

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2010 Legislative Session**

Bill No. CB-76-2010
Chapter No. 58
Proposed and Presented by The Chairman (by request – County Executive)
Introduced by Council Member Dernoga
Co-Sponsors _____
Date of Introduction September 7, 2010

ZONING BILL

1 AN ORDINANCE concerning
2 Chesapeake Bay Critical Area
3 For the purpose of making revisions to zoning requirements related to the Chesapeake Bay
4 Critical Area.

5 BY repealing and reenacting with amendments:

6 Sections 27-107.01, 27-213.12, 27-213.13, 27-229, 27-230, 27-231,
7 27-239.04, 27-241, 27-242, 27-255, 27-296, 27-317, 27-337.01,
8 27-343.02, 27-343.03, 27-384,27-410, 27-464.01, 27-475.01,
9 27-532.01, 27-541.01, 27-548.01, 27-548.10, 27-548.11,
10 27-548.13, 27-548.14, 27-548.15, 27-548.16, and 27-548.17

11 The Zoning Ordinance of Prince George's County, Maryland,
12 being also

13 SUBTITLE 27. ZONING.

14 The Prince George's County Code
15 (2007 Edition, 2009 Supplement).

16 BY repealing:

17 Section 27-343.01,
18 The Zoning Ordinance of Prince George's County, Maryland,
19 being also

20 SUBTITLE 27. ZONING.

The Prince George’s County Code
(2007 Edition, 2009 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Sections 27-107.01, 27-213.12, 27-213.13, 27-229, 27-230, 27-231, 27-239.04, 27-241, 27-242, 27-255, 27-296, 27-317, 27-337.01, 27-343.02, 27-343.03, 27-384, 27-410, 27-464.01, 27-475.01, 27-532.01, 27-541.01, 27-548.01, 27-548.10, 27-548.11, 27-548.13, 27-548.14, 27-548.15, 27-548.16, and 27-548.17 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 2. GENERAL.

DIVISION 1. DEFINITIONS.

Sec. 27-107.01. Definitions.

(a) Terms in the Zoning Ordinance are defined as follows:

* * * * *

(46.2) **Chesapeake Bay Critical Area:** All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, all State and private wetlands designated under the Annotated Code of Maryland, Natural Resources Article, Title [9,] 16 of the Environmental Article; and all land and water areas within one thousand (1,000) feet beyond the landward boundaries of State or private wetlands and heads of tides designated under the Annotated Code of Maryland, Natural Resources Article, Title [9] 16 of the Environmental Article, as indicated on approved Chesapeake Bay Critical Area Overlay Zoning Map Amendments.

(46.3) **Chesapeake Bay Critical Area Buffer:** As defined in Sec. 5B-106(a).

* * * * *

(54.1) **Conservation Agreement:** A formal agreement recorded in the land records which commits a grading or building permit applicant to the execution of various approved elements of a "Conservation Plan," including a stormwater management concept plan, an erosion and sedimentation concept plan, a vegetation management plan, and other plans

1 which may be required by the Department of [Environmental Resources] Public Works and
2 Transportation or the Prince George's County Planning Board.

3 [(54.2) **Conservation Manual:** The manual which describes how a "Conservation
4 Plan" is to be prepared in order to meet the requirements of the Chesapeake Bay Critical Area
5 program, and which is adopted by the District Council and revised and amended from time to
6 time by the District Council.]

7 [(54.3)] (54.2) **Conservation Plan:** A plan, developed in accordance with [the
8 "Conservation Manual,"] Subtitle 5B, which demonstrates how a project has been designed to
9 meet the specific Chesapeake Bay Critical Area criteria. [The "Conservation Plan" consists of a
10 stormwater management concept plan, an erosion and sedimentation concept plan, a vegetation
11 management plan, and such other plans relating to environmental systems as may be required by
12 the Washington Suburban Sanitary Commission, the Maryland-National Capital Park and
13 Planning Commission, the Prince George's County Health Department, the Prince George's
14 County Department of Environmental Resources, or the Prince George's Soil Conservation
15 District.]

16 [(54.4)] (54.3) **Consolidated Storage:** A "Building" divided into two (2) or more
17 individual units of 500 square feet or less, each of which is leased to an individual solely for
18 dead storage and not for use in connection with the operation of a business.

19 * * * * *

20 (66) **Density:** The number of "Dwelling Units" per acre of "Net Lot Area." In the
21 R-C-O Zone, the gross tract acreage is used to calculate density except as noted in Sec. 5B-
22 113(f).

23 * * * * *

24 (111.1) **Habitat Protection Area:** An area that is designated for protection
25 according to Subtitle 5B of the Prince George's County Code.

26 * * * * *

27 (122.1) **Impervious Surfaces:** Impervious surfaces consist of areas which are not
28 water permeable as a result of pavement, buildings, or compaction of soils during construction.

29 [(122.1)] (122.2) **Impervious Surface Ratio:** The ratio between that portion of a
30 site covered with impervious surfaces and the area of the entire site. For the purpose of
31 regulation, this ratio is expressed as the percentage of a site which may be impervious.

1 [Impervious surfaces consist of areas which are not water permeable as a result of pavement,
2 buildings, or compaction of soils during construction.]

3 [(122.2)] (122.3) **Informational mailing:** The mailing, with the information
4 required in Part 3, Division 1, which an applicant sends to municipalities, civic associations, and
5 adjoining property owners before filing an application.

6 * * * * *

7 (132.1) **Lot Coverage in the Chesapeake Bay Critical Area:** The percentage of
8 the gross area of a lot or parcel that is existing or proposed to be (1) occupied by a structure,
9 accessory structure, parking area, driveway, walkway, impermeable deck or stairway, or
10 roadway; or (2) covered with, gravel, stone, shell, impermeable decking, pavers, permeable
11 pavement, or any manmade material. Lot coverage in the Critical Area does not include (1) a
12 fence or wall that is less than one-foot in width that has not been constructed with a footer; (2) a
13 walkway in the Primary or Secondary Buffer, including a stairway that provides direct access to
14 a community or private pier; (3) a wood mulch pathway, or (4) a deck with gaps to allow water
15 to pass freely. The percentage of the gross area of a lot or parcel as defined in Sec. 5B-106(a).

16 **SUBTITLE 27. ZONING.**

17 **PART 3. ADMINISTRATION.**

18 **DIVISION 2. ZONING MAP AMENDMENTS.**

19 **SUBDIVISION 6. CHESAPEAKE CRITICAL AREA OVERLAY ZONES.**

20 **Sec. 27-213.12. Amendment of approved Chesapeake Bay Critical Area Overlay Zones.**

21 **(a) In general.**

22 (1) The Planning Board may, upon the concurrence of the District Council by
23 resolution, initiate amendments to the approved Chesapeake Bay Critical Area (CBCA) Overlay
24 Zoning Map [Amendment]. The initiating resolution shall specify the area of the Overlay Map
25 to be amended and shall be processed in accordance with the provisions of this Subdivision for
26 initial approval.

27 * * * * *

28 (3) Except as provided for in this Section, amendments to change the boundaries of a
29 Chesapeake Bay Critical Area Overlay Zone shall be approved by the District Council in
30 accordance with the provisions of this Subdivision for initial approval. Amendments of
31 Chesapeake Bay Critical Area Overlay Zones shall also be subject to Section 27-213.13, and

1 shall be subject to [the] approval by [of] the Chesapeake and Atlantic Coastal Bays Critical Area
2 Commission subsequent to approval by the District Council.

3 (b) **Applications.**

4 (1) In general.

5 * * * * *

6 [(2) Contents of application forms.]

7 [(A) The following information shall be included on the application:]

8 [(i) The name, address, and telephone number of the applicant, and an
9 indication of the applicant's status as contract purchaser, agent, or owner;]

10 [(ii) The existing and requested zoning classifications of the property
11 (including any requested changes in underlying zones);]

12 [(iii) The street address of the property; name of any municipality the
13 property is in; name and number of the Election District the property is in;]

14 [(iv) The total area of the property (in either acres or square feet);]

15 [(v) The property's lot and block numbers, subdivision name, plat book and
16 page number, if any; or a description of its acreage, with reference to liber and folio numbers;]

17 [(vi) The name, address, and signature of each owner of record of the
18 property. Applications for property owned by a corporation shall be signed by an officer
19 empowered to act for the corporation; and]

20 [(vii) The name, address, and telephone number of the correspondent.

21 [(3) Other submission requirements.]

