

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, November 7, 2007, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting include:

George Brady	Pat Kelly-staff	Joe Franklin
Tim Schwinabart	Mark Weber-staff	Dr. William Pope
Jeff Messenger	Chad Fike-staff	Dr. Joseph Smith
Ruth Beitzel	Amy Nemith	Paul Durham
Joe McRobie	Edith Brock	Lois Winters
Fred Holliday	Paul Turner	Kelly Johnson
Troy Ellington	Tracey Espada	Diane Hanline
John Nelson-staff	Karen Myers	

1. Call to Order – By Chairman, George Brady at 1:30 pm.
2. The October minutes were unanimously approved, as corrected. Page 8 was corrected to strike the word “unanimous” from the vote on the Preliminary Plat on Poland Run East.
3. Reports of Officers – None
4. Unfinished Business -
 - A. **Commission Member Changes-** Mr. Nelson noted that Dennis Margroff’s term on the Planning Commission expired on November 1. The County Commissioners have signed a certificate of appreciation to be presented to Mr. Margroff. Gray Fratz has been changed from an alternate to a regular member of the Commission.
5. New Business-
 - A. **Request by Kevin Potter for an Amendment to the Deep Creek Watershed Zoning Ordinance.** Kevin Potter and Amy Nemith have approached the Commission about the possibility of allowing full kitchens in certain hotel suites. John Nelson, Director of Planning and Land Development noted that the current definition of hotel and motel is “ a building or group of buildings containing sleeping rooms for the accommodation of transient guests”. Mr. Potter’s letter, dated September 24, 2007, requests certain additions and revisions to the Ordinance. The amendment would include definitions for “hotel”, “motel”, “kitchen”, and “kitchenette”. “Hotel and motel guest rooms”, “guest suites” and “efficiency suites” are also defined in the

proposal. Amy Nemith stated that she has been working with Kevin Potter on this change to the Deep Creek Watershed zoning ordinance to accommodate kitchens. She said her research has shown that many similar resorts permit this type of hotel suite development in their ordinances and she feels that Deep Creek should also. According to Mrs. Nemith, Nags Head and Ashville, North Carolina and Lake Mountain Resort in Virginia, permit this type of development.

Mrs. Nemith feels that the planning office's definition of "kitchen" is problematic. Mrs. Nemith stated that the office has interpreted that a full size stove is the item that defines a kitchen. She feels that criteria such as management of the hotel/motel, the length of stay, the service and maintenance of the property, how the property is marketed and advertised and the check-in procedure, better define whether a business is a hotel/motel or not. Mrs. Nemith feels that the change would make the ordinance more in line with what the larger hotel chains are building at this time. Mrs. Nemith said that the request would not involve the Point View Inn because those plan are already too far along.

Mr. Nelson stated that the definition of a kitchen is not the stove/oven itself, but the nature and extent of the food preparation facilities in the unit. Mr. Nelson said that under the current regulations "kitchenettes" are allowed in hotel/motel units in the Deep Creek watershed. The new proposed changes to the ordinance would allow a full array of full-size appliances at the hotel/motels.

Commission members noted that the ability to prepare food allows the unit to have the same status as an apartment-type dwelling. Also members feel that they must carefully consider what any change to the ordinance may have on the current hotels at the lake.

Mr. Nelson explained that the real difference between apartment type dwellings and hotel/motel units is the allowable density that is spelled out in the ordinance. The director notes that a land area of 4,800 square feet is required for a complete living unit in the Town Center zoning district, where as hotel/motel densities are only restricted by parking and height regulations. Also these larger suites with full kitchens have evolved into units that are being sold to individuals and then managed by a management pool, as a type of "condo" hotel.

Karen Myers noted that the Department of Public Utilities would view a complete living unit differently than a hotel/motel unit. Mr. Nelson also pointed out the zoning ordinance was recently amended to allow up to three full dwelling units in combination with a lakefront business.

After considerable discussion, the Commission asked if this request could be circulated, or a variation of it, among the existing hotel/motel owners for their input. The Commission voted to have the planning staff pursue a clear definition of "hotel/motel" unit that would include more definitive limitations on kitchen facilities so that the office could more easily distinguish between hotel/motels and complete

living units, by a vote of 6 to 0, with one abstention. The general consensus of the Commission is to continue to allow “kitchenettes” in hotel/motel rooms but not to allow “full service kitchens”. Mr. Nelson said that he would draft wording to that effect for consideration by the Commission. Chairman Brady said that the Commission would consider the clarification to the zoning ordinance at the next regular meeting, in December.

