

O-27-19

Critical Area Overlay

Amendments 1-12, Savidge, Tierney and Arnett

November 20, 2019

The FCA applies to sites 40,000 square feet or greater. If a site is near the critical area that is larger than 40,000 sf, but isn't entirely within the critical area, staff can utilize the Critical Area laws instead of the FCA laws. These amendments would make the Critical Area laws, on these larger sites, to be consistent with or stronger than the FCA.

Amendment 1

On page 9, in line 16 strike "and"

On page 9, in line 17 strike "Minimize" and substitute "Avoid" and after "stormwater" strike the "period" and substitute a "colon" and insert "and"

On page 9, after line 17, insert "5. Avoid impacts to steep slopes and highly erodible soils, unless performing restoration activities."

Amendment 2

[This amendment adds new requirements for Intense Development Areas]

On page 11, after line 9, insert: "Development requirements on lots larger than 40,000 square feet

1. Wildlife Corridors.

a. If a development site contains a natural area, which might be used as a wildlife corridor or is designated as a greenway by a City or County plan, and there are such areas adjacent, then a development proposal shall incorporate the wildlife corridor and greenway into the site design.

b. The wildlife corridor incorporated into the site should connect the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with off-site habitats.

c. The developer shall grant a conservation easement to the City or establish a landscape maintenance agreement to ensure that the wildlife corridor is maintained.

2. Forests and Developed Woodlands.

a. Forests and developed woodlands are to be maintained in accordance with Section 17.09.080 and within planting guidelines as determined by the Department.

b. Tree replacement and fees in lieu of tree replacement shall be allowed in accordance with the provisions of Section 17.09.070.

c. All forests designated on development plans shall be maintained to the extent practicable, through conservation easements, restrictive covenants, or other protective instruments.

d. The afforested area shall be maintained as forest cover through easements, restrictive covenants, or other protective instruments.

e. An applicant may not clear more than thirty percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of three times the areal extent of the forest or developed woodlands cleared.

f. The developer shall protect any habitat protection areas located in forests, developed woodlands, or undeveloped open space.

3. Streams and their buffers.

a. If the project involves development activities which would cross or affect streams (perennial and intermittent streams on all sites, including ephemeral on sites 40,000 square feet or greater), the developer shall identify any such stream and their buffers (100 feet for perennial and intermittent streams, 25 feet for ephemeral streams in the project area, including those off-site, which might be affected by the project.

b. The developer shall show, as part of the site plan review requirements, that the development will:

(1) Not cause increases in the frequency and severity of floods;

(2). Retain existing tree canopy within the stream buffers;

(3). Provide for the retention of the natural substrate for streambeds; and

(4). Minimize adverse impacts to water quality and stormwater run-off.

4. Steep Slopes. Development is not permitted on slopes greater than twenty-five percent that are highly erodible soils or have highly erodible soils immediately downslope, unless it can be shown that such development is the only effective way to maintain or improve the stability of the slope.

5. Soils with Development Constraints. Development is discouraged on soils with development constraints. Development may be allowed by the Department of Public Works if adequate mitigation measures are implemented to address the identified constraints and if the development will not adversely affect water quality or plant, fish, or wildlife habitat.

6. Stormwater Management. Stormwater management technologies shall be required to minimize adverse water quality impacts caused by stormwater run-off in accordance with Chapter 17.10.”

Amendment 3

On page 11, after line 25 insert "1. A developer shall protect any habitat protection area located in forests, developed woodlands, or undeveloped open space."

Amendment 4

[This amendment re-incorporates language in current code and expands to ephemeral streams]

On page 13, after line 41, insert

"J. Streams and their buffers.

a. If any project involves development activities which would cross or affect streams (perennial or intermittent), the developer shall identify any such stream and its buffer in the project area, including those off-site, which might be affected by the project. On sites 40,000 square feet or greater, ephemeral channels located on-site shall also be identified.

b. The developer shall show, as part of the site plan review requirements, that the development will:

(1) Not cause increases in the frequency and severity of floods;

(2). Retain existing tree canopy within the stream buffers;

(3). Provide for the retention of the natural substrate for streambeds; and

(4). Minimize adverse impacts to water quality and stormwater run-off."

Amendment 5

On page 15, in line 2 strike the "semicolon" and substitute a "colon" and after line 2 insert "i. On land 40,000 square feet or greater, the buffer shall be expanded to at least 25-feet at the top of 25% slopes, and on 15% slopes that also have highly erodible soils within or immediately downslope; ii. On land less than 40,000 square feet the buffer shall be expanded to at least 5-feet at the top of slopes."

On page 15, after line 8 insert "e. and other sensitive areas as may be determined by Planning & Zoning."

Amendment 6

On page 20, line 11, after "wetlands," insert "perennial and intermittent streams on all sites, and ephemeral streams on sites 40,000 square feet or greater,"

Amendment 7

[This amendment makes this section consistent with the definition as written by P&Z and the Md. State code]

On page 25, in line 29 strike “and”

On page 25, in line 30 strike the “period”

On page 25, after line 30, insert

“9. Non-tidal wetlands and associated 25-foot buffers; and

10. Any perennial or intermittent streams, and on sites larger than 40,000 square feet any ephemeral streams.”

Amendment 8

On page 29, in line 42, after “the” insert “Environmental Commission for sites 40,000 square feet or greater and the”

Amendment 9

On page 32, in lines 21-22 strike “through appropriate measures” and substitute “by a conservation easement granted to the City or a landscape maintenance agreement”.

Amendment 10

On page 42, after line 15 insert “ “Ephemeral stream” means a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow or ice, and which has a channel bottom that is always above the local water table.”

Amendment 11

On page 45, in line 42 strike “COMAR 26.24.01.02B” and substitute “COMAR 26.23.01.01”

On page 45, after line 42, insert “c. Streams (perennial, intermittent, and on sites 40,000 square feet or greater ephemeral);” and re-alphabetize the definitions in lines 43 down through page 46 line 2.

On page 45, in lines 43 through 46 and on page 46 in lines 1 and 2 strike “A” from the COMAR citations.

Amendment 12

On page 65, in line 21, after “wildlife” insert “, or any area identified as a greenway in a City or County plan”