

1 August 16, 2016



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

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

6 Bradley Meeting Room

7 11 N. Washington Street, Easton, Maryland

8
9 **Attendance:**

10 Commission Members:

18 Staff:

11
12 William Boicourt, Chairman

19
20 Jeremy Rothwell, Planner I

13 John N. Fischer, Jr., Vice Chairman

21 Ray Clarke, County Engineer

14 Michael Sullivan

22 Mike Mertaugh, Assistant County Engineer

15 Paul Spies

23 Carole Sellman, Recording Secretary

16 Phillip “Chip” Councill

24

17

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27 **1. Call to Order**—Commissioner Boicourt called the meeting to order at 9:02 a.m.

28
29 **2. Decision Summary Review**—June 1, 2016—The Commission noted the following
30 corrections to the draft decision summary:

- 31
- 32 a. Line 392, change to read: “Commissioner Fischer stated that the word “should”
- 33 allows many more things to happen.” Commissioner Fischer suggested it would
- 34 be a good idea to put the word “should” and “shall” in quotes throughout for
- 35 future clarity.
- 36 b. Line 445, change to read: “For instance in 2.16 it talks about “shall derive
- 37 primarily”, there is some flexibility built into 2.16 that is not built into the others.”
- 38 c. Line 540, change to read: “Commissioner Fischer stated we will be dealing with
- 39 zoning and density long before we will be doing the Master Plan.”
- 40 d. Line 543, insert “although” so that it reads: “Commissioner Fischer stated he is
- 41 reluctant to get confined by a formula, although this might be a tool we can use as
- 42 we move along in some way as part of the package we look at.”
- 43 e. Line 635, correct “economic develop” so that it reads: “economic development”.
- 44 f. Correct the page numbering of the document.
- 45

46 **Commissioner Councill moved to approve the draft Planning Commission**
47 **Decision Summary for June 1, 2016, as amended; Commissioner Fischer**
48 **seconded the motion. The motion carried unanimously.**

49
50 **3. Old Business**—None.
51

52 **4. New Business**

- 53
- 54 a. Long Point Preserve, LLC—5252 Long Point Farm Road, Oxford, MD 21654
- 55 (map 47, grid 22, parcel 42, zoned Rural Conservation/Western Rural
- 56 Conservation), Sean Callahan, Lane Engineering, LLC, Agent.
- 57

58 Sean Callahan, Richard Osborne, Resident Agent, and Ray Jackson appeared on

59 behalf of client.

60

61 Mr. Rothwell presented the Staff Report for the preliminary small scale

62 subdivision, major revision plat and lot size waivers for Long Point Preserve. He

63 stated the property is on Oxford Road, the second to last farm on the right before

64 you get to the Town of Oxford. There is a series of five existing parcels with

65 twelve dwellings on the property. Three dwellings are on deed parcel C, seven or

66 eight are on the Long Point parcel. All are currently occupied and rented out to

67 individuals.

68

69 Mr. Rothwell stated there have only been a few minor changes since the project

70 was reviewed by the Commission at sketch. Initially there was a nine and a half

71 acre parcel to be created. Staff recommended a twenty-five foot shared access

72 easement be created along with a pipe stem to protect the integrity of the field.

73 The applicants have completed that. The Health Department had requested

74 moving the southern boundary of the property so they could not get a driveway

75 between the property boundary and the SDA. This was also done. This brought

76 down the acreage for Lot 1 almost half an acre. Lot 6 was reduced roughly from

77 9.5 to 6.038 acres as per staff request.

78

79 Mr. Rothwell stated the applicant is proposing to demolish almost all of the

80 existing dwellings, with a couple of exceptions. As per our Zoning Ordinance you

81 can only have one primary dwelling per parcel. The applicant has proposed to

82 create two remaining lands parcels using an existing agricultural ditch as a natural

83 divide. Staff suggests it remain as one remaining lands parcel given that over half

84 of it cannot be developed and there are no critical area development rights, only

85 WRC development rights remain with this parcel.

86

87 Staff recommendations include:

88

- 89 1. The applicant shall be required to remove the excess non-conforming
- 90 accessory dwellings (or convert the accessory residential structures) on Lots 2,
- 91 5, 6 and the Long Point Deed Parcel so that there is only one primary dwelling
- 92 on each parcel.
- 93 2. Address the June 8, 2016 TAC comments from the Department of Planning
- 94 and Zoning, Department Public Works, Environmental Health Department,
- 95 Talbot Soil Conservation District and the Environmental Planner prior to
- 96 preliminary plat submittal.
- 97

98 Mr. Callahan presented Commission with a plat for review. He explained
99 everything in yellow is intended to be Revised deed Parcel C and everything in
100 green is intended to be Revised Parcel A. The division line between the green and
101 the yellow is a twelve foot wide, four foot deep drainage ditch that drains Oxford
102 Road. Given the market and who might own what, it is possible that Parcel A and
103 Parcel B might be owned and purchased separately.
104

105 Mr. Callahan stated that on Lot 1 there is an existing small house to remain. On
106 Lot 2 one of the two houses will be torn down. Lots 3 and 4 are unimproved at
107 this time. He stated there is a little house on the Winfield Farm Road to be
108 removed. On Lot 5 there is a main house and another small house. The plat shows
109 the small house to be removed, but I would like to amend that. The small house
110 would make a great workshop or studio. Mr. Callahan stated they would remove
111 the kitchen and file a non-conversion agreement. He stated on Lot 6 they would
112 remove one of the two houses. On Lot 7 only one house would remain, the house
113 on the north end of the parcel has a good septic. He stated they would be going
114 from twelve houses with marginal septic systems to seven new houses. Mr.
115 Callahan stated he spoke with the SHA and they have approved the minor
116 improvements to Long Point Farm Lane. They are still showing the 100 foot and
117 200 foot buffer for all of the lots. He stated they still intend to move forward with
118 the text amendment to allow Lot 5 and Lot 6 to have a 100 foot setback. He
119 recognizes that if the text amendment is not approved they will have to settle for a
120 200 foot setback.
121

122 Commissioner Boicourt asked if it was a County or State ordinance. Mr. Callahan
123 stated it was a change to the County Zoning Code. Mr. Rothwell stated it would
124 still have to be reviewed and approved by the State. He stated that some Counties,
125 Queen Anne's County for instance, allows as per COMAR all new lots created
126 from subdivision to require a 200 foot Shoreline Development Buffer. The
127 Critical Area Commission has allowed some Counties to retain a 100 foot
128 Shoreline Development Buffer on a designated parent parcel. The intent is that if
129 there is an existing house and they subdivide five lots, one lot has the remaining
130 farmhouse; the intent is to have the 100 foot buffer for the original house.
131

132 Mr. Callahan stated Long Point is an existing parent parcel, Parcel A is an
133 existing parent parcel and Parcel C is an existing parent parcel. You have three
134 existing parent parcels on the north side of Oxford Road. Long Point, Parcel A
135 and Parcel C could each enjoy a 100 foot setback under this proposed text
136 amendment. We would assign the 100 foot setback to Lot 5 for the Parcel C
137 parent parcel structure because it has a main house that would be conforming and
138 revising Parcel A.
139

140 Commissioner Fischer stated, wouldn't the exception from Critical Area
141 regulation be on the manor house not the tenant house or some other structure.
142 Mr. Rothwell stated it does not matter if it is the primary structure or some other
143 structure; if in a proposed subdivision the applicant can designate a parent parcel.

144 Commissioner Boicourt stated he can see this as a relief if there is an existing
145 structure on the water, but not if you are doing a tear down that is another issue.
146

147 Mr. Callahan stated there are other structures on Parcel C, but we propose to
148 subdivide Lots 1, 2, 3 and 4 from Parcel C but only one of those lots gets that 100
149 foot benefit. Mr. Rothwell stated the Long Point parcel is only subject to a 100
150 foot Shoreline Development Buffer because that parcel is not subject to a
151 subdivision it is subject to a lot line revision.
152

153 Commissioner Councill asked of the two remaining parcels, does the owner want
154 to sell those, or hold on to them? Mr. Callahan stated they want to create two
155 separate parcels. The owner of Lot 5 may purchase it but we do not intend to sell
156 it or any other parcel at this time, but this lot layout provides the flexibility. Mr.
157 Osborne stated he wanted it divided this way because he wants to keep the Long
158 Point farm himself, and keeping the farmland to go with it. But financially he
159 could not afford to keep both lots. Dividing it that way does not interfere with
160 farming and has a natural boundary. His thought process was that field to the right
161 was for hunting. Commissioner Councill is in favor of keeping the remaining
162 parcels in two separate deeds. If someone wanted to hunt, it allows two separate
163 people that opportunity. There are a lot of new and exciting agricultural
164 enterprises that smaller parcels are beneficial to. He stated he does not see an
165 advantage of having it in one parcel. Mr. Osborne stated there is no farming
166 advantage in having it as one parcel.
167

168 Commissioner Boicourt commented that the Commission is comfortable with not
169 requiring street trees on the left, especially with the street trees on the lane going
170 in. Commissioner Fischer said he understands the incentive and appropriateness
171 of not giving up tillable land to street trees when it is not appropriate. He stated
172 the Commission has in many cases not required trees; when the road is being
173 created a wooded lot, for example. The people who planted the trees going into
174 this farm one hundred to two hundred years ago made the same decision. They
175 said we will give up some tillable land to create a really attractive entrance and
176 the owners since then have enjoyed that amenity for decades. There are hundreds
177 of farms where the owners in the 1750s and 1850s have made the decision to take
178 land out of production for an attractive entrance. Looking at Winfield Farm Road
179 I would think the developers and owners of this property would want to put trees
180 on that road to enhance the value of these properties up the road. There is a
181 difference between driving down a narrow farm road and one that is enhanced by
182 trees. He stated he knows he is a minority but he appreciates the issue of tillable
183 land but this is a wonderful opportunity to create a really attractive subdivision
184 and he thinks people would be delighted every time they drive the road.
185

186 Commissioner Councill inserted an interesting history lesson. He stated he asked
187 his father why all the old farms have all the trees up the lanes. He said his father
188 said it was simple they all farmed with horses. When you came out at the end of
189 the date that is where the horses had a drink, got some shade and rested up. When

190 you had livestock you had to have shade, so that was the natural place for shade
191 and water for the livestock in the fields. It also was a break for the snow.

192
193 Commissioner Boicourt stated the mitigating issue was the view across that
194 flatland to the Tred Avon. That serves Oxford Road people very nicely and takes
195 the edge off the need for a really attractive tree line. He stated he is comfortable if
196 applicants decide not to do it for the sales and their people there.

197
198 Mr. Rothwell stated for the practical matter, on the south side there is a very deep
199 ditch which is not conducive to planting trees. Commissioner Boicourt asked
200 about the other side. Mr. Rothwell responded you might be able to plant one row
201 of trees on the other side.

202
203 Commissioner Boicourt asked for public comments, there were none.

204
205 **Commissioner Spies moved to recommend preliminary approval of the Small**
206 **Scale Subdivision for Long Point Preserve, LLC, 5252 Long Point Farm**
207 **Road, Oxford, MD 21654, with Technical Advisory Committee comments**
208 **and staff conditions being complied with, striking the staff suggestion of**
209 **consolidating of remaining lands; Commissioner Sullivan seconded the**
210 **motion. The motion carried unanimously.**

211
212 **Commissioner Spies moved to recommend approval for the preliminary**
213 **Major Revision Plat for Long Point Preserve, LLC, 5252 Long Point Farm**
214 **Road, Oxford, MD 21654, with Technical Advisory Committee comments**
215 **and staff conditions being complied with, striking consolidation of remaining**
216 **lands; Commissioner Councill seconded the motion. The motion carried**
217 **unanimously.**

218
219 Commissioner Boicourt initiated the discussion of the lot size waivers. Mr.
220 Rothwell stated Lot 1 had changed slightly since sketch from 20 acres to 19.6
221 acres. Lot 2 is almost 7 acres. Lot 5 is roughly 12 acres, but given where they had
222 to place the sewage disposal area (SDA) it makes sense. Lot 6 was reduced from
223 9.5 to approximately 6.

224
225 Commissioner Boicourt stated because of the reasons previously stated, the
226 natural features, the existing structures that will be kept, and the various state
227 agency requirements, this makes sense. Commissioner Fischer asked if the SDA
228 issue on Lot 5 has been resolved. Mr. Rothwell stated that will depend on whether
229 or not there will be a 200 foot buffer or a 100 foot buffer, because as it stands
230 right now the SDA is within the 200 foot buffer. Mr. Callahan stated they have an
231 SDA but the size will depend on if it is a 200 foot buffer.

232
233 **Commissioner Fischer moved to approve the Lot Size Waivers for Lots 1, 2,**
234 **5, 6 and 7 for Long Point Preserve, LLC, 5252 Long Point Farm Road,**

235 **Oxford, MD 21654; Commissioner Sullivan seconded the motion. The motion**
236 **carried unanimously.**

237
238 The Commission was in consensus with the Minor Revision Plat for Long Point
239 Preserve, LLC.

240
241 Mr. Showalter asked if the street tree waiver was a requirement. Mr. Rothwell
242 explained the street tree waiver was not required, though the Planning
243 Commission has the ability to require it. There was a consensus among the
244 Commission that there would not be a requirement.

245
246 b. Resolution to Amend the Talbot County Comprehensive Water and Sewer Plan to
247 reclassify and remap a parcel of land located at 4659 Bachelor Point Road,
248 Oxford, Maryland 21654, identified as Tax Map 53, Parcel 128, Lot 1, consisting
249 of 1,893 acres of land, more or less, owned by Ronald L. Walker and Anne Y.
250 Walker, from the current classification of “Unprogrammed” to “W-1” and “S-1”
251 immediate priority status

252
253 Mr. Ray Clarke, County Engineer presented a comprehensive water and sewer
254 plan amendment. The amendment is associated with a parcel that was recently
255 annexed into the Town of Oxford due to a failing septic system. Annexation of
256 this parcel owned by Mr. and Mrs. Walker, was approved by the Council and the
257 Town of Oxford. The Planning Commission and Council approved waiving of the
258 five year rule. At this time they are amending the Comprehensive Water and
259 Sewer Plan to designate the property owned by the Walkers to “S-1”. Because of
260 the situation that it was failing the Walkers have moved to connect the system to
261 the Town wastewater system.

262
263 Commissioner Boicourt asked if they will be seeing more of these lots annexed
264 into the Town. Mr. Clarke stated usually the Town is very good about annexing
265 and extending sewer to address the issues as they are aware of them. This is an
266 applicant who has to move forward with the application and there is a standard
267 \$10,000 fee for the process.

268
269 Commissioner Boicourt asked for comments, there were none.

270
271 Mr. Clarke stated they were having a public meeting on this matter on July 26th at
272 6:30 p.m. and were looking for recommendation to the County Council.

273
274 **Commissioner Fischer moved to recommend to the County Council**
275 **Resolution No. 228, a Resolution to Amend the Talbot County**
276 **Comprehensive Water and Sewer Plan to reclassify and remap a parcel of**
277 **land located at 4659 Bachelor Point Road, Oxford, Maryland 21654,**
278 **identified as Tax Map 53, Parcel 128, Lot 1, consisting of 1,893 acres of land,**
279 **more or less, owned by Ronald L. Walker and Anne Y. Walker, from the**
280 **current classification of “Unprogrammed” to “W-1” and “S-1” immediate**

281 **priority status; Commissioner Sullivan seconded the motion. The motion**
282 **carried unanimously.**

- 283
284 c. Resolution to amend the Talbot County Comprehensive Water and Sewer Plan to
285 reclassify and remap certain properties located in the South Clifton neighborhood
286 adjacent to the Town of Easton, Maryland (the Properties) from the current
287 classification of “Unprogrammed” to “W-1” and “S-1” immediate priority status
288

289 Mr. Clarke presented a resolution to amend the Comprehensive Water and Sewer
290 Plan due to a mapping error that occurred during the 2002 update. During that
291 time the Town indicated nothing outside the Town would be served, it would have
292 to be annexed to be served. This area is outside the town and is served and we did
293 not catch it nor did the Town. When Easton Utilities was processing an
294 application for water quality infrastructure grant and loan funding they found this
295 was not within the Comprehensive water and sewer plan. Mr. Clarke stated they
296 are working with Easton Utilities to resolve this.

297
298 Commissioner Boicourt asked for comments, there were none.

299
300 **Commissioner Fischer moved to recommend to the County Council**
301 **Resolution No. 229, a Resolution to amend the Talbot County**
302 **Comprehensive Water and Sewer Plan to reclassify and remap certain**
303 **properties located in the South Clifton neighborhood adjacent to the Town of**
304 **Easton, Maryland (the Properties) from the current classification of**
305 **“Unprogrammed” to “W-1” and “S-1” immediate priority status;**
306 **Commissioner Sullivan seconded the motion. The motion carried**
307 **unanimously.**
308

- 309 d. Approval of ranking and final list of easement applications to be submitted to the
310 MALPF Program for 2017
311

312 Mr. Rothwell stated the last few years because of the tightness of state funding
313 has been combining rounds to every two years to minimize appraisal costs and
314 maximize the amount of money spent on actual land preservation. The last one
315 was actually completed in 2014. The 2017 application we had 54 applicants from
316 the County which he believes was a record. The state is only allowing the County
317 to submit eight applications. Every application sent to the State is required to go
318 through the appraisal process and the state does not want to take money they can
319 give the farmer. The eight properties are shown on the map attached to the report.
320 All of them are to the east of Route 50. As per 2009 the General Assembly
321 required Counties create a ranking criteria. Our criteria is based heavily on the
322 land valuation, site assessment, through the USDA system that they use. Also
323 extra weight is given for large parcels. He stated as per our program policy we do
324 require a recommendation to the County Council and the County Council has to
325 approve the selection of properties to the Agricultural Preservation Foundation.
326

327 Commissioner Boicourt asked if the people are not in the top eight if they have to
328 reapply every year. Mr. Rothwell stated they have to reapply each year. He said
329 the hard work of the calculations does not change much from year to year. As a
330 landowner you have to give a price you will accept. There are two rounds, round
331 one is based on the top selection. There might be \$50 Million to use statewide.
332 That is divvied up 23 separate ways, it goes down the list 1, 2, 3. If Talbot County
333 is given \$2 Million the first offer is given to John & Sherrill Brooks and if they
334 don't accept it, it goes down the line to Gordon Behrens, and if they accept then
335 they get that amount and then it goes down the line until that amount is gone.
336

337 Mr. Rothwell stated there is then round two which is based on discounting. Say
338 the appraisal determines the conservation easement value to be \$5,000 an acre but
339 you submitted a bid for \$3,000 an acre. The difference between the two is called
340 discounting. It is based on a percentage of the full market value. Unlike round one
341 where each County is given its own pile of money, round two is based on
342 statewide competition where you are competing against every other landowner
343 and applicant in the state. So whoever has the greatest discount by percentage is
344 given the round two offer, one at a time.
345

346 Commissioner Councill wanted to note that he is comfortable with this
347 discussion, but that he is on this list, though he is not in the top eight.
348 Commissioner Boicourt stated he would be interested in finding out how much of
349 a hassle it is to apply and reapply. Commissioner Councill said it is not a hassle.
350 He and his family have filed a number of these easements and it is important to
351 reapply because the asking price can change due to market conditions. Some of
352 the other County's ranking systems, such as Queen Anne's, are heavily
353 discounted as compared to Talbot. So if an owner is desperate and needs money
354 he may discount that offer significantly or if you have a landowner who wants to
355 do it and doesn't care. Commissioner Councill feels Talbot has a good system.
356

357 Mr. Rothwell stated Maryland when it first came out was heavily weighted
358 towards discounting, some states like Delaware still use discounting as their only
359 means of ranking. Delaware has protected around 150,000 acres, and the acreage
360 it has protected tends to be marginal acreage.
361

362 Commissioner Councill stated what he thinks is amazing is that this list
363 represents close to 6,000 acres farmers are interested in protecting. Mr. Rothwell
364 stated this is funded by the agricultural transfer tax. Commissioner Fischer asked
365 who serves on the County Agricultural Preservation – Sewell, Greg Cannon, one
366 of the Sumps. Commissioner Councill stated it was interesting because there was
367 just a handful of points between the top three or four farms.
368

369 **Commissioner Spies moved to recommend to the County Council to approve**
370 **the MALPF Program Easement Applications for 2017; Commissioner**
371 **Councill seconded the motion. The motion carried unanimously.**
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5. Discussions Items

- a. Shore Real Estate Investment, LLC – applicant requested to postpone to a later date

6. Staff Matters

- a. Carole Sellman stated that Ms. Verdery wanted the Commission members to be aware that the repairs to the elevator had not yet begun. Until further notice the meetings will be at the Courthouse. Commission members will be informed of the location of meetings prior to each meeting.

7. WorkSessions

8. Commission Matters

9. Adjournment–Commissioner Boicourt adjourned the meeting at 10:04 a.m.