

Chesapeake Bay Critical Area Commission  
Department of Housing and Community Development  
Peoples Resource Center  
Crownsville, Maryland  
December 6, 2000

AGENDA

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

Approval of Minutes  
Of November 1, 2000

John C. North, II, Chair

PROGRAM AMENDMENTS and REFINEMENTS

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

VOTE/Queen Anne's County  
Four Seasons Growth  
Allocation

Ren Serey, Exec. Dir.

~~2:05~~ p.m. - 2:15 p.m.

VOTE/Talbot County  
Whitehall Farm Growth  
Allocation

Lisa Hoerger, Planner

PROJECT EVALUATION

~~2:15~~ p.m. - 2:30 p.m.

VOTE/Woodrow Wilson Bridge  
Stormwater Management Design

Lisa Hoerger, Planner

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

VOTE/City of Cambridge  
Chesapeake Hyatt Resort  
Buffer Management Plan

Roby Hurley, Circuit Rider

2:50 p.m. - 3:00 p.m.

Old Business  
Legal Update

John C. North, II, Chairman  
Marianne Mason, Esquire  
Commission Counsel

3:00 p.m. - 3:10 p.m.

New Business

Chesapeake Bay Critical Area Commission  
Department of Housing and Community Development  
People's Resource Center  
Crownsville, Maryland  
December 6, 2000

**SUBCOMMITTEES**

**9:00 a.m. - 11:00 a.m. Project Evaluation**

**Members:**

Bourdon, Cain, Witten, Giese, Goodman, Cooksey, Hearn, Graves, Olszewski, Jackson, McLean, Andrews, Jones

SHA - Woodrow Wilson Bridge (P.G. CO.)  
Stormwater Management Design

Lisa Hoerger, Planner

City of Cambridge - Chesapeake Hyatt Resort  
Buffer Management Plan

Roby Hurley, Circuit Rider

INFO - David Taylor site (Anne Arundel Co.)  
Redevelopment Plans

Ren Serey, Exe. Director  
Regina Esslinger, Project Chief

UPDATE - SHA/MD 2 (Anne Arundel Co.)  
Follow-up on Mitigation Plans

Lisa Hoerger, Planner

UPDATE - SHA Route 347 (Wicomico County)

LeeAnne Chandler, Planner

**10:15 a.m. - 11:00 p.m. Program Implementation**

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

VOTE/Talbot County - Whithall Farm Growth Allocation

Mary Owens, Pgm. Chief  
Lisa Hoerger, Planner

**PANEL**

**Members:** Duket; Myers; Jackson; Bourdon; Goodman

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

Queen Anne's County - Four Seasons  
Growth Allocation

Ren Serey, Exec. Dir.  
Mary Owens, Prog. Chief  
Regina Esslinger, Proj. Chief  
Claudia Jones, Sci. Advisor

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

Chesapeake Bay Critical Area Commission  
 Maryland Department of Housing and Community Development  
 People's Resource Center  
 Crownsville, Maryland  
 Conference Room II00 A  
 November 1, 2000

The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

Bradley, Clinton, Talbot County, Eastern Shore Member At Large	
Bourdon, Dave, Calvert County	Graves, Charles C., Baltimore County
Cooksey, David, Charles County	Jones, Paul, Talbot County
Dr. Foor, James C., Q.A. County	Giese, Wm., Jr. Dorchester County
Jackson, Joseph, Worcester County	Johnson, Sam Q., Wicomico County
Myers, Andrew, Caroline County	Samorajczyk, Barbara D., Anne Arundel Co.
Wynkoop, Sam, P.G. County	
Olszewski, John Anthony, Baltimore County	
Hearn, J.L., Md. Department of Environment	
Goodman, Robert, Md. Department of Housing and Community Development	
McLean, James, Md. Department of Business and Economic Development	
Wenzel, Lauren, Md. Department of Natural Resources	
Duket, Larry, Md. Department of Planning	
Meg Andrews, Md. Department of Transportation	

Not In Attendance:

Deborah B. Cain, Cecil County  
 Witten, Jack, St. Mary's County  
 Lawrence, Louise, Md. Department of Agriculture

Vacancies

Kent County

The Minutes of October 4, 2000 were approved as read.

Chairman North introduced and welcomed the recently appointed Commission members, Ms. Judith Evans, who succeeds Jinhee Wilde as the Western Shore Member-At-Large and Meg Andrews who succeeds Heidi Van Luven from the Maryland Department of Transportation. Also introduced and welcomed were the two new Critical Area Commission staff planners, Ms. Wanda Cole and Mr. Andrew Der.

Ms. Lisa Hoerger presented for Vote the Anne Arundel County growth allocation request for Homeport Farm that will change 18.75 acres of RCA to LDA. There are 64.58 acres of the entire 81.30 acre parcel in the Critical Area. Ms. Hoerger iterated the details of the project as described in the staff report that was disseminated to the Commission members. Larry Duket moved to approve the request with the two conditions in the document entitled "REVISION TO THE CONDITIONS IN THE NOVEMBER 1, 2000 STAFF REPORT FOR THE HOMEPORT FARM GROWTH ALLOCATION REQUEST" & as follow: 1. Prior to recordation of the subdivision plat for Homeport Farms, the County shall submit to the Commission for its approval a conservation easement that will ensure that the 7.73+/- acres of land adjacent to the Homeport Farm Property shall be maintained in uses appropriate to the Resource Conservation Area (RCA), as those uses are set forth in the County Critical Area ordinance. The 7.73+/- acres shall be contiguous to the 12.27+/- acres area to remain RCA, which is located at the southern portion of the property. The easement shall ensure that a total area of 20 contiguous acres of land at the southern portion of the project will retain the character and uses of RCA. After Commission approval, and prior to recondition of the subdivision plat for Homeport Farm, the conservation easement shall be recorded. 2. The County shall submit to the Chesapeake Bay Critical Area Commission for approval proposed transfer documents for the 25.15 acre tract proposed for a County park. These transfer documents shall ensure that there are appropriate deed restrictions to ensure that 13.51+/- acres of this tract shall be maintained after transfer to the County in uses appropriate to privately-owned land in the Resource Conservation Area (RCA) as those uses are set forth in the County Critical Area ordinance. The 13.51+/- acres shall be contiguous to the

6.49+/- acre portion of the Homeport Farms Subdivision that is to remain RCA (and is to be used for a reforestation area by the County). The deed restrictions shall be written to ensure that there is a total area of 20 acres at the northern portion of the Homeport property that will retain the character of Resource Conservation Area in the Critical Area. Any plans for development of the property as a park shall be submitted for review by the Critical Area Commission in order to ensure that the condition for protecting a minimum of 20 acres to maintain RCA character is met or that appropriate growth allocation is deducted. The motion was seconded by Mr. McLean and carried with 18 votes in favor. Ms. Samorajczyk abstained after raising the question of the validity of a growth allocation Bill that was adopted in 1997 by Anne Arundel County that delineated property that was subject to growth allocation wherein the exhibit of that delineation was not attached.

Ms. Tracey Green, Circuit Rider, presented for concurrence with the Chairman's determination of Refinement the request by the Town of Snow Hill for growth allocation to change the Critical Area overlay designation of the Burbage Funeral home property from LDA to IDA. The Town permitted the property owner to change from a residential to a commercial use which involves improvements that increase the imperviousness of the site that exceed the limits in LDA but not IDA. The Town had no growth allocation acreage of its own granted by the County so the Town applied to Worcester County for this specific project which was approved. Ms. Green stated that 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. Stormwater management is addressed through 15% afforestation. The Commission supported the Chairman's determination of Refinement.

Ms. Green presented for concurrence with the Chairman's determination of Refinement the request by the City of Crisfield to approve the use of 17.12 acres of growth allocation to reclassify the entire McCready Memorial Hospital site from a LDA to an IDA. The expansion of the hospital will increase the impervious surfaces. In 1999 a variance was requested to the impervious surface limitations on the site for the expansion and it was determined that a re-designation to an IDA would allow the hospital to expand and develop in the future without needing an impervious surface variance each time. Thirteen (13) acres of growth allocation was approved by the City of Crisfield's Planning Commission and an additional 4.12 acres from Somerset County. There are no known Habitat Protection Areas on the site except for the 100-foot Buffer. All new development proposed is located outside the Buffer. The proposed growth allocation is consistent with the Commission's growth allocation policy. The proposed IDA which is not quite 20 acres, currently is LDA located across the water from an existing LDA which is a grandfathered institutional use. The Commission supported the Chairman's determination of Refinement.

