

Critical Area Commission

STAFF REPORT

August 12, 2026

APPLICANT:	Somerset County
PROPOSAL:	Refinement – Kingsbay Growth Allocation
JURISDICTION:	Somerset County
COMMISSION ACTION:	Concurrence with the Chair’s Determination of Refinement
STAFF RECOMMENDATION:	Return with a List of Changes to be Made
STAFF:	Annie Sekerak
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article 8-1808.1(c) and 8-1809(r); COMAR 27.01.02.06 through 06-4, Growth Allocation

DISCUSSION:

Somerset County is requesting growth allocation to change approximately 6.28 acres of Resource Conservation Area (RCA) to Limited Development Area (LDA). The subject property, owned by the Carlin Company, is located at 27999 Coulbourn Creek Road in Marion Station (Tax Map 57, Parcel 119) and currently operates as a bed and breakfast, restaurant, and special event space. If this growth allocation is approved, the Critical Area designation will allow the property owners, both current and future, to establish any commercial or institutional use – in addition to the existing bed and breakfast, restaurant, and special event uses – that is permitted by the County’s underlying zoning.

SITE DESCRIPTION

The 6.28-acre property is located entirely within the Critical Area on land designated as RCA. The property is also waterfront to Coulbourn Creek and is zoned Maritime Residential Commercial (MRC). The MRC district accommodates a mix of water-related residential and commercial uses. Existing improvements onsite include a mansion, constructed in 1970, and associated amenities including a pool, patios, walkways, and parking areas totaling 8,856 square feet (3%) of lot coverage. The existing bed and breakfast was established in 2015 under special exception. The Commission previously approved two text amendments to allow additional commercial uses in the RCA at this site: special events (June 2025) and restaurants (April 2026).

Site Development

The property owners are seeking growth allocation to expand the types of uses that may be allowed on this property, as the RCA overlay limits the amount of commercial uses that can occur. If the growth allocation is approved, the property owner would be allowed to conduct all

uses permitted in the MRC zoning district, including, but not limited to, a doctor's office; law office; insurance agency; group domiciliary care home; day care facility; ministerial retirement home; architectural office; college or university; community center or library; hospital or surgery center; monastery or convent; museum; place of worship; public administrative or cultural buildings; public or private primary or secondary school; or visitor center or tourism information center.¹

The submitted site plan shows that no new development is proposed as part of this growth allocation request. The existing building and parking for 31 cars will be maintained. Any future use would be accommodated within the footprint of existing improvements.

Copies of the location map and site plan showing existing conditions are attached.

Habitat Protection Areas (HPAs)

COMAR 27.01.09.01 identifies the 100-foot Buffer, nontidal wetlands, threatened and endangered species, species in need of conservation, plant and wildlife habitat, and anadromous fish propagation waters as Habitat Protection Areas (HPAs).

A portion of the site is located within the Critical Area Buffer. No disturbance is proposed in the Buffer at this time.

Per the letter from the Department of Natural Resources (DNR) Wildlife and Heritage Service (WHS) dated August 27, 2025, there are no records of State or Federal listed, candidate, proposed, or rare plant or animal species within the subject area.

Stormwater Management and Erosion and Sediment Control

Stormwater management and erosion and sediment control are not applicable as no development is proposed at this time.

LOCAL AND CRITICAL AREA PROCESSING

On July 15, 2025, the Board of County Commissioners for Somerset County voted to approve the growth allocation request to accommodate a commercial restaurant use onsite. Commission staff received the growth allocation application on February 3, 2026, and accepted the application as a complete submittal on February 18, 2026. At the same time, the County submitted a text amendment to allow a restaurant use in the RCA at this site. On February 27, 2026, the County requested an extension to the 30-day amendment/refinement determination for the growth allocation while the Commission reviewed and processed the County's RCA use text amendment.² The extension request ended after the Commission received a revised Kingsbay growth allocation application with a list of additional proposed commercial and institutional uses.

¹ Per the County's Table of Land Uses, a new retirement community, monastery/convent, and museum require a Special Exception in the MRC zoning district. The other potential uses listed here are permitted by right in the MRC zoning district.

² The text amendment was approved by the Commission in April 2026.

On July 9, 2026, Chair Fisher determined that this growth allocation could be processed as a refinement.

GROWTH ALLOCATION STANDARDS

Natural Resources Article §8-1808.1(c) requires the Critical Area Commission to ensure that the following standards have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area law and criteria. The statutory requirements for growth allocation are organized under COMAR 27.01.02.06-3, *Requirements for New Intensely Developed Areas and Limited Development Areas*. These requirements, as submitted by Somerset County, are summarized by Commission staff below:

1. *Locate a new LDA adjacent to an existing LDA or an IDA.*

The property is adjacent, across Coulbourn Creek, to the Cedar Landing community, which is a year-round residential area and is designated as an LDA. Historically, the Somerset County Office of Planning and Zoning has deemed adjacency to include properties across waterways due to the number of waterways within the jurisdiction. In addition, the County has considered a land management classification within the Critical Area to be adjacent when it is physically separated from any such land by a public road or a waterway.³

2. *Locate a new LDA in a manner that minimizes impacts to habitat protection areas (HPAs) as defined in COMAR 27.01.09, and in an area and manner that optimizes benefits to water quality and impacts to the defined land uses of the RCA.*

No development is proposed at this time. The existing Critical Area Buffer is maintained in turf grass interspersed with trees and shrubs. There is no stormwater management currently on site.

3. *Locate a new LDA in a RCA at least 300 feet beyond the landward boundary of tidal wetlands or tidal waters, unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources.*

The parcel in question is located on Coulbourn Creek. The structure and property are original to 1970 and there is no plan for development. Portions of the existing improvements onsite are located within the 300-foot setback. The applicant is not providing a 300-foot setback and no alternative measures are proposed.

4. *A local jurisdiction may not use more than 1/2 of its total allotted growth allocation acreage to convert an RCA into a new LDA or IDA, except in Calvert, Caroline, Cecil,*

³ Effective October 1, 2026, the definition of “adjacent” per Natural Resources Article 8-1802 means sharing a common boundary or separated by a public or private street, road, right-of-way, or other utility or access easement.

Charles, Dorchester, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties.

Somerset County has used approximately 323 acres of growth allocation to convert RCA to LDA or IDA. This represents about 23% of the total growth allocation allotted to the County; therefore, this standard is met.

5. *Locate new LDAs outside of areas vulnerable to climate change unless the local jurisdiction proposes and the Commission approves: Areas identified by the local jurisdiction as vulnerable to climate change as required under § 8-1808(c)(1)(iii)16 of this subtitle; and Measures that: Assess climate resiliency and vulnerability; and Incorporate siting, design, construction, and other natural features to significantly enhance climate resiliency and reduce vulnerability.*

According to a vulnerability assessment performed by the applicant, the subject property is located in the Federal Emergency Management Agency (FEMA) floodplain and the CoastSmart Climate Ready Action Boundary (CS-CRAB). The site is vulnerable to storm surge from a Category I hurricane. In addition, wetland adaptation areas are located onsite. No development or measures to address climate vulnerability and resiliency are proposed at this time.

GROWTH ALLOCATION FACTORS

In accordance with Natural Resources Article 8-1808.1(c)(4) and COMAR 27.01.02.06-3(G), the Commission shall consider the following factors when reviewing a map amendment or refinement involving the use of growth allocation. Below is Commission staff's summary of the County's responses to address the factors to be considered:

1. *Consistency with the jurisdiction's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan.*

The Somerset County Planning Commission and the Board of County Commissioners found the proposal to be consistent with the land use policies, plans, and initiatives outlined in the County's 2025 Comprehensive Plan and draft 2025 Master Plan. The Comprehensive Plan states that "economic vitality is the strength, energy, and continuance of Somerset County's wealth and resources."

2. *For a new LDA, whether the development will be served by a public wastewater system or septic system that uses the best available nitrogen removal technology; or complete an existing subdivision; or expand an existing business; or be clustered.*

No new development is proposed at this time. Kingsbay Mansion is served by two existing conventional septic systems.

3. *The use of existing public infrastructure, where practical.*

Kingsbay Mansion is served by an existing commercial-grade well, installed in 2000 with a pumping capacity of 120 gallons per minute, and two conventional septic systems, installed in 1970 each with 1,000-gallon tanks and 200 feet of subsurface drain lines.

4. *Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located onsite or offsite.*

In a letter dated August 27, 2025, the Maryland Department of Natural Resources Wildlife and Heritage Service (DNR WHS) determined no presence of rare, threatened, or endangered species within the parcel boundaries.

5. *Impacts on a priority preservation area, as defined under Agriculture Article, §2-518, Annotated Code of Maryland;*

The proposed growth allocation is not part of a designated priority preservation area.

6. *Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams.*

No development or clearing is proposed as part of this growth allocation request; therefore, no impacts from wastewater or stormwater management are proposed.

7. *Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.*

No new development is proposed at this time; however, according to a vulnerability assessment performed by the applicant, the subject property is located in the Federal Emergency Management Agency (FEMA) floodplain and the CoastSmart Climate Ready Action Boundary (CS-CRAB). The site is vulnerable to storm surge from a Category I hurricane. In addition, wetland adaptation areas are located onsite.

8. *Environmental impacts on underserved or overburdened communities.*

Environmental Justice: According to the Maryland Department of the Environment's environmental justice (EJ) screening tool, MDEnviroScreen, the subject property is located in a community that is overburdened and underserved. The site is located in a census tract that has an EJ score of 54.50, putting it in the 50th – 75th percentile nationwide, which is considered a moderately high level of environmental and social burdens. The EJ score represents a combined measure of pollution and the potential vulnerability of a population to the effects of pollution. High-scoring indicators that contribute to this census tract's overall EJ score include the close proximity to a power

plant (97.8th percentile), Concentrated Animal Feeding Operation (CAFO) (99.5th percentile), and mining operation (95.4th percentile). Additional high-scoring indicators include the high number of asthma emergency room (80.1st percentile) and myocardial infarction (85.3rd percentile) discharges.

Park Equity: Under the Department of Natural Resources (DNR) Park Equity Mapper, the site received a score of 0.37. Higher scores mean that sites are less equitable and provide lower park access. Scores that range 0.37 and 0.55 have low equity, meaning that new park resources may be needed. The Equity Mapper provides individual scores for many factors to develop an average; for this site, the following had high scores:

Youth Score: 0.61

Park Distance Score: 0.60

Walkability Score: 0.79

Greenspace Equity: The DNR Greenspace Equity Mapper identifies the census tract as “overburdened.”

ADDITIONAL STATUTORY AND REGULATORY REQUIREMENTS

In addition to the Growth Allocation Standards and Growth Allocation Factors discussed above, the statute also addresses the following requirements for growth allocation. Commission staff have summarized the County’s responses below:

1. *IDAs or LDAs shall conform to all criteria of the Commission for IDAs and LDAs and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with Section §8-1809(g).*

No new development is proposed at this time; therefore, the growth allocation meets the Critical Area law and criteria for the LDA.

2. *The area of expansion of IDA or LDA, or both, may not exceed an area equal to 5 percent of the county’s portion of the RCA lands that are not tidal wetland or federally owned.*

Somerset County was originally allocated 1,517.43 acres of growth allocation. The County (including its municipalities) currently has 1,114.53 acres of remaining growth allocation to award, and the proposed request of 6.28 acres will not exceed this remaining amount.

STATE AGENCY COMMENTS

Commission staff submitted preliminary plans and information to the other State agencies who are members of the Commission (Agriculture, Commerce, Environment, Housing and Community Development, Natural Resources, Planning, and Transportation). Here is a summary of the comments received:

The Maryland Department of Agriculture (MDA) notes that the existing additional uses onsite (special events and restaurants) can generate revenue and economic development while maintaining the character of the RCA. An "upzoning" to LDA effectively creates a donut hole within the surrounding RCA that over time would allow additional LDA requests. In addition, MDA notes the FEMA floodplain and CS-CRAB designations onsite, which warrant significant natural features to mitigate flooding and storm surge.

The Maryland Department of the Environment (MDE) notes that it is difficult to properly assess the request against the required Critical Area growth allocation factors as there is no concrete proposed activity to evaluate and the application lacks specific details regarding intended use or a detailed site plan. Regarding the requirement that a new LDA be served by a public wastewater system or a septic system utilizing Best Available Technology (BAT) for nitrogen removal, MDE has identified the following critical information gaps:

1. **Lack of Best Available Technology (BAT) for Nitrogen Removal:** The applicant noted that the site is served by two "conventional" septic systems. While the applicant provided a helpful history of maintenance, structural integrity, and future perk capacity (e.g., jet cleaning, pressure testing, and replacing distribution boxes in 2016), this does not address the consideration of nitrogen reduction. Conventional systems (standard tanks and drain fields) do not actively reduce nitrogen levels, and routine maintenance does not upgrade a conventional system to a State-approved, nitrogen-removing BAT unit (such as an aerobic treatment unit).
2. **Unanswered Capacity Inquiries:** The applicant did not respond to MDE's previous inquiries regarding the current operational capacity of the systems. Knowing the current usage percentage (e.g., whether the systems are operating at 50% or 90% capacity) is critical information required to evaluate the site's ability to support the requested growth allocation.

The Maryland Department of Natural Resources (DNR) has concerns about its ability to fully evaluate climate, habitat, preservation, and water quality impacts without future site specifics. Based on the available information, DNR notes that considerations should be given to the capacity of the existing wastewater systems and the capacity to maintain water quality standards under future flood scenarios. DNR requests that the applicant provide documentation of the age and condition of the current septic systems from a licensed septic company to ensure they are operating as designed and would be able to support any future site intensification. DNR also notes that any future development or expansion of uses onsite would be subject to coastal hazards – including FEMA floodplain, long-term flood hazards, and habitat migration areas – and should proceed in a manner that minimizes flood risk and supports habitat transitions to help provide flood risk reduction benefits. Additionally, DNR would prefer the opportunity to review any future site plans building off proposed uses even if the local jurisdiction would ordinarily approve those under this growth allocation request.

The Maryland Department of Housing and Community Development (DHCD) has no comments regarding the proposal.

The Maryland Department of Planning (MDP) finds that the proposed growth allocation is inconsistent with the 2025 Somerset County Comprehensive Plan. In particular, MDP notes that the site is designated as a Targeted Ecological Area and is located within the FEMA Special Hazard Flood Area. The Comprehensive Plan recommends the exclusion of high hazard and sensitive areas from Priority Funding Areas. The site is not identified as a Primary Growth Area, but instead the site and surrounding areas appear to be included in the Priority Preservation Area – MDP requests clarification from the County about the Priority Preservation Area designation. Further, MDP notes that creating a new LDA designation adjacent to large tracts of agricultural land that are also zoned MRC increases the potential for additional areas to request growth allocation; placing additional development pressure on agricultural lands.

STAFF RECOMMENDATION

The proposed growth allocation as conceptually approved by the Board of County Commissioners for Somerset County and as provided in the revised submittal received by Commission staff on June 15, 2026, appears to enact a minor change to Somerset County's Critical Area program as no future development, including Buffer impacts, additional lot coverage, or forest/developed woodland clearing, is proposed. In addition, Somerset County followed their local process and procedures for approval of the growth allocation request, including the County's existing practice of allowing adjacency across the water to meet the location standard, and there has been no public outreach to the Commission regarding public opposition to the growth allocation proposal. Therefore, Commission staff recommends concurrence with the Chair's determination of refinement.

However, the proposed growth allocation does not meet two of the required standards for new LDAs under Natural Resources Article 8-1808.1(c) and COMAR 27.01.02.06-3:

- Growth Allocation Standard #3 – The request does not locate a new LDA in a RCA at least 300 feet beyond the landward boundary of tidal wetlands or tidal waters, and the County has not proposed alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources.
- Growth Allocation Standard #5 – The request does not locate a new LDA outside of an area vulnerable to climate change, and the County has not proposed alternative measures that assess climate resiliency and vulnerability and incorporate siting, design, construction, and other natural features to significantly enhance climate resiliency and reduce vulnerability.

Therefore, Commission staff recommends that the Chair return the growth allocation request to Somerset County with the following changes to be made:

1. Given that the request proposes an LDA within the 300-foot setback, the County shall provide alternative measures to meet Growth Allocation Standard #3 that demonstrate habitat protection and water quality enhancement. Alternative measures proposed by local jurisdictions in the past have included Buffer enhancement, increased stormwater management, and use of best available technology for septic systems.
2. Given that the request locates a new LDA in an area vulnerable to climate change and would allow all MRC uses within the existing building, walkways, and parking improvements onsite and given that the number, movement, and activities of persons in the Critical Area can create adverse environmental impacts, the County shall provide alternative measures to enhance climate resiliency and reduce vulnerability in order to meet Growth Allocation Standard #5. The measures must demonstrate how the proposed list of uses permitted, which will likely increase the number, movement, and activities of persons onsite, can be accommodated or reduced while still reducing vulnerability to the impacts of climate change and enhancing climate resiliency.

ATTACHMENTS

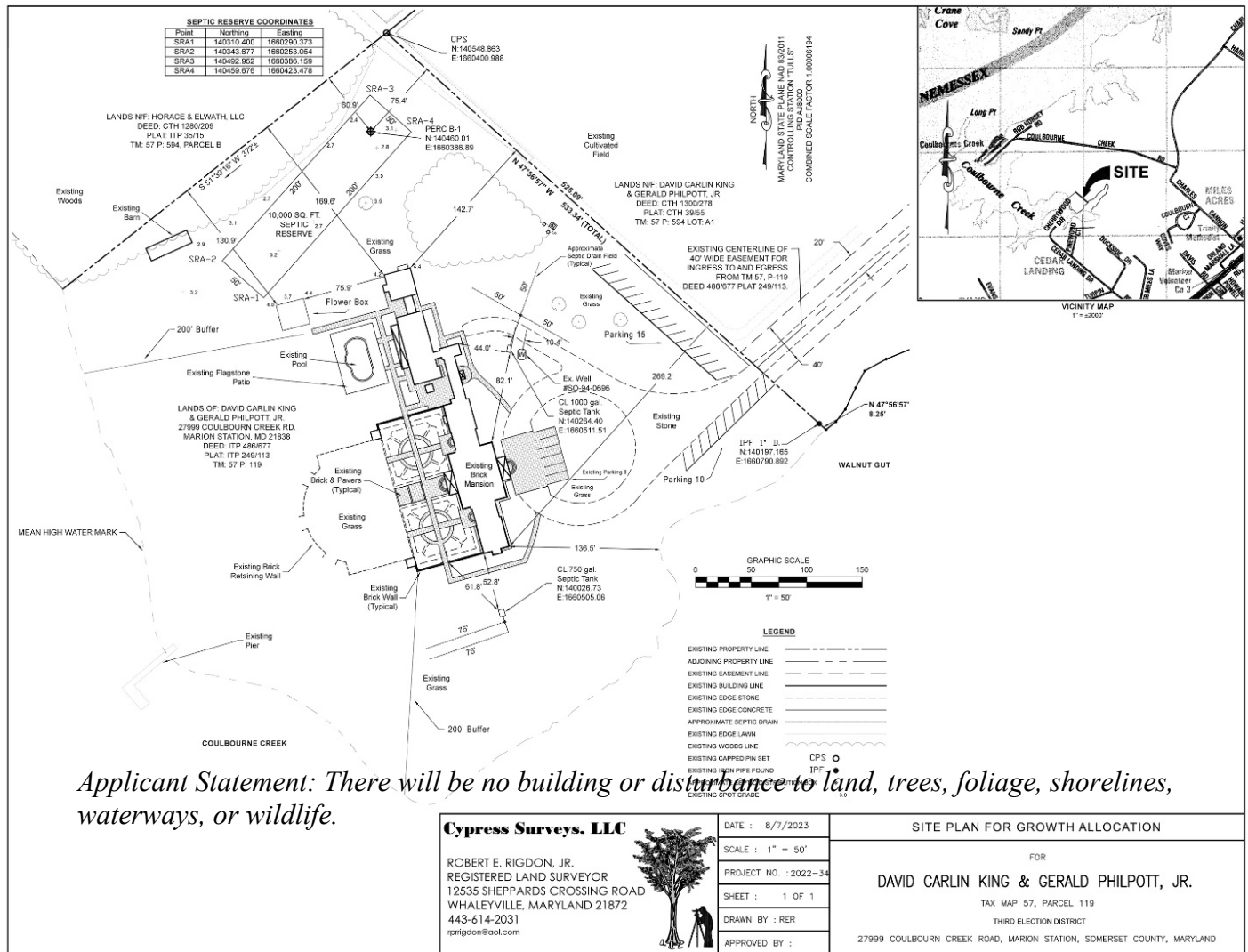
1. Location Map
2. Site Plan of Existing Conditions

Kingsbay Growth Allocation - Location Map - RCA to become LDA



H. (3) A conceptual site development plan:

Site Plan



Applicant Statement: There will be no building or disturbance to land, trees, foliage, shorelines, waterways, or wildlife.