

Memorandum

To: Town of Rock Hall Planning Commission
From: Christopher Jakubiak, AICP, Town Planner
Date: January 4, 2022
Re: Critical Area Map Update

BACKGROUND

The Town of Rock Hall is required by the State of Maryland to administer regulations limiting the use and development of land within 1,000 feet of tidal waters known as the Chesapeake Bay Critical Area Regulations. The Town's Critical Area regulations include the Critical Area Map. The Town may, from time to time, amend the regulations and the Map. All amendments must be approved first by the Town, then by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland¹. Here are the important aspects of the Critical Area Map:

- All lands within 1,000 of the Bay, its tributaries, and tidal marshes are designated as Critical Area.
- Properties within the Critical Area are designated one of three categories: Intensely Developed Area (IDA), Limited Development Area (LDA), and Resource Conservation Area (RCA). The rules and criteria for classifying property into these categories are set forth in the Critical Area regulations (found in the Town's Zoning Ordinance).
- The IDA is meant for the intensely developed areas where houses, businesses, marinas, parking lots, etc. were constructed before the State's adoption of the Critical Area Program. The IDA generally coincides with development that has substantially altered the natural capability of the land to protect the quality of water. This area is shown in red on the Map. The IDA classification does not significantly restrict development but does require that applicants for development / redevelopment put measures into place when developing land that can reduce stormwater pollutant runoff by at least 10% below pre-development conditions.

¹Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and § 8-1809(d), respectively.

- LDA is meant for those areas where limiting the amount of additional land development (i.e., the coverage of the land with impervious surfaces such as buildings and parking lots) will protect area water quality. This coincides with area of less intensive development than the IDA and is shown in yellow on the Map. The LDA classification places significant limitations on development, requiring for example that generally no more than 15% of a lot be covered with impervious surfaces and requiring the protection of forests.
- The RCA is meant to cover the most sensitive parts of the Critical Area, such as intact forests, wetlands, and wildlife habitats; areas that are functioning naturally to protect the Bay's water quality and wildlife. These area are shown in green on the Map.

PROPOSED MAP CHANGES

There are three types of map changes shown on the proposed Critical Area Map: Boundary Changes, Growth Allocation Changes, and a Mistake Change.

Boundary Change

The Critical Area boundary encompasses the land within 1,000 feet of tidal water and wetlands. It was mapped in the 1980's. Over time, shorelines and tidal wetlands have changed and advances in cartographic technologies have allowed more precise mapping. The red line on the map shows the current 1,000-foot boundary. The green line shows the draft updated boundary. As shown, in some places the Critical Area has been reduced and in others it has expanded. The largest area of boundary expansion is on the far eastern side of Town (the right-hand side of the map) along Rock Hall Avenue where it now encompasses the Rock Hall Volunteer Fire Company, part of the Walgreen's lot, and commercial lots on the south side of the roadway.

In 2018, the Critical Area Commission sent a letter to every property owner with a greater than 1% increase in Critical Area based on this new mapped boundary. The Critical Area Commission also conducted a public information meeting on August 29, 2018.

Growth Allocation

Growth Allocation is the procedure set up under State law for reclassifying Critical Area land from a more restrictive classification to less restrictive classification. This can be considered an up-zoning and may include a change from RCA to LDA or LDA to IDA. An award of growth allocation typically follows a process wherein a property owner who desires to develop land, petitions the Town for an up-zoning. The Town may but is not required to approve such a petition. The matter would be reviewed by the Town Planning Commission and after holding a public hearing, the Commission would make a recommendation to the Town Council. The Town Council would then hold its own public hearing and decide to grant or deny the petition. If approved, the application would then be submitted to the State Critical Area Commission for its final approval. If approved by the State, then the Town's allotment of Growth Allocation acreage is reduced by the acreage of the land up-zoned. The Town's original allotment totaled 66.73 acres. The growth allocation changes shown on the map total 44.6 acres and would, if approved, reduce the capacity for the Town to make future growth allocations.

In the present case, individual property owners are not the petitioners; the Town is. For context, at some point, the Town of Rock Hall granted Growth Allocation and permitted development but did not inform the State. So, while intensive development took place on LDA lands throughout the Town, the Critical Area Map was never officially. The new updated map therefore officially completes the growth allocation process. If approved, 44.6 acres, would be deducted from the Town's allotment leaving a balance of 22.13 acres. Here are the proposed growth allocation changes that are shown in the updated map (moving from left to right on the map):

- Swan Creek Marina 8.12 acres
- Haven Court 1.77 acres
- Caroline Avenue 0.52 acre (barely visible on the map behind the street name label)
- Waterman's Estates 22.07 acres²
- Chesapeake Villa Rd. 12.12 acres

Mistake and Proposed Fix

The updated Map would fix one mapping mistake identified by the staff of the Critical Area Commission. As shown on the Map, there is an intensively developed lot (20807 Rock Hall Avenue) that lies at the end of a row of IDA (red) properties on the south side of Rock Hall Avenue, just west of Haven Court. The lot is proposed to be IDA which would reflect its actual development conditions.

² This is split into two sections. The northern section comprises 9.91 acres and the southern section comprises 12.16 acres.

ACTION

The next step would be to schedule and conduct a public hearing, establish official Planning Commission findings, and recommend the new Map to the Mayor and Town Council. I would like to suggest that the Commission hold the Public Hearing on February 9, 2022, beginning at 7:00 PM, just before the start of its regularly scheduled meeting.