

GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, October 14, 2009, at 1:30 pm, in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Ruth Beitzel	John Nelson-staff
Joe McRobie	Tony Doerr	William DeVore-staff
George Brady	Bill Franklin	Clive Graham
Gary Fratz	Jeff Messenger	Jenifer Huff

Also See Attached Guest List

1. Call to Order – By Chairman Ellington at 1:30 pm.
2. The September minutes were unanimously approved as submitted.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business-
 - A. **Presentation and discussion in relation to letters from Jonathan Kessler and Randee Craig-** Randee Craig, a resident of the Pergin Farm subdivision, presented a six-page handout concerning the reclassification of their family farm, near Deep Creek Lake. Mrs. Craig explained that their family would loose the ability to maximize the planned subdivision of their property, if the 96-acre farm is reclassified as proposed to Agriculture Resource. Based on the scenarios she has complied, the Craig’s would loose the ability sell between 10 and 20 additional lots. Mrs. Craig requests that the property be classified into the LR 1 zone so that they can subdivide into two-acre lots as they have planned. Mrs. Craig further explained that “down zoning” the property from residential to agricultural would impact the right to use the property as an existing subdivision. The 96-acre parcel is identified in the Pergin Cove Declaration and Covenants, which has been recorded. She noted that the property currently contains gravel roads, telephone lines and power lines and the lots are recorded with HOA documents in place. The Craig’s had hoped that sewer and public water would one day be available to allow further development as residential building lots. She feels the AR designation “doglegs” into the property and cuts it in half, with

the remainder being in the LR1 zone. Mrs. Craig also provided other examples in the Deep Creek Lake watershed where the AR zone did not protrude into the LR1 zone, as she feels it has in their case. Mrs. Craig believes that the new zoning classification reduces the value of their property. The family wishes the right to subdivide the property into one or two-acre lots and they do not feel it would be objectionable to the neighborhood. Mrs. Craig requests that the property be designated as LR1.

Mr. Nelson explained that the LR1 zone was formulated by matching the boundary of the existing or planned service area that has been developed by the Department of Public Utilities. Mr. Nelson also noted that the AR and RR categories shown in the Deep Creek Watershed were added to address the protection of resource areas as required by the State in House Bill 1141. Also these zones were introduced to deflect maximum building capacity impacts that may be caused by the more liberal LR zoning criteria. As explained in the Garrett County Comprehensive Plan, about 25,000 new units could be developed in the Deep Creek Watershed at full built-out. Information in the Comprehensive Plan also calculated that approximately 13,000 new residential units would begin to negatively impact water quality, road capacity and sewer capacity. "Down zoning" was chosen as a tool to reduce the possibility of full build-out. The new AR and RR designations were based on 2008 aerial photography and by extending those existing zones that are now outside of the watershed.

Chairman Ellington explained that the request from the Craig's would be taken under advisement along with any other proposed changes to the ordinance. The County Commissioners will also hold a public meeting on the proposed changes. Mr. Nelson expects that a final draft of the proposed ordinances to be amended will be forwarded to the County Commissioners near the end of this year.

Jonathan Kessler also addressed the issue of rezoning of his land that is included within a RR land district containing 1150 acres, along Stockslager Road, near the Deep Creek Lake dam. Mr. Kessler submitted a two-page letter addressing the change of zoning from LR to RR. Approximately 110 tracts within the property range from 5 to 100 acres in size. Mr. Kessler does not feel that this property meets the definition of RR as spelled out in the Comprehensive Plan. The area contains the sewage treatment plant and has had many subdivisions over the years. He feels that the area better qualifies as LR2, if the area is not served with public sewer. Mr. Kessler wants to protect the right of future landowners to develop the property in a manner consistent with the neighborhood. Mr. Kessler also notes that the zoning would split property into the RR and LR1 districts. Mr. Kessler stated that he appreciates the work of the Planning Commission but he would like for the county to decide its own zoning policies and avoid policies suggested by state agencies. He feels the county needs to grow to retain the area youth, keep businesses healthy and avoid excessive taxation. Mr. Kessler notes that the county where Ocean City, Maryland is located is currently two and one half times the size it was 30 years ago while Garrett County has only grown about

nine percent. Mr. Kessler believes that the population of the county must increase in order to relieve the tax burden of its citizens while affording our roads schools and other infrastructure. Mr. Kessler said the county should preserve rural lifestyles and not just the rural landscape.

Chairman Ellington explained that Mr. Kessler's request would be taken under advisement.

Mr. Nelson noted, in a response to a question from Bill Franklin that a parcel in the LR2 zone could be changed to LR1, if sewer becomes available based on the importance of public sewer, cited in the definition for each of the districts. A "map change" amendment to the ordinance would be required though.

Paul Durham supports the request made by Mr. Kessler, based on the proximity of the property to the sewage treatment plant.

Rich Skipper feels the new designation of RR and AR in the watershed is somewhat arbitrary. Mr. Skipper feels that just because an area may meet the definition of agricultural land does not necessarily compel the land to be rezoned by HB1141.

Ed King feels that it would be a mistake to make a zoning district based on the criteria of sewer availability. By state law, all septic fields are temporary.

Bill Weissgerber also feels that there are other properties designated as LR 2 that have sewer running right past them. Mr. Nelson clarified that if a property is in the Sanitary District then the owners must connect to the sewer. If they are not in the district, the properties do not have to connect.

Mr. Nelson explained that the change to the map that has been proposed is based on the States policies to direct new growth to existing population centers and to protect agricultural and rural resource areas. Also other map changes are proposed based on the build-out capacity study and the approved water and sewer plan. Consideration is also given to the fact that new discharge points for sewage treatment plants are difficult to obtain due to State regulations.

Bill Franklin pointed out that natural gas drilling is now not permitted in the Lake Residential 1 zone, even though it was previously. He also noted that mining is still permitted (by Special Exception).

Bill Meagher asked if the 13,000 unit build-out took into account the part time nature of the community. Mr. Nelson explained that sewer capacities must be designed based on maximum flows and that part time residents were taken into account.

Paul Durham asked if someone has an approved Preliminary Plat for a subdivision, how long is that approval good for? Mr. Nelson explained that under the Subdivision Ordinance the subdivision would be valid for ten years, after the date of approval. Under the Deep Creek Watershed Zoning Ordinance, the lots would be grandfathered if the lots are recorded before the changes are made.

Mr. Durham believes that the proposal for the Scenic Protection Overlay District, as the ordinance now reads, would not grandfather existing recorded lots. Mr. Durham would like to have clarification that this is the intent of the Planning Commission. Also he would like to know why these lots are not grandfathered.

Bill Weissgerber feels that the 15-foot separation between trees is too close and that the problem of the exposed crest lines is being diminished due to regeneration. He believes there are many more unsightly properties than the ones targeted by this regulation. Mr. Nelson explained that this particular concern is from the 2004 Deep Creek Lake Study that recommended some type of screening for new structures on crest lines at Deep Creek. A task force comprised of local citizens helped draft the 2004 Study.

Ed King believes that before this scenic overlay area change takes place, there should be a series of photos taken that could be used to study and document any problem areas. Mr. King believes that this would best illustrate problem areas, if there are any. Mr. King also feels that enforcement of the regulations regarding the overlay district is subjective and may be problematic.

B. Overview of the Public Information Meeting –

Mr. Nelson explained that today's overview from ERM was not intended to be a rehash of the information that will be presented at the meeting tonight, but just a review of the items that could be divisive. Clive Graham and Jenifer Huff of ERM noted that their Power Point presentation would take about one hour to complete.

Mr. Ellington reminded the Board that the meeting tonight is a public informational meeting and the issues would not be debated in this format. Individual requests must be considered at a later time. A question and answer period would be provided.

Regarding the Scenic Protection Overlay District, Mr. Nelson asked the Commission if they thought the perception of the need to protect crest lines around the Lake had changed since the 2004 Study. The issues concerning architectural guidelines and the tightening of nonconforming lot construction came from the same study. Clive Graham pointed out that there are now more people involved with the ordinance changes and some were not involved with either the Comprehensive Plan or the 2004 Deep Creek Watershed Study.

Jenifer Huff of ERM explained that the Scenic Protection area is a defined location that is shown on the newly proposed map. The area includes the Slope Protection area and the Crestline Protection area. The protected areas do not include the shore line of the lake. Mrs. Huff explained that the Slope Protection areas include slopes between 15 and 30 percent. Some members of the audience disagreed with the location of the crest lines that were identified for protection because they felt that some areas could not be seen from the lake. Bill Franklin believes that in some cases, it would be best to plant the trees in the rear of the home to help prevent a silhouette against the skyline, while still allowing a view of the lake.

Bill Weissgerber does not believe the overlay protection district is necessary and is unable to identify the problem areas that would require these regulations. Mr. Weissgerber feels that many of the areas that were cleared in the past were created because of timber harvesting and not for construction purposes.

Bill Meagher feels that the condition of the crest line area has changed since the 2002-04 construction boom. He does not believe that the problem is nearly as prevalent as it was during that time.

Mr. Ellington said that the scenic overlay provision will be removed, fixed or clarified.

Mr. Nelson believes that the changes to the ordinances could possibly be implemented by February 2010. The Commission intends to announce at the meeting this evening that the Planning Office will take public comments until the end of the month regarding these proposed amendments to the ordinances.

C. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases –

a) **SE-404-** an application submitted by Hart for Animals, Inc, for a Special Exception permit for a Spay and Neuter Clinic. The property is located at 24457 Garrett Highway tax map 42, parcel 423, Suite 2 and is zoned Town Center.

The Planning Commission has no comment on this application.

b) **VR-664-** an application submitted by Harry J. Torbert for a Variance to allow a mobile home in a trailer park that would come to within 6.5 feet of an adjacent mobile home, instead of the required 20.0 feet. The property is located at 22 Penn Mar Drive, tax map 50, parcel 48, Lot 4 and is zoned Town Center.

The Planning Commission has no comment on this application.

2. **Minor Subdivisions** – Mr. Nelson has approved, or is about to approve, a number of minor plats since the last Planning Commission meeting. Copies of the plats were included in the packet mailed to the Commission members.

3. **Waiver Requests** –

Wisp Resort PRD Phase 5B & C Lodestone Subdivision Thomas Adams of Highland Engineering and Surveying submitted a waiver request for a road in the Wisp Resort Planned Residential Development currently being developed by DC Development. The waiver was requested in order to reduce the road slope standard from county road requirements to Garrett County Subdivision Ordinance standards. This would allow a 14 percent slope for a paved road that will serve less than ten lots. The Planning Commission granted approval of this waiver request by a unanimous vote of 7 to 0.

4. **Discharge Permit Applications**– none

D. Action on Planned Residential Developments (PRD) and Major Subdivision Plats-

1. **Preliminary & Final Plat- Aviation Properties-** The developers, Aviation Properties, submitted a combined Preliminary and Final Plat for a one-lot subdivision located off of Airport Road. The property is located on Map 42, Parcel 9 in a Rural land classification. It was necessary for the lot to meet the requirements of a major subdivision since six or more lots have received final approval from this same parent tract within the previous three years. The Planning Commission granted approval of this combined Preliminary and Final Plat by a unanimous vote of 7 to 0.

E. Next Scheduled meeting - The next regular meeting of the Planning Commission is scheduled for Wednesday, **November 12, 2009**, in the County Commissioners Meeting Room, at 1:30 pm.

F. Adjournment- 4:00 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator

