

1 November 25, 2019



Talbot County Planning Commission
Final Decision Summary

Wednesday, September 4, 2019 at 9:00 a.m.
Bradley Meeting Room
11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Staff:

- 11 Paul Spies, Chairman
- 12 Phillip “Chip” Councill, Vice Chairman
- 13 William Boicourt
- 14 Michael Strannahan (absent)
- 15 Lisa Marie Ghezzi

- 20 Mary Kay Verdery, Planning Officer
- 21 Miguel Salinas, Assistant Planning Officer
- 22 Elisa Deflaux, Environmental Planner
- 23 Anthony Kupersmith, County Attorney
- 24 Carole Sellman, Recording Secretary

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

Commissioner Spies explained there were only four (4) members of the Commission present and that a tie vote is considered a negative vote. He stated that any applicant may choose to withdraw their application until the next month without penalty.

2. Decision Summary Review—August 7, 2019—The Commission noted the following corrections to the draft decision summary:

Commissioner Councill moved to approve the draft Planning Commission Decision Summary for August 7, 2019, as presented. Commissioner Ghezzi seconded the motion. The motion carried unanimously (4-0).

3. Old Business—None.

4. New Business

- a. Small Scale Subdivision—Elaine A. Wrightson and Steven T. Wrightson, #M1169—30722 Kingston Road, Easton, Maryland 21601, (map 35, grid 4, parcel 33, zoned Countryside Preservation), Elizabeth A. Fink, Fink, Whitten & Associates, LLC, Agent.

Ms. Deflaux presented the staff report of the applicant’s request for a Small Scale Subdivision to divide Tax Parcel 33 into Tax Parcel 33, Lot 2 and Tax Parcel 33, Lot 1 (Farm Parcel) and establishing a 40’ wide private road right-of-way easement on a property located at 30722 Kingston Road, Easton, Maryland. According to the *Talbot County Code* §190-66.2 B.1., decisions on small scale subdivision plans shall be made by the Planning Commission.

56 Staff recommendations include:
57

- 58 1. Address the August 14, 2019 TAC comments from the Department of
59 Planning & Zoning, Department of Public Works, Environmental
60 Health Department, Talbot Soil Conservation District and the
61 Environmental Planner prior to the Preliminary Plat submittal.
62

63 Elizabeth Fink with Fink, Whitten & Associates, LLC representing the
64 Wrightson's. The farm parcel and some of daughter's lot will remain in
65 agriculture use.
66

67 Commissioner Boicourt had a question for Mr. Mertaugh regarding the entryway.
68 Otherwise, he agrees this is straightforward.
69

70 Commissioner Ghezzi stated that there is a "forested area" of 9.85 and some more
71 in agricultural land. She asked how "substantial" is defined, and how the
72 subdivision does not contain a substantial amount of forested land. Ms. Fink
73 stated that there was a template used and the forested land is not being touched.
74

75 Commissioner Councill asked why the applicant desired a six acre lot. Ms. Fink
76 stated the applicants wanted a lot large enough for the daughter to have a home
77 and large enough for some tax incentives. Also, it needed to be large enough for
78 the setbacks and road requirements. Commissioner Councill stated he does not
79 see the need for the six acres when two would do. He will not go against it, but he
80 prefers not seeing six acres cut out of a farm.
81

82 Ms. Fink further stated the daughter has chickens and goats.
83

84 Commissioner Spies asked for public comments; none were made.
85

86 **Commissioner Councill moved to approve the sketch small scale subdivision**
87 **for Elaine A. and Steven T. Wrightson, 30722 Kingston Road, Easton,**
88 **Maryland; with all staff conditions being complied with. Commissioner**
89 **Boicourt seconded the motion. The motion carried unanimously (4-0).**
90

- 91 b. Minor Variance—Thomas Caramanico #MV26 —7400 Cooper Point Road,
92 Bozman, Maryland 21612 (map 39, grid 4, parcel 2, zoned Rural Conservation)
93

94 Peter Cotter appeared on behalf of Mr. Caramanico.
95

96 Ms. Deflaux presented the staff report for the Minor Variance to construct a 17' x
97 15' pervious deck located 42' from Mean High Water (MHW).
98

99 Staff recommendations include:

- 100 1. The applicant shall make an application to the Office of Permits and
101 Inspections, and follow all rules, procedures, and construction timelines as
102 outlined regarding new construction.
- 103 2. The applicant shall commence construction of the proposed improvements
104 within eighteen (18) months from the date of the Planning Office's 'Notice to
105 Proceed'.
- 106 3. The applicant shall follow the pervious deck requirements.

107
108 Mr. Cotter explained that Mr. Caramanico was in the process of selling this
109 property. In the process he discovered that several buildings were not permitted
110 and had to be removed. The current deck sits outside an old hunting lodge on the
111 site. He stated they would like to take the old deck, which is an impervious
112 surface structure, and have it comply with the pervious deck agreement.

113
114 Commissioner Councill stated he has been to the site and he does not agree. Mr.
115 Cotter stated the information he has is from a survey. Commissioner Councill
116 disagreed, but later apologized and stated he was in error as the project is 42 feet
117 from MHW and the closest point of the house is 28 feet.

118
119 Mr. Cotter stated they have been working with the County and Critical Area for a
120 while on this process in addressing the structures in the Critical Area.

121
122 Commissioner Ghezzi asked about the materials, which have already been
123 removed, when were they constructed. Mr. Cotter stated he believes they were
124 constructed about 1990 they were constructed over a graveled parking area. All of
125 those have been removed as of today. Commissioner Councill asked if they
126 missed accounting for the deck in 2002 when the building permit was issued for
127 other improvements.

128
129 Ms. Deflaux stated they could not find the 2002 building permit file.
130 Commissioner Councill asked if they would not have had to come before the
131 Commission. Ms. Deflaux stated early on, before 2005, you could expand in the
132 buffer with only a building permit as big as you want no closer to MHW.

133
134 Commissioner Councill stated they are in the process of building a new deck,
135 why are they not getting a permit for a new deck instead of dealing with the old
136 deck.

137
138 Mr. Cotter stated he believes what happed is the permit office wanted to know
139 how the deck was constructed underneath. The plan is to recreate the deck under
140 today's code, in the same footprint and make it pervious.

141
142 Commissioner Ghezzi stated that with this being built in 1990, and all the
143 discussions going on since 1975 and later with Talbot's County's adoption of the
144 Critical Area Act and the house being very close to the water she finds it curious
145 that someone would not think to get a permit to renovate their home. She stated

146 she has been down to the house twice. Was the house renovated in 1994 or 2002?
147 Commissioner Spies asked for a clarification from Staff regarding the folder,
148 since the folder could not be located there is no proof there was not a permit. Staff
149 said they could not find a folder, so we cannot assume he has done something
150 illegal.

151
152 Mr. Cotter stated the addition to the hunting lodge was built in 1994 and the
153 garage was 2002, but at the time the addition was applied for in 1994, the deck
154 was there.

155
156 Commissioner Boicourt cannot interpret the dotted lines the on south side near the
157 pier and also what is the flag line. Ms. Verdery stated the flag line is the LiMWA
158 (Limit of Moderate Wave Action). Ms. Deflaux stated the flood zones are labeled
159 in the plan view. Commissioner Boicourt stated it would be good to label the
160 flood zone along the boundary lines. It is not necessary for this application but it
161 is important for the future.

162
163 Commissioner Spies stated how he has looked at these projects in the past is how
164 do they protect the critical area and how do they make improvements, and this is
165 an improvement. He sated he does not see moving the deck to another place to
166 make it compliant. The changes they have already submitted seem to be enough.

167
168 Commissioner Spies asked for public comment.

169
170 Bruce Armistead, 114 Bay Street, stated he represents a possible purchaser. They
171 are here to see that the proper things are done before the client commits to
172 purchasing the property.

173
174 Commissioner Boicourt stated he wanted to support this. The procedure is
175 awkward whenever it is an after-the-fact process. He thinks careful scrutiny is
176 required. Commissioner Councill stated he always asks himself would he
177 approve it if it was a new application coming in. He is not crazy about after-the-
178 fact permissions. He asked Mr. Armistead to make the purchaser aware of the
179 planting requirements. Commissioner Ghezzi stated it is an improvement, but the
180 applicant did not come forth at any time before the proposed sale. She believes
181 this person was aware of the Critical Area regulations and operating under the
182 radar. Commissioner Spies asked what grounds we have not to pass this. We pass
183 many of these and would pass anyone else. Commissioner Ghezzi stated it should
184 be removed.

185
186 Mr. Cotter stated that after speaking with the Permits Office they are replacing the
187 entire deck. The reason is that the deck that is there is not structurally sound. They
188 are going to build the new deck to today's Code and standards. The contract
189 purchasers want a deck and either way will be here in a few months to apply for
190 the deck.

191 Commissioner Ghezzi stated we would approve this for the new purchaser. Mr.
192 Caramanico will get a higher price for the property. The real crux of the matter is
193 that we are here to understand what is out there and this gentleman chose to
194 ignore what was going on. Mr. Cotter stated he was not consulted at that point; he
195 was not even an attorney at that point. He can only present the current application
196 on behalf of his client. He understands the argument of not initially getting a
197 permit, but it is the intent of coming before you today and getting a permit. At this
198 point it would be injurious to not have a deck there. That is putting a harm to the
199 owner, whoever that may be, going forward. Commissioner Ghezzi asked if the
200 Planning Commission’s approval of this request would set a precedence.

201
202 Commissioner Spies stated people are allowed to build an addition off of their
203 house that’s inside the Critical Area buffer that meets the standards of Critical
204 Area. Of course, he would rather they came in beforehand, mitigating impervious
205 surface, meeting today’s standards and meeting planting standards. Those are hard
206 standards to meet. But it will meet the standards for after-the-fact projects too.
207 Commissioner Ghezzi “agrees” that the applicant has taken on the additional costs
208 of removing the impervious surfaces, but because the applicant laid this
209 impervious surface without County approval, these are self-imposed costs.

210
211 Commissioner Ghezzi raised one last point of Minor Variance standards; she said
212 he did not meet the criteria of No. 4, conditions or circumstances, which are the
213 result of actions taken by the applicant. He says that he is responsible; therefore,
214 all criteria of the Minor Variance must be met.

215
216 Mr. Potter stated that is the whole point of this process. If you did not do things
217 right the first time you have an after-the-fact process.

218
219 Commissioner Spies asked for public comments; none were made.

220
221 **Commissioner Councill moved to approve the Minor Variance after-the-fact**
222 **for Thomas Caramanico, 7400 Cooper Point Road, Bozman, Maryland, with**
223 **all staff recommendations. Commissioner Boicourt seconded the motion. The**
224 **motion carried 3 to 1 (Ghezzi opposed).**

- 225
226 c. Recommendation to County Council—Proposed Text Amendment—Amend
227 Section 190-31.2(D)(7) by including the following as a new subsection (c): “A
228 pier that does not meet the state standard of performing at least 85% of the
229 designed purpose may be replaced extended beyond the 150 foot maximum
230 allowed length standards provided in §190-31.2(D)(1), at a maximum width of 6
231 feet, to provide direct access to a boathouse that remains functional.

232
233 Ryan Showalter appeared on behalf of 6184 Shipyard Lane, LLC, owner of the
234 Avondale Property on Shipyard Lane. It is improved by a substantial boathouse
235 which is 350 from Mean High Water (MHW). The boathouse is functional, but
236 due to neglect of prior owners the pier has fallen into disrepair. Current County

237 standards do not allow replacement of a pier more than 150 feet in length. The
238 current owner obtained permits for the pier with the State for 350 feet. The
239 County is only willing and able to issue a permit for 150 feet which leaves
240 boathouse an island structure. This is intended to address that gap.

241
242 Commissioner Spies asked what determines a functioning boathouse. Mr.
243 Showalter stated functioning roof, can tie a boat. Ms. Verdery stated it must be
244 performing 85% of its designed purpose to be functional.

245
246 Ms. Verdery stated staff has provided a memorandum with proposed amendments
247 to the standards.

248
249 Commissioner Boicourt stated he is not wild on these amendments. One of the
250 reasons for reducing piers to 150 feet was for the visual aspect on the waterfront.
251 If something is not used, or maybe we should use the word maintained, it goes
252 away and you can't reestablish it. He is worried about the precedence and
253 unintended consequences of modifying it.

254
255 Mr. Showalter stated the Code does not consider non-use for structures. There is
256 an abandonment concept for structures. The boathouse is there and has been
257 maintained. The pier was not maintained by the prior owner. If it had been
258 maintained it would not be a problem. Increased focus on SAVs which deal with
259 non-conforming platforms and the state will permit applicants to replace them but
260 wants them further from the shore. The County says if you want them larger you
261 have to move them further out and if you want them closer to shore you have to
262 keep them closer to shore.

263
264 Commissioner Councill asked if the boathouse was not there would the owner be
265 allowed to reconstruct the pier? Ms. Verdery stated not under the current Code. It
266 had not been in use for more than 12 months. They would be limited to 150 feet.
267 Commissioner Spies asked if they could legally move the boathouse. Ms. Verdery
268 stated they could not. Commissioner Spies stated if they could not move the
269 boathouse and they cannot build the pier we have to come up with a solution.

270
271 Commissioner Ghezzi asked if we have any sense of how many grandfathered
272 situations like that of the boathouse exist. Mr. Showalter stated this pier is in this
273 location because of water depth. He has not done a survey of boathouses in the
274 County, but he feels there are very few boathouses connected to fast land by a
275 pier. Very few that you cannot get to land today.

276
277 Commissioner Spies stated the Commission's job is to make sure the County's
278 rights are protected as well as the property owners. We need to find a solution for
279 whether to leave a boathouse to fall down in the water or to fix a pier. He is
280 leaning toward fixing the pier unless the Environmental side feels we are going to
281 have ten of them pop up in the next year or two. Commissioner Councill asked
282 what led up to the previous owner not fixing the pier.

283 Mr. Showalter stated it was his understanding the previous owner had health
284 issues and he was out of the Country, and then the bank foreclosed on the
285 property which led to the problem.

286
287 Commissioner Ghezzi asked if the other bulk requirements still apply? The
288 extensions, width, not impeding waterways? Mr. Showalter stated it only deals
289 with the extension beyond 150 feet. The width of the pier is 6 feet and it is only
290 permitted to be replaced because the boathouse was historically accessed by a
291 pier.

292
293 Commissioner Boicourt stated he is comfortable letting staff and Mr. Showalter
294 work on this. He wanted to voice his concern from the past.

295
296 Commissioner Spies asked for public comment, there was none.

297
298 **Commissioner Ghezzi moved to recommend the County Council approve the**
299 **proposed Text Amendment to Amend Section 190-31.2(D)(7) by including the**
300 **following as a new subsection (c): “A pier that does not meet the state**
301 **standard of performing at least 85% of the designed purpose may be**
302 **replaced extended beyond the 150 foot maximum allowed length standards**
303 **provided in §190-31.2(D)(1), at a maximum width of 6 feet, to provide direct**
304 **access to a boathouse that remains functional; with staff recommendations.**
305 **Commissioner Councill seconded the motion. The motion carried**
306 **unanimously (4-0).**

- 307
308 d. Recommendation to County Council—Proposed Text Amendment—A Recycling,
309 Product use established within a site that was approved for mineral extraction
310 prior to [insert the effective date of the amendment] shall not be subject to
311 Subsection F. above, and the minimum subsequent and storage setbacks from
312 property lines shall be the setbacks under the approved mineral extraction plan.

313
314 Mr. Showalter appeared on behalf of Extreme Enterprises, LLC, the owner of the
315 Barkers Landing Gravel pit. This is a proposed text amendment to deal with the
316 product recycling use. This is a use already permitted by the County Zoning
317 Ordinance. It is permitted by Special Exception in four zoning districts. It has a
318 series of supplemental standards that govern hours of operation, screening and a
319 number of different activities. A couple of these are potentially problematic, one
320 of which requires a minimum setback of 500 feet from property lines. A second
321 requires that the use have access to a major collector or arterial highway. The
322 proposed amendment would permit this use to be established within existing
323 mineral extraction sites. It would also allow for relief from the 500-foot setback
324 and major arterial requirement. The existing sites already have setbacks and
325 screening requirements in place. These sites by the process of excavating the sand
326 and gravel create a depression. Mr. Bryan operates a sand and gravel pit. He
327 would like to have the ability to also accept yard waste, yard clippings, leaves and
328 woody debris to create custom mixes. Also, they would like to take stones and

329 concrete and crush it. This site is screened on all sides and not visible from other
330 locations. It is on a road that has had heavy truck traffic for decades.
331 Unfortunately, based on the geometry of the site, applying a 500-foot setback
332 would preclude the use of the site except in a very small area and make the use
333 not viable. This activity is not accessed by an arterial road; it is not on Route 50.
334 They have been discussing this with staff and looking at the standards. This is not
335 a new use coming into the community. This would still go through all of the
336 Board of Appeal processes and be permitted only by special exception.

337
338 Commissioner Spies asked if this would only allow the gravel pits currently in use
339 to apply for this. Mr. Showalter stated any gravel pit could apply for this as long
340 as they have 500-foot setback and are accessible from Route 50. He asked if the
341 Commission had received the letter from Dependable Sand and Gravel. He
342 mentioned a comment in that letter which stated concern about this text
343 amendment causing the reopening of unused sand and gravel pits whose material
344 had been exhausted. He was amenable to a tweak to the language to limit it to
345 sand and gravel operations that have current zoning permits.

346
347 Commissioner Spies asked how long a sand and gravel could remain closed and
348 reopen. Ms. Verdery stated it is effective as long as their special exception and
349 mineral extraction permits are effective. Mr. Showalter stated the sand and gravel
350 special exception continues as long as you are in compliance with it. The State
351 requires a mining permit and reclamation bond. If you stop because you are out of
352 activity that permit is closed out and the State would require you to reclaim the
353 site and permanently vegetate it before they release the bond. So, the better
354 measure is sand and gravels with State mining permits.

355
356 Commissioner Boicourt stated Barkers Landing is a more appropriate site. He is
357 comfortable with a special exception process. Noise has been an issue because of
358 the motor cross operation on this site, but this is more appropriate.

359
360 Commissioner Spies stated he agreed with the staff suggestions for the product
361 recycling.

362
363 Commissioner Councill stated he likes that it is allowed by special exception
364 only. When he looks at the number of abandoned pits in the County, he sees
365 recycling as a use for those rather than land that may be a used for something else.
366 The setback of 500 feet was put there for a specific reason; for example crushing
367 concrete and other materials. Ms. Verdery stated that the Board of Appeals would
368 have the ability to require conditions with their approval so that grinding brush
369 could be closer to the 200-foot setback and other activities could be closer to the
370 500-foot setback.

371
372 Mr. Showalter stated there had been comments made that “if something goes
373 wrong the County would have to sweep in and fix it.” What the County permits
374 recycling of is yard debris. There is nothing that would create noxious odors. The

375 standards in the Code have a required setback of 500 feet from any existing
376 structure. This may involve some deliveries but generally those materials are
377 stockpiled on site. For example, the sand and gravel might receive Christmas trees
378 for 2-3 months and then grind. Heavy machinery is more in a sand and gravel than
379 in a recycling operation. The County has the same regulatory oversight if the sand
380 and gravel operation is complimented with recycling. The sand and gravel would
381 still have to get site plan approval. If the mining plan ceases, they would have to
382 reclaim that site. The concerns about noise, compatibility and adjacent properties
383 can be dealt with during the special exception process. This use in conjunction
384 with sand and gravel provides greater protection for end use of the property.
385

386 Mr. Salinas addressed Commissioners Councill and Spies comments - setbacks
387 greater than 200 feet in the special exception process. If they have a reclamation
388 plan in effect and a new company wants to come in and use the site for the
389 Recycling use, they could under the Special Exception process as long as they
390 were on an arterial highway.
391

392 Commissioner Spies questioned if the Special Exception process would be able to
393 adjust setbacks. Mr. Salinas stated that the site would already have setbacks
394 specified, but say twenty years later they no longer have a permit for mineral
395 extraction they may want to come back and reuse the property for recycling
396 product only, they can do that. The Board of Appeals and Planning Commission
397 can offer greater setbacks. Commissioner Boicourt was concerned that recycling
398 would create large stockpiles.
399

400 Commissioner Councill stated Mr. Quinn brings up good points and believes
401 recycling products in a gravel pit makes sense. The special exception process is a
402 means to do that.
403

404 Commissioner Spies stated for this one location it makes sense, but if this
405 amendment is passed the next application that comes along might not make any
406 sense. Mr. Salinas stated this only applies to operations currently in the County.
407 Commissioner Spies asked how many were there currently in the County.
408 Commissioner Councill stated there were a number of abandoned sites he is
409 concerned about and two hundred feet is not very far. He also stated when we
410 look at product recycling, the brush does not bother him. But other activities
411 could be a problem.
412

413 Mr. Showalter stated one possibility was keeping the 1,000-foot setback from the
414 closest residence.
415

416 Mr. Kupersmith clarified that the text is keeping the 1,000 feet from residences.
417 There are two types of setbacks for Equipment and Storage, 500 feet from
418 property lines and 1,000 feet from residences. This amendment is only waiving
419 the 500 feet from property lines and making it 200 feet.
420

421 Commissioner Spies asked for public comment.

422
423 Kevin Quinn, Dependable Sand & Gravel, stated things happen you are not
424 prepared for. One time there was a lightning strike on a mulch pile, they were not
425 prepared. The pond and pumps were able to put it out promptly and that is why
426 setbacks are important. He stated people sneak items in and there is a terrible odor
427 with some items. He stated fifteen acres is not that big and you have to separate
428 the materials as they come in and put them in different areas. You have to be able
429 to withstand the market. What happens if they sell the property. Another example,
430 they had a dump truck coming out of their site and a tractor trailer hit it and
431 caused it to run into someone's house. People do not backhaul on site anymore.
432 The flow of traffic has doubled. Mr. Quinn stated they are a small operator and a
433 family operation. They don't open their gates unless a family member is there.
434 The oversight at the state level is non-existent.

435
436 Commissioner Councill asked if in the Special Exception process can one of the
437 requirements address what to do if there is a fire. He would like to see the
438 amendment address some of the concerns like the County did for outdoor music:
439 fire, dust, noise.

440
441 Commissioner Ghezzi asked if this use opened up to more possible businesses,
442 would that mean that materials would be brought in from other counties. Ms.
443 Verdery stated she is not sure how would we regulate dumping from other
444 counties. Commissioner Spies stated his concern is that the guidelines are in place
445 that they are doing it right. Commissioner Boicourt was concerned about the
446 additional traffic. Commissioner Spies stated if it is set up right it should be set up
447 for the traffic. He also is not against importing materials; he is against poorly run
448 property.

449
450 Mr. Showalter said the special exception standards apply whether you have 200
451 foot setbacks or 500 foot setbacks and would require that the Board of Appeals
452 find that the use will not have adverse effects on pedestrian or vehicular traffic,
453 and more specifically that the use will not produce traffic volumes that will
454 exceed the capacity of public or private roads in the area or elsewhere in the
455 County based on its standards for road capacity.

456
457 Mr. Salinas stated legislation could require the approved mineral extraction
458 business to be active. Also, the setback must be 1,000 feet from the nearest
459 residence. He noted the location of the actual crushing and grinding has to be
460 established on the site plan if that is to be included in the 1,000 feet.

461
462 Commissioner Spies stated as Commissioner Councill stated, we need to clarify
463 what is required beforehand; emergency plan, fire plan, traffic plan, in the
464 application so guidelines can be set on each process, a list of a dozen questions to
465 answer that we can evaluate for each project. Commissioner Councill stated he is
466 in favor of 1,000 feet from any activity to a residence.

467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512

Mr. Showalter stated the Special Exception standards require the Board of Appeals to consider whether the proposed use will have a negative impact on emergency preparedness, or whether an emergency response plan is required. Commissioner Spies stated he is looking for a little more, much like what is required for the outdoor music. It can be submitted in a page and a half. It is a checklist, it does not have to be a requirement, but a recommendation.

Mr. Kupersmith stated it could be left to the Board of Appeals to impose those items and what impacts they would make. Or it could be addressed more up front by a plan. He stated he did not know exactly what type of plan Commissioner Spies was talking about. Commissioner Councill stated it does not need to be something prepared by a consultant. Just something written down that says in an emergency this is what we would do.

Mr. Kupersmith stated it would need to be added. They could spend a fortune commissioning a traffic study, but there is something short of that.

Ms. Verdery stated that, looking through the Special Exception standards, there are specific things associated with traffic, noise, police and fire and safety. In that case it would be of benefit to reach out to the local fire department. Mr. Salinas stated we have a starting point. Maybe one option is to come back with additional information and some tweaks to the language.

Commissioner Boicourt stated he is with Mr. Quinn; things can go wrong. Going beyond the current Special Exception list would be beneficial. Ms. Verdery stated we need a starting point and asked the Commission if staff should figure out how many active mining operations there are today in the County. Commissioner Councill stated he looks both an existing and an abandoned site as perfect places for this type of small scale use. Commissioner Boicourt stated he is not concerned about the small scale uses; it is the larger scale uses that give him concern.

Mr. Showalter stated a solution to address Commissioner Councill’s concern could be a requirement that this use provide a post-use reclamation bond to the County.

Commissioner Spies stated this is a good recommendation to the Council which just needs some clarification.

Commissioner Boicourt moved to table for clarification of language and number of sites that the proposed Text Amendment for Recycling, Product use established within a site that was approved for mineral extraction would apply to. Commissioner Councill seconded the motion. The motion carried unanimously (4-0).

At 11:07 a.m. Commission Spies call for a five minute Recess.

513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558

At 11:14 a.m. Commissioner Councill reconvened the Commission. Commissioner Spies had to leave due to an emergency.

e. Recommendation to County Council—Working Waterfront Overlay

Mr. Salinas explained that staff had two meetings with the Critical Area Commission staff. The current draft includes a focus on Waterfront Revitalization Areas. By local government action, properties may be designated Waterfront Revitalization Areas but there is no guidance in the State Code as to what that means. Critical Area Commission staff are enthusiastic about using the Overlay District as an opportunity to define alternative regulations in the revitalization areas, specifically in the Buffer. When you have very small historic working waterfront lots that are almost fully impervious, it is very difficult to do full mitigation on those properties for new development activities of marine-based businesses. It is also very difficult to develop those businesses on properties that are not classified Intensely Developed Areas. In the Critical Area, one of the objectives is to improve water quality. A key question is what can be done to improve water quality and protect habitat while still accomplishing the goals and objectives for economic development in revitalization areas. There is another meeting with Critical Area Commission staff on Sept 17th to look at specific sites and see some of the challenges. Staff will not go public with any draft legislation until we feel confident that the Critical Area Commission staff will be supportive of what is drafted. Staff will also be in front of a Critical Area Commission Sub-Committee in October. Ultimately when the District is approved by County Council, it has to be approved by the Critical Area Commission as well.

Commissioner Boicourt stated it is important to get the draft as early as possible. He always thought the economic development element was also important. One of the big things with the government is to protect what we have. It might be good to make a minor presentation to the community. Mr. Salinas stated the Critical Area Commission is having the same problem with balance of the working waterfront shorelines and water quality. The only area which has adopted a Waterfront Revitalization Zone is the City of Baltimore, around the harbor. Talbot County’s legislation will help give guidance to other villages and towns in Maryland. Once Critical Area is comfortable, staff can make a presentation to the Economic Development Commission, and can do the same thing for the Planning Commission.

Commissioner Councill asked if the smaller sites are looking at off-site mitigation. Mr. Salinas responded that staff is looking at a variety of things including off-site plantings or fee-in-lieu. That would require the County to have off-site mitigation plans, such as living shoreline projects.

Commissioner Councill asked if there was a fee-in-lieu of program or a creative way to help the villages where those working waterfronts would be. For example,

559 in Tilghman the practical matter is ten trees there would not make a difference but
560 \$10,000 would make a difference. Commissioner Boicourt stated his instinct there
561 is a way to have such a program. Mr. Salinas stated those funds could be
562 segregated until there is such a time as a project is identified. He noted the County
563 is updating the green infrastructure plan. The current plan recommended raising
564 money through increasing tax authority. Updating that plan to incorporate more
565 resiliency projects could be a way to apply the fee-in-lieu to capital projects
566 identified in the plan.

567
568 **Commissioner Boicourt moved to continue the process and thanked the staff**
569 **for presenting and looked forward to increased and continued action with**
570 **the Critical Area Commission. Commissioner Ghezzi seconded the motion.**
571 **The motion carried unanimously (3-0).**
572

573
574 **5. Discussions Items**

575
576 **6. Staff Matters**

577
578 **7. WorkSessions**

579
580 **8. Commission Matters**

581
582 **9. Adjournment**—Commissioner Councill adjourned the meeting at 11:28 a.m.
583