

Public Hearings - Hartford - Critical Areas Subcommittee 1987 MSA - S1830-13

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PUBLIC HEARING
CRITICAL AREAS SUB-COMMITTEE

November 19, 1987
Bel Air, Maryland

P R O C E E D I N G S

1
2 MR. PERCIASIPE: Call to order this hearing.
3 First of all, I'd like to thank everyone on behalf of
4 Harford County and also the Critical Areas Commission
5 for being here tonight and it's a great demonstration of
6 interest and we're pleased to see it.

7 The group up here is a panel of the Commission
8 and I'll introduce who's here today. Tom Osborne, from
9 Anne Arundel County; Albert Zanhizer from Calvert
10 County; and Shepard Kreck from Talbot County, who
11 represents the Eastern Shore at large; and my name is
12 Bob Perciasipe and I represent the Maryland Department
13 of Environment. And, so we comprise a sub-panel of the
14 Commission to work with Harford County.

15 Now, the purpose of the hearing tonight is to
16 hear public comment on Harford County's Critical Area
17 Program as required under Section 8-1809 of the Critical
18 Area Law. The Commission has 90 days. We're in a 90
19 day timeframe in which to render a decision on the plan
20 that has been submitted and the hearing is part of that
21 process.

22 I want to recognize that we have a court

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1 reporter that will record the entire proceedings and it
2 will help us, you know, in our decision-making process.
3 But, in addition tonight, the record will be kept open
4 for about a week. Not about a week--it will be kept
5 open a week from tonight so that additional written
6 testimony and those statements can be mailed to the
7 Commission chairman. I'll say the name now, but if
8 anybody wants it and wants to mail their written
9 testimony, they can certainly see me after or Marcus,
10 who's with the Commission, later.

11 The Chairman is Solomon Liss, Chesapeake Bay
12 Critical Area Commission, 580 Taylor Avenue D-4,
13 Annapolis, Maryland 21401. Now, a complete public
14 record will be kept at the Commission office for public
15 review.

16 I'd like to recognize that at least, and I'm
17 sure there are more hiding over there, but at least two
18 who are sitting here, Andy Meyer and Bill Carroll from
19 the Department of Planning and they'll be making a
20 presentation in a moment.

21 There are a few more things I have to say and
22 then we can get started. When we do get into the public

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1 testimony, I want to limit it--the verbal testimony, 3
2 to 5 minutes each, and each person will--I'll read off
3 the sign-up list and if you want to testify and haven't
4 signed up yet, please do so.

5 I'll call on the list in order that you signed
6 up, up to the microphone over here, and you can make
7 your public statements. Let's limit it to three to five
8 minutes. I have a stop watch. I see a lot of people
9 here tonight who want to speak and we don't want to be
10 here until midnight.

11 I'd like to reiterate a fact that's important
12 to know, and that is that the public comment ought to
13 focus on Harford County's local program, and not the
14 whole world in general. And, I would hope that you
15 would try to refrain from general comments about the
16 world and keep it focused.

17 And, in particular, we're not going to have
18 debates here tonight. We'll hear public comment. We
19 want to enter this public comment into the record so the
20 entire Commission can hear it. If you have specific
21 problems and further discussions and clarifications that
22 you need, these are the gentlemen that you have to deal

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1 with. Alright, in a word, you know, work with the
2 County Planning Department to get further definition.
3 But, we need--the Commission needs to hear, you know,
4 what your comments are. And, so we're not going to get
5 into any debates about these things tonight.

6 Now, Harford County is going to have 20
7 minutes, although they tell me they can do it faster, to
8 give us a brief overview of the program. And, when
9 they're done, then we'll start the testimony. One last
10 reminder, if you want to testify, please sign up,
11 because once they're done--I'm just going to let the
12 people who are on the list testify. And, that's it, so
13 I'm going to let them get going.

14 MR. CARROLL: Okay. Thanks, Bob. We should be
15 able to do it faster. We've had a lot of practice in
16 the past two or three months. Just for the record, I'm
17 Bill' Carroll, the Director of Planning for Harford
18 County. I'd like to introduce the other staff members
19 who are here to present and assist in explaining the
20 program.

21 First, Andy Meyer, from the Department of
22 Planning as Project Coordinator for the Critical Area

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1 Program; Stoney Fairlee is the Chief of the
2 Comprehensive Planning Division of the Department; Rob
3 Ryan, Environmental Planner; Pat Farr, Biologist in our
4 Department; and Vic Butanis from the County Law
5 Department, who you know is on the Commission.

6 Up--I'll turn it over to Andy to do a brief
7 overview on our program; the process we've used to
8 develop it and I don't know if you want to ask questions
9 or just open it to testimony at that point. Okay.

10 MR. MEYER: Okay. With that--well, I can
11 guarantee you I'll do in faster than 20 minutes. As
12 Bill indicated, you know, we've been through this
13 several times and I recognize most, if not all, the
14 faces here tonight, as having been at least at one of
15 our other meetings. So, with that--I guess, just
16 briefly, what we have put together and submitted to the
17 Commission in terms of our program consists of
18 essentially three main elements.

19 The primary element being the management plan,
20 which contains proposed plans and policies and reviews
21 current regulations which the County has in place which
22 were to be applied to the County's critical area. Major

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1 issue areas which were included and reviewed in that
2 management plan include items such as development in
3 the critical area, forest and woodland areas, habitat
4 protection areas, and other issue areas which were
5 identified to be dealt with as listed in the state
6 criteria.

7 Our main approach throughout the preparation of
8 the program was to build on our existing natural
9 resources overlay district which is something that the
10 County had already in place in our zoning ordinance, and
11 which controlled and limits certain developments within
12 a thousand feet of tidal waters already.

13 It also goes beyond that to stream, valley and
14 non-tidal wetland areas in other areas of the county,
15 but one of the primary features of the NRD is its
16 controls on developments within a thousand feet of tidal
17 waters.

18 Essentially what we're now doing is covering
19 that 1,000 foot area with a critical areas overlay zone
20 instead, so what we're proposing to do is to take the
21 1,000 feet which is now covered under the NRD and
22 replace it instead with the critical areas program and

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1 the implementing ordinances that we've developed.

2 So, bottom line is that we have a history of
3 regulations and control on land use within 1,000 feet of
4 tidal waters and we're just going to be continuing and
5 refining that through our implementation of the Critical
6 Areas Program.

7 The second major element which we submitted to
8 the Commission and developed in our program is our
9 technical appendices which detail the specifics of the
10 program and how it would be implemented. The appendices
11 include many different components as you've probably
12 looked over. But, some of the major ones which I'd like
13 to touch on are the draft implementing ordinances.
14 Again, what we did is try and develop a series of draft
15 ordinances, which if the program is adopted, we would
16 move forward to try and obtain implementation of.

17 Again, as I indicated, what we're looking at
18 doing is essentially altering what we've got with the
19 NRD and replacing it with the critical areas overlay
20 district. The appendices also include procedures for
21 evaluating compliance with the 10% rule, for water
22 quality improvements, urban storm water -- strategies

1 through a study which was done in conjunction with
2 regional planning counsel and also a study which we did
3 in-house with a consultant's assistance. It was an
4 evaluation study which was done of the county's sediment
5 control and storm water management control practices.

6 And, obviously, the evaluation study has
7 implications beyond the county's critical area, but
8 major implication, obviously, for the impacts on water
9 quality in the critical area, and ultimately on the
10 Chesapeake Bay.

11 In addition, we also included a description of
12 our public participation process, which we feel in many
13 respects very proud of. We held several public
14 workshops. We called them informational workshops, both
15 in Joppa Town and Aberdeen where the public had an
16 opportunity at kind of a draft stage to look at maps we
17 had developed and talked with us about the primary
18 components of our program.

19 And, then we held notice public hearings with
20 both the planning advisory board and the county council
21 at a later stage. Prior to those public notice--prior
22 to those public hearings, we mailed notices, a written

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1 notice and an informational brochure, which was 5 to 7
2 pages, to every property owner we could identify in the
3 county's critical area.

4 I mean, it was a massive undertaking, but we
5 felt and the county council felt that it was important
6 to let people know within our critical area essentially
7 what was coming down the pike and give them an
8 opportunity to make comments on the program. At this
9 time, when we sent that notice out, one of the features
10 which we included was an opportunity for them to review
11 our proposed management area designations.

12 The basic features of the three management area
13 designations were outlined in that informational
14 brochure and draft maps of the management areas which
15 were proposed were placed in public libraries throughout
16 the county as well as being available at planning/zoning
17 offices for people to review.

18 In terms of additional review, we also reviewed
19 the program document as components were being drafted
20 with both the planning advisory board and our
21 environmental advisory board, as well. And, they
22 assisted us as the plan was being prepared in making

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1 comments and making suggestions as far as the plan was
2 concerned as we were drafting it.

3 The third major elements, obviously, is the
4 maps. The management area designations and the proposed
5 critical area boundary, including any proposed expansion
6 areas and our overlay maps, soil constraints, forced in
7 non-tidal wetlands areas, those type of things are
8 delineated on the maps, which we have submitted.

9 Maps have been placed in, again, the public
10 libraries for people to review them, as well as being
11 available in our offices. In addition, with that
12 information mailing which we sent out, and where we gave
13 people an opportunity to make comments on the management
14 areas that we proposed, I might point out that we did
15 receive numerous inquires based on that mailing. We
16 received approximately 100 telephone calls and
17 approximately 40 plus letters commenting on and
18 requesting clarifications, or in some cases changes,
19 alterations to our management areas that we had
20 proposed.

21 We responded to all of those and responded in
22 writing to all of those written requests we received;

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1 took a look at all the requests which were submitted and
2 reviewed them and made changes as we felt were
3 appropriate based upon our review of the criteria and
4 our draft program.

5 In many instances I think it was very helpful
6 to receive public comment on properties where obviously
7 the property owner was more familiar with some of the
8 conditions than we were. We obviously couldn't field
9 check each one and in some cases they were correct and
10 we were incorrect. And, we made appropriate changes on
11 the maps to reflect that.

12 That basically summarizes the program as we've
13 submitted it at this point, and I'd be happy to answer
14 any questions or go from here.

15 MR. ZANHIZER: Andy, could you describe your
16 map so that us non-Harford Countians could understand
17 the extent of the critical areas in your county, the
18 various maps?

19 MR. MEYER: Well, essentially for those who
20 maybe can see the colors but can't read the print, the
21 resource conservation areas or RCA are indicated by the
22 light green on the map here. The limited development

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1 areas are indicated with the orange areas, and the
2 intensely developed areas are the red.

3 We've also shown municipal areas, which in this
4 case it's Havre De Grace. There's a small amount of
5 Aberdeen, I believe, which is down in this area here.
6 Excuse me--right. Which are the two incorporated areas
7 which we've got within our critical area. If I'm not
8 mistaken, we have like some 84--8500 acres--

9 MR. RYAN: 82--8,205 acres.

10 MR. MEYER: In the county's critical area.
11 Obviously, a good part of the that would have been the
12 county's or would have been within the county's critical
13 area is federal land, is APG. And, so our control over
14 that area is obviously limited to some degree and we,
15 you know, got the other areas shown as such.

16 We do have some areas which were expanded
17 beyond the thousand feet area based on specific features
18 which we felt important to protect. Those areas would
19 be down in this area here. I believe there's some up in
20 this area. Again, in this area along some tributaries
21 which come down from the Bay and obviously most
22 significantly up in the Deer Creek area joining the

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1 State Park, Susquehanna State Park, up in this area.

2 This is Havre De Grace area. This is the
3 Joppa Town area and this would be the Bush
4 River/Riverside area down in this area.

5 MR. KRECK: Andy, can you tell us roughly what
6 percent of the critical area you have mapped as RCA and
7 what IDA and what LDA?

8 MR. MEYER: I don't have those figures off the
9 top of my head. I don't know--Rob may--

10 MR. RYAN: About 73% is RCA. 15.14% is
11 intensely developed area. And, 11.28 is designated as
12 LDA.

13 MR. KRECK: Thank you.

14 MR. PERCIASIPE: Okay. What we're going to do
15 now is start hearing testimony. I know I said that I
16 wasn't going to let anybody sign up after they finished
17 talking, but a lot of people did come in while they were
18 talking, so I will be nice and ask one last time--if you
19 want to say something and don't remember signing this
20 piece of paper, I'll let you do it very quickly while I
21 dream about something.

22 (Off the record)

1 (On the record)

2 MR. PERCIASIPE: Also, I'd like to reiterate
3 one other thing now that we have the final group signing
4 up, and that is, if you want to mail in your written
5 testimony, the record--for those who came in late--the
6 record will be open for one week after today, and you
7 can mail your written comments in addition to your
8 spoken word, or if you want to just do written and not
9 speak, you can mail your written comments to: Solomon
10 Liss, who's the head of the Chesapeake Bay Critical Area
11 Commission, 580 Taylor Avenue D-4, Annapolis, Maryland
12 21401. You can get that address at the end, if you want
13 it, but I just wanted to reiterate that.

14 Okay, we're going to start. I am going to try
15 to keep it to less than 5 minute each, and we'll start
16 with Bill Russell from Beards Hill Road, Aberdeen,
17 Maryland.

18 MR. RUSSELL: Good evening. My name is Bill
19 Russell. I am the chairperson of the Harford County
20 Environment Advisory Board, which is a county counsel
21 legislative group to look at environmental interests in
22 the county. The members of the board represent

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1 development, environmental conservation and the
2 agricultural interests in the county.

3 The board has carefully reviewed the critical
4 areas plan and we would like to convey our heartiest
5 support of the county's management plan and the overlay
6 district ordinance as prepared by the county planning
7 staff. However, there is some controversy within the
8 county regarding the designation of a 30 acre tract,
9 commonly known as Old Trails in the Joppa Town area.

10 The county council proposed the IDA designation
11 for this undeveloped area allowing for intense
12 development under the county's critical area plan. As a
13 lay board interested in the county's future, we would
14 like to transmit to the Commission our request for a LDA
15 or limited development designation for this property.

16 Given the requirements listed in the State
17 Critical Areas criteria and the LDA designation, we feel
18 it's more appropriate and in keeping with the spirit and
19 intent of the State law and the county's draft
20 management plan to designate this as an LDA area.

21 That really concludes my remarks, and I thank
22 you for the opportunity to speak before you.

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1 MR. PERCIASIPE: Well, thank you, Bill, and
2 thank you for staying within your time limit. I'm going
3 to move on to James Thomas from Ring Factory Road in
4 Bel Air.

5 MR. THOMAS: Members of the Commission, I'm
6 James Thomas. I live in Bel Air. But, I have Harford
7 County at heart. I wish to support the management plan
8 that has been drafted and presented to all of you. I
9 think it was unfortunate that the county council voted 4
10 to 3 for an IDA on Old Trail lands. If we are to
11 protect and hold what we have in the Bay at the present
12 time, someone has to sacrifice something.

13 If I was living in the critical area, I'd be
14 willing to sacrifice whatever the majority came up with.
15 I would like to report that for the first time in 15-20
16 years I saw clear water in -- Creek off of Bush River
17 last Saturday. I don't think this was a result of our
18 Bay cleanup effort; it was probably an act of God.
19 Maybe it was a lack of motor boats in the area, but in
20 four or five feet of water, I could see things on the
21 bottom. And, I've been in that area every October and
22 November for at least 15 years.

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1 I think sedimentation/erosion is our biggest
2 problem in the head of the Bay and Bush River, since our
3 major tributaries empty into Bush River. We are
4 funneling funds into the farming interest and our
5 priority at the present time, I think, is two or three
6 sediment control inspectors for Harford County, as well
7 as additional inspection from the farming community.

8 All we have to do is ride our byways and
9 highways during and after a storm and you can find out
10 which farm is emptying heavy sediment into the small
11 streams. Thank you.

12 MR. PERCIASIPE: Thank you. Next is Wayne
13 Ludwig.

14 MR. LUDWIG: No comment.

15 MR. PERCIASIPE: Oh, you're no--you have no
16 comment. I wanted to be sure on that. Thanks, Wayne.
17 Before I go on to the next person, I just wanted to
18 point out that there is a county council person here.
19 You might want to stand up.

20 UNIDENTIFIED VOICE: There are two of us.

21 MR. PERCIASIPE: Two, I'm sorry. You caught me.
22 Dr. Hatton, and I'm sorry.

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1 (Inaudible)

2 MR. PERCIASIPE: Okay. Thank you very much for
3 attending. Kenneth Lang or Long?

4 MR. LANG: Lang.

5 MR. PERCIASIPE: Lang.

6 MR. LANG: L-a-n-g. My name's Kenneth Lang. I
7 live at 405 Fowler Court in Joppa. I'm vice-president
8 of the Foster Branch Home Owner's Association in Joppa.
9 Foster Branch Home Owner's Association is composed of
10 residences that are adjacent to the parcel of land owned
11 by Old Trail Partnership, and which has been identified
12 by Harford County for intense development.

13 Property lies off the Gun Powder River along
14 Foster Branch Creek. We've been working with the county
15 regarding the plans for developing this area for some
16 time. Part of the justification cited by the county for
17 designation of this area as intense development has been
18 that Foster Branch Home Owner's Association supported
19 that specific development criteria.

20 In fact, Foster Branch Home Owner's Association
21 has never supported that specific development criteria.
22 What Foster Branch has done is, we have been telling the

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1 county for some time that we supported development of
2 that area, but for a maximum of 40 single family homes
3 in that area.

4 We don't feel that it should be developed more
5 intensely than that and there are a number of people on
6 the board that also feel that it should be less
7 intensely than that. But, we're not supporting--we
8 would only support a criteria that would meet the 40 or
9 less homes and not something that would exceed that
10 criteria or that could possibly exceed that criteria.

11 And, I'd like to--not speaking for Foster
12 Branch, I'd like to say that I'd just as soon see no
13 development at all there personally. I'm not pleased
14 with the way the county has controlled or enforced
15 restrictions on buildings and on contractors and
16 developments in Harford County.

17 They have requirements that--tell builders that
18 they have to leave so many trees or grass or put up
19 erosion controls and the builders go in routinely and
20 violate those particular controls and there's absolutely
21 no action taken against them. They're allowed to get
22 away with it. Trees it took 25-40 years to be developed

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1 are cut down and nothing's done about it.

2 I would like to personally see that actions
3 would be taken, but it makes me concerned because of
4 lack of action in the past, if this area is developed
5 that it would, in fact, fall to the same condition as
6 other lands in Harford County. Thank you.

7 MR. PERCIASIPE: Thank you, Ken. We have
8 another Ken, Heselton from Joppa.

9 MR. HESELTON: Commission members, county
10 representatives and the general public, my name is Ken
11 Heselton. I also live in the Foster Branch area of--
12 adjacent to Oak Hill Partnership, and I am speaking for
13 myself, however, not for the home owners association. I
14 would like that to be clearly understood.

15 The particular property known as Oak Hill
16 Partnership which is part of the red parcel is
17 identified as intensely developed has been discussed in
18 the neighborhood, as you know, and there is a question
19 as to whether or not the type of development that I
20 believe the majority of the community feels like this--
21 falls under IDS or LDHC or whatever.

22 My wife is a member of the board of Foster

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1 Branch and I do know she's received a great many calls
2 about the nuisance down there on that particular
3 property because it's absentee landlord property.
4 Eventually I would like to see it developed because I
5 personally feel that if a homeowner owns land adjacent
6 to the bay, he's going to have more respect for that
7 land and the bay than any organization that turns it
8 into a conservation area treats it as a park.

9 It is essentially being treated somewhat as a
10 park today. The use is very bad. People are throwing
11 trash down there. There is sufficient tracking and
12 trails through the area to provide pasture sediment to
13 reach the bay and it is--although it's a beautiful
14 piece of land--I think it's very nice, it's regrettable,
15 and I'm going to apologize because you asked me not to
16 do this, but I'm going to do it anyway--that the
17 Commission, the State is taking this shot-gun approach
18 to doing something about the bay.

19 The real truth of the matter is that what is
20 attacking the Chesapeake Bay and has been attacking it
21 for years is ignorance and apathy, not the thousand foot
22 of land right next to the water. You know it and I know

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1 it. You don't have to be within a thousand foot of the
2 Chesapeake Bay to damage it.

3 The head waters of the Susquehanna are clear up
4 in New York State by Syracuse. The Potomac flows from
5 way out in West Virginia, and you're not going to pass
6 laws restricting the people right next to the immediate
7 bay or even to the waterways feeding it that is going to
8 protect it half as well as spending some time educating
9 those people and explaining to them what they're doing
10 and how not to do it. Thank you.

11 MR. PERCIASIPE: Thank you, Ken. That was
12 alright if you--John Gessner.

13 MR. GESSNER: Good evening, members of the
14 Commission. My name is John Gessner and I work for the
15 law firm of Lief and Hersh (ph) in Bel Air and I'm here
16 tonight on behalf of two clients who have property that
17 are each individually affected by the critical areas
18 program. The first is what's commonly referred to as
19 the Britain Quarter property which adjoins the Old
20 Trails Partnership property which appears to be the
21 subject of so much concern.

22 I'll simply say tonight that I agree with the

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1 Department's classification of the Old Trails property,
2 as well as our property, my client's property, as IDA,
3 and rather than spend a lot of time here tonight
4 explaining why, I'll simply send in some written
5 comments that go into that in more detail.

6 The other property owner that our firm
7 represents is Phillip and Joan Schaeffer. They own
8 approximately seven separate parcels that constitute 8
9 acres, more or less, in the area known as Bush Point,
10 which adjoins the Susquehanna River--has--Bush River,
11 I'm sorry.

12 Right now the property is classified LDA and we
13 believe the property should be classified IDA. At the
14 present time portions of the property are zoned B-1 and
15 R-2. There is an existing marina, a school, as well as
16 a recreational vehicle park located on the property.

17 We've discussed this issue with Mr. Carroll and
18 his staff. They've been very kind and cooperative with
19 us in sharing opinions on this, and we agree with them
20 on everything except how to define the neighborhood for
21 purposes of calculating the 20 acre area with three
22 units per acre or more density.

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1 The Department has taken the position that
2 adjoining vacant tracts which are going to be classified
3 RCA should be included within that 20 acre neighborhood.
4 And, once that property's included within the
5 neighborhood, we don't meet the criteria for the IDA
6 because the required density isn't met.

7 We believe that a more logical definition of
8 neighborhood is to look at property that's similarly
9 situated and is presently developed. And, when that is
10 done, we meet the criteria for the IDA designation.
11 This is an issue that, like many others, that reasonable
12 people can disagree on and, as I said, we thank the
13 planning staff for discussing this, but we believe our
14 interpretation is the more logical one. And, I hope
15 that when the final designation is made, the Commission
16 will agree with our interpretation and classify the
17 property as IDA.

18 And, in order to give the members of the
19 Commission a better picture of the area, I will also
20 submit copies of the tax map and other written materials
21 to give you a better picture of what I'm talking about.
22 Thank you very much.

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1 MR. PERCIASIPE: Thank you. But, before you
2 leave, could you point on the map to where it is? I
3 know one you say was next to the other one down--

4 MR. GESSNER: I'm pinch-hitting for the
5 Schaeffers' attorney tonight. This area right in here.

6 MR. PERCIASIPE: That's where the seven parcels
7 are?

8 MR. GESSNER: Yeah, seven separate parcels--

9 MR. PERCIASIPE: And, what--and the other one
10 was adjacent to the so-called old trails which is down
11 there?

12 MR. GESSNER: Exactly.

13 MR. PERCIASIPE: Alright, thank you. Next on
14 the list is John Kelly. I forgot to remind everybody--
15 everybody's been doing it, but I'll just remind
16 everybody to make sure you identify who you're
17 representing or if you're just representing yourself.

18 MR. KELLY: My name is John Kelly. I'm an
19 attorney and I represent Stephen Quick, who is the owner
20 of a development called West Shore. West Shore is a
21 townhouse commercial development which has been on the
22 books since the early 1970's. A goodly portion of that

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1 development has already been built in that there is a
2 substantial number--well over 100 townhouses already
3 built in the development.

4 There is a public works agreement to provide
5 public water and sewer, which has been existing for a
6 substantial time period. There are building permits
7 that have been issued for all--just about all the
8 sections of West Shore, although it is being built in
9 sections.

10 The portion of West Shore was not indicated as
11 intensely developed, but was in the LDA zone. And,
12 therefore, we have had a problem with that ongoing and
13 feel that we ought to be in the intensely developed
14 area. West Shore was originally approved for garden
15 apartments, and we have scaled down the development and
16 the intensity of the development over the years to--at
17 the request of the county, so that we're now building
18 townhouses in what was garden apartments and much higher
19 density.

20 And, now with us still having a few sections
21 left in there, we don't want to be in a position where
22 we can't develop those because of this law, in light of

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1 the present zoning we have on it, the public works
2 agreement, the public--the building permits that have
3 been granted in the various areas, including the
4 commercial. That's what I have to say at this point.
5 We'd request that you consider intensely developed for
6 that portion of property.

7 MR. PERCIASIPE: Okay.

8 MR. KELLY: Wait a minute. Yeah. This is West
9 Shore right here. It comes up to so that it almost
10 fronts on Rt. 40 if you go all the way up. The section
11 here has already been built out in townhouses right
12 there. A substantial--I've forgotten the exact number.
13 I will get you written information--that information,
14 but it's well over 100. I think it's close to 350
15 townhouses that have been developed.

16 MR. PERCIASIPE: Thank you. Let's see. Next
17 on the list if Mary Lang.

18 MS. LANG: My name is Mary Lang and I have a
19 lot of affiliations, but tonight I am speaking as an
20 individual, life-long resident of Harford County. I
21 was--I will say that I was an active member of the
22 League of Women Voters group that fought successfully

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1 for the preservation of the Otter Creek Marsh. And, the
2 Otter Creek Marsh is at present one of three finalist
3 sites recommended by the Department of Natural Resources
4 and apparently approved by NOAA, the Federal
5 Organization, for inclusion in the estuarian research
6 reserve program for the Chesapeake Bay which would be
7 administered by NOAA. So, this was--this was a very
8 successful, you know, result of our saving the Marsh.
9 Also, it is at present being used as--in very much the
10 same respect--by the Chesapeake Bay Foundation and the
11 Issac Walton League.

12 I've been very pleased that Harford County has
13 seemed to make such a strong effort to put into effect
14 the criteria of the Critical Areas Commission, and I was
15 particularly pleased that the county has some kind of
16 goal, passed its own natural resource conservation
17 ordinance which supplements the critical areas. I hope
18 that maybe they might make it a little bit tougher in
19 the future. And, also, I see that the county is
20 participating in the urban forestry program. These seem
21 to me to be very good pluses for the surrounding straws
22 of the Bay.

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1 Of course we realize that the Critical Areas
2 Commission is just one phase of the Chesapeake Bay
3 Program and that there are efforts being made to do
4 something about the Susquehanna and the outer beaches of
5 the Potomac, but that's separate from the Critical Areas
6 Commission.

7 I do have some reservation about the piece of
8 land that has been discussed several times, the Old
9 Trail property in Joppa Town, and what I question is,
10 even if it is going to be somewhat developed, the
11 designation of intense development. My understanding is
12 that either resource conservation area or limited
13 development area, that designation would perhaps enable
14 them to have a development, but to be a part of the
15 growth allocation of the resource conservation--or
16 growth allocation, that 5% allocation of the critical
17 areas.

18 If none of these developments are included in
19 the growth of allocation, why it could just go on
20 indefinitely. I would feel that it certainly should be
21 given at least limited development designation since it
22 has been at one time intense of the resource

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1 conservation. Thank you.

2 MR. PERCIASIPE: Mary, thank you. Just for my
3 own information--well, you don't have to do it--you
4 could probably do it. Show me where the--

5 MR. MEYER: What, the Old Trails?

6 MR. PERCIASIPE: Not Old Trail--yeah, right.
7 Thank you. Otter Creek Marsh.

8 MR. MEYER: Otter Creek Marsh is all of this
9 area right here. And, the marsh area, itself, extends
10 around here.

11 MR. PERCIASIPE: Thanks. You have to bear with
12 us panelists from out of town. Next is George Shehan.

13 MR. SHEHAN: My name is George Shehan. I'm an
14 attorney and I represent the Beta Land Company and my
15 address is 503 North Shamrock Road, Bel Air. My client
16 is the owner and developer of a 1500 acre new community
17 in Harford County that was zoned in the mid-70's and
18 development initiated in the late 70's, 1979.

19 It's a project that, in part, fronts on the
20 Bush River with acreage of approximately 225 acres, I
21 believe, between Rt. 40 and the Bush River. The county,
22 in its plan, has recommended a portion of that acreage

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1 be designated as IDA. As you can imagine, this project,
2 having begun in 1979, it was begun looking at the entire
3 piece of land.

4 Beta has invested a significant amount of money
5 in that project; has brought a significant amount of
6 growth to the county. And, it based its economic model,
7 if you will, upon the development of the entire piece of
8 land. In my belief, it's clearly vested its rights in
9 that land.

10 But, on the other side of things, in the course
11 of this project and its development, it has agreed to
12 donate and dedicate a significant portion of its land as
13 a reserve or preserve. It has taken a number of steps
14 to insure that it doesn't contribute to any further
15 degradation of the Bay.

16 And, I might add that the piece of land that
17 we're talking about between Rt. 40 and the Bush River is
18 a piece of land that has a number of housing units on
19 it, many of which have been occupied for better than 50-
20 60 years, and almost all of which are on septic. As you
21 may know, on the other side of the Bush River, off the
22 Beta property across the way, there is a significant

1 pollution problem caused by leaking, failing septic
2 tanks.

3 The development of the section of that project
4 would, of course, eliminate that sort of activity, and I
5 think the result is going to be nothing but beneficial.
6 What I'm here to talk about briefly tonight is, number
7 one, we certainly do agree with the allocation of a
8 portion of this property as IDA. And, it is our hope
9 that the--the second portion of this property will be
10 included in a growth allocation. It would be fittingly
11 done.

12 With respect to the growth allocation, the
13 piece of land that my client would be applying for,
14 inclusion in that allocation, is a fairly significant
15 piece of land. It's better than 35 acres, I believe.
16 What concerns me specifically is the portion of the
17 county's plan on page 2-17, that would seem to make the
18 property owner--not only my client, but any property
19 owner who is at the stage of applying--produce a
20 significant amount of engineering information, planning
21 information, creating an expense for which he's got to
22 look at it as a significant gamble because he doesn't

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1 know, of course, whether or not he's going to get the
2 allocation. I would like to see that section of the
3 county's plan deal more in the vein of once the
4 allocation is approved, the controls and the restricts,
5 which as you all know very well, exist throughout the
6 whole process of development in its various stages, I
7 would suggest that at the preliminary plan approval, at
8 the county level, at every other level of approval that
9 has to occur through the process as mandated by the
10 Critical Areas legislation, that that's when the
11 majority of the information be required, and produce an
12 order for that plan to be approved.

13 I mean, simply allocating or indicating that
14 that or any piece of land is in the allocation doesn't
15 provide anybody with a right to walk on that land and
16 develop it, as you all know. It requires it to go
17 through a series of approvals, and I think it would be
18 only fair and equitable that the majority of the
19 engineering and land planning data be required at those
20 stages rather than at the pre-application stage.

21 I know I've taken up my time, so I'll bid you
22 ado. Thank you.

1 MR. PERCIASIPE: Thank, George, for helping on
2 that, but I think you made all your points. Elmer--it's
3 not that I can't pronounce it--Soles?

4 MR. SOLES: Right.

5 MR. PERCIASIPE: Little bit squiggley, that's
6 all.

7 MR. SOLES: My name's Elmer Soles. I am a
8 resident of 405 Trimble Road in Joppa Town and I would
9 like to speak on behalf of the directors and officers of
10 the Joppa Town Civic Association. On the 13th of
11 October of this year we submitted a letter to Mr. Marcus
12 Pollock and I'm not sure whether you members are--over
13 there--fine and dandy--concerning our position with
14 regard to the Old Trails Partnership and the Brittany
15 Quarters zoning case in Joppa Town.

16 It's our position that with the spirit of
17 intent of trying to improve the Bay, it seems to us to
18 be inappropriate to, at the last minute, suddenly start
19 to rezone properties immediately adjacent to the Bay for
20 high density development.

21 We would like to see that--request that the
22 Commission before me right now consider nullifying that

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1 particular zoning classification and identifying it as
2 low density, at least, or the lower class below that
3 level. We feel as though if this type of an approach is
4 not taken and everybody sacrifice a little, really,
5 where do you draw the line in the situation?

6 The next communities along your route of travel
7 will say, have there been any exemptions made for other
8 people for high intense development, and of course,
9 there have been, and if that trail of exemptions keeps
10 going, where do you draw the line. And, I think this is
11 one of the areas where the intense development
12 classification should be reconsidered and changed.

13 The Chesapeake Bay Foundation, I believe,
14 there's a member of it here tonight who's going to speak
15 later, his organization and you gentlemen, have
16 concerted a lot of effort into this project and we think
17 that it is commendable and we would like to join in your
18 efforts to try to control further deterioration of that
19 big body of water. Thank you very much.

20 MR. PERCIASIPE: Thank you, Elmer. Christopher
21 Boardman.

22 MR. BOARDMAN: My name is Christopher Boardman

1 and I'm a resident of Joppa Town at 427 Haverhill Road.
2 I'm also a member of the board of directors of the Joppa
3 Town Civic Association and publisher of a small
4 newspaper in Southern Harford County. And, I've
5 followed with great interest the environmental
6 developments in recent years in our area.

7 I would like to echo the words of Elmer Soles,
8 just spoken about the development in Joppa Town. One of
9 the things that just seems clear to me is that there
10 will be a constant attempt to erode your authority as
11 Commission through any number of a series of decisions.
12 And, I just want to say that as an individual and as a
13 member of an organization I support your efforts and I
14 hope that you take strong efforts throughout your entire
15 program to achieve the objectives that--the very large
16 challenge that you have.

17 And, so this would mean that sometimes there
18 will be hard decisions to make and--but, I want you to
19 know that there are those of us who support your efforts
20 and because this is a resource that affects all of us.
21 In the recent months I've had a chance to take some
22 canoe trips through the Otter Creek Marsh and also

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1 around the Gun Powder River, and up on the Gun Powder in
2 the summertime it's surprising to me how much sediment
3 is in the water. The water is almost all brown. And,
4 this is above the development area that you have here.

5 Now, just parenthetically I'd just like to say
6 that with regard to the old trails and other plots in
7 Joppa Town, it's clear that this is the most heavily
8 developed area right now in Harford County that is not
9 on Federal reservation. And, that should really be a
10 clear enough signal.

11 The other area that I went to is Otter Creek
12 Marsh. And, there have been efforts to preserve that
13 land and wetlands in the past, but--and it is a very
14 nice, natural preserve--but, if you go through there in
15 a canoe, you can hit the--lift the aquatic vegetation
16 and literally shake off the topsoil from it. It's being
17 choked to death, and I'm sure that's not a new thing,
18 but it's really amazing the extent to which that is done
19 in an area that is already protected.

20 And, we are already in a highly developed area.
21 We're in what's called the development envelope of
22 Harford County. And, right now we're talking about a

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1 waterfront development, but this development envelope
2 has a very high concentration of people and it'll have
3 an even higher concentration in the new future as
4 developers continue with their unprecedented growth in
5 this area.

6 And, this is going to continue to have an
7 effect on all of the waterways, whether they are
8 directly affront the tributaries or the Chesapeake,
9 itself. One final point--one final point which concerns
10 the Aberdeen Proving Ground.

11 Now, I'm not sure what your charter provides
12 and I imagine that it probably does not cover federally
13 held land. But, we have been on the edge of a long-term
14 controversy involving the environments insults coming
15 from the Aberdeen Proving Ground. And, recently, the
16 Army Times boasted a front page story which identified
17 the Aberdeen Proving Ground as the worst environmentally
18 affected area of all of the military installations in
19 the country. And, it cited ground water and well
20 contamination--ground water and surface water
21 contamination in that area.

22 And, as a Commission, I hope that you will use

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1 your good influence and insight that we are gaining and
2 so forth to urge the Environmental Protection Agency,
3 the Aberdeen Proving Ground Command, and any other
4 agency that could possibly help clear up these
5 problems. And, they are--they will continue to be a
6 major factor in what you're trying to do and I also want
7 to let you know that there are people here who, you
8 know, want to encourage you to go in that direction.
9 Thank you.

10 MR. PERCIASIPE: Thank you, Christopher. Next
11 is Rick. I can't read the name, but you live on Foster
12 Knoll Road in Joppa Town.

13 MR. PROTHERO: My name is Rick Prothero.

14 MR. PERCIASIPE: Prothero, right. Okay.

15 MR. PROTHERO: I did live on Foster Knoll.
16 I've recently moved to 2403 Freshman Drive Bel Air. I'm
17 sorry I forgot where I lived for a second. I am one of
18 the owners of Old Trail Partnership and I have been in
19 the--my property has been in the hot seat for quite a
20 while, as you can obviously tell, since everyone came
21 here to either be a little for or a little against or a
22 lot against what's going to happen with that 30 acre

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1 tract of land.

2 Just briefly, our group bought the land in
3 1979. The property at that time had, and still does,
4 the present zoning of R3-B3. It is served by the sewer
5 system of Joppa Town and this property would have long
6 ago been developed, however, the Joppa Town Water Waste
7 Treatment System has been at capacity for some time.
8 Otherwise we wouldn't be sitting here going over this
9 because this probably would have already been done.

10 I have lived--well, until the last month, for
11 the past seven years literally adjoining the property
12 which I owned. I understand the complaints that the
13 people who live in Joppa Town feel about it and feel
14 about the development of it. What I hear mostly is a
15 little bit troublesome in that what they're saying, in
16 reality, is they don't want development moreso than
17 what's going to happen to the Bay.

18 This property sits at the low end of Joppa
19 Town, which makes it a receding area for all the run-
20 off. People have pointed out if you go out there, you
21 will see plenty of evidence that this property's
22 eroding. Fifty years from now, if I'm not allowed to do

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1 anything with the property, I won't be sitting here
2 saying I need my property IDA, RDA or RCA; I'll have to
3 apply for a grant to say, please, can you help me get my
4 property. It's sitting out in the Bay. Because that's
5 where it's going to be.

6 There's a lot of problems with the property.
7 It's difficult to develop. It has been. It's been an
8 engineering problem. It has steep slopes. I hear one
9 gentleman saying that they would like to see single
10 family housing down there. What they're saying is, they
11 want to see something down there because what happens in
12 that neighborhood since I live there is very simply, you
13 cannot control the traffic on the property; it is 30
14 acres.

15 And, by that I simply mean, there's people who
16 enter the property, there's trash, debris on the
17 property. There's no doubt illicit drugs that take
18 place down there. There are fire arms entering the
19 property continually. It's not a park. It is private
20 property, but it cannot be controlled.

21 Over the years there have been several fires
22 there. There have been major fires. The property is

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1 probably an accident waiting to happen. It's going to
2 burn down one of these days with the traffic that goes
3 in there. It's difficult to control.

4 It is designated for 180 to 200 dwelling units.
5 I have never--my group who owns the property has owned
6 it since '79. Ten members do own the property. The
7 members have not changed. We are not developers. We
8 are all investors. The majority of us live in this
9 county.

10 Our goal was to develop the property in a way
11 that we could live there. Being just a member of Joppa
12 Town until very recently, I understand their sentiments.
13 I can see that they would not like possibly more
14 traffic through Joppa Town and things that will do, but
15 that's not the real issue.

16 The issue building and development within the
17 criteria of IDA as opposed to LDA. Under LDA with this
18 particular property, the property cannot be developed
19 with single family housing, even in the way of 40 houses
20 like they would like to see, or at least they say they
21 would like.

22 It has to be IDA. Otherwise, it would be

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1 restricted to having to build within a corner of the
2 property a multi-dwelling unit or if it would have
3 development at all, to make it, you know, possible to
4 do.

5 My group has already spent many thousands of
6 dollars pushing through the different studies that had
7 to be done for the property to meet the IDA
8 requirements. The IDA requirements are not exactly a
9 lot of easy requirements when you're within that buffer
10 anyway. We have no--we have to do storm water
11 management. We have to do environmental impact studies.
12 We have to do all that. This we know.

13 The property was not changed at the very end,
14 as someone points out, to be IDA. This property has
15 been up and down and up and down for much longer than
16 the public hearings have been going on. Since we started
17 our project back in 1980, the end of 1985, we were told
18 by the county at that time, meeting the requirements set
19 forth by this Commission, that we were clearly in IDA
20 category.

21 Since then there's an argument one way or the
22 other. As far as arguing the point, I mean, we feel

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1 certainly we meet the criteria to be IDA. I mean the
2 other properties do. I certainly sit here and say I
3 think my property should be IDA and we'll stand by that
4 and we'll continue to stand by that.

5 I have submitted plats to this--to the county
6 for a single family community. That's true. And, I
7 have not changed from there. Yes, we will lose some
8 housing that we have there because they fall within
9 certain criteria that we would lose lots there, we know
10 that.

11 I have a couple questions for you concerning
12 the allocations system of this critical bays. The
13 allocation system at present I find to be ridiculous to
14 be able to future allocate certain parts of the
15 property. If you take a county as this and you
16 designate so many acres as having potential for growth
17 allocation without having time tables or any true facts
18 of what's going to be allocated, it's going to lead to a
19 lot of political problems.

20 If--since the allocation procedure has to go
21 through the county council for approval for allocation
22 that's been applied for, even if I have resource

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1 conservation and apply to have a growth allocation put
2 on, as Mr. Shehan pointed out, there is no guarantee
3 after spending bookoo buckets of money just to get to
4 the point of trying to put a development in there that
5 anything will come to it, since it's somewhat of an
6 arbitrary decision that is certainly not obvious to me
7 at this time.

8 And, I would feel, as any developer or anyone
9 who owns any property, that someday if I wish to do
10 something with this, that I could rely in any way to
11 have any growth allocation, you could not depend on it.
12 Time's up? Alright. I thank you very much, and I know
13 I'm in the hot seat of the property for a while and I
14 feel I need to say something. Thank you.

15 MR. PERCIASIPE: Well, we appreciate your
16 comments. Thank you, Rick. Bob Lynch.

17 MR. LYNCH: Good evening. My name is Bob
18 Lynch. I'm an attorney in private practice and I'm here
19 representing myself. I'm not representing any clients
20 here this evening. Previously I served with the
21 Chesapeake Bay Critical Area Commission for
22 approximately two years and worked with some of you

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1 members that are here tonight, many hours in Easton and
2 Annapolis, hammering out the criteria and trying to
3 establish a framework in which to bring all the counties
4 into the program and get these plans on line.

5 I'd like to just take a couple of minutes and
6 comment about Old Trail. And, the reason I want to talk
7 about Old Trails is because I think that it's most
8 unfortunate that the only thing anyone talks about in
9 Harford County about the Critical Area Program is Old
10 Trails, and there's so many other good things that have
11 been done in the program, in the mapping, and I think a
12 great effort went into the mapping by the staff, the
13 planning department, and a thorough review by the
14 planning advisory board and even more detailed review by
15 the Harford County Council.

16 But, everybody talks about Old Trail. Why?
17 Because the county executive has an interest in Old
18 Trails. So then everybody focuses on it. And, I think
19 that that's really unfortunate and I think that you've
20 got to look at the facts and it's very difficult to come
21 to Harford County in one evening, have people speak, and
22 then go back to the Commission and then try to formulate

1 a recommendation. It's extremely difficult because I
2 was involved with doing it initially with the public
3 hearings and we'd be all over the bag.

4 And, it's very hard to focus on the issues in
5 Harford County, as it in other counties. Please bear in
6 mind, specifically on Old Trails, in 1985, when we were
7 required by law, December of '85, and at that time I was
8 a planning director in Harford County and I served in
9 that position for four years. Prior to that I was four
10 years on staff as the environmental planner. In 1985,
11 as a planning director, under my direction, the staff
12 designated the Old Trail property as intensely
13 developed.

14 They also designated the property that Mr.
15 Gessner testified about earlier, Brittany Quarters, as
16 intensely developed. Why was that done? Because it
17 meets the criteria. Why does it meet the criteria?
18 One, the Old Trails property is part of the original
19 Joppa Town sanitary sub-district. And, then early--I
20 believe it was the late 60's or early 70's this area was
21 designated for water and sewer.

22 If my understanding's correct, there is sewer

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1 on the property or on the edge of the property. The big
2 hang up, the big discussion has been, what constitutes
3 an area; how large should the area have been. Take
4 time, look at an aerial photograph. Every piece of
5 property surrounding Old Trails is developed, developed
6 in the high density residential. This particular
7 property's part of the area of Joppa Town. It was
8 always intended to be developed and should be developed.
9 It's zoned R-3, which is a high density residential
10 classification. Even if there was no such thing as a
11 Chesapeake Bay critical area, it could never be
12 developed at an R-3 density because the County in 1982
13 adopted what was known as a natural resource district.

14 And, approximately a year and a half ago I had
15 the pleasure of presenting the natural resource district
16 before the Chesapeake Bay Critical Areas Commission and
17 explained to them how Harford County had been somewhat
18 innovative and had initiated this way before there was
19 any discussion about a critical areas program.

20 How did it get adopted? It got adopted because
21 the county council is environmentally minded and they're
22 concerned about development. So way before there was

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1 critical areas we had our own natural resource district
2 and that will provide a measure of regulation on this
3 particular property.

4 In closing, I'd just like to say that members
5 of the county council debated this issue back and forth;
6 had extensive discussions on what the classification
7 should be on the map, and the final resolution was
8 intensely developed. Why? Because they have the
9 history; they have the background. They understand
10 Joppa Town. They understand the local issues.

11 Councilwoman Risacher is here tonight who has a
12 stella reputation on environmental issues. Who was
13 really--initiated a lot of the effort on preserving --
14 Point Marsh. She was one of the individuals who
15 articulated the position that it should be IDA because
16 she understands the history and understands what the
17 programs are all about here in Harford County.

18 And, I couldn't close by not making a comment
19 about the Chesapeake Bay Foundation and I'd sort of
20 hoped to be here tonight because I always enjoy the
21 comments. Because I think on this particular property
22 and I might be entirely wrong. I think CBF jumped on

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1 this issue because they were able to get some press by
2 the evening sun and the morning sun and they were able
3 to get their name out front by focusing on Old Trails
4 because of the ownership interest that the county
5 executive has.

6 And, I think CBF should be a little more
7 careful when they pick their issues, because on this one
8 I think they're 100% wrong, and Old Trails should be
9 IDA. Thank you.

10 MR. PERCIASIPE: Thanks, Bob.

11 MR. LYNCH: Thank you.

12 MR. PERCIASIPE: Next is Howard Alderman.

13 MR. ALDERMAN: I'm not sure I have a whole lot
14 left to say.

15 MR. PERCIASIPE: Then you can be brief.

16 MR. ALDERMAN: I will.

17 MR. PERCIASIPE: I'll give you one minute.

18 MR. ALDERMAN: You ought to talk to John
19 Hardwick about that. For the benefit of the Commission
20 members and Sandy Hillyer, who I think will follow,
21 again, this is the Old Trail property.

22 My name is Howard Alderman. I am the attorney

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1 for the Old Trail Partnership. I am employed by the law
2 firm of Lavania and Hankin and my offices are at 305 W.
3 Chesapeake Avenue, in Towson, Maryland. I want to
4 address one thing very quickly and that is the zoning of
5 the property.

6 You've heard different views on it. The zoning
7 that was in place on the property, which is both R-3,
8 a moderate to high density residential, and B-3, a
9 commercial designation. Has been employed since 1960.
10 And, that zoning was reaffirmed in 1982 during the
11 county's comprehensive rezoning of the entire county.

12 This zoning is not new. It has been there. It
13 remains there. Mr. Lynch, I think, described
14 adequately, thankfully, the fact that we have gone full
15 circle on this property with respect to Critical Areas.
16 It was originally designated IDA. It has gone through
17 various iterations of RCA, LDA. And, the planning
18 advisory board of Harford County wrote to the county
19 council after they held a public hearing and numerous
20 work sessions. And, they in that letter, recognized
21 that the Old Trail property is part of Joppa Town which
22 is an intensely developed area.

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1 That was submitted to the county council and,
2 as is a matter of public record, there was a split vote
3 with one abstention. The council came back the
4 following week after a site visit by the abstaining
5 member and they voted in favor of classifying this site
6 as intensely developed. This is consistent with the
7 designation of the rest of Joppa Town of which it's
8 part.

9 We've heard some discussions of the growth
10 allocation here this evening, and why not classify this
11 property as RCA or LDA and then let it apply for growth
12 allocation. Harford County is in the unique position, I
13 think with respect to most other counties, because of
14 the large federal land holdings, it has the least amount
15 of growth allocation of most counties.

16 Growth allocation is a prime resource in this
17 county. To suggest that, yes, we will designate this
18 property as something less than IDA merely for purposes
19 of taking the red off the map so that then we're going
20 to make them come back in and do the same studies that
21 they've already done in order to qualify for growth
22 allocation is preposterous.

1 You will be using valuable growth allocation
2 that is currently available to the county without a
3 positive beneficial result. The Commission, when it
4 reviews the program that has been submitted to it, by
5 law must review it based on the goals and objectives of
6 the act and the criteria. That's a standard by which
7 you're going to evaluate the local protection plan and
8 the classifications of property.

9 Under the criteria, as a part of Joppa Town,
10 this area is part of an area having a housing density
11 equal to or greater than four dwelling units per acre.
12 This property has public sewer and public water systems
13 currently serving, not only the Joppa Town area, but
14 also available for the site.

15 You also heard that there is a sewer--the Joppa
16 Town site is at sewer capacity at the Joppa Town
17 treatment plant. You should know, if you don't already,
18 the county has recently budgeted monies to extend the
19 sewer interceptor to relieve that capacity problem at
20 Joppa Town sanitary and treatment facility.

21 You'll have to evaluate the plan and the
22 classification as to whether or not it meets the goals

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1 and objectives of the Critical Area Act. The goals and
2 objectives are, the jurisdiction must promote or must
3 include a land use policy which accommodates growth.
4 And, I think Harford County has done that. They've
5 struck an even balance.

6 You must find that the proposed development
7 would minimize adverse water quality impacts and that it
8 would conserve valuable fish, wildlife and plant
9 habitat. Now, I've heard a lot about the intensely
10 developed nature of this site here this evening. I want
11 to show you exactly what we're talking about with
12 respect to intensely developed.

13 This is the Old Trail site. It comprises 30
14 acres. The intensely developed that you're talking
15 about, as shown on there, has a total of 56 housing
16 units. This is a site plan that has been submitted and
17 is currently under review by the Harford County
18 Department of Planning and other departments.

19 You will note that the site attempts to--or not
20 attempts--but also does minimize the adverse water
21 quality impacts as well as conserve valuable fish,
22 wildlife and plant habitat, not only by the

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1 legislatively mandated buffer areas, but also by
2 interior buffer areas and open space.

3 So that's what we're talking about as far as
4 intense development. The planning director has noted in
5 the papers that the existing zoning on the site could
6 exceed 200 dwelling units. We're proposing 56. It now
7 looks like, due to some site constraints imposed by
8 local regulations that are already in place, that may be
9 reduced to 50. We may lose.

10 In closing, I just want to thank you for the
11 opportunity to come here and speak with you this
12 evening. I would ask that, again, when you're looking
13 for other criteria by which to evaluate the proposed
14 program, that you look to Section 8-1807 of the Natural
15 Resources Article regarding excluding areas. Use those
16 same criteria for evaluating proposed classifications.

17 And, that is that the Commission would only
18 overturn a local jurisdiction's proposal if, one, it's
19 not supported by competent and material evidence, or,
20 two, that it's arbitrary and capricious, i.e. not fairly
21 debatable.

22 And, I think that in all fairness you'll find

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1 that the material evidence is just that. It was also
2 competent, and based on the public record, I think that
3 it cannot be denied that this issue has been fairly
4 debated at many levels. Thank you. And, I would like--
5 I will be following this up with a short written
6 comment, and if you'd like, a color version of this
7 plat. This is my only copy right now, but I will submit
8 them.

9 MR. PERCIASIPE: Thank you.

10 MR. ALDERMAN: Thank you, Commission members.

11 MR. PERCIASIPE: You have a week to do that.

12 MR. ALDERMAN: Yes, thank you.

13 MR. PERCIASIPE: Alright, thank you, Howard. I
14 have one last person here, but because I really am nice,
15 I'll ask if anyone else wants to speak. Sandy Hillyer,
16 you're signed up. And, then--

17 MR. HILLYER: Members of the Commission, I am
18 Sandy Hillyer with the Chesapeake Bay Foundation. We
19 very much appreciate the opportunity to testify this
20 evening. The Bay Foundation has close to 50,000
21 members, over half of whom are residents of Maryland.
22 We have been long-time supporters of the Critical Area

1 Program.

2 Our focus--sometimes we approach the critical
3 area issues from a different perspective than residents
4 of particular local communities, in that a primary
5 concern of ours is the application of the criteria
6 throughout the Maryland Critical Area, the whole state.

7 And, we're very concerned to avoid having
8 precedents set in any one jurisdiction that are bad
9 precedents, that if followed by other jurisdictions,
10 would erode the critical area criteria. And, it's
11 because of that concern that we're here tonight and take
12 this opportunity to testify.

13 It so happens that our testimony dovetails very
14 neatly what--a lot of what you've heard this evening of
15 local residents who are opposed to the present
16 classification of the Old Trails Partnership. And, it's
17 that specific issue that I'd like to address.

18 The Old Trails Partnership and the neighboring
19 property, Brittany Quarters, I think it's been referred
20 to this evening, comprise 50 acres that are totally
21 undeveloped. At least Old Trails is totally
22 undeveloped--in the critical area.

1 The Old Trails part is forested. It abuts
2 Joppa Town, as you have heard. But for--let me say, it
3 fits all of the criteria for a resource conservation
4 area. It's dominated by forests and habitat and has no
5 development. It's not a question of what density;
6 there's no development.

7 Because two of the sewer lines from Joppa Town
8 touch the edge of the property it barely qualifies as a
9 limited development area. It meets no criteria for a
10 resource conservation area. It's not dominated by
11 industrial or commercial or residential use. It does
12 not have a density of three units per acre, which
13 combined with sewer and water could qualify it for
14 intensely developed area. It meets none of the
15 criteria.

16 The proponents of--the defenders of IDA ask the
17 Commission to merge this 50 totally undeveloped acres
18 with Joppa Town, to homogenize it, so that the same
19 classification that applies to Joppa Town applies to
20 this 50 acres. And, it is this merging of 50
21 independent acres of open space in the critical area
22 with an adjoining community that has a totally distinct

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1 character that we object to, not only because of the way
2 it affects the Harford County Critical Area, but because
3 of the state-wide implications as a precedent.

4 The criteria are very clear that when it comes
5 to classification, the local jurisdiction and this
6 Commission must focus on existing use. And, the
7 existing use of this 50 acres is as open space. The
8 fact that it was planned for use at some point in the
9 past to be included in Joppa Town is irrelevant to the
10 task before you, which is to see that it's properly
11 classified, and that has to be based on the existing
12 use.

13 Now, this has been referred to as a hard choice
14 that ya'll have to make. We don't believe it is. We
15 think that the density averaging issue, which is what
16 we're getting into, is going to be difficult for the
17 Commission throughout the Bay area. There's going to be
18 a gray area in the middle which will be hard for you to
19 decide where to draw the line.

20 There's also on either side of the gray area a
21 black and a white. And, this particular property falls
22 clearly in the black. It's so far out of line with any

1 reasonable interpretation of what constitutes an
2 independent area that we urge you not to dwell too long
3 in thinking it over.

4 I would like to make two further points. You
5 may have noticed, or a minute ago you were informed that
6 the owners of this property intend to develop it for 56
7 units; that's 30 acres. The density allowed for a
8 limited development area is up to a maximum of four
9 units per acre. In other words, they could put 120
10 units in the limited development area, if it were so
11 classified, which is obviously more than sufficient to
12 accommodate the 56 dwelling units they propose.

13 So there must be some other reason they want to
14 upgrade the property to intensely developed area and the
15 other reason, I think, is fairly obvious; they want to
16 avoid the best management practices that would apply to
17 any development in a limited development area. What are
18 those BMP's? Restrictions on developing steep slopes to
19 avoid erosion. Restrictions on the percentage of land
20 that can be cleared of forest cover, because forest is
21 important to filter run-off into the Bay. Restrictions
22 on the amount of impervious surface that can be put in.

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1 It these restrictions that it appears the
2 proponents of IDA are trying to avoid. These are the
3 restrictions that are built in to protect the water
4 quality of the Bay. We think they should be upheld.

5 Finally, on the issue of growth allocation. If
6 it's the will of Harford County to see at all costs this
7 land developed as IDA, the criteria do provide
8 flexibility to allow it to do so the right way, which is
9 to classify it according to the criteria which would be
10 LDA or RCA, and then draw down their growth allocation
11 if they so wish, to make it IDA. They have, I think,
12 250 acres of growth allocation.

13 I think the county has caused problems for
14 itself in one respect in that it has acted as though
15 using growth allocation is necessarily a two step
16 process, but first the land has to be classified RCA.
17 The program has to be submitted to the Commission for
18 approval on that basis. And, at some later date, the
19 applicant has to come by and say, please upgrade us.

20 And, that is not necessarily so. If the county
21 wishes, it could have used up its growth allocation in
22 its initial submission, avoid the uncertainty that the

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1 land owners were concerned with.

2 Finally, to conclude, we urge that this
3 classification be rejected. That, as submitted, the
4 program either be denied approval on grounds that this
5 parcel is misclassified; it should be LDA or RCA. Allow
6 the county to use up its growth allocations if it so
7 wishes. Or, approve it on the condition that this 50
8 acres is docked against the 250 acres of growth
9 allocation the county has coming to it.

10 That way the criteria will have been abided by
11 and there will be no dangerous precedent set for the
12 remainder of the critical area. Thank you.

13 MR. PERCIASIPE: Thank you, Sandy. One last
14 speaker. Barbara.

15 MS. RISACHER: My name is Barbara Risacher. I
16 am speaking for myself tonight. I am also a member of
17 the county council. I am a resident of Joppa Town and I
18 live on the water, on the bulkheaded water front in
19 Joppa Town. I'm one of the fortunate few. I also wrote
20 the grant application to the culture zone management for
21 the League of Women Voters that resulted in the Otter
22 Creek Marsh study. I was the coordinator of that study,

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1 and I was also the director of the legal battle which
2 resulted in the preservation of the Otter Creek Marsh.

3 I'd like to tell you that I spent a number of
4 sleepless nights over my vote on this particular piece
5 of property. It was rather difficult. But, I did vote
6 in favor of giving this the intense development
7 category, and I did that in what I thought was the
8 interest of the community and in the best interest of
9 the Bay in this area.

10 My understanding, and I don't claim to be an
11 expert, but my understanding was, that if we gave it a
12 limited development category, then the developers would
13 most likely choose the option to use their 120 units and
14 probably develop garden apartments, townhouses, on some
15 small portion of this piece of property.

16 This piece of property is situated in a single
17 family residential portion of Joppa Town which is a
18 planned community which has a total mix of units from
19 apartments to townhouses to single families and
20 different economic levels of single families.

21 This is the higher class single family
22 neighborhood. They would prefer to see--it was my

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1 understanding they would prefer to see single family
2 units developed there. It's also--the problem of land
3 management is a very real one and not something I knew
4 about when I did all this work for the League of Women
5 Voters.

6 We were very, very lucky for the Otter Creek
7 Marsh. Land management is a very difficult thing. We
8 were lucky for the Otter Creek Marsh because the
9 Chesapeake Bay Foundation took over and they are
10 managing a major portion of that marsh. The Issac
11 Walton League is managing another portion.

12 If you look at the Joppa Town area, you'll see
13 that we have a great resource of waterfront property and
14 marsh area that is for the most part being managed
15 either by the county--

16 (Off the record - Change tape)

17 (On the record)

18 MS. RISACHER: Are you still timing me? I hope
19 not.

20 MR. PERCIASIPE: No, I stopped.

21 MS. RISACHER: Thank you very much. If I can
22 point to the map and you can still hear me. The state

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1 owns a great portion of park which is now being mined by
2 a mining company, but which will become a part of the
3 Gun Powder State Park.

4 They also own the back part of the Rumsey
5 Island which is now in a resource conservation passive
6 park area. Harford County recently developed this
7 particular piece of property as a passive park voting
8 area for Harford County.

9 Of course, U.S. Government manages this
10 particular piece of property. The property that we're
11 talking about, if we leave it with 120 units at one
12 corner, I'm fearful that we will not achieve land
13 management. I don't know how many of you were fortunate
14 enough to see the television presentation, but uniquely
15 enough in the 32nd scan that they did of the property
16 from the water you could see gun shots, many of them
17 over the property.

18 That is a very real problem for the
19 neighborhood. We also have, as Mr. Prothero pointed
20 out, storm water pipes that outlet on this particular
21 piece of property because it was slated for continuation
22 of development. So we have some erosion problems. It

1 was the county council, at least in my opinion and in my
2 understanding of those other members who voted in favor
3 of this, that single families limited development--
4 single family development, but which you had to get by
5 giving it the high intensity category because you can't
6 get it with the limited development category because of
7 the replacement of forest land and because of other
8 restrictions, that that would achieve the best land
9 management that would fit into the overall program of
10 state parks and of county parks and of management of the
11 marsh in this area.

12 I would like to report happily to you that I
13 used to swim off of my bulkhead but I no longer do that
14 because we have a very happy return of submerged aquatic
15 vegetation and it's not very comfortable to swim
16 through. But, I think we're seeing, despite the cement
17 bulkheads, which are not popular, I think we're
18 beginning to see some real nice land management in the
19 area and I do not think this contradicts. I think that
20 this is in concurrence.

21 I would also like to point out that the county
22 council did not recently rezone this piece of property.

1 It was rezoned before charter government back in 1965
2 when the original Joppa Town was zoned. Thank you very
3 much.

4 MR. PERCIASIPE: Thank you.

5 MR. HADUM (PH): I'll only take one minute.

6 MR. PERCIASIPE: I always let the council
7 person speak.

8 MR. HADUM: My name is Fred Hadum. I'm a
9 member of the county council. I also voted for it.
10 And, I think the impelling considerations are basically
11 the tremendous amount of work that was done by our
12 planning commission. I think that they did a very find
13 job.

14 I think Mr. Lynch presented the situation very
15 well, and in his tenure the situation certainly
16 indicated intense development. And, I would like to
17 point out, while I do not have a copy of the letter that
18 Mr. Carroll wrote to the Evening Sun in response to
19 their editorial, I think that sums up the position
20 exceedingly well. And, for that reason, I think the
21 county council voted for it. And, I think after--this
22 was only after intense consideration and many, many

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1 hearings. So, I think this should be taken into
2 consideration. Thank you.

3 MR. PERCIASIPE: Thank you.

4 MR. HADUM: I hope that didn't take more than a
5 minute.

6 MR. PERCIASIPE: No, actually it was 55
7 seconds. That concludes the formal part of the hearing.
8 I want to thank everyone tonight for (a) being so
9 articulate in explaining the situation to us, and (b)
10 for being so brief. I believe it was really well done
11 on every speaker's part and it certainly has made the
12 whole situation clearer to us, I think. Maybe not, but
13 it was very good. So, with that, the official hearing
14 part is over. I remind everyone that the book is open
15 for one more week where you can submit your written
16 comments. I have the address where you can send them if
17 you want it. And, thank you again.

18 (Whereupon, the hearing was
19 adjourned)
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C E R T I F I C A T E

This is to certify that the foregoing transcript in the matter of: PUBLIC HEARING - CRITICAL AREAS SUB-COMMITTEE

BEFORE: ROBERT PERCIASIPE

DATE: November 19, 1987

PLACE: Bel Air, Maryland

represents the full and complete proceedings of the aforementioned matter, as reported and reduced to typewriting.


Kevin Richard Reppenhagen

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