

Critical Area Commission

STAFF REPORT October 6, 2021

APPLICANT: Anne Arundel County

PROPOSAL: Text Amendment – Bill 63-21
Pending Matters

COMMISSION ACTION: Concurrence

STAFF RECOMMENDATION: Approval

STAFF: Kate Durant

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article, §8-1809(p)

DISCUSSION:

The Anne Arundel County Council voted on July 19, 2021 to approve Bill 63-21, which included pending matters language associated with the 1,000-foot Critical Area Boundary map update. The proposed text allows for any application for development or a variance made prior to the effective date of the Bill to proceed using the old boundary, provided all permits are issued before December 1, 2021. The legislation reads as follows:

18.2-101. Scope; applicability.

(b) Applicability to pending and future proceedings.

(11) The following shall be governed by the location of Critical Area boundaries in existence prior to the effective date of Bill No. 63-21;

(i) An application for development, provided any permits associated with the development are issued on or before December 1, 2021; and

(ii) An application for a variance or a special exception, provided the application is filed on or before the effective date of Bill No. 63-21 and any permits associated with the application are issued on or before December 1, 2021. A variance or special exception grandfathered under this subsection may not be extended by variance.

The Commission has previously approved language in other jurisdictions allowing pending applications to proceed up to a certain date, including in 2017 for Queen Anne's County and in 2021 for St. Mary's County.

STAFF RECOMMENDATION

Commission staff recommends the Commission concur with the Chairman's determination that the Anne Arundel County text amendment be reviewed as a refinement to the County's Critical Area Program. Further, staff recommends the Chairman approve the text amendment as proposed.

PROPOSED

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2021, Legislative Day No. 14

Bill No. 63-21

Introduced by Ms. Lacey, Chair
(by request of the County Executive)

By the County Council, June 21, 2021

Introduced and first read on June 21, 2021

Public Hearing set for July 19, 2021

Bill Expires on September 24, 2021

By Order: Laura Corby, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Zoning – Critical Area Overlay

2
3 FOR the purpose of adopting the “Anne Arundel County Critical Area Layer” as the critical
4 area overlay for Anne Arundel County; grandfathering certain applications for
5 development, variances, and special exceptions; and generally relating to zoning.

6
7 BY repealing and reenacting, with amendments: §§ 18-2-101(b)(9) and (10); and 18-13-
8 103
9 Anne Arundel County Code (2005, as amended)

10
11 BY adding: § 18-2-101(b)(11)
12 Anne Arundel County Code (2005, as amended)

13
14 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
15 That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:

16 ARTICLE 18. ZONING

17 TITLE 2. GENERAL PROVISIONS

18 19 20 21 18-2-101. Scope; applicability.

22
23 (b) **Applicability to pending and future proceedings.** Subject to the grandfathering
24 provisions of COMAR Title 27, this article applies to all pending and future proceedings,

EXPLANATION: CAPITALS indicate new matter added to existing law.
[[Brackets]] indicate matter repealed from existing law.
Captions and taglines in **bold** in this bill are catchwords and are not law.

and actions of any board, department, or agency empowered to decide applications under this Code, except that:

(9) an application for a solar energy generating facility – community filed before January 1, 2018, shall be governed by the law as it existed prior to January 1, 2018 for a solar energy system – principal; [[and]]

(10) the following shall be governed by the law as it existed prior to August 1, 2020:

(i) an application for a grading permit, building permit, or zoning certificate of use filed on or before February 18, 2020 for a group home that would be deemed an “assisted living facility I, community based”, a “group home I,” or a “group home II” under Bill No. 16-20;

(ii) an application for a grading permit, building permit, or zoning certificate of use filed on or before February 18, 2020 for an existing use with a group home license issued by the State; and

(iii) an application for a grading permit, building permit, or zoning certificate of use filed on or before February 18, 2020 for a group home or a rooming house; AND

(11) THE FOLLOWING SHALL BE GOVERNED BY THE LOCATION OF CRITICAL AREA BOUNDARIES IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF BILL NO. 63-21:

(I) AN APPLICATION FOR DEVELOPMENT, PROVIDED ANY PERMITS ASSOCIATED WITH THE DEVELOPMENT ARE ISSUED ON OR BEFORE DECEMBER 1, 2021; AND

(II) AN APPLICATION FOR A VARIANCE OR A SPECIAL EXCEPTION, PROVIDED THE APPLICATION IS FILED ON OR BEFORE THE EFFECTIVE DATE OF BILL NO. 63-21 AND ANY PERMITS ASSOCIATED WITH THE APPLICATION ARE ISSUED ON OR BEFORE DECEMBER 1, 2021. A VARIANCE OR SPECIAL EXCEPTION GRANDFATHERED UNDER THIS SUBSECTION MAY NOT BE EXTENDED BY VARIANCE.

TITLE 13. CRITICAL AREA OVERLAY

18-13-103. Maps.

The critical area is shown on the [[maps adopted by Bill No. 49-88]] DIGITAL MAP ENTITLED “ANNE ARUNDEL COUNTY CRITICAL AREA LAYER” ADOPTED BY THE COUNTY COUNCIL IN BILL NO. 63-21. THE ANNE ARUNDEL COUNTY CRITICAL AREA LAYER MAP IS INCORPORATED IN THIS ARTICLE BY REFERENCE AS IF FULLY SET FORTH AND A COPY SHALL BE PERMANENTLY KEPT AND MAINTAINED BY THE OFFICE OF PLANNING AND ZONING. The critical area is divided into the following areas: intensely developed area (IDA), limited development area (LDA), and resource conservation area (RCA).

SECTION 2. *And be it further enacted*, That all references in this Ordinance to “the effective date of Bill No. 63-21” or words to that effect, shall, upon codification, be replaced with the actual date on which this Ordinance takes effect under Section 307 of the County Charter as certified by the Administrative Officer to the County Council.

1 SECTION 3. *And be it further enacted*, That the “Anne Arundel County Critical Area
2 Layer” Map adopted by this Ordinance shall be made available on the official website for
3 the Office of Planning and Zoning.
4

5 SECTION 4. *And be it further enacted*, That this Ordinance shall take effect 45 days
6 from the date it becomes law, or upon approval of the Maryland Critical Area Commission
7 under the authority granted by § 8-1801 *et. seq.* of the Natural Resources Article of the
8 State Code, whichever is later. If approved, in whole or in part, after the 45 days, the
9 approved provisions of this Ordinance shall take effect on the date the notice of approval
10 is received by the Office of Planning and Zoning. If disapproved, in whole or in part, the
11 disapproved portions of this Ordinance shall be null and void without the necessity of
12 further action by the County Council. The Office of Planning and Zoning, within five days
13 after receiving any notice from the Maryland Critical Area Commission, shall forward a
14 copy to the Administrative Officer to the County Council.