

Public Hearings - Kent County

1988

MSA - S1830 - 42

STATE OF MARYLAND

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CRITICAL AREA COMMISSION

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PUBLIC HEARING

6

KENT COUNTY

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Chestertown, Maryland

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December 8, 1988

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

## P R O C E E D I N G S

1  
2 MR. BUTTANUS: Good evening ladies and gentle-  
3 men, I'd like to call the meeting to order. This is a  
4 public hearing conducted by a panel of the Chesapeake Bay  
5 Critical Areas Commission. My name is Victor Buttanus,  
6 I'm the representative on the Commission for Hartford  
7 County. To my immediate left is Kaye Langner who repre-  
8 sents Cecil County on the Commission, and to my right is  
9 James Guttman from Anne Arundel County.

10 I would note that the meeting this evening will  
11 be recorded. Anyone wishing to make any statements is  
12 welcome and encouraged to do so. If you would prefer to  
13 submit your comments in writing, you may do that also by  
14 sending them to the Office of the Critical Areas Commis-  
15 sion in Annapolis.

16 In discussing this matter a few minutes ago, it  
17 seems as if the commission has to take some kind of  
18 action on the amendments which are the subject of  
19 tonight's hearing at its next meeting, which I believe is  
20 December 21st. So if you are going to submit anything in  
21 writing, you should do so before that date. Just keep  
22 that in mind if you would.

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1 I would note that, I believe Mr. Raisen is in  
2 attendance tonight. Mr. Raisen is the president of the  
3 County Commissioners, welcome, sir. Gail Owings who is  
4 the Director of the Planning and Zoning Office is also  
5 here, and Elinor Gawel from her staff is also here, and I  
6 believe Ms. Gawel will make some brief presentations on  
7 the issues which we have to consider. So without further  
8 ado, I would turn the meeting over to you.

9 MS. GAWEL: First, do you want to do it --

10 MR. BUTTANUS: It might be more expeditious to  
11 do them all, go through them all at once, and then we'll  
12 take comments on whoever has anything to say about any of  
13 them. And we'll try to sort it out. That might be the  
14 easiest thing.

15 MR. WIKOVSKY: I have a question. My name is -  
16 - Wikovsky, and I represent one of the people here. In  
17 order that I may get my thinking straight. Are we in  
18 effect to reprove the case that we proved -- zoning?

19 MR. BUTTANUS: No, sir, we are here merely for  
20 the purpose of receiving public comment. We are not here  
21 to decide anything. To make any suggestions. Really to  
22 answer any questions. All we're here to do is to listen

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1 to what you all have to say. Whatever you want to tell  
2 us about these amendments, we will here.

3 MR. WIKOVSKY: It is a little unclear as to  
4 where we are in a legal standpoint -- changes zoning, we  
5 received approval at one stage, it's a hypothetical  
6 situation, if you were to suddenly disagree with the  
7 County Commissioners and we were to present no evidence,  
8 where are we visa vie, if you understand what I am  
9 saying.

10 We were totally unclear, and we didn't know if  
11 it was going to be informal or if we were to present the  
12 whole case formally.

13 MR. BUTTANUS: No, this is not a, we are not  
14 here to receive evidence under oath or anything like  
15 that. This panel will reconvene between now and the 21st  
16 of December to discuss the various amendments, and we  
17 will merely make a recommendation to the Commission as a  
18 whole. The Commission can then act based on the Commis-  
19 sion's decision then the various property owners would  
20 have a further right to a hearing, I believe, through  
21 action via the Zoning Department.

22 I guess the Commission can only act, can only

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1 technically act based on the County's position. We  
2 couldn't actually entertain individual property owner's  
3 appeals. So your appeal would be via the County and the  
4 County would come to the Commission and say, okay, we've  
5 got a contested case here. The property owners think  
6 this, we think this and there would be a hearing process  
7 at that point. Is that clear in everybody's mind? I'm  
8 pretty sure that's the way it works, but because we've  
9 never really had a case which has been ultimately con-  
10 tested, yes sir?

11 AUDIENCE: If you have it uncontested, would  
12 that give you any reason to change the finding?

13 MR. BUTTANUS: A lot will depend upon the  
14 review given to these amendments by the Commission Staff.  
15 Charlie Davis who is with the staff of the Commission is  
16 also present this evening, he will actually go through  
17 the fine points of each amendment and will discuss those  
18 with the panel and the full Commission at the time the  
19 Commission acts.

20 I guess if there is a problem, with respect to  
21 any amendment that the Commission might have, the County  
22 would be notified and further action would be required.

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1 But we'll cross the bridge when we come to it. Normally  
2 the staff and the Commission are able to work things out  
3 with the County. And we really haven't had any situation  
4 where we've been at -- yet.

5 (Pause.)

6 Mr. Guttman has raised a good point. And that  
7 is one of our duties, one of our charges as to insure  
8 that the amendments as presented conform with the Criti-  
9 cal Area criteria. And that's really the parameters of  
10 our review. So I will turn it over to Elinor Gawel.

11 MS. GAWEL: The first amendment is on the  
12 Joseph Ashley (phonetic) property. This amendment invol-  
13 ves moving the critical area line back to the 1,000 feet  
14 for mean high tide, or the tidal wetland, instead of  
15 including the entire farm as originally proposed. Mr.  
16 Ashley is one of several owners of the property. The  
17 majority of the property owners wish the line to remain  
18 at the 1,000 feet -- on the Chester River, that's this  
19 map.

20 MR. BUTTANUS: Is there anybody here on the  
21 Ashley property? Sort of, I guess, changing what I had  
22 originally said to go through each of them, but it's

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1 really not fair to you all to make you sit through the  
2 entire hearing if you're only here for a particular  
3 property. So I guess if nobody else objects, 'cause we  
4 do have pretty many people here tonight, at a deference  
5 to you, we'll just take them one at a time and if you  
6 have any questions or comments, we'll hear them then.

7           Anybody have any problem with that? Ronald  
8 Karrasik who is also a member of the Commission has just  
9 arrived. Mr. Karrasik is the representative from that  
10 small town on the Western shore, Baltimore City.

11           MR. KARRASIK: Sorry for being late, folks.

12           MR. BUTTANUS: Nobody has any comments regard-  
13 ing the Ashley amendment, we'll call it? Okay.

14           MS. GAWEL: Okay, the second zoning map amend-  
15 ment is for Campbell Soup. When developing the critical  
16 area map the Planning Staff zoned the Campbell Soup  
17 property resource conservation district. This is ob-  
18 viously a mistake since the Campbell's Soup plant sits on  
19 the property. It should be light industrial.

20           MR. BUTTANUS: Are there any comments with  
21 respect to that amendment? Anybody have anything to say  
22 about Campbell Soup amendment? Okay.

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1 MS. GAWEL: The next zoning map amendment is  
2 August and Electra Blanka. The Blankas own property on  
3 the Sassafra River outside of Galena. Since the early  
4 '60's small parcels have been divided from the original  
5 farm, approximately 150 acres remain in the farm, a 44  
6 acre field and two small acres are located in the criti-  
7 cal area.

8 Mr. Blanka's subdivision Sherwood Estates and a  
9 large lot subdivision Pleasant Cove adjoin the remaining  
10 farm land. Outside the critical area the remaining land  
11 joins a large farm slated for subdivision. Mr. Blank's  
12 property was designated resource conservation district.  
13 The county believes this is an error due to the character  
14 of the general area and that this should be zoned R1  
15 Critical Area, single family residential.

16 MR. BUTTANUS: Would that fall under the limit-  
17 ed development?

18 MS. GAWEL: Yes.

19 MR. BUTTANUS: Are there any comments regarding  
20 the Blanka property? Okay.

21 MS. GAWEL: The next one is Richard Reeve.  
22 Mr. Reeve's property is 26 total acres, 19.5 are in the

1 critical area. In reviewing the maps the County assumed  
2 the portion in the critical area exceeded 20 acres and  
3 accordingly zoned it resource conservation district. The  
4 County believes in light of the survey it shows 19.5  
5 acres in the critical area, that the general character of  
6 the neighborhood fits the limited development criteria.  
7 And that the property should be zoned R1 critical area,  
8 once again, limited development. There's a whole bunch  
9 in one area, it starts to confuse you.

10 MR. BUTTANUS: What is the, you say in light of  
11 the general character of the neighborhood. What is that  
12 immediate area like?

13 MS. GAWEL: Well, you can see on the map here  
14 there's some development up here and a little bit down  
15 there.

16 MR. BUTTANUS: And where is the Reeve  
17 property?

18 MS. GAWEL: This one.

19 MR. BUTTANUS: Are there any comments with  
20 respect to the Reeve property?

21 AUDIENCE: It's 23.6, it's not 26.

22 MS. GAWEL: Probably a typo.

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1 MR. BUTTANUS: Total of 23.6 of which 19.5 are  
2 in the critical area. Anything further on that property?

3 MS. GAWEL: The next one is Ervin Parkell. The  
4 Parkell's property, 2.7 acres, was mistaken for one much  
5 larger property zoned resource conservation district. It  
6 is surrounded by development and should be zoned R1  
7 critical area, change from RCA to limited development.

8 MR. BUTTANUS: Any comments with respect to the  
9 Parkell property? Are all these basically map amend-  
10 ments, are there any text amendments?

11 MS. GAWEL: The last one is a text amendment.

12 MR. BUTTANUS: With out any comments on the  
13 Parkell property, we'll move to the Raimie property.

14 MS. GAWEL: The Raimie's own approximately 18  
15 acres, which in the deed consist of many small parcels.  
16 This property is near the Parkell's and the Reevie's.  
17 It's zoning should be R1 critical area, change from RCA  
18 to LDA. It shows on the tax map as one large parcel.

19 MR. BUTTANUS: It was RCA?

20 MS. GAWEL: Uh-huh.

21 MR. BUTTANUS: Are all the parcels, is it all  
22 in the critical area?

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1 MS. GAWEL: No, not entirely. The Reeve one  
2 shows a line running through the property.

3 MR. BUTTANUS: Are there any comments on the  
4 Raimie property? Anybody have anything to say? Yes,  
5 ma'am, could you identify yourself, please?

6 MS. RAIMIE: Florence Raimie. Under the grand-  
7 father clause, this should say it is a subdivision, and I  
8 would like it to say subdivision some where, so that this  
9 doesn't happen ever again. As long as what you say says  
10 subdivision, then I'm satisfied.

11 MR. BUTTANUS: Okay, I'm sure the zoning office  
12 will make a note of that.

13 MR. GUTTMAN: Between the Parkell tract that  
14 you referred to earlier, and the Raimie tract now being  
15 discussed, what is the total acreage that falls within  
16 the critical area between the two of them?

17 AUDIENCE: Seven.

18 AUDIENCE: Under 20.

19 MR. GUTTMAN: It's a bit under 20 for both?

20 MS. GAWEL: Uh-huh.

21 MR. GUTTMAN: That falls within the critical  
22 area?

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1 MS. GAWEL: Uh-huh.

2 MR. GUTTMAN: Thank you.

3 MS. PARSELL: We're not clear what area you are  
4 talking about, because there are seven homes down in that  
5 area. I'm Mrs. Parkell, and our properties are all  
6 joining one another, but there are some properties scat-  
7 tered around in that general area which are not included  
8 in any of the studies that were done on these. So we're  
9 unclear what you're talking about the number of acres.

10 MR. BUTTANUS: All we're concerned with is that  
11 portion of your property that lies within the critical  
12 areas.

13 MS. PARSELL: All of it does.

14 MS. GAWEL: Well, not all of the, not all of  
15 the Raimie property.

16 MS. RAIMIE: I think there's a curve in there.  
17 Our deed says subdivision.

18 MS. GAWEL: This is our rough map.

19 MR. GUTTMAN: Where is the critical area line?

20 MS. GAWEL: This big black line.

21 MR. GUTTMAN: And the properties would be  
22 where?

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1 MS. GAWEL: This is the Reeve property.

2 MR. GUTTMAN: How many acres are we speaking  
3 about here?

4 MS. GAWEL: That says 2.7, so I'd say --  
5 How many lots was it, Mrs. Raimie, do you remember?

6 MS. RAIMIE: I believe there's 32 in there.

7 AUDIENCE: Recorded in 1953, and it's been on  
8 record since then.

9 MR. BUTTANUS: Your land is divided into 32  
10 lots?

11 MR. RAIMIE: Right.

12 MR. GUTTMAN: So how much we're talking about,  
13 total.

14 MS. GAWEL: We're probably talking about an  
15 acre and a half to an acre and three-quarters.

16 MR. GUTTMAN: That would--

17 MS. GAWEL: That we would change.

18 MR. GUTTMAN: That we would change from RCA to  
19 LDA?

20 MS. GAWEL: Uh-huh.

21 MR. GUTTMAN: We're only talking about a couple  
22 of acres?

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1 MS. GAWEL: Uh-huh.

2 MR. GUTTMAN: Oh, for heaven's sake, alright.  
3 Thank you.

4 MR. BUTTANUS: Anything further on any of those  
5 properties, either the Reeve, the Parkell or the Raimie  
6 properties?

7 MS. RAMIE: No, as long as it's declared a  
8 subdivision.

9 MR. BUTTANUS: Okay, want to move on to the  
10 next one?

11 MS. GAWEL: Okay, the wharf at handipoint. As  
12 of December 1, 1985, the wharf at handipoint owned a  
13 piece of property along the -- Creek. It's waterfront  
14 portion was used for boat storage and a few moorings were  
15 located off the property. Later, prior to the adoption  
16 to the County's critical area program, the Planning  
17 Commission approve the site plan for a marine which was  
18 later constructed. The acreage involved in this marina  
19 was taken from the County's growth allocation, however,  
20 the County's zoned this resource conservation. It should  
21 be zoned marine limited development, critical area, which  
22 is limited development designation.

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1 MR. BUTTANUS: So you've already accounted for  
2 the growth allocation, just stating the map correctly.

3 Is there anybody here that wanted to discuss  
4 the wharf at handipoint? Any comments on that issue?

5 MR. WIKOVSKY: We're here for the wharf at  
6 handipoint, but I don't know how far you wanted to go.

7 MR. BUTTANUS: Do you have anything you want to  
8 make?

9 MR. WIKOVSKY: We'll submit a memorandum,  
10 unless you want it now.

11 MR. BUTTANUS: Either way, that's fine. What  
12 ever's convenient for you.

13 MR. WIKOVSKY: Your staff, are they going to  
14 listen to the tapes? To listen to whatever evidence was  
15 introduced as part of recommendations. Because really,  
16 the little paragraph blurb the Commissioners have is  
17 probably not --

18 MR. DAVIS: I'm here tonight, so that helps if  
19 I hear it tonight, and if it's something that's submit-  
20 ted, we also read anything that's submitted as well.

21 MR. WIKOVSKY: Well, we've submitted evidence,  
22 and we'll submit a memorandum.

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1 MR. BUTTANUS: Why don't you send it to the  
2 Commission, that would be helpful. If you could do that  
3 within the next day or so so that they get it in time to  
4 read it and digest it before the 21st, that would be  
5 most helpful.

6 MR. WIKOVSKY: It will go out tomorrow.

7 MR. BUTTANUS: The next amendments are text  
8 amendments?

9 MS. GAWEL: It's all the same sort of amend-  
10 ment. It all applies to the same thing.

11 MR. BUTTANUS: Okay, if you want to go over  
12 those.

13 MS. GAWEL: Zoning text amendment to amend  
14 articles fourteen of the County's zoning ordinance,  
15 buffer definition, and section 11, where it makes set-  
16 backs for the critical area and in the development hand-  
17 books which accompanies the zoning. And there's a spe-  
18 cial requirement section on densities and buffer and the  
19 habitat protection section.

20 We're going to have to amend all these if we  
21 redefine our buffer. And upon calculating several ex-  
22 tended buffers due to steep slopes, the Planning staff

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1 noticed that the critical area criteria extended buffers  
2 for contiguous slopes exceeding 15%, the County's prog-  
3 ram, continuous slopes, the County proposes to amend the  
4 appropriate sections of its ordinance to read contiguous  
5 instead of continuous.

6 In addition, the County believes in no case  
7 should the mandatory buffer exceed 300 feet. And what  
8 had happened is if you have contiguous we wind up with,  
9 if you have a straight bluff coming straight up, and in  
10 some say, 40 feet, the buffer would be 260 feet, even  
11 though the bluff might be only 10 feet, 20 feet back from  
12 mean high tide. And we thought that was excessive.

13 Whereas if it's continuous, then they could  
14 work with 100 feet, because there wouldn't be any slope  
15 at the 100 foot mark.

16 MR. BUTTANUS: Like if you had a sheer bluff of  
17 say 40 feet, would that 40 feet straight up would that be  
18 included in that calculation of the buffer?

19 MS. GAWEL: Not the way the criteria are writ-  
20 ten, but the way ours.

21 AUDIENCE: Excuse me, that isn't included?

22 MS. GAWEL: The way we wrote it, yeah. If you

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1 have a straight bluff.

2 AUDIENCE: Okay, but say you count the vertical  
3 height as the distance, as part of the buffer?

4 MS. GAWEL: No, you're not counting the verti-  
5 cal height.

6 MR. BUTTANUS: Does anybody have anything they  
7 wish to state regarding the text amendment? I guess to  
8 be on the safe side, we should put an outside date on  
9 receiving anything in writing from anybody wishing to  
10 submit anything. Of one week from today, it should be  
11 received in the Commission office, so that way they will  
12 have it in plenty of time. So that would be the 15th.

13 MS. GAWEL: Where will the Commission office  
14 be?

15 MR. DAVIS: The Commission is moving it's  
16 office, but all our mail sent to the previous address  
17 will be picked up daily.

18 MR. BUTTANUS: What is that new address?

19 MR. DAVIS: To West Street, and quite frankly I  
20 haven't memorized the address yet.

21 MR. BUTTANUS: The old address?

22 MR. DAVIS: The old address occurs in the

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1 Commission's Criteria if you have that. If not you can  
2 send it to The Chesapeake Bay Critical Area Commission,  
3 Tawes State Office Building, D-4, that's the building and  
4 the floor number for the mailperson, 580 Taylor Avenue,  
5 Annapolis, Maryland, 21401. And by all means put it at  
6 the head of it for the attention of this hearing, just  
7 put at the top Kent County Program Amendment hearing.  
8 And in fact if you put my name on it it will be even;  
9 well, officially it should go to the chairman of the  
10 Commission, address it to the Critical Area Commission  
11 and put attention Charles Davis down at the bottom. At  
12 the moment the Chairman of the Commission is the acting  
13 chairman is Bob Price.

14 MR. BUTTANUS: Okay, I would just note that it  
15 was 14 months ago we had the original hearing on the  
16 adoption of your program and they had it held over at the  
17 auditorium at Washington College, and I think there were  
18 six people there. We have more tonight by far in a much  
19 smaller area, it's kind of ironic. Anybody have anything  
20 else to say before the hearing is closed?

21 Okay, on the sign up sheet a number of you  
22 indicated that you wished to make statements. I take it

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1 from the absence of same, that you're not interested in  
2 saying anything now. Pete, do you have anything to say?

3 MR. WIKOVSKY: Mr. Chairman, I think that was  
4 probably based on not knowing what format you all were  
5 going to use and whether testimony was going to be neces-  
6 sary.

7 MR. BUTTANUS: Mr. Carson, pleasure to see you,  
8 sir. Mr. Galena, is he still here? I'm sorry, Mr.  
9 Blanka, did you have anything to say? Okay, without  
10 further ado, we will close the meeting. Thank you all  
11 very much.

12 (Proceedings adjourned.)  
13  
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C E R T I F I C A T I O N

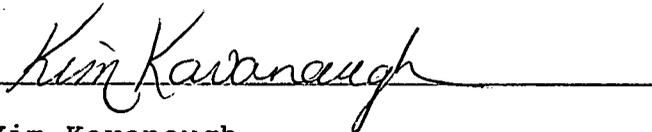
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Hearing in the matter of: CRITICAL AREA COMMISSION HEAR-  
ING - KENT COUNTY

Appeal Number

Date of Hearing: December 8, 1988

I hereby certify that the transcript in the above en-  
titled matter is a complete and accurate transcription.



Kim Kavanaugh,

Court Reporter

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