



## **PLANNING AND ZONING COMMISSION**

### **MINUTES OF THE PLANNING AND ZONING COMMISSION SEPTEMBER 28, 2022**

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

II. **Approval of the September 28, 2022 Planning & Zoning Agenda.**

**MOTION:** Commissioner Brown moved to approve the agenda as presented. Seconded by Commissioner Berault, all in favor.

III. **Approval of the minutes of the September 6, 2022 Planning & Zoning Commission meeting.**

**MOTION:** Commissioner Brown moved to approve the minutes of the September 6, 2022 Planning & Zoning meeting. Seconded by Commissioner Berault, all in favor.

Commissioner Brown brought to the floor the issue of the unapproved August 4, 2022 minutes and how they should be handled. Chair Greengold will address the issue.

IV. **Public Comment on any item on the agenda: NOTE: There will be a 2-minute limit on comments received.**

Public Comment was received by:

1. Gary Coldsmith, 8200 Elm Lane Chesapeake Beach MD spoke in regard to the zoning map.
2. Pat Schossler, 8205 F Street Chesapeake Beach MD spoke in regard to the zoning map.
3. John McKay, 3559 Cox Road Chesapeake Beach MD spoke in regard to the zoning map.
4. Greta Clark, 7952 Stream Walk Way Chesapeake Beach MD spoke on the content of a letter she submitted regarding the rezoning in Richfield Station.
5. Joseph Devlin, 125 West Street Annapolis MD, attorney for Richfield Station Joint Venture, spoke on the content of a letter he submitted to the Commission regarding the rezoning in Richfield Station.
6. Wes Donovan, 3737 E Chesapeake Beach Road Chesapeake Beach MD spoke on the Planner's Recommendation #8.

Chair Greengold thanked those that presented public comment. Chair Greengold stated that the Commission held a public hearing on July 27<sup>th</sup>, 2022 receiving testimony and public input on proposed zoning ordinance text amendments. The Commission's recommendations of these text amendments are essential in order for the Town Council to move forward in implementing the recently updated Comprehensive Plan. On behalf of the Commission, she thanked Mayor Mahoney and the Town Council for their support, town staff, town residents, town business owners, property owners, and developers who offered significant testimony and being a part of the process. The intention tonight is to complete this process by approving the remaining text amendments and the

zoning map. Chair Greengold read into the record, amendments that have been approved by the Commission thus far, and the remaining recommendations still to be considered. The intention is to finish the process tonight and present to the Mayor and Council.

**Consider and Vote on Planner Recommendation B:** Amendment to Article III, Section 290-11, Conditions and Standards for Conditional and Special Exception Uses, adding conditions for uses permitted within the Resource Conservation Zone.

Chair Greengold asked Mr. Jakubiak to make clear for everyone the Land Use Classifications and explain their meanings:

“P” - Permitted by right

“NP” - Not Permitted

“C” - Conditional Use, permitted subject to conditions

“SC” - Special Exception, subject to conditions (go to Board of Appeals)

“SE” - Special Exception – (go to Board of Appeals)

Amendment to Article III, Section 290-11, Conditions and Standards for Conditional and Special Exception Uses, adding conditions for uses permitted within the Resource Conservation Zone.

**(#13) Environmental science, research and educational uses**, nature centers: conditional use in the RC District, subject to the following:

- 1) Accessory uses shall only be those intrinsically related to the research or educational mission of the principal use.
- 2) Whether Article X, Forest Conservation, is applicable or not, the removal of trees on the property shall be strictly limited to only that extent necessary to make reasonable use of the property and the applicant shall submit a plan documenting both existing and planned tree cover including an inventory of trees to be removed and replaced.
- 3) The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces should be used as an alternative.
- 4) No building shall be permitted which exceeds a footprint of 5,000 square feet.

*[Note there may be some question why 5,000 sq. ft. was selected rather than 2,000 sq. ft. which was the number I initially offered as part of the discussion of why at least a small building should be allowed rather than no building at all for use #14 (below). I chose 5,000 sq. ft. because my review of many nature centers and similar buildings in Maryland revealed that they generally range from 4,000 to 7,500 sq. ft. with some well over that. For comparison, the Town Hall has a footprint of about 5,010 sq. ft.]*

Mr. Jakubiak addressed the Commission’s questions and concerns. The Commission made the following motions:

**MOTION:** Commissioner Blackwelder moved to amend **#13 Environmental science, research and educational uses, nature centers:** to “SC” special exception with conditional use, in the RC district, subject to the above proposed conditions, #1,2, & 3 and amend #4 to read “No building shall be permitted which exceeds a footprint of 2,000 square feet.”  
Seconded by Commissioner Berault.



Ayes, Commissioners Berault, Blackwelder, Greengold, & Ruttkay. Opposed Commissioner Brown. **Motion Passes.**

(#14) **Game, wildlife, and nature preserves:** conditional use in the RC District, subject to the following:

- 1) Whether Article X, Forest Conservation, is applicable or not, the removal of trees on the property shall be strictly limited to only that extent necessary to make reasonable use of the property and the applicant shall submit a plan documenting both existing and planned tree cover including an inventory of trees to be removed and replaced.
- 2) The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces should be used as an alternative.
- 3) No building shall be permitted which exceeds a footprint of 5,000 square feet.

**MOTION:** Commissioner Berault moved to amend **#14 Game, wildlife, and nature preserves:** to “SC” special exception with conditional use, in the RC district, subject to the above proposed conditions of #1 & #2 and amending #3 to read “No building shall be permitted which exceeds a footprint of 2,000 square feet” and add as #4 “Accessory uses shall only be those intrinsically related to the game, wildlife, and nature preserves or educational mission of the principal use. Seconded by Commissioner Blackwelder. Ayes, Commissioners Berault, Blackwelder, Greengold, & Ruttkay. Opposed, Commissioner Brown. **Motion Passes.**

(#15) **Public building or recreational facility owned and operated by Chesapeake Beach or other governmental agency:** conditional use in the RC District, subject to the following:

- 1) No building shall be permitted except that necessary for the purposes of managing the land or water resources.
- 2) Whether Article X, Forest Conservation, is applicable or not, the removal of trees on the property shall be strictly limited to only that extent necessary to make reasonable use of the property and the applicant shall submit a plan documenting both existing and planned tree cover including an inventory of trees to be removed and replaced.
- 3) The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces should be used as an alternative.
- 4) No building shall be permitted which exceeds a footprint of 5,000 square feet.

**MOTION:** Commissioner Blackwelder moved to amend **#15 Public building or recreational facility owned and operated by Chesapeake Beach or other governmental agency,** to “SC” special exception with conditions, in the RC District, amending #1 to read “No building shall be permitted except that which is necessary for the purposes of managing the land or water resources or for the purpose of enhancing the experience associated with providing access to low impact community enjoyment of the natural environment”, keeping #2 & #3 as written, and amend #4 to read “No building shall be permitted which exceeds a footprint of 2,000 square feet. Seconded by Commissioner Berault. Ayes, Commissioners Berault, Blackwelder, Greengold, & Ruttkay. Opposed, Commissioner Brown. **Motion Passes.**

**(#16) Parks and Playgrounds:** conditional use in the RC District, subject to the following:

- 1) Whether Article X, Forest Conservation, is applicable or not, the removal of trees on the property shall be strictly limited to only that extent necessary to make reasonable use of the property and the applicant shall submit a plan documenting both existing and planned tree cover including an inventory of trees to be removed and replaced.
- 2) The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces should be used as an alternative.

**MOTION:** Chair Greengold moved to approve **#16 Parks and Playgrounds** as “SC” special exception with conditions as written above in #1 & #2. Seconded by Commissioner Berault, all in favor.

**(#18) Sailing schools, boat rentals and storage and similar water-oriented recreational uses:** conditional use in the RC District, subject to the following:

- 1) The use shall be limited to waterfront properties or to properties that are contiguous to, and functionally connected with, waterfront properties.
- 2) The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces should be used as an alternative.

**MOTION:** Commissioner Blackwelder moved to amend **#18) Sailing schools, boat rentals and storage and similar water-oriented recreational uses:** to “SC” Special exception with conditions, in the RC District, striking the word “storage” from the title, subject to #1 & #2 as written and including a condition #3 “Whether Article X, Forest Conservation, is applicable or not, the removal of trees on the property shall be strictly limited to only that extent necessary to make reasonable use of the property and the applicant shall submit a plan documenting both existing and planned tree cover including an inventory of trees to be removed and replaced.”, and an additional condition #4 “Accessory uses shall only be those intrinsically related to sailing schools, boat rental and similar water-oriented recreational uses of the principal use.” Seconded by Commissioner Berault.

**MOTION:** Commissioner Berault moved to amend Commissioner Blackwelder’s motion to read **#18) Sailing schools, boat rentals and similar water-oriented recreational uses:** to “SC” special exception with conditions, in the RC District, with the following conditions, #1 “Whether Article X, Forest Conservation, is applicable or not, the removal of trees on the property shall be strictly limited to only that extent necessary to make reasonable use of the property and the applicant shall submit a plan documenting both existing and planned tree cover including an inventory of trees to be removed and replaced.”, #2 “The use shall be limited to waterfront properties or to properties that are contiguous to, and functionally connected with, waterfront properties”, #3 “The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces



should be used as an alternative,” and #4 “No building shall be permitted.” Seconded by Chair Greengold. Ayes, Commissioners Berault, Blackwelder, Greengold, & Ruttkay. Opposed, Commissioner Brown. **Motion Passes.**

(#52Aquaculture: conditional use in the RC District, subject to the following:

- 1) The use shall be limited to waterfront properties or to properties that are contiguous to, and functionally connected with, waterfront properties.
- 2) The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces should be used as an alternative.

**MOTION:** Commissioner Brown moved to approve #52 Aquaculture: conditional use in the RC District, subject to the proposed written conditions of #1 and #2 above. Seconded by Chair Greengold.

**MOTION:** Commissioner Blackwelder moved to amend Commissioner Brown’s motion to change to “SC” special exception with conditions and add an additional condition to the above #1 and #2 as #3 “Whether Article X, Forest Conservation, is applicable or not, the removal of trees on the property shall be strictly limited to only that extent necessary to make reasonable use of the property and the applicant shall submit a plan documenting both existing and planned tree cover including an inventory of trees to be removed and replaced.” Seconded by Chair Greengold, all in favor.

(58) Warehousing and storage in association with permitted marine commercial activities: special exception with conditions in the RC District, subject to the following:

- 1) The use shall be limited to permitted marine commercial activities located on the same property or a contiguous property where there is a direct and functionally connected relationship.
- 2) The addition of impervious surface coverage shall be strictly limited to only that amount necessary to enable reasonable use of the property and, where feasible, pervious surfaces should be used as an alternative.

**MOTION:** Commissioner Blackwelder moved to amend #58Warehousing and storage in association with permitted marine commercial activities to keep “SC” special exception with conditions in the RC District, as written above, amending the title to strike “Warehousing and” and to add an additional condition as #3 “Clearing of forested land to accommodate the use is strictly prohibited.” Seconded by Chair Greengold, all in favor.

**Consider and vote on Planner Recommendation H:** Amendment to Article V, Section 290-

19N, Open Space Requirements, to incorporate a requirement that park amenities tailored to the needs of the anticipated residents be provided, within the required open space, by the developer of any development over 10 dwelling units.

**N. Common Open Space Requirements**

- (1) Purpose: **Common Open Space** shall be provided within ~~each~~ **all future residential developments** developed 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.

- (2) 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.
- (3) 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.
- (4) For any proposed development of 10 dwelling units or greater, the development plans shall provide details on the recreational amenities to be constructed or installed by the developer in the Common Open Space for Planning Commission approval; such amenities shall be suited to the needs of the residents of the development.
- (5) Common Open Space shall be owned and maintained by a Homeowners Association or similar entity.
- (6) No part of the Common Open Space requirement of this section shall be satisfied through a payment of a fee-in-lieu of providing that space.
- (7) The Common Open Space requirement of this section applies to developments with three or more housing units.

**MOTION:** Chair Greengold moved to approve Recommendation H, as written, with the addition of the highlighted #4 above. Seconded by Commissioner Brown, all in favor.

**Consider and vote on Planner Recommendation I:** Amendment to Article III, Section 290-11, Conditions and Standards for Conditional and Special Exception Uses, adding conditions to the use called "Group Home"

Chair Greengold stated, in light of late incoming information, Planner Recommendation I, "Group Home" will be taken up at a workshop later. It was recommended item #20, "Group Home", be moved back to a "SE" use in the New Table 1, Permitted Uses by Zoning District.

**MOTION:** Commissioner Blackwelder moved to change item #20, Group Home, to a "SE" use in the New Table 1, Permitted Uses by Zoning District. Seconded by Commissioner Berault, all in favor.

**Proposed comprehensively amended zoning map:**

Mr. Jakubiak stated a few issues arose from the July 27<sup>th</sup> public hearing concerning the amended zoning map. Joseph Devlin, representative for Richfield Station, presented to the Commission a request to revise the proposed zoning map to recognize two developable areas in Richfield Station, which are currently in RPC and are proposed to be placed in the (RC) Resource Conservation district. Thirteen (13) lots at the Stream



Walk Way section, approved but not recorded as yet in Block Q, and another area at Crestview Lane. He is requesting these areas stay in the RPC, as currently zoned.

The second issue that came out of the public hearing are two areas proposed as (RC) Resource Conservation. Mr. John McKay of 3559 Cox Road, and Mr. Gary Coldsmith of 8200 Elm Lane are both requesting the Commission consider taking their properties out of Resource Conservation and rezone to a residential district.

Mr. Jakubiak revised the proposed zoning map to outline the properties on Cox Road and Elm Lane/Wickersham subdivision to rezone to a residential district.

**MOTION:** Commissioner Brown moved to amend the draft zoning map to include the changes as outlined by Mr. Jakubiak for the Cox Road area and the Elm Lane/Wickersham subdivision area and to allow the Stream Walk Way 13-lot parcel area in Richfield Station to remain RPC, as currently zoned. Seconded by Chair Greengold. Ayes, Commissioners Brown and Greengold. Opposed, Commissioners Berault, Blackwelder, and Ruttkay. **Motion Fails.**

**MOTION:** Commissioner Blackwelder moved to table the draft zoning map.

**MOTION:** Commissioner Brown moved to amend Commissioner Blackwelder's motion and move to adopt the map as proposed with the changes outlined by Mr. Jakubiak on the Cox Road and Elm Lane properties. Seconded by Chair Greengold. Ayes, Commissioners Brown, Berault, Greengold, and Ruttkay. Recusal, Commissioner Blackwelder. **Motion Passes.**

#### **New Business:**

**Chair Announcement:** Planning Commission to vote on a Resolution to transmit a favorable recommendation on the full set of zoning text amendments and new zoning map to the Mayor and Town Council.

**MOTION:** Commissioner Berault moved to transmit the proposed zoning ordinance text amendments, 1 thru 11, as approved, the revised zoning map, and resolution to the Mayor and Town Council for their review and approval. Seconded by Commissioner Ruttkay.

**MOTION:** Commissioner Blackwelder moved to amend the motion to remove the language from the resolution referencing rescinding the moratorium. Seconded by Commissioner Brown.

**Commissioner Brown withdrew his second due to misunderstanding the motion presented. Commissioner Blackwelder's motion died for lack of second.**

The Commission voted on original motion to approve transmitting the proposed zoning ordinance text amendments, zoning map, and resolution to the Mayor and Town Council. Ayes, Commissioners Berault, Brown, Greengold and Ruttkay. Opposed Commissioner Blackwelder. **Motion Passes.**

**Chair Announcement:** Planning Commission meeting dates to change for November & December 2022 due to scheduling conflicts with holidays.

Chair Greengold is proposing to set a work session in October, if staff can support, to discuss Group Home, Townhouse design and other. The Commission's regular meeting will be held on October 26<sup>th</sup>.

Due to the holidays, the November meeting will be changed to possibly the 8<sup>th</sup> once a quorum can be confirmed.

The Commission's December meeting is scheduled for December 7, 2022.

V. **Public Comment** – None.

VI. **Adjournment:**

There being no further comments, Commissioner Ruttkay moved to adjourn the meeting at 11:06 PM. Seconded by Commissioner Berault, 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](http://www.chesapeakebeachmd.gov).