

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland 21401 - Conference Room 1100A

April 3, 1996
AGENDA

SUBCOMMITTEES

9:00 a.m. - 10:00 p.m. Panels:

Queen Anne's County Comprehensive Review

Members: Schoeplein, Duket, Williams, Myers, Langner

Theresa Corless, Planner

Anne Arundel County Mapping Mistake, Enyart Property

Members: Duket, Evans, Foor, Bourdon, Lawrence

Lisa Hoerger, Env. Specialist

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

Members: Langner, Bourdon, Phillips, Schoeplein, Little, Corkran, Foor, Blake, Cooksey, Shepherd, Hearn, Thomas

* Baltimore City, NFL - Utility Relocation/Excavation Project
Maryland Stadium Authority - Football Stadium

Dawnn McCleary, Planner

* Seagirt Marina Terminal - Phase 2 Development at Berth IV
Maryland Port Administration /Baltimore City

Dawnn McCleary, Planner

* MNCPPC Bladensburg Marina

Theresa Corless, Planner

* MES Poplar Island

Theresa Corless, Planner

* Jefferson Patterson Park

- Academy of Sciences Pier

- JPPM - Shore Erosion Control Project

Patricia Pudelkewicz, Chief Pgm Amends.

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

PLENARY MEETING

1:00 p.m. - 1:05 p.m.

Approval of Minutes of March 6, 1996

John C. North, II, Chair

COMPREHENSIVE REVIEWS

1:05 p.m. - 2:00 p.m.

VOTE Queen Anne's County Comprehensive Review

Theresa Corless, Planner
Christina Pompa (Q.A. Co.)

PROGRAM AMENDMENTS AND REFINEMENTS

2:00 p.m. - 2:30 p.m.

VOTE A. A. County Mapping Mistake-Enyart Property

Lisa Hoerger, Env. Specialist
Elaine Peiffer (A.A. Co.)

2:30 p.m. - 2:50 p.m.

REFINEMENT City of Annapolis Annexation
REFINEMENT Betterton Return Growth Allocation
REFINEMENT Chesapeake City - Annexation

Dawnn McCleary, Planner
Patricia Pudelkewicz, Chief Pgm Amend.
Cheryl Cort, Planner

PROJECT EVALUATION

2:50 p.m. - 3:15 p.m.

VOTE MNCPPC - Bladensburg Marina - Revitalization

Theresa Corless, Planner
Anne Agee (MNCPPC)

3:15 p.m. - 3:45 p.m.

VOTE MES Poplar Island

Theresa Corless, Planner
Bob Smith (MES)

O V E R

AGENDA

Chesapeake Bay Critical Area Commission

April 3, 1996

3:45 p.m. - 4:05 p.m.

VOTE Jefferson Patterson Park

*** Academy of Sciences**

*** JPPM Shore Erosion Control Project**

Patricia Pudelkewicz, Chief Pgm Amends.

Bob Gallagher

Mike Smolek

4:05 p.m. - 4:25 p.m.

INFO Baltimore City, NFL - Utility Relocation/Excavation

Maryland Stadium Authority, Football Stadium

Dawnn McCleary, Planner

Bruce Hoffman, Ex. Dir. MSA

Kim McCalla (MSA)

4:25 p.m. - 5:00p.m.

INFO Seagirt Marina Terminal - Phase 2 Development

At Berth IV , Msryland Port Administration/ Baltimore City

Dawnn McCleary, Planner

Doug Matzke (MPA)

5:00p.m. - 5:15 p.m.

New Business

Old Business

John C. North, II , Chair

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland

March 6, 1996

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:

Barker, Philip, Harford County
Blake, Russell, Worcester County
Bourdon, David, Calvert County
Cooksey, David, Charles County
Corkran, Bill, Talbot County
Wildesen, Stan for Curry, Wayne K., Prince George's County
Duket, Larry, Maryland Office of Planning
Evans, Diane, Anne Arundel County
Foor, James, C., DVM, Queen Anne's County
Johnson, Samuel Q., Wicomico County
Langner, Kathryn, Cecil County
Myers, Andrew, Caroline County
Phillips, G. Steele, Dorchester County
Robinson, Edward, Kent County, MAL
Rogers, Dr. Sarah Taylor- DNR
Schoeplein, Bob, DBED
Shepherd, Dr. Gloria, State Highway Administration
Thomas, Larry, AA Co. MAL
Whitson, Michael, St. Mary's County
Williams, W. Roger, Kent County

The Minutes of January 3, 1996 were approved as read.

Claudia Jones, Science Advisor, CBCAC introduced Jim McCann, a biologist and neotropical migratory bird project manager for DNR's Wildlife Diversity Division. Mr. McCann is involved in regulatory issues of the forest interior dwelling birds in the Critical Area as well as other lands Statewide. He gave a slide presentation on the 19 different forest interior dwelling birds species formally recognized by DNR. He talked about the most recent information on population trends, ways that are currently used to minimize impacts to FIDS on development sites, international efforts to conserve some of these birds and about additional species that perhaps should be added to the official Critical Area FID list.

Ms. Jones talked about the Commission's Guidance paper on FIDS and possible changes to that document. In July of 1986, the Commission published its first guidance paper *A Guide to the Conservation of Forest Interior Dwelling Birds in the Critical Area*. Since that time information has continued to be generated by scientists monitoring these birds, ongoing surveys have provided more data and research has produced more clarity in population trends, bird location, and response to habitat alterations and management alternatives. In addition, site specific protection has necessitated the need to develop guidance for protection of FIDS during timber harvest operations and on those development sites where offsite mitigation may be the most reasonable alternative. All this considered, the Commission staff has determined that there needs to be a revision to the original Commission guidance paper. Ms. Jones stated that the revision should include all the information provided in the first document, as well as guidelines for timber harvest operations and protection of FIDS and guidelines for when offsite mitigation is appropriate and how it should be accomplished, and consideration for adding new species to the list of FIDS. This work will take several months working with the Program Subcommittee and the full Commission. DNR will convene a special task force to provide input on the potential new species to be added the FID list.

Greg Schaner, Planner, CBCAC, presented for CONCURRENCE with the Chairman's determination of REFINEMENT, the Easton Annexation of Public Works Land/Map Change. The Town of Easton has annexed 15.451 acres of property, all in the Critical Area currently zoned IDA with no change in the Critical Area development designation being proposed. The Commission SUPPORTED the Chairman's determination.

Lisa Hoerger, Environmental Specialist, CBCAC, presented for INFORMATION the Anne Arundel County request for a map change for the Enyart property, based on a mistake made by the County in using their mapping methodology. The proposal is for 1.5 acres which the County Administrative Hearing Officer has granted for declassification. The determination by the County of mistake in the mapping was based on the fact that the line was drawn from nontidal wetlands instead of tidal wetlands. On site field- delineation was conducted by a private consultant for Mr. Enyart and staff from the Tidal Wetlands Division of the Department of the Environment. Both agreed that the County's line was drawn incorrectly. They also agreed that the official 1972 tidal wetlands map was also incorrect, based on existing field conditions. When questioned by the administrative hearing officer as to where the extent of tidal wetlands were in the field, neither could agree. The hearing officer determined that while both maps were wrong based on existing field conditions, the 1972 tidal wetlands maps should control in this case. She said that the County should be using the Bellanca decision from the Court of Special Appeals as the standard for mapping mistakes. This

mapping mistake is different than most as it involves removing property from the Critical Area rather than changing the designation.

Diane Evans stated her concerns over the County's use of the 4ft. Contour maps and whether that choice has ever been challenged. Ms. Hoerger said that to her knowledge there has been no challenge and that the 4ft contour maps are supposed to be more accurate than the wetlands maps. There was much discussion among the Commission members. Dr. Foor made the point that the 1972 maps are determinate according to the Critical Area law. Patricia Pudellkewicz stated that the County staff would be present at the April meeting and a hearing would be held prior to the vote on this issue. Because of her inability to attend the May meeting, Diane Evans asked that a vote be taken either before or after the May meeting. Chairman North on the advice of Executive Director, Ren Serey, stated that in order to accommodate Ms. Evans voting attendance and a time restriction, this issue would have to be on the Agenda in APRIL for a VOTE and could not be postponed until the June meeting.

Greg Schaner presented for VOTE the Maryland State Highway Administration proposal to replace two bridges on MD Rte. 333 over Peachblossom (Bridge No. 20016) and Trippe Creeks (Bridge No. 20017) in Talbot County. Greg introduced Highway Administration Officials, Bill Branch and Brad Martin who were on hand to answer any questions. Greg briefed the Commission on the history of the bridge. He said that most of the environmental permits have been obtained. The Commission staff has recommended approval of the project with conditions. Kay Langner moved to approve the replacement of Maryland Route 333 bridges over Peachblossom and Trippe Creeks with the following conditions: 1) the Administration must obtain all outstanding permits, licenses, and plans and send copies to the office of the Chesapeake Bay Critical Area Commission 2) due to the presence of anadromous fish, no in-stream construction shall take place between March 1 and June 15 of any year. The motion was seconded by Bill Corkran and carried unanimously.

Cheryl Cort presented for VOTE the Maryland Environmental Service project ECI Phase II Wasterwater Treatment Plant Improvements, and Eastern Regional Sludge Facilities in Somerset County. She said that the project would place additional wastewater treatment facilities at the existing plant on the Eastern Correctional Institute's compound. Ms. Cort described the technical aspects of the two components of the project: 1) the addition of a number of facilities to the existing wastewater treatment plant, 2) installation of a sanitary force main which extends from the prison into the Critical Area at its place of outfall into the Manokin River. The entire ECI facility is 243 acres, 32.5 of which are in the Critical Area. Authorization for the impacts to tidal wetlands associated with the installation of the force main and outfall pipe is forthcoming from the Maryland Department of the Environment. The Commission staff recommendation is for approval with conditions. Kay Langner moved

for the approval of the Wastewater Treatment Plant Improvements with the following conditions: 1) wetland plantings are established as part of the construction of the wetland pond system; 2) any disturbance to tidal wetlands associated with the installation of the force main is contingent on authorization from MDE; 3) all disturbance in the Buffer will be temporary, the site will be restored to its original state or improved with native plantings, and any trees or other woody vegetation disturbed be replaced on a 1:1 ratio (prison regulations permitting). The motion was seconded by Russell Blake and carried unanimously.

OLD BUSINESS

Marianne Mason, Esquire, Assistant Attorney General, DNR, and Commission Counsel updated the Commission on the Sherner vs. Critical Area Commission case in Wicomico County wherein the Court ruled in favor of the Commission dismissing the case brought by the Sherners. This is a couple who sued for damages and declaratory judgement based on their assertion that the Critical Area law in and of itself effected a taking of their property because they could not build on it what they wanted to build - a gas station and other commercial uses prohibited by the Critical Area Program and local program. She said that the Circuit Court's decision gives strong basis for the Commission's response to their appeal.

Ms. Mason reported on the three cases in St. Mary's County voted on by the Commission in August to approve a settlement with the County involving growth allocation approvals for subdivisions. She said that a Consent Decree has been drafted and sent to the County for their approval and as soon as the President and Commissioners and the Commission Chairman sign it, the Consent Decree will be finished and St. Mary's will be obliged to interpret their Program on growth allocation issues in accordance with the Commission's guidelines and incorporated into the Consent Decree which will also be signed by the Court.

Theresa Corless, Planner, CBCAC, reported that Queen Anne's County has resubmitted their Comprehensive Review for reapproval. The deadlines for adoption of the Queen Anne's County Program amendments under their Comprehensive Review and the local program requirement of adoption have not been met. One hearing was scheduled during the blizzard which was part of the problem. Additionally, there were four refinements that the County wanted to submit to the Commission. However, Commission Counsel advised the County that until their program was adopted locally they could not make refinements to it. The refinements will now be incorporated into the Program which will be part of Queen Anne's Program.

NEW BUSINESS

Chairman North appointed a panel for Queen Anne's County Comprehensive Review: Bob Schoepflein, Chair; Larry Duket, Roger Williams, Andrew Myers and Kay Langner. A second panel for Anne Arundel County was appointed: Larry Duket, Chair; Diane Evans, Louise Lawrence, Dave Bourdon.

Chairman North told the Commission that Senator Baker from Cecil County introduced a Bill in the Senate for the purpose of permitting "structures on piers" in Cecil County. He said that there is a law in effect which has the effect of prohibiting structures on piers with the exception of Prince George's County. That exception was made years ago for the principal purpose of accommodating the Port America project in Prince George's County. He said that it was felt appropriate to demonstrate some flexibility to accommodate the planning at Port America so as to permit them to do structures on piers. That law has remained in effect despite the fact that Port America has not been successful to date. Senator Baker was approached by Schaeffer's Canal House as the owners felt they needed to build an addition which would provide for accommodations for transient boaters, to make available to them shower and toilet facilities and laundry facilities and a pump out station in a building to be constructed on a pier over the water. When Senator Baker presented this bill to the Economic and Environmental Affairs Committee in order to make it more palatable to the Committee, he agreed to have a "sunset proviso" after a period of one year which would give his constituents time to construct the proposed addition. Chairman North stated that he told the Committee that the Buffer zone was being leap-frogged by this fashion and that this will set a very dangerous precedent which could set the foundation for other counties and municipalities coming in the future requesting similar treatment. He said that the Committee was not persuaded by his testimony and approved the Bill and it was subsequently enacted by the Senate. It will now go to the House for consideration and to the Government and Commerce Committee. Dr. Sarah Taylor Rogers said that she believes that it was sent to this committee instead of the Environmental Matters Committee because of the possible effect to the federal navigation channel, the Chesapeake and Delaware canal.

Ren Serey, Executive Director, CBCAC reported that bills have been introduced in both the House and Senate, identical bills, to change the impervious surface requirements in the LDA and the RCA, a part of the Critical Area law that has been changed at least four times over the years. He summarized the bill: there will be no distinction any longer between residential and commercial property; there will no longer be a 1/4 acre category for limiting impervious surfaces, but all existing lots 1/2 acre or less in size can go up to 25% impervious surface. When a property owner or developer needs to go over that 25% limit, instead of going through the variance process, he would

go through a local county or town process to work with the local planners to minimize the increase in impervious surface and to try to work stormwater controls onto the site and to mitigate for that new impervious surface. Mr. Serey said that the Commission testified in favor of both bills with a slight modification to ensure that only grandfathered properties as of December 1, 1985 are available for this alternative process. Any lot created after 1985 would still have to go through the variance process for an owner to exceed the limits. Mr. Serey stated that the Chesapeake Bay Foundation was in favor of the bill, introduced 3 amendments to the Senate: 1) limit alternative provisions only for the lots that are ½ acre or less; 2) allow this alternative process to apply only to lots that were developed as of December, 1985; 3) the maximum increase through this alternative process is 25% above what was existing. He said that the amendments received a favorable response.

Dr. Foor asked for direction in handling mapping mistakes as new comprehensive processes come up, whether or not the Bellanca standard applies in the Comprehensive Reviews. Ms. Mason replied that Chairman North has asked for the Attorney General's Opinion which is still in the Governor's office.

There being no further business, the meeting adjourned.

Submitted by: Peggy Mickler
Commission Secretary

*Unanimously approved 18-
Di. For recused*

STAFF REPORT

April 3, 1995

JURISDICTION: Queen Anne's County

REQUEST: Comprehensive Review

**COMMISSION
ACTION:** Vote

DISCUSSION: The Queen Anne's Comprehensive Review was approved by the Critical Area Commission at its meeting on November 1, 1995. The County was unable to adopt the new program and ordinances within the proscribed time period as scheduled hearings were frequently canceled due to severe winter weather. Therefore the County has resubmitted its Comprehensive Review in its entirety for Commission approval. The County understands that a new Commission approval will then allow 120 days to adopt the reapproved program and ordinances. (Please see the letter from the County Commissioners attached to this report)

There are only four changes to the original submission. They are items 16 through 19, discussed separately at the end of the staff report.

The original proposed changes to the Queen Anne's County Critical Area Program, Ordinance, and mapping include the following:

1. **Impervious Surface Changes in the LDA and RCA:** These changes reflect the amended Law as identified in Section 8-1808.3 and allow up to 25% impervious surface coverage on small lots in certain cases. The amended law also allows variances to impervious surface limits.
2. **Variances:** A change has been made to allow the Board of Appeals to grant variances to the ratio of slips in community piers as is permitted by Natural Resources Article Section 8-1808.5.
3. **Growth Allocation Counting:** Changes have been made to reflect the 1993 Commission policy on counting methods for Growth Allocation deduction.
4. **Buffer Exemption Area (BEA):** Changes have been made that

include the provisions outlined in the May 5, 1993, Commission policy. The policy provides for limited use of shoreline areas in certain situations while protecting water quality and wildlife habitat to the extent possible.

5. **Amendment Procedures:** The County has revised its amendment procedure such that the County Commissioners grant conditional approval to a proposed amendment before the amendment is submitted to the Critical Area Commission. Once the amendment has received Critical Area Commission approval, it is returned to the County Commissioners for final approval.
6. **Mapping Changes:** The County has proposed several mapping mistakes. Some of the proposed changes are due to drafting errors which occurred at the time of initial mapping. These mapping errors are either changes in the Critical Area line or changes in Critical Area designation. The County has also proposed several new BEAs. There is one proposed mapping error which was citizen generated. It involves a designation change from RCA to LDA.
7. **Nontidal Wetlands:** All nontidal wetlands sections have been removed to reflect the change at the state level in jurisdiction over nontidal wetlands in the Critical Area.
8. **Intrafamily Transfer:** The County has added the intrafamily transfer provision, consistent with the Critical area Law, to its Critical Area Program.
9. **Administrative Variance:** The County has added an administrative variance procedure to its Critical Area Program.

The County proposes to change the requirement for a variance from the Board of Appeals to an administrative variance for impacts to nontidal wetlands.

10. **Development Standards:** The County has added provisions for a fee-in-lieu program for the 10% reduction on pollutant loadings requirement for development and redevelopment in the IDA. The program is currently under development.

The County has also added a fee-in-lieu for required plantings, if the plantings can not be accomplished onsite or in nearby areas.

11. **Transferable Development Rights (TDRs):** The policy in the proposed Critical Area Ordinance and Critical Area Program is consistent with the Critical Area Law and Criteria. Commission staff is currently discussing with legal counsel whether other interpretations of the TDR provisions consistent with the intent of the Law and Criteria exist. If legal counsel find another interpretation consistent, the County may elect to amend its provisions.

12. **Grandfathering:** The County has added the following to its grandfathering provisions: the County now requires that grandfathered lots must comply with requirements for Water-Dependent Facilities and Habitat Protection Areas, unless a variance is granted by the Board of Appeals.

The County has also added language which encourages reconfiguration of grandfathered subdivisions and groups of grandfathered parcels under single ownership without a loss of density.

13. **Definitions:** The following definitions have been added to the Critical Area Ordinance:

Buffer Management Plan
Emergency Services (RCA use table)
Endangered Species
Essential Services (RCA use table)
Public Utilities (RCA use table)
Timber Harvest Plan
Threatened Species
Water-use Industry
Water Fowl

14. **Miscellaneous:** Many small changes were made to the Program and Ordinance which include correcting typographical errors, updating DNR and other agency references, removing mooring language, and correcting COMAR references.

In addition to the changes in the original submission, the resubmission package includes the following:

15. Add "residential" to list of projects determined to be of substantial economic benefit. (Program document p. 19)

16. Delete "Applications for Growth Allocation which have been approved by the County Planning Commission will be reviewed at a Planning Commission hearing." Add in its place, "Following its review the Planning Commission will hold a public hearing." (Program document p. 20)

17. Add language to Growth Allocation accounting section which allows RCA projects determined to be of substantial economic benefit to residents of the County or that meet a recognized public need which are not adjacent to existing LDA or IDA to be eligible to have only a development envelope counted against Growth Allocation. (Program document p. 22)

18. Add "residential" to the list of projects determined to be of substantial economic benefit. (Critical Area Ordinance p. 68) Note: same as item 16, but changes the Critical Area Ordinance.

PUBLIC

HEARING: Will be held on Monday April 1, 1996 at 7p.m. in Centreville.

PANEL: Robert Schoeplein (Ch.), Larry Duket, Roger Williams, Kay Langner and Andrew Myers.

APPLICABLE LAW/

REGULATIONS: Natural Resources Article §8-1807, 8-1808.3, and 8-1809 (g)

STAFF: Theresa Corless



THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY

THE LIBERTY BUILDING
107 NORTH LIBERTY STREET
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ROBERT D. SALLITT, Administrator

LYNDA H. PALMATARY, Clerk

PATRICK E. THOMPSON, Attorney

MARK BELTON

GEORGE M. O'DONNELL

MICHAEL F. ZIMMER, JR.

5 March 1996

Judge John C. North, II
Chairman
Critical Area Commission
45 Calvert Street, 2nd floor
Annapolis, MD 21401

RECEIVED
MAR 7 1996

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Dear Judge North:

At the beginning of February 1996 we had requested the Critical Area Commission review four refinements to our Critical Area Program and Ordinance. These changes were being proposed following Critical Area Commission approval of our mandated four-year amendment to the entire Program, but prior to County Commissioner adoption of the Program. The Commission issued correspondence indicating that for legal reasons, refinements may only be made to adopted programs.

For several reasons the County finds that at this time it must ask the Critical Area Commission to review and approve a revised four-year amendment of the entire Queen Anne's County Critical Area Program. First, §7012.C of the Queen Anne's County Critical Area Ordinance states that, "...the County Commissioners shall hold a public hearing on the proposed amendments which shall be not less than twenty (20) days nor more than ninety (90) days after notification of approval from the Critical Area Commission..." Second, §8-1809(o)(2) of the Natural Resources Article states that, "[t]he 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." We received approval from the Commission on 1 November 1995. As a result of our refinement request and cancellation of the public hearing scheduled during the blizzard, we have been unable to adhere to these requirements for approving the Program. Legitimacy of the County Critical Area Program is paramount to us.

The package we submit for review and approval is exactly the same as what was approved 1 November 1995, except for four modifications. They are as follows:

1. Program, page 19
Add "residential" to list of projects determined to be of substantial economic benefit.
2. Program, page 20
Delete "Applications for Growth Allocation which have been approved by the County Planning Commission will be reviewed at a Planning Commission public hearing." Add in its place, "Following its review the Planning Commission will hold a public hearing."

Judge John C. North, II Letter
5 March 1996
page 2

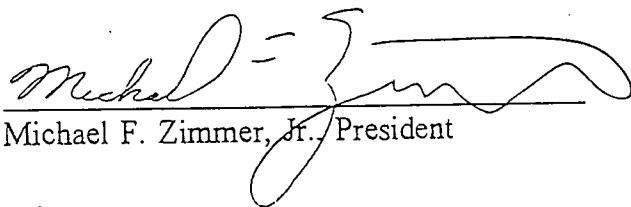
3. Program, page 22
Add language to Growth Allocation accounting section which allows RCA projects determined to be of substantial economic benefit to residents of the County or that meet a recognized public need which are not adjacent to existing LDA or IDA to be eligible to have only a development envelope counted against Growth Allocation.
4. Ordinance, page 68
Add "residential" to list of project types determined to be of substantial economic benefit to the County.

Enclosed for your review is a copy of the proposed Queen Anne's County Critical Area Program, Ordinance, and mapping. We seek full approval of the Program at this time, however, we request that the Critical Area Commission address a section of the Program or Ordinance or a specific map change requiring revision or reconsideration independently from the remainder of our submission. This will ensure that the majority of the Program move through the process without the entire Program being denied approval.

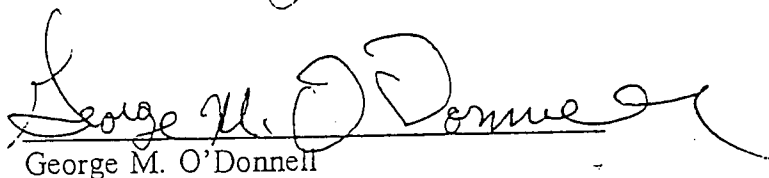
Thank you for your attention to this matter. We look forward to your favorable response.

Sincerely,

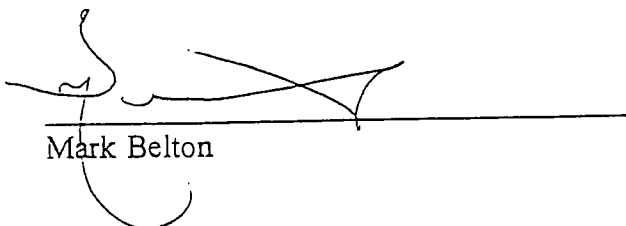
The County Commissioners
of Queen Anne's County



Michael F. Zimmer, Jr. President



George M. O'Donnell



Mark Belton

STAFF REPORT

April 3, 1996

JURISDICTION: Anne Arundel County

REQUEST: Amendment - Mapping Change

COMMISSION ACTION: VOTE

RECOMMENDATION: Since this report is being written prior to the public hearing, there is no recommendation at this time. The hearing is scheduled for Wednesday, March 27, 1996. This report serves as an update on the mapping change request presented for information at the March Commission meeting.

DISCUSSION: Anne Arundel County is requesting a map change for the Enyart property, based on a mistake in delineating the 1,000 foot Critical Area line made by the County using their mapping methodology. The property is located in the eastern portion of the County along Route 50 and is currently classified as RCA. The proposal is to remove 1.15 acres from the County's Critical Area. The County Administrative Hearing Officer has granted the declassification request.

ANALYSIS: While the hearing officer determined that the 1972 State Tidal Wetlands maps should control in this case, the County still needed to go back and apply its mapping methodology from its adopted Critical Area Program to determine where the correct line should be located.

Anne Arundel County has a "4-foot contour" mapping methodology that is unique compared to other jurisdiction's Critical Area Programs. The Program states:

"The 1000-foot Critical Area boundary was transferred from State Wetland Boundary Maps (scale 1" = 200') to County topographic maps (scale 1" = 1000'). The boundary was expanded when it was less than 1000 feet from tidal wetlands shown on the National Wetlands Inventory (NWI) maps prepared by the U.S. Fish and Wildlife Service or shown on aerial photographs. The four-foot contour was used as the cutoff for tidal wetlands when the NWI maps showed tidal wetlands extending further upstream."

The County discovered that on this property, the 1000' line was drawn from the head of nontidal wetlands instead of tidal wetlands. To determine the location of the correct 1000' line, the County used the above methodology. They determined that the 1000' line, drawn from tidal wetlands and using the 4-foot contour criterion, was the same as the 1972 State Wetlands Maps.

ANALYSIS
CONTINUED:

The County is proposing to correct the Critical Area line only on this parcel on their Critical Area maps by highlighting the property, along with its case number, and stating on the map that it is subject to the 1972 State Wetlands Map line. According to the County's Program, the remaining parcels on the map that are also affected by this mistake can be changed using two options.

- 1) The map(s) can be corrected at the time of the 4-year comprehensive review (Anne Arundel is scheduled for 1996); or
- 2) Wait for each property owner to apply to the County on an individual basis and the County will submit the request to the Commission as individual amendments (per NRA §8-1809(h), each County is limited to four amendments per year).

The County should be using the Bellanca decision from the Court of Special Appeals as the standard for mapping mistakes outside the comprehensive review process. Given the above information, it appears that the County has met this standard of review. They have identified a clear mistake and have corrected it according to the provisions in their Program.

The Commission must determine if the requested change is consistent with the Law and Criteria.

APPLICABLE LAW/
REGULATIONS:

Natural Resources Article §8-1809 (h) and (i).

STAFF:

Lisa Hoerger

STAFF REPORT - ADDENDUM

April 3, 1996

Approved

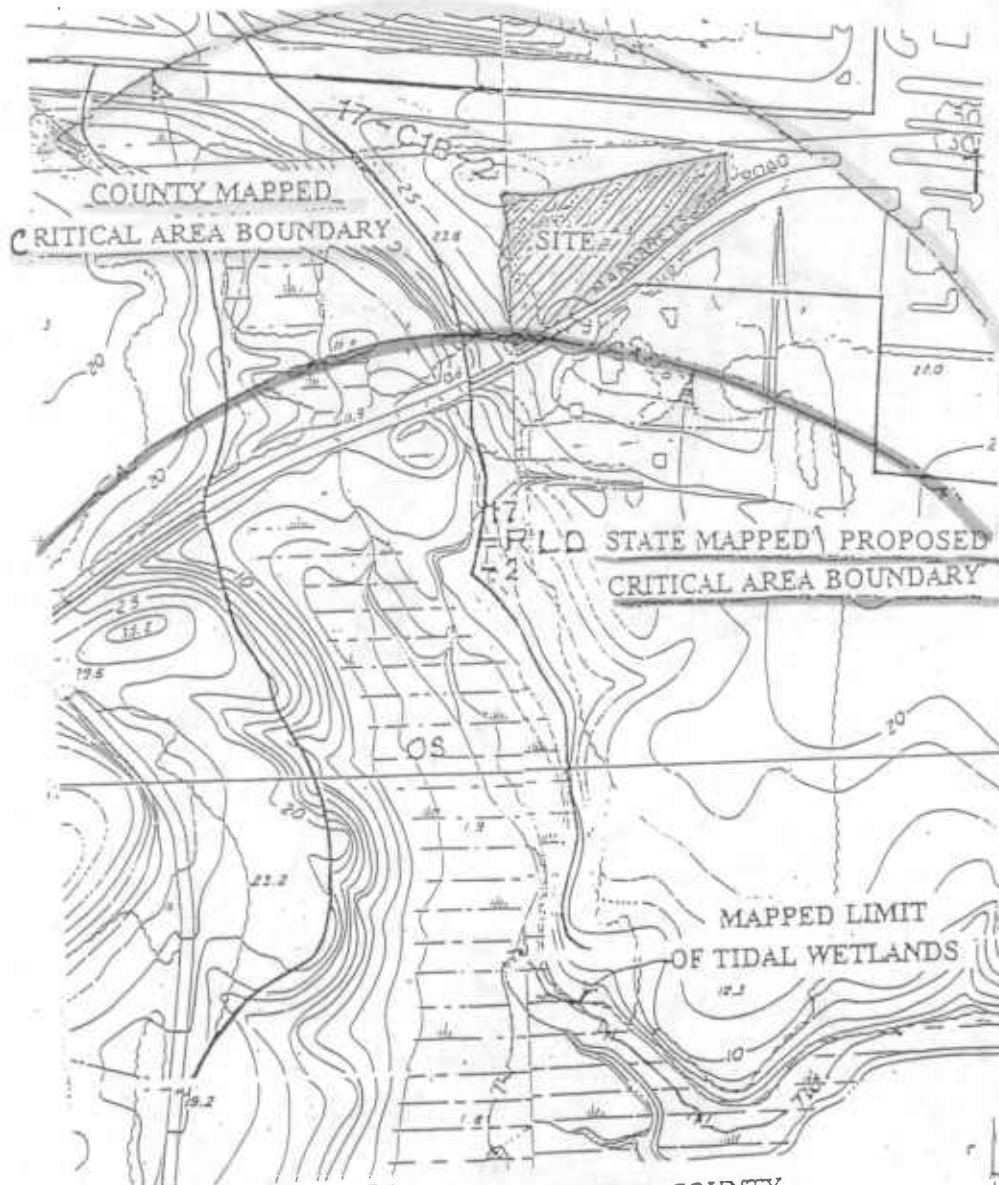
JURISDICTION: Anne Arundel County

REQUEST: Amendment - Mapping Mistake/Enyart Property

COMMISSION ACTION: VOTE

ANALYSIS CONTINUED: The maps below supplement the staff report you received in the mailing. The first map identifies the site and the second map (opposite side) illustrates the mistake made in this case.

STAFF: Lisa Hoerger



ENYART PROPERTY - ANNE ARUNDEL COUNTY
FIGURE 5: COUNTY CRITICAL ZONING MAPS WITH
EXISTING AND PROPOSED CRITICAL AREA BOUNDARY

*Danny Dinkert
A Steel how
Will project by
Computer* → *Bob Schepel* · *stormwater drainage plan*
Will be completed in phases - K. McCleary

**Staff Report for
Information
April 3, 1996**

APPLICANT: Maryland Stadium Authority

PROJECT: Baltimore NFL Stadium at Camden Yards:
Utility Relocation and Excavation

JURISDICTION: Baltimore City

COMMISSION ACTION: Information

**HISTORYBACKGROUND
INFORMATION:**

The new proposed stadium within Baltimore City will be an open-air, natural grass, state-of-the-art facility designed exclusively for playing NFL football. The main streets that border the proposed stadium are: Ostend Street, Russell Street, Hamburg Street, and Howard Street.

The first proposed form of development will be for utility relocation and excavation on the existing parking lot. Utility relocation is being proposed at the site sometime in May 1996.

Chesapeake Bay Critical Area Commission staff has informed the Maryland Stadium Authority that because of future impact to the Critical Area by the proposed development, Critical Area Commission cannot vote on this project without more information. Representatives from the Maryland Stadium Authority will be present at the April 3, 1996 meeting to provide further information.

Contact Person: Dawnn McCleary, Natural Resources Planner

FYI

MARYLAND STADIUM AUTHORITY

PARRIS N. GLENDENING
GOVERNOR



MEMBERS

JOHN A. MOAG, JR.
CHAIRMAN

JOHN BROWN, III
WILLIAM R. BROWN, JR.
NORMAN M. GLASGOW, SR.
WILLIAM K. HELLMANN
JOSHUA I. SMITH
W. ROBERT WALLIS

BRUCE H. HOFFMAN, P.E.
EXECUTIVE DIRECTOR

THE WAREHOUSE AT CAMDEN YARDS
333 WEST CAMDEN STREET, SUITE 500
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March 27, 1996

The Honorable John C. North, II
Chairman, Chesapeake Bay Critical Area Commission
45 Calvert Street, 2nd Floor
Annapolis, Maryland 21401

RECEIVED

APR 1 1996

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Reference: **Baltimore NFL Stadium**
Camden Yards

Dear Judge North:

The purpose of this letter is to notify the Commission of the upcoming activities anticipated for the NFL Stadium at Camden Yards. Current plans for development of the Stadium require certain construction activities to occur within approximately 8 acres of the Critical Area upland of the Middle Branch of the Patapsco River. This development is bounded by Hamburg Street to the north, MARC tracks to the east, Ostend Street to the south and Russell Street to the west. At this time, there is no construction anticipated within the Critical Area 100-foot Buffer. Design plans for the construction are currently in the early phases of development. The following summarizes the activities proposed within the Critical Area and the construction schedule.

- 1. **Utility Relocations (Bid Packages 3A and 3B):** Relocation of existing storm drains, sanitary sewers, electric ducts, water mains and gas mains to allow for excavation of the playing field and stadium structure.

Advertise Construction Documents: May, 1996
Complete Construction: September, 1996

- 2. **Mass Excavation/Demolition (Bid Package 4):** Demolition of existing site features and excavation for the playing field and stadium structure.

Advertise Construction Documents: July, 1996
Complete Construction: November, 1996

- 3. **Foundations (Bid Package 5 and 6):** Construction of deep foundations (piles) and shallow foundations (grade beams, slabs, etc.).

Advertise Construction Documents: September, 1996
Complete Construction: February, 1997

The Honorable John C. North, II
Chairman, Chesapeake Bay Critical Area Commission
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Page 2

4. **Site Utilities/Service Connections (Bid Package 11):** Construction of utility service connections from the stadium structure to the utility mains including storm sewer, sanitary sewer, electric ducts, water, gas, steam, telecommunications.

Advertise Construction Documents:	December, 1996
Complete Construction:	November, 1997

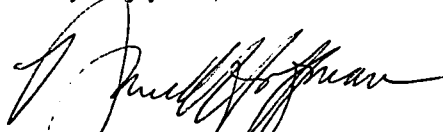
5. **Site Development (Bid Package 16):** Construction of final site features including parking areas, plazas and landscaping.

Advertise Construction Documents:	November, 1997
Complete Construction:	July, 1998

Each of the construction packages listed above will require design and approval of erosion/sediment control plans in accordance with the Maryland Department of the Environment (MDE) regulations. Also, MDE stormwater management criteria, and Chesapeake Bay Critical Area requirements will be addressed and satisfied. Towards that goal, the Maryland Stadium Authority's design team has begun evaluating stormwater management/critical area practices for the proposed development. Meetings have been, and will continue to be, scheduled with your staff to obtain their input into the stadium development.

The Authority looks forward to working with the Commission and MDE staff to develop a project that both protects and enhances the environment.

Very truly yours,



Bruce H. Hoffman, P.E.
Executive Director

cc: Mr. Ron Serey, Executive Director Critical Area Commission
Ms. Regina Esslinger, Critical Area Commission
Ms. Dawnn McCleary, Critical Area Commission
Ms. Kim McCalla, MSA
Mr. John d'Epagnier, RK&K
Mr. Steve Evans, HOK

**BALTIMORE NFL STADIUM
MARYLAND STADIUM AUTHORITY
CRITICAL AREA PRESENTATION**

- Project Introduction/Stadium Info
 - ▶ number of seats
 - ▶ stadium layout
 - ▶ stadium opening kick-off: August, 1988
- Parking
- Property Acquisitions
- Construction Activities within Critical Area
 - Utility Relocations (Bid Packages 1A and 1B):**
 - Advertise Construction Documents: May, 1996
 - Complete Construction: September, 1996
 - Mass Excavation/Demolition (Bid Package 4):**
 - Advertise Construction Documents: July, 1996
 - Complete Construction: November, 1996
 - Foundations (Bid Package 5 and 6):**
 - Advertise Construction Documents: September, 1996
 - Complete Construction: February, 1997
 - Site Utilities/Service Connections (Bid Package 11):**
 - Advertise Construction Documents: December, 1996
 - Complete Construction: November, 1997
 - Site Development (Bid Package 16):**
 - Advertise Construction Documents: November, 1997
 - Complete Construction: July, 1998
- Preliminary Technical Data (Football Stadium site only)
 - ▶ Pre "Oriole Park" conditions:
 - Land in Critical Areas = 7.3 acres
 - Critical Area paved surfaces = 7.1 acres
 - Critical Area greenspace = 0.2 acres
 - ▶ Post "Oriole Park" conditions:
 - Disturbance in Critical Areas = 7.3 acres
 - Critical Area paved surfaces = 5.1 acres
 - Critical Area greenspace = 2.2 acres
 - ▶ Baltimore NFL Stadium:
 - Disturbance in Critical Areas = 7.3 acres
 - Critical Area paved surfaces = 5.2 acres
 - Critical Area greenspace = 2.1 acres
- Erosion/Sediment Control to be approved by MDE for each bid package.
- Site design is in early stages of development. Final site design will not be complete until **Fall 1997**. Critical Area/Stormwater Management analyses will continue to evolve with final site development plans.

critical.ara



RUMMEL, KLEPPER & KAHL
Consulting Engineers

total D. Evans - low mfgy acres - 1120 acres
total total out at 930 acres
when complete
mostly wetlands

**STAFF REPORT
(REVISED)
April 3, 1996**

unanimously approved

AGENCY: Maryland Port Administration(MPA)/ Maryland Environmental Service (MES) *BOB Smith*

PROJECT: Poplar Island Restoration

JURISDICTION: Talbot County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval, with condition

STAFF CONTACT: Theresa Corless

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DISCUSSION:

Poplar Island is located in the Chesapeake Bay off Tilghman Island in Talbot County. The island was over 930 acres in 1847, and is now reduced to four island fragments of less than 10 acres. The Poplar Island restoration project is driven by the need of the Maryland Port Administration (MPA) to find a new dredge disposal area for dredge material from the shipping channels to Baltimore. The dredge spoil from these shipping channels is clean and not contaminated. Use of the dredge spoil at Poplar Island will enable the island to be restored to its 1847 size. This project is an experiment in the beneficial use of dredge material and will be monitored by the various agencies involved.

This project was presented to the Commission for information at the March 1, 1995 meeting. The Commission also approved the construction of a test dike at the site to enable MES to test construction materials and techniques.

Poplar Island provides valuable habitat for many species including diamondback terrapins, and several species of herons and egrets. Many of these species use the island as a nesting and breeding area. One of the island fragments contains an eagle's nest. The waters around Poplar Island are an established fishing area and contains chartered oyster beds. Although the project will inundate the fragments and negatively impact the habitat over the short term, sea level rise and erosion will eventually eliminate the island fragments.

The restoration of Poplar Island will be a twenty to thirty year process. The project will proceed in three overlapping stages. First, a sand and armor stone dike 38,000 feet in length, will be built to contain the dredge material. This dike will contain six cells. Next, the cells will be filled with dredge material. The third phase of the project involves habitat creation, which will include the creation of tidal and nontidal marsh, and upland habitat areas. The project will proceed such that

the first cells will be filled and habitat created before the later cells are filled. Therefore, the project will be able to be amended and corrected as conditions and results require. In addition to filling the cells, the project will maintain the existing fragments and create several new upland fragments.

Attached are site plans which depict two options. Option 2 is the intended project with the complete dike, six cells and island fragments. If federal funding is available this spring as expected the project will proceed under option 2. Option 1 depicts the alternative approach, if federal funding is delayed. The entire project will be complete, but will start with cells one through three, which are state funded. The State is purchasing some of the beach area of Coaches Island which is privately owned, as is required for federal funding. The owner of Jefferson Island has agreed to use of his facilities for workers in the case of bad weather.

Project monitoring will be performed to (1) ensure regulatory compliance, (2) document the creation of beneficial habitat, (3) confirm the expected findings of no negative impacts, and (4) provide operational input on the success of habitat creation and potential changes that will increase the habitat value and utilization.

MES has implemented an extensive biological monitoring project. It will include sediment quality monitoring, wetland vegetation monitoring, water quality monitoring, benthics monitoring, fisheries use of proximal waters, wetland use by fish, wetland use by wildlife, and shellfish bed sedimentation. Background monitoring has been ongoing for the past year.

Time of Year Restrictions required by Federal and State Agencies include:

Bald Eagle:	January 15 - June 15
Oysters:	June 1 - September 14, and December 1 - March 14
Hérons:	February 15 - July 15
Colonial Nesters:	February 15 - July 15

The Maryland Port Administration has funded a 2.5 million dollar design study for the project. Other agencies involved in the project include: the Army Corps of Engineers, the National Marine Fisheries Service, the Maryland Department of the Environment, and the Department of Natural Resources.

This project is consistent with COMAR 27.02, the Commission's regulations for state development on State owned lands.

CONDITION:

1. Yearly reporting to Commission staff on the progress of the project, and positive and negative biologic and habitat impacts.

POPLAR ISLAND PROJECT BENEFITS

- 450 acres of low marsh created
- 100 acres of high marsh created
- 550⁶ acres of upland habitat created
- 10 - 12 acres of small islands created
- 1500 acres of reef habitat created
- 40 million cubic yards of capacity for dredge material

Baltimore County
Councilman

Samuel Moxley

K. Lammie . motion to approve
Partridge - 2nd
C. U.

STAFF REPORT

April 3, 1996

APPLICANT: Jefferson Patterson Park & Museum (JPPM)
Calvert County

PROJECT: Temporary Research Pier, Academy of Natural Sciences

COMMISSION
ACTION: Vote

SUMMARY: The Academy of Natural Sciences, which has leased land at the Jefferson Patterson Park & Museum, is proposing a temporary pier along the Patuxent shoreline to be used as part of an environmental study of the Patuxent River. This study is funded by the National Oceanic and Atmospheric Administration's Coastal Ocean Program. The pier will be in place from 1996 to 1998, after which time it will be completely dismantled and removed. All construction will be done with untreated wood. The main part of the pier will extend 100 feet from shore and will be in place for 3 years. The 150 foot arm will be in place for 6 months of each year. It will be constructed in May of each year and removed in October. This arm will allow scientists access to ten, 10 foot diameter experimental enclosures arranged parallel to the shore. The enclosures will be in place for no more than 4 months.

The pier will be installed at the same location where the Academy's seawater intake system enters the Patuxent. The shoreward portion of the pier and access walkway will be built over an existing rip rap area stabilized with rock rather than an area of exposed bank in order to minimize environmental impact. Doldon Moore, of the State Tidal Wetlands Division, stated that this area was reviewed for living resources at the time that the seawater intake system was permitted and that no HPAs are impacted. The State Tidal Wetland Permit has been authorized; there are no conditions or mitigation required. The Army Corps of Engineers permit has also been authorized.

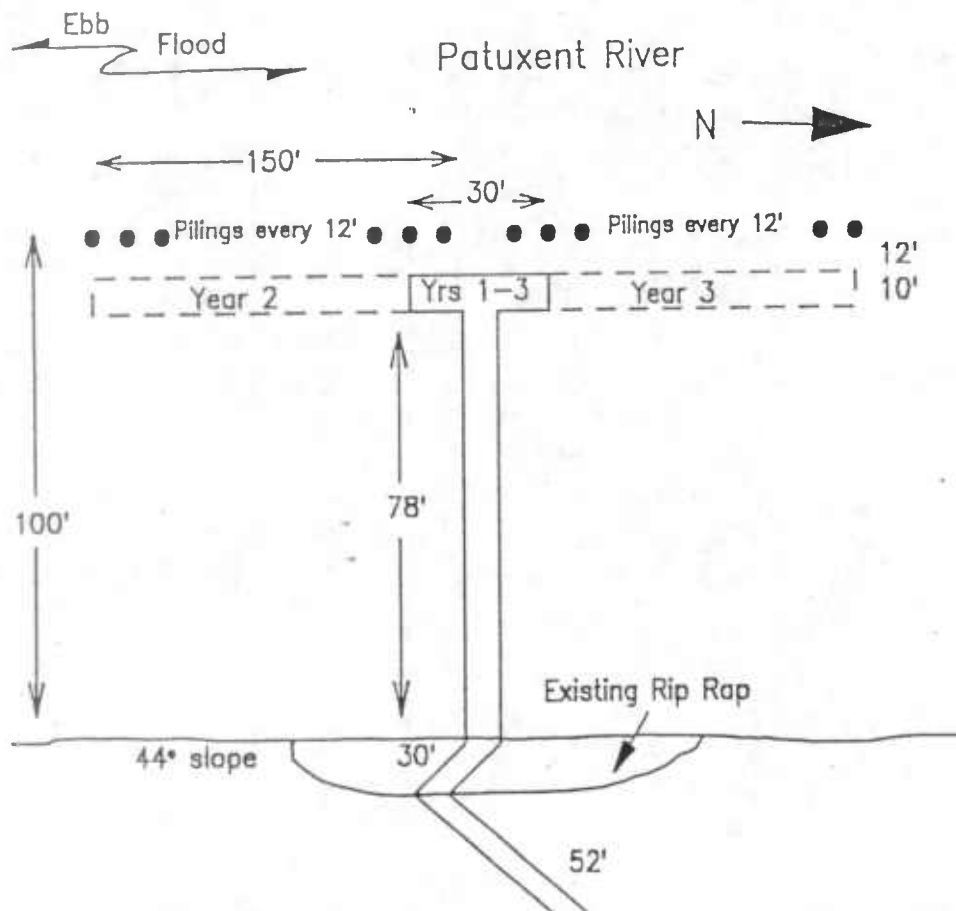
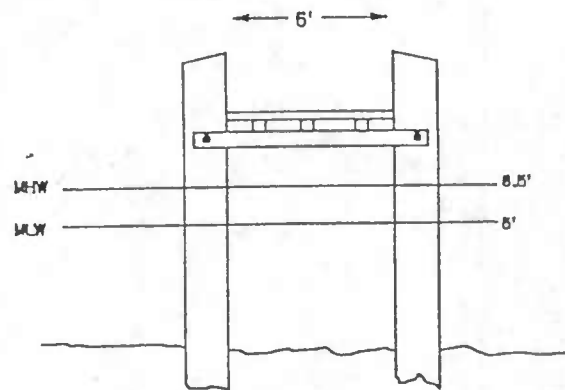
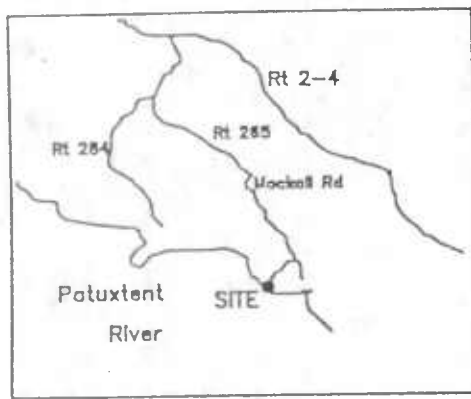
A sketch plan is attached. Mr. Bob Gallagher of the Academy of Natural Sciences will be present at the Commission meeting to present more detailed plans for the pier and answer any questions which the CAC may have.

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

STAFF
RECOMMENDATION: Approve

STAFF: Pat Pudelkewicz

NOT TO SCALE



K. Daym - moved to approve
B. Schaefer Sec.
C. U.

STAFF REPORT

April 3, 1996

APPLICANT: Jefferson Patterson Park & Museum (JPPM)
Calvert County

PROJECT: Shore Erosion Control Project

COMMISSION
ACTION: Vote

SUMMARY: JPPM is proposing a shore erosion control project along the Patuxent River which is part of a multi-owner project to protect over 800 feet of shoreline. The state-owned portion of this project covers 250 feet of shoreline. The shoreline is actively eroding through a narrow, low beach strand that separates a marsh system, known as Heron Cove, from the open Patuxent River. The name Heron Cove comes from an early map, and there is in fact a small heron rookery on the shore of the marsh. At the current rate of erosion, it is expected that the barrier beach will be eroded away in a year or less and the marsh system will be inexorably altered.

The actual project at JPPM will involve filling, grading and planting marsh vegetation along 250 feet of eroding shoreline with sand emplaced within a maximum of 3 feet channelward of the mean high water line, and to emplace 250 feet of low profile, stone, sand containment sill extending 3 feet channelward of the mean high water line. The project is an interesting use of low rock sill and spur structures designed to create several small beach areas. The intent is to provide an environmentally sensitive protection system that uses the minimum amount of rock protection in combination with marsh plants. The part of the project at JPPM is 250 feet of low sill with no spurs. About 750 square feet of marsh will be created.

The State Tidal Wetlands Permit and the Army Corps of Engineers Permit have been issued and a copy is on file at the Critical Area Commission office.

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

STAFF
RECOMMENDATION: Approve

STAFF: Pat Pudelkewicz

Asbury House

Barns

King's Reach House

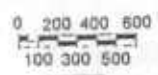
Patuxent River

Jefferson Patterson Park & Museum St. Leonard, Maryland

Acres: 512 Total

Legend

Property Boundary	-----
State Number	-----
Paved Road	=====
Gravel Road	- - - - -
Woods Road	-----
Existing Trails
Proposed Trails
Footbridge	=====
Hardwood	
Pine	
Marsh	-----
Stream	-----
Fence	-----
Pond	-----



Maryland Archaeological Conservation Facility (MAC) (proposed)

Museum Service Center

Academy of Natural Sciences (proposed)

Patterson Home

Beach House

St. Leonard Creek

Barn

Shed

Breckinridge Center

Visitor Center

Pavilion

Agricultural Building

**STAFF
REPORT
APRIL 3, 1996**

Concurrence

APPLICANT: City of Annapolis

ISSUE: Annexation of 13.84 acres known as Mericare Site
Located in Bembe Beach\Map Change

COMMISSION ACTION: Refinement

STAFF RECOMMENDATION: Approval

Background\Location: The City of Annapolis recently annexed 13.84 acres of land into the City of Annapolis by Resolution No. R-28-95, revised, and adopted by the City Council on December 11, 1995. This land under Anne Arundel County Critical Area Program was designated as a Limited Development Area. The City of Annapolis has designated the Mericare site as Limited Developed Area and taken legislative action to include the action in the City's Critical Area overlay zone. The annexed site which comprised 13 separate parcels totaling 13.84 acres is located on the east side of Bembe Beach Road, north of its intersection with Edgewood Road. (See site location)

The proposed development will be a senior care facility providing 142 independent living units, 30 assisted living units and 30 nursing beds, for elderly residents. The project will include an excess of 300 parking spaces on four (4) levels.

Justification of Refinement: The site is designated Limited Development Area (LDA) in the Anne Arundel County Program and is designated LDA in the City of Annapolis' program. Therefore, no change in designation or use of land or water will occur. This action meets the definition of a refinement as per Annotated Code of Maryland §8-1802(a)(10)(I).

Contact Person: Dawnn McCleary, Natural Resources Planner

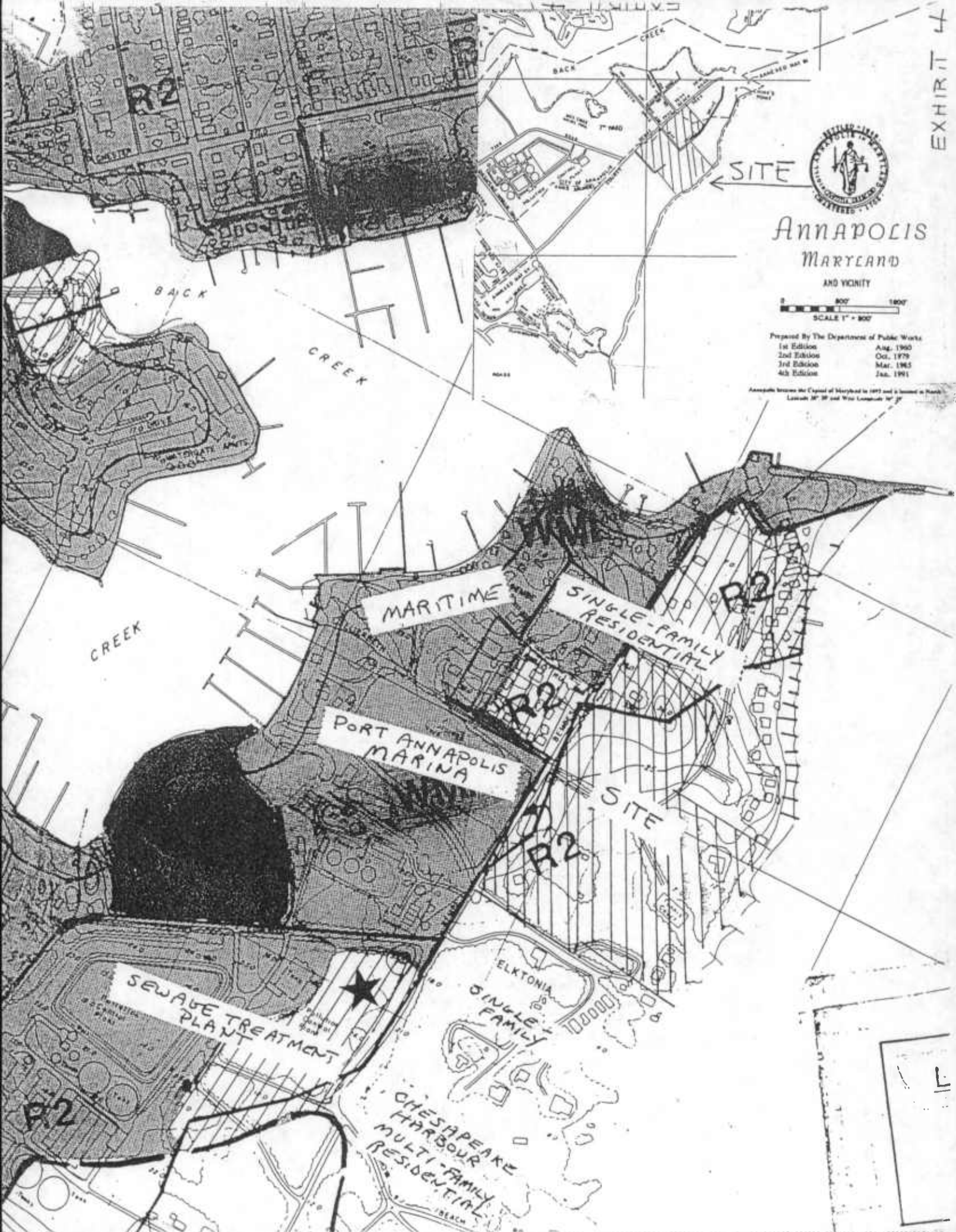


ANNAPOLIS MARYLAND AND VICINITY



Prepared By The Department of Public Works
1st Edition Aug. 1960
2nd Edition Oct. 1979
3rd Edition Mar. 1985
4th Edition Jan. 1991

Annapolis became the Capital of Maryland in 1697 and is located in Parish
Lots 10, 11, 12 and 13 of the original Survey of 1669.



Concurred

STAFF REPORT

April 3, 1996

JURISDICTION: Betterton

ISSUE: Program Refinement - Return of Growth Allocation for Betterton Bay Club

COMMISSION ACTION: Concurrence of Chairman's Determination of Refinement

BACKGROUND: In November 1992, Chairman North approved a growth allocation refinement to the Betterton Critical Area Program to grant 41.9 acres of growth allocation to the Betterton Bay Club project. The Commission concurred with his determination.

DISCUSSION: The Mayor and Council of Betterton have notified the Critical Area Commission that they wish to return the 41.9 acres of growth allocation previously awarded to the Betterton Bay Club project to the Town's reserve. Several attempts have been made by the Town to get a firm commitment from the developer, but to no avail; therefore, the Town has not renewed the growth allocation for this project. Language from the Betterton Critical Area Program states, "The Planning Commission shall withdraw the growth allocation from projects which are not completed within two (2) years or which are not granted an extension by the Planning Commission."

STAFF: Pat Pudelkewicz