

1 January 11, 2016



3 **Talbot County Planning Commission**

4 **Final Decision Summary**

5 Wednesday, November 4, 2015 at 9:00 a.m.

6 Bradley Meeting Room

7 11 N. Washington Street, Easton, Maryland

8
9 **Attendance:**

10 Commission Members:

18 Staff:

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- 12 Thomas Hughes, Chairman
- 13 John N. Fischer, Jr., Vice Chairman
- 14 William Boicourt
- 15 Michael Sullivan (Absent)
- 16 Paul Spies
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- 20 Mary Kay Verdery, Planning Officer
- 21 Jeremy Rothwell, Planner I
- 22 Martin Sokolich, Senior Planner
- 23 Carole Sellman, Recording Secretary
- 24
- 25
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27 **Call to Order**—Commissioner Hughes called the meeting to order at 9:00 a.m. Commissioner
28 Hughes explained that Commissioner Sullivan was absent and that he would recues himself from
29 the Administrative Variance. He stated that the applicant would need the three remaining
30 Commission members vote of support to proceed. Mr. Stagg came to the Commission before the
31 meeting and requested if it would be possible to proceed with the variance first. The Commission
32 agreed and Mr. Fischer chaired the application.

33
34 **1. New Business**

- 35
- 36 a. Administrative Variance—Richard C. Tilghman, Jr., #A221—26134 Bruffs
37 Island Road, Easton, MD 21601, (map 16, grid 1, parcel 32, zoned Rural
38 Conservation/Western Rural Conservation), Bill Stagg, Lane Engineering, LLC,
39 Agent.

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41 Willard Parker, appeared on behalf of Richard Tilghman, Jr., along with Mr.
42 Tilghman’s nephew, Will Gordon and his wife Lee Gordon, the occupants of the
43 Wye River house. Mr. Tilghman could not make it due to a doctor’s appointment.
44 Bill Stagg, Lane Engineering, also appeared, on behalf of the applicant.

45
46 Mr. Rothwell presented the staff report of the applicant’s request for an
47 administrative variance to construct a two story screened porch, and a one-story
48 covered porch onto an existing legal non-conforming accessory dwelling that is
49 located partially within the 100 foot Shoreline Development Buffer. The proposed
50 porches will encroach no closer to mean high water than the closest point of the
51 existing accessory dwelling. The improvements will add no new gross floor area
52 within the Shoreline Development Buffer. The applicants are also proposing to
53 add a two story addition outside the Buffer which is not subject to this
54 administrative variance.

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Mr. Rothwell stated this is a unique property which warrants consideration. He had to do some title research on the property. The property is one of the most well known estates in the County and in the State of Maryland. The family at one time owned at least 10,000 acres, and still owns nearly 750 acres. It is a plantation complex and at one time had upwards of twenty dwellings or more. Many of those dwellings have been torn down but several remain today. All of the houses were constructed prior to the adoption of the our first zoning ordinance in 1953. State law and our County zoning ordinance don't make provisions for unique circumstances like this.

Mr. Rothwell stated this particular dwelling was constructed around 1945 for the shepherd who managed the sheep flocks. The property has been surveyed and documented by a number of historians. This is a national landmarked historical district. The National Historic Register does not list this house, which is a separate item. In 1989 the applicants filed for a historic overlay district with Talbot County Council for the entire property which includes Wye River House. So it is subject to the constraints of the Talbot County Historic Preservation Commission. This has been before the Talbot County Historic Preservation Commission three times. The Historic Preservation Commission is satisfied with the site plan and the elevation drawings.

Mr. Rothwell stated the property is subject to a conservation easement with the Maryland Environmental Trust. He stated they have been in contact with the Maryland Environmental Trust and the Eastern Shore Land Conservancy which jointly hold the easement. One of the constraints of that easement is that the main house is subject to a 10% restriction for new gross floor area. All of the four other dwelling units are subject to 20% gross floor area. Mr. Rothwell shared pictures of the property from the Historic Preservation Commission which showed the property prior to alterations, and after previous renovations, and as it is today.

