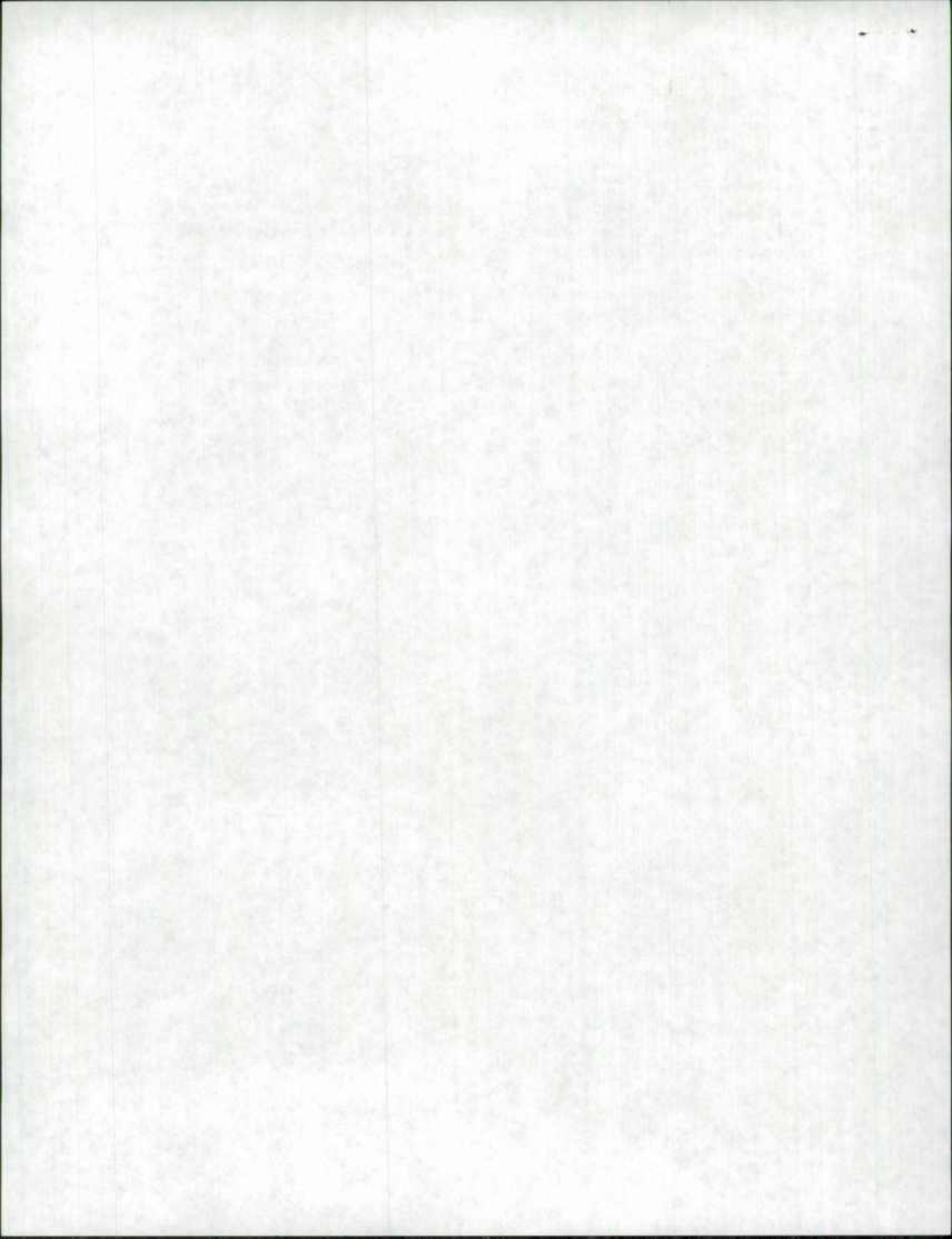
Page 3

project's impacts before final approval. The procedure also may serve as a prototype for future large-scale State projects of a similar nature. And, I believe it is an appropriate response to the Erickson Foundation's current and future investments in the project.

Our Assistant Attorney General, Marianne Mason, has reviewed this procedure and has approved it for legal sufficiency.

Please contact me, Ren Serey or Regina Esslinger if you have comments or questions. Our email addresses are: mmadden@dnr.state.md.us; rserey@dnr.state.md.us; resslinger@dnr.state.md.us. You also can reach us at (410) 260-3460.

Thank you.



Critical Area Commission

STAFF REPORT

June 4, 2003

APPLICANT: Department of Natural Resources/Erickson Foundation

PROPOSAL: North Bay Environmental Education Camp

JURISDICTION: Cecil County

COMMISSION ACTION: Information

STAFF: Regina Esslinger

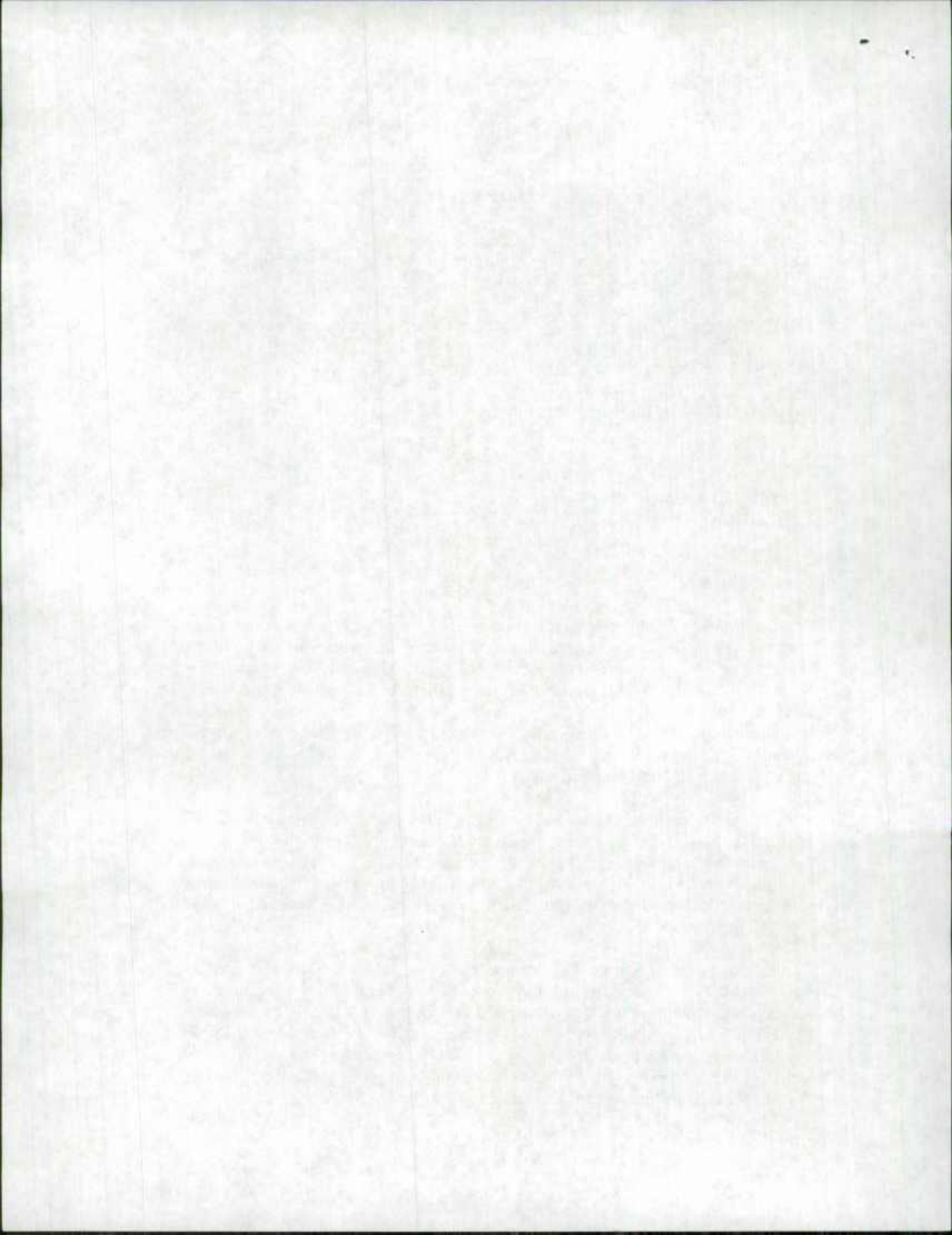
**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State Agency Programs in the Critical Area

DISCUSSION:

The Department of Natural Resources, in partnership with the Erickson Foundation, proposes to build an environmental education camp for children at Elk Neck State Park. The camp will serve public and private schools, religious groups, Boys Scouts, Cub Scouts, Girl Scouts, Young Life, troubled youth programs, and athletic associations. The camp will have up to 500 people between campers and staff. The Erickson Foundation, with input from and in coordination with DNR, is developing a program that will provide experience and training in environmental awareness, natural resources conservation, team and confidence building, and leadership training.

In April the Commission granted a concurrence with the concept plans for the camp. DNR has requested that the conditional approval request be heard for information in June, with the conditional approval public hearing scheduled in June and a vote on the conditional approval at the July 2003 meeting. The Chairman has agreed to present this schedule to the Commission for consideration under the conditions outlined in his May 19, 2003 memo.

Currently there are 0.63 acres of paving and structures in the 100-foot and expanded Buffer and 0.29 acres of paving on steep slopes. The site has 3.5% impervious surface. As proposed, the total temporary and permanent impacts to the 100-foot and expanded Buffer is 5.8 acres. Total temporary and permanent impacts to steep slopes is 1.9 acres. The total forest area to be cleared is 2.2 acres. Total proposed impervious surfaces, including existing impervious surface to be kept, is 14.67% of the site. Staff is reviewing the proposed mitigation amounts and will discuss this at the meeting.



Conditional Approval Process

B. In order to qualify for consideration by the Commission for conditional approval, the Department of Natural Resources must show that the project has the following characteristics:

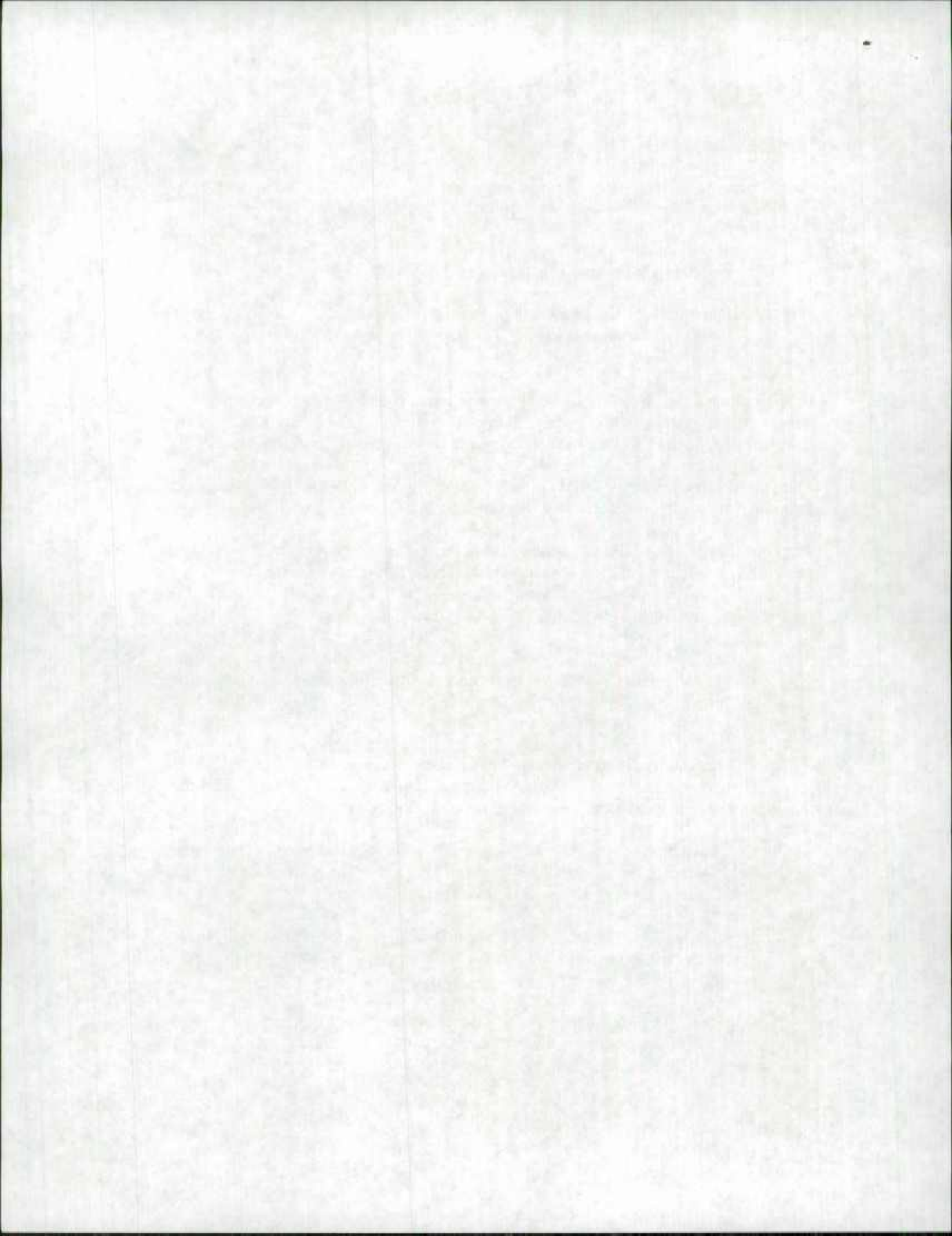
(The responses are those of the applicants.)

- (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;*

In order to meet the objectives of developing an environmental education camp and experiential educational program for 350 to 500 people, it is necessary to site the facility in close proximity to a diverse habitat. Maryland Department of General Services (DGS) and DNR performed a search of existing State Properties. The criteria also included safety, Bay access, zoning / Smart Growth, minimal impact of development, size, proximity to population centers, and redevelopment opportunity.

The NorthBay site provides excellent access to the open headwater area of the main stem of the Bay, beach ecosystem, emergent tidal wetlands, non-tidal wetlands, streams, buffer habitat, interior forest habitat, and open field areas. The Bower Center Site meets all of the preceding criteria and has the following additional special features:

1. Consistency With DNR's 1996 Master Plan for Elk Neck State Park – The project is consistent with DNR's 1996 Departmental Goals for accommodating additional overnight visitors and promoting public / private partnerships on DNR lands, using private investment to support public objectives.
2. Project Targets Opportunities for Underprivileged Population – The project will bring exposure to the Bay to underprivileged students that have otherwise limited exposure to experiential environmental education programs.
3. Extensive Existing Open Space – The existing Bower Center has extensive open fields and maintained lawn areas in the Critical Area. The primary development activities are directed to the non-forested areas of the site.
4. Existing Building Structures, Paving and Development in the Buffer – There is significant existing development in the 100-foot Buffer, expanded Buffer and existing steep slopes.
5. Core Activities Must be Located in Waterfront Section of Property – The focus of the educational program is study of the Chesapeake Bay and the contiguous habitat. Therefore the Camp must have direct access to this habitat.



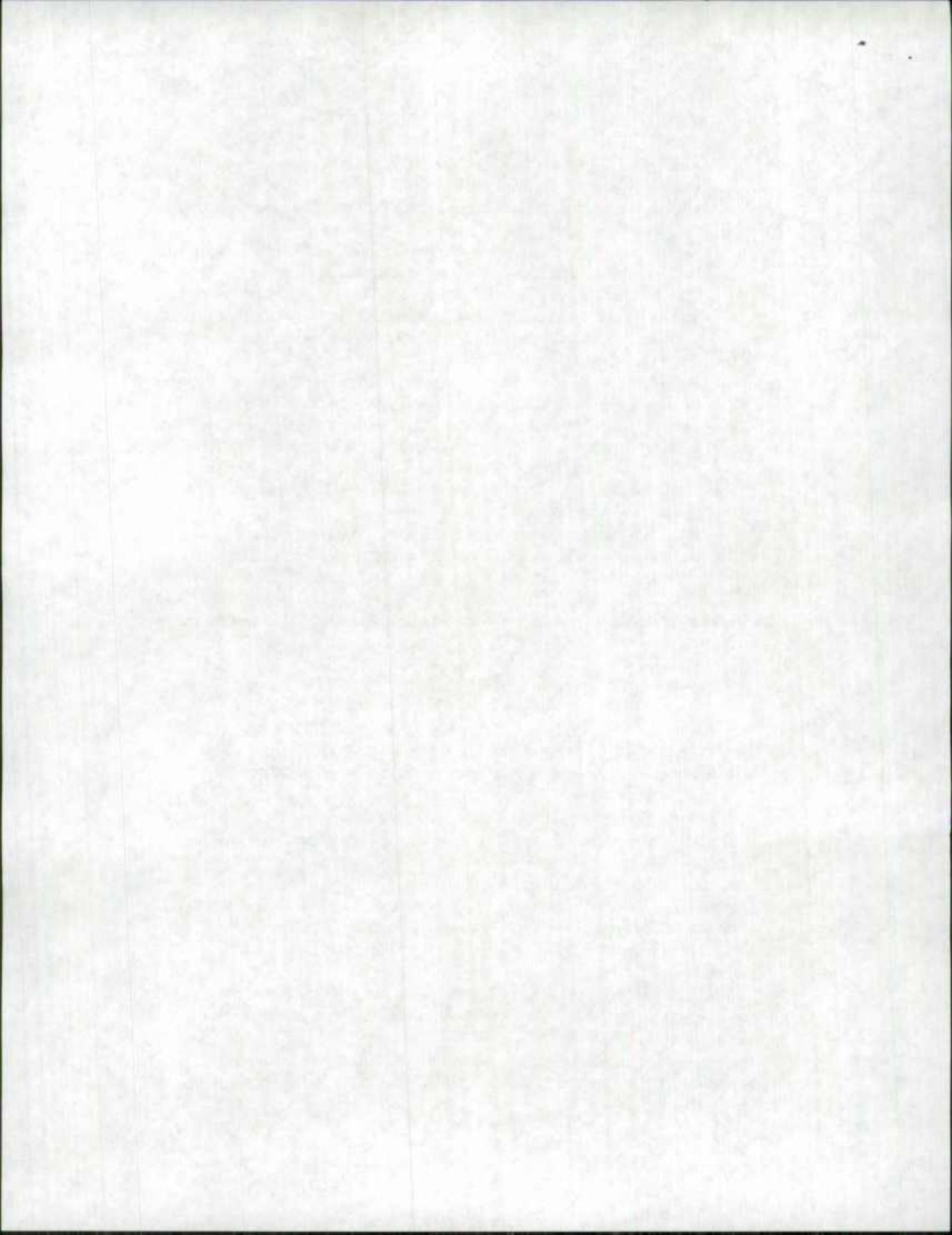
6. Safety Requirements

- *Emergency Gathering Space* - A large central open space is necessary for the ability to rapidly collect and account for all campers in case of an emergency. Exclusion from the expanded Buffer will dangerously reduce the size of this space.
- *Significant Gender Separation* – The Erickson Foundation’s responsibility is to create effective, safe, and secure environments. Every camp user will demand appropriate gender boundaries for housing. These boundaries include being close enough for supervision, and credible distance between genders. On a smaller site, it is imperative to gain housing separation as far to the edge of the site as possible.
- *Practical Camper Supervision* - Trouble-free track of kids - for counselors to maintain contact, housing must be within core operations. Distant camper housing is a known deterrent to effective camping programs. For dozens of reasons kids can elect to remain or go back to cabins. Remote cabins make the counselor’s job too difficult. More importantly, cabins that are remote from core programming give too much opportunity for hidden inappropriate events and/or contact.
- *Enough Space for Campers* - Buildings need to have significant space between units so to not create an “urbanized” camp feel. Campers too close to each other can create a hostile environment.

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

The project provides substantial direct benefits to the Chesapeake Bay Critical Area Program in addition to those items listed above. These benefits include:

- Overall enhancement / expansion of FIDS habitat;
- Overall enhancement / expansion of forested areas within the 100-foot and expanded Buffer;
- Removal of holding tank sewage system at a state facility;
- Pretreatment of significant areas of impervious surfaces that presently are not treated by BMPs;
- Restoration of degraded areas within the Critical Area at the site;
- Opportunities for developing concrete scientific evidence regarding impacts of humans and development on FIDS and sensitive wetland areas;
- Study and development of information on responsible development and maintenance of trails;
- Educational programs will instill an appreciation for the Chesapeake Bay ecosystem in participants and support tomorrow’s leaders in environmental awareness and protection;
- Project serves communities and populations in the State that do not have opportunity for these types of experiential environmental education programs; and



- Allows the State to continue working toward meeting its environmental education objective during a severe budget crisis.

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

The Erickson Foundation and DNR have worked closely to ensure that the project will otherwise comply with COMAR, Title 27. Where it is not possible to comply, a conditional approval has been requested and mitigation proposed to address the adverse effects of the project. The plans submitted with the application and supporting tabulation of impacts and mitigation document compliance with this requirement.

C. The conditional approval request shall, at a minimum, contain the following:

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

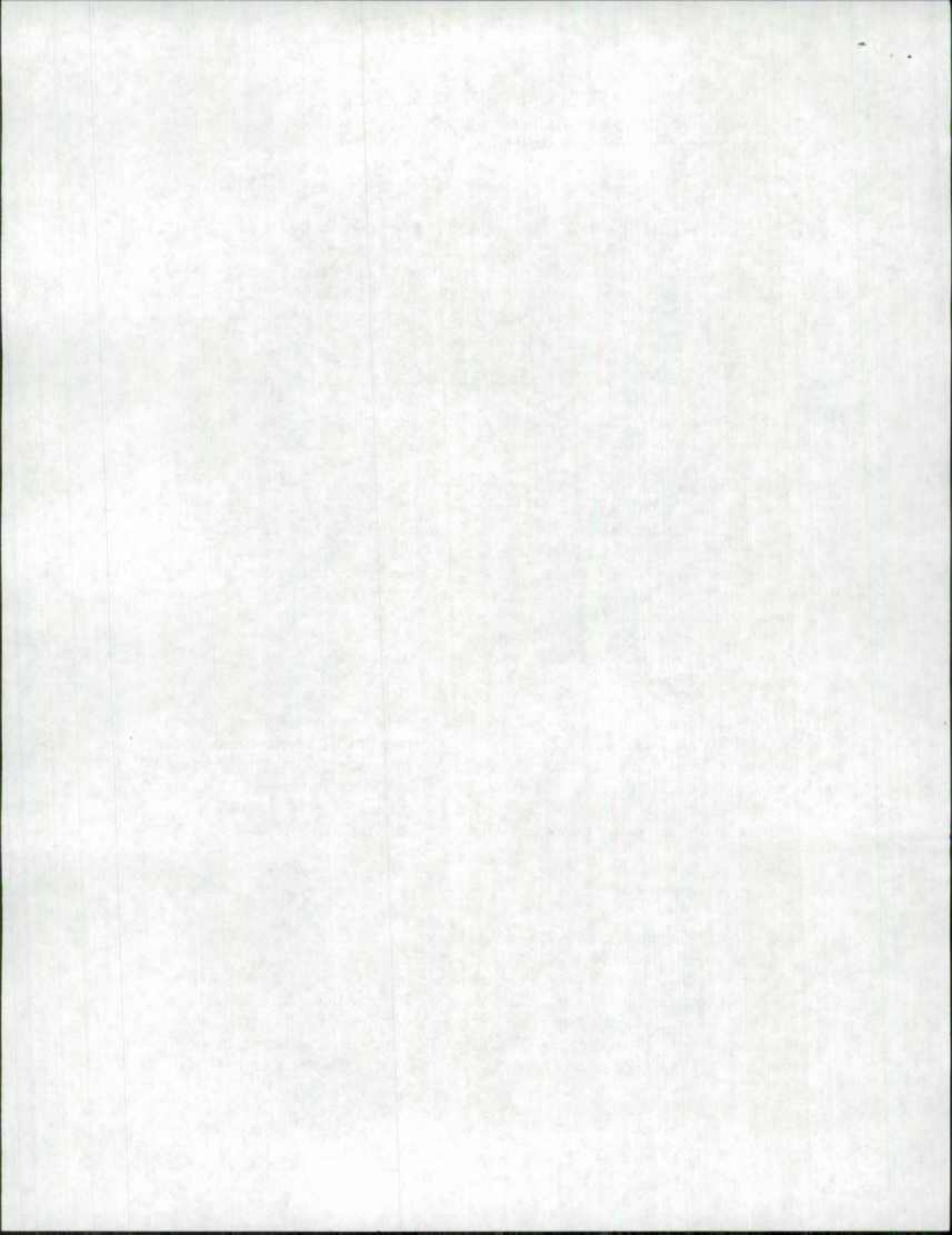
The Erickson Foundation and DNR have worked closely with the Commission and Commission staff to design the project to conform to the provisions of Subtitle 27.02.06. This effort has included relocation of the camp from the original Camp Chesapeake site to the Bowers Center and extensive redesign to avoid and or minimize impacts in the Critical Area. Further modifications to the configuration of the camp will compromise the ability of the applicant to carry out the programs and prevent the conduct of an authorized project on State lands.

(2) A proposed process by which the project could be so conducted as to conform, insofar as possible, with the criteria set forth in COMAR 27.02.05;

The project as proposed was developed insofar as possible using the criteria set forth in COMAR 27.02.05. Feasible compliance has been assured through regular coordination with Critical Area Commission staff and through regular meetings of the DNR ID Team for this project to identify and address issues as they have arisen through the development of the plans to date. This close coordination has resulted in implementation of approaches to the design that maximize compliance with COMAR 27.02.05.

(3) Measures proposed to mitigate any adverse effects of the project on the criteria set forth in COMAR 27.02.05.

The applicant has implemented a plan to enhance habitat and Buffer function that will result in an improvement compared to existing conditions in the project area. The proposed mitigation outlined on the project drawings and supporting documentation exceeds the requirements outlined in COMAR 27.02.05. In addition, the applicant has agreed to develop an educational program in cooperation with DNR's Forest, Wildlife and Heritage Program staff that will incorporate restoration of degraded areas in specific areas of the site, further enhancing the quality and function of the habitat in the Critical Area.



