

1 October 21, 2013



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4 **Talbot County Planning Commission**
5 **Final Decision Summary**

6 Wednesday, August 7, 2013 at 9:00 a.m.

7 Bradley Meeting Room

8 11 N. Washington Street, Easton, Maryland

9 **Attendance:**

10 Commission Members:

- 11
- 12 Thomas Hughes
- 13 Michael Sullivan
- 14 John Trax
- 15 Paul Spies
- 16

17 Staff:

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- 19 Sandy Coyman, Planning Officer
- 20 Mary Kay Verdery, Assistant Planning Officer
- 21 Brett Ewing, Planner I
- 22 Elisa Deflaux, Environmental Planner
- 23 Carole Sellman, Recording Secretary
- 24

25 **1. Call to Order**—Commissioner Hughes called the meeting to order at 9:10 a.m.

26
27 **2. Decision Summary Review**—July 3, 2013—The Commission noted the following
28 corrections to the draft decision summary:

- 29 a. Line 121, amend to read, “if a neighbor was concerned about a buffer it was their
30 opportunity to reach out to landowner to purchase buffers”, strike logger.
- 31 b. Line 156, change to read, “A majority of the Commission believes...”
- 32

33 Commissioner Spies moved to approve the draft Planning Commission July 3,
34 2013 Decision Summary, as amended; Commissioner Trax seconded the motion.
35 The motion carried unanimously.

36
37 **3. Old Business**

- 38
- 39 a. Talbot County, Maryland—Recommendation to County Council—Forest harvest
40 sign requirement and amendment to Chapter 128, Right to Farm of the Talbot
41 County Code, to explicitly add silviculture, Sandy Coyman Planning Officer
- 42

43 Mr. Coyman stated that at the last meeting we took up the issue of forest harvest
44 draft legislation. The County Council directed staff to prepare a draft bill to
45 implement mandatory sign notification procedure for forest harvest and also
46 directed staff to clarify language of Chapter 128, the right to farm act, so that it
47 includes silviculture. The County Attorney felt the language was already there,
48 but the County Council wanted it more explicit.

49
50 Last meeting there was some discussion from the public regarding how close
51 logging had occurred to their property lines. The Commission directed staff to
52 prepare maps from recent logging projects showing how close those projects were
53 to residential properties. Maps were prepared with rings 500 feet, 1,000 feet, and

54 2,000 feet from the perimeter of the harvest. A number of the harvests were in
55 very remote areas where none of the rings encompassed any residential structures
56 and other cases where several structures were included in the rings.
57

58 The Planning Commission originally recommended a voluntary sign program and
59 needs to firm up its recommendation. The sign requirements mimic those for the
60 Board of Appeals. The other issue is the time of limitation for posting of sign.
61

62 Commissioner Hughes stated there are three important points: (1) whether the
63 sign should be voluntary is already moot since County Council has clearly
64 indicated they are going to make it mandatory; (2) last month we were going to
65 try to come up with how many days in advance of the harvest the sign needed to
66 be placed; and (3) how many feet from either the property line or an occupied
67 dwelling the sign would be placed. Commissioner Hughes stated he looked at the
68 zoning ordinance with regard to signage requirements and it is generally 15 days
69 and there is a requirement for within 1,000 feet, and he feels it should be from an
70 occupied dwelling.
71

72 Commissioner Spies questioned if we were looking at the distance from the
73 property line or where logging was taking place. Mr. Coyman stated a GIS can be
74 produced for either. There was discussion of where the sign was to be placed, it
75 was stated the sign had to be placed on the property, and needs to be visible. If
76 there is even one (1) occupied dwelling within 1,000 feet from the forested
77 section of the property then there needs to be a sign posted.
78

79 Commissioner Trax felt the length of time a sign appears should be extended a
80 little beyond the actual harvest so people can learn about the silviculture practice.
81 After some discussion it was determined to extend fifteen days before and fifteen
82 days after the harvest.
83

84 Commissioner Hughes opened the floor to comments.
85

86 Bill Miles, Association of Forest Industries—The idea of silviculture is fine but
87 not necessary. Real estate agents are required to tell you the right to forestry can
88 take place, you don't have to move there. By saying we want to clarify
89 silviculture as a right to farm you are putting the industry in the position of having
90 to inform everyone what we are about to do. On the one hand it looks like you are
91 trying to mitigate hostility, but at the same time you are possibly enhancing
92 hostility. There is nothing that prevents any neighbor to go to the landowner next
93 door and say look, if you ever decide to do anything with those trees, let us know.
94 Why does government always have to react to a single incident.
95

96 Commissioner Trax stated Ms. Batchelor confirmed they required the signs as
97 mandatory in critical areas and as voluntary in other areas. He tends to lean
98 towards voluntary. The County Council has been specific about their intentions.
99 He is willing to go forward but has some reservations about the sign being

100 mandatory. Commissioner Hughes stated that much of the open and rural area of
101 the County will not be affected by this ordinance, but it will help friction between
102 the neighbors.

103
104 Mr. Coyman summarized the points: Voluntary vs. mandatory; timing of sign 15
105 days before and 15 days after; and within 1,000 feet of an occupied dwelling, sign
106 to be on road frontage in center of property.

107
108 Commissioner Spies moved to recommend to the County Council that the
109 legislation have a voluntary sign system prior to logging, seconded by
110 Commissioner Trax. The motion carried three to one, Commissioner Hughes
111 opposed.

112
113 Commissioner Trax moved to recommend that the sign be posted at least 15 days
114 before and left at least 15 days after the harvest is complete, if there is a single
115 occupied residence within 1,000 feet from the planned harvest area; seconded by
116 Commissioner Spies. The motion carried unanimously.

117
118 **4. New Business**

- 119
120 a. Donald D. Foster and Ellen Marie Foster, M1147—one year extension for sketch
121 major three lot subdivision, Shortall Farm, North Side of Todds Corner Road,
122 Easton, Maryland 21601, (map 16, grid 16, parcel 45, zoned Western Rural
123 Conservation), Elizabeth Fink of Fink, Whitten and Associates, LLC, Agent.

124
125 Staff had no objection to this request.

126
127 Commissioner Hughes asked for public comments; none were made.

128
129 Commissioner Trax moved to approve the one year extension for the sketch major
130 three lot subdivision for Donald D. Foster and Ellen Marie Foster, on Todds
131 Corner Road; Commissioner Sullivan seconded. The motion carried unanimously.

- 132
133 b. Donald D. Foster and Ellen Marie Foster, M1148—one year extension for sketch
134 major four lot subdivision, Shortall Farm, South Side of Todds Corner Road,
135 Easton, Maryland 21601, (map 16, grid 16, parcel 45, zoned Western Rural
136 Conservation), Elizabeth Fink of Fink, Whitten and Associates, LLC, Agent.

137
138 Staff had no objection to this request.

139
140 Commissioner Hughes asked for public comments; none were made.

141
142 Commissioner Spies moved to approve the one year extension for the sketch
143 major four lot subdivision for Donald D. Foster and Ellen Marie Foster, on Todds
144 Corner Road; Commissioner Sullivan seconded. The motion carried unanimously.

146 c. Delahay Family Limited Partnership, #M1138—one year extension for
147 preliminary major four lot subdivision with private road, w/s Almshouse Road
148 and East of Trappe Station, Oxford, Maryland (map 48, grid 16, parcel 49, zoned
149 Rural Conservation/ Agricultural Conservation), Bill Stagg, Lane Engineering,
150 LLC, Agent.

151
152 Staff had no objections.

153
154 Commissioner Hughes asked for public comments; none were made.

155
156 Commissioner Trax moved to approve the one year extension of the Delahay
157 Family Limited Partnership, preliminary major four lot subdivision with private
158 road, located in Almshouse Road, Oxford, Maryland, with staff
159 recommendations; Commissioner Sullivan seconded. The motion carried
160 unanimously.

161
162 d. Joseph E. Digenova and Victoria Toensing, #A192—Administrative Variance,
163 23788 Ebb Point Road, Bozman, Maryland (map 31, grid 18, parcel 313, zoned
164 Rural Conservation), Bill Stagg, Lane Engineering, LLC, Agent.

165
166 Mr. Ewing presented the staff report for this administrative variance which
167 proposes to construct a kitchen expansion and a second floor hall connector
168 totaling 43 square feet of new gross floor area. The proposed expansion will be
169 located no closer to mean high water than the existing dwelling at 35 feet. The
170 applicant is proposing a net increase of 25 square feet of lot coverage in the buffer
171 and a net increase of 211 square feet of lot coverage for the entire site.

172
173 Staff recommendations include:

- 174
- 175 1. The applicant shall make an application to the Department of Planning and
176 Permits and follow all rules, procedures, and construction timelines as
177 outlined by regarding new construction.
 - 178 2. The applicant shall commence construction on the proposed improvements
179 within eighteen (18) months from the date of the Planning Office’s “Notice to
180 Proceed”.
 - 181 3. Natural vegetation of an area three times the extent of the approved
182 disturbance in the buffer shall be planted in the buffer or on the property if
183 planting in the Buffer cannot be reasonably accomplished. Disturbance
184 outside the buffer shall be mitigated at a 1:1 ratio. A Buffer Management Plan
185 application may be obtained at the Planning and Permits Office.

186
187 Commissioner Hughes questioned if the application was outside the bounds of
188 anything approved before. Mr. Ewing said there was only 25 square feet of new
189 lot coverage in the buffer, so they meet all criteria for the Administrative
190 Variance.

191

192 Bill Stagg appeared on behalf of the applicants along with Tim Kearns, the
193 Project Architect. This is a fairly simple application, just closing in an alcove to
194 expand the kitchen, a small amount of expansion on the second floor within the
195 current footprint.

196
197 Commissioner Hughes asked for public comments; none were made.

198
199 Commissioner Sullivan recommended the planning officer approve the
200 administrative variance for Joseph E. Digenova and Victoria Toensing, 23788
201 Ebb Point Road, Bozman, Maryland, with staff recommendations; Commissioner
202 Trax seconded. The motion carried unanimously.

- 203
204 e. Camille E. Kodsi and Lana Kodsi, #A193—Administrative Variance, 4795
205 Judiths Garden Road, Oxford, Maryland (map 53, grid 6, parcel 162, zoned Rural
206 Conservation), Charles Paul Goebel, Architect, Agent.

207
208 Mr. Ewing presented the staff report for the applicant who is requesting an after
209 the fact administrative variance to construct two decks and three sets of steps
210 totaling 742 square feet. The proposed expansions will be located no closer to
211 mean high water than the existing dwelling at 57 feet. The applicant is proposing
212 a net increase of zero square feet of lot coverage as the decks will meet pervious
213 standards. The Critical Area Commission questions the project exceeding the
214 minimum necessary to relieve unwarranted hardship due to existing decks and the
215 amount of decks and steps proposed. The property owner was cited by the Code
216 Compliance Division for constructing the deck with steps in the buffer without
217 proper variance and permits. The violation will be resolved by the granting of the
218 administrative variance. Should the administrative variance be granted the staff
219 requests the following conditions:

- 220
221 1. The applicant shall make an application to the Department of Planning and
222 Permits and follow all rules, procedures, and construction timelines as
223 outlined by regarding new construction.
224 2. The applicant shall commence construction on the proposed improvements
225 within eighteen (18) months from the date of the Planning Office’s “Notice to
226 Proceed”.
227 3. The applicant shall build the deck to meet the Maryland Chesapeake Bay
228 Critical Areas Commission’s standards for pervious decks as follows:
229 a. Install decking with a minimum of ¼” spacing between the decking
230 strips;
231 b. Install approved native plants around the perimeter of the deck to
232 minimize runoff.

233
234 Charles Paul Goebel appeared on behalf of applicant. He felt the Critical Area
235 misunderstood the plan. No exterior decks existed, they are creating the exterior
236 decks.

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Commissioner Hughes asked for public comments; none were made.

Commissioner Trax recommended the planning officer approve the administrative variance for Camille E. Kodsi and Lana Kodsi, 4795 Judiths Garden Road, Oxford, Maryland, with staff recommendations; Commissioner Spies seconded. The motion carried unanimously.

- f. TARA Communications—Tilghman Concealed Tower, Major Site Plan, #538— Tilghman Island Road, Tilghman, Maryland (map 44A, parcel 275, Lots 3-5, zoned Village Center), Van Thompson, Agent.

Mr. Ewing presented the staff report to construct a 95 foot tall, with a 19 foot by 19 foot base, concealed wireless communication tower. The structure design is similar to a church bell tower. The proposed tower would provide increased telecommunications capabilities to protect and enhance public safety, quality of life and support an increase in economic reliance on wireless communications. The tower will be located within the Tilghman wireless communication priority placement area (WCPPA). A revision plat is required prior to final approval to abandon interior lot lines of existing deed parcels on the site. Should the Planning Commission approve the site plan staff recommends the following conditions:

1. The applicant addresses all of the issues mentioned above, and the Technical Advisory Committee’s comments enclosed. Technical Advisory Committee met with the applicant on July 10, 2013.
2. The applicant shall make an application to and follow all of the rules, procedures, and construction timelines as outlined by the Department of Permits and Inspections regarding new construction.
3. The applicant shall commence construction on the proposed project within one (1) year from the date of the “Notice to Proceed”.
4. The applicant shall apply for a minor revision plat with Talbot County Planning and Permits to comply to abandon interior deed parcels; this shall be accomplished prior to applying for Compliance Review Committee (CRM) review.
5. The applicant shall provide financial surety prior to building permit for cost of removal.
6. The applicant shall submit for an annual tower license and renew annually.
7. The applicant is required to have at least two FCC licensed operators under contractual agreement to locate on the wireless communications tower prior to issuance of a building permit.

David Thompson appeared on behalf of applicant, Tara Communications. Van Thompson, property owner and Bob Morelock, Planner also appeared. Mr. Dave Thompson stated a moratorium was placed by the County as they commissioned a study of the priority placement areas. It is the statutory preference that all towers be built within those areas. This tower is proposed within a priority placement area on Tilghman Island. It will enhance coverage for that community. Mr.

284 Thompson continued by stating, there are only three sites that are possible to put a
285 tower within the Tilghman WCPPA. The applicant explored all three of those
286 sites. Originally the Harrison Oyster house location was explored and the
287 community was united in its opposition to that site. Harrison's Chesapeake House
288 was considered and it also did not receive a warm welcome. Mr. Thompson and
289 the leadership of the Tilghman United Methodist Church began talking and saw
290 this as an opportunity to provide a very necessary service. Community consensus
291 was that monopole structure was aesthetically unattractive. Mr. Thompson had
292 built concealed towers elsewhere, and came up with a faux bell tower design.

293
294 The site is legally described as deed parcels 3, 4 & 5. There is a lot line issue.
295 Lots were created in a 1915 subdivision plat. The Church acquired the property in
296 1964. The Church has a Declaration of Covenants and Conditions showing lots
297 are being merged as one. Mr. Ewing stated the Office of Law would need to
298 address the requirement of a lot line abandonment.

299
300 Commissioner Hughes asked Mr. Pullen about the lot line revision issue and Mr.
301 Pullen stated that even if they need to comply with the staff requirements they
302 will be able to resolve those issues at the September Technical Advisory
303 Commission meeting.

304
305 Mr. Thompson noted there will be a change from 24% impervious surface to 10%
306 impervious surface. This creates one possible issue. If the impervious surface
307 removal occurs all at once there will be approximately 6,700 square feet of
308 disturbance. The threshold for addressing stormwater management requirements
309 is 5,000 square feet of disturbance. We would prefer to do this in stages so we
310 don't have to get caught up in unnecessary changes to the plan.

311
312 Commissioner Hughes opened the floor to public comments, but asked that
313 comments be limited to three minutes for individuals and five minutes for
314 organization representatives. He counseled any opponents to this application that
315 it is important in order to preserve their right to appeal this to the Board of
316 Appeals or Circuit Court that either the staff has a letter from you already or that
317 you testify here today:

318
319 Barb Pivik, representing Verizon Wireless—we have been trying to solve the
320 situation where there is a gap in coverage from St. Michaels to Tilghman. We
321 installed an antenna on McDaniel tower at Wades Point and will be supporting
322 Mr. Thompson's site at Bozman. The Tilghman site is a great solution to fill the
323 gap in coverage. Verizon's interest is so great that we are prepared to participate
324 in a more expensive build to preserve heritage and the view shed of Tilghman in a
325 tower structure. We are ready to go and we have budgets and funding for this
326 year. Eventually all types of coverage will be provided by any installation we will
327 be on, but it is only available as the budgets are released.

328

329 Michael Lawrence, resident of Tilghman, Church Board Member of Tilghman
330 United Methodist Church, Fire Company Board. When the chairman of the
331 church made him aware that a contractor wanted to put a cell tower on church
332 property he was initially opposed. He was surprised when he was presented with
333 the type of structure they wanted to install. He changed his mind and was willing
334 to go forward with more discussions. The church Board unanimously decided to
335 meet with the fire company board. If they were for it, they had met the first
336 hurdle, and they were for it. The next hurdle was the community. The community
337 sent out mass mailings, put up bulletins, and then they had a public meeting. Mr.
338 Lawrence stated there was a very large attendance. Mr. Lawrence stated, Kathy
339 Foster of the Health Department, the Supervisor of the Emergency Medical
340 Services spoke at this community meeting on their needs. 96% of the attendees
341 were in favor of the bell tower. Weighing the needs of community and type of
342 structure they felt it was in the best interest of the community.

343
344 Commissioner Sullivan asked about a letter received which said the church was
345 supposed to keep the property as a park. Mr. Lawrence said the Kronsberg family
346 wanted it to be a passive park. There was some discussion about it being a
347 playground. The church did not have the wherewithal to maintain it and the fire
348 house has maintained the grass. The property has not had playground equipment
349 on it since the mid 1980's. He feels the bell tower will not impact the use of
350 property or the function of what the park was meant to be.

351
352 Lynn Brookhouser representing Tilghman United Methodist Church. Bartlett tree
353 came in and identified the dangerous trees, there are still four trees to be taken
354 down. Those trees had nothing to do with the bell tower site. There is a letter from
355 the Kronsberg family supporting the bell tower saying it is consistent with the
356 family's original intent. There were 100 participants at the meeting. After the
357 meeting residents provided input. There was a total of 185 responses, of those 175
358 were in favor of a bell tower, over 90% support for bell tower concept. The
359 church would like to go forward with landscaping to improve the appearance of
360 the park. Commissioner Hughes asked if Mr. Brookhouser opposed previous cell
361 tower. Mr. Brookhouser stated he did, but approves this due to aesthetically
362 pleasing look and impact.

363
364 Graham Sherwood, Tilghman resident, owns property next to cell tower and
365 opposes the project. He feels the park is a nice thing with history. He doesn't
366 believe in taking history and putting a bell tower on it for profit. He felt there
367 were other places it could have gone. There is a monument there. Think it's a bad
368 thing to take history away for profit.

369
370 Alice Marie Gravely, Vice Chair, Talbot County Historic Commission. Mr.
371 Thompson met with the Historic Commission in June. He expressed concerns
372 over maintenance issues. Proposed T1-11 plywood siding is difficult to maintain,
373 and would need frequent painting. Recommends if site is approved an alternative
374 low maintenance siding with similar appearance be required.

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Howard Sweet, lives in Tilghman, across street from tower, will have to look at it every day. County chose to change the tower regulations to get this in. We were told this was going to be approved. When changes are made County needs to think about people's property and how it will affect their property. Fire company building approval complied with the parking based on use of parking on church property.

Eileen Reiss, Vice President Fire Company (temp President). On the question of where vehicles are parked, when there is a function we park at Fluharty's Electric. There might be problem when there is a function, otherwise we can park at the dock down the street.

Commissioner Hughes questioned where emergency vehicles could park if there was a major fire and a staging area was needed. Ms. Reese stated that during an emergency they parked wherever they needed to and that they were aware the pavement would be changed.

Commissioner Sullivan stated his concerns about the use of T1-11 which he felt was a terrible material and recommended use of better materials if possible. Mr. Van Thompson stated they did take the historical committee's recommendation into consideration. The sides will be of a composite plastic material which radio frequency (RF) signals can penetrate which simulates T1-11 in appearance only, and requires zero maintenance.

Commissioner Spies questioned who would be handling the maintenance with the additional grass area. Mr. Lawrence stated the church and fire company have not discussed the maintenance going forward yet. The church has decided to give some of the proceeds to the fire company for maintaining the property all of these years.

Commissioner Trax was concerned about the issue of maintenance of the bell tower and if there was any provision in the legislation. Mr. Ewing stated that there is a regulation for removal of inoperable or abandoned tower only, no structure maintenance requirement.

Commissioner Hughes believes that a pole would be far less noticeable and obnoxious than a bell tower. Commissioner Hughes stated, we have a bell tower before us, apparently most of the community wants the bell tower, but I think really what they want is cell service and what they've been told is the only way they will get service is building a bell tower. I would vote in favor of a monopole on this site.

Commissioner Spies moved to approve the major site plan for TARA Communications at 5970 Tilghman Island Road, with staff recommendations complied with, making sure the need for a long term maintenance agreement is in

421 that compliance, seconded by Commissioner Trax. The vote was three to one,
422 Commissioner Hughes against.

423
424 Mr. Ewing read the code regulation that stated the fence requirement may be
425 waived for a concealed tower. Mr. Van Thompson stated the waiver would be for
426 the fence around the tower, but there would be a fence around the perimeter of the
427 generator pad with material matching the bell tower open on top so generator can
428 run freely.

429
430 Commissioner Trax moved to approve the fence waiver for TARA
431 Communications at 5970 Tilghman Island Road, with staff recommendations
432 complied with; seconded by Commissioner Sullivan. The vote was three to zero,
433 Commissioner Hughes abstained.

434
435 g. Harleigh Farm, LLC, #L1189—Sketch major revision, Harleigh Lane and Oxford
436 Road, Oxford, Maryland (map 48, grid 8, parcel 138 and 6, zoned Rural
437 Conservation/Rural Residential), Bill Stagg, Lane Engineering, LLC, Agent.

438
439 Mr. Ewing presented the staff report for the applicant who is requesting sketch
440 plan review, major revision to establish Benjamin Lane and to abandon lot 5.
441 Should the Commission approve the sketch plan, staff recommendations include:

442
443 1. Address the July 10, 2013 Technical Advisory Committee comments of
444 Planning and Zoning, Department of Public Works, Environmental Health
445 Department, Talbot Soil Conservation District, and the Environmental Planner
446 prior to preliminary plat submittal.

447
448 Bill Stagg, Lane Engineering, LLC appeared on behalf of applicant, Mr. Akridge,
449 who had to leave. In the 1950s the subdivision was created. Mr. Akridge wants to
450 remove the accesses of the four properties (Lot 2, 4, Parcel 6 and Parcel 7) off
451 Harleigh Lane and create a new private road. Ms. Zaffere (Lot 3) will maintain
452 access to Harleigh lane as long as she wants as she prefers to keep her current
453 Harleigh Lane address. He believes the new road will not be called Benjamin
454 Lane. There are no new lots, Lot 5 is being abandoned for construction of the road
455 as part of the plat.

456
457 Commissioner Hughes asked if Public Works had concerns with Stormwater
458 relating to the new road. Mr. Stagg stated that they were working together on this
459 road design, it would be a hot mix road, with an all stone base. The radius of the
460 road works for emergency vehicles. They have not had to do any facilities for
461 Stormwater, just some plantings. Health Department has been very cooperative as
462 well, we have had to move a couple of sewage disposal areas and septic systems.
463 All of the major issues will be resolved prior to final plat.

464
465 Commissioner Sullivan moved to approve the sketch plan major revision to
466 establish Benjamin Lane and abandon lot 5 for Harleigh Lane, LLC, tax map 48,

467 grid 8, parcel 138 and 6, with staff recommendations; seconded by Commissioner
468 Trax. The motion carried unanimously.

469
470 Staff requested the Moore's Road, LLC project be switched with the Lee Haven
471 Farm, LLC project on the agenda as an audience member wished to speak prior to
472 lunch adjournment, the Chairman agreed.

473
474 h. Lee Haven Farm, LLC, #L1190—Preliminary major revision, Lee Haven Road
475 and Ice Pond Lane, Easton, Maryland (map 34, grid 8, parcel 10, Lots 3-9, zoned
476 Rural Conservation/Countryside Preservation), Bill Stagg, Lane Engineering,
477 LLC, Agent.

478
479 Mr. Ewing presented the staff report for the applicant for a preliminary plan
480 review, major revision, to relocate private road outside the 100 foot perennial
481 stream buffer and establish lots 3, 4 and 5 as buildable by creating sewage
482 disposal areas.

483
484 Staff recommendations include:

- 485
486 1. Address the July 10, 2013 Technical Advisory Committee comments of
487 Planning and Zoning, Department of Public Works, Environmental Health
488 Department, Talbot Soil Conservation District, and the Environmental Planner
489 prior to final plat submittal.

490
491 Bill Stagg appeared on behalf of Lee Haven Farm, LLC. He stated this project is
492 in good shape. Mr. Mertaugh is satisfied with the road design. This subdivision is
493 not creating any new lots. A road had to be relocated because of a stream buffer.
494 Mr. Stagg would like to request preliminary/final approval from the Planning
495 Commission, though we still have to go back to Technical Advisory Committee
496 and Compliance Review Meeting with staff.

497
498 Staff had no objections with going forward to preliminary/final.

499
500 Commissioner Hughes asked for public comments.

501
502 Germaine Sweet, Lee Haven Road, resident of Easton, U.S. citizen, lives on the
503 neighboring property. Ms. Sweet questioned if Lots 3, 4 and 5 have the Delmarva
504 Fox Squirrel habitat and forest, that a note be added for it to be retained. Staff
505 confirmed such a note is located in the Fox Squirrel protection area.

506 Commissioner Hughes asked if Mr. Stagg had the Heritage letter for the
507 Delmarva Fox Squirrel. Mr. Stagg stated that the letter was not needed because
508 the forest was all in the 100 foot buffer and protected. There will also be
509 additional forest added when lots are developed for buffer establishment. Those
510 notations will be on the final plat.

511

512 Ms. Sweet stated her other concern is for the roadways. There was a horrific
513 accident at the corner of Lee Haven Road and St. Michaels Road. She is
514 concerned about that road if there is an increase in traffic. Mr. Ewing stated that
515 typically road upgrades are addressed and required at the time of new subdivision.
516 These are all existing lots of record.

517
518 Commissioner Trax moved to grant preliminary/final approval of Lee Haven
519 Farm, LLC, for the major revision relocating a private road and establishing Lots
520 3, 4 and 5 as buildable by establishing sewage disposal areas, with staff
521 recommendations; Commissioner Sullivan seconded the motion. The motion
522 carried unanimously.

523
524 The Commission took lunch adjournment at 12:20 p.m.

525
526 The Commission resumed at 12:45 p.m.

527
528 i. Moore's Road, LLC, #S1058—Sketch major single lot subdivision, Royal Oak
529 Road and Lindsay Lane, Royal Oak, Maryland (map 41, grid 7, parcel 68, zoned
530 Village Center), Bill Stagg, Lane Engineering, LLC, Agent.

531
532 Mr. Ewing presented the staff report for the applicant's sketch plan review for a
533 single lot subdivision. This is a major subdivision as subdivision rights are a
534 cumulative effect, they subdivided three lots previously, so this is technically the
535 fourth lot off the original parcel, so it is a major. The applicant is proposing a
536 single lot, proposed Lot 9 will be one acre with access from an existing 40 foot
537 wide private road, Lindsay Lane. The remaining development rights are assigned
538 to remaining lands.

539
540 Staff recommendations include:

541
542 1. Address the July 10, 2013 Technical Advisory Committee comments of
543 Planning and Zoning, Department of Public Works, Environmental Health
544 Department, Talbot Soil Conservation District, the Environmental Planner and
545 the Critical Area Commission prior to preliminary plat submittal.

546
547 Bill Stagg, Lane Engineering, LLC appeared on behalf of applicant, Moore's
548 LLC. This will be a one acre lot, which is unfortunate since when you go to the
549 one acre in this area we are forced to incorporate non-tidal wetlands, which
550 increases chances of negative impacts. This is a fairly simple subdivision.

551
552 Commissioner Hughes asked for public comments; none were made.

553
554 Commissioner Sullivan moved to approve the sketch plan for a single one acre lot
555 subdivision, map 41, grid 7, parcel 68, for Moore's Road, LLC, with staff
556 recommendations; Commissioner Spies seconded the motion. The motion carried
557 unanimously.

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- j. Rehobeth Farm, LLC, #M1152—Preliminary major subdivision, lot size waiver, 8411 Beechley Road, Wittman, Maryland (map 31, grid 1, parcel 139, zoned Rural Conservation/Western Rural Conservation), Bill Stagg, Lane Engineering, LLC, Agent.

Mr. Ewing presented the staff report for the applicant’s preliminary plan review for a seven lot subdivision with a new private road. Applicant proposes to create seven critical area lots which range from 3.8 to 5.9 acres. The nine available critical area development rights have been utilized. Three non-critical area rights are assigned to lot one. Should the Commission approve the preliminary plan Staff recommends the following condition:

- 1. Address the July 10, 2013 Technical Advisory Committee comments of Planning and Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District, the Environmental Planner and the Critical Area Commission prior to final plat submittal.

Mr. Stagg appeared on behalf of the client Rehobeth Farm, LLC. He would like to request preliminary/final on this project. Mr. Mertaugh is requiring the applicant overlay the entirety of Beechley Road with hot mix asphalt for public road improvements.

There was no staff objection to preliminary/final approval.

Mr. Stagg stated there is also a requirement that street trees be planted on the lot side of the road.

Commissioner Hughes asked for public comments; none were made.

Commissioner Spies moved to approve the lot size waiver, Lots 5 and 6, for Rehobeth Farm, LLC, 8411 Beechley Road, Wittman, MD, with staff recommendations, seconded by Commissioner Sullivan. The motion carried unanimously.

Commissioner Sullivan moved to approve the preliminary/final plan review of seven lot subdivision with new private road, tax map 31, grid 1, parcel 139, 8411 Beechley Road, Wittman, Maryland, for Rehobeth Farm, LLC, with staff recommendations, seconded by Commissioner Trax. The motion carried unanimously.

5. Discussions Items

6. Staff Matters

- a. Residential Accessory Structures

604 Commissioner Hughes stated he has no problem with replacing a structure with
605 one on the same footprint. I don't have a problem with the same footprint, but
606 when someone changes the use, there needs to be oversight.

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608 Mr. Ewing stated he incorporated the definition of in-kind in his correspondence
609 to the Commission. There are minor modifications according to planning director.
610 Typically staff goes by the land use table.

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612 Ms. Verdery explained she discussed this matter with Mike Pullen. Mr. Pullen
613 said because the request was under a single land use category, but had different
614 functions which had different use impacts, it may be considered a different use.

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616 Commissioner Hughes asked what the procedure would be if someone came to
617 the Planning Office with a project that was the same footprint but a change in use
618 broad enough to cause concern, would you bring it to the Commission as a
619 discussion item for approval or how would it work?

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621 Mr. Ewing stated that the first procedure would be a request to planning officer,
622 which is a free form. The applicant would submit the form and proposed floor
623 plans or drawings. We would make a determination if it was in-kind and proceed
624 to building permit. If it was not in-kind they would need the appropriate variance
625 to change the use, whether administrative variance or board of appeals.

626
627 Ms. Verdery asked if the Commission felt that the storage shed and the structure
628 with the pool inside of it (both accessory residential structures and uses) were
629 similar enough to be in-kind or is that a change of use that we should determine
630 the process. She asked how the Commission felt this project should be handled.

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632 Commissioner Hughes stated it would be a good idea to have the Commission
633 look at this project. He said the footprint is not a problem. He felt the utilities
634 seems to be a threshold of when to look at the situation.

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636 Commissioner Hughes would like to have staff check with Mr. Pullen if the
637 Administrative Variance procedure is the proper procedure for just changing the
638 use but no structural changes.

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640 **7. Work Sessions**

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642 **8. Commission Matters**

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644 **9. Adjournment**—Commissioner Hughes adjourned the meeting at 1:17 p.m.