

# MINUTES

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

**December 13, 2023**

**CALL TO ORDER:** Chair Erik Fisher called the meeting to order at 1:00 p.m. The meeting was held virtually on MSTeams and live streamed on YouTube.

**Commission Members in Attendance:**

Tim Adams, Prince George's County  
Steve Bunker, Charles County  
Anita Grant, At Large  
Earl Hance, Calvert County  
Rosa Hance, At Large  
Deborah Herr Cornwell, Department of Planning  
Mike Hewitt, St. Mary's County  
Shawn Kiernan, MDOT  
Travis Marion, Cecil County  
Catherine McCall, Department of Natural Resources  
Michael McCarthy, Talbot County  
Alisha Mulkey, Department of Agriculture  
Jim Palma, Department of Commerce  
Hitesh Patel, Somerset County  
Larry Porter, Caroline County  
Annie Richards, Kent County  
Tammy Roberson, Department of Environment  
Brian Roche, Dorchester County  
Lisa Rodvien, Anne Arundel County  
Theo Williams, DHCD (for Julia Glanz)  
Pat Young, Baltimore County

**Commission Members Not in Attendance:**

Mark Conway, Baltimore City  
Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City  
Julia Glanz, Department of Housing and Community Development  
Christie Stephens, Harford County

**APPROVAL OF MINUTES:** Commissioner Hewitt moved to approve the minutes from the November meeting. Commissioner Adams seconded. Motion passed unanimously.

## **STAFF PRESENTATIONS**

### **PANEL REPORT: Ayres Creek Mapping Mistake (Worcester County)**

Ms. Kate Durant presented for vote the panel report on the Ayres Creek Mapping Mistake. Ms. Durant reviewed the Panel Report, the contents of which are incorporated into and made part of the minutes.

On March 1, 2022, the Worcester County Commissioners reviewed and approved a request by Hugh Cropper, IV, on behalf of Ayres Creek Family Farm, LLC to reclassify the Critical Area designation of 8.34 acres of a 9.13 acre property that is located mostly within the Atlantic Coastal Bays Critical Area from Resource Conservation Area (RCA) to Limited Development Area (LDA) on the basis of a mistake in the original district mapping. The property is identified as Lot 1 of Parcel 80 on Tax Map 33, and is located at 8219 Stephen Decatur Highway in Berlin. The County's submittal and a map of the property were attached to the Panel Report.

Chair Fisher determined the proposed Critical Area program change met the standards of a Program Amendment under Natural Resources Article § 8-1809 and appointed a panel of five Commission members. The Panel held a public hearing on Monday, October 30, 2023 in the First Floor Meeting Room of the Worcester County Government Center located at One West Market Street, Snow Hill, Maryland. At the public hearing, the County presented the process by which the Critical Area reclassification was reviewed and approved by Worcester County, and the property owner's representative presented additional information. The Panel also heard comments from members of the public. The Panel requested additional information from their legal counsel about the Commission's authority for considering the Worcester County program amendment. Subsequent to the hearing, the Panel met and considered the request. The Panel recommended Denial.

Following the presentation, Chair Fisher opened the floor to questions. He introduced Mr. Bob Mitchell, representing the county, who was available to answer questions. Mr. Mitchell stated the owners are limited in the development of the land as it is now. If their current tenant moves out, they will not be able to have another tenant unless it's another non-profit organization.

Following discussion, Chair Fisher recognized Commissioner Herr-Cornwell, who motioned on behalf of the Panel that the request be denied. A roll call vote was held, and all Commissioners voted in favor of the motion, with one abstention from Mr. Williams. **Motion Passed.**

### **PROJECT SUBCOMMITTEE:**

#### **Washington Suburban Sanitary Commission (WSSC) – Western Branch Water Resources Recovery Facility Main Substation Replacement (Prince George's County)**

Ms. Annie Sekerak presented for vote a proposal from WSSC to replace equipment at the existing main substation to provide improved capacity to the Western Branch Water Resource Recovery Facility (WRRF). Ms. Sekerak reviewed her staff report, the contents of which are incorporated into and made part of the minutes.

The proposed work includes the replacement of the existing switchgear enclosure with a larger switchgear building; expansion of the existing concrete pad to accommodate the larger switchgear enclosure; installation of two new emergency power generators with associated electrical ductbanks; replacement of the existing transformers; and installation of new walkways and driveways. In addition, the removal of individual electrical facilities at the adjacent Raw Sewage Pumping Station is proposed. The project site is located at 6600 Crain Highway in Upper Marlboro, entirely within the Critical Area on land designated as Resource Conservation Area (RCA).

The property is approximately 322 acres, of which 308 acres are located within the Critical Area's RCA. The project's limit of disturbance (LOD) is approximately 1.032 acres, is located entirely within the RCA, and will result in a 0.10-acre increase in lot coverage. The project will not impact the 100-foot Critical Area Buffer, any expanded Buffers, or other Habitat Protection Areas (HPAs) and is not located immediately adjacent to any tidal or nontidal wetlands. Additionally, the project will not result in any tree clearing and the property will remain under the 15% lot coverage threshold.

Hearing no questions, Chair Fisher recognized Project Subcommittee Chair Roberson, who motioned to approve the request, with the following condition:

- Prior to the start of construction, WSSC shall submit to Commission staff a copy of all final authorizations or approvals regarding MDE's stormwater management, sediment and erosion control, and National Pollutant Discharge Elimination System (NPDES) permits.

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

### **Department of Natural Resources – Elk Neck State Park Mauldin Mountain Cabins (Cecil County)**

Ms. Susan Makhoulf presented for vote a proposal from the Maryland Department of Natural Resources (DNR) Engineering and Construction Unit and the Department of General Services (DGS) to construct improvements at Elk Neck State Park. Ms. Makhoulf reviewed her staff report, the contents of which are incorporated into and made part of the minutes

Proposed improvements will occur on various facilities throughout the park. Together, the work will include reconstruction of nine cabins and the associated access road at the Rustic Cabins Loop; new picnic pads and improvements to existing picnic pads, demolition of an existing bathhouse/storage building, and construction of group picnic pavilion at Mauldin Mountain; and improvements to five (5) existing bathhouses including replacement of existing pathways and addition of driveways. The proposed work also includes ADA-compliant parking and pathways, installation of stormwater management (SWM) facilities, and removal/reconfiguration of existing parking and drive loops to decrease the roadway footprint.

Hearing no questions, Chair Fisher recognized Project Subcommittee chair Roberson, who motioned on behalf of the Project Subcommittee to approve the requested improvements with the following condition:

- Within 60 days, or prior to the start of construction whichever comes first, DNR/DGS shall forward a copy of final approvals from Maryland Department of Environment for stormwater management and erosion and sediment control to Commission staff.

Commissioner Kiernan seconded the motion. All in favor. **Motion carried unanimously.**

#### **PROGRAM SUBCOMMITTEE:**

##### **REFINEMENT: Galesville Historic Market Growth Allocation (Anne Arundel County)**

Ms. Jennifer Esposito presented a refinement to the Anne Arundel County Critical Area Program in the form of a growth allocation request. Anne Arundel County is requesting to change the designation of 0.561 acres from a Limited Development Area (LDA) to an Intensely Developed Area (IDA) to allow for infill redevelopment of a legally nonconforming parcel that is zoned for commercial use. The subject parcel (Tax Map 69 in Block 8 on Parcel 409) is located at 1000 Galesville Road (also known as Main Street) in Galesville, Maryland. Located in the center of the Town of Galesville Historic District, the 1.671-acre property is listed on the Maryland Inventory of Historic Properties as Kolb's Store and is located within a Priority Funding Area. The 0.561 acres that is subject to this growth allocation request is zoned C1-Local Commercial District, and the remaining portion of the parcel (1.110 acres) is zoned R- Residential District. The property is served by public sewer and private well and is located within the West River Watershed.

On September 18, 2023, the Anne Arundel County Council passed Bill No. 65-23 to conceptually approve the proposed growth allocation, and on September 20, 2023, the bill was approved by the County Executive. Commission staff accepted the growth allocation for processing on October 24, 2023, and on November 16, 2023, the Chair determined that this growth allocation could be processed as a refinement.

Following Ms. Esposito's presentation, Chair Fisher recognized Program Subcommittee Chair Bunker, who motioned on behalf of the Program Subcommittee that the growth allocation request be approved by Chair Fisher. Chair Fisher said he accepted the recommendation, and this would be his final decision.

##### **REFINEMENT: Text Amendment: Town of Queenstown - Water-Dependent Facilities and Activities, and Activities and Nonwater-Dependent Projects (Queen Anne's County)**

Ms. Makhlof presented a refinement to the Town of Queenstown's Critical Area plan. On May 24, 2023, the Town of Queenstown adopted Ordinance No. 23-02, amending Article IV, Part III of the Queenstown Zoning Ordinance titled, "Critical Area Overlay District" to comply with amendments to the Natural Resources Article. The proposed text amendment will update both the Water-Dependent Facilities and Activities and Nonwater-Dependent Projects provisions in the Town's Critical Area Program.

The Town of Queenstown completed a comprehensive review of its Critical Area Program in January 2022. The updated program was formally approved by the Critical Area Commission on January 5, 2022. Since that time, the Critical Area Commission updated COMAR 27.01.03,

Water-Dependent Facilities and Activities, on February 7, 2022. The text amendment will update the local program (Section 42: Water-Dependent Facilities and Activities) to include those regulatory changes. The Town also proposes to update the Nonwater-Dependent provisions (Section 43: Nonwater-Dependent Projects) in its Critical Area Program. This section has been shortened and will now reference the Critical Area Commission's Nonwater-Dependent Projects regulations, COMAR 27.01.13. The text amendment also updates several definitions in accordance with the regulations and includes revisions to the Critical Area Permitted Uses Table to reference the applicable sections of the updated Code.

Hearing no questions, Chair Fisher recognized Commissioner Bunker, who motioned on behalf of the Program Subcommittee that the text amendment be approved. Chair Fisher accepted the recommendation, and said that this would be his final decision.

**OLD BUSINESS:** Nick Kelly presented an update on the Washington Suburban Sanitary Commission's General Approval MOU. In September of 2023 there was a discussion at the end of the Project Subcommittee meeting about the decommissioning of WSSC property. Updates have been drafted and given to WSSC and will be presented to the Project Subcommittee at the February meeting. If approved it will be presented to the entire Commission for vote.

**NEW BUSINESS:** Chair Fisher said he had no new business to share, but that he wanted to thank the Commissioners who stepped up to be part of the newly formed workgroups (DEIJ, Mitigation Bank). The next meeting will be in February.

**LEGAL UPDATES:**

Ms. Emily Vainieri had no legal updates to share.

  
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Lynette Fullerton, Commission Secretary

2/7/24  
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Date of Approval

**Critical Area Commission**  
**Chesapeake and Atlantic Coastal Bays**  
Meeting held online via Teams

**December 13, 2023**

**Program Implementation Subcommittee Minutes**

**Subcommittee Members in Attendance:** *Bunker (Chair), McCall, B. Hance, Herr-Cornwell, Hewitt, Mulkey, Porter, Richards*

**Guests:** Kelly Krinetz

**Item 1. Approval of November Minutes**

Commissioner Hewitt motioned to approve the November Program Subcommittee Minutes. Commissioner Mulkey seconded the motion. All voted in favor. Minutes approved.

**Item 2. Refinement: Galesville Growth Allocation (Anne Arundel County)**

Presented by Jennifer Esposito

Anne Arundel County is requesting growth allocation to change the designation of 0.561 acres of LDA to IDA to allow for infill redevelopment of a legally nonconforming parcel that is zoned for commercial use.

**Discussion:** Commissioner Bunker commented that there didn't seem to be any language in the approval from the County that explicitly protects the historic site. Ms. Krinetz responded that the property is in the state historic register, and must therefore be preserved. It was in danger of demolition due to being abandoned by the owners. Due to the restrictions on the property it was difficult to sell, and this plan was developed to save it. Commissioner Mulkey motioned to concur approve the growth allocation request. Commissioner Hance seconded the motion. All in favor. Motion passed unanimously.

**Item 3: Town of Queenstown – Text Amendment for Water Dependent Facilities and Activities and Nonwater-Dependent Projects (Queen Anne's County)**

Presented by Susan Makhoul

The Town of Queenstown is proposing a text amendment to update both the Water-Dependent Facilities and Activities and Nonwater-Dependent Projects provisions in the Town's Critical Area Program. The updates to the Water-Dependent provisions are consistent with the recent regulatory updates to COMAR Title 27. The updates to the Nonwater-Dependent provisions are also consistent with COMAR and are intended to simplify the code with citations.

**Discussion:** None. Commissioner Hewitt motioned to concur with the Chair's determination of refinement. Motion was seconded by Commissioner Adams. **Motion passed unanimously.**

**Item 4: Armored Storage Growth Allocation – Update on Forest Mitigation Plan and Easement Condition of Approval (Subcommittee Vote Only)**

Presented by Susan Makhoulf

On June 7, 2023, the Chair approved the Armored Storage growth allocation request to change 2.811 acres of Limited Development Area (LDA) to Intensely Developed Area (IDA). The growth allocation was approved with conditions, one of which was a mitigation plan. Queen Anne's County subsequently submitted a draft Deed of Critical Area Forest Protection Easement and draft Forest Mitigation Plan for this site. The 1.616 acres of mitigation will be located offsite on land owned by the developer of the Armored Storage project. The property is located in Chester, Maryland, adjacent to Goodhand Creek, and is approximately one mile from the Armored Storage site. Critical Area staff recommend approval of the Mitigation Plan with conditions, including removing Red Cedars and pines from the planting list, to be replaced with willow oaks and black gum, or other appropriate trees, that are more suited to wet conditions.

**Discussion:** Commissioner Richards noted that the trees will not be planted in the same watershed, and asked if that was common. Ms. Makhoulf responded that in general the preference is for the plantings to be as close to the impacted area as possible, but there's no specific requirement for it to be in the same watershed.

Commissioner Porter motioned to approve the mitigation plan with the conditions outlined in the staff report. Commissioner Herr-Cornwell seconded the motion. **Motion passed unanimously.**

**Critical Area Commission**  
**Chesapeake and Atlantic Coastal Bays**  
Meeting held online via Teams

**December 13, 2023**

**Project Implementation Subcommittee Minutes**

**Subcommittee Members in Attendance:** *Roberson (Co-Chair), Adams, Grant, R. Hance, Kiernan, McCarthy, Patel, Theo Williams (for Glanz), Roche, Palma, Young*

Not Present: *Conway, Glanz, Marion*

Guests: *LeeAnne Chandler, Michael Day*

**Item 1. Approval of September minutes.**

Commissioner R. Hance moved to approve the November minutes. Mr. Williams seconded the motion. All voted in favor. Motion passed unanimously.

**Item 2. Washington Suburban Sanitary Commission – Western Branch Water Resources Recovery Facility Main Substation Replacement (Prince George’s County)**

Presented by Annie Sekerak

The Washington Suburban Sanitary Commission (WSSC) is proposing to replace equipment at the existing main substation to provide improved capacity to the Western Branch Water Resource Recovery Facility (WRRF). The proposed work includes the replacement of the existing switchgear enclosure with a larger switchgear building; expansion of the existing concrete pad to accommodate the larger switchgear enclosure; installation of two new emergency power generators with associated electrical ductbanks; replacement of the existing transformers; and installation of new walkways and driveways. In addition, the removal of individual electrical facilities at the adjacent Raw Sewage Pumping Station is proposed. The project site is located at 6600 Crain Highway in Upper Marlboro, entirely within the Critical Area on land designated as Resource Conservation Area (RCA).

**Discussion:** Commissioner R. Hance requested clarification on the types of generators being installed. They are diesel-powered and will be supplemental to already-existing generators. Currently in the case of utility power loss they are unable to treat wastewater. Each generator is able to run for 24 hours.

Commissioner Palma moved to accept the staff recommendation. Commissioner Young seconded the motion. All in favor. Motion passed unanimously.

**Item 3. Mauldin Mountain Cabins and Bathhouse Improvements at Elk Neck State Park (Cecil County)**

Presented by Susan Makhlof

The Maryland Department of Natural Resources (DNR) Engineering and Construction Unit and the Department of General Services (DGS) are seeking approval to construct



improvements at Elk Neck State Park, including; reconstruction of nine cabins and the associated access road at the Rustic Cabins Loop; new picnic pads and improvements to existing picnic pads, demolition of an existing bathhouse/storage building, and construction of group picnic pavilion at Mauldin Mountain; and improvements to five (5) existing bathhouses including replacement of existing pathways and addition of driveways. The proposed work also includes ADA-compliant parking and pathways, installation of stormwater management (SWM) facilities, and removal/reconfiguration of existing parking and drive loops to decrease the roadway footprint.

**Discussion:** None. Commissioner Grant motioned to approve the project with conditions as outlined in the staff report. Mr. Williams seconded the motion. All in favor. **Motion passed unanimously.**

**Item 4: Information Only – Cape St. Claire Fire Station Replacement and Cape St. Claire Park Parking Lot (Anne Arundel)**

Presented by Jennifer Esposito

Commission and County staff are requesting preliminary feedback from the Project Subcommittee regarding the proposed project prior to formal review and vote by the Commission.

The Cape St. Claire Fire Station is the only fire station located on the Broadneck peninsula and services an 11.8 square mile area. The 70-year-old fire station requires significant updating to meet current standards. In order to build the required fire station facility, the County intends to provide 2.58 acres of an adjacent parcel to the Fire Department and perform a 3.0 acre land swap in accordance with Program Open Space land conversion guidelines. The County will then use the remaining 1.96 acres of Parcel 36 to construct a 24-space parking lot for the Cape St. Claire Park. The park parking lot will also serve as ancillary parking for the fire station during construction.

**Discussion:** Commissioner Roberson asked for information about the existing planting, and using that as a mitigation bank for the project. Michael Day, from the County, responded that the plantings are on a site that used to be agricultural fields, but now are to be planted as a mitigation bank. Commissioner Roberson asked why there was no attempt to do the mitigation onsite or nearby, and Mr. Day responded that due to the development in the county it can be difficult to find suitable land for plantings. The mitigation bank site provides a good location for this. Commissioner R. Hance asked if Sandy Point State Park or any other area parks had been considered for mitigation plantings. Mr. Day replied that he wasn't sure if the park had been considered, partly because it is State property and not County, but also because there is some restoration work already being planned there.

Claudia Jones spoke briefly about the site visit to the mitigation site in question. She said Commission staff spent about four hours there the week before. The site was planted about two years ago and looked healthy. She also mentioned that the plantings could potentially

expand FIDS habitat. Chair Fisher followed up with a question about the funding source for the plantings, and neither County representative knew. Ms. Esposito responded that that information has been requested from the Forestry department but not received yet.

There followed a discussion about the idea of banking mitigation, and claiming credit for plantings. Commissioner Hance said she was uncomfortable with setting a precedent like this, seems like it could be hard to track. Ms. Krinetz returned to the point that Mr. Day was making, about the difficulty of finding areas that are appropriate for large plantings like this, which is where the idea of a mitigation bank comes into play. Certainly, onsite planting would be best, within the Critical Area, but plantings near the Critical Area will still benefit the CA. Ms. Charbonneau mentioned that there are currently MOUs with various jurisdictions for the use of fee-in-lieu money, mitigation banks. Commissioner Roche stated that he shared Commissioner Hance's discomfort with the mitigation banking.

Following more discussion, the County representatives present thanked the Project Subcommittee for all the feedback and said they would keep the concerns in mind when moving forward in the planning stages for this project.