

CRITICAL AREA OVERLAY DISTRICT ("CAO")

A. PURPOSE

The purpose of the Critical Area Overlay District ("CAO") is to implement zoning regulations and measures designed to protect and enhance water quality and habitat resources located within the Town's Critical Area. The geographic area for which the following district regulations apply shall be those lands and waters located within one thousand feet of the landward boundaries of all tidal waters, tidal wetlands and tributary streams in the Critical Area as designated on the Official Critical Area Overlay District Maps.

The provisions of this Section are intended to be read in conjunction with the other provisions of this Ordinance. In the event the provisions of this Section, or any other provision of this Ordinance specifically relating to the Critical Area Overlay District conflicts with any other provision of this Ordinance, the provisions of this Section or the provisions of any other provision of this Ordinance specifically relating to the Critical Area Overlay District shall prevail.

The purpose of the Critical Area Overlay District Regulations is to provide special regulatory protection for the resources located within the Town's Critical Area and to regulate development activity in shore line areas in order to minimize adverse impacts to water quality and natural habitats. Subsections B through G of this Section shall apply to all lands lying within the Town's Critical Area. Subsections H, I, J and K apply, respectively, only to Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.

B. LAND USE MANAGEMENT CLASSIFICATIONS

- (1) Within the Town of Easton Critical Area Overlay District ("CAO") there shall be three land use management area classifications: 1) Intensely Developed Areas (IDA); 2) Limited Development Areas (LDA); and 3) Resource Conservation Areas (RCA). The boundaries of each district shall be designated on the Official Critical Area Overlay District Maps.
- (2) These land use management areas correspond to the definitions established in the Chesapeake Bay Critical Area Criteria in COMAR 14.15 or its successor regulations, as amended, for each area and specifically as identified on the Official Critical Area Overlay District Maps.
- (3) Except as provided below, uses, accessory uses and special exception uses permitted shall be those permitted within the applicable underlying base zoning district as shown on the Official Zoning Map.

C. BUFFER REGULATIONS

- (1) Except as provided below, uses, accessory uses and special exception uses shall be those permitted within the applicable underlying base zoning district as shown on the Official Zoning Maps.
- (2) New buildings, structures, and parking areas are prohibited within the Buffer unless located within a Buffer Exemption Area, with the exception of the following:
 - a. Boat houses, community piers, individual private piers, docks, launching ramps, and mooring facilities.
 1. For community piers, only the following uses may be located in the Buffer:

- (a) Mooring buoys and slips;
 - (b) Docks, piers, launching ramps, access roads, and paths; and
 - (c) Loading/unloading areas.
2. Where community slips, community piers, or community mooring buoys are to be provided in a subdivision that is approved after the effective date of the Easton Local Area Program approval, the number of slips, piers, and/or mooring buoys shall be the lesser of (a) and (b) below:
- (a) One slip for each fifty (50) feet of shoreline in the subdivision in Limited Development Area (LDA) and one slip per each 300 feet of shoreline in the subdivision in the Resource Conservation Area (RCA); or
 - (b) A density of slips, piers, or moorings, to platted lots or dwellings within the subdivision in the Critical Overlay Area District shall be permitted according to the following schedule:

Platted Lots or Dwellings
in the Critical Area

Slips and moorings

up to 15	1 for each lot
16 - 40	15 or 75%, whichever is greater
41 - 100	30 or 50%, whichever is greater
101 - 300	50 or 25%, whichever is greater
over 300	75 or 15%, whichever is greater

- b. Where otherwise permitted, commercial marinas and uses accessory thereto. Accessory uses shall be limited to twenty five (25%) percent of the floor area of any structures located within the Buffer. In commercial marinas, only the following uses may be located in the Buffer:
- 1. Moorings buoys and slips;
 - 2. Docks, piers, launching ramps, access roads and paths;
 - 3. Loading and unloading areas;
 - 4. Fueling areas;
 - 5. Fresh water and ice;
 - 6. Phone and electric service;
 - 7. Sewage pump-out, dockside toilets/lockers;
 - 8. Marina railways and travel lifts;

9. Wet covered repair shops;
 10. Automated "high and dry" storage facilities; and
 11. Other water dependent uses as determined by the Critical Area Commission;
- c. Beaches, bath houses, and related structures.
- d. The following industrial and port related water-dependent facilities may be located within the Buffer:
1. Docks, piers, and access roads;
 2. Freight staging areas;
 3. Rail lines, if port related;
 4. Dry docks;
 5. Fueling areas;
 6. Public access areas; and
 7. Other water-dependent uses as determined by the Critical Area Commission.
- e. No structure connected to the shoreline, such as a dock, pier, boathouse, etc., shall extend outward from the mean high waterline more than twenty five (25%) percent of the distance to the Mean High Water Line on the opposite shore, or more than one hundred sixty (160) feet, whichever is the lesser distance. Notwithstanding this provision, no dock or pier shall extend to within the boundaries of any defined navigation channel established by a state or federal agency.
- (3) New, expanded or redeveloped industrial or port-related water-dependent facilities and the replacement of such facilities are only permitted in those portions of Intensely Developed Areas that have been designated Buffer Exemption Areas.
- (4) No natural vegetation shall be removed nor shall the slope of the land surface be altered in the Buffer, including clearing of existing natural vegetation to create new agriculture lands. Limited cutting or clearing of trees in the Buffer is permitted under an approved Forest Management Plan for the following purposes:
- a. For personal use, providing that Buffer functions are not impaired and trees cut are replaced;
 - b. To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or stream bank;
 - c. In conjunction with horticultural practices used to maintain the health of individual trees;
 - d. To provide access to private piers;

- e. To install or construct an approved shore erosion protection device or measure; or
- f. To protect forests or trees from pest or disease infestation or threat from fires.

(5) The following uses are prohibited in the Buffer:

- a. Solid or hazardous waste collection or disposal facilities, excluding dumpsters and trash receptacles;
- b. Sanitary landfills;
- c. Sludge handling, storage, and disposal facilities, other than those, associated with wastewater treatment facilities;
- d. New commercial or related marine facilities in the Buffer within the Resource Conservation Area (RCA); and
- e. The application of sludge in the Buffer.

(6) Buffer Expansion.

- a. The Buffer shall be expanded to include contiguous sensitive areas (as described herein) on the parcel. This expansion will occur whenever new land development or other land disturbing activities such as clearing natural vegetation for agriculture or mining are proposed. The boundaries of any expanded Buffer must be shown on any site plans required for such development.
- b. Sensitive areas have the following features: 1) Hydric soils and soils with hydric properties as designated by the Soil Conservation Service; 2) highly erodible soils with a K value greater than .35; and 3) Steep slopes greater than fifteen percent (15%).
- c. For steep slopes, the Buffer shall be expanded according to the following rule: When the site of the proposed land disturbance drains to a slope greater than fifteen (15) percent contiguous to the Buffer, the Buffer shall be expanded four (4) feet for every percent of slope over fifteen (15) percent to the top of slope, whichever is greater, but in no case more than ten (10) feet beyond the top of the slope greater than fifteen (15) percent.

D. SITE PLANS REQUIRED

No development activities shall be permitted in the Critical Area Overlay Zone, nor shall any building permit be issued in the Critical Area Overlay Zone until a Site Plan for the developmental activity or the structure has been approved by Planning Commission. The information required to be shown on Site Plans for water-dependent facilities and for developmental activities in the Intensely Developed Areas (IDAs), Limited Development Areas (LDAs) and Resource Conservation Areas (RCAs) are set forth in Sub-Sections 510.2-E, H, G and J, respectively.

E. SITE PLANS FOR WATER-DEPENDENT FACILITIES

All site plans submitted as part of applications for development of commercial marinas or other water-dependant uses in the Critical Area shall include the following information:

- (1) Water depth contours shown at two (2) foot intervals at mean low water taken by sounding (unless otherwise specified by the Town Planning Commission);
- (2) Existing and proposed regraded surface of the land;
- (3) Location of natural features (such a streams, wetlands (tidal and non-tidal), drainage easements, vegetative and tree cover;
- (4) Land within the 100 year floodplain;
- (5) Location of all existing and proposed structures;
- (6) Location of all existing or proposed site improvements including storm drains, culverts, retaining walls and fences;
- (7) Description, method and location of water supply and sewerage disposal facilities;
- (8) Mean high and mean low water line;
- (9) All existing docks, piers, buoys, launching ramps and shore protection structures;
- (10) Location and dimensions of all areas to be dredged including present and proposed depths;
- (11) Volume of dredge spoil to be removed, type of material, location and dimensions of disposal area(s) including dikes;
- (12) Location of all existing and proposed land-based buildings and structures on the site and a description of uses and activities to be conducted in each;
- (13) Location and dimensions of all proposed docks, piers, buoys, launching ramps, slips, fuel docks and gasoline storage tanks;
- (14) Location of all required buffer/yards/building restriction lines;
- (15) An Environmental Assessment which indicates how the proposed project achieves the following criteria:
 - a. That the activities will not significantly alter existing water circulation patterns or salinity regimes;
 - b. That the water body upon which these activities are proposed has adequate flushing characteristics at the site;
 - c. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
 - d. That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewerage discharge from land activities or vessels, or from boat cleaning and maintenance operations is minimized;
 - e. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

- f. That dredging shall be conducted in a manner which causes the least disturbance to water quality and aquatic and land habitats in the area immediately surrounding the dredging operation or within the Critical Area;
- g. That dredged spoil, except for clean sand for beach nourishment, will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area; and
- h. That interference with the natural transport of sand will be minimized;
- i. Protection will be afforded to historic areas of waterfowl staging and concentration.

F. WOODLAND AFFORESTATION AND REFORESTATION STANDARDS

Where afforestation or reforestation is required in the Critical Area Overlay District, the following standards shall apply:

- (1) The developer shall submit a Planting Plan to the appropriate approval authority, e.g. Planning Commission or Board of Appeals, for its approval. The Planting Plan shall include the following items:
 - a. a description of the area to be afforested or reforested;
 - b. a list of trees and shrubs to be planted;
 - c. a description of existing vegetative cover to be retained;
 - d. a description of the methods for protecting plant materials during and after construction;
 - e. a general indication of the spacing and location of all proposed trees, shrubs, and other ground cover; and
 - f. a planting schedule.
- (2) All plant types shall be chosen from a list of recommended plants available from the Maryland State Bay Water Shed Forester, provided, that plant types which vary from this list may be substituted with the permission of the appropriate Town agency.
- (3) The developer shall execute a Public Works Agreement, which shall be approved by the Town Attorney, obligating the developer to install all plants called for in the Planting Plan and to maintain said plants in healthy condition for a period of at least two years after the completion of installation of all plantings.

G. AGRICULTURE IN THE CRITICAL AREA OVERLAY ZONE

- (1) On or before December 31, 1991, all farms within the Critical Area Overlay Zone shall have in place and be implementing a currently approved Soil Conservation and Water Quality Plan approved by the Talbot County Soil Conservation District. Landowners who have signed up as conservation district cooperators, but who do not have a conservation plan developed for them by the District, shall be allowed to continue farming until a conservation plan is developed, provided that the goals of the Act and policies and all other requirements of this Section are being met.

- (2) A landowner shall select and implement, with the assistance of a technically trained soil conservation planner or technician, from among the several Best Management Practices that minimize impacts to water quality, conserve fish, wildlife, and plant habitat, and integrate best with the farming operation.
- (3) Until such time as a Soil Conservation and Water Quality Plan is approved and in place, landowners shall be encouraged to use the following practices:
 - a. Proper nutrient application rates;
 - b. Appropriate timing of nutrient application;
 - c. Appropriate method of nutrient application;
 - d. Reduced tillage practices;
 - e. Crop rotations;
 - f. Cover crop.
- (4) Agricultural 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, is established, and further provided that:
 - a. The filter strip shall be composed of either trees with a dense ground cover, or a thick sod of grass, and shall be so managed as to provide water quality benefits and habitat protection consistent with the policies stated in the Town's Critical Area Program. Noxious weeds, including Johnson grass, Canada thistle, and multiflora rose, which occur in the filter strip, may be controlled by authorized means;
 - b. The filter strip shall be expanded by a distance of four (4) feet for every one (1) percent of slope, for slopes greater than six (6) percent;
 - c. The 25-foot vegetated filter trip 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 Soil Conservation and Water Quality Plan being implemented achieves the water quality and habitat protection objectives of the 25-foot vegetated filter strip;
 - d. The Best Management Practices shall include a requirement for the implementation of a grassland and manure management program, where appropriate, and that the feeding or watering of livestock, may not be permitted within 50 feet of the Mean High Water Line of tidal water and tributary streams, or from the edge of tidal wetlands, whichever is further inland;
 - e. Clearing of existing natural vegetation in the Buffer is not allowed; and
 - f. Farming activities including the grazing of livestock, do not disturb stream banks, tidal shorelines or other Habitat Protection Areas as described in the Town's Critical Area Program.

H. DEVELOPMENT STANDARDS FOR INTENSELY DEVELOPED AREAS (IDAs)

All uses shall be subject to the following development standards in addition to those established in other sections of this Ordinance. Development on grandfathered lots must comply with these regulations insofar as possible as determined by the Planning Commission.

- (1) All site plans shall identify environmental or natural features including Habitat Protection Areas on that portion of site within the Critical Area;
- (2) Other than as provided in Section 514-C, no structure or use associated with development in an Intensely Developed Area shall be permitted within the Buffer;
- (3) Development shall be subject to the Habitat Protection guidelines described in the Town's Critical Area Program.
- (4) Development and redevelopment projects shall provide stormwater management practices appropriate to site development which achieve a ten (10%) percent reduction of predevelopment pollutant loadings. (See Mitigation Manual for computation methodology.) Offsets may be provided either on-site or off-site in the same watershed in the Town or Talbot County;
- (5) Development and redevelopment plans shall delineate those site areas not covered by impervious surfaces and that are to be maintained or established in vegetation (where vegetation is not proposed the developer shall demonstrate why plantings for such portions of the site are impracticable);
- (6) A minimum twenty-five foot buffer shall be established around all non-tidal wetlands as identified in the Town of Easton Critical Area Program within which development activities or other activities which may disturb the wetland or the wildlife contained therein shall be prohibited.
- (7) Development and redevelopment projects or other land disturbances proposed in the drainage area of a non-tidal wetland shall minimize alterations to the surface or subsurface flow of water into and from the wetland and minimize adverse impact to the water quality or the plant and wildlife habitat values of the wetland.
- (8) Development and redevelopment projects that propose shore erosion protection must demonstrate that significant shore erosion is occurring on the site.
- (9) In the event that shore erosion control measures are proposed, vegetative shore erosion control measures shall be used whenever feasible.
- (10) Density in the Intensely Developed Areas (IDAs) shall be as established in the underlying base zone.

I. DEVELOPMENT STANDARDS IN LIMITED DEVELOPMENT AREAS (LDAs)

- (1) All uses in a Limited Development Area (LDA) shall be subject to the following standards. Grandfathered lots must comply with these regulations insofar as possible as determined by the Planning Commission.
 - a. All site Plans shall identify environmental or natural features including Habitat Protection Areas on that portion of site within the Critical Area.

- b. Site development shall be designed to assure that those features or resources identified as Habitat Protection Areas are afforded protection as prescribed in the Habitat Protection Element of Town of Easton Critical Area Program.
- c. Roads, bridges and utilities serving development shall be located so as to avoid disturbances to Habitat Protection Areas. When no alternative exists and such infrastructure must cross or be located in Habitat Protection Areas, the developer shall demonstrate how impacts to habitats have been minimized and that no feasible alternative location exists.
- d. All development activities which cross, or are located adjacent to, tributary streams in the Critical Area shall:
 - 1. minimize impingement upon the Buffer and be designed in a manner to reduce increases in flood frequency and severity;
 - 2. provide for the retention of natural stream bed substrate;
 - 3. minimize adverse impacts to water quality and storm water runoff; and
 - 4. retain the existing tree canopy.
- e. Development activities shall be located and designed to provide for the maintenance of the wildlife and plant habitats on the existing site and to maintain continuity with those on adjacent sites. When wildlife corridors exist or are proposed they shall include any existing Habitat Protection Areas and connect large forested areas on or adjacent to the site.
- f. Forest and development woodlands, as defined by the Town Critical Area Program, shall be created or protected in accordance with the following:
 - 1. When no forest exists on the site, at least fifteen (15%) percent of the gross site area shall be afforested. The location of the afforested areas should be designed to reinforce protection to habitats on the site or to provide connections between forested areas when they are present on adjacent sites;
 - 2. When forests or developed woodland exists on the site and proposed development requires the cutting or clearing of trees, the areas proposed for clearing shall be identified on the proposed site plan. The developer shall submit plans for development and areas to be cleared to the Maryland Forest, Park and Wildlife Service for comments and recommendations and shall transmit any comments to the Planning Commission. A grading permit must be obtained prior to any clearing or cutting associated with proposed development. All cutting or clearing which is associated with development shall be subject to the following limits and replacement conditions:
 - (a) All forests cleared or developed shall be replaced on not less than an equal area basis on the site or on an alternative site approved by the Planning Commission. If the development pad is limited to only that necessary for the house and drives and does not exceed 10,000 square feet, and cleared areas are reforested to the extent possible a forest area shall continue to be considered a developed woodland and no replacement shall be required;

- (b) No more than twenty (20%) percent of the forested or developed woodland within the site proposed for development may be removed (except as provided for in (c) below) and the remaining eighty (80%) percent shall be maintained as forest cover through the use of appropriate instruments (e.g. recorded restrictive covenants). Removal of forest or developed woodland cover in the Buffer is prohibited.
 - (c) The clearing of forest or developed woodlands of up to twenty (20%) percent shall be replaced on an area basis of one to one- a developer may propose clearing up to thirty (30%) percent of the forest or developed woodland on a site, but the trees removed in excess of twenty (20%) percent must be replaced at the rate of 1.5 times the area removed either on or off site either in the Town or Talbot County:
 - (d) If more than thirty (30%) percent of the forest on a site is cleared, the forest is required to be replanted at three (3) times the total area extent of the cleared forest either on or off site in the Town or Talbot County;
 - (e) If any cutting of forests occurs before a grading permit is obtained, the forest is required to be replanted according to the requirement (d) above;
 - (f) Surety in the form of a performance bond or other means acceptable to the Town Attorney shall be provided in a Public Works Agreement in an amount suitable to assure forest replacement as required.
 - (g) The forests and developed woodlands required to be retained or created through afforestation shall be maintained through covenants, easements, or similar instruments in a form approved by the Town Attorney;
- (2) Development on slopes greater than fifteen (15%) percent shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability;
- (3) Impervious surfaces shall be limited as follows:
- a. For a parcel or lot 1/2 acre or less in size, that was in residential use on or before 12/1/85, the impervious surface limit shall be 25%;
 - b. For a parcel or a lot of 1/4 acre or less that was in non-residential use (i.e., commercial, industrial, institutional) on or before 12/1/85, the impervious surface limit shall be 25%;
 - c. For a lot of 1 acre or less in size, as part of a subdivision approved after 12/1/85; impervious surfaces of the lot may not exceed 25% and the total impervious surface of the entire subdivision may not exceed 15%; and
 - d. For all other situations, the impervious limitation shall be 15%.

- (4) A minimum twenty-five foot buffer shall be established around all non-tidal wetlands as identified in the Town of Easton Critical Area Program within which development activities or other activities which may disturb the wetland or the wildlife contained therein shall be prohibited.
- (5) Development and redevelopment projects or other land disturbances proposed in the drainage area of a non-tidal wetland shall minimize alterations to the surface or subsurface flow of water into and from the wetland and shall minimize adverse impact to the water quality or the plant and wildlife habitat value of the wetland.
- (6) Development and redevelopment projects that propose shore erosion protection must demonstrate that significant shore erosion is occurring on the site.
- (7) In the event that erosion control measures are proposed vegetative shore erosion control measures shall be used whenever feasible.
- (8) The density of development and minimum lot sizes permitted within a Limited Development Area (LDA) shall be governed by prescriptive densities within the applicable underlying base zoning districts. However, in underlying base zoning districts that permit residential use, density may not exceed 3.99 units per acre. Determination of density shall be based on the gross site area of the parcel prior to development.

J. DEVELOPMENT STANDARDS IN RESOURCE CONSERVATION AREAS (RCAs)

- (1) Except as is provided in this Section, development and redevelopment in a Resource Conservation Area (RCA) shall be subject to the same development standards applicable to the Limited Development Areas (LDAs).
- (2) Residential densities in Resource Conservation Areas (RCAs) shall not exceed one (1) dwelling unit per twenty (20) acres regardless of densities permitted in applicable underlying base zones. Except as is provided in Subsection 510.2 K., the determination of density shall be based on the gross site area of the parcel, excluding tidal wetlands, except that in determining residential densities for a site, private wetlands may be included in the calculation on one (1) dwelling unit per twenty (20) density, provided the development density on the upland portion of the site does not exceed one (1) dwelling unit per eight (8) acres.

K. INTRA-FAMILY TRANSFERS IN RESOURCE CONSERVATION AREAS

The one (1) dwelling unit per twenty (20) acre density limitation in the RCA shall not prevent a bona fide intra-family transfer subjected to the following limitations:

- (1) Intra-family transfers will be permitted only for parcels of land in Easton where it is shown that the parcel was created on or before March 1, 1986 and such parcel is at least seven (7) acres and not more than sixty (60) acres in size.
- (2) A bona fide intra-family transfer shall be subject to the requirements of the Town of Easton Subdivision Regulations and a notation shall be placed on the final subdivision plat identifying the lot(s) that are created under these provisions.
- (3) Subdivision of land pursuant to this Subsection shall be subject to the following limitations:

- a. Parcels of 7 acres to less than 12 acres cannot be subdivided into more than a total of 2 lots.
- b. Parcels of 12 acres to less than 60 acres cannot be subdivided into more than 3 lots.
- c. A lot created pursuant to these provisions may not subsequently be conveyed to any person without the permission of the Planning Commission unless:
 1. The transferee is a member of the owner's "immediate family", as that term is defined in Section 8-1801.1 of the Natural Resources Article of the Annotated Code of Maryland or any successor statute; or

2. Conveyance of the lot is the result of a default on a bona fide mortgage or deed of trust.
- d. Nothing in this Section shall prohibit the conveyance of any interest in a lot created under these provisions to a third party as security for a bona fide mortgage or deed of trust.
 - e. No lot created under this Section may be transferred or sold to a third party who is not a member of the owner's immediate family or a holder of a bona fide mortgage or deed of trust on the lot when said conveyance occurs in lieu of foreclosure unless and until one or more of the following conditions exist:
 1. Not less than seven years has passed since the creation of the lot;
 2. The owner of the lot and/or his or her spouse dies;
 3. The Planning Commission finds, upon application made to it, that transfer of the lot is warranted as a result of a change in circumstances occurring since the original transfer which change is not inconsistent with the provisions of this Section and which would warrant permitting a subsequent transfer; or
 4. A finding by the Planning Commission that transfer of the lot is necessary to maintain or create land areas for the uses of agriculture, forestry, open space and natural habitats and RCAs.
 - f. A lot created pursuant to the provisions of this Section may, at any time, be conveyed to the owner of the retained land from which the lot was created in order to permit the consolidation of parcels into larger tracts whereupon both parcels shall merge into one lot.
 - g. Any deed transferring a lot created pursuant to these provisions shall contain a covenant, which shall be enforceable by the Town of Easton, which covenant shall prohibit the subsequent transfer or sale of the lot in violation of the provisions of this Section.

L. REQUIRED FINDINGS OF FACT FOR A DEVELOPMENT AND/OR DEVELOPMENT ACTIVITIES IN THE CRITICAL AREA OVERLAY ZONE

No development or development activities shall be permitted in the Critical Area Overlay Zone unless and until the appropriate reviewing body, i.e. Planning and Zoning Commission or Board of Appeals, makes the following findings of fact in writing:

- (1) The development or development activities have been designed in such a manner as to minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands; and
- (2) That the development or development activities have been planned in such a fashion as to conserve fish, wildlife and plant habitat.