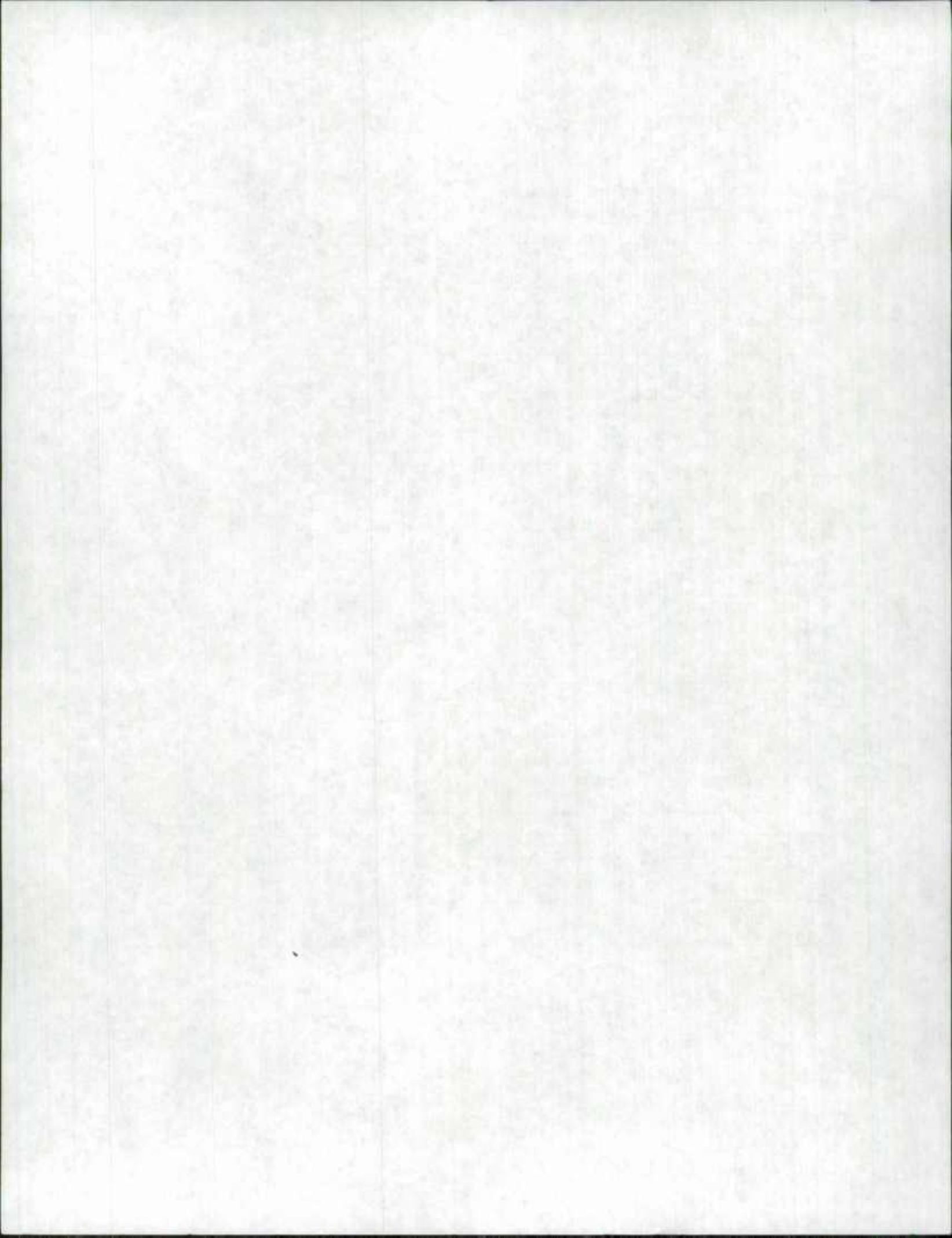
NORTH BAY IMPACTS AND REQUIRED MITIGATION

Buffer impacts and required mitigation (includes temporary and permanent impacts)

	100-foot Buffer	Exp.Buffer for slopes	Exp. Buffer for NTW	Ratio	Total
Water dependent facilities	4400 sq.ft.	0	0	1	4400 (0.1 ac)
Water access	25041 sq.ft.	1155 sq.ft.	4161 sq.ft.	2	60714 (1.39 ac)
Trails at 30% clearing	2673 sq.ft.	12523.5 sq.ft.	0	3	45589.5 (1.05 ac)
Other impacts	11369 sq.ft.	159830 sq.ft.	0	3	513597 (11.79 ac)
Offsite utilities	31600 sq.ft.	4000 sq.ft.	0	3	106800 (2.45 ac)
Total Buffer mitigation owed					731100.5 (16.78 ac)

Steep slopes impacts and required mitigation (includes temporary and permanent impacts)

	Steep slopes	Ratio	Total
Main site	80806 sq.ft.	1	80806 (1.86 ac)
Offsite Utilities	2000 sq.ft.	1	2000 (0.04 sq.ft)
Total mitigation owed			82806 (1.9 ac)



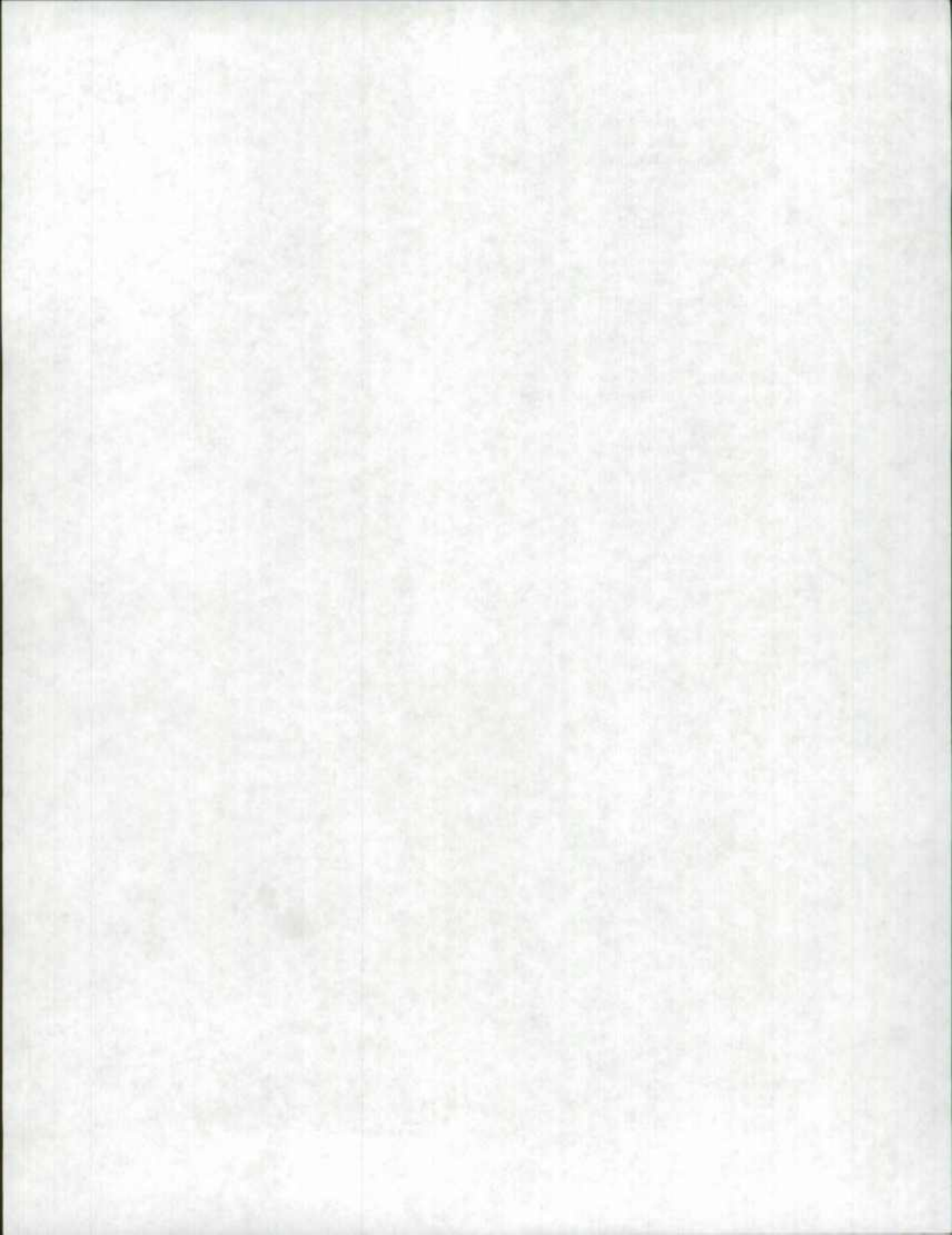
**Critical Area Summary
For
Conditional Approval**

Project : NorthBay

A Partnership Between
the
Maryland Department of Natural Resources
and the
Erickson Foundation

Project Location: Cecil County, Maryland
at *Elk Neck State Park*

Prepared By: Morris & Ritchie Associates, Inc.
Date: 5/20/2003



Overall Summary

Acreage In Critical Area

Park Parcels (2)	450 Acres
Erickson Lease Area	97.619 Acres
Within Limits Of Disturbance	Acres

Total Forest Area Cleared	Acres
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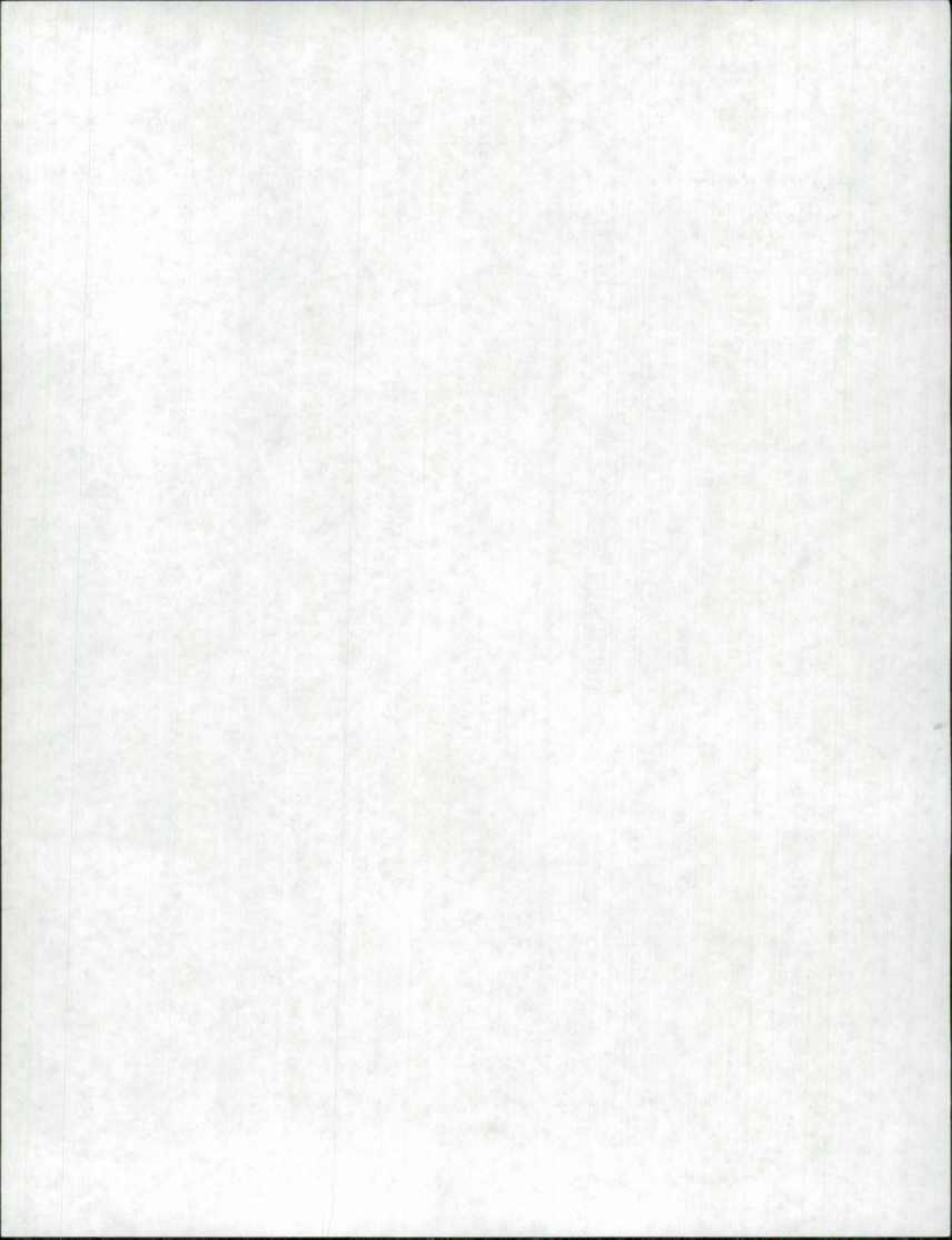
Ownership of Property	State
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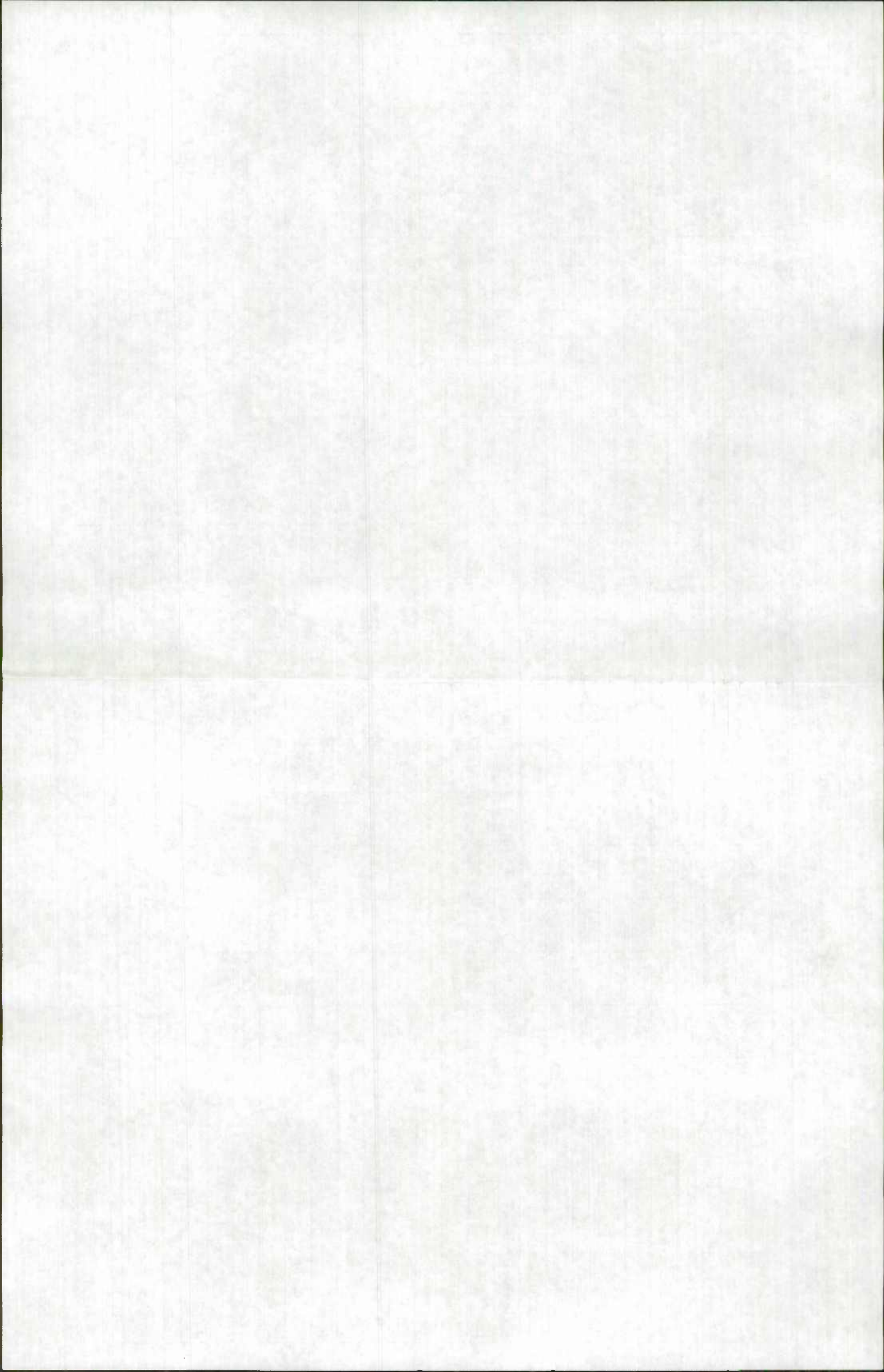
Method of Stormwater Control Thru Combination of:

- Bioretention
- Dry Swales
- Sheet Flow Over Vegetated Areas
- Wet Ponds

Total Mitigation Proposed	Acres
----------------------------------	-------

Total Mitigation Required	Acres	(refer to detailed breakdown on subsequent pages)
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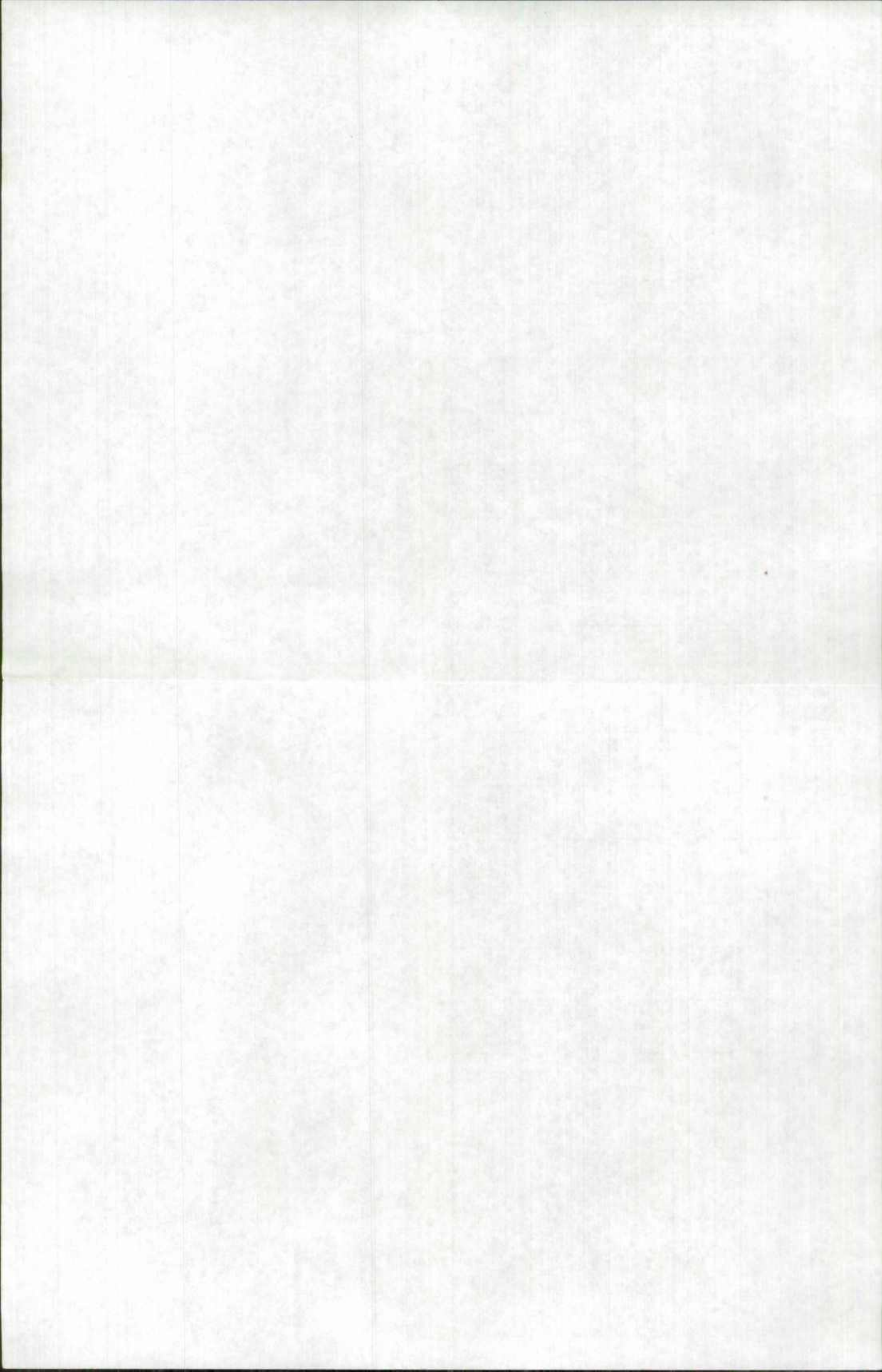


CRITICAL AREA IMPACT TABULATION

Removal of Existing Trail	-	-	-	-	-	-	3,360										
Tree Clearing																	
Total Over Site	11,935	7,288	14,465	0	3,273	5,781	23,465										
Tree Clearing For Cabins / Buldings																	
Tree Clearing For Unpaved Trails																	Impacts have been accounted for in other impact calculations except for FID Impacts
Ropes Course																	150,320
* impacts in steep slopes counted towards 100' buffer and or expanded 100' buffer																	30 % of trail area (should be conservative) Canopy will remain closed.
**temporary disturbance excluded. Accounted for in mass grading area.																	5 small trees to be cut in course are. Canopy will not be affected.

Acreage of Site	97.619 AC*
Area of Existing Structures / Paving	109,790 SF
Area of Proposed Structures / Paving	527,174 SF
Forest Clearing	94,293 SF*** 2 AC
Forest Restoration	317708 SF**
Transition Area Restoration	300657 SF
Subtotal	618365 SF 14 AC

* Excludes Off-Site Restoration Areas
 ** Excludes Camp Chesapeake Restoration Area & Remainder of Field
 *** Includes 30% of New Trail Area





Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

MEMORANDUM

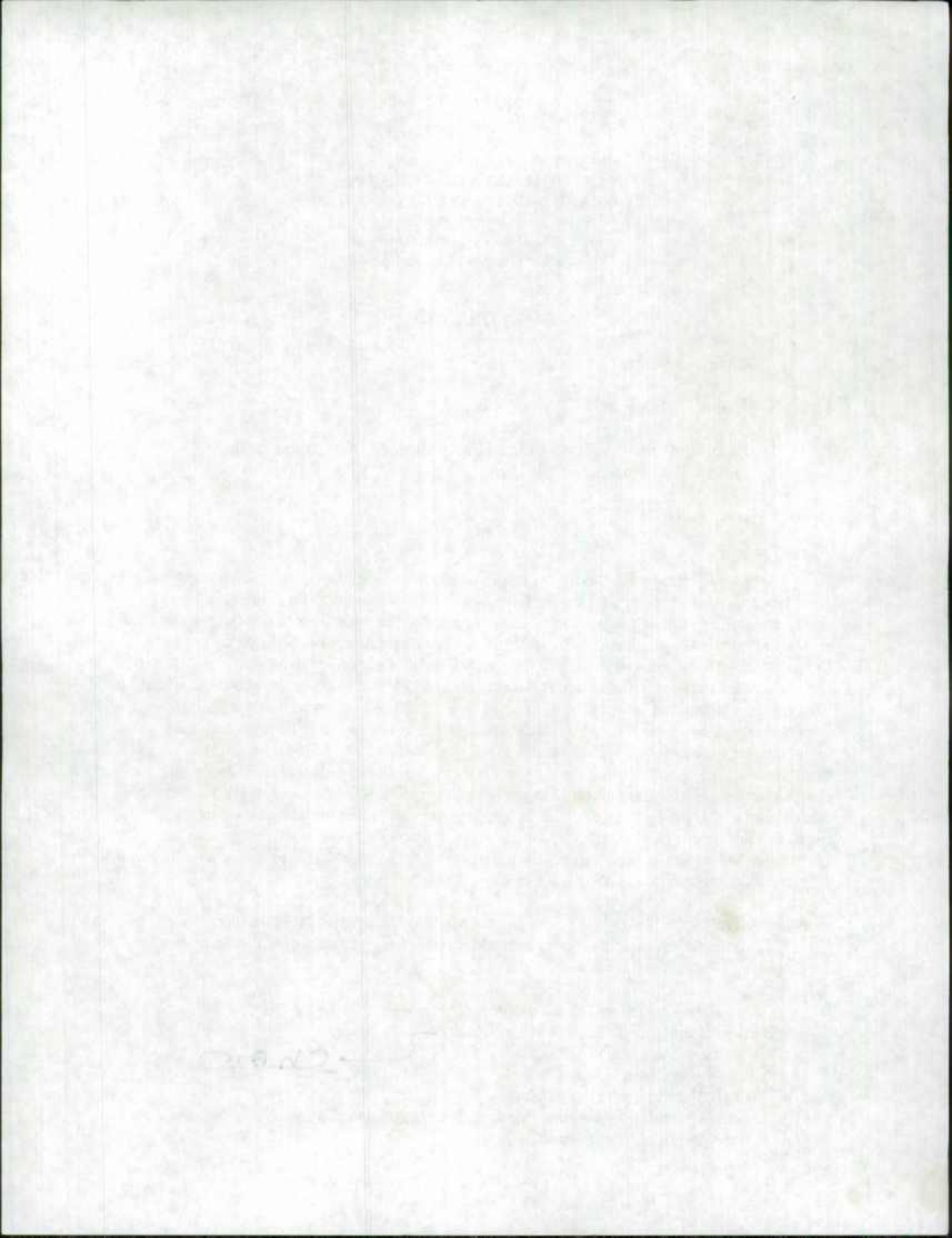
To: Chairman Martin G. Madden
From: Julie V. LaBranche
Re: Panel Appointment for the Buffer Exemption Area Designation for the Quality Built Homes/Gertz Property
Date: June 3, 2003

As you know, we have been working with Calvert County regarding designation of the Quality Built Homes/Gertz Property as a Buffer Exemption Area. The request for designation was approved by the County Commissioners on April 29, 2003 and was sent to the Commission for review and approval. As discussed by the Program Subcommittee, and voted on by the full Commission in May, the designation of the Quality Built Homes (Gertz) property as a Buffer Exemption Area was deferred to allow staff to gather additional information about the site. A site visit was conducted by Commission staff on May 19, 2003. As observed on the site, little impervious surface exists within the Buffer and the Buffer is substantially vegetated and maintains the functions of a Buffer (as described in COMAR 27.01.09.01). Therefore, Commission staff concludes that the property does not necessarily meet the standards for designation as a Buffer Exemption Area (as required in COMAR 27.01.09.01(8)). Furthermore, designation of this property as a Buffer Exemption Area would be in conflict with more restrictive provisions of the Calvert County Zoning Ordinance governing development on grandfathered lots and nonconforming uses. The amendment will be placed on the agenda for the July 2, 2003 Commission meeting for a vote.

I have tentatively scheduled a public hearing for Monday, June 23, 2003 at 6:30 pm. in the County Commissioners meeting room, Prince Frederick, Maryland. I would like to recommend the following Commission members for the panel:

- Gary Setzer, Department of the Environment (~~Chair~~) (Alternate)
- Barbara Samorajczyk, Anne Arundel County
- Louise Lawrence, Department of Agriculture Chair
- Judith Evans, Calvert County
- Larry Duket (confirmed)

I have contacted Commission members Samorajczyk, Lawrence, and Evans all of whom are available on the proposed hearing date.



Critical Area Commission

DRAFT STAFF REPORT FOR SUBCOMMITTEE DISCUSSION

June 4, 2003

APPLICANT: Calvert County

PROPOSAL: Buffer Exemption Area designation
for the Quality Built Homes property

COMMISSION ACTION: Program Subcommittee Discussion

STAFF RECOMMENDATION:

STAFF: Julie V. LaBranche

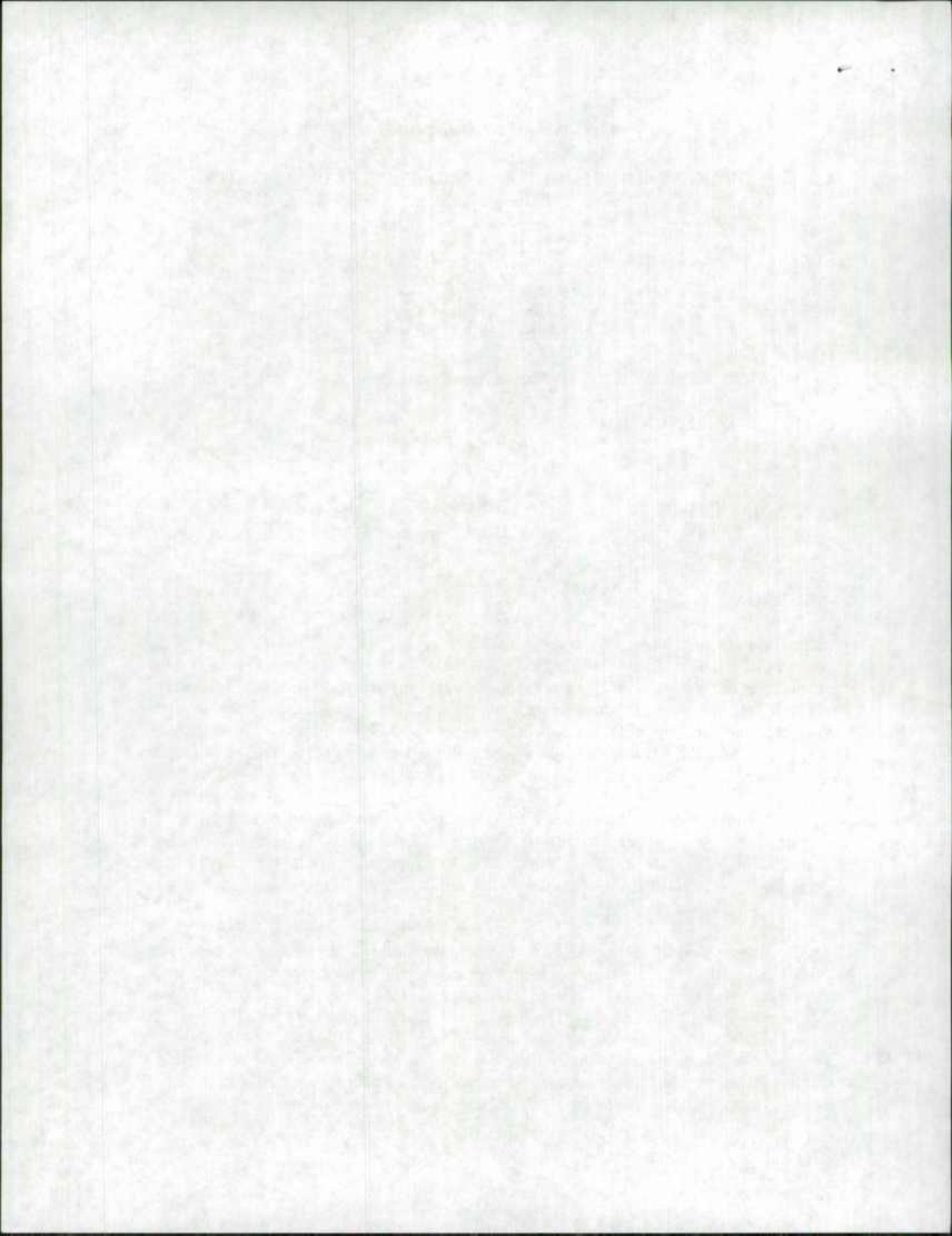
**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article 8-1809(g)

DISCUSSION:

Quality Built Homes / Rodney Gertz property (Tax Map 44, Parcel 171)

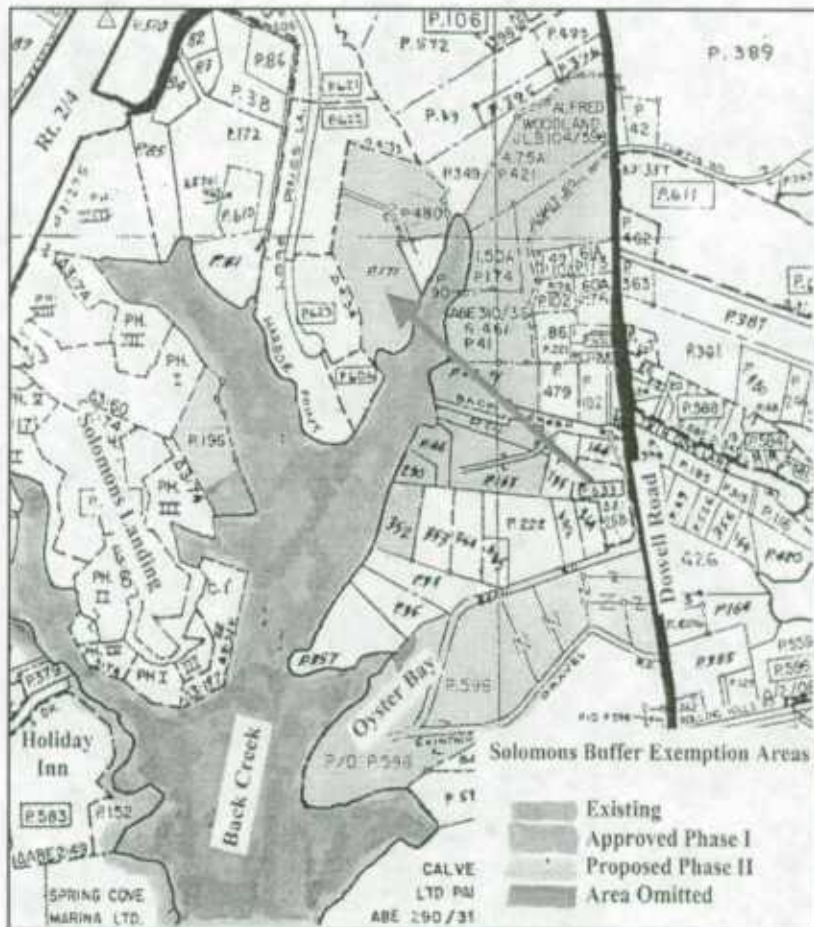
As discussed by the Program Subcommittee and voted on by the full Commission in May, the designation of the Quality Built Homes property as a Buffer Exemption Area was deferred to allow staff to gather additional information about the site. This is a 4.56 acre residential property located at the northern end of Back Creek in Solomons Town Center and is designated a Limited Development Area (LDA) (refer to map on page 2). Based on a site visit conducted on Monday, May 19, 2003, Commission staff report the following observations.

- 1) The 100-foot Buffer is fully forested within the first 30 feet from the shoreline (refer to attached photograph 1). Vegetation within the remainder of the Buffer has regenerated since the dwelling was destroyed. This portion of the Buffer, including the footprint of the former dwelling, consists of dense growth of saplings, shrubs, and grasses (see attached photograph 2).
- 2) A dwelling previously existed on the property but was destroyed by fire several years ago. As measured on the site, the remains of the previous dwelling are approximately 60 feet from the mean high water line of Back Creek (refer to attached photograph 1). These remains consist of charred timbers, fixtures and several brick and mortar pilings, upon which the dwelling was built. The existing impervious surface coverage within the 100-foot Buffer consists of a concrete walkway adjacent to the dwelling remains (approximately 3 feet by 20 feet) and a gravel driveway, which is partially vegetated (see attached photograph 2 and 3). A shed (approximately 10 feet by 15 feet) is located outside the 100-foot Buffer.



As required by the provisions for grandfathering (Article 4, Section 4-6.05.A.) and non-conforming uses (Article 7, Section 7-7.20.E.) of the Calvert County Zoning Ordinance, reconstruction of the previously existing dwelling in the Buffer must occur within one year of the destruction of the dwelling, otherwise a variance would be required to reconstruct the dwelling in the same location. Since a dwelling could be located on the property outside the Buffer, staff would not support such a variance.

Because there is little impervious surface within the Buffer, and the Buffer is substantially vegetated and maintains the functions of a Buffer (as described in COMAR 27.01.09.01), Commission staff concludes that the property does not necessarily meet the standards for designation as a Buffer Exemption Area.



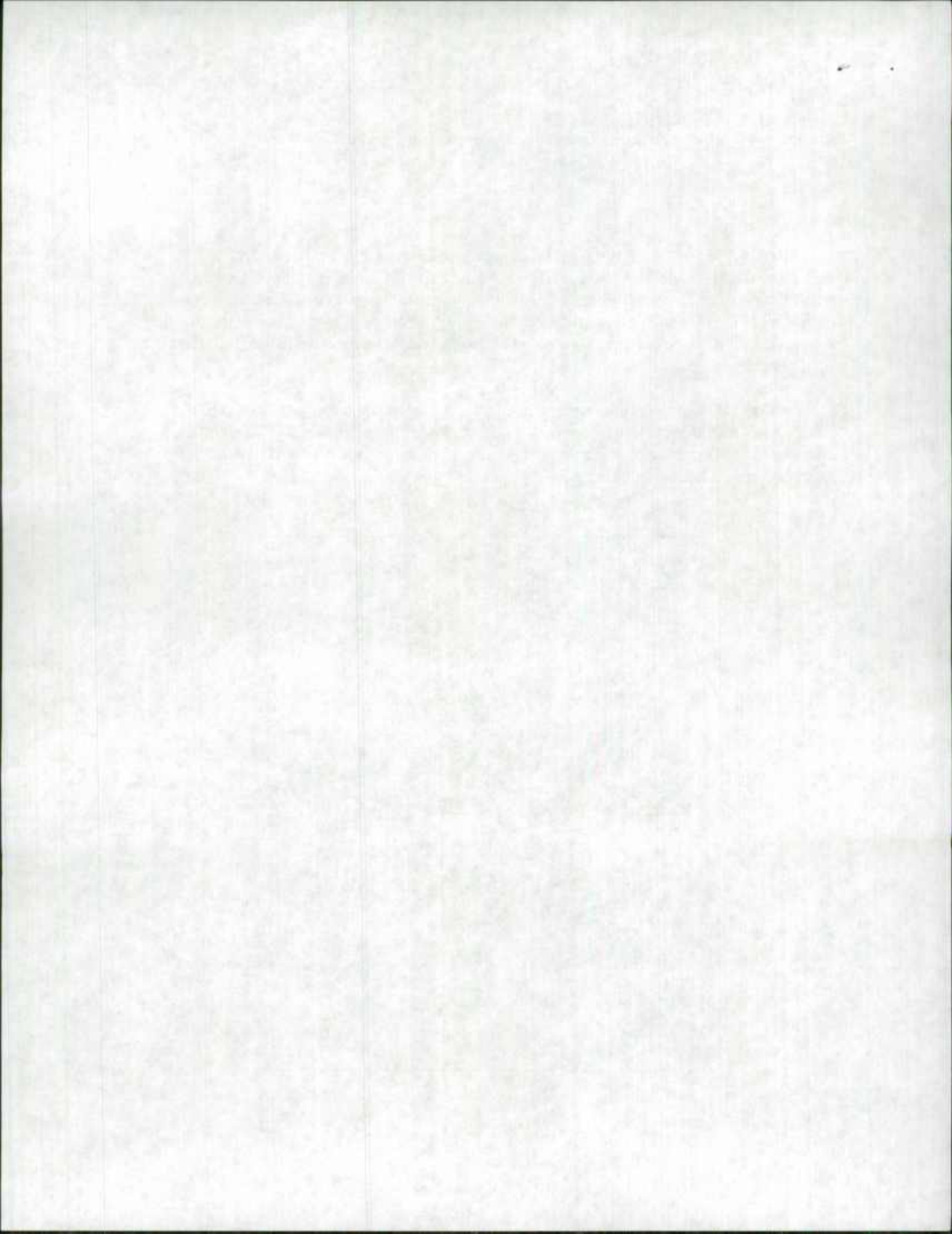


Photo 1



View toward the Buffer from location of former dwelling.

