

MINUTES

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

July 6, 2022

CALL TO ORDER: Chairman Charles C. Deegan called the meeting to order at 1:00 p.m.

Commission Members in Attendance:

Curtis Beulah, Harford County
Gail Blazer, Worcester County – Coastal Bays (Town of Ocean City)
Sean Eames, Baltimore City
Jeffrey Ferguson, Eastern Shore at Large
Anita Grant, Western Shore at Large
Deborah Herr Cornwell, Department of Planning
Sandy Hertz, Department of Transportation
Michael Hewitt, St. Mary's County
James Lewis, Caroline County
Pat Mahoney, Calvert County
Gary Mangum, Queen Anne's County
David Marks, Baltimore County
Jennifer Merritt, Worcester County – Chesapeake Bay
Catherine McCall, Department of Natural Resources
Steven Parker, Cecil County
Lori Rhodes, Anne Arundel County
Tammy Roberson, Department of Environment
Steven Taylor, Worcester County – Coastal
Caroline Varney-Alvarado, Department of Housing and Community Development

Commission Members Not in Attendance:

Nicole Acle, Wicomico County
Tim Adams, Prince George's County
Sue Greer, Charles County
Dawn Jacobs, Kent County
Charles Laird, Somerset County
Michael McCarthy, Talbot County
Ewing McDowell, Department of Commerce
Chad Malkus, Dorchester County
Alisha Mulkey, Department of Agriculture

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

STAFF PRESENTATIONS

PROJECT SUBCOMMITTEE:

Maryland Department of Natural Resources: Point Lookout State Park Utility Line Replacement (St. Mary's County)

Ms. Annie Sekerak presented for vote the proposal by the Department of Natural Resources (DNR) to replace water and sewer utility lines at Point Lookout State Park in St. Mary's County. Ms. Sekerak reviewed her staff report, which has been incorporated into and made a part of these minutes.

The campground at Point Lookout State Park is currently closed due to deteriorating infrastructure and recurrent utility main breaks. DNR proposes to replace the existing underground utility network throughout the park. While the lines will be replaced underground, there will be some impacts to forest and developed woodland. In addition, the work is located in the Buffer due to the extent of nontidal wetlands and hydric soils. Mitigation of 40,500 square feet will be planted offsite at Newtown Neck State Park, adjacent to Forest Interior Dwelling Species habitat and Breton Bay. While the improvements are in a vulnerable area, the purpose of the project is to replace failing water and wastewater utilities that service the existing park areas. The work is underground and will not create new structures above ground that could prevent the natural migration of wetlands in the future. DNR received all necessary State approvals.

Chairman Deegan recognized Project Subcommittee Chair Hertz, who moved on behalf of the Project Subcommittee that the Commission approve the Maryland Department of Natural Resources proposal to replace and relocate failing water and wastewater utilities that service the existing park areas. The entirety of Point Lookout State Park, located at the junction of the Potomac River and the Chesapeake Bay, is vulnerable to sea level rise and storm surges. In addition to relocating utilities, proposed improvements include raising the height of targeted sewer manholes in locations prone to flooding and equipping some of the existing pump stations with flood-proofing measures to account for impacts from extreme weather and flooding events.

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

Commissioner Hewitt seconded the motion. All voted in favor. **Motion passed unanimously.**

Maryland Department of Transportation – State Highway Administration: MD 322 at Glenwood Avenue Intersection Improvements (Talbot County)

Ms. Alex DeWeese presented for vote a proposal by the Maryland Department of Transportation – State Highway Administration to make improvements at the intersection of MD 322 and Glenwood Avenue. Ms. DeWeese presented the staff report, which has been incorporated into and made a part of these minutes.

The proposed work involves full depth outside widening to provide a dedicated right turn lane, through lane and left turn lane; as well as 10-foot-wide shoulders along MD 322 northbound and southbound at Glenwood Avenue. Additionally, the proposed work includes the installation of stormwater management facilities, drainage improvements, grinding and resurfacing of the existing roadway, and necessary signage and pavement marking upgrades and landscaping. The purpose of the project is to provide additional safety capacity at the intersection. The left turn lane will eliminate queuing of vehicles and buses turning onto Glenwood Avenue, while the

wider shoulders are a needed safety feature for cars and bicycles. Due to the nature of the project, which includes adding a turn lane, this project is not captured under the Memorandum of Understanding (MOU) Exhibit between MDOT SHA and the Critical Area Commission. Therefore, review and approval by the Critical Area Commission is required.

Mitigation (totaling 53,538 sf) for impacts to the Buffer and clearing of developed woodlands and trees will occur within the Critical Area and Critical Area Buffer, within the project vicinity. Stormwater management will be achieved through the construction of two microbioretention ponds, five grass swales and one bioswale, resulting in an excess of 0.22 lbs P/yr provided. MDOT SHA completed a climate impact and coastal resiliency analysis for this project, which has an anticipated service life of 25 years. Based on this analysis, the project is not immediately vulnerable to climate impacts. Impacts to a DNR mapped wetland adaptation area are expected due to roadway widening and drainage improvements.

Commissioner Taylor requested clarification about the traffic problems that would be mitigated by the addition of turn lanes, and Ms. DeWeese answered that at this time that intersection is very congested, with people trying to turn in all directions.

Commissioner Deegan then recognized Project Subcommittee Chair Hertz, who moved on behalf of the Project Subcommittee that the Commission approve the Maryland Department of Transportation (MDOT) State Highway Administration (SHA) proposed traffic and safety improvements along Maryland 322 at Glenwood Avenue in Talbot County. The proposed work involves full depth outside widening to provide a dedicated right turn lane, through lane and left turn lane; as well as 10-foot-wide shoulders along MD 322 northbound and southbound at Glenwood Avenue. Additionally, the proposed work includes the installation of stormwater management facilities, drainage improvements, grinding and resurfacing of the existing roadway, and necessary signage and pavement marking upgrades and landscaping.

This motion was offered in accordance with the staff report and presentation and the following condition:

1. Prior to the start of construction or within 30 days, whichever comes first, MDOT SHA shall submit a copy of all final plans, permits, and approvals, including stormwater management plans and erosion and sediment control authorizations, to Commission staff.

Commissioner Taylor seconded the motion. All voted in favor. **Motion passed unanimously.**

Maryland Department of Transportation – State Highway Administration: Replacement of Bridge No. 2200400 on US 13 Business over East Branch of Wicomico River – Phase 2 (Wicomico County)

Ms. Charlotte Shearin presented for vote a proposal from the Maryland Department of Transportation – State Highway Administration (MDOT-SHA) to replace Bridge No. 2200400 on US 13 Business over the East Branch of the Wicomico River – Phase 2. She reviewed the staff report, which has been incorporated into and made a part of these minutes.

The new bridge will be wider than the existing bridge and will include the addition of a sidewalk on the west side and a multi-use path on the east side, as well as the continuation of the multi-use path along the east side of US 13 Business from East Carroll Street to East Main Street, the

installation of a stormwater management (SWM) Best Management Practice (BMP), storm drain improvements, grinding and resurfacing of the existing roadway, signage and pavement marking upgrades, and landscaping. Temporary pavement will also be installed for maintenance of traffic and pedestrian safety during bridge demolition and construction. All areas of temporary pavement will be either restored to their pre-existing conditions or converted to the multi-use path. The current bridge was built in 1937 and currently exhibits structural deficiencies, as well as having a posted weight restriction, which limits commercial vehicle access, and is also too narrow to support Americans with Disabilities (ADA)-compliant sidewalks.

These improvements are considered Phase 2 of MDOT SHA Contract No. WI2225180. Phase 1 consists of utility relocations, which are still in progress, with an anticipated completion date of Spring 2023, prior to the start of the main Phase 2 construction. Phase 1 was reviewed and approved as a Category II project under the existing Memorandum of Understanding (MOU) between MDOT and the Critical Area Commission in 2018.

Disturbance will be mitigated offsite at the previously approved Firehouse Mitigation Site, located in Worcester County. This site has been used to address mitigation needs of past MDOT SHA projects within the Critical Area, including the Phase 1 utility relocations associated with this project. Only a portion of the Firehouse Site is planted, so excess acreage remains for additional plantings to address the Phase 2 mitigation needs. The three trees removed with this Phase will be replaced at a 1:1 ratio onsite with native species consisting of various shade and flowering trees.

The new bridge is vulnerable at the 1 to 2-foot and 2 to 5-foot inundation levels, with the approach roadways and multi-use path vulnerable at the 5 to 10-foot inundation level. The proposed project has been designed in accordance with current American Association of State Highway and Transportation Officials (AASHTO) standards. The new bridge has a design life of 75 years, while the multi-use path and resurfaced roadway has an anticipated service life of 25 years. Per hydraulic modeling, the 100-year storm reaches the new bridge but does not overtop it.

Commissioner Lewis asked whether the mitigation is usually done within the County, and Ms. Shearin responded that was correct, but that the mitigation required was so small that CAC staff did not raise it as a bigger issue. Commissioner Taylor asked if the mitigation site was publicly owned. Ms. Shearin replied that the site was owned by MDOT SHA. Commissioner Blazer noted that the site plan in the application erroneously lists the road as US 301, not US 13, and may need correction by the applicant.

Chairman Deegan recognized Project Subcommittee Chair Hertz. Chair Hertz moved on behalf of the Project Subcommittee that in accordance with the staff report and presentation, the Commission approve the Maryland Department of Transportation (MDOT) State Highway Administration (SHA) proposal to replace Bridge No. 2200400 over East Branch of Wicomico River on US 13 Business (South Salisbury Boulevard) in Wicomico County, Maryland.

This motion was offered in accordance with the staff report and presentation and the following conditions:

- (1) Prior to the start of construction or within 60 days, whichever comes first, MDOT SHA shall submit a copy of all final plans, permits, and approvals, including stormwater management plans, sediment and erosion control approval, and NPDES authorizations, to Commission staff.
- (2) To further incorporate climate resiliency measures for the project, MDOT SHA shall locate proposed stormwater management features, including the bioswale, outside of the 1-2 foot inundation zone.

Commissioner Blazer seconded the motion. All voted in favor. **Motion passed unanimously.**

St. Mary's College of Maryland: Maryland Heritage Interpretive Center Building Construction (St. Mary's County)

Ms. Susan Makhlouf presented for vote a proposal by St. Mary's College of Maryland to construct a new facility, the Maryland Heritage Interpretive Center (MHIC) building, on the SMCM campus. Ms. Makhlouf reviewed the staff report, which has been incorporated into and made a part of these minutes.

The project site is located on the SMCM campus at 47373 Old State House Road, St. Mary's City. The 1.81-acre site is located entirely within the Critical Area and is designated as Intensely Developed Area (IDA). The proposed work involves site grading, constructing the MHIC building, and installing associated site improvements including walkways, utilities, and stormwater management (SWM) facilities. Existing impervious is 0.39 acres, which includes the previously removed parking lot, and proposed impervious is 0.40 acres. No trees will be removed. Construction is anticipated to start in Summer 2022 and extend through Summer 2024.

The 10% pollutant reduction requirement is 0.13 pounds of phosphorus per year (lb P/yr). The proposed SWM facilities, three micro-bioretenion facilities, one green roof, one non-rooftop disconnection, and two rooftop disconnections, will provide 0.81 lb P/yr which meets and exceeds the pollutant reduction requirement. SMCM completed a climate impact and coastal resiliency analysis for this project and concluded the project is not located in a vulnerable area. All other required State agency approvals have been addressed.

Commissioner Hewitt asked a clarification question regarding whether the areas highlighted in green near the project site in Ms. Makhlouf's presentation were designated as RCA. Ms. Makhlouf affirmed this.

Chairman Deegan recognized Project Subcommittee Chair Hertz, who moved on behalf of the Project Subcommittee that the Commission approve the St. Mary's College of Maryland (SMCM) proposal to construct a new facility, the Maryland Heritage Interpretive Center building, on the SMCM campus. St. Mary's College of Maryland is located on the St. Mary's River and adjacent to Historic St. Mary's City in St. Mary's County. The facility will be located south of Anne Arundel Hall between Old State House Road and Point Lookout Road (MD 5).

This motion was offered in accordance with the staff report and presentation. Commissioner Hewitt seconded the motion. All voted in favor. **Motion passed unanimously.**

PROGRAM SUBCOMMITTEE:

Refinement – Town of Rock Hall – Critical Area Boundary Map Update (Kent County)

Ms. Tay Harris presented a refinement to the Critical Area Boundary Map for the Town of Rock Hall. Ms. Harris reviewed her staff report, which is incorporated into and made a part of these minutes.

The Town of Rock Hall Council adopted Ordinance 2202-012 at their meeting on May 12, 2022. This action constituted local adoption and incorporation of the updated Critical Area 1,000-foot boundary line update as well as the Critical Area Overlay District Map. This refinement is limited to the boundary line update only. The update resulted in a gain of 42 acres and a loss of 6 acres, with a net gain of 36 acres and 460 acres remaining the same.

Hearing no questions, Chairman Deegan recognized Program Subcommittee Acting Chair Deborah Herr-Cornwell, who stated that the Program Subcommittee concurs with the Chairman's determination that the Town of Rock Hall's mapping boundary update can be reviewed as a refinement to the Town's Critical Area Program. She further recommended that the Chair approve the map amendment as proposed.

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

Refinement: Town of Rock Hall – Critical Area Map Designation Updates (Kent County)

Ms. Sekerak presented a refinement to the Critical Area Program for the Town of Rock Hall. Ms. Sekerak reviewed her staff report, the contents of which are incorporated into and made a part of these minutes.

The Town Council of Rock Hall voted on May 12, 2022 to approve changes to Critical Area land designations from Limited Development Area (LDA) to Intensely Developed Area (IDA) for several parcels within the Town. The mapping designation changes are being made through either the mapping mistake process or by use of growth allocation.

One parcel met the standards for a mistake and should have been mapped as IDA on the basis that it met the criteria for an IDA at the time of the original mapping, including that it is adjacent to other IDA parcels of similar size and development. The remaining parcels are proposed to be changed to IDA through the growth allocation process. During the map update process, research uncovered that the Town received 66.73 acres of growth allocation from Kent County in 1987. However, the Town did not finalize the use of growth allocation for these parcels at that time, as they did not obtain the required approvals from the Town Council or the Critical Area Commission. Nevertheless, development on those parcels was approved by the Town based on the standards for IDA development. The Town proposes to complete the growth allocation process through this request.

Chairman Deegan recognized Program Subcommittee Acting Chair Herr-Cornwell, who stated that because the proposed designation change through a mapping mistake is consistent with the Critical Area Law and Criteria, and because the growth allocation meets adjacency standards and corrects an error, the Program Subcommittee recommends this request be reviewed as a

refinement to the Town of Rock Hall's Critical Area program. Further, staff recommends that the Chairman approve the designation changes as proposed.

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

Town of North East – Map Update Extension Request (Cecil County)

Ms. DeWeese presented for vote a Map Update Extension Request from the Town of North East. Ms. DeWeese reviewed her staff report, the contents of which are incorporated into and made a part of these minutes.

July 6, 2022 is the 24-month deadline for the Town of North East, located in Cecil County, to adopt their updated Critical Area Maps. The Town is unable to meet this deadline due to two anticipated public hearings in mid-July 2022. The Town expects to adopt the proposed map updates by July 27, 2022. As such, the Town of North East 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 October 4, 2022.

Hearing no questions, Chairman Deegan recognized Program Subcommittee Acting Chair Herr-Cornwell, who stated that the Program Subcommittee recommends approval of the requested time extension. Commissioner Marks seconded the motion. All voted in favor. **Motion passed unanimously.**

LEGAL UPDATES:

Ms. Emily Vainieri had one update to report.

Raab/Owens – Pool in Buffer (Somerset County). The CAC is challenging the City of Crisfield's Board of Zoning Appeals' decision to grant a variance for a single-family dwelling and a pool in the Critical Area Buffer. The CAC does not oppose the house, but does oppose the pool on the grounds that it does not meet the "unwarranted hardship" standard, as the pool could be placed somewhere outside of the buffer.

OLD BUSINESS:

No old business.

NEW BUSINESS:

Kate Charbonneau announced that during the Project Subcommittee meeting that morning, they had discussed Climate and Coastal Resiliency requirements as they pertain to the CAC application process, and that a workgroup of CAC commissioners will be formed to further study the data and application process.



Lynette Fullerton, Commission Secretary

9/7/22

Date of Approval