

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, August 1, 2007, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting include:

Troy Ellington	Jeff Messenger	Larry Nesline
Tim Schwinabart	John Nelson-staff	Rich Skipper
Joe McRobie	William DeVore-staff	Dr. Joseph Smith
Ruth Beitzel	Paul Durham	Dr. William Pope
Fred Holliday	Karen Myers	

1. Call to Order – By Acting Chairman, Troy Ellington at 1:30 pm.
2. The July minutes were unanimously approved as corrected. The final page of the minutes should read, ...“the next regular meeting of the Planning Commission is scheduled for Wednesday, August 1, 2007”.
3. Reports of Officers – None
4. Unfinished Business – None
5. New Business-
 - A. Foxtown Road Complaint-** It has been brought to the attention of Commission members that there is a racetrack for four-wheelers outside of the Deep Creek Watershed at Foxtown Road, south of Bittinger. According to reports, there is camping at the site also. Mr. Nelson noted that noise is regulated by the State of Maryland and enforced by Maryland Department of the Environment. Camping would be regulated by the Garrett County Health Department.
 - B. Public Commentary and Discussion-** Dr. Joseph Smith addressed the Commission concerning several general recommendations and topics:
 1. Dr. Smith suggests that in order for the public to see the presentations, as they are being shown and explained, Power Point Presentation or an equivalent system should be required for all county hearings open to the public and encouraged for all meetings open to the public. Dr. Smith noted that the Power Point Program is already available in the Commissioners Meeting Room.

2. Dr. Smith believes that the high priority recommendation by planning consultants for a study of the committee system deployed in Garrett County should be instituted.
3. Dr. Smith also suggests that two weeks prior to the Planning Commission meetings, written copies of proposals should be distributed to members of the Commission and interested parties, with newspaper notice of availability on request to the public.
4. Dr. Smith feels that time should be scheduled for proposal opponents to speak at Planning Commission meetings.
5. Dr. Smith believes no editing should be permitted of transcribed reports of recorded hearings and meetings. Clarifying remarks could be added in italics.

Dr. Smith said that he would submit a short written statement with these comments to the Planning Office regarding these suggestions.

B. Amendments to the Garrett County Subdivision Ordinance proposed by DC Development, Inc. - Karen Myers of DC Development, Inc. has proposed certain amendments to the Garrett County Subdivision Ordinance for consideration by the Planning Commission:

Article 12 – Planned Residential Development (“PRD”) Outside of the Deep Creek Watershed

1201 B. Eligibility

1. Please add the following: *One of more phases of a preliminary approved PRD may be developed by a legal entity other than the originating single legal entity provided that the essence of the conceptual approval is retained and that the originating entity subjects the transfer of development rights subject to specific architectural and density controls and with all guarantees in place to assure the completion of said phase according to all PRD requirements.*

1201 M. 2.c. delete this paragraph relating to preliminary profile drawings at the Preliminary PRD approval stage and amend as follows:

*1201 M.6.b.l. Final construction drawings for the installation of all site improvements required under this Ordinance or other County regulations, and **including profile drawings showing existing ground surface and proposed road grades and utility grades, typical cross sections of the proposed roadways and sidewalks, and profiles and plans of any sanitary and storm water sewers with grades and sizes indicated, if any.***

(Note: The bold copy above is the “word for word” copy from 1201 M 2.c. that has been transferred to 1201 M.6.b.1)

Mr. Nelson noted that the County Attorney might want to reword the proposed change to the Ordinance. Ms. Myers is proposing to include the italicized wording in the amendment; the bold wording would be added as a requirement for final construction drawings. Mr. Nelson also noted that the amendments would need to be brought before the County Commissioners at a public hearing.

Ms. Myers notes that her firm has been working with the PRD Section of the subdivision Ordinance since it was created. The company has found that in reality, it is only practical to submit one set of profile drawings to the planning office. That set of drawings is the final construction set. During the design phase of all of these infrastructure systems, the engineers seek comments and opinions from the various permitting authorities so that their time can be efficiently spent on developing design drawings that can actually be approved. The developers feel that this modification will not compromise the integrity of the ordinance or the integrity of the infrastructure, and feels that it will simply permit preliminary approval of the PRD at a more appropriate point in time. Ms. Myers feels that as the ordinance is currently written, most developers seek preliminary and final approval at the same time. Lenders and other parties to a transaction seek preliminary approval at an earlier stage of the design process than is currently possible.

Ms. Myers believes that it is impossible for a local developer to have the resources to actively work simultaneously on multiple phases of the PRD. By amending 1201 B. Eligibility, development rights can be transferred to another entity with stringent architectural and density controls.

A motion was approved by the Board to approve the recommendations for changes to the Subdivision Ordinance after the final wording or the changes are worked out between Mr. Nelson and the County Attorney. The motion was approved by a vote of 5 to 0, with Commissioner Holliday abstaining.

C. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases –

The Deep Creek Watershed Board of Zoning Appeals will conduct a public hearing on Thursday, August 16, 2007, starting at 7:00 pm, in the County Commissioners Meeting Room, second floor, 203 South Fourth Street, Oakland. The Board will review the following docketed cases and hereby requests an advisory opinion from the Planning Commission for these cases:

- a. **VR-630** an application submitted by Ehsan Khademi, for Variances to allow the construction of a principal structure that would come to within 32.0 feet of a front property line, to within 13.0 feet of a side property line and to within

10.0 feet of a second side property line. The applicant also requests to allow construction of the same principle structure to within 1.0 feet of a rear property line. The owner has purchased the buy-down from the State of Maryland. The property is located on Lake Shore Drive, tax map 57, parcel 141, and is zoned Lake Residential. This case has been Continued from the July 19 meeting of the Board.

Richard Skipper of Highland Engineering has been employed by the applicant to survey the property and also assist with the application to the Board of Appeals and the Planning Commission. The case was Continued from the July meeting of the Board to allow reconsideration by the Commission and allow a letter of support by an adjacent property owner. Mr. Skipper explained his position that this variance request is a legitimate and reasonable request because of the small size and shape of this grandfathered lot. He believes that the intent of the Ordinance and the variance provision was to allow construction on these small narrow lots, but with public review and careful consideration by the Board. Mr. Skipper noted that the setback requirements completely remove the building envelope, virtually eliminating the possibility of building on this lot. The surveyor feels that this lot that was created in the 1930's, as a building lot. He noted that the proposed, modest construction would fit with the character of the neighborhood. He feels that hardship and practical difficulty was created by the adoption of the Ordinance itself, in this case. Mr. Skipper requests that the Commission make a recommendation by the Board to allow certain reduced standards for these size and type of lots.

The Planning Commission withdrew its original comments on the case and instead decided to offer no comment on this application, by a vote of 5 to 1.

- b. **VR-631-** an application submitted by Gregory Mortimer, for a Variance to allow the construction of a principal structure that would come to within 5.0 feet of a rear property line. The owner has purchased the buy-down from the State of Maryland. The property is located on Reserve Drive in the Reserve at Holy Cross subdivision, tax map 66, parcel 522, lot 16 and is zoned Lake Residential.

The Planning Commission has no comment on this application.

- c. **VR-632** an application submitted by David Lombardo, for Variances to allow the construction of a principal structure that would come to within 20.0 feet of a front property line and to within 25.0 feet of a rear property line. The property is located at 653 Harvey's Peninsula Road, tax map 59, parcels 178 and 179, and is zoned Lake Residential.

Richard Skipper of Highland Engineering, representing Mr. Lombardo, presented the case to the Commission. Mr. Skipper feels that this is also a case of grandfathered lots that are in need of a variance in order to allow the lots

intended use, as a single family building lot. Mr. Skipper noted that the lots would qualify for construction of a duplex, but the owners do not necessarily want to build a duplex, though the duplex would allow another dock permit from DNR. The owners have employed an architect to design a custom built house that would meet the duplex standards.

The Planning Commission recommends approval of VR-632 as a single-family, residential lot, by a unanimous vote of 6 to 0.

- d. **VR-633** an application submitted by Michael Salandra, for a Variance to allow the construction of a patio and outdoor fireplace that would come to within 0.0 feet of a rear property line. The owner has purchased the buy-down from the State of Maryland. The property is located on 985 Marsh Hill Road, tax map 50, parcel 352, and is zoned Lake Residential.

The Planning Commission has no comment on this application.

William DeVore, Secretary for the Board of Appeals, noted that the Board approved the application submitted by Silver Tree Enterprises, LLC, Inc. for a Special Exception (SE-385) to allow construction of a hotel that will be up to six stories and 60 feet in height. The property is located at 567 Glendale Road. The Board reconvened on Monday July 30, to decide the case. The Board decided by a vote of 3 to 0 to APPROVE the application for Special Exception, conditioned upon review and approval by the State Fire Marshal.

2. Minor Subdivisions – None

3. Waiver Requests– None

4. Ag-land Preservation District Applications-

- a. **George and Sharon Shawley** – The applicant has applied to form an Ag-land District for 101.4 acres located off of Maryland Route 495, near Rock Lock Lodge Road. Six acres would be reserved as a potential home site. Mr. Nelson believes the application meets all of the requirements to form a district and is consistent with the Comprehensive Plan. The application was approved by a unanimous 6 to 0 vote.

Mr. Nelson noted that there has been a legislative change to eliminate the need to form a district as part of the Ag-preservation process. This need would expire on July 1, 2008, unless new legislation is proposed by the county to keep the district formation process. Currently, after formation of the district, the applicant has up to five years before a permanent easement is placed on the property. The Commission took an informal poll to continue the use of the

district, by a vote of 6 to 0, but the Commission would like further input from the farming community before offering their official position on the subject.

5. Action on Planned Residential Developments (PRD)-

- a. Gated Entrances-** John Sanders of Highland Engineering has requested that gated roads be narrowed to a 12-width at the point of the gate. Mr. Sanders would like to obtain any approvals that may be appropriate so they may be used at various locations in the Wisp Resort Planned Residential Development. Copies of the schematic plan were distributed to Commission members. Siren activations systems are available and will be a component of the installations.

The Commission has concerns about activation of the gates during power outages, especially in the case of emergency vehicles. Karen Myers of Wisp Resort said that a manual over-ride would be available in the case of a power outage. Ms. Myers also noted that construction workers would be allowed access during normal working hours. According to Mr. Nelson, the Commission is not required to take action at this time. However, the Commission did request further information and an explanation of how the gates would operate in the event of a power outage. This information is to be provided by the engineer.

- b. Overlook Cabins Section I.** The developer, DC Development LLC, submitted a record plat of Lots 3, 8 and 9 of Overlook Cabins Section I, part of the Wisp Mt. PRD. The Planning Commission granted final approval of all 13 lots in December 2005. The developer plans to submit Record Plats of completed sections showing as-built locations of dwelling units for recording purposes.

6. Action on Major Subdivision Plats-

- a. Final Plat- Paradise Run.** The developer, Paradise Run LLC, proposed a 26-lot subdivision along Boy Scout Road. The property is located on Map 66, Parcel 70 in a Lake Residential zoning district. The developer sought conditional approval contingent on completion of the Stormwater and Sediment Control permit. The Commission granted conditional approval of this Final Plat by a unanimous vote of 6 to 0.
- b. Record Plat-Sweet Rewards Farm.** The developers, Don and Pam Adams submitted a Record Plat of Phase II (7 lots) of the Sweet Rewards Farm subdivision. The Planning Commission granted final approval of the 50-lot subdivision on July 6, 2005 and the developer has submitted Record Plats of separate phases for recording purposes.
- c. Revised Record Plat- Bray Run.** The developers, Maryland Developers submitted a revised Record Plat of the Bray Run Subdivision. The Planning

Commission granted final approval of the 29-lot subdivision on December 6, 2006. This revised Record Plat makes a minor lot line adjustment to lots 6 & 7 and revises a cul-de-sac radius.

7. Notice of Application for Strip Mine Permits-

- a. An application has been submitted by G & S Coal Company to the Maryland Bureau of Mines to surface mine a 38-acre tract near Kitzmiller. Access to the site is from Pee Wee Road and State Route 38. The Commission has no comment on the application.

7. Next Scheduled meeting - The next regular meeting of the Planning Commission is scheduled for Wednesday, **September 5, 2007**, in the County Commissioners Meeting Room, at **1:30 pm**.

8. Adjournment- 3:30 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator