

**MINUTES
LURAY PLANNING COMMISSION
DECEMBER 12, 2007**

The Luray Planning Commission met on Wednesday, December 12, 2007, 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 opened the meeting.

Commissioners Present:

Tom Potts, Chair
Peyton Baughan
Clifton Campbell
Terry Dodson
Sam McNeely
Judy Suddith (Arrived late)

Absent: Larry Hakel

Others Present:

Bryan Chrisman, Assistant Town Manager
Ligon Webb, Town Planner
Jason Spitler – Town Attorney
Andrew Jenner – Page News & Courier

Chairman 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 from November 14, 2007 Regular Planning Commission Meeting

There being no additions or corrections to the minutes, a motion was made by Commissioner McNeely and seconded by Commissioner Campbell that the minutes be approved as presented. The vote was as follows: YEA: Commissioners Potts, Baughan, Campbell, Dodson, and McNeely. **Approved 5-0**

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NEW BUSINESS:

- **Public Hearing:**
Ordinance Amendment: That Appendix A (Zoning), Article II (Definitions), Section 202 (Special Terms) of the Code of the Town of Luray, Virginia be amended to add the following:

Short-Term Rental: The renting of a private dwelling, including, but not limited to a single-family home, a townhouse, duplex, triplex, multi-family, condominium, or like which is rented, leased or advertised for a term period less than thirty (30) days. A short-term rental shall be considered a "commercial use" as are motels, lodges, inns, or bed and breakfast operations. Short term rentals are prohibited in all residentially zoned districts.

Chairman Potts stated the Commission will shortly open the public hearing on the proposal to amend the ordinance of the Town of Luray to prohibit short-term rental of property. He reminded everyone that all participants of the meeting were to be civil, and each person could speak for up to 10 minutes.

Chairman Potts provided some background of the issue by elaborating on recent Virginia Supreme Court action, as well as the situation occurring within Massanutten. Given that the current code does not speak to the issue of short-term rentals at all, the Commission felt it was important to be proactive and address the issue immediately within the ordinance. In this way, the issue would have basis within the code, and the Commission and Council could re-visit it in the future when more time was available to review the subject.

Mr. Webb gave a brief presentation and reminded everyone that this issue affected only those property owners of the Town and that it did not apply to Page County property owners at all. He elaborated that this is just a policy recommendation to the Town Council. He went on to state that inns and bed & breakfast operations are still allowed under the ordinance, and that short-term rentals would still be allowed in the Business District. He stated that one of the things the Comprehensive Plan talks about is promoting tourism as a centerpiece of this community, but it also talks about protecting residential areas and making sure that the residential districts are indeed protected from incompatible uses. Obviously the intentions of this action are to try to protect the welfare of all the citizens of the town.

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Chairman Potts questioned Mr. Webb about whether he was able to locate any current short-term rentals within the Town of Luray that hold a business license and are collecting transient occupancy taxes. Mr. Webb stated that none existed currently.

Commissioner Campbell stated he felt the Commission should emphasize the fact that this is only a temporary fix until the Commission has the opportunity to come up with something more comprehensive for certain residential areas.

Mr. Webb stated he has discussed with other staff members and reiterated that a special use permit may be the way to go for such a use in any zoning district. He emphasized that when the issue comes before the Town Council, they may choose to modify the proposal, or do away with the requirement all together.

Chairman Potts then opened the public hearing portion of the meeting for the short-term rental issue. He asked that anyone wishing to address the Commission could come forward and make their presentation from the microphone at the podium. He asked them to identify themselves and provide their home address for the record.

John W. Leonard, 120 Highland Court, Luray

He stated from the offset that he does not have a dog in this fight, but wanted to applaud the Commission for taking the initiative and being proactive on this issue. He supported an alteration to the proposed definition by requiring that all such uses must receive a Special Use Permit. He spoke to the issue of special insurance being required for the dwelling for such a use, and that he didn't believe that there was a huge number of these uses occurring right now.

Randy Havan, 741 Steam Hollow Road, Shenandoah

Mr. Havan stated he doesn't own any property in the Town of Luray but it is still of interest to him. He is opposed to the proposal, but stated he thought it was nice to see the Commission being proactive. He was concerned about undue regulation, and that existing laws may handle some of the concerns such as parking and noise.

John Vollmer, 1125 Island Ford Road, Rileyville

He is opposed to this proposal. He thought that this proposal went against some of the goals of trying to increase business and tourism in Luray. He stressed that such businesses could provide a lot of peripheral money to the community via local suppliers and contractors. He referenced Mr. Ruiz with All-Star Lodging, and stated that he believed that obtaining the correct insurance, getting a business license, and paying the

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appropriate taxes are all very important to the success of the industry. He also wanted to know if existing uses of this type would be grandfathered in. He thinks that they should be grandfathered.