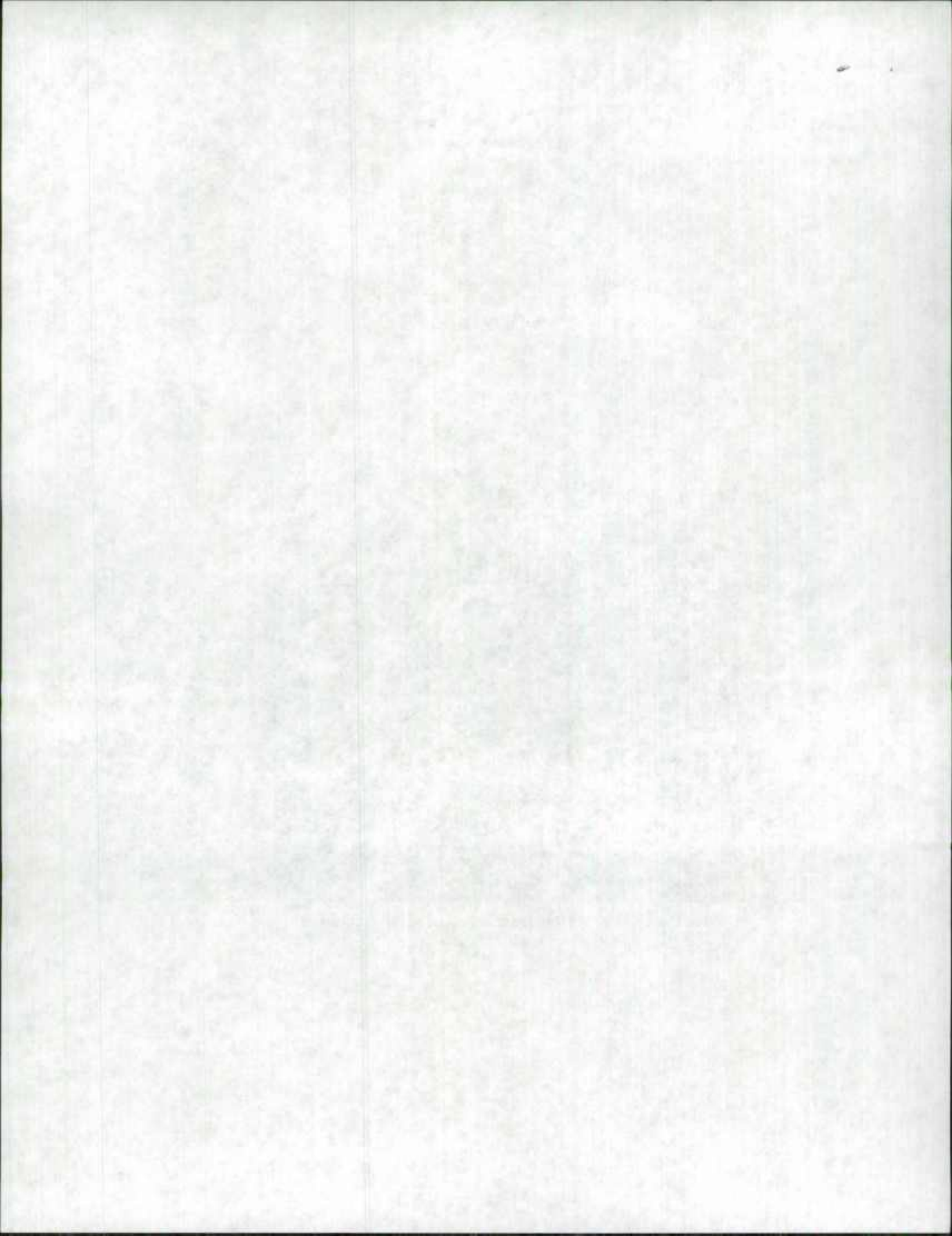


Photo 2

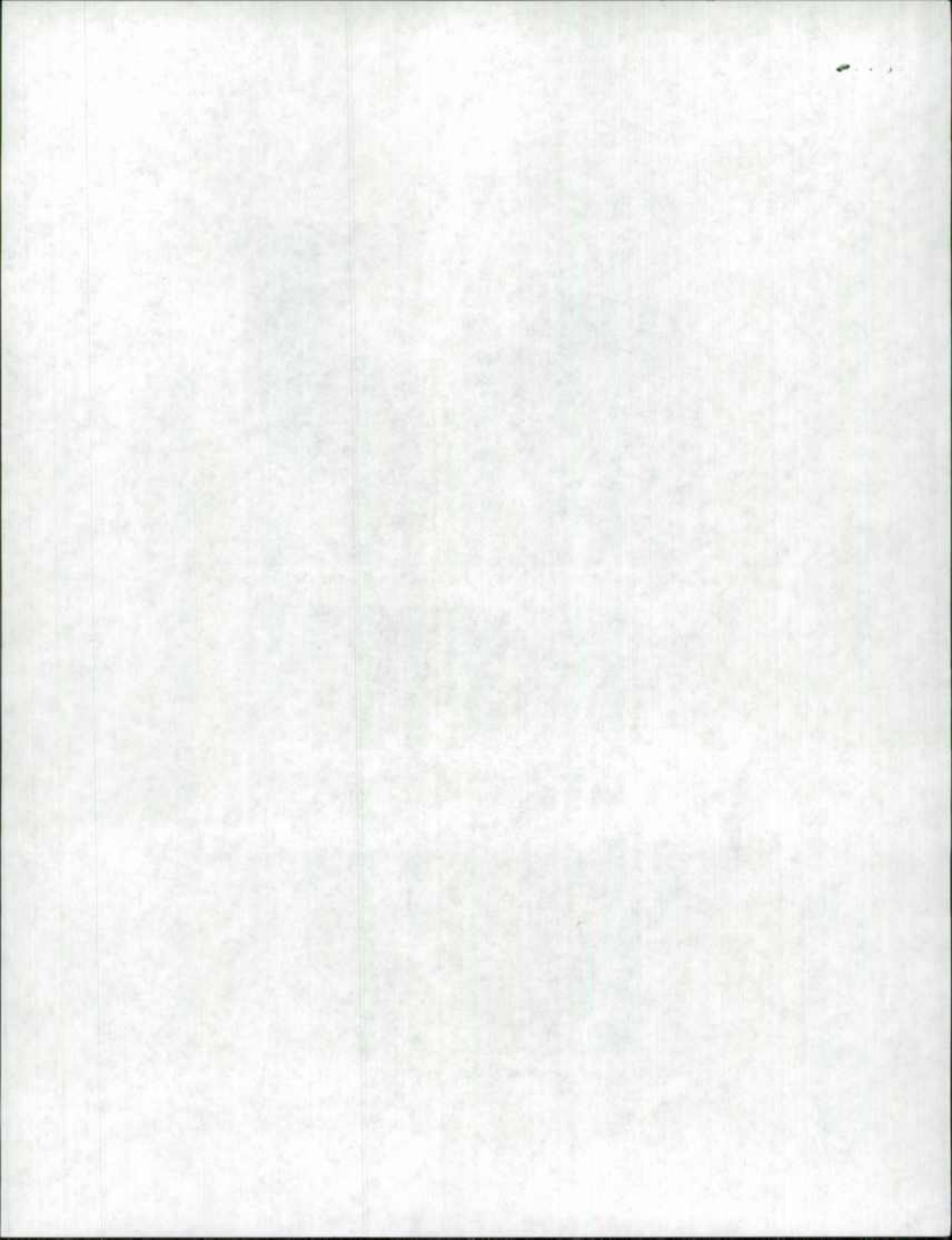


Portion of gravel driveway looking toward the Buffer

Photo 3



Concrete walkway with remains of dwelling to the right



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

MEMORANDUM

To: Program Subcommittee

From: Ren Serey, Mary Owens, Lisa Hoerger

Date: May 21, 2003

Subject: Discussion of Density in the RCA (Guesthouses, accessory apartments, domestic quarters)

At the April meeting of the Program Subcommittee, staff were instructed to provide some background information on several counties that permit certain uses in the RCA. The definition of a dwelling unit provided by the International Building Code, and the Building Officials and Code Administrators, International, Inc. (BOCA) is the same. We have provided the definition below.

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Staff investigated Anne Arundel, Calvert and Talbot County Critical Area programs. In each case the following questions were explored:

How does the County define a dwelling unit?
How does the County define accessory uses or structures?
How does the County define their allowable RCA use (i.e. domestic quarters, accessory apartments, guest houses)?

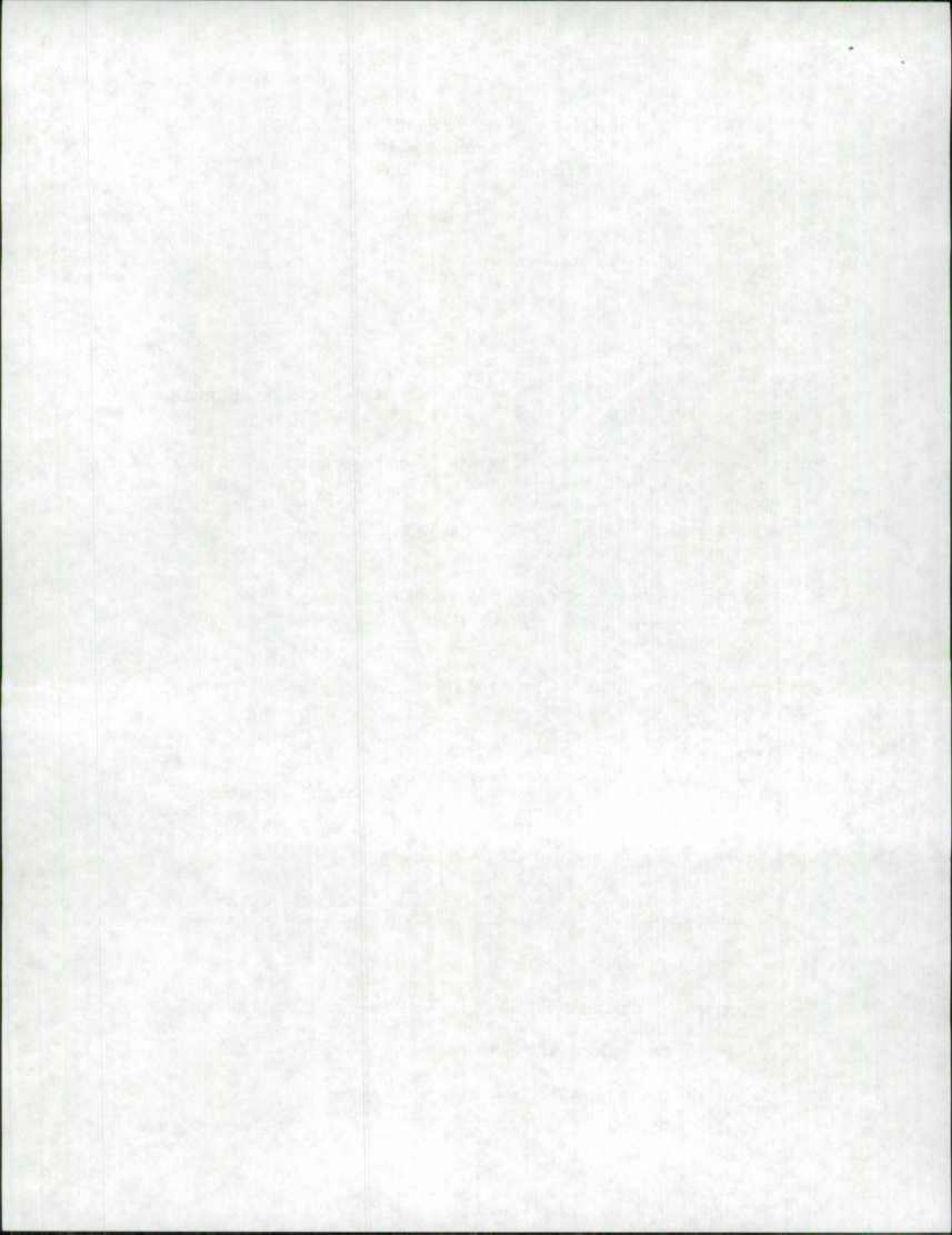
Anne Arundel County - Definitions

Accessory structure- a structure that customarily is incidental and subordinate to the principal use or principal structure located on the same lot as the accessory structure.

Accessory use – a use other than the principal use of a site.

Principal structure – a structure that is intended to serve the principal use of the lot on which it is located. An accessory structure that is attached to a principal structure, directly or by a breezeway, is part of the principal structure.

Principal use – the primary structure or activity for which a site is employed.



Dwelling - a structure or portion of a structure that contains at least one dwelling unit ...

Dwelling Unit – a room or rooms that are used or intended to be used by one or more individuals living together or maintaining a common household.

Domestic Quarters – The County does not define domestic quarters; however, the property owner must sign an agreement which places limits on domestic quarters. The following is a portion of the agreement:

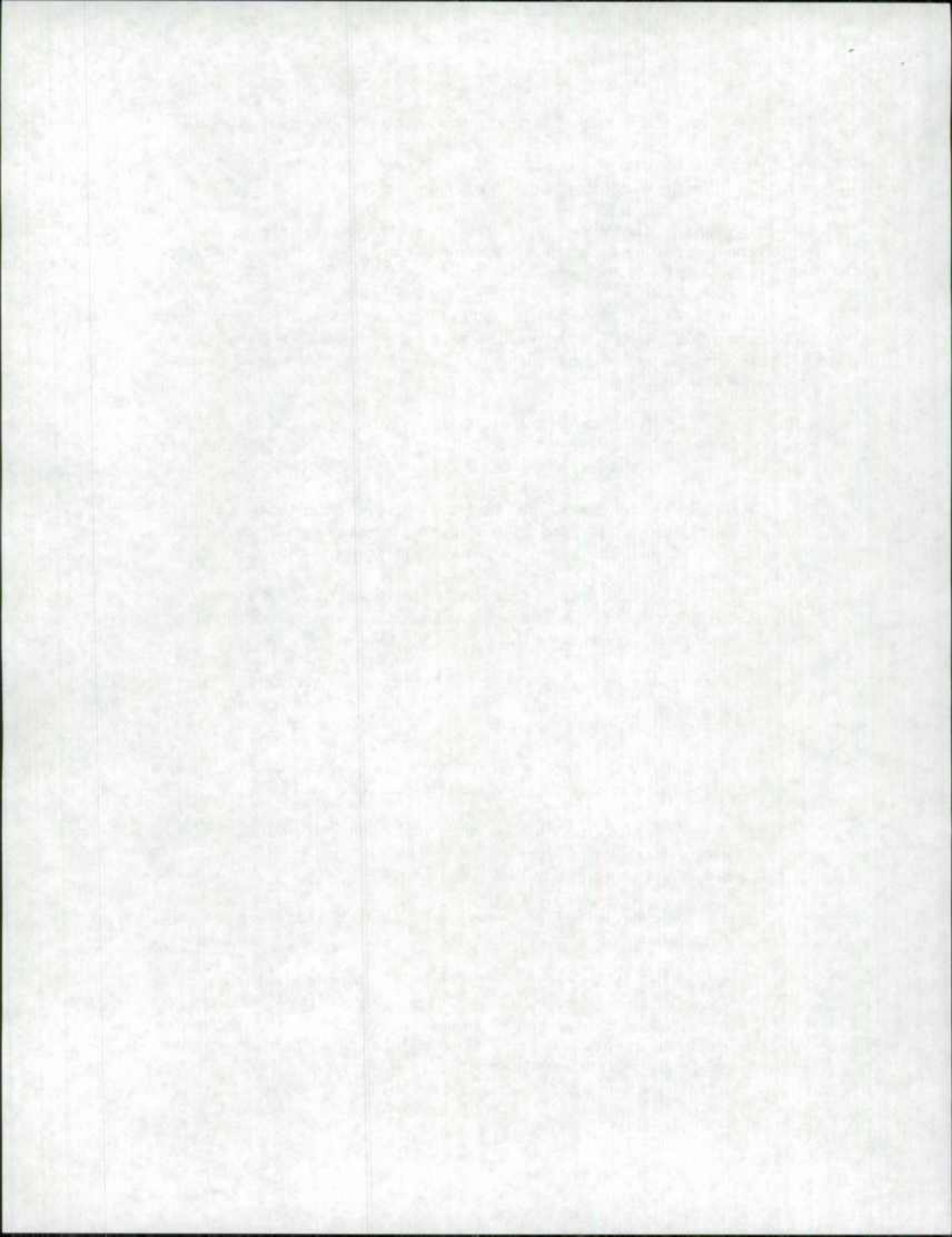
WHEREAS, Grantees understand that by placement of the house on the property, application will be subject to the requirement that the house, the residence or any surrounding land not be conveyed without first complying with Anne Arundel County subdivision laws; and

WHEREAS, by this Agreement, Grantees acknowledge that this house will be accessory to the residence and in no way constitutes a use separate from the residence; and

WHEREAS, Grantees agree that this house will only be used for domestic employees employed at the residence by the owner or tenants of the residence and that the house shall not be leased, rented or used for any other purpose whatsoever.

NOW THEREFORE, in consideration of Anne Arundel County, Maryland, approving a building permit to construct a domestic employee house in order to comply with the Anne Arundel County Code, Grantees agree as follows:

1. Grantees may erect a house under building permit number BO2170779 solely for the purpose of housing a domestic employee or employees employed at the residence by the owner or tenants of the principal structure.
2. The house may not under any circumstance be let, sublet or in any way rented to or used by another party except as set forth in paragraph 1.
3. Approval by the County of the aforementioned building permit and subsequent erection of the house shall not constitute approval of any subdivision plan or plat by the County.
4. The house may not be used for any purpose or use not specifically set forth in this Agreement.
5. At such time as all or part of the property upon which the house is located is conveyed or is intended to be conveyed separately from the remainder of the property, Grantees shall, prior to the conveyance, comply with all subdivision regulations in effect at that time. If the land upon which the house sits is not subdivided in accordance with said subdivision regulations, the house may not under any circumstances be separately conveyed.



6. The Grantees agree to abide by all terms of this Agreement and all provisions of the Anne Arundel County Code pertaining to structures or any use or modification thereof.
7. This Agreement shall bind upon or run with the aforementioned land or property and shall bind the Grantees' successors, legal representatives, heirs, personal representatives and assigns.

Calvert County - Definitions

Accessory building or use - A use or structure on the same lot with, and of a nature customarily incidental to, a principal use or structure.

Accessory apartment - conditional in all Critical Area districts provided that:

- 1) Only one accessory apartment is created on each single-family lot.
- 2) The accessory apartment is clearly subordinate to the single-family dwelling. If the apartment is not part of the dwelling, it must be within 100 feet of the dwelling and attached to an accessory building such as a garage. In no case shall it contain more than 800 square feet.
- 3) An owner of the lot occupies at least one of the dwelling units on the premises, except of bona fide temporary absences as determined by the Zoning Officer.
- 4) At least two off-street parking spaces are available for each unit.
- 5) The owner obtains Health Department approval.
- 6) The accessory apartment shall be located within the building restriction lines required for the principal dwelling; and
- 7) Only one kitchen is permitted within the accessory apartment.

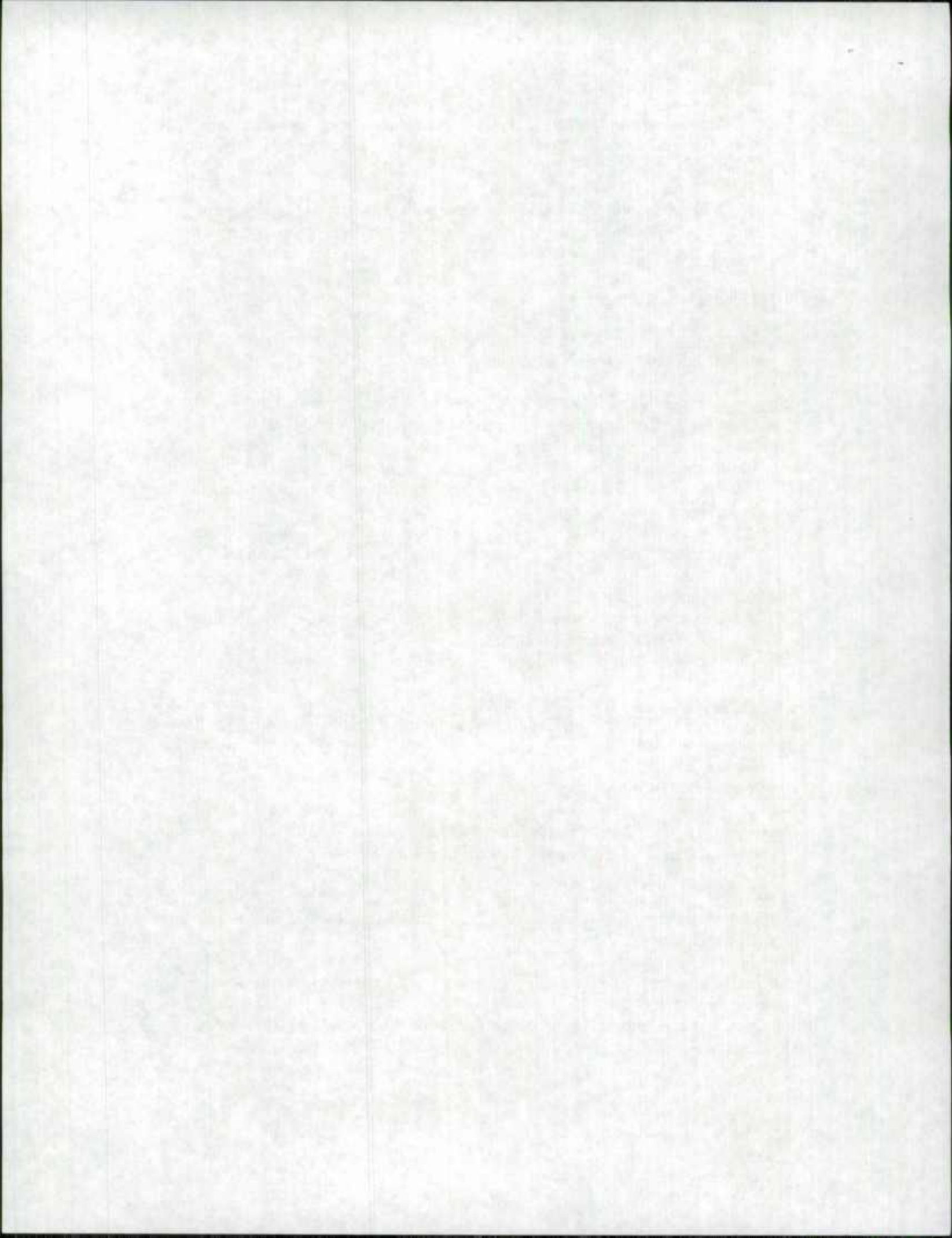
Dwelling, Single-family - A residential building on a permanent foundation, containing one dwelling unit occupied by one family; this definition does not include mobile homes or recreational vehicles.

Talbot County - Definitions

Accessory structure - a structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

Accessory use - a use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

Density - the number of dwelling units per acre within a defined and measurable area. In calculating the density of development that is permitted on a parcel located within the Rural Conservation District, the area of any private tidal wetlands located on the property may be included, subject to the following conditions:



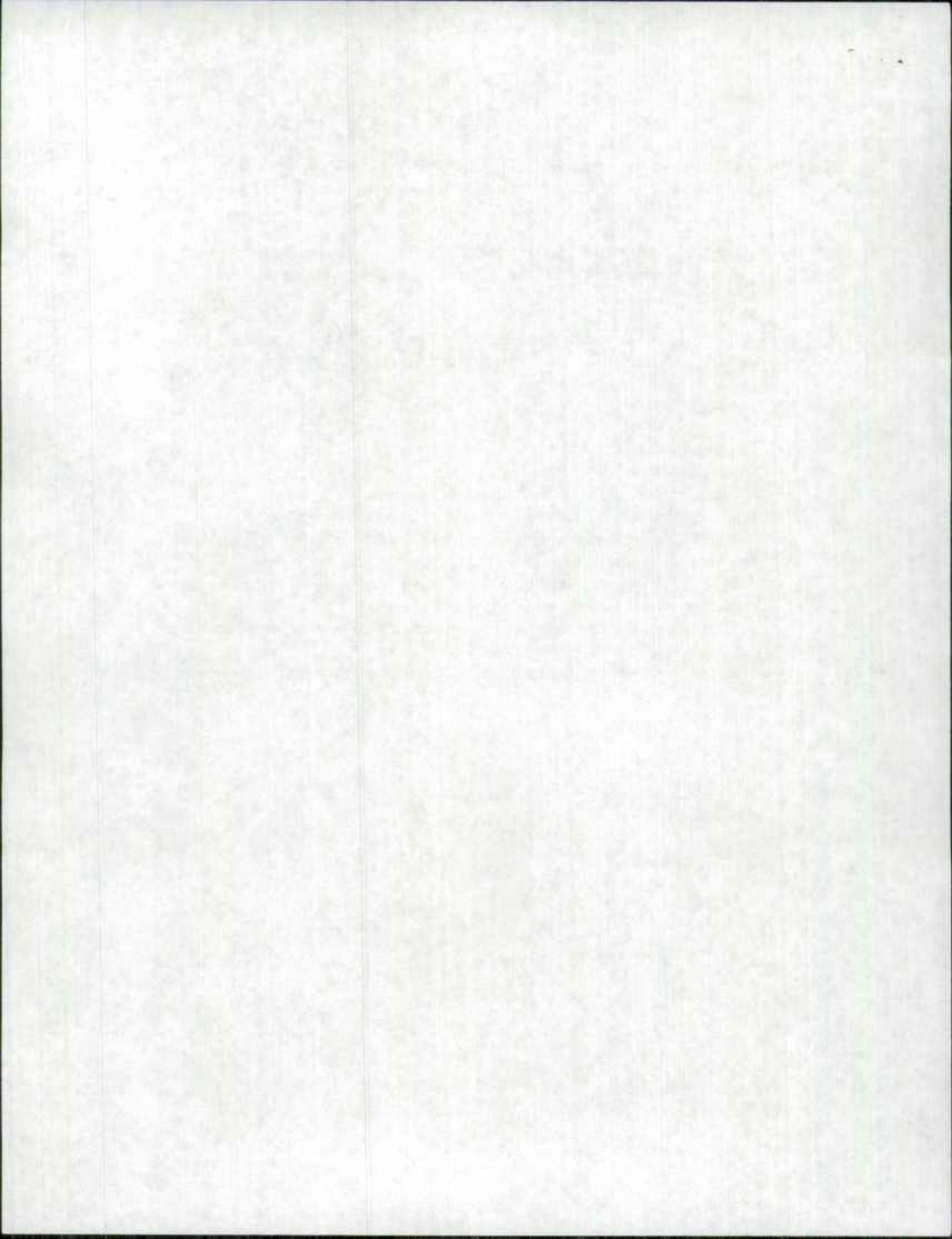
- a. the density of development on the upland portion of the parcel shall not exceed 1 dwelling unit per 8 acres; and
- b. the area of private wetlands shall be estimated on the basis of vegetative information as designated on the state wetlands maps, or as otherwise substantiated by on-site delineation.

Dwelling, single-family – a detached residential building designed for or used as a dwelling exclusively by one (1) family as an independent housekeeping unit, excluding mobile homes.

Dwelling unit – a room, or rooms connected together constituting a separate independent housekeeping establishment for one family containing cooking and sleeping facilities.

Guest Residence (non-commercial) –

- 2 acre minimum parcel size
- 1 guest residence per parcel
- Excludes manufactured homes and mobile homes
- Shall not be occupied by the same individual for longer than 6 months
- An individual occupying a guest residence for more than 3 months shall not reoccupy the residence for one month after ceasing occupancy
- May be indefinitely occupied by an individual related by blood or marriage to the property owner
- In all zones, except RAC and RC where parcels are 20 acres or larger, no guest residence shall exceed 1,500 square feet
- No guest house shall be rented or sold separately from the principal residence





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Columns

Guest Comment: George Valanos About Midland's right to develop

05/15/2003

In response to letter to the editor on May 7, Steven Florkewicz questioned The Midland Companies' right to develop the Perry Cabin Farm property.

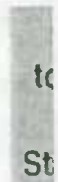
Our right to develop the Perry Cabin Farm property is based upon a May 1980 contract between the Town Commissioners and Harry Meyerhoff. Recently, the Maryland Court of Special Appeals affirmed this contract's validity and recognized Midland as a party to the contract as a result of an assignment from Mr. Meyerhoff. The Commissioners awarded zoning to allow development of 6 units per acre on the Perry Cabin Farm property. At that time, the Town's elected officials stated that the development should be consistent with the density in St. Michaels' historic residential district, which is 4.5 units to the acre.

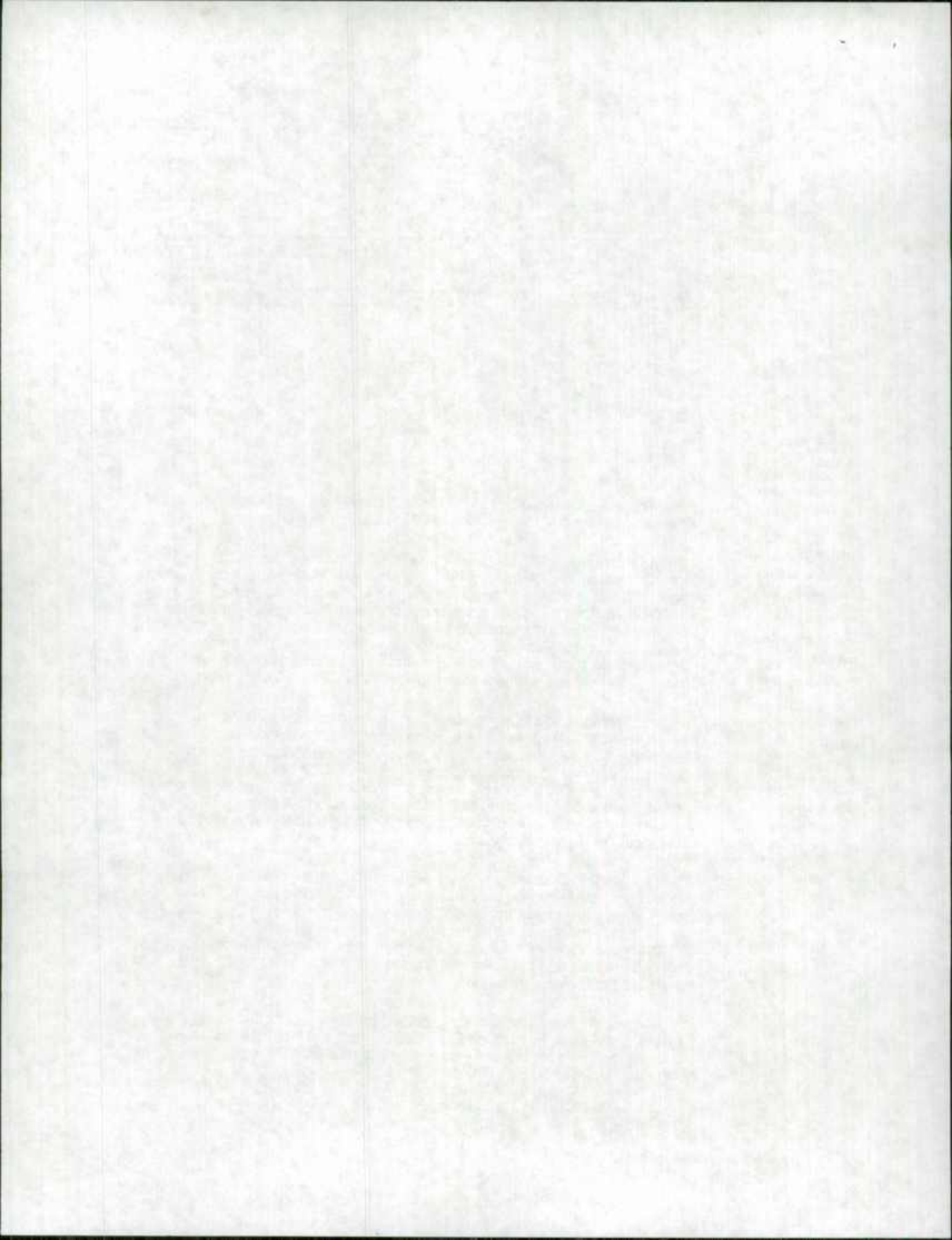
This past summer Midland along with Town representatives spent over 100 hours in mediation. As a result, Midland proposes to develop the Perry Cabin Farm property at 3.5 units per acre (40 percent less density than allowed by present zoning, and 20 percent less than exists in St. Michaels). Instead of following the present zoning and building a project of a greater number of units in a suburban subdivision style, Midland's proposal is modeled after historic St. Michaels and provides public open spaces including an 8-acre waterfront park at the mouth of St. Michaels' harbor.

While it's true the critical area laws were enacted after the Town executed this contract, it isn't true that the critical area laws nullify the contract. Neither the Town Commissioners nor the Town's attorneys have ever taken this position. Rather, any development on this property will comply with all the environmental criteria contained in the critical area laws as an additional requirement over and above compliance with the Town's zoning regulations and the development obligations the contract contained.

Furthermore, the Town Commissioners publicly stated April 22 that "there will be significant development of the Perry Cabin Farm" and that "it is in the best interest of the Town to amend our zoning laws to permit a traditional neighborhood development (TND) type of plan."

Rather than engage in a battle of letters which regrettably permits misstated





Town's expert staff and consultants along with Midland.

GEORGE VALANOS, President

The Midland Companies

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Reader Opinions

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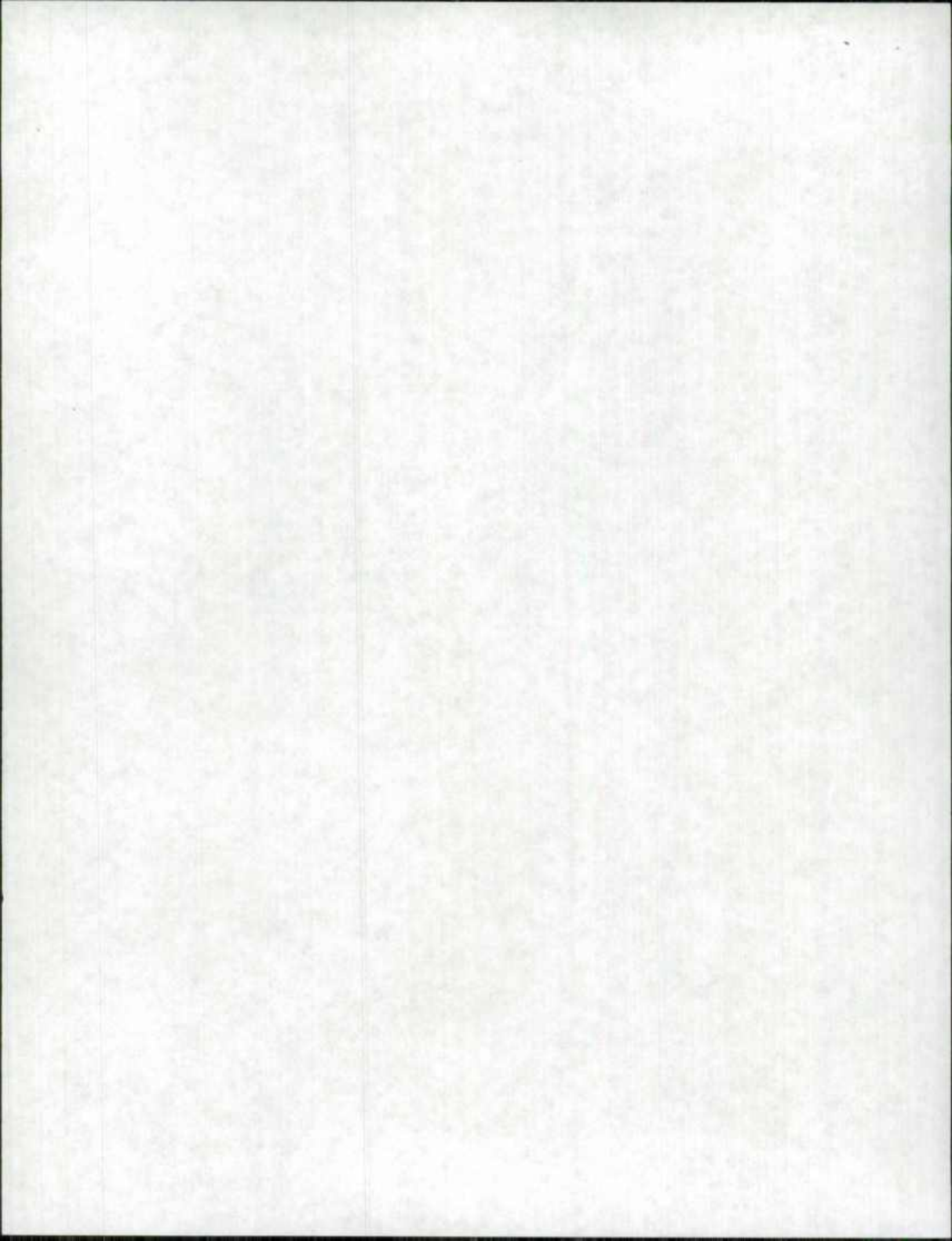


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Judge John C. North, II
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

October 2, 2002

Mr. David F. Hale
President, County Board of Commissioners
175 Main Street
Prince Frederick, Maryland 20678

RE: Notice of Action pursuant to Maryland Annotated Code, Natural Resources Article §8-1809

Dear Commissioner Hale:

This letter serves as notice of action taken by the Critical Area Commission ("Commission") at its regular meeting on October 2, 2002, pursuant to Maryland Annotated Code, Natural Resources Article ("NR") §8-1809 (1). The Commission voted to declare provisions of Calvert County's Critical Area Program ("County Program") and the Solomon's Town Center Master Plan, Zoning Ordinance, and Maps to be in conflict with the Commission's Criteria.

At its October 2, 2002 meeting, the Commission discussed concerns regarding the Calvert County Critical Area Program with Commission staff. The Commission focused on the following issue:

The Calvert County Zoning Ordinance applies to all lands within the County, except for incorporated municipalities and except as modified by the Town Center Master Plans. (Article I, Section 1-2 County Zoning Ordinance.) Article 4-407 of the County Zoning Ordinance establishes a minimum 100-foot Buffer on all lands within the Critical Area of Calvert County. The Critical Area Criteria (COMAR 27.01.09.01) require the establishment of a minimum 100-foot Buffer. The Criteria permit a local jurisdiction to request exemption from the Buffer requirements for certain portions of the Critical Area, and the Critical Area Commission has approved amendments to the Calvert County Critical Area program and official maps, which designate specific lands as "Buffer Exempt."

The Town Center Master Plan, Zoning Ordinance and Maps for Solomons establish a 30-foot Buffer on lands described and mapped in Section VIII-128 and VIII-129 of the Solomons Master Plan and Zoning Ordinance. Yet, some of these lands have not been approved as Buffer Exempt under the Calvert County Critical Area Program and accordingly

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Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Mr. David F. Hale
October 2, 2002
Page 2

they must retain a 100-foot Buffer. The provisions of Calvert County's Zoning Ordinance Article I and Article 4, coupled with the above-cited provisions of the Solomons Town Center Master Plan and Zoning Ordinance, create a conflict in the requirement for establishment of a 100-foot minimum Buffer in Calvert County's Critical Area.

The Commission compared these elements of the Calvert County Program with the requirements of the State Critical Area law and COMAR 27.01 et seq. The Commission performed this comparison pursuant to its responsibility under Section 8-1809 of the Natural Resources Article, Maryland Annotated Code. After the discussion, the Commission voted on a Motion:

To invoke Annotated Code, Natural Resources Section 8-1809(l)(1); and

To determine that the Calvert County Critical Area Program contains clear mistakes, omissions and conflicts with the Commission's criteria; and

To notify the County of the deficiencies; and

To direct the County to submit a proposed program amendment(s) or refinement(s) to correct the deficiencies.

Accordingly, the Commission determined to notify the County that the Solomons Town Center Master Plan, ordinance, and maps are in conflict with the 100 foot minimum Buffer required by COMAR 27.01.09, to the extent that the master plan, ordinance, and maps designate a 30 foot minimum Buffer on lands that have not been approved by the Critical Area Commission as Buffer Exempt areas pursuant to the Calvert County Critical Area Program.

Pursuant to COMAR 27.01.10.01F, "Local jurisdictions shall review and revise local plans, programs, and regulations that are inconsistent with the intent of the policies and criteria in this subtitle."

The Commission directs the County to amend its Critical Area Program to require that, within the County's Critical Area, the Calvert County Critical Area program requirements control over inconsistent or less restrictive provisions in Town Center Master Plans, Town Center Zoning Ordinances, or maps. The Commission also directs the County to review and revise any local plans, programs, or regulations, including master plans, that are inconsistent with the provisions of the Critical Area Program, specifically the requirement to establish a minimum 100-foot Buffer.

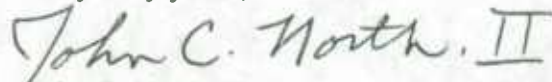
Mr. David F. Hale
October 2, 2002
Page 3

The Commission takes this action pursuant to Natural Resources Article §8-1809(1). As a result of this vote, the County shall submit to the Commission as a program amendment or program refinement, any changes to the County Program necessary to correct the identified deficiencies. This submission shall be made within 90 days of the date of this letter. The corrections may be submitted as one package or as separate submissions.

The Commission also notifies you that, as a result of this vote by the Commission, from the date of this letter, any local project approval granted under a part of the local program that the Commission has determined to be deficient shall be null and void. "Project approval" means approval of development in the Critical Area, including issuance of variances or special exceptions (COMAR 27.01.01.01(54)).

If you have questions or need additional information, please contact me or Mr. Ren Serey, the Commission's Executive Director.

Very truly yours,


John C. North, II
Chairman

cc: Emanuel Demides, County Attorney
John C. Smith, Chairman, Board of Appeals

