

# DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT

GARRETT COUNTY OFFICE OF PLANNING AND LAND MANAGEMENT

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## MINUTES

**The Garrett County Planning Commission** held its regular monthly meeting on Wednesday, March 5, 2014, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Jonathan Kessler	Bob Nickel
Rick Schiff	Kathleen Meagher	Greg Skidmore
Jeff Messenger	Bob Hoffmann	Ted Raynovich III
Tony Doerr	Susie Crawford	Adrian Spiker
Tim Schwinabart	Carol Jacobs	Deborah Carpenter -staff
William Weissgerber	Parker Jacobs	William DeVore-staff
Paul Durham	Gary Pfirrmann	Chad Fike-staff
Lauren O'Brien	Travis McCann	

1. Call to Order - by Chairman Ellington at 1:30 pm.
2. The February minutes were unanimously approved, as submitted.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business –

**A. Discussion on Commissioner's Decision on Meagher Case and Commissioner's Suggestion to the Planning Commission-** Chairman Ellington suggested starting the meeting by having Deborah Carpenter, Assistant Director of the Office of Planning and Land Management clarify the request of the County Commissioners that was made at their February 18, 2014 meeting.

Mrs. Carpenter explained that at that meeting, the Meagher request for an amendment to the Deep Creek Watershed Zoning Ordinance died, for lack of a second and that no discussion of that amendment is being held today.

At that meeting, the Commissioners did make a request of the Planning Commission and issued a position statement from Commissioner Crawford and Chairman Gatto. Mrs. Carpenter read the statement found in the Commissioners draft minutes of the February 18 meeting:

*Deep Creek Lake is a recreational area and given its nature it is subject to competing demands. The public has expressed concern that there has not been sufficient public discussion and consideration of issues relating to recreational uses and the Board is simply responding to that concern and are asking the Planning Commission for their input, nothing more. Executive action by the Board signified by the vote by Commissioner Crawford and Chairman Gatto documented that the Board of County Commissioners are not planning professionals and they have simply asked for the Planning Commission to examine the concept. The Commissioners have not asked for, taken nor have they proposed any change to the Zoning Ordinance nor does this specifically apply to or is related to the Petitions submitted by William Meagher.*

Mrs. Carpenter believes that the Commissioners are asking, in the wake of the public dissension over this issue, does the Planning Commission think that by making more recreational, Special Exception uses that this would be a way to allow for more public input and discussion. The Assistant Director believes that the Commissioners are not asking for any action at this time, but just a discussion on the issue.

Mrs. Carpenter stated that the root of what the Commissioners are asking for centers on opportunity for public input. If that is the issue, Mrs. Carpenter contends that a broader use of the Special Exception use is not the optimal way to address the issues of public notice and public participation.

Mrs. Carpenter feels that a positive of the Special Exception designation is the notification to adjacent land owners, the need for a public hearing and the overall notification process. A negative is that a Special Exception use can be very hard to disallow based on the court decision known as the Schultz vs. Pritts case. If the objective is to increase public notification and input for text amendments brought before the Planning Commission, Mrs. Carpenter contends that purpose is better served by examining the existing processes and not by a comprehensive review of the ordinance that was just comprehensively reviewed in 2010.

In 2012, the Commissioners did institute a change in processes which entailed notification of any public hearings regarding requested amendments to the Zoning Ordinance to the Property Owners Association, the Deep Creek Management Office, the Maryland Department of the Environment, the Chamber of Commerce and to the Friends of Deep Creek Lake.

The Assistant Director believes that a review of processes to add additional means by which the public can participate, can be done over the next few months at the Planning Commission's request or it can be tabled until the next comprehensive planning cycle.

Chairman Ellington notes that the Commission is to review the pros and cons of a Special Exception use. The Commission does not have to take action at this time.

The chairman feels that it would be premature to make any changes at this time, until the ethics charge by Carol Jacobs is resolved and also until it is known when the Comprehensive Plan and Zoning Ordinance will need to be updated. The chairman suggests that this issue be tabled until these questions can be answered.

Tony Doerr believes that this request by the Commissioners was brought about by the Meagher amendment and the possible option of making certain uses permitted by Special Exception. Mr. Doerr explained how this divisive issue began and hopes that this type problem does not happen again. The chairman noted that Mr. Meagher could still reapply for an amendment to the ordinance, for the marina use, to be permitted by Special Exception.

Bob Browning, Chairman of the Deep Creek Watershed Board of Zoning Appeals, explained that the marina case started as a Variance to the Board of Appeals. The Variance was withdrawn at the request of the applicant after it became apparent that the Board may not approve the Variance. At that time, the Board felt that it would be more appropriate to request an amendment to the Zoning Ordinance. Mr. Browning explained that because of the Pritts case, the Board has limitations when a Special Exception use should be denied. Mr. Browning explained that the Board has denied these types of uses in the past, if the impact is greater in that particular location than anywhere else, but that is a high standard. Traffic and safety is also always considered by the Board for Special Exception cases.

Mr. Browning believes that the rear yard, buydown Variance should be eliminated by allowing review and approval, administratively. Mr. Browning also feels that Special Exceptions should not be necessary for Transient Vacation Rentals between six and eight bedrooms, because it pits neighbor against neighbor and is difficult to disallow anyway. Chairman Ellington also brought up the issue of certain limits that could be placed on Special Exception permits.

Jonathan Kessler believes that the marina issue has been politicized to the point that someone has gotten hurt in the process. He believes that some zoning procedures need to be reevaluated and improved. Mr. Kessler is not necessarily an advocate for the Special Exception but he believes the Special Exception can be useful in creating conversation, which may be helpful in certain cases. Mr. Kessler suggests that the Board also look at the role of the ex officio member of the Commission to help break important tie votes. Mr. Kessler also believes that there should be some remedy in the zoning ordinance for a changed decision, in the case of a developer who went through the process and is adversely impacted by an overturned decision.

Chairman Ellington recalled that the Commission had earlier requested that the ex officio member of the Board be a non voting member, but that was deemed to be not proper by the county attorney. The chairman suggests that staff further

investigate this issue.

William DeVore, secretary for the Commission suggested that the group could review Section 157.024 (C) which deals with Public or Private Recreational Uses in the Ordinance, which has been the subject of some controversy recently. Mr. DeVore suggests that a review of this section of the ordinance may be an effective way to address the issue, in lieu of a comprehensive review.

Assistant Director Carpenter explained that the timetable for the review of the Comprehensive Plan has not yet been set, but she would discuss this timing with the State.

Carol Jacobs strongly urges the Planning Commission to end this issue of amending the ordinance regarding boat rentals. Mrs. Jacobs also submitted a five-page paper outlining her position on this issue. Gary Pfirrmann also believes that the Commission should wait until the ethics complaint is addressed before acting on the County Commissioners request.

The Chairman made a motion to postpone or table this issue until the ethics complaint by Carol Jacobs is resolved and also until it is known when the Comprehensive Plan and Zoning Ordinance will be required to be updated. A motion was made to this effect and approved by a vote of 6 to 0.

## **B. Miscellaneous**

### **1. Deep Creek Watershed Zoning Appeals Cases –**

- a. SE-433** an application submitted by Endeavors Seven, LLC, for a Special Exception permit for the construction of an eight-bedroom Transient Vacation Rental Unit. The property is located off of Lakefront Links Drive, tax map 59, parcel 611, lot 47 and is zoned LR1. The Planning Commission offered no comments on the proposed application.
- b. VR-714** - an application submitted by David J. Meyers for a Variance to allow an addition to a residence, that would come to within 27.8 feet of the rear property lines. The property is located at 632 Beckman Road, tax map 59, parcel 337, and is zoned Lake Residential 1. The Planning Commission offered no comments on the proposed application.

**2. Minor Subdivisions** – Approved minor subdivisions were included in the packet mailed to the Commission members prior to the meeting.

**3. Mining Permits** – None

- 4. Discussion on Major Subdivisions and PRD's-**
- a. Preliminary and Final Plat- Grant County Bank- Lot 8** – The developers, Grant County Bank, submitted a revised Preliminary and Final plat for one commercial lot located on Deep Creek Drive. Lot 8 is located on tax map 41, parcel 51 in a Town Center zoning district. Additional acreage has been added to the lot approved by the Planning Commission last month. The Planning Commission granted approval of the revised Preliminary and Final plat by a unanimous vote of 6 to 0.
  
  - C. Next Scheduled meeting** - The next regular meeting of the Planning Commission will be held on **April 2, 2014**, in the County Commissioners Meeting Room, at 1:30 pm.
  
  - D. Adjournment-** 3:00 p.m.

Respectfully submitted,

William J. DeVore  
Zoning Administrator

