



PLANNING AND ZONING COMMISSION

MINUTES OF THE PLANNING AND ZONING COMMISSION SEPTEMBER 22, 2021

- I. Commission Chair Larry Brown called the meeting to order at 7:00 pm. In attendance were Kathleen Berault, Laura Blackwelder, Cynthia Greengold, Commission Members, Christopher Jakubiak, Planning & Zoning Administrator, and Sharon Humm, Commission Clerk. Absent was Jan Ruttkay, Commission Member.

Chairman Brown took the opportunity before beginning the meeting, to report that the Commission received Jeff Larsen's resignation letter, resigning from the Commission.

MOTION: Chairman Brown moved to accept Mr. Larsen's resignation and thank him for his service to the Commission. Seconded by Commissioner Greengold, all in favor.

Chairman Brown reported that the draft Comprehensive Plan update has been posted on the Town's website for public review and comment, and a public hearing has been set for November 9, 2021. Also, at the September Town Council meeting, a three (3) month extension on the moratorium was passed but the Council took no action on the 35-foot height limitation that the Commission recommended. Chairman Brown also noted that the Kellam's Revitalization Committee report is attached to tonight's agenda.

MOTION: Chairman Brown moved to confirm that nothing in the draft Comprehensive Plan is intended to conflict with the Kellam's Revitalization report dated June 29, 2021. Seconded by Commissioner Berault. After discussion, Chairman Brown withdrew his motion.

II. **Approval of the Planning & Zoning Agenda.**

MOTION: Commissioner Berault moved to approve the September 22, 2021 Agenda as presented. Seconded by Commissioner Greengold, all in favor.

III. **Approval of the minutes of the August 25, 2021 Planning & Zoning Commission meeting.**

MOTION: Commissioner Berault moved to approve the minutes of the August 25, 2021 Planning & Zoning meeting. Seconded by Commissioner Greengold, all in favor.

- IV. **Public Comment on any item on the agenda:** Public comment will be accepted by dialing (301) 715-8592 and enter Meeting ID 869 755 7180. NOTE: There will be a 2-minute limit on comments received. No comments were received.

- V. **Discussion and review of future Planning Commission meeting dates:** October 27, November 9, November 24, and December 22, 2021.

MOTION: Chairman Brown moved to cancel the December 22, 2021 meeting. Seconded by Commissioner Greengold. Ayes, Chairman Brown. Opposed, Commissioners Berault, Blackwelder, and Greengold. **Motion Fails.**

MOTION: Commissioner Greengold moved to change the November 24, 2021 meeting date to November 23, 2021 and change the December 22, 2021 meeting date to December 21, 2021. Seconded by Commissioner Blackwelder, all in favor.

VI. Discussion of Zoning Administrator's proposed zoning map and zoning ordinance changes (\$290-15, \$290-9, \$290-10, \$290-11, Table of Land Use Classifications, and Land Use Map) necessary to implement the draft consolidated Comprehensive Plan update.

At the Chairman's direction, Mr. Jakubiak began by addressing questions submitted by Commissioner Blackwelder to the Chairman prior to the meeting. Through a presentation of maps and other content he reviewed the differences between the Town's official Zoning Map and the draft plan's recommended future land use map and the role of each. He discussed the Residential Planned Community zoning district and where it applies in the Town and the use of the resource conservation land use designation as a planning tool to guide the long-term preservation of open spaces in Chesapeake Beach, especially environmentally sensitive open spaces. He then described the platting of open space within subdivisions and the protective covenant that applies to a 200-acre property set aside on the Richfield Station plat as forest interior dwelling bird habitat. He answered questions about the ownership of large tracts of open area contained within two recorded subdivision plats. A summary of each question and answer is as follows:

1. Will changing the zoning from Residential Planned Community to Resource Conservation provide more or less protection from development on associated plats? **It will provide more protection.**
2. How will rezoning affect who must be notified and who must approve changes to land use on plats that are currently part of RPCs after rezoning? **Re-zoning has no bearing on the plats. Open space lots will continue to exist as legal lots with the same restrictions that exist today. The zoning of the land does not remove the underlying legal protections that are in place.**
3. What would the draft Comprehensive Plan update allow on re-zoned open space, residential, and conservation plats in the newly zoned Resource Conservation zone? **The Comprehensive Plan recommends open space and conservation areas remain in open space and conservation. Those open space areas within subdivisions are already platted as open space and/or protected by conservation easements. Designated open space platted within a subdivision, can only be open space. It was noted that the draft Comprehensive Plan does recommend recreational trails within preserved forests as is the case in the deed of conservation for the 200-acre, "Forest Interior Dwelling Bird Habitat Protection Covenant and Agreement."**

MOTION: Commissioner Blackwelder moved to have the document known as "Forest Interior Dwelling Bird Habitat Protective Covenant and Agreement" included in the minutes. Seconded by Commissioner Greengold, all in favor.

Commissioner Blackwelder described her difficulty when trying to find the covenant and plat when attempting to research the property in Calvert County Land Records. She expressed concern that the Planning Commission would have difficulty knowing about the

covenant if it were not documented in the Comprehensive Plan. Mr. Jakubiak agreed that land records can be difficult to follow, that the Planning Commission should make it more commonly known that the plat is protected, and that the Planning Commission should celebrate it as a public amenity. Mr. Jakubiak offered several suggestions during the conversation including, 1) the Planning Commission could have the Forest Interior Dwelling Bird Habitat Protective Covenant attached to the Comprehensive Plan, 2) the Planning Commission could give the entire area a name and designate it as a natural resource park, 3) the Planning Commission could include each protected plat that is currently located within a Residential Planned Community in the Appendix of the Comprehensive Plan for reference, and 4) the Planning Commission could point out on the record at the Comprehensive Plan public hearing that we would be making changes necessary to highlight this area on the map and to highlight existing protective easements.

Commissioner Blackwelder expressed her concerns regarding a parcel in the Chesapeake Village community along Route 261 that is currently zoned Low Density Residential and stated she would like to see this area protected and preserved.

Mr. Jakubiak began the discussion of the draft zoning amendments by presenting two maps. The proposed Land Use map, as recommended in the draft Plan by the Commission, showing land use in colored sections, and the other being the proposed zoning map showing zoning districts, (i.e., RV-1, RV-2, R-HD, MC) which is consistent with the proposed Land Use map. Mr. Jakubiak reviewed the proposed set of zoning changes, pointing out several newly recommended zones, namely, four new commercial districts which would replace the Commercial and Maritime Districts, and areas recommended to be zoned as Resource Conservation. Commissioner Blackwelder had concerns regarding possibly rezoning Captain's Quarters and Fishing Creek Apartments, which are existing multi-family communities, from Maritime (M) to Residential High Density (R-HD.) Mr. Jakubiak discussed the concern about creating non-conforming situations and offered alternative approaches to help implement the draft Plan. After much discussion, Commissioner Blackwelder recommended to keep them zoned Maritime with verbiage that would allow the continuation of existing housing units as permitted uses.

MOTION: Commissioner Blackwelder moved that Mr. Jakubiak provide language that would allow the continuation of existing housing units as permitted uses, within the proposed maritime commercial district. Seconded by Commissioner Greengold. Ayes, Commissioners Berault, Blackwelder, and Greengold. Opposed, Chairman Brown.

Motion Fails.

Mr. Jakubiak moved on to the Residential Village (RV) section. The draft Plan proposes to eliminate RV and replace it with the new districts RV-1 and RV-2. Mr. Jakubiak explained the proposed RV-1 district would allow primarily single-family detached houses while the proposed RV-2 would continue to allow a variety of housing types. Commissioner Blackwelder suggested that the portion of Town from 27th Street to 30th Street that is now proposed RV-2 district, now be changed to RV-1, allowing for a more restrictive area.

MOTION: Commissioner Blackwelder moved to change the proposed RV-2 section from 27th Street to 30th Street to a RV-1 district. Seconded by Commissioner Greengold. Ayes,

Commissioners Berault, Blackwelder, and Greengold. Opposed, Chairman Brown.
Motion Fails.

VII. Public Comment- None received.

VIII. Adjournment:

There being no further comments, Commissioner Greengold moved to adjourn the meeting at 9:36 pm. Seconded by Commissioner Blackwelder, all in favor.

Submitted by,

A handwritten signature in blue ink, appearing to read "Sharon L. Humm".

Sharon L. Humm
Commission Clerk

CALVERT COUNTY CIRCUIT COURT (Land Records) KPS 2798, p. 0108, MSA_CE4_2917. Date available 07/18/2006. Printed 09/03/2021.

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BK 02798 PG 108

FOREST INTERIOR DWELLING BIRD HABITAT PROTECTIVE COVENANT AND AGREEMENT

This Forest Interior Dwelling Bird Habitat Protective Covenant and Agreement (hereinafter this Agreement), entered into this 12 day of July, 2006 by and between Richfield Station II Joint Venture, LLP a Maryland limited liability partnership (hereinafter the Grantor) and Chesapeake Beach, Maryland, a municipal corporation and body politic of the State of Maryland (hereinafter the Grantee).

WHEREAS, Richfield Station holds title, in fee simple, to all that piece or parcel of land situate in Calvert County, Maryland, and more particularly described on Exhibit A attached hereto and incorporated herein (the Property).

LR IMPROVE SU	20.00
RECORDING FEE	75.00
TOTAL	95.00

WHEREAS, that portion of the Property described on the series of Exhibits identified as B-1, consisting of approximately 202.78 acres, shall be preserved as a forest interior dwelling bird habitat protection area (hereinafter the FIDS Protection Area).

REPT #	58771
KPS KER	Blk # 742

WHEREAS, Grantor has agreed to allow the use of the FIDS Protection Area by Grantee as an area dedicated for meeting mitigation requirements for Grantor's development of other areas of the Property under the Grantee's Local Critical Area Protection Program.

Jul 13, 2006 12:47 PM

WHEREAS, Grantee acknowledges that Grantor is required to convey the property upon which this covenant shall run to the Richfield Station Homeowners Association or similar entity in conjunction with subdivision of further areas of Richfield Station. Grantee acknowledges and agrees that execution of this Protective Covenant and subsequent transfer of the underlying property to the Association or similar entity as encumbered complies with the applicable transfer requirements for subdivision.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and the premises and mutual covenants contained herein, Grantor, does hereby establish the covenants, conditions and restrictions hereinafter set forth and creates a servitude on the FIDS Protection Area, which estate, interest, property and servitude will result from the restrictions hereby imposed upon the use of the FIDS Protection Area of the Grantor, Grantor covenants on behalf of itself, its legal representatives, successors and assigns, as applicable, to do so and refrain from doing upon the FIDS Protection Area, the various acts hereinafter mentioned.

The restrictions hereby imposed upon the FIDS Protection Area and the acts which the Grantor so covenants to do and refrain from doing upon the FIDS Protection Area in connection therewith are as follows:

1. Except as provided in paragraph 3, no development activities, including construction or alteration of residential, commercial, industrial or other accessory structures of any kind may be placed or erected upon the FIDS Protection Area, nor any use in connection therewith shall be made of the FIDS Protection Area. Nothing in this Agreement prohibits the RCA density generated by the acreage of land within the FIDS

Protection Area from being used by Grantor to support development (i.e. required acreage in support of residential dwelling units at a 1 unit per 20 acre density) upon land not subject to this Agreement.

2. Agricultural activities and the harvesting of timber are prohibited in the FIDS Protection Area.

3. Recreational activities may be allowed in the FIDS Protection Area if those activities are consistent with the Critical Area statute, Natural Resources Article 8-1801 et seq., COMAR 27.01 and 27.02, and the Town's Critical Area Program. A fitness trail associated with the adjacent subdivision, or a walking trail constructed by the Town for recreational use, may be constructed in the FIDS Protection Area only after review and approval by the Critical Area Commission.

TO HAVE AND TO HOLD unto the Grantee, its successors, legal representatives, and assigns, forever, the covenants contained herein to bind and run with the land, in perpetuity; subject however to the right of the Grantee to modify or terminate such estate, interest, property and servitude hereby granted only upon prior written notice to the Grantor, its successors, legal representatives and assigns, prior written approval by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, and the execution of an instrument and recordation thereof among the Land Records of Calvert County, Maryland declaring that the estate, interest easements and servitude created under this Covenant and Agreement is modified or is terminated and no longer is in force and effect.

The Grantee is hereby granted the right to enforce this Covenant and Agreement and the covenants, conditions and restrictions set forth herein. Grantee agrees that it shall use the FIDS Protection Area for mitigation purposes only and that its use shall be consistent with the restrictions and covenants imposed on the FIDS Protection Area herein.

IN WITNESS WHEREOF, this instrument has been executed by Richfield Station II Joint Venture, LLP, Grantor and Chesapeake Beach, Maryland, Grantee, on the day and year hereinbefore written, under their respective seals.

ATTEST:

RICHFIELD STATION II JOINT VENTURE,
LLP, GRANTOR

By: Austin Spicknall Calvert L.P.,
General Partner

By: Austin Chesapeake L.P., General Partner

By: The Austin Group, Ltd., General Partner

Dusan Marton

Michael L. Roepcke, President (SEAL)
By: Michael L. Roepcke, President

CHESAPEAKE BEACH, MARYLAND, GRANTEE

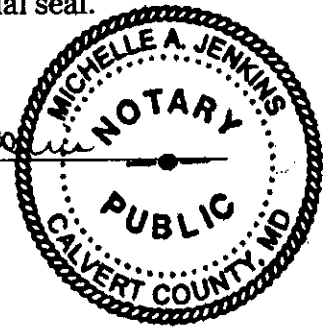
M Jenkins _____
Gerald W. Donovan _____ (SEAL)
 By: Gerald W. Donovan, Mayor

STATE OF MARYLAND, CALVERT COUNTY, to wit:

I HEREBY CERTIFY, that on this 12 day of July, 2006, before me, the subscriber, a Notary Public of the State of Maryland aforesaid, personally appeared Gerald W. Donovan, Mayor of Chesapeake Beach, Maryland, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the foregoing to be his act and deed and in my presence signed and sealed the same and did further acknowledge that he had the authority to execute the foregoing instrument on behalf of the party named therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Michelle A. Jenkins
 NOTARY PUBLIC



My Commission Expires:

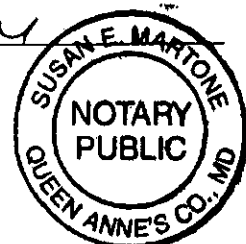
12/1/06

STATE OF MARYLAND, Queen Anne's COUNTY, to wit:

I HEREBY CERTIFY, that on this 28 day of June, 2006, before me, the subscriber, a Notary Public of the State of Maryland aforesaid, personally appeared Michael L. Roepcke, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the foregoing to be his act and deed and in my presence signed and sealed the same and did further acknowledge that he had the authority to execute the foregoing instrument on behalf of the party named therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Susan E. Martone
 NOTARY PUBLIC

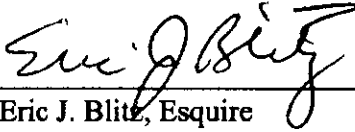


My Commission Expires:

12/1/06

Certification

I certify that this instrument has been prepared by an attorney admitted to practice before the Court of Appeals of Maryland.


Eric J. Blitz, Esquire