

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, December 3, 2014, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Pete Versteegen	Karen Myers
Rick Schiff	Eric Robison	Deborah Carpenter -staff
Tim Schwinabart	Paul Durham	William DeVore-staff
Jeff Messenger	Morgan France	Chad Fike-staff
Tony Doerr	Barbara Beelar	
William Weissgerber	Tom Craven	

1. Call to Order - by Chairman Ellington at 1:45 pm.
2. The November minutes were unanimously approved, by a vote of 6 to 0.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business – Tony Doerr noted that a sewage spill at Deep Creek Drive was thought to be the result of a failed grinder pump. Mr. Doerr asked Paul Durham of the Board of Realtors if future occurrences, such as these, could be prevented by requiring replacement of antiquated grinder pumps, as part of the sale of any property. Mr. Durham noted that the law does require certain disclosures before any sale and suggested that a member of the Department of Public Utilities attend a future meeting of the Board of Realtors to discuss the matter.

A. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases-None

2. Major Subdivisions- None

3. Action on Planned Residential Developments (PRD's)-

- a. Wisp Resort/Villages of the Wisp.** At the November meeting of the Commission, Karen Myers presented a request to convey a small area of common space from the Wisp Resort Master Association, Inc. to the Deep Creek Highlands Property Owners Association, Inc. Mrs. Myers explained that she must re-approach the Commission to revise the acreage associated with the conveyance of the property. During the November 5, 2014, meeting the Planning Commission approved a request to convey an area estimated to be less than one-half acre that included the location of an existing stairway leading from the Deep Creek Highlands development to a parking lot on Marsh Hill Road. The new lot line adjustment plat by Highland Engineering, distributed by Mrs. Myers, shows an area which totals 7.31 acres. The PRD common space requirement would still well exceed the required open space minimum. After discussion, the Commission granted approval to convey the revised area of common open space by a unanimous vote of 6 to 0.
- b. Wisp Resort Phase 7, Lodestone Subdivision, Biltmore Section III.** The developers, NLP of Maryland, LLC, submitted a final plat showing a total of 28 lots located off Shingle Camp Road. The property is part of the Wisp Resort PRD and is located on tax map 49, parcel 142, in a Lake Residential 1 (LR1) zoning district. The Planning Commission granted preliminary approval for a total of 145 lots, in Biltmore, during their September 2013 meeting. The Commission granted approval of this Final plat, for Section III, by a unanimous vote of 6 to 0.

4. Waiver Requests – None

B. Discussion Item –Shale gas drilling-Education

Chairman Ellington explained that much has happened since the last meeting of the Commission regarding shale gas drilling. The Garrett County Shale Gas Advisory Committee has completed their report and the County Commissioners have endorsed the findings of the committee, as reported in the Cumberland Times News this morning. The chairman feels that there may be more pressure on the Commission to take some form of action or at the very least, continue to study and discuss the issue. According to their own accounts in information distributed by Assistant Director Carpenter, some counties were unprepared for the arrival of shale gas drilling. Circulated documents identify winners, losers and problem areas that could have been avoided. Chairman Ellington believes that the Commission may not be afforded the time to avoid action, if it waits to address this issue during the next review cycle of the Comprehensive Plan.

Mrs. Carpenter explained at the last meeting that the current wording of the Comprehensive Plan encourages the extraction of natural resources, in a responsible

manner. The chairman feels that the plan proposed by the Deep Creek Property Owners Association, to prohibit vertical drilling in the watershed, could still meet the criteria, if 97% of the gas in the watershed could still be recovered, as predicted.

Mrs. Carpenter noted that the Greene County report, the report from the SGAC and the “Review of Hydro Fracking and its Potential Effects on Real Estate” were sent to the Planning Commission members. Eric Robison believes that MDE will be releasing its findings and recommendations in the near term and there will be a public comment period as the regulations are moved forward. Currently, the proposed regulations include a Comprehensive Gas Development Plan, which would entail a lengthy, detailed development permitting process. The regulatory process is not complete at the county level, though a state permit will be required for gas drilling, through the Maryland Department of the Environment (MDE). It was noted by the Commission that the current language of the regulations proposes that any vertical drilling requires a 2,000 foot setback from domestic water supplies.

Paul Durham noted that Governor O’Malley has requested the proposed new regulation on gas drilling to move forward, though the process cannot end until Governor-elect Hogan takes office in January. Deborah Carpenter notes that there are political dynamics at play at the county and state level at this time. The Administrative Secretaries in MDE and the Department of Natural Resources (DNR) are also likely to change and may influence the new regulations. It is understood that much more will be known after the new leaders take their respective offices. Eric Robison believes that some of the proposed regulations are stricter than in other states. Mr. Robinson stated that some of the components of the regulations were derived directly from what was felt to be best practices in certain states.

The chairman believes that many topics are not addressed by the State, including demand for traffic control, medical care, social services, housing and other unexpected consequences. The question is what should be done at the county level to plan for any possible impacts. The chairman noted that a request has been submitted to the Garrett County Commissioners to prohibit vertical drilling within the area of the Deep Creek Watershed, though no formal request was made to the Planning Commission. A 2,000 foot setback from the high water elevation of Deep Creek Lake is currently required by the zoning ordinance. The additional 2,000 foot setback from domestic wells would also prohibit vertical drilling in much of the Deep Creek Watershed. Some members believe that controlled growth should be the goal of the Commission.

Mrs. Carpenter stated that the county is now beginning a road inventory of the county road system. Eric Robison notes that the transportation plan that will be part of the drilling permit will have to be addressed by the drilling companies, including which roads will be used and any potential impacts. Mr. Robison believes that the county should have a process in place to recover funding to repair damages to county roads, including a bonding mechanism and which would include enabling authority to allow bonding by the county. Bonding would insure that county roads would be returned to

their unaffected status. Mr. Robison believes that a separate county permit could be used to help regulate truck traffic, school bus routes and other traffic associated with special county events, such as Autumn Glory or the Deep Creek Dunk. The county will also be involved with grading permits and entrance permits for any gas drilling. Some members also believe that consideration must also be given to surface and groundwater protection along with the possible industrialization of the view shed.

The introduction of a new “fracking” processing involving blasting, instead of the use of high water pressure was also discussed. Eric Robison stated that the company that has proposed the new technology, Alliant Techsystems (ATK), did a presentation before the advisory board, but the technique is not thought to be economically feasible at this time and not been accepted by the industry, largely due to lower gas recovery rates.

Mrs. Carpenter stated that she could schedule more educational topics and guest speakers for future Commission meetings. The group noted that because gas associated with Marcellus Shale in Garrett County would be “dry”, it may not be in greater demand as oil producing formations and may not be profitable in the near term. Others feel that the development of this gas formation may be 15 years or more away.

Mr. Durham believes that the issue of allowing gas drilling should be considered county-wide. He also believes that the Commission should consider whether this industrial use is compatible with the Deep Creek Watershed. Paul Durham is concerned that the gas may be bought, in bulk, by way of the export market. The group understands that the demand for energy and the market for natural gas will be determined by market forces that are beyond the scope of the Commission.

Tom Craven believes that county-wide zoning should also be considered at this time and the county can avoid the mistakes that were made in other states. He believes that this body can act regardless of what the State of Maryland does. Mr. Craven feels that the county can be used as a baseline standard for “pre-fracking” water quality.

Barbara Beelar notes that water sampling and testing can be expensive, up to \$1,000 for one well. Testing can be even more costly for substances such as radon, methane and heavy metals. Eric Robison notes that the results of some of the water testing, conducted by the Maryland Geological Survey in the county, can be found on line.

Some Commission members believe that the gas industry will be regulated by way of a strict process, similar to the way the coal mining industry is regulated, in Maryland. Permit applications are submitted to the Maryland Bureau of Mines in Frostburg and are only issued after the consequences are weighed, water samples are taken, disturbed areas are bonded and the extensive application is reviewed by appropriate agencies. The coal is taxed by the county, state and the federal government. The coal company is responsible for any domestic water wells that are taken and must be replaced by the coal company. National Pollutant Discharge Elimination System permits (NPDES) are required, specific to the receiving stream. Coal, like the Marcellus Shale formation, is

restricted to the two most western counties of the State, though other gas bearing formations do exist in Maryland.

Pete Versteegen believes that the amount of shale gas produced from Garrett County will have little national impact on the total gas produced. He feels that the surrounding states will regret their decision to allow gas drilling and Garrett County should look to the future. Mr. Versteegen believes that the disturbance and loss of scenic views caused by well heads and pipelines will be significant. He feels that the boom to bust cycle will last approximately 20 to 30 years and the real costs will be substantial for the county.

The Chairman believes that Mrs. Carpenters suggestion to add a list of topics and experts that could address the Commission regarding this issue, at upcoming meetings will be useful and educational. Mrs. Carpenter will schedule the events, as proposed.

- C. **Next Scheduled meeting** - The next regular meeting of the Planning Commission is scheduled for **January 7, 2015**, in the County Commissioners Meeting Room, at 1:30 pm.

- D. **Adjournment**- 2:45 p.m.

Respectfully submitted,

William J. DeVore
Zoning Administrator

