

Deep Creek Lake Watershed Economic Growth and Planning Analysis Study

Recommendations

Final December, 2004



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Executive Summary

This paper contains the consultant team's recommendations to address the identified economic growth and planning issues for the Deep Creek Lake Watershed. The paper follows on from four previous reports:

1. Issues Summary, April 2004,
2. Evaluation of Plans, Programs, and Regulations, July 2004,
3. Case Studies of Lakes and Resorts, July 2004, and
4. Issues and Options paper, July 2004.

Deep Creek Lake is a wonderful and unique place. Its setting in some of Maryland's most beautiful scenery, the combination of lake, mountains, forests, winter and summer recreation opportunities, and its cultural heritage have attracted a broad range of residents and visitors since the 1920s, adding to a County heritage of hospitality that extends back to the 19th century.

The Deep Creek Lake area grew slowly and steadily in population and housing between the 1940s and the 1970s, but more rapid change began in the 1980s with the completion of I-68, which ended the lake area's relative isolation and helped change it from a largely Pittsburgh area-oriented resort to an area increasingly attractive to visitors and investors from the Washington D.C. and Baltimore areas. More recent changes since the mid-1990s, especially an unprecedented escalation in real estate values and increased investor and visitor interest due to security concerns after September 2001, have prompted concerns about how future growth might affect the beautiful, scenic place that attracted people in the first place.

The Deep Creek Lake area has the opportunity to build upon its past success. Assets include its friendly and deeply concerned group of residents, business people, and property owners who care passionately about the lake, a growing variety of recreational attractions, booming real estate market, continued significant and creative investor interest, and a County government dedicated to forming the necessary partnerships to grow the area and the Garrett County economy. The extremely high response rate to the questionnaire developed for this study is reflective of the interest and concern about the future of this area.

At the same time, the Deep Creek Lake area faces significant issues concerning land use, growth and development, environmental quality, and management. Public services are being stretched. The increased number of homes means they are closer and more visible, noise and nuisances are more apparent to neighbors, and parking is tighter. The County administration is seeking the right balance between a tradition of as little government regulation as possible and calls for more active public involvement in watershed management and regulation. This study of economic and planning opportunities in the Deep Creek watershed was initiated to suggest means and measures to resolve these issues.

In this report, the consultant team makes 16 recommendations designed to address the issues facing the Deep Creek Lake Watershed. The recommendations are based on the four studies cited above, together with input from a series of Task Force discussions and public workshops convened to test preliminary findings and ideas. The recommendations are organized in order of importance into nine major and seven other recommendations.

Taken together, the recommendations constitute a program that provides a framework for continued, sustainable, environmentally sensitive growth and economic development for the Deep Creek Lake area for next 25 years and beyond.

Major Recommendations

1. Develop a master land use and development plan for the Deep Creek Lake Area.

The master plan would guide the type, location, and design future growth and development in the Deep Creek Lake Area and provide a long-term guide for public and private decisions affecting development and conservation. The master plan would include a build-out analysis that would explore the potential impacts

of future growth on lake water quality, roads, water supply, and public services such as police and emergency services.

2. Protect the scenic quality of the mountains at Deep Creek Lake.

We recommend designating scenic protection areas where new building would have to meet scenic protection criteria that would be set forth in the Zoning Ordinance.

3. Adopt a more proactive stance on the part of County government towards management and enforcement.

Key recommendations are to adopt and enforce a rental ordinance, hire a zoning inspector, and increase inspection and enforcement for stormwater management and sediment and erosion control.

4. Ensure that new residential construction is compatible in size and scale with nearby homes.

Through the master plan process, we recommend identifying areas or communities where special requirements would apply. The requirements would address the size, bulk, and location of new construction, and limit the enlargement or extension of existing nonconforming structures.

5. Develop improvement plans for McHenry and Thayerville.

We think that the Deep Creek Lake area's two business and commercial centers should have plans to guide future improvements to ensure these centers function effectively to serve the area's long-term needs. McHenry's and Thayerville's needs are different and we outline a different planning process for each.

6. Create an Advisory Committee for the Deep Creek Watershed to assist County boards and commissions.

The Deep Creek Lake Watershed faces a myriad of important planning and planning-related issues. No existing board is dedicated wholly to these issues, and we think that the County would benefit from recommendations from an Advisory Committee that is knowledgeable about issues in the watershed and that has had time to carefully examine and make recommendations on issues. We think that an Advisory Committee would also provide opportunity for broad representation including non-resident property owners, and be a further means of community-building.

We envision a committee that would be advisory to the Board of County Commissioners, Planning Commission, Board of Appeals, and the Department of Planning and Zoning.

The study's Citizens' Task Force feels very strongly that the watershed's interests are under-represented on the Planning Commission, and that the watershed's membership representation on the Commission should be commensurate with the watershed's economic and fiscal importance to the County.

7. Adopt site design and architectural review for commercial development in the Deep Creek Watershed.

Commercial areas help set the "tone" for any area and are particularly important for a resort. As a first step, standards would be added to the zoning ordinance addressing key elements of commercial architecture such as a list of acceptable external building materials. If this approach was found wanting, the next step would be a more comprehensive review by a design review panel comprised of different disciplines including an architect, designer, planner, engineer, builder, as well as laypersons.

8. Encourage the continued viability of traditional waterfront businesses.

Waterfront businesses are a valuable and somewhat unique component of life at Deep Creek Lake. The ability to visit a business such as a restaurant or a grocery/deli by boat adds to the ambiance of life at the lake and makes an important linkage to the past.

We recommend adjusting the zoning regulations to provide an incentive for mixed business and residential development where there are waterfront businesses, and exploring with the local tax assessor the potential for changes in the way property assessment values are prepared for waterfront businesses.

9. Increase public and private-quasi-public access in selected locations in and around Deep Creek Lake.

We think that the Deep Creek Lake area should provide more places where visitors can get out of their cars and enjoy views, sit, picnic, and walk around, fish or swim. We believe that providing more places where these activities can take place will reduce trespassing and nuisance occurrences in places where public access is not desirable. Pressure for lake access is bound to increase given continuing development of properties away from the lake.

Other Recommendations

10. Changes to the Deep Creek Watershed Zoning and the County Subdivision and Sensitive Area Ordinances.

We recommend changes to these ordinances in 12 areas; seven to ordinance standards, three administrative, and two clean-up. Some of the changes would be significant such changes to the steep slope protection section of the sensitive areas ordinance, and allowing the Board of Appeals to approve alternative parking standards as a special exception. Other changes to the ordinances could be needed as a result of the other recommendations in this report, but they are identified under the specific recommendation and are not included in Recommendation #10.

11. Review the regulations for grandfathered lots.

Grandfathered lots are exempt from many current regulations. At least 575 such lots exist in existing subdivisions with an unknown number of other lots that were created by deed. The concerns over development of these lots are the effects on community or neighborhood character, on scenic views, on adjacent and nearby properties, and on environmentally sensitive areas. Regulating grandfathered lots can be complex and controversial because of competing interests. We recommend adding specific criteria to the zoning ordinance for granting variances on grandfathered lots, and requiring lot consolidation if developed lots around the grandfathered lot are much larger than the grandfathered lot.

12. Require new development to mitigate for the effects of additional traffic on roadways and intersections.

Based on recommendations from the recommended master plan, the County should consider adopting adequate public facilities requirements and/or impact fees.

13. Create incentives for business development in the existing Town Center zoned area north of Thayerville.

Responding to the issue that there is insufficient opportunity for commercial (employment) development in the watershed, we think that the area between Unos restaurant and the Will O the Wisp Hotel is a good candidate for mixed business and residential development including office development.

14. Support state and federal efforts to enforce the Clean Air Act to reduce mercury contamination from air emissions from outside the watershed.

The source of mercury in Deep Creek Lake is air emissions. Little can be done locally about the mercury contamination, but we recommend supporting state and federal efforts on implementing the federal Clean Air Act.

15. Improve conditions for pedestrians and bicyclists.

We recommend designating McHenry and Thayerville for improved pedestrian and bicycle facilities, and completing the portions of the Countywide Recreational Trails Plan that are in the Deep Creek Lake Watershed.

16. Adjust the sign regulations to encourage signage more in keeping with the mountain resort atmosphere.

We recommend reducing the size of vacation rental home signs, disallow scrolling message board signs, and disallowing very large signs such as billboards.

Note on attracting retirees to the Deep Creek Lake Watershed. Some members of the study Task Force feel strongly that as an economic development policy and strategy the County should actively market Deep Creek Lake to retirees in an effort to attract this population segment as residents. Our recommendations are all grounded in growth, land use and/or physical development and design – the primary focuses of this study. No additional zoning or regulatory changes are necessary to allow for development for retirees. The Economic Development Commission and the Chamber of Commerce are best suited to undertake targeted marketing to attract specific business sectors, or to attract specific cohorts of potential residents such as retirees. The consultant team believes that improvements in the range and quality of services that are available will make Deep Creek Lake more attractive to a broader range of people including retirees.

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Introduction

This paper contains the consultant team's recommendations to address the identified economic growth and planning issues for the Deep Creek Lake Watershed, in Garrett County, Maryland.

The Recommendations were discussed by the Study Task Force on October 4, 2004 and are scheduled to be discussed at a public meeting on November 8, 2004. Final recommendations are scheduled to be issued in December, 2004 and will be forwarded to the Garrett County Commissioners for their consideration.

The paper follows on from four previous reports:

1. Issues Summary, April 2004¹,
2. Evaluation of Plans, Programs, and Regulations, July 2004,
3. Case Studies of Lakes and Resorts, July 2004, and
4. Issues and Options paper, July 2004.

In August 2004, over 400 people completed a questionnaire indicating the extent to which they agreed or disagreed with the approximately 30 options presented in the Issues and Options paper. The results of the questionnaire are presented in Appendix B.

Deep Creek Lake is a wonderful and unique place. Its setting in some of Maryland's most beautiful scenery, the combination of lake, mountains, forests, winter and summer recreation opportunities, and its cultural heritage have attracted a broad range of residents and visitors since the 1920s, adding to a County heritage of hospitality that extends back to the 19th century.

The Deep Creek Lake area grew slowly and steadily in population and housing between the 1940s and the 1970s, but more rapid change began in the 1980s with the completion of I-68, which ended the lake area's relative isolation and helped change it from a largely Pittsburgh area-oriented resort to an area increasingly attractive to visitors and investors from the Washington D.C. and Baltimore areas. More recent changes since the mid-1990s, especially an unprecedented escalation in real estate values and increased investor and visitor interest due to security concerns after September 2001, have prompted concerns about how future growth might affect the beautiful, scenic place that attracted people in the first place.

The Deep Creek Lake area has the opportunity to build upon its past success. Assets include its friendly and deeply concerned group of residents, business people, and property owners who care passionately about the lake, a growing variety of recreational attractions, booming real estate market, continued significant and creative investor interest, and a County government dedicated to forming the necessary partnerships to grow the area and the Garrett County economy. The extremely high response rate to the questionnaire developed for this study is reflective of the interest and concern about the future of this area.

At the same time, the Deep Creek Lake area faces significant issues concerning land use, growth and development, environmental quality, and management. Public services are being stretched. The increased number of homes means they are closer and more visible, noise and nuisances are more apparent to neighbors, and parking is tighter. The County administration is seeking the right balance between a tradition of as little government regulation as possible and calls for more active public involvement in watershed management and regulation. This study of economic and planning opportunities in the Deep Creek watershed was initiated to suggest means and measures to resolve these issues.

¹ Appendix A contains a table that cross tabulates the issues identified in the Issues Summary and the recommendations in this report.

Deep Creek Lake is not alone among resort communities in facing issues of change, positioning, growth, and development. Nationwide, resorts are facing many of the same issues, though the particular combination of issues at Deep Creek Lake is unique. The following paragraph is from an article entitled *Resort Survival* that appeared in the journal *Urban Land* in 2003. It explores what communities will need to do to experience success during the next 25 years.

To experience success during the next 25 years, resort communities need to understand the importance of the resort experience from the visitor's perspective. Attention needs to be paid to the interplay of the natural environment, history, culture, art, food, architecture, and recreation, as well as the group and family experience. They will need to address demographics and emphasize sustainability. These resort communities should provide unique cultural events, services for the entire family, and diverse recreational opportunities. Wherever possible, an authentic experience should be offered by the resort community. This can be achieved by cultivating both the community character and the spirit of the place. Resorts need to nurture a workforce that is well adjusted by strategically addressing the lifestyle needs of these year-round residents. Economic systems should be put into place that allow businesses to be profitable and the public sector to be well funded so that they can provide adequate public services and municipal infrastructure. Resort communities will succeed by creating memorable places that can be visited for years on end by future generations. Following these kinds of guidelines, resorts should be able to give visitors value for their vacation investment—and, at the same time, give operators the opportunities to maximize their investment.

Rebecca R. Zimmermann, Design Workshop, Urban Land Institute, 2003, reproduced with permission.

In this report, the consultant team makes 16 recommendations designed to address the issues facing the Deep Creek Lake Watershed. The recommendations are based on the four studies cited above, together with input from a series of Task Force discussions and public workshops convened to test preliminary findings and ideas. The recommendations are organized in order of importance into nine major and seven other recommendations.

Taken together, the recommendations constitute a program that provides a framework for continued, sustainable, environmentally sensitive growth and economic development for the Deep Creek Lake area for next 25 years and beyond.

A. Major Recommendations

The following nine recommendations represent the major proposals for improving development and conservation within the watershed. They are presented here in order of importance for subsequent action. Following them, a series of seven other recommendations address more specific issues and concerns.

1. Develop a master land use and development plan for the Deep Creek Lake Area.

A master land use and development plan is a policy and design document that guides the type, location, and design future growth and development in an area, and provides a long-term guide for public and private decisions affecting development and conservation. Master plans typically address land use and development, transportation, environment, open space, and public facilities such as parks and schools.

The master plan could be a standalone document or a special component of the County's comprehensive plan².

1.1 Purpose

The master plan would have several purposes:

- i. Help public officials and residents understand the potential effects of increased growth and development, including build-out, on the environment and on public facilities, especially roads.
- ii. Define a vision for the area, a statement of where the community is going.
- iii. Serve as the basis for making policy decisions in difficult areas such as the amount of development that is right for the area, how to best pay for needed facilities and infrastructure, and how to manage new and infill development so that it fits into the existing development context.

1.2 Public involvement

Public involvement should be an important aspect of the Master Plan. There is great interest in Deep Creek Lake and its future as evidenced by the intense interest in current plans and studies. Efforts should be made to include the broadest possible spectrum of year-round residents, property owners, businesses, and government departments.

In recommendation #7 we recommend an Advisory Committee for the Deep Creek Watershed. This Committee could have a lead role in developing the master land use and development plan for the Deep Creek Lake Area.

1.3 Master Plan Elements

This section describes the key elements the master plan should cover.

i. Define the study area and sub-areas

The study area should be the Deep Creek Lake Watershed but should also include areas outside the watershed but that are in, or likely to be in, the "lake-influenced" area. For example, the proposed Adventure Sports Center on Marsh Mountain, which includes a sports complex, retail village, and some 2,000 proposed dwelling units, is outside the Deep Creek Lake Watershed, but will have a big impact on

² The Comprehensive Plan was adopted in 1995.

the watershed, especially on traffic. Areas outside the watershed can likely be left out of the environmental analyses that are focused on the watershed.

Because the study should include areas outside the watershed, the Plan might be entitled *Deep Creek Lake Area Master Plan*.

Sub-areas of the study area should also be delineated. These are areas or groups of areas that share characteristics or that have specific issues that should be analyzed separately as part of the master plan. Figure 1 is a preliminary sub-area map of the area that delineates major sub-areas such as Wisp/Marsh Hill, East, McHenry and Thayerville. Figure 1 also shows some smaller sub-areas (Turkey Neck, Hazelhurst/Green Glade, Glendale Road, and Roman Nose Hill) as areas that have particular development or redevelopment issues. Figure 1 is intended as a starting point; other sub-areas could be identified and the sub-area names could be changed.

ii. Vision statement

A vision statement is a statement or series of statements that clearly define how, where, and in what form growth should occur; what the Deep Creek Lake area will be when it grows up?

The vision needs to be more than a list of “mom and apple pie” goals and objectives, that everyone can agree with. It should recognize concerns and opportunities, reflect the choices the community has made, and be clearly articulated so that residents and visitors can read it and understand how the County intends the watershed as a whole and its constituent parts to grow and develop. The statements in the vision reflect policy positions that will be implemented in subsequent plans, programs, and regulations.

We have found that a vision tends to get refined through a master planning process as research is completed and as more information comes to light. For the Deep Creek Lake plan, the process may work best by developing a working draft of a vision early in the process, revising it and refining it as the master plan is developed.

As guidance for development of a vision statement in the Deep Creek Lake Watershed, see discussion and examples of vision statements in Appendix C.

iii. Conduct a build-out analysis for the study area

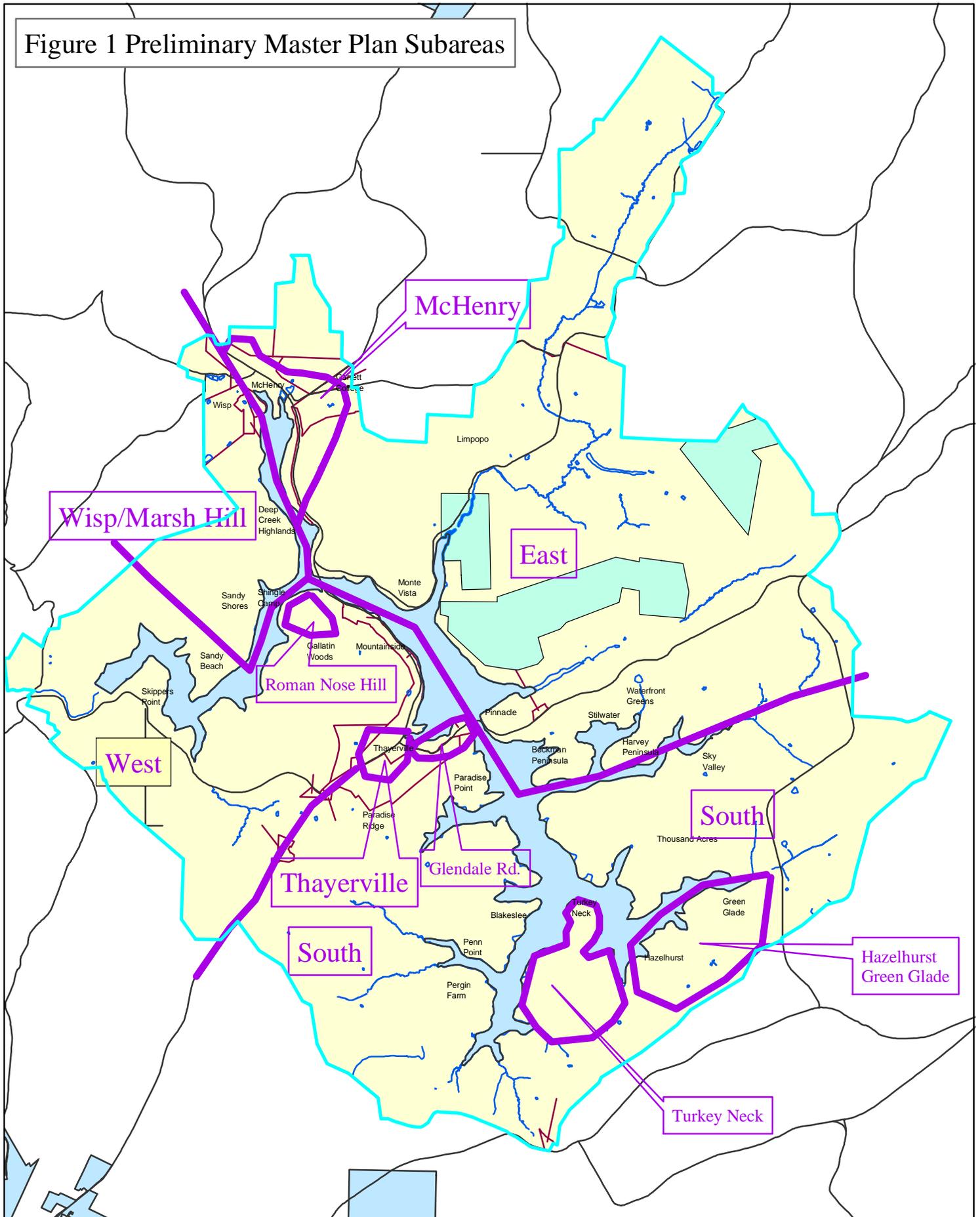
A land capacity study conducted in 1987 concluded that the Deep Creek Lake area had the capacity to accommodate between 10,000 and 15,000 dwelling units³, which would be a two to threefold increase over the number of dwelling units in 2000.

The purpose of a build-out analysis is to determine the total amount of growth (number of dwelling units, population, and non-residential development) that can occur in an area based on land use regulations, including environmental considerations and limitations.

The future number of units/population is then used in analyses of issues of concern such as lake water quality, road and intersection capacity, water supply, sewer capacity, emergency services, and fiscal health. These analyses will help determine whether future growth can be accommodated consistent with other goals and objectives such as maintaining a high quality of life for residents, a high quality experience for visitors, and maintaining the high water quality of the lake. If the analyses show that the amount of future growth poses a threat to one or more of these issues of concern, the response should be to regulate or manage growth, including, possibly, reducing development density and the overall amount of potential future growth, such that the threat will be averted.

³ Recreational Carrying Capacity Study and Management Guidelines for Deep Creek Lake Natural Resources Management Area, Final Report, October 31, 1988.

Figure 1 Preliminary Master Plan Subareas



The 1987 study should be revisited, as land use and environmental regulations adopted since the 1980s may have changed the future growth potential. In 2004, the Garrett County Department of Public Utilities prepared a master plan for delivering future public sewer service to the area around the lake (the Deep Creek Lake Sanitary Service area). This plan⁴, which includes a build-out analysis for the Sanitary Service area, should be also be consulted in developing the build-out analysis.

There is a market component to a build-out analysis. For example, not every piece of land that is buildable will be developed. Persons familiar with the market (developers, land brokers, the business community, economic development staff) should be asked to provide a realistic evaluation of the analysis. On the other hand, a build-out analysis is *not* a market study. It is intended, in part, to be a “worst case scenario”; what would happen *if* build-out were to occur⁵. Therefore the results of a build-out analyses are sometimes given in terms of “scenarios”; such as 60 percent of development capacity, 80 percent of development capacity, 100 percent of development capacity, and so on.

iv. Analyze the results of the build out analysis for issues of concern

The two key issues of concern in the Deep Creek watershed are the quality of the environment, especially the water quality of Deep Creek Lake, and roads and traffic.

Environment

As discussed in the Evaluation of Plans, Programs, and Regulations (July, 2004), Deep Creek Lake is the “golden egg” - the primary reason there is a tourism industry and economy. People are justifiably concerned about the lake’s water quality. Should the lake become impaired, the economy could suffer irreparable harm.

The main focus of the environmental analysis should be on nutrient loads, sediments, and other pollutants, and that could affect Deep Creek Lake as a result of growth in the Deep Creek Lake watershed. The main causes of water quality degradation related to development include increased stormwater run-off, fertilizer use, on-site septic systems, and vegetation removal.

Based on existing water quality data and the build-out totals, the environmental analysis would develop a model estimating current and future potential nutrient, sediment, and other pollutant contributions to surface water and ground water in the Deep Creek Lake watershed and their potential effects on water quality in Deep Creek Lake.

From the model results, recommendations would be made for managing growth to ensure that the Lake is protected and maintained in pristine condition. Depending on the results of the analysis a recommendation might be to develop a watershed management plan to ensure its continued environmental quality.

Roads and traffic

The roads analysis is envisioned as a traffic impact *assessment* rather than as a complex and costly traffic modeling effort. The analysis should focus on the types of improvements that will be needed to accommodate future growth (residential and non-residential). These might be new roads, intersection improvements or, perhaps, road segment improvements.

As noted in the Evaluation of Plans, Programs, and Regulations (July, 2004), widening most County roads in the watershed is largely infeasible due to lack of right-of-way, proximity of residences to the roadway, and topography. Further, in most cases, widening would also be undesirable because it would detract from the roads’ scenic qualities and encourage higher traffic speeds.

⁴ Deep Creek Lake Wastewater Collection & Conveyance System Master Plan, draft 2004.

⁵ The Adventure Sports Center, for example, was not even on the radar screen in the 1980s.

The effects of traffic on Glendale Road should be a special focus of the study. Glendale Road is important as the only true east-west road in the Deep Creek Lake area⁶, and also carries traffic to Deep Creek Lake state park. It has a narrow right-of-way, and widening it is probably not feasible.

Recommendations should be made for the best ways to pay for needed improvements. In addition to county or state capital projects, the main options are adequate public facilities requirements (APF) and impact fees⁷. The recommendation of whether to adopt either or both of these should be informed by the roads analysis. For example, APF would likely be the better option if intersection improvements will be needed. Impact fees would likely be the better option if segment improvements will be needed. Some jurisdictions have both APF and impact fees.

Other elements

Build-out analyses typically also look at the potential effects of growth on areas such as water supply, sewer capacity, school capacity, parks and recreation, and county fiscal capacity to support growth. With the exception of water supply, we do not believe they should be a focus of detailed study or analysis in the Master Plan, although there should be close coordination between land use planning and water and sewer infrastructure planning.

Water and sewer supply are addressed in the County Comprehensive Water and Sewer Plan (draft 2004), the Deep Creek Lake Wastewater Collection & Conveyance System Master Plan (draft 2004), and the Source Water Assessment for the McHenry Water System (2003). The draft Water and Sewer Plan says that ground water supplies for industrial and most future municipal needs are limited, and suggests that future needs will have to rely on surface storage reservoirs. An analysis of the implications of build out on water supply should be conducted.

The Deep Creek Lake area is somewhat unusual for a growth area. School capacity has not been a growth issue because so much of the growth in the Deep Creek Lake area has been second home development that does not affect the public school system. Also, the second home growth has paid its own way and has been fiscally positive for the County. These trends are expected to continue.

Results of the build-out analysis

The results of the analysis will be a future carrying capacity for dwelling units and non-residential development in the Deep Creek Lake area, comparable to the Department of Natural Resources' (DNR) carrying capacity study for boats on Deep Creek Lake. This carrying capacity will, in turn, serve as the base component of the master plan elements that will address how much new development can be accommodated and what physical form it should take.

v. Assess the development character of sub-areas within the Master Plan study area

New building not in keeping with the character of the community was one of the major issues identified for this study. Concerns were architecture not in keeping with the character of the community; residential structures that are too large (out of scale) for their lots, and not in character with the neighborhoods; and commercial buildings that do not fit.

A key step in ensuring that new development is in keeping with community character is to describe that character. The following table lists some of the elements that can be used to describe development character:

⁶ Rock Lodge Road is also east-west, but is less direct.

⁷ Adequate Public Facilities requirements (APF) require that "facilities" such as water, sewer, roads, and schools will be in place before development is approved for construction. Impact fees are charges used to help government cover the costs for new capital improvements that are needed because of new development.

Element	Component	
Landscape setting	- Wooded, open - Views - Visibility from other parts of the area (such as, slope crests)	
Lots	- Size range(s), possibly including grandfathered lots - Layout (regular or irregular pattern)	
Yards, and setbacks	- Depth - Size	
Principal buildings	- Location on lot (including non-conformities) - Age - Size - Height - Bulk	- Architectural style - Building materials - Siding - Roof style - Windows, doors
Accessory structures	- Size - Location	
Roads	- Width (section) - Winding, straight	
Other	- Trails, walks, - Walls, fencing - Lighting	

Different parts of the Deep Creek Lake area have a different character and a description should be provided for the sub-areas of the Master Plan study area. Depending on the number of sub-areas, this could be a major work effort. Ways to streamline the effort would be:

- Focusing on selected sub-areas/neighborhoods, based on the extent of community change, amount of infill development that has been occurring or may occur, number of requests for special exceptions or variances.
- Fieldwork by residents and property owners.
- Student assistance – this can be an excellent project for student planners, architects or designers.
- Use digital camera pictures as a fast, cost effective way to photo-document. The county also has good quality, recent, high resolution aerial photography of the watershed that can be useful in the analyses.

When complete, the character definitions can be used in a number of ways:

- As a basis for architectural and site design guidelines to be used by staff and boards in evaluating development applications.
- By the Board of Appeals in evaluating special exception and variance cases.
- In site design reviews to protect scenic quality (see Recommendation #2).
- Identifying areas/communities where special regulations on size or bulk would apply to maintain community character (see Recommendation #4).
- In site design and architectural reviews for commercial development (see Recommendation #6).

vi. Land use

The land use element should follow on the two previous elements: the build-out analysis and the development character of sub-areas assessment. Using the results and insights from these elements, the land use element should make recommendations for changes in land use and land use regulation to achieve the vision for the Deep Creek Lake area. These could include recommendations to create new zoning districts, adjustments to zoning district boundaries, or changes to zoning district or subdivision regulations.

vii. Detailed plans for McHenry and Thayerville

The Master Plan should contain plans for the watershed's two commercial centers. We recommend a special planning design study for McHenry, which could be conducted as part of the Master Plan process or be done separately and adopted later into the Plan, (see below Recommendation #5).

viii. Police, fire and emergency services

This element should review the need for additional police, fire and emergency service presence in the Deep Creek Lake Area, and the need for improvements to facilitate better service delivery. The Garrett County Sheriff's Office patrols the County with 12 active road patrol units, but has no station in the watershed. Fire and emergency services are provided by the Deep Creek Volunteer Fire Department in McHenry and the Deer Park Community Volunteer Fire Department. As their names suggest, both fire departments are all volunteer. The County Office of Emergency Management is concerned about these departments' ability to continue to provide adequate service to the Deep Creek Lake area with the current available resources.

ix. Pedestrian-bicycle element

The Master Plan should include a map designating portions of McHenry and Thayerville where pedestrian and bicycle facilities and connections (sidewalks, walkways, crossings, bicycle parking etc.) would be required as part of site location plans and subdivision plans (see also Recommendation #15).

2. Protect the scenic quality of the mountains at Deep Creek Lake.

Scenic quality is a key element of what attracts residents and visitors to the Deep Creek Lake area. The main threat to scenic quality at Deep Creek Lake is houses on cleared slope crests. Development has been permitted on cleared slope crests such as on Marsh Hill and Roman Nose Hill. These provide wonderful views for the residents of the homes, but are visible from large areas of the watershed and detract from the natural beauty of the area. We recommend the following:

i. Designate scenic protection areas where building would have to meet scenic protection criteria.

These areas would be identified, perhaps through the Master Plan process, and shown on maps that would be adopted by the County. State planning enabling legislation authorizes "aesthetic" regulation in general terms only. Therefore, as a basis for regulation, the County should designate the areas it desires to protect in the zoning ordinance or in the master plan.

ii. Adopt view protection criteria into the Zoning Ordinance

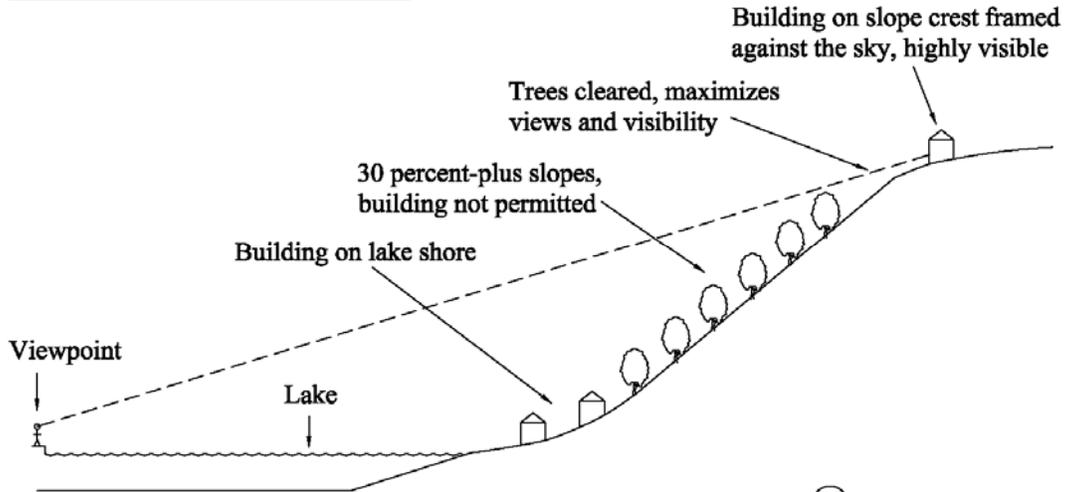
We suggest the following three-level approach for buildings on slope crests. The levels are in order of preference and are shown on the illustration on next following page:

- a. Locate buildings below slope crest, if possible.
- b. Locate buildings behind the slope crest.
- c. If building on the slope crest:
 - Retain an 80 percent (summer) screen around buildings;
 - Retain trees at the rear of buildings.
 - Buildings may be no taller than trees to rear of building.
 - Agree to retain and/or replant trees after construction.

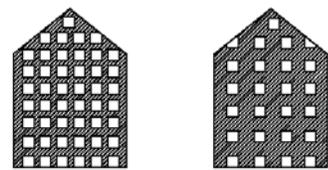
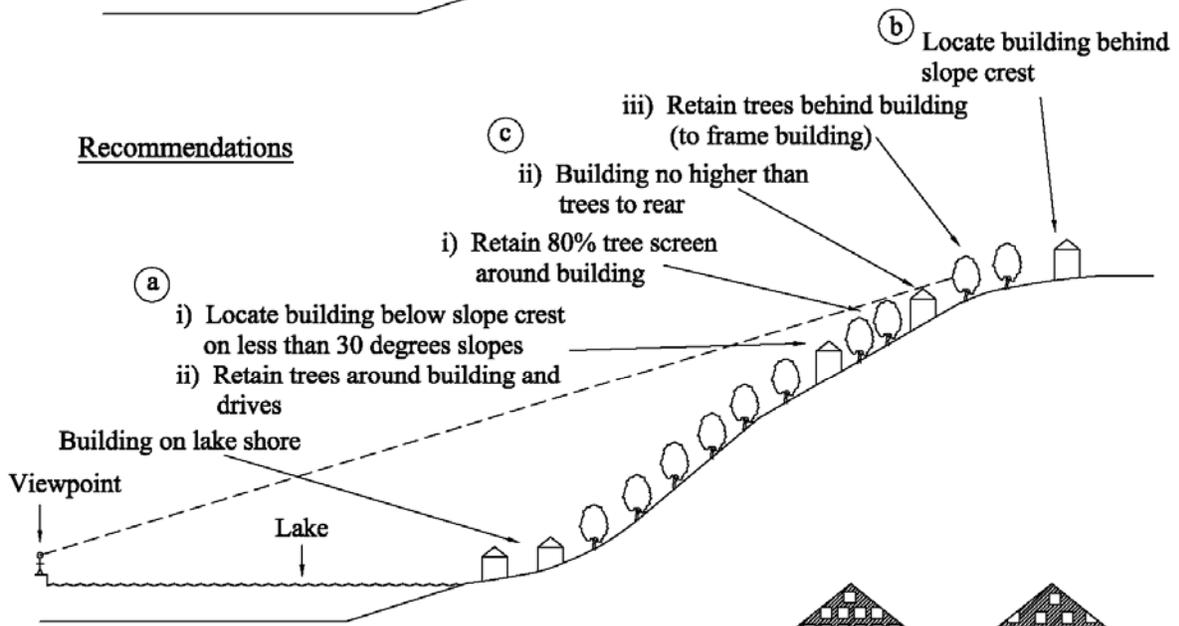
Viewshed analysis of topography can be used to determine how visible a building will be on a case-by-case basis. See discussion and example in Issues and Options paper, July 2004.

Figure 2 Development options on slope crests

Situation under current regulations



Recommendations



60% tree screen 80% tree screen
 (Shading indicates screened area, white indicates visible area)

iii. Replant or replace trees in previously cleared areas

Timber is an important economic resource in Garrett County, and harvesting timber on the mountains at Deep Creek Lake takes place periodically. Since a forest will regenerate, timbering has a temporary impact on scenic views. However, harvesting could be used to circumvent the view protection approach outlined above; an owner could clear-cut a parcel and then develop it.

Therefore, we recommend that landowners who harvest timber in scenic protection areas be required to replace trees should building occur on a site before the forest has regenerated. Landowners would need to be made aware of the requirement when they submit a timber harvest plan. At the time of subdivision or site development, the developer would be required to post a bond as a guarantee for tree replacement. In implementing this policy, a number of details would need to be worked out including what percentage of a harvest would trigger the bonding requirement (a select harvest might not, for example), and what size of trees would have to be replanted.

3. Adopt a more proactive stance on the part of County government towards management and enforcement.

Garrett County has a tradition of limited regulation and management in the area of land use, but the economic importance of Deep Creek Lake to Garrett County as well as individuals' personal investments are now so great that more proactive management of the Deep Creek Lake area including a more visible government presence is needed. We recommend the following:

i. Address noise and nuisances by adopting and enforcing a rental ordinance.

A rental ordinance would address homes built prior to 2003 and not subject to the transient vacation rental unit ordinance (August 2003). It would cover areas such as maximum overnight occupancy, noise, nuisances, trash, and parking.

The first draft of a rental ordinance was prepared in September 2004.

ii. Hire a zoning inspector.

iii. Increase inspection and enforcement for stormwater management and sediment and erosion control, especially for development on steep slopes.

Responsibility for stormwater management and sediment and erosion control is shared between the County Roads Department, the Garrett Soil Conservation District and the Maryland Department of the Environment. Staff from these agencies have expressed concerns over i) builders not using best management practices, ii) lack of inspectors, and the fact that they generally respond only on a complaint basis, iii) the cumulative effects of many small poorly designed projects, especially on steep slopes, on the landscape and on water quality.

The Maryland Department of the Environment (MDE) has one inspector, based in Frostburg, handling sediment and erosion control for almost all of Garrett County. This inspector also has other responsibilities. Just adding one inspector would have a significant effect. We recommend the following:

- a. Become a County that is delegated authority by MDE for enforcement of sediment & erosion control. The closest delegated county is Frederick.
- b. Develop an understanding under which the MDE contracts with the Garrett Soil Conservation District to conduct inspections. For example, MDE has a memorandum of understanding with

Allegany County and with the City of Frederick to handle inspections for “minor soil disturbances”.

iv. Issue citations for illegal parking on public streets.

4. Ensure new residential construction is compatible in size and scale with nearby homes.

The trend around Deep Creek Lake Area towards larger dwellings is very evident. The number of housing units in the Deep Creek Lake area with seven, eight, and nine or more total rooms increased from 814 in 1990 to 1,696 in 2000, according to the U.S. Census.

Few people are against large homes per se, and large vacation homes make beneficial contributions to the local economy and to government revenues. The concern is where such homes are juxtaposed against and overwhelm adjacent or nearby smaller, older homes, or where large homes are particularly visible such as on cleared slope-crests. We recommend the following:

i. Through the master plan process, identify areas or communities where special regulations on size or bulk would apply

See above Recommendation #1, step v.

ii. Designate these areas on a map that would be adopted with the Master Plan, or as overlay zoning districts on the Deep Creek Watershed Zoning Map.

iii. Regulate the size, bulk, and location of new construction in these designated areas.

A number of regulatory options are possible. They would need to be tested in actual developments to determine which options would provide the best results:

a. **Height.** Require a new house to be similar in height at the front and the sides to nearby houses. Allow full height behind the ridge line.

b. **Size.** Establish a maximum structure square footage for house sizes based on the size of the lot.

For example, a base house size of 2,000 square feet might be allowed for a minimum lot size of up to a quarter acre (10,890 square feet). For each 1,000 square feet of additional lot size, the size of a house could increase up to 250 square feet.

c. **Floor Area Ratio (FAR)** – A new house could have only, say, a 30 percent greater FAR than average of houses on either side (see footnote for explanation of FAR)⁸.

d. **Placement on the Lot** – Establish limits on the variances that might be granted for placement in required setbacks and yards.

iv. Limit the enlargement or extension of existing nonconforming structures under Section 801 of the zoning ordinance.

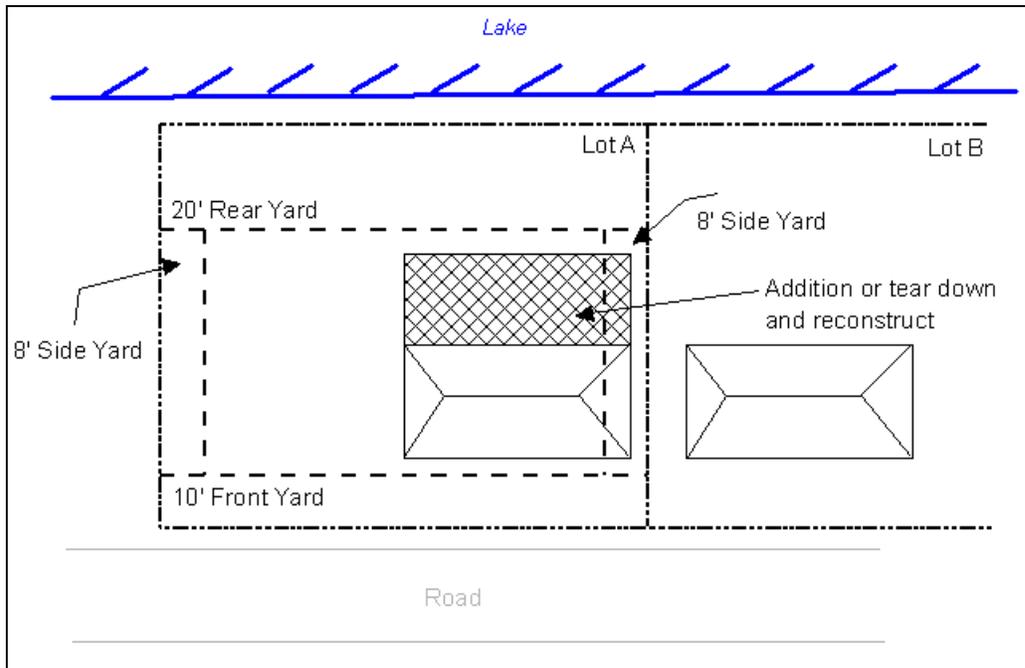
This is somewhat technical point best explained with a figure (see Figure 3).

⁸ FAR is the ratio of building square footage to the area of the site. FAR of 0.2 on a one-acre (43,560 square foot) site would permit 8,712 square feet of building (43,560 x 0.2=8,712). FAR of 0.2 on a 1/4 acre (10,890 square foot) site would permit 2,178 square feet of building (10,890 x 0.2= 2,178).

Situation: Assume TC zoning. The existing building on lot A encroaches into the required 8-foot side yard. A proposal is made to build an addition or to tear down an existing small building and build a larger building. The new construction could have severe impact on the house on lot B.

The way Section 801.B is currently interpreted, the new construction is not required to meet the required 8-foot side yard; it can maintain the side yard line established by the existing building.

Figure 3 Extensions of nonconformities



We recommend the following stepwise approach:

- a. Allow the existing nonconformity to be maintained only if the height or bulk do not increase.
- b. Any increase in height or bulk should trigger application of measures to reduce impacts on the adjoining lot. These measures could include:
 - Stepping back the location and/or height of new construction away from the adjoining lot.
 - Requiring the applicant to seek a variance for the proposed encroachment into the yard.
- c. Handling the initial review administratively, by the Zoning Administrator⁹.
- d. Giving the Zoning Administrator authority to refer specific cases to a design review panel, for its consideration (see Recommendation #7).

5. Develop improvement plans for McHenry and Thayerville.

The lake area presently lacks a distinct center that identifies the area as a special recreational place. “Town Centers” are now being developed in many locations to establish an identity. They are designed to provide

⁹ The Zoning Administrator is the Director of the Department of Planning and Zoning.

a mix of uses and are laid out to encourage walkability. The Deep Creek Lake area's two business and commercial centers should have plans to guide future improvements to ensure these centers function effectively to serve the area's long-term needs.

McHenry

McHenry is important as the major retail center for the area. It also has public uses such as the fairgrounds, visitors' center, and state police barrack. For most visitors McHenry is the gateway to the Deep Creek Lake area. McHenry does not function well, however, especially at peak periods:

- Several left turn traffic movements are problematic. For example, from the Foodland shopping center south onto US 219, and the northbound lefts onto Deep Creek Drive and into the Fort development. The Adventure Sports development will likely add traffic to the intersection of US 219 with Sang Run Road.
- There are no safe places to walk.
- There is no park or public open space.
- There is almost no public access to the lakefront (without crossing private property) and no facilities such as parking.
- Parking overflows at some commercial sites.

Fixing these issues will not be easy, as McHenry is largely developed. Fixes need to happen over time as new development occurs and taking advantage of new development and redevelopment opportunities.

We recommend a mini-planning study of McHenry to identify the planning issues and make recommendations for how McHenry can function better in the future. We believe a "design charette" would be the best format for this type of design-oriented study. In a design charette, the many interested parties (residents, property owners, businesses, government representatives, state highway administration, and the public) hold a series of planner/designer-facilitated meetings/workshops over a two or three day period (perhaps a weekend), and together come up with a set of design plans. The planners/designers refine the plans for adoption by the County, perhaps as part of the Master Plan.

The benefits of the charette approach are that it can be developed quite quickly and efficiently and that it taps into the knowledge base and ideas of the people who live in the area and know it best. In the course of this study, for example, several interesting suggestions were made for one-way systems and access improvements in McHenry.

This mini-plan could be undertaken as part of the Master Plan or could be a standalone effort (see Recommendation #1)

Thayerville

Thayerville is at the geographic center of the Deep Creek Lake area, and already has some of the functions of a true center with uses such as the Honi Bar, Unos, and the movie theater. Further development is being planned west and south of the movie theater including two new public uses, an exhibition center and a performing arts center, in conjunction with a private mixed-use development.

Currently, however, little thought is being given to how an integrated whole can be created from these different uses in Thayerville. Little land in the area is publicly owned, but we believe it is in the public interest that this area be integrated into a cohesive whole. With the current development interest in the area, now is a great opportunity to engage the interested parties in deciding how to create a well-functioning central place that can serve Deep Creek Lake for the future.

This recommendation involves a proactive approach on the part of County government to ensure that private development in Thayerville also meets public goals.

We do not recommend a design charette for Thayerville as plans are currently active, the number of involved parties is much smaller, and the range of issues is narrower.

6. Create an Advisory Committee for the Deep Creek Watershed to assist County boards and commissions.

This recommendation responds to the issue raised frequently during the course of this study that County boards and commissions are not sensitive to the watershed's needs, and that people lack a voice in the planning process.

The issue of representation and who decides what in an area is always sensitive. It is particularly sensitive in a resort setting like Deep Creek Lake where many people who care deeply about the area and have made significant personal investments feel underrepresented because they are not full-time residents.

We envision a committee that would be advisory to the Board of County Commissioners, Planning Commission, Board of Appeals, and the Zoning Administrator. As we envision it, any of these boards or the Zoning Administrator could request a recommendation from the Advisory Committee on a matter it was considering. We would see the Advisory Committee as having a lead role in developing the master land use and development plan for the Deep Creek Lake Area (Recommendation #1.)

The consultant team is generally loathe to recommend new organizations, advisory boards and the like out of concern for creating bureaucracy and unnecessary layers of review. In particular we are sensitive to recommending a committee that would be advisory only. In the case of Deep Creek Lake, however, we think that an Advisory Committee would be very beneficial. This is for four reasons:

- i. The Deep Creek Lake Watershed faces a myriad of important planning and planning-related issues, as outlined in the recommendations in this report. No existing board is dedicated wholly to these issues. We think the Board of Commissioners and the Planning Commission, in particular, would benefit from recommendations from an Advisory Committee that is very knowledgeable about issues in the watershed and has had time to carefully examine and make recommendations on issues.

As an example, three issues were raised late in this study process and we were unable to explore them in detail as part of this study. The first issue is light pollution, managing the level of illumination at the lake and surrounding areas. The second issue concerns the effects of noise from commercial establishments such as nightclubs on nearby residences. The third issue was helipads. An Advisory Committee would provide a vehicle and be very helpful in examining and making recommendations on such issues, and would be able to do this in more timely manner compared to the other boards that already have busy agendas.

- ii. The Deep Creek Lake Watershed does not currently have a bureaucratic decision-making structure. For planning issues there are only three boards, the County Commissioners, the Planning Commission, and the Board of Appeals. In this regard we think that Deep Creek compares favorably to other lake resorts where decision-making is more diffuse¹⁰. We think that adding an Advisory Committee focused on the issues for the Deep Creek Lake Watershed would improve decision-making, and not create unnecessary bureaucracy.
- iii. An Advisory Committee would provide opportunity for broad representation including non-resident property owners, and be a further means of community-building. Any non-resident members would have to commit to attending regular Committee meetings.

¹⁰ See Case Studies of Lakes and Resorts, July 2004.

- iv. An Advisory Committee would provide a vehicle for some of the urban design recommendations in this report. For example, we recommend developing a plan for McHenry (Recommendation #5), adopting site design and architectural review for commercial development (Recommendation #6), and ensuring new residential buildings are compatible in size and scale with neighboring development (Recommendation #4). We think, for example, that a Site Design and Architectural Subcommittee of the Advisory Committee would be an appropriate vehicle to assist with these recommendations.

Note on Planning Commission membership

In our Evaluation of Plans and Programs we did not focus much attention on the Planning Commission because it is a *countywide* board whose role is advisory on most matters. We noted that, currently, of the seven Planning Commission members, two are from the watershed, plus one alternate member who frequently sits as a member. Our recommendations need to reflect, however, that this study's Citizens' Task Force feels very strongly that the watershed's interests are under-represented on the Planning Commission, and that the watershed's membership representation on the Commission should be commensurate with the watershed's economic and fiscal importance to the County.

7. Adopt site design and architectural review for commercial development in the Deep Creek Watershed.

Commercial architecture is important. A place's commercial areas are generally its most visible. Deep Creek Lake has few truly "public" places, so its commercial areas are a key part of the watershed's "public" realm. These areas help set the "tone" for any area and are particularly important for a resort.

Site design and architectural review would help ensure that new commercial architecture is compatible with the better architecture that is being built. Without dictating a specific style to be followed slavishly, certain building styles/architectural practices could be encouraged or discouraged.

As a first step, standards would be added to the zoning ordinance addressing key elements of commercial architecture such as a list of acceptable external building materials, roof styles, and blank wall area limitations. These standards would be reviewed administratively, and may address the key issues of concern. If this approach was found wanting, the next step would be a more comprehensive design review.

Comprehensive design review would be conducted by a design review panel, and would be written into the site location plan review process (Zoning Ordinance Section 902). Panel membership should have different disciplines including an architect, designer, planner, engineer, builder, as well as laypersons. This panel could be part a new advisory committee (see Recommendation #6), or could be a standalone panel to assist the Department of Planning and Zoning in its review.

As a basis for its decision making the panel would need to develop design guidelines, which could be a by-product of the Deep Creek Lake Area Master Plan (see Recommendation #1). We do not recommend design review for residential development at this time, except where specific areas or neighborhoods are identified as part of the Master Plan process (see Recommendation #1. step v).

8. Encourage the continued viability of traditional waterfront businesses.

Some people care passionately about the loss of waterfront businesses such as McClives, Deep Creek Lodge, and the hardware store portion of Deep Creek Outfitters. They regard the waterfront businesses as a key element of what has made the Deep Creek community special, and that it would be a tragedy if waterfront businesses were to disappear. Other people are more dispassionate. They say that a very small percentage of sales is generated from people coming to businesses by boat, and that the Deep Creek Lake area will not be hurt if waterfront businesses disappear.

We think that waterfront businesses are a valuable and somewhat unique component of life at Deep Creek Lake. Notwithstanding the likely fact that a small percentage of sales is generated from people coming to businesses by boat, we think that the fact that one *can* go to a business such as a restaurant or a grocery/deli by boat adds to the ambiance of life at the lake and makes an important linkage to the past, when doing business by boat was more a necessary part of life.

We think, therefore, that encouraging the continued viability of traditional waterfront businesses is a legitimate public purpose, but the issue is not easily addressed. Few people would disagree that businesses on the waterfront are desirable. The question is how important is this issue to residents and visitors to Deep Creek Lake and to Garrett County, and how far is the community prepared to go to retain waterfront businesses? We recommend the following:

i. Adjust the zoning regulations to provide an incentive for mixed business and residential development where there are existing waterfront businesses, or where it would be desirable to develop new waterfront businesses.

This could be achieved by reducing or eliminating the additional lot area per dwelling unit requirement for more than one dwelling unit built in association with a principal waterfront use that includes a waterfront business (the zoning code currently permits only one dwelling unit as an accessory use). Other site development requirements, including parking, would still have to be met.

ii. Work “one on one” with individual waterfront businesses at risk of being lost.

iii. Explore with the local tax assessor the potential for changes in the way property assessment values are prepared for waterfront businesses.

We understand that waterfront businesses are currently assessed based on their potential value in relation to nearby zoned land, which may be in residential use that has a higher value than business use. It would be worth exploring whether the following would change these businesses’ financial picture and encourage them to remain in business:

- a. Changes in the way property assessment values are prepared for waterfront businesses that are considering a change of use,
- b. Whether voluntarily restricting future development to business use would affect the assessed value.

9. Increase public and private-quasi-public access in selected locations in and around Deep Creek Lake.

Public access is a sensitive issue in Deep Creek Lake. When the state bought the lake in 2000, the understanding was that the pre-purchase status quo with respect to public access was to be maintained. In other words that the use and enjoyment of the buffer strip around the lake by owners of adjacent property would continue. Property owners are resistant to encouraging public access out of concern for trespassing and nuisances. Many owners see any encouragement of public access as opening a door that may open wider and wider, leading to a change in the status quo. We understand property owners’ concerns.

The consultant team, as observers and students of successful places, nevertheless sees a trend at resorts to increasing the number of places where the public feels welcome. Competition in the resort field is intense, and visitor expectations are at an all-time high. Resorts that survive among the competition and surpass their competitors do so by paying attention to all of the drivers of success, which include, we believe, making visitors feel comfortable and welcomed. We think that, with an eye to the future, the Deep Creek Lake area needs to do a better job of providing places where visitors can get out of their cars and enjoy views, sit, picnic, and walk around, fish or swim.

In the long run we believe that providing more places where these activities can take place will reduce trespassing and nuisance occurrences in places where public access is not desirable. Pressure for lake access is bound to increase given continuing development of properties away from the lake. We recommend the following:

i. Provide better signage and amenities at existing, well-sited publicly owned land.

We envision a few such locations only (perhaps four to six around the lake), such as view points, fishing spots, or canoe put-ins that would be improved with amenities such as signage, a pullover, parking, and picnic tables. We understand that DNR is pursuing one such location at the dam. Other potential locations include land near the intersection on US 219 and Mosser Road, near the post office, and on Cherry Creek Cove along State Park Road.

ii. Encourage the creation of private/public places through the site development process.

We envision creating such places, especially in McHenry and Thayerville, as sites develop and redevelop. As an example, we think that the Honi Honi Bar is a successful private quasi-public place that provides a great venue for a broad range of people, including families and children, to meet and enjoy the Lake.

Development of new sites and redevelopment of existing sites such as the Point View Inn and Deep Creek Outfitters in McHenry could offer opportunities to create other such places¹¹. We envision that these places would be created through developer agreements during subdivision or site plan approval (see below under Recommendation #10 for discussion of developer agreements).

iii. Work with Deep Creek Lake State Park to ensure the maximum contribution of the park to meeting recreational needs.

This should include review of entrance and user fees.

iv. Provide a put-in for canoes and kayaks on one of the coves in the northern or southern lake zones.

This was a recommendation of DNR's 2004 Deep Creek Lake Boating and Commercial Use Carrying Capacity Study. This recommendation is for small "cartop" boats only, and not for a boat ramp.

¹¹ The private/public places in this recommendation are envisioned as access points in association with non-residential development, and are not intended to modify Section 510 of the zoning regulations.

B. Other recommendations

10. Consider the following changes to the Deep Creek Watershed Zoning Ordinance, and the County Subdivision and Sensitive Area Ordinances:

We recommend the following changes to the Deep Creek Watershed Zoning Ordinance, the Subdivision Ordinance, and county design standards. We do not believe these changes need further review during the Master Plan development process before they would be considered by the Garrett County Planning Commission and the Board of County Commissioners through the normal ordinance amendment process.

Other changes to the Zoning and/or the Subdivision Ordinances would be needed as a result of the other recommendations in this Study, but they are identified under the specific recommendation and are not listed here.

10.1 Standards

i. Review steep slope protection section of the County's sensitive areas ordinance.

The ordinance, adopted in 1997, permits greater development of steep slopes than is desirable. We recommend the following:

- a. Limit all disturbance of slopes over 30 percent to 200 square feet. Currently, under Section 1.D of the ordinance, disturbance of slopes over 30 percent is unlimited if a new principal building impacts less than 200 square feet of slopes over 30 percent. Section D should be deleted.
- b. In Section C., require on grandfathered lots that disturbance to slopes over 30 percent be minimized. The grandfathering provisions currently exempt completely from the ordinance existing lots of record and lots and plats with sewage approval existing as of the ordinance adoption date (1997).
- c. In Section B., delete item 2 that allows up to five percent of the lot area that exceeds 30 percent slopes to be covered by impervious surfaces (buildings, paving, etc.)

ii. Allow the Board of Appeals to approve alternative parking standards as a special exception

The Deep Creek Lake zoning ordinance does not permit adjustments to the parking requirements except through the variance process. Because parking needs are so variable and can be affected by site specific or use-specific circumstances, some communities permit flexibility by allowing parking standards to be adjusted on a case by case basis.

Any adjustments to standards in the ordinance would have to be based on documentation provided by an applicant, including parking generation studies, previous experience with similar uses, or other information. As envisioned, adjustments under this provision would follow the special exception process with a decision by the Board of Zoning Appeals.

iii. Reduce the parking requirements for transient vacation rental units that are in townhouse or multi-family developments, as opposed to being on single lots.

One space per bedroom is currently required (since August 2003). This requirement is high, but is the same as for hotels/motels which is not unreasonable for units on single lot. However, units that are in developments likely derive some benefit from shared parking and need less parking. A reasonable

requirement might be one space per 1.5 bedrooms in townhouse or multi-family developments of four or more transient vacation rental units.

Some developments are currently in design with one space per bedroom. We recommend monitoring the actual parking activity at these developments during peak periods to see how much of the parking is unused.

iv. Allow heights up to 60 feet or six stories for multi-family and hotel structures as a special exception in the CR1 and CR2 districts

This would be an amendment to Section 408 which currently allows this special exception in the TC-district.

v. Provide for standalone boat sales on sites less than two acres.

A new use category may be needed as boat sales is not listed specifically in the zoning ordinance. Boat sales are allowed at marinas (pursuant to the definition in Sec. 201.36). Sale of recreational vehicles is permitted on 10,000 square feet (less than a quarter acre) – Section 400.D.B.10.

In September 2004 the Planning Commission reviewed an ordinance amendment addressing this matter.

vi. Require parking lot landscaping.

None is currently required.

vii. Bicycle parking. Provide a better definition for “suitable” in Section 602.I of the Zoning Ordinance.

The ordinance requires “a suitable area for parking of bicycles” for any use that has more than 10 parking spaces. The term “suitable” is undefined. The American Association of State Highway and Transportation Officials (AASHTO) produced a guide for the development of bicycle facilities in 1999 that could serve as a useful reference for bicycle parking facilities. This section of the Code should be renumbered as J, as there are two 602.I’s).

10.2 Administration

i. Allow for Developer Agreements in the zoning ordinance.

Under a developer agreement, a jurisdiction conditions its approval of a development on the developer providing benefits to the jurisdiction. Examples of benefits are road improvements, water and sewer infrastructure, land, recreation facilities, and fire and safety equipment. Authority to Counties to allow developer agreements is provided in Article 66B, Maryland’s local planning enabling legislation.

ii. Allow the SHA to comment on its needs if a project on a county road will affect a state road.

No mechanism is currently in place to allow this.

iii. Allow for extensions to the time after a special exception approval within which a zoning permit must be obtained (Section 1011).

Currently a zoning permit, which is part of the building permit approval, must be obtained within one year. Extensions are not allowed, and if a permit is not obtained, reapplication for a special exception must be made. We think that routine extensions, say up to two, could be handled administratively, with

ability for Director of Planning and Zoning to refer cases to the Board of Appeals if deemed necessary, such as where the developer is not actively working on the project.

10.3 Clean up

i. Delete Section 304B.20.e. - provisions for compatibility and neighborhood effect for transient vacation rental homes with five bedrooms or less.

Since homes with five or less are permitted by right, this provision is not currently used or factored into the approval process.

ii. Delete Section 604 of the zoning ordinance which allows a parking space reduction if landscaping and pervious pavers are provided.

According to staff, this provision has never been used. Landscaping and planting should be a requirement of any development, not an incentive to reduce needed parking.

11. Review the regulations for grandfathered lots

Section 402 of the Deep Creek Watershed Zoning Ordinance allows lots created prior to 1975 to not have to meet the current required minimum lot size. Many such lots currently cannot meet the Health Department's 60,000 square foot minimum lot size requirements for development on well and septic. Owners of deeded lots that do not meet the minimum lot size for development on well and septic have expectations of being able to develop such lots on public water and sewer, when it becomes available.

The exact number of grandfathered lots that exist is not known, but it is not insignificant. According to the Department of Planning and Zoning, as of September 2004 there were approximately 575 grandfathered lots in subdivisions that are readily apparent on the County tax maps. An unknown number of other grandfathered lots exist including some in other subdivisions and others that were recorded by deed.

The 575 lots alone represent more than 10 percent of the total number of units in the Deep Creek Lake Watershed in 2000, and more than half the total number of units that were added in the watershed between 1990 and 2000.

The concerns over grandfathered lots are:

- i. The effect on community or neighborhood character of building on grandfathered lots that may be much smaller than the lot size of adjacent or nearby developed lots.
- ii. The effect on scenic views.
- iii. The effects on adjacent and nearby properties.
- iv. Effect on sensitive areas such as steep slopes.

Regulating grandfathered lots can be complex and controversial because of competing interests. Owners of grandfathered lots usually have an interest in being able to develop. Owners of property near grandfathered lots may wish to not see such lots developed. There may be a public interest because of the effect of development of grandfathered lots on sensitive natural resources, water and sewer, and on traffic.

Many jurisdictions have grandfathered lots and approaches vary. Some jurisdictions require old lots to be consolidated to match to the extent possible the minimum lot size for new lots. Other jurisdictions regulate how development occurs so as to mitigate for negative impacts. Some jurisdictions have developed programs to acquire the development rights from these lots. The original zoning ordinance for the Deep Creek Lake watershed required lot consolidation but it was amended in 1978 to grandfather these lots (Section 402). The types of situations in and around Deep Creek Lake are shown on Figure 4 with our recommendations on the following table.

Figure 4 Grandfathered Lots Situations

See table for explanation

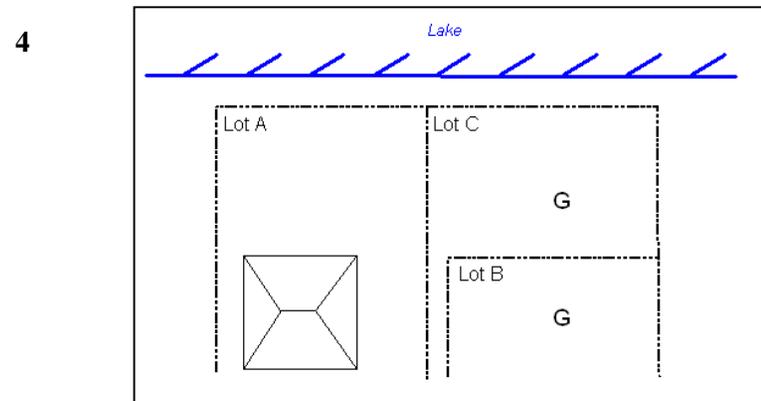
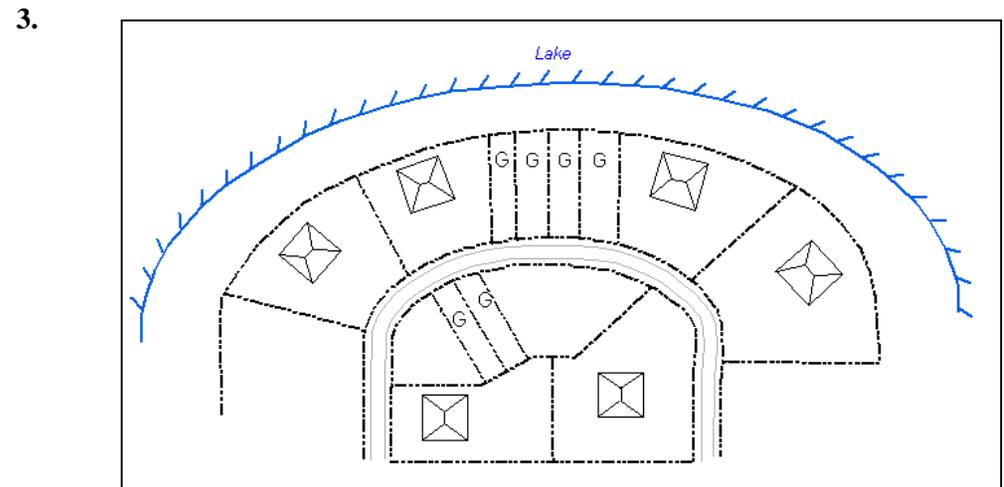
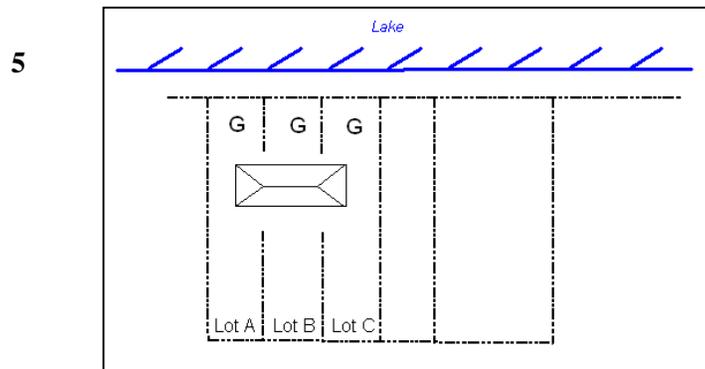
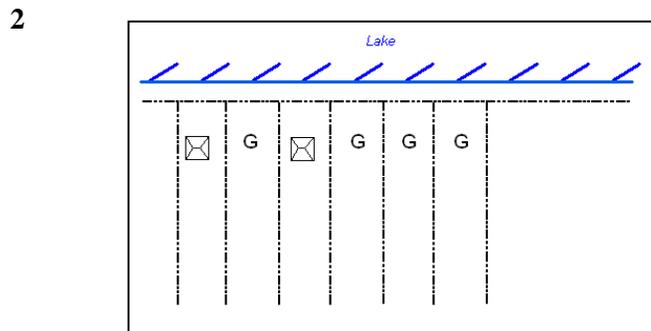
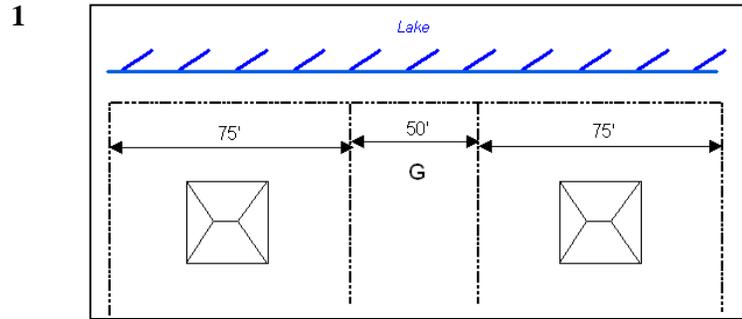


Figure #	Situation	Current Regulation	Lot Consolidation	Recommendation
1	Single grandfathered lot between two developed lots	Development may require variances to minimum yard widths from Board of Appeals.	Not possible	Add specific criteria for granting variances to the general criteria in Section 1005 of the zoning ordinance. The specific criteria would only apply to variances on grandfathered lots, just as there are special criteria for variances for rear yard variances on lake front lots (Section 1005.E). Possible criteria include the following: that the variance will not <ul style="list-style-type: none"> • Impair an adequate supply of light and air to adjacent property. • Alter the character of the neighborhood in which the property is located. • Will not significantly impair views from adjacent property, and that • The variance, if granted, is the minimum variance necessary to afford relief.
2	Series of grandfathered lots. Other lots in neighborhood similar.		Possible	<ol style="list-style-type: none"> i. Do not require lot consolidation because other lots in neighborhood are similar in size. ii. Add specific criteria for granting variances to the general criteria.
3	Small undeveloped lots. Other developed lots in neighborhood larger.		Possible	<ol style="list-style-type: none"> i. In areas or neighborhoods designated through the master plan process, require lot consolidation for small lots because developed lots are very different in size. ii. Give consideration to allowing existing type A docks to remain. For example, if three lots each with a type A dock were consolidated into two lots, the three docks could remain (one could be assigned to a back lot).
4	Development on lot C would severely impact view from house on lot A. Variant on situation 1		Possible	<ol style="list-style-type: none"> i. Handle through variance process. ii. Possible design review by Advisory Committee.
5	Lots 1, 2, and 3 are grandfathered lots that are part of one parcel. An existing house straddles the three lots. Request is to tear down the single house and replace with three houses on each of lots 1, 2, and 3. This situation is actually the same as situations 2 and 3. The fact that there is an existing house does not affect what can be done; three houses would be permitted.		Possible	<ol style="list-style-type: none"> i. Do not require lot consolidation if other lots in neighborhood are similar in size. ii. Require lot consolidation if developed lots are very different in size. iii. Add specific criteria for granting variances to the general criteria.

12. Require new development to mitigate for the effects of additional traffic on roadways and intersections.

Based on recommendations from the master plan (see above under section 1.3.iv) the County should consider adopting adequate public facilities requirements (APF) and/or impact fees.

APF requirements would vary depending on the number of trips that would be generated from the development. Washington County, for example, only applies the full suite of requirements to residential subdivisions that generate more than 25 peak hour trips, and commercial/industrial developments that generate 16 or more peak hour trips.

13. Create incentives for business development in the existing Town Center zoned area north of Thayerville.

This recommendation responds to the issue that there is insufficient opportunity for office and studio space in the watershed. We think that because of its location and property parcel configuration, the area north of Thayerville between Unos restaurant and the Will O the Wisp Hotel is a good candidate for mixed business and residential development including office development.

Similar to our recommendations for encouraging the continued viability of traditional waterfront businesses (Recommendation # 11), we think that reducing or eliminating the additional lot area per dwelling unit requirement for more than one dwelling unit built in association with a principal use would be an incentive for this type of development.

14. Support state and federal efforts to enforce the Clean Air Act to reduce mercury contamination from air emissions from outside the watershed.

The source of mercury in Deep Creek Lake is air emissions. Little can be done locally about the mercury contamination aside from supporting state and federal efforts on implementing the federal Clean Air Act. See discussion of this issue in Evaluation of Plans, Programs, and Regulations, July 2004.

15. Improve conditions for pedestrians and bicyclists.

Deep Creek Lake lacks safe places to walk or bike. This was less of an issue years ago when vehicle traffic volumes were lower than today, but the issue is now more important. More people are living year-round in the watershed. More people are coming to visit, and when on vacation people like to walk and bike. All around the U.S. places of all kinds are paying greater attention to walking and biking, and people are increasingly expecting to find these facilities, especially at resorts.

The Countywide Recreational Trails Plan was updated in 2003, with several projects in active implementation and planning. Because of right-of-way limitations, it will not be possible to make every road in Deep Creek Lake pedestrian and bicycle friendly.

i. Designate McHenry and Thayerville for improved pedestrian and bicycle facilities and connections.

In designated areas pedestrian and bicycle facilities and connections (sidewalks, walkways, crossings etc.) should be a focus of attention for capital projects and be required as part of site location plans and subdivision plans. McHenry and Thayerville should be designated areas, with the boundary area

shown in the Deep Creek Lake Area Master Plan. Some car parking areas should be designated for bicyclists to leave their cars while they are bicycling. Pedestrian and bicycle safety should be promoted.

ii. Complete the portions of the Countywide Recreational Trails Plan that are in the Deep Creek Lake Watershed.

16. Adjust the sign regulations to encourage signage more in keeping with the mountain resort atmosphere.

We do not think that wholesale changes are needed (see Evaluation of Plans and Programs, July 2004), rather some adjustments to the Deep Creek Lake watershed sign regulations (Article 7 of the Zoning Ordinance) to address some specific aspects of this issue:

i. Reduce the size of vacation rental home signs.

They are currently permitted to be up to six square feet. Two square feet would be more in keeping with the residential neighborhoods.

ii. Amend the sign regulations to disallow scrolling message board signs.

Three of these signs have been approved recently in McHenry. A narrow line may have been crossed here since Section 704.D. of the regulations prohibits “flashing or rotating flashing illumination of a sign”.

iii. Amend the sign regulations to disallow very large signs such as billboards.

The zoning ordinance refers to these as “off-premise business advertising signs”. State law prohibits billboards on the portion of US 219 between Glendale Road and Mayhew Inn Road, which is a state-designated scenic route. Outside this area there are state and county restrictions on where billboards can be erected, but the regulations do allow them, and they could be erected.

Changes should be phased in over time, recognizing the investment businesses make in signage.

Note on attracting retirees to the Deep Creek Lake Watershed

The consultants have found invaluable the input to this study by members of the study Task Force formed by the County. Together we have explored many concerns, options, and potential policies for dealing with growth in the watershed, including some which are not reported as part of these recommendations. An example is the issue of the watershed’s long-term economic development strategy.

Some members of the study Task Force feel strongly that as an economic development policy and strategy the County should actively market Deep Creek Lake to retirees in an effort to attract this population segment as residents.

Several of our recommendations are intended in part to strengthen economic development (see especially recommendations 5, 7, 8, and 13), but these recommendations are all grounded in growth, land use and/or physical development and design – the primary focuses of this study. No additional zoning or regulatory changes are necessary to allow for development for retirees. We believe that the broader strategy for strengthening the community’s economic base is the appropriate responsibility of the Economic Development Commission and the Chamber of Commerce. Indeed, as part of our Evaluation of Plans and Programs (July, 2004), we reviewed Garrett County’s 2002 Economic Development Strategic Plan as it relates to the Deep Creek Lake watershed. Among that plan’s strategic initiatives is to “Grow year-round tourism, including recreation, hospitality, cultural, and adventure-sports activities”.

The Economic Development Commission and the Chamber of Commerce are best suited to undertake targeted marketing to attract specific business sectors, or to attract specific cohorts of potential residents such as retirees who can benefit the community in many ways. The efforts of these organizations can also aid the implementation of this study's recommendations for improving development and conservation within the watershed.

Census data show that the watershed's year-round resident population increased from 3,174 in 1990 to 3,845 in 2000, an increase of over 20 percent in ten years. We continue to believe that improvements in the range and quality of services that are available will make Deep Creek Lake more attractive to a broader range of people including retirees.

Appendices

Appendix A Cross Tabulation of Issues and Recommendations

Issue #	Issue	Recommendation Number
1	Lack of/loss of community	1 (especially Master Plan element v.), 4
2	What direction is the Deep Creek Lake community going in? What will it be when it grows up?	1, 4,
3.	Fear/ concern that there is too much growth	1 (especially Master Plan element iv.), 4, 11
4.	Loss of “traditional” waterfront businesses like restaurants	8
5.	Insufficient opportunity for commercial (retail and employment) development	13
6.	Unappealing development character in the Town Center zoning districts	4, 5, 7
7.	Environmental quality of the Lake	1, 14
8.1	Roads are not well designed for their function	1, 12
8.2	Lack of safe places to walk or bike	5, 15
8.3	Traffic slowdowns caused by visitors having difficulty finding their way around	No specific recommendation
9.1	Parking residential	3, 10
9.2	Parking commercial	3, 10
10.1	Loss of scenic views	2
10.2	New building, residential and commercial, not in keeping with the character of the community	4, 7
11	Signage not in keeping with mountain resort atmosphere	16
12	Need for better enforcement of laws and management of basic services	3
13.1	Representation. County boards and commissions are not sensitive to the watershed’s needs; people lack a voice in the planning process.	6
13.2	Need to educate areas of the county outside the watershed about the benefits of the watershed to the County as a whole	No specific recommendation
13.3	Need for affordable (workforce) housing for service workers	No specific recommendation

Appendix B Issues and Options Paper Questionnaire Results

In the first exercise, respondents were asked to rank the options from 5 to 1 based on level of support. 5 = strong support, 3 = neutral, and 1 = strong disagreement. The raw scores were converted as follows: 5 to +2, 4 to +1, 3 to 0, 2 to -1, 1 to -2. The totals were then summed and converted to percentages.

The results are shown on page B-2.

In all there were 413 respondents; 42 at the meeting on August 7 and 371 received after the meeting. Column 3 shows the scores for all respondents. Column 4 shows the scores from the meeting.

Based on the scoring methodology a maximum score of support would be 100%, neutral score would be 0%, and a maximum negative score would be -100%.

In reviewing the results we considered the scores as follows:

70% and above	strong support
45% to 70%	moderately strong support
25% to 45%	moderate to weak support
below 25%	weak support
negative score	opposition

Options with strong support are shaded on the results table.

In the second exercise, respondents were asked to select the options they considered the most important, the ones they would like to see implemented immediately. The top option received a score of 5, the second most important option a score of 4, etc.

The results are shown on page A-2.

With 413 respondents overall the maximum possible score would be 2065 (413x5). With the 42 respondents at the meeting, the maximum possible score would be 210 (42x5).

The five top ranked options for each group are shaded on the results table.

Issues and Options Paper Questionnaire Results

	Option	Exercise 1		Exercise 2	
		All respondents	Meeting attendees only	All respondents	Meeting attendees only
a	Study the implications of future growth levels on the environment and on public services, especially roads.	80%	83%	595	72
b	Develop a detailed vision statement to better define where the community is going.	68%	76%	222	22
c	Develop a master land use and development plan.	80%	85%	576	84
d	Study effects on water quality of adding in the watershed additional dwelling units plus non-residential development.	80%	81%	337	36
e	Increase inspection and enforcement for stormwater management and sediment and erosion control.	76%	86%	103	4
f	Connect areas with failing septic systems to public sewerage systems.	71%	73%	210	15
g	Support state and federal efforts to enforce the Clean Air Act to reduce mercury contamination	54%	68%	43	0
h	Develop a watershed management plan to ensure its future environmental health.	72%	79%	251	16
i	Create a "center" in Thayerville.	3%	15%	63	8
j	Encourage higher density/intensity in McHenry and Thayerville, lower density in other areas zoned TC.	6%	14%	37	7
k	More attention to urban design in the TC zoned areas.	27%	42%	26	9
l	Identify specific neighborhoods where lack of/loss of community is a problem. Target these neighborhoods for specific land use regulations/programs	37%	35%	80	9
m	Work to further increase the year-round population in the watershed	3%	-1%	60	4
n	Do not allow buildings in highly visible locations (slope crests)	67%	49%	391	23
o	Require view protection	71%	74%	279	41
p	Study the effects on traffic of adding in the watershed additional dwelling units plus non-residential development.	65%	74%	73	5
q	Require new development to mitigate for the effects of additional traffic on roadways and intersections.	63%	60%	109	25
r	Require pedestrian and bicycle facilities and connections as part of site location plans in designated areas.	49%	52%	86	11
s	Zoning incentives for mixed business and residential use development for existing waterfront businesses, or where it would be desirable to develop new waterfront businesses.	23%	29%	68	16
t	Incentives for mixed business and residential use development in areas where it would be desirable to provide more opportunity for commercial development.	5%	19%	30	3
u	Adopt some form of site design and architectural review	50%	52%	85	5
v	Regulate the size and bulk of new homes in designated neighborhoods.	68%	56%	232	19
w	Create and enforce a rental ordinance.	64%	64%	313	29
x	Revisit the way grandfathered lots are treated with respect to minimum lot size in the zoning ordinance.	38%	36%	114	12
y	More places where the public can access the lake to sit, walk, fish or launch a boat; trails.	-4%	6%	85	5
z	Reduce the size of vacation rental home signs.	51%	57%	90	12
aa	Issue citations for illegal parking on public streets.	51%	62%	22	5
bb	County to take a more proactive stance towards management and enforcement.	59%	81%	111	15
cc	Hire a manager or community development coordinator to work on management issues.	35%	46%	32	3
dd	New organization within the watershed's decision-making structure to provide a formal voice for residents, businesses and property owners.	54%	48%	111	18

Appendix C Examples of vision statements

Many communities have found it helpful to develop vision statements as a refinement of the traditional planning exercise of listing goals and objectives. As discussed under Recommendation 1, a vision statement needs to be more than a list of “mom and apple pie” goals and objectives, that everyone agrees with. A vision statement should reflect the choices the community has made and be clearly articulated so that residents and visitors can read it and understand how the County intends the community as a whole and its constituent parts to grow and develop.

In the Case Studies of Lakes and Resorts (final July, 2004) prepared for this Study, we found that vision statements to guide future development usually express expectations for the type of lake experience desired by most residents. Lacking such statements, lake areas are left to drift in the current of whatever happens. Among our five case studies, only Lake Tahoe has crafted a vision statement for lake-area development. The essence of this vision is maintaining and even improving water quality in Lake Tahoe through careful development and redevelopment.

As an example of a more detailed vision statement that might be developed for the Deep Creek Lake watershed, we offer the vision for the Bryans Road – Indian Head area in western Charles County, MD that appears in the master development plan for that area. Each statement in the vision reflects a policy position that is reflected in implementing plans, programs, and regulations

A Vision for the Bryans Road-Indian Head Sub-Area

The Bryans Road-Indian Head Sub-Area is a vital component of Charles County’s Development District. With its abundant open spaces, focus on small-town atmosphere, community-oriented development, employment opportunities, and well-designed housing in rural settings, Bryans Road-Indian Head is an attractive community and destination just 30 minutes from the nation’s capital. The vision for Bryans Road-Indian Head incorporates the following goals:

Development Character

- Development is focused on the Sub-Area’s two centers, Indian Head and Bryans Road.
- Outside the towns, the open, green, rural feel of the area is maintained.
- Well-designed, quality housing attracts people in a broad range of income brackets who help support the local economy.
- The Bryans Road Town Center Core becomes an attractive retail destination, and a focus for the community.
- Strip commercial development, especially along MD 210, is precluded.
- Recreation opportunities are increased and are readily accessible to residents.
- Schools, the transportation network, utilities, and other public facilities are adequate and support and enhance the Sub-Area’s development.

Economic Development

- Bryans Road and Indian Head support and complement each other rather than compete.
- Land is set aside to allow job creation to benefit residents.
- Economic assets such as the Naval Surface Warfare Center and Maryland Airport are protected and supported.

Environment

- The area’s sensitive resources, especially its rivers, forests, floodplains, and wetlands, are key elements in setting the character for the Sub-Area.
- Public access to open spaces is increased, especially to the Potomac River and Mattawoman Creek, providing health, educational, economic, and recreational benefits.