MEMORANDUM OF UNDERSTANDING BETWEEN JEFFERSON PATTERSON PARK AND MUSEUM AND THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS

This Memorandum of Understanding (MOU) is entered into as of June 2nd, 2021 by and between Jefferson Patterson Park and Museum (JPPM) located at 10515 Mackall Road, St Leonard, MD 20685 and administered by the Maryland Historical Trust (MHT), an instrumentality of the State of Maryland (the State) within the Department of Planning, and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (CAC or the "Commission"), created by State law within the Maryland Department of Natural Resources (CAC and MHT referred to herein collectively as the "Parties, and individually as a "Party").

RECITALS

WHEREAS, the Annotated Code of Maryland, Natural Resources Article §§ 8-1801 *et seq.* (the "Statute) establishes the Commission and sets forth its duties and authority for implementing the State's Critical Area Protection Program for the Chesapeake and Atlantic Coastal Bays, including the authority to regulate State agency actions resulting in development or redevelopment on State-owned lands in the Critical Area;

WHEREAS, pursuant to COMAR 27.02.05, the Commission is responsible for ensuring that disturbance on State-owned land in the Critical Area is minimized and work performed in a manner most protective to the environment;

WHEREAS, the Commission is authorized under COMAR 27.02.03 to grant a General Approval to State agencies for certain classes of development activities in the Critical Area;

WHEREAS, under § 5A-311 of the State Finance and Procurement Article, Annotated Code of Maryland, MHT was created as an instrument of the State of Maryland as part of the Department of Planning "to preserve, protect and enhance districts, sites, buildings, structures, and objects significant in the prehistory, history, upland and underwater archeology, architecture, engineering, and culture of the State, encourage others to do the same, and promote interest in and study of" them;

WHEREAS, JPPM was established following a 1983 conveyance by Mary Marvin Breckinridge Patterson of certain real property located along the Patuxent River in St. Leonard, Calvert County, in trust to the State of Maryland, subject to a Trust Agreement between Mrs. Patterson and the State, which provided that JPPM should be administered by MHT for the benefit of the citizens of the State of Maryland;

WHEREAS, the mission of JPPM is to connect people to the past through history and archaeology and to support the preservation of Maryland's cultural and natural resources; and

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WHEREAS, the JPPM property is listed in the National Register of Historic Places as the Patterson Archeological and Historic District (CT-755) which comprises numerous archeological sites spanning over 9,000 years of human occupation and use as well as the 20th century Point Farm complex designed by Gertrude Sawyer and representing the American Country House movement; and

WHEREAS, the JPPM property encompasses land area, infrastructure, utilities, and facilities that are located within the Critical Area, the restoration, maintenance, and construction of which may result in impact to the Critical Area;

WHEREAS, JPPM and the Commission desire to establish a proposed development project review procedure to manage, offset, and mitigate the impacts that may be caused by certain development projects, in order to foster sensitive development activity consistent with the Statute; and

NOW THEREFORE, MHT on behalf of JPPM, and the Commission hereby mutually agree as follows:

1. GENERAL APPROVAL

In accordance with COMAR 27.02.03, the Commission grants General Approval to MHT on behalf of JPPM for certain classes of proposed development projects. The conditions for General Approval are attached hereto, and incorporated herein by reference as <u>Exhibit A.</u>

2. PURPOSE AND SCOPE OF THE MOU

<u>2.1</u> The purposes of this MOU are to: describe the terms and procedures by which JPPM will conduct development activities in the Critical Area, including specifying those activities that qualify for General Approval; and ensure any such activities are consistent with the Commission's criteria set forth in COMAR 27.02.05, including criteria for protecting water quality and plant and wildlife habitat of the Chesapeake and Atlantic Coastal Bays.

<u>2.2</u> This MOU establishes a modified CAC project review and approval process, which is an alternative to having the full Commission review and approve all JPPM projects. Under this modified process, certain JPPM projects will be reviewed internally and other JPPM projects will be reviewed cooperatively with Commission staff.

3. JPPM'S ROLES AND RESPONSIBILITIES

<u>3.1</u> In accordance with the conditions set forth in <u>Exhibit A</u>, JPPM shall be responsible for submitting project notifications and project plans to the Commission and for implementing any measures necessary to satisfy the regulatory requirements of the Critical Area Program. JPPM agrees to initiate early coordination and consultation with Commission staff on development projects to identify ways to minimize impacts and determine mitigation requirements. Unless otherwise directed by the Commission, JPPM

will submit projects in accordance with the State Project Checklist found on the Commission's website.

<u>3.2</u> JPPM shall consult with the Commission during the planning and design stages of all projects subject to Commission review. JPPM shall invite Commission staff to interagency review sessions and to other meetings involving siting and impacts of projects in the Critical Area. JPPM shall send Commission staff relevant environmental reports and documents that are distributed to other state agencies for review.

<u>3.3</u> JPPM shall be responsible for obtaining any other approvals, authorizations, licenses, or permits from other local, State and federal agencies and for meeting any other regulatory requirements associated with JPPM restoration, maintenance and development projects subject to this MOU.

<u>3.4</u> JPPM shall notify the Commission of any changes in the plans as approved, or of changes that occur during construction of the project, if these changes could affect fish, wildlife, or plant habitat, habitat protection areas under COMAR 27.02 or water quality, and/or run-off to the Chesapeake Bay or its tidal tributaries. JPPM shall afford Commission staff the opportunity to review any such changes and Commission staff shall make recommendations based on assessment of the extent to which the project conforms with COMAR 27.02.05.

4. COMMISSION'S ROLES AND RESPONSIBILITIES

In accordance with the conditions set forth in <u>Exhibit A</u>, the Commission agrees to accept and review the reports, notifications, and project documents submitted by JPPM. The Commission also agrees to provide responses within 15 business days of each submittal.

<u>4.1</u> In accordance with the conditions set forth in <u>Exhibit A</u>, Commission staff agrees to accept the reports, notifications, and project documents submitted by JPPM and to provide a response within 15 business days indicating whether or not staff concurs that the project qualifies for review under the MOU as a Category II project.

<u>4.2</u> Upon determination that a complete application has been submitted, Commission staff shall notify JPPM of its decision to approve, deny, or approve with conditions the project within 30 calendar days.

<u>4.3</u> If JPPM notifies Commission staff of any changes to land disturbance for an approved plan, Commission staff shall review and respond within the required timeframes and make recommendations based on assessment of the extent to which the project conforms with COMAR 27.02.05. Commission staff may require proposed changes be submitted for review and approval by the full Commission.

5. PROCESS EXCEPTIONS

Certain projects may require JPPM to request an out-of-cycle project review that does not meet the General Approval. If authorized to proceed by the Chairman, the project shall be presented at the next available meeting of the Critical Area Commission for a vote. Process exceptions are limited to emergency action only:

5.1 Emergency action projects involve situations and conditions that jeopardize public safety and welfare, and require JPPM to take immediate action in the form of development in the Critical Area. JPPM may undertake the necessary remedial actions without prior Commission approval; however, JPPM shall notify the Commission of the development activities as soon as possible and shall obtain Commission recommendations for any necessary actions to ensure compliance with the Critical Area law and regulations. An emergency action includes those repairs that will prevent a threat to life, severe loss or damage to property, or an imminent threat to public safety or public works. Repairs should be limited to the extent warranted by the necessary remedial actions.

6. STORMWATER AND BUFFER MITIGATION

<u>6.1</u> The Commission collaborated with JPPM to establish guidance for stormwater management mitigation including identifying appropriate and feasible stormwater management best management practices and identifying appropriate onsite and offsite areas where stormwater and Buffer mitigation may be accomplished. The Commission and JPPM also worked together to standardize mitigation requirements that recognize the unique needs and constraints of JPPM while at the same time complying with Critical Area regulations. Mitigation standardization recognizes JPPM's needs to minimize impacts to existing archaeological resources and to upgrade or repair existing development/facilities, including within the Critical Area Buffer. This collaboration resulted in the Mitigation Guidance and the Master Mitigation Plan, which are set forth in **Attachment 1** to <u>Exhibit A</u>.

<u>6.2</u> JPPM shall maintain a database of the outstanding requirements for any project where required planting associated with afforestation, reforestation, Buffer mitigation, or Buffer establishment is not implemented on the project site by the completion of the project. JPPM shall update the database when the planting is accomplished. In the annual report to the Chair of the Commission described in Section 9 of this MOU, JPPM shall report on the status of any outstanding planting requirements.

<u>6.3</u> JPPM shall maintain tracking on an annual basis to account for planting seasons and will take the form of a MS Excel spreadsheet. JPPM will share the spreadsheet via agreed upon data sharing platform (SharePoint, Google Docs, Dropbox, etc.) or via annual report. JPPM will share it with the Executive Director, Assistant Director, and Horticulturalist at JPPM, and with the Critical Area Planner and Regional Chief at the Critical Area Commission.

7. CLIMATE RESILIENCY

<u>7.1</u> JPPM acknowledges that, per COMAR 27.02.05.02.A.(2), State Agencies are required to consult with the Commission as soon as practicable in the project planning process to assess climate resilient practices that address coastal hazards, extreme weather events, sea level rise, and other impacts. JPPM will use the site-wide climate resiliency analysis in **Attachment 2** of this MOU to determine whether a proposed project is located within a vulnerable area. If a Category II project is located in a vulnerable area, JPPM will follow the process/procedures outlined in **Attachment 2**: Site-Wide Climate Resiliency Assessment. JPPM reviews all applicable capital projects in accordance with the Coast Smart Construction Program guidance, as amended, to ensure avoidance and/or minimization of impacts to JPPM projects in vulnerable locations.

<u>7.2</u> The current sea level rise prediction GIS images from the Maryland Department of Transportation State Highway Administration (SHA) Climate Change Vulnerability mapping tool in **Attachment 2** to <u>Exhibit A</u> of this MOU will be updated as SHA updates its information. JPPM and CAC will review available vulnerability mapping resources from the State in January of every two (2) years and the Parties may revise **Attachment 2** to <u>Exhibit A</u> as necessary.

8. ACCOUNTING AND REPORTING

On March 1st of each year, JPPM shall provide the Chair of the Commission with an annual report on those projects that qualify under Category I or Category II with justification, as described in Exhibit A of this MOU. JPPM shall include in the report any outstanding planting requirements as described in Section 7.2 and 7.3 above.

9. POINTS OF CONTACT

All communication related to this MOU shall be directed to:

For MHT / JPPM:

Rod Cofield Executive Director Jefferson Patterson Park and Museum 10515 Mackall Rd. St. Leonard MD 20685 Phone: 410-586-8511 E-mail: <u>rod.cofield@maryland.gov</u>

For the Commission:

Kate Charbonneau Executive Director

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Critical Area Commission for the Chesapeake and Atlantic Coastal Bays 1804 West Street, Suite 100 Annapolis, MD 21401 Phone: 410-260-3475 Fax: 410-974-5338 Email: Katherine.Charbonneau@maryland.gov

10. <u>TERM</u>

This MOU shall become effective on the date of execution by all parties and shall remain in full force and effect for a period of five (5) years, unless otherwise terminated in accordance with this MOU. The term of this MOU may be extended by written agreement of the Parties.

11. TERMINATION

Any Party may terminate this MOU with written notice given ninety (90) days in advance to the other Party.

12. GENERAL PROVISIONS

<u>12.1</u> <u>AMENDMENTS TO THE MOU</u>: This MOU may not be amended or modified except with the written consent of both Parties. Amendments or modifications to this MOU also require approval by the full Commission.

<u>12.2</u> <u>AMENDMENTS TO EXHIBITS AND ATTACHMENTS</u>: The Parties acknowledge and agree that the Exhibits and Attachments are the result of a joint effort by the Parties. Because these Exhibits and Attachments may evolve with gained experience during implementation of the MOU, the Parties agree that the Exhibits and Attachments may be amended periodically with the written consent of the Points of Contact for each Party listed above in Section 10. The Commission Chair will update the Commission of any amendments or modifications to the Exhibits or Attachments at the next meeting following the agreed-upon amendments or modifications.

<u>12.3</u> <u>Resolution of Disagreements</u>. Should disagreements arise as to the interpretation of the provisions of this MOU, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement will be stated in writing by each Party and presented to the other Party for consideration. If agreement on

interpretation is not reached within thirty (30) days, the Parties shall forward the written presentation of the disagreement to the full Critical Area Commission.

<u>12.4</u> <u>No Third Party Beneficiaries</u>. This MOU does not and is not intended to create any rights or benefits for any third party. No third party shall have any legally enforceable rights or benefits under this MOU.

<u>12.5</u> <u>Maryland Law Prevails</u>. This MOU shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

<u>12.6</u> <u>Authority</u>. Each Party to this MOU acknowledges and agrees that it has the full right, power, and authority to execute this MOU, and to perform the obligations hereunder.

<u>12.7</u> Execution in Counterparts; Electronic Signatures. This MOU may be executed in counterparts (including facsimile counterparts or as a "PDF" or similar attachment to an email), all of which when taken together shall be deemed one original. This MOU may be electronically signed; an electronic signature appearing on the Agreement is the same as a handwritten signature for the purposes of validity, enforceability, and admissibility if the signature is an act of the person to whom the signature is attributed.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding by causing the same to be signed on the day and year first above written.

WITNESS

CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS

Michael be

Charles C Deya By:

Charles Deegan, Chairman

JEFFERSON PATTERSON PARK AND

WITNESS

MUSEUM

Michael be

By: Rod Cofield

By:

Rod Cofield, Director

WITNESS

MARYLAND HISTORICAL TRUST

Michael be

Elizabeth Hughes

Elizabeth Hughes

Approved as to form and legal sufficiency this __12th___ day of __September____, 2022:

EmilyVaineri

Assistant Attorney General for the Critical Area Commission Emily Vainieri

Approved as to form and legal sufficiency this 12th_ day of September, 2022:

Rieyn DeLony

Assistant Attorney General for the Maryland Historical Trust Rieyn Delony

EXHIBIT A
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EXHIBIT A: CONDITIONS FOR GENERAL APROVAL OF MARYLAND HISTORICAL TRUST PROJECTS LOCATED AT JEFFERSON PATTERSON PARK AND MUSEUM

SECTION A: CATEGORIES OF GENERAL APPROVAL

Under COMAR 27.02.05, State Agency Actions Resulting in Development on State-Owned Lands, the Commission may grant General Approval to State agencies for programs, activities, and classes of development on State-owned lands in the Critical Area. Granting of a general approval by the Commission allows implementation of the approved program, activity or project in accordance with the policies and requirements as set forth in COMAR 27.02.05, and to grant general approval for certain programs or classes of such activities, pursuant to COMAR 27.02.05.02F

For the purposes of this General Approval, permitted activities within the Critical Area are divided into two categories: Category I: Limited Reporting Activities and Category II: Development Activities That Are Minor in Either Size and/or Scope. In addition to satisfying all requirements of COMAR 27.02.05, projects proposed for General Approval must meet the following conditions, according to project Category as defined below.

For all activities under this Exhibit, JPPM is required to obtain any applicable federal, state, or local authorizations.

A.1 CATEGORY I: LIMITED REPORTING ACTIVITIES:

The purpose of Category I is to allow maintenance activities for existing facilities or roads, landscape projects, stormwater management projects, or minor improvements to existing roadways and facilities. This list is not inclusive of every project and there may be projects not listed below that meet the Qualifying Parameters and can be proposed by JPPM and reviewed by CAC staff under Category I.

A.1.1 CATEGORY I REPORTING REQUIREMENTS:

On March 1st of each year, JPPM shall provide the Commission with a report on those projects that qualify under Category I of this Exhibit that require tree removal. The annual report shall include:

- The project name;
- The project location;
- The proposed amount of clearing; and
- Mitigation calculations and the location of plantings.

A.1.2 QUALIFYING PARAMETERS FOR CATEGORY I PROJECTS:

- 1.2.1 Any project that qualifies under Category I is permitted in all Critical Area designations and within the Buffer.
- 1.2.2 No disturbance to natural vegetation in the Buffer is permitted for new stormwater management facilities.
- 1.2.3 No more than 5 trees may be removed for each project and every tree removed must be replaced with one native tree (minimum size ³/₄-inch caliper). Trees removed from the Buffer must be replanted within the Buffer. No other mitigation is required. If more than 5 trees are required to be removed or if trees cannot be replaced within the Buffer, the project must be submitted to Commission staff for review and approval under Category II, including justification for the removal of trees or an alternative planting location.
- 1.2.4 There are no forest clearing limits or mitigation required for the removal of volunteer saplings within the following areas of the JPPM property (see Attachment 1, Master Mitigation Plan):
 - Designated garden areas
 - Designated archaeological dig sites
 - Adjacent to access roads

All clearing in the aforementioned designated areas must be stabilized upon completion of the activity with native ground cover or other native vegetation as necessary.

1.2.5 Projects that qualify under Category I do not require Critical Area 10% stormwater management; nor do they require a climate resiliency assessment.

A.1.3 ELIGIBLE PROJECTS:

HABITAT AND LANDSCAPE MANAGEMENT CREATION, BENEFICIAL, AND NON-DEVELOPMENT RELATED ACTIVITIES:

- Beach maintenance and clean-up
- Landscape, meadow, wetland, and tree plantings
- Garden management provided that replacement species are not invasive to Maryland
- Removal of hazardous trees (defined as dead, diseased, or dying trees that are in danger of causing injury to people, damage of property, or accelerating shoreline erosion). Each hazardous tree removed must be replaced with a tree.
- Invasive species removal and management, including Phragmites control provided that the area is stabilized and replanted with native vegetation
- Removal of debris (no temporary or permanent impacts to the Buffer)

INVESTIGATORY, SITE PREP, AND MONITORING, AND NON-DEVELOPMENT RELATED ACTIVITIES PROJECTS:

- Stream monitoring
- Wetland mitigation monitoring
- Soil borings and soil sampling
- Installation of scientific measuring/monitoring devices
- Archaeological dig sites

ROUTINE MAINTENANCE PROJECTS:

Project types include installation; or repair, modification, or replacement of the following service oriented equipment and facilities on the grounds of the Jefferson Patterson Park and Museum:

- Signs;
- Fencing;
- Footbridge, pier, boardwalk or stair redecking;
- Pavement markings or pavement grooving/rumble strips;
- Pavement overlay;
- Guardrails and safety barriers;

MINOR MAINTENANCE OR FACILITY RENOVATION ACTIVITIES:

Maintenance is defined as an activity required to conserve as nearly, and as long as possible, the original condition of an asset or resource while compensating for normal wear and tear.

- Replacement Wigwams (in-kind)
- Minor rehabilitation, maintenance, or replacement (in-kind) of bridges, piers and piles, boardwalks, water-dependent facilities (including canoe and kayak launches), including the repair of existing culverts and headwalls, where clearing or grading in the Buffer is not anticipated
- Maintenance or repair of existing stormwater management facilities
- Conversion of one type of impervious surface to another type, i.e. replacing asphalt paving with concrete paving but not including intensification of use, e.g., construction of a building
- Maintenance of existing pavement, parking lots, intersections, roadways, trails, bicycle facilities, open storage areas, sidewalks, and other surfaces including pavement replacement, patching and/or resurfacing, provided that no new impervious or regrading of the area is proposed
- Repair of existing utilities, including directional boring associated electric lines, sewer lines, water lines, telephone lines, and fiber-optic cables
- Relocation or replacement of utility lines where both the existing and relocated/replaced lines serve existing development. Relocated utility lines shall not serve new development or redevelopment.
- Repair of existing appurtenances (valves, hydrants, manholes)

- Modification or renovation of existing buildings or structures within the same footprint
- Relocation of temporary structures or stationary equipment on existing impervious surfaces
- Relocation of construction offices and other temporary trailers on existing impervious surfaces

TEMPORARY OUTDOOR EVENTS

- Temporary structures such as tents that are set up on permeable surfaces should be removed within 48 hours after each event. If any areas covered by temporary structures suffer vegetation die-off, they must be revegetated.
- Impacts to the Critical Area Buffer must be minimized including no vegetation removal for temporary structures

A.2 CATEGORY II: DEVELOPMENT ACTIVITIES THAT ARE MINOR IN SIZE AND/OR SCOPE:

Category II projects include new and replacement/repair development activities that may include changes to the layout or design of an existing facility. In some cases, a change of facility type (e.g. – parking lot to building) may be allowed if all parameters are met. All threshold limits described below relate to impacts within the Critical Area only. Critical Area 10% phosphorus reduction requirements will be determined on a case-by-case basis as described below.

Note: Early coordination with Commission staff on Category II projects is required in order to determine if the proposed project is eligible under the MOU, or if the project will require full Commission review and approval. If the proposed development project results in a combination of habitat impacts or includes multiple elements of projects listed in this MOU, the Critical Area Commission reserves the right to decide at any time to bring a project that may appear to qualify under the MOU to the full Critical Area Commission for review and approval.

A.2.1. Qualifying Parameters:

- 2.1.1 No impacts to Habitat Protection Areas other than the Buffer, unless the impact is (1) minor in scope, (2) consistent with COMAR Title 27, and (3) JPPM adheres to all conditions and guidance provided by any MDE authorization, DNR Wildlife and Heritage review, DNR Fisheries review, and USFWS review (if applicable).
- 2.1.2 All vegetation removed will be replaced as required by the appropriate mitigation ratio listed under section 4.0.
 - i. Projects that require the removal of hazardous trees shall be mitigated by planting one tree for each hazardous tree removed.

- ii. All mitigation shall conform with the planting standards in COMAR 27.02.05.09-2K and L.
- iii. Mitigation for Buffer disturbance shall occur on the following priority basis:
 - a. On-site within the Buffer
 - b. On-site and adjacent to the Buffer
 - c. On-site elsewhere in the Critical Area
- 2.1.3 Any disturbance in the Buffer from activities or development by JPPM shall be minimized (i.e., no vegetation shall be removed from the Buffer except that required by the proposed activity or development).
- 2.1.4 No new buildings or other non-water dependent structures (other than roads, bridges, and utilities) are permitted to be located in the Buffer under this MOU, unless otherwise permitted under Special Projects.
- 2.1.5 Replacement of existing non-water dependent structures in the Buffer that meets all other parameters can be reviewed under Category II. Any new lot coverage in the Buffer may not encroach into the Buffer closer than the existing lot coverage, unless otherwise permitted under Special Projects.
- 2.1.6 Shore Erosion Control linear footage limit 499 linear feet.
- 2.1.7 Forest and developed woodland clearing may not exceed 15,000 square feet for new linear projects. Forest and developed woodland clearing may not exceed 5,000 square feet for non-linear projects.
- 2.1.8 Linear and Non-Linear Projects:

Linear Projects – There is no limit to the proposed square footage of the Limits of Disturbance (LOD). Expansion of impervious surface must be limited to a 3-foot width for roadways on either side, and a one foot width on a trail that is impervious on either side. The 10% phosphorus reduction is required for expanding linear projects with impervious surfaces.

Non-linear Projects – The LOD (for parking lots, buildings, etc.) may not exceed 5,000 square feet of disturbance. New buildings and structures cannot exceed 2,000 square feet of lot coverage. The expansion or replacement of existing buildings or structures cannot have a net increase in lot coverage that exceeds 1,000 square feet.

- 2.1.9 The project shall avoid medium or high priority sea level rise wetland adaptation area as shown on Maryland's Coastal Atlas.
- 2.1.10 JPPM will use Attachment 2 to identify coastal hazards, extreme weather events, sea level rise, or other coastal impacts, per COMAR 27.02.05.02A(1) and will as necessary and where able will incorporate climate resilient practices in order to avoid or minimize environmental and structural damage. include

adaptation and resiliency features to prevent or mitigate damage to the maximum extent practicable.

2.1.11 Projects may be permitted to exceed Parameters 3.1.7 and 3.1.8 listed above, but JPPM must submit information justifying its inclusion under the MOU. Critical Area staff will evaluate the submittal to determine if an exception to the limits can be granted. JPPM must provide written justification that explains why a development project fits under this MOU despite exceeding disturbance, size, or Buffer encroachment thresholds by <u>minor</u> amounts.

By March 1st of each year, JPPM shall provide the Commission with a report containing those projects that qualify for Commission staff review using the justification option. The report shall list the following information:

- Location of the project
- Site plan
- A summary of proposed impacts/exceedance
- Date of project approval letter from CAC

Justification factors may include, but are not limited to:

- The nature/intensity of the project is not changing (e.g., widening a road doesn't change the nature of the road; expanding an existing trail doesn't change the nature/intensity or use of the trail);
- The proposed surface is the same as the existing surface (e.g., asphalt will remain asphalt, grass will remain grass, etc.);
- After completion of the work, the site will be restored to original conditions;
- The activities are maintenance in nature;
- All other parameters of Category II are met
- Any building that exceeds the size parameter is for storage or maintenance purposes only; or
- The purpose of the project is to address safety concerns

A.2.2 Project Submittal Requirements:

At a minimum, a project proposal summarizing the project and its impacts shall be submitted to Critical Area Commission staff and shall include the following information:

- Project description and details;
- Site plan(s) showing existing and proposed conditions, including the following features:
 - Critical Area Boundary (including acreage and designation);
 - 100-foot and/or Expanded Buffer;
 - Limits of Disturbance (LOD);
 - Forest and Developed Woodland Clearing;
 - Existing and New Lot Coverage;
 - Existing and New Lot Coverage in Buffer;
 - Topography; and

- Soil Type.
- If applicable, 10% stormwater management (SWM) calculations, associated drainage map, and site plan showing the location of proposed SWM best management practices;
- A Buffer Management Plan that shows the limits of the delineated Buffer and expanded Buffer, the proposed impacts and/or tree removal in the Buffer, and the quantity, species, and location of the mitigation plantings, if applicable;
- Agency Letters (as updated every two years): Department of Natural Resources (DNR) Wildlife and Heritage Service, U.S. Fish and Wildlife Service, and MHT;
- Climate resiliency assessment; and
- If required to comply with Coast Smart Construction criteria, include at least one of the following:
 - Project Screening Form
 - Explanation of Categorical Exemption
 - Construction Waiver Approval Letter

A.2.3 Eligible Projects:

This class includes maintenance projects which exceed the thresholds of Category I projects as well as new minor construction projects. If required, stormwater management measures must be sufficient to achieve a ten percent reduction in pollutant loadings below existing levels. All activities must meet the conditions set forth under Category II Conditions of this Exhibit . Class II projects must be individually submitted to Commission staff for concurrence as a minor project. Comments from Commission staff must be received and addressed before the activity is commenced.

The following is a list of projects that may meet the Qualifying Parameters under Category II. This list is not inclusive of every project and there may be projects not listed below that meet the Qualifying Parameters and can be proposed by JPPM and reviewed by CAC under Category II.

STRUCTURAL AND FACILITY PROJECTS (10% required)

- Maintenance activities of existing facilities with a net increase in lot coverage no greater than 1,000 square feet and/or projects that involve up to 2,500 square feet of total limit of disturbance (LOD). The projects that involve new lot coverage shall not exceed 1,000 square feet of new lot coverage in the Buffer or expanded Buffer, and may not encroach into the Buffer closer than existing lot coverage.
- New structures or facilities. New lot coverage may not exceed 2,000 square feet and the total LOD may not exceed 5,000 square feet. New non water-dependent structures are not permitted in the Buffer or expanded Buffer, unless otherwise permitted under special projects.

DRAINAGE IMPROVEMENTS (10% not required)

- Installation of new or modification of existing storm drain outfalls.
- Installation of new or modification of existing inlets and storm drains.

ROADWAY, PARKING AND SIDEWALK PROJECTS (10% required)

- Reconstruction or resurfacing of roadways, parking lots, and/or sidewalks where an increase in imperviousness is proposed.
- Upgrades to existing facilities in order to meet requirements for Americans with Disabilities Act (ADA).
- Reconstruction of existing sidewalks and new or existing ADA ramps with more than 250 square feet of new imperviousness.

UTILITIES (electric, sewer, water, telephone, and fiber optic lines) (10% not required)

- Installation of new utility lines
- Replacement of existing utility lines when serving new development
- Replacement of access crossings
- Replacement of utility crossings

PIER AND PILES (10% not required)

• New pier and piles (MDE or Board of Public Works authorization is required)

NONSTRUCTURAL/RESTORATION PROJECTS (10% not required)

- Clearing/Removal of more than five (5) hazardous trees;
- Streambank stabilization;
- Weir or dam construction/removal; and
- Wetland creation and waterfowl impoundment construction, provided that no Habitat Protection Areas are impacted, other than the Buffer.
- Low-impact slope stabilization projects that utilize appropriate plantings, low retaining walls or other related landscape stabilization and restoration techniques.

SPECIAL PROJECTS

Outdoor Environmental Education Areas (e.g. Pavilions) (10% required)

- Limited to 1,000 square feet in size.
- May only be located in the Buffer if placed over existing lot coverage.

Woodland Indian Village (10% not required)

- New Wigwams
- Limited to 4 structures
- May only be located in the Buffer if placed over existing lot coverage.

Kayak/Canoe Launches (10% not required)

- Installation of new soft kayak/canoe launch
- Installation of a new hardened kayak/canoe launch that is less than 250 square feet
- Installation of ADA related equipment such as a matted ramp

Trail Projects:

- Installation of new unpaved (natural surface) trails (10% not required):
 - No threshold for limit of disturbance or clearing
 - Impacts are permitted in the Buffer
 - For projects over 2,000 SF, the project proposal shall include a justification outlining how the trail design meets a required use and specifying how impacts to the Buffer and forest have been minimized to the maximum extent practicable.
 - Mitigation is required at a 1:1 ratio for clearing based on the areal extent of the canopy of forest and developed woodland.
- Conversion of unpaved trail to a paved trail, or widening of an existing paved trail (10% required):
 - No threshold for limit of disturbance or clearing.
 - Impacts are permitted in the Buffer and mitigation shall be in accordance to the requirements listed in 4.0 below.
 - Written justification is required outlining how the trail design meets a required use and specifying how impacts to the Buffer and forest have been minimized to the maximum extent practicable. Additionally, if the proposed trail does not use permeable surfaces, JPPM shall provide a written explanation as to why such surfaces are not feasible for the project.

OTHER MINOR PROJECTS

Other minor projects may qualify for general approval. These will be determined on a case-by-case basis through discussion and administrative review by JPPM staff and Commission staff.

SECTION A.3: MITIGATION FOR CAT II PROJECTS (See Attachment 1, Master Mitigation Plan):

A.3.1 Non-Buffer forest / developed woodland mitigation: 1:1 mitigation.

A.3.2. Buffer Mitigation

- 2:1 for a new water-dependent facility
- 1:1 for redevelopment of an existing facility within the same footprint
- Linear Project Buffer Mitigation
 - New linear project: 2:1
 - Redevelopment:
 - Ground disturbance of existing lot coverage 1:1
 - Ground disturbance outside of existing lot coverage: 2:1
- Non-Linear Project Buffer Mitigation
 - New disturbance: 3:1
- An additional 1:1 mitigation is required for canopy coverage removed for all Buffer mitigation
- A.3.3 10% pollutant removal on site and in accordance with the CAC's 10% Manual and with MDE's Technical Memorandum #4.

EXHIBIT A: ATTACHMENT 1 MASTER MITIGATION PLAN

Mission Statement: Jefferson Patterson Park and Museum connects people to the past through history and archaeology and supports the preservation of Maryland's cultural and natural resources. JPPM currently totals 561.83 acres. Approximately 60% of the property is located within the Critical Area. We have two existing documents to help guide park maintenance: (see <u>MD DNR Forest Stewardship Plan</u> and USDA-NRCS Conservation Plan for details)

Land use is as follows:

- 271.32 wooded acres
- 247.04 field acres
 - 136.35 acres is in cropland (Farm 1189, Tract 579)
 - 110.69 acres of lawn and turf fields for recreation and event parking
 - Up to 10 acres to be converted into meadow habitat
- 22.67 residential acres
- 15.2 marsh acres
- 4.9 pond acres

Overview of management:

- Maintain clear access along roads and trails
- Maintain water management infrastructure: earthen dams, dry dam, rain garden
- Maintain agricultural character
- Maintain gardens at Patterson Center, Visitor Center, Indian Village
- Manage for invasive species along edge habitats and in woodlands
- Manage for rare and endangered species
- Monitor 2.5 miles of shoreline for erosion and phragmites
- Enhance grounds with themed garden plantings wherever feasible



JPPM boundaries with critical area overlay. Watershed Resources Registry.org

Buffer use Categories

- Access areas
 - → No mitigation required for existing access areas
 - → Maintain existing canopy and structure
 - → Do not remove more than ¼ of the tree canopy when pruning
 - → (King's Reach Area -archaeological site?, kayak launch, Bernie Fowler Wade in site; Mackall Cove Area-pier, etc.)
- Viewsheds
 - → Existing viewsheds
 - \rightarrow No mitigation required to maintain existing views.
 - → Maintain existing structure and canopy
 - \rightarrow Do not remove more than $\frac{1}{4}$ of the tree canopy when pruning
- Garden maintenance
 - → Maintain existing gardens including removal of volunteer trees and shrubs
 - → No mitigation required
 - → Patterson Center gardens
- □ Meadow maintenance
 - → No expansion of meadow can occur by clearing forests
- □ Active dig site
 - → Limit exposed areas of bare soil
 - → Mitigation required at 1:1 for trees and natural vegetation removed
- □ Earthen Dam
 - → Vegetation on existing earthen dams may be maintained and kept low without any mitigation required
- □ Invasive species management
 - → Removal of invasive vines is generally allowed without mitigation provided that other cover is existing and maintained (assuming that there are tree and shrub species underneath). If there is no underlying vegetation, native trees and shrubs must be planted or otherwise established in the area.
 - → Removal of invasive/exotic trees requires mitigation at 1:1 Removal of other existing vegetation requires mitigation at 1:1 by area.
 - → (Potentially could occur in the entire Buffer)
 - → Phragmites removal is allowed provided any necessary permits are received from the Maryland Department of the Environment.

- **D** Removal of diseased, dying, invasive, or hazardous trees
 - → Mitigation ratio 1:1

Mitigation Ratios

- New water-dependent facility 2:1
- Redevelopment of an existing facility within the same footprint 1:1
- Shore erosion control 1:1
- Linear Project Buffer Mitigation 2:1
- New development in the Buffer 3:1
- Any clearing of woody vegetation in the Buffer for a new viewshed would need to be mitigated at 3:1 ratio and replaced in the Buffer.An additional 1:1 mitigation is required for any area of canopy coverage removed

General Mitigation Guidance

Any disturbance of the Buffer from activities or development by JPPM shall be minimized (i.e. no vegetation shall be removed from the Buffer except that required by the proposed activity or development). Any disturbance to or construction within the Buffer or expanded Buffer shall be mitigated as set forth in 27.01.09.01-2. Table H (shown above) and as follows.

- All mitigation plantings shall be species that are native to the Coastal Plain of Maryland.
- Mitigation for Buffer disturbance shall occur on the following priority basis:
 - 1.On-site within the Buffer

Small caliper trees, whips, and seed mixes maybe be used if necessary to help facilitate mitigation in the Buffer

- 2. On-site and adjacent to the Buffer
- 3 On-site elsewhere in the Critical Area
- 4. On JPP property outside of Critical Area in an approved location
- Forest mitigation should occur at approximately 430 wood stems per acre
- The Buffer shall be expanded as described in COMAR 27.01.09.01.
- Mitigation for forest clearing shall be by square footage if it is greater than 10,000 square feet
- Meadow establishment can potentially be used as mitigation if converting grass or fields to meadow habitat. Mitigation credits for this activity can only be used for mitigation over 1:1
- Potential Future viewsheds
 - King's Reach Area
 - South End Complex (Patterson House)
 - Any clearing of woody vegetation in the Buffer would need to be mitigated at 3:1 ratio and replaced in the Buffer.

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North End (NE) entrance



- Leased ag fields
- Riprap buffers
- Rental house on the point
- Old farm ponds have earthen dams
- Area closed to public

King's Reach area (KR)



- Event parking
- Historic Home event venue
- King's Reach Interpretive Archaeological Site
- Kayak launch
- Shoreline in groins
- Bernie Fowler Wade In site
- <u>Viewshed closing in</u>

Event Hub (EH)



- Native American village replica and event venue
- reduce/eliminate phrag and replace with cattail or other natives
- Periodic harvest of phrag and cattail for Native American village activities
- Maintain fields as open space for parking and event tents
- Shoreline natural, subject to erosion in parts

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Primary Cedar Lane area



- Ag fields on West side
- Convert field on East into meadow habitat

Facilities Complex



- MAC Lab, Maintenance, Admin, PEARL lab, historic structures
- Leased ag fields

Mackall Cove area



- Woodland Trail footpath has invasive stiltgrass issues
- Research pier
- Shoreline erosion issues
- Leased ag field



South End complex (entirely in the critical area)

- Small event venues
- Patterson Center features historic buildings, champion trees, and formal gardens
 - Reopen historic <u>viewsheds</u> from house by long-term replacement with lowgrowing vegetation
 - Possible to do in-place shrub and perennial mitigation to remove large trees?
- Smith's St Leonard public archaeology site needs vegetation management
- Historic structure on Peterson Point is vulnerable to sea level rise
- reduce/eliminate phrag and replace with cattail or other natives

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Appendix 1: Potential Mitigation Sites



Satellite image of park with critical area overlay in green. <u>Watershed Resources</u> <u>Registry.org</u>



Buffer Mitigation Area: 588 feet of shoreline with canopy gaps, underplant trees along path with native shrubs and perennials.



Buffer Mitigation Area: King's Reach Cottage and grounds



King's Reach Parking Lot Garden (w/in critical area)



Visitor Center Loop Garden (outside critical area)



Mackall Road Garden (outside critical area)

END OF ATTACHMENT 1

Exhibit A: ATTACHMENT 2 Site-Wide Climate Resiliency Assessment

Background and Maps

As per COMAR 27.02.05.02.A(2), State projects impacted by coastal vulnerabilities, such as sea level rise, extreme weather events, and marsh or wetland migration areas, shall demonstrate consideration of those hazards and their impacts. This consideration shall demonstrate identification and, when possible, implementation of climate resilient practices.

JPPM shall utilize the following maps of Jefferson Patterson Park and Museum to determine if the proposed project location is likely to experience coastal hazards. The maps illustrate anticipated sea level rise for the year 2050 as well as inundation from a 1% probability storm, also known as a 100-year storm. These maps were created using the Maryland State Highway Administration (SHA) Climate Change Vulnerability mapping tool as of November 2020. We recognize that this tool may be updated, or other information from other sources may become available in the future. Mapping resources will be reviewed every two years and this information may be updated as necessary.

Additionally, JPPM shall review the following wetland adaptation maps. The purpose of reviewing these maps is to plan for impacts to marsh migration areas that may prohibit their migration. Maps were created using the Maryland Coastal Atlas mapping tool as of November 2020. These maps illustrate anticipated marsh migration areas, and rank them as high, medium or low priority. High priority indicates better conditions and paths for successful marsh migration. Maps may be revised anytime as needed based on updated technology, resources or climate projections.

Procedures

If the project is not located in an area likely to be impacted by anticipated coastal hazards or marsh migration areas, the following requirements do not apply. If the project *is* located in such an area, it will fall into one of three categories. Each Category has specific requirements based on the nature of that Category.

1) Archaeological Site -

Archaeological sites can be uniquely vulnerable to coastal hazards, and opportunities to reduce impacts and hazards are often minimal. However, vulnerability and mitigation options vary on a case-by-case basis. Application information should note what coastal hazards are anticipated for the project site. JPPM will identify archeological sites at risk in addition to MHT requirements, policies, and procedures that may guide or discourage alterations to the site for coastal resilience. JPPM will then assess potential impacts and recommend mitigation options.

2) Buildings and Structures -

Non-Historical Structures - JPPM should avoid locating new buildings and structures in vulnerable locations based on the maps provided, and in anticipated marsh migration

areas. If this is not feasible, the project may require approval by the full Critical Area Commission.

Historical Structures - Redevelopment of or maintenance activities for pre-existing historical structures located in vulnerable areas will be reviewed by JPPM for opportunities to increase coastal resilience. The JPPM evaluation will be based upon the State's long-term goals and planning processes at that time. Whenever possible, accommodations should be made in consideration of coastal hazards and vulnerabilities, and appropriate mitigation and restoration opportunities should be incorporated when impacts cannot be avoided.

3) Linear Projects -

JPPM should avoid locating linear projects, including but not limited to maintenance activities, repaving, diversions and extensions of trails, roads, etc, in vulnerable locations based on the maps provided, and in anticipated marsh migration areas. These projects should be revised to accommodate the coastal hazard. Accommodations may involve rerouting of the trail, abandonment and restoration, or elevating at-risk portions. If this is not feasible, the project may require approval by the full Critical Area Commission. If impacts to the Buffer occur strictly in order to accommodate anticipated coastal hazards, mitigation is required in accordance with the CAC-JPPM MOU and Exhibit A's Attachment 1: Buffer Management Plan.



JPPM North: Coastal Vulnerabilities Maps

Map 1: JPPM North. Anticipated sea level in 2050.



Map 2: JPPM North. Anticipated sea level in 2050, and 1% storm inundation.



Map 3: JPPM North. Priority Wetland Migration Areas.


JPPM South: Coastal Vulnerabilities Maps

Map 4: JPPM South. Anticipated sea level in 2050.



Map 5: JPPM South. Anticipated sea level in 2050, and 1% storm inundation.



Map 6. JPPM South. Priority Wetland Migration Areas.

JPPM Points of Interest: Coastal Vulnerabilities Maps



Map 7: Boardwalk & Village. Anticipated sea level in 2050.







Map 9: Boardwalk & Village. Priority Wetland Migration Areas.



Map 10: Kings Reach. Anticipated sea level in 2050.



Map 11: Kings Reach. Anticipated sea level in 2050, and 1% storm inundation.



Map 12: Kings Reach. Priority Wetland Migration Areas.



Map 13 : Event Hub. Anticipated sea level in 2050.





Map 14: Event Hub. Anticipated sea level in 2050, and 1% storm inundation.



Legend

Sea level Rise Wetland Adaptation Areas Sea Level Rise Wetland Adaptation Areas High Low Medium

Map 15: Event Hub. Priority Wetland Migration Areas.



Map 16: Primary Cedar Lane. Anticipated sea level in 2050.





- 2050 Mean Sea Level 1% Annual Chance (100.Year Storm) Flood Depth Grid
- 5.67 to 7.30 (Feet Above 2050 MSL)
- 4.16 to 5.67 (Feet Above 2050 MSL)
- 2.65 to 4.16 (Feet Above 2050 MSL)
- 1.31 to 2.65 (Feet Above 2050 MSL)
- 0.00 to 1.31 (Feet Above 2050 MSL)
- ▶ 2050 Mean Sea Level 2% Annual Chance (500.Year Storm) Flood Depth Grid
- ▶ 2050 Mean Higher High Water 0% Annual Chance (No.Storm) Flood Depth Grid
- ▶ 2050 Mean Higher High Water -10% Annual Chance (10.Year Storm) Flood Depth Grid
- ▶ 2050 Mean Higher High Water 4% Annual Chance (25.Year Storm) Flood Depth Grid
- ▶ 2050 Mean Higher High Water 2% Annual Chance (50.Year Storm) Flood Depth Grid
- ▶ 2050 Mean Higher High Water 0.2% Annua Chance (500.Year Storm) Flood Depth Grid
- 2100 Mean Sea Level 0% Annual Chance

Map 17: Primary Cedar Lane. Anticipated sea level in 2050, and 1% storm inundation.



Map 18: Primary Cedar Lane. Priority Wetland Migration Areas.



Map 19: Facilities Complex. Anticipated sea level in 2050.



0.42 to 0.84 (Feet Above 2050 MSL) 0.00 to 0.42 (Feet Above 2050 MSL) 2050 Mean Sea Level - 10% Annual Chance (10.Year Storm) Flood Depth Grid ▶ 2050 Mean Sea Level - 4% Annual Chance (25.Year Storm) Flood Depth Grid ▶ 2050 Mean Sea Level - 2% Annual Chance (50.Year Storm) Flood Depth Grid * 2050 Mean Sea Level - 1% Annual Chance (100.Year Storm) Flood Depth Grid 5.67 to 7.30 (Feet Above 2050 MSL) 4.16 to 5.67 (Feet Above 2050 MSL) 2.65 to 4.16 (Feet Above 2050 MSL) 1.31 to 2.65 (Feet Above 2050 MSL) 0.00 to 1.31 (Feet Above 2050 MSL) 2050 Mean Sea Level - 2% Annual Chance (50.Year Storm) Flood Depth Grid 2050 Mean Sea Level - 1% Annual Chance (100.Year Storm) Flood Depth Grid 5.67 to 7.30 (Feet Above 2050 MSL) 4.16 to 5.67 (Feet Above 2050 MSL) 2.65 to 4.16 (Feet Above 2050 MSL) 1.31 to 2.65 (Feet Above 2050 MSL) 0.00 to 1.31 (Feet Above 2050 MSL) 2050 Mean Sea Level - 2% Annual Chance (500.Year Storm) Flood Depth Grid 2050 Mean Higher High Water - 0% Annual Chance (No.Storm) Flood Depth Grid 2050 Mean Higher High Water -10% Annual Chance (10.Year Storm) Flood Depth Grid 2050 Mean Higher High Water - 4% Annual Chance (25.Year Storm) Flood Depth Grid 2050 Mean Higher High Water - 2% Annual

2015 Mean Higher High Water - 0.2% Annual

Chance (500.Year Storm) Flood Depth Grid 2050 Mean Sea Level - 0% Annual Chance

1.69 to 2.11 (Feet Above 2050 MSL)

1.27 to 1.69 (Feet Above 2050 MSL) 0.84 to 1.27 (Feet Above 2050 MSL)

(No.Storm) Flood Depth Grid

1

100

 2050 Meen Higher High Valer - 2 & Annoer Chance (50.Year Storm) Flood Depth Grid

▶ 2050 Mean Higher High Water - 0.2% Annual Chance (500.Year Storm) Flood Depth Grid

2100 Mean Sea Level - 0% Annual Chance (No.Storm) Flood Depth Grid

2100 Mean Sea Level - 10% Annual Chance (10.Year Storm) Flood Depth Grid

Map 20: Facilities Complex. Anticipated sea level in 2050, and 1% storm inundation.

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Map 21. Facilities Complex. Priority Wetland Migration Areas.



Map 22: Mackall Cove. Anticipated sea level in 2050.

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Map 23: Mackall Cove. Anticipated sea level in 2050, and 1% storm inundation.



Map 24: Mackall Cove. Priority Wetland Migration Areas.



Map 25: South End Complex, including Peterson Point. Anticipated sea level in 2050.



Map 26: South End Complex, including Peterson Point. Anticipated sea level in 2050, and 1% storm inundation.



Map 27. South End Complex, including Peterson Point. Priority Wetland Migration Areas.



Map 28: Rental Property. Anticipated sea level in 2050.



Map 29: Rental Property. Anticipated sea level in 2050, and 1% storm inundation.



Map 30: Rental Property. Priority Wetland Migration Areas.

END OF ATTACHMENT 2

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