

## *Critical Area Commission*

### **STAFF REPORT**

July 6, 2022

<b>APPLICANT:</b>	Town of Rock Hall (Kent County)
<b>PROPOSAL:</b>	Critical Area Designation Changes
<b>COMMISSION ACTION:</b>	Concurrence with Chairman's Determination of Refinement
<b>STAFF RECOMMENDATION:</b>	Approval
<b>STAFF:</b>	Annie Sekerak
<b>APPLICABLE LAW/ REGULATIONS:</b>	Natural Resources Article §8-1808.1, Natural Resources Article §8-1809(h), and Natural Resources Article §8-1809(p)

### **DISCUSSION**

As described in a separate staff report, the Town Council of Rock Hall voted on May 12, 2022 to approve an update to the Town's 1,000-foot Critical Area boundary map through the adoption of Ordinance No. 2022-01. In addition to updating the boundary, Ordinance 2022-01 also included several Critical Area land designation changes from Limited Development Area (LDA) to Intensely Developed Area (IDA). The mapping designation changes are being made through either the mapping mistake process or by use of growth allocation. Maps showing the mapping mistake parcel (Attachment 1) and growth allocation areas (Attachment 2) are attached to this staff report.

#### **Mapping Mistake**

A single mapping mistake was determined for Tax Map 500, Parcel 320, and Ordinance No. 2022-01 changes the Critical Area designation of this parcel from LDA to IDA (Attachment 1). The lot is 15,986 square feet in size, is zoned for low density residential use, and is served by public sewer and water.

In order to justify a Critical Area mapping mistake, evidence must be provided that clearly demonstrates a mistake based on facts or factors at the time of original mapping. Based on the following evidence, this parcel was mistakenly mapped as LDA although it met the characteristics of an IDA for the following reasons:

1. As of the date of local program and map adoption (July 21, 1988), the parcel was served by public sewer and water;
2. As of the date of local program and map adoption (July 21, 1988), the lot was and is remaining residential in nature, with a relatively small amount of natural habitat;

3. The parcel is adjacent to other small, grandfathered developed parcels that are mapped as IDA; and
4. The parcel meets the State Critical Area mapping rules found in COMAR 27.01.02.03, which provides the original IDA mapping standards. Specifically, it exceeds a housing density of four dwelling units per acre and is served by public sewer and water.

### **Growth Allocation**

Additional parcels, which are grouped in five distinct areas (see Attachment 2), are changing from LDA to IDA through the use of growth allocation. The growth allocation request finalizes a process that began in 1987 when Kent County allotted 66.73 acres of growth allocation to the Town. Here is a breakdown of the growth allocation areas as depicted in Attachment 2:

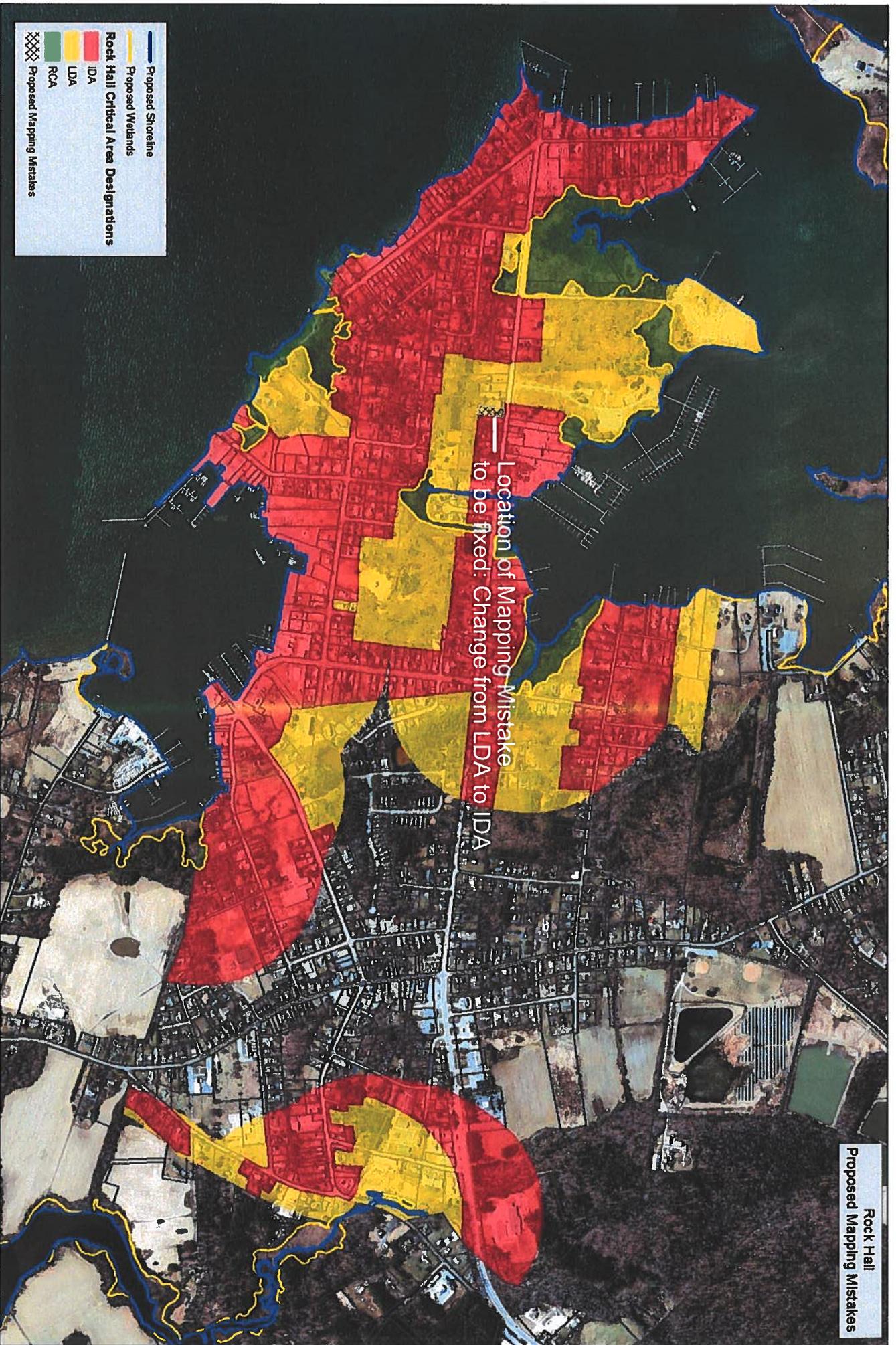
- Area 1 – TM 500, P 299: **8.12 acres**
- Area 2 – TM 500, P 331 (Lots 2-8): **1.77 acres**
- Area 3 – TM 500, P 463; 464: **0.52 acres**
- Area 4 – TM 501, P 342; 343 (Lots A5, A6, A9-A31, B69, B70, B72); 411; 414; 415; 416; 419: **22.07 acres**
- Area 5 – TM 501, P 449; 962; 963; 970; 981; 982; 983; 984; 1024; 1025; 1026: **12.12 acres**
- **Total (Areas 1-5) – 44.60 acres**

During the map review process, Town and Critical Area Commission staff determined that the above LDA parcels have been developed in a manner that exceeds the Critical Area LDA development requirements. Research uncovered that the Town received 66.73 acres of growth allocation from Kent County in 1987. However, the Town did not finalize the use of growth allocation for these parcels at that time, as they did not obtain the required approvals from the Town Council or the Critical Area Commission. Nevertheless, development on those parcels was approved by the Town based on the standards for IDA development.

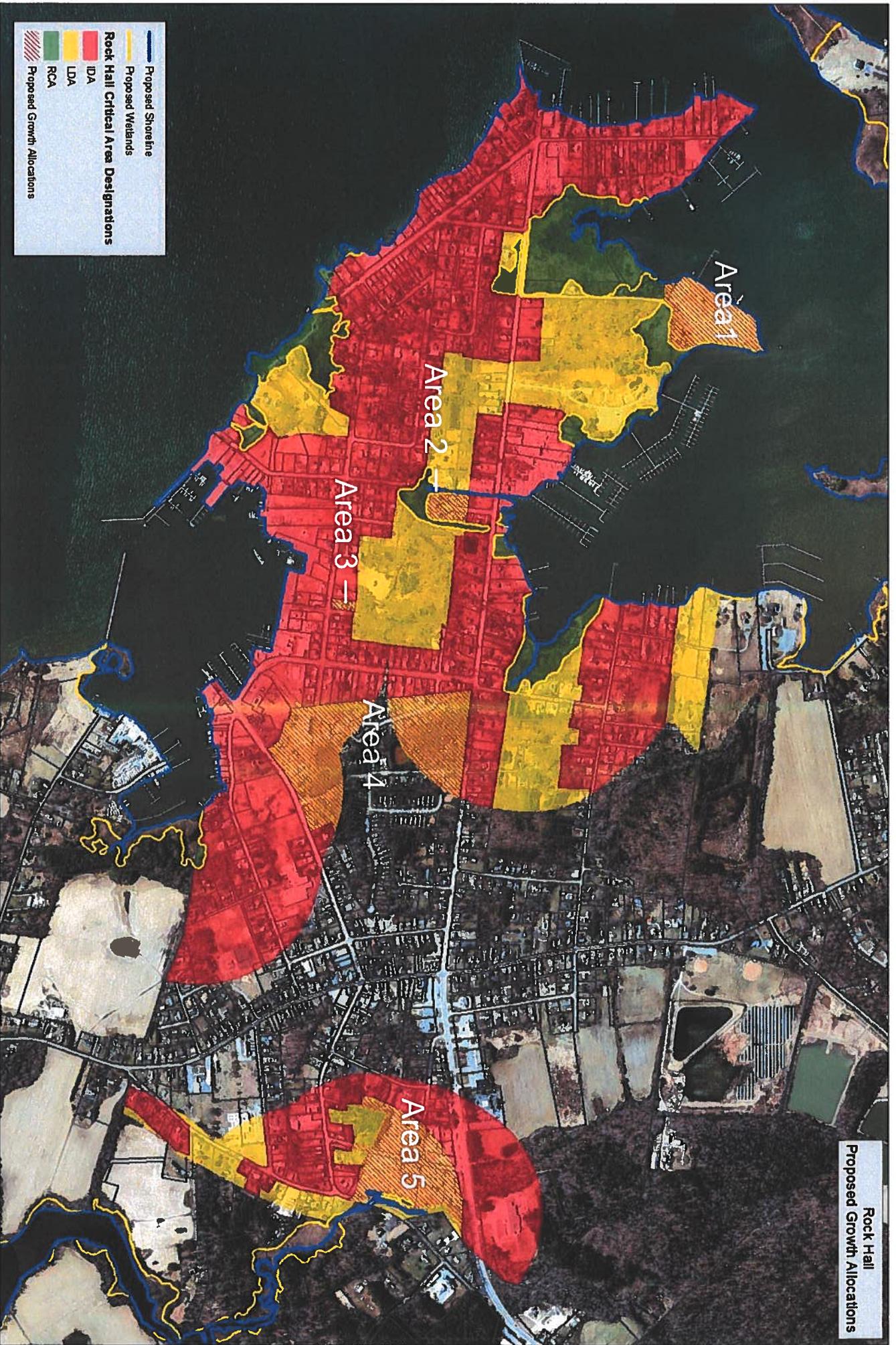
The growth allocation request in Ordinance No. 2022-01 corrects this discrepancy by reclassifying the above-referenced parcels (totaling 44.60 acres) from LDA to IDA in order to bring them into conformance with the State regulations and Town Critical Area program. All parcels meet the Commission's growth allocation adjacency standards found in Natural Resources Article 8-1808.1(c)(2)(i), as all parcels are either adjacent to existing IDA areas in Town, are proposed within an existing LDA, or both. If approved, the growth allocation records for the Town and County will be updated to reflect the total deduction of the 44.60 acres from the Town's existing Growth Allocation allotment.

### **STAFF RECOMMENDATION**

Because the proposed designation change through a mapping mistake is consistent with the Critical Area Law and Criteria, and because the growth allocation meets adjacency standards and corrects an error, Commission staff recommends this request be reviewed as a refinement to the Town of Rock Hall's Critical Area program. Further, staff recommends that the Chairman approve the designation changes as proposed.



Rock Hall  
Proposed Growth Allocations



- Proposed Shoreline
- Proposed Wetlands
- Rook Hall Critical Area Designations**
- IDA
- LDA
- RCA
- Proposed Growth Allocations