

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, February 1, 2006, at 1:30 pm, in the Economic Development Meeting Room. Members and guests in attendance at the meeting included:

George Brady	Troy Ellington	Bill Franklin
Ruth Beitzel	Jeff Messenger	Dr. William Pope
Tim Schwinabart	John Nelson-staff	Edith Brock
Dennis Margroff	William DeVore-staff	
Gary Fratz	Chad Fike-staff	

1. Call to Order – By Acting Chairman, George Brady, at 1:30 pm.
2. The January minutes were unanimously approved, as submitted.
3. Reports of Officers – None
4. Unfinished Business –

None
5. New Business-

A. Discussion relating to the Request for Proposal (RFP) preparation for the Garrett County Comprehensive Plan Update.

John Nelson, Director of Planning and Land Development explained that a RFP for the Garrett County Comprehensive Plan Update would need to be prepared in order to advertise for the plan preparation. Mr. Nelson said the plan would be countywide with specific proposals for the Deep Creek Lake Watershed, as a result of the Environmental Resource Management (ERM) study, dated October 2004. Mr. Nelson reviewed the Planning Commission recommendations for each item and also presented the Commissioner's conclusions:

1. ERM Recommendation:

Develop a master land use and development plan for the Deep Creek Lake area.

- Planning Commission Recommendation:

This ERM recommendation includes a number of sub-recommendations regarding elements to be included in the preparation of a master land use and development plan; items 1.1 thru items 1.3 ix. The Planning Commission unanimously endorsed the major recommendation as well as all related sub-recommendations regarding the master plan.

| County Commissioners Recommendation:

The County Commissioners unanimously endorsed the major recommendation as well as all related sub-recommendations regarding the master plan, with the exception of 1.3v, which recommends the identification and delineation of “sub-areas”. The Commissioners do not agree with the approach outlined in 1.3v and this sub-recommendation will not be included in the RFP.

2. ERM Recommendation:

Protect the scenic quality of the mountains at Deep Creek Lake.

- Planning Commission Recommendation:

The recommendation would entail designation of scenic protection areas where buildings would have to meet scenic protection criteria. The recommendation also includes adoption of “view protection” into the Deep Creek Watershed Zoning Ordinance. Another recommendation includes replanting to replace trees in previously cleared areas. Comments expressed by the Planning Commission members indicated general support for the major recommendation and each of the three sub-recommendations, however, the Planning Commission made no formal conclusion or recommendation on scenic quality issues.

| County Commissioners Recommendation:

The Commissioners unanimously endorsed this recommendation and support all three of the sub-recommendations. The Commissioners support the designation of scenic protection areas in the master plan, the adoption of view protection criteria into the Zoning Ordinance and the replanting of trees in these scenic protection areas.

3. ERM Recommendation:

Adopt a more proactive stance on the part of county government towards management and enforcement.

- Planning Commission Recommendation:

The Planning Commission generally endorsed this major recommendation by a unanimous vote.

| County Commissioners Recommendation:

The County Commissioners unanimously endorsed the recommendation with the exception of 3ii, which included a recommendation that the county become a delegated authority by MDE for enforcement of sediment and erosion control. The Commissioners believe MDE should retain this responsibility.

4. ERM Recommendation

Ensure new residential construction is compatible in size and scale with nearby homes.

- Planning Commission Recommendation:

The Planning Commission unanimously rejected this recommendation with the exception of 4.iiid and 4.iv, which deal with the regulation and placement of structures on lots; establishing limits on variances that could be granted by the Board of Appeals for set-backs on non-conforming lots and placing limits on the enlargement or extension of existing nonconforming structures under Section 801 of the Zoning Ordinance.

- | County Commissioners Recommendation:

The County Commissioners agree with the recommendations of the Planning Commission and unanimously rejected this recommendation with the exception of 4.iiid and 4.iv. The Commissioners agree that new regulations should be adopted regarding placement of structures on lots that will establish limits on variances that could be granted by the Board of Appeals for setbacks on non-conforming lots. The Commissioners also feel that there should be limits on the enlargement or extension of existing nonconforming structures under Section 801 of the Zoning Ordinance.

5. ERM Recommendation

Develop improvement plans for McHenry and Thayerville

- Planning Commission Recommendation

The Planning Commission unanimously agrees that these improvement plans should be developed.

- | County Commissioners Recommendation:

The County Commissioners also unanimously agrees that these improvement plans should be developed.

6. ERM Recommendation

Create an advisory committee for the Deep Creek Watershed to assist county boards and commissions.

- Planning Commission Recommendation

The Planning Commission endorsed the proposal to create an Advisory Committee for the Deep Creek Watershed to assist county boards and commissions by a vote of 3 to 0, with 2 abstentions. The Commission went on to clarify that this recommendation does not include any changes to the makeup of the Planning Commission.

- | County Commissioners Recommendation:

The County Commissioners rejected this recommendation.

7. ERM recommendation

Adopt site design and architectural review for commercial development in the Deep Creek Watershed.

- Planning Commission Recommendation

The Commission decided to recommend additional construction standards be added to the Zoning Ordinance to regulate commercial buildings as an initial step in design control for buildings, but not the appointment of an architectural review panel.

| County Commissioners Recommendation:

The County Commissioners agreed with the Planning Commission recommendation. The Commissioners do not advocate the establishment of a review panel and recommends additional construction standards be added to the Ordinance.

8. ERM recommendation

Encourage the continued viability of traditional waterfront businesses.

- Planning Commission recommendations

The Planning Commission recommends endorsement of these recommendations to the County Commissioners “as written”.

| County Commissioners Recommendation:

The County Commissioners agreed with the Planning Commission recommendation and endorses the recommendation and sub recommendations.

9. ERM recommendation

Increase public and private-quasi-public access in selected locations in and around Deep Creek Lake.

- Planning Commission recommendation

The Planning Commission recommended endorsement of these recommendations to the County Commissioners, as they are written.

| County Commissioners Recommendation:

The County Commissioners agreed with the Planning Commission recommendation and endorses the recommendation and sub recommendations.

Mr. Nelson explained that these recommendations by ERM apply to the Deep Creek Watershed zoned area only, while the development of the RFP to update the Garrett County Comprehensive Plan will be countywide. Therefore, there is no intent to establish, these particular recommendations countywide.

Discussion ensued regarding the application of these regulations to windmills that are used to generate electricity. Dr. William Pope, advocate for regulation of these windmills, attended the meeting to address this issue. Dr. Pope pointed out that there still would be no protection for the view shed of Deep Creek even if these regulations are implemented. He said the windmills could be located just outside of the boundary of the watershed, and since the wind energy machines are 400 feet high, they could still be seen from the lake. Dr. Pope said that a wind tower could be erected anywhere outside the zoned area, without setback restrictions, providing the owners can find a willing landowner. Adjacent landowners would have no input on the project, based on current law.

Mr. Nelson explained that work on the Comprehensive Plan could begin as early as April, with the selection of a consultant. Money budgeted for the update amounts to \$225,000 for this fiscal year. A carryover of this same amount is requested for fiscal year 2007.

B. Draft Resolution for Land Preservation and Park Plan. John Nelson explained that this draft plan is complete and a draft resolution is included in the packet for review by the Planning Commission.

Mr. Nelson advised that the Commission previously recommended three separate changes to the original draft. The Commission recommended against mandatory dedication of property, against payment of fees in lieu of dedication, and elaboration of the wording concerning the undertaking of a Parks and Recreation Department by the county. Wording was drafted to include the addition of a Parks and Recreation Department, provided that it is financially feasible. Approval of the Land Preservation and Park Plan was granted unanimously, by a vote of 7-0.

Dr. Pope began further discussion concerning state and federal endangered species protection that is included in the draft of the Land Preservation and Park Plan. Dr. Pope's concerns are the recognition of national endangered species and not Maryland endangered species in the plan. Mr. Nelson explained that the Sensitive Areas Ordinance protects Maryland endangered species by referral to the Maryland Heritage Foundation. A conscious effort was made at the time the Sensitive Areas Ordinance was adopted to regulate only federal endangered species.

Dr. Pope also discussed the affect that windmills would have on the view sheds in the county. Mr. Nelson explained that according to information provided by the county attorney, a comprehensive land use regulatory device would have to be in place to regulate use, such as a countywide zoning ordinance, in order to regulate windmills. Discussion ensued regarding enlargement of the zoned area of the county.

Mr. Nelson reiterated, as it now stands, ridge protection measures are proposed within the Deep Creek Watershed zoning district, only. Tree canopy would be protected as part of these recommendations.

C. Rural Legacy Program. Mr. Nelson made known that last week \$371,705 has been approved for the Rural Legacy Program for the Bear Creek Watershed, as part of funding for 2006. Mr. Nelson also announced that the Robert and Alice Bender farm might become part of the agricultural land preservation program, soon.

D. Miscellaneous

1. Zoning Appeals Cases –

The Deep Creek Watershed Board of Zoning Appeals will conduct a public hearing on Thursday, February 16, 2006, 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-608-** an application submitted by Greg Mortimer for a Variance to allow the construction of a residence to come within 10.0 feet of a rear property line, instead of the required 40.0 feet. The property is located on map 66, parcel 522, Lot 18 of the Reserve at Holy Cross, off of Reserve Drive, and is zoned Lake Residential.
- b. **VR-609-** an application submitted by Roy Beckman for a Variance to allow the construction of a detached garage to come within 18.5' feet of a front property line, instead of the required 40.0 feet. The property is located at 83 Farmview Lane, map 66, parcel 356, Lot 1A, and is zoned Lake Residential.
- c. **SE-368-** an application submitted by Scott Braglio for a Special Exception permit to establish a 6-bedroom Transient Vacation Rental Unit. The property is located at 1779 Lake Shore Drive (tax map 58, parcel 151) and is zoned Lake Residential.

After discussion, the Planning Commission had no recommendations regarding these cases.

- 2. **Minor Subdivisions –** 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.
- 3. **Hubert Custer request for waiver from Subdivision Ordinance-** John Nelson explained that Hubert Custer has requested a waiver from the minimum lot size and lot width for two lots around his farm. Mr. Custer has a 90-acre farm and he would like to create two, one-acre lots around the two existing houses. The Agricultural Resource land classification requires a minimum lot size of 3 acres. Mr. Custer would like to keep the acreage taken from the farm around the houses to a minimum, to preserve the integrity and reduce the impact on the farm. A

waiver was granted unanimously, by a vote of 7-0, for the size and the width requirements for the two proposed lots.

6. Action on Major Subdivision Plats-

A) **Whispering Woods II** – This is a 5-lot major subdivision for John Congeto of Carriage Horse, LLC, off of Sam Friend Road. Chad Fike of the Planning Office noted that the first three lots of the subdivision were approved last year. The letter of credit and the homeowner’s documents must be provided to the Office of Planning and Land Development before the subdivision is considered complete. The roads are being reviewed by the County Roads Department and are not approved, as of this date. Preliminary plat approval was granted unanimously, by a vote of 7-0, conditioned upon receipt of the required information.

B) **Poland Run Heights** – This is a 29-lot major subdivision, cluster development off Little Snaggy Mt. Road for Appalachian Investment and TAC, Inc. Mr. Nelson and Mr. Fike of the Planning Office explained that this preliminary plan for subdivision is the first segment of the new area of Thousand Acres that will be developed. This array of lots necessitates a relocation of Little Snaggy Mt. Road and will eliminate an intersection with Sky Valley Road. Mr. Nelson explained that this development would be in conjunction with the Thousand Acres golf course project. Approximately 28.15 acres of the golf course will be used as part of the “open space bank” for the cluster development. Twenty-five percent of the total acreage is required to be set aside for protected open space. A deed of conservation easement will perpetuate the use as open space land. The lot size is 25,000 sq. ft. and a table on the plat will be used to document the open space bank requirement. The Roads Department is currently reviewing the road and stormwater plans. The lots will have public sewer. Preliminary plat approval was granted unanimously, by a vote of 7-0.

7. **Next Scheduled meeting** - The next regular meeting of the Planning Commission is scheduled for Wednesday, **March 1, 2006**, in the Economic Development Meeting Room, at 1:30 pm.

8. Adjournment- 3:00 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator

