

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

September 13, 2024

Program Implementation Subcommittee Minutes

Subcommittee Members in Attendance: *McCall (Chair), Adams, Burris, Etherton, Gerthoffer, Hance, Herr-Cornwell, Mulkey, Wilson, Bradford (on behalf of Worcester County)*

Guests: Carla Gerber (Kent), Chris Maier (Wharf), Eric Hadaway (Wharf), Joy Birch (Worcester)

1. Welcome and Roll Call:

- Chair: Catherine McCall (DNR) welcomed all attendees and confirmed a quorum of 8 members.
- Meeting was conducted virtually on Google Meet, and the video will be posted online to comply with open meeting requirements.

2. Approval of August 2, 2024 Program Implementation Subcommittee Minutes

There were no amendments to the August 2, 2024 minutes.

Motion to Approve - Commissioner Hance

Second – Commissioner Burris

All in favor.

Action: Minutes approved.

3. Kent County Comprehensive Rezoning and Growth Allocation Policy Update (Informational Item):

- **Presented by:** Kathryn Hayden (DNR), with contributions from Carla Gerber (Deputy Director of Planning, Housing, and Zoning, Kent County).

Kent County is undergoing a comprehensive rezoning process that will replace its official zoning maps to align with the 2024 Land Use Ordinance and Comprehensive Plan. The zoning districts and critical area maps are currently separated, but they will be integrated as part of this update. As part of the review, Kent County intends to seek growth allocation to change two areas to Intensely Developed Area. The first area is Chestertown Marina, which is currently Limited Development Area. A portion of the property is more appropriately designated as Marine, which is an IDA designation. The second area is outside the Town of Millington. The County wishes to apply the new Mixed Use Development zoning, a portion of which will occur within the Critical Area. Currently, the County Growth Allocation Policy does not include provisions for applying growth allocation during the comprehensive rezoning process. Therefore, the County will need to first update its Growth Allocation Policy to include a new process. Then, the County will need to seek Commission review and approval of the comprehensive rezoning and growth allocation deduction.

During the discussion process, the County provided more clarification on the new MXD-CA zone and answered questions about the location for a new wastewater treatment plant that will also occur on the site. Numerous questions were raised and answered about the growth allocation standards, stormwater conditions, and wastewater treatment plant discharge. Chair Fisher raised concerns about potential impacts on the Chester River, including water quality, TMDL (Total

Maximum Daily Load) standards, and phosphorus levels. Further coordination with MDE was recommended. Commissioner Richards asked about stormwater management and the potential impacts of increased development, particularly on communities affected by flooding near the Chester River. There was also discussion on the equity and environmental impact of large developments in sensitive areas, with suggestions for more in-depth planning to mitigate long-term risks.

The county will continue refining its growth allocation policy, specifically focusing on standards that apply to new IDAs in the RCA. Coordination with MDE on the wastewater treatment plant and environmental impacts will also proceed.

4. Kent County Wharf at Handy's Point Growth Allocation (for Vote):

- **Presented by:** Annie Sekerak (DNR)

The Wharf at Handy's Point Growth Allocation was approved in June 2024, with conditions requiring the applicant to submit a new plat with a building restriction line for the 300-foot setback and a mitigation plan to the Commission for review and approval. Commission staff worked with the County staff and the applicant to develop a planting plan that met the mitigation requirements. Further, the applicant submitted a line revision plat with the required restrictive line and note. Staff recommend approval.

Commissioner Adams moved to approve the building restriction line and mitigation plan. The motion was seconded by Commissioner Mulkey. All voted to approve, with one abstention from Commissioner Richards.

5. Worcester County Comprehensive Review of the Atlantic Coastal Bays Critical Area Program (for Vote):

- **Presented by:** Kathryn Durant (DNR)

As required by Natural Resources Article, §8-1809(g), Worcester County recently completed a comprehensive review of both the Chesapeake Bay Critical Area Program and the Atlantic Coastal Bays Critical Area Program. This comprehensive review combines both programs into a single ordinance while maintaining specific provisions for each region. The update also included new provisions for non-water-dependent structures on piers and for special events in Resource Conservation Areas (RCAs). Special event uses are limited to lots over 25 acres, no more than 40 events per year, and no lot coverage in the Buffer. Up to 150 acres of growth allocation may be transferred between the Chesapeake Bay Critical Area Program and the Atlantic Coastal Bays Critical Area Program, this allowances dates back to 2002 when the Atlantic Coastal Bays came into effect. The total growth allocation used by the County in the Chesapeake Bay Critical Area is 141.4 acres, and the total growth allocation remaining within the Chesapeake Bay Critical Area for the County is 335.1 acres. Commissioner Wilson commented that he believes the 150 acres of growth allocation is likely to be transferred from the Chesapeake Bay to the Atlantic Bay.

Commissioner Hance moved to approve the comprehensive review as proposed, which was seconded by Commissioner Adams. All commissioners approved.

Meeting adjourned.