

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, December 3, 2008, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Jeff Messenger	Kerry Schultz
Joe McRobie	George Brady	Paul Durham
Tony Doerr	Gary Fratz	Dr. William Pope
Tim Schwinabart	John Nelson-staff	Nancy Nimmich
Ruth Beitzel	William DeVore-staff	

1. Call to Order – By Chairman, Troy Ellington at 1:30 pm.
2. The November minutes were unanimously approved as submitted.
3. Report of Officers – none
4. Unfinished Business –
 - A. Carryover of the Natural Gas Discussion from the November Meeting –**
George Brady expressed concerns about the possibility that radioactivity maybe associated with Marcellus shale drilling activities.
5. New Business-
 - A. Discussion of the “Task Force on the Future for Growth and Development” from the Maryland Department of Planning - Draft Recommendations.**

Mr. Nelson noted that a “Smart Growth Listening Session” would be held by the Maryland Department of Planning on December 11, 2008, at Frostburg State University, in the Compton Science Center, Room 226, at 6:30 p.m. Everyone is invited to attend and participate. This special session is being held in response to a request by Commissioner Holliday to have a meeting in Western Maryland. Chairman Ellington stated that the State Planning Office has a questionnaire on the State Planning web site and Mr. Nelson stated that the questionnaire would be a part of the December 11 listening session.

Mr. Nelson said that House Bill 1141, passed in 2006, established the Task Force. These recommendations are very much on the agenda of the Maryland

Association of Counties (MACO). Mr. Nelson reviewed the seven major, draft recommendations with the Commission. Draft Recommendations from the Task Force are shown in italics:

1. Modernize the Planning Visions

Update the Eight Visions to reflect the Task Forces recently drafted Twelve Visions. The 8 Visions were first adopted in Maryland via the 1992 Economic Growth, Resource Protection, and Planning Act.

- 1. Development is concentrated in suitable areas;*
- 2. Sensitive Areas are protected;*
- 3. In rural areas, growth is directed to existing population centers and resource areas are protected;*
- 4. Stewardship of the Chesapeake Bay and the land is a universal ethic;*
- 5. Conservation of resources, including a reduction in resource consumption is practiced;*
- 6. To assure the achievement of the above, economic growth is encouraged and regulatory mechanisms are streamlined;*
- 7. Adequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is to occur; and*
- 8. Funding mechanisms are addressed to achieve these visions.*

Revised Visions

- 1. Quality of Life and Sustainability: A high quality of life is achieved through universal stewardship of the land, water and air resulting in sustainable communities and protection of the environment.*
- 2. Public participation: Citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals.*
- 3. Growth Areas: Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers.*
- 4. Community Design: Compact, mixed-use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.*
- 5. Infrastructure: Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner.*

Mr. Nelson noted that this vision does not consider resort areas such as Garrett County that have a large number of second homes.

6. *Transportation: A well-maintained, multimodal transportation system facilitates the safe, convenient, affordable and efficient movement of people, goods and services within and between population and business centers.*

Mr. Nelson noted that Garrett County and other rural counties have no multimodal transportation system.

7. *Housing: A range of housing densities, types, and sizes provide residential options for citizens of all ages and incomes.*
8. *Economic Development: Economic development and natural resource-based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities is encouraged.*
9. *Environmental Protection: Land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems and living resources.*
10. *Resource Conservation: Waterways, forests, agricultural areas, open space, natural systems and scenic areas are conserved.*
11. *Stewardship: government, business entities and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection*
12. *Implementation: Strategies, policies, programs and funding for the growth and development, resource conservation, infrastructure and transportation are integrated across the local, regional, State and interstate levels to achieve these visions.*

2. Strengthen Comprehensive Plans

Mr. Nelson noted that this recommendation came about largely by the outcome of the Terrapin Run Board of Appeals case in Allegany County. There was controversy concerning whether the development is consistent with the county's comprehensive plan, due to alleged inconsistencies in the plan. Discussion ensued concerning the status of the State's comprehensive plan.

- A. *Recommend a legislative response to the Terrapin Run case*
- B. *Develop metrics and measures to track growth trends and to help implement comprehensive plans' goals and recommendations-*

Mr. Nelson noted that one idea is to track whether development is occurring within priority Funding Areas (PFA's) or outside of PFA's. Garrett County's development is largely occurring outside of PFA's due to the small land areas (less than three percent) that qualify as a PFA in the county. John Nelson explained that a major qualification that is difficult for the county to comply with is the 3.5 units per acre density requirement.

C. *Implementation of the comprehensive plan-...the Task Force recommends that local jurisdictions actively pursue implementation of their comprehensive plans upon adoption, via a schedule that is part of the plan.*

Mr. Nelson stated that Garrett County has already completed this as a part of its comprehensive plan schedule.

