

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, March 5, 2008, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting include:

Troy Ellington	Charles Thorne	John Bambacus
Tim Schwinabart	Paul Durham	Dr. William Pope
George Brady	Barbara Boone	Annie Bristow
Tony Doerr	Paul Durham	Jeff Conner
John Nelson-staff	Edith Brock	Bill Franklin
William DeVore-staff	Jon Boone	DeCorsey Bolden
		Karen Myers

1. Call to Order – By Chairman, Troy Ellington at 1:30 pm.
2. The February minutes were unanimously approved as submitted.
3. Report of Officers – The Commission formally recognized the work of former chairman Charles Bender who passed away on February 24. Mr. Nelson and the Commission sent flowers to the local funeral home, in Grantsville. Mr. Bender was an original member of the Commission and served continuously on the Board from 1973, until his illness in 2006. Mr. Bender, a life long resident of the county, will be greatly missed by the Commission.
4. Unfinished Business - None
5. New Business-
 - A. Discussion regarding the proposed amendment to the Deep Creek Watershed zoning ordinance, adding a new definition for “hotel/motel”.**

Chairman Ellington introduced a “straw man” letter to the Garrett County Commissioners reiterating the Planning Commission’s position on the definition of hotel/motel. The chairman believes that full kitchens should be allowed in the watershed providing that the length of stay is limited, the size of the suites or rooms are restricted, minimum land area requirements are established and mixed

use of the property is allowed to include separate dwelling units, as long as the requirements of all uses combined are met.

Mr. Nelson explained that the two memos already submitted by the Commission would be submitted as part of the hearing record. These memos were the result of the January and February meetings of the Commission. The Commission agrees that the letter from the chairman reinforces the previous recommendations. A motion to include this recommendation to be part of the record for the public hearing on the amendment was approved by a vote of 4 to 0.

B. General discussion concerning the public informational meeting concerning the draft chapters of the Comprehensive Plan.

Mr. Nelson believes that Clive Graham and ERM, the consultant for the county, did an excellent job preparing and presenting the draft plan at Garrett College on March 3, 2008. The chairman agrees with Mr. Nelson's assessment but noted that the projector used in the Power Point presentation was blurred at the top and made some parts of the presentation difficult to follow.

Paul Durham, who had comments at the informational meeting on Monday, further clarified his position regarding the plan. Mr. Durham distributed maps from the U. S. Department of Energy that show the location of wind resources in the State. The maps showed "fair" to "outstanding" wind resource areas in the county.

Mr. Durham stated that the section dealing with wind turbine development should be moved from the North Branch Potomac Watershed discussion to the Sensitive Areas chapter and the development should be treated as a countywide issue. His position states "the chapter should express that scenic resources in the county provide strong economic and quality of life benefits to citizens and landowners. In addition, our scenic resources attract hundreds of thousands of visitors to the county each year, supporting a broad and sustainable tourism economy. Scenic resources also enhance property values and attract people to relocate and live in Garrett County."

Mr. Durham stated that the chapter should include readily available mapping, showing the wind power potential in Garrett County. He believes that a discussion statement should be provided stating: "Uncontrolled industrial wind turbine development represents an immediate and long-term threat to the scenic resources of Garrett County and diminishes their value. This land use can also negatively affect the Scenic Byway designation of various county road corridors".

Mr. Durham also added that discussion should be provided stating: "The effects of industrial wind turbine development occur regardless of whether it is the result of land subdivision or from leasing or easements. Relying on only the subdivision ordinance as a means of control will not adequately protect scenic resources.

Mr. Durham's letter recommends a statement in the Plan stating, "Garrett County lacks a regulatory framework to effectively deal with current and anticipated industrial wind turbine development. Mr. Durham's plan calls for county government to move to establish such a framework, through the implementation of adequate subdivision, sensitive area, and zoning controls."

Mr. Durham believes that since wind development is basically unregulated, the Commission needs to especially look where potential development could occur thru the year 2030, within the county. He feels that the lack of regulation along with the push by the state for "green" energy puts Garrett County directly in the cross hairs for such development.

Mr. Durham feels that the county should get creative with zoning and perhaps regulate areas over a certain elevation or some other method, short of comprehensive, countywide zoning. Mr. Durham suggests the county needs a thorough, independent analysis of the costs and benefits of wind turbine development. He feels that currently the county has been relying on information provided by the wind industry, which could be biased.

Mr. Nelson noted that the county's current Sensitive Areas Ordinance provides protection for steep slopes, stream buffers, flood plains and rare and endangered species. Any proposal to protect "scenic ridge tops" would have to include an identification of those particular ridges in the Comprehensive Plan.

Mr. Nelson stated that it might be time for a serious discussion on the possibility of countywide zoning as suggested by Dr. William Pope, at the March 3rd meeting. Mr. Nelson suggested that if the League of Women Voters, the Chamber of Commerce, Farm Bureau and other county organizations would demonstrate support for zoning, the County Commissioners might consider such an initiative.

Dr. Pope further commented on his proposal from Monday night. He feels that the wind proponents have created an emergency situation that must be appreciated by the Commission. Dr. Pope feels that grandfathering of these projects is a problem that further compounds the urgency of regulating these wind turbines. Dr. Pope believes that regulating these structures would be a statement that would serve to enhance and promote tourism in the county. Dr. Pope presented a topographic map showing the location of the ridges in the county that are being targeted by wind developers.

Barbara Boone feels that wind turbine development directly contradicts five of the ten goals that have been set in the Comprehensive Plan. Mrs. Boone stated that wind power development contradicts the conservation of forest resources and agricultural resources and she believes that growth is not limited to designated growth areas. She also added that scenic views are not protected and allowing this

development does not provide land in appropriate areas for economic development.

Mrs. Boone thanked the Planning Commission for their request to the Commissioners, last month, for a moratorium on the construction of wind turbines in the county. Mrs. Boone said that because there were no results from this request, a group of concerned citizens have hired an attorney at their own expense to see what options may be available to regulate wind turbines, short of comprehensive, county wide zoning. The attorney advised that Article 66B allows for the county to establish Performance Zoning within the county. With Performance Zoning, the county could prohibit commercial wind turbine structures. Mrs. Boone submitted a draft copy of a proposed amendment to the Deep Creek Watershed zoning ordinance that would be the basis for the enactment of Performance Zoning, for review by the county.

Mrs. Boone also feels that the Deep Creek Lake watershed ordinance should be amended to regulate wind turbines, which is not clear in the present wording of the ordinance.

Mr. Nelson stated that he is skeptical that the Deep Creek jurisdiction area can be expanded to include the entire county under a Performance Zoning option and he will forward it to the county attorney for his opinion on the matter. Mr. Nelson notes that this option is contrary to previous advice that the county has received from the county attorney on this matter.

Tony Doerr of the Commission feels that there is a built-in loophole in the definition of “commercial wind turbine structure” that would allow the structures “for personal, household or farm use on the same property.” Mr. Doerr also questioned the exact location of the “ridge tops” in the county.

John Bambacus noted that his group is concerned with public health and safety. He stated that his group has been told for years that regulation of the turbines could not be done without countywide zoning. Mr. Bambacus feels that the group has been rebuffed by every request for regulation of the turbines, but the Performance Zoning proposal may be a viable option.

Jon Boone expects to have petitions to back up these proposals. He feels that countywide zoning would take at least a year or two, even if everyone supported the issue. Mr. Boone explained that the group was not trying to regulate “conventional” wind turbines for personal use.

Chairman Ellington noted that county government is under pressure from the State to allow this type of “renewable” energy generation. The chairman also notes the high cost of energy at this time.

Annie Bristow stated that she supports some type of regulation of these wind turbines. She feels that this type renewable energy should not happen to this extent in Garrett County. Ms. Bristow feels that the county must act quickly so it does not become a dumping ground for these turbines.

Dr. William Pope presented a map showing the relation of the high ridges in the county to the Deep Creek Lake watershed. He feels that the views in the watershed could be greatly affected by the construction of wind turbines near the lake. Dr. Pope notes that the developers could move back one foot from the top of the ridge, to avoid the watershed boundary, and the turbine would be highly visible to homeowners at Deep Creek, since the ridges are the boundary of the watershed. In Dr. Pope's view, the pristine setting of the lake could be ruined by the proliferation of these turbines. Dr. Pope feels that the turbines should be banned from the area immediately for a period of time; say two years, until the wind turbines can be thoroughly studied and regulated.

C. Public Commentary- The Commission discussed the possibility of a series of town hall meetings concerning comprehensive zoning. The Commission considered this approach to educate citizens about the merits of zoning however, no consensus was reached.

The Commission initiated considerable discussion concerning the concept of including scenic views and the desire to protect them in the Sensitive Areas chapter of the draft plan. The Commission considered the public comments regarding the impacts that ridge top development may have on scenic views and the benefits scenic views provide to the County. The Commission also evaluated and discussed the six summary points outlined in the letter presented by Paul Durham.

Upon reviewing Mr. Durham's letter, the Commission agreed to accept some of the suggestions submitted by Mr. Durham relating to the draft Comprehensive Plan. Specifically, the Commission passed a motion to include; 1) a very general discussion of the wind power industry in the Sensitive Areas Element; 2) a discussion regarding the County's scenic resources in the Sensitive Areas Chapter of the Plan and that ridge tops should be identified for their scenic qualities; and 3) a discussion regarding the current lack of a regulatory framework to effectively deal with current and anticipated 'ridge top' development and to include a policy recommendation for the County to establish such a framework, through the implementation of adequate subdivision, sensitive area, and zoning controls. Mr. Nelson will prepare a letter to be forwarded to ERM.

As a separate topic of discussion, Mr. Nelson noted that the *Action Section* of Chapter 3 of the Comprehensive Plan might need to be amended. *Item number 7*, "The support for wind power" on page 3-39, of the draft plan should be removed to be consistent with Commission recommendations made at the last meeting. The

Planning Commission feels that the removal of this wording is consistent with their previous recommendations and approves removal of this “support” language, by a unanimous vote of 4 to 0.

D. Miscellaneous

- 1. Deep Creek Watershed Zoning Appeals Cases - None**
- 2. Minor Subdivisions** – Approved minor subdivisions have been included in the packet mailed to the Commission members prior to the meeting.
- 3. Waivers Requests-** Surface Mine Permit Application- Vindex Energy Corporation has submitted a revision to a previous mine application on property owned by Douglas Coal Co., Inc. Mineral is also owned by Douglas Coal Company. The property is located off of State Route 38, near Kitzmiller. The application has been increased from 371 acres to 481 acres. The Commission has no comment on the application.
- 4. Ag-land District Application PC-105**– Ernest and Carolyn Ganoe has submitted and application to establish an Ag-land Preservation district. The total size of the parcel is 51.36 acres. Mr. Nelson said the parcel meets all of the requirements and the staff recommends approval of this district. The Planning Commission feels that the application is consistent with the Comprehensive Plan and recommends approval of the establishment of the ag-district by a unanimous vote of 4 to 0.

Ag-land District Application PC-105– Doug and Bonnie Klotz has also submitted an application to establish an ag-land preservation district. The application excludes three acres around the existing ice cream stand. The total size of the parcel is 84.5 acres and is located along Route 42, north of McHenry. Mr. Nelson stated that the parcel meets all of the requirements and the staff recommends approval of this agricultural-district. The Planning Commission feels that the application is consistent with the Comprehensive Plan and recommends approval of the establishment of the district by a unanimous vote of 4 to 0.
- 5. Discharge Permit Applications-ARJ Construction Company-** renewal of an application to discharge 188,000 gallons from the Taylor Mine No.1, to Aaron Run. The underground coal mine is located off of Westernport Road. The Commission has no comment on the application.

E. Action on Planned Residential Developments (PRD) and Major Subdivisions

- 1. Preliminary Plat- Slaters Knoll-** The developer, Dirk Yoder, submitted a Preliminary plat for a 22-lot subdivision located off of an extension of Salt

Block Mountain Road. The property is located on tax map 18, parcel 127, and in a Rural land classification. The Planning Commission granted approval of this Preliminary plat by a unanimous vote of 4 to 0.

- 2. Preliminary & Final Plat- Poland Run East II-** The developers, Appalaichan Investment Properties submitted a combined Preliminary and Final plat for a 4-lot subdivision located off of realigned Thousand Acres Road. The property is located on tax map 67, parcel 780, lots 11, 12 and 13, in a Lake Residential zoning district. The Planning Commission granted approval of this Preliminary and Final plat by a unanimous vote of 4 to 0 contingent on resolution of all issues associated with any needed repairs to Thousand Acres Road.
 - 3. Revised Record Plat- Thousand Acres Phase I-** The developer, Thousand Acres Development submitted a revised Record plat for signature. This previously approved 29-lot subdivision is located off of Little Snaggy Mountain Road. The property is located on map 67, parcel 787, in a Lake Residential zoning district. The revised plat changes wording regarding to “green space” and “common space”.
 - 4. Revised Final Plat and Phase I Record Plat-** Aspen Woods West- The developer, Aspen Woods West, LLC, submitted the Revised Final plat and Record plat of Phase I of the Aspen Woods West subdivision for signature. The property is located on map 41, parcel 270, and in a Rural land classification. The revised Final plat of the entire 28-lot subdivision, located off of Sang Run Road was approved during the January 2008, Planning Commission meeting, contingent on the developer securing all required signatures on the Final plat. The Phase I Record plat is intended to record 11 of these lots.
- F. Next Scheduled meeting -** The next regular meeting of the Planning Commission is scheduled for Wednesday, **April 16, 2008**, in the County Commissioners Meeting Room, at **1:30 pm**. The meeting is moved back two weeks to accommodate work by the consultant, on the Garrett County Comprehensive Plan.

G. Adjournment- 4:15 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator

