

Public Hearings - Queen Anne County

1987

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CRITICAL AREA PUBLIC HEARING

December 10, 1987

I N D E X

	<u>WITNESS:</u>	<u>PAGE</u>
1		
2		
3	Mr. Foster	9
4	Mr. Riggs	10
5	Mr. Baker	11
6	Ms. Walker	12
7	Mr. Raybend	17
8	Ms. Rittenhouse	21
9	Mr. Vest	23
10	Mr. Wittington	24
11	Mr. O'Donnell	26
12	Mr. Wood	28
13	Mr. Berliner	33
14	Mr. Gerber	43
15	Mr. Linpert	44
16	Mr. Staden	45
17	Mr. Rittenhouse	50
18	Mr. Blackwood	51
19	Mr. Rodgers	54
20	Mr. Bunker	58
21	Mr. McAllister	62
22	Mr. Fishbock	64
	Mr. Gibbons	67
	Mr. Corry	68
	Mr. Lens	72

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P R O C E E D I N G S

1
2 CHAIRMAN BROWN: Hearing on the Queen Anne
3 County Critical Areas Commission -- Plan, Critical Area
4 Plan for Queen Anne County. And we have with us as members
5 of the panel, Judge Liss who is the chairman of the
6 Critical Area Commission, Bob Price who is a member of the
7 Commission, I'm Torrey Brown and on the Commission and Sam
8 Bowling is on the Commission and Louise Larance represents
9 Wayne -- who is on the Commission, so we're the five
10 Commission members holding this hearing. And we have a
11 court reporter who is going to record every word everybody
12 says. So if when you testify you would identify yourselves
13 so that he can hear you and we'll listen to everybody who
14 wants to speak, it looks like about 20 people want to talk.
15 Obviously it would be best if you didn't repeat something
16 exactly that someone else said. But we will stay here
17 until everyone who wants to speak has said what they would
18 like to say. I would like to have Judge Liss first make a
19 couple of comments because in each county there has been an
20 incredible amount of information transferred back and forth
21 between the Commission and the planners of the county and
22 residents of the county and things that developed over

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1 almost three years now so there maybe some things that the
2 judge would like to tell you about this county and what's
3 going on here and how things are going.

4 JUDGE LISS: Thank you very much Torrey. Let me
5 say first of all that I'm delighted to see so many people
6 here this evening with the weather as bad as it is, it
7 indicates that there's a very real interest in what's going
8 to happen to the Chesapeake Bay and in the activity that
9 we've been trying to do now for almost three years to
10 improve the quality of the water of the bay to protect the
11 quality of the water and to save the habitat and the -- of
12 the bay.

13 Queen Anne's County has been a problem with the
14 Commission for a period of a year but its not unique. We
15 have found there are 60 jurisdictions which are affected by
16 the Critical Area's Law, 44 municipalities and 16 counties
17 and everyone of those jurisdictions considers itself a
18 unique part of the state and each and everyone of them has
19 their own ideas as to what ought to be done in order to
20 preserve the bay.

21 The net result of it has been that our
22 Commission and our staff which is made out of some seven

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1 members has been called upon to receive some 60 programs of
2 this size and this one incidentally is one of the smaller
3 ones to familiarize ourselves with the programs to attempt
4 to work out a that complies with what the law requires to
5 attempt to work out a program that is within both the
6 spirit and the letter of the law and then to reach an
7 understanding with the local subdivisions as to what
8 changes, if any should be made in the proposals that have
9 been submitted to us, it has not been an easy task.

10 But I'm pleased to say that within the past
11 several weeks we've now reached a point where some 12 of
12 the jurisdictions are tentatively approved with just some
13 corrections in language and some minor adjustments to be
14 made. More than 50% of the jurisdictions have filed their
15 programs, we expect another 15 of the jurisdictions to file
16 within -- before the end of the month and we are frank to
17 say that as time precedes we are getting more and more
18 cooperation.

19 I think the governor deserves a great deal of
20 credit for what's happened, he has made it clear that his
21 Chesapeake Bay Program, just as Governor Hughes before him
22 is an important part of his program and that he intends to

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1 support the Critical Area's Commission in its work and we
2 are grateful to him and I'm certain that in many instances
3 the cooperation that we've gotten recently is because they
4 have recognized the fact that the governor is solidly
5 behind the program.

6 Now in Queen Anne's, as I'm sure many of you are
7 aware there has been a problem, one large problem and that
8 is how to handle the provision and the criteria which
9 provides for one dwelling unit in 20 acres in the RCA areas
10 designated by map by the local jurisdictions. We've had a
11 number of different suggestions and proposals, we've had a
12 number of conferences. There are consultants who have been
13 working on this particular problem. Our staff has been
14 working with the staff of Queen Anne's County, which
15 incidentally is a very capable one and I want to pay them a
16 compliment of saying that they have come up with a number
17 of unique and unusual ideas and their program certainly is
18 to be complimented for some of the proposals that they have
19 already made.

20 I'm pleased to report to you that while I cannot
21 give you the details tonight that as the result of a
22 conference that was held as recently as an hour and a half

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1 ago, we are at least in a situation where we are getting
2 closer to a solution of some of the problems that have been
3 bugging us in the Queen Anne's Program. We will be working
4 with the Queen Anne's professionals and with their
5 consultants. We will promptly, as soon as we have reached
6 some kind of conclusion as to what we can recommend, notify
7 the public as well as all of the other people who have an
8 interest in what's going on so that we can get their input.
9 And the only reason that we're not able to give you the
10 complete information tonight is because we have not been
11 able to have time to submit this information to the
12 Commission itself and so we assure you that before any
13 final action is taken on Queen Anne's Program that there
14 will be another hearing at which those people who have an
15 interest in the final disposition of the problems of the
16 Queen Anne's Program will have an opportunity to be heard
17 before the Commission takes any final action on the
18 program.

19 I ask you please to be patient with us, to
20 recognize the fact that unfortunately sometimes it becomes
21 necessary to negotiate in order to meet objections that are
22 made and differences that arise in absolute good faith I

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1 don't think anybody is trying to pull any back door
2 business here and its because we want you to know the up to
3 date situation that I'm making this statement tonight. I
4 assure you that as soon as our staff has had an opportunity
5 to sit down with the professionals of Queen Anne's and with
6 their consultant that we will be more than pleased to
7 advise you what has been proposed and what is the status of
8 the negotiations between the Commission and the Queen
9 Anne's group.

10 In the mean time you're here and we're very
11 anxious to hear from you because we think that you're
12 information and your input will be important in helping us
13 to decide whether or not the proposals that are to be made
14 to us are acceptable or not acceptable, so by all means let
15 us hear from you. Now for those of you who would prefer
16 not to make an oral statement the record will remain open
17 for a period of two weeks from tonight and you may file a
18 written statement with the Commission anytime during the
19 next two weeks and it will be considered before the
20 Commission takes final action. Other than that I don't
21 know of anything else that I can tell you, I hope that you
22 will understand what occurred today and we will certainly

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1 keep you advised as the negotiations continue. I'll turn
2 the meeting back to the chairman.

3 CHAIRMAN BROWN: We've got a number of your
4 local officials here and Join Foster wants to make a
5 comment first from the Queen's Town commission.

6 MR. FOSTER: I'm John Foster and I'm a
7 Commissioner from the town of Queen's Town and at the
8 original -- at the first hearing the county had on the
9 Critical Area's Plan the town of Queen's Town submitted a
10 letter to the county requesting 200 acres of limited
11 development area of land in the area surrounding Queen's
12 Town to be reserved for future growth of Queen's Town. We
13 asked that 70 of that 200 acres be mapped at this time as
14 LDA for potential growth that the town is planning in the
15 near future and that the remaining 130 acres be reserved in
16 a land bank.

17 We have requested that -- it was intended that
18 this land be developed at the -- under the conditions of
19 the limited development section as stated in the town's
20 plan which has housing at I believe the 4 units per acre.
21 And that the land has -- when it is designated LDA would be
22 annexed into the town so that the town could supply

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1 services to these areas.

2 I have a copy of this letter that I'd like to
3 leave with the Commission, the town has also, when we
4 submitted our plan we submitted a letter explaining simply
5 the same thing at that time.

6 CHAIRMAN BROWN: Now all of the County
7 Commissioners are here, do any of them want to speak? Bill
8 Riggs, Rita Baker or Francis Ashley?

9 MR. RIGGS: -- Judge Liss, I'm Bill Riggs,
10 chairman of Queen Anne's County Commissioners. I would
11 like to state what the judge has just previously said to
12 you a while ago that for the first time we sat down and we
13 talked and we have settled a lot of problems and for myself
14 and my fellow commissioners and my staff and the judge's
15 staff what we got accomplished in the last two hours we're
16 going to make this thing work if I got anything to do with
17 it. And we're going to try to satisfy everybody plus the
18 the Criteria.

19 We've given a little, they've given a little,
20 but hopefully we're not hurting anybody, everybody's going
21 to get a piece of the pie. We haven't given up anything
22 and they haven't given up anything but we're going to make

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1 the language work and I think the judge and his statement
2 to us this evening is uplifting so we're going to work with
3 you and I just want you to know that your officials and our
4 staff are going to sit down with his staff and its going to
5 be resolved somehow.

6 We're going to have a plan and we're going to do
7 our best to save the bay just like everybody else. A lot
8 was done this evening and we really appreciate the judge
9 coming over and the people on the Commission working with
10 us, thank you.

11 CHAIRMAN BROWN: Mr. Baker do you want to
12 comment?

13 MR. BAKER: Ladies and gentlemen my name is
14 Wheeler Baker, Commissioner of Queen Anne's County, I'd
15 like to reiterate everything that Mr. Riggs said
16 previously. Tonight was a big turning point as far as our
17 -- concerned, I think that people of the Commission saw
18 that we came up with some innovative ideas, they liked some
19 of them, some of them they don't like, that's what we got
20 to work out.

21 We know we have a distance to go and we also
22 know like Bill said we have the staff now we can whip this

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1 problem and I fell very good about it, I was glad that we
2 could go eye to eye with these people and get something
3 accomplished.

4 CHAIRMAN BROWN: Ms. Ashley, you want to?

5 MS. ASHLEY: Good evening I'm Francis Ashley
6 also a County Commissioner. From the very beginning our
7 goal has been the same as the Commission, to save the bay,
8 it was just that we were all working from a different point
9 of view but we had the same goal in mind and I think now we
10 are all going in the same direction, I think you will be
11 pleased with the plan when you hear it, I know we are and
12 we're going to achieve that goal, thank you.

13 CHAIRMAN BROWN: Does staff have any comments?
14 Then the first person who signed up is Carol Walker. Miss
15 Walker could you speak up as loud as possible because we're
16 looking for a microphone but haven't found one.

17 MS. WALKER: My name is Carol Walker, I'm from
18 Centerville and I'm reading a letter from Mrs. Patricia
19 Neilson, she's ill tonight and can't make it. She has
20 written this letter to the County Commissioners but she --
21 also wants to address it to the panel. -- Centerville;

22 "Dear Mr. Baker, Mrs. Ashley and Mr. Riggs,

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1 I whole-heartedly support the Critical Area's
2 Law, especially its requirement for one home per 20 acres
3 of the Resource Conservation Area. I believe that what the
4 county is calling an alternative will threaten the whole
5 state program, the law will be impossible to enforce if
6 each county gets its own way. Let's see if it works before
7 we set out to derail it.

8 The Critical Area Law is a courageous and timely
9 piece of legislation, its an attempt to reverse decades of
10 disregard to the fragile nature of our bay. It also
11 represents some bold and creative thinking on the part of
12 our legislatures. Instead of waiting for the Chesapeake
13 Bay to die completely, to be totally incapable of
14 supporting life, Maryland law makers have decided to try
15 and preserve what little health the bay still has.

16 We are fortunate to have such an option in
17 hundreds of coastal communities around the country people
18 are discovering too late that they have failed to protect
19 the very qualities that drew them to rural areas in the
20 first place, clean water, open space, and the natural
21 beauty of water ways that have not been exploited for every
22 inch of water view. And now these same communities are

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1 paying a price for their oversights with over taxed water
2 and sewer systems, polluted streams and ponds and the loss
3 of vital fisheries. We are beginning to see a glimmer of
4 this in our own Kent Island, for many people are feeling
5 the stress of the growth boom and county facilities and
6 services are already straining.

7 The Critical Area's Law is our chance to learn
8 from others mistakes and it also only one of many
9 initiatives that are designed to clean up the bay. Why
10 chip away at this law when at the same time Maryland and
11 the federal government is spending millions doing
12 everything from upgrading sewer plants to re-seeding
13 shellfish beds to planting buffer strips along waterfront
14 farms. We need to coordinate all these efforts, not start
15 one while sabotaging another.

16 The Queen Anne's County Critical Area Plan
17 leaves too many unanswered questions. Why are we tallying
18 a 300 foot buffer and trying its success in the state of
19 Maine when in that state the buffer may have no fair cuts
20 to the water and is to be completely planted with trees?
21 It was designed to be a continuous strip to leave wildlife
22 undisturbed, that's not the same use as the buffer that our

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1 planners outlined for us here where they say we can open it
2 up for water views and are only required to part with 150
3 feet.

4 Finally, I am not at all confident that the
5 planners are considering the beauty and uniqueness of the
6 Chester River in their program. In 1984 the state
7 sponsored Maryland River Study declared the Chester River
8 to be one of four rivers in the state that have values that
9 are unique in the northeastern United States. I believe
10 that it is the job of our planners and commissioners to
11 help preserve those qualities, not undermine them.

12 With Kent County on one side of the river
13 observing the Critical Area's Law and Queen Anne's on the
14 other disregarding it how can we realistically plan for the
15 future of one of our most beautiful waterways? When I
16 asked Mr. Perkel about this in one of his information
17 meetings he said that that wasn't a steady question. He --
18 as how some people like vanilla ice cream and some people
19 like chocolate and that he wouldn't want to tell people how
20 to decide what makes a beautiful river. What does that
21 mean? That some people like to look at suburban housing
22 developments and some people like to look at farms and

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1 trees? I think Mr. Perkel is wrong, I think we all know
2 what a beautiful river looks like, it is one that is clear,
3 unpolluted, and unclouded by run-off, one that's full of
4 education and fish with the waterman working his crab line
5 on top, not out pumping gas because there's no more life in
6 the water. That's who we are, that's the Eastern Shore.

7 I agree with Tom Horton, a respected writer for
8 the Baltimore Sun and now manager for the Smith Island
9 Education Study Center for The Chesapeake Bay Foundation.
10 He says that in its broad recognition of -- and wildlife
11 habitat as legitimate objectives of land use policies and
12 in linking land use and water quality the Critical Area
13 Program has broken new ground. In the language of the
14 bills preamble the legislature went even further
15 recognizing that even when traditional sources of pollution
16 are controlled the number movement and activities of
17 persons in an area can create adverse environmental impact.
18 That's why I believe 1 and 20 makes sense and why it should
19 be a part of our program.

20 Respectively,

21 Patricia A. Neilson"

22 CHAIRMAN BROWN: Ok, thank you.

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1 CHAIRMAN BROWN: Next is Kenneth Raybend.

2 MR. RAYBEND: My name is Kenneth Raybend, I live
3 in Centerville, I feel at a slight disadvantage because I'm
4 not in on the secret compromises that are being made we may
5 of course approve it very much but I wrote my statement
6 before I knew of this and if hearkens back to a less happy
7 and gentle time that we had some of our other meetings. If
8 you'll excuse me I'll go ahead and read it as I --.

9 Ladies and gentlemen of the Commission you've
10 traveled a long, long way and I don't mean just over the
11 highway to Centerville. You've come a good distance and
12 yet you have a way to go until all of the counties and
13 municipalities on the Maryland Critical Area have local
14 plans in effect to help save the Chesapeake Bay.

15 I and many, many others thank you for the vital
16 work you have done and we wish you continued strength and
17 determination to finish your tasks. We of Queen Anne's
18 County have traveled a shorter distance with you, the
19 planners, the officials and many concerned citizens have
20 attended many meetings, prepared, analyzed and studies and
21 we've spoken out about our views.

22 It has been an instructive process and it has

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1 been a difficult one. One of the difficulties which I and
2 others have encountered here at the local level is the
3 picture drawn by some of the planners, authorities and
4 others of a battle between those in favor of growth and
5 development and those against it.

6 The proposal in the county plan to quadruple
7 housing density in Resource Conservation Areas like the
8 proposal on our Centerville Plan to permit construction in
9 the 100 foot buffer area have been seen by some as
10 proposals that favor what they call sensible development
11 and growth that will benefit the communities. And the
12 opponents to such changes, such as myself, in the Critical
13 Area Criteria are seen as anti-growth and hence anti-
14 community interests. That is, I believe a false picture.

15 I know of no one of the opponents of such
16 changes, myself included who is trying to stop or even
17 limit the inevitable growth of the town and the county.
18 Whatever our personal preferences what we oppose is not
19 development, but development within the Critical Area that
20 does not meet the criteria that was so carefully
21 constructed to achieve the goals of the Critical Area
22 Program.

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1 The Critical Area Criteria seems to me a
2 monument of compromise between the pressures for growth and
3 the necessity to stop the destruction of the Chesapeake
4 Bay. -- the Criteria and every local plan that I have seen
5 urge that growth be directed outside the Critical Area and
6 where that is not feasible there are carefully worked out
7 exemptions, litigations and variances to prevent unjust
8 hardship.

9 And just what is the area we're so concerned
10 with? The Critical Area is just 1000 feet around our
11 polluted and endangered wetlands, rivers, tributaries and
12 the bay. Development within the Critical Area is by no
13 means prohibited but it is regulated, within that 1000 feet
14 are a limited number of Resource Conversation Areas and a
15 100 foot buffer or the county proposal a 300 foot buffer
16 from the edge of wetlands and streams, and these do require
17 special protection.

18 For each of the proposed changes to the density
19 or buffer restrictions assertions are made that special
20 provisions have been made to assure that the goals of the
21 Critical Area Criteria will be met as well or better than
22 by the criteria itself.

1 Though many environmentalist and scientist
2 question the effectiveness of these proposed -- my concern
3 goes beyond that. The measuring of run-off and pollution
4 is neither a precise science nor a simple one. The local
5 communities do not have the technical competence nor the
6 manpower to measure, maintain or control a complex
7 mechanism or complicated legal provisions. So far as I
8 know no measurements have yet been made or are planned for
9 those areas in the town and the county where development is
10 -- in the very near future.

11 The Commission in noting both the complexity of
12 the problems and the necessity for reduction of water
13 pollution decided on restrictions and density of
14 limitations that are known to be effective and that could
15 be easily measured and enforced. To accept a major change
16 in residential density restrictions from Queen Anne's
17 County or any other major exemptions and variances from the
18 criteria itself would be to open the door wide to the other
19 jurisdictions, they too may have revisions which they
20 assert will be more effective than the criteria but which
21 will be difficult or impossible to measure and enforce on a
22 statewide or a Critical Area wide basis.

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1 Before I heard about your meeting today I
2 assumed that this was the end of the road for the Critical
3 Area's Hearing's in Queen Anne's County but I'm told now we
4 may have another one. But I hope you will judge this plan
5 against your own criteria, the criteria you have so
6 carefully constructed and reject the 1 and 5 density
7 allocation for the Resource Conservation Areas. Don't sail
8 into unknown and untested waters at this time, the bay is
9 important to us, to the state, to our country, give your
10 plan a chance.

11 CHAIRMAN BROWN: Thank you Mr. Raybend. Kay
12 Rittenhouse, is that correct?

13 MS. RITTENHOUSE: Good evening, I won't take
14 long and I apologize for my voice. I am glad for one to
15 hear that you've had a meeting this afternoon because I
16 like to feel like our county and our officials are
17 cooperating with a statewide project like this, its very
18 encouraging to hear comments in that direction.

19 I appreciate also all the work the county has
20 done in planning and I know that they realize its not
21 completed yet. And I appreciate the responsibility that
22 the commissioners have representing all of us in these

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October 19th, 1987

County Commissioners
Queen Annes County
Centreville, Md. 21617

Dear Commissioners,

As part of our review of the Queen Anne County Chesapeake Bay Critical Area Plan, the Queen Anne County Critical Area Watch Group organized a mapping review committee. This committee met with a representative of the Chesapeake Bay Foundation to identify areas on the Queen Anne County Critical Area Maps which we felt required field verification of the critical area zone designations used. Subsequent to this meeting, the members of this committee spent three days traveling to the questioned areas throughout the county to review the actual development existing in these areas. In addition to making these site visits, members of this committee reviewed water and sewer maps at the county public works department.

As a result of this review process, we have identified a number of parcels in Queen Annes County which we feel have not been mapped according to the guidelines established by the critical area criteria. We have prepared a list of these parcels for your review.

We would also like to draw your attention to the lack of detail on the critical area maps. The maps do not show any of the information which is needed to verify their accuracy. This information includes existing roads, property lines, structures, and sewer and water lines. The lack of this information on these maps makes verification an extremely difficult process. To conduct our review, we had to use county tax maps, county street maps, county sewer and water maps, and the critical area maps. To locate ourselves on the critical area maps, we had to identify geographic features on the critical area maps which corresponded with geographical features of the tax maps. Next, we identified critical area zones boundaries which corresponded with parcel boundaries.

The Queen Annes County comprehensive plan maps are drawn at the same scale as the critical area maps. These comprehensive plan maps were the basis for the critical area maps, since the county used the mapping divisions on the comprehensive plan maps as the basis for their critical area zones. These comprehensive plan maps contain the street and parcel information necessary for reviewing them. The fact that this information was removed from the critical area maps suggests a deliberate attempt to make the verification process difficult. Furthermore, the comprehensive plan maps, which were in the public library prior to making the critical area maps available for public inspection, were removed while the critical area maps were available, and then returned when the critical area were removed.

We urge you to improve your critical area maps by having the information necessary for their verification included on them. Furthermore, we urge you to review and correct the mapping of the attached list of parcels and to undertake a review process of your own to identify and correct other incorrectly mapped parcels.

Sincerely,

Ben Berliner
Member
Queen Annes County
Critical Area Watch Group

<u>Tax Map #</u>	<u>Parcel #</u>	<u>Acreege</u>	<u>Mapped As</u>	<u>Should Be</u>
57	8	96.8	LDA	RCA
57	5	60.39	LDA	RCA
57	45	142.48	LDA	RCA
57	377	108.8	LDA	RCA
49	8	53.6	LDA	RCA
49	27	23.65	IDA	LDA
49	25	8.47	LDA	RCA
58	747	3.5	IDA	LDA
58A	24	25	LDA	RCA
1	96	15	LDA	RCA
1	38	15.16	LDA	RCA
1	109	16	LDA	RCA
4	76	25	LDA	RCA
4	1	15	LDA	RCA
64	3	5.95	LDA	RCA
64	4	5.5	LDA	RCA
63	39	20	LDA	RCA
63	185	15.1	LDA	RCA
63	144	25	LDA	RCA
63	184	15.6	LDA	RCA
63	82	25	LDA	RCA
70	4	12	LDA	RCA
70	37	5	LDA	RCA
70	23	5.23	LDA	RCA

729



THE COUNTY COMMISSIONERS
OF QUEEN ANNE'S COUNTY
COUNTY OFFICE BUILDING
208 N. COMMERCE STREET
CENTREVILLE, MARYLAND 21617
758-0322

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WILLIAM V. RIGGS, III
FRANCES A. ASHLEY

ROBERT D. SALLITT, ADMINISTRATOR
LYNDA H. PALMATARY, CLERK
PATRICK E. THOMPSON, ATTORNEY

November 5, 1987

Mr. Benjamin Berliner
111 Chesterfield Ave.
Centreville, MD 21617

Re: Meeting with County Commissioners

Dear Mr. Berliner:

Following your meeting with the County Commissioners on October 20, 1987, I asked Mr. Joe Stevens, our Environmental Planner to research the questions you had with regard to the Critical Area/Zoning Maps.

Enclosed is a copy of Mr. Stevens' response to me.

If you have any questions, or would like to review, please give me a call.

Very truly yours,

Robert D. Sallitt
County Administrator

RDS:hlc

Enc.

cc: Mr. Joe Stevens



DEPARTMENT OF PLANNING AND ZONING
QUEEN ANNE'S COUNTY
COUNTY OFFICE BUILDING
208 N. COMMERCE STREET
CENTREVILLE, MARYLAND 21617
758-1255

MEMO

TO: Bob Sallitt

From: Joe Stevens

RE: Mr. Berliner

Date: October 29, 1987

I have reviewed the parcels which were under question regarding the Critical Areas designation. First of all I would like to clarify the fact that the County Commissioners and Planning Commission reviewed the zoning of every parcel in the County. Some parcels and decisions leading to the zoning were reviewed "countless" number of times. The County Planning staff based zoning recommendations within the Critical Area on the definition for Resource Conservation Area, Limited Development Area, and Intense Development Area. The County Commissioners concurred that it makes very little sense to zone land within the one thousand (1,000) feet for something it could not be used for six (6) months in the future. The County Commissioners are as familiar with those maps as anyone in the County. The Commissioners established mapping policies which they consistantly followed. I am not trying to imply that the maps are perfect or that mistakes do not exist. I simply want the Commissioners to understand that the mapping is consistant with their policies and the State Law.

The following addresses all the alleged errors in the Critical Area/Zoning Maps. I have categorized my comments so as not to be redundant.
(The table represents Mr. Berliner's letter)

<u>Map</u>	<u>Parcel #</u>	<u>Acreage</u>	<u>Mapped As</u>	<u>Should Be</u>
57	8	96.80	LDA	RCA
57	5	60.39	LDA	RCA
57	45	142.40	LDA	RCA
49	25	8.47	LDA	RCA

All these parcels abut County sewer line and therefore, the designation of limited development area is correct.

<u>Map</u>	<u>Parcel #</u>	<u>Acreage</u>	<u>Mapped As</u>	<u>Should Be</u>
1	96	45.00	LDA	RCA
1	38	15.16	LDA	RCA
1	109	16.00	LDA	RCA
64	3	5.95	LDA	RCA
64	4	5.50	LDA	RCA
63	39	20.00	LDA	RCA
70	4	12.00	LDA	RCA
70	37	5.00	LDA	RCA
70	23	5.23	LDA	RCA
63	184	15.00	LDA	RCA
63	185	15.00	LDA	RCA

These parcels were designated LDA because they existed in a highly parcelized area, where the average housing density was more than one (1) house per five (5) acres. This designation was based on the Critical Area Criteria. Many of these parcels, although designated LDA, are zoned NC-5 keeping the density at one (1) house per five (5) acres.

49	27	23.00	IDA	LDA
49	25	8.00	LDA	RCA

These parcels abut a sewer line and are part of a site plan approved in 1985.

57	377	108.00	LDA	RCA
4	76	subdivided	LDA	RCA

These parcels are an approved recorded subdivision which a few building permits have been issued.

4	1	15.00?	LDA	RCA
63	82	25.00?	LDA	RCA

These parcels are designated RCA.

If you have any questions regarding this matter, please contact me.

CC: Barry Perkel

12/10/87

Critical Area Commission
Tawes Office Building D-4
Taylor Avenue
Annapolis, Md. 21401

Dear Commissioners,

As part of a review process of the Queen Annes County Chesapeake Bay Critical Area Program, several local citizens and I formed a mapping review committee. This committee met with representatives of the Chesapeake Bay Foundation to identify areas on the Queen Annes County Critical Area Maps which we felt required field verification of the critical area zone designations used. We then made site visits to these areas to examine the existing land use. In addition to these site visits, we reviewed water and sewer maps at the county public works department. We then compiled a list of parcels which we felt had been incorrectly mapped by the county.

Attached is a copy of a letter sent to the County Commissioners in which I brought this information to their attention. Also attached is their prompt and courteous response to my letter. I bring this matter to your attention because I feel that a review of my letter and the County's response to that letter brings to light some errors in the mapping procedures used by the County.

Queen Annes County, in deciding to forgo the growth allocation provision of the critical area program, put themselves in an awkward position when it came time to map the critical area. Since they could not use a growth allocation to upgrade an area from one zone to another, they could not map solely on the basis of existing patterns of development. Instead, they mapped zones on the basis of existing and future patterns of development permitted under their recently enacted Comprehensive Plan. In fact, they did not undertake a mapping procedure as part of their Chesapeake Bay Critical Program. Instead, they drew their critical area maps by overlaying a critical area on their Comprehensive Plan maps. The critical area zones were identified by equating critical area zones with comprehensive plan zones.

The mapping criteria used in the Queen Annes County Comprehensive Plan is not consistent with mapping criteria of the Chesapeake Bay Critical Area Act. The Critical Area Criteria require mapping to be done on the existing land uses. Lot configurations which are incompatible with the density requirements of a zone are either grandfathered or counted against the growth allocation, depending on whether or not they meet the grandfathering provisions of the criteria. The lot configuration is not considered when mapping.

Queen Annes County has mapped portions of their critical area as Limited Development Areas instead of Resource Conservation Areas based on lot configurations instead of existing development. In some of these instances, future development could occur without being counted against the growth allocation, because this development would qualify for grandfathering under the criteria's grandfathering provisions. There are several large paper developments, however, which have been mapped as LDA's. The lots in these developments have not been sold, nor have any improvements been implemented. Development of these lots would not qualify under the grandfathering provisions of the criteria. Instead, the criteria mandate that unless there is a reconfiguration of these lots to bring them into compliance with the zone restrictions, development will be counted against the growth allocation.

When Queen Annes County developed its comprehensive plan, it paid close attention to present and future public sewer service. It determined which of those areas adjacent to the existing sewer corridor it was likely to extend this sewer service into. Then it mapped those areas to permit development densities consistent with the more intense uses possible with this service. When the county drew its critical area maps, it designated these areas of future sewer service as LDA's and IDA's. The mapping criteria of the critical area program, however, permit this designation for areas with existing sewer service. When the sewer service is extended, the higher development densities made possible are charged against the growth allotment. There are a number a large parcels adjacent to the existing sewer corridor which have been zoned as IDA's or LDA's which are presently in farm land or open fields. These parcels should have been designated as RCA's.

Queen Annes County contains a number of neighborhoods where the existing pattern of development qualifies them for mapping as LDA's. Some of these neighborhoods have undeveloped parcels adjacent to them into which it makes sense to extend these neighborhoods. When the county developed it's comprehensive plan it attempted to identify these parcels and to zone them consistent with the development existing in the adjacent neighborhood. This mapping is inconsistent with the critical area mapping criteria. Under the criteria, these adjacent undeveloped parcels should be mapped as RCA's and their subsequent development treated as utilization of the growth allocation.

I urge the county to undertake a review of their critical area maps. They should identify the areas where the mapping procedures used during their comprehensive plan mapping process are inconsistent with the critical area mapping criteria. The critical area maps should be corrected to remove the taking-in-advance of growth allocation which has resulted from these inconsistencies.

Sincerely,

A handwritten signature in cursive script that reads "Ben Berliner". The signature is written in dark ink and is positioned below the word "Sincerely,".

Ben Berliner

Submitted by John Foster

TOWN COMMISSIONERS

P.O. BOX NO. 4

QUEENSTOWN, MARYLAND 21658



County Seat from
1708 to 1782

October 14, 1987

Queen Anne's County Commissioners,
c/o Queen Anne's County Planning
Commission
Centreville, MD 21617

Dear Commissioners:

The Town of Queenstown has been preparing a new Comprehensive Plan over the past several months, including provisions for Critical Area protection, in compliance with the State of Maryland Chesapeake Bay Critical Area Protection Program.

While recognizing that all lands outside the Town boundaries are currently under County jurisdiction, the Queenstown Comprehensive Plan endorses the concept of orderly annexation over the planning period, including some land adjacent to the Town limits, within the state-designated Critical Area. Clearly the Queenstown and Queen Anne's Critical Area Programs should be coordinated in the area surrounding Queenstown to the maximum extent possible, including a recognition in the respective Critical Area Programs of an appropriate Queenstown growth area.

In a series of meetings, County staff concurred generally with the Town's concept for orderly growth, and agreed to reserve 200 acres of the County's permitted growth allocation for the Queenstown Area. The Town wishes to designate and map 70 of these 200 acres at this time, with the remaining 130 acres constituting a land "bank" of acreage potentially convertible from Resource Conservation Area to Limited Development Area in the future upon the determination of the Town, in consultation with the County.

The Town of Queenstown now formally requests that the County incorporate two Limited Development Areas, consisting of 40 acres of land southwest of Queenstown and 30 acres northeast of the Town, in its Critical Area Protection Program Development Areas Classification map (s), with the understanding on the part of the County and the Town, that these lands are intended as potential growth areas for Queenstown. Any development within these areas should be contingent upon the

landowners' consent to connect to Town water and sewer systems. These two areas are logical extensions of the Limited Development Area that constitutes most of the Town and may be easily served by Queenstown's extensions of the water and sewer systems.

The Town further requests that the County's Critical Area Protection Program text include a section which describes the County's 200-acre growth allocation for Queenstown, and the process by which acreage in addition to the initial 70 acres may be converted from Resource Conservation to Limited Development in the future.

In this manner the Critical Area Protection Programs of Queenstown and Queen Anne's County will be consistent, and a coordinated process for managing growth will be set in place.

Very truly yours,

QUEENSTOWN COMMISSIONERS

Chester M. Anderson

Chester M. Anderson
President

John W. S. Foster III
Commissioner

Justin A. Phillips
CMA/awa
Commissioner

12/10/87

Critical Area Commission
Tawes Office Building D-4
Taylor Avenue
Annapolis, Md. 21401

Dear Commissioners,

It is unfortunate that the conflict which has developed over the Queen Annes County Chesapeake Bay Critical Area Program is perceived by the public as a conflict between conservation interests and development interests. When the Queen Annes County Planners set out to develop their Comprehensive Development and Zoning Plan, and subsequently their Critical Area Local Program, they attempted to develop a plan which they felt would meet the goals, if not the criteria, of the Chesapeake Bay Critical Area Act. Indeed, their defense of their local program is that it will fulfill the goals of the Chesapeake Bay Critical Area Act better than a plan which adheres to the criteria. Viewed in this light, the conflict is between two groups of conservationists united in their common goal to develop a Queen Annes County Chesapeake Bay Critical Area Program which will improve the water quality and protect the habitats of the Chesapeake Bay.

With this in mind, it is difficult to understand how these two groups came into conflict with each other. I think fault rest clearly on the shoulders of the Queen Annes County Commissioners and Planners. By developing a local program which does not adhere to the Critical Area Criteria, and arguing that their plan fulfills the goals of the Critical Area Act better than a plan developed within the guidelines of the criteria, Queen Annes County has undermined the Chesapeake Critical Area Act. Whether or not the Queen Annes County Plan is indeed "a better mousetrap" is not important at this time. What is important is that Queen Annes County enact a local program which is in compliance with the criteria, and that this process be perceived as a joint effort between a commission and a county united in a common goal.

With this in mind, I would like to offer some suggestions for changes in the Queen Annes County Local Program which will bring it into compliance with the critical area criteria and at the same time retain some of the enhancements which the county has put into its program. In the Queen Anne County local program, an owner of property in the Resource Conservation Area (RCA) district has a choice of developing his property at a density of one dwelling unit per 25 acres or of clustering his development at a density of one dwelling unit per five acres. It is this one dwelling unit per five acre density in the RCA which violates the critical area criteria.

I suggest that when a property owner elects to develop property in the RCA district at a density of one unit per five acres, that the county deduct the acreage on which the clustering occurs from its growth allotment. In the clustered development, densities of 1.33 units per acre are possible. This acreage has been upgraded from an RCA district to a LDA district. With this approach, the county could develop up to one third of its RCA land under the one unit per five acre clustered approach without exceeding its growth allocation. Of course, in so far as the county elected to use its growth allocation for other forms of development, the amount of RCA lands which could developed under the one dwelling unit per five acre clustered option would be decreased.

When treated as a growth increment allocation program, the Queen Annes County resource conservation area one unit per five acre clustering option takes on a whole new meaning. Queen Annes County would be requiring that a developer who wanted to use up a portion of the county's growth allocation place 85 acres of RCA land into a new "Open Space Area" (OSA) District for each 15 acres which he was permitted to upgrade from RCA to LDA. Furthermore, a 300 ft. buffer would be mandated and a reforestation program would be implemented. I would suggest that as a further enhancement of this growth allocation program, the County designate portions of the RCA where the use of the clustering option would be encouraged or mandated, and other areas where it would be prohibited.

At some future date, after the Queen Annes County and other local critical area programs have been enacted, the commission might consider the merits of establishing an Open Space Area (OSA) District. In this district, all development would be prohibited. The commission could develop land use and habitat protection criteria for this area. Furthermore, the commission might consider awarding jurisdictions additional growth allocation when they place land into this district.

The time has come for Queen Annes County to use the talents and imagination of its planning staff and consultants to bring its local critical area program into compliance with the critical area criteria. This is today's order of business. Any provisions in the Queen Annes County Local Chesapeake Bay Critical Area Program which are a violation of the criteria should not be considered at this time. I urge the County and Commission to work together to bring this program into compliance with the criteria.

Sincerely,

A handwritten signature in cursive script that reads "Ben Berliner". The signature is written in dark ink and is positioned above the printed name.

Ben Berliner

A 1 (one) dollar bill
ripped up during testimony

(Charlie Davis wanted in
the record. (A))

Wempey

from Elaine Rabin
Centreville

Queen Anne's Co. has presented to its citizens a plan which it ^{field} asserts offers greater protection and at the same time more flexibility than the state criteria.

As citizens groups, environmentalists, conservationists, scientists and others have had opportunity to scrutinize the bill, they have in large numbers only come to the conclusion that ~~the~~ ^{not only} Queen Anne Criteria is not a "better plan" to use the planners vocabulary, it ^{is} ~~is~~ ^{out of compliance} illegal. In scuttling the 1-20 R.C.A. provision it destroys the concept of Resource Conservation. No serious intellectual argument can be made that 1-5 is "better" than 1-20 and in fact ~~that~~ there is no legally defensible standard to prove that the forested buffer ^{at least} as it is described, will have the result of increasing the effectiveness of the R.C.A. beyond that of the 1-20 with the 100 ft buffer. I must add that in my own view, if the ^{QA's} planners are as dedicated as they claim to a 300 foot forested buffer, ^{when} they ^{review} their plan they should include it in a 1-20 pkg. Others will speak to the plan's flaws. I would like now to address the concept of flexibility.

particularly to mapping problems.

and is not the special province
of residents, life long, or otherwise
who have special interests in
circumventing the criteria, let them
approach their responsibility
in a straight forward, legal, unbiased
way to save the bay

Should the Queen Anne's County
Criteria be revised, it is our hope
that the planners will accept
as their responsibility the develop-
ment of a plan which
embraces the criteria, rather than
a plan which is built around
a departure from the criteria.

There are large numbers of
ordinary citizens here in Q.A. County
who are gravely concerned about the
health of the Bay - & its land and
water resources. We look to

You and other members of the
Q.A.C. to lead us ^{in our} ~~to~~ ~~compliance~~ ~~with~~ ~~state~~ ~~law.~~
^{to} ~~compliance~~ ~~with~~ ~~state~~ ~~law.~~
comply

to ~~fulfill~~

to ensure lawful and
responsible compliance with
the ~~the~~ State Critical Area Criteria

I'm confused now.

"flexibility" is the
proper approach

Suddenly "Flexibility" has become
the buzzy word for - give the
developers and builders a break -
Having grown up in a society where
wise men and women recognize
that politics is the art of compromise,
we tend to be intimidated
by those who suggest that criticism
of the plan = inflexibility + ^{that flexibility is the proper approach}

I would hope that we could
all keep in mind that the Critical
Area Criteria as we know it is already
a compromise bill. I am told
that the bill represents consensus
of many special interests.

There is a wide body of opinion
that to save the bay and protect
our wildlife + other resources,
we should ^{rather} have a 3000 ft
critical area and at least a
500 ft. buffer. I mention this
to suggest that it is not only
developers, real estate interests
builders, etc. who have been
pushed to compromise.

If "flexibility" is the ^{it is}
order of the day for the
Queen Anne's County planners to
be flexible. Let them take their
turn in saving the bay, its
tributaries, its marshlands, its
wildlife, and. In recognition trib.
of the fact that the bay + ^{trib.} belongs
to everyone in, ma, the USA, the world
if you will

less
timorous

Route 1, Box 359
Chestertown, MD 21620
December 10, 1987

Critical Area Commission
Dr. Sarah Taylor
Tawes Office Bldg. D-4
Annapolis, MD 21401

Dear Critical Area Commission:

Once again I am writing to you as a concerned citizen of Queen Anne's County. Since I live on a farm on the Chester River I am directly affected by the Commission. I believe that your guidelines are necessary. Although my traditional rights as a landowner are infringed on, I am glad to reconsider the extent of these "rights". I believe that the plan requires us to develop a greater awareness of our actions and their repercussions which impact areas far beyond my close boundaries. I understand that these measures were decided in order to give our water resources the best chance to become more healthy and therefore survive and thrive for the benefit of all including me.

I have trouble understanding why this county is trying to avoid adopting the stipulations of the Critical Area Commission. After all, it was your Commission that specifically studied the situation in great detail in order to work it into an applicable form for the whole state. It seems absurd that our planners who have a more limited scope of expertise and input feel that they can come up with a "better" plan. It's hard not to conclude that our county planners are not acting with the greater good in mind. Instead they seem to be persuaded to bow to the narrow interests of developers who are striving to maximize their profit by using as much of this critical but very desirable and marketable waterfront property.

In a similar situation we have a moratorium on rock fish catching. This measure prohibits the fishing of the most desirable bay fish, but we are going along with it because the law was made not to punish our watermen, but to help the rock fish survive for everyone's benefit in the future. In turn the Critical Area Plan may single out land developers as those that have to sacrifice a bit more, but it's hard to believe that they will feel it any more than our watermen did from the ban on rock fish. It seems unfair that since the developers' lobby may have more money and clout that they should be able to weaken the Critical Area Plan and in turn benefit directly, as the watermen will surely be hurt more as our waters suffer. If anyone is well prepared and endowed to make some sacrifice, it's the developers. After all we are not banning all land from development, just that narrow critical fringe surrounding and protecting our lovely and important waters, without whose health the rest would be worth much, much less.

I encourage the people of Queen Anne's County and of the

State of Maryland not to allow us to deviate from the plan set forth by the Critical Areas Commission. We must stick to its guidelines in order to observe some improvement in our valuable waters. Give it a chance to work. If after a suitable operation period, changes are deemed proper, then strive for them. I am sure that the Commission did not arrive upon its plan lightly, and it is not right for Queen Anne's to receive it so and disrupt the state's adoptive process. The waters of our state belong to everyone and it is important to give this well considered Critical Areas Plan a fair trial.

Respectfully submitted,



R. Ford Schumann, Jr.

cc: Hon. Thomas A. Rymer, Chairman of House Environmental
Matters Committee
David Carroll, Gov. Sheaffer's Office
Queen Anne's County Planners
Queen Anne's Critical Areas Watch
Queen Anne's County Commissioners

SIGN IN SHEET

NAME & ADDRESS

Do You Wish
To TESTIFY?
YES | NO

• HERMAN C. HENSCHEN

RT 1 Box 248 B

CENTREVILLE

✓

• Reece COREY

Prof of Biology

RT 1 Box 247H

© Naval Academy

Centreville

• Michael J. Keene

RR 1 Box 772

Stevensville MD 21666

✓

• Jack R. Lewis

RT 2 Box 58

CENTREVILLE MD 21617

X

• BARRY PERKIN

SIGN IN SHEET

(3)

Do You Wish
To TESTIFY?
YES | NO

NAME & ADDRESS

1. Bob Price Queenstown Md 21658		✓
1. James R. Morris Chester Md 21619		✓
1. John P. West Centreville	✗	
1. Charles F. Withington Centreville	✗	
1. George M. O'Connell Centreville Maryland Waterman Howard Wood, Centreville	✗ ✗	
1. Benjamin Berliner Centreville Md Ned Gerber	Mr Berliner ✗ ✗	
1. Roland Limpert <u>Ben HREN</u> Ned Gerber	✗ ✗ ✗	
1. William Sladen	✗	
1. Wilbur Rittenhouse Rt. 1 Box 13 Queen Anne MD 21657	✗	

SIGN IN SHEET

(4)

Do You Wish
To TESTIFY?
YES | NO

NAME & ADDRESS

Anita Kraemer 59 Amos Garrett Blvd Annapolis, MD 21401		X
Marie Pogany 328 Lower Anne Colby Dr Stevensville Md 21666		X
Pauline Cross (same as above)		X
Terrell Blackwood Rt 2 Box 97 Centerville	X	
REGINALD W JONES PO 24 STEVENSVILLE MD 21666		—

SIGN IN SHEET

(1)

NAME & ADDRESS

Do You Wish
To TESTIFY?
YES | NO

• Tilton H. Dobbin
"Spring Cove Farm" - Box 168
Queensstown, MD 21658

• John Foster
Queensstown Commissioner

X

SIGN IN SHEET

(5)

NAME & ADDRESS

**Do You Wish
To TESTIFY?
YES | NO**

• Elaine R. Rubin
*filed
Paper*

X

• William C. Ponsance
351 Prospect Bay Dr W
Gross Pointe

X

• Paul Hooper
24 Fairway Island
Grossville Md. 21638

X

• Rachel D Downes
115 Lawyers Row
Centreville Md 21617

X

• STEVE BUNKER
Chesapeake Bay Foundation
Annapolis Md.

~~X~~

• Norma L Cousins
Rt2 Box 784
Stevensville 17144

X

• Robert E Wilson
Rt 2 Box 236A
Centreville Md 21614

X

• Sandy M O'Leary

SIGN IN SHEET

(2)

Do You Wish
To TESTIFY?
YES | NO

NAME & ADDRESS

NAME & ADDRESS	YES	NO
• CLARA ANN SIMMONS RFD# Box 321 CHESERTOWN MD	X	✓
• Martha H. Watson Grasonville, Md.		✓
• Claude L. Watson P.O. Box 128 Grasonville Md 21638		✓
• William RODGERS RT. 2 . Box 20B CENTREVILLE	X	
• John W.S. Foster ^{III} Box 105 Queens town	X	
• Carol Walker) - Libby Walker Rt. 2, Box 50 Centerville	X	
• Kenneth Raben Rt. 2, Box 59 Centerville	X	
• Kay Rittenband Rt. 1 Box 13 Queen Anne, MD. 21657	✓	
• JOSEPH HELFRICH RD 1 Box 233-A CENTREVILLE MD		

1 plans.

2 I can picture the original plan of 20 units on
3 15 acres surrounded by 85 acres of open land and buffer
4 zone, it doesn't look too bad but my concerns come 5 years
5 later or 10 years later down the road. You have these
6 units with 20 families, this means children, this means
7 dogs, it means three wheelers, it means latchkey children
8 because many of the parents will be working across the bay
9 bridge and there will be little chance to enforce the use
10 of the Critical Area Land.

11 And if you have 20 families living as normal
12 families do they're going to spill out of their apartment
13 buildings and if they spill out there will be created
14 problems for the farmer, problems for law enforcement
15 officers in the Critical Areas and problems for the bay.
16 So this is why I question very much the 1 in 5 housing
17 instead the 1 in 20, I'd like to see you stick with the 1
18 in 20.

19 And I also feel like Eastern Shore people do
20 look at problems creatively and come up with good ideas and
21 it bothers me to think that maybe we're setting up a plan
22 here which in 5 or 10 years will be trouble for a lot of

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 different parties concerned as well as the bay and I would
2 hate to see that plan repeated every 100 acres along our
3 waterways.

4 CHAIRMAN BROWN: Thank you.

5 CHAIRMAN BROWN: John Wye Vest, is that right?
6 I'm sorry if I didn't say it right.

7 MR. VEST: Judge Liss and members of the
8 committee I'm John Vest, I've been a resident of Queen
9 Anne's County for 76 years and I feel fairly strongly about
10 what goes on in the county. From the very beginning it has
11 been evident that the Critical Areas Plan was a keystone
12 and a touchstone of the whole effort to arrest the
13 deterioration of the bay. And from the very beginning also
14 it has been evident that a large number of special interest
15 would attack and attempt to weaken this proposal for their
16 own interests.

17 I am not happy to see Queen Anne County at the
18 head of the pack attempting to nibble the proposal to
19 death. And I am not convinced that the Queen Anne Proposal
20 represents the opinions of the majority of the citizens of
21 the county. I'm sure that you gentlemen and the members of
22 the Commission are keenly aware that Maryland is only a

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 part of the general agreement for the protection of the bay
2 and our neighboring states of Virginia and Pennsylvania and
3 the District and the federal government are watching
4 carefully what Maryland does because we have the most at
5 stake. And if they see that we allow the Critical Areas
6 Plan to be watered down to meaninglessness they will be not
7 more inclined to carry out their part of the agreement any
8 better than we do.

9 I am not really optimistic about our chances to
10 save the bay whatever we do. Even if everything we attempt
11 we carry out successfully, I don't think the chances are
12 much better than even that the bay can be saved. but I am
13 sure of one thing, if we cannot summon the strength to
14 support and protect the Critical Area's Plan as originally
15 presented by the State Commission then the bay won't be
16 saved.

17 CHAIRMAN BROWN: Charles Wittington.

18 MR. WITTINGTON: Judge, members of the
19 committee, I am Charles Wittington, a resident of
20 Centerville area up in Queen Anne's County. We all know
21 that the adoption of the Critical Area bill will go a long
22 way to restoring the health of the bay area, the future of

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 the bay is most important. But what the Commission may not
2 remember is something that is going to be very important to
3 us is to eliminate development on the -- area of the
4 required formation, which will help insure safe ground
5 water supplies for the future generations of the county.
6 The recharge area of the -- formation which crops out along
7 both sides of the Chester River lies for a good part in the
8 Critical Areas. The recharge area is particularly
9 vulnerable to pollution, mostly of which could be caused by
10 unrestricted development.

11 Let us remember that our -- that our position at
12 the present time is as custodians of the natural resources
13 of the county and the bay, if we do not take care of these
14 resources future generations will suffer from water
15 shortages such as we are now suffering from pollution of
16 the bay which is destroying many of our natural resources.
17 Therefore for a healthy future for the county and the bay I
18 urge the commissioners to reject the plan submitted by
19 Queen Anne County and ask the Queen Anne County
20 Commissioners to re-submit their plan along with the lines
21 envisioned in the bill passed in the legislature, thank
22 you.

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 CHAIRMAN BROWN: George M. O'Donnell.

2 MR. O'DONNELL: Ladies and gentlemen I'm George
3 O'Donnell, president of the Maryland Divers Association,
4 its a locally based waterman's group. I was also asked to
5 speak for the Queen Anne's County Waterman's Association as
6 well as the Maryland Waterman's Association, I believe
7 Judge Liss has got a copy of -- I believe Judge Liss has
8 got a copy of a letter -- Larry Simms signature that I
9 prepared for him, I'd like to read that statement again for
10 those who aren't familiar with it.

11 The Critical Area Law can be a viable instrument
12 in rehabilitating the Chesapeake Bay. Many concerned
13 citizens and politicians have worked diligently to
14 establish its criteria. Now more than ever it is
15 imperative to implement this program as those that designed
16 it saw fit, unfortunately there are those who wish to
17 threaten the primary concerns of this program.

18 Special interest groups lobbying for developers
19 and Realtors -- vigorous campaign to cripple the very
20 intent of this most necessary plan. In Queen Anne's County
21 for instance the Planning Commission wishes to propose 1
22 dwelling for 5 acres rather than 1 for 20, such as the

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1 criteria suggests.

2 Furthermore, they have been through specifics to
3 cluster these dwellings which violates the intention of the
4 law. Their plan further -- on our dwindling wetlands which
5 is viable habitat for a wildlife because it happens to be
6 along a sewage corridor. If there is any credence to
7 placed in the Chesapeake Bay initiatives we must stand firm
8 by our commitments, those who make their living on the bay
9 are most concerned that our legislators be advised and --
10 feelings -- this critical time in our industry.

11 We exhaust every possibility to revitalize the
12 bays live sustaining qualities and deregulation of this
13 important law to know where to begin. Its very interesting
14 that a short distance across Chester River in Kent County
15 the law is complied with. We strongly urge our county
16 officials to reconsider their proposal before irreversible
17 damage is done.

18 I have outlined some facts that I felt were of
19 particular concern, -- in the county and Maryland. The
20 nations second largest deficit -- 68% over a total seafood
21 use in the United States that's second to petroleum
22 products only, that was very troubling to me. This plan

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1 could be a model to help rehabilitate our seafood industry
2 through better land management practices throughout the
3 country, so obviously its no time to send signals anywhere
4 that -- they were interested in deregulation.

5 Our oyster industry in Maryland is in the midst
6 of its worst crisis ever. A healthy industry in Maryland
7 produces 2 - 2 1/1 million bushels, last year we produced
8 900,000, roughly, a little more than that. This year it
9 will be roughly half of that. The time to take a strong
10 stand is now, we must stop loving the Chesapeake Bay to
11 death. To deregulate at this time would be a crime against
12 our environment, thank you.

13 CHAIRMAN BROWN: Howard Wood.

14 MR. WOOD: Chairman, ladies and gentlemen I'm
15 Howard Wood, I live on a farm on the Chester River, I'm
16 president of the Queen Anne Conservation Association which
17 is an organization to promote the residential and economic
18 development of the county in a manner deemed advantageous
19 to all of its citizens.

20 Our board endorsed the Critical Area
21 consistently for the last two years, -- Critical Area Law
22 and then criteria that supplemented it and we do oppose the

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1 counties attack on the Resource Conservation Area 1 in 20
2 rule. We believe that the county plan should be simply
3 amended to comply with the law by adding a provision that
4 the residential density and the Resource Conservation Area
5 shall not exceed 1 dwelling unit per 20 acres regardless of
6 anything else in the local program and whether these units
7 be clustered or not. That would be a simply amendment that
8 could satisfy our positive feeling that the law and
9 criteria should be applied uniformly around the bay region
10 as other speakers have said.

11 The legislature had lengthy hearings which
12 recognized and approved your Commissions careful study and
13 research behind the 1 in 20 rule you have found that
14 greater density would discourage the agriculture and forest
15 use of land and that these were protected land uses.

16 Queen Anne's County's Plan so far has blatantly
17 opposed this basic conclusion which the legislature
18 declared to be public policy, mainly that forest land and
19 agricultural land are more protected land uses than
20 development activity. The county position is that
21 developers must be given an incentive, namely quadrupling
22 the Resource Conservation Area density in order to incur

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1 the expense of planting grass or seedling pines in a 300
2 foot strip between housing developments and the shore with
3 the hope and expectation that agriculture will be displaced
4 from the Resource Conservation Area that's the county plan.

5 Now we approve and we applaud the idea of a 300
6 foot buffer but its totally misleading to pretend that
7 developers need any incentive whatever to meet the cost of
8 planting that buffer. The seedlings are usually available
9 from the State Forestry Department and from personal
10 experience I can say that a 300 foot wide buffer 4000 feet
11 long should be planted for less than \$8000. Why then trade
12 off and permit 4 times as much human disturbance as the
13 present law would allow merely for incurring these costs.

14 We concede that nutrient loading and run-off
15 from some agricultural lands may tend to be higher than
16 from some kinds of established residential areas. As was
17 the case in the study for the Metropolitan Washington
18 Council of Governments which County Planners cite.

19 But millions of dollars are being spent on best
20 management practice cost sharing on Maryland farms in the
21 Resource Conservation Area. We should support this effort
22 and abandon alternate plans to displace agriculture from

1 the Critical Area which contains some of our best farmland,
2 farmed by some of our finest farmers who are not out to
3 throw money at excess fertilizer which their crops cannot
4 absorb.

5 At the June, 1987 conference at Washington
6 College on looking ahead to the Chesapeake's future Dr.
7 Eugene Cronan pointed to residential development with its
8 road building and related construction as the prime
9 contributor to excess nutrients, not to mention
10 contributions to increased sewage treatment needed for
11 increased population.

12 Also writes, Christopher Miller, area agent for
13 water quality of the University of Maryland Wye Research
14 Center in Queen Anne's County. Run-off from residential
15 areas contains more organic compounds than from
16 agricultural areas. Homeowners are more likely to misuse
17 chemicals than farmers. In my opinion agricultural land on
18 the conservation practices are utilized and nutrients are
19 properly managed poses much less of a threat to water
20 quality than developed land.

21 Its also misleading to say as the county program
22 does, that they don't use a growth increment. When maps

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1 and various cases show that what was open land in December
2 of 1985 is shown on these maps as LDA or IDA thereby using
3 up some of the growth increment at the outset. Also there
4 are 977 acre municipal reserve obviously used as more than
5 half of their growth increment right there.

6 I was on the Citizens Advisory Committee that
7 shows the consultants -- counties new -- plan, zoning
8 ordinance and Critical Area local program and I voted for
9 the Redman -- consortium because -- does have a consultant
10 from Talbot a neighboring county who would presumably have
11 a familiarity with the region. He apparently was unable
12 however to persuade his associate from Illinois to comply
13 with the Critical Area Law of Maryland and the counties
14 planning staff from Philadelphia and Boston combined with
15 Mr. Kendy (phonetic) to convince the county administrator
16 to oppose the state law.

17 The commissioners have backed up their
18 administrator and staff and so we have the -- situation
19 where our neighbors -- and Talbot on the other side of
20 Chester and the other side of the Wye are going along with
21 the laws limit on waterfront homes while we try to entice
22 developers to our side of each river where they can get

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1 rich four times as quick.

2 After all the Critical Area Law and criteria
3 were to assure that 16 counties and 44 municipalities do
4 their fair shares by common standards. Flexibility exists
5 in the law and criteria as they stand for example
6 clustering can be done under the 1 and 20 rule. And we can
7 have the 300 foot buffer.

8 Various zoning strategies such as our own
9 counties performance zoning can still be used without
10 departing from existing criteria. We feel therefore that
11 any change in the law at this time would at best be
12 premature. Its not as if a county or group of counties and
13 towns had found compliance unworkable after a conscientious
14 effort to cooperate.

15 In conclusion we feel that the 1 and 20 standard
16 is desperately needed as a brake on intense human activity
17 within the rural parts of the Critical Area and our county
18 should not be allowed to weaken the existing law, thank
19 you.

20 CHAIRMAN BROWN: Mr. Berliner, Benjamine
21 Berliner.

22 MR. BERLINER: I really have two statements, one

1 is a general statement about the Queen Anne's County
2 Program the other deals specifically with the mapping in
3 Queen Anne's County. The first statement in light of the
4 opening statements is -- I'll read it and you can decide
5 for yourselves.

6 CHAIRMAN BROWN: You decide and if its the same
7 as what everybody else said then don't read it.

8 MR. BERLINER: It is unfortunate that the
9 conflict which has developed over the Queen Anne's County
10 Chesapeake Bay Critical Area Program is perceived by the
11 public as a conflict between conservation interests and
12 development interests. When the Queen Anne's County
13 Planners set out to develop their comprehensive development
14 and zoning plan, and subsequently their Critical Area Local
15 Program, they attempted to develop a plan that they thought
16 would meet the goals, if not the criteria of the Chesapeake
17 Bay Critical Area Act.

18 Indeed, their defense of their Chesapeake Bay
19 Critical Local Program is that it will fulfill the goals of
20 the Chesapeake Bay Act better than a plan that would adhere
21 to the criteria. Viewed in this light the conflict is
22 between groups of conservationists united in their common

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1 goal to develop the Queen Anne's County Chesapeake Critical
2 Area Local Program which will improve water quality and
3 protect the habitats of the Chesapeake Bay.

4 With this in mind it is difficult to understand
5 who these two groups came in conflict with each other, I
6 think the fault rests clearly on the shoulders of the Queen
7 Anne's County Commissioners and Planners. By developing a
8 local program which does not adhere to the Critical Area
9 Criteria and arguing that their plan fulfills the goals of
10 the Critical Area Act better than a plan developed within
11 the guidelines of the criteria, Queen Anne's County has
12 undermined the Chesapeake Bay Critical Area Act.

13 Whether or not the Queen Anne County plan is
14 indeed a better mouse trap is not important, what is
15 important is that the Queen Anne's County enact a local
16 program which is in compliance with the criteria and that
17 this process be perceived as a joint effort between a
18 commission and a county united in a common goal.

19 With this in mind I would like to offer some
20 suggestions for changes in the Queen Anne's County Local
21 Program which will bring it into compliance with the
22 Critical Area Criteria and at the same time retain some of

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1 the enhancements with the county program -- the county has
2 put into its program. In the Queen Anne's County Local
3 Program an owner of property in the Resource Conservation
4 Area district has a choice of developing his property in
5 the density of 1 dwelling unit per 25 acres or clustering
6 his development at a density of 1 dwelling unit per 5 acres
7 density in the RCA which violates the Critical Area
8 Criteria.

9 I suggest that when a property owner elects to
10 develop property in the RCA district at a density of 1 unit
11 per 5 acres that the county deduct the acreage on which
12 this clustering occurs from its growth allotment. In the
13 clustered development densities of 1.33 units per acre are
14 possible, this acreage has been upgraded from an RCA
15 district to an LDA district. Within this approach the
16 county could develop up to 1/3 of its RCA land under the 1
17 unit per 5 acre cluster approach without exceeding its
18 growth allocation and staying within the Critical Area
19 Criteria.

20 Of course in so far as the county elected to use
21 its growth allocation for other forms of development the
22 amount of RCA lands which could be developed under the 1

1 unit per 5 acre cluster option would be decreased. When
2 treated as a growth increment allocation program the Queen
3 Anne County Resource Conservation Area 1 unit per 5 acre
4 clustering option takes a whole new meaning.

5 Queen Anne's County would be requiring that a
6 developer who wants to use a portion of the counties growth
7 allocation placed 85 acres of RCA land into a new open-
8 spaced district for each 15 acres which he was permitted to
9 upgrade from RCA to LDA. Furthermore, a 300 foot buffer
10 would be mandated and a reforestation program would be
11 implemented.

12 I would suggest as a further enhancement of this
13 growth allocation program that the county designate
14 portions of the RCA for use of the clustering option would
15 be encouraged or mandated in other areas where it would be
16 prohibited. Mr. Wittington mentioned an area it would be
17 wise to prohibit it at the out crops of the --.

18 At some future date after the Queen Anne's
19 County and local criteria area programs have been enacted,
20 the Commission might consider the merits of establishing an
21 open space area district. In this district all development
22 would be prohibited, the Commission could develop land use

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1 and habitat protection criteria for this area.

2 Furthermore, the Commission might consider awarding
3 jurisdictions additional growth allocation when they place
4 land into this district.

5 The time has come for Queen Anne's County to use
6 the talents and imagination of its planning staff and
7 consultants to bring its Local Critical Area Program into
8 compliance with the Critical Area Criteria. This is today's
9 order of business. Any provision in the Queen Anne's
10 County's Local Chesapeake Bay Area Program are in violation
11 of the criteria should not be considered at this time. I
12 urge the county and the Commission to work together to
13 bring this program into compliance with the criteria.

14 The other thing I would like to bring to your
15 attention is some information about the Queen Anne County
16 Critical Area maps. As part of a review of the Critical
17 Area Program some local residents and myself undertook a
18 review of the county maps and on the basis of that review
19 we submitted a letter and a list of parcels that we felt
20 were incorrectly mapped to the local county commissioners
21 and they in return promptly and courteously replied with a
22 letter of their own explaining why they have mapped these

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1 this way and I'm going to give you copies of those and
2 because I think that what is shown in this is some problems
3 with the approach that the county took in their Critical
4 Area mapping.

5 Queen Anne's County in deciding to forego the
6 allocation provision of the Critical Area Program put
7 themselves in an awkward position when it came time to map
8 the Critical Area since they could not use a growth
9 allocation to upgrade an area from one zone to another they
10 could not map solely on the basis of existing patterns of
11 development.

12 Instead they mapped zones on the basis of
13 existing and future patterns of development permitted under
14 their recently enact comprehensive plan. In fact, they did
15 not undertake a mapping procedure as part of the Chesapeake
16 Bay Critical Program, instead they drew their Critical Area
17 Maps by over laying a Critical Area Zone on the
18 comprehensive plan maps.

19 The Critical Area Zones were identified by
20 equating Critical Area Zones with comprehensive plan zones.
21 The mapping criteria used in the Queen Anne's County
22 Comprehensive Plan is not consistent with the map and

1 criteria with the Chesapeake Bay Critical Area Act. The
2 Critical Area Criteria required mapping to be done on
3 existing land uses, lot configuration which are compatible
4 with the density requirements of a zone are either
5 grand-fathered or counted as a growth allocation.

6 Depending on whether or not they meet the grand-fathering
7 provisions of the criteria. The lot configuration is not
8 considered when the mapping is done.

9 Queen Anne's County is not caution to the
10 Critical Area -- limited development areas instead of
11 Resource Conservation Areas based on lot configurations
12 instead of existing development. In some of these
13 instances future development could occur without being
14 counted against the growth allocation because this
15 development would qualify for grand-fathering under the
16 Critical Area Criteria's grand-fathering provisions.

17 There are several large paper developments
18 however, which have been mapped as LDA's, the lot from
19 these developments have not been sold nor have any
20 improvements been implemented. Development of these lots
21 would not qualify under the grand-fathering provision of
22 the criteria, instead the criteria mandated that unless

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1 there is a reconfiguration of these lots to bring them in
2 compliance with the zone restriction development would be
3 counted against the growth allocation.

4 When Queen Anne's County developed its
5 comprehensive plan it paid close attention to precedent
6 future public sewer service, it determined which of the
7 areas adjacent to the existing sewer -- was likely to
8 extend its sewer into. Then it mapped those areas to
9 permit development densities consistent with the more -- as
10 possible with this service.

11 When the county drew its Critical Area maps it
12 designated these areas of future service as LDA's and
13 IDA's, the mapping criteria of the Critical Area Program
14 however, permit this designation for areas with existing
15 sewer service only. When the sewer service is extended the
16 higher development density made possible are charged
17 against the growth allocation.

18 There are a number of large parcels adjacent to
19 the existing sewer corridor which have been zoned as IDA's
20 or LDA's and which are presently in farmland or open
21 fields, these parcels should have been designated as RCA's.
22 Queen Anne's County contains a number of neighborhoods

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1 where existing pattern of development qualifies them for
2 mapping as LDA's. Some of these neighborhoods have
3 undeveloped parcels adjacent to them which makes sense to
4 which it makes sense to extend these neighborhoods.

5 When the county developed its comprehensive plan
6 it mapped these -- it zoned these parcels consistent with
7 the neighborhoods they were adjacent to. But this is
8 inconsistent with the Critical Area mapping criteria, under
9 this criteria the adjacent undeveloped parcels should be
10 mapped as RCA's and subsequent development should be
11 treated as utilization of the growth allocation.

12 I urge the county to undertake a review of their
13 Critical Area maps, they should identify the areas where
14 the mapping are inconsistent with the Critical Area
15 criteria. The Critical Area map should be corrected to
16 remove the -- in advance of growth allocation which is
17 resulted from inconsistencies between their comprehensive
18 plan, -- criteria and the Critical Area mapping criteria.

19 CHAIRMAN BROWN: -- submitted these
20 inconsistency quote; to the county and they replied to you?

21 MR. BERLINER: Yes.

22 CHAIRMAN BROWN: Could we have a copy of their

1 reply?

2 MR. BERLINER: Certainly.

3 CHAIRMAN BROWN: Ned Gerber.

4 MR. GERBER: I'm -- with Chesapeake Wildlife
5 Heritage and we're a non-profit conservation group which
6 manages for wildlife on private land as well as for water
7 quality -- I've also -- I'm just finishing my masters
8 thesis on the Black Duck and most of that thesis work was
9 performed in the Marshy Creek area adjacent to the -- trust
10 in North America.

11 At Chesapeake Wildlife Heritage we support the 1
12 in 20 concept in the Resource Conservation Area and we do
13 congratulate the county on a 300 foot setback in their
14 reforestation requirement. The Reforestation Requirement -
15 - certainly -- well for the Black Duck which nests in
16 upland forests and habitats immediately adjacent to the
17 Chesapeake Bay.

18 However, we don't understand how the county
19 could have mapped the salt marshes adjacent to Marshy Creek
20 as well as the salt marshes adjacent to Piney Creek which
21 hold wintering as well as nesting Black Ducks, we don't see
22 how those areas could possibly have been correctly mapped

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1 as LDA's or IDA's, we think there must have been a mistake
2 there and we would certainly like to see that designated
3 change.

4 We also encourage Queen Anne's County to
5 encourage developers to create fresh water wetlands within
6 the Critical Area which is simple to do and we feel it
7 would be a very interesting diverse, wetland habitats
8 spread amongst the forest and habitats which the county
9 plan already calls for.

10 CHAIRMAN BROWN: Roland Linpert.

11 MR. LINPERT: My name is Roland Linpert, I'm a
12 research biologist also with the Chesapeake Wildlife
13 Heritage, prior to that I was a research biologist with the
14 -- of North America. My area of expertise is in water fowl
15 ecology and associated -- on which they extend. My concern
16 with the county's plan is the 1 in 5 criteria for the
17 Resource Conservation Area, when the Critical Areas first
18 came out I was happy to see the 1 in 20, I had hoped for a
19 little bit more because one of the concerns I have about
20 water fowl and the Critical Area addresses historic water
21 fowl staging and resting areas, its like these birds are
22 very prone to disturbance, 1 in 20 is the fair compromise

1 between having some disturbance and having these areas
2 completely protected but 1 in 5, I feel for these areas
3 create far too much disturbance. They reduce the use of
4 these areas by wintering water fowl, I think if 1 in 5 is
5 adopted we'll come down to having water fowl -- that
6 consists of Mallards, Canada Geese, Whistling Swans and
7 perhaps the odd Black Duck that gets mixed up with those
8 Mallards. The other species definitely need more
9 protection from disturbance by humans and the other thing
10 I'd like to say is I too find it difficult to believe that
11 the county could map salt marsh as intensive development
12 and limited development, perhaps they have a different
13 crystal ball that I don't foresee in the future ever being
14 able to build wetlands again for development, thank you.

15 CHAIRMAN BROWN: Ben Hren, is that correct? Ben
16 Hren. William Sladen.

17 MR. SLADEN: Maybe for Torrey Brown's benefit I
18 should correct that name of pronunciation of Mallard to
19 Malard -- Department of Natural Resources has a policy of
20 releasing 50,000 Mallards into the bay -- Black Duck --. I
21 agree with -- Linpert that we will be, -- of Mallard and
22 Canada Geese I'm happy about the swans.

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1 My name is Bill Sladen and I'm a resident of
2 Queen Anne's County professor -- at the Johns Hopkins
3 University and honorary director of the -- of North
4 America, I teach graduate students at Hopkins. My deep
5 concern for the Chesapeake Bay is rooted in over 10 years -
6 30 years of activity with water fowl, especially -- swans,
7 Canada Geese and Canvasbacks on the western and eastern
8 shores.

9 Our county planners are to be highly commended
10 for their foresight in requiring a 300 foot buffer zone
11 beyond the Critical Area, they also demonstrate their
12 dedication to conservation within the Resource Conservation
13 Area by having created resource protection areas. Those of
14 us associated with the -- Trust of North America are
15 delighted that our property -- sanctuary in the neighboring
16 wet lands has been designated --, we thank you most
17 sincerely.

18 I wish to devote my statement this evening to
19 what we all have to agree is the largest remaining wet land
20 in our county. This wet land all south of route 50 extends
21 almost continuously to the east and south from the Kent
22 Narrows Bridge to encompass the shores of Marshy Creek and

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1 that part of Prospect Bay which includes -- and -- Creek
2 and around to -- property.

3 As we have heard already from testimony this and
4 its adjacent undisturbed upland, and by the way Black Duck
5 love poison ivy and poison ivy is uplands, adjacent
6 undisturbed uplands is not only the largest wetland but
7 probably the most important in the concept of breeding
8 water fowl such as the Wood Duck, Bluewing Teal and --.

9 Moreover, we have heard that according to a fish
10 and wildlife, U.S. fish and wildlife survey, and they don't
11 come up and testify, I guess they don't like doing that,
12 this summer a recent survey this summer that this area is
13 perhaps the only remaining significant breeding place for
14 the rapidly declining Black Duck. And by significant I
15 mean quite a number of pairs, not just ones and twos.

16 Moreover, our biologist such as Dr. Linpert who
17 did surveys in the early '70's and later Ben Wren who was
18 going to testify we've been doing weekly counts and we've
19 been able to record up to 30,000 diving ducks including the
20 endangered Canvasback during the winter, this testifies
21 that is is one of the most important resting, feeding and
22 staging areas in the Chesapeake Bay for wintering water

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1 fowl. This is due to its undisturbed nature and the fact
2 that submerged -- vegetation, SAV have in some in some
3 remarkable way existed despite the dramatic decline bay
4 wide.

5 I can show you a report made by one of my Johns
6 Hopkins THD students that demonstrates a number of species
7 of SAV -- 1975 during the great decline. SAV has -- there
8 as -- testified by the Watson's who live on the creek -- in
9 small numbers but now it is increasing, remarkable. Almost
10 daily we see the Bald Eagles there. We should be shouting
11 this from the house talks, what a wonderful area it gives
12 us hope for the future of the bay and we are proud to have
13 it in our county as an example for all to get inspiration
14 from and protect for future generations.

15 We're not the first to testify to the importance
16 of this place, over 12 years ago the very first survey done
17 Pre-Maryland Natural Heritage Program by the Smithsonian
18 Institute and the Maryland Department of State -- came out
19 for the two volume report -- of natural resources in which
20 it recommends that the Marshy Creek area be set aside for
21 special protection.

22 Judge Liss, we have recently, repeatedly

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1 testified to the county planners and commissioners about
2 the importance of this area statewide, yes internationally
3 our swans, geese and -- come in from Arctic Canada, our
4 Bluewing Teal -- and herons rest here on their extensive
5 migrations to South and Central America and we've requested
6 the area be placed in the Resource Conservation Area.

7 Moreover, we have offered our expertise in water
8 fowl and wetlands in writing and by word, free, we haven't
9 even asked the department of Natural Resources for --.
10 We've offered it free to help the county in its important
11 decisions for RCA, but we still have not been asked, I
12 regret.

13 So you can imagine our surprise and horror when
14 we discovered that the north side of Marshy Creek was
15 designated either IDA or LDA. We commend the planners --
16 for designating the south side of Marshy Creek as a natural
17 park but this will be of absolutely no avail if the north
18 side is to be designated IDA and LDA.

19 Here ladies and gentlemen is a wonderful
20 opportunity to protect a wetland and its adjacent upland --
21 clear consciousness of the need for preserving this one of
22 the last remaining almost untouched natural areas in our

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1 county and I sincerely urge the County Planners and the
2 Critical Area Commission to designated the whole of Marshy
3 Creek as RCA. I want to just finish this statement by --
4 wildlife staff member gave a very interesting lecture the
5 other day to our Chester River Association meeting in
6 Chestertown last week and he gave some very interesting
7 figures for this county 73% agriculture, 22% woodland, and
8 only 3% wetland, 3% wetland look at the Kent Narrows the
9 way that that's been destroyed, and now the last remaining
10 place is being -- please save Marshy Creek, thank you.

11 CHAIRMAN BROWN: Wilber Rittenhouse.

12 MR. RITTENHOUSE: I'm Wilber Rittenhouse from
13 -- Queen Anne, I haven't been in Queen Anne's County for 76
14 years but I have been here long enough to see it and the
15 bay and its creeks go downhill and I think the Critical
16 Area's -- is implemented as a small step in a long journey
17 of saving the bay, we're not on the threshold of saving the
18 bay, we're beginning.

19 I and I think the people of Queen Anne's County
20 do not want you to compromise, I think the large majority
21 of people in Queen Anne's County do not support this --
22 presented to you and we want you to hold out, we want you

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 to stick especially with the 1 and 20, its very important,
2 thank you.

3 CHAIRMAN BROWN: Thank you. Terrance --
4 somebody named Terrance Blackwood writes almost as badly as
5 I do.

6 MR. BLACKWOOD: My name's Tarrance Blackwood and
7 I own a farm on the -- River and I've been asked to read
8 the letter from Mr. Schumann who can't be here who also
9 boards on Chester River. A letter to the Critical Area
10 Commission;

11 "Dear Critical Area Commission,

12 Once again I am writing to you as a concerned
13 citizen of Queen Anne's County. Since I live on a farm on
14 the Chester River I am directly affected by the Commission.
15 I believe that your guidelines are necessary. Although my
16 traditional rights as a land owner are infringed on, I'm
17 glad to reconsider the extent of these rights. I believe
18 that the plan requires us to develop a greater awareness of
19 our actions and their repercussions which impact areas far
20 beyond my close boundaries. I understand that these
21 measures were decided in order to give our water resources
22 the best chance to become more healthy and therefore

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1 survive and thrive for the benefit of all including me.

2 I have trouble understanding why this county is
3 trying to avoid adopting the stipulations of the Critical
4 Area Commission. After all, it was your Commission that
5 specifically studied the situation in great detail in order
6 to work it into an applicable form for the whole state. It
7 seems absurd that our planners who have a more limited
8 scope of expertise and input feel that they can come up
9 with a better plan. Its hard not to conclude that our
10 county planners are not acting with the greater good in
11 mind. Instead they seem to be persuaded to bow to the
12 narrow interests of developers who are striving to maximize
13 their profit by using as much of this critical but very
14 desirable and marketable waterfront property.

15 In a similar situation we have a moratorium on
16 rock fish catching, this measure prohibits the fishing of
17 the most desirable bay fish, but we're going along with it
18 because the law was not made not to punish our watermen,
19 but to help the rock fish survive for the everyone's
20 benefit in the future. In turn the Critical Area Plan may
21 single out land developers as those who have to sacrifice a
22 bit more, but its hard to believe that they will feel it

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1 any more than our watermen did from the ban on rock fish.

2 It seems unfair that since the developers lobby
3 may have more money and clout that they should be able to
4 weaken the Critical Area Plan in turn benefit directly, as
5 the watermen will surely be hurt more as our waters suffer.
6 If anyone is well prepared and endowed to make some
7 sacrifice, its the developers, after all we're not banning
8 all land from development, just that narrow critical fringe
9 surrounding and protecting our lovely and important waters,
10 without whose help the rest would be worth much, much less.

11 I encourage the people of Queen Anne's County
12 and and of the state of Maryland not to allow us t deviate
13 from the plan set forth by the Critical Areas Commission.
14 We must stick to its guidelines in order to observe some
15 improvement in our valuable waters. Give it a chance to
16 work. If after a suitable operation period, changes are
17 deemed proper, then strive for them. I am sure that the
18 Commission did not arrive upon its plan lightly, and it is
19 not right for Queen Anne's to receive it so and disrupt the
20 state's adoptive process. The waters of our state belong
21 to everyone and its important to give this well considered
22 Critical Areas Plan a fair trial.

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1 Liss has read his mail he has seen the same thing because
2 it was a letter addressed to him which upon receipt became
3 a public document and several others have that today. That
4 is a report made by the Chesapeake Bay Foundation to the
5 Critical Areas Commission written by a man named Hilerer
6 who sits over here and whom I suddenly admire, having just
7 met him as the the author of that letter and Ann Swanson
8 was good enough to send me a copy of it.

9 That letter is an advisory document to this
10 panel which reminds you of the nature of the opposition
11 from this town and this county to much of what you were
12 trying to do to the point that I have on occasion sometimes
13 in anger and sometimes in sorrow have called it a sabotage
14 of your work by public policy locally.

15 I understand from some comments tonight that
16 things are getting better, that you had a little meeting in
17 tidying things up, I hope that's true but I remind you of a
18 comment of Groucho Marx about somebody who was a very
19 honest man but you better watch him. I am not making any
20 allegations -- caution.

21 JUDGE LISS: Somebody once said I was an honest
22 man but you better watch me too.

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1 MR. RODGERS: We've been watching you a long
2 time and I put it very modestly, you're all right. I
3 remember one of the comments you made when I think it was -
4 - a legislator down in Cambridge, they named the bridge
5 after him and he was protesting at one of the hearings, one
6 of several -- and he said well this is Judge Liss and I
7 just love him, I know but I think -- and I judge I think
8 very sort of --, it was approaching the midnight hour, said
9 if this man loves me anymore I won't be able to stand up.

10 The document that reached the committee from the
11 Chesapeake Bay Foundation is the most devastating thing I
12 have read about the conduct and the behavior of this county
13 and this town on respect to this issue. Some of the
14 phrases used in the document were, are that what the county
15 and or the town, I won't make a distinction between them at
16 the moment, that it weakens the standards that you have
17 mandated. That its views on classification are irrelevant,
18 that the opposed -- that this county plan is in lieu of the
19 compliance, you, as -- would say you -- compliance.

20 That it would open the Pandora's Box of
21 terrible problems, that the claims substitute for standards
22 and that the provision to which we object, they object were

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1 proposed to Centerville by by the -- proponent of a local
2 developer. That refers to the Cudner development on the
3 wharf for which some special exemptions are sought for
4 which if you need the help of god, take it, don't let that
5 exemption pass.

6 Finally the Chesapeake Bay Foundation has asked
7 you and I am using their words instead of my own tonight
8 for a change. We respectfully urge the Critical Area
9 Commission to deny approval to the local program as
10 submitted and to rebuke revisions along the lines of our
11 recommendation. Now we have been on this project for a
12 long, long time, I think now we are coming home. I had no
13 hope for this when we first started, had little hope now
14 and then that you would elect somebody in a local office,
15 the first thing you know their name would show up for a
16 committee that was against you.

17 The situation -- time after time, after time now
18 here, tonight, I think we're coming home. As I said at the
19 last committee meeting, the last one I -- I hope this is
20 the last one. It does seem to me that there isn't any
21 further argument, its all over, the decision -- its time to
22 make the decisions and wrap them up and I'm going to keep

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1 my remarks just that short in the hope to give you few
2 minutes lead time on what I want you to do.

3 CHAIRMAN BROWN: Steve Bunker.

4 MR. BUNKER: Dr. Brown, Judge Liss, members of
5 the Commission, my name is Steve Bunker with the Chesapeake
6 Bay Foundation. Let me start off by saying that the
7 comments by Bill Rodgers of the letter that was sent to the
8 Commission were in reference to the Centerville Program,
9 not the Queen Anne's County Program, and in only one aspect
10 of the Centerville Program, I want to make that clear.

11 However, I think that wind has been taken out of
12 my sail somewhat tonight, because we're not aware of the
13 compromise or the conversations that you have had with
14 Queen Anne's County. But I would like to say that we still
15 have many questions and comments pertaining to the Queen
16 Anne's County Plan, I think --

17 CHAIRMAN BROWN: Could I make one editorial
18 comment, I think its appropriate because, the work
19 "compromise" has been used a number of times and I don't
20 want to be in any way -- either up or down, but to say that
21 instead of compromise we had suggested to us an alternative
22 technique to what you have heard and we're not allowed yet

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1 to compromise because we haven't seen the details of it in
2 the way that we could judge, so I don't want people to
3 think that either the county compromised or we compromised,
4 we heard a different technique described and its accurate.
5 And we'll look at it carefully when its submitted to us in
6 writing and what was said that was absolutely true is that
7 we are talking, better than before, so, -- anybody think
8 there was a deal made or that an agreement was arrived at,
9 none was asked and none was given yet.

10 MR. BUNKER: Well we do still have some
11 questions and comments on the plan, I came here tonight to
12 -- address the issue of the 1 -- unit per 5 acres as in
13 their plan and I feel at a loss now not knowing exactly
14 what you have worked out. I hope that what you have worked
15 out, what you are moving towards is the bringing the town
16 in compliance with the criteria and as you say not a
17 compromise. I say that because CBF is still convinced that
18 the plan as submitted to the Commission could not be
19 approved legally and nor did it make any sense from a
20 planning or environmental protective.

21 So we do hope that what you do have worked out
22 with them is bringing the plan into compliance with the

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1 criteria and not a compromise. We'd also like to
2 congratulate both the Commission and the county for at
3 least involving themselves in these discussions. We would
4 like to see any sort of provisions that you have -- are
5 working on as soon as possible so that we can make comment.
6 Particularly as they relate to the use of the -- allocation
7 by the county.

8 We would also like to say that we have many
9 questions about the mapping in the county --. We still
10 have a lot of questions about the mapping -- by the county
11 -- mapping of development areas. We would particularly
12 like to see mapping rules and we are very concerned about
13 their definition -- areas having water and sewer. Let me
14 just follow that by saying that on behalf of CBF we believe
15 that with the excellent planning staff available to Queen
16 Anne's County and the -- of its elected officials that the
17 Queen Anne's County Program could be a model for the rest
18 of the Eastern Shore.

19 We hope that we and the Commission and the
20
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BALT. & ANNAP. 974-0947

1 county can reach the resolution of these issues and we can
2 move on to a better program, thank you.

3 CHAIRMAN BROWN: We hope that we can all work
4 together too, let me reassure you once again as to what the
5 judge said. When we have something that we that we can
6 review everybody else will be able to review the suggested
7 changes also.

8 JUDGE LISS: Might I say this, I want to make
9 sure that everybody understands. Our door at the office
10 has been open to CBF and for that matter to any other
11 organization, anytime that we have something that we can
12 put into a form that we're able to give so that people can
13 comment on it. Steve as you know the staff is ready and
14 willing to talk to you at any time.

15 I can assure you that you will advised as soon
16 as we've got something concrete to consider. The only
17 thing that we can't do it today because frankly if I were
18 to sit down and try to detail to you what amounted to a
19 couple of hours of conversation there's no way you can do
20 it, if it happened within a couple of hours ago and it
21 would be completely unfair to the county authorities, to
22 the county staff and for that matter to the members of the

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1 Commission because we have to get some kind of writing to
2 know what it is who we're talking about.

3 So I don't want anybody, please to think that
4 we're trying to withhold any information, what the final
5 result will be, I don't know, maybe we'll come up with
6 something that will acceptable to everybody and nobody will
7 be more pleased about that than I will. If we don't please
8 everybody my answer to that is that my experience as a
9 negotiator has been that occasionally if you don't please
10 everybody you've done a good job. We'll just have to wait
11 and see what happens and I can assure you that we'll make
12 the effort, that's as far as we can go.

13 CHAIRMAN BROWN: Does anybody else want to
14 testify?

15 MR. MC ALLISTER: I wrote it on something I
16 guess I got mislaid.

17 CHAIRMAN BROWN: What's your name?

18 MR. MC ALLISTER: Given what I have to say
19 that's probably intentional. Sandy Mc Allister. I'm an
20 attorney and I represent a variety of property owners in
21 Queen Anne's County, I too have attended many, many of
22 these meetings and have heard a lot of the testimony, and

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1 given some myself. However, I think unlike a lot of people
2 who've talked tonight I have the benefit of having tried on
3 many occasion to reconcile the plan, the zoning statute
4 with specific instances of land use proposals and specific
5 circumstances and I'm here to tell you that this plan is
6 not pro-development despite all you might testify to the
7 contrary it is highly restrictive, it is exceedingly
8 complicated, its permeated with what I believe to be
9 serious restrictions which have been carefully developed
10 and I think they are carefully developed to protect the bay
11 and while I may not be qualified to address some of the
12 specific concerns raised by other people speaking solely
13 for land holders who may be caught up in the broad category
14 developers this is a difficult and restricted proposal.

15 Now to the extent that there have been
16 allegations to the contrary -- somewhat academic and
17 somewhat in a vacuum I am speaking solely from the
18 perspective of somebody's who's trying to work within these
19 proposed criteria and I'm telling you that the people I've
20 talked to and the people I've dealt with in planning its
21 zoning are as concerned and focused on the quality of the
22 bay as anyone I've ever heard or spoken to in my life.

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1 Now it is important, I think and maybe -- that
2 this committee and whoever else is involved in the process
3 recognize that this has been a lengthy zoning process, a
4 lengthy Critical Areas process, it goes on and on and for
5 the sake of property owners, and that doesn't mean
6 developer, that means property owners I think it need to be
7 drawn to a conclusion and I think that its appropriate that
8 it be drawn to a conclusion and sooner rather than later.

9 This is a significant effort I feel a little
10 lonesome tonight but in my opinion its a significant
11 effort, I think its a hell of a job, I appreciate Judge
12 Liss's comments -- preliminary comments, I can only assume
13 that that is encouraging and would like to also encourage
14 you to work with the local officials to coordinate your
15 efforts as they try to coordinate theirs and to refine that
16 plan if you feel that's necessary, but in any event, adopt
17 it, approve it, and as quickly as possible. And I think in
18 the long term it will be obvious to everyone, as it is
19 obvious to the people I represent that this plan -- this
20 proposed plan accomplishes everything that has been a
21 concern addressed over all these months, thank you.

22 CHAIRMAN BROWN: Jack Fishbock.

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1 MR. FISHBOCK: Your honor, Dr. Brown, members of
2 the Commission, I am Jack Fishbock and I'm a resident of --
3 and on the board of governors for the improvement
4 association, I'm also a member of the Kent Island Committee
5 Confederation, which is a umbrella organization
6 representing about 10 of the committee associations on Kent
7 Island. We are the most densely populated of all the
8 districts in the county and I think we probably have the
9 most urgent interest in this Critical Area Legislation.

10 For example the area where I live -- City, the
11 lots are about 75 by 200, they're a long way from 20 acres,
12 however, we have the average middle class homeowner,
13 nobody's millionaires, that I know of and most of the other
14 communities on Kent Island and some of the other areas of
15 the county are pretty much the same way.

16 I think what has put the burr under the saddle
17 has been the cast iron, rigid, set in concrete rule, one
18 house for every 20 acres, there are places in the county
19 where the land is so god darn mushy one house in 20 acres
20 would be a disaster, yet I believe the county was pretty
21 much forced into adopting an overall rule to that effect,
22 they came up with 1 in 5 and some other adjustments to

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1 compromise on it. And -- I think compromise and
2 negotiations are going to be the key to getting it
3 resolved.

4 There's no good reason, really why a single flat
5 overall limitation on how many people should live in any
6 one county or -- area should prevail, there's just too many
7 varieties involved. Maybe it should be now less than 1 in
8 7 and no more than 1 in 20, I don't know I'm not that
9 technically qualified to say. But -- to the county
10 commissioners and the Commission to negotiate on this
11 matter.

12 And there's one other aspect of this that really
13 doesn't seem that anybody wants to talk about it, but I
14 think it should be brought up and discussed really. I've
15 seen it happen, most have you have in other areas too.
16 What happens when waterfront property becomes so expensive
17 that only millionaires can afford 20 acres? What about the
18 rest of you folks? You're not millionaires, not all of you
19 I don't think, who'd going to have access to the bay?

20 Four years ago the soviets lowered an iron
21 curtain over Europe, I promise you that the surely --
22 you're going to build a golden fence around the Chesapeake

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1 bay a thousand feet from the water line if this goes
2 through --. I think the negotiations should continue to
3 come up with a reasonable compromise that accomplishes the
4 safety of the bay and still give the average homeowner a
5 decent chance to own something near the bay, thank you.

6 CHAIRMAN BROWN: Thank you. Henry --

7 MR. GIBBONS --: I'm Henry Gibbons -- and I'm a
8 real estate broker in Talbot County, I grew up on a farm on
9 the Chester River and over the last three years I've seen
10 that farm go from 1 acre zoning to 20 acre zoning, Judge
11 Liss knows that I'm against this, I watched development up
12 and down the -- River and several other rivers in Talbot
13 County and I've noticed over the years that the farm run-
14 off has ceased, the water clears up a little bit more in
15 the summer and I really don't think that the 1 per 20 is an
16 issue that we should be discussing, I think you have gone
17 overboard, your extreme on it, I don't think its really
18 proven that proper development is a great polluter like you
19 say it is, I think as you come up the Chesapeake Bay you
20 take a look at the bay bridge and you see a great
21 demarcation line where you have higher land with run-off.

22 On the Chester River I watched that river become

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1 pretty cruddy, I went swimming a couple of years ago in the
2 spring and it tasted like chemicals. I can say that since
3 we have been there, 1959 there has been very little
4 development on the Chester River. I as you where the
5 chemicals are coming from? All those farms as far as I
6 know use best management practices but the water is
7 terrible, I'd much rather go swimming in the -- River in
8 Talbot County which is just about fully developed than I
9 would in the Chester River, the water is terrible.

10 I for one -- I've talked to Barry Perkel, he's
11 explained how this think works I'm the son of a land owner
12 in this county and I appreciate their concern and I
13 appreciate the fact that they're trying to help the
14 landowners out, thank you.

15 CHAIRMAN BROWN: Thank you. Reese Corry.

16 MR. CORRY: My name's Reese Corry, and I live in
17 Queen Anne's County, I grew up in Kent County across the
18 river. I'm a professional biologist and I've been dipping
19 water out of the bay for a number of years, I'm a professor
20 of biology at the Naval Academy. Comparing the Critical
21 Areas Program of the Chesapeake Bay to what they're doing
22 around Lake Eerie, our program is a whimpy program they

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1 have what I consider the Krakonian Measure (phonetic) we
2 don't have to go that far. The Chesapeake Bay is not in as
3 bad of shape as Lake Eerie, we can stop it now. What
4 they've gone through is a lot worse than what we're doing.

5 I applaud what the county, on their 300 foot set
6 back but I've heard of a voodoo economics I am also hearing
7 voodoo planning. In any zoning somebody's going to get
8 hurt, I can't build certain things on my lot, I can't have
9 -- there, I can't park trailers there. The same thing is
10 true of those people around the water. We have to look at
11 what is good for the whole state of Maryland rather than
12 the individual land owner. I happen to own a farm in Kent
13 County, that's on the water, and we have had a 75 foot set
14 back for the last 30 years because the way the land slopes.

15 Let me tell you about Lake Washington, which is
16 outside of Seou. In the 1920's people spent tremendous
17 amount of money to buy waterfront property along Lake
18 Washington, by the 1950's you couldn't swim in it, you
19 couldn't do water sports in Lake Washington and the
20 waterfront property you couldn't give it away, so if you
21 like the waterfront property you better keep the water pure
22 that you're going to look at, because Lake Washington

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1 became a swamp by the late '50's with the EPA and the state
2 of Washington they cleaned it up and waterfront property
3 values have gone back up again so that the price of the
4 waterfront property is going to depend on the quality of
5 the water that it is overlooking.

6 We're starting a three state program to save the
7 bay, let's not be the first state to renege before we've
8 ever started. The bay has a tremendous recuperative value
9 if it didn't it would never have gotten to the point that
10 it is, its like the camel, you keep putting straws on the
11 camel's back and the camel can take so much, you put one
12 straw on there and the camel collapses. Well we're
13 beginning to collapse what we need to do is begin to take
14 some straws off.

15 When the oysters begin to come back the oysters
16 will clean the bay, those oysters out there are tremendous
17 filter feeders, they are taking a tremendous amount of
18 material out of the bay we've over fished them, we bring
19 the oysters back they'll help to clean the bay. As we
20 bring back submeraquatic grasses will help to clean the
21 bay, so the bay will help itself if we help it.

22 Now let me talk about something else that I

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1 don't think anybody else has considered. The Critical Area
2 people, the county planners or anybody else, everybody
3 seems to assume that water level, sea level is constant.
4 Let me tell you it ain't. It has been rising for 1 foot a
5 century and it is now rising about 1 foot every 50 years.
6 Within 25 years somebody's going to want the county
7 commissioners to -- the new shopping center down in Kent
8 Island but the tide's going to come into it and we get a
9 hurricane and its going to be under water. Right now land
10 in Dorchester County is going out of agriculture because of
11 salt water intrusion. Now we're higher than Dorchester
12 County, but all of that land that is under 3 feet above sea
13 level is going to go out of agriculture production and its
14 not going to be fit to put houses on either so it should
15 all be put in a Resource Conservation Area because water
16 level is coming up and we're going to have to bail out
17 ocean city let alone bail out the county.

18 So this is basically our last chance to save the
19 bay, if you want to see what its going to be like if we
20 don't go ride up the Jersey shore and look at the Delaware
21 River and you can see what we can get. The current plan of
22 the county is not going to help the bay and in fact I'd

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1 like to see the state plan strengthened. I don't want to
2 see this county turned into a clone of New Jersey.

3 CHAIRMAN BROWN: The last person I have on the
4 list is Judd Lewis, is that close?

5 MR. LENS: My name is Gerry Lens. I'm not a
6 biologist and I'm not a land planner, but I'm here
7 representing some other people. These people are my
8 children we had this discussion around our table on what
9 was happening. They want the bay when they're older and
10 they want the bay for their children and what they wanted
11 me to ask you is to take this into consideration on what
12 you're doing.

13 I've heard some discussion here from both sides,
14 I think some good points are made on both sides. I don't
15 want to see a golden curtain on the bay either then my
16 children wouldn't be able to use it and their children
17 wouldn't be able to use it. But I don't want it to be
18 polluted and my children don't want it to be polluted. All
19 that we ask is that you take into consideration all the
20 things that have been said here and make the decision for
21 us, thank you.

22 CHAIRMAN BROWN: Thank you. That's everybody

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1 that signed up, thank you all very much for coming and we
2 will take everything you said into consideration.

3 (Whereupon, at 8:56 p.m. on Thursday, December
4 10, 1987 the hearing adjourned.)

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C E R T I F I C A T E

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2 This is to certify that the foregoing transcript
3 In the matter of: Critical Area Public Hearing

4 BEFORE: Mr. Torrey Brown, Chairman

5 DATE: December 10, 1987

6 Place: Centerville Middle School
7 Centerville, Maryland

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

11
12
13 
14 Kevin Reppenhagen
15 FREE STATE REPORTING, INC.
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