

Commission Meetings; Corresp.

Feb 1990

MSA_51832-67



JOHN C. NORTH, II
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION

WEST GARRETT PLACE, SUITE 320
275 WEST STREET
ANNAPOLIS, MARYLAND 21401
974-2418 or 974-2426

SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

COMMISSIONERS

January 16, 1990

- Thomas Osborne
Anne Arundel Co.
- James E. Gutman
Anne Arundel Co.
- Ronald Karasic
Baltimore City
- Ronald Hickernell
Baltimore Co.
- 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.
- William Corkran, Jr.
Talbot Co.
- William J. Bostian
Wicomico Co.
- Russell Blake
Worcester Co.

Dear Commission Member:

The February 7th meeting of the Commission will be held promptly at 1:00 p.m. in the Commission Conference Room in Annapolis.

Enclosed are several items for your review:

- 1) the Minutes of the January 3rd Meeting;
- 2) the Agenda for the February 7th Meeting;
- 3) three Bills which require your vote and position:
 - a) HB 125 - Delegate Johnson - Property Tax Credit - Timber Harvesting Restrictions;
 - b) HB 175 - Delegate Johnson - Forest Resources - State Compensation for Prohibitions Against the Harvesting of Trees;
 - c) SB 182 - Senator Malkus - Forest Resources - State Compensation for Prohibitions Against the Harvesting of Trees (companion to HB 175);
- 4) Joint Legislative Oversight Committee's Legislative Packet for the 1990 Session, which requires a vote.

Also enclosed is the final report prepared by Dr. J. Kevin Sullivan entitled: A Summary of the Chesapeake Bay Critical Area Commission's Criteria and Program Development Activities 1984 - 1988 for your reading and remembrance.

I look forward to seeing you on February 7th in Annapolis.

CABINET MEMBERS

- Wayne A. Cawley, Jr.
Agriculture
- Robert Schoepflein
Employment and Economic Development
- Robert Perciasepe
Environment
- Ardath Cade
Housing and Community Development
- Torrey C. Brown, M.D.
Natural Resources
- Ronald Kreitner
Planning

JCN/jjd
Enclosures

Yours very truly,

John C. North, II
Chairman

AGENDA

CHESAPEAKE BAY CRITICAL AREA COMMISSION

275 West Street
Suite 320
Annapolis, Maryland

February 7, 1990

1:00 - 4:30 p.m.

1:00 - 1:10 Approval of the Minutes of December 6, 1989 John C. North, II
Chairman

PROGRAM AMENDMENTS AND IMPLEMENTATION

1:10 -2:15 Vote (Tentative) on St. Mary's Co. Mapping Changes *motion to ask county opinion on compromise proposal* James E. Gutman, Ch./
Ren Serey

Vote on Dorchester County Program Amendment - Growth Allocation - Deep Water - Phase II *passed* Robert Schoeplein, Ch./
Tom Ventre

Vote on Dorchester County Program Amendment - Changes to the County Zoning Ordinance *passed* Robert Schoeplein, Ch./
Tom Ventre

Vote on Harford County Program Amendment - Growth Allocation Bata Land Co. *OK Passed* Joseph Elbrich, Ch./
Anne Hairston

Vote (Tentative) on Town of Betterton - Text Amendment *passed* Kathryn Langner, Ch./
Pat Pudelkewicz

LEGISLATION

2:15 - 3:15 Position: HB 125 - Property Tax Credit - Timber Harvesting Restrictions John C. North, II
Chairman/Sarah Taylor

Position: HB 175 and SB 182 - Forest Resources - State Against Tree Harvesting

PROJECT EVALUATION

3:15 - 3:45 Vote on Maryland Toll Facilities Police Headquarters and Academy MD Transportation Authority *- postponed* Samuel Bowling, Ch./
Kathryn Langner, Ch./
Susan Lawrence

(See other side)

3:45-4:15	Update and Vote on Joint Oversight Committee Bills and Meeting	John C. North, II Chairman
4:15 - 4:30	Old Business	John C. North, II Chairman
	New Business	Sarah Taylor
	Update on Staff and Organization	
	Panel - Buffer Exemption Request - Chesapeake Beach Map Amendments	

Next Commission Meeting: March 7, 1990, Great Oaks Landing

HB 684 - allows density bonus for shore erosion control in severely eroding areas
(does not require shore erosion protection installed)
opposed, because may be other local + DNR programs to address the problem more appropriately & within the context of the

HB 116/SB 10 - Tax Credit Program

State
Income

property

income tax credit program for donating land to state, applies to land w/ ^{hardship} timber harvesting restrictions + NTW restr. state pays settlement costs, DNR maintains signs/plaques, + land also calls for study on effect

DNR - impractical to manage
MET parallels this effort

Agland assessment program / forest land assessment FPWS
voted opposed

HB 125 - property tax credit because of harvesting restrictions from any state law or regs - if cannot cut timber in any 6 mo period
100% credit for portion not able to cut
buffer 1/2 pi. 5hdwd - \$14 mill value
voted neutral, because will allow some compensation if practical for state

HB 175 + SB 182 - \$ compensation to prop. owner by state, for harvesting restricted

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
January 3, 1990

The Chesapeake Bay Critical Area Commission met at the Chesapeake Bay Critical Area Commission Office, 275 West Street, Annapolis, Maryland. The meeting was called to order by Chairman North with the following Members in attendance:

Victor Butanis	Kathryn Langner
William Corkran	G. Steele Phillips
Shepard Krech	Ronald Hickernell
Albert Zahniser	James E. Gutman
Russell Blake	Parris Glendening
Robert Price, Jr.	Louise Lawrence for
Joseph Elbrich	Secretary Cawley
William Bostian	Kathy Drazek for
Ronald Kreitner of MDP	Robert Perciasepe
Deputy Secretary Cade of DHCD	John Griffin of DNR
Robert Schoeplein of DEED	

Chairman North introduced Mr. Joseph Elbrich, Planning Director for Anne Arundel County, who will soon be officially joining the Commission in Mr. Osborne's stead.

Chairman North asked Ms. Anne Hairston to report on the Evaluation Objectives for Baltimore County's Growth Allocation Competition. Ms. Hairston reported that the Commission approved the County's bill for issuing growth allocation in August 1989, and required that the County send the evaluation objectives for the design competition to the Commission for review. The Commission staff commented on the objectives in a preliminary stage last year. She said that any concerns or comments of the Commission should be given to the County at this time.

Ms. Hairston said that growth allocation requests will be submitted with a conceptual site plan, upon which the design competition will be based. All plans must meet the Critical Area criteria at a minimum, and growth allocation will be awarded to those projects which optimize the 34 evaluation objectives, compared to the other projects submitted. The design competition will be judged by the Growth Allocation Review Committee. The Committee, comprising the Directors of the Department of Environmental Protection and Resource Management, Office of Planning and Zoning, Department of Public Works, Department of Recreation and Parks, and the Economic Development Commission.

Mr. Price asked who would award the growth allocation and whether the property owner would have to use the allocation within a certain amount of time. Ms. Hairston replied that it would be the Growth Allocation Review Committee's decision, and not solely the Department of Environmental Protection and Resource Management's decision. After growth allocation is

reserved by the County, the final site plan would go through the normal County Review Group procedure.

Mr. Hickernell added that growth allocation vests with a particular site plan. In Baltimore County, site plan approval only lasts five years. The landowner must begin construction on the project which received growth allocation within five years, or growth allocation is forfeited.

Mr. Price asked if all of the growth allocation was awarded at one time. Mr. Hickernell replied that the County legislation had created two cycles, 1990 and the following year, for awarding growth allocation. Half of the growth allocation could be awarded per cycle. If all growth allocation is not awarded after the completion of the two cycles, another cycle may be added.

Mr. Hickernell remarked that the introduction of the objective for the affordability of housing had the potential of being in conflict with environmental concerns.

Mr. Epstein asked if once the Committee makes the decision, would it be submitted to the Commission from the Committee or the County Council. Mr. Hickernell answered that the Committee was basically an instrument of the County Administration, and any amendment to award growth allocation brought to the Commission would be from the County Administration.

Mr. Kreitner asked Mr. Hickernell why he had an objection to the housing affordability concern. Mr. Hickernell answered that as a criterion in a competitive undertaking it would result in more applications for IDA reclassification than for LDA which may create applications for greater density.

Chairman North asked Ms. Zucker to report on the Oil and Gas Regulations for the Critical Area. Ms. Zucker explained that in the 1988 Legislative Session, the General Assembly passed amendments to Title 6, the Oil and Gas statute. Under that statute, DNR was given the responsibility of developing and adopting regulations for the entire state of Maryland's oil and gas activities. She said that the Maryland Geological Survey was heading DNR's efforts in conjunction with the Critical Area Commission, devising a separate set of regulations. The Commission was given the directive to adopt a set of regulations that would assure the protection of land and water resources within the Critical Area, from oil and gas exploration and production. These regulations must be in place by January 1st, 1991.

Ms. Zucker said that historically, the Bay was not a region for hydrocarbon production; however, in the mid-1980's there was some interest seen in the Taylorsville Basin which is a geological strata that overlaps with much of the Bay and is believed to have potential for oil and gas exploration.

Ms. Zucker then explained the time frame for development of the regulations. She said that Commission staff would be working with the Special Issues Subcommittee and the Technical Advisory Committee comprised of representatives from State agencies and interest groups from the Maryland Petroleum Council. She said that a second draft was being revised and would be ready for submittal to the Commission in February. The Commission would then have four to five months of review time and then the promulgation process would begin. The AELR Committee would review the draft, then it would be published in the Maryland Register and submitted for public comment.

Ms. Zucker presented the outline of the Oil and Gas regulations. She said that the current draft had eight chapters which includes definitions, oil/gas development in the Critical area, habitat protection areas, information requirements, conditional approval, Commission review process, appeals, and enforcement.

It was asked that if there was drilling in the RCA, was there any consideration of growth allocation. Ms. Zucker answered that it was decided that oil and gas activities would be treated as a resource utilization type of activity.

It was asked if there was any consideration of the density of wells. Ms. Zucker answered that that was regulated under the DNR and MGS regulations.

Mr. Elbrich asked if anyone has looked at the actual geological makeup with relation to where nontidal wetlands exist, etc., because it may be a debatable issue with respect to nontidal wetland preservation. Ms. Zucker answered that protection of nontidal wetlands would be incorporated into the oil and gas regulations.

The Minutes of the Meeting of December 6th were approved as written.

Chairman North asked Mr. Charles Adams, Chief of the Landscape Architecture Division of the State Highway Administration, to present the Chesapeake Bay Environmental Education/Visitor's Center at Terrapin Park in Queen Anne's County. Mr. Adams reported that this was a multi-agency project. He said that the site was 275 acres and the building was 12,500 square feet which would contain a main visitors center exhibit hall, restrooms and community meeting room with a classroom and was set back from the buffer.

Mr. Zahniser asked how many parking and bus spaces would there be. Mr. Adams answered there would be 75 spaces for automobiles and recreational vehicles, but none for busses per se.

Mr. Elbrich asked if any waterfront activities were proposed. Mr. Adams replied that the only waterfront activities anticipated were passive in nature; such as trail hiking, as there would be allowed no direct access to the waterfront.

Mr. Glendening asked with Sandy Point on the Western Shore, why was it felt that the project was needed. Mr. Adams answered that Sandy Point was a high-volume and activities park and this site was more of an educational and environmental type.

Deputy Secretary Cade asked who would run the center. Mr. Adams replied that it would be run by the Department of Natural Resources and the Department of Economic and Employment Development.

Dr. Krech asked how many employees would be needed and how would the facilities be paid for. Mr. Adams said there would be no admission fees, and that the facilities would be open only during the day. He did not know exactly how many people would be employed.

Mr. Gutman asked if the facility was on public sewer and what land classification was it in. Mr. Adams answered that it would be tied into the wastewater treatment facility to the northeast and the designation was RCA.

Mr. Zahniser asked if there was any consideration of any growth allocation for the developed area envelope with part of the County. Ms. Kaii answered that a government project did not require growth allocation.??

Mr. Price asked what role the County played in the project. Mr. Adams answered that it was making the land available for the facility and would possibly have a role in its operations.

Mr. Zahniser remarked that if no growth allocation would be used, he would like to see what acreages are set aside with some type of covenants for preservation. Also, adding buffering and tree planting would mitigate some high density uses.

Mr. Bostian asked if there were any plans for shore erosion control along the Bay. Mr. Adams answered affirmatively, that intermittent breakwaters had been put in place, rubble had been dumped, and slopes had been graded back.

Mr. Glendening asked if this had been found to be the best site for this project. Mr. Adams answered affirmatively.

Dr. Krech asked why a seven-million dollar project of this type was placed ahead of more environmentally-sensitive projects. Mr. David Carroll, Governor's Coordinator for the Chesapeake Bay answered that the Governor's Office felt this project was extremely environmentally-sensitive, and that this project would be a flagship for educating a significant number of people of the State, of all of the environmental issues by giving them "hands-on" experience.

Mr. Schoepflein asked what would be envisioned for the 275-acre park. Ms. Kaii answered that it would be a passive activities park.

Mr. Bostian asked when the project would be finished. Mr. Adams answered that they would like to have it completed by the Fall of 1990.

Chairman North then asked Mr. Ren Serey to report on St. Mary's College new Science Building. Mr. Serey reported that the College requested concept approval for the location of a new Science Building within the Critical Area. He introduced Dr. John Underwood, Vice President of the College for Administration to explain the project.

Dr. Underwood said that the building would contain approximately 55,200 square feet with 11 classroom laboratories, four research laboratories, a greenhouse, and aquatic holding tanks. There would be a circulating estuarine water system that would supply a flow of water from the St. Mary's River to the biology laboratory. He said that the current use of the site was a parking lot from which stormwater drains into St. John's Pond which is a tidal area. Stormwater flow from the new building would meet the 10% pollutant reduction requirement and would be directed away from the pond. Professor Underwood said that there were found no archeological resources at the proposed site, and no clearing would be necessary.

Dr. Underwood said that the technical aspects such as stormwater management and planting would be addressed at the design stage and submitted to the Commission.

A motion was made and seconded that the Commission approve St. Mary's College Science Building as proposed, and that the stormwater management and planting plans shall be submitted to the Subcommittee for review and approval. The vote was unanimously in favor.

Chairman North asked Dr. Underwood to report on St. Mary's College boathouse addition. Dr. Underwood reported that because at present the College did not have adequate storage facilities for sailboards and dinghys, it proposed to expand an existing boathouse located in the Buffer, on the St. Mary's River. He said that the boathouse currently occupied 1600 square feet. The expansion proposed is 198 square feet and would be used to store sailboards and equipment. The site had been used for storage of boat trailers. He said that there was no vegetation present, and additional plantings of trees and shrubs would be provided adjacent to the disturbed area and elsewhere on the boathouse grounds.

A motion was made and seconded that the Commission approve the St. Mary's College boathouse project as submitted. The vote was unanimously in favor.

Chairman North then asked Mr. Serey to report on Queen Anne Park at PortAmerica. Mr. Serey reported that in April, the Commission had approved various aspects of the Maryland-National Capital Park and Planning Commission's PortAmerica project such as the access ramp and Visitors Center. He said that the M-NCPPC had proposed the remaining elements of the Park which includes a trail, boat rental facility, and some exercise stations along the trail. He asked Mr. Steve Lotspeich to report on the details of the project.

Mr. Lotspeich explained that the proposed hiker/biker trail was a 12-foot wide section of the Potomac Heritage Trail and would extend around Smoot Bay under the Wilson Bridge, and link with another section of the trail north of the bridge. He said that almost the entire length of the trail would be in the Buffer. M-NCPPC proposed to align the trail, where possible, through open areas and around major trees. The trail surface would be pervious concrete stormwater would be directed away from the water and restoration of disturbed areas and afforestation would be provided.

Mr. Lotspeich said that the proposed fishing pier would extend into Smoot Bay from Rosalie Island. As part of this, a floating dock was proposed, which would be used for boat rental of non-motorized boats. A Clivus Multrum composting toilet would be located near the facility. An observation platform would be located near the tip of Rosalie Island and a rest shelter elsewhere on the trail. He said that a parking lot for 30 vehicles would be located at the State Visitor Center building. Stormwater would be managed for water quality through an infiltration trench.

Mr. Gutman asked if there would be any potential conflict with State Highways as that portion of the Washington Beltway near Woodrow Wilson Bridge is below standards and that at some future point, may therefore have to be expanded.

Mr. Lotspeich replied that there was a design competition going forth to figure out how to double the capacity of the Bridge, and the County would be making its contribution. He said that it was his understanding that any attempt to take out adjacent recreation facilities for highway purposes in the possible expansion of the Bridge would have to be dealt with as part of the 4-f environmental review process.

Mr. Price asked if the Visitors Center would be comparable to that proposed on Kent Island. Mr. Lotspeich answered that this center was not designed to be educational.

Mr. Glendening explained that project has space of offices and hotels and over 1,000 dwelling units and that the Visitors Center would be strictly commercially operated.

Deputy Secretary Cade, having recently walked the site with Mrs. Langner, added that it would be much more environmentally desirable to have the site developed properly and maintained than to have it used as it now is without controls or revegetation.

A motion was made and seconded that the Commission approve Maryland-National Capital Park and Planning Commission's proposed project at Queen Anne's Park at PortAmerica as submitted. The vote was unanimously in favor.

Chairman North asked Mr. Lotspeich to report on the Maryland-National Capital Park and Planning Commission's dredge disposal site in Anacostia River Park. Mr. Lotspeich reported that M-NCCPPC had been involved in a project with the Army Corps of Engineers to do maintenance dredging on the tidal Anacostia River from the Annapolis Road Bridge in Bladensburg and the Benning Road Bridge in the District of Columbia. He said that as

part of the dredging program, the County, as a local sponsoring agency for the project, has to provide dredge disposal areas. The District is not allowed to be a local sponsor even though half of the dredging project is in the District, so that M-NCCPC was proposing two dredge disposal areas totalling approximately 18 acres. He said that approximately 145,000 cubic yards of spoil would be dredged by the Corps. The dredging activity and the suitability of the disposal sites would be reviewed by the Corps and the National Marine Fisheries Administration. The site on the east side of the river had been used by the police as a practice shooting range, and the western site was a portion of a former landfill. He said that both sites have been highly disturbed and routinely used for dumping of trash and debris.

Mr. Zahniser asked what the primary reason for dredging would be. Mr. Lotspeich answered that the channel, which was both flood control and navigation channel was choked with approximately 145,000 cubic yards of sediment within the last 10 years, so this would be maintenance dredging.

Mr. Gutman asked what part of the second site was in the Critical Area and what their land classification was. Mr. Lotspeich answered that the entire site was in the Critical Area and because it was park land, it was in the Resource Conservation Area.

Mr. Gutman then asked if there was a mitigation plan for the project. Mr. Lotspeich answered negatively, but said that there was a reforestation plan for the landfill.

Mr. Hickernell asked if it was assured that tree buffering between the river and the disposal sites would be done. Mr. Lotspeich answered that discussion with the Corps of tree plantings was in progress, but the Corps would not allow plantings adjacent to the river because one of the sites was in the floodplain.

Mr. Hickernell asked if planting could be done on the constructed dike and eventually on the filled area so that there would be some mitigation. Mr. Lotspeich answered that that was a possibility in some of the areas.

A motion was made and seconded that the Commission approve the Maryland-National Capital Park and Planning Commission's Anacostia River Park dredge disposal sites as submitted with the condition that there be a plan for reforestation of the surrounding areas of the sites and that the plan be submitted to the Subcommittee for review and approval.

Chairman North asked Ms. Susan Lawrence to report on the Maryland Route 648 bridge replacement over the Potapasco River in Anne Arundel and Baltimore Counties. Ms. Lawrence reported that the State Highway Administration proposed to replace the existing bridge which was reaching the end of its safe service life. The new bridge would be a 412-foot long, four span, continuous steel beam bridge with a 38-foot wide clear roadway consisting of two 11-foot lanes and two eight-foot shoulders. The new bridge would not result in construction of additional lanes.

She said that the project would disturb approximately 2.5 acres and would require .9 acres of additional right-of-way in Patapasco Valley State Park, which was mostly wetlands. The area of the old bridge and approaches contained within the right-of-way that are not needed for this project would be regraded and landscaped to create wetlands consistent with the surrounding area. She said that efforts had been made to avoid or minimize harm and encroachment next to wetlands and sediment and erosion controls would be strictly enforced during construction.

The Project Evaluation Subcommittee recommended approval upon the condition that calculation for the 10% pollutant reduction requirement be submitted for subcommittee review and approval.

Mr. Gutman questioned the appropriateness of the condition in an area designated by Anne Arundel County as RCA. Mr. Serey explained the staff position as follows: County designations of State Lands are not binding on the Commission. An existing State road and bridge can be seen as constituting within the right-of-way, an Area of Intense Development under the Commission's State regulations. Therefore, a new bridge adjacent to the existing one can reasonably be classified as new development, requiring a reduction in pollutant loadings 10% below predevelopment levels.

Mr. Serey stated that the staff believed application of the requirement would produce water quality benefits. He said that the issue of whether to apply the requirement to all State Highway projects would be examined by the Commission during preparation of a General Approval.

A motion was made and seconded that the Commission approve the new bridge on Maryland Route 648 over the Patapasco River as submitted, with the condition that a 10% pollution reduction plan be submitted to the Subcommittee for review and approval. The vote was unanimously in favor.

A motion was made and seconded the the Commission approve the evaluation objectives for Baltimore County's Growth Allocation Competition. The vote was unanimously in favor.

Chairman North asked Ms. Zucker to report on the MOU with the Department of Agriculture on the mosquito control program in the Critical Area. Ms. Zucker reported that the MOU, as drafted, was the result of continuous and cooperative discussion between MDA and the CAC staff. She pointed out that mosquito control projects are complex and involve a variety of environmental issues and concerns and it was necessary to involve representatives for DNR who sit on MDA's Mosquito Control Advisory Committee. She introduced Dr. Stan Joseph to explain about the Department's mosquito program.

Dr. Joseph said that the program was responsible for administering and implementing mosquito control within the State. These activities include the conducting of open marsh water management, aerial and ground spraying and mosquito surveillance activities in the Critical Area. He said that the Department had developed modern pest management techniques that had been evaluated and shown to be effective and have not shown adverse effects. Some of the materials used are organophosphates, some are biological. There are approximately 20,000 acres of high salt marsh that are managed with ponds and ditches and wgucg are also being chemically treated.

Ms. Zucker then explained that the purpose of the MOU is to establish a coordinated process between the MDA and CAC for review and approval of mosquito control projects proposed for the Critical Area by the Mosquito Control Division of the MDA. Currently MDA uses the techniques of insecticide application and Open Marsh Water Management (OMWM) for mosquito control.

She said the MOU had now been finalized to the satisfaction of both MDA and CAC staff. She then explained some of the key provisions of the MOU and the responsibilities of the Departments.

It was asked who would be on the Advisory Committee. Ms. Zucker replied that she would be the Commission's representative.

A motion was made and seconded that the Commission approve the Memorandum of Understanding between the Maryland Department of Agriculture and the Critical Area Commission for mosquito control projects in the Critical Area. The vote was unanimously approved.

Under Old Business

Mr. Bostian referred to the discussion at the meeting of December 6th, 1989, concerning the appropriate legislation for changing the manner in which modifications would be made to the criteria. He asked what the status was in regard to the Commission's choice of Option #1.

Chairman North replied that that Option was now the subject of a request that he and Dr. Taylor meet with the members of the Oversight Committee to ask that it reconsider the position that it had taken (Option 2). After meeting with one of the Committee members, Chairman North reported that the Committee was not favorably inclined toward modifying the position that it had previously taken from Option #2. Chairman North said that the matter would be pursued further.

Mr. Bostian stated that he was not in favor of the Commission's position, which promoted the option of using the standard AELR regulation promulgation procedure.

Mr. Corkran wanted to make known his observation of the top of the new road running parallel to Route 50. He reported that there was a large amount of erosion flowing down an embankment into a culvert and then into the Creek. It appeared that someone had misplaced the polyethelene barrier. Mr. Corkran said that in regard to the MOU between the Commission and State Highway Administration, this should be brought to someone's attention.

Mr. Gutman replied that there had been an effort to move the MOU forward by sending a number of recommendations to State Highway. The Commission had not received a response to date.

There being no further business, the meeting was adjourned.

STATE OF MARYLAND
CRITICAL AREA COMMISSION
WEST GARRETT PLACE, SUITE 320
275 WEST STREET
ANNAPOLIS, MD 21401
(301) 974-2426

JD

TO: Dorchester Amendments Panel

FROM: Tom Ventre

SUBJECT: Draft Motions for Proposed
Local Program Amendments

DATE: February 7, 1990

1. Motion on DC-A 10: IT IS MOVED that the Chesapeake Bay Critical Area Commission approve the local award of growth allocation and reclassification of land in the Dorchester Critical Area awarded by the Dorchester County Commissioners on 12.1 acres for the subdivision known as "Deep Water, Phase II."

2. Motion on DC-A 11: IT IS MOVED that the Chesapeake Bay Critical Area Commission approve the proposed amendment to the Dorchester County Zoning Ordinance adding new language regarding the eligibility of non-subdivision development for growth allocation.

STAFF REPORT
HARFORD COUNTY GROWTH ALLOCATION AMENDMENT

2-7-90

SUBJECT: Three amendments are being considered: a text change in the Harford County Critical Area Program regarding policies for the dispersal of growth allocation, and two requests for growth allocation. A hearing was held on February 1, 1990.

COMMISSION ACTION: Vote on text and map changes; last date for action is April 23, 1990.

DESCRIPTION: The changes to the Critical Area program language include incorporating several policies regarding distribution of growth allocation:

- limiting growth allocation to 60 acres for the first year that growth allocation is awarded, and to 40 acres for subsequent years until growth allocation is exhausted;

- projects given growth allocation must initiate substantial construction within 2 years of the award (75% completion of infrastructure and 5% completion of building units);

- 30 acres of growth allocation is reserved for creating public waterfront recreational facilities;

- 20 acres is reserved for Havre de Grace for 5 years;

- projects must comply with any conditions of approval made during award of the growth allocation.

Language in the local ordinances is not being changed.

Two projects have been submitted to the Critical Area Commission for approval of growth allocation. Harford County has a total of 278 acres of growth allocation, 60 of which were used during program development. The current proposal is for 57.8 acres of growth allocation. Both projects are part of a planned unit development started in the 1970's.

One project requires 31.8 acres of growth allocation and is Riverside Business Park, owned by Bata Land Company. The area is proposed to go from RCA to IDA. The area is on the outer periphery of the Critical Area, adjacent to Rt. 40 near the Bush River. The land is not immediately adjacent to an IDA within the Critical Area, but it does meet the intent of being in an industrial area. It is an extension of an existing business park and is close to an existing IDA across Rt. 40. The project will exceed the 10% pollution reduction required for stormwater in an IDA by upgrading an existing stormwater facility for the entire business park by 30%. The improvement will be realized at a site outside the Critical Area, although stormwater will be managed on-site as well. Habitat Protection Areas are generally being avoided, although the forested riparian area being partially cleared could potentially be Forest Interior Dwelling Bird Habitat. No known threatened or endangered species are present. The clearing will not fragment the forest further and the riparian habitat will be preserved. Half of the project is on cleared fields, but 14.8 acres of forest are expected to be cleared. The forest cleared will be replaced on a

1:1 basis, although this is not required for IDAs. Some highly erodible soil series are mapped in this area, but site-specific testing of the soils has shown that the K-value is below .37, indicating that this map unit is not highly erodible. An area of 10.2 acres, mostly nontidal wetlands, is being excluded from the growth allocation request. The areas are adjacent to other undeveloped areas; these areas are owned by Bata Land Co. and are unlikely to be developed, but covenants have not been presented in the amendment package.

Pursuant to Natural Resources Article 8-1809(h), I move that the Commission approved the proposed text changes to the Harford County Critical Area Program document and approve 57.8 acres of growth allocation in Harford County on 2 parcels of land owned by Bata Land Co., subject to the following conditions:

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RECOMMENDATION: Approval with the following conditions:

1) that covenants restricting development are placed on at least 20 acres of contiguous land in the Critical Area containing and adjacent to the areas excluded from the two growth allocation requests.

2) that covenants restricting tree clearing are placed on the portion of lots within the 300-foot buffer from tidal waters for the Phase II Residential project.

STAFF: Anne Hairston

1:1 basis, although this is not required for IDAs. Some highly erodible soil series are mapped in this area, but site-specific testing of the soils has shown that the K-value is below .37, indicating that this map unit is not highly erodible. An area of 10.2 acres, mostly nontidal wetlands, is being excluded from the growth allocation request. The areas are adjacent to other undeveloped areas; these areas are owned by Bata Land Co. and are unlikely to be developed, but covenants have not been presented in the amendment package.

The other project, Phase II Residential, requires 26 acres of growth allocation and is going from RCA to IDA. Eighty-two detached single family homes are proposed, and the average density within the Critical Area will be 3.2 dwelling units per acre. The houses will be clustered in groups of four, using a flag lot concept to minimize impervious surfaces. It is adjacent to an existing IDA and will meet the 10% pollution reduction requirement for IDAs with a combination of on-site and off-site stormwater management. The parcel is completely forested, and 17 acres are expected to be cleared. Impervious surfaces are expected on 5.8 acres of the cleared area. Steep slopes are being avoided, although small inclusions of erodible soils may be disturbed. The 300-foot buffer to tidal waters for projects receiving growth allocation is not being met in all areas. Some of the proposed lots encroach on the buffer, although no physical disturbance such as houses would be in the buffer. The forested riparian area could be potential forest interior dwelling bird habitat, although no known threatened or endangered species are present. All forest cleared will be replaced on a 1:1 basis, although it is not required in an IDA. Fourteen acres are being excluded from the growth allocation request; they are adjacent to a 65-acre scenic easement owned by Bata Land Co., but specific covenants have not been included in the amendments.

RECOMMENDATION: Approval with the following conditions:

1) that covenants restricting development are placed on at least 20 acres of contiguous land in the Critical Area containing and adjacent to the areas excluded from the two growth allocation requests.

2) that covenants restricting tree clearing are placed on the portion of lots within the 300-foot buffer from tidal waters for the Phase II Residential project.

STAFF: Anne Hairston

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 89-73

Introduced by Council President Hardwicke at the request of the County Executive
Legislative Day No. 89-37 Date December 12, 1989

AN ACT to repeal and to re-enact with amendments Subsection A-3, heading Chesapeake Bay Critical Area Management Program of Section 169-1, heading Adoption; Legal Status, of Chapter 169, heading, Master Plan of the Harford County Code, as amended to provide for certain changes to the Land Use Management Area maps and to Subsection E, Growth Allocation Procedures contained in Chapter 2 of the Management Program, and to further provide that the Chesapeake Bay Critical Area Management Program, along with the amended Land Use Management Area Maps and all other maps and appendices which are attached hereto and made a part hereof as though it were fully stated herein, remains in all other respects unchanged.

By the Council, December 12, 1989

Introduced, read first time, ordered posted and public hearing scheduled on: January 9, 1990
at: 7:00 P.M.

By Order: Doris Poulsen, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on January 9, 1990, and concluded on, January 9, 1990

Doris Poulsen, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

The Secretary of the Council does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.

89-73

Doris Poulsen, Secretary

1 Section 1. Be It Enacted By The County Council of Harford County,
2 Maryland, that Subsection A(3), heading Chesapeake Bay Critical Area
3 Management Program of Section 169-1, heading, Adoption Legal Status
4 of Chapter 169 heading Master Plan of the Harford County Code as
5 amended, be, and it is hereby repealed and re-enacted with
6 amendments, all to read as follows:

7 Chapter 169. Master Plan.

8 Section 169-1. Adoption; Legal Status.

9 A. Incorporation by reference. The Master Plan, along with
10 maps and appendixes, is incorporated herein by reference as part of
11 this Chapter as though it were fully stated herein, and the Master
12 Plan is hereby declared to be the official County Master Plan.

13 [(3) Chesapeake Bay Critical Area Management Program. The
14 attached Chesapeake Bay Critical Area Management Program, along with
15 all maps and appendices is incorporated herein by reference as part
16 of this chapter as though it were fully stated herein, and the
17 Chesapeake Bay Critical Area Management Program is hereby declared
18 to be part of the official Harford County Master Plan.]

19 (3) CHESAPEAKE BAY CRITICAL AREA MANAGEMENT PROGRAM. THE
20 ATTACHED CHESAPEAKE BAY CRITICAL AREA MANAGEMENT PROGRAM, AS
21 AMENDED, ALONG WITH ALL MAPS AND APPENDICES INCLUDING THE AMENDED
22 LAND USE MANAGEMENT AREA MAPS IS INCORPORATED HEREIN BY REFERENCE AS
23 PART OF THIS CHAPTER AS THOUGH IT WERE FULLY STATED HEREIN, AND THE
24 CHESAPEAKE BAY CRITICAL AREA MANAGEMENT PROGRAM IS HEREBY DECLARED
25 TO BE PART OF THE OFFICIAL HARFORD COUNTY MASTER PLAN.

26 Section 2. And Be It Further Enacted that this Act shall take
27 effect sixty (60) calendar days from the date it becomes law.

EFFECTIVE:

89-73

E. Growth Allocation Procedures:

1. Amount of Area Available for Growth Allocation:

As noted above, development in the Resource Conservation Area (RCA) is limited to a density of 1 unit/20 acres. However, since this is a severe restriction on development, the Criteria included a provision for allowing some additional growth in undeveloped areas. An amount of land equal to 5% of the total amount of land designated as RCA (less any areas that are designated as tidal wetlands) can be developed at a higher density than would otherwise be allowed by the Criteria - one half of which can be located in areas designated as RCA and the other half in areas designated as LDA. In Harford County, 6174 acres have been designated as RCA, including 137 acres within the corporate limits of Havre de Grace. If the tidal wetland areas are subtracted (622 acres; including 27 acres within Havre de Grace) this allows a growth allocation of 278 acres - 139 acres of which is available for more intense development than would otherwise be allowed in LDA's.

It should also be noted that any alteration of the areas designated as RCA by the construction of facilities that are approved by the State rather than the local government, (i.e. power plants) will not be counted against a County's growth allocation.

2. Factors Guiding Growth Allocation Decisions:

The Criteria contain the following guidelines relating to growth allocation:

- New Intensely Developed Areas should be located in Limited Development Areas or adjacent to existing Intensely Developed Areas;
- New Limited Development Areas should be located adjacent to existing Limited Development Areas or Intensely Developed Areas;
- No more than one half of the allocated expansion shall be located in Resource Conservation Areas;
- New Intensely Developed Areas and Limited Development Areas should be located in order to minimize impacts to Habitat Protection Areas and in an area and in a manner that optimizes benefits to water quality;
- New Intensely Developed Areas should be located where they minimize their impacts to the defined land uses of the Resource Conservation Area;
- New Intensely Developed Areas and Limited Development Areas in the Resource Conservation Area should be

located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.

In evaluating applications for growth allocations in Harford County, the following policies and site specific factors will be considered in making any allocation awards:

General Policies

- a. In order to preserve opportunities for further growth in Harford County's Critical Area, the maximum amount of growth allocation that will be granted in any one year is as follows:

1989 - 60 acres
1990 and thereafter - 40 acres

- b. Due to the unique nature of the growth allocation process, and in order to maximize opportunities for a variety of projects with the greatest public benefits, growth allocation awards shall only be made to projects which can substantiate that the initiation of substantial construction can occur within 24 months of receiving the award. Subject to the review and approval of the Zoning Administrator, a maximum of two, six-month extensions may be granted for extenuating circumstances beyond all reasonable control of the applicant. Initiation of substantial construction shall be defined as being the point at which public infrastructure improvements have been approved and are 75% or more complete in their construction within the first phase and building permits have been issued and foundation work complete on a minimum of 5% of the units in the first phase of an approved project.

Inability to meet these time requirements may be grounds for a revocation of any allocation, with the acreage involved to be returned to the total allocation available to the County.

- c. Due to the need to preserve opportunities for the future development of publicly owned park and recreation facilities within the Critical Area which may require a growth allocation, a minimum of 30 acres of the total allocation available shall be reserved exclusively for such public recreational uses.
- d. In acknowledgement of the responsibility that the County has under the Critical Area Program to insure some continued opportunity for the expansion of the City of Havre de Grace within the Critical Area, a minimum of 20 acres of the total allocation available to the County for upgrade from RCA to other land use designations shall be reserved for the City for a time period of 5 years. At the end of this 5 year

period, if any of this acreage has not been utilized, the acreage shall be returned to the total acreage available for growth allocation in other areas of the County. All other policies and site-specific factors outlined in this program shall also apply to the review of growth allocations within the City of Havre de Grace.

- e. Due to the need to insure that any projects receiving a growth allocation shall be developed as originally represented by the applicants in the Critical Area Assessment Reports, all allocation awards shall comply with such conditions of approval as determined by the County for each project or suffer revocation of their growth allocation award.

Specific Factors

- a. The amount of forested area and other vegetative cover that is left undisturbed and thus retains its value for wildlife habitat and water quality protection.
- b. Additional public benefits that will be provided by the development, such as provision of public access facilities or acceleration of the provision of public water and sewer to areas with existing health problems (financial contribution to construction of sewerage treatment plant or associated facilities), etc.
- c. Use of "innovative" site design and construction design features to minimize the disturbance of natural areas and reduce the potential impacts on Habitat Protection Areas and adjacent RCA areas. These features could include, but are not limited to:
1. the use of cluster development,
 2. the use of shallow-marsh creation stormwater management measures,
 3. the use of buffer areas to minimize impacts on existing habitats and wildlife corridors and protect adjacent natural and developed areas from impacts of the proposed development,
 4. the use of permeable paving surfaces to minimize the creation of impervious surface areas,
 5. the use of appropriate landscaping plans and materials to enhance the establishment of vegetated areas on the project site.
- d. Strict compliance with the guidelines for growth allocation listed in the Criteria will generally be required. However, the requirement for a 300 foot buffer may be reduced by the Zoning Administrator.

- e. Since the Criteria require that the amount of forest land located in areas designated as Resource Conservation Areas and Limited Development Areas not be reduced (and when possible, increased), all projects given a growth allocation will have to replace all forest areas removed on a one-to-one basis. If such replacement is not feasible, an in-lieu fee per square foot of area cleared will have to be paid to the County at the then prevailing rate.
- f. Since adverse impacts on water quality from such projects are to be minimized, pollutant loading from projects granted growth allocation will have to be maintained at pre-development levels, and in the case of new Intensely Developed Areas reduced 10% from pre-development levels.
- g. In addition, development on slopes greater than 15% as measured before development, will be prohibited.
- h. Development will only be allowed on soils having development constraints if it includes mitigation measures that adequately address the identified constraints and if it will not have significant adverse impacts on water quality or plant, fish, or wildlife habitat.

Consideration will also be given as to whether the County was formally contacted regarding proposed development on a site that is proposed for growth allocation prior to December 1, 1985.

3. Approval Process:

In order for the County to adequately evaluate requests for growth allocations, the information required for concept plan or preliminary plan approval in the Critical Area (as appropriate) must be submitted and accompanied by a statement by the applicant on how the proposed development addresses the policies and factors noted above.

All project requests will be given an initial review for the completeness and adequacy of the application materials, and applicants will be notified within thirty days of the sufficiency/insufficiency of their applications. Applicants will be encouraged to consult informally with the staff of the Department of Planning and Zoning regarding the adequacy of their proposal prior to its formal submittal.

Applications for growth allocation will be considered an amendment to the land use management area boundaries shown on the overlays to the County tax maps. Such applications will be reviewed on an annual basis with applications to be submitted by January 1st and the County Council to take final action by July 1st. Such growth allocation will be reviewed by the Department of Planning and Zoning and then

forwarded to the Planning Advisory Board for their review and action. The Board shall then transmit their recommendation to the County Council for final local action by the Council after holding a public hearing.

All growth allocation amendments approved by the Council shall be forwarded to the Critical Areas Commission within thirty (30) days of the Council's final action. No amendment shall be considered final pending action by the State of Maryland Critical Areas Commission.

Any area proposed for annexation by a municipality where the proposed use on the parcel requires a change in the land use management area (i.e., RCA to LDA or IDA, etc.) shall be subject to the above approval process for growth allocation requests.

Pursuant to Nat. Res. Act. § 8-1809(h)

I move that the Commission approve the proposed text
change to the ^{Herford Co.} Critical Area Program document and approve 578 acres
of growth allocation for 3 parcels of land owned by Bata Land Co.

CHESAPEAKE BAY CRITICAL AREA COMMISSION
275 West Street, Suite 320
Annapolis, Maryland 21401

February 7, 1990

MEMORANDUM

TO: Critical Area Commission Members
FROM: Critical Area Commission Staff
SUBJECT: Commission Meeting Today

Attached are staff reports for items on today's agenda.

RS:msl

Attachments

STAFF REPORT

February 7, 1990

Jurisdiction:

St. Mary's County

Issue:

Program changes before local adoption

Recommendation:

APPROVAL

Discussion:

St. Mary's County proposes changes to its approved Critical Area Program as permitted under Section 8-1809(e) of the Critical Area Law. This section provides that a jurisdiction may propose changes after Commission approval but before local adoption. The Commission must approve the changes, or disapprove them in writing within 30 days of receipt. If no action is taken by the Commission, a proposed change is deemed approved. Changes may not be adopted locally without Commission approval.

The County's proposed changes were received February 7, 1990. The changes include the following:

1. Administrative additions: official description of maps at scale of 1 inch equals 600 feet, Growth Allocation procedures which require sewer service for change to IDA for residential purposes, and deleting points in Growth Allocation competition for performance outside of Critical Area.

2. Technical corrections: Areas may qualify for IDA designation at time of original mapping if residential density was three dwelling units per acre with water and sewer service; County amendment procedures; acknowledging that existing nonconforming uses may continue; intra-family transfers must contain qualifying acreage within Critical Area; required date for Soil Conservation and Water Quality Plans; policies for creating new agricultural land now consistent with

Staff Report
February 7, 1990
Page Two

Criteria; definition of water-dependent facilities.

3. Map revisions: two parcels corrected to include small, qualifying portions of LDAs designated RCA through oversight; two parcels changed from RCA to LDA after re-evaluation according to approved mapping rules; one parcel changed from LDA to RCA after reevaluation according to approved mapping rules.

Contact person:

Ren Serey

STAFF REPORT

February 7, 1990

Program Amendment:

Betterton Critical Area Program
Betterton Zoning Ordinance

Recommendation:

APPROVAL

Subject:

The amendment addresses the process for review and approval of an application for growth approval and amendments to the Critical Area Program. Previously, the process called for the Planning commission to submit amendments and growth allocation requests to the Critical Area Commission, without any type of approval of the Mayor and Town Council. This program amendment changes the process by having the Mayor and Town Council take action on an amendment/growth allocation and then submitting it to the Critical Area Commission.

This amendment also indicates typographical/editorial corrections to the Betterton Critical Area Program.

Contact person:

Pat Pudelkewicz

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: DC-A 10

JURISDICTION: Dorchester County

TYPE: Growth Allocation/Land Reclassification for a Residential Subdivision (Deep Water, Phase II)

ALLOCATION: 12.1 acres (more or less)

RECLASSIFICATION: RCA to LDA

REASON: To allow residential development at higher density

LOCAL STATUS: Subsequent to local advertised public hearing, an award of growth allocation was granted by the Dorchester County Commissioners, 11-14-89; request for review and action submitted to CBCAC 12/6/89.

DESCRIPTION: The proposed subdivision is situated on peninsula surrounded by waters of Fishing Creek and Church Creek (tributary and subtributary, respectively, of the Little Choptank River. The peninsula is known locally as "Deep Point." The site is approximately seven crow-flight miles southwest of the center of Cambridge. The rectangular site lies in an east-west orientation. The eastern and western thirds lie within the Critical Area, and are classified respectively as "LDA" and "RCA." The middle third of the site lies outside the Critical Area.

The developers of "Deep Water, Phase II" propose to subdivide 34.37 acres into 14 building lots (and roadways). The request for growth allocation and reclassification applies to 12.1 acres at the western end of the site, which is presently classified as "RCA." Land immediately adjacent to the north of the request is classified "LDA."

Local Program Amendment
DC-A 10

The Phase II lots would be served by a single on-site private wastewater treatment system, presumably of the "bermed infiltration pond (BIP)" type. The area indicated for the effluent pond (141,453 sq. ft.) would be situated on the middle portion of the site, outside the critical-area lines. The average size of the 13 building lots is 2.09 acres.

SITE VISIT: Staff visited the site on January 12, 1990, accompanied by Commissioner Krech. The site was a farm until recently. The terrain is very flat, very low and very wet. There is one 2-story house with outbuildings; presumably this was the farm house. Gravel roadways with parallel drainage ditches are in place. To the north lies a settlement of smaller, older homes along the Fishing Creek shoreline, typical of older Bayfront communities. The only road access to this community as well as to the proposed subdivision is via Deep Point Road, off Maryland Route 16.

LOCAL PANEL HEARING: January 22, 1990/7:30 p.m./Cambridge

CBCAC ACTION BY: March 6, 1990

PANEL RECOMMENDATION:

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: DC-A 11

JURISDICTION: Dorchester County

TYPE: Amendment to Local Implementing Ordinance
(Zoning)

REASON: Add new language to Zoning Ordinance --
eligibility requirements for growth allocation,
and review procedure

LOCAL STATUS: Amendment approved by County Commissioners
12/6/89; submitted for CBCAC review and action
12/13/89.

DESCRIPTION: (See reverse.) The proposed amendment would
add a growth allocation review procedure to the
Dorchester County Zoning Ordinance, similar to
language already contained in the County's sub-
division regulations. The objective is to
clarify ordinance language concerning the eligi-
bility of "nonsubdivision" development for
growth allocation and reclassification.

LOCAL PANEL

HEARING: January 22, 1990/7:30 p.m./Cambridge

CBCAC ACTION BY: March 13, 1990

PANEL
RECOMMENDATION:

FEBRUARY 7, 1990

" N. Growth Allocation

(1) Eligibility requirements. To be considered for growth allocation a proposed development project shall meet the following criteria:

(a) Land which is designated as a Resource Conservation Area (RCA) may be converted to a Limited Development Area (LDA). Land which is designated as a Limited Development Area (LDA) may be converted to an Intensely Developed Area (IDA). Conversion from a higher to a lower development zone shall not require growth allocation.

(b) The tract of land -- any portion of which may be proposed for development requiring growth allocation and reclassification -- shall be at least five (5) acres in size.

(c) A proposed residential development must exceed one (1) dwelling unit per twenty (20) gross acres.

(d) Commercial and industrial developments are eligible for growth allocation. The specific development zone designation for the proposed development shall be determined by the requirements of the Dorchester County Ordinance. In absence of a specific development zone designation for a specific proposed use, the Planning Commission shall determine the proper development zone designation for the proposed use.

(e) The site must have frontage on and be accessible from a public road, or a private road with right of access.

(f) The site must be serviceable by the extension of existing public sanitary sewer and water systems, or must be demonstratively capable of supporting on-site sewer and water systems acceptable to the Maryland Department of Health and Mental Hygiene.

(2) Special submission requirements and procedure for review of submissions. The special submission requirements and the procedure for reviewing the submission of growth allocation requests shall be identical to those required in the Dorchester County Subdivision Regulations. "

STAFF REPORT
HARFORD COUNTY GROWTH ALLOCATION AMENDMENT

2-7-90

SUBJECT: Three amendments are being considered: a text change in the Harford County Critical Area Program regarding policies for the dispersal of growth allocation, and two requests for growth allocation. A hearing was held on February 1, 1990.

COMMISSION ACTION: Vote on text and map changes; last date for action is April 23, 1990.

DESCRIPTION: The changes to the Critical Area program language include incorporating several policies regarding distribution of growth allocation:

- limiting growth allocation to 60 acres for the first year that growth allocation is awarded, and to 40 acres for subsequent years until growth allocation is exhausted;
 - projects given growth allocation must initiate substantial construction within 2 years of the award (75% completion of infrastructure and 5% completion of building units);
 - 30 acres of growth allocation is reserved for creating public waterfront recreational facilities;
 - 20 acres is reserved for Havre de Grace for 5 years;
 - projects must comply with any conditions of approval made during award of the growth allocation.
- Language in the local ordinances is not being changed.

Two projects have been submitted to the Critical Area Commission for approval of growth allocation. Harford County has a total of 278 acres of growth allocation, 60 of which were used during program development. The current proposal is for 57.8 acres of growth allocation. Both projects are part of a planned unit development started in the 1970's.

One project requires 31.8 acres of growth allocation and is Riverside Business Park, owned by Bata Land Company. The area is proposed to go from RCA to IDA. The area is on the outer periphery of the Critical Area, adjacent to Rt. 40 near the Bush River. The land is not immediately adjacent to an IDA within the Critical Area, but it does meet the intent of being in an industrial area. It is an extension of an existing business park and is close to an existing IDA across Rt. 40. The project will exceed the 10% pollution reduction required for stormwater in an IDA by upgrading an existing stormwater facility for the entire business park by 30%. The improvement will be realized at a site outside the Critical Area, although stormwater will be managed on-site as well. Habitat Protection Areas are generally being avoided, although the forested riparian area being partially cleared could potentially be Forest Interior Dwelling Bird Habitat. No known threatened or endangered species are present. The clearing will not fragment the forest further and the riparian habitat will be preserved. Half of the project is on cleared fields, but 14.8 acres of forest are expected to be cleared. The forest cleared will be replaced on a

1:1 basis, although this is not required for IDAs. Some highly erodible soil series are mapped in this area, but site-specific testing of the soils has shown that the K-value is below .37, indicating that this map unit is not highly erodible. An area of 10.2 acres, mostly nontidal wetlands, is being excluded from the growth allocation request. The areas are adjacent to other undeveloped areas; these areas are owned by Bata Land Co. and are unlikely to be developed, but covenants have not been presented in the amendment package.

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RECOMMENDATION: Approval with the following conditions:

1) that covenants restricting development are placed on at least 20 acres of contiguous land in the Critical Area containing and adjacent to the areas excluded from the two growth allocation requests.

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STAFF: Anne Hairston

BILL NO. 89-73

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 89-73

Introduced by Council President Hardwicke at the request of the County Executive

Legislative Day No. 89-37 Date December 12, 1989

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By the Council, December 12, 1989

Introduced, read first time, ordered posted and public hearing scheduled

on: January 9, 1990

at: 7:00 P.M.

By Order: Doris Loulsen, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on January 9, 1990, and concluded on, January 9, 1990

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EFFECTIVE:

89-73

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- b. Due to the unique nature of the growth allocation process, and in order to maximize opportunities for a variety of projects with the greatest public benefits, growth allocation awards shall only be made to projects which can substantiate that the initiation of substantial construction can occur within 24 months of receiving the award. Subject to the review and approval of the Zoning Administrator, a maximum of two, six-month extensions may be granted for extenuating circumstances beyond all reasonable control of the applicant. Initiation of substantial construction shall be defined as being the point at which public infrastructure improvements have been approved and are 75% or more complete in their construction within the first phase and building permits have been issued and foundation work complete on a minimum of 5% of the units in the first phase of an approved project.

Inability to meet these time requirements may be grounds for a revocation of any allocation, with the acreage involved to be returned to the total allocation available to the County.

- c. Due to the need to preserve opportunities for the future development of publicly owned park and recreation facilities within the Critical Area which may require a growth allocation, a minimum of 30 acres of the total allocation available shall be reserved exclusively for such public recreational uses.
- d. In acknowledgement of the responsibility that the County has under the Critical Area Program to insure some continued opportunity for the expansion of the City of Havre de Grace within the Critical Area, a minimum of 20 acres of the total allocation available to the County for upgrade from RCA to other land use designations shall be reserved for the City for a time period of 5 years. At the end of this 5 year

period, if any of this acreage has not been utilized, the acreage shall be returned to the total acreage available for growth allocation in other areas of the County. All other policies and site-specific factors outlined in this program shall also apply to the review of growth allocations within the City of Havre de Grace.

- e. Due to the need to insure that any projects receiving a growth allocation shall be developed as originally represented by the applicants in the Critical Area Assessment Reports, all allocation awards shall comply with such conditions of approval as determined by the County for each project or suffer revocation of their growth allocation award.

Specific Factors

- a. The amount of forested area and other vegetative cover that is left undisturbed and thus retains its value for wildlife habitat and water quality protection.
- b. Additional public benefits that will be provided by the development, such as provision of public access facilities or acceleration of the provision of public water and sewer to areas with existing health problems (financial contribution to construction of sewerage treatment plant or associated facilities), etc.
- c. Use of "innovative" site design and construction design features to minimize the disturbance of natural areas and reduce the potential impacts on Habitat Protection Areas and adjacent RCA areas. These features could include, but are not limited to:
1. the use of cluster development,
 2. the use of shallow-marsh creation stormwater management measures,
 3. the use of buffer areas to minimize impacts on existing habitats and wildlife corridors and protect adjacent natural and developed areas from impacts of the proposed development,
 4. the use of permeable paving surfaces to minimize the creation of impervious surface areas,
 5. the use of appropriate landscaping plans and materials to enhance the establishment of vegetated areas on the project site.
- d. Strict compliance with the guidelines for growth allocation listed in the Criteria will generally be required. However, the requirement for a 300 foot buffer may be reduced by the Zoning Administrator.

- e. Since the Criteria require that the amount of forest land located in areas designated as Resource Conservation Areas and Limited Development Areas not be reduced (and when possible, increased), all projects given a growth allocation will have to replace all forest areas removed on a one-to-one basis. If such replacement is not feasible, an in-lieu fee per square foot of area cleared will have to be paid to the County at the then prevailing rate.
- f. Since adverse impacts on water quality from such projects are to be minimized, pollutant loading from projects granted growth allocation will have to be maintained at pre-development levels, and in the case of new Intensely Developed Areas reduced 10% from pre-development levels.
- g. In addition, development on slopes greater than 15% as measured before development, will be prohibited.
- h. Development will only be allowed on soils having development constraints if it includes mitigation measures that adequately address the identified constraints and if it will not have significant adverse impacts on water quality or plant, fish, or wildlife habitat.

Consideration will also be given as to whether the County was formally contacted regarding proposed development on a site that is proposed for growth allocation prior to December 1, 1985.

3. Approval Process:

In order for the County to adequately evaluate requests for growth allocations, the information required for concept plan or preliminary plan approval in the Critical Area (as appropriate) must be submitted and accompanied by a statement by the applicant on how the proposed development addresses the policies and factors noted above.

All project requests will be given an initial review for the completeness and adequacy of the application materials, and applicants will be notified within thirty days of the sufficiency/insufficiency of their applications. Applicants will be encouraged to consult informally with the staff of the Department of Planning and Zoning regarding the adequacy of their proposal prior to its formal submittal.

Applications for growth allocation will be considered an amendment to the land use management area boundaries shown on the overlays to the County tax maps. Such applications will be reviewed on an annual basis with applications to be submitted by January 1st and the County Council to take final action by July 1st. Such growth allocation will be reviewed by the Department of Planning and Zoning and then

forwarded to the Planning Advisory Board for their review and action. The Board shall then transmit their recommendation to the County Council for final local action by the Council after holding a public hearing.

All growth allocation amendments approved by the Council shall be forwarded to the Critical Areas Commission within thirty (30) days of the Council's final action. No amendment shall be considered final pending action by the State of Maryland Critical Areas Commission.

Any area proposed for annexation by a municipality where the proposed use on the parcel requires a change in the land use management area (i.e., RCA to LDA or IDA, etc.) shall be subject to the above approval process for growth allocation requests.

STAFF REPORT

February 7, 1990

Program Amendment:

Betterton Critical Area Program
Betterton Zoning Ordinance

Recommendation:

APPROVAL

Subject:

The amendment addresses the process for review and approval of an application for growth approval and amendments to the Critical Area Program. Previously, the process called for the Planning commission to submit amendments and growth allocation requests to the Critical Area Commission, without any type of approval of the Mayor and Town Council. This program amendment changes the process by having the Mayor and Town Council take action on an amendment/growth allocation and then submitting it to the Critical Area Commission.

This amendment also indicates typographical/editorial corrections to the Betterton Critical Area Program.

Contact person:

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