Lisa Hoerger, Planner, CBCAC presented for VOTE a request for Conditional Approval for the proposed construction of a pedestrian path and a deck-over structure over I-495 on Rosalie Island in Prince George's County by the Maryland National Capital Park and Planning Commission. This path will be linked to a pedestrian lane on the new Woodrow Wilson Bridge approved with conditions in May by the Commission. Because portions of the pathway will impact the 100-foot Buffer to tidal waters and tidal wetlands the project requires a Conditional Approval by the Commission under the regulations for State and local government development. In order to qualify for consideration for a conditional approval certain characteristics must be present. Ms. Hoerger described those characteristics and their impacts as outlined in her staff report to the Commission. She introduced Tom Hyle, a consultant for this project as well as David Patterson, and Marilyn Willis from Parks and Planning who were on hand to answer any questions. Mr. Hyle explained the technical aspects of the project. Dave Bourdon moved to approve the request for conditional approval for the pedestrian path on Rosalie Island with four conditions: 1. The Buffer Management Plan proposed for this project is designed with the assistance of Critical Area Commission staff. Also, the proposed Buffer Management Plan shall be submitted for review by the Project Subcommittee and subsequent approval by the Critical Area Commission. 2. The proposed stormwater management shall be submitted for review by the Project Subcommittee and subsequent approval by the Critical Area Commission. 3. The project shall comply with all US FWS and DNR recommendations for protection of the bald eagle and any other habitat protection areas. 4. That a sediment and erosion control plan, stormwater management plan, with improvements to Rosalie Island be submitted. The motion was seconded by Joe Jackson and carried unanimously.

Lee Anne Chandler presented for Vote the request by the Maryland Transportation Authority (MTA) to construct a storage building and parking lot in the vicinity of the Governor Harry W. Nice Memorial Bridge in Charles County. She said that this is in an area of intense development and requires a 10% pollutant reduction. There are no habitat protection areas in the vicinity of the proposed building or parking lot. Ms. Chandler described the technical details of the project. Dave Bourdon moved to approve MTA's proposed project to construct a storage building and parking lot in Charles County with the condition of a final permit approval from the Maryland Department of the Environment. The motion was seconded by Joe Jackson and carried unanimously.

#### Old Business

Marianne Mason, Assistant Attorney General and Commission Counsel updated the Commission on legal matters. She said that the Court of Appeals in Talbot County has rendered its decision in the Mastandrea case (involving the construction of a brick walkway lateral to the shoreline in the Buffer). The Court decided the case on the Talbot County Ordinance which the Commission approved as a program amendment last February. The ordinance allowed the County to make reasonable accommodations for person's with disabilities but required that "a combination of the environmentally neutral with the least intrusion as possible when the project is in the Buffer." Mrs. Mason stated that at least the Court has not ruled that the American With Disabilities Act supercedes all local zoning.

The Prince George's County Circuit Court denied Ms. Bick relief, wherein Bonnie Bick and other plaintiffs sued the Commission claiming that the Commission improperly approved the growth allocation request for National Harbor and the Commission's approval of the growth allocation stands.

A hearing in Circuit Court in Dorchester County was held for a case about 3 years old, North vs. Dorchester County, in an after-the-fact variance of an above ground pool and deck 4 feet from the water. The Circuit Court reversed the Board of Appeals decision to grant the variance and sent it back to the Board of Appeals for another hearing if the pool is not moved.

LeeAnne Chandler, accompanied by an expert from DNR, gave testimony in Salisbury in the Lewis hearing regarding construction without a permit of 6 buildings on a 5 acre island, all in the Buffer. The Board of Wicomico County turned down the variance request.

Mrs. Mason said that she has filed a Memorandum of Law in the Circuit Court in Anne Arundel County in the Andreka case for a variance approved by the Board involving the construction of a house 100 feet from the water. This case will probably be argued in the spring.

#### New Business

Chairman North told the Commission that both he and Mrs. Mason will be attending a seminar for the Worcester County Bar Association on the 10<sup>th</sup> of November dealing with several recent court decision including the Mastandrea matter. He said that he hopes to make several points that could not be made in Court.

There being no further business the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Coordinator

*approval*

*Chesapeake Bay Critical Area Commission*

**PANEL REPORT**  
**December 6, 2000**

**APPLICANT:** Queen Anne's County

**PROPOSAL:** Four Seasons at Kent Island Growth Allocation

**JURISDICTION:** Queen Anne's County

**COMMISSION ACTION:** Vote

**PANEL MEMBERS:** Larry Duket (Chairman), Dave Bourdon, Bob Goodman, Joe Jackson, and Andrew Myers

**PANEL RECOMMENDATION:** Approval with Conditions

**STAFF:** Regina Esslinger, Claudia Jones, Mary Owens, and Ren Serey

**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

**SUMMARY:**

This growth allocation request involves the conversion of 293.25 acres of RCA to IDA and the redesignation of 79.55 acres of previously awarded growth allocation from LDA to IDA. The entire area of the site is approximately 562 acres, with approximately 522.2 acres within the Critical Area. The property is proposed to be developed with 1,505 dwelling units, a 35,000 square foot community center, a community pier, and a 95,000 square foot shopping center. The site is located in the Stevensville and Chester Growth Areas in Queen Anne's County on portions of the Chester River, Macum Creek, and both sides of Cox Creek. There is a large tidal pond with associated wetlands along the Chester River portion of the site, and linear wetlands along both sides of Cox Creek and adjacent to Macum Creek. There are three forested areas on the site, totaling approximately 55 acres. Most of the property is in agricultural use. There is an existing farmhouse and outbuildings, a mausoleum, and an airstrip on the site. There are also two dredge material disposal areas on the property.

The Panel held a public hearing on September 12, 2000 at the Kent Island High School in Stevensville. Approximately 500 people attended the hearing and the Panel listened to over three hours of testimony about the project. Many environmental issues that were relevant to the Commission's decision on the growth allocation request were raised during the hearing.

Following the hearing, the Panel requested that staff obtain additional information about these issues. The Panel visited the site and spent several hours with the project consultants and County staff in order to thoroughly understand the scope of the project and review actual site conditions. The Panel has held several meetings over the last two months to discuss the project in more detail and to determine appropriate conditions of approval. These meetings focused primarily around the protection of habitat and water quality; the protection of streams, the construction of a community pier; the design of best management practices for stormwater management, and the design and implementation of a buffer management plan for the project. As a result of extensive deliberations and research on these issues, the Panel formulated the following conditions:

*2 way  
covenant  
not needed  
in title*

1. *The new IDA shall be located at least 300 feet beyond the landward edge of tidal wetlands and tidal waters adjacent to Cox Creek and Macum Creek. This 300 foot setback shall not be used for structures, roads, parking, utilities, active recreation areas or stormwater management. It may be used for passive recreation. This setback shall be established in multi-layered forest vegetation.*
2. *A fully forested 100-foot Buffer shall be established from the landward boundary of the structural erosion control measure on the Chester River. The Buffer shall be established in multi-layered forest vegetation.*
3. *A fully forested 150-foot setback shall be established from the edge of tidal or nontidal wetlands around the tidal pond (adjacent to the Chester River) in order to provide habitat protection. The edge of tidal wetlands from which the 150-foot setback will be established shall be delineated in the field and approved by Commission staff. In addition, all phragmites in the area of the tidal pond shall be eradicated and established with appropriate native species. The 150-foot setback shall be established in multi-layered forest vegetation.*
4. *A fully forested 100 foot Buffer shall be established on each side of all tributary streams and the stream crossing and any development activity within the Buffer shall be eliminated.*
5. *The Commission shall coordinate with the Maryland Department of the Environment (MDE) and the Department of Natural Resources (DNR) regarding the assessment of environmental impacts associated with a community pier and compliance with the standards set forth above. The applicant agrees to ensure that the standards outlined above are met and to comply with the recommendations and/or conditions of approval of MDE and DNR regarding the community pier.*

*non-tidal*

*(met)*

6. *Best Management Practices for stormwater shall be located outside of the 100-year floodplain or shall be designed in such a way that a flood event would not inundate the ponds or detention structures causing pollutants to be flushed out unless staff determines after a review of detailed stormwater engineering plans that a superior water quality or habitat benefit can be achieved through other techniques.*
7. *At least half of the site area shall incorporate Best Management Practices for stormwater that provide habitat benefits in addition to water quality benefits. Best Management Practices that provide habitat benefits include bioretention, shallow marsh, extended detention wetlands, and pond/wetland systems.*
8. *Shoreline access within the approved setback and/or Buffer shall be designed and constructed to minimize impacts to the 100-foot Buffer and to maintain the "Resource Conservation Area" character of the setback and/or Buffer. Pathway widths shall be limited to six feet in width (including the path itself and associated clearing) within the setback and should be constructed of pervious or semi-pervious materials wherever possible. Tree canopy shall be maintained over pathways. Prior to recordation of any subdivision plats or final approval of any site plans, building permits, or grading permits, a Buffer Management Plan for the entire Buffer and/or setback area of the project shall be reviewed and approved by the full Critical Area Commission.*
9. *Structural shore erosion control measures shall be limited to those that currently exist on the site. If additional erosion control measures are warranted, non-structural measures shall be used.*
10. *The final plan for the Four Seasons at Kent Island growth allocation request that is approved by the Queen Anne's County Commissioners shall be submitted for review by the Critical Area Commission. (Amendment)*

#### DISCUSSION:

The Panel has reviewed this growth allocation request thoroughly over the last several months and solicited additional information from various professionals to follow up on issues identified during the site visit and at subsequent meetings. The issues of primary concern were the field delineation of several streams on the property, flooding of the property, the habitat and water quality function of the tidal pond adjacent to the Chester River, the size and location of the community marina, the waterfowl staging and concentration areas on the Chester River and Macum Creek, and location and effectiveness of proposed stormwater management ponds.

✓ At the Panel's first meeting on September 28, 2000, an issue was raised regarding the County's "conceptual approval process" for growth allocation requests and whether this type of approval was sufficient to meet the growth allocation procedures in the Critical Area Act. The



Panel requested that Commission Counsel review this issue and brief them at the next meeting. The Panel also directed staff to further research the other issues of concern and provide additional information at the next Panel meeting.

The Panel met again on October 12, 2000 to discuss these issues further and to begin to formulate the Panel's recommendation on the growth allocation request. Ren Serey responded to the Panel's question about the County's growth allocation process. He stated that Chairman North and Commission Counsel, Marianne Mason, had determined that the process was consistent with the Law, but that the nature of the "concept approval process" did not fully comply with the purpose and intent of the process which is to ensure that growth allocation requests are not approved by the Commission and then later denied by a local government. **It was determined that this project should move forward under the current process, and that the County's growth allocation process will need to be amended before the Commission accepts any future growth allocation requests.**

On November 1, 2000, the Panel met to discuss additional information about the environmental issues of concern on the site. Many environmental issues that were relevant to the Commission's decision on the growth allocation request had been raised, and the Panel had requested that Commission staff further research these issues. The Panel discussed this information and some potential conditions that were put together by staff based on suggestions by the Panel. The Panel discussed the more detailed information provided and the proposed conditions and several revisions were made. Much of the discussion centered on the location and extent of a proposed 300 foot setback from the edge of tidal waters and tidal wetlands. It was determined that additional information about an Historic Waterfowl Staging and Concentration Area on the Chester River and a contiguous tidal pond was needed before the Panel could finalize a condition.

On November 16, 2000, the Panel met to review the revisions to the conditions made at the previous meeting and to continue their discussion of the setback issue. It was discussed that the Chester River is a viable Historic Waterfowl Staging and Concentration Area and the tidal pond is used by various species, including black ducks. The Commission's Science Advisor, Claudia Jones, presented information that benefits to certain species, such as black ducks, can be realized by minimizing the adverse impacts of human activities through the use of expanded vegetated buffers. Ms. Jones also provided information on other water quality and habitat benefits associated with expanding the Buffer beyond 100 feet.

The issues of primary concern that have been considered by the Panel and researched by staff are outlined below. The issues have been grouped into five categories. This report identifies each issue, provides relevant background information and guidance from the Critical Area Criteria and other sources, and presents the conditions proposed by the Panel.

Protection of Habitat and Water Quality of Tidal Waters, Tidal Wetlands, and Streams

The Critical Area Act states that the Commission shall approve program amendments (including growth allocation requests) that meet the goals of the Critical Area Program and the provisions of the Critical Area Criteria. The goals of the Program are:

- 1) To minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) To conserve fish, wildlife, and plant habitat; and
- 3) To establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

In COMAR 27.01.02.06, the Critical Area Criteria provide guidelines for the location of new intensely developed and limited development areas. Three of the guidelines specifically address the minimization of environmental impacts associated with the use of growth allocation. They are:

- 1) New intensely developed and limited development areas should be located in order to **minimize impacts to habitat protection areas** as specified in COMAR 27.01.09 and in an area and **in a manner that optimizes benefits to water quality**;
- 2) New intensely developed areas should be located **where they minimize their impacts to the defined land use of the resource conservation area**;
- 3) New intensely developed and limited development areas in the resource conservation area **should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters**.

This project is a very large, very intensely developed project that will bring approximately 3,000 new residents to an area characterized by extensive stretches of sensitive shoreline. The pattern of development for the project as proposed is such that only a small portion of the site will not be developed and it will be difficult to manage the impacts to habitat protection areas (including the Buffer) and to areas of the site that are proposed to remain resource conservation areas (RCA). It is also necessary to acknowledge that the number, movement, and activities of persons in this area can have adverse environmental impacts and that virtually the entire site will be affected. Because the property will be intensely developed, with impervious surface levels in excess of 30 percent of the site, and a substantial portion of the permeable areas maintained as lawn, it appears that benefits to water quality may be minimal.

In order to address both the guidelines in COMAR and the overall goals of the Critical Area Act, it is necessary to provide some type of ecologically effective measure(s) that is scientifically proven to minimize impacts to habitat and maximize benefits to water quality.

***Condition 1***

***The new IDA shall be located at least 300 feet beyond the landward edge of tidal wetlands and tidal waters adjacent to Cox Creek and Macum Creek. This 300 foot setback shall not be used for structures, roads, parking, utilities, active recreation areas or stormwater management. It may be used for passive recreation. This setback shall be established in multi-layered forest vegetation.***

***Condition 2***

***A fully forested 100-foot Buffer shall be established from the landward boundary of the structural erosion control measure on the Chester River. The Buffer shall be established in multi-layered forest vegetation.***

***Condition 3***

***A fully forested 150-foot setback shall be established from the edge of tidal or nontidal wetlands around the tidal pond (adjacent to the Chester River) in order to provide habitat protection. The edge of tidal wetlands from which the 150-foot setback will be established shall be delineated in the field and approved by Commission staff. In addition, all phragmites in the area of the tidal pond shall be eradicated and established with appropriate native species. The 150-foot setback shall be established in multi-layered forest vegetation.***

In considering the establishment of a 300 foot setback, it is necessary to consider how best to maintain the viability of the 300 foot setback area as a resource conservation area that performs the following functions:

- 1) Provides a buffer between areas of intense human activity and pollution and sensitive aquatic resources; and
- 2) Serves as a wildlife corridor system that connects the largest undeveloped, or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats, and
- 3) Provides a flyway and rest area for Forest Interior Dwelling Birds; and
- 4) Provides appropriate protection to waterfowl staging and concentration areas from disturbances and human activity on the surrounding land.

Stream Protection

During the site visit on September 28, 2000, the Panel identified a portion of a stream on the northwest portion of the property that was not correctly shown on the plans. The Commission's Science Advisor has visited the site and confirmed that the area previously identified as an agricultural ditch is actually a stream. The Critical Area Criteria require that a minimum 100-foot Buffer is established from tributary streams, and development activities are prohibited within the Buffer. The project includes a stream crossing and development within the Buffers on either side of the stream. The project as proposed is not consistent with the Critical Area Criteria.

*Condition 4*

*Provide a 100 foot Buffer on each side of all tributary streams and eliminate the stream crossing and any development activity within the Buffer.*

Community Pier

This project includes a community pier which is proposed to be located on the Chester River. COMAR 27.01.03.07 addresses community piers and includes provisions that limit the number of slips that may be permitted in this type of facility. Slips are limited to the lesser of the following:

- 1) One slip for each 50 feet of shoreline in the subdivision in the IDA and LDA and one slip for each 300 feet of shoreline in the RCA; or
- 2) For projects with more than 300 dwellings in the Critical Area, either 75 slips or 15% of the number of dwelling units, whichever is greater.

For this project, the limiting criterion is (2) above. It is estimated that this project will result in approximately 1500 new dwellings within the Critical Area. The Critical Area Criteria permit community piers to have 75 slips or 15% of the number of dwelling units. The maximum number of slips would be 15% of 1500 or as many as 225 slips. This is an extremely large facility and would substantially increase the environmental impacts associated with human activity on the Chester River. Based on preliminary conversations with Mr. Stan Causey of the Maryland Department of the Environment, the tidal wetlands regulations may prohibit a facility of this size in the proposed location because of water depth and water quality impacts.

Section 27.01.03.04 of COMAR requires that local governments consider the following factors in planning for areas suitable for new or expanded water dependent facilities:

- 1) That the activities will not significantly alter existing water circulation patterns or salinity regimes;
- 2) That the water body upon which these activities are proposed has adequate flushing characteristics in the area;
- 3) That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
- 4) That adverse impacts to water quality that may occur as a result of these activities, such as non-point source runoff, sewage discharge from land activities or vessels, or from boat cleaning operations, is minimized;
- 5) That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;
- 6) That dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the areas immediately surrounding the dredging operation or within the Critical Area generally;
- 7) That dredged spoil will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:
  - a) Backfill for permitted shore erosion protection measures;
  - b) Use in approved vegetative shore erosion projects;
  - c) Placement in previously approved channel maintenance spoil areas;
  - d) Beach nourishment; and
- 8) That interference with the natural transport of sand will be minimized.

#### **Condition 5**

*The Commission shall coordinate with the Maryland Department of the Environment (MDE) and the Department of Natural Resources (DNR) regarding the assessment of environmental impacts associated with a community pier and compliance with the standards set forth above. The applicant agrees to ensure that the standards outlined above are met and to comply with the recommendations and/or conditions of approval of MDE and DNR regarding the community pier.*

#### **Stormwater Management**

At the public hearing, several citizens commented on flooding problems in the area and expressed concern about how stormwater would be managed on the property. The site is generally level, but slopes from the northeast and northwest boundaries to lower elevations along

Cox Creek. A significant part of the site along Cox Creek and along the Chester River, especially near the tidal pond, is within the 100-year floodplain. Based on testimony provided at the hearing, it is the panel's understanding that tidal flooding along Cox Creek happens periodically throughout the year with more severe flooding during storm events characterized by both high tides and heavy rain.

