

Public Hearings - Kent County - Text Amendment 1989-

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CRITICAL AREAS COMMISSION

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KENT COUNTY TEXT AMENDMENT

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This matter came before the public on April

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20, 1989, at 7:32 p.m.

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DNR  
CRITICAL AREA COMMISSION

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P R O C E E D I N G S

1  
2 CHAIRMAN BUTANIS: Are we ready to go? Good  
3 evening. We have a latecomer.

4 This is a public hearing of the Critical Areas  
5 Commission. The purpose of this hearing tonight is to open  
6 up for public comment, or any testimony anybody wishes to  
7 give, anything relative to a text amendment which Kent County  
8 is proposing to make to their Critical Areas program. The  
9 hearing is held under the auspices of the Critical Areas  
10 law found in the Natural Resources Article. My name is  
11 Victor Butanis. I'm on the Commission and represent  
12 Hartford County. To my far left is Tom Jarvis, who  
13 represents Caroline County. To my immediate left, is Jim  
14 Guttman, from Anne Arundel County. And to my right is Bill  
15 Cochran, from Talbott County. So, we are gathered here, and  
16 last but not least, Charlie Davis, who is the staff member  
17 for the Critical Areas Commission, and Eleanor Gough, from  
18 Kent County Planning Offices here tonight as well.

19 If anybody has, wishes to make any statements,  
20 I don't know if you've indicated on the sign-up sheet, if  
21 anybody wishes to say anything. But I would ask if Eleanor

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1 is prepared to make a brief summation of what this text  
2 amendment is all about, for the record, if you would. I  
3 would appreciate that.

4 MS. GOUGH: Okay. This text limit, the purpose  
5 of it is to provide an option for certain intense uses that  
6 are located in the limited development area to the 15 percent  
7 impervious surface requirement. In Kent County, we have  
8 some intense uses that do not take up 20 acres, so they  
9 could not be designated as intense development areas. So,  
10 they were designated as limited development areas. Some of  
11 them occupy small lots, and their expansion would be hindered  
12 by the 15 percent impervious. A number of them already  
13 exceed that. And in order to allow them to expand, we would  
14 like to offer them the option of surpassing the 15 percent  
15 impervious as long as they reduce pollutant loadings by 15  
16 percent using the Metropolitan Washington Council of  
17 Governments method that you would use in the intense  
18 development area.

19 We feel it's necessary because these businesses  
20 have been there for a long time, and their needs to expand  
21 shouldn't be hindered by the mere fact that they weren't

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1 with another 15 acres of the same. And that's basically all  
2 I've got.

3 CHAIRMAN BUTANIS: Okay. Does anybody in  
4 attendance wish to make any statements or, if you have any  
5 questions about what's being proposed, now would be the time,  
6 and barring anything from the audience, I would ask ...

7 MR. JONES: A question about the reduction of  
8 the ...

9 CHAIRPERSON BUTANIS: Could you identify yourself  
10 for the record, sir?

11 MR. JONES: My name is Jonathan Jones. I'm a  
12 resident of Kent County. I was curious about, when you  
13 talked about reducing the, improving the water (inaudible)  
14 by 10 percent, what administrative body administers, looks  
15 at to give that 10 percent?

16 MS. GOUGH: We do.

17 MR. JONES: My impression is that the Kent County  
18 Planning Commission does it?

19 MS. GOUGH: Well, no. One of our staff members,  
20 usually the Storm Water Management technicians, evaluates  
21 that.

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1 MR. JONES: So they go out to a pond site or  
2 something and take periodic water samples ...

3 MR. GOUGH: Oh, we make sure that it actually  
4 does it?

5 MR. JONES: Yeah.

6 MR. GOUGH: No, they use the Metropolitan  
7 Washington Council of Governments book which is based on  
8 prior research that shows that these techniques that you use,  
9 do, in fact, improve water quality.

10 MR. JONES: So, you would recommend to a  
11 particular business owner that he apply those techniques to  
12 his property?

13 MS. GOUGH: Usually, what happens is the business  
14 owner when they do an expansion has to apply to Storm Water  
15 Management in some manner, and their civil engineers to come  
16 up with and choose one of the techniques out of the Council  
17 of Governments book and do some calculations. It's a long  
18 mass of calculations that have to be done, and figure out if  
19 it does, in fact, removes the pollutants. We use  
20 phosphorous as a keystone pollutant. You don't have to  
21 worry about phosphorous, because it's part soluble and part

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1 not-soluble. So, it's a good thing. I do believe that the  
2 Critical Areas Commission is going to be doing some general  
3 water quality studies, but not specific to that.

4 CHAIRMAN BUTANIS: Does anybody else have any-,  
5 before we get to the Commissioner, does anybody else in the  
6 audience wish to make any statement or as ask any questions?  
7 Okay. Mr. Jarvis?

8 MR. JARVIS: Oh, when you refer to "exceeding  
9 the 15 percent", where do you plan to go?

10 MS. GOUGH: Well, some of the sites are already  
11 70 percent impervious.

12 MR. JARVIS: So, there really would be no limit?

13 MS. GOUGH: Well, they wouldn't be able to take  
14 down trees still. I mean, they would still only be allowed  
15 to remove 15 percent of the trees of the 20 percent. So that  
16 would limit any expansion beyond that.

17 MR. JARVIS: Now, these properties, in a certain  
18 area, are they actually on the water?

19 MS. GOUGH: Some of them are and some of them  
20 aren't. The ones I can think of, there's an LI-1, outside of  
21 Gleenan that's on a ravine, so it is occasionally damp. That's

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1 as close to water as it gets now. It's about 60 percent  
2 impervious.

3 MR. JARVIS: But, most of these properties that  
4 you speak of are actually really not bordering on, like on  
5 the river?

6 MS. GOUGH: The marinas are. The marina  
7 districts are.

8 MR. JARVIS: Well, some are and some are not.

9 MS. GOUGH: I would guess that the bulk of them  
10 aren't. The bulk of them aren't. Certainly acreage-wise  
11 they are not.

12 CHAIRMAN BUTANIS: Mr. Guttman?

13 MR. GUTTMAN: Would I be correct in saying that  
14 the basis for this application is really for the convenience  
15 of further economic development?

16 MS. GOUGH: Well, as far as, well, to support  
17 the existing businesses, it's not going to cause them any  
18 decline since they can remain competitive.

19 MR. GUTTMAN: But the thrust of the documentation  
20 is not really to address the objectives of the critical  
21 areas as much as try to satisfy the needs of some enterprise?

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1 MS. GOUGH: I think we felt that we could meet  
2 the requirements of the criteria with the 10 percent because  
3 it's mostly a water quality issue for those sites. We didn't,  
4 we realized that the removal of trees, and leaving that in,  
5 would limit the amount that they could do. I wouldn't say  
6 it's for the convenience. It's just that it's far too  
7 restrictive for those kinds of uses.

8 MR. GUTTMAN: How did you arrive at the 10 percent  
9 number?

10 MS. GOUGH: We checked from the intense develop-  
11 ment section, since these are uses that could have been  
12 designated as intense development areas had they been larger.  
13 We chose a regulation from that section of the criteria.

14 MR. GUTTMAN: But you really don't have any  
15 studies of any kind to really defend a number, such as 10  
16 percent. You just simply saw it used someplace else and ...

17 MS. GOUGH: Well, no more than the Commission did.  
18 I mean, it's in the Metropolitan Washington Council of  
19 Governments.

20 MR. GUTTMAN: Urban guidelines?

21 MS. GOUGH: Right. Yeah. It has been a

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1 recommendation of theirs and we chose the Commission's  
2 criteria that would apply to those sections.

3 MR. GUTTMAN: Well, I think I'd like to say at  
4 this point, I believe that there is an underlying problem  
5 here that was pointed out in a letter to Mr. Davis from  
6 Bob Price, who is another member of the Commission and has  
7 been Acting Chairman. There's really a question of whether  
8 we can arbitrarily make some exception to a segment of the  
9 Critical Areas criteria that's been approved by the  
10 legislature. And I'm not sure, but, Mr. Chairman, whether  
11 we might want to read into the record, and have as an exhibit,  
12 the letter from Mr. Price to Mr. Davis, since it gives, I  
13 think, the benefit of some legal ...

14 CHAIRMAN BUTANIS: Well, certainly ...

15 MR. GUTTMAN: ... perspectives on the matter.

16 CHAIRMAN BUTANIS: I would certainly believe  
17 that that letter is part of the Commission's file at this  
18 point, and would be taken under consideration prior to any  
19 action by the Commission, relative to this amendment. So,  
20 I really don't think it's necessary to read it into the  
21 record, or to formally take it as an exhibit at this time.

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1 Because I think it's already a part of the record. I would  
2 note that the Commission, the Commission's deadline for  
3 acting on this amendment is May 31st, barring any unforeseen  
4 special meeting, it looks like the Commission's going to have  
5 to act on it at its next scheduled meeting of May 3rd.

6 Anyone wishing to submit any written comments,  
7 testimony, information, what have you, should do so in 10  
8 days of today, so that would be by the end of this month,  
9 April 30th.

10 Does anybody else have anything? If you intend  
11 to do that, please send that to the Chesapeake Bay Critical  
12 Areas Commission. The new, it used to be in the Talles  
13 Building. The new address is 275 West Garrett Building ...

14 MR. DAVIS: 275 West Street.

15 CHAIRMAN BUTANIS: ... West Street in Annapolis.  
16 And that's 21401. Does anybody else have anything they wish  
17 to add?

18 MR. JARVIS: How many properties are involved?  
19 Roughly, I mean just ...

20 MS. GOUGH: I could probably count them if, I  
21 would guess between 10 and 16.

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1 MR. DAVIS: I think I might also point out that  
2 the panel, the panel should meet on this before the  
3 Commission meeting, and I have reserved a time at the  
4 Commission offices between 12 and 12:30, so it would be  
5 before the Commission meeting. So, that's a time that  
6 everybody can get together and make some decisions if  
7 additional information comes in.

8 CHAIRMAN BUTANIS: Normally, for the benefit  
9 of those in attendance, the panel, those of us whom you see  
10 in front of you now, will meet at the time that Mr. Davis  
11 just specified, to formulate a recommendation to the full  
12 Commission as to how we think the Commission should act  
13 with respect to this change in Kent County's program.

14 So, there being, anybody have anything else?  
15 There being nothing further, I would declare that the public  
16 hearing is now closed.

17 Thank you all for attending and have a nice  
18 evening.

19 (Whereupon, at 7:46 p.m. on Thursday, April 20,  
20 1989, the hearing adjourned.)  
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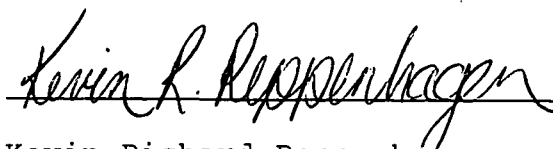
This is to certify that the foregoing transcript  
in the matter of: CRITICAL AREAS COMMISSION HEARING

BEFORE: VICTOR "VIC" BUTANIS, Chairman

DATE: Thursday, April 20, 1989

PLACE: County Commissioners Hearing Room  
Chestertown, Maryland

represents the full and complete proceedings of the afore-  
mentioned matter, as reported and reduced to typewriting.



Kevin Richard Reppenhagen  
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