

**PLANNING COMMISSION
FINAL AGENDA
January 12, 2023**

BEGINNING AT 7:00 P.M.

WELCOME:

PLEDGE OF ALLEGIANCE:

RECOGNITION OF NEWS MEDIA:

REQUESTS FOR WITHDRAWALS AND DEFERRALS: (0); (1)

REQUESTS FOR EXPEDITED ITEMS: (0)

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN: The Commission will vote on the slate of officers nominated at their December 15, 2022, meeting for the 2023 calendar year.

Approved

CASES TO BE HEARD: (3)

PLAN OF DEVELOPMENT – CHESAPEAKE BAY RESOURCE PROTECTION AREA EXCEPTION

POD2022-00602

Independent Container
Line – 4222 Cox Road

Approved

RGI General Contractors and Townes Site Engineering, P.C. for Independent Container Line, LTD: Request for approval of a Chesapeake Bay Resource Area Exception, as required by Chapter 24, Sections 5803.C. and 5805.A. of the Henrico County Code, to allow a deck and patio to encroach within the seaward 50-feet of the required 100-foot-wide Resource Protection Area, a component of a Chesapeake Bay Preservation Area, adjacent to Rooty Branch Creek that drains to the Chickahominy Creek in the James River watershed. The 5.75-acre site proposed for the addition of a 1,095 square foot wooden deck and concrete patio to an existing structure is located on the west line of Cox Road, approximately 600 feet north of Innslake Drive, on parcel 748-762-8360. The zoning is [R-6C] General Residential District (Conditional) and C-1 Conservation District. County water and sewer. **(Three Chopt)**

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This request is for approval for an exception to the Henrico County Chesapeake Bay Preservation buffer requirement per Chapter 24, Section 5805 of the zoning ordinance to construct an attached wooden deck and concrete patio, totaling 1,095 square feet, within the 100-foot Resource Protection Area (RPA) buffer adjacent to Rooty Branch creek at 4222 Cox Road. According to the Chesapeake Bay Preservation ordinance, the purpose of the RPA buffer is to provide for the removal, reduction, or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and to minimize the adverse effects of human activities on state waters and aquatic resources. The ordinance limits allowable development in the RPA to water-dependent uses; redevelopment under special conditions; roads; driveways; utilities; and flood control/stormwater facilities. Since the request to allow the construction of this development within the RPA is not one of these allowable uses, the owner must request an exception to the ordinance.

The Planning Commission, in accordance with 24-5805.A.3, shall review the request for an exception and water quality impact assessment, and may grant an exception with such conditions and safeguards as it deems necessary, only if the Planning Commission finds:

- a. Granting the exception will not confer upon the applicant any special privilege denied to similarly situated property owners;
- b. The exception request is not based on conditions or circumstances that are self-created or self-imposed, and the request does not arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
- c. The exception request is the minimum to afford relief;
- d. The exception request is in harmony with the purpose and intent of the zoning ordinance and is not of substantial detriment to water quality; and
- e. That reasonable and appropriate conditions which will prevent the exception request from degradation of water quality are imposed.

The proposed plan consists of constructing a wooden deck and concrete patio attached to the southwest corner of the principal dwelling. The increase in impervious surface has been minimized by being located along the southern facing façade, and a small portion of the western façade of the building. A native-vegetated buffer equal to the increased square footage of impervious surface within the RPA is proposed to improve the water quality of Rooty Branch on site and enhance the current RPA buffer where minimal vegetative cover is currently present. In addition to the nine (9) required native plantings, the applicant is proposing 65 additional plantings to preserve and improve the water quality benefits of the Chesapeake Bay Preservation Area on this lot.

After reviewing the applicant's submittal, including the water quality impact assessment and environmental site assessment, the Department of Public Works is recommending approval of the request for an exception to the Chesapeake Bay Preservation Ordinance buffer requirement.

Should the Planning Commission grant the exception, the following additional conditions are recommended:

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1. Additional plantings of native trees and shrubs shall be installed within the lower 50-feet of the RPA buffer to achieve an overall density of woody vegetation within the lower 50-feet of the buffer of 200 stems per acre.
2. An erosion and sediment control plan, which includes the vegetation enhancement within the RPA buffer shall be submitted for County review and approval Prior to approval of a building permit.

(Staff Report by: Christina Goggin and Matthew Batdorf)

(Applicant's Representative: Mark Hansel and Tom Houston or Thomas Jenkins, Jr.)

