

## GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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### MINUTES

**The Garrett County Planning Commission** held its regular monthly meeting on Wednesday, May 4, 2011, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Gregan Crawford	Paul Durham
Tony Doerr	John Nelson-staff	Eric Robison
Bruce Swift	William DeVore-staff	Larry Smith
Gary Fratz	Jerry Plauger	Jeremy Preston
William Weissgerber	Robert Spangler	Tony Artice
George Brady	Elsie Slagle	Bill Franklin
Bob Gatto	Ronald Dilley	Richard Helbig
Jeff Messenger	Eddie Sisler	

1. Call to Order and Introduction of Guests – By Chairman Ellington at 1:30 pm.
2. The April minutes were unanimously approved as submitted.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business

**A. Further discussion and action on Plan Amendments regarding ridgelines as a sensitive area in need of protection.**

Director of Planning and Land Development, John Nelson summarized that action on this issue was previously taken, by the Commission, during their last regular meeting. The perception of the Commission as well as the public's perception was that the motion to implement the changes to the Garrett County Comprehensive Plan, was passed by a vote of three in favor, two against, with one abstention. Mr. Nelson explained that after further review of the voting procedures in Article 66B, it became apparent that four votes are needed to send a recommendation to the County Commissioners, by a seven member Planning Commission. Section 3.07E, of Article 66B, states that a "... resolution of the commission carried by the affirmative votes of not less than a majority of the membership"; therefore four affirmative votes are required. After forwarding the report to the County Commissioners and after consultation with the County

Attorney, the Board of County Commissioners concurred that the vote did not effectively pass the amendments to the Comprehensive Plan. As a result, the County Commissioners have referred the amendments back to the Commission for further review. Given the public's perception and the nature of the vote last month, the issue is again before the Planning Commission. The hearing record was closed on that issue on March 22<sup>nd</sup> so additional testimony was not taken by the Commission, but point of order questions were accepted.

Mr. Nelson explained that the Planning Commission could entertain reconsideration of this amendment, or the Commission could vote to have the previous vote stand, which would mean the amendment is not endorsed by the Commission. Mr. Nelson noted that according to the legal advice, the original amendments to the Plan could not simply be voted upon at this time, but the Commission could reinitiate the public process, with a public hearing, advertising and the required public notice.

George Brady asked if a change could be made to the wording of the previous amendment to the Comprehensive Plan, such as wording to address Marcellus Shale drilling. Mr. Nelson believes that additional supplemental language, such as this, would trigger the need for another review by the State Clearing House.

Mr. Ellington notes that public comment suggested the inclusion of two additional ridgelines to the Plan amendment language. Mr. Nelson believes that adding these additional ridgelines would not trigger the need for further review by the State Clearing House.

A motion was made to reopen the issue as it was previously presented to amend the Comprehensive Plan, including a new public hearing, to implement changes to the Plan regarding ridgeline protection. Also, all of the comments that were previously received for the first public hearing would be included as part of any new record. The motion failed by a vote of 3 to 4. Commissioner Gatto abstained from voting on this issue since he could be acting on any proposed changes as a County Commissioner.

A second motion was made to endorse the Commission's vote taken during the April 6, 2011 meeting that in effect, rejects the proposed changes to the Comprehensive Plan. Four members of the Commission voted for this motion and the remaining three members did not vote. The proposed amendment will not be forwarded to the County Commissioners and the proposed amendments to the Plan will not move forward, since the amendments were not endorsed by the Planning Commission.

**B. Discussion on Draft Annual Report and determination of a local goal to increase growth in priority funding areas.**

Mr. Nelson stated we do not have a rough draft of the Annual Report at this time but the draft is expected in time for the next meeting of the Commission.

Mr. Nelson notes that a new capacity analysis in the report reflects 102,000 units within the county, given the constraints of steep slopes, State lands and elimination of existing development, while the analysis based on the 1996 Comprehensive Plan showed 126,000 units. The capacity reduction is based on the changes that were reflected within the 2008 Comprehensive Plan and the subsequent changes to the zoning and subdivision ordinances. The report will document the amount of growth that has occurred in 2010, depicting the amount of growth within and outside of the Priority Funding Area (PFA's). The State would like to see a larger percentage of growth within the PFA's.

Action on the Annual Report was tabled until the June meeting. Mr. Nelson will distribute the report as soon as it is available, by email or regular mail. The report must be presented to the Maryland Department of Planning and the County Commissioners by July 1 of this year. Mr. Nelson will schedule time for discussion on the draft report at the June meeting of the Commission.

## **C. Miscellaneous**

### **1. Deep Creek Watershed Zoning Appeals Cases –**

- a. SE-412-** an application submitted by Lisa Goodfellow of Umbel-Goodfellow, LLC, for a Special Exception permit for the construction of a eight-bedroom Transient Vacation Rental Unit. The property is located at off of Lakefront Links Drive, tax map 59, parcel 611, lot 46 and is zoned Lake Residential (LR1). The Commission offered no comments on the application.
- b. SE-413-** an application submitted by Jerry Humberson of Jearbryo's, LLC, for the expansion of an existing restaurant. The property is located at 145 Bumble Bee Road, tax map 42, parcel 292 and is zoned Town Residential. The Commission offered no comments on the application.
- c. VR-683 -** an application submitted by R. Joseph Femia for a Variance to allow the construction of an attached garage to within 5.0 feet of the side property line. The property is located at 594 Hickory Ridge Lane, tax map 73, parcel 128, lot 5 and is zoned LR1. The Commission offered no comments on the application.

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

### **3. Waiver Requests-**

- a. Ward Waiver-** Ronald and Donna Ward request a waiver in order to subdivide their property located along White Rock Road. The property is designated tax map 31, parcel 23, located in a Rural Resource land classification. The waiver is required in order to create two flag lots. The Subdivision Ordinance permits a maximum of one flag lot from a parent tract. After discussion, the Commission granted Conditional Approval of the waiver request by a unanimous vote of 7 to 0. The approval is conditioned upon the county being provided a copy of the easement for the shared driveway that addresses the responsibilities for road maintenance in the event that any further subdivision of the two lots is contemplated in the future.
  
- b. Western Woodlands Waiver (Sub. Div. #11-1)-** Matt Brewer of Bennett, Brewer and Associates, requests a waiver on behalf of his client, Western Woodlands, LLC, in order to subdivide property along Table Rock Road. The property is designated tax map 100, parcel 59, located in a Rural Resource land classification. The waiver is required in order to create an exempt lot containing only 30 acres. The Subdivision Ordinance requires that such exempt lots contain at least 50 acres. After discussion, the Commission granted approval of the waiver request by a unanimous vote of 7 to 0.

### **4. Mining Permit Applications –None.**

## **D. Action on Planned Residential Developments (PRD) and/or Major Subdivision plats-**

- 1. Thousand Acres Merger Plats-** Bill Franklin, representing Appalaichan Investment Properties and Thousand Acres Developments, submitted several plats intended to merge and extinguish the remaining lots in several previously approved subdivisions in the Thousand Acres Development. Cathedral Springs Lots 1-35, Poland Run East I Lots 1-5, Poland Run East II Lots 6-10, Poland Run East III Lots 11-14 and Poland Run Heights Lots 4, 18, 22 and 24-19 are being extinguished and merged by these plats. The Planning Commission had previously granted Final Approval to all of these subdivisions. The Planning Commission granted approval of the Merger Plats by a unanimous vote of 7 to 0.

- E. Next Scheduled meeting -** The next regular meeting of the Planning Commission is scheduled for Wednesday, **June 1, 2011**, in the County Commissioners Meeting Room, at 1:30 pm.

**F. Adjournment-** 3:00 p.m.

Respectfully submitted,

William J. DeVore  
Zoning Administrator

