

MINUTES

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

April 23, 2025

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

Commission Members in Attendance:

David Bradford, Worcester County Chesapeake
Steve Bunker, Charles County
Dan Burris, St. Mary's County
Ben Etherton, Talbot County
Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City
Allison Gost, Department of Transportation
Anita Grant, At Large
Rosa Hance, At Large
Debbie Herr-Cornwell, Department of Planning
Catherine McCall, Department of Natural Resources
Mira Morgan, Department of Housing and Community Development
Alisha Mulkey, Department of Agriculture
Jim Palma, Department of Commerce
Hitesh Patel, Somerset County
Larry Porter, Caroline County
Annie Richards, Kent County
Tammy Roberson, Department of Environment
Brian Roche, Dorchester County
Lisa Rodvien, Anne Arundel County
Dave Wilson, Worcester County Coastal

Commission Members Not in Attendance:

Tim Adams, Prince George's County
Mark Conway, Baltimore City
Earl "Buddy" Hance, Calvert County
Travis Marion, Cecil County
Pat Young, Baltimore County

OPENING REMARKS

Chair Fisher called the meeting to order and welcomed everyone. He announced that the meeting was being held virtually and was being live-streamed on our YouTube channel. Dr. Nick Kelly confirmed the presence of a quorum.

APPROVAL OF MINUTES

Commissioner Palma moved to approve the minutes from the March 12, 2025 meeting. Commissioner Rodvien seconded. **Motion carried unanimously.**

ITEMS FOR VOTE

SUMMARY REPORT – Town of Ocean City – Eagles Landing Golf Course

Presented by Katie Hayden. Project Committee recommendation: Approval with Conditions.

Ms. Hayden presented in accordance with the staff report, the contents of which are incorporated into and made part of the minutes. The Town of Ocean City (Ocean City) is seeking approval for upgrades to Eagles Landing Golf Course located at 12367 Eagles Nest Road in Berlin. Ocean City is requesting these upgrades in order to provide flood resiliency that will ensure the golf course is playable for the next 50 years.

Following the presentation, Ms. Hayden turned the floor over to Chair Fisher, who recognized Project Committee Vice-Chair Roberson. Commissioner Roberson moved on behalf of the Project Committee to approve the proposed project with conditions. Commissioner Grant seconded the motion. Commissioner Wilson voted against the motion. Commissioner Gerthoffer abstained. All others voted in favor. **Motion carried.**

SUMMARY REPORT – Town of Chesapeake Beach – Comprehensive Review

Presented by Ann Sekerak, AICP.

Ms. Sekerak presented in accordance with the staff report, the contents of which have been incorporated into and made part of the minutes. In July of 2024, Town staff presented updates to several sections of the Zoning Ordinance to the Town's Planning & Zoning Commission. The updates were approved by the Planning & Zoning Commission before they were presented to the Board of County Commissioners for adoption. On November 21, 2024, the Town adopted Ordinance O-24-17, which repealed, replaced and amended several sections of the Town's Zoning Ordinance. The Town is now requesting that the Critical Area Commission approve the comprehensive update of their Critical Area program as reflected in the Town's updated Zoning Ordinance.

Following a brief request for clarification from several Commissioners about fee-in-lieu, pervious surfaces, and use of a model ordinance for updating the program, Chair Fisher asked for a motion to approve the Town of Chesapeake Beach's Comprehensive Review. Project Chair Bunker so moved. Commissioner Richards seconded. **Motion carried unanimously.**

SUMMARY REPORT – Kent County – Comprehensive Rezoning: Associated Growth Allocations and Downzoning

Presented by Katie Hayden. Program Committee Recommendation – Approval with Conditions.

Kent County is requesting approval of three growth allocations and one downzoning request as part of the county's comprehensive rezoning effort. The county proposes reclassifying the following four areas in the Critical Area:

1. Chester River Yacht & Country Club Marina: 1.438 acres of Limited Development Area (LDA) to Intensely Developed Area (IDA);
2. Haven Harbour South Marina: 3.139 acres of LDA to IDA;
3. Millington Crossing: 58.988 acres of Resource Conservation Area (RCA) to IDA; and
4. Lankford Bay Marina: downzoning of 1.216 acres of IDA to LDA.

After each presentation, Commissioners were able to comment and ask questions. Carla Gerber, AICP (Kent County) was available to answer questions.

Following the discussion, Chair Fisher asked for a motion from Program Committee Chair Bunker, who moved that the proposal be accepted as a refinement to Kent County's Critical Area Program. Commissioner Palma seconded. Commissioners R. Hance and Wilson voted against, and Commissioner Richards abstained. All others voted in favor. Chair Fisher thanked the Commission and stated that this would stand as his final decision.

INFORMATION ONLY: Regulations – New Enforcement Regulation

Presented by Kate Durant.

At the direction of Chair Fisher, Commission staff are preparing a new set of regulations entitled COMAR 27.01.15- Enforcement. These regulations are intended to consolidate existing language for enforcement and further specify several requirements of the current statute (Natural Resources Article §§8-1808, 8-1815). The majority of the language used for the proposed enforcement regulations comes directly from the statute; additional specificity is provided for timelines and notice.

Local resolutions to outstanding enforcement actions have varied across jurisdictions in terms of timelines. Additionally, the current statute lists maximum fines, and states that mitigation should be provided as part of the resolution of enforcement actions. These new regulations will provide the tools and processes to foster consistent enforcement of the Critical Area law across all jurisdictions.

Copies of the draft regulation will be sent to Commissioners soon. If all goes according to plans, the Commission would be asked to vote to publish the new regulation at the June 4 Commission Meeting and would be published in the July 11 Maryland Register.

INFORMATION ONLY: Regulations – Notice and Project Applications

Presented by Lisa Hoerger.

At the direction of Chair Fisher, Commission staff are proposing to make amendments to COMAR 27.03.01.03, Notice Requirements for State Agency and Local Agency Development and amendments to COMAR 27.03.01.04, Categories of Applications to be Submitted to the Executive Director. The purpose of these amendments is to make updates due to changes in the Commission staff's reorganization of duties and priorities, the effectiveness of local government review of development applications, and changes to the Commission's meeting schedule.

EDUCATION: Overview of Critical Area Solar Energy Regulations

Presented by Nick Kelly and Annie Sekerak

Dr. Kelly and Ms. Sekerak presented to the Commission an overview of the Commission's renewable energy regulations, with a particular focus on major solar energy generating systems in the Resource Conservation Area (RCA). At this time, no major solar energy generating systems are located in the RCA. Commissioner Porter discussed his concerns about an increase in the location of solar energy on agricultural lands in the Critical Area based on the passage of recent legislation.

LEGAL UPDATE

Presented by Assistant Attorney General Emily Vainieri.

Ms. Vainieri presented 2 legal updates to the Critical Area Commission.

EVERETT (AA Co.)

The Critical Area Commission and Anne Arundel County have challenged the Anne Arundel County Board of Appeals' decision to grant an after-the-fact Critical Area variance for an unauthorized shed within the Critical Area Buffer. A hearing was held on February 24, 2025 and the Court ruled in our favor. The homeowner has appealed the ruling.

HARRIS (AA Co.)

The Critical Area Commission and Anne Arundel County have challenged the Anne Arundel County Board of Appeals' decision to grant a Critical Area variance for the construction of pool and patio within the Critical Area Buffer. A hearing was held April 7, 2025. The Circuit Court remanded the case back to the Board of Appeals based on 2 out of the 7 standards for variance not being met.

Additional Notes

Chair Fisher announced the official appointment of Nick Kelly as Executive Director. Finally, he reminded Commissioners about the upcoming Annual Retreat on May 8 at the Baltimore Rowing and Water Resource Center.

Meeting adjourned.

Lynette Fullerton, Commission Secretary

Date of Approval