

1 May 2, 2016



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

5 Wednesday, January 6, 2016 at 9:00 a.m.

6 Bradley Meeting Room

7 11 N. Washington Street, Easton, Maryland

8
9 **Attendance:**

10 Commission Members:

- 11
- 12 William Boicourt, Chairman
- 13 John N. Fischer, Jr., Vice Chairman
- 14 Michael Sullivan
- 15 Paul Spies
- 16 Phillip “Chip” Councill
- 17

18 Staff:

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- 20 Mary Kay Verdery, Planning Officer
- 21 Jeremy Rothwell, Planner I
- 22 Martin Sokolich, Senior Planner
- 23 Mike Mertaugh, Assistant County Engineer
- 24 Mike Pullen, County Attorney
- 25 Carole Sellman, Recording Secretary
- 26

27 **1. Call to Order**—Commissioner Boicourt called the meeting to order at 9:04 a.m.

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29 **2. Election of Officers**

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31 Commissioner Fischer moved to elect Commissioner Boicourt as Chairman and
32 Commissioner Sullivan seconded. The vote was taken and Commissioner Boicourt was
33 elected by a vote of 5-0.

34
35 Commissioner Spies moved to elect Commissioner Fischer as Vice Chairman and
36 Commissioner Sullivan seconded. The vote was taken and Commissioner Fischer was
37 elected by a vote of 5-0.

38
39 **3. Decision Summary Review**—December 2, 2015—The Commission noted the
40 following corrections to the draft decision summary:

- 41 a. Line 171, should be “efficient” not “efficiently”.
- 42 b. Line 176, delete the words “there would be room for” so that the sentence reads:
43 “Commissioner Fischer asked if the Technical Advisory Committee would be
44 able to fix this?”
- 45 c. Line 191, correct to read: “Commissioner Fischer questioned the assertion that
46 gravel is not permeable.”
- 47 d. Line 216, correct to read: “Ms. Verdery reminded the Commission”.
- 48 e. Line 228, change to read: “The community questioned whether there were plans
49 that had been submitted to the County.
- 50 f. Line 380, correct “site” to “cite”.
- 51 g. Line 576, correct to read: “Commissioner Fischer proposed that the definitions for
52 Tier III-A and Tier III-B should start with “This sub-tier identifies areas”.”
- 53 h. Line 656, change to read: Roads already are congested and narrow, one way in
54 and one way out, many with no shoulders and deep roadside ditches.

- 55 i. Line 658, In St. Michaels today citizens are frequently unable to make left hand
56 turns and bumper to bumper traffic exists most seasons of the year.
57 j. Line 708, correct to read: “He has gained the support of his fellow
58 Commissioners...”
59

60 Commissioner Spies moved to approve the draft Planning Commission Decision
61 Summary for December 2, 2015, as amended; Commissioner Sullivan seconded
62 the motion. The motion carried unanimously.
63

64 **4. Old Business—None.**
65

66 Ms. Verdery explained that the applicant for the discussion item for Easton Hardscape
67 and Landscape asked to be postponed to February. She also stated that FEMA had some
68 scheduling conflicts and cannot get the letter of final determination out until January 20th
69 so we will also need to postpone review of the Flood Insurance Rate Maps until
70 February 3rd. The Flood Insurance Rate Maps will go before the County Council for
71 introduction on February 8th.
72

73 **5. New Business**
74

- 75 a. Administrative Variance—William Richard Slater and Lisa Ridgeway Slater,
76 #A224—25716 Bruffs Island Road, Easton, MD 21601, (map 15, grid 6, parcel
77 13, Lot 2, zoned Rural Conservation), Jeff Hubbard, Lane Engineering, LLC,
78 Agent.
79

80 Jeff Hubbard, Lane Engineering, appeared before the Commission representing
81 William R. Slater III and Lisa R. Slater.
82

83 Mr. Rothwell presented the staff report of the applicant’s request to expand an
84 existing dining room and kitchen within the 100 foot Shoreline Development
85 Buffer. This development activity will increase the net gross floor area (GFA) of
86 the existing dwelling within the Shoreline Development Buffer by approximately
87 3.21% (95 sq. ft.). In addition, the applicants propose to construct an open
88 wooden deck on the waterside face of the dwelling to a point within 70 feet from
89 mean high water (MHW), which will be located partially over an existing brick
90 patio. Lastly, the applicants propose to construct a 28 square foot overhang for a
91 new doorway. The proposed improvements will result in a net reduction of lot
92 coverage within the Shoreline Development Buffer of approximately 226 square
93 feet.
94

95 Staff recommendations include:
96

- 97 1. The applicant shall make an application to the Office of Permits and
98 Inspections, and follow all rules, procedures, and construction timelines as
99 outlined regarding new construction.

- 100 2. The applicant shall commence construction on the proposed improvements
101 within eighteen (18) months from the date of the Planning Office's "Notice to
102 Proceed".
- 103 3. Natural vegetation of an area three times the extent of the approved
104 disturbance in the buffer shall be planted in the buffer, or on the property if
105 planting in the Buffer cannot be reasonably accomplished.
- 106 4. The applicant shall be required to remove the 199 square feet of existing
107 driveway within the Shoreline Development Buffer, as shown on the proposed
108 site plan.
- 109 5. The applicant shall be required to construct the proposed wooden deck with
110 the required 1/4" spacing and plantings as specified for pervious decks under
111 COMAR.

112
113 Mr. Rothwell stated that all new gross floor area will be constructed above
114 existing impervious surface.

115
116 Commissioner Fischer stated that there appears to be some importance assigned to
117 the fact that none of the new construction will extend closer to tidal water. What
118 does it matter, you are still covering up land within the buffer. Ms. Verdery stated
119 there is a difference in the process that it goes through, we can only handle it
120 administratively if it does not go any further into the buffer than the existing
121 closest point. If the proposed structure goes closer to mean high water it will have
122 to go to the Board of Appeals.

123
124 Commissioner Boicourt asked for comments from public, there were none.

125
126 **Commissioner Sullivan moved to recommend approval to the Planning**
127 **Officer of the Administrative Variance for William R. Slater, III and Lisa R.**
128 **Slater, 25716 Bruffs Island Road, Easton, MD 21601, with staff comments**
129 **being complied with; Commissioner Spies seconded the Motion. The motion**
130 **carried unanimously.**

- 131
132 b. Administrative Variance—Wilbert H. Cawley and Irina V. Cawley, A225—905
133 Travelers Rest Point Road, Easton, MD 21601, (map 41, grid 12, parcel 163, Lot
134 31, zoned Rural Residential), Christine M. Dayton, Agent.

135
136 Mr. Rothwell presented the staff report of the applicant's request for the following
137 improvements:

- 138
139 1) To expand the gross floor area (GFA) of an existing one-story dwelling
140 by approximately 12.62% (249 sq. ft.) within the 100 foot Shoreline
141 Development Buffer.
- 142 2) To construct an approximately 268 square foot screened porch, which
143 will be located partially within the 100 foot Shoreline Development
144 Buffer.

145 3) To construct an approximately 222 square foot landing and steps
146 attached to the proposed before-mentioned screened porch within the
147 100 foot Shoreline Development Buffer.
148

149 The proposed improvements will result in a net increase of 873 square feet in lot
150 coverage, but will not encroach closer to MHW than the closest point of the
151 existing dwelling. The applicant will also be increasing the roof height of the
152 primary dwelling from 17'-2" to 27'-6", but would not increase the gross floor
153 area (GFA) of said dwelling.
154

155 Staff recommendations include:

- 156 1. The applicant shall make an application to the Office of Permits and
157 Inspections, and follow all rules, procedures, and construction timelines as
158 outlined regarding new construction.
- 159 2. The applicant shall commence construction on the proposed improvements
160 within eighteen (18) months from the date of the Planning Office's "Notice to
161 Proceed".
162
- 163 3. Natural vegetation of an area three times the extent of the approved
164 disturbance in the buffer shall be planted in the buffer, or on the property if
165 planting in the Buffer cannot be reasonably accomplished. Disturbance
166 outside the buffer shall be 1:1 ratio. A Buffer Management Plan application
167 may be obtained through the Department of Planning and Zoning.
- 168 4. The applicant shall be required to remove the 185 square feet of existing patio
169 within the Shoreline Development Buffer, as shown on the site plan.
170

171 Christine Dayton, and Will Cawley appeared before the Commission.
172

173 Commissioner Boicourt asked for public comment, there were none.
174

175 **Commissioner Fischer moved to recommend approval to the Planning**
176 **Officer of the Administrative Variance for Wilbert H. Cawley and Irina V.**
177 **Cawley, 6905 Travelers Rest Point Road, Easton, MD 21601, with staff**
178 **comments being complied with; Commissioner Sullivan seconded the**
179 **Motion. The motion carried unanimously.**
180

- 181 c. RDC Harbourtowne, LLC (Appeal 15-1641)—Martingham Drive, St. Michaels,
182 MD 21663 (zoned Rural Conservation (RC)/Western Rural Conservation
183 (WRC)), Bruce Armistead, Armistead, Griswold, Lee and Rust, Agent.
184

185 The applicant is requesting to expand an existing non-conforming 'Golf Course
186 and Country Club' use by approximately 2.883 acres, or 10% of the acreage of the
187 existing "in-play" area, within the RC zoning district. This action permits the
188 applicant to lengthen and reconfigure Golf Holes 1, 18 and the Practice Range,
189 and to construct new golf course features (#1 Tee, #18 Green and Practice Range

190 Tee/Fairway) over area currently occupied by the clubhouse, tennis courts, and
191 parking areas.
192

193 Mr. Rothwell presented the staff report and history. The golf course and club
194 house was first constructed and approved as a mixed use community under the
195 amended 1970 Zoning Ordinance. In 1970 a golf course was still a special
196 exception use but this was approved by the County Council as an administrative
197 resolution. Golf courses remained a special exception use in the W2 zoning
198 district under the 1974 Ordinance. When the County Council adopted the Critical
199 Area Ordinance in 1989 golf courses went from a special exception use to not
200 being permitted in the RC zoning. To expand a special exception you come before
201 the Planning Commission and the Board of Appeals. Under the Talbot County
202 Code §190-167 we have a recourse for those uses which are no longer permitted
203 and receive a special exception to increase the nonconforming use by up to ten
204 percent of the site area as it existed on the date it became nonconforming. This
205 reasoning and history is laid out in a Request to Planning Officer. Applicant
206 would like to expand the "in-play" area by ten percent. This will allow the
207 applicant to reconfigure holes one through eighteen and modernize the golf course
208 to make it a better experience. This project also has to get minor site plan
209 approval. The applicant has not finalized their plan as to where the club house
210 will be relocated. As per comments from TAC the applicants are still required to
211 maintain the parking lot. This is a very expensive and complicated project and we
212 want assurances that if they are going to reconfigure the golf course and tear
213 down the clubhouse, and if for some unknown reason were to sell the project to
214 some other developer there would still be parking available. Applicant has started
215 a series of meetings with County, federal and state agencies and the Martingham
216 Homeowners Association and the utility coop. The applicant has made it clear
217 they intend to minimize construction traffic in and out of the Martingham
218 community. Martingham Drive is a private road under the jurisdiction of the
219 Martingham Cooperative. County has concerns and wants assurances that
220 construction vehicles and logging vehicles used to reconfigure the golf course will
221 not damage Martingham Drive. We have agreed to strike our conditions related to
222 the requirements in our staff conditions of getting written permission from the
223 Martingham Cooperative to use the drive for construction vehicles. Mr. Pullen
224 will explain why.
225

226 Mr. Pullen stated that in his view the applicant, Harbourtowne has a legal right to
227 use the private road as a owner, that right is to use the road reasonably required
228 for the use and enjoyment of their property, which includes from time to time
229 construction projects. That right is also subject to the rights of the other owners of
230 easements for that right of way and for the enjoyment of their parcels. Those
231 rights are going to be subject to the parties own individual claims and discussions.
232 He does not believe that the County is justified nor should it enter into in advance
233 the position of purporting to exercise control over those private rights of those
234 property owners. It is not for the County to put itself into the position of

235 adjudicating the outcomes of those claims. Mr. Pullen suggested that condition be
236 stricken.

237
238 Staff recommendations include:

- 239
- 240 1. The applicant shall be required to obtain the necessary approvals from all
241 local, state and federal agencies as applicable for all future phases of
242 construction, including the construction of a new clubhouse and/or the
243 expansion of the existing "Golf Course and Country Club" use, as set forth
244 under the *Talbot County Code*.
 - 245 2. The applicant shall be required to obtain Minor Site Plan approval from the
246 Planning Officer for the reconfiguration of the existing golf course on the
247 subject parcel as set forth in the *Talbot County Code* §190-184.
 - 248 3. The applicant shall make applications to, and following all of the rules,
249 procedures, and construction timelines as outlined by the Office of Permits
250 and Inspections regarding new construction.
 - 251 4. The applicant shall be required to adhere to and follow the "*Golf Courses in*
252 *the RCA Commission Policy Guidance*" for the expansion of the "in-play" golf
253 course in the RCA-designated lands.
- 254

255 Zach Smith and Bruce Armistead, of Armistead, Griswold, Lee and Rust, and Bill
256 Stagg of Lane Engineering LLC, appeared before the Commission on behalf of
257 RDC Harbourtowne, LLC. Mr. Smith stated they have visited with the Planning
258 Commission several times over the past year to discuss the Harbourtowne Resort
259 property. Their client purchased the golf course property and is very enamored
260 with the property and desires to see it enhanced. But they hit a roadblock in that
261 both the hotel and golf course use are nonconforming uses in the County under
262 their current zone. The uses could not be modified or expanded, only replaced in-
263 kind. Only limited expansions like the one which is before the Commission today
264 would be allowed. Mr. Smith stated they went to the County Council and
265 identified that roadblock and encouraged legislation which would allow such a
266 redevelopment to come forward. The County Council, to their credit, recognized
267 the opportunity and directed their staff to draft legislation for their consideration.
268 That culminated in the STAR legislation. That legislation will become effective in
269 late February and will allow a proposal for the redevelopment of Harbourtowne to
270 come forward. First that proposal will go to the community and allow them the
271 opportunity for their feedback, then to the Planning Commission and finally to the
272 County Council. Mr. Smith stated they are anxious to get into that process.

273

274 Mr. Smith stated one thing we can do now is the enhancements to the golf course.
275 They have been working with the community and the staff. The portion we are
276 here to discuss today are the expansion of the in-play areas of the golf course onto
277 approximately 2.8 areas currently occupied by the pool, club house and parking
278 area. We propose expansions of the golf course play areas into the areas where the
279 improvements currently exist. That would be an expansion of the nonconforming
280 use even though we are not going beyond the property, because we are going

281 beyond the "in-play" areas. The only opportunity that we have to expand into
282 other areas is through the STAR Legislation but because of the timing issue the
283 owner would like to move forward with those particular improvements at the
284 same time as he is doing the other golf course renovations. The other process that
285 is available to us for this particular project is through the Board of Appeals, where
286 the Board of Appeals has the legal authority to approve a relatively minor
287 expansion of the areas dedicated to nonconforming use that do not involve
288 structures up to ten percent. Mr. Smith stated they are asking to expand the
289 nonconforming golf course use onto approximately 2.8 acres which areas are
290 currently occupied by the pool, the tennis courts and the clubhouse. That will
291 allow holes #1 and #18 and the driving range to be expanded. Mr. Smith stated
292 they did not need approval from the Planning Commission or the Board of
293 Appeals for demolishing those improvements, but to expand the proposed
294 improvements they do. They would love to show the Planning Commission the
295 clubhouse and make that part of this application and have them and the Board of
296 Appeals approve that application, but that is not something the Planning
297 Commission or the Board of Appeals can approve at this time, that will be done
298 under the STAR Legislation. For today the request is simply to expand the golf
299 course play areas which requires a Board of Appeals approval, so they hope you
300 will make a favorable recommendation.

301
302 Commissioner Spies asked if all the construction and demolition would happen
303 once the STAR Legislation is done? Or what is the plan for a temporary club
304 house? Mr. Smith stated that by removing the clubhouse the owner is taking the
305 risk that a replacement clubhouse will not be entitled. With this application being
306 approved the golf course work will continue with the hope of having the golf
307 course closed for as short a time period as possible. Then they will propose the
308 clubhouse. It all depends on timing, how long it takes to get through the STAR
309 process. If approvals are not in place to build a new clubhouse there will have to
310 be some sort of interim solution.

311
312 Commissioner Spies asked if the golf course would be closed down until the new
313 clubhouse is constructed, or is there a temporary plan to operate the golf course?
314 Mr. Smith stated it will depend on timing. They want to get the golf course open
315 as soon as possible. There may need to be some sort of interim solution.
316 Commissioner Fischer said they would need some type of trailer.

317
318 Mr. Stagg stated that the course is currently closed and hopefully will open in
319 April of 2017. It will be renovated all through this year. The major reason for the
320 acceleration of this project is to get the grading done, get the irrigation into these
321 areas, to get the seeding done and get the grass growing through the fall to open in
322 the Spring of 2017. If they have to wait for the STAR Legislation they would
323 effectively lose at least half a season.

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325 Commissioner Boicourt stated there is always that worry of where the clubhouse
326 is going to go.

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Commissioner Boicourt asked for public comments.

Mr. Armistead stated the sole purpose coming forward today is to allow this golf course work to be completed in a more timely fashion. The Martingham community is anxious to get the course back into play. He agrees with Mr. Pullen’s legal conclusions regarding the right to use the road. Harbourtowne agrees any extraordinary damage caused to the road by construction will be its responsibility. They have an applicant proposing to spend millions of dollars, if the STAR Legislation allows, in renovation of the Harbourtowne Inn, they do not want guests driving through potholes to get to that establishment, that is a strong incentive. Commissioner Boicourt stated nor do they want trailers or port-a-potties.

Commissioner Sullivan moved to recommend that the Board of Appeals approve RDC Harbourtowne for a Special Exception, 2.883 acres, golf course expansion area, with staff comments being complied with, with the exception of No. 4, Commissioner Fischer seconded the motion. The motion carried unanimously

d. Recommendation to County Council—Amendments to draft Comprehensive Plan

A decision summary of the discussions associated with the Comprehensive Plan are provided under separate cover. For a complete record please contact the Office of Planning and Zoning for a digital copy.

6. Discussions Items

7. Staff Matters

8. WorkSessions

9. Commission Matters

10. Adjournment—Commissioner Boicourt recessed the meeting at 4:05 p.m., until Monday, January 11, 2016 at 11:00 a.m.