

Critical Area Commission
 Department of Housing and Community Development
 Crownsville, Maryland
 July 2, 2003
AGENDA

Temp: Pat Faulkner
 DHC
 Rowland Ag'be'de'
 Agriculture
 Bd of County Comm
 Chairman
 St
 Comm
 Mary

1:00 p.m. – 1:05 p.m.

Approval of Minutes for June 4, 2003

PROJECTS

New members: Tom McKay - Pres -
 Danny Mayer - Comm - Charles County
 Frank Dawson - DNR

Martin G. Madden

1:05 p.m. – 1:30 p.m.

VOTE: Department of Natural Resources /
 Erickson Foundation: NorthBay Camp at Elk
 Neck State Park (Cecil County)
 Conditional Approval

Regina Esslinger

Acknowledge Staff
 Thank Dave Setzer

1:30 p.m. – 1:40 p.m.

VOTE: Department of Natural Resources
 Timber Harvest – Chesapeake Forest
 (Wicomico County)

Claudia Jones

1:40 p.m. – 1:50 p.m.

VOTE: Maryland Port Authority: Former Kurt
 Iron and Metal Facility (Fairfield Marine
 Terminal, Baltimore City) Conditional
 Approval

Dawnn McCleary

1:50 p.m. – 1:55 p.m.

VOTE: State Highway Administration
 MD 16 Bridge over Parson's Creek
 (Dorchester County)

Wanda Diane Cole

PROGRAMS

1:55 p.m. – 2:15 p.m.

VOTE (Tentative): Resource Conservation
 Area Density Issues

Ren Serey
 Mary Owens
 Lisa Hoerger

2:15 p.m. – 2:25 p.m.

Update: Talbot County Critical Area Program
 Changes – Legislative Oversight Comm
 Enforcement

Ren Serey
 Lisa Hoerger

2:25 p.m. – 2:30 p.m.

VOTE: Calvert County: Quality Built Homes /
 Gertz Buffer Exemption Area Amendment

Julie LaBranche

2:30 p.m. – 2:35 p.m.

VOTE: Ocean City Critical Area Program

LeeAnne Chandler

2:35 p.m. – 2:45 p.m.

VOTE: St. Mary's County
 Completion of Comprehensive Review and
 Revised Critical Area Maps

Wanda Diane Cole

Refinement: Crisfield Buffer Exemption Area
 (Somerset County)

Claudia Jones
 Tracey Gordy

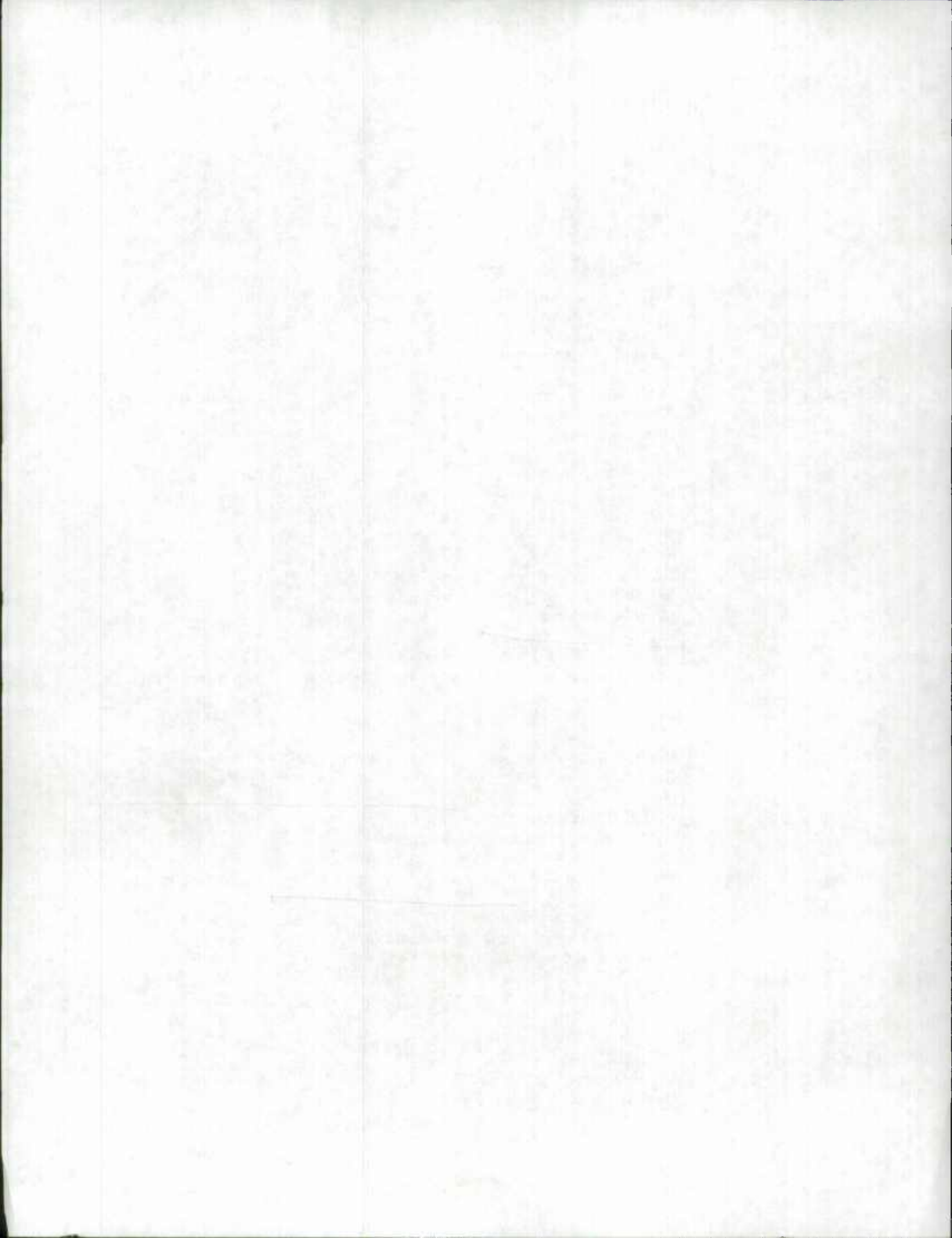
2:45 p.m. – 2:50 p.m.

OLD BUSINESS
 Legal Update
 NEW BUSINESS

— Dave Boardman leaving — Sept 2
 Shawn Fenlon
 Marianne Mason

Panel — Charlestown
 Business Cards
 Hats

Key oversight 7/9/2003 Enforcement
 Guest Houses



Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
100 Community Place
People's Resource Center
Department of Housing and Community Development
Crownsville, Maryland
June 4, 2003

Approved

The full Critical Area Commission met at the People's Resource Center Crownsville, Maryland. The meeting was called to order by Chairman Martin G. Madden with the following Members in **Attendance**:

Margo Bailey, Kent County; Dave Blazer, Worcester County Coastal Bays; Dave Bourdon, Calvert County; Dr. Earl Chambers, Queen Anne's County; Dave Cooksey, Charles County; Judith Evans, Western Shore Member-at-Large; William Giese, Dorchester County; Ed Gilliss, Baltimore County; Joseph Jackson, Worcester County; Paul Jones, Talbot County; Louise Lawrence, Maryland Department of Agriculture; William Rice, Somerset County; Edwin Richards, Caroline County; Barbara Samorajczyk, Anne Arundel County; Douglas Wilson, Harford County; Gary Setzer, Maryland Department of the Environment; Larry Duket, Maryland Department of Planning; James McLean, DBED; Meg Andrews, Maryland Department of Transportation; Craig Chesek, Maryland Department of Natural Resources; Karen Hilton representing Baltimore City; Pat Faulkner representing Maryland Department of Housing and Community Development; *James N. Mathias, Jr.*

Not in Attendance: Q. Johnson, Eastern Shore Member-at-Large; ~~James N. Mathias, Jr.~~, Ocean City, Douglas Stephens, Wicomico County; Samuel Wynkoop; Prince George's County;

The Chairman announced that several Commission members' terms of service will end this June but they will be invited back to be formally recognized for their service and dedication. Chairman Madden stated that he has had a busy month becoming acclimated to the nuances of requirements and variations on the issues of Commission business and working with the Commission Staff to get up to speed. He stated that enforcement is spotty and he asked that the Commission members bring any violations and whatever the adjudications may be to the attention of the staff. He reported that he had lunch with Governor Hughes for his perspective on whether the Bay's health has improved. He said that Governor Hughes believes that even though the time and energy is committed to improving the health and vitality of the Bay, there remains a lot of work to be done. The Chairman introduced Jennifer Lester, legal intern with Marianne Mason's office.

The reading of the Minutes of May 7, 2003 was waived and the Minutes were approved as written.

Prince George's County: The Chairman announced that the proposed Mitigation package for impacts associated with the MD 450 project (Grade Separation/CSXT Railroad) by the State Highway Administration has been taken off the agenda because they have asked for a 60 day extension which was granted.

Baltimore City: Dawnn McCleary presented for VOTE the proposal by the Maryland Port Administration (MPA) to build a 300,000 square foot Cargo Shed at South Locust Point Marine

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Terminal to keep up with the demands of the Port. The site is currently being surcharged with stone and is out of the 100 foot Buffer. The Port would like the Commission to approve the new shed and the placement of the stone in the slip. No impacts to Habitat Protection Areas are proposed. The phosphorus reduction requirement for the shed is 9.43 pounds which will be addressed through future treatment projects off-site. This will add to the deficit of previous projects bringing the total to 32.85 pounds. MPA's conceptual phosphorus reduction plan was approved by the Commission on December 4, 2002 from Gunpowder Falls State Park at the Hammerman Area that included a condition that MPA and Commission staff develop a formal process for tracking phosphorus banking. Once the Hammerman Area projects are approved, the deficit will drop to 3.72 pounds. A plan is being developed for future mitigation projects in relation to this deficit and future proposed MPA projects by MPA and Commission Staff, which will be brought to the Commission once it is completed. Mark Kreifler, Md. Port Administration, stated that currently a paper import company at North Locust Point needs a shed to centrally relocate. Bill Giese moved that the Commission approve the request by the Maryland Port Administration on the condition that MPA meet the mitigation requirements and have them fully addressed and permitted by the November 5th Critical Area Meeting, which is about the time construction is scheduled to begin. The motion was seconded by Dave Cooksey and carried unanimously.

St. Mary's County: Mary Owens presented for VOTE the proposal by the Department of Natural Resources (DNR) to construct a playground in an open field at Greenwell State Park. Ms. Owens described the details of the playground construction and stated that the project is not in the 100-foot Buffer. There is no clearing associated with the project and it involves only minimal areas of impervious surfaces so that stormwater run-off can be infiltrated into the surrounding field area. No Best Management practices are proposed and there are no threatened or endangered species. Bill Giese moved to approve the request by DNR to construct a playground at the Greenwell State Park. The motion was seconded by Dave Cooksey and carried unanimously.

Anne Arundel County: Lisa Hoerger presented for VOTE by conditional approval the proposal by the Anne Arundel County Department of Public Works to expand an existing holding pond at its Broadneck Water Reclamation Facility. The site is approximately 50.32 acres with 22.20 acres inside the Critical Area, 13.41 acres in the LDA and 8.59 acres in the RCA. The Maryland Department of the Environment requires a wastewater facility discharging to shellfish harvesting waters to have a holding capacity equal to its design capacity (which is provided for in the 1999 Master Plan for Water Supply and Sewerage Systems). It will be expanded up to nine (9) million gallons per day(mgd) from its current six mgd capacity. The only feasible area for expansion will encroach into an expanded Buffer. The pond is considered an impervious surface therefore the expansion will exceed the 15% impervious surface limitation and will require a conditional approval. There are no rare, threatened or endangered species on the site. The sediment and erosion control plans have been approved. Stormwater management plans will include improving an existing trap pond, installing a shallow wetland Best Management Practice and placing 14.8 acres of forest, wetland, and floodplain area in a permanent forest conservation easement to use as a Forest Conservation Credit. The County proposes to reforest on-site inside and outside the expanded Buffer. Ms. Hoerger explained how this project meets the conditional approval process with the requisite characteristics and said that the request is consistent with COMAR 27.02.06 and recommended approval with the condition

that: The Department of Public Works shall provide mitigation at a 3:1 ratio for all disturbances to the expanded Buffer and 1:1 mitigation for clearing outside the expanded Buffer. Bill Giese moved to approve the request for expansion of the Broadneck Water Reclamation Facility Holding Pond with the condition as stated. The motion was seconded by Dave Cooksey and carried unanimously.

Old Business

Chairman Madden reported that there has been an idea proposed for moving the process along for the North Bay project in Cecil County by Gary Setzer, the Commission member representing the Maryland Department of the Environment. This idea will substantially increase the flow of information between the Commission and the applicant and would for the first time involve the Commission staff members in the actual decision making process with the agencies involved such as MDE, Corps of Engineers, etc. He stated that he has taken the idea to Regina Esslinger, Commission Project Chief, and to the Attorney General's office as well as the Executive Director of the Commission in a Memo that was followed by a meeting and was advised that legal sufficiency will be met and that the idea has full support of the Commission staff and Counsel.

Marianne Mason, Commission Counsel said that the project has been in limbo because information needed to complete a project application has not been forthcoming. This new process would enable the applicant to submit the required information to the Commission Staff so that a hearing can be held. This having been done, the proposal could go forward for a conditional approval with conditions in July.

Regina Esslinger told the Commission that the Chairman presented a schedule for hearings and presentations outlined in a Memo to them on May 19, 2003. She reminded the Commission that in April they granted a concurrence with the concept plans for the camp. A public hearing is scheduled for June 16th with the Vote on the conditional approval to be presented at the July 2003 meeting. She iterated the statistics of the impacts. She said that there are more temporary impacts than permanent impacts. Currently there are 0.63 acres of paving and structures in the 100-foot and expanded Buffer and 0.29 acres of paving on steep slopes. The site has 3.5% impervious surface. As proposed, the total temporary and permanent impacts to the 100-foot and expanded Buffer is 5.8 acres. The total temporary and permanent impacts to steep slopes is 1.9 acres. The total forest area to be cleared is 2.2 acres. The total proposed impervious surfaces, including existing impervious surface to be kept, is 14.67% of the site. The Commission Staff is reviewing the proposed mitigation amounts. Ms. Esslinger told the Commission that this request qualifies for consideration for a conditional approval because of its requisite characteristics as well as the supporting tabulations of impacts and mitigation documents of compliance for COMAR, Title 27 as outlined in her Staff report of June 4, 2003 (attached to and made a part of these Minutes). Ken Usab, the Erickson Foundation's consulting engineer, was available to discuss any questions or concerns the Commission might have.

Ms. Esslinger described two wetland areas and said that the one to the South of the primary development area is proposed to be designated a "Wetland of Special State Concern" by MDE. She stated that at this time, MDE has a required 25 foot Buffer, but if this area is designated a Wetland of Special State Concern, then it could have a 100' Buffer which is not dealt with in the same way that the Critical Area treats 100' Buffers. At this time, in the 25 foot Buffer there is a walkway and overlook platform and a stormwater outfall proposed. The

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grading impacts would be approximately one acre at the most which is not included in the impacts and may increase the impacts if it is designed as such.

Barbara Samorajczyk asked if the structures could be put into the 100 foot Buffer should it receive the wetland designation. Ms. Esslinger answered that the situation will be assessed for adverse impacts according to MDE 's process if so designated by MDE. Gary Setzer stated that there is no prohibition in the non-tidal wetlands statute on development within the Buffer, but MDE is considering new regulations and he told the Commission that it is appropriate to move these areas into regulation without notifying property owners. He said that when the statutes were enacted, the wetlands program was part of DNR. DNR did an analysis and there are mostly rare plant species in designated Wetlands of Special State Concern.

Another portion of the impacts include a wastewater treatment plant upgrade in the Buffer and to do that they need to tie into the existing line and are proposing a new pumping station beyond the 25 foot non-tidal wetland Buffer. Ken Usab stated that DNR proposes to relocate the force main to the beach area, a temporary disturbance, rather than under the wetland, minimizing the impacts by taking it into the 100 foot Buffer and relocating to a less sensitive area with proposed mitigation. Ms. Esslinger stated that ultimately there will be mitigation in the Buffer for water dependent facilities, at a 1:1 ratio; mitigation for water access at a 2:1 ratio; mitigation for other impacts like buildings and trails, 3:1 ratio for a total of 18.68 acres of mitigation. Proposed reforestation will occur on the leased site or immediately adjacent to the leased site. Currently, there is 3.5% impervious surface on the leased site and that will increase to 14.67%. The limit is 15%. There is about 13,000 square feet of impervious area remaining for future development and DNR states no other impervious surface is anticipated.

There was concern about public access to the beach and there was an assurance that no curtailment of public activity on the site was anticipated and that the beach will still be available. In response to a concern about how many days the facility would be available and /or used by paid campers or used by the under privileged children, the Commission was told that the lease explicitly states that a predominate usage from Labor Day until Memorial Day will be for groups of school children during the week and on the week end it would be leased out to anyone who wants to lease it from boy scouts to 4-H or a school system who wants to run summer programs. There is no limitation and no one group will be exclusive. Another concern was the affect this would have on other non-profits that do the same thing, such as the Echo Hill Outdoor School in Kent County. Ken Usab said that other schools have smaller camps and cannot handle 300 students at a time. Pete Albert of Erickson said it ws not their intention to compete with other camps and he was not aware of any other camps that could accommodate the number of children that North Bay can accommodate.

Chairman Madden stated that the Commission now has a formal application and that a public hearing is scheduled for June 16th at the Northeast Elementary School. He appointed a panel for the North Bay project: Dave Bourdon, Chair, Bill Giese, Jim McLean, Dave Blazer, Earl Chambers and Dave Cooksey as alternate. He told the Commission that after the hearing should the Commission, on panel recommendation, choose to go forward with a conditional site plan approval with the condition that the Commission staff stay involved with the Department of the Environment at every stage, reporting to the Commission on a regular basis or whenever requested to do so, and when the time comes that they either have permits or a commitment to having them, then the Commission will be asked to make a final vote of approval on the project itself.

Larry Duket gave an update on the Ocean City program. He said that the Staff gave a report on the text changes made to the Ocean City Program to resolve issues that were brought out in review over the last couple of months. Ocean City has had a hard time dealing with stormwater management since it is all IDA and the program now has the language to increase those provisions. There is also better language for increased habitat and shoreline protection. Mr. Duket said that the Attorney in Ocean City has been talking with the Commission's Counsel and determined that condominium structure of piers is not permitted by the Criteria. He said that Commission Staff gave a demonstration of a scenario of how a Buffer Exemption Area Program might work in the City, particularly in the context of redevelopment. LeeAnne Chandler, Commission Planner, said that the proposed Program has not been formally submitted yet, however, there has been a good compromise on the last issue, Buffer mitigation, in comparing the intense development of Ocean City to what the Commission Policy calls for. Commission Staff will be at the meeting of the City Council next Tuesday to support the Town Staff in explaining what we have come up with. Jim Mathias, Commission member and Mayor of Ocean City agreed that the compromise is a good one and that everyone is pleased and appreciates all the guidance and hard work.

New Business

Commission Counsel Marianne Mason, updated the Commission on legal matters. She said that there is no news on the Ed Lewis case in **Wicomico County**. The case was argued before the Court of Appeals on May 1st and the decision should be forthcoming in the next couple of weeks.

In the Circuit Court in **Harford County** in the Old Trails matter, Ms. Mason filed a brief in Circuit Court last week which will be argued on July 9th. This case involved a developer who wanted to build 56 homes on 31 acres and the County Council Board of Appeals in Harford County modified the variances that were issued to the developer. The owner was not happy and so he appealed to the Circuit Court. The People's Council for Harford County and the Commission are jointly defending the County.

In **Talbot County**, the Camper case which involves a proposed subdivision of RCA property that contained a residence and a guest house. The issue of whether the property could be subdivided and contain both a residence and guest house on 20 acres was brought to the Board of Appeals. They issued their opinion last week and upheld the subdivision. The Commission has about 2 more weeks to decide whether or not to appeal that to the Circuit Court. This is all bound up with the general issue of guest houses and the Chairman will have to make this call.

In **Anne Arundel County** before the Board of Appeals, there was to be a hearing on a proposed pool in the Buffer and the applicant withdrew his application the day of the hearing.

There will be a hearing on June 5th in **Calvert County** before their Board of Appeals on a case that has been heard three times and turned down each time. The Commission staff will go to the hearing this time and Julie LaBranche of the Commission will testify.

Julie LaBranche briefed the Commission on the Gertz BEA property in **Calvert County** which was on the agenda last month and was deferred from a Concurrence of Refinement action to obtain additional information about the site. Ms. LaBranche visited the property on the 19th of May to evaluate the site. Based on her observations and information provided by the County, it does not appear that this property qualifies as a BEA since the Buffer is substantially forested has very little

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impervious surface and there is no habitable structure on the property. A panel hearing is scheduled for June 23rd and this request will be processed as an amendment.

The Chairman appointed a panel for the Calvert County amendment: Barbara Samorajczyk, Chair, Gary Setzer, alternate, Louise Lawrence, Judith Evans and Larry Duket.

The Chairman announced that the next meeting of the Critical Area Commission is scheduled for July 2, 2003 at the Crownsville location.

There being no further business, the meeting adjourned at 2:15 p.m.

Minutes submitted by: Peggy Mickler, Commission Coordinator

approved

Critical Area Commission

STAFF REPORT

July 2, 2003

APPLICANT: Department of Natural Resources/Erickson Foundation

PROPOSAL: North Bay Environmental Education Camp

JURISDICTION: Cecil County

COMMISSION ACTION: Vote

PANEL RECOMMENDATION: Approval with conditions

STAFF: Regina Esslinger

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State Agency Programs in the Critical Area

DISCUSSION:

The Department of Natural Resources, in partnership with the Erickson Foundation, proposes to build an environmental education camp for children at Elk Neck State Park. The camp will serve public and private schools, religious groups, Boys Scouts, Cub Scouts, Girl Scouts, Young Life, and athletic associations. The camp will have up to 500 people between campers and staff. The Erickson Foundation, with input from and in coordination with DNR, is developing a program that will provide experience and training in environmental awareness, natural resources conservation, team and confidence building, and leadership training.

In April the Commission granted a concurrence with the concept plans for the camp. DNR then requested that the conditional approval request be heard for information in June, with the conditional approval public hearing scheduled in June and a vote on the conditional approval at the July 2003 meeting. The Commission agreed in June to allow the conditional approval request to move forward under the condition that Commission staff participate in MDE reviews of permit applications and report back to the Commission. During the period of permit reviews, the Commission may request the applicant to address issues related to the permits and may require adjustments to the site plan based on information resulting from the reviews. Once all permits are in hand, the applicant will come back to the Commission for a final conditional approval.

The panel (David Bourdon, Chair, David Blazer, David Cooksey, Bill Giese, and Jim McLean) held a public hearing on June 16 in the Town of North East following a visit to the site. 31 people attended. The Mayor of North East, two County Commissioners, and one State Delegate spoke in favor of the project. Other comments included support for the project, questions about public use and potential users, concern about additional development on the Elk Neck peninsula, and the comment that if a private citizen can't develop in the Buffer then the State shouldn't consider it.

→ Currently there are 0.63 acres of paving and structures in the 100-foot and expanded Buffer and 0.29 acres of paving on steep slopes. The site has 3.5% impervious surface. As proposed, the total temporary and permanent impacts to the 100-foot and expanded Buffer is 5.8 acres. Total temporary and permanent impacts to steep slopes is 1.9 acres. The total forest area to be cleared is 2.2 acres. Total proposed impervious surfaces, including existing impervious surface to be kept, is 14.67% of the site. Total Buffer mitigation owed is 16.73 acres; all mitigation will occur on the lease site or adjacent to lease site.

Rev. For the record

Conditional Approval Process

Applicants Justification for the Standard

B. In order to qualify for consideration by the Commission for conditional approval, the Department of Natural Resources must show that the project has the following characteristics:

(The responses are those of the applicants.)

- (1) *That there exist special features of a site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;*

In order to meet the objectives of developing an environmental education camp and experiential educational program for 350 to 500 people, it is necessary to site the facility in close proximity to a diverse habitat. Maryland Department of General Services (DGS) and DNR performed a search of existing State Properties. The criteria also included safety, Bay access, zoning / Smart Growth, minimal impact of development, size, proximity to population centers, and redevelopment opportunity.

→ The NorthBay site provides excellent access to the open headwater area of the main stem of the Bay, beach ecosystem, emergent tidal wetlands, non-tidal wetlands, streams, buffer habitat, interior forest habitat, and open field areas. The Bowers Center Site meets all of the preceding criteria and has the following additional special features:

1. Consistency With DNR's 1996 Master Plan for Elk Neck State Park – The project is consistent with DNR's 1996 Departmental Goals for accommodating additional overnight visitors and promoting public / private partnerships on DNR lands, using private investment to support public objectives.

2. Project Targets Opportunities for Underprivileged Population – The project will bring exposure to the Bay to underprivileged students that have otherwise limited exposure to experiential environmental education programs.
3. Extensive Existing Open Space – The existing Bowers Center has extensive open fields and maintained lawn areas in the Critical Area. The primary development activities are directed to the non-forested areas of the site.
4. Existing Building Structures, Paving and Development in the Buffer – There is significant existing development in the 100-foot Buffer, expanded Buffer and existing steep slopes.
5. Core Activities Must be Located in Waterfront Section of Property – The focus of the educational program is study of the Chesapeake Bay and the contiguous habitat. Therefore the Camp must have direct access to this habitat.
6. Safety Requirements
 - *Emergency Gathering Space* - A large central open space is necessary for the ability to rapidly collect and account for all campers in case of an emergency. Exclusion from the expanded Buffer will dangerously reduce the size of this space.
 - *Significant Gender Separation* – The Erickson Foundation’s responsibility is to create effective, safe, and secure environments. Every camp user will demand appropriate gender boundaries for housing. These boundaries include being close enough for supervision, and credible distance between genders. On a smaller site, it is imperative to gain housing separation as far to the edge of the site as possible.
 - *Practical Camper Supervision* - Trouble-free track of kids - for counselors to maintain contact, housing must be within core operations. Distant camper housing is a known deterrent to effective camping programs. For dozens of reasons kids can elect to remain or go back to cabins. Remote cabins make the counselor’s job too difficult. More importantly, cabins that are remote from core programming give too much opportunity for hidden inappropriate events and/or contact.
 - *Enough Space for Campers* - Buildings need to have significant space between units so to not create an “urbanized” camp feel. Campers too close to each other can create a hostile environment.

(2) That the project otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

The project provides substantial direct benefits to the Chesapeake Bay Critical Area Program in addition to those items listed above. These benefits include:

- Overall enhancement / expansion of FIDS habitat;

MES will
need to
upgrade
wastewater
treatment
plant
exist.
treat. plant

- Overall enhancement / expansion of forested areas within the 100-foot and expanded Buffer;
- Removal of holding tank sewage system at a state facility;
- Pretreatment of significant areas of impervious surfaces that presently are not treated by BMPs;
- Restoration of degraded areas within the Critical Area at the site;
- Opportunities for developing concrete scientific evidence regarding impacts of humans and development on FIDS and sensitive wetland areas;
- Study and development of information on responsible development and maintenance of trails;
- Educational programs will instill an appreciation for the Chesapeake Bay ecosystem in participants and support tomorrow's leaders in environmental awareness and protection;
- Project serves communities and populations in the State that do not have opportunity for these types of experiential environmental education programs; and
- Allows the State to continue working toward meeting its environmental education objective during a severe budget crisis.

(3) *That the project or program is otherwise in conformance with this subtitle.*

The Erickson Foundation and DNR have worked closely to ensure that the project will otherwise comply with COMAR, Title 27. Where it is not possible to comply, a conditional approval has been requested and mitigation proposed to address the adverse effects of the project. The plans submitted with the application and supporting tabulation of impacts and mitigation document compliance with this requirement.

C. *The conditional approval request shall, at a minimum, contain the following:*

(1) *A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State agency project;*

The Erickson Foundation and DNR have worked closely with the Commission and Commission staff to design the project to conform to the provisions of Subtitle 27.02.06. This effort has included relocation of the camp from the original Camp Chesapeake site to the Bowers Center and extensive redesign to avoid and or minimize impacts in the Critical Area. Further modifications to the configuration of the camp will compromise the ability of the applicant to carry out the programs and prevent the conduct of an authorized project on State lands.

(2) *A proposed process by which the project could be so conducted as to conform, insofar as possible, with the criteria set forth in COMAR 27.02.05;*

The project as proposed was developed insofar as possible using the criteria set forth in COMAR 27.02.05. Feasible compliance has been assured through regular coordination with Critical Area Commission staff and through regular meetings of the DNR ID Team

for this project to identify and address issues as they have arisen through the development of the plans to date. This close coordination has resulted in implementation of approaches to the design that maximize compliance with COMAR 27.02.05.

(3) Measures proposed to mitigate any adverse effects of the project on the criteria set forth in COMAR 27.02.05.

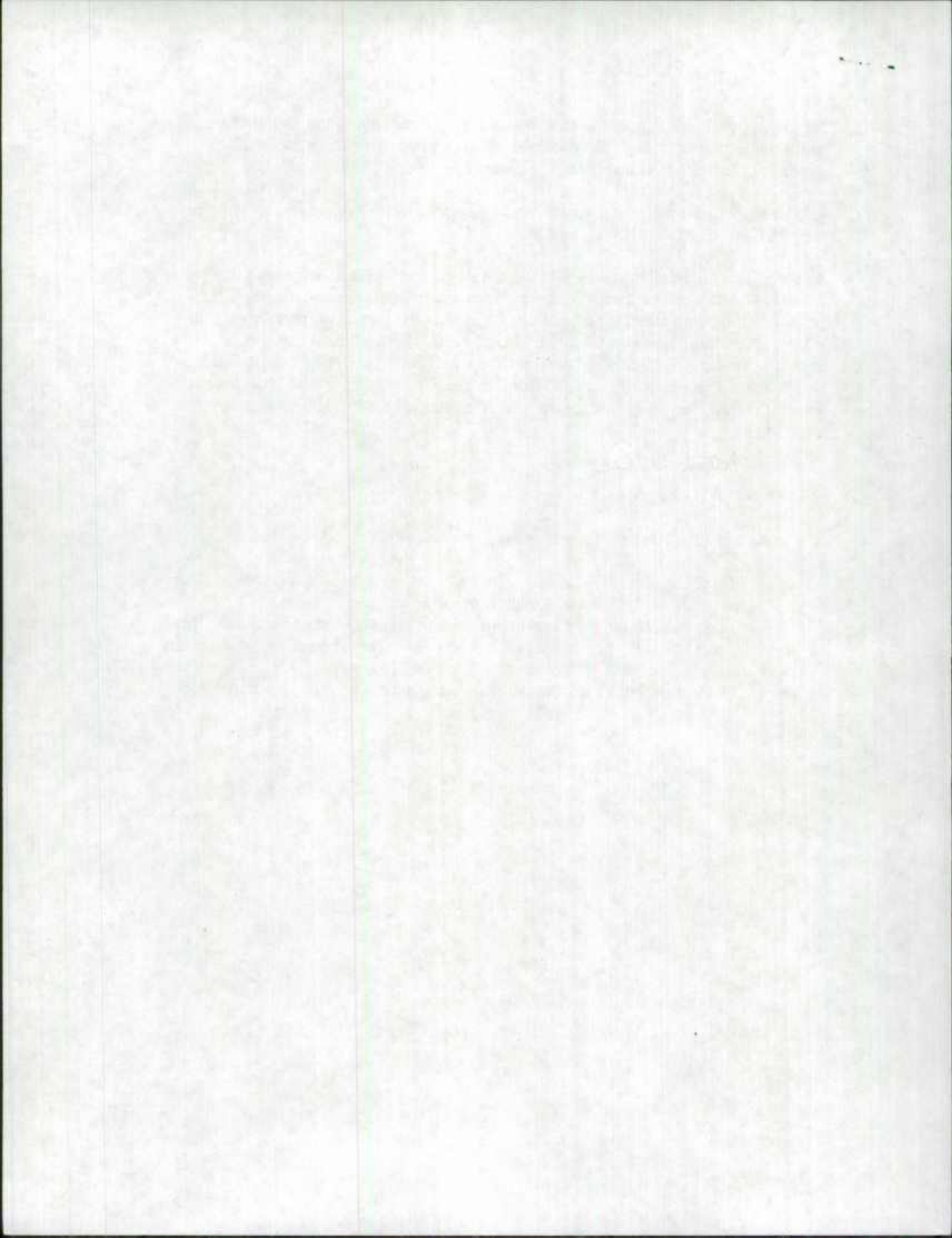
The applicant has implemented a plan to enhance habitat and Buffer function that will result in an improvement compared to existing conditions in the project area. The proposed mitigation outlined on the project drawings and supporting documentation exceeds the requirements outlined in COMAR 27.02.05. In addition, the applicant has agreed to develop an educational program in cooperation with DNR's Forest, Wildlife and Heritage Program staff that will incorporate restoration of degraded areas in specific areas of the site, further enhancing the quality and function of the habitat in the Critical Area.

Return to tape

RECOMMENDATION:

The panel met June 30 and is recommending approval with the following conditions:

1. There shall be 17.00 acres of mitigation for impacts to steep slopes and Buffer provided on the lease site and on DNR land adjacent to the site.
2. There shall be no additional buildings with impacts to steep slopes and Buffer.
3. There shall be no runoff from any impervious areas allowed to flow over any slope greater than 15% on the northern side of the camp.
4. The approval of all stormwater management plans shall be concurrent with MDE approval.



Critical Area Commission

STAFF REPORT
July 2, 2003

Approved

APPLICANT: Maryland Department of Natural Resources
Forest Service

PROPOSAL: Timber Harvest

JURISDICTION: Wicomico County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Claudia Jones

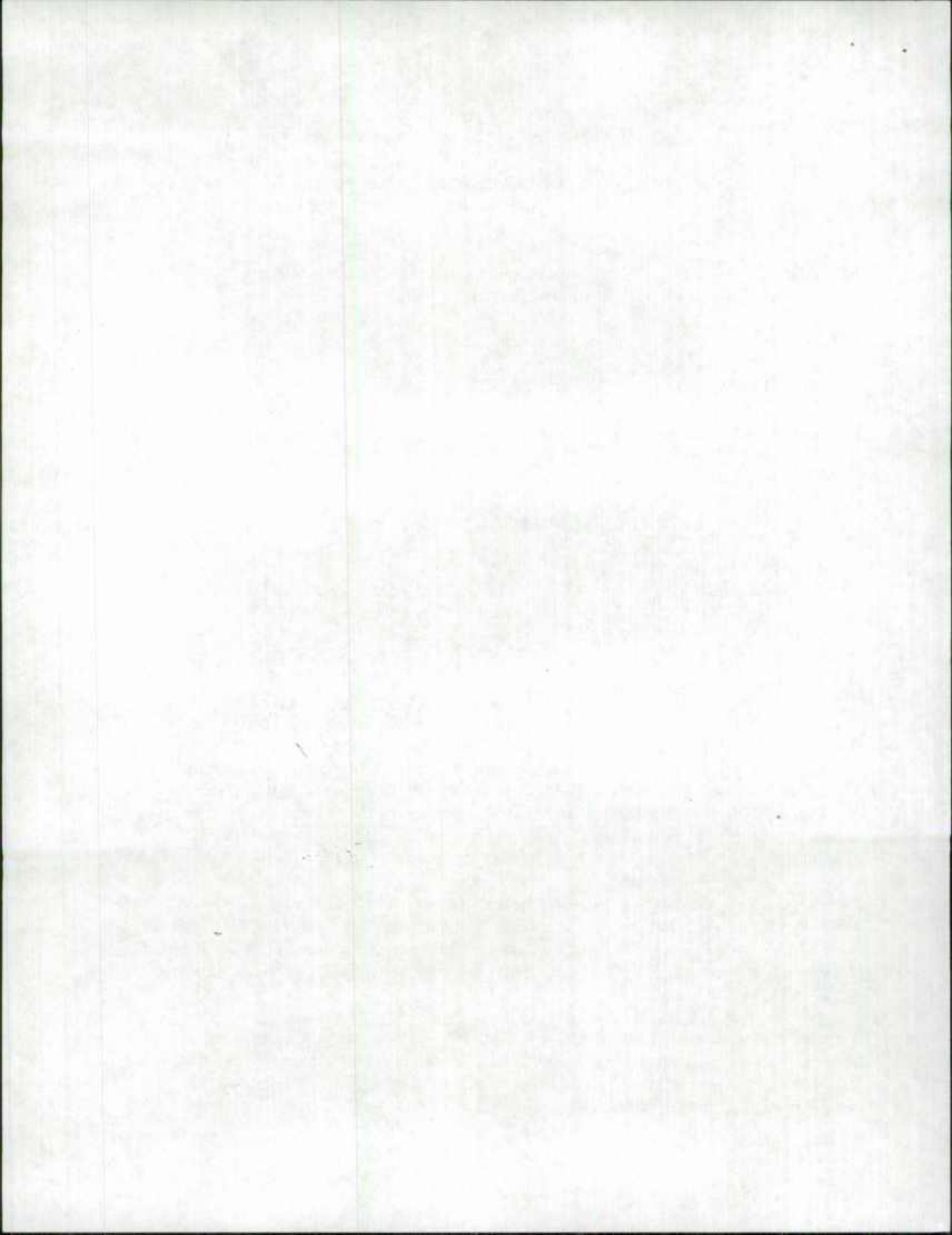
**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05.03 – State Agency Actions Resulting in
Development of State-Owned Lands

DISCUSSION:

There is a proposed timber harvest in the Critical Area on DNR-Chesapeake Forest Properties in Wicomico County. Normally, timber harvests in the Critical Area are processed through a General Approval between the Critical Area Commission and the Maryland Forest Service that was approved by the Commission in 1995. We realized with this proposal that the General Approval only covers timber harvests on private property and not State lands. We will be bringing the General Approval back to the Commission in the near future to rectify this oversight.

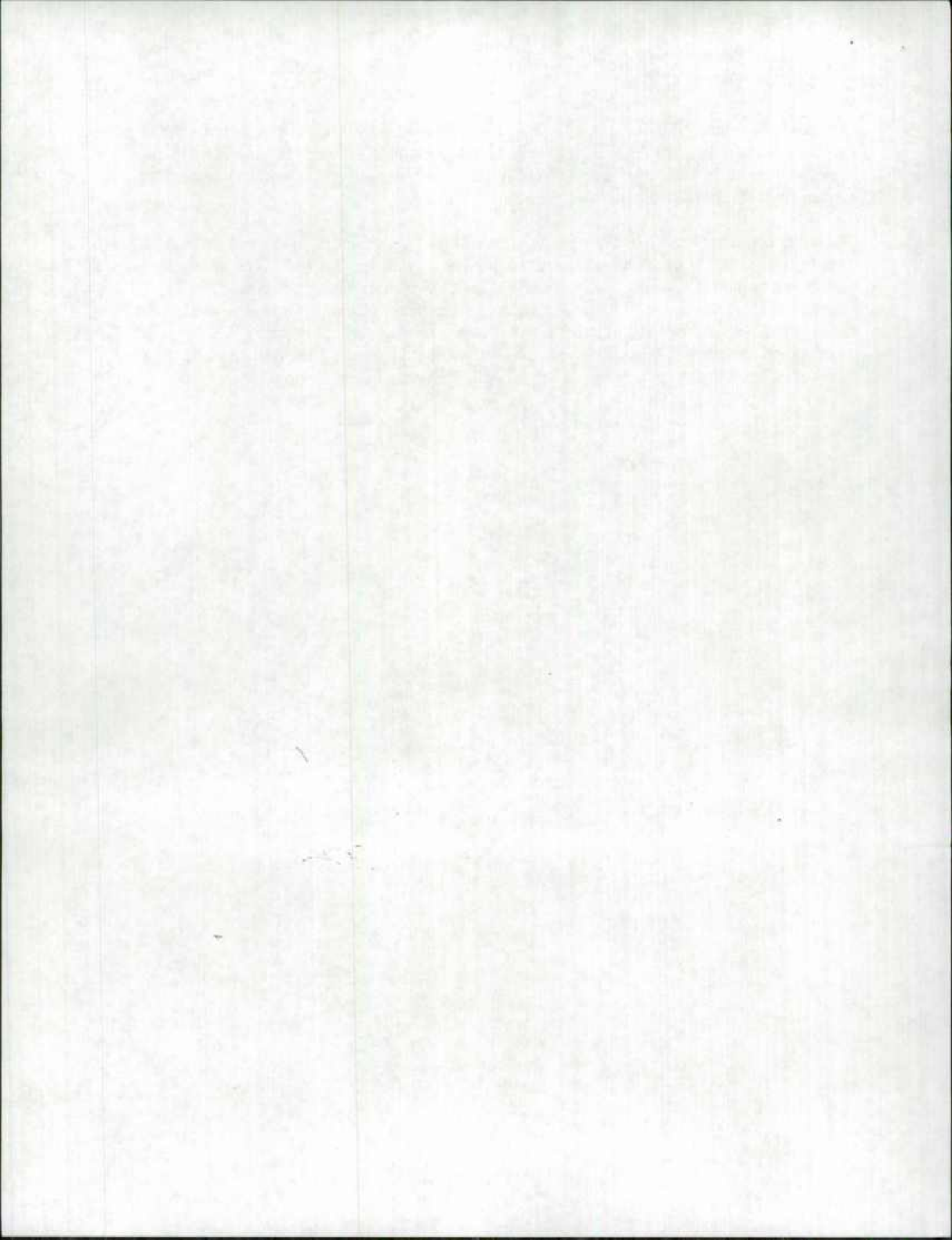
The 35-acre area of the proposed harvest is located in the southwest portion of Wicomico County off of Wetipquin Road. The property drains into Wetipquin Creek, a tributary of the Nanticoke River. This is a 19-year old loblolly pine plantation and the harvest proposed is the first thinning of loblolly pine pulpwood. The current basal area is approximately 140 square feet with a post harvest basal area of 70 square feet.

