(2) For fast-food restaurants, the minimum number of parking spaces shall be:

(i) One (1) space per fifty (50) square feet of gross floor area; and

(ii) One (1) space per employee on the largest work shift.

(3) For taverns, dance halls, night clubs and lounges, the minimum number of parking spaces shall be:

(i) One (1) space per fifty (50) square feet of gross floor area; and

(ii) One (1) space per employee on the largest work shift.

(4) For vehicle sales and services, the minimum number of parking spaces shall be one (1) space per 1,500 square feet of gross floor area.

(5) For vehicle repair and maintenance services, the minimum number of parking spaces shall be:

(i) One (1) space per four hundred (400) square feet of gross floor area; and

(ii) One (1) space per employee on the largest work shift.

(l) Industrial uses.

(1) For manufacturing facilities, the minimum number of parking spaces shall be:

(i) One (1) space per employee on the largest work shift; and

(ii) One (1) space per company vehicle regularly stored on the premises.

(2) For truck terminals, the minimum number of parking spaces shall be:

(i) One (1) space per employee on the largest work shift;

(ii) One (1) space per truck normally parked on the premises; and

(iii) One (1) space per three (3) patrons to the maximum capacity.

(3) For warehousing facilities, the minimum number of parking spaces shall be:

(i) One (1) space per employee on the largest work shift; and

(ii) One (1) space per six thousand (6,000) square feet of gross floor area.

(m) Airports and heliports.

For airports and heliports, the minimum number of parking spaces shall be:

(1) One (1) space per two (2) aircraft spaces within the hangars;

(2) One (1) space per two (2) tie-down spaces; and

(3) One (1) space per two (2) employees.

(n) Migrant labor camps.

For migrant labor camps, the minimum number of parking spaces shall be one (1) space for every ten (10) migrants at maximum capacity.

(o) Paving required; maintenance.

All parking areas, except those allowed for uses which require less than twenty-five (25) parking spaces, shall be paved. Unpaved parking areas shall consist of compacted base with crushed stone placed on the compacted base. All parking areas shall be maintained in a dust-free, safe condition at all times.

(p) Off-street parking design standards.

(1) Length and width.

(i) A required off-street parking space shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas.

(ii) The length of parking spaces can be reduced to 16.5 feet, including wheel stop, if additional space of 1.5 feet in length is provided for the front overhang of the car.

(iii) A parking space shall have a vertical clearance of at least seven (7) feet.

(2) Horizontal widths for parking rows, aisles and modules shall be provided at widths no less than listed in the following table:

	One Way	Angled			
	Parallel (feet)	30°	45°	60°	90°
Single row of parking	9	17	31	20	18
Driving aisle	12	12	13	18	24
Minimum width of module	21	31	32	38	42
Two rows of parking	18	34	38	40	36
Driving aisle	12	12	13	18	24
Minimum width of module	30	46	51	58	60
Minimum drive aisles are subject to Emergency Services approval on a site specific basis.					

(3) Access.

(i) Each required off-street space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

(ii) All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley, in a manner that least interferes with traffic and pedestrian movements.

(iii) A driveway across public property, or requiring a curb cut, may not exceed a width of twenty-five (25) feet.

(4) Parking for the handicapped shall be provided at a size, number and location as specified by State and federal regulations.

(5) Paved and unpaved lots.

(i) Spaces in paved parking lots shall be appropriately demarcated with painted lines or other markings.

(ii) Spaces in unpaved parking lots shall be demarcated wherever practical by the use of curb stops or other measures.

18-1-84 Off-street Loading Standards.

(a) In general.

Any use with a gross floor area of six thousand (6,000) square feet or more that requires deliveries or shipments must provide off-street loading facilities in accordance with the requirements specified in this Section.

(b) Number of berths required—Retail, industrial, manufacturing use.

Every retail establishment, industrial or manufacturing use, warehouse, wholesale use, freight terminal, railroad yard, hospital or sanitarium that has an aggregate gross floor area of six thousand (6,000) square feet or more shall provide off-street loading facilities as follows.

Gross Floor Area (square feet)	Number of Berths
6,000 to 24,999	1
25,000 to 79,999	2
80,000 to 127,999	3
128,000 to 198,000	4
199,000 to 255,999	5
256,000 to 319,999	6
320,000 to 391,999	7
For each additional 72,000 square feet, or fraction thereof, of gross floor area, one additional berth shall be provided.	

(c) Public assembly use.

Every public assembly use, such as auditoriums, convention halls, exhibition halls, stadiums or sports areas, funeral homes and restaurants and hotels, that has an aggregate gross floor area of six thousand (6,000) square feet or more shall provide off-street berths as follows.

Gross Floor Area (square feet)	Number of Berths
6,000 to 29,999	1
30,000 to 119,999	2
120,000 to 197,999	3
198,000 to 290,999	4
219,000 to 389,999	5
390,000 to 488,999	6
489,000 to 587,999	7
588,000 to 689,999	8
For each additional 105,000 square feet, or fraction thereof, of gross floor area, one additional berth shall be provided.	

(d) Same—Office use.

For office use that has an aggregate gross floor area of six thousand (6,000) square feet or more, one (1) loading berth shall be provided for the first six thousand (6,000) to one hundred thousand (100,000) square feet of office floor area with one (1) additional berth to be provided for each one hundred thousand (100,000) square feet of floor area.

(e) Minimum area of loading space.

The minimum area for each off-street loading space, excluding area for maneuvering, shall be two hundred fifty (250) square feet.

(f) Loading area.

At no time shall any part of a truck or van be allowed to extend into the right-of-way or a public thoroughfare while the truck or van is being loaded or unloaded.

Subpart 7. Exterior Lighting Standards.

18-1-85 Lighting

(a) Purpose.

(1) The purpose of this Section is to regulate the spillover of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source.

(2) With respect to motor vehicles in particular, safety considerations form the basis of the regulations contained herein. In other cases, both the nuisance and hazard aspects of glare are regulated.

(b) In general.

(1) The following standards are required for all exterior lighting except for outdoor public street lighting and recreational uses specifically exempted under Subsection (d) of this Section.

(2) The maximum luminaire height allowed is dependent on whether the luminaire has a total cutoff of light at an angle of less than ninety (90) degrees. This is designed as a protection against excessive glare and light spilling over to neighboring properties. The exceptions that are permitted provide adequate protection for neighboring residential property.

(c) Exterior lighting standards.

(1) Exterior lighting shall meet the following standards.

(i) If a luminaire has no cutoff, then the maximum permitted height of the luminaire shall be:

STANDARD	MAXIMUM PERMITTED HEIGHT OF LUMINAIRE
Residential Uses	12 ft.
Nonresidential Uses	20 ft.

(ii) If a luminaire has a total cutoff of light at an angle less than ninety (90) degrees and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five feet above the ground at the point where the cutoff angle intersects the ground, then the maximum permitted height of the luminaire shall be:

STANDARD	MAXIMUM PERMITTED HEIGHT OF LUMINAIRE
Non-Growth Area Residential Uses	20 ft.
Non-Growth Area Nonresidential Uses	30 ft.
Growth Area Residential Uses	30 ft.

(2) All exterior lighting shall be installed and maintained so as to confine direct light beams to the lighted property and away from nearby properties and the vision of passing motorists.

(3) No exterior lighting shall cause illumination in excess of 0.25 footcandles above background light levels, as measured at grade at the property line of the site.

(d) Exemption for specified outdoor recreational uses.

Because of their unique requirements for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, and tennis courts are exempted from the exterior lighting standards of Subsection (c) of this Section provided that the Planning Commission, during a site plan review, is satisfied that the site plan indicates that the outdoor recreational uses meet all other requirements of this Section and of this Subtitle and the following conditions:

(1) Lighting for the outdoor recreational uses specified above may not exceed a maximum allowed luminaire height of 80 feet; and

(2) Lighting for the outdoor recreational uses specified above may exceed a total cutoff angle of 90 degrees provided that the luminaire is shielded in either its orientation or by a landscaped buffer yard to prevent light and glare spillover to adjacent residential property.

(e) Additional regulations.

Notwithstanding any other provision of this Section to the contrary:

(1) Flickering or flashing lights may not be permitted; and

(2) Light sources or luminaires may not be located within buffer yard areas except on pedestrian walkways.

(f) Exterior lighting plan.

At the time an exterior light is installed or substantially modified, and whenever a zoning certificate is sought, an exterior lighting plan shall be submitted to the County in order to determine whether the requirements of this Section have been met and that adjoining property will not be adversely impacted by the proposed lighting.

Subpart 8. Road Standards

18-1-86 Application of Subpart.

This Subpart governs the standards that apply to controlling access to specific roads.

18-1-87 Road Access Standards.

Access to public roads and streets in the County shall be limited to insure that the congestion created by turning movements is reduced to an absolute minimum and all developments shall meet the following standards.

(1) All proposed residential sites/lots shall take direct access only to local streets wherever possible.

(2) Sites/lots fronting on local roads, major and minor collectors and arterial roads shall be discouraged from taking more than one point of access. In instances where more than one access point is proposed, the number shall be minimized by combining access points whenever possible and shall be consistent with the traffic volumes anticipated from the use. In all cases new access points shall be minimized to the extent practical and designed in a manner to provide the orderly and systematic flow of traffic consistent with the County Road Ordinance.

(3) Residential strip development along existing roadways shall be minimized and discouraged. Residential subdivisions having five (5) or fewer lots per subdivision may have direct access to an existing County or State road. Any additional lots or access points shall have access from an internal public or private road unless:

(i) The Planning Commission finds that the size, shape, topography, soil types, or other physical conditions prevent internal access to all of the lots required to have such access; or

(ii) In an AG or CS large-lot subdivision, the additional lots are at least twenty (20) acres in area and have a frontage of at least six hundred (600) feet on a County or State road.

(4) Access to any residential lot may be gained either by providing thirty-five (35) feet of lot frontage or, where the property owner demonstrates eligibility for and participation in the MALPF program, by recording an access easement, which is thirty-five (35) feet in width between the road and the newly created lot.

18-1-88 Public Roads

(a) General prohibition.

Public road facilities are subject to review and approval by the Department of Public Works in accordance with Title 23 of the County Code.

(b) Basic characteristics.

A public road is required if it provides direct frontage or access to six or more lots or existing parcels of land.

18-1-89 Private Roads Created After November 1987.

(a) General prohibition.

Private road facilities created after November 1987 are subject to review and approval by the Department of Public Works and may not be approved except as provided in this Section.

(b) Basic characteristics.

A private road may be allowed only if:

(1) It is designed and constructed in accordance with Title 23 of the County Code and five or fewer lots and existing parcels of land have direct frontage or take access along the private road right-of-way; or

(2) It is permitted under one of the Master Plan districts and is designed in accordance with Title 23 of the County Code.

(c) When authorized.

If a private road meets the requirements of Subsection (b) of this Section, a private road may be allowed by the Planning Commission if:

(1) A private road will be likely to assist in producing a superior quality of development; and

(2) Covenants satisfactory to the Planning Commission are provided to assure the road will be so constructed and maintained as to meet at least the standards herein required for road's construction and the safety of those using the private road.

(d) Requirements.

(1) In approving any private road that it has found to be permissible under the provisions of this Section, the Planning Commission shall impose at a minimum the requirements specified in this Subsection.

(2) Technical standards for the private road shall comply with the technical standards in Title 23 of the County Code.

(3) Any approved private road shall be clearly marked as a private road on the final subdivision plat.

(4) The fact that the road is private and not the responsibility of any agency or department of the County shall be a part of the covenants.

(5) The intersection of the private road with any County or State road or highway shall be posted with a sign indicating that the road is private and that public maintenance ends at the intersection of the proposed private road and the County or State road. Provision shall be made in the covenants for the maintenance of such signs and repair and replacement of the signs at the request of the County.

(6) The covenants shall clearly state that the County will not assume any portion of the cost of upgrading private roads to public standards.

(7) All covenants authorized or required under this Section shall be in the form required by this Title and shall be approved as to form and legal sufficiency by the attorney to the Planning Commission.

(e) Modifications; waivers.

The requirements and conditions as to private road approval in this Section may be modified or waived by the Planning Commission for any subdivision of land in the erosion hazard area, subject to Section 18-1-67 of this Subtitle. In this exercise of authority, the Planning Commission may place other conditions on private road approval, as it deems appropriate.

18-1-90 Private and Other Public Roads Created Prior to November 1987.

Subdivision of lands may not occur on private or other public roads that existed or were created prior to November 1987 unless:

(1) The road is improved to appropriate public road standards in accordance with Title 23 of the County Code and the right-of-way is deeded to the County; or

(2) The Department of Public Works finds the existing private or other public road to be acceptable with:

(i) reasonable developer improvements for the amount of traffic proposed; and

(ii) the road provides direct frontage or access to ten or fewer lots and existing parcels of land; and

(iii) suitable long-term arrangements have been agreed upon for maintenance of the road.

PART V. FLOATING ZONES AND CONDITIONAL USES

Subpart 1. Floating Zones

18-1-91 Floating Zones

(a) In general.

A floating zone is an unmapped zoning district where all the district requirements are contained in this Subtitle and the district is fixed on the map only when a zoning map amendment is approved by the County Commissioners and an application for development (final site plan or final subdivision plat) is approved by the Planning Commission. A floating zone may be approved only for areas specifically designated in the Comprehensive Plan. Approval of a floating zone map amendment does not require a finding of substantial change in the character of the neighborhood where the property is located or a mistake in the original zoning classification.

Subpart 2. Conditional Uses

18-1-92 Conditional Uses

(a) In general.

Conditional uses are those uses that must be reviewed on a case-by-case basis to evaluate their appropriateness for a particular location. Conditional uses for each zoning district are listed in Part III, Subpart 2 of this Subtitle, and additional criteria for conditional uses may be set forth therein.

18-1-93 Conditional Use Procedures.

(a) Application.

An application for conditional use approval shall include:

(1) A concept site plan and/or sketch subdivision plan as required in Sections 18-1-143 and 18-1-179 of this Subtitle; and

(2) Any other information necessary to determine the appropriateness of the use at a particular location.

(b) Approval procedure.

(1) Applications for conditional use approval shall be processed by the Planning Director as follows.

(2) Prior to formal application for conditional use approval, it is highly recommended that the applicant schedule a meeting with County staff to discuss the proposal. During this meeting, every effort will be made to provide the applicant with preliminary guidance.

(3) The Department of Planning and Zoning will offer a formal response to the applicant only after the applicant submits to the Clerk to the Board of Appeals:

(i) A complete application, as prescribed by the Board of Appeals; and

(ii) A concept/sketch plan as required under Sections 18-1-143 and 18-1-179.

(4) The Clerk to the Board of Appeals will forward copies of the application to the Departments of Planning and Zoning, Public Works, and Environmental Health, and to the Maryland State Highway Administration, Critical Area Commission, and other applicable State and County review agencies as appropriate.

(5) The Department will prepare a staff report outlining their comments, concerns, and recommendations and forward a copy to the Board of Appeals and applicant within ten working days. Although the Department may request additional information from the applicant, or may request that the application and/or plans be revised, this request is not a requirement.

(6) For any proposed heavy industrial use, the Planning Commission will hold a public hearing regarding the proposed use, and will review and make recommendations to the Board of Adjustment regarding the proposed conditional use application.

(7) A public hearing shall be held by the Board of Appeals after a public notice has been published in accordance with Article 66B of the Annotated Code of Maryland. The attorney for the Board of Appeals is responsible for scheduling a hearing date.

(8) Not later than ten (10) days prior to the date set for the hearing on the application, the Planning Director and each official or agency to which the application has been referred shall file a written report with the Board of Appeals setting forth:

(i) The recommendations for changes in the plans as submitted; and

(ii) The conditions for approval, if any, necessary to bring such plan into compliance with any applicable ordinance or regulation or to eliminate any adverse effects of the proposed development on those aspects of the general health, safety, and welfare of the community for which such official or agency has special responsibility.

(9) In approving the application for any conditional use, the Board of Appeals may impose such restrictions and conditions as it determines are required by the general purposes, goals, and objectives of the Comprehensive Plan and this Subtitle to prevent or minimize adverse effects from the proposed use and development on other properties in the neighborhood and on the general health, safety, and welfare of the County. All conditions imposed upon any conditional use approval shall be expressly set forth in the resolution granting such conditional use approval.

(10) Conditional use approval is not transferable and shall become null and void if:

(i) Construction work has not begun within one (1) year of the signing of the final site plan or plat; or

(ii) Construction work has not been completed within two (2) years of the commencement of initial construction.

18-1-94 General Use Standards.

An application for a conditional use may not be approved unless the Board of Appeals specifically finds the proposed conditional use appropriate in the location for which it is proposed, based on the following criteria:

(1) The proposed use at the proposed location shall be consistent with the general purpose, goals, objectives, and standards of the Comprehensive Plan, this Subtitle, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County.

(2) The proposed use at the proposed location will not result in a substantial or undue adverse impacts on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare.

(3) The proposed use at the proposed location will be adequately served by, and will not impose an undue burden on, any of the required improvements referred to in Title 18, Subtitle 1, Part VII. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use at the proposed location, the applicant shall, as part of the application and as a condition of approval of the conditional use, be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with the Comprehensive Plan, this Subtitle, and other plans, programs, maps, and ordinances adopted by the County.

18-1-95 Additional Standards for Specified Conditional Uses.

(a) In general.

The additional standards set forth in this Section must be met for the particular conditional uses.

(b) Telecommunications facilities

(1) Purpose and intent.

The purpose of this Section is to establish general guidelines for the siting of telecommunications towers and antennas, and telecommunications equipment buildings. The goals of this Section are to:

(i) Protect residential areas and land uses from potential adverse impacts of telecommunications facilities;

(ii) Encourage the location of telecommunications facilities in non-residential areas;

(iii) Minimize the total number of towers throughout the community;

(iv) Strongly encourage the joint use of new and existing telecommunications facilities and other suitable existing structures as a primary option rather than construction of additional single-use facilities;

(v) Encourage the location of telecommunication facilities in areas where the adverse impact on the community is minimal;

(vi) Encourage the configuration of telecommunications facilities so that adverse visual impact is minimized through careful design, siting, landscape screening, and innovative camouflaging techniques;

(vii) Encourage the configuration of telecommunications facilities so that the health, safety, and general welfare of the public are protected;

(viii) Enable providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

(ix) Consider the public health and safety impacts of telecommunication facilities;

(x) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; and

(xi) Ensure compliance of local laws with the telecommunications act of 1996.

It is the policy of Queen Anne's County that new telecommunications towers be built at the lowest height possible that will still allow for co-location opportunities and will not necessitate the construction of additional towers to achieve the same service coverage objectives.

(2) Applicability.

All new telecommunication facilities and associated equipment buildings in the County shall be subject to these regulations. New facilities shall include replacement of existing towers.

(3) Exceptions.

(i) Amateur radio station operators and receive only operations.

This Section shall not govern any telecommunications facility which is operated by a federally-licensed amateur radio station operator or is used exclusively for receive only operations.

(ii) Placement of co-located antennas.

The requirements of this Section shall not govern the placement of up to two (2) co-located antennas, so long as such placement does not violate height and setback provisions of the zoning district in which such antennas are proposed.

(4) Submission requirements.

(i) In addition to other conditional use requirements set forth in Subtitle 1, Part V, Subpart 2, applications for proposed telecommunications facilities shall provide the following:

1. A system design plan that includes the following:

i. Radio frequency parameters;

ii. Tower height;

iii. Number of antennas that the proposed telecommunications tower can accommodate at capacity;

iv. Radio frequency output; and

v. Effective radiated power and azimuth antenna type.

2. A countywide coverage map that illustrates countywide coverage available with and without the proposed telecommunications facility, including the County's public communications system. This coverage map may be maintained by the County and provided in its most updated form to the applicant upon request.

3. A countywide location map that illustrates the applicant's existing, proposed, and anticipated telecommunications facilities over a period of five (5) years. Facilities anticipated in the future shall be designated on the location map, and are not considered part of the current application. Board of Appeals action on the current application in no way affects future proposed facilities not part of the current application.

4. Aerial and ground photographs of the site and surrounding areas.

5. Elevation drawings that illustrate the following:

i. All equipment and storage buildings on the property;

ii. The color and building materials to be used on the proposed telecommunications facility; and

iii. Compliance with site design standards set out below.

6. A landscaping plan that demonstrates compliance with site design standards set out below.

7. Proof of compliance with Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) regulations, where applicable.

8. An evaluation of the proposed facility's relationship to other telecommunications towers, antennas, and water tanks that are either:

i. Within one-half mile of the proposed telecommunications facility; or

ii. Greater than one-half mile from the proposed telecommunications facility and are more than one hundred (100) feet in height.

9. Identification of any public or private runway within one (1) mile of a proposed telecommunications tower.

10. A narrative report that describes all environmental features on the site, including wetlands, steep slopes, soils, woodlands, and any wildlife habitat areas.

11. Documentation of the right to gain lawful access to the property in order to install, construct, operate, and maintain the proposed telecommunications facilities and equipment buildings.

12. Legally binding agreements between the owner of the proposed facility and at least two (2) service providers, wherein the service providers agree to lease space on the tower. The name and address of each contracting provider is required. If service agreements have not been executed at the time of the Board of Appeal's approval, no building permit shall issue until at least two (2) service agreements have been executed and provided to the County.

13. If the property is subject to an easement, whether a conservation easement or otherwise, the applicant shall demonstrate that the construction of the proposed telecommunications facility or equipment will not violate the terms of the easement.

14. An alternatives analysis prepared by the applicant, which addresses the following:

i. All reasonably feasible alternative locations or facilities that would provide the proposed communication service;

ii. An analysis indicating whether an existing facility can be structurally modified to accommodate the applicant's proposed use and coverage area;

iii. The potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area;

iv. The rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives; and

v. Any physical and economic constraints on selecting co-location sites.

15. Demonstration that the applicant made a good faith effort to co-locate with other carriers. Such good faith effort shall include the following:

i. Use of the Planning Department's tower database and tower map to identify and fully explore co-location opportunities;

ii. Conducting a survey of all existing structures that may be reasonable for co-location;

iii. Contact with other service providers in the County; and

iv. Sharing information necessary to determine whether co-location is feasible under the design configuration most accommodating to co-location.

(5) Criteria for Review by Board of Appeals.

The Board of Appeals shall not approve any application for a new telecommunications tower, except where the applicant demonstrates that:

(i) Co-location is not a reasonably feasible alternative to the proposed telecommunications tower, according to the following criteria:

1. Co-location would exceed the structural capability of any existing commercial or publicly owned telecommunications facility, building, or other structure that would provide the effective signal coverage sought by the applicant, including structures that have been approved but have not been constructed. The Board of Appeals must find that such structures cannot be modified or reinforced to accommodate planned or equivalent equipment at a reasonable cost;

2. Existing commercial or publicly-owned telecommunications facilities, including those that have been approved but are not yet constructed, do not have space on which the proposed telecommunications facilities can be placed so as to function effectively; and

3. Co-location cannot be accomplished either without causing significant deterioration of visual appearance with respect to bulk and height, or that such deterioration cannot be remedied by camouflaging the facility.

(ii) That each of the following location, design and landscaping standards has been met.

1. Illumination.

No signal, lights, or illumination shall be permitted on a proposed facility unless required by the FCC or the FAA.

2. Signage.

No signage shall be permitted on the telecommunications facility, except that for each tower a single sign, no larger than six (6) square feet, shall be affixed to the equipment building or fence enclosure that identifies the tower FCC registration number and the name and emergency telephone number of the tower owner and each service provider.

3. Sites of significant public interest.

Telecommunications facilities shall not unreasonably interfere with the view of, or from, sites of significant public interest, such as a public park, a State-designated scenic road, or a State-designated historic site.

4. Building Height.

Telecommunications facilities shall not exceed height limitations set forth in Subtitle 1, Part III, Subpart 2. Telecommunications facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height. The building height of telecommunications equipment buildings shall not exceed fifteen (15) feet.

5. Setbacks.

i. A telecommunications facility shall be set back from all property lines a distance equal to the height of the tower. Upon a showing by the applicant that the proposed telecommunications tower is structurally engineered in such a manner that a reduced fall zone is adequate, the Board of Appeals may reduce the facility setback to no less than one-half (1/2) the height of the proposed tower. Such a showing must be based on the written testimony of a structural engineer or other qualified professional.

ii. All lattice towers and guy towers shall be at least three hundred (300) feet from any residential structure. Telecommunications facilities shall be situated at least two hundred (200) feet from any public park or recreational area.

iii. Guy wire anchors shall be setback at least twenty (20) feet from any property line.

6. Future Co-locations.

The telecommunications facility shall be constructed so as to provide adequate capacity for the future co-location of at least three (3) commercial or publicly owned antenna. The Board

of Appeals may allow a reduction in this requirement upon a showing that full compliance is not reasonably possible due to structural, financial, or aesthetic concerns, or that full compliance would result in violation of a provision of this Title.

7. Tower Color.

Telecommunications towers shall be gray or a color that minimizes visibility, unless the FCC or the FAA requires a different color.

8. Camouflaging.

Commercially available technology shall be employed to minimize tower visibility, with specific reference to size, color, and silhouette properties. Camouflaging shall be required so that the telecommunications facility is not readily visible from an adjacent property. However this requirement may be waived or modified where the applicant demonstrates that camouflaging is financially or structurally unreasonable or otherwise prohibits a telecommunications carrier from providing service within the County. Such demonstration must be supported by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer.

9. Landscaping.

Plant materials should be used to improve site aesthetics by buffering the base of the towers and telecommunications equipment buildings. Security fencing should be attractive and of high quality material.

10. Security fence.

A fence or wall not less than eight (8) feet in height from finished grade shall be installed so as to enclose the base of any proposed telecommunications tower and equipment building. Access to the tower shall be controlled by a locked gate. The fence or wall shall be of wood construction and shall be designed so as to blend with the surrounding area.

11. Telecommunications equipment buildings.

Equipment buildings not completely screened by a security fence, shall have pitched roofs, and shall be constructed of either masonry or wood, with wood, vinyl, reinforced concrete, or other good quality siding material. All utilities not located within an equipment shelter or otherwise completely screened by a security fence shall be placed underground.

(6) To the extent a proposed telecommunications facility complies with FCC regulations concerning radio frequency emissions, the Board of Appeals shall not base a denial of an application for a telecommunications facility on the environmental effects of radio frequency emissions.

(7) Termination of use.

Board of Appeals approval of a telecommunications facility depends on its continued use as a wireless communications facility. In the event that a telecommunications facility ceases to be used for a period of one (1) year, conditional use approval shall be deemed revoked. The applicant shall take all necessary steps to dismantle the facility and remove and dispose of all remnants and materials from the subject parcel within ninety (90) days after revocation of the conditional use approval. The applicant shall ensure removal of the telecommunications facility and all associated accessory structures, including foundations, by posting a monetary guarantee, in accordance with Part VII, Subpart 6 of this Subtitle. The guarantee shall be submitted prior to the issuance of a building permit and shall be for an amount equal to the total cost estimate approved by the Planning Director for the removal of the facility, plus a fifteen percent (15%) contingency.

If, prior to the revocation, the Planning Director is presented with evidence that further viability of the facility is imminent, the Planning Director may grant one (1) extension of the conditional use approval for a period not to exceed a total of eighteen (18) months beyond the termination of use as a wireless communications facility. Once revoked, the applicant must submit a new application for conditional use approval to resume operation as a wireless communications facility.

(8) Board of Appeals Denial.

Should the Board of Appeals decide that denial of an application under this Section is appropriate, the Board of Appeals shall set forth the reasons for the denial in writing supported by substantial evidence contained in a written record.

(9) Expert Review

Where due to the complexity of the methodology or analysis required to review an application for a telecommunications facility, the Planning Director may require a technical review by a third party expert, the costs of which shall be borne by the applicant.

(i) The expert review may address the following:

1. The accuracy and completeness of submissions;

2. The applicability of analysis techniques and methodologies;

3. The validity of conclusions reached;

4. Whether the proposed telecommunications facility complies with the applicable approval criteria set forth in this Title; and

5. Other matters deemed by the Planning Director to be relevant in determining whether a proposed telecommunications facility complies with the provisions of this Title.

(ii) Based on the results of the expert review, the Planning Director may require changes to the applicant's application or required submissions.

(iii) The applicant shall reimburse the County within ten (10) working days of the date of receipt of an invoice for expenses associated with the third party expert's review of the application. Failure by the applicant to make reimbursement pursuant to this Section shall abate the pending application until payment in full is received by the County.

(10) Limited variance available.

A variance may be granted to the provisions of this division, only where the Board makes one of the following findings in addition to those set forth under Section 18-1-121:

(i) That failure to grant the variance would prohibit or have the effect of prohibiting the provision of personal wireless services;

(ii) That failure to grant the variance would unreasonably discriminate among providers of functionally equivalent personal wireless services;

(iii) That the variance will obviate the need for additional telecommunications towers;

(iv) That the variance is necessary to ensure adequate public safety and emergency management communications; or

(v) That the variance is the minimum necessary in order for the applicant to provide broadcast services pursuant to an FCC-issued construction permit.

(c) Airports, landing strips, and heliports.

(1) Airports, private airports, private landing strips, and private or public heliports may be required to install buffer yards and/or other noise abatement devices to insure that surrounding properties and public rights-of-way are protected from adverse impacts of the use.

(2) The applicant shall demonstrate that the proposed airport, private airport, private landing strip, or private or public heliport meets:

(i) The standards of the State Aviation Administration of the Maryland Department of Transportation; and

(ii) All other applicable State, federal, and municipal agency regulations for the type of class of use proposed.

(3) An application for an airport, private landing strip, or private or public heliport may not be considered unless it is accompanied by a plan, drawn to scale, showing:

(i) The proposed location of the facility, boundary lines, dimensions, names of abutting property owners, proposed layout of runways, landing strips or pads, taxiways, aprons,

roads, aircraft and vehicle parking areas, navigational aids, hangars, buildings, and other structures such as water towers and telecommunications tower; and

(ii) The location and height of all buildings, structures, trees, and overhead wires falling within approach and departure patterns and less than five hundred (500) feet from the boundary lines of the airport.

(4) The application shall also indicate the location of all existing airports, private airports, private landing strips, and public and private heliports within a five (5)-mile radius.

(5) The Board of Appeals shall consider the impact a proposed airport, private airport, private landing strip, or private or public heliport may have upon adjacent residential areas and may include such conditions in its approval of the proposed use as it considers advisable to preserve the quiet enjoyment of such residential areas including, but not limited to, restrictions on:

(i) Arrivals or departures;

(ii) Maximum size of aircraft allowed to arrive at or depart from the facility; and

(iii) Other noise and nuisance abatement procedures not inconsistent with safe aviation practices or applicable State or federal regulations.

(6) Notwithstanding the limits on the number of aircraft allowed to use a private airport or landing strip, the Board of Appeals may approve the temporary use of private airports or landing strips by aircraft used for agricultural spraying or fertilizing upon the specific request of the applicant and only under such conditions as the Board of Appeals may find are consistent with the nature and size of the facility, impacts on adjacent lands and uses, and the legitimate needs or convenience of properties to be served by such agricultural spraying or fertilizing.

(7) Any building, hangar, or other structure shall be at least one hundred (100) feet from any street or lot line.

(8) All major repair of aircraft and machinery shall be conducted inside hangars.

(d) Marinas and covered slips.

(1) Dimensions and locations of channels shall be designed to achieve maximum flushing of the marina basin.

(2) The flow and volume of the natural drainage system, both on-site and on adjacent properties, shall be maintained.

(3) Use of impervious ground surfacing shall be minimized wherever possible.

(4) Reasonable distances shall be maintained between water and parking and loading areas.

(5) New commercial marinas of more than twenty (20) slips shall be developed only as part of a mixed-use project, including one or more of the following uses permitted in the underlying zoning district:

(i) Restaurants;

(ii) Nautical supply shops;

(iii) Boutiques;

(iv) Retail shops; and/or

(v) Lodging establishments.

(6) New marinas and additions to existing marinas shall be serviced by sanitary sewer connections for pump outs for boat slips within the marina.

(7) All on-site storage of flammable liquids shall be subject to the requirements of Sections 18-1-60(2) and (3).

(8) All covered slips and piers shall comply with applicable State and federal regulations.

(e) Major extraction and minor disposal.

(1) Extraction and disposal includes sand, clay, shale, gravel, topsoil or similar extractive operations, including borrow pits (excavations for removing material for filling operations) and disposal operations such as landfills (including rubble landfills), trash transfer sites, incinerators, sludge or other land disposal or storage of septic tank wastes or sludges, trash, junk cars, recycling facilities, used auto parts or junkyards.

(2) All applications for a zoning permit or change of zoning for all industrial proposals requiring conditional use approval shall, in addition to what is otherwise required for a conditional use permit, be presented to the Planning Commission during a public hearing. The Planning Commission shall forward its report and recommendations to the Board of Appeals within sixty (60) days of the Planning Commission's review. The Board of Appeals shall not render its decision until the Planning Commission recommendations have been received and reviewed.

(i) Any extraction and disposal proposals for the treatment of effluent for a single family home or community effluent systems that are part of a residential subdivision, are excluded from this requirement.

(ii) Any alteration to a proposed end use or reclamation use requires mandatory Board of Appeals approval.

(3) When applying for a zoning permit or change of zoning, the applicant shall provide, in addition to what is otherwise required for a conditional use permit:

(i) A plan of general area within a one-mile radius of the site at a scale of one thousand (1,000) feet to the inch or less with a ten (10)-foot contour interval or less that includes the information specified in paragraph (4) of this Subsection;

(ii) A plan of the proposed site at a scale of 100 feet to the inch or less with a two-foot contour interval or less that includes the information specified in paragraph (5) of this Subsection; and

(iii) A plan of operation that includes the information specified in paragraph (6) of this Subsection.

(4) The general plan shall show:

(i) Existing data that includes:

1. The location of the proposed site;

2. The land use pattern, including building locations and historical sites and buildings within a one-mile radius of the proposed site; and

3. Roads, indicating major roads and showing width, weight loads, types of surfaces and traffic data.

(ii) Site and geological data that includes:

1. Surface drainage patterns;

2. Vegetation cover on the site and dominant species; and

3. Annual precipitation and dominant seasonal wind direction.

(iii) The proposed operation of the site that includes:

1. For extractive operations:

i. Type of material to be removed;

ii. Annual removal rate;

iii. Methods of extraction, including types of equipment, use of conveyors and use of blasting materials;

iv. Supplementary processes, drying, grading, mixing or manufacturing;

v. Estimated life of the operation and maximum extent of area disturbed, final depths and side wall slopes; and

vi. Approved sediment erosion control plan.

2. For disposal facilities:

i. Approximate number of cubic yards of waste to be accepted per day, or thousands of gallons;

ii. A detailed description of the operation;

iii. Methods of protecting wastes from exposure to wind, rain, or biological influences;

iv. Type and origin of the waste materials;

v. The average number of vehicles entering the site and the routes taken to get there;

vi. The ability of roads and bridges to support such loadings;

vii. On-site management techniques used to protect against odor, dust, litter and animal or insect vectors; and

viii. Data on previous developments that have been approved by the County for building permits, zoning reviews, subdivisions or land developments.

(5) A plan of the proposed site shall show:

(i) Basic data that includes:

1. Soils and geology as related to storm water management;

2. Vegetation, with dominant species; and

3. Wind data (directions and percentage of time).

(ii) Proposed usage that includes:

1. Final grading by contours;

2. Interior road patterns and the relation to operation yard and points of ingress and egress to State and County roads;

3. Estimated amount and description of aggregate and overburden to be removed;

4. Ultimate use and ownership of the site after completion of operation; and

5. Source of water if the final plan shows use of water.

(6) A plan of operation shall show:

(i) Proposed tree and berm screen locations;

(ii) Soil embankments for noise, dust and visual barriers and heights of spoil mounds;

(iii) Method of disposition of excess water during operation;

(iv) Location and typical schedule of blasting that complies with the criteria in paragraph (7) below.

(v) Machines (type and noise levels); and

(vi) Safety measures (monitoring of complaints).

(7) End uses.

(i) Concept plan -- Required information.

1. A plat shall contain a location map that indicates the location of the proposed end use or reclamation project in relation to municipal boundaries and traffic facilities.

2. A plat shall show the boundaries of the land that is the subject of the application and specify the location and position of the proposed end use or reclamation project. A copy of the property deed must be indicated.

3. A plat shall show the status of all land adjacent to the property that is the subject of the application.

4. A plat shall indicate the characteristics of the land to be reclaimed or developed with an end use proposal and all resources that require protection in accordance with Part IV of this Subtitle. In addition, a complete set of natural resource calculations in accordance with the requirements of Part IV; Subpart 2 of this Subtitle must be submitted.

5. The plat shall indicate the base site area, which shall meet the density/intensity requirements of the underlying zoning district.

6. The plat shall indicate all existing and proposed structures, roads, parking areas, and setbacks including dimensions. Parking and buffer yards must be shown on the plat and must include all computations as to how numbers were arrived at.

7. The plat should include an environmental review with comments by the appropriate State agency. In the case of new extraction operation, critical areas designation and

delineation (IDA, LDA, and RCA) and buffers must be indicated on the plat. Disposal uses are not permitted in the critical area.

8. The concept plan shall include preliminary information as required under the forest conservation ordinance, Subtitle 2 of this Title.

9. The concept plan shall indicate the following site statistics, if applicable:

i. Minimum required landscape surface area for site;

ii. Proposed landscape surface area;

iii. Maximum amount of allowable floor area;

iv. Floor area proposed;

v. Number of required parking spaces;

vi. Zoning of proposed and adjacent sites;

vii. Amount of allowable impervious area;

viii. Amount of proposed impervious area; and

ix. Area of proposed roads for right-of-way.

10. The concept plan shall outline the following:

i. Phases of reclamation/end use;

ii. Time frame of each phase of reclamation/end use;

iii. Time table/construction table outlining the construction of the end use;

iv. Information shall be provided as to postoperation maintenance; and

v. Reforestation/afforestation planting plan, if applicable.

11. The concept plan shall include provisions for on-site water testing at the start of the reclamation/end use project and annual testing thereafter for a period of no less than ten (10) years. The results shall be forwarded to the Department of Environmental Health.

12. The concept plan shall provide information on stabilization measures including an approved sediment and erosion control plan.

13. The concept will indicate that only clean fill may be used for reclamation.

14. The concept plan will indicate that an excavation area may not be reclaimed as a sanitary landfill or rubble landfill or used for sludge disposal.

15. In the case of disposal operations, an easement shall be granted to the County restricting future use of the site to an activity compatible with a reclaimed disposal use such as public recreation or open space, and in the case of rubble fill, certain agricultural uses.

16. If the end use is to be an open space use then documentation shall be provided indicating who shall own and maintain the site and draft restrictive covenants shall be submitted.

17. A final contour and site plan shall be submitted if the end use is to be an open space use. All piles of disturbed earth or material resulting from the excavation or filling operation shall be graded to a smooth contour to control erosion and to prevent ponding and undrained water pockets.

18. A declaration shall be submitted binding their heirs and assigns to utilize the land in accordance with said development plan and reclamation or end use until excavation processes cease and the reclamation or end use is completed.

19. Legal documents shall be created outlining the legal responsibility for any environmental pollution that occurs after the facility is closed.

20. Evidence shall be submitted outlining the financial ability to clean up any pollution that may occur after the facility is closed.

21. Detailed engineering studies shall be provided by the applicant setting forth the estimated cost of the accepted plan for rehabilitation. A performance guarantee, which is determined to be suitable by the Board of Appeals, shall be submitted to cover the estimated cost of the accepted plan for end use or reclamation.

22. Upon abandonment of excavation and disposal operations, all access roads shall be suitably barricaded to prevent the passage of vehicles whether into or out of the abandoned area, except where such access is needed for vehicles engaged in rehabilitation work.

23. All machinery and structures not related to the operation of the end use shall be completely removed.

24. In the case of disposal operations, a vegetated berm must be created to completely screen the site of a width no less than twenty (20) feet and a height of six (6) feet.

(ii) Determination by the Planning Director.

If the Planning Director determines on the basis of the application that all information sufficient to evaluate the requested determination has been furnished, the Planning Director shall so inform the owner in writing. Alternatively, the Planning Director may require the applicant to submit additional information, which the Planning Director deems necessary for a full and complete consideration of the requested determination. Until such information is furnished, an application is not complete under this Section.

(iii) Any alteration to the proposed end use or reclamation will require mandatory Board of Appeals approval.

(8) Major extraction and major and minor disposal activities.

(i) Extraction and disposal activities shall comply with the performance standards specified in this paragraph.

(ii) Extractive operations shall meet all development and performance standards set forth in of this Subtitle and all applicable local, State and federal regulations.

(iii) An excavation, quarry wall, or storage area in connection with an extraction operation may not be located within:

1. Fifty (50) feet of any lot line;

2. One hundred twenty-five (125) feet from any street right-of-way; and

3. Two hundred (200) feet of any residential or commercial district boundary line.

(iv) Screening.

A vegetative buffer of no less than twenty (20) feet wide shall screen the proposed active portion of all extraction and disposal uses. This buffer will consist of mature plant material of significant size and density capable of providing immediate buffering capacity. This buffer will occur regardless of the presence or absence of any required district boundary requirements or street buffer requirements. The buffer shall be expanded to fifty (50) feet in width when adjacent to incompatible uses. The Planning Director shall determine the most suitable location for the buffer that will provide the largest screening benefit. Open storage of equipment and materials shall be allowed only in areas screened from the view of surrounding lots.

(v) Grading and drainage.

1. All excavations shall be graded in such a way as to provide an area that is harmonious with the surrounding terrain and not dangerous to human or animal life.

2. Excavations shall be graded and backfilled to the grades indicated by the site plan. Grading and backfilling shall be accomplished continually and as soon as practicable after excavation. Grading and backfilling may be accomplished by use of construction rubble such as concrete, asphalt, etc., or other materials, providing that such materials are composed of nonnoxious, noncombustible solids.

3. Grading and backfilling shall be accomplished in such a manner that the slope of the fill or its cover shall not exceed normal angle of slippage of such material, or 33° in angle, whichever is less. During grading and backfilling, the setback requirements in subparagraph (iii) of this paragraph may be reduced so that the top of the graded slope may not be closer than twenty-five (25) feet to any lot line, seventy-five (75) feet to any street line and one hundred (100) feet to any nature reserve or residential district boundary line.

4. When excavations that provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of seven feet horizontal to one foot vertical, beginning at least fifty (50) feet from the edge of the water and maintained into the water to a depth of five (5) feet.

5. Drainage shall be provided, either natural or artificial, so that disturbed areas shall not collect or permit stagnant water to remain.

(vi) A landfill or rubble fill may not be located within:

1. Five hundred (500) feet from any parcel of land located in a region with a zoned classification of residential;

2. One thousand five hundred (1500) feet from any public or private school or hospital;

3. Five hundred feet (500) from any church, public library, public parks or trails or other public facility; and

4. One hundred feet (100) from the boundaries of the property on which the landfill or rubble fill is located.

(vii) Any landfill or rubble fill shall also comply with the following performance standards.

1. Access.

The landfill or rubble fill shall be surrounded by six (6)-foot-high fencing or other natural barriers to deter unauthorized entry. Lockable gates must be provided at each point of entry in order to limit access to the facility.

2. Hours of operation.

The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 3:00 p.m. on Saturday.

3. Prevention of nuisances and unsanitary conditions.

The landfill or rubble fill shall be designed, operated and maintained in a manner that prevents the creation of a nuisance or unsanitary condition such as litter, dust, odor and vermin.

4. Roads.

All forms of access to the property and the disposal site on the property shall be through the use of paved all-weather roads.

5. Submittal requirements.

Submittals should demonstrate that the landfills or rubble fill will not adversely affect wetlands, floodplains or other environmentally sensitive areas.

(9) Use of blasting materials.

(i) The use of blasting materials shall be limited to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. The use of blasting materials is prohibited during weekends and legal holidays.

(ii) No blasting machinery shall be used within one thousand (1,000) feet of a residential structure.

(10) Any sludge storage or sludge disposal facility may not be located within:

(i) Two hundred (200) feet from any parcel of land zoned residential; or

(ii) Two hundred (200) feet from public or private school, church, hospital or park.

(11) Truck access to any excavation or disposal activity shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties.

(12) Additional final end use requirements for Landfills and Rubble Fills.

(i) When open space is the final end use for the site, all land that is not covered by water shall be covered with a sufficient amount of arable soil to support vegetation. A planting plan shall be prepared for the entire finished site using various types of plant material for the prevention of soil erosion and to provide vegetative cover.

(ii) When buildings are proposed as part of the final end use for the site, areas adjacent to proposed buildings shall be planted with a vegetative cover in keeping with the requirements of the ultimate building purposes.

(f) Minor extraction and dredge disposal.

(1) Minor extraction and dredge disposal includes sand, gravel, or similar extraction and clean fill storage operations and dredge disposal operations.

(2) For a minor extraction and dredge disposal operation, the applicant shall provide, in addition to what is otherwise required for a conditional use permit:

(i) A general area plan within a one (1)-mile radius from the extraction or disposal operation at a scale of one thousand (1,000) feet to the inch or less that includes the information specified in paragraph (4) of this Subsection;

(ii) General operational information that includes the information specified in paragraph (5) of this Subsection;

(iii) An approved sediment and erosion control plan;

(iv) Information concerning proposed usage that is specified in paragraph (6) of this Subsection;

(v) A plan of operation that includes the information specified in paragraph (7) of this Subsection;

(vi) An end use plan for the rehabilitation of the site after the extraction or dredge disposal operation is completed that includes the information specified in paragraph (8) of this Subsection; and

(vii) Detailed engineering studies setting forth the estimated costs of the accepted plan for rehabilitation. A performance guarantee which is determined to be suitable by the Board of Appeals shall be submitted to cover the estimated cost of the accepted plan for the end use or reclamation.

(3) Any alteration to a proposed end use or reclamation use requires mandatory Board of Appeals approval.

(4) The general plan shall show:

(i) The location of the proposed site; and

(ii) The existing zoning.

(5) General operations.

(i) The general operational information for extraction operations shall include:

1. Type of material to be removed;

2. Removal rate;

3. Methods of extraction;

4. Any supplementary process;

5. Estimated life of the operation; and

6. Average number of vehicles per day.

(ii) The general operational information for dredge disposal operations shall include:

1. Approximate number of cubic yards to be accepted;

2. Origin of dredge material;

3. Method of transport of dredge disposal; and

4. Number of vehicles per day.

(6) Proposed usage information shall include:

(i) Final grading by contours;

(ii) Interior road patterns and the relation to operation yard and points of ingress and egress to state and county roads;

(iii) Estimated amount and description of aggregate and overburden to be removed;

(iv) Ultimate use and ownership of the site after completion of operation; and

(v) Source of water if final plan shows use of water.

(7) The plan of operation shall show:

(i) Proposed tree and berm screen locations;

(ii) Soil embankments for noise, dust, and visual barriers, and heights of spoil mounds;

(iii) Method of disposition of excess water during operation;

(iv) Machinery—type and noise levels; and

(v) Safety measures—monitoring of complaints.

(8) End uses.

(i) Concept plan -- Required information.

1. A plat shall contain a location map that indicates the location of the proposed end use or reclamation project in relation to municipal boundaries and traffic facilities.

2. A plat shall show the boundaries of the land that is the subject of the application and specify the location and position of the proposed end use or reclamation project. A copy of the property deed must be indicated.

3. A plat shall show the status of all land adjacent to the property that is the subject of the application.

4. A plat shall indicate the characteristics of the land to be reclaimed or developed with an end use proposal and all resources that require protection in accordance with Part IV of this Subtitle. In addition, a complete set of natural resource calculations in accordance with the requirements of Part IV; Subpart 2 of this Subtitle must be submitted.

5. The plat shall indicate the base site area, which shall meet the density/intensity requirements of the underlying zoning district.

6. The plat shall indicate all existing and proposed structures, roads, parking areas, and setbacks including dimensions. Parking and buffer yards must be shown on the plat and must include all computations as to how numbers were arrived at.

7. The plat should include an environmental review with comments by the appropriate State agency. In the case of new extraction operation, critical areas designation and delineation (IDA, LDA, and RCA) and buffers must be indicated on the plat. Disposal uses are not permitted in the critical area.

8. The concept plan shall include preliminary information as required under the forest conservation ordinance, Subtitle 2 of this Title.

9. The concept plan shall indicate the following site statistics, if applicable:

i. Minimum required landscape surface area for site;

ii. Proposed landscape surface area;

iii. Maximum amount of allowable floor area;

iv. Floor area proposed;

v. Number of required parking spaces;

vi. Zoning of proposed and adjacent sites;

vii. Amount of allowable impervious area;

viii. Amount of proposed impervious area; and

ix. Area of proposed roads for right-of-way.

10. The concept plan shall outline the following:

i. Phases of reclamation/end use;

ii. Time frame of each phase of reclamation/end use;

iii. Time table/construction table outlining the construction of the end use;

iv. Information shall be provided as to postoperation maintenance; and

v. Reforestation/afforestation planting plan, if applicable.

11. The concept plan shall include provisions for on-site water testing at the start of the reclamation/end use project and annual testing thereafter for a period of no less than ten (10) years. The results shall be forwarded to the Department of Environmental Health.

12. The concept plan shall provide information on stabilization measures including an approved sediment and erosion control plan.

13. The concept will indicate that only clean fill may be used for reclamation.

14. The concept plan will indicate that an excavation area may not be reclaimed as a sanitary landfill or rubble landfill or used for sludge disposal.

15. In the case of disposal operations, an easement shall be granted to the County restricting future use of the site to an activity compatible with a reclaimed disposal use such as public recreation or open space, and in the case of rubble fill, certain agricultural uses.

16. If the end use is to be an open space use then documentation shall be provided indicating who shall own and maintain the site and draft restrictive covenants shall be submitted.

17. A final contour and site plan shall be submitted if the end use is to be an open space use. All piles of disturbed earth or material resulting from the excavation or filling operation shall be graded to a smooth contour to control erosion and to prevent ponding and undrained water pockets.

18. A declaration shall be submitted binding their heirs and assigns to utilize the land in accordance with said development plan and reclamation or end use until excavation processes cease and the reclamation or end use is completed.

19. Legal documents shall be created outlining the legal responsibility for any environmental pollution that occurs after the facility is closed.

20. Evidence shall be submitted outlining the financial ability to clean up any pollution that may occur after the facility is closed.

21. Detailed engineering studies shall be provided by the applicant setting forth the estimated cost of the accepted plan for rehabilitation. A performance guarantee, which is determined to be suitable by the Board of Appeals, shall be submitted to cover the estimated cost of the accepted plan for end use or reclamation.

22. Upon abandonment of excavation and disposal operations, all access roads shall be suitably barricaded to prevent the passage of vehicles whether into or out of the abandoned area, except where such access is needed for vehicles engaged in rehabilitation work.

23. All machinery and structures not related to the operation of the end use shall be completely removed.

24. In the case of disposal operations, a vegetated berm must be created to completely screen the site of a width no less than twenty (20) feet and a height of six (6) feet.

(ii) Determination by the Planning Director.

If the Planning Director determines on the basis of the application that all information sufficient to evaluate the requested determination has been furnished, the Planning Director shall so inform the owner in writing. Alternatively, the Planning Director may require the applicant to submit additional information, which the Planning Director deems necessary for a full and complete consideration of the requested determination. Until such information is furnished, an application is not complete under this Section.

(iii) Any alteration to the proposed end use or reclamation will require mandatory Board of Appeals approval.

(9) Performance standards.

(i) Extraction and disposal activities shall comply with the performance standards specified in this paragraph.

(ii) Extraction and dredge disposal operations shall meet all development and performance standards of this Subtitle and all applicable local, State, and federal regulations.

(iii) An excavation, quarry wall, or storage area may not be located within:

1. Fifty (50) feet of any lot line; and

2. One hundred twenty-five (125) feet from any street right-of-way.

(iv) Grading.

1. All excavations shall be graded in such a way as to provide an area which is harmonious with the surrounding terrain and not dangerous to human or animal life.

2. Excavations shall be graded and backfilled to the grades indicated by the site plan. Grading and backfilling shall be accomplished continually and as soon as practicable after excavation. Grading and backfilling may be accomplished by use of construction rubble such as concrete, asphalt, etc., or other materials, providing such materials are composed of non-noxious, noncombustible solids.

3. Grading and backfilling shall be accomplished in such a manner that the slope of the fill or its cover may not exceed normal angle of slippage of the material, or thirty-three (33) degrees in angle, whichever is less. During grading and backfilling, the setback requirements in subparagraph (iii) of this paragraph may be reduced so that the top of the graded slope may not be closer than twenty-five (25) feet to any lot line, seventy-five (75) feet to any street line, and one hundred (100) feet to any nature reserve or residential district boundary line.

4. When excavations that provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of seven (7) feet horizontal to 1 foot vertical, beginning at least fifty (50) feet from the edge of the water and maintained into the water to a depth of five (5) feet.

5. Drainage shall be provided, either natural or artificial, so that disturbed areas may not collect or permit stagnant water to remain.

(v) Truck access to any excavation shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties.

(vi) Vegetative cover.

1. When open space is the final end use for the site, all land that is not covered by water shall be covered with a sufficient amount of arable soil to support vegetation. A planting plan shall be prepared for the entire finished site using various types of plant material for the prevention of soil erosion and to provide vegetative cover.

2. When buildings are proposed as part of the final end use for the site, areas adjacent to proposed buildings shall be planted with a vegetative cover in keeping with the requirements of the ultimate building purposes.

(g) Bed-and-breakfasts and country inns.

(1) A bed-and-breakfast or country inn may not be approved except as an adaptive reuse of an existing building.

(2) All bed-and-breakfasts and country inns shall:

(i) Be required to obtain permits to serve food and beverages; and

(ii) Be inspected annually at a fee as established by a separate ordinance or resolution to verify that the uses continue to meet all applicable regulations.

(3) In noncommercial districts, only one thirty-five (35) square foot sign shall be allowed. Signs shall be set back from the road to maintain a rural character except in areas where adjoining uses are on the road.

(4) There shall be:

(i) One (1) parking space for each room;

(ii) Three (3) parking spaces for the owner; and

(iii) One and one-quarter (1.25) spaces per four (4) seats for the country inns having extra seating capacity.

(5) Restaurant size shall be limited to the number of rooms in the facility.

(h) Campgrounds.

(1) For all campgrounds, a 3-inch caliper tree shall be planted within each campsite not located in a wooded area.

(2) The perimeter of a campground shall be developed with a D buffer yard as described in Section 18-1-76 of this Subtitle, unless Section 18-1-76 requires a greater buffer yard due to adjoining zoning districts or roadways.

(i) Group day care.

Day care centers shall:

(1) Meet all State requirements for day care and/or child care facilities;

(2) Provide off-street parking and loading areas; and

(3) Be located on streets that have adequate capacity to accommodate the volume of traffic generated by the proposed use.

(j) Funeral homes.

Funeral homes shall:

(1) Meet all State requirements for funeral home facilities;

(2) Provide off-street parking and loading areas; and

(3) Be located on a collector or arterial street.

(k) Manufactured home communities.

(1) In the SR district, manufactured home community sites shall provide a minimum of 45% open space. At this open space ratio and the permitted density in the SR district, the use shall be considered to have met the provisions of Section 18-1-94 of this Subtitle. Further, the requirements in Section 18-1-94 of this Subtitle should be reviewed only as the manufactured home community differs in intensity from permitted uses in the district.

(2) In the NC-T district, the density shall be determined by the minimum lot area in the district. The requirement for open space shall be the same as that required for suburban residential districts in paragraph (1) of this Subsection, and lot size shall be no less than four thousand (4,000) square feet in any case.

(3) The following specific conditions shall apply.

(i) Buffer landscaping between the manufactured home community and any existing single-family dwellings shall be of sufficient width and plant density to serve as an effective screen. The use of berms and/or evergreen plantings may be required.

(ii) Double-wide manufactured units may be required on the outer fringe of the development near existing residential uses.

(iii) The manufactured home community may not be used as a seasonal or vacation community, but rather is clearly intended to meet the needs of full-time residents of the County.

(l) First floor commercial apartments.

(1) Square footage of a first floor commercial apartment shall be minimized to the extent practicable in order to insure that the dwelling is affordable and the use of the building remains substantially commercial.

(2) First floor commercial apartments:

(i) Shall comply with the parking requirement for apartments in Section 18-1-83(j)of this Subtitle; and

(ii) Shall provide no less than fifty (50) square feet of patio or deck area at the outside entrance of each unit.

(3) The developer shall provide landscape surface area at the entrance of each unit.

(m) Truck stops and travel plazas.

(1) A truck stop or travel plaza:

(i) May not locate any building or parking area within two hundred (200) feet of any residentially zoned district;

(ii) May not be located on a parcel that is less than twenty-five (25) acres; and

(iii) Shall include architectural design features that provide compatibility between the proposed buildings and other commercial buildings in the area.

(2) All on-site lighting at a truck stop or travel plaza shall be sized and directed to provide for minimal light spillage onto adjacent properties.

(3) The Board of Appeals may require additional landscaping, screening, and berming as necessary to minimize the visual and noise impact of the truck stop or travel plaza on adjacent properties.

(n) Country store.

(1) A country store shall be located only at an intersection involving a minor arterial or collector road as designated by the State Highway Administration or the Comprehensive Plan.

(2) No country store shall be located within one (1) mile of an existing Village Center (VC) zoning district.

(3) If the access of a country store is to a State road, a State Highway Administration Access Permit shall be obtained.

(4) Total floor area of a country store and accessory residential units may not exceed three thousand (3,000) square feet.

(5) Adequate off-street parking and loading spaces shall be provided as required under Section 18-1-83 of this Subtitle. All parking shall be located to the side and rear of the store building and shall be screened on all sides by:

(i) A three to six foot high, year-round, semi opaque landscaped buffer; or

(ii) A combination of landscaping and wooden fencing.

(6) No outside storage or display of merchandise is allowed.

(7) All buildings shall be compatible in design with surrounding rural residential character and shall have:

(8) Wood, brick or vinyl siding;

(i) A minimum 1:4 roof pitch; and

(ii) A covered front porch extending at least 2/3 the length of the building.

(9) The maximum building height of a country store is forty-five (45) feet.

(10) One (1) wall sign is allowed provided that the wall sign does not exceed sixteen (16) square feet in area.

(11) One freestanding sign is allowed, provided that:

(i) Each side of the freestanding sign does not exceed thirty-two (32) square feet in area;

(ii) The height of the freestanding sign does not exceed fifteen (15) feet; and

(iii) All signs are constructed of natural materials and are not internally lighted.

(12) A country store may contain up to two (2) accessory residences above the first floor of the store building.

(13) A country store may contain eat-in and/or carry-out food service, provided that no more than 50% of the total nonresidential floor area is used for food preparation and dining area.

(14) A country store may sell petroleum products, provided only one (1) pump island is allowed and the pump island is covered by a canopy that:

(i) Is designed and constructed to be compatible with the store building; and

(ii) Incorporates similar roofing and siding materials.

(15) A landscaping plan for a country store shall be submitted and approved in conjunction with the site plan.

(16) To the extent possible, impervious surfaces shall be limited.

(o) Rural country club.

(1) A rural country club shall include at least one eighteen (18)-hole golf course. Additional golf courses, practice putting greens and driving ranges may be permitted.

(2) Permitted accessory facilities for a rural country club may include a clubhouse, swimming pool, tennis courts and lodging (as permitted for a country inn). Additional proposed accessory features or facilities shall require a determination from the Planning Commission and the Board of Appeals that the proposed features or facilities will not materially impact neighboring properties and are appropriate, given site location, site conditions and zoning classification.

(3) A rural country club may be open to the public and/or may offer both full (golfing) membership subscriptions and social (non-golfing) membership subscriptions.

(4) Following Board of Appeals conditional use approval and as part of mandatory site plan review, the Planning Commission shall determine that the proposed development's design standards relating to architecture and building materials are consistent with the character and complement the built environment of the area.

(5) Special events which are traditionally associated with a private country club are permitted. These may include private functions such as weddings, parties and receptions, as well as non-private tournaments and other special events which are held for the benefit of a public agency or a charity, organization or foundation recognized by the Internal Revenue Service of the United States Government as having nonprofit status.

(6) Overnight guest accommodations for a maximum of forty (40) persons shall be permitted.

(7) One (1) caretaker dwelling unit may be provided as an accessory use or structure provided that:

(i) The structure meets required setbacks applicable to the principal structure or structures.

(ii) The structure is located within the site's landscaped surface area.

(8) A rural country club development proposal may include a residential component. The residential component must satisfy all zoning district requirements, performance standards and all other applicable state and County regulations. The developer must demonstrate comparability between the residential component and the golf course, in terms of land use, site aesthetics, safety and all other considerations and conditions specified in this and other sections of the Queen Anne's County Code of Ordinances.

(9) As directed by the Planning Commission, a rural country club shall provide buffers to shield neighboring residential uses from the effects of noise, hazards and nuisances.

(10) As directed by the Planning Commission, a rural country club shall provide screening to prevent light and glare spillover to adjacent neighboring residential uses.

(11) A proposal to develop a rural country club shall include a traffic study to determine impacts to the surrounding community. The traffic study shall be conducted consistent with guidelines, standards, rates and methodologies established by the Institute of Transportation Engineers. In addition to considering the traffic which will be generated by regular rural country club operations, the traffic study shall also consider the impact of special events which the development is designed to accommodate. If the traffic study identifies that the proposed development will adversely impact existing traffic conditions, it shall be the responsibility of the developer to make whatever physical improvements are necessary to keep the traffic study area at the existing level of service.

PART VI. DEVELOPMENT ALTERNATIVES AND BONUSES

Subpart 1. General Requirements

18-1-96 Purposes and Scope.

The purposes of this part are to:

(1) Encourage and to provide flexibility in the protection of farmland and open space in conjunction with increased development intensities within designated growth areas where public services and facilities can be more efficiently provided;

(2) Encourage and to provide flexibility in the protection of open space and farmland in resource conservation areas of the Chesapeake Bay Critical Area; and

(3) Encourage infill development with existing urbanized and growth areas.

Subpart 2. Noncontiguous Development

18-1-97 Scope of Subpart.

This Subpart applies only within the AG district and the noncritical area CS district.

18-1-98 Application and Standards.

(a) Development plan.

A landowner or group of landowners who lots are in the same zoning district, but are not contiguous may file a development plan under Part VII of this Subtitle in the same manner as the owner of a single lot.

(b) Open space.

(1) The open space requirements of the appropriate district, as permitted in Section 18-1-12(j) of this Subtitle, shall apply to all land within the overall development plan, rather than separately to the developed parcel and noncontiguous parcel.

(2) The minimum open space ratio for the developed parcel is .50.

(3) After the date of adoption of this ordinance, if a landowner proposes development, pursuant to this Subpart, which is of an amount less than the maximum allowed under Part III, Subpart 2 of this Title, noncontiguous open space and the developed parcel may be identified and set aside only in accordance with the following two-step phasing schedule:

	Developed Parcel	Noncontiguous Parcel
Phase 1	.70	.30
Phase 2	.50	.50

(c) Base site area.

For the purpose of computing base site area, the area of the noncontiguous parcel and the developed parcel shall be combined.

(d) Density.

The developed parcel shall use a density of no more than nine-tenths (0.9) of a dwelling unit per acre.

(e) Resource protection land.

For the purpose of computing resource protection requirements set forth in Subtitle 1, Part IV, Subpart 2, the following shall apply.

(1) Total resource protection land shall be calculated for the developed parcel and noncontiguous parcel, as if combined.

(2) Natural resources shall be protected at the required percentage on the developed parcel and noncontiguous parcels, as if combined.

(f) Noncontiguous parcel.

(1) May be less than all of a lot of record, however, the area of the noncontiguous parcel used must be at least forty (40) acres in size or constitute at least one-half (½) of the total area of the lot of record, whichever is less.

(2) Upon approval of a development plan, the noncontiguous parcel:

(i) May not be subdivided or reconfigured;

(ii) Shall be deemed open space and shall be limited to only those uses allowed pursuant to Column A of the open space table in Section 18-1-12 of this Subtitle; and

(iii) Shall not be used in connection with any determination of site area or density, except as may be necessary in determining the amount of deed restricted open space required by the development plan.

(g) Noncontiguous parcel.

Upon approval of a development plan, the noncontiguous parcel:

(1) May not be subdivided or reconfigured;

(2) Shall be deemed open space and shall be limited to only those uses allowed pursuant to Column A of the open space table in Section 18-1-12 of this Subtitle; and

(3) May be less than all of a lot owned by an original transferor; however, a transferor parcel used must be at least forty (40) acres or one-half (½) the size of the lot of record, whichever is less.

18-1-99 Requirements for approval—Covenants.

(a) Duties of property owner.

In addition to any other requirements of this Title, including those relating to required improvements, guarantees and other covenants, a property owner involved in an application shall, prior to any approval of a development plan, provide covenants by which land required to remain in open space is restricted to the uses allowed in Section 18-1-12 of this Subtitle.

(b) Covenants.

The covenants shall conform to the requirements of Subtitle 1, Part VII, Subpart 6.

Subpart 3. Transferable Development Rights

18-1-100 Right of Transfer.

(a) In general.

A development right of a transferor parcel may be transferred and used to increase residential or nonresidential development on a receiving parcel in accordance with the provisions of this Subpart.

(b) Limitations.

(1) A development right may not be used in any manner inconsistent with the provisions set forth in this Subsection.

(2) A development right may not be used to increase residential density or nonresidential floor area or impervious area within the critical area unless the development right is derived from a portion of a transferor parcel that is located within the Critical Area Resource Conservation Area (RCA).

(3) The use of a development right may result in the reduction of natural resource protection land required under this Subtitle on the receiving parcel, provided that natural resources are protected on the combined parcels overall based on the requirements set forth in Subtitle 1, Part IV, Subpart 2.

(4) A development right may not be used to increase density for receiving parcels located within the Critical Area Resource Conservation Area beyond the density allowed within the parcel's zoning district.

(5) TDRs used on receiving parcels within the CMPD and TC districts must be derived from eligible transferor parcels located within the Fourth (Kent Island) Election District.

(6) TDRs used on receiving parcels within the Stevensville Growth Area must be derived from eligible transferor parcels located within the Fourth Election District of Queen Anne's County.

(c) Intermediate transfer.

Subject to the provisions of this section, a development right may be transferred to a transferee prior to the time when its use for a specific receiving parcel has been finally approved in accordance with this Subpart.

18-1-101 Effect of Transfer.

(a) After development rights have been transferred by an original instrument of transfer, the transferor parcel:

(1) May not be subdivided or reconfigured;

(2) Shall be deemed open space and shall be limited to only those uses allowed pursuant to Column A of the open space table in Section 18-1-12 of this Subtitle;

(3) May not be used in connection with any determination of site area or site capacity, except as may be necessary in determining the number of development rights involved in the transfer; and

(4) A transferor parcel must be at least twenty (20) acres or one-half (½) of the size of the lot of record, whichever is less.

(b) A transferor parcel within the Chesapeake Bay Critical Area shall be at least twenty (20) acres in size; and

(c) All development rights that are the subject of the transfer, and the value of such rights, shall be deemed for all other purposes, including assessment and taxation, to be appurtenant to the transferor parcel, until such rights have been finally approved for use on a specific receiving parcel and transferred to the County Commissioners.

18-1-102 Certificate of Planning Director.

(a) General requirement.

A transfer may not be recognized under this Subpart unless the original instrument of transfer:

(1) Contains a certificate of the Planning Director that the number of development rights that are the subject of the transfer represent the number of development rights applicable to the transferor parcel; and

(2) Is recorded by the Planning Director as provided in this Subpart.

(b) Responsibility.

The transferor and the transferee named in an original instrument of transfer shall have sole responsibility to:

(1) Supply all information required by this Section;

(2) To provide a proper original instrument of transfer; and

(3) To pay, in addition to any other fees required by this Section, all costs of its recordation among the land records of the County.

(c) Application for certificate.

An application for a certificate shall:

(1) Contain information, prescribed by the Planning Director, as may be necessary to determine the number of development rights involved in the proposed transfer;

(2) Include five copies of a plat of the proposed transferor parcel, prepared by a registered land surveyor on the basis of an actual on-site survey; and

(3) Be accompanied by such fee as may be prescribed by the County Commissioners.

(d) Issuance of certificate.

(1) On the basis of the information submitted, the Planning Director shall affix a certificate of the Planning Director's findings to the original instrument of transfer.

(2) The certificate shall contain a specific statement of the number of development rights that are derived from the transfer parcel.

(e) Effect of determination.

The determination of the Planning Director may not be construed to enlarge or otherwise affect in any manner the nature, character, and effect of a transfer, as set forth in Section 18-1-100 of this Subtitle.

18-1-103 Instruments of Transfer.

(a) In general.

(1) An instrument of transfer shall conform to the requirements of this Subtitle 1, Part VII, Subpart 6 relating to covenants.

(2) An instrument of transfer, other than an original instrument of transfer, need not contain a metes and bounds description or plat of the transferor parcel.

(b) Contents.

In addition to the provisions in Subtitle 1, Part VII, Subpart 6, an instrument of transfer shall contain:

(1) The names of the transferor and the transferee;

(2) A covenant that the transferor grants and assigns to the transferee and the transferee's heirs, personal representatives, successors, and assigns a specified number of development rights from the transferor parcel;

(3) If the instrument is not an original instrument of transfer, a statement that the transfer is an intermediate transfer of rights derived from a transferor parcel described in an original instrument of transfer (which original instrument shall be identified by its date, the names of the original transferor and transferee, and the book and page where it is recorded among the land records of the county);

(4) A specific statement of the number of development rights included within the transfer;

(5) A covenant by which the transferor acknowledges that the transferor has no further use or right of use with respect to the development rights being transferred;

(6) Except when development rights are being transferred to the county commissioners in accordance with this Subpart, a statement of the rights of the transferee prior to final approval of the use of those development rights on a specific receiving parcel, as provided in Section 18-1-100 of this Subtitle; and

(7) Either:

(i) A covenant that at the time when any development rights involved in the transfer are finally approved for use on a specific receiving parcel the rights shall be transferred to the County Commissioners for no consideration; or

(ii) In cases when development rights are being transferred to the County Commissioners after approval, a covenant that the rights are being transferred to the County Commissioners for no consideration.

18-1-104 Original Instruments of Transfer.

(a) Contents of original instrument of transfer.

In addition to fulfilling the requirements of Section 18-1-103 of this Subtitle, an original instrument of transfer shall also contain:

(1) A metes and bounds description of the transferor parcel, prepared by a licensed surveyor named in the instrument;

(2) A covenant that the development rights being transferred represent all development rights with respect to the transferor parcel under the existing or any future zoning or similar ordinance regulating the use of land in the county;

(3) A covenant that the transferor parcel may not be subdivided or reconfigured;

(4) A covenant by which use of the transferor parcel is restricted to column a of the open space table in Section 18-1-12 of this Subtitle;

(5) A covenant that all provisions of the instrument of transfer shall run with and bind the transferor parcel and may be enforced by the county commissioners; and

(6) The certificate of the Planning Director required by this Subpart.

(b) Recordation of original transfer.

(1) After it is properly executed, an original instrument of transfer shall be delivered to the Planning Director.

(2) The Planning Director shall:

(i) Deliver the original instrument of transfer to the recorder of deeds, together with the required fees for recording furnished by the original transferor and transferee; and

(ii) Immediately notify the original transferor and transferee in writing of the recording.

18-1-105 Application for Use on Receiving Parcel.

(a) Application.

The owner of a proposed receiving parcel shall file with the Planning Director an application to use transferred development rights with respect to the development of the proposed receiving parcel.

(b) Contents.

The application shall:

(1) Contain information as may be prescribed by the Planning Director;

(2) Include five copies of a plat of the proposed receiving parcel, prepared by a registered land surveyor on the basis of an actual on-site survey;

(3) Be accompanied by such fee as may be prescribed by the County Commissioners; and

(4) Be accompanied by:

(i) Original or certified copies of a recorded original instrument of transfer involving the development rights proposed to be used and any intervening instruments of transfer through which the applicant became a transferee of those rights; or

(ii) A signed, written agreement between the applicant and a proposed original transferor that contains the plat of a proposed transferor parcel and other information required by section 18-1-102 of this Subtitle and in which the proposed transferor agrees to execute an original instrument of transfer from the proposed transferor parcel to the applicant at the time when the use of such rights on the proposed receiving parcel is finally approved.

18-1-106 Consideration of Application for Use.

(a) Review of application.

The Planning Director shall review the instruments of transfer or agreement submitted with the application and determine their sufficiency to fulfill the requirements of this Subpart.

(b) Determination.

The Planning Director shall:

(1) Determine the number of development rights that are available for use under the terms of the instruments submitted with the application;

(2) Determine the number of development rights that this Subtitle allows to be used on the proposed receiving parcel; and

(3) Report the preliminary determination of the planning director in writing to the applicant within thirty (30) days after all information necessary to make the determinations has been received.

(c) Residential density, open space, and net buildable area.

(1) The following density, open space, and net buildable area standards shall be used in the application of residential TDRs for residential purposes.

(2) For purposes of cluster and planned development in the E, SE, SR, UR, and VC districts and in the CS district outside of the critical area:

(i) The minimum required open space for the receiving parcel as determined in Section 18-1-12 of this Subtitle may be decreased by a maximum of 25%; and

(ii) The maximum density allowed for the receiving parcel as determined in subpart 2 of part III of this Subtitle may be increased by a maximum of 25%.

(3) In the AG district, eight (8) acres of land shall be permanently deed restricted as open space for each development right transferred from a transferor parcel.

(4) In the CS district located outside of the critical area, five (5) acres of land shall be permanently deed restricted as open space in accordance with Section 18-1-12 of this Subtitle for each development right transferred from a transferor parcel.

(5) For purposes of cluster and planned development in the CS district located within the Critical Area Resource Conservation Area:

(i) The maximum density permitted for a receiving parcel may be increased to one (1) dwelling unit per five (5) acres;

(ii) Twenty (20) acres of RCA critical area land shall be permanently deed restricted as open space on the transferor parcel for each development right transferred from a transferor parcel in accordance with Section 18-1-12 of this Subtitle; and

(iii) The receiving parcel shall maintain a minimum 60% open space ratio, and the overall open space ratio for the receiving parcel and transferor parcel combined may not be less than 85%.

(6) For purposes of single-family large-lot, cluster, and planned development in the NC district located within the Critical Area Resource Conservation Area:

(i) The maximum density allowed for a receiving parcel shall be the base density as determined by the minimum lot size required for the district;

(ii) Twenty acres of RCA critical area land shall be permanently deed restricted as open space on the transferor parcel for each development right transferred from a transferor parcel in accordance with Section 18-1-12 of this Subtitle; and

(iii) For cluster and planned developments in the NC-5, NC-2, and NC-1 a minimum 40% open space ratio shall be maintained, in the NC-20, NC-15, and NC-8 districts, a minimum 30% open space ratio for the receiving parcel shall be maintained, and the overall open space ratio for the receiving parcel and transferor parcel combined may not be less than 85%.

(d) Nonresidential intensity, landscape surface area, and floor area.

(1) The following intensity, landscape surface area, and floor area standards shall be used in the transfer of development rights for nonresidential purposes.