(Applicable Rezoning Cases and PUPS: C-53C-79)

SUBDIVISION – CHESAPEAKE BAY RESOURCE PROTECTION AREA EXCEPTION

SUB2020-00096

Bloomington Block 12
Lots 4, 5 & 6 - 5605
Bloomington Avenue

Approved

Mark Rempe for Linwood Garrett and Delta Land Company, LLC: Request for approval of a Chesapeake Bay Resource Area Exception, as required by Chapter 24, Sections 5803.C. and 5805.A. of the Henrico County Code, to allow a new dwelling to encroach within the seaward 50-foot of the required 100-foot-wide Resource Protection Area, a component of a Chesapeake Bay Preservation Area, adjacent to Upham Brook that drains to Chickahominy River in the James River watershed. The 0.28-acre site proposed for a single-family dwelling is located on the east line of Bloomington Avenue, approximately 400 feet south of Forest Street, on parcel 782-746-4001. The zoning is R-4 One-Family Residence District. County water and sewer.
(Fairfield) 1 Lot

This request is for approval for an exception to the Henrico County Chesapeake Bay Preservation buffer requirement per Chapter 24, Section 5805 of the zoning ordinance to construct a single-family dwelling as well as related site improvements within the 50-foot seaward RPA buffer adjacent to Upham Brook. The subject property was created with recordation of Bloomington in 1905, prior to adoption of the provisions of the Henrico County Code regarding Chesapeake Bay Protection areas. The Chesapeake Bay Preservation ordinance designates Resource Protection Area buffers to provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and to minimize the adverse effects of human activities on state waters and aquatic resources. The ordinance limits allowable development in the RPA to water-dependent uses; redevelopment under special conditions; roads; driveways; utilities; and flood control/stormwater facilities. Since the request to allow the construction of a house within the RPA is not one of these allowable uses, the owner must request an exception to the ordinance. The applicant has provided a plan that shows the location of the RPA buffer on the lot and the proposed location of the new house.

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The Planning Commission, in accordance with 24-5805.A.3, shall review the request for an exception and water quality impact assessment, and may grant an exception with such conditions and safeguards as it deems necessary, only if the Planning Commission finds:

- a. Granting the exception will not confer upon the applicant any special privilege denied to similarly situated property owners;
- b. The exception request is not based on conditions or circumstances that are self-created or self-imposed, and the request does not arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
- c. The exception request is the minimum to afford relief;
- d. The exception request is in harmony with the purpose and intent of the zoning ordinance and is not of substantial detriment to water quality; and
- e. That reasonable and appropriate conditions which will prevent the exception request from degradation of water quality are imposed.

The buildable area has been minimized, variances to the front yard setback and the side yard setback were obtained to minimize impacts to the 50-foot seaward component of the RPA, and a revegetation area greater than the area of disturbance is proposed. These project components help to preserve the water quality benefits of the Chesapeake Bay Preservation Areas on this lot.

After reviewing the applicant's submittal, including the water quality impact assessment and environmental site assessment, the Department of Public Works is recommending approval of the request for an exception to the Chesapeake Bay Preservation Ordinance buffer requirement.

Should the Planning Commission grant the exception, the following additional conditions are recommended:

1. Additional plantings of native trees and shrubs shall be installed within the lower 50-feet of the RPA buffer to achieve an overall density of woody vegetation within the lower 50-feet of the buffer of 200 stems per acre.
2. An erosion and sediment control plan, which includes the vegetation enhancement within the RPA buffer shall be submitted for County review and approval Prior to approval of a building permit.
3. A final subdivision plat shall be submitted for review and approval prior to approval of a construction plan.
4. The conditions of variance VAR2022-00002 shall be incorporated in the approval.
5. A Floodplain Development Permit approved by the Department of Public Works is required prior to issuance of a building permit.

(Staff Report by Christina Goggin and Matt Batdorf)
(Applicant's Representative: Mark Rempe)
(Applicable Rezoning Cases and PUPS: _____)

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FAIRFIELD:

REZ2022-00036 Sauer Properties, Inc.: Request to conditionally rezone from O-3C Office District (Conditional), B-3C Business District (Conditional), and M-2C General Industrial District (Conditional) to CMUC Community Mixed-Use District (Conditional) (60.35 acres) and M-2C General Industrial District (Conditional) (33.05 acres) Parcels 784-766-7690, 785-769-6656, 786-768-8517 and part of 784-767-4440 containing 93.4 acres located on the west line of Jeb Stuart Parkway at the intersection of Telegraph Road, the east line of Jeb Stuart Parkway between Virginia Center Parkway and Telegraph Road, and the south line of Virginia Center Parkway west of its intersection with Battlefield Road. The applicant proposes a community mixed-use development and industrial uses. The CMU District allows a minimum gross density of 10 units per acre and a maximum gross density of 40 units per acre. The uses will be controlled by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan recommends Office/Service, Office, Commercial Arterial, and Environmental Protection Area. **Staff – Livingston Lewis (Deferral Requested to February 9, 2023)**
Deferred to the February 9, 2023 Meeting

SIA2022-00003 Athens Avenue Trailhead for Fall Line Trail: The Department of Planning has received a request from the Department of Public Works to initiate a Substantially In Accord study for a proposed trailhead facility for the forthcoming Fall Line Trail. The proposed site consists of Parcels 783-757-1835, 783-757-1828, 783-757-2833 located at the southeast corner of Cleveland St. and Athens Ave. The existing zoning is B-3 Business District. The 2026 Comprehensive Plan recommends Commercial Concentration. **Staff – Brendan McDowell**
Recommended for Approval

APPROVAL OF MINUTES: Planning Commission Regular Meeting on December 15, 2022.
Approved

The Planning Commission adjourned its meeting at **7:28 p.m.** on **January 12, 2023.**

View the Planning Commission agendas at
<http://henrico.us/pdfs/planning/meetnext.pdf>