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Talbot zoning bill riles farmers

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EASTON Members of the public spoke for and against portions of a Talbot County Council rezoning bill for three hours Tuesday, with new proposals regarding piers and an expanded buffer on waterfront farms attracting the most attention.

Bill 1162 would update the Talbot County Code with the recommendations from the 2005 comprehensive plan. The bill would be the second comprehensive piece of legislation stemming from the 2005 comp plan; in 2007, the county passed Bill 1105, which also had farmers concerned about diminished rights.

Council President Philip Carey Foster lamented that when so much language goes into one bill, the public generally only has enough time to focus on a few points. On Tuesday, most of the criticism of the bill centered on language concerning piers and a proposed amendment introduced by Councilmen Dirck K. Bartlett and Thomas G. Duncan that would mandate larger buffer strips for waterfront farms that employ conventional farming techniques. All 273 pages of the bill can be seen online at www.talbotcountymd.gov/index.php?page=Pending_Legislation.



PHOTO BY CHRIS POLK Talbot County Council member Dirck Bartlett

In addition to the bill itself, people were allowed to comment on the buffer amendment and another amendment proposed by Bartlett to establish size limits for accessory structures on lots of less than 5 acres. Assistant Planning Director Mary Kay Verdery said the planning commission also recommended 14 small changes, which need to be put into amendment form before being voted on. The bill must be voted on by March 19.

The buffer amendment, first proposed by Bartlett and also introduced by Duncan, drew a considerable amount of both negative and positive comment. The planning commission originally considered a blanket 60-foot buffer, but eventually voted it down after months of discussion. Bartlett's proposal would allow farms that use no-till farming techniques to stick to the current 25-foot buffer, while farmers that turn over their soil would have to adhere to a 60-foot buffer to prevent sediment runoff.

Cleo Braver, speaking on behalf of the Talbot River Protection Association, supported the measure, as did fellow TRPA member Dr. Callum Bain.

"The benefit of these buffers in filtering nutrients and sediment is clear," Braver said. Bain suggested that farmers and environmentalists work together to determine how to get some of the millions of dollars available for buffers.

Farmers said they believed Bartlett's heart was in the right place, but that his proposal would have unintended consequences. The lack of language spelling out what constitutes conventional and no-till farming had many members of the public confused about what they could or could not do.

Lewis Smith said the state already requires soil conservation plans, and that probably more than 90 percent of farmers use no-till methods. The county should let state environmental experts direct legislation, Smith said.

"It's those unintended consequences that are scaring us," he said.

Farmers who use conventional farming methods (plowing the soil, which leads to more loose sediment), do so because they have to for some specialty crops, or to deal with problems with bugs, John Swaine III said Wednesday.

Swaine read a letter to the council Tuesday pointing out that Maryland has mandated 25-foot vegetated buffers in between farmland and water since 1989, and required cooperation with soil conservation districts since 1991. Himself the chairman of the Talbot Soil Conservation District, Swaine said he would rather the county let farmers work with the TSCD on an individual basis than mandate increased buffers. Talbot is one of only four counties in the state not to receive any funding for its soil conservation district, and Swaine suggested the county share the cost and hire a full-time planner to work with farmers and landowners.

While farmers can receive federal and state funding to employ best-management practices, they can't be paid not to farm land that they are not allowed to farm by law, said Bebe Shortall of the U.S. Department of Agriculture Farm Service Agency. Shortall said once land is restricted by law, it becomes permanently ineligible for enrollment in programs such as the Conservation Resource Enhancement Program (CREP), which pays up to \$200 per acre for the first 50 feet of a vegetated buffer.

Bartlett repeatedly interjected during Shortall's time to speak, which did not win him any favor with farmers after the meeting. He said several times that farmers could avoid this by switching to no-till farming, although the council could not answer specific questions farmers had about when they could plow their fields. Swaine also said that purchasing no-till equipment can cost around

\$100,000.

Mike Mielke, a farmer and waterman who represents Talbot County on the Maryland Critical Area Commission, said that although he practices no-till farming, he may have to turn over his soil to deal with slugs. While Bartlett said he would be allowed to do that, Foster said the language of the amendment does not actually currently allow for that.

Richard Hutchison, a planning commissioner speaking for himself, said agriculture does not contribute the most nutrients on a per-acre basis to the Bay.

"I honestly believe it will make no difference" to expand the buffer, he said. He suggested adding buffers on residential property would make more of a difference.

On the other end of the spectrum, Planning Commissioner Tom Hughes and attorney Tom Alspach were among those who suggested Bartlett's proposal does not go far enough. Hughes cited several studies that conclude that a 60-foot buffer takes care of all nutrients and sediment.

"If no-till is the panacea that farmers say it is, why do the numbers continue to go in the opposite direction?" he asked. Hughes also supported a 60-foot buffer for homes.

Alspach said he was disappointed the planning commission did not include 60-foot buffers, and said the science goes back years.

"Guess what? It's not working," he said of the steps now being taken, as the quality of the Choptank River watershed continues to decline.

Alspach labeled CREP funding a "red herring," as farmers may only get around \$100 for each acre taken out of production. Swaine, however, said Wednesday that with about 10 acres enrolled, he received about \$1,000 a year over the life of his 10-year contract. Although that's not a big payment all at once, it adds up, he said, and does not factor in the money he would make by farming that land.

Planning Commissioners Mike Sullivan and Bill Boicourt, meanwhile, said they support larger buffers but don't want to pass legislation mandating them until they understand all the implications. They said they didn't want to jeopardize funding for farmers who voluntarily enroll in conservation programs.

While several people spoke up on both sides of the buffer issue, public comment about pier regulations was mostly negative. Under the proposed regulations, individuals with waterfront property on new subdivisions would lose their right to build private piers, unless they paid a \$700 application fee to attempt to receive a special exception. Subdivisions would have to build a single community pier instead. Lots of record would not be subject to this provision.

Five people spoke out against this proposal, as well as another proposal that would limit the width of new piers to 5 feet, down from 6 feet. Brandon Weems of Weems Brothers Inc., a marine construction company, said piers are already well-regulated by the state. Not only would reducing the width of piers by a foot not have much of an impact environmentally, it could cause problems for people who use wheel chairs or golf carts to get around, he said. Mark Hill of Bailey Marine Construction Inc. shared similar sentiments, while a Bozman homeowner was worried he would lose his right to a pier as he's currently going through the application process.

Roger Bollman, a member of Talbot County Creekwatchers, but speaking on his own behalf, spoke in support of the pier regulations as well as the increased buffer. Talbot County waters still have a natural ambience because they're not overcrowded with piers, he said.

The public hearing was kept open at the end of the meeting. Foster said the council could strip some of the controversial issues from the bill and come back to deal with them at a later time if they can't be resolved by March 19.

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