

Committee Meetings & Correspondence March 1988

MSA S 1832-43



Commiss
2/17/88 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

February 25, 1988

- William Bostian
Wicomico Co.
- Ann Sturgis Coates
Town of Snow Hill
- Clarence Du Burns
Baltimore City
- James E. Gutman
Anne Arundel Co.
- Parris Glendening
Prince George's Co.
- Ronald Hickernell
Baltimore Co.
- Shepard Krech, Jr.
Talbot Co.
- Florence Beck Kurdle
Anne Arundel Co.
- Thomas L. Jarvis
Caroline Co.
- John Luthy, Jr.
Dorchester Co.
- Robert S. Lynch
Harford 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:

The next meeting of the Commission is scheduled for March 2, 1988 at the Department of Agriculture Building from 1:00 - 2:30 p.m. The reason for the short meeting is to provide the panel members with commute time necessary to attend a 4:00 panel briefing and 7:00 hearing on the Wicomico County Program. Those members are: Victor Butanis, Shepard Krech, Wallace Miller, G. Steele Phillips and Russell Blake.

Enclosed is an agenda for the meeting as well as the Minutes from February 17, 1988. Also for your information, is a schedule of the hearings to date.

Please make every effort to attend the meeting as we need your vote.

Sincerely,

Solomon Liss
Chairman

SL/jjd

CABINET MEMBERS

Enclosures

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

CHESAPEAKE BAY CRITICAL AREA COMMISSION

AGENDA

Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland

March 2, 1988

1:00 - 3:30 p.m.

- | | | |
|-------------|---|----------------------------------|
| 1:00 - 1:15 | Approval of Minutes of February 17th, 1988 | Solomon Liss
Chairman |
| 1:15 - 1:45 | Vote on the Programs of Betterton, Millington, Easton, and Oxford | Charles Davis/
Kevin Sullivan |
| 1:45 - 2:15 | Vote on Calvert County Program | Ren Serey/
Panel |
| 2:15 - 2:30 | Appointment or Confirmation of Panels for: | Solomon Liss
Chairman |

North Beach
Chesapeake City
St. Mary's County (March 31, 1988)
Somerset County
Princess Anne

Only five more panel hearings to go after this date

New Business Solomon Liss
Chairman

Old Business Solomon Liss
Chairman

Next Meeting: March 16, 1988 at the Department of Agriculture
Building, 1:00 - 6:00 p.m.

SCHEDULE OF HEARINGS

2/18/88 7:30 p.m.	Crisfield:	High School, Crisfield	Ron Karassic, Ch. Bill Bostian/Shepard Krech/ Ron Adkins/ Ron Hickernell
2/18/88 7:30 p.m.	Chestertown:	Town Hall Chestertown	Tom Osborne, Ch. Bob Perciasepe/ Kay Langner/Victor Butanis/Louise Lawrence
2/25/88 7:00 p.m.	Queenstown:	Fire Hall Queenstown	Kay Langner, Ch. Shepard Krech/Ron Adkins/Ardath Cade/ Connie Lieder
2/29/88 7:00 p.m.	Salisbury: 4:00-panel mtg.	Council Chambers Salisbury	Bill Bostian, Ch. Torrey Brown/Shepard Krech/Tom Osborne/ Bob Schoeplein
3/2/88	Wicomico County: 4:00-panel mtg.	Civic Center Salisbury	Victor Butanis Russell Blake/ Shepard Krech/ Wallace Miller/ Steele Phillips
3/9/88 7:00	Indian Head 4:00-panel mtg.	Community Centre Earl Rd, Indian Head	Bob Schoeplein, Ch. Sam Bowling/Parris Glendening/Ron Karasic (Frank Raley)
3/21/88 7:30 p.m.	Mardella Sprgs/ Sharptown no panel mtg.	Mardella High School	Shepard Krech/Steele Phillips/Victor Butanis/Wallace Miller/Russell Blake
3/15/88 7:00 p.m.	Hillsboro/ Queen Anne no panel mtg.	Fire Hall, Queen Anne	Ardath Cade, Ch. Torrey Brown/ Bob Price/Louise Lawrence/Shepard Krech
3/31/88 7:00 p.m.	St. Mary's Co. 4:00 panel mtg.	Circuit Court Leonardtwn	James Gutman, Ch. Sam Bowling/Bob Perciasepe/(Frank Raley, Skip Zahniser)

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
February 3, 1988

17

The Chesapeake Bay Critical Area Commission met at the Department of Agriculture, Annapolis, Maryland. The meeting was called to order by Chairman Solomon Liss with the following Members in attendance:

Robert Perciasepe for DOE
Samuel Turner, Sr.
~~Louise Lawrence for~~
Secretary Cawley
Thomas Osborne
James E. Gutman
Parris Glendening
Secretary Brown of DNR
Secretary Lieder of DSP
Assistant Secretary Cade of DHCD

Robert Price, Jr.
Shepard Krech, Jr.
Ronald Karasic
Samuel Bowling
Kathryn Langner
G. Steele Phillips
Victor Butanis
Robert Schoeplein for
Secretary Evans

The Minutes of the Meeting of February 3rd were approved as written with the addition of Parris Glendening to the list of attendees.

Chairman Liss asked Charles Davis to report on the status of the Towns of Easton, Betterton, Oxford, and Millington. He said that each of the Towns are in the process of completing the changes recommended by the Commission, and that the vote scheduled for that day would have to be postponed. The Commission should expect to receive these changes shortly, and a Commission vote is expected on March 2nd. Mr. Davis said that Oxford has held a public hearing. Easton's Town attorney is reviewing the proposed changes requested by the Commission. These are expected to be completed by the end of February. The Town will hold a public hearing on the regulations, and plans to resubmit the Program to the Commission approximately in mid-March. Mr. Davis noted that there will be a panel meeting for each of the Towns if the Towns request any significant, additional changes to what the Commission has already tentatively approved.

Mr. Gutman asked what the time frame for these Programs is? Chairman Liss answered that the 40-day period is the time period for Commission response, and that a vote should be taken at the March 2nd Commission Meeting.

Additional language to the Growth Allocation guidelines were distributed. Mr. Epstein noted the changes. A motion was made and seconded to approve the amendments to the guidelines, and for the guidelines to be sent to each local jurisdiction. All were in favor, 16:0.

Chairman Liss reported that all 60 jurisdictions had submitted their Programs to the Commission. He then commended the Commission and the staff for their hard work in aiding the local jurisdictions in the submittal of their Programs. Assistant Secretary Cade reiterated that the staff and the jurisdictions should be commended for their commitment and cooperation in the development of the local Programs, and that perhaps it would be appropriate to have it noted in a press release.

Chairman Liss asked Dr. Taylor to report on the status of the forthcoming hearings. Dr. Taylor said that the Town of Crisfield will be holding a joint hearing on February 18th at the High School. The Panel consists of Ron Karasic, Chairman, Bill Bostian, Ron Adkins, Shepard Krech, and Ron Hickernell. Chestertown will hold a joint hearing on February 18th as well, at the Town Hall. The Panel is Tom Osborne, Chairman, Bob Perciasepe, Louise Lawrence, Kay Langner, and Victor Butanis. Queenstown's hearing will be February 25th at the Fire Hall. The Panel is Kay Langner, Chairman, Shepard Krech, Ron Adkins, Ardath Cade, and Connie Lieder. Wicomico County's hearing will be on March 2nd at the Civic Center. The Panel is Victor Butanis, Shepard Krech, Wallace Miller, Steele Phillips, and Russell Blake. Salisbury will hold a joint hearing on February 29th in the Council Chambers. The Panel is Bill Bostian, Chairman, Torrey Brown, Shepard Krech, Bob Shoeplein, and Tom Osborne. The Town of Indian Head's hearing will be on March 9th at the Community Center. The Panel is Bob Schoeplein, Chairman, Ardath Cade, Sam Bowling, Parris Glendening, Ron Karasic, and J. Frank Raley. The hearing for the Towns of Hillsboro and Queen Anne will be held at the same time in the Queen Anne Fire Hall on March 15th. The Panel will be Ardath Cade, Chairman, Shepard Krech, Torrey Brown, Bob Price, and Louise Lawrence. The hearing for the Towns of Mardella Springs and Sharptown will also be held at the same time in the Mardella Springs High School on March 21st. The Panel is Shepard Krech, and Steele Phillips, Russell Blake, Wallace Miller, and Vitor Butanis. The hearing for St. Mary's County will be on March 31st in the District Court. The Panel is James Gutman, Chairman, Sam Bowling, J. Frank Raley, Skip Zahniser, and Bob Perciasepe.

Dr. Taylor then reported that the AELR Committee held a hearing on the Regulations for Project Notification. The Committee had several questions on the way that the Regulations were fashioned, and requested the Regulations Subcommittee to meet again and review the concerns of the people from the Farm Bureau and Homebuilders Association. Dr. Taylor suggested that the Subcommittee meet prior to the Commission Meeting on March 16th.

Chairman Liss reported on the process for determining disputes of mapping, or presence of sewer and/or water, or other issues between the Commission and the local jurisdictions. He said that the Commission will not be involved in individual complaints regarding the mapping of property, and that that is a process to be determined by the local jurisdiction. When there is a dispute between a county or jurisdiction and the Commission on the designation of an area, however, or on some other issue, the area will be reviewed again by the staff and panel, and their recommendation will be relayed to the full Commission. The Commission will revisit the matter in a hearing-type of format, make the final determination, and give directions to the jurisdiction. This would be the process if, for example, the Commission and jurisdiction do not initially reach an agreement on the classification of lands.

Mr. Saunders Hillyer, of the Chesapeake Bay Foundation, asked whether there would be opportunity for the public to comment on these issues that would be before the Commission for "redetermination"? Chairman Liss answered that within the available constraints of time, the Commission would hear from any interested party.

Mr. Glendening suggested that it would be helpful to have the procedure in writing to use as guidance in the process for determining disputes between the local jurisdictions and the Commission. Chairman Liss answered that a copy of the process would be forthcoming.

Mr. Epstein then reviewed the steps taken during Program review. First the Commission staff reviews the Program for completeness. The staff and the Chairman then confer, and if the Program is deemed complete, then the 90-day time period for Commission review begins. If not, the jurisdiction is informed of the basic changes or additions that need to be made, the jurisdiction makes those changes to complete the Program, resubmits the Program to the Commission, and the 90-day period then begins. At this time, Panel meetings with the staff and perhaps the local jurisdictions begin. The Commission staff and Panel then present the Program and their recommendations for change, if any, to the full Commission. The Commission either votes to approve the Program, or sends it back in accordance with specific changes that need to be made. The local jurisdiction has 40 days to make those changes and to hold a public hearing. The Program is resubmitted to the Commission. The Commission has 40 more days, by which time a final vote needs to be taken.

Mr. Joe Elbrecht, Chief of Anne Arundel County's Office of Planning and Zoning introduced Mr. Tom Ervin to present Anne Arundel County's Program.

Mr. Glendening asked if the Program has been presented to the County Council? Mr. Elbrecht answered that it had not been presented. A series of working maps were presented to the Council early in 1987, but the maps which have substantially changed that were presented to the Commission have not been reviewed by the Council. The maps presented to the Commission, reflect a change of RCA to LDA from the original working maps. The Program did come from the Administration, however.

Mr. Glendening asked Mr. Elbrecht to clarify the reduction of RCA. Mr. Elbrecht answered that the reduction from the earliest maps is approximately 1,600 acres of RCA to LDA.

Assistant Secretary Cade asked what the criteria were to determine the presence of sewer and water? Mr. Elbrecht answered that the water and/or sewer facilities had to be in the ground, and the property would have to abut those facilities, and that the services would not be extended beyond 2,000 feet from those facilities.

Chairman Liss said that there are some environmental agencies or groups that are still objecting to the County's designation of LDAs. He asked what was the current status of those objections? Mr. Osborne answered that the agencies are maintaining their objections.

Chairman Liss then asked the Town of Leonardtown to make its presentation. Dr. Taylor introduced Mr. Simon Ruderman, Circuit Rider for Leonardtown, and Ms. Tony Seymour of Wallace Roberts and Todd, their consultant.

Mr. Osborne asked if the Town was allowing developers of large tracts of land to cluster density beyond the 1,000-foot boundary which might be lost because of the Critical Area designation? Mr. Ruderman responded affirmatively.

Ms. Lawrence asked that as agriculture in the Critical Area is considered a "protective" type of land use, why are permits required for agricultural activities? Ms. Seymour answered that runoff from agricultural uses are among the more potentially detrimental factors in water quality, and it is therefore important to monitor these uses. Monitoring was the key to the recommended permit system.

Dr. Taylor asked how much area is now in use agriculturally, in Leonardtown's Critical Area? Ms. Seymour answered that in practical terms, there is very little farming occurring, and it is probably just on the edge of the Critical Area boundary.

Mr. Phillips asked how the County now monitors agricultural activities? Ms. Seymour answered that the Soil Conservation Service (District) will assist farmers in developing management plans and that the Town will enforce the activities through their local permit. That is the extent to which enforcement is available.

Dr. Taylor said that the Panel for Leonardtown has had two meetings and will be sending its comments to the Town. The Attorney General's Office and several State agencies have yet to comment on the Town's Program. After the Town has incorporated these comments into their Program, there will be a final panel meeting. The Panel felt that the maps were extremely well-prepared and the designations were well-defined.

Mr. Frank Jaklitsch, Director of Planning and Zoning, presented the Program of Calvert County, and described the mapping strategy. He distributed to the Commission, a paper listing the various points to be considered regarding the Calvert County Program development process.

Chairman Liss asked Ms. Watson to give a status report of Program review. Ms. Watson said that the staff review is completed, and that State Agencies' the Attorney General's, and staff comments will be compiled and sent to the County.

Mr. Gutman asked which elements in the proposed mapping, will need to be substantially revised?

Mr. Jaklitsch said an outline has been made as to the amendments that will need to be made to the zoning ordinances.

Mr. Gutman said that it appears that in large measure, that the mapping was done using a Master Plan rather than being mapped according to the criteria.

Mr. Jaklitsch replied that the County mapped the existing subdivisions according to the criteria, except for Solomons.

Mr. Marcus Pollock introduced Mr. Jon Arason, Chief of Comprehensive Planning for the City of Annapolis to present Annapolis' Program. Mr. Arason explained that the City, being intensely developed, could have qualified for total exclusion, or at the very least, a buffer exemption for its waterfront area.

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However, the City did not request either. He said that the City did request a limited buffer exemption for the most intensely developed portion of the City's waterfront. The City applied limited development standards to portions of their Critical Area that might otherwise be considered intensely developed.

Chairman Liss reported that the Program is now being reviewed by staff and the Attorney General's office, and comments will be forthcoming to the City.

There being no further business, the meeting was adjourned.

POINTS TO BE RAISED BEFORE THE CRITICAL AREA COMMISSION

February 17, 1988

We have reviewed the areas of disagreement with the mapping and would like to explain the rationale that we used in making our designations. We recognise that Carolyn Watson has done a lot of work in reviewing the maps. She found mistakes which we had made even according to our own criteria.

In mapping the development in the Critical Area, we tried to develop a rational nexus that could be applied as objectively as possible. We interpreted "housing density" (as contained in COMAR 14.15.02.04 Limited Development Areas) to apply to the number of buildable lots in an area as of December 1, 1985, not the number of existing houses.

We felt that our test was more objective and could easily be verified by consulting the tax maps rather than depending on counting existing houses on aerial photographs since it is not always possible to determine whether there is a structure on a wooded lot and whether that structure is a house or a barn.

We also felt that the number of buildable lots was more indicative of the character of the land than the number of houses since nothing in the Critical Area Law would prevent those lots from being built on in the future.

Whether those lots are designated RCA or LDA does not affect how they will be developed as they must meet the criteria for LDA "insofar as possible" either way.

From the point of view of development, it is more advantageous to designate as many of the existing lots RCA as possible since the more RCA there is, the greater the 5% growth allocation will be.

There is no advantage to the Critical Area Program or to the environment in having those lots designated RCA since we intend to make all the lots meet the criteria "insofar as possible". It is misleading as to the amount of undeveloped land in the Critical Area to count a subdivision that is platted in one acre lots as RCA which is considered to be one house to 20 acres.

The only time that it makes a difference to the property owner is when the parcel has not yet been subdivided. For parcels in existing subdivisions, going from LDA to RCA will not affect future density since it will not create the potential for more development to occur. The lots have already been subdivided and recorded at the maximum density and under the Zoning Ordinance they can not be subdivided further.

INFILL

Our policy on infill, with the exception of Solomons and Broomes Island, was to designate a parcel LDA if it were 20 acres or less and was surrounded on at least two sides by LDA or IDA.

SOLOMONS

In Solomons, we attempted to apply the criteria literally. We designated those parcels which had sewer as LDA. Most of the Town Center met at least the LDA criteria except for a few areas.

The County Commissioners decided to request the Critical Area Commission to designate the entire Solomons Town Center IDA for the following reasons.

- 1) Solomons had been designated a development node in the Comprehensive Plan.
- 2) Solomons has an environmentally sensitive master plan in effect.
- 3) This is the only area where the County is proposing new intense development in the Critical Area.
- 4) The County is not proposing that all of Solomons should be developed intensively. Under the master plan, the maximum density is 6 units to the acre (7 units with TDRs). The only reason that the County is asking for the IDA is to get 2(3) additional dwelling units to the acre.

The County has made a commitment to use the 5% growth allocation in Solomons if the Commission does not support the comprehensive designation.

SUMMARY

We wanted to make our criteria as clear cut as possible so that they would be easy to apply and not subject to interpretation in view of the possibility of law suits and in fairness to the citizens of Calvert County who own property in the Critical Area. In carrying out the mapping in the Critical Area, we were not trying to be devious. We felt that we were following the regulations

It will not have a serious impact on development in the Critical Area if you choose to disagree with our interpretation of the term "housing density" and designate already subdivided lots as RCA. It will increase the 5% growth allocation. However, we feel that it will not give a true picture of development in the Critical Area in Calvert County.

Calvert County has always had a strong commitment to the environment and a good record of protecting the environment. We have tried to make our Critical Area Program adhere to the Critical Area Law and the criteria as closely as possible.

CHESAPEAKE BAY CRITICAL AREA COMMISSION

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February 17, 1988

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Assistant Secretary Cade of DHCD	

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There being no further business, the meeting was adjourned.



*Commiss
Mey.*
3/3/88

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
974-2418 or 974-2426

SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

COMMISSIONERS

March 8, 1988

- Thomas Osborne
Anne Arundel Co.
- James E. Gutman
Anne Arundel Co.
- Ronald Karasic
Baltimore City
- Albert W. Zahniser
Calvert Co.
- Thomas Jarvis
Caroline Co.
- Kathryn D. Langner
Cecil Co.
- Samuel Y. Bowling
Charles Co.
- G. Steele Phillips
Dorchester Co.
- Victor K. Butanis
Harford Co.
- Wallace D. Miller
Kent Co.
- Parris Glendening
Prince George's Co.
- Robert R. Price, Jr.
Queen Anne's Co.
- J. Frank Raley, Jr.
St. Mary's Co.
- Ronald D. Adkins
Somerset Co.
- Shepard Krech, Jr.
Talbot Co.
- Samuel E. Turner, Sr.
Talbot Co.
- William J. Bostian
Wicomico Co.
- Russell Blake
Worcester Co.

Dear Commission Member:

The next meeting of the Commission is scheduled for March 16, 1988 at the Department of Agriculture Building from 1:00 - 6:00 p.m. Enclosed ia an agenda for the meeting as well as the Minutes from March 3, 1988. We will be voting on the Church Hill Program and the Anne Arundel County Program. A copy of the Anne Arundel County Panel position is enclosed. The Church Hill position paper will be distributed at the meeting. In addition, the Waterway Improvement Division will be presenting a proposed regional marina plan which will be influenced by the State and Local Regulations that are about to be promulgated in final form.

Please also note that a Commission meeting has been scheduled for March 30, 1988 from 1:00 - 6:00 p.m., at the Department of Agriculture, as well. This will not supplant the regularly scheduled first Wednesday meeting in April.

I look forward to seeing you at both meetings.

Sincerely,

Solomon Liss
Solomon Liss
Chairman

SL/jjd

CABINET MEMBERS

Enclosures

- Wayne A. Cawley, Jr.
Agriculture
- J. Randall Evans
Employment and Economic Development
- Martin Walsh, Jr.
Environment
- Ardath Cade
Housing and Community Development
- Torrey Brown
Natural Resources
- Constance Lieder
Planning

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
March 3, 1988

The Chesapeake Bay Critical Area Commission met at the Department of Agriculture, Annapolis, Maryland. The meeting was called to order by Chairman Solomon Liss with the following Members in attendance:

Thomas Osborne	James E. Gutman
Ronald Hickernell	Kathryn Langner
John Griffin for Secretary Brown of DNR	Louise Lawrence for Secretary Cawley
Robert Perciasepe for DOE	Shepard Krech, Jr.
Secretary Evans of DEED	Samuel Turner, Sr.
Asst. Secretary Cade of DHCD	Victor Butanis
Parris Glendening	J. Frank Raley, Jr.
Samuel Bowling	Albert W. Zahniser
Robert Price, Jr.	Thomas Jarvis
G. Steele Phillips	Secretary Lieder of DSP

The Minutes of of Meeting of February 17th were approved as written.

Chairman Liss asked Mr. Charles Davis to give a status report on the Programs for the Towns of Betterton and Millington. Mr. Davis said that the panels for the Towns had not seen the final Programs. The Programs that had been resubmitted to the Commission had additional language regarding buffer exemptions and growth allocation, for instance, that needed to be re-examined and restructured to reflect what the Commission had already tentatively approved. The Towns have done so.

Assistant Secretary Cade asked what was the final classification of the large area that was annexed to the Town of Betterton? Mr. Davis answered that the Town has mapped it as an RCA, but it is specifically one of the properties that the Town requested growth allocation from Kent County and the County approved.

Assistant Secretary Cade then asked what were the changes to the setback requirements? Mr. Davis answered that development on lots of record of 200 feet or less will be required to set back 100 feet insofar as possible.

Mr. Davis pointed out that the Commission, as a whole, had already tentatively approved the Program, subject to the changes that the staff and Panel had suggested to the Town and that the requested changes had been made.

A motion was made and seconded to accept the Program for the Town of Betterton. All were in favor, 18:0.

Critical Area Commission
Minutes - 3/3/88
Page Two

Mr. Davis then reported on the Town of Millington. He said that the requested changes to the Program had been made.

A motion was made and seconded to accept the Program for the Town of Millington. All were in favor, 18:0.

Chairman Liss reiterated that the Towns' Program had been tentatively approved conditionally upon the changes that needed to be made and have since been made. There were additions to the Program, however, that the Commission had not approved, but the additions have been removed.

Chairman Liss also asked Dr. Sullivan to report on the Town of Oxford's Program. Dr. Sullivan said that all of the changes requested by the Commission had been made. The two items that were requested to be removed from the Program were the location of future Growth Allocation areas and a proposed method for counting against the Growth Allocation, which had previously been disapproved by the Commission. Dr. Sullivan recommended that approval be given to the Town's Program.

A motion was made and seconded to approve the Program for the Town of Oxford. All were in favor, 19:0.

Chairman Liss asked Mr. Epstein to explain what the status is in regard to the Town of Easton's Program. Mr. Epstein distributed a memorandum report on the Program to the Commission Members. Mr. Epstein said that Easton was directed to change its Program in accordance with certain specifics that the Commission had suggested in early December. The Town had not resubmitted the Program with the required changes within the 40-day period, after which the statute requires the Commission to adopt a Program for the Town. The staff recommends that the Program adopted by the Commission, be the one that Easton developed for itself in addition to the recommended changes. If Easton then resubmits a Program, and it is acceptable, this Program would substitute for the one the Commission had promulgated for the Town. Mr. Epstein said that the recommendation is for the Commission to adopt a local Program for Easton, and continue with the necessary processes.

Chairman Liss then asked Dr. Sullivan to report on the status of the Town of Easton's Program. He said that the Town's attorney felt that the ordinances needed to be simplified. Dr. Sullivan will meet with the Town and make changes to the ordinances. The Town is expected to approve the ordinances on March 31st.

The motion prepared by the Assistant Attorney General as follows:

"Pursuant to the report of the Chairman and Executive Director, dated March 2, 1988, the Commission hereby adopts a local Critical Area Program for the Town of Easton. Such Program consists of that which was submitted to the Commission by the town on September 5, 1987, as amended by the changes which the Commission directed to be made on December 2, 1987. The Program will be promulgated by the Commission by regulation, pursuant to Section 8-1810 of the Critical Area law and must be implemented and enforced by the Town of Easton. If after this adoption, the local jurisdiction submits an alternative Program that is approved by the Commission as complying with the criteria, the alternative Program would supercede the Commission-adopted one. A letter shall be sent to the Town of Easton informing it of this action",

was made and seconded. All were in favor, 19:0.

Chairman Liss asked Mr. Ren Serey to report on Calvert County's Program. Mr. Serey said that the County had mapped the entire Solomons Town Center as IDA, and the density of that area did not support that designation. The County also had mapped as LDA, all existing paper subdivisions regardless of the type of development present. The detailed staff-recommended changes have not yet been made and there are several areas within the Program that need to be refined and more detail need be provided. For example, in the Program's procedures that will govern certain practices such as the procedure for designating water-dependent facilities, the County states that the criteria will control, without any discussion as to how the criteria will control these procedures. He said that there are other areas in the Program where there is no commitment by the County to implement the criteria, or to adopt them as the County's own regulations.

Mr. Serey said that after the panel meeting, the comments and suggested changes will be sent to the County. Mr. Serey said that the staff and panel recommend that the Program be returned to the County for the 40-day period for the necessary changes to be made.

Assistant Secretary expressed concern that the staff would be sending comments to the County that the full Commission has not seen.

Chairman Liss answered that the panel has not yet decided finally, upon the comments and changes that will be suggested to the County to make, and will be meeting to do so, immediately after the Commission Meeting.

Mr. Gutman explained that many of these comments have already been discussed by the Panel, and that the County had given its report at the last Commission Meeting to the full Commission, and therefore, these issues should be fairly well known to the Commission.

Chairman Liss explained that the Panel is recommending to the Commission that the Commission return Calvert County's Program to re-examine certain matters and make changes in others. The staff will furnish the County with a list of areas that the County should revisit.

A motion was made and seconded that the Commission send the Calvert County Program back to the County for changes to be made as specified in the staff and panel report, to be made available to the County by March 9th. 18 were in favor, 2 Members abstained.

Chairman Liss reported that the Administrative, Executive, and Legislative Review Committee asked that the Project Approval Subcommittee meet to discuss the Project Regulations. The Subcommittee is comprised of Shepard Krech, Tom Osborne, Bob Price, Ron Hickernell, and Ron Adkins. The meeting will be on March 16th at 10:00 a.m., at the Department of Agriculture Building.

An Outline of "Special Hearing" Procedures for the Commission to Revisit and Decide Certain Issues was distributed to the Commission. The Outline would be used when there is a dispute to be presented before the Commission.

A motion was made and seconded to adopt the "Special Hearing" Procedures as guidelines for meeting on these special requests. All were in favor, 18:0.

The Panels for upcoming Commission public hearings were chosen as follows:

PRINCESS ANNE - 3/23/88 7:00 p.m. Fire Hall

Kay Langner, Ch./Tom Jarvis/Shepard Krech/
Wally Miller/Ron Karasic

Critical Area Commission
Minutes - 3/3/88
Page Five

SOMERSET CO. - 3/24/88 7:30 p.m. Washington High School,
Princess Anne.

Ron Hickernell, Ch./Russell Blake/Shepard
Krech/John Griffin/Bill Bostian

CHESAPEAKE CITY - 3/28/88 7:00 p.m. Town Hall, Bohemia Ave.

Jim Gutman, Ch./Kay Langner/Louise Lawrence/
J. Frank Raley/Wally Miller

NORTH BEACH - 3/31/88 7:30 p.m. Town Hall

Ardath Cade, Ch./John Griffin/Bob Schoeplein/
Tom Osborne/Ron Karasic

ST. MARY'S CO. - 3/31/88 7:00 p.m. Circuit Court,
Leonardtwn.

Jim Gutman, Ch./Sam Bowling/Bob Perciasepe/
J. Frank Raley/Skip Zahniser

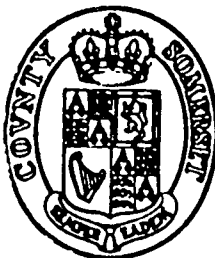
The Panel for Eaton's forthcoming hearings was chosen as follows: Judge Liss, Tom Jarvis, Shepard Krech, Bob Price, and James Gutman.

There being no further business, the meeting was adjourned.

OFFICE
COMMISSIONERS FOR SOMERSET COUNTY

PRINCESS ANNE, MARYLAND 21853

TELEPHONE 651-0320



COMMISSIONERS
PHILLIP L. GERALD, PRESIDENT
W. GLENN WARD, VICE-PRESIDENT
W. ELMO DRYDEN
THOMAS H. FOXWELL
JAMES N. RING

COUNTY ADMINISTRATOR - CLERK
CHARLES E. MASSEY
THOMAS S. SIMPKINS, ATTORNEY

March 15, 1988

Judge Solomon Liss, Chairman
Chesapeake Bay Critical Area
Commission
Department of Natural Resources
Tawes State Office Building
Annapolis, Maryland 21401

Dear Judge Liss:

On February 23, 1988, the Board of County Commissioners for Somerset County voted to submit the enclosed Somerset County Chesapeake Bay Critical Area Program. It is our understanding, pursuant to section 8-1809 of the Critical Area Law, that within ninety days of receipt of this proposal, the Critical Area Commission shall either approve the proposal plan or notify the County of specific changes that must be made. It is the County's contention the local program meets the required program elements as defined in section 8-1808 C of the same law.

We look forward to your favorable review of the program and await further notification from the Commission.

Respectfully yours,

Phillip L. Gerald
President, Board of
County Commissioners for
Somerset County

PLG/lmr

encl.



JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION

SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

DEPARTMENT OF NATURAL RESOURCES
TAVES STATE OFFICE BUILDING, D-4
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Somerset Co.

Shepard Krech, Jr.
Talbot Co.

Samuel E. Turner, Sr.
Talbot Co.

William J. Bostian
Wicomico Co.

Russell Blake
Worcester Co.

April 26, 1988

The Honorable Phillip L. Gerald
President
Board of County Commissioners
for Somerset County
Princess Anne, Maryland 21853

Dear President Gerald:

This is to formally acknowledge submittal of the Somerset County Chesapeake Bay Critical Area Program on March 15, 1988, to the Commission. This is also to inform you that the Somerset County Critical Area Program has been determined to be complete as to the required elements in Section 8-1808 of the Law and 14.15.10 and 14.15.11 of the criteria. Therefore, as of the date of this letter, the 90-day review period by the Commission will begin.

We look forward to working with you and your staff so that a decision can be made on the Program as soon as possible.

Sincerely,

Solomon Liss
Solomon Liss
Chairman

CABINET MEMBERS SL/jjd

Wayne A. Cawley, Jr.
Agriculture

cc: Ed Phillips

J. Randall Evans
Employment and Economic Development

bcvn

Martin Walsh, Jr.
Environment

Ardath Cade
Housing and Community Development

Torrey Brown
Natural Resources

Constance Lieder
Planning

§8-1809. Approval and adoption of program.

(a) *Statements of intent.*—Within 45 days after the criteria adopted by the Commission under § 8-1808 of this subtitle become effective, each local jurisdiction shall submit to the Commission a written statement of its intent either:

(1) To develop a critical area protection program to control the use and development of that part of the Chesapeake Bay Critical Area located within its territorial limits; or

(2) Not to develop such a program.

(b) *Commission may adopt program.*—If a local jurisdiction states its intent not to develop a program or fails to submit a timely statement of intent, the Commission shall prepare and adopt a program for the part of the Chesapeake Bay Critical Area in that local jurisdiction.

(c) *Submission of locally developed program.*—If a local jurisdiction states its intent to develop a program, it shall prepare a proposed program and submit it to the Commission within 270 days after the effective date of the criteria adopted under § 8-1808 of this subtitle. However, if the local jurisdiction submits evidence satisfactory to the Commission that it is making reasonable progress in the development of a program, the Commission may extend this period for up to an additional 180 days. Before submission of a program to the Commission within the time allowed by this subsection, a local jurisdiction shall hold at least one public hearing on the proposed program, for which 2-weeks notice shall be published in a newspaper of general circulation in the local jurisdiction.

(d) *Public hearing; approval by Commission.*—(1) Within 30 days after a program is submitted, the Commission shall appoint a panel of 3 of its members to conduct in the affected jurisdiction a public hearing on the proposed program.

(2) Within 90 days after the Commission receives a proposed program from a local jurisdiction, it shall either approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither the proposal shall be deemed approved.

(3) A changed proposal shall be submitted to the Commission in the same manner as the original proposal, within 40 days after the Commission's notice.

Unless the Commission approves a changed proposal or disapproves a changed proposal and states in writing the reasons for its disapproval within 40 days, the changed proposal shall be deemed approved.

(e) *Adoption of program.*—Within 90 days after the Commission approves a proposed program, the local jurisdiction shall hold hearings and adopt the program in accordance with legislative procedures for enacting ordinances. If the governing body of the local jurisdiction wishes to change any part of the approved proposal before adoption, it shall submit the proposed change to the Commission for approval. Unless the Commission approves the change or disapproves the change and states in writing the reasons for its disapproval within 30 days after it receives the change, the change shall be deemed approved. A changed part may not be adopted until it is approved by the Commission.

(f) *Programs effective within 760 days.*—Within 760 days after criteria adopted by the Commission become effective, there shall be in effect throughout the Chesapeake Bay Critical Area programs approved or adopted by the Commission.

(g) *Proposed amendments.*—Each local jurisdiction shall review and propose any necessary amendments to its program, including local zoning maps, at least every 4 years. Amendments shall be submitted to and acted on by the Commission in the same manner as the original program.

(h) *Program not to be amended without approval of Commission.*—A program may not be amended except with the approval of the Commission. Except for amendments developed during program review under subsection (g) of this section, an amendment to a zoning map may be granted by a local approving authority only on proof of a mistake in the existing zoning.

(i) *Standards for approval by Commission.*—The Commission shall approve programs and amendments that meet:

(1) The standards set forth in § 8-1808 (b) (1) through (3) of this subtitle; and

(2) The criteria adopted by the Commission under § 8-1808 of this subtitle.

(j) *Program to be available for public inspection.*—Copies of each approved program, as it is amended from time to time, shall be maintained by the local jurisdiction and the Commission in a form available for public inspection. (1984, ch. 794.)

REVIEW PROCEDURES FOR LOCAL
PROGRAM SUBMITTALS

(Distributed at August 5, 1987 Commission Meeting)

A. IN GENERAL

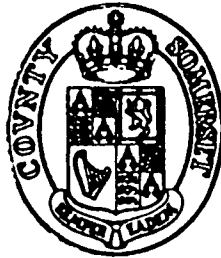
1. As of August 10, 1987, the Commission staff will be meeting twice a week, first to review local programs for completeness and second, for content.
2. As of September, the Commission will need to meet 2 times a month to review and to approve or disapprove local programs. These meetings may be all-day sessions.
3. The Judge will appoint the panels at the Commission meetings. It is imperative that Commissioners who agree to serve on a panel, attend the specific hearing to which they have been assigned. Any Commissioner may attend any additional hearing if they choose.
4. Staff people reviewing the programs and working with the Commission panels will be: Carolyn Watson, Marcus Pollock, Charles Davis and Ed Phillips. Two additional "overflow" people will be Kevin Sullivan and Sarah Taylor. The reason for the additional staff is to prevent any one person from having to review more than 5 local programs at once. Lee Epstein will review the implementation (ordinances, codes, etc.) portion of the Programs. Eran Feitelson will review economic instruments in the Programs as needed.

B. THE PROCESS

1. Once submitted, a local Program will be reviewed for completeness, that is, according to the minimum elements stated in Section 8-1808 of the Law and according to 14.15.10 Directives for Local Program Development of the criteria. This review will take no more than 3 days for a municipality and 4 days for a county.
2. If the Program is not complete, a letter will be sent to the local jurisdiction stating that fact, as well as what is needed to make the Program complete. The 90-day period will not start for submittals in this category until the Program is resubmitted and is determined to be complete.
3. If the Program is complete, a letter will be sent to the local jurisdiction stating that fact and outlining the process that will occur for the 90-day time period. The process is as follows:

- a) within 30 days of the date of the letter mentioned in "B 3" above, a public hearing will be scheduled in the affected jurisdiction. Jennifer will make all of the arrangements and will maintain a schedule of these hearings.
- b) 1-1½ weeks prior to the hearing, the panel will be sent the local Program for review by one of the people mentioned in "A 4" above. That person will also arrange a field trip for the panel members during the afternoon of the public hearing if that is desired. That person will work with the panel to assist them in developing their comments and position(s), to arrange for future meetings, and to arrange for meetings with the local jurisdiction as needed. All panel questions and questions of Commission members with respect to the Program, are to be handled only by the staff person responsible to the panel. This will provide for consistency of response and reduce confusion.
- c) the Departments will each be sent a copy of the Program for review prior to the public hearing. A 30-day review and reply time will be adhered to for departmental comments. Sarah Taylor will coordinate that review.

OFFICE
COMMISSIONERS FOR SOMERSET COUNTY
PRINCESS ANNE, MARYLAND 21853
TELEPHONE 651-0320.



COMMISSIONERS
PHILLIP L. GERALD, PRESIDENT
W. GLENN WARD, VICE-PRESIDENT
W. ELMO DRYDEN
THOMAS M. FOXWELL
JAMES N. RING

COUNTY ADMINISTRATOR - CLERK
CHARLES E. MASSEY
THOMAS S. SIMPKINS, ATTORNEY

June 24, 1988

Judge Solomon Liss, Chairman
Chesapeake Bay Critical Area Commission
Department of Natural Resources
Tawes State Office Building
Annapolis, Maryland 21401

Dear Judge Liss:

Please be advised Somerset County is initiating adoption proceedings for its Chesapeake Bay Critical Area Program. The County submitted its program to the Critical Area Commission on March 15, 1988, and has received no comment other than acknowledgement of its completeness.

Pursuant to section 8-1809 (d) (2) of the Critical Area Law, "Within 90 days after the Commission receives a proposed program from a local jurisdiction, it shall either approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither the proposal shall be deemed approved." (Emphasis supplied).

The 90 day period ended on June 13, 1988. We are sure the Commission will be pleased to know that Somerset County is acting to ensure that the County's Critical Area Program is in effect as mandated by law.

On behalf of the Board of County Commissioners for Somerset County, I thank you for your cooperation with this important matter and look forward to working with the Commission as we implement this Program.

Very sincerely yours,

Phillip L. Gerald
President
Somerset County Commissioners

PLG/rm

cc: Critical Area Commission



HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401-1991

DANIEL M. LONG
38TH LEGISLATIVE DISTRICT
SOMERSET-WICOMICO-WORCESTER

COMMITTEES:
WAYS AND MEANS
VICE-CHAIRMAN RULES
AND EXECUTIVE NOMINATIONS
SPENDING AFFORDABILITY

ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

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412 LOWE HOUSE OFFICE BUILDING
301-841-3433
TOLL FREE 1-800-492-7122 EXT. 3433

DISTRICT OFFICE:
P.O. BOX 220
WESTOVER, MARYLAND 21871
301-543-1300
HOME PHONE: 301-651-9478

June 24, 1988

The Honorable Philip L. Gerald, President
Somerset County Commissioners
Prince William Street
Princess Anne, MD 21853

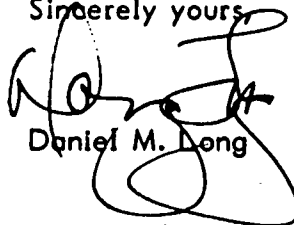
Dear Phil:

Pursuant to the County's request to determine the date of program approval of Somerset County's Critical Areas Program, I have contacted the General Assembly's Department of Legislative Reference. I requested the Department to examine the current statute in Natural Resources Article Section 8-1809 and the Legislative history, if any, relating thereto. F. Carvel Payne, the Director, has informed me that the Department has looked at the Legislative history, has examined the statute and is of the opinion that if the Commission has not notified Somerset County within 90 days of the receipt of its program, then that program is deemed to be approved. In other words, if the County physically submitted the Program to a staff member on March 15, 1988, as was indicated to me by your offices, then 90 days begins to run from March 15.

To suggest another date when the 90 day review period begins to run is not consistent with the laws of the State of Maryland.

I trust this information may be of assistance to you.

Sincerely yours,



Daniel M. Long

DML:nrs
✓cc: Mr. Ronald Adkins



Somerset Co.
Pro Dew. Lettk
Cops

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING, D-4
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SARAH J. TAYLOR, PHD
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Russell Blake
Worcester Co.

April 26, 1988

The Honorable Phillip L. Gerald
President
Board of County Commissioners
for Somerset County
Princess Anne, Maryland 21853

Dear President Gerald:

This is to formally acknowledge submittal of the Somerset County Chesapeake Bay Critical Area Program on March 15, 1988, to the Commission. This is also to inform you that the Somerset County Critical Area Program has been determined to be complete as to the required elements in Section 8-1808 of the Law and 14.15.10 and 14.15.11 of the criteria. Therefore, as of the date of this letter, the 90-day review period by the Commission will begin.

We look forward to working with you and your staff so that a decision can be made on the Program as soon as possible.

Sincerely,

Solomon Liss
Solomon Liss
Chairman

CABINET MEMBERS SL/jjd

Wayne A. Cawley, Jr.
Agriculture cc: Ed Phillips

J. Randall Evans
Employment and Economic Development bcvn

Martin Walsh, Jr.
Environment

Ardath Gade
Housing and Community Development

Torrey Brown
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Constance Lieder
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COUNTY ADMINISTRATOR - CLERK
CHARLES E. MASSEY
THOMAS S. SIMPKINS, ATTORNEY

March 15, 1988

Judge Solomon Liss, Chairman
Chesapeake Bay Critical Area
Commission
Department of Natural Resources
Tawes State Office Building
Annapolis, Maryland 21401

Dear Judge Liss:

On February 23, 1988, the Board of County Commissioners for Somerset County voted to submit the enclosed Somerset County Chesapeake Bay Critical Area Program. It is our understanding, pursuant to section 8-1809 of the Critical Area Law, that within ninety days of receipt of this proposal, the Critical Area Commission shall either approve the proposal plan or notify the County of specific changes that must be made. It is the County's contention the local program meets the required program elements as defined in section 8-1808 C of the same law.

We look forward to your favorable review of the program and await further notification from the Commission.

Respectfully yours,

Phillip L. Gerald
President, Board of
County Commissioners for
Somerset County

PLG/lmr

encl.

RESOLUTION

WHEREAS, the Town of Eldorado has a total population of 93, has no planning and zoning functions, has no central water or sewer systems, and has faced little or no growth or development for many years; and

WHEREAS, the Town of Eldorado does apply to the Chesapeake Bay Critical Area Commission for the exclusion of the Town from Critical Area coverage; and

WHEREAS, the Town currently has no planning or zoning of its own, or other local laws and restrictions which might serve to protect water quality or conserve fish, wildlife or plant habitats from adverse impacts or development in the excluded area;

THEREFORE, BE IT RESOLVED, that the Town of Eldorado, upon any proposal for development, will seek to make such development comply insofar as possible with the objectives, policies, and requirements of the Dorchester County Critical Area Program as approved or promulgated by the Chesapeake Bay Critical Area Commission and if any such annexation occurs such property shall conform to the Dorchester County Critical Area Program.

George McAllister, Jr.

George McAllister, Mayor
Town of Eldorado

27 June 1988


RESOLUTION

WHEREAS, the Town of Brookview has a total population of 78, has no planning and zoning functions, has no central water or sewer systems, and has faced little or no growth or development for many years; and

WHEREAS, the Town of Brookview does apply to the Chesapeake Bay Critical Area Commission for the exclusion of the Town from Critical Area coverage; and

WHEREAS, the Town currently has no planning or zoning of its own, or other local laws and restrictions which might serve to protect water quality or conserve fish, wildlife or plant habitats from adverse impacts or development in the excluded area;

THEREFORE, BE IT RESOLVED, that the Town of Brookview, upon any proposal for development, will seek to make such development comply insofar as possible with the objectives, policies, and requirements of the Dorchester County Critical Area Program as approved or promulgated by the Chesapeake Bay Critical Area Commission and if any such annexation occurs such property shall conform to the Dorchester County Critical Area Program.


Doris Collins, Mayor
Town of Brookview
17 June 1988

Chesapeake Bay Critical Area Commission:

Law
1984

- Subtitle 18
Chesapeake Bay Critical Area
Protection Program (NRA§8-1801-1816)

Amendments
to Law
As Passed
1986

- Quorum
- Growth Allocation in Resource Conser-
vation Area
- Intrafamily Transfers
- Impervious Surfaces Limitations

Criteria
As Passed
1986

- Subtitle 15
Final Regulations

Authority: Natural Resources Article 8-1808(d), Annotated Code of Maryland

Edition: December 1986

14.15.07 Surface Mining in the Critical Area

.01 Definitions.

- A. "Surface mining" means:
- (1) The breaking of the surface soil in order to extract or remove minerals in the Critical Area;
 - (2) Any activity or process constituting all or part of a process for the extraction or removal of minerals from their original location in the Critical Area; and
 - (3) The extraction of sand, gravel, rock, stone, earth, or fill from borrow pits for highway construction purposes or other public facilities.
- B. For the purposes of this chapter, surface mining also means:
- (1) Operations engaged in processing minerals at the site of extraction;
 - (2) Removal of overburden and mining of limited amounts of any mineral when done for the purpose of prospecting and to the extent necessary to determine the location, quantity, or quality of any natural deposit; and
 - (3) Mining operations, if the affected land exceeds 1 acre or more in area.

.02 Policies.

- In developing their Critical Area Programs, local jurisdictions shall use the following policies when addressing surface mining:
- A. Assure that all available measures be taken to protect the Critical Area from all sources of pollution from surface mining operations including, but not limited to, sedimentation and siltation, chemical and petrochemical use and spillage, and storage or disposal of wastes, dusts, and spoils;
- B. Assure that mining be conducted in a way to permit the reclamation of the site as soon as possible and to the extent possible.

.03 Criteria.

- In developing their Critical Area Programs, local jurisdictions shall use all of the following criteria:
- A. Local jurisdictions shall develop a mineral resources plan and program for management to include in their comprehensive or master plan, if these resources exist in the jurisdiction.
- B. The plans and programs are to be developed in conjunction with the Water

Resources Administration of the Department of Natural Resources and other appropriate agencies.

C. Each plan and program shall consist of all of the following:

- (1) An identification and mapping of the undeveloped land in the Critical Area that should be kept in its undeveloped state until the land can be used to provide or assist in providing a continuous supply of minerals pursuant to Article 66B, §3.05(a)(1)(v), Annotated Code of Maryland, as amended. Surface mining areas which include Habitat Protection Areas under COMAR 14.15.09 shall also be identified.
- (2) An identification of appropriate post-excavation uses for this land such as recreation, habitat restoration, open space use, or development in accordance with the guidelines for development in COMAR 14.15.02.

D. Local authorities shall establish regulations that designate those portions of the Critical Area that are unsuitable for future sand and gravel operations and shall prohibit those operations therein. Areas are unsuitable where:

- (1) Important natural resources such as threatened and endangered species, areas of scientific value, or rare assemblages of species occur as discussed in COMAR 14.15.09 of these regulations;
- (2) Areas where highly erodible soils exist;
- (3) The use of renewable resource lands would result in the substantial loss of long range (that is, 25 years or more) productivity of forest and agriculture, or would result in a degrading of water quality or a loss of vital habitat; or
- (4) The lands are within 100 feet of the Mean High Water Line of tidal waters or the edge of streams.

E. Future wash plants including ponds, spoil piles, and equipment may not be located within the Buffer as defined in COMAR 14.15.09.

F. Existing wash ponds shall be reclaimed as soon as possible after the cessation of a sand and gravel operation.

G. To the fullest extent possible, existing sand and gravel operations shall conduct their extraction activities so as to provide, at a minimum, a 100-foot buffer of natural vegetation between the operation and the Mean High Water Line of tidal waters or the edges of streams, and tidal wetlands, whichever is further inland.

the fragile components of natural habitats.

.03 Criteria.

In developing their Critical Area Programs, local jurisdictions shall use all of the following criteria:

A. Local jurisdictions shall identify areas within their Critical Area where natural parks could be established, and consider conserving these features through acquisitions, easements, designation, or other appropriate means. Parks should not be chosen to preserve only natural curiosities, but they should be planned to include examples of coastal

ecosystems that are found within the jurisdiction, each to its geological and biological resources intact. Park boundaries should be based on biological necessity rather than administrative convenience.

B. Any plans developed for the use of

14.15.09 Habitat Protection Areas in the Critical Area

.01 Buffer.

A. Definition. "Buffer" means an existing, naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances.

B. Policies. In developing their Critical Area Programs, local jurisdictions shall use the following policies with regard to the Buffer:

- (1) Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
- (2) Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources;
- (3) Maintain an area of transitional habitat between aquatic and upland communities;
- (4) Maintain the natural environment of streams; and
- (5) Protect riparian wildlife habitat.

C. Criteria. In developing their Critical Area Programs, local jurisdictions shall use all of the following criteria:

- (1) Local jurisdictions shall establish a minimum 100-foot Buffer landward from the Mean High Water Line of tidal waters, tributary streams, and tidal wetlands. The Buffer is not required for agricultural drainage ditches if the adjacent agricultural land has in place Best Management Practices as required in COMAR 14.15.06.

- (2) New development activities, including structures, roads, parking areas and other impervious surfaces, mining and related facilities, or septic systems, may not be permitted in the Buffer, except for those necessarily associated with water-dependent facilities, as set forth in COMAR 14.15.03.

- (3) The Buffer shall be maintained in natural vegetation, but may include planted vegetation where necessary to protect, stabilize, or enhance the shoreline.

- (4) Agricultural activities are permitted in the Buffer, if, as a minimum Best Management Practice, a 25-foot vegetated filter strip measured landward from the Mean High Water Line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established, and further provided that:

- (a) The filter strip shall be composed of either trees with a dense ground cover, or a thick sod of grass, and shall be so managed as to provide water quality benefits and habitat protection consistent

with the policies stated in §B, above. Noxious weeds, including Johnson grass, Canada thistle, and multiflora rose, which occur in the filter strip, may be controlled by authorized means;

(b) The filter strip shall be expanded by a distance of 4 feet for every 1 percent of slope, for slopes greater than 6 percent;

(c) The 25-foot vegetated filter strip shall be maintained until such time as the landowner is implementing, under an approved Soil Conservation and Water Quality Plan, a program of Best Management Practices for the specific purposes of improving water quality and protecting plant and wildlife habitat; and provided that the portion of the Soil Conservation and Water Quality Plan being implemented achieves the water quality and habitat protection objectives of the 25-foot vegetated filter strip;

(d) The Best Management Practices shall include a requirement for the implementation of a grassland and manure management program, where appropriate, and that the feeding or watering of livestock, may not be permitted within 50 feet of the Mean High Water Line of tidal water and tributary streams, or from the edge of tidal wetlands, whichever is further inland;

(e) Clearing of existing natural vegetation in the Buffer is not allowed; and

(f) Farming activities including the grazing of livestock, do not disturb stream banks, tidal shorelines or other Habitat Protection Areas as described in this Chapter.

(5) The Buffer shall be managed to achieve or enhance the functions stated in Sections B(1) through (5) above. Cutting or clearing of trees within the Buffer shall be prohibited except that:

(a) Commercial harvesting of trees by selection or by the clearcutting of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the Mean High Water Line of tidal waters and perennial tributary streams, or the edge of tidal wetlands, provided that this cutting does not occur in the Habitat Protection Areas described in COMAR 14.15.09.02, .03, .04, and .05 and that the cutting is conducted pursuant to the requirements of COMAR 14.15.05 and in conformance with a buffer management plan prepared by a registered, professional forester and approved by the Maryland Forest, Park and Wildlife Service. The plan shall be required for all commercial harvests within the Buffer, regardless of the size of the area to be cut, and shall contain the following minimum requirements:

(i) That disturbance to stream banks and shorelines shall be avoided;

(ii) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife, and reestablishes the wildlife corridor function

14.15.08 Natural Parks

.01 Definition.

A. "Natural parks" means areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.

.02 Policy.

It is the policy of the Commission to encourage the creation of opportunities for interaction between people and natural environments without destroying

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3/17/93
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Kevin Sullivan, Staff

~~Step Break~~
~~Tom Osborne~~

Ron Karasik

Sam Bowen

Wally Miller

~~James Gutman~~

James Gutman

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Analysis and Findings Regarding the One du/20 Acres Limitation

Based on our analysis of the scientific evidence behind the one du/20 acres density limitation and the economic impact of this legislation on counties along the Chesapeake Bay shoreline, we conclude that the density limitation is an effective measure to accomplish the goals of the Critical Area Act: protection of water quality and wildlife habitats, and preservation of farm and forest land.

Furthermore, we suggest that if a density higher than one du/20 acres were implemented the following conditions would result:

-- water quality of the Chesapeake Bay would deteriorate from disruption of the shoreline and contamination from waste disposal systems from residential development;

-- pollution from residential development would increase because residential BMP's are not as effective at protecting water quality as are the current density restrictions;

-- measures to protect water quality such as agricultural BMPs would be replaced by residential BMPs which are not as cost effective or efficient in protecting water quality;

-- forest cover would be greatly diminished and would no longer provide an effective buffer to protect the Bay from contaminants in surface and ground water;

-- farming operations would not be economically feasible due to increased parcelization of farmland causing further disruption of this important sector of the state's economy.

-- wildlife habitats would be seriously affected by the fragmentation of forestland and other open spaces into parcels too small to provide adequate shelter, food, and breeding grounds.

In addition, we find that failure to retain the one du/20 acres limitation will increase economic costs to counties around the Bay:

-- unrestricted development in several counties investigated is already overtaxing the existing infrastructure in the form of public schools and sewage and water facilities;

-- state and federal funding to support these infrastructure costs is decreasing at a time when counties are most dependent on state support; and

-- local tax rates are not high enough to cover the costs of services counties must provide at their current population levels.

FOOTNOTES

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¹²"Robinson Neck- Frank M. Ewing Nature Preserve, " (Chevy Chase, Md.: Nature Conservancy of Md/Del, Front Office [n.d.]), p.12.

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¹⁴Robinson Neck Nature Preserve, p.12.

¹⁵"Choptank Wetlands Preserve At Atkins Marsh Track Introduction," [n.d.]: Nature Conservancy, pp.2-3.

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¹⁸A Guide to the Nature Conservancy Preserve in Maryland "Nassawango Creek Preserve ," (Chevy Chase, Md.): Nature Conservancy of Md/Del., [n.d.], p.10.

¹⁹Interview with Mary Droege (Land Acquisition), Nature Conservancy of Maryland, Chevy Chase, Maryland, 10 and 16 May 1988.

²⁰Interview with Kathy Fisher (Executive Director of Furance), Town Foundation Nassawango Iron Furance, Worcester County, Maryland, 16 and 23 May 1988.

²¹Marie Halka, Revised (Draft Water Quality Management Plan for the Chester River Basin, (Balto. Md.: Dept. of Health and Mental Hygiene, Office of Environmental Program, Sept. 1985) p. A-15.

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²⁴Shoman, Open Land For Urban America, p.25 &26.

²⁵Shoman, Open Land for Urban America, same page.



Comm
Meet
3/16/88

JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING, D-4
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Shepard Krech, Jr.
Talbot Co.

Samuel E. Turner, Sr
Talbot Co.

William J. Bostian
Wicomico Co.

Russell Blake
Worcester Co.

March 23, 1988

Dear Commission Member:

The next meeting of the Chesapeake Bay Critical Area Commission will be March 30, 1988, at 1:00 p.m. in the Department of Agriculture Building, 50 Harry S. Truman Parkway, Annapolis. The agenda is enclosed as well as the Minutes from the Meeting of March 16th.

Please note that several Programs will be up for vote early in the meeting, and we will need your input and votes in order to have a chance to meet the legislatively mandated time schedules. Please make every effort to attend the Meeting promptly at 1:00 p.m.

Thank you for your past support and continuing efforts.

Sincerely,
Solomon Liss
Solomon Liss
Chairman

SL/jjd

Enclosures

CABINET MEMBERS

Wayne A. Cawley, Jr.
Agriculture

J. Randall Evans
Employment and Economic Development

Martin Walsh, Jr.
Environment

Ardath Cade
Housing and Community Development

Torrey Brown
Natural Resources

Constance Lieder
Planning

CHESAPEAKE BAY CRITICAL AREA COMMISSION

AGENDA

Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland

March 30, 1988

1:00 - 3:30 p.m.

1:00 - 1:10	Approval of Minutes of March 16, 1988	Solomon Liss Chairman
1:10 - 2:45	Vote on Havre de Grace, Harford County, and Annapolis Programs	Marcus Pollock/ Panel/Consultants
	Vote on Centreville, and Queenstown Programs	Charles Davis/ Panel/Consultant/ Local Government
	Vote on Cambridge Program	Ed Phillips/Panel/ Local Government
	Vote on Easton	Kevin Sullivan
2:45 - 3:00	Status of Regulations for Project Notification	Sarah Taylor/Panel
3:00 - 3:15	Break	
3:15 - 3:45	Presentation of Wicomico County	Lewis Waters/County/ Consultant
3:45 - 4:15	Presentation of Salisbury	Lewis Waters/City/ Consultant
4:15 - 4:45	Presentation of Sharptown/Mardella Springs	Lewis Waters/Towns/ Consultants
4:45 - 5:15	Presentation of Snow Hill	Ed Phillips/Town/ Consultant
5:15 - 5:45	Presentation of Worcester County	Lewis Waters/County/ Consultant
5:45 - 6:00	New Business Old Business	Solomon Liss Chairman

Next Meeting: April 6, 1988 at the Department of Agriculture
Building, 1:00 - 6:00 p.m.

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
March 16, 1988

The Chesapeake Bay Critical Area Commission met at the Department of Agriculture, Annapolis, Maryland. The meeting was called to order by Chairman Solomon Liss with the following Members in attendance:

Robert Price, Jr.	Shepard Krech, Jr.
Thomas Osborne	James E. Gutman
Albert Zahniser	Wallace Miller
Thomas Jarvis	G. Steele Phillips
Victor Butanis	Kathryn Langner
Carolyn Watson for Parris Glendening	Samuel Turner, Sr.
Louise Lawrence for Secretary Cawley of DOA	Secretary Brown of DNR
Deputy Secretary Cade of DHCD	Secretary Lieder of DOS
	Ronald Karasic
	Secretary Evans of DEED

The Minutes of the Meeting of March 3, 1988 were approved with the suggested correction that the statement made concerning sending comments to the County not seen by the whole Commission, was made by Deputy Secretary Cade.

Chairman Liss asked Mr. Marcus Pollock to make a report on the Program of Anne Arundel County. Mr. Pollock reported that the Panel had met several times with the staff of Anne Arundel County, prior to the time of Program submittal. After submittal, the staff and panel met approximately four times to advise the County on its mapping strategy. The Panel is comprised of James Gutman, Chairman; Bob Perciasepe; Ron Karasic; Skip Zahniser; and Tom Osborne. The staff has submitted comments to the County and to date, the County has acknowledged that they will make all changes to the Program suggested in those comments. Only a few technical details (i.e., intrafamily transfers, 10% pollutant reduction provision for IDAs) are remaining to be resolved. Mr. Pollock then asked Mr. Gutman to summarize the Panel's recommended mapping strategy.

Mr. Gutman said that the Panel has reviewed the maps for the County designating land classifications under the Critical Area Program. Of 48,870 acres within the Critical Area, 22,031 acres have been classified as RCA. As a result of the Panel's review, an additional 2,101 acres were determined as needing to be designated as RCA. The County had classified those acres as LDA based on the fact that sewer and water lines abutted the land. Only the portion of property within 2,000' of the utility lines were to be classified as LDA under this strategy. The Panel has determined that this strategy fails to adequately protect habitat on this land, and does not adequately minimize the impact of possible development on water quality. In order to achieve these

objectives, the Panel recommends that the County's strategy be revised to include protection of tributary stream valleys by designating buffer areas within approximately 300' of streams, and to designate this area as RCA, as well as designating certain additional areas as RCA. This would result in 771 additional acres being classified as RCA. The total amount of land classified as RCA would then be 22,807 acres. There would also be 20,929 acres designated as LDA, and 5,133 acres designated as IDA. The Panel's recommended strategy leaves 862 acres (4%) of the total RCA land to be classified as LDA because water and sewer abut the property.

Mr. Price asked if there was a question about the designation of those 862 acres as LDA, because there is no existing development on it? Mr. Gutman answered there was no designation problem because those acres do not currently show moderate or low density development.

Mr. Osborne said that the County has approximately 7,000 acres of land that are potentially vacant, and that are potentially served with water and sewer trunk lines in the ground. Through this process, the Panel is recommending that we move towards something much smaller than the amount of land that is potentially served by trunk lines that were in the ground by December 1985.

Mr. Gutman continued stating that the Panel requested the Commission to accept its recommended mapping strategy and that tentative approval of the County's Program be granted under the condition that the County revise its maps as recommended and incorporate all staff comments on the Program text, and that the County consider the comments of State agencies reviewing local Programs, which have yet to be received.

Secretary Evans asked if the Staff comments and Panel comments are similar to one another? Mr. Gutman answered affirmatively, and that in addition to staff comments, other agencies provided the staff with their review comments.

Secretary Evans asked how the Marley Neck Area was being handled? Mr. Gutman answered that it is handled in the same way as the rest of the County.

Mr. Epstein asked whether in those 300-foot areas where there are steep slopes, there was any current moderate or limited development? Mr. Osborne answered that there was no current moderate or limited development in those areas.

A motion was made and seconded that in general, the Commission believes the Anne Arundel County Local Program to be a good one, but for final approval pursuant to §8-1809(d)2 of the Critical Area Law, the Commission requests the County to make the changes recommended by the staff report of February 25, 1988, and endorsed by the Panel. Pursuant to §8-1809(d)3, such Program changes must be resubmitted to the Commission within 40 days and only after at least one public hearing has been held concerning the changes made to the originally submitted Program, relevant ordinances, and plans. The vote was 15:0 in favor with 1 abstention, for tentative approval.

Chairman Liss asked Mr. Charles Davis to report on the Program for Church Hill. Mr. Davis introduced Ms. Janet Rochester, President of the Town Commissioners, and Ms. Marie Rameika, Town Clerk. Mr. Davis said that the Town has been revising its comprehensive plan, zoning ordinance, and subdivision regulations that were implemented in the last few years. The staff has reviewed the Program and the comments are basically very general. The hearing has been held, and the Panel's recommendation is to return the Program to the Town for additional work as noted.

Dr. Krech stated that the Town has hired no consultant to do their Program. He stated that none of the Town's Critical Area is within the Buffer. The only question of a buffer centers around State-owned land to the south of the Town.

A motion was made and seconded that the Program be returned to the Town of Church Hill, in accordance with the provisions of §8-1809(d)2 and §8-1809(d)3 for a period of 40 days, and after holding at least one public hearing, the Program be resubmitted to the Commission for final approval. The vote was in favor, 16:0.

Chairman Liss asked Dr. Sullivan to report on the status of the State Regulations. Dr. Sullivan said that notice of final Commission action in approving the regulations will be published in the Maryland Register in about two week's time. The Regulations will be printed in tabloid style for distribution.

Chairman Liss then introduced Mr. Robert Ellsworth of Tidewater Administration, Waterways Improvement Division of DNR, that is responsible for planning and developing the Ft. Washington Marina, and asked Mr. Ellsworth to make the presentation. Mr. Ellsworth said that the Marina, located in Prince George's County, is currently owned by the National Park Service, and is on Federal land within the County. The State of Maryland has a 30-year maintenance, operation, and management

agreement with the National Park Service. He stated that the Marina currently consists of approximately 291 wet slips. It is on land of approximately eight acres in size with a restaurant building, (that does not meet current building codes), an office building, a boat repair building, a boat storage building, 36 covered slips, a fuel dock and boat ramps, parking utilities, and a timber bulkhead which is desintegrating. The Marina is in need of repair, and the Department of Natural Resources has the money available through the Waterway Improvement Fund to undertake the repair. Mr. Ellsworth explained the improvements that the Department is proposing.

Mr. Gutman asked who will operate this Marina upon its completion?

Mr. Ellsworth answered that while it is in the planning and construction phase, the Tidewater Administration will be the operators, but after it is developed, it will be put out for bid and given to a concession operator under contract.

Secretary Brown added that the Department of Natural Resources is asking the Commission for its review and approval of this project.

A Panel was then selected to site visit the Marina and make a report to the Commission. The Panel was chosen as follows: Skip Zahniser, Ch.; James Gutman; Sam Turner; Randy Evans; and Tom Jarvis, with Dr. Taylor as staff coordinator.

Chairman Liss asked Mr. Steve Dodd, Planning Director of Dorchester County, Mr. Norman Day of Norman Day and Associates, Ms. Nancy Kelley of Coastal Resources, Inc., and Ms. Karen Phillips of the County Planning Staff to make the presentation for the County. Mr. Dodd began by saying that geographically, Dorchester is the largest County in Maryland, with 48% of the land in the Critical Area. He then asked Mr. Day to make a brief summary of the County's Program.

Mr. Day said that the Program for the County has been unofficially forwarded to the Commission. It has had a number of revisions. The final draft in two volumes, was given to the Commission staff earlier this week. The first volume consists of the general material concerning the Program, and all of the specific policies that will be adopted by the County. Volume two contains all of the ordinances that will regulate various classes of activities in the County. He also stated that two sets of maps had been submitted to the Commission, one assessing LDA

development based on density averaging of existing lots, grandfathered lots, and subdivisions, and the other based on land use.

Mr. Price asked if any part of the LDA designation shown on the map was based on County sewer systems? Mr. Day answered that it was based on the density of existing development in that area.

Secretary Brown asked how many units could be built in the Critical Area? Mr. Dodd answered that 2,200 of the 2,800 unit projected demand could occur in the Critical Area.

Mr. Gutman asked which maps would be the ones the Commission should review? Mr. Dodd answered that one set (density averaging) was their preference, but the other set was the fall-back position.

Chairman Liss asked Mr. Charles Davis to present the Program for the Town of Queenstown. Mr. Davis introduced Mr. John Foster of the Queenstown Commissioners, and Mr. Norman Day, consultant to the Town. Mr. Day said that the Town is formally requesting to the County to reserve 200 acres of growth, with 70 acres to be used immediately. Mr. Day stated that there were two issues: 1) that of annexation to the west of Queenstown to accommodate an Inn proposal; and 2) that of the development of a golf course as an acceptable use in the RCA. It was suggested that the panels for Queen Anne's County and the Town, get together to resolve the issues.

Mr. Jeff Hutchins and Ann Jones of Engineering Technologies Assoc., Inc., then presented the Program for the Town of Chestertown. Ms. Jones discussed the designations and effects of the Program on the Town.

Mr. Osborne, Chairman of Chestertown Panel, commented that a hearing had been held, but there were no speakers. Mayor Horsey and Town Manager Ingersoll were both present. Mr. Davis stated that the public officials sent their regards and apologies to the Commission for being unable to attend the Meeting.

Chairman Liss asked Mr. Davis to present the Programs for the Towns of Queen Anne and Hillsboro. Mr. Davis said that the Towns had originally asked the Commission to do the Program for the them, because they had no means of preparing a Program themselves. However, he did state that because of the help, and the fact that he had met with the Towns to begin the preparation process and to help in the selection of a consultant, the Towns were actually preparing their own Programs at this time.

Mr. Davis reported that as of October 1987, the Towns have held their own local public hearings prior to Program submittal to the Commission. The Commission's joint hearing was held Tuesday evening. He then asked Mr. Hutchins and Ms. Jones to explain the Programs.

I was asked if the Towns were on water and sewer? Mr. Hutchins replied that they were on well and septic systems.

It was then asked if all of the home sites in each community are on septic field, who monitors those systems? Mr. Hutchins answered that when a new application is made to put in a well in a residential area, then the County Health Department makes an inspection of the property. Until that request is made, there aren't many inspections.

Dr. Taylor was asked to give a report on the Program of the Town of Indian Head. She said that the public hearing had been held, with one speaker. The Program had been reviewed, but the maps have not completely been reviewed. She reported that there are some issues that the Panel will need to examine: 1) there are some uses labelled as water-dependent facilities that may not be water-dependent facilities; 2) that there is a proposed future development known as Shipwatch, that will require Growth Allocation from Charles County; and 3) there is a proposal in the Program for clearing the buffer to allow for residential development to have a viewshed along the waters of the Potomac. She then introduced Messrs. Kevin McJunkin, County Planner, and Simon Ruderman, Circuit Rider, to give an overview of the Program.

Mr. McJunkin said that the Town of Indian Head is approximately 650 acres in size of which approximately 165 acres are in the Critical Area. He said that a question arose, at the public hearing, regarding the consistency of the mapping because there are a few vacant areas along the shoreline that are mapped as LDA. The reason for this is that these were considered as infill areas of 20 acres or less in size, surrounded by limited or intense development.

Mr. Price asked why that land that borders the Potomac River, the Shipwatch development, was not developed before?

Mr. McJunkin answered that it was a private estate.

There being no further business, the meeting was adjourned