

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland 21401
Conference Room 1100A
March 3, 1999
AGENDA

1:00 p.m. - 1:05 p.m. Approval of Minutes of January 6, 1999 John C. North, II, Chairman

PROGRAM AMENDMENTS and REFINEMENTS

1:05 p.m. - 1:15 p.m. Refinements, Town of Easton Cooke's Hope Annexation Lisa Hoerger, Enviro. Specialist
Kay - motion - 9 sec - CJ

1:15 p.m. - 1:30 p.m. Amendments to Zoning Ordinance Kent County Tracey Batchelder, Planner
Batchelder

1:30 p.m. - 1:40 p.m. Amendment, Comprehensive Review Remapping, Calvert County Lee Anne Chandler, Planner
Chandler

PROJECT EVALUATION

1:40 p.m. - 1:55 p.m. Baltimore County, Culvert Replacement (sidewalks and resurfacing) SHA, MD 150, Eastern Avenue Susan McConville, Planner
McConville

1:55 p.m. - 2:10 p.m. St. Mary's County, Greenwell St. Park Handicapped access path & ramp Tracey Batchelder, Planner
Batchelder

2:10 p.m. - 2:25 p.m. St. Mary's County, Pt. Lookout State Park Mini cabins D.B. - motion K. Daym - 2nd Meredith Lathbury, Planner
no staff report CJ

2:25 p.m. - 2:35 p.m. Queen Anne's County, Wye Island NRMA Buffer Management Plan (information only) Susan McConville, Planner
no staff report

2:35 p.m. - 2:45 p.m. Old Business New Business Buffer Exemption Area Policy Mary Owen John C. North, I, Chairman

2:45 p.m. - 4:00 p.m. PANEL - Forest Interior Dwelling Birds Work Group
Members: Bourdon, Foor, Johnson, Myers, Corkran, Giese, Taylor-Rogers, Lawrence

Next Commission Meeting April 7, 1999, People's Resource Center

SUBCOMMITTEES

9:30 a.m. - 10:30 a.m. **Project Evaluation**

Members: ~~Langford~~, Bourdon, Cooksey, Giese, Foor, Corkran, Jackson, Goodman, Van Luven, Hearn, Wilde

Baltimore County, SHA - MD 150, Eastern Avenue.

St. Mary's County, Pt. Lookout State Park, Mini-cabins

St. Mary's County, Greenwell State Park, Handicapped Access
Path & Ramp

Susan McConville, Planner

Meredith Lathbury, Planner

Tracy Batchelder, Planner

9:30 a.m. - 12:00 p.m. **Program Implementation and Amendments**

Members: Whitson, Myers, Barker, Williams, Wynkoop, Foor, Johnson, Lawrence, Taylor-Rogers, Duket
Graves

Easton Annexation - Cooke's Hope
Calvert County Comprehensive Remapping
Anne Arundel County RCA Uses
Buffer Exemption Policy

Lisa Hoerger, Enviro. Specialist

Lee Anne Chandler, Planner

Lisa Hoerger, Envir. Specialist

Mary Owens, Pgm.

Implementation

Old bus: Ren - s. pools / imper. surf & decks Bill
Calc. of is. limit - exempt s. pools &
wooden decks are "exempted" overall
telling on the 11th of March

New Bus. nam

Adj. 225P

Chesapeake Bay Critical Area Commission
 Department of Housing and Community
 People's Resource Center
 Crownsville, Maryland 21401
 January 6, 1999

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	Myers, Andrew, Caroline County
Corkran, William, Talbot County	Pinto, Bob, Somerset County
Van Luven, Heidi, Dept. of Transportation	Jackson, Joe, Worcester County
Williams, Roger, Kent County	Hearn, J.L., Md. Dept. Environment
Appel, Sherry for Samuel Wynkoop, Prince George's County	Cooksey, Dave, Charles County
Evans, Diane, AA County	Bourdon, Dave, Calvert County
Foor, Dr. James, Queen Anne's County	Whitson, Mike, St. Mary's County
Giese, William, Jr., Dorchester County	Taylor-Rogers, Dr. Sarah, DNR
Goodman, Robert, DHCD	
Johnson, Samuel Q., Wicomico County	

The Minutes of December ²~~1~~, 1998 were approved as read.

Susan McConville, Planner, Chesapeake Bay Critical Area Commission, presented for concurrence with the Chairman's determination of Refinement, Queen Anne's County's request for growth allocation pre-mapping changes to their Critical Area Program. The County Commissioners granted conceptual approval to the growth allocation pre-mapping which serves to implement parts of the recently adopted Grasonville and Stevensville Growth Area Plans. A similar project was approved by the Critical Area Commission in October 1997 in Chester. The pre-mapped areas are part of the County's objectives to "concentrate growth in suitable areas, direct development to existing population centers, and to streamline development review procedures." Growth allocation requests will still be reviewed based on their compliance with the County's growth allocation requirements and the Commission will continue to be responsible for reviewing growth allocation in these areas as amendments or refinements. The Commission supported the Chairman's determination of Refinement.

Susan McConville, Planner, Chesapeake Bay Critical Area Commission, presented for concurrence with the Chairman's determination of Refinement, Queen Anne's County's proposed amendments to the text of the County's Critical Area Act. TA-98-13 which proposes to amend County Code 14-177 that will change the notice requirement for publication of the time and place of a public hearing in a newspaper of general circulation in the County from 15 days to 14 days prior to the date of the public hearing; TA-98-15 which proposes to amend County Code Section 14-171, and Section 14-177, to move language which appears under Subpart 3 to Subpart 2. This will reduce the County's advertising costs significantly. The Commission supported the Chairman's determination of Refinement.

Dawn McCleary, Planner, Chesapeake Bay Critical Area Commission, presented for concurrence with the Chairman's determination of Refinement, Harford County's request to amend their Critical Area Program to correct a mapping mistake at Flying Point Marina and designate a portion of the land as Buffer Exempt. This was accomplished in Bill 98-39 and passed by the County Council. The designation of the land changes from RCA to IDA in this mapping mistake. The original mapping was IDA in 1988 and during the Comprehensive Review in 1996, it was mistakenly remapped as RCA. Bill 98-39 changes it back to its proper

designation and also designates it Buffer Exempt. Patricia Pudelkewicz, Harford County Planning and Zoning, described the details of the requested amendment. Charles Schaler, representing Flying Point Marina, clarified that Flying Point Marina, zoned B3, Harford County's most industrial zone, has gasoline sales. The Commission supported the Chairman's determination of Refinement.

Mary Owens, Chief, Program Implementation, CBCAC, presented for concurrence with the Chairman's determination of Refinement, Dorchester County's request for Buffer Exemption Area on Hooper's Island. This area was identified after several other properties on this island were identified, mapped and approved in August which followed a March 1997 Commission approval of Dorchester County's Buffer Exemption Area Program. This area consists of six lots which are all developed with residential structures. The mapping of these parcels as a BEA is consistent with the Critical Area Criteria and the Commission's Buffer Exemption Area Policy. Dorchester County Commissioners approved the designation of these parcels at a public hearing held on December 15, 1998. The Commission supported the Chairman's determination of Refinement.

Tracy Batchelder, Planner, CBCAC presented for concurrence with the Chairman's determination of Refinement, Kent County's request for changes to the County's Critical Area Program. The proposed changes to the Kent County Zoning ordinance add new provisions relating to conference centers, resorts, retreats and golf courses. This will require the use of growth allocation to support these types of land uses in Resource Conservation Areas. The amendments also allow for County owned and operated parks and recreational facilities in the Limited Development Area if they have received growth allocation. The Criteria provide guidelines as to where new Intensely Developed or Limited Development Areas should be located when utilizing growth allocation. Prior to the proposed amendment to the County's Zoning Ordinance, growth allocation was to be utilized only in the incorporated towns located in the Critical Area. The proposed amendment to the Ordinance will allow for growth allocation to be granted to areas outside the incorporated towns for special projects and specifies how it will be granted in the County. To help guide the County in its use of Growth Allocation they are amending their Growth Allocation Policy. These proposed amendments to Kent County's Critical Area Program are consistent with the Critical Area Criteria and the Commission's policy on growth allocation. The Commission supported the Chairman's determination of Refinement.

Mary Owens, Chief, Program Implementation, CBCAC, presented for concurrence with the Chairman's determination of Refinement Dorchester County's Comprehensive Zoning Map, Zoning Ordinance, and Subdivision Regulations Amendments which include: changes to definitions, zoning district regulations, supplementary use regulations, growth allocation and afforestation. Changes to the zoning regulations had been contemplated for several years because the regulations had not been significantly amended since their adoption in 1976. The County's 1996 Comprehensive Plan included major changes in the land uses in Dorchester County and the changes were necessary in order to effectively implement the Plan. Ms. Owens described the changes. Ms. Owens stated that these revisions were consistent with the Critical Area Act and Criteria except for the afforestation provisions. These provisions proposed to remove language pertaining to establishing forest or developed woodland cover on a parcel that is being developed and transferring modified language to the subdivision regulations. The modified language in the subdivision regulations only applies to parcels that are being subdivided, whereas the Critical Area Criteria state that, "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent". This change is not consistent with the Criteria and should not be transferred. A "Table of permitted uses by zoning district" was developed by the County. The table included a list of more than 150 uses and clarified whether the uses can be permitted in RCA areas and whether growth allocation will be required. The Commission supported the Chairman's determination of Refinement.

OLD BUSINESS

Dawnn McCleary updated the Commission on the Seagirt Marine Terminal. She said that this maintenance building, previously approved by the Commission, will be located to another section of the marine terminal but will be located somewhat more out of the Buffer than the location initially approved. All other issues will remain the same.

Chairman North updated the Commission on issues in Talbot County where there has been substantial activity lately with developments in the Critical Area. He said that there is a proposal to build 300-400 houses in an area on the Tilghman side of St. Michaels. This proposal has generated a great deal of consternation about the fact that this new subdivision would be about 60% the size of St. Michael's and all the traffic developing from it would, by necessity, be funneled through the town of St. Michael's on Rt. #33 which is narrow, congested and over crowded at best, and, in addition, it is proposed that the sewage from this development would be handled by the St. Michael's sewage treatment facility which is already overcrowded and has experienced substantial difficulties in the past. There is an issue of growth allocation which is still percolating along. He said that more will be heard about this in the future.

Chairman North said that there is a proposal to build a new development in the nature of 500 houses on an area known as Radcliffe Manor in an area which is now RCA. Construction is projected of upwards of 500 houses in an area where they will be requesting allocation of 1 house per acre, on the upper reaches of the Tred Avon river, where the river is shallow and narrow with little tidal flow. He said that there is substantial local concern as to the potential for environmental mischief as result of that proposal.

NEW BUSINESS

Marianne Mason, Esquire, Assistant Attorney General and Commission Counsel updated the Commission on legal matters. She said that she argued on the 7th of December, the White case in the Court of Appeals. (A case which started in Anne Arundel County at the zoning hearing officer stage involving a pool in the expanded Buffer). She said that an opinion would perhaps be forthcoming in mid-February.

Ms. Mason said that she attended a settlement conference in the Court of Special Appeals on a pending case -the Belvoir Farms Association, which arose from Anne Arundel County and involves a variance for boat slips at a community marina. She reported that the Commission was successful in the Circuit Court in that case and the homeowners have appealed to the Court of Special Appeals. She advised the Court that there is no reasonable possibility of settling the case as the Commission is happy with the decision. That case will proceed. The Commission agreed to a delay in the proceedings at the Court of Special Appeals in hopes that the Court of Appeals will make a decision in the "White" case and give the Commission some guidance as to the proper standard for a variance because the issues in the two cases are very similar.

In the Circuit Court, Ms. Mason filed two new appeals: one in Calvert County for a variance for road construction for a new subdivision wherein the road is going to be on steep slopes. The Board of Appeals in Calvert County authorized a variance. She filed an Appeal in Circuit Court in to a variance issued by the City of Annapolis for new homes on new lots in the buffer. In Talbot County, Ms. Mason has due a Memorandum of Law in the Mastrandea case, which involves a brick walkway in the Buffer. This has been in Court one time, was remanded to the Board of Appeals who heard the case and issued another variance last July. It is back in Court again.

Chairman North formally appointed Michael Whitson as Vice -Chair of the Critical Area Commission. There being no further business, the meeting adjourned.

Chesapeake Bay Critical Area Commission

STAFF REPORT

March 3, 1999

APPLICANT: Town of Easton

PROPOSAL: Refinement - Annexation of lands of Cooke's Hope Homeowners Association, Trippes Creek, LLC and Cheston Limited Partnership

COMMISSION ACTION: Concurrence

STAFF RECOMMENDATION: Concurrence with Chairman's Determination

STAFF: Lisa Hoerger

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

DISCUSSION:

The Town of Easton has annexed 217.851 acres of land, the majority of which is located in the Critical Area. The parcels are located on the westerly side of U.S. Route 50 and the easterly side of Maryland State Route 333. The properties have a Critical Area designation of Resource Conservation Area. Upon annexation the Town assigned an R-10A zoning classification. No change in the Critical Area designation is proposed at this time. Future development of the parcels will be served by public water and sewer.

These parcels are identified in the Town of Easton's Comprehensive Plan as growth areas. The land use is currently a mix of agricultural fields and wetland areas near the shoreline of Peach Blossom Creek. Two streams appear on the topographical map. A review by the Department of Natural Resources, Heritage and Biodiversity Division reported the absence of any known rare, threatened or endangered species on the site.

The annexation, Resolution No.5631, became effective on December 7, 1998 following a public hearing and approval by the Town Council. While there was no opposition to this specific annexation request, there was some opposition in general to the growth of the town.

Chairman North seeks your concurrence with his determination that this annexation request is a refinement to the Town of Easton's Critical Area Program.

EASTON CLUB

GREENS AT CROSS COURT

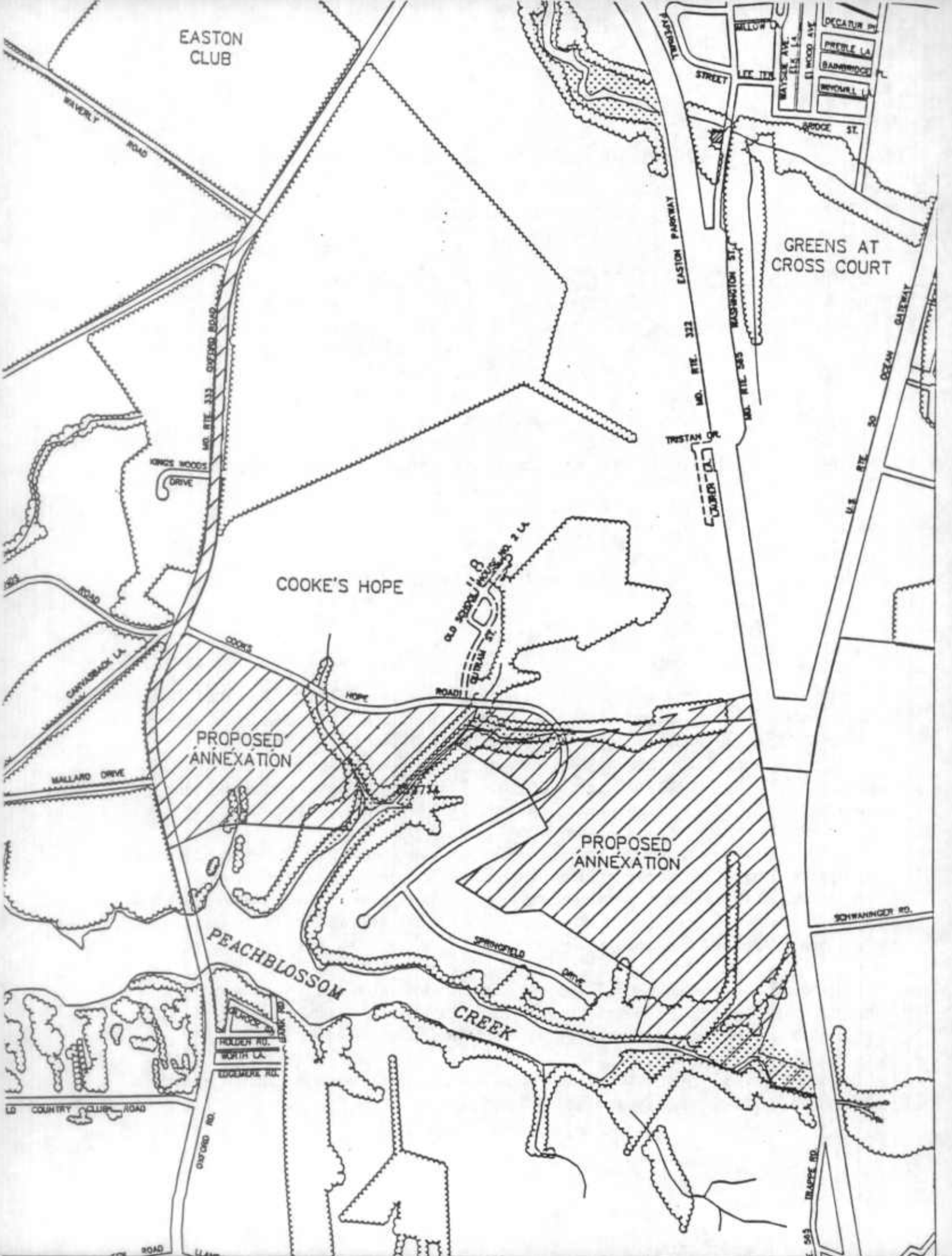
COOKE'S HOPE

PROPOSED ANNEXATION

PROPOSED ANNEXATION

PEACHBLOSSOM CREEK

CREEK



Chesapeake Bay Critical Area Commission

STAFF REPORT

March 3, 1999

APPLICANT: State Highways Administration

PROPOSAL: Resurfacing of Maryland Route 150 - Eastern Avenue, addition of sidewalks and culvert replacement

JURISDICTION: Baltimore County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with conditions

STAFF: Susan McConville

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

DISCUSSION

The State Highways Administration (SHA) proposes the resurfacing of a portion of MD Route 150 (Eastern Boulevard), the addition of 0.16 acres of new impervious sidewalk and the replacement of a 48-inch diameter reinforced concrete pipe with two 48-inch pipes at the crossing over Duck Creek in order to alleviate an existing flooding problem.

The portion of the project within the Critical Area (4.3 acres) is located within the existing SHA right of way for MD 150. Approximately 98% of the project area is impervious. The addition of sidewalks will result in an impervious area of 100% for the project area. The project is located in an Intensely Developed Area. The removal requirement to meet the 10% reduction in phosphorus loading is equal to 4.77 pounds of phosphorus.


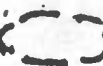
Because of the level of imperviousness within the right of way, there is no area available to provide stormwater management on the site. 100 % of the project site drainage runs off into existing storm sewers. These storm sewers discharge into Duck Creek via three different outfalls. Because of the small increase in the percentage of imperviousness (less than 10%) and the nature of the actions proposed, the project qualifies for consideration under the existing MOU between the Critical Area Commission and the MDOT /SHA. However, the project is still required to meet the 10% requirements. Commission staff brings the project to the full Commission in order to consider the use of a previously unused portion of the 1993 MOU.

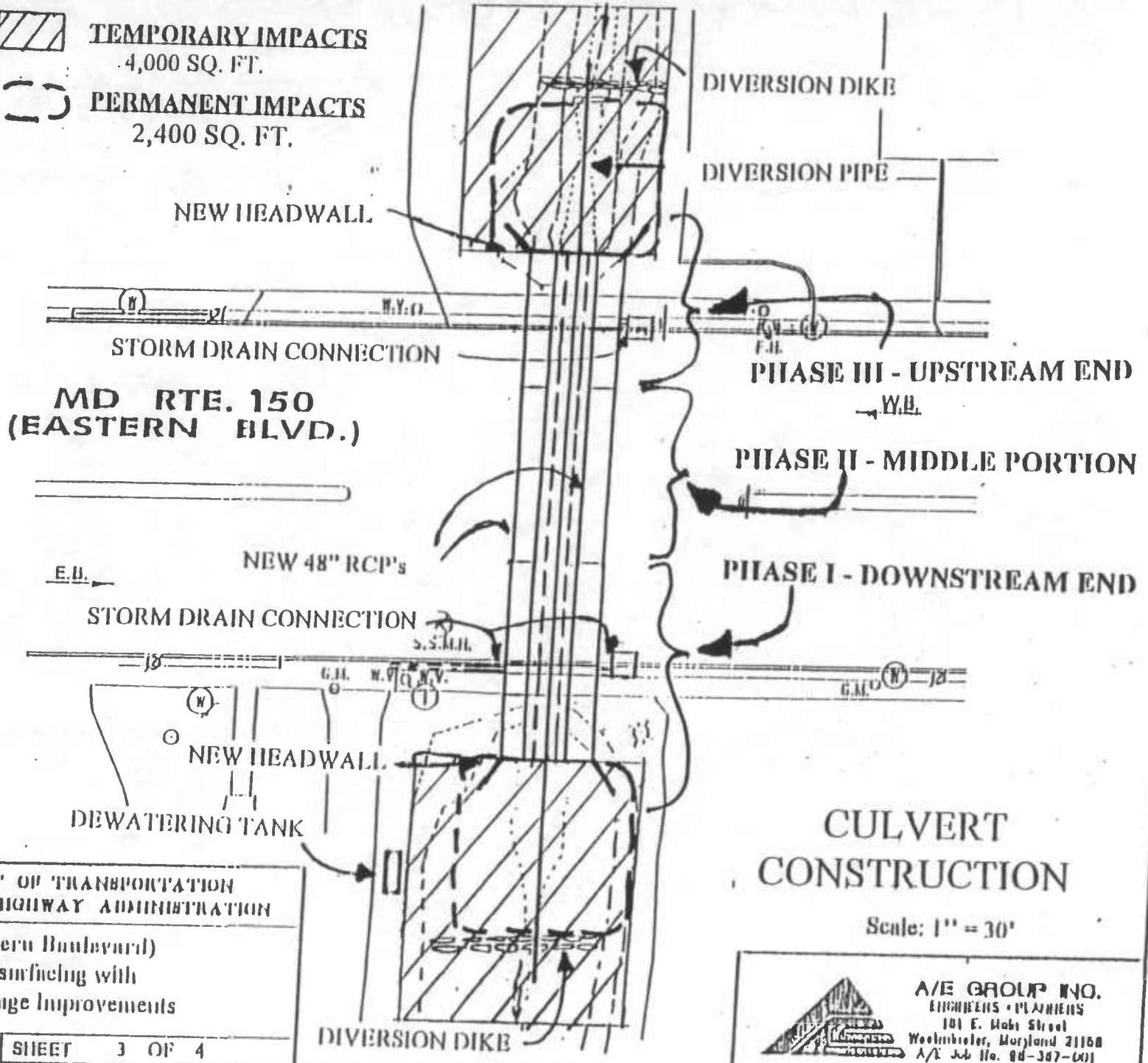
Projects which involve up to a 10% increase in impervious area within the Critical Area will incorporate stormwater quality management measures sufficient to achieve a 10% reduction in pollutant loadings below existing levels. *Offsets in the form of debits to the MD Department of Environment (MDE)/SHA water quality bank are acceptable in lieu of onsite management. . . (CAC/MDOT Memorandum of Understanding - 1993)*

Commission staff recommend that the methodology and process for the above referenced offset be reviewed at this time in order to facilitate its use for future projects.

The project qualifies for federal authorization under the Maryland and State Programmatic General Permit (MDSPGP) with the associated conditions. All other necessary state and federal permits have been received for the proposed actions. Duck Creek is a Use I waterway, in-stream work will not be conducted from March 1 to June 15 inclusive. No Habitat Protection Areas except for the Buffer are proposed to be impacted. The applicant will plant 21 trees in order to mitigate for the impacts to the Buffer to Duck Creek. A landscape plan will be presented at the March Commission meeting.

Commission staff recommend approval of the proposed actions with the condition that the location of the mitigation for Buffer impacts is determined and that the proposed offsets for meeting the 10% requirements are supported.

-  **TEMPORARY IMPACTS**
4,000 SQ. FT.
-  **PERMANENT IMPACTS**
2,400 SQ. FT.



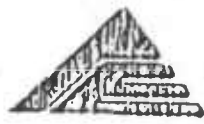
**CULVERT
CONSTRUCTION**

Scale: 1" = 30'

MD. DEPARTMENT OF TRANSPORTATION
MARYLAND STATE HIGHWAY ADMINISTRATION

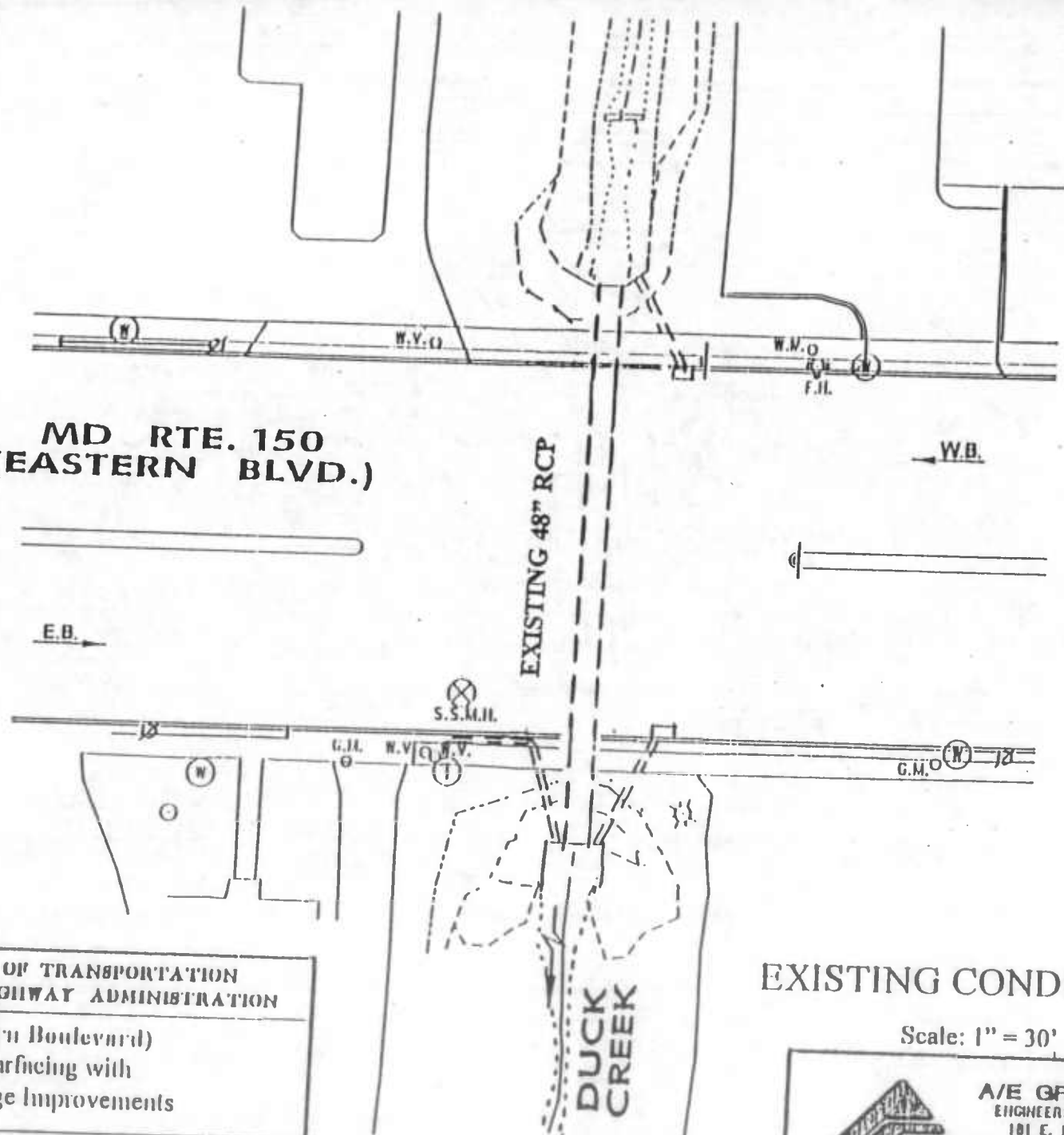
MD 150 (Eastern Boulevard)
Roadway Resurfacing with
Safety and Drainage Improvements

SCALE: AS SHOWN SHEET 3 OF 4



A/E GROUP INC.
ENGINEERS • PLANNERS
101 E. Main Street
Woolinkster, Maryland 21158
A/E Job No. 84-307-001

**MD RTE. 150
(EASTERN BLVD.)**



EXISTING CONDITIONS

Scale: 1" = 30'



A/E GROUP INC.
ENGINEERS • PLANNERS
181 E. Main Street
Woolthorpe, Maryland 21168
A/E Job No. 88-367-001

MD. DEPARTMENT OF TRANSPORTATION
MARYLAND STATE HIGHWAY ADMINISTRATION

MD 150 (Eastern Boulevard)
Roadway Resurfacing with
Safety and Drainage Improvements

SCALE: AS SHOWN

SHEET 2 OF 4

MD 150
Margaret Ave. to Selig Ave.
BA260A21

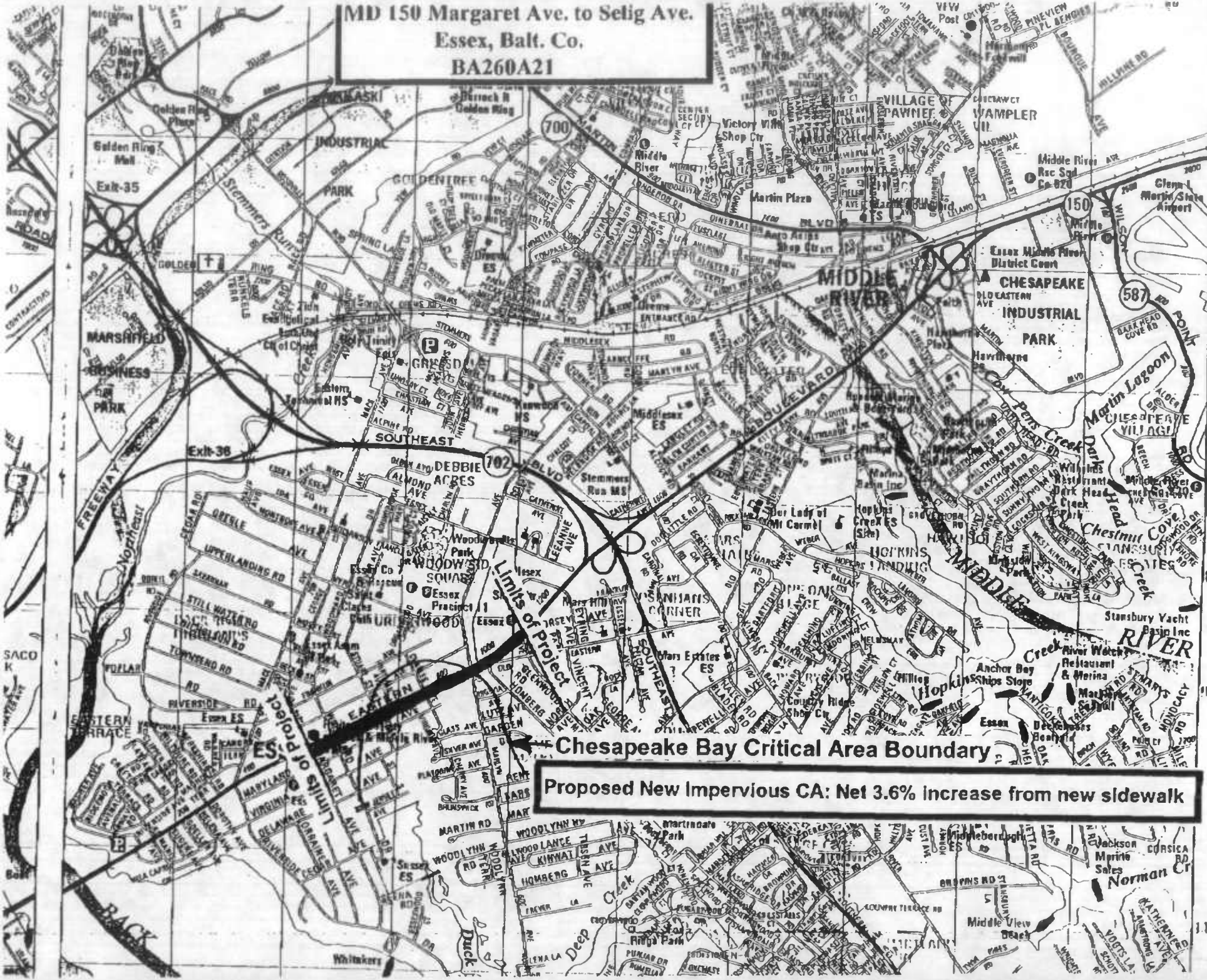
Duck Creek @ MD 150-Upstream



Duck Creek @ MD 150-Downstream



MD 150 Margaret Ave. to Selig Ave.
Essex, Balt. Co.
BA260A21



Chesapeake Bay Critical Area Boundary

Proposed New Impervious CA: Net 3.6% increase from new sidewalk

D.B. - motion
Dr. For. Sec
CJH

CHESAPEAKE BAY CRITICAL AREA COMMISSION

**STAFF REPORT
March 3, 1999**

APPLICANT: Maryland Department of Natural Resources

PROPOSAL: Handicapped Access Path and Ramp at Greenwell State Park

JURISDICTION: St. Mary's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Tracy Batchelder

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

CM

DISCUSSION:

The Critical Area Commission approved a project proposed by The Maryland Department of Natural Resources (DNR) to construct a handicapped access path for Greenwell State Park located in St. Mary's County at the August 5, 1998 Commission meeting. The Greenwell Foundation Inc., located in the park, has asked DNR to revise the path plans. The following are the proposed changes to the previous plans:

1. The two paths leading to the Manor House Road and the Cottage have been eliminated and a new, shorter path has been substituted leading to the gravel lane on the southwest area of the site plan. This revision decreases the disturbed area outside the Buffer by approximately 1,450 square feet.
2. To avoid excessive cuts and potentially dangerous circumstances for disabled users in the area of the pier, a 15-foot section of the pathway has been eliminated and will be replaced with a timber deck and ramp. The deck and ramp will increase impervious surfaces within the Buffer by approximately 395 square feet. However, overall disturbance to the area will decrease by approximately 20 square feet.
3. The Greenwell Foundation has requested the inclusion of a hand rail for wheelchair users. The handrail is planned for the northern edge of the path and will require concrete footings on the rail posts.

In summary, the proposed changes will increase impervious surfaces within the Buffer by approximately 395 square feet to a total of 745 square feet and decrease impervious surface outside of the Buffer by approximately 1,450 square feet. Existing vegetation on the site is mostly grass and proposed project will not involve forest clearing. However 2:1 mitigation (1,490 square feet) will be provided for impervious surfaces in the Buffer. The DNR has agreed to the plantings which will be in native species located within the Buffer.

There are no habitat protection areas on the site. No MDE permits are required for the project as less than 5,000 square feet will be disturbed by the construction and location of the path and ramp.

Chesapeake Bay Critical Area Commission

CY

STAFF REPORT

March 3, 1999

APPLICANT: Maryland Department of Natural Resources

PROPOSAL: Mini-Cabins at Point Lookout State Park in St. Mary's County

JURISDICTION: St. Mary's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Meredith Lathbury

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

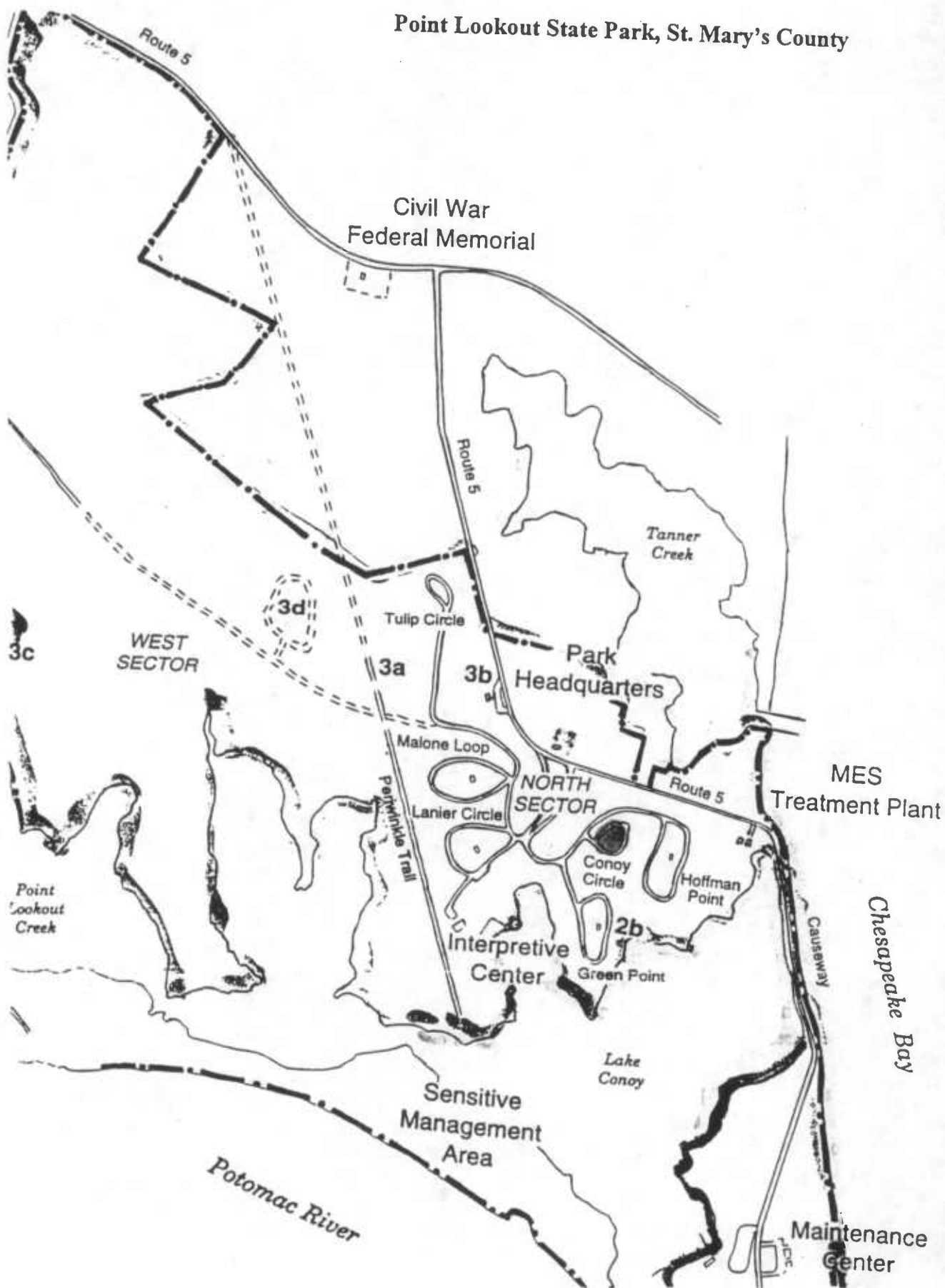
DISCUSSION:

The Maryland Department of Natural Resources (DNR) is proposing to locate six mini-cabins at the "Conoy" camp loop at Point Lookout State Park in St. Mary's County. The cabins will be placed on existing crusher run/stone dust camping pads (2 cabins per pad) located approximately 500 feet from mean high water. A layer of additional stone dust will be placed on the existing camping pads. The cabins will be 13' x 11' with a 6' porch. The camping area will be utilized by youth groups and families.

No additional impervious surfaces will result from the placement of the cabins. The only disturbance to the site will be short underground extensions of electric lines to feed the cabins. A "ditch witch" will be used to open up the ground temporarily for placement of the lines. These disturbed areas will be restored to their original condition.

There are no habitat protection areas on the site. The camping area is an existing development and no threatened or endangered species are found on the site. No MDE permits are required for the project as less than 5,000 square feet will be disturbed by the placement of the cabins.

Point Lookout State Park, St. Mary's County



From: Susan McConville
To: pmickler
Date: 3/12/99 11:08am
Subject: Wye Island NRMA shoreline stabilization project

Susan McConville and Ranger Dave Davis presented a shore erosion control and shoreline stabilization project taking place at the Wye Island Natural Resource Management Area. Wye Island has approximately 40 miles of shoreline that is impacted by tidal surges, boat wakes, wind and storm surges, as well as surface water run-off. The project goal is to use non-structural shore erosion control to address the existing shore erosion problem on a specific targeted area, approximately 7,640 linear feet of Dividing Creek, in order to reduce shoreline loss, and sedimentation run-off into the rivers. The scope of the project proposed under a Buffer management plan and presented to the Commission for information includes vegetative stabilization as opposed to structural shore erosion control methods. The shoreline has scattered patches of emergent grasses that protect the toe of the banks from erosion. The project includes selective trimming of overhanging branches on trees on the banks to allow areas where the grass has not been well established to receive more sunlight. In addition, many of these areas will be planted by volunteers with nursery grown emergent grasses this spring. Care was taken to avoid impacts to protected zones for nesting Bald Eagles. The project will be monitored over the next few years to determine if the vegetative methods are effective. An additional 6.6 acres of riparian buffers are scheduled for stabilization and planning in 1999-2000. These new riparian buffers will be adjacent to and enhance the existing buffers within the project area and the Critical Area.



Judge John C. North, II
Chairman

Ren Serey
Executive Director

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

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 260-7516 Fax: (410) 974-5338

MEMORANDUM

To: Critical Area Commission
From: Mary Owens
Subject: Revised Buffer Exemption Area Policy
Date: March 3, 1999

Over the last few months, the Program Subcommittee and Commission staff have been working on revisions to the Commission's Policy on Buffer Exemption Areas. The policy was adopted in May 1993 and primarily addressed development on small residential lots. Recently, several projects involving commercial development on larger lots designated as Buffer Exemption Areas have been reviewed by the Commission and staff, and in some cases, the current policy did not provide clear guidance applicable to these types of projects. As a result of discussing and resolving issues encountered with these projects, it was decided that the Commission's policy should be revised in order to address commercial, industrial, and institutional development; to address development on larger parcels; and to address projects involving subdivision.

The attached draft is the result of the work of the Program Subcommittee and staff with assistance from Sue Anne Hyer-Morgan from Queen Anne's County, Elinor Gawel from Anne Arundel County, and Gail Owings from Kent County. In the draft, existing language to remain is shown in standard type, new language is shown in italics (*new text*), and language to be deleted is shown with a line through it (~~deleted text~~). The Program Subcommittee will meet in the morning on March 3, 1999 to discuss the draft, and it will be presented for information and discussion to the full Commission in the afternoon. If you can not attend either of these meetings, and you would like to comment on the policy, please provide comments to me by March 10, 1999.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093



BUFFER EXEMPTION AREA (BEA) POLICY

Draft

March 3, 1999

SECTION I **DEFINITIONS**

- Accessory Structure*** *An accessory structure is a structure detached from a principal structure located on the same lot and customarily incidental and subordinate to the principal structure; or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.*
- Buffer Exemption Area*** *A Buffer Exemption Area is an area officially mapped by the local jurisdiction and approved by the Critical Area Commission, as a Buffer Exemption Area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional or recreational development in the Critical Area prevents the Buffer from fulfilling its intended functions for water quality protection and wildlife habitat conservation.*
- Grandfathered Parcel/Lot*** *A grandfathered parcel or lot is land that was subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.*
- Development Activity*** *Development activity is the construction or substantial alteration of residential, commercial, industrial, institutional, recreational or transportation facilities or structures. Development activities include, among other things, structures, roads, parking areas, and other impervious surfaces, mining and related facilities, clearing, grading and septic systems.*
- Minor Project*** *A minor project is a development activity that involves less than 1,000 square feet of permanent impact to the 100-foot Buffer and/or expanded Buffer.*
- Natural Forest Vegetation*** *Natural forest vegetation shall consist of canopy trees, understory trees, shrubs, and herbaceous plants that are typically found in riparian areas in Maryland. Areas of natural forest vegetation planted to meet the mitigation requirements in this policy shall be designed to mimic the structure and species composition of natural forests.*

Principal Structure

For the purpose of establishing setbacks, the principal structure is the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling, excluding utilities or the septic system. For nonresidential properties, the principal structure is the primary commercial, industrial, institutional, or recreational building, excluding utilities.

SECTION II GENERAL POLICIES

A. *Purpose*

1. The following provisions are intended to accommodate limited use of shoreline areas in certain situations while protecting water quality and wildlife habitat to the extent possible. The portions of the Critical Area to be considered Buffer Exemptions Areas are those “where it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial, or recreational development in the Critical Area prevents the Buffer from fulfilling the functions” set out in COMAR 27.01.09 for water quality protection and wildlife habitat. Buffer Exemption Areas include *only those* areas mapped as Buffer Exemption Areas and approved by the Commission. ~~These areas could, but not necessarily will, include lots of record with an existing single family dwelling unit located at least partially in the Buffer and being less than 200 feet in depth from tidal waters, tidal wetlands or tributary streams.~~
2. *Alternative provisions regulating development in Buffer Exemption Areas may be utilized by a jurisdiction if the provisions are approved by the Critical Area Commission as an amendment to the jurisdiction’s Critical Area Program.*

B. *Applicability*

1. This section policy applies to new development *activities* ~~or redevelopment~~ within ~~100~~ feet the Buffer of tidal waters, tidal wetlands and tributary streams *on parcels or lots mapped as Buffer Exemption Areas (BEA).*
2. This section policy applies only to *grandfathered lots and parcels* ~~lots of record at the time of program approval.~~
3. *The provisions of this policy apply to both natural and man-made lands.*

SECTION III IMPLEMENTATION

A. General Development Standards

1. ~~New Development or redevelopment~~ activities, including, *but not limited to*, structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer ~~Exempt Area~~ unless the applicant can demonstrate ~~there is no feasible alternative~~, *and the local jurisdiction finds*, that efforts have been made to minimize Buffer impacts based on the following guidelines:
 - a. *Development activities shall be located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.*
 - b. Variances to other local setback requirements must be considered before additional intrusion into the Buffer.
 - c. *Convenience or expense shall not be factors considered when evaluating the extent of allowable impacts to the Buffer.*

2. ~~New Development and redevelopment~~ activities shall minimize the shoreward extent of intrusion into ~~this the Buffer Exempt area~~ *by utilizing one of the following methods which shall be approved by the Critical Area Commission at the time a Buffer Exemption Area is mapped: and shall not exceed the shoreward extent of adjacent structures whichever is more restrictive. Structures on adjacent properties may not be used to determine the setback line.*
 - a. *A jurisdiction shall determine an appropriate BEA setback for each BEA based on the general pattern of Buffer intrusion in the area. For new BEAs, a BEA setback line shall be established when the jurisdiction initially maps the BEA. For previously mapped BEAs, a jurisdiction may establish a setback line as a refinement to its Critical Area Program. On residential properties, the setback line shall be established based on the location of existing dwellings. On non-residential properties, the setback line shall be established based on the location of primary commercial, industrial, recreational or other buildings. Accessory structures, septic systems or other development activities shall not be used to determine the BEA setback line.*
 - b. *A jurisdiction may determine the appropriate location for a BEA setback based on the location of an existing dwelling or principal structure on the lot to be developed or the jurisdiction may use the location of a dwelling or principal structure located farthest from the water on an adjacent lot.*

(The distance shall be measured from the building corner to mean high water or the limit of tidal wetlands or the edge of the tributary stream.)

- c. *Alternative setback establishment methods proposed by a local jurisdiction and approved by the Commission.*
3. No natural vegetation may be removed in the Buffer except that required by the proposed construction. The applicant will be required to maintain any other existing natural vegetation in the Buffer.
4. Development *shall* not impact any Habitat Protection Areas other than the Buffer, *including nontidal wetlands, other State or federal permits notwithstanding.*
5. *BEA designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer to create additional buildable land for new development activities. Any Buffer Exemption Area setback line shall be based on the distance from the existing shoreline, landward edge of tidal wetlands, or edge of stream.*
6. ~~Any~~ *All development activities in the Buffer Exempt Area shall require mitigation. ~~enhancement/~~or offsets as applicable.*
7. *If the proposed project involves subdividing a grandfathered parcel, all development activities shall be located at least 50 feet from mean high water, tributary streams or the landward edge of tidal wetlands. On sites where the Buffer is expanded beyond 100 feet because of contiguous sensitive areas such as steep slopes, the 50 foot setback shall be proportionately expanded*

SECTION IV ADDITIONAL REQUIREMENTS FOR LOTS GREATER THAN ONE ACRE

A. Applicability

1. *These requirements apply, in addition to all other requirements of this policy and the applicable Critical Area Program, to all development activities on lots or parcels greater than one acre, except for those development activities meeting the definition of a "minor project".*

B. General Development Standards

1. *All development activities shall be located at least 50 feet from mean high water, tributary streams or the landward edge of tidal wetlands. On sites where the*

Buffer is expanded beyond 100 feet because of contiguous sensitive areas such as steep slopes, the 50 foot setback shall be proportionately expanded.

2. *If a local jurisdiction contends that on a particular parcel, new development activities can not be located at least 50 feet from mean high water or the landward edge of tidal wetlands or tributary streams, then an overall concept development plan shall be submitted by the local jurisdiction to the Critical Area Commission for review and approval. The overall concept development plan shall include information about the location of all proposed development activities, Buffer impacts, mitigation areas, and stormwater management. The overall concept development plan shall include proffers by the applicant that address the functions of the Buffer and shall demonstrate to the satisfaction of the Critical Area Commission that the project is consistent with all BEA development standards and that it meets the spirit and intent of the Critical Area Program. Following approval of a concept development plan by the Critical Area Commission, any changes affecting the location or size of development within the Buffer shall be resubmitted to the Commission for review and approval.*
3. *If the proposed development activity involves subdividing a grandfathered parcel, then an overall concept development plan shall be submitted by the local jurisdiction to the Critical Area Commission for review and approval. The overall concept development plan shall meet the requirements stated in (2) above.*

C. Development Standards for Minor Projects

1. *Minor projects should be located at least 50 feet from mean high water, tributary streams or the landward edge of tidal wetlands. On sites where the Buffer is expanded beyond 100 feet because of contiguous sensitive areas such as steep slopes, the 50 foot setback shall be proportionately expanded. If the local government determines that this setback is not feasible for the proposed project, then the minor project shall be located as far as possible from mean high water, tributary streams or the landward edge of tidal wetlands and no closer than existing development on the site.*

SECTION V GUIDELINES FOR MAPPING BEAS

A. General Requirements

1. *Only grandfathered lots may be proposed for mapping as a BEA by a local jurisdiction.*

2. *For each BEA, the lots that comprise the BEA must contain a Buffer which is, at the time of the proposal, significantly impacted by development activities that existed as of December 1, 1985 and that prevent the Buffer from fulfilling its functions.*
3. *For each residential BEA, the developed parcels or lots must contain a Buffer intrusion, at the time of proposal, caused by the dwelling (excluding utilities or septic systems). Undeveloped/vacant residential parcels or lots (i.e., infill) may be designated as a BEA if development within the Buffer can not be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, and the surrounding pattern of development.*
4. *For commercial, industrial, institutional, recreational and multi-family residential BEAs, the developed parcels or lots must contain a Buffer intrusion, at the time of proposal, caused by the principal structures (excluding utilities or septic systems). Undeveloped/vacant parcels or lots may be designated as BEAs only if new development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the lot within the Buffer, and the surrounding pattern of development.*
5. *If only part of a parcel or lot is characterized by development that has impacted the Buffer, then only those portions of a parcel or lot may be designated as a BEA. The portion of the parcel designated as a BEA will be subject to the BEA development restrictions. Portions of the property that are not designated as a BEA must comply fully with the 100-foot Buffer restrictions.*

SECTION VI MITIGATION REQUIREMENTS

A. General Mitigation Requirements

1. *Any All development activities in the Buffer require mitigation. Mitigation shall involve both establishing a densely vegetated Buffer between the development activity and the water and implementing additional plantings in the Buffer that will contribute to the creation of habitat.*
 - a. *The extent of the lot or parcel shoreward of all of the new development and redevelopment shall be required to remain, or shall be established and maintained, in natural forest vegetation (woody trees and shrubs); **and***
 - b. *Natural forest vegetation (woody trees and shrubs) of an area twice the extent of the ~~impervious surface must be created in the Buffer Exemption~~*

~~offset area or other location as may be determined by the local jurisdiction area of the new structure or impervious surface within the Buffer must be planted. To the maximum extent practicable, the planted forest vegetation shall occur on site and within the Buffer. If the Buffer is fully forested, other locations on site may be considered. If locations on site are inadequate or unavailable, then off-site locations in the Buffer may be considered if those locations are within the Critical Area and the same watershed as the original impact. Native species should be used for all plantings.~~

B. Alternative Mitigation Requirements

1. ~~A local jurisdiction may propose alternative mitigation measures that shall be approved by the Critical Area Commission. Alternative measures proposed by a local jurisdiction and approved by the Critical Area Commission.~~

OPTION II:

- A. ~~If there is no established naturally vegetated Buffer, then at a minimum, one half of the distance remaining from the structure to tidal waters, tidal wetlands and tributary streams, must be established in natural vegetation starting at the shoreward edge, or~~
- B. ~~A naturally vegetated Buffer must be established adjacent to the shoreline that is equal to the minimum building setback, whichever is greater.~~
- C. ~~Natural vegetation of an area twice the extent of the impervious surface must be created in a Buffer Exemption offset area or other location as may be determined by the local jurisdiction~~

C. Fee-in-Lieu Options for Mitigation

Applicants who cannot comply with the planting requirements, are required to pay into a fee-in-lieu program, administered by the local jurisdiction, according to the specifications below. *Payment into a fee-in-lieu fund should be used only as the last available option. Any fees-in-lieu collected under these provisions shall be placed in an account and used only for projects within the Critical Area that benefit plant and wildlife habitat, improve water quality, or provide environmental education.* The following rates are recommended. ~~These rates are suggested in order to generate adequate funds to carry out offset programs.~~ If a jurisdiction does not believe that these rates are appropriate for their region, alternative rates may be proposed for the Commission's approval.

1. *\$1.20 for each square foot of the Buffer impacted by impervious surfaces; plus*

2. *\$0.40 for each square foot of the Buffer that is not vegetated with native forest vegetation and that is not developed.*

SECTION VII PROCESS FOR APPROVAL OF DEVELOPMENT ON BEA LOTS

A. Documentation of Findings

Prior to the approval of a development activity on a BEA lot, the local jurisdiction must make written findings and document the basis for the local jurisdiction's finding that all of the requirements of this policy are met, including that disturbance to the Buffer is unavoidable and documenting that all the Criteria in this section are met including that disturbance to the Buffer exempt area is the least intrusion necessary. These findings must be available to the Commission upon request.

B. Reporting to Critical Area Commission

The reporting of development activity carried out under this provision must be included in the jurisdiction's semi-annual report.

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BUFFER EXEMPTION AREA (BEA) POLICY

Draft

March 3, 1999

SECTION I **DEFINITIONS**

- Accessory Structure*** *An accessory structure is a structure detached from a principal structure located on the same lot and customarily incidental and subordinate to the principal structure; or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.*
- Buffer Exemption Area*** *A Buffer Exemption Area is an area officially mapped by the local jurisdiction and approved by the Critical Area Commission, as a Buffer Exemption Area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional or recreational development in the Critical Area prevents the Buffer from fulfilling its intended functions for water quality protection and wildlife habitat conservation.*
- Grandfathered Parcel/Lot*** *A grandfathered parcel or lot is land that was subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.*
- Development Activity*** *Development activity is the construction or substantial alteration of residential, commercial, industrial, institutional, recreational or transportation facilities or structures. Development activities include, among other things, structures, roads, parking areas, and other impervious surfaces, mining and related facilities, clearing, grading and septic systems.*
- Minor Project*** *A minor project is a development activity that involves less than 1,000 square feet of permanent impact to the 100-foot Buffer and/or expanded Buffer.*
- Natural Forest Vegetation*** *Natural forest vegetation shall consist of canopy trees, understory trees, shrubs, and herbaceous plants that are typically found in riparian areas in Maryland. Areas of natural forest vegetation planted to meet the mitigation requirements in this policy shall be designed to mimic the structure and species composition of natural forests.*

Principal Structure

For the purpose of establishing setbacks, the principal structure is the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling, excluding utilities or the septic system. For nonresidential properties, the principal structure is the primary commercial, industrial, institutional, or recreational building, excluding utilities.

SECTION II GENERAL POLICIES

A. Purpose

1. The following provisions are intended to accommodate limited use of shoreline areas in certain situations while protecting water quality and wildlife habitat to the extent possible. The portions of the Critical Area to be considered Buffer Exemptions Areas are those “where it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial, or recreational development in the Critical Area prevents the Buffer from fulfilling the functions” set out in COMAR 27.01.09 for water quality protection and wildlife habitat. Buffer Exemption Areas include *only those* areas mapped as Buffer Exemption Areas and approved by the Commission. ~~These areas could, but not necessarily will, include lots of record with an existing single family dwelling unit located at least partially in the Buffer and being less than 200 feet in depth from tidal waters, tidal wetlands or tributary streams.~~
2. *Alternative provisions regulating development in Buffer Exemption Areas may be utilized by a jurisdiction if the provisions are approved by the Critical Area Commission as an amendment to the jurisdiction’s Critical Area Program.*

B. Applicability

1. This section policy applies to ~~new development activities or redevelopment~~ within ~~100 feet~~ the Buffer of tidal waters, tidal wetlands and tributary streams *on parcels or lots mapped as Buffer Exemption Areas (BEA).*
2. This section policy applies only to *grandfathered lots and parcels* ~~lots of record at the time of program approval.~~
3. *The provisions of this policy apply to both natural and man-made lands.*

SECTION III IMPLEMENTATION

A. General Development Standards

1. ~~New Development or redevelopment~~ activities, including, *but not limited to*, structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer ~~Exempt Area~~ unless the applicant can demonstrate ~~there is no feasible alternative~~, and the local jurisdiction finds, that efforts have been made to minimize Buffer impacts based on the following guidelines:
 - a. *Development activities shall be located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.*
 - b. Variances to other local setback requirements must be considered before additional intrusion into the Buffer.
 - c. *Convenience or expense shall not be factors considered when evaluating the extent of allowable impacts to the Buffer.*

2. ~~New Development and redevelopment~~ activities shall minimize the shoreward extent of intrusion into ~~this the Buffer Exempt area~~ by utilizing one of the following methods which shall be approved by the Critical Area Commission at the time a Buffer Exemption Area is mapped: ~~and shall not exceed the shoreward extent of adjacent structures whichever is more restrictive. Structures on adjacent properties may not be used to determine the setback line.~~
 - a. *A jurisdiction shall determine an appropriate BEA setback for each BEA based on the general pattern of Buffer intrusion in the area. For new BEAs, a BEA setback line shall be established when the jurisdiction initially maps the BEA. For previously mapped BEAs, a jurisdiction may establish a setback line as a refinement to its Critical Area Program. On residential properties, the setback line shall be established based on the location of existing dwellings. On non-residential properties, the setback line shall be established based on the location of primary commercial, industrial, recreational or other buildings. Accessory structures, septic systems or other development activities shall not be used to determine the BEA setback line.*
 - b. *A jurisdiction may determine the appropriate location for a BEA setback based on the location of an existing dwelling or principal structure on the lot to be developed or the jurisdiction may use the location of a dwelling or principal structure located farthest from the water on an adjacent lot.*

(The distance shall be measured from the building corner to mean high water or the limit of tidal wetlands or the edge of the tributary stream.)

- c. *Alternative setback establishment methods proposed by a local jurisdiction and approved by the Commission.*
3. No natural vegetation may be removed in the Buffer except that required by the proposed construction. The applicant will be required to maintain any other existing natural vegetation in the Buffer.
4. Development *shall* not impact any Habitat Protection Areas other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
5. *BEA designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer to create additional buildable land for new development activities. Any Buffer Exemption Area setback line shall be based on the distance from the existing shoreline, landward edge of tidal wetlands, or edge of stream.*
6. ~~Any~~ All development activities in the Buffer ~~Exempt Area~~ shall require mitigation. ~~enhancement/or offsets as applicable.~~
7. *If the proposed project involves subdividing a grandfathered parcel, all development activities shall be located at least 50 feet from mean high water, tributary streams or the landward edge of tidal wetlands. On sites where the Buffer is expanded beyond 100 feet because of contiguous sensitive areas such as steep slopes, the 50 foot setback shall be proportionately expanded*

SECTION IV ADDITIONAL REQUIREMENTS FOR LOTS GREATER THAN ONE ACRE

A. *Applicability*

1. *These requirements apply, in addition to all other requirements of this policy and the applicable Critical Area Program, to all development activities on lots or parcels greater than one acre, except for those development activities meeting the definition of a "minor project".*

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Buffer is expanded beyond 100 feet because of contiguous sensitive areas such as steep slopes, the 50 foot setback shall be proportionately expanded.

2. *If a local jurisdiction contends that on a particular parcel, new development activities can not be located at least 50 feet from mean high water or the landward edge of tidal wetlands or tributary streams, then an overall concept development plan shall be submitted by the local jurisdiction to the Critical Area Commission for review and approval. The overall concept development plan shall include information about the location of all proposed development activities, Buffer impacts, mitigation areas, and stormwater management. The overall concept development plan shall include proffers by the applicant that address the functions of the Buffer and shall demonstrate to the satisfaction of the Critical Area Commission that the project is consistent with all BEA development standards and that it meets the spirit and intent of the Critical Area Program. Following approval of a concept development plan by the Critical Area Commission, any changes affecting the location or size of development within the Buffer shall be resubmitted to the Commission for review and approval.*
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 - a. *The extent of the lot or parcel shoreward of all of the new development and redevelopment shall be required to remain, or shall be established and maintained, in natural forest vegetation (woody trees and shrubs); and*
 - b. *Natural forest vegetation (woody trees and shrubs) of an area twice the extent of the ~~impervious surface must be created in the Buffer Exemption~~*

~~offset area or other location as may be determined by the local jurisdiction area of the new structure or impervious surface within the Buffer must be planted. To the maximum extent practicable, the planted forest vegetation shall occur on site and within the Buffer. If the Buffer is fully forested, other locations on site may be considered. If locations on site are inadequate or unavailable, then off-site locations in the Buffer may be considered if those locations are within the Critical Area and the same watershed as the original impact. Native species should be used for all plantings.~~

B. Alternative Mitigation Requirements

1. ~~A local jurisdiction may propose alternative mitigation measures that shall be approved by the Critical Area Commission. Alternative measures proposed by a local jurisdiction and approved by the Critical Area Commission.~~

~~OPTION II:~~

- ~~A. If there is no established naturally vegetated Buffer, then at a minimum, one half of the distance remaining from the structure to tidal waters, tidal wetlands and tributary streams, must be established in natural vegetation starting at the shoreward edge, or~~
- ~~B. A naturally vegetated Buffer must be established adjacent to the shoreline that is equal to the minimum building setback, whichever is greater.~~
- ~~C. Natural vegetation of an area twice the extent of the impervious surface must be created in a Buffer Exemption offset area or other location as may be determined by the local jurisdiction~~

C. Fee-in-Lieu Options for Mitigation

Applicants who cannot comply with the planting requirements, are required to pay into a fee-in-lieu program, administered by the local jurisdiction, according to the specifications below. *Payment into a fee-in-lieu fund should be used only as the last available option. Any fees-in-lieu collected under these provisions shall be placed in an account and used only for projects within the Critical Area that benefit plant and wildlife habitat, improve water quality, or provide environmental education.* The following rates are recommended. ~~These rates are suggested in order to generate adequate funds to carry out offset programs.~~ If a jurisdiction does not believe that these rates are appropriate for their region, alternative rates may be proposed for the Commission's approval.

1. *\$1.20 for each square foot of the Buffer impacted by impervious surfaces; plus*

2. *\$0.40 for each square foot of the Buffer that is not vegetated with native forest vegetation and that is not developed.*

SECTION VII PROCESS FOR APPROVAL OF DEVELOPMENT ON BEA LOTS

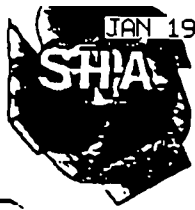
A. Documentation of Findings

Prior to the approval of a development activity on a BEA lot, the local jurisdiction must make written findings and document the basis for the local jurisdiction's finding that all of the requirements of this policy are met, including that disturbance to the Buffer is unavoidable and documenting that all the Criteria in this section are met including that disturbance to the Buffer exempt area is the least intrusion necessary. These findings must be available to the Commission upon request.

B. Reporting to Critical Area Commission

The reporting of development activity carried out under this provision must be included in the jurisdiction's semi-annual report.

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Maryland Department of Transportation
State Highway Administration

O. J. P. 15/16
Secretary
Hal Kassoff
Administrator

April 13, 1993

RE: CAC/MDOT Memorandum of Understanding (MOU)

Dr. Sarah J. Taylor
Chesapeake Bay Critical Area Commission
45 Calvert Street 2nd Floor
Annapolis, Maryland 21401

Attention: Ms. Claudia Jones

Dear Dr. Taylor:

Thank you for taking the time to meet with us on March 30th to discuss the General Approval provisions of our MOU as applicable to SHA projects. Our meeting successfully established a process for administering maintenance and minor rehabilitation type projects in the Critical Area.

Specifically, we agreed to adhere to the following interpretation of the guidelines set forth in Appendix A of the MOU:

- A. For activities within the Intense and/or Limited Development Areas as indicated on local Critical Area maps.
 1. Projects which involve no net change in impervious area within the Critical Area (CA) are authorized under the General Approval and will not be reported to the Commission.
 2. Projects which involve up to a 10% increase in impervious area within the CA will incorporate stormwater quality management measures sufficient to achieve a 10% reduction in pollutant loadings below existing levels. Offsets in the form of debits to the MD Department of Environment (MDE)/SHA water quality bank are acceptable in lieu of onsite management. These projects are authorized under the General Approval and will be reported to the Commission on either January 1 or July 1, and will include projects initiated during the previous six months. These biannual reports will provide project descriptions, amount of new impervious area and the proposed method of management.

My telephone number is 333-1370


Page 2

Additionally, a current accounting of the MDE/SHA water quality bank will be provided. As previously agreed, all water quality obligations will be satisfied within 2 years of project initiation.

3. Projects which involve increases in impervious area within the CA in excess of 10% shall be submitted to the Commission with full documentation for a complete review by both CA staff and the Commission itself.
- B. For activities undertaken within the Resource Conservation area as indicated on local Critical Area maps, that come under General Approval, the stormwater management design shall adhere to all existing guidelines developed by MDE and DNR. No submittal shall be made to the Commission.
- C. All other requirements as set forth in COMAR 27.02.05 (14.19.05) must be followed including the habitat protection area criteria in Regulations 27.02.05.03-.09.

We believe institution of these guidelines will streamline the design/review process and we look forward to working with your staff to resolve any other unique situations which may arise. Should you have any questions or comments, please call Kirk McClelland at (410) 333-1274.

Very truly yours,



Stephen F. Drumm, Chief
Highway Design Division

✓
SFD/KGM/dp

cc: Mr. Bill Mangels
Mr. Ren Serey
Mr. Edward Stein
Ms. Cynthia Simpson
Ms. Linda Kelbaugh
Mr. Bruce Grey