M. GROWTH ALLOCATION

In order to allow for limited growth within the Critical Area, Maryland Law permits reclassification of Critical Area property through a process known as Growth Allocation. Following are the procedures for determining if a site qualifies for Growth Allocation.

(1) Application Requirements

Applications for Growth Allocation shall be submitted to the Town Council in care of the Town Clerk's Office. Growth Allocation applications shall include the following:

- a. A letter stating present and proposed Critical Area Land Management Classification and describing in general terms the nature of the proposed project.
- b. A Site Plan (10 copies) drawn at a scale of 1" = 50' or less. Minimum requirements for this site plan are as follows:
 1. Boundary survey of the subject property.
 2. Critical Area Boundary.
 3. Critical Area Buffer.
 4. Location sketch of proposed improvements, including buildings, driveways and parking areas, landscaping areas, etc.
 5. Location of any Forested areas.
 6. Location of any Habitat Protection Areas.
 7. Abutting streets or highways.
 8. North arrow and scale.
 9. Location of septic fields and wells (if any).
 10. Location of the waterline (mean high tide).
 11. Location of tidal and non-tidal wetlands including buffers.
 12. Existing land use including buildings and other impervious areas.
 13. Vegetative cover including cover to be cut and to be replaced.
 14. Existing contours with intervals not more than one (1) foot.
 15. Areas of fifteen (15%) percent or greater slope.
- c. A letter from the Maryland Department of Natural resources Forest, Park and Wildlife Service regarding possible Habitat Protection Areas.

If the application is complete it shall proceed according to the following review process:

(2) Review Process

- a. The Town Council shall refer the application to the Planning Commission for their review and comments.
- b. The Planning Commission shall forward the application to the Chesapeake Bay Critical Area Commission (CBCAC) for informal technical review and take no action until comments are received from the CBCAC or the passage of 30 days.
- c. Upon receipt of CBCAC comments or the passage of 30 days, the Planning Commission shall review the application for consistency with the Comprehensive Plan, The Critical Area Program, and the Zoning Ordinance. The Planning Commission then makes a determination of consistency and may make additional recommendations concerning conditions of approval.
- d. Planning Commission and CBCAC comments are forwarded to the applicant.

- e. Upon receipt of comments from the Planning Commission and the CBCAC the applicant may amend the site plan and resubmit to the Planning Commission.
- f. The Planning Commission, upon receipt of amended plan, shall hold a public hearing, notice of which shall be printed in a newspaper of general circulation in the Town at least 15 days in advance of said hearing. The subject property shall also be posted for at least the 15 days preceding the hearing. The purpose of this hearing is to receive public input in regards to the application.
- g. The Planning Commission then makes a recommendation which is forwarded in writing to the Town Council. The applicant will also receive a copy of this recommendation. Said recommendation may include suggestions regarding conditions of approval.
- h. The Town Council shall hold a public hearing on the application. Said hearing shall be advertised and the site posted as per a conventional rezoning request.
- i. The Council may grant or deny any application. If the application is granted, the Council may establish conditions to accompany the new Critical Area overlay zoning classification. If the application is denied, no subsequent application for Growth Allocation involving the same property shall be accepted within twelve (12) months from the date of the Council's original decision.
- j. The application will then be forwarded for approval to the CBCAC who will meet and/or hold a public hearing on the Growth Allocation request.
- k. If the application is approved by the CBCAC, the Town's Official Critical Area Map shall be amended to reflect the new land management classification as either GA-IDA or GA-LDA as appropriate.
- l. Successful projects which have received Growth Allocation approval will be submitted for final site plan review or final subdivision approval according to the requirements of the Zoning Ordinance (including the appropriate Critical Area development standards) and/or the Subdivision Regulations. This step requires that the applicant receive any Special Exceptions or Variances, if necessary to approve the project.
- m. Any Growth Allocation awarded shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which the Growth Allocation was granted. The Town Council may specify some longer period than one year.