

Critical Area Commission

STAFF REPORT – REVISED

January 15, 2025

APPLICANT:	State of Maryland
PROPOSAL:	New Supreme Court Building
JURISDICTION:	City of Annapolis
COMMISSION ACTION:	Vote
STAFF RECOMMENDATION:	Approval with Conditions
STAFF:	Kate Durant
APPLICABLE LAW/ REGULATIONS:	COMAR 27.02.06 Conditional Approval of State or Local Agency Programs in the Critical Area

DISCUSSION

The State of Maryland is seeking approval to construct a new building for the Supreme Court of Maryland along Rowe Boulevard in Annapolis. The courthouse will be located on State-owned land that currently houses the Annapolis District Court and is adjacent to lands owned by the Naval Academy Athletic Association.

The project requires conditional approval under COMAR 27.02.06 by the Critical Area Commission because the project exceeds the allowable 15% lot coverage limit. Commission staff recommends approval. A copy of the site plan is attached.

Project Description

A small portion of the site (approximately 0.11 acres/4,792 square feet) located in the southwest corner of the parcel is within the Critical Area and is designated as Limited Development Area (LDA). The site is located entirely outside of the 100-foot Critical Area Buffer. The existing State-owned land is mostly undeveloped with a border of trees. The allowable lot coverage limit within the LDA is 15% or approximately 719 square feet.

The portion of the proposed development that will be within the LDA includes a portion of a bioretention pond and sidewalks. The proposed lot coverage for this project is approximately 0.03 acres, or 1,300 square feet (27%), which exceeds the allowable limit of 719 square feet (15%). Additionally, two trees will be cleared within the LDA.

Proposed Impacts to the Critical Area and Required Mitigation

100-foot Buffer and Habitat Protection Areas

There are no impacts to any Habitat Protection Areas, including the Buffer.

Tidal and Nontidal Wetlands

There are no impacts to tidal or nontidal wetlands.

10% Stormwater Management Compliance

The 10% pollutant removal requirement of 0.3 lbs/ year will be exceeded through the construction of a bioretention facility that will remove 1.44 lbs of phosphorus/year.

Proposed Mitigation

Typically, when the Commission reviews a conditional approval request to exceed lot coverage, the applicant proffers 1:1 mitigation for the lot coverage overage. In this case, the applicant needs to provide 1,300 square feet of mitigation. Additionally, the applicant needs to provide mitigation for the two cleared trees, which is 400 square feet. Therefore, the total mitigation required is 1,700 square feet.

The applicant has submitted a planting plan that includes planting a total of 10 Willow oaks, of which 1 is located within the Critical Area and the remaining 9 are located outside of the Critical Area; and, 6 Eastern redbuds, all of which are located outside of the Critical Area. This totals 2,450 square feet of proposed planting. Given that the portion of the site within the Critical Area is so small, and that most of it is being used to construct a micro-bioretention facility, there is not enough space within the Critical Area onsite to meet the full mitigation requirement. Therefore, the trees proposed onsite and outside of the Critical Area have been proposed to meet the Critical Area mitigation.

Permits and Review by Other Agencies

Stormwater Management Plan and Sediment & Erosion Control Approval

Maryland Department of the Environment (MDE) approved the Stormwater Management Plan and Sediment and Erosion Control plan on June 12, 2024, and Anne Arundel County Soil Conservation District approved the Sediment Control on May 13, 2024.

Department of Natural Resources

The Department of Natural Resources Wildlife and Heritage Service determined there are no State or Federal records for rare, threatened, or endangered species on the site.

Maryland Historical Trust

MHT determined there are no historic properties affected by the project on August 30, 2023.

Public Notification

In accordance with the provisions of COMAR 27.03.01.03, signage was posted at the project site on December 12, 2024; and notice of this project was posted in the Capitol Gazette newspaper on November 28, 2024. No comments have been received.

Coastal Resiliency

As required per COMAR 27.02.05.03, State agencies who are proposing development activities on State-owned lands shall demonstrate that the agency has considered the likelihood of inundation by sea level rise over the course of the design life of the project, and shall demonstrate that the development identifies and incorporates climate resilient practices in order to avoid or minimize environmental or structural damage associated with a coastal hazard, extreme weather event, sea level rise, and other coastal impacts. The following factors were considered in this assessment:

- The current elevation of the property is approximately 35 feet above sea level, so it will be well above the projected sea level rise elevation for 2100 and provides ample amount of freeboard for the site.
- Storm surge for Category 1 through 4 storms will not impact the project site due to the elevation of the existing property.
- The project is located approximately 950 feet inland.
- There are no wetlands or wetland adaptation areas on the site.

CONDITIONAL APPROVAL PROCESS (COMAR 27.02.06.01)

To qualify for consideration by the Commission for conditional approval, it shall be shown by the proposing or sponsoring agency that the project has the following characteristics. Responses were supplied by the applicant and summarized here by Commission staff:

B. (1) That there exist special features of the site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;

The Supreme Court of Maryland will be a heavily visited location. As such, accessible pathways are critical and providing new accessible pathways between the proposed Supreme Court building and the Navy-Marine Corps Stadium is the primary driver for the exceedance of the allowable 15% of lot coverage in the Critical Area. Additionally, the portion of the entire project area that is within the Critical Area is very small, significantly limiting the allowed lot coverage.

B. (2) That the project or program otherwise provides substantial public benefits to the Critical Area Program;

This project will provide access pathways for pedestrians in and around the project site. The project alters drainage divides, and shifts a portion of runoff from the proposed development away from the Critical Area to stormwater management devices on the rest of the site. The runoff from the proposed development that will be directed to the Critical Area will be treated by the proposed micro-bioretenion facility within the LDA.

B. (3) That the project or program is otherwise in conformance with this subtitle;

As previously noted, the majority of the project site is located outside of the Critical Area, with only a small portion located within the 1,000-foot Critical Area boundary. The planting plan provides adequate mitigation for the proposed lot coverage, as well as the tree clearing. Additionally, the proposed stormwater management for the project exceeds the Critical Area 10% pollution reduction requirement.

The conditional approval request shall, at a minimum, contain the following:

C. (1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State or local agency program or project;

The literal enforcement of the lot coverage limitation would prevent the project's ability to meet Maryland Stormwater requirements, as well as negatively impact the site's ADA accessibility.

C. (2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

Other than lot coverage, the project conforms with the City's Critical Area program by mitigating the additional lot coverage through providing additional onsite plantings that enhance water quality and habitat benefits.

C. (3) Measures proposed to mitigate adverse effects of the project or program or an approved local Critical Area program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05.

The applicant is mitigating for the additional lot coverage through plantings that provide enhanced water quality and habitat benefits and has also shifted the drainage divides to redirect a portion of the runoff from the proposed development away from the Critical Area.

RECOMMENDATION

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Staff recommends approval of this project with the following condition:

1. Prior to the start of construction, DGS shall submit to Commission staff all final plans and approvals, including but not limited to the final planting plan and a completed planting agreement form.