

Chesapeake Bay Critical Area Commission  
Department of Housing and Community Development  
Crownsville, Maryland 21401  
Conference Room 1100A  
March 4, 1998  
AGENDA

SUBCOMMITTEES

11:00a.m. - 12:00 a.m. Project Evaluation

Members: Langner, Bourdon, Giese, Goodman, Corkran, Foor, Blake, Cooksey, Hearn, Dietz

Anne Arundel County, Md. Port Authority

CSX, Cox Creek

Lisa Hoerger, Environmental Specialist

Dredged material maintenance facility, Storm Drain Project

Kent County, State Highway Administration

Md. Rt. 291 Road Improvements

Greg Schaner, Planner

Baltimore County, DNR Public Lands

North Point State Park

Susan McConville, Planner

Day Use Area

11:00 a.m. - 12:00 p.m. Program Implementation

Members: Whitson, Evans, Moxley, Robinson, Myers, Barker, Williams, Wynkoop, Foor, Pinto, Johnson, Lawrence, Taylor-Rogers, Duket

Transfer Development Rights

Ren Serey, Executive Director

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

PLENARY MEETING

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

Approval of Minutes  
of February 4, 1998

John C. North, II, Chair

PROGRAM AMENDMENTS and REFINEMENTS

1:05 p.m. - 1:25 p.m.

VOTE Anne Arundel County  
Homeport Farm Growth Allocation

Lisa Hoerger, Enviro. Specialist  
*- postponed*

1:25 p.m. - 1:35 p.m.

REFINEMENT Cecil County  
Chesapeake City, Mapping Mistake

Susan McConville, Planner

1:35 p.m. - 1:50 p.m.

REFINEMENT Charles County  
Text Amendment  
Impervious Surface Language, growth allocation  
Additional BEAs

LeeAnne Chandler, Planner

PROJECT EVALUATION

50 p.m. - 2:05 p.m.

VOTE Anne Arundel County, Maryland Port Authority - *postponed*  
CSX, Cox Creek, Dredged Material Maintenance facility, storm drain project  
Lisa Hoerger, Enviro. Specialist

55 p.m. - 2:20 p.m.

VOTE Baltimore County, DNR public lands  
North Point State Park, Day Use Area  
Susan McConville, Planner

20 p.m. - 2:35 p.m.

VOTE Kent County, State Highway Administration  
US Route 301 @ MD 291  
Road Improvements  
Greg Schaner, Planner

35 p.m. - 3:00 p.m.

Old Business  
New Business  
John C. North, II, Chairman

Next Commission Meeting April 1, 1998 Anne Arundel County, Crownsville

Chesapeake Bay Critical Area Commission  
Department of Housing and Community  
People's Resource Center  
Crownsville, Maryland 21401  
February 4, 1998

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

- |  |   |
|--|---|
| Barker, Philip, Harford County         | Robinson, Edward, Kent County                   |
| Bourdon, Dave, Calvert County          | Rogers, Dr. Sarah Taylor-DNR                    |
| Cooksey, David, Charles County         | Whitson, Michael, St. Mary's County             |
| Corkran, William, Talbot County        | Wilde, Jinhee K., Western Shore MAL             |
| Deitz, Mary, Dept. of Transportation   | Williams, Roger, Kent County                    |
| Duket, Larry, Md. Of. Plng.            | Wynkoop, Samuel, P.G. County                    |
| Evans, Diane, AA County                | Setzer, Gary for Hearn, J.L., Md Dept. Environ. |
| Foor, Dr. James, Queen Anne's County   |   |
| Giese, William, Jr., Dorchester County |   |
| Goodman, Robert, DHCD                  |   |
| Johnson, Samuel Q., Wicomico County    |   |
| Lawrence, Louise, Dept. Agriculture    |   |

The Minutes of January 7, 1998 were approved as read.

Wayne Jenkins, Maryland Department of the Environment gave a presentation on Total Maximum Daily Loads (TMDL) for the State. All states are required by the federal Clean Water Act to consider the development of TMDLs. Even though the Clean Water Act has been around for awhile the EPA didn't actually promulgate regulations for TMDLs until the early 90s. Environmental groups noticed that the states were not enforcing TMDLs and as a result many lawsuits were filed across the country. Thirty states are now involved in litigation and Maryland is one of them. States are required to establish water quality standards based on merit criteria for designated uses. The status of these water bodies must also be monitored and reported back to the EPA biannually. Impaired waterbodies are required to be listed and prioritized and TMDL's must be developed for those waterbodies and sent to EPA for their approval. Once approved, the TMDL must be incorporated into the State's continuing planning process. Mr. Jenkins described a TMDL and how one is developed. He discussed the benefits of this program and how to achieve the goals of this program. Mr. Jenkins disseminated a packet of information on TMDLs and he told the Commission that more information can be accessed on the Web site for the MDE: web site <http://www.mde.state.md.us>.

Lisa Hoerger, Environmental Specialist, CBCAC reported for information Anne Arundel County's Homeport Farm Growth Allocation Bill. She said that the proposed growth allocation would change 18.75 acres of RCA land to LDA. This will be an amendment to the County's Critical Area Program. Ms. Hoerger described the entire parcel and it's designations regarding the Critical Area. She said that the guidelines in regard to adjacency, identifying habitat protection areas, and the suggested 300-foot Buffer have been addressed by the County. The County had identified the Buffer and found it to be sufficient without requiring 300-feet. The County has 57.66 acres remaining growth allocation set aside to use for RCA to LDA and this request is for less than half of that - at 18.75 acres (\*approximately 102 acres remain in the LDA growth allocation envelope). David Plott, Esquire, Linowes and Blocher, representing the applicant, spoke to the issues of the

proposed development assuring the Commission that all concerns (obtaining 7.73 acres needed to satisfy the one per twenty density requirement through a recorded easement from the adjacent property owner) and requirements will be met. This will come back to the Commission for a vote in March.

Greg Schaner, Planner, CBCAC presented for concurrence with the Chairman's determination of Refinement the Winchester Creek Limited Partnership Subdivision Growth Allocation request in Queen Anne's County. Mr. Schaner said that this request was first submitted in October of 1997, however, nothing has changed with the project. He explained that local jurisdictions, under law, have 120 days to adopt any change agreed to in their program. The County Commissioners have to hold a public hearing when a change is approved. This public hearing was not scheduled in time and now they are asking for another 120 day extension. The Chairman has agreed and asks the support of the Commission. Mr. Schaner said that the County Commissioners of Queen Anne's County have given conceptual approval to grant growth allocation to the Winchester Creek Ltd. Partnership for a cluster subdivision in the Critical Area. This development would change 26.553 acres of RCA land to LDA. Mr. Schaner described the proposal that came with four conditions including: 1) adopt easement restrictions which permanently protect the designated easement area in the same way as the 100-foot Buffer. 2) adopt easement restrictions which protect and enhance the existing habitat for the federally endangered Delmarva fox squirrel and which are approved by the Department of Natural Resources' Heritage and Biodiversity Conservation Program. 3) prohibit the construction of the proposed community pier and any other water-dependent facility on this site between October-March of any year to protect waterfowl habitat. 4) agree to enhance unforested areas of the 100-foot Buffer and environmental easement with planted native forest species or to allow these areas to naturally regenerate. The Commission supported the Chairman's determination of refinement.

Susan McConville, Planner, CBCAC presented for a VOTE the final approval of Baltimore County's Buffer Management Plan. The Commission had approved a two-year trial period for the County's plan. As a condition of the agreement, Critical Area staff worked with the County staff to monitor the implementation and effectiveness of the BMA plan and then to present a final plan for approval. Pat Farr, Baltimore County DEPRM, was on hand to answer any questions. Tom Vidmar, Chief of the Bureau of Research and Management and Engineering Services, Baltimore County, DEPRM, was in attendance as was Glen Schafer, DEPRM, instrumental in the mapping. Ms. McConville outlined the requirements of the plan for the Commission. She said that the County identified several initial goals of the Plan: a) provide flexibility in allowing certain structures in the Buffer, or in different locations within the Buffer; b) remove long-standing controversies involving development/redevelopment on existing waterfront lots; c) streamline the permit review process; d) provide continued protection of water quality and important habitats. Ms. Farr talked specifically about the implementation of the Plan stating that they have met all the goals intended and are very happy with the plan with some slight modifications. Michael Whitson moved to approve as submitted the Baltimore County Buffer Management Plan dated the 3rd of January, 1996 as revised February 4, 1998. The motion was seconded by Dr. Foor and carried unanimously.

Ms. Hoerger presented for a VOTE the DNR Shore Erosion Control project at Sandy Point State Park in Anne Arundel County. She said that the Shore Erosion Control Program of the Department of Natural Resources Forestry Service proposes to repair five existing shore erosion control structures. The existing revetments and groins constructed in the late 1970s and early 1980s have failed for various reasons including improper installation. Additionally, significant erosion is occurring at all sites and nonstructural methods are not practical or effective. Existing stone materials will be utilized. Ms. Hoerger described the proposed project in detail. She said that there are no known threatened or endangered plant or animal species that will be

affected by the proposed construction. Permits from the Army Corps of Engineers and the Maryland Department of the Environment (MDE) have been secured. This project is consistent with the Commission's regulations for State projects on State lands. Bob Goodman moved to approve the replacement and repair of the existing stone revetments and groins at Sandy Point State Park as submitted. The motion was seconded by Dave Cooksey and carried unanimously.

Ms. Owens presented for VOTE the Wastewater Treatment Plant Improvements project at Point Lookout State Park in St. Mary's County. She said that the Maryland Environmental Service is proposing to improve an existing effluent pump station and outfall involving the installation of a 64 square foot pump station, a 36 square foot valve box, and 475 linear feet of six inch High Density Polyethylene piping with stone outfall protection. Ms. Owens explained the technical aspects of the project. She said that there are no known threatened or endangered plant or animal species that will be affected by this project because the new disturbance is proposed in existing developed areas. Two-to-one mitigation will be required for all new impervious surfaces within the Buffer. The project is consistent with the Commission's regulations for State projects on State lands. Bob Goodman moved to approve the wastewater treatment plant improvements at Point Lookout State Park with the condition that DNR approves the construction activity under the existing revetment before it takes place. The motion was seconded by Bill Corkran and carried unanimously.

LeeAnne Chandler, Planner, CBCAC presented for VOTE the camping loop Mini-cabins project at Ft. Smallwood State Park in Charles County proposed by the Department of Natural Resources. She said that two cabins will be located on existing campsites and two will be located on former campsite areas. These cabins will be brought into the park fully assembled and simply placed on a crushed gravel pad with underground electric lines running from an existing utility shed. The removal of trees is not required and only minimal grading will be necessary. The project will be located outside of the 100-foot Buffer and no known habitats or threatened or endangered species will be affected. This project is consistent with the Commission's regulations for State projects on State Lands. Bob Goodman moved to approve the camping cabins at Ft. Smallwood State Park as submitted. The motion was seconded by Bill Giese and carried unanimously.

Ms. Owens presented for VOTE the Walkway and Sidewalk Improvements at Chesapeake Beach in Calvert County. She said that the State Highway Administration is working with the Town of Chesapeake Beach to construct new and to improve existing walkways and sidewalks. This project is considered a priority because many pedestrians who use these walkways are forced to walk in areas where there are no sidewalks. The project will be accomplished in three phases: Phase 1 and Phase 2 involve construction on State Highway Administration right-of-way and will be voted on by the Commission. The third phase is a local government project involving development of local significance on land owned by a local jurisdiction, and will comply with COMAR 27.02.02. She described the technical details of the project. She said that there is no significant clearing involved because the project is located in an existing developed right-of-way. Most of the improvements are located within the 100-foot Buffer. There will be some minor impacts to an area of tidal wetlands; however, the Town is working with the Maryland Department of the Environment to minimize wetland impacts and will obtain the required permits. There are no known threatened or endangered plant or animal species that will be affected. Two-to-one mitigation will be required for all new impervious surfaces within the Buffer. This project is consistent with the Commission's regulations for State projects on State lands. Bob Goodman moved to adopt the walkway and sidewalk improvement project in Chesapeake Beach with the condition that detailed planting plans for Buffer mitigation must be approved by Commission staff before each phase begins. The motion was seconded by Bill Corkran and carried unanimously.

Ms. Chandler gave a presentation on the Maryland Coastal Bays Program. She said that the Coastal Bays, located entirely within Worcester County, are not under the protection of the Critical Area Law or regulations. The Coastal Bays are facing many of the same problems as the Chesapeake Bay: eutrophication, habitat loss and degradation, decline in living resources and chemical contamination. The Maryland Coastal Bays Program is a cooperative effort created to begin solving some of those problems. Maryland has for the last two years been undertaking the Program trying to work with citizens, the Worcester County government, EPA, Fish and Wildlife Service and various other entities trying to develop some sort of county-based program that would protect the valuable resources there. Ms. Chandler provides technical planning assistance to the Coastal Bays Program.

## OLD BUSINESS

Marianne Mason, Esquire, Assistant Attorney General and Commission Counsel updated the Commission on legal matters. She told the Commission that she argued before the Court of Special Appeals on January 13th in the case of White vs North regarding a pool in Anne Arundel County which the Board of Appeals had granted a variance for and the Circuit Court had reversed. A decision will be forthcoming.

In the Court of Special Appeals, she reported last month the Citrano case was dismissed by the Court on its own motion because Mr. Citrano's attorney, Mr. Bruce Bereano, did not file a brief. Mr. Bereano has asked for reinstatement of the appeal telling the Court that because he was so busy preparing for legislative session he did not have time to file the brief on time.

In the Circuit Court in Dorchester County, a case has been settled that was filed last month involving the Court of Appeals approval of a pool in the Buffer. The applicants have agreed to withdraw their application for a variance. The Board will rescind the variance and there will be no pool.

In Anne Arundel County in the Belvoir Farms case involving a variance for more slips than are permitted under the law, Ms. Mason states that the transcript of the hearing has just started to come into her office for review and the brief will not be filed for quite a while.

Ren Serey, Executive Director, CBCAC updated the Commission on the Baltimore Stadium Authority. He said that last year the Commission approved conditionally the new football stadium at the Camden Yard's complex. The pond and bioretention facilities required a maintenance agreement that would come back to the Commission for approval. The stadium authority has submitted the agreement. The Commission staff and Counsel have reviewed it. The agreement involves the typical sorts of things of maintenance, monitoring the soil, making repairs to the facility as needed, and monitoring the various types of plants to be planted, as well as pruning, etc. It appears to be appropriate, thorough and in good order. An updated maintenance report will be provided to the Commission on a quarterly basis for five years, and then annually thereafter. Bruce Hoffman, and Director of the Stadium Authority, has signed the agreement and it is to be signed now by the Chairman.

## NEW BUSINESS

Chairman North appointed a panel for Anne Arundel County: Larry Duket, Chair; Dr. Foor, Diane Evans, Louise Lawrence, and Bob Goodman.

Mr. Serey reported on new legislation that affects the Critical Area. House Bill #95, submitted by Delegate Wheeler Baker from Queen Anne's County would amend the environment article but not the Critical Area Act. It prohibits MDE from issuing a permit for the application of sewage sludge unless all local permits had been obtained. That is a change. At this time under the criteria, sewage sludge can be applied within the

Critical Area in the RCA as long as it is not within the Buffer and with an MDE permit and no local permitting required.

House Bill #319 involves Impervious Surfaces. It was passed and enacted by the legislature three years ago and then vetoed by the Governor. This Bill had an off year, was brought back in 97, passed the house but was killed in the Senate; now, it is back this year in the House. It specifies that wooden decks with gaps between the boards are not to be calculated as part of the impervious surface. That is already permitted. The other part of the bill says that the surface water of swimming pools will not count towards the impervious surface allowed on a site. The Critical Area Commission opposed this Bill the first two times it was submitted. Its first hearing will be in the House.

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Secretary

*Concurrence*

*Chesapeake Bay Critical Area Commission*

STAFF REPORT

March 4, 1998

APPLICANT: Town of Chesapeake City

PROPOSAL: 1) Mapping Mistake - change LDA designation of subject parcels that did not meet the LDA mapping standards to IDA.  
2) Inclusion of area omitted from original mapping due to error on tax map.

JURISDICTION: Town of Chesapeake City

COMMISSION ACTION: Review for Concurrence

STAFF RECOMMENDATION: Concurrence with Chairman's determination

STAFF: Susan McConville

APPLICABLE LAW/  
REGULATIONS: Natural Resources Article 8-1802 and COMAR 27.01.02.07(C)

**DISCUSSION:**

The Town of Chesapeake City has requested that the Commission consider three areas of LDA designated land in the Town as a mapping mistake and review the proposed corrections as a refinement to the Chesapeake City Critical Area Program. The Town contends that the LDA designation was not consistent with the LDA mapping standards outlined in the Criteria and used by the Town. A correction of the mapping mistake would result in the change of 76.84 acres (see attached acreage summary) of land designated as LDA to IDA. The properties identified as a mapping mistake (see attached map) are within the corporate limits of the Town.

The mapping mistake is proposed as a refinement because the proposed changes and the effect of the changes on the use of land and water in the Critical Area are consistent with what is currently allowed by the Chesapeake City Critical Area Program.

According to the Critical Area Criteria, areas mapped IDA were required to have at least one of the following features on December 1, 1985:

- 1) Housing density equal to or greater than four dwelling units per acre;
- 2) Industrial, institutional, or commercial uses are concentrated in the area; or
- 3) Public sewer and water collection and distribution systems are currently serving the area

and housing density is greater than three dwelling units per acre.

In addition these features were required to be concentrated in an area of at least 20 adjacent acres, or that entire upland portion of the Critical Area within the boundary of a municipality, whichever is less.

For the following reasons, the Town of Chesapeake City proposes that there was a mistake in the original mapping and that the subject properties mapped LDA (Areas 1, 2, and 3) be mapped as IDA:

1. On December 1, 1985, the areas had public sewer and water collection and distribution systems in place.
2. Properties located in South Chesapeake City (Area 1) contain parcels with densities greater than four dwelling units per acre, contained institutional and commercial properties, and were served by water and sewer. This area shared the same characteristics of the area mapped IDA at the time of mapping and should have also been mapped IDA.
3. The two parcels east of the existing IDA in South Chesapeake City (Area 2) were zoned marine commercial and housed a marina and restaurant. Both parcels (parcels 81 and 371) met the criteria used for IDA mapping in items (2) and (3) above.
4. The Criteria further explains that IDA areas must not only meet the density, land use and infrastructure requirements described above, but these features shall be concentrated in an area of at least 20 adjacent acres, or that entire upland portion of the Critical Area within the boundary of a municipality, whichever is less." It is our contention, that the properties in North Chesapeake City (Area 3) met this provision because the area was greater than 20 acres and the properties in South Chesapeake City (Areas 1 and 2) were contiguous to IDA.
5. Inconsistent mapping - Based on an analysis of the 1972 Tidal Wetland Maps, the density in Areas 1, 2, and 3, were the same as the areas mapped IDA. The character of North Chesapeake City at the time of mapping exhibited similarities to South Chesapeake City. The housing density, commercial facilities, water and sewer were existing at the time of mapping which met the IDA mapping criteria. During the public hearing on Critical Area Mapping, the designation of North Chesapeake City as LDA instead of IDA was questioned. The testimony stated that it had not been determined if the area met the minimum acreage required for IDA designation. In fact, not only did this area meet the minimum acreage required, it met most of the mapping criteria for the IDA designation.
6. In 1982, 2.08 acres (Area 4) in North Chesapeake City were annexed, but were not identified within the Corporate Limits on the tax maps at the time of Critical Area mapping. During the Town's Comprehensive Plan update, this mapping omission was identified. Therefore, the subject parcels are included in this request because they are contiguous with previously described properties in North Chesapeake City (Area 3) and met the criteria used for IDA mapping in item (2) and (3) above.

*Chesapeake City, Maryland*

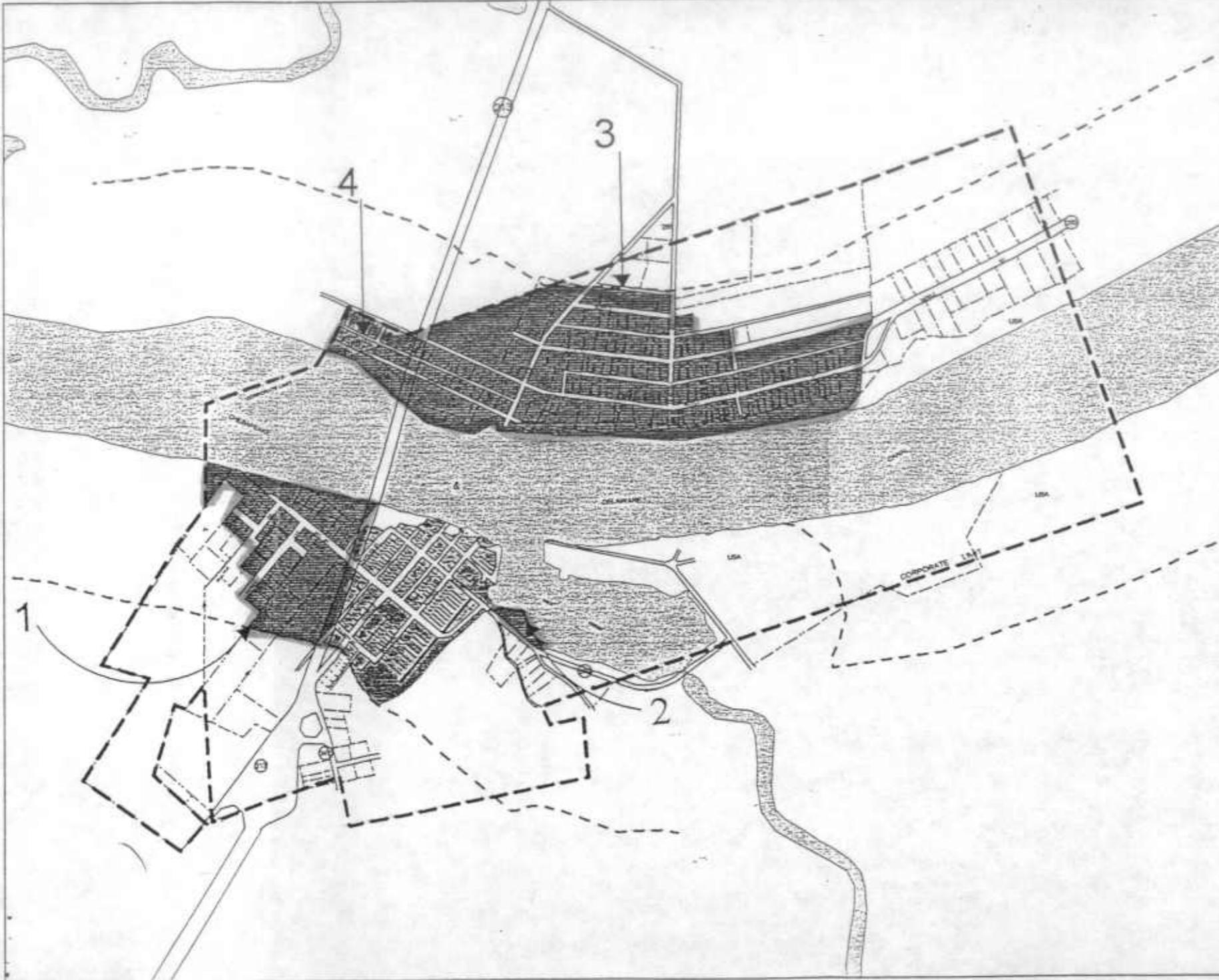
Summary  
LDA to IDA Map Amendment

Mapping Mistake Area	Acres
South Chesapeake City Area (1)	17.36
South Chesapeake City Area (2)	0.83
North Chesapeake City Area (3)	56.57
Additional Area (annexed in 1982)	2.08
<b>Combined Total</b>	<b><u>76.84</u></b>

Comprehensive Plan  
Chesapeake City, Maryland

Critical Area Land Use

- Existing Intensely Developed Area (IDA) 
- Existing Limited Developed Area 
- Proposed Intensely Developed Area 
- Critical Area Boundary 



Redman/Johnston Associates, Ltd.  
Easton, Maryland  
January 1998

Concurrence

Spkr?  
Pat Haddon

**CHESAPEAKE BAY CRITICAL AREA COMMISSION**

**STAFF REPORT**

March 4, 1998

**APPLICANT:** Charles County

**PROPOSAL:** Program Refinement - Text Amendments and Addition of New Buffer Exemption Areas

**COMMISSION ACTION:** Concurrence

**STAFF RECOMMENDATION:** Approval

**STAFF:** LeeAnne Chandler

**APPLICABLE LAW/  
REGULATIONS:** Refinements: Natural Resources Article §8-1809  
Buffer Exemption Areas: COMAR 27.01.09.01C(8)

**DISCUSSION:**

The Charles County Commissioners have approved several Zoning Ordinance Text Amendments that affect the County's Critical Area Program. The amendments incorporate changes to impervious surface regulations required by Senate Bill 657; clarify language regarding growth allocation procedures; and add several Buffer Exemption Areas that were missed on earlier mapping efforts.

Senate Bill 657 changed impervious surface limits on grandfathered lots under 1 acre. Zoning Text Amendment (ZTA) #46-21A incorporates the necessary changes required by Senate Bill 657. Attachment "A" is a copy of the County's proposed language changes to their zoning ordinance.

ZTA #46-21B is an amendment to the County's Growth Allocation provisions to make them more user friendly and consistent with provisions for the County's Planned Development Zone. This is considered a minor amendment in that the purpose of the new language is to streamline and clarify the County's growth allocation process. County staff have had discussions with potential applicants for growth allocation which made it clear that the current text did not adequately explain growth allocation procedural or programmatic requirements, and did not properly cross-reference pertinent sections of the ordinance. These problems made it difficult for the County to administer the process and for the potential applicants to follow through with their projects.

These text amendments clarify growth allocation application procedures and eliminate vague language. The new language carefully outlines the steps to be taken by an applicant pursuing growth allocation. Please see Attachment "B" for the full text amendment.

ZTA 46-21C is a text amendment which adds cross referencing and corrects errors in several sections of the ordinance. Further, it is also a mapping amendment to include additional Buffer Exemption Areas that were missed on earlier mapping efforts.

County staff did a complete review of all potential Buffer Exemption Areas. Field visits were conducted on the proposed areas. The three areas to be added consist of developed lots that are generally less than 200 feet deep. Most of the houses on these lots are located within the Buffer. The County believe these areas warrant consideration for BEA designation, as the small size of the lots severely limits the possibilities of locating future development outside of the Buffer. Attachment "C" includes the proposed text changes as well as the tax maps showing the additional Buffer Exemption Areas.

ZTA 46-21 A

AMENDMENTS TO CRITICAL AREA PROVISIONS ADDRESSING IMPERVIOUS SURFACE REQUIREMENTS AS PER STATE SENATE BILL 657

Summary of Proposed Zoning Text Amendment:

This zoning text amendment clarifies impervious surface restrictions within the Chesapeake Bay Critical Area, and adds additional language which allows property owners to occasionally exceed the basic impervious surface restrictions if a specific set of conditions have been met. These conditions include percentage or square footage limits on expansion, and offsetting and water quality mitigation measures. Changes have been proposed to the impervious surface restrictions in the Buffer Exemption Area provisions in Section 131, and to Section 132, which governs impervious surface restrictions in the Resource Conservation and Limited Development Overlay Zones. Language included in this amendment is essentially the same as SB657, although there are some differences to ensure that the amendments are grammatically or programatically consistent with the *Charles County Zoning Ordinance* and that there are identifiable measures built into the ordinance.

Background:

These changes have been mandated by State Senate Bill 657, which was signed into law by Governor Glendening on May 14, 1996. The Law became effective on October 1, 1996, and all Maryland jurisdictions that contain Critical Area must adopt them.

Recommendations:

Staff recommends that the Planning Commission approve the following amendment to the Zoning Ordinance .

Note: **TEXT IN BOLD CAPITALS** is to be added, and [text in bold within brackets] is to be deleted.

**ARTICLE VIII: OVERLAY ZONES**

**PART I: Critical Area Zones**

**Section 131: Buffer Requirements in the Critical Area Zone...**

(b) *Buffer Exemption Area provisions.* The following special provisions apply in designated Buffer Exemption Areas in the IDZ, LDZ, and RCZ.

i. *Permitted uses.*

A. New development or redevelopment provided that the Development and Redevelopment Rules and Off-setting Requirements set forth in Subsection (c) iv B below are observed.

B. Shore erosion protection measures provided that such measures are consistent with the County's shore erosion protection policies and provided that the measure has obtained all applicable State and Federal permits.

C. Cutting or clearing of trees under a forest management plan prepared by the Department of Natural Resources for the following purposes only, provided that clearing is limited to the minimum amount necessary to complete the proposed project:

1. for personal use providing that Buffer functions are not impaired and trees cut are replaced;
2. to prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or streambank;
3. in conjunction with horticultural practices used to maintain the health of individual trees;
4. to provide access to private piers;
5. to install or construct an approved shore erosion protection device or measure;
6. to protect trees from extensive pest or disease infestation with the advise of the Department of Agriculture or the Department of Natural Resources; or,
7. to permit the development or redevelopment allowed above to be constructed or installed.

ii. *Prohibited uses.* Water polluting activities including, but not limited to, storage of vehicles, fuel, or chemicals.

iii. *Development and redevelopment rules.* For all new development and redevelopment activities, applicants must demonstrate that the distance between the new development and the main high water line has been maximized. The following rules also apply:

- a. *Existing structures.* The expansion or redevelopment of existing structures in the Buffer Exemption Area may not increase impervious surfaces closer to open water or wetlands than the existing structure. Impervious surfaces shall be limited to 15 percent of the gross site area except as noted below in Subsections 131 (c) iii D 1 and 2. Offsets, as described in Subsection 131 (c) iii B below, shall be required.

b. *Removal of existing structures.* When a structure within the Buffer Exemption Area is removed or destroyed, it should be replaced, insofar as possible outside of the Critical Area Buffer. Where this is not possible and in such cases where a setback line exists as defined by structures on adjacent lots or parcels, the structure may not be replaced closer to open water or wetlands than that line. Any impervious surfaces created greater in extent to pre-existing impervious surfaces within the Buffer Exemption Area shall be offset as described in Subsection (c) iv B below.

c. *New development.* New development in the Buffer Exemption Area shall minimize the extent to which impervious surfaces extend toward open water or wetlands insofar as possible taking into consideration existing County yard setback requirements of the underlying zones and other such factors. In no case may such impervious surfaces be extended closer to open water or wetlands than any setback line as defined by existing structures on adjacent lots or parcels or the setback of underlying zones required in this Ordinance.

d. **Impervious Surface Limits:**

**[1. If a parcel or lot in residential use is one-half acre or less in size, man-made impervious surfaces shall be limited to 25 percent of the parcel or lot.**

**2. If a parcel or lot in non-residential use is one-quarter acre or less in size, man-made impervious surfaces shall be limited to 25 percent of the parcel or lot.]**

**1. IF A PARCEL OR LOT ONE-HALF ACRE OR LESS IN SIZE EXISTED ON OR BEFORE DECEMBER 1, 1985, THEN MAN-MADE IMPERVIOUS SURFACES ARE LIMITED TO 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. Impervious surface on all other parcels or lots shall be limited to 15 percent on properties with designated Buffer Exemption Areas.**

e. **Semi-Pervious Surface Limits:**

**1. Semi-pervious surfaces shall be counted against the impervious surface limits at a rate of 0.5 times the square footage of proposed semi-pervious surface.**

2. Semi-pervious surfaces which extend toward the water must be contiguous with the primary structure.
  3. Offsets shall be required. The amount of required mitigation shall be based on the calculated impervious surface in e.1 above.
- f. Development activities may not disturb habitat protection areas other than the Buffer, and may not occur in the Buffer where other habitat protection areas overlap with the Buffer.
- iv. *Offsetting requirements.* New development or redevelopment in the Buffer Exemption Area which causes additional impervious and semi-pervious surfaces as described above shall be required to offset for such development as follows:
- a. The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in native vegetation; and,
  - b. Native vegetation of an area twice the extent of the impervious surface created in the Buffer Exemption Area shall be planted on the site or on a Buffer Exemption Offset location as may be approved by the County.
- v. Applicants who cannot comply with the offsetting requirements above must pay into a fee-in-lieu program. Any fees-in-lieu collected shall be placed in an account that will assure their use only for projects within the Critical Area for the benefit of wildlife habitat, water quality improvement, or environmental education. Fees shall be assessed at \$1.20 square foot for any requirements that cannot be implemented on-site.

### **Section 132: Development Standards in the Critical Area Zone**

The following standards shall apply to all development activities in the Critical Area Zones...

(h) *Development standards in Limited Development Zone (LDZ) and Resource Conservation Zone (RCZ).* All development and redevelopment in the LDZ and the RCZ shall be subject to the following development standards and/or conditions, in addition to those established elsewhere in this Ordinance.

ix. **Impervious Surface Limits.**

- a. Impervious surfaces shall be limited to 15 percent of the gross site area; however, 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 25 percent of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15 percent.

b. Man-made impervious surfaces shall be limited to 25 percent of the parcel or lot if [a] THE parcel or lot IS one-half acre or less in size AND [was in residential use or zoned for residential purposes] EXISTED on or before December 1, 1985.

c. [Man-made impervious surfaces shall be limited to 25 percent of the parcel or lot if a parcel or lot one-fourth acre or less in size was in nonresidential use on or before December 1, 1985.] 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 PERCENT OF THE PARCEL OR LOT.

d. This section does not apply to a trailer park that was in residential use on or before December 1, 1985.

**E. THE CHARLES COUNTY PLANNING DEPARTMENT MAY ALLOW A PROPERTY OWNER TO EXCEED THE IMPERVIOUS SURFACE LIMITS PROVIDED IN SUBPARAGRAPH IX (A) - (C) OF THIS SECTION IF THE FOLLOWING CONDITIONS EXIST:**

1. THE OWNER SUBMITS A WRITTEN REQUEST;
2. NEW IMPERVIOUS SURFACES ON THE PROPERTY HAVE BEEN MINIMIZED;
3. FOR A LOT OF PARCEL ONE-HALF ACRE OR LESS IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN APPLICABLE SUBPARAGRAPH IX (A) - (C) OF THIS SECTION BY MORE THAN 25 PERCENT OR 500 SQUARE FEET, WHICHEVER IS GREATER;
4. FOR A LOT OR PARCEL GREATER THAN ONE-HALF ACRE AND LESS THAN ONE ACRE IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN APPLICABLE SUBPARAGRAPH IX (A) - (C) OF THIS SECTION OR 5,445 SQUARE FEET, WHICHEVER IS GREATER.
5. WATER QUALITY IMPACTS ASSOCIATED WITH RUNOFF FROM THE NEW IMPERVIOUS SURFACES CAN BE AND HAVE BEEN MINIMIZED THROUGH SITE DESIGN CONSIDERATIONS

OR USE OF BEST MANAGEMENT PRACTICES APPROVED BY THE LOCAL JURISDICTION TO IMPROVE WATER QUALITY. MINIMIZATION SHALL BE DEMONSTRATED THROUGH ENGINEERED CALCULATIONS OR OTHER METHODS APPROVED BY THE COUNTY; AND

6. THE PROPERTY OWNER PERFORMS ON-SITE MITIGATION AS REQUIRED BY THE LOCAL JURISDICTION TO OFFSET POTENTIAL ADVERSE WATER QUALITY IMPACTS FROM THE NEW IMPERVIOUS SURFACES, OR, IF ON-SITE MITIGATION, OR APPROVED OFF-SITE MITIGATION IS NOT FEASIBLE, THE PROPERTY OWNER PAYS A FEE-IN-LIEU TO THE COUNTY AT THE RATE OF \$1.20 PER SQUARE FOOT FOR EACH SQUARE FOOT OF MITIGATION THAT CANNOT BE MET ON-SITE OR AT AN APPROVED OFF-SITE LOCATION.

x. All non-tidal wetlands shall be protected according to state regulations, except where they are associated with a stream, in which case they shall also be buffered according to County standards.

xi. Proposed development and redevelopment activities shall include measures for stabilizing significantly eroding shoreline reaches on the proposed development site, or otherwise protecting property as established in the Shore Erosion Protection (Chapter 5) of the *Charles County Critical Area Program*. Non-structural shoreline erosion control measures shall be used unless it can be conclusively demonstrated that such measures would be impractical or ineffective.

## ZTA 46-21 B

PROPOSED TEXT AMENDMENT LANGUAGE TO CREATE PROCEDURES FOR AWARDING  
GROWTH ALLOCATION THAT ARE CONSISTENT WITH OTHER ZONING MAP  
AMENDMENT PROCEDURES

Summary of Proposed Zoning Text Amendment

The purpose of this text amendment is to adjust the Growth Allocation provisions to make them more user friendly, and to make them more consistent with provisions for planned development zone applications, which a growth allocation change most closely resembles. Specifics which echo planned development zone application procedures have been added and vague language has been eliminated. Some additions include references to procedures listed in Section 448 which specify time frames for public hearings and other steps, and a list of things that must be included in the application package.

Background

This amendment is being proposed by the Charles County Planning Staff to correct deficiencies in the existing language after holding discussions with a number of potential applicants. These discussions made it clear that the text did not adequately explain procedural or programmatic requirements, and did not properly cross-reference pertinent sections of the ordinance. These problems have made it difficult for the County to administer and for potential applicants to follow through with their projects. Proposed language directly parallels procedural language for the planned development zones.

Recommendations:

Planning Staff recommends that the following text be adopted.

Note: Text in **BOLD CAPITAL LETTERS** to be added, text in [brackets] to be deleted.

**Section 134: Growth Allocation Zone (GA)**

[Note: No changes are proposed for (a) through (f).]

(g) *Procedures.* The County's Growth Allocation acreage will be awarded on a project-by-project basis to permit changes in the Critical Area boundaries that are consistent with the *Charles County Critical Area Program, Charles County Comprehensive Plan*, and the base zoning when a specific development project is proposed. The following procedures will be followed in determining if a site qualifies for the application of Growth Allocation.

**I. ALL PROJECTS THAT REQUIRE GROWTH ALLOCATION FOR COMPLETION MUST APPLY FOR GROWTH ALLOCATION AT THE EARLIEST DEVELOPMENT REVIEW STAGE TO WHICH THE PROJECTS ARE SUBJECT.**

ii. **AT THE REQUEST OF THE APPLICANT**, the Department of Planning and Growth Management will review concept, sketch, or comprehensive development plans submitted for consistency

with the Critical Area Program and will provide [technical] GENERAL comments and recommendations to the applicant prior to submission of preliminary site plans or plats OR APPLICATIONS FOR A PLANNED DEVELOPMENT ZONE.

III [i]. Applicants for Growth Allocation will request that the County Commissioners designate a Growth Allocation Zone to their project site.

IV [iii]. All applications for the Growth Allocation Zone shall be accompanied by a preliminary site plan or preliminary subdivision plan, or application for a planned development zone prepared as per the requirements of this Ordinance and/or the county's Subdivision Regulations.

[iv. Before being considered for Growth Allocation Zone classification by the County commissioners, all applicants will be required to obtain all local, State, and Federal comments, or recommendations, as required.]

V. GROWTH ALLOCATION APPLICATIONS ARE ACCEPTED ON THE SAME SCHEDULE AS APPLICATIONS FOR PLANNED DEVELOPMENT ZONE LOCAL MAP AMENDMENTS.

[v. Following the staff review, and after the applicant has addressed the recommendations of the staff, the Growth Allocation application will be reviewed by the Charles County Planning Commission.]

VI. UPON RECEIPT OF APPLICATION AND PLANS, THE ZONING OFFICER WILL REVIEW THE MATERIALS FOR COMPLETENESS. INCOMPLETE APPLICATIONS WILL BE RETURNED WITH COMMENTS WITHIN 30 DAYS OF SUBMISSION.

[vi. A hearing to permit the public an opportunity to comment on the proposed use of the County's growth allotment must be conducted by the planning commission prior to making a recommendation to the County Commissioners.]

VII. UPON RECEIPT OF A COMPLETE SUBMISSION, THE ZONING OFFICER WILL REVIEW THE APPLICATION PACKAGE AND THE REQUEST FOR GROWTH ALLOCATION AND PROVIDE COMMENTS AND EVALUATION TO THE APPLICANT.

VIII. AFTER REVISING THE GROWTH ALLOCATION APPLICATION AND PLAN, AND OTHER SUPPORTING INFORMATION BASED ON THE INITIAL REVIEW, THE APPLICANT MAY RE-SUBMIT THE APPLICATION. ONCE AN APPLICATION HAS BEEN DEEMED COMPLETE AND HAS BEEN FOUND IN COMPLIANCE WITH THE CHARLES COUNTY CRITICAL AREA PROGRAM AND APPLICABLE SECTIONS OF ALL COUNTY ORDINANCES, THE ZONING OFFICER SHALL PROCEED IN ACCORDANCE WITH TIME FRAMES SET FORTH IN SECTION 448 OF THE ZONING ORDINANCE.

IX. THE ZONING OFFICER WILL REVIEW THE PROPOSED PROJECT AND SUBMIT HIS OR HER RECOMMENDATIONS TO THE PLANNING COMMISSION. THE

PLANNING COMMISSION WILL HOLD A PUBLIC MEETING ON ALL SUBMISSIONS WHICH SHALL INCLUDE THE FOLLOWING:

- A. PRESENTATION OF THE PROJECT BY THE APPLICANT;
- B. STAFF ANALYSIS REVIEW COMMENTS AND EVALUATION; AND
- C. SUBMISSION OF PUBLIC COMMENTS.

X. THE PLANNING COMMISSION WILL THEN PREPARE AND FORWARD THEIR REPORT AND RECOMMENDATIONS ON THE PROPOSED PROJECT AND THE REPORT, EVALUATION, AND RECOMMENDATIONS OF THE ZONING OFFICER TO THE COUNTY COMMISSIONERS. THE APPLICANT MAY AMEND THE APPLICATION BASED ON THE PLANNING COMMISSION, STAFF OR PUBLIC COMMENTS AT ANY TIME, BUT MAY BE SUBJECT TO NEW REVIEW BY PLANNING STAFF, THE ZONING OFFICER, AND/OR THE PLANNING COMMISSION.

XI. *PUBLIC HEARING.* AFTER THE PLANNING COMMISSION MAKES ITS FINAL RECOMMENDATIONS, THE COUNTY COMMISSIONERS WILL HOLD A PUBLIC HEARING ON THE GROWTH ALLOCATION RECLASSIFICATION FOR THE PROPOSED DEVELOPMENT PROJECT. THE PUBLIC HEARING SHALL INCLUDE:

- A. PRESENTATION OF THE PROJECT BY THE APPLICANT;
- B. STAFF REVIEW, COMMENTS, AND RECOMMENDATIONS;
- C. PLANNING COMMISSION REVIEW, COMMENTS AND RECOMMENDATIONS; AND
- D. PUBLIC TESTIMONY.

XII. *APPROVAL.* IN ORDER TO APPROVE GROWTH ALLOCATION APPLICATION, THE COUNTY COMMISSIONERS MUST FIND THAT THE PROPOSED PROJECT, WITH ITS GROWTH ALLOCATION PLAN, MEETS GROWTH ALLOCATION DESIGN AND LOCATION CRITERIA, IS SUFFICIENT TO ACHIEVE THE PURPOSES OF THE CRITICAL AREA CLASSIFICATION REQUESTED AND THE UNDERLYING BASE ZONE OR PLANNED DEVELOPMENT ZONE, IS COMPATIBLE WITH THE SURROUNDING AREA, AND IS CONSISTENT WITH THE *COMPREHENSIVE PLAN*. THE APPROVAL OF A GROWTH ALLOCATION REQUEST SHALL ESTABLISH SPECIAL CONDITIONS TO BE SATISFIED DURING THE DEVELOPMENT PROCESS, INCLUDING, BUT NOT LIMITED TO, THE TIMING OF CONSTRUCTION, ON-SITE AND OFF-SITE IMPROVEMENTS, BUFFERING, ENVIRONMENTAL STANDARDS AND REQUIREMENTS, AND FISCAL IMPACT LIMITATIONS.

[vii. ... A public hearing on the application for Growth Allocation Zone designation will be held by the County Commissioners in the same manner as prescribed for a rezoning request.]

XIII [viii.] In approving an application for Growth Allocation, the County Commissioners may establish additional conditions of approval that are consistent with the intent of the *Charles County Critical Area Program*.

XIV. *FINAL DECISION.* FOLLOWING THE PUBLIC HEARING, THE COUNTY

COMMISSIONERS WILL MAKE THE FINAL DECISION WHETHER OR NOT TO GRANT THE RECLASSIFICATION, AND WHAT THE SPECIFIC CONDITIONS OF APPROVAL SHALL BE.

XV. [ix.] The County Commissioners will then forward the request for use of Growth allocation to the Critical Area Commission as an amendment to the *Charles County Critical Area Program*.

XVI. UPON FINAL APPROVAL OF GROWTH ALLOCATION AND CONDITIONS OF APPROVAL BY THE COUNTY COMMISSIONERS AND THE CRITICAL AREA COMMISSION, THE CONDITIONS OF APPROVAL AND DEVELOPMENT SCHEDULE SHALL BE FORMALIZED IN THE FORM OF A ZONING INDENTURE.

XVII. [x.] The applicant may proceed to the [preparation of the final site plan or subdivision plat,] NEXT STEPS OF DEVELOPMENT APPROVAL, ONCE THE INDENTURE HAS BEEN FINALIZED AND RECORDED IN CHARLES COUNTY'S LAND RECORDS.

XVIII. [xi.] Prior to approving the final site plan or subdivision plat, the Planning Commission will ensure that all conditions of approval of growth allocation are incorporated into the final plan, performance agreements, deed covenants, etc.

*[(h) shall remain unchanged.]*

(I) GROWTH ALLOCATION PLAN. ANY APPLICATION FOR DESIGNATION AS A GROWTH ALLOCATION ZONE SHALL BE ACCOMPANIED BY A GROWTH ALLOCATION PLAN WHICH CONTAINS ALL INFORMATION NECESSARY TO EVALUATE THE PROPOSAL, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

I. JUSTIFICATION AND WRITTEN DISCUSSION OF HOW THE PROJECT MEETS GROWTH ALLOCATION LOCATION AND DESIGN CRITERIA DESCRIBED EARLIER IN PARAGRAPHS (B) AND (C) OF THIS SECTION.

II. JUSTIFICATION AND WRITTEN DISCUSSION OF HOW THE PROJECT MEETS OR EXCEEDS DESIGN STANDARDS LISTED IN PARAGRAPH (E) OF THIS SECTION.

III. SCHEDULE AND PHASING WITH APPROXIMATE DATES FOR BEGINNING AND COMPLETION OF EACH PHASE OF CONSTRUCTION AND PROJECTED MARKET ABSORPTION.

IV. A REPORT SHOWING FISCAL IMPACT OF THE PROPOSED PROJECT ON THE COUNTY.

V. A STATEMENT SHOWING THE RELATIONSHIP OF THE PROPOSED DEVELOPMENT TO THE CHARLES COUNTY *COMPREHENSIVE PLAN*.

VI. A DESCRIPTION OF THE SURROUNDING AREA OF THE SUBJECT PROPERTY THAT WILL BE AFFECTED BY THE REQUESTED GROWTH ALLOCATION

CLASSIFICATION.

VII. A SITE PLAN ILLUSTRATING NECESSARY COMPONENTS OF THE PROPOSAL.

ZTA 46-21 C

**AMENDMENTS TO CRITICAL AREA LANGUAGE OF THE ZONING ORDINANCE FOR SECTIONS 131 AND 170. ALSO, AMENDMENTS TO THE CRITICAL AREA MAPS IN ORDER TO INCLUDE ANY BUFFER EXEMPTION AREAS THAT WERE MISSED ON EARLIER MAPPING EFFORTS.**

Summary of the Requested Zoning Text Amendment:

Staff requests that the following Zoning Text Amendments be made to the Zoning Ordinance which would allow for cross references or correcting errors in subsection labeling in Sections 131, and copying clarifying language from Section 131 to Section 132, and clarifying language in Section 170. Staff also, requests the following Critical Area Mapping Amendments be made to the Critical Area Maps in order to include any Buffer Exemption Areas that were missed on earlier mapping efforts. These requests are attached to this report.

Background

Text Amendment #46-21 is a package of Zoning Text Amendments and Critical Area Mapping Amendments initiated by Planning and Growth Management Staff. Staff has drafted language which would amend the Zoning Ordinance to reflect the current methodology the Planning Office uses to measure buffers in the Resource Protection Zone, to correct errors in subsection labeling in Buffer Exemption Areas of the Critical Area, and to correct an existing inconsistency in standards for impervious surface calculations within the Critical Area. Also, Staff has drafted language which would amend the Critical Area Maps to include Buffer Exemption Areas that were missed on earlier mapping efforts.

Recommendation:

Staff recommends that the Planning Commission approve the requested amendments to the Zoning Ordinance and the Critical Area Maps, and make the following changes (**TEXT IN CAPITALS AND BOLD** is to be inserted into the Zoning Ordinance, while text in [ ] brackets is to be deleted from the Ordinance):

AMENDMENT NO.1

Amend Section 131:

Purpose: The purpose of this amendment is to correct Section 131 (b) iii to correct errors in subsection labeling in the Zoning Ordinance. Section 131 should read as follows:

Section 131: Development And Redevelopment Rules.

- a. Existing structures. The expansion or redevelopment of existing structures in the Buffer Exemption Area may not increase impervious surfaces closer to open water or wetlands than the existing structure. Impervious surfaces shall be limited to 15 percent of the gross site area except as noted below in Subsections 131 (c) iii [D] d 1 and 2. Offsets, as described in Subsection 131 [(c)] (b) [iii] iv below, shall be required.
- b. Removal of existing structures. When a structure within the Buffer Exemption Area is removed or destroyed, it should be replaced, insofar as possible outside of the Critical Area Buffer. Where this is not possible and in such cases where a setback line exists as defined by structures on adjacent lots or parcels, the structure may not be replaced closer to open water or wetlands than that line. Any impervious surfaces created greater in extent to pre-existing impervious surfaces within the Buffer Exemption Area shall be offset as described in Subsection 131 [(c)] (b) iv below.

AMENDMENT NO.2

Amend Section 132 (h) ix.

Purpose: The purpose of this amendment is to correct an existing inconsistency in standards for impervious surface calculations within the Critical Area portion of the Zoning Ordinance. This amendment would include the language of Section 131 (b) iii e into Section 132 (h) ix in order to incorporate semi-impervious surface limits in Limited Development and Resource Conservation Zones. The Section included should read as follows:

Section 132 (h) ix: Impervious Surface Limits.

- e. **SEMI-PERVIOUS SURFACE LIMITS.**
  - 1. **SEMI-PERVIOUS SURFACES SHALL BE COUNTED AGAINST THE IMPERVIOUS SURFACE LIMITS AT A RATE OF 0.5 TIMES THE SQUARE FOOTAGE OF PROPOSED SEMI-PERVIOUS SURFACE.**
  - 2. **SEMI-PERVIOUS SURFACES WHICH EXTEND TOWARD THE WATER MUST BE CONTIGUOUS WITH THE PRIMARY STRUCTURE.**
  - 3. **OFFSETS SHALL BE REQUIRED. THE AMOUNT OF REQUIRED MITIGATION SHALL BE BASED ON THE CALCULATED IMPERVIOUS SURFACE IN E.1 ABOVE.**

AMENDMENT NO. 3

Amend Section 170.

Purpose: The purpose of this amendment is to correct Section 170 to reflect the current methodology the Planning Office uses to measure buffers. Section 170 should read as follows:

Section 170: Resource Protection Zone Delineation

The Resource Protection Zone shall encompass [an area based on the outermost combined limits of the existing 100-year floodplain] **STREAM VALLEYS, STEEP SLOPES, ASSOCIATED WETLANDS AND FLOOD PLAINS**, if present; and a buffer[.], **AS CALLED FOR IN SECTIONS 171 AND 172**. Except as permitted in this Ordinance, the land within this zone is to remain in an undisturbed natural stage, and the outer edge of this zone shall constitute the limit of clearing and grading.

AMENDMENT NO.4

Amend Critical Area Maps 78, 84, 88.

Purpose: The purpose of this amendment is to update the Critical Area Maps to include any Buffer Exemption Areas that were missed on earlier mapping efforts. A complete review was done on all potential waterfront sites. Field visits were conducted on all proposed areas. The following areas are under Buffer Exemption Area consideration:

**RIVERSIDE AREA - WELLINGTON BEACH (TAX MAP 78, PARCEL 30)**  
**DOLLY BOARMAN CREEK (TAX MAP 84, PARCELS 1-38)**  
**WOODLAND POINT (TAX MAP 88, PARCELS 14-55)**

These three areas consist of developed lots that are generally less than 200 feet deep. Most of the houses on these lots are located within the Buffer. Riverside Area, Dolly Boarman Creek, and Woodland Point warrant consideration for Buffer Exemption Area designation, as the small size of the lots severely limits the possibilities of locating future development outside the Buffer.

According to the Zoning Ordinance, a Buffer Exemption Area (BEA) is defined as specifically designated portions of the Critical Area that are exempted from certain requirements for Buffers because of the pattern of residential, industrial, commercial, or recreational development present as of December 1, 1985, prevents the Buffer from fulfilling its intending purposes.

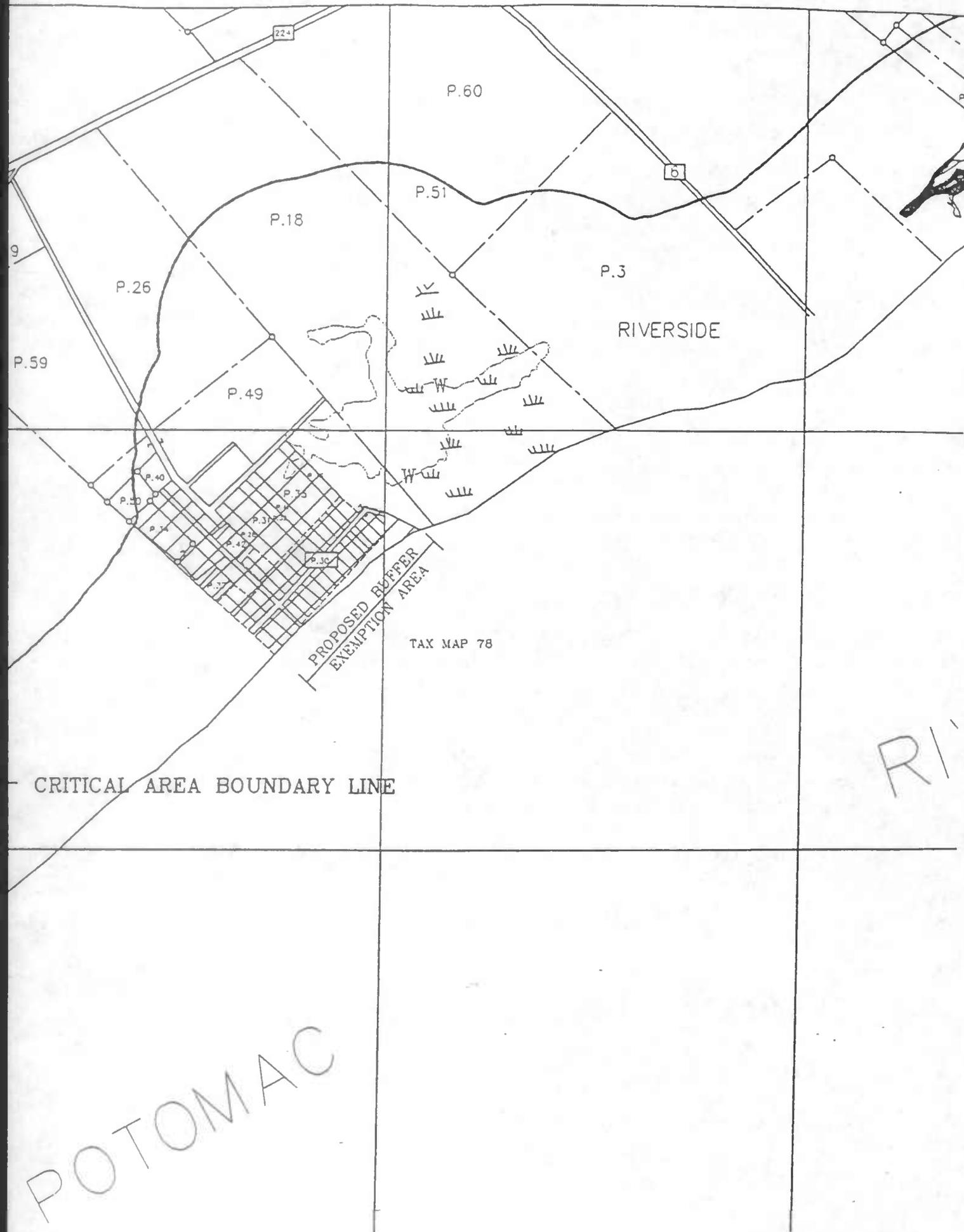
Prepared by the Planning Office, Department of Planning and Growth Management.

Prepared by Paul Falkner

Reviewed by [Signature]

Date: 8/20/97

Date: 8/20/97



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RIVERSIDE

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PROPOSED BUFFER  
EXEMPTION AREA

TAX MAP 78

CRITICAL AREA BOUNDARY LINE

RI

POTOMAC

DOLLY

BOARMAN

CREEK PROPOSED BUFFER  
EXEMPTION AREA

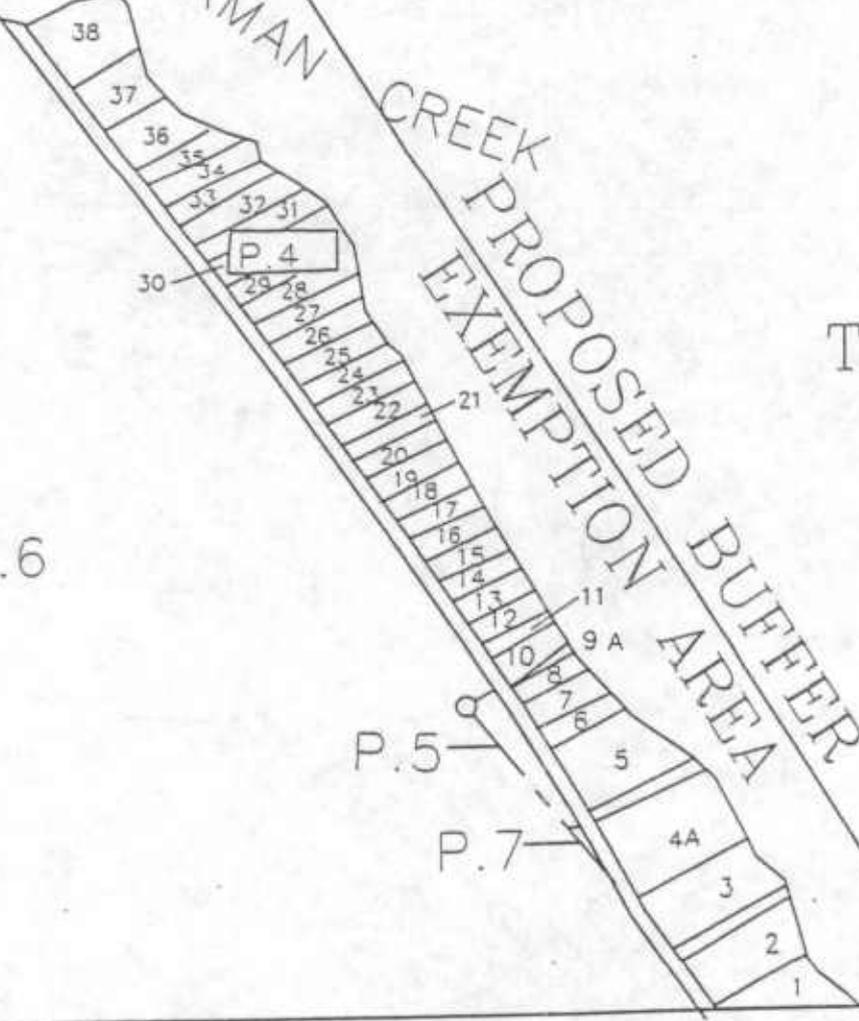
TAX MAP 84

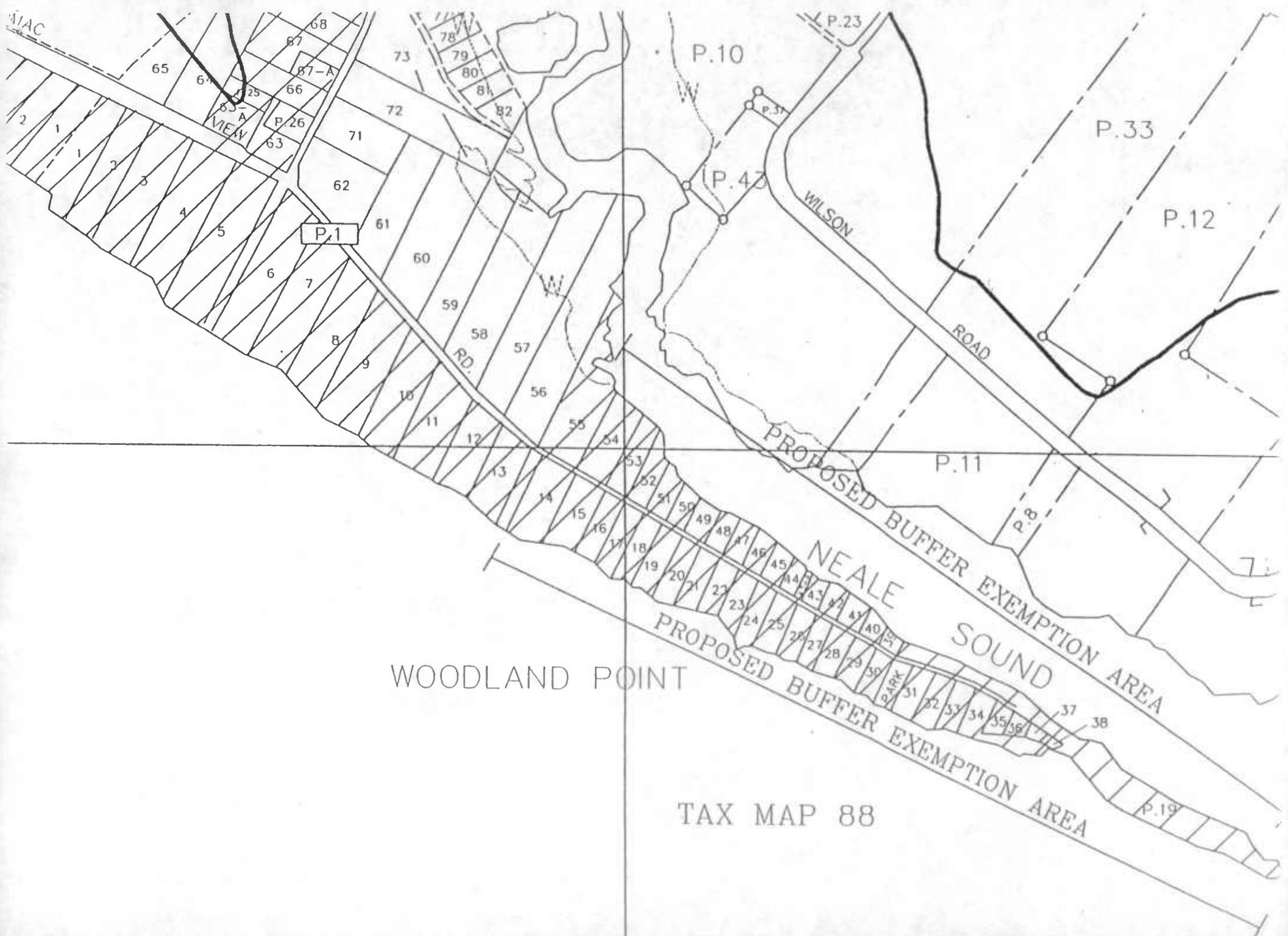
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WOODLAND POINT

TAX MAP 88

~~Whitman~~, DNR Jim Wilson  
Citizens - Janet Wood  
Bethy (?) - advisory

Trails NPSP - Lynn Jordan  
+  
(Mark -  
Bob Amor  
Michelle Hu Park)

## Chesapeake Bay Critical Area Commission

### STAFF REPORT

March 4, 1998

**APPLICANT:** DNR - Public Lands

**PROPOSAL:** Phase I - Entrance Road and Site Work at North Point State Park

**JURISDICTION:** Baltimore County

**COMMISSION ACTION:** Vote

**STAFF RECOMMENDATION:** Approval with condition that all state and federal permits are received.

**STAFF:** Susan McConville

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

### DISCUSSION:

The Department of Natural Resources is proposing Phase I construction and development activities as part of the implementation of the approved Master Plan at North Point State Park. No new development is proposed in the Buffer. The work to be done under Phase I is as follows:

1. The existing Haul Road will be renamed Bay Shore Road and improved through asphalt surface and base course improvements from North Point Boulevard to North Point Road. The Bay Shore Road will be widened to a 22' asphalt overlay with 8' seeded shoulders. Some trees will be removed to accommodate the widening.
2. Gravel parking lots will be constructed.
3. Trails will be constructed. The Defenders Trail and Bay Shore Trail will generally run parallel to the existing road. Some trees will be removed in the construction of the trails. Trails will be located to avoid specimen trees and other sensitive areas.
  - Defenders trail - 10' limestone surface
  - Bay Shore trail - 10' limestone surface

K. Larson motion to approve + condition - Roads  
D. Boulder sec - C/21

4. Two stormwater management ponds will be constructed with landscaping in "park nucleus" to manage stormwater runoff from the parking area and future multi-purpose building.
5. Utilities will be installed.

There will be 3,310 square feet of Buffer impacts where the existing Haul Road and the proposed parallel Defender's Trail cross a tidal wetland. An area of 2:1 Buffer replacement (3,400 square feet) has been identified to be provided in the Buffer to mitigate for the impact.

The total area of additional impervious surface within the limit of disturbance for the project is 6.3 acres. This includes the road expansion, gravel parking areas, and trails. The two stormwater management basins have been designed to manage runoff from Phase I construction of roads and parking area as well as future construction of the multi-purpose building in the Park's nucleus. MDE has been reviewing the plans for stormwater management and approvals are expected to be issued by the date of Commission review.

There are impacts proposed to the 25 foot non-tidal wetland buffer. The MDE -Nontidal Wetlands Division has been reviewing the proposal and approvals are expected to be issued by the date of Commission review. No mitigation will be required for the non-tidal wetland buffer impacts.

Under Phase I, approximately 2.1 acres of forest is proposed to be cleared. The reforestation requirement, 2.1 acres, will be met on site through replanting and natural regeneration.

There are no known threatened or endangered plant or animal species that will be affected by the activities proposed under Phase I of the project.

The project is consistent with the approved Master Plan. The project is consistent with COMAR 27.02.05, the Commission's regulations for State projects on State lands.

# North Point State Park/Black Marsh Wildland

(Presentation to the Critical Areas Commission - 3/4/98)

## Background

- Phase I development at North Point/Black Marsh Wildland
- Focused on the establishment of infrastructure necessary to support facility development
- Seeking your approval of a design as was agreed as a condition of the Commission's approval of the plan, which occurred on 12/4/91.
- North Point is a remarkable 1,310 acre waterfront property located in southeast Baltimore County
- Acquired from Beth Steel in 1987
- A biologically diverse tract of land with six miles of shoreline, tidal & non-tidal wetlands, forested areas and Agricultural fields
- A part of Maryland's history - War of 1812 (Battle of North Point) & Turn of the Century (Bay Shore Amusement Park)
- Plan for North Point was approved by Secretary Brown on 5/13/93.

## Goals of the Plan

- To provide protection, enhancement & interpretation of the natural and cultural resources found at North Point
- To protect the sensitive features of the site while allowing limited public access to the Chesapeake Bay

## Protection, Enhancement & Interpretation

### Completed

- Designated over half of the property as a State Wildland (667 acres of Wildland)
- Created a non-tidal wetland in a former agricultural field (8.5 acres)
- Restored the old trolley station
- Developed & conducted a number of educational programs and activities designed to promote an appreciation of the environment and the area's cultural heritage (97 programs with 3,678 participants in 1997, including bird walks, canoe trips and school groups)

### Proposed

- Add to the forest acreage (124 acres)
- Remove existing structures within the 100' buffer
- Place facility development on the footprint of previously used or disturbed areas (Haul Road = Park Drive)
- Locate improvements to minimize impacts (adjust trail alignment to avoid cutting trees)
- Clustered uses on the least sensitive portion and less than 2% (10-12 acres) of the total acreage is proposed for recreational or educational uses

## **Planning Effort/Public Input**

Has involved an incredible amount of review and public input:

- Worked for 18 months with a 15 member Citizens Advisory Committee (monthly meetings were open to the public)
- Received scores of comments and proposals in writing
- Review by agency personnel: Forest & Park Service, Wildlife & Heritage, Critical Area, Maryland Historical Trust, Department of the Environment, etc.
- Distributed over a 1,000 copies of the draft plan
- Gave presentations to business and community groups and park visitors
- A Public Hearing held by the Critical Area Commission (attended by approx. 700 people)
- Informational Meeting held by DNR with an ensuing 30-day comment period.
- Plan approved by CAC on 12/4/91.
- Plan approved by Secretary of DNR on 5/13/93.

Box hand to answer ?'s  
names?

## Chesapeake Bay Critical Area Commission

### STAFF REPORT

March 4, 1998

APPLICANT:	State Highway Administration
PROPOSAL:	Highway Improvements - US 301/MD 291 Interchange and Service Road
JURISDICTION:	Kent County
COMMISSION ACTION:	Vote
STAFF RECOMMENDATION:	Approval with conditions
STAFF:	Greg Schaner
APPLICABLE LAW/ REGULATIONS:	COMAR 27.02.05

*K. Long moved for approval  
- conditions  
3:1 B.M.  
- SEE @ P.  
as reqs  
J. Wilde sec.  
CPN*

### DISCUSSION:

The State Highway Administration (SHA) is proposing several improvements to the intersection of U.S. 301 and MD 291 in Kent County within the Critical Area. The project involves the raising of MD 291 over US 301 to provide safer access, the addition of acceleration and deceleration lanes on US 301, the construction of 100 feet of new service road with an associated roundabout, the relocation of a restaurant entrance to Rivers Edge Road, the construction of one stormwater management pond adjacent to US 301, and the resurfacing of MD 291 for a distance of approximately 1700 feet. The project is bounded by the Chester River to the south and the Mills Branch, a tributary to the Chester River, to the west. The Critical Area boundary line includes all project areas beginning at the Chester River on US 301 and east-west areas of MD 291; the Critical Area boundary line does not include US 301 north of MD 291 (see attached). The project area contains a mixture of commercial and agricultural land uses. Overall, the area is not considered intensely developed and is, therefore, subject to the Criteria in COMAR 27.02.05.03B(1), (3), and (4).

The majority of the project will involve improvements to the existing road surfaces. Within the Critical Area, the project is proposing 0.08 acres (3,484.8 square feet) of new impervious surface. There are 2.75 acres of existing impervious surfaces within the Critical Area. A minor portion (435.6 square feet) of the southwest quadrant acceleration lane on US 301 will intrude into the 100-foot Buffer for the Chester River. While the complete elimination of these new impacts is not possible due to safety concerns, the impervious surface areas were minimized to the greatest extent possible. SHA has agreed to provide plantings at a 3:1 ratio to mitigate for the placement

of new impervious surface areas. Total mitigation plantings should be equivalent to 1306.8 square feet of forest vegetation (i.e., about 13 trees). There are no new impacts proposed to the 100-foot Buffer for Mills Branch as this portion of the project proposes only resurfacing of existing roads.

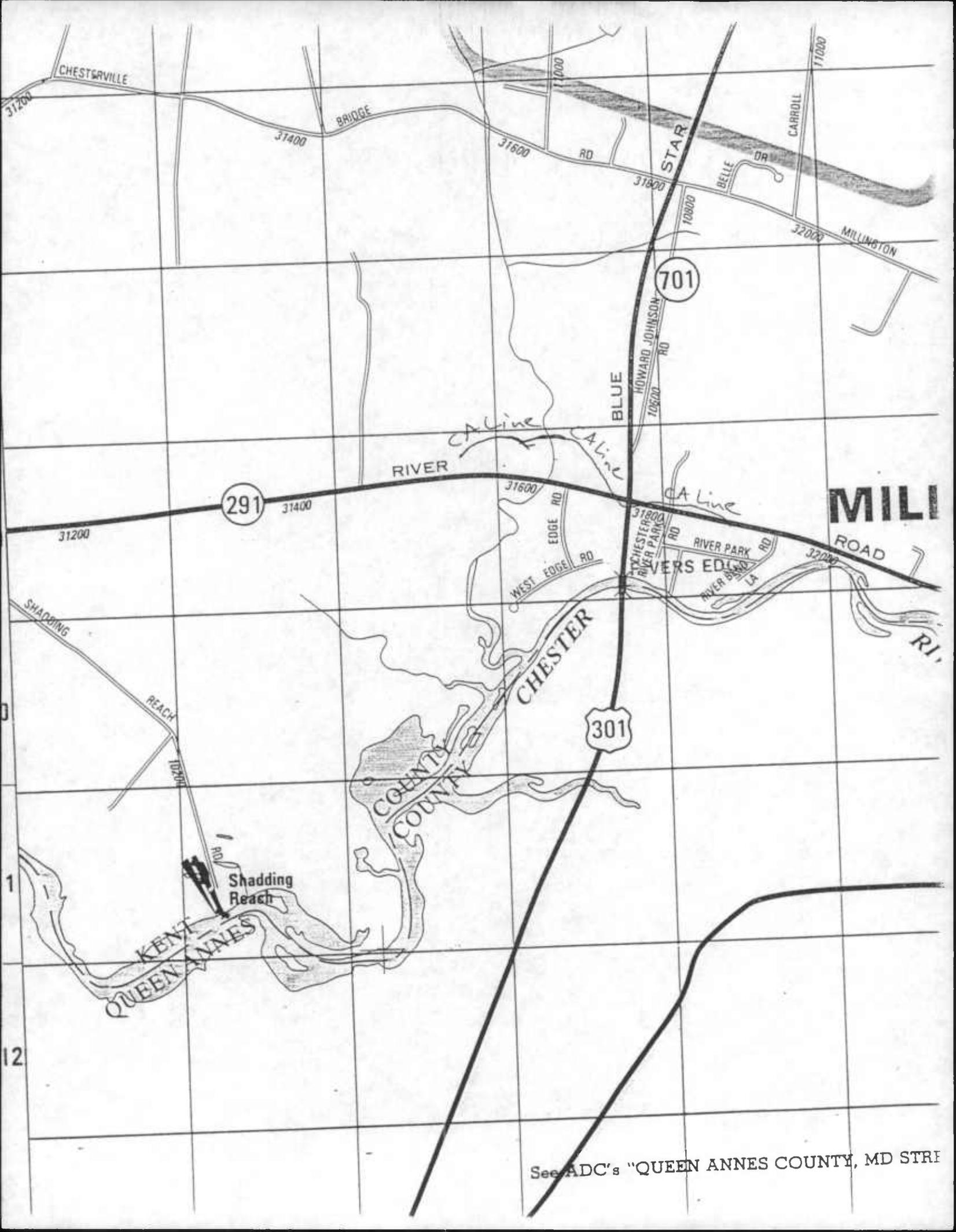
There are no wetland or forest impacts within the Critical Area for this project. The only other habitat issue relates to precautions necessary to protect the Chester River as an anadromous fishery. Because the Chester River provides in-stream habitat for anadromous fish species, DNR requires that no development work be conducted from March 1 through June 15, inclusive of any year. There are no other habitat-related impacts associated with this project.

The Critical Area Criteria require that SHA obtain a sediment and erosion control plan prior to implementing any project which involves any clearing, grading, transporting, or other form of disturbance to land by the movement of earth. As part of the sediment and erosion control plan, best management practices should be used to reduce adverse water quality impacts. SHA has submitted applications for both stormwater management and sediment & erosion control plans to MDE. SHA anticipates the MDE approval in early March 1998.

#### *Recommended Conditions for Commission Approval*

*Recommended conditions:* The following are conditions of the Critical Area Commission's approval for this project:

- (1) Provide Critical Area Commission staff with planting plans for 3:1 Buffer mitigation. Mitigation should occur onsite and within the 100-foot Buffer. Buffer plantings must be equivalent to 1306.8 square feet of mitigation, or roughly 13 trees (2-inch caliper). Native species are required.
- (2) Issuance of an approved sediment and erosion control plan as required by COMAR 27.02.05.03B(4).
- (3) No instream work is to be conducted from March 1 through June 15, inclusive of any year.



See ADC's "QUEEN ANNES COUNTY, MD STRI

*postponed*

**CHESAPEAKE BAY CRITICAL AREA COMMISSION**

**STAFF REPORT  
March 4, 1998**

**APPLICANT:** Anne Arundel County

**PROPOSAL:** Growth Allocation - Homeport Farm

**COMMISSION ACTION:** Vote

**PANEL:** Larry Duket (Chair)/Diane Evans/Louise Lawrence/James Foot/Bob Goodman

**PANEL RECOMMENDATION:** Pending Public Hearing

**STAFF:** Lisa Hoerger

**APPLICABLE LAW/REGULATIONS:** Natural Resources Article 8-1808.1 and COMAR 27.01.02.06

**DISCUSSION:**

Anne Arundel County requests a growth allocation on the Homeport Farm parcel that changes 18.75 acres of RCA land to LDA. The growth allocation area, or development envelope, will include 19 residential lots (15.11 acres), road right-of-way and community space (3.64 acres).

The entire parcel consists of 81.30 acres with 16.72 acres outside of the Critical Area and 64.58 acres inside the Critical Area. The interior is agricultural fields with forested areas lining the periphery of the site along the shoreline.

Two areas will retain their RCA designation. The 31.64 acre portion of the RCA land on the northern side of the property will be divided into two parcels. One parcel will consist of 25.15 acres to be deeded to Anne Arundel County for a park. The proposed use of this park is undetermined. The County has informed us that a citizens group will be formed to develop a master plan for the area once it is deeded to the County. The remaining 6.49 acres will remain in open space and will be reforested.

The remaining RCA lands on the southern portion of the property will be used as community open space and one RCA lot. This area is 12.27 acres. Under the Critical Area Commission's growth allocation policy, a minimum of twenty acres is required in order to sufficiently protect the character of the Resource Conservation Area. An additional 7.73 acres will be protected under easement on the adjoining property. The twenty acre parcel can be developed with one dwelling unit consistent with the Critical Area Commission policy.

The County addressed the guidelines found in both Natural Resources Article 8-1808.1 and COMAR 27.01.02.06 in regard to adjacency to other Intensely Developed Areas or Limited Development Areas, identifying habitat protection areas, minimizing impacts to the Resource Conservation Area, and the provision of a 300-foot Buffer. The County stated that the adjacency requirement is met since the community to the north is designated LDA. All Buffers were identified and found to be sufficient without requiring 300-feet because of the required expansion related to the steep slopes present at the site. Finally, the County has 57.66 acres remaining growth allocation set aside to use for RCA to LDA.



*Chesapeake Bay Critical Area Commission*

STAFF REPORT  
March 4, 1998

*postponed*

**APPLICANT:** Maryland Port Administration, Office of Harbor Development

**PROPOSAL:** New Storm Drain Project at the Proposed CSX/Cox Creek Dredged Material Containment Facility

**JURISDICTION:** Anne Arundel County

**COMMISSION ACTION:** Vote (Tentative)

**STAFF RECOMMENDATION:** Approval with the condition that mitigation be performed on-site with native species immediately following the completion of the new storm drain.

**STAFF:** Lisa Hoerger

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

**DISCUSSION:**

The Maryland Port Authority (MPA) requests approval of a storm drain project at their CSX/Cox Creek Dredged Material Containment Facility in northern Anne Arundel County. The site is approximately one mile south of the Francis Scott Key Bridge off of the Patapsco River.

The CSX site was purchased by the MPA in 1993 and the Cox Creek site was purchased in 1996. The MPA intends to reconstruct and stabilize the containment cells on each property to receive dredge material from the Baltimore Harbor channels. Before reconstruction of the cells begins, the existing stormwater system, which serves an 111-acre drainage area, needs to be re-routed. Currently, the storm drain system outfalls into the Cox Creek cell.

In order to correct this problem the MPA plans to install a storm drain interceptor pipe and related manholes and outfall structure for diversion of stormwater. The outfall will terminate at the northern end of the property just above the Cox Creek cell. The limits of disturbance (LOD) will be 3.92 acres. Approximately .37 acres will be cleared within the limits of disturbance (LOD) and 500 cubic yards of fill material will be placed near the headwall for grading. The outfall will consist of approximately 140 cubic yards of riprap and bedding stone.

Staff Report  
Page Two

All work will be in an area of intense development. The 10% pollutant reduction calculation resulted in a negative pollutant removal. Therefore, no Best Management Practices (BMPs) are required at this time. Future development of this property may require BMPs.

Mitigation will be provided for impacts to the nontidal wetlands by payment to the Maryland Department of the Environment (MDE). The nontidal permit is still pending at the time of this staff report. Also pending are the stormwater and sediment and erosion control permits.

The Heritage and Biodiversity Division of the Department of Natural Resources has reviewed the site and found no threatened or endangered species to be present. The Maryland Historical Trust has also reviewed the site and found no sites at the project area. Comments from Anne Arundel County Department of Planning and Code Enforcement are pending.

N 49°

NON-TIDAL WETLANDS CONTINUES TO THE NORTH

LIMIT OF 100 YR. FLOOD PLAIN ZONE

100 FT. BUFFER MHW

COX CREEK CELL

OUTFALL 30' x 12" (ABANDONED)

OUTFALL 54' x 18" (ABANDONED)

OUTFALL 15' x 12" (ABANDONED)

OUTFALL 24' x 18" (ABANDONED)

COX CREEK REFINING CO. TANK HOUSE - BLDG 401K

BM-2  
MON. 276-AZ  
497632.51470  
331264.54620  
LEV. 37.34'

BM-1  
MON. 276  
497103.68340  
331354.93280  
LEV. 37.23'

BLDG 611K

CSX CELL

RISER (18" x 18")

LIMIT OF 100 YR. FLL

100 FT. BUFFER MHW

LEGEND

- STORM DRAIN TO BE CONSTRUCTED SPRING 1998
- EXISTING LIGHT POLE
- FH\* EXISTING FIRE HYDRANT
- EXISTING PAVEMENT
- 10- EXISTING CONTOUR
- EXISTING FENCE
- EXISTING PROPERTY LINE
- EXISTING ELECTRIC LINE
- EXISTING TREE LINE
- POND
- MEAN LOW WATER LINE
- MEAN HIGH WATER LINE
- LOD — LIMIT OF DISTURBANCE
- 100 FT BUFFER MHW
- 100 YR FLOOD PLAIN
- NON-TIDAL WETLAND
- OPEN WATER
- TIDAL WETLAND
- NON-TIDAL WETLAND IMPACT WITH IN L.O.D.  
TEMPORARY IMPACT - 2,470 SQ FT-0.06 ACRES  
PERMANENT IMPACT - 1,014 SQ FT-0.02 ACRES
- CRITICAL AREAS
- INTENSELY DEVELOPED AREA (IDA)
- RESOURCE CONSERVATION AREA (RCA)

