

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

The Luray Planning Commission met on Wednesday, September 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
Larry Hakel
Sam McNeely
Judy Suddith

Others Present:

Bryan Chrisman, Assistant Town Manager
Ligon Webb, Town Planner
Jason Spitler, Town Attorney

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 August 15, 2007 Regular Planning Commission Meeting

There being no corrections or additions to the minutes, a motion was made by Commissioner Campbell and seconded by Commissioner Hakel that the minutes be approved as presented. The vote was as follows: YEA: Commissioners Potts, Campbell, Baughan, Dodson, Hakel, McNeely and Suddith. **Approved 7-0**

Chairman Potts proposed to suspend the rules and to move the preliminary plat submission, Stephen & Bonnie Kaufmann, to the first item of business for the evening so that the Commission will be done with that and have time to talk more in depth about the other issues on the agenda. Without objection, the Commission proceeded with the discussion of that preliminary plat.

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Old Business:

- **Preliminary Plat Submittal: Stephen & Bonnie Kaufmann**

Bryan Chrisman stated he had done an initial review of the subdivision plans (P1.0 of 2 and P2.0 of 2) dated 5/4/07 by Mr. Scott Sellers (engineer for the Kaufman's). He stated that he did not have enough time to complete an initial review of the Road Profile and E & S Plans. Mr. Chrisman then reviewed his initial comments report with the Commission, while receiving feedback from Mr. Sellers. In addition to several developmental concerns, Mr. Chrisman pointed out that the applicant will have to post both a performance bond (likely for 3 years), and a work warranty bond (likely for an additional 2 years) for any work completed on the site. Mr. Chrisman asked Mr. Sellers if he was to be both the design engineer, and the project engineer of record for inspections and the final Engineer's Certification statement. Mr. Sellers indicated that he was to serve as both for this project.

Mr. Chrisman stated he had talked to Mr. Sellers just before the meeting about the major items that would need to be addressed.

Mr. Chrisman asked Mr. Sellers whether the project would be developed in two distinct phases, or whether both phases, their plans, and their associated E & S documents and traffic analysis will be provided all at once. Mr. Sellers stated he planned to do it all at one time. Currently, the Town has received a preliminary plat for Phases 1 & 2, as well as a Road Profile and E & S Plan Sheet for Phase 1 (only).

Commissioner Campbell asked if staff was relatively comfortable with what has been presented. Mr. Webb stated that, at this point, staff has made the applicant aware through their engineer and as the Town proceeds forward, the applicants have a year from acceptance of the preliminary plat to submit their final plat. Mr. Webb indicated that quite a few things have to happen as far as receiving a satisfactory final plat, and getting it approved. Mr. Webb said that for now, staff is fine with the proposal given the corrections needed and noted thus far. Commissioner Campbell asked if everything is now according to the Town Code. Staff responded that based on a review of the preliminary plat only (not the road profiles or the E&S plan for Phase 1 only), there were some items to be completed.

Commissioner Hakel asked if anything has been submitted regarding the planning of the lots to the east. Mr. Webb stated that when the applicant's engineer submits calculations for traffic impact, those lots and their development potential will have to be considered.

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Commissioner Potts stated at the last meeting the applicant indicated that those lots would never be developed so long as they owned the property. He asked Mr. Seller's whether the land would be placed in a deed-restricted covenant to prohibit development for all time, or whether the project documents would be calculated to include this future development. Mr. Chrisman indicated that storm water must be calculated while looking at the maximum development of all land within the watershed. However, the additional traffic potential would also need to be addressed during the formal TIA required. Mr. Seller's indicated that he felt the Kaufman's would not want to place the land in a permanent conservation easement, but that he would likely include future development in his engineering documents.

Commissioner Potts asked if the Commission was at the point where if they decide to accept the proposal tonight, the Commission will make it contingent on satisfaction of these issues raised, and any other review issues that might arise, before the final plat. Mr. Chrisman stated the review notes he gave the Commissioners only deal with the Preliminary Plat pages. Commissioner Campbell stated if the Final Plat comes up to Code, the Commission will not have a problem with it. Mr. Sellers stated he has to meet the VDOT code, and the Town code. He indicated that he didn't mind coming back in October, and would have the final plats for both phases, the road profiles and E & S plan sets, and the full engineering design plans to submit at that time. Mr. Chrisman advised the engineer and commission that upon receipt of the final plats, the E&S plan sets, the road profiles, and the Roadway and Utility development plans, these will be submitted to the Town's review engineer's and to the County Building Office for review and comment.

Commissioner Campbell asked Mr. Spitler if there would be a problem with the Commission approving the preliminary plat given that the noted issues would be corrected. Mr. Webb asked Mr. Spitler that with the conditions that have been pointed out, and that the engineer says will be resolved before the next submittal, did he [Mr. Spitler] see any issue with the Commission approving this submittal. Mr. Spitler stated he didn't see any problems with it at this point.

At the same time, he indicated that the intent of the preliminary plat review is more for the benefit of the developer than it is anyone else. The primary issues raised are to make the developer aware now of what the Commission's concerns will be when the applicants return with the final plat. At this point, Mr. Spitler indicated that the Commission is really expressing an acceptance of a general idea. He closed by saying that the acceptance of a preliminary plat, even with conditions, is no guarantee of the Commission's approval of a final plat.

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Mr. Baughan stated he thought that the Commission was getting into issues that are best determined at the final plat stage. He asked if the concept was suitable to the Commission with respect to the overall layout, the two cul-de-sacs, and lot configurations. Mr. Baughan indicated that the road is stubbed off for future development to the lots in the rear, and felt that the Commission should focus on conceptual approval, and not delve into the details so much at this point. He said that the applicant must come up to the Town Code and the State Codes on the development.

Commissioner Potts asked if the Commission was satisfied with what the Town has received thus far. Commissioner Campbell stated with the information that the Commission has been given, he was satisfied so long as the applicant takes these conditions into consideration, and remedies them. Generally speaking, he felt that the Commission has been asked to approve the concept of a subdivision off of Fair View Road. Commissioner McNeely asked if it was a concept, or a preliminary plat. Commissioner Campbell stated that what was submitted was a preliminary plat, but actually all the Commission is approving right now is the concept portion of it. Commissioner McNeely stated if we approve this document, that's the preliminary plat approval, and the next step is the final plat submission.

Commissioner Campbell made a motion that the Commission pass this on to Council as accepted with conditions and that the necessary changes be made as listed in the two page Summary Report by Mr. Chrisman to the Planning Commission dated September 12, 2007, which are attached to these minutes and made a part thereof, and any other future review changes as submitted by the Planning Commission. The final plat will come back to the Planning Commission. Motion was seconded by Commissioner McNeely. Commissioner Potts stated we have a motion made and seconded to recommend approval to the Council with the expectation of satisfaction of the issues raised by Mr. Chrisman in his report, any future revision request by the Commission, and other relevant data submissions as required (including a traffic impact analysis report). The vote was as follows: YEA: Commissioners Potts, Campbell, Baughan, Hakel, McNeely and Suddith. NEA: Commissioner Dodson. **Approved 6-1**

- Continuation of discussion concerning short-term rentals in residentially zoned areas.

Mr. Webb did some research on this subject, and provided samples of policies and codes from other towns to the Commissioners. He indicated that he felt the Town can develop something for short-term rentals, but felt the Town should make it a special use permit request for every single case.

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Mr. Webb recommended that the Commission clarify what type of such use is allowable in the residential districts, require it to be a special use permit request, and provide a list of things the Town expects the applicant to satisfy. Commissioner Baughan stated he thought staff needs to define "short term rentals" initially from a point that the Town doesn't want to allow this to occur at this point.

Commissioner Baughan stated that our ordinance doesn't speak to this issue. If an owner starts doing it, the Town may be forced to accept it, unless the Town defines what it is and says that it is not an allowable use in the listed districts. Commissioner Campbell stated he thought the first thing the Town should do is to see that short-term rentals are not allowed.

Commissioner Potts stated the whole issue came up after the Massanutten Village incident. Commissioner Baughan stated that what the Commission is talking about is should the Town have something on the books, so that somebody's whole residence can't be rented out on a short-term basis. Commissioner Campbell stated he thought the Town needs an ordinance that says short-term rentals are not allowed in any residential areas.

Commissioner Potts stated that he was amenable to tasking the staff to come up with either a short-term rental control proposal, or a prohibition. The Commissioners stated they wanted to "prohibit them". Staff will come up with a definition for short-term rentals, and come up with proposed changes to the text of the Code to enable prohibiting them. The Commission will need to see the proposals first, and then have a public hearing. Commissioner Campbell stated if staff gets this information to the Commission a couple of weeks in advance, then the Commission could have the public hearing next month. Commissioner Potts asked if the Commission wanted a work session in two weeks, so a public hearing could be scheduled in October. Commissioner Hakel stated he didn't see any rush in handling the issue, so he recommended that staff could bring it back to the Commission at their next meeting, and then advertise to have the public hearing in November. Commissioner Potts stated that the Commission won't have a work session, but will wait until the next meeting to review the draft work from staff.

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- Continuation of discussion concerning landscaping requirements in the Business (B1) zoning district

Mr. Webb stated the challenge is to try to find a landscaping ordinance that is easy to understand. He indicated that he will submit each landscape plan to the Planning Commission, and they will look at each one individually. The recommendation was made to have the Tree Board or a certified landscape architect to formally evaluate each plan in an effort to assist the Commission. Commissioner Campbell stated what we should be more concerned about the residential area subdivisions where the Commission has control. He further indicated that the Town does not have control over areas already developed. For new subdivisions, and other new requests, these issues can be addressed prior to approval.

Commissioner Campbell stated that the Town needs something in the Code to address this issue as a requirement for all new submittals. Mr. Chrisman recommended that a requirement be placed in the code first, and then maybe a draft created by Ligon that the Commission could review. Commissioner McNeely asked if the Commission should set a time when staff was to provide the information. Commissioner Potts answered in October.

Mr. Chrisman stated he and Mr. Webb have been discussing the possibility of what some other town codes have with regard to lighting plans. Mr. Webb is to draft a requirement and a draft ordinance for landscaping, lighting plans, and noise limitations.

Commissioner Potts discussed his visit to the four different recycling centers in Loudoun County and Fairfax with members of the Town Council. He commented that the types of facilities they observed were far different from what is being proposed by Mr. Salyards.

Chairman Potts indicated that currently the Town staff is working on a list of conditions for Mr. Salyards to comply with. He said it was not clear what final action the Council will take. He indicated that he believes action will be taken at the next Council meeting to either approve or disapprove the request.

Commissioner Campbell stated it would be granted under a special use permit. Any conditions in that special use permit can be enforced. If Council has listened to the applicant and adds any conditions they deem necessary, then he felt there shouldn't be a problem. He added that if the applicant reneges on any of the listed conditions, then he has 30 days to correct the situation, or he can be closed down.

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Commissioner Campbell stated he had one question about what the Commission recommended to Council. His issue centered on whether the Commission had recommended approval of the initial portion of the project, or the whole thing. Mr. Webb stated that the Commission recommended approval for 100,000 square feet under roof for all four buildings. Mr. Webb stated that he had suggested to the applicant to phase his SUP process as his business grows.

Commissioner Potts stated that he learned at the Council meeting that the majority of the equipment anticipated for use is being brought in from Europe. There is only one other plant in the United States doing this sort of high reclamation recovery, and it's in New York. Chairman Potts indicated that if the project is approved, then it will become a world class operating center, and that could be a real feather for Luray as a recycling center of merit here in the United States.

Mr. Spitler stated one of the other issues Council discussed was whether the road itself could withstand the increased traffic, and whether an impact fee would be appropriate. Mr. Webb stated he talked to Mr. Salyards about maybe starting an escrow fund, and use the money (based on a per-ton fee) for future maintenance of the road. Commissioner Potts stated that the Town has been advised that Stoneybrook Road was built for heavy-duty traffic as an industrial access road.

Commissioner Potts stated Town Council did approve and adopt the Comprehensive Plan at Monday night's meeting.

There being no further business to come before the Commission, a motion to adjourn was made by Commissioner Suddith. The meeting was adjourned at 8:50 P.M.

Respectfully submitted,

Bryan T. Chrisman
Assistant Zoning Administrator

ATTEST:
