

COUNTY ORDINANCE NO. 97-12

A BILL ENTITLED

AN ACT concerning the Repeal and Re-Adoption with amendments of the Local Public Laws of Queen Anne's County, Title 14 ENVIRONMENTAL PROTECTION, Subtitle 1. Chesapeake Bay Critical Area Act 1996 Official Chesapeake Bay Critical Area Overlay Map Number 58.

FOR THE PURPOSE OF amending part of parcels 11, 497, 616 and 807 located on said 1996 Official Chesapeake Bay Critical Area Overlay Map 58 to designate approximately 26.553 acres of said parcels from Resource Conservation Area (RCA) to Limited Development Area (LDA).

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND, that the Local Public Laws of Queen Anne's County, Title 14 ENVIRONMENTAL PROTECTION, Subtitle 1. Chesapeake Bay Critical Area Act 1996 Official Chesapeake Bay Critical Area Overlay Map Number 58 is hereby repealed and the attached Map Number 58 be and is hereby adopted as the 1996 Official Chesapeake Bay Critical Area Overlay Map Number 58 for Queen Anne's County, Maryland.

SECTION II

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

INTRODUCED BY: Michael Zimmer

DATED: 12-2-97

PUBLIC HEARING HELD: Jan 27, 1997 10:30 A.M. (March 17, 1998 - 10:30 a.m.)

VOTE: 2 YEA - NAY Comm. O'Donnell abstained

DATE: April 7, 1998

Effective date: May 22, 1998

RESOLUTION

98-11

WHEREAS, on March 10, 1997 Winchester Creek Limited Partnership (“Petitioner”) did file with the County Commissioners of Queen Anne’s County (“County Commissioners”) a Petition requesting the 26.553 acres of land more or less located on the property known as the Hissy Farm (the “Property”) be redesignated in accordance with Title 14 of the Code of Public Laws for Queen Anne’s County, *Environmental Protection*, from Resource Conservation Area (RCA) to Limited Development Area (LDA) thereby granting Petitioner Growth Allocation for the Property;

WHEREAS, on February 13, 1997 the Planning Commission for Queen Anne’s County (the “Planning Commission”) approved a sketch plan depicting the development scheme for the Petitioner’s property;

WHEREAS, on June 12, 1997 the Planning Commission did favorably recommend that the County Commissioners approve the Petitioner’s request for growth allocation, finding both that said request was consistent with the Queen Anne’s county Chesapeake Bay Critical Area Program and that said “applicant’s property is adjacent to the Grasonville growth subarea, is served by public sewer and will permit a 15 cluster lot subdivision on the property which will be of substantial economic benefit to Queen Anne’s County given the significant property tax and piggy back income tax expected to be generated by the subdivision of the Property”;

WHEREAS, the Planning Commission’s favorable recommendation of Growth Allocation was conditioned on (1) that there be no more than one residential structure outside of the property lines of the proposed 15 cluster lots, (2) that any residential structure on the open space lots shall be subject to the same restrictive covenants that affect all the cluster lots in the proposed subdivision, (3) that there shall be no nursery uses on the open space lots (4) that the growth allocation be specifically expressly linked to the 15 cluster lot subdivision currently proposed by the applicant, and (5) that the current E District designation of the property is upheld by the Circuit Court for Queen Anne’s County and any subsequent appellate court;

WHEREAS, on August 21, 1997 the County Commissioners granted “conceptual approval” to the Petition and forwarded the same to the Chesapeake Bay Critical Area Commission (“Critical Area Commission”) for its approval;

WHEREAS, on October 1, 1997 the Critical Area Commission approved the Petition for growth allocation as a Critical Area “program refinement” with the following conditions:

1. The applicant will adopt easement restrictions which permanently protect the easement area in the same way as the 100' Buffer;
2. The applicant will adopt easement restrictions for the site which will protect and

enhance the existing habitat for the federally endangered Delmarva Fox Squirrel which are approved by the Department of Natural Resources' Heritage and Biodiversity Conservation Program;

3. The applicant will prohibit the construction of the proposed community pier and any other water dependent facility on this site between October and March of any year to protect waterfowl habitat;
4. The applicant agrees to enhance unforested areas of the 100' Buffer and environmental easement with planted native forest species or to allow the areas to naturally regenerate;

WHEREAS, on February 4, 1998 the Critical Area Commission reapproved, with the same conditions as the October 7, 1997 approval, the Petition for Growth Allocation as a Critical Area "program refinement";

WHEREAS, the Petition for Growth Allocation is consistent with the 1993 Comprehensive Plan Update for Queen Anne's County ("Comprehensive Plan") as well as the Chesapeake Bay Critical Area Program for Queen Anne's County, 1996 update ("Critical Area Program");

WHEREAS, the proposed Development Project implements specific development objectives of the Comprehensive Plan in as much as the County encourages "residential waterfront development which is done in an environmentally sensitive manner while recognizing the limitations placed on such development by the Chesapeake Bay Critical Area Law and Criteria" Comprehensive Plan pg. 90.

WHEREAS, the Property is currently designated S-1 in the County Master Sewer and Water Plan, sewer capacity has been purchased by the petitioner and public facilities will be provided to the Property;

WHEREAS, an evaluation of the proposed cluster subdivision sketch plan, the Staff Report and exhibits submitted with the Petition, clearly shows that minimum mandatory design standards have been met and in some cases exceeded such as the establishment of shore buffers of greater depth than that required by the County Code;

WHEREAS, the design of the proposed cluster subdivision enhances the water quality and resource and habitat value of the area by increasing the required shore buffer, and the fact that the Petitioner has incorporated comments and recommendations from both the County Planning Staff, as well as the Maryland Fish, Heritage and Wildlife Administration into the design of the proposed cluster subdivision; and,

WHEREAS, the Property is located in a designated growth area, i.e. the Grasonville

Community Planning area.

NOW, BE IT RESOLVED, that in consideration of the preceding findings which are not merely prefatory, but are included as part of this resolution, the County Commissioners favorably approve the Petition for 26.553 acres of growth allocation redesignating the subject property from RCA to LDA be approved, specifically with the following conditions:

1. That there be no more than one residential structure outside of the property lines of the proposed 15 cluster lots.
2. That any residential structure on the open space lots shall be subject to the same restrictive covenants that affect all the cluster lots in the proposed subdivision.
3. That there shall be no nursery uses on the open space lots.
4. That the growth allocation be specifically and expressly utilized for a 15 cluster lot subdivision currently proposed by the Petitioner and that said subdivision be in substantial compliance with the sketch plan approved by the Planning Commission on February 13, 1997.
5. That the current Estate (E) District designation of the property is upheld by the Circuit Court for Queen Anne's County and any subsequent appellate court, or that the property be rezoned E during the Grasonville Community Planning effort;
6. The applicant will adopt easement restrictions which permanently protect the easement area in the same way as the 100' Buffer;
7. The applicant will adopt easement restrictions for the site which will protect and enhance the existing habitat for the federally endangered Delmarva Fox Squirrel which are approved by the Department of Natural Resources' Heritage and Biodiversity Conservation Program;
8. The applicant will prohibit the construction of the proposed community pier and any other water dependent facility on this site between October and March of any year to protect waterfowl habitat; and,
9. The applicant agrees to enhance unforested areas of the 100' Buffer and environmental easement with planted native forest species or to allow the areas to naturally regenerate.

COUNTY COMMISSIONERS OF
QUEEN ANNE'S COUNTY



Ted Moeller

Date: 4/14/98



Michael F. Zimmer Jr.



George O'Donnell