

Garrett County Planning Commission Minutes July 7, 2021

I. Call to order

Tony Doerr called the regular meeting of the Garrett County Planning Commission to order at 1:30 pm on July 7, 2021, in the Commissioners Meeting Room in the Garrett County Courthouse.

II. Attendance

The following Commission members were present: Tony Doerr, Jim Hinebaugh, Bruce Swift Jeff Messenger, Jeff Conner and Elizabeth Georg. Planning staff included Siera Wigfield and Chad Fike.

The following persons from the public were present: Michael Wolf, Frances Yuhus and Mike Tumbarello.

III. Approval of minutes from last meeting

The minutes were approved as presented.

IV. Reports of Officers- None

V. New Business

- a) **Zoning Appeals Cases-** (No hearings were scheduled in July)
- b) **Mazer Waiver Request-** Carl Mazer requested waivers from the minimum lot size and width standards of the Garrett County Subdivision Ordinance. Mr. Mazer would like to create one new lot on his property (Tax Map 32, Parcel 189) located off Fire Tower Road. The waiver would allow a 1 acre, 100-foot-wide lot rather than the 3 acre, 200 foot wide lot typically required in the Rural Resource Land Classification. After discussion, the Planning Commission unanimously approved the waiver.
- c) **Moyer/Calhoun Waiver Request-** Surveyor Michael Wolf requested a waiver from the minimum lot size standards of the Garrett County Subdivision Ordinance on behalf of his client Donald Calhoun. The subject property (Tax Map 31, Parcel 54) is owned by Kevin Moyer and located off Trap Run Road in a Rural Resource Land Classification. The waiver is necessary because the Moyer property only contains .84 acres and a proposed lot line adjustment would make the property more non-conforming in terms of lot size. After discussion, the Planning Commission unanimously approved the waiver.

- d) **Wisp PRD Highland Adventures Final & Record Plat-** M Four Holdings, LLC submitted Final and Record Plats for Highland Adventures Section 2 (Lot 6) of the Wisp PRD Phase 6C. The property (Map 49, Parcel 154) is located off Wisp Adventure Road and Wisp Mountain Road in a Rural Land Classification. The Planning Commission reviewed and then granted approval of the Final and Record Plats by a unanimous vote.
- e) **Paradise Lake View Revised Preliminary & Final Plat-** John and Christine Congedo submitted a Revised Preliminary Plat and Final Plat of the Paradise Lake View Subdivision. The property (Tax Map 58, Parcel 92) is located in a Lake Residential 1 zoning district. The Planning Commission reviewed and then granted approval of the Revised Preliminary & Final Plats by a unanimous vote. The approval was contingent on submittal of homeowner documents prior to recording.
- f) **Emory Commercial Lot, Preliminary & Final Plat-** William D. & Nathaniel R. Emory submitted a Preliminary & Final plat of the Emory Commercial Lot subdivision. The property (Tax Map 35, Parcel 21) is located along Bittinger Road in an Agricultural Resource Land Classification. The Planning Commission reviewed and then granted approval of the Preliminary & Final Plat by a unanimous vote.
- g) **Planning Commission Annual Report-** Mr. Fike presented the 2020 Planning Commission Annual Report to the Commission. The Report summarizes changes in development patterns which occurred during the calendar year. After review, the Planning Commission unanimously voted to approve the Annual Report and file the Report with the County Commissioners and the Maryland Department of Planning.
- h) **Comprehensive Plan Update-** Mr. Fike gave the Planning Commission a brief update regarding the Comprehensive Plan. Siera Wigfield, the new Senior Planner in the Planning office, has started a review of the Draft Plan and members of the Planning Commission continue to review as well. Comments from State Planning and the local municipalities are expected soon. A public hearing on the Plan will be held once all these comments and reviews have been incorporated into a final draft of the Plan.
- i) **Deep Creek Watershed Zoning Ordinance- Solar Amendment Discussion-** The Planning Commission continued their review of several potential solar regulations that could be added to the Deep Creek Watershed Zoning Ordinance. Commission members had a lengthy debate about how to develop regulations that protect the recreational value of the lake area but still respect individual property rights. Mr. Tumbarello and Ms. Yuhas mentioned that community solar systems have a smaller impact and could be compatible with the lake area. The Commission then reviewed the proposed regulations for commercial solar energy generating systems discussed at the previous

meeting such as a setback of 500 feet from any property line, height regulations, glare restrictions, screening, and decommissioning.

The Commission began a new discussion of possible regulations for solar generating systems accessory to existing uses. It was agreed that roof-mounted solar panels would be allowed as accessory to both residential and non-residential uses with some regulations concerning the height of the panels. Ground mounted panels accessory to residential uses will be limited in size to 120 square feet and subject to existing accessory structure setbacks. Ground-mounted panels accessory to non-residential uses will not be permitted.

The Planning Commission unanimously voted to approve the regulations and forward them to the County Commissioners. County Commissioner Hinebaugh abstained from voting. Ms. Georg voted to approve the regulations in order to continue the process, but stated that she believed the 500-foot setback was too stringent.

A copy of the proposed amendments and the transmittal letter to the County Commissioners are attached to these minutes for reference.

VI. Next Meeting – August 4, 2021

VII. Adjournment

Tony Doerr adjourned the meeting at 3:00 pm.

Minutes respectfully submitted by Chad Fike, Assistant Director

GARRETT COUNTY DEPARTMENT OF PLANNING & LAND MANAGEMENT
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July 19, 2021

Board of Garrett County Commissioners
203 S. Fourth Street
Oakland, MD 21550

Gentlemen:

During their June and July 2021 monthly meetings, the Garrett County Planning Commission reviewed and discussed several possible amendments to the Deep Creek Watershed Zoning Ordinance regarding solar arrays. The Zoning Ordinance does not currently make any specific references to solar, so the use is considered to fall under the general use category of electric power generating plants. The Planning Commission decided it was appropriate to add specific categories for solar as a primary and accessory use and propose specific requirements such as setbacks and decommissioning standards.

After consideration of these issues the Planning Commission voted to endorse the attached amendments during their July 7, 2021 meeting and transmit them to the County Commissioners. The Planning Commission appreciates your consideration and offers this report for your further action.

Sincerely,



Chad E. Fike, Assistant Director
Planning & Land Management

PROPOSED SOLAR AMENDMENTS TO THE DEEP CREEK WATERSHED ZONING ORDINANCE

1. Add a new Definition to read as follows:
157.007.B.(64)a **SOLAR ENERGY GENERATING SYSTEM, ACCESSORY**: A solar collection system consisting of roof and/or ground-mounted solar collection devices incidental to, and located on the same lot as, a permitted principal use. Solar energy collectors may include photovoltaic, concentrated solar thermal, or solar hot water devices. Such system shall generate electricity for the use and/or benefit of the principal use on the property except incidental excess generated electricity may be provided to the utility company in exchange for a credit.
2. Add a new Definition to read as follows:
157.007.B.(64)b **SOLAR ENERGY GENERATING SYSTEM, COMMERCIAL**: A facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Solar energy collectors may include photovoltaic, concentrated solar thermal, or solar hot water devices. This definition includes community solar systems where customers buy or lease a portion of the energy produced by the system.
3. Amend Section 157.024 Table of Use Regulations by adding a new Section 157.024(D) 10.b. "Commercial Solar Energy Generating System, subject to the provisions of Section 157.080." The use shall be permitted by special exception in all zoning districts.
4. Amend Section 157.024 Table of Use Regulations by adding a new Section 157.024 (G) 4.k. "Roof-mounted Accessory Solar Energy Generating System, subject to the provisions of Section 157.080." The use shall be a permitted accessory use in all zoning districts.
5. Amend Section 157.024 Table of Use Regulations by adding a new Section 157.024 (G) 4.l. "Ground-mounted Accessory Solar Energy Generating System accessory to a permitted residential use, subject to the provisions of Section 157.080." The use shall be a permitted accessory use in all zoning districts.
6. Amend Section 157.024 Table of Use Regulations by adding a new Section 157.024 (G) 4.m. "Ground-mounted Solar Energy Generating System accessory to a permitted non-residential use." The use shall be "not permitted" in all zoning districts.
7. Add a new Section 157.080 **STANDARDS FOR SOLAR ENERGY GENERATING SYSTEMS**
 - A. The following requirements apply to all Accessory Solar Energy Generating Systems:
 1. Ground mounted solar collection devices accessory to a permitted residential use shall be subject to the setbacks found in Section 157.046 ACCESSORY BUILDINGS.

2. The maximum solar panel surface area of a ground-mounted solar system accessory to a permitted residential use shall be 120 square feet.
 3. The total height of ground-mounted solar energy collectors, including any mounts and framework, shall not exceed 10 feet above the ground when orientated at maximum tilt.
 4. A roof-mounted solar energy system shall not project vertically above the peak of the sloped roof to which it is attached, or project vertically more than 5 feet above a flat roof.
 5. A parapet shall be provided to screen roof-mounted solar energy systems located on flat roofs of permitted nonresidential uses.
 6. No accessory solar energy system shall produce glare that would constitute a nuisance to occupants of neighboring parcels or persons traveling neighboring roads.
- B. The following requirements apply to all Commercial Solar Energy Generating Systems:
1. Ground-mounted solar collection systems shall be setback a minimum of 500 feet from any property line.
 2. The total height of ground-mounted solar energy collectors, including any mounts or framework, shall not exceed 20 feet above the ground when oriented at maximum tilt.
 3. No solar energy system shall produce glare that would constitute a nuisance to occupants of neighboring parcels or persons traveling neighboring roads.
 4. A strip of dense evergreen planting no less than 25 feet in width and 10 feet in height shall be required around the perimeter of the solar energy system.
- C. The following decommissioning standards apply to all Commercial Solar Energy Generating Systems:
1. "Decommissioning" means the removal and legal disposal of a commercial solar energy generating system and any other components related to the system.
 2. "Restoration of pad site" means, at the location of the commercial solar energy generating system, stabilizing, grading, and seeding disturbed areas to grow ground cover; and replacing the excavated foundation areas with topsoil that is free of noxious weeds, rocks, root mat, or foreign objects larger than 2 inches in size; and has proper soil nutrients to provide and sustain the growth of ground cover.
 3. Before a use permit is issued for a Commercial Solar Energy Generating System, the Garrett County Department of Planning and Land Management shall:
 - a. At the applicant's expense, retain an independent and certified professional engineer to prepare a net cost estimate for decommissioning and restoration of the site.
 - b. Require the applicant to post a bond equal to 100% of the cost estimate determined above and adjusted by an estimated construction pricing index to ensure that cost increases during the following 5-year interval will not decrease the value of the bond.
 4. A bond posted in accordance with this subsection shall be held by the Garrett County Finance Department to be used as surety in the event of noncompliance

with a requirement under this section by an owner of a Commercial Solar Energy Generating System.

5. On completion of the construction of a Commercial Solar Energy Generating System, and every 10 years thereafter, the Garrett County Department of Planning and Land Management, at the applicant's expense, shall retain an independent certified professional engineer to prepare a net cost estimate for decommissioning and restoration of the site. The Garrett County Department of Planning and Land Management may alter the amount of the bond determined under this subsection to provide adequate security for the costs of decommissioning and restoration of the site.
6. If a Commercial Solar Energy Generating System is sold, the bond posted in accordance with this subsection shall be released if the new owner posts a bond with the Garrett County Finance Department that is equal to the amount of the bond posted by the seller; or is a greater amount if the Garrett County Department of Planning and Land Management determines that additional security is necessary to provide for the cost of decommissioning and restoration of the site.
7. If a Commercial Solar Energy Generating System has not generated electricity for a continuous period of 365 days or an owner has abandoned a Commercial Solar Energy Generating System, the Garrett County Department of Planning and Land Management may require the owner to decommission and restore the site. If the owner fails to comply with these requirements, the bond shall be used by Garrett County to cover the costs of decommissioning and restoration of the site.