

Public Hearings - Port Deposit and Perryville - 1997 MSA - 51830-19

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CRITICAL AREAS COMMISSION

TOWNS OF PORT DEPOSIT AND PERRYVILLE

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PROCEEDINGS

UNIDENTIFIED SPEAKER: -- your attention,
because we want to attempt to call our meeting to order.
The Towns of Port Deposit and Perryville are pleased to
welcome you out here this evening to help us -- -- with
a study that's been put together for protecting the
Chesapeake Bay.

This is a very important subject that you've
heard much about the last few years. We've had
distinguished men and women visiting our area, touring
our bay, and the State has mandated the various
communities that live along the water with tributaries
that empty into the Chesapeake Bay come up with a plan
that is devised to protect and clean up the Bay and
wildlife, endangered species -- --. -- -- -- --
Great deal of effort -- -- to provide
compensation -- -- -- compensation, --

LOSS OF TRANSCRIPT DUE TO MECHANICAL DIFFICULTY

UNIDENTIFIED SPEAKER: I have a relatively easy
job, and I'd like to call on Mr. Wallace Miller to
introduce the State's Critical Area Commission people.

MR. MILLER: Thank you Mr. Mayor. To my

1 immediate left is Mrs. Kay Lan -- , Commission
2 Representative of Cecil County; to my immediate right
3 -- Buchanan, representing Hartford County, and to his
4 right, Louise Lawrence, who looks a whole better than
5 Secretary William Cauley, representing the Maryland
6 Department of Agriculture tonight. I represent Kent
7 County. To my far right is our staff person, Kevin
8 Sulliman, who by the same token tonight is the Court
9 Reporter. Generally we have one who looks a whole lot
10 better and a different gender.

11 What we're here tonight for is to hear public
12 comment on the Critical Area Program....Critical Area
13 Programs. Oh, I'm sorry, we got these -- , anyway.

14 Next, I'd like to introduce from the County
15 Office of Planning and Economic Development, a Mrs. Susan
16 -- , and next from the Town of Perryville, the
17 President of the Town Commissioners, Mr. Dominic -- ,
18 Commissioner Jim Saf-- ; Commissioner Roland --
19 Anderson; and the Town Administrator, Alfred Warnen.

20 From the Perryville Planning Commission, we have
21 Mrs. Barbara Brown, Wyatt Wallace, Bobby Lake, Mike
22 Weaver, and Wayne Sinclair.

1 Some of the consultants that have worked on this
2 program from Rogers, Golden and Hel-- , Bob -- ;
3 and from Redmond, Johnson, -- .

4 LOSS OF TRANSCRIPT DUE TO MECHANIC FAILURE

5 UNIDENTIFIED SPEAKER: I'd like to give just a
6 general overview of the Critical Area Program for both
7 the Towns, they're similar, and then to give it over to
8 Zach to give you some of the details on the development
9 side of it. As was mentioned, the State law said
10 basically there's going to be a critical area, and
11 there's going to be a critical area commission, and the
12 commission will set up criteria, which will determine how
13 land is developed in the critical areas. And the
14 Critical Areas is defined as you may know, the first
15 1,000 feet of land from the -- water. Tidal waters.
16 And the critical areas shall be divided into three areas
17 that are called the intensely developed area, the limited
18 development area, and the resource conservation area.
19 And as the names imply, they go from the more intense to
20 the least intensely developed. The Research Conservation
21 Areas are dominated by forest, farms, wetlands, open
22 space, and barren areas.

1 Now what the criteria say is that these local
2 jurisdictions and towns have to implement the critical
3 area criteria through their zoning ordinances, their
4 subdivision ordinances, and any other land regulatory
5 devices that they have, and that this regulatory language
6 must be part of the program, and that's what we've done
7 for Cecil County and Perryville and Port Deposit.

8 The program is organized into ten chapters. The
9 first chapter gives us general overview of the Town, and
10 the background on the criteria. The second chapter has
11 to do with development, and the third chapter has to do
12 with....water dependent uses, yeah. Alright. Water
13 dependent uses. The fourth chapter is shoreline erosion,
14 and then comes three chapters that have to do with
15 regulation of special land uses - agriculture, forest,
16 forestry activities and mineral resources. And then
17 there's a chapter on the natural parks, which is
18 a....what -- and indication -- . What the
19 criteria wants each jurisdiction to do is to locate those
20 areas in its jurisdiction that are good examples of
21 ecosystems of the Chesapeake Bay, and to hopefully,
22 it's not mandatory, but hopefully, designate them and use

1 them as natural parks for people to come and see what the
2 natural setting of the water's edge are.

3 And then comes the series of resource protection
4 chapters, which are, in order: the buffer, which is the
5 first 100 ft. of the critical area, near the water, which
6 is....under the criteria, are very special protection,
7 because it's the last line of defense before --
8 pollutants get into the water, and then, -- wetlands,
9 threatened endangered species, special plant and wildlife
10 habitat, and -- fish. And those are the....form the
11 first nine chapters, and the tenth chapter is on
12 implementation.

13 And I'd like to turn to Zach -- right now,
14 who is from Redmond Johnson Associates, who was, they
15 worked as subcontractors to us and developed this
16 implementation language, to tell you a little bit
17 about....little bit more about the grandfather clause,
18 the growth allocation, and the special restrictions and
19 opportunities in the buffer.

20 UNIDENTIFIED SPEAKER: Good evening, I apologize
21 for being a little late. I learned a lesson tonight.
22 You never try to use a Maryland roadmap in Delaware, it

1 doesn't work too well. So, I'll, again, I'm Zach --
2 with Redmond Johnson Associates. We prepared the
3 implementation language, the ordinance language that
4 accompanied the Critical Areas Program for both Towns.

5 This is really a mechanism for implementing and
6 for the Town to work with on a day to day basis. The
7 method we'll be using is primarily the zoning ordinance,
8 which most property owners are fairly familiar with.
9 Also the subdivision ordinance. It's mandated that the
10 Comprehensive Plan of the Town also accommodate the
11 Critical Area Program. The intent, the next major update
12 to incorporate the Critical Area Program, is an element,
13 at least, if not a sub area plan. I think it's more of a
14 housekeeping problem, because the process that the Town's
15 been through is akin to a sub-area plan of the Town,
16 focusing on that 1,000 ft. band from tidal waters.

17 But the focus has been on the zoning ordinance.
18 It offers the best opportunity to control development and
19 land use somewhat.

20 First, I don't know if -- pointed out or if
21 you had a chance to look at the map. Management
22 categories have been designated, as mentioned by Ron --,

1 it also relates to the zoning ordinance to zones, for
2 regulatory purposes. The intent is for the Town to
3 acquire an overlay zones, over top of that 1,000 ft. band
4 around the tidal waters, and in turn have special
5 provisions for handling the three subcategories, the
6 intensely developed, IDA, which has the entire density;
7 the limited development areas, for moderate densities;
8 and the Resource Conservation Area, which, they are very
9 -- . That's the main -- .

10 There's also provisions, and these are very
11 important in a Town, because a Town, already having
12 development, for grandfathering situations.
13 Grandfathering lots, grandfathering existing -- unit,
14 existing businesses, and zoning provisions. Provisions
15 of non-conforming lots. This grandfathering provisions
16 are not quite as simple as what you're used to. You're
17 used to, if a lot in existence at the time of the
18 ordinance, then it is basically exempted, for the use to
19 continue. A little bit more complicated than that.
20 Anything....it's simple for anything before June 1984.
21 After June 1984, it's a little bit, there are some
22 different rules depending on when you....where you were

1 in the development of the project, which I won't get into
2 the detail, but suffice it to say that.

3 Growth allocation is a method built into the
4 Critical Area Program whereby areas that have, it allows
5 the County in general, and the Town specifically to
6 convert certain areas that are Resource Conservation, or
7 limited development, into more intense use. A certain
8 percentage. And that percentage is limited to 5% of the
9 total mapped Resource Conservation Area in the County,
10 which boils down to about 940 acres, if I'm correct.

11 Nine hundred and forty acres, what's been worked
12 out between the Town and the County, is an allocation of
13 about 15 percent for the Town, and that in turn is
14 allocated based on population, which I think turns out in
15 Perryville to be about 16 acres of available land to be
16 converted, and about 5 acres in Port Deposit.

17 I think this....this will accommodate a certain
18 amount of growth. I'm not sure what happens when that's
19 used up between the Counties and the Town, will have to
20 work that out beyond that.

21 There's also recognition of property owners who
22 may exist within that 100 ft. buffer, which is a 100 ft.

1 setback, and generally it can be modified somewhat by
2 soil conditions, slope, and so on. But generally the 100
3 ft. buffer, setting back from your knee high water line,
4 the water line, in this recognition is built into the
5 ordinance for existing homes that be within in that 100
6 ft. What it does is, it establishing that buffer line no
7 closer to the water than that existing dwelling unit.
8 -- -- , but you cannot put....build any closer, but
9 you could build within that modified setback. There's
10 some flexibility, I think, built into the zoning
11 ordinance, of the zoning provision.

12 There's been....you could foresee a situation
13 where you undeveloped lots in the Town. These
14 undeveloped lots may have buildings on either side of
15 them, and the intent is to establish a modification of
16 the buffer....buffer exemption, the terminology's not --
17 -- , but to allow an averaging of that set back line.
18 To establish a set back as a buffer line -- comply
19 with the established set back line, in an average way, by
20 averaging the set back. That's what's been established
21 at this point.

22 These will apply to fairly small lots, no large

1 parcels. Lots less than 250 ft. in depth. Large parcels
2 could not get that....that treatment, that exemption.
3 The subdivision of large lots you would not afford that
4 treatment.

5 I mentioned briefly that the densities are built
6 in in these overlay zones, the IDA, the LDA, and RCA,
7 built in....the densities in the IDA are pretty much
8 consistent with the existing zoning in the Town as they
9 are now.

10 In the Limited Development Areas, there is a cap
11 of four units per acres, quarter acre lots basically.
12 This is deemed to be consistent with modern densities,
13 and in most cases, consistent with Town policies, too.

14 There's some additional development standards
15 posed on each of these areas. The intensely developed
16 area, for example, you're allowed to increase run off
17 pollution, pollution from the run off of the land,
18 increasing impervious surfaces, roads, streets, roof
19 tops, and so on, by 10 percent, which means that you have
20 to find ways when you develop to mitigate this impact as
21 you impervious paving, for example, -- water
22 management techniques, that kind of thing. You have to

1 build in.

2 There's some miscellaneous provisions that deal
3 with replacing of vegetation. There's situations in this
4 implementation, application of the Critical Area Law,
5 where, for example, in the buffer, when you want to build
6 in that modified buffer, to remove trees. Provisions are
7 that you....there's a replacement requirement, and
8 standards for tree stations, what kinds of vegetations
9 you use. They're built in.

10 Finally, in the zoning ordinance, there are,
11 fairly standard variance conditions, with a few
12 exceptions, few twists.

13 One, jurisdiction has to notify the Critical
14 Area Commission at least two weeks in advance, prior to
15 any action on the variance, and there's also an
16 additional requirement to if a variance is going to be
17 granted, let's say in the buffer zone, to require --
18 law, the -- program be met -- --.

19 And finally, in Perryville, and this doesn't
20 apply necessarily for northeast, but generally -- --
21 apply basics for the Town, the northeast.....I'm sorry,
22 since Port Deposit hasn't gotten their subdivision

1 regulation in place yet, the modifications that are being
2 made in Perryville there of course wouldn't apply, but
3 there's being mod....modifications being proposed to
4 routing and -- -- , how you would evaluate -- --
5 and again, requirements, when vegetation or -- is
6 removed, requirements in replacing that on a one to one
7 basis. Those kinds of requirements have also been built
8 into the subdivision regulations. That's basically the
9 program for implementing the Critical Area Program.

10 Like to point out, a unique situation in Port
11 Deposit, being potentially developed all the way along
12 the river front there, and it's been designated all the
13 way along there as a buffer exemption area. That's --
14 exemption required -- -- --

15 It was found, demonstrated, that any further, because of
16 the intense development there, the industry, the land,
17 the impervious surfaces already in place would not be any
18 advantage at this stage to require a 100 ft. set back.

19 UNIDENTIFIED SPEAKER: -- --

20 UNIDENTIFIED SPEAKER: OK, well, I, that was the
21 problem we had trying two Towns together.

22 -- --

1 LOST DUE TO MECHANICAL FAILURE

2 MR. SOCKRAN: My name is Irving Sockran, I'm a
3 Commissioner in the Town of Perryville. There may be a
4 problem with my memory, but in earlier discussions, it
5 was indicated that Perryville would have a growth
6 allocation, of I believe the number was somewhere between
7 22 and 26 -- . Tonight, there was a comment about 16
8 acres, is there a problem in that.

9 UNIDENTIFIED SPEAKER: Yeah, I can review that.
10 I think what Zach may....I think he may have had earlier
11 numbers, and working from earlier drafts. What we have
12 now is the Town of Port Deposit, because of the RCA it
13 has within it's limits, gets 3.1 acres of growth
14 allocation from that, and from the County, 7.6 acres, for
15 a total of 10.7 acres in Port Deposit.

16 Perryville gets....it has a smaller amount of
17 RCA in its boundaries, and from that is derived 1.95
18 acres in the Town, and from the County, 23.1 acres, for a
19 total of 25 acres of growth allocation for Perryville,
20 and this is....as was indicated, this is proportional to
21 the Town's population with respect to each other, and
22 that's how that....how the County's share is derived.

1 Again, for Port Deposit, it's 7.10 acres, for
2 Perryville, it's 25 acres of growth allocation.

3 MR. SOCKRAN: One other questions, Bob,
4 do we have....this is Irv Sockran still talking, do we
5 have any trouble in identifying our ID area, which is,
6 and the exemption from the buffer, because we have
7 one area there, necessary to identify that at this
8 meeting tonight?

9 MR. PEARSON: Yeah, this is Bob Pearson, again,
10 we attempted to provide a buffer exemption with the
11 program submittal for certain properties in Perryville,
12 but there's a considerable confusion on property lines.
13 We were trying to identify property by property, which
14 one should get an exemption, and apparently there is not
15 agreement from the property that we had as to what
16 property is which ones, they have been recently revised.
17 We didn't....we didn't have access to those when we
18 submitted it for public review, and so, we, I had to back
19 off of that.

20 There is a process in place for any land owner
21 to request a buffer exemption, but we couldn't at the
22 time that we went to press with the thing, say exactly

1 what properties they were, but there are some along
2 Perryville that certainly do warrant it.

3 MR. WHITE: It's Al White, Town Administrator of
4 Perryville. Bob, if we identify, if we can that
5 straightened out, can it be included?

6 MR. PEARSON: Yeah, I don't see....I don't see
7 why not if it's all right.

8 MR. WHITE: If it's just a matter of him having
9 older tax maps that didn't show the proper....

10 UNIDENTIFIED SPEAKER: The answer to that
11 question is yes.

12 MR. SOCKRAN: OK, this is Irv Sockran back
13 again. I just want to say I think that is im....very
14 important for one of our property owners, that that area
15 be identified, and that he not have to go through
16 additional process to clarify that. Requirements for
17 buffer exemption.

18 UNIDENTIFIED SPEAKER: May I find out if anyone
19 in the audience has questions, and then return to the --

20 UNIDENTIFIED SPEAKER: We were going to ask for
21 clarification on that.

22 UNIDENTIFIED SPEAKER: There's no one in the

1 audience, we have to assume -- ask the question. We
2 thank you. Let the record show that no one in the
3 audience had a question to ask, and now we will defer to,
4 who has seniority....

5 UNIDENTIFIED SPEAKER: Perryville or Port
6 Deposit?

7 UNIDENTIFIED SPEAKER: Well, you start....

8 UNIDENTIFIED SPEAKER: We're asking for a
9 clarification. -- -- supposed to file, but we're
10 asking for a clarification. I think you inadvertently
11 quoted different figures on our -- , one time you
12 said 17.3, maybe then 10.7, something like that --
13 Three or four of us picked up different numbers,
14 and I -- --

15 MR. PEARSON: This is Bob Pearson again, there
16 are sorts of figures, one is derived from the RCA, 5
17 percent of the RCA in your Town. And that's 3.1 acres.

18 UNIDENTIFIED SPEAKER: Alright. OK.

19 MR. PEARSON: Represents 5 percent of your RCA
20 within the Town limits. From the County, you get 7.6
21 acres, for a total of 10.7.

22 UNIDENTIFIED SPEAKER: OK.

1 MR. KNIGHT: Bob Knight, Perryville Planning and
2 Zoning Board. Just a point of clarification, I'm not
3 sure. If a land owner wants to build on his shore
4 property within the 100 ft. buffer, OK, who grants the
5 exemption, if he requests one? Does that go through the
6 Town Board, or the Planning Board as a variance?

7 MR. ZACH -- : -- --

8 UNIDENTIFIED SPEAKER: Initially, the buffer,
9 the exemption areas are going to be pre-established.....

10 MR. KNIGHT: Right.

11 UNIDENTIFIED SPEAKER: And there's going to be
12 rules, in other words, you can't, you don't get an
13 outright right to build within the buffer, I didn't mean
14 to imply that, I hope that I didn't, course there's
15 always, you can always apply for a variance on a hardship
16 case, that can be done, I don't mean.....but if you have
17 a lot less than 250 ft. of depth, and say it's
18 undeveloped, and you want to build a single family, and
19 you cannot for some reason meet those....that 100 ft. set
20 back, you'll follow that average set back line. And that
21 would be done administratively. The intent. The zoning
22 administration, in the case of Perryville, Al would make

1 that determination, and again it would be preset in the
2 zoning ordinances, interpretation of zoning ordinance
3 would be applied, as any other interpretation of zoning
4 ordinance, but, here again, in those situations, I don't
5 know, does that answer?

6 Now, if you were going to say, say you got,
7 let's use a hypothetical. You got a 200 ft. lot, 200
8 ft. deep, 100 ft. wide, let's say, your house exists,
9 let's say 50 ft. off the water, and you want to put an
10 addition on this house, residential standpoint, at long
11 as you don't built it any further, or any closer to the
12 water, you're OK. Now, if you're, theoretically if
13 you're eliminating forest, you have to off set that with
14 some planting somewhere else within the buffer, but if
15 you're just off setting yard or so on, you wouldn't get
16 into that kind of, requirement, I wouldn't think, but
17 basically.

18 MR. KNIGHT: Now, what I'm thinking about is, if
19 some land owner there, this is Bob -- again, -- --
20 build a condominium on the shore, and I want to get into
21 that 100 ft. buffer, are they grant variances within that
22 buffer?

1 MR. PEARSON: Not ever, not the way it's
2 designed here, it would have to be a variance, now, yes,
3 I'm sorry. It wouldn't be an exemption, by right, or
4 through the regulation of the zoning ordinance, you would
5 have to go through and prove hardship, an economic
6 hardship by the way, is generally not acceptable, you
7 know that -- -- , but I don't that, condominiums are
8 not what these provisions were designed for.

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