

Critical Area Commission

STAFF REPORT

April 15th, 2026

APPLICANT:	St. Mary's County
PROPOSAL:	New RCA Use, Nonmedical Day Cares
COMMISSION ACTION:	Concurrence with Chair's Determination of Refinement
STAFF RECOMMENDATION:	Approval with conditions
STAFF:	Michael Macon
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article §8-1809(r); COMAR 27.01.02.05

BACKGROUND

St. Mary's County is requesting to add Nonmedical Day Cares as an allowed use in the Resource Conservation Area (RCA) of the Critical Area Overlay. On March 10, 2026, the County Commissioners of St. Mary's County adopted Ordinance No. 2026-05, which amends St. Mary's County Comprehensive Zoning Ordinance. The text amendment allows the use "Day Care, Non Medical" in the Resource Conservation Area (RCA) Overlay District. This use is currently allowed within several underlying zoning districts in the County, including districts designated as Limited Development Area (LDA) and Intensely Developed Area (IDA).

"Day Care, Non Medical" is defined by St. Mary's County as:

Day care facility licensed or approved by a governmental agency to provide nonmedical care for nine or more children or adults on less than 24-hour basis. Includes nursery schools, preschools and social adult day care that provides a safe and supervised daytime program of meals, recreational activities, and socialization for adults 18 years or over who require a safe controlled environment but who do not meet the need for health care services required by the Medical Adult Day Service programs.

The proposed text amendment is attached to this staff report (Attachment 1).

RCA Use Considerations

In reviewing whether a new use is appropriate in the RCA, the Commission must consider whether the proposal meets the goals of the Critical Area law as well as the defined land uses and policies of the RCA. The goals of the law are:

1. Minimize adverse impacts on water quality;
2. Conserve fish, wildlife, and plant habitat;

3. Establish land use policies for development which accommodate growth and also address the fact that the number, movement and activities of persons in the Critical Area can create adverse environmental impacts;
4. Reduce vulnerability to the impacts of climate change and incorporate measures to improve climate resilience; and
5. Ensure an equitable distribution of the burdens and benefits of development, mitigation, restoration, conservation, and adaptation to climate change within the critical area.

The defined land uses and policies of the RCA are:

1. Conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity, and its diversity;
2. Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitat in order to sustain populations of those species;
3. Conserve the land and water resources base that is necessary to maintain and support land uses such as agriculture, forestry, fisheries activities, and aquaculture; and
4. Conserve the existing developed woodlands and forests for the water quality benefits they provide.

New RCA uses should balance the goals of the law while maintaining the land uses and policies of the RCA. This is often accomplished by limiting the intensity or frequency of a proposed use, and by limiting the type and amount of development associated with that use.

Previous Commission Review

On December 17th, 2025, a similar proposal came before the Critical Area Commission for a recommendation, which was handled as a program refinement. Upon the recommendation of the Commission, Chair Fisher returned the text amendment to St. Mary's County so that they could make necessary revisions to address the number of attendees and potential exceedance of lot coverage for the proposed use in the RCA. The County has since revised the proposed text amendment to include new limited standards when the use occurs within the RCA:

- (a) The use shall be restricted to the utilization of buildings legally existing as of October 14, 2025 only.
- (b) The number of persons served by a facility must not exceed forty-two (42) persons, or the maximum permitted based on the capacity of the existing building, as determined in accordance with the applicable requirements from the Maryland Department of Health, Office of Health Care Quality (for adult daycares), or the Maryland Department of Education, Office of Child Care (for early childhood education facilities and daycares), whichever is less.
- (c) The maximum amount of lot coverage for a lot or parcel upon which the use will be conducted shall be limited to:
 1. 15%;
 2. 3.5% above existing grandfathered, nonconforming lot coverage on a lot of 50,000 square feet or less; or

3. Existing grandfathered, nonconforming lot coverage on a lot greater than 50,000 square feet.

(d) Variance requests to the lot coverage limitations set forth in (c) above shall be prohibited.

Items (b), (c) and (d) were recommended changes by the Critical Area Commission.

Proposed facilities must also comply with all other RCA requirements, including clearing, lot coverage limits, and Buffer requirements. Any new use will need to comply with all state licensing and permitting requirements for the affiliated nature of the nonmedical day care.

DISCUSSION

The County originally adopted a version of the ordinance on March 10, 2026, which did not include a vesting date for existing structures available for the nonmedical daycare use. Commission staff informed the county of the omission and on April 1st, the County provided an amended and approved ordinance which includes a vesting date October 14, 2025. Currently, Commission staff have no further concerns.

COMMISSION STAFF RECOMMENDATION

Because the proposed text amendment is generally consistent with the purposes, policies, goals, and provisions of the Critical Area law and regulations, Commission staff recommend that the Program Committee concur with the Chair's determination to review this program change as a refinement.

Commission staff also recommend the Chair approve the text amendment.

Subject: An ordinance to repeal Ordinance 2025-22 and amend Chapter 285 of the *Code of St. Mary's County, Maryland* to allow Use Type 28 in the RCA Overlay District

ORDINANCE

TO REPEAL ORDINANCE 2025-22 AND TO AMEND § 51.3.28 AND SCHEDULE 50.4 OF CHAPTER 285 OF THE *CODE OF ST. MARY'S COUNTY, MARYLAND*, TO ALLOW USE TYPE 28 - DAY CARE, NON-MEDICAL IN THE RESOURCE CONSERVATION AREA (RCA) OVERLAY DISTRICT

WHEREAS, pursuant to § 4-101 through § 4-104 of the *Land Use Article* of the *Annotated Code of Maryland*, the Commissioners of St. Mary's County are authorized to establish zoning districts and prescribe and amend regulations applicable in such districts;

WHEREAS, Use Type 28 - Day Care, Non-Medical is currently allowed in the Limited Development Area (LDA) Overlay District and the Intensely Developed Area (IDA) Overlay District;

WHEREAS, a request was made to allow Use Type 28 - Day Care, Non-Medical in the Resource Conservation Area (RCA) Overlay District, which was subject to a public hearing by the Commissioners of St. Mary's County as Ordinance 2025-22;

WHEREAS, a notice of the public hearing was advertised on August 22, 2025 and August 29, 2025 in the *Southern Maryland News*, a newspaper of general circulation in St. Mary's County, and a public hearing was held on September 9, 2025 to receive public comment and consider the proposed amendment of § 51.3.28 and Schedule 50.4 of Chapter 285 of the Code of St. Mary's County, Maryland;

WHEREAS, the Commissioners of St. Mary's County approved Ordinance 2025-22 on September 30, 2025;

WHEREAS, on December 17, 2025, the Critical Area Commission conducted a public meeting to consider Ordinance 2025-22;

WHEREAS, on December 23, 2025, the Critical Area Commission notified the County that Ordinance 2025-22 needed to be revised to reflect certain concerns raised by the Program Committee and the Critical Area Commission;

WHEREAS, a notice of a second public hearing was published on February 6, 2026 and February 13, 2026 in the *Southern Maryland News*, a newspaper of general circulation in St. Mary's County, and a public hearing was held on February 24, 2026 to receive public comment and consider the proposed amendment of § 51.3.28 and Schedule 50.4 of Chapter 285 of the *Code of St. Mary's County, Maryland*; and

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WHEREAS, the Commissioners of St. Mary's County find that it is in the best interest of the health, safety and welfare of the citizens of St. Mary's County to amend § 51.3.28 and Schedule 50.4 of Chapter 285 of the *Code of St. Mary's County, Maryland*, to allow Use Type 28 - Day Care, Non-Medical in the RCA Overlay District.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of St. Mary's County, pursuant to § 4-101 through § 4-104 of the *Land Use Article* of the *Annotated Code of Maryland*, that:

SECTION I. Ordinance 2025-22 shall be repealed and shall have no further force or effect.

SECTION II. Section 51.3.28 of Chapter 285 of the Code of St. Mary's County, Maryland, is hereby amended to read as follows:

28. Day Care, Non-Medical.

a. General Standards:

- (1) Site plan approval shall be required.
- (2) The facility shall be certified, permitted, or licensed by the State of Maryland.
- (3) The facility shall have fenced open space for the use and recreation of the individuals served by the facility. Facilities for children shall have fenced outdoor play areas and equipment for children of the age and number served by the facility.
- (4) If proposed on a site in the RCA, the facility shall be considered a limited use and must satisfy all limited standards.

b. Limited Standards:

- (1) Within the RCA, the following standards shall apply:
 - (a) The use shall be restricted to the utilization of buildings legally existing as of October 14, 2025 only.
 - (b) The number of persons served by a facility must not exceed forty-two (42) persons, or the maximum permitted based on the capacity of the existing building, as determined in accordance with the applicable requirements the Maryland Department of Health, Office of Health Care Quality (for adult

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daycare), or the Maryland Department of Education, Office of Child Care (for early childhood education facilities and daycare), whichever is less.

- (c) The maximum amount of lot coverage for a lot or parcel upon which the use will be conducted shall be limited to:
1. 15%;
 2. 3.5% above existing grandfathered, nonconforming lot coverage on a lot of 50,000 square feet or less; or
 3. Existing grandfathered, nonconforming lot coverage on a lot greater than 50,000 square feet.
- (d) Variance requests to the lot coverage limitations set forth in (c) above shall be prohibited.

SECTION III. Schedule 50.4 of Chapter 285 of the *Code of St. Mary's County, Maryland*, is hereby amended to read as follows:


Use Type	Description	Use Intensity	RPD	RSC	RCL	RL-T	RL	RM	RH	RNC	RMX	VMX	TMX	CMX	MXH	MXM	MXL	LCI	I	OBP	CM	Critical Area Overlay	AICUZ Overlay and FAR
28. <i>Day Care, Non-Medical.</i>	Day care facility licensed or approved by a governmental agency to provide nonmedical care for nine or more children or adults on less than 24-hour basis. Includes nursery schools, preschools and social adult day care that provides a safe and supervised daytime program of meals, recreational activities, and socialization for adults 18 years or over who require a safe controlled environment but who do not meet the need for health care services required by the Medical Adult Day Service programs.	Low	P	P	P	P	P	P	P	C	P	P	P	P	P	P	P	-	P	P	-	LDA IDA RCA	-

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SECTION IV: This Ordinance shall be effective upon the date written below.

Those voting Aye:	<u>5</u>
Those voting Nay:	<u>0</u>
Those Abstaining:	<u>0</u>
Date of Adoption:	<u>March 10, 2026</u>
Effective Date:	_____

ATTEST:

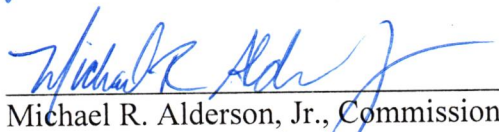


 David A. Weiskopf
 County Administrator

COMMISSIONERS OF ST. MARY'S COUNTY



 James R. Guy, Commissioner President



 Michael R. Alderson, Jr., Commissioner



 Eric S. Colvin, Commissioner

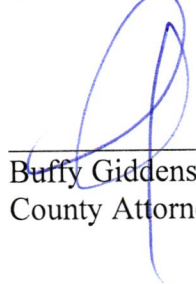


 Michael L. Hewitt, Commissioner



 Scott R. Ostrow, Commissioner

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



 Buffy Giddens
 County Attorney