Currently, there is some development proposed in the 100-year floodplain as delineated from Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA), not actual field run topography. It is anticipated that more detailed topographic information will provide the information necessary to refine the design so that no structures will be located within the 100-year floodplain. However, there is still concern that best management practices for stormwater will be located within the floodplain. This could be problematic from a water quality standpoint because pollutants collected in the stormwater management practices could be flushed into the surrounding water courses.

#### *Condition 6*

*Best Management Practices for stormwater shall be located outside of the 100-year floodplain or shall be designed in such a way that a flood event would not inundate the ponds or detention structures causing pollutants to be flushed out unless staff determines after a review of detailed stormwater engineering plans that a superior water quality or habitat benefit can be achieved through other techniques.*

COMAR 27.01.02.03 states that in Intensely Developed Areas, fish, wildlife, and plant habitats as identified in COMAR 27.01.09 shall be conserved to the extent possible. In order to facilitate the conservation of these habitats, Best Management Practices for stormwater should be designed with elements that promote the conservation of habitat.

#### *Condition 7*

*At least half of the site area shall incorporate Best Management Practices for stormwater that provide habitat benefits in addition to water quality benefits. Best Management Practices that provide habitat benefits include bioretention, shallow marsh, pocket marsh, extended detention wetland, and pond/wetland systems.*

#### **Shoreline Access, Erosion Control, and Buffer Management**

The Critical Area Criteria require that when agricultural use of lands within the area of the Buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. The Criteria state that in establishing the Buffer, management measures shall be undertaken to provide forest vegetation that assures the Buffer functions for the protection of habitat and water quality. Although a preliminary Buffer Management Plan has been submitted for comment, there are several issues that still need to be addressed. The entire shoreline of the

Chester River has been protected with a "rubble revetment". The shoreline is stable in this area; however, the area is generally not safe for pedestrian access. It has been suggested that some type of walkway could be constructed over the rubble to improve its appearance and make it safer.

The shoreline adjacent to Macum Creek is not protected, but is relatively stable. It is likely that if an erosion control measure is warranted that a non-structural approach would be practical and effective.

Both shorelines of Cox Creek are not protected, but are extremely stable with extensive areas of marsh vegetation. It is unlikely that erosion control measures would be warranted along Cox Creek.

*Condition 8*

*Shoreline access within the approved setback should be designed and constructed to minimize impacts to the 100-foot Buffer and to maintain the resource conservation area character of the setback. Pathway widths should be limited to six feet in width (including the path itself and associated clearing) within the setback and should be constructed of pervious or semi-pervious materials wherever possible. Tree canopy shall be maintained over pathways. Prior to the recordation of any subdivision plats or the start of any grading or development on the site, a Buffer Management Plan for all Buffer and setback areas on the entire site shall be reviewed and approved by the Critical Area Commission. The Buffer Management Plan shall include all existing and proposed vegetation, all public access areas, and all existing and proposed structural or nonstructural erosion control measures.*

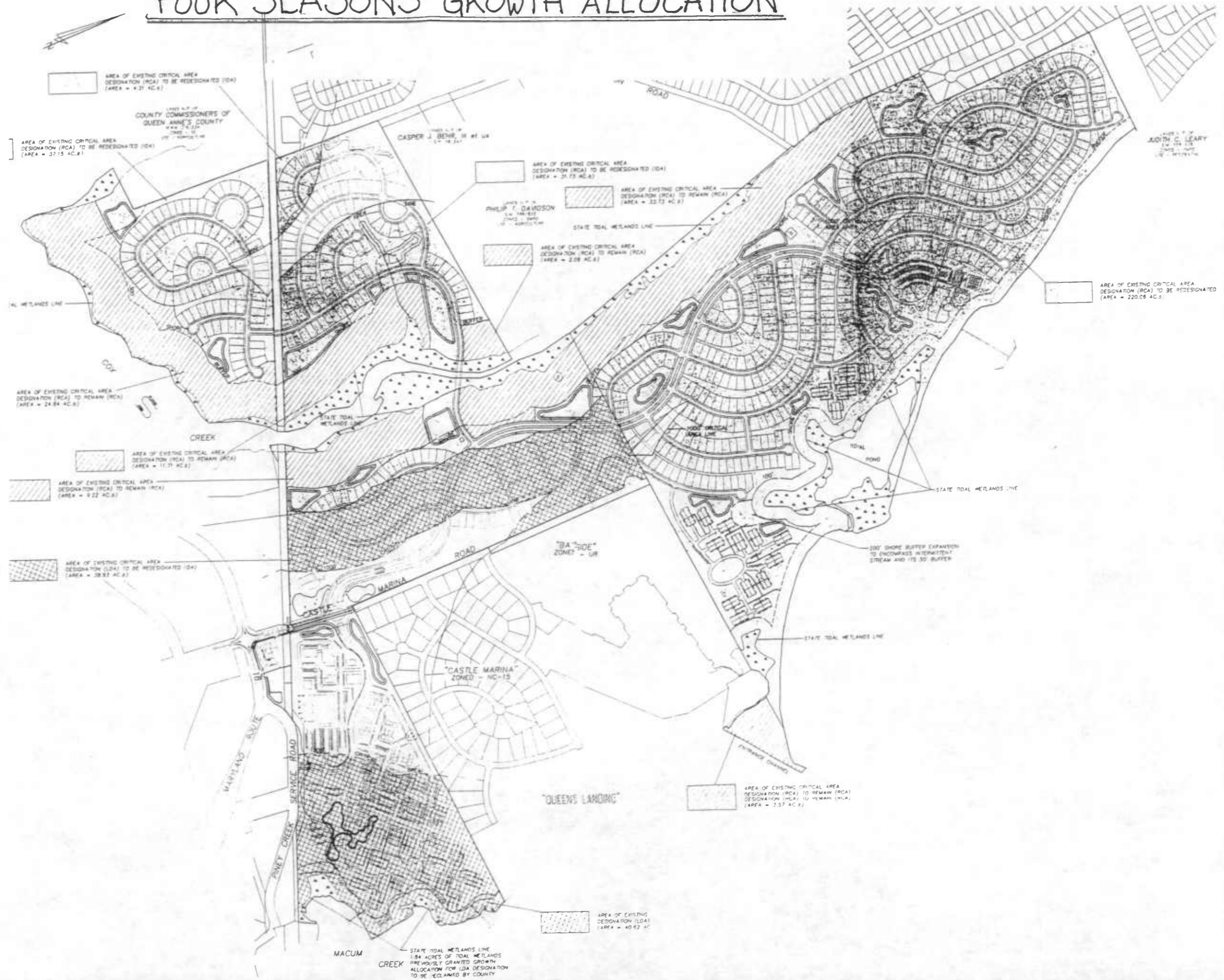
*Condition 9*

*Structural shore erosion control measures shall be limited to those that currently exist on the site. If additional erosion control measures are warranted, non-structural measures shall be used.*

*Condition 10*

*The final plan for the Four Seasons at Kent Island growth allocation request that is approved by the Queen Anne's County Commissioners shall be submitted for review by the Critical Area Commission.*

# FOUR SEASONS GROWTH ALLOCATION





# Bay commission OKs growth allocation

## • 10 conditions tied to Four Seasons project

By KONRAD SUROWIEC  
Staff Writer

CENTREVILLE — By a 15 to 6 vote, the Chesapeake Bay Critical Area Commission approved the growth allocation petition for Four Seasons at Kent Island, a project which could bring more than 1,300 new homes to

the Chester and Stevensville areas.

There are 10 conditions tied to the growth allocation approval, which K. Hovnanian Company is required to obtain to build the Four Seasons project. The critical area commission voted at its meeting Wednesday afternoon in Crownsville after about 1 1/2 hours of discussion, said Ren Serey, executive director of the commission.

Wednesday morning a five-member panel of commission members voted unanimously to recommend approval with con-

ditions to the full commission. Those five panel members — along with commission counsel Marianne Mason — presided at a Sept. 12 public hearing at Kent Island High School attended by several hundred people, many of them opponents of the Four Seasons project.

Under the state's critical area law, growth allocation is a process which allows a landowner to have more intensive development in the critical area. The critical area — land located within 1,000 feet of the Bay's tidal waters — has three desig-

nations: Resource Conservation Area (which allows a density of 1 home on 20 acres); Limited Developed Area; and Intensely Developed Area.

The commission's approval will redesignate the critical area designation of 372.5 acres on Hovnanian's 562-acre development site: 79.5 acres will change from LDA to IDA; 293 acres will change from RCA to IDA. Approval is still needed from the Queen Anne's County Commissioners, who are also required to hold a public hearing on the growth allocation petition

for the Four Seasons project. Serey said the state critical area commission's approval was based on Hovnanian's current plan on file with the county planning department. That plan calls for 1,505 homes, including an age restricted community of 833 single-family homes and 216 multi-family homes; 300 rental apartments; and 156 condominiums. The plan also shows a 35,000 square foot community center; a community pier; a 95,000 square foot shopping

Please see PROJECT, 12A

*Peg @ Easton  
Zen ebal*

*Star Demo. 12/8/0*

# Project

continued from 1A

center and an 88-bed assisted living facility.

