

Public Hearings - Greensboro - Sec 8-1809 1987 MSA 51930-12

CHESAPEAKE BAY CRITICAL AREAS LOCAL PROGRAM

In Re: :
: :
TOWN OF GREENSBORO, MARYLAND :
: :
SECTION 8-1809 :
: :

Thursday, October 8, 1987

Pursuant to Notice, the above-entitled
public hearing was held at the Fire Hall in
Greensboro, Maryland, commencing at 7:10 p.m., with
RON ADKINS, Chairman, Chesapeake Bay Critical Areas
Commission, presiding, there being present:

PANEL MEMBERS PRESENT:

SAMUEL BOWLING, Commissioner, Charles
County
WALLACE MILLER, Commissioner, Kent
County
THOMAS JERVIS, Commissioner, Caroline
County
LOUISE LAWRENCE, Department of Agriculture

COMMISSION STAFF PRESENT:

CHARLES DAVIS
DAWN MCCLEARY

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ALSO PRESENT:

ROBERT BICKLING, Mayor, Greensboro
JOHN RIFFLE, Vice Mayor, Greensboro
DONALD MAGILL, Commissioner
CHARLES KINNAMON, Commissioner
GALE NASHOLD, Past Mayor
TONY REDMOND, Redmond/Johnson Associates

REPORTED BY: GEOFFREY L. HUNT, Notary Public

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P R O C E E D I N G S

1
2 CHAIRMAN ADKINS: Good evening, everyone.
3 Could I have your attention? Good evening. We're
4 here tonight to hold a public hearing for the town of
5 Greensboro, on their Chesapeake Bay Critical Areas
6 local program.

7 Tonight we have five members from the
8 Chesapeake Bay Critical Areas Commission present, as a
9 panel, to listen to the testimony and the presentation
10 from the local jurisdiction on their program.

11 What I'd like to do is introduce myself and
12 the members of the panel, so you can recognize who is
13 here. My name is Ron Adkins, I represent Somerset
14 County in the Chesapeake Bay Critical Areas Commission
15 panel. Also present --

16 THE AUDIENCE: We can't hear.

17 CHAIRMAN ADKINS: Again, my name is Ron
18 Adkins. I represent Somerset County on the
19 Commission. Also present tonight, on the far end, is
20 Sam Bowling. Sam represents Charles County. Next to
21 him is Tom Jarvis. I think many of you recognize him.

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1 He represents Caroline County. Next to him is not
2 Wayne Cawley, however it is his representative, Louise
3 Lawrence. She is representing Secretary Cawley
4 tonight. And, on the far end, on my right, is Wallace
5 Miller. He, of course, is representing Kent County.

6 I also would like to recognize the two
7 staff people who are present tonight from the Critical
8 Areas Commission staff. Right directly next to me, on
9 my right, is Charlie Davis, and also Dawn McCleary
10 from the staff, I think, is sitting back in the pink
11 dress there.

12 The purpose of the hearing is to here
13 public comment on the local jurisdiction's program as
14 required by Section 8-1809 of the Chesapeake Bay
15 Critical Areas Law. After hearing public comment, the
16 Commission must make a decision on the local program
17 within 60 days of the date of this hearing. It should
18 be also recognized tonight that the hearing is having
19 a transcript prepared by a court reporter, and that
20 this record will be kept open for exactly one week
21 from tonight for any written comments to be submitted

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1 from the public. If anyone would choose to use that
2 option, they may submit their comments to the
3 Commission Chairman, Judge Solomon Liss, at the
4 Chesapeake Bay Critical Areas Commission, at 580
5 Taylor Avenue, D-4, Annapolis, Maryland. That's in
6 the Department of Natural Resources Building. The
7 public record will be kept open for one week from
8 tonight.

9 Prior to opening the hearing for testimony
10 and to the local jurisdiction's presentation, I would
11 like to recognize for the record and for the people
12 here the officials present from the town of
13 Greensboro. We have present Robert Bickling, who is
14 the Mayor of the town. Thank you, sir. We also have
15 present John Riffle, Vice Mayor of the town. Thank
16 you. Don Magill, Commissioner, and Charles Kinnamon,
17 Commissioner. Also it should be noted that we have
18 the past mayor, Gale Nashold, present, who had started
19 the process of developing the local program.

20 With all that table setting aside now, I'd
21 like to open the public hearing and ask Mayor Bickling

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1 to have his representative present their program to
2 us.

3 MAYOR BICKLING: Our representative is Tony
4 Redmond of Redmond/Johnson Associates, who very
5 diligently worked on our plan for us. We think we
6 worked very hard on it, so he is going to present it
7 here tonight and see what you guys think. Thank you.

8 MR. REDMOND: I am prepared to make a
9 presentation that would be longer than would be
10 justifiable, if present here tonight we had other than
11 the Commission members and really officials from the
12 town, some who may have been unrecognized, but all of
13 them were involved in writing this program. I'm
14 afraid if I talk too much about it, I will bore them
15 again to tears, and you folks have probably had to
16 deal with it, both in the context of looking at other
17 jurisdictions, and that sort of thing.

18 I'd like to credit Greensboro, first of
19 all. I've been working on a number of critical area
20 programs, but as the Mayor said, he thought they
21 worked diligently. I assure you, they did work

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1 diligently. A lot of concepts were discussed, haggled
2 over, before they became components of the town's
3 program. I also point out that Greensboro was among
4 the first communities to submit their program. They
5 feel comfortable that they submitted the program
6 within the legal requirements of the law. I think
7 they are a little proud of that.

8 I'm going to talk about a few things here.
9 First of all, even in my work with Greensboro there
10 was not too much focus on some of the provisions of
11 the law that changed. One of them in particular that
12 may be important to the town is -- relates to limited
13 development areas. We have some in the town that we
14 had mapped where some development may occur in the
15 future. When we wrote the overlay zoning district
16 that we discussed as an implementation tool in the
17 town, we limited impervious surfaces to 15 percent of
18 the site. I'm sure most of you remember that. This
19 amendment to the law permits sites that are less than
20 one acre in size to increase the 15 percent to 25
21 percent, so that's kind of an update and ultimately I

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1 think, if our program doesn't, it needs to reflect
2 that, because the idea and the concept is to be a
3 little more permissive, if the site is so small that
4 it is difficult to achieve the 15 percent limit and
5 still develop on the property, particularly if it is a
6 use that may involve a large parking lot, which would
7 be the purpose.

8 The other thing I'm going to spend a few
9 minutes talking about here is the process and I know
10 the Critical Areas Commission panel here is bored to
11 tears here about this process, and is in the middle of
12 it, but I think it is important for the town to know
13 that while we've done our program, we've submitted it
14 to the Commission, we're really still somewhere in the
15 middle of bringing on line between now and June of
16 next year all of the implementation recommendations
17 and incorporating them in the town's zoning
18 ordinances.

19 Where we are in the process is this hearing
20 right here. So we are, as I see it, possibly halfway
21 through. We submitted this program on or around

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1 August 6th and I guess after about a three week period
2 of the Commission reviewing it, they started what I
3 call a 30 day clock, and now we are holding this
4 hearing. Within 90 days from when they formally
5 recognized our submission -- I don't know what the
6 exact date of that would be, but I would say it would
7 be late August, since we got it in August 6th -- then
8 the Commission will respond to the town with any
9 recommendations for either changing the program, I
10 guess it's conceivable they could disapprove the
11 program, but I think it is more likely they will
12 either approve the program or recommend certain
13 changes, and if those changes are made and the town is
14 comfortable with them, they would then approve it. I
15 think that's likely what will occur.

16 After that, the town is still going to be
17 required to hold another public hearing, which would
18 essentially be a public hearing that you would
19 normally have before you would amend a town zoning
20 ordinance, and you would advertise for that hearing,
21 just as the current town ordinance says you must. So,

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1 that would be the formality through which a lot of the
2 components of the program, which are all contained in
3 roughly the last, I'm going to say, 30 pages of this
4 document, would be brought right into the ordinances,
5 both the town's subdivision regulations, as well as
6 the town's zoning ordinances.

