

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2024 Legislative Session, Legislative Day No.: March 12, 2024

Bill No.: 1551

Expiration Date: May 16, 2024

Introduced by: Mr. Callahan, Ms. Haythe, Mr. Leshner, Mr. Stepp

A BILL TO AWARD 8.348 ACRES OF SUPPLEMENTAL GROWTH ALLOCATION TO THE TOWN OF EASTON AND TO IMPOSE CERTAIN CONDITIONS, RESTRICTIONS, AND LIMITATIONS ON ITS USE

By the Council: March 12, 2024

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, April 9, 2024, at 6:30 p.m. at the Bradley Meeting Room, Talbot County Courthouse, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order: 
Susan W. Moran, Secretary

A BILL TO AWARD 8.348 ACRES OF SUPPLEMENTAL GROWTH ALLOCATION TO THE TOWN OF EASTON AND TO IMPOSE CERTAIN CONDITIONS, RESTRICTIONS, AND LIMITATIONS ON ITS USE

WHEREAS, pursuant to § 190-55.5 (I) of the Talbot County Code (the “County Code”), if a municipality within Talbot County, Maryland (the “County”) has used all of the growth allocation designated for its use by Table VII-3 of Chapter 190 of the County Code, such municipal corporation may apply for supplemental growth allocation which, if granted, shall be subtracted from the County’s total growth allocation, and the County Council of Talbot County (the “County Council”) may transfer growth allocation to a municipal corporation and may impose such conditions, restrictions, and limitations upon the use of any such supplemental growth allocation, as it may consider appropriate; and

WHEREAS, on August 5, 2022, Thomas Cohee and Lot 16, LLC (collectively, the “Applicants”) submitted a request to the Town of Easton (the “Town”) for growth allocation to reclassify 8.348 acres (the “Property”) of certain real property located at 28580 Marys Court, Easton, Maryland, being a portion of that real property shown on Tax Map 25, Grid 22 as Parcel 46, Lots 16 and 20 consisting in the aggregate of 14.4904± acres, from Resource Conservation Area (“RCA”) to Intensely Developed Area (“IDA”) (the “Application”); and

WHEREAS, the Town has used all of the acreage within its corporate limits eligible for reclassification from RCA to LDA or IDA under Table VII-3 of Chapter 190 of the County Code; therefore, the Town requires supplemental growth allocation from the County in order to approve the Application; and

WHEREAS, the County currently has 462.17 acres available for supplemental municipal growth allocation pursuant to § 190-55(D)(3) of the County Code and will have 453.822 acres remaining if the Application is granted; and

WHEREAS, on September 26, 2022, the Town’s Planning Commission and the County’s Planning Commission held a joint public hearing, after which the Town’s Planning Commission recommended that the Council of the Town of Easton (the “Town Council”) support the Application and the County’s Planning Commission recommended that the County Council support the Application; and

WHEREAS, on April 3, 2023, the Town Council and the County Council held a joint public hearing as required by § 190-55.5 (I)(3)(c); and

WHEREAS, on January 2, 2024, the Town Council passed Ordinance No. 807 granting the Application to reclassify the Property from RCA to IDA, conditioned in part upon the County Council granting supplemental growth allocation to the Town; and

WHEREAS, pursuant to § 190-55.5 (I)(3)(c) of the County Code, the County Council shall evaluate an application for supplemental growth allocation in accordance with the criteria set forth in § 190-55.5 (F) of the County Code; and

WHEREAS, on April 9, 2024, the County Council held a public hearing on the Application, notice of which was published in *The Star Democrat*, a newspaper of general circulation in the County, on March 15, 2024, and March 22, 2024.

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that:

1. **Award.** Subject to the following conditions, restrictions, and limitations, the County Council hereby awards 8.348 acres of supplemental growth allocation to the Town of Easton for reclassification from RCA to IDA.

2. **Conditions, Restrictions, and Limitations.** The award of supplemental growth allocation hereunder is subject to the following conditions, restrictions, and limitations:

a. **Use.** The award of supplemental growth allocation hereunder shall be used exclusively for the project approved by the Easton Town Council pursuant to Ordinance No. 807, effective January 22, 2024 (the “Project”).

b. **Contingencies.** Ordinance No. 807 incorporated a Conceptual Site Plan for the Project (the “Concept Plan”) as Exhibit “A,” and Findings of Fact (the “Town Findings”) as Exhibit “B.” The award of supplemental growth allocation hereunder shall be contingent upon full compliance by the Applicants with the Concept Plan, all requirements set forth in the Town Findings, including the conditions set forth on page 7 thereof, and final approval of the award by the State of Maryland Critical Area Commission pursuant to § 190-55.5 (E)(11) of the County Code.

c. **Criteria.** Pursuant to §§ 190-55.5 (I)(3)(c) and (F), in addition to specific requirements set forth elsewhere in Chapter 190 of the County Code, the County Council shall evaluate the applicable components of an application for growth allocation: the Zoning Map amendment, the revision to the Critical Area land management designation, requested growth allocation, and the concept plan, with all of the following standards being used:

1. The standards and factors for amendments to the Official Zoning Map (§ 190-55.2 (B) and (C)) shall be used to evaluate any proposed rezoning.
2. In addition, the County Council shall consider the following factors as applicable:
 - a. Whether applicable requirements of the County’s Critical Area Program, Zoning Ordinance, and Subdivision Regulations have been met, including the standards for establishment of RCA, LDA, and IDA areas established in § 190-15.3.
 - b. In addition to meeting the minimum requirements of the Critical Area Regulations, the project design shall enhance the habitat value or improve water quality in the area. For example, afforestation may exceed the 15%

requirement or best management practices for stormwater management may be installed on portions of the site to remain in agricultural use.

- c. For residential development, a community pier shall be provided rather than individual piers.
 - d. The location, nature, and timing of the proposed growth allocation in relation to the public interest in ordered, efficient, and productive development and land use.
 - e. Whether the proposed growth allocation, subject to the proposed concept site plan, will fulfill public purposes through the provision of public facilities, implementation of Comprehensive Plan strategies, or advancement of the land use policies and objectives of the Comprehensive Plan.
3. The County Council may approve the application only if it finds that the proposed concept site plan will:
- a. Create lots or parcels that maximize opportunities for clustered development that protect habitat and agricultural resources;
 - b. Locate structures to minimize impact on habitat protection areas and agricultural areas;
 - c. Avoid or provide a minimally disturbed Shoreline Development Buffer;
 - d. Minimize soil erosion and runoff;
 - e. Maximize protection of eroding shorelines;
 - f. Have a minimal impact or cause an improvement to stormwater, floodplain and stream characteristics;
 - g. Avoid or minimize impacts on nontidal wetlands;
 - h. Maximize protection of plant and wildlife habitats, particularly for threatened and endangered species, plant and wildlife common to the Chesapeake Bay Region, and anadromous fish propagation waters; and
 - i. Maximize protection of forests.
4. The County Council shall also make findings based on the growth allocation standards of Md. Code Ann., Natural Resources § 8-1808.1(c), and may establish conditions of approval that are consistent with the intent of the County's Critical Area Program.

5. The fact that an application for growth allocation complies with the specific requirements and standards shall not be deemed to create a presumption that the proposed growth allocation would be compatible with surrounding land uses, and is not, in itself, sufficient grounds to require approval.

d. **Factual Findings and Approval.** This award of supplemental Growth Allocation is specifically conditioned upon the County Council's review of information provided with regard to the foregoing criteria, and upon the County Council's determination and adoption of written findings of fact, which are attached hereto as Exhibit A and incorporated by reference herein as if fully set forth.

e. **Project Amendments.** Pursuant to § 190-55.5 (I)(3)(d) of the County Code, any material amendment to the Project shall be subject to County Council review and approval for a period of five (5) years following the date of initial approval.

3. **Non-Performance or Breach.** In the event of non-performance or breach of: (a) any condition, restriction, or limitation imposed in connection with the award of this supplemental growth allocation, or (b) any agreement executed by the Applicants or their successors or assigns with the County, the County Council may, in its discretion, amend, repeal, rescind, suspend, annul, or revoke this supplemental award of growth allocation by introduction and passage of a bill for that purpose.

SECTION TWO: AND BE IT FURTHER ENACTED, that if any provision of this Bill or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Bill which can be given effect without the invalid provision or application, and for this purpose the provisions of this Bill are declared severable.

SECTION THREE: AND BE IT FURTHER ENACTED, that the Talbot County Department of Planning and Zoning and the Talbot County Office of Law, in consultation with and subject to the approval of the County Manager, may make non-substantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any internal or external reference or citation included in this Bill, as finally adopted, that are incorrect or obsolete, with no further action required by the County Council. All such corrections shall be adequately referenced and described in an editor's note following the section affected.

SECTION FOUR: AND BE IT FURTHER ENACTED, that this Bill shall take effect sixty (60) days from the date of its passage.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. 1551 having been published, a public hearing was held on Tuesday, April 9, 2024, at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

BY THE COUNCIL

Read the third time.

ENACTED: **April 23, 2024**

By Order *Susan W. Moran*
Susan W. Moran, Secretary

Callahan - Aye

Stepp - Aye

Leshner - Aye (via absentee ballot)

Mielke - Aye

Haythe - Aye

EFFECTIVE DATE: **June 22, 2024**

ORDINANCE NO. 807

AN ORDINANCE OF THE TOWN OF EASTON GRANTING THE APPLICATION OF THOMAS R. COHEE FOR GROWTH ALLOCATION UNDER THE PROVISIONS OF THE EASTON ZONING ORDINANCE

INTRODUCED BY Mr. Montgomery

WHEREAS, the Town of Easton is authorized by the Land Use Article of the Maryland Annotated Code (the "Code") to enact and administer a zoning ordinance, which ordinance is Chapter 28 of the Easton Town Code; and

WHEREAS, Section 28-401.8 of the Easton Zoning Ordinance authorizes the Easton Town Council to consider and to grant applications for growth allocation; and

WHEREAS, Thomas R. Cohee (the "Applicant") is the owner of a parcel of land consisting of 8.348± acres of land located on the east side of Goldsborough Neck Road in the Town of Easton, described as a portion of Lot 20, Parcel 46 on Talbot County Tax Map Number 25 (the "Property"). The Applicant has applied to the Town for Growth Allocation to reclassify a portion of the Property from Resource Conservation Area ("RCA") to Intensely Developed Area ("IDA"). Applicant plans to construct two commercial buildings and related improvements on the Property, as depicted by Sheet No. C-5 of the Site Development Plans submitted to the Town of Easton. The Property and the plans for the development of the Property ("Development Plans") are shown on a conceptual site plan entitled "Conceptual Site Plan for Lot 16 and Lot 20 in Talbot Commerce Park" dated December 2019, prepared by Davis, Moore, Shearon & Associates, LLC. (A copy of the Development Plans is attached hereto as Exhibit "A" to this Ordinance.)

WHEREAS, the Easton Town Council held a duly noticed public hearing regarding this Ordinance on January 2, 2024; and

WHEREAS, for the reasons expressed in the findings of fact of the Town Council, which are attached to this Ordinance as Exhibit "B", the Town Council concludes that the request for growth allocation should be granted.

NOW, THEREFORE, the Town of Easton hereby ordains:

Section 1. The Development Plans attached hereto as Exhibit "A" and the Findings of Fact attached hereto as Exhibit "B" are hereby incorporated into this Ordinance by reference.

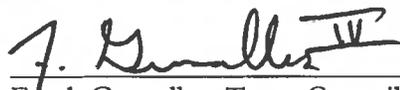
Section 2. The application of Thomas R. Cohee for growth allocation is hereby approved subject to the conditions set forth in Exhibit "B".

Section 3. Severability. The Easton Town Council intends that, if a court of competent jurisdiction issues a final decision holding that any part of this ordinance is invalid, the remaining provisions hereof remain in full force and effect.

Section 4. In accordance with Article II, Section 9 of the Easton Town Charter, this ordinance shall become effective twenty (20) calendar days after approval by the Mayor or passage of this ordinance by the Council over the Mayor's veto.

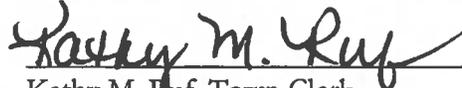
Curry	-	Absent
Abbatiello	-	Yea
Montgomery	-	Yea
Davis	-	Yea
Gunsallus	-	Yea

I hereby certify that the above Ordinance was passed by a yea and nay vote of the Council this second day of January, 2024.



Frank Gunsallus, Town Council President

Delivered to the Mayor by me this second day of January, 2024.


Kathy M. Ruf, Town Clerk

APPROVED: January 2, 2024

Date: January 2, 2024

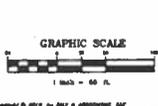
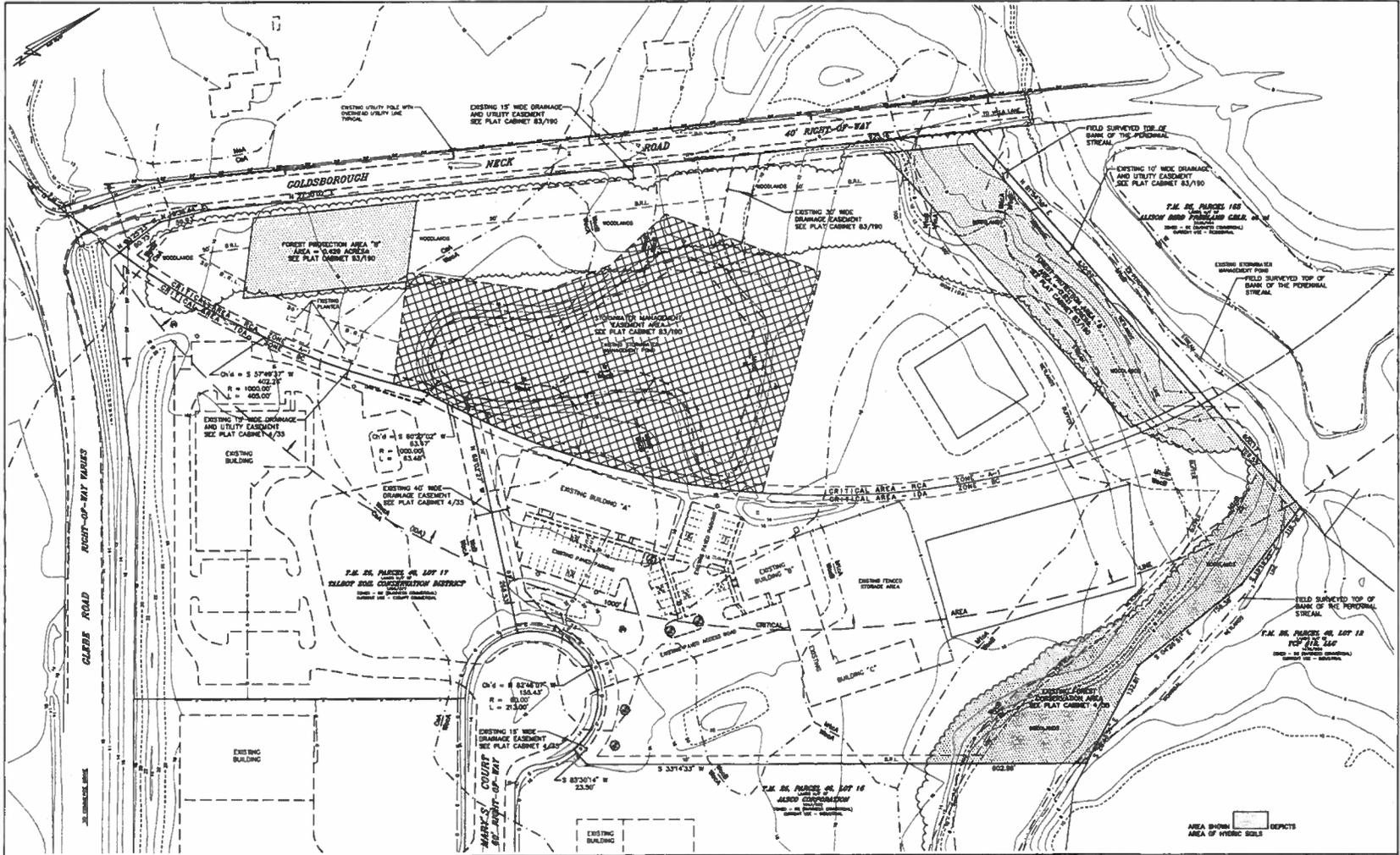

Megan J. M. Cook, Mayor

EFFECTIVE DATE: January 22, 2024

EXHIBIT "A"

CONCEPTUAL SITE PLAN ENTITLED "LOT 16 AND LOT 20 IN TALBOT
COMMERCE PARK" DATED DECEMBER 2019, PREPARED BY DAVIS,
MOORE, SHEARON & ASSOCIATES, LLC

COPIES ARE ON FILE AT THE TOWN OFFICE



SITE STATISTICS

CRUISE AREA	= 14,804 ac.± (646,222 sq. ft.)
CRITICAL AREA (CA)	= 11,854 ac.± (510,247 sq. ft.)
NON-CRITICAL AREA	= 3,050 ac.± (132,975 sq. ft.)
ZONE A-1	= 8,348 ac.± (363,852 sq. ft.)
ZONE B-C	= 6,506 ac.± (285,570 sq. ft.)
AREA WITHIN 100 Y. FLOOD PLAIN	= 0.030 ac.±
AREA WITHIN RESOURCES PROTECTION	= 4.283 ac.±
WETLANDS	= 0.229 ac.±
STREAM BUFFER	= 1.133 ac.±
WOODLANDS (excludes wetlands & stream buffer)	= 3,024 ac.±

DATE	REVISION
1-15-10	REV. SHEET 1
2-10-10	REVISED SHEET 1
3-10-10	REVISED SHEET 1
4-10-10	REVISED SHEET 1
5-10-10	REVISED SHEET 1
6-10-10	REVISED SHEET 1
7-10-10	REVISED SHEET 1
8-10-10	REVISED SHEET 1
9-10-10	REVISED SHEET 1
10-10-10	REVISED SHEET 1
11-10-10	REVISED SHEET 1
12-10-10	REVISED SHEET 1

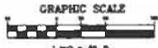
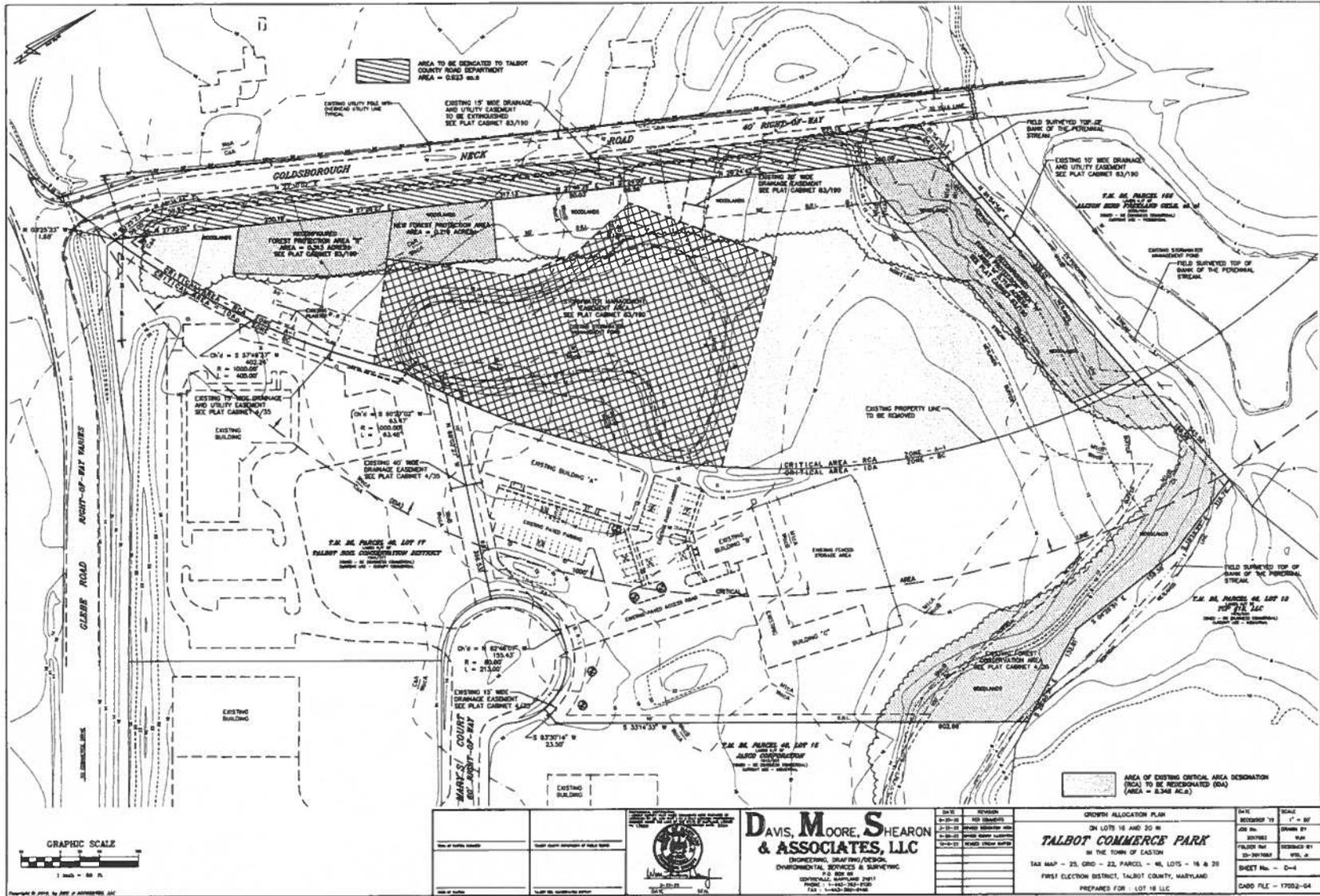


DAVIS, MOORE, SHEARON & ASSOCIATES, LLC
 ENGINEERING, DRAFTING, DESIGN,
 ENVIRONMENTAL SERVICES & SURVEYING
 700 W. BOWEN ST.
 GREENBELT, MARYLAND 21740
 PHONE: 410-423-1100
 FAX: 410-423-1100

DATE	REVISION
1-15-10	REV. SHEET 1
2-10-10	REVISED SHEET 1
3-10-10	REVISED SHEET 1
4-10-10	REVISED SHEET 1
5-10-10	REVISED SHEET 1
6-10-10	REVISED SHEET 1
7-10-10	REVISED SHEET 1
8-10-10	REVISED SHEET 1
9-10-10	REVISED SHEET 1
10-10-10	REVISED SHEET 1
11-10-10	REVISED SHEET 1
12-10-10	REVISED SHEET 1

EXISTING CONDITIONS AND ENVIRONMENTAL FEATURES PLAN
 ON LOTS 16 AND 20 IN
TALBOT COMMERCE PARK
 IN THE TOWN OF EASTON
 TAX MAP - 25, GRID - 22, PARCEL - 46, LOTS - 16 & 20
 FIRST ELECTION DISTRICT, TALBOT COUNTY, MARYLAND
 PREPARED FOR LOT 16 LLC

DATE	SCALE
06/06/2010	1" = 20'
JOB NO.	DRAWN BY
107003	MM
FILED IN	REVISION BY
10-201003	MM, P
SHEET NO.	SHEET
C-2	C-2
CADD FILE	
17032-02	



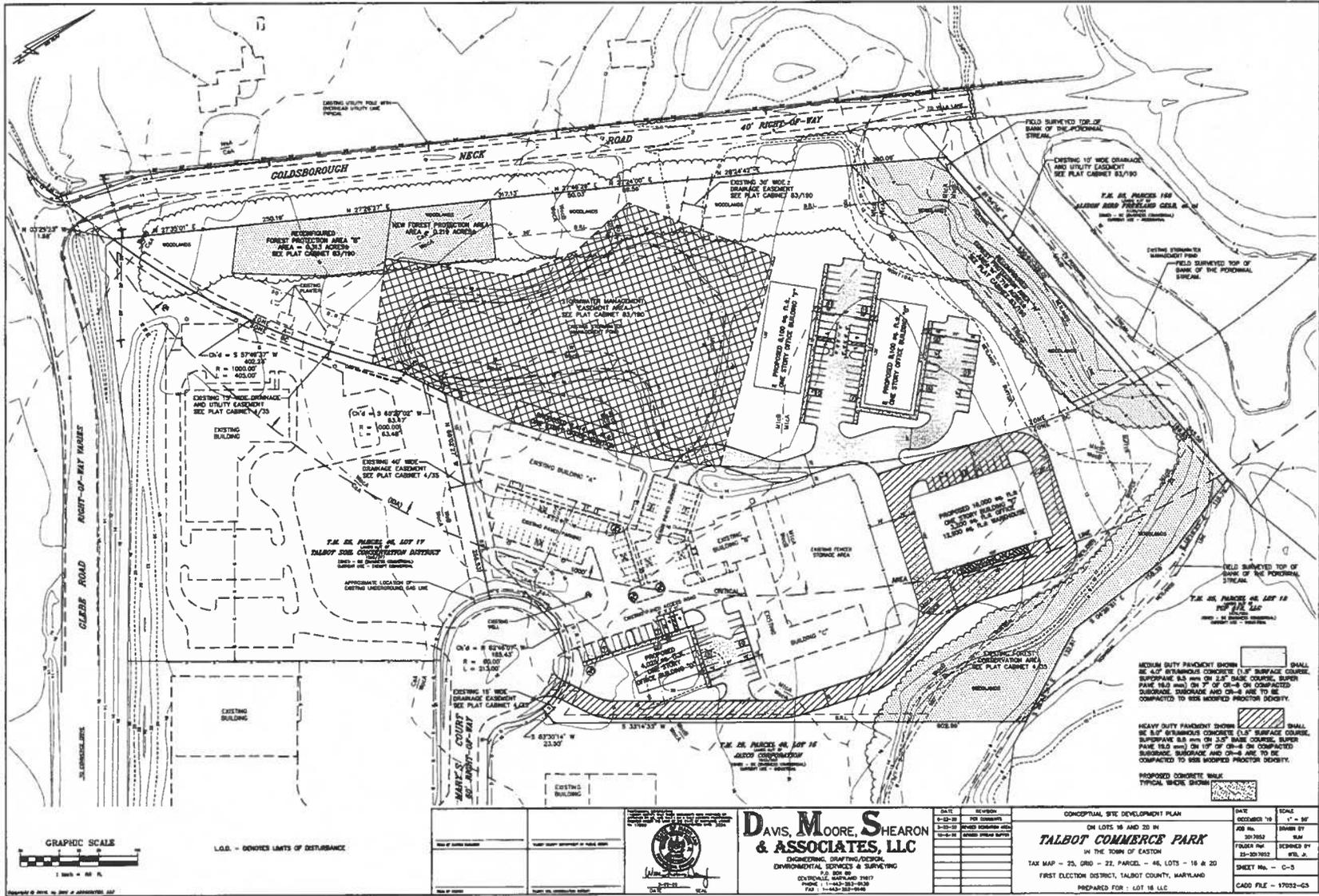
DATE	REVISION
01-20-09	AS SHOWN
02-20-09	REVISED PER COMMENTS
03-20-09	REVISED PER COMMENTS
04-20-09	REVISED PER COMMENTS
05-20-09	REVISED PER COMMENTS
06-20-09	REVISED PER COMMENTS
07-20-09	REVISED PER COMMENTS
08-20-09	REVISED PER COMMENTS
09-20-09	REVISED PER COMMENTS
10-20-09	REVISED PER COMMENTS
11-20-09	REVISED PER COMMENTS
12-20-09	REVISED PER COMMENTS

DAVIS, MOORE, SHEARON & ASSOCIATES, LLC
 ENGINEERING, SURVEYING,
 ENVIRONMENTAL SERVICES & SURVEYING
 210 MAIN ST.
 FREDERICK, MARYLAND 21701
 PHONE: 410-301-7000
 FAX: 410-301-7000

DATE	REVISION
01-20-09	AS SHOWN
02-20-09	REVISED PER COMMENTS
03-20-09	REVISED PER COMMENTS
04-20-09	REVISED PER COMMENTS
05-20-09	REVISED PER COMMENTS
06-20-09	REVISED PER COMMENTS
07-20-09	REVISED PER COMMENTS
08-20-09	REVISED PER COMMENTS
09-20-09	REVISED PER COMMENTS
10-20-09	REVISED PER COMMENTS
11-20-09	REVISED PER COMMENTS
12-20-09	REVISED PER COMMENTS

TALBOT COMMERCE PARK
 IN THE TOWN OF EASTON
 TAX MAP - 25, GRID - 22, PARCEL - 46, LOTS - 16 & 20
 FIRST ELECTION DISTRICT, TALBOT COUNTY, MARYLAND
 PREPARED FOR - LOT 16 LLC

DATE	SCALE
01-20-09	1" = 50'
JOB NO.	DRAWN BY
2007961	MAP
CLIENT NO.	DESIGNED BY
20-20-198A	WLS, J.
SHEET NO.	
CADD FILE - 17002-04	



L.O.B. - DENOTES LIMITS OF DISTURBANCE

DATE OF RECORDING	DATE OF RECORDING
DATE OF RECORDING	DATE OF RECORDING
DATE OF RECORDING	DATE OF RECORDING



DAVIS, MOORE, SHEARON & ASSOCIATES, LLC
 ENGINEERING, DRAFTING, DESIGN
 ENVIRONMENTAL SERVICES & SURVEYING
 2000
 CENTRALVILLE, MARYLAND 21037
 PHONE: (410) 383-9330
 FAX: (410) 383-9346

DATE	REVISION
8-20-20	FOR SUBMITTAL
8-20-20	REVISED SUBMITTAL
8-20-20	REVISED SUBMITTAL

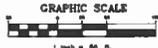
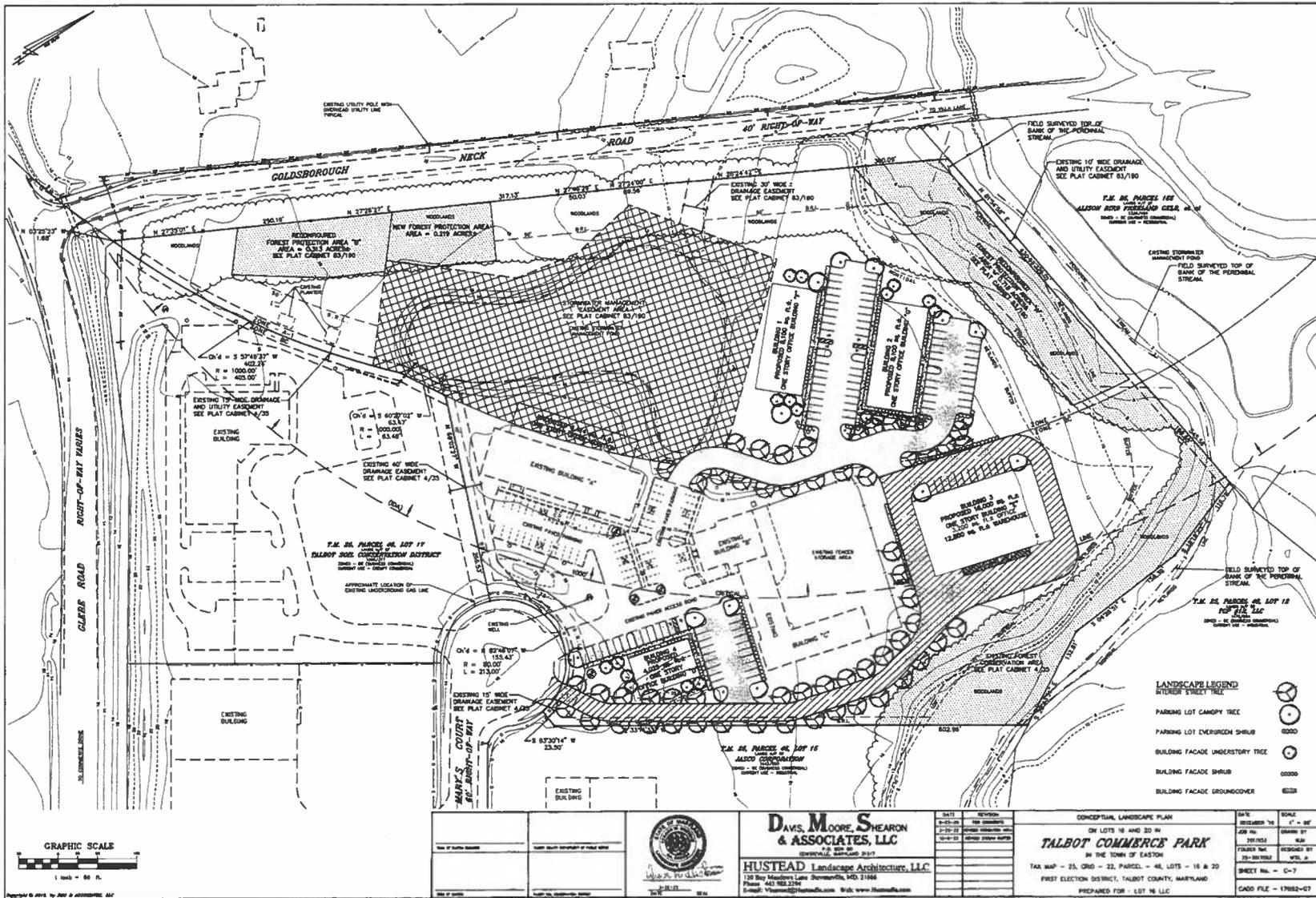
CONCEPTUAL SITE DEVELOPMENT PLAN
 ON LOTS 16 AND 20 IN
TALBOT COMMERCE PARK
 IN THE TOWN OF EASTON
 TAX MAP - 25, GRD - 22, PARCEL - 46, LOTS - 16 & 20
 FIRST ELECTION DISTRICT, TALBOT COUNTY, MARYLAND
 PREPARED FOR: LOT 16 LLC

DATE	SCALE
08/20/20	1" = 50'
JOB NO.	DRAWN BY
3017652	RAM
FOUNDER NO.	REVIEWED BY
15-20-1623	STL, J.
SHEET NO.	
C-5	
CADD FILE	
17032-03	

MEDIUM DUTY PAVEMENT SHOWN SHALL BE 4.0" BITUMINOUS CONCRETE (1.0" SURFACE COURSE, SUPERPAVE 8.5 mm ON 3.0" BASE COURSE, SUPERPAVE 19.0 mm) ON TOP OF 8" OF 01-A ON COMPACTED SUBGRADE. SUBGRADE AND 01-A ARE TO BE COMPACTED TO 95% MODIFIED PROCTOR DENSITY.

HEAVY DUTY PAVEMENT SHOWN SHALL BE 6.0" BITUMINOUS CONCRETE (1.5" SURFACE COURSE, SUPERPAVE 8.5 mm ON 3.0" BASE COURSE, SUPERPAVE 19.0 mm) ON TOP OF 8" OF 01-A ON COMPACTED SUBGRADE. SUBGRADE AND 01-A ARE TO BE COMPACTED TO 95% MODIFIED PROCTOR DENSITY.

PROPOSED CONCRETE WALL
 TYPICAL WALL SHOWN



Copyright © 2011, by DMS & ASSOCIATES, LLC

DATE	DESCRIPTION
11-15-11	PREPARED
11-15-11	REVISED
11-15-11	REVISED
11-15-11	REVISED



Davis, Moore, Shearon & Associates, LLC
 130 Bay Mountain Lane, Annapolis, MD 21408
 Phone: 443.983.2344
 Email: Vismann@dmsh.com Web: www.dmsh.com

DATE	DESCRIPTION
11-15-11	PREPARED
11-15-11	REVISED
11-15-11	REVISED
11-15-11	REVISED

CONCEPTUAL LANDSCAPE PLAN
 ON LOTS 16 AND 20 IN
TALBOT COMMERCE PARK
 IN THE TOWN OF EASTON
 TAL MAP - 25, GRID - 22, PARCEL - 48, LOTS - 16 & 20
 FIRST ELECTION DISTRICT, TALBOT COUNTY, MARYLAND
 PREPARED FOR: LOT 16 LLC

DATE	SCALE
11-15-11	1" = 50'
JOB NO.	DRAWN BY
11-15-11	DM
DESIGNED BY	REVISIONS
11-15-11	1
SHEET NO. - C-7	CADD FILE - 17082-07

- LANDSCAPE LEGEND**
- INTERIOR STREET TREE
 - PARKING LOT CANOPY TREE
 - PARKING LOT EVERGREEN SHRUB
 - BUILDING FACADE UNDERSTORY TREE
 - BUILDING FACADE SHRUB
 - BUILDING FACADE GROUNDCOVER

EXHIBIT "B" TO ORDINANCE NO. 807

IN THE MATTER OF : BEFORE THE
: :
THE APPLICATION OF : EASTON TOWN COUNCIL
: :
THOMAS R. COHEE :

FINDINGS OF FACT

During a meeting of the Easton Town Council held on January 2, 2004, a public hearing was held on the application of Thomas R. Cohee (the "Applicant") for an award of growth allocation to covert property from Resource Conservation Area (RCA) to Intensely Developed Area (IDA). The Town Council also held a joint meeting with the Talbot County Council on September 26, 2022.

The property subject to this application (the "Property") is a 8.348± acre parcel of land located on the east side of Goldsborough Neck Road in the Town of Easton, described as a portion of Lot 20, Parcel 46 on Talbot County Tax Map Number 25. The Property is more particularly shown on a plan entitled "Conceptual Site Plan for Lot 16 and Lot 20 in Talbot Commerce Park" dated December 2019, prepared by Davis, Moore, Shearon & Associates, LLC (the "Plan"), which is attached to the Ordinance of which these findings are a part as Exhibit "A". The Property is classified as RCA under the Town of Easton Zoning Ordinance (the "Ordinance"). The Property is located in the Chesapeake Bay Critical Area overlay zone.

The Property is a constituent part of a master development known as "Talbot Commerce Park" ("Talbot Commerce Park"). The Applicant is the owner of the Property and is the developer of the Property and adjacent lands.

The Applicant desires to combine the Property with the adjacent Lot 16 to the east, expand an existing building located on Lot 16, construct an office and warehouse building, an office building, and two new buildings within the IDA. The specific details of the proposed development are set forth on the Plan.

A. Legal Background and the Growth Allocation Application

As a political subdivision exercising land use over land located 1000 feet of tidal waters of the Chesapeake Bay or its tributaries, the Town is required by the State of Maryland to administer regulations limiting the use and development of such land; these regulations are known under the rubric of the "Chesapeake Bay Critical Area Regulations." The Town's

Critical Area regulations are found in Article IV of the Ordinance. Among other things, the Town's Critical Area regulations impose an additional zoning classification (the "Critical Area Overlay District" or "CAOD") on all properties located within the Town which lie within 1000 feet of tidal waters of the Bay or its tributaries. Before the Property was annexed by the Town in 2014, the Property had been classified by Talbot County as a Resource Conservation Area ("RCA") which does not allow commercial development. When the Critical Area was remapped, it expanded into the Property and the expansion was properly classified as IDA. When the Property was annexed by the Town, it maintained this RCA classification and A1 zoning designation. At annexation, the surrounding properties not within the RCA were zoned Business Commercial ("BC"). As is consistent with the goals and purposes of the Easton Comprehensive Plan and furthers the plan for the Talbot Commerce Park, the Applicant is seeking to reclassify the Property to IDA, which would permit the proposed development subject to subsequent rezoning. The Ordinance contains provisions for evaluating growth allocation applications. Specifically, the standards and regulations for growth allocation are found in Article IV of the Ordinance. Section 28-401.8.E of the Ordinance provides the standards for evaluating a growth allocation application, and Section 28-401.8.F provides additional factors.

With regard to this application, the matter is complicated by the fact that the Town of Easton has insufficient Growth Allocation left to reclassify the Property as proposed. Thus, the Applicant is also seeking an award of Growth Allocation from Talbot County concurrent with this application.

In addition to the joint meeting between the Town and County Councils, the Town and County Planning and Zoning Commissions also had a joint meeting. Following the joint meeting, on November 17, 2022, the Easton Planning and Zoning Commission made a positive recommendation to the Town Council.

The Applicant was represented at the public hearing and previous meetings by Brendan S. Mullaney, Esquire and Ryan D. Showalter, Esquire, who presented both testimonial and documentary evidence in support of the application. After the joint meeting with Talbot County, the Council instructed the Town Attorney to prepare findings of fact reflecting these opinions and comments. In so doing, the Town Attorney has reviewed the evidence presented to the Council solely in the context of this application in order to set out the basis for the Council's decision.

*B. Does the Proposed Development Meet the Minimum Criteria
for awarding growth allocation?*

As a preliminary matter, the Town Council finds that the Property was properly posted and that adequate legal notice of the public hearing was published in the Easton Star-Democrat. As required by Section 28-401.8.E of the Ordinance, the Town Council makes the following findings of fact with regard to the application:

(1) *A new IDA shall only be located in a LDA or adjacent to an existing IDA.*

The proposed IDA will be located adjacent to an existing IDA.

(2) *A new LDA shall only be located adjacent to an existing LDA or an IDA.*

This standard is not applicable.

(3) *A new LDA or IDA shall be located in a manner that minimizes impacts to HPA as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality.*

The proposed IDA is located in a manner that minimizes impacts to Habitat Protection Areas (HPA) because it is a considerable distance from the Shoreline Development Buffer (closest point is approximately 425' from tidal wetlands or tidal waters). No clearing is proposed in conjunction with the development of the site to be reclassified to IDA and significant forested areas and stormwater management facilities exist on the property to ensure that water flowing from the new IDA is filtered and held on site before entering Glebe Creek, to the west. There are no rare or endangered species within the area to be reclassified to IDA and no tidal or nontidal wetlands will be impacted.

(4) *A new IDA shall only be located where it minimizes impacts to the defined land uses of the RCA.*

The new IDA is part of a commercial subdivision known generally as Talbot Commerce Park which was originally subdivided for commercial and light industrial uses, as permitted by the Easton Zoning Ordinance. The subject property is separated from other RCA to the north and northwest by Goldsborough Neck Road and is buffered by existing, mature forested areas along the property boundaries to the north and northwest, where RCA will remain following approval of the Growth Allocation sought by this application. Because of its proximity to the Talbot Commerce Park and existing commercial and light industrial uses, and because the new IDA is buffered by Goldsborough Neck Road and existing forested areas, the new IDA is located to minimize impacts to the defined land uses of the RCA.

(5) *New IDAs shall be at least 20 acres in size unless: (a) they are contiguous to an existing IDA or located in an LDA; (b) they are grandfathered commercial or industrial use, which existed as of June 26, 1988. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request; or (c) they are (or will be) served by public sewer, the growth allocation is consistent with the goals and objectives of the Town's Comprehensive Plan, and the project has an overall economic benefit to the community.*

The new IDA is less than 20 acres, but is located adjacent to an existing IDA.

(6) *A new IDA or LDA in a RCA shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.*

The proposed IDA is located approximately 425 feet from the landward edge of tidal wetlands or tidal waters at its closest point.

(7) *New IDA or LDA to be located in RCA shall conform to all criteria of the Town of Easton for such areas, shall be so designated on the Town of Easton Critical Area Maps and shall constitute an amendment to the Zoning Chapter subject to review and approval by the Town of Easton Planning and Zoning Commission, the Mayor and Council, and the Critical Area Commission as provided for by the Zoning Chapter.*

The new IDA conforms to all requirements and criteria of the Town of Easton. Following approval of Growth Allocation to reclassify the area IDA, the Town of Easton Critical Area Map will be revised to reflect the new IDA. The proposal is subject to review and approval by the Town Planning Commission, the Mayor and Town Council, and the Critical Area Commission

Section 28-401.8.F of the Ordinance contains additional factors for the Town Council to consider. Accordingly, the Town Council makes the following findings of fact with regard to the application:

(1) *The proposed rezoning is consistent with the purposes and intent of the Talbot County Comprehensive Plan and Town of Easton 2010 Comprehensive Plan.*

The proposed rezoning is consistent with the purposes and intent of the Talbot County Comprehensive Plan (the “County Plan”). The County Plan specifically defines areas in and around existing municipalities as areas more suitable for future growth and development.¹ The Land Use Vision statement explains that the County should work with towns for harmonious transitions at their boundaries, with the resulting compact land use pattern providing sufficient urban locations for anticipated growth. The County Plan also states that most new residential, institutional, commercial, business, and industrial development should be located in Designated Growth Areas and incorporated towns.² Approval of the IDA Growth Allocation sought by this Application would ensure that a parcel that is part of a commercial subdivision and within the Town’s boundary is utilized for development that enhances the Town and County. Approval would permit new businesses to relocate to the Property and to enhance the local economy.

The proposed rezoning is also consistent with the purposes and intent of the Town of Easton 2010 Comprehensive Plan (the “Town Plan”). The Town Future Land Use Map

¹ See, e.g., Talbot County Comprehensive Plan, Map 2-K (2106).

² Countywide Land Use Policies, Talbot County Comprehensive Plan, p.2-3 (2016).

identifies the Property as an area for industrial development.³ Approval of the IDA Growth Allocation sought would conform with the Economic Development goals of the Town by bringing additional business tenants to the Town which will expand the economic base, and encourage the diversification of Easton's industrial base.⁴

(2) For a map amendment or refinement involving a new LDA, whether the development is: (a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology; (b) A completion of an existing subdivision; (c) An expansion of an existing business; or (d) To be clustered.

This factor is not applicable.

(3) For a map amendment or refinement involving a new IDA, whether the development is: (a) To be served by a public wastewater system; (b) If greater than 20 acres, to be located in a designated Priority Funding Area; and (c) To have a demonstrable economic benefit.

The development will be served by the Town's public wastewater system operated by the Easton Utilities Commission. The Property is not greater than 20 acres. The development will have a demonstrable economic benefit by bringing additional business tenants to the Town which will expand the economic base, and encourage the diversification of Easton's industrial base.

(4) The use of existing public infrastructure, where practical.

The Property is located within the existing Talbot Commerce park where public infrastructure already exists.

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

The Property is greater than 300 feet from tidal wetland and tidal waters. The Town received a letter from the Department of Natural Resources (DNR), dated June 11, 2021 which includes a determination by the Wildlife and Heritage Service that the Delmarva fox squirrel is known to occur on or in the immediate vicinity of the project site. The Delmarva fox squirrel has a species In Need of Conservation status in Maryland. Delmarva fox squirrels live in mature forest stands along streams and bays and in small woodlots next to agricultural fields. The letter indicates that if proposed activities do not occur within the established forested areas of the Property, the Delmarva fox squirrel will not be impacted. Sheet C-5 of the Conceptual Site Plan does not include any clearing of forested area to accommodate the two

³ Future Land Use Map, Town of Easton Comprehensive Plan, (2010).

⁴ Easton Economic Development Section, Town of Easton Comprehensive Plan, p.240 (2010).

proposed office buildings. The applicant's Critical Area Environmental 3 Impact Assessment (EIA) determined there were no Threatened or Endangered species known to occur on or near the site for plant and wildlife habitat.

(6) *Impacts on a priority preservation area.*

This factor is not applicable.

(7) *Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams.*

COMAR 27.01.02.06-1 specifies the growth allocation submittal requirements to include an environmental report that demonstrates that the project has been designed and will be constructed in compliance with all requirements of the proposed Critical Area land classification. COMAR 27.01.02.06-2 specifies the contents of the report, including the method and description of proposed stormwater management, including all qualitative and quantitative management measures; and the preliminary plan for compliance with the ten percent (10%) pollutant reduction rule, including all worksheets and all supporting documentation. The 10% pollutant worksheets are contained in the Stormwater Management (SWM) Report along with the updated conceptual stormwater management plan as shown on Sheet C-6 of the Plan. There are several micro-bioretenion areas on Lots 16 and 20. According to the report, SWM treatment must include the removal of 3.11 pounds of phosphorus per year for new development in the proposed IDA. The Plan proposes the use of micro-bioretenion systems that collect surface runoff from buildings and impervious surfaces to address SWM and pollutant reduction requirements. These systems will provide storage and treatment prior to discharge to the existing SWM pond located on Lot 20. The retention areas are sized to provide the treatment volume estimated from development. According to the report, the SWM measures will provide 3.56 pounds of phosphorus reduction per year; fourteen percent (14%) above the ten percent (10%) requirement. In a letter dated November 14, 2022, the Engineering Department approved the sketch SWM Plan for the purpose of growth allocation and related to quality management and the Critical Area's ten percent (10%) requirement. The Department did state that they do not have quantity management calculations to review and approve and the overall sketch SWM approval cannot be approved yet.

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

Lots 16 and 20 are not located within a special flood hazard area.

The Critical Area Commission established requirements for awarding growth allocation. See Code of Maryland Regulations ("COMAR") 27.01.02.06-3. The Town's standards set forth in the Ordinance and discussed above are almost identical to COMAR 27.01.02.06-3.E. Specifically, the extent to which the application meets the requirements of (1)-(4) of COMAR 27.01.02.06-3.E are all addressed above. The only requirement not addressed above is COMAR 27.01.02.06-3.E(5) which is applicable to residential subdivisions and therefore, not applicable to this Application.

C. Town Council Decision.

It seems to the Town Council that there is no more logical place to apply growth allocation than in designated growth areas within the Town boundaries. Accommodating growth within the Town boundaries will minimize growth pressures in the more rural and environmentally sensitive parts of Talbot County, much of which is designated RCA.

After carefully considering the evidence presented at the hearing, the Town Council finds that the application, together with the conditions imposed herein, complies with the guidelines set out by the Critical Area Commission, as well as the provisions for growth allocation contained in the Town of Easton Zoning Ordinance and hereby APPROVES the requested growth allocation to redesignate 8.348 acres from RCA to IDA.

The Town Council believes that it is appropriate to condition the granting of the application upon the following conditions:

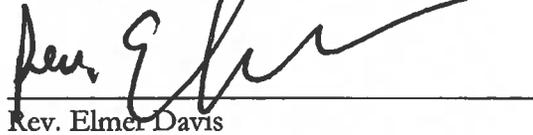
1. The approval is contingent upon the Talbot County Council granting growth allocation to the Town in a sufficient amount to be applied to this application.
2. The Applicant shall make an application to the Town of Easton for a rezoning of Lot 20 to a zoning district that permits the proposed uses.
3. The Conceptual Site Plan submitted with the supplemental growth allocation application is conceptual in nature. Approval of growth allocation shall not confer Town of Easton site plan approval. Prior to any lot consolidation or site plan approval of Lots 16 and 20, the proposed development will be evaluated by the applicable reviewing agencies for conformance to all applicable zoning, subdivision, forest conservation, stormwater management, erosion and sediment control, and other applicable regulations. Such review may result in modifications to the conceptual site plan.

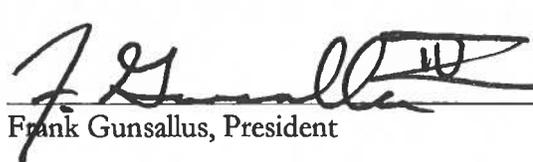
VOTING TO GRANT THE APPLICATION:


Maureen Curry


Don Abbatiello


David Montgomery


Rev. Elmer Davis


Frank Gunsallus, President

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF	*	COUNTY COUNCIL
THE TOWN OF EASTON	*	OF
FOR SUPPLEMENTAL GROWTH ALLOCATION	*	TALBOT COUNTY
	*	BILL NO. 1551

* * * * *

FINDINGS OF FACT

On April 9, 2024, the County Council of Talbot County (the "County Council") held a public hearing on the application (the "Application") of the Town of Easton (the "Town") for an award of supplemental growth allocation to convert Lot No. 20 of the Talbot Commerce Park (the "Subject Property" or the "Property") from Resource Conservation Area (RCA) to Intense Developed Area (IDA) in order to construct thereon two (2) commercial buildings and related improvements on the Property.

I. Procedural History

The Subject Property is an 8.348± acre parcel of land located on the south side of Goldsborough Neck Road, described as Lot 20, Parcel 46 of Talbot County Tax Map 25. The Subject Property is more particularly shown on a conceptual site plan entitled "Conceptual Site Plan for Lot 16 and Lot 20 in Talbot Commerce Park" dated December 2019, prepared by Davis, Moore, Shearon & Associates, LLC (the "Development Plans"). The Development Plans are part of the record.

On August 5, 2022, Thomas Cohee, the then-owner¹ of the Property and the developer of lots within the Talbot Commerce Park development (the "Development"), and Lot 16, LLC submitted a request to the Town for growth allocation to convert the Property from RCA to IDA. The Town has used all of the acreage within its corporate limits eligible for reclassification from RCA to LDA or IDA under Table VII-3 of Chapter 190 of the Talbot County Code (the "County Code"); therefore, the Town requires supplemental growth allocation from Talbot County, Maryland (the "County").

On September 26, 2022, the Easton Planning Commission and the County's Planning Commission held a joint public hearing, after which both Planning Commissions recommended that their respective legislative bodies support the Application.

¹ On April 4, 2024, Mr. Cohee and Lot 16, LLC sold the Property to Somerset Well Drilling Co., Inc. ("Somerset"). As more fully set forth in a letter dated April 9, 2024, Mike Hall, Somerset's Secretary and Treasurer, expressed Somerset's adoption and approval of all materials previously submitted regarding the request for supplemental Growth Allocation and requested that the County Council approve the same. Mr. Hall's April 9, 2024, letter is part of the record. Mr. Cohee, Lot 16, LLC, and Somerset are collectively referenced herein as the "Applicants."

areas where public infrastructure exists and by discouraging development in the most rural and environmentally sensitive places.”

Additionally, the Talbot Commerce Park complies with all environmental protection policies outlined in the Comprehensive Plan, including the following Comprehensive Plan excerpt:

Page 6-2: *“The intent of County environmental protection measures is not to stop growth or development, but to ensure that development occurs without impairing the environmental sustainability of sensitive areas.”*

§ 190-55.2(B)(2) Compatibility with existing and proposed development and land use in the surrounding area.

Talbot Commerce Park is located within the western perimeter of the Town of Easton boundary. The Carroll property to the east, across Goldsborough Neck Road, is within County limits and is zoned Rural Conservation. The property is currently in agricultural use. The Freeland property to the north is within County limits and is zoned Rural Conservation and Limited Industrial. A portion of this area has a Critical Area designation of RCA. The property to the south is part of the Talbot Commerce Park and has a Critical Area designation of IDA. Talbot Commerce Park has been developed as an industrial and commercial subdivision. Talbot Commerce Park is surrounded by a diverse mix of improved and unimproved land uses. The proposed growth allocation would not be incompatible with these uses.

§ 190-55.2(B)(3) Availability of Public Facilities.

The Property is within the incorporated limits of the Town. All Town utilities and services are readily available to the site. Utilities will be extended to the site at the owner’s expense. Town sewer will be provided as capacity is available in accordance with the Town’s sewer allocation policies.

§ 190-55.2(B)(4) The effects on present and future transportation patterns.

The existing ingress and egress to the Property is from Marys Court. Following growth allocation approval and improvement of the Property as proposed, the Property will continue to utilize the existing entrance from Marys Court. No new entrances are contemplated by the Application. Development of the Property is likely to result in a minor increase in vehicular traffic to and from the Property, from Glebe Road to Marys Court. During construction, the Applicants will work with the Easton Department of Public Works to ensure that no adverse impacts to traffic patterns occur. Applicants have provided the required parking on the Property to serve employees and visitors to the site. The nature of the contemplated industrial or commercial uses on the Property creates low traffic volumes. No adverse impacts to existing or proposed transportation patterns will occur as a result of the growth allocation.

§ 190-55.2(B)(5) The effect of population change within the immediate area.

The commercial or industrial uses that would be permitted and proposed for the Property would attract professional businesses and their employees and likely create a slight population increase in the Town and the County. No undue burden to public infrastructure or services is expected as a result of development of the Property or approval of the growth allocation sought.

The County Council must also consider § 190-55.5(F)(2), (3), and (4) of the County Code, as follows:

§ 190-55.5(F)(2)(a) Whether applicable requirements of the County's Critical Area Program, Zoning Ordinance, and Subdivision Regulations have been met, including the standards for establishment of RCA, LDA, and IDA areas established in § 190-15.3.

Applicable Talbot County Critical Area Program, Zoning Ordinance, and Subdivision Regulations have been met. The subject Property for which growth allocation is sought is within the Town. Thus, the Property must comply with Town Critical Area, Zoning Ordinance, and Subdivision Regulations. The proposed award of growth allocation must also, however, comply with County growth allocation standards. Section 190-15.3(G) of the County Code specifies the criteria applicable to areas designated as IDA. The Property complies with these criteria because the new IDA is proposed in a commercial and industrial area surrounded by commercial uses and is an area that does not provide significant wildlife or plant habitat. Approval of the growth allocation sought would permit a property that was subdivided and zoned to be commercial/industrial to be reasonably developed as such.

§ 190-55.5(F)(2)(b) In addition to meeting the minimum requirements of the Critical Area Regulations, the project design shall enhance the habitat value or improve water quality in the area. For example, afforestation may exceed the 15% requirement or best management practices for stormwater management may be installed on portions of the site to remain in agricultural use.

Forest protection areas are proposed on the perimeters of the Property to retain existing forests on site to provide natural habitat and improve water quality in the area, particularly to the north and east. Significant woodlands exist on the northern and eastern boundaries of the Property which will be maintained as depicted by the Conceptual Site Development Plan prepared by Davis, Moore, Shearon & Associates, LLC and submitted herewith.

§ 190-55.5(F)(2)(c) For residential development, a community pier shall be provided rather than individual piers.

This criterion is not applicable.

§ 190-55.5(F)(2)(d) The location, nature, and timing of the proposed growth allocation in relation to the public interest in ordered, efficient, and productive development and land use.

The Property for which growth allocation is proposed is in a commercial/industrial park, which has been contemplated for development that would be permitted following approval of the growth allocation requested. Commercial and industrial uses exist to the south and east of the site. Approval of the growth allocation sought would permit responsible development that is in the public interest by allowing efficient and productive development and land use within the Town.

§ 190-55.5(F)(2)(e) Whether the proposed growth allocation, subject to the proposed concept site plan, will fulfill public purposes through the provision of public facilities, implementation of Comprehensive Plan strategies, or advancement of the land use policies and objectives of the Comprehensive Plan.

The proposed growth allocation is consistent with the Comprehensive Plan and implements its strategies and objectives. The vision statement for land use in Talbot County states that “[m]ost business and residential development will be guided into the incorporated towns and Designated Growth Areas consistent with smart growth”. (Comprehensive Plan, p.2-1, 2016). The proposed growth allocation would permit responsible commercial development within the Town and would ensure that business development occurs within the County’s incorporated towns. Approval of the growth allocation sought would also promote growth in an area “with suitable public and private community services.” (*Id.*, p. 2-1).

§ 190-55.5(F)(3)(a) Create lots or parcels that maximize opportunities for clustered development that protect habitat and agricultural resources.

This criterion is not applicable. The proposed growth allocation does not result in the creation of new lots or parcels. The proposed development of the Property is within an existing commercial and industrial subdivision, is separated from the closest water body by Goldsborough Neck Road, is over 425 feet from mean high water or tidal wetlands, and ensures protection of existing vegetation and forests on site.

§ 190-55.5(F)(3)(b) Locate structures to minimize impact on habitat protection areas and agricultural areas.

Forest protection areas are proposed on the perimeters of the Property to retain existing forests on site to provide natural habitat and improve water quality in the area, particularly to the north and east. Significant woodlands exist on the northern and eastern boundaries of the Property which will be maintained as depicted by the Conceptual Site Development Plan prepared by Davis, Moore, Shearon & Associates, LLC and submitted herewith. No agricultural areas will be impacted by the proposed project on the Property.

§ 190-55.5(F)(3)(c) Avoid or provide a minimally disturbed Shoreline Development Buffer.

The Shoreline Development Buffer does not exist on the Property and will not be impacted.

§ 190-55.5(F)(3)(d) Minimize soil erosion or runoff.

All construction and disturbance on the Property will be subject to applicable State and local regulations regarding stormwater management and sediment and erosion control. Stormwater management plans and sediment and erosion control plans will be approved by the proper reviewing and approval authorities prior to work taking place. Soil erosion and runoff will be minimized.

§ 190-55.5(F)(3)(e) Maximize protection of eroding shorelines.

There is no shoreline on the Property, and the Property is over 425 feet from the nearest mean high water line or tidal wetlands. As stated above, runoff and erosion will be minimized.

§ 190-55.5(F)(3)(f) Have a minimal impact or cause an improvement to stormwater, floodplain, and stream characteristics.

The proposed project will meet all stormwater design requirements. The Property is not within a floodplain, and no streams will be impacted by the proposed project.

§ 190-55.5(F)(3)(g) Avoid or minimize impacts on nontidal wetlands.

No nontidal wetlands are proposed to be impacted by the project. In the event that any wetlands are impacted in the future, the Property owner will ensure that impacts are minimized.

§ 190-55.5(F)(3)(h) Maximize protection of plant and wildlife habitats, particularly for threatened and endangered species, plant and wildlife common to the Chesapeake Bay region, and anadromous fish propagation waters.

The proposed IDA is located in a manner that minimizes impacts to Habitat Protection Areas (“HPA”) because it is a considerable distance from the Shoreline Development Buffer (closest point is approximately 425 feet from tidal wetlands or tidal waters). No clearing is proposed in conjunction with the development of the site to be reclassified to IDA, and significant forested areas and stormwater management facilities exist on the Property to ensure that water flowing from the new IDA is filtered and held on site before entering Glebe Creek to the west. There are no rare or endangered species within the area to be reclassified to IDA, and no tidal or nontidal wetlands will be impacted. The proposal is consistent with State and regional environmental protection policies for threatened and endangered species.

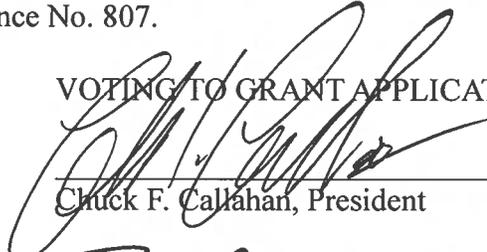
§ 190-55.5(F)(3)(i) Maximize protection of forests.

Lastly, pursuant to § 190.55(F)(4), the County Council shall make findings based on the growth allocation standards of Md. Code Ann., Natural Resources § 8-1801.1(c) and may establish conditions of approval that are consistent with the intent of the County’s Critical Area Program. Such growth allocation standards are set forth in Md. Code Ann., Natural Resources § 8-1801.1(c) and are addressed in the Findings of Fact incorporated as Exhibit B to Ordinance No. 807. The County Council hereby incorporates by reference such Findings of Fact as if fully set forth herein.

III. Conclusion

WHEREFORE, the County Council finds that the award of supplemental growth allocation as requested by the Town and the Applicants satisfies the foregoing criteria and is otherwise in the public interest such that the County Council, in the exercise of its legislative discretion in accordance with the provision of § 190-55.5(F) and (I) of the County Code, hereby grants 8.348 acres of supplemental growth allocation to the Town, subject to the Conditions of Approval set forth in Bill No. 1551, as well as Ordinance No. 807.

VOTING TO GRANT APPLICATION:



Chuck F. Callahan, President



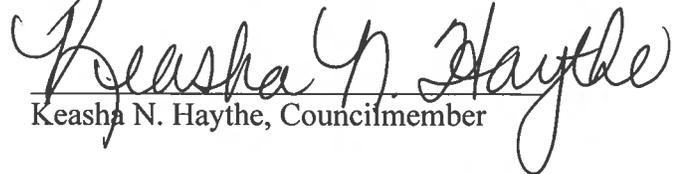
Pete Lesh, Vice President (via absentee ballot)



Dave Stepp, Councilmember



Lynn L. Mielke, Councilmember



Keasha N. Haythe, Councilmember