

Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland
September 3, 2003

SUBCOMMITTEES

10:00 a.m. – 11:15 a.m. Project Evaluation Subcommittee

Members: *Bourdon, Chambers, Giese, Setzer, Jackson, McLean, Andrews, Jones, Rice, Mathias, Wilson*

Department of Natural Resources: Pocomoke River State Park: Pier Replacement and ADA trail (Worcester County) **LeeAnne Chandler**

Anne Arundel County Department of Public Works: Riva Road Widening Project **Lisa Hoerger**

Department of Natural Resources: Black Walnut Point Natural Resources Management Area: Black Walnut Point Cottages (Talbot County) **Lisa Hoerger**

Department of General Services: Bloomsbury Square Demolition and New Parking Lot (City of Annapolis) **Dawnn McCleary**

10:30 a.m. – 11:15 a.m. Program Implementation Subcommittee

Members: *Bailey, Evans, Johnson, Lawrence, Duket, Samorajczyk, Stephens, Blazer, Gilliss, Richards*

Discussion: Cotton Hill Campground Growth Allocation (Worcester County) **LeeAnne Chandler**

11:15 a.m. – 12:00 p.m. Joint Meeting: Project Evaluation and Program Implementation Subcommittees

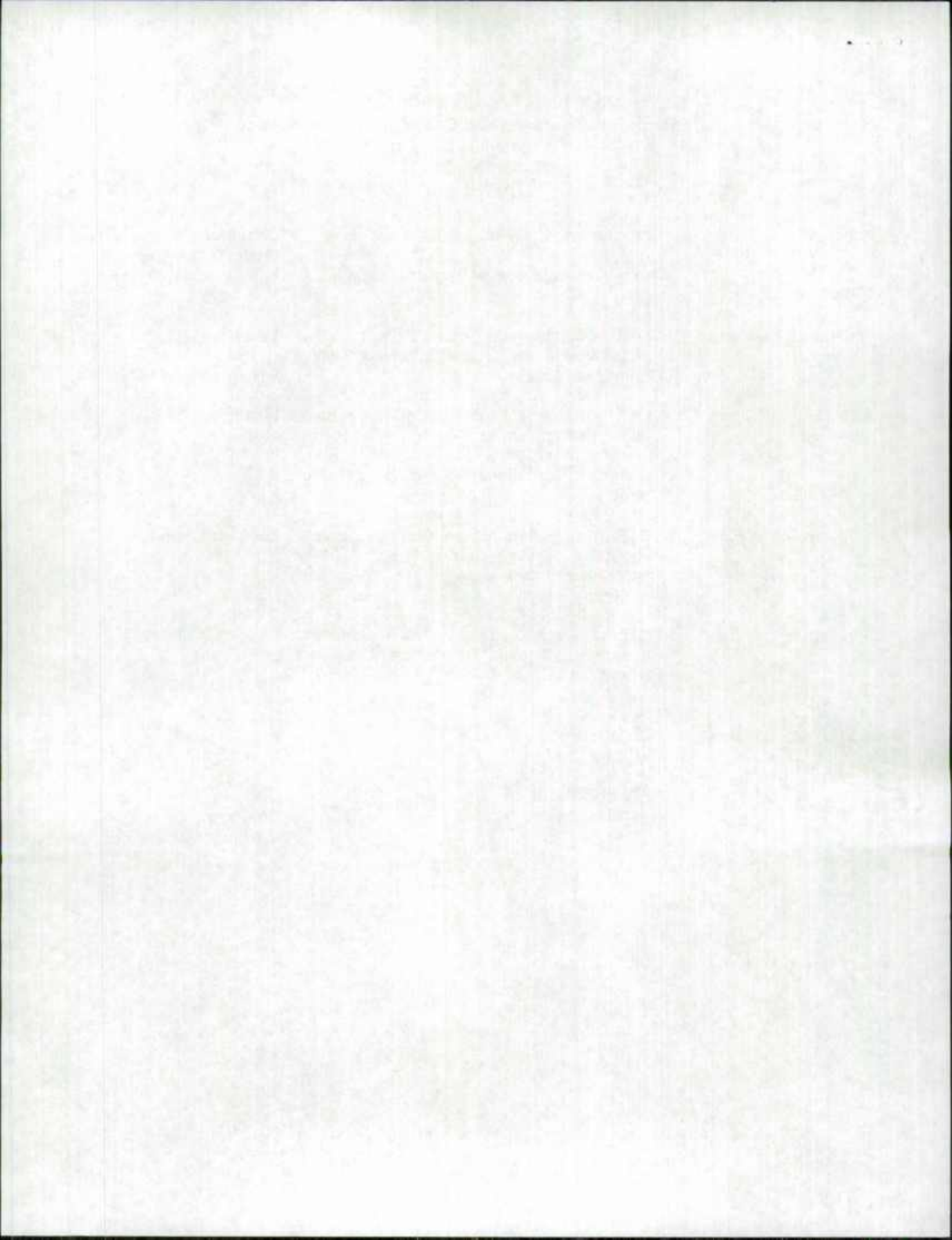
Members: *Bailey, Evans, Johnson, Lawrence, Duket, Samorajczyk, Stephens, Blazer, Gilliss, Richards, Bourdon, Chambers, Giese, Setzer, Jackson, McLean, Andrews, Jones, Rice, Mathias, Wilson*

Discussion: Chesapeake Beach Trail (Calvert County) **Julie LaBranche**
Mary Owens
Claudia Jones
Regina Esslinger

12:00 p.m. – 1:00 p.m. Lunch

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

1:00 p.m. – 1:10 p.m.	Introductory Remarks	Chairman Martin G. Madden
	Approval of Minutes for August 6, 2003	
PROJECTS		
1:10 p.m. – 1:30 p.m.	VOTE: Anne Arundel County Department of Public Works: Riva Road Widening Project Conditional Approval	Lisa Hoerger
1:30 p.m. – 1:50 p.m.	VOTE: Department of Natural Resources: Black Walnut Point Natural Resources Management Area: Black Walnut Point Cottages Conditional Approval (Talbot County)	Lisa Hoerger
1:50 p.m. – 2:00p.m.	VOTE: Department of Natural Resources: Pocomoke River State Park: Pier Replacement and ADA Trail (Worcester County)	LeeAnne Chandler
2:00 p.m. – 2:10 p.m.	VOTE: Department of General Services: Bloomsbury Square Demolition and New Parking Lot (City of Annapolis)	Dawnn McCleary
2:10 p.m. – 2:35 p.m.	OLD BUSINESS Legal Update	Marianne Mason
	NEW BUSINESS Workshop	Chairman Martin G. Madden



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
August 6, 2003

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

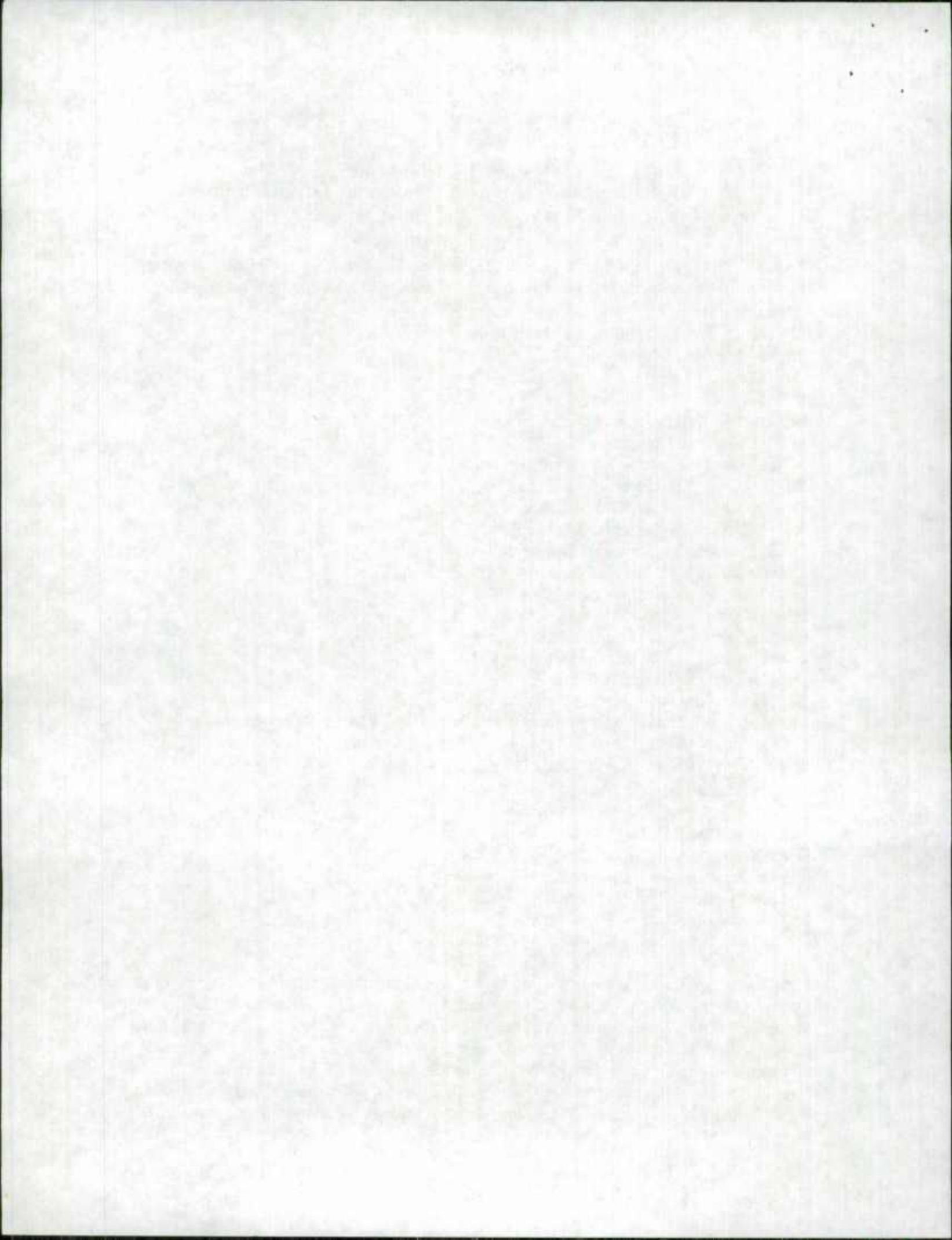
Attendance:

Mcg Andrews, Maryland Department of Transportation
Margo Bailey, Kent County
Dave Blazer, Worcester County Coastal Bays
Dave Bourdon, Calvert County
Dr. Earl Chambers, Queen Anne's County
Judith Cox, Cecil County
Judith Evans, Western Shore Member-at-Large
William Giese, Dorchester County
Tracey Gordy, for Larry Duket, Office of Planning
Joseph Jackson, Worcester County
Louise Lawrence, Maryland Department of Agriculture
Thomas McKay, St. Mary's County
Daniel Mayer, Charles County
Edwin Richards, Caroline County
Barbara Samorajczyk, Anne Arundel County
Donna Wilson, Prince George's County
Douglas Wilson, Harford County
Gary Setzer, Maryland Department of the Environment
James McLean, Maryland Department of Business and Economic Development
Pat Faulkner, Maryland Department of Housing and Community Development.
William Rice, Somerset County

Not in Attendance:

Ed Gilliss, Baltimore County
Paul Jones, Talbot County
James N. Mathias, Jr., Ocean City
~~William Rice, Somerset County~~
Douglas Stephens, Wicomico County
Larry Duket, Maryland Office of Planning
Frank Dawson, Maryland Department of Natural Resources

The Chairman introduced the newest member to the Commission, Judith Cox, representing Cecil County. Donna Wilson, Director of the Prince George's County Department of Environmental Resources, representing Prince George's County, was introduced. The Chairman also acknowledged Tracey Gordy, Office of Planning, sitting in for Larry Duket. The Chairman said that a court decision came down July 31st from the Court of Appeals, Lewis v Department of Natural Resources, and the full ramifications, although not understood at this time, are not good. He said that Shaun Fenlon, sitting in for Marianne Mason, Commission Counsel and Assistant



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Attorney General would elaborate more on this in his legal update. The Chairman said that within the next six weeks the subcommittees will be reconstituting and the Commission members should let Ren know their preference for serving on one.

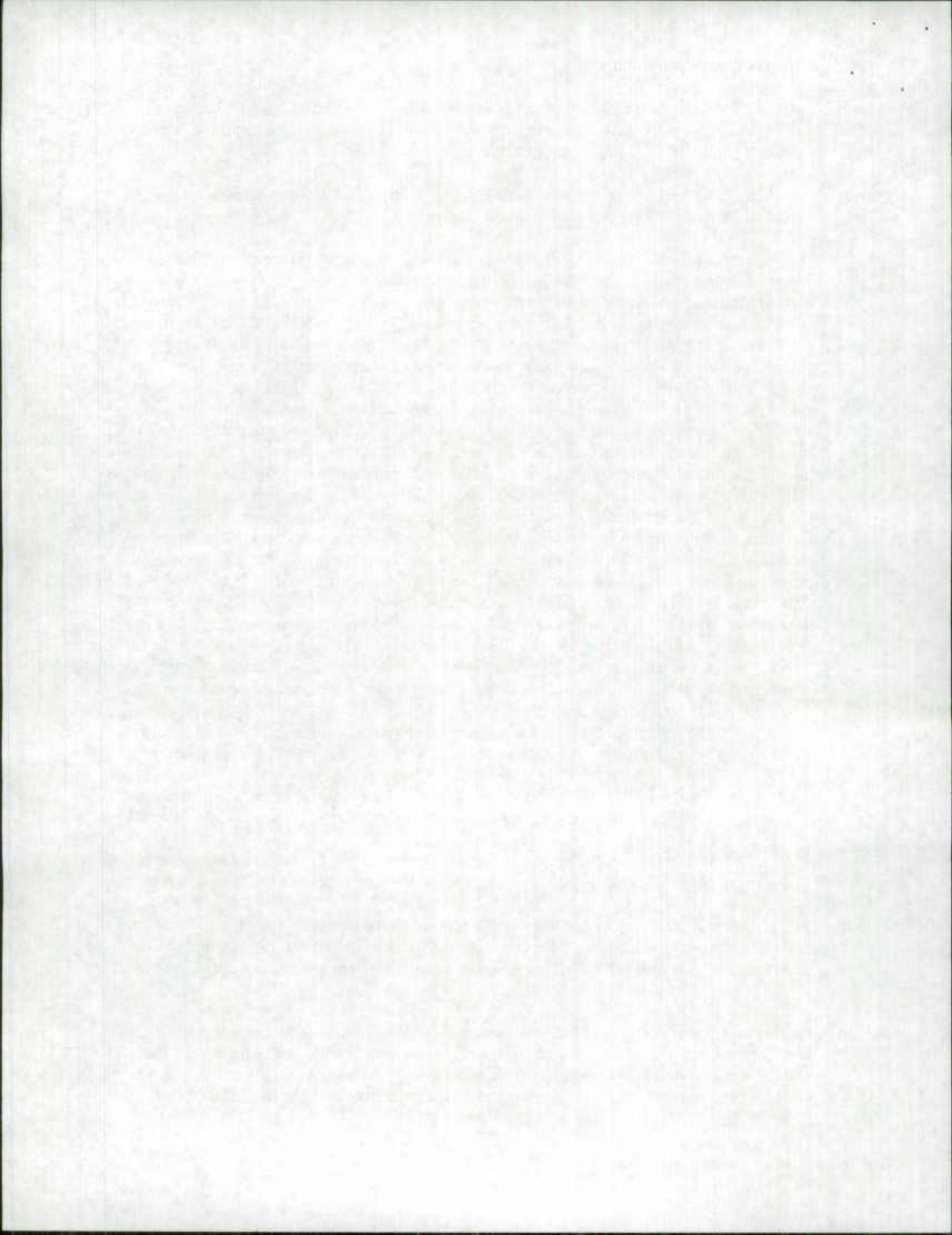
Margo Bailey moved to approve the Minutes of July 2, 2003 as written. The motion was seconded by Pat Faulkner and carried unanimously.

Anne Arundel County: Lisa Hoerger presented for Vote the proposal to upgrade the Jonas GreenState Park in cooperation with the Department of Natural Resources and the Maryland State Highway Administration. Proposed is the construction of a visitor's center, installing shore erosion control, stabilizing an eroding slope, upgrading and installing new public walkways and reconfiguring the existing parking area for greater public use and benefits. This 11.85 acre waterfront is the only public waterfront access point along the Severn River's north shore. The total additional impervious surface area in the 100-foot Buffer is 3,465 square feet; however, there is an overall net decrease of impervious surface area for the entire site of 427 square feet. The total disturbance to steep slopes inside the Buffer is 23,592 square feet. The total disturbance outside the Buffer is 9,233 square feet. Total mitigation required is twelve trees plus 102,500 square feet of planting based on the total area cleared both inside and outside the Buffer. The County proposes to reforest on-site inside and outside the Buffer. Anne Arundel County Soil Conservation District is reviewing the erosion and sediment control plans. The Department of Public Works is reviewing the stormwater management plans. Ms. Hoerger iterated the characteristics of this project that meet the criteria for a conditional approval for a project on State-owned lands. The Commission made the required findings in COMAR 27.02.06.01 E. Having met the conditional approval criteria in COMAR 27.02.06.01 b and C, the Critical Area Staff recommended approval with the following conditions:

1. The applicants will work with Commission staff to ensure that mitigation in the form of native plantings occur on-site to address the impacts associated with clearing for the septic drain fields, disturbance to isolated steep slopes, and new grading and impervious surfaces in the 100-foot Buffer.
2. The mitigation for clearing and slope disturbance outside the 100-foot Buffer shall be at a 1:1 ratio. The mitigation for new grading and impervious surfaces in the 100-foot Buffer shall be at a 3:1 ratio.
3. There will be a 3:1 mitigation ratio assigned for removal of individual trees in the 100-foot Buffer and a 1:1 mitigation ratio for removal of individual trees outside the Buffer.
4. If the plans for the project are altered before, during or after construction, the applicants shall re-submit these plans to the Commission for review and approval.

Dave Bourdon moved to approve the proposal to upgrade the Jonas Green State Park as consistent with the Commission's requirements for Conditional Approval, with the four conditions as noted. The motion was seconded by Bill Giese and carried unanimously.

Baltimore County: Dawnn McCleary presented for Vote, five Best Management Practices for five stormwater management areas in the Hammerman Area at Gunpowder Falls State Park. This will address the Maryland Port Administration's (MPA) inability to treat phosphorus on site as related to previous projects. This site was approved conceptually at the December 4, 2002



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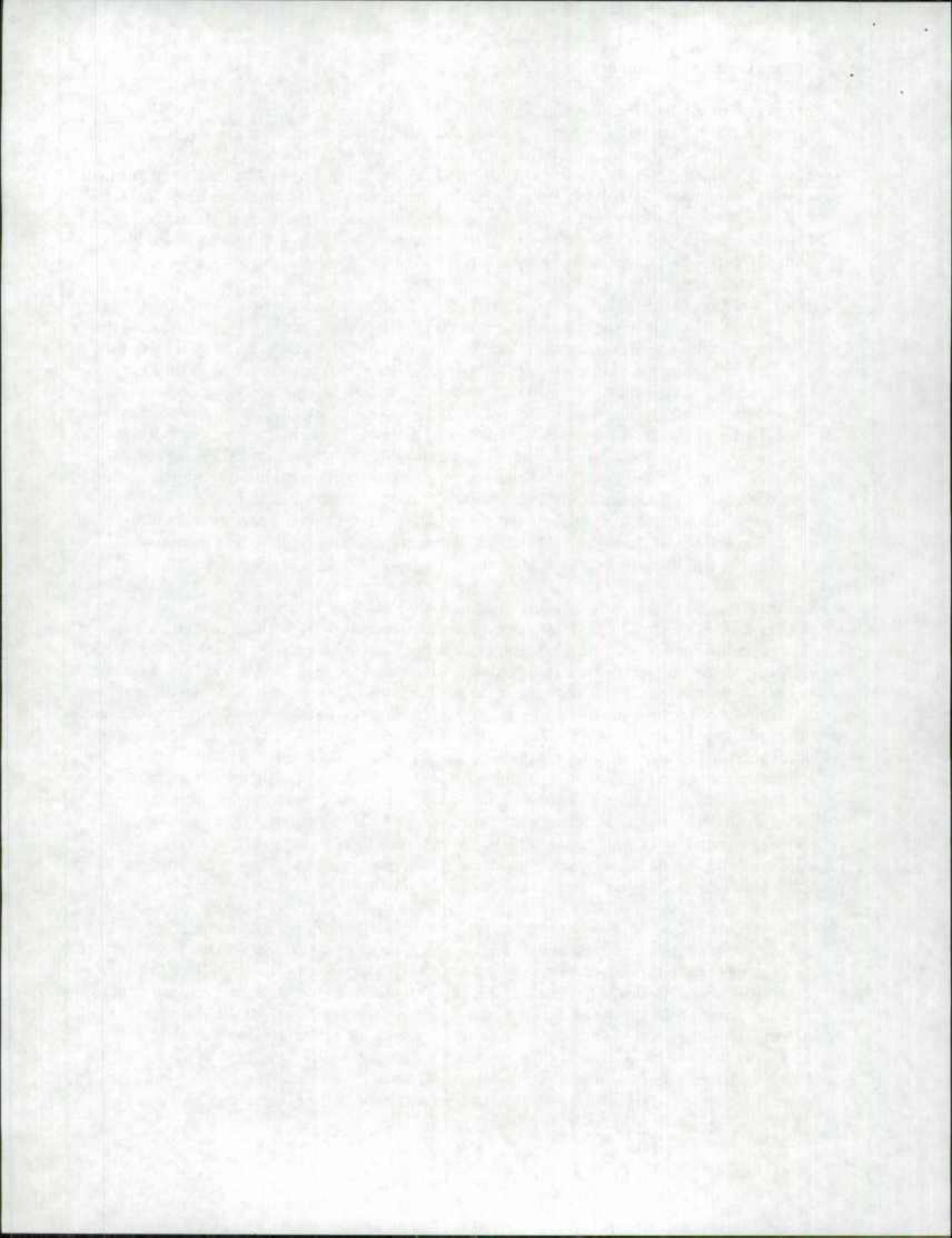
August 6, 2003

meeting of the Critical Area Commission and is an intensely developed area. None of the proposed BMP's will be located in the Critical Area Buffer even though the majority of the site is located within the Critical Area. The proposed BMP's include surface sand filters, bioretention facilities, and dry swales. All BMP's have been approved by Maryland Department of the Environment. The MPA will work with the Commission staff to develop a long-range plan to address their phosphorus treatment issues and to develop a treatment bank for future projects. Dave Bourdon moved to approve all five BMP's as presented. The motion was seconded by Douglas Wilson and carried unanimously.

Baltimore County: Wanda Cole presented for Vote the proposal by the Sparrows Point Senior High School Pep Club to construct bleachers at the existing athletic track. This will exceed the 15% impervious surface limit and therefore require a conditional approval. The high school site is located entirely in the LDA of Back River. Ms. Cole described the technical aspects of the project and said that the applicant will mitigate for the increase in impervious area or by paying a fee into the County's stormwater fee-in-lieu fund. There are no Habitat Protections Areas and no tree clearing will be necessary. Ms. Cole described the requisite qualifying characteristics of this project that meet the conditional approval criteria. Dave Bourdon moved to approve the proposal by the sparrows Point High School to construct bleachers at the existing athletic track with the condition that Critical Area Staff work with Baltimore County and the High School to provide on site mitigation. If mitigation plans are not feasible within the next six months, \$2,505.06 will be paid to Baltimore County stormwater management fund. The motion was seconded by Bill Rice and carried unanimously.

Prince George's County: Lisa Hoerger presented for Vote State Highway Administration/Department of Transportation's request to amend the April approval of this project removing the 60 day time extension for the final mitigation package for the MD 450/CSX Grade Separation project (which was approved by the Commission at the April 2, 2003 meeting) in order to complete the mitigation requirements. The mitigation to satisfy the 10% Pollutant Reduction Requirement and two sites for mitigation for impacts to the 100-foot Buffer have been accomplished. There remains 2.87 acres of reforestation mitigation which will be accommodated by converting reforestation mitigation to phosphorus removal offsite. The mitigation cannot be finalized until a viable stormwater retrofitting opportunity in the Critical Area and Prince Georges County has been identified. The actual project has been delayed 6 months and SHA needs more time to find a suitable site for forest mitigation. Dave Bourdon moved to amend the original approval to delete the 60-day limit for mitigation and the new condition provides that the applicant submit mitigation plans approved prior to construction. The motion was seconded by Joe Jackson and carried unanimously.

Anne Arundel County: Ren Serey presented for Vote the Bloomsbury Square Path Easement request by the Department of General Services. The request is for a 20 foot wide and 400 foot ling easement to construct a pedestrian path near the top of a steep bank along College Creek in the City of Annapolis that will tie in with the City's proposed walkway. (There is no money at this time for the walkway, and there is no plan yet.) However, the Bloomsbury Townhomes are nearing completion and this property will be turned over to the Annapolis Housing Authority when completed. This is an area of intense development, previously designated as Buffer Exempt. When the actual project for the pedestrian path or the walkway is submitted to the Commission, the surface and width will be in conformance with the Commission's guidance



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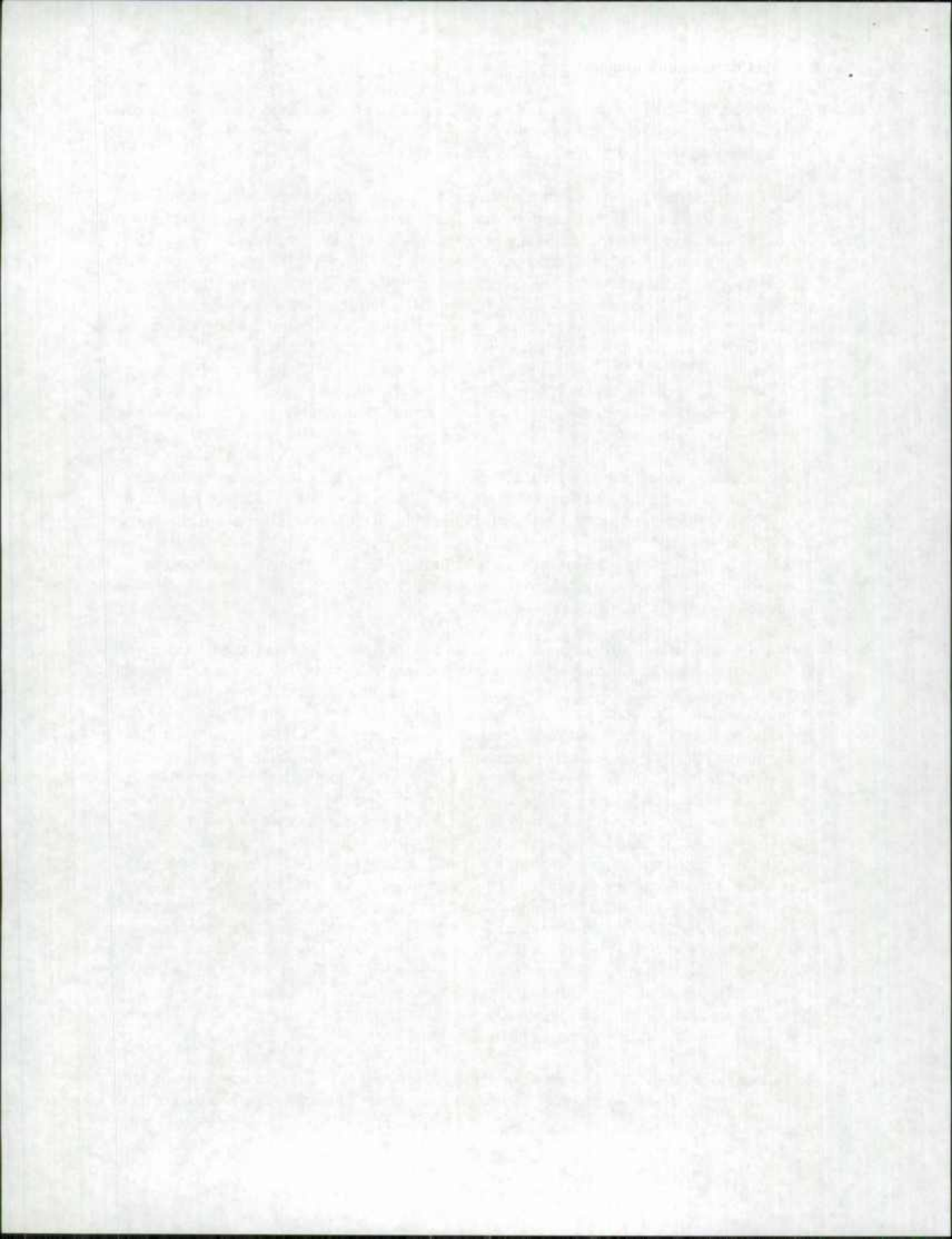
paper for public walkways and the criteria. Dave Bourdon moved to approve with the condition that the width of any future path meet the Commission's guidance papers on public walkways. The motion was seconded by Judith Evans and carried unanimously.

Cecil County: Mary Owens presented for Vote the amendment request by the Town of Charlestown to adopt Buffer Exemption Area (BEA) provisions consisting of the Charlestown Special Buffer Area Ordinance and Map. The town used the Commission's two policies for Buffer Exemption Areas and prepared an ordinance that includes specific provisions regulating new development and redevelopment as well as mitigation. Ms. Owens iterated the provisions of the ordinance for the Commission. Ren Serey stated that the goal here is to take minor development and redevelopment out of the variance process and substitute an alternative process that recognizes that some development will occur and to gain back the mitigation. The adoption of Special Buffer Area provisions facilitates development in appropriate areas, and the Commission's policy has always been to encourage towns to designate areas that qualify for BEA. Margo Bailey moved to approve the Amendment. The motion was seconded by Doug Wilson and carried unanimously.

Talbot County: Roby Hurley presented for Concurrence with the Chairman's determination of Refinement, the request by the Town of St. Michaels to amend their Critical Area Program to establish time limitations for the implementation of growth allocation projects and provide certain restrictions pertaining to the review of multiple applications affecting the same property. Neither change alters the requirements of the Critical Area Law or Criteria with respect to growth allocation. Mr. Hurley iterated those changes for the Commission. The Commission supported the Chairman's determination of Refinement.

Talbot County: Ren Serey presented information on the Talbot County program changes. He said that last month the Commission extended the period that Talbot County had to submit the required changes to its program until August 5, 2003 or to have a schedule from the County stating when the bills could be expected. A letter from the County Council of Talbot County has been received indicating that they expect a vote on September 23, 2003 on all the Bills with the required changes. One of the four changes the Commission required has been approved. Two others are in the Bills being drafted by the County. Last month the Commission put the guest house issue as it applies to Talbot County on hold while the work continues with the Joint Legislative Oversight Committee and the entire General Assembly to try and resolve the issue of guest houses and tenant houses and other types of dwelling units that are counted by some counties as accessories when they are in fact, not. The other two bills - clearing in the buffer with a buffer management plan and trying to define the definition of a "tree" are continuing to move through the process and the County Council president has indicated that they expect a vote on September 23rd. Margo Bailey moved to extend Talbot County's time to submit their program changes to September 30th. Chairman Madden asked if the motion could be amended to coincide with the Commission's workshop on September 23rd so that it could be factored into the discussion regarding the guesthouse issue. Ms. Bailey amended her motion to set the time limit to September 23rd for Talbot County to submit their program changes. The motion was seconded by Judith Evans and carried unanimously.

RCA Density Update: Mary Owens said that a letter went out to all the counties asking for basic information regarding accessory structures and a table of uses was assembled from that



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data showing what counties are affected, how big this problem is and what structures are called and how many there are. The Chairman stated that this information will be discussed at the workshop to be held on September 23rd when the Commission will be formulating how it wishes to proceed on this issue and perhaps ask the Commission to take some type of formal action in October as a recommendation to the Joint Legislative Oversight Committee and General Assembly.

10% Requirement in IDA: Tracey Gordy, Office of Planning, told the Commission about the rehabilitation of the Princess Anne storm drain system in Somerset County where there were two major issues, 10% rule compliance and an existing storm drain outfall directly into the river. Ms. Gordy said that Snow Hill is the only town on the Eastern Shore to receive a grant to promote green space. She described the solutions to three issues there. The Commission found the information useful and informative.

New Business

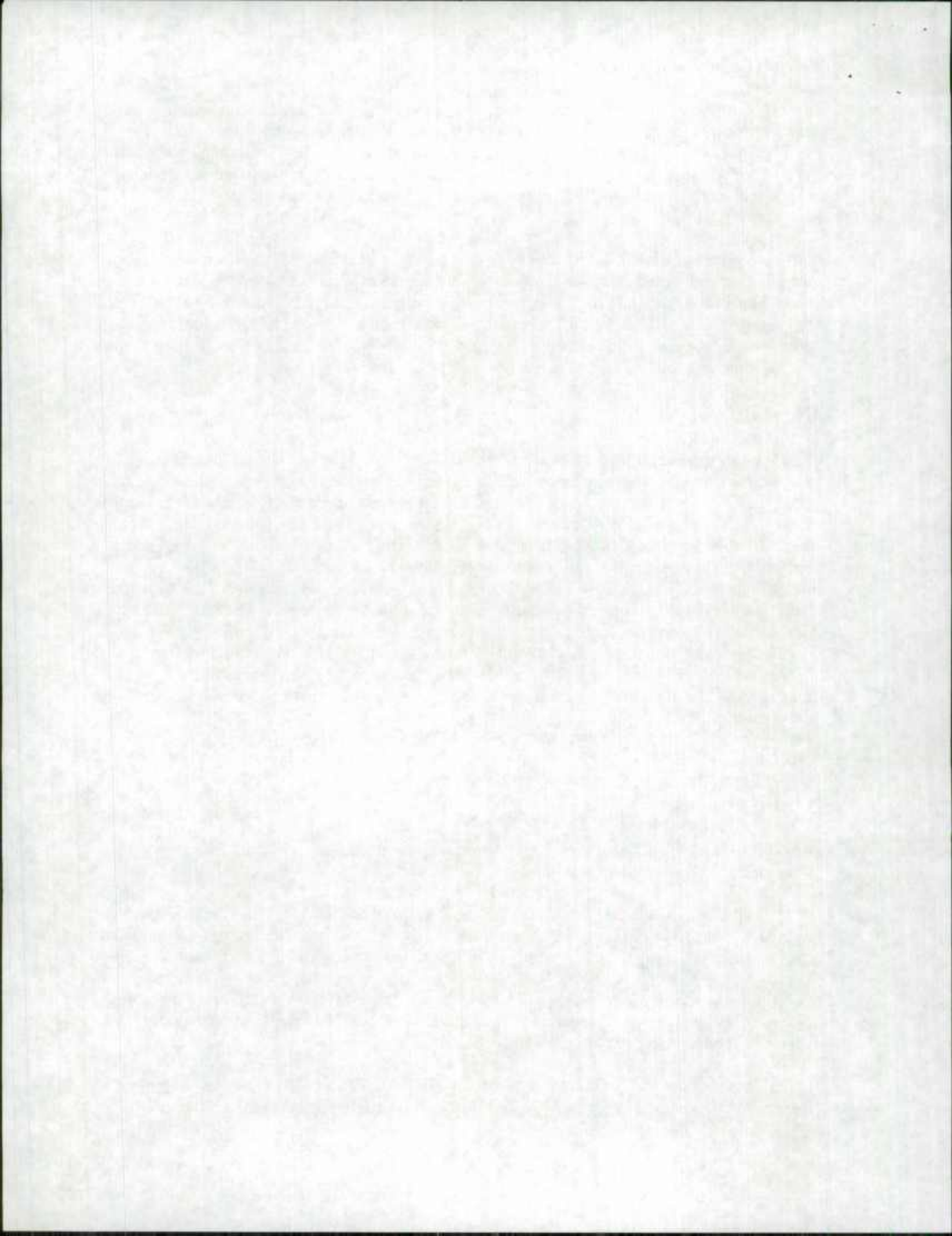
Lewis v Department of Natural Resources: The Chairman told the Commission that he, Ren and the Assistant Attorney General were asked to attend a meeting in progress at the MACO headquarters in Annapolis to discuss the Lewis v Department of Natural Resources decision that came out last week with some attorneys that do land planning in various counties. He said that they will attend this meeting when the Commission meeting ends. Chairman Madden said the decision is a 70-page opinion (50 page report supported by 4 justices, and 23 page Dissent by Judge Wilner, with Judges Raker and Battaligia in support). He read a portion of the dissent to the Commission and said that this is pretty strong language for a judge and he declared that this decision will have impact yet to be fully understood and stated that the Commission will hopefully seek a reconsideration of the decision which has to be filed within 30 days from the 1st of August. Absent that, or successful efforts in that area then the Commission would have to find a legislative solution to restore their needed enforcement powers. The website for accessing the opinion is:
<http://www.courts.state.md.us/opinions/coa/2003/114a02.pdf>

Old Business

Legal Update: Shaun Fenlon, Assistant Attorney General read the legal update issued by Marianne Mason who is on vacation.

“The State Court of Appeals decided the Edwin Lewis case on July 31st. The court remanded the case back to the local zoning board in Wicomico county, because the Court ruled (4-3 vote) that the Board did not apply the law correctly. The Board had denied variances for 6 hunting cabins already built in the 100-foot buffer. The decision and dissent together are over 70 pages long, and Marianne is reviewing the case carefully with the Attorney General’s Office in Baltimore. Marianne will be happy to talk to any of you individually about the case, and you may call her when she returns from vacation on August 18th.

In the Circuit Court for Cecil County: We received a favorable decision in the case of Knight’s Island Preserve v. Cecil Board of Appeals. The Cecil Board of Appeals denied a variance for



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more boat slips than allowed by law. The developer appealed, and we supported the Board's decision. The circuit court affirmed the Board. The developer's time to appeal further has expired.

In the Circuit Court for Harford County: In Old Trails Partnership v. Board of Appeals, the parties have filed their legal briefs, and we will argue before the judge on September 25th. We are supporting the decision of the Harford County Board of Appeals to deny blanket variances for construction of 56 houses on steep slopes and in the Buffer. The Board granted some, but not all, of the variances, properly balanced and we believe that the Board properly balanced environmental protection and the developer's property rights.

Before the Board of Appeals in Calvert County: Julie LaBranche testified at a hearing in the Dides case. This applicant has partially constructed a home addition in the Buffer. He was twice denied variances, and he has ignored a court order to restore the site. The Board denied the variance again.

On July 18th, Chairman Madden appealed a decision of the Cecil County Board of Zoning Appeals in the Wruble case. The Cecil Board granted variances for a swimming pool and pool house in the Buffer. The applicant's property is 10 acres in size, and already developed with a large house, deck, and driveway. We believe that the Board improperly granted the variance, because the Board did not consider the reasonable use of the entire parcel, as required under the General Assembly's 2002 amendments to the Critical Area law."

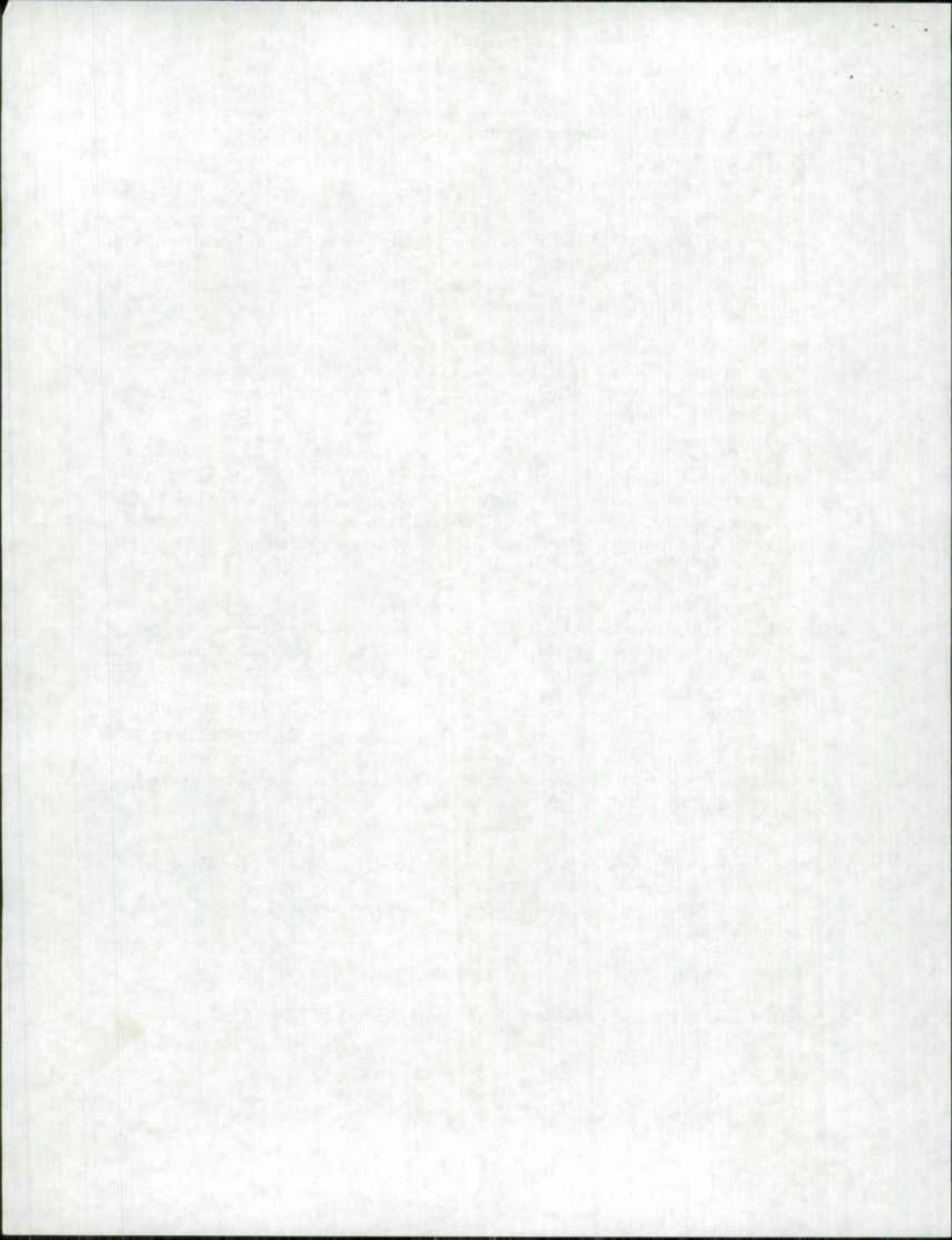
Cecil County, North Bay: Gary Setzer updated the Commission on the NorthBay project. He stated that he found everything in good order on a site visit there and that there was only one change recommended which was to a proposed boardwalk that can be re-located to the South so as not to intrude into the wetland area. A meeting is scheduled for Thursday to further review the stormwater plans.

JLOC Meeting: The Chairman reported that he had attended a meeting with Ren on July 9th of the Oversight Committee to the Critical Area with Senator Dyson and Delegate Frush and that he believes that a very strong presentation was made to them for the need for more enforcement. The JLOC appeared to be a very sympathetic audience.

Workshop: The Chairman welcomed suggestions from the Commission in setting the agenda for the workshop to be held on September 23rd at the Wye Research Center. Details and materials will be forthcoming and a draft agenda will be provided at the September meeting of the Commission.

There being no further business, the meeting adjourned at 3:30 p.m.

Minutes submitted by: Peggy Campbell, Commission Coordinator



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

MEMORANDUM

To: Program Subcommittee

From: LeeAnne Chandler

Date: August 21, 2003

Subject: Development Envelope for Redevelopment of Cotton Hill Campground

Worcester County has received a request for growth allocation that would permit the redevelopment of Cotton Hill Campground (otherwise know as the Lynch property) into a 33-lot residential subdivision. The property is located directly on Turville Creek, a tributary to the Isle of Wight Bay. The property was operated as a commercial campground until the spring of 2003 when Health Department and zoning violations forced the removal of numerous dilapidated mobile homes and trailers.

The property is a total of approximately 186 acres in size and is currently designated Resource Conservation Area (RCA). It is located at the end of Gum Point Road (where properties are generally designated LDA) and connects to the north with Ocean Pines (IDA). Of the 186 acres, approximately 41 and 65.4 acres are tidal and non-tidal wetlands, respectively. Only approximately 80 acres are developable upland. Waterfront portions of the site have been utilized as a campground since the 1950s and predate zoning laws and state and federal wetland laws. In at least two locations, tidal wetlands and waters were crossed by roadways and tidal ponds resulted.

The request for growth allocation is approximately 42 acres to be converted to IDA. The 42 acres is made up of about 18 acres of the existing campground with the balance consisting of the community sewage treatment area, some non-tidal wetlands, and a new road and adjacent lots connecting to Ocean Pines. Proposed redevelopment consists of 33 lots ranging in size from 0.31 acres to 1.45 acres. The existing waterfront piers, docks and walkways will be removed and a centralized community marina will be constructed in lieu of individual private piers. Also, new community wastewater and water treatment facilities will be constructed to serve the subdivision.

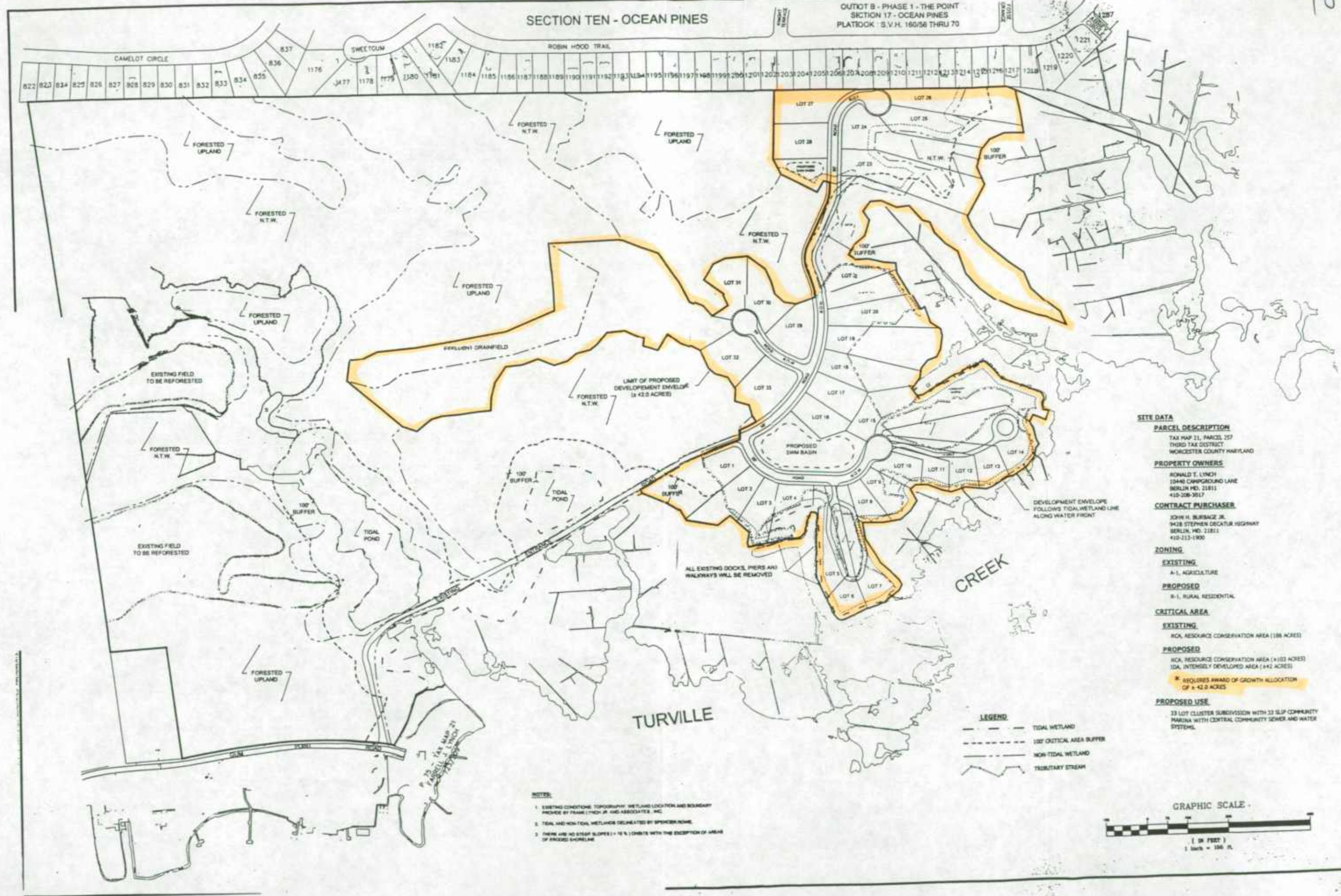
Concurrently with the growth allocation request, the applicant is pursuing designation of a portion of the shoreline as a Buffer Management Area (BMA). Within the existing campground, there are numerous structures and impervious areas within the Buffer and in many instances they exist immediately landward of tidal wetlands. A 25-foot setback is proposed in the BMA.

This project, if approved by the County Commissioners, will be the one of the first awards of growth allocation since the effective date of the County's Coastal Bays Critical Area Program. The applicant consulted with County and Commission staff numerous times while developing the proposal. The existing conditions of the site and the numerous environmental constraints have resulted in an unusual development envelope. The development envelope does include all areas that would be impacted by the proposed development and does not create any areas of RCA that are less than 20 acres.

The County has requested preliminary feedback on the proposal. Commission staff is bringing the proposal to the Program Subcommittee to identify any major concerns early in the review process. The County's process includes a review by the Planning Commission who would then forward the proposal and a recommendation to the County Commissioners. The County Commissioners will hold a public hearing and if approved, the request would be forwarded to the Critical Area Commission for a formal review. Prior to submitting the project to the Commission for a vote, the County needs to quantify the acreage of growth allocation still available and provide information on the growth allocation used in the interim period between June 1, 2002 and March 1, 2003.

SECTION TEN - OCEAN PINES

OUTLOT B - PHASE 1 - THE POINT
SECTION 17 - OCEAN PINES
PLATBOOK S.V.H. 160/58 THRU 70



SITE DATA

PARCEL DESCRIPTION
TAX MAP 21, PARCEL 257
THIRD TAX DISTRICT
WORCESTER COUNTY MARYLAND

PROPERTY OWNERS
RONALD T. LYNCH
1040 CAMPGROUND LANE
BERLIN, MD. 21811
410-206-3017

CONTRACT PURCHASER
JOHN H. BURBAGE JR.
9428 STEPHEN DECATUR HIGHWAY
BERLIN, MD. 21811
410-213-1900

ZONING
EXISTING
A-1, AGRICULTURE
PROPOSED
R-1, RURAL RESIDENTIAL

CRITICAL AREA
EXISTING
RCA, RESOURCE CONSERVATION AREA (186 ACRES)
PROPOSED
RCA, RESOURCE CONSERVATION AREA (1032 ACRES)
IDA, INTENSELY DEVELOPED AREA (142 ACRES)
* REQUIRES AWARD OF GROWTH ALLOCATION OF 4-42.0 ACRES

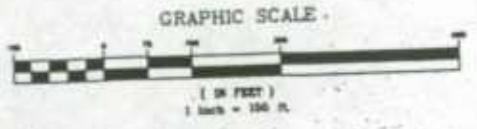
PROPOSED USE
33 LOT CLUSTER SUBDIVISION WITH 33 SLP COMMUNITY PARKING WITH CENTRAL COMMUNITY SEWER AND WATER SYSTEMS

LEGEND

- - - TIDAL WETLAND
- - - 100' CRITICAL AREA BUFFER
- - - NON-TIDAL WETLAND
- - - TRIBUTARY STREAM

NOTES

1. EXISTING CONDITIONS, TOPOGRAPHY, WETLAND LOCATION AND BOUNDARY PROVIDED BY FRANK LYNCH JR. AND ASSOCIATES, INC.
2. TIDAL AND NON-TIDAL WETLANDS DEMARCATED BY SPENCER FOWNE.
3. THERE ARE NO STEEP SLOPES (1% TO 5% SLOPES) WITH THE EXCEPTION OF AREAS OF PROPOSED SHORELINE.



1875

Critical Area Commission

STAFF REPORT September 3, 2003

APPLICANT: Anne Arundel County Department of Public Works

PROPOSAL: Riva Road Widening Project

JURISDICTION: Anne Arundel County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Conditional Approval with condition

STAFF: Lisa Hoerger

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

DISCUSSION:

The Anne Arundel County Department of Public Works is proposing to widen and provide geometric improvements to Riva Road from the South River to Perch Drive. This portion of Riva Road handles 12,000 vehicles per day with an anticipated increase to 19,000 per day by 2014. The widening and geometric improvements will improve sight distance, thereby decreasing the probability of accidents. The proposed sidewalk improvements, traffic safety beacons, school bus stop improvements, refuge islands and lighting will increase public safety for pedestrian traffic.

The project area consists of residential single-family units with some commercial development. The length of the total project is approximately one mile. The County right-of-way has a split Critical Area designation of Intensely Developed Area (IDA) and Limited Development Area (LDA). In addition to the amenities mentioned above, the improvements consist of a closed section 37-foot wide roadway with two through lanes, one continuous left turn lane, and a sidewalk along the east side.

The total impacts to the Critical Area portion of this right-of-way will be 41,215 square feet. Clearing and steep slope disturbance outside of the expanded 100-foot Buffer for steep slopes totals 28,820 square feet and will be mitigated at a 1:1 ratio. New impervious area and steep slope disturbance inside the expanded Buffer totals 12,395 square feet. The required mitigation for Buffer disturbance is 24,790 square feet (12,395 square feet x 2 – mitigation is at 2:1 since the project site is in a mapped Buffer Exemption Area).

The total mitigation required is 70,770 square feet. Approximately 65,030 square feet of planting at various sites along the right-of-way are proposed. The remaining 5,740 square feet or .13 acres of planting cannot be accommodated on site or at a suitable off-site location. Since the immediate watershed is relatively urban and has no stormwater management, the .13 acres of planting will be converted to pounds of phosphorus. The conversion equates to .26 pounds of phosphorus ($.13 / .5 = .26$), which will be treated by one of the two proposed bioretention areas.

For the portion of the project in the IDA, the County performed the 10% Pollutant Removal calculations and determined that 1.64 pounds of phosphorus were required to be removed. Two bioretentions are proposed. Both will treat a total of 9.79 pounds of phosphorus; therefore, the two facilities will be treating an additional 8.15 pounds of phosphorus above the required removal rate.

The Natural Resource Conservation Service is reviewing the project for stormwater and sediment and erosion control practices. The Maryland Department of the Environment is reviewing a joint permit application for impacts to tidal wetlands. An update of these permits will be provided. The Department of Natural Resources (DNR) confirmed that there are no rare, threatened, or endangered species on this site.

Since the proposal is on locally-owned lands and a portion of the new roadway will be in the 100-foot Buffer to the South River, this project requires a Conditional Approval by the Commission as found in the Code of Maryland Regulations at 27.02.06 of the Critical Area Commission's regulations for State and local government projects.

Conditional Approval Process

In order to qualify for consideration by the Commission for conditional approval, the proposing state agency must show that the project or program has the following characteristics: **(The following responses highlighted in bold text were provided by the applicant, Anne Arundel County):**

(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;

The intent of the project is to provide safety improvements to existing Riva Road from the South River to Perch Drive. Since the majority of the existing roadway is within the Critical Area, avoidance of any impacts would prohibit any significant improvements to the existing roadway.

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

In addition to increasing the safety of the public, many of who live in the Critical Area, the proposed project will also improve the water quality within the Chesapeake Bay Critical Area over existing conditions and, therefore, increase the productivity of the Bay. The

proposed bio-retention facility provides water quality for the project area and two existing communities. The bio-retention facility proposes a 34% reduction in pollutant loads by treating approximately 8 acres of paved area. This removal exceeds the required reduction by over 8 pounds per year. As noted in the 2000 Maryland Stormwater Design Manual, one pound of pollutant removal is equivalent to ½ acre of tree planting, resulting in a mitigation credit of approximately four (4) acres for the facility. With this credit the project will provide the equivalent of over 5:1 mitigation for buffer, vegetative, and steep slope impacts.

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

The project is consistent with Anne Arundel County local criteria as discussed in item C below.

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 or local agency program or project;

The intent of the project is to provide safety improvements to Riva Road from the South River to Peh Drive. Since the majority of the existing roadway is within the Critical Area avoidance of any impacts would prohibit any significant improvements to the existing roadway.

(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;

As presented in the Consistency Report (dated August 12, 2003) prepared for Anne Arundel County, the proposed process conforms to the Anne Arundel County Critical Area Program.

(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.

The program is summarized as follows:

1. The improvements associated with this project will impact a total of 28,820 square feet (0.66 acres) of steep slopes, of which 8,325 square feet (0.19 acres) are in IDA. Disturbance to steep slopes will be mitigated, using forest mitigation requirements, at a 1:1 ratio for the LDA and in the IDA by reducing the pollutant loads by over 9 pounds per year (equivalent of 4 acres of mitigation) as well as providing vegetation at a ½:1 ratio.

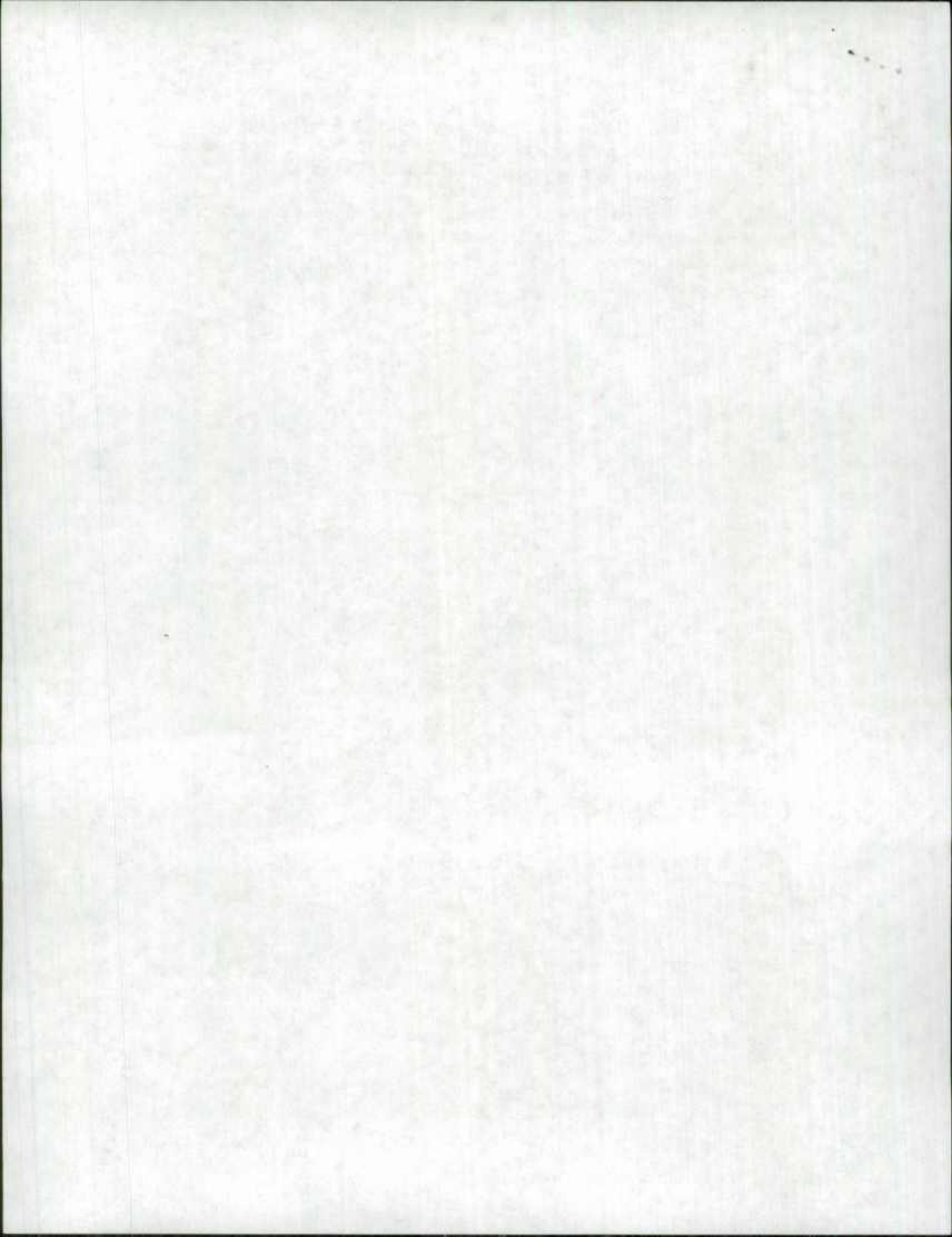
2. There is one jurisdictional tidal wetland located within the project area. The improvements associated with this project will impact a total of 395 square feet (0.009 acres) of tidal wetland and a total of 59 linear feet/330 square feet of Waters of the U.S. Restoration of the impacted wetland and stream is the preferred mitigation.
3. This project is in the Critical Area designated Buffer. Steep slopes also exist within the Buffer, which results in the expansion of the Buffer at a rate of 4' for every 1% above 15%. The improvements will result in 12,395 square feet (0.28 acres) of earthen disturbance within the expanded Buffer. The impacted area within the expanded Buffer will be mitigated on-site at a 2:1 ratio using forest mitigation requirements.
4. There are no large, unbroken tracts of forest land within the project area. Therefore, the project will not impact forest interior dwelling bird species (FIDs) habitat.
5. This project will not affect anadromous fish species.
6. There are no rare, threatened or endangered species within the project area.
7. This project will not affect waterfowl staging and concentration areas.
8. There are no colonial nesting water birds in the project area.
9. The improvements associated with this project will result in the disturbance to 9,860 square feet (0.23 acres) of vegetative area (695 square feet in the IDA) and the removal of 59 individual trees and 28 individual shrubs (4 trees and 17 shrubs in the IDA). These impacts will be mitigated by the County using forest mitigation requirements at a 1:1 ratio for the LDA and in the IDA by reducing the pollutant loads by over 9 pounds per year (equivalent of 4 acres of mitigation) as well as providing vegetation at a ½:1 ratio.

The Commission is required to base its approval, denial or modification to this project on the following factors:

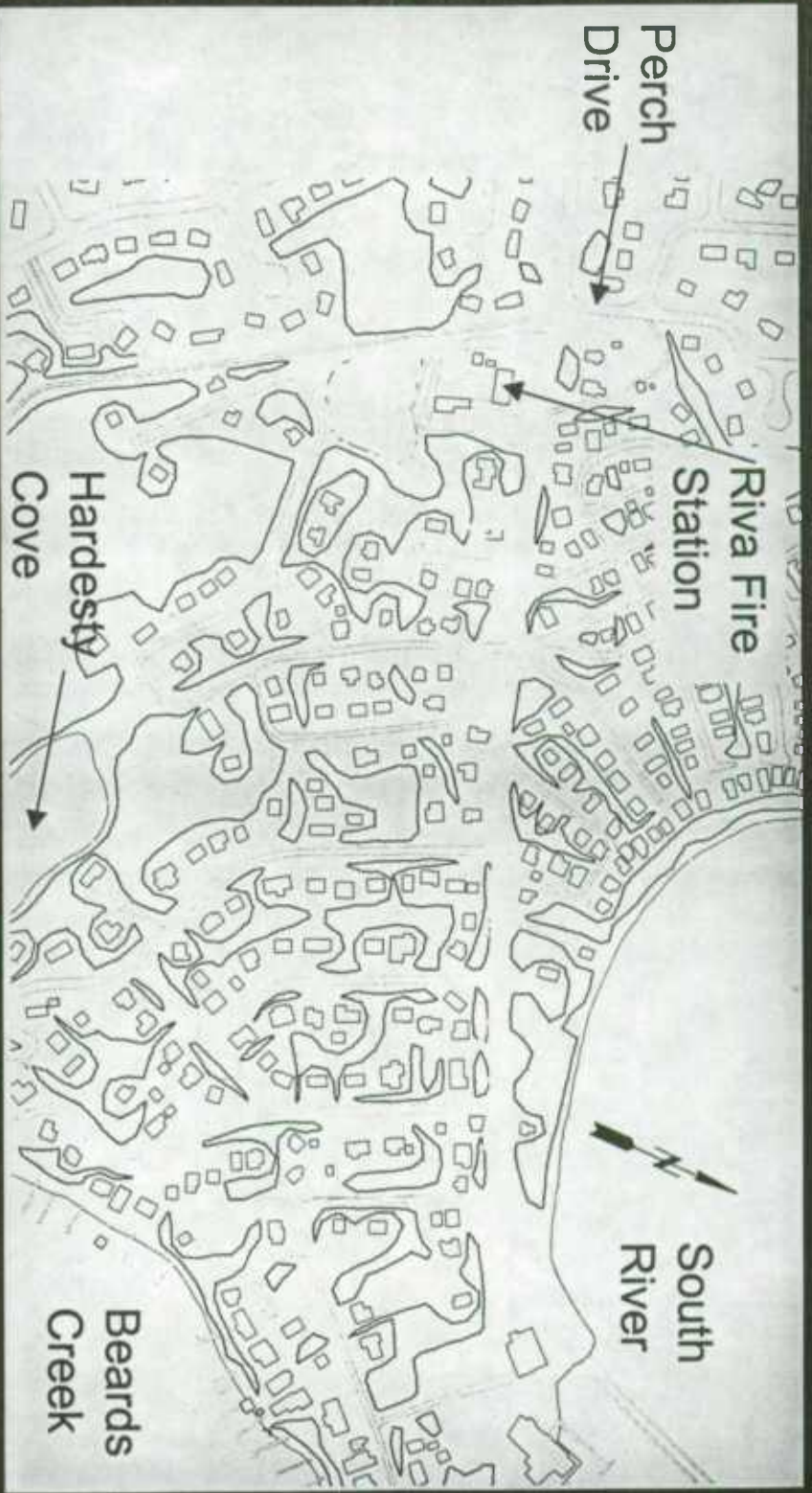
1. The extent to which the project or program is in compliance with the requirements of the relevant chapters of this subtitle;
2. The adequacy of any mitigation measure proposed to address the requirements of this subtitle that cannot be met by the project or program; and
3. The extent to which the project or program, including any mitigation measures, provides substantial public benefits to the overall Chesapeake Bay Critical Area Program.

Commission staff recommends the following mitigation as a condition of the Conditional Approval Request:

1. Anne Arundel County Department of Public Works shall provide mitigation at a 2:1 ratio for all new grading and impervious areas in the 100-foot Buffer and 1:1 mitigation for clearing and steep slope disturbance outside the expanded Buffer.
2. A portion of the required reforestation mitigation may be converted to pounds of phosphorus and treated by the proposed bioretention area.



Riva Road Improvements – Project Limits

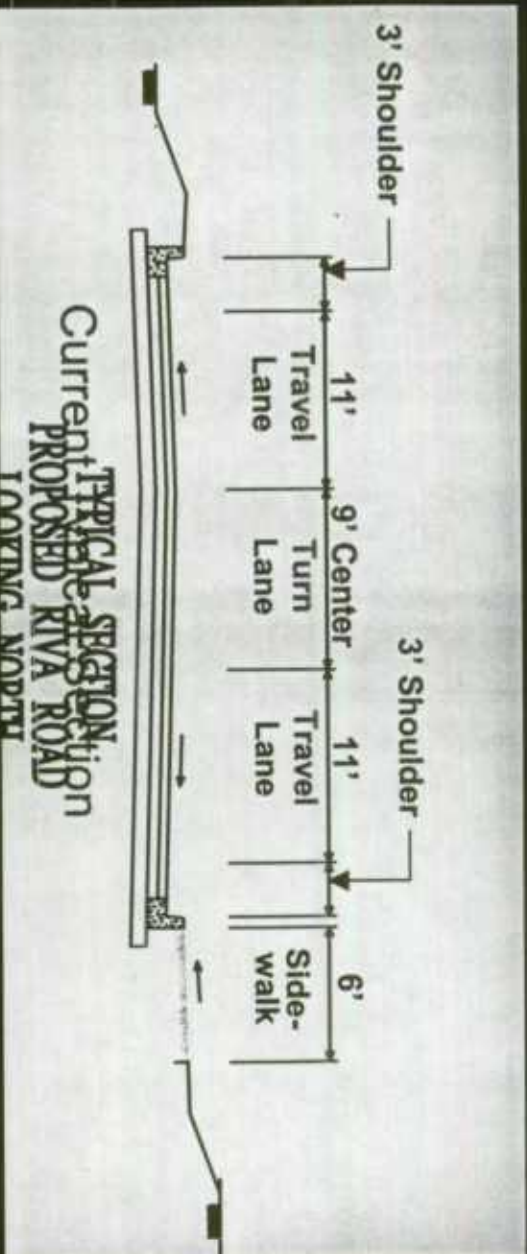


- Provide center turn lane from *Perch Drive* to *South River Bridge*
- Provide curb, sidewalk, and Safety Improvements
- Provide storm drain and water quality improvements

Riva Road Improvements – General Overview



General Improvements from Perch Drive to the South River Bridge



- Two 11' wide travel lanes
- One 9' wide center turn lane with Streetprint and refuge islands
- 3' wide shoulders to accommodate bikes
- 6' wide sidewalk on the south side

Critical Area Commission

STAFF REPORT
September 3, 2003

APPLICANT: Department of Natural Resources

PROPOSAL: Pier Replacement/ADA Access at Pocomoke River State Park

JURISDICTION: Worcester County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with conditions

STAFF: LeeAnne Chandler

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

DISCUSSION:

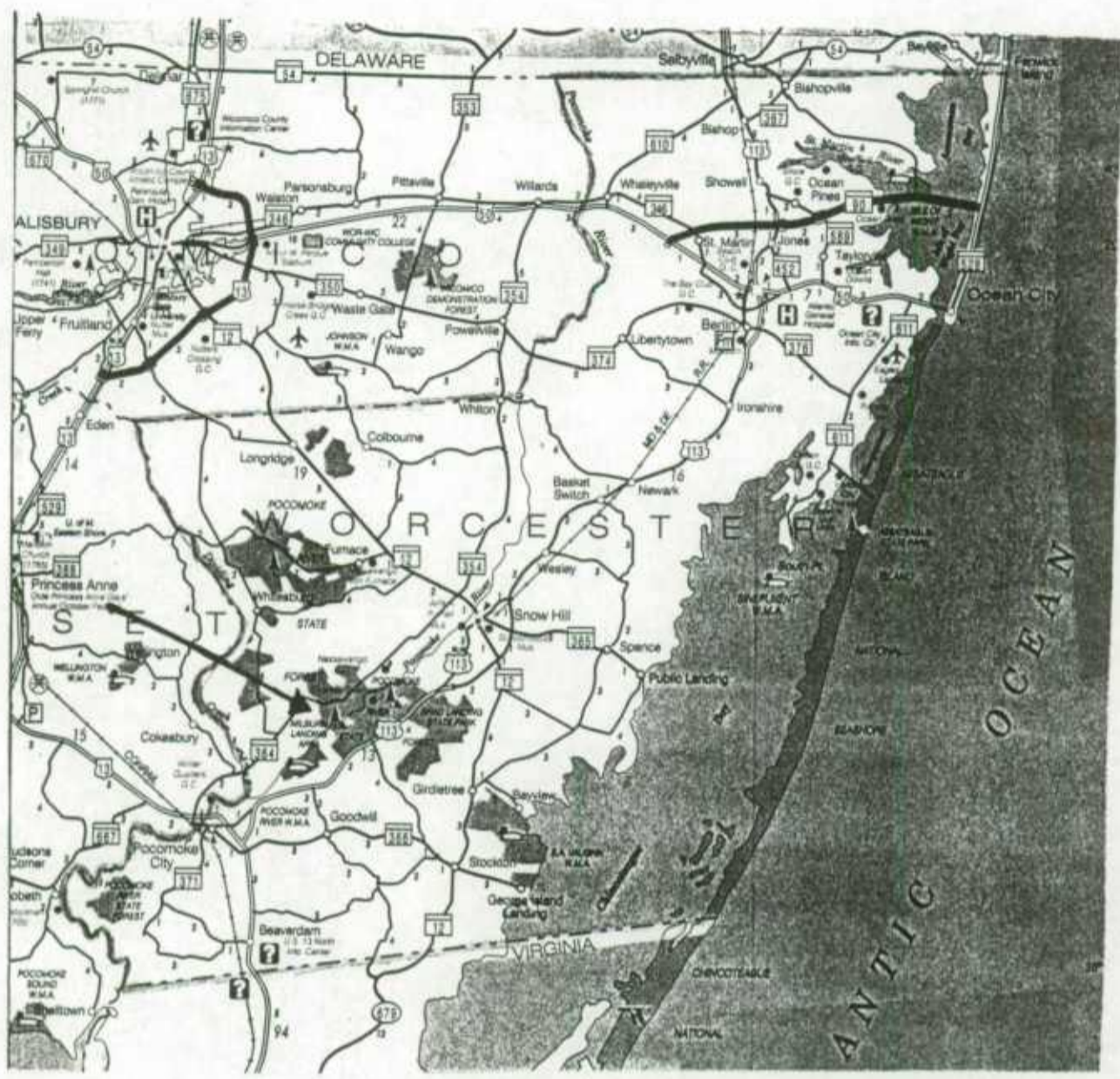
The Department of Natural Resources (DNR) is proposing to replace an existing pier and add an ADA accessible trail at the Milburn Landing Area of the Pocomoke River State Park. The existing pier is proposed to be replaced in kind, with no change in the size or location. The ADA accessible trail will consist of a five-foot wide stone dust surface (with compacted gravel beneath) extending approximately sixty-four linear feet. The trail will extend from an existing trail and lead to a proposed gangway and 20-foot by 7½-foot floating dock, directly adjacent to the pier that is proposed to be replaced.

The project is located within the 100-foot Buffer. However, access to the shoreline is a permitted activity within the Buffer. No clearing is proposed as the area is currently a grassed surface. Approximately 320 square feet of impervious surface is proposed. No Best Management Practices are currently proposed. Milburn Landing is located within the Mattaponi Natural Heritage Area (NHA). This several hundred acre NHA was designated to protect numerous endangered and threatened plant species that live in the unique bald cypress swamp ecosystem along the lower Pocomoke River. While no impacts to the NHA are anticipated, recommendations from DNR's Eastern Region Ecologist are being sought.

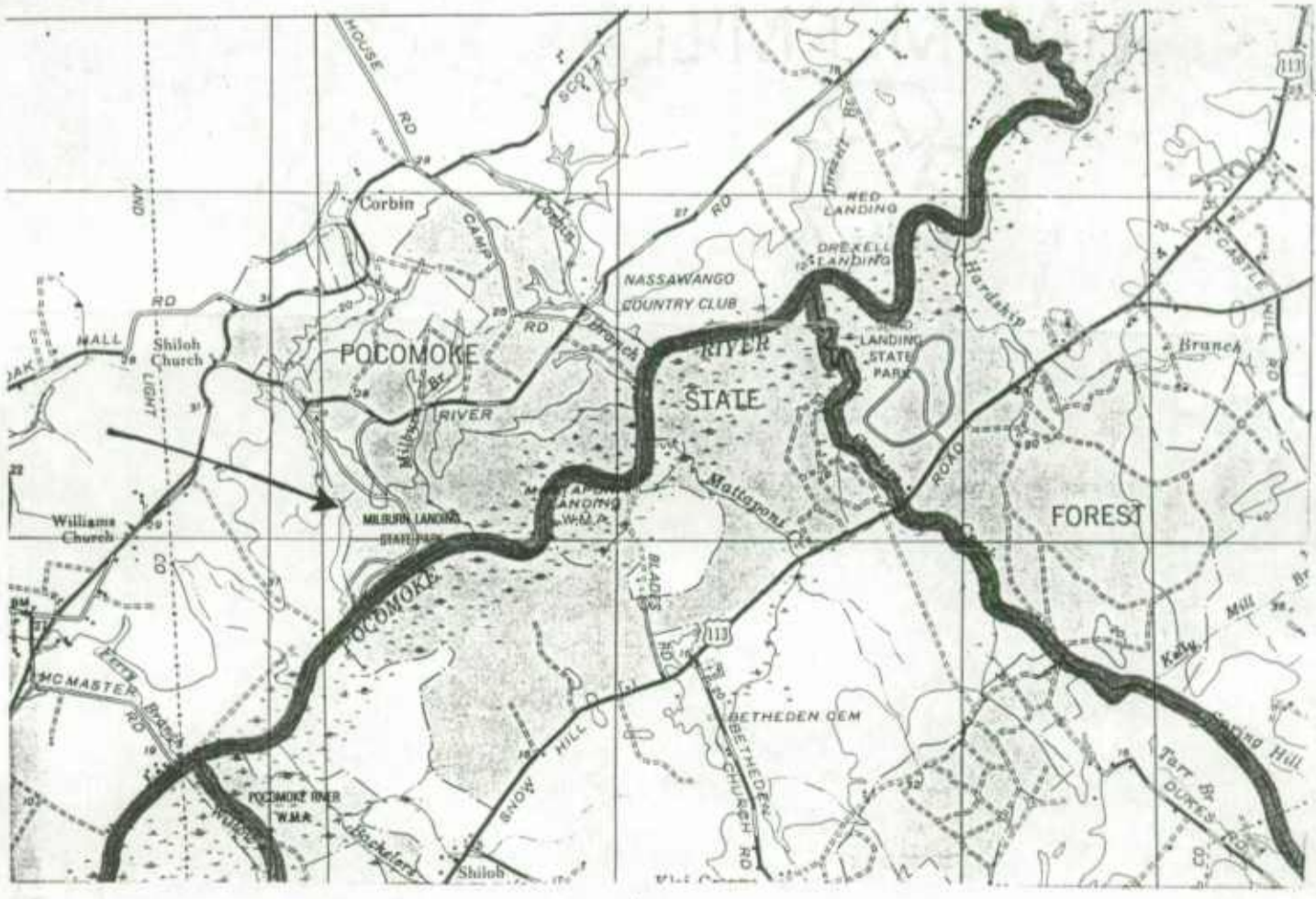
Commission staff recommends approval of the project with the following conditions:

1. Mitigation will be provided at a 2:1 ratio in the form of tree and shrub planting in the vicinity of the project site. A signed Planting Agreement will be required.
2. Strict sediment and erosion control measures will be installed and kept in place until the site is fully stabilized.
3. The project will be completed in conformance with the recommendations of DNR's Eastern Region Ecologist.

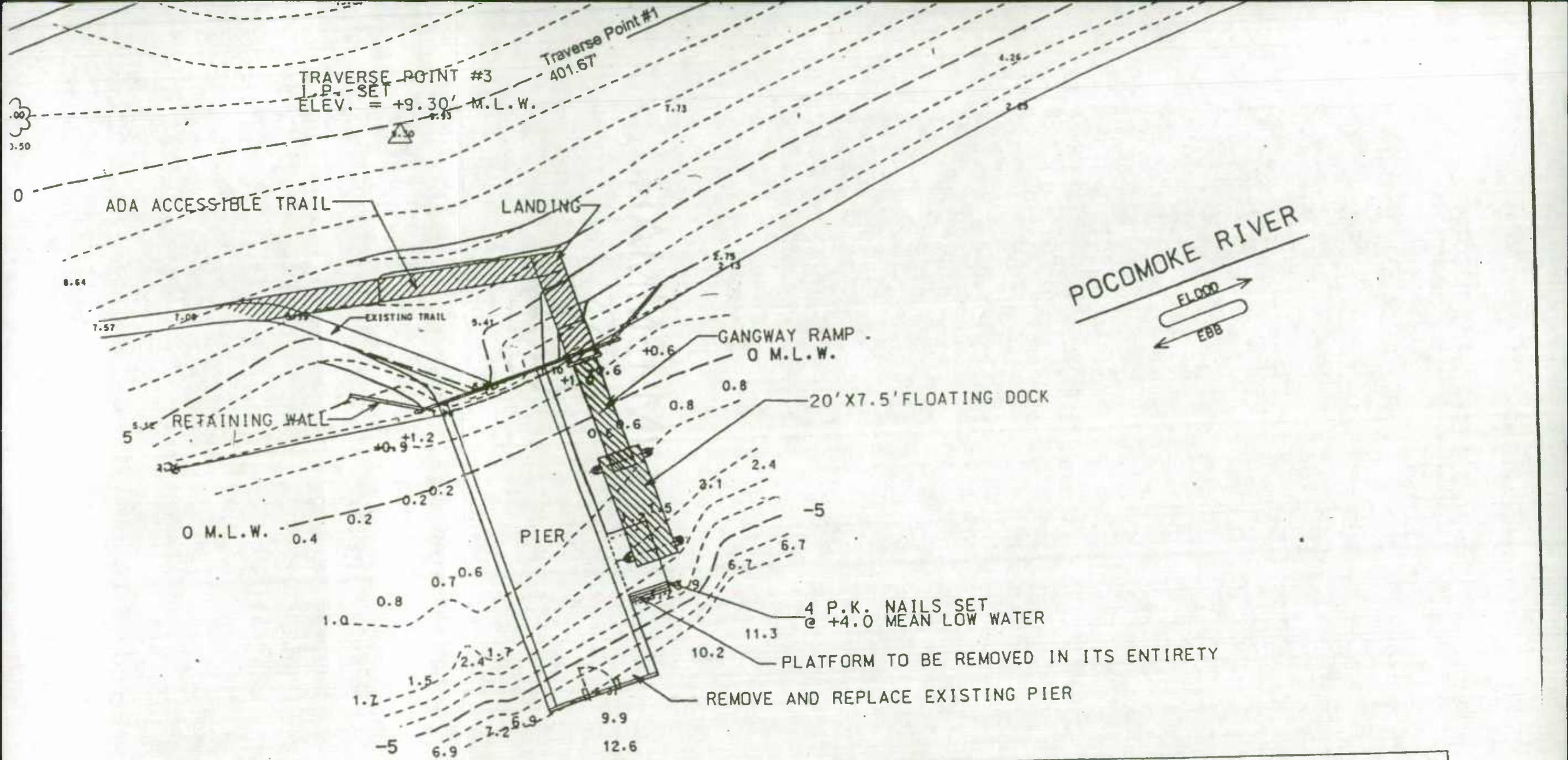
Pier Replacement / R/R Mill - Millburn Landing
@ Pocomoke River State Park



Location Map



Vicinity Map



SITE PLAN

SCALE: 1" = 20'



NOTE: ALL SOUNDINGS ARE IN FEET BELOW MEAN LOW WATER.

Critical Area Commission

STAFF REPORT
September 3, 2003

APPLICANT: Department of General Services

PROPOSAL: Bloomsbury Square Demolition and New Parking Lot

JURISDICTION: City of Annapolis

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

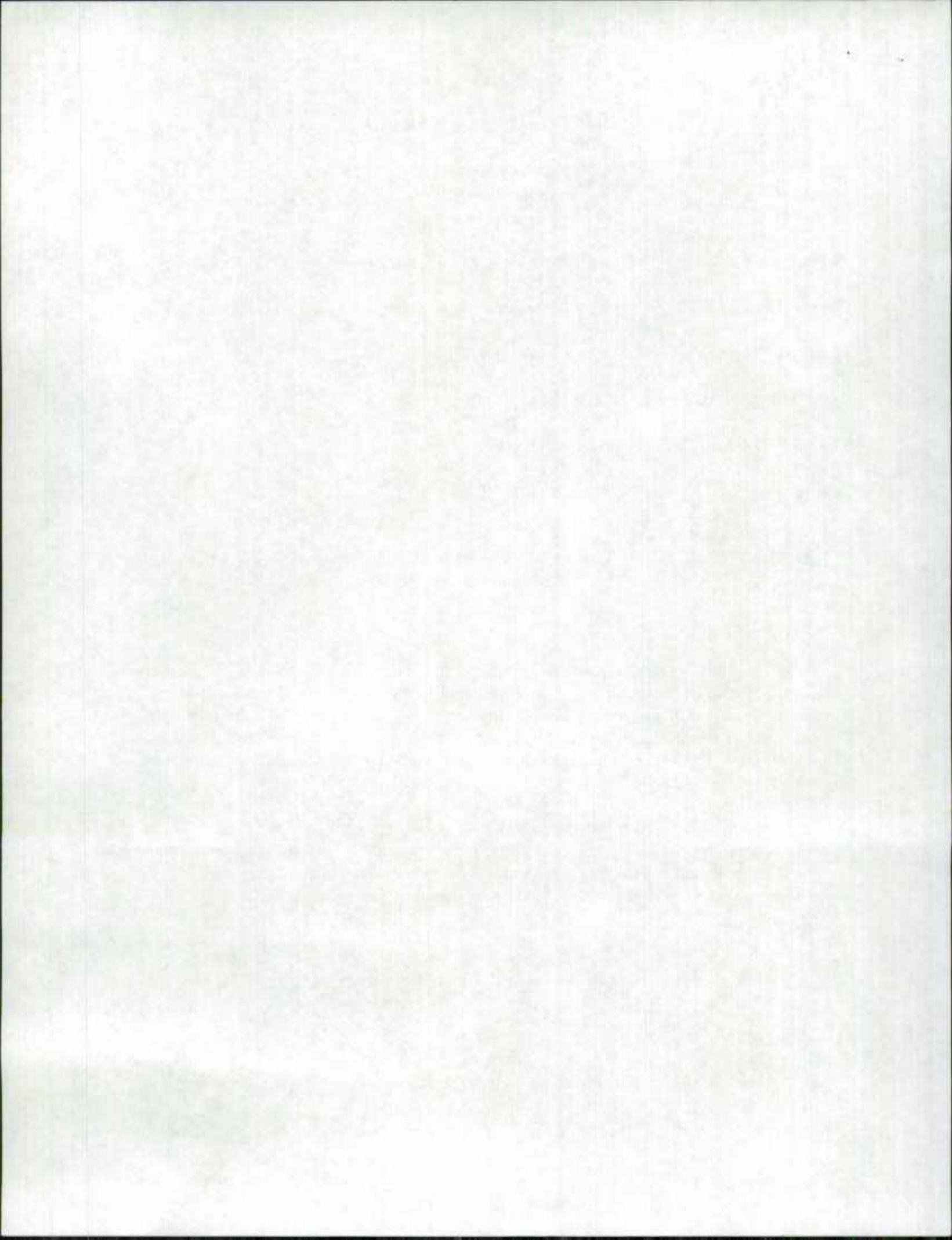
STAFF: Dawnn McCleary

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

DISCUSSION:

The Department of General Services (DGS) is proposing to demolish, grade, and pave the current site of the Bloomsbury Square apartments. The property is located off of Calvert Street in Annapolis. The site is in an Intensely Developed Area and totals 1.59 acres. It is entirely in the Critical Area but outside the 100-foot Buffer. The existing site has a pervious area of 0.62 acres of grass with 0.97 acres impervious area. The proposed site will consist of 0.35 acres pervious area with 1.24 acres of impervious area.

DGS is proposing to install a bioretention facility along Bloomsbury Street to reduce pollutant loadings. Stormwater runoff will sheet flow directly into the facility from the proposed parking lot. The 10 % pollutant reduction requirement will be met on site. DGS is anticipating full approval by the Maryland Department of the Environment by September 3, 2003.



ST. JOHN'S ST.

BLOOMSBURY STREET

CALVERT STREET

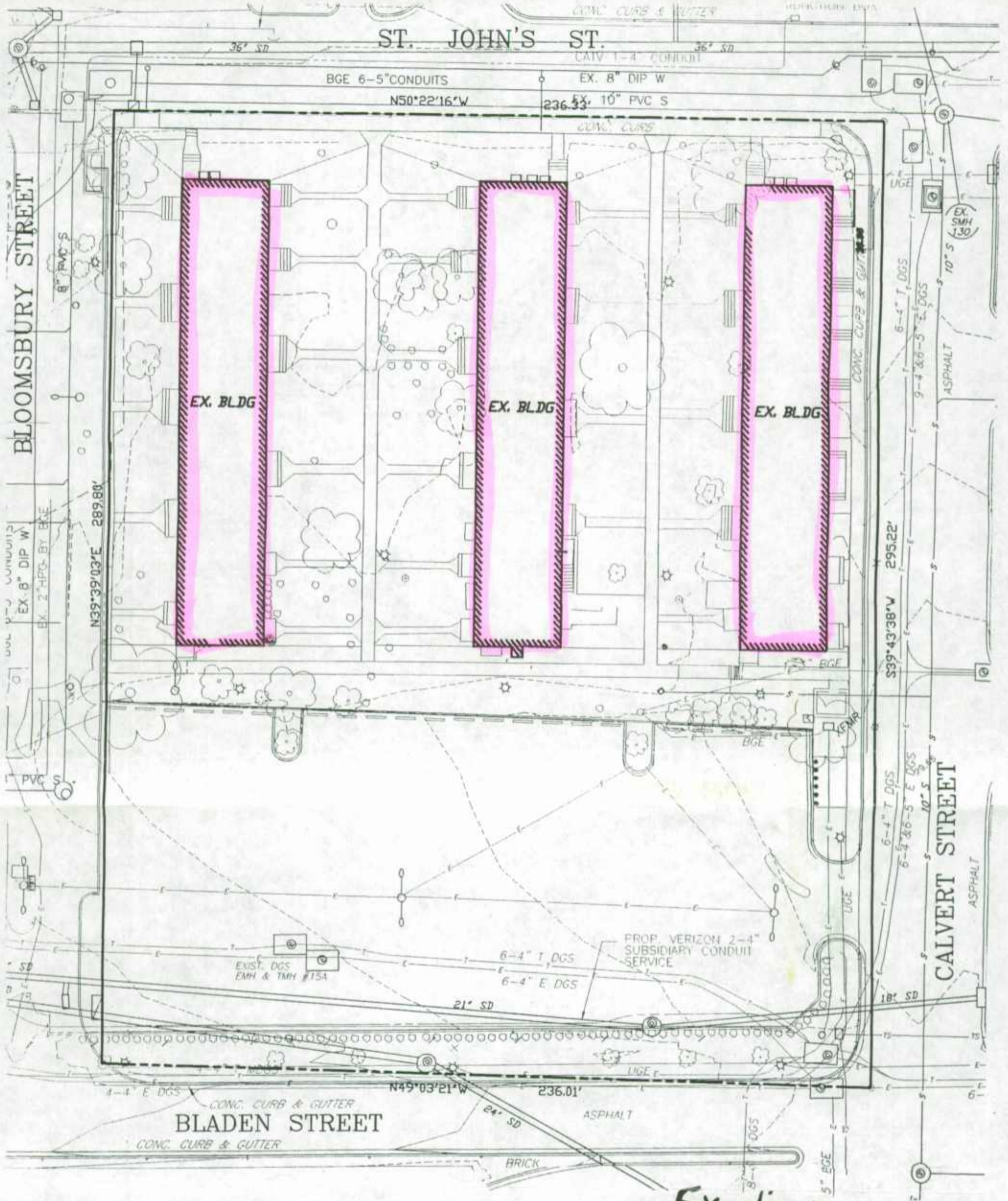
BLADEN STREET

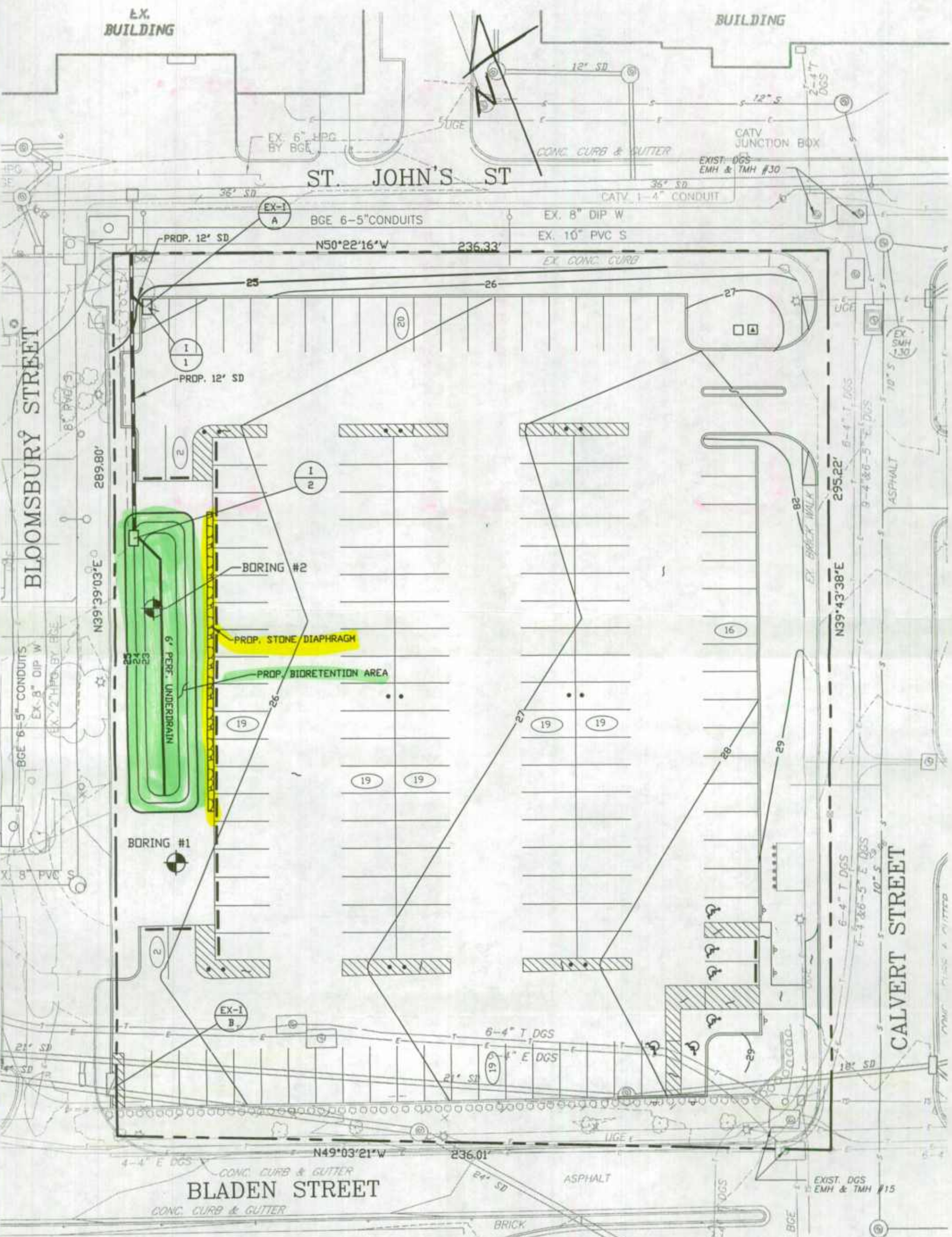
Bloomsburg Square

PHASE 2

SCALE: 1"=30'

Existing Conditions For New Parking Lot





**SWM LAYOUT
OF New Parking Lot
Scale: 1"=30'**

Critical Area Commission

STAFF REPORT

September 3, 2003

APPLICANT: Anne Arundel County

PROPOSAL: Homeport Farm Growth Allocation
Approval of Condition

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Pending Subcommittee Review

STAFF: Lisa Hoerger

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

DISCUSSION:

At its meeting on November 1, 2000 the Commission approved the Homeport Farm growth allocation request of Anne Arundel County. The request changed 18.75 acres of Resource Conservation Area (RCA) to Limited Development Area (LDA). Since the development envelope concept was used to avoid deducting the entire parcel, the County was required to assure the Commission that any remaining areas of RCA be a minimum of twenty acres, and to ensure the areas would retain their RCA character.

One area of remaining RCA was less than twenty acres, so the County and the property owner agreed to provide an easement from an adjoining property owner to ensure the twenty-acre set aside would be established on this site. The other RCA area would be deeded over to Anne Arundel County to use as a County park. In that case, the Commission required that deed restrictions be provided to ensure the future County park would retain its RCA character.

Below are the conditions of the approval of the growth allocation:

1. Prior to recordation of the subdivision plat for Homeport Farms, the County shall submit to the Commission for its approval a conservation easement that will ensure that the 7.73 +/- acres of land adjacent to the Homeport Farm property shall be maintained in uses appropriate to the Resource Conservation Area (RCA), as those uses are set forth in the County Critical Area ordinance. The 7.73 +/- acres shall be contiguous to the 12.27 +/- acre area to remain RCA, which is located at the southern portion of the property. The easement shall ensure that a total area of 20 contiguous acres of land at the southern portion of the project will retain the character and uses of

RCA. After Commission approval, and prior to recordation of the subdivision plat for Homeport Farm, the conservation easement shall be recorded.

2. The County shall submit to the Chesapeake Bay Critical Area Commission for approval proposed transfer documents for the 25.15 acre tract proposed for a County park. These transfer documents shall ensure that there are appropriate deed restrictions to ensure that 13.51+/- acres of this tract shall be maintained after transfer to the County in uses appropriate to privately-owned land in the Resource Conservation Area (RCA) as those uses are set forth in the County Critical Area ordinance. The 13.51+/- acres shall be contiguous to the 6.49+/- acre portion of the Homeport Farms Subdivision that is s to remain RCA (and is to be used for a reforestation area by the County). The deed restrictions shall be written to ensure that there is a total area of 20 acres at the northern portion of the Homeport property that will retain the character of Resource Conservation Area in the Critical Area. Any plans for development of the property as a park shall be submitted for review by the Critical Area Commission in order to ensure that the condition for protection a minimum of 20 acres to maintain RCA character is met or that appropriate growth allocation is deducted.

DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
Homeport Farm (Offsite)

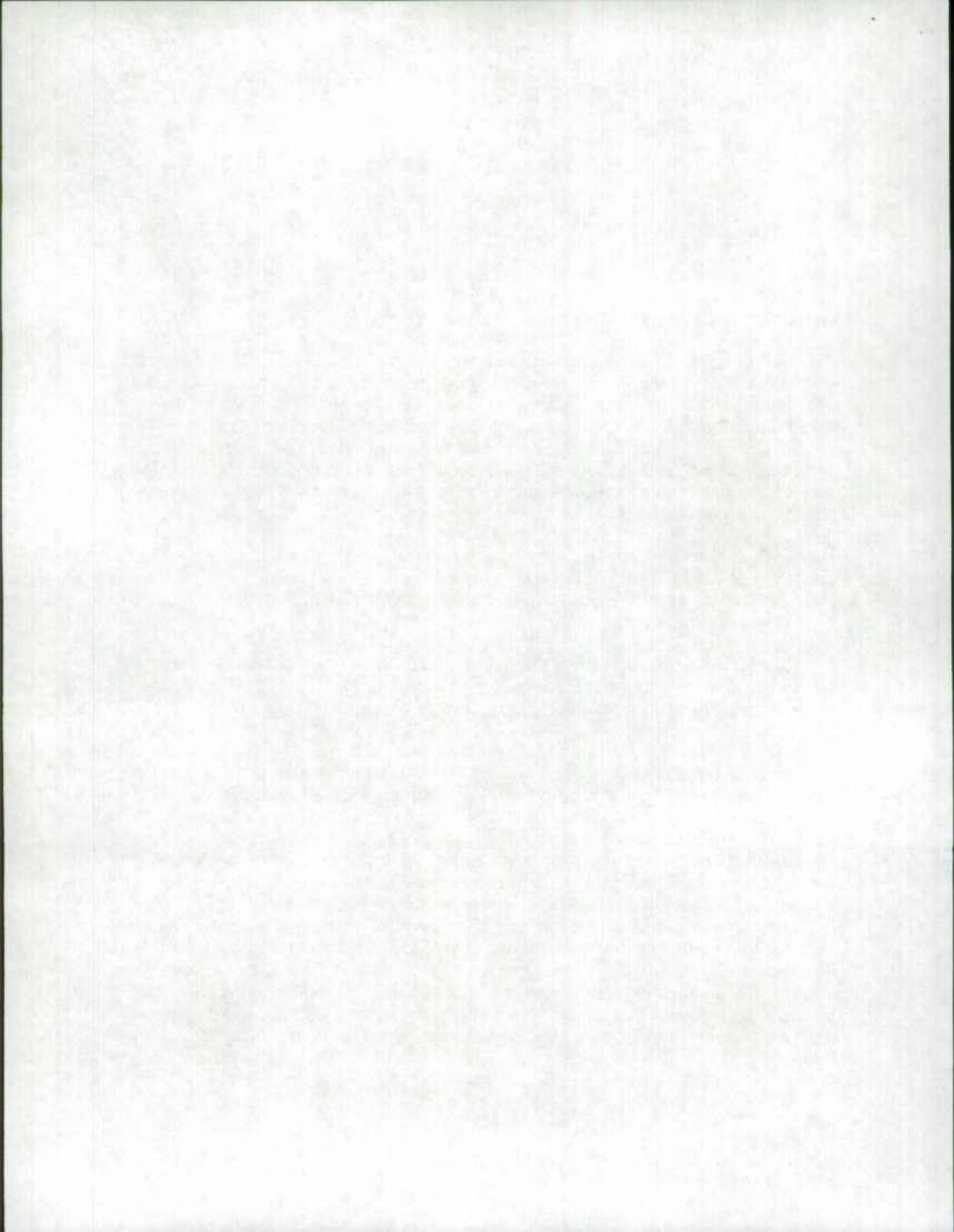
THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, is made this _____ day of _____, 2003, by WARD HOWLAND DAVIS (hereinafter individually or collectively called the "Declarant") to ANNE ARUNDEL COUNTY, MARYLAND (hereinafter called the "County") in order to create a conservation property.

WHEREAS, the Declarant is the owner of a tract or parcel of land, containing eleven and three tenths (11.30) acres of land, more or less, which is more particularly described in a deed from Hunting Davis and Marie P. Davis to Ward Howland Davis, dated December 3, 1969 and recorded among the land records of Anne Arundel County in Liber 2320 Folio 11 of which five and eighty two hundredths (5.82) acres are more particularly shown on Exhibit #1 and described in Exhibits "A" and "B", attached hereto and made a part hereto as "Conservation Property" and the subject of the covenants, conditions and restrictions set forth below; and

WHEREAS, the Conservation Property is located within the Critical Area as defined in Article 21, Title 2 of the Anne Arundel County Code and the State of Maryland Chesapeake Bay Critical Area law found in MD CODE ANN., NAT. RES. §8-1801 (hereinafter called the "Act").

WHEREAS, the creation of the Conservation Property will benefit the citizens of the County and, therefore, the Declarant desires to grant the County the right to enforce the covenants, conditions and restrictions for the Conservation Property established under this Declaration.

NOW, THEREFORE, WITNESSETH: In consideration of the premises and the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Declarant does hereby establish the covenants, conditions and restrictions hereafter set forth to create a conservation property of the nature and character and to the extent hereafter expressed to be and constitute a servitude upon the Conservation Property, which estate, interest, property and servitude will result from the restrictions hereby imposed upon the use of the Conservation Property of the Declarant and to that end of the purpose of accomplishing the intent hereof, the Declarant covenants on behalf of himself, his personal representatives, legal representatives, successors and assigns, as applicable, to do so and refrain from doing upon the Conservation Property, the various acts hereinafter mentioned, it being hereby agreed and expressed that the doing and the refraining from said act, and each thereof, upon the Conservation Property, is and will be for the benefit of the Declarant and the County.



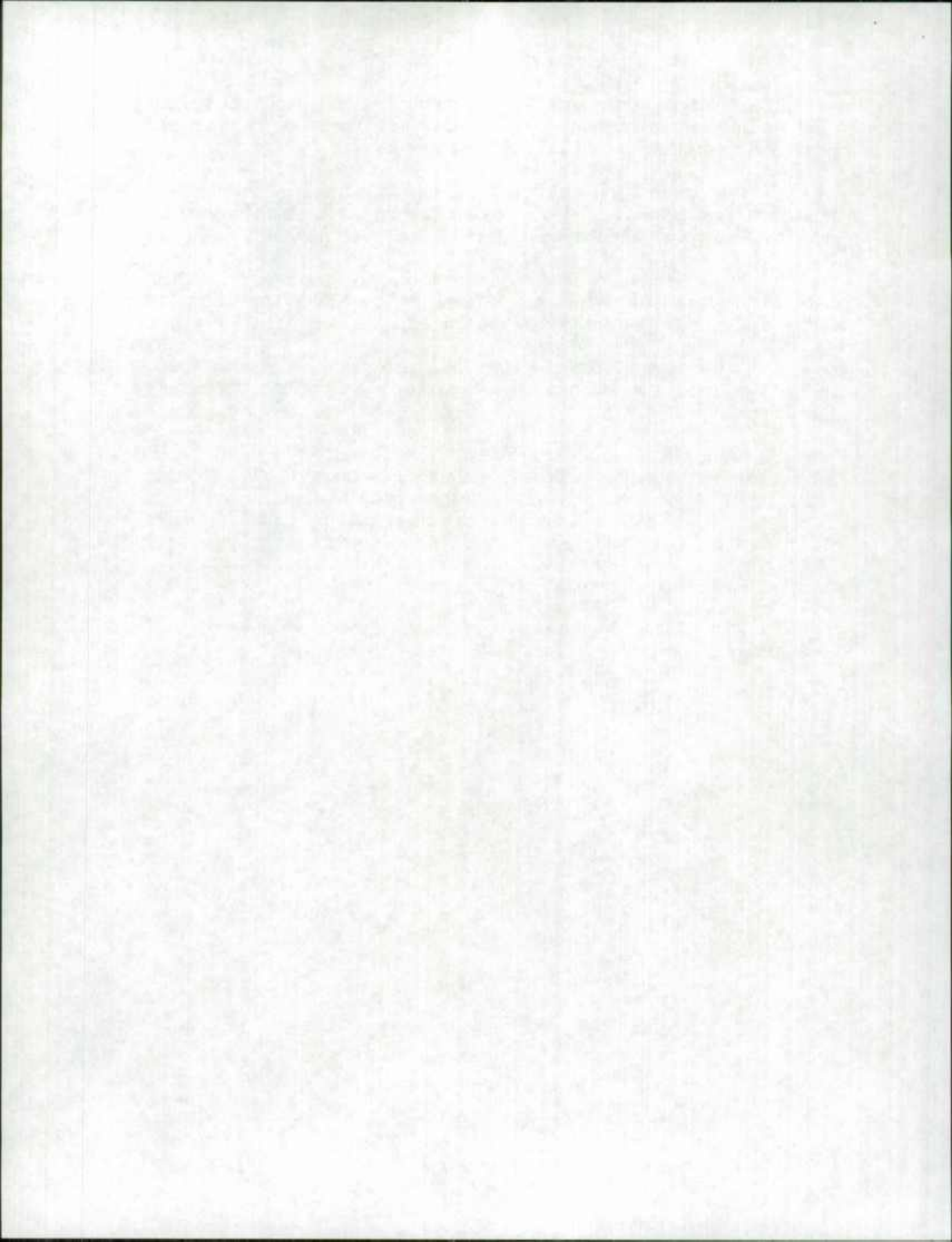
The restrictions hereby imposed upon the Conservation Property and the acts which the Declarant so covenants to do and refrain from doing upon the Conservation Property in connection therewith are as follows:

1. No construction or alteration of residential, commercial, industrial, or other structures of any kind will be placed or erected upon the Conservation Property or any use in connection therewith shall be made of the Conservation Property.
2. No cutting or removing vegetation or grading, filling or other activities shall be permitted upon the Property except as permitted under a Buffer Management Plan as required by the Act and approved by the County.
3. The general topography of the landscape of the Conservation Property shall be maintained in its present condition and no excavation or topographic changes shall be made.

TO HAVE AND TO HOLD unto the County, its successors, legal representatives, and assigns, forever; subject, however, to the right of the County to terminate such estate, interest, property and servitude hereby granted upon written approval by the Chesapeake Bay Critical Area Commission and the execution of an instrument and recordation thereof among the Land Records of Anne Arundel County, Maryland declaring that the estate, interest, easements and servitude created under this Declaration is terminated and no longer is in force and effect.

The County is hereby granted the right to enforce this Declaration and the covenants, conditions and restrictions set forth herein.

[Signature Pages to Follow]



WITNESS the hand and seal of the Declarant on the day hereinafter first written.

ATTEST:

Witness

BY: _____
Ward Howland Davis
(Owner)

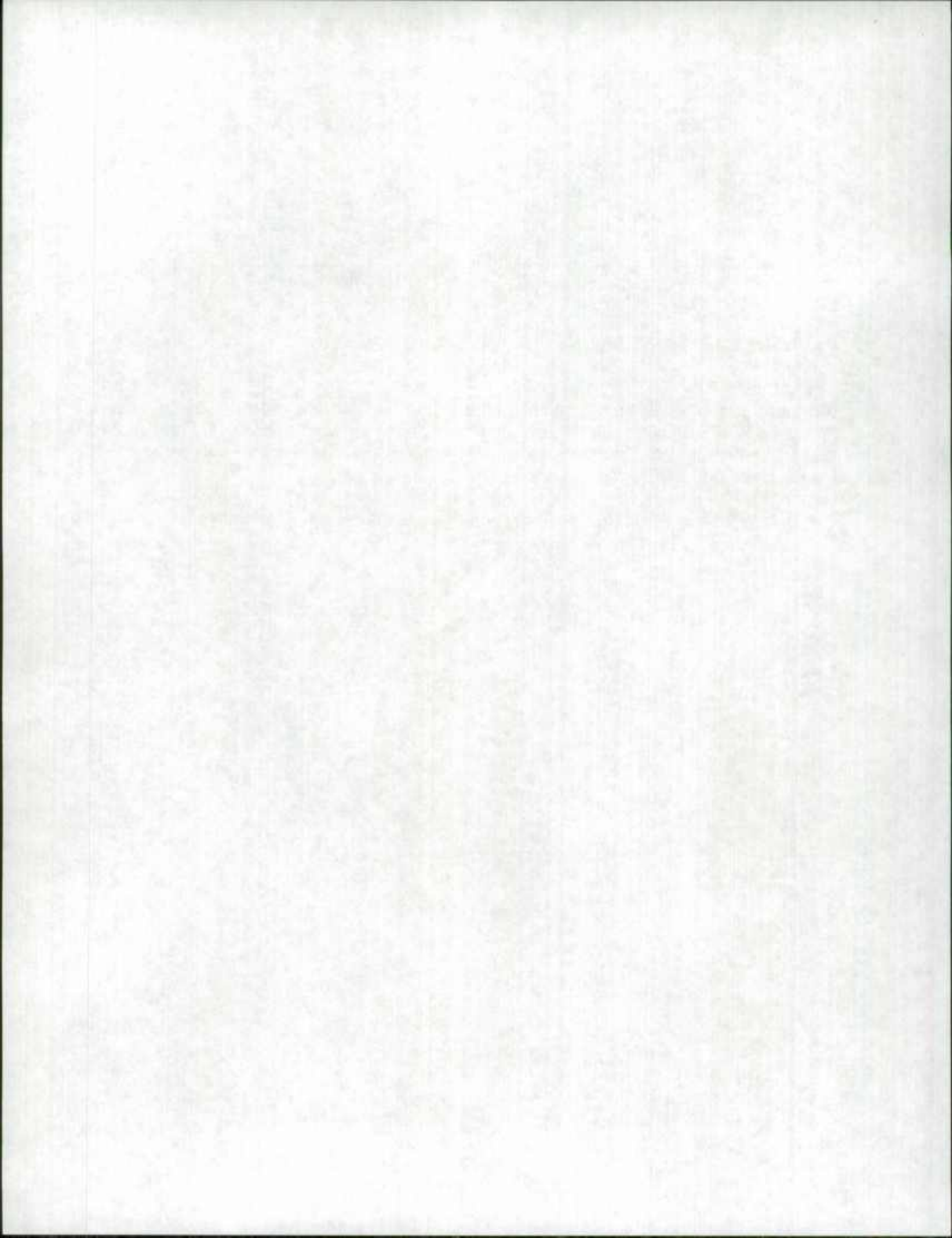
STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, to wit:

I HEREBY CERTIFY, that on this ____ day of _____, 2003, before me, the subscriber, a Notary Public in and for the State of and County aforesaid, personally appeared WARD HOWLAND DAVIS who acknowledged himself to be the Owner, and that he, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of himself as Owner.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____.



ANNE ARUNDEL COUNTY, MARYLAND;

APPROVED AND ACCEPTED THIS
_____ DAY OF _____, 2003:

ATTEST:

Robert L. Walker, Land Use &
Environmental Officer
for Janet S. Owens, County Executive

STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, to wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2003, before me, the subscriber, a Notary Public in and for this State and County, personally appeared ROBERT L. WALKER, Land Use & Environmental Officer, who has been duly authorized to represent Janet S. Owens, County Executive for Anne Arundel County, Maryland, and that he acknowledged that he has been authorized to execute this Agreement for the purposes herein contained.

WITNESS my hand and official seal.

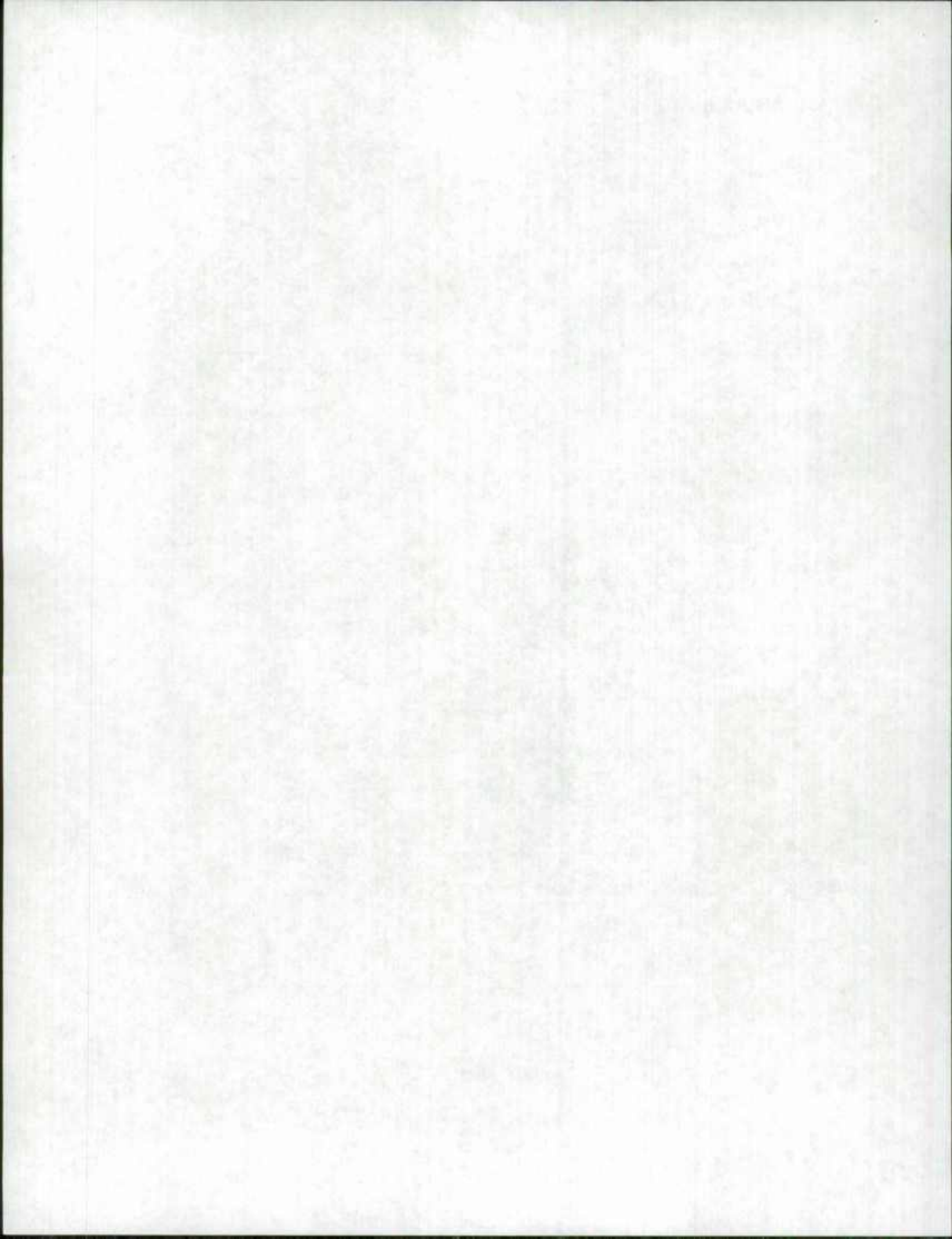
Notary Public

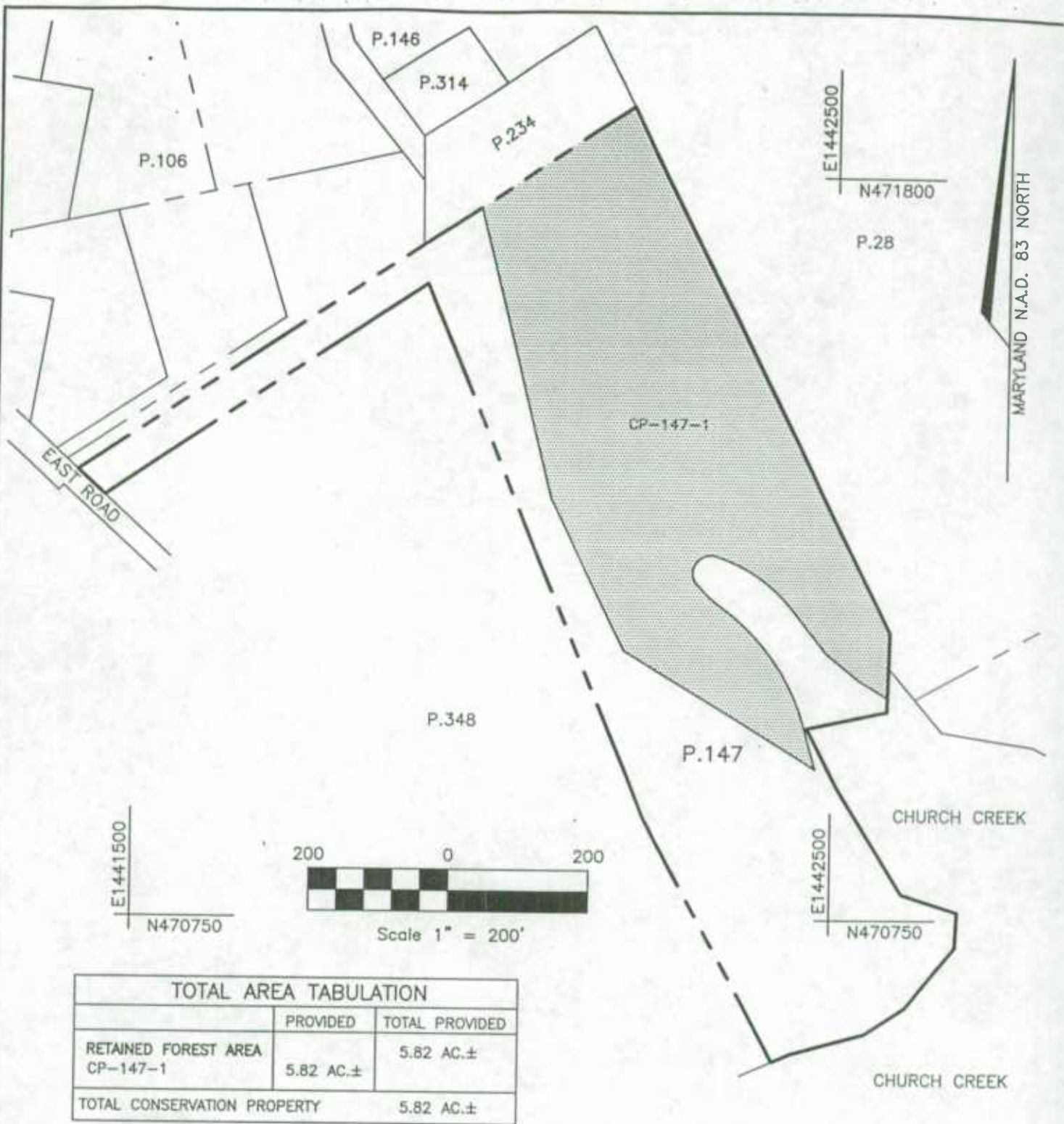
My Commission Expires: _____.

Approved for form and legal sufficiency.

Office of Law

Date







TOTAL AREA TABULATION		
	PROVIDED	TOTAL PROVIDED
RETAINED FOREST AREA CP-147-1	5.82 AC.±	5.82 AC.±
TOTAL CONSERVATION PROPERTY		5.82 AC.±

TERRAIN, INC.

LAND ENGINEERING & DEVELOPMENT SERVICES
 106 OLD SOLOMON'S ISLAND ROAD
 ANNAPOLIS, MARYLAND 21401
 (410) 266-1160 FAX (410) 266-6129

LEGEND

-  PROPERTY LINE
-  CONSERVATION PROPERTY

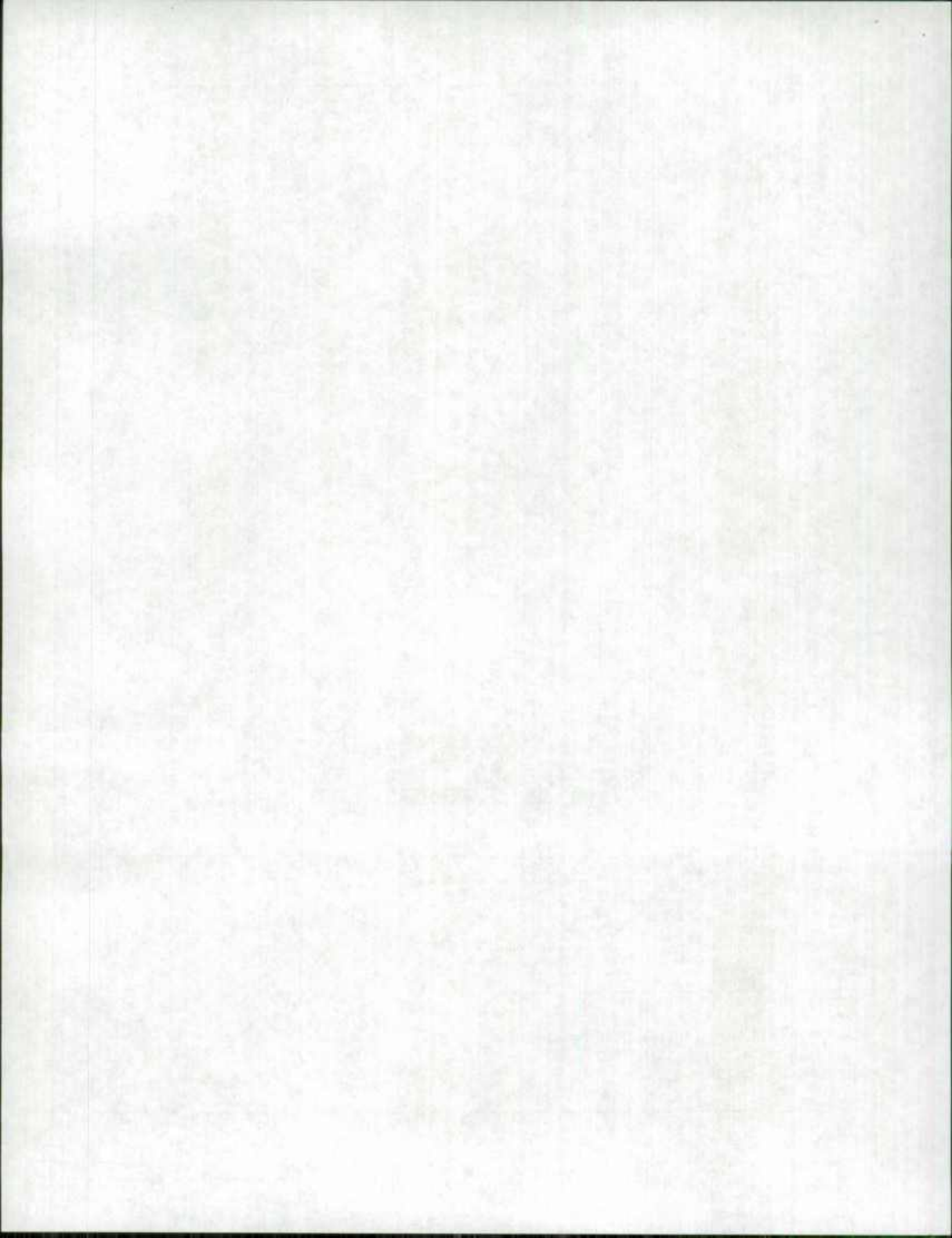
DRAWN BY : R.N.T.
 CHECKED BY : W.R.A.
 PLAT NO. : 1
 W.O.# : 04-02-039A

CONSERVATION PROPERTY CP-147-1
 WARD H. DAVIS
 T.M.51 BLK.20 P.147
 L.2320 F.11

SCALE : 1" = 200'
 DATE : JUNE 16, 2003

REVISIONS	
DATE	BY

"EXHIBIT 1"



W.O. #04-02-039A
June 20, 2003

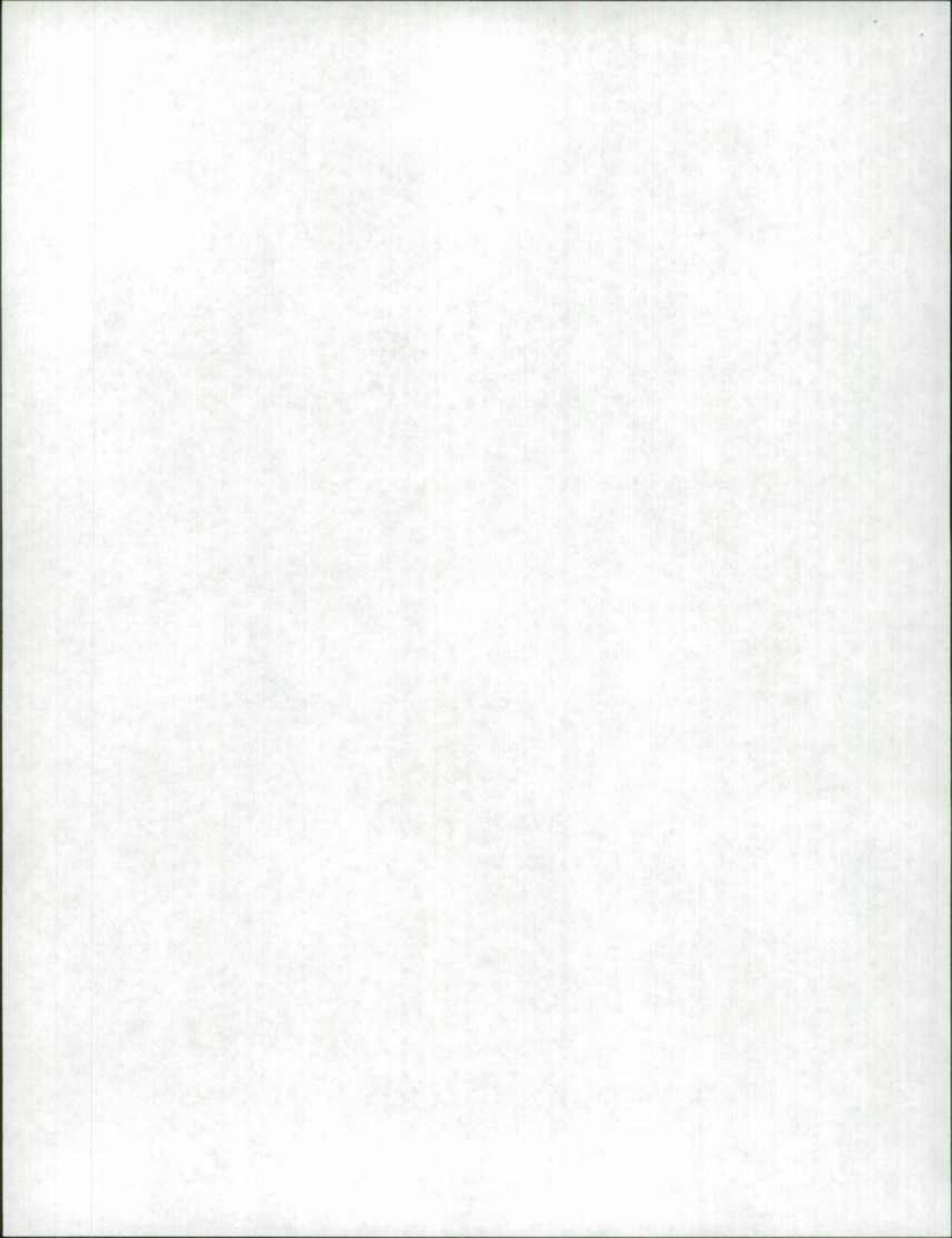
“EXHIBIT A”

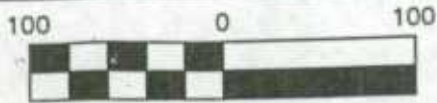
**DESCRIPTION OF
CONSERVATION PROPERTY “CP-147-1”
WARD H. DAVIS
LIBER 2320, FOLIO 11
SECOND TAX DISTRICT
ANNE ARUNDEL COUNTY, MARYLAND
TAX ACCOUNT NO. 2-000-03144810**

All of Conservation Property “CP-147-1” containing 253,390 square feet or 5.82 acres of land, more or less.

All as shown on Plat No. 2 and 3, labeled “Exhibit B” attached hereto and intended to be recorded herewith.

BEING all of that parcel of land which by Deed dated December 3, 1969 was granted and conveyed by Hunting Davis, et al to Ward Howard Davis, recorded among the Land Records of Anne Arundel County, Maryland in Liber 2320 at Folio 11.





Scale 1" = 100'

CRITICAL AREA LINE

P.O.B.
N471896.80
E1442208.25

ALBERT & HELEN TOFT
2665 SOLOMON'S ISLAND RD.
ANNAPOLIS, MD 21037
LIBER 2241, FOLIO 92
T.M.51 BLK.14 P.234

E1442350
N471800

N56°38'22"E
715.63'

N14°20'04"W

943.84'
258.67'

S26°46'08"E

550.00'
S56°38'22"W

N22°47'18"W

CP-147-1
253.390 ± OR 5.82 AC.±

HOMEPORT FARM NO. 1, LLC
SOLOMON'S ISLAND RD.
EDGEWATER, MD 21037
LIBER 13140, FOLIO 780
T.M.51 BLK.14 P.28

DEREK H. DAVIS
SOLOMON'S ISLAND ROAD
EDGEWATER, MD 21037
LIBER 2320, FOLIO 8
T.M.51 BLK.20 P.348

WARD H. DAVIS
SOLOMON'S ISLAND ROAD
EDGEWATER, MD 21037
LIBER 2320, FOLIO 11
T.M.51 BLK.20 P.147

E1441900
N471350

423.34'
814.94'

N26°07'15"W
240.84'

E1442350
N471350

829.71'

FOR CONTINUATION SEE PLAT 3

TERRAIN, INC.

LAND ENGINEERING & DEVELOPMENT SERVICES
106 OLD SOLOMON'S ISLAND ROAD
ANNAPOLIS, MARYLAND 21401
(410) 266-1160 FAX (410) 266-6129

LEGEND

- PROPERTY LINE
- CRITICAL AREA LINE
- P.O.B.** POINT OF BEGINNING
- CONSERVATION PROPERTY

DRAWN BY : R.N.T.
CHECKED BY : W.R.A.
PLAT NO. : 2
W.O.# : 04-02-039A

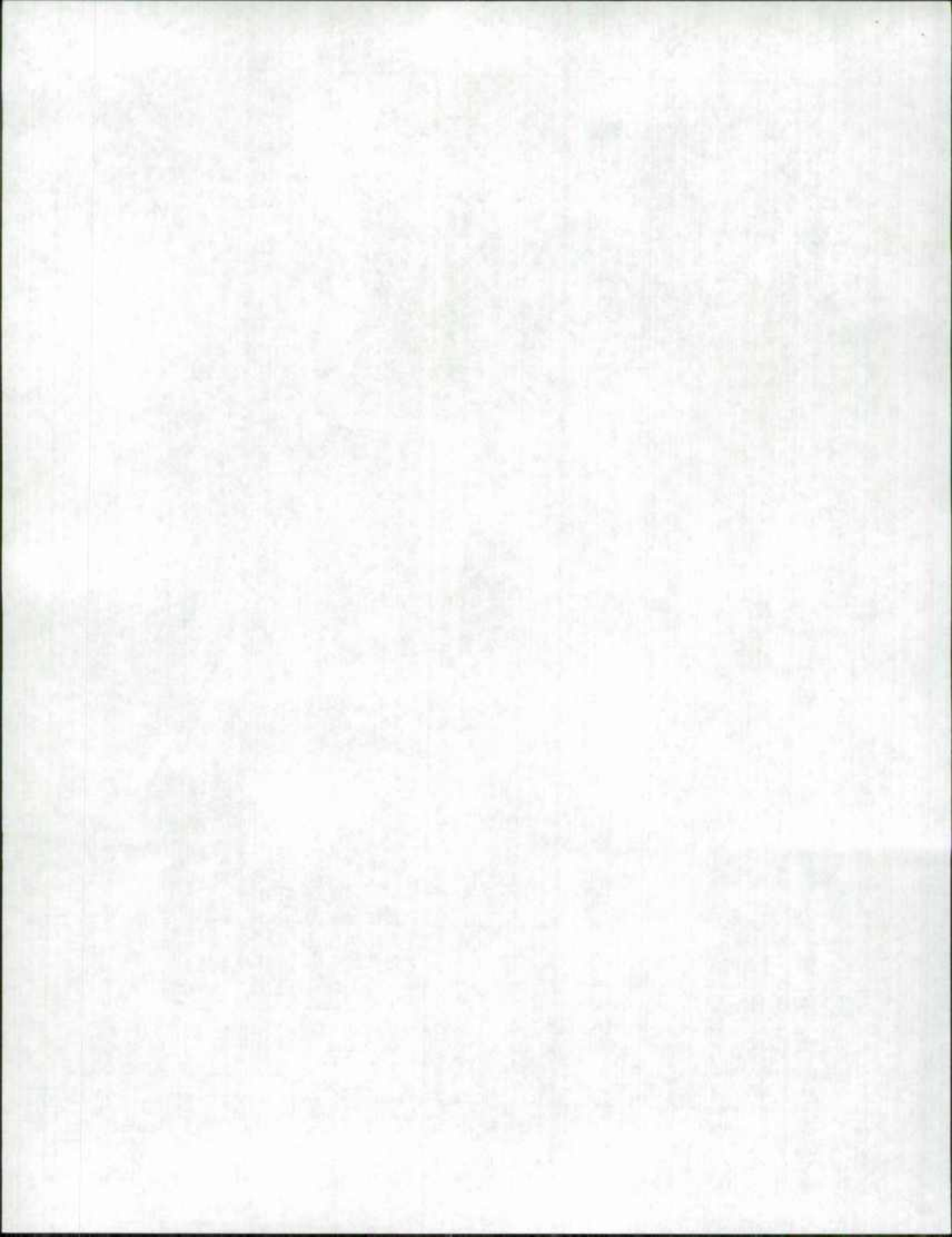
CONSERVATION PROPERTY CP-147-1
WARD H. DAVIS
T.M.51 BLK.20 P.147
L.2320 F.11

SCALE : 1" = 100'
DATE : JUNE 16, 2003

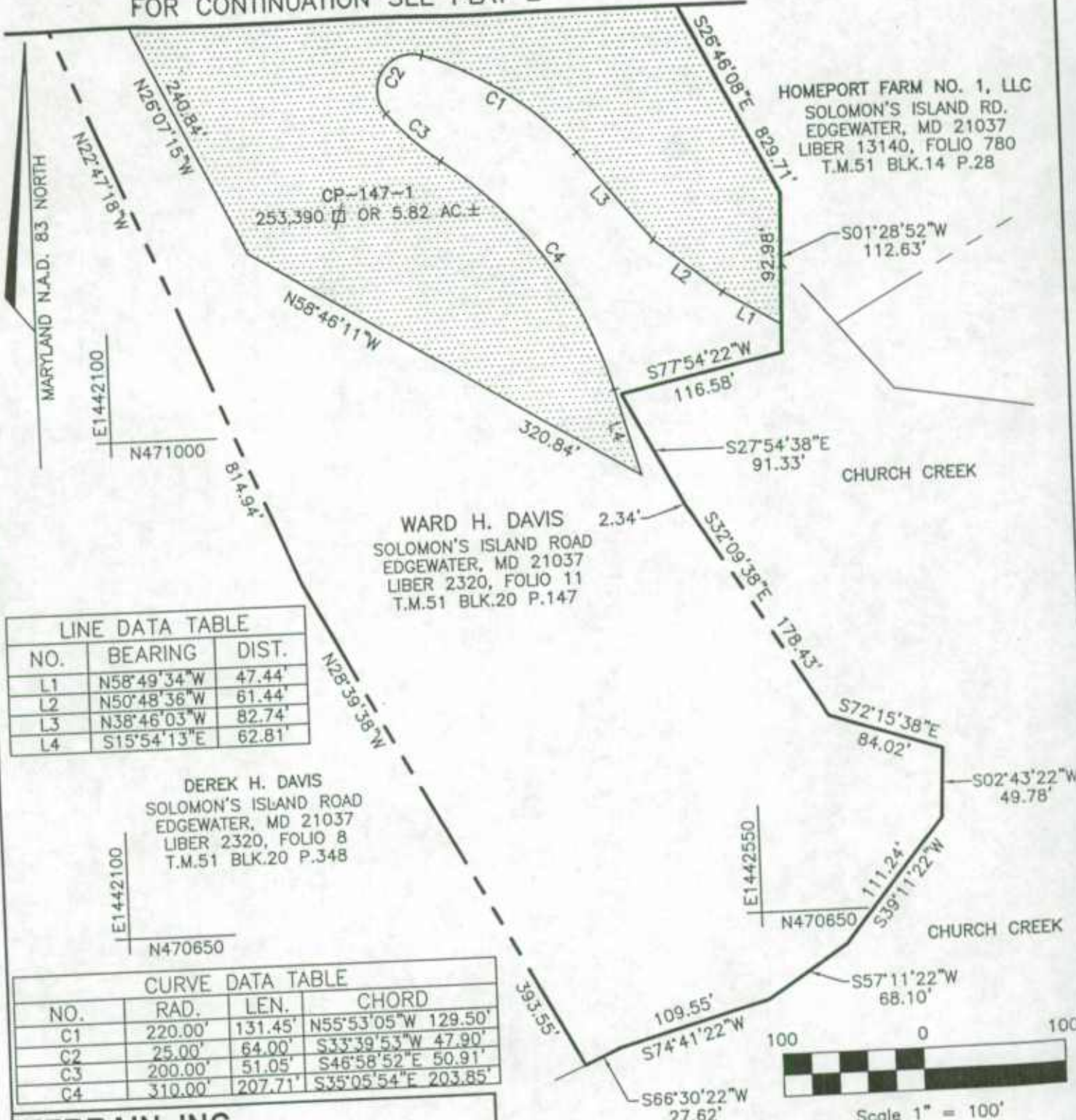
REVISIONS	
DATE	BY

"EXHIBIT B"

MARYLAND N.A.D. 83 NORTH



FOR CONTINUATION SEE PLAT 2



HOMEPORT FARM NO. 1, LLC
 SOLOMON'S ISLAND RD.
 EDGEWATER, MD 21037
 LIBER 13140, FOLIO 780
 T.M.51 BLK.14 P.28


WARD H. DAVIS
 SOLOMON'S ISLAND ROAD
 EDGEWATER, MD 21037
 LIBER 2320, FOLIO 11
 T.M.51 BLK.20 P.147

DEREK H. DAVIS
 SOLOMON'S ISLAND ROAD
 EDGEWATER, MD 21037
 LIBER 2320, FOLIO 8
 T.M.51 BLK.20 P.348

NO.	BEARING	DIST.
L1	N58°49'34"W	47.44'
L2	N50°48'36"W	61.44'
L3	N38°46'03"W	82.74'
L4	S15°54'13"E	62.81'

NO.	RAD.	LEN.	CHORD
C1	220.00'	131.45'	N55°53'05"W 129.50'
C2	25.00'	64.00'	S33°39'53"W 47.90'
C3	200.00'	51.05'	S46°58'52"E 50.91'
C4	310.00'	207.71'	S35°05'54"E 203.85'



LEGEND
 - - - - - PROPERTY LINE
 CONSERVATION PROPERTY

TERRAIN, INC.
 LAND ENGINEERING & DEVELOPMENT SERVICES
 106 OLD SOLOMON'S ISLAND ROAD
 ANNAPOLIS, MARYLAND 21401
 (410) 266-1160 FAX (410) 266-6129

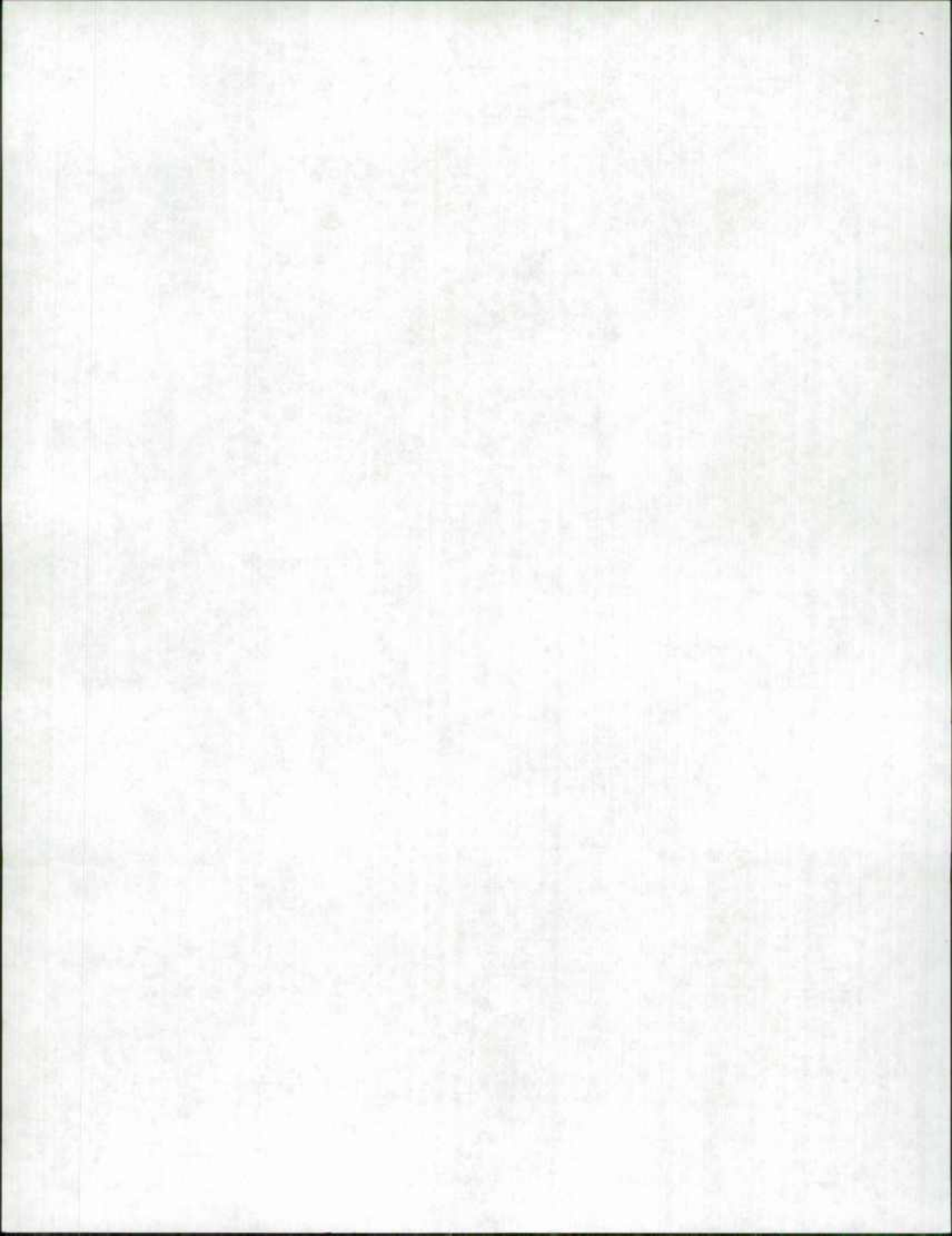
SCALE : 1" = 100'	REVISIONS	
DATE : JUNE 16, 2003	DATE	BY

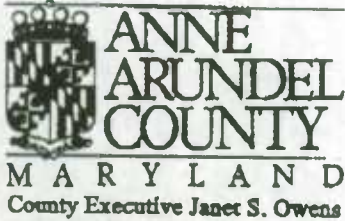
DRAWN BY : R.N.T.
 CHECKED BY : W.R.A.
 PLAT NO. : 3
 W.O.# : 04-02-039A

CONSERVATION PROPERTY CP-147-1
 WARD H. DAVIS
 T.M.51 BLK.20 P.147
 L.2320 F.11

"EXHIBIT B"

2ND TAX DISTRICT ANNE ARUNDEL CO., MD.





2664 RIVA ROAD, P.O. BOX 6675
ANNAPOLIS, MARYLAND 21401

OFFICE OF PLANNING AND ZONING

September 2, 2003

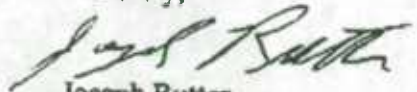
Martin G. Madden
Chairman
Critical Area Commission for the Chesapeake and Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, Maryland 21401

Re: Homeport Farm-Growth Allocation

Dear Mr. Madden:

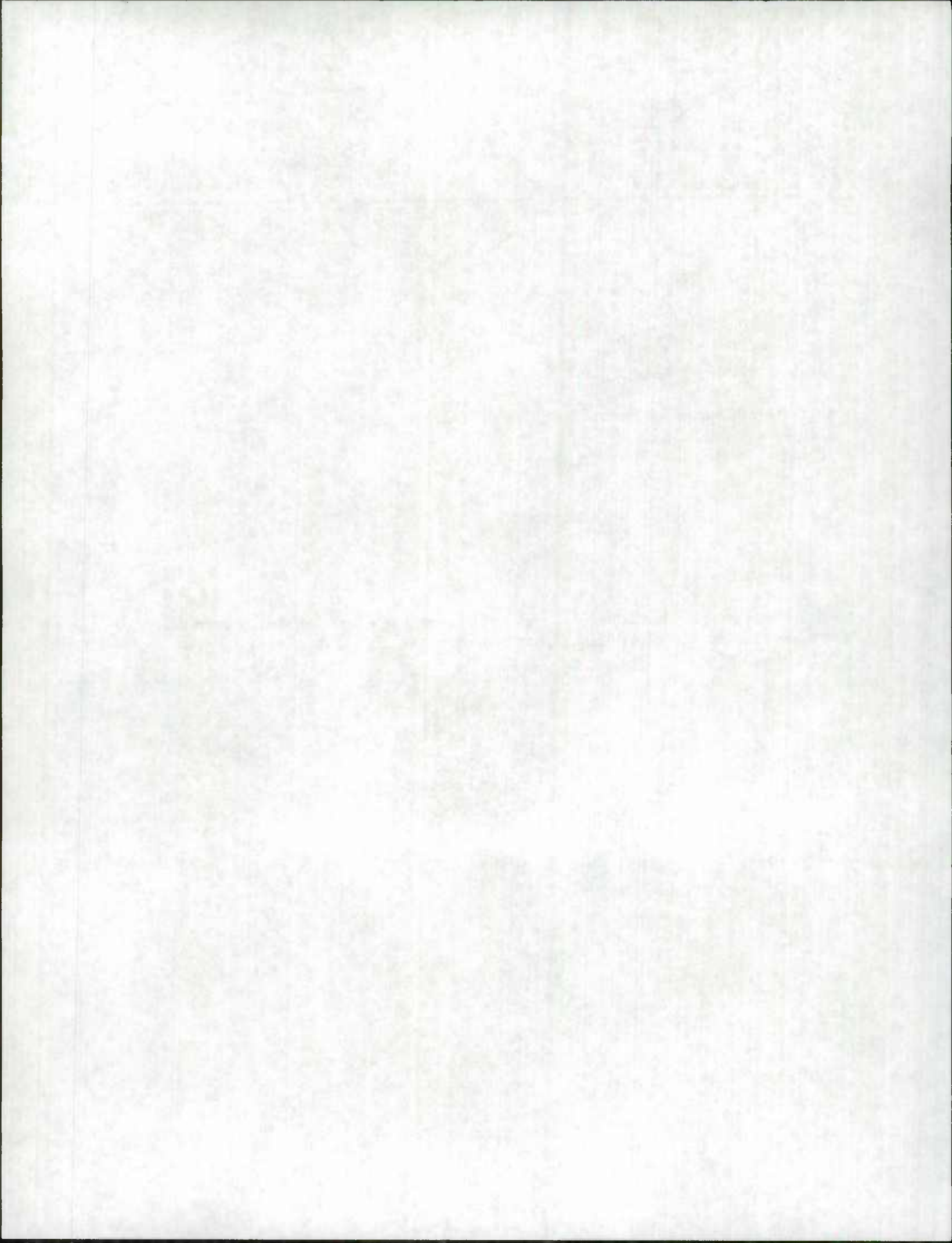
We are submitting for the Commission's review and approval the easement document and deed to meet this specific condition of the Commission's growth allocation approval of Homeport Farm. Thank you.

Sincerely,



Joseph Rutter
Planning and Zoning Officer

Cc: Elinor Gawel
Chron



Critical Area Commission

STAFF REPORT
September 3, 2003

APPLICANT: Department of Natural Resources

PROPOSAL: Black Walnut Point -Replacement of Existing Cottages

JURISDICTION: Talbot County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Conditional Approval with condition

STAFF: Lisa Hoerger

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

DISCUSSION:

The Department of Natural Resources leases a six-acre portion of the Black Walnut Point property that consists of 57.51 acres in Tilghman, Maryland. The six-acre tract has been leased on a long-term basis to the Black Walnut Point Inn, Inc. "Tenant" since 1989 and is operated as a bed and breakfast facility. A new long-term lease agreement was negotiated with the tenant, which was approved by the Maryland Board of Public Works on October 30th, 2002. This new lease requires the tenant to provide certain improvements to the leased premises.

The tenant has proposed removing specific buildings on the leased premises, specifically, two cottages and one shed, as well as one-half of the existing garage/shed all, of which are located within the 100-foot Buffer of the Critical Area. These existing shed/cottages are located within ten feet of the water's edge, with the shed located on the stone revetment area. The proposed cottages will be placed on footers and will cause no soil disturbance. The tenant also proposes a 30' x 36' addition to the existing office and a seventh cottage, both located outside the 100-foot Buffer.

The tenant proposes to replace the buildings with six prefabricated cottage buildings set on piers located within the 100-foot Buffer, but set back further away from the shoreline. The total impervious area removed from the 100-foot Buffer is 4,356 square feet. The total new impervious area is 3,492 square feet; therefore a net reduction of 864 square feet within the 100-foot Buffer will result from the project. The required mitigation is 10,476 square feet (3,492 square feet x 3) of planting at a 3:1 ratio within the 100-foot Buffer. The proposed addition and cottage outside the 100-foot Buffer will require 1:1 mitigation for any clearing.

The Maryland Department of the Environment (MDE) determined that no permits for stormwater or sediment control are needed since there will be no disturbance. The Department of Natural Resources (DNR) confirmed that there are no rare, threatened, or endangered species on this site.

Since the proposal is on State-owned lands and the replacement of the cottages will impact the 100-foot Buffer, this project requires a Conditional Approval by the Commission as found in the Code of Maryland Regulations at 27.02.06 of the Critical Area Commission's regulations for State and local government projects.

Conditional Approval Process

In order to qualify for consideration by the Commission for conditional approval, the proposing State agency must show that the project or program has the following characteristics: **(The following responses highlighted in bold text were provided by the applicant, DNR):**

- (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;*

The premises are leased as a bed and breakfast facility. The existing cottages used for overnight guests are in poor condition and must be replaced. The property is a peninsular area, thus the replacement of the cottages is restricted by the existing facilities, the overall layout of existing buildings/septic, and the existing topography.

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

The public benefits of this project include the use by the public of public lands owned by DNR and offered as a bed and breakfast facility with conference/meeting areas. This improved property was acquired with public funds and DNR has leased the property to a company that can offer the use of the premises to the public. Also, one of the replacement cottages will be in compliance with the Americans with Disabilities Act (ADA) thus offering disabled citizens better access and use of this public facility.

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

The project conforms in all other ways to the Critical Area Program.

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 or local agency program or project;*

A literal enforcement of the provisions of this subtitle will prevent the replacement of existing cottages that are in poor condition and non-ADA compliant.

(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;

There will be no disturbance within the Critical Area as the replacement cottages are pre-fabricated and will be placed on piers. No MDE permits for stormwater or sediment control are required.

(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.

The State via the tenant proposes to provide reforestation at a 3:1 ratio for clearing and impervious area that will occur inside the Buffer and at a 1:1 ratio for clearing that will occur outside the Buffer.

The Commission is required to base its approval, denial or modification to this project based on the following factors:

1. The extent to which the project or program is in compliance with the requirements of the relevant chapters of this subtitle;
2. The adequacy of any mitigation measure proposed to address the requirements of this subtitle that cannot be met by the project or program; and
3. The extent to which the project or program, including any mitigation measures, provides substantial public benefits to the overall Chesapeake Bay Critical Area Program.

Commission staff recommends the following mitigation as a condition of the Conditional Approval Request:

The tenant shall provide mitigation at a 3:1 ratio for all disturbances to the 100-foot Buffer and 1:1 mitigation for clearing outside the expanded Buffer. If the tenant fails to provide the proposed mitigation for unforeseen reasons, the Department of Natural Resources agrees to fulfill the mitigation obligation on this site.

Critical Area Commission

MEMORANDUM
September 3, 2003

TO: **Program Subcommittee** (Bailey, Evans, Johnson, Lawrence, Duket, Samorajczyk, Stephens, Blazer, Gilliss, Richards)
 Project Subcommittee (Bourdon, Chambers, Giese, Setzer, Jackson, McLean, Andrews, Jones, Rice, Mathias, Wilson)

FROM: **Julie LaBranche, Regina Esslinger, and Mary Owens**

RE: **Chesapeake Beach, Proposed Public Access and Recreation Trail**

DISCUSSION:

The Town of Chesapeake Beach has proposed a trail system for the purpose of providing public and recreational access along Fishing Creek and to the main waterfront area of the Town. The trail will be located on Town lands and privately owned lands and a portion of the trail is proposed over an existing railroad right-of-way within the Richfield Station subdivision. The trail is approximately 1.59 miles in length, consisting of a paved trail within the waterfront area of the town and within the Critical Area Buffer, and a wooden walkway over Fishing Creek and tidal wetlands. (Refer to the attached map for the general location of the proposed trail.)

Trail within Richfield Station

Approximately 1,800 linear feet (0.34 miles) of the trail is proposed on the Richfield Station property, over an existing railroad right-of-way within a Forest Interior Dwelling Bird (FID) Conservation area. The FID Conservation Area was delineated based on an agreement made between the Department of Natural Resources and the developer in 1993 as part of the preliminary development plan for the Critical Area portion of the subdivision. The FID conservation area will serve as FID mitigation for impacts associated with the Critical Area portion of the subdivision. At the Commission's July 2, 2003 meeting, the Program Subcommittee discussed the preliminary concept plan and growth allocation request for the Critical Area portion of the Richfield Station subdivision. Attached is a copy of our letter to the developer's representative (Joseph Devlin), summarizing the subcommittee's recommendations.

Based on the current site plans for the project, approximate calculations for the portion of the trail within Richfield Station are 1,105 linear feet within the expanded Buffer, 495 linear feet outside the Buffer but with disturbance to steep slopes, and 200 linear feet over tidal wetlands. The area of disturbance for the trail (not including the limits of disturbance for construction and stormwater management) would be +16,400 square feet.

Within Richfield Station, the Town has proposed a 10-foot wide trail with a paved surface,

Chesapeake Beach Railway Trail project

several overlooks, and a viewing platform at the trail terminus (refer to the attached site plan). The Town maintains that the trail must be 10 feet wide to accommodate potential extension of the trail to connect the Richfield Station with a trail proposed by the County outside the Town limits. The railroad right-of-way has not been used in some time and now consists of new growth of trees and herbaceous vegetation. In order to construct the trail as proposed, significant clearing and grading will be necessary, as well as stormwater management. If the Commission approves the concept of a trail within Richfield Station, staff recommend downsizing the trail to a narrower walking path composed of pervious materials such as wood chips. This would reduce the overall disturbance within the Critical Area and FID habitat, and reduce the mitigation requirement for the project.

Trail within the Town

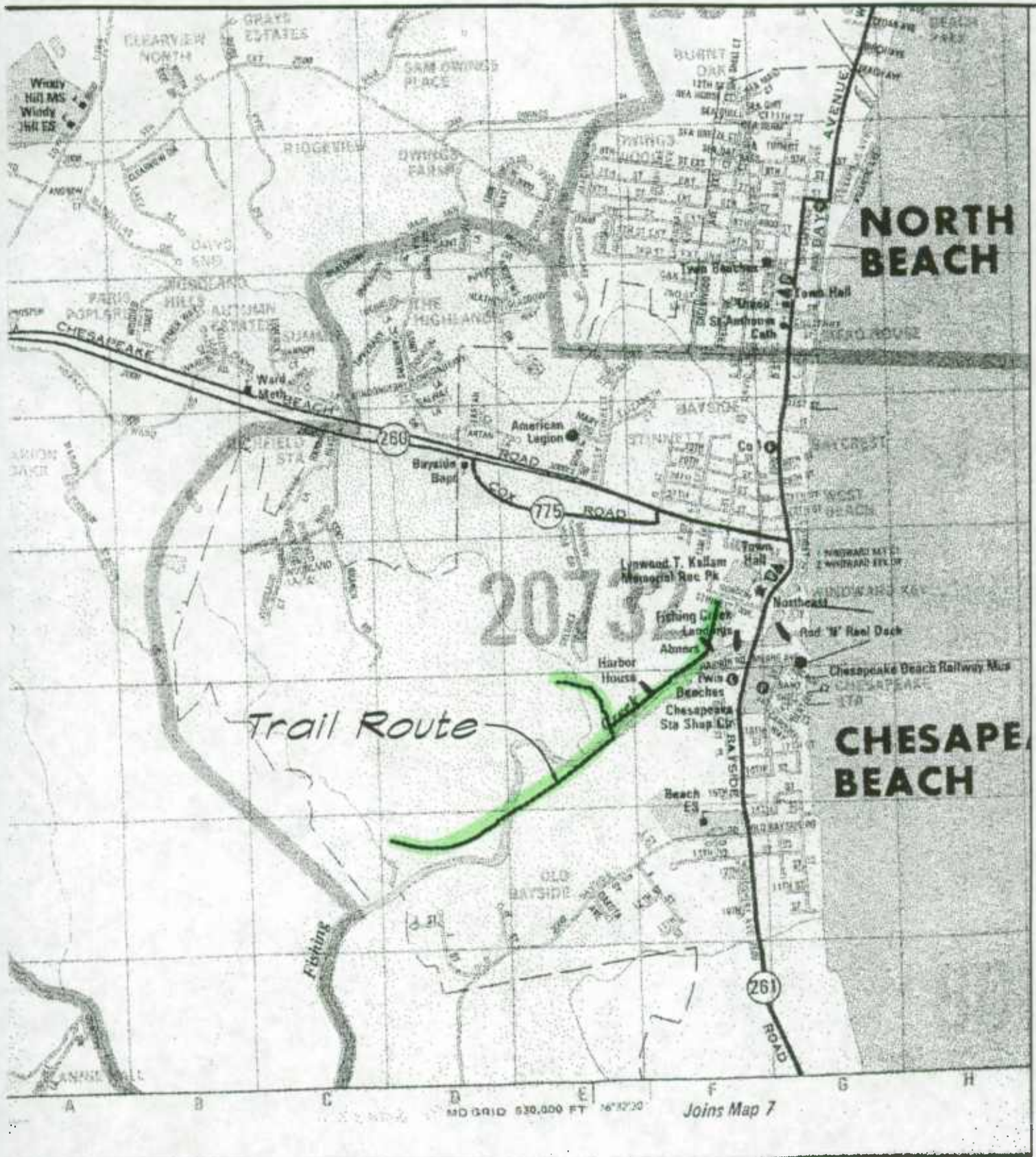
The Town has proposed a 10-foot wide wooden walkway over open water and tidal wetlands, and a 10 foot wide paved trail within the 100-foot Buffer. A portion of paved trail will be located on the Fishing Creek Landings Marina property (north side of Fishing Creek) over an area of existing impervious surface. The remainder of the trail within the Critical Area will be located within the Buffer over the existing railroad right-of-way on private and Town lands (south side of Fishing Creek). Some of this area is currently impervious, consisting of compacted railroad bed materials and no vegetation. This section could accommodate a 10-foot wide trail with minimal grading and no clearing. However, a portion of the area forms a peninsula with tidal wetlands immediately adjacent to the railroad right-of-way. In order to construct a 10-foot wide trail on this peninsula, extensive grading would be necessary and filling of tidal wetlands would likely result. The Project Subcommittee reviewed this project at the June 2001 meeting and recommended that the Town use an 8-foot wide trail in order to minimize impacts to the Buffer and wetlands, and to reduce mitigation and stormwater management requirements. Staff have confirmed that an 8 foot wide trail would be sufficient to comply with the project standards required by the Department of Transportation, who will provide funding for the project. At this time, the town has contracted with a new consultant for the project, and therefore precise calculations of overall disturbance within the Critical Area will not be available until a revised set of site plans are provided for review by staff.

Outstanding Issues

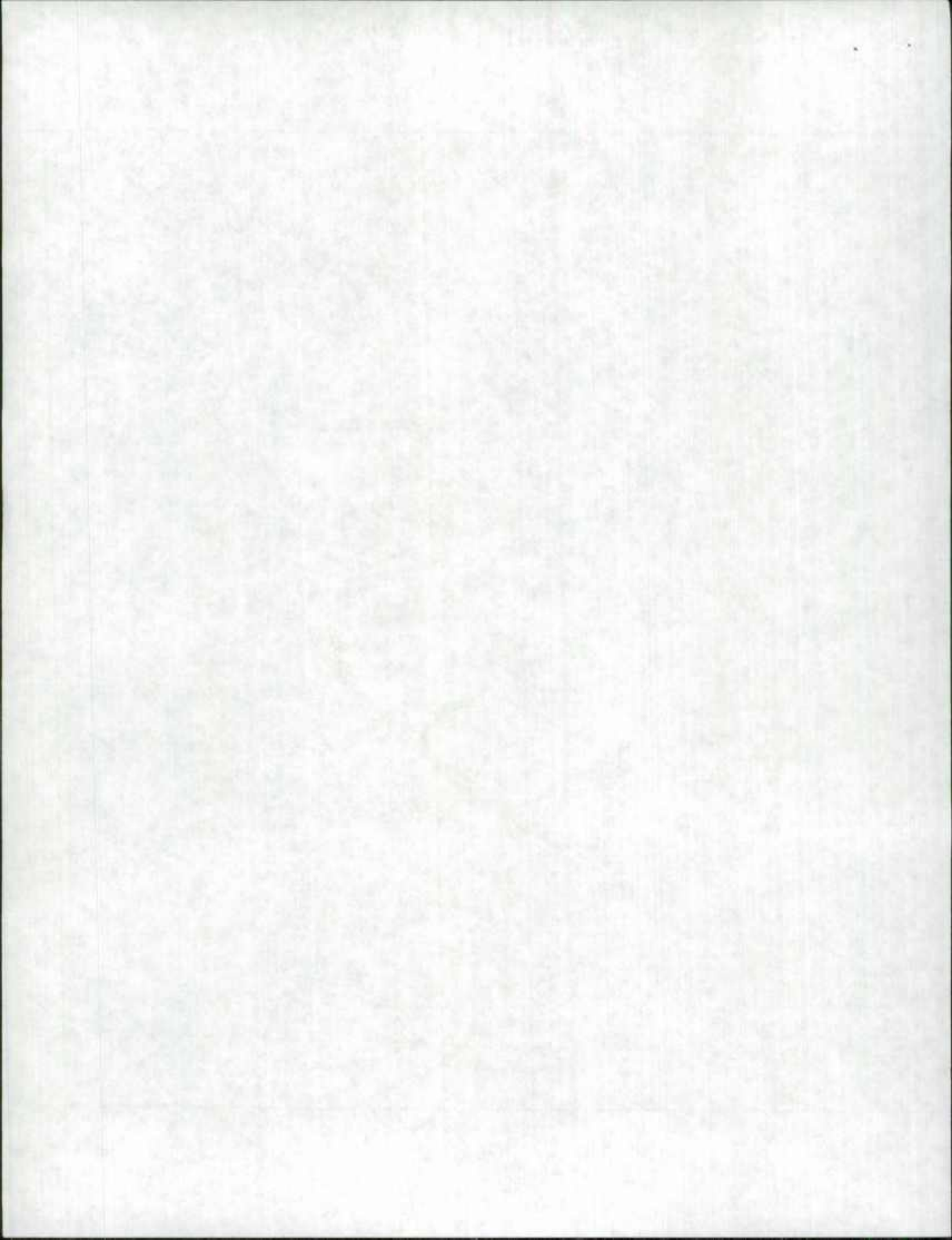
We expect the Town will submit the Railroad Trail project to the Commission for conditional approval within the next several months. In order to determine the trail specifications, finalize the site plans, and secure funding for the trail, the following issues must be resolved in order for the Town to move forward with the project.

- Location of trail in the FID conservation area within the Richfield Station subdivision
- Width and surface material for the trail in the FID conservation area
- Width of the trail within the Critical Area (from Richfield Station through Town)
- Acceptable mitigation options
- Acceptable stormwater management options

Chesapeake Beach Railway Trail



Vicinity Map
1" = 2000'
See ADC Map 4



Chesapeake Beach Railway Trail Project

Portion of trail within Richfield Station subdivision

