

MEMORANDUM

To: Talbot County Council

Through: Andrew Hollis, Talbot County Manager
Stacey Dahlstrom, AICP, Planning Officer

From: Mary Kay Verdery, Assistant Planning Director

Date: March 5, 2009

Re: Zoning Ordinance Rewrite - Phase II – Amendments to Bill 1162
Planning Commission Recommendation – March 4, 2009

The Talbot County Planning Commission formally considered the following items as proposed amendments to Bill 1162 (Phase II). The Planning Commission recommendation for each amendment is as follows:

1) TILLAGE

A. Definition of “Conventional Tillage” and “Conservation Tillage” or “No Till” as drafted by Councilman Bartlett. The definition of “Conservation Tillage” or “No Till” includes a reference to three Maryland Conservation Practice Standards Codes (329, 344 & 345) and the quick reference guide.

A motion was made to recommend to the Council inclusion of the definition of Conventional Tillage and Conservation Tillage/No Till as introduced by Councilman Bartlett. The motion was seconded and carried 4-0 with one member abstaining.

2) PIERS

A. Amendment by Councilman Foster to change private pier from special exception use to accessory use and to change community pier from accessory to special exception use. The Planning Commission noted that they had spent many hours discussing this amendment and feel that it is best for the long term interest of the County to have planned community piers versus multiple private piers for future developments. The decision to have a community pier versus a private pier currently is and will continue to be the decision of developer and will be defined on the recorded plat. The Commission continues to support their decision as outlined in Bill 1162.

A motion was made to recommend against the amendment proposed by Mr. Foster as it is the desire of the Planning Commission to have community piers rather than a proliferation of private piers in Talbot County recognizing that their proposal allows private piers but encourages community piers. The motion was seconded and carried 5-0.

B. New amendment to §190-75 to permit multiple community piers with Planning Commission approval and add clarification regarding construction timelines (see attached Document 2B): Amendment to clarify that two or more community piers may be permitted to serve a single subdivision giving consideration to unique project characteristics to include number of lots, water depth and subject to Planning Commission approval.

A motion was made to recommend to the Council inclusion of the amendment to clarify that the Planning Commission may approve two or more community piers to serve a riparian subdivision. The motion was seconded and carried 5-0.

Staff has included and supports the language as outlined in the previous amendment to clarify required construction timelines for all piers.

C. Although the Commission has noted strong objection to the amendments as proposed by Mr. Foster to allow private piers as an accessory use and community piers as a special exception use they provide the following additional amendments SHOULD the Council adopt Mr. Foster's amendments. The Planning Commission recommends additional amendments (see attached Document 2C) to incorporate "shared" piers as part of the definition of a private pier and to add specific language regarding the construction of shared piers. A shared pier serves two adjacent lots and must be constructed along the common boundary line of those two lots.

A motion was made to recommend County Council keep the pier requirements as is, however, should the Council adopt Mr. Foster's amendment, the Planning Commission recommends the definition of private pier be amended to allow shared piers and specific language be included regarding construction of shared piers in the RC, RR, TR and VC zoning districts. The motion was seconded and carried 5-0.

3) SEWAGE DISPOSAL AREA

A. The Planning Commission forwarded a positive recommendation to the Council on February 10, 2009 for an amendment to include a reference to §190-116 in §190-90 for lots created after the effective date of Phase II and an amendment to clarify the locational requirement of the SDA to the use it serves. The amendments were previously referred to as Planning Commission recommendations 3 & 5 and are shown on the attached Document 3A.

B. The amendment titled "AMENDMENT TO PLANNING COMMISSION RECOMMENDATION 5" is an amendment proposed by Mr. Foster to insert a blank line in place of the 200 foot distance currently proposed.

C. The amendment titled “AMENDMENT TO PLANNING COMMISSION RECOMMENDATIONS 3 & 5” as proposed by Mr. Foster is to delete section 190-116 in its entirety and the cross reference provided in section 190-90.

Mrs. Anne Morse, Director of Environmental Health attended the PC meeting on March 4th and provided additional testimony regarding her letter dated February 6, 2009, addressed to the Council. She will also be available for the March 10th County Council meeting.

A motion was made to support the original Planning Commission proposal (Recommendation 3A above) which requires any point of the Sewage Disposal Area to be located within 200 feet of the foundation of the use it serves with defined waiver provisions. The motion was seconded and carried by a 3-2 vote.

The Commission chose not to act on 3B and 3C above based upon the majority support of their original proposal.

4) BUFFER EXPANSION

A. The amendments to sections 190-123 and 190-139 (see attached Document 4A) are provided based upon multiple conversations with local engineers/surveyors and efforts to apply the regulations as written to actual conditions within the County. The definition of “buffer expansion” provides diagrams for buffer expansion associated with steep slopes. These amendments are to clarify expansion for highly erodible soils and hydric soils and are necessary and important as these environmental features can have considerable impacts on some of the projects we are currently reviewing.

A motion was made to recommend amending the language for expanded buffers as proposed by staff. The motion was seconded and carried 5-0.

5) SUBDIVISION OF ACCESSORY DWELLING UNIT FROM PRINCIPAL RESIDENCE

A. The Amendments to define when and if an accessory dwelling unit may be subdivided from a principal residence (see attached Document 5A) is provided to ensure consistency in the process regardless of the type of accessory dwelling. The Board of Appeals recently granted a special exception to allow an accessory guest house and employee dwelling to be subdivided from the principal residence in which they served. This amendment would allow an applicant to subdivide without obtaining a special exception provided each lot meets current density standards and each dwelling unit meets current design standards from existing and proposed property lines.

A motion was made to recommend amending Bill 1162 to define when and if an accessory dwelling unit may be subdivided from a principal dwelling unit. The motion was seconded and carried 5-0.

Staff and Planning Commission unanimously encourage the Council to incorporate into their motion a general statement that upon enactment, Bill 1162 shall apply to all projects unless they have received at a minimum of preliminary approval or as defined within Revised Chapter 190. Formatting corrections may also be necessary upon acceptance of approved amendments.