

MINUTES

**Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, Maryland**

February 7, 2024

CALL TO ORDER: Chair Erik Fisher called the meeting to order at 12:15 p.m.

Commission Members in Attendance:

Tim Adams, Prince George's County
Steve Bunker, Charles County
Mark Conway, Baltimore City
Anita Grant, At Large
Rosa Hance, At Large
Mike Hewitt, St. Mary's County
Shawn Kiernan, MDOT
Catherine McCall, Department of Natural Resources
Michael McCarthy, Talbot County
Sylvia Mosser (for Herr-Cornwell)
Heather Nelson, MDE (for Roberson)
Jim Palma, Department of Commerce
Hitesh Patel, Somerset County
Annie Richards, Kent County
Brian Roche, Dorchester County
Lisa Rodvien, Anne Arundel County
Pat Young, Baltimore County

Commission Members Not in Attendance:

Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City
Julia Glanz, Department of Housing and Community Development
Earl Hance, Calvert County
Travis Marion, Cecil County
Alisha Mulkey, Department of Agriculture
Larry Porter, Caroline County
Tammy Roberson, Department of Environment
Christie Stephens, Harford County

OPENING REMARKS: Chair Fisher confirmed a quorum and made the following announcements. He recognized two new planners have joined the staff, Jonathan Coplin and Katie Hayden. He also thanked outgoing planner Michael Grassman for his service over the last several years. Finally, he welcomed the proxies (Sylvia Mosser, for Commissioner Herr-Cornwell, and Heather Nelson, for Commissioner Roberson), and the newest permanent appointee, Shawn Kiernan, from MDOT.

APPROVAL OF MINUTES: Commissioner Adams moved to approve the minutes from the December meeting. Commissioner Bunker seconded. Motion passed unanimously, with one abstention (Nelson, who was not at the meeting).

STAFF PRESENTATIONS

PROJECT SUBCOMMITTEE:

Department of Public Works – Mariner Point Park Stormwater Management Improvements (Harford County)

Ms. Susan Makhoul presented for vote a request for Conditional Approval by the Harford County Department of Public Works to construct stormwater management best management practices (SWM BMPs) to treat runoff from an existing paved parking lot and road and assist the County in meeting its National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit requirements. Ms. Makhoul reviewed her staff report, the contents of which are incorporated into and made part of the minutes.

The County proposes to construct two (2) bioswales and one (1) micro-bioretenion facility to treat runoff from existing impervious surfaces including a parking lot and road. The 0.71-acre project site is located within Mariner Point Park, a 37.7-acre County-owned park located at 100 Kearney Drive, Joppa, Maryland. The project is located entirely within the Critical Area on land designated as Resource Conservation Area (RCA). The proposed micro-bioretenion facility is located partially within the Critical Area Buffer in an area that is currently a grass swale situated between a parking lot and a walking path adjacent to tidal waters. One of the bioswales is located partially within the Buffer and the other bioswale is located entirely outside the Buffer. Construction is anticipated to begin mid-to-late 2024 and last 2-3 months. Mitigation planting will take place in Spring 2025.

As a request for Conditional Approval, the project meets the following requirements:

1. Except for the impacts to the Critical Area Buffer, the project otherwise meets all of the requirements of the Harford County Critical Area Program;
2. The County is providing mitigation at a 3:1 ratio for tree clearing in the Critical Area Buffer, as required by COMAR and the Harford County Critical Area Program; and
3. By retrofitting an outdated stormwater management practice, converting approximately 17,200 square feet (sf) of existing turfgrass within the Buffer to a micro-bioretenion facility planted with native species, converting other areas to conservation plantings and native species plantings, and removing lot coverage, the project will provide substantial public benefit in the form of water quality and habitat benefits.

Hearing no questions, Chair Fisher recognized Project Subcommittee Chair Conway, who motioned to approve the Conditional Approval request, with the following condition:

1. Prior to the start of construction or 60 days, whichever comes first, the County shall submit the final stormwater management and erosion and sediment control plan approvals to Critical Area Commission staff.

Commissioner Rosa Hance seconded the motion. All in favor. **Motion passed unanimously.**

Board of Education – Grange Elementary School Parking Lot and Entry Drive Improvements (Baltimore County)

Ms. Katie Hayden presented for vote a request for Conditional Approval by the Baltimore County Board of Education to construct a new parking lot at Grange Elementary School. Ms. Hayden reviewed her staff report, the contents of which are incorporated into and made part of the minutes.

The project site is located on the grounds of Grange Elementary School, a 15-acre County-owned school located at 2000 Church Road, Dundalk, Maryland. Grange Elementary School was originally constructed in 1960 and serves grades Pre-Kindergarten through Grade 5. The project is located entirely within the Critical Area on land designated as Intensely Developed Area (IDA). The existing single bus/car loop, which is used by buses, parents, and staff, is not large enough to provide safe drop-off and pick-up for students at the start and finish of the school day. Due to limited on-site parking, many of the teachers park beneath overhead powerlines in a BGE right-of-way (ROW) located adjacent to the school. The off-site parking is not authorized by BGE and creates a potentially hazardous situation that does not comply with Baltimore County Public Schools safety protocols. The development area is 1.54 acres in size and involves a new parking lot and a new queuing lane/car loop. The new development will provide parking for teachers and create a safer process for daily drop-off and pick-up of students. Additional site improvements include the installation of four (4) stormwater management (SWM) facilities.

Due to the current configuration of the school building and existing bus/car loop and parking areas (which are located entirely within the IDA and adjacent to the expanded Critical Area Buffer), the proposed new parking will be located partially within the expanded Critical Area Buffer (6,920 square feet of Buffer disturbance). The Buffer has been expanded for steep slopes. The four (4) SWM facilities are located outside the expanded Buffer.

As a request for Conditional Approval, the projects meets the following requirements under COMAR 27.02.06;

1. Except for the impacts to the Critical Area Buffer, the project otherwise meets all of the requirements of the Baltimore County Critical Area Program;
2. The County is providing mitigation at a 3:1 ratio for permanent disturbance to the Critical Area Buffer, as required by COMAR and the Baltimore County Critical Area Program; and
3. The project provides substantial public benefit in the form of habitat and water quality improvements by planting mitigation adjacent to existing riparian forest, installing four stormwater management devices and by removing lot coverage.

Hearing no questions, Chair Fisher recognized Project Subcommittee chair Conway, who motioned on behalf of the Project Subcommittee to approve the requested improvements with the following conditions:

1. Prior to the start of construction or within 60 days, whichever comes first, the County shall submit the final stormwater management and erosion and sediment control plan approvals to Critical Area Commission staff.
2. Prior to the start of construction or within 60 days, whichever comes first, the County shall submit to Critical Area Commission staff a copy of the letter from the Maryland Department of Natural Resources Wildlife and Heritage Service evaluating the site for any rare, threatened, and endangered species present onsite. The County shall adhere to any recommendations provided by the Wildlife and Heritage Service.

Commissioner Young seconded the motion. All in favor. **Motion carried unanimously.**

PROGRAM SUBCOMMITTEE:

Critical Area Mapping Update – Request for Extension of Time (City of Salisbury – Wicomico County)

Ms. Charlotte Shearin presented for vote a request from the City of Salisbury to extend the deadline for the approval of updated maps. The Natural Resources Article, §8-1807 Annotated Code of Maryland allows a local jurisdiction 24 months to accomplish local approval of their draft Critical Area maps. February 9, 2024, is the 24-month deadline for the City of Salisbury, located in Wicomico County, to adopt their updated Critical Area Maps; however, the city is unable to meet this deadline. The City of Salisbury Planning Commission concurred with the city staff recommendation to hold a public hearing regarding the boundary update on February 15, 2024. After the public hearing, the Planning Commission will forward a recommendation regarding the maps to the City Council. As such, the City of Salisbury is requesting a 90-day extension of the Critical Area updated map adoption timeline; therefore, the new deadline for local approval of the Critical Area maps will be May 8, 2024.

Following Ms. Shearin's presentation, Chair Fisher recognized Program Subcommittee Chair Bunker, who motioned on behalf of the Program Subcommittee that the request for a 90-day extension be approved by the Commission. Commissioner Hewitt seconded the motion. **Motion passed unanimously.**

OLD BUSINESS: None.

LEGAL UPDATES:

Ms. Emily Vainieri had one legal update to share, concerning the Ayres Creek Mapping Mistake, which was presented at the December meeting. She reported that the Ayres Creek Family Farm LLC has brought action in Circuit Court challenging the Commission's decision. An amicus brief has been filed on behalf of the Critical Area Commission.

NEW BUSINESS:

Chair Fisher made an announcement concerning the new meeting schedule. In order to make better use of time, the following changes are being made. We will move to a six-week meeting schedule, which will shift from twelve meetings a year to eight. The subcommittee meetings will take place before the full meeting – Projects will be two weeks before the meeting, Programs will be the Friday before the full meeting.

There will be a simplified approval process for items that warrant it (Three stage process - (1) consent calendar: vote as a batch and Commissioners can request to remove any item, (2) summary report: items that are recommended for approval, but the Subcommittees altered from the original staff recommendation, (3) full presentation: items that don't go to a Subcommittee (panel report, policy, regs, etc.) or projects recommended for denial or return by a subcommittee).

Discussion: Commissioner Bunker asked if Commissioners will still receive the staff reports for the whole meeting, and Ms. Charbonneau confirmed they will. Commissioner Grant asked what the public facing part of the process would involve, and Ms. Charbonneau explained that the website would have the staff reports, and also that jurisdictions will be encouraged to come in for info only meetings prior to a formal vote.

Commissioner Hewitt asked why the volume of projects has decreased recently, and Ms. Charbonneau responded that a couple factors are involved, including MOUs with various state agencies, as well as decreased funding for local projects. Commissioner Hewitt said he liked the idea of a consent calendar, but when there are dissenting votes it should be handled differently. Chair Fisher acknowledged the point, and said there are a couple of ways it could be handled – mentioning the dissenting votes, or write a more detailed summary report. Commissioner R. Hance said she would prefer the summary report. Commissioner Grant asked for clarification about what a consent calendar is, and Chair Fisher explained the process. Commissioner Roche asked if anyone could remove an item from the consent calendar, and Chair Fisher said for now, yes. Commissioner Kiernan asked if the subcommittee meetings will be virtual or in person, and Ms. Charbonneau replied that they would be virtual, and that calendar invitations will be sent to subcommittees. Initially the meetings will be scheduled for 9-12noon, but won't necessarily last the full time. Eventually we could change the time if it doesn't appear the whole time is needed. Full Commission meetings will be mostly virtual, with three in person (spring, fall, winter). Also a one day retreat in May, which will be in person.

2024 Critical Area Legislation

The Critical Area Commission has filed two pieces of legislation before the General Assembly this year – SB-306/HB-233 and SB-268, which does not have a cross-file. SB-268 is about enforcement – allows jurisdictions to pursue enforcement in whatever way they need to (civil, administrative, or criminal). It also allows the Commission to step in with enforcement and eliminates the current 30-day waiting period. SB-306/HB-233 is a comprehensive update. It incorporates considerations of climate resiliency and equity. Also incorporates administrative improvements that will help the Commission, local jurisdictions, and property owners (increase lot coverage limit by 500 SF for small lots, allows for ADUs that align with the State's ADU task force, program updates every 10 years instead of every 6 years).

Briefings on the bills and hearings in the Senate last Wednesday. A hearing on the HB is this afternoon, which is why the meeting was held a little early. MACO is supportive after a few amendments.

Meeting adjourned 1:00 p.m.



Lynette Fullerton, Commission Secretary

3/20/24

Date of Approval

Critical Area Commission
Chesapeake and Atlantic Coastal Bays
100 Community Place, Crownsville, MD 21032

February 7, 2024

Project Implementation Subcommittee Minutes

Subcommittee Members in Attendance: *Conway, Adams, Grant, R. Hance, Kiernan, McCarthy, Patel, Roche, Palma, Young*

Not Present: *Roberson (Co-Chair), Marion*

Guests: *Dave Lykens (Harford Co.), David Ivy (WSSC), Walid Halboni (WSSC), Dan Furman (Harford Co.), Christie Bishoff (consultant), Mark Coughlin (WSSC), Claude Modise (WSSC), Regina Esslinger (Baltimore Co.), Gris Batchelder (Baltimore Co.), Jason Traband (Bay Engineering)*

Item 1. Approval of December minutes.

Commissioner R. Hance moved to approve the December minutes. Commissioner Roche seconded the motion. All voted in favor. Motion passed unanimously.

Item 2. Mariner Point Park Stormwater Management Retrofit – Conditional Approval (Harford County)

Presented by Susan Makhoulouf

The County proposes to construct two (2) bioswales and one (1) micro-bioretenion facility to treat runoff from existing impervious surfaces including a parking lot and road. The proposed micro-bioretenion facility is located partially within the Critical Area Buffer in an area that is currently a grass swale situated between a parking lot and a walking path adjacent to tidal waters. One of the bioswales is located partially within the Buffer and the other bioswale is located entirely outside the Buffer. Construction is anticipated to begin mid-to-late 2024 and last 2-3 months. Mitigation planting will take place in Spring 2025.

Discussion: Commissioner Conway asked how the mitigation is calculated, by number of trees or caliper inch? Ms. Makhoulouf explained it is based on the square footage of the Buffer impacted and based on the number of trees removed. Commissioner Hance asked if the Commission would still need to approve if just tree clearing, and Ms. Makhoulouf responded yes, because it is in the Buffer. Commissioner Palma asked about maintenance of the bioswales, and Jason Traband responded that the County will need to maintain the areas to keep the TMDL credits.

Commissioner Grant moved to accept the staff recommendation. Commissioner Palma seconded the motion. All in favor. Motion passed unanimously.

Item 3. Grange Elementary School Parking Lot – Conditional Approval (Baltimore County)

Presented by Katie Hayden

The Baltimore County Board of Education is seeking approval to construct a new parking lot at Grange Elementary School. The project site is located on the grounds of Grange Elementary School, a 15-acre County-owned school located at 2000 Church Road, Dundalk, Maryland. The project is located entirely within the Critical Area on land designated as Intensely Developed Area (IDA).

Grange Elementary School was originally constructed in 1960 and serves grades Pre-Kindergarten through Grade 5. The existing single bus/car loop, which is utilized by buses, parents, and staff, is not large enough to provide safe drop-off and pick-up for students at the start and finish of the school day. Due to limited on-site parking, many of the teachers park beneath overhead powerlines in a BGE right-of-way (ROW) located adjacent to the school. The off-site parking is not authorized by BGE and creates a potentially hazardous situation that does not comply with Baltimore County Public Schools safety protocols. The project area is 1.54 acres in size and involves a new parking lot and a new queuing lane/car loop. The new development will provide parking for teachers and create a safer process for daily drop-off and pick-up of students. Additional site improvements include the installation of four (4) stormwater management (SWM) facilities.

Discussion: Commissioner Conway asked how they will ensure that people will not continue parking at the BGE property. Ms. Bishoff explained that the gravel will be removed and replaced with grass, and the curb cuts will be replaced with curbs, so cars will be unable to park. Commissioner Roche asked if the pavement will be pervious or traditional impervious, and Ms. Bishoff responded that it is traditional asphalt, due to a maintenance issue with Baltimore County Schools. Commissioner Palma motioned to approve the project with conditions as outlined in the staff report. Commissioner Grant seconded the motion. All in favor. **Motion passed unanimously.**

Item 4: Information Only – Washington Suburban Sanitary Commission Memorandum of Understanding for General Approval Update

Presented by Mike Grassmann

Over the last several months, staff from the Critical Area Commission and the Washington Suburban Sanitation Commission (WSSC) have worked together to update the existing General Approval Memorandum of Understanding (MOU) between WSSC and the Critical Area Commission. WSSC wishes to meet with the Project Subcommittee to discuss the draft MOU for preliminary review and comment before officially submitting it for Commission approval. A copy of the draft MOU is attached to the memorandum.

The purpose of this Project Subcommittee discussion is to provide preliminary feedback to WSSC regarding the draft text MOU. This MOU is planned to be submitted to the Critical

Area Commission for final review and approval in Spring 2024, and WSSC wants to ensure that any questions from the Commission are addressed well in advance before this final review.

The Project Subcommittee will be asked to discuss their comfortability with the general outline and parameters of the MOU, with particular focus on whether the Commission has additional questions regarding decommissioning.

Discussion:

Commissioner Hance started the discussion by asking how many decommissioned buildings may exist in the Critical Area. WSSC indicated that they could look into that, but it would require information from the planning section and may require compilation of multiple lists. The discussion then moved to the Critical Area Commission's authority for reviewing decommissioned structures that are left in place as COMAR 27.02 requirements related nearly entirely to proposed development activities. There is no requirement in regulation that any State agency notify the Commission when it intends to abandon a structure.

The discussion then moved to whether the Commission could review whether abandoned sites could be used when new development is proposed. Commissioners asked questions related to differences in treating new buildings versus redeveloped buildings, removing assets and restoring areas to natural sites vs reusing assets and minimizing impacts elsewhere, and what types of opportunities exist for mitigation or offsets with removal of abandoned structures.

Commission staff offered that in the context of this MOU, whose purpose is to cover proposed maintenance and minor development activities by a State agency, there may be some opportunity to consider reuse of existing developed sites when new development is proposed as well as a general acknowledgement of minimizing impacts to the Critical Area overall. Commissioners expressed an interest in WSSC (and other agencies) placing greater emphasis in examining the environmental impacts of abandoned buildings more closely and either moving forward more quickly in removing them or reusing them and causing less development elsewhere.

Commission staff suggested that an additional Whereas clause be added to the MOU that would (1) acknowledge development should be located outside the Critical Area to maximum extent possible (consistent with COMAR 27.02.05), (2) acknowledge WSSC shall consider reuse of decommissioned sites, as appropriate and (3) add that when WSSC is planning projects that might have significant HPA impacts, preference should be given to evaluating decommissioned sites. WSSC staff confirmed they would review the additional language and provide internal feedback and they would also go back to the Planning section and ask about an inventory of decommissioned sites in the Critical Area.

Critical Area Commission
Chesapeake and Atlantic Coastal Bays
Meeting held at 100 Community Place, Crownsville, MD 21032

February 7, 2024

Program Implementation Subcommittee Minutes

Subcommittee Members in Attendance: *Bunker (Chair), McCall (Co-Chair), Adams, Grant (for quorum), Hewitt, Mosser (for MDP), McCarthy, Rodvien*

Guests: Handy's Point – Chris Maier (owner), Lance Young (attorney), Buck Nickerson (consultant), Carla Gerber (Kent County planner), Dan Saunders (attorney)

Item 1. Approval of December Minutes

Commissioner Hewitt motioned to approve the December Program Subcommittee Minutes. Commissioner Rodvien seconded the motion. All voted in favor. Minutes approved.

Item 2. Information Only: Kent County – Wharf at Handy's Point Growth Allocation

Presented by Nick Kelly

Kent County, on behalf of the property owners for the Wharf at Handy's Point, is requesting guidance from the Program Subcommittee regarding offsets provided in lieu of the required 300-foot setback from tidal waters and wetlands in the Resource Conservation Area (RCA) for a potential growth allocation at the site to change the land use designation to an Intensely Developed Area (IDA). The Wharf at Handy's Point is located in Worton (23153 Green Point Road; Tax Map 19, Parcels 96 and 102), adjacent to Worton Creek.

Discussion: Dr. Kelly presented his memorandum in accordance with his staff report. After the presentation, Chair Bunker opened up the discussion based on the following four questions:

1. Does the entire package of offsets provide greater habitat and water quality benefits than the 13.16-acre RCA setback to be deducted, of which 11.37 acres is forested?
2. Would the Commission accept offsite plantings outside of the Critical Area as an offset if placed into a permanent conservation easement?
3. Would the Commission accept voluntary plantings dating back to the 1990s as an offset for new impacts? Or are additional plantings still required?
4. Is the Commission comfortable with the additional offsets proposed by the property owner? Is there additional information related to these offsets required as part of the offset package?

Commissioner Hewitt asked Chris Maier (property owner of the Wharf at Handy's Point and the potential mitigation sites) if he currently still owns the previously planted areas that they would like to count towards their offsets. Mr. Maier confirmed that they owned the land.

The applicant's attorney, Dan Saunders, provided additional information about the Sandbar restoration at Wharton Creek that Handy's Point is proposing as an offset (there is a shoaling

issue that needs to be addressed). Mr. Saunders also provided information about how the family trust has been buying and planting land at these potential mitigation sites since the 1980s and that the forested areas are used by family and friends for hunting. The owners wish to put permanent easements on the forested areas that they planted on various farms.

In addition, Mr. Saunders provided insight onto the existing marinas and the need for growth allocation. Specifically, the northern marina was recently acquired, but needs updating to the docks, piers, and septic areas. The main purpose for growth allocation is to create a newer, modern septic system (Best Available Technology/BAT) for both the northern and southern marinas that will be located further away from the edge of Mean High Water (MHW).

Carla Gerber, Kent County Deputy Director of Planning and Zoning, noted that Kent County growth allocation can only be used for business purposes. Dr. Kelly added that the County has 1,201 acres of GA available. Commissioner Hewitt asked for the total acreage of the site. Buck Nickerson, consultant for the property owner, replied that it was approximately 30 acres and that the growth allocation would change the zoning of approximately 25 acres from Resource Conservation Area (RCA) to Intensely Developed Area (IDA).

Commissioner Hewitt also mentioned that it is unusual to accept offsite plantings that were planted decades ago as offsets.

Commissioner Rodvien asked the family's intent for the planted acreage on the farms. Mr. Saunders said it was for habitat creation and management. Mr. Maier added that it was planted on good agricultural land. Ms. Rodvien asked Emily Vainieri, Assistant Attorney General, what kind of mitigation would be required under the Forest Conservation Act (FCA) if the planted areas were clear cut. Chair Fisher said that it depends on why the forest is being cut and that staff can get an answer for that question if necessary. In general, mitigation could be as high as 2:1 for forest lands cleared under FCA. Mr. Saunders said that if the area is cut for timber harvesting, then it does not require mitigation. However, he does not want to lose sight of why they are asking for growth allocation, which is to update the existing septic systems with a BAT system and to relocate the boat storage outside of the 100-foot Buffer. Mr. Nickerson added that the new BAT system would be located approximately 250 feet from the edge of Mean High Water.

Commissioner Bunker brought up the sandbar restoration and does not believe it should be considered as an offset to impacting the 300-foot setback as it appears to be more of a navigational improvement and does not seem to provide water quality or habitat offsets.

Commissioner McCall asked about the potential that slips could be added to the southern portion of the property and whether dredging would require additional funding. Mr. Nickerson said that they can only dredge previously dredged areas in this channel and that they cannot dredge the southern portion of the property to add additional slips.

Commissioner McCall recommended that the applicant consider using some of the southern sites that they have designated as planting areas and provide connectivity that will help with

resilience in the future. This should include climate resilience easements. Mr. Nickerson added that all of the farms have blue line streams that flow to Mill Creek, which flows to Wharton Creek.

Commissioner Bunker asked if there was a way to determine the stormwater benefits that are provided by being a part of the Clean Marina program. Dr. Kelly stated that they could check with the Department of Natural Resources on this if necessary, and that the Commission's 10% worksheet can calculate the amount of phosphorus removed by using stormwater retrofits.

Ms. Gerber stated that in order to rezone these areas to a Marine Zoning designation, that growth allocation is required. In addition, the Kent County Commissioners determined that a mistake had been made in 2002, and that this area should be rezoned to Marine at that time.

Commissioner Hewitt reiterated his concern about using previously planted areas as mitigation. Commissioner Bunker asked the property owners if they had additional farms that they could plant instead of using existing plantings. Mr. Saunders said that there is available land but that using previous planted areas that could be put under easement was the cleanest option.

Chair Fisher thanked Kent County staff and the property owners for this discussion. Chair Fisher added that this discussion is predicated on the amount of mitigation required for deducting the entire 300-foot setback as part of the growth allocation request, even though only a small portion will be impacted. Mr. Maier replied that this is because the County approved rezoning the entire area to Marine, which necessitates growth allocation. Mr. Saunders discussed the mapping mistake from 2002 and the reason for this application being brought forth for discussion.

Chair Fisher asked Dr. Kelly what would happen if the applicant wants to develop the 300 foot setback in the future if the entire area is changed to IDA. Dr. Kelly said that the project would be reviewed and approved locally by Kent County, and that Commission staff would review and comment, but that it would not come back to the full Commission. Further, given that the entire site would be then designated IDA, the entire area of setback outside the 100-foot Buffer could be cleared. Dr. Kelly added that if the growth allocation envelope was reduced to the area needed to relocate the new BAT system, then the habitat and water quality offsets required for the area of the BAT would be reduced to 0.6 acres, as opposed to 49.06 acres that would be required under the current proposal. Commissioner Hewitt recommended that the applicant and Kent County seriously consider reducing the growth allocation request since there is no plan for development for the majority of the 300-foot Buffer. The applicant could reapply for additional growth allocation for this area in the future if development is proposed.

Cahir Fisher explained the four options available to the Commission when the growth allocation is submitted for review (approve, deny, approve with conditions, or send back). Mr. Saunders stated that they are more interested in having access to the shoreline because it is a marina and that the forested area probably won't be developed because it is also very steep. The owner does not want to be split-zoned. Maier asked about conditions - and Fisher said it would be important to continue to discuss the southern portion of the property and that the Commission determines them.

A consensus of this discussion is as follows:

1. The Program Subcommittee did not feel the entire package provided enough offsets.
2. The Program Subcommittee felt that the Critical Area Commission would accept offsite plantings, however those plantings should be targeted towards riparian Buffers or other valuable habitat, such as FIDS, or to provide coastal resiliency and connectivity to help with future resiliency. Climate resiliency easements with DNR should be a part of this.
3. The Program Subcommittee felt uncomfortable with accepting offsite plantings that were planted decades ago. It appears that they would request planting additional acreage instead of using existing voluntary plantings.
4. The Program Subcommittee did not feel comfortable with all proposed offsets. In particular, the sandbar restoration does not provide water quality or habitat benefits, but rather provides navigational access.

Item 3. Critical Area Boundary Map Update – City of Salisbury (Wicomico County)

Presented by Charlotte Shearin

The Natural Resources Article, §8-1807 Annotated Code of Maryland allows a local jurisdiction 24 months to accomplish local approval of their draft Critical Area maps. February 9, 2024, is the 24-month deadline for the City of Salisbury, located in Wicomico County, to adopt their updated Critical Area Maps; however, the city is unable to meet this deadline and is requesting a 90-day extension of the Critical Area updated map adoption timeline; therefore, the new deadline for local approval of the Critical Area maps will be May 8, 2024. Commission staff recommends that the Commission approve the requested time extension.

Discussion: None. Commissioner McCall motioned to approve the requested time extension. Commissioner Hewitt seconded the motion. **Motion passed unanimously.**