Critical Area Commission

STATE PROJECT SUBMITTAL INSTRUCTIONS, APPLICATION CHECKLIST, & SUPPORTING DOCUMENTATION

PROCESS AT A GLANCE

1. **Consider the requirements of COMAR 27.02.05 on the proposed project.**
2. **Contact Commission staff to begin consultation process and develop a complete application package.**
3. **Submit complete application package 6 weeks in advance of scheduled Commission meeting.**
4. **Advertise project according to COMAR 27.03.01.03 at least 14 days in advance of scheduled Commission meeting.**

General Instructions

State agencies that propose development in the Critical Area on State owned lands are required to seek review and approval by the Critical Area Commission for that development per COMAR 27.02.05. This document is intended to provide instruction on when to coordinate project review with Commission staff and ultimately submit a development project for review and approval.

➢ Project Coordination

State regulations require the agency, as soon as practicable in the planning process, to consult with Commission staff regarding:

1) The requirements of COMAR 27.02.05 (State Agency Actions Resulting in Development on State-Owned Land), and the likely effects of these requirements on a development project; and
2) An assessment of climate resilient practices that address coastal hazards, extreme weather events, sea level rise, and other impacts. (Refer to Appendix C for more details.)

Initial contact with Commission staff may be made by phone, email or by U.S. mail. Commission staff will provide feedback and guidance on Critical Area development and mitigation requirements.

➢ Public Notice

In accordance with COMAR 27.03.01.03, the state agency must demonstrate that the project has met or will meet the applicable Notice Requirements for State Agency and Local Agency Development (see Attachment A) by the date of the scheduled Commission meeting. Public notice requirements include evidence of the following:

1) Public notice of the project was published for one business day in a newspaper of general circulation in the geographic area in which the proposed development would occur;
2) At least 14 days were provided for public comment in the local jurisdiction in which the proposed development would occur; and
3) The affected land was posted in accordance with the posting requirements in COMAR 27.03.01.03 D.

➢ Complete Submittal Package

A complete submittal package must be sent to the Critical Area staff 6 weeks prior to a scheduled review by the Project Subcommittee (see schedule, Attachment B). A complete submittal includes the following:

1) The completed checklist and supporting documentation;
2) Maps and site plans;
3) Information demonstrating compliance with the 10% pollutant reduction rule; including a copy of the Commission's Draft ESD Spreadsheet and related stormwater management plans. Requirements can be found on the Commission's website.
4) If applicable, proposed Buffer Management Plans, Forest Mitigation planting plans, Planting Agreement Forms, and other necessary information documenting how mitigation requirements are met. Requirements can be found on the Commission's website.
5) If applicable, sediment and erosion control approval and stormwater management approval from Maryland Department of the Environment must be obtained or must be in final design stage.
6) If applicable, all Maryland Department of the Environment wetland authorizations (tidal and nontidal) and correspondence to and from the Maryland Department of Natural Resources and the Maryland Historical Trust.
7) Information demonstrating consideration of climate resiliency and applicable Coast Smart Construction Program documentation should be included.
8) Evidence of public notice, including: copies of all public comments received; copy of the newspaper ad; and photograph showing the posting of the affected property. A draft copy of the proposed public notice may be included with the application submittal. The applicant must meet the 14 day public notice deadline in order to be considered by the Critical Area Commission at its next

meeting.

MEMORANDUM OF UNDERSTANDING

Some State agencies have signed a Memorandum of Understanding with the Critical Area Commission to allow certain types of minor development activities through a General Approval process that does not require individual approval of each project (see COMAR 27.02.03). State agencies that have a signed Memorandum of Understanding (MOU) include the following:

- Maryland Department of Natural Resources (DNR)
- Maryland Department of Transportation (MDOT) including
    - State Highway Administration (SHA)
    - Maryland Aviation Administration (MAA)
    - Maryland Port Administration (MPA)
    - Maryland Transit Administration (MTA)
- Maryland Transportation Authority (MdTA)
- St. Mary's College of Maryland
- Washington Suburban Sanitary Commission.

Please contact Commission staff for further information on whether the proposed project qualifies under an MOU and therefore is not required to be voted upon by the Commission. For projects that are covered under general approval please refer to the approved MOU for process requirements.

APPLICATION CHECKLIST

General Project Information

Please include the following text information, if applicable to the site, in the project application materials. This information may be included in the form of letters, reports, or site plan notes.

- ____ **Project name and location**
- ____ **Project Purpose**
- ____ **Agency sponsoring project**
- ____ **Project description**
- ____ **Anticipated timeline**
- ____ **Total acreage in Critical Area**
- ____ **Total forest area cleared**
- ____ **Method of stormwater control**
- ____ **Area of Disturbance within Buffer**
- ____ **Area of Canopy Clearing within Buffer**
- ____ **10% Stormwater Rule Draft ESD Spreadsheet**
- ____ **Soil erosion and sediment control measures and implementation strategy**
- ____ **Lot coverage information**
- ____ **Mitigation required for clearing of forest area**
- ____ **Mitigation required for impacts to the Buffer**
- ____ **Afforested area**
- ____ **Climate Resilience Summary Statement (see next section)**

Climate Resilience Information

In addition to completing the checklist below, compose a short summary statement describing how the following climate resilience factors have been considered during project siting and design. See Attachment C for an example summary statement.

Climate Resilience Checklist

Please include the following information in the project application materials (much of which can be found here: http://dnr.maryland.gov/ccs/coastalatlas/Pages/default.aspx) This information may be included in the form of text, maps, reports, or site plan notes. Items with an asterisk * should be displayed on a color map. If the development project is required to comply with Coast Smart Construction criteria, much of this material may already be compiled and can be submitted here as well. For additional information regarding any of these items, please see Attachment C.

____ **If required to comply with Coast Smart Construction criteria, include one of the following:**

- Project Screening Checklist
- Categorical Exception Cover Sheet
- Construction Waiver Cover Sheet

____ **Ecosystem Resiliency Features***

- Wetlands or Marshes
- Oyster Beds or Reefs
- Barrier Islands
- Forested or Vegetated Buffers
- Dunes or Beaches
- Underwater grasses/Submerged Aquatic Vegetation

____ **Historical Shoreline Erosion***

____ **Intended design lifespan**

____ **FEMA Floodplains (100-yr, 500-yr, and Special Flood Hazard Areas)***

____ **0-2 Foot and 2-5 Foot Sea Level Rise Inundation Zones***

- Demonstration of consideration for sea level rise based on lifespan

____ **Storm Surge Inundation Zones, Category 1-4***

- Demonstration of consideration for coastal hazards

____ **Wetland Migration Areas***

- Demonstration of consideration for wetland migration areas

General Mapping Features

Please include the following features on all site plans:

____ **Vicinity map**

____ **Project boundary**

____ **Scale**

____ **Orientation**

____ **Project Name and Location**

____ **Tract or lot lines**

____ **Critical Area boundary (Breakdown by IDA, LDA, RCA)**

____ **Limit of Disturbance**

___ **Limit of Disturbance within Buffer**

____ **Area of canopy clearing within Buffer**

____ **Agricultural lands**

____ **Dredging activity and spoil site**

____ **Surface mining sites and wash plants**

____ **Topography**

- Including steep slopes (15% or greater) and proposed grading.

____ **Soil**

- Type
- Area of hydric soils
- Area of highly erodible soils

____ **Vegetative cover**

- Existing Forest
- Forest Clearing
- Afforestation/Reforestation
- Mitigation Areas

____ **Existing and proposed structures**

- Including, buildings, roads, paved areas or other areas of lot coverage, parking lots, storm drains, septic areas, stormwater management systems, and shore erosion control structures

Habitat Protection and other Sensitive Area Mapping Features

Please show the following Habitat Protection Area features on all site plans, if relevant to the particular project site:

____ **Buffers**:

- Minimum 100 ft. from tidal waters, landward edge of tidal wetlands and tributary streams
- Expanded Buffer to include 15% or greater slopes, hydric soils and highly erodible soils
- 25 ft. from nontidal wetlands

____ **Tidal Wetlands**

____ **Nontidal Wetlands**

____ **Threatened and Endangered Species, Species in need of conservation**

____ **Plant and Wildlife Habitats**

- Colonial water bird nesting sites, historic waterfowl staging and concentration areas, riparian forest, forest interior dwelling bird habitat, areas of state or local significance, and natural heritage areas

____ **Anadromous Fish Propagation Waters**

Mitigation Compliance Documentation (Buffer Management Plans, Forest Mitigation Plans, Other Plans)

If mitigation is required as a result of the project, the submittal must include a proposed mitigation plan, mitigation bank credit use agreement, and/or fee-in-lieu payment receipt to demonstrate compliance with the requirement.

Mitigation Plan Requirements:

____ **A plan drawn to scale showing:**

- Limit of disturbance
- Total area of canopy cover removed
- Arrangement of the proposed planting

____ **A landscape schedule** that meets the planting standards outlined in COMAR 27.01.09.01-2 and that includes:

- Species type
- Quantity of plants
- Size of plants proposed
- Proposed planting date

____ **A maintenance plan** that includes:

- Invasive species and pest control practices
- Watering schedule
- Signature of the responsible party
- Provisions for a minimum of 2 years of monitoring.
- A reinforcement planting provision if survival rates fall below 80%.

____ **A Planting Agreement Form** must also be submitted (see Attachment D).

Minimum Documentation Requirements

Copies of the following permits/documents should be included in the application package or must be in their final stages (i.e., public comment period completed, permit conditions in final form), if applicable to the site, prior to scheduling the project for review by the Project Subcommittee:

____ **Maryland Department of the Environment (MDE)**

____ *Tidal wetlands approval* Tracking #: License #:

Application Submission Date:

Approval Status: Pending _____ Issued _____

____ *Nontidal wetlands and waterways approval* Tracking #: License #:

Application Submission Date:

Approval Status: Pending _____ Issued _____

____ *Water Quality Certification* Tracking #: License #:

Application Submission Date:

Approval Status: Pending _____ Issued _____

____ *Stormwater Management approval* Tracking #: License #:

Application Submission Date:

Approval Status: Pending _____ Issued _____

____ *Sediment and erosion control plan approval* Tracking #: License #:

Application Submission Date:

Approval Status: Pending _____ Issued _____

____ **U.S. Army Corps of Engineers (ACOE) Permit**

Permit Type:

___*Nationwide Permit* ___*Standard Individual Permit*

___*Regional General Permit* ___*Letter of Permission*

___*State Programmatic General Permit*

Tracking #: Authorization #:

Application Submission Date:

Approval Status: Pending_____ Issued_____

____ **Maryland Department of Natural Resources (DNR)**

____ Environmental Review letter

Date Submitted:

____ **Maryland Historical Trust (MHT)**

____ Review letter

Date Submitted:

Site Visits

Site visits should be arranged with Commission staff by the responsible agency.

Formal Submission

Application of a complete package may be made by U.S. Mail or electronically via email. Electronic submissions are preferred.

PLEASE SUBMIT THE ABOVE INFORMATION TO:

CRITICAL AREA COMMISSION
1804 WEST STREET, SUITE 100
ANNAPOLIS, MARYLAND 21401
(410) 260-3460
Fax (410) 974-5338
EMAIL: cacadmin.dnr@maryland.gov

ATTACHMENT A

NOTICE REQUIREMENTS

27.03.01.03

.03 Notice Requirements for State Agency and Local Agency Development.

A. The requirements of this regulation do not apply to development that a State agency or local agency proposes in the Critical Area if:

(1) As provided under COMAR 27.02.02, the development is:

(a) A State agency action that results in development of local significance on private lands or lands owned by a local jurisdiction; or

(b) A local agency action that results in development of local significance on private lands or lands owned by a local jurisdiction;

(2) The development is included in a general approval, as provided under COMAR 27.02.03; or;

(3) All of the following:

(a) The development is proposed on State lands;

(b) The State agency is otherwise required by operation of law to provide public notice and public comment for that type of development; and

(c) Posting is accomplished in accordance with §D of this regulation.

B. Public Notice.

(1) Except as provided under §A of this regulation, a State agency or local agency that proposes development in the Critical Area shall, as part of its project submittal to the Commission, provide evidence that:

(a) Public notice was published for 1 business day in a newspaper of general circulation in the geographic area in which the proposed development would occur;

(b) Publication included:

(i) The identity of the sponsoring State agency or local agency;

(ii) A description of the proposed development;

(iii) The street address of the affected land and a statement that its location is in the Critical Area; and

(iv) The name and contact information of the person within the sponsoring State agency or local agency designated to receive public comment, including a fax number and email address, and the deadline for receipt of public comment;

(c) At least 14 days were provided for public comment in the local jurisdiction in which the proposed development would occur; and

(d) The affected land was posted in accordance with §D of this regulation.

(2) In addition to the public notice required under §B(1)(a) and (b) of this regulation, a State agency or local agency may provide for public notice:

(a) By electronic posting on its website or the website of a newspaper of general circulation in the local jurisdiction in which the proposed development would occur; or

(b) To a neighborhood association or residents of a particular geographic area.

C. Evidence of public notice and opportunity for public comment required under §B(1)(a) and (c) of this regulation shall include at least the following documentation:

(1) The name of the newspaper and the date on which the notice was published;

(2) A copy of the public notice as it was published in the newspaper; and

(3) A copy of each written comment received in response to the public notice.

D. The sponsoring State agency or local agency shall ensure that the posting required under §B(1)(d) of this regulation meets the following requirements:

(1) The sign is at least 30 inches by 40 inches in size;

(2) The sign clearly:

(a) Identifies the sponsoring State agency or local agency;

(b) Describes the proposed development;

(c) Provides the street address of the affected land and states that it is located in the Critical Area; and

(d) States the name and contact information of the person within the sponsoring State agency or local agency designated to receive public comment, including a fax number and email address, and the deadline for receipt of public comment;

(3) On a date not later than the date on which the notice is published in the newspaper, the sign is posted in a conspicuous location on the affected land and remains there until after the Commission has voted on the development; and

(4) For development that extends more than 1,000 linear feet in road frontage, at least one sign is posted at each end of the affected land on which the development is proposed.

ATTACHMENT B

CRITICAL AREA COMMISSION
MEETING AND SUBMITTAL SCHEDULE
2022

NOTE: ALL MEETINGS ARE TENTATIVELY SCHEDULED FOR EACH MONTH, BUT MAY NOT OCCUR EACH MONTH

COMMISSION MEETING DATE	6-WEEK PROJECT SUBMITTAL DEADLINE
January 5, 2022	November 24
February 2, 2022	December 22
March 2, 2022	January 19
April 6, 2022	February 23
May 4, 2022	March 23
June 1, 2022	April 20
July 6, 2022	May 25
August 3, 2022	June 22
September 7, 2022	July 27
October 5, 2022	August 24
November 2, 2022	September 21
December 7, 2022	October 26

ATTACHMENT C

COASTAL RESILIENCY ANALYSIS FOR STATE PROJECTS

This worksheet is intended to help an agency select a sea level rise estimate for a proposed project and guide analysis to demonstrate that the agency has considered the impacts of climate change and sea level rise as it relates to a proposed project. The analysis relies on Maryland's sea level rise predictions issued by the Maryland Commission on Climate Change, as updated every five years. Resources that may assist in completing the analysis are listed at the end of this attachment.

