

MINUTES

**Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
People's Resource Center
100 Community Place
Crownsville, Maryland**

April 6, 2022

CALL TO ORDER: A meeting of the Critical Area Commission was held at the People's Resource Center, 100 Community Place, Crownsville, Maryland. Chairman Charles C. Deegan called the meeting to order at 1:00 p.m.

Commission Members in Attendance:

Nicole Acle, Wicomico County
Curtis Beulah, Harford County
Sean Eames, Baltimore City
Jeffrey Ferguson, Eastern Shore at Large
Sue Greer, Charles County
Deborah Herr Cornwell, Department of Planning
Anita Grant, Western Shore at Large
Sandy Hertz, Department of Transportation
Michael Hewitt, St. Mary's County
Dawn Jacobs, Kent County
Matt Johnston, Anne Arundel County
James Lewis, Caroline County
Pat Mahoney, Calvert County
Gary Mangum, Queen Anne's County
Jennifer Merritt, Worcester County – Chesapeake Bay
Catherine McCall, Department of Natural Resources
Michael McCarthy, Talbot County
Ewing McDowell, Department of Commerce
Alisha Mulkey, Department of Agriculture
Steven Parker, Cecil County
Tammy Roberson, Department of Environment
Caroline Varney-Alvarado, Department of Housing and Community Development

Commission Members Not in Attendance:

Tim Adams, Prince George's County
Gail Blazer, Worcester County – Coastal Bays (Town of Ocean City)
Charles Laird, Somerset County
David Marks, Baltimore County
Steven Taylor, Worcester County – Coastal

APPROVAL OF MINUTES: Commissioner Hewitt moved to approve the minutes from the January meeting. Commissioner Hertz seconded. Motion passed unanimously.

STAFF PRESENTATIONS

PROJECT SUBCOMMITTEE:

Wicomico County Board of Education – Mardela Middle/High School Addition and Renovations (Wicomico County)

Ms. Susan Makhlof presented for vote, Mardela Middle/High School Addition and Renovations, by the Wicomico County Board of Education. Ms. Makhlof reviewed her staff report, which has been incorporated into and made a part of these minutes.

The Wicomico County Board of Education is seeking approval to renovate existing school buildings, construct new school buildings and additional parking, and install new stormwater management (SWM) facilities at Mardela Middle/High School. The 11.71-acre project site is located at 24940 Delmar Road, Mardela Springs, Maryland. The project is located partially within the Critical Area (1.88 acres) on land designated as Limited Development Area (LDA). Due to the site configuration, lot coverage in the LDA will exceed the 15% lot coverage limit, therefore the project requires Conditional Approval by the Commission under COMAR 27.02.06.

Ms. Makhlof reviewed the overall impacts to the Critical Area. There will be no forest clearing or impacts to the Buffer. In order to offset the increased lot coverage and in recognition of the sensitive resources within the nearby Barren Creek – the public school system will provide enhanced stormwater management resulting in zero offsite discharge for the 25-year storm event.

Commissioner Hewitt had a question about the school access, asking why not just make the existing access wider, rather than building a new access. Commissioner Merritt asked about RTE species that were found by DNR, and was told she would be provided with a list. Chairman Deegan then recognized Project Subcommittee Chair Hertz, who moved on behalf of the Project Subcommittee and in accordance with the staff report and presentation, that the Commission approve the Wicomico County Board of Education proposal to renovate existing school buildings, construct new school buildings and additional parking, and install new stormwater management (SWM) facilities at Mardela Middle/High School. This motion was offered in accordance with the staff report and presentation and the following conditions:

1. Prior to the start of construction, the County shall submit the erosion and sediment control and stormwater management approvals to Critical Area Commission staff.
2. Prior to the start of construction, the County shall submit a final planting plan and CAC Planting Agreement Form demonstrating compliance for the 0.28 acres of required afforestation.

Further, as required by Code of Maryland Regulations 27.02.06.01, this motion was based on the following considerations:

- 1) The proposed project is necessary to update the aging infrastructure and increase the security and safety of the students.
- 2) The proposed stormwater management will exceed State requirements, resulting in zero offsite discharge for the 25-year storm and minimal discharge for the 100-year storm, providing water quality and habitat benefits that do not currently exist on the property.
- 3) Other than exceeding the 15% lot coverage in the LDA and providing the 15% afforestation offsite due to site constraints, there are no impacts to Habitat Protection Areas (HPAs) including the Critical Area Buffer. No clearing is proposed.
- 4) Other than exceeding the 15% lot coverage in the LDA and providing 15% afforestation offsite, the proposed project conforms to the County's Critical Area program.
- 5) The proposed SWM facilities, two (2) micro-bioretenion facilities and one (1) infiltration basin, will reduce Phosphorus by 5.76 lbs/yr and will significantly improve water quality (by reducing pollutant loads) and address water quantity (by reducing runoff volume) to Barren Creek which is designated as a Habitat Protection Area in Wicomico County's Critical Area Program.

Commissioner Acle seconded the motion. **Motion passed unanimously.**

Maryland Army National Guard – Parking Lot Creation (Harford County)

Ms. Lisa Hoerger presented for vote the Maryland Army National Guard Parking Lot Creation project near the Town of Havre de Grace in Harford County. She reviewed the staff report, which is incorporated into and made a part of these minutes.

The Maryland Department of General Services is proposing to build a new automotive maintenance facility at the Maryland Army National Guard (MANG) site located on Old Bay Lane in Havre de Grace. The site is partially located in the Critical Area and is designated Intensely Developed Area. The proposed work inside the Critical Area consists of new parking areas. As outlined in the staff report, the project meets all Critical Area development requirements; however, this project must be reviewed and approved by the Commission per COMAR 27.02.05 since the Department of General Services has not sought a General Approval from the Commission for minor activities that meet all requirements. There are no impacts to Habitat Protection Areas and the 10% pollutant reduction requirement will be met by gravel wetlands, bioretentions and grass swales.

Hearing no questions, Chairman Deegan then recognized Project Subcommittee Chair Hertz, who moved on behalf of the Project Subcommittee and in accordance with the staff report and presentation, that the Commission approve the Maryland Department of General Services proposal to build a new automotive maintenance facility at the Maryland Army National Guard site located on Old Bay Lane in Havre de Grace, Maryland.

This motion is offered in accordance with the staff report and presentation.

Commissioner Beulah seconded. **Motion passed unanimously.**

PROGRAM SUBCOMMITTEE:

Refinement – Town of Indian Head – Critical Area Program Comprehensive Review (Charles County)

Ms. Shearin presented a refinement to the Critical Area Program for the Town of Indian Head. Ms. Shearin reviewed her staff report, which is incorporated into and made a part of these minutes.

On September 7, 2021, the Town Council of the Town of Indian Head voted to repeal and replace the Town's Critical Area program through the adoption of Ordinance No. 08-01-21. This ordinance was drafted following a comprehensive review of the Town's Critical Area Program. The previous update to the Town's Critical Area Program was approved by the Critical Area Commission in 2001. Ms. Shearin stated that the update followed a version of the model ordinance for Towns created by Commission staff. However, due to recent updates to state regulations, changes to the Ordinance are necessary.

Hearing no questions, Chairman Deegan recognized Program Subcommittee Chair Sue Greer, who stated that the Program Subcommittee concurs with the Chairman's determination that the comprehensive review, Ordinance No. 08-01-21, be processed as a refinement to the Town of Indian Head's Critical Area Program, as the proposed changes are consistent with the Critical Area Law and its regulations. Further, she moved that the refinement be approved with the condition that the recommended changes are incorporated into the Town's Critical Area Program within 120 days.

Chairman Deegan said that he accepted the recommendation, and this would be his final decision.

Refinement: Text Amendment: RCA Uses – Farm Alcohol Production Facility (Anne Arundel County)

Mr. Grassmann presented a refinement to the Anne Arundel County Critical Area Program. Mr. Grassmann reviewed his staff report, the contents of which are incorporated into and made a part of these minutes.

Anne Arundel County is seeking approval of Ordinance #106-21. This bill proposes to amend the County's Critical Area Program in order to allow farm alcohol production facilities as an approved use in the Resource Conservation Area (RCA) (Article §18-13-206). Because the County is requesting to add a new use to its current list of allowed uses in the RCA, approval from the Critical Area Commission is required. On March 21, 2022 Chairman Deegan determined that this text amendment could be reviewed as a program refinement.

Chairman Deegan recognized Program Subcommittee Chair Sue Greer, who stated that the Program Subcommittee concurs with the Chairman's decision that this text update be processed as a refinement to the Anne Arundel County Critical Area Program. Further, she recommended the Chairman approve the text update as proposed. Commissioner Eames asked about the increased waste output associated with the new use, and Kelly Krinetz said that all regulations would still apply.

Chairman Deegan said that he accepted the recommendation, and this would be his final decision.

Refinement: Text Amendment: Marina Development in Buffer Modification Areas (Anne Arundel County)

Ms. Charbonneau presented a refinement to the Anne Arundel County Critical Area Program. Ms. Charbonneau reviewed her staff report, the contents of which are incorporated into and made a part of these minutes.

Anne Arundel County is seeking approval of Ordinance #110-21. This bill proposes to amend the standards for redevelopment of marina properties when designated as Buffer Modification Areas (BMA). The bill adds two new standards for redevelopment of marinas which are designated as BMAs. The intent of the new standards is to encourage removal of impervious surface closer to the water.

On March 21, 2022, Chairman Deegan determined that this text amendment could be reviewed as a program refinement.

Hearing no questions, Chairman Deegan recognized Program Subcommittee Chair Sue Greer, who stated that the Program Subcommittee concurs with the with the Chairman's decision that this text update be processed as a refinement to the Anne Arundel County Critical Area Program. Further, she recommended the Chairman approve the text update as proposed.

Chairman Deegan said that he accepted the recommendation, and this would be his final decision.

LEGAL UPDATES:

Ms. Emily Vainieri reported on one update.

Update – Onal (Anne Arundel County) – This is a case that is currently pending in Anne Arundel County Circuit Court. The Petitioner, Mert Onal, is challenging the decision of the Anne Arundel County Board of Appeals where the Board denied variances for a single-family dwelling that would disturb steep slopes and be constructed partially within the Buffer. The case was originally scheduled to be heard this summer, but now it has been extended. The hearing is scheduled for November 2022, and Ms. Vainieri will provide another update after that hearing.

OLD BUSINESS:

Town of Centreville – Growth Allocation Reversion: Mr. Nick Kelly informed the Commission that on March 9th, 2022 the Town of Centreville sent a letter to Commission notifying that us that the prior Carter Farms Growth Allocation previously approved by the Commission had reverted back to its previous RCA designation. The Town Code requires certain progress to be made on implementing a growth allocation project. In this case, the project did not move forward and as a result, the allocation reverted back to the Town by operation of law. The Town is working with another developer for a different development project at this site and will likely be coming to the Commission in the near future for a new approval.

NEW BUSINESS: Ms. Charbonneau stated there is no new business. She informed Commissioners a May meeting is likely.



Lynette Fullerton, Commission Secretary

5/4/22

Date of Approval