

Committee Meetings & Correspondence May 1987

MSA-S-1832-33



Commission  
mtg

JUDGE SOLOMON LISS  
CHAIRMAN

STATE OF MARYLAND  
**CHESAPEAKE BAY CRITICAL AREAS COMMISSION**  
DEPARTMENT OF NATURAL RESOURCES  
TAWES STATE OFFICE BUILDING, D-4  
ANNAPOLIS, MARYLAND 21401  
301-269-2418 or 269-2426

SARAH J. TAYLOR, PhD  
EXECUTIVE DIRECTOR

COMMISSIONERS

April 16, 1987

- William Bostian  
Wicomico Co.
- Ann Sturgis Coates  
Town of Show Hill
- Clarence DuBurns  
Baltimore City
- James E. Gutman  
Anne Arundel Co.
- Parris Glendening  
Prince George's Co.
- Ronald Hickernell  
Baltimore Co.
- Shepart Krech, Jr.  
Talbot Co.
- Florence Beck Kurdle  
Anne Arundel Co.
- Thomas L. Jarvis  
Caroline Co.
- John Luthy, Jr.  
Dorchester Co.
- Robert S. Lynch  
Hartford Co.
- Barbara W. O'Neill  
Cecil Co.
- Robert R. Price, Jr.  
Queen Anne's Co.
- J. Frank Raley, Jr.  
St. Mary's Co.
- Harry T. Stine  
Charles Co.
- Samuel E. Turner, Sr  
Talbot Co.
- Lloyd S. Tyler, III  
City of Crisfield
- Mary Roe Walkup  
Kent Co.
- Albert W. Zahniser  
Calvert Co.

Dear Commission Member:

This is to advise you that the May 6th meeting of the Commission will be held at the Department of Natural Resources, Tawes State Office Building (across from the Navy Stadium on Taylor Avenue), Annapolis, from 1:30 p.m. to 4:30 p.m. The meeting room is located in Building "A" on the 4th floor and can be reached by turning down the right hallway off of the lobby, going through the next building to the next hallway, taking the elevator to the 4th floor and turning to the right after leaving the elevator. The conference room is on the left side of the hallway on the 4th floor.

Two items of importance which will require your decision are:

- 1) the Baltimore City Program submittal; and
- 2) the proposed draft regulations establishing the standards for the selection of those projects which the Commission will want to review once the local programs have been approved.

Enclosed are an agenda, the minutes from the April meeting, the Appendices to the Baltimore Program, and the draft regulations for project review. Also enclosed is a copy of the draft regulations guiding State and local agency development in the Critical Area, which appeared in the April 10th publication of the Maryland Register.

CABINET MEMBERS

- Torrey C. Brown, M.D.  
Natural Resources
- Wayne A. Cawley, Jr.  
Agriculture
- William Eichbaum  
Health and Mental Hygiene
- Ardash Cade  
Economic and Community Development
- Constance Lieder  
Planning

I look forward to seeing you at the meeting.

Sincerely,

Solomon Liss  
Chairman

SL/jjd

Enclosures

AGENDA

CHESAPEAKE BAY CRITICAL AREA COMMISSION  
Department of Natural Resources  
Tawes State Office Building  
Annapolis, Maryland

May 6, 1987

1:30 - 4:30 p.m.

1. Approval of Minutes of April Meeting  
Solomon Liss
2. Review, Discussion and Decision on Draft Project Regulations for Printing in the Maryland Register  
Carolyn Watson
3. Discussion and Decision on Baltimore City Program  
Panel & Commission Members
4. Old business  
Forest Mgt Guidance Paper  
State Regs printed in Md Reg  
Solomon Liss  
Chairman
5. New Business  
Vice Chair  
Municipal / Co. Relations  
Next Meeting Date  
Solomon Liss  
Chairman

Incentives Subcommittee Conference

panel procedure  
water quality report

Solomon Liss

Eileen Fogarty, Annap.

J. Evans McKinney  
Elkton

G. Steele  
Phillips  
Dorchester Co.

Maureen Lamed  
Annap.

Ann Stujis Coates  
Snow Hill.

Robert Price  
Q.A. Co.

John Morris  
Wic. Co.

Ron Kwasi  
Balt City

SUGGESTIONS FOR THE IMPLEMENTATION OF THE  
PANEL HEARING PROCEDURE

GENERAL

1. When the staff and Chairman of the Commission have reached the conclusion that a local program has been completed and submitted to the Commission for its approval, the Chairman shall appoint a hearing panel of 5 members. Members of the Commission may request appointment to a specific panel and wherever possible, the Chairman shall honor such requests. The panel, when appointed, shall be charged with holding the Commission's hearing required under Section 8-1809(d) of the Law, and make a recommendation and report to the Commission, as required by Section 8-1807(d)(3) of the Law.
2. The Chairman of the Commission shall appoint a Chairperson of the panel who shall conduct the hearing and preside at discussions of the panel in its deliberations. In the event of the absence of the Chairperson, the Chairman of the Commission shall designate a substitute Chairperson.
3. Within 30 days of receipt of the completed local program, the Executive Director and the Regional Planner responsible for that jurisdiction shall schedule a hearing in that jurisdiction. Arrangements for the place, advertising, the court reporter, and other logistics, as well as staffing at the hearing, will be handled by the Commission staff.
4. While it is required under Section 8-1804(e) of the Law that a minimum of 3 of the 5 panel members attend the hearing, all 5 will be presumed to be able to attend unless a problem arises. If a problem does arise, the Chairman of the Commission must be immediately notified, and where required, the Chairman shall designate substitute members of the hearing panel.

## HEARING PROCESS

1. The panel Chairperson should call the hearing to order, welcome everyone, and introduce the panel members, as well as any other members of the Commission present.
2. The purpose of the hearing should be stated by the Chairperson as follows:  
"to hear public comment on such and such local jurisdiction's program, as required under Section 8-1809 of the Critical Area Law."
3. The Chairperson should also inform the public that the Commission must make a decision on that local program within \_\_\_\_ number of days (That number can be obtained from the Executive Director and/or Regional Planner).
4. The Chairperson should recognize the court reporter and the fact that a record is being kept, which will be used to help the Commission render a decision. The Chairperson should also note that the record will be kept open for one week to receive additional written testimony, and that those statements can be mailed to the Commission Chairman, Solomon Liss, Chesapeake Bay Critical Area Commission, 580 Taylor Avenue, D-4, Annapolis, Maryland 21401. The complete public record will be kept at the Commission Office for public review.
5. The Chairperson should then recognize if there are any local officials (executives, mayors, council, commissioners, or State officials--General Assembly, Comptroller, etc.) present, and have them stand. (These names can be obtained from the attendance sheets which the staff will provide to the chairperson prior to the meeting, with the officials so noted). If any of these officials have indicated a desire to testify, they should be recognized first.

6. Finally, ground rules will need to be announced:
  - (a) a time limitation for speakers (usually 3-5 minutes per person). If there are many people from the same group present, a request should be made by the Chairperson that a spokesperson should be chosen from the group.
  - (b) once again, to reiterate, public comment is to focus on the local program. If there are boundary dispute issues, or if someone does not like the way their property has been classified, those problems should be referred to the local Planning Official and not the Commission. No answers to individual problems should be offered by the panel members. Under no circumstances should the panel get into an argument with any person who testifies. It may be necessary to bite your tongue, but do it and we will furnish repairs to the tongue.
7. The local government should then be allowed approximately 20-25 minutes to present the program. Questions should be discouraged and wherever possible, should be referred to the local zoning and planning officers after the hearing.
8. Testimony can then begin, usually taking the first name signed up to testify from the sign-in sheets at the door. The staff will make certain that the sheets are available to the Chairperson before the hearing begins, so that the names can be called. People who want to testify should proceed to the microphone and identify themselves before beginning with the content of their presentation.
9. When the list has been completed, the Chairperson should check with the audience to see if all have been given the opportunity to be heard. If there are no additional people to present, the hearing can be concluded. Allow an extra 15 minutes after the last witness has been heard unless it is clear that there are no other witnesses.

## OTHER MATTERS

1. It is O.K., for the Chairperson to interrupt a speaker if the time limit is used-up and the speaker has not given an indication that the "end is near", but be polite and non-argumentative.
2. It is also O.K. for the Chairperson to interrupt an argument between people who have or are testifying, should that situation arise. Others will want to be able to testify and that is a good excuse to interrupt a personal argument.
3. If there are questions asked, the local officials should so note them and speak with those people after the hearing if they are specific local questions. If the questions pertain to the Commission, they can either be answered when asked, or after the hearing. The content of the question will determine the time for response.

DRAFT

Subtitle 14.X.: REGULATIONS IDENTIFYING THOSE CLASSES OF  
APPLICATIONS OF WHICH  
THE COMMISSION WISHES TO RECEIVE NOTIFICATION

14.X.01 GENERAL PROVISIONS

.01 DEFINITIONS

A. As used in these regulations, the following terms have the meanings indicated.

B. Terms Defined

(1) "Application" means whatever initial forms, documents, plats, or other materials that are officially submitted to the local authority for the approval of subdivision plats, site plans, grading permits, rezoning (including the consideration of areas within floating zones), the issuance of zoning permits, special exceptions, and conditional use permits. The term includes substantial changes to the forementioned. The term does not include those materials submitted for the approval of building permits.

(2) "Buffer" means all lands and waters defined by the local jurisdiction's approved Critical Area Program pursuant to COMAR 14.15.09.01.

(3) "Business unit" means a non-residential building used for office space, wholesale, or retail marketing.

(4) "Chairman" means the Chairman of the Chesapeake Bay Critical Area Commission.

(5) "Commission" means the Chesapeake Bay Critical Area Commission.

(6) "Critical Area" means all lands and waters defined by

the local jurisdiction's approved Critical Area Program pursuant to Natural Resources Article, §B-1807, Annotated Code of Maryland.

(7) "Development" means any construction, reconstruction, modification, extension, or expansion of buildings or structures, land excavation, land clearing for non-agricultural or non-forestry purposes, land improvements, or any combination thereof.

(8) "Executive Director" means the Executive Director of the Chesapeake Bay Critical Area Commission.

(9) "Existing Intensely Developed Areas (IDA)" means those properties that were designated by the local jurisdiction and approved by the Critical Area Commission as Intensely Developed Areas.

(10) "Existing Limited Development Areas (LDA)" means those properties that were designated by the local jurisdiction and approved by the Critical Area Commission as Limited Development areas.

(11) "Existing Resource Conservation Areas (RCA)" means those properties that were designated by the local jurisdiction and approved by the Critical Area Commission as Resource Conservation Areas.

(12) "Residential Use" means the use of a structure by one or more persons living together for the purpose of maintaining a common household. The cooking or sanitary facilities of the structure are only for the use of the occupants thereof.

(13) "Subdivision" means the division of a parcel of land into two or more lots for the purpose of transfer of ownership or

for development. This includes subdivision pursuant to Natural Resources Article, §8-1808.2, Annotated Code of Maryland, and the creation of a condominium regime pursuant to Real Property Article §11-101 et seq., Annotated Code of Maryland.

#### 14.X.02 APPLICATION REQUIREMENTS

- .01 The applicant or local approving authority is to submit a copy of local applications to the Executive Director for all categories set forth by COMAR 14.X.03.
- .02 The application shall be accompanied by a completed cover sheet on a form to be developed by the staff of the Commission. This form may be revised at any time with the approval of the Chairman or the Executive Director.
- .03 The Chairman or Executive Director may at any time, request additional information from either the local approving authority or the applicant that he/she deems necessary to accurately evaluate the proposed action.
- .04 The submittal of an application to the Executive Director shall be deemed to be authorization for the Chairman, Executive Director, and his/her staff to inspect the subject property after reasonable notice has been given to the property owner.
- .05 After receipt of a copy of an application from the applicant or local approving authority, the Commission shall send written notice of receipt to the applicant and to the local approving authority before the close of the next business day. A failure of the Commission to send a timely notice shall render paragraph .06 of this section inapplicable as to that application.

.06 The local approving authority shall not process an application, of which a copy must be sent to the Commission, until it has received notice of receipt from the Commission, and any action of the local approving authority in violation of this paragraph shall be void.

14.X.03 CATEGORIES OF APPLICATIONS OF WHICH THE COMMISSION WISHES TO RECEIVE NOTIFICATION

.01 DEVELOPMENTS AND SUBDIVISIONS REQUIRING PROJECT APPROVAL

A. The local approving authority, or the applicant, shall send copies of applications for all developments and subdivisions within the Critical Area, except those specified in COMAR

14.X.03.01.B.

B. The following types of developments and subdivisions are exempted from COMAR 14.X.03.01.A, if the proposed development or subdivision will not result in a physical disturbance to the buffer.

(1) Developments or subdivisions occurring within existing IDAs;

- (a) A single family dwelling unit;
- (b) A structure which is accessory to a single family dwelling unit (i.e. tennis courts, pool, garage, porch, etc.);
- (c) Development in which the land disturbance does not exceed 15,000 square feet;
- (d) Subdivisions resulting in 10 lots or less, or 10 dwelling units or less.

(2) Developments or subdivisions occurring within existing LDAs;

(a) COMAR 14.X.03.B.1(a) - (c);

(b) A subdivision resulting in 3 lots or less which does not affect the local jurisdiction's growth allocation.

(3) Developments or subdivisions occurring within existing RCAs;

(a) COMAR 14.X.03.B.1.(a)-(b);

(b) A structure used exclusively for agricultural or horticultural purposes in which the land disturbance does not exceed 5,000 square feet;

(c) A business unit in which the land disturbance does not exceed 5,000 square feet;

(d) The clearing of less than 5,000 square feet of land for non-construction purposes.

#### .02 REZONING

The local approving authority, or the applicant, shall submit a copy of all applications for rezoning that occur within the Critical Area.

#### .03 SPECIAL EXCEPTIONS OR CONDITIONAL USE

The local approving authority, or the applicant, shall submit a copy of all applications for special exceptions or conditional uses which allow industrial, commercial, or institutional uses to occur within an LDA or an RCA.

#### .04 VARIANCES

The local approving authority, or the applicant, shall submit a copy of all applications for variances which allow

development to occur which is inconsistent with the approved local Critical Area Program.

14.X.04 REQUIREMENT FOR QUARTERLY INFORMATION ON DEVELOPMENTS AND SUBDIVISIONS WITHIN THE CRITICAL AREA.

.01 The local jurisdiction shall submit to the Executive Director on a quarterly basis, a summary of all applications which have been approved for developments or subdivision within the Critical Area (including those developments and subdivisions which were exempted in COMAR 14.X.03.B).

A. The summary must include at least the following information for:

- (1) Developments on pre-existing lots;
  - (a) name and address of property owner;
  - (b) address of property;
  - (c) parcel and tax ID number of development property;
  - (d) designation of property prior to development (IDA, LDA, RCA);
  - (e) designation of property after development (IDA, LDA, RCA);
  - (f) total acreage of property;
  - (g) total acreage of land disturbed on developed property;
  - (h) type of development proposed (i.e., residential, business, industrial, redevelopment, etc.).

(2) Subdivisions for development purposes where buildable lots are created;

- (a) name and address of property owner;
- (b) name and address of developer;
- (c) address of property prior to subdivision;
- (d) parcel and tax ID number of property prior to subdivision;
- (e) designation of property prior to subdivision (IDA, LDA, RCA);
- (f) designation of property after subdivision (IDA, LDA, RCA);
- (g) total acreage of property prior to subdivision;
- (h) total number of lots created;
- (i) total number of building lots created;
- (j) total number of dwelling units created;
- (k) range of lot sizes (i.e.,  $\frac{1}{4}$  acre to 10 acres);
- (l) average size of building lots (i.e., 2 acres);
- (m) linear waterfrontage (in feet) of property prior to subdivision;
- (n) type of development proposed [i.e., residential, business, industrial, mixed (be specific)];
- (o) total number of acres disturbed or to be disturbed as a result of development.

(3) Subdivisions for non-development purposes where no building lots are created;

- (a) name and address of property owner;
- (b) address of property prior to subdivision;
- (c) parcel and tax ID number of property prior to subdivision;

- (d) designation of subject property (IDA, LDA, RCA);
- (e) total acreage of property prior to subdivision;
- (f) total number of lots created as a result of  
subdivision;
- (g) range of lot sizes (i.e.,  $\frac{1}{4}$  acre to 10 acres).