

**MINUTES
LURAY PLANNING COMMISSION
JANUARY 10, 2007**

The Luray Planning Commission met on Wednesday, January 10, 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 Clifton Campbell opened the meeting.

Commissioners Present:

Clifton Campbell, Chair
Peyton Baughan
Terry Dodson
Larry Hakel
Sam McNeely
Tom Potts
Judy Suddith

Others Present:

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

Chairman Campbell called the meeting to order at 7:00 p.m. and welcomed everyone.

Approval of Minutes of the Regular Planning Commission Meeting on December 13, 2006

There being no additions or corrections, the minutes were approved as presented.

Selection of Chair and Vice-Chair of Planning Commission for term ending in January 2008

Commissioner McNeely nominated Mr. Tom Potts as Chairman and seconded by Commissioner Baughan. Commissioner Judy Suddith nominated Mr. Clifton Campbell as Chairman and seconded by Commissioner Dodson. Chairman Clifton Campbell asked Commissioner Hakel to take the chair for the purpose of selecting a new Chairman. Commissioner Hakel took the Chair and there being no other nominations, the nominations were closed. There were two people nominated for the Chair – Tom Potts and Clifton Campbell. The vote was taken for Tom Potts and the vote was 4. A vote was taken for Clifton Campbell and the vote was 2. The vote was 4 to 2 for Tom Potts.

Commissioner Hakel nominated Clifton Campbell as Vice Chair and it was seconded by Commissioner Suddith. Commissioner Hakel acted as Chair and the vote for Clifton Campbell as Vice-Chair was 6 - 0.

Commissioner Potts then took over as Chairman of the meeting.

Chairman Potts stated he appreciated very much the honor bestowed on him and to a large degree feared the authority and the faith placed on him. One thing he asked from the Commission was an agreement to proclaim our appreciation to Mr. Campbell for his many years

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of service to the Commission and for his excellence in serving us as a well informed Chairman of the Commission for so many years.

Ligon Webb then introduced Mr. Bryan Chrisman, the new Assistant Town Manager. He was recently a Design Project Manager with Racey Engineering and, before that, was in a supervisory role with the Virginia Department of Health.

NEW BUSINESS

Mr. Allen Louderback: Feedback concerning dividing an existing M1 zoned parcel to build a second single-family residence

Mr. Webb reported that essentially two parcels and a house are located on the southern parcel with a smaller parcel to the north. Mr. Louderback is interested in adjusting the boundaries of these parcels, getting it resurveyed and then constructing a single-family home on the readjusted northern parcel. Before he does this, he would like to get an idea from the Planning Commission if they would look upon this favorably. There appears to be several ways in which this can be done. (1) After adjusting the boundaries, he could apply for a special use permit for a single-family home under the portion of the M1 special use permit which says other uses as not stated or listed; (2) To rezone both parcels to a zoning designation in which he could simply build a house. Mr. Webb indicated that it was important to keep in mind that construction of an additional single-family home on the subject parcels does not appear to be unfavorable. That is an area where there are several residences mixed with some industrial uses. Right now the existing land use is residential in that corridor. In that regard it doesn't appear to be dis-favorable, but once the Commission establishes this precedent on this corridor, it is quite possible we could receive similar requests. He advised the Commission to look at this cautiously but that he does believe it is reasonable.

Mr. Louderback stated the reason he brought this forward is that he has two lots there (Lots 13 and 14) and also because of what has been going on with the Greenway. The house he has now blends in well with the Greenway and he felt that it would be a more appropriate use to have it as a residential home as opposed to a business. He has also been informed that it is considered to be in a flood zone. Most of the properties there are residential. What he wanted to do is readjust the boundary on Lot 14. There is a total of 33,000+ square feet total right now, and then he wanted to divide them basically in half, or roughly 15,000 square feet each. A survey was done in 1987, but was never recorded. It basically creates 15,000+ square feet on the lot closest to Furnace Road, and 17,000+ square feet on the other lot. What he would like to do is resubmit the survey that was done in 1987.

Commissioner Campbell stated in the past it has not been the Commission's policy to do this, and as far as he knows, the Commission has not approved any residential in the M1. The Commission has rezoned some property; the Charlie Judd property was a situation that was in the M1 zone, and was rezoned to R-5 in order for him to build a house there. This parcel would be impossible to go to R-5 because of spot zoning. There is nothing around it that constitutes an R-5 zone. The B-1 with a special use permit would probably be the most compatible for that area. The other three houses on that street are in the M1. Commissioner Baughan stated he

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thought M1 extended to Furnace Road and between that and 211 Bypass, those fields are operated as business.

After a lengthy discussion by the Commissioners on ways to accomplish a lot line adjustment, Commissioner Baughan stated he didn't have an answer. Mr. Louderback stated he understood their concerns and didn't want to create any unusual situations that would cause problems in the future. Commissioner Campbell stated rezoning to R-1 would be out because that's spot zoning. He didn't see where resurveying the lot would get it to where it conforms to any residential zoning type.

Mr. Webb stated Town staff will look at the project again and see if there are some other options available, and report back to the owner. Chairman Potts stated the Commission will let the owner work with the Town Staff, and see what options could be utilized, and then Mr. Louderback could come back to the Commission again.

Llewellyn of Virginia (Collins Avenue Townhomes): Final Plat Submission

Mr. Webb stated that the Commission has a declaration of plat for Fairview Meadow. Mr. Mark Reed, representing Mr. Llewellyn, stated that they were present for the final plat approval and consideration. At the last meeting, Pat Racey presented the changes and updates from the preliminary plat and plan, and Mr. Reed indicated that based on his discussions with Ligon, he thinks all the changes the Town had requested were complied with. Mr. Gary Shirley from Racey Engineering was present to answer any technical questions.

Commissioner Baughan stated that it never looks good to see a subdivision plat like this with a flood plain line drawn through the middle of it. He asked if this issue was ever going to be re-evaluated, and the line made to disappear from the plat? Mr. Shirley commented that the new FEMA maps came out, and were effective this month. The flood line on the FEMA map then showed the old flood line a foot lower in some of the places, and Racey Engineering had talked to the Army Corp of Engineers, and their consideration was that FEMA has already done the hydrogeology studies. Racey Engineering then obtained the opinion of an independent hydrogeologist. He was also in concurrence that FEMA has already done the work, that they have done the cross section shown on the FEMA map. In his response and summary of the project, it addressed the fact that FEMA differentiates between the flood way and the flood zone (flood way being the high velocity travel area of the channel and the flood zone just being the back water areas), and how FEMA allowed for building in the back water areas, but allowed no building in the flood way areas. FEMA has done studies that show that building areas in the fringes, where they had designated, can be filled without affecting the level of the back water by no more than one foot in level. He noted that this is explained in the detailed report. Racey Engineering did not go any further with doing any more hydrogeology evaluations, because they have already been done (by FEMA), and these evaluations address how to handle a flood zone as far as building is concerned.

Commissioner McNeely asked if the issues with Stoneybrook Lane had been satisfied. Mr. Webb stated in that in his consultation with VDOT regarding a left turn lane (on Collins) or whether to construct Stoneybrook where it connects there, the Town is satisfied. Mr. Baughan

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asked if the Town had received from the applicant the right-of-way or necessary paper work to make that connection. Mark Reed stated the Town Attorney has gotten the deed straightened out with the County for the ownership of that property and the applicant plans to take the road to our property line, and connect it (to Stoneybrook) from there. Mr. Shirley stated his firm did go to the Courthouse and pull a copy of the deed for that part of Stoneybrook Lane, and that the wording "dedicated to public use" was in there.

Mr. Reed stated that he thought there has been discussion with the Town on the flood plain issues. Mr. Webb stated Mr. Baughan brought this up a few months ago, and as long as it is not in a flood way, his understanding is to make sure the applicant is constructing the road that will connect, and what they're showing on the map is correct. Mr. Reed stated that what the owner is building is the road to the property line. Mr. Spitler stated that the Town has already told the County that the Town would improve that road. He further stated that was part of the agreement when the Town applied that (with the County). Right now, the Town has granted a temporary easement to make use of that strip of land. Mr. Reed stated what the owner has committed to do at this point is to build the road to the property line, and he believes that the Town has made an agreement with the County that they are going to build the road to the property line.

Commissioner Campbell asked if the Town is willing to satisfy the Planning Commission that they will build the road. This was part of the Commission's agreement from the beginning that this road connect, and the Commission doesn't have any guarantee that this road is going to connect at this point. Mr. Reed stated the Town owns the land. Mr. Spitler stated that the Town is the only party to control whether or not it (road connection) doesn't come true.

Commissioner Potts asked is the road going to be built in time to carry traffic from this development. He didn't hear the answer at the Commission's last discussion of this whether there is going to be a left turn lane on Collins Avenue. Mr. Shirley replied under the ITE trip generation, a left hand turn lane is not required for full build-out. In the meetings with VDOT and Racey Engineering, they were in agreement that if the Stoneybrook Lane connector was built when this project was done, then a left hand turn lane would not be necessary, so at this time there is no left hand turn lane (on Collins Avenue) planned in the project.

Commissioner Baughan stated that it seems to him that the developer has done what he was asked to do; provide the connection for Stoneybrook. On the other hand, without that road eventually opening up, this project would be subject to a left hand turn lane if there was no connection there. Obviously that road would not be needed immediately, but sometime before this project is totally built out. If the applicant does not provide that road, then the applicant have created the problem with the other road (Collins) because then, we obviously have all been told, it needs that left hand turn lane unless you have Stoneybrook to take some of the pressure off.

Commissioner Hakel stated it seems the request needs to be tabled until the issue can be resolved and brought back to us. Mr. Reed suggested it might be something the Commission could approve with the condition that the project would have a turn lane (on Collins) or something can be worked out to the Council's satisfaction with Stoneybrook Lane (that either the Town is going to build it, or the developer is going to build it).

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Commissioner Baughan stated it seemed to him that it is now between the developer and Town Council to resolve those matters. Commissioner Potts stated he was surprised that with Collins being as busy as it is, and it's only going to get more traffic, that somehow VDOT has said you don't need a left hand turn lane there. He was skeptical that the road that goes in behind all the industrial area (Stoneybrook Lane extended) is going to relieve that much traffic. He thinks people tend to look for the shortest route in and out, and that raised his concern even more about the need for the turn lane there, but he also agreed that the Commission has enough information to be able to send the project to the Town Council.

A motion was made by Commissioner Baughan, and seconded by Commissioner McNeely, that we send the final plat to Town Council as approved and let them sort out the issue on the road. Chairman Potts stated the Commission has a motion properly supported that the Commission send the final plat to the Town Council for consideration while expressing the stated concerns about the road and turn lane. The vote was 3 in favor and 3 not in favor of the motion. The Chairman broke the tie in favor of the motion. The vote was then 4-3.

OLD BUSINESS

RZ06-6, Master Land Use Plan, Luray Heights, LLC

Mr. Webb stated the applicant has outlined six proposed deviations from the subdivision ordinance. After reviewing this with Mr. Spitler, and looking at the intent of the PND, one of the first things in the PND ordinance is that it eliminates standard dimensional requirements. So the PND lends itself to deviating from the standard zoning and also in the same regard, it allows itself to make exceptions from the subdivision ordinance being so stringent. Mr. Webb thought it was clear with the intent of the PND that these proposed exceptions are allowable and he thought it would be reasonable to look at each one, understanding that this is what a PND is - an exception from the Town zoning ordinance, and also from the Town subdivision ordinance.

Commissioner Campbell asked if the applicant has given any more consideration to coming through Forest Hills because of the safety issues of coming out on Mill Creek Road. He thinks that the Commission should eliminate the street coming into Forest Hills completely. Mr. Webb stated he advised that the connection be stubbed off, and if Forest Hills (road) is improved, the potential still exists that some day that connection could be made.

Mr. Spitler stated that the Commission can't modify their plans (during the session). Commissioner Potts stated from what he is hearing, changes have to be addressed as part of the over-all motion to accept and forward, or to deny recommending. Mr. Spitler stated that was his understanding, and should be relevant to either approval or non-approval.

Commissioner Potts stated he has been reading the exceptions, and trying to figure out how to address them. Mr. Spitler stated the most appropriate thing to do is discuss all of the issues (individually), then come up with one recommendation either for or against, and why. Mr. Potts stated that the Commission can outline their concerns, or the list of things the Commission thinks the Council may need to pay particular attention to, but we vote on the proposal as a whole.

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After discussion of the exceptions, Mr. Potts asked if the Commission was ready to formulate the wording of their recommendation to Council relative to the Forest Hills connection, and if they are ready to vote.

Commissioner Hakel stated he thought the Commission ought to take the Town Planner's recommendation that it go forward as a connection, but not until it can be safely resolved. Commissioner Hakel then moved that we recommend approval of Luray Heights following the Town Planner's recommendation that the connection at Forest Hills be reserved until the safety issues with Forest Hills have been resolved. Motion was seconded by Commissioner Baughan. The vote was 4-3. Chairman Potts stated that the Commission will send the proposal to the Town Council with the recommendation that they reserve the connection at Forest Hills until such time as the safety issues and connectivity highway or road conditions can be addressed.

Bylaws for the Planning Commission

Jason Spitler stated he found a few additional code citations for your own reference. Changes are only in three existing sections. Those are Sections 1-2, 1-3 and 1-6. Starting with Section 1-6, the only change made is that Commissioners (or others) are no longer required to rise when they address the Chair.

Section 1-3, subsections D and E. It was suggested to Mr. Spitler by several members that in addition to defining the roles of the Chair, Vice Chair and Secretary, the Commission should have some language in the by-laws about the Town Attorney and Town Planner. All of the language that is included with respect to the Town Attorney in subsection E is simply copied from the Town Code as it relates to the Town Attorney's duties to the Council, but the exception was that some of the terminology has been changed as applies to the Commission's present situation. He stated that he obviously didn't have as much language to work with in subsection D with respect to Ligon as the Town Planner, simply because that position was not created by the Town Code.

The only other change was with respect to membership. The current State Code Section, as well as the current Town Code Section, (and the 1981 former Town Code section) relates to the Commission's discussion involving ex-officio members. The Town's 1981 Code simply re-codified what was in the 1965 Code, and it did provide that the Commission have 7 members; that of those 7 members, two of them would be members of either the Town Council, or the Administrative branch of the Town government, and both of those shall be ex-officio. It did not say they may be, it said they shall be. The Commission will have 5 regular members, and the Commission will have 2 ex-officio members. Sometime subsequent to 1981, the State Code section that was based on changed, and that State Code section now reads that the Commission may have members who are on the Town Council and part of the Town Administrative branch of government, but it does not make them ex-officio members; it actually makes them voting members. Mr. Spitler compromised and what he provided in subsections A, B and C, is that the Commission have the same 7 members as is provided by State Code, and as provided by the Town Code, but in light of the history of the Commission, most particularly the fact that Councilman Lancaster continues to come to most of the Commission's regular meetings and report back to the Town Council, he provided in subsection C that the Commission can still have

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those ex-officio members again, subject to the same parameters as previously existed in the Town Code, and again they are not members who would have any voting power. They would simply be here for purposes of informing the other branches of the Town government. Mr. Spitler stated he had discussed this issue with Mr. Lancaster, as well as several other members, and they all appeared to be satisfied with the intent of the new language.

Another minor change was in 1-3, subsection A. Mr. Spitler added the last sentence which simply said the Vice Chairman shall act as the Chairman if the Chairman is unable to act. Mr. Spitler invited the Commission members to take a close look at the language though in Section 1-2, subsections A, B and C to make sure that they were are satisfied before taking a vote.

Commissioner Campbell made a motion that we accept this recommendation, and motion was seconded by Commissioner Dodson. The vote was 7-0.

Commissioner Larry Hakel: Discussion concerning Comprehensive Plan update, and future actions

Commissioner Hakel stated a couple weeks ago he met with the Comprehensive Plan Committee that is made up of town citizens just to see what they were doing. At that particular meeting they were being briefed by the contractor. They had solicited from citizens some input into the plan and they received 97 comments from town citizens. The contractor had broken those down and was analyzing them and giving feedback to the Committee. The Committee has decided to hold a work session at the Fire Hall on February 7 and 8, 6:00 – 8:00 p.m. They will have 6 or 7 stations that will break down various issues like transportation, housing, commercial, historical resources, recreation, etc. They are hoping they will get feedback from other town citizens, from the Planning Commission and from town officials, so they can proceed with their planning efforts. He wondered if the Commission should have a representative on that committee, so the other Planning Commission members can get regular feedback. Commissioner Hakel stated he would volunteer if no one else did. The plan will be presented to the Commission in the summer, and then it will be up to the Commission to approve. Commissioner Campbell stated the Comprehensive Plan has to come through the Planning Commission. The Planning Commission shall initiate the Comprehensive Plan, and then make the recommendation to Council.

Commissioner Baughan stated the language is the Commission shall prepare and recommend a Comprehensive Plan. To that extent, the Town Council has created this citizen committee to create this plan, and by the Commission's actions, the members will be approving and recommending the plan to the Town Council. The Commission can take the work product (from the citizen group) and modify it as the Commission sees fit, but that the Commission must be the originating body. Mr. Baughan thought that maybe a resolution from this Commission endorsing this committee, and the work they are doing, might be in order. Commissioner Campbell stated that the Department of Transportation will have to review the road plans also, because this is part of the statute.

Mr. Spitler stated that as far as Mr. Baughans suggestion, he didn't believe it would be necessary, but it would not hurt anything. Mr. Baughan stated the reason he directed the

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question to Mr. Spitler is to see if the Commission needs to make a formal recommendation, or that just by the Commission's review and action would be enough. Commissioner Hakel stated he wondered if the Commission needs to have the components of the plan brought to the Planning Commission individually as they are developed. Mr. Webb stated the first part of the plan is almost done, so that will be in the hands of the Commission members as soon as it's done in a few weeks. When everything is done, and put together, the whole document will come to the Planning Commission, and that's when the Commission will hold a public hearing. Mr. Spitler stated that the Commission can actually refer the Comprehensive Plan to the Town Council in parts, if the Commission chooses to do so.

Items from the Public

None

A motion was made by Commissioner Dodson that the meeting be adjourned. The meeting adjourned at 9:05 p.m.

Respectfully submitted,

Bryan T. Chrisman
Assistant Zoning Administrator

ATTEST:
