

**LURAY PLANNING COMMISSION
FEBRUARY 11, 2009**

The Luray Planning Commission met on Wednesday, February 11, 2009 at 7:00 p.m. in regular session. The meeting was held in the Luray Town Council Chambers at 45 East Main Street, Luray, Virginia. Chairman Tom Potts presided and opened the meeting.

Commissioners Present:

Tom Potts
Peyton Baughan
Clifton Campbell
Larry Hakel
Sam McNeely
John Meaney
Mary Menefee

Others Present:

Richard Black, Town Manager
Bryan Chrisman, Assistant Town Manager
Ligon Webb, Town Planner
Jason Spittler, Town Attorney

Chairman Tom Potts called the meeting to order at 7:00 p.m. and everyone joined in the Pledge of Allegiance to the flag.

APPROVAL OF MINUTES OF REGULAR MEETING ON JANUARY 14, 2009

A motion was made by Commissioner Campbell that the minutes be accepted with grammatical changes as needed and motion was seconded by Commissioner McNeely. The motion was approved.

PUBLIC HEARING:

Mr. Webb stated there was one public hearing scheduled. Steven Jessee is applying for a special use permit to operate a tattoo parlor within an existing business located at 21 N. Broad Street, otherwise known as "Custom Choppers." He stated he told Mr. Jessee that we don't have an ordinance regarding tattoo parlors so just come apply for a special use permit under the provision of the B-1 district. He wants to operate in an existing business and if he is approved, he will have to make sure the building inspector approves his use there. He is limited to no more than two chairs and he has a signed statement from Mr. Jessee. Mr. Jessee just completed his state certification, and as you can see from the Code of Virginia, the State Health Department has the authority to inspect these facilities. Looking at it from a use perspective, it fits well, it's in an existing business, has adequate parking, the individual has gotten what he needs from the State, and wants to run a business. Mr. Webb asked if any of the Commissioners had questions.

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Commissioner Menefee asked if regular inspections are made by the State. Mr. Webb stated it says in the Code that the health department may inspect. Commissioner Menefee asked how often the license needs to be renewed. Mr. Jessee replied his expires on January 31, 2011, so it must be every two years.

Commissioner Hakel asked Ligon if the adjoining land owners had been notified. Mr. Webb replied he had sent letters to them and put an advertisement in the newspaper.

Commissioner Potts then opened the Public Hearing.

STEVEN JESSEE, PAGE COUNTY

Mr. Jessee stated this is something he really wants to do. He is very passionate about it and cleanliness and sterilization would be a top priority. He is interested in art and is currently shadowing a professional artist.

Commissioner Hakel asked what kind of sign will he have out front. Mr. Jessee stated he had not decided yet. We were talking about signs and how many were allowed on the building. He is thinking about putting just one in the window. Maybe a nylon sign on a banister. You would not need anything big to get attention. Mr. Webb stated he would have to follow the sign ordinance.

Commissioner Campbell asked if he is presently doing tattooing. Mr. Jessee replied no.

Commissioner Menefee asked what is the name of your business. Mr. Jessee replied he had no idea as yet. Commissioner Menefee asked what are your hours of operation. Mr. Jessee replied 11:00 a.m. to 7:00 p.m. or 12:00 noon to 8:00 p.m.; most likely it will be 12:00 noon to 8:00 p.m. every day except Sunday and Monday. Commissioner Menefee asked since you have two chairs, will you have another person working with you? Mr. Jessee replied hopefully, but he hasn't found a person yet, but would like to have another.

Commissioner McNeely asked why people want to get tattoos. Mr. Jessee replied its art. It's individual and every walk of life these days has a tattoo.

Commissioner Menefee said your letter states that you are not going to do tattoos on people under 18 years of age. Will you require some proof of identification? Mr. Jessee stated he will definitely ask for an ID – driver's license. Commissioner Campbell stated this will be part of the special use permit. Commissioner Potts asked if this is a voluntary proffer. Commissioner Campbell stated what he is telling us will be put into the special

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use permit, and if he agrees to that we will hold him to it. Commissioner Meaney stated Mr. Jessee had done a good job, and has been well prepared.

BOB HARRISON, PAGE COUNTY

Mr. Bob Harrison stated he owns property across the street from the proposed tattoo parlor. He received notice of this in the mail. He is concerned about our gateway to the town; the way we present the Town to the people who come here from Northern Virginia. He doesn't have a major problem with tattoo parlors. He is concerned that it's an image and he's concerned about how the signage would be presented. When people come down 340, that building is the first thing they see. He is not going to endorse or disapprove this request on Steven's part. He would like to see the Planning Commission at least look at ways so that we are not putting up big signs that sends the wrong message to people coming into our town and that is his concern.

Commissioner Hakel asked about the sign. Will you be posting it in the window – that says tattoos? Are you going to rely on the word tattoo to draw your customers in? Mr. Jessee stated he wanted to add some sort of modern name. It would be “_____ Tattoos”, but he is not looking for anything huge. The way he advertises is going to determine his clientele. He would like to advertise to people that are similar to himself, mainly young, average American people.

Commissioner Potts asked if anyone else wished to speak. There being none, the public hearing was closed.

Commissioner Baughan stated that as part of the special use permit it seems it would be appropriate to propose something in the way of signage that would include either a wall sign, or a sign in the window, and a reasonable size that we could all agree upon.

Commissioner Potts stated on the issue of signs isn't it going to result in a reduced sign size because you have a dual location of two businesses. Mr. Webb stated off the top of his head it sounds to him maybe 1' X 3' sign would suffice. Mr. Jessee stated he can live with a 3 sq. foot sign in the window. Mr. Steven Jessee, Sr., the gentleman who runs the motorcycle shop, stated that if he had to, he would be willing to take one of his signs down. Mr. Webb said he would add to the Letter of Conditions - no tattooing on clients under 18 years old and limit the tattoo sign to a 1' X 3' sign or no more than 3 square feet.

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Commissioner Baughan stated that as long as this young man holds his license in the State of Virginia, and we are satisfied with these other conditions, that is enough to secure a special use permit. If he lost his license, the special use permit would be revoked.

Commissioner Campbell made a motion that the Commission send to Council our recommendation to accept the special use permit with limitations as noted and the voluntary proffer. Motion was seconded by Commissioner Baughan. Commissioner McNeely stated he would like a roll call vote. The roll was called and the vote was as follows: YEA: Commissioners Hakel, Baughan, Campbell, Potts, Meaney, and Menefee. Commissioner McNeely stated he opposed the motion, but he will vote yes for the purpose of going to the Town Council so they can make the final decision.
APPROVED: 7-0

NEW BUSINESS:

Review: Town Sign Ordinance

Mr. Webb stated he made suggested changes, and these are included in the packets.

Commissioner Hakel proposed that we have a work session in which we spend a little time driving around town and talking about existing signs. Mr. Webb stated a lot of signs were put up before the ordinance. Commissioner Hakel stated why can't we put a clause in there saying that existing ones are grandfathered; however, we would like to have them all converted over by ten years down the road. Mr. Chrisman stated that non-conforming signs could not be replaced if they are destroyed or knocked over.

Commissioner Campbell stated the Commission has discussed the non-conforming signs issue before. Commissioner Baughan stated there was a two year limit on billboards. Mr. Spitler was asked by the Commission to check the law on non-conforming signs.

Commissioner Potts stated we are focused on this because Town Council has expressed discontent with the existing ordinance and has asked the Commission to take a look at revising and updating it.

Mr. Chrisman stated the notes he had written down based on Council comments, and especially from the staff perspective, is that the existing ordinance is so complex that it is difficult to comprehend and implement. Therefore, it made it difficult to explain the requirements to an applicant. The other thing is in the Town of Luray a lot of these are existing signs that were there before the ordinance, and people like to complain about them, but there's nothing you can really do about it currently. Very tall, or large,

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Interstate-style signs such as Hardees were installed within the corporate limits. There should be no reason to have an interstate-style and height sign inside the town limits. The other issue is that many feel that quite a few of the signs are too large. The other thing is the difference between an advertisement and art. That was complained about by at least two council people and the former Mayor of the town. Those were primarily the issues that he has heard that Council has issues with. The current ordinance is remains really hard to interpret.

Commissioner Baughan stated that you need to develop a checklist of things you should think about on any sign permit. Commissioner Baughan didn't disagree that maybe the ordinance needs to be refined, simplified and reorganized.

Mr. Chrisman stated we have two primary roads through town which are VDOT roads – Business 211 and Business 340. There is a whole division of sign people that work for VDOT and our ordinance really doesn't reference the Virginia Department of Transportation requirements or anything like that. Technically, signs that are within or adjacent to the public right-of-ways, even though we maintain our streets, those are still two VDOT primary routes. They could, and maybe should, have a say.

Mr. Chrisman stated he would recommend maybe what you should do in terms of our sign ordinance, is go look at some signs, take pictures and as a Commission decide the broad scope of what you want to accomplish. Then come back with a checklist in a work session and once that is done, see what needs to be cut out, added or modified. It may make the process go a little faster and smoother if you decide at least as a group on maybe five main, broad topics with the sign ordinance and from there go into extra detail on each one of those.

Commissioner Potts suggested creating a quick-reference table.

Mr. Chrisman stated he agrees with a checklist and table format (not only for our use but for the applicant's use is backed up by these tables. If the Commission decides on the criteria, then it can be put in a table format; that would be much easier. You would only actually refer to the design ordinance text if there was something not clear within the checklist or table.

Commissioner Menefee asked if there was a time frame for revising the ordinance. Mr. Webb stated if we have this done, and to Town Council by the summer, we would be doing fine. Commissioner Campbell stated we should all become familiar with the sign ordinance that we have so we understand what we are looking at.

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Commissioner Baughan stated the way he reads the ordinance is if you have multiple businesses in a building, then each business can have three signs according to the ordinance. These types of issues will need to be reviewed carefully.

Mr. Webb stated he was going to invite the Chamber of Commerce to the sign work session and let them know what we are doing so they will be aware that we are making changes to the sign ordinance.

Commissioner Potts stated he would like to set a date for the sign tour tonight. February 26 was selected at 2:00 p.m. and all were to meet at the Town Office.

- **Progress Review of Luray's Town Plan**

Mr. Webb stated he tried to make a judgment on the goals and objectives in the Comprehensive Plan and the goals we have met. We have made substantial or moderate progress. There are seven major goals and we have made substantial progress on three of them. He feels we have made substantial progress on the 30 some objectives, making progress with 17, moderate progress with 16, and so far no action on 4. Overall, he feels we are doing a pretty good job.

Mr. Chrisman stated at our local government meeting recently it was pointed out that this is the perfect economic opportunity for Planning Commissions to consider changes or modifications to their planning requirements. They said a lot of communities were taking this down-turn in the economy as a time to look at their ordinances and decide if there are things they wanted to change, things they didn't like or things that needed to be deleted or added. It doesn't cost the local governments a lot of money to review those plans and make modifications to them, and as far as feeling the pressure of continued development or expansion within the town and counties, there is a lot less of that now than four or five years ago.

Commissioner Menefee thanked Mr. Webb for completing the Town Plan Progress report.

Commissioner McNeely stated that one of the objectives we met was the recycling program and he commended Ligon and the Town.

OLD BUSINESS:

- **Review: Addition to Town's Zoning Ordinance**
 - **Accessory Dwelling Units**

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Commissioner Potts stated this was tabled at the last meeting. Mr. Webb stated he had talked to Jason about this, and they are in agreement. If there are extra things you want to add to the supplemental regulations, we can add them to the motion and say we recommend approval or denial. As a Commission we would like for you to add L, M, and N. It will go to the Town Council before it is advertised.

Commissioner Baughan stated the question he has is would you allow a dwelling unit in a building that doesn't conform to an accessory building setback? This needs review.

Mr. Chrisman had a suggestion under 516 K.— “conform to additional regulations as recommended by the Town Planning Commission and required by Town Council.” Mr. Webb stated as far as size, he has talked to the building official. If you can get your kitchen, sleeping provisions, and sanitation, then there is no minimum size. Commissioner Baughan stated our town ordinance specifies 700 square feet; that's county and town. He asked if anyone was bothered by the fact that we have not set a maximum size. Mr. Chrisman stated he knows that the proposed additions say no more than two non-related individuals, but he guesses if you are related, you could have as many people as you wanted. If you limit it to two people period, whether they are related to you or not, that equals one bedroom.

Commissioner Baughan stated he thinks you could address this by special use permit.

Mr. Spitler stated he doesn't think we can distinguish between related and unrelated. The reason for that is the Federal Fair Housing Act. He did a fair amount of research on that and other issues and it's absolutely clear that nowhere in our ordinance can we distinguish between related and unrelated. Commissioner Baughan asked if we can say two people. Mr. Spitler answered absolutely. You can restrict on that basis, or any others, as long as it applies to all occupants regardless of their relation with one another. One thing we can add to our agenda to review on that basis is the definition of family in Section 202.

Mr. Spitler stated he would recommend that the Commission consider striking subsections H and I of Section 516.

Commissioner Campbell stated they could have two vehicles if you have a man and wife, and he doesn't know if you want to say one parking space. Mr. Spitler stated you could say one per occupant, or whatever you want to do.

Mr. Chrisman stated this ordinance says it must meet all relative building and zoning codes. If you take a barn or a garage and change its use to an ADU, you will have to have a review certification by a local building official. The Virginia Uniform State Building Code dictates that one bedroom means two person occupancy. No more than two

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maximum occupants, so that one bedroom would appear on the inspection report by the local building official. If one bedroom is listed on the building official's inspection report, it's very clear then that's all that could be in the ADU, and no more than two maximum occupants can be in the ADU.

Mr. Webb summarized by saying that the Commission is satisfied with the writing here A-G, J, K and no more than two individuals residing. Mr. Webb stated modifying K, striking H and I because they are repetitive and adding no more than two individuals.

Commissioner Campbell stated that in H, the accessory dwelling unit can be rented. Mr. Chrisman confirmed that G allows the unit to be occupied by either the owner or tenant(s).

Commissioner Baughan stated he was concerned about someone being able to subdivide and sell off the ADU if enough square footage exists in order to meet minimum lot size and set-backs. Mr. Black and Mr. Spitler agreed that it could be done (even now), once approved by the Town, if the lot size and setbacks were met.

Commissioner Potts stated Mr. Black raised an interesting point. What prevents it from becoming, once the ADU is approved, a short term rental? Mr. Black stated if you do rent it, you can not rent it for less than 30 days.

Commissioner Potts asked if the Commission was satisfied. If so, then we need a motion to recommend approval to the Town Council. A motion was made by Commissioner McNeely that we approve this as recommended and send it on to Town Council. Motion was seconded by Commissioner Menefee. Commissioner Potts stated we have a motion made and seconded to accept as amended and send it to Town Council with a recommendation they approve it. The roll call was as follows: YEA: Commissioners Hakel, Baughan, Campbell, yes with reservations, Potts, Meaney, Menefee and McNeely.

APPROVED: 7-0

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There being no further business to come before the meeting, a motion to adjourn was made by Commissioner Baughan and seconded by Commissioner Hakel. Motion carried. Meeting was adjourned at 9:03 p.m.

Respectfully submitted,

Bryan T. Chrisman
Assistant Town Manager

ATTEST:
