

MINUTES

**Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
1804 West St., Suite 100
Annapolis, MD 21401**

August 20, 2025

CALL TO ORDER: Chair Erik Fisher called the meeting to order at 1:00 p.m.

Commission Members in Attendance:

Derek Bland, Wicomico County
Steve Bunker, Charles County
Dan Burris, St. Mary's County
Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City
Allison Gost, Department of Transportation
Anita Grant, At Large
Earl “Buddy” Hance, Calvert County
Rosa Hance, At Large (by phone)
Debbie Herr-Cornwell, Department of Planning
Mira Morgan, Department of Housing and Community Development
Alisha Mulkey, Department of Agriculture
James Palma, Department of Commerce
Tammy Roberson, Department of Environment
Lisa Rodvien, Anne Arundel County
Natalie Snider, Department of Natural Resources (for Catherine McCall)
Dave Wilson, Worcester County Coastal
Pat Young, Baltimore County

Commission Members Not in Attendance:

Tim Adams, Prince George's County
David Bradford, Worcester County Chesapeake
Mark Conway, Baltimore City
Ben Etherton, Talbot County
Travis Marion, Cecil County
Catherine McCall, Department of Natural Resources
Hitesh Patel, Somerset County
Annie Richards, Kent County
Brian Roche, Dorchester County

OPENING REMARKS

Chair Fisher called the meeting to order and welcomed new commissioner Derek Bland, for Wicomico County, and welcomed Natalie Snider, alternate for Catherine McCall (DNR). Dr. Nick Kelly conducted a roll call to confirm a quorum.

APPROVAL OF MINUTES

Commissioner Hance moved to approve the minutes from the July 9, 2025, meeting. Commissioner Young seconded. **Motion carried unanimously.**

ITEMS FOR CONCURRENCE:

SUMMARY REPORT – Town of Secretary – Comprehensive Review

Presented by Jon Coplin. Program Committee Recommendation – Concurrence; Approval with Conditions.

Mr. Coplin presented in accordance with the staff report, the contents of which are incorporated into and made a part of the minutes. The Town of Secretary (Town) recently approved Ordinance 2025-04 which updated the Town's Critical Area program in compliance with Natural Resource Article, 8-1809 (g). The updated ordinance was approved by the Town's Council on June 17, 2025. On August 8, 2025, the Program Committee voted to concur with the Chair's determination of refinement, with the condition that within 120 days of the date of the Commission approval, the Town of Secretary will update its approved ordinance 2025-04 to meet the revisions in Attachment 1 of the staff report.

Following the presentation, Mr. Coplin turned the floor over to Chair Fisher, who asked for a motion from Program Committee Chair Bunker. Commissioner Bunker moved that the proposal be accepted as a refinement to the Town of Secretary's Critical Area Program. Chair Fisher thanked and said that this would stand as his final decision.

FULL REPORT – Anne Arundel County – Map Change: Buffer Modification Area

Presented by Jamileh Soueidan. Program Committee Recommendation – Concurrence; Approval.

On June 5, 2025, the Anne Arundel County Planning and Zoning Officer approved a request to amend the County's Buffer Modification Area (BMA) Map on a 1.12-acre property located in Arnold. The Commission accepted the County's application for processing of the amendment to the Buffer Modification Map on June 20, 2025. The County requested that the Commission review the application as a refinement to the Anne Arundel County Critical Area Program and maps. Chair Fisher determined that the request would be reviewed as a refinement on July 16, 2025. On August 8, 2025, the Program Committee voted to concur with the Chair's determination of refinement and voted to approve with conditions. Discussion at the meeting centered around the sparse vegetation on the steep slope on the property, and the importance of mitigation plantings.

Commissioners asked for definitions and clarification of Resource Conservation Area (RCA), Buffer, and Conservation Easements.

Program Committee Chair Bunker then moved on behalf of the Program Committee to concur with the Chair's determination of refinement and moved to approve the map amendment as proposed. Chair Fisher thanked him and noted the concurrence and stated this would stand as his final decision.

SUMMARY REPORT – Town of Indian Head – Text Amendment: Growth Allocation Alternative Provision.

Presented by Annie Sekerak. Program Committee recommendation: Concurrence with Chair's determination of refinement; Approval.

On July 7, 2025, the Council of the Town of Indian Head approved a text amendment to the Town code. Ordinance No. 06-01-25 will amend Article IX, Part III, Section 955 of the Town's zoning ordinance to allow for the use of growth allocation in new Intensely Developed Areas (IDAs) less than 20 acres. A copy of Ordinance No. 06-01-25 is attached to the staff report. On August 8, 2025, the Program Committee voted to concur with the determination of refinement and moved to approve the Text Amendment. Chair Fisher thanked Commissioner Bunker and asked if there was any further discussion. Hearing none, he stated that this would stand as his final decision.

POLICY UPDATE (Information Only): Critical Area Commission "Participation, Access, and Community Outcomes Policy, Manual, and Implementation Plan."

Presented by Charlotte Shearin.

Ms. Shearin began by thanking the Work Group members – Commissioner Grant, Commissioner Rodvien, Commissioner Herr-Cornwell, and Alisha Mulkey, and also staff that have assisted in the process – Annie Sekerak, Katie Hayden, Jen Esposito, Susan Makhoulouf, and Michael Macon.

Ms. Shearin presented in accordance with the memorandum. In 2024, the Maryland General Assembly added two new goals to the Critical Area law, one of which states that the Critical Area Commission must "ensure an equitable distribution of the burdens and benefits of development, mitigation, restoration, conservation, and adaptation to climate change within the Critical Area" (Natural Resources Article 8-1801(a)(12)). Furthermore, Chapter 424 of the 2024 Laws of Maryland included additional considerations for equity under the Commission's purview: 1) ensure public access to natural resources for underserved and overburdened communities in the Critical Area; and 2) ensure equity in the public participation process for Critical Area policies and procedures.

The *Participation, Access, and Community Outcomes Policy* directs the Critical Area Commission in meeting this new goal and addressing these additional considerations. The Policy document sets the Commission's intentions when reviewing projects and program changes under its purview. The accompanying Manual (Appendix A) describes how these intentions will be applied to projects and program changes coming before the Commission, and the Implementation Plan (Appendix B) lays out the specific steps the Commission must take to execute its Policy.

Within this Policy, there are seven Guiding Principles that direct the Commission's decision-making: Consider and Adapt to Climate Change, Protect Habitat and Water Quality, Increase and Improve Public Access and Accessibility, Encourage Representative and Impactful Public Engagement, Improve Local Government Engagement, Respect Tribal Concerns, and Improve Accountability and Transparency. Each Principle includes specific considerations the Commission will make to ensure it is fully addressed within the Commission's roles and responsibilities.

Chair Fisher thanked her and gave more details about the newly structured policy and then asked if there were any questions from Commissioners about the format. Program Committee Chair Bunker asked what the approval process would be. Chair Fisher replied that the Commission would approved this policy. Subsequently, Commission staff would present this to the Commission's Joint Oversight Committee later this fall. Hearing no further questions, Chair Fisher stated that one of the things he hopes to accomplish with this

discussion would be an understanding of recent changes in interpretation and how that would impact this policy. He recommended closing the session so that Commissioners could hear from Emily Vainieri. Commissioner Bunker so moved. Commissioner Rodvien seconded. Motion passed unanimously.

[CLOSED SESSION: This section of the meeting is closed under General Provisions Art. S 3-305 (b), (7) “To consult with counsel to obtain legal advice.”]

Session was reopened following discussion, the contents of which are part of separate minutes. Chair Fisher reopened the floor for discussion.

Commission Palma recommended that the definition of “underserved communities” section should refer to the Environmental Screening tool, so that there not be any doubt as to how conclusions were reached. Commissioner Snider, filling in for Catherine McCall, requested a delineation of what roles in the policy Critical Area staff is responsible for versus what the local jurisdictions are responsible for.

Commissioner Young requested that staff provide a walk-through of a sample project, so that the Commission can understand the process. Commissioner Bland added to this request, suggesting that it would be helpful to review projects that were previously approved by the Commission and analyze them to see what would change under the proposed policy. Commissioner Palma also requested if the examples could be incorporated into the manual itself.

Commissioner Wilson thanked the workgroup for the language about engagement and asked if there was a specific plan for engaging underserved communities. Ms. Shearin stated that it is an ongoing process and mentioned the Implementation Plan document, in which several objectives are listed. Commissioner Wilson followed up with a question about the Commission’s coordination with the Chesapeake Bay Trust, and Dr. Kelly stated that we coordinate with them regularly.

Commissioner Wilson also brought up the water quality points on Page 8 and asked if there is a way to add language about opportunities to view wildlife as well as water, and that habitat is important to consider. Commissioner Mulkey asked for clarification about the policy approval schedule, and which parts will be voted on. Chair Fisher stated that the policy will be voted on by the Commission, and the manual and implementation plan will be guidance published by the Commission and maintained by Commission staff.

Commissioner Bunker asked when the policy would be adopted. Chair Fisher responded that all three parts would be approved at one time. Ms. Shearin added that the approval timeline right now is for a scheduled vote at the October 1st meeting.

Commissioner Palma asked whether the application process in the future would be modified to include questions related to this new policy. Ms. Shearin replied that Critical Area staff will be creating guidance documents to help the jurisdictions implement the policy.

Chair Fisher thanked everyone for the feedback and said it would be considered before coming back to the Commission for a vote, hopefully at the October 1 meeting.

LEGAL UPDATES

Presented by Assistant Attorney General Emily Vainieri.

Anne Arundel County – Harris

This variance request was for a pool and patio within the Critical Area Buffer. The Anne Arundel County Board of Appeals held a supplementary hearing on August 12, 2025, with the Commission participating as a party along with the County to oppose the variance. The Board specifically needs to determine whether the property owner provided evidence that the neighboring pools were constructed “in accordance with the Critical Area program” – language that is used in both of the variance standards at issue. Were the pools constructed as a result of a granted Critical Area variance? Or did they pre-date the Critical Area law, or were they constructed illegally? The Board will most likely make a decision at its next meeting, then a supplemental decision would be issued probably within 60 days.

Queen Anne’s County Circuit Court - Chesterhaven

The plaintiffs, including the Critical Area Commission, filed a joint Motion for Summary Judgment, in which we argued that there are no undisputed facts and we are entitled to a judgment as a matter of law. The judge can decide the case based on the relevant documents and affidavits. The representatives for Chesterhaven and the County will oppose the Motion. The hearing is set for November 10, 2025.

Worcester County Circuit Court – Ayres Creek Family Farm

The Critical Area Commission officially delivered the updated Critical Area boundary maps to the County, and the boundary is unchanged with respect to the Ayres Creek property, meaning that the clubhouse is out of the Critical Area. The County has two years to adopt the revised map. The court has picked the case back up again to move it forward, and the case has been fully briefed. There is a hearing scheduled for October 24, 2025, where the judge will first hear arguments on the Critical Area Commission’s pending motions to dismiss the case, and then subsequently we will provide arguments on the underlying substance of the decision.

Additional Notes/Old Business

Dr. Kelly presented three updates. The first referred to the Kent County Text Amendment regarding fox kennels. Information was received in regard to septic systems, and Chair Fisher had approved the text amendment. The second related to Kent County’s Comprehensive Review. All conditions of approval have been met, and no further information is required. Finally, Dr. Kelly announced that the Town of Ocean City had raised their Buffer fee-in-lieu from \$3.00 to \$4.00 per square foot.

Chair Fisher reminded Commissioners of a few opportunities for site visits. First up is Merkle Wildlife Sanctuary on Wednesday, September 3. On September 15 there will be a trip to Poplar Island. Finally, on October 29, a field day at Point Lookout State Park. A lunch & learn session will be held online on Thursday, September 25, to learn the EnviroScreen tool from MDE.

Meeting adjourned.

Lynette Fullerton, Commission Secretary

Date Approved