

## GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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### MINUTES

**The Garrett County Planning Commission** held its regular monthly meeting on Wednesday, June 6, 2012, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Tony Doerr	Gary Fratz	John Nelson -staff
Bob Gatto	William Weissgerber	William DeVore-staff
Tim Schwinabart	Paul Durham	Chad Fike- staff
Jeff Messenger	Bill Franklin	

1. Call to Order - by Acting Chairman Tony Doerr at 1:30 pm.
2. The May minutes were unanimously approved, as submitted.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business –

- A. Discussion of Senate Bill 236- Sustainable Growth and Agricultural Preservation Act- Guidelines - the “Septic Bill”** -Mr. Nelson notes that the guidelines for the bill, from the Maryland Department of Planning (MDP), were emailed to the Commission members. Also Mr. Nelson distributed a handout, outlining a plan of action concerning the septic bill. Bill 236 allows the County to amend the subdivision ordinance, specifically, the definition of “minor subdivision”. This provision allows the County to raise the minimum number of lots for a minor subdivision from five to seven lots, for the purposes of this bill. Currently, the County has a five lot maximum for a minor subdivision. The County has until December 31, 2012, to adopt such an amendment to the ordinance, which would allow additional flexibility in dealing with the ramifications of the bill. Mr. Nelson recommends that the County adopt the seven lot maximum, as allowed by the bill.

In answer to questions from the Commission, Mr. Nelson noted that the development rights associated with a parcel of land should be part of the

negotiation process for the sale of these lots that are subject to the septic bill. These development rights must be shown on the approved plat from Planning and Land Development, which would be part of any new subdivision process.

Mr. Nelson pointed out that there are several important dates associated with Senate Bill 236: The applications for percolation “perc” tests must be made to the Health Department by July 1 of this year. Then the application must be submitted for preliminary approval to the Planning Commission, within 18 months from the date of the approval by the Health Department. Preliminary approval for major subdivisions must be secured by October 1, 2016.

Mr. Nelson also notes that this bill does not apply to commercial or industrial lots, only residential lots on septic systems. Shared systems would also be subject to the seven lot minimum.

The Commission voted by a unanimous vote of 6 to 0 to recommend modifying the Garrett County Subdivision Ordinance, to allow up to seven lots for a major subdivision, as provided in Section (53)d of the bill. Mr. Nelson will compose a letter to the Garrett County Commissioners, suggesting that the Commissioners proceed with the amendment, which will involve a public hearing process.

The bill allows jurisdictions to map and provide documentation for four levels of development or “tiers”. The tiers would be based on the existing land use and land cover, along with other criteria spelled out in the bill. Mr. Nelson presented the Garrett County Subdivision Map which would be one basis for developing the tiers.

Tier 4 areas are expected to include the County’s Rural Resource (green), Agricultural Resource (brown) and parts of the Rural (white) land classification areas. Some areas “dominated by agriculture and forest cover” within the Rural areas are also expected to be classified as Tier 4, as dictated by the bill. Also, some of the Rural area will be designated Tier 3. Tier 3 areas are where major subdivisions (more than 7 lots) could be approved under the new law, predicated on a public hearing and MDE’s final approval. The Tier 3 areas are the only areas that are afforded any flexibility for major subdivisions, regardless of the parcel size. Tiers 1 and 2 are already in Priority Funding areas or planned growth areas that have public sewer or are planned for public sewer.

Local jurisdictions can provide these maps and submit them to the Maryland Department of Planning. If the department provides review comments back to the county, then the counties are required to hold a public hearing on the comments that are submitted. Mr. Nelson stated that the Commissioners have confirmed that they want to submit a map outlining the location of these tiers. Bill 236 dictates that the only way for the County to have the ability to do major subdivisions, on septic systems, is by adoption of the tier system.

The County has until the end of this calendar year to submit the tier mapping to the Maryland Dept of Planning for their review. A public hearing will be held some time concerning the mapping of the tiers. Mr. Nelson has requested Stephanie Martins, of the MDP, share the information that MDP has already developed for tier mapping for Garrett County.

Also MDE has until the end of this year to establish nutrient offsets for septic systems. Mr. Nelson expects that these offsets will require “best available technology” for septic systems to reduce nitrogen discharges, which will be rather costly for the developer.

Mr. Nelson notes that the subdivision map is already generally based on current land cover. The tiers can be approved administratively, by action of the County Commissioners, through the MDP, before the next scheduled update of the Comprehensive Plan. After the next cycle of the Comprehensive Plan review, in October of 2014, the tiers will have to be incorporated into the Plan. After October 2014, if the sewer plan changes that would constitute the need to change the Plan as well. Mr. Nelson expects that any changes to the water and sewer plan will be more difficult, because all changes must be reviewed by MDE. Mr. Nelson stated that the County staff will be working with the MDP to develop these tiers over the next several months.

- B. Discussion of the Draft of the Countywide Land Use Ordinance-** Mr. Nelson presented a copy of the new Garrett County Land Use Ordinance map. The map is the same as the Subdivision Ordinance map, except that the Deep Creek Watershed area is not included in the mapped area. The Deep Creek Watershed Zoning Ordinance will remain unchanged, as a separate, stand alone ordinance, even if the new countywide ordinance goes into effect.

At the end of the informal comment period, which ends on June 15, the Commissioners will decide whether to move forward with a more formal process to adopt this ordinance. That process involves a referral to the Planning Commission to determine through a report, whether the map, planned zoning districts and the regulations are appropriate for the County.

The draft zoning ordinance, in its current form, does not segregate uses between districts. Any uses permitted in one zoning district are permitted in all zoning districts. Also Special Exception uses are the same for each district. The districts shown on the map are only used to differentiate between lot sizes and required setbacks. All uses are permitted in the County except for deep-hole injection of hydraulic “frac” fluids. One important setback in the ordinance proposes that the distance from a residence to a wind turbine would be five times the height of the turbine, measured from the ground level to the hub of the wind turbine.

Commission members note that there are some petitions that are being circulated against the new ordinance. Mr. Nelson believes that there is currently only one formal comment on the county web site, at this time, concerning the ordinance. According to Article 66B, the Planning Commission is required to prepare a report stating whether the proposed district boundaries are appropriate and that the regulations are appropriate for the County and is consistent with the Comprehensive Plan. The report itself is expected to be brief, because it would only address “appropriateness” of the ordinance. The Planning Commission would then hold a public hearing on the report. Following that public hearing, the report would go to the County Commissioners who are then required to go through their own public hearing process, which would be about the ordinance and regulations themselves.

There was no comment by the Commission on the appropriateness of the use of the map that was presented by Mr. Nelson. The Commission is encouraged to review the regulations that are set forth in the draft ordinance.

### **C. 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. Waiver Requests–** *Note: The waiver request was heard at the beginning of the meeting to allow for staffing of the Planning Office.*

**Thousand Acres-** William Franklin submitted a waiver request to allow a vertical curve located at the intersection of the realigned Thousand Acres and Shoreline Drive to meet a design speed of 15 mph rather than the 20 mph design speed required by the Subdivision Ordinance. After discussion, the Planning Commission granted approval of the waiver request by a unanimous vote of 6 to 0. The Commission noted that it has concerns about any future waivers requests and that the Commission would like to see the roads within the subdivision be improved to the Subdivision Ordinance standards to the greatest extent possible.

- 4. Discharge Permit Application – None**
- 5. Surface Mine Permit Applications- None**

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

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

**1. Preliminary and Final Plat- Preliminary and Final Plat- Dallas**

**Brenneman-** Dallas Brenneman submitted a Preliminary and Final Plat for a two-lot subdivision located along Foxtown Road. The property is located on tax map 34, parcel 51, in an Agricultural Resource zoning district. The Planning Commission granted contingent approval of this Preliminary and Final Plat by a unanimous vote of 6 to 0. The approval is conditioned upon final approval of the homeowner's documents by the County Attorney.

**E. Next Scheduled meeting -** The next regular meeting of the Planning Commission will be held on **July 11, 2012**, in the County Commissioners Meeting Room, at 1:30 pm.

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

Respectfully submitted,

William J. DeVore  
Zoning Administrator