22 [(A) Along with the application, the applicant shall submit the following:]

23 [(i) Eight (8) copies of an accurate plat, prepared, signed, and sealed by a
24 registered engineer or land surveyor. The plat shall show:]

25 [(aa) The present configuration of the property, including bearings and
26 distances (in feet);]

27 [(bb) The names of owners of record, or subdivision lot and block
28 numbers, of adjoining properties;]

29 [(cc) The name, location, distance to the center line, and right-of-way
30 width of all abutting streets. If the property is not located at the intersection of two (2) streets,
31 the distance to, and the name of, the nearest intersecting street shall be indicated;]

1 [(dd) The subdivision lot and block numbers of the subject property (if
2 any);]

3 [(ee) A north arrow and scale (not smaller than one (1) inch equals
4 four hundred (400) feet);]

5 [(ff) The total area of the property (in either square feet or acres);]

6 [(gg) The location of all existing buildings on the property; and]

7 [(hh) The subject property outlined in red;]

8 [(ii) Four (4) copies of the appropriate Zoning Map page on which the
9 property is plotted to scale and outlined in red;]

10 [(iii) Three (3) copies of a typewritten statement of justification in support of
11 the request. The statement shall set forth the legal basis by which the requested amendment can
12 be approved, and factual reasons showing why approval of the request will not be detrimental to
13 the public health, safety, and welfare. This statement may be accompanied by three (3) copies of
14 any material which (in the applicant's opinion) is necessary to clarify or emphasize the
15 typewritten statement. This additional material, if not foldable, shall be not larger than eighteen
16 (18) by twenty-four (24) inches;]

17 [(iv) A statement listing the names and the business and residential
18 addresses of all individuals having at least a five percent (5%) financial interest in the subject
19 property;]

20 [(v) If any owner is a corporation, a statement listing the officers of the
21 corporation, their business and residential addresses, and the dates on which they assumed their
22 respective offices. The statement shall also list the current Board of Directors, their business and
23 residential addresses, and the dates of each Director's term. An owner that is a corporation listed
24 on a national stock exchange shall be exempt from the requirement to provide residential
25 addresses of its officers and directors;]

26 [(vi) If the owner is a corporation (except one listed on a national stock
27 exchange), a statement containing the names and addresses of those individuals owning at least
28 five percent (5%) of the shares of any class of corporate security (including stocks and serial
29 maturity bonds);]

30 [(vii) Three (3) copies of a concept plan of any proposed development and an
31 estimated timetable of when the various stages of development are anticipated to occur;]

1 [(viii) The names and addresses of all adjoining property owners, and
2 each municipality if any part of the property in the application is located within the municipal
3 boundaries, or is located within one (1) mile of the municipality; and]

4 [(ix) Any other data or explanatory material deemed necessary by the
5 District Council or Planning Board (submitted in triplicate).]

6 [(B) For the purposes of (iv), (v), and (vi), above, the term "owner" shall include
7 not only the owner of record, but also any contract purchaser.]

8 (2) A complete application consists of :

9 (A) A completed application form including:

10 (i) The name, address, and telephone number of the applicant, and an
11 indication of the applicant's status as contract purchaser, agent, or owner (to include the contract
12 purchaser if any);

13 (ii) The existing and requested zoning overlay of the property (including
14 any requested changes in underlying zones);

15 (iii) The street address of the property; name of any municipality the
16 property is in; name and number of the Election District the property is in;

17 (iv) The total area of the property (in either acres or square feet);

18 (v) The property's map, lot and block numbers, subdivision name, plat
19 book and page number, if any; or a description of its acreage, with reference to liber and folio
20 numbers;

21 (vi) The name, address, and signature of each owner of record of the
22 property; and

23 (vii) The names, addresses, map and parcel or lot number of all adjoining
24 property owners, and each municipality if any part of the property in the application is located
25 within the municipal boundaries, or is located within one (1) mile of the municipality.

26 (B) Applications for property owned by a corporation shall include:

27 (i) The name, address, and telephone number of the officer(s) of the
28 corporation;

29 (ii) A statement listing the names and the business and residential
30 addresses of all individuals having at least a five percent (5%) financial interest in the subject
31 property;

1 (iii) A statement listing the officers of the corporation, their business and
 2 residential addresses, and the dates on which they assumed their respective offices. The
 3 statement shall also list the current Board of Directors, their business and residential addresses,
 4 and the dates of each Director's term. An owner that is a corporation listed on a national stock
 5 exchange shall be exempt from the requirement to provide residential addresses of its officers
 6 and directors;

7 (iv) A statement containing the names and addresses of those individuals
 8 owning at least five percent (5%) of the shares of any class of corporate security including stocks
 9 and serial maturity bonds (except one listed on a national stock exchange);

10 (v) The names and addresses of all adjoining property owners, and each
 11 municipality if any part of the property in the application is located within the municipal
 12 boundaries, or is located within one (1) mile of the municipality; and

13 (vi) Be signed by an officer empowered to act for the corporation and
 14 signed by the contract purchaser if any.

15 (C) Eight (8) copies of an accurate plat, prepared, signed, and sealed by a
 16 registered engineer or land surveyor. The plat shall show:

17 (i) The present configuration of the property, including bearings and
 18 distances (in feet);

19 (ii) The names of owners of record, map or subdivision, lot and block
 20 numbers, of all adjoining properties;

21 (iii) The name, location, distance to the center line, and right-of-way width
 22 of all abutting streets. If the property is not located at the intersection of two (2) streets, the
 23 distance to, and the name of, the nearest intersecting street shall be indicated;

24 (iv) The subdivision lot and block numbers of the subject property (if any);

25 (v) A north arrow and scale (not smaller than one (1) inch equals four
 26 hundred (400) feet);

27 (vi) The total area of the property (in either square feet or acres);

28 (vii) The location of all existing buildings on the property; and

29 (viii) The subject property outlined in red.

30 (D) Four (4) copies of the appropriate Zoning Map page on which the property is
 31 plotted to scale and outlined in red with proposed zoning.

1 (E) Eight (8) copies of a Conceptual Conservation Plan of any proposed
 2 development. The Conceptual Conservation Plan shall include all elements of a Conservation
 3 Plan as outlined in 5B-110(d) including the following:

4 (i) proposed Chesapeake Bay Critical Area (CBCA) Overlay Zone and
 5 proposed boundaries for all parcels or lots;

6 (ii) Location of a new Intensely Developed Overlay or a Limited
 7 Development Overlay in a Resource Conservation Overlay at least 300 feet beyond the landward
 8 edge of tidal wetlands or tidal waters.

9 (F) A Natural Resource Inventory (NRI), prepared in conformance with the
 10 Environmental Technical Manual;

11 (G) An environmental report demonstrating that the project will be designed and
 12 can be constructed so as to comply with all requirements of the proposed CBCA classification.

13 The environmental report shall include, at a minimum, the following:

14 (i) Project description;

15 (ii) Subdivision history since December 1, 1985 in the Chesapeake Bay
 16 Critical Area (CBCA);

17 (iii) A narrative describing the project type and use(s), including industrial,
 18 residential, commercial, institutional, or port-related, as it relates to the need to change the
 19 CBCA classification, and which describes how the growth allocation supports the planning goals
 20 of all applicable master plans and functional master plans, it optimizes benefits to water quality
 21 through clustering, woodland conservation, and use of best management practices for stormwater
 22 management and erosion and sediment control, including reference to the relevant sections of the
 23 Zoning Ordinance;

24 (iv) Total acreage in the CBCA;

25 (v) Total acreage in the proposed CBCA Overlay Zone

26 (vi) Total forest woodland and vegetated areas existing and acreage
 27 proposed to be cleared;

28 (vii) Calculations of required mitigation for clearing of woodland and
 29 vegetated areas;

30 (viii) The minimum 15 percent afforested areas in the CBCA;

1 (ix) Method and description of proposed stormwater quality and quantity
 2 management;

3 (x) Compliance with the 10% pollutant reduction rule in the Intensely
 4 Developed Overlay, including worksheets and all supporting documentation;

5 (xi) Soil erosion and sediment control measures and implementation
 6 strategies;

7 (xii) The existing and proposed lot coverage calculations as defined in
 8 section 27.107.01 of the Zoning Ordinance, calculated by square footage of the Zoning lot
 9 coverage per lot and for the site as a whole;

10 (xiii) The existing and proposed CBCA lot coverage calculations as defined in
 11 Subtitle 5B.103 of the Zoning Ordinance, calculated by square footage of the CBCA lot coverage
 12 for each lot and for the site as a whole;

13 (xiv) The underlying zoning district and description of primary use;

14 (xv) Preliminary review and comments from the appropriate units of the
 15 Department of Natural Resources, Maryland Department of the Environment and the Army
 16 Corps of Engineers for existing resources on the project site.

17 (xvi) A Buffer Management plan if:

18 (aa) A Buffer is required to be established on the development site as
 19 a condition of the development,

20 (bb) A proposed development activity impact to the Buffer, or

21 (cc) The removal of woodland or vegetation, including invasive
 22 species management, in the Buffer is proposed;

23 (xvii) The Buffer Management Plan must show at minimum:

24 (aa) Existing vegetation within the Buffer;

25 (bb) Any vegetation in the Buffer that is proposed to be removed;

26 (cc) The location and square feet of disturbance in the Buffer
 27 associated with a development activity;

28 (dd) A proposed planting plan showing the plantings required to
 29 establish the Buffer or as mitigation for proposed impacts including the size, species and location
 30 of all proposed plantings;

1 (ee) Any written descriptions, specifications, easement, or other
 2 protective agreement necessary to ensure implementation of the Buffer Management Plan
 3 including bonding to ensure long-term maintenance of vegetation in the Buffer and recorded
 4 easement to ensure long-term protection.

5 (xviii) A Habitat Protection Plan if the proposed development will
 6 impact an identified Habitat Protection Area with specific language that:

7 (aa) Provides for the protection and conservation of any identified
 8 habitat or species as set forth in COMAR 27.01.09 on the project site; and

9 (bb) Includes all protective measures necessary and appropriate to
 10 provide for long-term conservation of the identified habitat and species;

11 (cc) Requires the plan be based on consultation and comments
 12 provided by the Department of Natural Resources and other appropriate federal and State
 13 agencies.

14 (H) Three (3) copies of a typewritten statement of justification in support of the
 15 request. The statement shall set forth the legal basis by which the requested amendment can be
 16 approved, and factual reasons showing why approval of the request will not be detrimental to the
 17 public health, safety, and welfare. This statement may be accompanied by three (3) copies of
 18 any material which (in the applicant's opinion) is necessary to clarify or emphasize the
 19 typewritten statement. This additional material, if not foldable, shall be not larger than eighteen
 20 (18) by twenty-four (24) inches;

21 (I) Additional information as deemed necessary by the Planning Board or
 22 designee to evaluate the proposal.

23 (c) **Procedure.**

24 (1) After the application is accepted, it shall be [reviewed by] distributed to all
 25 appropriate referral agencies, and Department of the Environment, Department of Natural
 26 Resources, Maryland Historical Trust, Army Corps of Engineers and the Technical Staff, and
 27 processed in accordance with Section 27-213.13, and in accordance with the provisions of this
 28 Section.

29 (2) Referral to Historic Preservation Commission.

30 (A) When a historic resource included on the Adopted and Approved Historic
 31 Sites and Districts Plan is located on the subject property, the application shall be referred to the

1 Historic Preservation Commission, at time of initial distribution of application [as soon as
2 feasible after filing].

3 (B) The Historic Preservation Commission shall submit its comments and
4 recommendations for the record within forty five (45) days prior to the Planning Board hearing.
5 Failure of the Historic Preservation Commission to submit a recommendation within this time
6 period shall constitute no objection to the approval of the Map Amendment, as requested.

7 **(d) General publication.**

8 * * * * *

9 (2) One copy of the list described in this Subsection shall be mailed by the Planning
10 Board on a subscription basis without charge to [a to] every municipality as well as any
11 homeowners, neighborhood, civic, or similar association within a one mile radius of the project
12 that is the subject of the application.

13 **(e) Transmittal(s).**

14 (1) At least thirty (30) days prior to the public hearing, the [original copy of the]
15 application, plans, maps, specifications, Technical Staff Report, and all other data, materials, and
16 record evidence (to date) pertaining to the requested Map Amendment shall be sent by the
17 Planning Board to the District Council.

18 (2) At least thirty (30) days prior to the Planning Board hearing, a copy of the Map
19 Amendment application, the Conceptual Conservation Plan and map shall be sent to the Critical
20 Area Commission for the Chesapeake and Atlantic Coastal Bays for their initial review and
21 comment.

22 **(f) Public examination.**

23 (1) At least thirty (30) days prior to the public hearings, the original Map Amendment
24 application file shall be available for public examination in the Office of the Clerk of the
25 Council, and a copy of the file shall be available for public examination in the [Office of the]
26 Planning [Board] Director’s office. This file may be reviewed by anyone, and copies of its
27 contents may be obtained at reasonable cost.

28 **[(g) Referral to Historic Preservation Commission.** (2) One copy of the list described in
29 this Subsection shall be mailed by the Planning Board on a subscription basis without charge to
30 every municipality as well as any homeowners, neighborhood, civic, or similar association
31 within a one mile radius of the project that is the subject of the application.

1 (1) When a historic resource included on the Adopted and Approved Historic Sites
2 and Districts Plan (except the White Farm identified as Site Number 7306 on the Plan) is located
3 on the subject property, the application shall be referred to the Historic Preservation
4 Commission, as soon as feasible after filing.

5 (2) The Historic Preservation Commission shall submit its comments and
6 recommendations for the record within forty-five (45) days after the date the application was
7 referred to it. Failure of the Historic Preservation Commission to submit a recommendation
8 within this time period shall constitute no objection to the approval of the Map Amendment, as
9 requested.]

10 [(h)] (g) **Technical Staff Report.**

11 (1) In connection with each application, a report by the Technical Staff shall be
12 submitted to the Planning Board for its review. The Report shall contain the following:

13 * * * * *

14 (D) In cases where the staff recommends an overlay zone different than that
15 requested, an analysis of the alternative overlay zone recommended[-].;

16 (E) Comments from the Critical Area Commission and other referral agencies or
17 departments that are relevant to the project.

18 * * * * *

19 [(i)] (h) **Planning Board procedures.**

20 * * * * *

21 (F) Copies of the minutes of the Planning Board hearing shall be available for
22 public inspection. The minutes may be copied by anyone during normal working hours [.] ; and

23 (G) Upon recommending approval of an application for growth allocation, the
24 Planning Board shall forward a copy of the Resolution to the Critical Area Commission for the
25 Chesapeake and Atlantic Coastal Bays.

26 [(j)] (i) **Zoning Hearing Examiner hearing procedures.**

27 * * * * *

28 [(k)] (j) **District Council hearing (oral argument) procedures.**

29 * * * * *

30 (2) Upon their approval of an application for growth allocation, the District Council
31 shall within 10 working days after the date of issuance, forward a Notice of Intent to award

1 growth allocation for the project to the Critical Area Commission for the Chesapeake and
2 Atlantic Coastal Bays for approval. The Notice of Intent must include a statement regarding how
3 the provisions of Section 27.213.13(b)(1) have been met and all of the components of the
4 complete application.

5 (3) Approval of the growth allocation by the District Council does not constitute
6 approval of a Conservation Plan. A separate Conservation Plan application in conformance with
7 Subtitle 5B is required prior to permit issuance.

8 **Sec. 27-213.13. Map amendment approval.**

9 * * * * *

10 (b) **Expansion of Intense Development and Limited Development Overlay Zones.**

11 (1) The boundaries of the Intense Development and Limited Development Overlay
12 Zones may be expanded within the Chesapeake Bay Critical Area only in accordance with the
13 following:

14 * * * * *

15 (B) Location. Expanded Intense Development or Limited Development Overlay
16 Zones may be approved subject to the following locational criteria:

17 (i) New Intense Development Overlay Zones shall:

18 * * * * *

19 (cc) [Minimizes impacts on Habitat Protection Areas and on land in
20 Resource Conservation Overlay Zones in proximity to an expanded Intense Development
21 Overlay Zone.] Be located in a manner that minimizes impacts to the defined land uses of the
22 Resource Conservation Overlay as noted in subsection 27-548.15.

23 (ii) New Limited Development Overlay Zones shall:

24 * * * * *

25 (cc) [Minimize impacts on Habitat Protection Areas and land in
26 Resource Conservation Overlay Zones in proximity to an expanded Limited Development
27 Overlay Zone.] Be located in a manner that minimizes impacts to the defined land uses of the
28 Resource Conservation Overlay as noted in subsection 27-548.15;

29 (C) Additional considerations. In reviewing map amendments or refinements
30 involving the use of growth allocation, the following factors shall be considered:

31 (i) Consistency with the General Plan; all applicable master and sector
32 plans; the current water and sewer plan; and Priority Funding Areas; and whether the growth

1 allocation would implement the goals, objectives, policies and strategies of the adopted plans.

2 (ii) For a map amendment or refinement involving a new L-D-O, whether
 3 the development is:

4 (aa) To be served by a public wastewater system or septic system that
 5 uses the best available nitrogen removal technology;

6 (bb) A completion of an existing subdivision;

7 (cc) An expansion of an existing business; or

8 (dd) To be developed using the Conservation Subdivision option;

9 (iii) For a map amendment or refinement involving a new I-D-O:

10 (aa) To be served by a public wastewater system;

11 (bb) To have an allowed average density of at least 3.5 units per acre
 12 as calculated under section 5-7B-03(h) of the state Finance Procurement Article;

13 (cc) For a new I-D-O that is greater than 20 acres, to be located in a
 14 Priority Funding Area, as described under Section 5-7B-02(1) and 5-7B-03 of the state finance
 15 and procurement article; and

16 (dd) To have a demonstrable economic benefit to the area.

17 (iv) The use of existing public infrastructure, where practical;

18 (v) Consistency with State and regional environmental protection policies
 19 concerning the protection of threatened and endangered species and species in need of
 20 conservation that may be located on- or off-site;

21 (vi) Impacts on a priority preservation area, as defined under § 2-518 of the
 22 Agriculture Article;

23 (vii) Environmental impacts associated with wastewater and stormwater
 24 management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands,
 25 and tributary streams; and

26 (viii) Environmental impacts associated with location in a coastal hazard area
 27 or an increased risk of severe flooding attributable to the proposed development.

28 [(C)] (D) Additional requirements. Prior to developing land in an expanded Chesapeake Bay
 29 Critical Area Overlay Zone, the area shall be mapped and submitted to the Chesapeake Bay
 30 Critical Area Commission for informational purposes only. This submission shall include an
 31 analysis of:

* * * * *

PART 3. ADMINISTRATION.

DIVISION 5. APPEALS AND VARIANCES.

SUBDIVISION 2. BOARD OF ZONING APPEALS.

Sec. 27-229. Powers and duties.

* * * * *

(b) The Board of Zoning Appeals shall not have the power or duty to:

* * * * *

(22) Grant a variance from any [provision of a Conservation Plan or Conservation Agreement;] of the requirements applicable within the Chesapeake Bay Critical Area;

(23) Hear and decide upon an appeal from any determination regarding a Conservation Plan, or a Conservation Agreement, [the Conservation Manual,] Subtitle 5B, or from the provisions of this Subtitle for property located within the Chesapeake Bay Critical Area Overlay Zones;

* * * * *

Sec. 27-230. Criteria for granting appeals involving variances.

(a) A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:

* * * * *

(b) Variances may only be granted by the Planning Board from the provisions of this Subtitle or [the Conservation Manual] Subtitle 5B for property located within the Chesapeake Bay Critical Area Overlay Zones where an appellant demonstrates that provisions have been made to minimize any adverse environmental impact of the variance and where the Prince George's County Planning Board (or its authorized representative) [has certified, and the Board of Zoning Appeals] has found, in addition to the findings set forth in Subsection (a), that:

(1) Special conditions or circumstances exist that are peculiar to the subject land or structure and that a literal enforcement of the [Overlay Zone provisions] Critical Area Program would result in unwarranted hardship which is defined as a circumstance where without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested;

(2) A literal interpretation of [this Subtitle] the provisions of the Critical Area Program and related ordinances would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the [Chesapeake Bay] Critical Area [Overlay Zones];

(3) The granting of a variance would not confer upon an applicant any special privilege that would be denied by [this Subtitle] Critical Area Program to other lands or structures within the [Chesapeake Bay] Critical Area [Overlay Zones];

* * * * *

(5) The granting of a variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the [Chesapeake Bay] Critical Area, and that the granting of the variance would be in harmony with the general spirit and intent of the [applicable laws within the Chesapeake Bay Critical Area] State Critical Area Law and the County Critical Area Program;

* * * * *

Sec. 27-231. Procedures.

* * * * *

(d) Notice of public hearing.

* * * * *

(10) Notices of variance requests from Chesapeake Bay Critical Area Overlay Zone requirements concerning property within the Chesapeake Bay Critical Area Overlay Zones shall be heard and, as appropriate, approved by the Planning Board. [sent to the Chesapeake Bay Critical Area Commission, the Department of Environmental Resources, and the Planning Board (or its authorized representative) within five (5) days of filing with the Board of Zoning Appeals.]

* * * * *

PART 3. ADMINISTRATION.

DIVISION 5. APPEALS AND VARIANCES.

SUBDIVISION 6. VARIANCE IN CONJUNCTION WITH OTHER APPROVALS.

Sec. 27-239.04. Procedures.

* * * * *

(f) For properties within the Critical Area, the Chesapeake and Coastal Bay Critical Area Commission recommendations must be made part of the record. Within 10 working days after a

1 written decision regarding a variance application is issued, the Chesapeake and Coast Bay
2 Critical Area Commission shall be sent a copy of the final decision. A permit may not be issued
3 for an activity that was the subject of a variance application until a 30 day appeal period to the
4 Chesapeake and Coastal Bay Critical Area Commission has elapsed and the plans are formally
5 stamped and approved by Planning Department staff.

6 **PART 3. ADMINISTRATION.**

7 **DIVISION 6. NONCONFORMING BUILDINGS, STRUCTURES, AND USES.**

8 **SUBDIVISION 1. GENERAL REQUIRMENTS AND PROCEDURES.**

9 **Sec. 27-241. Continuation**

10 * * * * *

11 (e) For properties within the Chesapeake Bay Critical Area, the following shall apply:

12 (1) A lot or parcel legally developed as of July 1, 2008, shall not be considered
13 nonconforming for purposes of Critical Area lot coverage.

14 (2) For the purpose of increasing Critical Area lot coverage on a lot or parcel under
15 subparagraph (1) above, the Critical Area lot coverage limitations of Sec. 27-548.17 shall not be
16 construed to apply to a development activity for which an approved Conservation Plan or Staff
17 Level review was obtained and:

18 (A) A building permit was issued before July 1, 2008; and

19 (B) Construction was initiated and an inspection was performed before July 1,
20 2009.

21 **Sec. 27-242. Alteration, extension, or enlargement.**

22 * * * * *

23 **(b) Exceptions.**

24 **(9) [Structures within a] Chesapeake Bay Critical Area Overlay Zone.**

25 **(A)** Within a Chesapeake Bay Critical Area Overlay Zone, the alteration,
26 extension, or enlargement of a certified nonconforming structure may be permitted and does not
27 require a Special Exception, provided that all of the following provisions are met:

28 **(i)** [Impervious surface] Lot coverage in the CBCA is the only
29 nonconforming element of the subject property relative to the Chesapeake Bay Critical Area
30 Overlay Zone in which it is located, and either all requirements of the underlying zone are met,
31 or other provisions of Subsection (b) apply to the subject use;

(ii) All structures contributing to the nonconforming [impervious surface coverage] lot coverage in the CBCA were in existence prior to [December 1, 1985;] July 1, 2008; and

(iii) Development on the property (including the proposed modification) does not result in a net increase in [impervious surface] lot coverage in the CBCA.

* * * * *

PART 3. ADMINISTRATION.

DIVISION 7. BUILDING, GRADING, USE AND OCCUPANCY PERMITS.

SUBDIVISION 2. PROCEDURES.

Sec. 27-255. Referral to Planning Board.

(a) No grading, building, or use and occupancy permit, except as provided in (c), below, shall be issued [by the Department of Environmental Resources] until the application has been referred to the Planning Board (or its authorized representative) for:

(1) Its review and recommendations with respect to the requirements of this Subtitle, Subtitle 24, Subtitle 25, the Regional District Act, and any conditions placed on the property in a zoning or subdivision matter; and

(2) A determination as to whether the application is in conformance with any approved Conceptual Site Plan, Detailed Site Plan, Transit District Development Plan, Chesapeake Bay Critical Area Conservation Plan or any other site or development plan applicable to development of the property.

* * * * *

(c) This Section shall not apply to:

(1) Temporary permits issued in accordance with Subdivision 3 of this Division (unless otherwise specified in this Subtitle), except in cases of property in a Transit District Overlay Zone, which shall be governed by Section 27-260(d); properties subject to Subtitle 25; and properties within the Chesapeake Bay Critical Area; and

(2) Permits of a minor nature, which types of permits shall be approved by the District Council upon the recommendation of the Planning Board and the Director of the Department of Environmental Resources or Department of Public Works and Transportation, and shall be maintained on a list available for public inspection in each of these offices. Any permits issued pursuant to these provisions shall not be subject to the requirements of this Subtitle. This exception shall not apply to any property which is located within a historic district or listed on

1 the Master Plan for historic preservation as a historic resource; properties subject to Subtitle 25;
2 or properties within the Chesapeake Bay Critical Area,

3 * * * * *

4 **Editor's Note:** The list of permits of a minor residential nature which may be approved by the
5 Director, Department of Environmental Resources or the Director's designee, without Planning
6 Board approval, include the following, as created and amended by CR-121-1991; CR-76-1993;
7 CR-11-1996; and CR-27-2002.

8 * * * * *

9 (10) Alterations or additions which are being made in order to comply with the
10 Maryland Accessibility Code, (Maryland Building Code for the Handicapped, Code of Maryland
11 Regulations, Section .05.02.02) except within the Chesapeake Bay Critical Area.

12 (11) Trailers used exclusively by the County Police Department in commercial parking
13 lots for which the permit shall automatically expire when the trailer is vacated by the Police
14 Department.

15 (12) Commercial and residential satellite dishes not exceeding 18 inches in diameter.

16 (13) Steps and ground level patios ([not] except within the Chesapeake Bay Critical
17 Area).

18 (14) Residential fences (maximum six feet) that are not subject to Detailed Site Plan,
19 Chesapeake Bay Critical Area Conservation Plan or any other type of site plan; do not include or
20 abut a property with a designated historic resource; and are not subject to utility easements,
21 storm drain or surface drainage easements, or floodplain easements.

22 (15) Sheds that do not otherwise require a building permit except within the
23 Chesapeake Bay Critical Area.

24 *Minor Residential Permits* (except within the Chesapeake Bay Critical Area).

25 * * * * *

26 **PART 4. SPECIAL EXCEPTIONS.**

27 **DIVISION 1. ADMINISTRATIVE PROCEDURES.**

28 **SUBDIVISION 1. APPLICATIONS.**

29 **Sec. 27-296. Application form and contents.**

30 * * * * *

31 (c) **Other submission requirements.**

(1) Along with the application, the applicant shall submit the following:

* * * * *

(B) A site plan (drawn to scale) showing all existing and proposed improvements and uses on the subject property, and the use and zoning of adjacent properties. The site plan shall be in sufficient detail so that a determination can be made that the proposed use will be in compliance with all requirements of this Subtitle applicable to it. The site plan must be capable of being reproduced on an ozalid or similar dry-copy machine, or nine (9) copies of the plan must be supplied. In a Chesapeake Bay Critical Area Overlay Zone, the site plan shall be prepared in accordance with Subtitle 5B [the Conservation Manual].

* * * * *

PART 4. SPECIAL EXCEPTIONS.

DIVISION 1. ADMINISTRATIVE PROCEDURES.

SUBDIVISION 9. SPECIAL EXCEPTION APPROVAL.

Sec. 27-317. Required findings.

* * * * *

(b) In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:

(1) where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or

(2) where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.

PART 4. SPECIAL EXCEPTIONS.

DIVISION 3. ADDITIONAL REQUIRMENTS FOR SPECIFIC SPECIAL EXCEPTIONS.

Sec. 27-337.01. Asphalt mixing plant.

* * * * *

(c) On land which is located within a Chesapeake Bay Critical Area Overlay Zone, development is subject to Subtitle 5B and the following additional requirements: [wash plants, including ponds, spoil sites, and equipment are prohibited within the Buffer, as defined in the Conservation Manual. No new asphalt mixing plant shall be approved, and no such operation presently in existence or previously approved shall be permitted to continue or commence where any of the following circumstances are present:]

1 [(1) Habitat protection areas have been or may be designated on the subject property,
2 in accordance with criteria set forth in the Conservation Manual;]

3 [(2) The use is located within the Buffer, as defined in the Conservation Manual;]

4 [(3) The use would result in the substantial loss of long-range (twenty-five (25) years
5 or more) productivity of forest and agriculture, or would result in a degrading of water quality;
6 or]

7 [(4) The subject property contains highly erodible soils.]

8 (1) No new asphalt mixing plant may be located in the R-C-O.

9 (2) On land which is located within the Chesapeake Bay Critical Area Overlay Zone,
10 no new asphalt mixing plant shall be approved, and no such operation presently in existence or
11 previously approved shall be permitted to continue or commence where any of the following
12 circumstances are present:

13 (A) Habitat Protection Areas have been or may be designated on the subject
14 property, in accordance with criteria set forth in Subtitle 5B;

15 (B) The use is located within the Buffer;

16 (C) The use would result in the substantial loss of long-range (twenty-five (25)
17 years or more) productivity of forest and agriculture, or would result in a degrading of water
18 quality; or

19 (D) The subject property contains highly erodible soils.

20 **Sec. 27-343.02. Concrete batching or mixing plant.**

21 * * * * *

22 (c) On land which is located within a Chesapeake Bay Critical Area Overlay Zone,
23 development is subject to Subtitle 5B. No new concrete batching or mixing plant may be located
24 in the R-C-O. [wash plants, including ponds, spoil sites, and equipment are prohibited within the
25 Buffer, as defined in the Conservation Manual. No new concrete batching or mixing plant shall
26 be approved, and no such operation presently in existence or previously approved shall be
27 permitted to continue or commence where any of the following circumstances are present:

28 (1) Habitat protection areas have been or may be designated on the subject property,
29 in accordance with criteria set forth in the Conservation Manual;

30 (2) The use is located within the Buffer, as defined in the Conservation Manual;

1 (3) The use would result in the substantial loss of long-range (twenty-five (25) years
2 or more) productivity of forest and agriculture, or would result in a degrading of water quality; or

3 (4) The subject property contains highly erodible soils.]

4 **Sec. 27-343.03. Concrete recycling facility.**

5 * * * * *

6 (c) On land which is located within a Chesapeake Bay Critical Area Overlay Zone, wash
7 plants, including ponds, spoil sites, and equipment are prohibited within the Buffer, as defined in
8 Subtitle 5B. [the Conservation Manual.] No new concrete recycling facility shall be approved,
9 and no such operation presently in existence or previously approved shall be permitted to
10 continue or commence where any of the following circumstances are present:

11 (1) Habitat protection areas have been or may be designated on the subject property,
12 in accordance with criteria set forth in Subtitle 5B; [the Conservation Manual;]

13 (2) The use is located within the Buffer, as defined in Subtitle 5B; [the Conservation
14 Manual;]

15 * * * * *

16 **Sec. 27-384. Nonconforming buildings, structures, and uses; alteration, enlargement,
17 extension, or reconstruction.**

18 (a) The alteration, enlargement, extension, or reconstruction of any nonconforming
19 building or structure, or certified nonconforming use (except those certified nonconforming uses
20 not involving buildings, those within the Chesapeake Bay Critical Area Overlay Zones as
21 specified in paragraph 7, below, unless otherwise provided, and except for outdoor advertising
22 signs), may be permitted subject to the following:

23 * * * * *

24 (7) In a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be
25 granted where the existing [impervious surface] lot coverage in the CBCA exceeds that allowed
26 by Section 27-548.17, and which would result in a net increase in the existing [impervious
27 surface] lot coverage in the CBCA. In addition, a Special Exception shall not be granted which
28 would result in converting a property which currently meets the [impervious surface] lot
29 coverage in the CBCA requirements of Section 27-548.17 to a nonconforming status regarding
30 [impervious surface] lot coverage in the CBCA, except if a finding of extenuating circumstances
31 is made, such as the necessity to comply with other laws and regulations.

1 * * * * *

2 **Sec. 27-410. Surface mining.**

3 * * * * *

4 (e) On land which is located within a Chesapeake Bay Critical Area Overlay Zone,
5 development is subject to Subtitle 5B. [no surface mining shall be located within:]

6 [(1) Designated habitat protection areas as described in the Conservation Manual;]

7 [(2) The Buffer area, as defined in the Conservation Manual;]

8 [(3) Any area where the use would result in the substantial loss of long-range (twenty-
9 five (25) years or more) productivity of forest and agriculture, or result in a degrading of water
10 quality; or]

11 [(4) An area containing highly erodible soils.]

12 * * * * *

13 **PART 6. COMMERCIAL ZONES.**

14 **DIVISION 5. ADDITIONAL REQUIRMENTS FOR SPECIFIC USES.**

15 **Sec. 27-464.01. Surface mining; sand and gravel wet-processing.**

16 * * * * *

17 (d) On land which is located within a Chesapeake Bay Critical Area Overlay Zone,
18 development is subject to Subtitle 5B. [surface mining, sand and gravel wet-processing, or wash
19 plants, including ponds, spoil sites, and equipment, are prohibited within the Buffer, as defined
20 in the Conservation Manual. In addition, no surface mining or sand and gravel wet-processing
21 shall be located within:]

22 [(1) Designated habitat protection areas, as described in the Conservation Manual;]

23 [(2) The Buffer area, as defined in the Conservation Manual;]

24 [(3) Any area where the use would result in the substantial loss of long-range (twenty-
25 five (25) years or more) productivity of forest and agriculture, or result in a degrading of water
26 quality; or]

27 [(4) An area containing highly erodible soils.]

28 **PART 7. INDUSTRIAL ZONES.**

29 **DIVISION 5. ADDITIONAL REQUIRMENTS FOR SPECIFIC USES.**

30 **Sec. 27-475.01. Surface mining; sand and gravel wet-processing.**

31 * * * * *

1 (d) On land which is located within a Chesapeake Bay Critical Area Overlay Zone,
2 development is subject to Subtitle 5B. [surface mining, sand and gravel wet-processing, or wash
3 plants, including ponds, spoil sites, and equipment, are prohibited within the Buffer, as defined
4 in the Conservation Manual. In addition, no surface mining or sand and gravel wet-processing
5 shall be located within:]

6 [(1) Designated habitat protection areas, as described in the Conservation Manual;]

7 [(2) The Buffer area, as defined in the Conservation Manual;]

8 [(3) Any area where the use would result in the substantial loss of long-range (twenty-
9 five (25) years or more) productivity of forest and agriculture, or result in a degrading of water
10 quality; or]

11 [(4) An area containing highly erodible soils.]

12 **PART 8. COMPREHENSIVE DESIGN ZONES.**

13 **DIVISION 5. ADDITIONAL REQUIRMENTS FOR SPECIFIC USES.**

14 **Sec. 27-532.01. Surface mining; sand and gravel wet-processing.**

15 * * * * *

16 (d) On land which is located within a Chesapeake Bay Critical Area Overlay Zone,
17 development is subject to Subtitle 5B. [surface mining, sand and gravel wet-processing, or wash
18 plants, including ponds, spoil sites, and equipment, are prohibited within the Buffer, as defined
19 in the Conservation Manual. In addition, no surface mining or sand and gravel wet-processing
20 shall be located within:]

21 [(1) Designated habitat protection areas, as described in the Conservation Manual;]

22 [(2) The Buffer area, as defined in the Conservation Manual;]

23 [(3) Any area where the use would result in the substantial loss of long-range
24 (twenty-five (25) years or more) productivity of forest and agriculture, or result in a degrading of
25 water quality; or]

26 [(4) An area containing highly erodible soils]

27 **PART 9. PLANNED COMMUNITY ZONES.**

28 **DIVISION 5. ADDITIONAL REQUIRMENTS FOR SPECIFIC USES.**

29 **Sec. 27-541.01. Surface mining; sand and gravel wet-processing.**

30 * * * * *

1 (d) On land which is located within a Chesapeake Bay Critical Area Overlay Zone,
 2 development is subject to Subtitle 5B. [surface mining, sand and gravel wet-processing, or wash
 3 plants, including ponds, spoil sites, and equipment, are prohibited within the Buffer, as defined
 4 in the Conservation Manual. In addition, no surface mining or sand and gravel wet-processing
 5 shall be located within:]

6 [(1) Designated habitat protection areas, as described in the Conservation Manual;

7 [(2) The Buffer area, as defined in the Conservation Manual;]

8 [(3) Any area where the use would result in the substantial loss of long-range (twenty-
 9 five (25) years or more) productivity of forest and agriculture, or result in a degrading of water
 10 quality; or]

11 [(4) An area containing highly erodible soils.]

12 **PART 10. MIXED USE ZONES.**

13 **DIVISION 5. ADDITIONAL REQUIREMENTS FOR SPECIFIC USES.**

14 **Sec. 27-548.01. Surface mining; sand and gravel wet-processing (nonconforming use).**

15 * * * * *

16 (d) On land which is located within a Chesapeake Bay Critical Area Overlay Zone,
 17 development is subject to Subtitle 5B and the following additional requirements: [surface
 18 mining, sand and gravel wet-processing, or wash plants, including ponds, spoil sites, and
 19 equipment, are prohibited within the Buffer, as defined in the Conservation Manual. In addition,
 20 no surface mining or sand and gravel wet-processing shall be located within:]

21 [(1) Designated habitat protection areas, as described in the Conservation Manual;]

22 [(2) The Buffer area, as defined in the Conservation Manual;]

23 [(3) Any area where the use would result in the substantial loss of long-range (twenty-
 24 five (25) years or more) productivity of forest and agriculture, or result in a degrading of water
 25 quality; or]

26 [(4) An area containing highly erodible soils.]

27 (1) Additional Requirements For Surface Mining, Sand and Gravel Wet-Processing

28 (A) Standards. Surface mining operation permits are issued by the Maryland
 29 Department of the Environment (MDE). A grading permit is also required in conformance with
 30 Subtitle 4 of the County Code. Periodic site inspections of permitted areas are made to
 31 determine whether the conditions of the permits and the accompanying Reclamation Plan are

1 being fulfilled. Permits for surface mining operations in the Critical Area shall only be granted if
2 the following conditions are met:

3 (B) A Reclamation Plan shall be submitted as part of the permit application
4 which specifies the use which is proposed to be made of the site following reclamation, the
5 manner in which that soil and subsoil are to be conserved and restored, the specifications for
6 surface gradient restoration suitable for the subsequent use, the proposed manner and type of re-
7 vegetation or other surface treatment of affected areas and an acceptable schedule to the County
8 for the implementation of reclamation measures. Reclamation is to occur as mining on each
9 segment of a site is completed.

10 (C) The operation will not have an unduly adverse effect on wildlife, forests, or
11 fresh water, estuarine or marine fisheries.

12 (D) The operator has provided applicable permits from all federal, State and
13 local regulatory agencies responsible for air and water pollution and sediment control.

14 (E) Consideration shall be given to:

15 (i) The effects of the proposed action on the environment, including
16 adverse and beneficial environmental effects that are reasonably likely if the proposal is
17 implemented or if it is not implemented.

18 (ii) Measures that might be taken to minimize potential adverse
19 environmental effects and maximize potential beneficial environmental effects, including
20 monitoring maintenance, replacement, operation and other follow-up activities.

21 (iii) An applicant's previous experience with similar operations which
22 indicates that the operation will not result in substantial deposits of sediment in stream beds or
23 lakes, landslides, or other causes of water pollution.

24 (F) Location of future sites. Within the Critical Area, surface mining is only
25 permitted on sites of five or more acres.

26 (i) New surface mining operations are permitted within the Critical Area
27 provided that identification of appropriate post-excavation uses for this land such as recreation,
28 habitat restoration, or development are accomplished according to the appropriate land
29 management classification (I-D-O, L-D-O or R-C-O) and other applicable County and State
30 codes and ordinances.

31 (ii) Areas such as the following shall not be used for surface mining:

1 (aa) Habitat Protection Areas and other important natural resource
2 areas such as those of scientific value or areas where assemblages of rare species occur;

3 (bb) Areas where highly erodible soils exist;

4 (cc) Areas where the use of lands for mining would result in the
5 substantial loss of long-range (25 years or more) productivity of forest and agriculture, or would
6 result in a degrading of water quality or a loss of vital habitat;

7 (dd) Lands within the Buffer.

8 (G) Surface mining operations shall operate under the following conditions:

9 (i) Future wash plants including ponds, spoil piles and equipment may not
10 be located within the Buffer.

11 (ii) Existing wash ponds shall be reclaimed as soon as possible after the
12 cessation of a sand and gravel operation.

13 (iii) To the fullest extent possible, existing sand and gravel operations shall
14 conduct their extraction activities so as to provide, at a minimum, a 100-foot Buffer of natural
15 vegetation between the operation and the mean high water line of tidal waters or the edges of
16 streams and tidal wetlands, whichever is further inland.

17 **PART 10A. OVERLAY ZONES.**

18 **DIVISION 2. CHESAPEAKE BAY CRITICAL AREA OVERLAY ZONES.**

19 **SUBDIVISION 1. GENERAL.**

20 **Sec. 27-548.10. Introduction.**

21 (a) The Chesapeake Bay Critical Area Overlay Zones are superimposed over the
22 underlying zones within the Chesapeake Bay Critical Area, in accordance with the procedures set
23 forth in Part 3, Division 2, Subdivision 6, of this Subtitle.

24 (b) In addition to the regulations set forth in this Division for development in the
25 Chesapeake Bay Critical Area Overlay Zones, all land within such zones shall be subject to the
26 development regulations set forth in [the Conservation Manual] Subtitle 5B and Subtitle 24.

27 (c) Grandfathering.

28 [(c)] (1) All buildable lots (except outlots and outparcels) [within subdivisions] recorded
29 prior to December 1, 1985, shall remain buildable lots, regardless of lot size, provided:

1 [(1)] (A) The proposed development will minimize adverse impacts on water quality
 2 that result from pollutants that are discharged from structures or conveyances or that have runoff
 3 from surrounding lands; and

4 [(2)] (B) The applicant has identified fish, wildlife, and plant habitat which may be
 5 adversely affected by the proposed development and has designed the development so as to
 6 protect those identified habitats whose loss would substantially diminish the continued ability of
 7 populations of affected species to sustain themselves. [; and]

8 (2) A legal parcel of land, not being part of the recorded or approved subdivision, that
 9 was recorded as of December 1, 1985 may be developed with a single family dwelling
 10 notwithstanding limitations on density in the Critical Area Overlay Zone provided:

11 (A) The proposed development will minimize adverse impacts on water quality
 12 that result from pollutants that are discharged from structures or conveyances or that have runoff
 13 from surrounding lands; and

14 (B) The applicant has identified fish, wildlife, and plant habitat which may be
 15 adversely affected by the proposed development and has designed the development so as to
 16 protect those identified habitats whose loss would substantially diminish the continued ability of
 17 populations of affected species to sustain themselves.

18 (3) All grandfathered lots shall be brought into conformance with the Critical Area
 19 regulations insofar as possible at the time of development.

20 [(3)] (4) The lot size, frontage, and vehicular access are in accordance with the
 21 requirements of the underlying zone. Development of these lots shall not count towards the
 22 growth allocation of the applicable Overlay Zone.

23 (d) Consistency. Nothing in this section may be interpreted as altering any requirements
 24 for development activities set out in the Water-Dependent Facilities Section or the Habitat
 25 Protection Areas Section of Subtitle 5B.

26 **Sec. 27-548.11. Conservation Plan[,] and Conservation Agreement[,] required.**

27 (a) All development and utilization of property located in the Chesapeake Bay Critical
 28 Area Overlay Zones shall be in accordance with [the Conservation Manual] Subtitle 5B and,
 29 where appropriate, in accordance with a Conservation Plan and Conservation Agreement. In the
 30 Chesapeake Bay Critical Area Overlay Zones, the requirements of the Conservation Manual

1 Subtitle 5B shall prevail where [the Manual is] they are more stringent than existing
2 requirements for development.

3 (b) [Concurrently with, or p] Prior to [,] the approval of a preliminary pla[t]n of
4 subdivision or a lot consolidation within the Chesapeake Bay Critical Area Overlay Zones, a
5 Conservation Plan [and Conservation Agreement] shall be submitted in accordance with ~~the~~
6 Conservation Manual] Subtitle 5B [for review by the Subdivision Review Committee] and
7 approv[al]ed by the Planning Board.

8 (c) Where no subdivision is required, prior to the approval of a building or grading permit
9 within the Chesapeake Bay Critical Area Overlay Zones, a Conservation Plan [and Conservation
10 Agreement] shall be submitted in accordance with [the Conservation Manual] Subtitle 5B for
11 [review by the Subdivision Review Committee and] approval by the Planning Board or its
12 authorized representative. The Planning Board shall approve the Conservation Plan [and
13 Conservation Agreement] prior to the issuance of a grading or building permit, unless waived in
14 accordance with the provisions of [the Conservation Manual] Subtitle 5B.

15 (d) The Conservation Plan and Conservation Agreement shall be prepared in accordance
16 with [the Conservation Manual] Subtitle 5B.

17 (e) Where a Conservation Plan and Conservation Agreement are required, the approved
18 Conservation Agreement shall be recorded among the land records of Prince George's County
19 prior to final plat approval of subdivision, when such plat is required, or prior to the issuance of a
20 building or grading permit if a plat is not required.

21 (f) Land disturbances not subject to grading or building permits shall not require a
22 Conservation Plan or Conservation Agreement unless otherwise noted herein, but shall comply
23 with the regulations of [the Conservation Manual] Subtitle 5B and the Zoning Ordinance.

24 (g) Minor revisions to an approved Conservation Plan are defined in [the Conservation
25 Manual] Subtitle 5B and may be made in accordance with the procedures set forth therein.

26 **PART 10A. OVERLAY ZONES.**

27 **DIVISION 2. CHESAPEAKE BAY CRTICAL AREA OVERLAY ZONES.**

28 **SUBDIVISION 2. SPECIFIC CHESAPEAKE BAY CRITICAL AREA** 29 **OVERLAY ZONES.**

30 **Sec. 27-548.13. I-D-O (Intense Development Overlay) Zone.**

31 (a) **Purposes.**

(1) The purposes of the I-D-O Zone are to:

* * * * *

(B) Promote new residential, commercial, and industrial land uses in accordance with development intensity limits designated for the I-D-O Zone in this Subtitle[, and in the Conservation Manual];

* * * * *

(c) Regulations.

(1) Additional regulations (to those of the underlying zones) concerning the impervious surface ratio, density, slopes, and other provisions for new development in the I-D-O Zone are as specified in this Division and Subtitle 5B [and in the Conservation Manual].

Sec. 27-548.14. L-D-O (Limited Development Overlay) Zone.

(a) Purposes.

(1) The purposes of the L-D-O Zone are to:

* * * * *

(C) Accommodate additional low- or moderate-intensity development [in accordance with the Conservation Manual].

* * * * *

(c) Regulations.

(1) Additional regulations (to those of the underlying zones) concerning the impervious surface ratio, density, slopes, and other provisions for new development in the L-D-O Zone are as specified in this Division and Subtitle 5B. [and in the Conservation Manual.]

Sec. 27-548.15. R-C-O (Resource Conservation Overlay) Zone.

* * * * *

(b) Uses.

* * * * *

(2) Additional regulations (to those of the underlying zones) concerning lot coverage in the CBCA [the impervious surface ratio], density, slopes, and other provisions for new development in the R-C-O Zone are as specified in this Division and Subtitle 5B [in the Conservation Manual].

* * * * *

PART 10A. OVERLAY ZONES.

DIVISION 2. CHESAPEAKE BAY CRITICAL AREA OVERLAY ZONES.
SUBDIVISION 3. USES PERMITTED. (OVERLAY ZONES)

Sec. 27-548.16. Uses permitted.

(b) In the Table of Uses, the following applies:

(3) The letters "PC" indicate that the use is permitted, subject to the following general criteria:

(A) The use is water-dependent, pursuant to the definition of water-dependent uses set forth in [COMAR 14.15.03.01] COMAR 27.01.03.01 and the criteria of [COMAR 14.15.03.04.B] COMAR 27.01.03.04.B, or, if the use is not water-dependent, structures or activities shall be located outside the Buffer insofar as possible;

(c) TABLE OF USES.

USE	ZONE		
	R-C-O	L-D-O	I-D-O
(1) COMMERCIAL:			
* * * * *	*	*	*
Expansion of existing marinas	[X] <u>SE</u> ¹	SE	SE
* * * * *	*	*	*
(2) INDUSTRIAL:			
* * * * *	*	*	*
Industrial uses, in general	X	X	PC ^{[2] 3}
<u>Surface mining and wet processing</u>	<u>X</u>	<u>SE</u>	<u>SE</u>
(3) RECREATIONAL/EDUCATIONAL:			
* * * * *	*	*	*
Private pier ^{[3] 4}	P	P	P
Public beaches and public water-oriented recreational and educational areas	PC ²	PC ²	PC
* * * * *	*	*	*

(4) TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES:			
Transportation facilities	X	X	p ^{[2]3}
Utility transmission facilities	X	X	p ^{[2]3}
* * * * *	*	*	*

1 Expansion of the existing marina in the Resource Conservation Overlay Zone is permitted if the marina was in existence when the property was brought into the Maryland-Washington Regional District.

[1]2 These facilities may be permitted within the Buffer in Limited Development Overlay Zones and Resource Conservation Overlay Zones provided that:

- (A) Adequate sanitary facilities exist;
- (B) Service facilities are, to the extent possible, located outside the Buffer;
- (C) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
- (D) Disturbance to natural vegetation is minimized; and
- (E) Areas for passive recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Overlay Zones, if service facilities for these uses are located outside of the Buffer.

[2]3 Permitted only where the use contributes to the improvement of water quality or receiving waters, such facilities are necessary to serve permitted uses, or regional or interstate facilities must cross tidal waters.

[3]4 Provided the private pier is [accessory to a one-family detached dwelling which is not] on land within a subdivision that provides a community pier. The boats secured to a private pier must be owned or used by the [occupants] owners of the [dwelling or their bona fide guests.] property.

PART 10A. OVERLAY ZONES.

DIVISION 2. CHESAPEAKE BAY CRITICAL AREA OVERLAY ZONES.

SUBDIVISION 4. REGULATIONS.

Sec. 27-548.17. Regulations.

* * * * *

(b) TABLE 1 – DENSITY MAXIMUM, LOT COVERAGE IN THE CHESAPEAKE BAY CRITICAL AREA [IMPERVIOUS SURFACE RATIO], SLOPES.

CONTROL	ZONE		
	R-C-O	L-D-O	I-D-O
Density	.05 ^{[2]1}	4.00 ^{[1]2}	Same as under lying zone
Maximum impervious surface ratio	15% ^[4]	15% ^[4]	[-] Same as under lying zone

Slopes	No development on slopes greater than 15% ³	No development on slopes greater than 15% ³	-
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1 Density in the R-C-O is calculated per Subtitle 5B-113 (f)

[1]2 Calculated as a maximum of four (4) dwelling units per acre of gross tract area; however, density may not exceed the density of the underlying zones.

[(A) Calculated as a maximum of one (1) dwelling unit per twenty (20) acres of gross tract area.

(B) The area of any private wetlands located on the property may be included subject to the following:

(i) The density on the upland portion of the parcel may not exceed one (1) dwelling unit per eight (8) gross acres; and

(ii) The area of private wetlands shall be estimated on the basis of vegetative data, as designated on the State wetlands map.

(C) An intrafamily transfer may be made from parcels that were record lots as of March 1, 1986, and are seven (7) or more, but less than sixty (60), gross acres in size.

(i) A parcel that is seven (7) or more, but less than twelve (12), gross acres in size may be subdivided into two (2) lots, consistent with the underlying zone. A parcel that is twelve (12) or more, but less than sixty (60), gross acres in size may be subdivided into three (3) lots. Again, any individual lot size must be consistent with the underlying zone. Lots created using the intrafamily transfer may not be further subdivided.

(ii) Any deed for a lot that is created by a bona fide intrafamily transfer shall contain a covenant stating that the lot is created subject to the provisions of this Section; and a lot created by a bona fide intrafamily transfer may not be conveyed subsequently to any person other than a member of the owner's immediate family, except under procedures established pursuant to Subsection (4) of this Section.

(iii) This subsection does not prevent the conveyance of the lot to a third party as security for a mortgage or deed of trust.

(iv) The Department of Environmental Resources shall establish standards and procedures, subject to the approval of the Commission, by which the County will permit the subsequent conveyance of lots to persons other than immediate family members. The standards and procedures shall assure that:

(aa) The lot was created as part of a bona fide intrafamily transfer and not with the intent of subdividing the original parcel of land for purposes of ultimate commercial sale; and

(bb) (I) A change in circumstances has occurred since the original transfer was made that is not inconsistent with this Subtitle and that warrants an exception; or

(II) Other circumstances that are consistent with this Subtitle and with the Commission's criteria to maintain land areas necessary to support the protective uses of agriculture, forestry, open space, and natural habitats in resource conservation areas warrant an exception.]

3 Except as provided in the Conservation Manual.

[4 Impervious areas may be increased to twenty-five percent (25%) of the site if any one of the following applies:

- (A) The parcel or lot is one-half (1/2) acre or less in size and either:
 - (i) Existed in its present configuration and was in residential use on or before December 1, 1985, and continues to be in the same residential use; or
 - (ii) Existed in its present configuration and was in a Residential Zone on or before December 1, 1985; is currently in a Residential Zone; and is being developed with a one-family detached dwelling, or additions or accessory structures thereto;
- (B) The parcel or lot is one-quarter (1/4) acre or less in size and was in nonresidential use on or before December 1, 1985; or
- (C) The lot is one (1) acre or less in size and is part of a preliminary plat of subdivision approved after December 1, 1985. The impervious area of the entire subdivision shall not exceed fifteen percent (15%).]

1 (c) The following Critical Area lot coverage percentages shall be met on all lots or parcels
 2 within the Critical Area unless the provisions of Section 27-241 with regard to nonconformance
 3 have been met or unless a variance has been approved by the Planning Board:

4 (1) Lot coverage in the Critical Area shall be limited to a maximum of 15% for all
 5 lots or parcels within the Critical Area except as specified below.

6 (2) For buildable lots or parcels one-half acre or less in size lot coverage is limited to
 7 25%.

8 (3) For buildable lots or parcels greater than one-half and less than one acre in size lot
 9 coverage is limited to 15%.

10 (4) For subdivisions approved after December 1, 1985, the overall Critical Area lot
 11 coverage for the subdivision may not exceed 15%. Lot coverage on individual lots may exceed
 12 15% as long as the overall percentage of Critical Area lot coverage does not exceed 15%.

13 SECTION 2. BE IT FURTHER ENACTED that Section 27-343.01 be and the same is hereby
 14 repealed:

15 **PART 4. SPECIAL EXCEPTIONS.**
 16 **DIVISION 3. ADDITIONAL REQUIRMENTS FOR SPECIFIC SPECIAL**
 17 **EXCEPTIONS.**

1 **Sec. 27-343.01. [Community piers and noncommercial boat docking and storage.]**

2 **Reserved.**

3 (a) Community piers and noncommercial boat docking and storage facilities may be
4 permitted, subject to the following:]

5 [(1) The sale of food, fuel, or other goods or services is prohibited;]

6 [(2) Adequate, clean sanitary facilities shall be provided;]

7 [(3) The facilities shall be community-owned, and operated for the benefit of the
8 residents of a riparian subdivision which is the subject of a record plat;]

9 [(4) The community association shall prohibit the installation and maintenance of
10 private piers by individual riparian landowners within the subdivision;]

11 [(5) Disturbance to the Buffer shall be the minimum necessary to provide a single
12 point of access to the facilities;]

13 [(6) Development of the facilities shall be consistent with all State and local
14 Chesapeake Bay Critical Area regulations;]

15 [(7) It shall be demonstrated that there will be adequate all-weather access from the
16 landward side to accommodate the proposed facility;]

17 [(8) It shall be demonstrated that there will be safe boating access from the community
18 facilities to cruising waters;]

19 [(9) The facilities shall be in conformance with the locational requirements for
20 community piers set forth in the Master Plan, if applicable;]

21 [(10) To the extent possible, wetlands shall be preserved, and development shall be
22 located in the upland areas;]

23 [(11) Significant fish spawning grounds and shellfish harvesting areas shall be
24 protected;]

25 [(12) The boundaries of water and land which will receive ingress and egress of boats
26 or similar waterborne vehicles associated with the marina shall be shown in the application
27 submittals;]

28 [(13) The use is water dependent, pursuant to the definition of water-dependent uses set
29 forth in COMAR 14.15.03.01 and the criteria of COMAR 14.15.03.04.B, or, if the use is not
30 water-dependent, structures or activities shall be located outside the Buffer insofar as possible;]

31 [(14) The use meets a recognized public or private need;]

1 [(15)Adverse effects on water quality and on fish, plant, and wildlife habitats are
2 minimized;]

3 [(16)The use is consistent with the approved Master Plan for the area;]

4 [(17)The activities will not significantly alter existing water circulation patterns or
5 salinity regimes;]

6 [(18)The water body upon which these activities are proposed has adequate flushing
7 characteristics in the area;]

8 [(19)Disturbance to wetlands, submerged aquatic plant beds, or other areas of
9 important habitats will be minimized;]

10 [(20)Dredging shall be conducted in a manner, and using a method, which causes the
11 least disturbance to water quality and aquatic and terrestrial habitats in the area immediately
12 surrounding the dredging operation or within the Critical Area, generally;]

13 [(21)Dredged spoil will not be placed within the Buffer or elsewhere in that portion of
14 the Chesapeake Bay Critical Area Overlay Zones which has been designated as a Habitat
15 Protection Area, except as necessary for:]

16 [(A) Backfill for permitted shore erosion protection measures;]

17 [(B) Use in approved vegetated shore erosion projects;]

18 [(C) Placement on previously approved channel maintenance spoil disposal areas;

19 and]

20 [(D) Beach nourishment; and]

21 [(22)Interference with the natural transport of sand will be minimized.]

22 [(b) The number of slips, piers, or mooring buoys permitted in a subdivision shall be the
23 lesser of (1) or (2), below:]

24 [(1) One (1) slip for each fifty (50) feet of shoreline in the Intense and Limited
25 Development Overlay Zones, and one (1) slip for each three hundred (300) feet of shoreline in
26 the Resource Conservation Overlay Zone; or]

27 [(2) The number of slips, piers, or mooring buoys permitted within a subdivision shall
28 be in accordance with the following schedule:]

[PLATTED LOTS OR NUMBER OF DWELLING UNITS, WHICHEVER IS GREATER, IN THE	[SLIPS AND MOORINGS]
--	-----------------------------

CRITICAL AREA OVERLAY ZONES]	
[Up to 15]	[1 for Each Lot or Dwelling Unit]
[16 to 40]	[15 or 75%, Whichever is Greater]
[41 to 100]	[30 or 50%, Whichever is Greater]
[101 to 300]	[50 or 25%, Whichever is Greater]
[Over 300]	[75 or 15%, Whichever is Greater]

1
2
3

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five (45) calendar days after its adoption.

Adopted this 26th day of October, 2010.

COUNTY COUNCIL OF PRINCE GEORGE’S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE’S COUNTY,
MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.