

**MINUTES
LURAY PLANNING COMMISSION
JULY 23, 2008**

The Luray Planning Commission met on Wednesday, July 23, 2008, 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
Clifton Campbell
Peyton Baughan
Larry Hakel
John Meaney
Mary Menefee
Sam McNeely

Others Present:

Rick Black, Town Manager
Bryan Chrisman, Assistant Town Manager
Ligon Webb, Town Planner
Jason Spidler, Town Attorney

Election of Chair and Vice-Chair for Term Ending June 30, 2009

Mr. Webb stated we can entertain motions anyone has for the election of Chair for the term ending June 30, 2009. Commissioner Hakel stated he was satisfied with what Commissioner Potts is doing, so he moved that we re-elect him as Chair for that term. Motion was seconded by Commissioner Campbell. The vote was as follows: YEA: Commissioners Campbell, Baughan, Hakel, Meaney, Menefee and McNeely. **APPROVED 6-0**

The floor was then opened for a motion for Vice-Chair. Commissioner Hakel moved that we re-elect as Vice-Chair Clifton Campbell for a term ending June 30, 2009. Motion was seconded by Commissioner Baughan. The vote was as follows: YEA: Commissioners Potts, Baughan, Hakel, Meaney, Menefee and McNeely. **APPROVED 6-0**

PUBLIC HEARINGS:

SUP08-2, Rivers West Bar-B-Q/Richard Rutherford

Mr. Webb stated the applicant is requesting a special use permit to allow a temporary concession trailer to be located in an identified floodway district. Per the Town Code all uses located in a floodway district require a special use permit. The particular lot is

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zoned B-1. Mr. Rutherford is looking for a permanent activity and has submitted proffers for this permit structure. He would like to keep it a mobile unit and move it at the end of his three or four days of operation. We told him before you do anything, you are required to have approval from the building official as to where you are putting it and have met all the building guidelines as far as finding your elevation and getting your engineering done. You have to satisfy him that your structure can be moved. We also told him that he needed to have the Health Department approve his operation as well and he has done that. Therefore he has submitted proffers and would like to expand his operation to Wednesday through Sunday and looking at March 1 through November 1. Mr. Webb had talked to some of the Commissioners and you have suggested that maybe he should consider amending his operation times from May 1 to November 1 which would coincide with when the Farmers Market is open and also reduce the days he would be operating from Thursday through Sunday. He probably is just going to be a weekend operation, but there might be a day on a Friday when he might want to operate.

Mr. Rutherford stated he would like to be able to operate Friday through Sunday. He would like to be able hook up on Thursday to get all his refrigeration in place. That way he can bring his food into the unit that is already refrigerated. He's not looking for Thursday to actually operate but to get the refrigeration up and running for the 24 hours to put his merchandise in. If the Planning Committee or Town Council would see fit to allow him three days of operation – Friday, Saturday and Sunday, with the actual hook up being on a Thursday that would be wonderful.

Commissioner Hakel asked who owns the property. Mr. Rutherford stated Bob Harrison who leases it to him.

Commissioner Baughan asked if the Town collects meal tax off this situation. Mr. Webb stated he has a business license now and is paying his meals tax.

Chairman Potts then opened the public hearing and invited the public to comment. There being no public comment, the public hearing was closed.

Commissioner Campbell made a motion that this request be granted with the stipulation that the special use permit be tied to the business license and reviewed by the Planning Commission when the business license becomes due with the changes to No. 2 - Thursday through Sunday and May 1 to November 1. Chairman Potts stated we have a motion to accept with the proffer as modified and with the condition that the business license come back to the Planning Commission annually for review. Motion was seconded by Commission Hakel. The vote was as follows: YEA: Commissioners Potts, Campbell, Baughan, Hakel, Meaney, Menefee and McNeely. **Approved 7-0**

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Chairman Potts stated for the new members, that what we have done is to approve a recommendation to the Town Council. We are not the ones who have the final say on this. Our recommendation will go forward to the Town Council and be taken up at the next meeting. There will be a public hearing at that meeting where the public will have a chance to come in and make comment to the Town Council.

SUP 08-3, Ronnie Jenkins & Chris Avery

Mr. Webb stated this is a special use application for a single-family dwelling in a B-1 zoning district. You may remember this from a year and a half ago. The applicant is seeking to put two single-family homes on this almost one-half acre parcel. There was a large single-family home there for many years that was recently demolished, so it's been vacant. The applicant did petition the Planning Commission and Town Council a year and a half ago for the townhomes which was subsequently withdrawn or denied. That has no bearing on this request. He has talked to the applicant and looked at the property. He can get two 10,000 sq. ft. lots plus they have proffered to follow the R-3 setbacks. The adjacent neighborhood is R-3. It is Mr. Webb's feeling that from a use perspective the two single-family homes are the most desirable use for the lot. It is adjacent to single-family homes. Any business use would probably generate more traffic. Mr. Webb has talked to several other folks in the neighborhood and they seem to be fairly comfortable with the request. He asked if the Commissioners had any questions about this.

Commissioner Hakel asked what is the status of the traffic study that went on there in front to make that a two way street. Mr. Webb stated that being a two way street is probably going to be put off for quite a while because that intersection was on our short term plan but now the money for that project is now on Leakesville, so that project has been put back quite a few years. Right now there are really no immediate plans to improve that intersection. He feels as far as an impact, these two-single family houses is probably as low an impact as you can get for that property. The adjacent neighborhood is R-3 and he told them he thought they should put R-3 standards on these two lots. They can meet the lot width and setbacks for R-3.

Commissioner Menefee stated you have spoken to some of the people in the neighborhood. Mr. Webb stated he had spoke to a couple folks in that neighborhood just to warn them what's coming and once again he has not heard from anyone; notices have gone out but on the whole he would say that folks are more comfortable with two single-family homes than they were with townhomes.

Mr. Webb asked Ron Jenkins to tell the Commissioners what his plans were.

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Ron Jenkins, 421 Parkview Estates, Luray, VA

Mr. Jenkins stated he was extremely misinformed when he bought the property from a realtor who said everything was fine, but after lots and lots of money, it wasn't fine. He would like to see if the Town would be OK with putting two single-family homes there. They will be smaller homes – 1250 to 1400 square feet; they will be permanent homes and nicely landscaped. What was there was an eyesore to start with. He cleaned it up, and he would appreciate if he could do that. Commissioner McNeely asked if he was building them for sale. He replied he is just going to rent them.

Commissioner Hakel asked Mr. Webb why are we doing a special use permit and not rezoning. Mr. Webb replied that he asked him that and it really didn't make any difference. He could have rezoned it to R-3. It could go either way.

Commissioner Menefee asked if the special use permit lasts for a certain amount of time. Mr. Webb stated once it is issued he would be able to have a home there indefinitely and it would transfer with the land. Mr. Chrisman stated if the special use permit is approved, then that runs with the land but if he chooses to change the use, then he would have to come back before this Commission. Commissioner Potts stated he thought we have required that for residential; that it be attached to and recorded as part of the deed, so it has some permanent impact. By doing it as a special use permit, if he decides he wants to rent it out as two offices, that's another application that he could pursue; whereas if it is rezoned R-3, it creates a problem later coming back.

Chairman Potts then opened the public hearing. No one was present who wished to speak on the subject and the public hearing was closed.

A motion was made by Commissioner Hakel that the Commission submit this to Town Counsel as a recommendation to approve it. Motion was seconded by Commissioner Campbell. The vote was as follows: YEA: Commissioners Potts, Campbell, Baughan, Hakel, Meaney, Menefee, and McNeely. **Approved 7-0**

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New Business:

Review of proposed ordinance amendment: Limiting the size of accessory buildings (detached garages, sheds, etc.)

Mr. Webb stated if you read his report you can see what the problem is. We don't have any regulations on accessory buildings as far as their size. If you meet setbacks and you are not too tall, you can take up your whole back yard. The accessory building can be twice the size of your home and we have a few people in town who have tried that. We would like to find a mechanism for limiting the size of these buildings. If someone wants a larger building than what we allow, they can appeal to the Board of Zoning Appeals. Commissioner Baughan stated he doesn't think the idea of throwing it in the hands of the Board of Zoning Appeals is necessarily a good policy simply stating if you want to set maximum sizes, then anything that exceeds that has to be done by special use permit and then you can consider them on a case by case basis.

Mr. Chrisman stated the height cannot exceed the height of the primary structure, and they are not suppose to be built in the front or side yards, is that also correct? Mr. Webb stated that accessory building or detached garage shall not be erected in a front yard. If you want to put an accessory building in your side yard, as long as you can meet that side yard setback, you are OK.

Commissioner McNeely asked what are you saying about the height. Mr. Webb stated the Code says that the height of an accessory building cannot exceed that of the principle structure on a lot. Commissioner McNeely asked what does height mean. Commissioner Campbell stated from the ground to the top. Mr. Webb stated it is actually measured differently.

Commissioner Hakel asked if this will require a public hearing. Mr. Webb replied yes. Mr. Hakel asked are you going to try to get us to recommend either one in (e). Mr. Webb replied it seems to him that we like the second option of the lot coverage. Mr. Webb stated he could look at it and see if he can have it for hearing next month. He could bring the ordinance back

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one more time. Commissioner Potts stated he would like to see it one more time and would like to see the business about referring to the height, etc. incorporated in it so that we know we have all those points covered. Mr. Webb asked what are those things – the height, the access and side yard, the setbacks and the availability of special use permit applications? Mr. Chrisman stated you may want to run through a couple examples of the percentages and see if they are suitable.

Commissioner Potts stated we are also saying that you can have an accessory building or a garage; one or the other. Mr. Webb replied yes, you cannot have both. Mr. Webb stated obviously you could say you can have one accessory and one garage, provided you do not exceed your allocated lot coverage percentage – your 2% lot coverage. If it's a detached garage, you are covering a percent of your lot. If you want to do an accessory building, and you are going to cover one-half percent, your cumulative total is one-half percent of your lot. For an existing lot with a house and an existing detached garage or shed, they could have one or the other provided the total percentage did not exceed the minimum.

Commissioner Potts stated bring it back to us at the next meeting so we can get a good handle on it. Commissioner Campbell asked Mr. Spitler if we are working this so that we are covered. Mr. Spitler answered yes; I think we are doing well.

Commissioner Baughan stated he supposed we are still referring to the Planned Neighborhood Development that these outbuildings will be shown on that development and that's where they would be. Mr. Webb replied yes. Commissioner Baughan stated that if you approve that PND and on that original plan they showed the location and size of outbuildings, then they are held to that.

Commissioner McNeely asked if we have any guidelines on what an accessory building has to be constructed of. Mr. Webb replied no.

Mr. Webb stated he will make the changes and bring it back to the Commission and we will go through it one more time before we advertise it.

Commissioner Campbell stated he doesn't think we need to rush through this kind of thing. There's no reason for us to have to sit here and make that decision tonight. That decision can go for thirty days before we have to make that decision. Mr. Webb stated he thinks we have ninety days that you can table something. He doesn't think we have tabled anything as far as a public hearing. Commissioner Campbell stated you don't have to table it, just continue it. We can do the public hearing but we do not have to make our decision tonight. On the night of

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the public hearing this can go up until we are satisfied. Commissioner Potts stated he would not be surprised to hear that folks will have input or advice to give us when we have a public hearing on this.

Commissioner Potts stated attached to the April proceedings was the background on methods of abating blight that talks about what the town can do, and different avenues of approaching the issue. He doesn't want to lose this from our purview for the coming year and come up with looking at and getting back to the historic district issues.

Commissioner McNeely asked what is the status of the PND's, condominiums, etc. that we have approved over the last couple of years. Is there any progress on any of those? Mr. Webb stated they are at some stage; a couple of them have requested extensions before they have to post a bond, so they are all either being reviewed by engineering or they requested to postpone when they actually have to post bond for the public improvements. Mr. Chrisman stated you might see some activity in Phase IA of Luray Landing. Commissioner McNeely stated that what he is questioning as part of it was an increased water supply and sewer lines for the new school. Is that being taken care of? Mr. Black stated that the school did not want to participate in any type of increase of water supply to that area. They wanted to build their own standing tanks out there and maintain them. The engineer advised them that they should not participate with the town in providing any type of increase of water to that area.

Commissioner Potts stated the one development he is aware of that has said we want to go on hold and coast for awhile is the one across from the Fair Grounds where they don't want to post a bond, they just want to go into a holding pattern for now.

Commissioner Potts stated that Luray Heights – Gary Modjeska indicates that he is going to break ground on Court Lane in the spring of next year. Mr. Chrisman stated that he has his construction estimate approved, and we have a few questions for him that he sent out to his design engineer, but then it's just a matter of getting the bond formulated into this.

Commissioner Campbell stated we are getting a new 7-11 on the west end of town and a KFC by Wal-Mart.

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There being no further business to come before the Commission, a motion was made by Commissioner McNeely to adjourn the meeting. The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Bryan T. Chrisman
Assistant Zoning Administrator

ATTEST:
