

Commission Meetings & Corresp.

May 1990

MSA - 51832 - 70

PRELIMINARY AGENDA

May 2, 1990

Chesapeake Bay Critical Area Commission
275 West Street, Suite 320
Annapolis, Maryland 21401

1:00 - 1:10 Approval of Minutes of April 4, 1990 Robert Price, Vice Chairman

REGULATIONS

1:10 - 1:45 Vote on Issues Leading to the Promulgation of Draft Oil & Gas Regulations Liz Zucker, Scientific Advisor

PROGRAMS & AMENDMENTS

1:45 - 2:30 Votes on Local Critical Area Programs for:

need final public hearings
a) Mardela Springs (tentative) Shep Krech, Chair
Tom Ventre, Planner
b) Sharptown (tentative) " " "
c) Salisbury *approved* Bill Bostian, Chair
Tom Ventre, Planner

2:30 - 2:50 ✓ Vote on Program Amendment Process Change for Town of Rock Hall *approved* Kathryn Langner, Chair
Pat Pudelkewicz, Planner

2:50 - 3:20 Votes on Program Amendments for Dorchester County:

a) Text Amendment to Ordinance *approved* Bob Schoeplein, Chair
b) Growth Allocation - Subdivision - McCauley (Interim Project) *denied* Tom Ventre, Planner
c) Growth Allocation - Riverview Subdivision (de novo) *approved*

3:20 - 3:45 ✓ Vote on Cecil County Anne Hairston, Planner
Request to Extend Time-
Frame for Growth Allocation Process

PROJECTS

3:45 - 4:10 Vote - Point Lookout State Sam Bowling, Co-Chair
Park's Wastewater Treatment Kathryn Langner, Co
Plant and Operating -Chair
Lift Stations Dawnn McCleary,
St. Mary's County, Planner
Maryland Environmental
Services (MES)

4:10 - 4:30 Vote - Hyattsville Waste- Ren Serey
water Treatment Plant -
Pumping Station

LEGISLATIVE REPORT

4:30 - 4:45 *passed* HB 1060 *imp surface 3rd reader* Sarah Taylor, Ph.D
passed HB 1062 *pgm amendment/retirement*
HB 1063

4:45 - 5:00 Old Business Robert Price,
New Business Vice Chairman



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

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.

May 1, 1990

Proposed Amendments to the Minutes of the April 4th, 1990
Commission Meeting.

On page 8, Paragraph 2, Line 4:

Insert **not** before "an alternative;"

Replace could with **should not** before - "promulgate".

On page 8, Paragraph 7, Line 3:

Replace Bay with **Critical Area**.

On page 21, Paragraph 10, Line 1:

Insert **Conditional Approval** before "regulations".

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

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
April 4, 1990

*Amended.
Appr. as
Corrected*

5/2/90

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:

Ronald Adkins
Samuel Y. Bowling
Joseph J. Elbrich, Jr.
James E. Gutman
Thomas L. Jarvis
Kathryn D. Langner
Robert R. Price, Jr.
Albert W. Zahniser
Carolyn Watson
for Parris Glendening
Deputy Secretary Griffin
of DNR
Deputy Secretary Cade
of DCHD

Russell Blake
Victor K. Butanis
Ronald Hickernell
William H. Corkran, Jr.
Shepard Krech, Jr.
G. Steele Phillips
Michael J. Whitson
Roger W. Williams
Fred Samadani
for Louise Lawrence
Ronald Kreitner of MOP
Robert Schoeplein of DEED
Assistant Secretary Naylor
of DOE

The Minutes of the Meeting of March 7, 1990 were approved as written.

Chairman North introduced Mr. Michael Whitson, the new representative to the Commission from St. Mary's County.

Chairman North asked Mr. Gutman and Ms. Pudelkewicz to report on the Queen Anne's County Program amendments for Thompson Creek Townhomes, Inc., by Thompson Creek Townhomes Joint Venture, and Critical Area ordinance text amendment.

Ms. Pudelkewicz reported that Queen Anne's County had requested a map amendment and a text amendment. She explained that the map amendment for an area on Kent Island on Thompson's Creek was based on a mistake in the original designation. The area was originally designated LDA and should have been designated IDA. On the existing Queen Anne's County Critical Area maps, the area mapped by mistake as LDA is flanked entirely by IDA on two different sides. There are condominium units which are high density residential and were existing as of Dec. 1, 1985. The computation of housing density in the residentially zoned neighborhood is equal to a density of 3.5 dwelling units per acre which is one of the requirements for IDA. In addition, as of December 1, 1985, there was existing water and sewer in this area. Adjacent to the parcel in question, there are existing sewer lines along Thompson Creek Road and existing public water serving the

Critical Area Commission
Minutes - April 4, 1990

high density condominium units. There is existing sewer and water in the high density area and existing IDA adjacent to the property. She stated that the Panel recommended that the map amendment be accepted as proposed.

Mr. Bowling remarked that the staff report indicated the average density unit of 3.5 DU/A met the LDA requirement and asked if 3.5 - 4 was an LDA designation or an IDA designation.

Ms. Pudelkewicz explained that the existing sewer and water raised the number of dwelling units per acre.

A motion was made and seconded that the Critical Area Commission approve the Queen Anne's County map amendment based on the sewer and water availability, the residential density as of December 1, 1985, and the IDA designation for the adjoining and nearby parcels. The vote was unanimously in favor.

Ms. Pudelkewicz then reported on the County's ordinance text amendment. She explained that currently, the Queen Anne's County Critical Area Ordinance prohibits "new commercial and industrial uses" in the RCA. Industrial uses are subdivided into 6 categories in the Zoning Ordinance. This amendment would solely prohibit the following industrial uses in the RCA: "light industrial, heavy industrial, extraction and disposal and effluent disposal." New, allowed "industrial" uses would be: towers and minor extraction and dredge disposal uses.

Ms. Pudelkewicz said that in review of this text amendment, the Panel recommended that the County omit lateral oil and gas drilling and extraction because the Commission was currently developing oil and gas regulations and believed that it was not appropriate to deal with that issue at this time. Also, the amendment is not clear as to what storage operations would be allowed, or what they would entail. She said that the panel recommended that the County specify what the storage operations pertain to. The panel's recommendation was for approval of the text amendment but with two conditions: 1) that they omit the lateral oil and gas drilling and, 2) that they specify what the storage operations are.

A motion was made and seconded that the Commission approve Queen Anne's County ordinance text amendment, section 6007, with the following conditions that must be made:

- 1) Omit "lateral oil and gas drilling and extraction." The panel believes this issue should be excluded until such time as the Critical Area Commission adopts its oil and gas regulations.
- 2) Specify what the "storage operations" pertain to. If

Critical Area Commission
Minutes - April 4, 1990

"storage operation" pertains to the sand and gravel extraction, then this should be so stated. If it applies to anything else, it must be resubmitted to the Commission for approval.

The vote was unanimously in favor.

Judge North asked Mr. Bostian and Tom Ventre to report on the Worcester County Program.

Tom Ventre reported that the Commission staff had received the third draft of the County's proposed Critical Area Protection Program. The County had difficulties with its Program concerning content, direction, and some administrative errors. The staff, after having reviewed the draft with input from Commission Counsel Lee Epstein, was satisfied that the County had responded to all the concerns previously expressed by the Commission and by the staff to the previous drafts. He said the staff had some reservations about the clarity of certain matters in the present draft, particularly with regard to the identification and designation of Habitat Protection Areas. He said that he and Ms. Pudelkewicz had made a visit to Snow Hill and reviewed the staff's concerns with the local planning staff and explained to them that some changes to the text and maps would have to be made in order to be a fully complete and acceptable Program. He said that the County was willing to do this.

Mr. Ventre recommended approval of the Program to the Commission with the clear understanding that subsequent to the approval, the County would incorporate the changes with our guidance between now and the local adoption which is the final procedural act before the Program goes into effect. Members of the Commission's Worcester County Panel agreed with the recommendation. A new draft with a completely new set of maps was submitted.

A motion was made and seconded that the Commission approve the Program conditional upon the County making changes as specified by the staff - including some textual changes, changes for greater clarification and specification in implementing ordinances, and the editing of the maps regarding Habitat Protection Areas. The vote was carried unanimously.

Judge North then asked Ms. Kathryn Langner and Ms. Anne Hairston to report on the map amendments for the Town of North East, North East Station - BTR Realty.

Ms. Hairston said that the County and Town were seeking amendments to their Critical Area maps as a result of annexation of North East Station, an 80-acre parcel with 11.2 acres in the

Critical Area Commission
Minutes - April 4, 1990

Critical Area. Because the annexation will change the maps of both the County and the Town, the jurisdictions are seeking map amendments pursuant to Natural Resources Article 8-1809 (g) & (h). The Critical Area hearing was held Tuesday, March 6, in North East.

Mr. Hickernell asked what the maximum distance from the property line to the boundary of the Critical Area happened to be.

Ms. Hairston replied 300 - 400 feet. Ms. Hairston informed the Commission they must vote on this amendment by April 22 for the Cecil County map amendment and by May 13th for the North East amendment.

Mr. Bowling asked if at the hearing on March 6th there was any public participation or any opposition expressed at that meeting involving controversy. Ms. Hairston replied that there was not a large public in attendance. The Town Administrator, Melissa Cook, said that there was no controversy at all. Ms. Hairston said that the map amendments are procedural because when an annexation is done the map is changed. The staff recommendation was for approval.

A motion was made and seconded that the Commission approve the map amendments for the Annexation of 11.2 acres of Limited Development Area from Cecil County to the Town of North East, North East Station, c/o BTR Realty. The vote was unanimously in favor.

Chairman North then asked Mr. Ren Serey to report on the project concerning the Maryland Toll Facilities Police Headquarters and Academy /Maryland Transportation Authority.

Mr. Serey reported that at the January Commission meeting, the Project Evaluation Subcommittee discussed the proposed building and parking lot (located at the Key Bridge) with representatives from the Maryland Transportation Authority. Several concerns were raised regarding stormwater management and activity in the Buffer. One primary comment and recommendation was that as much impervious surface as possible be removed from the Buffer. The Transportation Authority, working closely with Ms. Susan Lawrence, met with the Baltimore County Planners. All of the concerns of the subcommittee and of Baltimore County have been addressed.

Mr. Keith Durling, Maryland Transportation Authority, described the project as a new facility for the Key Bridge Detachment and as a general training facility for the Authority. Existing facilities are meager or they don't exist. Choices for the facility included one near the Harbor Tunnel and Fort Mchenry, and the proposed site at the Key Bridge. The latter was believed to be a good site because it had been degraded over the years and

Critical Area Commission
Minutes - April 4, 1990

would be substantially cleaned up by the Transportation Authority as part of the project. The design of the building fit exactly within the space at that site for proper functioning, and the site location was described as industrial in nature. Concerns were expressed regarding runoff and pavement within the Buffer area. In reviewing both those issues, it was determined that the pavement could be removed, and the Buffer returned to a vegetated state that would serve as a filtering mechanism for the runoff.

Ms. Susan Rudy, Consultant to MTA, said that approximately 11 acres will drain to the Stormwater Management Basin which will be located within the loop of the Bridge exit ramp. Approximately 3 1/2 acres of the existing impervious surface not associated with the site will be treated. She said stormwater ponds work on the basis of settling and work best with the dirtiest water. Wetland vegetation will be planted in the basin, and a vegetated strip will intercept most of the runoff. Re-directing the flow from the building runoff was another option. The water from the roof is fairly clean and will flow out to the Creek without flowing back to the basin. She stated that overall, the quality of the stormwater will be improved and the volume will be reduced.

Mr. Elbrich asked if there was an existing stormwater structure on the property and if so, whether it received stormwater directly as sheet flow. Ms. Rudy replied that it currently drains into the pond, but anything outside of the pond drains off as sheet flow from the building site.

Mr. David Flowers, from the Baltimore County Department of Environmental Protection and Resource Management, commented that Baltimore County has been working with the consultant on the stormwater management issues. He said that certain technical issues have yet to be worked out, but that the consultant has been cooperative. He expects the remaining issues to be settled in the near future. In addition, Mr. Flowers said he has worked with the Maryland Forest, Park and Wildlife Service and the consultant to develop a Buffer planting plan.

Mr. Gutman asked about a design feature for the collecting pond to enable it to be cleaned out and what kind of maintenance was proposed since it will be collecting petroleum products.

Ms. Susan Rudy replied that in designing it, she tried to incorporate provisions for detailed grading and vehicle access to reach outlet structure.

Ms. Langner stated that the Project Evaluation Subcommittee recommended approval. A motion was made and seconded that the Commission approve the Maryland Toll Facilities Police Headquarters

Critical Area Commission
Minutes - April 4, 1990

and Police Academy Project as revised.

The vote was unanimously in favor.

Chairman North asked Mr. Serey to report on the Water and Wastewater Improvements proposal for the Eastern Correctional Institute in Somerset County.

Mr. Serey introduced Mr. Dane Bauer from the Maryland Environmental Service. Mr. Bauer explained that the Institute is several miles south of Princess Anne in Somerset County. The water supply that serves the facility produces between 300,000 - 350,000 gallons a day. The water comes from several wells in the Manokin aquifer. The Manokin aquifer is a severely depleted aquifer and has drawdown problems that affects the residential wells in the area. The prison is interconnected with the Princess Anne water supply system.

He said that the area was an upland area, no non-tidal wetlands had been identified and no mitigation for non-tidal wetlands area will be required. The construction activity will include:

- 1) 2,000 feet of pipe and a new well into the lower Patapsco aquifer, to reduce the demand on the Manokin aquifer used by local property owners.
- 2) A water treatment plant to treat iron and manganese from the lower aquifer. The plant will occupy approximately 1,200 square feet.
- 3) A package wastewater treatment plant, to provide pretreatment, in order to bring the existing plant into compliance with County regulations. The plant would occupy approximately 5,100 square feet.

No trees are to be removed, nor wetlands disturbed.

Mr. Serey said that the subcommittee felt that the project was consistent with the State Regulations. He said that Mr. Ron Adkins from Somerset County was consulted and that he concurred.

Chairman North added that he had talked with Ron Adkins and that Mr. Adkins supported the project.

Mr. Gutman asked if a public hearing had been held on this or if any were required to be held. Mr. Serey stated that there was no hearing requirement for the Commission. Mr. Bauer said that none was required for the permits either. There are well construction permits, construction permits from the Department of the Environment for sewer improvements, but neither one of those

Critical Area Commission
Minutes - April 4, 1990

involved hearings.

Mr. Gutman asked whether there had been any public input on the project - not necessarily opposition - but whether there were local concerns of any nature that should be noted.

Chairman North said that Mr. Adkins probably would have been aware of any concerns and would have indicated any reservations or problems that might have existed.

Deputy Secretary Griffin stated that the only concerns that he was aware of were the ones that Mr. Bauer alluded to; those of the residential wells being depleted.

Mr. Price asked if anything was going to be done to reduce the quantity of water that will be going to the wastewater treatment plant. Mr. Bauer replied that research is ongoing regarding water use and practices at several of the State's prison facilities. The average water use per prisoner is between 150 - 175 per day.

A motion was made to approve the Maryland Environmental Service Project at the Eastern Correctional Institute in Somerset County for water and wastewater improvements as proposed. The vote was unanimously in favor.

Chairman North asked Ms. Elizabeth Zucker, Mr. Ken Schwarz and Mr. Thomas Deming to report on the draft Oil and Gas Regulations.

Ms. Zucker thanked the Commission members who provided her with written comments. She then introduced Mr. Schwarz of the Maryland Geological Survey, and Mr. Ed Weber from the Department of the Environment; members of the Technical Advisory Committee.

Ms. Zucker asked the Commission to only focus on policy/issue concerns in the redrafting process, after which she would incorporate all comments and then provide another draft to the Commission as soon as possible for the next meeting.

Discussion then ensued concerning two issues reported in a memo sent to the Commission in February: 1) should drilling be completely prohibited within the Critical Area; and 2) which land use designations were appropriate for drilling.

Critical Area Commission
Minutes - April 4, 1990

Ms. Zucker remarked that there were certain concerns about the overall possible impacts of drilling within the Critical Area. As the regulations are currently drafted, there is a 500' setback from Mean High Water or tidal wetlands. This setback is not sufficient enough for protecting the Critical Area from an impact as significant as a "blowout".

Ms. Zucker said that she had requested Mr. Lee Epstein's opinion about the possibility of a complete prohibition and he repeatedly stated that the Statute does imply that a prohibition was ^{not} an alternative and that the Commission ^{should not} promulgate regulations that deal with the possibility of no drilling within the Critical Area.

Mr. Gutman asked that if the Commission suggested a setback of 500', would the Commission still be complying with Mr. Epstein's position if it were changed to 900'.

Ms. Zucker replied that to shift the surface well location back 400' would not really make that much difference with respect to a blowout.

Mr. Schwarz commented that a blowout was considered a disaster, and to be within even a mile's vicinity of one was not recommended. He said that he felt that 500' was reasonable because one could evaluate what oil or gas possibilities might be there as well as actually assess any reserves underlying the Chesapeake Bay.

Mr. Price asked Ms. Zucker if Mr. Epstein had given an oral opinion to the question of complete prohibition, and Ms. Zucker replied affirmatively. She added that he had done some preliminary research on that. Mr. Price then asked if any concern was given to drilling being allowed in the Critical Area. Ms. Zucker replied that what Mr. Epstein had said was that the Law did not allow the Commission to provide for an outright prohibition. Mr. Price asked if the Law allowed prohibition in the RCA.

Mr. Deming answered that this was a question of legislative intent and that the Commission should consider the question of drilling in the ~~Bay~~ ^{Critical Area} rather than providing for an outright prohibition. The legislature charged the Commission to develop criteria that would reflect that if one was going to drill, how could it be done safely.

Mr. Deming said that he felt an overall policy of the criteria should be to encourage resource utilization in all areas of the Critical Area and that oil and gas development is a matter of resource utilization. He suggested that the Commission might want to distinguish its criteria, or what is required, relative to the

Critical Area Commission
Minutes - April 4, 1990

different areas. He said that he thought the legislative intent was pretty clear in that the General Assembly did not want to prohibit oil and gas drilling altogether, but rather, provide a very safe way in which to do it and they charged the Commission to develop the criteria.

Mr. Schwarz commented that the oil and gas regulations that he was formulating for the State of Maryland dictated that no drilling would be allowed within 1,000 feet of unleased acreage and 1,000 feet happens to be the width for the Critical Area. This means that since the State does not lease any land underneath the Bay, there would be no drilling in the Critical Area at this time.

Ms. Zucker then reported there were not many comments received on the definition section of Chapter 1. Those that were received pertained to the fact that the nontidal wetlands definitions were not consistent with the new DNR nontidal wetlands regulations. She explained that Commission staff and DNR, over the last few months, decided that it was not preferable to change the definitions, but rather, at a later date make them consistent.

Ms. Zucker then described comments on Chapter 2. Under General Policies, one of the issues that had been brought to the fore, was whether the Commission had the authority to require written approval for directional drilling. In other words, if the surface location of a wellsite was outside the Critical Area, and an applicant was proposing to drill underneath and through the Critical Area, did the Commission have written approval authority to make that decision to allow or to disallow directional drilling.

Mr. Deming said that the General Assembly sent a mixed message on this. They called for the Commissioners' approval for the drilling of an oil or gas well in the Critical Area which literally stated where the drill head was to be put in the ground. However, under the environmental assessment section, they talked about the Commission requiring an applicant to submit to the Commission an impact study that stated "including wells drilled outside of the Critical Area by a method known as slant drilling passing through the Critical Area". He asked that if the General Assembly did not intend the Commission to have approval authority, why would they expressly provide that an applicant submit an environmental assessment of the impacts of slant drilling through the Critical Area. He said that he believed that the better reading of the legislative intent is that, while it was not expressly clear in the first section, there was a clear indication in the environmental impact section that the Assembly did intend a Critical Area approval for slant drilling under the Critical Area, and that the criteria should address that aspect as appropriate.

Critical Area Commission
Minutes - April 4, 1990

The next issue for discussion concerned certain activities that were prohibited from the Critical Area. Ms. Zucker said that one of the comments received from industry was that they were concerned about the prohibition of subsurface injection for the disposal of brine or waste fluids from a wellsite in or under the Critical Area. She said that the industry had requested that the Commission allow for a little more flexibility in that outright prohibition. In general, subsurface injection was not an activity that was permitted in the State of Maryland, much less in the Critical Area. Ms. Zucker suggested that the Commission take another look at this and request the industry people to provide information as to why they think they need more flexibility.

Mr. Kreitner asked if the prohibition of subsurface injection was now a part of the Department of Environment regulations.

Mr. Deming answered that it would be through the ground water quality standards. He then asked Mr. Schwarz how much brine was used in a drilling operation.

Mr. Schwarz replied that it could be considerable, although we are looking more at the production life of the well as it is produced.

Mr. Kreitner asked why industry did not just drill down to an aquifer which would be already basically brined.

Mr. Schwarz said that they drill far below the aquifers; thousands of feet below the deepest fresh water sand.

Mr. Bowling asked if brine injection was used as a means of recovering more oil.

Mr. Schwarz replied that it could be used as a secondary recovery but there are none of those activities in Maryland.

Mr. Gutman asked if it was the position of the industry that they needed to have this disposal approval in order to continue operations.

Ms. Zucker replied that she did not get that impression.

Mr. Schwarz said that the method would be to first pump it back down into the reservoir at a higher pressure than the reservoir pressure and then pump it back up to normal reservoir pressure. The operation does require pumps on a 5:1 ratio (i.e., five salt water disposal wells to 1 producing well) because at the latter stages of production, the volume of salt water can be more in quantity than just one well can pump back in.

Critical Area Commission
Minutes - April 4, 1990

Mr. Gutman asked if there was an inherent need to pump this back into the Critical Area.

Mr. Schwarz replied that depending on how large the oil or gas fields were, they could possibly position the salt water disposal wells outside the Critical Area.

Mr. Schwarz then explained about directional drilling. He said that one could easily directionally drill a straight hole beneath the fresh water sands and then angle outward into some target area on the Chesapeake Bay. The Bay has a maximum depth of 200' with an average depth of 8'. None of the wells would drain the Bay, nor affect any of the fresh water sands or the Bay itself by drilling down to 5,000'.

Mr. Williams asked how far must drilling go down before going across.

Mr. Schwarz answered that DNR issued the drilling permits and if the activity is in or near the Critical Area, written approval must be obtained before they can issue a permit. So, wells cannot be drilled until everything is evaluated.

Dr. Krech asked how the oil spills are handled.

Mr. Schwarz replied that there would be a pit. As they drill, crushed rock comes up and the mud settles in a pit that is lined with 35mm plastic liner or a clay pit which has a permeability so low that it would essentially be a closed system. Once the cuttings settle out in the pit, the cuttings are removed and taken offsite at the time of concluding the well operation.

Dr. Krech asked how big the area would be that holds the cuttings.

Mr. Schwarz answered that it would be approximately 2,730 sq.ft., depending upon how deep the well would go.

Dr. Krech then asked how salty they were. Mr. Schwarz replied that it was usually a fresh water base mud so that the salt water would have been washed out at depth. It would be an area where there would be no surface runoff.

Ms. Zucker explained that the draft regulations require a Zero discharge-type of operation where the fluids would be placed into impermeable portable containers and then immediately transported offsite.

Critical Area Commission
Minutes - April 4, 1990

Mr. Price asked why the legislature prohibited drilling in the Bay.

Mr. Schwarz answered that there was concern over spills and blowouts in the estuarine environment.

Ms. Watson asked if there would be any trenching or any surface disturbance to areas immediately adjacent to the wellsite during the drilling operation.

Mr. Schwarz replied that you could look at a well and never know whether it was a vertical or directionally drilled well.

Mr. Butanis said that in regard to paragraph 4, there seemed to be a balancing test between public benefit and potential risks to the environment. He asked what factors the Commission would be looking at in determining whether this test had been clearly and sufficiently demonstrated.

Ms. Zucker replied that with respect to public benefits, there would have to be an examination as to what revenues are going to be generated for the State.

Mr. Butanis then asked if that kind of thing should be included.

Ms. Zucker replied that she had spoken with several officials at DNR who concern themselves with this type of analysis on a regular basis and there seemed to be no perfect tool for making a decision such as this. She said that the closest model that exists were some of the alternative analyses that have been incorporated into the DNR nontidal wetlands regulations.

Mr. Deming noted that this was an issue he was reviewing because the need for economic criteria for balancing was valid. A question was raised as to whether activities outside the Critical Area would be more environmentally damaging than those in the Critical Area. This raised the issue of whether the Commission had the authority to develop criteria for what could be environmentally acceptable outside of the Critical Area. Mr. Deming said that he had some reservations about comparing environmental impacts inside to those outside the Critical Area. There should, however, be some kind of criteria to the extent that it could reasonably be done.

Mr. Bowling asked Ms. Zucker if she had shown the draft regulations to any industry people.

Ms. Zucker answered that they were represented on her

Critical Area Commission
Minutes - April 4, 1990

Technical Advisory Committee.

Ms. Zucker said she had received two different responses from the industry people: one requesting more flexibility, and the other that the regulations were too restrictive.

Mr. Bowling said that he had sent a copy of the regulations to his son, a geologist, who was drilling wells, and his opinion was that the regulations were tough, but could be lived with.

Mr. Gutman asked if there was some kind of environmental impact statement required for all these projects.

Ms. Zucker said that there would be many forms of information requirements.

Mr. Gutman asked what the time frame was to revise whatever the Commission agreed to.

Ms. Zucker answered that the regulations needed to be adopted by January 1, 1991.

Mr. Deming clarified by stating that these regulations were unlike the criteria which had to go to the General Assembly for approval. The Commission would be acting in similar fashion as any administrative agency in this instance.

Mr. Gutman then asked that if, at some time, the Commission finds that the regulations are inadequate, could the Commission make further modifications. Mr. Deming answered affirmatively.

Assistant Secretary Naylor asked what was the additional requirement that the Commission was putting on top of existing regulations to ensure that this sensitive area was receiving this extra measure of protection.

Ms. Zucker replied that habitat protection is a good example. Ms. Schwarz's regulations do not address Habitat Protection Areas. The Commission has a more restrictive set of regulations for stormwater management and it is justified by the proximity to the Bay.

Mr. Schwarz said that well drilling done in Maryland today was done under 1957 regulations, and many more restrictions were being added that were never thought of in 1957.

In regard to wellsite construction and drilling concerns, Ms. Zucker said that there was a little too much flexibility with the phrase "unless otherwise approved by the Commission" on page 20 of

Critical Area Commission
Minutes - April 4, 1990

the draft.

It was generally agreed upon that no wellsites shall be permitted within Habitat Protection Area, and that the phrase in question be eliminated.

Ms. Zucker then noted that on page 21, the regulations for reforestation require a two-time replacement for a wellsite. Disturbed forests shall be replaced immediately in an offset area, on an equal area basis, followed by a second equal area reforestation on the well site at the time of final reclamation.

Ms. Zucker asked the opinion of the Commission on providing for a reforestation fee-in-lieu not provided for in any of the regulations.

Mr. Hickernell said that tone would presume that fee system set up would be administered by DNR; making a presumption that DNR would have that responsibility and the Commission's mechanism of the law would be funding that fee.

Deputy Secretary Griffin said that it would not be a great burden because there would not be that much revenue flowing from this activity anyway.

Ms. Zucker said that industry has not complained up to this point either.

It was indicated that the Commission did not support a fee-in-lieu system for reforestation.

Ms. Zucker directed the Commission's attention to pages 26 through 28, and asked whether the Commission wanted to hold a hearing on wellsites. The general consensus was that hearings should be held on all wellsites.

Ms. Zucker informed the Commission that under the reclamation provisions, she will be adding possible offset locations.

There were no questions on pipeline policies.

As to water-dependent facilities, two alternatives were stated: 1) to prohibit new marine transport facilities for oil or gas; or 2) to support a more complex alternative as proposed in the draft regulations as proposed. This provides for a mechanism whereby the Commission can make a decision on a new area if it is less environmentally sensitive. There are three existing facilities now, one in Baltimore, one at Piney Point in Southern Maryland and one in Salisbury.

Critical Area Commission
Minutes - April 4, 1990

Mr. Gutman thought that should be sufficient for Maryland.

Mr. Hickernell asked whether the Commission had jurisdiction to say what was sufficient.

Mr. Deming reminded the members that this is only related to oil and gas wells drilled in the Critical Area. He asked Mr. Schwarz how often a marine facility is used as a means of getting oil or gas away from a well head.

Mr. Schwarz answered that it depended on what kind of product and company is drilling. Companies in the Chesapeake Bay are large companies. Crude oil and a sour crude would have to be refined somewhere - the nearest refineries are in Norfolk and Philadelphia. They would have to refine it, and again it would be by pipeline. The major companies say they will pipeline gas or oil.

Mr. Zahniser stated that there would have to be a significant amount of production to justify putting a pipeline in and it would have to be connected so some sort of structure. He asked where it would go.

Mr. Schwarz answered that the nearest refinery is Norfolk or Philadelphia.

Mr. Zahniser stated that perhaps they would have 5 - 10 wells in one area and have a collector point, into a barge until such time that it may be financially acceptable to install a pipeline. He stated his concern that there could be a barging operation in every region in every county.

Mr. Deming asked Mr. Schwarz if it was ever done with 10 - 15 wells that collect to a central point to transport by truck.

Mr. Schwarz answered yes for oil. A gathering tank is used, but you can have truck spills too. Pipelines are much safer. Spacing laws require that oil wells may not be drilled any closer than 40 acres (about 1320' between wells), and for gas either a 160 or 320 acre spacing. They are not going to dot the countryside.

Mr. Zahniser asked how many barrels were produced per day from a reasonable producing well.

Mr. Schwarz answered that from a 5,000' reservoir, you may get a couple hundred barrels a day.

Mr. Zahniser asked if it would even be as much as a truckload per day.

Critical Area Commission
Minutes - April 4, 1990

Mr. Schwarz answered affirmatively.

Mr. Bowling remarked that there were product lines not being used right now in St. Mary's County.

Ms. Swanson stated that pipeline service does not currently exist in Southern Maryland and the Eastern Shore so barge transport would be the immediate alternative. She asked if the Federal Law came into play for interstate transport and at which point would the Critical Area regulations come into play if the oil traveled through the Critical Area.

Mr. Schwarz answered that the Federal government had jurisdiction over the pipelines. The State regulations cover only to the extent that the Department of Transportation covers interstate pipelines and beyond that, the Public Service Commission of Maryland covers distribution.

Mr. Price commented that the drilling would be Resource Utilization in the RCA, and not require any change of classification.

Ms. Zucker stated that the issue had been discussed by the Special Issues Subcommittee.

Mr. Price asked if there would only be just a pipe down at the water. Ms. Zucker replied that a pipeline to a docking pier was how it had been described.

Mr. Zahniser commented that he would like to see them go through the IDA classification requirements to monitor the scale of the operation, otherwise you could have two wells just feeding a pipe that trickles into a small barge and they could be placed everywhere.

Mr. Hickernell asked which Commission members served on Ms. Zucker's panel.

Ms. Zucker replied that there are no Commission members on the Technical Advisory Committee. They are strictly from the various agencies, industry and the environmental concerns.

Mr. Hickernell suggested that it would not be of any benefit to air all of the Commission's sentiments at this time on this issue. He said that it should be referred to a standing committee to work on who would share their wisdom at the next meeting. He recommended that the Commission defer the particular question of marine facility locations and regulations to the Special Issues

Critical Area Commission
Minutes - April 4, 1990

Subcommittee for further consideration.

Chairman North said that it may well come to the conclusion suggested by Mr. Schwarz, but it would be referred to the Special Issues Subcommittee.

Ms. Zucker asked if we should consider eliminating the term "marina" from the water-dependent facilities section. Marinas were included in the regulations because some of the oil spill recovery contractors, that are subcontracted by the State, and provide recovery operations to the State, work out of commercial marinas. It was suggested that the more general term "boat docking facility" be used with oil and gas development activities.

Mr. Price said that he did not think that there should be any water transportation of oil and gas.

Ms. Zucker then asked for an informal poll as to whether new marine transport facilities should be provided for oil and gas that is produced in the Critical Area, assuming it was done under very restrictive guidelines.

The vote was 12 in favor and 4 opposed.

Dr. Krech said that he believed that the 100' Buffer was not sufficient.

Ms. Zucker said that is why we have the 500' distance in the section for well site construction.

Ms. Zucker said that well sites and everything associated with well sites are required to be 500' from tidal waters and tidal wetlands, but there was no specific Buffer suggested for each of the Habitat Protection Areas, and that was where a very strong mechanism was needed under Chapter 3.

Mr. Hickernell asked what could happen in the Habitat Protection Area.

Ms. Zucker answered that there may be certain seismic or geophysical operations that may be allowed based on what was proposed. DNR would review these as well.

Mr. Hickernell asked if DNR could permit exploratory functions and if so, what type.

Ms. Zucker answered affirmatively. Mr. Schwarz added that seismic operations were a very transitory thing. In conducting operations in the Critical Area everything would have to be hand

Critical Area Commission
Minutes - April 4, 1990

carried so that there would not be any heavy equipment.

Ms. Zucker said that an applicant cannot create a road in the Critical Area to perform a seismic operation.

Mr. Hickernell suggested that perhaps oil and gas activities need not be permitted in sensitive areas because of possible significant, long-term impacts.

Ms. Zucker concurred and agreed for certain types of activities; however, some oil and gas activities, such as some geophysical surveys do not cause impacts.

Ms. Zucker said using a waterfowl concentration area as an example, there needed to be a Buffer zone around an area such as that for seismic activity that is going to involve explosives which would destroy the waterfowl population. If the Commission prohibits seismic surveys within concentration areas, that could include the whole Critical Area.

Dr. Krech said that seismic studies could be made when the waterfowl have migrated north to the breeding grounds.

Mr. Gutman asked if there should be included, a statement concerning the time of year. Ms. Zucker answered that that was part of the definition of a Habitat Protection Area.

Mr. Bowling wanted to note that in the Chapter concerning HPAs, roads, buildings, and parking areas should be well set back and not allowed closer than 500 feet.

Mr. Gutman suggested that a 500-foot setback would be acceptable.

Ms. Zucker asked how the Commission wanted to handle the pipelines that were going to have to cross the Critical Area.

Mr. Bowling suggested that pipeline routes be restricted to the shortest possible route and have a one-time use. In other words, they should not be built for permanency.

Ms. Zucker stated that the pipeline be allowed to route through the 500-foot area.

Mr. Bowling agreed that might be acceptable occasionally.

Mr. Zahniser noted that there might be a problem regarding an RCA. He said that pipelines should be allowed to go where they have to go because they are underground and covered. His concern

Critical Area Commission
Minutes - April 4, 1990

was with parking facilities.

Ms. Zucker pointed out that anything associated with the well site would not be allowed within the 500' Buffer.

Mr. Zahniser said that the ramifications of wellsite production needed to be considered, such as trucking, pipe depots, spill personnel, the office complex, etc., and that these should not be allowed in an RCA.

Mr. Hickernell concurred that the Commission needed to be consistent.

Mr. Gutman asked for a show of hands in limiting everything but a pipeline through the Resource Conservation Area, or through the Habitat Protection Area.

Ms. Zucker clarified by asking if the Commission would want to eliminate seismic and geophysical surveys.

Mr. Gutman agreed to accept that along with the pipelines.

Mr. Zahniser added the allowance also of drilling sites, the connecting pipelines and the exploration and the seismic tests, but that any permanent structures or depots or terminals, or anything of that nature absolutely not in the RCA. If it is industrial, then it has to have an IDA classification because it is then no longer RCA.

Ms. Zucker said that we have provided for that with a 500' distance that eliminates all that activity.

Mr. Price paraphrased Mr. Zahniser in saying that you can only stretch Resource Utilization so far and asked if there was a gravel pit in St. Mary's County.

Mr. Bowling said that there are three gravel pits and they are all RCA's. One in Prince George's County, one in Charles and one in St. Mary's.

Ms. Zucker recommended that it be taken up in the Special Issues Subcommittee.

Ms. Zucker then drew attention to Chapter 4, Information Requirements saying there were a series of requirements for the applicant to provide information to the Commission on the various aspects of an oil and gas activity.

Mr. Gutman said that on page 52 there were "may's" that should

Critical Area Commission
Minutes - April 4, 1990

be "shall's".

Ms. Zucker said that it could be re-worded to make it more strict, but certain activities as such as seismic operations or geophysical activities would not require oil spill containment therefore, the term "may" is used. She gave the option of rewording to say that the applicant would be required to establish and maintain spill containment. Certain oil and gas activities don't require spill recovery.

Ms. Zucker noted that major policy issues needed to be addressed in Chapter 5 on page 61, particularly the process described for obtaining information as well as for the Commission's review of the information requirements, and time frames for the decision-making process.

Mr. Gutman asked if the staff had looked at the time frames and if they had experienced any problems with them. Ms. Zucker replied that because it was such a new issue for the Critical Area, the Commission should make sure that there would be enough time. Therefore, the regulations have provided for extending time periods for review and for determining whether information is sufficient and whether the application is complete.

Mr. Gutman said that he would like to hear from the staff that reviewed the time frames. He questioned the 45 days responding time frame.

Ms. Zucker said that DNR has looked at these and had no comment.

Mr. Deming stated that there was a provision in the Statute that stated: "failure to approve a program within 90 days constitutes approval". The Commission had experienced problems in the past with that and there was no requirement in the Statute for similar provisions with regard to Commission approvals on oil and gas plans. He advised them to not bind themselves with a requirement like that unless there was a certainty that the Commission could agree to the time frame.

Mr. Zucker suggested that the phrase on the bottom of page 63, which Mr. Deming was referring to, should be eliminated because if the Commission doesn't act within the time frame of the Statute then the application is deemed approved.

Mr. Elbrich asked if there should be a provision to reject an application because it is not complete or when requested information is not forthcoming, or would the time frame be binding.

Critical Area Commission
Minutes - April 4, 1990

Mr. Bowling suggested they be requested to reapply.

Ms. Zucker said that one comment was made that the Commission should require the applicant to notify adjacent property owners in local jurisdictions of their proposal when they propose an activity.

She said that when DNR deals with approving water wells, the applicant is responsible for presentations and advocacy of its projects at public hearing. She asked the Commission if they wanted to approve all activity including all of the geophysical and seismic activities, if they are proposed for the Critical Area.

Ms. Zucker asked if a conditional approval mechanism should be provided (such as in the Commission's State and local regulations) which was essentially, a variance-type situation that would allow some flexibility for a situation where an applicant just could not meet all of the criteria that are set in place.

Mr. Gutman asked Mr. Deming if the Commission could promulgate regulations without a variance mechanism.

Mr. Deming answered that it could be done. The current draft regulations are fairly flexible.

Mr. Gutman indicated that he would not favor including a conditional approval mechanism.

Ms. Zucker determined the consensus to be that the Commission did not want a conditional approval mechanism.

Ms. Watson stated that her concern with not having a variance procedure is that with the development of any new regulations the unforeseen inevitably pops up. It would be a safeguard factor for the Commission to develop some sort of variance procedure so that if something that the Commission had not thought of comes up, the Commission could have some mechanism to deal with it.

Ms. Zucker stated that the ^{conditional approval} regulations do allow for loopholes.

Ms. Watson added that if the Commission was the approval body for the variance that those loopholes could be as tight as the Commission wanted them to be.

Mr. Gutman recommended that the conditional approval issue be taken up by the Special Issues Subcommittee and be brought back to the full Commission in May.

Critical Area Commission
Minutes - April 4, 1990

UNDER OLD BUSINESS

Chairman North corrected the May meeting date as May 2 - Wednesday instead of May 3, Thursday, erroneously placed on the Preliminary Agenda but corrected on the new Agenda.

UNDER NEW BUSINESS

Chairman North announced that a plan to build a new golf course in the Critical Area in Queen Anne's County had been submitted to the Commission for its consideration. Chairman North appointed a panel to make a preliminary examination, evaluation and recommendation. That panel will be headed by Bill Corkran and the other members will be notified the following week subject to their accepting the assignment.

Ms. Hairston distributed pamphlets on the Governor's Conference on Forestry and Trees stating there is a comprehensive State effort going on to develop policies relating to urban, suburban and rural forests for protection, as well as for the resource based industry.

There being no further business, the Meeting was adjourned.

Approval of Program:

A motion was made and seconded that the Commission, Pursuant to the Critical Area Law, Section 8-1809(d), approve *Salsbery* local Critical Area Program, and direct that pursuant to Section 8-1809(e), within 90 days, *Salsbery* shall adopt the Program together with all relevant ordinance changes.

Commission to take over Program:

~~Section 8-1810 of the Critical Area Law provides that if changes as directed are not timely made, the Commission must prepare and adopt a local Program, by way of Regulation, which the local jurisdiction must then enforce. If after the Commission adopts a substitute local Program, the local jurisdiction submits an alternative one acceptable to the Commission under the criteria, that one would supercede the one adopted b~~

ORDINANCE 89-2

AN ORDINANCE AMENDING THE ZONING ORDINANCE TO ADD MARITIME ZONE.

The attached Ordinance, 89-2, was introduced and passed this 16th day of May, 1989. This Ordinance is hereby enacted and shall become effective twenty (20) days after its passage.

ATTEST:

BY: Nancy L. Peters
Nancy L. Peters, Clerk-Treas.

THE COUNCIL OF PORT DEPOSIT:

BY: Erma M. Keetley
Erma M. Keetley, Mayor

D. Harvey Cunningham
D. Harvey Cunningham,
Vice-Mayor

Clifton Blackburn
Clifton Blackburn

James Chapman
James Chapman

Nancy L. Peters
Nancy L. Peters

William Stewart
William Stewart

SECTION 5

ADD

#5 MARITIME ZONE-M

This section is intended to guide the orderly and efficient use of the waters and water oriented land uses of the Town of Port Deposit, through the provision of a uniform method of regulating marinas and related water oriented commercial land uses. These regulations represent the Town's interest in minimizing the adverse impacts of intensive water oriented land uses and concentrations of watercraft and vehicles on navigation, the environment and the health, safety, and welfare of the general public by establishing the type, intensity and location of water oriented land uses along the shoreline of the Town and by assuring the presence of the land-based facilities necessary for their support.

Unless otherwise provided, the provision of this section and any rules and regulations adopted in connection herewith, shall be applicable to and govern:

- a. Construction and development of new marinas, water oriented commercial uses and combined mixed-use developments located along the waterfront. Such uses and facilities include, but are not limited to, piers, launching ramps, yacht clubs, dry storage facilities for seaworthy watercraft, wet storage facilities for seaworthy watercraft, waterfront residential housing, waterfront commercial development. "Waterfront" in the above paragraph referring to such use within an area designated as a Maritime Zone on the Zoning Map of the Town of Port Deposit.
- b. Expansion, rearrangement and/or development of lawfully existing marinas, or water related commercial uses, or mixed use developments located along the waterfront.

Any marina lawfully existing on the effective date of these regulations may maintain and repair its facility.

a. PERMITTED USES:

The following uses are permitted as permitted uses in the Maritime District:

1. All uses permitted in the Commercial/Residential Zone, C/R, Section 5 of this Ordinance, including mixed uses and multi-family dwellings;
2. Marinas as defined herein;
3. Wet storage and temporary docking of seaworthy watercraft or watercraft awaiting repairs at commercial piers, pilings, buoys, or other similar facilities;
4. Rental of watercraft, including watercraft charter operations;

5. Launching ramps;
6. Maintenance and repairs of watercraft;
7. Restaurants, restaurants with bar facilities, and vending machines;
8. Sale of groceries, packaged alcoholic beverages, fishing supplies, and watercraft accessories;
9. Swimming pools, tennis courts, and other similar recreational facilities;
10. Offices and administration facilities necessary for operating permitted uses on the property;
11. Yacht and sailing clubs;
12. Signs, in accordance with this Ordinance;
13. Off-Street parking, in accordance with Section 6 of this Ordinance;
14. Dry docks, marine railways, travel lifts, forklifts, hoists, water lifts and other similar facilities for the launching and removal of watercraft;
15. Dry storage of seaworthy watercraft, watercraft awaiting repair, and licensed watercraft trailers, provided lanes of sufficient width are maintained between watercraft to accommodate fire and emergency equipment, as required by the State Fire Marshall's Office.
16. Covered dry storage of seaworthy watercraft, watercraft awaiting repairs,
 - (a) The combined base area of all covered dry storage structures does not exceed:
 1. 10,000 square feet, for a one acre site;
 2. 10,000 square feet plus 7,500 square feet for each acre, or part of an acre, by which the site exceeds one acre, for a site larger than one acre.
 - (b) The facilities are set back at least 25 feet from each side property line.
17. Sales of watercraft, marine engines, and watercraft trailers;
18. Sailmaking and sail repairs;
19. Marine fuel sales, provided:
 - (a) that each fuel storage tank is located ashore, underground, and in a location approved by the State Fire Marshall's Office.

- (b) pads that will absorb oil and fuel from the surface of the water and that contain a combined weight of 10 pounds of oil absorbent material are stored on the fuel dock or in the water tied to the fuel dock, and fuel or oil spilled or leaked into the water is removed with the pads or another device.

20. Facilities for the manufacturing and storage of natural ice;

21. Covered facilities for the wet storage of seaworthy watercraft;

22. Pile driving and marine construction operations;

23. Marine salvage and towing operations;

24. Construction of watercraft less than 65 feet in length;

25. Outside storage, if the total area of storage does not exceed 50% of the total lot area.

b. Lot size and coverages:

- (1) The minimum lot size for marina related uses shall be one-half ($\frac{1}{2}$) acre above the mean high water line.
- (2) When possible, landscaping location and design shall be used to buffer noise and visual impacts upon adjacent property.
- (3) Each lot shall have a minimum width at the waterfront of one hundred (100') feet. Lot width at the waterfront shall be measured along a straight line drawn between the points at which the side property lines intersect the mean high water line. In cases where a lot is bounded on more than one side by water, separate waterfront widths for each side may be calculated, and their totals shall measure not less than one hundred feet (100').

c. Marina basin length or direction restrictions:

(a) The water area used by a marina shall be limited to the area in the marina basin.

(b) The marina basin shall be determined from the shoreline of the property at mean high water before development or expansion in accordance with the following:

1. The limits of the marina basin shall be bounded by the mean high water line of the subject site, two side marina lot line extensions, and a line drawn to connect their channelward ends;

2. The length of each side marina lot line extension and each point along the line connection the channelward ends shall be limited to the smallest of:

- (i) one-half the distance from the mean high water line to the center point of a cove; or
- (ii) 800' into the waterway; or
- (iii) three times the lot width at the mean high water line.

3. The direction of a side marina lot line extension channelward from the mean high water line shall be:

- (i) perpendicular to the mean high water line of the property at the intersection of the side marina lot line with the mean high water line;
- (ii) perpendicular to the centerline of the body of water; or
- (iii) along a line connecting the point of intersection between the side marina lot line and the mean high water line with the center of cove.

d. Site Plan Requirements and Information to be Provided

Unless otherwise provided all development of waterfront zones and related uses shall be subject herein to the site plan review process described in Part Q. In addition to other information required, the following information shall be provided:

1. Existing and proposed regraded surface of the land.
2. Location of natural features (such as streams, wetlands, drainage easements, and trees to be retained on the property measuring six (6) or more inches in diameter at four feet (4') above ground level.
3. Land within the 100 year floodplain, provided such information is available.
4. Location and type of recreation facilities proposed.
5. Location of all existing or proposed site improvements (including storm drains, culverts, retaining walls and fences).
6. Description, method and location of water supply and sewerage disposal facilities.
7. Location, design and type of lighting facilities.
8. Location, size and type of open space.
9. Mean high and mean low waterlines.
10. All existing and proposed piers, buoys, launching ramps, shore protection structures, any and all existing deterrents or aids to navigation.
11. Location and dimensions of all areas to be dredged including present and proposed depths.
12. Volume of dredge spoil to be removed, type of material, location and dimensions of disposal area(s) including dikes.
13. Locations and dimensions of all outdoor, dry storage, maintenance, and repair facilities.
14. Location and capacity of all travel lifts, railways, hoists, or other devices for launching or removal of watercraft.
15. Location and dimensions of all boat launching ramps.
16. Location and dimensions of all boat slips and mooring buoys.
17. Location of fuel dock and gasoline storage tanks.
18. Location of all structures existing and proposed.
19. Location and design of all landscaping.

20. Location and description of all fire suppression and prevention equipment.

e. Piers, pilings, launching facilities, buoy installations and slips.

In a Maritime District, each pier, piling, launching facility, buoy installations, covered slip, uncovered slip, and the edge of the arc of swing from any of these shall be set back at least 50 feet from each side of property line extension of marina basin. (Any marina lawfully existing on the effective date of these requirements is exempt from this requirement.)

f. Sanitary Facilities

(a) In the maritime District, sanitary facilities shall be provided according to the following schedule:

<u>SPACES</u>	<u>TOILETS</u>		<u>URINALS</u>	<u>LAVATORIES</u>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Male</u>	<u>Female</u>
1-99	1	1	1	1	1
100+	2	4	2	4	4

(b) The sanitary facilities required by this section shall be in addition to those sanitary facilities that are required for other uses.

(c) Sanitary facilities on watercraft without holding tanks may not be used while the watercraft is in the marina basin.

(d) Signs shall be posted in conspicuous places at the shore-end and water-end of all piers giving notices of the requirements in subsection (c) of this section.

(e) If public sewer is available, the sanitary facilities required by subsections (a) and (b) of this section shall be centrally located. If public sewer is not available, the sanitary facilities shall be located as close to the shore-end of each pier as the soil condition and topography permits.

g. Road access, interior roadways, and off-street parking.

(a) Each lot in the Maritime District shall:

(1) Border for a least 40 feet on a public street maintained by the State or the County; or

(2) have direct access to a public street maintained by the State or the County over a private road or right-of-way and, if access is provided over a private road or right-of-way, the access shall remain unobstructed, be well maintained, and be improved as required by the Department of Public Works, consistent with Cecil County Roads Ordinance requirements.

(b) Each interior roadway, parking area, and walkway in the Maritime District shall be designed to preserve existing features such as beaches, trees, and wetlands to the extent possible. A walkway shall provide access between the parking area, the pier area, and each functional area in the marina. Each walkway between different areas of a marina, such as between parking and

slips, shall be at least four feet wide. Each roadway shall be grades and covered with a low dust-producing, such as crushed stone (CR6-8), crushed shells, or asphalt. The use of impervious surfacing shall be minimized. The length of each access road shall also be kept to a minimum. Each interior roadway shall remain unobstructed and shall be well maintained.

(c) Where multiple uses in addition to wet storage, dry storage and covered dry storage are provided on a lot within a Maritime District, the total parking requirements for all uses required by Section 6 for the additional uses may be reduced as required to reflect the concurrent use of the facilities by marina users.

(d) Where the parking requirements of Section 6 of this Ordinance and subsection (c) of this section cannot be met on a lot within a Maritime District, the parking required for that lot by Section 6 of this Ordinance may be provided off-site, provided that shuttle bus or other transportation satisfactory to the Town Council, shall be provided between that lot and the off-site parking area.

h. Watercraft and maintenance areas.

(a) In the Maritime District, each outside area, including any dry storage area, that is used for repair or maintenance of watercraft, including scraping, sanding, painting or fiberglass repairs, shall be screened as is reasonably necessary.

(b) All fiberglass residue, oil, gasoline, or other waste shall be collected at the site and removed to appropriate disposal facility.

i. Lighting

In a Maritime District, site illumination shall be limited to walkways, steps, parking area, piers, docking facilities, and dry storage area. Lighting shall be shielded to prevent glare and may not cause reflections on the surface of the water that will constitute a hazard to navigation.

j. Trash Containers

Trash containers of a type and quantity approved by the Health Department shall be placed throughout each lot in the Maritime District. These trash containers may not be permitted to overflow, cause objectionable odors, or facilitate the breeding of vermin or insects.

k. Boarding Ladders

(a) In the Maritime District, boarding ladders shall be located along the sides of each pier and along each bulkhead where water depth at the bulkhead exceeds four feet in depth at mean high water.

(b) Ladders along piers shall be:

- (1) staggered on opposite sides of each pier; and
- (2) placed at intervals not exceeding 100 feet.

(c) Ladders along bulkheads shall be placed no more than 100 feet apart.

l. Personal flotation devices.

In the Maritime District, United States Coast Guard approved personal flotation devices shall be located along each pier or bulkhead at intervals not exceeding 100 feet.

m. Piers

In the Maritime District, each pier at which a boat is docked, berthed, or kept in wet storage shall be:

(1) At least five feet wide, unless it is a catwalk that is less than 40 feet in length and designed to service one or two slips only; and

(2) Maintained in a state of good repair, including each boarding ladder and personal flotation device on the pier.

n. Fire suppression and prevention equipment.

In a Maritime District, all fire suppression and prevention equipment and facilities required by the State Fire marshalls Office shall be installed and maintained in a state of good repair.

o. Dredging

(a) Dredging in the Maritime District may not create slopes steeper than three (horizontal) to one (vertical) channelward from mean low water or the base of the bulkhead.

(b) Dredged channels in the Maritime District shall be designed to decrease in width and depth toward shore with slips for the deepest draft boats located farthest from shore.

p. Landscaping

Each open off-street parking area shall contain interior planting areas of 5% green area in addition to other landscaping.

q. Site Plan Review - Performance Standards and Guidelines

In evaluating proposed site plans required by this section, the Zoning Inspector, and Planning Commission shall consider the anticipated effect of the location, construction, and operation of the proposed facility upon the environment of the site and the adjacent area. All federal, state, and local laws and regulations applicable to maritime group district uses shall be considered with the following factors being given primary considerations:

1. Location of all proposed operational activities and dry storage areas in a manner that results in the least detrimental impact to adjacent and surrounding residential properties.
2. Maintenance of water circulation patterns to include tidal flow patterns, and preservation of salinity and distribution of nutrients in the water. Dimensions and locations of channels should be designed to achieve maximum flushing of the marina basin.

3. Maintenance of the flow and volume of the natural drainage system, both on site and on adjacent properties.
4. Approaches taken through design to reduce storm water runoff volumes and erosion. Use of impervious ground surfacing should be minimized where possible. Reasonable distances should be maintained between water and land areas proposed to be used for parking and loading purposes, to minimize the consequences of site runoff.
5. Effective use and location of site screening, preferable vegetation in a manner which minimize noise and lighting impacts to surrounding residential uses.
6. Many off site considerations which are significant should be reviewed in relation to the proposed marine facility location. It should be the applicant's responsibility to further assure the review body that their location proposals or projects should not adversely affect:

(a) Maintenance of state water quality standards.

r. Site Review Procedures:

1. Site plan application shall be submitted to the Zoning Inspector who within seven days of receipt shall submit a written report and recommendation to the Planning Commission.
2. Upon receipt of the report and recommendation prepared by the Zoning Inspector, the Planning Commission shall review the site plan at its next regularly scheduled meeting.
3. The Planning Commission shall either approve, disapprove or conditionally approve the site plan within seven days of review.

redraft 2/17/89

PROPOSED AMENDMENT OF ZONING ORDINANCE

SECTION 19

(Add where appropriate under definitions)

1. "Marina" means a facility, other than a private pier, that is located along the shoreline of the town and involves dry storage, covered dry storage, wet storage, or docking of watercraft and provides services for public or private use in accordance with this section.

2. "Marina Basin" means the maximum area that may be used for piers, pilings, buoys, and other similar facilities, and includes those areas defined in Section 5.5.(c)

3. "Dry Storage" means the keeping of any watercraft on land, whether on a trailer, cradle, single level rack, multi-level rack, or other device, except:

- (1) watercraft owned by and registered to the owner of the property on which the watercraft sits;
- (2) watercraft waiting repairs; and
- (3) watercraft displayed as part of a watercraft sales operation.

4. "Covered Dry Storage" means the keeping of watercraft in a covered structure on land, whether on a trailer, cradle, single level rack, multi-level rack, or other device.

5. "Outside Storage" means the keeping, maintenance, or accumulation of equipment, products, merchandise, vehicles, containers, or other goods in usable condition or good working order in an open area.

6.a) "Wet Storage" means the docking, mooring, berthing, or other securing of a watercraft to a pier, wharf, dock, piling, buoy, or similar facility.

b) "Wet Storage" does not include temporary docking.

PROPOSED AMENDMENT TO ZONING ORDINANCE
SECTION 6 - Schedule of Zone Regulations

ADD

SCHEDULE OF ZONE REGULATIONS

Height, area, and bulk requirements for the various zones shall be indicated in the chart below, together with other height, area, and bulk requirements contained in this Ordinance

	Minimum Lot (1)				Minimum Yard (2)				Maximum Height		Maximum Lot Coverage
	Area		Width	Depth	Front Depth	One Each Side	Aggregate of two Sides	Rear Depth	Ft.	Stories	
	Total	Per Family									
Residential R	5,000 s.f.	5,000 s.f.	50	100	(3)	8	20	(3)	35	2½	30%
Residential/Commercial R/C	5,000 s.f.	2,000 s.f.	35	100	(3)	6	15	(3)	35	2½	40%
Commercial/Residential C/R	-	-	-	-	-	None except when adjacent to a residential building or zone a side yard of 10 ft. required.		20	35	2½	80%
Industrial I	-	-	-	-	40	15	35	25	45	3	80%
Maritime-M	-	-	-	-	(4) 20	8		10	40 ⁽⁵⁾	3	70%

- (1) Lot areas must conform to State and County Health Department requirements.
- (2) Rear Yard depth may be 8 feet providing:
 - a. The structure is an accessory structure.
 - b. The proposed structure is clearly consistent in use and location to the general character of the neighborhood.
- (3) Desired Front and Rear Depth only, may be adjusted by the zoning inspector.
- (4) Setbacks shall not apply to piers, wharfs, pilings, bulkheads, dry docks, travel lifts or other similar structures which by their nature must be located on or near the water.
- (5) Average finished grade in the Maritime Zone shall be the elevation of the top of the adjacent RR track, measured at a point perpendicular from the track to the side of the zone.

AMENDMENTS TO SECTION 6 OF PORT DEPOSIT ZONING ORDINANCE

Section 6.1.A Off Street Parking

Add:

- (13) Marinas (a) one (1) space for each wet slip
- (b) one (1) space for each two (2) dry or covered dry storage slips.
- (c) Repair facilities - one (1) space fore each employee during any single shift.

AMENDMENT TO PORT DEPOSIT ZONING ORDINANCE

Section 5 (2) (a) Permitted Uses:

Add:

- (8) Off Street Parking to service permitted uses of Maritime Zone.

Section 5 (3) (a) Permitted Uses:

- (18) Off Street Parking to service permitted uses of Maritime Zone.

5/2/90

**OFFICE OF
PLANNING &
ZONING**

April 12, 1990

Judge John C. North, II
Chesapeake Bay Critical Area Commission
DNR
West Garrett Place
Suite 320
275 West Street
Annapolis, Maryland 21401

**CECIL
COUNTY,
MARYLAND**

Room 300,
County
Office
Building
Elkton,
Maryland
21921
(301) 398-0200,
Ext. 144
FAX:
(301) 392-9226

Dear Judge North:

Cecil County would like to request an extension of its Growth Allocation Process. The deduction methodology associated with this process was approved by the Commission for a one year period. The reasons for this approval are specified in Section 2-28 of the County's program.

The point system for this year's competition is the same point system approved in 1989, and this point system was reapproved and a new resolution for adoption signed by the County Commissioners on March 6, 1990. Applications for the growth allocation were accepted between March 7 and April 7, 1990. Initial staff review of the applications will begin in May. It is anticipated that the Growth Allocation will be awarded in December, 1990.

Please find enclosed a copy of the deduction methodology and the procedural standards and submission requirements. I hope that this information will be of assistance as you consider our request for extension.

If I can be of any further assistance in this matter, or if you have any questions, please do not hesitate to contact me.

Sincerely,


Janet Gleisner
Director

cc: Ann Hairston



RECEIVED

APR 16 1990

DNR
CRITICAL AREA COMMISSION

- o The total number of acres that may be used in a single one-year cycle will be limited to a total of 57 acres. However, if the County Commissioners find, based on the number and scale of projects submitted and on scores received, that the awarding of a larger portion of the Growth Allocation in any single year is warranted due to the number of projects that reach the second tier scoring threshold, they may increase the total annual award.
- o The total number of acres that will be converted for a single project in an RCA to IDA conversion will be limited to the maximum for the dwelling unit or disturbed area, which in the case of non-residential development is the equivalent of 20 acres.
- o The total number of acres that are to be converted for a single project in an LDA to IDA conversion will be limited to the maximum for the dwelling unit or disturbed area, which in the case of non-residential development is the equivalent of 20 acres.
- o The total number of acres that will be converted for a single project in an RCA to LDA conversion will be limited to a maximum of the dwelling unit or disturbed area, which for non-residential development is the equivalent of 40 acres.

Computing Use of the Growth Allocation--For a period of one year from the date of approval of this program and limited to the use of seventy acres of the County's total Growth Allocation, the manner in which an approved project's Growth Allocation will be subtracted from the total Cecil County Growth Allocation will vary depending on the type of development proposed and how it is placed on the site. Subtraction from the total County Growth Allocation will be based on the development envelope specified, taking into consideration proposed resource conservation methods to be employed therein. For purposes of this determination, the development envelope includes:

Individually owned lots and required Buffers, any part of which is not subject to a restrictive conservation easement running to the County or

community association, impervious surfaces, utilities, stormwater management measures, onsite sewage disposal measures; any areas subject to regular human use such as active recreation areas; and any additional acreage needed to meet the development requirements of the Critical Area criteria.

The remainder of the parcel may not be counted against the County's Growth Allocation if it is contiguous and is generally 20 acres in size; retains its natural features or is established in natural vegetation; or continues in use as a resource utilization activity (e.g., agriculture, forestry, fisheries activities or aquaculture). Areas not counted must be restricted from excessive human intrusion, disturbance, future subdivision and/or development through enforceable restrictive covenants, conservation easements, habitat management requirements, or other protective measures approved by the County. In determining the area that will not be subtracted from the Growth Allocation, the County will consider the impact of each proposed development on the post-development character of the area. In general, areas retained in open space will not be counted if they result in the following characteristics:

- Formation of contiguous open space areas of generally no less than 20 acres that are determined by the County to retain the characteristics of an RCA;
- Development set back a minimum of 300 feet from tidal waters, tidal wetlands, or tributary streams;
- Afforestation in areas that provide or enhance riparian habitat;
- Retention of the existing dominant natural features in the area;
or
- Retention of resource utilization activities (e.g., agriculture, forestry, fishery, nursery or aquaculture activities, or wildlife habitat, woodlands, etc.) restricted from further subdivision

and/or development through restrictive covenants, conservation easements or other protective measures approved by the County.

A Forest Management Plan is required for any forested area in the undeveloped portions of the parcel and/or lots. A comprehensive Habitat Management Plan that includes contiguous portions of individual lots under conservation easement shall be prepared and shall limit resident/community use and/or activity in sensitive portions of the site or during critical times of the year. Replanting of natural vegetation in lands abandoned from agriculture is required.

Qualifying Parcels

Parcels of land that qualify for application of the above guidelines are the following:

- 1) Those parcels designated as new IDAs which are located within an LDA or adjacent to an existing IDA where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams providing such designation:
 - a. Minimizes adverse impacts to agriculture, forest lands, fisheries or aquaculture;
 - b. Minimizes adverse impacts to Habitat Protection Areas; and
 - c. Optimizes benefits to water quality.

- 2) Those parcels designated as new LDAs which are located adjacent to existing LDAs or IDAs where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams.

- 3) Those parcels designated as new LDAs or IDAs which are located in RCAs where development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams.

The above noted methodology is different from that set out in the Critical Area Commission guidelines, but will be used by the County experimentally for one year. After such time, the Critical Area Commission will review the results and after consultation with the County may, if it deems appropriate, direct the County to thereafter debit the use of Growth Allocation in accordance with the Commission's guidelines as applied on a case by case basis. In order to assist that evaluation, the County will keep records adequate to show how, where land in individually owned lots is excluded from the development envelope, such lands nevertheless meet the intent of the Commission's guidelines of not excessively disturbing RCA lands. If the County's methodology is permitted by the Commission to continue to be used beyond the one year trial period, the Commission may, at any one year interval thereafter, evaluate the Growth Allocation results and direct the County to utilize the Commission's guidelines.

Among the reasons for the County and the Commission engaging in this experiment is the extensive, detailed point system analysis which the County will use, on a competitive basis, to award its Growth Allocation, and the fact that the County will be adhering to all the other requirements of the Commission's Growth Allocation guidelines, as set out above.

- o Where a proposed development project includes provision of public access to the shoreline, bonus points will be awarded.

(Points = 5)

Procedural Standards and Submission Requirements. Development activities in the Cecil County Critical Area that are submitted for Growth Allocation must comply with the requirements of the County Critical Area Program, the Cecil County Comprehensive Plan, the Zoning Ordinance, the Subdivision Regulations, the Stormwater Management Ordinance, and the Sediment and Erosion Control Ordinance. To ensure that the project review by the County is completed in the minimum time possible and that proposed projects fully comply with all regulations, applicants for development actions will adhere to the following procedural standards and submission requirements.

Site Plan Review Required--The purpose of generating a site plan is to assure detailed compliance with the applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements for the protection of the Bay's water quality and wildlife habitat on or in the vicinity of the proposed development site. In addition, the purpose of the site plan is to provide the Cecil County Planning Commission with the necessary information to fully evaluate the proposed development and to award points under the Growth Allocation point system. Development projects to which Growth Allocation may be awarded require site plan approval. Such projects will be permitted only in accordance with all of the specifications contained on an approved site plan or subdivision plat, and if all required construction permits have been obtained subsequent to such approval.

Submission Requirements

- o Request for Growth Allocation and all required items for submission will be submitted as prescribed in the annual notice.

Upon receipt, the Office of Planning and Economic Development (OPED) will review the site plan for completeness. OPED will solicit comments from other departments, agencies (i.e., the Technical Advisory Committee), and any officials that the OPED may deem appropriate. Incomplete submissions will be returned with comments within 30 days of submission.

- o Concept plans, site plans, and subdivision plats will be prepared as per the applicable requirements of the Zoning Ordinance and/or Subdivision Regulations.

Procedure for Processing

Development projects submitted for Growth Allocation under the point award system will adhere to the following process:

- o All applications for Growth Allocation will be reviewed at one time in each calendar year. The decision to award Growth Allocation will be based on a project point system. Projects meeting the first tier scoring threshold and for which the design maximizes achievement of development, habitat protection, and water quality objectives of the Cecil County Critical Area Program may be awarded Growth Allocation. The County Commissioners may award all or part of the requested Growth Allocation. In addition, the Commissioners may decide not to award any Growth Allocation if no projects reach or exceed the second tier scoring threshold.
- o The developer will submit a Concept Plan, which will include a statement of which categories and point values the developer believes should be awarded to the proposed project. The Technical Advisory Committee will review the concept plan and provide comments to the developer. The Planning staff will provide scoring and comments to the developer at the TAC meeting.

- o After revising the site plan or subdivision plat based on the Concept Plan review, the developer will submit a preliminary site plan or subdivision plat. The Planning staff will score the proposed development project and the TAC will review the preliminary submission for compliance with applicable ordinances and standards. The Planning staff score and the TAC comments will be given to the developer who will have 30 days in which to revise the preliminary site plan or subdivision plat. The developer may request a subsequent TAC review and will have 2 weeks in which to revise the submission.

- o After again revising the preliminary plat or site plan, the developer will submit the revised preliminary site plan or subdivision plat to the Cecil County Planning Commission for scoring and recommendation. The Planning staff will first review and score the proposed development project and submit its recommendations to the Planning Commission. The Planning Commission will then hold a public hearing on all submissions which will include the following:
 - Presentation of projects by the developers;
 - Staff review comments and scoring; and
 - Public comments.

- o The Planning Commission will then score each proposed development project. The projects that meet the minimum threshold scoring as established each year will be forwarded to the County Commissioners with the Planning Commission's score and recommendations for forwarding to the Critical Area Commission for review and approval.

- o The County Commissioners will forward the map amendment request(s) to the Critical Area Commission for the proposed awards of Growth Allocation.

- o County Commissioners will hold a public hearing on the proposed development projects approved by the Critical Area Commission. The hearing will include the following:
 - Presentation of projects by the developers;
 - Staff review comments and scoring;
 - Planning Commission review comments and scoring;
 - Critical Area Commission approval of the map amendment; and
 - Public comments.

- o The County Commissioners will then make the final decision on scoring for projects that will be awarded Growth Allocation and grant the floating zone request.

- o Successful projects will be submitted for final site plan or subdivision plat approval as per requirements of the Zoning and/or Subdivision Regulations.

Process for Awarding Growth Allocation

The County Commissioners may grant Growth Allocation for properties in the SD-1 Critical Area District through the Growth Allocation floating zone. The Growth Allocation process is an amendment to the Cecil County Critical Area Program and the SD-1 Critical Area District (Overlay Zone) that brings the Growth Allocation floating zone to specific sites on the ground. The floating zone permits an increase in density or intensity of use consistent with the new permitted land management classification.

All such amendments will also be approved by the Maryland Chesapeake Bay Critical Area Commission as established in Subsection 8-1803 of the Critical Area Law, Subtitle 18. No such amendment will be granted without approval of the Critical Area Commission. Standards for Critical Area Commission approval of proposed amendments are as set

forth in the Critical Area Law, Subtitle 18 Subsection 8-1809 (i). The Critical Area Commission process for approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, Subsection 8-1809 (d).

When a Growth Allocation award is to be made, the Planning Commission will first hold a public hearing, at which interested parties and citizens will have an opportunity to be heard. At least 15 days notice of the time and place of such hearing will be published in a newspaper of general circulation in the County. Following approval of a proposed amendment(s) by the Critical Area Commission, the County Commissioners will hold a public hearing at which interested parties and citizens will have an opportunity to be heard. At least 15 days notice of the time and place of such hearing will be published in a newspaper of general circulation in the County.

In addition, the Planning Commission will post the notice of its respective public hearings on the property(ies) for which the amendment is requested. To the extent possible based on best available information, all property owners contiguous to the applicant will be notified by Certified Mail and furnished a copy of the the application.

In any action by the Board of County Commissioners to award Growth Allocation and grant the floating zone designation, the staff of the Office of Planning and Economic Development will be present during all deliberations by the Commissioners and will answer such questions and render such advice and assistance as may be appropriate to the action being taken. However, the staff will not participate in the decision of the Commissioners beyond the submitting of a recommendation from the staff and from the Planning Commission as to the action proposed to be taken in each case.

5/2/70

CRITICAL AREA COMMISSION
STAFF REPORT

May 2, 1990

Subject: Draft Oil/Gas Regulations for the Critical Area

Issue: The Special Issues Subcommittee's Recommended Changes
to the Draft Regulations

Discussion:

The draft oil/gas regulations for the Critical Area were discussed at the Commission's April meeting. During the Commission's discussion, several regulatory issues were raised, but could not be resolved in the allotted time period. The Commission therefore requested that the Special Issues Subcommittee examine the issues and present recommendations for their resolution at the May meeting.

The Special Issues Subcommittee met on April 20, 1990. The following is a summary of identified issues and the Subcommittee's recommendations for regulatory resolution.

✓ ISSUE #1 Restriction of Oil/Gas Development in Habitat Protection Areas (HPA's)

To determine if any or all oil\gas development should be restricted from HPA's, the Subcommittee examined each type of oil and gas activity permitted in the Critical Area (geophysical surveys, wellsites, pipelines and water-dependent facilities) and discussed possible effects to each type of HPA. Based on the discussion, the following regulatory restrictions are recommended:

- A. Geophysical surveys involving heavy equipment (e.g. vibratory trucks, aircraft) and explosives shall be prohibited from all HPA's
- B. Wellsites, including associated pipelines and access roads, shall be prohibited from all HPA's.
- C. All other oil/gas activities that are permitted in the Critical Area shall be examined on a case-by-case basis and according to regulatory procedures set forth for each HPA.

NOTE: Oil/gas activities other than those listed above shall be located outside of the Critical Area

ISSUE #2 Oil/Gas Development Buffers

The Subcommittee discussed the possibility of establishing a 500 foot buffer (instead of the 100 foot Buffer) for all oil/gas activities. After examining each type of oil/gas activity with respect to locating it 500 feet from tidal waters, the Subcommittee determined:

A. A 500 foot distance restriction from tidal waters is only feasible for one type of activity (wellsites). Pipelines and water-dependent facilities (if a project is approved by the Commission) will need to be established within 500 feet of tidal waters. Geo-surveys should be examined on a case-by-case basis.

B. Other distances/setbacks need to be established to separate certain oil/gas activities from sensitive resources (other than tidal waters) including:

- 100 feet between 100 yr. floodplains and wellsites
- 200 feet between nontidal wetlands, streams and wellsites
- 25 feet between nontidal wetlands and all other activities
- 500 feet between anadromous fish streams and seismic surveys
- 500 feet between anadromous fish streams and wellsites

C. There will be a mechanism in the regulations that allows the Commission (under the advice of the Department of Natural Resources) to establish setbacks between other oil/gas activities and HPA's, on a case-by-case basis.

D. The 100 foot Buffer will remain as a type of Habitat Protection Area that an applicant must identify and protect from oil/gas activities.

ISSUE #3 Restrictions on oil/gas activities that are not a resource utilization land use

Because of concerns expressed by several Commission members, the Subcommittee determined that language should be added to the regulations to ensure that non-resource utilization or commercial activities are located out of the Critical Area or in appropriate land use designations. Recommendations are as follows:

A. The list of oil/gas activities prohibited from the Critical Area (in the General Policies Section) should be expanded to include overland transportation facilities, including cargo loading and parking areas and administrative support buildings. Compressor facilities for underground storage of oil/gas should also be restricted from the Critical Area.

B. Water-dependent facilities (other than small oil spill operations) are limited to IDA's.

C. For marine transportation facilities, the only structures to be permitted in the Critical Area are a docking area, loading

equipment, and an access road. All other oil/gas activities (such as storage tanks and overland transportation facilities) shall be located outside of the Critical Area. A pipeline will be used to connect the docking area to facilities located outside of the Critical Area.

ISSUE #4 Water-dependent Facilities

The Special Issues Subcommittee identified 3 possible regulatory alternatives for Marine Transportation Facilities:

1. Prohibit any new marine transport facilities for oil/gas produced in the Critical Area.
2. After a regional review and with environmental conditions, allow new marine transport facilities, but only in existing IDAs that have been Buffer Exempted (this is incorporated in the current draft regulations)
3. After a regional review and with environmental restrictions, allow new marine transport facilities in areas other than IDA, if necessary (and maybe require Growth Allocation).

After a lengthy discussion, the Subcommittee decided that Alternative #2 should be retained in the draft regulations. Additional language should be included to prohibit an applicant from obtaining Growth Allocation for an IDA. The Subcommittee's decision was based on the following concerns:

- a. If the Commission prohibits new facilities, an applicant may still seek a new marine transport area through the local jurisdiction (under the "blue" regulations). Alternate 2 parallels the "blue" regulations and provides additional criteria for environmental review and restrictions for new facilities.
- b. Marine transport has grave environmental risks (significant effects from spills during transport and loading) and by allowing new facilities in LDA's or RCA's, the Commission is allowing the possibility of significant water degradation in areas where water quality and habitat is to be maintained and enhanced.
- c. Along with wellsites, marine transport regulations may receive close public scrutiny. Currently the "blue" regulations do not allow for new industrial uses in areas other than IDA's that are Buffer exempted. Because of the environmental risks, the Commission should not be more lenient for oil/gas activities.

ISSUE #5 Conditional Approval

The Commission has the option to include a Conditional Approval mechanism in the regulations. A Conditional Approval process would allow for flexibility in the face of a "shall" in the regulations, but could also create "loopholes".

The Subcommittee decided that a Conditional Approval should be included to give the Commission the ability to deal with unusual or unanticipated situations.

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: DC-A 13

JURISDICTION: Dorchester County

TYPE: Growth Allocation/Land Reclassification for a Residential Subdivision (McCauley)

ALLOCATION: 10.3 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; request for review and action submitted to CBCAC 2/22/90.

DESCRIPTION: This is one of the 19 interim subdivisions for which the CBCAC approved a categorical award of growth allocation in January 1989.

The site is located on the mainland near Ragged Island and Ragged Point. It is on Brooks Creek and Rioll Cove, on the north side and near the mouth of the Little Choptank River in northwestern Dorchester County.

There is a total of 25.6 acres in the subdivision. More than half of the area (15.3 acres) is wetlands. The growth allocation request is being sought on the balance of the acres (10.3 acres). Four lots would be created. There is a house on the site of apparently recent construction.

The site is heavily forested. Extensive wetlands surround the upland area on the northern, western and southern sides. Some of the forested areas were cleared for driveways and for septic percolation test areas. There is a septic system already in place presumably serving the existing house. A pier (not shown on the plat) extends into Brooks Creek.

The sizes of the proposed four lots are: 10.5, 4.9, 5.2 and 5.1 acres respectively. Most of the lots are wetland.

SITE VISIT: Staff visited the site on April 6, 1990, accompanied by Commissioners Krech and Schoepflein. The site is near the very end of Maryland Route 343, several miles west of Cambridge. Shallow soil core samples were taken at several points across the site; all samples indicated hydric soils.

This entire site is either tidal or nontidal wetlands, with the proposed homesites being primarily forested wetlands having the vegetation, soils and hydrology necessary for classification as a wetland. Within the forested area are loblolly pine, wax myrtle and poison ivy. The Maryland Department of Natural Resources considers all three of these species to be facultative with regard to their occurrence in wetlands, meaning they can adapt to grow in either wetland or upland environments.

The Dorchester County soil survey maps the area as being in the Elkton series, a hydric soils group of poorly drained soils that have a fine textured, very slowly permeable subsoil. The particular soil at this site is classified as Elkton silty clay loam, low, described as being only slightly above the tidal marsh and as being flooded on occasion by high tides. Soil samples taken on site confirmed the presence of hydric soils. In addition, there was evidence of ponding in some areas and the water table was very close to the surface in most areas.

LOCAL PANEL

HEARING: April 23, 1990/7:30 p.m./Cambridge

CBCAC ACTION BY: May 22, 1990

PANEL

RECOMMENDATION: Not to approve

STAFF: Tom Ventre
Claudia Jones

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: DC-A 14

JURISDICTION: Dorchester County

TYPE: Growth Allocation/Land Reclassification for a Residential Subdivision (Riverview)

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; request for review and action submitted to CBCAC 2/22/90.

DESCRIPTION: This is "de novo" request for growth allocation.

This 24-acre site is situated on the east side of Maryland Route 335, just before that road leaves the mainland for Upper Hooper Island (at Fishing Creek). Route 335 borders the site on the west; the Honga River is on the east side. The site is within one mile of the bridge to Upper Hooper Island.

The site is flat. There are wetlands on about half of the site. Trees are scattered over the upland portion. A forest is adjacent on the north side. On the west side near the highway are several abandoned and derelict industrial buildings. The evidence is that there was a shellfish processing operation here. There are indications that the site may have been farmed at one time.

Four lots are proposed to be created; three of these will be for residential use. The fourth lot contains the abandoned industrial buildings along the highway. Plat notes indicate that the property was given a special exception for commercial use.

OVER

The three proposed residential lots would share a wastewater disposal facility. Lot 4 would not use this shared facility unless it were developed for residential use. (The plat indicates a separate sewage reserve area in Lot 4.)

Upper Hooper Island, immediately to the south, is classified as a Limited Development Area (LDA) on Dorchester Critical area maps.

If this site is allowed to be developed at LDA densities, it would have to comply with Dorchester Critical Area Ordinance requirements for reforestation (15 percent of the site).

SITE VISIT: Staff visited the site on April 6, 1990, accompanied by Commissioners Krech and Schoeplein. At that time, shallow soils samples (hand auger) were taken; most of the samples indicated hydric soils over the site.

Although it is not possible to tell exactly where the property falls on the soils survey, the building sites appear to be mapped as either Elkton silt loam (hydric) or keyport silt loam (nonhydric). The map provided with the application indicated that the entire site was composed of hydric soils. From the site visit there seemed to be areas of either upland or disturbed soils mixed in with hydric soils. The majority of plant species present were grasses and herbs that would normally grow in an upland situation. Although the majority of these areas would probably revert to more facultative species if left alone, we would not feel comfortable calling the whole site a wetland, but would defer to the map provided with the site.

LOCAL PANEL

HEARING: April 23, 1990/7:30 p.m./Cambridge

CBCAC ACTION BY: May 22, 1990

PANEL

RECOMMENDATION: To approve, subject to the CBCAC being provided information about type of reclamation, reforestation, and other similar requirements on LDA lands.

STAFF: Tom Ventre
Claudia Jones

*Dorchester Co.
Prog. Amendm.
5/2/90*

PROPOSED LOCAL PROGRAM AMENDMENT

FILE NO: DC-A 12

JURISDICTION: : Dorchester County

TYPE: Amendment to Local Implementing Ordinance
(Subdivision)

REASON: Add new language to Subdivision Ordinance --
pertaining to requirements and procedures for
growth allocation requests

LOCAL STATUS: Amendment approved by County Commissioners;
submitted for CBCAC review and actions- 2/22/90

DESCRIPTION: Proposed language changes intended to achieve
internal consistency, and consistency with
similar, recently approved changes to the
Zoning Ordinance.

LOCAL PANEL

HEARING: April 23, 1990/7:30 p.m./Cambridge

CBCAC ACTION BY: May 22, 1990

PANEL

RECOMMENDATION: To approve

STAFF: Tom Ventre

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Public Hearing - Queen Anne's County,
April 23, 1990

Staff Summary and Recommendations

The Washington Brick and Terra Cotta Company has proposed development of a golf course in Queen Anne's County. The portion of the site within the Chesapeake Bay Critical Area is designated Resource Conservation Area (RCA).

Queen Anne's County implements its Critical Area Program through an overlay system. Existing zoning categories and their permitted uses and densities apply, but are controlled and limited by Critical Area provisions. The site of the proposed golf course is zoned Countryside (CS). This zone permits certain institutional uses by right. Institutional uses include outdoor recreational facilities, such as golf courses.

The County's Critical Area Program prohibits commercial and industrial uses in the RCA. The program specifically requires the Chesapeake Bay Critical Area Commission to determine if institutional uses, permitted in the underlying zone, are actually commercial or industrial by nature, and therefore, prohibited.

The applicant's proposed golf course is the first institutional use, as defined by Queen Anne's County, submitted to the Commission for such a determination.

Summary of Proposal Within Critical Area

Critical Area designation	RCA
underlying zone	Countryside
golf course holes (standard)	27
par 3 holes	9
acres in Critical Area	394
existing acres in agricultural use	198
agricultural acres to remain	30
existing acres in forest	80
forest acres to be removed	7
forest acres to be planted within Buffer	29
acres to be disturbed	232
acres of impervious surface	4 (1.1%)

Considerations

1. The proposal appears to meet the technical requirements of the Queen Anne's County Critical Area Program for development within the RCA, including provisions for a 300-foot Buffer and 50% afforestation with the Buffer.
2. The applicant does not propose buildings, roads or parking areas within the Critical Area.
3. The Chesapeake Bay Foundation, in a letter to the Commission dated April 26, 1989 (attached), outlined factors it considered relevant to an analysis of golf courses in the RCA. These factors are:
 - "(1) whether developing the course would require a significant change in land features;
 - (2) whether the proposed golf course would be located adjacent to areas that are already developed and have infrastructure to accommodate its use;
 - (3) whether the golf course would incorporate best management practices; and
 - (4) whether the proposed golf course would provide for public use and access to the Critical Area."
4. When the Commission reviewed local Critical Area Programs, certain golf courses were designated RCA. Others were designated as Limited Development Areas (LDAs). Generally, the distinction focused on the amount and intensity of development (buildings, impervious areas, sewer and water facilities, etc.) adjacent to and within each particular golf course. Those courses located in rural areas, with low levels of adjacent development were designated RCA. Where adjacent development was primarily LDA, and infrastructure existed to service future development, the Commission approved the golf course as LDA. The Commission did not base original mapping designations of golf courses on the degree of land disturbance which had occurred or the intensity of land management practices.
5. Certain chemicals on the applicant's list of

fertilizers and pesticides may pose a risk to water quality, aquatic resources and wildlife. For example, one substance, Diazinon, has been prohibited by the Environmental Protection Agency for use on golf courses particularly because of its role in waterfowl kills.

6. If the panel and Commission determine that the golf course proposed by the Washington Brick and Terra Cotta Company is a permitted use in the RCA, the staff recommends the following conditions:

- (a) Dwellings shall not be developed in the Critical Area, except through the use of Growth Allocation.
- (b) Existing water-dependent facilities on Queenstown Creek shall not be used or expanded for access to the golf course.
- (c) The applicant shall provide to the Commission for its approval:
 - (1) a revised list of fertilizers and pesticides to be used;
 - (2) a summary report of the chemicals in (1) above which specifies application rates and timing of applications;
 - (3) an analysis of potential impacts to surface and groundwater quality and fish, plant and wildlife habitat;
 - (4) a revised, more detailed program of Best Management Practices including a program of Integrated Pest Management, which minimizes effects on water quality, aquatic resources and wildlife.
- (d) Stormwater shall be managed for quality and quantity before reaching existing tidal and nontidal wetlands.
- (e) In order to assure protection of the Great Blue Heron nesting area, final site plans for the par 3 course and the driving range shall be submitted to the Maryland Forest, Park and

Wildlife Service. It is not clear from the applicant's Environmental Assessment that impacts from the par 3 course and driving range were considered in relation to the nesting area. Recommendations of the Forest, Park and Wildlife Service shall be incorporated into the site plan. Copies of all correspondence shall be forwarded to the Commission.

(f) The Commission should make specific findings that:

- (1) its decision pertains solely to the golf course proposed by the applicant at this site;
- (2) the Commission is not precluded from denying or imposing conditions on a golf course proposed at a different site where the Commission determines that water quality and fish, plant and wildlife habitat would be adversely affected.

Staff Contacts: Dr. Sarah J. Taylor
Mr. Ren Serey



Chesapeake Bay Foundation

"Environmental Defense - Environmental Education - Land Conservation"

162 Prince George Street • "The Church" • Annapolis, Maryland 21401
301-268-8816 (Annapolis) 269-0481 (Baltimore) 261-2350 (Washington, D.C.)

April 26, 1989

RECEIVED

APR 27 1989

OFFICERS

Godfrey A. Rockefeller
Chairman

Russell C. Scott
Vice-Chairman

Charles S. Garland, Jr.
Secretary

Ernest W. Jennes
Treasurer

William C. Baker
President

Ann Powers
Vice President

EX OFFICIO TRUSTEES

Governor Gerald L. Baliles

Governor Robert P. Casey

Governor William Donald Schaefer

Hal C. B. Clagett - Clagett Trustee

Joanne S. Berkley - Bay Care Chapter

Edmund A. Brummer - York Chapter

TRUSTEES

John E. Akridge, III

John M. Barber

Herbert W. Carden

Elisabeth Reed Carter

Kirkland T. Clarkson

Alan Crawford, Jr.

L. Eugene Cronin

Frederick Deane, Jr.

Louisa C. Duemling

Dorothy B. Duffy

Joseph L. Fisher

A. Paul Funkhouser

Joseph V. Gartlan, Jr.

Maurice K. Goddard

Robert M. Hewes, 3rd

G. R. Klinefelter

Shepard Krech, Jr.

Maurice P. Lynch

H. Turney McKnight

H. P. McNeal

Philip Merrill

William B. Mullins

Sture G. Olsson

Blaize T. Phillips

Sumner Pingree

William F. Rlenhoff, IV

Kurt L. Schmoke

Truman T. Semans

Arthur W. Sherwood

Leonie L. Simmons

Jennifer Stanley

C. Trowbridge Strong

Eugene B. Sydnor, Jr.

Arthur L. S. Waxler

HONORARY TRUSTEES

T. Marshall Duer, Jr.

C. A. Porter Hopkins

Charles McC. Mathias

William W. Warner

Joseph H. Maroon

Virginia Executive Director

Thomas P. Sexton III

Pennsylvania Executive Director

Mr. Robert R. Price, Sr., Esq.
Acting Chairman
Maryland Critical Area Commission
West Garrett Place, Suite 320
275 West Street
Annapolis, MD 21401

Dear Mr. Price:

At its April meeting the Critical Area Commission discussed the issue of when golf courses in the Critical Area should be classified as LDA or RCA, and it is our understanding that a committee of the state Commission will address this policy issue on the third of May. We believe that it is appropriate for the state Commission to establish guidelines governing this issue and we would appreciate its consideration of the following comments.

The difficulty of this issue is reflected in the different classifications that counties have given to golf courses thus far, with some having classified them as Resource Conservation Area (RCA) while others have classified them as Limited Development Area (LDA).

In our view, the designation of new golf courses should hinge on consideration of the following factors: (1) whether developing the course would require a significant change in land features, (2) whether the proposed golf course would be located adjacent to areas that are already developed and have infrastructure to accommodate its use, (3) whether the golf course would incorporate best management practices and (4) whether the proposed course would provide for public use and access to the Critical Area.

With respect to the first of these considerations, concerning changes to land features, we believe it would not be appropriate to classify a golf course as RCA if its development would rely predominantly on clearing forested areas in the Critical Area or major topographical alterations in the Critical Area. If, on the other hand, land has already been cleared and if

Virginia Office: Suite 815, Heritage Building • 1001 E. Main Street • Richmond, Virginia 23219 • (804) 780-1392

Pennsylvania Office: 214 State Street • Harrisburg, Pennsylvania 17101 • (717) 234-5550

Mr. Price
April 26, 1989
Page 2

land is currently cultivated for agricultural purposes, its conversion to a golf course may actually reduce the sedimentation, nutrient enrichment and toxic runoff that reach the Bay or its tributaries. The extent of a golf courses impacts would also depend on whether best management practices are incorporated in its development.

In order to apply these general principals, the Commission and local governments would have to review each proposal on a case-by-case basis to make a factual determination of its likely impact and to impose conditions on its development, as necessary. It would assist such a review for the state Commission to adopt guidelines for what constitutes best management practices for golf courses.

The first three considerations listed above tie into basic thrusts of the Critical Area Criteria, i.e. minimizing disturbance to the RCA and concentrating development in or near areas with existing infrastructure. The fourth consideration, concerning public access and recreation, does not directly stem from the criteria but indirectly supports the dominant thrust of the Critical Area Program, as explained below.

Many of the land use restrictions that apply to the RCA and even to the LDA have the effect of reducing the density of residential development. We believe this is appropriate and have always supported these policies. However, we believe that alternative provisions should be made for the public at large to use the Critical Area and to have access to the Bay. It is worth noting in this regard that the 1987 Bay Agreement, signed by the Governors of Virginia and Pennsylvania as well as Maryland, identifies increased public access and recreation as a major goal of the Bay restoration effort.

Public golf courses, that is golf courses the use of which is not restricted to private members, provide a form of public access and recreation in the Critical Area. We support such use as a matter of policy provided that the other considerations listed above are fully complied with.

We appreciate the Critical Area Commission's consideration of these comments.

Sincerely,



SCH:pb
cc: Sarah Taylor, Ph.D.

Saunders C. Hillyer
Director Lands Program