

Public Hearings - Easton -

1988

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CRITICAL AREA COMMISSION

Public Hearing

In Re:)
)
Bay Erosion)

Easton, Maryland
October 11, 1988

The above-entitled matter came on for hearing
purusant to notice.

BEFORE:

JAMES E. GUTMAN, Chairman

MEMBERS OF THE COMMISSION:

DR. SHEPARD KRECH

BOB PRICE

RON KARASIK

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APPEARANCES

COUNTY COUNCIL MEMBERS

Tom Duncan, President

Nancy Clem, Vice President

Herbert Andrew

Clint Bradley

Carlton Callahan

PLANNING COMMISSION STAFF

Ralph Simmons

John Sewell

Andrew Hollis

Tracy Castora

FORESTER

Stark McClauglin

Charlie Davis, Commission Staff

Chuck Johnston, County Consultant

Blenda Armstead, County Administrator

P R O C E E D I N G S

1
2 CHAIRMAN GUTMAN: I believe we'll call the meeting
3 to order. This is a hearing that is sponsored by the
4 Critical Area Commission. We are assembled for the purpose of
5 hearing your comments on the plan. We have a panel from the
6 Critical Area Commission and it is our purpose to listen to
7 your comments and to find out what you think of the plan;
8 however, we are not here to respond to questions. And indeed,
9 during the hearing we will not be answering anyone's inquiry,
10 particularly as it relates to a given parcel of land. That's
11 not our job tonight. I might mention however that once we
12 have gone through the rather formal process here, we'll
13 certainly stick around and we'll be glad to talk things over
14 and try to direct you to the right place if indeed you do have
15 questions.

16 But first let me just mention my name. I'm
17 James E. Gutman and I'm a Commissioner indicated at large but
18 for the western shore. However, you're well represented here
19 and I think I'm going to start with having Dr. Krech introduce
20 himself and we'll then have the other members of the Commission
21 introduce themselves indicating the county from which they
22 reside.

1 DR. KRECH: I'm Shepard Krech from Talbot County
2 and represent the Eastern Shore at large, the upper Eastern
3 Shore.

4 MR. PRICE: I'm Bob Price from Queen Anne's County.

5 MR. KARASIK: I'm Ronald Karasik from Baltimore City.

6 CHAIRMAN GUTMAN: And next in line is our Court
7 Reporter because everything that is said here tonight, we will
8 take down and Kim Kavanaugh is handling all the equipment. We
9 have with us the members of the County Council and I think I'll
10 ask Tom Duncan please who is the President to introduce his
11 associates on the council.

12 MR. DUNCAN: Thank you very much, Mr. Gutman. I'd
13 like to introduce the Vice President of the Council Nancy Clem
14 council member Herbie Andrew, council member Carlton Callahan,
15 excuse me Carlton and council member Clinton Bradley.

16 CHAIRMAN GUTMAN: Thank you very much,
17 President Duncan. From the Planning Commission, we also have
18 Ralph Simmons and John Sewell. Also on the Planning Staff
19 Andrew Hollis I believe is here, Tracy Castora, a Forester,
20 Stark McClauglin, good, the consultant for the county,
21 Mr. Chuck Johnston. We will be depending very much on him
22 this evening and Blenda Armstead is a County Administrator.

1 At this point I would ask, do any of you have any statements
2 or comments you'd care to put on the record at this time
3 because you certainly have the opportunity to go first. All
4 right, it sounds like there will be others aside from the
5 panel members here listening which is just fine.

6 UNKNOWN: Will there be comments later as you go
7 through the program?

8 CHAIRMAN GUTMAN: Indeed and for those who have
9 signed up, we will take those first and we will go through the
10 list and certainly before we adjourn, we'll give everybody
11 ample opportunity to comment. That's our purpose to be here
12 tonight. All right, I think we may as well start at this
13 point and ask the county -- pardon -- sorry -- an omission on
14 my part, I apologize, Charlie Davis is with the staff of the
15 Commission and has done a good bit of the work in reviewing
16 this. Charlie, stand up so everybody can see you and I
17 apologize. This is the man that knows it backwards and
18 forwards.

19 I'm going to ask now for the county to make its
20 presentation of the plan and I imagine that this will fall
21 the responsibility of the consultant Mr. Chuck Johnston.

22 MR. JOHNSTON: Thank you sir. I'll try to make the

1 comments as brief as possible. It's been a process that's
2 been going on for several years now and hopefully we're
3 reaching a point of conclusion at least with this phase of it.
4 Back in April there was a presentation before the Bay
5 Commission as to county's efforts in identifying the various
6 aspects of the critical area the RCA, IDA, and LDA areas, and
7 I did bring one of the work maps that was shown to the
8 Commission at that time where the consultant and the staff and
9 the Planning Commission went through on a very arguous hearing
10 in examining each parcel and determining its development
11 activity, etcetera. There were public hearings held at that
12 time and as part of that process in developing those -- in
13 developing the delineation such as they are.

14 The county developed a plan which -- a policy plan
15 which was submitted to all back in April or I'm sorry, it was
16 submitted actually in January and discussed in April the plan,
17 followed very closely with the Critical Area Law and addressed
18 I believe all the issues that are within the law.
19 Subsequent to the plan, we have now completed our ordinance
20 and through a series of many meetings with the Planning
21 Commission and public hearings, we have developed an ordinance,
22 the maps are on the wall in an attempt to illustrate some of

1 the basic concepts involved in the program. The first map on
2 the left shows the existing zoning pattern within the county.
3 The next map shows the designations for RCI, IDA and LDA, the
4 resource conservation area, the intensely developed area and
5 the limited developed area.

6 The middle map is the proposed zoning map based on
7 the prior two points of information. One thing that I think
8 is somewhat different about the Talbot County approach is that
9 we are using conventional zoning, we are not applying overlay
10 zoning, we are not applying any special districts, we are
11 trying purposely to keep it -- the regulations as direct and
12 as straight forward as possible. It is very -- the topics are
13 very complex and we felt it would be a disservice to the
14 residents of the county to cloud an already complex issue with
15 more bureaucracy and more red tape and we tried to keep it
16 just as simple as we possibly could.

17 We took the zoning limits again based on the
18 critical area designations one step beyond that and set up
19 what we call sending and receiving areas. In order to give
20 special protection to areas that are especially sensitive to
21 development and then to focus development in areas where there
22 is significant shore line erosion, we have set up what we call

1 a joint subdivision process whereas a property owner who owns
2 property in a receiving area may contact a property owner in
3 ascending area, come to some sort of an agreement and through
4 a joint subdivision that would include both properties effect
5 a transfer of the development units and that's what the last
6 map shows. The green areas are the sending areas, the orange
7 spots which from our understanding, I can bearly see them but
8 believe me they're there are the receiving areas and they
9 correspond with the shore erosion map which is merely to its
10 left.

11 The shore erosion map is based on August, '87 data
12 and that changes as the shore changes. And we've set up the
13 ordinance such that each sending and receiving opportunity
14 will be considered on a case by case basis and it will be up
15 to the applicant to show that they do in fact have signifi-
16 cantly eroding shoreline that is eroding at a rate of more
17 than two feet a year. So in order to protect the areas in
18 green which we identified as being relatively speaking more
19 important for a variety of criteria, they became sending areas
20 to the receiving area which we're allowing density to be
21 increased up to a ratio of one unit for every five acres.
22 Within the forestering areas in the center of the map, the

1 density is one unit for every 20 acres per the State stipula-
2 tion. And we allowed a transfer there within those areas with
3 an adjacent significantly eroding shoreline.

4 That's basically the synopsis of the plan,
5 obviously I can go in much greater detail that the document
6 does tend to go on and on, but that's because we attempted to
7 be comprehensive in dealing with all aspects of land use and
8 tried to present a complete package so that someone coming in
9 the county hopefully could read the document and readily
10 understand, given it's a complex topic, readily understand what
11 we're trying to achieve and what's expected of them.

12 CHAIRMAN GUTMAN: All right, thank you Mr. Johnston.
13 I think at this point I'd just inquire again if any of you
14 people in the County Council or the Planning Commission wishes
15 to elaborate on what's been said if they feel anything has been
16 left out and would like to provide information at this point.
17 Certainly feel free to do so. It sounded like a very good
18 overview from my point of view but if there's anyone that cares
19 to elaborate, you certainly may do so. All right, I think
20 we'll move along and try to get to comments from -- I hope
21 everyone has signed in on the sheets over here and if not,
22 please do so and if you care to speak, do put a checkmark in

1 the appropriate block.

2 Unless someone is going to be adding onto those
3 that want to speak, I think this is going to be rather brief.
4 I have only one person indicating they want to speak out, so
5 Mr. Fred McEnany --

6 MR. MCENANY: McEnany.

7 CHAIRMAN GUTMAN: McEnany who lives in St. Michaels.

8 MR. MCENANY: First I'd like to congratulate
9 everyone on the fine report. I have one question or statement
10 and a question. On page 34 in Village Centers, it says that
11 the street frontage shall be at least 50 feet and shall be
12 measurable on the front property line. In the past that
13 distance has been 25 feet, now I presume the 50 feet they've
14 chosen to try to get more distance between the driveways.

15 MR. JOHNSTON: Right.

16 MR. MCENANY: Okay. I'd like to make a suggestion
17 to eliminate driveways. I think you could eliminate driveways
18 for example if two lots one in the street and one back, if we
19 went back to a 34 foot width, 34 foot width is a width of a
20 private road. So if you chose 34 feet, then the two lots could
21 exit at one access instead of having two accesses, you follow
22 me?

1 MR. JOHNSTON: I think so.

2 MR. MCEnany: I think that rather than try to
3 lengthen by heart of 50 feet, it would be much better to
4 eliminate.

5 CHAIRMAN GUTMAN: All right, thank you. Are there
6 further -- anyone else who wishes to provide any further
7 testimony at this point? Well, let me simply say that if there
8 are those who would not care to make a verbal statement at this
9 time, certainly you may put in writing any of your thoughts
10 and send them to the Commission. I would ask please that you
11 send them to the Chairman of the Commission,
12 Judge Solomon Liss, that's L-I-S-S, Chesapeake Bay, Critical
13 Area Commission, 580 Taylor Avenue, 580 Taylor Avenue, D-4 is
14 the location in the building, Annapolis, Maryland, 21401.
15 And we'll leave the record, the public record open through
16 next Monday night or rather Monday afternoon at 3:00.

17 DR. KRECH: Jim, you have a question from the Board.

18 CHAIRMAN GUTMAN: And we'll have anything received
19 up to that time will be part of the record.

20 DR. KRECH: You have a question from the Board, the
21 gentleman in the back.

22 MR. BOND: Mr. Chairman, and ladies and gentlemen,

1 I would like to make a public statement. I'm sure that --

2 CHAIRMAN GUTMAN: May I have your name please sir?

3 MR. BOND: My name is Hooper Bond, I'm a lawyer
4 practicing here in the county, probably a weirdo who has taken
5 an interest in this law from the time it was begun for a number
6 of reasons. First of all, I believe in its purpose, I think
7 the State Legislature and the Critical Area Commission and
8 Judge Liss who taught me in Law School all have done a very
9 good job of identifying what we can do now to try to improve
10 the quality of the Bay. I have long been interested in the
11 ecology and I think Mr. McKay here who's also an engineer who
12 used to run the Bay Model will agree that we talked many times
13 about ecological subjects.

14 I think I was concerned long before the word
15 ecology was in general use. I live on the Bay, I'm a citizen
16 of the county and I'm very concerned about this law and the
17 way it has been applied by this ordinance. I've spoken against
18 it, I've written against it and I come here tonight to speak
19 against certain provisions of it. I think that in general,
20 everybody concerned has done a good job of trying to apply it
21 in this county. I am not criticizing anyone, but I am trying
22 to speak for certain principles that I think everybody ought to

1 pay attention to. It goes mostly to the detail, the unneces-
2 sary detail of this ordinance. And it goes to the fact that
3 these regulations, any zoning ordinance restricts the
4 individual freedom of everybody in this room more than most
5 laws do. It tells you what you can do with your private
6 property. Now that's necessary, if you are to zone, you give
7 up some rights for your neighbor who also gives up some
8 rights in difference to you, and that's a good idea. I think
9 it's necessary in a crowded world; however, I think this goes
10 much further and I urge the County Council of Talbot County
11 and I urge the Critical Areas Commission to pay attention to
12 what is in this that is not necessary to its purpose.

13 I have thought the things that the Commission has
14 identified as very important to the future of the Bay, the 100
15 foot line is very good, I'm all for it. The idea of getting
16 more vegetation in the whole critical area, particularly in
17 the 100 feet is a very good idea. I think we want to preserve
18 the natural habitat for animals and fish. However, I have to
19 speak against two or three things. I think that for example
20 the idea of what you can build on your land is an invasion of
21 your individual rights to deal with your own property as you
22 wish. I don't think that your provisions are necessary to the

1 law, I don't think they're necessary for the purpose of the
2 law and I urge the County Council to defeat them. They say
3 you can build a guest house if you have -- now I've already
4 spoken to this and the Planning Commission in all difference
5 has heard me on this so short from now, they have said at my
6 suggestion that somebody with 40 acres can build a guest
7 house for his human guests of over 1,000 square feet, they
8 used to say nobody could have over 1,000 square feet, chickens
9 could and your employees could but your guests couldn't.

10 Now, think about this, this about what this is
11 about. I can build any narrow space on the end of my house
12 and have anybody I want in it, but I can't put it under a
13 separate roof. Now think about your land, each of you think
14 about your land, you have certain properties on that land,
15 it might suit you to build a place for summer guests that is
16 apart from your house, what difference does it make, why
17 should the law say you can't do that. Well, I've asked the
18 Planning Commission and I've gotten two answers. One of them
19 was because they're afraid if you do it under a separate
20 building roof and have a bath and a kitchen in there, it's a
21 separate dwelling unit and it's all of course got to do with
22 the density regulations, you don't want to allow people to get

1 around them by building all these separate buildings and rent-
2 ing them out. I think it's right that you should prohibit
3 renting those buildings. And you can't of course subdivide
4 them because the density regulations themselves prevent that.

5 The renting is a back door way of defeating the
6 density regulations. But that's prohibited to have rent and
7 so I understand the two reasons I've heard so far and I've
8 asked the question. The two reasons are that if you have
9 these separate buildings, there may be political pressure in
10 the future of the Legislature or the County Council to allow
11 subdivision of these 20 acre lots. Well I think that's an
12 insult of the County Council and the Legislature. I think if
13 there's need to keep the density where it is, they will keep it
14 where it is. I have a lot more faith in our elected officials
15 apparently than the Planning Board does. The other reason
16 given to me was that they have an awful hard time proving that
17 anybody is renting these separate buildings. Well, first we
18 have a load of those things in this county, we have a lot of
19 big places that have four or five dependencies, they're mostly
20 renting now adays. They used to have other purposes maybe,
21 the farmer's house, people aren't as rich as they used to be
22 and they rent.

1 I hope everybody in this county understands who
2 has those dependencies, that if they fix them up and the
3 fellow that's plastering the walls has a little slab of
4 plaster and they can't rent it right away because over a
5 year that they lose the right to rent those places. But this
6 law applies to people who already own the land and who might
7 want to improve it. And I think you need to think about all
8 these aspects before you go saying you can't do this, you
9 can't do that. I think it's unnecessary and I urge the
10 Commission and the Council to reject all of these very
11 specific ideas that are in these small papals that are very
12 well done. I congratulate Covey for doing such a good job,
13 he's done a great job of it granted, but you have to read it
14 for so many aspects to see what it means. And I wish that
15 there were more people here. The public here is practically
16 outnumbered by the public officials here tonight and that's
17 ashamed. I mean people should pay attention to this, it
18 affects their very vital rights. And I just sort of stand
19 here making a fool of myself trying to speak for the public
20 and the individual rights of people.

21 You've got fish on the Chop Tank that are
22 breeding over there and you're talking about trading that all

1 so that people bulkhead and pay for it, I think that's a
2 bad idea. I hope that the Commission rejects it, there is
3 no point to it. We're talking about a fishery -- I love
4 shad, I love it, it's one of my favorite things in this
5 world but I also like crabs and I think the crab fishery and
6 the oyster fishery are just as important as the shad fishery.
7 And I think you ought to not let people trade it around.

8 If you have -- if you want a bulkhead that's bay
9 front, for God sakes let's get a little bit of guts up and
10 get the public to put some money in it and do it. You want
11 to preserve long, long areas of bay front that are not in
12 private hands. My neighbor has two and a half miles of it
13 and it would cost her \$5 million to bulkhead it and she's
14 trying to raise the money and she's paid a lot of money out
15 to do it but you can't do it without help. She's a pretty
16 rich woman but she can't do it all by herself. That's -- and
17 it certainly is in the public interest to help her do it
18 because if her place goes, everything in the southern end of
19 the Myles River will go behind it. Once that's cut through,
20 you will fill in every creek down there and you won't have
21 any fish, any oysters or any -- all the fisheries will be
22 going by. There's a public purpose in trying to preserve

1 these fast eroding areas. But I don't think you do it, I
2 don't think the purpose of this law is served by saying you
3 go right back to the old zoning which is one house per five
4 acres, I don't think that's necessary.

5 So I think the whole thing should be given a lot
6 more thought than it has and I hope that the public officials
7 will do so even though the public doesn't seem to understand
8 or care much. I think that's ashamed, they ought to take more
9 interest than they do, they're certainly given notice, but the
10 problem is it's so complex, the public doesn't understand
11 what's going on here. It's a very complex law you're talking
12 about here and I think that those in public office ought to
13 take a great deal of interest in just how -- in every
14 particular little part of it and not restrict the rights of
15 present property owners and future property owners anymore
16 than is really necessary to the purpose of this law. Thank
17 you ladies and gentlemen.

18 CHAIRMAN GUTMAN: Thank you, is there anyone else
19 who would care to speak at this time? Yes sir. Please state
20 your name if you will.

21 MR. ZIGLER: My name is Harry Zigler. I live on a
22 farm and I also work with the ASCS Office in Talbot County

1 which administers federal farm perimeters. And we work with
2 every farmer in the county and when we speak about critical
3 area, you're really talking about farm owners because they're
4 the ones that own the majority of this 65,000 acres that is
5 in critical area. And I'll just address one problem with
6 this 20 acre zoning. I only see one or two farmers here and
7 I know one here with 60 landmarks and it's causing these
8 large farms to be subdivided into these smaller tracts and
9 it's hitting us already. We keep track of each farm and
10 we're getting all these 20 acres pieces, parcels which are
11 really not economic for a farmer to farm because a person
12 doesn't buy 20 acres and mow it with a lawnmower, it has to
13 go into corn or soybeans or something.

14 And I don't know what the answer is but it is
15 having an effect on subdivision of large farms and small 20
16 acre parcels. I'll just make that point.

17 CHAIRMAN GUTMAN: Thank you sir. Is there anybody
18 else who would care to make a statement at this time on the
19 record? Well let me repeat, the record will remain open until
20 next Monday at 3:00 so if you have anything that you care to
21 put in writing, please do so promptly so it does reach the
22 Critical Areas Office in the Tawes Building. Well at this

1 point, I do not see anyone else who indicates they want to
2 speak. And if that be the case, I think the formal part of
3 this hearing will be adjourned and I would suggest that if
4 anyone wants to take a look at any of the printed material,
5 they'll find the zoning ordinance and the plan on the table.
6 And I, certainly if I'm speaking correctly for the members of
7 the Commission as well as the staff, we will be here for a
8 few minutes, but again most of the questions that you might
9 have for this plan can best be answered by the consultant and
10 by those in your planning department.

11 Seeing no one else who cares to speak at this time,
12 I now declare that the hearing of the Critical Area Commission
13 for the plan of Talbot County is adjourned.

14 (Whereupon, the hearing was concluded.)

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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: CRITICAL AREA COMMISSION PUBLIC HEARING

DATE: October 11, 1988

PLACE: Easton, Maryland

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



Kim Kavanaugh, Court Reporter

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NAME & ADDRESS

J. H. Malley
W. C. Parker

Y

22 lines

SIGN IN SHEET

Do You Wish
To Testify?
YES | NO

NAME & ADDRESS

<p>• Fred McENANY PO Box 9 ST Michaels MD</p>	<p>yes</p>	
<p>• Elaine Lovelock PO Box 455 Seawitt, Md 21652</p>		<p>✓</p>
<p>• Blenda ARMISTEAD COURTHOUSE EASTON</p>		<p>✓</p>
<p>• Andy Hollis TALBOT CO. PLANNING OFFICE</p>		<p>✓</p>
<p>• TRACY CASTORA TALBOT CO. PLANNING OFFICE</p>		<p>✓</p>
<p>• Nancy Clem Talbot Co. Council</p>		
<p>• Judy Yvonne 3 Quailsac Easton</p>		<p>✓</p>
<p>• Harry Bing Qu R2 Box 488 Easton Md 21601</p>		
<p>• Jeff McCulley PO Box 600 Easton MD 21601</p>		<p>✓</p>

SIGN IN SHEET

Do You Wish
To Testify?
YES | NO

NAME & ADDRESS

John M. Campbell Royal Oak, MD Wm M. Kirby, 307 Hanson Easton Md.		+ ✓
David G Beck PO Box 949 St Michaels, Md 21665		X
Eileen H. Camp Royal Oak, MD 21662		X
John M. Sowell Rt 2 Box 169A Trappe Md. 21673		X
STARIC McHAUGHLIN % MARTINIK STATE PARK DENNEN MD 21629		✓
Herbert L. Andrew III Rt #3 Box 451 EASTON, MD		
C.S. BRADLEY Rt #1 Box 293 St Michaels MD 21663		X
Tom DUNCAN RFD 5 Rt 202 Easton, Md		X
Carter A. Callahan R# 2, Box 554 Easton, Md 21601		X

22 lines