

1 May 2, 2016



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

5 Wednesday, December 2, 2015 at 9:00 a.m.
6 Bradley Meeting Room
7 11 N. Washington Street, Easton, Maryland

8
9 **Attendance:**

10 Commission Members:

- 11
12 Thomas Hughes, Chairman
13 John N. Fischer, Jr., Vice Chairman
14 William Boicourt
15 Michael Sullivan
16 Paul Spies
17

18 Staff:

- 19
20 Mary Kay Verdery, Planning Officer
21 Jeremy Rothwell, Planner I
22 Martin Sokolich, Senior Planner
23 Mike Pullen, County Attorney
24 Tony Kupersmith, Assistant County Attorney
25 Carole Sellman, Recording Secretary
26
27

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

29
30 **2. Decision Summary Review**—November 4, 2015—The Commission noted the
31 following corrections to the draft decision summary:

- 32
33 a. Line 90, Commissioner Fischer asked Mr. Rothwell if the statement: “By state
34 law House Bill 1253, accessory dwelling units are limited to 900 square feet,
35 including porches and decks.”, is pertinent to the discussion of the property. Mr.
36 Rothwell stated it is as it explains why the applicant was required to go through
37 both the Administrative Variance process as well as the Board of Appeals
38 process. He stated he was explaining the improvements they were planning inside
39 and outside of the Shoreline Development Buffer. Commissioner Fischer clarified
40 that was an accessory dwelling. Mr. Rothwell stated it is one of five houses on the
41 property.
42
43 b. Line 130, change to read: “Commissioner Fischer asked if the deck would be
44 pervious.”
45
46 c. Line 153, correct to read: “the Tilghman Estate in Queen Anne’s County.”
47

48 **Commissioner Boicourt moved to approve the draft Planning Commission**
49 **Decision Summary for November 4, 2015, as amended; Commissioner**
50 **Fischer seconded the motion. The motion carried unanimously.**

51
52 **3. Old Business**—None.
53

54 **4. New Business**

- 55
56 a. Administrative Variance—Jamie Smith and Cynthia Smith, #A222—28210 Old
57 Country Club Drive, Easton, MD 21601, (map 42, grid 14, parcel 216, zoned
58 Rural Residential), Robert M. Gearhart, III, Focus Construction, Ltd., Agent.

59
60 Mr. Rothwell presented the staff report of the applicant’s request for an
61 Administrative Variance to convert an existing open masonry patio to an outdoor
62 kitchen with a covered (but not closed) porch. No additional lot coverage or gross
63 floor area (GFA) will be created as part of this proposal.

64
65 Staff recommendations include:

- 66
67 1. The applicant shall make an application to the Office of Permits and
68 Inspections, and follow all rules, procedures, and construction timelines as
69 outlined regarding new construction.
70 2. The applicant shall commence construction on the proposed improvements
71 within eighteen (18) months from the date of the Department of Planning and
72 Zoning’s “Notice to Proceed”.
73 3. Natural vegetation of an area three times the extent of the approved
74 disturbance in the buffer shall be planted in the buffer or on the property if
75 planting in the Buffer cannot be reasonably accomplished. Disturbance
76 outside the Buffer shall be 1:1 ratio. A Buffer Management Plan application
77 may be obtained through the Department of Planning and Zoning.

78
79 Commissioner Hughes asked if there was no Critical Area Commission concern
80 because there was no new lot coverage? Mr. Rothwell concurred.

81
82 Commissioner Hughes asked for public comments; none were made.

83
84 **Commissioner Boicourt moved to recommend to the Planning Officer to**
85 **approve the administrative variance for Jamie Smith and Cynthia Smith,**
86 **28210 Old Country Club Drive, Easton, MD 21601, provided compliance**
87 **with staff recommendations occurs, Commissioner Spies seconded. The**
88 **motion carried unanimously.**

- 89
90 b. Helm Properties, Inc., c/o John Shannahan, III – Dickerson Boatyard (SP565)—
91 3831 Trappe Landing Road, Trappe, MD 21673 (map 54, grid 22, parcel 27,
92 zoned Limited Industrial), Perry Otwell, McCrone Engineering, Agent.

93
94 Mr. Rothwell presented the major site plan and a modification to an existing
95 special exception. The applicants are proposing construction of an addition of 28
96 feet by 150 feet, roughly 4,208 square feet to enclose an existing three sided boat
97 storage building, to allow for sliding doors. This marine use is a special exception
98 in this zoning district. This property has a very long history of industrial use.

100 Mr. Rothwell stated the first Special Exception was approved in 1967, Appeal No.
101 80. In 1973 the grain towers were moved, relocated by helicopter and they
102 established a yacht building operation on this parcel. In 1983 the applicants
103 Dickerson Boat Builders obtained a modification, one of two, which were never
104 constructed for another building, one in 1983 and one in 1987, neither was ever
105 followed through. In 1989 this became a Resource Conservation Area (RCA).
106 Shortly after the applicants purchased this property in 1995 the Critical Area
107 Commission voted to approve Talbot County's proposed use of growth allocation.
108 The subject parcel in its entirety is re-designated an Intensely Developed Area
109 (IDA). In 1998 the applicants received a modification to an existing special
110 exception (Appeal No. 1002) to construction a new 6,151 square foot boat storage
111 and repair building. In 2003 the applicant received a Special Exception
112 modification (Appeal No. 1274) and site plan approval to construct a three-sided
113 20,800 square foot boat storage building.

114
115 Mr. Rothwell stated the applicant is before the Commission today to enclose the
116 boat storage building. The applicant has gone through a Pre-Application meeting
117 and the Technical Advisory Committee meeting. Some of the concerns from the
118 health department are assigning wastewater allocation flows as this project is on
119 well and septic. The Health Department is willing to sign off because this building
120 is three sides right now and has a stone floor and does not have a concrete
121 foundation and does not have lighting or indoor plumbing. This will weatherize
122 the facility and allow them to have indoor storage.

123
124 Staff recommendations include:

- 125
126 1) The applicant shall be required to obtain a modification of their existing
127 special exception from the Board of Appeals for the before-mentioned
128 addition.
- 129 2) Address the November 12, 2015 TAC comments from the Department of
130 Planning & Zoning, Department of Public Works, Environmental Health
131 Department, Talbot Soil Conservation District, and Critical Area comments
132 prior to CRM submission.
- 133 3) The applicant shall be required to plant deciduous shade trees every fifty
134 (50) ft. along that portion of Trappe Landing Road that abuts the subject
135 parcels, as set forth in the *Talbot County Code* §190-122. If the applicant
136 decides not to plant street trees as required, they shall be required to obtain a
137 street tree waiver from the Planning Commission.
- 138 4) The applicant shall commence construction on the proposed improvements
139 within twelve (12) months from the date of final approval.
- 140 5) The applicant shall make applications to and follow all of the rules,
141 procedures, and construction timelines as outlined by the Office of Permits
142 and Inspections regarding new construction.

143
144 Perry Otwell, McCrone Engineering representing Mr. Shannahan on this project
145 appeared before the Commission. He wanted to bring up two issues: it is a boat

146 storage building but they also repair boats during the winter months. They would
147 like to have insulation and heating in the building. They repair multi-million
148 dollar yachts and they need to keep condensation and dampness from dripping on
149 the boats as well as keeping the temperatures bearable for the workers.
150 Commissioner Hughes questioned that they were not just storing the boats but
151 worked on them also. Mr. Otwell stated this had always been a facility that had
152 worked on the boats. Basically they would be cleaning the boats, painting and
153 repairing the boats.

154
155 Commissioner Hughes asked if there were rest room facilities on other parts of
156 the property. Mr. Rothwell pointed out another building which had restroom
157 facilities. Commissioner Boicourt asked if there was any problem with this
158 arrangement? Mr. Rothwell stated he would caution that the requirement that was
159 put forth in consultation with the Health Department be noted. The Health
160 Department requested a note be placed on the site plan stating that the structure
161 remain unheated, uninsulated and without indoor plumbing. It is based on being
162 able to assign the amount and account for wastewater flow. Otherwise the
163 applicant would have to establish another SDA which would be very difficult on
164 this property. Mr. Rothwell stated he would advise the Planning Commission
165 allow this issue be handled by through Technical Advisory Committee as it is an
166 Environmental Health issue not a Planning and Zoning issue. Commissioner
167 Hughes asked if this approval would be contingent upon this issue?
168 Commissioner Boicourt stated that it would be “as is”.

169
170 Mr. Otwell stated it would be contingent upon the staff comments. He stated they
171 have never run into a situation where they were prohibited from insulating a
172 building. They are heating the building now, but it is not efficiently.

173
174 Commissioner Spies asked how heating a building would increase wastewater
175 flow? Mr. Rothwell stated the Environmental Health Department operates under
176 state guidelines and if they enclose the building typically they have to provide
177 some sort of wastewater flow or bathrooms. Commissioner Fischer asked if the
178 Technical Advisory Committee would be able to fix this? Mr. Rothwell stated the
179 staff will work with the Environmental Health Department. Commissioner Fischer
180 requested Mr. Rothwell carry the Commission’s concerns that this regulation is
181 inappropriate in this case. We are trying to facilitate a business and this is a
182 perfectly reasonable request. Commissioner Boicourt stated by providing
183 insulation you are reducing the carbon footprint.

184
185 Mr. Rothwell stated the addition is over existing gravel lot coverage even though
186 it is an IDA. It would meet the site design and landscaping standards for new
187 construction. There is an existing berm and trees that screen the property from an
188 adjacent residential property. We are asking the resident to add street trees along
189 Trappe Landing Road. Applicant is working with Mr. Mertaugh for stormwater
190 management.

191

192 Commissioner Fischer questioned the assertion that gravel is not permeable. Mr.
193 Rothwell said not by state law. Commissioner Hughes stated if you put gravel or
194 stone under your deck to keep critters from digging under your porch it becomes
195 an impervious surface.

196
197 Commissioner Hughes asked for comments from the public and the Commission.
198 None were provided.

199
200 **Commissioner Fischer moved to approve the Major Site Plan for Helm**
201 **Properties, Inc. c/o John Shannahan, III (Dickerson Boatyard), 3831 Trappe**
202 **Landing Road, Trappe, MD 21673, with staff recommendations;**
203 **Commissioner Boicourt seconded. The motion carried unanimously.**

204
205 c. Dickerson Harbor, c/o John Shannahan (Appeal No. 15-1636)—3831 Trappe
206 Landing Road, Trappe, MD 21673 (map 54, grid 22, parcel 27, zoned Limited
207 Industrial), Perry Otwell, McCrone Engineering, Agent.

208
209 **Commissioner Spies moved to recommend to the Board of Appeals approval**
210 **of the Special Exception Modification for Helm Properties, LLC, c/o John G.**
211 **Shannahan, III (Dickerson Harbor), 3831 Trappe Landing Road, Trappe,**
212 **MD 21673; Commissioner Sullivan seconded. The motion carried**
213 **unanimously.**

214 215 5. Discussions Items

216
217 Ms. Verdery reminded the Commissioner that December 7, 2015 from 4:00 p.m. to 7:00
218 p.m. the County Council will be conducting a focus work group to review the
219 Comprehensive Plan. Each member of the County Council has selected members from
220 the community for the focus group. The meeting will be held at the Community Center.
221 Commissioner Spies asked if the Commission could get a list of the members of the focus
222 group. On December 14, 2015 from 5:00 p.m. to 7:00 p.m. there will be a public
223 comment period on the Comprehensive Plan at the Public Library. Once the
224 Comprehensive Plan is introduced there will be another Public Hearing.

225
226 Ms. Verdery stated at the December 8, 2015 County Council meeting there will be a
227 review and hopefully a vote of the STAR legislation. During the public hearing there was
228 some discussion that resulted in some amendments that are on the County's web page.
229 The community questioned whether there were plans that had been submitted to the
230 County. County Council asked planning staff to meet with the representatives of the
231 Hambleton Cove community and the Martingham community. We met with them
232 yesterday, we were able to share with them we have a plan for the removal of the pool,
233 tennis court, and clubhouse in an effort to expand the golf course into that area. That will
234 be before the Planning Commission at their January meeting to make a recommendation
235 to the Board of Appeals because that needs a special exception recommendation
236 associated with the nonconforming use. Commissioner Hughes asked if that could be
237 done without the STAR legislation. Ms. Verdery stated that was correct.

238
239 Commissioner Fischer stated he thought the STAR legislation would come back before
240 the Commission in its final form. Ms. Verdery stated that what was before the
241 Commission was introduced to the County Council. When the Commission reviewed the
242 legislation two comments were made, one associated with the height and one associated
243 with the timing of the application. One of those items was addressed, the comment
244 relating to the height was not addressed. There are now some further amendments which
245 are on the County Council's web page which are non-substantive and Ms. Verdery
246 believes they will not return to the Commission for a recommendation. Commissioner
247 Fischer asked if there had been some resolution regarding height in the amendment. Mr.
248 Pullen stated the provision for the height is as originally drafted. The Commission's
249 comments were that there should be a maximum height that the building could not
250 exceed, and a absolute square foot limit in the amount of architectural detail that can
251 exceed the height. That topic was discussed and there was an alternative that was offered
252 that was not put in the bill. That alternative included other aspects that would have
253 allowed portions of the roof structure itself to exceed the forty foot roof limit. So that was
254 felt to be undesirable.

255
256 Commissioner Fischer asked what the legislation allows above forty feet? Mr. Pullen
257 stated roof top mechanical systems, elevator overruns and architectural features that are
258 minimally sized to hide those features. Commissioner Fischer asked if there is a
259 maximum roof percentage? He asked how the residents of Martingham responded to that.
260 Mr. Pullen stated there was a public hearing at the end of November and the President of
261 the Martingham Homeowners Association testified in support. He stated the Hambleton
262 Cove President testified and was not supportive or opposed, they expressed concern
263 about the height and their views being affected by the development. Commissioner Spies
264 stated it is pretty safe to say any residents bordering property in that area are concerned
265 about height and mass, whether they approved it or not. If they are next door to it they are
266 going to rely on us to make sure that we take into consideration how high it can get and
267 how large it can get.

268
269 Commissioner Boicourt asked if the Commission determines the bulk of the building is
270 too large then they can object at that time? Mr. Pullen stated the Council has the approval
271 to create the district. But it would have to go through site plan approval at the Planning
272 Commission. Mr. Pullen stated the STAR legislation creates the process, but the
273 Redevelopment Plan along with the concept drawings are reviewed and approved and
274 then the project has to go through the Site Plan process for final approval.

275 276 **4. New Business**

277 278 d. Comprehensive Plan 2015—Tier Maps

279
280 Mr. Sokolich discussed the amendments to the tier maps. He stated the basic
281 question is does the Commission want to make a recommendation to the County
282 Council?
283

284 Mr. Sokolich stated there was some discussion after the meeting as to the
285 definition of the Tiers A, B and C that they were drawn at odds with what was
286 actually meant. The definition as written basically said Tier III-A was east of
287 Route 50 and Tier III-B and Tier III-C was west of Route 50 and that was not
288 what was mapped. Mr. Sokolich showed the Commission a map of what was
289 actually meant.

290
291 Mr. Sokolich stated they looked at what is developed, how big the lots are, what
292 the distance is from the roadside, where the sewer line is likely to go to the
293 development. Based on these reviews there are a few smaller subdivisions in these
294 areas that are III-A now. They are less likely to be eligible due to their isolation
295 from where the line is going to go.

296
297 Commissioner Fischer asked for clarification on whether a recommendation was
298 needed on the map and the definition. He asked if the recommendation on the
299 map would be on the Tier III-C area only. Ms. Verdery stated the
300 recommendation on the map was already made as part of the Comprehensive
301 Plan. Commissioner Fischer stated the map was not part of the discussions.
302 Commissioner Hughes stated the map has changed several times. Mr. Pullen
303 stated his understanding is that the map is based on the existing tier map and the
304 new Tier III-C is simply taking some of the existing Tier III-A areas and making
305 them Tier III-C.

306
307 Mr. Sokolich stated this map shows in yellow many of the areas that have been
308 change to Tier III-C. Some areas like Deep Harbor Farm are areas that are directly
309 on the line of the proposed sewer, are already developed areas and have many of
310 the same conditions in terms of lot size and hydric soils. There are very few
311 additions to the map. The map that was presented is the one that was put together
312 in the work session. Commissioner Hughes stated it was not the one put together
313 in the February work session, the definitions are not even the same. Mr. Sokolich
314 stated the titles are another question. The County Council has already accepted
315 the Commission's recommendation to create a Tier III-C. The definitions are still
316 under discussion. Does the map represent what the intention was under the
317 definition. The map as presented to the Commission in this package supercedes
318 the one that they have already received with a larger Tier III-C area on it.

319
320 Commissioner Sullivan stated there are areas labeled Tier III-C and there are
321 other areas colored the same but not labeled, that are also Tier III-C.
322 Commissioner Spies stated if they have not accepted the definition they have not
323 accepted our recommendation.

324
325 Mr. Pullen stated in December of 2012 the original tier maps and definitions for
326 Tier III-A and III-B were adopted by a Bill and they exist today in the law and
327 they are the basis for the maps that were adopted in December of 2012 which are
328 the starting point for the discussion of this map. This Bill does not change Tier
329 III-A or III-B.

330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375

Mr. Pullen stated it has already been decided and approved and we are going to extend sewer to Martingham. He is not aware of any substantial changes in the map itself. In terms of the definition of the tiers, there are different definitions that have been developed. The Commission has to approve proposed amendments to the Comprehensive Water and Sewer Plan. If the Commission does not approve those amendments the County Council may not approve them. That is the reason these definitions are critical and key. The definitions of Tier III-A and III-B exist today in the County Code.

Mr. Pullen stated the plan to extend sewer was to be limited to failing systems. That is in the new definition of Tier III-B. He stated that is a problem, it is a new idea that is being suggested at this point for Tier III-B. He said take this concept for Thorneton Road, there are 54 lots there, one is failing, but the other 53 are not. If you had language in here which said primarily failing systems, while there is only one failing system, there is no way you could fit 53 systems with one failing system. That whole project would be vetoed. Mr. Pullen said you don't want the extension of sewer to permit new, unplanned and unwanted growth. Commissioner Hughes stated sewer extension would permit development in areas that would never be built on if they did not have sewer.

Mr. Pullen said you can use all the tools in the tool box, zoning, subdivision and density. These tier definitions are intended to work in tandem with those other tools to achieve that goal. They do achieve that goal. There are other goals to achieve as well. One is to extend sewer to existing developed subdivisions. Deep Harbor Farm, a developed subdivision with two acre lots, zoning does not permit new subdivision. By extending sewer to those lots you are not increasing develop ability to those parcels.

Commissioner Hughes stated that for years we have had subdivisions come in here and they have twelve development rights but they could only find seven percs so those development rights don't exist. If there is a sewer in the ground it opens all new possibilities.

Mr. Pullen stated the Planning Commission has a veto to the Comprehensive Water and Sewer Plan. Let's take a hypothetical farm which has twelve development rights but only seven percs and therefore loses five. If they get sewer they get all twelve, but how do they get sewer. Commissioner Hughes stated he understands this but the problem he has is from twenty-five years of experience, in a few years when people on this PC are replaced and don't know anything about this all of this goes out of the window. We should be thinking holistically about the situation in the Bay Hundred before putting more sewer lines in the ground. Mr. Pullen stated if that hypothetical farm is in a Tier IV area how are they going to get sewer? They would be limited to a small scale subdivision or will need to get a map amendment and the Planning Commission would have to approve it.

376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421

Commissioner Boicourt is worried about the language of the two definitions. He does not see where we have full protection from bad acting in the future. But we do have a comprehensive plan that in his mind gives large goals and incredible capability on the part of the Planning Commission to prevent the kind of things which have been previously discussed. We can cite and we have cited many times the possibility of a very bad Planning Commission in cahoots with a very bad County Council who want to develop the hell out of this County the document is pretty darn good but it is not perfect.

Commissioner Sullivan stated the way you do it is the documents are strong enough you have to go through a public process of coming in to make changes and the public is aware. They know this is the definition of why you are changing it now. I think that is the best you can do.

Mr. Pullen stated following the ad hoc meeting Mr. Sokolich did a calculation of all of the lots in the Rural Residential (RR) and if there is a lot greater than ten acres since the density is one per five they could subdivide, he searched for those.

Commissioner Hughes stated he wanted to make sure people understood there are about 100 unimproved parcels in the existing subdivisions, maybe they perc, maybe they don't. The other thing he is worried about is there are somewhere in the neighborhood of another 200 lots in the western villages that do not have sewer. If the County Council decides to increase the density in the western villages that have sewer that number goes up exponentially.

Mr. Pullen said to bear in mind that under the previous ordinance it was four dwelling units per acre with sewer. There is a common intent to limit that potential going forward.

Commissioner Fischer requested Mr. Pullen explain the reason for the change in definitions.

Mr. Pullen stated the definitions the staff is proposing would take the existing definitions from Tier III-A and Tier III-B from 2012 and were the basis for the original tier maps and make a couple of minor changes. The language in those original definitions talked about existing neighborhoods and the changes that staff had suggested would be to strike that reference and say existing subdivisions.

Mr. Pullen stated there are substantial changes between staff's recommendations and the language I lifted out of the Comprehensive Plan. The draft language in the Comprehensive Water and Sewer Plan says: "Tier III-B - This designation reflects existing or anticipated plans primarily to relieve failing systems." The concern is that language is fairly restrictive and it does not accurately reflect the discussion about what the purpose of Tier III-B is.

422 Mr. Pullen stated that we know that Neavitt is one of the worst areas in the
423 County for having a collection of failing systems. They cannot improve their
424 properties or put in new bathrooms or bedrooms. For lack of improvement the
425 village does not maintain itself. With sewer we both solve the environmental
426 problem and allow individual homeowners to reinvest in their own property,
427 property values increase, etc. So you can say that while Neavitt has a whole series
428 of failing systems this language can fit into primarily failing systems in Neavitt.
429 Other Villages may have the same problem. McDaniel may have the same
430 problem, Wittman may have the same problem. Instead of going village by village
431 they simply identify the villages as Tier III-B and mark and map and have decided
432 as a matter of policy that those villages are areas worthy as receiving sewer. The
433 way to limit the creeping expansion and to address the concern of the unintended
434 consequences of new growth is through the maps.

435
436 Commissioner Hughes stated he does not understand what is the harm in saying
437 “primarily” to relieve failing septic systems. Commissioner Fischer stated that
438 what has happened is that the proposed is mixed with the requirement that the
439 County meet a certain TMDL requirement. The County Council has decided
440 clearly the best way to do that is to pick up septic systems. So we are making the
441 change to call these things water strategy areas and we are going to go out and
442 pick areas like Deep Harbor Farm where systems are not failing. A legitimate
443 objective of the County Council is to make this election, and Thorneton Road is
444 the first step down that road, fifty-five systems with fifty-four working fine.

445
446 Commissioner Hughes stated the issue with Thorneton Road is there is clear
447 evidence of fecal contamination of nearby waters there. That is why the Royal
448 Oak and Unionville systems were installed in the first place. The other thing is we
449 are punting on the idea of spending \$1,000 a pound for nitrogen reduction
450 wherein picking up a failing septic system is a bona fide public health purpose.

451
452 Mr. Pullen stated his recommendation is to figure out what is the best plan going
453 forward. If the plan includes limiting the unintended consequences from sewer,
454 what is the best way to do that, and how do you prevent the unintended
455 consequences?

456
457 Commission Hughes stated the definitions of the Ad Hoc group were more
458 detailed. The new proposed shorter definitions is that the language of III-B
459 conflates with III-C. Tier III-B says rural villages or existing subdivisions
460 designated as water quality strategy areas. So III-B and III-C both cover existing
461 subdivisions, what is the difference?

462
463 Mr. Pullen stated Tier III-B is planned for sewer, Tier III-C is not planned. These
464 villages have been identified for years as having a whole group of failing systems,
465 and Martingham is planned for sewer. Mr. Pullen reviewed the maps with the
466 Commission showing where the map proposed Tier III-A, Tier III-B and Tier
467 III-C.

468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513

Mr. Pullen stated he feels the staffs language is quite specific.

Commissioner Boicourt stated he does not see a big difference between the two Tier III-B definitions except for the last sentence. He said he would understand why you might want to take out about bay restoration funds and water shed approval plans. Adding the part about sustainable growth patterns and approved water quality and managed water and sewer capacity would be a healthy thing to put in there, rather than what could be an extreme vagueness to water quality strategy areas. Talking about the availability or not of funds should not be in there.

Mr. Pullen stated if we start the sentence with “these areas will be provided sewer serve under strict limits”; where are the strict limits? The defining criteria for sewer service are zoning, density and subdivision.

Commissioner Boicourt stated to take out “under strict limits”. Can we bring the “in order to...” parts up into the water quality strategy area in the first sentence.

Mr. Pullen said he had one other comment, in order to maintain a sustainable growth pattern. This is sewer service, this comes in after the development potential has already been decided. This is a public utility and it is to serve the lots you can get.

Commissioner Hughes suggested taking out “manage water and sewer quality”.

Commissioner Boicourt said he is happy with his point. The improved water quality and managed water and sewer capacity is effectively what we are doing.

Commissioner Hughes asked if water quality strategy areas was defined anywhere? Mr. Pullen stated he believes it came from Sandy Coyman who brought it from Worcester County, it was a term they coined. Commissioner Hughes stated that water quality strategy in his view is not just nitrogen and TMDLs it is also fecal. Commissioner Boicourt asked if it would be possible to just eliminate the term. Mr. Sokolich searched the Comprehensive Plan for the terms.

Mr. Pullen stated that the concern is if a phrase is ill defined or undefined you look at documents as a group. So you would look at Tier III-B in conjunction with the map. Mr. Rothwell stated that if the County wanted to designate a farm in between Sherwood and Tilghman as Tier IV that would be going against state law in terms of what is the definition of Tier IV.

Commissioner Hughes stated he has thrown in the towel because any three County Council members with the consensus of three Planning Commission members can do a map amendment and give anyone sewer.

514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559

Mr. Pullen stated there is a formal process to follow. They would have to amend the tier map. An applicant would have to go through the comprehensive planning process to amend the tier map. Is the County Council and the Planning Commission going to amend the Comprehensive Plan? That is only the first step. Let's assume they will make that a Tier III-C. The next step would be to amend the Comprehensive Water and Sewer Plan. Again this group has a veto. These things are possible in theory, as a practical matter once these things are adopted these maps are going to be cast in stone. People will recognize at the outset the virtually insurmountable odds of success.

Commissioner Hughes asked if there is somewhere that the term "eligible for sewer" and "planned for sewer" are defined. Mr. Pullen stated those will be defined in the Comprehensive Water and Sewer Plan. Eligible for sewer – has to be feasible from an economical and an engineering point of view to make the connection. It is proximate to a line that is planned or in existence. The third item is balancing the environmental priorities. If it is planned there is no legal obligation on the County to extend sewer. Commissioner Hughes asked where will the definitions for "eligible" and "planned" be placed? Mr. Pullen stated they will be put in the Comprehensive Water and Sewer Plan.

Commissioner Boicourt stated in the November 24th Tier III- definitions, water quality strategy areas, on the basis of the map, he would be comfortable if we leave the first sentence as is, but then something along the line of "these areas are intended to improve water quality and manage water and sewer capacity" as the second sentence.

Mr. Sokolich stated the definition is actually in there but it does not say water quality strategy area. The strategy is articulated in three different chapters, land use chapter, the natural resources chapter and in the villages. It pretty much identifies all the characteristics we have talked about. If we added a line which says "these are water quality strategy areas because of" it would solve it. Everything else in the definition is already spelled out.

Commissioner Spies stated he outlined it so it read, "these areas will provide service in order to improve water quality and manage water and sewer capacity." It might not have legal precedent, but for someone reading it, it describes what III-B is.

Mr. Bill Anderson, Public Works Advisory Board, stated having in mind Mr. Pullen's perspective of how people may construe the language ten years hence and his further principal of construction how they will look at the language as a whole, he noticed there is a difference in the wording of the III-B definition and the III-C definition to existing developed subdivisions. The word developed does not appear in the III-B definition. Is there an intended difference in meaning for III-B and III-C?

560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605

The consensus from the Commission was to have “developed” in the definitions.

Mr. Anderson reread the sentence as “rural villages or existing developed subdivisions.

Ms. Verdery also stated at the end of that same sentence “that are planned for infill and limited peripheral development.” We struck the “peripheral” from the III-A definition before because there was a misunderstanding that included area outside of the village. We are really talking about within the village as infill for a lot that is already there that can now be developed and a limited amount of subdivision. The Commission agreed with this suggestion.

The Commission proposed the following for the second sentence of III-B: “These areas are planned for sewer service in order to improve water quality and efficiently manage sewer capacity.”

Commissioner Fischer proposed that the definitions for Tier III-A and Tier III-B that it should start with “This sub-tier identifies areas”.

Tier III-C - Commissioner Hughes stated he was concerned about the word “feasible.” Mr. Pullen stated it was changed to feasible from reasonably practicable. After discussion the Commission decided it should read feasible and reasonably practical.

It should read: “This sub-tier identifies environmentally sensitive areas, with existing developed subdivisions currently served by septic systems that are feasible and reasonably practical to be served by public sewer from the Region II or Region V Wastewater Treatment Plant.”

The Commission agreed the second sentence is acceptable as is. Commissioner Fischer would like to the add to the next to the last sentence, “within developed subdivisions”. It should read: “Rather, development is limited to infill on existing lots within developed subdivisions.”

The last sentence was agreed to be acceptable by the Commission members.

Mr. Pullen stated the second paragraph was inadvertently omitted from the definition. By definition Resolution 175 addresses areas that are not planned, areas that are the exception rather than the rules, areas like Carroll’s Market, where you can come in for one hook up.

Commissioner Hughes stated the issue he has is that Thorneton Road and Carroll’s Market on this map are now labeled III-B. Ms. Verdery and Mr. Pullen stated that Carroll’s Market appears to be labeled III-A. Commissioner Hughes asked if you pick up a Carroll’s Market situation do you label it at all? Mr. Pullen

606 stated this is a planning exercise, they can't ever extend beyond that boundary,
607 there is no planning that needs to extend beyond this. The point is that Resolution
608 175 stands on its own separate and apart from the Tier maps and we can't plan on
609 this. Commissioner Hughes stated he was worried about this map and someone
610 saying that Carroll's Market is one of these Resolution 175 and now is a III-B on
611 this map. Mr. Pullen stated that Carroll's Market was a map amendment which
612 occurred under the Comprehensive Water and Sewer Plan. That property is
613 mapped S1, as is Cahalls. Mr. Pullen stated the legal restrictions on the
614 unintended consequences that we already discussed at length are in place under
615 these definitions and under these maps, short of a brand new comprehensive plan
616 being done, and this group agreeing to amend the comprehensive water and sewer
617 plan.

618
619 Tier III-C

620
621 This sub-tier identifies environmentally sensitive areas, in existing developed
622 subdivisions currently served by septic systems that are feasible and reasonably
623 practical to be served by public sewer from the Region II or Region V Wastewater
624 Treatment Plant. This sub-tier does not map, designate or create areas intended for
625 new subdivision. Rather development is limited to infill on existing lots within
626 developed subdivisions. These areas are eligible but not planned for sewer
627 service.

628
629 Mr. Anderson stated that the Public Works Advisory Board as a whole has not
630 had an opportunity to look at the definitions or the map. Their meeting has been
631 rescheduled for Friday and they will look at them at that time. Ms. Verdery stated
632 they would provide them with the Commission's amended definitions.

633
634 Tier III-A

635
636 This sub-tier identifies areas that are not planned for public sewerage systems in
637 the County Comprehensive Plan or Comprehensive Water and Sewer Plan, that
638 are located in rural villages or other existing rural subdivisions, not dominated by
639 agricultural or forest land and which are planned for infill and limited
640 development only.

641
642 Tier III-B

643 This sub-tier identifies rural villages or existing subdivisions designated as water
644 quality strategy areas, which have or are planned to have public sewerage systems
645 to address water quality and that are planned for infill and limited peripheral
646 development only.

647
648 **Commissioner Boicourt moved to recommend to the County Council the**
649 **adoption of the revised Tier III-A, Tier III-B, and Tier III-C definitions**
650 **developed at the joint meeting between the Planning Commission, members**

651 **of the Public Works Advisory Board, the County Attorney and the Staff;**
652 **Commissioner Spies seconded the motion. The motion carried unanimously**
653

654 Commissioner Fischer stated these definitions have been carefully crafted because
655 we all share the desire not to encourage, to facilitate or to enable growth and
656 development in the Bay Hundred peninsula that might be caused by the extension
657 of sewer there. Roads already are congested and narrow, one way in and one way
658 out, many with no shoulders and deep roadside ditches. In St. Michaels today
659 citizens are frequently unable to make left hand turns and bumper to bumper
660 traffic exists most seasons of the year. We have carefully worked on these
661 definitions not to encourage development, and we ought to be finding ways to
662 discourage development on that peninsula for the health of the citizens.
663

664 Commissioner Hughes asked for public comments; none were made.
665

666 **Commissioner Spies moved to recommend adoption to the County Council of**
667 **the Septic Tier and Land Use Maps as presented December 2, 2015, with the**
668 **amendment to the Cahall property; Commissioner Fischer seconded the**
669 **motion. The motion carried unanimously.**
670

671 5. Discussions Items

672

673 Ms. Verdery stated that on November 24th Staff had an opportunity to tour the County
674 with Secretary David Craig with the Maryland Department of Planning. They showed
675 him the hospital site and the work that went into making that project come into fruition to
676 this point. She said they went to Pickering Creek, also to a critical area property, and to
677 two side by side properties - one before the critical area law and one that was developed
678 after that has quite a significant amount of vegetation between the house and the water.
679 Ms. Verdery said they went to Route 50 to Savage Landscape where there were some
680 issues with State Highway Administration when trying to get an access permit, and the
681 requirement that he install a bike lane on Route 50 for a very small portion of highway
682 that has no connectivity to a bike lane north or south of it. Ms. Verdery said they then
683 took Secretary to Triple Creek Winery and discussed agritourism and the issues with
684 trying to have that fit within the COMAR regulations associated with agritourism, the
685 COMAR regulations the Health Department imposes and the regulations that the County
686 must impose. Is it a commercial activity that requires a bathroom, is it an agritourism that
687 doesn't require a bathroom, and where is that fine line between agricultural and
688 commercial. It was a very nice tour and he came and spoke to the County Council for a
689 few minutes. Afterward Secretary Craig definitely seemed interested in the topics we
690 discussed. Commissioner Hughes asked if there was any glimmer on the adjusted
691 planting in the Critical Area. Ms. Verdery felt that was a definite possibility. With the
692 changes in administration and the change in thought, there is a lot more flexibility. She
693 thinks in the end there will be an opportunity to have a local plan that provides some
694 alternatives and opportunities to provide an activity area or an area that is not forest
695 between the house and the water's edge.
696

697 Ms. Verdery stated that MDE provided wetlands permits for 404 with a December 1st
698 deadline, that deadline has been extended to December 30th. If anyone has any comments
699 please contact Ms. Verdery or Elisa Deflaux.

700
701 Mr. Sokolich stated in preparation for the upcoming work sessions he provide redline
702 versions of the Comprehensive Plan. The Comprehensive Plan is also online.

703
704 Ms. Verdery stated she wanted to take the opportunity to thank Commissioner Hughes for
705 his service and his dedication to Talbot County. His passion to preserve the unique rural
706 character of the County was expressed in his commitment to the 2005 Comprehensive
707 Plan and followed by his appointment to the Commission. His passion has continued and
708 prevailed through contributions and commitments to the current Comprehensive Plan
709 draft. He has gained the support of his fellow Commissioners to be appointed to the Chair
710 position. She personally and professionally thanked him for his leadership and wished
711 him the very best in his future endeavors. With his passion for Talbot County she was
712 sure it will result in his working with the Commission and County staff again.

713
714 Commissioner Boicourt said he met Tom in the 1980s when he was presenting at a
715 hearing with regard to the relicensing of the Trappe sewage treatment and he was up
716 there with a charge and a somewhat strident voice. He stated it started there and
717 Commissioner Hughes has not wavered in his passion. He thinks the County has hugely
718 benefitted in Commissioner Hughes involvement in the 2005 Comprehensive Plan update
719 and he personally appreciates Commissioner Hughes involvement. Commissioner
720 Boicourt stated he calls for Commissioner Hughes to give us wise counsel in the future.

721
722 Commissioner Fischer stated Commissioner Hughes has been a wonderful example in
723 terms of preparation and diligence, understanding of the Codes and leadership. His
724 passionate service to the County has been a great boon to the County. He said
725 Commissioner Hughes will be greatly missed. Commissioner Fischer hopes he will
726 continue to be involved and he expects to see guest comments in the Star Democrat
727 frequently.

728
729 Commissioner Sullivan feels Commissioner Hughes historical perspective has been
730 invaluable to this Commission. He hopes in the future when he calls Commissioner
731 Hughes will not hang up on him.

732
733 Commissioner Spies stated he will miss having Commissioner Hughes and will continue
734 to use him as a resource for his knowledge and his depth of knowledge. He appreciate all
735 he has done for the County.

736
737 Commissioner Hughes thanked the Commission for honoring him with the Chairmanship
738 for the past three years and read the following: "It is a heavy responsibility especially as
739 we have been going through the Comprehensive Plan process. I have tried to protect the
740 authority of the Commission, not for any personal reason, but because the independent
741 authority given to this Commission under the County's charter and Maryland law is
742 essential to honest and open local government. It has been a real pleasure working with

743 all of you. I will miss the camaraderie, but not the content. Second it has also been a real
744 pleasure working with the planning staff. Mr. Rothwell has added new useful thoughts to
745 our deliberations that he has gained from previous work experience elsewhere. In my ten
746 years here our recording secretary Mrs. Sellman has come the closest, within one word
747 actually, to providing us with a set of minutes that went unscathed by our fussy
748 corrections. For years I have observed the professionalism and demeanor of Mr.
749 Sokolich. I applaud and envy his ability to retain his composure. Finally the
750 incomparable Ms. Verdery, the hard drive of the Planning Department for which there is
751 no backup. I hope the County has the sense to keep her as long as she wishes to stay. This
752 is my 120th consecutive regular meeting. During all of those meetings and all of those
753 votes taken, not one of my votes, I made on matters of which the Commission has real
754 authority: major subdivisions, site plans and water and sewer amendments, has ever been
755 appealed. I am extremely proud of that record. It has been my duty under Maryland law
756 to execute the 2005 Comprehensive Plan. It has also been my privilege and my honor to
757 defend that plan on behalf of all who participated in that laborious process years ago.
758 Having participated in that Plans production from beginning to end I have firsthand
759 knowledge of all the care and rigor that went into it. It is also the reason I applied for this
760 job ten years ago. Every position I have taken while a member of the Commission is
761 traceable to policies in that Plan that were written by the citizens of Talbot County. My
762 strong belief in the value, legitimacy and clarity of the 2005 Plan is most likely what kept
763 me from being reappointed, so be it. Having known this County since I was a child, I am
764 terribly concerned about what is to become of the rural character and quality of life. This
765 Commission has the authority given to it by the people of this County by referendum just
766 thirteen years ago to approve or disapprove major site plans and subdivisions. This
767 Commission also has the sole authority given to it by the state legislature to reject water
768 and sewer plan amendments if they are not consistent with the Comprehensive Plan. My
769 parting words to you four gentlemen is to ask that you defend the authority of this
770 Commission and defend our rural character and quality of life. You have my best wishes
771 and my respect. Thank you.

772
773 5. **Staff Matters**

774
775 6. **WorkSessions**

776
777 7. **Commission Matters**

778
779 8. **Adjournment**—Commissioner Hughes adjourned the meeting at 11:39 a.m.