

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, December 5, 2007, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting include:

Troy Ellington	John Nelson-staff	Bill Franklin
Tim Schwinabart	Mark Weber-staff	Dr. William Pope
Jeff Messenger	Pat Kelly-staff	Kelly Johnson
Ruth Beitzel	William DeVore-staff	Paul Durham
Joe McRobie	Diane Hanline	Karen Myers
Fred Holliday	Kevin Potter	

1. Call to Order – By Acting Chairman, Troy Ellington at 1:30 pm.
2. The November minutes were unanimously approved, as corrected. Page 1 was corrected to change the spelling of “Gary” replacing “Gray”.
3. Reports of Officers – None
4. Unfinished Business - None
5. New Business-

A. **Request by Kevin Potter for an Amendment to the Deep Creek Watershed Zoning Ordinance.** - John Nelson, Director of Planning and Land Development explained that, as directed by the Planning Commission, he proposed an alternative definition of hotel as a guide for an amendment to the Deep Creek Watershed Zoning Ordinance. Mr. Nelson explained that this alternative definition was prepared with his understanding of the instructions of the Planning Commission at the last regular meeting to not include full kitchens in a hotel room. The definition is spelled out in a memo from Mr. Nelson dated November 30, 2007.

Mr. Nelson explained that the Deep Creek Watershed Zoning Ordinance currently defines a hotel or motel as “a building or group of buildings containing sleeping rooms for the accommodation of transient guests”. The Planning Office has historically interpreted this definition to specifically preclude the ability to prepare meals and consequently preclude full kitchens in hotel or motel guest rooms. Mr. Nelson noted that this distinction was drawn in order to clearly separate “hotel or motel rooms” from complete “dwelling units” that are otherwise defined by the ordinance. The

director feels that it is important to draw this distinction between uses because the land area requirements and parking requirements applied to the dwelling unit use are quite different from the standards applied to the hotel/motel use.

After review of references supplied by the applicant, as well as other jurisdictions within the State, Mr. Nelson offers the following alternative definition for hotel and motel facilities for the Planning Commission's consideration:

201(31) Hotel or Motel – Regardless how owned or titled, a “hotel or motel” is a building or group of buildings which shall:

- (1) Be operated exclusively as a place of temporary lodging for transient guests.*
- (2) Be open to the public generally rather than to a limited group.*
- (3) Contain a public lobby and guest registration office with guest rooms and suites.*
- (4) Provide full-time on-site management, guest registration personnel, daily maid service and maintenance to all guest rooms and suites.*
- (5) Limit the number of different guest rooms and suite keys to the number of guest rooms and suites approved by Garrett County.*
- (6) Not have individual utility connections metered separately, including water, sewer, and electric, to individual guest rooms and suites.*
- (7) Maintain a sign with the name of the hotel or motel on the outside of the property prominently displayed.*
- (8) Maintain records for all guest rooms and suites, for at least the most recent two years, including names and addresses of guests and term of stay.*
- (9) Contain sleeping accommodations and not more than one and one-half bathrooms and may contain a kitchenette consisting of a single bowl sink, refrigerator, up to an 18-inch dishwasher, countertop and cabinetry and may contain either a microwave or up to a three burner cook-top, but not both.*
- (10) Not be construed to include any building or structure defined as a multiple-family dwelling under this ordinance for the purpose of calculating minimum land area and off-street parking per room or suite. In the case of mixed uses, the required minimum lot area and parking requirements shall equal the sum of the requirements of the various uses computed separately.*

Mr. Nelson explained that the provisions in Section (9) are inline with what has historically been interpreted to be allowed in a hotel room except for the addition of the three-burner cook-top or microwave.

Kevin Potter addressed the Planning Commission regarding his proposed changes to the Ordinance. Mr. Potter explained that he has been the owner/manager at the Point View for the past five years. He feels that his research and his hands on experience have made him an expert in the area of hotel management.

Mr. Potter read a letter that he has submitted to Mr. Nelson regarding the Point View property. The letter states that he is not pleased with the new proposed amendments to the zoning ordinance regarding the definition of hotel/motel. In light of the new proposed amendments, Mr. Potter has chosen to withdraw his proposal to further define the definition of hotel/motel in the ordinance. Mr. Potter contends that there is nothing in the current zoning ordinance that prohibits a full kitchen in a luxury hotel at Deep Creek and he asks the Planning Commission to review and consider the present hotel plans for approval.

According to Mr. Potter, there are over 20,000 hotel rooms in the U. S. that offer full kitchen facilities. Reputable companies such as Hilton, Marriott, and Starwood manage them. According to Mr. Potter's research, the hotels are predominantly located in resort areas. His research shows that those rooms are hotel suites not residences or full time dwelling units. Mr. Potter stated that there are a number of these hotels already in Maryland. Mr. Potter said that most other counties define "transient" as a stay of less than 30 days and he found no other county that attempts to limit or define hotel by kitchen, unit size, or by number of bedrooms.

Mr. Potter feels that the view that a full kitchen runs contrary to the definition of a resort, extended-stay hotel is preposterous and reflects a lack of understanding of the current U.S. hotel and resort market and a lack of appreciation for the vacationer's needs at Deep Creek Lake.

Mr. Potter pointed out that the Wisp, Will-O-Wisp and Silver Tree Suites are all principally owner occupied condominium units that may elect to market themselves to transient guests. Any owner of these units is free to stay in their unit as long as they wish. Mr. Potter notes that these hotels are not required to put their unit into the hotel management program, therefore, classifying the unit, as a hotel unit within zoning is a stretch. Mr. Potter feels that the U.S. hotel industry would not technically classify these units with full kitchens as a hotel but as a commercial condominium, offering transient rentals. However, he feels that due to the extreme seasonality of the Deep Creek Lake market, it is necessary to obtain a return on investment capital for such "hotels" by selling the units in a condominium status. He also feels that the lake vacation market has greatly benefited by having these units available to transient guests who cannot afford large lake front houses. Vacationers accept these as "hotels" and he feels that this condo-hotel model works well in the lake market.

Mr. Potter understands that the reasons that hotel/motels are regulated at the lake are to control the density of dwelling units on the lake and also restrict the conversion of existing hotel units into full-time dwelling units. Mr. Potter is certain that his hotel plan will achieve those objectives.

According to Mr. Potter, his company has chosen to market the upper-mid quality to luxury quality market that is not currently served at Deep Creek Lake. The density would be less than the number of units that zoning allows on the property. Finally, Mr. Potter is also willing to assure that these units will not become full time dwelling units by way of the condo documents and by deed.

Mr. Potter feels that hundreds of millions of dollars have been invested to advance the quality of residential lakefront properties and residential rental properties over the past two decades while almost no investment has been made to upgrade the very few lakefront commercial hospitality properties. He feels that Deep Creek is a public lake with little public access and is far behind most resort locations in commercial hospitality. He feels that the market at Deep Creek discriminates against couples; seniors, empty nesters and small families who seek quality accommodations but cannot afford to rent a lake house. He feels that the majority of transient accommodations at the lake are large single-family residences where families have to pool together to stay at a rental house. According to Mr. Potter, other resort markets in the U.S have management companies that provide guests with quality accommodations, professional services, food and beverage operations, and amenities at a cost effective price.

Mr. Potter pointed out that Point View, like Will O Wisp, has up to 12 units that already have full kitchen facilities. Mr. Potter asked the Planning Commission to review and approve the proposed hotel plan. The plan includes one and two bedroom designs with a full kitchen area. The group is asking for 36 hotel suites, which includes 46 bedrooms. The site currently has 20 units and 36 beds. Proposed amenities include restaurant, indoor pool, fitness center and onsite office management. Mr. Potter feels that the hotel will preserve the existing public access to the lake.

Mr. Potter stated that he has already spent \$200,000 and two and one-half years on the new design but the fallback development would be residential town houses. He feels that the kitchen issue will make or break the hotel project. Mr. Potter said that another similar project that he is working on has only taken three months to get to the permitting stage.

Acting chairman Ellington pointed out that the Planning Commission has been historically supportive of lakefront businesses but the Commission is cautious when it comes to changing the existing ordinances and policies. Mr. Ellington believes that density is at the root of the hotel issue.

Mr. Nelson explained that Ocean City, Maryland, does allow full sized kitchens but they also place a limit to the size of the hotel suite and also restrict the number of units to the size of the parcel. Additionally, the Ocean City zoning ordinance limits the units to 500 square feet for a regular unit with one required parking space. A hotel suite is limited to 700 square feet and requires one and one-half parking spaces. Mr. Nelson noted that a full kitchen would require the Department of Public Utilities to access a full ERU (equivalent residential user) charge for each unit.

Mr. Potter said that his company would be willing to put a deed restriction on the property to assure that the hotel units could not be used as full time dwelling units. Mr. Potter feels that this property lends itself to having a reduced density that is currently permitted by the present hotel regulations. He feels that there is a market for people who want to vacation at the lake but do not want to rent a single-family home.

Paul Durham noted that other resorts apparently do not restrict the size or nature of kitchens and he feels that this may be the direction that the county may want to pursue. Mr. Durham feels that the other recommendations proposed by Mr. Nelson were appropriate, except for the restrictions of kitchens.

Mr. Nelson recommends that the Commission develop or settle on some sort of precise definition of hotel. Ideally, this definition would clarify the nature and extent of kitchens in these hotel units, within the zoning ordinance. This proposal could then be sent to the county commissioners. Mr. Nelson also explained that if Mr. Potter feels that the Planning Office has not correctly interpreted his application for a hotel, then his recourse is to apply to the Deep Creek Watershed Board of Zoning Appeals for an interpretive hearing.

Acting chairman Ellington believes that there should be some further definition of “suite keys” in the new proposed definition of hotel. Mr. Ellington also suggests that the introduction of the three-burner stove should be eliminated in order to be consistent with the present policy. Ruth Beitzel made a motion to table the issue of amending the ordinance until more information can be gathered about the subject. The Acting Chairman tabled the issue at the request of Mrs. Beitzel.

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

During the last meeting of the Planning Commission, Pat Kelly, Licensing and Enforcement Manager, explained that his office has proposed six amendments to the Transient Vacation Rental Unit Ordinance. The first change involves adding the phrase “for one single family” to the definition of TVRU. The second proposed change is the addition of the definition of “family” to the ordinance. These first two proposed changes were the topic of a lengthy debate between the Planning Commission, representatives of the real estate community and the enforcement office during the November meeting. There were no issues raised concerning the proposed changes #3 thru #6, which are limited to safety issues in TVRU’s.

The proposed changes to the TVRU Ordinance involve the addition of the term “to one single family” and the definition of “family”. The proposal is the result of complaints filed by neighbors regarding units being rented by unrelated groups of people and inconsistencies in the definition of Transient Vacation Rental Unit between the Deep Creek Watershed Zoning Ordinance and the TVRU Ordinance. Mr. Nelson explained this situation by a memo dated November 13, 2007, mailed to Commission members.

During the last meeting, the Licensing and Enforcement Manager proposed to use the Deep Creek Zoning Ordinance wording defining Transient Vacation Rental Unit as “a building offering complete living facilities ‘for one single family’ under one roof

All living facilities must be incorporated into the principal structure and no living quarters may be installed in accessory buildings”.

The term “family” is also defined in the Zoning Ordinance as “an individual or two or more persons who are related or a group of a maximum of eight persons who are not related and which involves such persons living together as a common household unit”. The current TVRU Ordinance does not specify the limitation of a TVRU being available for “one single family” nor does it define “family”.

Mr. Nelson noted in his memo that the definition of “family” in the Deep Creek Zoning Ordinance has evolved from the specifications contained in State law with regard to the number of persons who may reside in a group home. The definition of family limits the number of occupants to eight unrelated individuals thereby creating a discrepancy between the Zoning Ordinance and TVRU Ordinance.

Mr. Nelson explained that Vacation Rental agencies oppose altering the TVRU Ordinance to limit rental of TVRU’s only to clients meeting the definition of “family” or a maximum of eight unrelated persons. Also, Mr. Nelson understands that the Commission does not support the concept of limiting the number of unrelated persons who may occupy a vacation rental unit beyond the current allowed occupancy rate of two persons per bedroom plus four additional persons.

Due to the planning office’s previous efforts to create a definition within the Zoning Ordinance for “family” that is compatible with State law relative to group homes, Mr. Nelson does not recommend alteration of the existing definition for “family”. As a result of the Commission’s position to allow rental of TVRU’s to groups larger than eight unrelated individuals and the obvious inconsistencies between the Zoning Ordinance and TVRU Ordinance relating to the definition of “Transient Vacation Rental Unit”, Mr. Nelson recommends that the Deep Creek Watershed Zoning Ordinance should be amended to make the definition of Transient Vacation Rental Unit consistent with that found within the TVRU Ordinance. Therefore, Mr. Nelson recommends the phrase “for one single family” be removed from the definition of Transient Vacation Rental Unit in the Deep Creek Zoning Ordinance. The resulting definition would read:

Transient Vacation Rental Unit shall mean a building offering complete living facilities under one roof provided that a maximum of 8 bedrooms 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. All living facilities must be incorporated into the principal structure and no living quarters may be installed in accessory buildings.

Paul Durham of the Board of Realtors noted that Board supports removal of the term “for one single family” from the Deep Creek Zoning Ordinance.

The Commission voted to recommend to the county commissioners to change the definition of “TVRU” in the Deep Creek Watershed Zoning Ordinance, as proposed.

The Commission offered no recommendation on the other four proposed amendments to the TVRU Ordinance other than the elimination of the definition for “family” in the TVRU Ordinance. The recommendation was passed by a vote of 5 to 0, with Commissioner Holliday abstaining.

In response to a question by a Commission member, Mr. Kelly explained that in certain cases he has had to pull licenses from landlords who did not comply with the TVRU Ordinance.

C. Public Commentary- None.

D. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases –

The Deep Creek Watershed Board of Zoning Appeals will conduct a public hearing on Thursday, December 20, 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-640** an application submitted by Catherine M. Lohr for a Variance to attach an existing garage to an existing single-family residence. The garage would come to within 0.0 feet of the side property line instead of the required 15 feet. The property is located at 673 Lake Shore Drive, tax map 57, parcel 172 and is zoned Lake Residential.

The Planning Commission has no comments on the application.

- b. VR-641** an application submitted by Brett W. Stevens, for a Variance to allow the construction of an addition to a residence that would come to within 33.0 feet of a rear property line. The owner has purchased the buy-down from the State of Maryland. The property is located at 543 Crows Point Road, tax map 67, parcel 347 and is zoned Lake Residential.

The Planning Commission has no comment on this 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-

- A. Howlin Realty Management, Inc.,** along with their consultants Thrasher Engineering, has proposed a 19-lot subdivision, named Hawks Nest, located off of Old Morgantown Road. The developer requests a waiver from the

maximum driveway slope of 15 percent required in the Subdivision Ordinance. The waiver would allow two lots in the development to use a shared driveway over an existing farm road with a 250 foot section with slope ranges of 15.4 to 20 percent. After discussion, the Commission granted approval of the waiver request by a vote of 5 to 1.

4. Discharge Permit Applications –

- A. **Town of Grantsville-** Renewal of a permit to discharge 4,000 gallons per day of backwater from the town’s water treatment plant. The discharge will enter an unnamed tributary of the Casselman River.

The Planning Commission has no comment on this application.

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

1. **Wisp Resort PRD: Ridge Run at North Camp, Phase 4C, Phase Two.** The developer, North Camp Development LLC, has submitted a record plat of Phase Two, lots 15-18, at North Camp Phase 4C, part of the Wisp Resort PRD. The Planning Commission previously granted final approval of the entire Phase 4C and the developer plans to submit Record Plats of individual sections or lots for recording purposes. Since this is a record plat, no action by the Commission is required.
2. **Preliminary & Final Plat, Keith Kamp-** The developer, Keith Kamp, has proposed a two-lot subdivision along Avilton Lonaconing Road. The property is located on Map 28, Parcel 7, in a Rural land classification. The Planning Commission granted approval of this Final and Preliminary plat by a unanimous vote of 6 to 0, contingent on approval of the homeowner’s documents by the County Attorney.
3. **Preliminary Plat, Hawk’s Nest-** Howlin Realty Management, Inc. has proposed a 19-lot subdivision located off of Old Morgantown Road. The property is located on Map 15, Parcel 4 in a Rural land classification. The developer also requested a waiver from the maximum driveway slope of 15 percent (see above). The Commission granted approval of the Preliminary plat by a unanimous vote of 6 to 0 and acknowledged their approval of the slope waiver.
4. **Final 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. Last month the Commission approved the plat contingent on the submission of an as-built survey for the intersection of Crows Point and Thousand Acres Roads. The County Roads department has determined that the road complies with the proper standards. The property is located on tax map 67, parcel 780 in a Lake Residential zoning district. The Planning Commission granted approval of this Final plat by a unanimous vote of 6 to 0.

5. Wisp Resort PRD: Sandy Shores Estates, Phase 11B and C. The developers, DC Development, have submitted a Preliminary plat showing a total of 51 lots to be located off of Sandy Shores Road. The property is part of the Wisp Resort PRD and is located on Map 57, Parcel 618, in a Lake Residential zoning district. The Commission granted approval of this Preliminary plat by a unanimous vote of 6 to 0.

F. Next Scheduled meeting - The next regular meeting of the Planning Commission is scheduled for Wednesday, **January 2, 2008**, in the County Commissioners Meeting Room, at **1:30 pm**.

G. Adjournment- 3:30 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator