

# GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

203 S. 4<sup>th</sup> St –Room 210  
Oakland Maryland 21550  
(301) 334-1920 FAX (301) 334-5023  
E-mail: [planninglanddevelopment@garrettcountry.org](mailto:planninglanddevelopment@garrettcountry.org)

## MINUTES

**The Garrett County Planning Commission** held its regular monthly meeting on July 6, 2005, at 1:30 p.m. in the Economic Development Meeting Room. Members and guests in attendance at the meeting included:

Charles Bender	Troy Ellington	Edith Brock
Fred Holliday	Ruth Beitzel	Joe Spiker
George Brady	John Nelson-staff	Karen <b>Spiker, (Myers)</b>
Tim Schwinabart	William DeVore-staff	Steve Richards
Dennis Margroff	Chad Fike-staff	

1. Call to Order – By Chairman, Charles Bender, at 1:30 p.m.
2. The June minutes were unanimously approved, as submitted.
3. Reports of Officers – None
4. Unfinished Business - None
5. New Business-
  - A. **Continuation of the Review and Recommendations regarding DCW Economic Growth and Planning Study of Deep Creek Lake.** During previous, regular meetings, the Planning Commission reviewed the report by ERM and continues to make recommendations concerning the report. The study resulted in (16) sixteen major recommendations by the consultant, along with numerous sub-recommendations. The Commission continued their review, at the point where they concluded discussion at the May meeting, beginning with the discussion on recommendation number 10.2. Relevant portions of the consultants report are shown in italics.

### 10.2 Administration

- i. **Allow for Developer Agreements in the Zoning Ordinance**  
*Under a developer agreement, a jurisdiction conditions its approval of a development on the developer providing benefits to the jurisdiction. Examples of benefits are road improvements, water and sewer infrastructure, land, recreation facilities, and fire and safety equipment. Authority to counties to allow developer*

*agreements is provided in Article 66B, Maryland's local planning enabling legislation.*

After considerable discussion, the Commission decided to support this recommendation to the County Commissioners. The recommendation was approved by a 6 to 0 vote with one abstention.

**ii. Allow the SHA to comment on its needs if a project on a county road will affect a state road. No mechanism is currently in place to allow this.**

After considerable discussion, the Commission decided to support these recommendations to the County Commissioners, as they are written. The recommendation was approved by a 6 to 0 vote with one abstention.

**ii. Allow for extensions to the time after a special exception approval within which a zoning permit must be obtained (Section 1011.b).**

*Currently a zoning permit, which is part of the building permit approval, must be obtained within one year. Extensions are not allowed, and if a permit is not obtained, reapplication for a special exception must be made. We think that routine extensions, say up to two years, could be handled administratively, with ability for Director of Planning and Land Development to refer cases to the Board of Appeals if deemed necessary, such as where the developer is not actively working on the project.*

After considerable discussion, the Commission decided to support a recommendation to the County Commissioners to extend the time allowed to apply for building permits after a variance or special exceptions has been obtained, for up to two years instead of the current one year limit. The recommendation was approved by a 6 to 0 vote with one abstention.

### **10.3 Clean Up**

**i. Delete Section 304B.20.e. – Provisions for compatibility and neighborhood effect for transient vacation rental homes with five bedrooms or less.**

*Since homes with five or less bedrooms are permitted by right, this provision is not currently used or factored into the approval process.*

After considerable discussion, the Commission decided to support this recommendation to the County Commissioners, as they are written. The recommendation was approved by a vote of 5 to 1 with one abstention.

**ii. Delete Section 604 of the Zoning Ordinance that allows for a parking space reduction if landscaping and pervious pavers are provided.**

*According to staff, this provision has never been used. Landscaping and planting should be a requirement of any development, not an incentive to reduce needed parking.*

After discussion, the Commission decided to support this recommendation to the County Commissioners, by deleting this section. The recommendation was approved by a 6 to 0 vote with one abstention.

**11. Review the regulations for grandfathered lots and development.**

*Section 402 of the Deep Creek Watershed Zoning Ordinance allows lots created prior to 1975 to not have to meet the current required minimum lot size. Many such lots currently cannot meet the Health Department's 60,000 square foot minimum lot size requirements for development on well and septic. Owners of deeded lots that do not meet the minimum lot size for development on well and septic have expectations of being able to develop such lots on public water and sewer, when it becomes available.*

After considerable discussion, the Planning Commission recommends the addition of specific criteria for granting variances to the general criteria in Section 1005 of the Zoning Ordinance for all variance requests. Possible criteria would include; that the variance will not impair an adequate supply of light and air to adjacent property, would not alter the character of the neighborhood in which the property is located, would not significantly impair views from the adjacent property owner and that the variance if granted would be the minimum variance necessary to afford relief and any other specific criteria that may be developed including limits on the extent or percentage of the variance that is allowed for specific properties. This recommendation was approved by a 6 to 0 vote with one abstention.

The Commission did not make any recommendations at this time regarding the examples that involve lot consolidation, largely due to their complex and controversial nature.

Mr. Nelson reminded the Commission that there is a sunset provision regarding grandfathered lots, which were approved by the Health Department as specified in the Subdivision Ordinance. These lots were previously approved and documented for septic systems and filed by the Health Department. The sunset provision for this type of lot is set to expire in 2007.

**12. Require new development to mitigate for the effects of additional traffic on roadways and intersections.**

*Based on recommendations from the master plan (see above under section 1.3.iv) the county should consider adopting adequate public facilities requirements (APF) and/or impact fees.*

*APF requirements would vary depending on the number of trips that would be generated from the development. Washington County, for example, only applies the full suite of requirements to residential subdivisions that generate more than 25 peak hour trips, and commercial/industrial developments that generate 16 or more peak hour trips.*

Mr. Nelson explained that APF requirements involve rating the capacity of roads, waterlines, and sewer lines for determination if these facilities are adequate to handle new development in the area. Once this capacity is reached, then no more development could occur until the facility is upgraded. Upgrades are financed by the collection of impact fees that could be tacked-on to a building permit or development. Such a fee could be accessed countywide. Typically, the Planning Office would handle the proposed adequate public facilities requirements.

After discussion, the Commission decided to defer consideration of these recommendations to the County Commissioners, until completion of the build-out analysis that was previously recommended by the consultant and backed by the commission. The recommendation to defer was approved by a 6 to 0 vote with one abstention.

**13. Create incentives for business development in the existing Town Center zoned area north of Thayerville.**

*This recommendation responds to the issue that there is insufficient opportunity for office and studio space in the watershed. We think that because of its location and property parcel configuration, the area north of Thayerville between Uno's restaurant and the Will O' Wisp Hotel is a good candidate for mixed business and residential development including office development.*

After discussion, the Commission decided to support these recommendations to the County Commissioners. The recommendation was approved by a 6 to 0 vote with one abstention.

**14. Support state and federal efforts to enforce the Clean Air Act to reduce mercury contamination from air emissions from outside the watershed.**

*The source of mercury in Deep Creek Lake is air emissions. Little can be done locally about the mercury contamination aside from supporting state and federal efforts on implementing the federal Clean Air Act. See discussion of this issue in Evaluation of Plans, Programs, and Regulations, July 2004.*

After discussion, the Planning Commission decided to support these recommendations to the County Commissioners. The recommendation was approved by a 6 to 0 vote with one abstention.

**15. Improve conditions for pedestrians and bicyclists.**

*Deep Creek Lake lacks safe places to walk or bike. More people are living year-round in the watershed. More people are coming to visit, and when on vacation people like to walk and bike. All around the U. S. places of all kinds are paying*

*greater attention to walking and biking, and people are increasingly expecting to find these facilities, especially at resorts.*

*The Countywide Recreational Trails Plan was updated in 2003, with several projects in active implementation and planning. Because of right-of way limitations, it will not be possible to make every road in /Deep Creek Lake pedestrian and bicycle friendly.*

**i. Designate McHenry and Thayerville for improved pedestrian and bicycle facilities and connections.**

After discussion, the Commission decided to support these recommendations to the County Commissioners. The recommendation was approved by a 6 to 0 vote with one abstention.

**ii. Complete the portion of the Countywide Recreational Trails Plan that are in the Deep Creek Lake Watershed.**

After discussion, the Commission decided to support these recommendations to the County Commissioners. The recommendation was approved by a 6 to 0 vote with one abstention.

**16. Adjust the sign regulations to encourage signage more in keeping with the mountain resort atmosphere.**

*We do not think that wholesale changes are needed, rather some adjustments to the Deep Creek Lake watershed sign regulations to address some specific aspects of this issue:*

**i. Reduce the size of vacation rental home signs.**

After discussion, the Commission decided to support these recommendations to the County Commissioners. The recommendation was approved by a 6 to 0 vote with one abstention.

**ii. Amend the sign regulations to disallow scrolling message billboards.**

After discussion, the Commission decided to recommend limiting these message billboard signs to “true scrolling” message signs only. The recommendation was approved by a 6 to 0 vote with one abstention.

**iii. Amend the sign regulations to disallow very large signs such as billboards.**

After discussion, the Commission decided to support these recommendations to the County Commissioners, by amending the Zoning Ordinance. The recommendation was approved by a 6 to 0 vote with one abstention.

**Note on attracting retirees to the Deep Creek Lake Watershed.**

*Some members of the study Task Force feel strongly that as an economic development policy and strategy the County should actively market Deep Creek Lake to retirees in an effort to attract this population segment as residents.*

After discussion, the Commission decided to support this idea of promoting retirees at Deep Creek Lake.

Mr. Nelson explained that these Planning Commission recommendations and comments would be presented to the County Commissioners. The Commissioners can pick and choose from the 16 recommendations that were made by the consultant and take the action that they would like to pursue.

**B. Update to the Garrett County Land Preservation and Recreation Plan.**

Mr. Nelson noted that a consultant is onboard to begin an update of this Recreational Plan. The deadline for the rough draft for the plan is due by the end of November, this year. John Nelson distributed a preliminary text for the plan, labeled Chapter 2 to members of the commission.

Members of the Commission noted that important white water rivers (i.e. Youghiogheny River) and white water activities in the County should be included in the new Recreation Plan.

**C. State Route 219- Oakland By-Pass.**

Mr. Nelson presented a copy of the recent road designs for the Route 219 by-pass that is planned west of Oakland. Mr. Nelson noted that areas of interest include the proposed “round about” at Dennett Road. After discussion, the Planning Commission has no formal comments on the plans.

**D. Miscellaneous Requests-**

- 1. Proposed Waiver Request for Joseph Paugh-** Mr. Paugh request a waiver from the provision of the Subdivision Ordinance that requires a 20’ setback from the county road at his front property line. Mr. Paugh requests to come within 18’ of the road with a deck at his home in Swanton.

The Planning Commission was unable to reach a determination on the waiver and will take up the request at the next regularly scheduled meeting of the Commission.

- 2. Deep Creek Watershed Board of Zoning Appeals-** The Deep Creek Watershed Board of Zoning Appeals will conduct a public hearing on Thursday, July 21, 2005, starting at 7:30 PM in the County Commissioners meeting room, Second Floor, Courthouse Annex, Oakland. The Board will review the following docketed cases:

- a. **VR-585** Bruce Swift, Jr., applied and received approval from the Board of Zoning Appeals for variances to allow the construction of a proposed residence that will come to within 11.5' of two side property lines, instead of the required 15 feet. Appellants Carol Gregg, et al, appealed the Board's decision to the Circuit Court of Garrett County. Having considered the Plaintiff's Petition for Judicial Review, it is ordered by the Circuit Court for Garrett County that this case be remanded to the Board of Zoning Appeals to consider the single issue of whether or not the lot of Bruce Swift is grandfathered in, in accordance with the Deep Creek Watershed Zoning Ordinance. The property is located at 244 Glen Cove Road (tax map 58, parcel 164, Lot 1) and is zoned Lake Residential.

After considerable discussion, the Planning Commission made no formal recommendations regarding this case.

- b. **SE-362** an application submitted by Ron Gullede for a Special Exception permit to establish a drive in-restaurant. Drive-in restaurants are permitted by Special Exception in this zoning district. The property is located at 20294 Garrett Highway (tax map 58, parcel 267) and is zoned Town Center.

Due to the temporary and portable nature of this structure, the Commission recommends, by a 5 to 0 vote, against approval of this Special Exception.

- c. **VR-596** - an application submitted by Amando Ocando for a Variance to construct a front porch for a residence to come within 27.0 feet of a front property line, instead of the required 40.0 feet. The property is located at 61 Railcar Lane (tax map 67, parcel 404) and is zoned Lake Residential.

After discussion, the Planning Commission made no formal recommendations regarding this case.

### 3. **Tentative Plan Amendment for Villages of the Wisp Planned Residential Development (PRD)- Karen Myers**

Mr. Nelson presented a request for Ms. Myers for a change to the PRD. The initial amendment request is for the Kendall Camp subdivision of Wisp Mountain Road. This request is for one additional duplex unit bringing the total to 26 dwelling units at the site instead of 24 units. Highland Engineering has provided the survey plan.

A second amendment request is for tentative approval of a single-family, 13-unit complex called Overlook Cabins. The complex will be located off of Overlook Pass. Plans are to have 3 models for buyers to choose. The Planning Commission could make final approval next month.

Mr. Nelson noted that there are 11 units remaining for future development and the PRD cannot exceed 332 units. The tentative plan amendment was unanimously approved as submitted.

**4. Approved Minor Subdivision Plats-**

Mr. Nelson has approved, or is about to approve a number of minor plats, since the last Planning Commission meeting. Copies of the plats were included in the packet mailed to the commission members.

**5. Action on Major Subdivisions Plats-**

- a) **Red Oaks II 34-lot Major Subdivision** – The subdivision plan was granted preliminary approval at the last monthly meeting of the Planning Commission. The subdivision is located between Hoyes Run and Sang Run Road. A total of 34 lots are planned. Guardian Engineering has provided the survey plan. The lots will have onsite septic and wells. After discussion, final plat approval was granted unanimously, pending approval of the Maryland Department of the Environment permit for a road culvert.
- b) **Bray Run –Preliminary Plat for Major Cluster Subdivision** –has submitted a preliminary, major subdivision plat for a 29-lot development off of Oakland Sang Run Road. Mt. View Engineering and Surveying is providing the plat and surveying for the project. The cluster development provision requires that 25% of the total site is set-aside as common, open space area. Public sewer will serve the lots along with individual wells. After discussion, preliminary plat approval was granted unanimously, pending approval of the roads plan by the County Roads Department.
- c) **Deer Crest Manor – Preliminary Plat for Major Subdivision Development** Application is for a 16-lot development off of North Glade Road for Railey Reality, Inc. Century Engineering has provided the plat and engineering for the site. The property is owned by James Railey, Jr. and will have on-site septic and well. Road plans have been submitted but not reviewed. After discussion, preliminary plat approval was granted unanimously.
- d) **Sweet Rewards Farm – Final Plat for Major Subdivision Cluster Development** – Century Engineering has submitted a major subdivision plat for Donald and Pamela Adams, for a 50-lot Cluster Development off of Mosser Road and Klotz Farm Drive. Century Engineering will provide the plat and all engineering. Lots cannot be sold until sewer taps are received from Public Utilities, pending construction of the new sewer plant. Public water is also planned for the development. There are some steep slopes on the property and there is a pond on the site that also needs attention. After discussion, conditional final plat approval was granted unanimously, pending approval of the grading

plan, submission of construction estimates and bonds for development of roads and utilities, including water and sewer, the completion of water and sewer agreements to extend public water and sewer, and the repair of an existing pond at the site as required by the Dam Safety Division of the Maryland Department of the Environment.

6. Adjournment- 5:30 p.m.

7. Next regular meeting scheduled for August 3, 2005, at 1:30 p.m.

Respectfully submitted,

William J. DeVore  
Zoning Administrator