

1 November 3, 2016



Talbot County Planning Commission
Final Decision Summary

Wednesday, October 5, 2016 at 9:00 a.m.
Wye Oak Room, Community Center
10028 Ocean Gateway, Easton, Maryland

Attendance:

Commission Members:

Staff:

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

- 20 Mary Kay Verdery, Planning Officer
- 21 Elisa Deflaux, Environmental Planner
- 22 Meagan Patrick, Flood Plain Coordinator
- 23 Mike Mertaugh, Assistant County Engineer
- 24 Mike Pullen, County Attorney

- 27 **1. Call to Order**—Commissioner Boicourt called the meeting to order at 9:00 a.m.
- 28
- 29 **2. Decision Summary Review**—September 7, 2016—The Commission noted the
- 30 following corrections to the draft decision summary:
- 31 a. Line 321, amend to read as follows: “Commissioner Spies stated we have to stick
- 32 with the current definition of a cottage industry.”
- 33 b. Line 717, amend to read as follows: “He feels we should recommend the 5-year
- 34 hold because the hold can be lifted at any time during the 5 year period.”
- 35 c. Line 806, correct spelling of name from Cossano to “Passano”.
- 36 d. Line 891, amend to read as follows: “Any further change in zoning will require
- 37 County approval so even if the 5-year waiver is removed the County will still be
- 38 involved in the future.”
- 39 e. Line 951, amend to read as follows: “Commissioner Fischer asked if the Small
- 40 Area Plan is available.”

Commissioner Councill moved to approve the draft Planning Commission Decision Summary for September 7, 2016, as amended; Commissioner Fischer seconded the motion. The motion carried unanimously.

3. Old Business—None.

4. New Business

- a. Beverly C. Edgell, Trustee, Sharon L. Corkran, Kimberly C. Corkran, c/o Sharon Corkran, #L1264—4050 Clora Dorsey Road, Trappe, MD 21673, (map 53, grid 21, parcel 34, zoned Rural Conservation), Bill Stagg, Lane Engineering, LLC, Agent.

55 Ms. Deflaux presented the staff report of the applicant's request for a lot size
56 waiver for a proposed revision plat shown as Tax Parcel 34, Lot 1 and Lot 2. Lot
57 1 is 8.361 acres, and Lot 2 is 8.307 acres. The resulting acreages are required to
58 obtain a lot size waiver from the Planning Commission in accordance with the
59 *Talbot County Code* §190-196C.
60

61 Ms. Deflaux stated the reconfiguration of the lots of records, shown on the plan as
62 Lot 1 and Lot 2, are proposed at sizes over five acres and under twenty acres. The
63 Department of Planning and zoning finds that the reconfiguration does not have a
64 greater impact on the farming operation or the environmental features.
65

66 Staff recommendations include:
67

- 68 1. Address the September 14, 2016 TAC comments from the Department of
69 Planning & Zoning, Department of Public Works, Environmental Health
70 Department, and the Environmental Planner prior to final plat submittal.
71

72 Bill Stagg, Lane Engineering, LLC, appeared on behalf of the applicant. He stated
73 both parcels are non-conforming today in terms of acres. There is no significant
74 impact of agricultural use of the lands. With the subdivision as proposed there
75 will be additional critical area buffer areas along the waterfront than would have
76 been provided otherwise.
77

78 Commissioner Fischer asked if the buffer requirement existed for both lots? Mr.
79 Stagg stated both waterfront lots had the buffer. Since this is a lot line revision the
80 buffer will remain 100 feet for both lots.
81

82 Commissioner Boicourt asked for public comments.
83

84 Zach Smith appeared on behalf of neighboring property owners, Shane and
85 Joanna Creamer. They are the contract purchasers who wanted a bigger lot. The
86 Creamers are in favor of this request and wanted to request the Commission grant
87 this waiver request. Mr. Smith stated the less than five more than twenty rule
88 makes a lot of sense for new lots being created from a larger parcel. The direct
89 application here of 16 acres and two lots, obviously you are not going to have two
90 lots that conform. He asked that the Commission grant the waiver.
91

92 **Commissioner Sullivan moved to recommend the Planning Officer approve**
93 **the Waiver for Beverly C. Edgell, Sharon L. Corkran, and Kimberly C.**
94 **Corkran, provided compliance with staff recommendations occurs.**
95 **Commissioner Spies seconded the motion. The motion carried unanimously.**
96

- 97 b. A-Fordable Tree Service, LLC #SP576—9529 Ocean Gateway, Easton, MD
98 21601 (map 25, grid 6, parcel 210, zoned General Commercial), Chris Waters,
99 Waters Professional Land Surveying, Agent.
100

101 Ms. Deflaux presented the staff report for a major site plan to establish a
102 commercial tree service business on a vacant parcel in the General Commercial
103 zoning district.

104
105 Ms. Deflaux states that staff recommends the applicant return to the Technical
106 Advisory Committee to review the comments from the September 14, 2016
107 meeting, as the comments from the TAC meeting will significantly impact the
108 overall layout of the project.

109
110 Staff recommendations include:

- 111
112 1. Address the September 14, 2016 TAC comments from the Department of
113 Planning & Zoning, Department of Public Works, Environmental Health
114 Department, and the Environmental Planner prior to final plat submittal.
115 2. The applicant shall make applications to and follow all of the rules,
116 procedures, and construction timelines as outlined by the Office of Permits
117 and Inspections regarding after the fact permits for the sheds.

118
119 Chris Waters, Waters Professional Surveying, 33 Creamery Lane, Easton,
120 Maryland and Eddie Ford owner of A-Fordable Tree Service. Mr. Waters
121 presented a site plan to address some of the items from the Technical Advisory
122 Meeting. He stated first of all the entrance must be raised to get into compliance.
123 One of the comments was to pull all the mulch area back from the State Highway,
124 just leaving an area for six parking spaces. It was recommended there be a 10 ft.-
125 wide sidewalk easement, two proposed street trees and a possible sign. He stated
126 there was mention of a dumpster which needs to be screened. There are two sheds
127 on the property which are currently unpermitted and are five feet apart. They need
128 to be moved and an after the fact permit needs to be obtained.

129
130 Commissioner Fischer was confused by staff comments stating the site plan was
131 to return to TAC, but asking the Commission to approve it. Ms. Deflaux stated
132 that staff did not ask for a recommendation either way. There were some
133 significant comments that Mr. Waters addressed here today. Commissioner
134 Fischer stated he had addressed some but he did not feel qualified to judge for
135 TAC if they satisfied the TAC concerns. Ms. Deflaux stated they had just
136 received the proposed changes today so she could not say so either.
137 Commissioner Boicourt stated the comments were numerous enough and
138 significant enough to warrant another look. He further stated he had no
139 expectation that they would not be able to meet those issues and they have come a
140 long way toward meeting them.

141
142 Mr. Waters wanted to make sure the Commission saw all the comments and how
143 they could be addressed. He did not want the Commission to think this could not
144 happen. Mr. Ford was doing what he needed to do to get this site into compliance.
145 If we need to come back before the Commission we will do what needs to be
146 done.

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Commissioner Councill asked if Mr. Waters and Mr. Ford would be comfortable with the Commission relying on TAC comments and not having to come back before the Commission. Mr. Waters said they would. Mr. Waters said they prefer that.

Ms. Verdery wanted to note that there were numerous comments and they were not sure how they would be addressed and they wanted to have the opportunity to look at it again in a TAC format. There is always the opportunity if something comes up to change the layout or what you have approved, to bring it back.

Commissioner Boicourt asked for public comments; none were made.

Commissioner Fischer moved to approve the major site plan for A-Fordable Tree Service, Eddie Ford, 9529 Ocean Gateway, Easton, Maryland, with staff recommendations; subject to Technical Advisory Committee review, if any major issues in TAC review, staff will return to Planning Commission for review. Commissioner Spies seconded the motion. The motion carried unanimously.

- c. A Bill to amend Chapter 190 of the *Talbot County Code* to adopt definitions for small, medium and large scale solar energy systems, to establish setbacks, screening, mitigation, siting, and decommissioning requirements, to adopt procedures for application, review, and approval, and generally relating to solar energy systems

In May 2016 the Planning Commission, recognizing the need for renewable green energy alternatives, and the potential effects of large scale photovoltaic systems in Talbot County, recommended that the County Council introduce a resolution, to impose a moratorium for solar array projects. A joint work session with the Planning Commission and County Council resulted in the enactment of Resolution 227. This Resolution adopted a six (6) month moratorium on the permitting of solar array energy systems occupying an area of two (2) acres or greater pending consideration and adoption of such legislation as the County Council may consider advisable to promote public health, safety, and welfare.

The Council appointed a committee which has met once or twice a week, every week since mid July. This is a very dedicated, well informed group of individuals who took this task very seriously. Their vast experience, knowledge and backgrounds rounded out a great group that developed carefully considered legislation which addresses various aspects of Solar Energy Systems to include: procedures for approval, design requirements, screening, abandonment procedures, decommission plans, mitigation, development rights and definitions.

The Solar Array Committee representatives will provide a presentation and overview of the draft legislation. County Staff and the Solar Array Committee are

193 requesting the Planning Commission review the proposed amendment to Chapter
194 190 and provide a positive recommendation to the County Council.

195
196 Ms. Verdery asked the representatives to come forward.

197
198 Scott Kane and Frank Cavanaugh introduced themselves. Mr. Kane stated the
199 Committee was comprised of both public officials, County Council, Planning
200 Commission as well as private citizens, owners of solar companies such as he and
201 Rick Lesser and land owners within Talbot County. Data was collected from a
202 wide variety of people during the course of the meetings. There was input from
203 State, County and local officials in Talbot and Kent Counties. As well as from the
204 three utility companies in the area: Easton Utilities, Choptank Electric and
205 Delmarva (recently purchased by PEPCO Holdings which was purchased by
206 Exelon). The Committee was formed based on a Resolution of the County
207 Council in June. The impetus for this was a wakeup call from the development on
208 Route 404 where investors leased land adjacent to Talbot County. They have an
209 arrangement for John Hopkins Hospital so that the energy produced by that
210 facility tied into the grid at the substation located at the intersection of Routes 404
211 and 50. The thought was is this the coming thing for Talbot County.

212
213 Mr. Kane stated this was a great committee. A lot of information was collected.
214 There was a lot of discussion, heated at times, a lot views came out, a lot of good
215 input, a lot of good ideas honed. He was surprised by how well everyone got
216 along. This plan was adopted unanimously.

217
218 Mr. Kane stated there were to be three sizes or classes of systems. The first is
219 small scale, such as you would have on the roof of your house. They would be
220 200 kW or less than or equal to 1 acre. He stated his company, Solar Lane, has
221 built several of these in firehouses. Medium scale is anything above 200 kW to
222 2 MW and between 1 and 10 acres. A good example of this is MEBA on Route
223 33. An example of larger scale would be the one at the intersection of Routes 404
224 and 50; anything at 2 MW and above 10 acres. The Johns Hopkins project wheels
225 the electricity produced at the site to their hospital in Baltimore. The real question
226 was if that is happening now, do we have the correct regulations in place to deal
227 with this? So we had to develop some regulations to deal with this, particularly
228 large scale installations.

229
230 Mr. Kane explained they considered two different types of systems. One was a
231 ground mount system which is a solar energy system built on a grid structure.
232 Usually there is a single post driven into the ground which the array is attached to.
233 The intrusion of the land is quite small. There is room underneath for wildlife to
234 get underneath the solar panel, though there is requirement that they be fenced.
235 Carport systems are also ground mount systems and the feeling is there will be a
236 lot of those in the near future, potentially in places like Giant, Wal-Mart, or
237 Target parking lots. Energy could be generated at the same time as parking cars.
238 The other is roof top solar. This is solar put on the top of a roof. This is done often

239 for fire stations. They can be small like a residence or large like the old Black and
240 Decker plant.

241
242 Mr. Kane stated that small scale require just a building permit and a planting plan
243 for screening. The medium scale require a major site plan, building permit and a
244 landscape and screening plan. The large scale would require a special exception,
245 major site plan, landscaping plan and mitigation of the taking of the land, and
246 non-tidal wetland permits. We should be aware that large scale plans are basically
247 utility scale. The large scale operations go through the Public Service
248 Commission in Baltimore. The Public Service Commission has rights that
249 supersede the County rights. If the Public Service Commission comes in and says
250 they are doing X,Y and Z, the County does not have the right to deny them.

251
252 Mr. Kane stated that other than MAACO a meeting in Ocean City this summer
253 there was a meeting to put in legislation to curtail the Public Service Commission
254 and make them more compliant with County legislation. He wanted to caution
255 that everything that is being put into place could be superseded by the Public
256 Service Commission.

257
258 Mr. Kane explained that site maintenance is very important to the Committee.
259 They want to make sure when they put the system in place there is a procedure for
260 handling the vegetation underneath. Most people are planting grasses, those need
261 to be mowed and there has to be some provision for doing that. He said they
262 stated grasses are not to exceed 12 inches in height. Also noxious weeds such as
263 Johnson Grass, must be treated as required by state law such as on farm lands.
264 This requirement is being placed for both the operator and the landowner. There is
265 a calculation for lot coverage, which determines how big the Solar Energy System
266 (SES) can be. The lot coverage calculations depends on whether the system is on
267 a pervious or impervious surface.

268
269 Mr. Kane showed a map of the County showing possible solar zones containing
270 about 150,000 acres. He stated that the committee determined there would be a
271 cap on the total use of solar services at one-half of one percent of the total of the
272 zoned lands. Per this cap, the total land usable by solar services is 726 acres. For
273 example, if a farm is 200 or 500, acres that is not a lot. But without this cap, there
274 are some larger farms up and down Route 50 that could be developed.

275
276 Mr. Cavanaugh stated that the Public Service Commission has the final say, but
277 they do look at laws, regulations and bills of the Counties. If they deem power is
278 needed in an area, then they will override local laws.

279
280 Commissioner Spies asked when they override laws does that mean they override
281 cap numbers or does that mean they override the screening? Mr. Cavanaugh
282 stated usually it means the transmission lines. Ms. Verdery stated the Public
283 Service Commission would basically become the approving authority for that
284 project and they can impose any regulation they do or don't want to impose. They

285 do try to consider the local ordinances and what screening or mitigation
286 requirements they have and try to impose it. But, ultimately they become the
287 approving authority as they see fit.

288
289 Commissioner Fischer stated he noticed that no one from the Public Service
290 Commission addressed the group. Mr. Kane stated they were contacted. Susan
291 Gray from Department of Natural Resources stated she interacted with them on a
292 wide variety of projects. She didn't just read the rules but understood how they
293 operated. Ms. Verdery stated that a staff member tried to contact them on several
294 occasions but there was basically no response.

295
296 Mr. Kane stated the 726 acres was determined to be what it takes to power Talbot
297 County. Mr. Pullen stated this limit applies to the Agricultural Conservation (AC)
298 and Western Rural Conservation (WRC), it would not apply to the commercial.
299 Mr. Kane said we are going to see a lot more solar. The goal of the former
300 governor was to see 20% by 2020. That is why this legislation is important. Mr.
301 Cavanaugh stated if we used our 726 acres we are well able to fulfill our share of
302 that percentage.

303
304 Mr. Kane declared screening is very important. They talked about MEBA and
305 looked at the Greensboro Elementary School where there is some screening but it
306 has not grown up very well. The regulations under the Bill would require a six
307 foot high berm or six foot tall vegetative planting at time of construction. It was
308 discussed what would be required along state roads, County roads, driveways and
309 adjacent property owners. There would be a landscaping plan that accompanied
310 each project. Commissioner Fischer asked if there would be a width requirement.
311 Mr. Kane said there was no width requirement. Mr. Cavanaugh stated they did not
312 want to set a wide width, they provided the height and not taking too large a width
313 still allowed as much land as possible to be farmed.

314
315 Mr. Kane stated the major lines which show potential for development are along
316 Route 50 and Cordova Road. Most development is built to tie into the substations.

317
318 Mr. Kane stated they also considered the decommission of the solar stations.
319 These are really temporary facilities which operate between 20-30 years. It is
320 usually a single pole put into the ground and it is very easy to pull that pole out.
321 The panels are resold on the open market. He stated they want to provide the
322 impetus to return the land, as much as possible, to original standard. To put some
323 teeth into it requires financial assurance, the thought was to put some money into
324 escrow.

325
326 Commissioner Fischer asked how frequently trucks travel on the land to service
327 the arrays? Mr. Kane stated in some of the large facilities there are roadways
328 down to the arrays. Commissioner Fischer asked how much is the texture of the
329 soil changed over time? Mr. Kane stated there was some concern, but as long as
330 there is not too much disturbance of the soil it could be returned. There was some

331 concern about the project on Route 404 due to the excavation and removal of
332 topsoil, leaving clay.

333
334 Mr. Kane stated the Critical Area Commission staff wanted to eliminate the large
335 scale systems from the RC zoning district. There was a mitigation requirement in
336 the large scale which caused a lot of discussion; whether a cap was enough or a
337 cap plus mitigation or just mitigation. There were a lot of members who felt
338 strongly about mitigating and others felt there should not be mitigation. The final
339 plan incorporates mitigation.

340
341 Ms. Verdery stated there was one more item, development rights for the area
342 encumbered by the solar array system. Based on density and zoning district in
343 which it is located, one development right would be used by the area in which the
344 solar array system is located.

345
346 Mr. Kane stated there was a lot of discussion, a lot of good thoughts and ideas
347 were shared, everybody contributed, and the plan before the Commission is really
348 one that was approved unanimously by this Committee.

349
350 Commissioner Boicourt commended the Committee on their hard work. This bill
351 greatly reduces the worry of taking too much of the farmland. He stated he is sure
352 there will be lots of comments, but this is a very good job.

353
354 Commissioner Fischer said with a large Committee there are sure to be
355 disagreements, but this is a very well done job. He does have a number of
356 comments and questions about the legislations that maybe Mike Pullen can help
357 with. Starting at (2)(d)

358 *“(d) SES in residential districts shall be located in a side or rear yard to*
359 *the extent practicable.”*

360 The question is are we going to accept residential arrays in the front yard? Or
361 should the last four words be stricken?

362
363 Mr. Kane stated the feeling is that in a residential area an array could be quite
364 large so there would be a question as to where to put it. Most properties the array
365 is placed in the back yard and the front would be less appropriate, especially if the
366 residence is close to the street. Certainly there might be situations where the front
367 is more desirable. Commissioner Fischer wondered why we would even open the
368 door. Ms. Verdery stated that we have approved several residential projects that
369 were in the front yard because of the configuration of the property. Adding the
370 screening was our way of saying if you put it in the front you have to screen it in
371 the front.

372
373 Commissioner Councill stated that could still include rooftop arrays, depending
374 on how the roof faces that would be in the front rather than in the rear and side.
375 When it came to a ground mounted system, the Planning Officer would have the
376 authority to shift them to a location that is practical. Commissioner Spies stated he

377 could see in waterfront properties how it is important in the community to keep
378 the waterfront more visually appealing than the front yard. He believes there is
379 some flexibility.

380 Commissioner Fischer further went on to section (2)(e)

381 *“(e) Projects that result in significant loss of prime agricultural land or*
382 *undue impacts to forests, wetlands, habitat protection areas, other natural*
383 *resources, or environmentally sensitive areas are discouraged.”*

384 Wouldn't we want to want to insert the word “strongly discourage” the significant
385 loss of agricultural land and undue impacts to forests and wetlands.
386

387
388 Commissioner Sullivan stated he cannot see that we would ever approve a solar
389 array in wetlands. Ms. Deflaux stated MEBA had some wetland impacts when
390 they built the solar array. Some farm fields have tilled nontidal wetlands and have
391 impact permits from the state. Mr. Pullen stated they could add language to say
392 “and shall be redesigned to avoid or eliminate such impacts to the maximum
393 extent practicable.” Strongly discouraging something is sort of an empty request.
394 If you add the language to redesign to avoid or eliminate to the maximum extent
395 practicable that is a standard.

396
397 Commissioner Fischer commented on line 31, item (3)(a)

398 *“(a) The Planning Commission may waive landscaping and screening*
399 *requirements in accordance with §19-186.”*

400 He stated it seems to him that is a pretty broad statement. He feels it should say:
401 “The Planning Commission may waive landscaping and screening requirements
402 for cases in which elevation changes and/or existing vegetation provides
403 screening equivalent to that required by other SES sites for other SES sited by this
404 section.” Is that the intent?
405

406 Mr. Kane stated the intent was if this was a wooded area and there were no site
407 lines to any other area it was silly to have to screen that, so yes what he said was
408 the intent. Commissioner Fischer said he would rather say it that way than to
409 allow a future Planning Commission the ability to waive the whole thing.
410

411 Commissioner Councill stated his question is where it says “equivalent to other
412 SES”. In the Committee's recommendation it has screening at the fence. What if
413 it was at an enclave back in the woods like the Shortall property? It was not
414 required because of the natural features. The intent was the Planning Commission
415 could look at it on a site-by-site basis. Commissioner Boicourt stated it is helpful
416 to give a reason, not all language is self-explanatory. Commissioner Councill
417 asked if it could be kept fairly broad and say: “May waive in instances where
418 natural features accomplish the screening objective.”
419

420 Commissioner Fischer then commented on line 74 regarding who approves the
421 landscaping and screening plan, and on line 81 or an equivalent approved by the
422 Planning Commission. Is the landscaping and screening plan approved by the

423 Planning Commission, or is the equivalent approved by the Planning
424 Commission? In the last line it was stated the Planning Director had a role, it is
425 not quite clear who has authority for the screening. Mr. Kane stated the Planning
426 Director has the authority for maintaining the screening. Ms. Verdery stated they
427 should say “the approving authority” because it should not even come to the
428 Commission, so they will change that.

429
430 Commissioner Sullivan had a question on the overall size limitation, line 60. If
431 there was one five hundred acre project it would use up almost all of the entire
432 county acreage. Mr. Kane stated, under this plan, that would pretty much be our
433 limits. Commissioner Councill stated the farmers in the group felt that 150-200
434 acres is no different than looking at 60-70 acres. Mr. Kane stated there was quite a
435 bit of discussion about the total in the County. There was discussion of mitigation
436 of land preservation program of 1:1. It was a consensus of the group that it was
437 unreasonable and unfair to put a permanent easement on a temporary use,
438 something we felt was going to be 20-30 years. To a lot of people 20-30 years is a
439 lifetime, to farmers and farm owners in the County it is a limited time. He stated
440 he was on the fence and liked the idea of mitigation. The temporary mitigation for
441 the life of the project was discussed, to cut it from one percent to a half a percent.
442 Everyone at the table agreed with this. Commissioner Sullivan stated his concern
443 is that someone comes in with 750 acres and then everyone else is shut out so they
444 go to the Commission in Baltimore and try to get waivers. Mr. Kane stated the
445 Commission would only override this if there was a need for power.
446 Commissioner Boicourt asked what would account for the Johns Hopkins
447 example, which is a concern. We are basically producing electricity far beyond
448 our needs and losing our farmland resources. Commissioner Sullivan stated that
449 bothers him even more now, they could say we need power in Western Maryland
450 but we have to put the solar here in Talbot County.

451
452 Commissioner Fischer stated if you look at line 116 you see that the failure to
453 comply with abandonment has specific remedy in the County. But if you go back
454 to the screening requirement on line 88, there is no remedy. Mr. Pullen stated that
455 Chapter 58 of the Zoning Ordinance, the Enforcement Section, gives the County
456 an Administrative Abatement Order, which is a written order to someone to do a
457 certain thing. It is similar to a Court Injunction. If the person does perform the
458 action requested in the Abatement Order within thirty days or appeal it to the
459 Board of Appeals, we can file an action in the Circuit Court and get the Court to
460 order them to do it.

461
462 Commissioner Fischer stated line 162 discusses Reservation of Development
463 Rights Agreement approved by the County. Is it normal to specify which
464 organization of the County is going to handle that, or is County enough? Mr.
465 Pullen stated that usually those Agreements are handled by the Staff and the
466 Planning Officer. There is a standard template, which has been crafted to limit the
467 terms of those agreements. Ms. Verdery stated that this is the way it is written in
468 the Subdivision Section of the Ordinance. It says it is approved by the County

469 because, even though Planning and Zoning drafts it, the Office of Law reviews
470 and approves it, and ensures it is consistent. County Council is also aware of it
471 and authorizes and approves it. Mr. Pullen stated it is not an easement given to
472 any private group, it is a reservation, a time limited restriction on development
473 that comes off when the solar array comes off.
474

475 Commissioner Fischer stated on lines 200-203 signage is required for large scale.
476 Wouldn't it be reasonable to also require signage for medium scale? Couldn't we
477 also insert large and medium scale? Ms. Verdery stated this section applies only
478 to large scale. There is a section that applies to both and it could be in that section.
479

480 Commissioner Boicourt asked for public comment.
481

482 Bill Stagg, Lane Engineering, LLC, Easton, Maryland, suggested in drafting the
483 legislation, one of the problems they have with the Talbot County Ordinance in
484 general is the lack of specificity in landscaping and screening. Why don't you
485 introduce some specifics for what you want for screening more than just a six foot
486 berm or a six foot screen. If you could show some cross sections examples of
487 what a screen should be and if it fits into the character of Talbot County. Then if
488 someone wants to propose something different at least you have a standard to
489 compare it to.
490

491 Commissioner Boicourt said there could be some design standards, but he would
492 not want to hold up the Ordinance at present. That would be a very valuable
493 document for the Commission. Commissioner Councill asked if Mr. Stagg has
494 read the screening standards in the Bill. Mr. Stagg stated he had not.
495

496 Commissioner Fischer stated there was a document produced by Chesapeake
497 Wildlife Heritage, which listed specific species of trees and shrubs that would
498 compose an effective buffer. There are those that are more effective than others.
499

500 Dan Watson, Talbot County, spoke in support of the importance of taking the
501 ambiguity out of the landscaping. What he always thought of as low growing are
502 those low growing shrubs. Having a guideline from an engineering perspective
503 would be helpful.
504

505 Ms. Verdery stated the Critical Area Commission has a guidance document they
506 provide as to what the buffer should look like when it is established. We could
507 create some kind of companion document for this, a brochure that we provide that
508 notes the trees that are our preference, a picture or illustration of what we want it
509 to look like. We are moving forward with updating the Zoning Ordinance. Part of
510 that is creating a Zoning Ordinance that has more illustrations than we currently
511 have.
512

513 Commissioner Boicourt commended the members of the Committee for the Bill.
514 It enables solar use but also protects the County from bad things. He stated he

515 feels hugely relieved in this process. Ms. Verdery also thanked the Committee,
516 she stated they were a good group to work with.

517
518 **Commissioner Fischer moved to recommend the County Council approve the**
519 **Bill to amend Chapter 190 of the *Talbot County Code* to adopt definitions for**
520 **small, medium and large scale solar energy systems, to establish setbacks,**
521 **screening, mitigation, siting, and decommissioning requirements, to adopt**
522 **procedures for application, review, and approval, and generally relating to**
523 **solar energy systems, with changes recommended. Commissioner Sullivan**
524 **seconded the motion. The motion carried unanimously.**
525

5. Discussions Items

527 a. Easton Point Annexation—Ms. Verdery stated there are some suggested dates for
528 a joint meeting with the Town of Easton regarding the Easton Point Annexation.
529 These dates were suggested by the Town of Easton as dates they were available.
530 November 8th is a County holiday. Ms. Verdery stated she is out of the office on
531 November 9th. Commissioner Fischer stated he is uneasy meeting with the
532 Planning Commission of the Town before our County Council has declared where
533 they stand on the issue of the 5-Year Hold. He did not want it to appear they are
534 going around them. Ms. Verdery stated the County Council is expected to make a
535 decision on October 11th. If the decision is not made at that time the meeting can
536 be postponed. Mr. Pullen stated his impression was this was an overture by them.
537 One of the concerns the County had about this particular annexation was there
538 had not been any discussion among the Planning Commissions to develop a
539 common vision of what that annexation should be. They want this annexation to
540 go forward and they want the Council to vote on that 5-Year hold. But in addition
541 to that they want to start a common discussion of what should happen there. Their
542 view is that these discussions are not intended to influence the current annexation
543 but a common understanding of how that area should be developed in the future.
544 This annexation is a relatively small part of that area. Ms. Verdery stated the
545 November meeting is focused more on the Small Area Plan provided to the
546 Commission and to focus on that plan and what it lays out for the future.
547 Commissioner Boicourt felt if there is no action on the 5-Year Hold they might
548 want to postpone, but the big picture is important. This is an overture we should
549 be positive about. Commissioner Fischer asked if without knowing how the
550 County Council sees this, should the Commission go to this meeting?
551 Commissioner Boicourt stated the Commission acts as an advisor to the County
552 Council. But the Commission can wait until after the Council's decision. Ms.
553 Verdery stated that a joint work session can be scheduled with the County
554 Council and the Planning Commission. Commissioner Boicourt stated he would
555 welcome such a discussion if they wished. He thinks that would benefit the entire
556 process. Commissioner Spies feels the joint meeting would be good to understand
557 the Town's vision for that area would be a help for the future and for information.
558 Ms. Verdery suggested the latter dates of the 14th or 15th work that would allow
559 her to set up a meeting between the County Council and the Planning

560 Commission before the Planning Commissions meet. It was agreed the 15th would
561 be the best date if it can be coordinated.

- 562
- 563 b. St. Michaels Venture—Mike Mertaugh wanted to make the Public Works position
564 clear regarding the St. Michaels Venture project and direct access on St. Michaels
565 Road. He stated they have no issue with the proposed project. It is probably a
566 good location for it. It is more a concern for the safety of the traveling public on
567 MD Route 33 with the concept of making that agriculture access as it exists today
568 be their main entrance directly onto Route 33. Mr. Mertaugh stated he was not in
569 favor of it. Commissioner Boicourt asked where that stands today, the State
570 Highway has approved the access? Mr. Mertaugh stated the State Highway
571 granted access. He stated they have to limit accesses to high volume/high speed
572 roads. St. Michaels Road is considered a minor arterial. Minor sounds small, but it
573 is pretty high up in the hierarchy of roads. It is a high volume road which carries
574 almost 15,000 vehicles a day. Route 50 is almost double that, but it is a four-lane
575 road. He stated they try to consolidate access because, if there are a lot of
576 accesses, drivers go slower so you lose capacity of your roadways. Every
577 intersection or access point is a conflict point where there could be a vehicle
578 accident. There are properties that have no alternative to direct access, the State or
579 County never really denies that. This particular site has an existing access off a
580 County road, which essentially follows the hierarchy of local roads to collectors
581 to arterials, etc. He stated it is their perspective that St. Michaels Ventures should
582 use the access off of Lee Haven Road.

583

584 Commissioner Fischer asked when the original State Highway letter that denied
585 access to Route 33 was written? Mr. Mertaugh stated the letter was dated in 2004,
586 twelve years ago. Commissioner Fischer asked how Mr. Mertaugh explained the
587 reversal? Mr. Mertaugh stated there has been a change in access permits system in
588 Baltimore. It used to be centralized and now they are decentralized, he is not sure
589 if they were unaware or if the perspective has changed. Commissioner Fischer
590 asked if the current letter, the September 20th letter, would stand? Mr. Mertaugh
591 stated he did not see a reason why not. Commissioner Fischer asked if the
592 Commission could make a decision with the current letter? Mr. Mertaugh stated
593 this is a State road. It is not under the County purview or ordinance. He just
594 wanted to go on record with his concerns. Mr. Mertaugh further stated when TAC
595 reviewed the project there was not direct access to Route 33.

596

597 Commissioner Councill stated he respects Mr. Mertaugh’s opinion, but he does
598 not agree. Thinking back to the meeting and all of the residents, their primary
599 concern was Lee Haven Road. Lee Haven Road is not a typical County Road. He
600 stated it would seem that the direct access to Route 33 would be safer than using
601 Lee Haven Route. There were some elderly residents from Lee Haven Road. If
602 the conflict point of Lee Haven Road and Route 33 could be alleviated, the
603 advantages far outweigh the disadvantages.

605 Ms. Verdery stated that the Commission does not have to, but is the approving
606 authority for this Site Plan. The Commission made the condition to consider these
607 accesses, that they go back to TAC, and that we evaluate whether they could get
608 the State Highway approvals for where they end up having their access point. The
609 Lee Haven that has now been described to you by our Assistant County Engineer;
610 with the acceleration deceleration lanes and those other things that the direct
611 access point does not have; and then the advantages and disadvantages of direct
612 access. If, in re-evaluating, you want to modify the special exception approval
613 you made, and the recommendation moving forward you have that authority.
614

615 Commissioner Spies stated if we look back at the comments in their
616 recommendation to seek approval, we said that it was in our interest to seek
617 approval for direct access to Route 33. Ms. Verdery said they were asking if they
618 have the ability to make recommendation again today, so they have the authority
619 to make recommendation based on the safety factor. Commissioner Boicourt said
620 the acceleration deceleration lanes are important, but there are two concerns. One
621 the traffic on Route 33, other than getting used to where the cars are coming out,
622 the bike lane on the right side, the acceleration/deceleration lanes are terrible for
623 bikers because people are thinking of transferring. Then as far as car safety, the
624 fewer the cuts the better. He stated he is torn. Commissioner Fischer stated it
625 depends on which unsafe situation you prefer. The elderly residents of Lee Haven
626 or all of the traffic on Route 33, often bumper to bumper. Neither condition is
627 good for the citizens. Commissioner Boicourt stated turning onto Lee Haven is a
628 big concern for him, driving big equipment into a small road.
629

630 Bruce Armistead with Ricky Leonard and Ryan Leonard, St. Michael Ventures,
631 and Bill Stagg, Lane Engineering, LLC appeared before the Commission. Mr.
632 Armistead stated the Commission heard the application in September and
633 approved the Site plan. He stated the Leonards appeared before the Board of
634 Appeals this past Monday evening who heard the case only to the use of the
635 structure being too large for cottage industry standards. The Board of Appeals did
636 vote to approve. The issue of the State Highway came about because of the
637 request of the Commission and requests of Lee Haven to make that inquiry. This
638 resulted in the letter Mr. Mertaugh referenced. Mr. Mertaugh has stated his
639 opinion, we respect that. He stated there is no objection from Mr. Leonard to
640 change the access to Route 33. Mr. Armistead stated they are concerned about
641 how this process works. He hopes the Commission will be able to amend their
642 decision from September today. The cottage industry standards were changed
643 some years ago. They changed from a Special Exception process to a Planning
644 Commission process. Part of the effort was to make it easier for small businesses
645 such as St. Michaels Ventures to get through the process. Now we have been
646 through TAC, Planning Commission and the Board of Appeals. We hope you can
647 amend your decision today.
648

649 Bill Carroll, Regional Engineer for Access Management, State Highway
650 Administration, stated there is a little clarity for who is responsible and who

651 makes the decision on the Route 33 access. Your request was for a cottage
652 industry, which requires a home to be on this property. This is a residential
653 permit, not a commercial permit. It was closed down in 2004 because it was used
654 for commercial purposes at that time. It was gated to allow access for agricultural
655 purposes. Because it is a residential permit, it is the responsibility of the Easton
656 Shop Maintenance Engineer to make the decision whether an entrance goes in or
657 not. Mr. Carroll stated they both conferred on this project. It is an odd situation
658 that you have a business and a residence working out of the same property. We
659 agreed the existing entrance is fine for that purpose. If the entrance needs to be
660 widened for Mr. Leonard needs (for getting in and out) that would be entirely up
661 to him, he would need to coordinate that with the Easton Shop. He stated it is their
662 understanding is it is already in place, how it got there is beyond them. The access
663 is fine for whatever their purposes are. If they plan to use tractor trailers to haul in
664 big excavators, then Mr. Leonard would need to come in and discuss it. Other
665 than that, for the business Mr. Leonard has planned with five employees, it is
666 acceptable.

667
668 Commissioner Boicourt stated they consider the State perspective which colors
669 the Commissions thoughts for future access. It is helpful to know that the State's
670 perspective is that this is a residential project.

671
672 Commissioner Spies stated, regarding Mr. Armistead's comments, the
673 Commission's original motion was to look at widening Lee Haven Road or
674 establishing a commercial access onto MD Route 33. Would the Commission
675 have to vote on this? Ms. Verdery reminded them they did say establish a
676 "commercial access", would they want to clarify?

677
678 Commissioner Fischer is persuaded by Commissioner Spies comment about the
679 difficulties of passing on Lee Haven Road when meeting a large truck.

680
681 Ms. Verdery stated the Commission would need to clarify which access should be
682 used for the cottage industry.

683
684 Ryan Showalter appeared on behalf of a number of Lee Haven Road residents.
685 The residents would like the Commission to amend the approval to have the
686 cottage industry use the MD Route 33 entrance and abandon the Lee Haven Road
687 entrance. It is difficult for two pickup trucks to pass on Lee Haven Road due to
688 the width of the road.

689
690 Commissioner Councill asked if the Route 33 entrance was used for the cottage
691 industry use could the Lee Haven Road entrance be used for residential use. Ms.
692 Verdery stated that cottage industry is a residential use, therefore if the Route 33
693 entrance was the designated entrance, then the Lee Haven Road entrance should
694 be abandoned. Mr. Showalter stated he was not concerned about the passenger
695 vehicle going to the house. He was concerned about the commercial truck traffic.

696 Ms. Verdery stated if the other access point was kept it would be harder for the
697 County to enforce.
698

699 **Commissioner Councill moved that that the decision from the September**
700 **meeting be modified such that the access to the cottage industry for St.**
701 **Michael Ventures c/o Rick Leonard, 8400 Lee Haven Road, Easton, MD**
702 **21601 (First Baptist Church of Easton, current owner), will be from MD**
703 **Route 33. Commissioner Spies seconded the Motion. The motion carried**
704 **unanimously.**
705

706 Mr. Leonard stated that once they widen the road to MD Route 33 and put the
707 field back into production this will be a much better choice.
708

709 **6. Staff Matters**

710 a. Ms. Verdery stated that there have been some staffing changes. Mr. Jeremy
711 Rothwell is no longer with the County. In the interim, Elisa Deflaux will be
712 preparing most of the Staff Reports. Meagan Patrick is our Floodplain Manager
713 and will be handling some of the flood related items. The County is moving
714 forward with hiring an Assistant Planning Officer. In the new year, we will be
715 hiring a new Planner. We are also losing one of our Code Compliance Officers in
716 the coming weeks. We are moving forward with CodeWrite on Chapter 190. We
717 have a conference call with them and General Code, the online company, so they
718 will be able to incorporate the new updates and charts and graphs online.
719

720 Richard Polk, the Business Editor of Star Democrat, introduced himself and stated
721 he would be coming to the meetings.
722

723 **7. WorkSessions**

724
725 **8. Commission Matters**

726
727 **9. Adjournment**—Commissioner Boicourt adjourned the meeting at 11:13 a.m.
728
729