

Chapter 5

Natural Resource and Sensitive Areas

Goals

- ◆ Direct intensive activities away from natural area corridors.
- ◆ Respect the significant natural environment of the North East area.
- ◆ Preserve and protect the important natural features of the Town including streams, wooded areas, wildlife habitats, and other sensitive natural areas.
- ◆ Preserve environmentally sensitive areas along the Town's waterways.
- ◆ Establish specific development policies for reviewing all development activities within natural corridors, and with respect to impact upon and protection of ground water.
- ◆ Preserve natural drainage ways and to provide public access points for maintenance purposes.
- ◆ Encourage preservation and restoration of properties, structures and places in North East, which are historically and architecturally significant.

Objectives

- ◆ Assess future development proposals in light of the site's physical suitability to accommodate development while protecting natural resources, historic features and the quality of the Town's groundwater.
- ◆ Provide specific protection measures for the following areas: 1) Streams and stream buffers, 2) 100-year floodplain, 3) endangered species habitats, and steep slopes (Note: These areas are already afforded adequate protection under the terms of the Town's Critical Area Program and implementing provisions).
- ◆ Identify wetlands and flood plains in order to provide appropriate levels of protection.
- ◆ Preserve and protect fragile groundwater resources.
- ◆ Protect wildlife and to conserve those natural features that make a significant contribution to the character of each zone and the Town in general.
- ◆ Identify historic sites and maintain the integrity of these areas of the Town.

The Town of North East cherishes its rural character and clean environment with vast surrounding land areas in natural states. The area is rich in wildlife and is ideal for providing an enjoyable rural lifestyle. These irreplaceable natural assets are most important to the health and well being of the Town and to humanity as a whole. The impact of growth and development on the natural resources and environmental quality of the area is an issue of increasing public concern. As a whole, Cecil County is blessed with an abundance of valuable natural resources, which contribute to the County's pleasant quality of life. Human settlements built across these landscapes will disturb and alter this fragile natural environment. The Town desires that future building development be conceived and designed in ways which recognize sensitive natural features and support systems and provide measures to protect and minimize disturbance and damage to these important natural areas.

The Maryland Economic Growth, Resource Protection and Planning Act of 1992 also added the requirement that the comprehensive plan contain a Sensitive Areas Element which describes how the jurisdiction will protect "sensitive areas." Sensitive natural features (see Map 7) and systems of particular interest to the Town include:

- Streams and Stream Buffers;
- Wetlands;
- Woodlands and native vegetation;
- Threatened and endangered wildlife habitats;
- Surface and ground water systems;
- Floodplains;
- Open space; and
- Highly erodible and permeable soils

The Town will continue to require that major subdivision and development proposals incorporate design measures which will identify and reduce, to the extent practical, impacts on sensitive natural features. The clustering of development on a portion of the development site and reserving the remainder of the site in open space serves to reduce the amount of infrastructure and its associated impacts and allows sensitive natural areas to be placed in much less disturbed open space areas. To the extent practical, wetlands, woodlands, and other sensitive natural areas will remain in open space areas. Building and clearing activities in floodplains, wetlands, steep slopes and highly erodible soils will be avoided, wherever possible. Storm water runoff from impervious surfaces will be properly managed and infiltrated. Sediment and erosion control during and after construction will be practiced. Maintaining and enhancing wildlife corridors and habitat will be encouraged.

Chesapeake Bay Critical Area

The Chesapeake Bay Critical Area Protection Program (Natural Resources Article 8-181-8-1816) was passed by the Maryland General Assembly in 1984 because of concern for the decline of the quality and productivity of the waters of the Chesapeake Bay and its tributaries. The decline was found to have resulted, in part, from the cumulative effects

of human activity that caused increased levels of pollutants, nutrients, toxins, and also from the decline in more protective land uses such as forest land and agricultural land in the Bay region. The General Assembly enacted the Critical Area law for the following purposes:

1. To establish a Resource Protection Program for the Chesapeake Bay and its tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and
2. To implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and review.

To achieve these two purposes the law specified the creation of a 27-member Commission (now 29 as a result of the addition of Coastal Bays), appointed by the Governor and representing the local jurisdictions, State agencies, and diverse interests. The Commission was charged with developing a specific set of criteria to regulate land use in the Critical Area, and the General Assembly approved these criteria during the 1986 legislative session (COMAR 27.01.01 – 27.01.11). Subsequently, “the Criteria” were used by each of the affected local jurisdictions to prepare their own local Critical Area programs, ordinances, and regulations to manage and regulate land use within the Critical Area. The Critical Area includes the Chesapeake Bay, its tributaries to the head of tide, tidal wetlands, plus all land and water within 1,000 feet beyond the landward boundary of these waters and wetlands.

The goals of the Critical Area program are to accomplish the following:

1. To minimize adverse impacts on water quality that result from high nutrient loadings in runoff from surrounding lands or from pollutants that are discharged from structures;
2. To conserve fish, wildlife, and plant habitats; and
3. To establish land use policies for development in the Critical Area which accommodate growth and address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

History of the North East Critical Area Program

In accordance with the Critical Area Act, all affected jurisdictions were required to develop and implement a Critical Area Protection Program to control the use and development of that part of the Critical Area within its territorial limits. The Town of North East adopted a Critical Area Program along with a series of implementing provisions contained in the North East Zoning Ordinance and Subdivision Regulations in June, 1988. The policies and goals included in the Critical Area Program and the specific requirements and standards included in the North East Zoning Ordinance and Subdivision

Regulations were developed in accordance with the Critical Area Act and Criteria to accommodate future growth of the Town while addressing the associated environmental impacts.

In this update of the Comprehensive Plan, some of the provisions included in the Critical Area Program are being incorporated into the Sensitive Areas Element of the Town's Comprehensive Plan and some are being incorporated into the North East Zoning Ordinance in order to more effectively implement the Town's Critical Area Program and to ensure consistent and uniform application of the Critical Area regulations.

Critical Area Designations and Policies for Future Growth

In recognition that the Critical Area has great diversity in existing land use, the State's criteria for local programs and ordinances is based on three different land use classifications. At the time of the original Critical Area Program adoption, each jurisdiction identified and mapped land with the Critical Area as one of the three classifications. This designation allowed jurisdictions to either use existing zoning classifications or to use overlay zones to effectively implement different performance standards for development and redevelopment in those areas. The land within the Critical Area was mapped as one of these categories based on existing land use as of December 1, 1985 and based on mapping criteria described below for each category.

- Intensely Developed Area (IDA)
- Limited Development Area (LDA)
- Resource Conservation Area (RCA)

There are two hundred and fifty-five and a half acres (255.5) within the Critical Area.

Intensely Developed Area. IDA's are the most intense land use classification in the Critical Area. In accordance with the Criteria, IDAs are areas where residential, commercial, institutional and/or industrial development is predominant and relatively little natural habitat occurs. At the time of initial mapping these areas had to have one of the following characteristics:

1. Housing density greater than four dwelling units per acre;
2. Industrial, institutional, or commercial uses concentrated in the area; or
3. Public sewer and water collection and distribution systems currently serving the areas and housing density greater than three dwelling units per acre.

In addition, these features had to be concentrated in an area of at least 20 acres or the entire upland portion of the Critical Area within a municipality.

At the time of Program approval, about one hundred fifteen and a half acres (115.5) were classified as IDA.

Limited Development Area. LDA's are those areas developed in low or moderate intensity uses and contain areas of natural plant and animal habitats. The quality of runoff from these areas has not been substantially altered or impaired. At the time of original mapping, these areas had to have one of the following features:

1. Housing density between one dwelling unit per five acres or up to four dwelling units per acre;
2. Areas not dominated by agriculture, wetland, forest, barren land, surface water or open space;
3. Areas having the characteristics of the IDA, but less than 20 acres in extent; or
4. Areas having public water or sewer or both.

At the time of program approval there were approximately one hundred forty acres (140) acres classified as LDA.

Resource Conservation Area. RCA's are areas characterized by nature-dominated environments such as wetlands, forests, and abandoned fields and areas where resource utilization activities (agriculture forestry, fisheries activities, and aquaculture) take place. At the time of original mapping, these areas had to have one of the following features:

1. Existing density less than one dwelling unit per five acres; or
2. The dominant land use in agriculture, wetland, forest, barren land, surface water or open space.

The Town does not have any RCA land within their Corporate Limits.

Habitat Protection Areas (HPA's). Maps illustrating the general location, extent and configuration of Habitat Protection Areas in the Town are on file at the Town Hall. They will be used to assist the Town, property owners, developers and any person proposing development when reviewing development projects. While these maps give a general indication of the area, they do not excuse any property owner or operator from establishing, to the satisfaction of the Town Planning Commission, whether or not the property or activity will affect the element of habitat to be protected. During site plan review, the applicant will be responsible for providing a more detailed site analysis and inventory of the following Habitat Protection Areas:

1. The 100-foot Buffer;
2. Threatened and Endangered Species and Species in Need of Conservation;
3. Colonial water bird nesting sites;
4. Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and non-tidal wetlands;
5. Existing riparian forests;
6. Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species;
7. Submerged aquatic vegetation (SAV's)
8. Designated Natural Heritage Areas; and
9. Non-tidal wetlands.

The Town's Critical Area boundary is mapped as part of this document. Other elements of land use development that are addressed in the Critical Area Program are:

- Buffer areas;
- Land cover;
- Impervious surfaces;
- Water access;
- Wildlife Habitat;
- Setbacks;
- Open Space and
- Recreation areas

Many of the Critical Area requirements are performance standards that developers and other land uses are required to achieve. These standards affect such things as impervious surface area, forest clearing, and density. These standards and implementation regulations are part of the Town's Zoning Ordinance and Subdivision Regulations.

Surface Mining in the Critical Area. Surface mining is not a permitted use in the Town of North East. Should the Town amend its Zoning Ordinance to allow surface mining in any zone within the Critical Area, the Town shall amend its Critical Area Ordinance to include appropriate language.

Agriculture in the Critical Area. The Town does not include any areas that are currently undergoing or are proposed for agricultural use. At such time in the future that an area within the Town would be proposed for this type of use through annexation or a change in current land use, the Town shall amend its Critical Area Ordinance to include appropriate language.

Recommendations

Tree Preservation and Forest Conservation

The Town of North East has extensive forested lands within the Town and adjacent to the Town (see Map 7). To preserve the Town's forested areas, developed woodlands, and street trees, the Town should develop an Urban Forestry Plan and implement tree preservation requirements as part of the new Zoning Ordinance. As part of the zoning requirements, the Town should provide that when a developer is unable to meet forest preservation or other landscaping requirements that a fee in-lieu will be assessed. Fees in-lieu collected by the Town could be used to fund public enhancement projects identified in the Town Urban Forest Plan, e.g., landscape improvements at major community gateways, maintenance of street trees, etc.

All land development should be required to limit clearing of natural vegetation and retain specimen trees to the extent possible. The Maryland Forest Conservation Act requires that clearing of forest be regulated as of December 1992 to insure that certain forest

conservation measures are implemented. North East is currently part of the County Forest Conservation Program.

The Forest Conservation Ordinance requires that applicants proposing development activities that will disturb 40,000 square feet or more must submit a forest stand delineation and a forest conservation plan. The ordinance establishes forest conservation thresholds for all land use categories. The forest conservation threshold sets the percentage of the net tract area at which the reforestation requirement changes from a ratio of 1/4 acre planted for each acre removed above the threshold to a ratio of 2 acres planted for each acre removed below the threshold.

After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision, site plan or project plan, grading and sediment control activities, and implementation of the forest conservation plan, the forest conservation plan must provide for reforestation, or payment into the forest conservation fund.

The actions must be consistent with the following forest conservation threshold for the applicable land use category:

Category of Use	Threshold Percentage
Agricultural and resource areas	50 percent
Institutional development areas	20 percent
High density residential areas	20 percent
Mixed use and planned unit development areas	15 percent
Commercial and industrial use area	15 percent

Each acre of forest retained on the net tract area above the applicable forest conservation threshold will be credited towards the total number of acres required to be reforested. All existing forest cover cleared on the net tract area below the applicable forest conservation threshold, must be reforested at a ratio of 2 acres planted for each acre removed below the threshold.

If no forest exists or it exists in a small amount on the site the applicant must conduct afforestation on the lot or parcel. An agriculture or resource area tract having less than 20 percent of the net tract area in forest cover must be afforested up to at least 20 percent of the net tract area. Institutional development areas, high density residential areas, mixed use and planned unit development areas, and commercial and industrial use areas with less than 15 percent of its net tract area in forest cover must be afforested up to at least 15 percent of the net tract area.

Streams and Stream Buffers

Streams and their buffers are important resources, especially to North East with many stream corridors within its boundaries (see Map 7). The Town has the North East Creek running through the middle, which serves as a source of water supply for the Town, and is served by other smaller streams like Stoney Run and Fords Run. Streams support recreational fishing and serve as spawning areas for commercial fish stock. Development near stream areas subject to flooding can result in the loss of life and property. Streams and their adjacent buffers are home to countless species of animals and plants and transport valuable nutrients, minerals and vitamins to rivers and creeks and, in turn, the Chesapeake Bay. The floodplains, wetlands, and wooded slopes along streams are important parts of the stream ecosystem.

As development activity consumes large amounts of land, forest cover and natural vegetation along streams are diminished. The cumulative loss of open space and natural growth reduces the ability of remaining land along streams to buffer the effects of greater stormwater runoff, sedimentation, and higher levels of nutrient pollution. Buffers serve as protection zones when located adjacent to streams and reduce sediment, nitrogen, phosphorous and other runoff pollutants by acting as a filter, thus minimizing stream damage. The effectiveness of buffers to protect stream water quality is influenced by their width (which should take into account such factors as contiguous or nearby slopes, soil erodibility, and adjacent wetlands or floodplains), the type of vegetation within the buffer (some plants are more effective at nutrient uptake than others), and maintenance of the buffer.

Buffers also provide habitat for wetland and upland plants which form the basis of healthy biological communities. A wide variety of animals use the natural vegetation as a corridor for food and cover. A natural buffer system provides connections between remaining patches of forest in the area to support wildlife movement.

Due to the importance of the North East Creek as a potable water supply in the region, it is important that the County and Town take steps to protect water quality. Minimum stream buffer requirements may not be enough to insure that development and other land disturbing activities do not adversely impact water quality in the stream. A more prudent approach to insure a sustainable water supply for the area may be to initiate a watershed wide planning effort for the purpose of identifying best management practices to apply in the watershed, including alternative stormwater management techniques, larger stream buffers, limitations on development in critical areas and vigorous enforcement efforts.

Floodplain

The floodplain areas in North East are determined by the Flood Insurance Rate Maps developed by the Federal Emergency Management Agency (FEMA). These maps are part of the regulatory program administered by the Town. In addition the Town has adopted and enforced a Floodplain Ordinance since February of 1981.

Tidal Wetlands

Public and private (tidal) wetlands are important natural areas protected by state law (Title 9, Sections 9-101/9-301 of the Natural Resources Volume, Maryland Annotated Code) which sets forth strict licensing procedures for any alteration of wetlands. They are also within the protective jurisdiction of the federal government through the U.S. Army Corps of Engineers. Town policies and regulations regarding wetlands require compliance with State and Federal wetland regulations.

Steep Slopes

The Town should require that the same provisions regulating steep slopes in the Critical Area be applied Town-wide. This means that clearing, grading and placement of structures and other impervious surfaces on slope 15 percent or greater would be strictly limited.

Endangered Species Habitat

To ensure the protection and continued existence of endangered species within the Town's jurisdiction, Zoning Ordinance and Subdivision Regulations should include the following protective measures:

1. Require that anyone proposing development activities must address protection of state and federally designated endangered species. The developer must determine through contact with the Town and the Maryland Wildlife and Heritage Service (MWHS) whether proposed activities will occur within or adjacent to identified endangered species habitat and whether the activities will affect the area.
2. If it is established that an activity will occur within or adjacent to an endangered species habitat, the Town should require that the developer provide protection measures in the project design. A written environmental assessment including site design plans and a description of measures to be taken to protect the endangered species should be submitted to the Town as part of the development review process. The developer must work with the MWHS in establishing species/site-specific protection measures. Protection measures may include:
 - a. Designation of protection areas around the essential habitat of the designated species. Development activities or other disturbances shall be prohibited in the protection area, unless it can be shown that these activities or disturbances will not have or cause adverse impact on the habitat. The protection area designation will be made with input from the MWHS.
 - b. Implementation of design strategies that work to protect the species and essential habitat. These strategies should include (but are not limited to) restrictions on siting of structures, use of cluster design, establishment of

undisturbed open space areas, restrictive covenants, and restrictions on noise levels and timing of construction activities.

Historic Features

History can be kept alive through education and preservation, both of which can take many forms and vary in intensity. Old homes can be restored such that they are comfortable homes of today or they could be refurbished as an office. Historic sites can honor the past while providing a place for leisure activities. An old church can still hold worship services similar to those held one hundred years ago. A number of programs exist to help individuals and groups temporarily or permanently protect sites and structures considered significant. The past is a building block for the future and, if a plan is to be comprehensive, it must incorporate that past as a key element of planning for the future.

Historic preservation is a program which involves the inventorying, researching, restoration, and ongoing protection of sites and structures having a significant local or national historic interest. Continued historic and cultural resource preservation and enhancement through sensitive land use planning and other administrative means would provide North East with a number of benefits including:

- Promotion of a strong sense of community pride for Town residents;
- Community revitalization through the renovation or adaptive reuse of older structures;
- Increased property values and tax revenues as a result of renovation and restoration; and
- Increased revenues generated from tourism.

There are a number of structures and sites within the Town that are of historic, cultural, or architectural significance. These structures, given proper concern and recognition, have tremendous potential to serve as physical reminders of the history and heritage of our past.

In recent years, there has been considerable public concern that the vestiges of our heritage will be irretrievably lost. It has been found that an active historic and architectural preservation program could have beneficial social, economic and aesthetic impacts on the area. Therefore, rather than permit demolition, destruction, or abandonment of our rich heritage, an active historic preservation program is recommended. Such a program should permit the continued use of the identified sites and structures while simultaneously discouraging inappropriate exterior alterations. The development of a Historic Preservation Program for the Town should be the result of a cooperative effort between the public and private sectors of the community.

Inventory

The following are historic structures of concern to the Town of North East:

- Bryson House
- Old Town Lockup
- West Log Home
- Andy Anderson's Home
- Mill House
- 5&10 Antiques (formerly Cramer's 5&10)
- Old Post Office
- Simcoe House
- Reynolds/South Main Street
- The William Roney House
- Hannum House
- St. Mary Anne's Episcopal Church
- England's Colony on the Bay (formerly Roney and Wells)
- Upper Bay Museum (formerly Harvey's Fish Market)

Recommendations

The following programs and strategies are designed to facilitate achieving this Plan's goal of preserving and enhancing the Town's rich cultural and historic heritage.

Protection and Preservation Programs

A number of existing programs provide assistance in protection or preservation, offer tax benefits, provide professional historical/architectural consulting, and so forth. More detailed information on programs including the National Historic Landmark, National Register of Historic Places, Maryland Historic Site Survey, Conservation and Preservation Easements, and Historic Overlay Districts can be found from various historic preservation organizations such as the Maryland Historical Trust.

National Register of Historic Places. In 1966, Congress established the National Register of Historic Places as the Federal Government's official list of properties, including districts, significant in American history and culture. In Maryland, the Register is administered by the Maryland Historical Trust. Some benefits resulting from a listing in the National Register include the following:

- National recognition of the value of historic properties individually and collectively to the Nation.
- Eligibility for Federal tax incentives and other preservation assistance.

- Eligibility for a Maryland income tax benefit for the approved rehabilitation of owner-occupied residential buildings.
- Consideration in the planning for federally and state assisted projects.
- Listing does not interfere with a private property owner's right to alter, manage or dispose of property.

Maryland Historical Trust. The Maryland Historical Trust (MHT) surveys historic buildings, structures and archaeological sites to determine eligibility of being listed on the state register. As with being on the National Register of Historic Places, listing does not limit or regulate the property owner in what can or cannot be done with the property. In order to be considered for listing on the National Register or having an easement on the property to be accepted by the MHT, the site usually must first be listed on the Maryland Historical Trust Register.

Maryland Historic Preservation Easement. A state-held historic preservation easement monitored by the MHT is an excellent means of perpetually preserving a historical structure and property for future generations. Regulations state that easements may be assignable to other parties or run with the land. The benefits for a property owner to donate his land to the MHT include income, estate, inheritance, gift and property tax benefits. In exchange, the owner gives the MHT the final word regarding proposed alterations. However, for properties whose fair market value is largely based on the value of development rights, this method of preservation may not be the most financially expedient for the property owner or for the MHT.

Local Historic District Overlay Zone. A third, but separate, type of designation is the locally-zoned historic district which is an overlay on the existing zoning ordinance of a specified area. This district, legally allowed by Section 8.01 of Article 66B in the Annotated Code of Maryland is designed in order to maintain the visual character of the community. It may allow an appointed Commission to monitor changes, alterations and demolition of buildings and structures of architectural or historic significance. The main purpose of such zoning is:

- to safeguard the heritage by preserving the Districts that reflect elements of its cultural, social, economic, political or architectural history;
- to stabilize or improve property values in such a District;
- to foster civic beauty;
- to strengthen the local economy;
- use and preservation of Historic Districts for the education, welfare and pleasure of the residents of the county or municipal corporation.

Adaptive Re-Use. The Town should adopt zoning provisions that promote the adaptive reuse of historic structures for public and private uses including, but not limited to, bed and breakfast establishments, craft/gift shops, museums, and studio space for artisans, when such uses minimize exterior structural alteration.

Support Owners. The Town should encourage, through the use of various incentives, the preservation of historic structures. Include tax incentives for major structural or exterior renovation or the donation of protective historic easements.

Local Historic Districts. The Town may, through the use of various incentives, encourage the establishment of local historic districts in the Town. Incentives may include tax incentives and recognition through the awarding of plaques.

Development Proposal Review. The Zoning Ordinance and Subdivision Regulations for the Town should require developers to identify cemeteries/burial grounds/archaeological sites/historical structures on a property prior to any disturbance of the site and support archaeological and historical research through preservation of significant sites.

Map 7 Sensitive Areas

