

Committee Meetings & Correspondence August 1992

MSA_S_1832_97

SCN, 1

AGENDA

Chesapeake Bay Critical Area Commission
3 Calvert Street, 1st Floor
Conference Room #125
Annapolis, MD 21401
August 5, 1992

"Burris"
is mistake
can do next
month

Program Amendment & Implementation
Growth Allocation

Project Evaluation

Special Issues

Lunch: Certificates 9:25-10:00 AM
✓1) Renā Jennings - intern
✓2) Madeline Larmore - Secretary
Projects Division

AGENDARY MEETING

1:00 p.m. - 1:05 p.m. Approval of Minutes of July 1, 1992 John C. North, II, Chairman 3/2/93

AMENDMENTS

1:05 p.m. - 1:20 p.m. ✓ Queen Anne's County Program **INFOR.** Claudia Jones, Planner Joe Stevens, Q.A. Co.

PROJECTS

1:20 p.m. - 1:45 p.m. ✓ Randall Cliffs Bay Access, Maryland Office of Planning **INFORMATION** Larry Duket, Planner, MOOP Vivian Marsh, Planner, Southern Region, MOOP The Honorable Gerald Donovan, Mayor, Chesapeake Beach

1:45 p.m. - 2:10 p.m. ✓ Hyattsville Gravity Sewer, Phase D WSSC - VOTE Theresa Corless, Planner Bill Kennedy, Engineer, WSSC

2:10 p.m. - 2:30 p.m. ✓ Solomons Island Boat Ramp Expansion DNR, **INFORMATION** Dawnn McCleary, Planner VIVIAN MARSH

2:30 p.m. - 2:50 p.m. ✓ Growth Allocation Project - **INFORMATION** Prince George's County Theresa Corless, Planner

2:50 p.m. - 3:10 p.m. ✓ Timber Harvesting Plans - **INFORMATION** Anne Hairston, Planner

3:10 p.m. - 3:30 p.m. Legal Updates Daniel W. Burris Matter Others George Gay, Assist. Atty. Gen.

3:30 p.m. - 3:45 p.m. Old Business John C. North, II, Chairman
Clarification of Decision on Elkton Mapping Mistake George Gay, AAG Pat Pudelkewicz, Planner

New Business John C. North, II, Chairman

Possible Commission Retreat - Oct. 14, 15
Somerset Co. Appt. Recommendation (letter) *OVER*

SCN, I

AGENDA

Chesapeake Bay Critical Area Commission
45 Calvert Street, 1st Floor
Conference Room #125
Annapolis, MD 21401
August 5, 1992

SUBCOMMITTEES

10:30 a.m. - 11:30 a.m. Program Amendment & Implementation
1) Growth Allocation

11:00 a.m. - 12:00 p.m. Project Evaluation
No Special Issues

Lunch: Certificates ^{SPG.} _{9/2/92}
✓1) Renā Jennings - intern
✓2) Madeline Larmore - Secretary
Projects Division

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Please appoint the following to
a Growth Allocation Panel for
Prince George's County:

Ron Hickernell - Chairman

Joe Albrick

Paris Glendinning

Sam Bowling

Bob Shoplein

A date hasn't been set yet.
Staff will contact panel members.

AGENDA

Chesapeake Bay Critical Area Commission
45 Calvert Street, 1st Floor
Conference Room #125
Annapolis, MD 21401
August 5, 1992

*L. Lawrence
1:30*

SUBCOMMITTEES

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1) Growth Allocation
- 11:00 a.m. - 12:00 p.m. Project Evaluation
No Special Issues

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Staff Rept.
end 1:20

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Disc
Vote approved
end 1:45

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Staff Rept
end 1:58

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Staff Rept
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In these matters
Comm. Members
Should / could
Call "me" to

Register support of not
for the record

As you can see, Janis

Chesapeake Bay Critical Area Commission
July 1, 1992
Department of Housing and Community Development
100 Community Place, Conference Room 1100 A
Crownsville, Maryland

The Chesapeake Bay Critical Area Commission met at the Department of Housing and Community Development in Crownsville, Maryland. The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

Ambridge, Anthony	Barker, Phillip
Bostian, William	Bowling, Samuel
Corkran, William	Elbrich, Joseph
Gutman, James	Hickernell, Ron
Jarvis, Thomas	Langner, Kathryn
Lawrence, Louise, DOA	Little, J. Rodney, DHCD
Peck, Jim, DNR	Phillips, Steele
Price, Robert, Jr.	Schoeplein, Robert, DEED
Williams, Roger	

The Minutes of June 3rd, 1992 were read and approved as written.

Chairman North introduced and welcomed to the Commission Mr. O. James Lighthizer, Secretary, Maryland Department of Transportation and Mr. Hal Kassoff, Administrator, Maryland Department of Transportation. The Memorandum of Understanding between the Maryland Department of Transportation and the Chesapeake Bay Critical Area Commission was signed. Mr. Lighthizer and Mr. Kassoff expressed their delight and honor in being asked to join the Commission.

Chairman North asked Mr. Thomas Ventre to report on the Refinement to the Zoning Ordinance for the Town of Vienna.

Mr. Ventre stated that the Town of Vienna has renumbered and reindexed its zoning ordinance to incorporate into the body of the Ordinance the Critical Area Program Regulations which the Town adopted in 1988 after being approved by the Critical Area Commission. The Town has requested that this be a refinement as there are no substantive changes; primarily the changes are in style and format. Mr. Ventre said that the Chairman has determined that it is a refinement based on the recommendation of the Commission staff.

The Commission supported the Chairman's determination.

Chairman North asked Ms. Anne Hairston to report on the Town of Elkton's Mapping Mistake.

Ms. Anne Hairston briefed the Commission on the request in a staff report disseminated to them which is as follows:

ISSUE: Map amendment by reason of mistake, Town of Elkton

COUNTY: Cecil, Town of Elkton

COMMISSION ACTION: Vote to approve or disapprove by July 20, 1992

DISCUSSION: This map amendment was introduced at the May 6th meeting. The Town of Elkton has submitted a map amendment changing 35.4 acres of the property of Chesapeake Haven Land Corp./ Remle Inc. from Resource Conservation Area (RCA) to Limited Development Area (LDA) by reason of mistake in mapping. The site is within the municipal boundaries of Elkton, near the intersection of Rt. 213 and Whitehall Road. As of 1985, the property was 86.6 acres, 45.9 acres of which are in the Critical Area. A portion of the property, 35.4 acres, is proposed to change to LDA, while 10.5 acres dominated by nontidal wetlands remains RCA.

Several different developments had been proposed for the property through the years, none of which were recorded or carried out. There is an existing adjacent subdivision (Elkwood Estates) predating 1985, although it is in the County, not in the Town. The property was mined for sand and gravel to some extent in the 1950's and 60's, and the vegetation has naturally regenerated since then. The property had received final approval for a residential subdivision in the 1970's, but the plats were never recorded. Sewer lines were on the property prior to 1985, and the Town of Elkton had previously operated a sewage treatment plant on adjacent property. The Town determined that a mistake in mapping had occurred, and that the property should have been mapped LDA because it had sewer and development had been planned for the property.

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At the time of program approval, the Critical Area Commission panel evaluated the mapping submitted by Elkton, and requested corrected designations on four parcels. The parcel currently being considered for a mapping mistake had been submitted as LDA by the Town, and the Commission panel requested that it be RCA because there were no structures serviced by water and sewer on the 46 acres within the Critical Area (even though there was sewer on the property). Also, land use was dominated by forest and wetlands, which was considered more consistent with the RCA definition. Two other parcels submitted as LDA were requested to be mapped as RCA for the same reasons. A subdivision was approved on one of these parcels through interim findings (before program approval), a situation which requires the use of growth allocation where the approved development is inconsistent with RCA criteria. Consequently, the panel agreed at the time to apply all of the Town's available growth allocation (70 acres) to the approved development, although this did not equal the area to be developed.

Review of the LDA and RCA definitions is helpful in considering the appropriateness of a mapping mistake. The Critical Area mapping was based on land use as of December 1, 1985. The Critical Area Criteria state that Limited Development Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and wildlife habitat and the quality of runoff from these areas has not been substantially altered or impaired. These areas should have at least one of the following features:

- housing density between one unit per five acres up to four units per acre;
- areas not dominated by agriculture, wetland, forest, barren land, surface water or open space;
- areas having the characteristics of the Intensely Developed Area, but less than 20 acres; or
- areas having public sewer or public water, or both.

Resource Conservation Areas are those areas characterized by nature-dominated environments (i.e., wetlands, forest, abandoned fields) and resource-utilization activities (i.e., agriculture, forestry, fisheries activities, or aquaculture). These areas should have at least one of the following features:

- density is less than one dwelling unit per 5 acres; or
- dominant land use is in agriculture, wetland, barren land, surface water, or open space.

Jurisdictions could create additional mapping rules to specify how these definitions would be carried out. The Town of Elkton did not have specific additional mapping rules in its Critical Area Program. The mapping in the towns was sometimes markedly different than those of counties, because of the disparity in situations. For example, the City of Annapolis created some very small areas of RCA in order to grant greater protection for existing forested areas, rather than treating these areas as infill, which was usually done with such areas in counties. Because the availability of sewer and water was generally more prevalent within towns, the presence of this infrastructure on undeveloped land may not have been given the same weight as in counties during mapping.

The mapping of the parcel in question as RCA appears to have been consistent with other mapping in Elkton, where parcels were evaluated based on whether there were structures serviced by sewer and water, rather than whether there were sewer and water lines on the property. The parcel did have sewer lines available to service the property as of 1985.

Commissioner Hickernell read the recommendation reached by the Panel subsequent to the public hearing and offered it in a motion. He said that the Panel reached the recommendation after a considerable amount of discussion and after a 3:1 vote the panel recommended denial. He moved to deny the amendment to change 35.4 acres of the property of Chesapeake Haven Land Corp./Remle Inc. from RCA to LDA by reason of mistake. He said that the majority of the panel concluded that there was no mistake by the initial actions of the Commission and there was no mistake shown.

Commissioner Gutman seconded the motion.

Craig Ward, Frederick Ward Associates and FWA Environmental Science, representing the property owners and the applicants of the request, stated that one of the major points which should be evaluated in the request is the fact that the record of discussion at the hearing held during the original mapping process indicates that the availability of sewerage to this property was never pointed out. Not only is sewerage available to this property, and was available to the property in 1985, but is actually on this property. He said that the records of the discussions, minutes, etc., indicate that sewerage is nearby, which suggests that the facts of the case were not properly reviewed and presented during the hearing. He said that the existing development adjacent to the property is situated in such a way that it should be evaluated in determining whether it is an infill parcel, and an extension to an existing community which had been envisioned for years. Mr. Ward said that it would be proper to include that

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neighborhood in the density calculation which would bring it into compliance with the Criteria for LDA.

Commissioner Elbrich asked if the sewer line was a force main or a gravity system.

Mr. Ward replied, a gravity system.

Commissioner Ambridge asked if the panel was aware of that when they deliberated.

Commissioner Gutman responded that the panel that reviewed the project in 1988 held an extensive discussion about the sewer, and was aware of the abandoned plant and existing lines. He said that the panel was aware of the sanitary capacity both before and after this property would be developed.

Commission Counsel, George Gay, stated that the Critical Area Law provides that the Commission shall approve programs and program amendments that meet the standards set forth in §8-1808 (b)1-3 of the Law and the Criteria adopted by the Commission under §8-1808 of the Law. He said that the Commission may be compelled to approve this proposed amendment, if in its collective opinion at the time of initial program adoption, it meets the goals of the Critical Area LDA provisions in the Criteria. He said that the Commission's consideration should be not only whether or not the property at issue meets RCA but also whether it meets LDA criteria. The Commission should consider not only whether the RCA was reasonable and correct at the time of initial program adoption but also whether it would be unreasonable and inconsistent with the Criteria to designate it LDA now.

Ms. Hairston commented that in evaluating the mapping the standards which were applied throughout the town were applied here.

Mr. Duket asked if there were any LDA parcels mapped in the Town that did not have structures.

Ms. Hairston stated that she was not aware of any in particular but that there were probably vacant parcels as infill, which were less than 20 acres surrounded by LDA. She was not aware of any over 20 acres that had not used growth allocation.

Commissioner Hickernell said that all the factors remained consistent from the time of initial approval and consideration in 1988.

Ms. Carolyn Watson said that there was an adjacent parcel where growth allocation was used. She said that it was not given LDA classification and it was properly mapped.

Commissioner Bostian asked if the proposed subdivision has sewer and water.

Mr. Ward replied, yes.

Ms. Hairston stated that there is not a site plan proposed at this time but that one is expected.

Mr. Bostian said that one of the guiding principles of the Critical Area Law and one that continues is to channel growth towards areas that are near towns and on sewer and water. He said that it seems that we are letting technicalities cloud the issue. A subdivision is next to a parcel which, because it is in the County, is not counted for density. There is sewer on the property which is normally used as a mapping rule, but it is not counted because other properties in the Town of Elkton have been designated RCA that have sewer and water. They may be mistakes also.

Ms. Hairston suggested that growth allocation should have been applied to the other parcel and that growth allocation should be given to this one also. Ms. Hairston said that she believes the panel thinks that growth allocation should be applied to an undeveloped parcel and that no one on the panel would say that it should never be developed.

Mr. Ward interjected that in correspondence with Ms. Hairston it was pointed out that the adjacent Anne Arundel Corporation property had been granted growth allocation, and that the property should have been designated LDA on its own

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merits. He read correspondence from Ms. Carolyn Watson dated January 7, 1987 to the Mayor of the Town of Elkton pointing out issues that the Commission had a difference of opinion with the original submitted program addressing this property specifically stating that "sewer lines about the edge of the designated area; the far edge of the designated area is approximately 1400 feet from the sewer line". He said that he believes that points out the inconsistencies of the issue wherein the sewer lines about the property instead of bisecting the property.

Mr. Gutman said that more important than whether or not the sewer line was identified at the right location, when it comes to the definition of LDA it is very clearly stated that "limited development areas are those areas which are currently developed in low or moderate intensity uses". He said that when they visited the property in 1988 they saw no development.

Mr. Ward said that with that interpretation it would be improper to designate any undeveloped property in the State of Maryland within the Critical Area as LDA.

Mr. Duket said that as a planner he would look at the language, "those areas that are currently developed in low or moderate intensity uses" as applying to towns in general. That would make it a very simple but practical evaluation of the Town of Elkton as certainly being a low or moderate intensity area. Mr. Duket said that the only rules the Town can rely on are the Criteria.

Mr. Hickernell requested clarification of Counsel Gay's earlier remarks. He suggested that Counsel Gay was saying that consideration of the highest and best use would be applicable in this circumstance of an either/or situation. Because there are characteristics of both LDA and RCA designations, one could satisfy either definition. The tract of land does not necessarily exclude one or the other. Under that interpretation, the higher use could be the direction the Criteria would lead to.

Counsel Gay stated that he believes that to be the direction that the Town of Elkton is leaning toward in this instance in determining that there was a mistake and that the appropriate designation was LDA. In the event that it is found that this property meets, in the Commission's opinion, LDA criteria and §8-1808 (b) 1-3, the Commission may be compelled to approve the Town's request for redesignation.

Commissioner Bowling asked if the property must be considered based on its dominant use.

Ms. Langner asked if it meant the "area" or the "property."

Counsel Gay said that one of the central issues in the Bellanca case in Kent County was whether or not the Critical Area Commission should have looked at the parcel as an "area" or should have looked at the parcel and its surrounding environments which included a subdivision and some other more intense uses as the "area". He said that the Commission position then was that it was appropriate to consider the parcel as an area as set forth in the RCA and LDA provisions.

Mr. Bostian said that he thinks it has been done both ways and in many jurisdictions. He said that "area" was not defined originally in order to allow flexibility in handling different cases in different kinds of areas.

Mr. Hickernell restated his motion: to deny the redesignation of 35.4 acres of the Chesapeake Haven Land Corp./Remle Inc. from RCA to LDA by reason of mistake.

Chairman North acknowledged the second to the motion by Mr. Gutman and called the question. The vote was 5 in favor and 12 opposed. The motion failed.

Mr. Hickernell made an affirmative motion to approve the request. The motion was seconded. Chairman North called the question. The affirmative vote carried 13:4.

Chairman North asked Mr. Ren Serey to report on the Historic St. Mary's City

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Master Plan.

Mr. Serey briefed the Commission on the project in a staff report which was disseminated to them and which is as follows:

Discussion:

The Historic St. Mary's City Commission (HSMC) proposes to undertake several development projects in conjunction with the updating of its Master Plan. The Master Plan also covers research and education programs over five years. A summary of activities, prepared by HSMC, is attached.

The Master Plan proposes:

- development of a Visitors Center and Museum,
- reconstruction of the Great Brick Chapel;
- construction of partial, frame buildings, or ghost structures, in locations of original buildings; and
- relocation of structures not associated with the historic layout.

Mr. Serey introduced Mr. Burt Kummerow, St. Mary's City Commission, who gave a slide presentation and discussed the relation of the Master Plan to Critical Area regulations. A summary of the Update was disseminated to the Commission members and are attached to the Minutes. Mr. Kummerow asked for a general approval on the concept Master Plan.

Commissioner Kay Langner, Chair, Project Subcommittee, made a motion for the approval of the Master Plan of the Historic St. Mary's Commission with staff review of specific activities for determination of major projects needing Commission approval. The motion was seconded and carried unanimously.

Chairman North asked Mr. Ren Serey to report on the University of Maryland's Center for Environmental & Estuarine Studies at Horn Point, Dorchester County.

Mr. Serey briefed the Commission on the request in a staff report disseminated to them which is as follows:

PROJECT: Repair and expansion of boat basin.

RECOMMENDATION:

Discussion:

The Center for Environmental and Estuarine Studies at Horn Point proposes to widen its existing boat basin and undertake general repairs at the facility. The Center also has applied for State and federal permits to dredge the basin, the existing channel and a portion of the Choptank River. The Critical Area Commission does not have approval authority for dredging, and those activities are not a subject of this review.

The Center's proposed widening of the boat basin involves excavation of approximately 1800 square feet of Buffer area. Mr. John Coffey, Senior Engineer with the University's Department of Engineering, has stated that the basin requires widening to accommodate the Center's research vessels in a safer manner. A representative of the Center will brief the Project subcommittee on the issue of Buffer excavation. The Center has been notified that any Buffer excavation must be specifically justified.

Mr. Serey stated that the project had been reviewed by Dorchester County and that the County had no comments and believes that it is consistent with the local Program. Mr. Serey introduced Mr. John Coffey of the University of Maryland Engineering section at College Park who described the project. Mr. Coffey said that the project entails the replacement of a deteriorated bulkhead and to make the basin serviceable they are proposing maintenance dredging which is currently under review by the tidal wetlands department of the Department of Natural Resources. He said that they are also proposing to widen the basin. He said that the second phase is the bulkheading itself. Mr. Coffey said there are no SAV or oyster bars affected.

Counsel Gay asked Mr. Serey if his review indicated that the project was consistent with the applicable Green Regulations, State agency actions on State lands.

Mr. Serey said that there is one issue to be resolved by the Commission which is to determine whether excavation of a portion of the Buffer, a habitat protection area, can be consistent with the regulations. He added that in this situation there is a developed marina and there is a public need for safety and

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maneuverability of the research fleet. Mr. Serey said that this is an area that is not significantly vegetated but it is nevertheless a buffer. Mr. Serey told the Commission that the widening of the basin equals excavation into the Buffer but there is no stated prohibition against this, therefore this proposal will eliminate a portion of the Buffer - 13 feet by about 160 feet.

Commissioner Elbrich commented that the regulations do not speak to either bulkheading or filling along the shoreline nor to excavating or dredging along the shoreline in regards to the buffer. He explained that the Buffer moves with erosion or accretion of land.

Mr. Serey said that the question before the Commission is one that has never arisen before: enlarging for public need and safety an existing water-dependent facility that is on public land. Mr. Serey stated that he believes that because it is a water-dependent use there is the possibility for the Commission to approve the development within the Buffer, however, proposed Buffer excavation for a new boat basin would not be permitted under the Criteria or under the green regulations.

Mr. Bostian suggested a motion to approve the project.

Commissioner Kay Langner made a motion to approve the repair and expansion of the boat basin at the Horn Point Center with the condition that all Federal and State permits be received before construction begins. Mr. Bostian accepted the motion and it was seconded and carried unanimously.

Chairman North asked Ms. Liz Zucker to report on the Mosquito Control General Approval.

Ms. Zucker discussed the revisions to the General Approval for Mosquito Control: the section on Project Procedures disseminated to the Commission members at the June meeting was modified. The revisions insure that mosquito control projects will be in compliance with the Critical Area criteria under the General Approval. A procedure is described for the review of OMWM activities in tidal marsh on State lands under COMAR 14.19.05, and for OMWM activities proposed in tidal marsh on private or local lands under COMAR 14.19.02. Also included is an outline of CAC review procedures for MCS spray program activities on State, private and local lands. The revised procedures are attached to the Minutes. She introduced Mr. Cy Lesser of the Maryland Department of Agriculture who spoke in support of the document on behalf of the Department. Ms. Zucker stated that although a vote will not be taken at this meeting a general consensus was desired so that the document can be sent to the jurisdictions for comments. Once the comments from the jurisdictions are incorporated, the Commission will vote on a final document.

Chairman North indicated that there seemed to be no general sense of disagreement of what has been submitted so far and, generally speaking, the Commission is in accord with the document submitted.

Chairman North asked Commission Counsel, George Gay to update the Commission on legal matters.

Counsel Gay stated that the Wharf at Handy Point decision from the Court of Special Appeals was issued some time ago. He said that the property owner has filed a Motion for Reconsideration and, if granted, the Court of Special Appeals will reconsider its earlier decision and perhaps come out with a new Opinion.

Mr. Gay commented on the Lucas case out of South Carolina.

Chairman North called for Executive Session to discuss the Burris matter which is in litigation.

Chairman North, after Executive Session, announced that there had been

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discussion of the Daniel W. Burris matter, Case #CA9111196 before the St. Mary's County Board of Appeals with Counsel Gay's advice. He said that it had been decided by the Commission that Counsel Gay is authorized to advise Mr. F. Michael Harris, Esquire, attorney representing Mr. Burris that the Critical Area Commission is amenable to accepting the sum of not less than \$2,500 from his client to be used for the purpose of developing a brochure to educate St. Mary's County property owners as to the affect and purpose of the Critical Area law provided that Mr. Burris submits a pool maintenance proposal acceptable to the Commission.

OLD BUSINESS

Chairman North asked Ms. Patricia Pudelkewicz to comment on the Growth Allocation acreage.

Ms. Pudelkewicz reiterated the June Critical Area Commission meeting discussion of Growth Allocation and disseminated a chart of growth allocation acreage (also attached to the Minutes).

NEW BUSINESS

Chairman North introduced Mr. John Lipman, a summer intern with the Chesapeake Bay Critical Area Commission, who is working to develop a policy for uses in the RCA, doing so pro bono.

Ms. Pudelkewicz reported that during the week of June 15th the Commission staff along with the Coastal and Watershed Resources Division held workshops for the local governments on grant and comprehensive reviews in four different locations in the Critical Area.

Ms. Theresa Corless updated the Commission on WSSC activities. She said that there have been ongoing projects in the Hyattsville area to replace a number of aging pumping stations and aging sewer lines. She said that in 1990 the Commission approved the Hyattsville pumping station and at the last meeting of the Commission, Phase C of the sewer lines was approved. Ms. Corless reminded the Commission that at the previous Commission meeting, Ms. Watson asked Mr. Kennedy, a representative of WSSC also present at that meeting, about an area across the river from Phase C that was flagged. He told Ms. Watson that it was Phase D which would be coming to the Commission for review and approval shortly. However, two weeks ago Ms. Watson received a phone call from a citizen who had noticed there was activity in this flagged area (Phase D). Although this phase of the project has received the required permits from the Corps of Engineers, MDE, DNR's WRA, SHA, Board of Public Works, and the Wetlands Administration, WSSC has failed to submit plans to the Critical Area Commission for approval before the initiation of construction. The project has been received by the Commission and will be reviewed as expeditiously and thoroughly as possible and is expected to be presented at the next CBCAC meeting in August; however, the most sensitive areas which are forested and emergent wetlands have already been severely impacted. Ms. Corless stated that Chairman North would be writing to the Chairman of WSSC informing him that the Critical Area Regulations have not been followed and will request that WSSC cease work on this phase of the project until it has received Commission approval.

Commissioner Phillips stated that he has a concern as to how sludge is being handled on farmland. Even though there are soil and water conservation plans for farmers to abide by, coupled with nutrient management plans, in Maryland there has not been a nutrient management plan for the application of sludge. He said that sludge is not being monitored enough and believes that it is a problem.

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Commissioner Louise Lawrence stated that the Department of Agriculture has been working with the MDE sludge division for the past 8 - 9 months on this issue and she believes that by October 1st a program should be in place to provide more technical people to develop nutrient management plans and that MDE will begin to require nutrient management plans for sludge application. Currently, she said, it is required by anyone who has animal waste.

There being no further business, the meeting adjourned.

JUDGE JOHN C. NORTH, II
CHAIRMAN
410-822-9047 OR 410-974-2418
410-820-5093 FAX

SARAH J. TAYLOR, Ph.D.
EXECUTIVE DIRECTOR
410-974-2418/26
410-974-5338 FAX



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STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

July 2, 1992

MEMORANDUM

TO: Critical Area Workshop Participants

FROM: Sarah J. Taylor, Ph.D.
Executive Director

SUBJ: Supplemental Information - Critical Area Grants and
Comprehensive Review Workshop

We were pleased to see you at the Critical Area Workshops held the week of June 15th, and hope you found the presentation useful and informative.

Attached is a supplemental packet of information which we promised to send after the workshops concluded. This packet includes:

1. Updated "Program Review Issues"
2. Mapping Format for the Comprehensive Reviews
3. Sample Scope of Work
4. Sample Format for the Quarterly Report
5. Interim Time Line for Critical Area Grants (covering July 1992 - October 1992)
6. Questions and Answers - Comprehensive Reviews
7. Questions and Answers - Grants

A sample Invoice will be sent in the near future.

If you have any questions on this supplemental information, or if we may be of further assistance, please contact either your CAC staff planner or Pat Pudelnkewicz at (410) 974-2426.

/jjd

Attachments

PROGRAM REVIEW ISSUES

In reviewing several of the local Programs, we have discovered that there are a few issues that have arisen more than once and which will need to be examined by the local government to make sure that they are covered in the Program prior to submittal.

1. AMENDMENT PROCESS - Amendments should come to CAC for approval in as final a format as possible; some action should be taken on the part of the local governing body that it supports the legislation and the governing body should give the Commission permission to handle the amendments individually.
2. GRANDFATHERING LANGUAGE - HPAs and water-dependent facilities are not grandfathered (COMAR 14.15.02.07D). Some Programs omit this language and it must be added.
3. COMAR 14.15.10 - There should be a statement saying: "Project approvals are based on findings that the projects are consistent with the goals of CA Law." Some Programs omit this language and it should be added.
4. IF CRITICAL AREA OVERLAY ZONES ARE USED - A statement should be made in the Program that the more restrictive zoning criteria apply.
5. BUFFER EXPANSION - Mostly found in Redman/Johnston Programs - 10' cap for buffer expansion is inconsistent. The CAC staff will be working with the local jurisdiction to change this.
6. PROJECT REVIEWS - Identify in the Program what comes to CAC for review (COMAR 14.20).
7. INTRAFAMILY TRANSFER OPTIONAL - If a transfer is to be used, it must be in the Program and a part of the ordinances.

8. 15% IMPERVIOUS CHANGES - HB 1060 & HB 323. Incorporate these into the Program if it has not been done.
9. FOREST AMENDMENT TO CA LAW § 8-1815.1 OPTIONAL - Authorizes jurisdictions to require replanting or collect damages when forest clearing regulations are violated. This was an interim remedy provided in the Law for jurisdictions who needed to have something to enforce a violation in the Buffer or elsewhere prior to local Program adoption. Some of the remedies may be useful to incorporate if desired.
10. SOIL CONSERVATION & WATER QUALITY PLAN - There must be some arrangement described in the Program that addresses situations and enforces them where no cooperators' agreement exists and/or no SCWQP exist and violations occur.

COMPREHENSIVE REVIEW

MAPPING

One of the elements of a Comprehensive Program Review is an updated resources inventory. The inventory information should be in mapped format, if possible.

Mapping format guidance follows:

1. Information should be provided in both hard copy and digital format, if available, preferably in vector form. Otherwise, a hard copy such as a paper map is fine.
2. A jurisdiction may send in only those maps where changes occur. (It should then be explained why other maps remain the same and require no changes).
3. Clear overlays (mylar) are fine to use to reflect the changes.
4. Information should be registered to State Plane Coordinates, the basis used for tax maps.
5. CAC staff and local planners should check to make sure that copies of all resource maps were originally given to the Commission. In some instances, copies were not submitted as part of the original Program.

Place on Jurisdiction Letterhead

Scope of Work
 _____, County, Maryland
 October 1, 1992 - September 30, 1993
 1993 Budget Year

Introduction

_____ County will soon be entering its third year of Critical Area implementation. Continued support by the Critical Area Commission has allowed the County to establish needed review and enforcement programs. The County intends to continue this work throughout the 1993 budget year using the two staff persons funded under the 1992 budget. The two positions are 1) Critical Area Coordinator (Principal Planner) and, 2) Zoning Enforcement Officer. Additional local staff time spent on implementing the Critical Area Program will be used as 100% match.

The Critical Area Coordinator (Principal Planner) position is primarily responsible for project review and coordination with applicable local and state departments, preparing administrative forms, providing assistance to the general public and coordinating the overall implementation of the Critical Area program. This position will also be responsible for organizing and undertaking the 4-year Comprehensive Review in FY '93.

The Enforcement Officer is responsible for enforcing the specific Critical Area regulations. This involves field investigation, coordination with other local and state department personnel, and preparation of reports and documentation for violations. This position is also responsible for simplifying and streamlining enforcement procedures. Both positions will continue to prepare educational materials to aid in the implementation of the Critical Area program.

The following accomplishments are expected under this Scope of Work for the 1993 budget year.

- | | |
|------|--|
| TASK | 1. Provide general assistance to property owners within the Critical Area, explanation of regulations and allowable options.
- Time line: On-going through fiscal year |
| TASK | 2. Continue preparing educational handouts explaining Critical Area procedures and administrative processes.
- Time line: Oct 1 - Apr '93 Product: Public handout describing CA Program project review requirements. |

Scope of Work
 July 2, 1992
 Page Two

- TASK 3. Prepare the 6 month reports reflecting decisions made for that part of the year on all rezonings, special exceptions, conditional uses, subdivisions, variances, and floating zones, and send these reports to the Critical Area Commission.
- Time line: December 1992 and June 1993
- Product: 6 month reports to be submitted to Critical Area Commission on December 31, 1992 and June 30, 1993.
- TASK 4. Prepare site plan reviews on all projects within Critical Areas. Includes coordination of all State and County affected agencies and Departments.
- Time Line: On-going
- TASK 5. Provide full time enforcement personnel to adequately enforce violations in a timely manner.
- Time Line: On-going
- TASK 6. Continue meeting with other State agencies (SCS, Forest Park and Wildlife Services, Critical Area Commission, Maryland Office of Planning, etc., to:
- 1) review and discuss refinements to the County's Critical Area program.
 - 2) make recommendations on specific applications.
 - 3) share common problems and set policies for inter-agency cooperation.
- Time Line: On-going
- TASK 7. Four-year Comprehensive Review: Review Critical Area Program, propose any necessary amendments or refinements, meet with Critical Area Commission staff to discuss program review, contact State agencies for updated resource inventory information, prepare updated resource inventory maps, oversee approval of Comprehensive Review by the local approving authorities and the CAC.
- Time Line: January - September 30, 1993
- Product: Updated Resource Maps
 Revised Critical Area Program
- * TASK 7 will either be undertaken by Critical Area Coordinator or contracted out to a consultant. If contracted to a consultant, \$5,000 will be budgeted and this will be deleted from the budget for the Critical Area Coordinator.

Scope of Work
July 2, 1992
Page Three

Workproducts

Quarterly progress reports will be due on January 1, 1993, April 1, 1993 and July 1, 1993. The 6 - month reports will be due on December 31, 1992 and June 30, 1993. The final report will be due on September 30, 1993. The final report will contain 4 copies of the public handout describing Critical Area Program project review requirements, 4 copies of the revised Critical Area Program, and 1 copy of the updated resource maps.

Budget

 County, Maryland
 October 1, 1992 to September 31, 1993

Copies of all invoices and timesheets detailing the expenses incurred by the county for which reimbursement is requested or used as matching funds must be submitted to the Commission no later than January 30, April 30, July 30, and November 1, 1993.

<u>BUDGET</u>	<u>STATE</u>	<u>LOCAL</u> <u>MATCH</u>	<u>TOTAL</u>
Salaries and Fringe	40,000*	42,000**	82,000
Advertising	500	0	500
Office Supplies	400	0	400
Printing	400	0	400
Maps	200	0	200
<u>Conferences</u>	<u>500</u>	<u>0</u>	<u>500</u>
Total	42,000	42,000	84,000

* C A Planner:
 Salary 18,000
 Fringe 3,500 (must be broken down individually)
 Total 21,500
 (10.00 per hour including fringe)
 Fringe (19.4%) incl. health ins. (\$), FICA (\$), retirement (\$)

Zoning Officer:
 Salary 15,000
 Fringe 3,500 (must be broken down individually)
 Total 18,500
 (XX.XX per hour including fringe)
 Fringe (19.4%) incl. health ins. (\$), FICA (\$), retirement (\$)

** Planning Officer:
 Salary XXXXXX
 Fringe XXXXXX (must be broken down individually)
 Total 13,500
 (XX.XX per hour including fringe)
 Fringe (19.4%) incl. health ins. (\$), FICA (\$), retirement (\$)

Asst. Planning Officer:
 Salary XXXXXX
 Fringe XXXXXX (must be broken down individually)
 Total 11,400
 (XX.XX per hour incl. fringe)
 Fringe (19.4%) incl....

Secretary:
 Salary XXXXX
 Fringe XXXXX (must be broken down individually)
 Total 6,000
 (XX.XX per hour incl. fringe)
 Etc.

* * * SAMPLE FORMAT FOR QUARTERLY REPORT * * *

_____ County/City

QUARTERLY REPORT

OCTOBER 1, 1992 - DECEMBER 31, 1992

I. Scope of Work Tasks

TASK 1: Provide general assistance to property owners within the Critical Area, explanation of regulations and allowable options

(written narrative describing work accomplished between 10/1/92 - 12/31/92)

TASK 2: Continue preparing educational handouts explaining Critical Area procedures and administrative processes.

(written narrative describing work accomplished between 10/1/92 - 12/31/92)

etc.

II. Obstacles encountered in implementing the Program

CRITICAL AREA GRANTS
INTERIM TIME LINE

JULY 1992 - OCTOBER 1992

JULY 15 FY 93 Scopes of Work due

AUGUST

SEPTEMBER 30 End of FY 92 Grant Period
Last day for work billed on FY 92 Grant

OCTOBER 1 FY 93 Grant period begins
Final Progress Report (Quarterly Report) due for
FY 92 Grant

NOVEMBER 1 Absolute deadline for final invoices for FY 92
Grant

CRITICAL AREA WORKSHOP
COMPREHENSIVE REVIEWS
QUESTIONS AND ANSWERS

1. Can Forest Interior Dwelling Bird habitat be mapped out on forest maps? Will DNR do this for local governments?

DNR is having forested areas mapped statewide, but Forest Interior Dwelling Bird habitat is not automatically mapped with that project. A Geographic Information System can be used to identify areas > 100 acres and riparian areas over 300 feet in width, but this is not currently underway. (Forest areas must be mapped first).

2. Can changes be made to Critical Area mapping (IDA, LDA, and RCA) based on the new Growth Management Act?

The local Critical Area Programs and the Critical Area criteria describe the mapping criteria used to originally designate the Critical Area. Although jurisdictions may request any changes to their Critical Area Programs they wish to make, the Commission will base its review of proposed changes on consistency with the Critical Area Law and criteria. It should be noted that the CAP is consistent with several of the visions guiding the Growth Management Act: 1) Development shall be concentrated in suitable areas; 2) Sensitive areas shall be protected; 3) In rural areas, growth shall be directed to existing population centers and resources areas shall be protected.

3. Is the local Program the controlling regulation?

The Critical Area Law is the #1 controlling document, followed by the locally-adopted Critical Area Program for project reviews and growth allocations. With regard to new proposals to a local Program, the Commission will again view the Law as the #1 controlling factor, followed by the criteria. The Commission will rely on adopted CAC policies for guidance.

4. Does a local jurisdiction need a final, approved bill prior to sending amendments/refinements to the CAC for the Comprehensive Review?

The local jurisdiction should provide the language of the legislation in as final a form as possible. If it is not possible to send an approved/final piece of legislation to the CAC, then there should at least be some show of support (a resolution or a letter) by the

local governing body for any draft legislation submitted. The CAC does not want to conduct public hearings, then review and vote on local legislation which does not have the support of the local governing body, nor does it want to vote on language which may substantially change. That would cause a delay in what should be an expeditious process.

5. How will the authority of the Commission to correct any "clear mistakes, omission, or conflicts with criteria or laws" (NRA § 8-18091) be used during the Comprehensive Reviews?

The CAC prefers to use open and frank discussion and negotiation to ensure compliance with the Critical Area Law and criteria, and fulfill its responsibility to oversee the implementation of the Law. The authority granted under NRA §8-18091, is not viewed by the CAC as a "tool" to require compliance in the Comprehensive Reviews, but only as a last resort when discussion/negotiation fails to correct a major problem with a Program which has remained unaddressed despite all efforts on the part of all parties.

6. How can local jurisdictions be assured the CAC is reviewing all elements of its Critical Area Program?

In order to ensure that the CAC has a complete set of all of the documents encompassing the local Critical Area Program, the CAC planner will coordinate with the local planner and will inventory the CAC Program file at the beginning of the Comprehensive Review process with the local planner.

7. What is the status of the waterfowl staging and concentration areas information at DNR?

The areas are currently being mapped on topographic quads by the Wildlife Division (contact: Larry Hindman 827-8612). This should be completed within a few months. The maps can be printed for a jurisdiction usually within a week or two, so with a little notice, this information is available.

8. Are local public hearings held by the local government required for the Comprehensive Review?

Public hearings are needed as part of the normal "due process" requirement for amendments and refinements to a local Critical Area Program.

CRITICAL AREA WORKSHOP

CRITICAL AREA/CZM GRANTS
QUESTIONS AND ANSWERS

SCOPES OF WORK

1. There are two Scopes of Work due rather quickly. What are they?

FY 93 Scope of Work due by July 15, 1992 (covers the period October 1, 1992 to September 30, 1993)

FY 94 Scope of Work due by January 1, 1993 (covers the period October 1, 1993 to September 30, 1994)

2. What should be in the Scope of Work?

Elements of a Scope of Work are: a listing of work tasks, a time line for each task, any work products associated with a task, and a budget. If costs include salaries, then the title of the position and the salary (either hourly rate and # of hours, or percentage of salary) associated with work on the grant need be shown. Match (100%) must also be presented. A sample Scope of Work is provided.

MATCH

1. How much match is needed?

100% match is needed.

2. What can be used for match?

Most expenses incurred by a local jurisdiction in meeting the goals of the Critical Area Program or the CZM Program can be used as match; however, Critical Area tasks in the Scope of Work should be matched by Critical Area work, if possible. If this is not possible, then efforts of the local jurisdiction to meet the CZM goals may be used as match. Match may include salaries/fringe, in-kind services, work related to implementation of the Forest Conservation Act, the Growth Management Act, water access plans/studies, etc. As other examples, the time that Council or Commission members spend at their meetings (rate x hours) which can benefit CAC and/or CZM can be used, and other departmental efforts can be used as well, such as the time spent on enforcement or on the development of SCWQ Plans by the Soil Conservation District. In-kind services must benefit the project and are eligible only

when, if the jurisdiction receiving the in-kind services were to pay for them, the payments would be allowable costs.

3. Should you report any additional match, above what is needed?

Yes, if your jurisdiction can provide additional match over the amount of your grant, please indicate this in your Scope of Work. This match may be needed by some of the smaller jurisdictions who are having a difficult time coming up with match. You must be aware, however, that this additional match will require the same documentation (ex: time sheets, invoices, etc.) as the match for your own grant. We need your help with this and are looking to the large jurisdictions to assist as we cannot provide the match through our own budget.

4. Does a change in match require approval?

Yes. If there is a change in match as presented in your Scope of Work, then it does require the approval of the CAC, or possibly, NOAA. Use the 10% or significant change guideline.

5. Are expenditures of fees-in-lieu eligible for match?

Yes, activities funded by fees-in-lieu are eligible for match provided that the monies are local/State in nature and not federal and that they can be applied to a salary or a project.

6. At the end of each quarter, must the invoices billed be matched dollar-for-dollar? If match is not available for the first quarter, but is available in the next quarter, can it be shown for the 2nd quarter?

Match does not have to reflect the same total as the invoices for each quarter. If you don't show match for the first or second quarter, but will have it in the 3rd quarter, that is OK. However, payment of invoices for the 3rd quarter will be held up until match provided to keep up with the expenditures.

7. Can State money from the Department of Environment be used as match? From Waterway Improvement Program?

Yes, State money can be used as match. Federal money may not be used as match, so make sure if you wish to use State money as match that no federal dollars are involved.

8. Do you need to turn in receipts for match?

Yes, the documentation for match is the same as that required for the grant.

9. Can legal expenses be used as match?

Yes, legal expenses can be used as match. To determine which legal expenses are eligible, see the section of this question and answer packet titled "Expenses - Eligible/Ineligible"..

10. Who has to handle the match effort? Do the Counties have to work out arrangements with their municipalities?

No, each jurisdiction is responsible for its own match. Any jurisdiction who can provide additional match is encouraged to do so. The CAC will make sure this additional match is used to cover smaller jurisdictions who cannot provide match.

AMENDMENTS TO SCOPE

1. What changes in the Scope require approval by NOAA?

- . Any change in the overall grant budget to the Critical Area Commission above 10% will require approval by CWRD, and may require approval by NOAA; therefore, the CAC is passing on this 10% limitation to all of the jurisdictions. Any change below 10% of your total grant (only State money) can be approved by the CAC; however, anything above 10% may have to go to NOAA. Please remember that the 10% is cumulative. The CAC will keep a record of all amendments, and as we approach our 10% limit we will be aware that future amendments may need to go to NOAA.
- . Any significant change in the proposed work tasks will also require the approval of NOAA.
- . Adding a consultant to the Scope requires NOAA approval.
- . All amendments must be approved in writing prior to the change becoming effective.

2. Is a new line item a significant change which must be approved by NOAA, or is it a significant change only if it goes over 10% of the grant?

If the change involves adding a consultant or subcontractor, regardless of the dollar value, it is considered a significant change and will require NOAA's approval. If the new line item causes less than a 10% change in dollar value, the Commission has approval authority. A new line item change over 10% will require at a minimum CWRD approval. Lastly, if the new line item significantly alters the tasks outlined in the Scope of Work, CWRD approval will be required.

3. When are amendments to the Scope of Work needed?

Major/significant changes (including no-cost extensions) must be made no later than May 15th. After May 15th, only non-significant changes will be considered.

4. Will amendments be approved for FY 92?

No. We have run out of time.

EXPENSES - ELIGIBLE/INELIGIBLE

1. How do you assign rates to in-kind services?

Rates should reflect a reasonable payment for the service provided. Check with neighboring jurisdictions who may pay for the service, or a comparable paid position in your own jurisdiction. The valuation estimate may include a reasonable amount for fringe benefits.

2. What legal fees are eligible?

Legal fees are not reimbursable unless otherwise specifically identified in the Scope of Work. SPECIAL NOTE: Legal fees associated with preparing for, or as a result of appeals filed in court by either the local government against the Commission or vice versa, or the federal government, are not eligible for reimbursement. Types of fees applicable are: attorney council, attorney review of documents, and court fees associated with lawsuits involving the county.

3. Is software an eligible expense?

Yes, if it is used in the implementation of the Critical Area Program, or the CZM Program, then it is eligible.

QUARTERLY REPORTS

1. How many copies of work products are needed?

Four copies are needed; two go to NOAA, one to CWRD (Coastal and Watershed Resources Division) and one to CAC. If it is a particularly large or bulky product, such as a large set of maps, then only two copies are needed.

2. Can the quarterly report cover a period ending on the 15th of the month instead of the 30th, in order to allow sufficient time to prepare the quarterly report? For example, can the 1st quarter, which would normally end December 31, end on December 15 to allow time to prepare and submit the quarterly report by January 1?

Yes, the quarter could end on the 15th; however, invoices billed for that quarter must cover the same time period as the quarterly report. The last quarter will need to cover the remainder of the fiscal year (the 4th quarterly report would end on September 30th and not September 15th).

3. Can Progress Reports be semi-annual instead of quarterly?

The CAC is required by NOAA to do quarterly progress reports; therefore, we need this information from the local jurisdictions on a quarterly basis.

4. Will the format for the quarterly report change now?

The format should reflect a listing of tasks from the Scope of Work with a narrative beneath each task describing the work accomplished during the quarter. Any finished work products should be submitted with the quarterly report (four total except for bulk items). Invoices will now be submitted separately (instead of with the quarterly report as in previous years). Refer to the time line handed out at the workshop for the due dates for quarterly reports and invoices.

INVOICES

1. Are time sheets required or can other methods of documentation be used?

Time sheets are required if at all possible. If not possible, the CAC and CWRD will try to work out arrangements with jurisdictions on an individual basis to come up with another method of documentation acceptable to the auditors. Any jurisdiction who feels that this might be a problem

should contact the Commission immediately so that resolution can be sought before invoices are due.

2. What type of documentation is needed on the fringe benefits?

Fringe benefits must be listed individually. A computer print-out of each employees salary and fringe benefits is ideal.

3. What form must the time sheets take?

Time sheets should show the number of hours worked on Critical Area/CZM-related tasks or be a percentage of the work task. Time sheets should cover the entire billing period. The invoices need to reflect hourly rates.

ALLOCATION

1. What is the funding level for FY 93? Is it the same as FY 92, or is it a combination of both the CAC grant and the CZM grant?

The funding level for FY 93 is the same as the Critical Area grant for FY 92. For jurisdictions who have received both Critical Area and CZM grants in the past, the funding level for FY 93 will only equal the Critical Area grant for FY 92.

2. How is the Critical Area grant money level of funding figured out for each jurisdiction?

Money is disbursed according to several factors: 1) how well the monies were spent in prior years; 2) the need for staff; 3) degrees of activity (projects to be addressed); 4) area of Critical Area in the jurisdiction; 5) additional responsibilities such as the comprehensive review.

3. Is additional funding available? Is there more money for some of the smaller jurisdictions, or jurisdictions undertaking their Comprehensive Reviews?

General funds used for local technical assistance were cut from the CAC budget during FY 92 and FY 93. We were fortunate to be able to replace this money with federal CZM money. Though the need is great, we are not able to increase our level of assistance, but we are at least able to maintain the same level.

We will again inquire of jurisdictions next March (1993) if there is anyone who will not be spending all of their money so that it can be returned and redistributed to those in need. This will not jeopardize a jurisdiction's level of funding in the future; however, if money is repeatedly not spent by the end of the fiscal year, and is therefore lost, this could jeopardize the level of funding to all jurisdictions in future years.

Jurisdictions in need of additional funds should inquire of the CAC in February/March to see if anyone has returned money. Whatever money is returned will be redistributed based on inquiries made and need.

4. If a jurisdiction has already spent its FY 92 grant, what is to happen for the period of July - September 1992?

While we wish we could address this situation by providing more money, we cannot. The basic aspects of the Program (project review, enforcement and submittal of reports) must continue through legal ingenuity.

5. Does a jurisdiction risk losing funding if it proposes a CZM project and decides to fund implementation of its Critical Area Program itself?

No, only if funds are left unspent.

6. What happens if the federal government does not fund the State's request?

Then we are all in a messy situation. However, it must be remembered that the CAP is a part of the MCZMP and is the area of focus of that Program. It is unlikely that the CAP will go unfunded as the Federal Government likes to refer to it as a National model.

MISCELLANEOUS

1. How far back for FY 92 does a jurisdiction need to provide time sheets for federal documentation?

Federal funding began on January 1, 1992. Time sheets should go back to this date.

2. There was an agreement between the State and local governments at the time the Critical Area Program was established for the State to provide assistance to fund the Program. Is the Critical Area Program still supported by the General Assembly?

Yes. We will make every attempt to build back General Funds into the budget for Local Technical Assistance.

3. What is the statement needed to be put on documents generated using CZM funds?

Any document created with the use of CZM funds must contain the following statement on the title page:

"FUNDING FOR THE _____ STUDY WAS MADE POSSIBLE BY THE COASTAL RESOURCES DIVISION, MARYLAND DEPARTMENT OF NATURAL RESOURCES THROUGH A GRANT PROVIDED BY THE COASTAL ZONE MANAGEMENT ACT OF 1972 AS ADMINISTERED BY THE OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)

THE VIEWS, OPINION, OR POLICIES EXPRESSED HEREIN ARE THOSE OF THE AUTHORS AND DO NOT NECESSARILY REFLECT THE VIEWS, OPINION OR POLICIES OF THE _____, THE DEPARTMENT OF NATURAL RESOURCES, OR NOAA."

4. Who should a jurisdiction coordinate with for a CZM project?

With the Critical Area Commission staff, who will then involve the CWRD staff and we will work jointly with the jurisdiction wishing to carry out a CZM project.

STAFF REPORT

DATE: August 5, 1992

PROJECT: Washington Suburban Sanitary Commission (WSSC)
Hyattsville Gravity Sewer Phase D

COMMISSION ACTION: Vote

STAFF: Theresa Corless

At the June 3, 1992 Critical Area Commission meeting the Commission approved Phase C of the Hyattsville Gravity Sewer Project. At this meeting Carolyn Watson inquired about an area near Phase C that was flagged. William Kennedy, of WSSC, replied that this area was part of Phase D, which would be submitted to the Commission shortly. On June 16, 1992 WSSC commenced construction of Phase D. WSSC had obtained the required permits and licenses from other state and federal agencies, but had not submitted the project to either the Commission or Prince George's County. At the July meeting the Commission was appraised of the situation. Judge North sent a letter dated July 9, 1992 to Richard Hocesvar, General Manager of WSSC, requesting that WSSC cease all work on the project as it had not received Commission approval. (see attachment) On July 22, 1992 Judge North met with representatives of WSSC and Prince George's County to discuss the situation. The results of the meeting were summarized in a letter from Judge North to Mr. Hocesvar dated July 24, 1992. (see attachment)

This phase of the project is part of a larger effort by WSSC to replace a number of aging pumping stations and sewer lines. The Commission approved two previous phases of this project. Phase D involves approximately 5,900 feet of sewer line along the Anacostia River and the Northwest Branch. The project's limits of disturbance vary from 50 to 60 feet in width. With the exception of the river crossing, the project is outside the 100 foot Buffer. The sewer line will cross State, local and private land and is therefore being reviewed under both Chapter 2 and Chapter 5 of Subtitle 19, Regulations Governing State and Local Development Activities in the Critical Area. The project also crosses a forested non-tidal wetland.

The fact that WSSC failed to submit the project to the Commission is important for more than procedural reasons. If the project had been submitted for Critical Area Commission review BEFORE work began on the site we would have asked them to change the route of the sewer line to avoid impacts to the wetland. There is a possible alternate route. An existing dirt road runs around the wetland. WSSC has said that they "avoided and minimized" impacts to the wetlands as much as was possible. This may be the case. However, staff would have requested the alternate route be addressed more thoroughly. When asked about the alternate route some of the workers onsite said that because the road curves it

would have been a bit more difficult than the straightline route through the wetland. They also said that because the alternate route didn't involve a wetland it would have been easier to work in. By the time we were alerted to the situation the wetland had already been destroyed and the alternate route option had become moot.

There have been ongoing problems onsite with the contractor staying within the limits of disturbance prescribed by WSSC plans, and with the installation and maintenance of sediment controls. In both instances WSSC and the contractor have addressed staff concerns within a fairly reasonable time. Bill Kennedy in particular has been very cooperative in supplying information requested by staff and to addressing onsite concerns. In addition, WSSC had agreed to move a portion of the sewer line and a manhole to avoid some large old trees. The area where the sewer line is to be moved is part of the project which will be constructed this fall.

The following are staff recommended conditions of approval which have been agreed to by WSSC and Prince George's County:

A planting plan for the entire site will be prepared by the staff of the Washington Suburban Sanitary Commission, Prince George's County, Maryland National Capital Park and Planning Commission, Critical Area Commission and the Bay Watershed Forester based on actual area disturbed and will include:

1. 3:1 areal replacement of all trees disturbed by unapproved activity. This includes wetlands, buffer and upland areas.
2. Restoration of the non-tidal wetland area.
3. 1:1 replacement of trees in approved upland areas. These are areas mainly located behind Allison St. and along the levee and have yet to be disturbed.
4. An 85% survival rate of acceptable native species after 3 years. Replanting may be required to attain this rate. Monitoring responsibilities will be specified in the approved planting plan.

JUDGE JOHN C. NORTH, II
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STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

July 9, 1992

Mr. Richard G. Hocevar
General Manager
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, Maryland 20707

Dear Mr. Hocevar:

I am writing in regard to Phase D of the Hyattsville Gravity Sewer Project. Several phases of this project have been submitted to the Critical Area Commission in compliance with Critical Area regulations. However, construction on Phase D of the project began without Critical Area Commission review and approval. Approval of State Agency projects is required under COMAR 14.19, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs. Therefore, we request that all construction cease until the project has met the requirements of the Critical Area regulations.

Ms. Theresa Corless, of my staff, has been working with Mr. Bill Kennedy to assure a prompt and thorough Critical Area Commission review. The Critical Area Commission will consider this matter at its meeting on August 5th. Please contact me or Ms. Corless if you have questions or need more information.

Very truly yours,

A handwritten signature in black ink that reads "John C. North, II". The signature is written in a cursive style with a large initial "J".

John C. North, II
Chairman

JCN/TIC/jjd

cc: Mr. Bill Kennedy
Ms. Theresa Corless

COMMISSIONERS

Elizabeth Buck
Chair

Lewis M. Helm
Vice Chair

Henry T. Arrington
Waymond D. Bray
Gilbert B. Lessenco
Robert M. Potter

Richard G. Hocevar
General Manager



WASHINGTON SUBURBAN SANITARY COMMISSION

14501 Sweitzer Lane • Laurel, MD 20707 • (301) 206-8000
TTY: (301)206-8345

July 17, 1992
RECEIVED

JUL 21 1992

DNR
CRITICAL AREA COMMISSION

Judge John C. North, II, Chairman
State of Maryland
Chesapeake Bay Critical Area Commission
Western Shore Office
45 Calvert Street, 2nd Floor
Annapolis MD 21401

Re: Hyattsville Sewer project
Project No. 83CT1084D

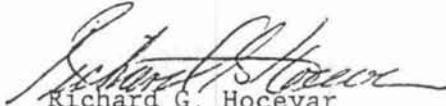
Dear Judge North:

This is in response to your letter concerning WSSC's above referenced sewer project. Let me first apologize for an oversight in failing to obtain the Critical Area Commission's (CAC) approval prior to starting construction. As stated in your letter, we received CAC approval for two related projects currently under construction. In addition, we have received permits from the Corps of Engineers, Water Resources Administration, Department of Natural Resources, Department of the Environment and others for this project. To correct this administrative oversight, we submitted the necessary application and support information for review on June 23, 1992. The Prince George's County Department of Environmental Resources (DER), has already forwarded their comments and we will respond next week.

A meeting to discuss this matter with Critical Area Commission staff was scheduled for today, but was canceled by DER. I understand that it is to be rescheduled for early next week. Mr. Glenn Furtado, Director of the Bureau of Planning and Design, will be in attendance along with other WSSC support staff.

WSSC staff is committed to working with the CAC staff to come to a mutually satisfactory resolution to this situation.

Sincerely,


Richard G. Hocevar
General Manager

JUDGE JOHN C. NORTH, II
CHAIRMAN
410-822-9047 OR 410-974-2418
410-820-5093 FAX



WESTERN SHORE OFFICE
45 CALVERT ST., 2ND FLOOR
ANNAPOLIS, MARYLAND 21401

SARAH J. TAYLOR, PH.D.
EXECUTIVE DIRECTOR
410-974-2418/28
410-974-5338 FAX

EASTERN SHORE OFFICE
31 CREAMERY LANE
EASTON, MARYLAND 21601

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

July 24, 1992

Mr. Richard Hocevar
General Manager
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, Maryland 20707

Re: Hyattsville Gravity Sewer Phase D

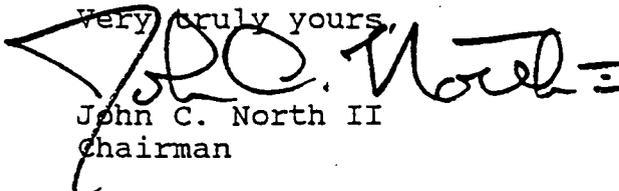
Dear Mr. Hocevar:

This letter is to summarize for you the meeting between the Critical Area Commission, Prince George's County and the Washington Suburban Sanitary Commission that took place in Upper Marlboro on July 22, 1992. In light of the unreviewed and unapproved activities that have taken place on the site, the Critical Area Commission requires the following:

1. The forested non-tidal wetland that has been disturbed will be restored and enhanced in accordance with a plan to be approved by the Critical Area Commission in consultation with the County.
2. All trees removed will be replaced on a 3:1 areal basis in a planting plan to be developed in conjunction with the Bay Watershed Forester, and to be approved by the Critical Area Commission in consultation with the County.

Mr. Glen Furtado and Mr. William Kennedy, representing the Washington Suburban Sanitary Commission, agreed to these conditions. The project will be presented to the Critical Area Commission on August 5, 1992. The Commission may require additional restoration or mitigation at that meeting. We appreciate your cooperation in resolving this matter.

Very truly yours,


John C. North II
Chairman

JCN/TIV/jjd

cc: Mr. Glen Furtado
Mr. William Kennedy
Ms. Victoria Greenfield
Ms. Carolyn Watson
Ms. Theresa Corless

COMMISSIONERS

Elizabeth Buck
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General Manager



WASHINGTON SUBURBAN SANITARY COMMISSION

14501 Sweitzer Lane • Laurel, MD 20707 • (301) 206-8000
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July 17, 1992
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DNR
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Judge John C. North, II, Chairman
State of Maryland
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Western Shore Office
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Annapolis MD 21401

Re: Hyattsville Sewer project
Project No. 83CT1084D

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WSSC staff is committed to working with the CAC staff to come to a mutually satisfactory resolution to this situation.

Sincerely,

Richard G. Hocevar
General Manager

JUDGE JOHN C. NORTH, II
CHAIRMAN
410-822-9047 OR 410-974-2418
410-820-5093 FAX

IAH J. TAYLOR, PhD.
EXECUTIVE DIRECTOR
410-974-2418/26
410-974-5338 FAX



WESTERN SHORE OFFICE
45 CALVERT ST., 2ND FLOOR
ANNAPOLIS, MARYLAND 21401

EASTERN SHORE OFFICE
31 CREAMERY LANE
EASTON, MARYLAND 21601

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

July 24, 1992

Mr. Richard Hocevar
General Manager
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, Maryland 20707

Re: Hyattsville Gravity Sewer Phase D

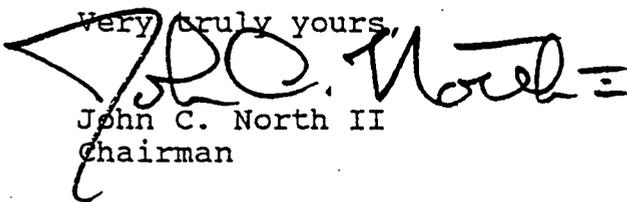
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Very truly yours,


John C. North II
Chairman

JCN/TIV/jjd

cc: Mr. Glen Furtado
Mr. William Kennedy
Ms. Victoria Greenfield
Ms. Carolyn Watson
Ms. Theresa Corless

STAFF REPORT
August 5, 1992

ITEM: Amendments to Queen Anne's County Critical Area Program

COMMISSION ACTION: For information only - Vote in September

SUMMARY

The County Commissioners of Queen Anne's County have submitted amendments to their Critical Area Program following a hearing of the Planning Commission on July 9, 1992. The amendments are attached. In general, the amendments are as follows:

1 - corrects language in the grandfathering section dealing with Habitat Protection Areas and Water Dependent Facilities;

2 - creates three new sections of the Critical Area Ordinance establishing performance standards for the approval of building permits in the IDA, LDA, and RCA;

3 - deletes the buffer exemption section which allowed ongoing designation of buffer exempt areas;

4 - updates the impervious surface language to incorporate the new standards

5 - inclusion of the word "redevelopment" within the definition of "Project Approval."

A Critical Area Commission hearing is scheduled for August 11, 1992 in Centreville.

Staff Contact: Claudia Jones

PUBLIC HEARING DRAFT

APRIL 9, 1992

AND

JULY 9, 1992

PROPOSED AMENDMENTS TO THE QUEEN ANNE'S COUNTY

CRITICAL AREAS ORDINANCE

[] - deleted

CAPS - new language

§ 2002 - DEFINITIONS

70. Project Approvals - The approval of development AND REDEVELOPMENT, other than development AND REDEVELOPMENT by a State or local government agency, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits. The term does not include building permits.

§ 5000 - GRANDFATHERING EXISTING USES, PARCELS OR LAND AND SUBDIVIDED LOTS

C. NOTWITHSTANDING CONTRARY DENSITY REQUIREMENTS OF THIS ORDINANCE, LAND SUBDIVIDED INTO LOTS OF RECORD PRIOR TO DECEMBER 1, 1985 MAY BE DEVELOPED FOR ANY PERMITTED RESIDENTIAL USE AT A DENSITY NOT EXCEEDING THE NUMBER OF EXISTING LOTS IN THE SUBDIVISION.

Note: [The County will permit a single lot or parcel of land as described in B.1 through B.4 above that was legally of record on June 29, 1988 to be developed with a single family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions contained in this Ordinance. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval prior to June 1, 1984, must comply with the provisions of this Ordinance insofar as possible. Any such parcel of land or subdivided lot 200' or less in depth, measured from the

mean high water line of tidal waters or tributary streams or the edge of tidal wetlands that must comply with the density, use and setback restrictions established in B.4. Development of land described in B.1 must comply with the provisions of this Ordinance insofar as possible].

§5000. Note: NOTHING IN THIS SECTION MAY BE INTERPRETED AS ALTERING ANY REQUIREMENTS FOR DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SET OUT IN THIS ORDINANCE CONCERNING HABITAT PROTECTION AREAS AND WATER-DEPENDENT FACILITIES.

§6005 D. Site Performance Standards FOR PROJECT APPROVALS

Development and redevelopment requiring [site plan, subdivision, variance, special exception, or conditional use approval] PROJECT APPROVALS within the IDA [development areas] shall be subject to the following conditions and restrictions:

§6005 E. SITE PERFORMANCE STANDARDS FOR BUILDING PERMITS

DEVELOPMENT AND REDEVELOPMENT REQUIRING ONLY THE ISSUANCE OF A BUILDING PERMIT WITHIN THE IDA SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS:

1. ALL ENVIRONMENTAL AND NATURAL FEATURES ON THAT PORTION OF THE SITE WITHIN THE CRITICAL AREA SHALL BE IDENTIFIED.
2. DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHALL BE LOCATED TO AVOID DISTURBANCE TO HABITAT PROTECTION AREAS. WHEN NO ALTERNATIVE EXISTS AND SUCH ACTIVITIES MUST CROSS OR BE LOCATED IN HABITAT PROTECTION AREAS, THE APPLICANT SHALL MINIMIZE IMPACTS TO HABITATS AND SHOW THAT NO REASONABLY FEASIBLE ALTERNATIVE LOCATION FOR SUCH ACTIVITY EXISTS.
3. FORESTS AND DEVELOPED WOODLANDS SHALL BE PROTECTED IN ACCORDANCE WITH THE FOLLOWING:
 - A. EXCEPT AS PROVIDED IN SECTION 6000 B.3, THE CLEARING OR CUTTING OF FORESTED OR DEVELOPED WOODLAND FOR DEVELOPMENT OR REDEVELOPMENT SHALL PROVIDE INSOFAR AS POSSIBLE THAT NO MORE THAN 20 PERCENT OF THE WOODLAND IS REMOVED.
 - B. WHEN PROPOSED DEVELOPMENT OR REDEVELOPMENT REQUIRES THE CUTTING OR CLEARING OF TREES, AREAS PROPOSED FOR CLEARING MUST BE IDENTIFIED ON THE PLAN ACCOMPANYING THE BUILDING PERMIT APPLICATION.

- C. CUTTING OR CLEARING OF TREES ASSOCIATED WITH DEVELOPMENT OR REDEVELOPMENT SHALL PROVIDE, IN SO FAR AS POSSIBLE, REPLACEMENT TREES ON A ONE TO ONE BASIS ON THE SITE WITH A MINIMUM OF A FOUR TO SIX FOOT TALL TREE. IF REPLACEMENT ON-SITE IS NOT POSSIBLE, THEN REPLACEMENT SHALL OCCUR ELSEWHERE WITHIN THE CRITICAL AREA AS PROPOSED BY THE APPLICANT AND APPROVED BY THE QUEEN ANNE'S COUNTY DEPARTMENT OF PLANNING AND ZONING.
4. DEVELOPMENT ON SLOPES GREATER THAN 15 PERCENT SHALL BE PROHIBITED UNLESS THE SLOPE IS UNSTABLE AND SUCH DEVELOPMENT IS DEMONSTRATED TO BE THE ONLY EFFECTIVE WAY TO MAINTAIN OR IMPROVE SLOPE STABILITY.
5. A MINIMUM OF TWENTY FIVE (25) FOOT BUFFER SHALL BE MAINTAINED AROUND NON-TIDAL WETLANDS.

§6006 D. Site Performance Standards FOR PROJECT APPROVALS

Development and redevelopment requiring [site plan, subdivision, variance, special exception, or conditional use approval] PROJECT APPROVALS within the LDA [development areas] shall be subject to the following conditions and restrictions:

§6006 D. 8.

[8. Impervious surfaces shall be limited to 15 percent of the gross site area proposed for developments. However, impervious surfaces on any lot not exceeding (1) area in size in a subdivision approved after June 1, 1986 may be increased up to a maximum of twenty-five (25) percent.]

§6006 E.

DEVELOPMENT AND REDEVELOPMENT REQUIRING ONLY THE ISSUANCE OF A BUILDING PERMIT WITHIN THE ~~REA~~ SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS: L LDA

1. ALL ENVIRONMENTAL AND NATURAL FEATURES ON THAT PORTION OF THE SITE WITHIN THE CRITICAL AREA SHALL BE IDENTIFIED.
2. DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHALL BE LOCATED TO AVOID DISTURBANCE TO HABITAT PROTECTION AREAS. WHEN NO ALTERNATIVE EXISTS AND SUCH ACTIVITIES MUST CROSS OR BE LOCATED IN HABITAT PROTECTION AREAS, THE APPLICANT SHALL MINIMIZE IMPACTS TO HABITATS AND SHOW THAT NO REASONABLY FEASIBLE ALTERNATIVE LOCATION FOR SUCH ACTIVITY EXISTS.
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 - B. WHEN PROPOSED DEVELOPMENT OR REDEVELOPMENT REQUIRES THE CUTTING OR CLEARING OF TREES, AREAS PROPOSED FOR CLEARING MUST BE IDENTIFIED ON THE PLAN ACCOMPANYING THE BUILDING PERMIT APPLICATION.
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5. (A) EXCEPT AS PROVIDED HEREIN, MANMADE IMPERVIOUS SURFACES SHALL BE LIMITED TO 15 PERCENT OF THE GROSS SITE AREA PROPOSED FOR DEVELOPMENT OR REDEVELOPMENT.
- (B) IMPERVIOUS SURFACES MAY BE INCREASED TO NO MORE THAN 25 PERCENT OF THE GROSS SITE AREA:
- (i) ON ANY LOT OF 1/2 ACRE OR LESS IN SIZE THAT WAS IN RESIDENTIAL USE ON OR BEFORE DECEMBER 1, 1985,
 - (ii) ON ANY LOT 1/4 ACRE OR LESS IN SIZE THAT WAS IN NON-RESIDENTIAL USE ON OR BEFORE DECEMBER 1, 1985, OR
 - (iii) ON ANY LOT 1 ACRE OR LESS IN SIZE THAT IS PART OF A SUBDIVISION APPROVED AFTER DECEMBER 1, 1985, PROVIDED THE TOTAL OF IMPERVIOUS SURFACES IN THE ENTIRE SUBDIVISION MAY NOT EXCEED 15 PERCENT.
- (C) THIS SECTION DOES NOT APPLY TO A TRAILER PARK THAT WAS IN RESIDENTIAL USE ON OR BEFORE DECEMBER 1, 1985.

b. Hem # 6 From p. 6

§6007 E. SITE PERFORMANCE STANDARDS FOR BUILDING PERMITS

DEVELOPMENT AND REDEVELOPMENT REQUIRING ONLY THE ISSUANCE OF A BUILDING PERMIT WITHIN THE RCA SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS:

1. ALL ENVIRONMENTAL AND NATURAL FEATURES ON THAT PORTION OF THE SITE WITHIN THE CRITICAL AREA SHALL BE IDENTIFIED.
2. DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHALL BE LOCATED TO AVOID DISTURBANCE TO HABITAT PROTECTION AREAS. WHEN NO ALTERNATIVE EXISTS AND SUCH ACTIVITIES MUST CROSS OR BE LOCATED IN HABITAT PROTECTION AREAS, THE APPLICANT SHALL MINIMIZE IMPACTS TO HABITATS AND SHOW THAT NO REASONABLY FEASIBLE ALTERNATIVE LOCATION FOR SUCH ACTIVITY EXISTS.
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 - C. CUTTING OR CLEARING OF TREES ASSOCIATED WITH DEVELOPMENT OR REDEVELOPMENT SHALL PROVIDE IN SO FAR AS POSSIBLE, REPLACEMENT TREES ON A ONE TO ONE BASIS ON THE SITE WITH A MINIMUM OF A FOUR TO SIX FOOT TALL TREE. IF REPLACEMENT ON-SITE IS NOT POSSIBLE, THEN REPLACEMENT SHALL OCCUR ELSEWHERE WITHIN THE CRITICAL AREA AS PROPOSED BY THE APPLICANT AND APPROVED BY THE QUEEN ANNE'S COUNTY DEPARTMENT OF PLANNING AND ZONING.
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 - (ii) ON ANY LOT 1/4 ACRE OR LESS IN SIZE THAT WAS IN NONRESIDENTIAL USE ON OR BEFORE DECEMBER 1, 1985, OR

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(C) THIS SECTION DOES NOT APPLY TO A TRAILER PARK THAT WAS IN RESIDENTIAL USE ON OR BEFORE DECEMBER 1, 1985.

6. A MINIMUM OF TWENTY FIVE (25) FOOT BUFFER SHALL BE MAINTAINED AROUND NON-TIDAL WETLANDS.

[§6107 - BUFFER EXEMPTION.] Delete in its entirety.

§7012 A.

Text or map amendments may be initiated by resolution of the County Commissioners or by a petition of the property owner filed with the County Commissioners. All petitions filed by property owners for map amendments shall be accompanied by the information required in Section [9011] 9060 of the Queen Anne's County Zoning Ordinance and a fee prescribed by the County Commissioners.

INFORMATION STAFF
REPORT
(August 5, 1992)

APPLICANT: Maryland Office of Planning, Department of
Natural Resources, Fisheries Administration

PROPOSED PROJECT: Expansion of existing parking lot (approx.25
spaces) and Additional Fishing Pier

JURISDICTION: Calvert County, Solomon's Island

Site
Designation: Right now, the project has been designated as
intense development (equivalent to IDA)

LOCATION\HISTORY
OF PROJECT:

The proposed fishing pier and expanded parking area are located in the Solomon's Island part of Calvert County just under the Thomas Johnson Bridge.

The site is in the portion of the right-of-way between Bedford Glascock's property to the south and Navy property to the north and that portion which lies between the Patuxent River and the new underpass beneath the Thomas Johnson Bridge.

The site contains a two lane elevated bridge and paving beneath for approximately 100 cars with attached trailer.

The fishing pier will be located on State property (State Highway Administration) under the Bridge in conjunction with the existing boat ramp and boating information centers.

Also, there will be an expansion of the existing parking lot for an additional twenty-five cars. Currently, there are four boat ramps with finger piers, a comfort station, an attached boating pier, a sewerage pumpout station, various asphalt walkways, and stormwater detention devices.

Continue, Page Two
Solomon's Island
Boat Ramp
August 5, 1992

CURRENT PROPOSED
PLANS:

The proposed plans for the site are: 1) widen the existing asphalt in one section by 8 feet by 300 feet to gain some parallel parking, 2) add a new fishing pier, and 3) modifying the existing stormwater detention devices.

DEPARTMENT'S\CONTRACTOR
WITH THIS PROJECT:

1. Maryland Office of Planning
2. Department of Natural Resources
3. Fisheries Administration
4. State Highway Administration
5. Charles Emory, Jr. Consulting Engineers

PROJECT STAFF\
RECOMMENDATIONS:

No recommendations at this time. This is an information report.

STAFF PLANNER: Dawnn McCleary

STAFF REPORT

CHANGE TO LOCAL PROGRAM

JURISDICTION: City of Cambridge

REQUEST: Program Refinement

DESCRIPTION: The City of Cambridge recently annexed lands contiguous to it in Dorchester County. The annexed area contains 18.125 acres, more or less. The annexed land was originally classified by the County for Critical Area Program requirements as Limited Development Area (LDA). The acreage is undeveloped. The adjacent areas inside the City limits were originally classified by the City as LDA by its Critical Area Program and shown thus on its Program maps. These areas are developed at low residential densities. The entire area---county and city---is served by public water and sewerage systems.

The original Critical Area classification remains unchanged, as does the current (and probable future) land-use pattern. The character of the land use is consistent with the adopted City and County Programs. It meets the statutory standard for "Program refinement". Please see map on reverse side for location.

CHAIRMAN'S
DETERMINATION: Program Refinement

TODAY'S
ACTION: Commission vote on the Chairman's determination.
concurrence requested.

DATE: September 2, 1992

JUDGE JOHN C. NORTH, II
CHAIRMAN
410-822-9047 OR 410-974-2418
410-820-5093 FAX

SARAH J. TAYLOR, PhD.
EXECUTIVE DIRECTOR
410-974-2418/26
410-974-5338 FAX



WESTERN SHORE OFFICE
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EASTERN SHORE OFFICE
31 CREAMERY LANE
EASTON, MARYLAND 21601

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

RECEIVED

July 23, 1992

JUL 27 1992

STATE SOIL CONSERVATION
COMMITTEE

Re: 8§-1812(a) Notice

Dear Commission Member:

You are hereby advised that I have initiated an appeal on the Commission's behalf in the following case in Dorchester County:

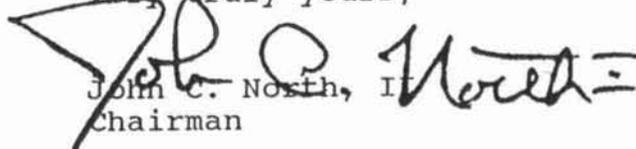
In the Matter of the Application of Ronald E. Short and Patricia Short for a Variance from the Critical Area Buffer Requirements in Appeal Case #1472 Before the Dorchester County Board of Appeals, Case No.

The Commission staff and I collectively believe that the Dorchester County Board of Appeals erroneously granted the Applicants' request for a variance in this case. This action is described in detail in a Petition on Appeal which had been filed with the Court by Commission counsel and is available at the Commission's offices for your review.

In accordance with Natural Resources Article, §8-1812, Annotated Code of Maryland, copy previously provided, if you disapprove of my action in this case, please notify me in writing within 35 days after the date of this notice. As provided in §8-1812, if 13 members of the Commission indicate disapproval of my action in a timely manner, I shall withdraw the action initiated. Please note the other procedural safeguards set forth in §8-1812.

Thank you for your anticipated cooperation. The full Commission files on this matter is available at the Commission office for your review.

Very truly yours,


John C. North, II
Chairman

JCN/jjd

cc: George E. H. Gay, Esq.
Mr. Thomas Ventre

I HEREBY CERTIFY that on this 23rd day of July, 1992, I mailed a copy of this §8-1812(a) Notice, first class mail, postage prepaid, to each member of the Chesapeake Bay Critical Area Commission.


Jennifer J. DeLve

STAFF REPORT

DATE: August 5, 1992

JURISDICTION: Prince George's County

PROJECT: Growth Allocation

COMMISSION ACTION: Information only (vote at September meeting)

STAFF: Theresa Corless

Prince George's County has requested 15.4 acres of growth allocation to change the zoning on the Tepaske property from RCO (Resource Conservation Area) to LDO (Limited Development Area). The entire property is 15.4 acres. The applicant requested only 9.8 acres which would have left 5.6 acres as RCO. However, the County will debit the entire 15.4 acres.

The County has addressed Habitat Protection Areas. The applicant is planning a 300 foot buffer which will be protected through a conservation easement. A Commission panel hearing will be scheduled shortly.



Maryland Department of Transportation

State Highway Administration
P. O. Box 717
Baltimore, Maryland 21203-0717



Judge John C. North, II
Chairman
State of Maryland
Chesapeake Bay Critical Area Commission
45 Calvert Street
2nd floor
Annapolis MD 21401



SCN, II:

Hugh not here; do we

a) discuss at meeting on
Wednesday - New dates \rightarrow 14th/5th

B) send out another letter.



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

July 30, 1992

RECEIVED

AUG 3 1992

DNR
CRITICAL AREA COMMISSION

Mr. Hugh M. Smith
State of Maryland
Chesapeake Bay Critical Area Commission
45 Calvert Street
2nd floor
Annapolis MD 21401

Dear Mr. Smith:

Regrettably, I will be unable to join the Commission for its two day meeting and retreat on October 6 and 7. (The selection of the dates may not have taken into account that the holiest day of the Jewish faith, Yom Kippur, begins with sundown on the 6th and extends through sundown on the 7th).

Again, my regrets at being unable to be there.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Hal Kassoff', written over a light-colored background.

Hal Kassoff

cc: Judge John C. North
Ms. Sarah J. Taylor

My telephone number is _____

B

*Judge North II
FBI +
return
to
Sarah*

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

COMMISSIONERS
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July 21, 1992

JUL 22 1992

CRITICAL AREA COMMISSION

Honorable William Donald Schaefer
Governor of Maryland
State House
Annapolis, Maryland 21404

RE: Recommendation for Appoint-
ment To Chesapeake Bay
Critical Area Commission.

Dear Governor Schaefer:

The Board of County Commissioners for Somerset County is respectfully requesting that you consider Robert Fitzgerald for appointment on the Chesapeake Bay Critical Area Commission.

The Board feels that Mr. Fitzgerald possesses the background and expertise needed for this very important Commission. Also, the Board would like to get a representative on the Commission as soon as possible as we have been without representation since the last person resigned some time ago.

For your information, Mr. Fitzgerald retired from the Somerset County School System after 30 years service, last position being Finance Director. Mr. Fitzgerald is presently the District Chairman for the Soil Conservation Service, is actively engaged in farming, member of the Somerset County Ruritan Club and President of the SCOPE Medical Center Board.

Mr. Fitzgerald's home address is:

Robert Fitzgerald---Rt. 3, Box 76-A, Princess Anne, Maryland 21853.

Thank you for your assistance in this matter.

Very sincerely yours,

Phillip L. Gerald
President
Somerset County Commissioners

cc: Honorable John C. North, II
Robert Pascal

STAFF REPORT

DATE: August 5, 1992

PROJECT: Washington Suburban Sanitary Commission (WSSC)
Hyattsville Gravity Sewer Phase D

COMMISSION ACTION: Vote

STAFF: Theresa Corless

At the June 3, 1992 Critical Area Commission meeting the Commission approved Phase C of the Hyattsville Gravity Sewer Project. At this meeting Carolyn Watson inquired about an area near Phase C that was flagged. William Kennedy, of WSSC, replied that this area was part of Phase D, which would be submitted to the Commission shortly. On June 16, 1992 WSSC commenced construction of Phase D. WSSC had obtained the required permits and licenses from other state and federal agencies, but had not submitted the project to either the Commission or Prince George's County. At the July meeting the Commission was appraised of the situation. Judge North sent a letter dated July 9, 1992 to Richard Hocesvar, General Manager of WSSC, requesting that WSSC cease all work on the project as it had not received Commission approval. (see attachment) On July 22, 1992 Judge North met with representatives of WSSC and Prince George's County to discuss the situation. The results of the meeting were summarized in a letter from Judge North to Mr. Hocesvar dated July 24, 1992. (see attachment)

This phase of the project is part of a larger effort by WSSC to replace a number of aging pumping stations and sewer lines. The Commission approved two previous phases of this project. Phase D involves approximately 5,900 feet of sewer line along the Anacostia River and the Northwest Branch. The project's limits of disturbance vary from 50 to 60 feet in width. With the exception of the river crossing, the project is outside the 100 foot Buffer. The sewer line will cross State, local and private land and is therefore being reviewed under both Chapter 2 and Chapter 5 of Subtitle 19, Regulations Governing State and Local Development Activities in the Critical Area. The project also crosses a forested non-tidal wetland.

The fact that WSSC failed to submit the project to the Commission is important for more than procedural reasons. If the project had been submitted for Critical Area Commission review BEFORE work began on the site we would have asked them to change the route of the sewer line to avoid impacts to the wetland. There is a possible alternate route. An existing dirt road runs around the wetland. WSSC has said that they "avoided and minimized" impacts to the wetlands as much as was possible. This may be the case. However, staff would have requested the alternate route be addressed more thoroughly. When asked about the alternate route some of the workers onsite said that because the road curves it

would have been a bit more difficult than the straightline route through the wetland. They also said that because the alternate route didn't involve a wetland it would have been easier to work in. By the time we were alerted to the situation the wetland had already been destroyed and the alternate route option had become moot.

There have been ongoing problems onsite with the contractor staying within the limits of disturbance prescribed by WSSC plans, and with the installation and maintenance of sediment controls. In both instances WSSC and the contractor have addressed staff concerns within a fairly reasonable time. Bill Kennedy in particular has been very cooperative in supplying information requested by staff and to addressing onsite concerns. In addition, WSSC had agreed to move a portion of the sewer line and a manhole to avoid some large old trees. The area where the sewer line is to be moved is part of the project which will be constructed this fall.

The following are staff recommended conditions of approval which have been agreed to by WSSC and Prince George's County:

A planting plan for the entire site will be prepared by the staff of the Washington Suburban Sanitary Commission, Prince George's County, Maryland National Capital Park and Planning Commission, Critical Area Commission and the Bay Watershed Forester based on actual area disturbed and will include:

1. 3:1 areal replacement of all trees disturbed by unapproved activity. This includes wetlands, buffer and upland areas.
2. Restoration of the non-tidal wetland area.
3. 1:1 replacement of trees in approved upland areas. These are areas mainly located behind Allison St. and along the levee and have yet to be disturbed.
4. An 85% survival rate of acceptable native species after 3 years. Replanting may be required to attain this rate. Monitoring responsibilities will be specified in the approved planting plan.

JUDGE JOHN C. NORTH, II
CHAIRMAN
410-822-9047 OR 410-974-2418
410-820-5093 FAX

SARAH J. TAYLOR, PhD.
EXECUTIVE DIRECTOR
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WESTERN SHORE OFFICE
45 CALVERT ST., 2ND FLOOR
ANNAPOLIS, MARYLAND 21401

EASTERN SHORE OFFICE
31 CREAMERY LANE
EASTON, MARYLAND 21601

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

July 9, 1992

Mr. Richard G. Hocevar
General Manager
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, Maryland 20707

Dear Mr. Hocevar:

I am writing in regard to Phase D of the Hyattsville Gravity Sewer Project. Several phases of this project have been submitted to the Critical Area Commission in compliance with Critical Area regulations. However, construction on Phase D of the project began without Critical Area Commission review and approval. Approval of State Agency projects is required under COMAR 14.19, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs. Therefore, we request that all construction cease until the project has met the requirements of the Critical Area regulations.

Ms. Theresa Corless, of my staff, has been working with Mr. Bill Kennedy to assure a prompt and thorough Critical Area Commission review. The Critical Area Commission will consider this matter at its meeting on August 5th. Please contact me or Ms. Corless if you have questions or need more information.

Very truly yours,

A handwritten signature in black ink that reads "John C. North, II". The signature is stylized and written over the typed name and title below it.

John C. North, II
Chairman

JCN/TIC/jjd

cc: Mr. Bill Kennedy
Ms. Theresa Corless

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Richard G. Hocevar
General Manager



WASHINGTON SUBURBAN SANITARY COMMISSION

14501 Sweitzer Lane • Laurel, MD 20707 • (301) 206-8000
TTY: (301)206-8345

July 17 1992
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JUL 21 1992

DNR
CRITICAL AREA COMMISSION

Judge John C. North, II, Chairman
State of Maryland
Chesapeake Bay Critical Area Commission
Western Shore Office
45 Calvert Street, 2nd Floor
Annapolis MD 21401

Re: Hyattsville Sewer project
Project No. 83CT1084D

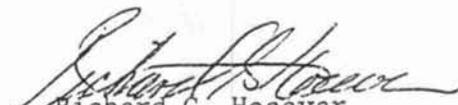
Dear Judge North:

This is in response to your letter concerning WSSC's above referenced sewer project. Let me first apologize for an oversight in failing to obtain the Critical Area Commission's (CAC) approval prior to starting construction. As stated in your letter, we received CAC approval for two related projects currently under construction. In addition, we have received permits from the Corps of Engineers, Water Resources Administration, Department of Natural Resources, Department of the Environment and others for this project. To correct this administrative oversight, we submitted the necessary application and support information for review on June 23, 1992. The Prince George's County Department of Environmental Resources (DER), has already forwarded their comments and we will respond next week.

A meeting to discuss this matter with Critical Area Commission staff was scheduled for today, but was canceled by DER. I understand that it is to be rescheduled for early next week. Mr. Glenn Furtado, Director of the Bureau of Planning and Design, will be in attendance along with other WSSC support staff.

WSSC staff is committed to working with the CAC staff to come to a mutually satisfactory resolution to this situation.

Sincerely,


Richard G. Hocevar
General Manager

JUDGE JOHN C. NORTH, II
CHAIRMAN
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410-820-5093 FAX

SARAH J. TAYLOR, Ph.D.
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STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

July 24, 1992 .

Mr. Richard Hocevar
General Manager
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, Maryland 20707

Re: Hyattsville Gravity Sewer Phase D

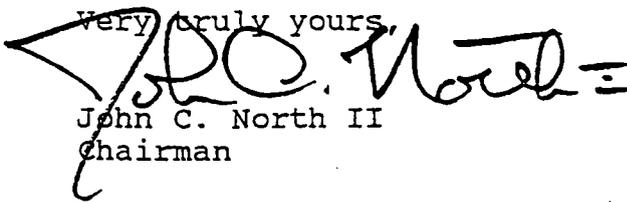
Dear Mr. Hocevar:

This letter is to summarize for you the meeting between the Critical Area Commission, Prince George's County and the Washington Suburban Sanitary Commission that took place in Upper Marlboro on July 22, 1992. In light of the unreviewed and unapproved activities that have taken place on the site, the Critical Area Commission requires the following:

1. The forested non-tidal wetland that has been disturbed will be restored and enhanced in accordance with a plan to be approved by the Critical Area Commission in consultation with the County.
2. All trees removed will be replaced on a 3:1 areal basis in a planting plan to be developed in conjunction with the Bay Watershed Forester, and to be approved by the Critical Area Commission in consultation with the County.

Mr. Glen Furtado and Mr. William Kennedy, representing the Washington Suburban Sanitary Commission, agreed to these conditions. The project will be presented to the Critical Area Commission on August 5, 1992. The Commission may require additional restoration or mitigation at that meeting. We appreciate your cooperation in resolving this matter.

Very truly yours,


John C. North II
Chairman

JCN/TIV/jjd

cc: Mr. Glen Furtado
Mr. William Kennedy
Ms. Victoria Greenfield
Ms. Carolyn Watson
Ms. Theresa Corless