

COUNTY ORDINANCE NO. 97-07

A BILL ENTITLED

AN ACT CONCERNING Repeal and Re-enactment with Amendment of The Queen Anne's County Chesapeake Bay Critical Area Act of the Code of Public Laws of Queen Anne's County, 1996 Edition.

For the purpose of repealing and re-enacting with amendments portions of the Queen Anne's County Chesapeake Bay Critical Area Act; making grammatical corrections to the same; adding imperious surface limitations mandated by the State of Maryland; clarifying amendment procedures; clarifying the status of waste disposal uses in the Critical Area; providing fees for administrative variances; clarifying the effect of transfer of development rights in certain parts of the Critical Area on imperious surface, forest and developed woodland clearing allowances; and providing an amendment to the Buffer Exemption Area in the vicinity of Cloverfields, Fourth Election District.

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND, that the Queen Anne's County Chesapeake Bay Critical Area Act (Sections 14-101 through 14-177 of the Public Local Laws of Queen Anne's County, 1996 Edition) be and are repealed and re-enacted with the changes set forth on the attached.

SECTION II

BE IT FURTHER ENACTED that this Act shall take effect on the forty-sixth day following its passage.

Introduced by: Commissioner Zimmer
Date of Introduction: July 15, 1997
Hearing Scheduled: Aug. 19, 1997 8:30 a.m. p.m.
Action: 3 Yea 0 Nay
Date of Action: 9-2-97

Effective Date: October 17, 1997

QUEEN ANNE'S COUNTY CODE
TITLE 14
CHESAPEAKE BAY CRITICAL AREA ACT

AND

CRITICAL AREA PROGRAM

AMENDMENT PACKAGE

Subtitle 1. Chesapeake Bay Critical Area Act

Part 1. Title, Purpose, Authority, Applicability and Jurisdiction

14-101. Title.

This subtitle shall be known as and may be referred to as the "Queen Anne's County Chesapeake Bay Critical Area Act."

14-102. Authority.

(a) *Approval of Program by Critical Area Commission.*

On June 29, 1988, the Critical Area Commission approved a Chesapeake Bay Critical Area Program ("the Program") for Queen Anne's County as submitted by the Queen Anne's County Commissioners and as amended on February 15, 1989 and ~~(date of 4 year review approval)~~ June 4, 1996.

(b) *Adoption by County required.*

Section 8-1809 (e) of the Natural Resources Article, Annotated Code of Maryland requires that the Program and rules and regulations necessary to implement and enforce the Program be adopted by Queen Anne's County in accordance with legislative procedures for enacting ordinances.

(c) *Conformity with requirements.*

This subtitle is intended to conform to the requirements of § 8-1809 (e) of the Natural Resources Article, Annotated Code of Maryland.

14-106. Interpretation.

This subtitle shall be interpreted, whenever an administrator or the judiciary is called upon to do so, in conformance with the purposes intended to be served by its enactment. The intent of the regulations and supporting definitions is to protect both individual property owners and the general public from adverse impacts which might otherwise be the result of a proposed development or activity within the Critical Area. To this end, those called upon to interpret this Ordinance shall proceed as follows:

(1) Determine the public purpose(s) of the standard(s) with respect to which an interpretation is required.

(2) Determine the actual impact of various proposed interpretations, permitting flexibility in design but prohibiting any interpretation that lowers the protection afforded to the public and would be inconsistent with goals and objectives of the Program and the requirements of § 8-1801, et seq., of the Natural Resources Article, Annotated Code of Maryland.

(3) Determine that the proposed interpretation will insure a just balance between the rights of the landowner and all others who will be affected by that person's land use proposal.

(4) This subtitle has been carefully designed by the County Commissioners of Queen Anne's County to avoid regulations that either sacrifice legitimate public goals, including the protection of adjoining property owners, or require undue limitations on the ability of property owners to use their land in manners consistent with the goals of the Program. Having balanced the rights of these competing groups to achieve maximum protection with minimum restrictions, great care should be taken by those interpreting this Ordinance not to substitute their judgments for the legislative acts of the County Commissioners.

Whenever in this Ordinance reference is made to an agency of Queen Anne's County, the State of Maryland, or other political subdivision existing on the effective date of this Ordinance, the reference shall be interpreted to include any succession to the agency's duties or responsibilities and any different name by which the agency may become known.

Subpart 2. Resource Utilization Standards

14-128. Regulation of agriculture and timber harvesting in all development areas.

(a) *Agricultural Activities.*

Agriculture and agricultural activities shall be permitted in all development areas in the Critical Area, subject to applicable provisions of the Queen Anne's County Code, and provided that:

(1) The landowner proposing to locate or practice agricultural activities within the Critical Area have in place and be implementing an approved Soil Conservation and Water Quality Plan which shall specify Best Management Practices within the Critical Area and which shall have been approved by the Soil Conservation District.

(2) The creation of new agricultural lands shall not be accomplished by diking, draining or filling palustrine nontidal wetlands.

(3) The creation of new agricultural land shall not be accomplished by clearing forests or woodlands on steep slopes or erodible soils; by clearing existing natural vegetation within the Buffer; or by clearing existing natural vegetation if it will adversely affect water quality or destroy plant and wildlife.

(4) Best Management Practices shall be used to control nutrients, animal wastes, pesticides, and sediment runoff to minimize contamination of surface water and groundwater and minimize adverse effects on plants, fish, and wildlife resources.

(5) The feeding and watering of livestock shall not be permitted within 50 feet of the mean high water line of tidal waters or tributary streams, or from the edge of tidal wetlands, whichever is further inland.

(6) Agriculture activities are permitted in the Buffer, if, as a minimum Best Management Practice, a 25-foot vegetated filter strip measured landward from the mean high water line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, shall be established prior to the commencement of any such agricultural activities. The filter strip shall conform to the following minimum standards:

(i) The filter strip shall be composed of either trees with a dense ground cover, or a thick sod of grass.

(ii) The filter strip shall be expanded a distance of ~~six~~ four (4) feet for every one (1) percent of slope, for slopes greater than six (6) percent.

(iii) The filter strip shall be maintained until such time as the landowner

is implementing, under an approved Soil Conservation and Water Quality Plan, a program of Best Management Practices for the specific purpose of improving water quality and protecting plant and wildlife habitat; and provided that the portion of the Soil Conservation and Water Quality Plan being implemented achieves the water quality and habitat protection objectives of the filter strip.

(b) *Clearing and cutting of trees.*

The clearing and cutting of trees in any forest or developed woodland shall be subject to the following conditions and restrictions:

(1) A timber harvest plan and performance guarantees as prescribed in Subpart 4 of Part VII of this subtitle shall be required for all timber harvesting occurring within any one (1) year interval and affecting one (1) or more acres in forest and developed woodland in the Critical Area. The Plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Fish, Heritage, and Wildlife Forest Service through the District Forestry Boards and the project forester, and filed with the Queen Anne's County Department of Planning and Zoning. Plans shall include measures to protect surface and groundwater quality and shall identify whether the activities will disturb or affect Habitat Protection Areas and incorporate protection measures for these areas as specified by the Department of Planning and Zoning. To provide for the continuity of habitat, the plans shall address mitigation through forest management techniques which include scheduling, size, timing and intensity of harvest cut, afforestation and reforestation.

(2) A Sediment Control Plan and performance guarantees as prescribed in Subpart 4 of Part VII of this subtitle shall be required for all timber harvests of 5,000 square feet or more in the Critical Area, including harvesting timber on agricultural lands. This plan shall be developed according to the State guidelines entitled: "Standard Erosion and Sediment Control Plan for Harvest Operations." The operations shall be implemented in accordance with the Maryland Fish, Heritage and Wildlife Forest Service specifications set out by the Maryland Forest Service, and enforced by the Department of Natural Resources.

Subpart 4. Use and Development Regulations in Development Areas.

14-137. Use and development regulations in intensely developed areas.

(b) *Uses not permitted or strictly limited.*

(1) The following uses are prohibited in IDAs due to their adverse impact on habitats and water quality development areas:

(i) transportation facilities, and utility transmission facilities (except those serving permitted uses or where regional or interstate facilities must cross tidal waters);

(ii) sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities; and

(iii) non-maritime heavy industry;

(iv) Waste disposal uses as defined in Section 18 of the Queen Anne's County Code; and

(v) the land application of sludge.

~~(2) The following uses are prohibited unless it is determined by the Board of Appeals that no environmentally acceptable alternative exists outside the Critical Area, and that these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem:~~

~~(i) Solid or hazardous waste collection or disposal facilities;~~

~~(ii) Sanitary landfills; and~~

~~(iii) The land application of sludge.~~

(e) *Site performance standards for building permits.*

Development and redevelopment requiring only the issuance of a building permit within the IDA shall be subject to the following conditions and restrictions:

(1) All environmental and natural features on that portion of the site within the Critical Area shall be identified including Habitat Protection Areas as defined in Section VI of the Queen Anne's County Critical Area Program.

(2) Development and redevelopment activities shall be located to avoid disturbance to Habitat Protection Areas as defined in Section VI of the Queen Anne's County Critical Area Program. When no alternative exists and such activities must cross or be located in

Habitat Protection Areas, the applicant shall minimize impacts to habitats and show that no reasonable feasible alternative location for such activities exists.

(3) Forest and developed woodlands shall be protected in accordance with the following:

(i) Except as provided in §14-128(b)(3), the clearing or cutting of forest or developed woodland for development or redevelopment shall provide insofar as possible that no more than 20 percent of the forest or woodland is removed.

(ii) When proposed development or redevelopment requires the cutting or clearing of trees, areas proposed for clearing must be identified on the plan accompanying the building permit application.

(iii) Trees with a diameter at breast height (DBH) greater than four (4) inches that are cut or cleared during development or redevelopment shall be replaced on site on a one-to-one basis. Replacement trees shall be non-bare root, native species and at least four (4) to six (6) feet in height.

14-138 Development standards in limited development areas.

(b) *Uses not permitted or strictly limited.*

(1) The following uses are prohibited in LDAs due to their adverse impact on habitats and water quality development areas:

(i) transportation facilities, and utility transmission facilities (except those serving permitted uses or where regional or interstate facilities must cross tidal waters);

(ii) Sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities; and

(iii) non-maritime heavy industry;

(iv) Waste disposal uses as defined in Section 18 of the Queen Anne's County Code;

(v) The land application of sludge.

~~(2) The following uses are prohibited unless it is determined by the Board of Appeals that no environmentally acceptable alternative exists outside the Critical Area, and that these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem:~~

~~(i) Solid or hazardous waste collection or disposal facilities;~~

~~_____ (ii) Sanitary landfills; and~~

~~_____ (iii) The land application of sludge.~~

(d) ***Site performance standards.***

(6) Forests and developed woodlands shall be created or protected in accordance with the following:

(i) When forest on the site totals less than 15 percent of the site area, additional forested areas shall be established so that at least 15 percent of the site area is in forest cover. The location of the afforested area shall be designed to protect habitats or to provide continuity with forested areas on adjacent sites.

(ii) When forests or developed woodlands exist on the site and proposed development requires the cutting or clearing of trees, areas proposed for clearing shall be identified on the proposed development plan. The developer shall submit development plans to the Maryland Forest Service for comments and recommendations and shall transmit such comments to the Department of Planning and Zoning. In addition, cutting or clearing which is associated with development shall be subject to the following limits and replacement conditions:

1. Except as provided in subsection (3) below, no more than 20 percent of a forested or developed woodland area of a site proposed for development may be removed. The remaining 80 percent shall be maintained as forest cover. Restrictive covenants or easements in legally recordable form prohibiting the removal of remaining forest cover shall be submitted to and approved by the Planning Commission Attorney prior to project approval and shall be recorded among the Land Records of Queen Anne's County in accordance with Title 18, Part IX of the Queen Anne's County Code.

2. Clearing of forest or developed woodlands up to 20 percent shall be replaced on an area basis of one to one on site, or, if ~~afforestation~~ reforestation is impracticable on site, elsewhere within the Critical Area as proposed by the applicant and approved by the Planning Director.

3. Subject to the limitations imposed upon the clearing and cutting of woodlands imposed in the Queen Anne's County Code, a developer may propose clearing up to 30 percent of the forested or developed woodland area of a site proposed for development without the need to obtain a variance under this Ordinance. However, any such area removed must be replaced at the rate of 1.5 times the area removed on site or, if ~~afforestation~~ reforestation is impracticable on site, elsewhere within the Critical Area as proposed by the applicant and approved by the Planning Department.

4. A variance under this Ordinance and the Queen Anne's County Code is required for removal of existing forest in excess of 30 percent of the forested or developed woodland area on a site proposed for development. Forested or developed woodland

areas removed must be replaced at the rate of three (3) times the total area removed on site or, if afforestation reforestation is impracticable on site, within the Critical Area as proposed by the applicant and approved by the Planning Department.

5. A sediment control permit shall be required prior to any clearing or cutting of trees associated with any development or development activities. If the cutting or clearing of forests or developed woodlands occurs before a sediment control permit is obtained, the area removed must be replaced on site at the rate of three (3) times the area removed.

(iii) Guarantees as prescribed in Subpart 4 of Part VII of this Subtitle shall be provided in an amount suitable to assure forest replacement or afforestation.

(iv) Forests and developed woodlands required to be retained or created through afforestation or reforestation shall be maintained through restrictive covenants or easements.

(7) Development on slopes greater than 15 percent shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability.

(8) Impervious surfaces shall be limited to 15 percent of the gross site area proposed for development except as follows:

(i) If a parcel or lot one-half ($\frac{1}{2}$) acre or less in size was ~~in residential use or zoned for residential purposes~~ a lot of record on or before December 1, 1985, then man-made impervious surfaces associated with that use are limited to 25 percent of the parcel or lot.

(ii) If a parcel or lot one-fourth ($\frac{1}{4}$) acre or less in size was in nonresidential use on or before December 1, 1985, then man-made impervious surfaces associated with that development are limited to 25 percent of the parcel or lot. If a parcel or lot 8,000 square feet or less in size was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 25 percent of the parcel or lot plus 500 square feet, provided:

1. New impervious surfaces on the parcel or lot have been minimized;

2. Stormwater quality impacts have been minimized through site design and/or use of best management practices agreed on by the County and the Critical Area Commission; and

3. On-site mitigation is performed or payment of a fee-in-lieu is made to offset adverse water quality impacts.

(iii) If a parcel or lot greater than 8,000 square feet but less than or equal to 21,780 square feet was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 31.25 percent of the parcel or lot provided §6006.D.8.b(1), (2) and (3) are met.

(iv) If a parcel or lot greater than 21,780 square feet but less than or equal to 36,300 square feet was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 5,445 square feet provided §6006.D.8.b(1), (2) and (3) are met.

~~(iii)~~(v) If an individual lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, then man-made impervious surfaces of the lot may not exceed 25 percent of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15 percent.

~~(iv)~~ (vi) These provisions do not apply to a legally existing manufactured home park that was in residential use on or before December 1, 1985.

~~(v)~~ (vii) The Board of Appeals may grant a variance from the provisions of this subsection in accordance with Section 7000, et seq.

(e) ***Site performance standards for building permits.***

Development and redevelopment requiring only the issuance of a building permit within the LDA shall be subject to the following conditions and restrictions:

(1) All environmental and natural features on that portion of the site within the Critical Area shall be identified including Habitat Protection Areas as defined in Section VI of the Queen Anne's County Critical Area Program.

(2) Development and redevelopment activities shall be located to avoid disturbance to Habitat Protection Areas as defined in Section VI of the Queen Anne's County Critical Area Program. When no alternative exists and such activities must cross or be located in Habitat Protection Areas, the applicant shall minimize impacts to habitats and show that no reasonable feasible alternative location for such activities exists.

(3) Forest and developed woodlands shall be protected in accordance with the following:

(i) Except as provided in § 14-128(b)(3), the clearing or cutting of forest or developed woodland for development or redevelopment shall provide insofar as possible that no more than 20 percent of the forest or woodland is removed.

(ii) When proposed development or redevelopment requires the cutting or clearing of trees, areas proposed for clearing must be identified on the plan accompanying the

building permit application.

(iii) Trees with a diameter at breast height (DBH) greater than four (4) inches that are cut or cleared during development or redevelopment shall be replaced on site on a one-to-one basis. Replacement trees shall be non-bare root, native species and at least four (4) to six (6) feet in height.

(iv) If a person demonstrates to the satisfaction of the Planning and Zoning Office that mitigation requirements, on-site or off-site, cannot be reasonably accomplished, the person shall contribute money (a fee-in-lieu), at a rate to equal the total cost of replacing forest land to be cleared.

(v) The fees-in-lieu collected may only be used for projects within the Critical Area for the benefit of wildlife habitat, water quality improvement, or environmental education. These site will be planted with more than one native species and will remain in a forest management plan held with the Maryland Forest Service.

(4) Development on slopes greater than 15 percent shall be prohibited unless the slope is unstable and such development is demonstrated to be the only effective way to maintain or improve slope stability.

(5) Impervious surfaces shall be limited to 15 percent of the gross site area proposed for development except as follows:

(i) ~~If a parcel or lot one-half (1/2) acre or less in size was in residential use or zoned for residential purposes a lot of record on or before December 1, 1985, then man-made impervious surfaces associated with that use are limited to 25 percent of the parcel or lot.~~

(ii) ~~If a parcel or lot one-fourth (1/4) acre or less in size was in nonresidential use on or before December 1, 1985, then man-made impervious surfaces associated with that development are limited to 25 percent of the parcel or lot. If a parcel or lot 8,000 square feet or less in size was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 25 percent of the parcel or lot plus 500 square feet, provided:~~

1. New impervious surfaces on the parcel or lot have been minimized;

2. Stormwater quality impacts have been minimized through site design and/or use of best management practices agreed on by the County and the Critical Area Commission; and

3. On-site mitigation is performed or payment of a fee-in-lieu is made to offset adverse water quality impacts.

(iii) If a parcel or lot greater than 8,000 square feet but less than or equal to 21,780 square feet was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 31.25 percent of the parcel or lot provided §14-138(d)(8), i, ii, and are met.

(iv) If a parcel or lot greater than 21,780 square feet but less than or equal to 36,300 square feet was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 5,445 square feet provided § 14-138(d)(8), i, ii, and iii are met.

~~(iii)~~ (v) If an individual lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, then man-made impervious surfaces of the lot may not exceed 25 percent of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15 percent.

~~(iv)~~ (vi) These provisions do not apply to a legally existing manufactured home park that was in residential use on or before December 1, 1985.

~~(v)~~ (vii) The Board of Appeals may grant a variance from the provisions of this subsection in accordance with Part Vii of this subtitle.

14-139. Development standards in Resource Conservation Areas.

(a) *Permitted uses.*

Except as provided herein, uses permitted within RCA development areas shall be those permitted in the applicable underlying base zoning district. For a specific determination of permitted uses refer to the Queen Anne's County Code. All permitted uses shall be subject to the following development standards and/or conditions in addition to those established in other sections of this Ordinance.

(b) *Uses not permitted or strictly limited.*

(1) The following uses are prohibited in RCAs due to their adverse impact on habitats and water quality:

(i) transportation facilities, and utility transmission facilities (except those serving permitted uses or where regional or interstate facilities must cross tidal waters);

(ii) Sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities; and

(iii) non-maritime heavy industry;

(iv) Waste disposal uses as defined in the Queen Anne's County Code;

and

(v) The land application of sludge.

~~(2) The following uses are prohibited unless it is determined by the Board of Appeals that no environmentally acceptable alternative exists outside the Critical Area, and that these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem:~~

~~(i) Solid or hazardous waste collection or disposal facilities;~~

~~(ii) Sanitary landfills; and~~

~~(iii) The land application of sludge.~~

14-153. Special provisions for buffer exempted areas.

(a) *Scope.*

The following special provisions shall apply to development and redevelopment in

mapped Buffer Exemption Areas (BEAs) in the IDA, LDA, and RCA.

(b) *Intent.*

The following provisions are intended to accommodate limited use of shoreline areas that have been mapped as Buffer Exemption Areas (BEAs) under the provisions of this Ordinance while protecting water quality and wildlife habitat to the extent possible.

(c) *Applicability.*

This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of December 1, 1985 and located in mapped Buffer Exemption Areas as shown on the Critical Area Maps.

(d) *Criteria*

(1) New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer Exemption Area unless the applicant can demonstrate and the Planning Director finds that there is no feasible alternative. Such findings shall document that the intrusion is the least necessary. A copy of the Planning Director's findings in this regard shall be available to the Critical Area Commission upon request.

(2) New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer Exemption Area and shall not exceed the shoreward extent of existing structures located on the property. In no case shall the intrusion into the Buffer Exemption Area encroach into a required yard under the terms of the underlying zone unless a variance thereto has been first granted.

(3) Development may not impact any Habitat Protection Area (HPA) as defined in Section V of the Queen Anne's County Critical Area Program, except the Buffer.

(4) No natural vegetation may be removed in the Buffer except that required by the proposed construction and any other natural vegetation in the Buffer shall be maintained.

(5) Impervious surfaces shall be limited to 15 percent of the gross site area proposed for development except as follows:

(i) If a parcel or lot one-half ($\frac{1}{2}$) acre or less in size was ~~in residential use or zoned for residential purposes~~ a lot of record on or before December 1, 1985, then man-made impervious surfaces associated with that use are limited to 25 percent of the parcel or lot.

(ii) If a parcel or lot one-fourth ($\frac{1}{4}$) acre or less in size was in nonresidential use on or before December 1, 1985, then man-made impervious surfaces ~~associated with that development are limited to 25 percent of the parcel or lot.~~ If a parcel or lot

8,000 square feet or less in size was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 25 percent of the parcel or lot plus 500 square feet, provided:

1. New impervious surfaces on the parcel or lot have been minimized;
2. Stormwater quality impacts have been minimized through site design and/or use of best management practices agreed on by the County and the Critical Area Commission; and
3. On-site mitigation is performed or payment of a fee-in-lieu is made to offset adverse water quality impacts.

(iii) If a parcel or lot greater than 8,000 square feet but less than or equal to 21,780 square feet was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 31.25 percent of the parcel or lot provided § §14-138(d)(8), i, ii, and iii, are met.

(iv) If a parcel or lot greater than 21,780 square feet but less than or equal to 36,300 square feet was a lot of record on or before December 1, 1985, then manmade impervious surfaces on the lot are limited to 5,445 square feet provided § §14-138(d)(8), i, ii, and iii, are met.

~~(iii)~~ (v) If an individual lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, then man-made impervious surfaces of the lot may not exceed 25 percent of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15 percent.

~~(iv)~~ (vi) These provisions do not apply to a legally existing manufactured home park that was in residential use on or before December 1, 1985.

~~(v)~~ (vii) The Board of Appeals may grant a variance from the provisions of this subsection in accordance with Part VII of this subtitle.

(e) ***Buffer mitigation.***

(1) Any development in the Buffer Exemption Area approved under the provisions of this subsection shall be mitigated as follows:

(i) The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and

(ii) Natural vegetation of an area twice the extent of the impervious surface must be created on the property or other similar location approved by the Planning Director.

(2) Any required reforestation, mitigation or offset areas shall be designated under a development agreement or other instrument and recorded among the land records of Queen Anne's County.

(3) If a person demonstrates to the satisfaction of the Planning and Zoning Office that mitigation requirements, on-site or off-site, cannot be reasonably accomplished, the person shall contribute money (a fee-in-lieu), at a rate to equal the total cost of creating forest land.

(4) The fees-in-lieu collected may only be used for projects within the Critical Area for the benefit of wildlife habitat, water quality improvement, or environmental education. These site will be planted with more than one native species and will remain in a forest management plan held with the Maryland Forest Service.

14-168. Administrative variance.

(a) ***Intent.***

The purpose of the subsection is to authorize delegation of Board of Appeals authority as specified in Section 7000 to the Planning Director to apply the standards for variance as specified Section 7005 herein for certain proposed construction activities.

(b) ***Applicability.***

This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on single family lots of record as of June 29, 1988.

(c) ***Criteria.***

(1) New development or redevelopment shall minimize the disturbance in the Buffer to the least intrusion necessary.

(2) Development may not impact any Habitat Protection Area (HPA) as defined in Section VI of the Queen Anne's County Critical Area Program, except the Buffer.

(3) Any development in the Buffer approved under the provisions of this subsection shall be mitigated as follows:

(i) The extent or the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and

(ii) Natural vegetation of an areas twice the extent of the impervious surface must be created on the property or other similar location approved by the Planning Director.

(4) If a person demonstrates to the satisfaction of the Planning Director that mitigation requirements, on-site or off-site, cannot be reasonably accomplished, the person shall pay a fee-in-lieu equal to the total value of the required plantings. Such fee will be dedicated to County tree replanting programs within the Critical Area.

(5) Any required reforestation or mitigation or offset areas shall be designated under a development agreement or other instrument and recorded among the land records of Queen Anne's County.

(6) Applications for Administrative Variance shall be forwarded to the Critical Area Commission for review.

(7) The Critical Area Commission shall be notified of an administrative action by the Planning Director within ten (10) days of the action.

(d) ***Fee requirement.***

The application shall be accompanied by a non-refundable fee in an amount prescribed by the County Commissioners.

14-177. **Amendment procedures.**

(a) ***Initiation of text or map amendments.***

Text or map amendments may be initiated by resolution of the Planning Commission, County Commissioners or by a petition of the property owner filed with the County Commissioners. All petitions filed by property owners for map amendments shall be accompanied by the information required in Section 9911 of the Queen Anne's County Code and a fee prescribed by the County Commissioners.

(b) ***Planning Commission investigation.***

All proposed amendments shall be referred to the Planning Commission for investigation and recommendation. The Planning Commission shall first hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County. In addition, the Planning Commission shall post notice of their public hearing on property(s) for which amendments are requested and to the extent possible based on the best available information, notify all property owners immediately contiguous to the applicant of the hearing date, time and place.

(c) ***Planning Commission recommendation.***

The Planning Commission shall forward its report and recommendations to the County Commissioners within 60 days of referral, unless an extension of time is granted by the County Commissioners. The recommendations of the Planning Commission shall include discussion of the matters required to be considered by the County Commissioners.

(d) ~~Consideration~~ ***County Commissioner conceptual approval.***

At their regularly scheduled meeting the County Commissioners shall evaluate the proposed amendment on the basis of the report and recommendations of the Planning Commission ~~at its regular meeting~~ and either conceptually approve or disapprove the ~~Growth Allocation application~~ proposed amendment.

(e) ***Critical Area Commission Approval.***

All amendment applications that receive conceptual approval by the County Commissioners will be forwarded to the Critical Area Commission for review and approval. If the proposed amendment is approved by the Critical Area Commission, it shall proceed to the

County Commissioners for final approval.

~~(f). Final Approval by the Critical Area Commission~~

~~(1) If the proposed amendment is approved by the Chesapeake Bay Critical Area Commission, the submittal shall proceed through normal approval channels as outlined in this Ordinance, the Critical Area Program and the Queen Anne's County Code and for final subdivision plat or site plan approval~~

~~(2) Successful projects granted Growth Allocation will be submitted for final site plan or final subdivision approval as per requirements of the Zoning Ordinance and Subdivision Regulations~~

~~(3) The Official Critical Area Map(s) will be amended to reflect the new Growth Allocation and new development area designation when Final Approval is received.~~

(f) Final approval by the County Commissioners.

(1) After receiving notification from the Critical Area Commission that the proposed amendment has been approved pursuant to the provisions of Section 8-1809 of the Natural Resources Article of the Annotated Code of Maryland, the County Commissioners shall hold a public hearing on the proposed amendments which shall not be more than 90 days after notification of approval by the Critical Area Commission. Such hearing shall allow parties of interest and citizens an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County.

~~1.~~(2) In addition to other matters pertinent to the proposed amendment, the County Commissioners shall give specific consideration to the following matters:

(i) The purposes set forth in Section 8-1800, et seq. of the Natural Resources Article of the Annotated Code of Maryland, the Queen Anne's County Critical Area Program, the Comprehensive Plan and this Ordinance;

(ii) The recommendations of the Planning Commission; and

(iii) The relation of the proposed amendment to the Queen Anne's County Critical Area Program and the Comprehensive Plan; and

(iv) The testimony and other evidence presented at the public hearing.

~~(2.)~~(3) If the Planning Commission has recommended the adoption of an amendment and the County Commissioners propose to adopt an amendment which changes or departs from those recommendations, the proposal of the County Commissioners shall be referred to the Planning Commission, in writing, for its further recommendations and to the

Critical Area Commission for review and approval. If such recommendations are not received by the County Commissioners within 90 days after the proposal has been transmitted to the Planning Commission and accepted by the Critical Area Commission, the Commissioners may proceed to take final action without such recommendations.

~~(3)~~ (4) If the County Commissioners propose to adopt an amendment which is substantially different from both the proposed amendment and the recommendations of the Planning Commission as described in the published notice, a new public hearing shall be held. Notice of such hearing shall include notice of the amendment as proposed by the County Commissioners and any recommendations of the Planning Commission, including those made after any referral required by §14-177(f)(3).

~~(4)~~ (5) An amendment shall not be effective until after it is approved by the Critical Area Commission and not until ~~at least ten (10) days after the date of the public hearing required for its adoption~~ 45 days after approval by the County Commissioners.

(g) *Map Amendment.*

The Official Critical Area Map(s) will be amended to reflect the map amendment and new development area designation when the amendment becomes effective.

~~(h) Time Limitations.~~

~~If one-third of a project's building permits for construction have not been obtained within two (2) years of a project final approval, the Growth Allocation award shall become null and void. Further, the award shall be recaptured by the County unless an extension is granted by the County Commissioners. Extensions cannot be granted for more than one (1) year at any one time.~~

(h) *Use of approved growth allocation.*

(1) Successful projects granted Growth Allocation will be submitted for final site plan or preliminary and final subdivision approval as per requirements of the Queen Anne's County Code.

(2) If all construction associated with a nonresidential project which was awarded growth allocation has not been substantially completed within 24 months of site plan approval, then the growth allocation award shall be null and void. If road dedication to the County has not been completed for a residential project within 36 months of final subdivision or site plan approval, then the growth allocation award shall become null and void. Further, the award shall be recaptured by the County unless an extension is granted by the County Commissioners. Extensions cannot be granted for more than one (1) year at any one time.

Cloverfields proposed Buffer Exemption Area

Joins map 16

430,000 FT

39°00'00"

MD L - 420,000 FT

21666

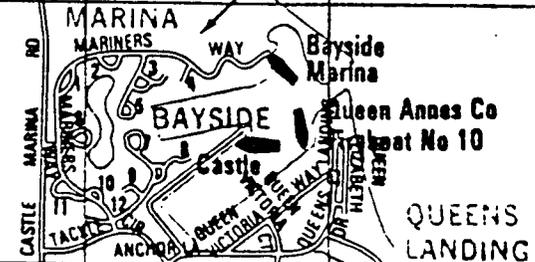
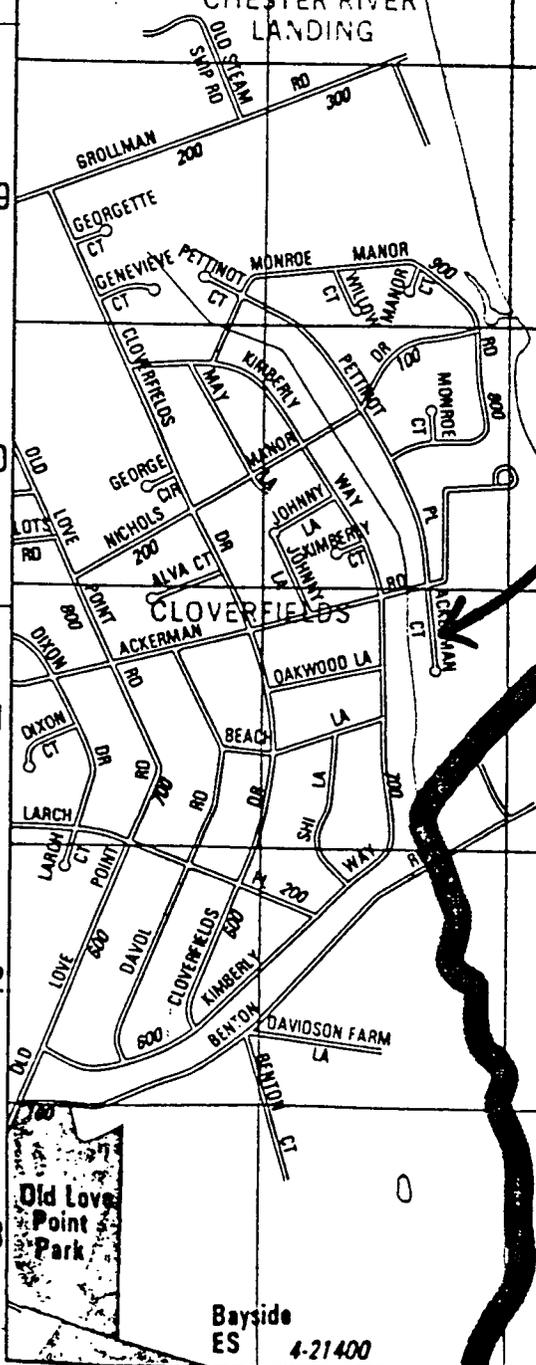
CHESTER RIVER
LANDING

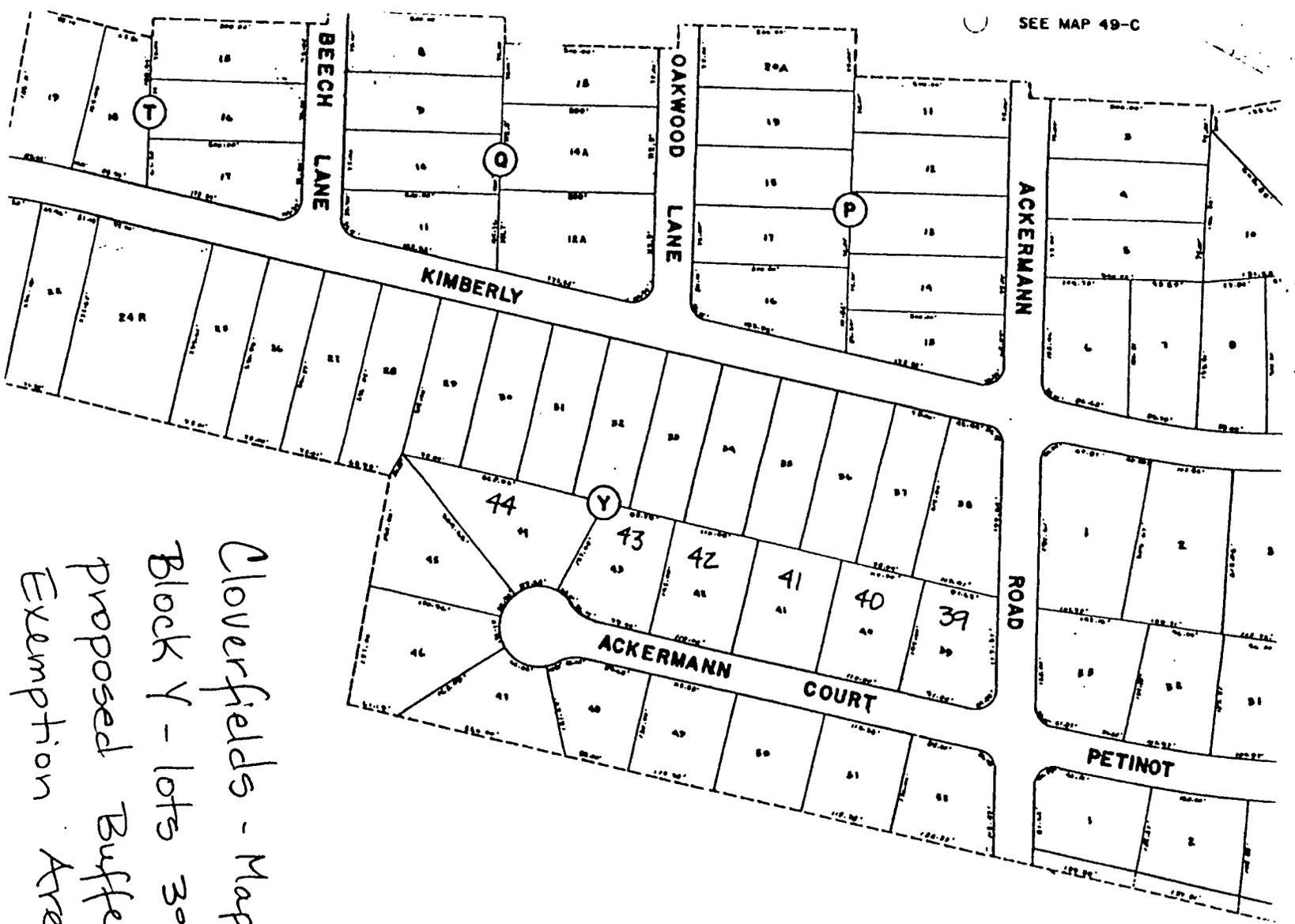
21619

BAYSIDE
MARINA

SEE GRID D13

- 1 MORGANER CT
- 2 GOLDENEYE CT
- 3 WIDGEON WAY
- 4 VIREO PL
- 5 BLENNY LA
- 6 TEAL CT
- 7 SCHOONER WAY
- 8 BODYS NECK RD
- 9 DRAKE TAIL PL
- 10 RING NECK CT
- 11 BUFFLEHEAD CT
- 12 HARBOR SOUND DR





Cloverfields - Map 49
 Block Y - lots 39-44
 Proposed Buffer
 Exemption Area