

Public Hearings - Kent County - Code Home Rule Emergency Bill No. 4-89 1989 MSA-S1830-67

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CHESAPEAKE BAY CRITICAL AREAS COMMISSION

PUBLIC HEARING ON
CODE HOME RULE EMERGENCY BILL NUMBER 4-89

This matter came before the public on June 22, 1989,
at 7:05 p.m.

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

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CRITICAL AREA COMMISSION

SPEAKERS

(In Order of Appearance)

1
2
3
4
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6
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8
9
10
11
12
13
14
15
16
17
18
19
20
21

Jeffrey Thompson Page 14

Ruth Miller. Page 19

Audrey Stills. Page 21

John Kowalski. Page 22

Gail Owings. Page 24

Richard Rosan. Page 25

Patty Elgin. Page 28

James Davis, III Page 30

Peter Johnson. Page 32

Maggie Duncan. Page 39

James Duff Page 39

Constance Berg Page 40

George Scheeler. Page 42

Dr. James Miller Page 44

Richard Cooper Page 49

Charlotte Staelin. Page 53

Allan Durham Page 54

King Burnett Page 55

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

SPEAKERS

(In Order of Appearance)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Elise Davis Page 62

Ford Schumann Page 65

Charles Summers Page 66

Norm Greve. Page 69

Speaker Page 71

Mr. Lakowski. Page 71

Henry Dikers. Page 74

Charles Touley. Page 75

Hans Sause. Page 79

Bill Norris Page 80

Harst Purnell Page 81

Mr. Sonni Page 82

Joanne Bowdle Page 87

Patricia Blitz. Page 88

Phil Widing Page 88

Emily Finch Page 90

Audrey Stills Page 92

Mr. Saunders. Page 94

P R O C E E D I N G S

1
2 HEARING EXAMINER RASIN: Okay. We're ready to
3 begin, I understand. Before we begin, I want to thank the
4 Board of Education for making this facility available,
5 particularly Faye Miller for working so closely with us to
6 set everything up. We apologize that there's no air
7 conditioning. Thank goodness, it's not unbearable, at least
8 not yet. If anyone has to use the bathroom facilities,
9 there are bathroom facilities down this hall to your right.

10 The signs say "No Smoking" and we ask you, Mr.
11 Miller, to observe that. Mr. Miller, would you read the
12 combined notices?

13 MR. MILLER: I hate to get this close to the,
14 anyway, since this will probably be the only time this
15 evening that he will relinquish the microphone to me, I will
16 thoroughly enjoy reading this Notice of Public Hearing.

17 There will be a joint public hearing between the
18 Kent County Commissioners and the Chesapeake Bay Critical
19 Areas Commission on Code Home Rule Emergency Bill Number 4-89.
20 An act to repeal and re-enact with amendments the zoning
21 ordinance for Kent County, Maryland, and the 62 sectional

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1 zoning district maps with amendments thereto, pursuant to
2 Section 4.01 of Article 66-B of the Annotated Code of
3 Maryland. This hearing will be held on Thursday, June 22,
4 1989, at seven p.m. Daylight Savings Time in the Board of
5 Education Auditorium, Washington Avenue in Chestertown,
6 Maryland. The ordinance and maps are available for review
7 in the Planning Office, Courthouse, Chestertown, Maryland.
8 The County Commissioner of Kent County, Maryland, Janice
9 Fletcher, Administrative Assistant. The notice was published
10 twice in the Kent County Daily on 6-7-89 and on 6-14-89.
11 Have a good evening.

12 HEARING EXAMINER RASIN: Thank you, Mr. Miller.
13 As the notice indicates, this is a combined hearing of the
14 County Commissioners and the Critical Areas Commission.
15 Whatever we do with respect to the zoning in the critical
16 areas, must be approved by the Critical Areas Commission
17 and it's at their request that the Critical Areas people have
18 sent a delegation this evening to sit in on our hearing. We
19 appreciate their presence. It eliminates the necessity for
20 completely a new separate hearing in which everyone would
21 have to get up and say the same thing.

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1 This may be the first one in the State that's been
2 combined like this in terms of a comprehensive update. I
3 should introduce everyone up front here. You've just met
4 Commissioner Miller. To my left and your right is Commissioner
5 Harris, and the County Attorney to his, on his far side, E.S.
6 Cookerly. The members of the Critical Areas Commission, Mr.
7 Gutman has not yet arrived. On the far, my far right, your
8 far left, is Robert Price, Jr., who is an attorney from Queen
9 Anne's County. In the Center is Kay Langur from Cecil County.
10 And on this side next to Wally, is Ron Grasick, from Baltimore
11 City, also an attorney, I understand. At the table on the
12 far side is Gail Webb Owings, the County Planner, Eleanor
13 Gowell, the County's Critical Areas Planner, and the
14 consultant from the Critical Areas staff, Pat Pudelkewicz,
15 close? Thank you.

16 On the far side, we have the steno, from
17 the Critical Areas Commission, we're riding free on them this
18 evening. Also, next to Steno, is Janice Fletcher, Administra-
19 tive Assistant Clerk, who will keep minutes for the
20 Commissioners, and then on this side is Bill Land, the County
21 Administrator, whose main function this evening is to be the

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1 timekeeper. We will have a five-minute limit on speakers,
2 and we will talk about that a little more later.

3 Ron, is there anything you wish to say before we
4 proceed?

5 MR. GRASICK: Very briefly. Thank you, Commissioner
6 Rasin. On behalf of the Critical Areas Commission, I wish to
7 welcome you on behalf of the other Commissioners, welcome you
8 here this evening. The purpose of our being here this
9 evening is to hear comments on the proposed program amendment,
10 and the Critical Areas Commission is required to do that under
11 Section 8-1809, The Critical Areas Laws. The comments heard
12 here this evening goes into the public record. The record
13 will be held open in and by the Critical Areas Commission for
14 a period of one week. We'll hold it open until June 30th.
15 If there are any additional documents, any additional comments,
16 we would request that you submit them directly to the Critical
17 Areas Commission office. And let me, if I may, give you the
18 address of the office. The full title is: The State of
19 Maryland, Chesapeake Bay Critical Areas Commission, West
20 Garrett Place, Suite 320, 275 West Street, Annapolis, Maryland,
21 and the Zip is 21401. Thank you.

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1 HEARING EXAMINER RASIN: Thank you. A very brief
2 background on their ordinance. The present ordinance was
3 adopted in 1969 and was updated in 1975 and then again in
4 1988, because of the Critical Areas amendments. We adopted
5 a new comprehensive plan in 1984, and there was an ordered
6 attempt to adopt a new ordinance in 1986. After that ordinance
7 failed, we intended to jump right on, proceeding with the
8 new ordinance, but at that point, the Critical Areas
9 legislation came along and we diverted our attention to
10 complying with the Critical Areas law.

11 As a result, I think we were the first County on
12 the shore to adopt Critical Areas legislation, but we're now
13 coming back to what we intended to do at the end of 1986 and
14 the beginning of 1987. This ordinance, proposed ordinance,
15 is a product of the zoning work group, which was formed in
16 May of 1988, with some 13 members. Although we've received
17 some criticism for the lack of representation on the work
18 group, the work group was about twice the size of the previous
19 zoning work group, and consisted of the following persons:
20 Kevin Kimball, representing the Agricultural Commission,
21 and Wilmer Huhn, representing the Board of Zoning Appeals,

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1 Mark Mumford, the Chamber of Commerce, Chris Haveimar, the
2 Chester (inaudible) Foundation, Joe Campbell from Zone Planning
3 Commission, G. Mitchell, now, who is attorney for the Planning
4 Commission, C. Daniel Saunders, who is an attorney who has
5 a large zoning practice and who, I am told, participated only
6 in taxes, and when it got to the maps, then he left the work
7 group. Dick Luctrell, represented the surveyors. Ashley
8 Helburn, the Workmen's Association. Faye Carroll represented
9 the Council of Governments, as a Council person from Delaney.
10 Bruce Galloway was a consultant. Is Bruce here this evening?
11 Bruce is in the back, waving his hand. Thank you. Our
12 County Planner, Gail Owings, and Critical Areas Planner,
13 Eleanor Gowell, were also on the work group. The work group
14 works long hours and produced drafts and presented it to the
15 Planning Commission early this year.

16 At the same time, about December of last year, the
17 Commissioners imposed a zoning moratorium on major sub-
18 divisions, pending the outcome of the adoption of a new
19 ordinance.

20 The planning staff held informational meetings in
21 February-, I skipped a point. The Zoning work group presented

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1 the draft in early '89, and the planning staff then held
2 informational meetings in February and March, before the
3 Chamber of Commerce, Chester River Association, and a public
4 hearing in Chestertown, Rockhall, and Delaney. Thereafter,
5 they were available for eight-hour sessions in March in
6 Rockhall, Delaney and Chestertown again.

7 The Planning Commission held their formal hearing
8 on March the 22nd, considered public comments and reported it,
9 or adopted it on May 19th with changes. The Planning
10 Commission members were, and are, Floyd Price, the Chairman,
11 Helen Durgan, Robert Hall, Alvin Hench and Joseph Tamarin.
12 Several of those, many of those people and many of the members
13 of the initial work group are present this evening and we
14 want to thank each of you for your contribution.

15 The planning staff then went back on the road to
16 explain the changes that the Planning Commission had made.
17 Public informations were held in June. I forgot Dan Lovell
18 on the Planning Commission. My apologies. Public informa-
19 tional meetings were held in June in Millington, Werman,
20 Rockhall and Chestertown. There was an eight-hour session
21 held yesterday by the planning staff in Chestertown. The staff

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BALT. & ANNAP. 974-0947

1 generally made themselves available, copies were available in
2 the courthouse and the libraries in Rockhall, Chestertown and
3 (inaudible).

4 We've asked Gail Owings to give us a brief
5 synopsis of what is proposed. Many of you have attended
6 previous hearings, we've asked Gail not to reiterate exactly
7 what she has said before, there will not be a slide show at
8 this point as there usually is. We just ask Gail to give us
9 a sort of synopsis of what this ordinance is about. Gail?

10 MS. OWINGS: Thank you. We have a map up here
11 showing the districts, and I will be pointing to them as I
12 talk about them. There are 10 different districts, five of
13 which are located in the critical areas. The first is the
14 agricultural zoning district ...

15 HEARING EXAMINER RASIN: Gail, could you move the
16 microphone a little closer to you?

17 MS. OWINGS: There are many uses within that
18 district, general farming, grazing for animals, except for
19 poultry houses, which would be conditionally used. Residential
20 uses and ad industries, limited in size to 10,000 square feet.
21 For residential uses, there are three options available.

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1 The first is (inaudible), the density of one dwelling unit
2 per 10 acres and a suburban development option of one dwelling
3 unit per 20 acres and a (inaudible) development option of
4 the density of one dwelling unit per 30 acres. The next
5 district is the (inaudible) conservation district, that's
6 located in the critical area and the general (inaudible)
7 density there is one dwelling unit per 20 acres. The next
8 district is the rural residential district, shown in green
9 on the map, it allows single-family dwellings. There are two
10 options here. A cluster, in density two dwelling units per
11 acre, where the half-acre lots are. A cluster, one dwelling
12 unit per acre or one-acre minimum lot size.

13 The critical areas residential is located on the
14 yellow on the map. And that's also within the critical area.
15 The density within that is identical to that of the rural
16 residential district. On the blue areas of the map would be
17 the (inaudible) district. There are several options here.
18 Both residential and small business uses are permitted here.
19 The residential district ranges, if you have water and sewer,
20 cluster five dwelling units per acre. If you don't have water
21 and sewer, two dwelling units per acre. If you have water and

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1 sewer and you choose not cluster, it's four dwelling units
2 per acre. Within this district you may have multi-family
3 dwellings, boarding houses and single-family dwellings.

4 Orange on the map, the commercial district. Those
5 are the highways, commercial uses, shopping centers, car
6 lots, factories, restaurants.

7 Red spots on the areas outside of (inaudible),
8 in particular, the industrial district. All industrial
9 districts have conformance standards which limit the industry
10 to light industry. There is an industrial park district
11 located outside of Chestertown, (inaudible). The industrial
12 park, to begin with 20 acres, and within that 20 acres, you
13 have one-acre lots. Outside of Chestertown there are 16 acres
14 (inaudible). This allows some marina uses, hotels and multi-
15 family homes. This is located in the critical area. It has
16 not changed, except for the density of the multi-family
17 dwellings has been reduced since the document of critical
18 area.

19 The pink on the map, there's just a couple of them,
20 industrial critical area. That recognizes high industrial
21 uses which fall within the critical area.

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1 Colored gray on the map, limited marine, allows
2 some marine use. And red on the map is also a critical area,
3 once again it recognizes commercial uses. All of these
4 districts, there are a set of environmental standards and
5 (inaudible) standards.

6 HEARING EXAMINER RASIN: Thank you, Gail. Just
7 as the Critical Areas, the Commission is holding their record
8 open until June 30th. Any comments that anyone wishes to make
9 in writing after the hearing, will be received at the
10 Commissioners' Office in the Courthouse in Chestertown. They
11 need to be delivered there or mailed there to the County
12 Commissioners of Kent County, Courthouse, Chestertown,
13 Maryland, 21620. The procedure for speaking this evening,
14 again, I urge people to sign up. We are going to read people
15 off of the list. We ask people to come forward and speak at
16 the podium into the microphone. Behind the podium is a chair,
17 that's their "on-deck" circle. That is the person who is next
18 going to be up. We'll read the person who will be up and the
19 person who will be "on-deck", and ask them to come forward
20 to save time this evening. We're going to have a five-minute
21 time limit on people. That has nothing to do with the fact

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1 that the Orioles are on National TV tonight. It is intended
2 to preserve everyone's opportunity to speak and be heard.
3 I note there will be a number of attorneys out there this
4 evening. We will permit you to five minutes per issue, that
5 is, you have, if you represent a single group of people on
6 one issue, we will listen to you on that issue for five
7 minutes. If you represent someone in Millington on an issue
8 and someone in (inaudible) on an issue, different issues,
9 you have five minutes on each issue. So, with that, we'll
10 begin, our first list of people who have signed up to speak.
11 The first two people are Jeffrey Thompson, Jeff, if you'll
12 come forward, and on deck, Ruth Crowe Miller, Ruth, will you
13 please go and have a seat behind the podium?

14 Mr. Thompson, at Centreville, has a proffer on
15 how we in Kent County should do our voting?

16 MR. THOMPSON: God, (inaudible) and let me skip
17 the "on-deck" circle. I am really representing tonight, two
18 different clients requesting two different map amendments,
19 and then proposing one text-type amendment. The first client
20 that I'm representing is a David H. Hunter. He's located in
21 the Third Election District. For your purposes, it's on

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BALT. & ANNAP. 974-0947

1 Sectional Zoning Map Number 11, Parcels 12 and 18. Those
2 parcels, one of which consists of, Parcel 18 consists of
3 42.37 acres. Parcel 12 consists of 7.22 acres. His current
4 zoning classification is rural/residential. The proposed
5 zoning classification be both in the critical area, as well
6 as they're proposing, or you're proposing (inaudible). He
7 is requesting to remain within the R/R zone, inasmuch, in
8 so far as his property is not within the critical area, we're
9 asking for no change in terms of what the critical area
10 provides.

11 The reason that we're asking for the change is
12 that he's immediately adjacent to Fishing Valley, which is
13 a residential development lying to the west of his property.
14 Looking at his particular lot, in particular, Parcel Number
15 18, the private road leading to Fishing Valley, really bisects
16 his property. Therefore, it would be ideal, in terms of
17 remaining in the R/R zone and allowing the residential develop-
18 ment to continue. It's also my understanding that the
19 property lying to the east of his and the map that I have
20 shows Mr. Johnson owns it, has been placed within an
21 agricultural easement. So, the County would be assured of a

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1 buffer between his property being R/R, if our proposal were
2 granted, and the highway, which from looking at your ordinance
3 seems to be an intent to maintain that agricultural atmosphere
4 and you'd be able to maintain that via the agricultural
5 easement on the adjoining property.

6 Since I'm representing two clients, what I'd like
7 to do is to hit on both of them and then the text amendment
8 request that I'm going to make really applies to both. So,
9 the next property I'd like to call your attention to is owned
10 by Ralph Bateman & Sons, Inc. That property is located in the
11 vicinity of Millington, the First Election District. One of
12 the properties consists of 75 acres. Another of the properties
13 consists of 10.478 acres. They're shown on Sectional Zoning
14 Map Number 31, as Parcels 10 and 16. Current zoning, same as
15 my other situation, rural/residential. Proposed zoning, also
16 the same, resource conservation area as well as ABD, your
17 ag. district. What we're going to request is the same request
18 that I previously made. And that is that that portion that
19 you're suggesting to put into the ABD classification, remain
20 in the rural/residential classification.

21 You'll note by looking at that particular

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1 sectional zoning map, that there is a substantial amount of
2 residential development lying to the north of the property,
3 albeit, it's staying in an agricultural zone, but for my
4 purposes it's already been subdivided into smaller lots, so
5 there's practically no effect on those lots. As a matter of
6 fact, in the ag. zone for smaller parcels, a parcel between
7 four to 60 acres, you're permitted to subdivide that parcel
8 into two lots anyway.

9 Also, to what I say, at the east of this particular,
10 or these particular parcels on Map 31, there's also a critical
11 area residential classification shown also on that plat, which
12 means it's residential to the east, not immediately adjacent
13 to this property, and also some residential lands to the north.

14 HEARING EXAMINER RASIN: With respect to both of
15 these parcels, you're not asking that the part of the critical
16 areas be changed?

17 MR. THOMPSON: On neither part, on neither parcel
18 are we asking for that, no. And I understand, that since
19 both of the parcels are bisected by the critical area, that
20 the density for whether it be critical area or whether it be
21 rural/residential would be apportioned based upon how much of

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BALT. & ANNAP. 974-0947

1 the acreage lied in which zone.

2 The next request is really a combination request
3 by both. And for lack of a better term, I'm gonna call it
4 my "Robin Hood theory on density". And that, although my
5 review is very casual, I've had a limited amount of time
6 to review the ordinance, it looks to me as though your
7 rural/residential classification allows for very intense
8 type residential development, being a one-on-one development.

9 As Gail pointed out in the beginning of the hearing,
10 your agricultural classification is one in 30, if you want to
11 remain right on an existing highway, one in 20 if you want to
12 be put in a private road 300 feet back from the road, one
13 in 10, if you want to go 600 feet back from the road. What
14 I am proposing is not to increase the density County-wide,
15 but a better apportion of the densities between the rural/
16 residential and the agricultural zone, i.e., take from the
17 rich rural/residential zone, and give to the poor, agricultural
18 zone. And that's really what we're talking about. A lot of
19 the people were upset, I know. In Queen Anne's County, we've
20 gone through the same type of comprehensive rezoning. I've
21 got to commend you. I like the ordinance much better. But,

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 nonetheless, farmers in this day and age have a tough time.
2 And there are some periods of time when they have to divide
3 their farms in order to make ends meet. It's awfully
4 difficult, if you want to retain your farm, to put that 600-
5 foot road in, in order to get any type of density at all.
6 And again, we're comparing a one-to-one-to-one in 10. And
7 it just seems, if you put the 600-foot road in, in order to
8 get any type of density at all. And again, we're comparing
9 a one-to-one-to-one in 10. And it just seems, if you put the
10 600-foot road in, and it just seems to me that they could be
11 apportioned out a little better and allow the rural/residential
12 one in two, and maybe cut this agricultural in half, allow
13 15 acres on the road, 10 acres 300 feet back, and 15 acres,
14 or five acres 600 feet back. And that really concludes my
15 presentation.'

16 HEARING EXAMINER RASIN: Thank you very much.

17 MR. THOMPSON: Thank you very much.

18 HEARING EXAMINER RASIN: As Mrs. Miller approaches
19 the podium, on deck is Audrey Stills.

20 MS. MILLER: My name is Ruth Miller and I own
21 property on Route 213 right at the edge of Georgetown,

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 Maryland. I have other lands in the County that are probably
2 affected by these zoning changes. But I'm here tonight to
3 speak for the Georgetown area. We have, we are trying to make
4 a historical district of that area. And we already have
5 several homes in the area that are on the historical list.
6 This zoning ruling that's going through changing a portion
7 of the residential area of Georgetown, Maryland, into a marina
8 area is surrounding one of these historical homes now, plus
9 it is edging on another one that has been there since the
10 McKinley, the President McKinley days.

11 I am firmly against the marina area being extended
12 up through the residential area of Georgetown. It not only
13 creates a hazard in traffic movement, it threatens to take
14 out some of the beautiful big trees that have been there for
15 years. I understand we have a tree law in the County, where
16 you cannot remove trees without a permit. If that corridor
17 is put in that is in the drawing, and the acceleration lane
18 is put in it will affect the trees in Mr. Little's yard, plus
19 the ones in the cemetery that have been there for generations.

20 I also have a folder here from the Georgetown
21 Yacht Basin that was distributed to all of his employees,

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BALT. & ANNAP. 974-0947

1 asking them to vote for this new driveway that is going in
2 for the Georgetown area, for the Georgetown Yacht Basin. A
3 lot of these employees are not even residents of Kent County,
4 and how they would have a right to vote on this and mail in
5 a letter saying "yes", they are in favor of it when they are
6 not residents of our county, I don't know whether it should
7 be allowed. I feel there are a lot of "yes" votes going into
8 the Commissioners that have probably been brought on by this
9 folder that was sent out by the Georgetown Yacht Basin to
10 their employees. They had a meeting to our meeting
11 instructing all of them that they wish they would sign "yes",
12 and mail these letters in, asking them not to mail them if
13 they were going to vote "no". Thank you.

14 HEARING EXAMINER RASIN: Thank you. Audrey Stills?
15 And next on deck is Becket John Kowalski.

16 Ms. Stills: At this time, I'd like to know if I
17 could defer until after the request is made by the Board at
18 Handy Point. This is in connection with that, but I have
19 been requested to read a letter concerning it.

20 HEARING EXAMINER RASIN: Do you want to pass and go
21 to the bottom of the list?

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D.C. AREA 261-1902

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1 MS. STILLS: I'd just as soon for now.

2 HEARING EXAMINER RASIN: Okay. John Kowalski?

3 And on deck, Richard Rosan.

4 MR. KOWALSKI: To the Commissioners of Kent County
5 and the Critical Areas Commission. We three Kowalskis, John,
6 Verna and Rosemary, live in the unincorporated section of
7 Kent County. We own and manage a tree farm on Route 291, just
8 west of Millington. We have two major comments about the new
9 zoning ordinances. Number one, the right to farm ordinance.
10 Thank you very much for a very necessary piece of protection.
11 From observations of right to farm laws in other states, I
12 know that tree farmers still have litigation problems due to
13 complaints about their forestry operations. Since forestry
14 products are crops, please include use of forestry products
15 as an agriculture resource.

16 Number two, light is a site on Route 301. The
17 following observations are presented for your considerations:
18 In the soil survey map of Kent County, January, 1982 issue,
19 the proposed site would be located in a forested up-layer
20 watershed having a fine silty clay sediments. The othello
21 soils are deep and poorly drained. The water table ranges

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 from land surfaces, to one foot below the surface at all
2 times. By reference to the proposed site's position on
3 Soil Map Number 10, this large area of othello has patches
4 of water alongside Quinn Road and within the forested area.
5 The water levels are six to eight inches where verified by
6 the writer on recent trips on Quinn Road. The waters on
7 this area are the headwaters of the Swantown Creek and the
8 Sassafras River. Where Quinn Road crosses over to run-off
9 in this area, severe ground erosion exists, now, on the
10 banks of the Swantown Creek.

11 It appears that this proposed site would be
12 located in a non-title wetlands that affects the watershed
13 of the Sassafras and Chester Rivers. Removal of trees from
14 the proposed site would cause lateral, hydrological water
15 pressures onto the surrounding soils and so affect the water
16 qualities of Swantown Creek. Presently, the (inaudible) of
17 Route 301 at the Pennsylvania Railroad tracks act as retainer
18 dikes, keeping the surface water within the othello area.

19 If the proposed site had a 25-foot buffer zone,
20 as built around the wetlands, many known ecological impacts
21 would result. It would cause draining, filling and diking of

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 a wetland would be required after clearing out the forest.
2 The developers will find it very uneconomical to proceed.
3 To be economically feasible, this LIS should be best relocated
4 in another area where the developers and operators can
5 operate efficiently and without fear of environmental
6 restrictions.

7 And a verbatim note, I suddenly find out at this
8 meeting, a new type of zoning that wasn't in the regulations,
9 called Critical Area Industrial, which used to be commercial.
10 Suddenly, I found this out to be new. I must criticize the
11 work force at putting such a new item at such short notice to
12 the public. Thank you for your attention.

13 HEARING EXAMINER RASIN: Thank you, Mr. Kowalski.
14 I would like to make a comment, and I would like to ask,
15 perhaps we can comment on the last issue. The right to farm
16 law is being considered by the Commissioners, but it's not
17 a part of this ordinance. It should not be a part of this
18 ordinance. We are looking at it with some bearing. Gail,
19 would you care to address the last issue at all? About the
20 industrial critical area, industrial?

21 MS. OWINGS: The industrial critical area has been

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 in the same spot since the ordinance's introduction in
2 February, and it's a PRP site, is what it is. And we're
3 recognizing the PRP industry.

4 HEARING EXAMINER RASIN: Thank you. Richard Rosan.
5 And on deck, Patty Elgin.

6 MR. ROSAN: Mr. Commissioner and Critical Areas
7 Commissioners, thank you for this opportunity to appear before
8 you. I am here on behalf of the Riverside Association. The
9 Riverside Association, I'm sorry, the Georgetown Association,
10 in which, as you know, we established about 17 years ago, to
11 try to protect the beauty and the charm and the quality of
12 life of the Georgetown area, which is a very unique area.
13 In terms of its homes and the location and the type of life
14 we have there, except right now, we have a little bit of
15 trouble with the trucks on Route 213.

16 We provided the Commissioners and the Critical
17 Areas Commission with a letter dated June 9th, which we
18 requested in that letter to be made a part of the record of
19 this proceeding. And I have the original of that letter for,
20 to whomever I should give it to.

21 In that letter we have listed 11 items, 11 points

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 that we think are very important in connection with this new
2 proposed ordinance. In the interest of time, we can only
3 discuss four of them at this time. But that does not mean
4 that we do not think the others are equally important.

5 I would like to say at the very outset, that our
6 Association has historically taken very cooperative positions
7 with the commercial interests of our area. We want the Kiddie
8 Night House to prosper. We want the Georgetown Yacht Basin
9 to prosper. It's in our interest so that they will be
10 attractive enterprises in the area. But on the other hand,
11 we believe that there has to be some reciprocity on their
12 part.

13 HEARING EXAMINER RASIN: May I ask you to speak
14 into the microphone, they're having trouble hearing you in
15 the back? Thank you.

16 MR. ROSAN: We want some reciprocity from these
17 commercial interests so that we do maintain the charm and
18 attractiveness of this area. Now, one item that is omitted
19 from our letter that I would like to just briefly comment
20 on, it was in Mrs. Byrd's letter to you, the Commissioners,
21 concerning the omission from the ordinance of the provision

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 for a stay of proceedings on an appeal from a zoning
2 ordinance. I think it is absolutely imperative that that
3 kind of provision be in the ordinance to protect the right
4 of appeal. If you do not have that stay provision, you just
5 frustrate the whole appeal process.

6 Now, Point 9 of our letter, which is on page 12 to
7 13, relates to the Kiddie Night House. The Kiddie Night
8 House which is on Parcel 13-A, is an historical residence,
9 actually. But since about 1942, it's been a country inn.
10 This proposed ordinance would rezone it "marina". We think
11 that is absolutely illogical. The property does not have any
12 waterfront property at all. It's not logical to make this
13 a "marine" zoning. And it may not be important today that it
14 be zoned that way, but as we look down the road, we think it's
15 a very important issue. And for that reason, we are asking
16 that the, it be made a conditional use in the critical areas
17 residential zone, the CAR district zone.

18 Now, with respect to the tenth point of our letter,
19 and it's probably the most important issue, is this proposal
20 to rezone one-half of a residential property and make it
21 "marine", for the alleged purpose of permitting an entrance

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 off of 213 into the yacht, Georgetown Yacht Basin. And I
2 might point out the Yacht Basin currently has an entrance
3 only about 150 feet away from this proposal. And it also
4 shares that entrance with the Kiddie Night House. Now, it's
5 all done in the name of safety. And I want to say that
6 safety is not going to be preserved. We need a speed law,
7 not a new entrance. Thank you.

8 HEARING EXAMINER RASIN: Thank you, Mr. Rosan.
9 Patty? And next is James Davis.

10 MS. ELGIN: Commissioner, I want to focus on
11 another part of the County, the Town of Worton. Two years
12 ago, my husband and I asked for our farm to rezoned to rural/
13 residential. It's 217 acres. It's located on Route, well,
14 it's Porters Grove Road, a County road that goes through the
15 farm, so we have farm on both sides of the highway. At that
16 time it was not considered because the comprehensive plan did
17 not go through. In January on this year, we wrote a letter
18 to the President of the Planning Commission and requested that
19 the same farm be considered again. And at that time, we said
20 about changing it to "village", under the new comprehensive
21 rezoning plan, or to rural/residential, which part of it has

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 been considered. About two weeks ago, we saw the new map.
2 It defines that only the side lane or line on the west side
3 would be considered for rural/residential. The side on the
4 east of Porters Grove Road, which has had almost five acres
5 of ground sold recently into, I think it's four strip
6 building lots. It also has water and sewage in front of it.
7 That joins us on the east side. We don't understand why the
8 opposite side was not considered in the rezoning to rural/
9 residential?

10 HEARING EXAMINER RASIN: Patty, as I look at the
11 map, what's on, I call the north side of the road, is green,
12 which is rural/residential ...

13 MS. ELGIN: Okay. That's what I'm saying is "west".

14 HEARING EXAMINER RASIN: And on the south side is
15 APD?

16 MS. ELGIN: Right.

17 HEARING EXAMINER RASIN: So, your question is why
18 is the south not green as well?

19 MS. ELGIN: Correct. Since there was a recent
20 sale of property for development, what I call it, of housing
21 in the past three months. They already have the lines run

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 across the highway for water and sewer to go into those lots.

2 HEARING EXAMINER RASIN: You appear to own two
3 parcels next to each other on the south side, are you speaking
4 with respect to both parcels, or just one?

5 MS. ELGIN: Yes. Both parcels. With respect to
6 the Richardson farm, that adjoins, that meets the Chickapen
7 Road?

8 HEARING EXAMINER RASIN: Yes?

9 MS. ELGIN: Yes, sir. Including that one.
10 I hope, well, we want to see this zoning changed to the whole
11 farm, not just part of it. And I hope that you would consider
12 this at this time, to include it in the rezoning.

13 HEARING EXAMINER RASIN: Thank you.

14 MS. ELGIN: Uh-huh?

15 HEARING EXAMINER RASIN: Mr. Davis? And on deck
16 is Peter Johnson.

17 MR. DAVIS: Ladies and Gentlemen, I should like to
18 present a comment or two on the legal side and a comment or
19 two on the moral side. The Kent County Planning Commission
20 has recommended to the County Commissioners that a residential
21 lot in Georgetown be zoned "marine". Spot zoning for the sole

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 purpose of financial gain for one company would destroy our
2 village, would give a bad impression to transits entering
3 Kent County and set a precedent that could erode zoning in all
4 of Kent County. The Kent County Planning Commission
5 completely disregarded letters from 14 residents, objecting
6 to this spot zoning. They also disregarded the testimony of
7 seven people from our area objecting to spot zoning. It was
8 very disturbing to see that they would completely ignore our
9 comments.

10 Now, the folly of establishing another road for the
11 marina when two roads already exist, shocks imagination.
12 Queen Street in Georgetown is owned and maintained by Kent
13 County. It's a 45-foot wide street. It could, at least to
14 the marina, it could be used and it should be used if necessary.
15 The Georgetown Association has, over the years, worked very
16 closely with the Commissioners to protect the residential
17 zoning in Kent County. We are now being challenged by
18 personnel in the Kent County Planning and Zoning Commission,
19 using his position to destroy our area for his private gains.

20 Gentlemen, we do not, we please do not allow spot
21 zoning in Georgetown and please do not allow spot zoning in

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 Kent County.

2 Now, just one other comment. We were shocked to
3 hear that the reason the Georgetown Yacht Basin did not
4 consider using Queen Street was that the traffic would inter-
5 fere with their guests using the swimming pool. Now, that is
6 a little hard to believe.

7 Another thing I want to call your attention to in
8 closing, the notice that was in the Kent County News this
9 week, in the middle of the notice it said "The Commissioners
10 held a public hearing on March 22, during which it listened
11 to comments on the proposed ordinance from 34 people. The
12 Commission then revised the documents taking peoples'
13 comments and requests into account". And that's a false
14 statement. They did not take into account the 14 letters
15 and the seven people that appeared. And we would respect-
16 fully request that the Commissioners consider the voices from
17 Georgetown. Thank you very much.

18 HEARING EXAMINER RASIN: Thank you. Maggie Duncan
19 you're on deck. Peter Johnson, the former County Planner?

20 MR. JOHNSON: Thank you. My name is Peter Johnson
21 and I'm here representing the owners of the wharf at Handy's

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 Point. Being the former Planning Director here, I'm very
2 familiar with the zoning that was prepared in this County.
3 I was here when the update was done in '75, and conducted
4 that update.

5 The issue that I would like to speak about is the
6 marine zoning, in effect, the marine zoning, the limited
7 marine zoning for our property. When the zoning was first
8 done in this county for the marina, it was typically to
9 ascribe an area around the existing marine facilities and
10 zone them in the marine category. Very often, marine zones
11 are very small parcels of land located at the end of roads,
12 one, two, three acres, and they're all fairly intensely
13 developed at this point.

14 With the advent of the Critical Areas law, the
15 100-foot buffer, the limitations on impervious surface, a
16 great deal of restriction was put on these properties, and
17 I suggest that not many marina owners in this county today
18 can get a permit to expand their marina, land-side, without
19 having to get a variance or to get some sort of special
20 exception from the Planning Commission to locate within the
21 100-foot buffer, because these zones are small.

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 In our case, we own property to the rear of our
2 existing marina, and we've requested that the County
3 Commission, we requested the Planning Commission, we're
4 requesting the County Commissioners, to zone an additional
5 12.6 acres of land to the rear of the marina, in the limited
6 marine category. Now, 12.6 acres of limited marine zoning
7 sounds like a great deal, but on the site plans that I have
8 attached to the letters I'm going to give to the County
9 Commissioners and the Critical Areas Commission, when you
10 take a look at the 15 percent impervious surface limit,
11 there's really only a very small portion of the site that
12 can actually be used for parking lots, buildings and those
13 kinds of things.

14 We intend to develop a full-service marina here,
15 and we have plans to add additional facilities on the site.
16 We also note that the County is making improvements at
17 Green Point Landing, getting ready to invest money in the
18 public landing there, and that there's already a problem
19 there. One of the issues that's been raised with giving us
20 the additional limited marine zoning is the issue of growth
21 allocation, something I know the Commission is very familiar

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 with.

2 In many counties where growth allocation is being
3 used, it's being used as a way to get people who are developing
4 to do good deeds for the County. We have an opportunity on
5 our site to proffer a good deed for the County and providing
6 on our site and with the use of the limited development area
7 growth allocation, an area that could provide off-street
8 parking for the public landing. Most of that parking now is
9 taking place on Green Point Road. There's a very, well,
10 there's no parking there. It's not to say there's a shortage,
11 there's none.

12 In summary, we're requesting that the County
13 Commissioners take a very serious look at what the new
14 restrictions in the ordinance, the critical areas restrictions
15 are doing to the existing limited marine zoning that we have.
16 Take a look at the proposal that we have in the site plan,
17 and how it illustrates those limitations. Take a look at
18 what we're proposing to do if the growth allocations are
19 permitted for this rezoning, and see how they will both solve
20 a problem for the County and solve a problem for the wharf
21 at Handy's Point, and permit this marina to expand and remain

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 a viable business. Thank you.

2 HEARING EXAMINER RASIN: Peter, if you concur, I
3 would like to suggest to your remark that we can't expand
4 the zoning, the marine zoning, without using some of the
5 growth allocations. Is that correct?

6 MR. JOHNSON: Yes. We note that in some cases,
7 and we've told the Planning Commission, there needs to be
8 some looking at the marine zones, all of them, to try and
9 relieve them from some of the these conditions that are being
10 placed on them with the new ordinance. We note that the
11 Planning Commission did expand marine zones in several cases,
12 Georgetown being one of them, where they have provided
13 additional marine zoning so the marinas can expand and they
14 can deal with the design standards.

15 In our case, we own the land. We own 700 acres
16 behind the property. We have the ability to expand on our
17 own land. That would provide us the relief, but with the
18 design standards and the conditions that are in the ordinance,
19 you're still not talking about an extremely intense use.
20 You're just talking about spreading it over more land and
21 with 85 percent of the site being an open space for green

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 areas or some sort of buffering.

2 We recognize that using growth allocation sets a
3 precedent, but that that precedent, first of all, we note
4 that this is a comprehensive rezoning, where you're dealing
5 with policy issues on a comprehensive basis, and to deal with
6 the issue of marinas, ours being one of them, by expanding
7 the zone, seems to me, does not set a precedent.

8 Secondly, we note that many of the counties that
9 have a growth allocation system in place today, have a system
10 of incentive where you, as an applicant for growth allocation,
11 are willing to provide some sort of public good, in the use
12 of the growth allocation, then that is the justification for
13 using it. In our case, we're willing to provide a parking
14 area for the landing, an off-street parking area, so that it
15 can be, so that that landing can be used more efficiently.

16 Finally, let me note that it's consistent with the
17 goals of your program, because by providing the parking there,
18 we're improving public access to the Bay, one of the goals
19 of the Chesapeake Bay Critical Areas program.

20 HEARING EXAMINER RASIN: Will you concur that
21 wherever the Planning Commission has expanded the marine areas,

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 in other situations, they did not make use of any growth
2 allocations?

3 MR. JOHNSON: That's correct. I would concur with
4 that.

5 HEARING EXAMINER RASIN: And, to my knowledge, we
6 have not made use of any growth allocations anywhere in the
7 County, outside of the incorporated town?

8 MR. JOHNSON: That's correct. I would concur with
9 that.

10 HEARING EXAMINER RASIN: Okay. Thank you.

11 Next to speak is Maggie Duncan. And on deck is Jim Duff.

12 MS. DUNCAN: I just want to go back to the original
13 goals that this ordinance states in their papers, and think
14 about them, and think that we all should be working towards
15 them in the hopes that that will happen. That's all I have
16 to say, but they're good goals.

17 HEARING EXAMINER RASIN: Thank you, Maggie. Now,
18 Mr. Duff. And on deck is Constance Berg.

19 MR. DUFF: Thank you. Good evening. My name is
20 Jim Duff and I'm representing Green Point Farms. We are the
21 owners of Parcel 42, on Map 27. And this lot is located in

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 Chesapeake Landing at the intersection of Buck Neck Landing
2 Road and Maryland 298.

3 This lot is cur-, this lot is eight acres and it's
4 currently zoned B-1, neighborhood business.

5 HEARING EXAMINER RASIN: Could you tell us again,
6 where is the property again?

7 MR. DUFF: Parcel 42, Map 27.

8 HEARING EXAMINER RASIN: Thank you.

9 MR. DUFF: This lot is currently zoned B-1,
10 Neighborhood Business. Under the proposed new Kent County
11 zoning ordinance the property will be down-zoned to the rural/
12 residential classification, which does not permit businesses
13 or commercial establishments. We purchased this property with
14 the intent to develop it, with a small retail establishment
15 and have a building permit pending at this time. I also
16 add that we have an approved sewage reserve area.

17 I believe that the it calls for the commercial,
18 rather than the rural/residential, is the appropriate
19 classification for this property. Therefore, I respectfully
20 request that the County Commissioners reconsider the proposed
21 zoning for Parcel 42 on Map 27, and place it in a crossroads

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 commercial zoning district.

2 HEARING EXAMINER RASIN: Jim, what are the two,
3 I'm still trying to find the parcel on the plat?

4 MR. DUFF: It's the circle on Buck Neck Landing
5 Road.

6 HEARING EXAMINER RASIN: Thank you. (Inaudible)

7 MR. DUFF: Okay.

8 HEARING EXAMINER RASIN: Thank you. Next up is
9 Connie Berg. And on deck is George Scheeler.

10 MS. BERG: Okay. I'm Constance Berg. I live in
11 Georgetown. And I speak, particularly with how this zoning
12 ordinance affects Georgetown, but also how it affects the
13 whole County. I have written a letter to the Commissioners
14 and I've sent copies to the Critical Areas Commission. I
15 don't know whether I can get this in, but I'll just mention
16 parts of it. We did mention that exceptions to the zoning
17 ordinance are exceptions to the law. These have been removed
18 from the hands of the Board of Appeals and placed in the hands
19 of the Planning Commission. These exceptions are to parking
20 and they're to access roads. That's safety. That involves
21 us all.

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 The Planning Commission can make a unilateral
2 decision. Somebody just comes in and says, "I want this",
3 and they can do it. I request they be back in the hands of
4 the Board of Appeals. Under, I had some small things here,
5 but I'm gonna go right to Article 109, Map 7, in Georgetown.
6 We are adamantly opposed to this. And I have been in the
7 real estate business in this County for over 20 years, and
8 my office was in Talbott County, and I worked in all the other
9 counties, and I have never, in my life, seen anything to equal
10 rezoning a half-parcel of land for a use that is in conflict
11 with the comprehensive plan, critical areas. It defies me.
12 It is being touted as safe. It is unsafe. It is in conflict
13 with the safety regulations of the comprehensive plan. I
14 believe the page is 76, which says "We will", I've seen it
15 somewhere, "minimize access points", all accesses have a
16 potential of danger. And the ides of the comprehensive plan
17 is to minimize. They also say all accesses will be
18 consolidated where possible. This is being ignored in
19 granting this other access. It says that land should be
20 connected internally to prevent the highway from being used
21 as a service road from one upper access to a lower, which is

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 what the case is now. It is further, I cannot see how any-
2 body could take that beautiful ravine and zone it to be
3 destroyed. We have the drawings from the State Highway
4 Department, showing cut and fill, ranges on a quarter-mile
5 road from five feet to 15 feet throughout that quarter-mile.

6 It destroys the natural drainage-way. It destroys
7 the natural topography of that parcel, and it will remove
8 several of the prettiest sugar maple trees in Kent County
9 and the others will be, (inaudible) a slower death when you
10 put the paving nearby. And I'll get my letter in (inaudible)

11 HEARING EXAMINER RASIN: Thank you, Connie. George
12 Scheeler? And on deck is Dr. James Miller.

13 MR. SCHEELER: My name is George Scheeler and I'm
14 speaking for the property called Scheeler Airport, and the
15 property right near it, which was part of the Crew farm.
16 It's about 110 - 15 acres through that property. And I would
17 just like to make a comment here. When zoning first started
18 here in this County, I was one of the first to attend the
19 meetings. And it seems like every five or 10 years, I have
20 to come back here to keep this property zoned commercial.
21 I don't know why. Now, they're trying to make it, call it

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 a village. They're destroying just what I think I was trying
2 to do here, make an Easton approach. You can put houses.
3 I've got a list here, and you people know what it calls for.
4 And I've sent a letter to the Commissioner. In fact, on July
5 the 1st, 1986, I sent a letter when they were revising this
6 thing, asking them to keep this property zoned "commercial".
7 And I got no request (sic). Then I sent another letter
8 right after this. So it seems like I don't know whether you
9 found that letter, the Commissioner's got it or not. I could
10 not get a copy of it. Then I sent you people a letter dated
11 June the 15th, here, and I'm writing this letter as the owner
12 of the land on which Scheeler Field is located and consisting
13 of approximately 100 acres or more at the present portion
14 owned L-1, a commercial and R-5.

15 If the new ordinance is accepted as proposed, it
16 will become a village district. After getting no response
17 from my previous letters to the Planning Board when the last
18 zoning ordinance was presented, at which time I explained why
19 this property should be zoned "commercial". I am again
20 requesting that you consider this change, because of the
21 airport and the bypass points to the northern end of the

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 property, which will eliminate the airport, I am requesting
2 that all of my property be zoned commercial, the strip
3 property which is consisting of 1,000 along Scheeler Road
4 up to the mental hospital has been changed to village,
5 included in the village there. So, that is my request. It
6 has town water and sewer for 50 years, that I'm permitted
7 to use town water and sewage from the town by donating them
8 a half-acre of land for the water tower back there. And
9 it's always been commercial along there, and now I find out
10 they want to put some kind of, I call it (inaudible).

11 My idea was, back there at the mental hospital
12 I might someday donate about eight or nine acres of that
13 land for a park area. I don't care whether it goes into a
14 town or not, to have some green property there, which would
15 be of value in the neighborhood of a quarter-million dollars.
16 But I am not putting that up to you people to change this
17 zoning law. That was my impression of what I was trying to
18 do there, and do the right thing. I thank you.

19 HEARING EXAMINER RASIN: Thank you, George. Dr.
20 Miller. And on deck, is Dick Cooper.

21 DR. MILLER: Ladies and Gentlemen, we appreciate

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 very much the opportunity to speak to you this evening. The
2 property I'm referring to will be Parcel 15 on Maps 23 and
3 31. This farm is owned by my brother, Lauren Miller and my-
4 self. What we are concerned about here is that this property
5 has been zoned R-R since 1969, and in the revision of '75,
6 it was decided to leave it as R-R. It has now been proposed
7 that this land be rezoned from R-R to AZD. We feel that this
8 is not the thing to do in this area. We're also opposed, not
9 only to our own land being rezoned, but also the land that is
10 located on Chesterville-Millington Road, going west from Route
11 301 to Chesterville Forest.

12 The property owners along that road and north side
13 of it, 94 percent of the crop land owned there by these
14 people are against this proposed zoning.

15 Have you been able to, gentlemen, to find the
16 location I'm referring to?

17 HEARING EXAMINER RASIN: We have the location.

18 DR. MILLER: Okay. Thank you.

19 HEARING EXAMINER RASIN: The whole thing is AZD?

20 DR. MILLER: Yes. In other words, the whole thing
21 would be rezoned as AZD under this proposal and it's now R-R

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 for 1,000 feet north of Chesterville/Millington Road. But
2 our farm happens to fall on two different maps. And that's
3 the reason I make reference to 23 and 31.

4 Now, as I've mentioned here, there are many people,
5 more than 50 people that are opposed to this rezoning in this
6 area. In fact, Mr. Thompson testified for one this evening
7 that is opposed for rezoning from the R-R to AZD. We wish
8 that this land remains R-R. Considering that we go back to
9 1969, many people have built very nice homes in this area and
10 did this on the basis that it was R-R and would remain as R-R.
11 And we do not feel that it is appropriate now to change this
12 to AZD.

13 There have been two cases, or excuse me, one case
14 that's been brought up over two different periods, and the
15 previous two Boards of County Commissioners have voted against
16 this rezoning. So, we're very much opposed to this, and we
17 feel that it is not the thing to do. And we would appreciate
18 very much you giving us your strong consideration as you look
19 at this Millington/Chesterville area here west of 301. Thank
20 you very much.

21 HEARING EXAMINER RASIN: Dr. Miller ...

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 DR. MILLER: Yes?

2 HEARING EXAMINER RASIN: Can you tell me, this
3 probably hits a lot of Kent County, this same issue. Your
4 agriculture, a doctor who teaches at the University of
5 Maryland, why, specifically, do you not want to see this
6 area ...

7 DR. MILLER: All right.

8 HEARING EXAMINER RASIN: ... this area as AZD,
9 which is intended to preserve agriculture in the County?

10 DR. MILLER: The situation is this, and I'm all
11 for the zoning ordinance as it is spelled out. It has
12 mentioned, specifically, that R-R land should be your non-
13 prime farm land. To change this from R-R to AZD, we are
14 taking land here that is not the prime land. Yet we go to
15 other parts of the County where we have prime land, and what
16 do we do? We change it to R-R. This is land that is not
17 prime land, a lot of it. Now, you can find little chunks of
18 it because Mother Nature made it that way, but predominantly
19 it is not prime land. So, we are going against the rules in
20 the ordinance that were spelled out, the comprehensive plan,
21 earlier. Yes?

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 HEARING EXAMINER RASIN: Generally, the prime land
2 perks the best ...

3 DR. MILLER: Yes. Yes, that's right.

4 HEARING EXAMINER RASIN: If it's not prime, it
5 must also be prime for housing, also?

6 DR. MILLER: Well, there's so many things that we
7 can do today for housing, that we don't necessarily need the
8 perk test. There is new technology coming along that, in
9 fact, in this County here, we're going to be using this, as
10 I understand it, in reading the Kent County News. From the
11 standpoint, but, yes, that is true. That your best
12 agricultural land is also often your best land for develop-
13 ment. But when we come back to our ordinance here, we are
14 stating, "Look, in our R-R areas, let's do not take our prime
15 farm land for these areas. Let's save it for AZD".

16 But what are we doing? We're taking here areas
17 which is primarily the not prime farm land and we are changing
18 it to AZD. Yet we go to some other part of the County, and
19 we pick up prime land and change it to R-R. It just doesn't
20 seem that that is in line. And the other thing that concerns
21 me quite a bit is that there are over 80 parcels of land in

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 Chesterville Forest. This has always been a residential
2 community, since I've known it. I don't know how many years,
3 but it goes back a long, long time. Here, we have all of
4 these people living on a residential community there, and here
5 we bring AZD right up next to them. And that is not
6 compatible with a residential area.

7 So, it just seems to me that we're doing things
8 here that are not compatible with our ordinance. Thank you
9 very much.

10 HEARING EXAMINER RASIN: Thank you. The next
11 speaker is Dick Cooper, and on deck is (inaudible)

12 MR. COOPER: Mr. Chairman, Mr. Commissioners,
13 members of the Critical Areas Commission, I represent Mr. and
14 Mrs. James Woodell, or Jim and Margaret Woodell, and Earl and
15 Louise Chance, in Georgetown, Maryland, with respect to the
16 rezoning of a portion or 1.5 acres of Parcel Number 109 on
17 Tax Map Number 7 in Georgetown area, owned by one of the
18 members of the Planning Commission, Mr. Paul Hall, who requests
19 the rezoning of the property from rural-, from R-1 residential,
20 to limited marine.

21 I propose, since I represent two families, that

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 doesn't give me a crack at 10 minutes, does it?

2 HEARING EXAMINER RASIN: That's correct.

3 MR. COOPER: I'd like to present to you, if I
4 could, my remarks and I want to concentrate if I can, on
5 some legal issues dealing with this parcel of land. I won't
6 burden you with the limited time that I have with citations.
7 I have done that in a letter for your attorney. Despite the
8 fact that we had indicated to the Planning Commission that
9 certain conflicts existing and the propriety of making this
10 recommendation, and despite the fact that this proposal was
11 made, it was pointed out that this proposal was made without
12 a study and was piecemeal in spot zoning, the Planning
13 Commission did recommend the rezoning of this property to the
14 Commissioners.

15 Mr. Woodell, Mr. and Mrs. Woodell own some property
16 adjacent to the Hall property and resides in a home that was
17 built in 1905. Mr. and Mrs. Chance own some property directly
18 across from the Hall property. Both homes are located in the
19 historical residential community known as Georgetown. And the
20 character and history of Georgetown has been adequately
21 stated in the memorandum that Mr. Rosan has presented to this

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 Board, dated June 9, 1989. And I will not go into that.

2 Let me just simply say this: This is a residential
3 area. You all know where this property is, I'm sure. You go
4 into the beautiful town of Georgetown. These properties are
5 residential and hold the residential character. Mr. Hall
6 also lives there and on the same parcel he resides. He wants
7 to use half of that parcel to be marine or limited marine
8 property, zoned property. It's not on the water, but it is
9 adjacent to Georgetown Yacht Basin, which Mr. Hall has a
10 substantial, if not whole interest in. The big sign that you
11 see at Georgetown Yacht Basin that comes out to Kiddie Night
12 House, I understand will now be, if this is adopted by this
13 Board, will now be adjacent to Mr. Woodell's home. By the
14 marine ordinance, he will be able to have cars, boats parked
15 on the Hall property, trailers, and take on the character of
16 a marine area. The natural and historical beauty of the
17 southern interest of Georgetown would be altered.

18 The thing I want to present to you gentlemen, if
19 I can, is the fact that there is a distinction between
20 comprehensive rezoning and spot-zoning. We all know that.
21 But sometimes we get caught in labels, because if we label

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 something so long, we begin to call it a "duck", but the
2 Court of Appeals may very well call it a "dog". What I'm
3 trying to say is that although we may call this "comprehensive
4 rezoning", it may very well be that another tribunal may very
5 well call this "spot-zoning" and "piecemeal zoning", regard-
6 less of whether it was proposed in this comprehensive rezoning
7 of the whole County. And I've heard some interesting and
8 wonderful comments. It's a shame we have to belabor this and
9 try a zoning case dealing with the rezoning of one small piece
10 of property at this forum.

11 And I think that begs to show the problem that we
12 have here. I want to say to you that with all the letters
13 going back and forth, with the Planning Commission, that I
14 am to understand at this point that this was done without any
15 study by the Planning Commission or the Work Group. It is
16 out of character with the zoning of the area and it has no
17 reasonable relationship to the welfare of the County, which is
18 a standard to be, these are the standards to be used in
19 determining whether or not this is rezoning.

20 Briefly, gentlemen, I guess that's it, and I don't
21 get my 10 minutes. I just simply want to say that when a

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 client comes to you and says, "Let's have a hearing. Let's
2 cross-examine Mr. Hall". I say, "We can't do it because this
3 is comprehensive rezoning and he's able to get this thing
4 done through piecemeal zoning", and I have no answer for him.
5 And I beg you to consider this as such. Thank you.

6 HEARING EXAMINER RASIN: Thank you, Dick.

7 (Inaudible)

8 MS. STAELIN: Staelin. Yes. Good evening. My
9 name is Charlotte Staelin. I am here, however, speaking for
10 my mother, Charlotte Woodall Dennis, who owns the farm
11 adjacent to the Georgetown Yacht Basin. She also owns a
12 house on Sun Street in Georgetown which used to belong to
13 her grandmother. It is a house that I have spent many, many
14 hours and indeed, years in. I am a new voter in Kent County,
15 but the roots go deep. I'm here to object to the changes in
16 Parcel 109 on Map 7, that the previous speaker was objecting
17 to. We feel very strongly that this is not the time to do
18 this. I don't believe it would pass if it were done in a
19 spot-zoning fashion. The neighbors are 100 percent against
20 it. I was one of the people that wrote a letter to Gail
21 Owings complaining about this when I first heard about it.

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 And we'll fight it the whole way. And I think you need to
2 know that the people in Georgetown are against it. And
3 they're against it as strongly as they possibly can be. I
4 strongly urge you to reconsider and not do this. Thank you.

5 HEARING EXAMINER RASIN: Thank you. On deck should
6 be King Burnett, and speaking is Allan Durham.

7 MR. DURHAM: I'm representing myself, Allan Durham,
8 and my wife, Katherine Durham, and also my father-in-law,
9 Kenneth Wolraven. The parcels we'll be talking about will be
10 in the First District, Map 31, Parcel 213 and Parcel 81.

11 These two parcels ...

12 HEARING EXAMINER RASIN: Where are they located?

13 MR. DURHAM: ... Chesterville and Millington Road
14 and the corner of Billy Chancer Road to be exact.

15 HEARING EXAMINER RASIN: Thank you.

16 MR. DURHAM: The proposed change is to change these
17 from rural/residential to AZD, which we're, I am strongly
18 opposed to. I think it's not only unfair, but a little unjust
19 for people that have built homes along there, all along the
20 Chesterville/Millington Roads, along with their properties,
21 which we've just recently built a new home, investing quite a

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D.C. AREA 261-1902

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1 few dollars, would not only be reducing the value of my land,
2 but you also will be backing my land up to agriculture zoning,
3 which could bring anything up to my back door, which I'm not
4 too crazy about, because you never know what could happen, it
5 could be a pig farm, it could be anything that you're backing
6 up to my back door. I think it's not fair, not only for me,
7 but the rest of the people along that road. I also go along
8 with Dr. Miller's explanation of this, and I'm entirely in
9 favor of his proposal.

10 And, Mr. Rasin, in conjunction to your comment on
11 perking, I've saved myself several thousand dollars on
12 construction because of the easiness I had in passing my perk
13 test on this Parcel 213. Also, sir, I'm in definite disagree-
14 ment with your industrial area that you place in Massey, close
15 to the Town of Massey. Also, on the one on 301, which is
16 definitely in a wetland, and a very nice piece of woods, which
17 I don't think we need to destroy for those purposes. Thank
18 you, sir.

19 HEARING EXAMINER RASIN: Thank you. King Burnett
20 and on deck is Elise Davis.

21 MR. BURNETT: My name is King Burnett, and I'm an

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 attorney from Salisbury. I'm here tonight representing the
2 Kent Conservation, Incorporated. I want, first, to compliment
3 the Commissioners, the Planning Commission and the Planning
4 Staff for an excellent job. This is one of the most far-
5 reaching progressive ordinances I have seen anywhere in the
6 State. You have an opportunity, this doesn't come around very
7 often, you have an opportunity, really, to do something for
8 this County in the long-term. Your goals at the beginning of
9 the ordinance are absolutely correct. I have handed to Mr.
10 Cookerly earlier, a letter which outlines the position of
11 Kent Conservation, Inc., and together with it is a copy of the
12 20/20 report that was done by the 20/20 Panel for the
13 Chesapeake Executive Council. I know you have enough to read,
14 but I commend it to you because it really articulates the same
15 goals that are in your ordinance, and points out, not only the
16 detriment to the environment of having growth scattered all
17 over the place, but the cost to the taxpayers.

18 If we scatter growth all over this County, taxes
19 will go up. It's no accident that taxes are high in Anne
20 Arundel, Carroll, Baltimore County, and all the Counties have
21 experienced a lot of growth. because they haven't managed it

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 right. Kent County has, perhaps, its last chance. And we
2 hope that you will seize it. The agriculture zone that you
3 have is, maybe, not enough, but it's as far as you probably
4 can go, and we ask you to hold it. We think that you've got
5 the right formula. It's fair. Most certainly people are
6 gonna say that they'd like to develop it. Everybody would,
7 in their own interests.

8 The essence of this County is its rural areas. The
9 essence of its way of life is its rural areas, and unless
10 they're preserved, there will be no more County as everyone
11 here knows it. The pressure from the north and from the south
12 is becoming intense. The rural/residential. I know it's
13 difficult in a way, because, unfortunately, you had a plan and
14 a code before that allowed, maybe, a million people to settle
15 here, within the existing zoning, and you're having to roll it
16 back. We ask that you hold the line on rural/residential, as
17 well. There's more than enough rural/residential in your
18 zoning code, I'd say for probably 50 years. I asked the Plan-
19 ning Staff if they had calculated it, and they haven't. But
20 I think you've got enough housing permitted in the zoning that
21 is in this draft plan to accommodate more than all the growth

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 that's predicted for this County for a long time. I last,
2 last but not least, to the question of incinerators. Now,
3 I do this with some trepidation because I know that this has
4 been a very hot issue, to say the least. Very briefly, what
5 we propose is that the issue be handled directly in the code
6 by prohibiting mass-burn incinerators in any zone in the
7 County. And in the letter we propose for a spot for that to
8 go. That may be open to some question as to whether that's
9 the best spot. But we proposed a specific place for it. Now,
10 why? The reason is that not that it would prohibit it forever,
11 because nothing is forever. Even this ordinance can be
12 amended. But why not put it in there, I'm told, you know,
13 probably it will allowed in any of these zones under these
14 standards anyway. There's nothing in any law that says that
15 every County has to provide a place for a mass-burn incinera-
16 tor. It's not the law, so I think that it's easy to say "none".
17 And if some future Council and some future public wants to
18 say, "Let's have one", then they can have a debate and you
19 can amend the ordinance. There's a lot more safeguards in
20 amending an ordinance than there are in saying, "Well, this
21 use is like another use, and therefore I am going to call it

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 the same use", and there are provisions in this code which,
2 perhaps, could be abused to allow a use such as this.

3 And we ask that you follow-through on the commit-
4 ments that you already made as opposed to this type of thing
5 in Kent County to incorporate it in the ordinance, specifi-
6 cally.

7 I do want to mention one thing about the industrial
8 zoning. We do feel that the industrial zone should require
9 water and sewer. You have large zones, particularly the one
10 on 301, no water and sewer. It says in your ordinance draft
11 that you may require water and sewer to develop it. It would
12 seem more logical, particularly in view of the comments already
13 made about that area, to say it shall require it. Thank you.

14 HEARING EXAMINER RASIN: Thank you. Before you
15 leave the podium, Gail, would you address the issue of whether
16 or not an incinerator is permitted in your opinion of this
17 ordinance?

18 MS. OWINGS: Under the performance standards as
19 proposed, only licensed clean industry would be able to meet
20 the performance standards.

21 HEARING EXAMINER RASIN: Would you be more specific?

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 MS. OWINGS: In other words, no incinerators.

2 HEARING EXAMINER RASIN: Okay. I realize that you
3 would like to put one in, if you can, but really the ordinance
4 is written from a perspective of, these are permitted uses
5 and these are, whatever is not listed is not permitted. And,
6 ...

7 MR. BURNETT: Well, there is a provision that says
8 the County Commissioners, without an ordinance, can say that
9 one use is very similar to another use. For example, you allow
10 public utilities, whatever they are. Mass incinerators could
11 be called a public utility. We, in reading the performance
12 standards, I've been in litigation enough to know that you
13 can get an expert to say anything. And I dare say that any-
14 body coming in here with an incinerator can say that it will
15 meet these standards or any other standards, and it's going
16 to be an open question. Now, why not just put in, right at
17 the beginning, and I suggested in a letter, a place in Article
18 1, Section 5, six words to be added to the ordinance. It's
19 not a big deal. And all it would mean, as a practical matter,
20 is that if somebody wants to do it, they've got to propose
21 an ordinance amendment, and come right up front with it, and

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 with all the safeguards that are involved in an ordinance
2 amendment. It's not that hard to amend one, but at least
3 it requires public notice, public hearing, and there are
4 certain rights with passages of ordinances that you know.

5 HEARING EXAMINER RASIN: Okay. We will consider
6 that. I am sure the way it is written, it is not intended
7 to permit incinerators as it's written there, at this point.

8 MR. BURNETT: I understand. Thank you.

9 HEARING EXAMINER RASIN: Thank you. Next up is
10 Elise Davis and on deck is Ford ...

11 (tape change)

12 MS. DAVIS: My comments are addressed to the
13 Chesapeake Bay Critical Areas Commission. I represent Mr. and
14 Mrs. Dennis Perkins of Georgetown, Maryland. My clients
15 object to the proposed rezoning of part of Parcel 109 on Map
16 7, from the current R-1 to the limited marine. In a separate
17 letter to the County Commissioner, I have addressed the
18 proposed zoning from the viewpoint of the law of zoning.
19 However, with the Critical Areas Commission, I wish to address
20 the proposed rezoning from the viewpoint of what the Critical
21 Areas legislation is intended to achieve. My clients own

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 Parcel 106, which adjoins Parcel 109 to the north. The
2 Wallace-Perkins property is on the National Register of
3 Historic Places. The house which overlooks, but is not on
4 the (inaudible) River, was built Circa 1737, and has been
5 in Mrs. Perkins' family, continuously, since 1762. Mrs.
6 Perkins being the eighth generation of her family to own
7 and occupy it.

8 Parcel 106 is zoned R-1, and it's proposed to be
9 zones Critical Areas Residential. Parcel 84, which adjoins
10 Parcel 109 to the south is also zoned Critical Areas
11 Residential, as is everything on the east side of Route 213.
12 Parcel 109 is owned by Mr. and Mrs. A. Ford Hall, who bought
13 it in 1981, and use it as their residence. Parcel 109 was,
14 at one time, part of the property presently owned by Mr. and
15 Mrs. Perkins. It having been subdivided in Mrs. Perkins'
16 lifetime, and its use has always been residential. The
17 proposed rezoning of part of Parcel 109 to limited marine,
18 was obviously done to facilitate Georgetown Yacht Basin,
19 which is owned by the Hall family. But, in doing so, it flies
20 in the face of the stated purposes of the Critical Areas
21 legislation.

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 For reference purposes, and using Kent County
2 Assessment Map Number 7, the northwestern-most part of Parcel
3 109 that is proposed to be zoned limited marine, is 525 feet
4 from the water at its closest point. And beginning at a
5 distance of approximately 150 feet from Route 213, that portion
6 of the parcel to be rezoned limited marine, begins a descent
7 at an angle of approximately 45 degrees. The stated purpose
8 for rezoning the property limited marine is to allow for
9 another access road to the marina. Mr. Hall has advised Mr.
10 Perkins that part of the fill needed to build the road would
11 be taken from in front of the Perkins' property, where there
12 is already an erosion problem, and that the road at the bottom
13 would be elevated 12 to 15 feet higher than the present grade
14 of the land.

15 I've attached pictures for your viewing and we'll
16 give them to you as soon as I'm done. Pictures 1 and 2,
17 enclosed, are taken behind the Woodall home on Parcel 84.
18 Where the parcel begins, the angle descends. Pictures 3 and
19 4 are taken in the same place, looking down the slope. And
20 Pictures 5, 6, 7 and 8, are taken towards the rear of the
21 Perkins' property, near the common line with the Hall property.

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 It, too, has a 45-degree angle descent, the slope belonging
2 to the Perkins, and the level ground at the bottom belonging
3 to Georgetown Yacht Basin. I quote from the Kent County
4 Development Handbook, activities in the Chesapeake Bay
5 Critical Areas General Guidelines.

6 "It is Kent County's policy in the critical areas
7 to minimize adverse impacts on water quality that result from
8 pollutants that are discharged from structures and conveyances
9 that have run-off from surrounding lands".

10 And I quote from the Kent County Proposed Zoning
11 Ordinance, relative to limited marine districts: "The land-
12 scape shall be preserved in its natural state insofar as
13 practical by minimizing tree and soil removal. Any grade
14 changes shall be in keeping with the general appearance of
15 neighboring developed areas, the orientation of individual
16 building sites shall be such as to maintain maximum natural
17 topography and cover. Topography, tree cover and natural
18 drainage-ways shall be treated as a fixed determinance of
19 road and lot configuration, rather than as malleable elements
20 that can changed to follow a preferred development scheme.
21 And streets shall be designed and located in such a manner

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 as to maintain and preserve natural topography, coverage,
2 significant landmarks and trees, to minimize cut and fill
3 and to preserve and enhance views in distance on or off the
4 subject parcel".

5 I can only conclude that the above provisions in
6 the proposed zoning ordinance were proposed on the basis of
7 the previously stated purpose of the County's Critical Areas
8 Guidelines. I would ask you all to go view the site, as well
9 as looking at these pictures. Because one can only come to
10 a conclusion, and that's one conclusion as to the proper
11 use of that parcel, and it is residential. Its grade does not
12 permit any other reasonable use, particularly given its
13 proximity to the south of this river. Thank you.

14 HEARING EXAMINER RASIN: Thank you, Elise. Next
15 up is Ford Schumann and on deck is Charles Summers.

16 MR. SCHUMANN: I'm here to say that I also think
17 it's a good idea to put in plain writing that there shouldn't
18 be any incinerator in Kent County. I think the provisions
19 that, to add an amendment once everyone feels that we should
20 have such a facility, would be a proper procedure in the
21 future, if we have to come to that. Mass-burn incinerators

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COURT REPORTING • DEPOSITIONS
D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 are called all sorts of things, without the word "incinerator"
2 in it, waste energy. So, I second the motion that Mr.
3 Burnett makes, and I think the people in the Kent County
4 area would feel a little bit better if the wording was in
5 there. Thank you.

6 HEARING EXAMINER RASIN: Thank you. Mr. Summers
7 is up, and on deck is Norm Greve.

8 MR. SUMMERS: My name is Charlie Summers and I'm
9 a resident of Kent County, and a property owner. I feel that
10 the proposed zoning ordinance is a workable ordinance. My
11 concern is where some of the zoning has been located through-
12 out the County. I would like to call to your attention, to
13 Map 37. For the past, almost three years, we have asked the
14 Planning Commission to retain the present commercial acreage
15 along Route 213, from Hopewell Corners, south.

16 We have asked for an increase in commercial acreage
17 in the area under the proposed zoning, we have been zoned
18 "village", zoning proposal for that area. The property to the
19 east side of Route 213 north belongs to Mr. George Scheeler,
20 presently has light industrial, commercial and R-3 zoning.
21 His land is also proposed to be zoned "village". Two

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 commercial areas have been added to Map 37, since March 22,
2 1989 hearing. I agree more commercial acreage is needed, but
3 I agree with the Chestertown Mayor and Council that the
4 zoning area on Route 291 and Flatland Road, commercials are
5 not appropriate, and do not comply with the Chestertown
6 comprehensive plan.

7 We encourage the Commissioners to increase
8 commercial acreage on 213 north, which has been requested by
9 Crestview Land Partnership and George Scheeler. I would also
10 like to, for the record, for the Commissioners, the article
11 in this week's Kent County News, reciting from the meeting
12 from the Chestertown Mayor and Council. I'll submit that
13 also. I have another letter to the Commissioners. Please
14 find enclosed a unified letter from the majority of commercial
15 zone real estate property owners between Southgate Drive
16 and Route 297, Hopewell Corners, along Route 213, north of
17 Kent County. As you can see from the letter, it is the wishes
18 of these property owners, to return, to retain the commercial
19 zoning and not change to village, when the proposed zoning
20 ordinance becomes effective. It is our sincere hope that this
21 matter will be given serious consideration during the

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 decision-making process.

2 I have the letter signed by the majority of the
3 property owners of the commercial, only one of the 19 property
4 owners along there, there was one person we did not get a
5 signature on, and that's just because we have not been able
6 to get him here today to get him to sign the letter. I will
7 submit that.

8 I also have another letter to the County Commis-
9 sioners. Enclosed is a plat showing approximately six and-a-
10 half acres currently zoned R-3 and C-1 on the land of Crest-
11 view Land Partnership. Outlined on the drawing is the acreage
12 we propose to you to be zoned crossroad commercial and not
13 village district. As you know, the majority of the property
14 owners along 297, from 297 at Hopewell Corners to Southgate
15 Drive do not wish to be zoned village, but commercial.

16 We propose that our request is to be natural
17 completion of the commercial district from Hopewell Corners
18 to Southgate Drive. I have spoken continuously with the
19 owners along 213 and encourage you, correct you that those
20 property owners indicated that they understand our proposed
21 zoning. We sincerely hope that the Commission will grant our

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 request, Charlie Summers.

2 HEARING EXAMINER RASIN: Thank you, Charlie. Norm
3 Greve is up, and on deck is (inaudible).

4 MR. GREVE: I want to thank the Commissioners and
5 the Critical Areas Commission for their efforts. I think
6 there might be a little fine-tuning needed. And I'd like to
7 make some general comments that, for consideration. In the
8 critical areas, in general, on pages in our zoning ordinance,
9 Pages 12, 22, 32, 43, 60, 70, et cetera, I'd like to ask why
10 we need a 25-foot naturally-vegetated buffer around non-tidal
11 wetlands. A source of noxious weeds and an ever-expanding
12 wetland. I think the wetlands should speak for itself, and
13 I don't think that you have to put it in every area that you
14 need a 25-foot buffer around it to protect it.

15 On Page 74, Section 7, intense marine. There is
16 no precedent for this district. This is a contradiction with
17 Page 147-F, the requirements for a critical area, 2-A,
18 Paragraphs 2, 3 and 4. It is also a contradiction with Page
19 1-B, Sections 1, 2, and 3. It is also located 25 miles up
20 the Chester River and in direct conflict with the State's
21 policy of locating marinas at the mouths of rivers to avoid

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 the congestion as exemplified on the Sassafras River, which
2 we're all familiar with. This district is certainly not
3 needed in this location. I urge that the intense marine be
4 abolished in its present location.

5 On Page 4 of the Development Handbook, inter-
6 family transfers are restricted in an arbitrary manner. As
7 an example, a seven-acre parcel may be divided into two
8 parcels of three and-a-half acres each, while a 60-acre
9 parcel may only be divided into three parcels of 20 acres
10 each. I would urge that a minimum size be specified of three
11 or four acres, and that there be a limit specified of not
12 more than six parcels. I think it would be much more
13 equitable than the way it is written now.

14 Another thing I don't quite understand. The
15 critical area, as I understand it, means an area that is
16 critical. We have been given a lot about "save the Bay" and
17 everything else. Why do we have an industrial district in
18 the critical area? And I won't develop that any further.
19 Thank you for your time.

20 HEARING EXAMINER RASIN: Thank you, Norman.
21 (Inaudible) and followed by (inaudible) Lakowski on deck.

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 SPEAKER: I wish to address the zoning on the
2 Crestview Subdivision. I'm currently a property owner there
3 and that area is zoned residential. It's proposed to be
4 changed to village. And I'm requesting that it remain as
5 a residential zoning, since it is a subdivision and developed
6 for housing. Thank you.

7 HEARING EXAMINER RASIN: Thank you. Mr. Lakowski,
8 and on deck is Henry Dyker.

9 MR. LAKOWSKI: Thank you. Good evening. I'm
10 representing Richard Winters and his wife who own 100 acres
11 of land, give or take a few, on the north side of Cookers
12 Lane at the intersection of Route 298. It's Map 20, Parcel
13 29. The property, at this time, is zoned AZD, and under the
14 proposed zoning change, it's gonna remain AZD. My clients
15 are asking that the property be changed to R-R zoning.

16 Basically, if you look at the map that you have
17 in your proposed zoning, what we have is Cookers Lane at this
18 time, going to the water's edge and going up to Route 298,
19 and is approximately 70 percent, either zoned R-R or RCD.
20 And basically the only AZD tracts are the properties of my
21 clients and farms owned by Dr. and Mrs. Sass, who, as I

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 understand, are also in support of this proposition. What we
2 have is that development has occurred in Canard's Point towards
3 298, in effect, coming up Cookers Lane and I think the
4 planning changes are a blessing, with respect to the changes
5 that you're making.

6 While the intent and the objections of the zoning
7 ordinance is to limit the places where we have existing
8 residential areas, I submit that with the changes that are
9 taking place in the Wharton area, that it would be more
10 logical to make the section R-R corridor all the way up to
11 South Cookers Lane from 298 down to the water's edge.

12 In effect, what we have here, this property is
13 approximately one-tenth of a mile from the terminance of the
14 existing sewer line in Wharton. We know that there has been
15 recent approval of a large subdivision across from Kent County
16 High School, which is four-tenths of a mile from this property.
17 And it just seems that it would be more logical that the
18 growth follows a pattern which apparently is starting to
19 commence, that is, on Cookers Lane.

20 We know that, also, on Route 298, south of Wharton,
21 we have Butlertown, which is a residential area. We know that

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 Wharton has, over the past 10 years, expanded eastward towards
2 what is now is the Halls of America, Halls of America, and
3 I submit that the logic dictates that the next expansion
4 pressures are going to be north of 298 and down Cookers Lane.
5 And I think the fact that we have a consolidated high school
6 and elementary school at that location really, that's, from
7 a planning standpoint, that would seem to be the most logical
8 place to keep the future growth which is occurring.

9 So, basically, that's what we're requesting, that
10 the AZD property be changed to R-R.

11 HEARING EXAMINER RASIN: Only one-tenth of a mile
12 from existing sewer and water?

13 MR. LAKOWSKI: Yes, sir.

14 HEARING EXAMINER RASIN: How, is that on the Davis
15 farm?

16 MR. LAKOWSKI: I think so. I might be off, but ..

17 HEARING EXAMINER RASIN: Davies farm?

18 MR. LAKOWSKI: ... The Davies farm, I believe.

19 HEARING EXAMINER RASIN: Does sewer and water go to
20 the Davies farm?

21 MR. LAKOWSKI: I'm not sure there. But I think

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 that my client indicated, it was about a tenth. It may be
2 a little bit more, but even if it's a quarter of a mile, it's
3 still fairly close, when we're talking about a comprehensive
4 zoning change and incorporate the potential future growth.
5 And we know what's happened to the Wharton area since the
6 1975 ordinance. Thank you.

7 HEARING EXAMINER RASIN: Thank you. Mr. Dikers'
8 up and followed by Charles Touley.

9 MR. DIKERS: I'm Henry Dikers in the First Election
10 District in Massey. I'm representing Mr. Randall Stafford
11 who is sitting in back and my family. Our land falls in the
12 area that has been proposed for industrial park, which we have
13 no objections to. I've understood now that some of them say
14 that the trees will be gone. Since the gypsy moths have
15 destroyed the forest in our particular area, we logged it in
16 the past couple of years. And with the sewage, I understand
17 through the EPA and the Soil Conservation area, that the
18 sewage that they would (inaudible) of water as what there is.
19 So, I see no harm in it. Maybe I'm in the wrong place.
20 Everybody seems to be speaking against something. I'm in
21 favor of it. It seems to me like a shame that the job that's

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 been done here by people in the County is clouded by one or
2 two spot-zoning areas which seem to be coming up quite regular
3 tonight. So, I have no objections to the proposed changes
4 in our area.

5 And the water table, which is higher there, but I
6 don't believe it's within six inches of the ground, because
7 we have a pond in that particular area that goes dry nearly
8 every summer. If the water table is that high, it should stay
9 full. So, thank you for your time.

10 HEARING EXAMINER RASIN: Charles, you're up, and
11 followed by Hans Sause.

12 MR. TOULEY: Ladies and gentlemen, my name is
13 Charles Touley, and I am a realtor, which Commissioner Rasin
14 failed to recognize Mrs. Langur as being. However, I'm
15 speaking for myself this evening. I'm concerned with part of
16 the text of the new ordinance, specifically that item called
17 "Design Standards", which appears, almost verbatim, in each
18 section of the ordinance which permits a residential develop-
19 ment.

20 In order to illustrate my concerns, I would like
21 to read to you an article that I wrote for yesterday's Kent

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 County News. It goes as follows: I'm on my way to my
2 attorney's office and I'm mad enough to sue the County
3 Commissioners, the Planning Department, and every member
4 of the Planning Commission. It all started two years ago
5 when my wife and I came to this area from Pennsylvania to
6 retire. We wanted to buy an acre or two of wooded property
7 and build a small log home. No small wooded lots were
8 available, however, so we finally compromised on a one-acre
9 parcel in the Sunset Hills Subdivision. Two weeks ago, a
10 tractor-trailer loaded with cedar logs arrived on the site
11 and after giving the driver a \$20,000.00 certified check,
12 was unloaded by my contractor. My troubles started a few
13 days later with a call from the Planning Office, telling me
14 I was in violation of a section of the zoning ordinance
15 entitled "Design Standards", and that I should immediately
16 stop any further construction of a log home in that sub-
17 division, or run the risk of being cited for a zoning
18 violation. You can imagine how upset my wife and I were
19 when we met with the Planner that afternoon. It seems that
20 our new next-door neighbor, who lives in one of those, in
21 vinyl, pseudo-cape cods was upset at the prospect of a log

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 home next door, and managed to convince the other neighbors
2 to take some action. They cited a little-used portion of the
3 proposed ordinance, called "Design Standards", that reads
4 as follows:

5 Each unit of development, as well as the total
6 development shall create an environment of desirability and
7 stability. Every structure, when completed and in place,
8 shall have finished appearance.

9 I have stressed the word "shall", because according
10 to the planner, that word permits the legal enforcement of
11 this section of the ordinance. The planner, as do my
12 neighbors, feel that a log home should be built on a wooded
13 lot. I agree. But, I don't feel that they should have the
14 legal right to stop me from building the home of my choice
15 as long as it meets the building codes. I don't know what
16 options we have, legally-speaking, but I'm on my way to find
17 out. In the meantime, I'm out \$20,000.00, plus the cost of
18 my lot and my foundation, not to mention the loss of precious
19 time before the bad weather arrives.

20 I can't understand how the County Commissioners
21 of a small County like Kent could allow this situation to

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 take place. I've been told that years ago, when they planned
2 to pass the ordinance, that there was very little public
3 opinion expressed, and that evidently no one bothered to
4 point out that if the word should "should" had been sub-
5 stituted for "shall", that I wouldn't be in this predicament.

6 I would like to submit to the County Commissioners
7 that the "Design Standards" section be removed from the
8 zoning ordinance and be placed in the subdivision ordinance
9 and that the word "shall" be changed to the word "should",
10 and thereby act as a guideline to developers coming into the
11 County. Thank you.

12 HEARING EXAMINER RASIN: Gail, could you comment?

13 MS. OWINGS: The Design Standards are very
14 important. If you put them in the subdivision ordinance,
15 they will not apply to any commercial development on a specific
16 parcel of land. And it's very important to have landscaping
17 and design standards for commercial development. A
18 particular issue which Mr. Touley is speaking about, as you
19 know, there are some homes in Kent County which have never
20 had the bricks put over the existing house, for a long time
21 they had exposed insulation or whatever it is, to put the

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 bricks in, and the idea was to get the house finished, so
2 that it be desired, and log homes are certainly finished,
3 be it, log homes.

4 HEARING EXAMINER RASIN: Thank you both. Mr. Sause,
5 and Bill Norris is following you on deck.

6 MR. SAUSE: I am Hans Sause. My wife and I own
7 farm land in Wharton on Cookers Lane, starting from Montibello
8 Road towards Route 298. We had a concept for development of
9 roughly 20 lots approved last year, and then we got caught in
10 the moratorium. And now that land is zoned agricultural.
11 Actually it is closer to Wharton than to the Wharton High
12 School, than Canard's Point and the developments in Stillpoint
13 Creek. After the draft-zoning ordinance was proposed, 16
14 separate lots were approved along this part of Cookers Lane,
15 some in form of strip developments.

16 Now, this doesn't look good. Also, we also feel
17 it's not the most prudent use of the land, but it shows where
18 the trend is and where the people want to live. We have a
19 very modest request, a minor change of the ordinance, which
20 will be very minor and very small. Namely, to change this
21 final 25 percent of Cookers Lane, which is closer to Wharton,

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 from agricultural to rural/residential, as the rest of Cookers
2 Lane is. Let me add some more emotional aspect to this. When
3 we had our concept approved, there was a development close to
4 Galena, at more than 10 times our size. During the moratorium
5 the developers went ahead with the percolation tests. Their
6 land now is residential. Ours isn't. We are not developers.
7 We live in Washington, D.C. for close to 10 years now. We
8 come over the weekend whenever we can to Kent County and we
9 intend to retire here. So, we are as much interested in the
10 beauty, in the natural beauty of that area, particular area
11 there on Cookers Lane, as anyone else. Thank you very much.

12 HEARING EXAMINER RASIN: Mr. Sause, as I look at
13 the map, you have three parcels. Are you speaking with respect
14 to each parcel?

15 MR. SAUSE: Yes.

16 HEARING EXAMINER RASIN: Thank you. Bill Norris,
17 and he will be followed by Marion Hondecker.

18 (Ms. Hondecker declines)

19 HEARING EXAMINER RASIN: In that case, on deck
20 is Harst Purnell.

21 MR. NORRIS: Commissioners, because of our interest

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COURT REPORTING • DEPOSITIONS
D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 in community affairs, and because of our professional ethics
2 and standards, we, the Kent County Board of Realtors,
3 acknowledge the new zoning ordinance with one stipulation.
4 Due to the growth and rapidly-changing environment, we feel
5 that this land should be reviewed in two years. Respectfully
6 submitted, William H. Norris, President of the Kent County
7 Board of Realtors. Thank you.

8 HEARING EXAMINER RASIN: Thank you. Harst, to be
9 followed by John -- go ahead.

10 MR. PURNELL: I am speaking as a member of the
11 Maryland Historical Trust of Kent County. We are very
12 conscious of the fact that you reviewed the Historical
13 Commission Ordinance of Talbott County and discarded it. We
14 also are aware that we feel that there's very little in the
15 existing ordinance that has any teeth in it. I propose the
16 following: In order to safeguard our architectural and
17 archaeological heritage, the County authorities, in issuing
18 permits, et cetera, should take into account the historical
19 and architectural character of the buildings, or site and
20 its location in the County. A register of historical buildings
21 is now in file in the Kent County can serve as a reference for

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D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 all buildings. Any revision to the above structures and/or
2 adjacent properties could be publicized by the County or by
3 the applicant. This should be required.

4 To allow concerned individuals and organizations
5 to register their views and to propose changes or renovations
6 to be made in the requested building permit. County authori-
7 ties should take into account these comments and proceed
8 accordingly in issuing permits to protect and preserve our
9 heritage and historical values.

10 To the above could be added a special provision.
11 If we are to protect and preserve the architectural historic
12 values which make our County so unique and attractive, we
13 must include more than just a reference to historic structures
14 which now appear under "Design Standards". Thank you.

15 HEARING EXAMINER RASIN: Thank you. Gail, do you
16 have any comments on that? Thank you. Mr. Sonnis?

17 MR. SONNI: Sonni.

18 HEARING EXAMINER RASIN: Sonni. And you will be
19 followed by Joanne Bowdle.

20 MR. SONNI: I'm a physician and I've spoken at some
21 of these meetings before about my concern about the

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 environment, our water and our air. And I think that under-
2 lines all of what we're trying to do. I wrote a letter to the
3 Planning Commission on April 19th about, April 20th, about
4 two proposed developments adjacent to Charlotte Estates.
5 One is Teal's Lake and one is a continuation by August Balonca
6 of his development.

7 I'd like to speak to the fact, the argument, that
8 seems to me to be presented often this evening, that since
9 we've done something already, why don't we do more of it,
10 or else ignore what we've done already. I'd like to apply
11 that to the Charlotte Estates situation.

12 Charlotte Estates occupies about 100 acres, and
13 there are about 100 houses in those 100 acres. And most of
14 them are along Swantown Creek, which flows right into the
15 Sassafra. The majority of those houses could not be built
16 today, because they are in the critical areas zone. If we
17 had 100 acres of Charlotte Estates already constructed, to
18 150 acres that might be additionally developed, plus 200 acres
19 in the proposed Teal's Lake development, that comes to about
20 450 acres, or possibly say 500. If we take 100 houses and
21 assume that they were built in the critical area zone, 100

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 houses at 20 acres, would be, at 20 acres apiece, rather,
2 would be 2,000, it would require 2,000 acres for those
3 houses. So, we already have 100 houses in 500 acres of land.
4 If we consider the adjacent land to the critical area, plus
5 the critical area, all in one package.

6 I'd like to read a few paragraphs of a letter that
7 I wrote to the Planning Commission. I have copies for the
8 Critical Areas Commission and the Commissioners.

9 "As you know, I am concerned that these proposed
10 developments as approved, be done in such a manner that no
11 damage be done to the public health and welfare or to the
12 environment. That the habitat for endangered or threatened
13 nonhuman animal life will be preserved and that the natural
14 beauty of the land is protected. I will do everything possible
15 to help to assure these ends."

16 Much of the area proposed by Balonca and Gold can
17 meet a peaceful sense for a planner for development. I reviewed
18 the soil maps, and I have these condensed in letters, and much
19 of it could be developed, although not all of it. However,
20 one might consider, relative to this, that there is dense and
21 intense development already existing in the general area of

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D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 these proposed developments, particularly in Charlotte Estates.
2 Apparently, this applies to Wharton, also, which adversely
3 impacts on the land environment and the tributaries of the
4 Chesapeake Bay. Swantown Creek has already (inaudible) this
5 proposed new development is on high lands. It drains down-
6 hill. There was flooding just this past week.

7 Much of this is in areas that would have been
8 designated resource conservation areas, had the critical area
9 law been in effect at the time these areas were developed.
10 There is often no 100-foot setback, no shoreline vegetation.
11 The concentration of house and road impervious surfaces, with
12 their increased water runoff and concentration of septic
13 systems and wells. These developments have, in a sense,
14 already used up and overstressed some of the land loss, and
15 no longer available to be protected as resource conservation
16 areas, a happening difficult to undo.

17 The adverse impact of this saturation could be
18 diluted out and compensated for, rather than increased, by
19 limiting further development on the basis of considering the
20 total area of Charlotte Estates and other developed neighbor-
21 hoods abutting or contiguous areas. Plans of Balonca and

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COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 Gold's proposed development areas as one large geographic
2 ecologic container. This area could be viewed macroscopically
3 in wide-angle focus as an entity, rather than microscopically
4 or piecemeal.

5 If the overall general area all near the Swantown
6 Creek and the Sassafras River were to be used thusly, it could
7 be argued with good reason that any further development of
8 neighboring, abutting or contiguous land, could be considered
9 at the outset as overdevelopment. Further, overburdening an
10 area that is already overdeveloped and overburdened, in many
11 sectors that are, in essence, resource conservation areas.

12 These considerations must be bore in mind to be
13 negating factors that weigh against the fact that proposals
14 for further development are in (inaudible) compliance with
15 legal requirements, since this assertion is true only if one
16 thinks in terms of isolated or discrete parcels. To think in
17 this literal sense is contrary to the very essence of
18 environmental planning which is integrative, cohesive and
19 sees matters in terms of mutual interaction. Thank you.

20 HEARING EXAMINER RASIN: Thank you. Joanne Bowdle
21 is up, and I have trouble with reading the signature, it looks

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COURT REPORTING • DEPOSITIONS

D.C. AREA 261-1902

BALT. & ANNAP. 974-0947

1 like (inaudible). I'm not sure that's the last name. Joanne?

2 MS. BOWDLE: Thank you. I'm Joanne Bowdle, and
3 I live in Canard's Point. I'm here this evening to speak
4 about the property that was just referred to a couple
5 gentlemen ago, and that's the acreage along Cookers Lane.
6 From Still Pond, Montibello Lake Road to Route 298. And this
7 acreage is approximately 800 acres, and they're asking it to
8 be rezoned to rural/residential, which could be conceivably
9 developed into one-acre lots, or if they cluster, one-half
10 acre lots.

11 I strongly urge you to leave this area as the
12 Planning Commission has planned, agriculture. There are
13 four developments already along this road, plus other private
14 residential areas, and approximately 800 lots which certainly
15 put pressure on County services, road maintenance, schools,
16 police, fire protection. And it would be in direct conflict
17 of what the Planning Board is trying to achieve, to keep a
18 rural atmosphere in Kent County, outside of towns and villages.
19 Thank you.

20 HEARING EXAMINER RASIN: Thank you. On deck is
21 Phil Widing, and why don't you give us your name?

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COURT REPORTING • DEPOSITIONS
D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 MS. BLITZ: My name is Patricia Blitz and I live
2 at Green Point. And I'm a member of the Kim's Creek
3 Association, and I just am here to register my opposition
4 to rezoning of the 12 and-a-half acres of the Handy Point
5 Marina. I think that land, the amount of land ...

6 HEARING EXAMINER RASIN: What marina?

7 MS. BLITZ: ... Handy Point. I think the amount of
8 land is not the problem at Wharton Creek. It's the amount of
9 surface of water. If anybody would come out there on the
10 weekend and look at the creek, it is wall-to-wall boats. The
11 opening into Wharton Creek is very narrow and it has become
12 extremely congested over the weekend. It's only a miracle
13 that we have not had an accident at this time. On any given
14 weekend, I would like, also, to point out, the request by Mr.
15 Duff, for a change in the zoning for Green Point Farms is
16 part and parcel of Handy Point Marina, and one and the same
17 thing. I would just, like I say, like to register my objection.
18 Thank you.

19 HEARING EXAMINER RASIN: Thank you. Next is Phil
20 Widing and on deck is Emily Finch.

21 MR. WIDING: My name is Phil Widing and I appreciate

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COURT REPORTING • DEPOSITIONS
D.C. AREA 261-1902
BALT. & ANNAP. 974-0947

1 the democratic process that allows me to express my own
2 opinion. We have operated a 300-acre family farm near
3 Chesterville for the past 30 years. For about the past 20
4 years, I have been involved in the real estate business and
5 particularly, in the sale of farm land. I have learned that
6 people pay the price for land in accordance with the uses
7 that they see for the land, be they present or future uses.

8 Value, then, is directly related to use and to
9 permitted use. Were it not for the development potential
10 in other areas, and here in our own area, we could not enjoy
11 the \$3,000.00 per acre farm land prices that we presently
12 have. Farm land with only a corn and beans future, to pay
13 for it, would have to sell at \$1,200.00 an acre or under,
14 where it might cash-flow. The proposed zoning plans for Kent
15 County are an attempt to freeze things as they are and ignore
16 growth and change, which is inevitable.

17 Certain people wanted to close the Patent Office
18 in the 1800's, because they believed that everything had been
19 invented that would ever be invented. Certain people in the
20 County want to severely restrict, and if possible, close down
21 future change for our County when change is inevitable. It is

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BALT. & ANNAP. 974-0947

1 interesting to note that those most interested in shutting
2 down things with zoning and preserving agriculture are lot-
3 owners or other farmers who have usually sold-out somewhere
4 else and come to Kent County to preserve your farm land and
5 mine in accordance with their ideas.

6 To express concerns over restrictions of our
7 private property, we are tagged "adversaries". We are
8 ignored because we dare to criticize. Inevitably, we are
9 put in the same category as those who want smokestack industry
10 and postage-stamp lots, which is not true at all. Zoning is
11 necessary. Zoning is helping everybody, but it should be
12 fair and it should be flexible.

13 I am proud of the County and the quality of life
14 here, but our farm is our major asset. To severely restrict
15 the uses to which farm land can be put, reduces its value.
16 It limits our borrowing power and it does not give us any
17 future security. I feel that the farmer's pocket is about
18 to be picked by the proposed ordinance.

19 HEARING EXAMINER RASIN: Thank you, Phil. And the
20 last person who signed up is Emily Finch.

21 MS. FINCH: Good evening. I represent myself, and

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BALT. & ANNAP. 974-0947

1 as somewhat of an antique, I hope I'm qualified to speak on
2 behalf of the antique sites in the County. First of all, I
3 would like to thank and commend the Commissioners and Planners
4 for their hard work in putting together this whole complicated
5 ordinance. I commend the idea of a right to farm law as
6 protecting the kind of rural area that is the character and
7 the attractiveness of our County. It is just as important
8 to preserve the historical heritage which is unique to Kent
9 County and the Eastern Shore of the Chesapeake. Concern for
10 historic sites and their protection was addressed at the
11 March 27th public meeting. As far as we can discover, no
12 changes have been made since then in the draft ordinance
13 regarding historic preservation.

14 There is, at present, only a gentlemanly nod to
15 protecting historic sites. But so generally-stated that
16 there is no real legal protection. Good will and good
17 intentions, sadly, do not protect. It is conceivable that
18 a gas station could be built over an old abandoned, in quotes
19 "graveyard", or a condominium built in front of an historic
20 house, just for examples.

21 In a different sense, historic sites are critical

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BALT. & ANNAP. 974-0947

1 areas, and we don't want them to become endangered species.
2 So, I again, commend your attention, the wording of the
3 zoning ordinances for Talbott County, regarding historic
4 sites, et cetera, and urge the similar protection be given
5 to historic sites in Kent. Thank you.

6 HEARING EXAMINER RASIN: Thank you. Audrey Stills,
7 who we have passed, would she like to speak? If there's
8 anyone else who would like to speak, perhaps they should get
9 on deck.

10 MS. STILLIS: I am a designated speaker for a group
11 of homeowners on Green Point. And I am reading excerpts from
12 a letter from Marcie Brown Atwater, who spoke eloquently for
13 all of us.

14 "Under the present comprehensive plan for Kent
15 County, a priority is preservation of agricultural land. Under
16 the critical areas law, the Commission is charged with the
17 development of criteria that will provide for growth, and also
18 provide for the conservation of habitat and the protection of
19 water quality in the area. In December of 1985, land was
20 redesignated according to its usage. The land in question was
21 redesignated resource conservation district. All adjacent

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BALT. & ANNAP. 974-0947

1 acreage, except for a 4.6 acre parcel at a previous hearing
2 was likewise redesignated resource conservation district.
3 As directed by the critical areas law, intense development
4 should be directed outside the critical area. Future intense
5 development activities, when proposed in the critical areas
6 shall be directed towards the intensely-developed areas.
7 The critical areas law further states an amendment to a
8 zoning map may be granted by a local approving authority only
9 on proof of mistake in the existing zoning. We submit that
10 no mistake was made."

11 The stated purpose of the yet to be adopted
12 ordinance is to limit development in the resource conservation
13 area and to chiefly designate this area for agriculture,
14 forestry, fisheries and for habitat protection. The land
15 under question is designated "resource conservation district".
16 This district is intended to conserve, protect and enhance
17 the overall ecological value of the critical area, its
18 biological productivity, its diversity and to conserve the
19 existing developed woodlands and forests for the water quality
20 benefits that they provide.

21 Under no documents, past, present or future, should

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BALT. & ANNAP. 974-0947

1 the land in question be redesignated "limited marine". We
2 are strongly opposed to those requests made for the wharf
3 at Handy Point. Thank you for your time and consideration.

4 HEARING EXAMINER RASIN: Thank you. There is no
5 one else that has signed up at this point. Is there anyone
6 else that would like to speak? Mr. Saunders?

7 MR. SAUNDERS: Ladies and Gentlemen, I have several
8 clients. I'm afraid I have to tell you that I have to talk
9 about, and I'll try to be very brief as to each. Unfortunately
10 with respect to the first, which is Georgetown Yacht Basin,
11 I'm going to find it difficult to be brief. Several people
12 have spoken about and against their application, and made a
13 number of points. And I think in fairness, I've got to
14 answer at least some of those points.

15 First of all, I'd like to point out that there is
16 only one reason for the request, and by the way, the request
17 is to expand a marine zone, not to create a free-standing
18 marine zone, but to expand it in a very small sliver so that
19 it extends out to the public highway, for one reason and one
20 reason only. That is, to create a new entrance to the marina.
21 The present entrance is extremely hazardous. It's probably

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1 the most dangerous entrance to a roadway in this County.
2 And it is becoming increasingly utilized. Traffic on 213
3 has increased, almost doubled in the last five years. The
4 use of the marina entrance has increased. Kiddie Night
5 House has been expanded. They also use that entrance. And
6 this is a very hazardous intersection.

7 Georgetown Yacht Basin, acting responsibly, wants
8 to change the location of that intersection. I might add
9 that the present entrance does not comply with any of the
10 State Roads standards for safe entrances. Fortunately, for
11 the present time, we don't know for how long.

12 Secondly, it's been said that this is our preferred
13 approach to the property. This is not accurate. We have
14 explored every way we can to access this property through the
15 Queen Street entrance. Unfortunately, the business aspect,
16 or the business end of this property, is not reachable
17 from Queen Street, except one of two ways. The first is
18 through the buffer zone, which skirts the edge of the water,
19 and the other is to go past the existing swimming pool. The
20 problem with the route past the existing swimming pool is
21 that we don't own the land on which the road would have to go.

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1 We cannot obtain permission from the individual who owns that
2 property, and therefore, we cannot route the road that way.
3 If we could, and if a way can be found that we can do so,
4 we assure you, we will do that. But it appears that that can-
5 not be done, and it will not be done. And therefore, we want
6 to locate the entrance where it is proposed.

7 Secondly, it is said that this is "spot-zoning".
8 It is not spot-zoning. Spot-zoning is a term of law, and it
9 is not applicable in a comprehensive rezoning context. Spot-
10 zoning can only occur in the context of the single application
11 for rezoning of a single parcel.

12 Third of all, it has been said that the character
13 of this neighborhood is residential. While the character of
14 the community may be residential, this neighborhood, that is
15 the west side of 213, is almost entirely marine or commercially-
16 zoned. There are three residential properties on this side of
17 the road. It is not heresy to suggest that the marine zone
18 be expanded, at least to the small extent that is being pro-
19 posed here.

20 By the way, other uses of the property have been
21 suggested. The only use of this property is going to be to

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BALT. & ANNAP. 974-0947

1 access this marina with a road. And frankly, the Association
2 or the Georgetown Yacht Basin has offered, and continues to
3 offer, to restrict the use of the property only for entrance
4 and exit, and will continue to make that offer.

5 Consolidation of access has been raised. We have
6 also said and continue to say, that if this rezoning is
7 granted, that the existing entrance will be closed. The road
8 will be taken up and grass will be planted, so that there
9 will be a consolidation of the entrance.

10 The increase of traffic is one thing, the net
11 enhancement or the impact on the community is another thing.
12 This is an area of the community which is removed from the
13 downtown or the more intensely-developed part of the community.
14 It is an area in which the site-lines are long so that on-
15 coming traffic can be seen. You have to understand, this is
16 a large, commercial marina. Tractor-trailers come and go
17 through this driveway. A great number of cars come through
18 this driveway, and it is something that is simply an accident
19 waiting to happen. This is the only solution that we can
20 find. We have limited the size of the parcel to the extent
21 that we possibly can, given the setback requirements. We

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BALT. & ANNAP. 974-0947

1 think that we have done everything to reasonably accommodate
2 the community.

3 I take it, you would like me to move on?

4 HEARING EXAMINER RASIN: In fairness. The record
5 will remain open until June 30th.

6 MR. SAUNDERS: I understand that, and we will be
7 submitting further comments in writing.

8 I have, the second property I'd like to talk about,
9 I've already sent you a letter concerning this. It arrived
10 late and you may not have had a chance to review it. But this
11 concerns the Hubert property located on the edge of town
12 at Radcliffe Creek. That is a property which is, at present,
13 zoned for intensive marine use. It is one of a small hand-
14 ful of properties in the County, all of which are located
15 in that contiguous area which is zoned for that use.

16 At present, or as you know, that property was only
17 recently rezoned about a year ago, when the critical areas
18 legislation was passed. At that time, the new zone was
19 created, clearly in an effort to encourage both marine and
20 residential development of those properties along the Chester
21 River there, which were almost predominantly in heavy

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1 industrial use. The purpose, I believe, was to encourage
2 their, a change in their use from heavy industrial use to
3 far-less intensive uses. To a great degree, I think that
4 the program has been successful, in that D & R has sold the
5 business, and I believe, and I understand that it's in the
6 process of marketing the property or is contemplating
7 marketing the property for residential purposes. Mr. Hubert
8 has, in fact, changed significantly, his position by entering
9 into plans to develop this property.

10 The problem is that the new classification of that
11 property, or the present classification of that property
12 permits housing densities at the rate of 15 units per acres.
13 That's a very high intensity residential use. The proposed
14 ordinance changes that, after only one year of having it the
15 way it is. It changes it from 15 units per acre, to either
16 four or five units per acre, a reduction by almost two-thirds
17 of the permitted intensity.

18 Mr. Hubert's plan for the property, which are well
19 underway, including some construction, include, or are based
20 upon the presently-permitted density. I would urge you not
21 to change the permitted density in these, in this zone, so

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1 precipitously. Particularly, when the desired effect seems
2 to have, seems to be working.

3 Also, I think that you should consider that the
4 cost of restoring heavy industrial use land, back to some
5 suitable residential development is very high, and that that
6 kind of a cost or reclamation cannot be realized with the
7 kind of density which is being proposed under the new
8 ordinance.

9 I urge you to retain the density which was created
10 only a year ago on these properties.

11 HEARING EXAMINER RASIN: (Inaudible) tape change.

12 MR. SAUNDERS: I do have some general comments
13 concerning the ordinance, and there are several different
14 areas. Some of them, I'm just going to pass over, because
15 I think, by reading my, either third or fourth letter, you
16 can gather them very quickly. There are two areas I want to
17 touch on, however. The first is that of, what I perceive
18 as a legal gap in the nonconforming use status.

19 Under the present ordinance, there is a provision,
20 a sum-set provision for nonconforming uses and was enacted
21 in 1969. It said that any nonconforming use in 1969

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BALT. & ANNAP. 974-0947

1 essentially died a natural death one year later, unless the
2 owner of that property filed an application for nonconforming
3 use certificate. To my knowledge, that has been done one
4 time in those ensuing years, maybe a couple more that I don't
5 know about. But for all intents and purposes, no one has made
6 that application, and no one has received, except one, that
7 certification.

8 Also, the Planning Office has not enforced the
9 requirements, so that despite the fact that no one has
10 qualified for nonconforming use status, there are a number
11 of nonconforming uses that have been permitted to exist.
12 The new ordinance does not have a similar provision. It
13 simply says if you are presently a legal use, you may continue
14 to do so even though the new ordinance renders you illegal.

15 The problem with that is that there are literally
16 hundreds of people in this County who think they are presently
17 legal use, but under the provision of the ordinance, may
18 technically not be, because they did not get that certifica-
19 tion. It is my belief that the failure to get that certifica-
20 tion should not be an impediment to someone claiming non-
21 conforming use status. And I have suggested in my letter,

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1 language, which will essentially negate the effect of that
2 provision of the 1969 ordinance.

3 I urge you to adopt it. I think that if it is
4 overlooked it will be a very serious legal problem farther
5 down the road.

6 The last thing that I want to talk about may be
7 of particular concern to the members of the Critical Areas
8 Commission. And that is the provision concerning community
9 piers. As you know, I've been involved in at least one case
10 in this County that has some bearing on community piers. And
11 I know that there are problems with the way in which the
12 ordinance is fashioned. Specifically, the ordinance, when
13 someone creates a subdivision, the ordinance permits them to
14 build community piers on the basis of what it is they're
15 proposing. And essentially, what it says is that depending
16 on how many lots you have proposed in the critical areas,
17 you may have "X" number of piers.

18 The problem with that kind of a construct is that
19 it encourages developers, essentially mandates the developers
20 to cram as many houses and units and lots as they possibly
21 can into the critical areas, so that they will have the

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1 ability to create as many piers and as many slips in their
2 community piers as they possibly can.

3 I think that is exactly the opposite of what the
4 community pier provision is designed to do. It is designed
5 to take from the waterfront, a number of proliferation of
6 piers and consolidate them and to reduce the impact on the
7 waterway. Houses in the critical areas, or lots in the criti-
8 cal areas, already have riparian (phonetic) rights. They
9 don't need a community pier, and if there's nothing to be
10 gained by making or building a community pier, they're just
11 all gonna stick a pier on their lot and that will be the end
12 of it.

13 So, that it seems to me that quite the opposite
14 ought to be true, and that the number of slips permitted in
15 a community pier ought to be based, in some measure, upon
16 the number of units away from the critical areas, so that
17 there is an encouragement on the part of developers, one,
18 to develop their lots out of the critical areas, and to put
19 as many houses away from the critical areas as they can.
20 And two, to discourage the houses which are built on the water
21 and the lots which exist on the water from putting out their

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BALT. & ANNAP. 974-0947

1 own piers.

2 And I have proposed another chart, which is
3 different from the one which is in the ordinance. And I
4 tried to track, to some degree, and become more conservative
5 in the number of units. I think you can play with the
6 numbers, but I think that the idea is clear, as I've said
7 before. Essentially what it says is that if you build a
8 subdivision, there is a fraction of the number of units
9 which you have in the subdivision up to some maximum, which
10 I think you have to also set, that a developer can build a
11 community pier.

12 And I would urge you to give that strong
13 consideration. I think that the way it's written now, and
14 the way it is proposed to continue, could have a very serious
15 and detrimental effect upon the shoreline.

16 And that's all I have.

17 HEARING EXAMINER RASIN: Thank you. Is there any-
18 one else who wishes to speak? Mr. Grasick from the Critical
19 Areas Commission, do you have anything?

20 MR. GRASICK: I have nothing further. Thank you.

21 HEARING EXAMINER RASIN: I remind everyone that the

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1 records of both groups remain open until June the 30th.

2 And thank you for your attendance. Thank you.

3 (Whereupon, the hearing adjourned at 9:26 p.m.)

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This is to certify that the foregoing transcript
in the matter of: Public Hearing of the Critical Areas
Commission

BEFORE: ALEXANDRA P RASIN, III, Commissioner

DATE: Thursday, June 22, 1989

PLACE: Board of Education, Chestertown, Maryland 21620

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



Kevin Richard Reppenhagen
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