



**Talbot County Planning Commission**

**Final Decision Summary**

Wednesday, March 6, 2013 at 9:00 a.m.

Bradley Meeting Room, Talbot County Courthouse

11 N. Washington Street, Easton, Maryland

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**Attendance:**

Commission Members:

Thomas Hughes  
William Boicourt  
Michael Sullivan  
John Trax  
Paul Spies

Staff:

Sandy Coyman, Planning Officer  
Mary Kay Verdery, Assistant Planning Officer  
Brett Ewing, Planner I  
Mike Mertaugh, Assistant County Engineer  
Carole Sellman, Recording Secretary

**1. Call to Order**—Commissioner Hughes called the meeting to order at 9:00 a.m.

**2. Decision Summary Review**—February 6, 2013—The Commission noted the following corrections to the draft decision summary:

- a. Line 122, piecemeal is one word
- b. Line 139, afforestation, correct spelling
- c. Line 245, insert the word “is”, In this case Federal Emergency Management Agency stated substantial damage of any origin requires compliance.
- d. Line 360, Commissioner Hughes stated that our legislature previously decided what consistency with a comp plan meant a couple of years ago. The term shall be defined to mean an action taken to further and not to be contrary to policies at plan implementation, timing of development, timing of rezoning, development and patterns, land uses, densities or intensities. He observed that all these factors have been explicitly reviewed by the Commission. He recommended the Commission use Mr. Showalter’s draft findings as a basis for the Commission’s final version.
- e. Line 410, Commissioner Hughes stated that he is concerned about allowing access to the force main without formal adoption of the new sewer access policy.
- f. Line 414, sign a binding recorded agreement that he will now and forevermore be limited to a set equivalent dwelling unit gallonage for the size of his existing house on the Cahall property.
- g. Line 526, Aveley (correct spelling).
- h. Line 536, change to read, “septic systems to much higher levels of treatment at our enhanced nutrient removal wastewater treatment plants.”
- i. Line 541, Wolfe, (correct spelling) .
- j. Line 578, Commissioner Hughes adjourned meeting.

53 Commissioner Boicourt moved to accept the draft Planning Commission Decision  
54 Summary for February 6, 2013 as amended; Commissioner Spies seconded. The  
55 motion carried unanimously.  
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57 **3. Old Business**—None was brought before the Commission.  
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59 **4. New Business**  
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- 61 a. Fast Stop, Inc. Gateway Signage Waiver (General Standards); Owner; Kyom and  
62 Kyungwon Yi—9543 Ocean Gateway, Easton, MD 21601, (Map 25, Grid 6,  
63 Parcel 95, Zone General Commercial/Gateway District), Willard C. Parker, II,  
64 Esquire represented the applicant.  
65

66 Mr. Ewing highlighted the staff report for the applicant’s request for a signage  
67 waiver in the Gateway. The Code states freestanding signs in the Gateway shall  
68 have:

- 69 1. a maximum height of eight (8) feet;  
70 2. the maximum sign face area shall be sixty (60) square feet per side; and  
71 3. shall be landscaped at the base.  
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73 Mr. Ewing noted the code requires that a waiver shall not have the effect of  
74 nullifying the intent and purpose of the Code requirement and granting the waiver  
75 will not be detrimental to the public health, safety or welfare, or injurious to other  
76 property.  
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78 A similar request was made at the April 4, 2012 Planning Commission meeting.  
79 The Commission approved the sign waiver request if the sign remained in its  
80 current location in the State Highway right-of-way. If the sign was to be relocated  
81 onsite then the sign shall comply with the gateway conditions. The proposed  
82 location as shown on the final approved plan is outside of the clear sight triangle.  
83

84 Should the Commission approve the waiver request staff recommends the  
85 following conditions:  
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- 87 1. The sign shall be located as depicted on the approved “final” site plan.  
88 2. The applicant shall apply for a sign permit with the Department of Permits  
89 and Inspections prior to installation.  
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91 Mr. Parker explained that the Fast Stop building burned on October 31, 2011. Mr.  
92 Parker said the relocation of the sign would be at a site with an elevation below  
93 (3.4 feet below the roadway elevation) the roadway obscuring the required  
94 monument sign from US Route 50. He also noted that state law requires gasoline  
95 prices be prominently displayed.  
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97 He stated that a monument sign would block visibility for customers exiting on to  
98 Cordova Road and the applicant desires to reuse the existing sign.

