

Chesapeake Bay Critical Area Commission
 Department of Housing and Community Development
 Crownsville, Maryland 21401
 Conference Room 1100A
 March 5, 1997
 AGENDA

SUBCOMMITTEES

- 11:45a.m. - 12:00 a.m. Project Evaluation
 Members: Langner, Bourdon, Giese, Goodman, Corkran, Foor, Blake, Cooksey, Hearn, Dietz
 WSSC - Sandy Bar Drive/Sewer Extension Regina Esslinger, Chief Project Evaluation
- 10:00a.m. - 12:00 a.m. Program Amendment
 Members: Whitson, Evans, Moxley, Robinson, Myers, Barker, Williams, Curry, Foor, Pinto, Johnson, Lawrence, Taylor-Rogers, Duket, Wilde
 Transfer Stations
 Development Envelopes

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

PLENARY MEETING

- 1:00 p.m. - 1:05 p.m. Approval of Minutes of February 5, 1997 John C. North, II, Chair
- 1:05 p.m. - 1:30 p.m. ~~X~~ Waterfowl and Colonial Nesting Waterbirds in the Critical Area Claudia Jones, Science Advisor Dave Brinker, DNR

PROGRAM AMENDMENTS and REFINEMENTS

- 1:30 p.m. - 2:00 p.m. Refinement /Town of Vienna Impervious Surface Language Lisa Hoerger, Environmental Specialist

PROJECT EVALUATION

- 2:00 p.m. - 2:10 p.m. VOTE /WSSC - Tribonian Drive-Water and Sewer Extension Regina Esslinger, Project Eval. Chief
 Md. Port Administration
 Dundalk Marine Terminal Comprehensive Review Dawn McCleary
- 2:10 p.m. - 2:30 p.m. VOTE /Dorchester County Greg Schaner, Planner
 Second 4 Year Comprehensive Review changes
- 2:30 p.m. - 3:00 p.m. Old Business John C. North, II, Chair
 New Business John C. North, II, Chair

MAY
 * Golf course - Q.A. - Harbourtowne Golf Links
 * Ren Serey
 * Legal - Marianne Mason

JUNE - London town Public House & Gardens
 SUSAN Gehring - E.O. Dir.

JULY - Balt. - LEF - etc.


Chesapeake Bay Critical Area Commission

STAFF REPORT
March 5, 1997

APPLICANT: Planning Commission of the Town of Vienna

PROPOSAL: Refinement - Impervious Surface Language

JURISDICTION: Town of Vienna

COMMISSION ACTION: Concurrence 

STAFF RECOMMENDATION: Approval

STAFF: Lisa Hoerger

**APPLICABLE LAW/
REGULATIONS:** Senate Bill 657 - October 1, 1996

DISCUSSION:

Senate Bill 657 changed the impervious surface limits on grandfathered lots under one acre. The new bill became effective on October 1, 1996. Each jurisdiction is required to amend its local Critical Area Program on or before December 31, 1996. The language proposed by the Town of Vienna is consistent with Senate Bill 657. Included with this staff report is a copy of the Town's proposed language to the Zoning Ordinance.

"E. Man made impervious surfaces shall be limited to 15% of a parcel or lot, except that:

1. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, man made impervious surfaces shall not exceed 25% of the parcel or lot.

2. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then man made impervious surfaces are limited to 15% of the parcel or lot.

3. If a lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, the man made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of man made impervious surfaces of the entire subdivision may not exceed 15%.

4. The Planning Commission may authorize a property owner to exceed the impervious surface limits specified in 16-10-7E1 and 16-10-7E2 above if it finds that the following conditions exist:

a. New impervious surfaces on the property will be minimized.

b. Water quality impacts associated with runoff from the new impervious surfaces can and will be minimized through site design considerations or use of best management practices approved by the Board, and

c. The property owner performs onsite mitigation as required by the Building Inspector to offset potential adverse water quality impacts from the new impervious surfaces, or the property owner pays a fee to the Town in lieu of performing the onsite mitigation. The amount of the fee shall be established by the Planning Commission. All such fees collected must be used to fund projects that improve water quality within the critical area consistent with the Town's Critical Area Protection Program.

d. For a lot or parcel one-half acre or less in size, the impervious surfaces will not exceed the limit prescribed by paragraph 16-10-7E1 by more than 25% or 500 square feet, whichever is greater.

e. For a lot or parcel greater than one-half acre and less than one acre in size, total impervious surfaces will not exceed the limit prescribed in paragraph 16-10-7E2 or 5,443 square feet, which ever is greater.

5. The Appeals Board may grant a variance from the provisions of this section in accordance with regulations concerning variances established by the State's Critical Area Commission.

6. The exceptions in this section do not apply to a trailer park that was in residential use on or before December 1, 1985.

F. Development on slopes greater than fifteen percent (15 %) shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability;

G. Forest and development woodlands, as defined by the Town Critical Area Program, shall be protected, or created, in accordance with the following standards when there is to be development in Limited Development or Resource Conservation areas.

1. When no forest exists on the site, at least fifteen percent (15%) of the gross site area shall be afforested. The location of the afforested areas should be designed to reinforce protection to habitats on the site or to provide connections between forested areas when they are present on adjacent sites;

RECEIVED

Chesapeake Bay Critical Area Commission

STAFF REPORT
March 5, 1997

Commission approved

APPLICANT: WSSC

PROPOSAL: Tribonian Drive water & sewer extension

COMMISSION ACTION: Vote

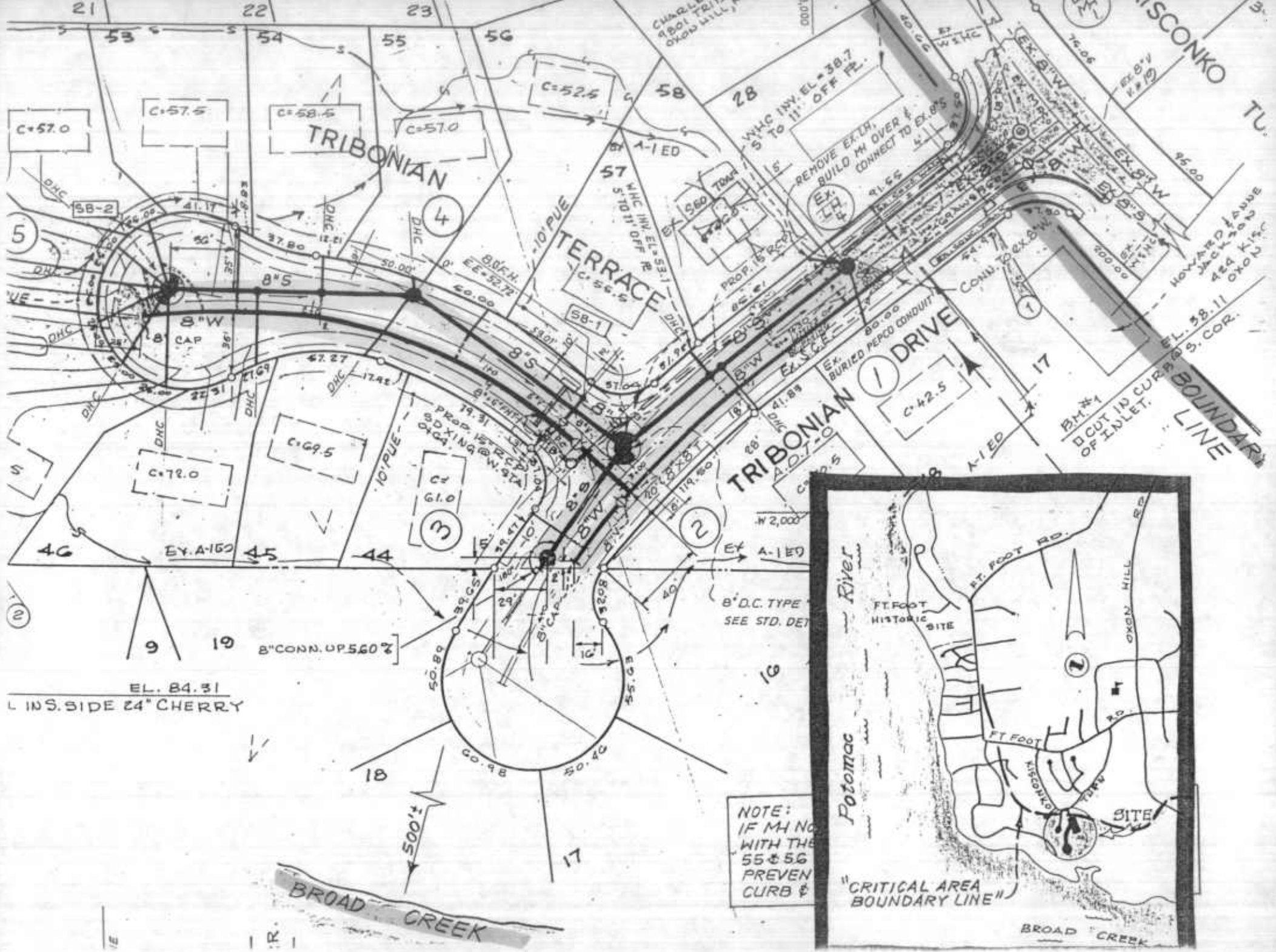
STAFF RECOMMENDATION: Approval

STAFF: Regina Esslinger

APPLICABLE LAW/
REGULATIONS: COMAR 27.02.02 State and Local Agency Actions
Resulting in Development of Local Significance on Private
Lands or Lands Owned by Local Jurisdictions

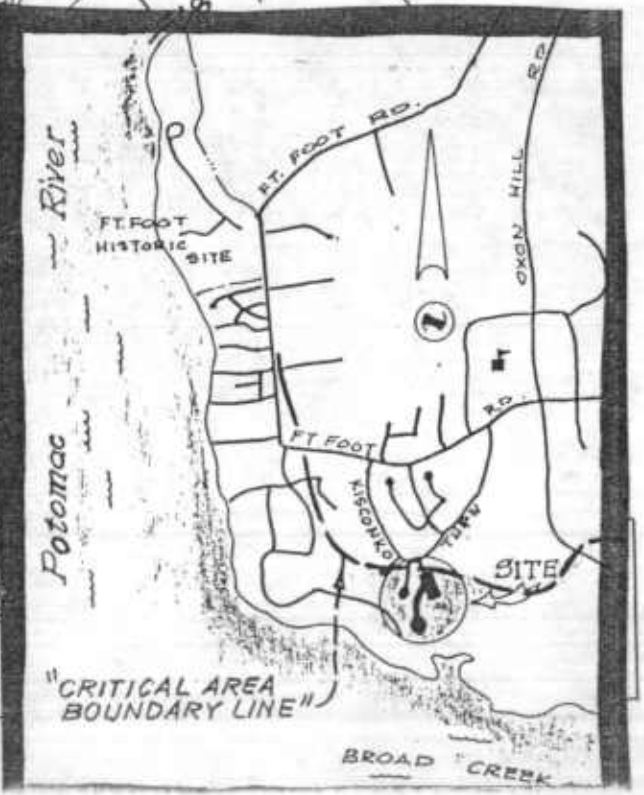
DISCUSSION:

This project is an extension of public water and sewer into a residential community. All work with be done within the road right-of-way, and sediment control measures will be installed and then monitored during inspection. There is no disturbance in the Buffer or any other habitat protection areas.



EL. 84.31
 1/4" INS. SIDE 24" CHERRY

NOTE:
 IF MH NO. 55 & 56
 WITH THE
 PREVENT
 CURB &



CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT
FINAL
March 5, 1997

K. Longmire m. to approve

D. Evans - sec C/A

Approved

APPLICANT: Maryland Port Administration

PROPOSAL: Fabric Warehouse Building at Area 201
At Dundalk Marine Terminal

JURISDICTION : Baltimore City

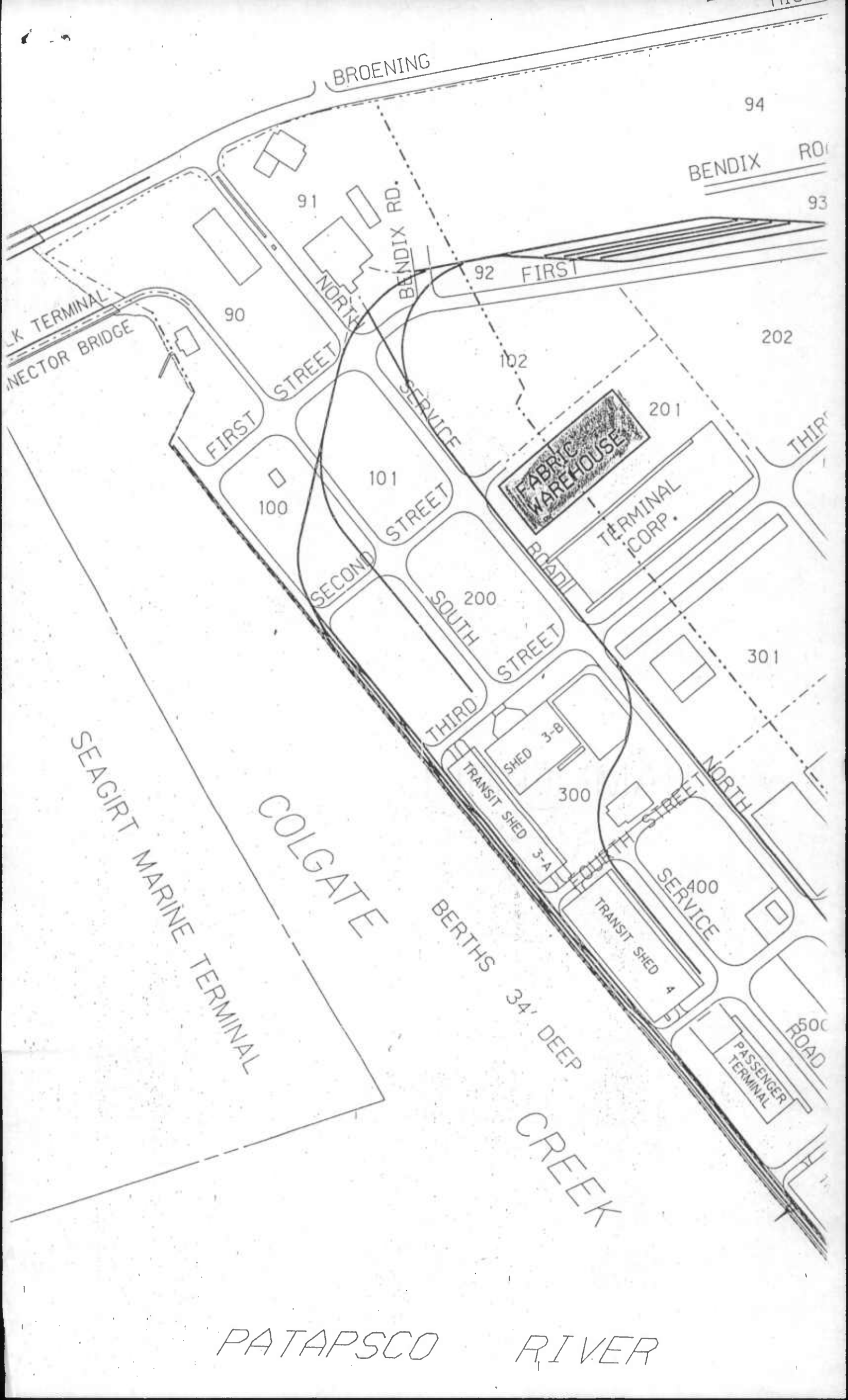
COMMISSION ACTION: Vote

STAFF: Dawnn McCleary

APPLICABLE LAW\ REGULATION: Chapter 5: State Agency Actions Resulting in
Development COMAR 27.02.05.02 on State-Owned Lands
COMAR 27.02.05.02

DISCUSSION : The proposed building at Dundalk Marine Terminal is partially within the Critical Area in an Industrial Development Area. Under the Maryland Port Administration (MPA) contract, a 100,000 square foot fabric building will be constructed on existing pavement. This building will be moved within three (3) years to another location.

This project will not increase quantity or lessen quality of runoff. There are also no known threatened or endangered plant or animal species in the area. Plant or wildlife habitats should not be affected by the proposed development. MPA has sediment and erosion control approval from Maryland Department of the Environment, who will strictly enforce the control and protection of water quality.



BROENING

94

BENDIX RD

93

91

NORTH STREET

92 FIRST

DOCK TERMINAL
CONNECTOR BRIDGE

90

FIRST STREET

102

202

SERVICE ROAD

201

100

101

SECOND STREET

FABRIC WAREHOUSE

TERMINAL CORP.

THIRD

200

SOUTH STREET

301

SEAGIRT MARINE TERMINAL

COLGATE

THIRD

SHED 3-B

300

TRANSIT SHED 3-A

THIRD

SERVICE

400

TRANSIT SHED 4

BERTHS 34' DEEP

500 ROAD

PASSENGER TERMINAL

CREEK

PATAPSCO RIVER

Chesapeake Bay Critical Area Commission

STAFF REPORT

March 5, 1997

APPLICANT: Dorchester County

PROPOSAL: Second Quadrennial Review - Proposed Changes

COMMISSION ACTION: Information / Vote (possible)

STAFF RECOMMENDATION: Approval

STAFF: Greg Schaner

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

DISCUSSION:

The Critical Area Law at Natural Resources Article § 8-1809(g) mandates that each jurisdiction review its entire local Critical Area Program and propose any necessary amendments every four years. According to the statute, the following information is to be submitted by each jurisdiction: (1) a statement certifying that the required review has been accomplished; (2) any necessary requests for program amendments, program refinements, or other matters that the local jurisdiction wishes the Commission to consider; (3) an updated resource inventory; and (4) a statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining. The County's first comprehensive review was approved by the Commission in November 1994. In compliance with its requirements under the Critical Area Law, the County has submitted revisions to its Critical Area Program for the Commission's consideration. This package of changes represents the County's second comprehensive review.

County Notification of Completion of Quadrennial Review

The County Planning & Zoning Office and Highway Department submitted a set of proposed changes to the County Planning Commission for consideration in October 1996. The Planning Commission recommended approval of the proposed Critical Area Program changes in November 1996. The proposed changes were next submitted to the County Commissioners for review where they were approved on February 4, 1997 contingent upon approval by the Chesapeake Bay Critical Area Commission. As required by the Critical Area statute, the Critical Area Commission panel, appointed by the Chairman, held a public meeting on February 26, 1997 in Cambridge, Maryland to provide a forum for public discussion.

Proposed Critical Area Program Revisions

The proposed revisions arose through collaborative discussions between the County Planning & Zoning Office, the County Highway Department, and members of the Commission staff. The proposed revisions will affect the Grading & Erosion Control Ordinance, Forestry Ordinance, and Zoning Ordinance.

The changes to the Grading & Erosion Control Ordinance (see Attachment 1), implemented by the County Highway Department, involve the incorporation of regulatory language covering the following areas: (1) the Critical Area Buffer, (2) Habitat Protection Areas (HPAs), (3) mitigation for impacts to Critical Area, (4) vegetation and wildlife protection, and (5) variance procedures. The Highway Department is proposing to also change its Forestry Ordinance by including specific provisions (see Attachment 2), consistent with the State Criteria, addressing information required as part of any Buffer Management Plans for commercial timber harvests within the Buffer.

The County Planning & Zoning Office is proposing the following changes to its Critical Area Program: (1) incorporation of updated changes (additions and deletions) to mapped eagle nests, colonial nesting birds, and Natural Heritage Area sites in the County; (2) incorporation of regulatory language covering the "10 percent rule" for IDA development and redevelopment, dog kennels in the RCA, impervious surface restrictions, mitigation ratio for Buffer impacts, shoreline access restrictions, and Buffer establishment requirements for agricultural rezonings; and (3) inclusion of new Buffer Exemption Areas. The proposed changes are included as Attachment 3.

In response to a recommendation from Critical Area Commission staff, the County Planning & Zoning Office and Highway Department are also both proposing a modification to their Buffer Management Plan provisions. The proposed change will strengthen the protection of forest vegetation in the Buffer and clarify when property owners are required to submit a Buffer Management Plan.

Resource Inventory Update

The Planning & Zoning Office notified Commission staff on November 6, 1996 that there have been "no major changes in forest resources which need to be updated on the Critical Area Inventory Maps." This finding is justified as there have been no growth allocation requests or approvals since the first comprehensive review.

Growth Allocation Statement

There have been no growth allocation requests or approvals since the first comprehensive review. No statement on the status of the County's growth allocation is necessary.

Attachments

ATTACHMENT 1: Proposed Changes to
Grading & Erosion Control Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY AMENDING SECTION 100-14 OF CHAPTER 100 OF THE DORCHESTER COUNTY CODE ENTITLED "GRADING & EROSION CONTROL" TO PROVIDE ENFORCEMENT OF CLEARING ACTIVITIES WITHIN THE CRITICAL AREAS AND TIDEWATER BUFFER.

SECTION ONE: BE IT ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY, That Section 100-14.C of Chapter 100 of the Dorchester County Code be repealed and re-enacted as follows:

"TIDEWATER BUFFER - A protective vegetated area established landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. The width of the buffer is a minimum of one-hundred (100) feet and may be expanded beyond one hundred (100) feet to include contiguous, sensitive areas of nontidal wetlands, soils with high erosion potential, hydric soils, and in case of contiguous slopes of 15 percent or greater the buffer shall be expanded 4 feet for every 1 percent of slope, or to the top of the slope, whichever is greater."

SECTION TWO: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY, That Section 100.14.C of Chapter 100 of the Dorchester County Code be amended after the last definition adding the following:

"Any other Critical Area Definition can be found in the Zoning Regulations Chapter 155-47.1 and are incorporated herein."

SECTION THREE: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY, That Section 100-14 be amended to add new Sections G, H, I, J, and K as follows:

"F. Shoreline protection.

- (1) Appropriate shore erosion protection works should be provided where necessary to protect eroding shorelines in the critical area. Nonstructural shore protection measures are preferred and should be used wherever they would be effective and practical in preventing or reducing erosion.
- (2) Where significant erosion is occurring and effective and practical erosion control would require the use of structural measures, such measures are encouraged. The structural measure that best provides for the conservation of plant and wildlife habitat shall be selected.
- (3) If significant alteration in the characteristics of a shoreline occurs, the erosion control measure that best fits the change may be used for sites in that area.

- (4) Cutting of trees or removal of natural vegetation is permitted where necessary to install or construct an approved shore erosion protection measure. Individual trees may be removed which are in danger of falling and resulting in accelerated shore erosion.
 - (5) Interference with natural transport of sand shall be minimized.
- G. General habitat protection area regulations. The following regulations shall apply to all habitat protection areas:
- (1) Roads, bridges and utilities may not be located in any habitat protection area unless no feasible alternative exists. This provision is not applicable to intensely developed areas.
 - (2) All roads, bridges, and utilities that must cross a habitat protection area shall be located, designed, constructed and maintained so as to avoid negative impacts to wildlife, aquatic life and their habitat. Hydrologic processes and water quality shall be maintained.
- H. Tidewater buffer. The following regulations shall apply to the tidewater buffer area:
- (1) Cutting or clearing of trees in the tidewater buffer shall be prohibited, except as follows and shall meet the requirements of H.(2) below:
 - (a) Tree cutting or removal of natural vegetation may be performed where necessary to provide access to private piers, or to install or construct a shore erosion protection measure or a water dependent facility. Such measure or facility must first have received all necessary federal and state permits.
 - (b) Individual trees may be cut for personal use, provided that this cutting does not impair the water quality or other functions of the buffer. The trees shall be replaced on an equal basis for each tree cut.
 - (c) Individual trees may be removed which are in danger of falling causing damage to structures, blockage of streams or accelerated shore erosion.
 - (d) Pruning and other horticultural practices may be used to maintain the health of individual trees.
 - (e) Other cutting techniques may be undertaken within the buffer if necessary to preserve forests from extensive pest or disease infestation or threat from fire. Advice and guidance from the

Maryland Department of Agriculture and Maryland Department of Natural Resources shall be obtained.

- (2) Proposed clearing of trees and other vegetation in the tidewater buffer will be allowed only upon approval of a buffer management plan. The requirements for content, submittal, review and approval of the buffer management plan are as follows:
- (a) Plan requirements. A person may not clear land in the tidewater buffer without an approved buffer management plan. The plan must meet the requirements of the Dorchester County Forestry Board, the Dorchester County Critical Area Protection Program and this section.
 - (b) Content of Plans. The buffer management plan shall contain information and drawings sufficient to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed clearing activity on water resources and the effectiveness and acceptability of compensatory measures.
 - (c) The buffer management plan shall be prepared by the person proposing to clear vegetation on the site, in consultation with the Dorchester County Forestry Board.
 - (d) Review and approval of plans. The applicant shall submit the buffer management plan to the Maryland Forest Service for initial review. The Maryland Forest Service shall forward the plan, together with any comments, to the Dorchester County Forestry Board for approval.
 - (e) The buffer management plan shall be reviewed by the Dorchester County Forestry Board, which shall solicit comments from the Dorchester County Soil Conservation District, the Maryland Fish, Heritage and Wildlife Administration (if it involves a habitat protection area on individual lots) and other appropriate agencies. In approving the plan, the Forestry Board shall consider all agency comments and may impose such conditions as deemed necessary.
 - (f) The approved buffer management plan shall be fully implemented by the applicant in conjunction with any clearing activity on the site.

(g) Plan revisions. Buffer management plan revisions may be requested by the applicant or by the Dorchester County Soil Conservation District. All revisions must be approved by the Dorchester County Forestry Board.

(3) Nothing in this chapter shall prevent the normal and customary maintenance of lawns located in the buffer that were established prior to the adoption of this section.

(4) A grading permit from the Dorchester County Highway Department shall be required before forest or developed woodland is cleared; and forests which have been cleared before obtaining a grading permit, or that exceed the maximum area allowed in 1.(2), shall be replanted at three times the areal extent of the cleared forest.

I. Critical Area Mitigation.

(1) The following regulations shall apply to development in Intensely Developed areas:

(a) When the cutting or clearing of trees in forests and developed woodlands is associated with current or planned development activities, such activities, shall be designed and implemented to protect forest and woodland vegetation. Urban forestry practices such as street tree plantings, gardens, landscaping and buffer plantings shall be employed.

(b) Public access to shoreline areas should be improved or maintained within intensely developed areas.

(2) The following regulations shall apply to development in limited development areas and resource conservation areas:

(a) Forests and developed woodlands which are cleared after the adoption of this section are to be replaced on not less than an equal basis. The formula for replacement of these forests is as follows:

(i) If less than twenty percent (20%) of the forested land on the parcel is cleared, the forest shall be replaced on an equal basis.

(ii) If between twenty percent (20%) and thirty percent (30%) of the forested land on the parcel is cleared, the afforested area shall consist of one and one-half (1 ½) times the total surface acreage of the disturbed forest.

- (b) Forests and developed woodlands located on lots which were recorded prior to December 1, 1985, may be cleared beyond the thirty-percent limitation established above. In such a case, the following conditions apply:
- (i) The total area to be cleared shall be less than one (1) acre.
 - (ii) The clearing must be necessary and incidental to providing an area for the homesite, sewage reserve area, driveway, lawn, and so forth.
 - (iii) The afforested area shall consist of three (3) times the total surface acreage of the disturbed forest.
- (c) Where sufficient land area does not exist on the site for afforestation, an applicant may make arrangements with other landowners or the county to reforest their lands within the critical area.
- (d) There is hereby created a Forest Replacement Fund which shall be used to collect and disburse moneys for the sole purpose of afforestation and reforestation in the critical area. The fund shall be administered by the Dorchester County Forestry Board.
- (i) Any person unable to reforest to meet the standards established above shall pay into the Forest Replacement Fund a dollar amount equal to the cost of replacing the forest land to be cleared, including appropriate penalties.
 - (ii) The fee shall be calculated on a per-acre basis and shall be determined annually by the Dorchester County Forestry Board and the Maryland Forest, Park and Wildlife Service. All fees shall be made payable to the County Treasurer.
- (e) Except as provided for otherwise, all clearing of forests and developed woodlands must take place outside of the tidewater buffer.
- (f) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of fifteen percent (15%) of the parcel that is being developed.

- (g) Clearing, grading and sediment activities in a BEA must comply with requirements in section 155-47.1 J.(5) of the Dorchester County Zoning Regulations.
- (h) Development in the buffer which is not located in a Buffer Exemption Area shall be required to mitigate at a 2:1 ratio for development impacts.

J. Vegetation and wildlife. The following regulations shall apply to vegetation and wildlife protection:

- (1) Clearing, grading and sediment activities shall be prohibited within the protection areas established for species of concern and for plant and wildlife habitat, unless it can be shown that these activities will not have or cause adverse impacts on these species or habitats. Where protection areas would be impacted by development activities, an appropriate strategy shall be devised which features best management practices to protect and conserve the resources in those areas. New water-dependent facilities shall be located so as to prevent disturbance to such protection areas.
- (2) In the case of riparian and upland forests which are documented wildlife breeding areas, any development activity shall be conducted so as to conserve significant habitat. Corridors of existing forest or woodland vegetation shall be maintained to connect wildlife habitat areas.
- (3) Physical alterations which may change the course or circulation of a fish spawning stream shall be prohibited, and artificial surfaces shall not be installed on natural stream bottoms unless it can be demonstrated that water quality and fish habitat will be improved.
- (4) In the case of watersheds within the critical area which drain into fish spawning streams, development activities and other land disturbances shall be minimized. Construction activities which involve instream or buffer areas shall be prohibited each year between March 1 and May 15.
- (5) Proposed projects which may affect vegetation and wildlife areas will be reviewed in accordance with the process described in the Dorchester County Critical Area Program, Volume 1, Chapter 8, and Chapter 5, Section D, reference to which is hereby made and incorporated herein by reference.

K. Variances. Variances to the critical area section of these regulations may be granted as follows:

- (1) Variances to these regulations may be granted where, owing to special features of a site or other circumstances, implementation of the provisions of this section or of the Dorchester County Critical Area Protection Program would result in unwarranted hardship to an applicant. The following conditions apply:
 - (a) Findings must be made which demonstrate that special conditions or circumstances exist which are peculiar to the land or structure involved, and that literal enforcement of the provisions of the Critical Area Protection Program would result in unwarranted hardship.
 - (b) A literal interpretation of the Critical Area Protection Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar parts of the critical area.
 - (c) The granting of a variance will not confer upon an applicant any special privilege that would be denied to other land or structures within the critical area.
 - (d) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
 - (e) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the critical area, and will be in harmony with the general spirit and intent of the Critical Area Law.
- (2) Applications for a variance shall be made in writing to the Dorchester County Highway Department, in accordance with the procedures set forth herein. The Chesapeake Bay Critical Area Commission shall receive a copy of the application for any variance that relates to the critical area at least 15 days prior to any hearing on such matter and shall receive a copy of the finding.
- (3) Variance decisions may be appealed as provided herein. In addition, the Chairman of the Critical Area Commission may appeal an action or decision, even if the Chairman was not a party to or is not specifically aggrieved by the action or decision."

SECTION FOUR: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY, That this ordinance shall take effect ten (10) days after its passage.

SECTION FIVE: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY, The County Administrator to the Board is directed to forward a copy of this ordinance to General Code Publishers Corporation for codification in the Dorchester County Code.

Executed this _____ day of _____, 1997.

ATTEST: THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY

BY: _____
Deborah G. Byrd
County Administrator

BY: _____
Jeffrey C. Powell
President

CERTIFICATION

THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY HEREBY CERTIFY TO THE CLERK OF THE CIRCUIT COURT FOR DORCHESTER COUNTY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF THE ORDINANCE EXECUTED BY THE COUNTY COMMISSIONERS ON THE _____ DAY OF _____, 1997, AND FURTHER ORDER THE SAME TO BE RECORDED AMONG THE ORDINANCE BOOKS OF DORCHESTER COUNTY, MARYLAND, WITHOUT COST.

ATTEST: THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY

BY: _____
Deborah G. Byrd
County Administrator

BY: _____
Jeffrey C. Powell
President

ATTACHMENT 2: Proposed Changes to
Forestry Ordinance

ORDINANCE NO. ____

AN ORDINANCE OF THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY AMENDING SECTION 97-5b.(2) OF CHAPTER 97 OF THE DORCHESTER COUNTY CODE ENTITLED "FORESTRY" TO PROVIDE THE REQUIREMENT FOR A BUFFER MANAGEMENT PLAN FOR HARVESTING WITHIN THE TIDEWATER BUFFER.

SECTION ONE: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY. That Section 97-5B.(2) of Chapter 97 of the Dorchester County Code be repealed and re-enacted as follows:

B. Habitat protection areas.

"(2) A Buffer Management Plan shall be required for all commercial harvests within the Buffer, regardless of the size of the areas to be cut, and shall contain the following minimum requirements:

- a) That disturbance to the stream banks and shorelines shall be avoided.
- b) The area disturbed or cut shall be replanted or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife, and reestablishes the wildlife corridor function of the buffer; and
- c) The cutting does not involve the creation of logging roads and skid trails within the one-hundred-foot tidewater buffer."

SECTION TWO: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY. That this ordinance shall take effect ten (10) days after its passage.

SECTION THREE: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY. The County Administrator to the Board is directed to forward a copy of this ordinance to General Code Publishers Corporation for codification in the Dorchester County Code.

Executed this _____ day of _____, 1997.

ATTEST:

THE COUNTY COMMISSIONERS
OF DORCHESTER COUNTY

BY: _____
Deborah G. Byrd
County Administrator

BY: _____
Jeffrey C. Powell
President

ATTACHMENT 3: Proposed Changes to Zoning Ordinance
DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 107
CAMBRIDGE, MARYLAND 21613
PHONE: 228-3234



November 13, 1996

Mr. Jeffrey C. Powell, President
Dorchester County Commissioners
PO Box 26
Cambridge MD 21613

Dear Mr. Powell,

The Dorchester County Planning Commission met on October 2nd and November 6th 1996 to consider amendments to the Critical Area Program under the 1996 Quadrennial Review. The amendments regard changes to the Habitat Maps, RCA language for kennels, addition of 10% rule for IDA's, specify allowed access in the buffer, new Buffer Exemption Areas, planting the buffer when agricultural use ceasing, 2:1 mitigation for buffer, and letter from staff regarding natural resources update. The aforementioned items are listed and explained on the enclosed chart. A motion was made by Robert Hanson and seconded by Sidney Johnson, "To forward the review comments, as drafted by Karen, to the County Commissioners, with the stipulation of the forest vegetation, for their approval". Motion unanimous.

All of the amendments attached should be combined with those submitted from the Dorchester County Highway Department as part of the 1996 Critical Area Quadrennial Review. A local hearing must be held by the Commissioners on the outlined quadrennial review amendments before forwarding them to the Critical Area Commission. Please set a hearing date and notify myself and Chuck Weber so that we may be in attendance. As always I am available to prepare the advertisement or assist with its preparation. Please call me if you need additional information. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Karen Houtman".

Karen Houtman
Planner

RECEIVED

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1

NOV 15 1996

ITEM

EXPLANATION

1. Update to habitat maps which include new and deleted eagle sites, colonial nesting bird sites, and deletion of Natural Heritage Area (DO L-6) . All changes are reflected on tax map habitat overlays and the overall county Habitat Map.

The eagle and colonial nesting birds sites are sometimes abandoned or moved and therefore reflected in the update. Per letter from Wayne Tyndall dated August 27, 1996 NHA L-6 can be deleted as a state listed species site. (Will display maps at hearing, see attachment 1 and 2)
2. Resource Conservation Area language for Kennels.

An appeal case resulted in the Critical Area Commission agreeing that Dog Kennels should be allowed in the Resource Conservation Area. (Attachment 3, pg. 17)
3. Addition of 10% rule for Intensely Development Areas

Per Comar 27.01.02.03 (Attachment 3, pg. 11)
4. Specify area allowed to access shoreline or piers in the tidewater buffer.

As result of Board of Appeals case thought it would be easier to regulate size of path or boardwalk per state regulations. (Attachment 3, pg.27)
5. New Buffer Exemption Areas- as listed on attachment.

Buffer Exemption Areas are areas within 100' of the water in which the natural vegetation is no longer in existence. I have identified 36 additional sites or areas not picked up in the 1992 mapping of BEA's. (Attachment 4)
6. Planting the buffer when agricultural use ceases.

Included in Dorchester County Critical Area Program adopted August 23, 1988. Also cited in COMAR 27.01.09.01 C. (6). (Attachment 3, pg. 27)
7. Add 2:1 mitigation for the tidewater buffer outside Buffer Exemption Areas.

The Highway Department will also be using 2:1 mitigation. The Critical Area Commission suggested 3:1 ratio, but we felt that was to strong a penalty. (Attachment 3, pg. 27)

ITEM

EXPLANATION

8. Letter from staff regarding natural resource update required as part of quadrennial review submission.

Required to update resource maps for disturbance of forest due to development if removing over 1 acre. (Attachment 5, letter from staff)

into an integrated whole with other such existing or proposed facilities in the community.

- (11) Each development shall include a transition area to separate it from adjoining residential areas. Said transition area shall be at least fifty (50) feet in width measured from the tract boundary line, shall contain no structures or parking areas, shall contain only the required ingress and egress of streets and may be included in the individual lots.

F. Intensely developed areas. The following regulations shall apply to development within intensely developed areas:

- (1) Additional development is allowed in intensely developed areas, subject to the land use and other regulations applicable to the underlying zoning district. Such additional development shall not impair water quality.
- (2) Expansion of intensely developed areas into habitat protection areas shall be minimized, and fish, wildlife and plant habitat shall be conserved and enhanced to the extent possible.
- (3) When the cutting or clearing of trees in forests and developed woodlands is associated with current or planned development activities, such activities shall be designed and implemented to protect forest and woodland vegetation. Urban forestry practices such as street tree plantings, gardens, landscaping and buffer plantings shall be employed.
- (4) Public access to shoreline areas should be improved or maintained within intensely developed areas.
- (5) Development and redevelopment shall be required to identify stormwater management practices appropriate to site development which achieve a ten (10) percent reduction of pre-development pollutant loadings. (The Critical Area Commission has published three manuals to assist with this requirement).

G. Limited development areas. The following regulations shall apply to development within limited development areas:

Forestry Board.

- (a) Any developer unable to reforest to meet the standards established above shall pay into the Forest Replacement Fund a dollar amount equal to the total cost of replacing the forest land to be cleared, including appropriate penalties.
 - (b) The fee shall be calculated on a per-acre basis and shall be determined annually by the Dorchester County Forestry Board and the Maryland Forest, Park and Wildlife Service. All fees shall be made payable to the County Treasurer.
- (6) Except as provided for otherwise, all clearing of forests and developed woodlands must take place outside of the tidewater buffer.
- (7) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of fifteen percent (15%) of the parcel that is being developed.
- (8) Man-made impervious surfaces shall adhere to Section O. of §155-47.1 Critical Area Protection District. ~~are limited to fifteen percent (15%) of a parcel or lot. [Added 5-18-1993 by Ord. No. 221].~~
- ~~(a) If a parcel or lot one half acre or less in size was in residential use or zoned for residential purposes on or before December 1, 1985, then man made impervious surfaces associated with that use are limited to twenty five percent (25%) of the parcel or lot.~~
 - ~~(b) If a parcel or lot one fourth (1/4) acre or less in size was in nonresidential use on or before December 1, 1985, then man made impervious surfaces associated with that development are limited to twenty five percent (25%) of the parcel or lot.~~
 - ~~(c) If an individual lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, then man made impervious surfaces of the lot may not exceed twenty five percent (25%) of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed fifteen percent (15%).~~

chapter.

- [15] The proposed use is storage of fertilizers, chemicals, pesticides, or polluting materials or substances used in conjunction with agriculture which shall be contained to the extent that any erosion of or runoff from such materials or substances is prevented provided such use is clearly incidental to a farm operation.
- [16] The proposed use is a sand and gravel pit, borrow pit, clay pit or other mineral extraction use, including the processing or compounding of materials composed largely of such products at the site, but excluding concrete mixing and asphalt plants.
- [17] The proposed use is a private airstrip for the land owners personal use which is clearly incidental and accessory to an existing residential use.
- [18] The proposed use is non-commercial boat building and repair, including motor repair.
- [19] The proposed use is an emergency service as defined in §155-47.1 or as defined herein.
- [20] The proposed use must be allowed by-right under State law in a zoning district that permits detached single family dwellings, i.e., homes emphasizing special services, treatment and care such as group homes of less than 9 people and family day care.
- [21] The proposed use is a dog kennel which is accessory to the existing residential use. Any buildings and runways associated with the use shall be located outside of the tidewater buffer and at least two hundred feet from any property line or public way.

- (f) Local government projects may be permitted in Resource Conservation Areas without obtaining growth allocation if certified by the County

- (6) Where sufficient land area does not exist on the site for afforestation, an applicant may make arrangements with other landowners or the county to reforest their lands within the critical area.
- (7) There is hereby created a Forest Replacement Fund which shall be used to collect and disburse moneys for the sole purpose of afforestation and reforestation in the critical area. The fund shall be administered by the Dorchester County Forestry Board.
 - (a) Any developer unable to reforest to meet the standards established above shall pay into the Forest Replacement Fund a dollar amount equal to the total cost of replacing the forest land to be cleared, including appropriate penalties.
 - (b) The fee shall be calculated on a per-acre basis, and shall be determined annually by the Dorchester County Forestry Board and the Maryland Forest, Park and Wildlife Service. All fees shall be made payable to the County Treasurer.
- (8) Except as provided for otherwise, all clearing of forests and developed woodlands must take place outside of the tidewater buffer.
- (9) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of fifteen percent (15%) of the parcel that is being developed.
- (10) Man-made impervious surfaces must adhere to Section O. of §155.47.1 the Critical Area protection District. ~~[are limited to fifteen percent (15%) of a parcel or lot. [Added 5-18-1993 by Ord. No. 221]]~~
 - ~~(a) If a parcel or lot one half (1/2) acre or less in size was in residential use or zoned for residential purposes on or before December 1, 1985, then man-made impervious surfaces associated with that use are limited to twenty five percent (25%) of the parcel or lot.~~
 - ~~(b) If a parcel or lot one fourth (1/4) acre or less in size was in nonresidential use on or~~

~~before December 1, 1995, then man made impervious surfaces associated with that development are limited to twenty five percent (25%) of the parcel or lot.~~

~~(c) If an individual lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, then man made impervious surfaces of the lot may not exceed twenty five percent (25%) of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed fifteen percent (15%).~~

I. General habitat protection area regulations. The following regulations shall apply to all habitat protection areas:

- (1) Roads, bridges and utilities may not be located in any habitat protection area unless no feasible alternative exists. This provision is not applicable to intensely developed areas.
- (2) All roads, bridges and utilities that must cross a habitat protection area shall be located, designed, constructed and maintained so as to avoid negative impacts to wildlife, aquatic life and their habitat. Hydrologic processes and water quality shall be maintained.

J. Tidewater buffer. The following regulations shall apply to the tidewater buffer area:

- (1) Cutting or clearing of trees in the tidewater buffer shall be prohibited, except as follows:
 - (a) Tree cutting or removal of natural vegetation may be performed where necessary to provide access to private piers, or to install or construct a shore erosion protection measure or a water-dependent facility. Such measure or facility must first have received all necessary federal and state permits.
 - (b) Individual trees may be cut for personal use, provided that this cutting does not impair the water quality or other functions of the buffer. The trees shall be replaced on an equal basis for each tree cut.
 - (c) Individual trees may be removed which are in danger of falling causing damage to structures, blockage of streams or accelerated shore erosion.

(300) feet beyond the landward edge of tidal waters or tidal wetlands.

(15) New development activities, including structures, roads, parking areas and other impervious surfaces, mining and related facilities or septic systems, are not permitted in the tidewater buffer except as otherwise provided for in this chapter.

(16) Development in the buffer which is not located in a Buffer Exemption Area shall be required to mitigate at a 2:1 ratio for development impacts.

(17) A single point of access to the shoreline will be allowed in the buffer but such access shall be limited to a path or boardwalk 6 feet in width and boardwalks over tidal wetlands must be constructed at a minimum of 3 feet above tidal wetlands.

(18) Where agricultural use of lands within the area of the buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide vegetation that assures the Buffer functions set forth in the policies of this chapter.

L. Vegetation and wildlife. The following regulations shall apply to vegetation and wildlife protection:

(1) Development activities shall be prohibited within protection areas established for species of concern and for plant and wildlife habitat, unless it can be shown that these activities will not have or cause adverse impacts on these species or habitats. Where protection areas would be impacted by development activities, an appropriate strategy shall be devised which features best management practices to protect and conserve the resources in those areas. New water-dependent facilities shall be located so as to prevent disturbance to such protection areas.

(2) In the case of riparian and upland forests which are documented wildlife breeding areas, any development activity shall be conducted so as to conserve significant habitat. Corridors of existing forest or woodland vegetation shall be maintained to connect wildlife habitat areas.

EAGLE SITES, COLONIAL NESTING BIRDS, NATURAL HERITAGE AREAS
1996 QUADRENNIAL REVIEW

Add the following Eagle Sites and CNB's and remove NHA 6:

Map 21 Bennett	CNB 039	P-159
Map 29 Horns Point- UM	96-05	P-9
Map 47 Nanticoke Boy Scout	93-05	P-1
Map 49 Pinetop Road/Hoopers Neck	96-06	P-2
Map 59 Tieder	94-04	P-5
Map 60 Elliott	95-15	P-58
Map 62 Blackwater Farm	94-03	P-16
Map 62 Button Creek Farm	95-04	P-18
Map 70 Blackwater Refuge	95-08	P-30
Map 70 Blackwater Refuge	95-02	P-30
Map 70(71)Blackwater	96-01	P-39
Map 71 Blackwater Refuge	95-17	P-39
Map 71 Blackwater Refuge	CNB 037	P-39
Map 71 Seward	96-04	P-36
Map 71 Seward	96-12	P-13
Map 73 Tudor	94-14	P-10
Map 73 Pinder/Crane	95-14	P-11/10
Map 73(74)Wildfowlers	95-03	P-5
Map 73 Tudor	94-13	P-10
Map 73 Tudor	96-03	P-10
Map 78 Blackwater	95-13	M-71 P-39
Map 78(79)Blackwater	95-12	M-71 P-39
Map 78 Blackwater	96-02	M-71 P-39
Map 79 Blackwater	95-01	M-71 P-39
Map 80(72)Blackwater	94-02	M-71 P-39
Map 80 Blackwater	94-01	M-71 P-39
Map 80 Fishing Bay WMA	96-08	
Map 81 Eagle Farm	96-11	
Map 81 St of MD	93-04	M-89 P-1
Map 82 Davenport	91-04 now 94-17	M-90 P-20
Map 84 Tracy	CNB 001	P-3
Map 87 Blackwater	94-05	M-71 P-39
Map 87 Schmidt	95-06	M-87 P-40
Map 88 (87)Mowbray	95-10	M-87 P-9
Map 92	Remove NHA 6	
Map 102 Chesapeake Audobon	95-16	P-59
Map 107 Allison Farm	94-08	P-1
Map 111 Hoopers Land Co.	94-07	P-5
Map 112 Flinchum Enterprises	CNB 038	M-112 P-2
Map 119 White	94-16	M-121 P-1

**EAGLE SITES REMOVED AS RESULT OF
1996 QUADRENNIAL REVIEW**

Map 17	Remove 92-08
Map 29	Remove 87-02
Map 49(58)	Remove 92-01
Map 62	Remove 92-02, 91-10, 92-12
Map 70	Remove 81-03
Map 71 (79)	Remove 92-06, 89-02, 89-04
Map 71 (72)	Remove 87-01
Map 72 (71)	Remove 86-01
Map 78	Remove 69-04
Map 79 (71)	Remove 91-01
Map 80 (71)	Remove 89-01
Map 82 (90)	Remove 91-04
Map 96	Remove 91-08
Map 107	Remove 91-05, 87-08, 91-11
Map 111	Remove 92-11, 86-06

BUFFER EXEMPTION CANDIDATES

- Map 12** **Suicide Bridge (Nickerson,LDA)**
Buffer area is stone, concrete, and grass.
- Map 17** **Twin Point Cove Road (Cook's Point)**
Majority of residences are located on small thin lots which include well and private septic. Some of the parcels may ultimately be removed by the Critical Area Commission.
- Map 18 Parcel 42** **Galen Mills Railway, Etc.**
Small properties on Chapel Creek with well and septic. Mr. Mill's has old bulkheading and dock with gravel and grass up to it on his property. Other properties have residential structures within close proximity to water.
- Map 19 Parcel 38,30** **Garden of Eden**
Parcel 38 has house which is approximately 20' to 25' from the water. Residences on each built in 1962 and 1970.
- Map 27 Parcel 156 and 21** **Ragged Point Marina (36 slips) owned by county**
on parcel 156 has paved area, bulkheading, etc. Parcel 21 has seafood operation with loading/unloading area - all impervious.
- Map 27 Parcel 81** **McNamara & County (18 slips)**
The area is stoned and bulkheaded. Only a small area of vegetation was present on site visit along northern edge of marina next to shedding operation building.
- Map 39 (50) Parcel 19** **Deep Point**
All lots of record which are very small with existing structures within 30' of the water at least. Include parcels 81 thru 84, 89 thru 126 on northeast end of road are thin lots accommodating well, septic and residences, and parcel 86 -220 (house # 1318-1324) have houses within 40' of the water.
- Map 40 Parcel 53** **Paw Paw (several less than 100') ***
Lots 5-12 have no buffer and have existing structures within 30' of the water. (picture 1-4)

- Map 56 (66) Parcel 28** **Delmarva Power & Light-Vienna**
Buffer Exemption Area would extend from Vienna Town Limits to the north to Webster Creek which is the limit of the disturbed buffer area as seen on Tax Map 56 and 66. Note: the entire property is designated as an IDA, Intensely Developed Area.
- Map 59 Parcel 20, 66, 8, 19** **Taylor Isl. Store , Willey, Chapel Cove and Fire Dept.**
Area behind store is bulkheaded and paved, Fire Dept. within 10-15' of the water, the other two parcels are shedding operations with bulkheading and boat moorings.
- Map 59 parcel 150** **Taylor Isl. Marina**
The area is paved at the railway, over 100 boat slips to the marina, shower area, store, restaurant and 4 bedroom Inn in house, gravel and grass area goes along bulkhead which aligns with Boon Docks Bar on old Coast Guard boat. Two pages of pictures are attached.
- Map 85 Parcel 14** **Gootee's Marina**
The store and office are located along the main road with county boat ramp, docking facilities, etc. Almost the entire parcel is paved.
- Map 93 Parcel 8 and 168** **Humes Wallace**
Waterman boat docking area and bulkheading with no buffer vegetation on parcel 8. Parcel 168 contains store and residence within the first 50' of the tidewater buffer.
- Map 93 Parcel 165** **County Marina-Tyler Cove**
Parcel is completely paved for use by waterman and has over 26 slips for docking.
- Map 100 Parcel 2** **W.T. Ruark**
Area is stoned and paved with many buildings located completely within the buffer.
- Map100 Parcel 32** **Hall Seafood**
Located at the end of Old House Point Road. The structure is within 2' to 4' of the water and the parcel is located completely within the buffer and is paved or concrete on all sides up to the bulkheading.

- Map 100 parcel 30 Tideland**
Same as above description for Hall Seafood. The properties adjoin.
- Map 100 Parcel 127 & Back Creek** **A.E. Phillips(Crab House)**
All of the properties along Back Creek are completely within the buffer. The Phillips property contains a concrete loading/ unloading area along the water. Includes Charles Parks property and 152 and 155 which are seafood businesses.
- Map 100 Parcel 73** **Phil Jones**
The property is occupied by buildings such as marina, boat building, boat storage and is bulkheaded and contains a gravel driveway and parking area.
- Map 102 Parcel 227** **County boat ramp next to Meredith & Meredith**
is paved.
- Map 102 Parcel 226** **Insley Cove Ramp**
Owned by the county and is entirely paved and bulkheaded.
- Map 103 Parcel 68** **Elliott marina (Portion only)**
Area has bulkheading, pavement, boat ramp and slips.
- Map 107 Parcel 50/51** **Rippons Seafood (connects w/existing BEA)**
Gravel parking area, bulkheading, seafood packing business, loading/unloading area is concrete to the water.
- Map 107 Parcel 49 and 23** **Lindy- Coastal Seafood**
Packing house is located on Parcel 49 and has area for loading and unloading on 23.
- Map 108 Parcel 88, 221, 89(portion)** **Powley Marina, etc.**
Seafood business, paved area, bulkhead, slips (Marina), and loading/unloading on county property.
- Map 108 Parcel 170** **Hearns Creek**

Boat docking on portion of parcel has parking area and bulkheading.

Map 113 Parcel 10,18 County/John Cannon *
Cannon Seafood business

Map 113 Parcel 11 and 17 Windsor/Bloodsworth
Commercial seafood business with boat docking
Parcel 17 is questionable, building is partly over water
but has not been repaired.

Map 113 Parcel 61 and 64 Parcel 61 owned by Woodland is within the buffer and
Parcel 64 ~~Previously~~ owned by Brady Todd

Also identified the following sites while out reviewing:

Map 27 Parcel 146 Green Cove
Lots 7-9 only sheds in buffer and principal on lot 7.

Map 74 Parcel 37 and 41 Drawbridge
Three houses located within 15' of the water.

Map 74 Parcel 83 Robbins Boat Builders
No buffer in existence, lawn and stone within 50'-55'

Map 80(81) Parcel 5 Bestpitch
Residence within 15' of the water property bulkheaded.

Map 87 Parcel 27 and 28 Shorter's Wharf
House located within 10' - 12' of water and mobile
home within 50' of water.

Map 101 Parcel 8 Cannon/Asquith Island Rd.
Impervious surface is concrete and plant located
completely within buffer.

Map 109 Parcel 21 Murphy/Toddsville
Located at waters edge completely within buffer.

Handwritten mark

DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 107
CAMBRIDGE, MARYLAND 21613
PHONE: 228-3234



November 6, 1996

Mr. Greg Schaner
Critical Area Commission
45 Calvert Street, 2nd Floor
Annapolis, MD 21401

Dear Mr. Schaner,

Staff have reviewed subdivisions and growth allocations for any major changes in resource inventory. Since, the Quadrennial Review in 1992 there have been no growth allocation requests or approvals. Therefore, there are no major changes in forest resources which need to be updated on the Critical Area Inventory Maps.

Sincerely,

A handwritten signature in cursive script that reads "Karen Houtman".

Karen Houtman
Planner

kh



Marina



Paw Paw
Residential



Waterford
Commercial
Business