

GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND DEVELOPMENT

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, September 5, 2012, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Gary Fratz	Constance Fischetti
Bob Gatto	Jeff Messenger	Joseph Fischetti
Tim Schwinabart	Tony Doerr	John Nelson-staff
George Brady	Jonathon Fischetti	William DeVore-staff

1. Call to Order - by Chairman Troy Ellington at 1:30 pm.
2. The July minutes were unanimously approved, as submitted. The Commission did not meet in August.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business –
 - A. Discussion on Amending By-Laws for the Ex-officio Member** -Mr. Nelson explained, as a carry over from the July meeting, that four positive votes must be received from the seven members of the Planning Commissions for any decisions on comprehensive plans or plan amendments. Because Commissioner Gatto customarily abstains from any decision that he will have to vote on again as county commissioner, this could lead to six voting members and possible ties in voting which could be problematic. Mr. Nelson previously distributed an advisory opinion from the county attorney concerning the issue of voting privileges for Bob Gatto, who is the current ex-officio member of the Commission. Mr. Getty believes that the commissioner could vote on any issue that comes before the Commission, if he chooses, regardless of his position as a commissioner.

After discussion, it was decided that the best option for the Commission was to have the Planning Office notify alternate members ahead of time if any decisions

on comprehensive plans or plan amendments are scheduled to come before the Commission. The Commission decided to take no action at this time, on this issue. If that type of vote appears to be needed, the planning office will contact an alternate member in advance, requesting their attendance, which would allow the chairman to solicit a seventh vote from the alternate.

Mr. Nelson also notes that the first alternate can sit in for any member. The second alternate can only substitute for the first alternate.

- B. Discussion regarding progress on Tier Mapping pursuant to SB 236-** Mr. Nelson explained that this mapping work is not available yet, but should be available shortly. The Maryland Department of Planning (MDP) has sent some preliminary maps that did not show much area labeled Tier 3, which is a key designation for any potential future major subdivisions on septic systems. The county has until the end of the year to adopt these Tier Maps.

Mr. Nelson notes that the Planning Commission will be able to adopt the mapping administratively, under the terms of the Act and a public hearing is not necessary. Mr. Nelson stated that the Planning Office would send a draft of the maps to the MDP and these maps should be available for the Planning Commission at the next regular meeting. The maps may be available sooner in digital format, which could be distributed electronically to those members that have computer access.

C. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases –

- a. VR-695** - an application submitted by Gary and Darline Sandala for relaxed standard Variances to allow the reconstruction of a residence, that would come to within 7.17 feet of the side property line and to within 35.68 feet of the rear line. The property is located at 367 Hazelhurst Road, tax map 67, parcel 646 and is zoned Lake Residential 1. The Planning Commission offered no comments on the application.
- b. Intp-20 from August 16** – Mr. Nelson explained that the decision of the zoning administrator to issue the zoning permit for Lakeside Commercial Properties, LLC was upheld by the Board of Appeals on August 16th. A separate appeal to overturn the decision made by the County Commissioners to amend the Ordinance is scheduled for Circuit Court on December 10, 2012.

By letter dated August 20, 2012, the Deep Creek Property Association (POA) requested that the Commissioners take three actions regarding the amendment issue: 1) that a moratorium be placed on any permits for any additional boat rentals; 2) a study be done regarding the impact of the amendment and; 3) the county provide a 90 day review process for any future amendments to the Deep Creek Watershed Zoning Ordinance.

The Commissioners have replied to the POA request with a letter stating; 1) that the Commissioners decided not to impose a moratorium; 2) an evaluation of any impacts the amendment may impose has already been initiated with the assistance of the Maryland Department of Natural Resources and; 3) the county would provide a notice of any future public hearings regarding amendments to the Ordinance to the POA, the Deep Creek Management Office, the Maryland Department of the Environment, the Chamber of Commerce and to the Friends of Deep Creek Lake.

Mr. Nelson notes that the Planning Commission is not required to hold a public hearing for an amendment to the zoning ordinance but the Commissioners indicated that the notice would be provided to the same list of organizations, if such a hearing were scheduled.

The Commission discussed at length, the issue of the request for variance and the resulting request to amend the Ordinance and the Interpretive hearing for the issuance of the new boat rental business. Several members of the Commission were disappointed with the level of discourse that resulted from the amendment to the Ordinance.

2. **Minor Subdivisions** – Approved minor subdivisions were included in the packet mailed to the Commission members prior to the meeting.
3. **Major Subdivisions** –
 - a. **Handyside Commercial Lots**- Keith Handyside, Cobblestone Holdings, LLC, submitted a Preliminary and Final Plat for a two-lot commercial subdivision located along Deep Creek Drive. The property is designated tax map 41, parcel 210 and located in a Town Center zoning district. The Planning Commission granted approval of this Preliminary and Final Plat by a unanimous vote of 7 to 0.
4. **Waiver Requests**– Due to scheduling considerations, the waiver requests were heard first on the Planning Commission agenda.
 - a. **Fischetti**- Robert and Constance Fischetti submitted waiver requests in order to create a three-lot major subdivision on their property located along White Fawn Lane. The property is designated tax map 27, parcel

35, lot 8 and located in a Rural Resource land classification. Mr. and Mrs. Fischetti requested waivers from the private road design standards and the requirement for submittal of homeowner documents associated with road maintenance. After considerable discussion, the Planning Commission granted approval of the waiver from road design standards by a unanimous vote of 7 to 0. The Commission denied the waiver from homeowners' documents requirement by a unanimous vote of 7 to 0.

- b. Dave Baker submitted a waiver request in order to create a three-lot minor subdivision on his property located along McAndrews Hill Road and Moonridge Lane. The property is designated tax map 27, parcel 123 and is located in a Rural Resource land classification. Mr. Baker requested a waiver to allow the creation of two flag lots rather than the maximum total of one flag lot permitted by the subdivision ordinance. After discussion, the Planning Commission granted conditional approval of the waiver request by a unanimous vote of 7 to 0. The Commission's approval is contingent on the condition that the deeds for lots 2 and 3 must provide for shared maintenance costs, if a common driveway is used by both lots.

5. Mining Permit Applications –

- a. **Beechwood Coal, LLC** - has submitted mining permit application to the Maryland Bureau of Mines, application number OPA12-37, to surface mine coal. The operation would be located approximately one mile west of Klondike, off of Hersick Road. The application will affect 14 acres on the south side of Woodland Creek. The surface and mineral is owned by Koontz Coal Company. Written comments will be received by the Maryland Bureau of Mines until September 17, 2012.
- b. **ARJ Construction Company, Inc.** - has submitted an underground mining permit, application number OPA12-20, to mine coal. The operation would be located approximately 3.1 miles northeast of Westernport, off of Westernport Road. The application is for 1558 acres on the east side of Aaron Run. The surface and mineral is owned by Moran Coal Company. Written comments will be received by the Maryland Bureau of Mines until September 17, 2012.

No comments were offered by the Planning Commission on either application.

- #### **6. Discussion Regarding Marcellus Shale Drilling and other Natural Gas Drilling-**
- Mr. Nelson stated that Friends of Deep Creek Lake recently conducted a forum regarding gas drilling in the Deep Creek Watershed and noted that the current Ordinance currently allows drilling subject to setbacks. The chairman noted that the Garrett County Marcellus Shale Committee meets

periodically to discuss and plan for any eventual drilling in the area. The Deep Creek POA has established a subcommittee regarding the issue and the State has a committee devoted to the subject. All state and county committee meetings are open to the public.

7. Aglan Preservation District Applications-None

D. Next Scheduled meeting - The next regular meeting of the Planning Commission will be held on **October 3, 2012**, in the County Commissioners Meeting Room, at 1:30 pm.

E. Adjournment- 3:00 p.m.

Respectfully submitted,

William J. DeVore
Zoning Administrator

