

Public Hearings - Hartford County - Amendment for Riverside Business Park 1990 MSH - 5, 830 - 80

CHESAPEAKE BAY CRITICAL AREA COMMISSION

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

RE: AMENDMENT FOR RIVERSIDE :
BUSINESS PARK, BATA :
LAND COMPANY, CHANGE : HCA-3
BY MISTAKE FROM RCA :
TO IDA. :

Wednesday, September 26, 1990

Pursuant to Notice, the above-entitled hearing was held before JOE ELBRICH, CHAIRMAN, for the Chesapeake Bay Critical Area Commission, at 222 South Main Street, Bel Air, Maryland, commencing at 7:09 p.m.

PRESENT:

RICK NAYLOR - PANEL MEMBER
RON HICKERNELL - PANEL MEMBER
ROGER WILLIAMS
ANDY MEYER
ANNE HAIRSTON
PAUL GILBERT
RICH HALL
DAN SULLIVAN

REPORTED BY: JOYCE M. DANIELS, NOTARY PUBLIC

- - -

RECEIVED
OCT 5 1990
DNR
CRITICAL AREA COMMISSION



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*
301 766-HUNT (4868)
800 950-DEPO

1 the Office of Planning and Zoning, being Rick Hall and
2 Andy Meyer, who are here to give testimony.

3 MS. HAIRSTON: Anne Hairston, staff to the
4 Critical Area Commission, and I just want to give you
5 all a little bit of background the amendment we're
6 hearing tonight.

7 In May of '89, Bata Land Company applied for
8 growth allocation for the eastern most portion of
9 Riverside Business Park, 29 acres of which lie within
10 the critical area.

11 Bata Land Company subsequently applied for a
12 map change from RCA to IDA, by reason of mistake for the
13 same piece of property. The growth allocation to IDA
14 received final approval from the Critical Area
15 Commission on February 7th, 1990, after going through
16 the county review and approval process, so that the
17 current designation on the property is IDA.

18 At the time that the critical area was mapped,
19 the property was farmland, forest, and wetlands. The
20 critical area mapping was based on land use on December
21 1st, 1985, not zoning or the intent to develop.



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 The property was designated RCA because it
2 met the RCA criteria of being an area of nature-
3 dominated environments and resource utilization
4 activities. For example, agriculture and forestry.

5 Riverside Business Park is zoned general
6 industrial and did have a concept plan approval for
7 their planned unit development. However, these
8 considerations were not part of the Critical Area
9 mapping criteria. The county reserved growth allocation
10 for other areas, two residential areas, in the planned
11 unit development in a similar situation, indicating that
12 growth allocation was the appropriate and the intended
13 treatment for the situation, even though Riverside
14 Business Park was not specifically mentioned in that
15 letter.

16 Furthermore, the county determined that the
17 critical area portion of the Riverside Business Park did
18 not meet the IDA criteria of having sewer and water
19 currently serving the area, and housing density of
20 greater than three dwelling units per acre.

21 The existing portion of the business park had



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 sewer and water, but it had not been extended to the
2 critical area portion and no development was on that
3 portion.

4 If anybody has anything to add to that or
5 comments to make, we'd welcome them at this time.

6 CHAIRMAN ELBRICH: I would note that there is
7 no one here on behalf of the applicant. Would the
8 county wish -- the Planning Office wish to make a
9 statement or not?

10 MR. MEYER: Yeah. Andy Meyer with Harford
11 County Planning and Zoning.

12 I think, as is apparent from the staff report
13 which we provided to the commission, a copy of the staff
14 report which we presented to the county council on this
15 issue, the administration does firmly believe that this
16 was an area that was appropriate to change in terms of
17 its management area designation under the growth
18 allocation criteria and not under a mistake argument.

19 And as such, the council did -- I should say
20 the county did recommend that a growth allocation be
21 approved, and the council agreed with that and so did



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 the commission.

2 I think that, obviously, you have a piece of
3 legislation from the county council. They made the
4 determination differently than the administration did,
5 and therefore, you do not, at this point, have a unified
6 county position. But the administration still does not
7 support the council's legislative recommendation for
8 change, and we would request that the commission uphold
9 our original recommendation, which was to retain the
10 area as IDA, but count it as a growth allocation and not
11 as a mistake argument.

12 One issue that I would like to clarify,
13 relating to the staff presentation which Anne just made.
14 In paragraph two of her background report, which she
15 just provided, there is a reference to a county
16 reservation of growth allocation for other areas in the
17 planned unit development. And I would simply like to
18 clarify that last statement.

19 There was, in fact, a letter which was written
20 to Bata Land at the time that the criteria -- or, I
21 should say, at the time that the act was first passed,



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 but before the criteria were enacted. The county
2 planning director, at that time, I think, was making a
3 best guesstimate as to how growth allocation would be
4 dealt with for areas where some development had begun
5 already.

6 After the criteria came out, and certainly
7 under the present administration review of this issue,
8 we have firmly held, all the way along, that there was
9 no reservation that was made of any growth allocation
10 within the county's critical area and that, instead,
11 each of the issues would have to be treated on their own
12 merits after the county had its approved plan.

13 So, I just wanted to clarify that one issue
14 with regard to the staff presentation. That has
15 obviously been a point of contention between the
16 developer, Bata Land, and the county administration.
17 And I just wanted to make sure that our position is
18 clear on it.

19 Other than that, again, we would recommend
20 that the commission uphold our original recommendation,
21 which was the area not be granted a change under the



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 mistake provisions of the -- of our program.

2 CHAIRMAN ELBRICH: Does anyone have questions
3 of Andy?

4 MR. HALL: I'd like to add a minor point, if I
5 may.

6 CHAIRMAN ELBRICH: Okay.

7 MR. HALL: As Anne summed up, the piece of
8 land in question didn't meet any of the criteria for IDA
9 designation as of 12/1/85, when the mapping was to be
10 based on.

11 It did meet all the criteria for resource
12 conservation areas, and that's how it was mapped. In
13 addition, the county has further refined criteria in its
14 own program, and it gives it more of a specific
15 description of what we considered an area. That's
16 another point of contention between the applicant and
17 us.

18 And in that, we specified that continuous
19 undeveloped areas of 25 acres or greater were
20 designated as resource conservation areas. And this is,
21 like I said, part of the county criteria. I think it



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 sort of makes some of the gray area of what is an area
2 in the criteria more clear.

3 CHAIRMAN ELBRICH: That was Rick Hall. I have
4 one question. Does the county still have growth
5 allocation --

6 MR. MEYER: Yes.

7 CHAIRMAN ELBRICH: -- to distribute?

8 MR. MEYER: We have some left.

9 CHAIRMAN ELBRICH: There will be growth
10 allocation available this year, next year? Is there a
11 cycle on that, or when?

12 MR. MEYER: The allocation review occurs on an
13 annual basis.

14 CHAIRMAN ELBRICH: Annual basis?

15 MR. MEYER: And January 1 -- or, I should say,
16 December 31 is the application deadline for new
17 applications. I can't remember the exact number off the
18 top of my head. But we do have some available left.

19 CHAIRMAN ELBRICH: Under the allocation
20 procedure, Riverside could, in fact, reapply for a
21 growth allocation?



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 MR. MEYER: Correct.

2 CHAIRMAN ELBRICH: I would like to point out
3 that the meeting did start around 7:07 and is
4 concluding, if there is no one else to testify, at
5 7:17. Thank you all.

6 (Whereupon, at 7:17 p.m., the hearing was
7 concluded.)

8 (Whereupon, Mr. Paul Gilbert entered the
9 hearing room, and at 7:22 p.m. the hearing resumed.)

10 CHAIRMAN ELBRICH: The record will remain open
11 until October 2nd. Any follow-up comment or written
12 comment can be made directly to the commission at 275
13 West Street, Suite 320, Annapolis, Maryland 21401.

14 Everyone else has given a presentation. If
15 you would like them to summarize, I will ask them to.

16 MR. GILBERT: Without being the burden, I
17 guess I'd really like to get a sense of what the summary
18 was.

19 CHAIRMAN ELBRICH: Okay. Anne, if you would
20 just summarize your presentation, please, for us.

21 MS. HAIRSTON: Well, I'll just give Mr.



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 Gilbert a sheet with the background that I'd put down,
2 even though a rather brief background. Just going over
3 the sequence in which they applied for growth
4 allocation, change by mistake for this piece of
5 property, and the fact the growth allocation has been
6 awarded. And the fact that the property does meet RCA
7 criteria, and that the property did not meet the IDA
8 criteria as set out in the Critical Area criteria.

