

Critical Area Commission
Chesapeake and Atlantic Coastal Bays
Meeting held via Teams

June 7, 2024

Program Implementation Subcommittee Minutes

Subcommittee Members in Attendance: *Bunker (Chair), Gerthoffer, Herr-Cornwell, McCall, Porter, Rodvien, Wilson*

Guests: Carla Gerber (Kent), Jesse Drewer (Somerset), Catherine Skeeter (Somerset), Mary Phillips (Somerset). Representing the Wharf at Handy's Point: Lance Young, George Harms, Chris Maier, Dan Saunders, and Buck Nickerson.

Item 1. Approval of April 26, 2024 Program Implementation Subcommittee Minutes

There were no amendments to the April 26, 2024 minutes.

Motion to Approve - Commissioner Gerthoffer

Second – Commissioner Porter

All in favor, one abstention from Commissioner Wilson who was not present.

Action: Minutes approved.

Item 2. Critical Area Boundary Map Update (Somerset County)

Presented by Kate Durant

Somerset County has approved the update to its Critical Area Boundary Map as required by State law. Approval recommended.

Discussion: None.

Action: Hearing no questions, Commissioner Bunker asked for a motion to approve the refinement. Commissioner Rodvien so moved. Commissioner McCall seconded the motion. All voted in favor.

Motion passed unanimously.

Item 3. Critical Area Program Comprehensive Review (Kent County)

Presented by Katie Hayden

Kent County has completed a comprehensive review of its entire Critical Area Program as required by State law. The last comprehensive review was completed in 2002. Staff recommended approval of the comprehensive review with a condition to edit specific provisions of the Code in order to bring it into greater conformance with Critical law and regulations.

Discussion:

Commissioners had questions on a number of provisions including:

- Commissioner Gerthoffer: Nonconforming uses and abandonment and whether that action was defined. The County clarified there is not, but that the review only applies to nonconforming density in the RCA.

- Commissioner Wilson: The allowance for resorts and whether that was consistent with the comprehensive plan. The County clarified that it was added to the code in the 1990s and that it has never been used.
- Commissioner Wilson: Fee-In-Lieu, including how much has been spent and for where. The County clarified that they do not collect a lot of fee-in-lieu money. There was a project in the Town of Betterton to revegetate and stabilize a state bank on the Sassafras River. There was also a project in Turners Creek Park to plant additional trees along Turner's Creek.
- Commissioner Wilson: Concerns about timber harvests within the Critical Area and specifically specifically the County's ability to review for impacts to protected habitats. The County clarified that they do review for sensitive species using the online GIS mapping tool called MERLIN. CAC staff also clarified that timber harvest plans are reviewed by DNR, which includes Wildlife and Heritage Service who would note sensitive species and time of year restrictions.

Action: Hearing no further questions, Program Subcommittee Chair Bunker asked for a motion to concur with the Chair's determination of refinement and to recommend approval in accordance with the staff report and attachment. Commissioner Porter so moved. Commissioner Herr-Cornwell seconded. **Motion passed unanimously.**

Item 4. Wharf at Handy's Point Growth Allocation (Kent County)

Presented by Annie Sekerak

The Kent County Commissioners have approved a growth allocation request to change 25.68 acres of Limited Development Area to Intensely Developed Area at the Wharf at Handy's Point Marina. Staff recommended approval of the growth allocation with a number of conditions as outlined in the staff report in order to make it consistent with purposes, policies, and goals of the Critical Area law and regulations.

Discussion:

Commissioners had questions on a number of items, including:

- Commissioner Bunker: Are the proposed parking spaces to be built now or in the future when the marina is developed. Staff clarified the parking will be built now.
- Commissioner Bunker: Under the recommended conditions for approval, is more stormwater management required? Staff clarified it was, and must be located in a riparian zone in order to meet the 10% offset requirements.
- Commissioner Gerthoffer: Asked if the current boat storage area in the Buffer would be converted from gravel to a more natural or pervious environment. The applicant noted that it would remain gravel and be used for various marina operations, while boat storage is located in the new area.
- Commissioner Gerthoffer: Has the septic reserve area perked yet? The applicant confirmed it has and that include the initial, secondary and tertiary system.
- Commissioner Wilson: Commented on the location of the proposed parking spaces, as it cuts into woodlands near a stream. Could the parking spaces be moved outside of the wooded area? How much area does it cover? The applicant clarified it's about an acre. The only way it could be moved is if we were to provide some sort of shuttle service to the marina. This configuration allows people to park and access the marina.
- Ms. Charbonneau asked for clarification on Condition #1: Building Restriction Line. Wanted to make sure it was clear that this was the proposed BRL, not an example.

- Commissioner Herr-Cornwell: Asked a follow-up question about the proposed parking spaces. The applicant clarified they are being installed now, but the Wharf reps said that if they didn't have those spaces, they would need a shuttle. Curious as to the timing? Response: There is not currently enough parking at the marina, so need the spaces now.
- Commissioner Gerthoffer – Is the marina currently open to the public, or is membership required to use? Response: It is open to the public. People pay to store boats there but there is also a public launch. There is a public landing near the marina, and there is a need for parking.

Action:

Program Subcommittee Chair Bunker asked for a motion to concur with the Chair's determination of refinement. Commissioner Gerthoffer so moved. Commissioner Rodvien seconded. Commissioner Wilson opposed.

Chair Bunker then asked for a motion to approve with conditions as presented today. Commissioner Burriss so moved. Commissioner Porter seconded. Commissioner Wilson left prior to vote. Motion passed unanimously.

Meeting adjourned.