

**Critical Area Commission
Chesapeake and Atlantic Coastal Bays
Meeting at 100 Community Place, Crownsville, Maryland**

September 6, 2023

Program Implementation Subcommittee Minutes

Subcommittee Members: *McCall (Acting Chair), Gerthoffer, B. Hance, Herr-Cornwell, Nock, Porter, Rodvien, Elizabeth Hoffman (for Mulkey),*

Guests: Kyle Redden (Charles County), Lynn Knaggs (Charles Co.), Paul Dennis (Baltimore Co.), Gris Batchelder (Baltimore Co.), Steve Ball (St. Michaels), Stacey MacArthur (Country Club), Conor Gilligan (Country Club)

Item 1. Approval of August Minutes

Commissioner Porter motioned to approve the August Program Subcommittee Minutes. Commissioner Gerthoffer seconded the motion. All voted in favor. Minutes approved.

Item 2. Refinement: Town of Perryville – Critical Area Map Update

Presented by Michael Grassmann

Commission staff worked with the Town of Perryville, the Maryland Department of Natural Resources, the Maryland Department of the Environment, and the Eastern Shore Regional GIS Cooperative (ESRGC) to develop updated Critical Area maps for the Town. These draft maps were vetted by the aforementioned agencies and delivered to the Town as Summary Draft Maps for local adoption. The update resulted in a 12-acre gain, a 38-acre loss, with a net change of 26 less acres in the Town's Critical Area. These changes are primarily because the previously mapped Critical Area for the Town did not properly curve the 1000ft boundary.

Discussion: None. Commissioner Rodvien motioned to approve the map updates as proposed. Commissioner Porter seconded the motion. All in favor. Motion passed.

Item 3. Refinement: Town of Perryville – Critical Area Comprehensive Review

Presented by Mike Grassmann

On July 6, 2023, the Mayor and Town Council of Perryville voted to repeal and reenact the Town's Critical Area program through the adoption of Ordinance 2023-13. This ordinance was drafted following a comprehensive review of the Town's Critical Area Program. The comprehensive update of Perryville's Critical Area Program brings its zoning ordinance into conformance with the requirements of the Critical Area Law and Criteria.

Discussion: Commissioner McCall asked about the timeline for inclusion of DNR and Wildlife Heritage Services input, and Mr. Grassman replied that WHS are contacted during the process so

that data can be taken into consideration for the “Other Habitat Protection Areas” section of the code.

Motion: Commissioner Richards motioned to approve the map update. Commissioner Gerthoffer seconded the motion. All in favor. **Motion passed unanimously.**

Item 4. Refinement: Town of St. Michaels – Tree Removal Criteria Text Amendment (Talbot County)

Presented by Annie Sekerak

On July 12, 2023, the Commissioners of St. Michaels approved a text amendment to the zoning chapter of the Town Code. Ordinance No. 540 will accomplish the following:

- Amend §340-15 to require mitigation for tree removal in the Critical Area Intensely Developed Area (IDA).
- Add a new section (§340-182) under the Landscaping, Environmental Standards, and Lighting article that outlines the tree replacement and mitigation criteria for tree removal throughout the Town.

Currently, tree mitigation only occurs within the Limited Development Area (LDA) and Resource Conservation Area (RCA) of the Town, as required under the Town’s Critical Area program and State regulation. With this text change, tree mitigation is required throughout the Town and within the IDA, and now includes greater specificity to apply in the LDA and RCA.

Discussion: None.

Commissioner Rodvien motioned to accept this as a refinement. Commissioner Richards seconded. Motion carried unanimously.

Item 5. Refinement: Charles County – Critical Area Boundary Map Update

Presented by Lisa Hoerger

Commission staff worked with Charles County, the Maryland Department of Natural Resources, the Maryland Department of the Environment, and the Eastern Shore Regional GIS Cooperative (ESRGC) to develop updated Critical Area maps for the County. These draft maps were vetted by the agencies, were provided to affected property owners, and lastly, were delivered to the County for public comment and local approval.

The update resulted in a gain of 2,765 acres and a loss of 3,061 acres, with a net loss of 296 acres within Charles County’s Critical Area. Most of the loss is attributed to errors on the current maps and not large losses of wetlands.

Discussion: Commissioner Rodvien asked about the reason for the mistakes in the original maps. Ms. Hoerger replied that she couldn’t speak to Charles County in particular but that not all jurisdictions had GIS capabilities, and were hand drawing lines on maps with markers, so

accuracy could be affected. Commissioner Porter asked how new Critical Area boundaries would affect existing structures, and Ms. Hoerger replied that it would only affect them if the owners wished to modify them at a later time. Then they would be subject to Critical Area law. Commissioner Porter asked about flood insurance, and she responded that's an entirely separate map. Commissioner Gerthoffer asked about responses to letters sent to homeowners that were affected by new boundaries, and Ms. Hoerger replied there were a few phone calls.

Motion: Commissioner Porter motioned to approve the map update. Commissioner Richards seconded the motion. **Motion passed unanimously.**

Item 6. Refinement: Charles County – Critical Area Program Text Change

Presented by Jennifer Esposito

Ms. Esposito started out by noting that the staff report had the wrong date on it. Should be September 6, not 7. She then thanked Kyle Redden and Lynn Knaggs for attending the meeting and for all of their help.

Charles County has submitted a text amendment to their Critical Area Program for approval by the Critical Area Commission. Charles County Zoning Text Amendment Bill No. 21-169 amends portions of the County's Zoning Ordinance to reflect State law requirements in how the Critical Area Boundary is remapped, clarifies the applicability of the re-mapping on certain development projects, and revises the lot coverage limits for certain affected properties in the County's Limited Development Zone (LDZ) and Resource Conservation Zone (RCZ) – the equivalent of the Limited Development Area (LDA) and Resource Conservation Area (RCA).

The proposed text amendment is intended to specifically exclude the newly included CA land located in the "Villages of Swan Point" from Critical Area development standards. Because the "Villages of Swan Point" received growth allocation prior to December 31, 2008, Chapter 119 (2008) applies to the development and vests the newly included Critical Area for initial construction. Here, due to the extent of the prior Commission and County approvals, initial construction would include the entire project consistent with the growth allocation, Docket 250, approved Preliminary Subdivision Plans, and all subsequent permits issued by the County consistent with those approvals. However, in order to ensure consistency with Chapter 119 of the 2008 Laws of Maryland, Commission staff recommends a minor edit to the proposed text amendment to clarify that the provision is for **initial construction** and only the newly included areas are vested, not the entirety of the development.

Discussion: Commissioner Richards asked for an explanation of the difference between a refinement and an amendment, and Ms. Esposito summarized the process. Commissioner Porter asked about the extent of what was approved in 2007, and Nick provided details. Commissioner Rodvien asked if there was any expiration on the grandfathering, and Ms. Esposito said no, that if there were no shovels in the ground by the next mapping update, conversation would continue. All FCA and SWM requirements still have to be followed. Mr. Redden answered questions from Commissioners.

Motion: Commissioner Rodvien motioned to approve. Commissioner Herr-Cornwell seconded.
Motion passed unanimously.

Item 7. Refinement: Baltimore County – Country Club Estates Growth Allocation

Presented by Susan Makhoul

Baltimore County is requesting growth allocation to change the designation of 14.63 acres of a Limited Development Area (LDA) to an Intensely Developed Area (IDA) and 40.72 acres of growth allocation to convert an additional portion of the same property from Resource Conservation Area (RCA) to IDA. On June 29, the Baltimore County Board of Appeals approved the proposed growth allocation request. The subject parcel (Tax Map 104, Parcel 411) is located at 919 Wise Avenue in Dundalk. If the growth allocation is approved, the Critical Area designation will allow for the development of a Planned Unit Development (PUD), which will be named Country Club Estates.

Discussion: Commissioner Richards noted the residential units are outside the CRAB boundary, and asked about the stormwater management. Stacey MacArthur responded that the submerged gravel wetlands are outside floodplains and setbacks on the plan. There was some question whether the residential units really are outside CRAB, and it's possible they are, but all BMPs are outside the floodplain. Following more discussion, Commissioner McCall asked for a motion.

Motion: Commissioner Herr Cornwell motioned to approve. Commissioner Porter seconded.
Motion passed unanimously.