B. Evaluation of the proposed amendments to the Transient Vacation Rental Unit (TVRU) Ordinance proposed by Pat Kelly, Licensing and Enforcement Officer.

John Nelson introduced Pat Kelly to present the changes proposed to the ordinance. A summary of the proposed changes includes: (additions to the ordinance shown in **bold**)

1. “Transient Vacation Rental Unit” shall mean a building offering complete living facilities **for one single family** under one roof provided that a maximum of 8 bedrooms (unless a greater number of bedrooms lawfully existed prior to August 5, 2003) and a maximum **over night** occupancy of two persons per bedroom plus four additional persons will be permitted on the property and that the living facilities are rented on the basis of a 14-day period or less to guests.
2. **(3.5)“Family” shall mean an individual, or 2 or more persons who are “related,” or a group of a maximum of 8 persons who are not “related”; and which involves such persons living together as a common household unit.**
3. **“Emergency Exit Plan” means a diagram of all ground floor exits located in the unit for easy reference to escape in the event of an emergency. The plan must be conspicuously posted and/or placed in the rental book at the unit.**
4. **All** Water samples shall be taken by a Maryland State certified water sampler and submitted to a Maryland State certified laboratory for bacteriological analysis **annually**. The results shall be submitted **annually** to the Garrett County Health Department. A Transient Vacation Rental Unit not equipped with a water disinfection device, found to have coliform bacteria present in the water at any time, shall immediately cease occupancy of the rental unit. Prior to resuming occupancy, the water system shall be disinfected and resampled **at the direction of by** the Health Department.
5. A proper **emergency escape and rescue opening egress** for each bedroom ...a wall mounted **and visible multi-purpose** fire extinguisher in the kitchen area; and Operable smoke alarms **properly installed** in each bedroom and an additional one per floor of the unit.

6. **The Owner of the property shall be required biennially** (once every two years) ~~annually~~ to obtain approval from the Garrett County Health Department indicating compliance with all codes...

Considerable discussion ensued regarding the definition of “family”. Diane Hanline along with several representatives from some local real estate companies feel that the definition to be incorporated into the TVRU ordinance is too restrictive. They feel that limiting rentals to families prohibits rental to other groups that may not necessarily be related. The definition of family, as written, limits the number of unrelated people to eight. Since rental homes are to be rented to single families, this wording prohibits renting to certain groups with less than eight unrelated people such as church groups, fraternities, sororities, golfing groups, softball and other sport teams, etc. Ms. Hanline feels that her rental company sufficiently screens all potential renters, eliminating any bad clientele, because of the real estate company and property owner interests. Ms. Hanline believes that this change could cause financial hardship to the county and also the real estate community. She feels that the rental companies sufficiently police renters and do not need any further regulation. John Nelson and Mr. Kelly noted that the intent of this particular change is to make it consistent with the language of the Deep Creek Watershed zoning ordinance.

Mr. Kelly also explained that this addition to the TVRU ordinance would allow units that were rentals before the enactment of the August 2003 amendment to the zoning ordinance to be under the same guidelines as later rental units, thus closing a “grandfathering” loophole. Mr. Kelly feels that this also would eliminate an inequity between TVRU owners. Other changes would help streamline the process with the Health Department and allow for greater clarity on safety issues.

Amy Nemith questions the wisdom of trying to determine whether a group is related. She feels that prohibiting groups may have a detrimental effect on the rental community. Diane Hanline along with some members of the Commission feel that the wording of the change to the TVRU ordinance and the Deep Creek Watershed zoning ordinance may be too restrictive and may need to be changed.

Mr. Kelly noted that all enforcement of the TVRU ordinance is complaint driven and the ordinance is only trying to be consistent with the current zoning ordinance. Mr. Kelly believes that real estate companies that rent to groups with more than eight unrelated people, in TVRU’s approved after August of 2003, are in violation of the zoning ordinance.

Mr. Nelson explained that the Commission should review these amendments to the TVRU ordinance and forward any recommendations to the Board of Commissioners. Chairman Brady recommends that the Commission table the proposed changes to the TVRU ordinance and that the Commission re-examine the existing definition of “family” in the Deep Creek Watershed zoning ordinance, by a vote of 6 to 0, with Commissioner Holliday abstaining.

C. Public Commentary- None

D. Miscellaneous

1. **Deep Creek Watershed Zoning Appeals Cases** – None. The next meeting of the Board of Appeals is scheduled for December 20, 2007.
2. **Minor Subdivisions** – Approved minor subdivisions have been included in the packet mailed to the Commission members prior to the meeting.
3. **Waivers Requests-**
 - A. **Glen Dumire-** Mr. Dumire is seeking a waiver to subdivide his property located along Vernies Place located off of Garrett Highway. The 4.40-acre parcel is located on tax map 85, parcel 190, located in an Agricultural Resource land classification. Mr. Dumire wishes to subdivide a one-acre lot around an existing trailer, leaving a 3.4-acre residual parcel containing an existing trailer and an existing church foundation. The waiver is required because the Agricultural Resource land classification requires a minimum lot size of three acres per dwelling unit. After discussion, the Commission granted conditional approval of the waiver request by a unanimous vote of 7 to 0.
 - B. **Paul Turner-** Mr. Turner is seeking a waiver in order to have an existing parcel approved as a building lot. The 1.9-acre parcel is designated tax map 29, parcel 115 and is located off of Green Lantern Road in an Agricultural Resource land classification. The lot was created in 2003 but the plat did not go through the required subdivision process. Since the parcel transferred in ownership from a parent to a child, a minimum lot area of one acre is permitted. However, the subdivision created a residual parcel of less than the 3-acre minimum required in the Agricultural Resource land classification. Mr. Turner is seeking a waiver to allow the residual of the subdivision to be less than three acres. After discussion, the Commission granted conditional approval of the waiver request by a unanimous vote of 7 to 0. A plat must still be submitted to the planning office showing the approved perc site. The applicant must also complete the subdivision process to have the parcel approved as a building lot.
4. **Garrett County Comprehensive Plan** – Mr. Nelson distributed four draft chapters of the Comprehensive Plan to the Commission. The chapters are now available on the Garrett County website. A meeting has been scheduled at the Garrett College Auditorium at 7:00 p.m. on Monday, November 19, 2007. Public comment will be taken at the meeting and comments will also be accepted in

writing until December 21, 2007. The Planning Office has issued a press release concerning the meeting and the availability of the first four chapters of the plan.

5. Application for Surface Mine Permits

- a. Application has been made to the Maryland Bureau of Mines by WPO, Inc. of Somerset, Pennsylvania, for an eight-acre surface mine off of Table Rock Road. Celine Wolfe and Richard Kyle own the property. The Commission had no comment on the application.
- b. Application has been made to the Maryland Bureau of Mines by Moran Coal Company, for an 24-acre surface mine on the west side of Aaron Run. Moran Coal Company owns the property. The Commission had no comment on the application.

E. Action on Planned Residential Developments (PRD) and Major Subdivisions

- 1. Wisp Resort Phase 9A, B and C Lodestone Subdivision, Greenbrier Sections III and IV.** The developers, DC Development, submitted a final plat showing a total of nine lots located off Sandy Shores and Shingle Camp roads. The property is part of the Wisp Resort Planned Residential Development and is located on tax map 49, parcel 11, and map 57, parcel 618 in a Lake Residential zoning district. The Planning Commission granted preliminary approval to a total of 60 lots during their November 1, 2006 meeting. The Commission granted approval of this Final Plat by a unanimous vote of 7 to 0.
- 2. Wisp Resort Phase 4C Ridge Run at North Camp.** The developers, North Camp Development LLC, have submitted a revised Final Plat showing a revised location for two lots in this development. The Planning Commission granted final approval to the original 28-lot layout during their April 4, 2007 meeting. The Commission granted approval of this Final Plat by a unanimous vote of 7 to 0.
- 3. Final Plat-Pine Wood Estates-** The developer, Roger Brant, proposed a three-lot subdivision off of Pine Wood Drive located off of Garrett Highway. The property is located on tax map 41, parcel 53 in a Town Residential zoning district. The Planning Commission granted Preliminary Approval on September 5, 2007. The Planning Commission granted approval of this Final Plat by a unanimous vote of 7 to 0.
- 4. Preliminary Plat-Poland Run East, Lots 6 through 10.** The developer, Appalachian Investment Properties, has proposed a 5-lot subdivision along the relocated Thousand Acres Road. The property is located on tax map 67, parcel 780 in a Lake Residential zoning district. The Planning Commission granted approval of this Preliminary Plat by a unanimous vote of 7 to 0, contingent on the

submission of an as-built survey for the intersection of Crows Point and Thousand Acres Roads.

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

G. Adjournment- 4:00 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator