

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, January 5, 2011, at 1:30 p.m., in the County Commissioners Meeting Room. Members in attendance at the meeting included:

Troy Ellington	Gary Fratz	Renee Shreve
Tim Schwinabart	George Brady	Eric Robison
William Weissgerber	Paul Durham	Dr. William Pope
Tony Doerr	John Nelson-staff	Carolyn Matthews
Ruth Beitzel	William DeVore-staff	

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

A. Commission Members-Election of Officers

Troy Ellington was reelected chairman by a unanimous vote of 7 to 0.

Tony Doerr was elected vice-chairman by a unanimous vote of 7 to 0 Mr. Doerr is currently serving as an alternate member of the Commission.

Gary Fratz was elected secretary by a unanimous vote of 7 to 0.

Mr. Nelson noted that the terms for Chairman Ellington and Jeff Messenger expire on Feb 8, 2011. The Commission voted unanimously, by a vote of 7 to 0, to recommend that Mr. Ellington and Mr. Messenger be reappointed to the Commission. The Commission also recommends by unanimous vote that Tony Doerr be moved to a full time member of the Board, instead of an alternate member. The Commission would then still operate with a total of eight members, with one alternate member, instead of two.

John Nelson informed the Commission that Bob Gatto was unable to attend the meeting today due to a MACO meeting that was being held at the same time. Discussion ensued regarding the voting privileges of the ex-officio member of the Commission, from the Board of County Commissioners. Some members question whether the ex-officio member should vote on an issue that may later come before the Commissioners. The Planning Commission decided to table this discussion until the next meeting when Commissioner Gatto may be present. The Chairman noted that in the past the ex-officio member's vote has been needed for a quorum and for other input.

A. Discussion regarding adding ridgelines as a sensitive area in need of protection within the Garrett County Comprehensive Plan.

The Board of County Commissioners have directed John Nelson to request that the Planning Commission consider adding language to the Comprehensive Plan that was previously taken out of the original 2008 draft of the Plan, regarding ridge top protection. This draft language was recommended to the previous Board of Commissioners by the Planning Commission. The protection provisions in the draft Plan suggests that new regulations would be incorporated into the subdivision, sensitive areas and zoning ordinances, specifically for ridgeline protection. Mr. Nelson noted that this proposed change to the Comprehensive Plan would require a public hearing and also submission to the State as part of the clearinghouse process. After comments are received from the clearinghouse, a public hearing could be scheduled. The public hearing could be held jointly by the Commissioners and the Planning Commission.

Language on page 7-10 in the 2008 draft would be reinserted to read as follows:

Section 7.2.7 Ridgelines

“This Comprehensive Plan recognizes ridgelines as a sensitive area in need of protection. As described above, Garrett County is traversed by the northeast-south-west ridges of the Appalachian Mountains. These ridges contribute to the aesthetics, scenic quality and overall character of the County and as described in Chapter 11 (Economic Development), help attract visitors to the county who are vital to the health of the tourism sector of the local economy. Major ridgelines in Garrett County include Backbone Mountain, Big Savage Mountain, Meadow Mountain and Negro Mountain.”

The next paragraph should include the sentence: *“Ridgelines are not otherwise protected.”*

The final paragraph should read: *“Outside the Deep Creek Lake Watershed, until recently, development on ridgelines was limited to fire towers, telecommunication towers and a few scattered homes, development that occasioned little concern. Since 2003, three wind power projects (clusters of wind turbines) have been proposed, with wind turbines over 400 feet high. These proposals have focused*

attention on the potential for the large scale use of ridgelines for wind power development that could be incompatible with the aesthetics, scenic quality and rural character of the County.”

Language on page 7-15 in the 2008 draft, under Section 7.3.1 Future Growth and Development would be reinserted after the fifth paragraph to read:

“The widespread use of ridge tops for power generation has the potential to negatively affect the County’s scenic qualities and, as a potential to result, the County’s economy. Additional regulation may be necessary to avoid such negative impacts. Specifically, this Comprehensive Plan recommends the County establish a framework for regulatory control of ridge top development through subdivision, sensitive area, and possibly, zoning controls. A number of questions should be considered as part of this framework:”

- *“What kinds of environmental impacts does the state regulate, whether or not a project needs a Certificate of Public Convenience and Necessity (CPCN) from the state?¹⁶*
- *What are the best mechanisms for the County to regulate ridge top development: subdivision, sensitive area, zoning or a combination? What might be a suitable basis for regulation?” Aesthetics, scenic views, and viewsheds, proximity to other sensitive areas, such as steep slopes, and /or proximity to existing communities?*
- *What should the county regulate? Typical zoning controls address location, height, noise, setbacks and buffers.*
- *Should the county allow wind turbines in some areas, while (sic) and disallow them in other areas? On what basis?*
- *If the County regulates commercial wind turbines, provisions should still exist to allow individual turbines that serve one or a few houses or businesses?*
- *If the County were to opt to regulate wind turbines, what kinds of mitigation measures could the County adopt in addition to state requirements?”*

The text includes a picture captioned *“The ridge line of Backbone Mountain, as seen from Pleasant Valley, south of Oakland. “*

¹⁶ 2007 state legislation exempted projects under 70 MW from the need for a Certificate of Public Convenience.

Language on page 7-16, in the 2008 draft, under Section 7.4 Policies and Actions would be reinserted after the final numbered paragraph to read:

9. *“Establish a framework for regulatory control of ridgetop development through subdivision, sensitive area, and possibly, zoning controls. In establishing*

the framework, consider the questions and issues on Section 7.3.3 in this Chapter.”

The Commission also recommends the removal of the language that was inserted in the place of the initial language proposed by the Commission in Section 7.3. The Commission believes the Plan should be amended to remove: *“The County further acknowledges property rights of the owners of land that is suitable for wind power facilities to use their property for that purpose”*.

And...“The Board of County Commissioners has expressed its intent to seek legislation for authority to establish minimum set-back requirements for wind turbines from property lines and from existing residential structures.”

The Planning Commission recommends insertion of the original language into the Plan; removals of the references cited and forward these recommendations to the Commissioners, by a unanimous vote of 7 to 0. With that motion, Mr. Nelson will distribute the new language to the State and local agencies for the clearinghouse review. A joint public hearing may be scheduled for a future meeting of the Board, probably for mid-March.

A member of the Commission pointed out that the reinsertion of this language could be used as a guideline or blueprint to formulate new regulations, but the new language is not a regulation, in and of itself. Mr. Nelson explained that, if the Plan is amended, the Commissioners would have the foundation to amend the Sensitive Areas Ordinance, to be more compatible with the reinserted language. Choices would have to be made regarding which ridgelines are worthy of protection and criteria for any new standards of protection for ridgelines. This change would not control use of the land, but rather provide measures to protect the natural resource itself. Mr. Nelson does not believe that setbacks could be regulated by the Sensitive Areas Ordinance alone. Some members of the Commission feel that the best way to regulate this type of use is through zoning.

Eric Robison suggested that the Commission recommend a moratorium on any new wind farm development until new regulations are established and resolved. Mr. Robison feels that this will end the race to begin wind farm projects before some form of regulation is in place. Mr. Robison stated that the Commissioner candidates’ opinions on zoning are available online, that was part of the election process.

Mr. Nelson notes that the Commissioners have received a legal opinion regarding the moratorium issue on a specific land use without any zoning regulations in place.

Paul Durham stated that the Board of Realtors discussed this issue and fully supports the reinsertion of the ridge line protection language into the Plan, as a first step. Mr. Durham requests if this approach is not sufficient, that the Board of

Realtors recommends some type of countywide zoning, as outlined in Article 66B, to the Commissioners, to insure ridgeline protection and performance standards for gas drilling and other industrial uses. The Board of Realtors has sent a letter to the Commissioners to that effect.

Dr. Pope stated that he and others in the county are worried that with the eminent development and no zoning controls, the county may not be a very good place to live and own property, unless one could afford to buy enough property around them to insure that their quality of life in not disrupted.

John Nelson noted that the format of the Deep Creek Watershed Zoning Ordinance could serve as the framework for a county-wide ordinance. Mr. Nelson noted that the various land classifications, as shown in the Comprehensive Plan, could be the basis for zoning districts, if the county elects to begin the zoning process.

Chairman Ellington also suggests that the Allegany County zoning regulations be reviewed as a model for defining the types of wind projects and setbacks. The uses and definitions are also in the Deep Creek Watershed Zoning Ordinance. The Board of Realtors suggests extending zoning county-wide, with a maximum of “permitted” uses, and limit the number of prohibited or regulated uses to those that would have dramatic impact to the landscape, such as industrial uses, including wind turbines and gas drilling. Performance standards could be established under the model that the county already has within the zoning ordinance for the Deep Creek Watershed.

C. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases –

- a. VR678-** an application submitted by the Deep Creek Volunteer Fire Company for a Variance to attach and existing accessory building that would come within 12.0 feet of a side property line. The property is located at 1906 Deep Creek Drive, tax map 50, parcel 708 and is zoned Town Center. The Commission has no comment on the application.
- b. VR679 -** an application submitted by the Silver Tree Enterprises, LLC for Variances to allow a hotel to come within 0.0 feet of a side property line. The applicant also requests to come within 0.0 feet of a rear property line. The property is located at 565 Glendale Road, tax map 58, parcels 745 and 772 and is zoned Town Center. The Commission recommended approval of the application by a vote of 7 to 0.
- c. VR-680 -** an application submitted by Joseph Nusbaum for a Variance to allow a detached garage would come to within 10.0 feet of the front property line. The property is located at along Laurel Lane, tax map 59,

parcel 220 and is zoned Lake Residential 1. The Commission has no comment on the application.

d. SE408 - an application submitted by St. Moritz Properties, LLC, for a Special Exception permit to construct three, indoor boat storage buildings on property owned by the Bill's Marine Service. The property is located at 683 Harvey's Peninsula Road, tax map 59, parcel 607, and is zoned Lake Residential 1. The Commission has no comment on the application.

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

3. Waivers Requests- None

4. Mining Permit Applications –None.

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

1. Silver Tree Enterprises, LLC- The Commission will not act on a subdivision application submitted by Silver Tree until the Board of Appeals issues its Opinion and Order regarding VR-679.

E. Next Scheduled meeting - The next regular meeting of the Planning Commission is scheduled for Wednesday, **February 2, 2011**, in the County Commissioners Meeting Room, at **1:30 pm**.

F. Adjournment- 3:30 p.m.

Respectfully submitted,

William J. DeVore
Zoning Administrator