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Commissioner Hughes clarified that the Western Union and Trailways signs would be removed and the Shell sign would be moved to the proposed location. Mr. Parker concurred.

Commissioner Spies moved to approve the sign waiver request for Fast Stop, Inc., 9543 Ocean Gateway, Easton, Maryland, provided staff conditions are complied with, Commissioner Sullivan seconded. The motion carried unanimously.

- b. Terry Mitchell – Bluff Point Farm, Lots 6, 7, 8—32780 Bluff Point Drive, Cordova, Maryland (Map 12, Grid 17, Parcel 24). The site is zoned Agricultural Conservation. Chris Waters, Waters Land Surveying, represented the applicant.

Commissioner Spies recused himself from this case, due to his family having tilled the Mitchell farm for years. Commission Hughes reminded Mr. Mitchell and his agent that the Commission at four members and a tie vote would be a negative vote. The applicant chose to move forward.

Mr. Ewing presented the staff report for this proposal which seeks to create three (3) Critical Area lots, relocate reservation of development rights created in 2002, abandon an interior deed parcel line and modify an existing private road. The three new Critical Area lots are 3.04, 2.40 and 2.96 acres in size. An additional 69.47 acres of Critical Area are encumbered with reserved land. A conservation easement with the Maryland Agricultural Land Preservation Foundation (MALPF) encumbers one hundred (100) acres in the Critical Area. The remaining Rural Conservation and Agricultural Conservation development rights are assigned to revise tax parcel 24, Lot 1A.

The staff recommended that the applicant address the February 13, 2013 Technical Advisory Committee comments prior to final plat submittal.

Mr. Waters, appeared along with Terry Mitchell. He explained that two lots proposed in the Maryland Agricultural Land Preservation Foundation area were unsuccessful in gaining approval. The proposal now includes three lots outside the preservation easement.

Mr. Waters said the applicant desires to leave unencumbered areas so that their potential development rights could be preserved without a major revisions process with the County. He proposed a note on the plan that stated the two remaining rights could only be developed after a wetlands delineation was conducted for the entire parcel; staff agreed with this approach.

Commissioner Boicourt motioned to grant preliminary/final approval of a three (3) lot subdivision of Bluff Point Farm, LLC, provided staff recommendations would be complied with, plus the note on the plat stating that the wetlands will be delineated when the final two lots are reviewed, seconded by Commissioner Trax.

145 Mr. Trax, Sullivan, Boicourt and Hughes were in favor. Commissioner Spies had  
146 recused himself from the proceeding and had left the room while this proposal  
147 was discussed.

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149 Commissioner Spies returned to the meeting.

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151 c. Floodplain Management Ordinance from Environmental Resources Management  
152 (ERM)—Ms. Verdery, Assistant Planning Officer, lead the discussion of the  
153 Floodplain Management Ordinance. At the February meeting the Planning  
154 Commission made a recommendation to County Council. At the end of February  
155 County Council made a recommendation to introduce the bill, but subsequent to  
156 the Planning Commission’s recommendation Ms. Verdery’s received some  
157 suggested changes and she brought them before the Commission.

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159 There were three revisions:

- 160 1. 70-6.b.6. addition of NFIP technical bulletin No. 9 which assists with  
161 construction within the flood zone area.
- 162 2. Final flood insurance rate maps and the flood insurance study will be  
163 effective and dated August 5, 2013.
- 164 3. Article 8, Definitions, “substantial improvement” permit standards defined  
165 within the ordinance were removed from the definition.

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167 The substantial damage provision requires properties that are damaged by fifty  
168 percent (50%) or more of the assessed value for any cause, be in compliance with  
169 the flood ordinance when repaired or reconstructed. Ms. Verdery noted that  
170 properties in compliance have lower flood insurance rates than noncompliant  
171 properties. Damage resulting from causes other than flooding is not covered by  
172 flood insurance. The flood insurance program has an Increased Cost of  
173 Compliance (ICC) policy that will grant a property owner up to \$30,000 to bring a  
174 structure into compliance. This requires a specific rider on a flood insurance  
175 policy.

