

1 April 4, 2013



2
3 **Talbot County Planning Commission**
4 **Final Decision Summary**

5 Wednesday, February 6, 2013 at 9:00 a.m.
6 Bradley Meeting Room, Talbot County Courthouse
7 11 N. Washington Street, Easton, Maryland

8
9 **Attendance:**

10 Commission Members:

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

17 Staff:

- 18
19 Sandy Coyman, Planning Officer
20 Mary Kay Verdery, Assistant Planning Officer
21 Brett Ewing, Planner I
22 Elisa Deflaux, Environmental Planner
23 Mike Mertaugh, Assistant County Engineer
24 Carole Sellman, Recording Secretary
25

26 **1. Call To Order**—Commissioner Hughes called the meeting to order at 9:07 a.m.

27
28 **2. Decision Summary Review**—January 2, 2013—The Commission noted the
29 following corrections for the draft summary:

30
31 Decision Summary January 2, 2013:

- 32 a. Line 180, end of Line 179 amend to read “with staff conditions, Commissioner
33 Spies seconded the motion. A positive recommendation received a unanimous
34 vote.”

35 Commissioner Spies arrived at 9:10 a.m.

- 36 b. Line 232, “stakeholders” is one word.
37 c. Line 237, “Commissioner Hughes noted that overnight parking of recreational
38 vehicles should be addressed.”
39

40 Commissioner Boicourt moved to accept the Planning Commission Decision
41 Summary for January 2, 2013 as amended; Commissioner Trax seconded. The motion
42 carried unanimously.
43

44 Decision Summary January 9, 2013:

- 45 a. Insert at line 51, “Chairman Hughes and Vice Chairman Boicourt arrived at 6:00
46 p.m.”
47 b. Line 119, “Mr. Pullen pointed out that the RH Regional Health Care District “is
48 intended to provide for and encourage a regional hospital and related health care
49 facilities in a campus setting and to identify, and it recognizes the importance of
50 such institutions and related uses to continue to be located within and serving the
51 town.”
52 c. Line 169, remove word “but.”

- 53 d. Line 189, “Commissioner Hughes stated it was his understanding that Easton
54 Utilities does not run any utilities unless the property has been annexed and if the
55 deal is over the effectiveness of annexation of all three parcels shall be
56 terminated.”
57 e. Line 157-158, Commissioner Hughes requested that the tape be reviewed to
58 clarify what was said: “Ryan Showalter agreed with Mr. Pullen’s statements and
59 reiterated that the Planning Commission’s role is to make a finding whether the
60 Developers' Rights and Responsibilities Agreement is consistent with the Talbot
61 County Comprehensive Plan. Mr. Showalter submitted a proposed resolution that
62 has a draft finding of fact; he noted a few changes must be made to the draft.”
63 f. Line 179, amend to read “Commissioner Hughes questioned”.
64 g. Line 368 amends to read “Commissioner Hughes asked if there is an option for
65 the person who said they were not getting flooded to opt out.”
66

67 Commissioner Boicourt moved to accept the Planning Commission’s decision
68 summary for January 9, 2013 as amended; Commissioner Trax seconded. The motion
69 carried unanimously.
70

71 **3. Old Business**—None was brought before the Commission.
72

73 **4. New Business**
74

- 75 a. Nancy Bradley—Christopher D. Waters, Waters Professional Land Surveying,
76 Agent. One Year Extension. This case was withdrawn by the applicant.
77
78 b. Robert L. Kennedy c/o Kelley Kennedy—Howell Point Road and Crosiadore
79 Lane, Trappe, MD 21673 (Map 58, Grid 15, Parcel 73, Zone Rural
80 Conservation/Western Rural Conservation), Elizabeth Fink, Fink, Whitten and
81 Associates, Inc., Agent. Mr. Ewing presented the staff report for a critical area
82 three (3) lot subdivision with private road. All lots will have access from a
83 proposed 40’ wide private road right of way (name to be determined). The
84 remaining Rural Conservation and Western Rural Conservation development
85 rights will remain with the parent parcel.
86

87 The Planning staff recommendation included the following conditions:
88

- 89 1. Address the January 9, 2013 Technical Advisory Committee comments of
90 Planning and Permits, Department of Public Works, Environmental Health
91 Department, Talbot Soil Conservation District, Environmental Planner and the
92 Critical Area Commission prior to preliminary plat submittal.
93

94 Elizabeth Fink, of Fink, Whitten and Associates, appeared with her client, Kelly
95 Kennedy. Ms. Fink pointed out this sketch was done prior to a boundary survey,
96 which has now been completed and the preliminary plat will actually show the
97 boundaries and acreages more accurately. The expanded buffer area currently

98 shown on Lot 1 will be removed, in addition Al Kampmayer with Maryland
99 Department of the Environment will verify wetlands and streams delineations.

100
101 Ms. Fink stated that the Kennedys planned to continue farming as long as
102 possible. They have no problem with planting to meet forestry requirement, but
103 would like to defer it as long as possible so as not interfere with farming until the
104 lots are sold.

105
106 Commissioner Hughes stated that as soon as there is “development activity” the
107 required plantings must be installed. Commissioner Boicourt asked if a staged lot-
108 by-lot is permitted. Ms. Deflaux stated the requirements must be met with a
109 change of land use.

110
111 Commissioner Trax asked if one lot is developed can a five acre section of
112 reforestation be installed. Ms. Deflaux said we have never staged the 15% forestry
113 requirement. Commissioner Boicourt stated he was sympathetic with the idea that
114 this is going to be agricultural for a long time. If the ability to stage planting is
115 there that seems to be a reasonable way to go. It is harder for the staff to track but
116 it does make sense.

117
118 Commissioner Hughes reiterated that it meant requiring aforestation as each lot is
119 developed and asked if Ms. Fink had a problem with that or if she had any
120 remarks. Ms. Fink had no problem with afforesting at the time of development of
121 each lot. Commissioner Hughes asked if it has been a practice in the past to allow
122 piecemeal forestation.

123
124 Ms. Deflaux stated that there is a 15% forest requirement. They have to plant 15%
125 of 115 acres, so 5 acres must be planted to do the development activity of
126 subdividing. Commissioner Hughes stated that he assumed that the whole 15%
127 would be platted all at once. Ms. Deflaux stated that the forestry is guaranteed by
128 a surety so the surety can be released incrementally.

129
130 Ms. Fink suggested to only plant a portion of the 15% to satisfy lots 1 through 3,
131 and if the applicant wished to develop the remaining lands of parcel 73, they
132 would have to come back through Technical Advisory Committee requiring the
133 remaining plantings. Commissioner Hughes stated that the 15 acres set aside on
134 the plat to be planted incrementally is acceptable, but the required planting areas
135 shall be depicted on the approved plat.

136
137 Commissioner Boicourt moved to approve the sketch plan for the three lot
138 subdivision with private road of Robert L. Kennedy, Howell Point Road in
139 Trappe, with staff conditions and afforestation to be phased in as the three lots are
140 built, Commissioner Trax seconded. The motion carried unanimously.

- 141
142 c. Thomas C. and Maria M. Mitchell—1807 Chancellor Point Road, Trappe,
143 Maryland (Map 62, Grid 17, Parcel 19, Lot 11, Zone Rural

144 Conservation/Agricultural Conservation), Bill Stagg, Lane Engineering, Agent.
145 Mr. Ewing presented the applicant's request for the preliminary plan approval of a
146 five (5) lot subdivision with private road. The five lots will range in size from
147 4.789 acres to 16.366 acres with access from a proposed 40 foot wide private road
148 right of way. No Rural Conservation development rights will remain. A Maryland
149 Department of the Environment permit and Board of Appeal variance as required
150 to upgrade the driveway to a private road in the nontidal wetland buffer
151 The staff recommendation contains the following conditions:

- 152
- 153 1. Address the January 9, 2013 Technical Advisory Committee comments of
- 154 Planning and Zoning, Department of Public Works, Environmental Health
- 155 Department, Talbot Soil Conservation District, the Environmental Planner and
- 156 the Critical Area Commission prior to final plat submittal.
- 157 2. The applicant obtain a lot size waiver and pier waiver.
- 158 3. The applicant must obtain a variance from the Board of Appeal for wetland
- 159 buffer impacts prior to final plat approval.
- 160

161 Mr. Ewing pointed out that there was also a pier and a lot size waiver request
162 before the commission.

163

164 Bill Stagg of Lane Engineering appeared with Thomas Mitchell. Mr. Stagg
165 addressed the subdivision plan, which at sketch showed six waterfront lots, Mr.
166 Mitchell agreed to remove one, so five remain. The new configuration gives
167 parent lot 1 water access . The buffer configuration was changed, after an eagle's
168 nest was discovered; this change only affects lot 16. Mr. Stagg believes that a
169 wetland permit was not needed for the existing driveway unless the County
170 requires the entire right of way cleared. A variance would be needed because the
171 driveway crosses a Critical Area nontidal wetland buffer. He said that the
172 applicant would not need a Maryland Department of the Environment permit, and
173 he will address the County requirements.

174

175 Commissioner Boicourt voiced a concern with the need for a lot size waiver for
176 lots 12, 15 and 16. Mr. Stagg noted that if the lots are reconfigured to comply it
177 would result in pockets of noncontiguous area for lot 1. Mr. Hughes observed that
178 the lots are subject to the 200 foot buffer requirement and Delmarva Fox squirrels
179 exist onsite.

180

181 Commissioner Sullivan questioned the pipe stem on lot 11, Mr. Stagg and Staff
182 responded that it met the code. Mr. Stagg stated they got rid of a building lot
183 there.

184

185 Pier Waiver—Mr. Stagg stated that the County requires a waiver to locate a pier
186 without a principal use on the lot. Commissioner Trax moved to approve
187 Chancellor Point Estates, Thomas C. Mitchell, and request for a pier waiver for
188 Lot No. 13, seconded by Commissioner Spies. The motion carried unanimously.
189

190 Lot Size Waiver—Commissioner Trax moved to approve the request for a lot size
191 waiver for Lots 12, 15 and 16 as shown on the preliminary plat, seconded by
192 Commissioner Spies. The motion carried unanimously

193
194 Commissioner Trax moved to approve the request for Chancellor Point Estates,
195 Thomas C. Mitchell, five (5) lot subdivision with private road conditioned on staff
196 conditions being met:
197

198 1. The applicant address staff comments and all of the issues outlined in the
199 January 9, 2013 Technical Advisory Committee “Notice to Proceed.”

200 2. As proposed, a Planning Commission pier waiver and lot size waiver is
201 required for lots 12, 15 and 16 prior to final approval

202 3. The applicant shall obtain a Maryland Department of the Environment
203 (MDE) permit (if needed) and Board of Appeals variance to upgrade the driveway
204 to a private road located in a non-tidal wetland buffer in the critical area.
205

206 Seconded by Commissioner Boicourt. The motioned carried with four
207 commissioners in favor, Commissioner Sullivan opposed.
208

- 209 d. Talbot County, Recommendation to County Council—Floodplain Management
210 Ordinance from Environmental Resources Management (ERM), FEMA Riverine
211 Flood Insurance Rate Maps and Flood Insurance Study—Mary Kay Verdery,
212 Assistant Planning Officer, Talbot County, Maryland.
213

214 Ms. Verdery reviewed the code comparison document dated February 1, 2013,
215 which was provided to the Planning Commissioner members as well as the joint
216 work session with the County Council members.
217

218 Commissioner Hughes had a question regarding the 900 square foot limit of an
219 accessory structure. Ms. Verdery stated that there is a suggested accessory
220 structure size limit. The maximum size is being left at 900 square feet for the A
221 Zone. In the V and Coastal A Zone the requirements state that they should be low
222 cost and small structures and the guidance from FEMA is that they be smaller
223 than 100 square feet in size and cost less than \$1,000. Staff suggested 300 square
224 feet in the V and Coastal A Zone which is the typical size of shed structure. The V
225 and Coastal A Zone is primarily located along the shoreline and within the 100-
226 200 foot shoreline buffer where construction is typically not going to occur. You
227 can still have an attached garage as long as the house and garage foundations are
228 not attached. You can have an access through a common wall with an opening.
229

230 Commissioner Hughes asked if you have substantial damage that is caused by fire
231 or action other than a flood would you have to jack your house up. Ms. Verdery
232 said they checked and FEMA and Maryland Department of the Environment both
233 stated that improvements after substantial damage of any origin require
234 compliance with the ordinance. This is the opportunity for a noncompliant

235 structure, subject to being flooded, that is a potential hazard to be brought into
236 compliance. Commissioner Hughes stated he wished we had testimony from
237 someone in the insurance business regarding the added costs. Commissioner Spies
238 stated he doubted they will cover it, his assumption is that you are responsible for
239 it. If your hot water heater is damaged, your insurance company has to put a new
240 one in and if your pipes are not up to code your insurance company will not cover
241 the new pipes, you are responsible for that cost.

242
243 Commissioner Boicourt pointed out how insurance companies used slight
244 distinctions of what they will cover, like wind and storm damage though the
245 damage was caused by the same storm. In this case Federal Emergency
246 Management Agency stated substantial damage of any origin requires
247 compliance.

248
249 Ms. Verdery reviewed the most recent changes to the draft and provided
250 clarifying information.

251
252 On February 5, 2013 we received our letter of final determination. The maps
253 become effective six months from that date. When this goes before the County
254 Council with Planning Commission recommendation we are looking for a County
255 Council timeline of February 26th introduction, March 26th public hearing, and a
256 vote on April 9th, with an effective date of August 5, 2013.

257
258 Mr. Hughes asked how the maps can be amended after adopted. If an area is
259 mapped in a floodplain but meets or exceeds elevation requirements the property
260 owner must go through map amendment process. They have now come up with an
261 online process for amending flood insurance rate maps. Ms. Verdery
262 acknowledged that the amendment process has already been approved for several
263 properties in the community.

264
265 Ms. Verdery stated that in our current code we specifically say that development
266 may not occur in a floodplain where an alternative location exists due to the
267 inherent hazards and risks involved. The Maryland model and FEMA do not say
268 that you may not construct within a floodplain just that if you do, construction
269 must comply with the floodplain ordinance.

270
271 Commissioner Hughes stated that given what he has seen of flood maps in the
272 County he thinks we should avoid building in the floodplain as much as possible.
273 Commissioner Trax is not concerned about us being more stringent than the
274 Maryland model and would support maintaining our current language. The
275 Commission members, after some discussion, agreed the more stringent language
276 was more beneficial.

277
278 For fill placement the ordinance defines an alternative to the term “minor
279 quantity” and put a limit of 50 cubic yards in the V Zone for landscaping and
280 drainage purposes. An exception was put in that fill associated with the

281 nonstructural shoreline stabilization can exceed that limit as long as the project is
282 in accordance with the Maryland Living Shoreline Protection Act of 2008. Ms.
283 Verdery stated the 50 cubic yard limit was regardless of the size of the lot.
284 Accessory structures in the V Zone are to a maximum of 300 square feet
285 Additional language was added to state that accessory structures larger than 300
286 square feet in floor area and below the base flood elevation are not permitted
287 unless a variance is granted as provided in Article 6.
288

289 On page 27, you have always been permitted to get a variance of the floodplain
290 management ordinance, but specific factors have been defined for the Board to
291 consider when you request a variance of this Ordinance. Ms. Verdery stated the
292 Board of Appeals had been given a copy of the updated ordinance.
293

294 Ms. Verdery stated exceptional hardship had been changed to “unwarranted”
295 hardship which was already a defined term in the code. We also added an extra
296 sentence that says “an unwarranted hardship exists if without a variance the
297 applicant would be denied significant use of the entire parcel or lot for which the
298 variance is requested”.
299

300 At Mr. Spies suggestion, the twelve month period for cumulative value was
301 clarified to extend from the certificate of occupancy date for the first
302 improvement until the building application date of the subsequent improvement.
303

304 Previously we required that an elevation certificate be submitted at completion of
305 the lowest floor. The requirement now is that you first sign an elevation certificate
306 agreement when you put in your building permit. Then you have to provide two
307 subsequent elevation certificates. One when you build the lowest floor so that we
308 ensure that it complies with the flood protection elevation. Then one when you are
309 at final approval to get a second elevation certificate so we know that all utilities
310 and additional construction meet the requirements as well.
311

312 In the definitions we have added pictures. The typical home construction picture
313 identifies several terms in the ordinance and shows the requirements, the free
314 board, the duct work and electrical height requirement, lowest grade, lowest floor,
315 base flood elevation, that you cannot have a basement, requirement for flood
316 openings. Further within the definitions we incorporated a Coastal A Zone
317 picture. We also have a picture after the term floodway that depicts what a
318 floodway is and what the requirements are.
319

320 The AO Zones are areas of shallow flooding. Currently the only AO zone is
321 located in the town of Easton. The town of Queen Anne is going to be mapped
322 with the County of Queen Anne and may contain areas of AO zoning.
323 Commissioner Boicourt moved to recommend to the County Council the amended
324 Flood Management Ordinance, specifically with the language for accessory
325 structures, if the structure is over 300 feet in the V or Coastal A zone it will
326 require a variance and we add the current language requiring structures to be

327 located outside the floodplain unless no alternative exists. Commissioner Spies
328 seconded. The motion carried unanimously.

329
330 Commissioner Boicourt move to recommend to the County Council to adopt the
331 digital Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS)
332 to become effective on August 5, 2013, Commissioner Trax seconded. The
333 motion carried unanimously.

334
335 e. Talbot County—Public Hearing and Recommendation to County Council—Shore
336 Health Systems Developers Rights and Responsibilities (DRRA)—Ryan
337 Showalter

338
339 Commissioner Hughes acknowledged receipt of final version of the Developers
340 Rights and Responsibilities Agreement dated February 1, 2013. Mr. Showalter
341 stated that on Monday evening the Easton Town Council adopted their resolution
342 to approve the agreement. A few blanks for dates are yet to be entered and Exhibit
343 G references the Subdivision Plat for the property is pending and not yet recorded.

344
345 Mr. Showalter noted that Lot 4, a small six acre parcel, will have access onto new
346 relocated Maryland Route 662. This lot will require road access and therefore will
347 be consolidated with other lands to meet Town standards.

348
349 Michael Pullen, Talbot County Attorney thanked staff and Mr. Showalter for their
350 assistance with the Developers' Rights and Responsibilities Agreement. He also
351 thanked Shari Van Enberg and Joe Stephens on behalf of the Town, Public works
352 as well, Mike Mertaugh and Ray Clarke, the staff of Easton Utilities. He then
353 formally transmitted the agreement to the Commission for review and action.

354
355 Commissioner Hughes noted that a final finding of fact and law would be
356 required; Mr. Showalter provided a draft.

357
358 Commissioner Hughes convened the public hearing. There were no public
359 comments on the agreement.

360
361 Commissioner Hughes stated that our legislature previously decided what
362 consistency with a comp plan meant a couple of years ago. The term shall be
363 defined to mean an action taken to mean an action taken to further and not be
364 contrary to policies at plan implementation, , timing of development, timing of
365 rezoning, development and patterns, land uses, densities or intensities. He
366 observed that all these factors have been explicitly reviewed by the Commission.
367 He recommended the Commission use Mr. Showalter's draft findings as a basis
368 for the Commission's final version.

369
370 Commissioner Boicourt moved for the Commission to make a finding that the
371 Developers' Rights and Responsibilities Agreement dated February 1, 2013 is
372 consistent with the Talbot County Comprehensive Plan and that the Commission

373 strongly recommends to the County Council acceptance of the Developers Rights
374 and Responsibility Agreement as amended. Further the draft Findings of Fact and
375 Law presented to the Commission by Mr. Showalter be adopted as the
376 Commission's findings. as consistent with the Comprehensive Plan,
377 Commissioner Sullivan seconded. The motion carried unanimously.
378

379 **5. Discussion Items**

- 380
- 381 a. Mr. Ray Clarke, County Engineer reviewed for the Commission the following
382 proposed water and Sewer Plan amendments for discussion to solicit the
383 Commission's questions and issues if such arise.
384

385 Currently four proposed amendments to the Talbot County Water and Sewer Plan
386 are in development. Two projects are capital improvement projects to be
387 incorporated in the comprehensive water and sewer plan to secure rural
388 development funding.
389

- 390 1. Easton Airport Sewer Line—capital project replace existing pump station
391 and force main with a new gravity sewer line. The project is in Easton
392 Sewer Service Area. This work will be part of the sewer extension to the
393 hospital.
394
- 395 2. Bio-Solids Treatment Facility Upgrade—This County project will install
396 new equipment, add processing and holding tanks for septage treatment,
397 and construct a new a new brown grease receiving and treatment facility.
398

399 Commissioner Hughes asked if this will raise costs for the haulers. Mr.
400 Clarke stated the costs are typically 6 cents gallon. Commissioner Hughes
401 asked if there was any down line use for the brown grease. Mr. Clarke said
402 it can be used as a biofuel.
403

- 404 3. Cahall Property—Failing septic system along Maryland Route 33. Located
405 along Unionville Force Main.
406

407 In meeting with Mr. Cahall we advised the policy that was set up.
408 Environmental Health attempted to put a curtain wall in to redirect that
409 water but it is a major problem for them during high ground water and
410 heavy rains. We do have the force main that is going down Route 33, the
411 force main policy adopted by the County Council in October of 2010,
412 October 26th. Commissioner Hughes stated he is concerned about allowing
413 access to the force main without formal adoption of the new sewer access
414 policy. The reason he is all right with going ahead with this today is that
415 Mr. Clarke has assured him that Mr. Cahall and the other persons involved
416 with the Royal Oak line will have to sign a binding recorded agreement
417 that he will now and forevermore be limited to a set equivalent dwelling
418 unit gallonage for the size of his existing house on the Cahall property. So

419 that will protect us for the short run until the rest of these properties get
420 entered into water and sewer plan and the comp plan and any other
421 documents.
422
423 4. Thornton and Chance Farm Road properties—Proposal would classifying
424 this area as an “Area of Limited Sewer Availability” in which existing
425 homes would be eligible to receive one sewer tap. In addition the
426 amendment would (1) allocate sewer to fifty-five lots. (2) a lot 125 gallons
427 per day for each allocation.
428

429 Commissioner Hughes asked if that person would also have to sign a
430 binding instrument; Mr. Clarke responded that they would.
431

432 Commissioner Hughes asked if Mr. Clarke needed four separate
433 recommendations on these projects. Mr. Clarke stated that he would be bringing
434 back formal resolutions in either in March or in April. At this meeting he wanted
435 to introduce the projects on a conceptual basis and get the Commission’s input.
436

- 437 b. Temporary Use Regulations—Ryan Showalter on behalf of Miles River Yacht
438 Club submitted proposed draft amendment to clarify the criteria for temporary use
439 permits. As a result of an enforcement action against the Yacht Club, it appeared
440 to all involved that some clarification of the temporary use standards would be
441 useful.
442

443 Commissioner Hughes suggested that the use of recreational vehicles at special
444 events be addressed through explicit standards. Commissioner Sullivan
445 questioned the limit of two days for a temporary use certificate. He stated that
446 many normal family events last more than two days. Ms. Verdery explained the
447 use certificate was for the event itself.
448

- 449 c. MEBA Outdoor Firing Range—Ryan Showalter on behalf of Marine Engineer’s
450 Beneficial Association
451

452 Ryan Showalter, Chuck Easter, Interim Director, Brian Jennings Industrial Arts
453 Department Manager, Larry Van Becton Assistant Director of Academics
454

455 Mr. Showalter presented a draft zoning text Amendment. The school is in need of
456 a firearms training facility. They have met with immediate surrounding neighbors
457 and shared the general needs of the school and received feedback from the
458 community. The school representatives gave a brief summary of the school
459 program, objectives and need for a firing range. The proposed facility would be
460 designed to National Rifle Association design standards for noise abatement and
461 safety.
462

463 Mr. Showalter displayed an aerial photo showing where the range proposed
464 location outside the shoreline development buffer. The range is proposed to have

465 a maximum shooting distance of 25 yards with a maximum of six shooting
466 stations. It would not be open to general public and it would be designed in accord
467 with the National Rifle Association guidelines including earth berms, a no blue
468 sky environment, and projectile baffles above the range. The berm height and
469 range design is sized and configured to minimize noise.

470
471 The use is recommended as a special exception and it would also require site plan
472 review by the Planning Commission. The proposed amendment contains a series
473 of standards including parcel size requirements, road frontage requirements,
474 design requirements all based on National Rifle Association guides, including
475 eight foot tall security fencing, setback requirements beyond shore development,
476 property line setbacks, screening from highway, noise criteria consistent with
477 Code of Maryland regulations and county noise ordinances, express requirements
478 for site plan review.

479
480 The use will be limited to law enforcement and firearms training, no general
481 public use with a prohibition on storage of live ammunition and firearms. These
482 items must be properly stored at the school and locked, not on range.

483
484 Mr. Showalter related that in meetings with the neighbors, two concerns were
485 expressed which were about time and noise. Marine Engineer's Beneficial
486 Association needs to retain some timing flexibility. This is a relatively short
487 duration course which needs to be scheduled along with the rest of the curriculum.
488 The range would not be used every day, so it is proposed to limit use to a
489 maximum of 250 hours per year and eliminate Saturday, Sunday and federal
490 holidays. Shooting would occur Monday through Friday during business hours.
491 Training regiment does involve reduced light or low visibility shooting, it is a
492 relatively minor piece, but what we have included in the section includes 15 days
493 a year between dusk and 8 pm, and a few days a year 30 minutes after sunset to
494 conduct low light shoot. There is a prohibition on outdoor lighting; only security
495 lights would be permitted.

496
497 Commissioner Hughes asked about the status of the approved indoor range. Ms.
498 Verdery stated that was approved for multiple requests, not specific to Marine
499 Environmental Beneficial Agency, none have gone forward. Mr. Ewing noted that
500 the indoor range is not permitted in the Rural Conservation zone. Commissioner
501 Hughes stated that an outdoor range was not a permitted use in the Rural
502 Conservation zone either, so would an indoor range be feasible for this use?

503
504 Mr. Showalter stated an indoor range is cost prohibitive which to work would
505 require opening it to the public for a fee. Also a quasi-indoor range using some
506 type of pole frame structure with roof and berms was examined, but air quality
507 concerns negated this approach and it would have increased noise.

508
509 Mr. Van Becton stated the weapons would not be automatic and that all range
510 officers would be certified for the weapon types used.

511
512 Commissioners expressed concern about safety and noise and asked how the
513 noise could be mitigated. Mr. Showalter said sound engineering studies would be
514 used to design the facility. He is confident there is a technical way to address
515 those concerns and noted that all weapons would be fired toward the school away
516 from the neighboring homes. Mr. Showalter indicated that alternative sites had
517 been considered; the nearby forested area is too wet.

518
519 The Commissioner instructed staff to include a limit of 25 yards for the length of
520 a range.

521
522 Harry Shaw, retired infantry officer, expressed concern that the training would be
523 ineffective and that the range would have a negative impact on wildlife.

524
525 John Bayliss, President of Arcadia Shores Association, expressed concern about
526 safety, environmental impact lead contamination in soil and groundwater, noise
527 pollution, property devaluation, loss of recreational value, and wildlife impact.

528
529 Ron Kyhos, Aveley One Board Member, proposed that the language be amended
530 to read “from any adjacent dwelling” to “any adjacent property line” for the
531 setback requirement section.

532
533 d. Village Center development moratorium and sewer extension planning—Mr.
534 Coyman, Planning Officer, summarized progress of the Village Center ad hoc
535 group who had met with the County Council for a worksession and proposed
536 several approaches to limiting future development in the villages and also revising
537 sewer access policies that would reserve total maximum daily loads, sewer
538 capacity, existing development, existing lots, with the idea of converting existing
539 septic systems to much higher levels of treatment at our enhanced nutrient
540 removal wastewater treatment plants.

541
542 To implement the group’s recommendations the comprehensive plan, zoning code
543 and the water and sewer plan will need to be amended. The Ad Hoc Group, Mr.
544 Hughes, Mr. Sullivan, Mr. Wolfe and Mr. Fisher will meet this afternoon at 2:30,
545 on how we will achieve this. The Comprehensive Plan and the zoning change
546 need to occur before April 2014. The proposals will be reviewed by the Village
547 Board at their March meeting.

548
549 e. Planning Commission Bylaws Status and Discussion—Ms. Verdery, Assistant
550 Planning Officer, related that the Planning Commission made a bylaw
551 recommendation to the County Council in March of 2011 The County Attorney,
552 Mr. Pullen, has created a new Section 11 addressing appeals of Planning
553 Commission decision. The Commission was asked to review the new section at its
554 next meeting.

555

556 The Commissioner discussed the issue of standing requirements for an appeal.
557 Mr. Pullen will provide guidance as to what constitutes participation to establish
558 standing to appeal. Mr. Pullen stated that the courts have interpreted that
559 consistently that anyone who makes their opinion known at the Planning
560 Commission level is a participant. They can write a letter, they can testify, they do
561 not have to be represented formally, it is a very broad standard. If someone just
562 comes and sits in the audience and says nothing, and has not written a letter and
563 has not weighed in, they haven't expressed an opinion, they are not a participant.
564

565 Commissioner Hughes asked about the timing of drafting an opinion. Mr. Pullen
566 stated they have to file the appeal within 30 days and the Commission has 60 days
567 to finalize an opinion. Staff would provide a draft finding and the Commission
568 would review and finalize it. Mr. Pullen stated that it is a good idea to include the
569 majority and minority opinion if a minority opinion exists.
570

571 **6. Staff Matters**

572 **7. Commission Matters**

573 a. Status report on logging recommendations—Sandy Coyman, Planning Officer
574

575 Mr. Coyman stated the County Council intending to review it February 12th and
576 deferred it.
577

578 b. Future Meetings—Ms. Verdery noted that the May 1st Meeting will be at the Wye
579 Oak Room at the Community Center. This will be posted on the Agenda in bold.
580

581 **8. Adjournment**—Commissioner Hughes adjourned the meeting at 1:25 pm
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