

## ***Critical Area Commission***

### **STAFF REPORT**

January 6, 2021

**APPLICANT:** City of Fruitland (Wicomico County)

**PROPOSAL:** City of Fruitland Comprehensive Review

**COMMISSION ACTION:** Concurrence with Chair's Determination of Refinement

**STAFF:** Tay Harris

**APPLICABLE LAW/  
REGULATIONS:** Natural Resources Article 8-1809(g)

### **DISCUSSION:**

On December 10, 2020, the City Council for the City of Fruitland approved a comprehensive update to the Town's Critical Area Program, required as per Natural Resources Article, §8-1809(g). The City's Council repealed and replaced the City's Critical Area program through the adoption of Ordinance No. 300 (see attached). The amendment addresses the update made to the Critical Area law changing impervious surface limits to lot coverage limits and includes minor grammatical errors. The City last completed a comprehensive review of its Critical Area Program on July 5, 2000.

The City of Fruitland is located in Wicomico County south of and adjacent to the City of Salisbury. Ten properties are wholly or partially located in the Critical Area. All land located in the Critical Area is designated as Limited Development Area (LDA). Because of the limited extent of Critical Area within the town, the City of Fruitland operates under an abbreviated Critical Area Program that only includes provisions for Limited Developed Areas. The requirements apply to all properties as specified in the abbreviated provisions regardless of presence of Critical Area Buffer onsite.

### **RECOMMENDATION**

Commission staff recommends that the Commission concur with the Chairman's determination that this comprehensive review be processed as a refinement to the City of Fruitland's Critical Area Program. Furthermore, because the Ordinance is consistent with the Critical Area law and regulations, Commission staff recommends the Chairman approve the comprehensive review as proposed.

**ORDINANCE NO. 300  
OF THE  
CITY OF FRUITLAND**

**AN ORDINANCE TO REPEAL ORDINANCE  
NO. 194 TO UPDATE THE CITY'S  
CHESAPEAKE BAY CRITICAL AREA PROGRAM**

**WHEREAS**, the City of Fruitland has, within its corporate limits, ten (10) properties constituting approximately thirty (30) acres of land that are either fully or partially within the Chesapeake Bay Critical Area (Critical Area); and,

**WHEREAS**, there are no immediate plans for the extension of municipal water and sewer lines to serve any of the undeveloped properties within the Critical Area consequently making those undeveloped properties less readily available for development; and

**WHEREAS**, although the City of Fruitland has a healthy respect for and supports the goals and objectives of the Maryland Chesapeake Bay Critical Area Act and Criteria, the City Council believes that, in view of available public facilities and applicable laws and restrictions, the imposition of a lengthy Critical Area Program would not substantially improve the protection of tidal water quality or the conservation of fish, wildlife or plant habitats; and

**WHEREAS**, the City wishes to repeal Ordinance No. 194 and to adopt the following updated Critical Area Program and requirements for development or redevelopment within the City limits as they now stand and as they may be changed by annexation; and

**WHEREAS**, the City shall seek to accomplish the following goals of the Critical Area Act through implementation of the provisions contained in this ordinance;

- A. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- B. Conserve fish, wildlife and plant habitat; and
- C. Ensure that development in the Chesapeake Bay Critical Area accommodates growth and addresses the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

**NOW, THEREFORE**, be it Enacted and Ordained by the City Council of the City of Fruitland, Maryland, as follows, to-wit:

1. That Ordinance No. 194 is hereby **REPEALED**;

2. That the City does hereby adopt the following requirements which shall apply to all development or redevelopment within the Chesapeake Bay Critical Area:
  - A. The portion of the City within the Critical Area shall be designated as Limited Development Area (LDA).
  - B. The legally recorded parcels of land within the City of Fruitland that existed as of December 1, 1985, shall be considered "grandfathered" under COMAR 27.01.02.07.
  - C. Any lands in the Critical Area proposed for annexation into the City shall be designated as LDA, through the growth allocation process, if necessary, prior to annexation.
  - D. Provisions for establishing and maintaining buffers along shoreline areas and for designating shoreline areas that are appropriate for public access, water related recreation, and water dependent facilities are not included in this Ordinance, there being no shoreline or buffer areas within the City of Fruitland's Critical Area. In the future, if land is annexed that includes shoreline or buffer areas, this ordinance shall be amended.
  - E. Forest and developed woodlands which are cleared must be replaced on an equal area basis for clearing up to twenty percent (20%) of the forest or developed woodland. For forest and developed woodland clearing between twenty percent (20%) and thirty percent (30%), the forest or developed woodland must be replanted at one and a half (1.5) times the total area extent of the forest or developed woodland. For forest and developed woodland clearing in excess of thirty percent (30%), the forest or developed woodland must be replanted at three (3) times the total area extent of the cleared forest or developed woodland. If a sediment and erosion control permit is required and if any cutting or clearing of forest and developed woodland occurs before a sediment and erosion control permit is obtained, the forest or developed woodland must be replanted at three (3) times the total area extent of the cleared area. Mitigation shall be consistent with the standards outlined in "1" below.
  - F. If a site is less than fifteen (15) percent forested, then at least fifteen (15) percent of the gross site area shall be afforested. The location of the afforested area should be designed to reinforce protection to habitats on the site or to provide connections between forested areas when they are present on adjacent sites. Planting shall be consistent with the standards outlined in "I" below.
  - G. The City will advise applicants for project development or redevelopment to contact the U.S. Fish and Wildlife Service and the Maryland Department of

Natural Resources for the requirements of federal and state law with respect to rare, threatened, or endangered species.

- H. Lot coverage shall be limited to 15 percent (15%) of a parcel or lot, except as provided below for "grandfathered" parcels as defined by Section of COMAR 21.01.02.07:

| <b>LOT/PARCEL SIZE IN SQUARE FEET</b> | <b>LOT COVERAGE LIMITATIONS</b>                            |
|---------------------------------------|--|
| 0 - 8,000                             | 25% of parcel + 500 square feet                            |
| 8,001 - 21,780                        | 31.25% of parcel with mitigation as described in "I" below |
| 21,781 - 36,300                       | 5,445 square feet  |
| 36,301 - 43,560                       | 15% of parcel  |

- I. Mitigation requirements:

| <b>AREA OF DISTURBANCE</b> | <b>PLANTING REQUIREMENT</b> |
|----------------------------|-----------------------------|
| 0 - 300 square feet        | 1 tree                      |
| 301 - 600 square feet      | 2 trees                     |
| 601 - 900 square feet      | 3 trees                     |
| 901 - 1,200 square feet    | 4 trees                     |
| 1,201 - 1,500 square feet  | 5 trees                     |
| over 1,500 square feet     | 1 tree per 300 square feet  |

**NOTE:** At least 50% of the mitigation requirement must be trees of at least three (3) feet in height. All remaining mitigation can be accomplished through shrubs of at least three (3) gallons in size. There (3) shrubs receive the same amount of credit as one (1) tree. The use of native plant species is recommended.

- J. Clearing or grading activities disturbing over 5,000 square feet of land area or disturbance of more than 100 cubic yards of earth requires a sediment and erosion control permit from the Wicomico County Soil Conservation Service.
- K. All harvesting of timber in Chesapeake Bay Critical Area shall be in accordance with plans approved by the District Forestry Board.

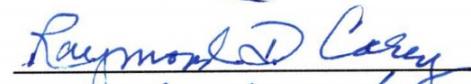
- L. In order to ensure that development and redevelopment proposals in the Critical Area comply with the Chesapeake Bay Critical Area Act and Criteria, insofar as possible, and the requirements herein, all requests for building permits, project approvals and proposals for subdivision and all other proposals for development or redevelopment within the Critical Area **SHALL** be referred to the Maryland Department of Planning Circuit Rider or other designee and no such building permit nor plan approval shall be issued nor granted by the City until such time as the said Circuit Rider or other designee has supplied comments and recommendations to the City or thirty (30) days have passed from the date of referral, whichever shall first occur.
- M. Local government projects shall be consistent with the provision of COMAR 27.02.02 and 27.02.04.
- N. Definitions of terms used in the Ordinance shall be those contained in COMAR 27.01.01.
- O. The attached map entitled "Fruitland Critical Area Map", and signed by the City Council President and Council Members, is hereby adopted as the City's Critical Area Map, setting forth the affected areas of the City.

This Ordinance shall become effective fifteen (15) days following notification of acceptance and approval by the Maryland Chesapeake Bay Critical Area Commission, **PROVIDED HOWEVER THAT** if such approval be not acknowledged on or before the 31st day of January, 2021, this Ordinance shall be null and void *ab initio.*, unless the time for Commission approval shall have first been extended not more than sixty (60) days by the City Council.

The above ordinance was introduced and given first reading before the City Council of the City of Fruitland, Maryland at its regularly scheduled City Council meeting held on the 13th day of October, 2020, and finally passed at a regular scheduled meeting of the City Council held on the 10th day of November, 2020, having been published and a public hearing held as required by law in the intervening time.

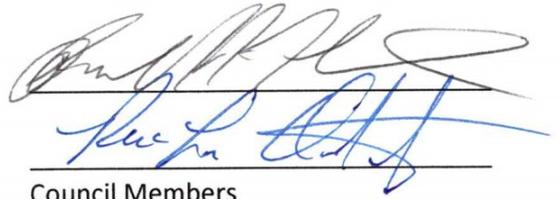
CITY COUNCIL OF FRUITLAND

  
\_\_\_\_\_  
Darlene Kerr, Council President

  
\_\_\_\_\_  
  
\_\_\_\_\_

Attest:

\_\_\_\_\_  
Raye Ellen Thomas, City Clerk Thomas

Handwritten signatures in black and blue ink over a horizontal line. The black signature is on top, and the blue signature is below it.

Council Members