

Public Hearings - Easton - Proposed Amendment to Easton's Critical Area Program 1991 MSA - 51830-96

CRITICAL AREA COMMISSION PANEL HEARING

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

Easton Town Hall
14 South Harrison Street
Easton, Maryland 21601

September 30, 1991
7:00 o'clock, p.m.

* * * * *

COMMISSION MEMBERS:

- JOSEPH ELBRICH, Panel Chairman
- THOMAS JARVIS
- ANTHONY BRUCE
- W. ROGER WILLIAMS

COMMISSION STAFF:

- THERESA CORLESS
- PAT PUDELKEWICZ

REPORTED BY: DEBORAH S. CONLEY

RECEIVED

OCT 15 1991

DNR
CRITICAL AREA COMMISSION



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

1 then we can gather information in that manner.

2 Mr. Hamilton, if you would like to present the
3 plan.

4 MR. HAMILTON: Thank you. I am Tom Hamilton.
5 I am the town planner for the Town of Easton. The Town
6 of Easton, as all communities did that are on the
7 boundary of the Chesapeake Bay, was required by the
8 state to adopt a Chesapeake Bay Critical Area Program.

9 When the Town of Easton adopted its Critical
10 Area Program, it was one of the earliest approved plans.
11 Those areas that were adjacent to -- I'm going to back
12 off for a second.

13 I'm going to explain Critical Area Law a
14 little bit to you so you'll better understand what we're
15 doing here.

16 The critical area is a boundary of the
17 Chesapeake Bay and its tidal waters and tributaries, a
18 boundary of 1000 feet in depth from any of those
19 rivers, streams, bays or what have you, from the
20 Chesapeake Bay. So the Town of Easton, as you can see,
21 the whole yellow area on this map is the Town of Easton,



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

1 which the critical area -- and I'll slide this around
2 for a second -- for the Town of Easton is up in the --
3 this dark, heavy line here is the critical area
4 boundary.

5 As you can see, the town boundary, which is
6 this black, skipped line -- we have a few areas that are
7 located within the critical area. There are not very
8 many.

9 When we map them, they are divided into three
10 zoning categories: one is RCA, that's a resource
11 conservation area; one says "LDA," limited development
12 area; and the third is IDA, intense development area.

13 Any area that was -- a piece of land that was
14 undeveloped that was over 20 acres of and or over five
15 acres, I guess, of undeveloped land; over 20 acres of
16 undeveloped farm land was considered to be an RCA, which
17 meant that you could only have one unit per five acres.
18 I think, in the Easton plan, it's one for 20.

19 You can upgrade from an RCA to a higher grade.
20 That's a rezoning, going from an RCA to an IDA or an LDA.
21 If you -- with five percent of your total buffer area --



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

1 and this going to -- let me go back.

2 Five percent of your RCAs -- all of your RCAs
3 that are mapped, those undeveloped areas -- could be
4 upgraded to either IDAs or LDAs.

5 When Easton adopted its plan, there was a lot
6 of development -- a spurry of development activity.
7 People wanted to get grandfathered a right to develop
8 their property so they wouldn't have to go through a
9 Critical Area Review; and on the farm we are talking
10 about, which I am sure you are all familiar with, but
11 it's bounded by the Oxford Road on the south and Paper
12 Mill Pond on the east and the south branch of the Tred
13 Avon River on the north, the Woodland Farms Subdivision
14 on another part of the north and then the Waverly Road
15 on the sort of southwest side.

16 The critical area only takes up about half of
17 that property, but this Woodland Farms, we call it,
18 which does not include the subdivision of Woodland
19 Farms, was proposed for a 900-unit development at the
20 time that the Critical Area Plan was being contemplated
21 and a special exception was granted. This was an



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

1 approved project for 900 condominium units on that site.

2 Well, that project has since, through a period
3 of time, was never developed, never started. They have
4 never wished to stop it, but they never got under way and
5 got footings in the ground and started construction and
6 got a vested right, according to our plan, to have that
7 900-unit development and active special exception. And
8 I recently, within the last two or three months,
9 notified the engineer for the property owners that I
10 felt like their special exception was obsolete. Hence,
11 they have an RCA which means, in this red area I've got
12 shaded on the map, they are allowed one unit.

13 Now, there is the potential to upgrade it
14 where you can have the normal density of the town, which
15 is zoned residential under it, which would be one unit
16 per 10,000 square feet. You couldn't get that many
17 right adjacent to the water, but it would up the density
18 of the property somewhat to a density closer to what is
19 in Woodland Farms.

20 In order to do that, you have to go through a
21 rezoning process and it was not mapped in the town's



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

1 program where you could do that. It has to be mapped --
2 I am getting -- this is not a simple project.

3 When we adopted a program, the second sheet
4 map -- I passed out some maps -- the second map was our
5 growth areas map and these are the areas that we said we
6 wanted to be able to upgrade.

7 Now, in order to upgrade, you have to go
8 through a hearing but you can't even go through that
9 hearing unless you are shown on this map.

10 Well, because when we adopted our program,
11 there was a 900-unit development approved on this site,
12 it didn't get mapped for a growth allocation. There was
13 already a project approved on it. It already had an
14 approved project. It didn't need to use up some of
15 Talbot County's valuable growth allocation.

16 That project fizzled out and now we have a
17 need for it. Well, it just so happens, the front page
18 is Talbot County's map; and you'll notice that Talbot
19 County -- it's the same map; it's a growth allocation
20 map. It doesn't approve any specific project; it just
21 allows you the potential to ask to do a project.



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

1 Talbot County's program came along a couple of
2 years or a year-and-a-half or so after our program. We
3 communicated with them and told them that we felt like
4 we were going to need that area for a growth allocation.
5 Please map it. But we never went back and made our map
6 compatible with their map.

7 We have a developer that comes in and he is
8 asking, "Well, we'd like" -- and I am sure you have all
9 heard of the Easton Club and they wanted to apply. They
10 have not applied. There is no application to develop
11 that property before the Town of Easton at all because I
12 would not accept one because there is only one unit
13 allowed on this red part of it at this time.

14 I told them if we could we get our growth
15 allocation map amended where it's the same as Talbot
16 County's, which I believe is the way it should be --
17 the Talbot County map is the one that counts.
18 They are the one that controls the growth allocations to
19 the towns. They get five percent of their total RCA
20 area and what they did was they gave half of that five
21 percent to Easton, Oxford and St. Michaels. All that



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

1 did was put it on some maps.

2 Now, for us to put a project on here, the
3 applicant has to come in and go through what's called a
4 "Growth Allocation Hearing." They have to have a
5 specific project and ask to do a specific project on
6 this site.

7 When that comes -- which it's not "if," it's
8 when that comes -- the applicants will come back to the
9 town with a project. We'll go through our review of it
10 and we'll go back to the Critical Area Commission, now
11 asking for them to apply the growth allocation, which,
12 once that's applied, that's like a rezoning and we
13 change that RCA, resource conservation area, one unit
14 per 20 acres, up to, let's say, an IDA, which would be
15 one unit per 10,000 square feet or an LDA, somewhat less
16 than that. But that's in the future.

17 All we are doing tonight is taking our program
18 maps which shows where you can go in and apply for
19 growth allocations and making them compatible with
20 Talbot County's maps, which already show that this area
21 is.



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

1 We feel like that the Town of Easton and any
2 town that has critical area has sewer, has water. We
3 have the capabilities of handling a little higher
4 density than the rural urban areas that border on the
5 Chesapeake Bay and that's where the development should
6 be: on the sewer, on the water lines and not on the wells
7 and not on septic systems. And so we thought that this
8 was a site -- we already have a sewer line running down
9 the Oxford Road that will tie this whole project and tie
10 into.

11 Its underlying zoning is already R-10-A. All
12 of the balance of the property can already be developed
13 to that density, but the developer would like to
14 scatter, probably, lots all over. I think you've
15 probably seen what the -- the site plan that they are
16 considering.

17 I hope I explained what's going on. I would
18 be happy to answer any questions. It's a very confusing
19 topic.

20 But, once again, we are not asking for any
21 specific project approval. There is no specific project



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

1 at this time. All we are doing here is making our
2 potential Growth Allocation Map -- it's called a "Growth
3 Areas Map" -- compatible with Talbot County's.

4 If you will notice on the map, they are not
5 compatible in several other ways as well. But we are
6 required every four years to update our Critical Area
7 Program and I hope to accomplish the -- make the maps
8 compatible completely during that review process.

9 I would be happy to respond to any questions
10 they have.

11 MR. JARVIS: Well, we have a sign-in sheet
12 here and we seem to have -- I don't think we have any
13 "yes" or "nos," but we have several "maybes." So I
14 guess we're going to find out how well you explained the
15 program.

16 (Laughter.)

17 MR. HAMILTON: I confused myself.

18 MR. JARVIS: The first one is Erica Wolfe.

19 MS. WOLFE: One of the questions I think I
20 have is: As we go through this process and this
21 particular parcel that's in critical areas and now added



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

1 to the Growth Map, does that mean it's there forever?

2 MR. HAMILTON: Does that mean it's there
3 forever? That's --

4 MS. WOLFE: Is it subject to any kind of
5 change? And, if so, what kinds of change?

6 MR. HAMILTON: I am not sure. Is it there
7 forever as growth allocation or could we move that
8 growth allocation elsewhere?

9 One of the changes that I might propose -- and
10 this is pure speculation -- when Talbot County gave us
11 growth allocation, they did it on the map and they told
12 us "X" acres. But this -- by mapping it like this, we
13 give land falls to property owners. They get growth
14 allocation.

15 In Talbot County, what they have done is they
16 have a one -- it is once or twice a year? It's a
17 competition and they'll only issue "X" amount of growth
18 allocation out once a year and they didn't map where
19 these growth allocations are going to be.

20 But in order to determine in the
21 municipalities how much to give to us -- and that's the



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

1 only purpose of these maps. They wanted to say, "How
2 many acres do you need, Easton?" And the only way that we
3 can figure out how many acres we need is if we go to a
4 map and measure how many acres. And, as we did that, we
5 adopted that map and showed, "This is where we're going
6 to do it."

7 What we were trying to do was get 100 percent
8 of the Town of Easton's RCAs because Talbot County and
9 the Town of Easton and apparently the Critical Area
10 Commission felt like that's where development should be,
11 in the towns, in and around the towns on sewer and
12 water.

13 We do have a few pieces. We may annex a few
14 pieces that don't have growth allocation on it. I feel
15 like we should keep the flexibility to take, let's say,
16 the 100 acres of growth allocation we have and assign it
17 to wherever a project comes in, if it's a good project.

18 But, at the present time, the only place I see
19 that we can assign growth allocation is to where it's
20 mapped. But is this in concrete? No, but we'll be
21 right back here before the Commission to amend it. If



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

1 we change this, we have to go back before the Critical
2 Area Commission.

3 We also -- the Town Council of Easton has
4 already passed an ordinance which is -- it doesn't come
5 into effect unless the Critical Area Commission approves
6 it, but ordinance number 204 amends our Critical Area
7 Program map to show this area.

8 If we want to move it someplace else, we have
9 to amend our program again and then have the Critical
10 Area Commission approve that amendment. Did that
11 answer --

12 MS. WOLFE: More or less. This eventually --
13 if you add this to the road map, there is a whole,
14 ongoing process that will eventually get back to
15 critical areas to raise the density or to raise
16 the --

17 MR. HAMILTON: That's correct.

18 MS. WOLFE: Okay.

19 MR. HAMILTON: Just by what we are doing
20 today, there is no density granted anywhere.

21 MS. WOLFE: Okay.



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

1 MR. HAMILTON: It's just the potential. There
2 is no potential now; the potential is there if they make
3 the change.

4 MS. WOLFE: And that's an additional set of
5 hearings?

6 MR. HAMILTON: They come back before us with a
7 project with their site plans. We review it, compare it
8 to the criteria for the critical area and our zoning
9 ordinance. And if it meets all of those criteria, it
10 would be approved and the project would get constructed.
11 But it would be back before another hearing for a
12 specific project, and that's for the grant of growth
13 allocation.

14 MR. CONNOLLY: Is it tied up -- have they got
15 water and sewer, et cetera, for this division?

16 MR. HAMILTON: Yes. At the property owner's
17 expense, we have extended a water and sewer line down to
18 the -- beyond the property. Actually, it crosses over
19 and comes back out to the parkway. Yes, water and sewer
20 is already available to the site.

21 MR. CONNOLLY: And there is a sewage treatment



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

1 system available. You know --

2 MR. HAMILTON: Is there capacity on the
3 system? It's a Town of Easton policy that any one
4 development, wherever it is -- outside of the critical
5 area or anywhere -- will only be allowed to utilize 20
6 percent of the available capacity. And I think I'm
7 right on that 20 percent; but I think it's 20 percent of
8 the available capacity that we have at that given moment
9 in our treatment plant:

10 MR. CONNOLLY: You are saying 20 percent of
11 the excess available capacity?

12 MR. HAMILTON: Yes, the excess available
13 capacity.

14 MR. CONNOLLY: So you have an excess of
15 capacity right now and you will only grant 20 percent of
16 that excess?

17 MR. HAMILTON: That's correct. Now, they can
18 phase a project and come in and keep asking and use more
19 than that. But, of course, the 20 percent is of a
20 smaller amount each time because if they use 20 percent
21 of it, then it's less and the next 20 percent is



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

1 smaller.

2 To further answer your question, there is
3 ample capacity for every R-10-A-zoned property in the
4 Town of Easton. This is all in the Town of Easton. We
5 can handle every undeveloped parcel at this time. If
6 everybody wanted to develop it, I think the capacity is
7 there.

8 MR. JARVIS: Would you like to identify
9 yourself for the record?

10 MR. CONNOLLY: My name is Paul Connolly. This
11 is strictly anxiety, but, I mean, there would be no
12 reason for you to want to annex Woodland Farms into the
13 Town of Easton, is there? I mean, in the future, why
14 would there be a reason?

15 MR. HAMILTON: It would be a costly --

16 MR. CONNOLLY: I guess what I am saying is I am
17 a little nervous about you wanting to put sewer and
18 water in our neighborhood at our expense some day.

19 MR. HAMILTON: The Town of Easton -- I have
20 been with the town as the town planner. I am its first
21 town planner. I have been with the Town of Easton since



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

1 September of '88, which is a little over three years now
2 and, to date, I have not known us to go out and annex a
3 piece of property.

4 MR. CONNOLLY: Look for it.

5 MR. HAMILTON: It's always done on a petition
6 and, especially, in the light of where we are annexing
7 in a bunch of residential units, the tax base is not
8 there to pay its way.

9 If your septic systems failed out there and
10 you had a huge demand or a need --

11 MR. CONNOLLY: Then we would be asking --

12 MR. HAMILTON: -- we would consider annexing
13 if we had the capacity. At your cost, we would annex.
14 But there is no -- and that would be an additional
15 expense. If we went to petition to annex it, you'd tell
16 us no. The taxes aren't there to pay for the services
17 the town provides. We don't generate enough from the
18 residential neighborhood, so it wouldn't be to our
19 benefit.

20 MR. JARVIS: David Wells?

21 MR. WELLS: No questions.



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

1 MR. JARVIS: Ralph Walker?

2 MR. WALKER: No questions.

3 MR. JARVIS: Peter Thien?

4 MR. THIEN: I have one question. Even though
5 city water would be provided for this area, that isn't
6 saying that the residents in that area necessarily would
7 use the city water; and I am thinking primarily of the
8 golf course. Would they draw on the city water for
9 taking water on their fairways and greens? My concern
10 is primarily over the impact on ground water, the wells.

11 In other words, apparently, they would
12 probably put in a well for pumping for their golf course
13 and that would have -- could have an impact if they were
14 pumping on the same horizons that we are pumping.

15 In other words, if they would put in a well or
16 wells to take care of their water needs over and above
17 what the city would furnish, would they draw from the
18 same horizon or do you have regulations for them to pump
19 from a different horizon?

20 MR. HAMILTON: I don't know that we have any
21 such regulations. I do not have any idea of what they



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

1 propose or plan to do. As I've told you, I don't have a
2 project before me. Nothing has been submitted because I
3 wouldn't allow them to submit anything.

4 That question can be addressed at public
5 hearings, again, before the Town Council and before the
6 Critical Area Commission.

7 I don't know the answer to your question on do
8 we -- I don't know whether we have rules or regulations
9 governing how deep they have to go if they're just going
10 to use it.

11 I will tell you that all of their units will
12 be on town water. We won't allow them to go in there
13 and put in some units in the back on a well. All of
14 their units will be on town water. I don't your answer
15 on the other water.

16 MR. THIEN: My concern is the volume of water.

17 MR. HAMILTON: I understand your concern. I
18 just don't know the answer.

19 MR. JARVIS: We have Mr. and Mrs. Ben
20 Florence.

21 MR. FLORENCE: You have already answered all



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

1 of the questions I had.

2 MR. JARVIS: Okay. Paul Hadaway?

3 MR. HADAWAY: Yes. I have one question,
4 basically, to make sure I understand the process.
5 Tonight is devoted to allowing the town to make its map
6 conform to the county map. Is that correct?

7 MR. HAMILTON: That's correct.

8 MR. HADAWAY: So any further consideration
9 having to do with critical areas will have to come to
10 another hearing at some future time?

11 MR. HAMILTON: Yes, more than one hearing.

12 MR. HADAWAY: So, whatever their density is
13 that they request, that will be the subject of a public
14 hearing?

15 MR. HAMILTON: Exactly. Mr. Hadaway, it will
16 either be a special exception process or the property
17 owners indicated, we are rewriting the zoning ordinances
18 and we are creating what is called a "Planned Unit
19 Development" where the Board of Appeals would not hear
20 it. The Planning Commission would hear it, make a
21 recommendation to the Town Council and the Town Council



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

1 would actually approve the PUD, which would be a site-
2 specific project. Tied to that would be a critical area
3 review with this same hearing process.

4 MR. JARVIS: G. Tucker?

5 MR. TUCKER: No further questions.

6 MR. JARVIS: Jay Rue?

7 MR. RUE: No questions.

8 MR. JARVIS: Peter Hanlon?

9 MR. HANLON: I have observations, if I may and
10 possibly questions. Mr. Thien brought out, I think, a
11 very, very important point with regard to the water and
12 the usage thereof. I think all of us are aware that our
13 resources are somewhat limited in that we now have an
14 impact on the southern part of the peninsula, the
15 penitentiary impacting on the surrounding community with
16 the added water usage from the penitentiary.

17 I think we are looking at an impact from the
18 golf course watering that could be quite significant.

19 In connection with that, we would also have
20 the impact on the bay with respect to fertilizers and
21 run-off from the soil. Being down in Woodland Farms and



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

1 being aware of the silt build-up, we are certainly going
2 to have a good deal more run-off with the watering of
3 the golf course from that area with further impact down
4 the stream. I don't there would be any question about
5 that. And I think, first, we should address the
6 question as to where the aquifer is that is supplying
7 the Town of Easton. Is this aquifer taking away from
8 our Woodland Farms and Waverly in this area where we
9 are being supplied with our water now or not? Do we
10 know?

11 MR. HAMILTON: I don't know. I think these
12 issues -- I mean they are pertinent. I under the issues
13 you are bringing up and I think that those issues have
14 to be resolved. Those are good points to make.

15 This is speculation. I do not know what they
16 propose to do. I have no submittal. They are
17 constructing huge ponds on the property where they will
18 collect water and they may plan to use the ponds for
19 watering of the golf course, which would be not ground
20 water but the storm water they they've caught,
21 rainwater.



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

1 Now, your concerns about the siltation of
2 Paper Mill Pond, this project will give us the
3 opportunity to require that improvements be made on the
4 property which will enhance the protection of that pond.
5 That pond -- most of the silt that's in the pond, I have
6 been told, has come from the other side of Route 50, up
7 north where the Walmart area actually is developing. A
8 lot of that silt is coming all of the way around and
9 down into that pond.

10 This site will go through a very strict
11 critical area required review and the developers will
12 have to design in a filtration system. There is a 100-
13 foot buffer. Actually, it's larger than that on this
14 site because there are slopes, so the buffer is extended.
15 There is a 100-foot buffer around the edge that they
16 can't harm or touch the natural vegetation. When they
17 build these ponds and any run-off, they'll have to check
18 that with siltation ponds and that will all have to be
19 reviewed.

20 I believe the Critical Area Law says that
21 there has to be a net decrease of suspended solids of 10



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

1 percent. Am I right? I am not -- I can't quote
2 Critical Area Law very well. But, in order for them to
3 get a project approved, the first thing they have to do
4 is decrease the suspended solids in the run-off.

5 What the Town of Easton has done on a project
6 across the street, this Londonderry Retirement Community
7 across the street -- across the branch, the river there,
8 our Critical Area Program recommends, instead of a 100-
9 foot buffer, it recommends a 300-foot buffer.

10 We asked that developer, as we will ask this
11 developer, to demonstrate to us why we shouldn't require
12 him to put in a 300-foot buffer. It says it's
13 recommended; it is not required.

14 He came back and said, "Well" -- hired a -- I
15 am trying to think of what he called the person in that
16 field but a soil scientist or whatever, a landscape
17 person who showed us a landscaping plan with all sorts
18 of exotic natural vegetations they were going to replant
19 and siltation ponds and detention ponds which would
20 actually reduce the silt down to the 10 percent
21 reduction of what was already naturally running off.



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

1 The Commission said, "I'll tell you what we'll
2 do: We will not require you to give us a 300-foot
3 buffer. You can have your normal 100-foot required
4 buffer, but you have to decrease your suspended solid
5 run-off by 15 percent instead of 10." We did that to
6 two projects, as a matter of fact: the project which is
7 called "Londonderry" and a project directly across --
8 down the road from this project, which is Paper Mill
9 Place. Now, neither one of those projects have
10 completed all of the reviews, but the run-off and the
11 situation off those properties into the water will be
12 better than any of the land around it at this time. It
13 will only improve that situation.

14 The water table, I can't speak to. I don't
15 know anything about the aquifers in and around Easton,
16 but I think that's something we should look into when we
17 get to that specific review.

18 MR. THIEN: As a point of information, how
19 does one determine the percentage of run-off -- the
20 distinction between 10 and 15 percent and silt run-off
21 from these areas? How was this measured and over what



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

1 time frame?

2 MR. HAMILTON: Len, can you answer that
3 question? All I know is that we have an -- I don't have
4 any idea. I couldn't do it. There is no way I could do
5 that. There is a workbook that you adopt in your
6 Critical Area Program that shows how to calculate it;
7 and there's engineering data and water samples and all
8 of the samples are there and it's over a period of time
9 that you have to take and measure -- I don't know.

10 As a matter of fact, my assistant was going
11 through the calculations and thought he found an error
12 and instead of finding an error in the calculations, I
13 think he found an error in the way our formula was
14 written down in the manual that we have.

15 But there is -- and you are welcome to come
16 down to my office and look at that information. It's
17 frankly over my head. I have to rely on the engineers,
18 my engineer's office and, you know, we send -- the forms
19 are all printed out. There's numbers all over them and
20 formulas all over them. We send them to the Critical
21 Area Commission and the Critical Area Commission's staff



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

1 analyzes those, as well as our staff -- the engineering
2 staff -- and I hope those guys know how to read that.
3 I don't. I don't pretend that I know how. But that
4 puzzled me. I had the same question in my mind.

5 MR. THIEN: I'm sure I wouldn't know, either,
6 if you presented me with all of those things.

7 MR. HAMILTON: They are confident that they
8 do, that they have a handle on it.

9 MR. HANLON: The question that I raise is that
10 I have been living down there for eight years now and I
11 don't think I have ever seen anyone coming around to
12 take a water sample.

13 MR. HAMILTON: So how could you know what it
14 was reduced if you don't know what it is now? Well,
15 apparently, somebody has checked.

16 MR. HANLON: I don't know if it's ever been
17 measured, as far as I can see.

18 MR. HAMILTON: Somebody has checked in some
19 places because their formulas are there; the manual is
20 there. I don't know how to answer your question other
21 than that.



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

1 MR. JARVIS: Paul Connolly, did you finish
2 your remarks?

3 MR. CONNOLLY: Yes.

4 MR. JARVIS: Yes.

5 MR. PINSKY: My name is Norman Pinsky. I am
6 sorry I didn't sign in.

7 MR. JARVIS: That's all right.

8 MR. PINSKY: But I have a question about the
9 golf course. It seems to me that it is being developed
10 now. Is that what we're talking about, too, at this
11 point?

12 MR. HAMILTON: Not at this point in time. The
13 golf course -- I don't think that's any secret from
14 anybody. The property owner does wish -- and has
15 indicated to the Town of Easton -- that he does wish to
16 come forth with an application for a golf course.

17 I have told him that he could not come forth
18 with an application for a golf course because I have no
19 mechanism, according to my Critical Area Law, to grant
20 or even review a project on that site until we had
21 amended our map.



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

1 I am not saying that with this amendment --
2 this amendment doesn't approve any project. All it does
3 is give us the ability to review that project so we can
4 turn it down or approve it, and we'll be right back
5 before the Critical Area Commission with that specific
6 project.

7 MR. PINSKY: That area of the golf course is
8 rather critical because there's a stream that runs right
9 through the center where that golf course is going to be
10 and empties out into Jack's Creek and anything that is
11 carried off in chemicals and so forth will wind up in
12 the Tred Avon. I would just mention that.

13 MR. HAMILTON: Well, that does need to be
14 brought up during those reviews and during the design of
15 that system. But the company that's doing the design,
16 I am sure, is a very competent company and they will
17 address those things. But those things need to be
18 brought up again during those hearings.

19 MR. JARVIS: This lady over here has some
20 remarks.

21 MS. WOLFE: I guess the bottom line, as far as



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

1 this particular aspect of it is concerned is: What, if
2 anything, is there to stop this particular piece from
3 being matched with the Talbot County road map? Is there
4 anything -- as we're sitting here talking about it, the
5 bottom line is: What difference does that make? Does it
6 make any difference?

7 MR. HAMILTON: What difference does it make?

8 MS. WOLFE: Or is this pretty much a foregone
9 conclusion that every map, that we are now going to
10 bring them into conformance with each other?

11 MR. HAMILTON: Well, I would have to say that
12 if the Critical Area Commission felt like, through
13 public comment and were given good reasons why this
14 should remain RCA, that they could turn down this.

15 MS. WOLFE: But we're not there yet.

16 MR. HAMILTON: Well, they could turn down the
17 map amendment.

18 MS. WOLFE: Okay.

19 MR. HAMILTON: Now what that -- I am not
20 sure -- let me go a little further because I don't want
21 to -- you know, if they turn that down and we amend our



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

1 program to say "You didn't have to map it for growth
2 allocation," we can come in and -- let's say we just
3 took the growth allocation and made it a number in our
4 program.

5 We have 100 acres that Talbot County allows us
6 to have of the allotment. Now that doesn't give us any
7 growth allocation. We'd still have to come before the
8 Commission to get growth allocation, but it's no longer
9 mapped.

10 The map was a stumbling block we put in front
11 of ourselves. We created it. It made it easy to see
12 and it made it easy to measure. I don't know whether
13 all of the counties have maps that show a potential for
14 growth allocation.

15 Talbot County only shows this in the towns.
16 There is a map in the Talbot County program for Oxford;
17 there is one for St. Michaels, and they had -- what they
18 wanted to do was to say, "We've got five percent of
19 our total growth area that's going to be upgraded. How
20 much do you need, Easton? How much do you need, St.
21 Michaels? How much do you need?"



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

1 It just so happens, we asked for exactly one-
2 half of what Talbot County had. Talbot County said,
3 "That's fair; that's where development should be. We'll
4 give you 100 percent of what you are asking for." And
5 then it got turned into a map which became another
6 stumbling block. And, to me, it's just sort of -- it's
7 an unnecessary stumbling block because we are still
8 protected with public hearings and reviews.

9 When we get to a specific project, before we
10 grant any growth allocation, which is a semi-resulting
11 of a project, an upgrade from RCA, we've got to do the
12 same thing.

13 I tried to convince the staff of the
14 Chesapeake Bay Critical Area Commission to go to the
15 Commission and tell them that this was a, what they call
16 a "refinement." But I can see why they had to call this
17 an amendment but we actually are physically changing a
18 piece of our program. Did I answer --

19 MS. WOLFE: Yes. It's just that it seems
20 that, at this point, it's such a tiny thing.

21 MR. HAMILTON: That was my point. It seems



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

1 like --

2 MS. WOLFE: And everybody else obviously has a
3 very different agenda than dealing with simply
4 correcting maps. I am wondering how worthwhile it is to
5 devote time to it.

6 MR. HAMILTON: I have a lot bigger problems
7 with this whole system in these reviews that I have to
8 clean up than this little map thing. It's just that I
9 have a developer who wants to submit an application to
10 us and I thought to do the responsible thing -- and I
11 still feel like it's the responsible thing is to get my
12 house in order where he could apply for it.

13 It was the intention -- if we hadn't already
14 approved 900 units on this piece of property and we had
15 all along thought it was going to be farmland and he
16 just wanted to come in or the property owner wanted to
17 come in and get us to change it, it may be a different
18 story.

19 But since it was always thought that there was
20 already a vested right to develop this property, we felt
21 like they ought to have the potential to come in and ask



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

1 for some sort of a project.

2 MR. THIEN: I think that one of the questions
3 that a lot of the people have is: What's the process
4 from this point forward for the developer?

5 MR. HAMILTON: Okay. I have to define that
6 process to you as it sits today and then I'm going to
7 jump and tell you a different process that might come
8 into being. And the reason I have to do it this way is
9 we are looking at a new zoning ordinance that, before
10 this comes into being, we may be playing a different
11 ball game. It won't change anything we are doing here.

12 In order for them, today, to develop this
13 piece of property, we have to go through a special
14 exception process to review a specific project.

15 We also, at the same time, have to ask for
16 growth allocation to be granted. Now, our process for
17 growth allocation and a special exception -- the special
18 exception starts out with the Easton Planning and Zoning
19 Commission. They review the project, say it's a
20 compatible land use; they recommend it to the Town
21 Council and they recommend the growth allocation be



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

1 approved to the Town Council. They recommend that the
2 special exception be approved to the Easton Board of
3 Zoning Appeals, the body that can approve a cluster
4 development or a multi-family development. And, at the
5 present time, I happen to know that the developer
6 doesn't wish to subdivide it into individual lots. He
7 has a whole different conceptual idea. It will be
8 single-family detached units, for the most part, but
9 they won't be on one acre or two-acre lots. They will
10 sort of share the ownership of all of the land, the golf
11 course, and they will -- the company will maintain all
12 of the grounds and they'll just own the footprint they
13 sit on, perhaps, or maybe just the air space their house
14 is on.

15 But that hasn't been decided yet. The
16 developer can do it any way he wishes. He can come in
17 and subdivide.

18 Okay. We go to the Council with one. The
19 Council hears it and approves it, but it has to be
20 conditioned on, one, that he gets a special exception;
21 and two, that the Critical Area Commission approves it.



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

1 So we go to another -- that was a public
2 hearing with the Council. Now we go to a public hearing
3 with the Critical Area -- I mean the Easton Board of
4 Zoning Appeals. They review the project, a specific
5 project. They say, "Yeah, that looks good. We approve
6 it."

7 Then we are back to the Critical Area
8 Commission in this same type of forum where the Critical
9 Area Commission looks at it and decides whether or not
10 we have crossed all of the "t's" and dotted all of the
11 "i's" and this is a correct project.

12 They hold a hearing -- what is happening today
13 is they are holding a hearing and then the full Critical
14 Area Commission will sit and decide, as I understand it.

15 MR. JARVIS: That's correct. Any more
16 comments?

17 THE AUDIENCE: (No response.)

18 MR. JARVIS: If there are none, the meeting is
19 closed. You just made it.

20 MR. CONNOLLY: Will there be any further
21 discussion regarding the density of that area? Should



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

1 that be addressed when we get into the zoning portion?

2 MR. JARVIS: We're going to have to limit this
3 thing to the subject at hand.

4 MR. CONNOLLY: Okay, I'm sorry.

5 MR. JARVIS: You see, you're getting into a
6 zoning problem and you're getting into all of these
7 other internal problems.

8 MR. CONNOLLY: You're correct. I speak for a
9 lot of people who are concerned about the density of the
10 area.

11 MR. JARVIS: I know and I am sure they are
12 going to be speaking, but it'll be at a different meeting.

13 MR. CONNOLLY: Sure. That's what I'm asking.

14 MR. ELBRICH: That's first resolved at this
15 level. Then, when it comes back for growth allocation,
16 it will be resolved at another hearing like this on the
17 actual growth allocation.

18 MR. CONNOLLY: Good. Thank you, sir.

19 MR. JARVIS: Nothing further.

20 (Whereupon, at 8:00 p.m., the meeting was
21 adjourned.)



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

CERTIFICATE OF NOTARY

1
2 I, DEBORAH S. CONLEY, the officer before whom the
3 foregoing testimony was taken, do hereby certify that
4 the testimony of witnesses was taken by me by magnetic
5 tape and thereafter reduced to typewriting by me or
6 under my direction; that said testimony is a true record
7 of the testimony given by said witnesses; that I am
8 neither counsel for, related to, nor employed by any of
9 the parties to the action in which this testimony was
10 taken; and, further, that I am not a relative or
11 employee of any attorney or counsel employed by the
12 parties hereto, nor financially or otherwise interested
13 in the outcome of the action.
14

15 
16 DEBORAH S. CONLEY
17 Notary Public in and for
the District of Columbia

18 My Commission expires:

19 5/94
20
21



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