

# Talbot County Zoning Code and Subdivision Regulations Update

## *Issues Memorandum*

September 27, 2005

**Environmental Resources Management**  
200 Harry S. Truman Pkwy., Suite 400  
Annapolis, MD 21401



## Talbot County Zoning Code and Subdivision Regulations Update

**To:** George Kinney, Planning Officer

**From:** ERM

**Date:** September 27, 2005

**Re:** Issues Memorandum

The attached Table of Issues summarizes the results of the issues raised for the update of the Talbot County Zoning Ordinance and Subdivision Regulations between July and September 2005. Decisions on the issues are reflected in the “Follow Up” column of the table. The follow up column indicates whether an issue will be addressed in: (1) Issues and Options paper; (2) the Annotated Outline; or (3) the Zoning Code drafting stage.

Issues we recommend be addressed in Phase I of the code update (adoption by Summer 2006) are highlighted in yellow.

Based on the issues highlighted in the Table of Issues, we have summarized on the next page of this memorandum the issues we propose to address in the Issues and Options paper.

In the table letters in parenthesis e.g. ST, HP etc. indicate originator of each recommendation, observation as follows: AT = Attorney (private), BA = Board of Appeals, CI = Citizen, CC = County Council, CO = Consultant, CP = Comprehensive Plan, E/D = Engineer/Designer, HP = Historic Preservation Commission, PC = Planning Commission, ST = Staff, TO (Town).

## Summary Issues for Issues and Options Paper

Issue Category	Description of Issue
<b>Process and Administration</b>	Community input in the planning and design process (CP)
	Increase the number of minor waivers that Planning Officer can grant (ST)
	Allow Planning Commission to waive zoning and subdivision requirements rather than requiring Board of Appeals variances (E/D) We have lost touch with the goal of first producing environmentally sensitive/sensible land use plans versus absolute, strict ordinance compliance.
	Eliminate Planning Commission recommendation for routine administrative variances (ST)
	Clarity and specificity of development review schedule (E/D, ST)
	Allow minimal expansions of nonconforming uses to be decided by the Planning Officer (BA)
	Faster process for minor plan review (E/D)
	Review procedure for concept plan review prior to sketch plan (E/D)
	Delete ability to create multiple minor subdivisions on a single parcel (ST).
<b>Land Preservation and Cluster Provisions</b>	<b>Re-examine transfer of development rights option</b> (CP)
	<b>Review RAC cluster development standards, including lot size, open space and density bonus.</b> (CP)
	<b>Can use of shared septic systems be encouraged to support clustering and to preserve farmland?</b>
<b>New Zoning Districts</b>	<b>Draft regulations for the Countryside Preservation district</b> (E/D) <b>Outside St. Michaels the Countryside Preservation area is in the Town of St. Michaels (TO)</b>
	<b>Draft regulations for a new Western Rural Conservation district</b> (E/D)
<b>Development – not specific to a particular zoning district</b>	Consider using growth allocation as an incentive requiring recipients to fulfill some public purpose in exchange for the benefit bestowed (CP)
<b>Town Residential Zone</b>	<b>Allow “town” type development in future growth areas.</b> <b>Ensure premature development inconsistent with desired town densities is precluded in town growth areas</b> (CP) <b>County should coordinate with towns in review of projects adjacent to towns</b>
<b>Rural Conservation district</b>	Review the conditions that apply to a parent parcel after an intra-family lot is created under an intra-family transfer (§ 190-58.G).
<b>Natural Resource Conservation</b>	In Critical Areas, require installation of de-nitrification systems at the time of an arms-length sale (CP)
<b>Historic Preservation</b>	Increase role of Historic Preservation Commission in subdivision and site plan

Issue Category	Description of Issue
	review (CP)
<b>Design</b>	<p>There is a conflict between planning interest in small lots and Health Dept. requirements for larger lots (ST, PC, E/D).</p> <p>Continue to use maximum lot size requirements, but provide guidelines so that the Planning Commission can require lots smaller than the maximum where desirable (PC)</p> <p>Provide more flexibility (especially in average lot size requirements) to allow design that makes sense (E/D)</p> <p>To encourage affordable housing, and better use of land consider permitting a duplex building to be built on a single lot (CI)</p>
<b>List of uses</b>	Allow limited, incidental retail sales in all zoning districts. (BA). Particular interest in the LI district for products made or handled on the premises
	Allow agricultural retail uses, larger scale than farm produce stands year round, as a special exception or an accessory use to farms. (BA)
<b>Nonconforming Use Section</b>	Nonconforming use section needs to be completely rewritten (ST, AT)
<b>Accessory Structures</b>	Review rules for allowing accessory structures on a parcel before a principal structure (BA, ST).
	Accessory structure limits may be too permissive, allowing large structures (ST)
<b>Fences</b>	Excessive construction of long solid fences could mar rural character (BA).

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

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<b>Process and Administration</b>	<ol style="list-style-type: none"> <li>1. Encourage applicants for major subdivisions and commercial/industrial development to actively seek community input in the planning and design process prior to submission of the development plan. Possibly require applicants to advertise and conduct a community meeting prior to submission of the final plan (CP).</li> <li>2. Waivers. Increase the number of minor waivers that Planning Officer can grant; for example, a waiver to certain submittal requirements for a site plan. (ST)</li> <li>3. Streamline development review by allowing Planning Commission to waive zoning and subdivision requirements rather than requiring Board of Appeals variances. Examples Schwaniger, Estates at Skipton, Penn Rail (E/D)</li> <li>4. Simplify process for a change of use. Currently, a simple change of use needs a simplified site plan (\$400). Need a simpler process when changing from one permitted use to another permitted use. (ST)</li> <li>5. Administrative variances are decided by the Planning Director, but must go to the Planning Commission for a recommendation. Planning Commission recommendations are generally routine. Consider streamlining by eliminating Planning Commission recommendation (ST).</li> <li>6. Allegations of Error often include minimal justification and documentary material with the application, maximizing opportunity for surprise and minimizing opportunity for adequate preparation by staff. Require a more complete submission and disclosure of basis for claim (ST)</li> </ol> <p>Applications to the Board of Appeals should include all available relief, i.e., allegations of error should be combined with requests for variances and/or special exceptions (see also below under #13).</p>	<ol style="list-style-type: none"> <li>1. <b>Issues and Options</b> paper. Community meetings are currently required only for wireless communication towers Will need County Council input on this recommendation</li> <li>2. A formal waiver process may be needed for this –address in <b>Issues and Options</b>. If not address in <b>drafting stage</b>.</li> <li>3. Consider in <b>Issues and Options</b> paper in association with #2 above. However, the principle of having the Planning Commission make quasi-judicial decisions may be problematic. Examples provided were large projects that required multiple approvals. These projects are the exception rather than the rule. Board of Appeals reports that few variances they hear are of a routine or trivial nature that might be delegated to a waiver process.</li> <li>4. Address in <b>Annotated Outline</b>.</li> <li>5. Address in <b>Issues and Options</b> paper. These appear to be available only for nonconforming structures in the Critical Area § 190-97. Board of Appeals used to hear these, and they were a major burden on the Board’s time.</li> <li>6. Address in <b>drafting stage</b> § 190-103.</li> </ol>

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<b>Process and Administration</b>	<p>7. Incomplete and inaccurate subdivision and site development plan submissions lead to lengthy delays in plan processing and approvals. County Council approved an Administrative Resolution addressing plan submission requirements (April 5, 2005). Review and include appropriate provisions of the resolution in the zoning and subdivision regulations. (ST, PC, E/D)</p> <p>8. Establish a development review schedule with clear submission requirements, ability for staff to reject incomplete and inaccurate submissions, and time limits that staff must meet (E/D, ST)</p> <p>9. Consider allowing preliminary plan approval before wetland permits are in hand, if engineer has met with wetland permitting staff and has assurance that permits will be issued. (E/D).</p> <p>10. Minimal expansions of nonconforming uses could be decided by the Planning Officer (for example, vertical expansions). Board of Appeals currently decides all such expansions (BA).</p> <p>11. Consider a faster process for minor plan review: circulate for interagency review but do not have it on the Technical Agency Committee agenda. (E/D).</p> <p>12. Review procedure for concept plan review prior to sketch plans. Concept plans are reviewed before perc tests are done. Helpful in presenting the major/important design concepts of a project, especially where developer does not know whether County/Planning Commission will prefer a cluster or non-cluster development. (E/D).</p> <p>Change nature of the sketch plan process to be more conceptual so</p>	<p>7. Address in <b>drafting stage</b>; details have already been worked out in the resolution.</p> <p>8. Review clarity and specificity of review schedule and submission requirements as part of <b>Issues and Options</b> paper. Ability for staff to reject incomplete and inaccurate submissions has been addressed through April 2005 Administrative Resolution addressing plan submission requirements.</p> <p>9. At Preliminary Plat the code requires “Evidence of approval for any permits or plans required by any other county, state or federal regulations” § 168-24. Without the permits Staff are concerned over the potential for approving a preliminary plan that may have to change because of permit conditions or modifications. not be approved.</p> <p>10. Address in <b>Issues and Options</b> Paper</p> <p>11. Consider in <b>Issues and Options</b> paper after review of different plan types and review &amp; approval processes/time frames. Plan types that may be appropriate for streamlined process include simplified site plans, and change of use applications. § 190-92.F.</p> <p>12. Consider in <b>Issues and Options</b> paper. One option may be to allow wider use of the master plan process that is required in the RAC district: “When a subdivision is proposed within the</p>

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<p><b>Process and Administration</b></p>	<p>and allow for creativity (E/D). There will always be tension between creativity and reality based on environmental conditions and requirements. Needs to be a place for both.</p> <p>13. To save multiple trips to the Board of Appeals, applications for variances should be checked for completeness in that all necessary variances or other approvals are being requested (BA). Currently applications are filed with Bd. of Appeals secretary but are not reviewed with an eye to other necessary approvals by Planning Office staff.</p> <p>On allegation of error petitions, applicants should be required to submit all claims for relief; for example in the event an allegation of error petition is not approved, the Board could consider any other claims such as variances.</p> <p>Variances and/or special exceptions, and allegations of error based on the same circumstances by same applicant should be combined into a single hearing before the Board of Appeals to eliminate redundancy inherent in multiple hearings.</p> <p>14. Approval terms for sketch, preliminary, and final subdivision plans are too short (one year) requiring frequent applications for extensions.</p> <p>15. Delete ability to create multiple minor subdivisions on a single parcel – thereby avoiding a comprehensive review before the Planning Commission (ST).</p> <p>16. Timely review and comments by county agencies is essential. Late comments can result in design changes after projects have been engineered and environmental permits obtained predicated on earlier designs. (E/D)</p>	<p>RAC District, the applicant shall submit a master plan (sketch plan) for the entire parcel. This plan shall tentatively show any future plans for continued development of the parcel. The plan is nonbinding and merely represents an effort to think through options for the property” § 190-57.</p> <p>Consultant note: the term sketch plan or concept sketch plan may be more appropriate; the term master plan implies a plan that is more binding in nature. Also the term master plan is used in § 190-14 as coterminous with Comprehensive Plan.</p> <p>13. Address at <b>drafting stage</b> i) Add a review for completeness check, and ii) require that all claims be included in applications.</p> <p>14. Address in <b>drafting stage</b>.</p> <p>15. Consider in <b>Issues and Options</b> paper. Options include that if further subdivision is possible a sketch plan would be needed for the entire parcel or a “master plan” – see number 12 above..</p> <p>16. Consider in <b>Issues and Options</b> paper under clarity and specificity of development review schedule.</p>

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

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<p><b>Process and Administration</b></p>	<p>17. §190-112A(1) posting 15 days/ad 10 days prior to hearing conflicts with §168-18C signs posted 10 days/ad 15 days prior to meeting.(ST)</p> <p>18. Structures without permits – after what length of time do they become “legal” or unenforceable? (ST)</p> <p>19. Effective dates. Clarify and simplify where possible the application of the Code on properties and uses based on the effective dates of different pieces of legislation (ST)</p> <p>20. Final site plans should have a signature block for agency signatures (ST).</p> <p>21. Fee schedule. Add growth area allocation requests.</p>	<p>17. Address in <b>drafting stage.</b></p> <p>18. Address in <b>drafting stage.</b></p> <p>19. Address in <b>drafting stage.</b></p> <p>20. Address in <b>drafting stage.</b></p> <p>21. Address in <b>drafting stage.</b></p>
<p><b>Land Preservation and Cluster Provisions</b></p> <p>2,3 and 4 are highlighted because decisions made as part of the Countryside Preservation and Western Rural Conservation district will need to be coordinated with changes to clustering or TDR in the RAC and RC districts. 2, 3 and 4 may not be translated into proposed text as part of the first phase of the zoning update, but they do need to</p>	<p>1. Explore inter-jurisdictional transfer of development rights program between County and Towns (CP, PC).</p> <p>2. Re-examine transfer of development rights option; identify opportunities or incentives to broaden use. Allow purchased development rights to be used only in conjunction with cluster development (CP).</p> <p>3. Should TDR sending parcels have to be proved developable through perc test or soils analysis? (E/D). Note Caroline County is proposing to change this requirement so as not to make the test mandatory for parcels over 50 acres provided the parcel does not have large areas of wetlands.</p> <p>4. Review RAC cluster development standards, including lot size, open space and density bonus. Evaluate incentives for clustering lots and leaving remaining land as open space. Consider mandatory clustering for some of the permitted lots (CP, ST, PC).</p> <p>5. Consider improvements to cluster provisions to preserve more of the valuable agricultural land, without reducing the cluster density of one lot per 10 acres. Clarify/balance goals of preserving farmland and preserving forest or habitat areas. (CI). Preserve at Wye Mills cited as an example of good design.</p>	<p>1. No action. Planning issues need to be resolved with towns before code changes are developed.</p> <p>2. <b>Issues and Options paper</b></p> <p>3. <b>Issues and Options paper.</b></p> <p>4. <b>In Issues and Options paper, outline options for encouraging or requiring cluster development.</b></p> <p>5, 6. <b>In Issues and Options paper, examine possible clarification of priorities to encourage protection of land valuable for farming; however, options are limited due to state (and Federal?) requirements for preserving forests, habitat areas and other environmental areas.</b></p>

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<p>be included in the issues and options stage for Phase 1.</p>	<p>6. Can use of shared septic systems be encouraged? Without shared septic system, lot location is governed by perc tests and true clustering to preserve farmland is not achievable. (E/D)</p> <p>7. Determine how plats can more clearly indicate the nature of land remaining after a rural subdivision is recorded. Land labeled as “open space” may still have development rights that have not been tied down to a particular lot or location. New land owners are sometimes unaware that the remainder parcel they purchased does not have an approved perc. (CI, E/D)</p> <p>Define the terms “open space,” “reservation of development rights,” “reserved area” and “residual parcel.” Clarify when open space or reserved area needs to be tied down to a particular portion of a parcel that has development rights remaining.</p> <p>8. New residential lots should have “right to farm” deed covenants notifying the person purchasing the lot that they are in a primarily agricultural area (CP).</p>	<p>The Talbot County Office of Environmental Health points out that the shared facility regulations (Code at Chapter 152) were developed with an eye to addressing issues of failing septic systems, not with the objective of encouraging cluster development.</p> <p>7. Address during the <b>drafting stage</b>; flag in <b>annotated outline</b>. Note: “open space” is currently defined – Critical Area definition.</p> <p>8. This is already a standard plat note in the RAC. Address in <b>drafting stage</b> by requiring the plat note in other rural districts.</p> <p>Chapter 128 of the County Code (Right to Farm) already requires disclosure in the form of a right to farm notice when real estate is sold.</p>
<p><b>New Zoning Districts</b></p>	<p>1. Draft regulations for Countryside Preservation district. Limit density to one dwelling per 20 acres, encourage clustering, designate the district as a TDR sending area, and develop design guidelines that encourage appropriately sited development to preserve views of agricultural and forest land from the road (CP, PC, CC, ST). Need to find ways for farmers to retain their equity in this district in particular until County and Towns reach agreements on inter-jurisdictional transfer of development rights (CI) (CI).</p> <p>2. Draft regulations for a new Western Rural Conservation district.</p>	<p>1. Provide options and recommendations in <b>Issues and Options paper</b>.</p> <p>2. <b>Issues and Options paper</b>.</p>

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<p><b>New Zoning Districts</b></p>	<p>Limit density to one dwelling per 20 acres, encourage cluster development to conserve open space, do not allow density increase through transfer of development rights (CP, PC, CC, ST).</p> <p>3. Additional environmental protection standards for Western Rural Conservation area. Consider limiting impervious surfaces to 15 % of site area, eliminating the density increase currently allowed in RAC for cluster subdivisions, and eliminating the potential for increased density through transfer of development rights (CP).</p> <p>4. Retain the 3 up-front lots, currently allowed in the RAC District, in the new Countryside Preservation and Western Rural Conservation zoning districts (CI).</p> <p>Comprehensive Plan is unclear regarding the 3 up-front lots. Page 3-19 says they should be eliminated, page 3-11 does not. 8-23-05 meeting attendees recollection was that the intent was that the elimination language be deleted, as it was from page 3-11. However, the language was inadvertently not deleted from page 3-19. The intent was to retain these lots in both the Countryside Preservation and Western Rural Conservation areas.</p> <p>5. Outside St. Michaels the Countryside Preservation area is in the Town of St. Michaels Comprehensive Plan’s designated growth area (TO). Issue may also involve Council Bill 933.</p> <p>6. In Countryside Preservation District, provide corridors through the area for development to follow in case long term growth requires development beyond the designated growth areas. (AT) Countryside Preservation Area was not intended to be all preservation (TO).</p>	<p>3. <b>Issues and Options</b> paper.</p> <p>4. <b>Issues and Options</b> paper.</p> <p>5. Mapping issue. Raise in <b>Issues and Options</b> Paper.</p> <p>6. No follow up. Comprehensive Plan’s section on the Countryside Preservation area (pages 3-9, 3-10) is clear that it is envisioned as a preservation area.</p>
<p><b>Development – not specific to a particular zoning district</b></p>	<p>1. Future residential subdivisions around Easton Airport should be prohibited (CP).</p>	<p>1. No action – appears to be adequately addressed by current zoning and airport ownership of land. Address any issues at drafting stage.</p>

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<b>Development – not specific to a particular zoning district</b>	<ol style="list-style-type: none"> <li>2. Consider using growth allocation as an incentive, requiring recipients to fulfill some public purpose in exchange for the benefit bestowed through the growth allocation (CP).</li> <li>3. Remove ability to build across a lot line for zoning purposes, § 190-78. (ST). Is a way of circumventing minimum lot size requirements and conflicts with health department subdivision requirements.</li> <li>4. Reasonable accommodations for the disabled. Clarify § 190-107 so that accommodation may be permitted as part of an initial decision and not only by the Board of Appeals in an appeal of an original decision (ST).</li> </ol>	<ol style="list-style-type: none"> <li>2. Address in <b>Issues and Options</b> paper. Criteria for granting growth allocation are in § 190-109 D. Criteria. Does the Council use the current criteria to achieve public purposes? Current criteria language would appear to allow this.</li> <li>3. Address at <b>drafting stage</b>.</li> <li>4. Address at <b>drafting stage</b>.</li> </ol>
<b>Town Residential Zone</b>	<ol style="list-style-type: none"> <li>1. Ensure premature development inconsistent with desired town densities is precluded in town growth areas. Delineate between primary, secondary and future growth areas (CP).</li> <li>2. Allow “town” type development in future growth areas; for Easton, proposed land use patterns include mixed use neighborhoods (CP).</li> <li>3. Consider development standards in TR district that will insure future connection to town roads and utilities; e.g., road connections, curb and gutter, and “dry” water and sewer lines that can be connected to public water and sewer when available (CP, PC, ST).</li> <li>4. Development approvals in TR district should require future annexation (PC, ST).</li> <li>5. County should coordinate with towns in review of projects adjacent to towns (CP).</li> </ol> <p>Informal communication between County and town staff currently works well. Are additional requirements needed? Town can have advisory input, but has no decision-making power over land outside town limits.</p>	<p>1, 2, 3, 4. Address issues related to TR district in <b>Issues and Options</b> paper.</p> <p>5. Address in <b>Issues and Options</b> paper under TR District</p>

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<b>Town Residential Zone</b>	<p>6. Develop performance standards and development guidelines to improve quality of site design in the Designated Growth Areas (CP).</p> <p>7. Most of TR zoning will disappear. For any remaining areas, reconsider the maximum 2-acre lot size where there is no sewer. It results in awkward plans. Example, Schwaniger (E/D).</p>	<p>6. Address in <b>Issues and Options</b> paper under TR District.</p> <p>7. Address in <b>Issues and Options</b> paper under TR District</p>
<b>Critical Area</b>	<p>1. § 190-15.A. (9). Under LDA Designation add “Limited Industrial (LI) less than 20 contiguous acres” (ST)</p> <p>2. Review surety requirements for plantings in the Critical Area. (ST)</p>	<p>1. Address in <b>drafting stage</b>.</p> <p>2. Address in <b>drafting stage</b>.</p>
<b>Rural Conservation district</b>	<p>1. Clarify that the development density available to a parcel is based on its size at the time of the proposed development and on its development history since August 1989 (effective date of the Critical Area law). (ST).</p> <p>2. Intra-family transfers. Code at § 190-58.G allows subdivision for immediate family members. Clarification is needed regarding the conditions that apply to the parent parcel after an intra-family lot is created. Can the parent parcel be sold, for example. (ST)</p>	<p>1. Address in <b>drafting stage</b>.</p> <p>2. Address in <b>Issues and Options</b> paper</p>
<b>Village Center zones</b>	<p>1. Re-examine permitted land uses and prepare development standards for the Village Center zoning district to insure uses and development compatible with existing village character (CP).</p> <p>Average lot size requirement when there is no sewer results in awkward layouts with remaining parcels difficult to manage and maintain. Example, Estates at Skipton Creek (E/D).</p> <p>2. Within village centers, limit industrial uses to those that support agriculture, forestry and commercial maritime uses (CP).</p> <p>3. The village centers have no sewer systems, but the lot sizes required by zoning assume that sewer is available. (E/D)</p>	<p>1, 2. No action; zoning regulations for village centers will be addressed later following detailed planning.</p> <p>3. Code at § 190-61.B.2 allows shared facilities at 4 du/acre. This issue appears to be one of facilitating/encouraging use of these facilities. Perhaps clarify this under § 190-61.B. See also recommended change to definition of sewer.</p>

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<b>Commercial and Industrial Zones</b>	<ol style="list-style-type: none"> <li>1. Prohibit strip commercial development along roadways (CP).</li> <li>2. Limit large-scale commercial uses to locations within towns (CP).</li> <li>3. Clean up existing undesirable land uses/site development issues in commercial areas along MD 33 near St. Michaels (Town of St. Michaels).</li> </ol>	<ol style="list-style-type: none"> <li>1, 2. No action: adequately addressed by current zoning regulations and maps.</li> <li>3. Address in <b>drafting stage</b>, by incorporating Bill 978 (Gateway District Overlay Zone)</li> </ol>
<b>Natural Resource Conservation</b>	<ol style="list-style-type: none"> <li>1. For new large-scale development projects, require an environmental impact assessment prepared by a qualified environmental engineer or planner (CP)</li> <li>2. In Critical Areas, require installation of de-nitrification systems at the time of an arms-length sale of real property (CP).</li> <li>3. Explore options to increase penalties for illegal clearing of trees. Require replacement consistent with mitigation requirements (CP).</li> <li>4. Revise site plan requirements to require site topography, slopes and submission of a stream buffer protection plan when appropriate (CP).</li> <li>5. Review protection of threatened and endangered species habitat on parcels containing “listed species habitat.” (CP)</li> <li>6. New buildings on existing lots should be located outside the habitat protection area (CP).</li> <li>7. New mineral extraction sites should provide a 100-foot buffer of natural vegetation between the operation and stream edges (CP).</li> </ol>	<ol style="list-style-type: none"> <li>1. No action: adequately addressed by current code requirements.</li> <li>2. Unclear how this is a zoning issue and a County task force is currently working on this issue. Address in <b>Issues and Options Paper</b>.</li> <li>3. Uncertain whether code revisions are needed. This is addressed in the four-year Critical Area program update. Address in <b>drafting stage</b>.</li> <li>4. <b>Address in drafting stage</b>.</li> <li>5. For new subdivisions, adequate protection is provided through the required review by Maryland DNR’s heritage division. May need zoning regulation revisions to require review for development requiring only a site plan but not a subdivision plan. Flag in <b>Annotated Outline</b>; address in <b>drafting stage</b>.</li> <li>6. Currently, code has differing standards inside the Critical Area versus outside. Address during <b>drafting stage</b>.</li> <li>7. Currently, mineral extraction activities are not allowed in the 100-foot Shoreline Development Buffer. Need to check which streams are not covered by this buffer. Address during <b>drafting stage</b>.</li> </ol>

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<b>Natural Resource Conservation</b>	<ol style="list-style-type: none"> <li>8. Require reclamation and post excavation use to be identified as part of the application process for mineral extraction (CP).</li> <li>9. We have lost touch with the goal of first producing environmentally sensitive/sensible land use plans versus absolute, strict ordinance compliance. Example, Estates at Skipton Creek (E/D)</li> </ol>	<ol style="list-style-type: none"> <li>8. No action. A detailed plan for site restoration and timetable for completion is currently required. The future use may not be known.</li> <li>9. Issue of greater flexibility for the Planning Commission will be addressed in <b>Issues and Options</b> paper.</li> </ol>
<b>Historic Preservation</b>	<ol style="list-style-type: none"> <li>1. Increase role of Historic Preservation Commission in subdivision and site plan review (CP). Have the Commission or the planning staff member who works with the Commission provide comments on plans that impact a historic resource identified in the Comprehensive Plan (CP, ST).</li> <li>2. For new subdivision of 10 or more lots or non-residential development, require a title search to identify historic or conservation easements. (CP)</li> </ol>	<ol style="list-style-type: none"> <li>1. Address in <b>Issues and Options</b> paper. Need County Council input on this recommendation.</li> <li>2. No action. Subdivision plats must currently show all easements.</li> </ol>
<b>Design</b>	<ol style="list-style-type: none"> <li>1. Update or replace design manual. (CP)</li> <li>2. Develop design standards for residential development in rural and agricultural areas (CP). A specific issue concerns access points: under § 190-57.B, not more than two lots per parcel in the RAC district can have direct access to an existing County or state road. There is interest in applying this to other districts.</li> <li>3. Consider having a Design Review Committee to assist the Planning Commission in reviewing new commercial and industrial development. The staff Technical Advisory Committee should consult a qualified design professional to advise on issues regarding building or landscape design. (CP)</li> <li>4. Need more landscape standards for commercial property (E/D).</li> <li>5. Reference the Green Infrastructure Plan in design guidelines of Zoning Regulations (ST).</li> </ol>	<ol style="list-style-type: none"> <li>1. No action. Implementation of this recommendation should follow the zoning code update.</li> <li>2. A number of standards already exist. Others beyond those specified for this code update included under #1 above.</li> <li>3. No action. Committee would need a design manual, per #7 above.</li> <li>4. Address in <b>Annotated Outline</b>. A landscape design manual is beyond the scope of zoning update but a general provision could be added if necessary.</li> <li>5. Address in <b>drafting stage</b>.</li> </ol>

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>Design</b>	<p>6. There is a conflict between planning interest in small lots and Health Dept. requirements for larger lots. In the VC District, lack of flexibility in allowed lot sizes, due to minimum Health Department requirement and maximum zoning limit, leads to poor design and variance requests. (ST, PC, E/D). Example project, Estates at Skipton Creek.</p> <p>Health Dept. rules differ east and west of Rt. 50 based on groundwater protection considerations. Regulations have effect of pushing septic drain fields away from woods into farm fields making it more difficult to retain farmland (CI).</p> <p>7. Continue to use maximum lot size requirements, but provide guidelines so that the Planning Commission can require lots smaller than the maximum where desirable for design and land preservation goals. (PC)</p> <p>8. Provide more flexibility (especially in average lot size requirements) to allow design that makes sense. Average lot size requirements do not provide flexibility needed to achieve the objective of clustering. State that lots should be less than 5 acres or more than 20 acres but grant the PC flexibility to consider situations where a logical land or natural boundary could be used for a property line. Example development: Penn-Rail (E/D).</p> <p>9. Review/clarify language for new lots that they must have “frontage” on a road (ST). Frontage is currently interpreted to mean fee simple <u>or</u> an easement.</p> <p>10. Staff are frequently too prone to use the Critical Area line as an absolute “do not cross” boundary, particularly line splits a parcel. Reliance on a line ignoring conditions in the field can be detrimental to good design (E/D).</p>	<p>6. Address in <b>Issues and Options</b> paper.</p> <p>7. Address in <b>Issues and Options paper</b>. Issue involves Health Department and possibly also, Planning Commission variance/ authority.</p> <p>8. Address with #s 6 and 7 above.</p> <p>9. Address in <b>drafting stage</b>, that frontage can include an easement. Note: the term frontage is used frequently in the zoning code, but is not defined. The term is defined in the subdivision regulations.</p> <p>10. Comment speaks to an overall attitude towards design review, not to a specific code section. Address in <b>drafting stage</b> to the extent possible as part of general effort to increase flexibility in project review.</p>

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>Design</b>	<p>11. To encourage affordable housing, and better use of land consider permitting a duplex building to be built on a single lot (CI).</p>	<p>11. Address in <b>Issues and Options</b> paper. May be possible to apply in Village Center district. Duplex implies separate ownership which may be problematic; explore in relation to village center zoning.</p>
<b>Roads</b>	<ol style="list-style-type: none"> <li>1. Limit and control access points onto County and state roads; prohibit strip forms of development (CP). Consider applying this to other districts. (ST)</li> <li>2. Zoning Code should not specify the number of new access points to new roads (ST). Currently, under 190-57B, no more than two lots per parcel in the RAC district can have direct access to an existing County or state road. The other zoning districts do not have a similar provision.</li> <li>3. New development may be required to provide access or service roads where appropriate to conserve road capacity. (CP)</li> <li>4. Allow Planning Commission to grant certain waivers to the Roads Ordinance where a waiver would provide better subdivision design. Waivers to road ordinance currently requires County Council approval. (E/D). Example project: Wye Town Farm – issue was the number of lots permitted on a private road.</li> <li>5. Strengthen pedestrian and bicycle facility language in the Codes – sidewalks, paths, pedestrian crossings, (ST).</li> <li>6. Review where road rights-of-way are shown on plats. (ST). County often does not own fee simple right-of-way. Question becomes where property lines are shown – to road centerline or to right-of-way edge. The location of property lines also affects density calculations.</li> </ol>	<ol style="list-style-type: none"> <li>1. Address in <b>drafting stage</b> by strengthening access control language, including in the subdivision regulations § 168-28.H. .</li> <li>2. Address in <b>drafting stage</b>. Cleanest approach may be remove specific references to the number of access points from the zoning code and subdivision regulations and have all the references in the road ordinance.</li> <li>3. Address in <b>drafting stage</b>. Codes do not currently use the term “service roads”. Consider amendments to §168.28.</li> <li>4. Address in <b>drafting stage</b>.</li> <li>5. Address in <b>drafting stage</b>.</li> <li>6. Address in <b>drafting stage</b>. May need to review definition of setback.</li> </ol>
<b>Parking</b>	<ol style="list-style-type: none"> <li>1. Require space for bicycle parking in service and retail developments. (CP)</li> </ol>	<ol style="list-style-type: none"> <li>1. Address during <b>drafting stage</b>. Flag in <b>Annotated Outline</b>.</li> </ol>

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>Parking</b>	<ol style="list-style-type: none"> <li>2. Do we require too much parking? Is the County becoming “overparked”? (PC)</li> <li>3. County should encourage parking to located to the side or rear of buildings (PC)</li> <li>4. Match parking requirements to land use table (vehicle service &amp; repair, office space) (ST)</li> </ol>	<ol style="list-style-type: none"> <li>2. Address specific concerns during <b>drafting stage</b>. Code at § 190-80.H(2) is progressive in that it allows deviations from the parking standards with recommendation from Planning Commission – though, unusually, no justification from an applicant is formally required.</li> <li>3. Address in <b>drafting stage</b>.</li> <li>4. Address in <b>drafting stage</b>.</li> </ol>
<b>List of uses</b>	<ol style="list-style-type: none"> <li>1. Allow agricultural retail uses, larger scale than farm produce stands year round, as a special exception or an accessory use to farms. (BA) Review setback requirements for produce stands; 20 feet may be too small to also allow for safe parking.</li> <li>2. Examine possibilities for allowing other agribusiness uses as accessory uses to farms. Address value-added processing and sales. (CI, PC). Example: Fosters cheese making operation.</li> <li>3. Review agricultural-related industrial and commercial uses permitted as principal uses in rural areas. Add additional uses if needed. (CI)</li> <li>4. Allow offices accessory to farms within any farm building, not only within the dwelling. Allow office trailers. (CI)</li> <li>5. Consider allowing limited, incidental retail sales in all zoning districts. (BA). Particular interest in the LI district for products made or handled on the premises (Aqua Zone).</li> <li>6. The absence of any permitted use for attached (multi-family) housing in any of its various forms is a glaring omission in the code (E/D)</li> </ol>	<ol style="list-style-type: none"> <li>1 &amp; 2. Address in <b>Issues and Options</b> paper. May be part of a broader issue of agricultural tourism uses (campgrounds, petting zoos, farm tours, farm bed and breakfast type accommodations). Address setback requirements at <b>drafting stage</b>.</li> <li>3. Uses are currently permitted as special exceptions in RAC and in some cases in other rural districts. At <b>drafting stage</b>, determine which of these uses should be allowed by special exception in the proposed Countryside Preservation and Western Rural Conservation districts.</li> <li>4. Address in <b>drafting stage</b>. Flag in <b>Annotated Outline</b>.</li> <li>5. Address in <b>Issues and Options</b> paper.</li> <li>6. The VC district is the most appropriate district (outside incorporated towns) for multi-family housing. Potential for this housing will be explored as part of the village center plans – see above under Village Center zones.</li> </ol>

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>List of uses</b>	<p>7. Review requirement that in the VC Zone general retail uses shall be within 300 feet of a general retail use or post office. Should this be 300 feet from business or property lines? (ST)</p> <p>8. Review need to add junkyard to the table of uses (number of vehicles for a hobby vs a junkyard) (ST)</p> <p>9. Home based occupation § 190-20 wrong section reference throughout. Standards – notarized permission of property owner if not proprietor. (ST)</p> <p style="padding-left: 40px;">Home-based occupations and cottage industries. Require that a permit be renewed periodically (perhaps annually or every two years). (ST)</p> <p style="padding-left: 40px;">Clarify in § 190-20.C. that home-based occupations are not permitted in all residential zoning districts. The land use table in § 190-19 is correct in not permitting home-based occupations from the RR district.</p> <p>10. B&amp;B § 190-20 – permitted in a “primary” dwelling existing as of Aug 13, 1989. operated by <i>owner-occupants</i> – owner only or manager? (ST)</p>	<p>7. Address at <b>drafting stage</b>.</p> <p>8. Address at <b>drafting stage</b>.</p> <p>9. Address at <b>drafting stage</b>.</p> <p>10. Address at <b>drafting stage</b>.</p>
<b>Special Exceptions</b>	Review the uses that need special exceptions (BA). Board reports that they it sees few special exceptions; most of its caseload is variances.	Address at <b>drafting stage</b> .
<b>Nonconforming Use Section</b>	Nonconforming use section needs to be completely rewritten (ST, AT)	Address major points in <b>Issues and Options</b> paper; details in <b>annotated outline</b> and <b>drafting stage</b> .
<b>Accessory Structures</b>	<p>1. Accessory structures before a principal structure are allowed as a special exception § 190-21. Provision is being abused to allow long term use of parcels with no principal structure – creating oversight issues. (BA, ST).</p> <p style="padding-left: 40px;">There needs to be a gradation of approvals. Simple cases, such as a trailer while a house is being built could be permitted administratively, a temporary use with a waiver, and a permanent use by the Board of Appeals.</p>	1. Address in <b>Issues and Options and/or drafting stage</b> .

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>Accessory Structures</b>	<p>2. Subdivision of waterfront parcels: a dock sometimes ends up on a different lot than the existing house. Can this be allowed without requiring Board of Appeals approval of a special exception for the dock? (ST).</p> <p>3. Accessory structure limits may be too permissive, allowing structures as large as principal structures (height, size, number on a lot)? (ST)</p> <p>As the code currently lacks limits, the limits default to the principal structure limits. If limits are introduced need to ensure that barns and farm buildings are excluded – they are currently accessory, not principal uses.</p> <p>4. Review how small satellite dishes (4 ½ ft. X 2 ft) are treated? Like antennas?</p>	<p>2. Address in <b>drafting stage</b>.</p> <p>3. <b>Issues and options</b>.</p> <p>4. Address in <b>drafting stage</b>.</p>
<b>Variances</b>	<p>1. Variance applicants should not be required to respond to the variance criteria as part of their application. Staff should not make a recommendation. (AT)</p> <p>2. Review definition of variance to ensure it refers to the approval criteria. One applicant did not answer the criteria because it was not part of the definition (BA)</p> <p>3. Consider establishing different criteria for different variances where the unique character of land not a factor (for example # of employees, sq. feet of sign) (BA)</p> <p>4. Clarify whether a variance can be granted to a special exception condition (ST).</p> <p>5. Wireless communications towers. Clarify whether a variance can be granted to the 200-foot height limit§ 190-20.M.(1).(b) (ST).</p>	<p>1. Disagree. Board of Appeals need to understand the grounds for a request prior to the hearing. Staff do not make recommendations on variance applications.</p> <p>2. Address in <b>drafting stage</b>.</p> <p>3. Address in <b>drafting stage</b>. Consultant note: variances may only be granted from quantitative numerical requirements and unique character may be of a structure or land. .</p> <p>4. Address in <b>drafting stage</b>.</p> <p>5. Address in <b>drafting stage</b>.</p>
<b>Fences</b>	<p>1. Concern that excessive construction of solid fences could mar rural character. Concern over lengthy 8-foot high fence near Hog Neck Golf Course (BA)</p> <p>Fences are defined as structures, and could, theoretically, be 40-</p>	<p>1. Review in <b>Issues and Options</b> paper. Consider adding an accessory structures section to the code.</p>

