

Public Hearings - Salisbury - Joint Hearing: Chesapeake Bay Critical Area Commission  
and Mayor and City Council of Salisbury 1988 MSA-51930-49

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CHESAPEAKE BAY CRITICAL AREA COMMISSION  
MAYOR AND CITY COUNCIL OF SALISBURY  
JOINT PUBLIC HEARING ON THE DRAFT  
SALISBURY CRITICAL AREA PROGRAM

Salisbury, Maryland  
Monday, February 29, 1988

The above-entitled matter come on for hearing  
pursuant to notice.

BEFORE:

ROBERT A. POWELL, Council President

APPEARANCES:

- Peter L. Johnston
- Robert Eaton
- Pat Fennell
- Gertrude W. Shockley
- Robin R. Cockey
- Martha K. Graham
- William J. Bostian, Chairman of the Panel
- Robert N. Schoeplein, Ph.D.
- Shepard Krech
- Lewis Waters, Commission Staff
- Torrey C. Brown, Secretary to  
Department of Interior
- Bill Livingston, Director of Planning

I N D E X

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P R O C E E D I N G S

1  
2 MS. GRAHAM: It is 7:30, I am Martha Graham  
3 with Salisbury City Council and I would like to intro-  
4 duce Mr. Cockey and Mrs. Shockley who are also representing  
5 Salisbury City Council. Mr. Bostian is here representing  
6 the Critical Areas Commission and he will introduce the  
7 members of his commission and then we'll move from there.

8 MR. BOSTIAN: Thank you Martha. I'm Bill Bostian  
9 and I have the distinct pleasure to serve the Wicomico  
10 County representative on the Critical Areas Commission  
11 and I'd like to explain a little something. We have  
12 four other members--three other members of the commissions  
13 here with me tonight. Mr. Bob Schoeplein with the--who  
14 is the Director of the Offices of Research for the  
15 Department of Economic and Employment Development.

16 Dr. Torrey Brown who is the Secretary to the  
17 Department of Natural Resources. Dr. Shepard Krech  
18 from Talbot County and myself. Tom Osborne from  
19 Anne Arundel County was supposed to be here, but he was  
20 tied up and couldn't make it.

21 The purpose of the panel here tonight is to  
22 hear public comment on the City of Salisbury's Critical

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1 Areas Plan. I would like to point out that we of the  
2 commission are not here to answer questions on the topic  
3 at all. We may take certain questions back to the full  
4 commission when debate comes up about the City of Salisbury's  
5 plan, but we're not here to answer any questions.  
6 However, I believe that questions may be directed to Mr.  
7 Livingston who is the Director of Planning and he may  
8 choose to answer them here tonight or may choose to take  
9 them back to his office.

10 I would also like to say that the commission will  
11 have to make a decision on the local program of the City  
12 of Salisbury within 90 days from the date that the  
13 complete plan is submitted. I'd also like to recognize  
14 Mrs.--Miss, probably, Debbie Becker from Free State  
15 Reporting who is a Court Reporter and there will be a  
16 record of tonight's meeting. If there's anyone who would  
17 like to submit a written statement, we at the commission  
18 would be happy to accept it. We'd like for you to have  
19 it within one week. That's how long we will hold the  
20 record open and I would suggest that you send a copy to  
21 the City Council if you're planning on doing a written  
22 statement. If anyone's interested, I'll give you the

1 mailing address of the commission. It should be mailed to--  
2 the statement should be mailed to Commission Chairman,  
3 The Honorable Solomon Liss, Chesapeake Bay Critical Area  
4 Commission, 580 Taylor Avenue, D-4, Annapolis, Maryland  
5 21401. And if you didn't catch that, you can catch me  
6 at the end of the meeting and I'll be happy to go over it  
7 again.

8 I would also like to recognize Dr. Lewis Waters  
9 at the end of the table who is a member of the staff of  
10 the Critical Areas Commission and is helpful in viewing  
11 that the counties, I guess Dorchester and down below.  
12 If you would like to make a statement after Mr. Livingston  
13 has gone over a brief presentation of the plan, what I  
14 would suggest is coming up to this corner of the table,  
15 giving us your name and address and trying to be relatively  
16 brief in your comments. There's no--I doubt if there's  
17 any reason to think that we're going to be over-crowded  
18 with comments tonight, but please be at least reasonably  
19 brief.

20 I'd like to take a moment to introduce Pete  
21 Johnston who is one of the main people here tonight. He's  
22 a consultant who has worked with the planning commission

1 and the planning department in producing the local  
2 program for the City of Salisbury. You'll be hearing a lot  
3 from him tonight. I'll be happy to return it to you.

4 MS. GRAHAM: Why don't we turn it over to Mr.  
5 Livingston who is head of Planning and Zoning for Wicomico  
6 County.

7 MR. LIVINGSTON: First, let me advise everyone  
8 that this public hearing was advertised as required by  
9 the Natural Resources Article and Annotated Code of  
10 Maryland. It was published in the Daily Times on February  
11 the 9th and February the 16th, 1988. Prior to the 19th,  
12 we met previously toward an open house session of the  
13 Critical Area program trying to have as many people as  
14 possible aware of the program. This is a public hearing  
15 of the City Council. Our office is recording the hearing.

16 MR. BOSTIAN: We can't catch you on the machine.

17 MR. LIVINGSTON: First time I've ever been too  
18 quiet. Our office is recording the hearing and Jan  
19 Elliott is our secretary and is recording the hearing  
20 on behalf of the City Council. We welcome your comments  
21 and suggestions at any time either during the meeting  
22 or afterwards. We are here and we will be here to work

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1 with you. What I'd like very much to do is to give you  
2 a very brief summary and run down our agenda to highlight  
3 points of the City of Salisbury program. First of all,  
4 the critical area program is required by state law.  
5 This is not a local plan, it is not a local zoning  
6 ordinance. It is a state-mandated program with state  
7 adopted criteria. Under the law, we must prepare a program  
8 which is consistent with the criteria. We must submit  
9 this program to the critical areas commission who will  
10 evaluate the program, make comments and suggestions and  
11 ultimately the program comes back to the city council  
12 for official adoption and action which we must implement  
13 at the local level.

14 I do like--would like to clarify a couple points.  
15 First of all, there is no thousand foot setback in  
16 critical areas. The jurisdiction of the critical area  
17 law is one thousand feet from the wetlands up landward  
18 portion of the wetlands into the wetlands or the high-  
19 water mark. If there are no wetlands, it starts at the  
20 high-water mark. I say this because a number of people  
21 have said, well this--you need a thousand feet setback  
22 from the river under this program. No. What that is--

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1 the area of jurisdiction of the critical areas program.

2 The criteria were established at environmental  
3 legislation. We, in preparing our program, needed to  
4 include elements which were necessary to show that we  
5 were minimizing the adverse impact on water quality,  
6 that we were taking steps to conserve fish and wildlife  
7 habitat and we were to establish land use policies.  
8 I'd like to call to your attention that these criteria  
9 are directed at three levels. Three distinct levels.

10 First is a broad management level. A very broad  
11 management level. The second is parcel by parcel  
12 development. If you come in with a block of land to  
13 subdivide, the criteria will apply to your subdivision.  
14 If you come in on a lot by lot basis to develop, the  
15 criteria will then apply on a lot by lot basis. So we  
16 are going from resource management areas or management  
17 areas, to parcel by parcel to lot by lot development.

18 Basically, our consultant has to analyse all  
19 land within a thousand feet of the critical area and  
20 make the determination as to what category they would  
21 fit under the guidelines of the criteria. These  
22 three categories are, intensely developed areas, limited

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1 development areas and resource conversation areas.  
2 Our consultant has determined that in the City of Salisbury,  
3 based upon evaluating these areas as established by the  
4 criteria, we have 669 acres of intensely developed land  
5 which is shown on the map on the far wall outlined in  
6 orange, and we have 175 acres of land which can be  
7 classified as a limited development area. And I think  
8 for a brief explanation of these, I should ask Pete  
9 Johnston our consultant to advise as to those determina-  
10 tions you see on the map. For the record, let me  
11 clarify that there is a major section on this map which  
12 is not a part of the City of Salisbury. We are clarifying  
13 it for the record because we want the commission to know  
14 that when they see the county plan and the city plan,  
15 we're going to rectify this situation. Because a small  
16 portion of the city and county adjoining one another,  
17 the county shows LDA under the consultant's classification,  
18 this shows IDA and we're going to make a choice it's  
19 going to go one way or another, but we're not going to  
20 have three different categories in that section of the  
21 land area within the city and county. And it will fit  
22 into the category, we don't have any problems with it.

1 Development is there. It's just a question of which  
2 category we want to use. So that will be clarified.  
3 Those of you who will be a part of the county program  
4 will see it clarified there as well. So Pete, if you  
5 will.

6 MR. JOHNSTON: As Bill has mentioned, the  
7 critical areas that thousand foot area, this is the  
8 critical area in the City of Salisbury less this section  
9 in here. Land use management classification that he  
10 talked about, the broad management classifications are  
11 the intensely developed area, the limited development  
12 area, the limited development area and the resource  
13 conservation which you have no resource conservation  
14 areas in the city. We'll be talking more about those  
15 kinds of areas Wednesday night when we talk about a  
16 county program.

17 The import of these areas are that the criteria  
18 have design and development standards that are specific  
19 in each one of these types of areas. For example, in an  
20 intensely developed area there is no cap on density so  
21 that your current zoning ordinance permits eight units  
22 to the acre, then you can develop it eight units per

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1 acre. But in the intensely developed area there are  
2 standards for controlling run-off--the quality of run-  
3 off from sites that is different than in the limited  
4 development area where there is a cap on density. No  
5 more than 3.99 units per acre capped by the criteria  
6 and here because the limited development area includes  
7 development but it also includes habitat, there are  
8 limitations on the removal of existing forest cover and  
9 there are limitations on the amount of impervious  
10 surface that can be built.

11 So to recap, when you get to the implimentation  
12 phase of the program, you're going to see regulations  
13 specific to the intensely developed area, you're going  
14 to see regulations that are specific to the limited  
15 development area. While I'm up here, I'll also point  
16 out that this area of green that you see running around  
17 the entire shore line is the 100 foot buffer. The 100  
18 foot critical area buffer runs across all categories,  
19 IDA, LDA, RCA. Within that 100 foot buffer, if development  
20 has not already occurred, than it will not be permitted  
21 to occur. This is--this is going to effect the set-back  
22 and the criteria require that to the extent possible,

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1 these areas will be maintained in natural vegetation.

2 Bill?

3 MR LIVINGSTON: One of the things that we've  
4 been emphasising is that in the classification, it is not  
5 so critical here as it will be in some of the discussions  
6 with those of you that come to the county hearing, but  
7 the classification system is very clear in that it shall  
8 have at least one of the following and in each of those  
9 classifications you must have one in order to end up  
10 in either an IDA or an LDA.

11 The growth allocation system that has been  
12 prepared is rather interesting. Under the critical area  
13 criteria the county has been designated the responsibility  
14 of determining the growth allocation for all municipalities  
15 within its jurisdiction. The county growth allocation  
16 is determined by how much land it has in its resource  
17 conservation area. There is, as Pete has pointed out,  
18 no area in the City of Salisbury under the land use  
19 management category plat titled (PHONETIC) RCA.

20 Therefore, the City of Salisbury does not have its own  
21 growth allocations. It depends then on the allocations  
22 from the county to the City of Salisbury as to the growth

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1 allocation received by the City. This allocation in the  
2 county is based upon 17,570 acres of resource conservation.  
3 Generally, that equals 878 acres. Our consultant  
4 computed that. The reason why there is a half acre  
5 difference here, our consultant computed that at 878.5  
6 and since he wanted to keep on the good side of those  
7 of us in the local community, he rounded that .5 up  
8 to give us that .5 up. So basically, we have 878 acres  
9 of growth allocation as a result of the county's resource  
10 conservation area.

11 That is then divided roughly into two sections.  
12 One half of that is able (PHONETIC) of length within  
13 the resource conservation area consistent with the  
14 criteria, one half of that must be finished. Out of  
15 that package we must make--we must make a reservation  
16 in the county for all municipalities within the boundry.  
17 The consultant has recommended a growth allocation  
18 system that will be somewhat in this manner and I will  
19 just summarize the figures and let him explain the system  
20 to you.

21 Number one, when we trace down this mathematics,  
22 we have five percent of the growth area, 878 acres of

1 growth in Wicomico County total allowed in the future,  
2 one half in the RCA, one half of what we call fixed.  
3 Keep in mind one's a float and one's a fixed. You can  
4 only use half of that under certain circumstances.

5 Under the state law power, House Bill 1434, if  
6 certain jurisdictions on the shore can not use all of  
7 their growth allocations, that shows up as a fixed.  
8 They can request the permission of the commission to let  
9 that float. The legislature divided that into two  
10 separate and distinct growth allocations. They are not  
11 intertwined, they are separate. One is a float, one is  
12 a fixed and the legislature under 1434 made that distinc-  
13 tion and it's important to understand that before you  
14 see the city growth allocation. One half of this pool,  
15 the consultant has made these proposals. Basically what  
16 happens is out of municipal pool he is recommending 365  
17 acres and Pete, I think you should take over from here.

18 MR. JOHNSTON: Go ahead. You've got the numbers.

19 MR. LIVINGSTON: The City of Salisbury based  
20 on the--based on the proportioning of population in the  
21 critical areas, the City of Salisbury has 94 percent of  
22 all populations. The consultant recommends that we

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1 reserve 344 acres out of this pot for municipalities for  
2 future growth of the City of Salisbury. Sharptown,  
3 because of its population, would be allocated 14 acres  
4 and Mardella 70. Let me emphasize the growth allocation  
5 here. The City of Salisbury would have the right to use  
6 this growth allocation as either IDA, which is  
7 unlimited. I mean Scarlett Place in downtown Baltimore  
8 that they're building now in the shape of the mediterranean  
9 step back village has 80 some units per acre on 28 so  
10 it's 1600 and 60 some units. If the city wanted to go  
11 to 80 units per acre under an IDA, and they could  
12 meet the development standards, they could.

13 In an LDA as Pete said, the ceiling is four  
14 units per acre in the city where we have sewer water.  
15 In the county where we don't have sewer water, that LDA  
16 is not the same. That, at most, one unit per acre. Maybe  
17 one and a quarter unit per acre. But that's the difference  
18 between the city's growth allocation and the county's  
19 growth allocation. The LDA in the county means a lot less  
20 than what it does in the City of Salisbury. Pete, you  
21 may want to come back and add any comments.

22 MR. JOHNSTON: I just wanted to--we're running

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1 over this real quick and I'm sure a lot of it is not as  
2 clear as it could be. First of all, there are draft  
3 copies of the program here and I would suggest that if you  
4 want to try to fill in all the big gaps we're going to  
5 leave here tonight, you ought to get a copy.

6 Secondly, we talked about the IDA, we talked  
7 about the LDA in the city. And we're going to talk  
8 about this 344 acres. You don't need growth allocation  
9 in the city for this area. There's no more intense  
10 classification to go for, so there's no need for growth  
11 allocation to intensify in these areas. This area is  
12 all--the development is already set here pretty much as  
13 a limited development area pattern. The limitations of  
14 the LDA, well this is sort of a treatment plant so it's  
15 not an issue there, but here the limitations of LDA are  
16 not going to make that much difference. This is already  
17 on its way to meeting the criteria for an LDA in terms  
18 of the way it's going to develop so there's not much of  
19 an issue there. This 344 acres is for areas that the  
20 city may annex that are now part of the county in the  
21 future that are in the critical areas. Out here, a lot  
22 of the land is going to be in what's known as a resource

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1 conservation or a limited development area. There's going  
2 to be a lot of this limited development area. Growth  
3 allocation allows you to move it up to the next higher  
4 class so that if it's an RCA which in the resource  
5 conservation the density's limited to one dwelling unit  
6 per 20 acres, so that if you get an area that's an RCA,  
7 you can use growth allocation to increase the permitted  
8 density up to the 3.900 or 4 units per acre. If it's an  
9 RCA and the development proposal is something that's  
10 more intense than 4 units per acre, than you can use the  
11 growth allocation to upgrade it to the intensity develop-  
12 ment and permit the development to occur. So that's  
13 essentially, as I see it, where you're going to need the  
14 growth allocation. You're not going to need it in the  
15 side of the corporate limits as this point.

16 As far as the disaggradation of the numbers  
17 between the various municipalities, you know, we could  
18 have used population, we could have used aryan critical  
19 areas, you could cut it any way you want, but it's fairly  
20 obvious that the City of Salisbury and metropolitan areas  
21 is the major development center in the county right now.  
22 It's not so much an issue in Mardella, it's not so much

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1 an issue in Sharptown. Certainly, the City of Salisbury  
2 is the development center. So, just to kind of give you  
3 a little bit more idea about growth allocation.

4 BY MR. LIVINGSTON: For those of you who are  
5 curious what those figures are, if you can tell from  
6 the boundaries on the map, it's sometimes difficult to  
7 figure out whether you're in the city or the county from  
8 this pattern here, so if there's any overlap, this chart  
9 shows you the total breakdown recommended by the  
10 consultant for the county growth allocation as well as  
11 the distribution on all municipalities. The Mayor has  
12 recommended in his review and Pat Fennell, the Executive  
13 Officer, that we clarify that that is not a--necessarily  
14 a two-year reservation but it's a reservation, we must  
15 under the law review our program and update our program  
16 a minimum of every four years. So on February the 29th  
17 leap year, of 1992 we will welcome all of you back for  
18 our amended plan and the commission will be back with us.  
19 The Executive Officer and Mayor had suggested that the  
20 clause in there on the two year period be reevaluated  
21 which we will do.

22 The next thing is the City of Salisbury has

1 several special program features and what I would like to  
2 mention to you, a couple of things. One, I think is  
3 very very interesting for the city, again with the coopera-  
4 tion of Pat Fennell, the Executive Officer and the Mayor  
5 and certainly Tom Plotts the Director of Public Works,  
6 the city has indicated they are willing to listen to  
7 proposals that designate the former sludge field that the  
8 waste water treatment plant as a re-planting area for use  
9 to build for mitigating requirements of the critical area  
10 program and Pete will discuss that in a minute.

11 The other thing we are looking at is designating  
12 a bulkheading area where it will be very clear for the  
13 record that the city must bulkhead these areas because  
14 of the conditions of the river, the current, the tugboats,  
15 the eroding shore line, the bulkheading which must be  
16 replaced. We want our program to reflect that and the  
17 final one is the buffer and mitigation. I think Pete  
18 should summarize those.

19 MR. JOHNSTON: Well, let's start with the  
20 bulkheading. There are nine program elements in here and  
21 a section ten which is the implimentation as you'll see  
22 here. One of the program elements is shore erosion

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1 protection. What the criteria is saying basically is  
2 that if there are areas of eroding shore line that if  
3 the erosion is not so severe that it requires some sort  
4 of structural control, that non-structural is preferred.  
5 What it goes on to say is that there are some areas  
6 where you may not want to control at all. It doesn't  
7 require that you do it. It just says if it could be  
8 done with non-structural controls, planting things that  
9 are not hard surfaces but are natural vegetation, then  
10 these should be encouraged. However, if the rate of  
11 the erosion is such that non-structural will not work,  
12 than structural is preferred and there seems to be a  
13 preference in the structural for something riff-raff  
14 (PHONETIC) or a form of stabilization that provides a  
15 better interface with the water in terms of habitat.  
16 Bulkheading being the least desirable of those structural  
17 elements.

18           However, in the city there has been a great deal  
19 of effort already made to stabilize the shore using  
20 buffer, or excuse me, using bulkheads so there are certain  
21 portions where existing cuts of the commitment that's  
22 already been made to bulkheading, the system that's already

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1 established, it makes sense to go forward with completion  
2 of the bulkhead. So this area of the city from here  
3 forward has been designated as a bulkheading preferred  
4 area. Now that's not universal. Some of the areas up  
5 in here there is already some gavian (PHONETIC) type of  
6 stabilizations seen and there are some areas up here  
7 where non-structural will be used. But along the main  
8 channel here, these are bulkheaded preferred areas.  
9 From here on down, the preferred method is non-structural  
10 and that's what the city will encourage. However, if  
11 that's not practical, then the structural with bulkheading  
12 being the least desirable of all of them.

13           The buffer. I talked about the buffer earlier.  
14 This hundred foot area here, but I think that if you  
15 recognize that there is a great deal of development that  
16 has already occurred within a hundred feet of the tidal  
17 extent of Wicomico, whether it's wetlands or the tide.  
18 What about this development that's already occurred?  
19 The critical area criteria provides that if development  
20 has already occurred in the buffer, that uh--and the  
21 buffer can not perform its function, that these areas can  
22 be exempted from the requirements of the buffer. And we

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1 are proposing in the city's program that an area that runs  
2 from here all the way up and back around to here be included  
3 as a buffer exemption area. What happens in a buffer  
4 exemption area is that you have already--have something  
5 in the buffer, something is already built, you may increase  
6 that with some limitations. Twenty-five percent impervious  
7 surface. Impervious surface being a parking lot, building  
8 roof, whatever, that creates an impervious surface.

9 This area also takes in water-dependent facilities  
10 that are permitted in the buffer. And I probably should  
11 have made that clear earlier. There are certain things  
12 that have to be in the buffer to function. Marinas,  
13 marine industrial facilities, they've got to be in the  
14 buffer to function. So this area takes in a lot of the  
15 marina facilities.

16 Finally, there are a number of properties in  
17 here that are all--lots of records that are less than  
18 200 feet deep that it would be difficult to build a home  
19 on and still maintain a 100 foot buffer. So this area  
20 has been exempted and we've developed some rules for the  
21 planning commission to decide just how far can you set it  
22 back as a practical matter on the site. But, there is a

1 requirement that for every square foot of impervious surface  
2 that you add, you have to off-set two to one. Again because  
3 the size of these properties are so small or the type of  
4 development that may occur in an intensely developed area  
5 is such that you can not accomplish that off-set. And  
6 that off-set is a planting of natural vegetation. If you  
7 can not accomplish this on the site, than the city will  
8 provide areas, publicly owned areas where you can discharge  
9 that responsibility on the public site. The same is true  
10 in some of the areas, particularly intensely developed  
11 areas, you must reduce the--or improve the quality of  
12 runoff leaving the site after development 10 percent  
13 better than it was before development. It's a very  
14 difficult thing to do when you have the type of intense  
15 development that occurs in intensely developed areas.

16           Again, offset can be made on the site that the  
17 city will designate. Remember as Bill said up front,  
18 one of our major goals is improving water quality. However  
19 we can accomplish that goal as long as we're accomplishing  
20 that goal, that's what we want to do. So if we've got a  
21 trade-off and we've got to--if we can't accomplish it here,  
22 but we can accomplish it here and we reach the same goal,

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1 then that's what we're after. So the city map will  
2 provide some alternatives to give you some relief on the  
3 offset requirements.

4 MR. LIVINGSTON: I would like to point out that  
5 there's an advertisement in the Daily Times on February  
6 the 9th, and February the 16th, advertising a third part  
7 of my community. The first two parts, that this was a  
8 public hearing for the commission, it is a public hearing  
9 for the city council, but it is also a public hearing  
10 as required by the criteria to designate habitat areas.  
11 The one area in our plan that has been designated as a  
12 possible habitat is Belmarsh (PHONETIC) located here  
13 and shown on our map to the very southerly limits of  
14 this critical area map and it's approximately 57 acres of  
15 wetlands marsh area adjacent to the Wicomico River.  
16 That area, Mr. Secretary, has already been preserved in  
17 permanent preserve in permanent local space connecting  
18 with the county park area and the wetlands and water-front  
19 areas of the adjacent Pemberton Hall Park (PHONETIC).  
20 So that between the city and county and the cooperation  
21 of the, generous cooperation of the developer when he  
22 came in, all of this wetland area has been preserved in

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1 an actual state conforms a substantial block of natural  
2 area in that immediate section of the city and county.  
3 We say that because this is probably a recommendation to  
4 designate the 57 acre Belmarsh as a habitat as required  
5 under the criteria.

6 The final part of our summary is how will the  
7 program develop. We must demonstrate in our program,  
8 this is a program. It is not a plan, it's a program. It  
9 is structuring how we are going to do things. It is not  
10 that we intend to do this, we are going to do this.  
11 The next part of the criteria says how are we going to do  
12 it. Our consultant has recommended that we develop an  
13 overlay district to use and implement the critical area  
14 program. Pete?

15 MR. JOHNSTON: As I said earlier, there are nine  
16 sections in here. Each one of them contains an overview  
17 of what the criteria require, a statement of goals,  
18 objectives and policies that are now the city's goals,  
19 objectives and policies on each of the particular areas  
20 and in section 10, its implementation. The criteria  
21 requires that the program that is adopted be important.  
22 That you make it happen. The design standards about the

1 buffer, the limitations on cutting, the limitations on  
2 impervious surface, these things have to be implemented.  
3 All of them have been included in a natural resources  
4 protection overlay ordinance that overlays the current  
5 zoning ordinance. It means that whatever your underlying  
6 zoning is, or whatever it permits is still permitted.  
7 We're not changing the zoning, we are just laying a zone  
8 or a series of regulations over that district and saying  
9 that within that zone, if you fall in a intensely developed  
10 area, you are subject to these design and development  
11 standards. And if you fall in a limited development area  
12 regardless of what your zoning classification is, you  
13 are required to meet the development standards of the  
14 limited development area. So this is all contained in  
15 Section 10 where the department released its findings,  
16 the various facts, in Section 10.

17 MR. LIVINGSTON: One of the parts of the program  
18 that we have worked on is (INAUDIBLE). Look at the  
19 program as our role as city and county planning and  
20 zoning office and one of the things that we must look at  
21 is how can the program be administered. We are proposing  
22 that the City of Salisbury, Wicomico County, Sharptown

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1 and Mardella agree to allow us to continue as a joint  
2 agency overseeing the critical area program for all  
3 jurisdictions. The critical area commission has indicated  
4 or the staff has indicated that we can expect to receive  
5 or has been budgeted, requested from the government  
6 an amount of money equal to what we received prepare  
7 this program. The City of Salisbury got a grant of  
8 \$23,000 to do this program. They entered into an agree-  
9 ment between the county and city to allow the planning  
10 office to do the study. They turned their \$23,000 over  
11 to us. We did the study for the city, the county,  
12 Sharptown and Mardella. We are recommending that that  
13 same general approach be followed in implementing the  
14 program. We--if that follows through, we will have  
15 roughly \$130,000 to set up the program to help work with  
16 Rob Gannis (PHONETIC) and the city and county and the  
17 other two jurisdictions to set up a technical assistance  
18 because this is nitty-gritty lot by lot system. It is  
19 not some big philosophical move when it comes to the  
20 implementation. It is out in the field working with  
21 applicants very detailed, very specific kinds of assistance.  
22 We are proposing that the jurisdiction enter into an

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1 agreement that our office will set up the critical areas  
2 unit, that we would oversee the program, we would work  
3 with non-profit jurisdictions, agencies to try to bring  
4 in other programs to help plan some critical areas.

5 A whole bunch of activities that we could do  
6 once we get the first amount and the structure within the  
7 office. I would like to mention that around the room  
8 tonight there are people from our office who will be here  
9 afterwards to help answer any of your questions. Pat  
10 Dodge from our office has been our overseer of the  
11 implementation issue. Frank McKenzie from our office  
12 has been our technical specialist. Frank is probably the  
13 only one of any of us who knows all that's in that office  
14 about the critical area program, so we're all rushing in  
15 to ask him what's here, where does it match.

16 Gary Busey (PHONETIC) is hiding in the back room  
17 and will be available to help you if there's any questions  
18 you have on the map, and I would mention Lauri Carter  
19 is here out of dedication and has not been directly  
20 involved in the critical areas, so I'm protective of her.  
21 We can ask her questions though tonight. At this stage  
22 on our agenda, Madam President, there's a question and

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1 answer session and then we also have comments that may--  
2 on our agenda, that may be (INAUDIBLE). But we are  
3 finished our briefing, we are open to any questions or  
4 comments from either the Capital, the commission or the  
5 people here tonight.

6 MS. GRAHAM: Are you looking for a motion on the  
7 Belmarsh (PHONETIC) tonight?

8 MR. LIVINGSTON: I beg your pardon?

9 MS. GRAHAM: Are you looking for a motion on the  
10 Belmarsh tonight?

11 MR. LIVINGSTON: No. The program--we have a number  
12 of review comments to go over ourselves and we have some  
13 from Pat and the Mayor and I know some of the rest may  
14 have some comments. We would like to meet with you to  
15 go over that. Once you go over those comments, then the  
16 council will submit the programs to the critical areas  
17 and then what we have to do is what we see in a package  
18 that comes back to us. And then you decide out of that  
19 package what you agree with and what you don't agree with.  
20 And then you decide, that's when the negotiations start.  
21 Actually, you could submit this document to them  
22 almost immediately for review and they could submit back

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1 their comments and then we could sit down and work out  
2 all the comments together. We are working with Dr.  
3 Waters to try to minimize the flow of paper back and forth.  
4 But you do not have to approve it tonight. You don't  
5 even have to approve it to send it in to have the criteria  
6 reviewed. Just submit on behalf of the City of Baltimore.

7 MS. GRAHAM: Are there any questions from the  
8 floor?

9 MR. FENNEL: I would like to ask Phil and our  
10 consultant, Pete, some questions about developing  
11 communities in our downtown. I know that Phil is aware  
12 of this--but the city has been working for a number of  
13 years to put together parcels on the river front for  
14 development. Some of these parcels are 100 feet in  
15 width, maybe a little larger, maybe a little smaller.  
16 If it's important as you've explained to look at the  
17 buffer, my main question is are we allowed to develop  
18 anything else in that buffer or adjacent to that buffer  
19 that is not included in your definition of water-front  
20 usage? One item I'm thinking of, we have plans--that  
21 includes mixed commercial condominium office space  
22 development that are close to the buffer or maybe just

1 behind it. Is there any flexibility?

2 MR. JOHNSTON: Well, I guess I'm going to have  
3 to qualify it by saying that we really won't know until  
4 the critical areas commission has approved your program  
5 in the final, but I'll tell you my opinion about it.  
6 First of all, most of the area that you have proposed  
7 for water-front redevelopment is in the buffer exemption  
8 area. So that in and of itself recognizes that here's  
9 an area where development has already occurred, it's  
10 already built in 100 foot area, a lot of it. So that's  
11 one. Two, a lot of those sites already have a lot of  
12 buildings on them. They are mostly impervious surface  
13 now and you have a few that are clear but a lot of them  
14 have existing development on them so, you know, I would  
15 look at that as a beginning impervious surface budget,  
16 if you will. If there is on all the property that  
17 you've assembled, if there is 100,000 square feet of  
18 impervious surface, revising that and changing it around  
19 and putting it into different places you're still holding  
20 the same impervious surface, so I think you have that  
21 budget to work with. The way the exemption area works,  
22 you can increase the impervious surface by 25 percent.

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1 As long, again, we have to deal with the issue of offset.  
2 If we're going to redevelop and we're going to create a  
3 situation, we should always be trying to do it in a way  
4 that improves water quality in the way we develop right  
5 in that area. So we're going to be looking at management  
6 as part of our plan for that area, and two, to look for  
7 areas where we can get equal water quality benefits in  
8 some other part of the critical area that is easier to  
9 accomplish. Say out in the LDA area where we have  
10 some refining areas. So I guess the bottom line is, I  
11 think there's a way to do. It may not be as extensive as  
12 you may have originally planned. I haven't seen the  
13 plans to know. But I think you've got a lot to work with  
14 and the buffer exemption should permit you to do that  
15 to a certain extent. Let the commission comment on it.

16 MS. GRAHAM: Any other questions or comments from  
17 the floor? We accomplished our task for tonight?

18 MR. LIVINGSTON: We finished our presentation,  
19 we finished our question and answer.

20 MR. BOSTIAN: If you do have anything you would  
21 like to say, you have your chance now but also if you  
22 go home and decide you wanted to say something, write it

1 down and send it to the commission and send a copy to  
2 Bill Livingston and it will get on the record and  
3 somebody will listen to it.

4 MS. GRAHAM: Okay, the meeting's adjourned.  
5 Thank you very much for coming.

6 (Whereupon, at 8:15 p.m. on Monday, February  
7 29, 1988, the hearing adjourned.)  
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