

Public Hearings - Town of Chesapeake Beach - Local Critical Area Program 1988 MSA_51830-29

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TOWN OF CHESAPEAKE BEACH
LOCAL CRITICAL AREA PROGRAM
PUBLIC HEARING

SEPTEMBER 6, 1988

P R O C E E D I N G S

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2 MR. KARASIC: If I may I'd like to call this
3 hearing to order. My name is Ronald Karasic, I'm the
4 Baltimore City representative on the Chesapeake Bay
5 Critical Areas Commission, to my right is Skip Zanhieser
6 representing Calvert County and to my left Sam Bowling
7 representing Charles County, to my far left is Carolyn
8 Watson member to the Chesapeake Bay Critical Area Staff.

9 The purpose of this evenings hearing is to
10 hear public comment on proposed revisions of the
11 Chesapeake Beach Critical Area Program. We have a court
12 reporter recording the comments this evening, the record
13 recorded by the reporter will be retained at the
14 Critical Areas Commission office in Annapolis, the
15 record will remain open for one week from this evenings
16 hearing for additional comment and or documents or
17 additional information. At this time I would like to
18 turn the hearing over to Mayor Donovan and introduce
19 him, however I would ask that once Mayor Donovan has
20 spoken that those of you who have noted a desire to
21 speak this evening step up to the microphone in the
22 front and address your comments if possible within five

1 minutes per person. Thank you very much. Mayor
2 Donovan.

3 MR. DONOVAN: I would just like to say that
4 the Town Council and myself are in favor of the mapping
5 changes, the exclusions, we feel that its the property
6 owner -- of the critical area -- to ask for and receive
7 this and as you know we had originally it LDA and we
8 feel that the bay and the Fishing Creek can be protected
9 by using the best methods possible in so far as the
10 development goes, I think we still need quite a buffer
11 of 10-12 acres around there. And basically don't see
12 any problem whatsoever with it and it has the support of
13 the town council also. That's basically all I'd like to
14 say.

15 MR. KARASIC: Thank you mayor. Carmen
16 Anderson.

17 MS. ANDERSON: Ladies and gentlemen for the
18 record my name is Carmen Anderson, I own property at
19 4013 -- Bayside Drive. First of all I guess I have to
20 express a sentiment that we've discussed amongst
21 ourselves and that is that we're feeling a little bit
22 futile in being here in that we read in the papers that

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1 the panel has already recommended approval of this
2 exclusion to the -- Commission and I might add that this
3 is as of tonight the fourth time some of us have made an
4 appearance in opposition to this and we're feeling like
5 its sort of a waste of time, we're here for a fourth and
6 fifth time and our feelings have not been reflected by
7 the panel. In general I don't believe any of us feel
8 that this exclusion serves any of the goals of the
9 Chesapeake Bay Critical Areas Program and the attempts
10 to clean up the Chesapeake Bay, all it serves to do is
11 provide more density to an applicant in this town that
12 is already very, very densely developed. It remedies no
13 particular hardship that was imposed upon this property
14 owner and that this property changed hands most recently
15 within a period of time when the critical areas were
16 eminent and the likelihood of development restrictions
17 were well known to anyone in the area. I would
18 certainly hope having briefly reviewed the minutes of
19 the hearing held here on Thursday afternoon that the
20 Commission reviewed the entire tape that was taken in
21 order to get a better feel for the -- and the residents
22 of this town and that the minutes due to the hardship of

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1 the secretary not having the capability to transcribe
2 them verbatim has summarized in a most general way. One
3 of the biggest concerns that I have and which this
4 Commission should have is not only the effect that the
5 exclusion of this particular property would have with
6 regard to the development that can occur on it but
7 rather the freeing up of development allocation which
8 could then be used on other parts of the county
9 in particular this town. I asked the question at the
10 hearing that was held here in this town on June 15th and
11 again this past Thursday afternoon as to where and how
12 development allocation that was freed up might be used
13 and on both occasions I was told that it could allow
14 development on up to 30 acres of what we all recognize
15 as the "Panhandle", otherwise known as the tail end of
16 the Calvert Cliffs. Now, this is an area that is most
17 sensitive, just the construction of two to three houses
18 of that area and removal of trees has made a tremendous
19 difference to the character of the title marsh that
20 exists there. This is a small, fragile beach and a
21 cliff area that's most scenic and should be preserved in
22 the RCA category in its entirety. In as much as it

