

Public Hearings - City of Annapolis - Critical Areas Program 1988

MSA - J1830-25

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CRITICAL AREA COMMISSION

PUBLIC HEARING ON CITY OF ANNAPOLIS CRITICAL AREA PROGRAM

This matter came before the public on February 9,  
1988, at 7:00 p.m.

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APPEARANCES

CRITICAL AREA PROGRAM

- ROBERT PRICE, Commissioner
- SAM TURNER, Commissioner
- BOB PERCIASEPE, Commissioner
- MARCUS POLLOCK, Regional Planner

PUBLIC TESTIMONY

- JOHN ARASON
- CAPTAIN JOHN COPPEDGE
- JIM CAMPBELL
- DOUGLAS COSGROVE
- LENORE BAZZICHI
- DEBBIE LEE
- TOM KNISLY

## PROCEEDINGS

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MR. PERCIASEPE: My name is Bob Perciasepe, and I'm a member of the Critical Areas Commission, and this tonight is a Hearing that the Commission will hold on the City of Annapolis' Critical Areas Plan.

What we have here tonight is a panel of the Critical Areas Commission, and we all volunteered to, not only be on the Commission, but to be on the Annapolis panel, and the way we work is, we break into panels to review each of the sixty critical area plans that we have to look at. Otherwise, the entire Commission would probably be meeting every night.

With me tonight are, is Sam Turner, who's also on the Commission, and Bob Price. I'd like to also point out that Marcus Pollock, in the back, is a staff person with the State of Maryland of Critical Areas Commission. Our purpose tonight to take testimony. The Commission is in the process of reviewing the City of Annapolis' Critical Areas Plan. We have a 90 day period during which time we will review it, and will have this hearing, within that 90 day period. We want to take testimony so that we can enter into the record the concerns or the

1 interest that any one may have in the plan.

2 This is not, and I get kind of picky about this  
3 sometimes, but this is not a debating time for us. It's  
4 a time for us to hear what you have to say to record it.  
5 If you have detailed questions about the plan, and about  
6 particular properties and how the City is proposing to do  
7 it, you should address those to the City, but if you have  
8 concerns, we should hear about them in your testimony.

9 I'd like to limit people to five minutes, but  
10 since there aren't too many people here tonight, if  
11 somebody wants to go on a little bit longer, I'm not  
12 going to worry about that. Usually that, I try to keep  
13 it to that level when we have a lot of people.

14 I guess the last thing I'd like to say before I  
15 introduce John Arason, is to say that the record, the  
16 official record, would, will be open for ten days after  
17 tonight. If anybody has written testimony they can  
18 submit within that ten days to the Critical Areas  
19 Commission. Marcus, could you give the address, or you  
20 could see Marcus at the end, I guess, but I'd like  
21 that....probably enter it into the record, that we said  
22 it.

1 Speak. 'tis thy cue.

2 MR. POLLOCK: Tawes Office Building, B4,  
3 Annapolis, Md. 21401.

4 COMMISSIONER PERCIASEPE: Alright. Thank you.  
5 So that's my very brief introduction of who we are, what  
6 we're trying to do tonight, and how we're going to try to  
7 do it. The first step is to get a briefing from the City  
8 on their plan, and John Arason, who is Chief of  
9 Comprehensive Planning, is here to do that for us.  
10 Thank you John.

11 MR. ARASON: Rather than give a presentation, I  
12 thought I'd read to you verbatim. Page 1.

13 I'd like to thank everybody for coming out, the  
14 Critical Areas Commission, -- that are here, and  
15 members of the public. Some of you from Annapolis, of  
16 course, you may have heard this presentation many times  
17 before, probably know the presentation better than I do.  
18 I want to take this opportunity to thank the Critical  
19 Areas Commission for providing grant assistance to the  
20 City to help us develop our plan, giving us further grant  
21 money, so we can begin to implement it, and hopefully,  
22 continue with the grant money so we can monitor how well

1 the plan is working for us, as well as the grant that we  
2 received to put together a data base to monitor the  
3 planning in conjunction with the State.

4 We have always felt in Annapolis, and I think  
5 most people that've lived in Maryland for any time, have  
6 felt that there's been a need for Critical Areas  
7 legislation for quite some time. I think that the  
8 legislation passed in 1985 was timely, and it was far  
9 sighted in terms of protecting the Bay, water quality of  
10 the Bay and the various wetlands and natural habitats.

11 When Annapolis received, or started to go into  
12 our Critical Areas plan, we went into it with a strong  
13 sense of commitment. As you know, Annapolis is a heavily  
14 urbanized area, and traditionally we are dependent upon  
15 our water resource. We have in Annapolis 18 miles of  
16 shoreline, of which 6.4 miles, or 34%, structurally  
17 protected. The amount of land that we have in the  
18 critical Areas -- the critical areas boundary drawn  
19 on there, is over 1,700 acres and represents over 37% of  
20 the total land in the City.

21 At the outset of developing our plan, we are more or  
22 less at a crossroads, given the heavily urbanized nature

1 of Annapolis, and the criteria, we could have  
2 essentially, in essence, opted not to participate in the  
3 plan. We could have just said we're an urbanized area,  
4 we'll make the whole City, you know, intensely developed  
5 areas, and just get on with other things. But as it  
6 happened, citizens of Annapolis, who had elected  
7 officials, made a water shed decision, no pun intended  
8 there, and opted to embrace critical areas legislation,  
9 and to try to come up with a very strong land use and  
10 environmental regulatory tool.

11 In order for us to produce a meaningful document  
12 in terms of environmental regulations and enforcing  
13 critical areas regulation, it was necessary for us to  
14 modify State requirements, and -- on the Commission, I  
15 know the staff has gone over our Critical Areas plan, you  
16 probably noticed that our requirements differ somewhat  
17 from the State.

18 Our requirements are more restrictive. We  
19 didn't loosen any State Requirements. We just left them  
20 alone, or tightened them up. The reason for that was, we  
21 believed strongly that you could achieve benefits to  
22 water quality and habitat protection in an urbanized

1 area, and that's what we're seeking to achieve.

2 The modifications in the criteria that we made,  
3 and I'll do it by land classification, for areas  
4 developed or to be designated intensely developed areas,  
5 we dropped the State criteria that if the land can be  
6 designated intensely developed, if public water and sewer  
7 service is in the area. We dropped that criteria. If,  
8 to keep that criteria, practically all of Annapolis is  
9 proximate to water and sewer.

10 Another State criteria for designating land  
11 intensely developed, was the density, existing density in  
12 1985, was greater than three dwelling units per acre. It  
13 was to be designated intensely developed. We changed  
14 that to four dwelling units per acre for greater density  
15 before we would designate it intensely developed.

16 For designating lands limited development area,  
17 which you can see in our map, that's all the areas in  
18 green, and we have quite a bit of it. Oh, I'm sorry,  
19 blue. All the...we have a great deal of land designated  
20 limited development, and we've achieved that in two ways.

21 First, we deleted a State criteria that said the  
22 run off is not substantially altered or impaired. Our

1 limited development areas are fairly developed, and a  
2 case could be made that because of, you know, the roads  
3 through there and because of the houses that are built,  
4 the run off is substantially altered and impaired, so we  
5 deleted that category and open space areas associated  
6 with institutions, we designated limited development.  
7 That would be a playground adjacent to a school, as an  
8 example.

9 For resource conservation areas, strict  
10 application of the State criteria was left. This was  
11 very, very little land designated resource conservation.  
12 That's the green on the map, and you can see that we  
13 managed to come up with quite a bit.

14 We expanded the State criteria to include  
15 developed woodlands, natural -- for wetlands. What  
16 that enabled us to do was to include areas of land  
17 adjacent to the residential development in the resource  
18 conservation designation. Without adding those criteria,  
19 many of the areas that you designated resource  
20 conservation will either be limited, would be limited  
21 development right now.

22 In terms of buffer requirements, the 100 ft.

1 buffer, we've applied that buffer to the entire shoreline  
2 of the City except the City....City Docks. Thirty-five  
3 percent of our shoreline is not structurally protected.  
4 We could have requested in all likelihood received  
5 exemptions from the 100 ft. buffer requirement. We chose  
6 not to. So all the shoreline that you see in Annapolis,  
7 except for this area around the City Docks, is covered  
8 with the 100 ft. buffer requirement, or will be.

9 Storm water retention. The City storm water  
10 management program is more restrictive than the State's,  
11 and it's applies City wide rather than just in the  
12 Critical Areas.

13 Impervious surface requirements. In the limited  
14 development areas, the State Criteria was 15%, we've kept  
15 that 15% maximum impervious surface, except for instances  
16 when redevelopment is occurring, we will allow the  
17 impervious surface requirement to go up to 25%. That's  
18 if somebody is adding on to their house or something like  
19 that.

20 In intensely developed areas, there were no  
21 State requirements for maximum impervious surfaces.  
22 We've imposed a requirement of 50 to 90%, depending on

1 the underlying zone. In residential areas designated  
2 intensely developed, the maximum impervious surface is  
3 50%; when you get down town in the C-2 Zone, the store  
4 district, the business area along Main Street, we have a  
5 90% impervious surface requirement.

6 In terms of expansion of development areas, the  
7 State, due to legislation, has allocated certain amount  
8 of land that can be changed from one designation into an  
9 intensely developed designation. What we have done is,  
10 and in the State requirements of your allocation, you can  
11 turn, you can change the designation of half your limited  
12 development area and half your resource conservation  
13 area, we will not allow in our regulations any change of  
14 designation for lands designated resource conservation.  
15 The result of all this is one of the most aggressive  
16 Critical Areas programs in the State. The breakdown of  
17 land classified by classification is, we have 914 acres,  
18 or 52% of the City, is classified intensely developed.  
19 We have 589 acres, or 34% of our Critical Area classified  
20 limited development, and we have 225 acres, or 13% of our  
21 land in Critical Areas, classified resource conservation.

22 But that doesn't add up to 100% because of

1 rounding errors.

2           Given the fact that we are a highly urban  
3 environment, and we have aggressively pursued Critical  
4 Areas legislation, we have to be somewhat flexible. Land  
5 in Annapolis is at a premium. Within the City limits  
6 there's very little parcels of land left to develop, so  
7 we tried to build into our plan some flexibility. In  
8 developing a plan, we are also acutely aware of issues of  
9 taking, government taking of land, without compensation,  
10 and that's just another impetus to be more flexible. And  
11 we did develop our plan to be legally defensible by being  
12 internally consistent.

13           We've had....we've added grandfathering clauses  
14 into the Critical Areas plan. Any plated but undeveloped  
15 subdivisions or planned units of development that  
16 actually show a building in the -- can be built per  
17 the approved plan regardless of its relationship to a  
18 Critical Areas land designation. We will allow buffering  
19 encroachment for previously recorded lots or parcels of  
20 land in the City, if there is no other alternative in  
21 terms of buildable area on the lot.

22           We have our....we have variance provision. Two

1 types. The full variance that you have to go to a Board  
2 of Appeals. We have six requirements in our existing  
3 code in terms of what constitutes legitimate variance  
4 requests.

5 In our Critical Areas plan we've added seven  
6 additional standards that must be met before the Board of  
7 Appeals can approve a variance.

8 We also have provisions for administrative  
9 variances in certain instances. An administrative  
10 variance, being much faster to obtain than a variance  
11 that goes to the Board of Appeals, because there is no  
12 need for advertising, ect.

13 In conclusion, we feel that our plan is tough.  
14 We feel that it is also flexible. We think it's  
15 consistent, and we also think it's legally defensible.  
16 We've obtained a great deal of public input. We've had  
17 numerous meetings with various organizations, Severn  
18 River Commission, Environment Commission. We've had  
19 input from the Sierra Club. We've had input across the  
20 spectrum. We had Town Meeting on our plan that we bought  
21 advertising in a local newspaper. We bought a quarter  
22 page ad. We called people up. We've been in contact

1 with homeowner's associations, resident associations,  
2 aldermen, ect., to let people know that we were holding  
3 these meetings and they are more than welcome to come  
4 out. We've had public hearings on our plan between,  
5 before both the Planning Commission and the City Council.

6 We've considered all the comments in developing  
7 our plan. It's a plan that....the staff are proud of in  
8 terms of the work involved in putting it together, and I  
9 sincerely believe that it is a plan that the citizens of  
10 Annapolis can take a great deal of pride in.

11 We -- -- the plan. As soon as we get  
12 your comments back, and we intend to enforce it once it's  
13 implemented. We urge you to consider our plan favorably,  
14 and pass it, to get us back, to get it back to us as soon  
15 as you can so we can continue with the process.

16 COMMISSIONER PERCIASEPE: Thank you, John.

17 COMMISSIONER PRICE: I wonder if I could ask  
18 just a couple....of questions.

19 John, now when was the Phipps groups -- --

20 MR. ARASON: Who are they?

21 COMMISSIONER PRICE: Yeah.

22 MR. ARASON: The Phipps Group basically consists

1 of Hal Phipps. He's a consultant with offices in  
2 Washington, D.C., and he brings on other basically free  
3 lancers as needed for their expertise.

4 COMMISSIONER PRICE: And he was the consultant  
5 on the project and worked with you all on the....

6 MR. ARASON: Right. He, wrote, he basically  
7 wrote the plan and researched it, and then worked with us  
8 producing the final document.

9 COMMISSIONER PRICE: OK.

10 COMMISSIONER PERCIASEPE: Well, what I'd like to  
11 do now is let the individuals who have signed up to make  
12 a presentation, or make some testimony, to go ahead and  
13 do it. If I might ask, where your microphone is, where  
14 you would them to.....

15 COURT REPORTER: I'll just sit in this chair  
16 here.

17 COMMISSIONER PERCIASEPE: You want them to sit  
18 in that chair over there?

19 COURT REPORTER: You can pull another one, if  
20 you....

21 COMMISSIONER PERCIASEPE: You don't think  
22 you'd, they could just stand up?

1 COURT REPORTER: Yes, they could probably do  
2 that.

3 COMMISSIONER PERCIASEPE: What ever your  
4 pleasure then. If you want to just do it where you are,  
5 fine, I think we can still hear you.

6 The first sign up is Captain Coppedge, from the  
7 Naval Academy.

8 CAPTAIN COPPEDGE: Could I sit here, or would  
9 you like me to stand over there, or sit over there....

10 COURT REPORTER: I can hear you fine.

11 CAPTAIN COPPEDGE: As long as you gentlemen.....  
12 My name is John Coppedge. I represent the Naval Academy  
13 Athletic Association, and I appreciate the opportunity to  
14 visit with you this after....this evening.

15 The reason I am here is to discuss a small  
16 parcel of property that was recently designated resource  
17 conservation area with a wild life habitat overlay.

18 I believe that this designation is in error, and  
19 I will explain to you just why. But first, I'll describe  
20 the property. It's a narrow strip of land owned by the  
21 naval Academy Athletic Association, a private, non-profit  
22 organization. It's total size is 8/10 of an acre, and

1 it's bounded by Rowe Boulevard and the old railroad right  
2 of way. To the west is the helicopter pad, and the State  
3 Archives Building, and to the North is the Navy public  
4 works utility and transportation yard.

5           The parcel was zoned P, professional office, in  
6 1970, and that zoning designation has not changed. The  
7 submission of the City of Annapolis Critical Areas draft  
8 program this past December, about two months ago,  
9 implicitly changes that zoning. The parcel meets the  
10 State requirement desi....for designated as limited to  
11 development based on all criteria of the Critical Areas  
12 law. The parcel meets the City of Annapolis criteria but  
13 designated as limited to development, even though as we  
14 just heard from John, the City criteria is more  
15 restrictive and aggressive.

16           Without the stringent interpretation of the City  
17 of Annapolis, this parcel is perfectly described as  
18 intensely development by the State's criteria. Wild life  
19 habitat overlay. I'll mention the wild life overlay  
20 briefly only to say there are no threatened or endangered  
21 species on this property.

22           The final point I would like to make is that the

1 City Council's designation, of the -- property as  
2 RCA is clearly an -- issue, with the potential taking  
3 of the property. I believe the entire issue can be  
4 summarized by saying that designation of the NAA property  
5 was not based on the criteria of the City's critical area  
6 plan, but in fact was based solely on their desire to  
7 prevent the use of that property regardless of the  
8 criteria. That may sound like a very strong statement,  
9 but let me list some facts.

10 The property clearly complies with the State and  
11 City Criteria for limited development. The City Council  
12 overruled the planning and zoning staff's recommendations  
13 for limited development area. And to highlight the equity  
14 issue, the Naval Academy, -- --  
15 was repeatedly singled out by name at public hearings  
16 when it had no bearing on the true issue, and in so  
17 doing created a bias and a special interest that  
18 prevented equal treatment for the NAA property. The end  
19 result was that like properties were not dealt with in a  
20 similar manner.

21 In summary, I would like to review four main  
22 points. The sole reason for the designation of the

1 property as RCA was to prevent the Naval Academy Athletic  
2 Association from making use of it.

3 Two, the City Council ignored the required  
4 criteria.

5 Three, the City Council ignored their own  
6 planning and zoning staff, and finally, the City was fair  
7 or equitable in applying the principles of treating like  
8 property in a similar manner.

9 I appreciate the opportunity to visit. I have a  
10 handout that has all the references to all the things  
11 that I've spoke to -- , and I'd like to leave that  
12 with you if it's appropriate.

13 COMMISSIONER PERCIASEPE: Thank you, John.  
14 Could....could either of the John's point this out on the  
15 map? Is that the bridge right past Archives there?

16 MR. ARASON: Here's....yeah, here's the bridge  
17 over College Creek....

18 COMMISSIONER PERCIASEPE: That's Rowe Boulevard?

19 MR. ARASON: The Archives sit right up here.  
20 The helipad, the Archives is right in there, and this was  
21 the general area that was questioned just now, and the  
22 specific area is the smaller piece right down here.

1           COMMISSIONER PERCIASEPE: That's the point of  
2 land that's forested, that can often be seen, comments,  
3 about Army hanging.....

4           CAPTAIN COPPEDGE: Let me say here, the piece  
5 that I'm talking about is right next to another one.  
6 It's right next to Rowe Boulevard. The whole green areas  
7 there is, that's U.S. property. That's U.S. Navy,  
8 because.....

9           MR. CAMPBELL: It's deceptive, a little bit, in  
10 that...

11           UNIDENTIFIED SPEAKER: This is 4.3 acres of  
12 federal property. This is a total of 2.9 acres, but it  
13 is really is misleading a little bit in there, but ours  
14 is just the .19 acres sliver in here and the railroad  
15 right of way goes straight through here, and that's a  
16 total of 2.1 acres, and it's about, what, John, 80 ft.  
17 wide....2.9 acres total .8, 1 acres of property, and  
18 that's approximately 2.1 acres of the old right of way  
19 but it's not clearly defined in any body's map. It's  
20 just the old B&A Railroad's right of way. The federal  
21 property, 2.4, .3 acres is the white to the right of  
22 that, the line there.

1           COMMISSIONER PERCIASEPE: Thank you.

2           COMMISSIONER PRICE: You said it was 80 ft. wide

3           MR. CAMPBELL: It's shows that it's 80 ft. wide,

4 and then it tails off....tear drop.

5           COMMISSIONER PRICE: Yes, Sir.

6           MR. CAMPBELL: That's the railroad there.

7           COMMISSIONER PRICE: OK.

8           UNIDENTIFIED SPEAKER: The -- parcel is the

9 little sliver between it and the boulevard.

10          COMMISSIONER PRICE: Who owns the railroad bit?

11          MR. CAMPBELL: That's State.

12          COMMISSIONER PERCIASEPE: So that parcel is the

13 one....

14          UNIDENTIFIED SPEAKER: Is that where the light

15 rail is going to go?

16          MR. CAMPBELL: Yes, Sir.

17          CAPTAIN COPPEDGE: Any other thing I can do,

18 Sir?

19          COMMISSIONER PERCIASEPE: No, that's fine.

20 Thank you very much.

21          CAPTAIN COPPEDGE: Thank you very much.

22          COMMISSIONER PERCIASEPE: Douglas Cosgrove.

1           MR. COSGROVE: Yes. My name is Douglas  
2 Cosgrove. I'm a resident of Annapolis. I am here  
3 representing myself as well as the Anne Arundel County  
4 Commercial and Industrial Agents, which is a group which  
5 is formed of just what it says, Commercial and Industrial  
6 Real Estate Agents and Developers who have banded  
7 together under common purposes. We have been established  
8 a little over a year, and we have a little over a 125  
9 members right now.

10           I'm also representing the Anne Arundel County  
11 Board of Realtors, which is a division of the Maryland  
12 Board of Realtors.

13           I'd like to hand these out right now. This is a  
14 memorandum I prepared on my own behalf at the time of  
15 presentation, public hearing before the City Council on  
16 this program, and I also have comments prepared for this  
17 evening's presentation, which I'm distributing. That is  
18 the letterhead. This evening's presentation is the  
19 letterhead stationary.

20           I think, I will say to begin that the group that  
21 I represent are not in favor of the City's plan as it  
22 sets as a whole. Primarily, for the reasons that you

1 heard John say. This program is stricter than the State  
2 criteria called for, and given the urban character of  
3 Annapolis, and as I get into it a little bit later, the  
4 lot sizes in Annapolis, it is totally inappropriate to  
5 provide a stricter program than the State standards in a  
6 City like Annapolis. I'd like to just review the map  
7 here and I'll hit some of the things that I'm talking  
8 about as I go.

9 I'll start up here at the top, and you can see  
10 the large blue area. I'm sure a lot of you are aware of  
11 the fact that this is primarily Admiral Heights, west  
12 Annapolis, and -- Communities. These are fully  
13 developed communities. They have streets installed;  
14 there are no paper roads, they have all the streets  
15 installed. The houses are in there. Lot sizes in these  
16 areas are approximately 7,000 to 7,500 sq. ft., which is  
17 about six units per acre density. The fact that not all  
18 of the lots have houses built on them does not mean that  
19 that density is less than six units per acre. By the  
20 fact that they roads installed in these communities, they  
21 are are also well above the State criteria 15% coverage  
22 of impervious surfaces already, and yet they have been

1 designated a combination of limited development and  
2 resource conservation by the City. We felt that this is  
3 totally inappropriate in that these areas have  
4 theoretically already grown to intensely developed areas  
5 even though the City has designated them a limited  
6 development.

7           The only possible exceptions might be the  
8 Wardorf Community, which is separated by this line here.  
9 I think you can see that, where the lot sizes are larger,  
10 approximating a half an acre per lot.

11           The same thing holds true in these areas.  
12 Almost every blue area that you see, you're really  
13 stretching to get these to a limited development area.  
14 They're fully developed areas. There is, I could go  
15 along each one, this is....this area is more than 15%  
16 covered by impervious surfaces. This is a church, and  
17 parking lot, and a number of things in there. This area  
18 is fully subdivided. All the roads are in. Not all the  
19 lots are built on. Again, the City did not count  
20 buildable lots in desig....in figuring of housing  
21 density. Because of the grandfathering provisions in the  
22 State law and in the City code, these lots are buildable.

1 And when these lots are built on, Annapolis has been  
2 building houses on empty lots for over 300 years now.  
3 This will continue into the future. When these lots are  
4 built, these areas will become intensely developed. Lot  
5 sizes, again in Annapolis, with the one exception I  
6 showed you here and over here, the maximum you will find  
7 is around 7,500 sq. ft., which is about six units per  
8 acre.

9           These are intensely developed areas by any  
10 measure. They should not be designated as limited  
11 development. And there're problems with that that I'll  
12 get into in a little bit.

13           Coming around here, we have the Heritage  
14 subdivision. I think they even counted wrong in here,  
15 because I counted the homes, and I got about 5 1/2 units  
16 per acre, in the Heritage subdivision, that are already  
17 built.

18           The Truxton Park area, or Truxton Heights, in  
19 this area. This is very definitely subdivided into more  
20 than four units per acre. Areas around in here. This  
21 area has had a recent subdivision added to it, which  
22 takes it over four units per acre.

1           These areas down in here, again, are over four  
2 units per acre, if you consider the vacant lots, which  
3 should be considered when you considering housing  
4 density, because a vacant lot which is perfectly legal  
5 and buildable is a housing unit. The fact that it is not  
6 built yet doesn't mean that it shouldn't be counted in  
7 density.

8           These areas I'm not really familiar with, out on  
9 the end of Edgewood Road, so I can't say that in these  
10 areas, I do not believe that there are major subdivisions  
11 out here.

12           Again, this is a church parking lot and yard,  
13 limited development here. That's covers the limited  
14 development. There are, I will get into a couple of  
15 reasons why we don't like that.

16           Now, resource conservation. There really aren't  
17 any resource conservation areas in the City. The density  
18 of a resource conservation area is one unit for every 20  
19 acres. There is only one area in the entire City that's  
20 over 20 acres, and it's designated resource conservation.  
21 And that's Truxton Park. Now, is the City wants to  
22 designate its own park as resource conservation, that's

1 fine. That's a decision the City can make; however,  
2 right next to it, let's take a look here. This is a  
3 major apartment complex. This is a major, well, there's  
4 an office building right here, there's a major apartment  
5 complex right here, there's a fully developed single  
6 family subdivision right here. Right in-between, you  
7 have a piece of resource conservation. This is one piece  
8 of property owned by one person, that's less than 10  
9 acres in size. This has no business being a resource  
10 conservation area. It's discriminatory against that  
11 single land owner. There....I don't think there's  
12 anything anywhere in the City criteria, in the State  
13 criteria that say you should discriminate against one  
14 single piece of property. This is does. It does the  
15 same thing over here. There are apartment complexes  
16 surrounding this one piece of property. It's designated  
17 resource conservation, and limited development. It's  
18 surrounded by apartment buildings, literally surrounded.

19 This....and a number of other places you see,  
20 steep slope areas, flow planes, things like this, they  
21 are already non-buildable, there is no reason to have  
22 them designated resource conservation. There really

1 isn't.

2           Down in this area. You have a marina with a  
3 half acre parking lot; right next to a subdivision. This  
4 subdivision, to give you an example, this is 67 lots on  
5 less than 15 acres. If you divide that out, you're going  
6 to find 4 1/2 units per acre. That's intensely  
7 developed. It's no question about it. Even under the  
8 City's criteria, and yet it's designated limited  
9 development. There's a mistake in here.

10           This is a community area. It's already covered  
11 by more than 15% impervious surfaces, because it's got a  
12 bit parking lot, a big community pool, a big club house,  
13 half acre lot for marina, parking lot for a marina, and  
14 yet they designate this as resource conservation. I  
15 think probably because it's a community association that  
16 owns it, and they aren't going to complain. But it's not  
17 an appropriate designation.

18           This area belongs to the SPCA. Now the SPCA is  
19 certainly not going to complain about RCA, I mean,  
20 they're going to keep doing what they want to do. This  
21 area is owned by the City; again, the City can designate  
22 their property anything they want, but these designations

1 throughout the City, in every case, they're reaching for  
2 an excuse to find property in these classifications,  
3 rather than applying the State criteria.

4 Under State law, there is no provision for  
5 modification of the State criteria. The State, City and  
6 Counties subdivisions, it says directly, are to prepare  
7 their comments or their criteria in accordance with the  
8 State criteria. It does not say that they can modify  
9 those criteria as they see fit. You are, the State  
10 Commission, as I understand it, is having a lot of  
11 problem with other subdivisions, Queens Anne County, from  
12 Anne Arundel County, where the criteria have been  
13 modified. You should have the same problem with  
14 Annapolis, even though Annapolis is going one way and  
15 those areas are going another way, this has to be  
16 consistent. Consistent means State wide consistency. It  
17 does not mean consistent only within its own program. I  
18 could make a very consistent program that says you can't  
19 build anything else anymore in the City of Annapolis.  
20 That's consistent, but it's not consistent with State  
21 law, and it's not consistent with surrounding areas.

22 I would like to go through, very quickly, I

1 realize that we're getting more people in here, again.  
2 Again, the Critical Area Law, right in the first  
3 paragraph, says, local governments establishing it and  
4 implementing their programs in a consistent and uniform  
5 manner, subject to State criteria and oversight. It  
6 doesn't say State Criteria or as they see fit. It's says  
7 'according to State criteria'.

8           Minor problems that we have with the City  
9 program. Number one, there is no provision for appeal.  
10 No program is perfect, no map is perfect, there should be  
11 a procedure to appeal based on mistake. Changing  
12 character, we don't need, but mistake, yes. A property  
13 owner who feels aggrieved should have a grievance  
14 procedure within the program. Also, the State Criteria  
15 calls for review every four years of the program. This  
16 is not provided for in th City, and it should be.

17           I would like to just very briefly give you a  
18 couple of the problems that we have the limited  
19 development areas primarily. The impervious surface  
20 coverage rule in the City is misapplied. They say 15%  
21 impervious surface coverage in a limited development  
22 area, unless you're redeveloping, and then you can go to

1 25%, which means you can build a house, and next year, go  
2 to.....at 15%, and next year go to 25% with an addition.  
3 That accomplishes nothing. The State law, not the  
4 criteria, the State law allows for 25% coverage of all  
5 lots under an acre. There are very, very few lots in the  
6 City of Annapolis that are under an acre, therefore, that  
7 25% rule should apply and is being applied right now, as  
8 a matter of fact, in the City of Annapolis. Even though  
9 the program has not been approved, the City is going  
10 according to State guidelines, which allow 25% coverage  
11 for lots less than an acre. That is what being applied  
12 right now in the City of Annapolis. That is a little  
13 a bit more reasonable; even so, even with 25% we have a  
14 bit problem with it. Minimum lot size in the City, for a  
15 single family home, is 5,400 sq. ft. A 5,400 sq. ft.  
16 lot, where the requirement for a driveway, a requirement  
17 for a sidewalk, a requirement for a front walk, 5,400 sq.  
18 ft. leaves you, what, 7,500, 8,000....7,500 to 8,000 sq.  
19 ft. that you can build on. Take away 200 sq. ft. for a  
20 driveway. 200 sq. ft. for a sidewalk, a 100 sq. ft. for  
21 a front walk. You're not left with anything to build on.  
22 Now, the next problem is that you can apply for

1 a variance in the City. There is a variance procedure.  
2 But, one of the standards for a variance is that your  
3 problem be unique. By making every single lot in a  
4 subdivision subject to this requirement to go in for a  
5 variance, just to be able to build something decent,  
6 you've created a situation where you can't apply for a  
7 variance because you don't meet the standards for being  
8 unique, and yet you can't build a house because you need  
9 a variance. So it's a real Catch-22 situation, and this  
10 is one of the areas where we feel the City program is not  
11 enforceable. Just absolutely cannot be enforced....

12 COMMISSIONER PERCIASEPE: Do you think you can  
13 summarize?

14 MR. COSGROVE: Yes, I can. And I have finished  
15 most of the things that I have. In short, we would like  
16 to see, we are not against a program, a Critical Areas  
17 Program. We think that there are benefits to the Bay for  
18 a Critical Areas Program; however, you can just take a  
19 quick look at the City of Annapolis and see that the  
20 entire City should be intensely developed. Again, the  
21 100 ft. buffer by the City's own admission, really  
22 doesn't belong in the City, but they put it in there

1 anyway because they want to be real strict, and that  
2 doesn't really make any sense. So we think the 100 ft.  
3 buffer should be eliminated in the City also.

4 We also believe that there should be a grievance  
5 procedure, and a periodic review. If we have these  
6 things, an entire City designated intensely developed, no  
7 100 ft. buffer, a grievance procedure, and a periodic  
8 review, this could be a perfectly acceptable plan. But  
9 in it's present state, as a 'model program', I, in the  
10 urbanized City of Annapolis, we don't feel it has a  
11 place.

12 COMMISSIONER PERCIASEPE: Thank you, Doug, for  
13 a very detailed presentation, and all those points are  
14 covered in your....

15 MR. COSGROVE: All those points are covered in  
16 this material.

17 COMMISSIONER PERCIASEPE: ....in your  
18 handwrit....I mean your written.....

19 Alright. Ready? Next is Lenore Bazzichi? Is  
20 that right?

21 MS. BAZZICHI: B A Z Z I C H I. I'll just stand  
22 back here instead of trying to get out.

1           COMMISSIONER PERCIASEPE: Tell us who you  
2 represent.

3           MS. BAZZICHI: I'm Lenore Bazzichi, and I'm  
4 representing the Home Builders Association of Maryland,  
5 Annapolis Chapter, and of course myself, since I do live  
6 in Annapolis and have property here in Annapolis.

7           The reason I am speaking after Mr. Cosgrove is  
8 because the Home Builders Association mirrors what you  
9 have in your hand that he has given you.

10           We are against this program for the reason he  
11 has stated. Basically, it...to make it short, a model  
12 program that they're calling it and repeatedly calling  
13 it, to me means that you're starting from almost scratch,  
14 and building upon it. Annapolis is developed. You are  
15 penalizing, they will be penalizing the fee people that  
16 have property left in Annapolis, and making it very  
17 difficult or almost impossible for them to build on.

18           We feel that that's very unfair. The builders  
19 most on a hold, especially the Annapolis Chapter, we live  
20 in Annapolis. We work in Annapolis. What we build are  
21 for Annapolitans. none of us are against the Critical  
22 Areas. We all want to save the Bay, and everything else

1 involved, and the with the programs that are already in  
2 place in the City, you have to go through quite a few  
3 procedures to get a building permit, to make sure your  
4 water is being taken care of; that everything is in line;  
5 to make sure that nothing is hurt. With a 100 ft.  
6 buffer, they are taking property from the home owner. I  
7 came on holiday eight years ago, and fell in love with  
8 this area, and this town. The dream was to own your own  
9 little piece of Annapolis, on the water.

10 Personally, I finally have that, surrounded by  
11 two areas of water. With a 100 ft. buffer, I am set back  
12 either building a house that is maybe big enough for the  
13 apartment that I finally moved out of, it is impossible  
14 to build with that 100 ft. buffer.

15 In Annapolis, that is already developed, the 100  
16 ft. buffer does not stand. It is common sense. You look  
17 at what is around you. When you do build, everything has  
18 to be in place to make sure run off is taken care of, the  
19 soil erosion is taken care of, before you can even get a  
20 permit. Do not penalize the few people that have  
21 property left in Annapolis to be built on.

22 In summation, we are against the program the way

1 it is. You have it in writing from Mr. Cosgrove, and we  
2 want you please just to look at Annapolis, and see what  
3 is already there, and do not go along with this Critical  
4 Areas. And we would to thank you for coming to Annapolis  
5 to hear us, so that we don't have to go anywhere else.

6 Thank you.

7 COMMISSIONER PERCIASEPE: I think we almost  
8 always -- in Annapolis, anyway, but....this is  
9 sort of a unique situation where the plan we're reviewing  
10 is in the same place we always meet.

11 Thank you.

12 Next person signing up is Debbie Lee, from the  
13 Sierra Club, I guess. Why don't you identify yourself.

14 MS. LEE: My name is Debbie Lee, I'm  
15 conservation Chairman for the Anne Arundel County group  
16 of the Sierra Club. I also tonight represent the  
17 Coalition to save College Creek, which is coalition  
18 formed of members of environmental groups including  
19 Sierra Club, Clean Water Reaction, Severn River  
20 Association, -- Conservancy, and a number of community  
21 groups within the Annapolis area.

22 We urge the Commission to approve the plan as

1 proposed by the City. We feel this is an excellent  
2 example of what the criteria is supposed to do, protect  
3 water quality and wildlife habitat. The City has taken  
4 great strides in adopting and implementing an aggressive  
5 plan, one that will retain what little open space we have  
6 left in this City.

7 Our coalition which is comprised of thousands of  
8 residents of this City and the immediate area, have been  
9 working with the City and the Commission throughout the  
10 development of this program, and there's been a lot of  
11 press, a lot....the City Council has received hundreds of  
12 letters from residents urging a strict interpretation of  
13 the criteria to protect what open spaces we have left.

14 Our coalition formed to protect a single piece  
15 of property initially on College Creek, because it's the  
16 gateway to our City, one of the last treed areas of  
17 waterfront, an area that we feel is critical for  
18 preservation. It's a wooded area, an area with century  
19 old oaks. After much conversation and comment by  
20 citizens of this City, the City Council changed  
21 designation from limited development into resource  
22 conservation area, to be consistent, because it was

1 designated wildlife habitat, woodland area, actually  
2 woodland area overlay, and therefore to be consistent,  
3 every other area designated so was also resource  
4 conservation area.

5 We believe that the plan as proposed by the City  
6 is consistent, is enforceable, and the City has the  
7 option, has taken the opportunity to preserve what open  
8 space is left. The criteria sets a minimum for what  
9 jurisdictions are to do. The City has taken excellent  
10 steps to preserve what open space we have left.

11 We urge you to approve the plan as proposed by  
12 the City, and the groups in our coalition look forward to  
13 working with the City to make sure the plan is  
14 implemented and enforced, so that we can all work  
15 together to preserve, protect the Chesapeake Bay.

16 MS. BAZZICHI: Sir, could I....I just want to  
17 say one thing.

18 COMMISSIONER PERCIASEPE: Well, I....I did make  
19 a ground rule that we're not going to debate.....

20 MS. BAZZICHI: No, no.....

21 COMMISSIONER PERCIASEPE: We're just taking  
22 testimony tonight.

1 MS. BAZZICHI: It wasn't anything she said.

2 COMMISSIONER PERCIASEPE: You want to augment  
3 your testimony?

4 MS. BAZZICHI: Just that when he, John read off,  
5 who they asked their opinions of, who had help from, I'd  
6 like to note that, they were all environmentalist, none  
7 of the Realtors were asked and none of the home builders  
8 association were asked in the process.

9 MR. ARASON: Well, I'll augment mine. We  
10 responded to groups who requested it.

11 COMMISSIONER PERCIASEPE: Well, we'll check  
12 those records. Thank you.

13 We have one more person signed up. Tom Knisly.

14 MR. KNISLY: K N I S L Y.

15 COMMISSIONER PERCIASEPE: K N I S L Y. Sorry  
16 about that, Tom.

17 MR. KNISLY: My name is Tom Knisly. I am an  
18 individual who owns a 1/3 acre of waterfront building  
19 site on College Creek. My property has been zoned, it  
20 actually has split zoning according to Mr. Arason in the  
21 City. The front portion, along the street.....

22 COMMISSIONER PERCIASEPE: Are you good at maps?

1                   MR. KNISLY: I believe this is -- .  
2 Correct me if I'm wrong -- . it is in a  
3 community known as Windmills of Annapolis, which  
4 predominantly consists of duplex housing, there are  
5 approximately six individual home sites within that  
6 community, of which three of them are partially  
7 designated as resource conservation. Mine, as I said  
8 earlier, is actually a split Critical Area....actually  
9 has a split....split Critical Area Plan. The front  
10 portion along the street is zoned intensely developed.  
11 However, the bulk of the property is zoned resource  
12 conservation. Again, I'd like to say this is a 1/3 acre  
13 building site. I'm having a problem, it's....currently  
14 would like to sell my property. I've had several  
15 contracts on the property, however, once the people who  
16 have submitted the contracts understand that it is zoned  
17 resource conservation, they simply read me the act of --  
18 and see that that a resource conservation zoning  
19 stipulates that it's one structure per 20 acres, with 15%  
20 impervious building. That....that obviously does not  
21 apply to a 1/3 acre building site. -- -- -- to Mr.  
22 Arason. We've had various discussions on it. I've also

1 submitted a package to the Critical Areas Commission,  
2 Judge Lisp, at which time Marcus Pollock has responded to  
3 me as well as Dr. Ollati.

4 Both of the individuals just mentioned, Marcus  
5 Pollock and Mark.....Dr. Ollati have stipulated that the  
6 land is actually according to the computer, is actually  
7 zoned intensely developed, and however, John Arason is  
8 still informing me that the bulk of the property is zoned  
9 resource conservation.

10 Personally, I do not see how that can actually  
11 tally. How a 1/3 acre building site can actually be  
12 zoned resource conservation. It is causing me financial  
13 hardship at this point; I personally have contracts on  
14 other real estate which I am planning on utilizing the  
15 funds from the sale of that property to go through with  
16 those contracts. I'm at the point where I am going to  
17 have to cancel those contracts because no buyer will  
18 touch my piece of property.

19 I feel that the City has obviously made a  
20 mistake. I don't see how they can zone a 1/3 acre  
21 building site resource conservation, and i'd like the  
22 Commission to consider that and do whatever is

1 appropriate.

2 Thank you.

3 COMMISSIONER PRICE: Could I ask you a question?

4 MR. KNISLY: Sure.

5 COMMISSIONER PRICE: Is that unimproved?

6 MR. KNISLY: Currently, I....my lot is  
7 unimproved. It is the only unimproved site remaining in  
8 the community.

9 COMMISSIONER PRICE: And you're not  
10 grandfathered on under the legislature?

11 MR. KNISLY: I though that I actually was;  
12 however, according to Mr. Arason, I still am zoned  
13 resource conservation; the bulk of the building site is  
14 zoned resource conservation. The set back from the  
15 street, however, is zoned intensely developed, which does  
16 no good what so ever.

17 MR. ARASON: Point of clarification, if I may.  
18 You're grandfathered in terms of, we will not deny him  
19 the right to build a house on his lot, and I'm in the  
20 process of drafting, and have drafted a letter to Mr.  
21 Knisly. What constrains him is the fact that being  
22 designated resource conservation, though you can build on

1 the lot, he's subject to the restrictions of the limited  
2 development area criteria, which means he's got the 15%  
3 impervious surface requirement, and he's also, there's a  
4 sewer -- the back of this property, and he's also a  
5 100 ft. buffer encroaches into his property. We're  
6 working with him, or at least trying to right now, for,  
7 figuring out a way he can build a house on the lot that's  
8 satisfactory to our critical area plans and that of his  
9 needs.

10 Hope we'll come to a beneficial outcome.

11 MR. KNISLY: Yes, however, as of this....

12 COMMISSIONER PERCIASEPE: in lieu of that, you  
13 want to let us know about it.

14 MR. KNISLY: Right.

15 COMMISSIONER PERCIASEPE: Thank you, Tom, for  
16 coming.

17 I have no one else signed up to testify. Say  
18 going once, going twice, but.....I want to thank  
19 everybody for coming tonight. It's been informative to  
20 us. It's always informative, even though we're not  
21 getting into long drawn out discussions to hear, you  
22 know, specific comments that people have. Believe me, we

1 will be having, you know, these discussions, and they  
2 will be more, there will be further discussions by the  
3 panel and we will probably visit some of these sites that  
4 we usually do to look into some of the items that have  
5 come in the testimony.

6           So rest assured that we will seriously consider  
7 everything that you've presented tonight, and before we  
8 make our panel recommendations to the full Commission.

9           I guess with that general summary, we'll be here  
10 afterwards if you still want to talk, after the official  
11 hearing, and John is here, if some of you want to further  
12 question him, more than you've already probably done,  
13 apparently, and with that I want to end the hearing.

14           And thanking everyone again for coming.

15           (Whereupon, at 7:55 p.m., on Tuesday,  
16 February 9, 1988, the hearing was adjourned.)

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