



PLANNING AND ZONING COMMISSION

MINUTES OF THE PLANNING COMMISSION MEETING JULY 26, 2023

- I.** Commission Chair Berault called the meeting to order at 7:00 pm. In attendance were Laura Blackwelder, Larry Brown, Vice-Chair Cindy Greengold, Kelly Huhn, Jan Ruttkay, and Rachel Larsen Weaver, Commission members, Christopher Jakubiak, Planning & Zoning Administrator, and Sharon L. Humm, Commission Clerk.

Chair Berault thanked the Commission for electing her as Commission Chair at its June meeting and looks forward to working with the Commission. Chair Berault, on behalf of the Commission, took the opportunity to recognize and thank Mr. Jakubiak for his role as the Town's Planning and Zoning Administrator as well as to congratulate him on his new role as the Director of Planning for the City of Annapolis. The Commission extends its best wishes to Mr. Jakubiak in his new upcoming position.

II. Approval of the July 26, 2023 Planning Commission Agenda.

MOTION: Commissioner Brown moved to approve the July 26, 2023 Planning Commission agenda. Seconded by Commissioner Ruttkay, all in favor.

- III. Introduce & welcome new Commission member Rachel Larsen Weaver** – Chair Berault was pleased to introduce and welcome the Commission's newest member, Rachel Larsen Weaver. The Commission appreciates her willingness to serve and looks forward to working with her.

- IV. Recognize the re-appointment of Commissioner Brown** – Chair Berault wanted to announce that the Council re-appointed Commissioner Brown last week to another five (5) years on the Commission. Mr. Brown has been a member of the Commission since July of 2018. Mr. Brown noted that this is the first time in his memory there has been a full Commission of seven (7) commissioners.

V. Approval of the July 5, 2023 Planning Commission meeting minutes.

MOTION: Commissioner Blackwelder moved to approve the July 5, 2023 Planning Commission meeting minutes. Seconded by Vice-Chair Greengold, all in favor.

VI. Public Comment –

No public comment was received by the audience but was noted that a public comment submitted by Wes Donovan, addressed to the Mayor and Town Council, was forwarded to the Commission regarding the zoning text amendments related to design standards for townhouses and standards of compatibility.

VII. Old Business

Critical Area Regulations – Mr. Jakubiak provided the Commission with a preliminary draft of the critical area ordinance that incorporated changes the Commission has made previously. Mr. Jakubiak stated, along with those revisions, he also made a few minor changes. Mr. Jakubiak noted he reviewed several of the COMAR references within the ordinance. This was a topic of discussion at the last meeting. The Commission discussed possibly eliminating as well as retaining some. Further review is advised.

VIII. New Business

1. **Review Draft Ordinance** – Mr. Jakubiak, for the benefit of the Commission, highlighted areas of revision. Highlighted in yellow is text to be removed and the red font text is to be added. In reviewing the draft, the Commission referenced certain sections and made the following revisions:

~~E. Notification of project approval~~ Applications Referred to the Critical Area Commission

The Town shall send copies of applications for all developments, subdivisions, and site plans partially or in its entirety within the Critical Area ~~as specified in COMAR 27.03.01.04~~ to the Critical Area Commission for review and comment, except the following.

1. A single family dwelling unit;
2. Any structure accessory to a single-family dwelling unit;
3. Development in which land disturbance does not exceed 15,000 square feet; and
4. Subdivision resulting in 10 lots or less, or 10 dwelling units or less.

~~(1) The application shall be accompanied by a completed "Project Notification Application" form downloaded from the Commission's website. The Chesapeake Beach may not process an application, which has been sent to the Commission for notification until it has received notice of receipt by the Commission or the close of the fifth business day, whichever comes first. Any action by the Chesapeake Beach in violation of these procedures shall be void.~~

MOTION: Commissioner Blackwelder motioned to remove the strikeout in E (1) and retain the above highlighted language as originally contained in the model ordinance and to permit Mr. Jakubiak to break the paragraph down into three individual points for clearer reading.

Ayes, Commissioners, Blackwelder, Berault, Ruttkay, and Huhn. Opposed, Commissioners Brown, Greengold, and Weaver.

Motion Passes.

B. Intensely Developed Areas

- (3) Land use activities within the IDA will be managed in accordance with the land use policies of COMAR 27.01.02.03.

Commissioner Brown had questions related to the difference between the land use policies of COMAR 27.01.02.03 pertaining to land use activities within the IDA, and land use policies of COMAR 27.01.02.04 pertaining to land use activities within the LDA.

***NOTE:** Mr. Jakubiak will research and advise the Commission.*

C. Limited Development Areas

(7) If the areal extent of the site limits the application of the reforestation standards in this section, the **Town may allow an** applicant **may be allowed** to plant offsite or pay a fee in lieu of planting.

MOTION: Commissioner Greengold moved to revise language in (7) to read as follows:

“If the areal extent of the site limits the application of the reforestation standards in this section, the Town may allow an applicant to plant offsite within the LDA or RCA within the Town of Chesapeake Beach or, upon finding that offsite planting is not feasible, to pay a fee in lieu of planting.”

Seconded by Commissioner Ruttkay, all in favor.

(12) New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas (LDA) if such a use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.⁶

MOTION: Commissioner Brown moved to delete # (12) in its entirety. Seconded by Commissioner Ruttkay. Ayes, Commissioner Brown. Opposed, Commissioners Blackwelder, Berault, Huhn, Ruttkay, and Weaver. **Motion Fails.**

D. Resource Conservation Areas

(4) Density

~~A local jurisdiction may not authorize a variance to the maximum density of one dwelling unit per 20 acres.~~ In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:

MOTION: Commissioner Blackwelder moved to amend the highlighted language to remove the strikeout and retain the sentence and change the wording “A local jurisdiction” to “The Town of Chesapeake Beach” to read as follows:

“The Town of Chesapeake Beach may not authorize a variance to the maximum density of one dwelling unit per 20 acres. In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:” Seconded by Commissioner Ruttkay, all in favor.

(5) Nothing in this Section shall limit the ability of a participant in any agricultural easement program to convey real property **impressed** **encumbered** with such an easement to family members provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres, except as may be further restricted by the underlying zoning district.

MOTION: Commissioner Huhn moved to amend (5) to remove the strikeout and retain the word “impressed” and remove the word “encumbered.” Seconded by Vice-Chair Greengold. Ayes, Commissioners Blackwelder,

Berault, Greengold, and Hauhn. Opposed, Commissioners Brown and Ruttkay.
Motion Passes.

(6) RCA Uses⁸

(f) New commercial, industrial, and institutional uses shall not be permitted in Resource Conservation Areas, except as provided for in the Town's growth allocation provisions or as listed below.¹⁰

(i) A home occupation as an accessory use on a residential property and as provided for in the Town's zoning ordinance; **and**

~~(ii) A golf course developed in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005, excluding main buildings and/or structures such as the clubhouse, pro shop, parking lot, etc.;~~

(ii) Any Institutional, Recreational, and Educational use permitted by right or special exception in the Ordinance's Resource Conservation (RC) zoning district.

MOTION: Commissioner Berault moved to amend (6) RCA Uses, to strike footnote references 8, 9, & 10; to delete the word "**and**" in (f)(i); and to replace the above highlighted strikeout (ii) with "**(ii) Any Institutional, Recreational, and Educational use permitted by right or special exception in the Ordinance's Resource Conservation (RC) zoning district.**"
Seconded by Vice-Chair Greengold, all in favor.

Due to the late hour, Mr. Jakubiak recommended moving onto another matter. He directed the Commission to Part 7. Growth Allocation. Mr. Jakubiak explained to the Commission the colored areas on the critical area map are not set in stone. They can be modified or up zoned. Growth Allocation is available for use in the RCA or the LDA. Its purpose is to authorize a change in the Critical Area classification to develop a higher density, intensity, or use other than the current classification allows. He explained the process, requirements, and standards. He noted the Town's current acreage remaining is 58.37 acres, he then addressed questions from the Commission.

Mr. Jakubiak wanted to bring to the Commission's attention under, **G. Public Beaches and Other Public Water-Oriented Recreation or Education Areas or Activities** that he added the words "**including public piers.**" This is to make it clear that within the Town it considers public recreational uses and education areas to be one in the same with public piers. The Comprehensive Plan envisions one day the Town would do a public pier out into the water for recreational purposes. Thus, his intent was to ensure that option was not prohibited by the Critical Area Commission.

Vice-Chair Greengold brought to the floor the Fee-in-Lieu of Buffer Mitigation, specifically, the fee-in-lieu assessed at \$1.50 per square foot of required buffer mitigation. She questioned if this amount could be increased. Mr. Jakubiak stated it could be but would need some type of justification statement in support of the request. Mr. Jakubiak stated he would prepare a statement and will continue to further develop the draft ordinance, adding in tonight's amendments, and complete the COMAR research. **NOTE:** *Mr. Jakubiak will also research*

and compare land use policies of COMAR 27.01.02.03 pertaining to land use activities within the IDA and COMAR 27.01.02.04 pertaining to land use activities within the LDA.

2. **Letter to Mayor & Town Council – Tennis Courts** – Commissioner Blackwelder submitted to the Commission a draft letter addressed to the Mayor and Town Council regarding the tennis courts at the Beach Elementary School. Commissioner Blackwelder is requesting the Commission approve sending the letter to the Town Council which emphasizes the importance of retaining the tennis courts for the benefit of Town residents. After some minor revisions, the Commission motioned to approve sending the letter.

MOTION: Commissioner Blackwelder moved to approve having Chair Berault make the necessary revisions to her letter and forward it tomorrow to the Mayor, Town Council, and the Town Administrator. Seconded by Commissioner Ruttkay, all in favor.

3. **Tree Ordinance** – Mr. Jakubiak stated he would incorporate language regarding removal of individual trees in the Critical Area into the draft ordinance under the IDA section for the Commission to review. Vice-Chair Greengold requested that language be added in the purpose statement that includes the importance of canopy trees, not just for the preservation and protection of the ground coverage, but also for the streams to retain the temperature of the water. The Commission requested Mr. Jakubiak to also provide the definition of a tree and standards on when you can and cannot take down a tree.

Adjournment:

There being no further comments, Commissioner Ruttkay moved to adjourn the meeting at 10:15 PM. Seconded by Vice-Chair Greengold, all in favor.

Submitted by,

Sharon L. Humm
Commission Clerk

Note: This meeting can be viewed in its entirety on the Town website on the Planning Commission page www.chesapeakebeachmd.gov.
