

Public Hearings - Dorchester County - Growth Allocation / Reclassification of Lands 1989 MSA - SIB 30-63

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P R O C E E D I N G S

CHAIRMAN BOSTIAN: My name is Bill Bostian,
and I'm from Wicomico County and a member of the
Critical Area Commission. On my right is Dr. Shepard
Krech, who is an at-large member from Talbot County, and
on my left is Samuel Bowling from Charles County.

It's our pleasure to be here tonight to hear
public comment, of which it looks like there is going to
be a lot, on two proposed subdivisions that are coming
before us and before the Commission, as part of which
Dorchester County wants the Critical Area Commission to
award growth allocation and to approve the amendment to
the Dorchester Critical Area maps.

We have a court reporter, Geoffrey Hunt, here
tonight, and anybody that wants to make any written
statements may send them to the Commission at -- do you
have an address, Tom?

MR. VENTRE: Here it is.

MR. KRECH: Yes, here we are: 275 West
Street.

CHAIRMAN BOSTIAN: That's right. Chesapeake



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1 Bay Critical Area Commission, 275 West Street, Suite
2 320, Annapolis, Maryland 21401, and we'll hold that
3 record open for two weeks.

4 Steve, if you're ready, you can go ahead.

5 MR. DADD: All right.

6 CHAIRMAN BOSTIAN: Steve Dadd from the
7 Dorchester County Planning Commission, or, actually, the
8 planning director. Excuse me.

9 MR. DADD: All right. For the record,
10 gentlemen, the county is requesting that the Commission
11 allow the county to use a portion of its growth
12 allocation for two proposed subdivisions. The first one
13 is the Kenneth Cox subdivision. I believe Mr. Ventre
14 has provided you with a copy of the subdivision. These
15 -- let me take them one at a time.

16 This subdivision was given Critical Area
17 assessment approval by the Dorchester County Planning
18 Commission at their April 6th, 1988, meeting. Now, the
19 reason that's significant is because that action by the
20 Planning Commission gave this subdivision interim
21 subdivision status, and interim subdivision status is



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1 given special consideration by the Dorchester County
2 Critical Area Protection Program, page 39, last
3 paragraph.

4 That paragraph reads, in part: "Subdivision
5 plats that were undergoing evaluation by the Planning
6 Commission prior to the effective date of the Critical
7 Area Protection Program will not be subject to the
8 density provisions of the zoning ordinance or to the
9 growth allocation provisions of the subdivision rates.
10 These subdivisions must have had growth allocation
11 reserved for them and must have been designed to conform
12 to the Maryland Critical Area criteria. Additionally,
13 approval must have been granted for the preliminary
14 plat, in the case of major subdivision, and for findings
15 of fact required by Natural Resources Article 8-1813, in
16 the case of minor subdivision."

17 This is a minor subdivision, as defined by the
18 Dorchester County subdivision regulations. It contains
19 four lots. It is in the Critical Area. Well, the
20 portion of the parcel being developed is in the Critical
21 Area. I think you can see the Critical Area line does



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1 split the property; the majority of it is in the
2 Critical Area.

3 It's a total of four lots being proposed. One
4 lot is already improved; lot number four has an existing
5 house. The other three lots -- lot number one has an
6 existing house, as well. So two of the lots are
7 improved; lots three and four are not improved.

8 MR. BOWLING: Lots two and three are not
9 improved.

10 MR. DADD: Did I say three and four? Two and
11 three are not improved. The subdivision will be served
12 by a berm infiltration pond. We have the design
13 engineer, who can testify to the technical aspects of
14 the subdivision, if those questions arise.

15 As you can see, gentlemen, this subdivision
16 plat does show the extent of the tidal and nontidal
17 wetlands on the property. We require that for any
18 Critical Area subdivision so that we can demonstrate the
19 100-foot building restriction line from the tidal
20 wetlands.

21 CHAIRMAN BOSTIAN: You didn't mean to say



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1 "nontidal wetlands," did you?

2 MR. DADD: If there are nontidals on the
3 property, we also require those to be delineated. I
4 don't believe there are --

5 CHAIRMAN BOSTIAN: I don't think there are on
6 this one.

7 MR. DADD: -- nontidals on these.

8 MR. KRECH: Are there any nontidals?

9 MR. DADD: No, it doesn't --

10 MR. KRECH: I don't see any nontidals on the
11 map.

12 MR. BOWLING: On lot one, down in the corner,
13 you've got an existing pond.

14 MR. KRECH: An existing pond would be a
15 nontidal wetland, but --

16 MR. BOWLING: That's the only one.

17 CHAIRMAN BOSTIAN: By definition, also. So I
18 guess it really doesn't matter.

19 MR. KRECH: Are all of these four lots going
20 to have berm infiltration?

21 MR. DADD: There will be one pond serving --



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1 MR. KRECH: One pond for --

2 MR. DADD: -- serving all four.

3 MR. KRECH: Yes, because they obviously don't
4 perk.

5 MR. DADD: That's correct.

6 MR. KRECH: Yes.

7 CHAIRMAN BOSTIAN: Which leaves one to wonder
8 whether it's really nontidal wetlands.

9 MR. KRECH: If it's just nontidal wetlands.

10 CHAIRMAN BOSTIAN: I don't think it's
11 relevant --

12 MR. KRECH: Yes.

13 CHAIRMAN BOSTIAN: -- that entire inquiry,
14 anyway.

15 MR. KRECH: Yes.

16 MR. DADD: So the acreage within the growth
17 allocation requested would be the nontidal wetland
18 acreage of lots one through four, plus the acreage in
19 the residue, which is north of the proposed right of way
20 or road easement between lots four and lot three. You
21 can see there is a substantial amount of tidal wetlands



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1 in that residue, but the portion which is not tidal
2 wetland has been or is proposed to be deducted from the
3 allocation.

4 So all upland acreage within lots one through
5 four, the right of -- or the road -- proposed road and
6 the residue portion between four and three has been
7 requested for allocation.

8 If there are any questions, I'll try to answer
9 them.

10 MR. KRECH: Only a comment, and that is that
11 we've had quite a few of these now before this
12 subcommittee from you-all, some good and some fair, and
13 the feeling I get is we are or the developers are
14 continuing to invade the sensitive area of the Critical
15 Area for their development. Here, we have to, again,
16 think of berm infiltration ponds. We don't know the end
17 result of berm infiltration ponds when we have major
18 storms in the future, what that is going to do.

19 I just don't like to see us continue to
20 infringe upon the real sensitive areas of the Bay. We
21 will probably approve this, but I don't like the



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1 philosophy of development that exists not only in your
2 county, but in some of the other counties. That's only
3 a comment.

4 CHAIRMAN BOSTIAN: We've already crossed that
5 bridge, I'm afraid, on this.

6 MR. KRECH: I know it, but I just want to make
7 that comment.

8 MR. BOWLING: I'm curious. The small figures
9 here described in lot one state, "37, 34, 38." Are
10 those mean elevations above tidewater?

11 MR. MOORE: Yes. They're NGVD, if I can
12 answer that. Gregg Moore.

13 MR. KRECH: Very little mean elevation above
14 high tidewater, isn't it?

15 MR. MOORE: No, NGVD is not in reference to
16 mean low water. It's very close, though.

17 MR. BOWLING: Mean low, or mean high?

18 MR. MOORE: Well, mean low water is a whole
19 different datum system than NGVD.

20 MR. KRECH: We won't have to worry about this
21 in 40 years with the "greenhouse effect." It's all



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1 going to be underwater.

2 CHAIRMAN BOSTIAN: Okay. Identify yourself
3 for the record, please.

4 MR. MOORE: Gregg Moore. I'm from Andrews
5 Miller, the engineer on the project. Just a couple of
6 things I would like to say.

7 The berm infiltration pond is designed to
8 provide for a 100-year storm elevation. The berms are
9 6.5, which are above the 100-year storm, which should
10 provide for --

11 MR. KRECH: Okay.

12 MR. MOORE: Any storm of greater than 100
13 years, you'll have overtopping, but -- at that point.

14 VOICE: The storm surge of today --

15 MR. MOORE: You're going to have a major
16 problem.

17 MR. KRECH: If we have a Charleston here,
18 we'll have a major problem.

19 MR. MOORE: Yes, right.

20 MR. KRECH: You're darn right.

21 MR. BOWLING: Well, we had one a few years



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1 back, didn't we?

2 CHAIRMAN BOSTIAN: No, it was maybe four or
3 five feet.

4 MR. BOWLING: It took a duck blind of mine and
5 put it completely underwater. I could not stand in that
6 blind -- feet.

7 MR. DADD: After Gloria, the lower county
8 went, what, four and a half, 4.9?

9 MR. MOORE: Yes. Nothing to six and a half.

10 CHAIRMAN BOSTIAN: No.

11 MR. DADD: Ever.

12 MR. MOORE: No, I don't know about ever, but
13 not that I know of.

14 MR. VENTRE: Gregg, the nomenclature "NGVD,"
15 what does that mean?

16 MR. DADD: National Geodetic Vertical Data.

17 MR. VENTRE: Okay. Thank you.

18 MR. MOORE: That's just a national benchmark
19 system.

20 MR. KRECH: Can you tell me what the oystering
21 situation is like currently in the Little Choptank



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1 River?

2 MR. DADD: No.

3 MR. KRECH: There is absolutely none. There
4 are no --

5 MR. DADD: I can't tell you.

6 MR. KRECH: -- current productive bars in the
7 Little Choptank?

8 MR. BOWLING: I'm sure there must be.

9 MR. DADD: I don't know.

10 MR. KRECH: Have you any idea of what the
11 state has been doing in the Little Choptank from the
12 standpoint of spat introduction and all of that?

13 MR. BOWLING: Seed plantings, anything like
14 that -- shell plantings?

15 MR. DADD: No.

16 CHAIRMAN BOSTIAN: Well, he doesn't know.

17 MR. DADD: I don't know.

18 MR. BOWLING: He doesn't know.

19 MR. KRECH: I would like to know that before I
20 will give my blessing on this. I really would.

21 MR. BOWLING: We should be able to find that



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1 out. Tom should be able to find that out.

2 MR. VENTRE: I shall attempt to do so.

3 MR. KRECH: I beg your pardon?

4 MR. VENTRE: I shall attempt to find out that
5 information.

6 MR. KRECH: I would like to know that
7 information.

8 MR. VENTRE: If the state has done any
9 seeding.

10 MR. KRECH: Yes, I really would.

11 MR. BOWLING: Well, I'm certain there would be
12 seeding and planting if there is anything -- if there
13 have been natural bars there in the past, Shep.

14 MR. KRECH: Yes, there have been. I know
15 there have.

16 MR. BOWLING: I'm sure there is shell in it.

17 MR. KRECH: Yes, the Little Choptank used to
18 be a very resourceful oyster --

19 MR. BOWLING: I'm sure it was.

20 MR. DADD: Let me just remind you about how
21 these subdivisions came about and what kind of review



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1 was gone through before they were given this interim
2 status. I don't want to leave you with the impression
3 that we simply allowed people to rush up before the
4 program was adopted, wait in line, and simply by default
5 be given this status.

6 There was a requirement for any subdivision in
7 the Critical Area to do an assessment under old Section
8 8-1813, which was basically a little environmental
9 impact statement. That's how I look at it. That's why
10 we're requiring them to show the wetland areas; that's
11 why we're requiring them to put limitations on tree-
12 clearing, as required in the Critical Area law; and
13 that's why all of these subdivisions were sent through
14 Forest, Parks and Wildlife Service review before they
15 were given this status.

16 So I don't believe that they were simply given
17 helter skelter approval or blind approval prior to being
18 given this interim status.

19 Now, I can't answer your question about the
20 oyster bars, but --

21 MR. MOORE: I may be able to answer the



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1 question. There is a letter in our file, August 3rd of
2 1989, to Mr. James Michael concerning the Kenneth Cox
3 subdivision from the Maryland Department of Natural
4 Resources' Forest, Park and Wildlife Service.

5 MR. VENTRE: And, gentlemen, you have a copy
6 of this letter to which he is referring.

7 MR. KRECH: Yes.

8 MR. MOORE: I don't know that it's necessary
9 that I read the entire letter. It's from James Burtis.
10 The plat that was attached with the environmental review
11 request indicates the development will occur in
12 nonforest. This is the last paragraph on the second
13 page. "This will leave the forested areas intact for
14 the Delmarva fox squirrel. Therefore, we see no impact
15 on this species and its habitat in the project
16 development." Now, that specifically addresses fox
17 squirrels, but the letter --

18 MR. KRECH: Fox squirrels pertaining to what
19 we're considering here?

20 MR. MOORE: Yes.

21 MR. KRECH: Are there known fox squirrels



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1 here?

2 MR. MOORE: No, no.

3 MR. KRECH: No. It's not fox squirrel
4 habitat.

5 MR. MOORE: This letter is -- maybe, Steve,
6 you can comment on your request for this letter from
7 Fish and Wildlife. It is requested that if there are
8 any rare and endangered species or special concerns or
9 special habitat that must be preserved and, basically,
10 they are saying that it's not necessary, other than
11 other issues --

12 MR. KRECH: Well, the rare and endangered
13 species here is the tidal wetland. It's not the
14 Delmarva fox squirrel.

15 MR. DADD: I'm not sure. I don't agree with
16 that. I'm not so sure they're rare in our county.

17 VOICE: They don't feel that it's rare or
18 endangered.

19 MR. KRECH: Becoming rarer and rarer, and more
20 endangered.

21 VOICE: I agree.



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1 MR. DADD: For the record, we have a letter
2 dated March 21st, 1988, addressed to Mr. Don McLaughlin,
3 who is, I guess -- I don't know if he still is -- but,
4 at that time, director --

5 MR. KRECH: Yes, he is.

6 MR. DADD: -- of Forest, Parks and Wildlife.

7 MR. KRECH: He is, indeed.

8 MR. DADD: And it states, "Dear Mr.
9 McLaughlin: We are enclosing information for a site
10 pending before the Dorchester County Planning Commission
11 for the Kenneth Cox subdivision." We notify him in the
12 letter where the parcel is located and we ask him,
13 "Please review the Heritage Program data base to
14 determine if there is any record of rare species,
15 unusual communities, or other significant natural
16 features on or near the site, which Dorchester County
17 should be aware of in the site review and findings
18 process."

19 So you can see this letter clearly asks Mr.
20 McLaughlin to provide us with specific locations and
21 names of species that may be affected by this



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1 subdivision. The county did make a good faith effort to
2 find where those areas were, and I think Mr. Woodward
3 has indicated what the response from the Forest, Parks
4 and Wildlife Service was.

5 MR. BOWLING: I think what we have here, Shep,
6 is that McLaughlin is generally not concerned with
7 marine resources like oysters and fish.

8 MR. KRECH: No, he is not. He is concerned
9 with the forest, park --

10 MR. DADD: Right, and wildlife.

11 MR. KRECH: We should concern ourself more
12 with the marine resources that are being lost.

13 MR. BOWLING: I think maybe we should do that
14 when we get an application --

15 MR. KRECH: Yes.

16 MR. BOWLING: -- refer it to the oyster people
17 and --

18 MR. KRECH: Yes.

19 MR. BOWLING: -- the fisheries people in case
20 we might have something there. We haven't done that in
21 the past.



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1 CHAIRMAN BOSTIAN: We have not done it in the
2 past and what I would like to suggest, Shep, is that
3 maybe you ought to give somebody in DNR -- and I'm not
4 sure exactly where, but in the oyster program -- and see
5 if there is some kind of problem, but I don't think that
6 that's something that we --

7 MR. BOWLING: Can do tonight.

8 MR. KRECH: We can't do it tonight.

9 CHAIRMAN BOSTIAN: And I don't think we can
10 hold these people up on this.

11 MR. KRECH: No, I know. But, again, it's a
12 constant infringement, infringement, infringement upon--

13 CHAIRMAN BOSTIAN: Well, we had 19 originally.
14 How many do we have left, Steve, after these two?

15 MR. DADD: After tonight, seven.

16 CHAIRMAN BOSTIAN: We are getting to the end
17 of the tunnel on them.

18 MR. KRECH: What?

19 CHAIRMAN BOSTIAN: We only have seven more of
20 them.

21 MR. KRECH: Seven more of these.



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1 CHAIRMAN BOSTIAN: There were 19.

2 MR. KRECH: Yes, seven more of the 19 left, is
3 that it?

4 CHAIRMAN BOSTIAN: What is that?

5 (Whereupon, there was a discussion off
6 the record.)

7 MR. KRECH: We have seven more of the 19 left?

8 MR. DADD: Yes.

9 MR. VENTRE: After these two?

10 MR. DADD: After these two.

11 MR. KRECH: God, it's dribble, dribble,
12 dribble.

13 CHAIRMAN BOSTIAN: Gregg, do you have anything
14 else you would like to say?

15 MR. MOORE: No, only that, you know, the
16 letter, you-all have a copy of the letter. I need not
17 enter that. That's our response to oyster bars or other
18 endangered species of special concern.

19 CHAIRMAN BOSTIAN: I'm not sure it addresses
20 oyster bars, so don't say that.

21 (Laughter.)



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1 MR. VENTRE: But, Steve, you are -- the county
2 is satisfied that the applicant is complying with the
3 statements of planning with regard to, say, forest-
4 clearing and so on.

5 MR. KRECH: I mean, when you think that, gosh,
6 60 years ago -- and a little bit further back than that
7 -- 15,000,000 bushels of oysters came out of the
8 Chesapeake Bay and, last year, less than 400,000, what
9 is going to happen by the year 2020? Four hundred
10 thousand -- there won't be an oyster industry here if we
11 don't protect certain shorelines that do protect the
12 oyster bars. This is what really worries me: 15,000,000
13 bushels versus 400,000.

14 MR. BOWLING: It used to be 25 cents a bushel;
15 now it's \$22.00.

16 MR. KRECH: You're going to have to establish
17 a new way of manufacturing oysters in your own backyard.

18 CHAIRMAN BOSTIAN: Well, that's probably being
19 done, as a matter of fact.

20 MR. KRECH: Well, it is.

21 MR. MOORE: Well, actually, there is a lot of



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1 schools of thought on the oysters --

2 MR. KRECH: Yes, on the agriculture part, but,
3 still --

4 MR. MOORE: -- but MSX and the drought are
5 probably as much to blame as development anywhere.

6 CHAIRMAN BOSTIAN: Well, I don't think we're
7 going to settle that debate.

8 MR. KRECH: Well, this, to me, is another step
9 to what I expect the bay to see when I am long gone
10 dead, and this is a big, huge strip around the entire
11 bay of nothing but houses, nothing but houses, and there
12 won't be a bay. This is just the beginning. It's a
13 small inch of several hundred miles.

14 MR. BOWLING: The truth of it is, though,
15 Shep, generally, as far as sewerage is concerned, the
16 oyster -- you just can't eat it.

17 MR. KRECH: Well, Sam --

18 MR. BOWLING: He -- very well on it.

19 MR. KRECH: I'll tell you, Sam, it's a gloomy
20 picture. What we're sitting here doing is -- I'm
21 embarrassed to be doing it, I really am, without making



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1 an effort to say "no." I'm just embarrassed.

2 CHAIRMAN BOSTIAN: Don't be embarrassed.

3 You've done a lot on this Commission.

4 MR. KRECH: I won't be embarrassed, Bill.

5 CHAIRMAN BOSTIAN: Okay. But we do have to
6 pass it. We have to pass along on these --

7 MR. KRECH: Yes.

8 CHAIRMAN BOSTIAN: -- these subdivisions, and
9 unless there is any further comment on the Kenneth Cox
10 one -- and, Steve, if you're comfortable with what
11 you've got on the record -- we can move ahead.

12 MR. DADD: The only other thing I might want
13 to add is the procedural pieces of evidence, which deal
14 with the fact that this is a public hearing, was
15 advertised, was heard by the Planning Commission.

16 I can enter those into the record, Mr.
17 Chairman, if you feel like that's appropriate.

18 CHAIRMAN BOSTIAN: I think it would be. I
19 think it's in the record already in your letter, so I
20 don't --

21 MR. DADD: I didn't know whether that was



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1 entered -- if that was entered. The information I sent
2 to Mr. Ventre is --

3 CHAIRMAN BOSTIAN: If you've sent it to Mr.
4 Ventre, it's on the record.

5 MR. DADD: Okay. It's of the record. All
6 right.

7 CHAIRMAN BOSTIAN: So, then, we move to
8 Beverly Estates, formerly Charles Powell, and the scale
9 on this map is somewhere, I'm sure.

10 MR. KRECH: Oh, this is the one up near
11 Suicide Bridge?

12 CHAIRMAN BOSTIAN: Right.

13 MR. KRECH: Yes, okay.

14 CHAIRMAN BOSTIAN: Two hundred feet to an inch
15 on this.

16 MR. BOWLING: Suicide Bridge.

17 MR. KRECH: Yes, it's up near Suicide Bridge.

18 That's the muddy part of what goes into the Choptank.

19 CHAIRMAN BOSTIAN: Shep, I think you should
20 make sure --

21 MR. VENTRE: It's up in this general vicinity.



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1 MR. KRECH: Well, here it is.

2 MR. BOWLING: Why do they call it "Suicide
3 Bridge"?

4 MR. KRECH: Yes, Cabin Creek.

5 CHAIRMAN BOSTIAN: Because it's a one-lane
6 road and it goes like this. It's a terrible thing to
7 cross.

8 MR. KRECH: It is an awful bridge, isn't it?

9 MR. BOWLING: What is it, a wooden bridge or--

10 CHAIRMAN BOSTIAN: Yes. I haven't been over
11 it in years.

12 MR. KRECH: There have been a few cars dumped
13 in the water off of that bridge, Sam, in the past few
14 years.

15 MR. BOWLING: We used to have one of those, I
16 guess, down in Carlilse like that for years and years.
17 It had wood railings on the side of it and just as wide
18 as your car.

19 MR. DADD: Gentlemen, we're right up here on
20 Cabin Creek --

21 MR. KRECH: Yes.



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1 MR. DADD: -- off of the Choptank River here,
2 and here is Cambridge.

3 MR. KRECH: All right.

4 MR. DADD: Secretary. The little town of
5 Secretary over here on --

6 VOICE: Nearby Route 16.

7 MR. DADD: Yes, Route 16, north, going right
8 here, and Route 50 going to Salisbury. So that's where
9 we are for this particular subdivision, the Beverly
10 Estate subdivision.

11 MR. KRECH: Yes. Right. I know the location
12 well.

13 MR. DADD: This, again, is a subdivision which
14 has been granted interim status under the last paragraph
15 on page 39 of volume one of the county's Critical Area
16 Protection Program.

17 The Dorchester County Planning Commission
18 approved the Critical Area assessment on February 3rd,
19 1988. The total growth allocation requested is 25.1, I
20 believe.

21 CHAIRMAN BOSTIAN: Right.



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1 MR. KRECH: Yes, 24. That's right, 25.1.

2 MR. DADD: And it would include all of the
3 land contained in lots one through four, minus the tidal
4 wetlands.

5 There are mobile homes located on three and
6 four -- lots three and four.

7 Gregg, as I understand it, they're going to be
8 removed?

9 MR. MOORE: Yes.

10 MR. DADD: And permanent homes will be built
11 there upon approval of the subdivision.

12 The subdivision is served by individual
13 septic. As you can see, the sewage reserve areas
14 approved by the Health Department are indicated on each
15 lot.

16 MR. KRECH: I lost that. Is served by, what?

17 MR. DADD: Individual septic tanks.

18 MR. KRECH: Yes. Okay.

19 VOICE: This is pretty good soil.

20 MR. MOORE: Conventional systems, right,
21 underground --



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1 MR. DADD: Yes.

2 VOICE: Pretty good soil up that way.

3 MR. KRECH: Yes.

4 MR. BOWLING: Sewage reserve areas on each one
5 of them, then.

6 MR. KRECH: Well, what is the elevation of
7 this, do you know, offhand?

8 MR. MOORE: I believe, in the range of eight
9 to ten.

10 MR. KRECH: Eight to ten feet.

11 MR. MOORE: This map does not have the
12 elevations.

13 MR. KRECH: Fairly sandy soil?

14 MR. MOORE: Yes.

15 MR. KRECH: Yes.

16 MR. MOORE: Water table about four feet or
17 below below the surface.

18 MR. KRECH: Yes.

19 CHAIRMAN BOSTIAN: You hope.

20 (Laughter.)

21 MR. MOORE: No, it must be. It has to be,



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1 believe me.

2 CHAIRMAN BOSTIAN: I understand that.

3 MR. KRECH: Well, a lot of these areas are
4 higher, higher, and higher -- the Choptank --

5 MR. MOORE: No, but with the sewage disposal
6 area, you've got to have four feet.

7 MR. KRECH: Oh, yes.

8 MR. BOWLING: Below, at home, you wouldn't
9 pass.

10 MR. MOORE: Yes, you have to have five feet,
11 really.

12 MR. BOWLING: You've got to be able to put
13 your stuff --

14 MR. KRECH: Yes.

15 MR. BOWLING: -- I think, at least two feet
16 above it.

17 MR. MOORE: Well, so you can raise your system
18 in a mound or a raised-bed system and you can get away
19 with four feet. In fact, on the Eastern Shore, that's
20 really the more conventional than underground trench.

21 CHAIRMAN BOSTIAN: In Dorchester County. It's



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1 only the heart of the Eastern Shore.

2 MR. KRECH: Yes. For you-all, it is.

3 (Laughter.)

4 MR. VENTRE: Steve or Gregg, did you say these
5 had been approved by the Dorchester Health Department,
6 or they're pending approval for these?

7 MR. MOORE: No, the sewage reserve areas have
8 been tested and approved by the local health department.

9 MR. VENTRE: Okay. Thank you.

10 MR. DADD: The hearing for tonight has been
11 advertised and that is made a part of the record by our
12 letter to Mr. Ventre. Again, the Critical Area
13 assessment, which was an environmental impact statement
14 in conformance with 8-1813 --

15 CHAIRMAN BOSTIAN: We don't have that, by the
16 way. I don't know whether Tom has it or not.

17 MR. KRECH: No.

18 CHAIRMAN BOSTIAN: It's not in our packet.

19 MR. DADD: Okay.

20 MR. KRECH: Why aren't the individuals who are
21 applying for this here tonight?



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1 MR. DADD: Mr. Moore is representing them.

2 MR. KRECH: But, I mean, where is the
3 -- of your representation?

4 CHAIRMAN BOSTIAN: Well, there is one owner in
5 each case, right?

6 MR. MOORE: Yes.

7 MR. KRECH: One owner in each case, but --

8 MR. BOWLING: They have faith in Mr. Moore,
9 apparently.

10 (Laughter.)

11 MR. MOORE: No, you know, it's a small
12 subdivision. They're local people; I know them. They
13 know Steve well. It's not as though it's a big, you
14 know, a big project or --

15 MR. KRECH: No, I'm not -- I just wondered. I
16 just wondered why those involved in this project are not
17 present to speak up. It would impress me a hell of a
18 lot more if they were here.

19 CHAIRMAN BOSTIAN: Well, they know that there
20 is no opposition and that Mr. Moore --

21 MR. KRECH: Yes. I mean, I have no opposition



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1 to this.

2 CHAIRMAN BOSTIAN: -- has been engaged to
3 handle this.

4 MR. KRECH: Yes.

5 MR. MOORE: And, you know, a misconception
6 that a lot of people had is when they received growth
7 allocation approval from the county on two separate
8 times from the Planning Commission and the County
9 Commissioners, the people who own these subdivisions are
10 honestly confused as to what this meeting is for --

11 MR. KRECH: Really.

12 MR. MOORE: -- and if they possibly
13 understood, you know, what could happen, it might be
14 different, but --

15 MR. KRECH: Yes. Oh, I can understand their
16 point, then.

17 MR. MOORE: You've got to understand that
18 these subdivisions started so long ago, they were told,
19 back in the interim findings, that they were
20 grandfathered under Critical Areas and that it would not
21 be an issue, and that's probably still what they



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1 believe.

2 MR. KRECH: And all you're presenting is a
3 growth allocation proposition.

4 MR. MOORE: Well, I know that it may be an
5 issue and I better be here, or they're going to have a
6 problem.

7 (Laughter.)

8 MR. DADD: This is, again, in an area that's
9 all currently designated RCA and this subdivision, as
10 proposed, would exceed the density allowed for in an
11 RCA, so they're requesting the allocation.

12 As with the other subdivision, the building
13 restriction line from the edge of the water and wetlands
14 are indicated on the plat. I believe there is a little
15 bit of tidal wetland, and there are no nontidal wetlands
16 on the property.

17 CHAIRMAN BOSTIAN: Gregg, may I ask a question
18 with respect to your vicinity map and this map? I mean,
19 is this what we have -

20 MR. KRECH: This goes this way.

21 CHAIRMAN BOSTIAN: No, I understand that. Is



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1 this the entire parcel of land here, or is there some --

2 MR. MOORE: No, that's the entire parcel. The
3 residue runs back to -- actually, that may not be true.
4 This represents the entire parcel. The vicinity map is
5 not necessarily to scale, exactly, and it doesn't show
6 the neck down on the property on the edge of the
7 Critical Area boundary.

8 CHAIRMAN BOSTIAN: I was just curious. It
9 didn't seem to correspond at all.

10 MR. VENTRE: Steve, I recall from looking at
11 your maps that we have in our office that there is an
12 LVA to the west, down Baker Road. Am I mistaken or --
13 it didn't seem to be that far.

14 MR. DADD: Well, since we don't have -- since
15 location isn't a criteria, they didn't make that a part
16 of the evidence.

17 MR. VENTRE: Right. No, that's correct. It
18 is not --

19 MR. DADD: There does appear to be a fairly
20 large area of LVA located on the other side of Suicide
21 Bridge Road. Actually, on both sides of Suicide Bridge



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1 Road. I don't believe it's adjacent, but --

2 MR. VENTRE: No, it is not adjacent, but it
3 was --

4 MR. DADD: -- it is in the general vicinity of
5 a developed area.

6 MR. KRECH: But my understanding is that these
7 were grandfathered?

8 MR. DADD: Yes, this is that interim status,
9 yes.

10 MR. KRECH: Yes. Okay.

11 MR. DADD: Yes.

12 MR. KRECH: Well, Cabin Creek is pretty muddy.
13 I know oysters don't grow there.

14 CHAIRMAN BOSTIAN: Gregg, do you want to add
15 anything?

16 MR. MOORE: Well, again, we have a letter from
17 the Maryland Department of Natural Resources' Forest,
18 Park and Wildlife Service, dated September 11, '89.
19 We've had subsequent conversations with James Burtis,
20 and there is a note on the plat that will be recorded
21 about limiting water-dependent facilities, such as



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1 docks, marinas, piers, boat slips, due to --

2 VOICE: Waterfowl staging.

3 MR. MOORE: -- yes, anadromous fish spawning
4 areas and waterfowl staging areas.

5 MR. KRECH: Right.

6 CHAIRMAN BOSTIAN: May I ask you -- well, Tom,
7 do you have a copy of that letter?

8 MR. VENTRE: I do not have it. If it were, it
9 would have been in your --

10 CHAIRMAN BOSTIAN: That's right. That's what
11 I'm suggesting. I would suggest to you to file that
12 letter with Tom --

13 MR. VENTRE: I will double check on my
14 originals in the file.

15 CHAIRMAN BOSTIAN: -- and with your interim
16 findings because we don't have a thing on interim
17 findings in here either, please.

18 MR. VENTRE: I will double check.

19 MR. MOORE: I can send that to you. Actually,
20 I don't --

21 MR. BOWLING: Send it to him so it will be



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1 placed in his --

2 MR. MOORE: Okay.

3 MR. KRECH: Steve, off your cuff, what percent
4 of your growth allocation do you figure you have used
5 to-date?

6 CHAIRMAN BOSTIAN: He has already given that
7 to you, Shep.

8 MR. KRECH: Well, it's changed tonight.

9 CHAIRMAN BOSTIAN: A total of 2900 with 1445
10 remaining and --

11 MR. KRECH: Oh, okay. Okay. I missed that.
12 Thank you, Steve. Bill answered your question for you.

13 (Laughter.)

14 MR. DADD: That's all I have.

15 CHAIRMAN BOSTIAN: Well, thank you, gentlemen.

16 MR. KRECH: All right. Thank you very much.

17 CHAIRMAN BOSTIAN: One point. We didn't
18 introduce Tom Ventre, who is Commission staff.

19 Well, I would like to adjourn the meeting, if
20 that's all right with you, gentlemen.

21 MR. KRECH: Good.



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1 MR. BOWLING: I don't see any reason not to.

2 CHAIRMAN BOSTIAN: Okay. We depart until
3 another time, Steve.

4 MR. BOWLING: Off the record.

5 MR. MOORE: Thank you very much.

6 MR. KRECH: Thank you very much.

7 CHAIRMAN BOSTIAN: Good night, Gregg. Nice to
8 see you again.

9 MR. KRECH: Thank you, Steve.

10 (Whereupon, at 8:04 p.m., the above-
11 entitled hearing was adjourned.)

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1
2 CERTIFICATE OF NOTARY

3 I, GEOFFREY L. HUNT, the officer before whom
4 the foregoing testimony was taken, do hereby certify
5 that the witnesses whose testimony appear in the
6 foregoing transcript were duly sworn by me; that the
7 testimony of said witnesses were taken by me by magnetic
8 tape and thereafter reduced to typewriting by me or
9 under my direction; that said testimony is a true record
10 of the testimony given by said witnesses; that I am
11 neither counsel for, related to, nor employed by any of
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13 taken; and, further, that I am not a relative or
14 employee of any attorney or counsel employed by the
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16 in the outcome of the action.

17
18 

19 Notary Public in and for
20 the State of Maryland

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