

1 February 25, 2014



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

5 Wednesday, December 4, 2013 at 9:00 a.m.
6 Bradley Meeting Room
7 11 N. Washington Street, Easton, Maryland

8
9 **Attendance:**

10 Commission Members:

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12 Thomas Hughes
13 William Boicourt
14 Michael Sullivan
15 John Trax
16 Paul Spies

17 Staff:

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19 Sandy Coyman, Planning Officer
20 Mary Kay Verdery, Assistant Planning Officer
21 Brett Ewing, Planner I
22 Martin Sokolich, Long Range Planner
23 Michael Mertaugh, Assistant County Engineer
24 Carole Sellman, Recording Secretary
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26 **1. Call to Order**—Commissioner Hughes called the meeting to order at 9:00 a.m.

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28 **2. Decision Summary Review November 6, 2013**—The Commission noted the
29 following corrections:

- 30 a. Line 57, insert “community or private” before the word pier
31 b. Line 113, strike the last sentence.
32 c. Line 116, remove the words “boat lift”.
33 d. Line 176, insert “Commissioner Hughes suggested removing two units (i.e. 20
34 feet in length)”
35 e. Line 328, revise to read, “discuss it ’with’ Mr. Pullen”.

36
37 Commissioner Trax moved approval of the draft summary for November 6, 2013,
38 as amended; Commissioner Boicourt seconded. The motion carried unanimously.
39

40 **3. Old Business**

- 41 a. Robert D. Higgins and Teresa A. Higgins, #544—Talbot Street, St. Michaels,
42 MD, (map 32, grid 10, parcel 105, lot 4W, zoned General
43 Commercial/Gateway Overlay District), Rick Van Emburgh, Land
44 Engineering, LLC, Agent.
45

46 Mr. Ewing reviewed the staff report of the applicant’s major site plan request for
47 a 4,500 square foot self storage warehouse building. The applicant requested two
48 waivers for the sidewalk (a ten foot sidewalk easement) and a landscaping waiver
49 for screening at the rear of the property. The project was tabled at the November
50 Planning Commission meeting after the Commission had concerns with the onsite
51 circulation, screening from Route 33, structural appearance and the building
52 location, and the Town of St. Michaels registered its concerns with structure
53 location and screening.

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Staff recommendations include:

1. The applicant address the issues noted in the staff report and the Technical Advisory Committee’s comments of October 9, 2013.
2. The applicant shall make an application to and follow all of the rules, procedures, and construction timelines as outlined by the Planning and Permits Department for new construction.
3. The applicant shall commence construction within one (1) year from the date of the notice to proceed.
4. The applicant shall complete and record a revision plat prior to major site plan approval.
5. The applicant shall obtain waivers for the gateway sidewalk, 10-foot sidewalk easement and a landscaping screening waiver.
6. One way traffic pattern signage shall be posted.

Mr. Van Emburgh of Lane Engineering appeared with Mr. Robert Higgins, applicant. Mr. Van Emburgh stated he has a letter of approval for their application from the Rio Vista Home Owners Association. The landscaping waiver relies on the trees located on the paper street at the rear as the “screening from less intense zone” requirement.

Commissioner Hughes asked Mr. Mertaugh about industry standards for mini storage buildings’ access road widths. Mr. Mertaugh stated it varied substantially from as much as 20 to 30 feet. Mr. Mertaugh suggested a possible drive width of 16 feet to accommodate truck turns. Mr. Van Emburgh stated Mr. Higgins had done other mini storages and that the 12 foot width was acceptable.

Commissioner Hughes asked if the front set back complies with the gateway requirements. The Commission stated that adding landscaping and adding to the front setback would make the project more compatible with the neighborhood and meet the spirit of the gateway provisions.

Mr. Higgins responded:

1. A 12-foot road width is suitable and provides less impervious surface.
2. More than the required parking is provided in the rear.
3. Traffic is very low intensity.
4. The building could be redesigned to remove the front doors.
5. An evergreen planting bed at the front could improve the aesthetics.

Hughes asked for public comments.

Commissioner Spies moved to approve the major site plan for Robert D. and Teresa A. Higgins, Talbot Street, St. Michaels, MD, with staff conditions, and with the following conditions:

- 100 1. Change the drive aisle width to 14 feet.
101 2. Replace first two standard doors with decorative/architectural doors.
102 3. Remove the doors from the building's front and add landscaping.
103 4. Understory trees shall be planted the first 20 feet beyond the buffer yard
104 on east and west side of property.
105 5. A gable end roof shall be added on the street side and continue at least 20
106 feet down each side.
107

108 Commissioner Trax seconded the motion. The motion carried unanimously.
109

110 Mr. Boicourt felt that sidewalks should be constructed in the Gateway Overlay
111 District. Mr. Coyman pointed out that if sidewalks were not started somewhere,
112 they would never be built. After discussion in which it was concluded that
113 sidewalks could be built on the applicant property with minimum effort and
114 expense, Mr. Van Emburgh withdrew the waiver for the sidewalk.
115

116 Commissioner Boicourt moved to recommend to the Planning Officer to grant a
117 landscape waiver for the rear of the proposed self storage unit at the Higgins
118 property, Commissioner Sullivan seconded the motion. The motion carried
119 unanimously.
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121 4. New Business

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- 123 a. Administrative Variance—Harry Broadman, #A199—25553 Bushey Heath
124 Road, Royal Oak, MD, (map 40, grid 5, parcel 4, zoned Agricultural
125 Conservation), Robert Gearhart, Focus Construction, Agent.
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127 Mr. Ewing presented the staff report of this request to construct a 95.3 square foot
128 dormer addition. The proposed dormer area is not gross floor area; ceiling height
129 would be less than seven feet. The proposed expansions comply with lot coverage
130 and will be located no closer to mean high water than the existing dwelling at 90.1
131 feet.
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133 Staff recommendations include:
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- 135 1. The applicant shall make a building permit application to the Planning and
136 Permits Department and follow the associated rules, procedures, and
137 construction timelines.
138 2. The applicant shall commence construction on the proposed improvements
139 within 18 months from the date of the notice to proceed.
140 3. The dormer space shall not be use as habitable space. A non-conversion
141 agreement may be required.
142

143 Robert Gearhart of Focus Construction appeared on behalf of his client, Harry
144 Broadman. Mr. Gearhart had no further comments. Commissioner Sullivan
145 moved to recommend to the Planning Officer approval of this administrative

146 variance requiring compliance with the staff recommendations; Commissioner
147 Boicourt seconded the motion. The motion carried unanimously.

- 148
149 b. Administrative Variance—Mike Hager and Donna Hager, #A200—27950
150 Tred Avon Drive, Easton, MD, (map 34, grid 19, parcel 275, zoned Rural
151 Residential), Mitch Hager, Agent.

152
153 Mr. Ewing presented the staff report for this request to expand the existing
154 “carriage” house by constructing a wall in the buffer to connect a proposed
155 garage. The connection is required as the garage is proposed within 10 feet of the
156 existing carriage house. The garage is proposed outside the buffer and is not
157 relevant to this review. The existing “carriage house” is not a dwelling in accord
158 with the *Talbot County Code*. The proposed expansions comply with lot coverage
159 and will be located no closer to mean high water than the existing dwelling at 75.4
160 feet.

161
162 Staff recommendations include:

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164 1. The applicant shall make a building permit application following all
165 associated rules, procedures, and construction timelines.
166 2. The applicant shall commence construction on the proposed improvements
167 within 18 months from the date of notice to proceed.

168
169 Dave Thompson, Attorney, and Mitch Hager, architect, appeared on behalf of the
170 Hagers. Mr. Thompson stated this is an in-kind replacement eliminating
171 impervious surface. The approach seeks to retain existing mature specimen trees
172 by connecting the carriage house to the garage with a wall, which will minimize
173 the disturbance.

174
175 Commissioner Hughes asked for public comment; none was offered.
176 Commissioner Boicourt moved to recommend approval of this administrative
177 variance to expand a legal nonconforming structure within the 100-foot shoreline
178 buffer, provided compliance with staff recommendations occurs; Commissioner
179 Trax seconded the motion. It carried unanimously.

- 180
181 c. Moore’s Road, LLC, #S1058—Royal Oak Road and Lindsay Lane, Royal
182 Oak, MD (map 41, grid 7, parcel 68, zoned Village Center), Bill Stagg, Lane
183 Engineering, LLC, Agent.

184
185 Mr. Ewing presented the staff report noting the Commission approved the sketch
186 plan in August of 2013. Proposed Lot 9 will be one acre with access from an
187 existing 40’ wide private road (Lindsay Lane).

188
189 Staff recommendations include:
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191 1. Address the November 13, 2013 Technical Advisory Committee comments of
192 Planning and Permits Department, Department of Public Works,
193 Environmental Health Department, Talbot Soil Conservation District, the
194 Environmental Planner and the Critical Area Commission prior to final plat
195 submittal.
196

197 Mr. Stagg noted the well issue had been resolved and all remaining development
198 rights would be consumed by this subdivision under current zoning; he asked the
199 Commission to consider giving preliminary/final approval.
200

201 Commissioner Hughes asked for comments from the public; none was offered
202

203 Commissioner Trax moved to approve the preliminary and final plan for this
204 major single lot subdivision, provided compliance with staff recommendations
205 occurs; Commissioner Spies seconded the motion. The motion carried
206 unanimously.
207

208 5. Discussions Items

209 a. Still Waters Farm—Reduction of lots 210

211 Sean Callahan, Lane Engineering and Chuck Benson, Benson Mangold Realty,
212 represented the applicant. Mr. Callahan related the project's history which began in
213 1997 with a 21-lot subdivision. At this time the applicant desires to reduce the
214 number of lots to four and create a new private road. After discussion of several
215 options presented by the applicant's representatives the Commission accepted what
216 was referred to as Option C, which would include:
217

- 218 1. Combine use of a portion of the existing driveway which serves the main
219 house and goes through the woodland paralleling the wooded area avoiding
220 the wetland. This approach may have minor impacts to Delmarva fox squirrel
221 habitat, but limits damage to woodlands and wetlands.
222

223 Commissioner Hughes noted that the Commission had reached a consensus on Option
224 C as long as the drive follows the woodland line to the maximum extent possible.
225

226 b. Village Center density policy, zoning and boundary amendments-- 227 Recommendation to County Council--Sandy Coyman, Planning Officer. 228

229 Commissioner Hughes stated that there would be no discussion of the tier maps or
230 the new zoning districts for the villages.
231

232 He noted that:

- 233 1. The County's comprehensive plan stated village growth policy should be
234 refined.
- 235 2. Confusion has existed about village growth and sewer access policy.

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3. Several new factors, such as state law changes created the need to adjust village growth and sewer service policies.
 4. The County Council adopted a moratorium on village subdivisions, which was followed by interim zoning to provide time to study and prepare suitable recommendations to address these changes and issues.
 5. The Planning Commission established a joint Planning Commission and Public Works Advisory Board work group to prepare recommendations for eleven western villages. The work group included Commissioners Hughes and Sullivan, and Messrs Fisher and Wolfe from the Board. Staff support was provided by Messrs Coyman, Clarke, Pullen and Sokolich.
 6. Mr. Coyman will summarize the work group's recommendations.

248 Mr. Coyman displayed a PowerPoint and reviewed the work group's
249 recommendations. A copy of the PowerPoint presentation is attached to this
250 summary. The work group's recommendations include:

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1. Permitted density of one dwelling unit per two acres.
 2. Minimum lot size of one acre.
 3. Zoning Density would remain constant regardless of access to sewer.
 4. Revise village zone districts and sewer service areas to better serve the needs of the villages while preserving and appropriately allocating sewer service.

259 Implementation would require amendments to the comprehensive plan and the
260 comprehensive water and sewer plan. The effect of these changes is to reduce the
261 potential for large scale development that would threaten village character, water
262 quality and add to emergency evacuation issues. These changes are also designed
263 to bring state and local village policies into a coherent whole. Draft maps are
264 prepared and attached to the proposal to show the proposed boundary changes.

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266 Mr. Coyman reviewed the policy framework for the recommendations:

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1. Talbot County Comprehensive Plan—The comprehensive plan recognizes the villages “special sense of place” and directs the maintenance of this special character. It recommends any future development in the villages reflect the architectural character, scale of the buildings, existing mix of uses and the density of existing development.
 2. The Smart Green and Growing Smart and Sustainable Growth Act of 2009—The Act contained a provision which stated any action by local government must be consistent with its comprehensive plan.
 3. The State Finance and Procurement Article in 1997—This Act introduced the concept of priority funding areas and talked about the growth in rural villages. This Act describes the village as primary residential and may have some historic qualities and located in a rural and agricultural area. Specifically, the Act described growth, if any in rural villages as restricted

281 to infill and limited peripheral development, new peripheral lots are
282 limited to 10 percent of the number of a village's existing residences.
283 4. Sustainable Growth and Agricultural Preservation Act of 2012—This Act
284 created the septic tier mapping system. Most importantly, as it affects
285 development the tier maps will limit subdivision in the rural conservation
286 area to minor subdivisions, and small scale subdivisions. This limits
287 subdivision in these areas to seven new lots.
288

289 Mr. Coyman stated the Planning Commission will review these recommendations
290 and can accept, change, and/or modify them. Once the Commission has
291 formulated recommendations they will go to the County Council. The County
292 Council will modify, change or chose to take action or not. If the County Council
293 chooses to take action they will ask staff to prepare a draft Bill reflecting County
294 Council's final discussions to include in the Bill. Then that Bill will come back to
295 the Planning Commission. The Planning Commission will hold an official public
296 hearing and official testimony will be taken. The Planning Commission makes
297 modifications it believes appropriate and sends to the County Council. The
298 County Council reviews the Planning Commission recommendation and holds a
299 worksession. One of the Council members may then introduce the Bill. The
300 County Council then holds a public hearing and final vote.
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302 Commissioner Hughes opened the floor to public comment.
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304 Joan Witmore, Neavitt, asked which villages are zoned Tier 3B. Commissioner
305 Hughes explained the maps are available on the website. Mr. Sokolich explained
306 that not all of a village is zoned 3A or 3B. Generally speaking the lots in Neavitt
307 or any other village that are 3B are the smaller lots.
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309 Linda Kallinen, Royal Oak, asked if this is about moving the boundaries of the
310 village centers. She asked the Planning Commission to be thoughtful and careful
311 while considering sensitive nature of the village centers. She noted the difficulties
312 facing property owners and businesses in today's regulatory climate and that the
313 proposed changes could adversely affect a family's net worth and future. She
314 noted the village boundaries were drawn in the 1970's and the County at that time
315 recognized the villages may need room to grow and serve their communities. She
316 recommended that villages be allowed to blossom into the quaint little
317 independent communities where neighbors and families interact and create a
318 sense of well being.
319

320 Dave Thompson, local attorney, also village resident, asked if there is any draft
321 legislation being passed around now for any of this? Mr. Coyman stated no.
322

323 Ralph Brown, resident of Bozman, owns property in both Bozman and Neavitt.
324 Mr. Brown expressed the desire to subdivide his property and bring back families
325 in that area and build homes. He suggested that property owners and the County
326 work together to come up with suitable policies for the village. He disagreed with

327 the process as to the recommendation for development of the villages. He
328 expressed his willingness to help.

329
330 Commissioner Hughes stated that SB-236, Septic Bill or Tier Bill, the bill that
331 gave the Maryland Department of Planning and Maryland Department of the
332 Environment, specific direction as to how tier maps were to be drawn. The state
333 had final approval authority over those maps and the tier system was a state
334 initiative.

335
336 Janet Hammed, resident of Bozman, new Chairperson for the Village Center
337 Board. Glad to hear that while we will be having public hearings on the maps we
338 will have opportunities to make changes on boundary lines. Mr. Sokolich clarified
339 that review and comments could be made; changes to the tier maps can only be
340 made by revising the comprehensive plan. She expressed concern for the
341 environment and individual property rights. She stated commercial uses in the
342 villages are important to the residents. She asked for a presentation on these
343 matters to the Village Advisory Board as she is the new chairperson for that
344 group.

345
346 Bill Miles on behalf of Jeannie Bryan submitted a letter yesterday to Mr. Coyman
347 and wants it submitted into the record.

348
349 Cheri Bruce Phipps, the Tier Bill, the State of Maryland made the guidelines; the
350 County is drawing the map and submitting them to the State, is that correct? This
351 process was enacted on December 11, 2012. She asked if the County followed
352 state law or did the County devise a local alternative. She asked about the impact
353 on commercial development and question why Talbot County was one of the two
354 counties who adopted tier maps.

355
356 Commissioner Hughes responded that the County followed the law and was
357 obligated to follow its prescriptive directions for mapping. The sewer service map
358 and the zoning map must comport with the definition in the tier law. In some
359 instances we actually split zones from parcels in agreement with the Maryland
360 Department of the Environment and Maryland Department of Planning so that
361 some of the large parcels would have small lot road frontages opportunities in
362 keeping with good planning principles. Mr. Coyman stated one thing the County
363 was able to do was create a definition for a new type of subdivision preserving
364 existing property rights to the maximum extent possible within the constraints of
365 the law. He also noted that twelve counties have adopted their tier maps and many
366 others are in the process of creating and approving theirs. Commissioner Hughes
367 explained that the tier law does not regulate commercial uses.

368
369 Gwen Eskridge, Board of Realtors, voiced concern about what is happening with
370 the villages. Please call her because she wants to be part of what is planned for the
371 villages.

373 Bonnie Somers, stated that she believed the recommendations were inconsistent
374 the comprehensive plan and that the plan should not be changed to accommodate
375 the proposed changes; the changes should reflect the existing plan. She expressed
376 concern that two acre lots would result in sprawling development. She noted that
377 past developments have benefitted the villages. She encouraged County officials
378 to retain local control of land use decisions.

379
380 Commissioner Hughes clarified that the recommendations are intended to
381 implement existing comprehensive plan recommendations and the plan changes
382 would provide additional clarity and reflect the current physical and policy reality.
383

384 John Camper, Royal Oak, MD, stated his father purchased their property in 1959
385 with the understanding he would be able develop it at some point. Mr. Camper
386 objected to the recommendations' diminution of the value of their property. He
387 expressed the belief that he and his sister would be punished for not developing
388 their property years ago. He questioned the public purpose served by the proposed
389 changes. He suggested that the proposed density would make new lots
390 unaffordable to young families. He suggested the County resist the state exercise
391 of its police power.
392

393 Commissioner Hughes responded that many of the policies recommended respond
394 to directives outside the Commission's control and the Commission strives to
395 enforce the law fairly and uniformly. Otherwise the County could be forced into
396 expensive litigation with a poor chance of success. Further all must recognize that
397 land use regulation changes over time to reflect new realities. Also policies from
398 the past in some cases were haphazardly developed and not based on sound
399 planning principles.
400

401 Taylor Bryan, Jeannie Bryan's daughter, questioned limitations on commercial
402 ventures in village zones and suggested such opportunities remain after any
403 changes.
404

405 Commissioner Hughes explained the County has added two classifications for
406 villages, a V1 and a V2, one somewhat mixed commercial/residential and one
407 purely residential. He reminded that the recommendations being considered today
408 did not address mapping the new zones. The Commission noted the visions and
409 policies of the comprehensive plan were developed with maximum public input
410 and the public should review the plan to understand their impact.
411

412 Bruce Armistead, Esquire also representing Jeannie Bryan stated he commended
413 the Commission for attempting to bring together the diverse policy guidelines into
414 a coherent whole. Turning to the Bryan property, he stated that:

- 415 1. The tier 4 designation for a portion of the property was inappropriate.
- 416 2. The property should remain in village zoning as it is essentially surrounded by
417 the village.
- 418 3. The property is in a sewer service area and should remain so.

- 419 4. The property is also in a priority funding area.
420 5. The changes to this property should be reconsidered.
421

422 Christie Bishop, agent with Benson and Mangold Realty asked that proposed land
423 use regulation changes be known to the public in advance. She asked if the ten
424 percent village growth is tracked annually.
425

426 Commissioner Hughes stated the proposed changes address water quality, open
427 space farm land and forest, and over development of the villages. Commissioner
428 Hughes stated that the 10 percent peripheral growth is a state law which has been
429 in effect since 1997. Mr. Coyman said there has been no peripheral village growth
430 since the PFA law was adopted. Mr. Coyman offered to meet individually with
431 anyone to review all the changes and policy issues in detail.
432

433 Carol Kilmon, Royal Oak, expressed concern about any change to the commercial
434 potential in villages and that the state has exercised its police power.
435

436 Commissioner Hughes stated the comprehensive plan seeks to preserve the
437 existing character of the villages. If commercial uses exist, this would be
438 considered part of the existing character.
439

440 Commissioner Hughes stated we have two issues; one is the recommendation of
441 the work group regarding the eleven western villages which recommends density
442 and minimum lot provisions and zoning map changes. The second noted that staff
443 has recommended extending, for consistency, these recommendations as to all
444 villages.
445

446 Commissioner Boicourt commended the work group's hard work and moved to
447 recommend to the County Council approval of the suggested recommendations
448 called Western Village Growth and Sewer Policy Recommendation dated
449 November 26, 2013. Commission Trax seconded and added his thanks for all the
450 hard work that went into the proposal. The motion carried unanimously.
451

452 Commissioner Spies stated that his voting positive on the last motion but that
453 expanding to the rest of the villages was not where this fight should be made. If
454 you have problems with the zoning and how pieces of property will lose some of
455 their value, this is not really how you go about fixing it because we are limited by
456 state law and other regulations. So by not passing the Commission would just be
457 deferring necessary action.
458

459 Commissioner Boicourt moved to recommend to County Council to apply the
460 density and minimum lot size policies expressed in the Western Villages Growth
461 and Sewer Policy Recommendation be applied to the remaining villages
462 throughout Talbot County, Commissioner Sullivan seconded the motion,. The
463 motion carried unanimously.
464

465 c. Talbot County Planning and Permits—Critical Area Blue Ribbon
466 Committee’s Recommendation Introduction—Sandy Coyman, Planning
467 Officer, Agent.
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469 Mr. Coyman introduced the Blue Ribbon Committee program. The members
470 attending were Gene Slear, Schuyler Benson, Tim Wyman, Alexa Siep, Scott
471 Beatty, Bruce Armistead, Mike Mielke and William Boicourt. The direction from
472 the Council was to look at the Critical Area program and come up with a series of
473 recommendations to make it appropriate for Talbot County and the group fulfilled
474 their mission. The Committee made the following recommendations for
475 amendments to the buffer requirements:
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- 477 1. Require maximum 100 foot riparian planting area establishment. The second
478 100 feet of the Shoreline Development Buffer for properties with a 200 foot
479 buffer requirement may be established in other plant material.
- 480 2. Refine the planting credits chart so that required densities/planting ratios are
481 consistent with traditional and appropriate forestry practices.
- 482 3. Revise development categories chart to include all properties with existing
483 houses proposing additions, replacement, re-construction, etc., together as one
484 category requiring and set the riparian planting area establishment equal to net
485 increase in lot coverage only.
- 486 4. Define “parent parcel” for new subdivisions allowing the parent parcel to have
487 a 100 foot riparian planting area rather than the 200 feet now required.
- 488 5. Credit existing and new marsh area against buffer establishment requirements
489 planting requirements.
- 490 6. Change the shoreline stabilization planting requirement for disturbed areas
491 from “woody or forest” plantings mitigation to “appropriate grasses and marsh
492 transition’ plantings.
493

494 Mr. Coyman suggested this matter be addressed in a Commissioner work session; the
495 Commission concurred and will schedule the session at their January meeting.
496

- 497 **6. Staff Matters**—Ms. Verdery noted:
- 498 a. The Planning Commission Bylaws will be voted on at the December 17, 2013
499 Council meeting.
 - 500 b. The Cottage Industry issue will be placed on the Commission’s January agenda.
 - 501 c. A new Planning Commissioner will be appointed soon.
502

503 **7. WorkSessions**—None.
504

- 505 **8. Commission Matters**
- 506 a. The Commission and staff expressed their gratitude for Commissioner Trax
507 years of service on the Commission. Commissioner Trax stated it was a
508 privilege to work with the Commission members and staff and leaves with
509 good terms and feels it is in good hands.
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511 **9. Adjournment**–Commissioner Hughes adjourned the meeting at 12:22 p.m.

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