

Chesapeake Bay Critical Area Commission  
Department of Natural Resources  
Tawes State Office Building  
504 Taylor Avenue  
Annapolis, Maryland 21401  
October 4, 2000

**AGENDA**

**Conference Room C-1**

1:00 p.m. - 1:05 p.m. Approval of Minutes  
of August 2, 2000 John C. North, II, Chair

1:05 p.m. - 1:25 p.m. Special Presentation  
"Innovative Stormwater Management Techniques" Lauren Wenzel, DNR  
*Ron Gardner*

**PROGRAM AMENDMENTS and REFINEMENTS**

1:25 p.m. - 1:40 p.m. VOTE: Anne Arundel County  
Homeport Growth Allocation Lisa Hoerger, Planner

1:40 p.m. - 2:00 p.m. REFINEMENT: Town of Denton  
BEA Provisions and Crouse Park BEA Designation Roby Hurley, Circuit Rider

2:00 p.m. - 2:10 p.m. VOTE : Dorchester County  
Packrat Storage Growth Allocation Mary Owens, Pgm. Chief

**PROJECT EVALUATION**

2:10 p.m. - 2:20 p.m. VOTE: MDTA  
Police Memorial Garden Lisa Hoerger, Planner

2:20 p.m. - 2:30 p.m. VOTE: University of Maryland  
Horn Point Research Facility Regina Esslinger, Project Chief

2:30 p.m. - 3:00 p.m. Old Business John C. North, II, Chairman

• COMMENT  
ON  
DAY ON BAY(?)  
to encourage  
attendance &  
participation June, 2001 vs. A Sept. date

**Chesapeake Bay Critical Area Commission  
Department of Natural Resources  
Tawes State Office Building  
504 Taylor Avenue  
Annapolis, Maryland 21401  
October 4, 2000**

**AGENDA**

**SUBCOMMITTEES**

**9:30a.m. - 11:30 a.m. Project Evaluation Conference Room C-1**

**Members:** Cain, Witten, Bourdon, Giese, Goodman, Jones, Cooksey, Hearn, Graves, Olszewski, Jackson, McLean

Update - Woodrow Wilson Bridge

Lisa Hoerger, Planner

Baltimore County MDTA - Police Memorial Garden

Lisa Hoerger, Planner

Dorchester County, University of Maryland Research Facility

Regina Esslinger, Project Chief

**11:00 a.m. - 11:45 p.m. Program Implementation Conference Room C-4**

**Members:** Myers, Barker, Wynkoop, Foor, Johnson, Lawrence, Duket, Samorajczyk, Bradley

Town of Denton/BEA Provisions & Crouse Park

Roby Hurley, Circuit Rider

BEA Designation

Dorchester County/Packrat Storage Growth Allocation

Mary Owens, Program Chief

**11:45 a.m. - 12:15 p.m. Panel: Anne Arundel County Conference Room C-4**

**Members:** Duket, Foor, Lawrence, Goodman

Homeport Farm Growth Allocation

Lisa Hoerger, Planner

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

**Chesapeake Bay Critical Area Commission**  
**Department of Housing and Community**  
**People's Resource Center**  
**Crownsville, Maryland 21401**  
**August 2, 2000**

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**:

McLean, James H. Dept. Business and Economic Dev.	
Bourdon, Dave, Calvert County	Bradley, Clinton, Eastern Shore MAL
Barker, Philip, Harford County	Wenzel, Lauren, DNR
Cooksey, David, Charles County	Witten, Jack, St. Mary's County
Jones, Paul, Talbot County	Foor, Dr. James, Queen Anne's County
Olszewski, John Anthony, Baltimore Co.	Sherry Appel for, Wynkoop, Samuel, P.G. County
Duket, Larry, Md. Of. Plng.	Setzer, Gary for Hearn, J.L., Md Dept. Environ.
Samorajczyk, Barbara D., A.A. County	Goodman, Robert, DHCD
Lawrence, Louise, Dept. Agriculture	Giese, William, Jr., Dorchester County

**Not in Attendance:**

Cain, Deborah B., Cecil Co.	VACANT, Kent County
Graves, Charles, Baltimore City	VACANT, Western Shore MAL
Jackson, Joe, Worcester County	VACANT, Somerset County
Johnson, Samuel Q., Wicomico County	VACANT, Md. Dept. Transportation
Myers, Andrew, Caroline County	

The Minutes of July 5, 2000 were approved as read.

Roby Hurley, Circuit Rider, CBCAC presented for VOTE the four year Comprehensive Review for the Town of Queen Anne. He said that significant revisions were necessary, however the Planning Staff has worked closely with the Town Planning Commission to use a model ordinance to replace the existing Critical Area document and related ordinance language. Mr. Hurley briefed the Commission on the changes to the program and the maps. He said that the new model ordinance was designed to be sufficiently comprehensive so that a separate program document would no longer be required. It will address the specific conditions in the Town of Queen Anne, designed to function as a stand alone Critical Area ordinance. The new ordinance contains updated information from the Heritage Division of the Department of Natural Resources on Habitat Protection Areas; specific provisions for enforcement of violations in the Critical Area, new provisions relating to impervious surface limits, and clearer language about grandfathering, variances, water-dependent facilities and shore erosion control. It also includes the provisions of the current Commission Growth Allocation policy. New land use maps and resource inventory mapping has been done. Dr. Foor moved to approve the ordinance for the Town of Queen Anne. The motion was seconded by Mr. McLean and carried unanimously.

Dawnn McCleary, Planner, CBCAC presented for VOTE the four-year review of the Critical Area

Program for Annapolis. This review included the Critical Area provisions of the City Code and a review of the City's Critical Area Buffer Exemption (BEA) maps for BEA designation. Deficiencies that were identified during the Comprehensive Review were addressed by this revised City code which was approved in Ordinance No. 0-6-2000 by the City Council. Mrs. McCleary reviewed the elements of major changes of the ordinance: 1. The definition of water-dependent structures - structures associated with on-land boat storage and boat repair and maintenance, not considered water dependent under the State regs, but will be under the Buffer Exemption areas that are being created. 2. Buffer exemption areas was added to the City ordinance to bring the City into compliance with State regulations. 3. The impervious surface in development requirement for LDA was rewritten to comply with the changes to the State regulations. 4. Uses in the RCA provisions were rewritten to be more specific and to conform to the State regulations. 5. Language was changed for water dependent facilities for clarity of residential private piers as permitted uses. 6. Grandfathering provisions, inconsistent with the Criteria, were revised to reflect the State regulations concerning grandfathering for subdivisions. 7. Variance standards were changed to conform with State Law to reflect unwarranted hardship. 8. The administrative variances section was revised to be consistent with the Critical Area Criteria. Jeff Tourney, Annapolis City Planning and Zoning, was introduced by Mrs. McCleary who reviewed in detail, the Buffer Exemption Area mapping and evaluations which were added for all new development and redevelopment on lots of record within the Critical Area Buffer. The Commission's policy on Buffer Exemption Areas, dated April 5, 2000, was adopted by the City. Louise Lawrence moved to approve the Annapolis ordinance as presented. The motion was seconded by Dr. Foor and carried unanimously. Judge North stated that the many problems and issues with the City in the BEA designation have been fully resolved and he assured the City representatives that sanctions will not occur and will not be forthcoming.

LeeAnne Chandler, Planner, CBCAC presented for VOTE the proposal by Anne Arundel County Public Schools (AACPS) to renovate Mayo Elementary School. The proposal is to demolish the existing school and replace it with a new two-story structure and parking improvements. She described the technical details of the project and said that because the proposed school will exceed impervious surface limits, it will require Conditional Approval by the Commission under COMAR 27.02.06, the Commission's regulations for State and local government activities. This project meets all the characteristics for being considered for a conditional approval because, 1. There exists special circumstances, 2. The school would provide substantial public benefit, and 3. it is otherwise in conformance with state criteria and the County's Critical Area Program. Further, it was found that a literal enforcement would prevent AACPS from constructing a new school and that with the exception of the excessive amount of imperviousness, the project is consistent with the local program. The effort has been made to minimize impervious surfaces on this site and there would have been a greater impact to the alternative site. Dave Bourdon moved to approve the proposal by Anne Arundel County for renovating Mayo Elementary School with three conditions: 1. The applicant shall resubmit any revisions to the plan to the County for review and to the Commission for approval. 2. The applicant will work with County and Commission staff regarding the use of only native species in landscaping the site. 3. If the construction of the school starts after the new State stormwater management regs are in effect, storage in the stormwater management structure facility will be increased to be consistent with the new regulations. The motion was seconded by Bill Giese and carried unanimously.

Ren Serey, Executive Director, CBCAC presented for VOTE the replacement of Pepco's ruptured pipeline at the Chalk Point Generating Station in Prince George's County which runs under Swanson Creek and a tidal marsh. In April of 1994 the Commission entered into a Memorandum of Understanding with PEPCO and the County which would bring certain projects to the Commission for approval rather than to the

County. These projects involve activities which would ordinarily require a variance under the County program. This portion of the pipe is located in the Critical Area Buffer and requires a variance under the County program. Mr. Serey introduced Ron Holman and Ed Krueger, Pepco representatives, who described the technical details of the project to the Commission. The Commission staff recommended approval of this project after a site visit and discussions with the permitting agencies and a review of PEPCO's submitted materials. There appears to be no feasible alternatives to the proposal and disturbance will be minimal. There are no threatened or endangered species and there are no other Critical Area Habitat Protection Areas affected. Approved sediment and erosion control plans appear to provide adequate protection to the marsh. Dave Bourdon moved to approve the project proposed by PEPCO to replace the ruptured pipeline as presented. The motion was seconded by Louise Lawrence and carried unanimously.

**OLD BUSINESS**

There was no old business reported.

**NEW BUSINESS**

There was no new business reported.

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Secretary

**CHESAPEAKE BAY CRITICAL AREA COMMISSION**

**STAFF REPORT**

**October 4, 2000**

**APPLICANT:** Anne Arundel County

**PROPOSAL:** Growth Allocation - Homeport Farm

**COMMISSION ACTION:** Vote

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

**PANEL RECOMMENDATION:** Pending Panel Discussion

**STAFF:** Lisa Hoerger

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

**DISCUSSION:**

Anne Arundel County is requesting growth allocation for the Homeport Farm parcel that will change 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 open 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 of the property 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 as mitigation for clearing associated with the proposed development.

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. In fact, a portion of this twenty acre set aside supports an existing dwelling.

The County has addressed the guidelines found in both Natural Resources Article 8-1808.1 and COMAR 27.01.02.06 with 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. Although a 300-foot Buffer was not provided on this project, the 100-foot Buffer was delineated in the field and will be established as forest in accordance with COMAR 27.01.09.01. Following approval of this project, the County has 57.66 acres of growth allocation remaining that can be used to change from RCA to LDA.

# HOMEPORT FARM



VICINITY MAP  
SCALE = 2,000'

### SITE DATA

- 1. Total Site Area: 11.97 Acres (see map)
- 2. Area South of Church Creek: 11.75 Acres
- 3. Area North of Church Creek: 0.22 Acres
- 4. County Park Area: 25.15 Acres
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- 48. County Park Area: 25.15 Acres
- 49. County Park Area: 25.15 Acres
- 50. County Park Area: 25.15 Acres

POTENTIAL ARCHAEOLOGY SITE  
SUBJECT TO FUTURE STUDY

TIDAL WETLANDS  
NON-TIDAL WETLANDS

COUNTY PARK / RECREATION AREA: 25.15

RCA

ANNE ARUNDEL Co

CHURCH CREEK

HOUSE TO BE DOCUMENTED OR  
RELOCATED PER AGREEMENT  
WITH ANNE ARUNDEL COUNTY

COMMUNITY OPEN SPACE / REFORESTATION AREA  
6.49 AC

COMMUNITY ACCESS / PIER  
0.192 AC  
(SUBJECT TO SPECIAL  
EXCEPTION APPROVAL)

COMMUNITY OPEN SPACE  
1.69 AC

RCA

POTENTIAL ARCHAEOLOGY SITE  
SUBJECT TO FUTURE STUDY

ACCESS CONFIGURATION AND  
IMPROVEMENTS TO BE  
DETERMINED BY MD.SHA

### LEGEND

- EXISTING CONTOURS
- STEEP SLOPES
- STEEL SLOPES
- STREET TREE LINES
- TIDAL WETLANDS
- NON-TIDAL WETLANDS
- POTENTIAL ARCHAEOLOGY SITES
- PROPOSED LDA

### GENERAL NOTES

1. The boundary survey was performed in 1998.

2. The proposed LDA is based on the 1998 boundary survey.

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## Proposed LDA



**FERRAIN, INC.**  
LAND ENGINEERING & DEVELOPMENT SERVICES  
44 SOLOMON'S ISLAND ROAD  
ANAPOLIS, MARYLAND 21401

GROWTH ALLOCATION CONCEPT PLAN  
HOMEPORT FARM  
TAX MAP: 516 BLOCKS 14 ANNE ARUNDEL COUNTY, MD  
TAX ACCOUNT NO: 00000000000000000000  
M&T TAX DISTRICT: ANNE ARUNDEL COUNTY, MD  
SCALE: 1" = 100'



## ***Chesapeake Bay Critical Area Commission***

### **STAFF REPORT**

**October 4, 2000**

**APPLICANT:** Town of Denton

**PROPOSAL:** Refinement- Crouse Park Buffer Exemption Area (BEA)  
Refinement- Zoning Ordinance Text Amendment: BEA Provisions

**JURISDICTION:** Town of Denton

**COMMISSION ACTION:** Concurrence with Chairman's Determination

**STAFF RECOMMENDATION:** Approval

**STAFF:** Roby Hurley/ Dawnn McCleary

**APPLICABLE LAW/  
REGULATIONS:** Natural Resources Article 8- 1809 (h) and (p)  
COMAR 27.01.09.01.C(8)

### **DISCUSSION:**

The Town of Denton is proposing to add an additional Buffer Exemption Area to the four areas previously mapped and to amend the Denton Zoning Ordinance to incorporate the provisions of the Commission's revised BEA policy. The site that is proposed for designation as a BEA is located at Crouse Park, where the former Choptank River bridge foundation and the current bridge foundation are located. A portion of the new bridge passes over the site. Currently, the site is publicly owned and used as a park for Town residents; however, sections may be leased to a private enterprise in the future.

In addition to the development described above, the site contains extensive gravel fill material, a public boat ramp, and a large parking lot. The shoreline is entirely bulkheaded. The existing pattern of development on the site prevents the Buffer from fulfilling the functions relating to water quality and habitat protection as stated in COMAR 27.01.09.01.B. The attached Buffer Exemption Area Evaluation documents existing conditions on the site relevant to the BEA designation. *(Please see Enclosure 1.)*

**Continued, Page Two**  
**Crouse Park\BEA Refinement**  
**October 4, 2000**

The Town's Critical Area Maps were amended in 1999 as part of the Town's four year comprehensive review and the maps included the four BEAs designated by the Town at that time. The firm of George, Miles and Buhr was contracted to prepare both a site map and to revise the Town's Critical Area Maps to show the Crouse Park BEA. *(Please see Enclosures 2 and 3)*

As you know, the Commission approved substantial revisions (including a new policy for Commercial, Industrial, Institutional, Recreational and Multi-Family Residential Development) to their Buffer Exemption Area Policy in April of this year. When these revisions were approved, it was the Commission's intent that they would be incorporated into local ordinances during comprehensive reviews or when requested by a jurisdiction. The Town is anxious to incorporate the Commission's revised policies because they believe that it will facilitate economically viable and environmentally sound development on the Crouse Park site.

In order to incorporate the new policies into the Town's Zoning Ordinance, the Town is repealing Section 4-17 of their zoning ordinance, which contains BEA provisions based on the Commission's former BEA Policy, and they are enacting new ordinance language based on the recently approved policies. *(Please see Enclosure 4.)*

The Mayor and Commissioners approved these two refinements on August 7, 2000 following two public hearings on the changes. Chairman North has determined that this growth allocation request can be approved as a refinement to the Town's Critical Area program and is seeking the Commission's concurrence.

**TOWN OF DENTON  
BUFFER EXEMPTION AREA EVALUATION**

**Crouse Park Site  
(Enclosure 1)**

Denton is requesting that the "Crouse Park Site" be designated as a Buffer Exemption Area (BEA) because the existing pattern of development prevents the Buffer from fulfilling the functions set forth in the Section 27.01.09.01 of the Critical Area Criteria. Existing development on this site includes a highway bridge overpass, extensive gravel fill material, the old bridge foundation and bulkhead, a boat ramp and associated parking. The entire shoreline on the property is bulkheaded. The only vegetation on the site is a strip of mowed lawn approximately 15 feet wide on part of the shoreline in between the bulkhead and the parking lot. There are approximately five individual trees in the lawn area. There is a grassy meadow on the southwest portion of the property. The site is publicly owned, however sections may be leased to a private enterprise in the future.

In evaluating the site for designation as a Buffer Exemption Area, the following factors were considered:

- 1) The Buffer's ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised because there are existing structures and a parking lot in the Buffer. Existing development in the Buffer is located generally less than 25 feet from the shoreline. The small amount of existing vegetation within the Buffer consists of lawn grass and approximately five trees.
- 2) The Buffer's effectiveness at minimizing the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources is limited because human activities are taking place very close to the shoreline due to the location of existing development and the lack of any real natural vegetation in the Buffer. The site is located adjacent and under the Route 404 Bridge, so the site is especially impacted by vehicular traffic. There are no areas of natural vegetation to provide habitat within the Buffer and the shoreline is protected with a bulkhead.
- 3) The Buffer does not function optimally as an area of transitional habitat between aquatic and upland communities because this area is developed with structures and parking. There is no natural vegetation to provide food or cover for wildlife. The strip of grass between the parking lot and the water does provide some nominal filtering of run-off; however, this water quality function could be enhanced by the additional plantings that would be required as mitigation for development within the Buffer.
- 4) The Buffer does not function to maintain the natural environment of streams because there are no streams on this particular property. •

**Continued, Page Two**  
**Buffer Exemption Request**  
**Crouse Park Site**  
**October 4, 2000**

- 5) The Buffer's capacity for protecting wildlife habitat on this site is severely limited because the Buffer is developed and is actively used for parking, recreation and maintenance. Human disturbance to wildlife would be unavoidable because of the location and type of development, the impact of vehicular traffic on the bridge, and the intensity of use of the site.

ENCLOSURE 2


LEGEND

- LDA LIMITED DEVELOPMENT AREA
- DA INTENSELY DEVELOPED AREA
- CC ZONING DISTRICTS
- RAILROAD
- CRITICAL LIMIT LINE
- TOWN LIMITS
- TREE LINES
- WET LAND TYPES
- FLOOD ZONES
- BUFFER EXEMPTION AREAS FOR DEMONSTRATION PURPOSES ONLY. FIELD IDENTIFICATION IS REQUIRED FOR DETERMINING ACTUAL BUFFER.





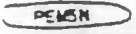

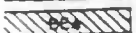
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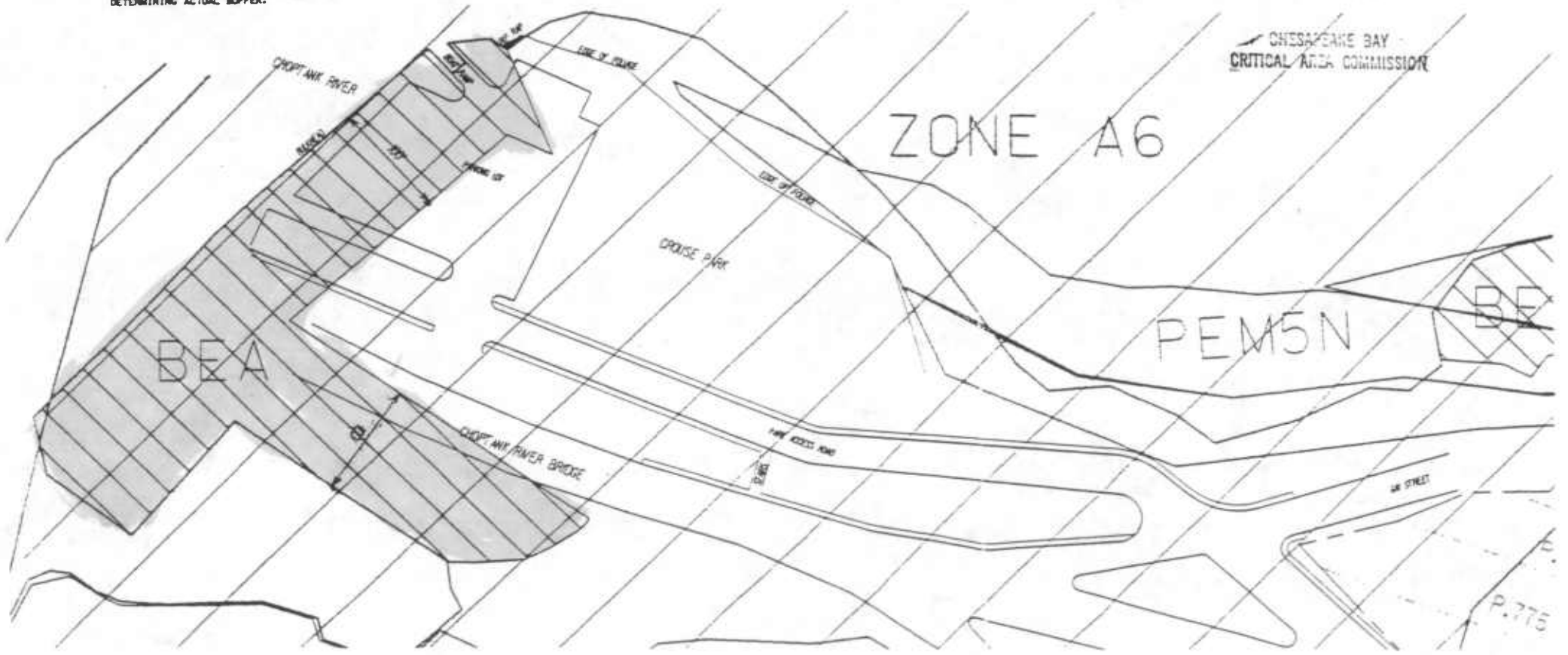
**CRITICAL AREA MAP**  
**DENTON, MARYLAND**

Scale: 0 100 200 300 400 500  
 JULY 1988  
  
Geotechnical Mapping Resources, Inc.

# Enclosure 3

## LEGEND

-  ZONING DISTRICTS
-  TWEED LINES
-  WET LAND TYPES
-  FLOOD ZONES
-  BUFFER EXEMPTION AREAS  
FOR DEMONSTRATION PURPOSES ONLY.  
FIELD IDENTIFICATION IS REQUIRED FOR  
DETERMINING ACTUAL BUFFER.



RECEIVED

AUG 20 2006

CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

CROUSE  
PARK  
LOCATION

BUFFER EXEMPTION AREAS  
DENTON, MARYLAND

**GMB**  
 GEORGE, MILES & BUIR, LLP  
 ARCHITECTS & ENGINEERS  
 BALTIMORE · BALTIMORE · LEWES · SEAFORD · YORK  
 www.gmbnet.com

(Denton Enclosure 4 )

(e) **BUFFER EXEMPTION AREA (BEA)-RESIDENTIAL**

- (1) **Definition.** *Buffer Exemption Area(s)* means 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. *(as specified in COMAR 27.01.09.01.B)*
  
- (2) **General Policy.** The provisions herein are intended to accommodate limited use of shoreline areas in certain situations of single family detached residential development while protecting water quality and wildlife habitat to the *greatest* extent possible.
  
- (3) **Applicability.** The following criteria applies to new development or redevelopment on single family detached residential properties and only applies to lots of record at the time of original program approval.
  
- (4) **Standards.**
  - A. New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative.
  
  - B. New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 25 feet from the water (or the edge of tidal wetlands).
  
  - C. Existing principal or accessory structures in the Buffer may be replaced in the same location. Any increase in impervious area within the Buffer shall comply fully with the requirements of this policy.

- D. New accessory structures may be permitted in the Buffer in accordance with the following setback requirements:
1. New accessory structures may be located closer to the water or edge of tidal wetlands than the dwelling only if there are no other locations for the accessory structures.
  2. The area of the accessory structures within the Buffer shall be minimized and the cumulative total area of all new and existing accessory structures on the property shall not exceed 500 square feet within 50 feet of the water and 1000 square feet total.
  3. In no case shall new accessory structures be located less than 25 feet from the water (or edge of tidal wetlands).
- E. Variances to local setback requirements should be considered before additional intrusion into the Buffer.
- F. Development may not impact any HPAs other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
- G. 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.
- H. 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 or redevelopment.
- I. Any development in the Buffer Exempt Area requires mitigation, in the form of plantings, offsets, or fees-in-lieu.
- J. Any required reforestation/mitigation/offset areas must be designated under a development agreement or other instrument and recorded among the land records of the jurisdiction.

(5) **Mitigation.** Mitigation measures shall be implemented in the following order of preference:

- A. Natural vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on



site in the Buffer or other location as may be determined by the local jurisdiction. If it is not possible to carry out offsets or other mitigation within the Critical Area, any plantings or other habitat/water quality improvements should occur within the affected watershed.

- B. Applicants who cannot comply with the planting requirement may use offsets to meet the mitigation requirement. Offsets may include the removal of an equivalent area of existing impervious surfaces in the Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.
- C. Applicants who cannot comply with either the planting or offset requirements in a or b above, are required to pay into a fee-in-lieu program administered by the local jurisdiction. A jurisdiction shall establish rates that will generate adequate funds to carry out planting or offset programs. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area for the benefit of wildlife habitat and water quality improvement. The status of these funds must be reported in the jurisdiction's quarterly reports.
- D. Alternative provisions for meeting the mitigation requirements may be proposed by a local jurisdiction and approved by the Critical Area Commission.

**(6) Notification Requirements**

- A. The local jurisdiction must make written findings documenting that all the Criteria in this section are met including that the disturbance to the Buffer is the least intrusion necessary. These findings must be available to the Commission upon request.
- B. The reporting of development activity carried out under this provision must be included in the jurisdiction's quarterly reports.

**(7) Requirements for Mapping New BEAs**

- A. Only grandfathered lots are eligible for mapping as a BEA by the Town.
- B. For each BEA, the lots that comprise the BEA shall contain a Buffer which is, at the time of the proposal, significantly impacted by

development activities that existed at the time of program adoption and that prevent the Buffer from fulfilling its functions. Developed parcels or lots shall contain a Buffer intrusion, at the time of proposal, caused by the existing principal structures (excluding utilities or septic systems). Undeveloped or vacant residential parcels or lots (i.e., infill) may be designated as a BEA if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development.

- C. Any proposal by a jurisdiction for designation of an area as a BEA shall include, at a minimum, the jurisdiction's written findings of and supporting reasons which demonstrate the degree to which the proposed BEA does not perform each of the following Buffer functions (1) through (5):
1. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
  2. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
  3. Maintain an area of transitional habitat between aquatic and upland communities;
  4. Maintain the natural environment of streams; and
  5. Protect riparian wildlife habitat.

(Enclosure 4)

(f) **BUFFER EXEMPTION AREA (BEA)-COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, RECREATIONAL AND MULTI-FAMILY RESIDENTIAL**

- (1) **Definition.** "Buffer Exemption Area(s)" means 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 (as specified in COMAR 27.01.09.01.B).
- (2) **General Policy.** The provisions herein are intended to accommodate limited use of shoreline areas in certain situations while protecting water quality and wildlife habitat to the greatest extent possible.
- (3) **Applicability.** The following criteria applies to new commercial, industrial, institutional, recreational, and multi-family residential development or redevelopment within 100 feet of tidal waters, tidal wetlands, and tributary streams and only applies to lots of record at the time of original program approval.
- (4) **Standards.**
  - A. New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative, and the Town finds that efforts have been made to minimize Buffer impacts based on the following guidelines:
    1. Development and redevelopment activities shall be located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
    2. Variances to other local setback requirements shall be considered before additional intrusion into the Buffer.
    3. Convenience or expense shall not be factors considered when evaluating the extent of allowable impacts to the Buffer.

- B. New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the Town setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. The 50 foot setback shall be maintained for all subsequent development or redevelopment of the property.
- C. Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. Existing structures located within the setback may remain or a new structure may be constructed on the footprint of an existing structure or impervious surface. Opportunities to establish a 25 foot setback should be maximized.
- D. Development and redevelopment may not impact any HPAs other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
- E. 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.
- F. BEA designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.
- G. Any development or redevelopment in the Buffer Exemption Area requires mitigation, in the form of plantings, offsets, or fees-in-lieu.
- H. Any required reforestation/mitigation/offset areas must be designated under a development agreement or other instrument and recorded among the land records of the jurisdiction.

(5) **Mitigation**

- A. The following mitigation measure shall be implemented for all development and redevelopment projects:

- (1) A forested or landscaped bufferyard, 25 feet wide, shall be established on the project site between the development and the water. This bufferyard shall be densely planted with trees and shrubs in accordance with Table 1, below.
- (2) On redevelopment sites, if existing structures or those rebuilt on an existing footprint limit the area available for planting, then appropriate modifications to the width of the planted bufferyard may be made on a case by case basis.

**Table 1  
Required Bufferyard Planting**

Area	Quantity and Stocking	Suggested Species
For every 100 linear feet of bufferyard	5 Trees and	White or Red Oak, Pin Oak, Willow Oak, Red Maple, American Holly, Eastern Red Cedar
	10 Understory Trees/Large Shrubs, and	Dogwood, Mountain Laurel, Bayberry, Shadbush, Winterberry
	30 Small Shrubs and	Pepperbush, Chokeberry, Strawberry Bush, Sweetspire
	40 Herbaceous Plants, Grasses, Etc.	Wild Columbine, Butterflyweed, Common Milkweed, Asters

- B. In addition to establishing a 25 foot bufferyard on site as described above, one of the following mitigation measures shall be implemented based on the following order of preference:
  1. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location, preferably on-site, as may be determined by the Town.
  2. Applicants who cannot fully comply with the planting requirement in "1" above, may use offsets to meet the mitigation requirement. Offsets may include the removal of an equivalent area of existing impervious surfaces in the

Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.

3. Applicants who cannot comply with either the planting or offset requirements in "1" or "2" above, are required to pay into a fee-in-lieu program administered by the Town. The Town has established a rate of \$1.20 per square ft. of BEA disturbed. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area for the benefit of wildlife habitat and water quality improvement. The status of these funds must be reported in the Town's quarterly reports.
  4. Alternative provisions for meeting the mitigation requirements may be proposed by the Town and approved by the Critical Area Commission.
- C. Any required mitigation/offset areas must be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the jurisdiction.

**(6) Notification Requirements.**

- A. Within Buffer Exemption Areas, all new commercial, industrial, institutional, recreational, and multi-family residential development or redevelopment projects shall be submitted to the Critical Area Commission in accordance with COMAR 27.03.01.03. Mitigation plans shall be included as part of the project submission.
- B. The Town must make written findings documenting that all the Criteria in this section are met including that the disturbance to the Buffer is the least intrusion necessary. These findings must be available to the Commission upon request.
- C. The reporting of development activity carried out under this provision must be included in the Town's quarterly reports.

**(7) Requirements for Mapping New BEAs.**

- A. Only grandfathered lots are eligible for mapping as a BEA by the Town.
- B. For each BEA, the lots that comprise the BEA shall contain a Buffer which is, at the time of the proposal, significantly impacted by development activities that existed at the time of program adoption and that prevent the Buffer from fulfilling its functions. Developed parcels or lots shall contain a Buffer intrusion, at the time of proposal, caused by the existing principal structures (excluding utilities or septic systems). Undeveloped or vacant residential parcels or lots (i.e., infill) may be designated as a BEA if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development.
- C. If only part of a parcel or lot meets the criteria for designation as a BEA then only those portions of a parcel or lot shall 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 shall comply fully with the 100-foot Buffer restrictions.
- D. Any proposal by a jurisdiction for designation of an area as a BEA shall include, at a minimum, the jurisdiction's written findings of and supporting reasons which demonstrate the degree to which the proposed BEA does not perform each of the following Buffer functions (a) through (e):
  - 1. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
  - 2. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
  - 3. Maintain an area of transitional habitat between aquatic and upland communities;
  - 4. Maintain the natural environment of streams; and
  - 5. Protect riparian wildlife habitat.

**(8) Location Of Town BEAs**

A. The Town Critical Area Map displays all approved BEAs and they are identified as follows:

1. Jail BEA(including lots 772,771 and 770)
2. Apartment BEA
3. Railroad BEA
4. Second St. BEA
5. Crouse Park BEA



## Zoning Ordinance Amendment

### Additional Definitions

#### (Enclosure 4)

**Bufferyard** means an area, at least 25 feet wide, located between development activity and the water (or edge of wetlands or streams), planted with vegetation consisting of native species and other appropriate plantings. This area shall be maintained primarily for the purposes of wildlife habitat and water quality and shall not be maintained in a manner that conflicts with these purposes such as by mowing or the application of herbicides.

- \* **Grandfathered Parcel/Lot (Critical Area)** means a parcel of land or lot that was subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.
- \* **Development Activity** means 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. For purposes of implementing this policy, development activity does not include subdivision.

**Natural Forest Vegetation** means vegetation consisting 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.

**New Development** means a development activity that takes place on a property with pre-development imperviousness less than 15 percent as of December 1, 1985.

**Principal Structure** means, for the purpose of establishing setbacks, the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling, excluding utilities and the septic system.

- \* **Redevelopment** means a development activity that takes place on a property with pre-development imperviousness greater than 15 percent as of December 1, 1985.

\*Add to existing definition in zoning ordinance.

# *Chesapeake Bay Critical Area Commission*

## **STAFF REPORT**

**October 4, 2000**

**APPLICANT:** Dorchester County

**PROPOSAL:** Pack Rat Storage Growth Allocation

**JURISDICTION:** Dorchester County

**COMMISSION ACTION:** Concurrence with Chairman's Determination

**STAFF RECOMMENDATION:** Approval

**STAFF:** Mary Owens

**APPLICABLE LAW/  
REGULATIONS:** Annotated Code of Maryland, Natural Resources Article  
§8-1808.1: Growth Allocation in Resource Conservation  
Areas

COMAR 27.01.02.06: Location and Extent of Future  
Intensely Developed and Limited Development Areas

### **DISCUSSION:**

Dorchester County is requesting approval of the use of 2.36 acres of growth allocation to change the Critical Area overlay designation of the Pack Rat Storage property from Limited Development Area to Intensely Developed Area. The site is located at the corner of Route 50 and Cedar Drive, east of Cambridge, and the proposed new IDA is located within an existing LDA. The property is located in a designated growth area in Dorchester County, and the B-2 zoning is consistent with the IDA overlay classification.

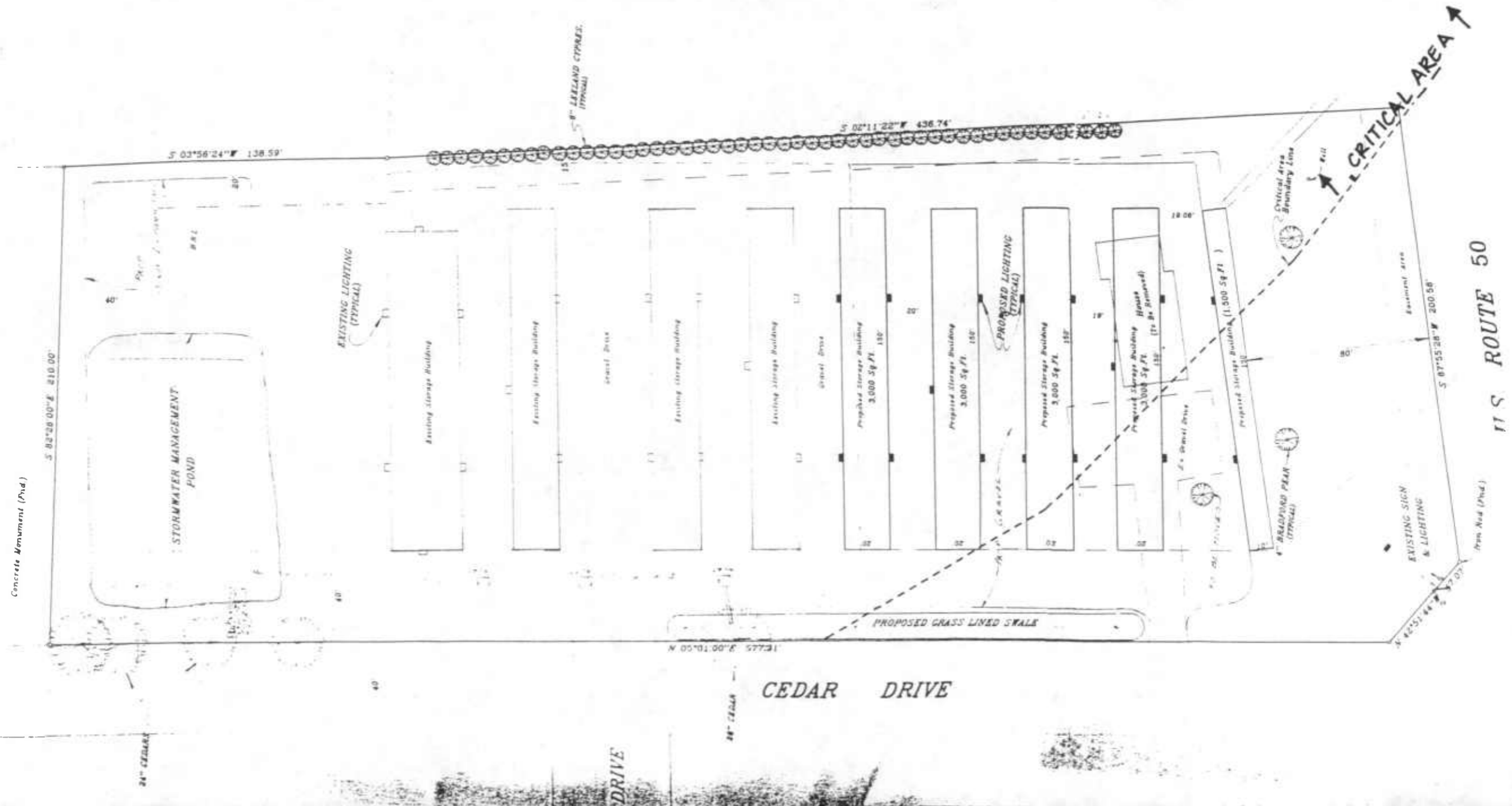
The County is requesting growth allocation to change the designation of the property to IDA because the property owner is proposing to expand the public storage operation on the property, and the site is already over the 15% impervious surface limit. When the project is complete, the property will be developed with nine storage buildings, each approximately 3,000 square feet in size, and associated driveways and parking.

The property is currently developed with four storage buildings, associated parking, and a stormwater management pond. The remainder of the property is a relatively level, open field. There are no known threatened or endangered species located on the property, and the property

does not include any areas within the 100-foot Buffer. The applicant has provided calculations demonstrating compliance with the 10% pollutant reduction requirement, and the stormwater pond will be expanded and a new grassed swale constructed in order to meet this requirement. There are some existing trees near the stormwater pond, and the applicant is proposing to provide a row of evergreen trees along the rear of the property and some additional landscape plantings around the stormwater management pond and near the site entrance.

Chairman North has determined that this growth allocation request can be approved as a refinement and is seeking the Commission's concurrence.

# PACK RAT STORAGE GROWTH ALLOCATION



# *Chesapeake Bay Critical Area Commission*

## **STAFF REPORT**

**October 4, 2000**

**APPLICANT:** Maryland Transportation Authority

**PROPOSAL:** Police Memorial Garden at MdTA Police Headquarters

**JURISDICTION:** Baltimore County

**COMMISSION ACTION:** Vote

**STAFF RECOMMENDATION:** Approval with condition

**STAFF:** Lisa Hoerger

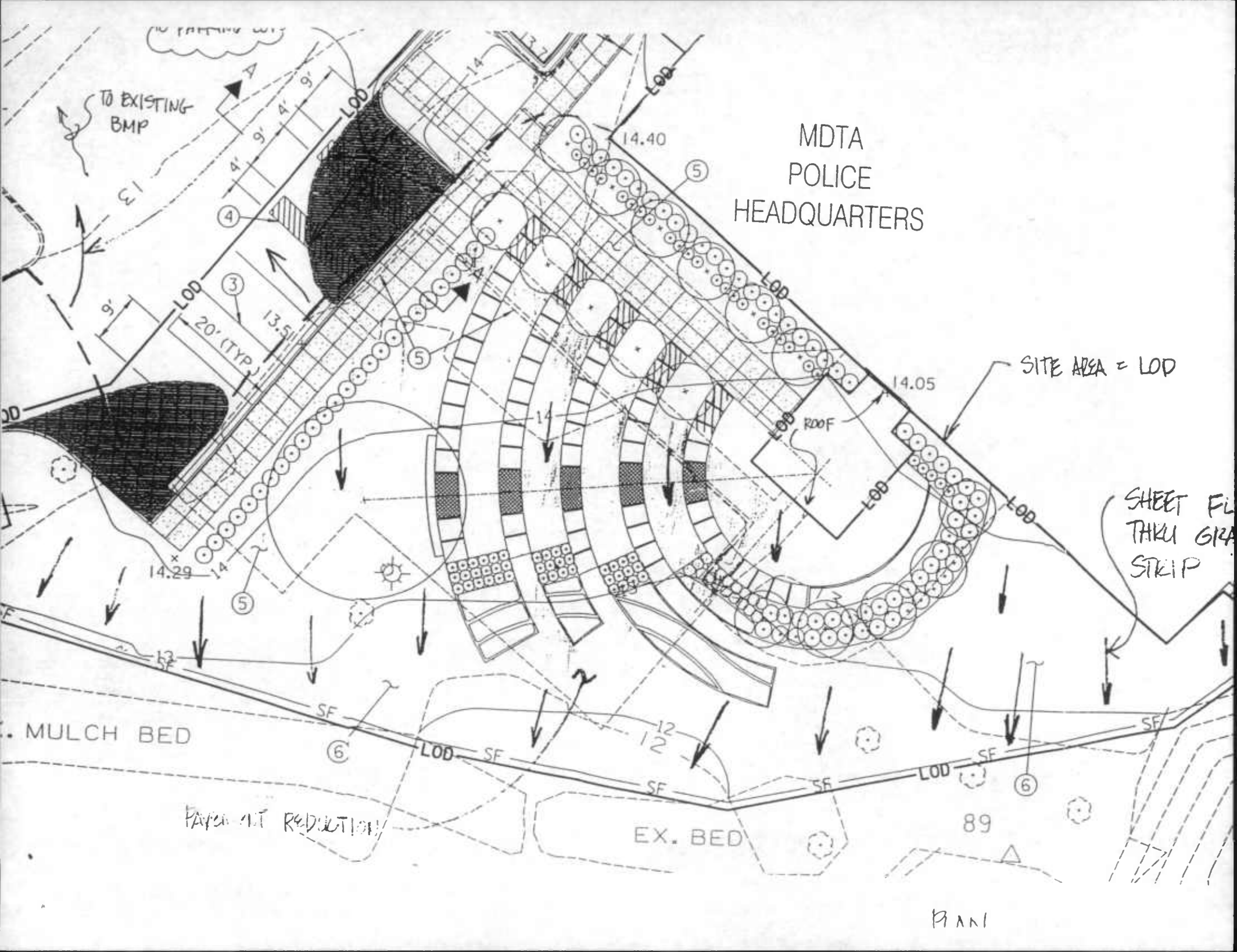
**APPLICABLE LAW/  
REGULATIONS:** COMAR 27.02.05 State Agency Actions Resulting in  
Development on State-Owned Lands

### **DISCUSSION:**

The Maryland Transportation Authority (MdTA) is proposing the construction of a Police Memorial for MdTA police officers who have fallen in the line of duty at its MdTA Police headquarters. The site is 9.01 acres and is entirely within the Critical Area. It is located on Coffin Point near the Francis Scott Key Bridge toll facility in Baltimore County. The project site is at the headwaters of Bear Creek and in an Intensely Developed Area (IDA).

The memorial will consist of grass and granite walkways directed toward Bear Creek, the Patapsco River and the Francis Scott Key Bridge; a low stone memorial retaining wall; and landscaping that will include a variety of trees, shrubs, perennials and groundcovers. The memorial garden will not impact the 100-foot Buffer.

The project will consist of replacing a portion of the existing parking lot with walkways and landscaping. There will be a net reduction of 3800 square feet of impervious surface. Approximately 829 square feet of impervious area will be removed from the 100-foot Buffer. The area of the new garden will disturb approximately 7000 square feet. The 10% Pollutant Reduction Calculations resulted in a -.486 lbs. of phosphorous leaving the site; therefore, a Best Management Practice (BMP) is not proposed. The status of any outstanding permit issues between the MdTA and the Maryland Department of the Environment will be discussed at the meeting.



**CHESAPEAKE BAY CRITICAL AREA COMMISSION**

**STAFF REPORT  
OCTOBER 4, 2000**

**APPLICANT:** University of Maryland - Center for Environmental Science

**PROPOSAL:** Horn Point Laboratory - Aquaculture and Restoration Ecology Laboratory

**JURISDICTION:** Dorchester County

**COMMISSION ACTION:** Conceptual Approval

**STAFF RECOMMENDATION:** Approval with Conditions

**STAFF:** Regina Esslinger

**APPLICABLE LAW/  
REGULATIONS:** COMAR 27.02.05

The University of Maryland's Center for Environmental Science (CES) proposes to construct an aquaculture and greenhouse facility at the Horn Point Laboratory outside Cambridge in Dorchester County. The proposed aquaculture and restoration ecology laboratory will serve as a research and education facility for conducting studies for shellfish and finfish aquaculture, submerged aquatic vegetation, and water quality programs. A greenhouse is also planned at the site and is required for the growth of algae for oyster studies. The single story, 59,900 square foot facility is located within the Critical Area on land that is considered not intensely developed.

The CES program received conceptual approval for this project from the Commission in November 1998 because CES could not secure State funding without approval from the resource agencies; however, as design plans developed it became apparent the original location would be difficult to develop an efficient facility, so they have submitted the revised plans and are again seeking conceptual approval. Unlike the initial site, the revised location is further away from the Choptank River and does not disturb any nontidal wetlands. As the project proceeds towards final approval, CES will submit a formal site plan for Commission review and approval. Final approval of this project will be required prior to construction.

As proposed, the building will not impact any habitat protection areas and there are no threatened or endangered species within the project site.

The following conditions are suggested for approval:

1. Any significant structural or locational changes to the current design will invalidate this conceptual approval unless reviewed and approved by the Commission. Final approval is required prior to construction.
2. Storm water management plans will be developed and submitted for Commission review for final project approval. Storm water management and sediment and erosion control plans must receive MDE approval prior to Commission approval.
3. All forest impacts and associated mitigation are detailed on the final site plan for Commission approval.



CHOPTANK RIVER

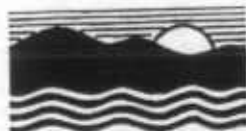
Dupont Bldg

Environmental  
Education  
Complex

Hatchery

Coastal Estuarine  
Science Lab

Morris Marine Lab



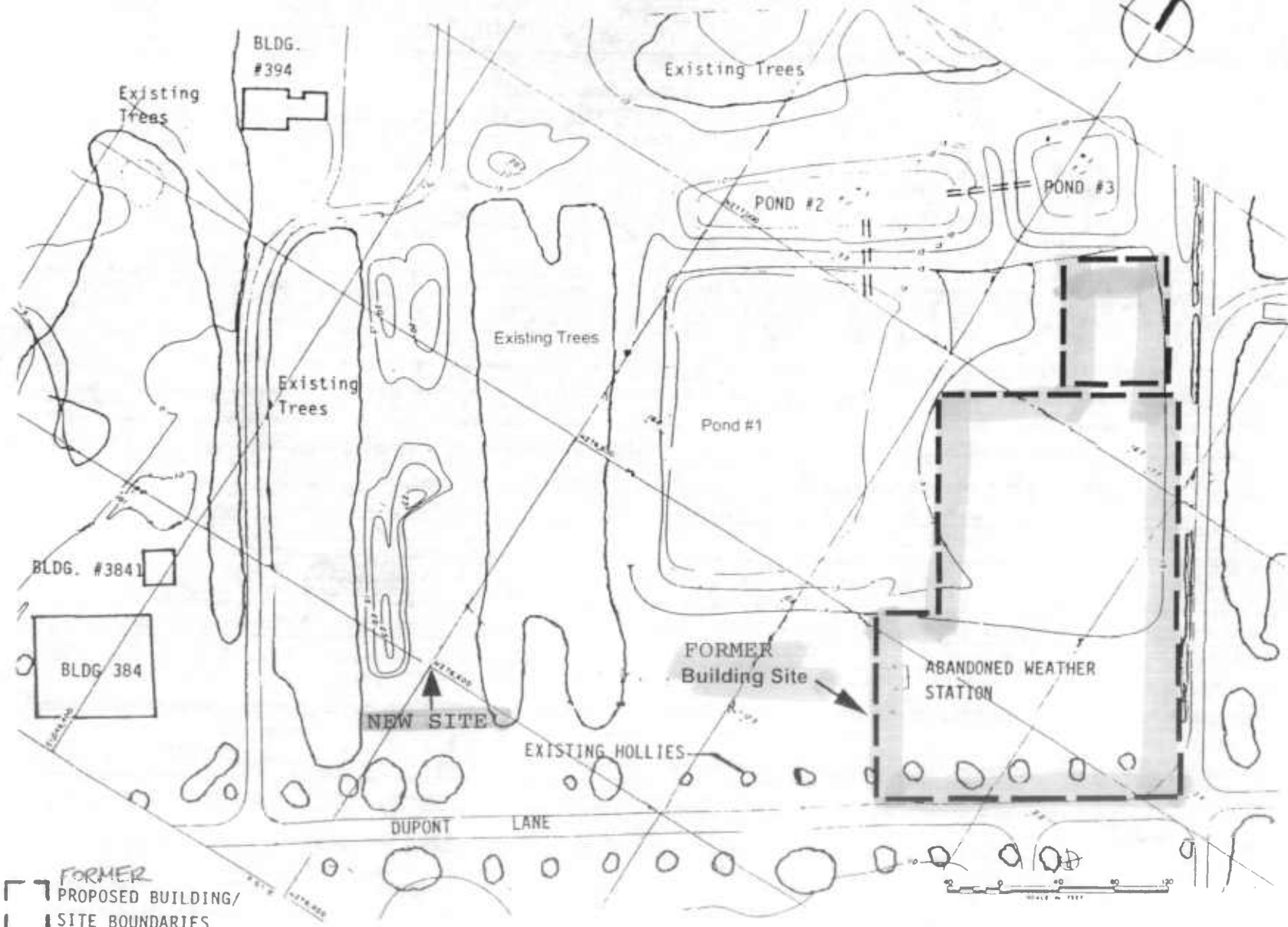
University of Maryland  
CENTER FOR ENVIRONMENTAL SCIENCE  
HORN POINT LABORATORY



Hatched area is proposed  
building site change  
based upon soil borings  
and site investigation.

POST

N



BLDG. #394

Existing Trees

Existing Trees

POND #2

POND #3

Existing Trees

Existing Trees

Pond #1

BLDG. #3841

BLDG. 384

FORMER Building Site

ABANDONED WEATHER STATION

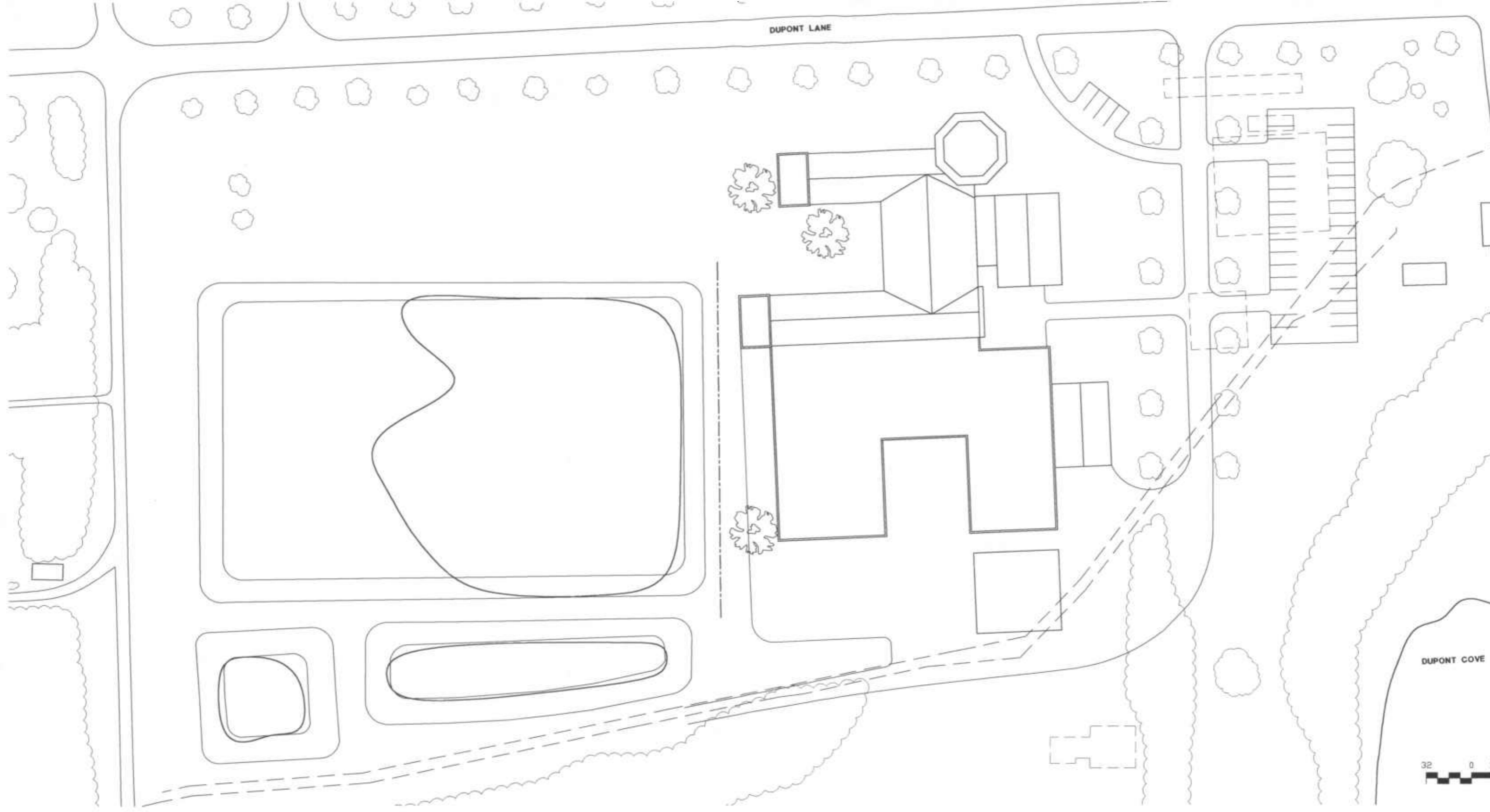
NEW SITE

EXISTING HOLLIES

DUPONT LANE

FORMER PROPOSED BUILDING/SITE BOUNDARIES

SCALE IN FEET



DUPONT LANE

DUPONT COVE



AMMON/SPILLIS DMJM  
SEPTEMBER 26, 2000

UNIVERSITY OF MARYLAND  
CENTER FOR ENVIRONMENTAL SCIENCE

HORN POINT LABORATORY

CAMBRIDGE, MARYLAND

SCALE: 1"