



Chesapeake and Atlantic Coastal Bays Critical Area 101

March 16, 2022

Critical Area Commission Staff

Overview



- History & Purpose of the Critical Area Law
- Critical Area Development Standards
- Project Review and Forms
- *Break*
- Local Government Projects and Forms

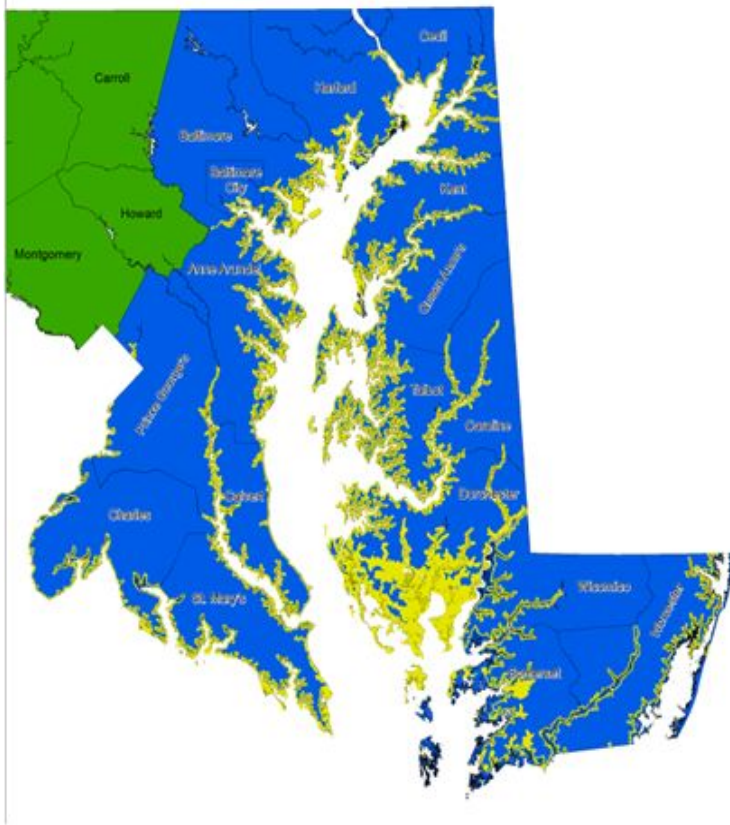
History



- Introduced in 1984
- Protect water quality and habitat
- Regulated through State Law or local Critical Area Programs



Where is the Critical Area?



- All tidal waters of the Chesapeake and Atlantic Coastal Bays
- All land within 1,000 feet of tidal waters and tidal wetlands
- 11% State
- 5,200 miles of shoreline

Purpose of the Law



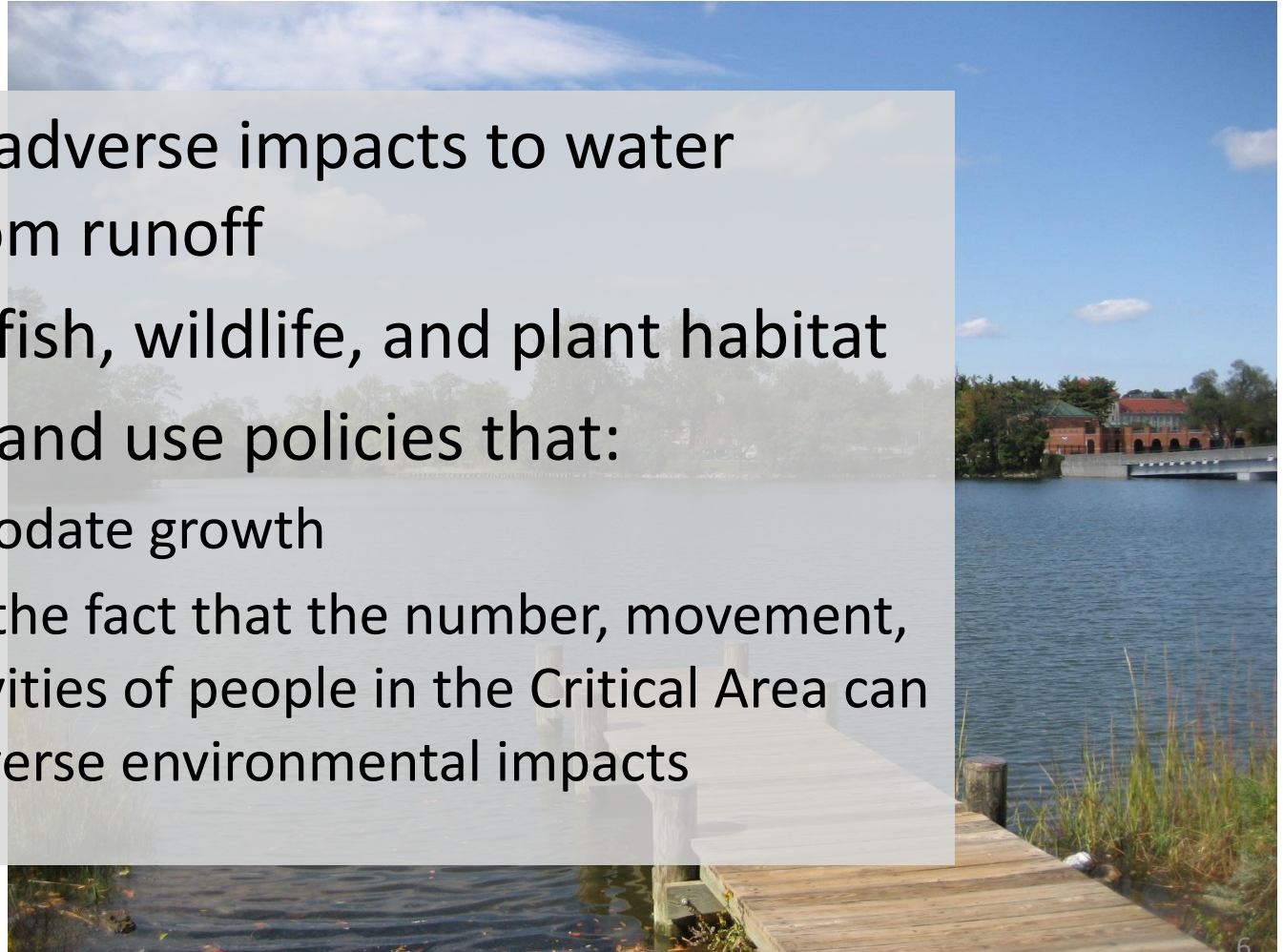
“It is the purpose of the General Assembly in enacting this subtitle:

- To establish a Resource Protection Program for the Chesapeake and the Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and
- To implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State and local leadership, criteria, and oversight.”

Goals of the Law



- Minimize adverse impacts to water quality from runoff
- Conserve fish, wildlife, and plant habitat
- Establish land use policies that:
 - accommodate growth
 - address the fact that the number, movement, and activities of people in the Critical Area can have adverse environmental impacts



Local Critical Area Programs



- Every jurisdiction is responsible for implementing a local program approved by the Commission
- Most development approvals and enforcement actions are local
- Commission focus is on local alternatives for local needs



Coordination with Local Governments



- Law requires full compliance with State regulations, even if not yet adopted in local program
- State regulations are minimum standards
 - If conflict between State and local, stricter provisions apply
- Coordination with Commission Staff



Development Standards



- Land use classifications
- Forest & Developed Woodland
- Habitat Protection Areas (HPAs)
- Buffer

Intensely Developed Area (IDA)

COMAR 27.01.02.03



- Existing urban, industrial, institutional, commercial and other developed areas
- Little existing natural habitats
- Pollutant reduction of 10% required for development

Limited Development Area (LDA)

COMAR 27.01.02.04



- Residential and commercial areas of moderate intensity
- Some commercial, institutional uses; habitats
- 15% lot coverage
- Forest clearing limited

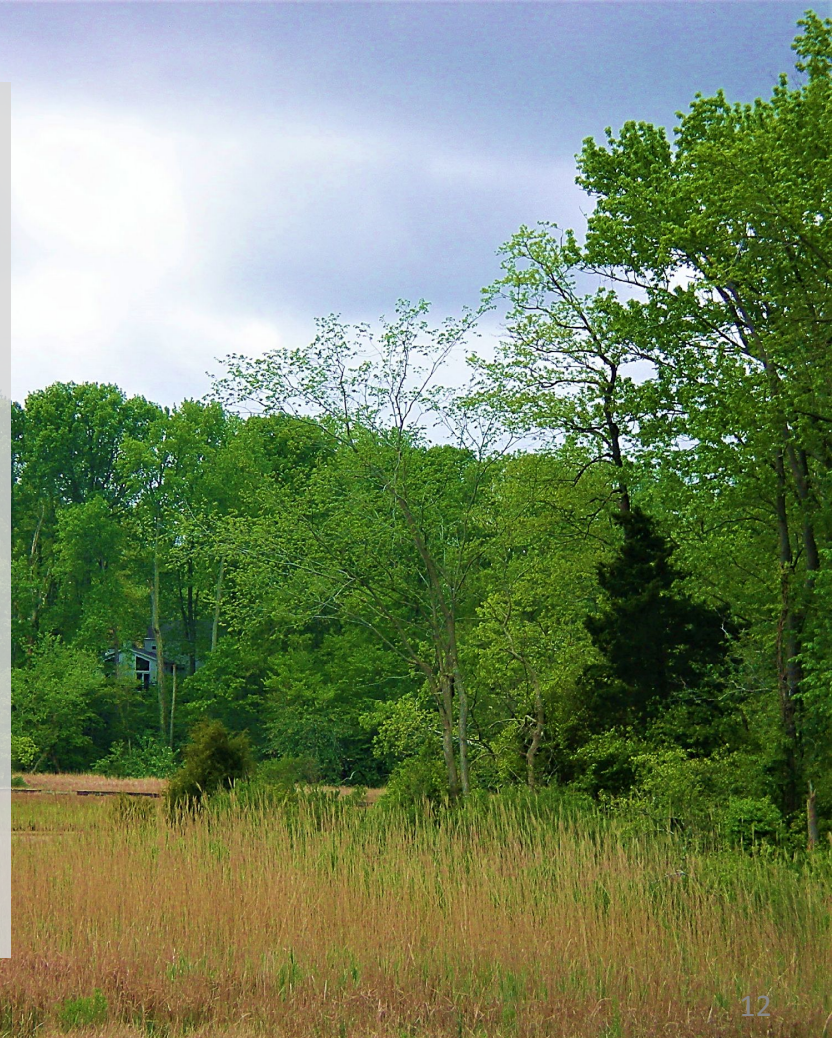


Resource Conservation Area (RCA)

COMAR 27.01.02.05



- Farms, forests, wetlands, fields, and open spaces
- Low density development
- Commercial uses related to natural resources
- New residential: 1 dwelling unit per 20 acres
- Lot coverage 15 – 25%; forest clearing limited



Forest and Developed Woodland

COMAR 27.01.02.04



- Goal of no-net loss in Critical Area
- IDA: Encourage programs to enhance and protect
- LDA and RCA:
 - Up to 20% Cleared; 1:1 Mitigation
 - Up to 30% Cleared; 1.5:1 Mitigation
 - Clearing over 30%; Prohibited except by variance; 3:1 Mitigation



Grandfathering

COMAR 27.01.02.07



- Recorded before December 1, 1985 or before local program approval
- May be developed with a single family dwelling
- Comply to the maximum extent possible



Habitat Protection Areas (HPA)

COMAR 27.01.09



- 100-foot Buffer
- Nontidal wetlands
- Threatened and endangered species habitats
- Species in need of conservation
- Anadromous fish spawning waters

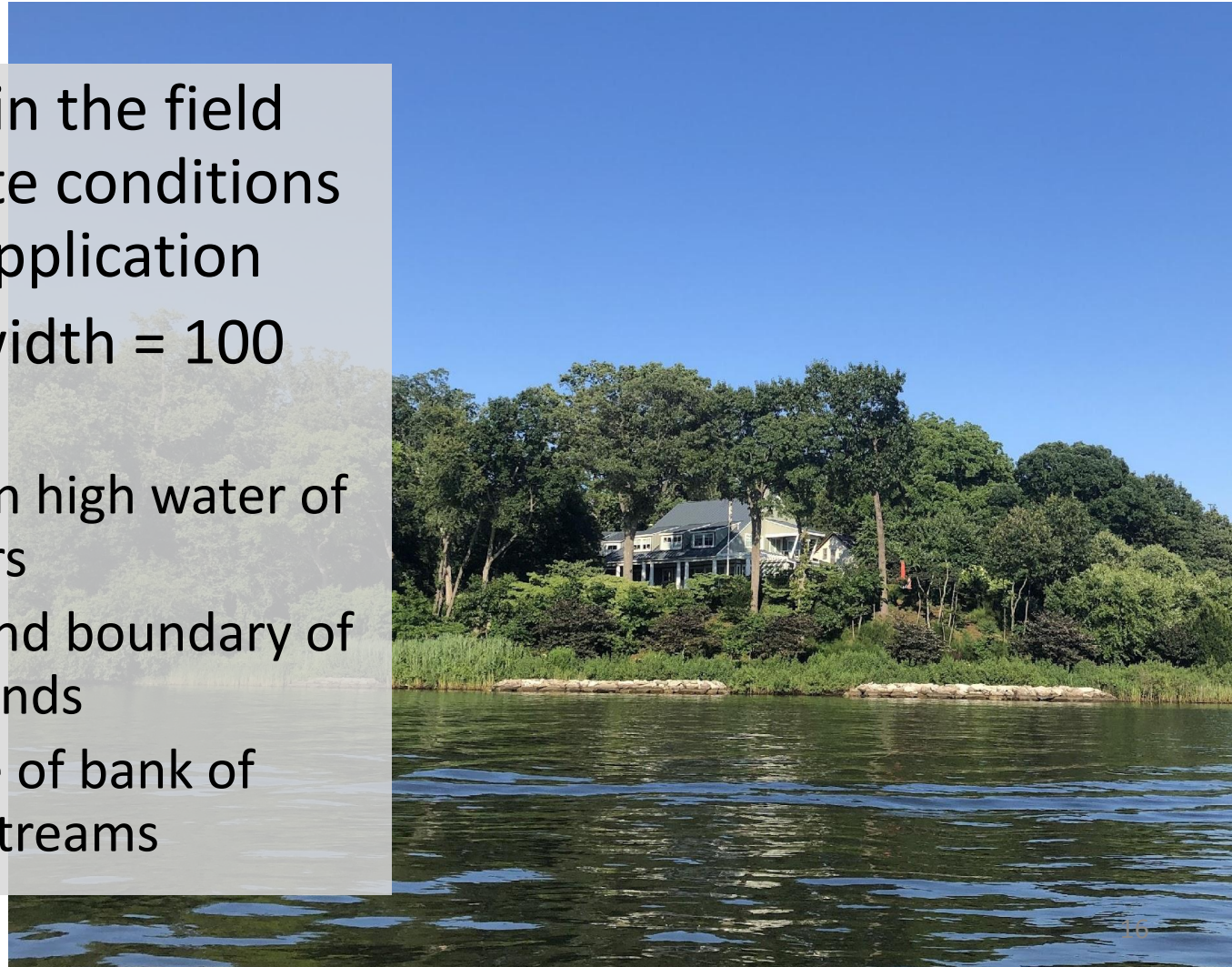
- Forest interior dwelling bird (FIDS) habitat
- Riparian forests
- Historic waterfowl staging & concentration areas
- Colonial Water Bird Nesting Areas
- Natural Heritage Areas

Buffer

COMAR 27.01.09



- Delineated in the field based on site conditions at time of application
- Minimum width = 100 feet
 - From mean high water of tidal waters
 - From upland boundary of tidal wetlands
 - From edge of bank of tributary streams

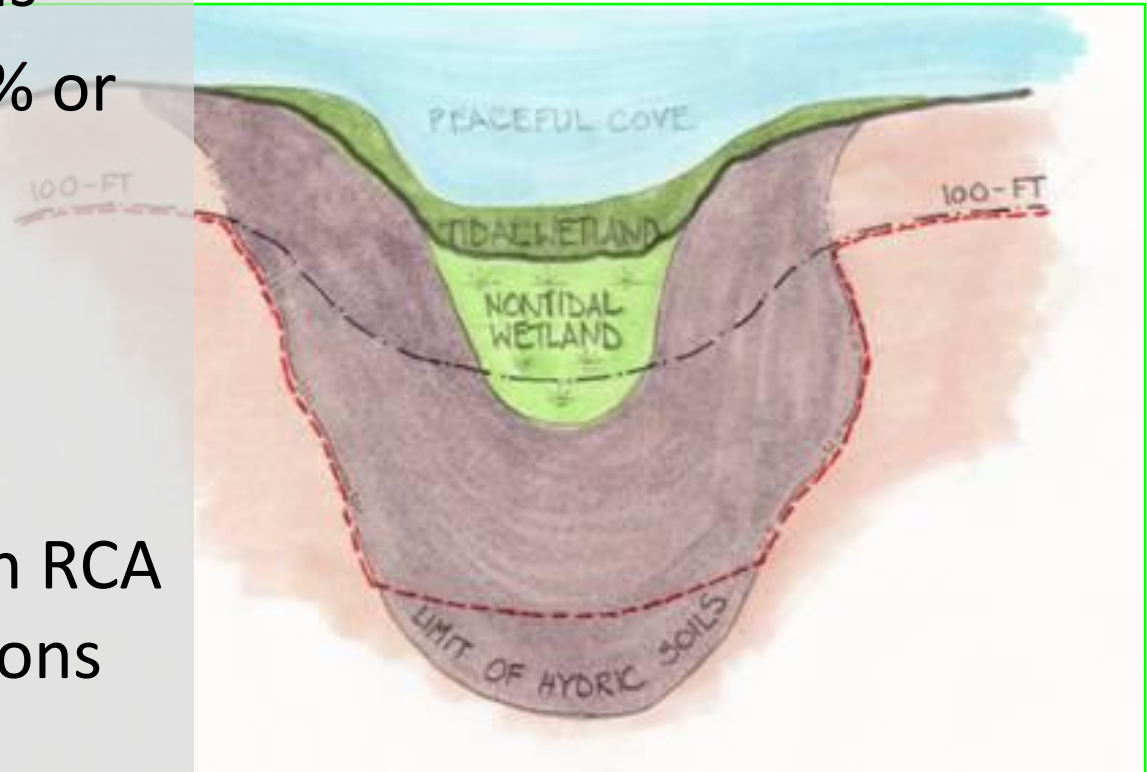


Expanded Buffer

COMAR 27.01.09.01(7)



- Nontidal wetlands
- Steep slopes (15% or greater)
- Sensitive soils
 - Hydric
 - Highly erodible
- 200-foot Buffer in RCA for *new* subdivisions or site plans



Buffer Establishment

COMAR 27.01.09.01-1



- Amount of establishment based on type of activity
- Fully established Buffer required for subdivisions and land use changes

Development Category	Lot Created Before Local Program Adoption	Lot Created After Local Program Adoption
New development on vacant lot	Total lot coverage	Full establishment
New subdivision or new lot	Full establishment	
New lot with existing dwelling unit	Establishment = total lot coverage	
Conversion of land use to another land use	Full establishment	
Addition, accessory structure, or redevelopment	Establishment = increase in lot coverage	
Substantial alteration	Establishment = total lot coverage	

Buffer Mitigation

COMAR 27.01.09.01-2



- Impact

- Area of Disturbance
- Canopy Cleared

- Mitigation

- Ratios dependent upon type of activity

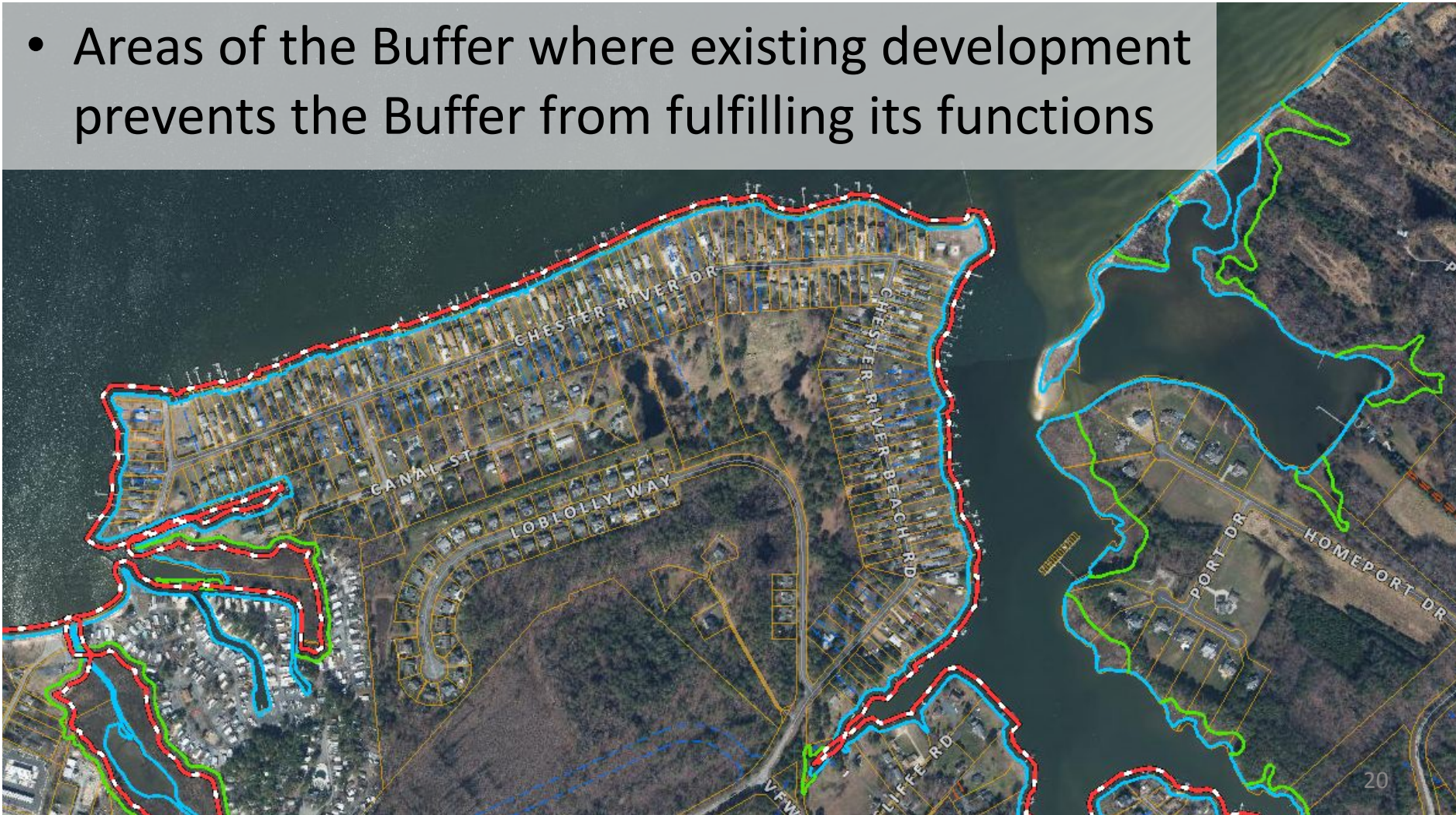
Activity	Mitigation Ratio	
	Permanent Disturbance	Temporary Disturbance
Septic on grandfathered lot if no clearing required	N/A	0
Septic on grandfathered lot where clearing is required	1:1	N/A
Shore erosion control	1:1	1:1
Riparian water access	2:1	1:1
Water-dependent facility	2:1	1:1
Variance	3:1	1:1
Violation	4:1	N/A

Buffer Management Area (BMA)

COMAR 27.01.09.01-8



- Areas of the Buffer where existing development prevents the Buffer from fulfilling its functions



Project Review



- Building permits
- Zoning certificates
- Removal of vegetation
- Grading
- Subdivisions
- Site Plans

- Variances
- Growth allocation
- Rezoning
- Shore erosion control projects
- Trails and paths
- Special exceptions

Project Review in the Critical Area



- IDA
 - Stormwater
- LDA and RCA
 - Lot Coverage
 - Clearing
- RCA
 - Use
 - Density
- Mitigation
 - Buffer
 - Forest & Developed Woodland



Residential Projects in the IDA

Stormwater Management



- < 250 sf of disturbance = no stormwater
- > 250 sf but < 5,000 sf disturbance = 10% Rule
 - Tree and/or shrub plantings
 - Best Management Practices (rain gardens, pervious pavers, etc.)
- > 5,000 sf of disturbance = ESD Stormwater Management Plan
- <https://dnr.maryland.gov/criticalarea/Pages/stormwater.aspx>

Residential Projects in the LDA & RCA

Lot Coverage Limits



- Grandfathered Lot coverage limits
 - 15% (typically)
 - Provisions for smaller, grandfathered lots



Lot/Parcel Size (sq. ft.)	Lot Coverage Limit
0 – 8,000	25% of Parcel + 500 sq. ft.
8,000 – 21,780	31.25% of Parcel
21,781 – 36,300	5,445 sq. ft.
36,301 or greater	15% of Parcel

- New subdivisions = 15% *overall*

Residential Projects in the LDA & RCA

Forest/Woodland Clearing Limits



- Forest and developed woodland clearing limits
 - Clearing up to 20% = 1:1 mitigation
 - Clearing between 20-30% = 1.5:1 mitigation
 - Clearing above 30% requires a variance (3:1)
- 15% afforestation (creating new forest)



Residential Projects in the RCA

COMAR 27.01.02.05.C



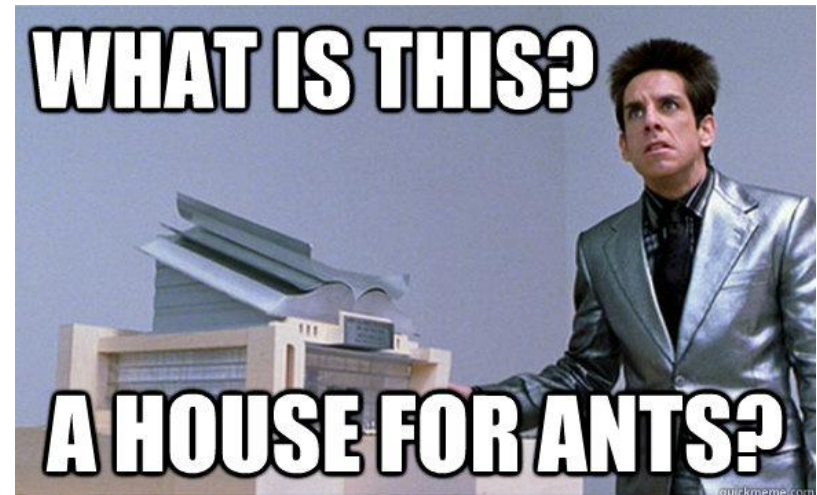
- Use
 - Generally limited to agriculture, forestry, fisheries activities, and aquaculture
 - New commercial, industrial, institutional is not permitted
- Density
 - One dwelling unit per 20 acres
 - Grandfathered lots that are nonconforming to density have limits as to how they may be reconfigured (COMAR 27.01.02.08)

Residential Projects in the RCA

Natural Resources Article § 8-1808.1(e)(2)(i)



- Accessory dwelling units
 - An additional dwelling unit per lot may be considered part of the primary dwelling unit if:
 - Served by same sewage system as primary unit
 - Does not increase lot coverage (if located *within* primary unit)
 - Within 100 ft of primary unit and does not exceed 900 sq ft in total enclosed area (if located *outside* of primary unit)



Residential Projects in the RCA

Natural Resources Article § 8-1808.2



- Intrafamily Transfers

- Parcels must be of record on March 1, 1986 (Chesapeake) or June 1, 2002 (Atlantic)
- Immediate family: father, mother, son, daughter, grandfather/mother, grandson/daughter, or sibling



Buffer Management Plans

COMAR 27.01.09.01-3



A Buffer Management Plan is required for:

- Buffer Establishment (planting in the Buffer for development elsewhere on the property)
- Disturbance to the Buffer resulting from:
 - Variance
 - Subdivision approval
 - Site plan approval
 - Shore erosion control
 - Grading permit
 - Special exception
 - Permitted installation/repair/replacement of septic system



5-min Break

