

DEEP CREEK WATERSHED ZONING ORDINANCE

Evaluation of Potential Impacts Resulting from Amendment for:

SECTION 157.024 (C) 23 - BOAT RENTAL INCLUDING BOAT RIDES AND / OR BOAT TOURS AS A SEPARATE SERVICE BUSINESS AND NOT OFFERING ANY OTHER SERVICES ASSOCIATED WITH A MARINA.

Prepared by Planning & Land Development staff with assistance from the Deep Creek Lake Management Office.

Background

On September 4, 2012, The Board of Garrett County Commissioners agreed with the request made by the Board of Directors of the Deep Creek Lake Property Owners Association to provide an evaluation of impacts associated with a new land use category added to the Deep Creek Watershed Zoning Ordinance for boat rental businesses. The evaluation would include an assessment of the range and extent of properties having sufficient “lake frontage” under DNR regulations and also be in accord with properties that are situated within the zoning district enabled by the boat rental amendment. The amendment established a new section 157.024 (c) 23 in the Table of Use Regulations of the Deep Creek Watershed Zoning Ordinance for “Boat rental including boat rides and / or boat tours as a separate service business and not offering any other services associated with a marina”. The use would be permitted in the TC-Town Center and C-Commercial zoning districts; permitted by SE-Special Exception in the TR-Town Residential and CR-1 and CR-2 Commercial Resort zoning districts and not permitted in any other district.

The request for amendment was made by Lakeside Properties, LLC and the purpose of the amendment was to separate the collective activities and services defined by the ordinance as a “marina” use from the singular activity of providing boat rental service. The distinctions drawn by the amendment were that a boat rental service business would only offer boats for rent and would not offer any of the other services offered by a marina (such as sales, repairs and storage). Additionally, the amendment provided that a boat rental service would require a minimum land area of 10,000 sq. ft. instead of the 2 acre minimum land area required for marinas. It is important to note here that the Ordinance also includes a grandfathering provision (Section 157.042) for lots that were lawful when created but which do not conform to the land area requirements prescribed by the ordinance. Such lots may be used as permitted in the ordinance provided that the lots were duly recorded by deed or plat before June 1, 1975.

Purpose of Evaluation

The primary purpose of this evaluation is to identify the parcels of land that would qualify for a boat rental service business using certain state and local criteria and to determine whether the boat rental amendment would facilitate a proliferation of boat rental businesses. Although not explicitly expressed, it is presumed that the concern of the P.O.A. is that a proliferation of boat rental businesses would have an adverse impact on the number of vessels utilizing the surface of Deep Creek Lake at any given time.

The criteria used in identifying parcels that could be used for the new “Boat Rental Service Business” use category include:

1. Deep Creek Lake Management regulations require a minimum of 200 feet of lake frontage measured along the property line coincident with the property line owned by the Department of Natural Resources in order to qualify for a Development permit; and
2. Zoning Districts which would allow a Boat Rental Service Business include the TC and C Districts, where the use is permitted by right, and the TR, CR-1 and CR-2 Districts where the use is permitted by special exception.

Only two of the five districts specified in criteria 2. above, the TC and TR zoning districts, include properties with lake frontage along the shores of Deep Creek Lake. While the zoning amendment allows boat rental businesses to be established on properties that are not situated on lake-front parcels, the capability of a boat rental business to function “off-lake” is extremely limited due to access issues. Access to the lake is key for any boating activity and points of public access are controlled by the Department of Natural Resources. Persons leasing vessels from a prospective business without lake front docking facilities would be confronted with the same problem of finding access that lake users who trailer their own boats experience. These lake users would have no option other than to find a point of public access. (i.e. State Park ramp) Due to these circumstances, this summary does not evaluate or address non-lake front properties.

Total Properties Eligible for Commercial Development

Attachment I is a listing of properties that fulfill the two specific criteria listed above for a Boat Rental Service Business. Attachment II is a map showing the exact location of each of the qualifying parcels identified from the property listing. A total of 36 different properties have been identified on Attachment I.

