

MINUTES

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

August 19, 2026

CALL TO ORDER: Acting Chair Debbie Herr-Cornwell called the meeting to order at 1:00 p.m.

Commission Members in Attendance:

Derek Bland, Wicomico County
David Bradford, Worcester County Chesapeake
Steve Bunker, Charles County
Dan Burris, St. Mary's County
Mark Conway, Baltimore City
Ben Etherton, Talbot County
Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City
Glenn Gillis, Harford County
Allison Gost, Department of Transportation
Rosa Hance, At Large
Debbie Herr-Cornwell, Department of Planning – Acting Chair
Sandy Huffer, Queen Anne's County
Mira Morgan, Department of Housing and Community Development
Alisha Mulkey, Department of Agriculture
Hitesh Patel, Somerset County
Annie Richards, Kent County
Tammy Roberson, Department of Environment
Brian Roche, Dorchester County
Lisa Rodvien, Anne Arundel County
Natalie Snider, Department of Natural Resources (for McCall)
Dave Wilson, Worcester County Coastal
Pat Young, Baltimore County

Commission Members Not in Attendance:

Erik Fisher, Chair
Tim Adams, Prince George's County
Anita Grant, At Large
Earl "Buddy" Hance, Calvert County
Catherine McCall, Department of Natural Resources
James Palma, Department of Commerce

OPENING REMARKS

Executive Director Nick Kelly welcomed everyone. He announced that Chair Fisher could not be there due to illness and said that Commissioner Herr-Cornwell had agreed to serve as Acting Chair. He explained that the Program items on the agenda would still be discussed, and that Chair Fisher would have 10 days to make a final

decision. The Commission will be notified of his decision. He then turned the meeting over to Commissioner Herr-Cornwell.

APPROVAL OF MINUTES

Commissioner Roberson moved to approve the minutes from the July 8, 2026 meeting. Commissioner Richards seconded. Commissioner Conway abstained. All others voted in favor. **Motion carried unanimously.**

ITEMS FOR VOTE/CONCURRENCE:

PROGRAM COMMITTEE – CONSENT AGENDA

City of Aberdeen – Comprehensive Review

Staff Report by Kate Durant. Program Committee Recommendation – Concurrence; Approval.

Discussion: There was no discussion.

City of Aberdeen Critical Area Map Update

Staff Report by Kate Durant. Program Committee Recommendation – Approval.

Discussion: There was no discussion.

Town of Secretary Boundary Map Update

Staff Report by Jon Coplin. Program Committee Recommendation – Concurrence; Approval.

Discussion: There was no discussion.

Town of Vienna Boundary Map Update

Staff Report by Jon Coplin. Program Committee Recommendation – Concurrence; Approval.

Discussion: There was no discussion.

Acting Chair Herr-Cornwell acknowledged each of the Program Committee's concurrences and said that Chair Fisher will have 10 days to reach a final decision.

FULL PRESENTATION – SOMERSET COUNTY – KINGSBAY GROWTH ALLOCATION

Presented by Annie Sekerak. Program Committee Recommendation – Concurrence with Chair's Determination of Refinement; Denial.

Ms. Sekerak presented, in accordance with the staff report and addendum, the contents of which have been incorporated into and made part of the minutes. Somerset County is requesting growth allocation to change approximately 6.28 acres of Resource Conservation Area (RCA) to Limited Development Area (LDA). The subject property, owned by the Carlin Company, is located at 27999 Coulbourn Creek Road in Marion Station (Tax Map 57, Parcel 119) and currently operates as a bed and breakfast, restaurant, and special event space. If this growth allocation is approved, the Critical Area designation will allow the property owners, both current and future, to establish any commercial or institutional use – in addition to the existing bed and breakfast, restaurant, and special event uses – that is permitted by the County's underlying zoning.

The proposed growth allocation was conceptually approved by the Board of County Commissioners for Somerset County and, as provided in the revised submittal received by Commission staff on June 15, 2026, appears to enact a minor change to Somerset County's Critical Area program as no future development, including Buffer impacts, additional lot coverage, or forest/developed woodland clearing, is proposed. In addition, Somerset County followed their local process and procedures for approval of the growth allocation request, including the County's existing practice of allowing adjacency across the water to meet the location standard, and there has been no public outreach to the Commission regarding public opposition to the growth allocation proposal. Therefore, Commission staff recommends concurrence with the Chair's determination of refinement.

However, the proposed growth allocation does not meet two of the required standards for new LDAs under Natural Resources Article 8-1808.1(c) and COMAR 27.01.02.06-3:

- The request does not locate a new LDA in a RCA at least 300 feet beyond the landward boundary of tidal wetlands or tidal waters, and the County has not proposed alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources.
- The request does not locate a new LDA outside of an area vulnerable to climate change, and the County has not proposed alternative measures that assess climate resiliency and vulnerability and incorporate siting, design, construction, and other natural features to significantly enhance climate resiliency and reduce vulnerability.

Because these two standards were not met, the Program Committee recommended that the Chair deny the growth allocation request to Somerset County. Further, the Committee recommended the following if the County elects to submit a new growth allocation request for the site:

1. The growth allocation proposal shall clearly demonstrate how habitat and water quality enhancements will be achieved through alternative measures to providing a 300-foot setback.
2. Since the growth allocation request will likely increase the number, movement, and activities of people onsite, the proposal must show what measures are taken so that this increase can be accommodated while still reducing vulnerability to the impacts of climate change and enhancing climate resiliency.
3. Any measures proposed should also address applicable environmental justice factors.

Measures discussed by the Program Committee to meet these three recommendations include shoreline restoration, Buffer enhancement, stormwater management, and septic system upgrades to Best Available Technology.

Following the presentation, Dr. Kelly shared a letter that Commission staff received from the property owners on the afternoon of August 18th addressing the Program Committee's recommendation, and he offered a summary of the contents.

Discussion:

Commissioner Bunker asked about the new definition of adjacency that becomes effective by statute on October 1st, and there was a discussion about how it would affect the property if the growth allocation is denied.

Commissioner Richards mentioned a past growth allocation that was approved by the Commission, which was contingent on the continued use of the property as a school. Ms. Vainieri responded that that did not apply to this situation, since the growth allocation request does not include specific future development plans.

Commissioner Wilson noted that Somerset County is the poorest county in the state and how this project could provide economic benefits. He asked for clarification about the difference between denial and sending back for changes. Ms. Vainieri replied that with a denial, they would have to start the whole process all over again, whereas by sending it back they would need to provide additional information, and they may not have to meet the new adjacency standards that will go into effect on October 1, 2026.

Commissioner Hance asked about allowable uses on the property and asked what would be allowed if the property were LDA instead of RCA.

Commissioner Gillis commented that he would like there to be a plan for this site that outlines the desired use, and **Ms. Snider** (DNR) added that she worried about this being an anchor for future growth allocations.

Commissioner Morgan wondered what was the urgency for the growth allocation request if there are no current plans for development. County staff did not have an answer for this.

Commissioners Roche and **Etherton** shared similar concerns with a denial, with both members wishing to find a solution that would give the property owners guidance about what would be acceptable for the site.

Commissioner Gillis noted that this feels very similar to spot zoning, which is not usually encouraged. He acknowledged the need for economic development but didn't believe this was the best way to do it.

Following further discussion in which Commissioners expressed a desire to work with the property owner, but also reiterated their discomfort with approving or sending back an application that has no details about future development plans, Commissioner Herr-Cornwell recognized Program Chair Bunker, who reported that at the Program Committee's meeting the Committee voted to concur with Chair Fisher's determination of the request as a refinement, and further voted to recommend denial of the request. Chair Fisher will have ten days to formally announce his decision.

REGULATIONS –

Permission to Publish Proposed Regulations: Updates to Title 27.01.12 - Variances

Presented by Lisa Hoerger

Lisa Hoerger presented in accordance with the staff report, the contents of which are incorporated into and made part of the minutes. During the 2026 legislative session, House Bill (HB) 247 was passed by the General Assembly. Now Chapter 79 of the Laws of Maryland, HB 247 updated the Critical Area law to simplify the variance process and improve consistency across Maryland's 64 Critical Area jurisdictions when the variance standards are applied.

The provisions in the bill were drawn directly from Maryland case law and standard appeals procedures. In addition to improving the consistency of variance decisions, the provisions in the bill will reduce the time it takes to complete processing, simplify the appeals process, and reinforce the tools local jurisdictions have to conduct fair, consistent, and efficient evaluations.

The process and requirements for an applicant to request a variance will remain the same.

Commissioner Wilson asked a question about the use of certain terminology within one of the standards and whether different terms could be used. Ms. Vainieri noted that this language came directly from the statute and could not be changed.

The Commission is asked to vote to forward the draft regulations to the Administrative, Executive, and Legislative Review Committee and subsequently to publish these regulations as proposed regulations in the Maryland Register.

Following a discussion about the process and timelines, Commissioner Herr-Cornwell asked for a motion to approve and a vote.

VOTE:

Motion: Commissioner Richards

Second: Commissioner Morgan

Vote: Motion passed unanimously.

CLIMATE AND EQUITY REGULATION UPDATE

Presented by Kate Durant

Ms. Durant presented in accordance with the memo, the contents of which are incorporated into and made part of the minutes. Revisions included moving the definition of “adjacent” specifically to the growth allocation chapter; updated public and digital notification requirements for underserved, overburdened, and environmental justice communities; streamlined CPCN project notification requirements to avoid duplication; and updated project submittal rules to capture sketch/preliminary plan approvals to close appeal loopholes. This discussion was abbreviated due to an interruption by a fire alarm.

LEGAL UPDATES: No legal updates were provided due to an interruption to the meeting by a fire alarm.

The meeting was abruptly adjourned following interruption by the fire alarm.

Lynette Fullerton, Commission Secretary

9/30/2026

Date Approved