James Vollmer, 12804 Wrexham Road, Herndon

Mr. Vollmer stated he was going to be represented by Roger Smith and that he was also opposed to the proposed ordinance change. He indicated that he fully supported his brother's comments. They both own property in Page County, they have been looking at purchasing property within the Town. He stressed that in order to attract short term rental customers, you have to keep your property in pristine condition or you are not going to rent them.

Rodger Smith, 129 E. Main Street, Luray

Mr. Smith represents a number of citizens and property owners throughout this area, both in the Town of Luray and the County. To date, at least 30 or more are aboard and in addition to those, he represents the interest of All-Star Lodging which probably has 72 to 100 different rentals throughout the county. He did not feel there was a need for this regulation. He indicated that litigation will occur if the ordinance is passed. Mr. Smith stated that the Supreme Court has upheld that short-term rentals are a residential use. He said he felt that this action by the Town was unwarranted and premature. He stressed that he hoped this was not an issue where this proposed ordinance was one person's private concern (someone who currently has a bed and breakfast saying that they don't want short term rentals because they would be taking business away from my own private business). He felt that existing uses of this type must be grandfathered in. He indicated that he felt the type of people who would be looking to these types of short-term rentals would be quieter people, and not partying types of individuals. He mentioned the letter he handed out that came from Karen Culpepper of the Chamber of Commerce.

Nellene Smith, 5 Hite Court, Luray

She is opposed to this ordinance change totally, and she tends to agree with all the speakers who have spoken so far. I oppose this totally. She thinks the tourist industry in Page County is a lucrative income for the Town of Luray and all of Page County.

Charles LeBlanc, 196 Deer Lane, Luray

He is opposed to the ordinance prohibiting these types of uses, and would rather not see them regulated. He stated that he works in the rental business, and is a big promoter of

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tourism within Page County. He believes that such activities provide a basis for future expansion of tourism that will benefit all citizens.

J. D. Cave, 6045 Ida Road, Stanley

He indicated that he is not a resident of Luray, but that he appreciated the opportunity to speak on the topic this evening. He is in the rental business, and has both short term and long term rental properties. He doesn't see the need for this prohibition, and therefore opposes this ordinance change. He feels that the tourism business is a great business in this area, and the rental business is a great business to be in. He felt the County and Town have enhanced their tourism activities, and that he believes it is second only to agriculture as far as bringing money to the area. He stated that it was a good, clean business – the tourists come and spend their money and go back home. The localities are not required to build roads or schools for them. He indicated that he was very excited to see the accomplishments of the LDI. He asked the Commission and Council to re-think this issue and asked them not to do anything that is going to hurt tourism in Luray and Page County.

Chad Moyer, 256 Log Cabin Drive, Stanley

He was opposed to the ordinance change, and indicated that all his issues have already been addressed by others.

Carlos Ruiz, Owner of All-Star Lodging

Mr. Ruiz was generally opposed to the ordinance change. He felt that due to the sagging home sale market, some people may be able to rent their houses out short-term until they could sell them. He agreed with all of the comments put forth so far.

There being no further speakers on this subject, Chairman Potts then closed the public hearing on the short-term rental issue.

Commissioner Baughan stated that he is not against considering short term rentals, but stated that the Town has to decide where in the community it would be an appropriate use. He concurred with Commissioner Campbell in that the issue needs to be addressed now, and then can be reviewed and revised later. He thought that maybe a new development that was to be set up as having short-term rentals would be something negotiated by the Town, and anyone who buys a dwelling unit there would know that is what the units were developed for. He thought that people who bought into residential areas containing single family homes or those types of dwellings should not be negatively impacted by someone who comes in later and wants to change the use. He indicated that

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he felt the renting of a house for 50 weeks a year was more of a commercial enterprise, rather than a “residential use” as defined by the courts. He indicated that all the different aspects of the issue would have to be legislated since there is nothing in the code now that stipulates how many people can be in the house, or how many cars can be parked there. Nothing would stop 50 college kids from renting a house in a residential neighborhood for the week. A prohibition now prevents “grandfathering” issues, and allows the Commission and the Council time to evaluate how best to implement a limited use for such activities. He closed by stating that the community and developers could then come to the Town with comments on how best to implement such a use, and where best to allow such uses within the Town.

Commissioner McNeely stated that he agreed with Commissioner Baughan. He lives in a nice subdivision and he would hate for someone to come in and buy the house next door to him and say they are going to rent it out on a short term basis, every weekend or a week at a time. He indicated that he had moved from a community that allowed such rentals, and they posed quite a few problems.

Commissioner Campbell stated he would like to address two things. 1) Home occupation - this was mentioned by the man from Shenandoah. The Town only allows home occupation in certain residential districts; we do not allow it in two residential districts but they are very restrictive districts (R-1 and R-2). We don’t allow such a use in all of the residential districts.

2) Someone mentioned the ability to have such short-term uses in the business district. From the Caverns to east end corporate limits is all zoned business along Main Street. The proposed change will still allow short-term rentals in those areas, just not in residential areas for now. The Town is looking at short term rentals as a business. Home occupation is a little different because in home occupation you have to live in the residence. The owner has to live in that residence in order to have a home occupation. Short term rentals you don’t have to. It’s something the Town needs to study through. He felt sure that in 6 to 8 months the Town will have something in the ordinance for allowing short term rentals under certain criteria. For the time being, the Town needs to study this issue. He reiterated that it is important to handle this issue immediately, and then re-visit it as time, and public comment, allows.

Commissioner Dodson stated that ever since this subject came up, he was concerned about the total prohibition. He has said time after time that the Town needed to put a clause in to allow these under a special use permit. He emphasized Page County and Luray as a tourist attraction, and thinks this is an issue that needs to be handled now, but he doesn’t agree with its format currently.

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Commissioner Judy Suddith stated she had nothing to say.

Commissioner Potts stated that as he said at the Commission's last meeting, he is not in favor of the proposal as it is presented here, but he believes we do need action to limit and control short term rentals.

The job of the Planning Commission when you are appointed here it is to try to learn something about and assist the town government in managing the land within the town limits. Each person appointed here is selected by a member of the Town Council sent here to represent interests of the citizens. We sit here, learn what we can about the law, understand what we can, and then in the best interest of the public, we try to come up with proposals that in fact, improve the land management within the corporate limits of the town. You have heard the term "proactive" several times. That's been one of our focuses in the past year is to anticipate, to get ahead of, and provide answers or solutions to problems before they arise. The Town Council does not have to take the recommendations of the Planning Commission. The Commission serves simply as an advisory body.

In returning to a previous comment, no such short-term rental could be found within the Town that had a business license and was collecting transient occupancy tax. The Town has heard rumors of short-term rentals in operation already, and the Commission has heard references to such operations here tonight. Chairman Potts stated that either on the one hand we don't have a problem and we're getting out ahead of it, or we already have a problem, we haven't addressed it, and we should have already done something about it. That is where the Planning Commission sits tonight; to weigh what is the best interest of the public to be invaded by the drunken party at Augusta, the unruly crowd throwing beer cans and urinating on your plants in Massanutten, or simply operating a business without a license, not collecting taxes and submitting them to the Town of Luray. The Commission will make a decision tonight, and will either make a recommendation for the Council, or table the issue.

Commissioner Campbell stated for the record that the Commission is not taking this under advisement because of a personal issue or implied competition. This was an issue that came from this Commission, and had nothing to do with anyone else's business. This is the only man here (Chairman Potts) that short-term rentals could possibly be in competition with, and Mr. Potts didn't bring the issue before this body.

Commissioner Potts stated that once a person lives in a community, there is the expectation of people being neighborly and respectful of others. Owners are expected to maintain their property to some minimum level of appearance, and conduct activities that do not overly impact the members of their surrounding community. He indicated that is

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one of the main reasons that the Commission will be looking into the issue of property maintenance within the historic downtown area of Luray in the future. He emphasized that it is not reasonable to think that our community can just imagine that issues like this don't exist, or simply ignore them, in the hopes that everyone will do the right thing in every instance.

Commissioner Dodson stated that he has lived in Luray all his adult life and although he may not want his neighbor to have a keg party with 50 to 100 people behind his backyard, he is not sure he has the right to tell them that they can't have such an event. He stated that he has a problem with dictating usage rights to property owners. He would expect his neighbors to be neighborly enough to respect his privacy and just be a good neighbor.

He indicated that he has asked some of the Town Council members how they feel about it and nobody will give him an answer. He also has a problem working in these meetings on the Planning Commission and spending all this time on an issue, and then giving it to the Town Council where it is rejected. He agreed that the issue needs to be addressed, but he has problems with the way this it is being presented and worded.

Commissioner McNeely stated he thinks it needs to go to the Town Council to get their input on it, so in that regard Commissioner McNeely made a motion that the Commission accept the ordinance as proposed and motion seconded by Commissioner Baughan. The vote was as follows: YEA: Baughan, Campbell, Suddith, and McNeely. NEA: Potts and Dodson. **Approved 4-2**

- **Preliminary Plat Submittal: BRVCSP, LLC – Blue Ridge Village, Phase I**

Mr. Ligon Webb stated that the Town has received a complete set of the engineer's plans, and they are available for review in the Town Office.

He indicated that the applicant had submitted their over-all concept, and that this particular phase (Phase One) would be 16 units. This is a preliminary plat phase so if this is passed, it would come back to the Planning Commission as a Final Plat. He explained that before it comes back to the Commission in its Final Plat form, the Town would get a review engineer working through the submittal, and get those comments back. He pointed out that the applicants included a landscape plan as the last page of their submittal.

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Brian Phelps, 124 N. Hawksbill Street, Luray

He began by indicating that the R-3 use would be utilized, and that this has been a project in the making for quite some time. As he stated in the meeting last month, there has been a previous Special Use Permit in that same general area. Since then, the group added the three acres upon which a duplex currently sits (near the health department). He emphasized that his group recognizes this as being a long term care industry and one that is here to stay. He stated that this is a much needed project, and his group is looking forward to completing it. The first phase is the 16 units, which includes a clubhouse for the specific use of residents of 55 years of age and over. It will be an active senior retirement community.

Commissioner Potts asked about possible storm water management coordination with Luray Heights.

Mr. Phelps stated that Luray Heights is proposing to have a storm water management retaining pond on their side of the property line, and their project would have one on the Montvue side. In speaking with Pat Racey at Racey Engineering, he felt that combining the two storm water management units at the property line would make it a nicer water feature for residents of both of those communities.

Commissioner McNeely made a motion that the preliminary plat be accepted and was seconded by Commissioner Campbell. The vote was as follows: YEA: Campbell, Potts, Suddith, Dodson, and McNeely. Commissioner Baughan abstained. **Approved 5-0 with one (1) abstention.**

Mr. Webb stated one of the other items under new business recently brought to him was R-3 duplex units. In R-3 the Town's ordinance says you are not allowed to sell each half of a duplex. It has to be under one ownership. R-4 says you can divide both sides and sell each half. Town staff is proposing to have the R-3 duplex provision worded similarly to the R-4 version.

Commissioner Potts asked if we change it for the R-3, does it change the legal definition of a lot in the R-3?

Mr. Webb stated when he discussed this issue before, if we change the definition, he would imagine someone who has an R-3 duplex could then re-submit a new survey with the lot line in the middle dividing it in two. Commissioner Baughan asked if you would hold them to the same number of square feet as you do in the R-4. Mr. Webb stated R-4 is 4,000 sq. ft. for each side; R-3 would stay at the 5,000 sq. ft. minimum on each side.

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Mr. Webb stated he will work up a definition change and get it around to the Commissioner's prior to advertising for Public Hearing at the January Planning Commission meeting.

OLD BUSINESS:

- **Ordinance Review: Draft Landscaping Plans in Subdivision and Sit Plans**

Mr. Webb stated that the best way to adopt this would be to add the landscaping requirement into the preliminary plat submittal requirements. Commissioner Potts asked t Mr. Webb to get with Mr. Spitler to revise this ordinance, and bring back to the Commission next month.

Landscaping on Commercial Site Plans – Mr. Webb will run a few math scenarios regarding square footage requirements, and bring back in January.

- **Ordinance Review: Draft Model Outdoor Lighting Ordinance**

Mr. Webb will bring it back again next month after making similar changes and updates.

- **Review: Subdivision Policy**

Mr. Chrisman supplied the revised definition based on comments made at the previous meeting. The changes will consist of altering current definitions in the Code, and eliminating the definition for re-subdivision. A Town policy for handling subdivision and non-subdivision actions would be put into place.

Mr. Webb stated that the Commission will have two public hearings in January. One for R-3 duplexes. The second one will be the revised subdivision definitions. Mr. Chrisman stated he didn't think the Town policy would need to be part of the public hearing; it would simply be the changes that we are proposing to the definitions in the Code.

Commissioner Potts had a question for the Commission. If the members are satisfied that the substance of the landscaping and the lighting requirements are as the Commission would like to see them, and that Mr. Spitler can work with Mr. Webb to get the wording correct for submission, is the Commission willing to have public hearings on these issues in January? Commissioner Campbell stated that he had no problem going ahead with the public hearing for both, provided that any necessary legal changes between Mr. Spitler and Mr. Webb are handled. Mr. Webb stated that even at the hearing, the Commission could make some minor changes in the language of the ordinance.

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There being no further business to come before the Commission, Commissioner McNeely made a motion to adjourn and seconded by Commissioner Suddith.

Respectfully submitted,

Bryan T. Chrisman
Assistant Zoning Administrator

ATTEST:
