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RESOLUTION NO. 2004-10

A RESOLUTION OF THE COUNTY COUNCIL OF DORCHESTER COUNTY PROVIDING FOR DELETION OF 200 ACRE GROWTH ALLOCATION LIMITATION PER YEAR, REMOVAL OF FORESTRY BOARD FROM FINAL APPROVAL OF BUFFER MANAGEMENT PLAN AND TO ADDRESS FORM OF GOVERNMENT CHANGE FROM COUNTY COMMISSIONER TO COUNTY COUNCIL.

WHEREAS, Natural Resources Article, Section 8-1801 et. seq., Annotated Code of Maryland, requires and empowers the County to prepare, adopt, and amend a Chesapeake Bay Critical Area Protection Program; and

WHEREAS, in accordance with the said law, Dorchester County has conducted their local Annual Review; and

WHEREAS, the Planning Commission reviewed and approved the Chesapeake Bay Critical Area Protection Program amendments on July 2, 2003 and forwarded them to the County Council for adoption; and

WHEREAS, the County Commissioners held an advertised public hearing on September 14, 2004 regarding the amended Chesapeake Bay Critical Area Protection Program and forwarded the amendments to the Chesapeake Bay Critical Area Commission on September 17, 2004; and

WHEREAS, the Chesapeake Bay Critical Area Commission approved the amended Program on Nov. 19, 2004.

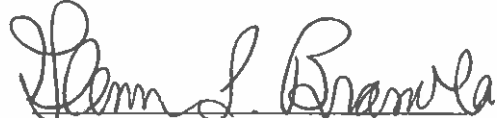
NOW THEREFORE, the County Council of Dorchester County, having complied with the procedural and substantive prerequisites of Natural Resources Article, Section 8-1801 et. Seq., Annotated Code of Maryland, do hereby repeal pages 1, 6, 26, and 42 of the Chesapeake Bay Critical Area Protection Program for Dorchester County, Maryland, and adopt amended pages 1, 6, 26, and 42, herewith attached; and be it further resolved that a true and exact copy of the amended pages of the Program shall be certified to the Clerk of the Circuit Court of Dorchester County.

Adopted this 14th day of September, 2004.

ATTESTED BY:

THE COUNTY COUNCIL
OF DORCHESTER COUNTY

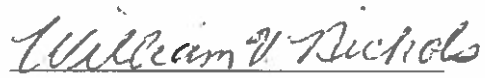

Jane Baynard
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I. INTRODUCTION

The Chesapeake Bay is the largest estuary in North America. The Bay is bordered by some 8,000 miles of shoreline and its 64,000 square mile drainage basin covers portions of four states (map 1).

The Chesapeake and its associated tidal wetlands provide rich habitat for an abundance of life. In addition to resident species of fish and wildlife, the Bay supports large wintering populations of migratory waterfowl and provides spawning, nursery, and feeding grounds for ocean dwelling fish.

The Chesapeake Bay has long been associated with seafood. Generations of bay watermen have harvested finfish, oysters, clams, and crabs. Recreational fishing, hunting, and boating attract millions of people to the Bay each year and contribute significantly to the economies of Maryland and Virginia.

Today the Chesapeake Bay is being degraded by pollution resulting from intense human activity along its shorelines and within its watershed. The living resources of the Bay are being stressed by toxic substances from industry, nutrients from sewage treatment plants and farmlands, and sediment from farms and construction sites.

These water quality problems are complex but not beyond resolution. The states of Maryland, Virginia, and Pennsylvania have formally agreed to cooperate in an effort to address the problems and restore the Chesapeake Bay, and many public and private organizations are involved as well. Maryland's Critical Area Law constitutes one element in the cleanup effort.

This Critical Area Protection Program for Dorchester County was developed as required by the Critical Area Law (Natural Resources Article, Sections 8-1801 through 8-1816, Annotated Code of Maryland) and associated Critical Area Criteria. The concept of designating a Critical Area along the Chesapeake Bay and controlling land use and development therein was conceived by state officials, not by the Dorchester County ~~Commissioners~~ **COUNCIL** or any other local entity.

The original Critical Area Protection Program was prepared by Norman Day Associates, a planning and urban design consultant in Philadelphia, Pennsylvania. Contributing firms included Andrews Miller and Associates, Inc. of Cambridge, Maryland (engineering and mapping) and Coastal Resources, Inc. of Annapolis, Maryland (natural resources). Local

III. CRITICAL AREA MAPPING

A. CRITICAL AREA

To address environmental degradation in the Chesapeake Bay, the Maryland General Assembly has designated a geographical area around the bay as the Critical Area. The Critical Area encompasses all waters of and lands under the Chesapeake Bay and its tributaries to the head of tide, all state and private tidal wetlands, and all land and water areas within 1,000 feet of the landward boundary of heads of tides and State or private tidal wetlands.

Critical Area mapping for Dorchester County was prepared by the Wetlands Division, Water Resources Administration, Maryland Department of Natural Resources. Using the State wetland boundary map (1971) as a basis, a 1,000 foot strip of land upland of tidal waters and tidal wetlands was dimensioned off to establish the limits of the Critical Area.

The Critical Area was originally delineated by the State at a scale of 1 inch equals 200 feet. Maps suitable for implementation purposes have been prepared at 1 inch equals 600 feet, and a second map series drawn at a scale of 1 inch equals 1 mile to satisfy overall planning needs.

A significant portion of Dorchester County was determined to lie within the Critical Area, owing to the extensive shoreline and relatively flat terrain that prevails. Over two-thirds of the total area of the county and nearly one-half of its land area are affected, involving some 176,600 acres or 276 square miles of land (map 2).

Primary land use data for the Dorchester County Critical Area was compiled by the Maryland Department of State Planning (Chesapeake Bay Critical Area: Land Use Composition and Change Analysis, Publication No. 85, July 1985). The approximate land use composition for the Critical Area in 1981 was as follows: residential uses - 1,700 acres; other development - 500 acres; agriculture - 27,500 acres; forests 53,400 acres; and wetlands - 93,500 acres.

The initial Critical Area boundary may be extended if requested by an individual property owner, provided that the change is not detrimental to water quality or natural habitat. All such requests will be reviewed and approved on a case-by-case basis.

Any person seeking an extension of the Critical Area will be required to file a sketch plan with the Dorchester County Planning and Zoning Office. The sketch plan must clearly illustrate the proposed change and must show the location of environmentally sensitive areas. The change must be subsequently approved by the Dorchester County Planning Commission, Dorchester County Commissioners COUNCIL, and the Chesapeake Bay Critical Area Commission.

~~Assuming that the existing underlying zoning in the undeveloped portions of the Limited Development Areas will not be changed to permit development at densities of 4.0 or more dwelling units per acre, there will be no need to use any of the permitted Critical Area growth allocation to convert Limited Development Areas to Intensely Developed Areas for residential purposes. As a result, all of the 2,900-acre county gGrowth allocation other than that reserved for the municipalities is expected to be MAY BE directed to Resource Conservation Areas, or USED to convert Limited Development Areas to Intensely Developed Areas, for RESIDENTIAL, commercial, industrial and institutional uses.~~

~~Based on the above considerations, tThe 2,900 2902.49 acre growth allocation for Dorchester County will be used as follows, specific acreage amounts are not listed and may be adopted by resolution by the County Commissioners COUNCIL:~~

- ~~Based on the methodology for calculating the amount of growth allocation required for new development described below, an estimated 1,149 acres of growth allocation has already been committed to development projects approved since December 1, 1985. Actual approved projects will be precisely determined retroactively, and the estimated 1,149-acre figure revised accordingly.~~
- ~~Acreage will be reserved for the City of Cambridge.~~
- ~~Acreage will be reserved for the Town of Vienna, Town of Secretary, Town of Church Creek, Eldorado, Brookview And Galestown.~~
- ~~Acreage will be reserved to convert existing Limited Development Areas to Intensely Developed Areas for nonresidential uses.~~
- ~~Acreage will be reserved to convert existing Resource Conservation Areas to Limited Development Areas or Intensely Developed Areas for nonresidential uses.~~
- ~~Acreage will be reserved for future residential development elsewhere in the Resource Conservation Areas.~~

~~Commitment of the estimated net 1,250-acre growth allocation reserved for residential development in Resource Conservation Areas will be phased over approximately 11 years, beginning December 1, 1985, to minimize the impacts of new development on the Critical Area. The annual award of growth allocation for residential development will not exceed 200 acres, and the annual award of growth allocation for nonresidential uses will not exceed 20 acres unless it is determined that the proposed use will provide substantial economic benefit to the county. Any portion of the intended allocation for one year that is unused for any reason may be added to the intended allocation for the next year.~~

The approval of either residential or nonresidential development projects requiring commitment of some of the county growth allocation will be responsive to the following location criteria:

- New Intensely Developed Areas should be located in Limited Development Areas or adjacent to existing Intensely Developed Areas;

The buffer will be maintained in natural vegetation, but may include planted vegetation where necessary to protect, stabilize, or enhance shoreline areas. Any clearing of existing natural vegetation will be based on a Buffer Management Plan, as described in the Dorchester County Zoning Ordinance. The plan will be prepared by the person proposing to clear vegetation—in consultation with the Dorchester County Forestry Board **PLANNING AND ZONING OFFICE**, and ~~must be approved by the Forestry Board.~~ Existing trees and natural vegetation will not be cut, cleared or removed, except for commercial harvesting and special-purpose cutting.

Commercial harvesting of loblolly pine and tulip poplar will be permitted within the buffer to within 50 feet of tidal waters, tidal wetlands, and perennial streams, and to the edge of intermittent streams. The Timber Harvest Plan and the Erosion and Sediment Control Plan will require current best management practices and other appropriate measures established by the Maryland Department of Natural Resources to minimize impacts and provide mitigation.

Existing agricultural activities will be permitted in the buffer, provided that a filter strip adjoining water areas or comparable water quality and habitat protection measures are established in accordance with a Soil Conservation and Water Quality Plan approved by the Dorchester Soil Conservation District. Where agricultural use of land within the buffer ceases and the land is proposed to be converted to other uses, the buffer shall be established. Management measures will be undertaken to provide forest vegetation that assures the intended water quality and habitat protection functions of the buffer.

New development activities such as buildings, paved areas, septic systems, and mining operations will not be permitted in the buffer.

2. Nontidal Wetlands

Nontidal wetlands are not regulated in the Dorchester County Code, however they are in Title 26 of the Environmental Article. Administration and enforcement of the regulations is through the Maryland Department of the Environment.

The preliminary location of nontidal wetlands can be determined by reference to the wetlands map series, color infrared photography, National Wetlands Inventory maps, and soil survey maps and reports. The actual extent of nontidal wetlands will be determined in the field by a person(s) experienced in wetland identification and boundary delineation. It will be the responsibility of the applicant for a specific project to provide to the Dorchester County Planning and Zoning Office the results of these field determinations for final approval.