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Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman

Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

March 9, 2021

Honorable James R. Guy, President
Commissioners of St. Mary's County
Post Office Box 653
Leonardtown, Maryland 20650

Re: St. Mary's County Critical Area 1,000-foot Boundary Mapping Update

Dear Commissioner Guy:

I am writing in response to your letter of March 3, 2021 regarding the St. Mary's County Critical Area mapping update. You have asked whether any exemptions exist, such as grandfathering, that would enable property owners to continue to develop their properties under the old Critical Area mapping line. As described below, the Critical Area law and regulations do not allow for grandfathering of properties under the old Critical Area boundary. However, a local jurisdiction may include language to manage pending applications.

As you may know, in 2008, the Maryland General Assembly updated the Critical Area law to require a new digital, geo-referenced Statewide Base Map for the 1,000 foot Critical Area boundary using the best available data to determine the shoreline and landward edge of tidal wetlands. Chapter 119 of the 2008 Laws of Maryland requires the Commission to work cooperatively with each local jurisdiction and provides a process to ensure an accurate Critical Area map. This process includes consideration of existing and proposed land uses within newly mapped Critical Area in order to ensure an appropriate designation for development review. Once that process is complete, the law requires the Commission to deliver the Summary Draft Map to the local jurisdiction and requires adoption of the map by the local jurisdiction within 2 years. Finally, Section 3, paragraph (8) states "Upon official adoption of its new Critical Area Map, each local jurisdiction shall ensure that, where applicable, each project submittal utilizes the digitally generated, georeferenced Critical Area boundary". The law did not provide any exemptions that would allow property owners to continue to develop their properties under the old Critical Area line after the new maps have been adopted.

The Critical Area Commission, however, has worked with local jurisdictions to incorporate text within their local Critical Area ordinances that would provide for a limited period of time to approve applications for development received prior to formal adoption of the Critical Area map.

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I have included one example of this type of language below. This is similar to language included by the Queen Anne's County Critical Area Program.

Permit applications shall be governed by the Critical Area map boundary as it existed on or before (Insert Map Adoption Date), if:

- A. The lot, subdivision, or site plan was approved on or before (Map Adoption Date);*
- B. Permits associated with the development of the approved lot, subdivision, or site plan are issued on or before (Insert Date up to 2 Years from Map Adoption Date);*
- C. The construction allowed under the issued permit for the development on the approved lot, subdivision, or site plan is initiated before (Insert Date up to 3 Years from Map Adoption Date).*
- D. All pending permit applications shall be completed by (Insert Date up to 2 Years from Map Adoption Date).*

If St. Mary's County is interested in incorporating a similar type of text amendment to address applications that are pending prior to the adoption of the new map, we would be happy to work with you and your staff. I may be reached at (410) 260-3460 or Charles.deegan@maryland.gov or you may contact my Executive Director, Kate Charbonneau, at (410) 260-3475 or Katherine.charbonneau@marylnd.gov.

Sincerely,



Charles C. Deegan
Chairman, Critical Area Commission
Chesapeake and Atlantic Coastal Bays

Cc: Commissioner Michael Hewitt
Dr. Rebecca Bridget, County Administrator
Mr. David Weiskopf, County Attorney
Mr. Bill Hunt, Director, Land Use & Growth Management