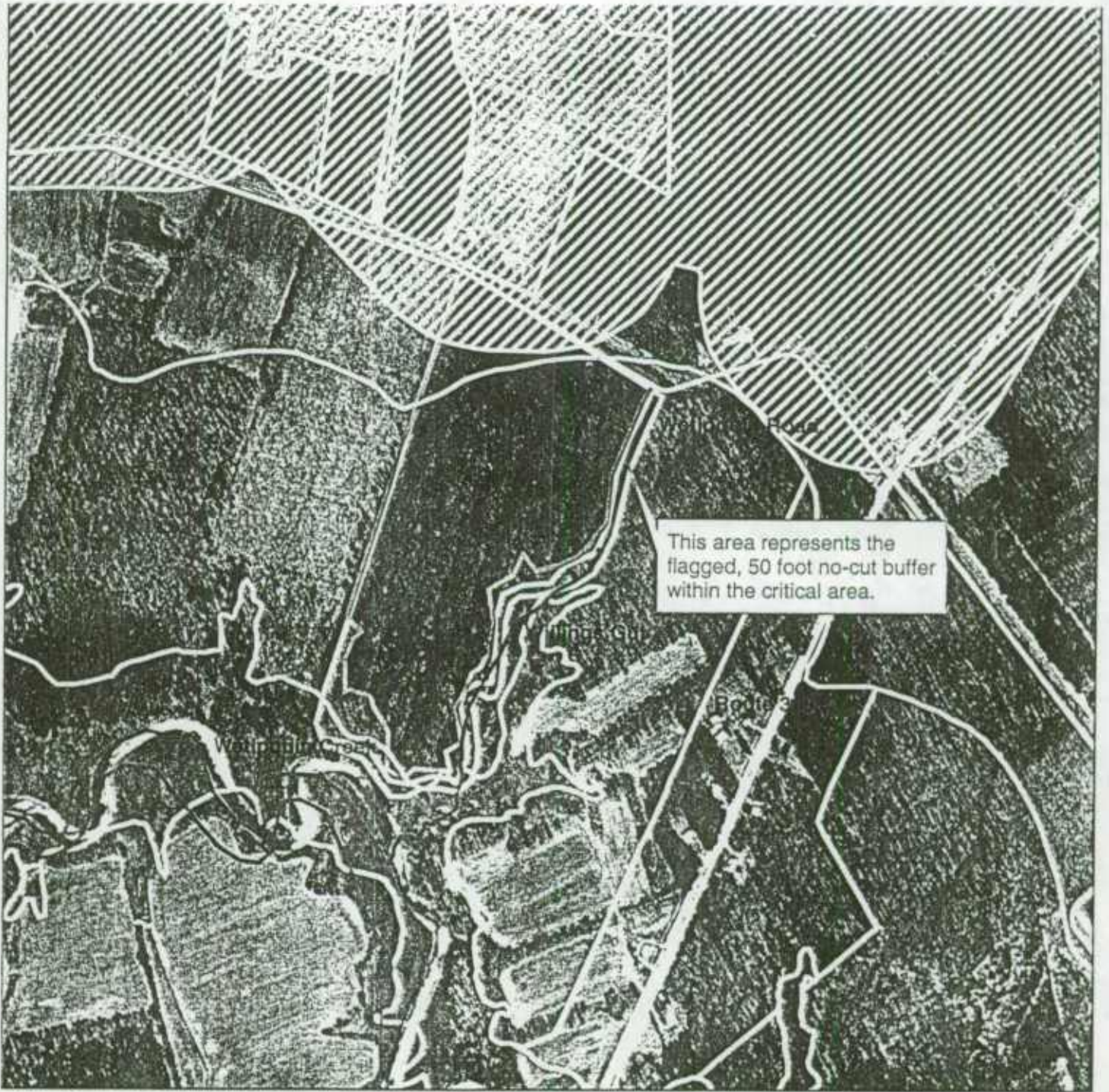
There is a perennial stream on the property that will have a 50-foot no cut Buffer as required for timber harvests in the Critical Area. The outer 50-foot Buffer is approximately 95% loblolly pine and will be thinned for pulpwood. Hardwoods within the harvest area will be retained to encourage a mixed pine-hardwood forest cover type.







The area to be thinned falls under the Delmarva Fox Squirrel (DFS) Wildlife and Heritage designation of the Chesapeake Forest, as defined in the Sustainable Forest Management Plan. When a DFS area is thinned, a basal area of 70 square feet is to be retained unless other habitat considerations warrant an alternative treatment.

The site is adjacent to and contains a small portion of area designated as core forest interior dwelling bird (FIDS) habitat under the Sustainable Forest Management Plan. The forest is categorized as a loblolly pine forest according to the Critical Area Timber Harvest Plan Guidelines, approved by the Commission in June of 1999, since the hardwood component is less than 40% of the basal area. The Timber Harvest Plan Guidelines do not require FIDS conservation measures in this forest type. The harvest should benefit FIDS over the long term, however, since a greater percentage of hardwood will be encouraged to grow.





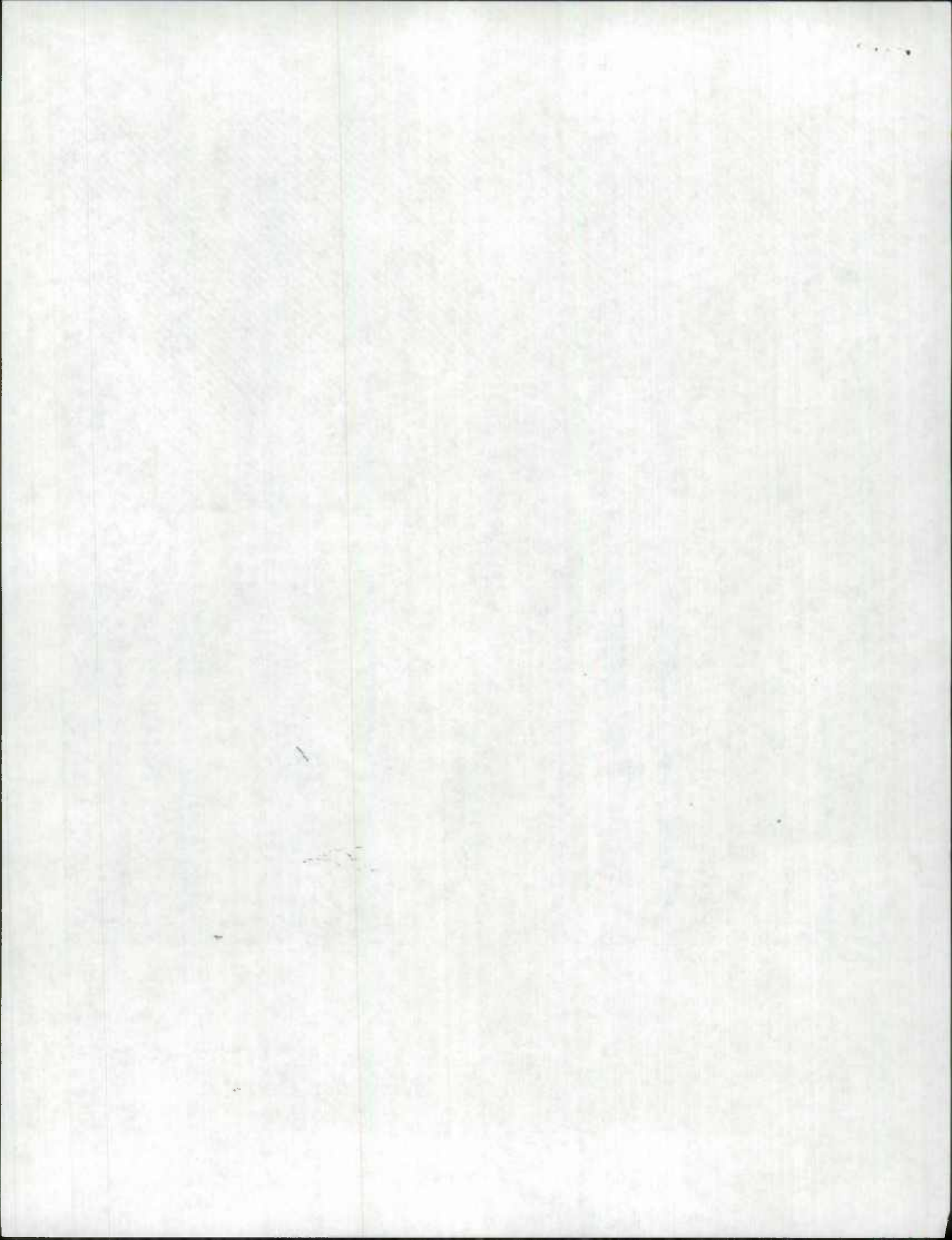
Legend

-  Streams
-  County road
-  First thinning--35 acres
-  Chesapeake Forest boundary

1 " equals 660 '

**Chesapeake Forest: W21-3; #3599
Wicomico County**





Critical Area Commission

STAFF REPORT
July 2, 2003

Approved

APPLICANT: Maryland Port Administration

PROPOSAL: Former Kurt Iron and Metal Facility
Fairfield Marine Terminal

JURISDICTION: Baltimore City

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Dawnn McCleary

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State
or Local Agency Programs in the Critical Area

DISCUSSION:

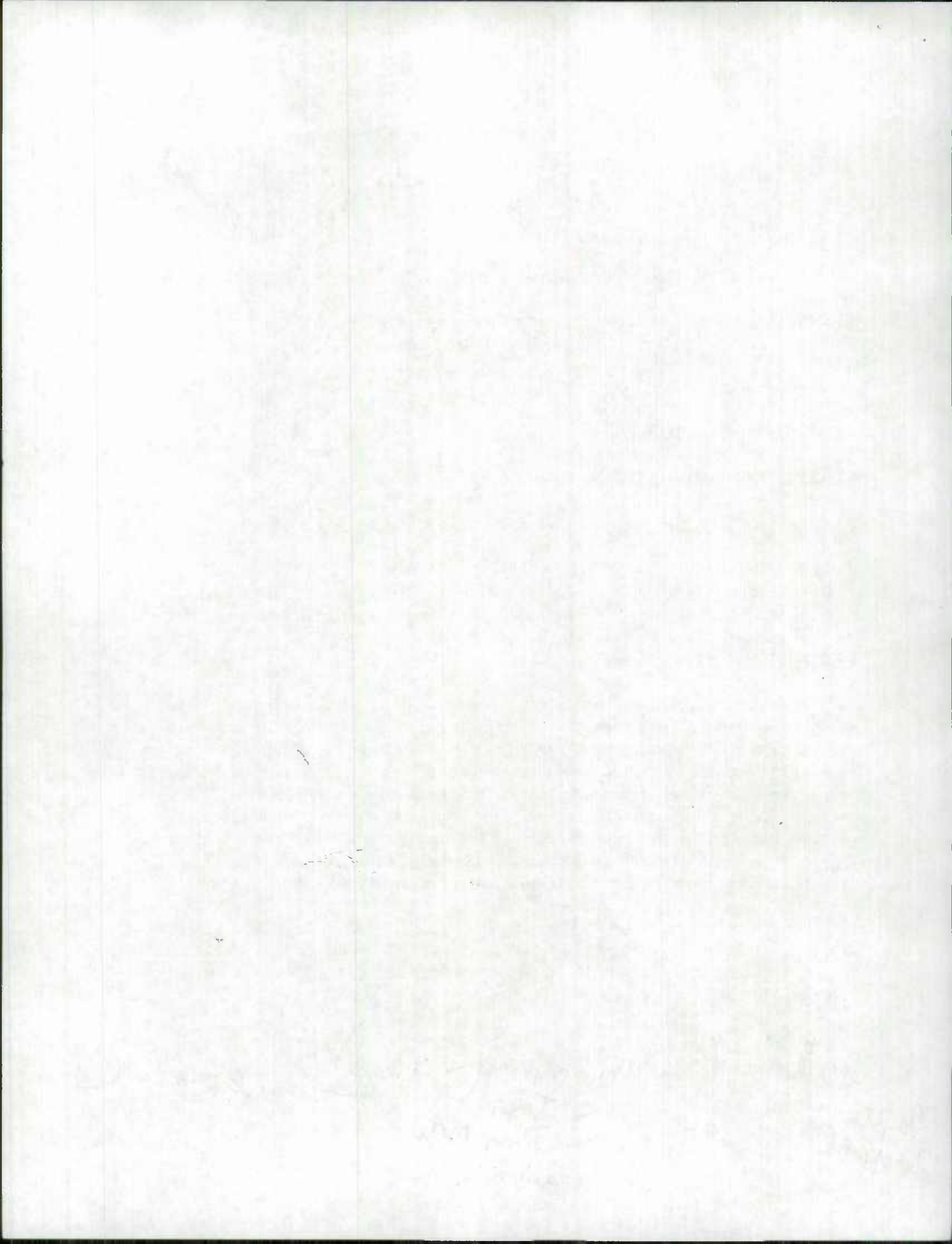
The Maryland Port Administration (MPA) is proposing to clean up the Kurt Iron and Metal site, an old ship scrap metal facility covered with large piles of solid waste including tires, wood chips, steel, concrete, metal sheds and containers. MPA has entered into a Voluntary Clean-up Plan (VCP) with MDE. The solid waste clean up phase of the project will begin this year, and will require approximately nine months to complete. Because of the contamination, VCP mandates that the site be capped immediately following the solid waste removal to prevent further contamination of the waters through polluted runoff or leachate. The parcel is bordered by the Toyota Terminal to the South and east and by the Patapsco River to the north and west. The 11.42 acre site is completely impervious and an area of intense development.

MPA is proposing to remove solid waste material from the 100-foot Buffer and put a surface sand filter, a portion of a paved parking lot and, a security fence within the 100-foot Buffer. The new pervious areas in the 100-foot Buffer will be vegetated with groundcover. The shoreline will have riprap installed.

Contaminated

Sunken ferry (- barge) connected to land
- tires
- Scrap metal
old crane

*Toyota
to expand*



Continued, Page Two
Kurt Iron and Metal Facility
July 2, 2003

Conditional Approval Process

Conditional approval is required under the Commission's regulations for State and local agency projects when proposed development activities do not satisfy all regulations in full. The conditional approval process is set out in COMAR 27.02.06. In order to qualify for consideration by the Commission for conditional approval, the proposing agency must show that the project or program has the following characteristics:

(1) That there exist special features of a site or there are other special circumstances such that literal enforcement of these regulations would prevent a project or program from being implemented;

There exist special features and special circumstances of the site in which a former ship scrapping facility, which was bought by MPA, is being cleaned up. To prevent contamination from running off the site into the Patapsco River, MPA must cap the site with fill material and elevate it approximately four feet. The site will consist of a stormwater management facility, a shoreline stabilization using rip rap, a chain linked fence for security and a portion of a proposed paved parking lot all within the 100-foot Buffer.

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

The project provides a significant improvement to the environment by providing water quality management on a site that is currently contaminated and unmanaged. MPA has reduced the area of impervious cover by providing vegetation, stormwater management and shoreline stabilization.

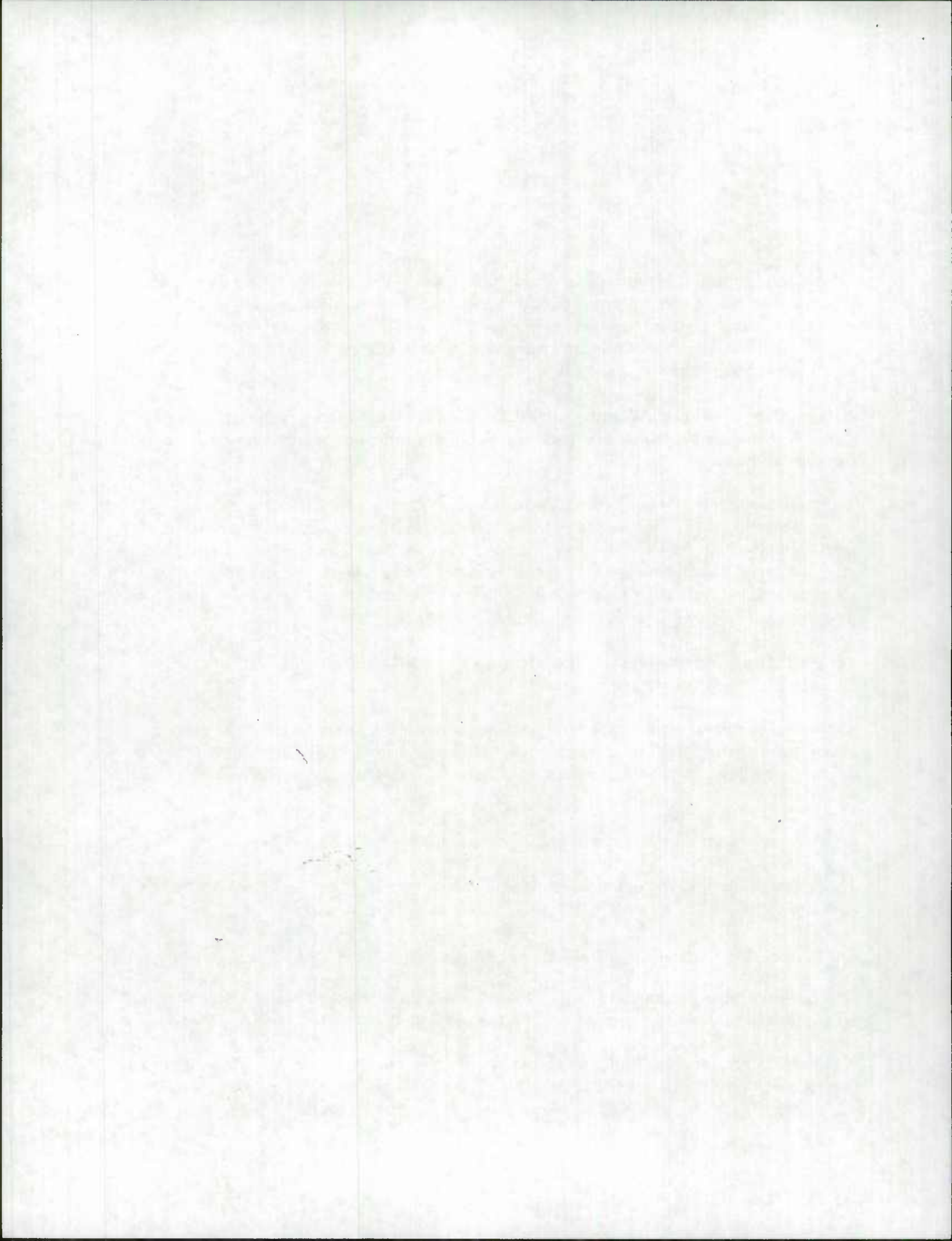
(3) That the project and program is otherwise in conformance with this subtitle.

The project is otherwise in conformance with the State Criteria and Baltimore City's Critical Area Program.

Commission must find that the conditional approval request contains the following:

(1) That a literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State or local agency program or project;

A literal enforcement of the Buffer provisions would prevent the Port from utilizing a significant portion of the site for Port-related activities.



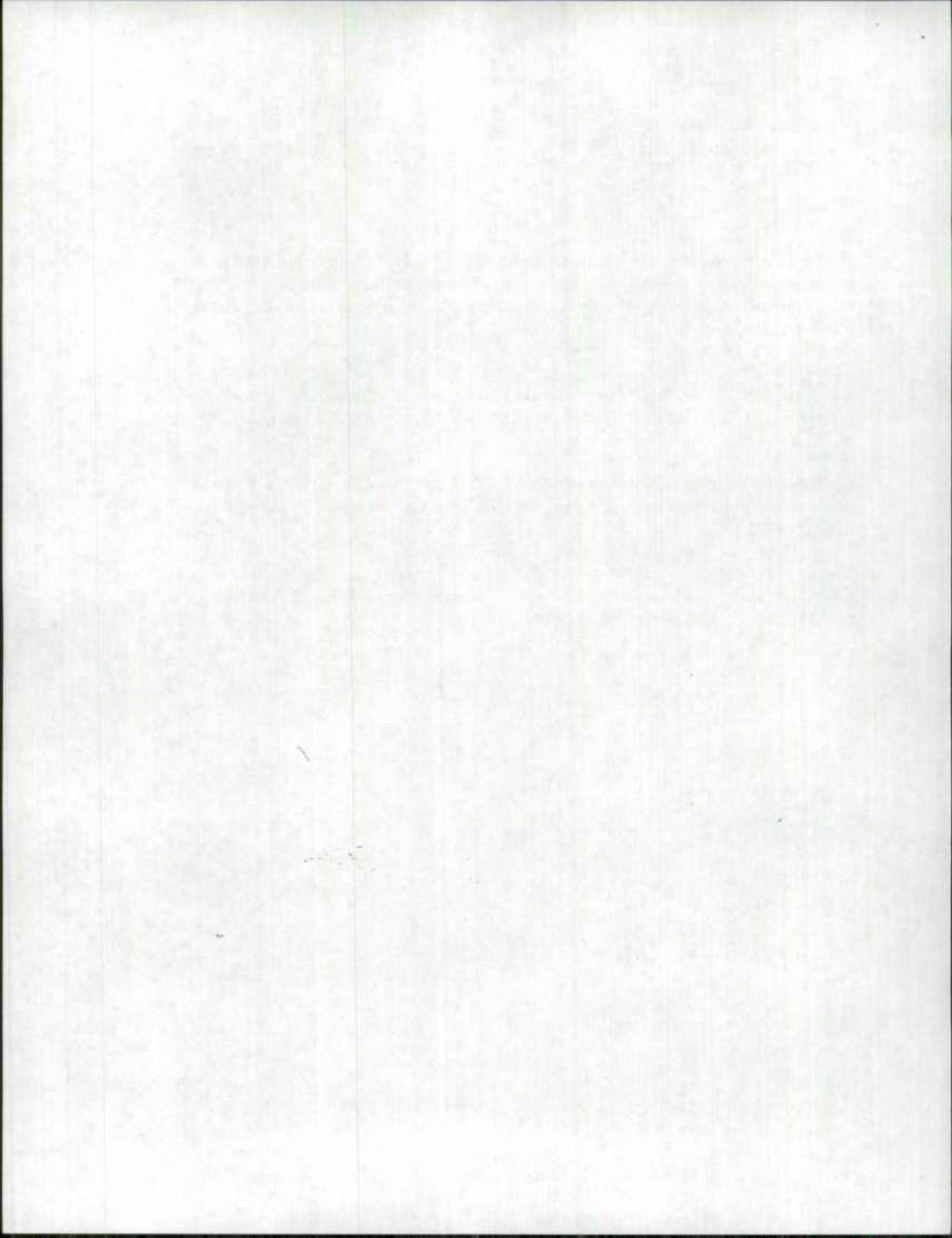
Continued, Page Three
Kurt Iron and Metal Facility
July 2, 2003

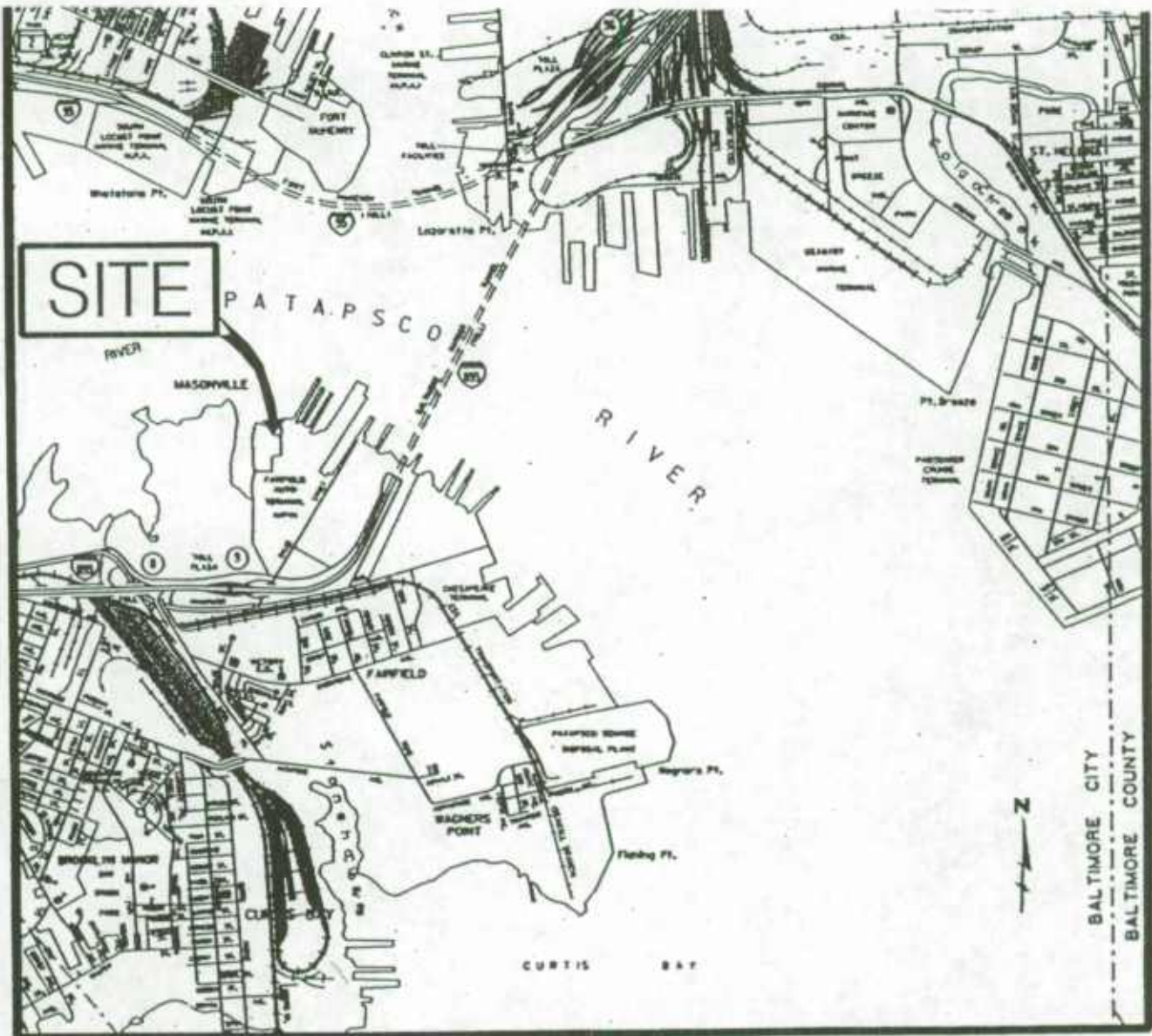
(2) There is a process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or, if the development is to occur on State-Owned lands, with the Criteria set forth in COMAR 27.02.05; and

The stormwater management facility, security fence and paving in the 100-foot Buffer are not consistent with the Criteria; however, the Buffer impacts will be minimized. Only a portion of the paved parking lot will affect the Buffer. The Buffer is currently completely impervious.

(3) Measures proposed to mitigate any adverse effects of the project or program on an approved local Critical Area program, or, if on State Owned lands, on the criteria set forth in COMAR 27.02.05.

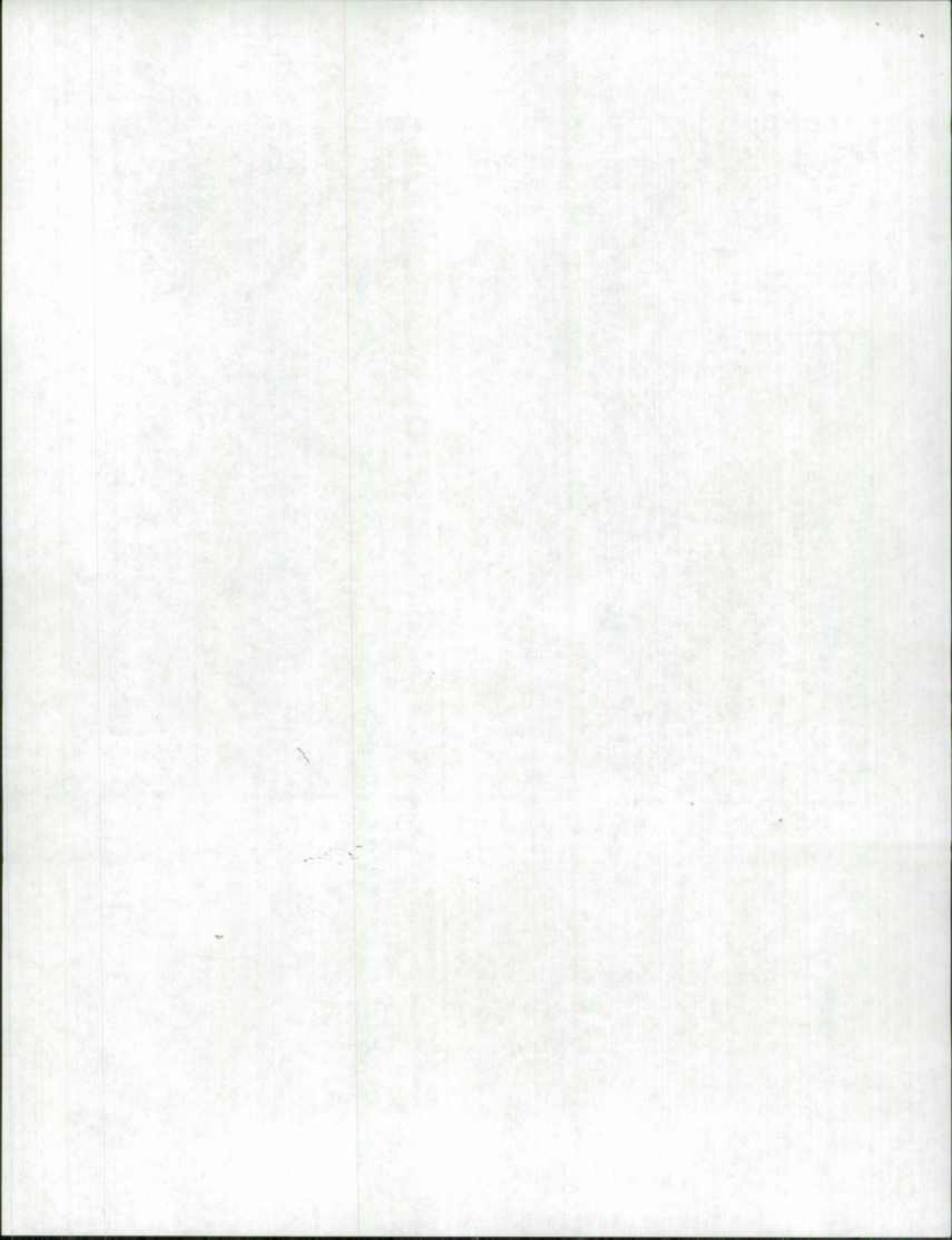
The proposed impacts to the 100-foot Buffer will be mitigated by treating stormwater on site using a surface sandfilter and planting the pervious areas in groundcover. Impervious surface will be reduced and contamination contained.





VICINITY MAP

FORMER KURT IRON & METAL FACILITY
Fairfield Marine Terminal
Baltimore, Maryland



Critical Area Commission

STAFF REPORT
July 2, 2003

approved

APPLICANT: State Highway Administration

PROPOSAL: Replacement of MD 16 Bridge over Parsons Creek

JURISDICTION: Dorchester County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Diane Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State or Local Agency Programs in the Critical Area

DISCUSSION:

State Highway Administration proposes the replacement of bridge no. 9003, located on MD 16 over Parsons Creek in Dorchester County near the town of Smithville. This bridge was built in 1970 on fill and is elevated above Parsons Creek and its associated tidal wetlands. This roadway and its right-of-way are considered an area of intense development. Therefore, compliance with the 10% Rule for pollutant loading reduction is required.

The existing bridge is a five-span, pre-stressed concrete slab structure with a 34-foot clear roadway width and is 175 feet long. It rests on two semi-cantilever abutments and three steel monotube pile bents. The replacement bridge will be a four-span, pre-stressed concrete slab structure with a 33-foot clear roadway width and will be 160 feet long. It will rest on two semi-cantilever abutments and three steel pile bent piers. Pier 2 will be slightly relocated. While each approach roadway will receive 100-feet of full-depth paving, there will be a net 292 square-foot reduction in impervious area due to the removal of gabion baskets along the shoreline. During construction, traffic will be maintained using a temporary traffic signal.

The entire limits of disturbance are located within the 100-foot Critical Area Buffer. Minimal excavation, grading and removal of vegetation will be required. The right-of-way consists of mowed, grassy fill slopes under the approach roadways, and emergent tidal wetland vegetation along the abutment walls. No trees occur within the project area. Some woody shrub vegetation is present but SHA does not expect to remove it. Therefore, mitigation for lost forest cover is not

Due to the reduction in impervious area, the pollutant removal requirement is 0.13 pounds. The best management practice for meeting this removal requirement will be the vegetated side ditches located at the toe of the side slopes. This project qualifies for a waiver to MDE's stormwater management requirements due to the reduction in impervious area. Stormwater will continue to be addressed by directing runoff into the existing side ditches, abutment and side slopes that have been established in thick turf grasses.

Impacts to the stream, its floodplain and wetlands will be temporary, and all disturbed areas will be restored to pre-existing conditions. Application has been made to the Maryland Department of the Environment (MDE). No mitigation is being required by MDE as the impacts to tidal wetlands are temporary. We anticipate MDE approval by July 2.

MDE is expected to issue an approval for sediment and erosion controls. Parsons Creek is an anadromous fish-spawning area. As DNR had no comments regarding impacts to anadromous fish-spawning areas, the customary March 1 through June 15 time-of-year restriction will not be required. A stream diversion device will be used to divert undisturbed stream flow around the pier work areas.

Maryland Department of Natural Resources has determined that there are no rare, threatened or endangered species within the project area.

There will be no mitigation for new disturbances in the Buffer since all the work will occur within the existing footprint. There are no other Habitat Protection Areas affected. A Conditional Approval is required since the project area is located in the Buffer.

Standards

Conditional Approval Process

In order to qualify for consideration by the Commission for conditional approval, it shall be shown by the proposing or sponsoring agency that the project or program has the following characteristics:

(1) That there exist special features of the site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;

The road and bridge were constructed prior to enactment of Critical Area regulations. SHA is required to maintain its roadways and bridges in a safe operating condition. The bridge is now deteriorating. Literal enforcement of these regulations would prevent SHA from implementing improvements that would ensure continued and safe use of the bridge.

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

The road and bridge are located along a primary transportation corridor between Cambridge and the communities of Taylor's Island and Hooper Islands. This road is the primary evacuation route if and when major storms and their associated flooding of low-lying areas occurs.

(3) That the project or program is otherwise in conformance with this subtitle;

The project has minimized encroachment into the Buffer by providing nearly in-kind replacement within the same footprint. In addition, impervious surface area will be somewhat reduced, which will provide water quality improvements.

The Commission must find that the conditional approval request contains the following items:

(1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State of local agency program or project;

SHA is required to maintain its roadways and bridges in a safe operating condition. The bridge is now deteriorating. Literal enforcement of these regulations would prevent SHA from implementing improvements that would ensure continued and safe use of the bridge.

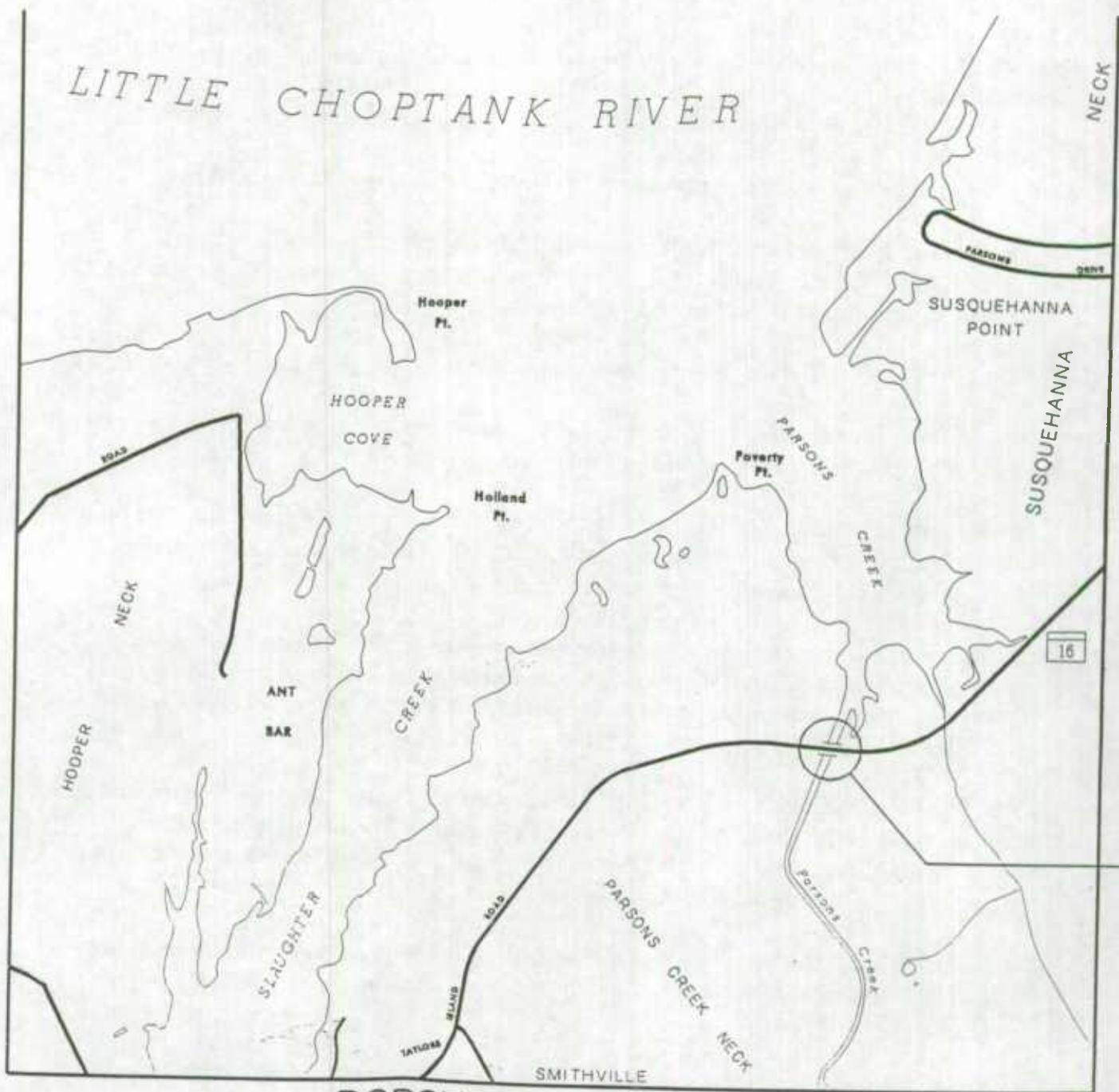
(2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

This project has minimized impacts to the Buffer and avoided encroachment into sensitive areas, such as the nearby tidal wetlands. The proposed footprint lies wholly within the existing footprint so that there are no new disturbances to the Buffer. This project represents a continuation of an existing use in the Buffer.

(3) Measures proposed to mitigate adverse effects of the project or program or an approved local Critical Area program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05.

No clearing of woody vegetation is proposed, therefore, no forest mitigation is required. Compliance with the 10% Rule for removal of phosphorous pollutant loadings will be accomplished by maintaining the existing, vegetated side ditches.

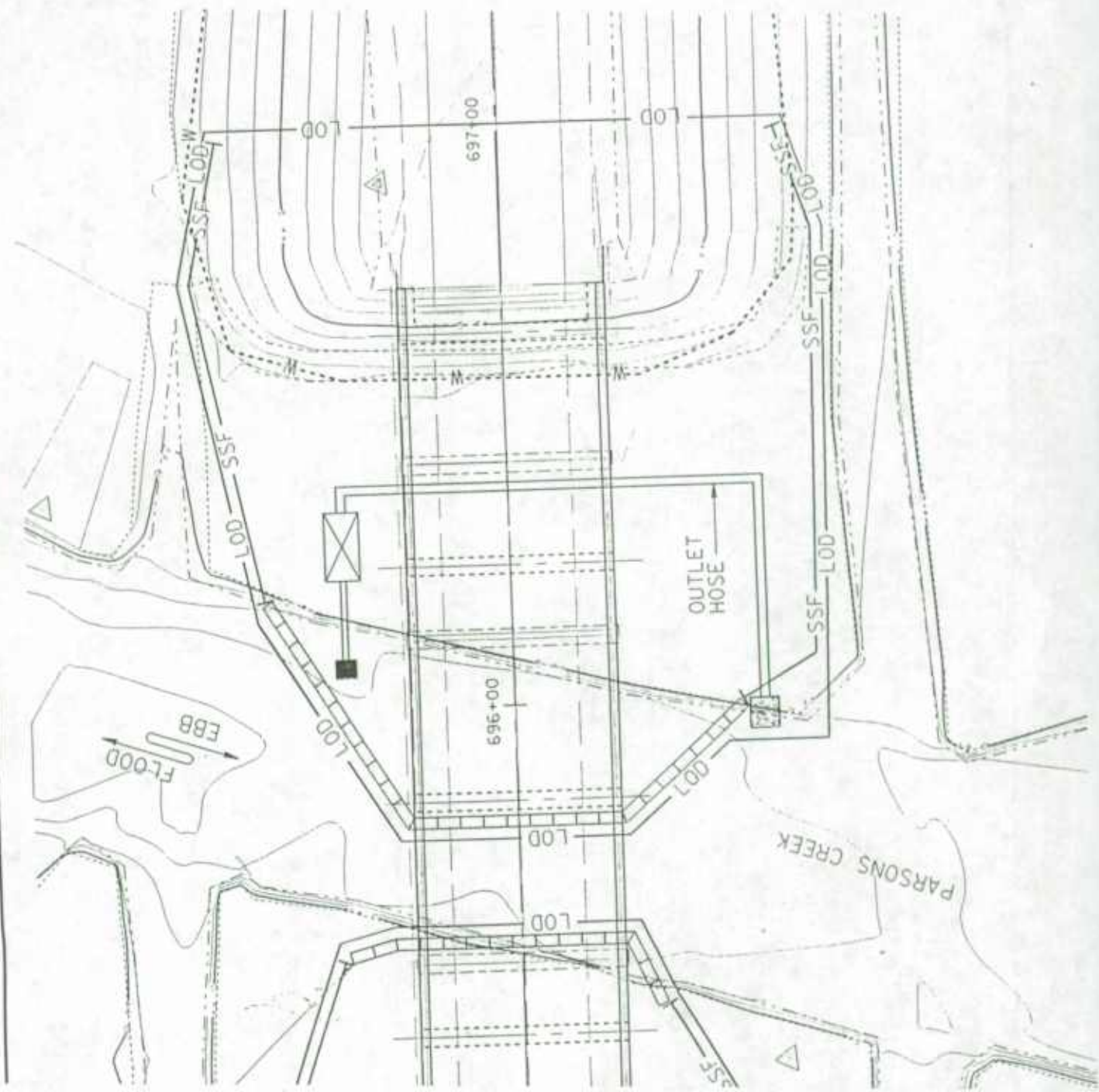
The conditional approval request is consistent with COMAR 27.02.06, the Commission's regulations for Conditional Approval of State Agency Programs in the Critical Area. Staff recommends approval.



LITTLE CHOPTANK RIVER

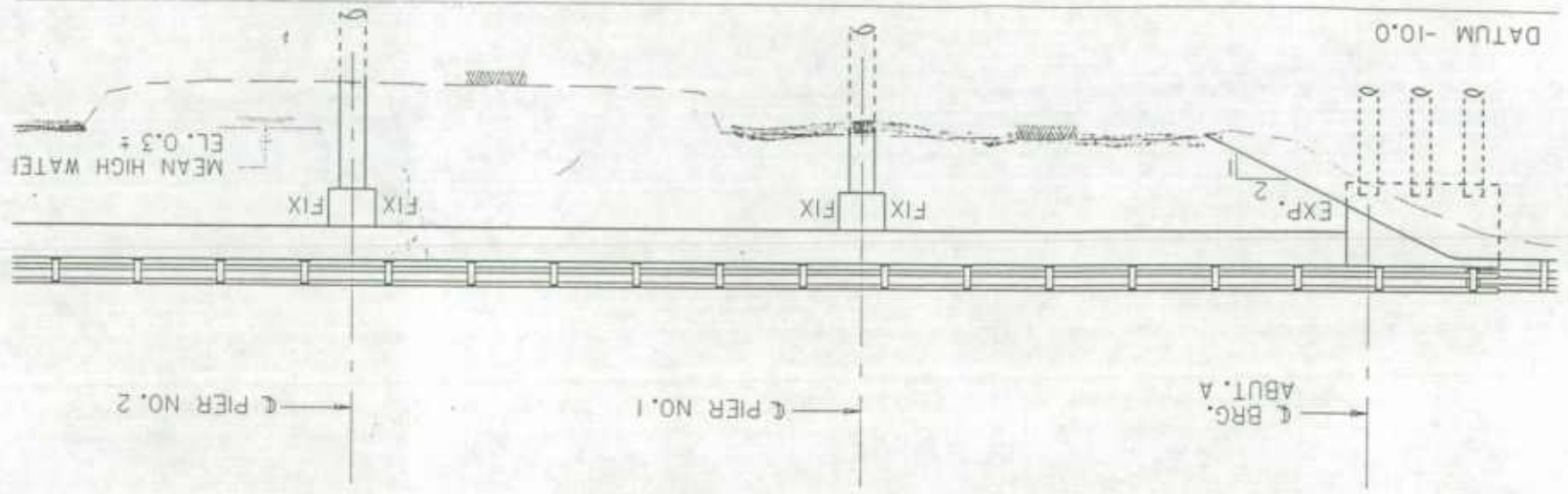
DORCHESTER COUNTY

LOCATION MAP
SCALE : 1" = 2000'

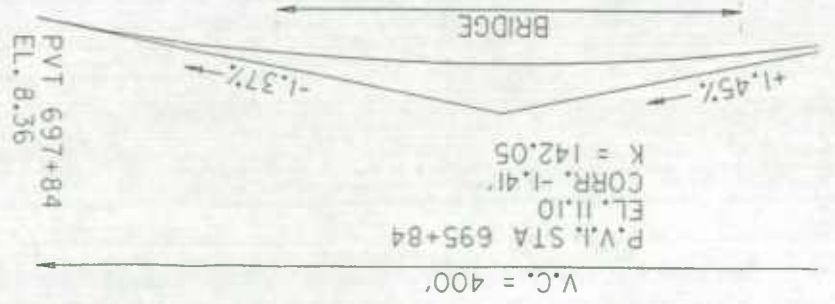


FOR THIS STRUCTURE

ELEVATION
SCALE : 3/32" = 1'-0"



VERTICAL CURVE DATA
SCALE: NONE



SCALE : 3/32" = 1'-0"

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

MEMORANDUM

To: Commission Members

From: Lisa Hoerger, Mary Owens, Ren Serey

Date: June 19, 2003

Subject: Resource Conservation Area Density Issues: Dwellings as Accessory
Uses

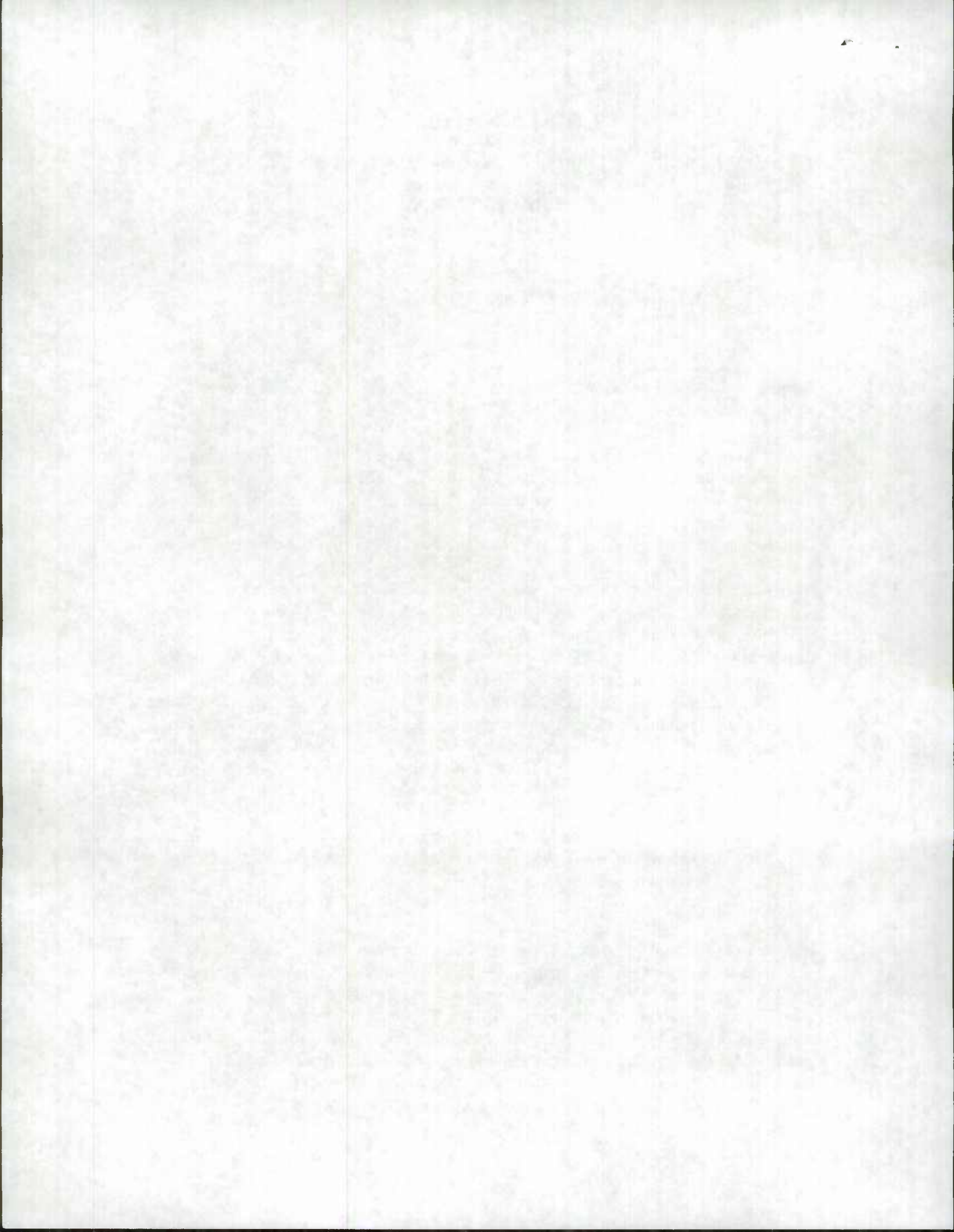
The Program Subcommittee has been discussing the issue of dwellings as accessory structures in the Resource Conservation Area (RCA) for the past few months. These discussions were prompted by the Commission's action last fall concerning the Talbot County program, and in reaction to two other local Critical Area programs that permit dwellings as accessory uses but do not count them against the density of a parcel or lot.

In 1993 the Commission approved a policy on "The Calculation of Density in the Resource Conservation Area." The Commission's intention was to inform local governments how the Commission interprets the Critical Area Criteria regarding dwellings in the RCA. The Criteria Area Act and Criteria limit dwelling units in the RCA to a density of one per 20 acres. The Commission interprets the term dwelling unit to include all such units, notwithstanding that local governments may have avoided the limitation by defining certain dwelling units as accessory structures or uses. The Commission's policy uses the definition of dwelling adopted by all Maryland counties; i.e., the definition of the Building Officials and Code Administrators (BOCA). That definition is

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

-BOCA 1993, Section 310.2

Despite this policy, Anne Arundel, Calvert, and Talbot counties have continued to permit certain types of dwelling units in the RCA without counting them towards the density of the lot or parcel. Each county has viewed these dwellings as various accessory uses, and each jurisdiction limits their development or occupancy in some manner as described below. The Program Subcommittee has confirmed its position that guest houses, tenant houses, accessory apartments, domestic quarters, caretaker's residences, etc. are dwelling units under the Criteria, and that their designation by a



local government as “accessory uses” does not render them density neutral with respect to the RCA limitation of one dwelling unit per 20 acres.

The general consensus of the Subcommittee is to seek clarification from the General Assembly in defining a dwelling unit for the purpose of counting density in the RCA. On July 9, 2003 the Chairman will meet with the General Assembly’s Joint Legislative Oversight Committee on the Critical Area. At that time, we would like to provide the Oversight Committee with the Commission’s recommendations as a prelude to working on potential legislation. The Subcommittee and staff have discussed the following points as pertinent to the discussion with the Oversight Committee.

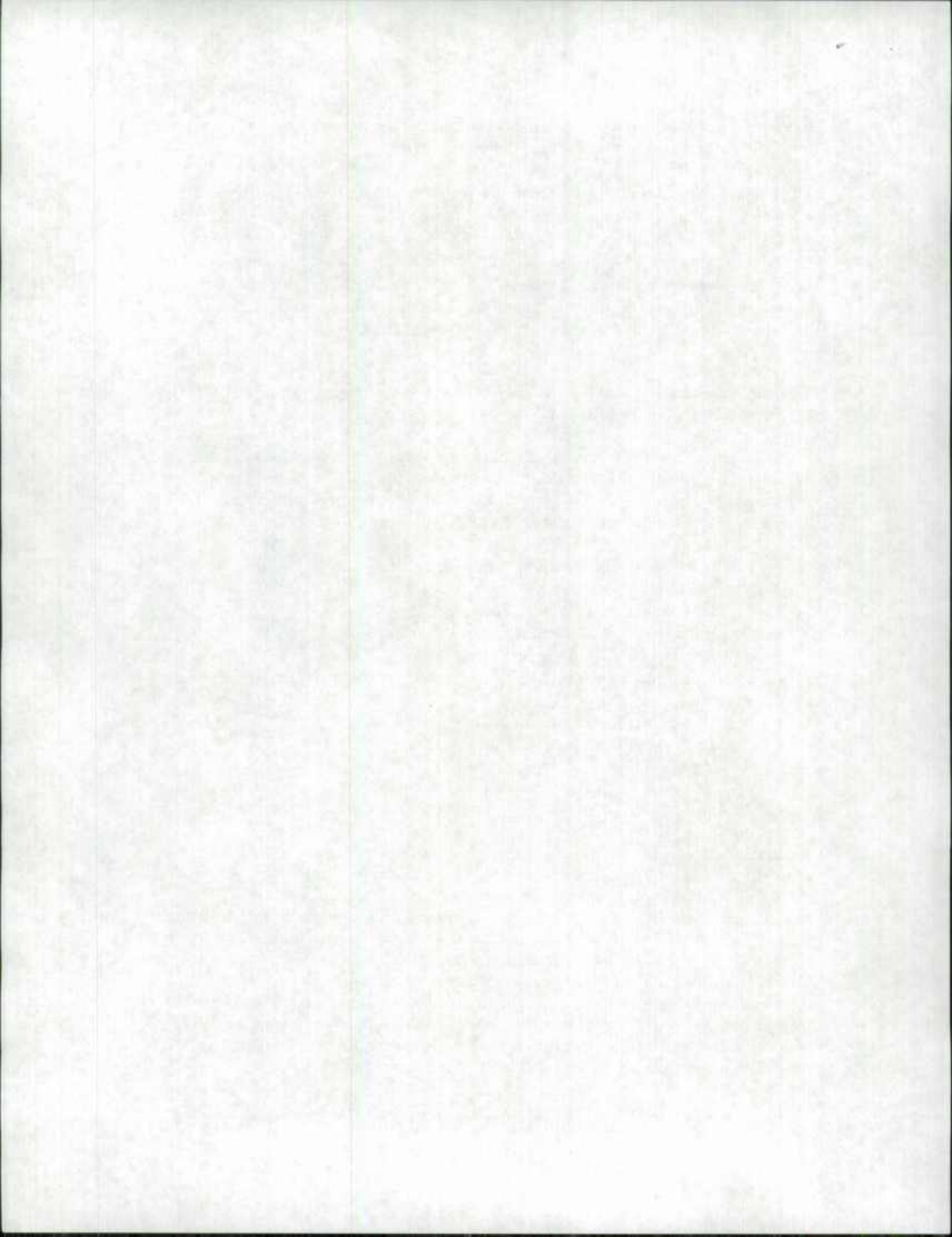
Typical Requirements for Guest Houses, Accessory Apartments, Domestic Quarters, Caretakers Residences

The jurisdictions that consider various types of dwellings as accessory uses and therefore not subject to density restrictions generally require the “dwelling” to meet certain requirements. The following list is a compilation of the requirements from Anne Arundel, Calvert and Talbot Counties. Not all counties require every condition.

- Cannot be subdivided, leased, rented, sold, let, or sublet separate from the principal dwelling.
- Limited to one kitchen for both structures.
- Size limits vary from 800 square feet to 1500 square feet.
- Only one additional dwelling per parcel.
- Must be attached to another accessory structure or within 100 feet of the principal dwelling.
- Only for a domestic employee or guest.
- Limited to a six-month stay.

Special Exceptions

When the Program Subcommittee discussed this issue last month, there was general support for using the local special exception process to ensure that the construction of guest houses, accessory apartments and other dwellings of this nature meet the requirements of the local Critical Area Program for impervious surfaces, forest clearing and other performance standards. Because the Criteria require local jurisdictions to provide a copy of applications for special exceptions to the Commission, this process would enable the Commission to ensure that the requirements and limitations in local ordinances are being applied, and that the variance process is not used to accommodate these structures in the Buffer or on steep slopes. Currently, the Commission receives no notice of these dwellings because the only necessary approval is a local building permit, which the jurisdictions are not required to submit to the Commission.



The special exception process would not eliminate the need to count these structures as dwelling units. The following conditions could become the minimum standards for the local approval of a special exception for this type of dwelling, based on the various restrictions above:

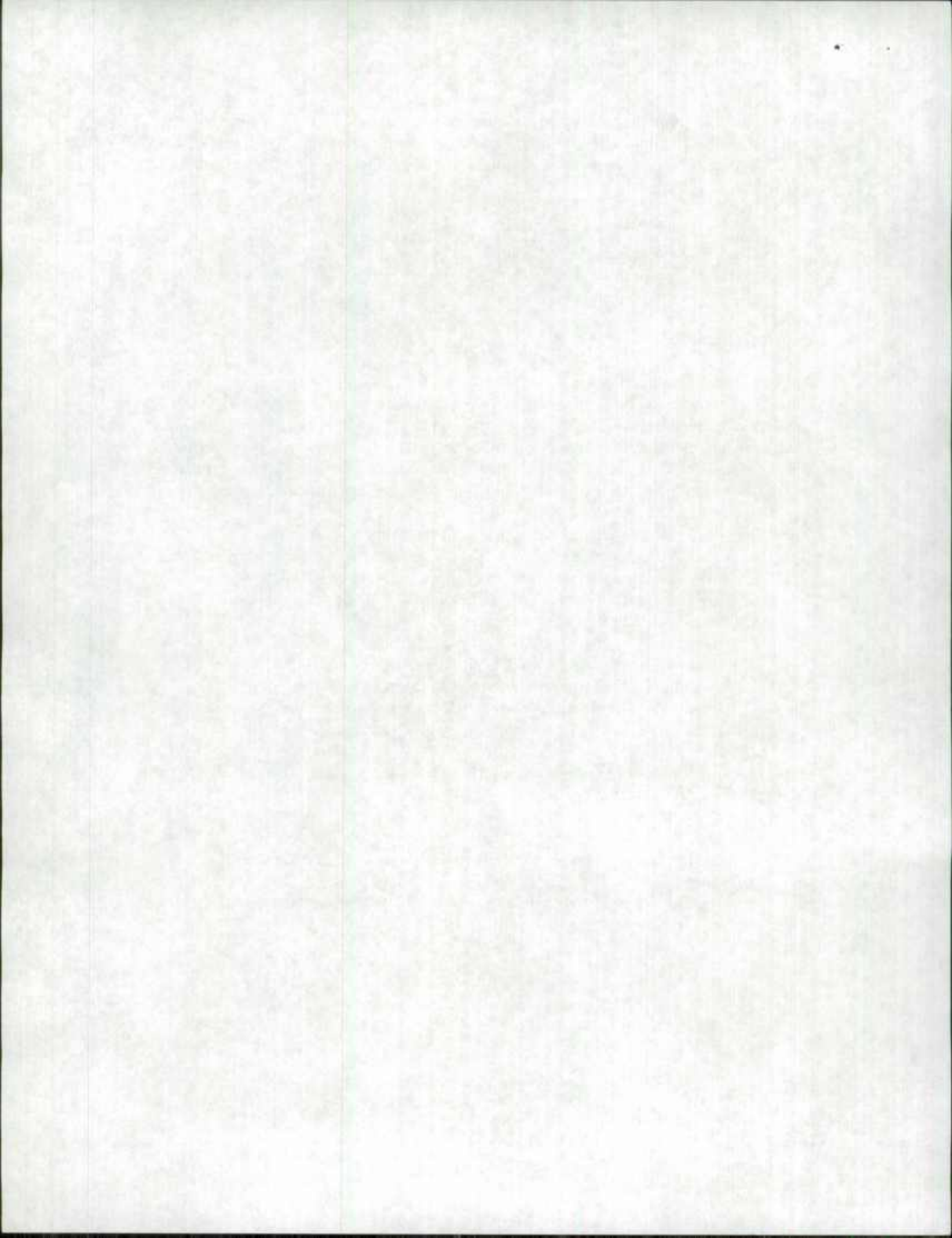
- Limited to 1500 square feet or less.
- Cannot be subdivided, leased, rented, sold, let or sublet separate from the principal dwelling.

Growth Allocation

Another option that the Program Subcommittee discussed was the idea of using growth allocation for these dwellings in the RCA. This could be done in conjunction with the special exception process. One specific benefit of this approach is that by changing the RCA designation to LDA through growth allocation, the issue of exceeding the permitted density of one dwelling unit per 20 acres no longer exists because the additional dwelling would not be located in the RCA. The following list of conditions could be used:

- The deduction envelope for growth allocation would be the minimum necessary to accommodate the area of the septic system, footprint of the dwelling unit and driveway. Alternatively, the deduction envelope could be set at one or two acres to allow for later development of garages, sheds, pools, or other accessory structures associated with these dwellings.
- The use of growth allocation for this purpose would be considered a special category of growth allocation; therefore, the Commission's current growth allocation policy would need to be revised because the deduction guidelines are different.
- Counties could choose to set aside an amount of growth allocation specifically for this type of deduction.
- A county would also have the ability not to permit growth allocation for this purpose if it did not want to permit these dwellings in the RCA.

If you have questions or need additional information before the Commission meeting, please contact Ren Serey, Mary Owens or Lisa Hoerger.





COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND

TALBOT COUNTY GOVERNMENT BUILDING

142 N. HARRISON STREET
EASTON, MARYLAND 21601

PHONE: 410-770-8001

FAX: 410-770-8007

TTY: 410-822-8735

www.talbgov.org

PETER A. CARROLL
HOPE R. HARRINGTON
HILARY B. SPENCE

THOMAS G. DUNCAN, President
PHILIP CAREY FOSTER, Vice President

July 22, 2003

RECEIVED

JUL 24 2003

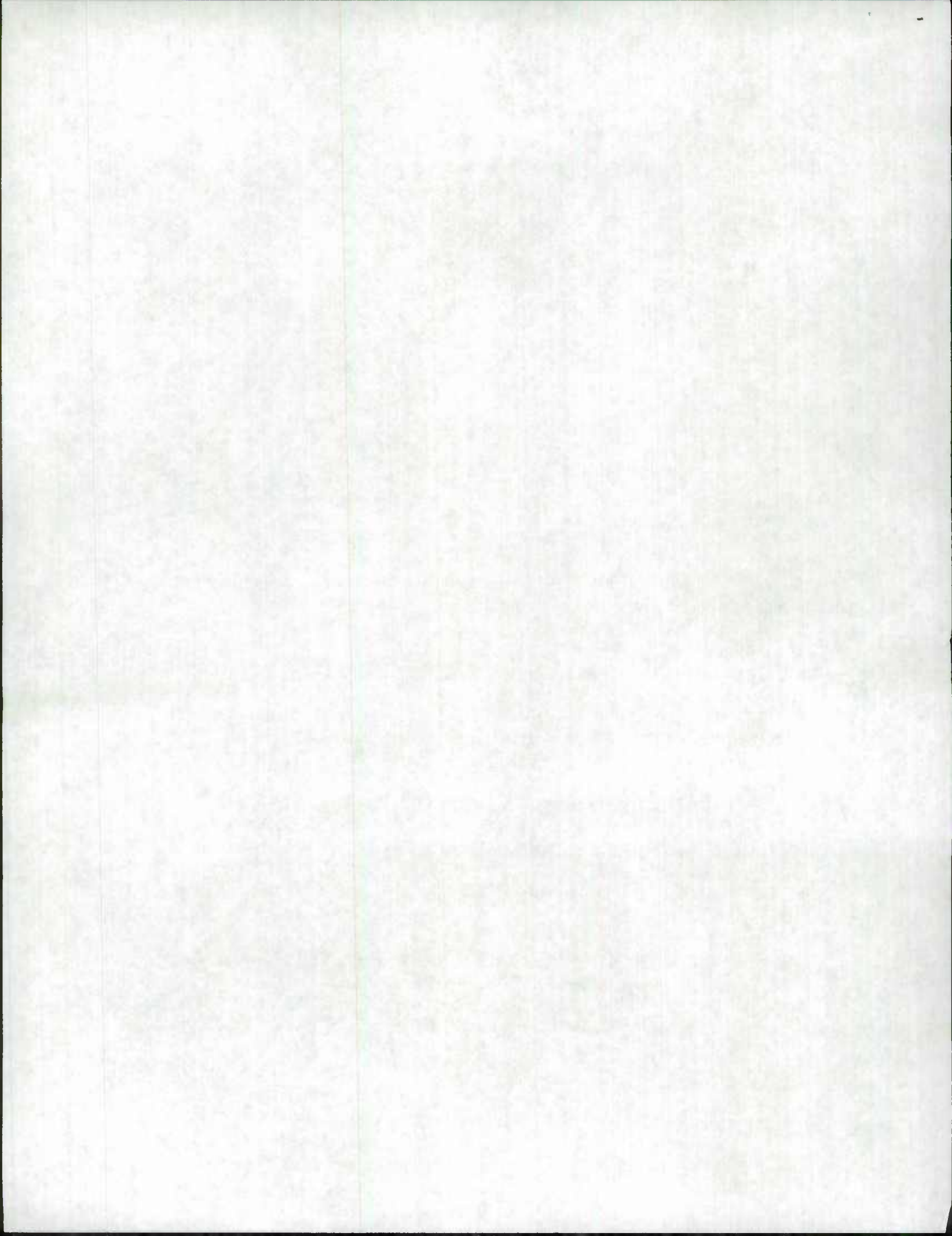
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Ren Serey, Executive Director
Critical Area Commission
1804 West Street, Suite 100
Annapolis, Maryland 21401

Dear Mr. Serey:

Pursuant to your letter dated July 14, 2003 please be advised that the Talbot County Council intends to introduce five bills concerning the Critical Area at our meeting on Tuesday, August 12th. The bills are as follows:

- A BILL TO AMEND THE TALBOT COUNTY CODE, CHAPTER 190 ZONING, ARTICLE II, DEFINITIONS AND WORD USAGE, SECTION 190-14. TERMS DEFINED, BY ADDING OR AMENDING DEFINITIONS TO COMPLY WITH THE CHESAPEAKE BAY CRITICAL AREA COMMISSION FOUR-YEAR REVIEW REQUIREMENT
- A BILL TO AMEND THE TALBOT COUNTY CODE, CHAPTER 190 ZONING, ARTICLE IV, LAND USE REGULATIONS BY ZONING DISTRICTS, SECTION 190-19. GENERAL TABLE OF LAND USE REGULATIONS, BY ADDING OR CHANGING THE SPECIFIC USE CONDITIONS TO COMPLY WITH THE CHESAPEAKE BAY CRITICAL AREA COMMISSION FOUR-YEAR REVIEW REQUIREMENT
- A BILL TO AMEND THE TALBOT COUNTY CODE, CHAPTER 190 ZONING, ARTICLE XI, CRITICAL AREA SPECIAL PROVISIONS, BY ADDING OR CHANGING SPECIFIC REQUIREMENTS TO COMPLY WITH THE CHESAPEAKE BAY CRITICAL AREA COMMISSION FOUR-YEAR REVIEW REQUIREMENT



Ren Serey
July 22, 2003
Page 2

- A BILL TO AMEND THE TALBOT COUNTY CODE, CHAPTER 190 ZONING, ARTICLE XII, SITE PLAN REVIEW, BY ADDING OR CHANGING SPECIFIC REQUIREMENTS TO COMPLY WITH THE CHESAPEAKE BAY CRITICAL AREA COMMISSION FOUR-YEAR REVIEW REQUIREMENT
- A BILL TO AMEND THE TALBOT COUNTY CODE, CHAPTER 190 ZONING, ARTICLE XIV, ADMINISTRATION, SECTION 190-109 D, GROWTH ALLOCATION DISTRICT BOUNDARY AMENDMENTS IN THE CRITICAL AREA, BY ADDING A NEW PARAGRAPH (21) GROWTH ALLOCATION FOR SPECIFIC USES IN THE RURAL CONSERVATION (RC) ZONE, TO COMPLY WITH THE CHESAPEAKE BAY CRITICAL AREA COMMISSION FOUR-YEAR REVIEW REQUIREMENT

Once the bills have been introduced, a copy of each bill will be sent to your attention for your review. Public hearings on the above named bills will be on September 9, 2003 with the County Council vote on September 23rd.

Thank you for your patience. Should you have any questions, please feel free to contact R. Andrew Hollis, County Manager, at (410) 770-8010.

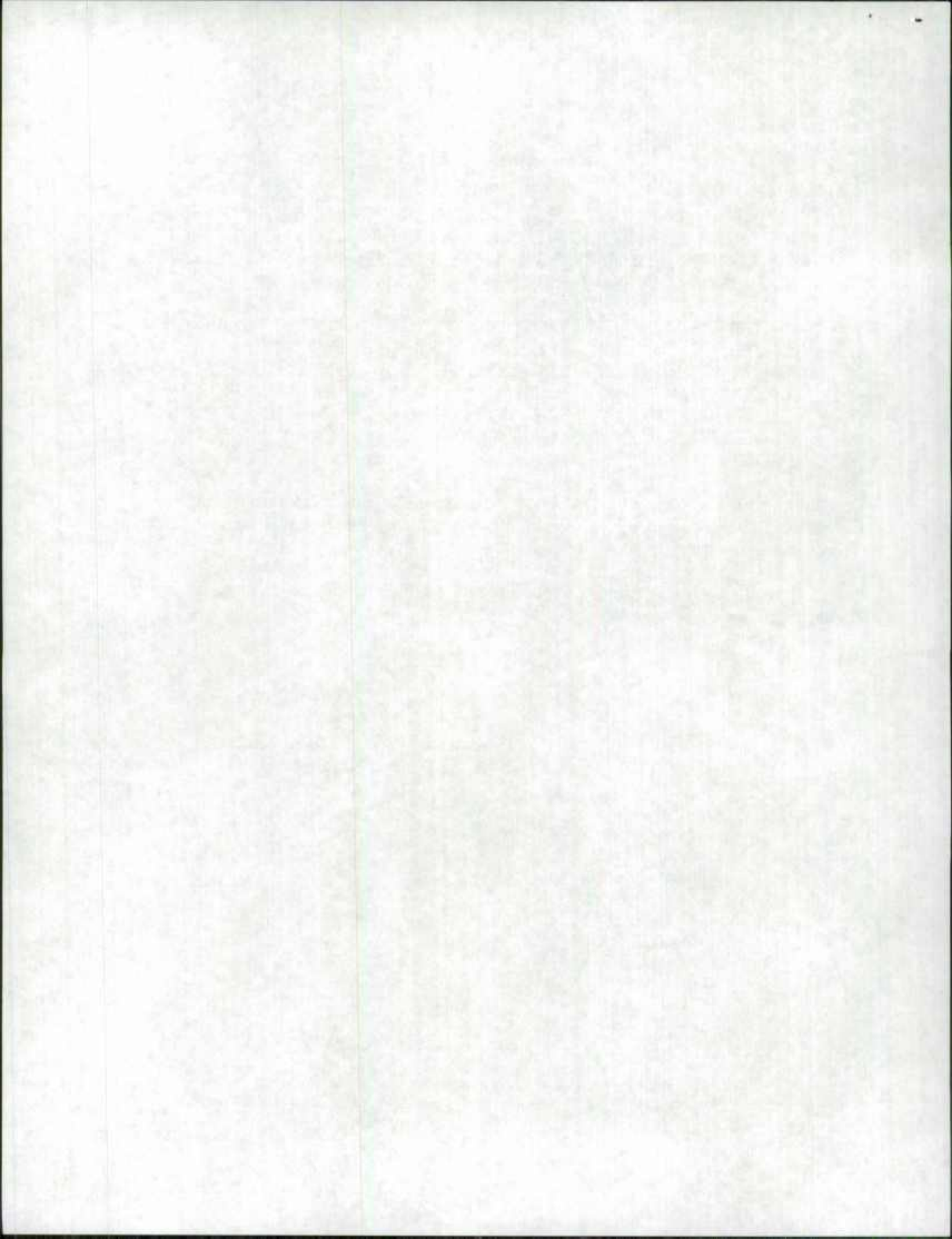
Sincerely,

COUNTY COUNCIL OF TALBOT COUNTY


Thomas G. Duncan, President

TGD/jkm

Cc: Dan Cowee, Planning Officer



*Sumo: Motion to Deny
Duket: Sec.*

Critical Area Commission

C/u

**Revised Staff Report
July 2, 2003**

APPLICANT: Calvert County

PROPOSAL: Buffer Exemption Area Designation of the Quality Built Homes/Gertz property

COMMISSION ACTION: Pending Panel Discussion

STAFF: Julie V. LaBranche and Mary Owens

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

Discussion

As you know, Calvert County has requested approval of a program change to designate the Quality Built Homes/ Rodney Gertz property as a Buffer Exemption Area under the County's program. The Quality Built Homes / Rodney Gertz property is a 4.56 acre residential property located at the northern end of Back Creek in Solomons Town Center and is designated a Limited Development Area (LDA) (refer to map on page 3 of this report). The property is served by public sewer.

The Calvert County Board of Commissioners approved the designation of this property as a Buffer Exemption Area on April 29, 2003. The Board of Commissioners made the following findings in this case:

- foundation of structure exists in the Buffer,
- density would be reduced by half based on proposed criteria for subdivision of Buffer Exemption Areas, and
- the interior portion of the Buffer has been historically cleared and has been cleared every several years or so.

As discussed by the Program Subcommittee, and voted on by the full Commission in May, the designation of the Quality Built Homes (Gertz) property as a Buffer Exemption Area was deferred to allow staff to gather additional information about the site. At the June meeting of the Commission, the Chairman decided to consider the County's request as a program amendment. He appointed a panel to hold a public hearing, which was conducted on June 23, 2003. The panel included Barbara Samorajczyk (Chair), Judith Evans, Larry Duket, and Gary Setzer. Based on a site visit of Monday, May 19, 2003, Commission staff report the following observations (photographs of the property will be provided at the Commission meeting).

[Faint, illegible handwriting]

- 1) The 100-foot Buffer is fully forested within the first 30 feet from the shoreline (refer to attached photograph 1). Vegetation within the remainder of the Buffer has regenerated since the dwelling was destroyed. This portion of the Buffer, including the footprint of the former dwelling, consists of dense growth of saplings, shrubs, and grasses.
- 2) A dwelling previously existed on the property but was destroyed by fire several years ago. As measured on the site, the remains of the previous dwelling are approximately 60 feet from the mean high water line of Back Creek. These remains consist of charred timbers, fixtures and several brick and mortar pilings, upon which the dwelling was built. The existing impervious surface coverage within the 100-foot Buffer consists of a concrete walkway adjacent to the dwelling remains (approximately 3 feet by 20 feet) and a gravel driveway, which is partially vegetated. A shed (approximately 10 feet by 15 feet) is located outside the 100-foot Buffer.
- 3) Commission staff (Claudia Jones, Science Advisor) evaluated the condition and function of the Buffer based on the photographs taken of the property. Attached as part of this updated staff report is a summary of this evaluation.

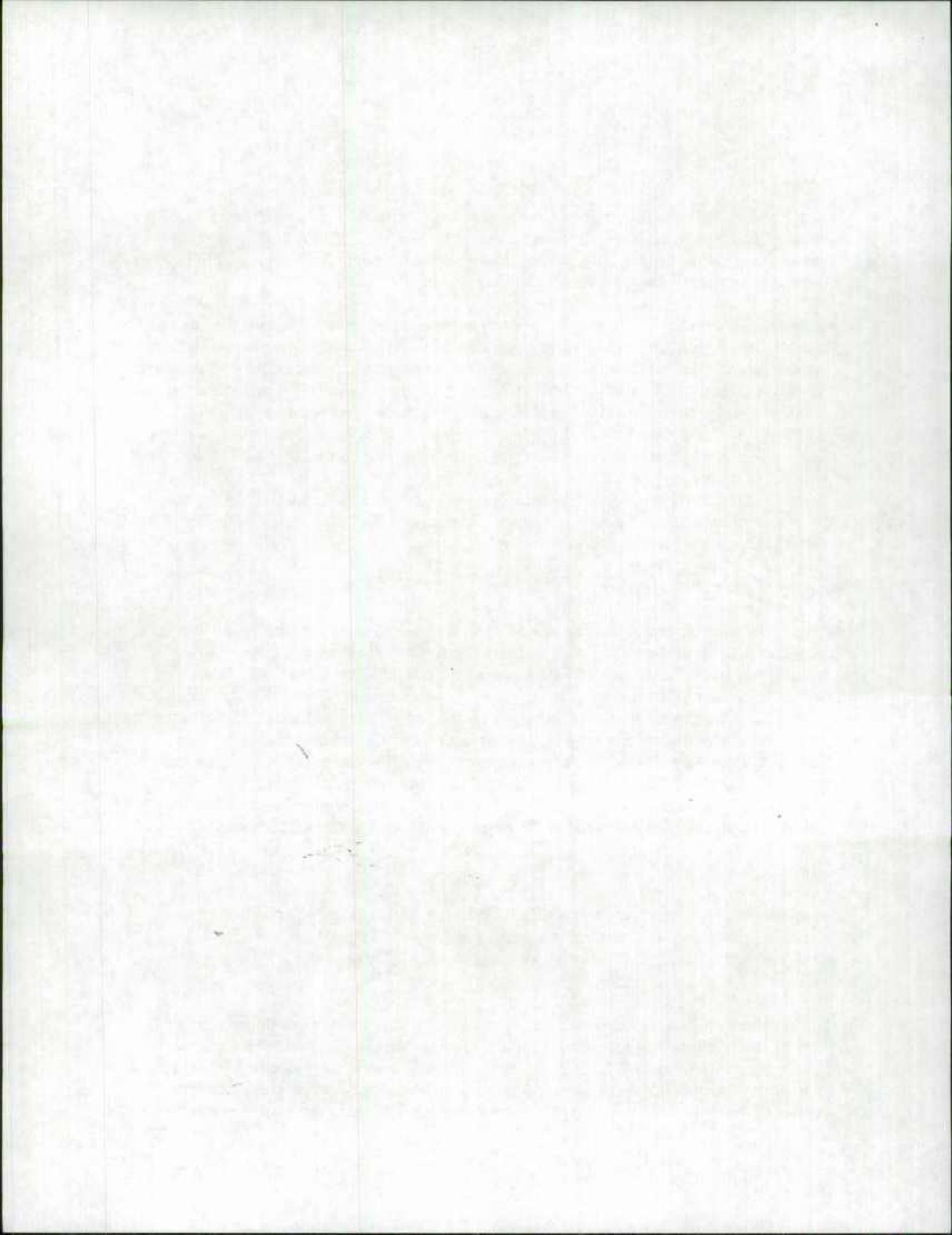
Summary of the Public Hearing

The panel held a public hearing on June 23, 2003 in Prince Frederick, Maryland. The following public participated in the hearing: Frank Jaklitsch (Director of Planning and Zoning, Calvert County), Randy Barrett (representative for the property owner, Rodney Gertz), and Kevin McCarthy (environmental consultant for the property owner, Rodney Gertz). Randy Barrett introduced two letters from Mr. Gertz's attorney (to the Commission and the County Board of Commissioners) and other documents relating to this property (Board of Appeals variance application and site plan, Zoning Ordinance provisions for subdivision in a BEA, letter from the Commission Chairman to Calvert County). Kevin McCarthy presented findings based on his evaluation of the property and Buffer. The panel will meet, at the Commission meeting on July 2, 2003 at 11:45 am, to discuss the public hearing comments and to make a recommendation.

Conclusions

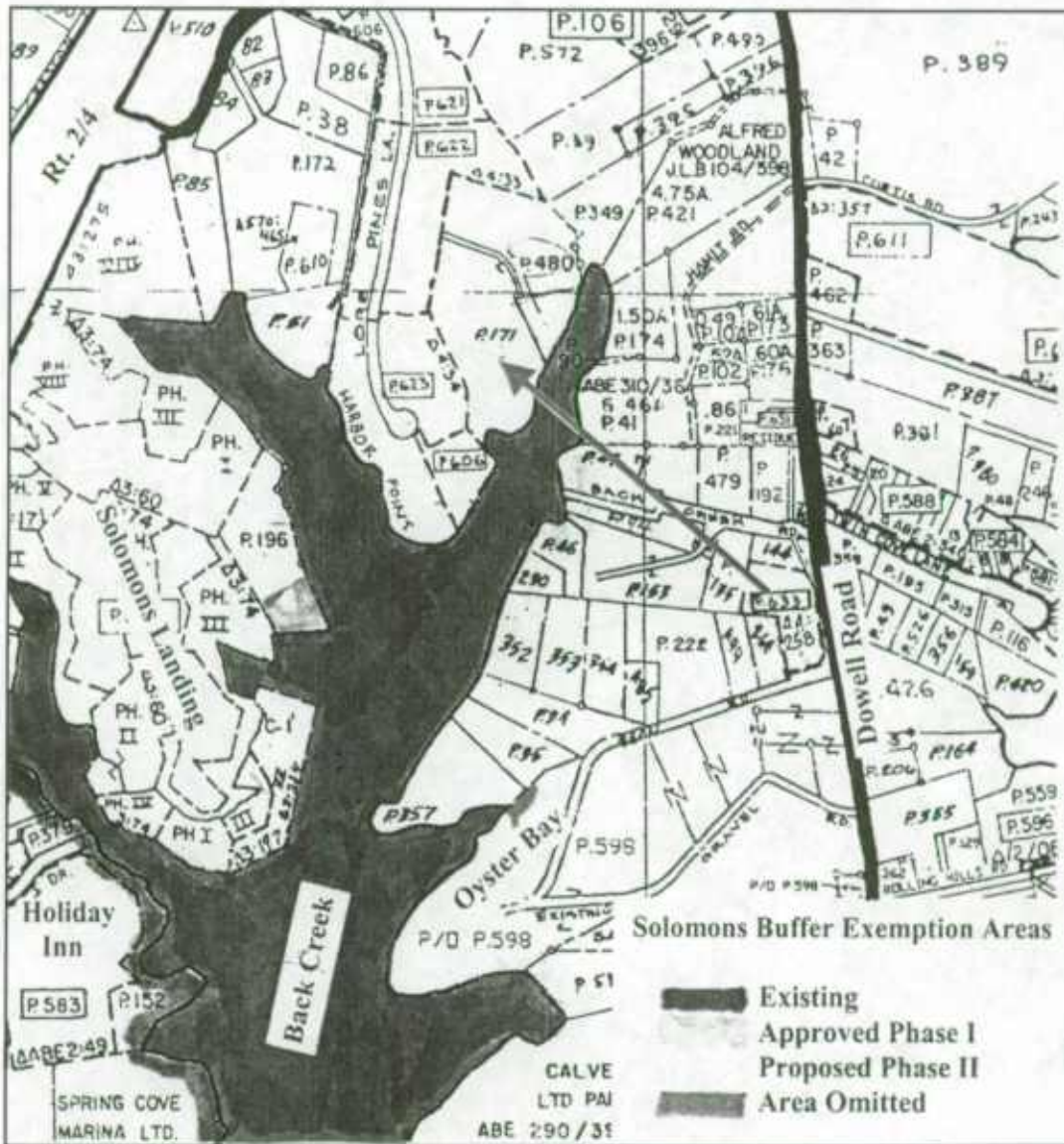
Because little impervious surface exists within the Buffer, and the Buffer is substantially vegetated and maintains the functions of a Buffer (as described in COMAR 27.01.09.01), Commission staff conclude that the property does not necessarily meet the standards for designation as a Buffer Exemption Area.

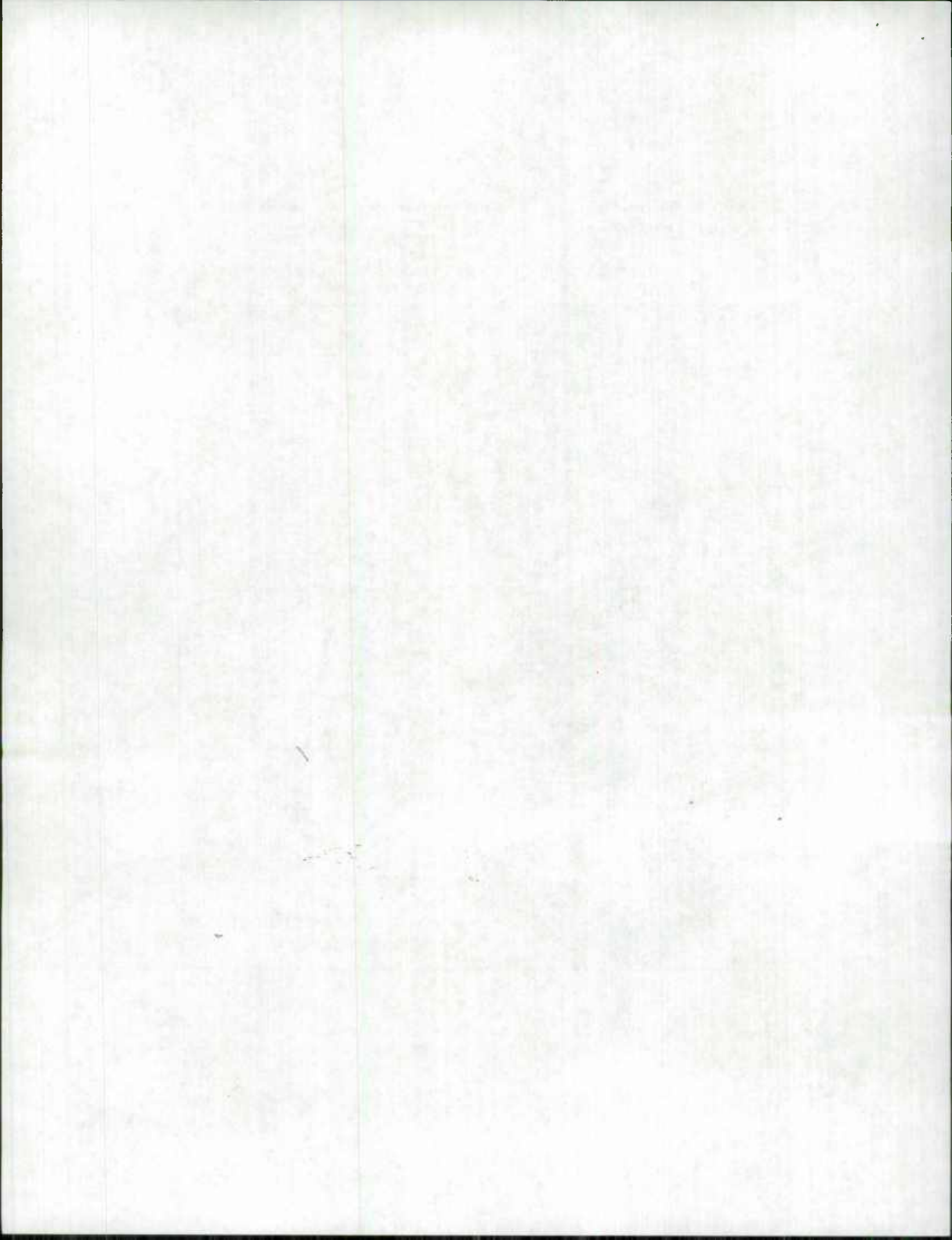
In addition, there are local zoning restrictions to consider with respect to development of this property. As required by the provisions for grandfathering (Article 4, Section 4-6.05.A.) and non-conforming uses (Article 7, Section 7-7.20.E.) of the Calvert County Zoning Ordinance, reconstruction of the previously existing dwelling in the Buffer must occur within one year of the destruction of the dwelling otherwise a variance would be required to reconstruct the dwelling in



the same location. Since a dwelling could be located on the property outside the Buffer, staff would not support such a variance.

Tax map showing the location of Parcel 171 (Quality Built Homes/Gertz property).





Attachment to Panel Report
Evaluation of the Quality Built Homes/Gertz property as a Buffer Exemption Area
by Claudia Jones (Critical Area Commission Science Advisor)

For an area to be designated as a BEA, it needs to be documented that the proposed BEA does not perform the following benefits of a naturally functioning Buffer.

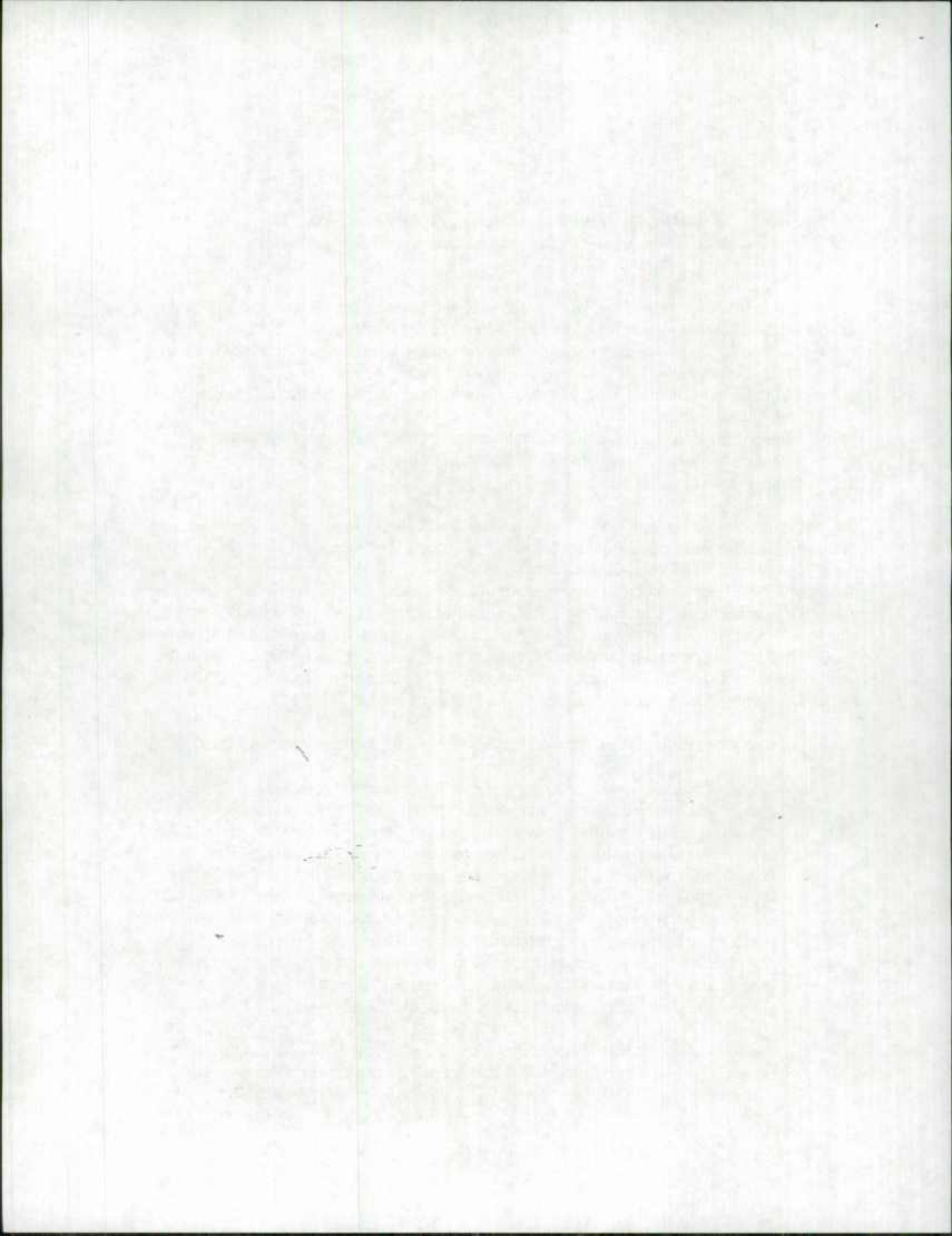
- a. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
- b. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
- c. Maintain an area of transitional habitat between aquatic and upland communities;
- d. Maintain the natural environment of streams; and
- e. Protect riparian wildlife habitat.

Buffers, in general, are effective at enhancing water quality because of their ability to remove, transform, or store nutrients, sediments and other pollutants flowing over the surface and through the groundwater. Studies have shown dramatic reductions of 30-98% in nutrients (nitrogen and phosphorus), sediment, pesticides and other pollutants in surface and groundwater after passing through a riparian forest. The ability of a Buffer to provide water quality benefits depends on the amount of impervious coverage, soil type, type and age of vegetation, slope, and width. From a wildlife habitat standpoint the diversity and amount of vegetation in the Buffer as well as the width is important. The Buffer on the Gertz property has the characteristics of a functioning Buffer to provide water quality, as well as wildlife habitat benefits.

Following is an evaluation of the Gertz Property Buffer looking at the above functions.

- a. This Buffer undoubtedly provides water quality benefits through the removal/reduction of nutrients and sediments. This Buffer has characteristics that indicate that it is providing water quality benefits. It is a combination of deciduous and evergreen trees, shrubs, grasses, and other herbaceous vegetation. There is a combination of fast and slower growing trees. Fast growing trees and shrubs are quickly taking up available nutrients in the soil and water to feed their growth. Older, slower growing trees provide long-term storage of nutrients in their woody biomass. The trees and shrubs provide perennial, deep reaching root systems to hold the soil and absorb nutrients. Tree roots also aid in the infiltration of water into the soil. The grasses and other herbaceous vegetation, and the leaf layer provide an effective substrate to slow the water and trap sediments and the nutrients.

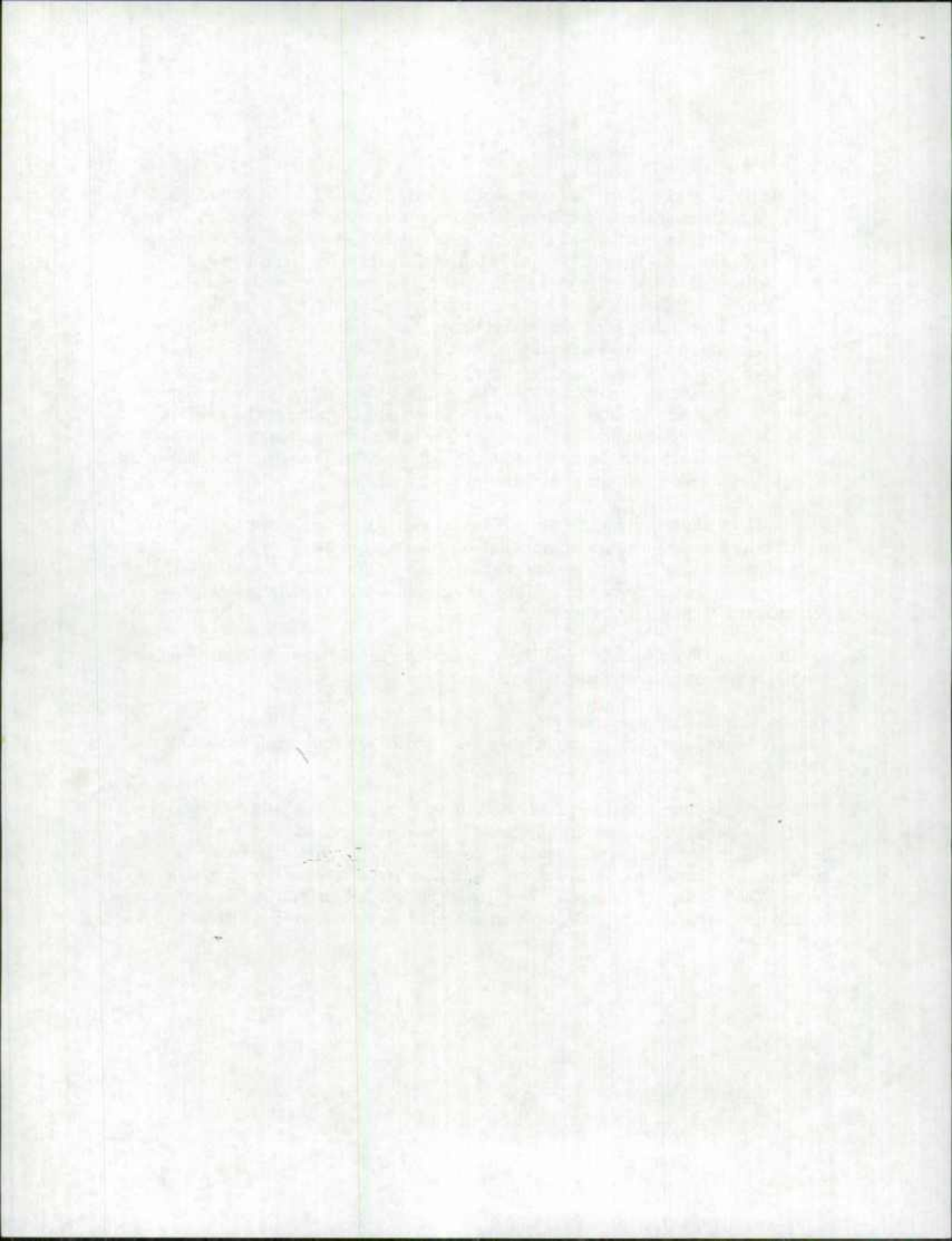
Phosphorus generally travels by attaching to the sediments so if the sediments are trapped, the majority of phosphorus coming off the site should be trapped as well. The prevalent form of nitrogen is water-soluble and travels in surface and ground water. The dense vegetation ensures a continuous uptake of the most common form of



nitrogen, which is water soluble and immediately available for plant uptake. The multi-layered nature of the Buffer ensures that rainwater will not hit the ground or other surfaces directly, with the exception of the small area of concrete walkway of approximately 75 square feet out of a total Buffer area of approximately 40,075 square feet (0.9 acres). Even the area where the previous house once existed has growth of grasses and scattered woody vegetation due to forest succession that is occurring naturally in all areas except where piles of woods or other material preclude vegetation from growing directly beneath them.

According to the Soil Survey for Calvert County, the soils on this property are Mattapex silt loam. The permeability rate of this soil type, at 0.60-2.00 inches per hour should allow for significant infiltration of rainwater. The Buffer on this property is fairly flat except for the area immediately adjacent to the shoreline. This would indicate that surface water has significant time to infiltrate before reaching the Creek.

- b. This Buffer minimizes the adverse effects of human activities on the shoreline and aquatic resources by providing a visual and structural barrier adjacent to the water. Most wildlife is more abundant where there is some screening between human activity and wildlife use. The presence of woody vegetation here precludes extensive human use and thereby eliminates compaction of the soil from human traffic.
- c. This Buffer provides a transition from the water and other aquatic resources from the uplands because of the extensive vegetation along the shoreline.
- d. There is not a stream per se on this property, but a naturally forested Buffer along the tidal waters of Back Creek. Trees and limbs in the water provide places for small fish to hide and a place for blue crabs to molt.
- e. There is significant structural as well as a diversity of vegetation types in this Buffer. This Buffer provides numerous areas for birds and small wildlife to feed and rest. The woody debris along the shore and in the water itself provide a refuge for numerous ecologically and economically important species of fish and crustaceans. Trees along the shoreline, such as are found on this site, provide a place for migrating birds to feed and rest and limbs adjacent to the water can provide a perch for bird such as Great Blue Heron and Green Heron to fish from.



Critical Area Commission
STAFF REPORT
July 2, 2003

Approved

APPLICANT: Town of Ocean City

PROPOSAL: Coastal Bays Critical Area Program Approval

COMMISSION ACTION: Vote

PANEL: Joe Jackson (Chair), Larry Duket, Judith Evans, Doug Stephens

PANEL RECOMMENDATION: Pending Panel meeting

STAFF: LeeAnne Chandler, Mary Owens, Ren Serey

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article §8-1809(d)(2)(ii)

DISCUSSION:

In March 2003, the Critical Area Commission notified the Town of Ocean City of specific changes that had to be made to their proposed Critical Area Program in order for the Program to be approved. With the time extensions that were granted, the Town had until July 2nd to resubmit a revised Program. The Town has revised the Program, addressing each of the specific concerns that the Commission previously raised. The Town Council reviewed and discussed the revisions at a public work session on June 10, 2003. They subsequently voted to formally submit the revised Program to the Commission.

The bulleted list below highlights the major features of the Town of Ocean City's revised Critical Area Program:

- All of the Critical Area within the Town is designated as Intensely Developed Area. (This was actually legislated by the General Assembly through the Atlantic Coastal Bays Protection Act.) However, there are some areas of the Town that are outside of the Critical Area, i.e., more than 1000 feet from the tidal reaches of the Coastal Bays. A map showing the Critical Area line will be available at the Commission meeting.
- Development standards in the IDA are typical and center on addressing stormwater runoff with the 10% pollutant reduction requirement. However, in accordance with a provision specific to the Coastal Bays, also included is a requirement to provide a forest or developed woodland cover of at least 15% after development or a fee-in-lieu payment.

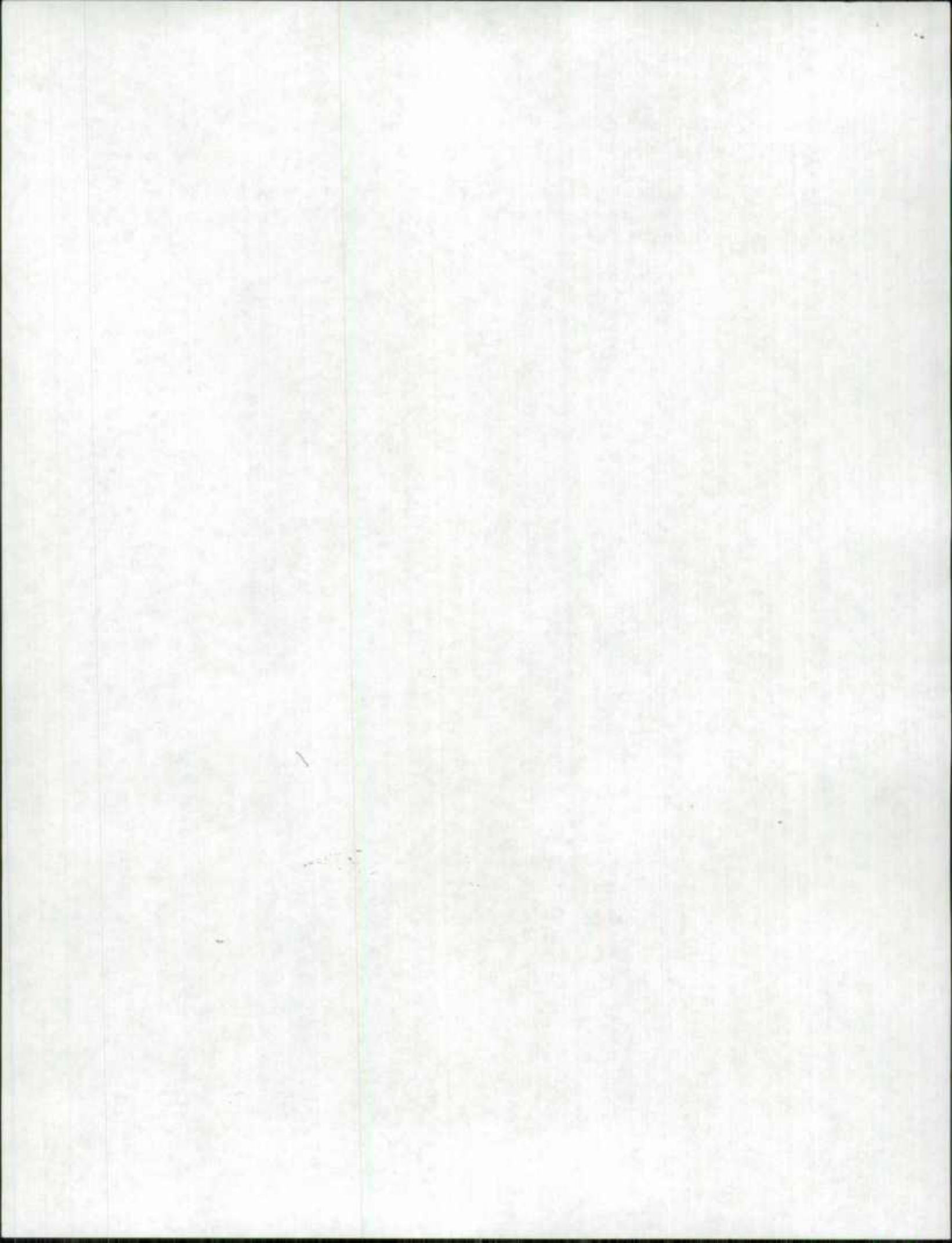
landscaping under an approved landscaping plan.

- The Town proposes to designate all of its shoreline as a Buffer Management Area (a.k.a. a Buffer Exemption Area). Setbacks are established based on lot size. For lots less than 40,000 square feet (as of June 1, 2002), the setback is based on the existing zoning setback. The zoning setbacks range from 5 to 15 feet. For lots greater than 40,000 square feet, the setback will be 25 feet. No impervious surfaces are permitted in the setback; however pervious decks and walkways may be permitted.
- For multi-family, commercial, industrial, and institutional development, mitigation in Buffer Management Areas is proposed at either a 1:1 or a 2:1 square foot ratio, depending upon the existing condition of the Buffer. Any net increase of impervious cover within the Buffer and any pervious structure placed within the setback will be mitigated at a 2:1 ratio. Other development activity (including redeveloping existing impervious cover) will be mitigated at a 1:1 ratio.
- For single-family development, mitigation in Buffer Management Areas will be addressed through the Town's existing landscaping ordinance. The landscaping ordinance requires the property owner to spend a sum equal to two percent of the total cost of construction for landscaping for each home, at least 80 percent of which must go toward the cost of plants. Additions and accessory structures will be addressed in the same manner based on two percent of the cost of the addition or accessory structure.
- Habitat Protection is proposed to be addressed by requiring any applicant proposing a development activity on a lot 40,000 square feet or larger (except for single-family dwellings) to consult with the Maryland Department of Natural Resources to determine if there are any Habitat Protection Areas (HPAs) in the vicinity of any project site. If HPAs may be impacted by proposed developed, the applicant will be required to prepare a Habitat Protection Plan to identify measures that will be taken to conserve and protect the identified HPAs. If there are no HPAs that may be impacted, the applicant is responsible for documenting the source of this finding.
- The Town proposes limits to the maximum permitted length of piers over wetlands to 50 feet. The Town's Board of Port Wardens is the local permitting authority for piers and they have had such a policy for a number of years. This is an optional provision provided for in the Atlantic Coastal Bays Protection Act.

The most significant revisions since the original submittal include the addition of several definitions; expansion of the section on Habitat Protection Areas; inclusion of a section on shore erosion control; and enhancing the proposed mitigation for Buffer Management Areas. The issue of community piers as they relate to condominium developments was also resolved. The language that appears in the revised Program is now consistent with the language in the Critical Area Law. All of the items identified by the Commission in March were addressed.

On the morning of the Commission meeting, the Panel will meet to determine the recommendation they will make to the full Commission.

If anyone would like a full copy of the Town's proposed Program or if there are any questions prior to the meeting, please contact LeeAnne Chandler at (410) 260-3477 or via e-mail at lchandler@dnr.state.md.us.



STAFF REPORT
July 2, 2003

C/2

APPLICANT: St. Mary's County

PROPOSAL: Completion of Comprehensive Review of the St. Mary's County Critical Area Program and Buffer Management Overlay:

- A) Compliance with the Conditions of the Commission's July 200~~2~~³ Approval
- B) Approval of Updated Critical Area Overlay Maps

JURISDICTION: St. Mary's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Diane Cole

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

DISCUSSION:

A) Compliance with the Conditions of the Commission's July 2002 Approval

In July 2002, the Commission approved, with conditions, the four-year comprehensive review of the St. Mary's County Critical Area Program. The results of the review included revisions to the County's Zoning Ordinance document, changes necessary to update and/or correct the County's official Critical Area maps, and approval of Critical Area Buffer Management Overlay Maps. The Commission's approval included fifty-one (51) conditions, which included semantical and programmatic changes that would provide consistency with the State Critical Area Law and Criteria.

On May 13, ~~2003~~²⁰⁰³, the County adopted Ordinance Z-03-04, Repeal and Adoption of the St. Mary's County Critical Area Program and Zoning Maps Designating the Chesapeake Bay Critical Area Overlay Zones. This Ordinance incorporated all of the Critical Area Commission's conditions, with the exception of conditions # 1, 16, 17, and 21. It will take effect ten days after the County receives the Commission's formal approval.

The Commission's conditions and the County's revisions to these four conditions appear below. These revisions had been previously discussed with and agreed to by staff, and are hereby recommended by staff for Commission approval.

Conditions

Issue 1

Condition # 1: Section 26.2.2.d - Add the following language after the last sentence. **“Property within the Resource Conservation Area of the Critical Area may not transfer development rights from a lot of record that does not meet the density provisions of one unit per 20 acres.”** The Commission requested this condition because the County's language would permit the transfer of development rights from existing grandfathered parcels in the RCA that were less than 20 acres to other parcels in the RCA. This could potentially permit new development in the RCA to exceed the one unit per 20 acres density limitation. It is the Commission's position that the right to construct a dwelling on an existing grandfathered lot that is less than 20 acres is not transferable to another RCA property.

Proposed County Revision: In § 26.2.2.a- strike the period and add the following phrase at the end of the last sentence, “nor may any development right be transferred to land in the RCA from any RCA lot of record that is less than 20 acres in size.”

Issue 2

Condition # 16: Section 51.3.19.a – Add, **“(4) In the RCA, existing uses are limited to 15% of the site, and new uses shall be limited to 20,000 square feet of impervious surface area, or 15% of the site, whichever is less.”** The Commission requested this modification to the development standards for new burial grounds in order to limit the scope and intensity of this type of use. The intent of these limitations is to prevent this use from becoming a large commercial facility that would not be an appropriate use in the RCA while still accommodating smaller facilities for existing churches or family cemeteries.

Proposed County Revision: Add “In the RCA new uses shall be limited to 20,000 square feet of impervious surface area or 15% of the site, whichever is less. The area of individual gravestones shall not be included in the calculation of impervious surface. In the RCA, expansion of existing uses shall be governed by the provision of Chapter 52, except that a variance shall be required when expansion allowed by that chapter would exceed the impervious surface limits of the Resource Conservation Area overlay.”

Issue 3

Condition # 17: Schedule 50.4 (#97) – Change **“18 customers” to “12 customers.”** Delete **“RCA” from Schedule 50.4.** The Commission requested this change because this use appears to be a commercial use that is more aptly classified as a commercial marine type of activity and therefore not compatible with the types of uses permitted in the RCA. The County agreed to delete this use as a permitted use in the RCA.

Proposed County Revision: Delete “RCA” from Schedule 50.4. Use accepted Coast Guard

following, “This classification includes any facility that berths more than one vessel for hire carrying more than 6 passengers regardless of whether inspection is required for US Coast Guard regulations governing passenger vessels OR more than three vessels for hire meeting the requirements as an ‘uninspected vessel under 100 gross tons’ pursuant to US Coast Guard regulations and accommodating 6 or fewer passengers each.”

Issue 4

Condition # 21: Section 51.3.113 - Add the following “General standard”, **“In the RCA, this use must be associated with a use permitted in the RCA and shall not be occupied on a permanent, year-round basis.”** The Commission requested this clarification to ensure that a dwelling constructed to provide lodging for farm workers and other similar employees would not become a guesthouse or “accessory dwelling unit” exceeding the permitted density in the RCA.

Proposed County Revision: Add the following “General Standard”, “In the RCA, this use must be associated with a use permitted in the RCA. Occupation of the worker housing shall cease within 30 days if the agricultural, commercial, or industrial operation employing the workers ceases for more than 30 days, regardless of any intention to abandon or resume such activities. Housing may be reoccupied by workers utilized for the activity upon resumption of the permitted RCA use.”

Issue 5

In addition to these revisions of the Commission’s conditions, the County proposes an additional revision to “Charter Fishing” which is identified as an accessory use. In Schedule 50.4, Use # 119 is defined as, **“One or two charter fishing boats accommodating a maximum of 12 customers berthed and operated at a private pier as an accessory use to residential use. Generation of revenue from fishing excursions shall not be deemed prima facie evidence contradicting the subordinate and incidental nature of this use to the primary residential use.”** The County proposes to amend this as follows, **“Charter fishing activities operated at a private pier that is accessory to a residential use providing berthing and facilities for: One vessel carrying more than 6 and less than 25 passengers and meeting the requirements for a ‘Small Passenger Vessel (under 100 gross tons)’ pursuant to US Coast Guard regulations OR no more than three uninspected vessels capable of carrying 6 or fewer passengers for hire each meeting the requirement as an ‘Uninspected Vessel under 100 gross tons’ pursuant to US Coast Guard regulations.”**

The County requested this change following lengthy discussions between Commission staff, County staff, and the County Commissioners. The County believes that utilizing the Coast Guard definitions will facilitate implementation and that this use, as limited above, represents a typical “home occupation” in St. Mary’s County. It would be similarly regulated to other home occupations with regard to vehicle trips, parking, etc. Commission staff supports the change as proposed.

As part of the comprehensive review process, the County prepared new digital Critical Area Maps. The original Critical Area boundary had been drawn by hand on the County tax maps and more detailed and accurate base maps had become available. In order to match the shoreline, tax map, and Critical Area boundary layers, comprehensive revisions to the Critical Area boundary were necessary and affected a majority of the maps. These changes involved adjustments to the Critical Area boundary relative to the shoreline and edge of wetlands in order to ensure that the maps depicted actual conditions as accurately as possible.

In addition to these general changes, Commission staff and County staff reviewed the County's official Critical Area Overlay maps and several areas requiring changes were identified. These changes included the following:

- Extending the Critical Area boundary on Tax Map 52 to include the entire parcel where the Shannon Farms PUD was proposed;
- Changing the classification of areas where growth allocation had been previously awarded but not mapped;
- Correcting edge-match problems where the Critical Area boundary, zoning, and parcel lines differed between two adjacent maps;
- Correcting the Critical Area boundary line where it had been incorrectly delineated to be less than 1,000 feet from tidal waters or tidal wetlands;
- Eliminating an anomaly by removing insets in the original overlay maps 2 through 5, where a donut-shaped designation overlay created a gap in the Critical Area for the Golden Beach subdivision. This anomaly had created an inconsistency in applying Critical Area standards in this community;
- Eliminating the Water Dependent Facilities – Critical Area overlay and replacing it with a more accurately delineated Commercial Marine zoning classification.

The updated maps also include the new Buffer Management Overlay areas that the Commission approved in July 2002, as well as updating the underlying zoning information. Flight zones for Patuxent Naval Air Station are identified on these maps, as well. These maps will be available at the meeting for your perusal.

Staff recommends approval of the County's revisions to the Commission's conditions of approval and to the final St. Mary's County Critical Area Ordinance and updated, official Critical Area Maps.

Critical Area Commission

STAFF REPORT
July 2, 2003

*Refinement
Concurrence*

APPLICANT: City of Crisfield

PROPOSAL: Refinement – Buffer Exemption Areas

COMMISSION ACTION: Concurrence

STAFF RECOMMENDATION: Approval

STAFF: Tracey Gordy and Claudia Jones

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

DISCUSSION:

The Town of Crisfield is requesting that the Critical Area Commission approve a refinement to their Program designating additional shoreline as Buffer Exemption Areas (BEA). There are five areas to be considered.

1. McCready Hospital
2. Hall Highway/American Legion
3. Wellington Road North of the Small Boat Harbor
4. Walnut Street/Crockett Avenue/South of Exclusion Area
5. Somers Cove Marina/Mrs. Paul's Seafood Plant

BUFFER EXEMPTION AREA EVALUATIONS

For an area to be designated as a BEA, it shall be documented that the proposed BEA does not perform the following functions of a naturally vegetated Buffer:

- a. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
- b. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
- c. Maintain an area of transitional habitat between aquatic and upland communities;
- d. Maintain the natural environment of streams; and
- e. Protect riparian wildlife habitat.

Area 1 - McCready Hospital

- a. This area is currently developed with a hospital. Much of the road and parking for the hospital are within 50 feet or less of the water. What isn't covered with impervious surfaces is in mowed grass with scattered trees. Because of this impervious surface and lack of natural vegetation, the Buffer's ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised.
- b. 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 adjacent to the shoreline.
- c. There is a minimal transitional area between aquatic and upland communities on this site because the Buffer contains roads, extensive parking, and mowed grass to the water.
- d. The McCready Hospital is located on the Little Annemessex River; there are no small streams.
- e. The wildlife habitat within the Buffer on this site is practically nonexistent because of lack of vegetation, impervious surfaces, and human activity.

Area 2 – Hall Highway/American Legion

- a. The portions of this area along the Little Annemessex are mostly bulkheaded with little vegetation other than mowed grass in the Buffer. The lots/parcels are all on town sewer. The average lot size is $\frac{1}{4}$ acre or less with a depth of less than 100 feet. The backyards of the residences in this area along Hall Highway have a tidal wetland that comes up behind their houses. There is significant impervious surface on the residential lots and at the American Legion in the Buffer. Because of the extent of impervious surfaces, lack of natural vegetation, and compaction of soil, the Buffer's ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised.
- b. 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 adjacent to the shoreline and tidal wetlands.
- c. There is minimal transitional habitat between aquatic and upland communities in this area. Along the Little Annemessex the shoreline is bulkheaded adjacent to mowed lawns and scattered trees. Along the tidal wetlands, it is primarily lawn with some *Phragmites* growing along the landward edge of the tidal wetlands.
- d. There are no small streams in this proposed BEA.

lack of vegetation, impervious surfaces, and human activity.

Area 3 - Wellington Road North of the Small Boat Harbor

- a. The properties along this road are mostly developed with most lots having houses and/or accessory structures in the Buffer within 30 feet of the water. The lots/parcels are all on town sewer. The average lot size is $\frac{1}{4}$ acre or less. Because of the extent of impervious surfaces, lack of natural vegetation, and compaction of soil, the Buffer's ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised.
- b. 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 adjacent to the shoreline.
- c. The areas in this section do not provide a transition between aquatic and upland communities because the shoreline along the Little Annemessex is adjacent to lawn and impervious surfaces.
- d. There are no small streams in this proposed BEA.
- e. The wildlife habitat within the Buffer on this site is practically nonexistent because of lack of vegetation, impervious surfaces, and human activity.

Area 4 - Walnut Street/Crockett Avenue/South of Exclusion Area

- a. The properties in this area are comprised of small lots that contain substantial Buffer because of a tidal ditch and tidal wetlands that run adjacent and behind these properties. These properties are developed with substantial structures and impervious surfaces in the Buffer. The lots/parcels are all on town sewer. The average lot size is $\frac{1}{4}$ acre or less. Because of the extent of impervious surfaces, lack of extensive natural vegetation, and compaction of soil, the Buffer's ability to provide for the removal of sediments, nutrients, and harmful or toxic substances has been compromised.
- b. 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 extensive human activities are taking place adjacent to the shoreline and tidal gut
- c. The areas in this section do not provide a good transition between aquatic and upland communities because of clearing and human use.
- d. The minimal vegetation along some portions of the tidal ditch/stream will be protected under the City's BEA ordinance language.
- e. The wildlife habitat within the Buffer on this site is practically nonexistent because of

lack of vegetation, impervious surfaces, and human activity.

Area 5 – Somer's Cove Marina/Mrs. Paul's Seafood Plant






- a. This area consists of a public marina and the site of an abandoned seafood plant and other seafood operations. Both parts of this area contain extensive impervious surfaces that in many areas goes to the water. These parcels are on town sewer. Because of the extent of impervious surfaces, lack of extensive natural vegetation, and compaction of soil, the Buffer's ability to provide for the removal of sediment, nutrients, and harmful or toxic substances has been compromised.
- b. 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 adjacent to the shoreline, especially at Somer's Cove. The Mrs. Paul's site has parking areas and other impervious surface covering large portions of the Buffer. Redevelopment will result in significant human activity in the Buffer.
- c. The areas in this section do not provide a transition between aquatic and upland communities since the shoreline along the Little Annemessex is bulkheaded and is adjacent to lawn and extensive impervious surface.
- d. There are no small streams in this proposed BEA.
- e. The wildlife habitat within the Buffer on this site is practically nonexistent because of lack of vegetation, impervious surfaces, and/or human activity

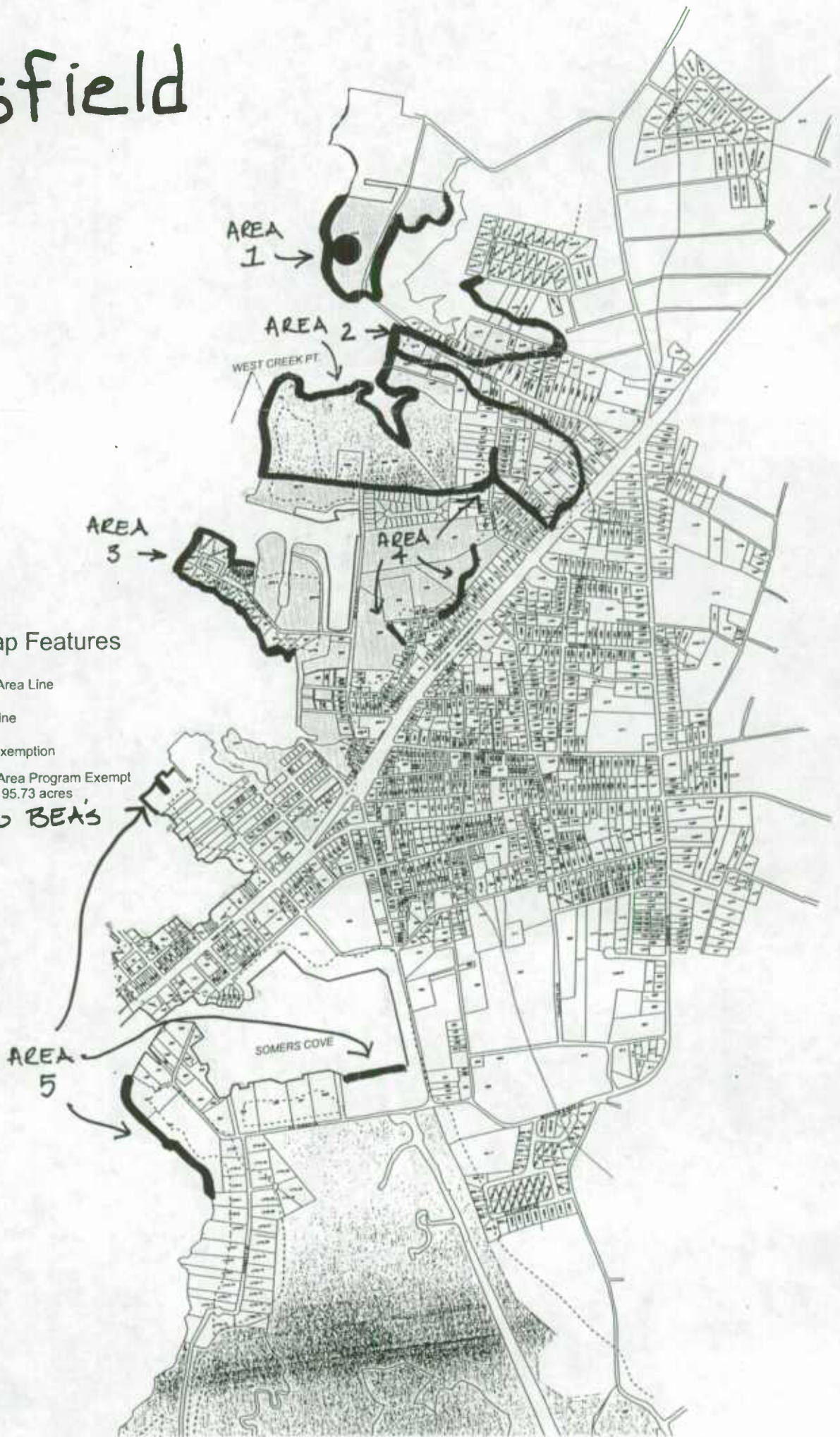
The City currently has Buffer Exemption Provisions in their ordinance that require the minimization of landward intrusion into the Buffer stating that expansion or redevelopment of existing structures in a BEA may not increase impervious surfaces shoreward of the existing structure and shall not result in greater than a twenty-five percent increase in the site's impervious surface. New development shall minimize the shoreward extent of impervious surfaces and in no case extend any farther than existing setback lines defined by existing structures on adjacent lots or parcels. There is a requirement for mitigation to reestablish in natural vegetation the portion of the lot or parcel shoreward of the new development and additional mitigation based on the extent of new impervious surface. This section of the City's ordinance will be updated to incorporate the Commission's most recent BEA policy during the comprehensive review.

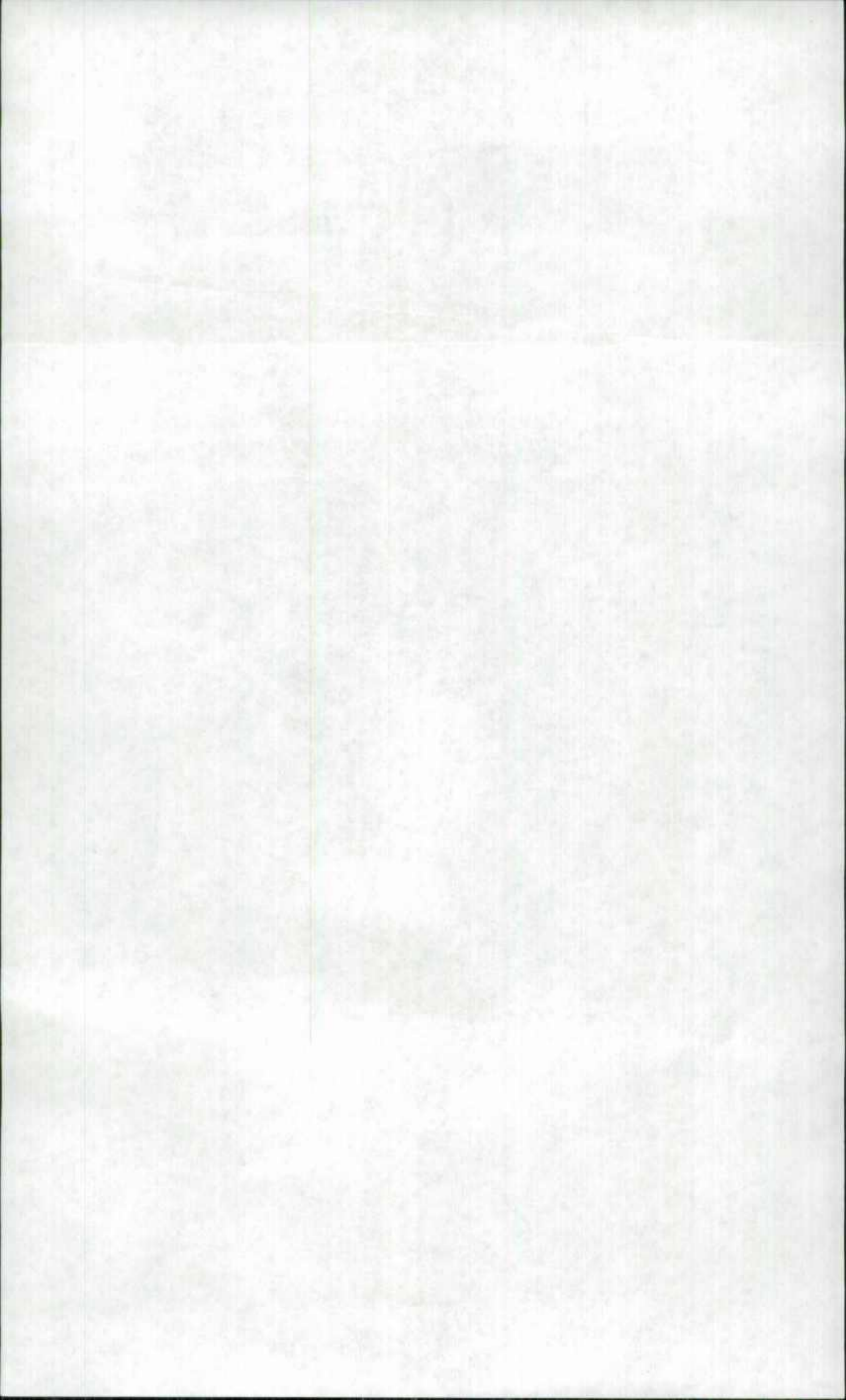
At the Commission meeting, we will have a PowerPoint presentation to give you an overview of what these areas look like.

.risfield

Key To Map Features

-  Critical Area Line
-  Buffer Line
-  Buffer Exemption
-  Critical Area Program Exempt
Approx. 95.73 acres
-  **New BEAS**





CITY OF CRISFIELD
PROPOSED BUFFER EXEMPTION AREAS

MAP COLOR LEGEND:

ORANGE AREAS - EXISTING BUFFER EXEMPTION AREAS

GREEN AREAS – PROPOSED BUFFER EXEMPTION AREAS

BLUE AREAS – 100' BUFFER AREAS

**PINK AREAS – CRITICAL AREA EXCLUSION AREA
(Exempt from Critical Area Ordinance Requirements)**

