


|      |                       |  |   |  |
|------|-----------------------|--|---|--|
| FROM | NAME & TITLE          | CHRIS RYER, DIRECTOR   | CITY of<br>BALTIMORE<br><br><b>MEMO</b> |  |
|      | AGENCY NAME & ADDRESS | DEPARTMENT OF PLANNING<br>8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET                                 |   |  |
|      | SUBJECT               | CITY COUNCIL BILL #24-0494/ CHESAPEAKE BAY<br>CRITICAL AREA OVERLAY ZONING DISTRICT –<br>PROHIBITED USES |   |  |

TO

The Honorable President and  
Members of the City Council  
City Hall, Room 400  
100 North Holliday Street

DATE: March 8, 2024

At its regular meeting of March 7, 2024, the Planning Commission considered City Council Bill #24-0494, for the purpose of permitting, for the purpose of amending certain prohibited uses within the Chesapeake Bay Critical Area Overlay Zoning District; defining certain terms; and establishing a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #24-0494 and adopted the following resolution, with nine members being present (nine in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #24-0494 be **approved** by the City Council.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

attachment

cc: Ms. Nina Themelis, Mayor's Office  
The Honorable Eric Costello, Council Rep. to Planning Commission  
Mr. Colin Tarbert, BDC  
Ms. Rebecca Witt, BMZA  
Mr. Geoffrey Veale, Zoning Administration  
Ms. Stephanie Murdock, DHCD  
Ms. Elena DiPietro, Law Dept.  
Mr. Francis Burnszynski, PABC  
Mr. Liam Davis, DOT  
Ms. Natawna Austin, Council Services



Brandon M. Scott  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chair; Eric Stephenson, Vice Chair

### STAFF REPORT



Chris Ryer  
Director

March 7, 2024

**REQUEST:** City Council Bill #24-0494/ Chesapeake Bay Critical Area Overlay Zoning District- Prohibited Uses:

For the purpose of amending certain prohibited uses within the Chesapeake Bay Critical Area Overlay Zoning District; defining certain terms; and establishing a special effective date.

**RECOMMENDATION:** Approval

**STAFF:** Grace Hansen

**INTRODUCED BY:** Councilmember Costello at the request of The National Aquarium

### **SITE/GENERAL AREA**

Site Conditions and General Area: Site Conditions and General Area: The Critical Area Management Program regulates development that occurs within 1,000 feet of Chesapeake Bay waters and tidal segments of tributary rivers, as well as the Critical Area Buffer, which is the area within 100 feet from the water.

### **HISTORY**

- The Baltimore City Critical Area Management Program was established by Ord. #87-107, dated 1987. It was amended by Ord. #02-350, dated 05/20/2002.
- Ordinance #02-350, dated June 13, 2002, repealed and replaced the Baltimore City Critical Area Management Program and Document.
- The State Critical Area Commission enacted language on July 1, 2013 under SB0524 that allows jurisdictions to permit certain non-water dependent structures on State or privately owned wetlands. Baltimore City did not opt-in.
- The Baltimore City Critical Area Management Program was last amended by Ord. #20-464, dated 12/2/2020.

### **CONFORMITY TO PLANS**

According to the [Natural Resources Article Section 8-1809\(a\)](#), the Critical Area Management Program is mandated by the State of Maryland, and each coastal jurisdiction had the choice to develop its own Manual on or before 2002. That was the case of Baltimore City, and since then we have had a Manual that was tailored to guide development that happens within our mostly urban Critical Area.

### **ANALYSIS**

Background:

The legislation allows Baltimore City to issue a building permit, variance, special exemption, or otherwise authorize a non-water dependent project on State or privately-owned wetlands located within the 100' Critical Area Buffer under certain requirements. The language aligns with Maryland Environmental Regulations Section 16-104.

- Non-water dependent project means a temporary or permanent structure that by reason of its intrinsic nature, use, or operation, does not require location in, on, or over State or private wetlands.
  - Non-water dependent structures include, but are not limited to, dwelling units, restaurants, shops, other commercial buildings and recreational areas; swimming pools; sheds or storage buildings; parking lots; and sanitary facilities.
- Intensely Developed Area (IDA) means an area of at least 20 acres or the entire upland portion of the Critical Area within a municipal corporation, whichever is less; where:
  - Residential, commercial, institutional, or industrial developed land uses predominate; and
  - A relatively small amount of natural habitat occurs.
- Several State requirements include:
  - The project is located in an Intensely Developed Area (IDA) or an area that has been excluded from a local Critical Area program, if the exclusion as been approved by the Critical Area Commission.
  - The project is approved by the local planning and zoning authorities.
  - Allows or enhances public access to State wetlands, if applicable.
- Several State restrictions include:
  - [the project] does not expand beyond the length, width, or channelward encroachment of the pier on which the project is constructed;
  - Has a height of up to 18 feet, unless the project is located at a marina; and
  - Is up to 1,000 square feet in total area.
- Article § 8-1808.4 in the Maryland Natural Resources Statute provides definitions pertaining to nonwater-dependent projects, small-scale renewable energy systems, piers, etc., in addition to several restrictions.

Equity:

Impact:

The City recognizes the urban heat island effect in its 2023 Disaster Preparedness and Planning Project (DP3). This legislation will allow property owners to provide shade along the waterfront which will be beneficial to sensitive users.

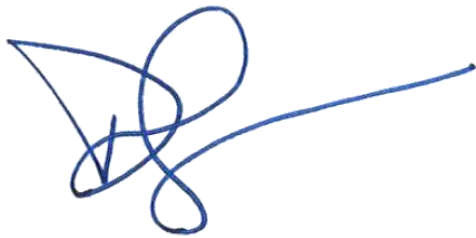
Engagement:

This bill would be effective throughout the Critical Area, the land within 1000 feet of tidal waters, and notice of this meeting agenda has been published widely, including via direct email to over 18,000 subscribers to the Department listserv.

Internal Operations:

No impacts to internal Department of Planning operations are expected.

Notification: Notification of this action was sent to over 18,100 recipients via GovDelivery.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

**Chris Ryer**  
**Director**