

GARRETT COUNTY PLANNING AND ZONING OFFICE

Old Courthouse, Rm. 307
313 E. Alder Street
Oakland, Maryland 21550
(301) 334-1920

**Youghiogheny River Advisory Board Meeting
Garrett Community College
Thursday, May 28, 1998, 7:00 - 9:00 p.m.**

MINUTES

Board Members Present

Roger Zbel
Don Sebold
Phil Frantz
Rusty Thomas
Asa McCain
Sull McCartney
Shaun Sanders

Guests

Glenn Tolbert
Sherry Tolbert
Don Hershfeld
Dan Clements, Cumberland Times

Board Members Absent

Jim Simms
Jerry Thayer

Staff

Gary Yoder
Dave Baker
John Nelson
Paul Durham
John Wilson

Pam Anderson
Ed Golden

Call to Order - The meeting was called to order by Chairman Sebold at 7:10 p.m.

Approval of March 12, 1998 minutes - The minutes were approved as written.

Public Comment - None

Board Discussion - Chairman Sebold raised the issue concerning the need to tape record the Board's proceedings. John Wilson indicated that he was not able to find the tape recorder which was normally used for these meetings but that he will bring the recorder for future meetings.

Board members received their packets of information and the draft regulations on May 27, 1998. Chairman Sebold expressed concern that the members have not had an opportunity to review the draft and could not make any conclusion on any of the provisions. John Wilson suggested that he could provide an overview of the draft for the

Board's information which may aide in their discussion. John's overview included the following information:

- 1) The regulations have been altered to include definitions which apply to commercial outfitter operations. The terms "activity", "commercial activity" and "guide service" have been added to the draft regs for the purpose of establishing the authority to regulate guide service operations.
- 2) The regulations have been altered under the Purpose section to specifically state that the scenic corridor of the wild river includes the wild river and its bottom and that the bottom of the river is zoned the same as the adjacent territory as shown on The Wild River Maps.
- 3) The regulations have been altered in Chapter 2 to add new provisions for commercial outfitters to establish where and how these operations will be permitted and what the application process will entail.

The consensus of the Board was that they were still not fully knowledgeable of the draft provisions and that additional time and information would be needed in order to become familiar with each section. Pam Anderson stated that she authored the draft regulations and that she could provide a detailed explanation of each section. Pam's detailed explanation included the following information:

- 1) Beginning on page 1, Section 2; a new definition for "activity" was added.
- 2) Section 6; a new definition for "commercial activity" was added.
- 3) Section 9 (New); a new definition for "guide service" was added. The first three definitions were added to specifically accommodate commercial guide service.
- 4) Section 9 (Old); home occupation definition was altered to specify that employees live in the dwelling unit.
- 5) Page 2, Section XX; a definition for "motor vehicle" was added.
- 6) Section 17; the term "activity" was added to non-conformities.
- 7) Section 21; the phrase "Wild river and its bottom" was added to the definition of Scenic Corridor.
- 8) Section 25; the definition of "structure" was altered to include a combination of materials assembled, constructed or erected at a fixed location. Rusty Thomas raised the question as to whether a school bus would be considered a structure under the proposed definition. Rusty specified that a person could theoretically establish a commercial use in a school bus which may not meet the definition as proposed in Section 25. Pam Anderson stated that she would consider any suggestions that the Board may have on this issue.
- 9) Section 27; the definition of "use" was altered to specify that a business occupation or operation is a use on any property whether it is commercial or not.
- 10) Page 3, Section .02B; a reference to Natural Resources Article 8.409 was added.
- 11) Section .03B; the phrase "including the Wild River and its bottom" was added to the section to clarify what constituted the Scenic Corridor.
- 12) Page 4-Section A.1; the phrase "Zone I includes the Wild River and its bottom" was added to the delineation of the Zone I category. Chairman Sebold indicated that the

- river bottom should not be totally included in the Zone I area, but that the bottom of the river should be the same as those areas contiguous to the river bottom.
- 13) Section .05; A new reference to the proper sub-section 8.2001 was added to this section.
 - 14) Page 6 - Chapter 02 was amended to include the term "activities" in the Use regulations... In addition to adding the term "activities" to this Section, Sections .01B-C-D & E were added to provide new provisions for the authority to establish regulations on activities and developments within the corridor. The provisions essentially added additional enforcement tools for the river manager to enforce violations of the code.
 - 15) Section .02B under Chapter 2; was added to clarify that a person who wants to commence a new use within the corridor must apply on an application form provided by the Department.
 - 16) Section C-D & E; on pages 6 and 7 have been deleted from the draft regulations.
 - 17) Section D; was added to provide new criteria under which the Department shall review and decide upon the issuance of permits. This criteria includes impacts to aquatic resources, riverine resources, private property owners, wild river characteristics and the effects on the visitor experience within the corridor.
 - 18) Page 8 - Section .03; this section added provisions for the applicability of activities within the corridor including the same approval processes which have been developed for the approval of use and developments.
 - 19) Page 9 - Section .04B; a provision for a buffer of 100 ft. was added for logging operations along the river. This proposal sparked considerable amount of discussion on the appropriateness of a buffer along the River. Phil Frantz indicated that he believes that such a buffer constitutes a taking of property and would certainly affect the property value of every adjoining land owner. Phil indicated that he is strongly opposed to the buffer language in the regulations.

Chairman Sebold indicated that he believes that it would be appropriate to establish a buffer along any public lands to assure that any commercial uses or activities do not impact private properties. Specifically, Don suggested that a 100 ft. buffer be established along the boundaries of any public land so that any users of the public lands would be prohibited from hiking, hunting, fishing or establishing any trails or other facilities within 100 ft. of private property. The Board concluded that additional discussion will be needed on this issue before this provision could be endorsed.

- 20) Page 10, Section.06; a new Section I is proposed to be added to the regulations to establish the need for a permit for all commercial guiding activities. Under Section 1.2, the draft regs specify that any person fishing must first obtain written permission from the land owner unless the person is on State land. This issue also sparked considerable discussion. Sull McCartney indicated that he is opposed to such a provision and that the need to obtain written permission would not work and would not be appropriate along the river corridor. Don Hershfeld, a member of the audience also indicated his belief that this provision is not appropriate for the river and goes well beyond the intent of the plan. Paul Durham explained that the written

permission provision is the same regulation that applies to any person who may wish to hunt or hike on private property and that the Department was simply attempting to make the law consistent with other regulations affecting trespassing. Rusty Thomas indicated that he supports the proposal to require written permission and that it is an appropriate measure to assure that trespassing does not occur within the corridor. The Board concluded that more discussion on this issue would be needed before it could endorse this proposal.

- 21) Section 1.3; adds the requirement that all commercial fishing guides shall obtain a license from the DNR before providing guide service.
- 22) Section 07.A; was amended to prohibit any commercial uses or development except such activities as guided rafting, fishing, hunting, and nature appreciation and logging, agricultural and mining operations in Zone 1.
- 23) Section .07B; the same exceptions for rafting, hunting, fishing, etc. was added for Zone 2.
- 24) Section .07C; the same exception was added for guided rafting, fishing, hunting, etc. for Zone 3.
- 25) Page 11 - Section 12; was amended to add the term "neon lights or flashing devices" are not permitted.
- 26) Chapter 03.01A; was amended to specify the specific date of the Ordinance which was May 27, 1976.

After hearing the explanation of specific amendments, Asa McCain stated that he would like to see the application form and gain a better understanding of how these regulations are applied. Mr. McCain also agrees with the concept of requiring buffers on DNR lands to protect private properties but suggested that further discussion is needed. Phil Frantz indicated that he would like to receive a written synopsis of the amendments providing an explanation of what the amendments are and why they are needed. John Wilson alternatively suggested that the Board should meet during a work session to formulate their own views and questions and forward them to the State. Phil agreed and suggested that the Board should get together on their own for a work session before the comments and questions are submitted to the Department. Consequently, on a motion made by Phil the Board agreed to conduct a work session on June 17, 1998 at 7:00 p.m. at GCC. Sull McCartney indicated that he did not think that such a meeting was necessary, however, he would be happy to provide his written comments to the Board for that meeting. Chairman Sebold directed John Nelson to set up the June 17, 1998 meeting and to distribute minutes and agenda well in advance of that meeting. The Board further agreed that they would meet with the Department once again on July 9, 1998 to further refine the Draft Regulations.

There was no further business and the meeting adjourned at 9:00 p.m.

Respectfully submitted,

John E. Nelson
Planning and Zoning Director