

FAX

TO: JOHN NELSON
FROM: F. WARTNER

SUBJECT: REVISED ZONING DOCUMENT

JOHN I CHANGED MY MIND I WILL COMMENT.

NONE OF THESE P.E. PEOPLE "HAVE ANY SKIN IN THE GAME" FROM MY VANTAGE POINT ALL OF THE DEVELOPERS (H. HUMBLE, J. GORNELL, K. SPIKER, YOURS TRULY) HAVE MOST OF THE REMAINING WATER FRONT AND/OR WATER ACCESS.

I'M HAPPY WITH THE INITIAL PLAT, WITH THE ADDITION OF CLUSTER AND OPEN LAND. ADDED INTO A SUBDIVISION.

WITH HALF OF THE LAKE HIGH DENSITY LETS NOT SCREW UP THE BEAUTIFUL END.

REGARDS,
F. Wartner



Promoting stewardship,
conservation and restoration in the
Deep Creek Lake watershed
779 Chadderton School Rd
Oakland, MD 21550
www.friendsofdcl.org contact@friendsofdcl.org

To: John Nelson, Troy Ellington and Garrett County Planning Commission
From Barbara Beelar, Friends of Deep Creek Lake
RE: REVIEW OF THE SENSITIVE AREA ORDINANCE DRAFT

We are submitting specific recommendations for changes in the Ordinance as well as a reminder to the County of the critical importance of creating a County program to provide sensitive area protection for the Deep Creek Lake watershed.

A. Argument for creation of pro-active Sensitive Areas program.

Friends of Deep Creek Lake volunteers have devoted much of our organizational effort since formation in 2008 investigating the tributaries which feed Deep Creek Lake. The in-stream monitoring, sampling and research we have done provides us with unique understanding of problems and protection challenges.

- DNR Stream Wader and Center for Watershed Protection data show 75% of the tributaries feeding the lake are in “poor” or “very poor” condition.
- No two streams are alike and sections along each stream vary. An approach which is a “one size fits all” will not reflect the variety of the needs for protection of these sensitive areas.
- The lake buffer zone created by PennElec and adopted by the State when they purchased the lake has provide critical protection for the lake.
- There is urgent need for a similar protected buffer zone along all the streams to assure the long term health of the lake.
- There is no one program or agency working on creation of an effective buffer zone.
- The County is the lead governmental unit responsible for creation and protection of sensitive area. DNR is responsible for the bottom of the lake and the buffer zone; MDE is responsible for water quality. The County has responsibility for the watershed. This is recognized in the 2008 Comprehensive Plan stating that the highest priority should be given to watershed protection.

“Deep Creek Lake's pivotal role for the County's economy and identify makes presentation of the Lake's water quality a vital goal for residents, businesses and visitors. Should the lake become impaired, the County's economy could suffer irreparable harm.” (Section 4.4.3)

- Friends of Deep Creek Lake is dedicated to promoting conservation of the lake, has developed extensive documentation with photos and GPS locations on condition of the streams.

We look forward to developing a cooperative relationship with the County to the end of providing needed protection for the sensitive areas along the tributaries feeding the lake. We understand this Ordinance does not provide this framework, unfortunately.

B. Specific Recommendations for Sensitive Area Ordinance.

Expand of width of stream buffer zone. To be effective, the County must establish a buffer zone of 100 feet each side of the top of the primary bank of the stream. The 100 foot buffer is now standard in other Maryland Counties and used by the Maryland Environmental Trust.

Create provisions in the Ordinance enabling County staff to vary the buffer zone width adjustments based on specific conditions. The Ordinance should provide for width adjustments upon review of appropriate County staff in a process already defined in section D4 if in staff judgment there is a good combination of grasses, shrubs and tree canopy present. This approach would enable County staff to work with builders to encourage establishment of effective riparian vegetation in order to reduce width of protected zone.

“Growth areas” should not have automatically narrower buffer zones. The current draft sets the buffer strip at 50 feet except in “growth areas” where it is reduced to 25 feet. This is illogical. To assure protection of the sensitive area, the protection zones “growth areas” should be broader not narrower because it is logical to assume that in these areas there will suffer more negative impacts from development, run-off, and impact use than in non-growth areas.

On-going monitoring. In the Ordinance there is no “feedback loop” requiring County staff to review the condition of the buffer zone. There is no mechanism for the public to submit areas of concern for staff review. Such a report has been submitted on the tributary at March Hill Road south of Sang Run Road but no review has been made and, under the draft Ordinance, no changes would be implemented.

Paving and Stone for sidewalks. Only permeable paving and stone applications should be permitted in these buffer zones for sidewalks.

Road and driveways. All crossings should be made of permeable materials and graded to prevent run of channels into the stream and/or creation of potential erosion channels.

Temporary waterway crossings restoration. Any temporary crossings which are permitted must be restored to original conditions. A process should be established to control this work and should be included into the Ordinance. This would include inspection by County staff to establish baseline conditions, a report setting parameters on the temporary work and assessment of post-work conditions to determine restoration has been successfully completed.

An assurance deposit In the areas for temporary waterway crossing work, the County should collect an assurance deposit prior to beginning of work. If the contractor fails to fulfill restoration requirements, the County would this deposit to do the required restoration.

Requirement for protections. The phrase “strongly encourage but not require” in the Ordinance provides for no enforcement, not teeth. Encouragement is not a viable approach. The County is urged to adopt language which requires protection of the buffering capacity of the sensitive area. If requirements are not politically feasible, the Ordinance should explicitly develop a set of steps to support “strongly encourage” approach. These would include but not be limited to: 1) educational materials for the property owner about creation and protection of vegetative buffer options; 2) information on public and private sources for direct and indirect support for such installation; and 3) list of non-profit, conservancy and community groups in the County, the builder could partner with for

stream buffer installation and protection. Staff time must be devoted to these “encouragement” tasks and feedback as to effectiveness must be built into the process.

Requirement on subdivision developers. As part of the application for subdivision, the developer should be required to a plan for protection of tree canopy within the buffer zone. This is in keeping with subdivision requirements in other County Ordinances and in keeping with the State goal to protect forested areas. Permit for tree removal must to approved by County staff and requirement for tree replacement should also be adopted for these Sensitive Area buffer lands. As, with recommendations listed above, the County staff should be charged with on-going monitoring.

Prevention of polluting applications. No application of pesticides, fertilizers, toxic or other materials harmful to aquatic plants and animals in these buffer zones should be permitted directly or allowed to run off into these Sensitive Area buffer zones. They should be specifically banned in the Ordinance.

No stormwater run off should be permitted. Developers should be required to adopt 100% retention of such run off through utilization of ESD options under the Stormwater Code.

Livestock shall be fenced off of these Sensitive Area lands.

CONCLUSION. It is the assumption of Friends of Deep Creek Lake that the above recommendations to the strengthen the Sensitive Area Ordinance will place no additional burden, harm or otherwise negative impact on private land owners. If such harm is to be found, the organization would be willing to work with the County to develop a plan. It is our position that tributary protection through the Sensitive Area Ordinance expansion is both a positive public benefit for all in Garrett County and is consistent with the highest priority given in the 2008 Comprehensive Plan.



Property Owners' Association
of
Deep Creek Lake, Inc.
P.O. Box 816
McHenry, MD 21541

Louis R. Battistella
President

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Swanton, MD 21561
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February 6, 2010

Hon. Troy Ellington, Chairman
Garrett County Planning Commission
203 South 4th Street, Room 210
Oakland, MD 21550

Dear Chairman Ellington:

On behalf of the Property Owners' Association of Deep Creek Lake, Inc. ("POA"), I am expressing the POA's views with regard to the current proposed revisions to Deep Creek Lake Zoning Ordinance, the Sensitive Areas Ordinance, and the Subdivision Ordinance.

The POA was incorporated in January, 1949 and has now been in existence for over 61 years. The Association currently has a membership of approximately 1,200 persons who are owners of property in the vicinity of Deep Creek Lake. The POA is governed by an 18 member Board of Directors comprised of both residents and non-residents and residential and non-residential property owners.

The POA has carefully considered and reviewed the latest version of the draft documents and applauds the Commission for taking steps to implement the recommendations of the 2008 Comprehensive Plan. Accordingly, the POA recommends that the Planning Commission take final action on the documents and forward them to the County Commissioners for formal adoption.

The proposals before you are extensive and cover a myriad of subjects. The revised documents take into account a number of constructive comments made in response to the first draft of the documents and, while not every single concern of all persons has been addressed satisfactorily, on balance the POA believes that the proposed revisions should now be approved for final adoption by the County Commissioners without further delay.

Hon. Troy Ellington, Chairman

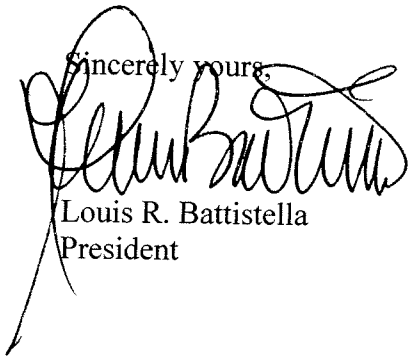
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February 6, 2010

While we support moving forward with the documents in their present form, we do have a continuing concern, and one which has been expressed by the POA repeatedly in the past. The POA believes that Garrett County, by not extending any land use controls outside of municipalities or the Deep Creek watershed, is exposing itself to serious potential harm to both full-time and part-time residents of the county. The absence of countywide zoning has left the county essentially powerless to take any action to impose any reasonable controls on the development of uses such as wind turbines, in stark contrast to all other counties in Maryland. Once again, we urge both the Planning Commission and the County Commissioners to proceed toward the development of minimal land use controls for the entire county.

In conclusion, we applaud the Planning Commission for developing the legislation that is being heard by you today and responding to constructive criticisms that were received with regard to the earlier draft legislation. On balance, we believe that the public interest would be served by moving forward with final approval by the Commission and adoption by the County Commissioners.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Louis R. Battistella". The signature is fluid and cursive, with a large initial "L" and "B".

Louis R. Battistella
President

Jonathan P Kessler

Saturday, March 06, 2010

Garrett County Planning
Oakland, MD 21550

Dear Planning Commission;

I applaud the efforts of the planning commission in tackling this huge undertaking. Much of the definition and guidance provides wise direction for the future development of Garrett County.

Garrett County must grow In order to control the county budget, provide the availability of opportunity for our youth to find good jobs here and to support our ability to retain and attract viable business. Garrett County has a basic problem of demographic s. We are now or will soon be spending half of our tax revenue to support education leaving less than half for everything else. Census 2010 will likely have Garrett County join Allegany County as the only two counties in Maryland with declining population. We are said to have twenty percent of our population living below the poverty line. Growth should be the main objective of good planning for the future of Garrett County.

Making up rules for the sake of controlling our past exaggerated expansion will likely be a deterrent to private sector growth in Garrett County. I fail to see an uncontrolled growth problem when reviewing the past three decades. The Deep Creek Lake area has seen peaks of 60 lakefront homes sell per year, that's just 2 to 3% of all lakefront homes. The Deep Creek Lake area consumed fewer than forty active sewer taps per year over the last decade. My point is certainly not that we should avoid using good planning and zoning to control growth because I feel strongly that we should and that it should be done on a county wide basis not selectively. My point is that too many regulations dreamed up to control what happened in our eastern counties may be a knee jerk reaction with stiflingly impact on Garrett Countians. To regulate based on the nightmares of the no growth crowd will have immediate and lasting impact on Garrett County. Garrett County has grown less in the last twenty years than most of our other areas of Maryland have grown per year!

I would like to see a review of the special exception uses within the proposed code. I see too much reliance on special exception

- a. Special Exceptions do not offer the protection lay folks see on first blush. A SE is an approved use. Administered properly it does not provide for community review and comment before final approval is issued.
- b. Special Exception pit neighbor against neighbor with long reaching impact.
- c. Special Exceptions send developers running. They increase the time to know what can be done with a property and thereby make Garrett County lose opportunity and cost more money to bring projects to market.

Jonathan P Kessler

Suggestion

- a. Review all of the special exception use designations with the zoning appeals board members and reduce the list of special exceptions. You may consider giving the zoning administrator the ability to use performance zoning standards to issue timely control when warranted.

Secondly; I would like to see the code use incentive zoning rather than changing zoning districts to be defined by 2010 infrastructure like the availability of public sewer and water utilities.

- a. LR1 & LR2 should not be divided to reduce the allowable density. LR has the infrastructure and if you are going to push growth to PFA's the correct density is 1 unit per acre until we have a growth problem.
- b. Technology will change the infrastructure quickly in the next 50 years.

Lastly; businesses have a very difficult time in Garrett County already. Be very careful to saddle new overzealous regulations on signage, building material type etc if you want to have the public sector amenities that a resort community needs to flourish.

Thanks for listening and for your efforts in planning for the future of Garrett county that we all want to see grow and provide abundantly for those of us that love the area!

Sincerely

Jonathan P Kessler

From: Ralph Kemp [mailto:RalphKemp@elkair.com]
Sent: Friday, February 05, 2010 1:27 PM
To: John Nelson; John Nelson; Skipper, Connie; Deep Creek Lake POA
Subject: Tomorrow's meeting - Ordinance Review

To All,

I have read much of the proposed Ordinances. Weather will prevent my attending but I have a few overall comments:

a) Zoning (& Subdivisions) – Having a Zoning Ordinance would be an improvement. The documents as presented seem to present a good balance of property rights for all, i.e. the right to develop and have financial gains versus the right to have “neighbors” who do not diminish property values by their actions. Please work to pass these Ordinances.

b) Sensitive Areas (& Wetlands/Tributaries) – This Ordinance does not appear to offer sufficient protection. It does not cover all tributaries. It does not cover sufficient area near the included tributaries. It does not sufficiently empower regulating authorities to enforce the Ordinance. There has already been significant degradation of water quality in the lake as well as significant sedimentation. I cannot believe that any responsible person considers this acceptable. The problem is more noticeable in the southern areas of the lake but it has occurred elsewhere. This has begun to affect some property values and will effect other properties and eventually commerce, jobs, etc. Please work to substantially improve this ordinance with the goal of improving water quality in streams, wetlands and the lake.

I have spent important and significant parts of my life on, in and around Deep Creek Lake and Garrett County for 50 years. Although I am not a “permanent” resident, I am a long-term, committed, interested, caring, tax-paying, part-time resident who hopes that all parties behave responsibly so that the lake and county remain outstanding living areas with great natural beauty for everyone.

Ralph Kemp

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ralphkemp@elkair.com

From: Savage River Watershed Association [mailto:srwacoordinator@gmail.com]
Sent: Friday, February 05, 2010 11:29 AM
To: SRWAcordinator@gmail.com
Subject: Garrett County Planning Hearing and Letter

Hello,

The Garrett County Planning Commission will conduct a hearing on **Saturday, February 6th, 2010 at 10:00am in the Garrett College Auditorium** concerning proposed revisions to three principal land development ordinances currently implemented by the County. Details on these revisions can be found here:

<http://www.garrettcountry.org/PlanningLand/PlanningZoning/Revisions.aspx>

SRWA and its members invested a great deal of time over the past couple of years in the planning process for Garrett County. In the body of this email we have included a letter to the Garrett County Planning Commission that expresses the views of SRWA concerning these new revisions.

We hope that as many of you will be able to attend the hearing as possible, but please be safe. As of 11:30 am today (Friday), this meeting is still scheduled for the above time. We will send out a notice of any changes due to the weather.

February 6, 2010

Garrett County Planning Commission

c/o John E. Nelson, Director

Office of Planning and Land Development

Garrett County Courthouse

203 South Fourth Street

Oakland, MD 21550

Dear Planning Commission Members:

The Savage River Watershed Association (SRWA) is writing in response to the December 2009 Revised Draft Ordinances, specifically to object to the major changes made in the Subdivision Ordinance regarding AR and RR land classifications and zoning districts.

In your press release, you state that these changes were made in response to comments received from the public review of the September 29, 2009 preliminary drafts, including comments at the October 14, 2009 public information meeting. Members of the SRWA attended all public meetings of the Comprehensive Planning process since its inception and have responded, at public hearings and in writing, to all drafts. We are also aware of public comments made by others.

It appears to us that comments made very late in the process and by a small, but apparently very powerful faction, have substantively changed important revisions from the September 29, 2009 draft and rendered it ineffective in preventing further loss of Garrett County's important agricultural and rural resources. We strongly object to these major revisions having been made so late in the process. Pro-development forces had numerous opportunities to participate in, and respond to, the direction the County was taking with respect to AR and RR clustering revisions. Instead, they waited until the last moment so that they could derail the process without the public dialogue that would have followed, had they made their suggestions earlier.

The sensitive areas draft revisions also reflect changes that gut the carefully wrought balance of development and resource protection found in the September 29, 2009 revisions. Specifically, when developers are encouraged rather than required to "direct development away from areas with natural slopes of 25 to 30%" you have rendered your regulations meaningless. The incentives you offer do not hold the same value to developers as ignoring them. If they would truly result in steep slope protection, or AR and RR protection, then pro-development forces would object to them. No one objects to incentives because they can be ignored. That's why we need regulations.

To allow the derailment of the September 29, 2009 draft revisions is to invalidate the time and energy of numerous tax-paying citizens who have participated in this process, in good faith, since the beginning. In fact, many members of the SRWA had the reaction that we never should have bothered participating in the comprehensive planning process. When elected officials ignore the majority of their constituents and give favors to a powerful few, you subvert the essence of participative democracy and make a mockery of our efforts.

At one of the earliest public meetings, a citizen said that the comprehensive planning process would be a waste of time unless backed up by regulations that enforce the recommendations. SRWA continues to support the September 29, 2009 draft revisions and strongly urges you to return to the original and well-considered recommendations of your paid staff and consultants.

Sincerely,

SRWA Board Members

SRWA is a group of local landowners and other citizens dedicated to preserving and enhancing the rural nature and natural resources of the Savage River watershed by assisting interested landowners and public land managers with environmental stewardship efforts and educational outreach.

--

Shannon Philbin
Watershed Coordinator
Savage River Watershed Association
Office phone: 301-689-7156 (M-F 9am-5pm)

"The Savage River Watershed Association (SRWA) is a group of local landowners and other citizens dedicated to preserving and enhancing the rural nature and natural resources of the Savage River watershed by assisting interested landowners and public land managers with environmental stewardship efforts and educational outreach."

From: Bill Weissgerber [mailto:billw@railey.com]
Sent: Tuesday, January 26, 2010 2:44 PM
To: John Nelson
Cc: bob.bedingfield@ey.com
Subject: Bedingfield property on Turkey Neck Road

Hi John:

This is in reference to the property I spoke to you about on January 25th. Mr. & Mrs. Bedingfield have asked me on their behalf to request that a portion of their property located on Turkey Neck and Hickory Ridge Roads be reclassified to LR-1 instead of AR because the property offers road frontage and adjoins an area that will likely be offered sewer should it ever come to the Turkey Neck area. I have attached the map you provided and shaded in the area of concern. I have also shaded in a few adjoining lots that are already developed next to this property that probably should be reclassified.

As always, thank you for your availability and attention when called upon.

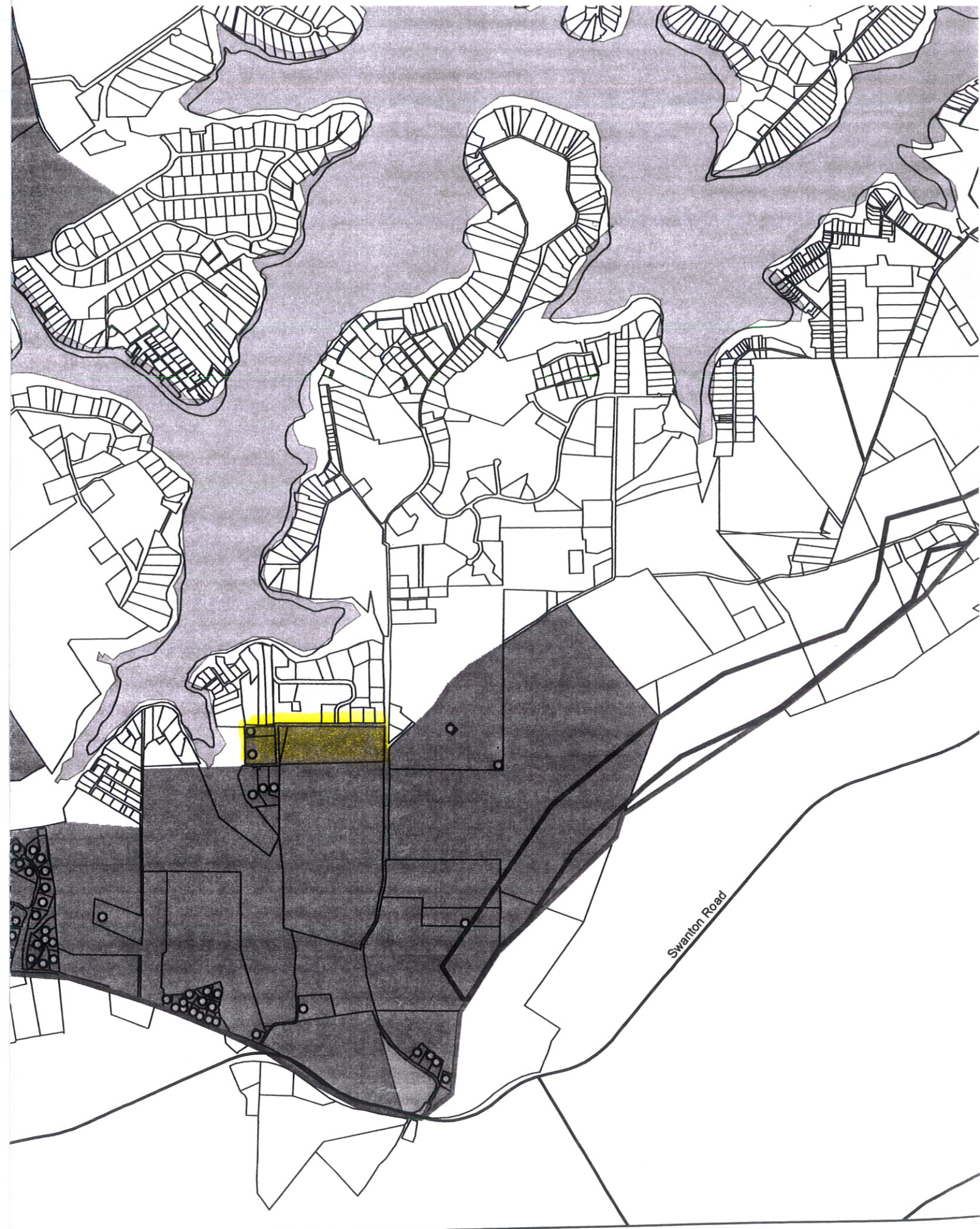
Bill

Bill Weissgerber, Jr.

(C) 301-616-4141 (O) 301-387-2000

Railey Realty

billw@railey.com



Swanton Road

From: Robert Bednarzik [<mailto:bednarzr@georgetown.edu>]
Sent: Thursday, January 21, 2010 12:02 PM
To: Louise Weimer
Cc: John Nelson; Deborah Carpenter
Subject: Re: Public Hearing on Draft Ordinances

Comment

I disagree STRONGLY with the following two changes to the DCW Zoning Ordinance:

1. The **addition** of “TO ALLOW VIEWS OF THE LAKE FROM HOMES, TREES ARE NOT REQUIRED BETWEEN A STRUCTURE AND THE LAKE.”
2. The **deletion** of "between the structure and the lake, located so that the trees at maturity will screen the views of the structure from the lake or shoreline" -- so that it now reads "Trees shall be retained or planted TO THE SIDES AND REAR OF PROPOSED STRUCTURES, AS VIEWED FROM THE LAKE, at the following rate..."

This addition and deletion will result in cutting an untold number of mature trees and destroying the natural beauty of the lake area. As an economist, the argument that people will not buy lots unless they can see the lake does not hold up. If the natural beauty is destroyed, they will go elsewhere to buy a vacation home.

Robert W Bednarzik

LINDSLEY WILLIAMS
2007 LAKE SHORE DRIVE
OAKLAND, MARYLAND 21550

P – (301) 387-4224
M – (202) 246-4814

March 19, 2010

John Nelson
Director, Office of Planning and Land Development
Government of Garrett County
203 South Fourth Street, Room 210
Oakland, MD 21550

Re: Further Comments on Proposed Changes in Deep Creek Watershed Zoning and
Related Ordinances

Dear John:

While I appeared at the March 6 hearing on the above-captioned subjects, I indicated that I would submit a letter so that you would have a written record of the thoughts I introduced that day and details about them that did not warrant extended remarks at that point, along with a few other issues that seemed best to leave to this as well.

I ask you to forward this letter to the members of the Planning Commission and the County Commissioners for their consideration as the process moves along. You may also post it in any website that carries comments others are making on these issues.

Overall, I am pleased to join the voices I heard March 6 that recommend, broadly, adoption of the proposed changes as then revised. That said, I feel there are aspects of the proposal that could benefit from some minor adjustments and a potential expansion of the "reach" of the proposal in line with the provisions of the adopted Comprehensive Plan, which I noted first in my remarks March 6 and again in this letter.

Context of The Thoughts Being Expressed

Permit me to introduce myself to those who may not know me. First, I have lived in Garrett County, at the above address, for more than twenty years. My property, as with many others along Lake Shore Drive, was initially developed years ago (my home was built in the 1950s) and, as with many others, does not conform to various side yard and lot size/frontage requirements. This means my "close neighbors" are closer to me (and I to them) than would now be allowed. At this time, the homes on both sides are not in any "rental" program and their owners occupy the property part time. Two lots away, however, is a property that was redeveloped to maximize bedrooms that is actively rented around the year, and that property's side yards are less than required as the redevelopment followed the limits of the prior foundation, as then allowed (a provision the pending regulations seem poised to address).

Lots that are below the prevailing area and frontage standards are common and generally work well when the use is purely residential, better when the occupancy is a single family or group, not when there is a turnover from week to week for "vacation rentals." The latter disposes to groups who are intent on getting most enjoyment possible from their short stay, sometimes at expense to the overall tranquility a residential area should have. Hence, I welcome the changes to better guide "transient" uses. I also urge that the table of uses allowed by right in Lake Residential and Town Residential zones be examined to be more restrictive when the lot and/or existing siting are non-conforming.

Second, readers should know that my professional focus is land use planning, a field in which I have been trained and practiced for decades. My sense is that the efforts of the revisions now being considered are mostly directed to finding ways to steer growth where development is now occurring and likely to in the next decade and beyond. That said, periodic reviews offer an opportunity to also review the changes that arise for infill and redevelopment of areas already developed, with an eye to developing means that promote continued investment, but that also do not unduly compromise the quality of life of those who are already in established residential areas. Indeed, those involved in the review should make sure that economic forces that seek to maximize value of existing resources do not “kill the goose that lays golden eggs” in the form of the large stock of existing residential properties that were developed on lots that are now non-conforming or siting that places them closer to abutting properties than would now be allowed. Those involved in the reviews and approvals should see this not as a means of enriching present owners or curtailing opportunities for new investors, but at preserving the overall value and tax base of the entire area.

Coverage of Lake Zoning Plan:

As you know, the Comprehensive Plan calls for a major employment center and additional housing in, and along the southern side of, the Garrett County Airport. These are areas that abut the proposed limit of the Deep Creek Watershed Zoning Map, and most (if not all) of the land within the area is in public ownership.

While I fully agree with the position some others (such as the DCL Property Owners Association) that zoning should extend county-wide to bring about the protections the all county residents should have were that instituted, there is a significant “disconnect” when the Plan calls for growth in one specific area and a well-proven growth management tool – zoning – stops just short of the area in question.

To the extent there is public ownership in these areas, the plan could – and should – be modified to reflect the broad uses intended and, simultaneously, exclude uses that would be adverse to the desired end result. Thus the airport area itself should be reserved for aircraft operation, maintenance, and storage on the grounds and buildings, and residential uses of all kinds should be precluded. To the south, the plan calls for multifamily housing along with uses that would employ county residents in offices and a range of other commercial/light industrial settings. Accordingly, it would seem that area should not allow single-family dwellings at all or in very low numbers. These kinds of provisions should be added to the Zoning Ordinance in this cycle of revisions or as an add-on to be explored in the next year or so instead of being “held back” for the next cyclical review that would not occur for another six years.

Comments on the December 23, 2009 Revised Draft's Proposed Provisions:

Article 2 – Definitions:

- (33) Home Occupation (page 13): The persons residing in the home in which there is a home occupation may not, strictly speaking, be “employed” by the regulated “home occupation”. Perhaps the term should be broadened to something such as “a business, profession, or other economic activity conducted by at least one person whose primary or secondary residence is within the dwelling unit in which the activity occurs.” (The expression “secondary” is meant to ensure that those with second-homes are not precluded from having a bonafide “home occupation” if such is their inclination.)

- (43) Non-Conforming Structure or Lot (page 15): I would recommend that there be two separate definitions, one for “structure” and the other for “lot”. For the “structural” one, the term should explicitly include area and dimensional characteristics of the structure, such as height, but also siting (such as rear and side yards).
- (44) Non-Conforming Use (page 15): The definition should be amended to explicitly include not just a non-conforming “use,” but also any non-conforming “accessory use.”
- (58) Road Cartway (page 17). While the definition is conventional, with the emerging policies to promote pedestrian activity and such conveyances as bicycles, should this definition be recast to cover these as well, perhaps even to establish a place for current bicycle lanes and walkways or sidewalks in the public right of way, or those planned?

Article 3 – Zoning Districts and Map / Table of Allowed Uses

- A. [Zone district list] (Page 22): For reasons set out earlier, I recommend creation of two additional zoning districts – (10) A – Airport and (11) AMU – Airport Mixed Uses. Preferably this would occur in this revision cycle. If not, it should be developed immediately after this and not wait for the next cyclical review six years from now.
- 157.023 add provisions for Airport and Airport Mixed Use along the following lines (page 25):
 - I. Airport – To provide facilities for the operation, storage, maintenance, and repair of private and commercial aircraft and to prevent establishment of uses that would limit the development of such facilities such residences.
 - J. Airport Mixed Use – To provide areas for planned residential uses at density greater than single family in conjunction with areas for employment of county residents in offices and other commercial and light industrial settings subject to development controls established by any applicable public development authorities.

(This letter does not add corresponding details to the use and other tables that follow in Article 3 or elsewhere for dimensional requirements and restrictions.)

- 157.024(B)(14)(a) (Page 29): While the “customary home occupations” provisions are reasonable for a “conforming structure” on a “conforming lot” (see above comments on the definitions of these), when any factor is non-conforming, the *potential* for adverse consequence on those who face, are adjacent, or near the home occupation is significant, particularly if the “home occupation” employs any non-resident or generates travel to the home by non-residents. Accordingly, the section should establish more stringent requirements for home occupations where the land or structure is non-conforming, with the potential impact to be explored in a special exception type process. My recommendation is that there be no “by right” employment of non-residents and no anticipated customers or clients “by right”, or, if that is deemed too restrictive, then limiting employment and visitors combined to no more than one at any given time, with anything more being taken up as a special exception for situations in the Lake Residential and Town Residential district areas.
- 157.024(B)(20) Transient vacation rental unit (page 30): As with home occupations, this use, currently proposed by right (but with controls to some extent in §157.079) in Lake Residence zone districts (both 1 and 2) and possibly Town Residential district, should be limited by right to situations where both the lot and building are conforming, with provision to hear and decide other cases as a special exception.

Article 5 – Dimensional Requirements for Principal Uses

- 157.041(D)(3) – Minimum Area Required for Other Permitted Institutional, educational, or utility uses (page 53). The proposed area requirement for minor utility needs such as a telephone pole is much more stringent than is warranted. On the other hand, uses that are typically established within a building that is something of a destination fails to protect the qualities needed to promote a stable residential community. Accordingly, I recommend allowing public utility **structures** of less than 200 square or public utility **buildings** of less than 100 square feet in area by right in all zones but, on the other hand, revising the proposed “catch-all” 20,000 square foot standard for all other uses to the **larger of the minimum conforming lot size or 20,000 square feet**, whichever is larger for larger utility structures/buildings and all other institutional and educational uses.

Article 6 – General Regulations

- 157.065 (Page 69): While the concepts of the sight line provision as drafted are sound for an intersection that is at right angles, the thrust of its specifications should be amended to deal with other geometry so as to allow clear sight lines of adequate length for the respective roadways as they operate under prevailing regulations such stop signs and speed limits. Consider the intersection of Bumble Bee Road at Mosser Road where the cyclone fence at the edge of the County Fairgrounds follows the slight bend in Mosser Road’s “cartway” that bends slightly south at that point that one cannot see westbound vehicles on the Mosser approach to Bumble Bee, making left turns eastbound from Mosser onto Bumble Bee fundamentally unsafe unless one stops, something not presently required by traffic regulations. The angle of the fence itself converts the normal openness of such material to a visual “solid”. The fence should be relocated in accordance with more appropriate geometric formulations -- or the regulations applying there to operating motor vehicles should be revised. Here, a solution may be at hand as the county proceeds with the enhancements to the fairgrounds now scheduled to get underway this year.

Article 7 – Off Street Parking and Loading

- 157.090(B) (Page 95): This winter's record snowfall prompts the question of having the spaces that are required being accessible so that flanking roadways are not substitute parking areas except at times when the vehicle operator is present and able to move the vehicles out of the way for snow plowing or snow removal. Of course, this thought may be better addressed within §157.091 (page 98), which could provide that the spaces required are available and that if they are not, the uses otherwise allowed must be scaled back to correspond to parking/loading then being provided.
- 157.090(B)(4)(Page 95): The entries on the table should refer specifically to both non-resident employees and visitors under both headings.

Article 9 – Non-Conformities (pages 110-113)

- Overall, this section should be examined and amended as warranted to ensure that it reaches non-conforming accessory uses and structures, not just principal uses and structures and that its abandonment provisions likewise pertain to non-conforming accessory uses and structures.

Article 11 – Board of Appeals (pages 117-124)

- Finally, I recommend that provisions be added to both the standards for consideration of variances and special exceptions to require that the Board examine the potential for additional adverse impact from requests that originate from a property, building, or structure that is already non-conforming as to use, area, siting, dimensional or parking and loading standards. Such factors should not preemptively exclude consideration, but the Board should require evidence from the applicant demonstrating the degree of non-conformity and the measures specifically proposed to address the issue(s) at hand. While such standards could be sensible for all zone districts, they are particularly recommended for Lake Residential and Town Residential zone districts as a means of ensuring their core “residential” purposes are promoted and protected.

As noted earlier, the overall plan that is now out for comment represents a great deal of progress and necessary adjustments to ensure that its provisions are broadly supported, as now seems the case. The County Commissioners and Planning Commission, along with your consultants, your staff, and you personally should be applauded for a job well done. I hope my comments can further improve it. Now, get it enacted.

Respectfully,

/s/ [Original sent with signature by U. S. P. S. First Class Mail]

Lindsley Williams