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1 seems more than inevitable that the Commission is going
2 to grant this allocation I think the very least that
3 could be done for this town is that it be granted with a
4 condition if there's any provision in the law for doing
5 so, that any development allocation that might be freed
6 up by this exclusion should not be allowed to be granted
7 anywhere on the area we know as the "Panhandle" and the
8 cliffs and that involves roughly 90 acres along the
9 shoreline, the 30 acres that's been talked about would
10 be about a third of that land mass and I don't think
11 that that's a proper way to use it. The exclusion
12 itself would open up the property for the possibility of
13 rezoning to higher densities, when the town had wanted
14 to hold it to limited density and the Commission
15 originally recommended the RCA zone for this property so
16 we've made a tremendous swing here going from the lowest
17 possible density over this property to the sky is the
18 limit and I think that that's a very sad state of
19 affairs for the work that the Commission is trying to
20 accomplish. If there's any questions I'd be glad to
21 answer them.

22 MR. BOWLING: Mrs. Anderson we the Commission

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1 do not grant growth allocation. Any growth allocation
2 that would -- from this exclusion would go back to
3 Calvert County and Calvert County would determine where
4 that growth allocation would be used.

5 MS. ANDERSON: All I'm suggesting is that with
6 your recommendation, with your release of this property
7 from the Critical Areas that it could be done so at the
8 bear least with a recommendation to the county that that
9 be the proper way to go about it and any allocation not
10 be granted to that property.

11 MR. DONOVAN: In the hearing about bay view
12 hills my motto's the town does not have any proposal
13 whatsoever -- planned and zoned on this "Panhandle"
14 piece of property there's no formal request, we don't
15 know what allocation -- allocation we have in Calvert
16 County at all. So now I can't see tying bay view hills
17 to a property owner that for the last three or four
18 months has been totally dormant, hasn't even come talked
19 to the town and who voluntarily put his entire piece in
20 RCA. Isn't it a matter of law that the 5% growth
21 allocation -- that the Critical Areas Law created, isn't
22 it a matter of right for people to at least ask to use

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1 part of their property for the -- and growth allocation?

2 MR. BOWLING: I know of nothing in the law
3 that would prevent anybody from applying for that growth
4 allocation.

5 MR. DONOVAN: I mean this business of trying
6 to tie one piece to another just is extremely dangerous
7 often, I don't know that anyone really has the authority
8 -- I don't think the town has the authority to do that.

9 MS. ANDERSON: First of all I'm not asking the
10 town to do it and if anybody wants to speak about a
11 dangerous precedent this entire process of allowing
12 exclusions to properties this close to the Chesapeake
13 Bay that to me speaks to a higher danger, we're told
14 that the waters that are supposed to be -- is property
15 from the bay, had been analyzed by a consultant for the
16 applicant and is being able to take it but I asked this
17 Commission as they drive through this town to look at
18 the multiple intense uses that are already taking place
19 on Fishing Creek in the way of multiple marinas,
20 restaurants, gas depots and I question whether or not
21 this in fact was the type of wetland that the lawmakers
22 had in mind when they wrote the provisions for this

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1 exclusion, one could possibly see some merit if this was
2 a totally unused wetland that had nothing else
3 contributing any polluting factors or stresses to it but
4 this is not a pristine wetland its one that's heavily
5 used and I think to expect it to serve as a buffer for
6 yet another very intense use is not quite what may have
7 been in the minds of the writers of the law. And I also
8 because Mr. Glen Denning brought the issue up in
9 Annapolis the question of the use of the word shall, --
10 an almost automatic assumption that it should be
11 granting, I would then question why this series of four
12 different and possibly five different hearings have to
13 be held for something that either is or isn't a matter
14 of right by the applicant and I don't believe it is, I
15 think the word shall is being construed a little too
16 strictly, there must be a discretionary measure there or
17 you folks wouldn't be here tonight. Any more questions?

18 MR. KARASIC: Thank you Miss Anderson. Karen
19 Egloff.

20 MS. EGLOFF: I have the same feelings as Mrs.
21 Anderson and I was present in Annapolis earlier in
22 August and spoke there about my feelings about the -- I

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1 think what I'm most concerned about is the increased
2 density that -- exclusion is going to give the town.
3 They're not going to have to comply with any Critical
4 Area Law, so they won't be guarded as carefully in their
5 construction procedures also and I'm just really
6 concerned about the extra growth and how it effects and
7 I think Judge Liss, or somewhere there, I don't
8 remember, perhaps it wasn't him, maybe someone else said
9 that the more people you put closer to the bay the more
10 damage that is done and at some point there has to be a
11 -- people have to suffer, its just -- things have to
12 happen like that or the whole law will be lost. If we
13 keep making exceptions and exclusions its going to be
14 for nothing and that's a lot of money the taxpayers paid
15 out for this Critical Area Law to come into effect and
16 for now all the lawyers can spend all their time trying
17 to find all the loopholes so they can get out of it. So
18 somebody has to in the long run give up something and I
19 just wish it was --.

20 MR. DONOVAN: Can I ask you a question? Miss
21 Egloff you live approximately 150 to 200 feet from the
22 Chesapeake Bay and Judge Liss said that people are

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1 living too close to the bay, you just said some people
2 have to suffer, do you think that if you were to move
3 out of your house and plant trees there that that would
4 help the Chesapeake Bay?

5 MS. EGLOFF: Well I happen to be in a very
6 dense area, I don't think that my little quarter acre or
7 whatever it is is going to create a major thing on the
8 bay, you don't see me putting up condominiums.

9 MR. DONOVAN: What's the difference of your
10 neighborhood where you own property and --

11 MS. EGLOFF: We're talking about 90 acres of
12 which if you want to get personal you grew up there as a
13 boy.

14 MR. DONOVAN: It would be 70 acres.

15 MS. EGLOFF: All right so 70 acres, the point
16 is -- another reason the RCA was specified for that
17 property was the steep slopes was part of it and the
18 steep slopes helped create a lot of run off which
19 effects the bay, those steep slopes are still there but
20 supposedly the wetlands are going to protect the bay and
21 I just don't think its going to happen. Maybe they're
22 going to protect the bay but the wetlands are going to

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1 be completely damaged in the process. I mean there's
2 wildlife there and what happens to the wildlife that is
3 living in the wetlands now when all of this run off
4 starts coming in and changing their habitat and where
5 they live. I think it probably sounds a little lunatic
6 but I think sometime we should give some thought to
7 something more than just humans, birds and other animals
8 have their rights too and all we ever do is take, nobody
9 ever gives anything, they really don't and I'd just like
10 to see what's going to happen after they get this
11 exclusion, I guarantee they're going back to the drawing
12 board for different than 90 homes, I just feel they will
13 and so then we're going to have more density which is
14 what we have been arguing about the whole time, is the
15 fact that this increases the density close to the bay
16 which is what the Critical Area is supposed to keep it
17 from doing but I'm not as eloquent a speaker as Mrs.
18 Anderson she know's how to put her words together very
19 well but I also feel that the "Panhandle" is something
20 that really needs to be protected and I really feel
21 that's what's going to happen. If we get any growth
22 allocation there is not much land elsewhere in the town

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1 where it can be used. So if we get growth allocation
2 and the town council and the mayor are both very much
3 growth oriented and that's why they're going for this
4 exclusion because they want to make the town grow and I
5 can understand that because they want the tax base to
6 increase and everything but we've been very happy the
7 way we were, they keep thinking we have to have all this
8 money to increase our services to the towns people but I
9 haven't heard too many complaints about what services
10 they have already. I'm just really concerned about the
11 "Panhandle" and what's going to happen there. That's
12 all, thank you.

13 MR. KARASIC: Thank you. Shirley Edwards.

14 MS. EDWARDS: My name is Shirley Edwards, I've
15 been a citizen of this town for about ten years now and
16 my husband and I are both against this exclusion, it
17 will probably come about regardless but one of the
18 things that we're concerned about since we've lived here
19 this town has almost doubled in size as far as houses.
20 I have a neighbor who makes his living off the water,
21 he's a crabber, I've watched his crabs go down
22 considerably in the last five years, in fact he's even

1 talking about getting out of the business because
2 there's nothing out there. We know quite a few watermen
3 and they're all talking about the same thing. But on
4 this particular piece of property what my husband and I
5 are concerned about is that it has a high elevation,
6 they have revised the map that you can see there for a
7 buffer, I don't think the buffer is enough, I don't
8 think its going to take care of the run-off, you get
9 people up there planting gardens and you have all kinds
10 of stuff washing down the hill every time it rains.
11 What's going to protect the wetlands, everybody talks
12 about protecting the bay but what's going to protect the
13 wetlands? Its not getting any better at all and
14 everybody else has said everything that can be said
15 really as far as against it but I just wanted to go on
16 record as saying I was against it and why.

17 MR. KARASIC: Thank you. Barbara Carver.

18 MS. CARVER: Good evening, my name is Barbara
19 Carver and I also want to go on record as being against
20 the exclusion. A lot of these houses yes they're built
21 right down on the bay, my house is three blocks off of
22 the bay, it was built in 1933 before we ever heard about

1 Critical Areas or before anybody ever really thought
2 about the bay and I think the bay was a whole lot
3 cleaner at that point then it is now. We didn't have
4 all the industrialization dumping all the waste and
5 whatnot into the bay. So the fact that sure maybe we
6 can just move everything back 1000 feet off of the bay
7 but that is impractical because these houses have been
8 here a long time. But we can protect, if we can and try
9 to prevent any more damage then perhaps has already been
10 done. There's industry, The Rod and Reel, the Chaney's
11 the Stinant's and all these, yes they're all right down
12 on the bay but maybe its time to call a halt, maybe its
13 time to say there's enough on the bay right now. Let's
14 try and protect these wetlands that we have left, we
15 don't have an awful lot of them left and I worry about
16 the topography, I know, I can hear expert testimony from
17 now till the cows come home and its like figures, you
18 can do anything with figures if are given someone who
19 has an aptitude with figures then can prove anything you
20 want to prove by figures, there's always a set of
21 figures to prove it. But I'm looking up, Stidham Farm
22 is up on top of a hill, that hill comes straight down

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1 into the wetlands and the marsh. RCA would have been
2 one think, LDA is something else because I agree with
3 what's been said before once you get an LDA, ok, fine,
4 now we can go to it, we'll resubmit our plans and we're
5 get much more development. I don't see any problem with
6 RCA the way it was to begin with but when you get a lot
7 of houses up there that hill has got to -- the run-off -
8 - the ecology, the environment and everything has got to
9 change, its going to change what's at the bottom of that
10 hill and that is your wetlands and I think that we need
11 to protect our wetlands.

12 MR. KARASIC: Thank you. Is there any
13 additional public comment? Anyone else who'd like to
14 make any comments this evening? Mr. Zanhieser.

15 MR. ZANHIESER: I'd like to say to the
16 concerned citizens that were here that when this parcel
17 was within the Critical Area, within our jurisdiction we
18 were sympathetic to your cause and mapped it as RCA or
19 basically what it was, farmland. But the legislature
20 put within the Critical Areas Law a means by which a
21 development or town jurisdiction can exclude a parcel
22 and we are legally bound to the legislature, so

1 therefore, they had a right to exclude it as long as it
2 was buffered by a 1000 foot wetlands and we did not go
3 along 100% with what the developers requests were, they
4 were saying that Fishing Creek was not open water, we
5 decided that it is and believing that it is we made them
6 set back 1000 feet from that creek. This is all that we
7 can do under the law and our legal -- that we are under.
8 And once when it was underneath the Critical Areas Law
9 we did have an RCA and we were sympathetic to your
10 causes.

11 MR. KARASIC: Thank you. Is there any
12 additional public comment? There being no additional
13 public comment this hearing is now closed. Thank you
14 very much for your participation.

15 (Whereupon the hearing adjourned.)
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C E R T I F I C A T E

This is to certify that the foregoing transcript
In the matter of: Public hearing - Critical Area Program

BEFORE: Ronald Karasic

DATE: September 6, 1988

Place: Chesapeake Beach, Maryland

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


Kim Schroeder
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