

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, April 2, 2014, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Renee Shreve	Bob Nickel
Rick Schiff	Charles Davis, Sr.	Greg Skidmore
Jeff Messenger	Robert Hoffmann	Karen Myers
Tim Schwinabart	Susie Crawford	Adrian Spiker
Bob Gatto	Carol Jacobs	Jerry Plauger
Robert Cuthriell	Parker Jacobs	Morgan France
Paul Durham	Gary Pfirrmann	Martin Hurbi
Lauren O'Brien	Travis McCann	Deborah Carpenter -staff
Michelle Josephs	Paul Sines	William DeVore-staff
Tim Josephs	Dan Moore	Chad Fike-staff

1. Call to Order - by Chairman Ellington at 1:30 pm.
2. The March minutes were unanimously approved, as submitted, by a vote of 5 to 0.
3. Report of Officers – None
4. Unfinished Business – None
5. Deep Creek Watershed Zoning Appeals Cases –
 - a. **VR-715** an application submitted by Delores J. Vonada for a Variance to allow a residence that would come to within 5.0 feet of the side property line. The property is located at 561 Marsh Hill Road, tax map 50, parcel 529 and is zoned Lake Residential 1 (LR1). The Planning Commission supports the request for the Variance, by a vote of 5 to 0.
 - b. **VR-716** - an application submitted by Mike and Tracy Byrum for a Variance to allow a residence, that would come to within 15.0 feet of the rear property line. The property is located at Lot 12, off of Holy Cross Drive, tax map 66, parcel 522, and is zoned LR1. The Planning Commission supports the request for the Variance, by a vote of 5 to 0.

- c. **SE-434** - an application submitted by Adrian Spiker II, for a Special Exception permit for a commercial recreational trail area. The applicant proposes to develop off road trails for motorized and non-motorized activities including biking, hiking, cross country skiing and other off-road vehicle use on property owned by the applicant. The property is a 246-acre tract located off of Shingle Camp Road, tax map 57, parcel 47, and is zoned LR1.

Adrian Spiker and Karen Myers presented the application for the Special Exception in response to questions from the Planning Commission. Mr. Spiker explained the applicant's intent to keep all noise levels below a 65 decibel level at all adjacent, affected property lines. Mr. Spiker explained that according to his research, that this is the standard for these types of activities for non-competition vehicles. Mr. Spiker explained that anyone entering the park must comply with SAE-1287, which is a test that measures the sound 20 inches away from the muffler of the motor, at roughly 50 percent of the maximum rpm, which is limited to 96 decibels. Mr. Spiker believes the overriding threshold would be the 65 decibel, measured at the property line, which he believes is enforceable. Mr. Spiker has hired an acoustical engineer to measure the sound at various areas around the property. The engineer will also be available at the planned public hearing later this month.

Karen Myers explained that the park itself would be charged with enforcing the self-imposed sound regulations. There will be an attendant at the park at all times to monitor all vehicles that would enter the park. Mrs. Myers expects that the conditions of the permit would require that these regulations would have to be enforced. Mrs. Myers explained that the applicant had an informational, advertised meeting on Saturday, March 29th, at the Wisp. The applicant was careful to invite all of the people in the area, especially residents along Stockslager Road. Mrs. Myers presented a copy of the map that was submitted with the application showing the area where the motorized trails would be located. Mrs. Myers explained that the goal is to have sustainable trails that would be generally along the contour with a minimum 200-ft. of buffer from adjacent properties around the trail area. The applicants propose that the acoustical engineer would document the noise levels at each affected property. Wetlands and streams would be avoided. Adrian Spiker plans to build his own home on the property in the near future and believes the noise can be better controlled by the commercial trail park versus a noncommercial park. Mrs. Myers explained that the owners are attempting to communicate with the neighbors because they know that there are issues to be worked out.

Paul Sines has concerns over the noise that this activity may produce with multiple machines running at the same time. Chairman Ellington noted that the use is permitted by Special Exception and that the Shultz versus Pritts court case makes Special Exceptions in Maryland difficult to disapprove outright.

Dan Moore has concerns about ambient noise, wildlife impacts, dust, fumes and other related problems. He believes that this use would change the character of the neighborhood. Mr. Moore is expressing his concerns because he believes that the use cannot be policed or monitored and he believes it does affect the peaceful enjoyment of the property owners in the area.

Martin Hurbi stated that the discussion is not about 65 decibels at the property line because a standard allowing 65 decibels at property line would still be annoying. Mr. Hurbi believes that this is a disruptive commercial business that will cause constant noise in a residential zone, creating annoyance and conflict where none exists today. Mr. Hurbi is concerned about the protection of property rights, investment values and the integrity of the existing zoning.

Mr. Hurbi listed some of the uses that are not permitted in this zone and also notes that the sale and rental of all terrain vehicles is not permitted in the LR1 zone. Mr. Hurbi notes problems with noise associated with personal watercraft and boats but now has additional concerns about these land machines running all in one place, from dusk to dawn. He believes that conflict is guaranteed and lawsuits will follow. Mr. Hurbi observes that the neighborhood around Stockslager Road has values assessed at approximately \$34,973,400.

One of the Commission members asked the group, if the proposal was for non-motorized vehicles, would the request still be opposed? The general consensus from those in opposition was that it would not be opposed for non-motorized trails.

Bob Cuthriell also expressed concerns regarding the commercial use of multiple vehicles at the 246-acre site. He is concerned about the high speeds of the machines and the persistent noise and lack of enforcement. Mr. Cuthriell believes that this is an inappropriate activity in this LR1 zone and that there is no basis for this use in the ordinance. He believes anything other than zero noise is objectionable. Mr. Cuthriell believes that the Commission should, at least, urge the Board to deliberate very carefully on this matter because of the serious objections by the neighbors.

Ginny Hatcher asked, if the request goes forward, who would be charged with the enforcement of the sound restrictions. Mrs. Carpenter, Assistant Director of Planning and Land Management notes that sound enforcement is regulated by the State of Maryland.

The Planning Commission believes that given the many well drafted letters regarding the proposal and valid points and concerns that have been raised, if the Special Exception is approved, the Board of Appeals should have adequate constraints to mitigate the concerns that have been brought out by the numerous letters of opposition. A motion to that affect was approved by a vote of 4 to 0, with one recusal.

6. Old Business –

A. Tabled Special Exception Issue- Deborah Carpenter, Assistant Director of the Office of Planning and Land Management stated that she will apply for funding to begin development of the new Comprehensive Plan next year, during Fiscal Year 2016. Mrs. Carpenter noted that the Maryland Department of Planning has no position on the issue, as long as the plan is developed within the ten year cycle. Mrs. Carpenter will apply for funding in 2016 for a consultant to help begin development of the plan, which should be completed by 2018, ten years from the last plan. After that time, the affected Ordinances would be amended to reflect the changes to the Comprehensive Plan.

Mrs. Carpenter explained that the ethics violation complaint that was submitted by Carol Jacobs has been dismissed. Mrs. Carpenter recommends that the review of this Special Exception issue should be reviewed within the context of the new Comprehensive Plan update that will begin next year. The Commission believes that there is no pressing need to begin the review of the Comprehensive plan now. A motion was made to begin the process next year by a unanimous vote of 5 to 0.

B. Discussion regarding Ex Officio member- Mrs. Carpenter has researched the previous letter from County Attorney Mike Getty stating that Commissioner Gatto is one of the seven members of the Planning Commission. There also is an alternate member of the Commission and a member who can sit-in for the alternate member. The question was brought up at the last meeting regarding the lack of a full, seven-member Commission when Commissioner Gatto recuses himself for issues that he must vote on again, as County Commissioner. Mrs. Carpenter notes that every effort should be made to have all members present especially when there is an issue that must be decided that would exclude the Ex-Officio, member of the Commission. The other possibility is to amend the

by-laws to allow for two alternates. The Board decided to not change the make up of the Planning Commission at this time.

7. New Business-

A. Discussion of Review of Process- Mrs. Carpenter explained that Lindsley Williams has written a letter suggesting that the Planning Office delay all Special Exceptions for an additional month in order to better notify the public of a pending request. In response to the Williams letter, Mrs. Carpenter explained that the Planning Office staff will implement a strict policy that any application for Special Exception must be made and determined to be complete, at least ten days before the meeting of the Planning Commission, in order to provide staff and the Planning Commission with important review time for such applications. The application may be delayed until the following meeting of the Planning Commission, if the application is not applied for at least ten calendar days before the meeting of the Planning Commission.

Applications for Variances could still be submitted up until the date of the deadline for advertising, as long as the application is deemed complete and available for comment at the regular monthly meeting of the Planning Commission.

Zoning Amendments by the general public would also have to be submitted at least ten days in advance of the Planning Commission meeting, to allow for notification of the five stakeholder groups as previously established; Department of Natural Resources, Maryland Department of the Environment, the Deep Creek Property Owners Association, the Chamber of Commerce and the Friends of Deep Creek Lake. The ten day time period before the meeting would also allow for review by staff and circulation of the amendment request in the packets that are sent to Commission members by regular mail.

Mrs. Carpenter believes that this new policy will accomplish the request by Mr. Williams to slow down the process and also allow for more public review and input on any proposed zoning amendments and special exceptions. The policy also meets the requirements of the zoning ordinance. The Planning Commission approved the enactment of the policy.

B. Miscellaneous

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

2. Waiver Requests – None

3. Discussion on Major Subdivisions and PRD's-

a. Preliminary and Final Plat- Grant County Bank- Lot 9 – The developers, Grant County Bank, submitted a revised Preliminary and Final plat for one commercial lot located on Deep Creek Drive. Lot 9 is located on tax map 41, parcel 51 in a Town Center zoning district. The Planning Commission granted approval of the revised Preliminary and Final plat by a unanimous vote of 5 to 0.

C. Next Scheduled meeting - The next regular meeting of the Planning Commission will be held on **May 7, 2014**, in the County Commissioners Meeting Room, at 1:30 pm.

D. Adjournment- 3:00 p.m.

Respectfully submitted,

William J. DeVore
Zoning Administrator

