

## ZONING REGULATIONS

*297 Attachment 22*

### **Charles County**

#### **Appendix L Swan Point Alternative for Buffer Modification Areas**

The following information applies to sections of Swan Point with waterfront lots which were created prior to 1985. The conditions apply to the clearing and development of lots directly on the water. Waterfront lots and other lots platted after 1985 are subject to the zoning indenture recorded for this property in November 1986, and the provisions of the applicable zoning ordinance under which they were recorded.

#### **L:1: Background — Purpose of buffer modification areas.**

Chesapeake Bay Critical Area regulations require the establishment of a one-hundred-foot buffer landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands. These regulations also provide that counties may exempt certain portions of the critical area from the buffer requirements where it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial or recreational development prevents the buffer from fulfilling its function. These are called “buffer modification areas” (BMAs). BMAs allow reasonable expansion of existing structures or new development to occur within the buffer without the property owner having to obtain a variance. Swan Point (in the grandfathered section only) is designated as a BMA due to the number, density and size of platted, grandfathered, waterfront lots within the critical area.

#### **L-2: Requirements for buffer modification areas**

In BMAs, the Charles County Critical Area program requires that while reasonable development may occur within the buffer, the applicant must demonstrate that the distance between the new development and the mean high water line has been maximized. Additionally, within BMAs expansion or redevelopment of existing structures may not occur any closer to the water than the rear yard setback established in Section L-3 of this Appendix. Accessory structures (pools, sheds, gazebos, etc.) may not be located waterward of the primary structure. Attached decks and porches are considered to be part of the principal structure. New development in BMAs must minimize the extent to which lot coverage extends toward open water or wetlands, taking into consideration existing County yard setback requirements of the underlying zones and other such factors. BMAs are also subject to lot coverage limitations as described the Charles County Critical Area Program.

Impacts to the buffer within BMAs are offset through mitigation requirements including:

- 1) The extent of the lot or parcel shoreward of the new development or redevelopment must remain, or shall be established and maintained, in native vegetation; and

## CHARLES COUNTY CODE

- 2) Native vegetation of an area twice the extent of the lot coverage created in the BMA shall be planted on the site or on a buffer modification offset location as may be approved by the County.

### **L-3: Setback alternatives for BMA portion of Swan Point**

To clarify the regulations and to provide consistency to property owners in the existing, platted, BMA portion of Swan Point, new waterfront development shall be subject to the following setback requirements based upon the depth of each individual lot. Front yard setbacks are 30 feet from the edge of the property line, as recorded on the subdivision plats. Rear yard setbacks from the water are determined by average depth of the lot. Where depth on one side of the property differs from the depth on the other side, an average of the two distances will determine rear yard setbacks (from mean high water or the edge of the bulkhead if one exists). Rear yard setbacks shall be set according to lot depth below:

- A. Lots with an average depth of up to 150 feet will have a strict disturbance setback of 50 feet.
- B. Lots with an average depth of 150 feet to 180 feet will have a strict disturbance setback of 60 feet.
- C. Lots with an average depth of 180 feet to 210 feet will have a strict disturbance setback of 70 feet.
- D. Lots with an average depth over 210 feet are subject to the usual 100-foot buffer.

### **L-4: Mitigation.**

Swan Point property owners must comply with a two-phased mitigation requirement for any development within the BMA. First, the extent of the lot shoreward of the new development shall be required to remain, or to be established and maintained, in woody vegetation. Second, native vegetation of an area twice the lot coverage created in the 100-foot buffer shall be planted on the site. There are three recommended preapproved planting schemes (see attached illustrations) or the property owner may submit his or her own plan based upon "Landscaping Requirements in the Critical Area — Helpful Hints for Meeting Charles County's Requirements." Plantings for buffer establishment and 2:1 planting for lot coverage encroachment into the 100-foot buffer may both be located within the required buffer establishment area. 2:1 lot coverage planting may count towards total required buffer establishment area if planted within the required buffer establishment area between the house and the water. When 2:1 planting requirements are greater than the buffer establishment area, the remainder of the plantings may be done beside the house if still within the 100-foot buffer or used to further enhance the buffer establishment area.

ZONING REGULATIONS

**Examples:**

**Lot Type “A”** (fifty-foot BMA setback/strict limit of disturbance) on a 100-foot-wide lot.

Buffer establishment -

50 feet (required buffer) x 100 feet (width of lot) = 5,000 square feet of woody vegetation (to be planted between the structure and the water)

8 large trees @ 400 square feet credit	=	3,200 square feet
10 small trees @ 100 square feet credit	=	1,000 square feet
10 large shrubs @ 36 square feet credit	=	360 square feet
20 small shrubs @ 16 square feet credit	=	320 square feet
120 ground cover @ 1 square foot credit	=	<u>120 square feet</u>
Total		5,000 square feet

Lot coverage 2:1 mitigation -

2,700 square feet of lot coverage within the 100-foot buffer x 2 = 5,400 square feet of woody vegetation to be established on the site. (Please refer to the attached illustrations.)

**Lot Type “B”** (sixty-foot BMA setback/strict limit of disturbance) on a 100-foot-wide lot

Buffer establishment -

60 feet (required buffer) x 100 feet (width of lot) = 6,000 square feet of woody vegetation (to be planted between the structure and the water).

10 large trees @ 400 square feet credit	=	4,000 square feet
12 small trees @ 100 square feet credit	=	1,200 square feet
12 large shrubs @ 36 square feet credit	=	432 square feet
20 small shrubs @ 16 square feet credit	=	320 square feet
48 ground cover @ 1 square foot credit	=	<u>48 square feet</u>
Total		6,000 square feet

Lot coverage 2:1 mitigation -

1,500 square feet of lot coverage within the 100-foot buffer x 2 = 3,000 square feet of woody vegetation to be established on the site. (Please refer to the attached illustrations.)

CHARLES COUNTY CODE

**Lot Type “C”** (70 foot BMA setback/strict limit of disturbance) on a 100-foot-wide lot.

Buffer establishment —

70 feet (required buffer) x 100 feet (width of lot) = 7,000 square feet of woody vegetation (to be planted between the structure and the water).

12 large trees @ 400 square feet credit	=	4,800 square feet
14 small trees @ 100 square feet credit	=	1,400 square feet
12 large shrubs @ 36 square feet credit	=	432 square feet
20 small shrubs @ 16 square feet credit	=	320 square feet
48 ground cover @ 1 square foot credit	=	<u>48 square feet</u>
Total		7,000 square feet

Lot coverage 2:1 mitigation —

1,600 square feet of lot coverage within the 100-foot buffer x 2 = 3,200 square feet of woody vegetation to be established on the site. (Please refer to the attached illustrations.)

**L-5: Financial guarantees**

As per the Charles County Zoning Ordinance, the owner must provide a bond or other financial guarantee that all plants will be installed and cared for appropriately for two full growing seasons. Plants will be inspected at the time of planting, at a one-year interval (a courtesy inspection to identify any potential problems), and at the end of two years. Dead or diseased plants are to be replaced, and must survive for two growing seasons before the County can release bonds, in accordance with County-wide planting and reforestation policies.

**L-6: Lot coverage limits**

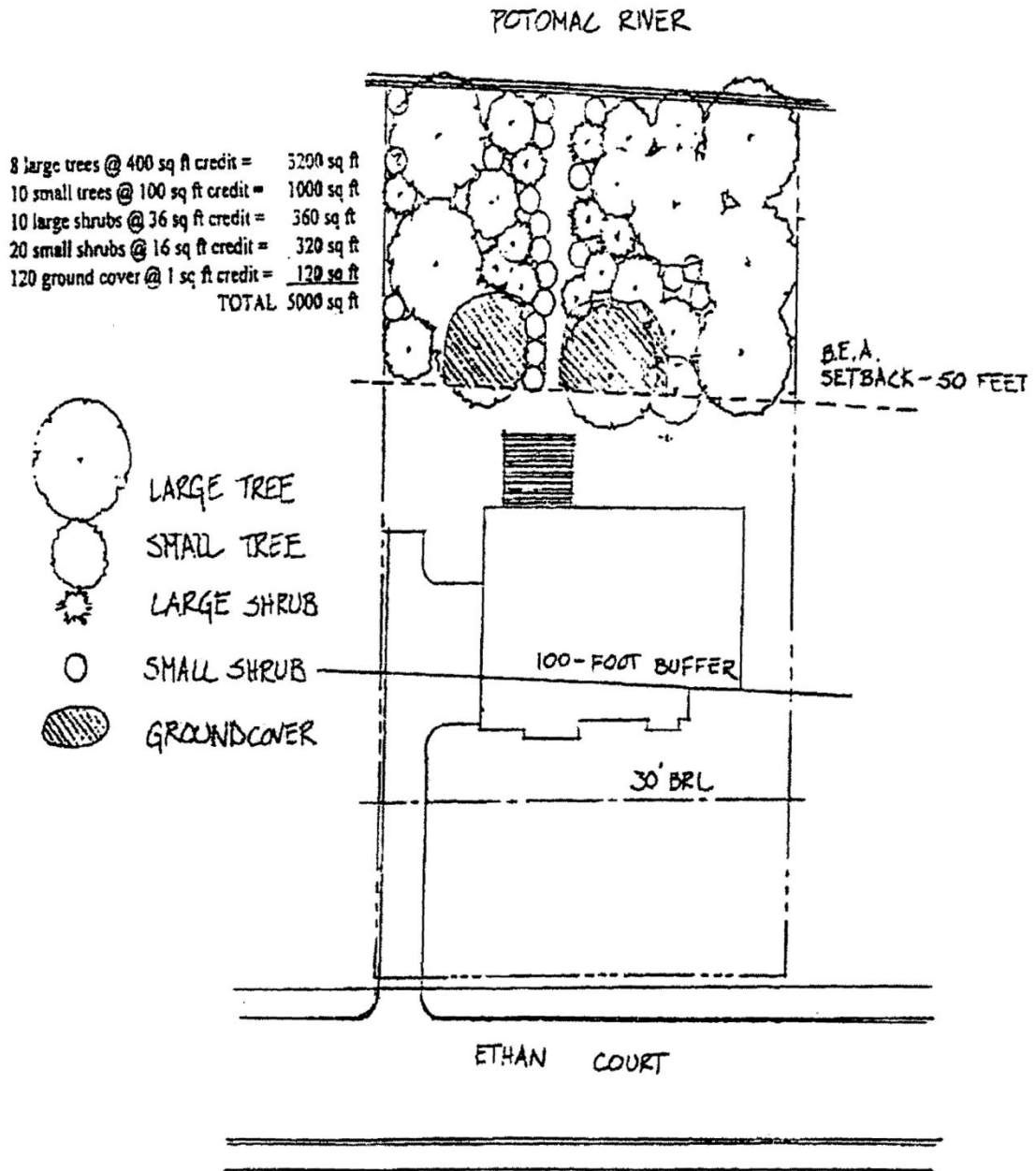
All properties in the critical area are subject to current restrictions on lot coverage on any given property. For all lots less than 1/2 acre in size in Buffer Modification Areas, lot coverage shall not exceed 25%; for all other lots, lot coverage shall not exceed 15% lot coverage. It is recommended that all applicants show the dimensions of all man-made lot coverage on a lot, and that all calculations also be shown. This will help speed the County’s review process, particularly if the amount of lot coverage is nearing the legal limits.

**L-7: Variances**

These requirements are meant to clarify the regulations and to provide consistency to property owners in the existing, platted, BMA portion of Swan Point. If a property owner wishes to develop outside of these conditions (i.e., closer to the water than the BMA setback allowed), he or she may seek a variance from County regulations under Article XIX, § 297-418, of the Charles County Zoning Ordinance.

ZONING REGULATIONS

Lot Type "A"








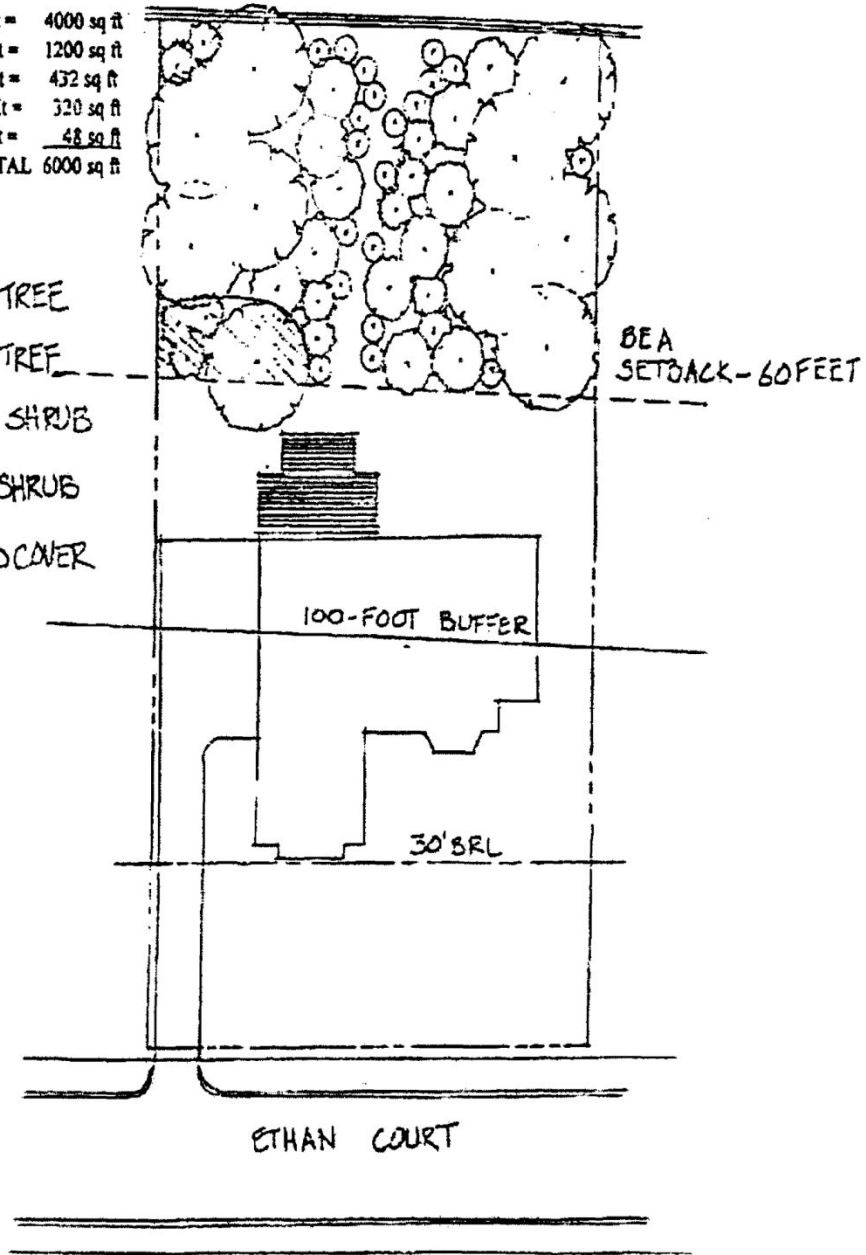
CHARLES COUNTY CODE

Lot Type "B"

POTOMAC RIVER

10 large trees @ 400 sq ft credit =	4000 sq ft
12 small trees @ 100 sq ft credit =	1200 sq ft
12 large shrubs @ 36 sq ft credit =	432 sq ft
20 small shrubs @ 16 sq ft credit =	320 sq ft
48 ground cover @ 1 sq ft credit =	48 sq ft
<b>TOTAL</b>	<b>6000 sq ft</b>

-  LARGE TREE
-  SMALL TREE
-  LARGE SHRUB
-  SMALL SHRUB
-  GROUND COVER



ZONING REGULATIONS

Lot Type "C"

