

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, November 12, 2009, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Larry Smith	Paul Durham
Joe McRobie- Alternate	Betsy Spiker	Bill Meagher
George Brady	Richard Skipper	Doug McClive
Gary Fratz	Larry Nesline	Bill Franklin
Ruth Beitzel	Ed King	Rich Orr
Tony Doerr	Mike Kennedy	Bill Weissgerber
Tim Schwinabart	Karen Myers	John Nelson-staff
Jeff Messenger	Jerry Humberson	Chad Fike- staff
		William DeVore-staff

1. Call to Order – By Chairman Ellington at 1:30 pm.
2. The October minutes were unanimously approved as corrected.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business-

A. Work Session- Discussion regarding the Draft Revisions to the DCW Zoning Ordinance, the Garrett County Subdivision Ordinance and the Sensitive Areas Ordinance; Consideration of comments received during the Public Information Meeting on October 14, 2009 and in writing following that meeting and determination of any adjustments to draft ordinances.

Chairman Ellington and Vice Chair Tim Schwinabart note that the Commission appreciates all of the input that has been received concerning the changes to the ordinances. Mr. Ellington explained that a “decision matrix” has been compiled by the Planning Office to summarize the major issues that have surfaced during the review of the draft ordinances. The Chairman explained that there would be opportunity for comment at this work session after the Commission reaches some consensus on the decisions to be made. The Commission will review the decision matrix, as shown in italics below, line by line:

Issue I- AR and RR Mandatory clustering with exemptions.

Option I- B. Retain required clustering and resource parcel in AR and RR areas. Expand exemptions to address concerns.

- 1. Allow R-type development (one-acre minimum lot size) under certain conditions.***
- 2. Increase the size of parcels exempt from resource parcel requirements.***
- 3. Retain exemption for limited subdivision without a resource parcel.***
- 4. Expand exemptions for large lot subdivisions.***

After discussion, the Commission rejected Option I-B by a vote of 7 to 0 and considered Option I-C instead.

Option I- C. Make clustering in AR and RR an option rather than a requirement.

- 1. Allow R-type development (one-acre minimum lot size) under certain conditions.***
 - a. Permit R subdivision for lots transferred to children or grandchildren of the property owner.*
 - b. Permit R subdivision for any parcel of record of 15 acres or less.*
 - c. Provide a waiver to permit R subdivision for any parcel larger than 15 acres if the parcel is surrounded primarily by subdivision lots and does not contribute to contiguous areas of farmland or forest.*
- 2. Permit non-cluster subdivision for any parcel.***

No resource parcel requirement; minimum lot size of three acres as currently allowed.
- 3. Provide incentives to encourage cluster subdivisions.***
 - a. Allow cluster subdivisions with no minimum lot size (except for Health Department Regulations) and density of one dwelling per two acres plus an additional dwelling on the resource parcel.*
 - b. Require a resource parcel for cluster subdivisions:*
 - (1) Must be at least 50 percent of the original tract.*
 - (2) If the resource parcel is at least 66 percent of the original parcel subject to design standards, or at least 80 percent of the original parcel with no design standards, provide the following incentives.*

- *Streamline review and administrative process for clustering (in existing 159.028)*
- *Reduce road standards. Require right-of ways of only 30 feet width, with cartway of 12-foot wide gravel surface for up to 10 lots, and 16-foot wide gravel surface with 2-foot shoulders for up to 40 lots.*
- *If the resource parcel qualifies, allow it to become a County agricultural district with property tax benefit.*
- *Allow the resource parcel to be increased from 50 percent to 66 percent of the original parcel by placing a conservation easement on portions of subdivision lots contiguous with the resource parcel and not used for buildings or paved/gravel surfaces. The easement area could be used for septic drain field and reserve area.*

Mr. Nelson explained that the proposed increased clustering incentives should provide a mechanism for the county to comply with the State Visions that require these areas to be protected and that growth is directed to existing population centers. It is hoped that the incentives will encourage more clustering and cut down on the current average lot size of nine acres per lot.

The Commission decided to change the criteria for 1.b to “20 acres or less” instead of the proposed “15 acre or less” criteria.

After discussion, the Commission voted 7 to 0 to endorse this Option I-C and to incorporate these policies into the Subdivision Ordinance and Zoning Ordinance, with all of the provisions as listed above.

Option I- D. Incentivize clustering by eliminating the incentive to create large lots on unpaved roads.

After discussion, the Commission voted 7 to 0, supporting Option D that eliminates this exception that allows unpaved roads for up to 40 lots that are five acres or more in land area.

Issue I- AR and RR Map Issues

Option I- A. Reduce extension of AR and RR areas within the Deep Creek Watershed.

Consensus by the Commission is to classify more properties in the LR2 area, thereby reducing the size of the AR or RR zones in the watershed. Mr. Nelson reminded the Commission that Randee Craig and Jonathan Kessler formally requested that some changes be made to the new proposed classification of their property. After consultation with the Department of Public Utilities, it was determined that parts of these properties could be serviced by public sewer, if and when sewer becomes available. Mr. Nelson believes that both properties could be classified as LR1.

Mr. Nelson explained that analysis of the build out capacity indicates that about 13,000 units is the tipping point for adversely affecting water, sewer and road capacities, which is the basis for the new AR, RR and LR2 designations in the watershed. The new classifications are designed to bring the build out capacity down to the 13,000 unit level down from the 25,000 total build out, calculated to be possible. Mr. Nelson further explained that House Bill 297, “the Terrapin Run Bill” requires county ordinances to be consistent with their comprehensive plans.

Some members of the Commission feel that it would be appropriate to revisit the map in the Deep Creek Watershed to further limit the amount of acreage that is designated AR and RR; and still satisfy the Comprehensive Plan. The Commission, by a 7 to 0 vote, supported a motion to direct Mr. Nelson to evaluate the Resource Areas on the Zoning Map.

Mr. Nelson said that he would work with Debbie Carpenter, the GIS specialist, to further evaluate the extent of the AR and RR zones. Mr. Nelson will provide an alternative draft map for the next meeting of the Commission.

Issue II- Scenic Protection Overlay District

A. Simplify the Scenic Protection Mapping

1. Eliminate the Crestline Sub-district.

The Commission opted to eliminate the Crestline Sub-district and combine it into one Scenic Protection Overlay District.

B. Exempt lots of record from the Scenic Protection requirements.

- 1. Exempt lots of record from all requirements. Apply the requirements of the Scenic Protection District only to lots recorded after adoption of these regulations.***
- 2. Require basic tree requirements for all lots. However, apply the standards for house location (avoid houses silhouetted against sky) only to new lots.***

The Commission decided to take no action on making lots of record exempt from the Scenic Protection requirements and did not endorse option B2 above. The Commission believes that eliminating the screening requirements between buildings and the lake will satisfy the major concerns about the issue.

C. Reduce Scenic Protection tree screening requirements.

1. No tree requirement.

The Commission took no action on this option.

2. Eliminate screening requirements-

The Commission voted by a vote of 7 to 0 to eliminate the screening requirements between buildings and the lake in order to maintain clear lake views. The Commission further voted, unanimously, to retain tree requirements to the side and rear of structures to “frame” the building and help it blend into the landscape, especially on crests.

3. Reduce screening requirements

The Commission voted to eliminate the screening requirements outlined in C3.

D. Reduce or eliminate Scenic Protection building location and design standards.

- 1. Eliminate requirement to locate homes below the crest if possible.***
- 2. Eliminate height limit in Crestline sub-district (15 feet above highest elevation on lot).***
- 3. Eliminate requirements that building be designed to fit with the slope and to have the roof slope parallel to the topographic slope.***

After discussion, the Commission voted 7 to 0 to eliminate the building location and design standards described in items D1 through D3 above.

Issue III- Scenic Byway Protection

A. Reduce or eliminate subdivision guidelines for scenic byways.

Mr. Nelson noted that there are about a dozen roads throughout the county that have been designated as “scenic byways” by the State, on the State Highway Map. The regulations, as written, would require buildings to be located in a way to preserve scenic views along these roads, avoiding crest lines and fields.

B. Reduce or eliminate road improvement guidelines for scenic byways.

The Commission feels that some language in A above should be kept in the subdivision ordinance to be consistent with the Comprehensive Plan. The Commission directed Mr. Nelson to have the Planning staff, in consultation with ERM, reduce the subdivision guidelines for scenic byway protection by encouraging the preservation of trees and the placement of building sites in or near wooded areas.

B. Public Comment on the Work Session

Ed King believes that the Commission is moving in the proper direction by relaxing some of the scenic protection requirements. Mr. King also suggests that

the LR1 and LR2 zoning classifications be eliminated in the new ordinance and return to the existing LR classification.

The Commission believes that the return to the LR classification would be too obviously inconsistent with the Comprehensive Plan.

Rich Orr feels that the current glut of building lots greatly delays the date that the watershed will reach the build out number of 13,000 lots in the lake watershed. He calculates 80 to 125 years before such build out could occur. Mr. Orr suggests that the Commission base new mapping on the Department of Public Utilities proposed sewer map. Mr. Orr also suggests eliminating the AR and RR zones in the lake watershed and adding those areas to LR1, if they touch the proposed sewer service area.

Bill Weissgerber also feels that the undevelopable areas in the watershed should be designated as AR or RR to accommodate the intent of the Plan. In response to a question from Mr. Weissgerber, Mr. Nelson noted that the intent of the AR and RR policies, as currently drafted, is that if lots on the parcel to be developed are not laid-out to consider the existing resources on the adjoining parcel, then 80 % of the tract must be reserved. If the adjacent resources are considered, then only 66% of the tract is to be reserved. Mr. Nelson also explained that if a parcel in question and the adjacent parcels have no resources then the parcel should be eligible for the waiver from the AR and RR densities, according to the policies acted upon by the Commission at this meeting.

Mr. Weissgerber feels that the covenants and restrictions that are part of the new subdivisions at Deep Creek already protect the view shed and further protection and monitoring is not necessary.

Paul Durham summarized that today the Commission has proposed to eliminate the crest line sub-district (A.1), eliminate the screening requirements (C.2) and eliminate the Scenic Protection building location and design standards (D.1.2.3).

Mr. Durham contends that the Comprehensive Plan infers that all existing lots of record are exempt from all of the scenic protection regulations. Mr. Durham notes that page 4-24 of the Plan states "The provisions...should be added to the zoning ordinance, and should apply at the time of the final plat approval". He feels that this language was intended to grandfather all existing lots of record from any scenic protection regulations and for the Commission to do otherwise would be inconsistent with the Plan. Mr. Durham feels that this is an important issue in this community and the issue will not go to rest and could be challenged.

Mr. Ellington requests that Mr. Nelson check with the county attorney regarding the particular issue brought up by Paul Durham concerning consistency with the Plan, for record lots, in the scenic protection area.

Bill Franklin believes that the Commission has taken major steps to limit the impact of the scenic protection regulations on the property owners in the watershed. He also points out that there is a shortage of ERU's that limits the projected build out capacity.

C. Extract of Comments and Suggestions from Letters Received

Mr. Nelson explained that the Decision Matrix was developed by ERM after the October 14th hearing. Since that time, there have been additional comments received by the Planning Office. These additional comments were extracted from letters, compiled and summarized by Mr. Nelson, as shown below in italics:

Lindsey Williams' suggestions:

1) Grandfathering lots with steep slopes

After considerable discussion, Mr. Nelson suggested that lots of record that are less than four acres should be "grandfathered" from the steep slope provisions and the new standard that reduces the area to be disturbed on steep slopes, from five to one percent, should be limited to lots that are larger than four acres. In that way, the new regulations would not be so restrictive on small grandfathered lots of record that predate the Sensitive Areas Ordinance. Mr. Nelson will develop language to that effect and present it to the Commission at the next meeting.

2) Non Conforming Structure provision

Reduced standards for review of Variance that would apply to additions or new residence.

3) In tear-down situations bring conformity with yard set-back requirements

Mr. Nelson is instructed by the Commission to develop "reduced standards" for Variances in these situations, for new replacement structures and additions.

4) Should provide clear ability for trash containers to have 0 set-backs from front and side lot lines.

The Commission agreed that the setbacks for trash containers should be clarified, for front and sidelines, since some bear-proof containers are considered structures.

5) The term "accessory structure" should be used instead of "accessory building".

The Commission also agrees that the term "accessory structure" should be used instead of "accessory building", to accommodate pools and other structures that may not necessarily be "buildings".

Barbara Beelar suggestions

6) Expand the areas covered under the Sensitive Areas Ordinance to include all tributaries to Deep Creek and their headwaters.

7) Only permeable paving for sidewalks

8) Protect tree canopy within the buffer of streams

9) *No stormwater run-off into the buffer – 100% retention on abutting properties.*

10) *Livestock fenced off from stream buffers*

After consideration, the Commission believes that the suggestions are admirable, but the Commission feels the recommendations would be difficult to enforce and implement and the policies should remain as originally drafted.

Chamber Focus Committee suggestions:

11) *Propose TR set-backs for substandard lots (50%) in the LR Zone – 8 ft. side, 15 ft. front, 20' rear- Rich Skipper's alternative for relaxed standards.*

Mr. Nelson believes that the use of a “relaxed standard variance” solution could also apply in this situation instead of automatically using the suggested TR setbacks for substandard lots in the LR zone that are at least 50% substandard in size or in width. Mr. Nelson will draft language to that effect for the next meeting.

12) *Apply architectural standards to all non-residential buildings not just commercial*

After considerable discussion, it is suggested that this recommendation apply to all principle buildings for non residential use. Language will be drafted to require that all metal, pole type buildings with a corrugated metal shell that can be seen from a public road must have at least a 40% non-metal material veneer on outside walls. This standard would apply to principle buildings in the Commercial, Town Center and the Town Residential zones. The Board will review this new language at their next regularly scheduled meeting.

13) *Explain that the 500 ft. buffer is not a set-back – rather the extent of the RR category from State lands.*

Mr. Nelson explained that this provision is not a setback requirement, but an extension of the RR land classification for a distance of 500 feet from the boundary of State lands, into the R land classification. This extension only occurs where State lands abut the R classification.

John Sanders suggestions:

14) *Parking provisions – technical corrections in Zoning*

157.092 Table – Perpendicular measurement

The Commission agrees to this clarification.

157.092 A. (4) – 2% grade handicapped

The Commission agrees to this addition.

15) *Road standards – technical correction in Subdivision*

159.111H(2) – road surface crowned “or super elevated”

The Commission agrees to this addition.

159.111J(1) – Alternative access based on # of houses or re-development

The Commission believes it best to leave the current subdivision language in place, which requires Planning Commission approval for this alternative access.

16) Steep Slopes 156.04 – development on man-made slopes should not apply to re-excavation.

The Commission believes that Section 156.04 should not apply to re-excavation on manmade slopes but should apply for construction of a new building.

Bill Ashby suggestions:

17) Traffic Impact Study – Instead of making it mandatory for developments over 50 lots, make it by a recommendation of the Planning Director and/or the County Roads Engineer.

The Commission agrees to this change.

*18) Section 159.112.D requires “verifiable experience”
Local firms may not quality but can obtain the education – perhaps
“qualified training”*

The Commission agrees to modify the draft ordinance as suggested.

19) Section 159.112.F – County should not be able to require the applicant to pay for the cost of a consultant to review the TIS.

The Commission agrees to this change.

The Commission will continue the review of this extract of comments and suggestions at the next regularly scheduled meeting of the Board.

C. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases – None

2. Minor Subdivisions – None

3. Waiver Requests – None

4. Surface Mining Permit- LAOC Coal Company has submitted an application to the Maryland Bureau of Mines for a surface mine permit. The property is located along Alt House Hill Road, approximately 1.2 miles south of Gorman. The Commission has no comment on the application.

5. Discharge Permit Applications– None

6. Required Training by State Planning- Mr. Nelson reminded the Board that mandatory training for all Planning Commissions and Board of Appeals members will take place some time next year.

D. Action on Planned Residential Developments (PRD) and Major Subdivision Plats- No

E. Next Scheduled meeting - The next regular meeting of the Planning Commission is scheduled for Wednesday, **December 9, 2009**, in the County Commissioners Meeting Room, at 1:30 pm.

F. Adjournment- 5:00 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator

