

MINUTES

**Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, Maryland 21401**

May 5, 2021

CALL TO ORDER: Chairman Charles C. Deegan called the meeting to order at 1:00 p.m. Chairman Deegan announced that the meeting was being held remotely on Microsoft Teams due to the current public health emergency. He shared that the meeting was being recorded and streamed live to the public and that a copy of the recording would be made available on the Commission's website. Executive Director Kate Charbonneau did a roll call to confirm the Commission members in attendance.

Commission Members in Attendance:

Nicole Acle, Wicomico County
Tim Adams, Prince George's County
Gail Blazer, Worcester County – Coastal Bays (Town of Ocean City)
Jeffrey Ferguson, Eastern Shore at Large
Deborah Herr Cornwell, Department of Planning
Anita Grant, Western Shore at Large
Sue Greer, Charles County
Sandy Hertz, Department of Transportation
Michael Hewitt, St. Mary's County
Charles Laird, Somerset County
James Lewis, Caroline County
Pat Mahoney, Calvert County
David Marks, Baltimore County
Catherine McCall, Department of Natural Resources
Michael McCarthy, Talbot County
Julie Oberg, Department of Agriculture
Steven Parker, Cecil County
Tammy Roberson, Department of Environment
Donald Sutton, Kent County
Caroline Varney-Alvarado, Department of Housing and Community Development

Commission Members Not in Attendance:

Curtis Beulah, Harford County
Andrew Bradshaw, Dorchester County
Matt Johnston, Anne Arundel County
Gary Mangum, Queen Anne's County
Jennifer Merritt, Worcester County – Chesapeake Bay
Ewing McDowell, Department of Commerce

APPROVAL OF MINUTES: Commissioner Hewitt motioned to approve the April 7, 2021 minutes, and Commissioner Adams seconded. Commissioner Greer and Commissioner Hertz abstained from voting, as they were not at the April meeting. All others voted to approve.

STAFF PRESENTATIONS

PROGRAM SUBCOMMITTEE:

Refinement – The Real Food Studio – Growth Allocation (St. Mary’s County)

Ms. Annie Sekerak presented a refinement to the Critical Area Program of St. Mary’s County. She reviewed her staff report, which is incorporated into and made a part of these minutes.

St. Mary’s County requested growth allocation to change the designation of 1.395 acres of Resource Conservation Area (RCA) to an Intensely Developed Area (IDA). On March 9, 2021, the Commissioners of St. Mary’s County reviewed and voted unanimously to approve the proposed growth allocation. The subject parcels (Tax Map 49, Parcels 71 and 247) are located at 41566 Medleys Neck Road, Leonardtown, MD 20650 and are owned by Kelley Studio, LLC. The purpose of the growth allocation is to allow for commercial use of the site. The site was previously established as a commercial business that has been closed for over a year. The County Critical Area Program includes an alternative adjacency standard to allow for growth allocation in an RCA if it meets certain factors and is for the purpose of re-establishing previously existing businesses. This project meets this alternative adjacency standard. Ms. Sekerak reviewed how the growth allocation meets the remaining locational standards and provided an overview of the factors to be considered by the Commission as outlined in COMAR 27.01.02.06.

Commission staff accepted the growth allocation for processing on April 8, 2021. On April 15, 2021, Chairman Deegan determined that this growth allocation could be processed as a refinement.

After Ms. Sekerak’s presentation there were no questions by Commissioners. Chairman Deegan recognized Program Subcommittee Chair, Commissioner Greer, who moved on behalf of the subcommittee that the Commission concur with the Chairman’s determination of refinement. Further, the subcommittee recommends approving the growth allocation request as proposed.

Chairman Deegan said that he accepted the recommendation, and this would be his final decision.

REGULATIONS:

VOTE – Proposed Updates to Renewable Energy, Commission Review and Project Notification Regulations.

Ms. Lisa Hoerger presented for vote proposed updates to the Renewable Energy, Commission Review, and Project Notification Regulations. She presented the staff report, which is attached to and made part of the minutes.

These updates relate to the Commission’s review of certain State applications located in the Critical Area, specifically a Certificate of Public Convenience and Necessity (CPCN). The Public Service Commission (PSC) contacted Commission staff in December 2020, to discuss

proposed updates to PSC's regulations concerning these applications. CPCNs are required for large-scale energy projects that produce more than 2MW of power, including coal-fired power plants, gas turbines, nuclear power plants and renewable energy projects such as solar energy. Projects located in the Critical Area are reviewed by Commission staff and potentially the Critical Area Commission in order to make recommendations to the PSC regarding specific conditions to mitigate impacts to the Critical Area. Based on the discussion with the PSC regarding application materials, Commission staff determined it would be useful to specifically include a list of information that would be required to review proposed applications in the Critical Area.

Commission staff, PPRP staff, and PSC staff conferred several times to ensure the changes being made to COMAR Title 27 would be consistent with the updates to the Public Service Commission's COMAR Title 20.

Ms. Hoerger reviewed the potential timeline associated with publishing these regulations and stated that the earliest tentative effective date would be September 6, 2021.

Commissioner Blazer asked a question about which projects would be reviewed by the entire Commission or by Commission staff. Ms. Hoerger said it would depend on the size of the project and its location. The Commission Chair has the discretion, once a CPCN has been received, if it is location in the LDA or RCA, to elevate it to the Commission level. Generally, if it is a major solar energy generating project in the RCA, it will be elevated to the level for Commission review. Commissioner Hewitt then asked for clarification between major and minor energy generating projects. Ms. Hoerger responded that a major project is greater than 2 megawatts, and generally that would require at least 10 acres.

Chairman Deegan then recognized Project Subcommittee Chair Sandy Hertz, who moved on behalf of the Project Subcommittee that the Commission vote as follows:

- (1) To approve the regulations affecting the following Code of Maryland Regulations:
COMAR 27.01.14 Renewable Energy Generating Systems
COMAR 27.02.07 Commission Review, Decision Process, and Time Frames
COMAR 27.03.01 Notification of Project Applications;
- (2) To approve regulations that adopt new Regulation .02-1 under COMAR 27.01.14 Renewable Energy Generating Systems; amend Regulation .02 under COMAR 27.02.07 Commission Review, Decision Process, and Time Frames; and amend Regulation .04 under COMAR 27.03.01 Notification of Project Applications; and
- (3) To authorize Commission staff to publish these regulations as proposed regulations in the Maryland Register. Commissioner Mahoney seconded the motion. **Motion passed unanimously.**

OLD BUSINESS:

None.

LEGAL UPDATES:

None at this time.

NEW BUSINESS: The June meeting is anticipated to occur.

Lynette Fullerton
Lynette Fullerton, Commission Secretary

6/2/21
Date of Approval