

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, February 7, 2007, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting include:

George Brady	John Nelson-staff	Paul Durham
Tim Schwinabart	William DeVore-staff	Paul Shogren
Dennis Margroff	Nancy E. Nimmich	Karen Myers
Jeff Messenger	Dr. William Pope	Kevin Dodge
Troy Ellington	Daleen Berry	Joyce Bishoff
Joseph McRobie	Bob Lewis	Willie Lantz
Gary Fratz	Jonathan Kessler	Al Hooker
		John Carey

1. Call to Order – By 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. Informational Meetings on the Comprehensive Plan- John Nelson, Director of the Office of Planning and Land Development, circulated a press release for the upcoming meetings regarding the Comprehensive Plan. Mr. Nelson noted that the Garrett County Planning Commission is sponsoring two separate public information meetings scheduled for Monday, February 26th, 2007 and Tuesday, February 27, 2007 for the purpose of soliciting public comments on the Garrett County Comprehensive Planning process.

The first of these meetings will be held on Monday, **February 26, 2007**, from 7:00 p.m. to 9:00 p.m. in the auditorium of Garrett College in McHenry. This meeting is intended to be a visioning meeting and will provide citizens with the opportunity to express their opinions and views on future growth and development in Garrett County.

The second meeting will be held on Tuesday, February 27, 2007, from 7:00 p.m. to 9:00 p.m. in Room 224 of the Continuing Education Building at Garrett College, in McHenry. The February 27, 2007 meeting will feature a presentation by the county's consultant Environmental Resources Management (ERM) on water quality data for the Deep Creek Watershed. The presentation will include an analysis of growth and the associated impacts future growth may have on the water quality of Deep Creek Lake.

Mr. Nelson noted that citizen participation and input is a vital part of the Comprehensive Plan development process and the Planning Commission would like to hear from the broadest possible spectrum of the citizens interested in growth and development, including the towns. It is hoped that the public will also ask questions and provide comments at the meetings.

B. Request for Amendment to the Deep Creek Watershed Zoning Ordinance– John Nelson explained that Jonathan Kessler of Cascade Creek, LLC, has applied to amend the Zoning Ordinance to allow a change in Section 301B as it applies to district boundaries. Section 301B reads “Where a zoning district boundary line as shown on the zoning map divides a lot or property which was in single ownership and of record at the effective date of this Ordinance, the uses permitted thereof and the other district requirements applying to the least restricted portion of such lot shall be deemed to extend over the entire lot, or for a distance of 50 feet from the district boundary line into the more restricted portion of the lot, whichever distance is less.” Mr. Kessler proposes to remove the requirement that the property was in single ownership and of record at the effective date of the Ordinance, allowing this 50-foot extension, in all cases, provided that all property would be in common ownership and would read as follows:

“Where a zoning district boundary line as shown on the zoning map divides a lot or property which is in single ownership, the uses permitted thereof and the other district requirements applying to the least restrictive portion of such lot shall be deemed to extend over the entire lot, or for a distance of 50 feet from the district boundary line into the more restrictive portion of the lot, whichever distance is less.”

Jonathan Kessler explained how this amendment would impact the new proposed water park in McHenry. This amendment would allow Mr. Kessler's water park project to proceed without the redesign of the hotel complex which is located on the Commercial Resort 2 zone but near the Lake Residential zone. Mr. Kessler noted that this situation would probably not come about very often and would allow for effective use of commercial property. Mr. Kessler stated that he thought that a requirement for a Special Exception for the new proposal to allow the 50-foot extension, regardless of ownership at the effective date of the Ordinance, would be reasonable. Mr. Nelson noted that the earliest application to the Board of Appeals would probably be in April, if the amendment were passed.

Karen Myers of DCL Development agreed that this situation would not be common and believes that this would be an effective amendment to the Ordinance.

After hearing the comments and discussion on the proposed amendment, the Planning Commission recommended approval of a modified amendment to allow the 50-foot extension from a district boundary, providing that a Special Exception is acquired from the Deep Creek Watershed Board of Zoning Appeal for properties, which were not in single ownership and of record, at the effective date of this Ordinance. Instead of modifying the existing Section 301B of the Zoning Ordinance, the Commission recommended that a new Section 301C should be added to provide for extension of zoning rights by Special Exception as follows:

- * 301C-Where a zoning district boundary line as shown on the zoning map divides a lot or property which has been consolidated into single ownership, subsequent to the effective date of this ordinance, the uses permitted thereof and the other district requirements applying to the least restrictive portion of such lot shall may extend over the entire lot or for a distance of 50 feet from the district boundary line into the more restrictive portion of the lot, whichever distance is less, provided the owner of such property secures a Special Exception from the Board of Zoning Appeals, pursuant to Article 10.

The Planning Commission endorsed this proposal by a unanimous vote.

C. Citizen comment on the Garrett County Comprehensive Plan–

1. Mr. Nelson introduced Willie Lance and Joyce Bishoff of the Garrett-Preston Rural Development Coalition. Mr. Nelson noted that survey results have been compiled by the coalition for the development of the new Plan. The director circulated a paper titled “ Land Use Planning Meeting Survey Results” with tabulations of that survey. A letter was also circulated titled “Community Land Use Meetings Survey Results and Recommendations” Chairperson Bishoff thanked the Commission for the request for input from the coalition. Mr. Lance gave an overview on the work of the Land Use Taskforce and explained how the group developed their recommendations. A summary of the survey results from attendees of the meeting is as follows. Summary excludes persons with small lots:
 - a) Seventy percent of people responding to the survey are in favor of revising the subdivision map to add areas for the AR and RR districts.
 - b) On the issue of changing density within the AR and RR district, about 30% favor no change, 35% favor a much lower density, one lot per 25 acres or more. About 15% are in favor of slightly lower density, one lot per five or ten acres.
 - c) Eighty percent are in favor of clustering to maintain large tracts of farmland. Seventy-five percent are in favor of mandatory or incentive-based clustering, to occur on the least desirable farm and forestry land.
 - d) About 75% are in favor of maximum lot sizes of five acres or less.
 - e) Approximately 54% are in favor of infilling in the AR and RR areas if density is lowered.
 - f) About 80% are in favor of adding county matching funds to the programs, either using existing funds or through an impact fee on subdivisions to fund land preservation programs.

Other Recommendations for AR and RR areas of Garrett County include:

- a) Due to the complexity of the issues, a more in-depth study is recommended to further study major issues such as density hydrological concerns and review of case studies.
- b) Review of the present subdivision map.
- c) If density is lowered, incentives should be offered to infill to reduce pressure on larger parcels.
- d) Also if density is lowered, clustering should continue to be offered as an incentive based option.
- e) County matching funds are recommended to for the Maryland Agriculture Land Preservation Foundation, either by use of existing funds or by assessing an impact fee on subdivisions.
- f) If density is lowered, the group recommends keeping the exemption for landowners to give or sell smaller lots to their children without going through the subdivision process.
- g) Though the group is not recommending a density change at this time, if density is changed, an incremental approach is advised.

Mr. Nelson noted that this group has made an outstanding effort to meet with the community and solicit their views.

2. Kevin Dodge of the Allegheny Highland Conservancy also approached the Commission with their recommendations and ideas. Mr. Dodge noted that the group has received non-profit status and they are planning to purchase or accept donated easements, focusing on Garrett County. Mr. Dodge presented a letter to the Chairman dated February 5, 2007, noting the goals of the Allegheny Highlands Conservancy. The letter states that the Conservancy is a local land trust dedicated to protect and conserve the land, water, and natural resources of the highlands, to promote the preservation, protection and stewardship of forest, scenic, natural wildlife, recreational and agricultural land and water resources, to partner with the community to conserve working rural farms and forests, to serve as a conservation information resource for landowners and land managers and to provide a forum for community understanding and support of land and water conservation issues in the Allegheny Highlands region.

Specific concerns and recommendations regarding the plan and the planning process include:

- a) Recommend that the Planning Commission meet with smaller groups throughout the county. We also encourage the Planning Commission to provide advance mailed notification of upcoming public meetings to all who attended previous public meetings.
- b) We encourage the Planning Commission to provide updated maps that accurately reflect this information and can be linked to tax and topographic maps and aerial photos. State land, Nature Conservancy properties, and properties under easement should be easily seen.

- c) The group recommends that adequate, safe water that can be affordably accessed must be available before development should be approved. Development must not exceed what groundwater supplies can reasonably and affordably support, nor should it occur when it diminishes the quantity and quality of water for currently existing wells.
- d) The Conservancy believes that sediment, fluctuating flows, and increased water temperatures threaten streams in the county. They feel that improperly planned new development will only exacerbate these problems. The Conservancy feels that the new county plan should minimize impervious surfaces, improve stormwater management, and increase vegetated riparian and wetland buffers.
- e) The Conservancy feels that many areas of the county that should be considered as Agricultural Resource (AR) and Rural Resource (RR) areas are actually classified Rural (R) areas, and thus are subject to less restrictive subdivision regulation. The group feels that the AR area should be expanded to include woodland areas, since forests and the forest products industry are perhaps as integral to the character and economy of the county as agriculture. They also believe that much more of the agricultural and forest land in the county should be classified as AR and that the RR area of the county should be increased to include more forested tracts and other scenically and ecologically significant lands.
- f) The Conservancy is concerned about the current rate of loss of working farms and forests and other rural lands in the county. In the AR and RR areas, the group endorses a decrease in the density of dwelling units to *at least* one per ten acres, required clustering, and a limit on lot size. They believe that creative means exist to implement these measures without unduly impacting land values and other concerns of property owners.

Mr. Dodge states that the group has been working with partner organizations who share common concerns, including the Garrett-Preston Rural Development Coalition, the Garrett County Forestry Board, the Youghiogheny and Savage River Watershed Associations, and the Western Mountains Chapter of the Maryland Native Plant Society. They feel that there is a broad coalition of support for these recommendations.

3. Nancy Elizabeth Nimmich presented a letter to the Planning Commission regarding the Comprehensive Plan. Ms. Nimmich explained that she is a citizen of Garrett County since 1996 and has major concerns about population growth here and its impact on this County. She is concerned that Garrett County could experience growth similar to the Washington, DC metropolitan area that has taken place in the last three decades.

Ms. Nimmich explained that she owns 40 acres and grows various herbs and plants that are available at the Farmer's Market. She is a member of the Board of Farmer's Market and will do what she can to preserve farmland in the County. Ms. Nimmich has attended many of the conferences of the Garrett Preston Rural Development Coalition.

In November, Ms. Nimmich was shocked to learn that land categorized as AR could have up to 33 houses built on a 100-acre area, thus ruining the farmland. Ms. Nimmich understands the Maryland Department of Planning has indicated maximum density development to save farmland would allow only 4 dwellings on that 100-acre area. She urges the Commission to take an active role to make the changes in the Comprehensive Plan that will truly preserve county farmland. She also requests that the Commission considers preserving air and water quality, countywide, not just in the Deep Creek Watershed.

Mr. Nelson explained that the water quality issue is complex because the legislature passed a bill last session that requires all county plans to include a Water Resources Element within the Comprehensive Plan. MDE and Maryland State Planning are currently in the process of developing guidelines for the Water Resources Element. The State promised a draft by the end of 2006 but so far the draft is not available. Since the deadline for the water resource element is October 2009, Mr. Nelson said that the county has time to renegotiate the contract with the ERM to add this element of the Comprehensive Plan, as soon as this can be arranged.

D. Mining and Hydrology of the Upper Potomac River Basin- Report by John Carey and Al Hooker from the Maryland Bureau of Mines-

Mr. Carey, director of the Maryland Department of the Environment Bureau of Mines introduced Al Hooker, Chief of Permitting for the Bureau. Mr. Hooker stated that he is a geologist for the Bureau and is familiar with the Mettiki deep mine complex, that is a point of interest for the Planning Commission. Mr. Hooker noted that this mine, located on Table Rock Road, has been closed, partially sealed and is starting to fill with water. The pool level is being monitored along with several streams that discharge into the North Branch of the Potomac. Currently, the water level is approximately 400 vertical feet below the ground elevation of the mine entry. The pool will be continuously monitored and will not be allowed to reach the ground level elevation until a full assessment of the water quality can be made, to see if special steps would be necessary. Mr. Hooker noted that the Mettiki mine complex is approximately 10,000 acres in size. According to Mr. Hooker, Mettiki has a permit to treat up to 12 million gallons per day. Peak pumping rates were about 11 million gallons per day. Mr. Hooker feels that after the pool level is established, with acceptable water quality, for a period of about 5 years, then some of the Mettiki liability could be reduced. Mr. Hooker noted that there is no freely draining; down-dip openings associated with this mine, such as the Kempton mine complex. Mr. Hooker noted that poor water quality is often associated with the black shale formations located directly above and below the coal, not necessarily the water in the coal seam itself.

Al Hooker and John Carey said that the Bureau would make available shape files to the Planning Office, of known county deep mines, that could be compiled as part of the County Comprehensive Plan. Director Carey also expressed the Bureau's tremendous stake in the North Branch of the Potomac and stated that this water quality has been, and continues to be, a major priority for the Bureau.

The Commission noted the improvements in the water quality in the Potomac over the years and the Commission would like this progress to continue. Director Carey noted that these improvements have allowed the North Branch to become an important fishery in the region and the Bureau has committed to make sure the river stays that way. The Bureau is currently monitoring the North Branch very closely and will step up treatment, if necessary, to compensate for the reduced water flows caused by the closure of the Mettiki Mine. Mr. Carey feels that active water treatment has been paying dividends, such as alkaline dowsers, and in some ways are a better system than passive systems. Mr. Carey noted that active treatment systems are becoming more popular with state environmental agencies.

E. Discussion on Draft Growth Projections

Mr. Nelson distributed a memo dated February 2, 2007, from Clive Graham of Environmental Resources Management (ERM) summarizing specific changes between the February 1, 2007 Comprehensive Plan 2030 Growth Scenarios, the Non-Residential Development Estimates Memo and the November 6, 2006 Comprehensive Plan 2030 Preliminary Residential Growth Projections memo. Mr. Nelson noted that the revised growth scenarios were previously circulated to the Commission. Mr. Nelson presented and explained the following additions and corrections as proposed by the ERM memo:

- 1) The February 1 memo discusses the future data and residential data as scenarios. The November memo used the terms “projection” and “scenario” somewhat interchangeably, which led to some misunderstandings, as reflected in some of the public comments received after the memo’s publication. The February 1 memo explains the differences between the two terms and how ERM is using them.
- 2) In Table 1, the Capacity (Current Regulations) column was moved to the left, to make for a more logical presentation.
- 3) Also in Table 1, ERM added a column showing the Share of Capacity that the Rapid Growth Scenario represents. This was pursuant to a recommendation from the Garrett County Board of Realtors.
- 4) Data was corrected because of an error in the MDP Capacity Analysis, which assigned 3,140 extra units of capacity to the Marsh Run sub-watershed, see page 6 of the memo for a more detailed explanation.
- 5) ERM added a comment regarding the fact that mobile home permit data were not considered when developing the Moderate and Rapid Growth Scenarios (see page 6).
- 6) ERM added a note, on page 8, that the Moderate Growth Scenario actually represents a pace that is slightly lower than the building permit history from 1990-2005.
- 7) The February 1 memo includes data for estimated existing and future (2030) non-residential developments, including acres of land, useable square footage, and jobs at major employment sites, as well as existing and future commercial/retail square footage in major commercial areas in the county, see pages 10 and 11. The November 6 memo did not have any of this information.

The Planning Commission, by unanimous vote, endorsed the February 1, 2007, Growth Scenarios for the purposes of proceeding with planning analysis until such time as the projections are available. Mr. Nelson explained that he would post these changes on the web site and make these changes known before the February 27 meeting.

Mr. Nelson noted that there are nine public, evening meetings scheduled, within little more than a year, concerning the Comprehensive Plan. Two meetings are scheduled this month, one in late March or early April, one in May for the McHenry-Thayerville charette, a June meeting for fire, police and emergency services, one in October regarding implementation strategies, a November meeting concerning the draft plan, the January 2008, Planning Commission public hearing for interagency review, and the April 2008, County Commissioners public hearing.

The Commission discussed the scheduled meetings concerning the Comprehensive Plan, at length, and also discussed density issues and the availability of affordable housing in the county.

F. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases

The Deep Creek Watershed Board of Zoning Appeals will conduct a public hearing on Thursday, February 15, 2007, starting at 7:30 pm, in the County Commissioners Room, second floor, 203 South Fourth Street, Oakland. The Board will review the following docketed case and hereby request an advisory opinion from the Planning Commission for this case:

- a. VR-624-** an application submitted by Donald S. Griffin, for Variances to allow the construction of an addition to a principal structure that would come within 12.0 feet of a rear property line, instead of the grandfathered 24.40 feet and to within 14.0 feet of a side property line instead of the required 15.0 feet. The property is located at 1515 Shoreline Drive, tax map 67, parcel 487 and is zoned Lake Residential (LR).

The Planning Commission has no comment on this application.

- 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. Amendment to the Deep Creek Watershed Zoning Ordinance regarding LED and LCD signs-** Mr. Nelson noted that he has received a letter from the Garrett County Chamber of Commerce requesting no restrictions on these types of signs in the Watershed. Mr. Nelson also stated that the Garrett County Development

Corporation has not yet put together their recommendation regarding this issue, but a statement from them is expected by the next meeting of the Commission.

Jonathan Kessler also approached the Board regarding this issue. Mr. Kessler submitted a letter outlining his support for these types of signs. Mr. Kessler noted that he owns one of these signs. He feels that it is important to understand that LED/LCD signs are sized, and the message pace is set, by the distance from the traffic and speed of the traffic. Mr. Kessler stated his sign cost nearly \$30,000 about ten years ago. Mr. Kessler stated that a billboard can cost about \$1000 per month and the LED/LCD provides better impact. Mr. Kessler today is displaying his sign on the normal sign pace he uses, which changes messages every one-second. Also he has programmed the sign for two and five-second intervals. He feels that the one-second interval is the most reasonable and does not appear to be flashing. Mr. Kessler feels that the five-second interval is unfeasible and that the animation and reverse lettering of the signs is the most distracting.

Mr. Kessler feels that these signs have several benefits:

- a) He believes the message can be very specific and easily adaptable.
- b) An LED/LCD allows for more effective smaller signs.
- c) The sign allows for posting of safety/informational messages. Also “welcome” messages can be added when dignitaries come to town.
- d) Using LED/LCD signs reduces sign clutter.
- e) If SHA LED signs are allowed for special events, Mr. Kessler thinks that businesses committed to operating every day of the year should enjoy the same rights.

Mr. Kessler chooses not to use a lot of graphics because he feels they are the most “blinking/flashing” type message. He also prefers not to see billboards that are of the electronic LED/LCD type. Mr. Kessler favors a half-second limit on words and two-seconds on graphics, if regulation is necessary at all.

The Commission tabled any action on the amendment and will address this issue at the March 7th meeting.

4. Waiver Requests- None

5. Mining Permits- None

6. Action on Major Subdivision Plats-

- A) Major Subdivision - Frederick Holtschneider- Martin commercial lot.** The applicant submitted a revised record plat of this previously approved subdivision located off of Builders Way on Map 72 Parcel 31 in an Ag-Resource land classification. Final approval of this one commercial lot was granted during the January 3, 2007 Planning Commission meeting and the original record plat was signed at that time. The revised record plat incorporates changes requested by the Health

Department. The Planning Commission granted approval of this revised record plat by a unanimous vote of 6 to 0.

B) Major Subdivision-North Glade Meadows. The developer, Cabin Run Log Homes, submitted a revised record plat of this previously approved 25-lot subdivision located off of North Glade Road. The property is located on Map 59 Parcel 59 in the Lake Residential zoning district. The original record plat was approved and signed during the October 3, 2006 Planning Commission meeting. The applicant sought approval of this revised record plat in order to change the layout of three of the lots. The Commission granted approval of this revised record plat by a unanimous vote of 6 to 0.

C) Major Subdivision- Bear Ridge Phase IV. The developers, Toney and Bonnie Artice, proposed one new lot in the Bear Ridge Subdivision located off of Malachi Way. The property is located on Map 23 Parcel 125 in a Rural land classification. The applicant sought preliminary and final approval of this subdivision. The Commission granted approval of this combined preliminary and final plat by a unanimous vote of 6 to 0.

Members of the Planning Commission have expressed concern that many of the reduced plans for subdivision are difficult to read. The Commission requests, from this point forward, that all layout plans for Major and Minor Subdivision applications be 11 by 17 inches in size. In the case of minor subdivisions, the plat should be submitted on 8.5 by 14 inch paper.

7. **Next Scheduled meeting** - The next regular meeting of the Planning Commission is scheduled for Wednesday, **March 7, 2007**, in the County Commissioners Meeting Room, at 1:30 pm.
8. Adjournment- 5:00 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator

