

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE HISTORIC ST. MARY’S CITY COMMISSION AND THE CRITICAL
AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS**

This Memorandum of Understanding (MOU) is entered into as of January 20, 2022 by and between the Historic St. Mary’s City Commission (HSMCC) and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (CAC or the Commission).

1 RECITALS

WHEREAS, the Annotated Code of Maryland, Natural Resources Article §§ 8-1801 *et seq.* establishes the Commission and sets forth its duties and authority for implementing the State’s Critical Area Protection Program for the Chesapeake and Atlantic Coastal Bays, including the authority to regulate State agency actions resulting in development or redevelopment on State-owned lands in the Critical Area; and

WHEREAS, pursuant to COMAR 27.02.05, the Commission is responsible for ensuring that disturbance on State-owned land in the Critical Area is minimized and work performed in a manner most protective to the environment; and

WHEREAS, the Commission is authorized under COMAR 27.02.03 to grant a General Approval to State agencies for certain classes of development activities in the Critical Area; and

WHEREAS, HSMCC is an agency of the State of Maryland with land area, infrastructure, utilities, and facilities located within the Critical Area and, therefore, required to comply with Maryland’s Critical Area Program; and

WHEREAS, HSMCC must be able to restore, maintain, and construct a wide variety of HSMCC facilities and conduct activities that may result in impact to the Critical Area and HSMCC recognizes that such anticipated Critical Area impacts require appropriate measures to manage, offset, and mitigate for any such occurrences; and

WHEREAS, HSMCC and the Commission desire to foster more sensitive development activity in a consistent and uniform manner along shoreline areas of the Chesapeake Bay and its tributaries and to provide mitigation that enhances the quality and surrounding habitat productivity of these waters; and

WHEREAS, HSMCC commits to avoiding and minimizing adverse impacts to the Critical Area, including the Buffer and other habitat protection areas, to the maximum extent practicable.

NOW, THEREFORE, HSMCC and the Commission hereby agree to the following:

2 PURPOSE OF THE MOU

The purpose of this MOU is to establish a modified project review and approval process consistent with COMAR 27.02.03. Under this process, certain types of projects will be reviewed

internally by HSMCC staff or cooperatively reviewed and approved by Commission staff as an alternative to review and approval by the full Commission. This project review and approval process is set forth in detail in Exhibit A, which is incorporated into and made a part of this MOU.

3 ROLES AND RESPONSIBILITIES

3.1 HSMCC

3.1.1 HSMCC shall be responsible for coordinating the review or confirmation of all HSMCC projects located in the Critical Area on lands owned/managed by HSMCC with Critical Area Commission staff, as outlined in this MOU, regardless of the procurement process followed or funding source for the project. HSMCC shall not delegate responsibility for Critical Area review to any other entity, including project engineers, designers, or any other State agency (e.g., Department of General Services), unless notification is made in writing to the CAC prior to the start of the project.

3.1.2 In accordance with the procedures set forth in Exhibit A, HSMCC shall be responsible for submitting project notification and project plans to Commission staff and for implementing any measures necessary to satisfy the regulatory requirements of the Critical Area Program.

3.1.3 HSMCC shall inform Commission staff of every Category II project during the planning and design stage, and shall include Commission staff as requested in meetings and field visits.

3.1.4 When all information required by the Commission is available, HSMCC shall submit to Commission staff in accordance with this MOU.

3.1.5 HSMCC shall notify Commission staff of any changes in land disturbance in the plans as approved, or of changes that occur during construction of the project and afford Commission staff the opportunity to review any such changes.

3.1.6 HSMCC shall be responsible for obtaining any other approvals, authorizations, licenses, or permits from other local, State and federal agencies and for meeting any other regulatory requirements associated with restoration, maintenance and development projects covered by this MOU.

3.1.7 HSMCC shall notify the Commission if HSMCC becomes aware of an alleged violation of local, state, or federal environmental laws or regulations including erosion and sediment control and stormwater management during construction or maintenance activities of any approved project. HSMCC shall in turn notify the appropriate state or local enforcement agency, and Commission staff will continue to be involved until the problem is resolved.

3.2 The Commission

3.2.1 In accordance with the procedures set forth in Exhibit A, Commission staff agrees to accept the reports, notifications, and project documents submitted by HSMCC and to provide a response within 15 business days indicating whether or not staff concurs that the project qualifies for review under the MOU as a Category II project.

3.2.2 Upon determination by the Commission that a complete application has been submitted, Commission staff shall notify HSMCC of its decision to approve, deny, or approve with conditions the project within 30 calendar days.

3.2.3 If HSMCC notifies Commission staff of any changes to land disturbance for an approved plan, Commission staff shall review and respond within the required timeframes and make recommendations based on assessment of the extent to which the project conforms with COMAR 27.02.05. Commission staff may require proposed changes be submitted for review and approval by the full Commission.

3.2.4 The Commission shall notify HSMCC if the Commission becomes aware of an alleged violation of local, state, or federal environmental laws or regulations including erosion and sediment control and stormwater management during construction or maintenance activities of any approved project. HSMCC shall in turn notify the appropriate state or local enforcement agency, and Commission staff will continue to be involved until the problem is resolved.

4 PROCESS EXCEPTIONS

Certain projects may require HSMCC to request an out-of-cycle project review that does not meet the General Approval. If authorized to proceed by the Chairman, the project shall be presented at the next available meeting of the Critical Area Commission for a vote. Process exceptions are limited to emergency action only:

4.1 Emergency action projects involve situations and conditions that jeopardize public safety and welfare, and require HSMCC to take immediate action in the form of development in the Critical Area. HSMCC may undertake the necessary remedial actions without prior Commission approval; however, HSMCC shall notify the Commission of the development activities as soon as possible and shall obtain Commission recommendation for any necessary actions to ensure compliance with the Critical Area Law. An emergency action includes those repairs that will prevent a threat to life, severe loss or damage to property, an imminent threat to public safety or public works, or hazardous environmental emergency. Repairs should be limited to the extent warranted by the necessary remedial actions.

5 TERM

This MOU shall become effective on the date upon execution by all Parties and shall remain in full force and effect for a period of ten years, unless otherwise terminated in accordance with this MOU. The term of this MOU may be extended by written agreement of both Parties.

6 MITIGATION

The Commission and HSMCC worked together to standardize mitigation requirements and identify mitigation opportunities that recognize the unique needs and constraints of HSMCC. This includes the need to minimize impacts to existing archaeological resources and the

necessity to upgrade or repair existing development/facilities, including within the Buffer. The Commission collaborated with HSMCC to establish guidelines/guidance for stormwater management mitigation including identifying appropriate and feasible SWM BMPs and identifying appropriate areas, both onsite and offsite, where mitigation, including Buffer mitigation, can be accomplished. The mitigation guidance, including the Master Buffer Management Plan, is set forth in Attachment 1: Mitigation to Exhibit A.

7 CLIMATE RESILIENCY

HSMCC acknowledges that, per COMAR 27.02.05.02A(2), State Agencies are required to consult with the Commission as soon as practicable in the project planning process to assess climate resilient practices that address coastal hazards, extreme weather events, sea level rise, and other impacts. HSMCC will use the site-wide climate resiliency analysis in Attachment 2: Site-Wide Climate Resiliency Assessment to Exhibit A of this MOU to determine whether a proposed project is located within a vulnerable area. If a Category II project is located in a vulnerable area, HSMCC will follow the process/procedures outlined in Attachment 2. Additionally, HSMCC reviews all applicable capital projects in accordance with the Coast Smart Construction Program guidance, as amended, to ensure avoidance and minimization of impacts to HSMCC projects in vulnerable locations.

8 POINTS OF CONTACT

All communication related to this MOU shall be directed to:

For HSMCC: Joe Kangas, Director of Facilities and Grounds, Historic St. Mary's City Commission, PO Box 39, St. Mary's City, MD 20686. Phone: 240-895-4964 (O), 301-247-9154 (C), Fax: 240-895-4968, Email: joek@digshistory.org (Current Director of Facilities and Grounds)

For the Commission: Katherine Charbonneau, Executive Director, Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, 1804 West Street, Suite 100, Annapolis, MD 21401. Phone: 410-260-3480, Fax: 410-974-5338, Email: katherine.charbonneau@maryland.gov (Current Executive Director)

9 GENERAL PROVISIONS

9.1 **MERGER**: This Memorandum, its Exhibits, and the Attachments to the Exhibits embody the whole agreement of the Parties. There are no promises, terms, conditions, or obligations referring to the subject matter other than those contained herein.

9.2 **TERMINATION**: A Party may terminate this MOU with written notice given 90 days in advance to the other Party. Any mitigation for projects approved under this MOU prior to termination shall be maintained and monitored according to the requirements of this MOU.

9.3 **AGENCIES HELD HARMLESS**: Recognizing that HSMCC is a government agency and, as such, is subject to limitations on the indemnity that it can legally provide, HSMCC

agrees, to the fullest extent permitted by law, to indemnify and save harmless and defend the Commission and all of its employees, officials, and representatives from all suits, actions, or claims of any character, brought on account of any injuries or damage sustained by any person or property in consequence of any work under this MOU, by HSMCC or any subcontractor to HSMCC, or the subcontractor's employees, agents, or representatives. This is not to be deemed as a waiver of any immunity which may exist in any action.

9.4 RESOLUTION OF DISAGREEMENTS: Should disagreements arise as to the interpretation of the provisions of this MOU, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement will be stated in writing by each Party and presented to the other Party for consideration. If agreement on interpretation is not reached within 30 days, the Parties shall forward the written presentation of the disagreement to a higher official in each agency for appropriate resolution.

9.5 AMENDMENTS TO THE MOU: This MOU may not be amended or modified except with the written consent of both Parties. Amendments or modifications to this MOU also require approval by the full Commission.

9.6 AMENDMENTS TO EXHIBITS AND THEIR ATTACHMENTS: The Parties acknowledge and agree that the Exhibits and their Attachments are the result of a joint effort by the Parties. Because these Exhibits and their Attachments may evolve with gained experience during implementation of the MOU, the Parties agree that the Exhibits and their Attachments may be amended periodically with the written consent of the Points of Contact for each Party listed above in Section 8. The Commission Chairman will update the Commission of any amendments or modifications to the Exhibits or their Attachments at the next meeting following the agreed-upon amendments or modifications.

9.7 MARYLAND LAW PREVAILS: This MOU shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

9.8 AUTHORITY: Each Party to this MOU acknowledges and agrees that it has the full right, power, and authority to execute this MOU, and to perform the obligations hereunder.

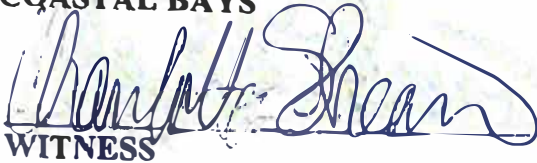
9.9 ELECTRONIC SIGNATURES. Signatures provided by electronic means including, by way of example and not of limitation, facsimile, Adobe, PDF, and sent by electronic mail or by an electronic signature program, shall be deemed to be original signatures


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HSMCC MOU - Approved August, 2021

IN WITNESS WHEREOF, the Parties have executed this MOU by causing the same to be signed as of the date first set forth above


CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS


WITNESS


By: 
Charles C. Deegan, Chairman

HISTORIC ST. MARY'S CITY


WITNESS

By: 
Regina M. Faden, Ph.D., Executive Director

APPROVED AS TO FORM AND LEGAL SUFFICIENCY


Emily Van der ...
Assistant Attorney General
Critical Area Commission

APPROVED AS TO FORM AND LEGAL SUFFICIENCY


Elena Langrill
Historic St. Mary's City Commission

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EXHIBIT A

1.0 CONDITIONS FOR GENERAL APPROVAL OF HISTORIC ST. MARY’S CITY COMMISSION PROJECTS

Under COMAR 27.02.05, State Agency Actions Resulting in Development on State-Owned Lands, the Critical Area Commission (CAC or the Commission) may grant General Approval to State agencies for programs, activities, and classes of development on State-owned lands in the Critical Area. Granting of a general approval by the Commission allows implementation of the approved program, activity or project in accordance with the policies and requirements as set forth in COMAR 27.02.05.

For all projects subject to this General Approval, Historic St. Mary’s City Commission (HSMCC) shall fulfill all applicable federal and State permitting requirements. Exemptions, variances, and waivers granted by other agencies are separate from the requirements of the Critical Area law and criteria and shall not be considered to lessen or alter the requirements of this General Approval.

For the purposes of this General Approval, permitted activities within the Critical Area are divided into two categories: Category I: Limited Reporting Activities and Category II: Development that is Minor in Size and/or Scope. In addition to satisfying all requirements of COMAR 27.02.05, projects proposed for General Approval must meet the following conditions according to project Category as defined below.

2.0 CATEGORY I: LIMITED REPORTING ACTIVITIES

The purpose of Category I is to allow maintenance activities for existing facilities or roads, landscape projects, stormwater management projects, or minor improvements to existing roadways and facilities. This list is not inclusive of every project and there may be projects not listed below that meet the Qualifying Parameters and can be proposed by HSMCC and reviewed by CAC staff under Category I.

2.1 Reporting Requirements

On March 1st of each year, HSMCC shall provide the Chair of the Commission with a report on those projects that qualify under Category I. The annual report shall include:

The project’s name;
The project’s location;
The proposed amount of clearing;
Area of Buffer disturbed and/or cleared; and
Mitigation calculations and location of plantings.

2.2 Qualifying Parameters for Category I Projects

2.2.1 Any project that qualifies under Category I is permitted in all Critical Area designations and within the Buffer.

2.2.2 No more than five (5) trees may be removed for each project and every tree removed must be replaced with one native tree (minimum size ¾-inch caliper). Trees removed from the Buffer must be replanted within the Buffer. If more than five (5) trees are required to be removed, the project must be submitted to Commission staff for review and approval under Category II, including justification for the removal of trees or an alternative planting location.

2.2.3 There are no removal limits or mitigation required for the removal of volunteer saplings within archaeological study areas, designated garden areas, or along access roads or for meadow maintenance and creation including forest edge management. There are no forest clearing limits for invasive species management.

2.2.4 Projects that qualify under Category I do not require Critical Area 10% stormwater management; nor do they require a climate resiliency assessment.

2.3 Eligible Projects

NATURAL RESOURCES MANAGEMENT

- Beach maintenance, clean-up, or replenishment
- Removal of hazardous trees (defined as dead, diseased, or dying trees that are in danger of causing injury to people, damage of property, or accelerating shoreline erosion)
- Invasive species removal and management, including Phragmites control, provided that the area is stabilized and replanted with native vegetation
- Meadow maintenance and creation including forest edge management
- Maintenance of existing viewsheds as shown on the Master Buffer Management Plan in Attachment 1 to include limbing of trees, removal of saplings and mowing of mowed areas
- Archaeological related activities

ROUTINE MAINTENANCE PROJECTS

Project types include installation or the repair, modification, or replacement of the following service oriented equipment and facilities by HSMCC

- Signs
- Fencing
- Footbridge, pier, boardwalk, or stair redecking
- Guardrails and safety barriers
- Trail maintenance, including minor filling or minor rerouting

FACILITY MAINTENANCE FOR EXISTING FACILITIES ONLY

- Interior modification or interior renovation of buildings/structures
- Exterior renovations and building maintenance where no ground disturbance will occur

- Replacement, patching, resurfacing, and/or milling of intersections, roads, parking lots, sidewalks, bicycle facilities or other surfaces where there is no increase in imperviousness and that does not involve the conversion of one type of impervious to another
- Maintenance of bridges, piers and piles, boardwalks, and other water-dependent facilities
- Maintenance, repair, or renovation of existing stormwater management facilities including culverts (does not involve any change in area or capacity)
- Relocation of temporary structures, such as construction offices or temporary trailers, or stationary equipment over existing impervious surfaces

UTILITY MAINTENANCE (electric, sewer, water, communication, fuel lines)

- Repair, replacement, or relocation of existing utilities. Relocated utility lines shall not serve new development or redevelopment.
- Repair/replacement of existing utility appurtenances (vaults, manholes, valves, hydrants)

TEMPORARY OUTDOOR EVENTS

- Temporary structures such as tents should be removed after each event and under no circumstances may remain over pervious surfaces for more than ten (10) days
- If any areas covered by temporary structures suffer vegetation die-off, they must be revegetated
- Impacts to the Critical Area Buffer must be minimized including no vegetation removal for temporary structures

3.0 CATEGORY II: DEVELOPMENT THAT IS MINOR IN SIZE AND/OR SCOPE

Category II projects include new and replacement/repair development activities that may include changes to the layout or design of an existing facility. In some cases, a change of facility type (e.g., parking lot to building) may be allowed if all parameters are met. All threshold limits described below relate to impacts within the Critical Area only. Critical Area 10% phosphorus reduction requirements will be determined on a case-by-case basis as described below.

Note: Early coordination with Commission staff on Category II projects is required in order to determine if the proposed project is eligible under the MOU, or if the project will require full Commission review and approval. If the proposed development project results in a combination of habitat impacts or includes multiple elements of projects listed in this Exhibit, the Critical Area Commission reserves the right to decide at any time to bring a project that may appear to qualify under the MOU to the full Critical Area Commission for review and approval.

3.1 Qualifying Parameters

3.1.1. No impacts to Habitat Protection Areas other than the 100-foot Buffer, unless the impact is (1) minor in scope, (2) consistent with COMAR Title 27, and (3) HSMCC adheres to all conditions and guidance provided by any MDE authorization, DNR Wildlife and Heritage review, DNR Fisheries review, and USFWS review (if applicable).

3.1.2 Non-Buffer forest/developed woodland mitigation ratio is 1:1.

3.1.3 Buffer mitigation is in accordance with Attachment 1: Mitigation.

3.1.4 10% pollutant removal on site and in accordance with the CAC's 10% Manual and with MDE's Technical Memorandum #4 and Attachment 1: Mitigation.

3.1.5 No new buildings or other non-water dependent structures (other than roads, bridges, and utilities) are permitted to be located in the Buffer under this Exhibit, unless otherwise permitted under Special Projects. Replacement of existing non-water dependent structures in the Buffer that meet all other parameters can be reviewed under Category II. Any new lot coverage in the Buffer cannot be located further waterward than existing lot coverage in the Buffer for buildings or structures and shall not result in more than 1,000 square feet of lot coverage in the Buffer.

3.1.6 Shore Erosion Control linear footage limit is 500 linear feet.

3.1.7 Forest and developed woodland clearing may not exceed 10,000 square feet for new linear projects. Forest and developed woodland clearing may not exceed 5,000 square feet for non-linear projects.

3.1.8 Limits of disturbance (LOD):

Linear Projects – No square footage limit. Expansion of impervious surface must be limited to a 3-foot width for roadways on either side, and a 1-foot width on a trail that is impervious on either side. The 10% phosphorus reduction is required for expanding linear projects with impervious surfaces. Expansion of natural surface trails is limited to a maximum 9-foot width and existing canopy coverage must be maintained to the maximum extent practicable. If tree removal is necessary, it must be mitigated.

Non-linear Projects – For parking lots, buildings, etc., the LOD may not exceed 5,000 square feet of disturbance. New buildings and structures cannot exceed 2,000 square feet of lot coverage. The expansion or replacement of existing buildings or structures cannot have a net increase in lot coverage that exceeds 1,000 square feet.

3.1.9 Projects may be permitted to exceed Parameters 3.1.6 - 3.1.8 listed above, but HSMCC must submit information justifying its inclusion under the MOU. Critical Area staff will evaluate the submittal to determine if an exception to the limits can be granted. HSMCC must provide written justification that explains why a development project meets the intent of this MOU despite exceeding disturbance, size, or Buffer encroachment threshold by minor amounts.

Justification factors may include, but are not limited to:

- The nature/intensity of the project is not changing (e.g., widening a road doesn't change the nature of the road, expanding an existing trail doesn't change the nature/intensity or use of the trail)
- The proposed surface is the same as the existing surface (e.g., asphalt will remain asphalt, grass will remain grass, etc.)

- After completion of the work, the site will be restored to original conditions
- The activities are maintenance in nature
- All other parameters of Category II are met
- Any building that exceeds the size parameter is for storage or maintenance purposes only
- The purpose of the project is to address safety concerns

3.2 Eligible Projects

This category includes maintenance projects which exceed the thresholds of Category I projects as well as new minor construction projects. If required, stormwater management measures must be sufficient to achieve a 10% reduction in pollutant loadings below existing levels. Category II projects must be individually submitted to Commission staff for concurrence as a minor project. Comments from Commission staff must be received and addressed before the activity is commenced.

The following is a list of projects that may meet the Qualifying Parameters under Category II. This list is not inclusive of every project and there may be projects not listed below that meet the Qualifying Parameters and can be proposed by HSMCC and reviewed by CAC staff under Category II.

STRUCTURAL AND FACILITY PROJECTS (10% required)

- New buildings and structures
- Expansion or replacement of existing buildings and structures

DRAINAGE IMPROVEMENTS (10% not required)

- Installation of new or modification of existing storm drain outfalls
- Installation of new or modification of existing inlets and storm drains
- Installation of new or modification of existing culverts

SHORE EROSION CONTROL (10% not required)

- New or replacement shore erosion control measures (e.g., revetments, bulkheads, living shorelines)

ROADWAY, PARKING AND SIDEWALK PROJECTS (10% required)

- Reconstruction or resurfacing of roadways, parking lots, and/or sidewalks where an increase in imperviousness is proposed
- Upgrades to existing facilities to meet requirements of Americans with Disabilities Act (ADA)
- Reconstruction of existing sidewalks and new or existing ADA ramps
- Reconstruction, patching, and/or resurfacing of intersections, roads, parking lots, sidewalks, bicycle facilities or other surfaces where there is an increase in imperviousness or that does involve the conversion of one type of impervious to another

UTILITIES (electric, sewer, water, telephone, and fiber optic lines) (10% not required)

- Installation of new utility lines
- Replacement of existing utility lines when serving new development

- Replacement of access crossings
- Replacement of utility crossings

PIER AND PILES (10% not required)

- New pier and piles (MDE or Board of Public Works authorization is required)

NONSTRUCTURAL/RESTORATION PROJECTS (10% not required)

- Clearing/Removal of more than five (5) hazardous trees
- Streambank stabilization
- Wetland creation and waterfowl impoundment construction, provided that no Habitat Protection Areas are impacted, other than the Buffer
- Low-impact slope stabilization projects that utilize appropriate plantings, low retaining walls or other related landscape stabilization and restoration techniques

SPECIAL PROJECTS

Due to the nature of the projects listed below, the threshold limits and mitigation requirements may be varied from that described above. Unless otherwise specified, the Qualifying Parameters in 3.1 above apply. HSMCC may propose additional project types to be added to the eligible special project list below. Upon concurrence by Commission staff, the Chairman will update the Commission at the next Commission meeting of any addition.

- Installation of new kayak/canoe launches
 - 10% not required if done with soft materials and less than 250 square feet
 - No threshold for limit of disturbance or clearing
 - Impacts are permitted in the Buffer
- Minor Solar Energy Generating System (10% Rule is not required if project meets MDE SWM requirements)
 - The project shall be consistent with COMAR 27.02.05.15-1 through .15-3
 - Consistent with COMAR 27.02.07.02, the Chairman may refer any application to the Commission for review

3.3 Project Submittal Requirements

At a minimum, a project report summarizing the project and its impacts shall be submitted to Critical Area Commission staff and shall include the following information:

- Project description and details, including a justification for minor exceedance if necessary
- Critical Area acreage and designation
- Site plan showing the location of the development activity, including the limit of disturbance (LOD), and the location of the 100-foot Buffer and expanded Buffer
- Existing, removed, new, and total lot coverage
- 10% pollutant reduction spreadsheet including individual best management practices (BMP) tabs, if applicable
- Proposed disturbance inside the Critical Area Buffer
- Square footage of canopy removed (inside and outside the Critical Area Buffer)

- A Buffer Management Plan that shows the limits of the delineated Buffer and expanded Buffer, the proposed impacts and/or tree removal in the Buffer, and the quantity, species, and location of the mitigation plantings if applicable
- Presence of and impacts to Habitat Protection Areas (HPAs) other than the Buffer
- Agency coordination letters (DNR WHS, DNR Fisheries, MHT, and USFWS)
- Copies of any required MDE authorizations and/or permits
- Climate resiliency assessment
- Wetland adaptation areas
- If required to comply with Coast Smart Construction criteria, include the following:
 - Project Screening Checklist
 - Construction Waiver Form and Approval Letter (if applicable)

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ATTACHMENT 1: MITIGATION

Stormwater Management

“The construction or expansion of stormwater management systems usually involves some type of ground disturbance and is likely to damage or destroy subsurface archeological resources (although improved stormwater management may provide protection as well). On the other hand, if existing systems fail, the effects can be catastrophic: archeological resources could be inundated and saturated for days with contaminated floodwater.”¹

Given the constraints HSMCC faces due to existing onsite archeological resources and the need to upgrade or repair existing facilities, this attachment provides guidance to address mitigation requirements, including meeting the 10% pollutant reduction requirement in the Critical Area. Existing stormwater management systems can be maintained, repaired, and upgraded as outlined in the MOU. New development/redevelopment will require additional stormwater management to address the increased runoff from impervious surfaces.

While all SWM BMPs included in the [Maryland Stormwater Design Manual](#) are available for use, landscape options may be more suitable for historic sites. Landscape measures are often low impact and can be less expensive to implement than engineered options. Landscape options preserve or mimic natural landscapes and habitat and feature native plant species and diverse wildlife.

Potential preservation benefits of landscape options include directing stormwater away from historic resources, visually unobtrusive stormwater management, and potentially more appropriate context for historic resources.²

Landscape Options for Stormwater Management

- Swales
- Impervious Surface Reduction
- Permeable Pavements
- Rain gardens
- Bioretention
- Rainwater Harvesting/Rain barrels
- Rooftop Disconnection
- Non-Rooftop Disconnection
- Sheetflow to Conservation Area
- Native plants/Conservation Planting

¹ [Planning for Maryland's Flood-Prone Archeological Resources](#)

² [Selecting Preservation-Sensitive Mitigation Options](#)

Master Buffer Management Plan

This Attachment applies to existing uses in the Buffer as well as to future needs. The individual parcels in parentheses reflect these uses. See BMP Map I for the entire property with special management areas highlighted.

Any disturbance of the Buffer from activities or development by HSMCC shall be minimized (no vegetation shall be removed from the Buffer except that required by the proposed activity or development). Any disturbance to or construction within the Buffer or expanded Buffer shall be mitigated as set forth in 27.01.09.01-2. Table H and as follows.

Mitigation Ratios

- New water-dependent facility 2:1
- Redevelopment of an existing facility within the same footprint 1:1
- Shore erosion control 1:1
- Linear Project Buffer Mitigation 2:1
- New development in the Buffer 3:1
- An additional 1:1 mitigation is required for any area of canopy coverage removed

General Mitigation Guidance

- All mitigation plantings shall be species that are native to the Coastal Plain of Maryland
- Mitigation for Buffer disturbance shall occur on the following priority basis:
 1. On-site within the Buffer - Small caliper trees, whips, and seed mixes maybe be used if necessary to help facilitate mitigation in the Buffer
 2. On-site and adjacent to the Buffer
 3. On-site elsewhere in the Critical Area
 4. On HSMCC property outside of Critical Area in approved location
- Forest mitigation should occur at approximately 430 woody stems per acre
- The Buffer shall be expanded as described in COMAR 27.01.09.01.
- Mitigation for forest clearing shall be by square footage if it is greater than 10,000 square feet

Buffer Use Categories

Public Access areas

- No mitigation required for maintaining existing access areas
- Maintain existing canopy and structure
- Ark & Dove pier (parcel 241), Chancellor's Point (parcel 18)

Leased parcels

- There are numerous parcels that are owned by HSMCC but have a lifetime lease. Maintenance of lawn by mowing may continue. Any new development or vegetation management, including trimming of trees and shrubs, will need to be approved by HSMCC and Commission staff.

Existing viewsheds

- Maintain existing structure and canopy by limbing, removal of saplings, and removal of invasive vines
- No mitigation required
- #1 State House (parcel 350) Area 1a: Kept low now and would like to expand in this area. (See BMP Map II)
- #2 Dove (parcel 241)
- #3 Margaret Brent Gazebo (parcel 240): Rented out for events such as weddings, some view existing/want to keep low, maintain existing trees, can be limbed, pines topped to keep lower, natural regeneration occurring. (See BMP Map III)
- #4 Brome Howard (parcels 79 & 80): Keep low except for large oaks, maintain shrubs, steep bank. (See BMP Map IV)
- #5 Plantation (parcel 97): Area along shoreline kept low for plantation interpretation, currently mowed to bank with some shrubs. (See BMP Map V)

Garden maintenance

- Maintain existing landscape gardens including removal of volunteer trees and shrubs
- No mitigation required
- Includes: State House, Farthings, Town Center, Indian Hamlet, Visitor Center, Plantation, Brome Howard Administration Building

Meadow maintenance

- Mow annually to avoid impacting ground nesting bird nests
- No expansion of meadow can occur by clearing forests
- Clearing allowed to maintain existing footprint of meadow
- Expansion of existing meadow into lawn or field is encouraged and may generate mitigation credits to use for required mitigation over and above 1:1
- Within the Critical Area, 29.48 acres on 8 sites are currently being maintained in meadow (none are located in the Buffer) (See BMP Map VII):
 - PR South Field 1.73 acres
 - PR North Field 4.45 acres
 - Admin Field 2.33 acres
 - Mill Field 13 acres (9.43 acres in CA)
 - Kohut Field 2.45 acres
 - Matipany Field 2.25 acres
 - Town Center North 1.39 acres
 - Town Center South 7.26 acres (6.17 acres in CA)
 - Chapel Field North 2.76 acres (0.98 acres in CA)
 - Chapel Field South 5.39 acres
 - Chancellors Point 3 acres

Active dig site

- Limit exposed areas of bare soil
- Mitigation required at 1:1 for trees and natural vegetation removed

Invasive species management

- Removal of invasive vines is generally allowed without mitigation provided that other cover is existing and maintained (assuming that there are tree and shrub species underneath)
- Removal of invasive/exotic trees requires mitigation at 1:1
- Removal of other existing vegetation requires mitigation at 1:1 by area.
- Potentially all parcels

Removal of diseased, dying, invasive, or hazardous trees

- Mitigation ratio is 1:1

Future Amendments to the Buffer Management Plan

HSMCC may request additional viewsheds based on historic use. This would require an amendment to the BMP. HSMCC would begin the process by requesting to amend the BMP and providing CAC staff with the following information:

- A narrative that describes the current use of the area, general description of the existing vegetation and management proposal, and justification/need.
- A map showing the proposed viewshed(s). (If different from the ones that have already been provided)
- Quantification of proposed impacts including number of trees or other woody vegetation to be removed.
- A mitigation plan that shows the quantity, species, and location of mitigation plantings. (Any clearing of woody vegetation in the Buffer requires mitigation at a 3:1 ratio and replacement in the Buffer; the mitigation plantings can be located anywhere within the HSMCC Buffer).
- CAC review will include a site visit to look at the existing vegetation and proposed mitigation area(s).
- Once CAC staff determines that the proposal is acceptable and appropriate mitigation will be provided the amendment can be added to the BMP.
- Potential future viewsheds
 - State House Area 1b (parcel 241) (See BMP Map II)
 - Chancellors Point (parcel 18) (See BMP Map VI)

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Potential Mitigation Areas

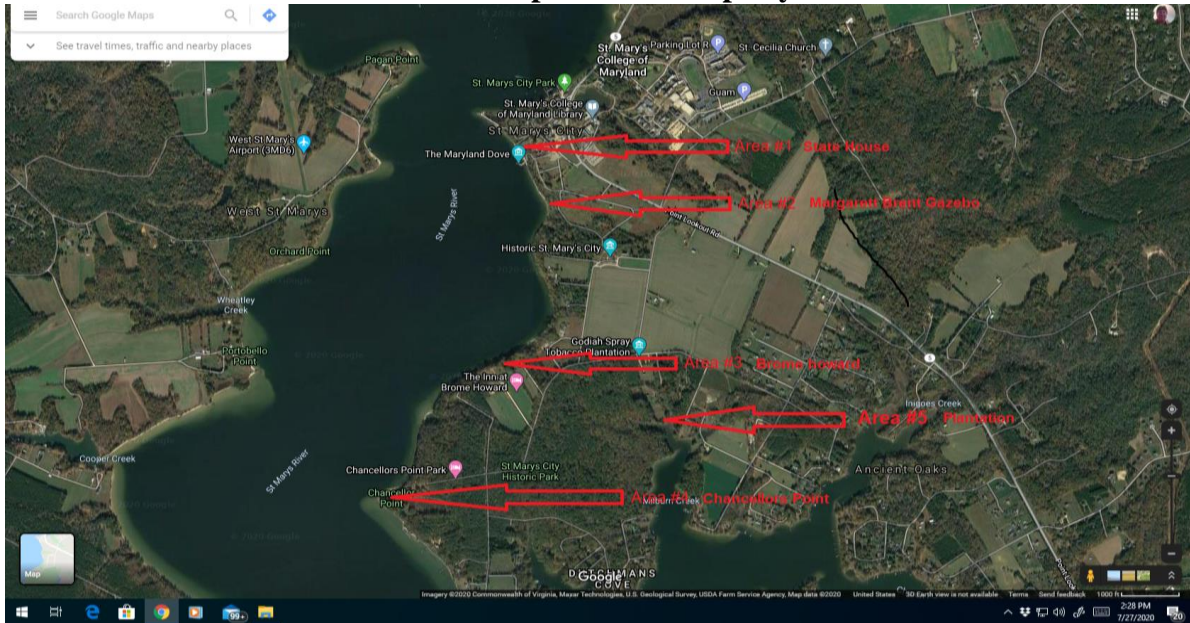
This is a list of mitigation areas that have been identified by the Research Department at HSMCC as potential forest mitigation planting sites for forest and Buffer mitigation. A map is attached that shows these areas. This is not an exhaustive list of mitigation sites and the availability of these sites for mitigation may change in the future.

- Critical Area Buffer
 - None currently identified
- Critical Area Forest (See BMP Map VIII)
 - Two sites have currently been identified in the Critical Area
 - Tax map 63, Parcel 210 (18341 Rosecroft Rd.) approximately 1.2 acres
 - Tax map 63, Parcel 78 (18401 Rosecroft Rd.) approximately 1.2 acres (most of this site is in the Critical Area)
 - Four sites have been identified outside of the Critical Area
 - Tax Map 63, Parcel 57 (16431 Pt. Lookout Rd.) approximately 2.2 acres
 - Tax Map 63, Parcel 23 (16331 Pt. Lookout Rd.) approximately 1.1 acres
 - Behind Historic St. Mary’s City Museum
 - Tax Map 63, Parcel 50 (18701 Hogaboom Lane) approximately 5,000 square feet
 - Tax Map 63, Parcel 213 (16721 Pt. Lookout Rd.) approximately 4,000 square feet

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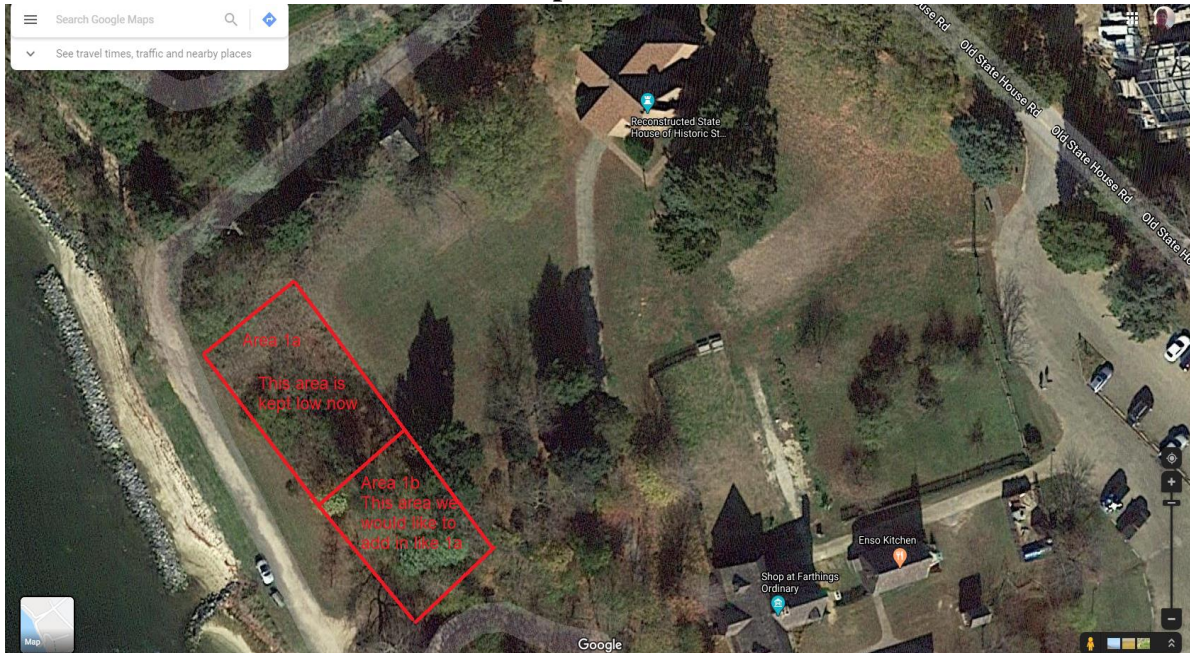
Buffer Management Plan Maps

BMP Map I Entire Property



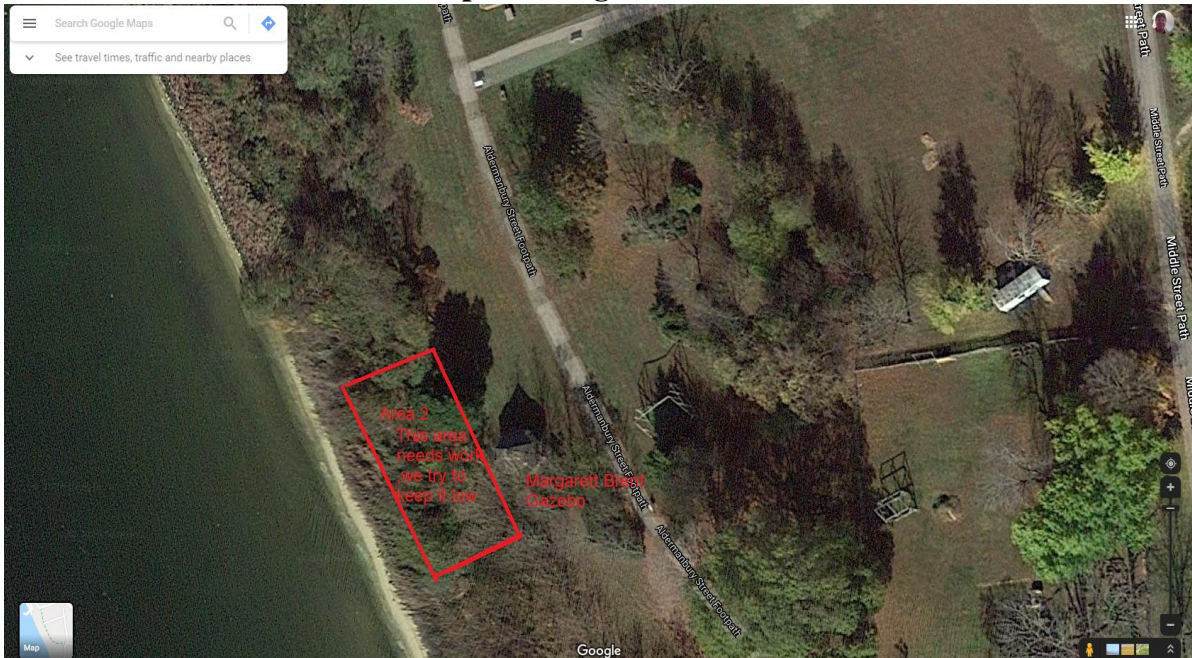
Area #1 State House, Area #2 Margaret Brent Gazebo, Area #3 Brome Howard, Area #4 Chancellors Point, Area #5 Plantation

BMP Map II State House



Area 1a vegetation currently kept low, Area 1b HSMCC would like the vegetation to be more like 1a - This will require an amendment to the Buffer Management Plan section of the MOU

BMP Map III Margaret Brent Gazebo



Area 2 needs work - try to keep it low

BMP Map IV Broome Howard



Area 3 kept low except for the large oaks

BMP Map V Plantation



Area 5 vegetation kept low for Plantation interpretation

BMP Map VI Chancellors Point



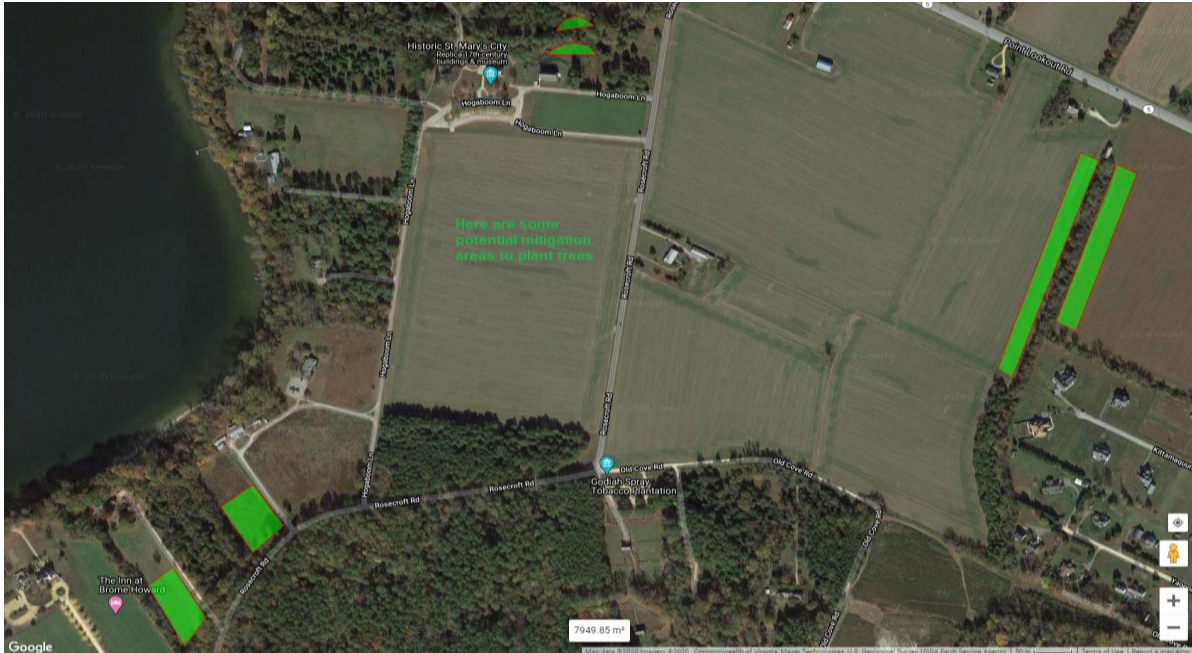
Area 4 HSMCC would like to work with the CAC to develop a plan to increase the view - This will require an amendment to the Buffer Management Plan section of the MOU

BMP Map VII Meadow Creation



Kohut Field, Matipany Field, Mill Field, Town Center North Fields (2), Chapel North Field, Chapel South Field, Admin Field, PR South Field, PR North Field, Chancellors Point Field

BMP Map VIII Forest Mitigation



Potential forest mitigation areas

ATTACHMENT 2: SITE-WIDE CLIMATE RESILIENCY ASSESSMENT

Background

As per COMAR 27.02.05.02.A.(2), State projects impacted by coastal vulnerabilities, such as sea level rise, extreme weather events, and marsh or wetland adaptation areas, shall demonstrate consideration of those hazards and their impacts. This consideration shall demonstrate identification and, when possible, implementation of climate resilient practices.

For each proposed project, HSMCC shall review the Maryland [CS CRAB](#)³ (Coast Smart Climate Ready Action Boundary) in order to determine if the project location is likely to experience coastal hazards. The CS CRAB was created by the Maryland Coast Smart Council as a potential indicator of areas subject to flooding under future sea level rise and storm surge events.

A few select maps have been provided in this document below; these locations were chosen to highlight specific areas of concern due to increased vulnerability based on the CS CRAB. These maps may be revised anytime as needed based on updated technology, resources or climate projections. If a project is located in a vulnerable area according to the map, HSMCC should complete an additional review using best available resources.

Additionally, HSMCC shall review wetland adaptation maps during the siting of proposed projects using the [Maryland Coastal Atlas mapping tool](#) and selecting the “sea level rise wetland adaptation areas” layer. The purpose of reviewing these maps is to plan for impacts to marsh adaptation areas that may prohibit their migration. Preservation of marshes and wetlands is important in coastal settings because they can provide a significant level of protection along the shoreline. Marsh and wetland ecosystems have a natural buffering capacity against coastal hazards, such as storm surge and sea level rise.

The maps illustrate anticipated marsh adaptation areas, and rank them as high, medium or low priority. High priority indicates better conditions and paths for marsh migration and thus successful marsh adaptation. A few example maps have been provided below. Maps may be revised anytime as needed based on updated technology, resources or climate projections. If a project is located in a vulnerable area according to the map, HSMCC should complete an additional review using best available resources.

³ The CS CRAB is the horizontal floodplain created by the Base Flood Elevation (BFE) plus a 3-foot vertical extent. The Federal Emergency Management Agency (FEMA) defines BFE as the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

Procedures

Category I projects, which commonly include projects associated with archaeological sites, do not require a vulnerability assessment. Guided by the interpretation and findings of the HSMCC Research Department, the HSMCC Executive Director, in consultation with the Board of Directors, determines if an archaeological site moves beyond the parameters of a Category I project.

If a Category II project is not located in an area likely to be impacted by anticipated coastal hazards based on the CS CRAB or marsh adaptation areas, the following requirements do not apply. If the project *is* located in such an area, it will fall into one of several categories depending on whether or not the project includes a historical component, and type of project. Each category has specific requirements based on the nature of that category.

Historical Sites and Structures

1. Archaeological Sites

Archaeological sites can be uniquely vulnerable to coastal hazards and opportunities to reduce impacts and hazards are often minimal. However, vulnerability and mitigation options vary on a case-by-case basis.

Application information should note if coastal hazards are anticipated for the project site:

- Location in the CS CRAB
- Location in a wetland adaptation area

With the acknowledgement that, by nature, archaeological sites typically cannot be relocated, HSMCC will rely on the HSMCC Research Department to identify archeological sites at risk in addition to MHT requirements, policies, and procedures that may guide or discourage alterations to the site for coastal resilience. HSMCC will then assess potential impacts and recommend mitigation options in consultation with MHT.

2. Historical Structures and Reconstructions

Redevelopment of, reconstruction of, or maintenance activities for historical structures located in vulnerable areas will be reviewed by the HSMCC Research Department for opportunities to increase coastal resilience. The evaluation will be based upon the State's long-term goals and planning processes at that time, including MHT policies for historical structures. Whenever possible, accommodations should be made in consideration of coastal hazards and vulnerabilities, and appropriate mitigation and restoration opportunities as noted above should be provided when impacts cannot be avoided. CAC staff will review the information supplied by HSMCC to determine if full Commission review and approval of a project is needed.

Nonhistorical Sites and Structures

3. Buildings and Structures

HSMCC should avoid locating new buildings and structures in vulnerable locations and in anticipated marsh adaptation areas. If this is not feasible, the project may require approval by the full Critical Area Commission.

Application information should note if coastal hazards are anticipated for the project site:

- Location in the CS CRAB
- Location in a wetland adaptation area
- If either of the above scenarios apply, application information shall demonstrate that HSMCC has attempted to avoid impacts from coastal hazards in the following ways:
 - Incorporate climate resilient practices to minimize damage to the investment or project; examples include freeboard, wet proofing and dry proofing.
 - Relocate the project to avoid impacts from coastal hazards.
 - Relocate the project to preserve and maintain a potential high or medium priority wetland adaptation area.
- If it is not feasible to avoid impacts to high or medium priority wetland adaptation areas as described above, the project will be reviewed by the full Commission. HSMCC must:
 - Demonstrate why the impact is unavoidable;
 - Demonstrate how other ecological features on site could be enhanced to maintain existing wetland function and provide protection against coastal hazards; and
 - Recommend methods to address detrimental impacts.

Projects that cannot avoid coastal hazards and also cannot incorporate practices to minimize impacts will be reviewed by the full Commission. Projects that cannot avoid impacts to wetland adaptation areas will also be reviewed by the full Commission.

4. Linear Projects

HSMCC should avoid locating linear projects, including but not limited to maintenance activities, repaving, diversions and extensions of trails, roads, etc., in vulnerable locations and in anticipated marsh adaptation areas. These projects should be revised to accommodate the applicable coastal hazard. Accommodations may involve rerouting of the trail, abandonment and restoration, or elevating at-risk portions. If this is not feasible, the project may require approval by the full Critical Area Commission. If impacts to the Buffer occur strictly in order to accommodate anticipated coastal hazards, mitigation is required as per the HSMCC MOU and Buffer Management Plan.

Application information should note if coastal hazards are anticipated for the project site:

- Location in the CS CRAB
- Location in a wetland adaptation area
- If either of the above scenarios apply, application information shall demonstrate that HSMCC has attempted to avoid impacts from coastal hazards in the following ways:
 - Incorporate climate resilient practices to minimize damage to the investment or project; examples include freeboard, wet proofing and dry proofing.
 - Relocate the project to avoid impacts from coastal hazards.

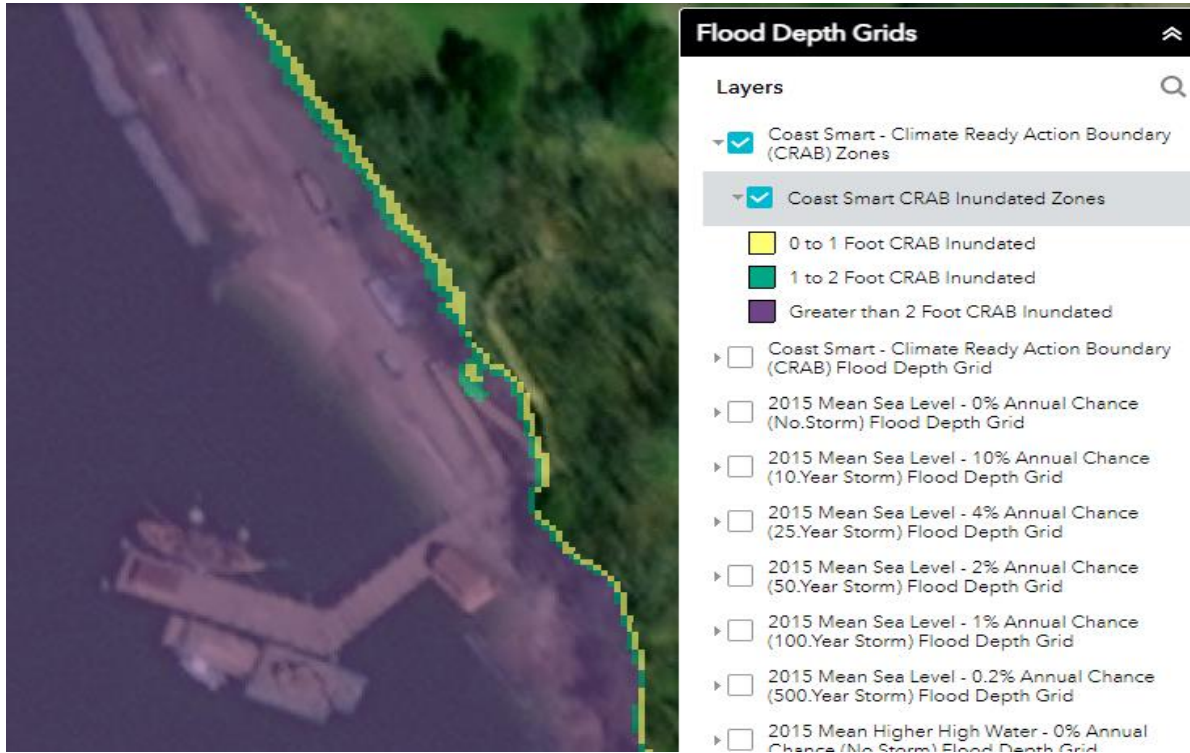
- Relocate the project to preserve and maintain a potential wetland adaptation area.
- If it is not feasible to avoid impacts to wetland adaptation areas as described above, the project will be reviewed by the full Commission. HSMCC must:
 - Demonstrate why the impact is unavoidable;
 - Demonstrate how other ecological features on site could be enhanced to maintain existing wetland function and provide protection against coastal hazards; and
 - Recommend methods to address detrimental impacts.

Projects that cannot avoid coastal hazards and also cannot incorporate practices to minimize impacts will be reviewed by the full Commission. Projects that cannot avoid impacts to wetland adaptation areas will also be reviewed by the full Commission.

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Select HSMCC Coastal Resilience Maps

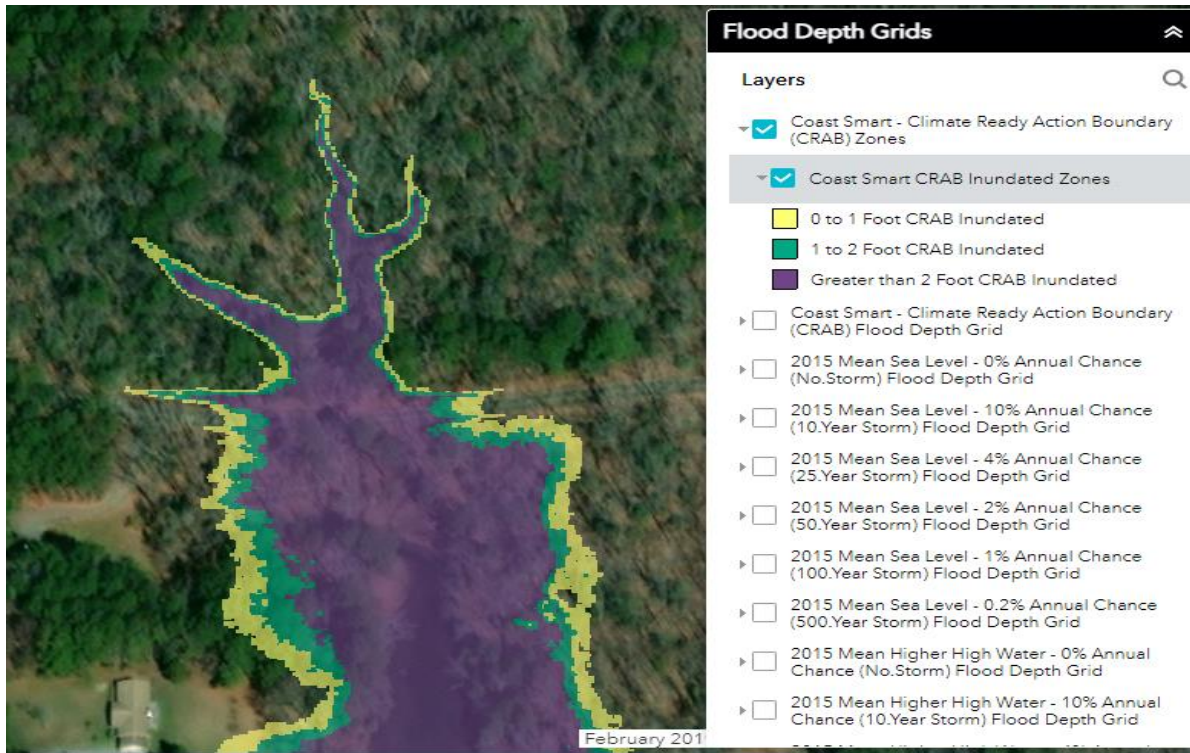
Coastal Resilience Map I: Dove & Dock CS CRAB Inundation



Coastal Resilience Map II: Chancellors Point CS CRAB Inundation



Coastal Resilience Map III: Lucas Cove CS CRAB Inundation



Coastal Resilience Map IV: HSMCC South Priority Wetland Adaptation Areas

