

**BOARD OF GARRETT COUNTY COMMISSIONERS**  
**PUBLIC MEETING**  
**OCTOBER 3, 2006**

**IN ATTENDANCE**

*Chairman Ernest J. Gregg*

*Commissioner David C. Beard*

*Commissioner Frederick A. Holliday*

*County Administrator R. Lamont Pagenhardt*

**CALL TO ORDER OF PUBLIC SESSION**

**PRAYER & PLEDGE OF ALLEGIANCE**

**PUBLIC SESSION**

1. Additions/deletions to Public Meeting Agenda. Mr. Pagenhardt indicated that there were two additions and no deletions to the Public Meeting Agenda for October 3, 2006. The Board of County Commissioners will be requested by Mr. Pagenhardt to move into Executive Session to address economic development matters. Also, the Board will be asked to review and approve a cost estimate for paving the Garrett College Maryland Truck Driving Institute facility parking lot by County Roads Department personnel.
2. Minutes of the Public Meeting of September 26, 2006 were read and approved on a motion by Commissioner Beard, which was seconded by Commissioner Holliday, and made unanimous by Chairman Gregg.
3. The Board of County Commissioners, on a motion by Commissioner Beard, which was seconded by Commissioner Holliday, and made unanimous by Chairman Gregg, executed a Proclamation designating October as "Breast Cancer Awareness Month".
4. Rodney Glotfelty, County Health Officer and staff briefed the Board of County Commissioners on substance abuse treatment programs with the Behavioral Health Division of the Health Department.
5. Mr. Pagenhardt presented a cost estimate prepared by the Roads Department for paving of the Maryland Truck Driving Institute. The total cost of this project is \$89,228 and the Department will be able to mobilize to this site on this date. The Board, on a motion by Commissioner Holliday, which was seconded by Commissioner Beard, and made unanimous by Chairman Gregg, approved the

scheduling of this project. The property is owned by the County and under lease to Garrett College who operates the Institute.

6. The Purchasing Department presented recommendations of bid award to the Board of County Commissioners for Contractual Snow Removal Service (bid #06-0914SR). The Board, on a motion by Commissioner Holliday, which was seconded by Commissioner Beard, and made unanimous by Chairman Gregg, awarded the bid to Rush Excavating, Inc., Franks Excavating Plus, DBK Farm Snow Removal, and Nathan Walker Excavating, LLC. for various sites and hourly costs. Specific site and applicable hourly costs are on file with the Purchasing Department.
7. Cheryl DeBerry, Agricultural Marketing Specialist, Department of Economic Development; Dan Rider, Associate Director, Maryland Department of Natural Resources; and J. Philip Gottwals, Principal, ACDS, LLC, briefed the Board of County Commissioners on a Pellet Mill Study recently completed.
8. In furtherance of the Public Hearing conducted on August 22, 2006, the Board of County Commissioners, on a motion by Commissioner Holliday, which was seconded by Chairman Gregg, and made unanimous by Commissioner Beard, approved amendments to the Deep Creek Watershed Zoning Ordinance identified as Exhibit 1 to these Public Meeting Minutes. The same motion also approved the execution of a Resolution noting the duly adoption of all Amendments.
9. Carol Riley, Executive Assistant to the Board of County Commissioners and County Administrator, reviewed the meeting and committee schedule for the forthcoming week.
10. The Board of County Commissioners, on a motion by Commissioner Beard, which was seconded by Commissioner Holliday, and made unanimous by Chairman Gregg, moved into Executive Session under section 10-508 of the Maryland Open Meetings Law on this date to discuss economic development matters. The same motion moved back into Public Session

### ADMINISTRATIVE SESSION

1. Mr. Pagenhardt reviewed a number of correspondences and communications with the Board of County Commissioners.
2. The Board of County Commissioners met with Department of General Services staff to discuss a number of administrative matters related to gaming regulations and fee structure. It was the consensus of the Board to schedule a public informational meeting to present the draft ordinance and fee schedule.

## ADJOURNMENT

**Attest:**

**By Order of the Board,**

---

R. Lamont Pagenhardt,  
County Administrator

---

Ernest J. Gregg, Chairman  
Board of County Commissioners

---

Date

### EXHIBIT 1 APPROVED DEEP CREEK WATERSHED ZONING AMENDMENTS (Attachment to October 3, 2006 Public Meeting Minutes)

1. Amend Section 304B.20.a - (Transient Vacation Rental Unit for up to five bedrooms) to provide for reduced parking requirements for units that are situated within duplex, townhouse or multi-family developments with shared parking areas as follows:

Section 304B.20.a – One off-street parking space shall be provided for each bedroom; except that in those developments existing or planned for duplex, townhouse or multi-family dwelling units and offering shared parking spaces within parking lots developed with a minimum of twenty (20) spaces or more, the minimum parking requirement shall be one off-street parking space for each one and one half (1.5) bedroom or any fraction thereof.

2. Amend Section 304B.21.a - (Transient Vacation Rental Unit for between six and eight bedrooms) to provide for reduced parking requirements for units that are situated within duplex, townhouse or multi-family developments with shared parking uses as follows:

Section 304B.21.a – One off-street parking space shall be provided for each bedroom; except that in those developments existing or planned for duplex, townhouse or multi-family dwelling units and offering shared parking spaces within parking lots developed with a minimum of twenty (20) spaces or more, the minimum parking requirements shall be one off-street parking space for each one and one-half (1.5) bedrooms or any fraction thereof.

3. Add a new Section 517 to the Zoning Ordinance to acknowledge Development Rights and Responsibilities Agreements as follows:

#### Section 517 – DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS

- A. Pursuant to Section 13.01 of Article 66B of the Annotated Code of Maryland, the Board of County Commissioners may:

- 1) by ordinance, establish procedures and requirements for the consideration and execution of agreements; and
- 2) delegate all or part of the authority established under the ordinance to a

public principal within the jurisdiction of the governing body.

4. Amend Section 1011 A and 1011 B to extend the time limit on Board of Appeals approvals to two years as follows:

Section 1011 **TIME LIMITS ON BOARD APPROVALS**

- A. Structures. A decision of the Board permitting the erection or alteration of a structure shall be valid for a period of two years, unless a zoning permit for such erection or alteration is obtained within this period and the erection or alteration proceeds to completion in accordance with the terms of the decision.
  - B. Uses. No decision of the Board permitting the use of a structure or land shall be valid for a period longer than two years, unless such use is established within said period; except that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning permit for such erection or alteration is obtained within said period, and such erection or alteration proceeds to completion in accordance with the terms of the decision.
5. Amend Section 304B.20 (Transient Vacation Rental Unit for up to five bedrooms) by deleting the requirement for a written evaluation of the neighborhood as follows:

Section 304B.20; Delete Subsection e that currently reads:

A written evaluation of (1) the extent to which transient vacation rental units are already an established use in the neighborhood; (2) the relative value of the present improvements, if any, of other properties in the neighborhood; (3) the probable effect of the proposed transient vacation rental unit on the value of other improved properties in the neighborhood and the expected level of investment on adjoining properties; (4) the discernable trend, if any, in the types of residential units being newly established in the neighborhood; and (5) compatibility of design with other improvements in the neighborhood shall be provided

6. Amend Section 604 by totally deleting this section that currently reads:

DELETE - Section 604 **PARKING LANDSCAPING INCENTIVE**

If the parking area for a commercial enterprise is landscaped and the impervious surface reduced by an alternative paving surface as approved by the County Planning Commission, then a 10 percent reduction in the total number of parking spaces required elsewhere in this ordinance will be allowed.

7. Amend Section 1005 of the Ordinance to establish more specific and limiting criteria for the Board of Appeals to consider when reviewing applications for variance requests. The following new Section 1005 should replace the existing provisions:

**Powers and Duties – Variances**

- A. Upon appeal from a decision by the Zoning Administrator, the Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions whereby such strict applications would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of land or building involved, but in no other case.

- B. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- C. No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that the following requirements and standards are satisfied.

The appellant must show that the variance will not be contrary to the public interest and that practical difficulty and an unnecessary hardship will result if it is not granted. In particular, the appellant shall establish and substantiate his appeal to show that the appeal for the variance is in conformance with the requirements and standards listed below:

- 1) That the granting of the variance shall be in harmony with the general purpose and intent of this ordinance, shall not be injurious to or alter the character of the neighborhood, will not impair adequate light and air to the adjacent property and will not impair views from the adjacent property, or otherwise be detrimental to the public welfare.
  - 2) That the granting of the variance will not permit the establishment within a district of any use that is not permitted in that District.
  - 3) That special circumstances or conditions, fully described in the findings, apply to the land or buildings for which the variance is sought, which circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building or create unnecessary hardship. If the hardship is general, that is, shared generally by land or buildings in the neighborhood, relief shall be properly obtained only by legislative action or by court review of an attack on the validity of this ordinance.
  - 4) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose. It shall not be considered sufficient proof of hardship to show that greater profit would result if the variance were awarded. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without the knowledge of restrictions; it must result from the application of the Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
  - 5) In the case of applications for Variances involving lots that qualify under the provisions of Section 402 (Exceptions to Minimum Lot Sizes), the Board shall give specific consideration to the size, height, bulk and character of structures within the general neighborhood
- D. The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulation or provisions to which the variance applies.
8. Create incentives for business development and encourage continued viability of traditional waterfront businesses in the Town Center Zone by amending the requirements to eliminate additional lot area for

accessory dwelling units built in conjunction with permitted commercial uses on “lakefront lots in the TC zones as follows:

- A. Amend Section 304B.9 of the Table of use Regulations to read as follows:

Section 304B.9 – Dwelling Unit in conjunction with and incorporated into the structure of a permitted principal non-residential use (This use would be permitted as A-Accessory in all zoning districts).

- B. Amend Section 401.6 of the Table of Dimensional Requirements to read as follows:

Section 401.6 Dwelling Units in conjunction with and incorporated into the structure of a permitted principal non-residential use.

	<u>Min. Total Land Area Per Use</u>	<u>Min. Average Lot Area Per Dwelling</u>	<u>Min. Lot Width</u>	<u>Min. Yard Width</u>
In the LR and CR 2 Zoning Districts	43,560 sq.ft.	For 1 accessory dwelling unit, no additional land required	Same as principal use requirement	Same as principal use requirement
In all other Zoning Districts	The Min. Land Area required is applicable to the principal non-residential use	For 1 accessory dwelling unit no additional land area required	Same as principal use requirement	Same as principal use requirement

- C. Add a new Section 410 for Exceptions for Accessory Dwellings on lake front lots in the TC - Town Center Zoning District as follows:

Section 410 Exceptions for Accessory Dwellings

Dwelling Units built in conjunction with and incorporated into the structure of a permitted principal non-residential use located on a lakefront lot in the TC-Town Center Zoning District may include up to three (3) accessory dwelling units without requiring additional land area. The floor area of these accessory dwelling units shall not exceed 50% of the gross floor area of the structure, or, if 100% of the ground floor area of the building is devoted to commercial use, then accessory dwelling units above the ground story may occupy a floor area up to a maximum of 1.5 times the floor area of the ground story.

- 9. Reduce the size of vacation rental home signs for purposes of identification of the premises by adding a new Section 707B.7 as follows:

707B.7 - A sign used for the identification of a Transient Vacation Rental Unit, provided such sign shall not exceed 300 sq. inches (2.083 sq. ft.) and provided that not more than one such sign shall be erected. Every Transient Vacation Rental Unit identification sign erected prior to the effective date of this amendment may continue to be maintained despite lack of conformity to this section for a period of three years after the adoption hereof, after which the owner of the property shall cause the sign to be brought into conformity with the Ordinance or shall remove the sign.

- 10. Amend Section 708C.1 to limit the size of very large off-premises signs such as billboards as follows:

708C.1 – Permitted Advertising Signs - Off-premises business advertising signs, as defined in Article 2, subject to the following restrictions:

- A. No such sign shall be placed within the following minimum distances: 1) within 200 feet of any dwelling; 2) within 25 feet of any road right-of-way line, or; 3) within 50 feet from any other lot line.
  - B. No such sign shall be placed closer than 300 feet to any intersection on a dual highway or closer than 100 feet to the intersection of any other roads, except that such signs may be placed on a building at such intersections if the sign does not cause any greater obstruction of vision than caused by the building itself.
  - C. No such sign shall exceed a maximum total sign area of 100 square feet per side, and shall have a maximum of two sides, only one of which shall be visible at one time.
  - D. No such sign shall obstruct the view from state highways or county primary roads to areas or structures of scenic or historic interest.
  - E. No more than 4 such off-premises signs shall be permitted for a single business or commercial or industrial use, except that the permitted number may be reduced pursuant to Section 704.B.6.
  - F. A maximum of one such sign shall be permitted per lot.
11. Amend the Zoning Ordinance by adding a new Section 411 to allow set-backs for retail showroom buildings associated with marinas to have reduced setbacks in the TC-Town Center districts as follows:

Section 411 – Special Set-Backs for Marina Retail Boat Showroom Buildings

The minimum yard requirements for marinas specified in Section 401B.13 shall not apply to a building used exclusively as a retail showroom for the sale of boats in the TC-Town Center zone. The minimum yard requirements for such buildings used as retail showroom for sale of boats in the Town Center Zone shall be: 1) 20 feet from front property lines; 2) 15 feet from side property lines; and 3) 25 feet from rear property lines. All other buildings and structures shall comply with the yard requirements of Section 401B.13.

12. Amend Section 503 C to refer to the appropriate provisions in State law for the control of noise and vibration. This recommendation was forwarded to the Planning Commission by the Board of Zoning Appeals to avoid confusion in the reference to State Statute.

**Section 503C** – Noise and Vibration prohibitions: All uses shall comply with Title 26 Department of the Environment – Subtitle 02-Chapter 03-Control of Noise Pollution, of the Annotated Code of Maryland (COMAR).

13. Amend Section 408 A to allow multi-family residential structures in the TC and CR-2 zones and hotel structures in the TC, CR-1 and CR-2 zones to exceed three stories in height as follows:

**408 Height Regulations** – No principal building or structure shall exceed 35 feet or 3 stories in height; provided, however, that in the TC and CR-2 zoning districts the Board of Appeals may authorize, as a special exception, the construction and use of multi-family residential structures and in the TC, CR-1 and CR-2 zoning districts, may authorize construction and use of hotel structures not exceeding 60 feet or 6 stories in height if the applicant for such construction provides satisfactory evidence from the State Fire Marshal regarding compliance with State requirements for fire protection.