February 9, 2015

Talbot County Planning Commission
Final Decision Summary
Wednesday, January 7, 2015 at 9:00 a.m.
Bradley Meeting Room
11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes
William Boicourt
Michael Sullivan
Paul Spies
Jack Fischer

Staff:

Mary Kay Verdery, Planning Officer
Daniel Brandewie, Assistant Planning Officer
Jeremy Rothwell, Planner I
Martin Sokolich, Long Range Planner
Mike Mertaugh Assistant County Engineer
Anthony Kupersmith, Assistant, County Attorney
Carole Sellman, Recording Secretary

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

2. **Election of Officers**—

   Commissioner Boicourt moved to elect Commissioner Hughes as Chairman and Commissioner Fischer seconded. Commissioner Hughes remarked that if elected, this will be his last year as Chairman under the Bylaws. The vote was taken and Commissioner Hughes was elected by a vote of 5-0.

   Commissioner Sullivan moved to elect Commissioner Fischer as Chairman and Commissioner Spies seconded. Commissioner Fischer stated that there were others more qualified than he. The Commission members discussed the nomination and Commissioner Fischer agreed to accept the nomination. The vote was taken and Commissioner Fischer was elected by a vote of 4-1.

3. **Decision Summary Review**—December 5, 2014—The Commission noted the following corrections to the draft decision summary:
   a. Line 264-265, change sentence to read, "Commissioner Hughes stated that after review he did not feel that the Commission should be sending letters inviting applicants to amend site plans they had violated in the first place, and this view was unanimously held by all members of the Planning Commission."

      Commissioner Sullivan moved to approve the draft Planning Commission Decision Summary for December 3, 2014, as amended; Commissioner Boicourt seconded the motion. The motion carried unanimously.

4. Special Meeting Decision Summary Review—December 5, 2014

Commissioner Boicourt moved to table the review of the draft Planning Commission Special Meeting Decision Summary for December 5, 2014; Commissioner Fischer seconded the motion. The motion carried unanimously.

5. Old Business

a. Recommendation of Annual Report on County Growth to the Maryland Department of Planning

Mr. Sokolich stated that the requested changes did not affect the Report, but were in the cover Memorandum. The changes are in the bullet points where it was unclear what kind of development was being discussed. Mr. Sokolich spoke with our Permits Managers and even though there is not as much new construction there is still quite a bit of investment in property.

Commissioner Hughes stated that he still could not get an idea of how many permits were turned down. Mr. Sokolich explained that there is no record of permits turned down. What the current process is when there is a problem, for example if the sketches are not correct, the applicant is requested to correct their sketches and resubmit. Whatever the problem is the applicant is given an opportunity to correct the problem and resubmit it so that the permit can be processed. Commissioner Hughes stated this needs to be explained to the County Council because there have been a lot of complaints about citizens saying the County will not let me do this or do that.

Ms. Verdery stated that this may be the issue where citizens are being told that their property is not buildable due to Code regulations, but that would be prior to the permits process. Commissioner Hughes stated that if citizens are being denied the opportunity to do something, it is probably as much a state regulation as a County regulation.

Mr. Sokolich stated that as we move forward we are going to have work sessions with the County Council to familiarize them with the operations of the Planning Office.

Commissioner Fischer stated that the word "only" should be deleted from the third line of the last paragraph on the last page of the report. Commissioner Hughes stated on the second line the word “incorporated” should be inserted before “towns” because people often don't know the corporate boundaries of the towns, or the legal difference between incorporated towns and rural villages.

Commissioner Boicourt moved to positively recommend the 2013 Annual Development Report to the Maryland Department of Planning; Commissioner Sullivan seconded the motion. The motion carried unanimously.

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6. New Business

a. Verizon Wireless, c/o Network Building and Consulting LLC, "Falcon" (SP 555 and Appeal No. 14-1623)—29415 Tarbutton Mill Road Trappe MD 21673, (map 48, grid 24, parcel 76, zoned Countryside Preservation), Harold Bernadzikowski, Agent.

Mr. Rothwell presented the staff report of the applicant's request for a modification to Special Exception No. 880 to expand the fenced equipment compound area by approximately 1,040 square feet for the existing telecommunications tower. The proposed expansion would provide adequate area for Verizon Wireless to install an equipment shelter and backup generator to operate Verizon's antennas which are to be collocated on the existing tower. The Planning Commission shall provide a recommendation to the Board of Appeals as per the *Talbot County Code* §190-180 B(2).

Staff recommendations include:

1. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Board of Appeals approval.
2. The applicant shall make applications to and follow all of the rules, procedures and construction timelines as outlined by the Office of Permits and Inspections regarding new construction.
3. The project will be required to address forest conservation, to include mitigation for the removal of any trees.

Commissioner Sullivan questioned that Verizon's equipment appeared to be larger than the other equipment.

Mr. Bernardzikowski appeared on behalf of Verizon. He stated that yes; Verizon equipment is larger than the other equipment. He said usually if Verizon is a part of the original project a larger compound is built initially, but this project was completed piecemeal.

Commissioner Boicourt stated that this structure was very unobtrusive.

Mr. Mertaugh stated there might be a need for a parking pad and/or turning area. But if the Planning Commission feels it is not necessary, it is not necessary. Mr. Bernardzikowski stated that they are looking into the fact if there is still room to do a three point turn. If there is not, they plan to bump out the drive on the opposite side of the driveway. Mr. Mertaugh explained that the surface is well hardened. Commissioner Hughes asked if staff is comfortable with comments as they stand. Staff was agreeable with the plan as it stands.

Commissioner Hughes asked for comments from the Commission and the public. There were none.

Commissioner Boicourt moved to approve the major site plan for modification for expansion of the existing compound for the installation of Verizon Wireless equipment associated with collocation of antennas at Tarbutton Mill Road, on the existing tower with Staff conditions, providing the special exception by the Board of Appeals be approved, Commissioner Sullivan seconded. The motion carried unanimously.

Commissioner Hughes asked for public comment on the special exception, there were none.

Commissioner Spies moved to recommend to the Board of Appeals to approve the request for modification of special exception of equipment of Verizon Wireless at Tarbutton Mill Road, on the existing tower, as it meets all the warrants of the Code, has minimal environmental impact and improves cell phone coverage for the County, Commissioner Sullivan seconded. The motion carried unanimously.

b. Chesapeake Landing Restaurant c/o Spurry Family Partnership (SP 554 and Appeal No 14-1624)—23713 St. Michaels Road, St. Michaels, MD 21663, (map 22, grid 5, parcel 2, zoned Rural Conservation), Joseph Spurry, Agent.

Mr. Rothwell presented the staff report for the amendment to an existing Special Exception from the Board of Appeals to convert interior office spaces to allow a bar and waiting area. This conversion expands the legal nonconforming restaurant use by approximately 600 square feet within the confines of the existing structure, and would increase the seating capacity by 32 persons. The applicant is also requesting to change the operating hours to 11 am to 10 pm. The Planning Commission shall provide a recommendation to the Board of Appeals as per the *Talbot County Code* §190-180 B(2).

Staff recommendations include:

1. The applicant must comply with COMAR 10.15.03 with regards to the submittal of the food facility plan review to the Office of Environmental Health. The point of contact is Carlie Jo Wagner, who can be reached at 410-770-6880. No application for building permit for the proposed changes will be approved by the Office of Environmental Health without first securing the require food facility plan review approval.
2. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Board of Appeals approval.
3. The applicant shall make applications to and follow all of the rules, procedures and construction timelines as outlined by the Office of Permits and Inspections regarding new construction.

The applicant would like to add a bar and waiting area, change operating hours to 11 am to 10 pm, from previous closing time of 9 pm. The last time the applicant

put in an appeal to the Board of Appeals there was a limit to the seating to 125. There was a discrepancy between what was approved and what exists which is 160. Mr. Rothwell met with the State Fire Marshall and one of the Code Inspectors and inspected the site and it meets capacity limits of the State Fire Code. Currently the site has an excess of parking spaces. Planning and Zoning has no objection to the expansion.

Commissioner Hughes asked if that occupancy number includes outdoor seating. Mr. Rothwell explained there is no outdoor seating. He also explained one of the warrants deals with nuisance and noise impacts to adjacent properties. One of the previous Board of Appeals decisions stipulated there is to be no live music and they are not asking for any. There have not been any noise complaints and State Highway gave their approval of this project as well.

Mr. Spurry appeared on behalf of applicant. Commissioner Hughes asked if there had been complaints or any liquor violations on the property. Mr. Spurry stated he just recently had a liquor violation for serving a minor and this is the last day of his liquor license suspension.

Mr. Rothwell stated the Environmental Health Department required that the applicant submit a food facility plan review. Mr. Rothwell explained this application had gone through a site plan process and the Environmental Health Department had an opportunity to review this application.

Commissioner Hughes clarified the time for the bar to close will be at 10 pm. Mr. Spurry stated it was only for the bar, he had no plans to keep the restaurant and seafood area open later than 9 pm.

Commissioner Boicourt moved to recommend to the Board of Appeals the special exception modification to grant the Spurry Family Partnership/Chesapeake Landing Restaurant to expand the legal nonconforming restaurant within the existing structure, parking is already within parameters, accommodate additional seating capacity of 32 persons, the request for expanding the operating hours from 9 pm to 10:00 pm seems reasonable, the Environment Health Department will inspect the new area, and State Highway Administration states they are in approval; Commissioner Spies seconded. The motion carried unanimously.

c. Fred Israel and Lesley Israel (1155)—6397 Cedar Cove Road, Royal Oak, MD 21662, (map 40, grid 14, parcel 60, zoned Rural Conservation), Sean Callahan, Lane Engineering, LLC, Agent.

Mr. Rothwell presented the preliminary major 4 lot subdivision, lot size waiver for Lot 4, and amendment to Lot size waiver for Lots 2 & 3. Lot 4 needs a waiver because it is over 5 and less than 20 acres. Staff recommends approval to accommodate the existing driveway, primary dwelling and the existing SDA on the lot. At the sketch level Lots 2 and 3 were approved for a lot size waiver, but

their configuration has been amended since sketch. There is an existing barn and an existing agricultural well shown in the required setbacks and the applicant has two choices: he can amend the proposed lot lines or obtain a Board of Appeals variance. We have discussed these alternatives with the applicant and their first preference is a lot line revision which was sent out to the Commission.

Mr. Callahan presented various options for lot reconfiguration and stated that Option D is the preferred configuration as the road in this area already exists. Option D moves the lot line to include the barn, well and driveway with the existing agricultural components on Lot 1.

Commissioner Hughes stated that in the past there has been a problem with the Commission getting plats on the fly, with options A, B, C and D and if they don't work, trying E, F and G. Ms. Verdery stated the well and barn issue were discovered at the recent Technical Advisory Committee. She suggested approving the preliminary with the requirement to show Option D on the final plat if the Commission supports that option.

Commissioner Hughes asked for comments from the Commission, the staff and the public. There were none.

Commissioner Spies moved to approve the Lot Size Waiver for Lot 4 for Fred and Lesley Israel, 6397 Cedar Cove Road, Royal Oak, MD 21662, with staff conditions because a lot somewhat larger than 5 acres makes more sense for site design; Commissioner Boicourt seconded. The motion carried unanimously.

Commissioner Spies moved to approve Lot 2 & 3 for Fred and Lesley Israel, 6397 Cedar Cove Road, Royal Oak, MD 21662, with staff conditions, as these modifications make greater sense with site design, Commissioner Sullivan seconded. The motion carried unanimously.

Commissioner Spies moved to approve the preliminary major 4 lot subdivision for Fred and Lesley Israel, 6397 Cedar Cove Road, Royal Oak, MD 21662, with the lot reconfiguration as shown on Option D to include the barn and well on Lot 1, and all staff conditions, Commissioner Boicourt seconded. The motion carried unanimously.

7. Discussions Items

a. Interim TMDL Milestone Report—Ms. Verdery stated we will be putting out a letter associated with the milestones to date. We will need to make a recommendation to the County Council. We hope to establish some dates to meet on the Comprehensive Plan outside of our regular meeting dates and include the Council recommendation for the milestone letter on to those. Otherwise we will include this item on our February meeting agenda.

Commissioner Boicourt asked if we are getting any help from the State. Ms. Verdery stated this report is to account for what we have done to date. Public Works is working with us on this. Staff is also working on a project to map the location of living shoreline projects and permanently preserved lands. Mr. Sokolich stated the State lists the best management practices they recognize and establish the nutrient reduction they recognize from this.

8. Staff Matters

a. Attorney General Douglas Gensler opinion—Commissioner Hughes stated he spoke with Mr. Pullen and he said the Opinion in the package is for reference only and does not apply to Charter Counties such as Talbot.

9. WorkSessions

a. Review draft Comprehensive Plan—Adjourned for Comprehensive Plan worksession at 10:24 a.m.

The Planning Commission has unanimously decided that there will be a public hearing of the Comprehensive Plan on Thursday, January 29, 2015 at 6:00 p.m. and again on Wednesday, February 4, 2015 immediately following the agenda of the regularly scheduled Planning Commission meeting.

9. Commission Matters

10. Adjournment–Commissioner Hughes adjourned the Planning Commission meeting at 3:48 p.m.

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