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177 Commissioner Hughes stated he was concerned about people in this County who  
178 are in the floodplain who might incur more than fifty percent (50%) damage and  
179 have a nonconforming structure. He had called his insurance company and found  
180 that there were varying levels of coverage to deal with changes of law in  
181 ordinances by insurance companies.

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183 Commissioner Boicourt asked how many structures are noncompliant and how  
184 much it would cost to notify those people. There was some discussion on the best  
185 notification process and it was determined a large advertisement in our local  
186 newspaper would be the best method.

187  
188 Ms. Verdery reviewed the accessory structures provisions because the Maryland  
189 Department of Environment questioned the County’s draft provisions. In the A  
190 Zone, accessory structures are limited to nine hundred (900) square feet.

191 Accessory structures in the V and Coastal A zones are limited to 300 square feet.  
192 Federal Emergency Management Agency suggests 100 square feet or less than  
193 One Thousand Dollars (\$1,000.00) in value. Accessory structures 300 square feet  
194 or larger must have an associated non-conversion agreement and must comply  
195 with the breakaway wall requirements.  
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197 Commissioner Boicourt moved to recommend to the County Council the revisions  
198 to the Floodplain Management Ordinance as specified in memorandum of  
199 February 27, 2013, specifically Section 76-6.b.6 Technical Bulletin No. 9, change  
200 the effective date to be August 5, 2013, the amended definition of substantial  
201 improvement, seconded by Commissioner Sullivan. The motion carried  
202 unanimously.  
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- 204 d. Comprehensive Water Sewer Plan Resolutions—Ray Clarke, County Engineer  
205 reviewed for the Commission the following proposed water and sewer plan  
206 amendments.  
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208 Mr. Clarke noted that the County Council will be introducing the proposed  
209 amendments on March 26, 2013. Once introduced, they will come back to the  
210 Planning Commission, as well as the Public Works Advisory Board, at their April  
211 3, 2013 meetings to determine if their application is consistent with the  
212 comprehensive plan and for a recommendation to the County Council to adopt or  
213 deny the request. The purpose today is to introduce the Commission to the  
214 proposals.  
215

216 Commissioner Hughes requested that the Cahall, Thorneton and Chance Farm  
217 Road properties, be required to sign a recorded instrument limiting their gallonage  
218 as there is not a sewer service policy in place for this property. Mr. Clarke stated  
219 grant funding would be sought and service would be limited to the existing  
220 dwellings and not to be used for subdivision or future dwellings.  
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- 222 1. Easton Sewer gravity sewer extended to Easton Airport. The existing  
223 pump station is at capacity, with occasional overflows at times. As a  
224 requirement for grant funding, the County must amend the comprehensive  
225 water and sewer plan to include this as a capital improvement project.  
226 Costs were originally estimated to be \$550,000; however, bids are under  
227 \$300,000. The cost will be met with a low interest loan through the US  
228 Department of Agriculture's Department of Rural Development. The line  
229 provides capacity for the entire airport.  
230
- 231 2. Biosolids Facility Upgrade—The County purchased the privately owned  
232 septage facility in 2007, restarted and has been running facility since. The  
233 septage must be treated with lime for twenty-four (24) hours before it can  
234 be processed. Currently the facility does not have enough capacity to  
235 handle current and projected flows. The recommendation would add three  
236 10,000 gallon tanks to hold the treated septage.

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Also the Maryland Department of Environment prohibits spray irrigation facilities from spraying treated wastewater during December, January and February. This requires an increase in holding pond size to 3.6 million gallons. For the future the grease receiving operation may need to be upgraded with a sludge drying bed with odor control filtering system, dewatering grease, and shipping the grease to a facility equipped to burn it.

- 3. Cahall Property—The Cahalls allocation is derived from the Unionville allocation. A single lot, 4.6 acres, must have public sewer as no other options exist. Service would be provided to the existing structure only expected flows would be 125 gallon per day.
  
- 4. Thorneton Road—Mr. Clarke and his office recommends supporting the Ad Hoc Committee’s position of no subdivision within the villages and looking at a priority strategy to fix existing systems. The County also needs to look at the revenues, which are currently down about \$180,000 a year.

There was discussion regarding the state’s funding availability. Mr. Clarke addressed state funding and their likely restriction of pipe size to four inches in diameter and be required to only lots within Priority Funding Areas (PFA), and would not allow for new growth. The state anticipates funding from the Bay Restoration Fund may become available in 2018.

The Commission noted that reducing or eliminating lawn fertilizer use would assist in achieving the Total Maximum Daily Load goals to the Bay.

Mr. Terrance John of 6800 Thorneton Road asked if there is an opportunity for a presentation to the homeowners of Thorneton Road. Mr. Clarke agreed to provide such a presentation. Mr. Clarke stated that the County’s policy has been to only require connection to a new sewer system as septic systems fail and must be replaced. Mr. John stated that some property owners will want to tie in at this time but that some who have made substantial upgrades may not desire to.

Commissioner Boicourt moved to table Comprehensive Water Sewer Plan Resolutions 1-4 until next month when the resolutions would be available for the Commission to review; seconded by Commissioner Spies. The motion carried unanimously.

- e. Planning Commission Bylaws—Mary Kay Verdery, Assistant Planning Officer presented a memorandum to the Planning Commission which outlined revisions to Section 11 of the Planning Commission Bylaws, which covers appeals of the Planning Commission decisions. The Commission discussed the thirty (30) day

282 time frame to appeal and that the cost was covered by the applicant. The  
283 Commission discussed the implications of the bylaw changes.

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285 Commissioner Trax moved to table the discussion of the Bylaws amendment  
286 pending clarification by the County Attorney specifically of Section C and  
287 notification of special meeting, seconded by Commissioner Boicourt. The motion  
288 carried unanimously.

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290 f. St. Michaels Conflicting Tier Designations Resolution with Talbot County Tier  
291 Designations—Sandy Coyman, Planning Officer and Martin Sokolich, Long  
292 Range Planner.

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294 Mr. Coyman presented a memorandum explaining the conflict in tier designation  
295 for three properties in the Town’s municipal growth area. Per state law, a meeting  
296 between the Town and County staffs occurred in an attempt to resolve the  
297 conflict. The Maryland Department of Planning informed both the Town and the  
298 County Staff that the Town was restricted by law to designate properties in its  
299 municipal growth area to tiers I or II.

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301 Mr. Coyman stated that if the Town and the County cannot resolve the conflict  
302 the matter is referred to Maryland Department of the Environment and the  
303 Department is empowered by Senate Bill 236 to make their final designation.  
304 MDP also notified the staffs that should the Town change their designations, the  
305 Town would be found in violation of state law.

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307 Commissioner Boicourt recommended asking Planning Officer to request County  
308 Council to maintain Talbot County’s tier designations in the St. Michaels region  
309 and request the Town of St. Michaels consider removing these parcels from their  
310 municipal growth areas and that the state defer action on this matter until the  
311 Town completes its update to their comprehensive plan which is now underway,  
312 seconded by Commissioner Trax. The motion carried unanimously.

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314 **5. Discussions Items**—none were brought before the Commission

315 **6. Staff Matters**

- 316 a. Extreme Enterprises Motocross Track Site Plan—Mr. Ewing explained that the  
317 Board of Appeals denied the amendment of the property’s special exception to  
318 allow an expansion of the track. The property owner has informed staff that he  
319 will remove the expanded track area and proceed with complying with the  
320 previously approved site plan. A number of additional structures had been built  
321 and still needed approval through the site plan review process.

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323 Mr. Ewing noted that the land owner must install a septic system by July 1, 2013.  
324 The Planning Commission requested a copy of the Board of Appeals finding of  
325 fact. The Commission’s consensus was that the removal of the expanded track is  
326 not a major change to the plan and they would be comfortable with the Planning  
327 Officer review and rule on the minor amendment.

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- b. Floodplain Ordinance Accessory Structures—Ms. Verdery shared the sizes of permitted accessory structures received via e-mail from our consultant, ERM, which said that the City of Annapolis had a 300 square foot limit on accessory structures, and Dorchester County limits them to 900 square feet, and Somerset County has a 1,200 square foot limit.
- c. Critical Area Maps—Ms. Verdery stated the Critical Area Commission will be issuing our updated critical area maps within the next week. Once we receive the final draft maps we will have two years to adopt them.

- 7. **WorkSessions**—none were brought before the Commission
- 8. **Commission Matters**—none were brought before the Commission
- 9. **Adjournment**—Commissioner Hughes adjourned the meeting at 11:15 a.m.