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>Fences</b>	<p>foot high. Note: the zero setback for fences is in the definition of setback.</p> <p>2. In §190-84B amend “less than one acre” to “one acre in size or less” for consistency with §28 building code (ST)</p>	<p>2. Address in <b>drafting stage</b>.</p>
<b>Graphics</b>	<p>Use graphics to explain items and concepts difficult to understand/explain in words (ST)</p>	<p>Address graphics during <b>drafting stage</b>. Flag in <b>Annotated Outline</b>.</p>
<b>Bulk regulations</b>	<p>Review accessory building setback from other buildings; no accessory building shall be located within 10 feet of any other building. § 190-68. Should be “minimum” setback? (ST)</p>	<p>Address in <b>drafting stage</b>.</p>
<b>Definitions</b>	<ol style="list-style-type: none"> <li>1. For terms not defined add reference to standard dictionary or a planners’ dictionary (ST)</li> <li>2. Need additional definitions of words and terms used in the Zoning Regulations (ST).</li> <li>3. For defined terms where capitalization is appropriate, such as “Shoreline Development Buffer,” capitalize the term throughout the zoning regulations to make it clear that the defined term is intended (AT).</li> <li>4. Definitions of “stream” (perennial, intermittent) are problematic in that they require judgment calls by the Planning Officer (ST).</li> <li>5. Need definition of “lot” to include any lot or parcel legally described in a recorded deed. (ST)</li> <li>6. Consider adding a definition of “sewer” that includes shared facilities not associated with a WWTP (CO). Code makes many references to “sewer” that imply both (e.g. § 190-61.A). Note: the Code also uses the term “community sewer”, “public sewer”.</li> <li>7. Consider a broader definition of “bulk” to refer the broad suite of areal and dimensional requirements (CO). Definition currently reads: “The magnitude in three dimensions of a building or structure”, but the term is not actually used in the text.</li> </ol>	<ol style="list-style-type: none"> <li>1. <b>Drafting stage</b>.</li> <li>2. Show new terms in <b>Annotated Outline</b>.</li> <li>3. Disagree. Will result in an enormous amount of capitalization and require very careful drafting, and have great potential for error. If a term is defined, whenever the term is used it should mean that definition, unless the text says otherwise in a specific section.</li> <li>4. <b>Drafting stage</b>.</li> <li>5. <b>Drafting stage</b>. Current definition reads: A parcel of subdivided land that is shown on a duly approved and recorded subdivision map or other legal map.</li> <li>6 to 10; <b>Drafting stage</b>.</li> </ol>

**Talbot County Zoning Code and Subdivision Regulations Update Table of Issues**

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>Definitions</b>	<p>8. Check clarity/ reconsider definitions of “<i>open space</i>,” “<i>reservation of development rights</i>,” “<i>reserved area</i>,” “<i>remaining land</i>” and “<i>residual parcel</i>”. (E/D, ST) (see also above under Land Preservation and Cluster Provisions. Partially a Health Dept. issue (note that Health Dept now apparently okay with term “remaining land”. Consider making Reservation of Development Rights agreements consistent with agreements approved by County Attorney for § 190-57. Rural Agriculture Conservation - RAC.</p> <p>9. Provide a definition for “dumpster” (BA). Problematic in Royal Oak case that involved containers. The term container is also not defined.</p> <p>10. Review definitions of the following (ST):</p> <ul style="list-style-type: none"> <li>– variance (see above under variances). (BA)</li> <li>– “master plan”. Used only twice and with different meanings</li> <li>– height: where measured from.</li> <li>– Fisheries – in definitions, not in land use table</li> <li>– Gross floor area; Standardize square footage calculation language for B&amp;Bs, guest house</li> <li>– Setback – definition – not all structures have a foundation. From property line – should there be a setback from easements?</li> <li>– Setback measured at point of minimum lot width</li> <li>– Steep slopes</li> <li>– Structure – Ensure consistency between all ordinances; should heat pumps/pool pumps, driveway entry features meet structure setbacks?</li> <li>– Utility Service – four 2,000 gallon tanks</li> <li>– “Use” and “structure” - review how the terms are used throughout.</li> </ul>	

***Talbot County Zoning Code and Subdivision Regulations Update Table of Issues***

<i>Category</i>	<i>Recommendations, Observations</i>	<i>Follow Up</i>
<b>Organization, general</b>	<ol style="list-style-type: none"> <li>1. Need a complete index to assist users of the Code (PC, AT)</li> <li>2. Same subject is addressed in different parts of the code, often with no cross reference e.g. nonconforming uses (ST, AT)</li> <li>3. Critical Area regulations are particularly hard to find and follow (BA).</li> <li>4. Lack of graphics, tables and illustrations (ST)</li> <li>5. Regulations are too verbose, unclear and not compact leading to interpretive issues (ST)</li> <li>6. Article V, Supplementary Regulations, covers too many topics. Reorganize and divide. (AT)</li> <li>7. Consider including subdivision regulations as one section of a development code that also includes the zoning regulations. (CO)</li> <li>8. Review and revise zoning and code enforcement provisions into a single Code Enforcement section (ST).</li> </ol>	Address in <b>Annotated Outline</b> and <b>drafting stage</b> .