7 Very briefly. A quick refresher. We had
8 to map three categories of land use. I'm not going to
9 talk about all the natural features in the town. We
10 don't need to do that. You will recall we mapped the
11 tidal wetlands. I think we had a few surprises there.
12 We also mapped non-tidal wetlands, areas that are in
13 forests or wooded cover. Those maps, by the way, are
14 spread out on the tables and maybe later tonight, or
15 at any time you want to, feel free to take a look at
16 them.

17 Probably the most important thing we
18 mapped, the thing that we spent more time thinking
19 about, were the development classifications. Very
20 briefly, for the Commission staff's benefit, and the
21 members' benefit, 36 percent of Greensboro was in the

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1 critical area. I think that was the most -- the
2 biggest surprise the town had initially. I think
3 there were a lot of people that didn't realize how
4 much land 1,000 feet from the Choptank River, as it
5 meanders through the town, becomes part of the
6 critical area. Of that land area, I think roughly 76
7 percent is developed -- 75 percent. The buffer in the
8 town, which is only the first 100 feet of the critical
9 area, was modified in several locations, where there
10 was a co-occurrence of the distance of 100 feet from
11 either tidal marsh or water and hydric soils, and in
12 those cases the town extended the buffer.

13 One of the maps -- as a matter of fact,
14 this map -- this particular map, which for the record
15 can be Exhibit A, if necessary, shows the town's
16 potentially developed areas, limited development
17 areas, and resource conservation areas, under the
18 terms of the critical area criteria. It also shows,
19 with a capital "B", areas where the buffer was
20 expanded so that one could glean from it where it may
21 be a little more than 100 feet from tidal marsh or

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1 tidal waters.

2 Thirty-six percent of the town, as
3 reflected in this large sweeping area inside the
4 broken line boundary, as shown here as the buffer, can
5 also pick up.

6 Areas on this map that are shown as brown,
7 are areas that the town anticipates future growth to
8 occur in. Future growth in two ways. Some of this
9 area is currently developed. Most of the land that's
10 either north or northwest of Maryland Route 313 or
11 Great Bend Boulevard, is shown on the map as developed,
12 but it is not currently in the corporate limits of the
13 town. At the time we did this mapping, the County had
14 not yet completed its local program. It certainly had
15 not completed its mapping. The town knew that it would
16 ultimately annex it, so this represents future growth,
17 but not necessarily here a future redesignation of
18 land. The County maps its limited development areas. I
19 suspect they will -- then there would be no implication
20 on what is to be called the growth allocation, the five
21 percent of County resource conservation area. That

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1 could convert the use.

2 Other areas across the road, which I think
3 represent roughly 50 acres, are areas that are
4 currently a resource conservation area. I say that,
5 the County will ultimately map them and decide, but
6 they are dominated by farms and forest uses. I
7 suspect they will map it resource conservation areas.

8 The town envisions growth to occur here for
9 a number of reasons. One, town growth has kind of
10 already occurred on the east side of Great Bend
11 Boulevard and actually a lot of recent development has
12 occurred, some beyond the critical area in this area,
13 so this really is just filling out that area. Also,
14 the school for the county is located here. There's a
15 lot of pedestrian traffic, particularly along Main
16 Street, and Academy Street, out to this school, and
17 this area tends to represent the area between the
18 school development that's already occurred and is
19 considered by the town to be a logical location for
20 expansion.

21 Areas beyond the town in a number of

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1 directions are actually in agricultural preservation
2 districts, and those are not areas that the town
3 envisions growth to occur in in the near term at
4 least. I do not know if any of those areas are
5 subject to easements under the State's agricultural
6 preservation program, but I know a number of districts
7 that have been farmed in that area. That's basically
8 all.

9 IDA, LDA, RCA. Intensely developed area,
10 limited development area, resource conservation area.
11 If you looked at the map in the context of the town,
12 there are mapping rules set forth in the local program
13 document, but essentially the downtown business
14 district, which is clearly dominated by commercial
15 uses, and a number of residential neighborhoods, where
16 the density of development is certainly over three
17 units per acre and the areas are served by both water
18 and sewer have been mapped as intensely developed area.

19 Areas that don't meet that qualification,
20 but are essentially developed, have been mapped limited
21 development areas.

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1 Areas around the town or in the corporate
2 limits, in some cases, that are undeveloped, have
3 actually been mapped resource conservation area -- two
4 of those areas are important -- two of those areas
5 include what is property owned by the fire company at
6 which a County landing facility is located, an area
7 that is essentially established in lawn. It services
8 the carnival grounds of the fire company. It's been a
9 long standing tradition in the town. Another area,
10 located outside the town's corporate limits, and one
11 which the town has been extremely concerned about, has
12 been the area that I've delineated here in between the
13 Choptank River and Maryland Route 313. It is an area
14 that the town looks to establish a park there. They
15 are diligently working with the County government at
16 this point to acquire the site and to develop it.

17 Although not a part of the critical area
18 program, but clearly related, we are preparing a
19 comprehensive plan for the town that will show passive
20 park improvements for this facility; provide a pavilion
21 area, picnic grounds, and really an opportunity to

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1 create a walking trail in the context of what I think
2 is the spirit of natural parks, a criteria that would
3 link both the fire company property, as well as this
4 property, and provide a public access to a substantial
5 portion of the riverfront located in the town. That is
6 one of the more important objectives the town has
7 established in its comprehensive plan, which I think is
8 mirrored in the critical area program.

9 The town obviously has some development. I
10 mentioned 75 percent of the town. While the town has
11 adopted the standards outlined in the criteria, for
12 managed development, we ran into one problem with a
13 portion of the criteria and that problem, if you will,
14 relates to the 100 foot buffer. Clearly the critical
15 area criteria permit the town to request a buffer
16 exemption. The test, based on my recollection, and
17 not quoting the criteria, is that a local jurisdiction
18 may request a buffer exemption where the local
19 government can demonstrate that the existing pattern
20 of development fails to permit the buffer from
21 fulfilling the functions for which it is intended to

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1 serve; that is to provide a natural habitat edge
2 between development and the shore, and to reduce non
3 point pollutant loadings. There are some other
4 reasons or purposes for the buffer.

5 In discussing requesting a buffer exemption
6 with the town, I think we readily agreed that while we
7 knew we had, in some cases, homes, structures, located
8 as close as 30 feet, 25 feet possibly in a few
9 instances, from the water and therefore had the
10 existing pattern of development, we still felt that a
11 buffer did achieve a purpose, that it does make sense,
12 not just at the County level, but at a town level as
13 well. So, the real issue became, how we get close to
14 trying to fulfill the purpose and mission for a
15 buffer, but at the same time recognize that we can't
16 deny property owners use of lots that in some cases
17 may only be 120 feet deep, and to provide for a 100
18 foot buffer would deny them the opportunity to build
19 on a vacant lot. What we did was establish a standard
20 wherein for lots less than 200 feet deep, which would
21 be the point at which fully half the lot would be

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1 committed to a buffer, that we would offer, instead of
2 a request for buffer exemption, a modified buffer,
3 within the spirit of the criteria, within the spirit
4 of the law, but at the same time within the context of
5 what can realistically happen in Greensboro, given the
6 existing pattern of development.

7 The compromise establishes that 40 percent
8 of the lot depth would be required as buffer. In this
9 particular example, the lot is less than 190 feet deep
10 from water to the town street, and 40 percent of 190
11 feet is 76 feet. You can see that the 100 foot buffer
12 would have required the structure to be moved even
13 closer to the street. If you look at the current town
14 zoning ordinance, and the front yard requirements from
15 the street, you start to jam the potential for
16 development as such that it almost becomes unrealistic
17 to achieve the full 100 foot buffer. The reason, or
18 the basis for electing 40 percent of the lot depth as
19 opposed to an arbitrary number, say 40 feet, 50 feet,
20 or 76 feet, is that this kind of approach allows the
21 amount of buffer to be directly related to the depth of

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1 the lot. In some cases in town there are lots that are
2 no more than 100 feet deep and in that case, if it is
3 100 feet deep, the buffer would shrink to 40 feet. So,
4 you see that there is an elasticity of buffer, based on
5 the kind of development pattern that's already
6 occurred.

7 An issue that Charlie Davis' staff raised
8 with me recently; I think today; was a concern that in
9 the way that we have constructed our program, we have
10 not made it clear that lots not currently subdivided
11 could use this provision in the future. That is to
12 say, that if part of the growth area of Greensboro
13 were to be developed in the future, that one could
14 create lots less than 200 feet deep and then avoid the
15 100 foot buffer requirement. And, I believe that that
16 was never really discussed, that we never discussed
17 that, that the intent of the modified buffer provision
18 is that we established it to deal with an existing
19 lotting pattern, or lotting configuration.

20 So, essentially, this is an extension, if
21 you will, of maybe meeting the "insofar as possible"

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1 kinds of language in the grandfather provisions of the
2 criteria. It may be that as you review the program you
3 will want to consider us not putting this in the rubric
4 of a partial buffer exemption, but more as an extension
5 of the grandfather provisions of the criteria. I think
6 the intent is to achieve that, and I believe that might
7 be a more workable approach, given the work I've done
8 for Greensboro and the discussions I've had with the
9 staff -- limited discussions I've had with the staff.

10 I really believe that this particular
11 provision is the one that would, in most part, be
12 somewhat at odds or variance with the direction of the
13 criteria, though it -- the town proposes an overlay
14 zoning district, which would apply to the intensely
15 developed areas, limited development areas, and
16 resource conversation areas, and there are specific
17 development standards contained in the overlay's own
18 language in the implementation chapter of our local
19 program, that essentially bring these development
20 standards right out of the criteria and incorporate
21 them, if you will, into town ordinance language.

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1 With that, I'm going to close my
2 presentation, but I will be here in the event that any
3 of you have questions or would like me to respond to
4 any comments. Thank you.

5 CHAIRMAN ADKINS: Thank you. First, before
6 we go any further with the testimony, I want to make
7 sure everybody present has had an opportunity to sign
8 the attendance sheet. Has everyone done that?

9 THE AUDIENCE: (No response.)

10 CHAIRMAN ADKINS: Normally the next
11 procedure would be to go down the attendance sheet and
12 ask anyone who has signed up to testify, to come
13 forward one by one, according to where they have
14 signed the sheet. However, no one has signed to
15 testify. I would then just open this -- since now
16 hearing Mr. Redmond's presentation, is there anyone
17 who would like to testify or add to anything that was
18 said on behalf of the town?

19 THE AUDIENCE: (No response.)

20 CHAIRMAN ADKINS: Let the record show we
21 hear none. Okay. Other than that, I don't believe we

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1 have any other format set up for any other testimony.
2 I believe we can therefore close this public hearing.

3 MR. NASHOLD: I would like to make one
4 comment about Tony's presentation. That is, I thought
5 it was very well prepared and very well done, and
6 fairly and accurately represents the views of the
7 town commission of Greensboro.

8 CHAIRMAN ADKINS: And, your name, sir?

9 MR. NASHOLD: Gale Nashold.

10 CHAIRMAN ADKINS: Thank you. As I was
11 saying, the public hearing shall now be closed. We
12 will take back the information we have heard tonight
13 and of course take back the transcript and have that
14 available to the commission members and of course the
15 program submittal itself. All of those bits of
16 information will be considered when discussing and
17 voting upon the program on behalf of the town. I
18 thank you for attending tonight and please feel free
19 to submit any written comments within the next week
20 period. Thank you.

21 (Whereupon, at 7:33 p.m., the

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1 proceedings in the above-entitled matter were
2 adjourned.)

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