

**CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100
Annapolis, Maryland 21401**

MEMORANDUM

To: Deborah Herr Cornwell (Chair), Jim Lewis, Gary Mangum, Gary Setzer and Sue Greer

From: Jennifer Esposito, Natural Resources Planner and Nick Kelly, Regional Program Chief

Date: December 13, 2018

Subject: Talbot County Critical Area Program Comprehensive Review

Once again, thank you for your participation as a member of the panel to evaluate the comprehensive review of Talbot County's Critical Area Program. A panel meeting to discuss the proposed amendment has been scheduled for Monday, December 17, 2018 from 1:00pm until 4:00pm at the Critical Area Commission's office (address noted above). Lunch will be provided to the panel at 12:30pm.

This memorandum provides summary information on public comments received at the November 29th public hearing and any additional comments received by this office since the hearing regarding the proposed changes to the Talbot County Critical Area Program. In addition, this memorandum provides an outline of topics to be discussed at the December 17th meeting, time permitting.

I. PUBLIC HEARING SUMMARY AND COMMENTS

A public hearing held was on November 29, 2018 at the Talbot County Community Center. The meeting commenced just after 6:45pm and concluded shortly after 7:40pm. The hearing was attended by thirty-six individuals, including twenty-one members of the public, two Talbot County Council members, two Talbot County Planning Commission members, and eleven people affiliated with the County. Mary Kay Verdery, Director of Planning and Zoning, presented an overview of the significant changes to the County's Critical Area Program as a result of the adoption of Talbot Bill 1401.

Five members of the public spoke at the hearing and provided comments. Four of the five commenters expressed concern that the Talbot County Critical Area Program allowed short-term rentals in the Critical Area. They mentioned the environmental impacts resulting from short-term rental use, including impacts to natural resources, shorelines, and water quality. These commenters asked the panel to consider limiting short-term rentals in the Critical Area, at least in the same manner as bed-and-breakfasts are limited in the Critical Area. The fifth commenter requested that the comment period be extended.

At the conclusion of the hearing, the Panel Chair determined that the record should be kept open past November 29, 2018, to receive additional comments. The Panel Chair announced at the hearing that the record would be kept open until the close of business on December 14, 2018.

Prior to the public hearing, Chairman Deegan received nine letters from the public, all of which commented on the short-term rental provisions in the County Code. Those comment letters were included in the binders provided to the Panel at the public hearing. Copies of all letters received since the conclusion of the public hearing will be provided to the Panel on December 17th.

II. ISSUES RAISED BY PUBLIC COMMENT

Short Term Rentals

As mentioned above, the public comments at the public hearing as well as those received by our office overwhelmingly focus on the County's provisions for short-term rentals. The commenters ask that short-term rental uses be limited in the Resource Conservation Area (RCA) in the same manner as the limits prescribed for bed and breakfasts within the RCA. In this Code update, the County does not place the same limits on short-term rentals as on bed and breakfasts within the RCA. The County did, however, amend the short-term rental provisions to more clearly address a number of issues including – most relevant to Critical Area issues – eligibility (i.e., license for primary or accessory dwelling, but not both) and maximum occupancy (i.e., lesser of 12 persons or 2 per bedroom in the primary dwelling).

COMAR Title 27 does limit some types of uses within the Critical Area. Certain intense uses, such as heavy industry, are only permitted in the Intensely Developed Area (IDA). The most restricted Critical Area designation is the RCA. COMAR 27.01.02.05C(5)-(7) states that industrial and commercial facilities that existed in the RCA of the Critical Area prior to the local adoption of a Critical Area Program shall be allowed to be maintained within the RCA, but that new industrial, commercial, or institutional uses may not be located in the RCA unless the use is authorized by a local program. In evaluating specific new commercial, institutional or industrial uses that may be authorized in the RCA, the Commission considers whether the use is consistent with the policies of the RCA as described in COMAR 27.01.02.05B, and whether it meets the purposes, policies, and goals of the Critical Area law and regulations.

Over the years the Commission has authorized new commercial uses in the RCA in local programs based on a variety of factors, including whether the use is consistent with the natural resources of the RCA (agriculture, wetland, forest, etc), or whether the use is limited in such a way that the number and movement of people will have minimal impacts to the RCA. Some uses in local programs are limited to existing grandfathered structures, while others may be limited based on total square footage of development. Finally, other uses may be recognized as having a limited impact to the RCA simply based on the specific use.

Talbot County Code lists all permitted uses within the RCA and prescribes limitations for expanding permitted commercial, institutional, and industrial uses without the use of growth allocation. Talbot County allows short-term rentals as an accessory use in most zoning

designations as well as in the IDA, Limited Development Area (LDA) and RCA of the Critical Area. (Short-term rentals, however, are not permitted in commercial or industrial districts.)

Talbot County requires that a person obtain a short-term rental license prior to operating. The short-term rental license may be issued for either a primary residential dwelling, or for an accessory dwelling unit on a property, but not for both. Within the RCA, residential density limitations still apply. Thus, a new primary residential unit could not be built to accommodate a short-term rental, unless there was sufficient acreage to meet the one dwelling unit per twenty acre density requirement in the RCA. Similarly, an accessory dwelling unit could not be located in the RCA, unless it met the limitations described in Natural Resources Article § 8-1801.1(e). Short-term rentals are defined in the Talbot County Code to be limited to the lesser of 12 persons or two persons per bedroom in the primary dwelling.

In comparison, Talbot County Code authorizes a bed-and-breakfast as an accessory use permissible in the IDA, LDA and RCA of the Critical Area. As an accessory use, a principal use or structure is first required. The use is limited to no more than six guest bedrooms and no more than 12 guests at one time. In the Critical Area, the use is limited to primary dwellings that existed as of the County's program adoption date and expansion is limited to 50% of the gross floor area.

Talbot County has not proposed to limit short-term rentals in the Critical Area in the same way bed-and-breakfasts are limited (i.e., only existing primary dwellings). The County considers short-term rentals to be a residential, not commercial use, and all Critical Area development standards – including density limits in the RCA – still apply.

Other Issues

I will update the panel during the course of the meeting on any other issues that may be raised by public comment if received prior to the closing date.

III. PANEL MEETING AGENDA

During this meeting, the panel will review and discuss the following topics, time permitting. Items 3 through 10 are outlined in the original panel memorandum, dated November 15th, 2018, which provides a summary of the proposed changes to the Talbot County Critical Area Code:

1. Public Hearing – Summary
2. Public Hearing Comments
3. Growth Allocation – Alternative to Adjacency Standards (Page 3)
4. Growth Allocation – Exceeding the 50% Growth Allocation Cap in the Resource Conservation Area (Page 4)
5. Growth Allocation – Sectional Map Amendments (Page 4)
6. Forests and Developed Woodlands – Clearing Greater than 30% on 1 Acre Lots (Page 5)
7. Buffer – Establishment Requirement Alternatives and Definition (Pages 5, 8)
8. Buffer – Expansion for Steep Slopes (Page 5)
9. Nonconforming Lots – In-kind Replacement Provisions (Page 7)

10. Land Uses – Limits on New Uses in the Resource Conservation Area (Page 6)

An additional panel meeting will be held in January to continue discussing any topics not covered at the December 17th meeting. The date for the January panel meeting will be determined at the end of the meeting on December 17th.

IV. CONTACT INFORMATION

For questions prior to the panel meeting, please feel free to contact Nick Kelly at (410) 260-3483 or nick.kelly@maryland.gov.