Twenty four of the parcels identified on the listing can be characterized as either fully developed and built out with permanent structures or partially developed but dedicated to the existing and planned land use by recorded documents. These twenty four parcels are considered to be existing developed properties and would be available for the Boat Rental Service Business only if the existing use was abandoned and a conversion of use was possible.

Sixteen of these “developed” properties are existing residential development properties having existing dock facilities shared in common with other owners within the development with the exception of property #17 Glendale Shores Condos. The lake frontage of this property is leased by Bill’s Marine Service for commercial dock rental space. These residential properties are dedicated to the existing or planned residential development pattern and include: #1 Lakepoint HOA, #2 Deep Creek Village, #3 Ski Cove, #4 Ski Harbor, #6 Nemith, #9 Sunplace Condos, #10 The Willows Condo, #11 Hartwood Village Condos, #12 Mountain View Townhomes, #16 Timberloft, #17 Glendale Shores Condo, #21 Arrowhead Condos, #23 Creekside Condos – Nemith, #26 Will O Wisp Prestige Condos, #34 Innsbruck Village and #35 Ken Allwine.

Eight of these “developed” properties are existing commercial properties that are also fully developed and committed to the existing land use. Those properties include: #7 Pfirmman; #8 Lakestar Lodge; #19 Silver Tree Marine, LLC (which leases two acres of land); #22 Land Management Inc. (Uno’s); #25 Will O Wisp; #27 Lakeside Commercial Properties; #28 St. Moritz (Outdoor Center); and #36 St. Moritz Bill’s Marine Boat Rentals.

The Twenty four parcels specifically identified above are either fully developed or dedicated to the planned development by recorded documents and therefore are not considered available for further commercial development nor eligible for the Boat Rental Service Business unless the existing use was abandoned.

Under Developed Properties Eligible for Commercial Development

After netting out the twenty four “developed” properties, there remain twelve properties that could be converted from their existing “under developed” status to a more intensive commercial development status. Those properties are highlighted in yellow on Attachment I. An evaluation of each parcel’s potential development for a boat rental service business is explained below:

- 1) Property #5, Walton Family Limited Partnership, TC-Zone. This property consists of 3.31 acres of land (a .16 acre portion is the DNR buffer buy down) and is currently developed as a mobile home park having 90 residential dock slips for tenants in the mobile home park. Although this parcel is currently fully occupied and developed, the temporary nature of mobile homes makes this property available for conversion of use. The parcel is a prime property suitable for permanent residential or commercial use. The site would be suitable for the Boat Rental Service Business, a Full Service Marina or a wide variety and combination of commercial uses.

- 2) Property #13, Mary K. Bisignani et al, TC-Zone. This property consists of a total land area of 2.08 acres and is currently developed with two single wide mobile homes and three double wide units that are used as single family dwelling units by various family members who are part owners of the lot. The property is made up of a 1.75 acre lot and an additional buy down parcel (DNR Buffer Sale) purchased by deed dated August 22, 2001 containing .34 acres. The property has a 6 slip residential dock permit applied to the 300 feet of lake frontage. Although the property is currently partially developed, the temporary nature of the mobile homes and double wide units makes this property available for conversion of use or intensification of use for either residential or commercial development. The site

would be suitable for the Boat Rental Service Business, residential or a variety and combination of commercial uses.

- 3) Property #14, Philip St. Moritz, TC-Zone. This property consists of a total land area of 1.35 acres and is currently developed with a single family residential unit. The property is made up of two separate “grandfathered” lot’s (one containing .28 acres and containing .77 acres) with an additional buy down parcel (DNR Buffer Sale) purchased by deed dated July 13, 2001 containing .26 acres. Currently the property has a Class A Dock for the residence on the parcel. The site would be suitable for the Boat Residential Service Business, a full Service Marina (because of the lot’s grandfathered status) or a variety and combination of commercial lots.

- 4) Property # 15, Point View, LLC, TC-Zone. This property consists of a total land area of 2.13 acres and is currently developed with a tavern including an outdoor deck with seating. The property is made up of a “grandfathered” 1.96 acre lot which is bisected by a prescriptive right of way and an additional buy down parcel containing .218 acres. Transient boat slips are currently provided for the tavern use. The parcel is presently under developed and is a prime property suitable for residential or commercial use. The site would be suitable for the Boat Rental Service Business, a Full Service Marina (because of the lot’s grandfathered status) or a wide variety and combination of commercial uses.

- 5) Property #18, David Kellman, TC-Zone. This property consists of a total land area of 2.4 acres and is currently developed with a single family residential unit. The property is made up of three separate “grandfathered” lots (one containing .44 acres, one containing .49 acres and another containing .98 acres) with an additional buy down parcel purchased by deed dated October 9, 2003 containing .48 acres. Currently the property has a Class A Dock for the residence on the parcel. The site would be suitable for the Boat Rental Service Business, a Full Service Marina (because of the grandfathered status of each lot) or a variety and combination of commercial uses.

- 6) Property #20, Alpine Village Commercial Condos, TC-Zone. This property consists of a total land area of 3.15 acres and is made up of three commercial development pad sites. One of the three sites is presently developed with the Inn at Deep Creek (formerly the Alpine Village Motel) and two pad sites are available for development. Currently overnight boat docks are available for the guests of the motel. The two available commercial pad sites would be suitable for the Boat Rental Service Business or a variety of other commercial uses.

- 7) Property #24, HMH Real Estate, LLC (Heise property), TC-Zone. This property consists of a total land area of 1.1 acres and is currently developed with a single family residential unit. The property is a “grandfathered” lot created prior to the effective date of the Zoning Ordinance and has a Class A residential boat dock assigned to it. The property can be considered as an under developed parcel and would be suitable for the Boat Rental Service Business, a Full Service Marina (because of the grandfathered status of the lot) or a variety and combination of commercial uses.

- 8) Property #29, John D. Marple, TC-Zone. This property consists of a total land area of 1.04 acres and is developed with two single family residences. The property is made up of five separate “grandfathered” lots, four lots containing 6,000 sqft each and the fifth lot containing .4928 acres. A commercial dock rental permit is currently assigned to the property offering dock slips to the general public. The property can be considered an under developed parcel and would be suitable for the Boat Rental Service Business, a Full Service Marina (because of the grandfathered status of the lot) or a variety and combination of commercial uses.

- 9) Property #30, David M. Nieslein, TC-Zone. This property consists of a total land area of .42 acres and is developed with a single family residence. The property is a “grandfathered” lot predating the effective date of the Zoning Ordinance and a Class A residential boat dock is assigned to it. The property can be considered as an under developed parcel and would be suitable for the Boat Rental Service

Business, a Full Service Marina (because of the grandfathered status) or other potential commercial uses.

- 10) Property #31, Philip Kanar, TC-Zone. This property consists of a total land area of 1.25 acres and is developed with a single family residence. The property is made up of a 1.02 acre “grandfathered” lot and a buy down parcel containing .23 acres purchased on March 28, 2007. A Class A residential dock is assigned to the parcel. The property can be considered an under developed parcel and would be suitable for a Boat Rental Service Business, a Full Service Marina (because of the grandfathered status) or other potential commercial uses.

- 11) Property # 32, Trader’s Landing Commercial Condo, TC-Zone. This property contains a total land area of 1.75 acres and is developed with seven separate commercial condo units (separate ownership). The property is made up of a 1.34 acre parcel on the west side of US 219 and a .406 acre parcel on the east side designated as a common area. Each of the condo units are currently occupied with various commercial businesses and a commercial dock rental permit is assigned to the property offering dock slips to the general public. The property is fully developed, however, business uses within the condo units can be replaced with different business entities and sufficient lake frontage exists to expand commercial docking facilities. Therefore the property would be suitable for the Boat Rental Service Business or other potential commercial uses.

- 12) Property #33, Overlook Ridge Condos (Pete’s Drive, LLC), TC-Zone. This property consists of a total land area of 5.69 acres and is currently planned for residential condominium development. Eight pad sites for construction of single family residences have been recorded thus far on a contiguous parcel (parcel 784 on tax map 58) and only one residence has been constructed on the site. A residential common dock permit has been assigned to the property and further preliminary plans reveal designs for a mix of Townhouse and Duplex residential units, however, the property remains under developed. While Condominium

documents have been filed, it is unclear at this time whether residential development plans will proceed. Therefore the property can be considered available for future development and would be suitable for the Boat Rental Service Business, a Full Service Marina or a variety and combination of various commercial uses.

Conclusions

As previously identified, there are two principal criteria that determine eligibility of a parcel for use as a Boat Rental Service Business. Those criteria include:

1. Deep Creek Lake Management regulations require a minimum of 200 feet of lake frontage measured along the property line coincident with the property line owned by the Department of Natural Resources in order to qualify for a Development permit; and
2. Zoning Districts which would allow a Boat Rental Service Business include the TC and C Districts, where the use is permitted by right, and the TR, CR-1 and CR-2 Districts where the use is permitted by special exception.

Twelve lake front properties have been identified as being “under developed” and would be eligible for use as a Boat Rental Service Businesses using the criteria specified above. Those twelve properties are highlighted in yellow on Attachment I and all are situated in the TC zoning district meaning the boat rental use is permitted by right. The remaining balance of twenty four properties are existing “developed” properties.

Among the twelve, “under developed” lakefront properties, nine parcels (properties #5, #14, #15, #18, #24, #29, #30, #31 and #33) would be eligible for a wide variety of commercial land use opportunities including the Full Service Marina use. The Full Service Marina use is also permitted by right in the TC Zone and would be permitted on each of the nine properties as identified above provided the parcel is large enough to accommodate off street parking and comply with minimum set-backs. Set-backs for marina structures (other than showrooms) are 50 feet from side and rear lines and 100 feet from front lines (property lines parallel to the road). Showroom setbacks are 25 feet from rear lines, 15 feet

from side lines and 20 feet from front lines in the TC-Zone. Of these nine parcels, property #30 owned by David Nieslein, containing .42 acre, may not be large enough to accommodate set-backs and parking for a full service marina. However, the remaining eight properties appear to be large enough to accommodate the marina use. It is important to note here that the Ordinance also allows the marina use by special exception in all other lake front zoning districts, including the LR-1 Zone. The LR-1 zone encompasses the majority of the lake front properties in the Deep Creek Watershed Zoning Area and consequently the Ordinance affords many other opportunities for the full service marina use. The Boat Rental Service Business is not permitted in the LR-1 zoning district.

Three parcels among the twelve properties identified as “under developed” would be eligible for a wide variety of commercial uses and would be eligible for the Boat Rental Service Business uniquely separate from the Full Service Marina Use due to the fact that these parcels either do not meet the minimum land area requirement for marinas or are not grandfathered. These parcels include property #13 owned by Mary K. Bisignani, property # 20 Alpine Village Commercial Condos and property # 32 Trader’s Landing Commercial Condo. These three properties represent the only qualifying lake front properties that would be eligible for the Boat Rental Service Business that would not otherwise be eligible for the Full Service Marina Use.

Based upon the evaluation of the range and extent of properties eligible for use as a Boat Rental Service Business, the County finds that the boat rental amendment will not provide significantly more opportunities to develop the Boat Rental Service Business above and beyond opportunities to develop a Full Service Marina use. The amendment would not facilitate the proliferation of boat rental businesses nor have a significant impact on the number of vessels utilizing the lakes surface. Based upon these findings the County concludes that the amendment should remain in effect and should not be modified or repealed from the Deep Creek Watershed Zoning Ordinance.