- b. Mr. Rothwell stated the applicants are proposing to re-establish a porch on the east face of the dwelling. Unlike before which was a one-story porch, this will be a two-story porch. Outside of the 100 foot Buffer they are also proposing another covered porch along the south face and a two story addition. This is subject to a variance from the Board of Appeals. By state law Bill 1253, accessory dwelling units are limited to 900 square feet, including porches and decks. Commissioner Fischer asked Mr. Rothwell if the statement: "By state law House Bill 1253, accessory dwelling unit are limited to 900 square feet, including porches and decks.", is pertinent to the discussion of the property. Mr. Rothwell stated it is as it explains why the applicant was required to go through both the Administrative Variance process as well as the Board of Appeals process. He stated he was explaining the improvements they were planning inside and outside of the Shoreline Development Buffer. Commissioner Fischer clarified that was an accessory dwelling. Mr. Rothwell stated it is one of five houses on the property.

100 Applicants are proposing a 20% increase in gross floor area. However because the
101 structure is partially within the 100 foot Buffer there is no mechanism under our
102 Code to allow for that situation so they have to get a variance from Board of
103 Appeals and clear that with the Critical Area Commission.
104

105 Mr. Rothwell stated they are essentially going to make the house closer to what it
106 was prior to the early 1990s renovation with the covered porch on the south face,
107 the re-establishment of the historic window configuration, and a two-story screen
108 porch on the east face of the dwelling within the Buffer. Applicants are proposing
109 to remove a chicken coop, now being used as a storage shed, immediately
110 adjacent to the structure. They are also proposing to remove a brick terrace which
111 results in a net decrease of 195 square feet of impervious surface in the buffer.
112

113 Staff recommendations include:
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- 115 1. The applicant shall be required to obtain a Variance from the Board of
116 Appeals for those additions of the subject accessory dwelling outside of the
117 100 foot Shoreline Development.
- 118 2. The applicant shall be required to obtain final approval from the Talbot
119 County Historic Preservation Commission prior to the issuance of a building
120 permit for the before-mentioned improvements covered under this
121 administrative variance, and the improvements outside of the 100 foot
122 Shoreline Development Buffer to be approved by a variance from the Board
123 of Appeals.
- 124 3. The applicant shall make an application to the Office of Permits and
125 Inspections, and follow all rules, procedures, and construction timelines as
126 outlined regarding new construction.
- 127 4. The applicant shall commence construction on the proposed improvements
128 within eighteen (18) months from the date of the Department of Planning and
129 Zoning's "Notice to Proceed".
- 130 5. Natural vegetation of an area three times the extent of the approved
131 disturbance in the buffer shall be planted in the buffer or on the property if
132 planting in the Buffer cannot be reasonably accomplished. Disturbance
133 outside the Buffer shall be 1:1 ratio. A Buffer Management Plan application
134 may be obtained through the Department of Planning and Zoning.
135

136 Commissioner Fischer commended the thorough staff report and the history of the
137 property. It was explained that Mr. Parker provided a lot of the history of the
138 property. Commissioner Fischer asked if the decks would be pervious. Mr.
139 Rothwell confirmed they would be pervious and have quarter inch spacing, they
140 would not be considered lot coverage.
141

142 Commissioner Fischer asked if there were any comments from the table.
143

144 Mr. Parker thanked Jeremy for putting together the staff report. He hoped his
145 summary review helped them to understand the context of what they were

146 attempting to accomplish and also the interplay between the two variances. I hope
147 the Planning Office will address this in the future so someone will not have to do
148 two applications like this. Will Gordon is a member of the fourteenth generation
149 of the Lloyd family to reside on this property, this is truly living history. They
150 have two young children, the children are the fifteenth generation to live in this
151 property. They need to expand the home to make it more comfortable for growing
152 children. Mr. Tilghman tends to rely on his nephew to look after him and the
153 property as he ages. Will is a landscape designer who has developed and
154 implemented many shoreline and mitigation plans. Over the years the Tilghman
155 family has extensively protected the shoreline of this property with vegetative
156 methods to reduce runoff and improve water quality. They are very active in
157 buffer strips in their farming operations and they currently have a project with the
158 County for a step ditch project. This is a project we hope you will support.

159
160 Commissioner Spies asked for a point of clarification, which property was the
161 oldest continuously owned, this property or the Tilghman Estate in Queen Anne's
162 County. Mr. Gordon stated this property is the oldest property by one year, 1659.

163
164 **Commissioner Boicourt moved to recommend the Planning Officer approve**
165 **the Administrative Variance for expanding the non-conforming accessory**
166 **dwelling of Richard C. Tilghman, 26134 Bruffs Island Road, Easton, MD**
167 **21601, noting the net loss in lot coverage, and add an additional staff**
168 **condition that the dog kennel be removed; Commissioner Spies seconded the**
169 **Motion. The motion carried unanimously.**
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171 **2. Special Meeting Decision Summary Review**—September 30, 2015—The Commission
172 noted the following corrections to the draft decision summary:

- 173 a. Line 39, should read: “Public Works Advisory Board”.
- 174 b. Line 163, change the sentence to read as follows: “Commissioner Hughes stated
175 if you include those parcels you will change Rural Residential to Village Center
176 and thereby increase the growth potential.”
- 177 c. Line 187, correct to read: “MALPF”.
- 178 d. Line 207, clarify the statement to read: “Williamsburg has a couple of large
179 parcels that the owners have requested be withdrawn from the village.”
- 180 e. Line 219, changed to read: “Commissioner Boicourt stated they were worried
181 about the possibility of wholesale development and increased density.”
- 182 f. Line 231, correct to read: “Commissioner Fischer stated he did not agree. He
183 believes that their inclusion would give them unwarranted stature.”
- 184 g. Line 233, correct to read: “whether the Village Maps were included...”
- 185 h. Line 234, correct to read: “Commissioner Sullivan proposed including the
186 village maps as an appendix as the land use map is not as detailed.”
- 187 i. Line 241, correct to read: “the attachment of sample Village Maps is for
188 illustrative purposes only and may not reflect the same boundaries as the
189 official land use maps contained in the Comprehensive Plan.”
- 190 j. Line 331, correct to read: “Mr. Sokolich stated that the Council had not made a
191 recommendation on the remaining items.”

- 192 k. Line 348, change sentence to read: “This is why we struggle with the issue of
193 making village density and made the argument for the one per two with a one
194 acre minimum.
- 195 l. Line 360, Delete sentence beginning “Commissioner Boicourt stated”.
- 196 m. Line 408, check the spelling of Thorneton road – verified it is spelled
197 “Thorneton”.
- 198 n. Line 430, correct to read: “Mr. Clarke stated, in that talking with Environmental
199 Health, he learned that Neavitt has been a problem...”
- 200 o. Line 436, correct to read: “This is just an example we showed as well as the
201 idea of providing sewer to Deep Harbor Farm Subdivision and to Sherwood.”
- 202 p. Ensure that Ray Clarke’s name is spelled correctly, “Clarke”.
- 203 q. Line 481, correct to read: “Commissioner Hughes stated it was just a general
204 discussion if you give sewer access to a particular parcel, much of the
205 discussion depends on other factors some of which are zoning, on the lot to
206 obtain a sewage disposal approval.”
- 207 r. Change spelling of perk to “perc” wherever needed.
- 208 s. Line 510, correct Long Neck to read “Bar Neck”.
- 209 t. Line 513, remove the word “grave”.
- 210 u. Line 518, correct to read: “Commissioner Fischer stated that Barclay and
211 Elkton soils...”
- 212 v. Line 529, correct to read: “Commissioner Hughes stated that the cost of sewer
213 connections should not be driving land use decisions.”
- 214 w. Line 543, correct shell fish to read “shellfish”.
- 215 x. Line 549, correct to read: “Within a couple of months of the sewer system
216 being operational from Royal Oak to St. Michaels the shellfish harvesting area
217 near Oak Creek Bridge cleared up.”
- 218 y. Line 554-559, correct to read: “Commissioner Hughes stated the reason he
219 brings this up is that the fields the County should be concentrating on picking
220 up failing septic systems to cure these areas. This should be the rationale as to
221 how the extension of sewer should be awarded. This is something that has
222 actually worked in terms of fixing something with regards to water quality in
223 the County and serves a high public health purpose.”
- 224 z. Line 580, correct to read: “Mr. Pullen said”.
- 225 aa. Line 584-585, insert a comma after Tier IIIB so it reads: “Commissioner
226 Fischer asked if there is potential instead of making it Tier IIIB, to add a Tier
227 IIIC which would cover the situation without modifying Tier IIIB.”
- 228 bb. Line 591, change to read: “Carroll’s Market, the Cahall’s property.”
- 229 cc. Line 614, correct to read: “to enhance service or water quality for its cost
230 effectiveness.”
- 231 dd. Line 639-649, delete and insert paragraph given by Commissioner Fischer:
232 “Commissioner Fischer stated that we are trying to anticipate the consequences
233 of the decision of the County Council to expand the current sewer connection
234 policy of connecting only homes with failing septic systems to a policy that also
235 would connect homes with properly functioning systems. This expanded policy
236 is understandable in light of TMDL requirements but, unless carefully
237 circumscribed represents a potential slippery slope at the bottom of which could

- 238 lie the unintended consequence of over development of the one-way-in, one-
239 way-out Bay Hundred peninsula.”
- 240 ee. Line 652, correct to read: “Commissioner Hughes asked if when the County
241 goes to someone who has an existing septic system that is properly functioning
242 is it legitimate to ask him to spend \$20,000 over a thirty year amortization to
243 hook up a pipe for twenty-four pounds of nitrogen reduction?”
- 244 ff. Line 654, correct to read as follows: “Commissioner Spies stated it depends on
245 how far we are from our County’s TMDL goal.”
- 246 gg. Line 684, correct to read: “Commissioner Hughes stated the other people who
247 own those lots would accept they have no right to sewer?”
- 248 hh. Line 697, correct to read: “Commissioner Fischer asked if the question of Tier
249 III sewer availability, should cause us to go back and look for or revise the
250 definition of Tiers.”
- 251 ii. Line 710, remove the duplicate “is that”, to read: “Ms. Verdery explained her
252 only concern with that is that they are ready to move forward on October 5th.”
- 253 jj. Line 716, correct to read: “He added that he hoped the Council will hear us
254 out.”
- 255 kk. Line 733, insert “Hughes” and delete “float” so it reads: “Commissioner
256 Hughes asked would the one lot, one tap policy hold if the zoning is different.”
257

258 **Commissioner Spies moved to approve the draft Planning Commission**
259 **Special Meeting Minutes for September 30, 2015, as amended; Commissioner**
260 **Boicourt seconded the motion. The motion carried unanimously.**
261

- 262 **3. Decision Summary Review**—October 7, 2015—The Commission noted the following
263 corrections to the draft decision summary:
- 264 a. Line 318, change “busting” to read “exceeding”.
- 265 b. Line 333, change to read: “Commissioner Hughes expressed concerns about the
266 plan that is originally shown to the public and what the result that is ultimately
267 built may be two entirely different things.”
- 268 c. Line 336, change to read: “In other words if the Council and the Planning
269 Commission go through the laborious process of approving the STAR zone, and
270 the site plan looks materially different from what the redevelopment plan is, is
271 there any presumption of approval that has to be dealt with?”
- 272 d. Line 367, change to read: “Commissioner Hughes hoped that approval of the
273 STAR district would not convey any inference of rights per the development plan
274 until it had gone through the site plan process.”
- 275 e. Line 409, Delete the words “the propose he was concerned about”, after
276 concluded put in two dashes so that it reads: “Commissioner Fischer asked about
277 inns being included—Wades Point Inn, Black Walnut Inn and Lazy Jack Inn—
278 and how to handle those.”
- 279 f. Line 422, correct to read: “Commissioner Fischer stated that the “STAR”
280 buildings would need to be compatible with the community and its surroundings
281 and that is particularly true of building mass.” Delete the next sentence.

- 282 g. Line 430, correct to read: “Commissioner Hughes stated our Code makes
283 exceptions for that, but the standard with regard to height is from the lowest
284 improved elevation to the roofline.”
- 285 h. Line 507, should be corrected to state: “Dan Watson”, not Ben.
- 286 i. Line 556, corrected to read: “Commissioner Spies moved to make a positive
287 recommendation to the County Council to formally move forward with the text
288 amendment for Sustainable Tourism and Reinvestment District legislation,…”
- 289 j. Line 651, correct to read: “Commissioner Fischer stated he is discomforted by the
290 content of Council discussions on Affordable Workforce Housing.”
- 291 k. Line 653, delete they have lumped so that it reads: “Two distinct categories of
292 housing have been lumped together and that is not appropriate, they are different.
293 To pass one off as the other is inappropriate and confusing.”

294
295 **Commissioner Fischer moved to approve the draft Planning Commission**
296 **Decision Summary for October 7, 2015, as amended; Commissioner Spies**
297 **seconded the motion. The motion carried unanimously.**
298

299 **4. Old Business—None.**

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301 **5. Discussions Items**

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303 **6. Staff Matters**
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305 Ms. Verdery stated that on November 24th Secretary David Craig is coming to meet with
306 the County Council and we will take him to local sites which staff has been working on
307 and have encountered some positive or negative reaction to state requirements. We will
308 take him to a property on Route with 50 where we had difficulty with State Highway
309 Administration requiring installation of a bike lane along Route 50. We are also going to
310 take them to a property where there have been some concerns with the Critical Area
311 Commission and how they established the buffer. We will also reach out to the Spies
312 family to see if we can take them to the winery property because are having some
313 difficulty in moving forward with how we classify that land use with agritourism in
314 COMAR and other state regulations, under the building code they classify the use as
315 assembly or mercantile. From environmental health standpoint we have to determine if
316 they have to have a bathroom or not. Then there is the special language associate with
317 value added in our local code. There is a lot of overlapping criteria that we want to
318 determine if the state regulations supercede.

319
320 Commissioner Hughes noted the bathroom requirements for temporary events like the
321 motorcycle race track, Environmental Health required the racetrack to put in some
322 gigantic system and now the port-a-potty industry has come a long way and they have
323 very deluxe, modern and adequate facilities for events so it does not become a permanent
324 fixture.

325
326 Ms. Verdery stated one of the successes they will be looking at is the Rise Up Coffee
327 which started as a drive through kiosk and has expanded into quite a business.

328 Commissioner Hughes suggested looking at the modified planting area. Ms. Verdery said
329 they will be going to a critical area site.
330

331 Ms. Verdery stated that November 24th is the public hearing for the STAR legislation that
332 was introduced by the County Council. The legislation as introduced took into
333 consideration one of the comments by the Planning Commission in regard to the ten year
334 continuous use. The other requirement that was suggested was the maximum structure
335 height. At this time there was no amendment made. There was a lot of conversation as to
336 how to handle that, but there was a difference of opinion. Ms. Verdery stated she
337 anticipates an amendment for the maximum height. Part of the concern was that the
338 Planning Commission's recommendation was that it be limited to a percentage and be
339 limited to a maximum height. A Council member was concerned about how we do that
340 without being arbitrary. Ms. Verdery has been doing some research of the different
341 communities. Most communities use a 20-30% of a building footprint and on average is
342 limited to 10 feet above a buildings maximum height. The Council is looking for some
343 better direction on how to define those things. The Council want some assistance or
344 background as to what other communities do. Ms. Verdery will continue to research and
345 provide the Council with some numbers.
346

347 Commissioner Hughes expressed concern about the Martingham site and how a forty foot
348 structure would not be in scale with the surrounding properties. He stated for an example
349 look at the hotel that went up on Chapel Road and imagine seeing that coming up the
350 Miles River on your boat. Ms. Verdery stated she will continue relaying the
351 Commission's message and she will continue researching. Commissioner Hughes asked
352 if the STAR would trump the Gateway zoning. Mr. Rothwell stated it would not.
353 Commissioner Hughes asked if the Council passed a forty-eight foot building and it
354 comes before the Planning Commission as a site plan does the Planning Commission
355 have to pass that? Ms. Verdery stated the Council has their areas where they make their
356 decisions and the Planning Commission has their area where they make their
357 decisions/recommendations.
358

359 Ms. Verdery stated in regard to the Comprehensive Plan on December 7th there will be a
360 work session with a group consisting of 15 members, each council member will select 3
361 members.
362

363 Ms. Verdery stated the draft tier maps were discussed based on the policies set forth,
364 amendments to Tier IIIA, Tier IIIB and new definition of Tier IIIC. Mr. Sokolich
365 presented the map on an overhead. He stated the text described Tier IIIC as area of
366 limited sewer availability. This is as opposed to IIIA which is rural communities not
367 planned for sewer. All the yellow areas on the east side that are IIIAs was on everything
368 except the Villages. Everything on the west side of the County that was a IIIA becomes a
369 IIIC here. The Villages themselves are IIIB.
370

371 Commissioner Hughes asked if anyone had a calculation of how many unimproved lots
372 there were versus improved lots. Say in the IIIC areas there are one hundred existing
373 houses, if there are another hundred unimproved lots, that makes him nervous. Mr.

374 Sokolich stated this map sets out a general idea. Commissioner Hughes understands it is a
375 general idea and he is very happy with it, but having for the last twenty-five years been
376 arguing about who gets to use the sewer lines he knows as soon as people see a blob on
377 the map they will start to get ideas. Mr. Rothwell stated fortunately a lot of the
378 subdivisions like Wrights Rest the plats have been revised to consolidate the lots into
379 larger lots.

380
381 Mr. Sokolich stated they are preparing to make a red line version of the Comprehensive
382 Plan now. If there have been any errors made now is the best time to correct them.
383 Commissioner Hughes said it would be a good time to meet with the Public Works
384 Advisory Board to ensure all of these areas are drawn as tightly as possible. Commission
385 members requested a copy of the maps. Mr. Sokolich stated it would be available on the
386 website within a few days.

387
388 Ms. Verdery stated the Comprehensive Plan set out a policy for how we would define and
389 where we would locate the IIIC. The current Comprehensive Water and Sewer Plan has a
390 policy for how Cahall and individual property owners with public health issues, safety,
391 whatever, can come in independently, that will remain. What will also have to be added
392 to the Comprehensive Water and Sewer Plan is how do these areas that are mapped as not
393 planned, but eligible, what is the criteria for when it actually becomes a plan or that
394 eligibility comes into effect? Commissioner Hughes thought they were on the same page
395 with the one lot one tape rule, and it was voluntary. If your septic system was functioning
396 property the County would not require you to hook up. Ms. Verdery stated that as they
397 extend the sewer service line does not automatically mean you would hook up. The
398 Commission needs to participate in that process. Commissioner Hughes stated also there
399 is a legal way to extinguish paper lots that may be sitting in the Courthouse, is that still
400 on the radar? Mr. Sokolich said lot consolidation is one way to do it. Ms. Verdery said
401 that process is there, but do we have the right to do it, that is a Mike Pullen question.

402
403 Ms. Verdery said on December 14th there is a public meeting for the general public at 5-7
404 p.m. Then in January the Council is expected to introduce an amended document based
405 on the redline documents plus any comments received from the focus group. An
406 amended, final version will be available. There will be public hearings in February.

407
408 Mr. Spies stated the Phillips Wharf Environmental Center training at PWEC is
409 exceptional. His wife and nine year old son went there and his son cannot stop talking
410 about the experience. They walked him through the class room and explained how an
411 oyster works.

412
413 **7. WorkSessions**

414
415 **8. Commission Matters**

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417 **9. Adjournment**—Commissioner Hughes adjourned the meeting at 11:01 a.m.

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419