The development property is north of state Route 18 and Castle Marina Road and borders the Chester River and Macum Creek and is located on both sides of Cox Creek. The site is located in the county's designated growth areas for Stevensville and Chester.

Although no revisions to the plan have been submitted to the county, Hovnanian is making changes to the plan, said Mark D. Stemen, president of the company's Metro D.C. North Area.

"We've completely dropped the rental apartments (from the plan)," said Stemen. He said other proposed changes on the plan include: eliminating the shopping center and assisting living center; increasing the width of shoreline buffers; making all the homes part of the age restricted community; having a maximum of 1,350 houses, which would make the housing density 2.4 homes per acre.

Stemen said in a statement that Hovnanian was very pleased its growth allocation request was approved. He said the critical area commission's "seal of approval confirms that we have met their high environmental standards."

"The commission made a very intensive and thorough examination of our project, and its

members have formulated a series of 10 conditions that we wholeheartedly accept," said Stemen.

"For many reasons, we are very disappointed with the critical area commission's approval," said Chester resident Rick Moser, president of the Kent Island Defense League, a citizens group opposed to granting the growth allocation request. "... We're exploring our options."

Serey said roughly 20 citizens attended the critical area commission's Wednesday meeting and about five citizens, including Moser, Diana Harris, Kit Davis and Winn Krozack, spoke in opposition to the plan.

Others speaking to the commission included attorney Joe Stevens, representing Hovnanian; and staff from from the county planning commission and state critical area commission.

The 10 conditions are:

- Make the new IDA at least 300 feet from the landward edge of tidal wetlands and tidal waters adjacent to Cox Creek and Macum Creek.

- Establish a fully forested buffer on the landward boundary of the structural erosion control measure on the Chester River.

- Establish a fully-forested 150-foot setback from the edge of

tidal or nontidal wetlands around the tidal pond next to the Chester River.

- Establish a fully forested 100-foot buffer on each side of all tributary streams. Eliminate the stream crossing and any development activity within the buffer.

- The critical area commission shall coordinate with Maryland's Department of the Environment and Department of Natural Resources regarding the environmental impacts associated with the community pier.

- Locate best management practices for stormwater outside the 100-year floodplain.

- Use best management practices for stormwater that provide habitat benefits in addition to water quality benefits on at least half of the site.

- Shoreline access within the approved setback and/or buffer shall be designed and built to minimize impacts to the 100-foot buffer and to maintain the "Resource Conservation Area" character of the setback and/or buffer.

- Limit structural shore erosion control measures to those that currently exist on the site.

- The final plan for the Four Seasons growth allocation request that is approved by the Queen Anne's County Commissioners shall be submitted to the state critical area commission

for review.

The critical area commission members who served on the study panel were: Larry Duket, Maryland Department of Planning; David Bourdon, Calvert County; Robert Goodman, Maryland Department of Housing and Community Development; Joseph Jackson III, Worcester County; and Andrew Myers, Caroline County. Serey said those five commissioners had the job of holding the public hearing, studying the issues involved and making a recommendation to the full commission.

According to a report from the study panel, the panel asked the critical area commission staff to provide more information about many of the environmental issues raised at the September public hearing.

Panel members visited the site and spent several hours with the project consultants and county staff in order to understand the scope of the project and to review actual site conditions. The panel held several meetings over the last two months to discuss the project in more detail and to determine appropriate conditions of approval.

The report said, "These meetings focused primarily around the protection of habitat and water quality; the protection of streams, the construction of a community pier; the design of best management practices for stormwater management, and the design and implementation of a buffer management plan for the project."

The 10 commission members who joined the five panel members in approving the growth allocation were: Charles Graves, Baltimore City; Philip Barker, Harford County; Judith Evans, western shore member at large; Samuel Winkopp Jr., Prince George's County; David Cooksey, Charles County; Paul Jones Jr., Talbot County; Samuel Q. Johnson III, Wicomico County; William Giese Jr., Dorchester County; Meg Andrews, Maryland Department of Transportation; and James McLean, Maryland Department of Business and Economic Development.

Commission members who voted no included John Olszewski Sr., Baltimore County; Barbara Samorajczyk, Anne Arundel County; Jack Witten, St. Mary's County; Clinton Bradley III, Eastern Shore member at large; Lauren Wenzel, Maryland DNR; and Louise Lawrence, Maryland Department of Agriculture.

Serey said two critical area commission members, Dr. James Foor, Queen Anne's County, and Judge John C. North III, did not vote. Foor is chairman of the Queen Anne's County Planning Commission. North, as chairman of the state critical area commission, does not vote unless a tie-breaking vote is needed.

The critical area commission has 27 members. Serey said at least 15 members are needed to consider a growth allocation request, and a simple majority of the members present is needed for approval.



*Chesapeake Bay Critical Area Commission*

**STAFF REPORT**  
**December 6, 2000**

**APPLICANT:** Talbot County

**PROPOSAL:** Whitehall Farm, Growth Allocation

**COMMISSION ACTION:** Information/Tentative Refinement

**STAFF:** Mary Owens/Lisa Hoerger

**APPLICABLE LAW/  
REGULATIONS:** COMAR §8-1808.1

**DISCUSSION:**

Talbot County is requesting to use 16.34 acres of growth allocation to change the Critical Area designation of a portion of a property from Resource Conservation Area (RCA) to Limited Development Area (LDA). The property is known as Whitehall Farm and is located near the intersection of Tunis Mills Road and Gregory Road near Tunis Mills. The area of the parcel within the Critical Area is zoned RC and totals approximately 73 acres. The area outside of the parcel is zoned Town Residential.

In regard to the Commission's policy on growth allocation, the lots proposed for LDA designation are contiguous to other LDA lands to the south of the parcel in the Critical Area. However, the proposed access road will cross a stream to provide access to lots that are not part of the growth allocation request. It has been the Commission's policy that private roads require a variance to disturb the 100-foot Buffer. COMAR 27.01.02.04.C (1)(b) states;

All roads, bridges, and utilities that must cross a habitat protection area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. Roads, bridges, or utilities may not be located in any habitat protection area unless no feasible alternative exists.

It has also been the Commission's policy not to support variances for newly created lots. Since the proposal may require a variance to access two new lots (i.e. impacts to an HPA), Commission staff believe it does not meet the Commission's policy concerning growth allocation. Therefore, it is before the Program Subcommittee for consideration. I have attached letters to the County indicating this issue as well as others in regard to this growth allocation request (Attachment A).

The County has approved a growth allocation in order to provide for four new waterfront lots (lots 1-4) in addition to the two "by right" lots (lots 5 and 6 in addition to the existing dwelling). All the lots are proposed to be waterfront lots, and the only way they can be accessed is by crossing an existing stream, or by going around the stream and cutting through the agricultural area. The agricultural area will continue to be farmed and this second means of access would compromise the farming operation.

The problem is created by the design of the subdivision, and the applicant's desire to maximize the number of waterfront lots. However, there would be conflicts with the Critical Area Criteria if the two "by right" lots are located south of the stream and the growth allocation lots were reconfigured. This may result in fewer than six waterfront lots. The applicant and the County are proposing that the acreage protected by a permanent easement outweighs the apparent conflict with the Criteria. Support documentation provided by the applicant is also attached (Attachment B).

We received follow-up information in response to a letter from the Department of Natural Resources (DNR) indicating the site is adjacent to or part of a known historic waterfowl concentration areas, and that it could potentially support habitat for two endangered plant species. A review by an independent consultant was completed. This office is still awaiting confirmation from the Heritage Division of DNR.



STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION  
1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338

August 31, 2000

Mr. Daniel Cowee, Planning Officer  
Talbot County Office of Planning and Zoning  
Courthouse  
Easton, Maryland 21601-3178

Re: Whitehall Farm, LLC - Growth Allocation

Dear Mr. Cowee:

As discussed in our meeting today, the following information is needed in order for us to continue processing this growth allocation request. In addition, subsequent to our meeting, we have identified two additional issues that need to be resolved. See comments five and six.

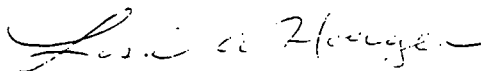
- 1) The acreage figures for each lot on the site plan should be clearly identified.
- 2) The proposed private road that will access proposed lots 1-4, and the 3.09 acre strip between the proposed private road and the adjoining parcels must be included in the growth allocation envelope since the road supports the development activity in the proposed RR, and the 3.09 acre strip of RC would create an area less than 20 contiguous acres of RC if it is not deducted. This building envelope concept is described in the Commission's policy titled "Guidelines for the County of Growth Allocation." I have enclosed a copy of that policy for your information.
- 3) Contact the consultant and have him field verify the tidal wetlands onsite to determine whether they are privately owned or State-owned wetlands. If the wetlands are owned by the State, this area of the parcel cannot be counted as acreage for calculating allowable density. A change in the total acreage could affect the ability of the parcel to support three dwellings in the RCA.

Mr. Cowee  
Page Two  
August 31, 2000

- 4) In a letter dated, November 18, 1999, the Department of Natural Resources, Heritage and Biodiversity Division indicated the potential presence of two endangered plant species. The presence and location of these species must be determined before final subdivision approvals are given. Coordination with the Department is necessary. If the species exists on this site in an area proposed for development, the configuration of the lots may change.
- 5) In regard to the proposed lot configuration, it appears proposed lots 5 and 6 will be accessed via the proposed private road. According to the site plan, the road will cross the 100-foot Buffer to a stream and the stream. These lots cannot be accessed by impacting a Habitat Protection Area (HPA) such as the 100-foot Buffer if an alternative exists. The Commission may not support this configuration since it appears an alternative exists.
- 6) Given the location of the 100-foot Buffer to the stream and the septic disposal areas, it appears there may not be sufficient buildable area remaining on proposed lots 5 and 6 to site the dwellings. This office will not support a variance to impact any HPA including the 100-foot Buffer on newly created lots. Therefore, the County should not be creating new lots that will require a variance to the Critical Area provisions of the County's ordinance. Also, the Commission may not support a growth allocation of this configuration if HPAs will be adversely impacted.
- 7) The Buffer requires expansion in the case of hydric soils. This parcel has inclusions of hydric soils that may be contiguous to the 100-foot Buffer and could require an expansion. Also, while the 100-foot Buffer is shown on the site plan, it must be completed reestablished in native vegetation since the use is changing from an agricultural use to a residential use.

I plan to schedule a site visit in the near future. In the meantime, please telephone me if you have questions, or if I can provide your office with assistance in resolving these issues.

Sincerely,



Lisa A. Hoerger  
Natural Resources Planner

cc: Ms. Mary Owens, Chief, Program Implementation



Judge John C. North, II  
Chairman

Ren Serey  
Executive Director

STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION  
1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338

October 27, 2000

Mr. Daniel Cowee, Planning Officer  
Talbot County Office of Planning and Zoning  
Courthouse  
Easton, Maryland 21601-3178

Re: Whitehall Farm, LLC - Growth Allocation

Dear Mr. Cowee:

I have received the above-referenced growth allocation request. Before we can accept the request as a complete submittal and schedule this item for Commission review, we need the following additional information:

1. Please provide documentation that the County Council has approved the growth allocation request. It is our understanding that the plat we recently received is the one approved by the County Council and that the growth allocation is tied to this specific proposal.
2. The acreage figures shown on the plan do not appear to add up to the total Critical Area acreage. Please provide clarification.
3. The presence of the two endangered plant species must be determined in order for the Commission to address any Habitat Protection Area issues that could constrain future development. Please provide a copy of Lisa Hagen's report.
4. Additional information is needed about the Waterfowl Staging and Concentration Areas, and the impact on this Habitat Protection Area by any proposed individual private piers. Commission staff will follow-up with Heritage staff and provide additional information about this Habitat Protection Area.

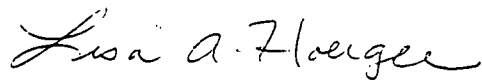
Branch Office: 31 Creamery Lane, Easton, MD 21601  
(410) 822-9047 Fax: (410) 820-5093

Mr. Cowee  
Page Two  
October 27, 2000

5. There is a stream on the southern portion of the property which is identified on the U.S. Geological Survey topographic quadrangle maps. The presence of the stream was confirmed in the field by Commission staff and Mr. Frank Hall on October 23, 2000. In accordance with COMAR 27.01.09.01 C (1), a minimum 100-foot Buffer must be established from tributary streams. It appears that this requirement will affect the design of the subdivision and potentially the shape and size of the development envelope with regard to the subdivision access road and Lots 5 and 6.

Please forward the requested information as soon as possible so we may begin processing the County's request for growth allocation. Commission staff would like to meet with County staff to discuss the stream buffer requirement and its impact on Lots 5 and 6. I will contact you next week to schedule a meeting.

Sincerely,



Lisa A. Hoerger  
Natural Resources Planner

cc: Ms. Mary Owens, Chief, Program Implementation



# Whitehall Farm

November 17, 2000

Critical Areas Commission

## Attachment B

**RE: Whitehall Farm**

To Whom It May Concern:

In response to a meeting regarding the growth allocation and road permit request for Whitehall Farm, LLC in Tunis Mills, I offer the following background.

After many months of negotiations and hearings with the residents of Tunis Mills, County Council and County Planning & Zoning Commission we arrived at a compromise on the development of the farm allowing us to keep the majority of the property in its current agricultural use and develop an economically viable project. Through a long and expensive process we were able to gain three waterfront lots of growth allocation in exchange for placing the balance of the farm (approximately 296 acres) in an environmental conservation easement managed by the Eastern Shore Land Conservancy.

In considering our project approval please be aware that we are proposing to plant a total of 8.3 acres of plantings within the 100' stream and other Buffers on our property. This will bring the total forested acreage of the site up from the 15% forest cover, which the County requires to at total percentage of 24% forest cover as will be approved by the Talbot County Bay Forester. Very importantly that approximates 95% forest cover located entirely within 100' Buffers as suggested by your reviewers.

Our road proposed within the 100' stream Buffer is as narrow as permitted under county regulations. The design of the subdivision and plantings allow continued farming of the site, enhances the open spaces and improves water quality through the plantings. This is a very good and environmentally responsible project. The project has been approved by Talbot County. We look forward to your final approval.

We hope this will assist you in a favorable finding for our property at your December 6<sup>th</sup> meeting.

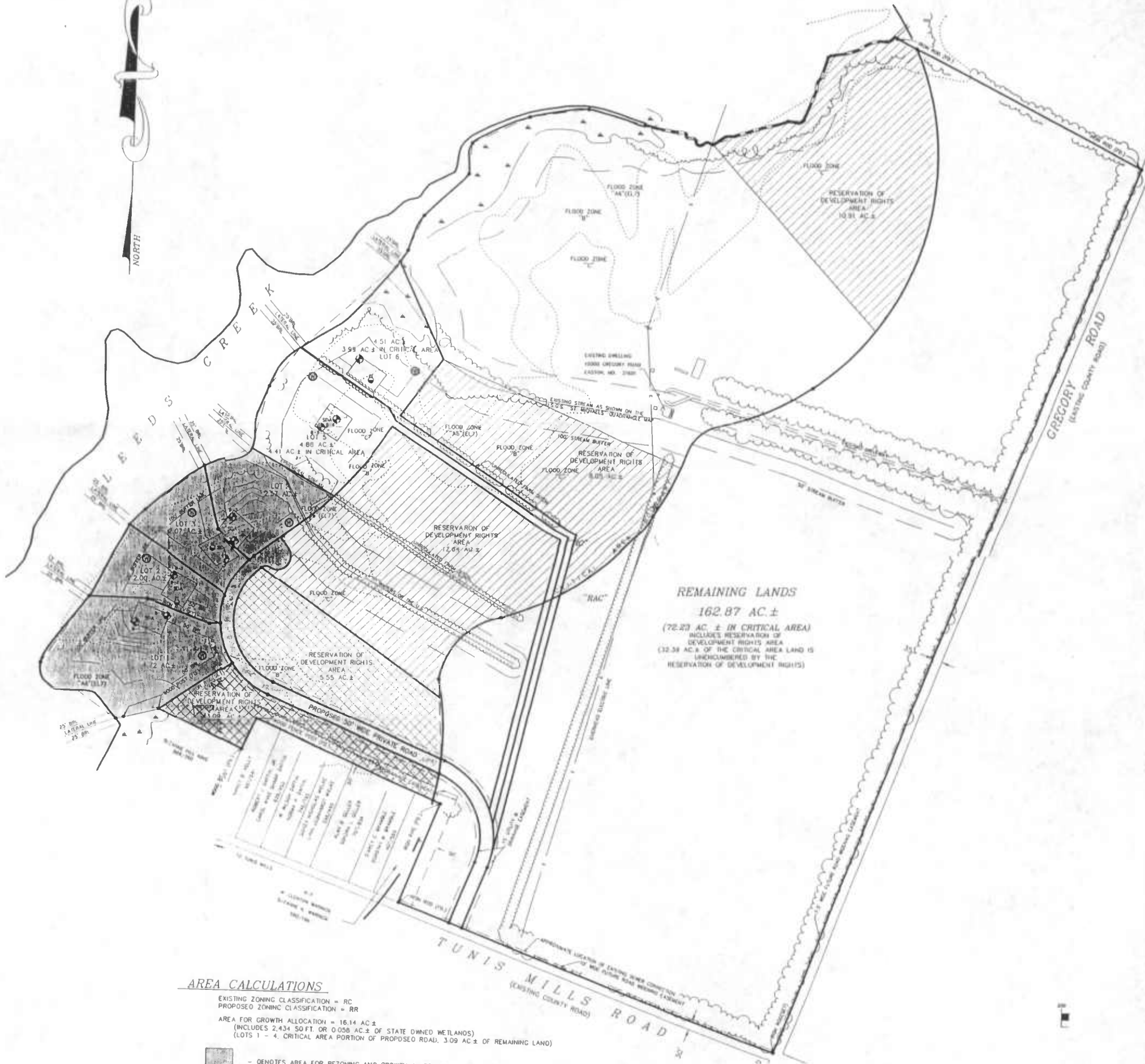
Sincerely,

Stephen Wheeler  
Partner, Whitehall Farm, LLC

cc: file 990090 (CAC memo 11222000)



SAMUEL R. LEONARD, JR.  
778/933



**AREA CALCULATIONS**

EXISTING ZONING CLASSIFICATION = RC  
PROPOSED ZONING CLASSIFICATION = RR  
AREA FOR GROWTH ALLOCATION = 16.14 AC ±  
(INCLUDES 2,434 SQ. FT. OR 0.056 AC ± OF STATE OWNED WETLANDS)  
(LOTS 1 - 4, CRITICAL AREA PORTION OF PROPOSED ROAD, 3.09 AC ± OF REMAINING LAND)

- DENOTES AREA FOR REZONING AND GROWTH ALLOCATION (LOTS 1 - 4, PORTION OF PROPOSED ROAD, 3.09 AC ± OF REMAINING LAND) (TOTAL AREA = 16.14)
- DENOTES RESERVATION OF DEVELOPMENT RIGHTS AREA FOR RR ZONE (TOTAL AREA = 8.64 AC ±)
- DENOTES RESERVATION OF DEVELOPMENT RIGHTS AREA FOR RC ZONE (TOTAL AREA = 31.60 AC ±)
- DENOTES PROPOSED WELL LOCATION
- DENOTES PROPOSED SEWAGE DISPOSAL AREA
- DENOTES EXISTING TEST PIT
- DENOTES EXISTING PIEZOMETER

THE CONTOUR ELEVATIONS SHOWN HEREON ARE BASED ON TALBOI COUNTY BENCHMARK NO. 2501.

AREA OF EXISTING FOREST IN CRITICAL AREA = 10.14 AC ±  
AREA OF EXISTING FOREST OUTSIDE CRITICAL AREA = 10.96 AC ±

# Whitehall Farm

## Condition

The 100-foot Buffer must be established and maintained in natural vegetation sufficient to ensure the water quality and habitat functions specified in the Critical Area Criteria

Appropriate notes shall be placed on the plat and restrictions placed in each deed to ensure that the Buffer on each lot is maintained. These legal instruments shall be reviewed and approved by Commission staff.

## *Chesapeake Bay Critical Area Commission*

### **STAFF REPORT**

**December 6, 2000**

**APPLICANT:** State Highway Administration (SHA)

**PROPOSAL:** Stormwater Management for the Woodrow Wilson Bridge Project

**JURISDICTION:** Prince George's County

**COMMISSION ACTION:** Vote

**STAFF RECOMMENDATION:** Approval with conditions

**STAFF:** Lisa Hoerger

**APPLICABLE LAW/  
REGULATIONS:** COMAR 27.02.05.03

### **DISCUSSION:**

At its July meeting, the Commission voted to approve the Woodrow Wilson Bridge project with several conditions. One condition was to ensure the project complied with the 10% Pollutant Reduction Requirement since the project site is in an area of intense development. The condition stated, "The Commission staff will work with SHA to ensure the 10% Pollutant Reduction Requirement is met for this project. Once the 10% calculations are finalized they will be brought before the Commission for review and approval." The 10% Pollutant Removal Requirement for the Woodrow Wilson Bridge project is proposed for approval this month.

As part of the Woodrow Wilson Bridge project, the State Highway Administration (SHA) proposes to reconstruct the interchanges at the intersections of MD I-295 and MD 210 to provide for better traffic flow, increased access and roadway widening. This construction, in addition to the area of the new bridge is required to meet the 10% Pollutant Reduction calculation.

The results of the 10% calculations for this project at the current level of design require SHA to remove 387 pounds of phosphorous. To accomplish this removal requirement, SHA proposes to construct nine separate stormwater management facilities. Six will be retention facilities and three will be wetland/retention facilities.

The six retention facilities will be located within the Critical Area. These facilities will remove 159 pounds per year from within the Critical Area. They will also remove an additional 118 pounds per year from offsite drainage areas.

Additional management outside the Critical Area will be accomplished with three offsite wetlands/retention facilities. These facilities will remove 141 pounds from areas outside the Critical Area. The total load removed from all facilities combined will be 419 pounds per year. Therefore, the proposal meets and exceeds the required removal rate of 387 pounds per year.

Since the stormwater management facilities will be constructed at different times under different contracts, the design could change. Therefore, staff propose that as the design progresses, and when changes occur, SHA will return to the Commission for review and approval of any changes.

#### Permits from the Maryland Department of the Environment (MDE)

The project continues to work with MDE to secure permits for both the stormwater management and erosion and sediment control plans. The project received conceptual approval for stormwater management from MDE for the I-295 and MD 210 interchanges on August 14, 2000. Additionally, the design plans for both stormwater management and erosion and sediment control were submitted for the first two Maryland contracts on August 23, 2000. Approval of these designs is anticipated by mid January 2001. Upon approval of individual design contracts from MDE, the project will be forwarded to staff.

#### Conditions:

1. As the design of the contracts progress, any changes to either the stormwater management or erosion and sediment control plans shall be resubmitted to the Commission for review and approval.
2. Since a portion of the removal requirement is dependent upon offsite Best Management Practices (i.e. stormwater management facilities) at the MD 210 interchange, the applicant shall resubmit revised 10% Pollutant Removal Calculations if the MD 210 interchange reconstruction is not completed.
3. The applicant shall be required to provide continued maintenance of all facilities used to comply with the 10% Pollutant Reduction Calculations in order to insure the facilities are properly functioning.

Wilson Brady.

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#### Conditions:

1. As the design of the contracts progress, any changes to either the stormwater management or erosion and sediment control plans shall be resubmitted to the Commission for review and approval.
2. Since a portion of the removal requirement is dependent upon offsite Best Management Practices (i.e. stormwater management facilities) at the MD 210 interchange, the applicant shall resubmit revised 10% Pollutant Removal Calculations if the MD 210 interchange reconstruction is not completed.
3. The applicant shall be required to provide continued maintenance of all facilities used to comply with the 10% Pollutant Reduction Calculations in order to insure the facilities are properly functioning. - A main plan shall be developed between SHA and the Commission staff. to ensure long-term

## *Chesapeake Bay Critical Area Commission*

### **STAFF REPORT December 6, 2000**

**APPLICANT:** City of Cambridge

**PROPOSAL:** Buffer Management Plan Approval  
Hyatt Regency – Chesapeake Resort

**JURISDICTION:** City of Cambridge

**COMMISSION ACTION:** Vote

**STAFF RECOMMENDATION:** Pending

**STAFF:** Regina Esslinger, Roby Hurley, Mary Owens, and Ren Serey

### **DISCUSSION:**

This project came before the Commission two years ago when the City of Cambridge requested approval of 174.86 acres of growth allocation and the designation of five Buffer Exemption Areas on the site. As you may recall, the project involves a destination resort, which includes a 500 room hotel and conference center, a 480 slip marina, a European health spa, an 18-hole, PGA quality golf course, three restaurants and approximately 350 new dwelling units. The resort also includes an entrance road, private streets, and an extensive system of trails and walkways.

In the summer of 1998, Chairman North convened a Special Subcommittee of Commission members to consider the site plan for conceptual approval by the full Commission. The Subcommittee developed numerous conditions relating to the environmental impacts of the project. The full Commission adopted the Special Subcommittee's conditions in its vote to grant conceptual approval of the growth allocation request.

One of the conditions of approval pertained specifically to the development of a comprehensive Buffer Management Plan for the entire project. The condition is as follows:

*A comprehensive Buffer Management Plan shall be developed with Critical Area Commission staff and approved by the Critical Area Commission according to standard practice. The Plan shall include: location of managed areas, planting plans, specimen trees to be saved, bonding, and maintenance plan and specifications.*

This project is now before the Commission as required by the conditions. Over the last year, as the design and development of the project has progressed, Commission staff have visited the site



and met with engineering, legal and environmental consultants. Because the project is complex, many aspects had to be considered, not the least of which was the extensive amount of Buffer area on the site. The 346 acre site includes Buffer areas adjacent to open water, tidal wetlands, and tributary streams. There are also five mapped Buffer Exemption Areas (BEAs).

In evaluating the Buffer Management Plan, staff considered all of the impacts to the Buffer. These impacts include resort access roads, pedestrian and golf course access paths, beach use areas, and portions of the golf course. In order to quantify all of the required mitigation in the Buffer, a table was developed that identified the Buffer impacts and the appropriate mitigation ratios. (The table is included as Attachment A in the hard copy mailing.) Three-to-one mitigation is required for all Buffer impacts, except for impacts in Buffer Exemption Area, where two-to-one mitigation is required. The area of the Buffer affected by the project totals 8.96 acres, and the required mitigation planting totals 24.0 acres. The Buffer Management Plan includes 24.7 acres of Buffer planting. The Buffer Management Plan has been developed utilizing all native species.

In identifying mitigation sites in the Buffer, staff and the consultants identified three types of areas in the Buffer that could be used for mitigation. These areas are as follows:

1. Areas that were not vegetated and that are required to be established in forest vegetation when the property is developed;
2. Areas that were characterized by invasive species, such as phragmites, honeysuckle, and multiflora rose, that could benefit from eradication of the invasive species and replacement with native species.
3. Areas that were partially vegetated but either were not 100 feet wide or lacked the multi-layered structure of a fully functioning Buffer.

Three primary types of mitigation were proposed, and these types are clearly delineated on the detailed set of Buffer Management Plans prepared by Betsy Weinkam of Coastal Resources, Inc. The three types of mitigation are as follows:

1. Type 1 Cluster Planting for Reforestation of the 100-foot Buffer includes native canopy tree and shrub species such as American Sycamore, Pin Oak, White Oak, and Redbud.
2. Type 2 Cluster Planting for Invasive/Exotic Vegetation Removal and Supplemental Planting of the 100-foot Buffer Area includes understory tree and shrub species such as Redbud, Witch Hazel, and Serviceberry.
3. Bayscaping Planting for Establishment of the Buffer with Shrubs, Herbaceous Plants, and Native Grasses includes several shrub and native grass species such as Bayberry, Chokeberry, Switchgrass, Broomsedge, and Coastal Panicgrass.

In addition to showing the location and type of the various mitigation areas, the Buffer Management Plan also includes areas where existing vegetation within the Buffer will be

Hyatt

modified to facilitate golf play, several areas where the Buffer will be allowed to naturally regenerate, and several areas of the Buffer adjacent to fairways that will be planted in warm season grasses.

In addition to the required mitigation shown on the Buffer Management Plan, the developer has prepared a Landscape Plan for the entire project site. In many areas, supplemental plantings are located adjacent to the Buffer, around nontidal wetlands, and in and around stormwater management measures. These supplemental plantings enhance the water quality and habitat functions of the Buffer and generally exceed the reforestation requirements for projects located within Intensely Developed Areas.

Condition: ~~develop~~ a Buffer maintenance agreement ~~be developed~~ between the applicant, Town of Cambridge, & the Commission which shall be recorded in the ~~county~~ land records.

# Attachment A

HYATT REGENCY - CHESAPEAKE RESORT

## Hyatt Regency - Chesapeake Resort

### Detailed Buffer Management Plan Calculations

Revised August 2000

Impact Site	Buffer Impacts sq. ft.	BEA	Non-BEA	Mitigation Ratio	Buffer Mitigation Required sq. ft./acres	Total Mitigation Provided sq. ft./acres
A1	4,223		X	3:1	12,669	
A2	2,480	X		2:1	4,960	
B	55,937	X		2:1	111,874	
C	1,725	X		2:1	3,450	
D	3,762	X		2:1	7,524	
E1	2,400		X	3:1	7,200	
E2	7,515	X		2:1	15,030	
F	21,330	X		2:1	42,660	
G	2,421	X		2:1	4,842	
H	8,608		X	3:1	25,824	
I	18,574		X	3:1	55,722	
J	410		X	3:1	1,230	
K	2,212		X	3:1	6,636	
L	3,302		X	3:1	9,906	
M	29,345		X	3:1	88,035	
N	32,231		X	3:1	96,693	
O	17,160		X	3:1	51,480	
P	5,544		X	3:1	16,632	
Q	29,434		X	3:1	88,302	
R	21,048		X	3:1	63,144	
S	7,510		X	3:1	22,530	
T	966		X	3:1	2,898	
U	1,100		X	3:1	3,300	
V	33,392		X	3:1	100,176	
W	3,256		X	3:1	9,768	
X	1,760		X	3:1	5,280	
Y	861		X	3:1	2,583	
Z	9,370	X		2:1	18,740	
AA	947		X	3:1	2,841	
BB	4,533		X	3:1	13,599	
CC	2,387		X	3:1	7,161	
DD	13,638		X	3:1	40,914	
EE	9,813		X	3:1	29,439	
FF	1,492	X		2:1	2,984	
GG	19,587	X		2:1	39,174	
HH	9,988		X	3:1	29,964	
<b>Total sq.ft.</b>	<b>390,261</b>				<b>1,045,164</b>	<b>1,076,659</b>
acres					<b>24.0 acres</b>	<b>24.7 acres</b>

**CHESAPEAKE BAY CRITICAL AREA COMMISSION**  
**1804 West Street, Suite 100**  
**Annapolis, Maryland 21401**

**MEMORANDUM**

To: Project Subcommittee

From: Ren Serey, Regina Esslinger

Date: November 28, 2000

Subject: David Taylor Government Reuse Site  
Anne Arundel County Buffer Exemption Area

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Anne Arundel County is in the process of acquiring the 46 acre David Taylor site, across the Severn River from the Naval Academy, from the federal government. Annapolis Partners, LLC is the group that will be redeveloping the site for office and commercial uses. The site is mostly IDA, with a small portion of the site LDA. 92% of the Buffer is already impervious; there are buildings and concrete within the first 100 feet. Part of the shoreline is bulkheaded and the remainder is riprapped. Annapolis Partners is proposing to renovate some of the existing buildings, tear down the remaining buildings, and build several buildings. They will not change the bulkhead or riprap. They are proposing to establish much more of the Buffer in vegetation, and a path will run partially through the Buffer.

While the County has a Buffer Exemption program in place, it is the Commission's old policy and does not work well for commercial uses. The applicant is receptive to using the Commission's new policy, although it may need to be modified for the constraints of this site. Staff has been working with the applicant to determine what changes might be needed. A bill has been introduced to the County Council; Commission staff have related some concerns about the bill to the County staff.

We are looking for the Subcommittee's input on both the County's bill and the development proposal as it relates to the new Buffer Exemption Area policy. We anticipate that the final version of the bill will be before the Commission in January.

**CHESAPEAKE BAY CRITICAL AREA COMMISSION**  
**1804 West Street, Suite 100**  
**Annapolis, Maryland 21401**

**MEMORANDUM**

To: Project Subcommittee Members

From: Lisa Hoerger

Date: December 6, 2000

Subject: MD 2 Road Widening Project  
Update of Mitigation

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At the December 1, 1999 Commission meeting the MD Route 2 Road Widening project in Anne Arundel County was approved with several conditions. One condition was that the applicant identify another site within the Critical Area within one year, and that the site be planted once funding was allocated. The condition required SHA to provide an update to the Commission within one year.

At the Project Subcommittee meeting on December 6, 2000, a representative from SHA will be present to provide an update on the status of the mitigation. The majority of the mitigation will occur on site. An additional .93 acres will require planting elsewhere. Last December, SHA provided alternative sites for the mitigation, however, those sites were not in the Critical Area and not acceptable to the Subcommittee.

At the present time Commission staff are coordinating a site visit with a representative from SHA to investigate a potential place for the mitigation at Historic St. Mary's City. This potential site is within the Critical Area. It is possible that much or all of the plantings could occur within the 100-foot Buffer. More details will be provided by SHA at the meeting.

If you have any questions, please telephone me at (410) 260-3478.

**CHESAPEAKE BAY CRITICAL AREA COMMISSION**  
**1804 West Street, Suite 100**  
**Annapolis, Maryland 21401**

**MEMORANDUM**

To: Project Subcommittee

From: LeeAnne Chandler

Date: November 28, 2000

Subject: Update - MD 347 Stormwater Issues - Wicomico County

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At the November Commission meeting, the Project Subcommittee was given information on the proposed improvements to MD 347, located in the historic village of Quantico in western Wicomico County. Improvements include widening, resurfacing, drainage improvements and placement of curb, gutters, and sidewalks. The project is within an area of intense development and subsequently a 10% pollutant reduction is required. Calculations provided by the consultant (Wallace, Montgomery & Associates) indicate a pollutant removal requirement of 2.0 lbs. of Phosphorus. Due to a number of on-site constraints, SHA is not proposing any on-site treatment of stormwater.

At the meeting, two issues were raised. One, off-site treatment of stormwater is proposed within the Nanticoke watershed but outside of Wicomico County. SHA was not aware of any alternative locations in the Nanticoke watershed within the County. Commission staff provided information to Wicomico County regarding the out-of-county treatment of stormwater. We received a letter indicating that the County did not have any suggestions for alternatives within the County. County Critical Area staff also indicated that because the proposed site is within the same watershed, they believe that the "pollutant reduction" measures required by the County's Critical Area Program will still be obtained.

The second issue brought up at the November meeting involved the presence of a Habitat Protection Area (HPA) in the immediate vicinity of the site. There are at least two State threatened plant species directly downstream from the proposed stormwater outfall. Three other rare plant species have also been documented in the vicinity. I sent a letter as well as the site plan and supporting documentation to the Department of Natural Resources' Eastern Regional Ecologist for review. To date, I have not received a response. I may have additional information at the December 6, 2000 Commission meeting. However, a formal review and vote on this project should occur only with complete information regarding potential impact to the HPA. It is anticipated that the project will be formally reviewed at the January 3, 2001 Commission meeting.

If you have any questions or would like to discuss this project prior to the Commission meeting please feel free to contact me at (410) 260-3477. Thank you.