

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

203 S. 4th St –Room 210
Oakland Maryland 21550
(301) 334-1920 FAX (301) 334-5023
E-mail: planninglanddevelopment@garrettcountry.org

MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, June 7, 2006, at 1:30 pm, in the Economic Development Meeting Room. Members and guests in attendance at the meeting included:

| | | |
|-----------------|--------------------------|------------------|
| George Brady | Gary Fratz | Jeff Gosnell |
| Troy Ellington | Jeff Messenger | Peter Versteegen |
| Fred Holliday | Dennis Margroff | Karen Myers |
| Ruth Beitzel | John Nelson-Staff | Edith Brock |
| Tim Schwinabart | William DeVore-staff | Jonathan Kessler |
| | Chad Fike-staff | Scott Johnson |

Joseph McRobie, alternate member, also arrived for the meeting, however, Mr. McRobie departed after discovering attendance of the full Commission.

1. Call to Order – By Chairman, George Brady, at 1:30 pm.
2. The May minutes were unanimously approved, as submitted.
3. Reports of Officers – Chairman Brady and the Planning Commission offered condolences to Tim Schwinabart, member of the Commission, whose father Richard Schwinabart passed away since the last meeting.
4. Unfinished Business – None
5. New Business-

A. Update of the Garrett County Comprehensive Plan.

John Nelson noted that Environmental Resource Management (ERM) has received the contract for the Garrett County Comprehensive Plan Update. Mr. Nelson noted that a kick off meeting for the update would be held at Garrett College on Monday evening at 7:00 pm, at the college auditorium. It is hoped that all Commission members can attend the meeting. An invitation will be circulated to the Property Owners Association (POA), the Board of Realtors, Chamber of Commerce, the Farm Bureau and other groups, welcoming them to attend the meeting and offer input regarding the

plan. Mr. Nelson noted that this project will be a major undertaking that is scheduled to take up to a year and one half to complete.

In order to begin use of some Appalachian Regional Commission (ARC) funding, State Planning must begin their building lot inventory and building capacity analysis. The transportation and public facilities elements of the plan will be prepared with the ARC funding.

B. Review of Phase I of the Ridge View Valley Planned Residential Development (PRD) in McHenry. John Nelson explained that some of the developers are present and a number of approvals are still needed for the project, that are primarily water and sewer related.

Mr. Nelson explained that a good water source has been found and the Department of Public Utilities is working to make the source part of the public system. Mr. Gosnell noted that the quantity and quality of the water is very good. The developer has undertaken steps for design and engineering for extension of public sewer. The details of the developer agreement have yet to be completed. Peter Versteegen noted that the county attorney is now reviewing the developer's agreement and the homeowner's documents. Mr. Nelson noted that the design for the extension of the public water supply has not been developed and it will be up to the Director of Public Utilities to decide on the completeness of the agreement. Mr. Nelson that the Commission would review the first phase, 29 lots, of the PRD next month providing all necessary documentation is in place. All copies of the necessary permits must be submitted to the Planning Commission in time for the July 5 meeting. The developers will bore under Route 219 for the sewer while the county will do a separate bore for the water line. The developers are expecting to be ready for Phase II by next fall.

Mr. Nelson stated that the Commission is unable to take any action on this phase of the application until all of the outstanding issues have been clarified and addressed.

C. Review and recommendations regarding amendments to the Deep Creek Watershed Zoning Ordinance. John Nelson explained Jonathan Kessler has requested to be on the agenda today to request a reconsideration of a topic introduced and recommended by ERM. The following is a summary of the proposed change. At the April meeting, the Commission voted to not endorse this change to the zoning ordinance.

1. Allow heights up to 60 feet of six stories for multi-family and hotel structures as a special exception in the CR1 and CR2 districts.

Currently, these structures are permitted by special exception only in the TC zone. Mr. Nelson explained that Mr. Kessler would like for the Commission to reconsider this decision, in consideration of his conceptual project in McHenry, located in the CR2 Zone. Mr. Kessler presented a plat showing the layout of preliminary plans for an indoor water park. Layout of the proposed hotel and water park shows the land would accommodate the park much better with the special exception height, as proposed by ERM.

Mr. Kessler noted that only about 2.9 percent of the Deep Creek Watershed is zoned for commercial uses, which include Town Center (TC), Commercial (C), Commercial Resort 1 (CR1) and Commercial Resort 2 (CR2) zones. Only about 1.2 percent of the total zoned area is CR1 and CR2. Jonathan Kessler noted that the expanding residential uses of the TC areas have even further restricted the availability of commercial property. He believes that because of the increased residential development in the watershed that provision must also be made to accommodate commercial development that would complement the residential growth. He also proposed a provision that could be added to limit building height to 35 feet above the slope crest of the highest point on the property. He feels the amendment could also be limited to just the CR2 zone, if necessary. Mr. Kessler cited comments about the Lake, which include lack of “things to do” and the need of more off-lake activities. Plans include food service, shopping, a 100-room hotel, the indoor water park, individual cabins, trails and other amenities. Mr. Kessler noted that these types of parks have enjoyed much success throughout the country and have become the hottest segment of the hotel business, by far. The resort would have a capacity of about 850 people daily and would be open year round. Mr. Kessler presented a rendering of what the facility would look like.

Mr. Kessler noted that the current building height limitation is 50 feet from the highest to the lowest point and 35 feet from the average of the roof and the mean level of the ground abutting the building. He feels that a building of this type would be more aesthetically pleasing under the 60-foot rule, rather than the 50-foot rule. He feels that the existing height regulation is a hurdle to good design, in many respects. Mr. Kessler said his proposed structure will not extend beyond the tree line and will be built into the mountain, not above it. The need for height is largely dictated by the need for elevation for various water slides.

Mr. Kessler stated that his research shows as real estate values increase, in vacations areas such as Deep Creek, that actual number of visitors decrease, a trend that he has noticed over the past several years.

Scott Johnson of the property owners association feels that this type of structure may not fit in the CR1 zone at the intersection of Toothpick and Glendale Roads. He asks if only CR2 could be considered for this change. Mr. Nelson explained that also could be an option for consideration by the Commission. Karen Myers spoke against excluding the CR1 zone from this proposed change to the Ordinance.

The Commission decided to postpone further deliberation of this topic until the next meeting of the Planning Commission.

Mr. Nelson continued review of the recommended ERM changes to the Ordinance beginning with Section 304B(9).

2. 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.

After considerable discussion, the Commission voted to approve the recommended changes to the Ordinance, as presented, by a vote of 6 to 0 with one abstention.

3. 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.

Scott Johnson questioned whether the 300 sq inch sign is large enough to read along some of busy highways at the lake. He believes the sign may need to hold additional information that also may make it too small.

After discussion the Commission voted to approve the recommended change to the Ordinance, as presented, by a vote of 6 to 0 with one abstention.

4. Amend the Zoning Ordinance to reduce the frequency of changing messages on Scrolling Message Board Signs by amending Section 704D as follows:

Section 704D - Lighting of Signs - Lighting devices shall be shielded so that they do not create a glare or a nuisance by shining directly into a public road or highway or into the residential district. No flashing or rotating flashing illumination of a sign shall be permitted except for official traffic signs and all LED or scrolling message board signs shall not change messages more frequently than 5-second intervals. Lighting on any single sign shall be limited to a single color.

William DeVore explained that the Maryland State Highway Administration is reviewing State regulation regarding this signage. Information obtained in research by the State shows some jurisdictions have used an 8-second frequency interval and accomplished within an interval of 2-seconds.

Mr. Kessler noted that this type of sign allows for a smaller sign and does also allow for important public service information, when necessary.

John Nelson suggested that he would further work of wording to this amendment to the Ordinance and present it back to the Commission at the next regular meeting.

5. 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.*

After discussion, the Commission voted to approve these recommended changes to the Ordinance, as presented, by a vote of 6 to 0 with one abstention.

- 6. 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.1 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.

Mr. Nelson explained that the change would make the setbacks identical to the sale of recreational vehicles at the lake. After discussion, the Commission voted to approve these recommended changes to the Ordinance, as presented, by a vote of 6 to 0 with one abstention.

- 7. William DeVore introduced a proposed technical, text change to the Ordinance that was brought up by the members of the Board of Zoning Appeal regarding Section 503C.

Change to the Ordinance to read:

*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).***

After discussion, the Commission voted to approve this recommended change to the Ordinance, as presented, by a vote of 6 to 0 with one abstention.

D. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases – Regular June meeting.

The Deep Creek Watershed Board of Zoning Appeals will conduct a public hearing on Thursday, June 15, 2006, starting at 7:30 pm, in the County Commissioners Room, second floor, 203 South Fourth Street, Oakland. The Board will review the following docketed cases and hereby request advisory opinions from the Planning Commission for these cases:

- a. **VR-610-** an application submitted by Carmela Swift for Variances to allow the construction of a residence to come within 11.0 feet of both side property lines, instead of the required 15.0 feet. The property is located adjacent to 1943 Rock Lodge Road, tax map 50, parcel 248, and is zoned Lake Residential.

Because of the large size of the proposed house on this small lot, the Planning Commission recommends, by an 8 to 0 vote, against approval of these Variances.

- b. **VR-611-** an application submitted by Richard B. Orr for Variances to allow the construction of a residence to come within 28.0 feet of a rear property line, and to come within 5' of a second rear property line instead of the required 40'. The property is located at 375 Lake Shore Drive, tax map 57, parcel 238, and is zoned Lake Residential.

The Planning Commission has no comment on this application.

- c. **VR-612-** an application submitted by Bridget and Matthew Smith for Variances to allow the construction of a residence to come within 28.0 feet of a front property line, instead of the required 40.0 feet and to come within 27.0 feet of a rear property line, instead of the required 40.0 feet. The property is located on Marsh Hill Road, map 50, parcel 221, Lots 13 and 14, and is zoned Lake Residential.

The Planning Commission has no comment on this application.

- 1. **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.

2. **Waiver Request** – Jason Miner has proposed subdivision of a 5.383-acre lot into 2 lots on Woodland Avenue, off of North Glade Road. The applicant is also seeking permission to use an existing road with a grade of 17%, and to exceed 14% for the road extension. Mr. Minor has agreed to tar and chip the entire road that would meet County specifications, except for the slope. The Planning Commission recommended approval of the waiver request by a unanimous vote of 7 to 0.

3. **Discharge Permit Application for Garrett Dept of Public Utilities-** - Application is for a permit to discharge 50,000 gallons of filtered backwash from the Mt. Lake Park/Loch Lynn water treatment plant, located at the East end of Landons Dam road on an unnamed tributary of the Youghiogheny River. After discussion, the Commission had no comment on the application.

4. **Subdivision Ordinance and the Land Use Classification-** John Nelson reviewed the use of the Land Use Classification map that is part of the Subdivision Ordinance. Mr. Nelson explained that this map is based on the Comprehensive Plan map that was adopted in 1997. He explained that a Subdivision Ordinance was created that is used to regulate the size of new lots and control density. Mr. Nelson stated that the Agriculture Resource areas require a 3-acre minimum lot size or one residence for every 3 acres, shown as tan on the map. Rural Resource areas shown green on the map also have a 3-ac. minimum. Mr. Nelson noted that the agricultural areas shown are not necessarily farms. The Rural classification allows for a one-acre lot size and is shown as “white”. Suburban Residential, shown in yellow require a half-acre in size, presuming the area has public sewer. Town Residential allows high density and is served by public sewer. General Commercial and Employment Center are also shown on the map. The subdivision only regulates lot size and does not regulate use of the land.

Mr. Nelson noted that the use of mandatory clustering and also the issue of lower lot size requirements will be a topic during the development of the new County Comprehensive Plan in an attempt to save farmland. Other issues will be the preservation of rural areas and prevention of urban sprawl.

6. Action on Major Subdivision Plats-

- A) **Major Subdivision for Second Phase for Wisp Resort – Phase IX of Wisp Resort PRD-Fantasy Valley Section-** Karen Myers has submitted a request for preliminary approval of a 21 unit section of a PRD along Hoyes Run Road. Highland Engineering is conducting engineering work for the project. The homeowner’s documents and the sediment and erosion control permit have yet to be approved. The county roads have approved the road design. Water tap issues have yet to be resolved with Public Utilities. The Planning Commission recommended preliminary approval of the major subdivision by a unanimous vote of 6 to 0.

B) **Deep Creek Estates–Joe Spiker-** This plan is a request for a 20-lot major subdivision, off of Sang Run Road in the TR district. Lot size is 1.0 acre. Preliminary approval plat approval was granted unanimously, by a vote of 6-0, conditioned upon receipt of all required information.

7. **Next Scheduled meeting** - The next regular meeting of the Planning Commission is scheduled for Wednesday, **July 5, 2006**, in the Economic Development Meeting Room, at 1:30 pm.

8. Adjournment- 4:30 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator