

GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND MANAGEMENT

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MINUTES

The Garrett County Planning Commission held its regular monthly meeting on Wednesday, May 4, 2016, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Tony Doerr	Jim Hinebaugh	Deborah Carpenter-staff
Troy Ellington	Eric Robison	William DeVore -staff
Tim Schwinabart	Ann Bristow	Chad Fike-staff
Jeff Messenger	Paul Durham	Frank Shad
Elizabeth Georg	Paul Roberts	Karen Lauer
Jeff Conner	Richard Carroll	Mark Stutzman
James “Smokey” Stanton	Renee Shreve	Steve Green
Paul Weiler	Jessica Josephson	Tim Josephs
Barbara Beelar	Bill Rothman	Michelle Josephs
John Quilty	Edward Frantz	Kevin Faley
Judy A. Carbone		

1. Call to Order - by Chairman Tony Doerr at 1:30 pm.
2. The April minutes were unanimously approved as corrected, by a vote of 7 to 0. The recommendation of the Commission was for an “acceleration” lane, not a “deceleration” lane at Turkey Neck Road.
3. Report of Officers – None
4. Unfinished Business –
5. New Business –

A. Miscellaneous

1. Deep Creek Watershed Zoning Appeals Cases- the meeting agenda was altered to present these cases after the discussion to amend the zoning ordinance.

- a. SE-445-** an application submitted by Bill Rothman for a Special Exception permit to construct a Commercial Communications Antenna on a 7.6 acre parcel owned by Carolyn Tallman, et al. The property is located on Garrett Highway, near McHenry, tax map 50, parcel 68 and is zoned Lake Residential 1.

The Commission believes that the Board of Appeals should limit the height of the structure to the height that is proposed by the applicant.

- b. VR-750-** an application submitted by Anthony J. Lucas for a Variance to allow an addition to a home that would come to within 7.0 feet of the side property line, which is the current distance from the home to the side line. The property is located at 1893 Rock Lodge Road. The lot can be found on tax map 50, parcel 216, and is zoned Lake Residential 1.

The Commission has no comment on the Variance request.

- c. VR-751-** an application submitted by Mark Schmittle for a Variance to allow an accessory structure (treehouse) that would exceed the maximum, average, height requirement. The property is located at 167 Ridge View Court. The lot can be found on tax map 58, parcel 622, lot 36 and is zoned Lake Residential 1.

The Commission believes that because of the height of the treehouse, the Board of Appeals should take into account any comments from the neighbors, due to privacy concerns.

2. Major Subdivision or PRD's – None

3. Waiver Requests – none

- B. Agricultural Preservation Districts-** In accordance with Section 300 C. of the Garrett County Agricultural Land Preservation District Program's regulations, the Planning Commission examined the following proposed District applications for compatibility with existing County and State plans and policies. Specifically, the Commission reviewed the applications to determine if establishment of the District

would be fully compatible with, and would help to implement, the goals and objectives set forth in Chapter 3, Land Use, of the 2008 Garrett County Comprehensive Plan. The Agricultural Land Preservation Advisory Board approved all five applications on April 29, 2016.

1. **Valley of Hope Farms, LLC (SY-121)** - The property consists of 390.1 acres and is located along Baker Farm Road and Gorman Road. The property meets the minimum size and soil productivity requirements for a County District. The Planning Commission voted to recommend that the District be approved by a vote of 6 to 0.
2. **Patricia Hummel, personal representative of the estate of Wayne B. Hamilton, Jr. (SY-122)** – The property consists of 664.95 acres located along George Washington Highway. The property meets the minimum size and soil productivity requirements for a County District. The Planning Commission voted to recommend that the District be approved by a vote of 6 to 0.
3. **Andrew Bradley (CR-123)** - The property consists of 50 acres located along White Fawn Lane. The property meets the minimum size and soil productivity requirements for a County District. The Planning Commission voted to recommend that the District be approved by a vote of 5 to 0 with one abstention.
4. **John Congedo (CR-124)** - The property consists of 80 acres located along White Fawn Lane and New Germany Road. The property meets the minimum size and soil productivity requirements for a County District. The Planning Commission voted to recommend that the District be approved by a vote of 5 to 0 with one abstention.
5. **James & Linda Sherbin (NY-125)** – The property consists of 78.02 acres located along Oakland Sang Run Road. The property meets the minimum size and soil productivity requirements for a County District. The Planning Commission voted to recommend that the District be approved by a vote of 6 to 0.

- C. **Zoning Amendment Request to the Deep Creek Watershed-** Chairman Tony Doerr noted that the Planning Commission has received 28 letters supporting the proposed amendment to the Ordinance. Remarks by speakers would be limited due to time constraints. The Chairman stated that there has been an abundance of good information provided by Director Carpenter that has helped the Commission understand the process.

One of the members noted that this amendment, as proposed, may be not be in accordance with the Comprehensive Plan, which could present a problem at a later time. The member believes that the Plan may have to be revised to give weight to this amendment, suggesting that the proposed amendment be modified to include a provision that clarifications be made to the Comprehensive Plan. He also believes

that industrialization, traffic and other issues will not be addressed by the MDE regulations.

Director Carpenter stated that the Planning Commission can recommend its own additions and clarifications to the amendment, as part of the recommendation to the Commissioners, including a proposed change to the Comprehensive Plan to allow for consistency.

The chairman believes that the Commission has several options regarding the request to amend the Ordinance. The Commission must decide whether to hold a public hearing on the issue, an option for the Commission. In lieu of that the Commission could approve or disapprove the amendment, as proposed, or the Commission could modify the amendment as they see fit. The director reminded the Commission that they are under a 30-day time line to act on the proposal or decide on having the public meeting, and the date of this meeting is day 28.

Commissioner Hinebaugh noted that the County Commissioners are obligated to hold a public hearing on this request, regardless of the decision of the Planning Commission. Commissioner Hinebaugh stated that the Property Owners Association (POA) previously submitted an informal request to ban fracking in the watershed. The Commissioner, the Chairman and the President of the POA, Bob Hoffman agreed that the Board of County Commissioners proposed to wait to address the issue until the Maryland Department of Environment regulations are finalized later this year. Mr. Hinebaugh stated that he would participate in the discussion today but he will not vote on the issue at this time, due to his later review and vote on the subject, as a County Commissioner.

The Chairman stated that the current zoning regulations do not permit wellheads and all areas used for storage or operation of equipment within 2,000 feet of the 2462-foot elevation around Deep Creek Lake. Also, the Ordinance, as currently written, includes a provision that requires a 1,000 foot setback from the property line of any property that is not leased by the gas company. Troy Ellington suggested to add prohibition of "surface infrastructure" to the proposed amendment. Mr. Ellington also suggests that the necessary language should be changed in the county Comprehensive Plan to be consistent with the amendment when Comprehensive Plan review takes place.

Eric Robison, who served on the Impacts for Growth subcommittee, a subcommittee of the steering committee that wrote the Deep Creek Watershed Management Plan, believes that removing the wellbores from the watershed would address impact associated with drilling in the watershed. Mr. Robison also believes the amendment would address many of the possible impacts due to industrialized activity associated with fracking in the watershed.

Smokey Stanton, Chairman of the Youghiogheny River Watershed Association noted that the association supports the amendment to the ordinance and urges the

County to adopt the amendment. Mr. Stanton also has concerns for the area outside of the Deep Creek watershed. Commission members responded that this proposed amendment cannot be applied outside of the zoned area.

Paul Roberts of Citizen Shale believes that the lateral reach of the horizontal drilling is up to 10,000 feet in Ohio, at this time.

John Quilty noted that the MDE regulations would not regulate the effects that gas drilling could have on truck traffic, compressor stations and pipelines, which is part of the industrialization associated with drilling and beyond MDE's jurisdiction. Mr. Quilty believes that the watershed accounts for about ten percent of the county acreage and three percent of the land area of natural gas in the County.

Jim Hinebaugh stated that as a Commissioner, he would like to see what is covered in the MDE regulations and then identify the issues that need to be addressed by the County. Director Carpenter stated that public meetings on the state regulations are planned for later this year, one in Garrett County, one in Allegany County and one in Baltimore.

Judy Carbone expressed concern about which government authority would have preemption on this matter if local laws were in place at the time that the MDE regulations took effect.

Anne Bristow requested clarification on the Deep Creek Watershed boundary and its relation to the actual watershed zoning boundary.

The Commission decided not to hold their own public hearing on the request to amend the Ordinance. Troy Ellington made a motion to recommend acceptance of the application, with the addition of language to prohibit associated surface infrastructure, as well as language that makes the proposal contingent on necessary language being added to the county Comprehensive Plan. After discussion, the Commission voted to approve the application for the amendment, by a vote of 5 to 1, with Commissioner Hinebaugh abstaining.

- D. Next Scheduled meeting** - The next regular meeting of the Planning Commission is scheduled for **June 1, 2016** in the County Commissioners Meeting Room, at 1:30 pm.

Respectfully submitted,

William J. DeVore
Zoning Administrator