

**GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE**

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**MINUTES**

**The Garrett County Planning Commission** and the Board of Garrett County Commissioners conducted a public hearing on Wednesday, May 9, 2012, at 1:30 p.m., in the County Commissioners Meeting Room. The hearing was held as a joint meeting with the County Commissioners in order to review and receive comment on the 2012 Land Preservation Parks and Recreation Plan. Members and guests in attendance at the meeting included:

- |                 |                  |                      |
|-----------------|------------------|----------------------|
| Troy Ellington  | Tony Doerr       | Jerry Plauger        |
| Bob Gatto       | Gregan Crawford  | Joan Huston          |
| Tim Schwinabart | Jonathan Kessler | Clive Graham         |
| Jeff Messenger  | Paul Durham      | Bill Franklin        |
| Gary Fratz      | Bill Meagher     | John Nelson -staff   |
| George Brady    | Richard Helbig   | William DeVore-staff |

**Joint Public Hearing to receive public comments on the Draft 2012 Land Preservation Parks and Recreation Plan (LPPRP)**

Mr. Nelson summarized that this is a duly advertised public hearing with the Garrett County Commissioners to take comments on the plan. Mr. Nelson explained that this plan is required to be updated every six years. The plan provides a framework for recreational facilities as well as land protection measures for agricultural lands and forest land. The draft of the LPPRP has been circulated and posted online. Mr. Nelson noted that the plan has gone through the 60-day Clearinghouse Review process, which started on January 25<sup>th</sup> of this year. The final draft has been amended as a result of comments that have been made by the various state agencies.

Clive Graham and Joan Huston, consultants from ERM, presented a brief overview of the Plan including a PowerPoint presentation. Mr. Graham notes that the plan must be submitted to the State by July 1<sup>st</sup> of this year. The consultant believes that this plan incorporates comments from the various municipalities, Garrett Trails, the winter trails group and other interested parties. The previous plan has special emphasis on agricultural land preservation and natural resource conservation while this new plan highlights parks and

recreation, as required in the 2010 state guidelines. The plan has identified needs within the county and the towns and also serves as a basis for acquisition and development of park and recreation land. Mr. Graham noted that significant projects have been accomplished since the last plan. The towns and the various county groups' future plans and their requests are included in the new plan. All existing, proposed and desired trails, with various uses, were assembled on one map by the consultants. This map of trails is shown in the plan, labeled *Figure III-6 Garrett County Trail Network*. The proposed Eastern Continental Divide Loop Trail which connects to the Great Allegheny Passage Trail is also shown on the map.

Jonathan Kessler questioned whether buffer strip acreage around Deep Creek Lake is included in the figures showing the public owned land in the County. Joan Huston believes that the figures account for this state-owned land, but she will confirm the numbers. Mr. Kessler feels that the County is being left behind because the development regulations saddling the County are intended to benefit municipalities.

Questions also arose regarding the possibility of adding a countywide parks and recreation manager. Chairman Ellington stated that previous discussions centered on the possibility of having a volunteer board to oversee parks and recreation.

Bill Meagher asked if timbering, hunting, fishing or some type of economic development on state land could be included in the plan. Mr. Nelson noted that the plan guidelines published by the State did allow for addressing such issues. Mr. Graham believes that such considerations are made in the County Comprehensive Plan.

Tony Doerr believes that it may be better for one person or organization to oversee and consolidate some of these projects, access the true economic picture and cut through the red tape to help the County benefit economically, to the greatest extent possible. Commissioner Crawford agrees that one person overseeing these assets, which continue to grow, could be beneficial.

Mr. Nelson prepared a resolution for the Planning Commission's approval and authorization to allow the 2012 Land Preservation Parks and Recreation Plan, as modified, to be sent to the County Commissioners for their final adoption. The Commission approved the resolution by a vote of 6 to 0. Upon approval, the Commissioners would forward the plan to the State.

**The regular meeting of the Garrett County Planning Commission was convened immediately following the Public Hearing**

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. Request by Bill Meagher for an amendment to the Deep Creek Watershed Zoning Ordinance.** Mr. Nelson explained that the current two-acre minimum land requirement for a marina applies even to a separate boat rental business due to the marina definition in the ordinance. Bill Meagher withdrew his application for variance to the Board of Appeals during the hearing, last month because the Board seemed unwilling to grant a variance.

Since that time, Mr. Meagher has chosen to pursue an amendment to the Deep Creek Watershed Zoning Ordinance that would permit boat rentals as a separate use on a smaller land area, exclusive of any of the other services that a marina would offer. The acreage requirement would be the same size for sale or rental of recreational vehicles (10,000 square feet). Mr. Nelson explained that the amendment involves the addition of a “Boat Rental Service Business not offering any other services associated with a Marina” to the Table of Use regulations. This use would be permitted in the Town Center and Commercial zoning districts. The use would be permitted by Special Exception in the Town Residential, Commercial Resort 1 and Commercial Resort 2 zones. The use would not be permitted in any other zoning districts. A copy of the proposed amendment was distributed to the Commission members before the meeting.

Mr. Meagher reiterated that he would not be selling fuel, selling boats, storing boats or doing boat repairs at the site. The process involves Planning Commission review and their recommendation to Board of Commissioners. The Commissioners must then hold a public hearing on the proposed request to amend the ordinance.

One of the Commission members suggests that the language of the amendment be modified to include the words “and boat tours” in order to clear up any possible misunderstandings about offering boat rides or tours at the site also. Another member is concerned about parking, especially if busses frequent the site. Mr. Meagher stated that he has overflow parking available across the road but his parking plan shows that the uses will accommodate all parking on-site.

Mr. Meagher stated that the rental business will be under contract for repairs with the existing marinas for any boats that require service.

Mr. Nelson explained that the Planning Commission may conduct a public hearing on the proposal, but such a hearing is not required. The Commission could take action on the request and forward it, along with any recommendations for modifications, to the Commissioners.

The Commission voted by a unanimous vote of 6 to 0 to approve the request for the amendment to the Deep Creek Watershed Zoning Ordinance, as modified. The Commission recommended to add the words “and boat tours” and forward the request to the County Commissioners.

**B. Update of Bills of Interest for Proposed Legislation by the Maryland**

**General Assembly-** John Nelson updated the Commission regarding several bills that were part of the recent legislative session in Annapolis.

**Senate Bill 240- Act Concerning Bay Restoration-** This bill was amended to exclude those land areas of Garrett County that do not drain to the Chesapeake Bay from an increase in the flush fee. The bill raises the cost of the flush fee to \$60 for the rest of the County.

**Senate Bill 614- Stormwater Management-Watershed Protection**

**Implementation Program-** Mr. Nelson notes that Garrett County was not affected by this legislation. Proposed fees charged to landowners based on their amount of impervious surface will not involve Garrett County this year.

**Senate Bill 236- Sustainable Growth and Agricultural Preservation Act-**

**The “Septic Bill”** -Mr. Nelson notes that this bill has passed the Legislature and has been signed by the governor. The bill was amended from its original version, giving some flexibility to local jurisdictions and extending grandfathering provisions. There are deadlines associated with the bill and there are four tiers of development that are to be mapped by the County. The bill requires public hearings for all major subdivisions on septic systems. The number of lots to be considered as “minor” could be changed to allow up to seven lots for a minor subdivision, as part of the amended bill. A plan for offsetting nutrients from septic systems will also be required, making development more costly. The Planning Office and the Planning Commission has until the end of the year to map out the location of the tiers and submit them to the Maryland Department of Planning (MDP) for their review. Because of amendments to the bill, MDP does not have to approve the tier mapping.

Mr. Nelson pointed out that applications for major subdivisions must acquire preliminary plat approval by October 1, 2016, in order to be grandfathered.

The bill also provides a deadline of July 1st of 2012, for anyone wanting to develop a major subdivision, for more that the accepted lots, to submit their application to the Health Department to schedule percolation tests. Following the test arrangement, they must apply for preliminary approval to the County by October 1<sup>st</sup> of this year, or within 18 months of the approved perks. A press release to this effect will be in *The Republican* this week. Mr. Nelson notes that the bill is very complex and developers will have to research the impact that the bill will have on their particular case. Any new plats will have to reflect the number of remaining lots, for each new subdivision, so that there is a record limiting all original parcels to seven lots.

**House Bill 366- Fire and Safety- Building Performance Standards- known as the “Sprinkler Bill”-** This bill requires all new single family and duplex homes in the State to be fitted with sprinkler systems, beginning October 1, 2012. Discussion ensued regarding these requirements.

## C. Miscellaneous

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

- a. **SE-423-** an application submitted by Jonathan Kessler, of Smiley’s, LLC, for a Special Exception permit to allow live, outdoor entertainment at Smiley’s restaurant. The property is located at 72 Fort Drive, tax map 50, parcels 740-712 and is zoned Town Center. Jonathan Kessler gave a brief overview of the request to the Commission. The Planning Commission believes that, with appropriate restrictions, the Special Exception should be approved, by a vote of 6 to 0.
- b. **SE-424-** an application submitted by Jonathan Kessler, of Smiley’s, LLC, for a Special Exception permit to modify or eliminate conditions of a previous permit regarding hours of operation for outdoor go carts and bumper boats. The property is located at 72 Fort Drive, tax map 50, parcel 740-712 and is zoned Town Center. Jonathan Kessler gave a brief overview of the request to the Commission and answered questions regarding the need for the Special Exception. The Planning Commission believes that, with appropriate restrictions, the Special Exception should be approved, by a vote of 6 to 0.
- c. **VR-689-** an application submitted by Mercedes Westcott for a Variance to allow the construction of a proposed residence that would come to within 10.0 feet of the rear property line. The applicant also requests a deck to come to with 0.0 feet of the rear line. The owner has purchased the “buy-

down” from the State of Maryland. The property is located at 439 Skippers Point Road, tax map 57, parcel 180, Lot 13 and is zoned Lake Residential 1 (LR1).

The Planning Commission offered no comments on the application.

- d. **VR-690-** an application submitted by Dennis Kemery for a Variance to allow a detached garage would come to within 15.6 feet of the front property line. The property is located at along Lake Shore Drive, tax map 58, parcel 196 and is zoned LR1.

The Planning Commission offered no comments on the application.

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

- 3. **Waiver Requests**– None

- 4. **Discharge Permit Application** – None

- 5. **Surface Mine Permit Applications-** None

- 6. **Agland Preservation District Applications-**None

- 7. **Draft of the County-wide Land Use Ordinance-** Mr. Nelson noted that a draft copy of the County Land Use Ordinance is now available at the county website. Mr. Nelson requests that Commission members review the draft and notes that at a future date the Planning Commission will be required to submit a report to the Board of County Commissioners regarding the Draft Ordinance. The map used for the Draft Ordinance is identical to the County Land Classification Map and Subdivision Ordinance Map.

The Commission discussed the potential impact that county-wide zoning could have. Mr. Nelson explained that virtually all uses are permitted by right or by Special Exception in the Ordinance. Only a handful of uses require Special Exceptions and there are no uses that are prohibited in the proposed zoned area, except deep-hole injection of hydraulic “frac” water. There is no separation of land districts in the draft; uses between districts are not differentiated.

**D. Action on Major Subdivisions and Planned Residential Developments –**

**1. Preliminary and Final Plat- None**

**E. Next Scheduled meeting -** The next regular meeting of the Planning Commission will be held on **June 6, 2012**, in the County Commissioners Meeting Room, at 1:30 pm.

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

Respectfully submitted,

William J. DeVore  
Zoning Administrator