PART I. Select Mean Sea Level Rise Estimate.

Data Source: Appendix B - Guidance for Using Maryland 2018 Sea Level Rise Predictions

Step 1. Define the design life of the project, and identify required major maintenance activities and their timeframes through the life-cycle of the project:

Design-Life:_____

- _____
- _____
- _____
- _____

Step 2. Determine the Project's Tolerance for Flood Risk.

Tolerance for flood risk is the willingness of decision-makers and stakeholders to accept possible consequences of flooding. Flood risk tolerance is different from a project's sensitivity to inundation, which refers to the project's capacity to sustain damage or loss of function during a flood event or repeated flood events. A project with high sensitivity to inundation would be easily damaged if flooding were to occur, whereas a project with low sensitivity to inundation would not.

	HIGH TOLERANCE FOR FLOOD RISK	MEDIUM TOLERANCE FOR FLOOD RISK	LOW TOLERANCE FOR FLOOD RISK
Description	Decision-makers & stakeholders have a High tolerance for flood risk to the project	Decision-makers & stakeholders have a Medium tolerance for flood risk to the project	Decision-makers & stakeholders have a Low tolerance for flood risk to the project
Possible Project Characteristics	Low impact, importance or consequence to the community and/or replacement cost. Easy or likely to adapt. Little to no implications for public function and/or safety. Low sensitivity to frequency and exposure to inundation.	Medium impact, importance or consequence to the community and/or replacement cost. Moderately easy or somewhat likely to adapt. Moderate implications for public function and/or safety. Moderate sensitivity to frequency and exposure to inundation.	High impact, importance or consequence to the community and/or replacement cost. Difficult or unlikely to adapt. Substantial implications for public function and/or safety. High sensitivity to frequency and exposure to inundation.

Source: Guidance for Using Maryland 2018 Sea Level Rise Predictions

Overall Flood Risk Tolerance: ____HIGH ____MEDIUM ____LOW

Explanation:_____
_____
_____
_____
_____
_____

Step 3. Select a tide gauge.

Per the Guidance for Using Maryland 2018 Sea Level Rise Predictions, "decision-makers may choose to select the tide gauge that best represents or is the closest to or located within the project area. In most cases, RSLR projections based on the closest tide gauge should be used for the project. However, in some instances, a further tide gauge may be more representative of the project area. For example, Hoopers Island in Dorchester County is closest to the Solomons Island tide gauge but would be better represented by the Cambridge tide gauge because it is on the same side of the Bay. For regional or statewide projects, consider selecting a tide gauge with an intermediate rate of RSLR (Annapolis or Cambridge) to be representative of the whole project area."

____Annapolis, MD
____Baltimore MD
____Cambridge, MD
____Lewes, DE
____Solomons Island, MD
____Washington, DC

Step 4. Select a RSLR estimate for the project in accordance with Appendix B of the Guidance for Using Maryland 2018 Sea Level Rise Predictions.

The project should plan for _____ft by the year_____.

PART II. Provide Assessment of Climate Resilient Practices that Address Coastal Hazards, Extreme Weather Events, Sea Level Rise, and Other Impacts.

Step 1. Relative Sea Level Rise
Is the project located within the selected RSLR over the course of its design life?

_____YES ____NO

Step 2. Desktop Analysis
Will the project be impacted by storm events or nuisance flooding over the course of its design life?

_____YES ____NO

Data Source: MDOT SHA Climate Change Vulnerability Viewer

- Select 2050 and 2100 (as necessary) Nuisance Tidal Inundation Maps

Is the project within the FEMA 100 or 500-year floodplain?

_____ YES ____NO

Data Source: Maryland Flood Maps

Is the project within a Special Flood Hazard Area?

_____ YES ____NO

Data Source: Maryland Flood Maps

Is the project located within the CoastSmart Climate Ready Action Boundary (CS-CRAB) layer?

_____ YES ____NO

Data Source: Maryland Flood Maps CRAB Tool

_____ Please provide maps showing the above layers in conjunction with the proposed project.

Step 3. Design Considerations

Describe how the agency has considered the likelihood of sea level rise over the course of the design life of the development. This may include specific design or construction alterations made to the project if it is vulnerable to sea level rise, or location alterations made. (COMAR 27.02.05.03 B (9) (a))

_____
_____
_____
_____
_____

Step 4. Coastal Resiliency Practices

What climate resilient practices have been identified and incorporated into the proposed project in order to avoid, or in the alternative, minimize environmental and structural damage associated with a coastal hazard, an extreme weather event, sea level rise, and other impacts? (COMAR 27.02.05.03 B (9) (b))

_____
_____
_____
_____
_____

Does the project incorporate freeboard above the 100-year base flood elevation, wet-proofing or dry-proofing structures below base flood elevation, or the consideration of flooding potential for selection of

building materials? If yes, please describe.

_____
_____
_____
_____
_____

Does the project use or consider presence or creation of ecosystem resiliency features such as oyster beds, wetlands, dunes, barrier islands, or SAV? If yes, please describe.

_____
_____
_____
_____
_____

What other climate resilient practices have been incorporated into the project?

_____
_____
_____
_____
_____

Step 5. Wetland Migration Areas

Is there a potential wetland migration area located within the project site or adjacent to the project site (if the adjacent area is either owned by the agency or within a legally enforceable right-of-way)?

_____YES _____NO

Data Source: Maryland Coastal Atlas

- Select Sea Level Rise Vulnerable Wetlands and Sea Level Rise Wetland Adaptation Areas layers

If YES, how does the project preserve, protect and maintain these potential wetland migration areas? (COMAR 27.02.05.03 B (3) (b))

_____
_____
_____
_____
_____

_____ Please provide a color map of the wetland migration corridors within or adjacent to the project area, with the site or project noted on the map.

Will the project, over the course of its design life, adversely impact a potential wetland migration area?

_____ YES ____NO

If YES, describe the adverse impact. Why is that impact unavoidable? (COMAR 27.02.05.03 C (1))

_____
_____
_____
_____
_____

If YES, please provide an assessment of ecological features on site that could be enhanced, restored, or created in order to maintain existing wetland functions and to provide additional protection against future sea level rise and coastal storm impacts. This could include the presence or creation of features such as living shorelines, oyster beds, wetlands, dunes, barrier islands, or SAV. (COMAR 27.02.05.03 C (2))

_____
_____
_____
_____
_____

Data Source: Maryland Coastal Atlas

- Select Coastal Resiliency Assessment Layer

If YES, please provide recommendations regarding the most feasible methods to address the detrimental adverse impact to a potential wetland migration area, and the enhancement, restoration, and creation of natural features on site. COMAR 27.02.05.03 C (3))

_____
_____
_____
_____
_____

Step 6. Public Access

If applicable, how does the location and design of the project minimize impacts from sea level rise to a newly established public access? How has long-term access been considered, i.e. can the access move or be relocated; or can other access sites be created in the future? (COMAR 27.02.05.03 D)

_____
_____
_____
_____

ATTACHMENT D

Planting Agreement for State Projects

State Agency

Project Number

Agency Contact

Phone Number

Commission Approval Date

CAC Planner

Project Name

Project Location

Square Feet Cleared Outside 100ft Buffer

Mitigation Ratio for Clearing Outside Buffer

Mitigation Calculation Outside Buffer

Square Feet Disturbed/Cleared Within Buffer

Mitigation Ratio for Disturbance/Clearing Within Buffer

15% Afforestation Provided (if required)

Mitigation Calculation Within Buffer

Total Mitigation Requirement

Planting and Natural Regeneration Plan Summary (Planting Plans should be submitted separately)

Planting Date	Year

First Site Visit Date	Completed by	Second Site Visit Date	Completed By

Date Mitigation Complete

Responsible Contact for Mitigation (Print)	Signature	Date