

STATEMENT FROM THE CRITICAL AREA COMMISSION CHAIRMAN, CHARLES C. DEEGAN

Annapolis, Maryland, December 21, 2016. The Critical Area Commission wants to thank the students and staff at the Environmental Law Clinic of the University of Maryland Francis King Carey School of Law for their hard work and time spent on their latest report [*Maryland's Critical Area Protection Program; Variances and Enforcement in Selected Jurisdictions from 2012 to 2014*](#). The report recognizes the complexities of balancing the three goals of the Critical Area law; (1) minimizing adverse impacts to water quality, (2) conserving fish, wildlife and plant habitat, and (3) accommodating development while recognizing the adverse environmental impacts of that development. The success of the passage of the Critical Area law in 1984 hinged on recognizing existing property rights and on establishing a partnership between the State and local jurisdictions.

The Critical Area law provides for continuing development activities that existed prior to the law's passage. In that regard, the variance process exists to allow some flexibility for future redevelopment. Over the last 25 years the Commission's experience working with local jurisdictions on implementing their Critical Area programs has shown the limitations with the variance process. As noted in the report, there is not a "bright line" when determining a "reasonable use" for a private property owner under the variance process, further the variance process "does not work well as an environmental analysis."

The Critical Area Commission agrees with the recommendations in the report that endorse greater environmental analysis for development activities. In recent years the Commission has worked with local jurisdictions to make revisions to local Critical Area programs that attempt to allow minor development activities on nonconforming grandfathered lots, minimize environmental impacts, and require appropriate mitigation for those impacts. This local flexibility is built in to the Critical Area law and was re-emphasized in 2008 when the General Assembly comprehensively reviewed and strengthened the law. The Commission is committed to continuing to work cooperatively with our local partners and intends to use the findings of the Law Clinic to support these efforts.

While commenting on the Environmental Law report, a blog post by the Bay Journal noted concerns about two of the recommendations contained in the Governor's Regulatory Reform Commission report. The Bay Journal's concerns are that the recommendations will weaken Critical Area standards applied by local governments. The intent of these recommendations is to streamline State agency procedures only. These recommendations will not lessen Critical Area development standards or affect local governments.

For additional information on the report and the Critical Area law go to dnr.maryland.gov/criticalarea/