



PLANNING AND ZONING COMMISSION

MINUTES OF THE PLANNING AND ZONING COMMISSION JUNE 22, 2022

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

Chairman Brown wanted to bring to the Commission's attention several items before beginning the evening's meeting.

1. Chairman Brown briefed the Commission on the status of "Group Homes". The Commission has deferred consideration of zoning code related issues awaiting review by the Town's attorney. Town staff will inform the Commission of attorney's findings.
2. Chairman Brown reported the Zoning Board of Appeals will hear a case on July 18, 2022. Mr. Jakubiak will provide a staff report which will be forwarded to the Commission, though no action is required of the Commission.
3. Chairman Brown stated, per the Town's zoning code, Article VIII, §290-31, the Commission shall prepare and adopt an annual report in accordance with the provisions of Article 66B, §3.09, Annotated Code of Maryland, on matters relating to the growth of the Town. Chairman Brown requested the Commission review the report and submit any concerns they may have.
4. Chairman Brown stated, on tonight's agenda, is the election of a chairman and vice-chair.
5. Chairman Brown reported in the Commission's packet is a memo from the Zoning Administrator of Immediate Text Amendments. The Town Council is requesting the Commission make these amendments a priority drafting a set of amendments that are complete and eliminates any inconsistencies. The Commission will then hold a public hearing before sending the recommended amendments to the Council.
6. The Town Administrator is scheduled to attend and address the Commission at its July meeting regarding the use of town resources.
7. Chairman Brown provided a memo to the Commission of "agenda guidelines" that he reviewed with the Commission.
8. Chairman Brown announced that a new Commission member, Kelly Huhn, was confirmed at the Town Council meeting this month, though not present tonight.

II. Approval of the Planning & Zoning Agenda.

MOTION: Commissioner Greengold moved to approve the June 22, 2022 Agenda as presented. Seconded by Commissioner Berault.

MOTION: Commissioner Greengold moved to amend the agenda to add to Item #VI, the election of a Vice-Chair and 2) include in Amendment #1, the building height definition and height measurement standards. Seconded by Commissioner Ruttkay, all in favor.

MOTION: Commissioner Berault moved to amend the agenda to add an amendment to Amendment #6. Seconded by Commissioner Ruttkay, all in favor.

MOTION: Commissioner Greengold moved to approve the agenda as amended. Seconded by Commissioner Berault, all in favor.

III. Approval of the minutes of the May 25, 2022 Planning & Zoning Commission meeting.

MOTION: Commissioner Berault moved to approve the minutes of the May 25, 2022 Planning & Zoning meeting. Seconded by Commissioner Greengold.

MOTION: Commissioner Greengold moved to amend the May 25, 2022 minutes, Item VI, to add the letters “NP” before the words “Not Permitted” in the first paragraph, last sentence. Seconded by Commissioner Ruttkay, all in favor.

The Commission voted on the amended May 25, 2022 minutes, all in favor.

IV. Public Comment on any item on the agenda: NOTE: There will be a 2-minute limit per comment.

Public comment was received by:

1. Chairman Brown read into record public comment from Susan Webster-Page of 3907 27th Street, Chesapeake Beach, MD regarding the drafted text amendment of the definition for the RV2 area.

V. Annual election of a Commission Chair and Vice-Chair.

MOTION: Commissioner Berault nominated Commissioner Greengold as Commission Chair. Seconded by Commissioner Ruttkay, all in favor.

MOTION: Commissioner Greengold nominated Commissioner Berault as Vice-Chair. Seconded by Commissioner Ruttkay, all in favor.

Commissioner Greengold took over as Commission Chair.

VI. Continue discussion of zoning ordinance changes necessary to implement the following recommendations in the draft Comprehensive Plan – 2021 Update for immediate term text amendments.

1. **Zoning Map** – Mr. Jakubiak presented to the Commission the draft zoning map. This map reflects the comprehensive rezoning, designed to implement the land use plan. The Residential Village District (RV) was changed into two separate districts, RV-1 and RV-2, the Resource Conservation has been expanded most notably to encompass those lands that are preserved as part of the open space within the boundaries of existing subdivisions, such as, Chesapeake Village, Richfield Station, Bayview Hills. The commercial district has been changed substantially. The current commercial district has been changed to multiple commercial districts; town commercial, maritime commercial, plaza commercial and neighborhood commercial. The bonus density overlay district which exists on the current zoning map has now been removed.

MOTION: Commissioner Brown moved to approve the zoning map as presented. Seconded by Chair Greengold, all in favor.

2. **§ 290-19 Tables, Requirements, Exceptions**” Mr. Jakubiak stated this Table is being amended to reflect the fact that the districts have changed, which includes the two Residential Village districts and the four new commercial districts. Several substantial items were noted, 1) maximum building height (35-ft capped across the board) and 2) change in the percentage in open space to 35% on residential zones, RV-1, RV-2, R-MD & R-HD. Residential Low Density would remain at 40%.

MOTION: Chair Greengold moved to amend the Table to increase minimum lot size in RV-1 and RV-2 to 7,500 square feet. Seconded by Commissioner Ruttkay. Ayes, Commissioners Berault and Greengold. Opposed, Commissioners Brown and Ruttkay.
Motion Fails.

MOTION: Commissioner Ruttkay moved to approve the §290-19 Tables, Requirements, Exceptions as presented. Seconded by Commissioner Berault, all in favor.

3. **§ 290-19 N. Common Open Space Requirements** - This amendment addresses common open space in future residential developments. Commission recommendations from last month's meeting have been incorporated for Commission consideration as follows:
- a. Purpose: **Common Open Space** shall be provided within each **all-future residential developments** ~~developed lot~~ to preserve, protect and enhance the quality and value of developed lands; promote the preservation of natural and scenic areas; protect sensitive natural resource areas; for the natural retention of stormwater **and floodwaters**; and to promote access to light, open air, and recreational opportunities for the health and public welfare of residents.
 - b. Identification: **Common Open Space** shall mean landscaped or undeveloped land used for outdoor active and passive recreational purposes or for Critical Area or resource land protection, including structures incidental to these open space uses, including required buffers, but excluding land occupied by structures or impervious surfaces not related to the open space uses and yards required by this chapter.
 - c. A minimum of 1,000 square feet per housing unit of Common Open Space shall be provided and no less than 75% of such open space shall be improved as recreational area.
 - d. Common Open Space shall be owned and maintained by a Homeowners Association or similar entity.
 - e. No part of the Common Open Space requirement of this section shall not be satisfied through a payment of a fee-in-lieu of providing that space.

MOTION: Chair Greengold moved to approve §290-19N with the deletion of the word “each” in paragraph “a”, and the deletion of the word “not” in paragraph “e”, and to add an additional bullet “f. this applies to developments with three or more housing units”. Seconded by Commissioner Berault, all in favor.

4. **Amendments related to Tourist Homes (aka Short-Term Rental)** - Mr. Jakubiak directed the Commission to the Land Use Table, item #34. Currently tourist home is grouped with motel, hotel. Staff is recommending “Tourist Home” be its own separate line item allowing only conditional use in neighborhood commercial and town commercial.

- a. Amend Section 290-43, Terms Defined to insert the term “Tourist Home” that the Town Council approved by resolution, as follows:

“Tourist Home”(aka Short-Term Rental) A residential building, that is rented commercially in whole or in part, or a separate dwelling unit accessory to such a building that is rented

commercially, in which paying guests are provided, with or without prearrangement, overnight accommodations on a short-term basis for commercial compensation.”

- b. Amend Section 290-11R to remove references to Tourist Homes, add a new 290-11S and re-letter the subsequent sections accordingly. The new section 290-11S would read as follows:

“Tourist Home (aka Short-Term Rental): Conditional use in the NC and TC Districts, subject to requirements of the district where located and the conditions herein provided:

- a. The use shall be contained within a single-family dwelling or dwelling unit accessory to a single-family dwelling permitted in the zone where located.
- b. The lot shall have at least two on-site parking spaces.
- c. The Applicant shall submit a parking plan with the zoning permit application demonstrating that there is at least one off-street parking place for every two adults permitted to stay and the zoning permit shall restrict Tourist Home occupancy accordingly.

After a lengthy discussion the Commission made the following motions:

MOTION: Commissioner Berault moved to approve amending Section 290-43, Terms Defined, to insert the term “Tourist Home” with the definition as presented above. Seconded by Chair Greengold, all in favor.

MOTION: Commissioner Berault moved to amend the new section 290-11S as described above, to change the use in the NC (Neighborhood Commercial) and TC (Town Commercial) from “C” Conditional use to “NP” Not Permitted use, as well as, “NP” Not Permitted in the PC (Plaza Commercial) and MC (Maritime Commercial), thus having all commercial districts as “NP”. Seconded by Chair Greengold, all in favor.

5. **Continue discussion on changes to the Amended Table** – Mr. Jakubiak stated there is a Table, 290 Attachment 1, Land Use Classifications, in the zoning ordinance which shows what uses are permitted in each zoning district. Mr. Jakubiak presented below the following changes to be made in the Table for Commission consideration. The Commission reviewed each line beginning with line #18 through line #53 of the Table.

- # 18. Office or clinic: Delete from RV-2
- # 33. Rooming, Boarding, Lodging: delete entire line
- # 34. Motel, Hotel, Tourist Home: delete tourist home
Add new line: Tourist Home
- #42. Marina: Change additional Use Regulations from 290-W to 290-X
- #43. Transformer station: Change additional Use Regulations from 290-X to 290-Y
- #45. Light Industrial Uses: delete entire line
- #48. Customary Home (1): Change additional Use Regulations from 290-Y to 290-Z
- #49. Customary Home (2): Change additional Use Regulations from 290-Z to 290-AA
- #50. Garage: Change additional Use Regulations from 290-AA to 290-BB
- #51. Carnival: Change additional Use Regulations from 290-BB to 290-CC
- #52. Temporary Building: Change additional Use Regulations from 290-CC to 290-DD

MOTION: Chair Greengold moved to amend the Table, item #40, to remove the sale of automobiles. Seconded by Commissioner Ruttkay. Ayes, Commissioners Berault, Greengold, and Ruttkay. Opposed, Commissioner Brown. **Motion Fails.**

MOTION: Commissioner Ruttkay moved to approve the changes to the Amended Table for Planning Commission Review, Proposed Revision – 290 Attachment 1, Land Use Classifications, as presented. Seconded by Commissioner Berault, all in favor.

Mr. Jakubiak will repeal the current Table and replace with approved amended Table.

The following Text Amendments were previously approved by the Commission and will be included with the final recommended Zoning Code changes to be presented to the Town Council.

Amendment #1

Amend Section 290-19 to remove the method for measuring building height for multifamily and commercial buildings which allows building height to be taken from the first floor of the livable space when off-street parking is provided underneath that livable space, by deleting subsection (2) as follows:

§ 290-19 L. Height exceptions to maximum regulations.

Church spires, chimneys, antennas, and other structures normally built or located above the roof and not devoted to human occupancy may exceed the height regulations of the district in which they are located by one foot for every one foot of setback of the structure (e.g., chimney, spire) from the closest side lot line.

- a. ~~For multiple family dwellings and commercial uses, the finished lot grade used to establish the maximum building height shall be considered the first floor of living space, measured at the front door, for any structure for which off street parking is provided underneath the living space, so long as the off street parking space is no higher than one foot for every one foot of setback of the structure from the closest lot line.~~

MOTION: Chair Greengold moved to amend Section 290-43, Terms Defined, to redefine the definition of building height as follows: “The height of any building shall be the vertical distance of the highest point of the structure to the average natural grade level prior to construction, or any site improvements. The highest point also includes any rooftop deck, fence, railing, widow’s walk, or other rooftop addition that is used as an accessory structure. Seconded by Commissioner Berault.

MOTION: Chair Greengold amended her motion to read as follows: The height of any building shall be the vertical distance of the highest point of the structure to the average natural grade level prior to construction, or any site improvements. The highest point also includes any rooftop deck, fence, railing, widow’s walk, or other rooftop addition that is used as an accessory structure. The height of any structure shall not exceed 35 feet and/or two and a half (21/2) stories. Seconded by Commissioner Ruttkay.

Chair Greengold retracted her motion and stated the Commission will revisit this at next month’s meeting.

Amendment #2

Amend Section 290-15, Bonus Density Overlay District to eliminate the ability of the Planning Commission, through its authority to approve site plans, to authorize an increase in the height of a

buildings located within the Bonus Density Overlay District up to 50 feet, by deleting subsection E, as follows:

~~E. — Building height. For the purposes of this section and provided that the conditions set forth in Subsection D above are met, the Planning commission may authorize an increase in height of multifamily buildings to a maximum of 50 feet measured to the eave, plus a habitable roof, provided that the side yard setbacks shall be not less than 25% of the building height, measure to the highest point on the roofline, or 10% of the building width, which is greater.~~

Amendment #3

Repeal Article IV, 290-15 Bonus Density Overlay District in its entirety and renumber the remaining two sections accordingly. Also, make clerical changes to remove all references to the Bonus Density Overlay district wherever they may appear in the Zoning Ordinance.

MOTION: Commissioner Brown moved to eliminate Amendment #2 and approve Amendment #3 to repeal Article IV, 290-15 Bonus Density Overlay District in its entirety and renumber the remaining two sections accordingly, along with making clerical changes to remove all references to the Bonus Density Overlay District wherever they may appear in the Zoning Ordinance. Seconded by Commissioner Berault, all in favor.

Amendment #4

Amend Section §290-9, Purpose and Intent of Districts as noted below to add a purpose statement for a new district called Residential Village-1 (RV-1) and change the name associated with the existing purpose statement from Residential Village to Residential Village-2 (RV-2):

§ 290-9 E. RV-1 Residential Village District-1. The RV-1 District is intended to protect the single-family residential character, allowing detached houses that are compatible in design and scale with the prevailing residential uses and the existing pattern of buildings, streets, and blocks.

§ 290-9 F. ~~R-V~~ RV-2 Residential Village District-2. The ~~R-V~~ RV-2 District is intended to protect the primarily single-family residential character while accommodating a variety of housing types and to encourage and facilitate redevelopment and infill that is compatible in use, scale, and impact with residential use and the existing pattern of buildings, streets, and blocks.

MOTION: Commissioner Brown moved to approve amending Section §290-9 Purpose and Intent of Districts, Residential Village-RV, to divide the RV District into two separate districts, RV-1 and RV-2, and add the presented purpose statements for each with a modification to RV-2 district of deleting from the third sentence the words “and to encourage and facilitate redevelopment and infill”. Seconded by Commissioner Ruttkay, all in favor.

Amendment #5

Amend Section 290-9, Purpose and Intent of Districts as noted below to eliminate the Commercial and Maritime Districts, replacing them with four new commercial districts and adding a purpose statement for each new district:

§ 290-9 F. ~~C~~ Commercial District. The Commercial District is intended to provide locations for commercial and other non-residential uses that are compatible in scale and impact with nearby

residential neighborhoods, and to protect and provide a safe and attractive environment for shopping, entertainment and community gathering.

§ 290-9 G. ~~M Maritime District. The Maritime Districts intended to promote a variety of land use that are water related and/or benefit from location near the water while at the same time encouraging the gradual re-emergence of the natural systems found near the water and the protection of commercial marine activities that have become the Town's waterfront heritage.~~

§ 290-9 G. NC Neighborhood Commercial District. The Neighborhood Commercial District is intended to provide locations for small scale and low impact commercial uses that are designed and operated in a manner compatible in scale and impact with nearby residential neighborhoods.

§ 290-9 H. TC Town Commercial District. The Town Commercial District is intended to provide locations for commercial uses that are harmonious in scale and impact with nearby residential neighborhoods, and to protect and provide a safe and attractive environment for shopping, entertainment and community gathering.

§ 290-9 I. CP Commercial Plaza District. The Commercial Plaza District is intended to maintain the Town's primary location for larger format locally serving retail uses such as grocery stores and shopping center, where extensive parking can be readily accommodated.

§ 290-9 J. ~~MC Maritime Commercial. The Maritime Districts intended to promote a variety of land use that are water related and/or benefit from location near the water while at the same time encouraging the gradual re-emergence of the natural systems found near the water and the protection of commercial marine activities that have become the Town's waterfront heritage.~~

§290-9 J. MC Maritime Commercial District. The Maritime Commercial District is intended to promote a variety of non-residential recreation and commercial uses that enhance the Town's waterfront heritage, respects the sensitive nature of the surrounding environment and are consistent in character and impact with the following:

- Promoting active and vibrant commercial activities at the street (grade) level where walking is safe and enjoyable
- Establishing public pedestrian access to and along the waterfronts
- Preserving the remaining scenic vistas to the Chesapeake Bay (on the east) side and the expansive Fishing Creek marsh (on the west).

MOTION: Commissioner Brown moved to approve §290-9, Purpose and Intent of Districts as presented, to eliminate the Commercial and Maritime Districts, replacing them with the four new commercial districts above and adding a purpose statement for each new district. Seconded by Commissioner Ruttkay, all in favor.

Amendment #6

Amend the purpose statement for the Resource Conservation District in Section 290-9, Purpose and Intent of Districts to bring it into better conformance with the guidance of the 2021 update of the Comprehensive Plan, as follows:

§ 290-9 RC Resource Conservation District. The Resource Conservation District is intended to protect and maintain wetlands, surface waters, steep slopes, forests, areas with elevated risks of flooding, ~~and barren lands identified in the Town's Chesapeake Bay Critical Area Protection~~

~~Program~~ and other environmentally sensitive areas; to provide locations for parkland, flood management, recreational activities, and access to the water and Bay; ~~and to avoid intense development~~ **and the placement of residential uses in** areas ~~on lands not suitable for such development~~ **and uses including areas subject to increased risk of flooding and otherwise protect public safety;** ~~to allow, under very stringent requirements, mixture of residential recreational and marine commercial activities through the Town's growth allocation method.~~ **and to acquire or otherwise prevent from further development, all parcels that were dedicated for open space, forest conservation, stormwater management, and wildlife habitats, as a condition for the development of previously approved Residential Planned Communities or for communities built on lands annexed through the Town's Growth Allocation Floating District.**

Commissioner Berault submitted to the Commission, a modified version of the Resource Conservation District purpose statement for consideration. After review and discussion, and a few minor adjustments by the Commission, the new purpose statement would read as follows:

§ 290-9 RC Resource Conservation District. The Resource Conservation District is intended to protect and maintain environmentally sensitive areas, including wetlands and surface waters; forests and open space; steep slopes, as well as low lying areas with elevated risks of flooding. The RCD is intended to protect and maintain land use in critical flood and stormwater management; to provide land for community parks and recreational activities, including access to the bay and its tributaries; to ensure that any new use complies with all environmental protection and land use laws and preservation agreements of the Town of Chesapeake Beach and the State of Maryland; to allow the Town of Chesapeake Beach to acquire land to ensure its preservation and prevent residential development where all parcels have been dedicated for Open Space, Forest Conservation, stormwater management and wildlife habitats (as a condition for the development of previously approved Residential Planned Communities, or for communities built on lands annexed through the Town's Growth Allocation Floating District).

MOTION: Commissioner Berault moved to amend the presented Resource Conservation District purpose statement to the above modified version agreed upon by the Commission. Seconded by Commissioner Ruttkay, all in favor.

Mr. Jakubiak stated this language would be reviewed by the Town's attorney.

Commissioner Brown asked Mr. Jakubiak exactly what uses are permitted in the Resource Conservation District.

After further review of the Resource Conservation District and its Permitted Uses, the Commission made the following motions:

MOTION: Chair Greengold moved to amend the Amended Table for Planning Commission Review, Proposed Revision 290 Attachment 1, Land Use Classifications, Item #36 to change "SE" (Special Exception) classification to "NP" (Not Permitted) in the Resource Conservation District. Seconded by Commissioner Ruttkay, all in favor.

MOTION: Chair Greengold moved to amend the Amended Table for Planning Commission Review, Proposed Revision 290 Attachment 1, Land Use Classifications, Line Item "Craft and artisan assembly and manufacturing such as cabinet making, woodworking....." to

change "SE" (Special Exception) classification to "NP" (Not Permitted) in the Resource Conservation District. Seconded by Commissioner Ruttkay, all in favor.

The Commission will hold a public hearing at its next meeting, July 27, 2022 to receive public comment on the comprehensive rezoned and updated zoning map and supporting text amendments to the zoning ordinance.

VII. Public Comment- None Received.

VII. Adjournment:

There being no further comments, Chairman Brown moved to adjourn the meeting at 10:45 PM, 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.