9 CHAIRMAN ELBRICH: Thank you, Anne. Mr.
10 Gilbert, would you like to give us a presentation?

11 MR. GILBERT: I had a rather lengthy set of
12 prepared remarks that I gave the county council, but I'm
13 going to summarize that very quickly.

14 I made the point to the county council that,
15 in the final analysis, this is going to end up being a
16 judgment call, because, you know, there's
17 interpretations that can be made broadly, or there can
18 be interpretations which are made narrowly.

19 The key issue in our argument to the county
20 council was that the Riverside Business Park, as we know
21 it today, was 350 acres. And other than the properties



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 that had been subdivided and sold and/or developed prior
2 to December of '85, the balance of the business park,
3 which was subject to the Critical Area's line, the 1,000
4 foot line, was one parcel, one large piece of property.

5 In effect, that large piece of property was
6 clearly served by water, sewer and storm water
7 management, and roads. Because, unlike residential, if
8 we're developing industrial, I do not know if the next
9 acre -- or the next user is a two acre user or a 40
10 acre user, like G.E. So, I'm really at a disadvantage
11 when it comes to recording lots in an industrial park,
12 because we really don't know how quite to be responsive
13 to the market place, since needs vary from one user to
14 the next.

15 In any event, we put together a map for the
16 council. And the areas that are in orange -- well, this
17 is Route 40, this is the CSX Rail line, this is
18 Riverside Parkway, up towards 95, and this is the
19 Riverside Business Park.

20 In December of 1985, these parcels, which are
21 in orange, were subdivided and developed. The roads that



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 are indicated in the gray were installed. The water
2 lines and the sewer lines, in red and blue, were
3 existing in these areas of the park, which were not
4 subdivided as of December, 1985. Because I didn't know
5 who the next buyer was going to be, I couldn't subdivide
6 the property.

7 But, all of these roads, all the utilities, if
8 they had not been dedicated to Harford County at the
9 time, were under control of Bata, and we submitted to
10 the county council that, since the balance of this
11 parcel was one large parcel, the parcel was, in fact,
12 served by water, sewer, roads, and an existing storm
13 water management facility. And if the user, who wanted
14 150 acres, much like the GAP in the Winter's Run area;
15 if that individual came forward and wanted to buy this
16 property, and in effect, I would have been able to
17 represent to him that this property was served by water,
18 sewer, roads, and storm water management.

19 But, the way the interpretation was made was
20 to treat that 1,000 foot line as it it were a property
21 line, and in fact, it's not a property line. But what



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 it did was separate this portion of the property from
2 the larger portion, which was served by water, sewer,
3 road, and storm water management.

4 That was December of '85. This photograph was
5 taken in early spring of '86, and generally reflects the
6 same conditions that you'll see on this plan, including
7 the existence of the storm water management pond at the
8 south end of the business park.

9 So, you know, if you apply the 1,000 foot line
10 to what lies within that and treat that as a property
11 line, I think one can interpret one -- if one applies
12 the 1,000 line and that 1,000 foot line bisects a larger
13 parcel, then in fact, it's served by water, sewer, road,
14 and storm water management.

15 We look at the IDA criteria and, I guess, in
16 early meetings with the commission staff, and meetings
17 with county staff, the county's Planning Advisory Board
18 -- anyone -- I've asked the question, if we look at the
19 criteria that says the area adjacent has to be a
20 predominant commercial or industrial land use. In
21 December of '85, we had about three-quarters of a



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 million square feet of industrial space lying right next
2 to the property, which was subjected to the critical
3 areas. So, we had a predominance of that land use type
4 in the area.

5 We had it served by water, sewer, distribution
6 and collection systems, and roads. And the thing that
7 I've been seeking an answer to, but I haven't been able
8 to get one yet, is that the other criteria that an
9 industrial area, the IDA, has to have a minimum
10 residential dwelling unit density of three to use per
11 acre. Now, how does one get that in an industrial
12 zoning?

13 You know, we have a serious problem with the
14 criteria that creates IDA for industrial. And we have
15 maintained throughout this process that -- and off the
16 record, it's been confirmed to me that this program,
17 while -- I mean, real noble and we support it -- was
18 created primarily to control residential development
19 along undeveloped areas of the bay. It's that simple.

20 But when you look at the designation of IDA
21 for industrial and commercial, in order to have that,



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 you've got to have the water, the sewer collection and
2 distribution facilities, and a minimum of three "D" used
3 per acre. And I've been submitting to everyone that
4 that's impossible. There's a mistake somewhere.

5 The criteria, themselves, are biased against
6 industrial and commercial. So, it's our position that
7 if one were to look at that unrecorded lot -- okay -- of
8 a total of 358 acres, a portion of it lies within the
9 1,000 line. That's not disputed.

10 But, since it's all one parcel, it was served
11 -- the intent was that it was served by the water,
12 sewer, distribution and collection facilities, but it is
13 impossible to have a minimum of three dwelling units per
14 acre in an industrial zone. Something is wrong. And we
15 believe that this complies with the intent of that
16 criteria, but that the criteria, itself, is
17 inappropriate.

18 And that we think, because of the long term
19 nature of this project, we think it should be given some
20 serious consideration.

21 But, you know, the staff contends that things



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 were near the area. And again, that's where we get into
2 the interpretation. They're not wrong. They're just
3 interpreting differently than I am. You know, Andy and
4 Rich are saying, "This is the area." But I'm saying
5 this area is part of a larger parcel which was served by
6 these facilities. In fact, the water, sewer were on the
7 property.

8 MR. NAYLOR: Let me ask a question. Where is
9 the property line as of that date, December 1st?

10 MR. GILBERT: Basically, right there.

11 MR. NAYLOR: With the property line?

12 MR. GILBERT: Everything that you see in
13 orange --

14 MR. NAYLOR: Okay.

15 MR. GILBERT: -- was subdivided and recorded.
16 The balance of it, up into this area, was one parcel.

17 MR. NAYLOR: And was owned by somebody else at
18 that time?

19 MR. GILBERT: Bata Land Company.

20 MR. NAYLOR: Okay. And this was owned by?

21 MR. GILBERT: Various owners.



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 MR. NAYLOR: Okay. And where would service to
2 that area come from in terms of water and sewer?

3 MR. GILBERT: Today. Since the last meeting
4 here, as a matter of fact. The General Electric project
5 is proceeding in -- within the critical area under the
6 auspices of the growth allocation. Water and sewer to
7 that project are coming through Mercedes Drive, and are
8 coming up to meet the south end of that property. Okay?

9 Now, originally -- and I don't have a plan
10 that can show it -- but the original Lupe Road would
11 have come through a cul de sac in this area. So, G.E.,
12 in effect, is occupying all the area from north of the
13 rail, in an area -- 42 acre area about like that. So, I
14 don't need to build this road any longer. But the sewer
15 and the water was coming up from here, and we have
16 another sewer connection down in this area. It was
17 actually stubbed -- do you remember the date of that
18 contract?

19 MR. SULLIVAN: The early one?

20 MR. GILBERT: That contract -- yeah, that
21 contract, which I think was about '84. It came under



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 40. If you look real closely there, we actually built
2 into that 18 foot stub that went in an easterly
3 direction that was intended to, you know, to continue to
4 serve this parcel. That was in the ground in December
5 of '85.

6 CHAIRMAN ELBRICH: Ms. Hairston, you tell -- .

7 MR. WILLIAMS: These people, I know, were
8 paying water and sewage. Were you receiving water and
9 sewage bills over here in '85?

10 MR. GILBERT: Up front, but we had no use.

11 MR. WILLIAMS: Did they have a front foot
12 charge over here?

13 COURT REPORTER: Mr. Williams, could you speak
14 up? I can hardly hear you.

15 MR. WILLIAMS: My question is, if they were
16 paying in front footage charges or water and sewage
17 charges in 1985? And I'm not familiar with Harford
18 County's billing system, but a lot of places do. If you
19 have a front footage, you pay whether you're using it or
20 not.

21 MR. GILBERT: That's right. I mean, you pay



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 an area connection.

2 MR. WILLIAMS: I know in Kent County there's a
3 front footage charge and you pay it whether you use or
4 not.

5 MR. GILBERT: Whether you use it or not.
6 You're considered when the county is an area connection.
7 It's paid at the time that you actually tie into the
8 water.

9 MR. WILLIAMS: So, you don't pay anything
10 until you actually use the property?

11 MR. GILBERT: That is correct.

12 MR. WILLIAMS: Just because the access is
13 there, you don't pay anything?

14 MR. GILBERT: No. But as the developer, you
15 know, we would have entered in public work's agreements
16 to construct those lines.

17 Public work's agreements to have constructed
18 the roads, paid engineering fees and inspection fees to
19 have the county supervise the construction of the
20 utilities and the roads. And also, post letters of
21 credit as sureties that the roads and the utilities



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 would be constructed, you know, but our point to the
2 county council, which they obviously supported, was
3 that, you know, if a large user, like G.E., came along
4 in the same time frame as they did in 1990 in 1985,
5 prior to December, we would have been able to have
6 subdivided this property and served it with the water
7 and sewage.

8 So, while we are not an end user in and of it
9 ourselves, it's clear that water and sewer goes to the
10 property.

11 CHAIRMAN ELBRICH: Were there any pumping
12 stations, capacity problems, or anything like that
13 limiting any access or availability to either?

14 MR. GILBERT: Even today, the Church Creek
15 pumping station is only at 25 percent of its capacity.
16 And we've been working with the county as well as other
17 developers in this area to do a per unit surcharge, so
18 that I think when the 22nd 100 unit comes on line,
19 enough moneys are in the pot to begin the design and
20 construction of an upgrade of that station. But, no, no
21 moratorium or any problems with utilities at that



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 point.

2 MS. HAIRSTON: But, as you pointed out on the
3 criteria, it's not only the public sewer and water were
4 serving the area, but it was also expecting to have an
5 existing residential density, if that was going to be
6 the criteria that was going to be applied for it to be
7 mapped IDA.

8 MR. GILBERT: It's ludicrous.

9 MS. HAIRSTON: There is -- that would be --

10 MR. GILBERT: But that's where we would leave
11 it.

12 MS. HAIRSTON: It was meant to map existing,
13 on the ground, paved, you know, high density and
14 industrial areas. It was not meant to --

15 MR. GILBERT: No, I don't understand. I don't
16 understand.

17 MS. HAIRSTON: -- zoned --

18 MR. GILBERT: We're not talking about zone.

19 MS. HAIRSTON: Right, but we are talking about
20 zoning.

21 MR. GILBERT: But if we're talking about a



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 minimum of three residential dwelling units per acre,
2 that is un-achievable in this map.

3 MS. HAIRSTON: For an industrial park.
4 However, if you had already build the industrial park
5 back in there, it would have been zoned IDA, as long as
6 it was 20 acres.

7 MR. GILBERT: No, no, no. I think you and I
8 are talking about two different things.

9 CHAIRMAN ELBRICH: And we're not here to
10 debate the issue.

11 MR. GILBERT: That's the crux of the matter,
12 you know. We will argue until the cows come home about
13 that criteria, because, you know, your definition is not
14 what that says legally.

15 MS. HAIRSTON: I can only represent to you how
16 the mapping was done, and, you know.

17 MR. GILBERT: And that's why we're here, and
18 that's why the county council thought that our argument
19 was valid enough. But if -- with respect to an
20 industrial, a legal interpretation of that criteria
21 should read and/or, because one cannot have any kind of



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 residential -- well, one can in a nonconforming use
2 situation -- but in a newly-planned, developing,
3 emerging industrial area, one cannot have residential
4 density.

5 MS. HAIRSTON: The criteria that you would
6 have had to come under was having industrial,
7 institutional, commercial uses concentrated in the area.
8 It wasn't --

9 MR. GILBERT: We did, 750,000 square feet --

10 MS. HAIRSTON: -- well outside the --

11 MR. GILBERT: -- lying right next -- lying
12 right next to the property line of which the critical
13 area was applied.

14 MS. HAIRSTON: Yes. That's a very substantial
15 property and you can't expect --

16 MR. GILBERT: That's right.

17 MS. HAIRSTON: -- all the uses to be reflected
18 in the critical area.

19 MR. GILBERT: No. But you're looking at the
20 critical area like that and I'm looking at it like this.

21 MS. HAIRSTON: And it had to be mapped --



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 MR. GILBERT: And therein lies the difference.

2 MS. HAIRSTON: -- as a legal --

3 MR. GILBERT: I understand that. But this is
4 not a property line.

5 MS. HAIRSTON: No.

6 MR. GILBERT: This piece of property does not
7 stand alone. It is a part of this. And this, as an
8 entity, met the criteria in that sheet, with the
9 exception of the -- part which is impossible.

10 CHAIRMAN ELBRICH: And the mapping was a
11 function of the county --

12 MR. GILBERT: Correct.

13 CHAIRMAN ELBRICH: -- and not the commission
14 itself?

15 MR. GILBERT: Exactly.

16 CHAIRMAN ELBRICH: It stands at the county
17 level as to what the county mapped in accordance with
18 its criteria and the state's criteria.

19 MR. WILLIAMS: Was there any input in the
20 original mapping made on this land?

21 MR. GILBERT: I wasn't there. In fact, that



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 was before my time.

2 MR. WILLIAMS: Does anyone remember?

3 COURT REPORTER: Mr. Williams, I can't hear
4 you.

5 MR. WILLIAMS: My question was if there was
6 any input from Bata, as a property owner, at the original
7 mapping, and evidently no one knows, or does the
8 planning office know?

9 MR. MEYER: That is something that can be
10 verified. I can tell you what the process was. We did
11 some initial maps. We then notified every property
12 owner within the critical area, by a massive mail out,
13 that there were going to be meetings to discuss mapping
14 issues and questions. To my knowledge, there was no
15 representation of the issue to the county, at that point,
16 with regard to this area. That's the way the county
17 handled the process.

18 If I might just add, you know, one, I guess --

19 CHAIRMAN ELBRICH: Well, no.

20 MR. GILBERT: No, I have absolutely no reason
21 to dispute anything that Andy has said on that matter.



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 But what I could add to that though, probably
2 about two years ago -- because I had been with Bata for
3 three years. I have been there for three years. After
4 a year, I asked a question one day: is there any
5 critical area in the business park, because all of our
6 consultants and no one ever acknowledged or raised as a
7 flag that there was a problem with the critical area.
8 When I asked that question of our consultant -- and our
9 consultant is a reasonably respected engineer in Bel
10 Air. His immediate answer to me was, "No, there's no
11 critical area in the business park." And I said, "Do me
12 a favor, check that and get back to me." When he got
13 back to me he said, "I don't believe this, but, yes,
14 there is."

15 I asked the same question of a couple of folks
16 in the county, who are not in this room, and their knee
17 jerk reaction was, "No, how could it be?" Well, in
18 fact, it was. And frankly, I don't doubt that the
19 letter was received, but I think that there was sort of
20 a, you know, you've got Route 40 between the business
21 park and the Bush River, way down here, and you've got



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 the CSX main rail line. You got this at a much higher
2 elevation, you know, my goodness, how could there be --
3 well, we don't have to worry about this letter. That's
4 probably what happened.

5 But, you know, what is it, like a grazed run
6 tributary that comes up in here, it caused that. And I
7 don't think anyone picked that up at that time, other
8 than the folks that did the mapping. But I have no
9 reason to doubt that, you know, we got notified of this
10 and probably even got a map of it.

11 So, I really can't offer up much as to why
12 there wasn't a problem, or resistance offered at that
13 time.

14 MR. MEYER: A request for a change.

15 MR. GILBERT: But, we just felt -- this is a
16 -- it's a real awkward situation for us, because it sort
17 of puts us in the position of being sore winners, after
18 having received the growth allocation, and we are in the
19 process of developing this area now under the growth
20 allocation.

21 It's just that, you know, as we reviewed this



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 with our engineers, with our planning consultants, Land
2 Design Research, we got up to a point where we felt so
3 strongly about it that we met the IDA criteria outlined,
4 except for that -- the minimum of three "D" use for acre
5 and we couldn't see how that was relevant in making it a
6 determination with respect to industrial or commercial.

7 CHAIRMAN ELBRICH: Thank you, Mr. Gilbert.
8 Mr. Sullivan, would you care to add anything?

9 MR. SULLIVAN: No.

10 MR. GILBERT: We're sorry we were late.

11 CHAIRMAN ELBRICH: That's perfectly all right.
12 Andy, would you care to address any of the concerns --

13 MR. MEYER: Sure.

14 CHAIRMAN ELBRICH: -- and generally state what
15 you had stated to us before, so that Mr. Gilbert and Mr.
16 Sullivan have the benefit of what you have said.

17 MR. MEYER: I think Paul has heard my canned
18 spiel enough times at this point. He knows. I don't
19 even have to go through it again.

20 CHAIRMAN ELBRICH: Do you concur with that,
21 for the record?



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 MR. MEYER: The only issue that I think I
2 could offer that would be helpful the panel is just, you
3 know, to clearly understand what the county did in terms
4 of our mapping, not only for this area, but for other
5 areas throughout our critical area jurisdiction, when we
6 did the initial mapping, was basically, to take the
7 criteria that says, "Land use in existence as of
8 December 1, 1985," area being as defined, as Rich Hall
9 explained earlier, under our sort of refinement to that
10 criteria, 25 acres or more consisting of undeveloped
11 forest, "ag," and open land uses, being something that
12 we felt fell under the RCA standard.

13 As you can see from this aerial, which was
14 early 1986, this is the area in question. What we have
15 here, we felt was something that was clearly -- met that
16 criteria. If you talk about area, as we have dealt with
17 it, not as Mr. Gilbert has dealt with it, in terms of
18 the larger context of the area including areas well
19 outside of the critical area and other portions of the
20 industrial park.

21 I think that's where the basic issue comes



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 down to.

2 CHAIRMAN ELBRICH: Does any of the panel
3 members have a question?

4 MEMBERS OF THE PANEL: (No response.)

5 CHAIRMAN ELBRICH: I do.

6 Do you have other areas where there are large
7 parcels that may have abutted a water or sewer line that
8 were or were not considered in that classification that
9 was higher than the type of use that existed?

10 MR. MEYER: That's not something I can
11 immediately answer off the top of my head, but I believe
12 there are several other areas, perhaps not quite the
13 size of what we're talking about here. The county
14 doesn't have that many situations where there are
15 planned developments of the type that Riverside is,
16 adjacent to the critical area --

17 There's some older areas down towards
18 Joppatown and areas in other portions.

19 MR. GILBERT: Bayshore?

20 MR. MEYER: Right, exactly.

21 MR. GILBERT: Specifically Bayshore?



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 MR. MEYER: Right. -- that fell into that
2 situation. But, we, you know, have certainly tried to
3 be consistent in terms of how we dealt with all of these
4 areas throughout our jurisdiction.

5 CHAIRMAN ELBRICH: Are there any other
6 comments that anyone would like to make? If not --

7 MR. GILBERT: Can I make just two more?

8 CHAIRMAN ELBRICH: Sure.

9 MR. GILBERT: And these are not judgments,
10 they're just -- they're statements.

11 We have always -- in fact, this map was
12 originally dated October, 1983.

13 CHAIRMAN ELBRICH: That is correct.

14 MR. GILBERT: And it has had various updates
15 since that time. In October of '83 or November of '83,
16 I want to suggest that this plan went into the county
17 for concept plan approval. Now, we know that that
18 concept plan approval doesn't occur overnight. It's a
19 series of issues, and gives and takes.

20 We were approved -- our concept plan was
21 approved, I want to say in October of 1984. It took us



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 almost one year to get that approval. Had, somehow,
2 that process been a little bit quicker, to have occurred
3 in June of '84, then we probably would have fallen under
4 the West Shore grandfather, and the critical area
5 program would not have affected Riverside at all,
6 because the cut-off date was June of '84, I believe.

7 So, I guess had there been a quicker
8 processing of that concept plan submission, you know, we
9 only missed that date by three months, but we had, in
10 fact, applied some nine months -- eight months or nine
11 months, prior to that grandfather date.

12 The other comment that I would make, again,
13 just for the record, is that -- and I made this to the
14 council -- that it is so difficult to predict, you know,
15 especially, because we could have come in much earlier
16 than we did with recorded lots. But the development of
17 an industrial park is not like the development of 20
18 foot town houses, you know. In that instance, we know
19 that each lot is going to be 20 feet wide, or if we plan
20 a community of single family houses on a quarter acre,
21 or on a third of an acre, we know that each one of those



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 lots is going to be plus or minus a quarter acre or a
2 third of an acre.

3 So, we get into a situation where it's almost
4 Catch-22. I mean, we can't record the lot, because we
5 don't know what it is that we're recording. And we try
6 to be responsive to the user that comes in the door the
7 next time.

8 I just wanted to mention that. You know, we
9 still like Andy and P&Z. It's just that we really
10 differ, and probably always will on how broadly or
11 narrowly these criteria are applied.

12 But, I, you know, I appreciate the county
13 council having, at least, thought enough about this
14 argument to, at least, get us to a point where we could
15 have a day in court with the commission.

16 CHAIRMAN ELBRICH: You are not alone with
17 respect to problems in the mapping process. I think
18 every jurisdiction has their problems.

19 MR. GILBERT: Well, you know, we probably
20 wouldn't have quite the problem that we do have if we
21 didn't have such a large, long-term development.



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 When Jeff Wilson was selected as the president
2 of the county council to replace John Hardin this past
3 January, he came to meet with the Riverside Community
4 Association. And we gave him a two-and-a-half hour
5 presentation about Riverside.

6 And Jeff's comment was, "This is the kind of
7 development we need in Harford County." And because we
8 protect all this open space, and, you know, we've got a
9 mix where people can live, and they can work, and they
10 can play and they can -- and my comment to him was,
11 "Jeff, in theory you're right, but don't hold your
12 breath for the next one to come along. Riverside is the
13 first and it will be the last, because too many things
14 intervened, you know. The pro forma changes too many
15 times, and as the playing field tilts all along that
16 process, the economics just destroy the viability or the
17 incentive to do something like a project of this
18 magnitude."

19 And that's sad. That's sad, because we think
20 this is the way to go. The Route 24 corridor is not the
21 way to go, you know, but if we have 1500 acres, we're



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

1 preserving about 450 of those acres as green, open
2 space. We're adding back in areas of reforestation, of
3 un-required landscaped areas, you know, a mix of housing
4 type, jobs that people can come to instead of clogging
5 up I-95 and going into Baltimore every morning. It's
6 probably the kind of development that we ought to have,
7 not only in the county, but around the state. It makes
8 some sense.

9 So, whatever appeal I can make, I'll make, and
10 I apologize for being --

11 CHAIRMAN ELBRICH: That's perfectly all right.

12 The record will remain open if anybody wishes
13 to follow-up with any additional comments, until the
14 second. If there's no one who would like to say
15 anything else, we'd like to conclude the hearing. Thank
16 you very much for coming.

17 (Whereupon, at 7:55 p.m., the hearing was
18 concluded.)

19 (Exhibits - none.)
20
21



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO

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

C O N T E N T S

TESTIMONY BY

PAGE

MS. HAIRSTON	3
MR. MEYER	5
MR. HALL	8
MR. GILBERT	11

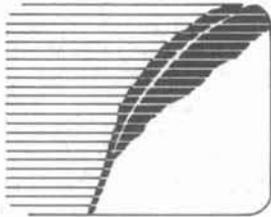
E X H I B I T S

(None.)



*Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis*

301 766-HUNT (4868)
800 950-DEPO



HUNT REPORTING

October 17, 1990

301 766-HUNT (4868)
800 950-DEPO (3376)

Critical Area Commission
275 West Pratt Street
Annapolis, MD 21401
ATTN: Pat Pudelkewicz

RE: Amendment of Riverside Business Park, BATA Land Company,
Change by Mistake from RCA to IDA, taken September 26, 1990

Dear Mr. Pudelkewicz:

Enclosed please find the Certificate of Notary sheet for the
above-referenced hearing. Please attach it to the original transcript.

Thank you.

Very truly yours,

HUNT REPORTING COMPANY

CYNTHIA G. KNUTSEN
Secretary

enc

RECEIVED
OCT 18 1990
DNR
CRITICAL AREA COMMISSION

Certified Verbatim Court Reporting and Litigation Support Serving Baltimore, Washington and Annapolis

Scheduling/Mailing
12 Crain Highway, N.W.
Glen Burnie, MD 21061

PG County
14714 Main Street
P.O. Box 563
Upper Marlboro, MD 20773

Baltimore
Suite 100
11 East Lexington Street
Baltimore, MD 21202

Washington
1514 N. Capitol Street, N.W.
Washington, D.C. 20001

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

CERTIFICATE OF NOTARY

I, JOYCE M. DANIELS, the officer before whom the foregoing testimony was taken, do hereby certify that foregoing transcript was taken by me by magnetic tape and thereafter reduced to typewriting by me or under my direction; that said testimony is a true record of the testimony given; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this testimony is taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

Joyce M. Daniels
JOYCE M. DANIELS
Notary Public in and for
the State of Maryland

My Commission Expires:

May, 1993

RECEIVED
OCT 18 1990
DNR
CRITICAL AREA COMMISSION



Court Reporting and Litigation Support
Serving Baltimore, Washington and Annapolis

301 766-HUNT (4868)
800 950-DEPO