D. *State Agency comments on comprehensive plans-The task force recommends that MDP and local governments amend the current review and comment process such that preliminary comments and discussions can occur much earlier in the plan development process.*

3. *Sharpen the Focus of the PFA's*

A. *Reconfigure the existing Priority Funding Areas to more efficiently target State capital and non-capital resources.*

The broad purpose of Priority Funding Areas (PFAs) is to focus State spending to make the most efficient and effective use of existing infrastructure, to preserve existing neighborhoods and to preserve Maryland's fields, farms, and open spaces. PFA, established by law, include:

- *Municipal boundaries as of January 1997*
- *Designated Neighborhood Program Areas*
- *Enterprise Zones*
- *Heritage Areas that are also county growth areas*
- *Inside the Beltways*
- *Local governments MAY certify additional areas consistent with criteria (growth areas)*

Mr. Nelson noted that this "criteria" is problematic for Garrett County, as previously mentioned. The criteria includes the 3.5 acre density requirement, existing or planned water and sewer service, growth plan consistent with projections, and a PFA size based on a assessment of land needed for 20 years growth.

B. *Focus on transit Oriented Development (TOD)*

- *Link eligibility of State TOD incentives to local government adoption of TOD-friendly planning, zoning, TOD supportive infrastructure policies and financing, TOD supportive housing programs, and/or other measures.*
- *Support local government adoption of TOD-friendly planning, zoning, TOD supportive infrastructure policies and financing, TOD supportive housing programs, and/or other measures by developing model codes and by assisting in the local development of community-appropriate, customized solutions that implement*

the purpose and intent of the model TOD codes to promote active, income-diverse pedestrian and transit friendly communities.

- *Create a capitalized TOD Revolving Loan Fund for gap financing for TODs.*
- *Define and implement a program for financing bicycle and pedestrian facilities in all TODs and for financing structured parking for TODs where the supply of parking has been pinched by the redevelopment of existing surface parking as new real estate or by reductions in the amount of allowable parking in new residential and/or commercial development.*
- *Provide the State's full faith and credit to TOD-zoned TIF districts.*

Mr. Nelson notes that locating growth areas near public transportation centers does not necessarily work in the case of Garrett County and other rural counties.

4. Land Preservation for Resource Production and Protection

- A. *Explore Expansion of Transfer of Development Rights Programs-*
Mr. Nelson explained that the transfer would work by allowing greater densities for a certain project located in a PFA or town in conjunction with buying the development rights in a rural area and preserving them. The problem in Garrett County is there is so much undeveloped land and relatively low growth pressure that there may not be a market for such a program.
- B. *Targeting Agricultural Protection- The Task Force recommends that the State concentrate its expenditures of rural land and resource conservation funds where the investment is protected by local zoning land use management authority, encouraging all counties to take similar steps. To be certified by the State as effective programs, a counties' rural zoning districts and associated subdivision regulations must stabilize rural land use for preservation by limiting residential subdivision and development, to provide time for easement acquisition to achieve preservation goals before land resource and agricultural industry are excessively compromised.*

Mr. Nelson believes these steps could take away money to protect farmland where it is now affordable as is being done under current programs. Also this plan may take money away from our own successful efforts to preserve farmland.

5. Infrastructure and funding priorities

- A. *Require that the Maryland Department of Planning update the 2004 Infrastructure Survey*
- B. *Expand the Department of Housing and Community Development's Local Government Infrastructure Finance Program*
- C. *Reauthorize the Maryland Heritage Rehab Credit and Remove Aggregate Caps.*
- D. *Housing Needs*
 - *Increase resources and activities to support affordable/workforce housing*
 - *Include jobs/housing balance in comprehensive plans*
 - *Target areas with high foreclosures for reinvestment and reuse with rental and/or homeownership tools*
 - *Stimulate the reinvestment and growth of under-tapped markets by enhancing support for small business growth in existing communities*
- E. *Revenues for Infrastructure*
- F. *Adequate Public Facilities*

6. State Development Plan

- A. *Determine the parameters of the State Development Plan (including the State Housing Plan and State Transportation Plan*
- B. *Reconstitute a statewide body to advise on and guide the implementation not the SDP and all growth and development issues*

7. Educational Efforts and Outreach

In summary, Mr. Nelson noted that any possible legislation from these recommendations is still undetermined. It is anticipated that there will be a package from the task force that will be introduced for legislation. All of the counties will follow this process very closely.

B. Public Commentary- Dr. Pope questioned the status of the proposed legislation regarding setbacks for wind turbines and the new proposed sign regulations in the county. Delegate Beitzel and Senator Edwards have asked the State Attorney General to give an opinion concerning whether the Commissioners have the power to impose these regulations or whether additional legislation is required. Mr. Nelson said that without comprehensive zoning, the county does not have this authority, according to the County Attorney. Article 66 B has a provision to allow Performance zoning if the Commissioners would enact such zoning. The bill will ask for the simple authority to prepare an ordinance to impose setbacks for wind turbines.

Mr. Nelson believes that if the legislation is passed the issue will be turned over to the Planning Commission to develop both the turbine setback and sign ordinances.

Dr. Pope also questioned whether gas drilling in the county would be permitted on property that has an agricultural easement. Mr. Nelson believes that the time limit for the lease agreements is approaching, but many lessees have still not heard anything regarding their leases. Mr. Nelson stated that the official position of the Maryland Ag-land Preservation Foundation is that they will not allow drilling on any property that is under easement at this time. Only “no access” leases would be allowed, meaning that access would have to be via an adjacent property, via underground means. Tim Schwinabart stated that according to MDE officials that he met with earlier in the day, no recent gas drilling permits have been applied for, as of this date, in Allegany or Garrett County.

C. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases –

- a. VR-653** - an application submitted by Richard McClanahan, for a Variance to allow the construction of a second story deck that would come within 5.0 feet of a side property line, instead of the required 15.0 feet. The property is located at 141 Timber Ridge Road, tax map 50, parcel 685, lot 9 and is zoned Lake Residential.

After discussion, the Commission has no comment regarding the request.

- b. SE-397**- an application submitted by Deep Creek Marina, LLC, for a Special Exception permit for a private or membership club. The property is located at 1077 Deep Creek Drive, tax map 50, parcel 256 and is zoned Town Center.

After discussion, the Commission has no comment regarding the request.

2. **Minor Subdivisions** – Approved minor subdivisions have been included in the packet that was mailed to the Commission members, prior to the meeting.

3. **Waiver Requests** –

- a. **Nancy Nimmich-** Nancy Nimmich is seeking a waiver from Section 1002(A) 3(c) of the Subdivision Ordinance requiring an existing private road to have a minimum width of at least 12 feet and a minimum depth of stone of three inches. Ms. Nimmich has proposed a one-lot subdivision on her property located off an existing private roadway, off of Lynndale Road. The property is located on tax map 91, parcel 10 in Rural land classification. Ms. Nimmich requests permission to allow the existing roadway to remain at ten feet. After discussion, the Commission voted to table the request until the next meeting of the Commission in order to acquire more information concerning the circumstances of the request.
- b. **Mountain Landings-** On behalf of Aviation Properties, Inc., surveyor Kerry Shultz requests a waiver from section 1002(G) 3(b) of the Subdivision Ordinance requiring any segment of a road that will serve traffic from 20 or more dwelling units to be paved with asphalt or with tar and chip. The Mountain Landings subdivision is located off of Pysell Road on tax map 42, parcel 9 in a Rural land classification. Mr. Shultz requests a waiver from the paving requirement. After considerable discussion, the Commission denied the waiver request by a vote of 6 to 1.

4. **Discharge Permit Applications** –

- a. **Mettiki Coal Corporation** - Application is for the renewal of a permit to discharge 6.8 million gallons per day of treated wastewater that includes mine drainage into the North and South Fork of Sand Run. The project is located at 293 Table Rock Road. After discussion, the Commission had no comment on the application.
- b. **Maryland DNR-** Maryland Department of Natural Resources Fishing Service has submitted an application for the renewal of a permit to discharge 1.5 million gallons per day of raceway and pond overflow water from the fishery station on Bear Creek. After discussion, the Commission had no comment on the application.
- c. **Maryland Environmental Services-** Application is for the renewal of a permit to discharge 62,000 gallons per day of treated domestic wastewater from the Swallow Falls wastewater treatment plant into Toliver Run. After discussion, the Commission had no comment on the application.

C. Action on Planned Residential Developments (PRD) and Major Subdivision Plats

- 1. Final Plat- Mountain Landings-** The developer, Aviation Properties, Inc, submitted a Final plat for eight new building lots in the Mountain Landings Phase II subdivision, located off of Pysell Road. The property is located on tax map 42, parcel 9 in a Rural land classification. The developer requested final approval contingent on final approval of the Stormwater and Sediment and Erosion Control plan. The Planning Commission granted conditional approval of this Final plat by a unanimous vote of 7 to 0.
- 2. Final Plat- Crystal Creek-** The developers, Raileywood LLC, submitted a Final plat for the first 6-lots of the Crystal Creek subdivision located off of Lake Shore Drive. The subdivision is located on tax map 58, parcels 412 and 759 in a Lake Residential zoning district. The developer requested final approval contingent on final approval of the Stormwater and Sediment and Erosion Control plan and final approval of the Department of Public Utilities. The Planning Commission granted conditional approval of this Final plat by a unanimous vote of 7 to 0.
- 3. Revised Final Plat- The Homestead-** The developers, JC Holdings, submitted a revised Final Plat for eight lots located off of Garrett Road. The Homestead subdivision is located on tax map 79, parcel 358, in a Rural land classification. The original Final plat was approved November 1, 2006. This revised Final plat shows a revised right of way to account for the as-built location of the main subdivision road. The Planning Commission granted approval of this revised Final plat by a unanimous vote of 7 to 0.

D. Next Scheduled meeting - The next regular meeting of the Planning Commission is scheduled for Wednesday, **January 7, 2009**, in the County Commissioners Meeting Room, at 1:30 pm.

D. Adjournment- 3:45 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator

