

**MINUTES  
LURAY PLANNING COMMISSION  
JANUARY 16, 2008**

The Luray Planning Commission met on Wednesday, January 16, 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. Vice Chairman Clifton Campbell presided and opened the meeting.

Commissioners Present:

Clifton Campbell  
Terry Dodson  
Larry Hakel  
Sam McNeely  
Judy Suddith

Absent: Tom Potts

Peyton Baughan

Others Present:

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

Vice Chairman Clifton Campbell 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 December 12, 2007 Regular Planning Commission Meeting (a corrected and properly formatted set was provided to the Commissioners that night)**

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

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**NEW BUSINESS:**

- **Public Hearing:**

**Ordinance Amendment:** Amending Appendix A (Zoning), Article IV (District Regulations), Section 403.3 (b) (High-Density Residential District – R3) of the Code of the Town of Luray, Virginia, to include the following text:

*(b) For two-family dwelling arranged side-by-side, each unit shall be assigned 5,000 square feet on the lot. A lot containing a two-family dwelling arranged side-by-side may be further divided into separate parcels for each dwelling unit, provided that the resulting lot size for each dwelling unit is a minimum of 5,000 square feet, and provided further that there be a firewall meeting all legal and regulatory requirements between the two dwellings.*

Mr. Webb stated the amendment will include in the definition for a two-family dwelling, the language that is underlined. This additional language would allow for two-family dwellings, also referred to as duplexes, in the R-3 district to be further divided into two separate parcels that could be separately owned by different persons. Currently, a two-family dwelling in R-3 has to be under one ownership. In most other localities (and in the R-4 section of the Luray Code) a person can divide duplexes into two separate lots. By adding this additional language, this will allow an owner to divide that parcel as long as there is 5,000 square feet for each unit. Some of the older duplexes were built without proper firewalls, etc. The Town will get confirmation from the County building official that the proposed unit has an adequate firewall, electrical service, meet the necessary building and other codes at that time, and it has two separate connections for water and sewer. Mr. Webb indicated that several people have come forward in support of this change, most notably the Habitat for Humanity.

Commissioner Dodson asked if this would affect the setbacks. Mr. Webb stated no. Commissioner Campbell stated that the basics wouldn't be changed. Mr. Webb stated the only thing different now is it can be divided and separated into two lots.

Comments were invited from the public as Commissioner Campbell opened the Public Hearing portion of the meeting.

**Mr. Dixon Freeland, 133 S. Court Street, Luray**

Mr. Freeland spoke on behalf of Habitat for Humanity. He stated he appreciated the Commission undertaking this effort, and voiced their support for the change since it provided several advantages for their program.

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There being no other persons wishing to speak, Commissioner Campbell closed the public hearing.

Commissioner Hakel moved that the Commission recommend to the Town Council this change in wording to the Code and motion seconded by Commissioner Suddith. The vote was as follows: YEA: Commissioners Hakel, Campbell, Suddith, Dodson, and McNeely. **Approved 5-0**

- **Public Hearing:**  
**Rezoning request: RZ08-01, Ruth Spitler & Dennis Fleming:**

*The applicants are requesting to rezone two parcels totaling approximately 0.6 acres, located in the Town of Luray, from R2 (Medium-Density Residential) to B1 (Business). The parcels are located at the intersection of South Antioch Road and Fairview Road. The address of the parcels is 101 South Antioch Road; the "Fairview Store" is located on these parcels. These properties are further described on Page County Tax Map as 42A16 (A) 12 and 42A16 (A) 15.*

Mr. Webb stated Mr. Fleming brought this to him, and he believes that the applicants have discussed this with the Planning Commission in the past. No formal application was found, and it appears that the applicants were previously advised by the Commission.

Mr. Webb spoke to the Comprehensive Plan which encourages that the use of property be in line with its zoning. This application is a case in point, since a store has operated in this area for 100 years, and at this exact location for the past 17 years. This is clearly a commercial use, and therefore Town staff recommends the approval of the rezoning. Mr. Fleming did submit proffers as to allowed uses within a B-1 district that they have agreed not to pursue.

Mr. Webb thinks the only issue that was brought up was if rezoning to B-1 would be considered spot zoning. Conversations with the Town Attorney have negated those concerns in his mind.

If the applicant chooses to expand or alter the business, they will still have to follow things like site plan reviews; he will have to have his parking, and has to meet the required setbacks. The use is currently legal, but non-conforming. Rezoning will allow the applicants to conform, and thereby apply for expansion.

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Mr. Webb asked for questions. Commissioner Campbell stated he does not have a question, but he has a problem with the application. He believes that it does constitute spot zoning since it doesn't currently exist as B-1 now on the official zoning map, and is surrounded by residential lots. Commissioner Campbell stated that the Comprehensive Plan does not speak to a commercial use in that area.

The chairman then opened the public hearing.

**Mr. Dennis Fleming, 101 South Antioch Road, Luray, Virginia**

Mr. Fleming addressed the Commission, and explained what he would like to do at the site. He stated he understood the Commissioners concern for spot zoning, but he felt that the rezoning would better align the past and present use with the actual zoning. He indicated that he was unsure why the Town did not re-zone them to B-1 when they annexed the store in 1985.

He stated that he had spoken with most of the neighbors, and all of them he has spoken with have no objections to the proposal. He indicated that they wanted to get the zoning correct first, and then they would like to apply to the Town to slightly expand the store to make additional room for their deli area and lunch business. He would appreciate it if the Commission would consider their request.

Mr. Spitler requested some information from the applicant to supplement his opinion.

With no other person wishing to speak, the Chairman closed the public hearing.

Mr. Chrisman stated in light of some new information that came up after talking to the Town Attorney, he believes it would be prudent for the Commission to hear the research he asked Mr. Spitler to do regarding this proposal and the issue of spot zoning.

Mr. Spitler stated with all due respect to Chairman Campbell and others, he doesn't believe this is a case of spot zoning simply based on the fact that there is already an actual use. The whole idea of spot zoning (no one seems to know exactly what that is) is rooted in the notion that if we rezoned a piece of property, its use would be incompatible with the use and zoning of the surrounding properties. He stated that the only real issue before the Commission is rezoning the property to be compatible with the community that exists there, keeping in mind that we already have that business use in place.

Commissioner McNeely stated that he felt the Commission was being asked to correct an error that was made some 20 years ago and should have been zoned as business all along.

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A motion was made by Commissioner Hakel to support the request of Mr. Fleming to rezone it to B-1 and was seconded by Commissioner Dodson. The vote was as follows:  
YEA: Commissioners Hakel, Campbell, Suddith, Dodson, and McNeely. **Approved 5-0**

Mr. Spitler stated this proposal will come before Town Council on February 11, 2008.

This concluded the public hearings.

**Kevin Henry, Planner – Page County Proffer Model**

Mr. Webb introduced Mr. Henry. Mr. Henry spoke about the cash proffer model the County has developed with the help of a consultant.

Mr. Henry handed out a small portion of the proffer model to the Commissioners. The remainder of the model was reviewed as a Powerpoint presentation. The County would like the three towns to join in this effort. It will be free for the three towns to use. The County has already put up the money for the system management. They have hired a consultant who has developed this model, and at this point, the model is completed. They are just looking for endorsement from the three towns and then the issue will go forward to the County Board of Supervisors.

He wanted to draw the distinction between proffer uses and cash proffers. It is only for residential development. You can't do it for commercial rezoning.

The basic principles of the cash proffers system is that tax increases associated with growth occur less frequently and less drastically. The Town of Luray has a Capital Improvements Plan. This is very important because within the proffer model each of those areas that are in the CIP need to be called out within the planned capital development within the town. You can look at proffers as similar to being special use permit conditions or conditional zoning and allows a lot of flexibility for both the developer and local government. The developer would essentially be completing part of the Town's CIP that is impacted by his project.

Each town will be left to manage their own system. No towns will be allowed to see what each other is collecting. It's a free service for the town to join in, and the County will maintain the data within the model. The County will simply be keeping a worksheet for the three towns, and town staff will have to inform the new applicants now of the proffer model. A simple ordinance will likely be required for each town.

What he is looking for this evening is for the Planning Commission to endorse this to the Luray Town Council.

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This presentation has been given to Shenandoah and Stanley. Shenandoah Planning Commission decided to forward it to their Town Council, and Stanley seemed in favor of it, but they want to wait and see what the other two towns did.

Mr. Webb stated basically it looks to him like a model where if we have a development that comes in, we can look at schools, parks and recreation and try to assign a dollar value to the impact of the development. The only situation we would have where we could try to extract money or proffers for schools would be situations where someone is trying to rezone. He sees this model working better in a large rural county such as Chesterfield where you are most of the time taking land that was mostly agriculture and changing it into residential. That's where a lot of people get hit up for proffers for schools. We don't have that case in town, but it doesn't mean that there won't be cases or situations in the future. He thinks it's something that potentially could be utilized.

Mr. Chrisman stated that he would recommend that if the Commission is interested in this topic, he would recommend that the Commission could request that the Town Planner bring the issue up at the next Town Council Work Session in his Town Planner's Report and make the Council aware of it. Based on the information provided, then Council and the Commissioners can talk back and forth as far as their ideas and it will come formally through the process at that time.

Mr. Webb stated that Mr. Henry could present this to the Town Council, and most of the Commissioners agreed.

Several Commissioners spoke that there is a need for the County Commissioners and the Town Commissioners to work together. It was suggested that the two groups may be able to have a retreat in early spring.

**OLD BUSINESS:**

- **Final Ordinance Review: Draft Landscaping Plans in Subdivision and Site Plans**

Mr. Webb stated he did not get the final landscaping ordinance advertised in the paper this month. He showed it to the Town Council and they said it looked great. Mr. Spitler helped him polish up the language.

Mr. Webb commented that he had talked to Mr. Black and Town Council regarding developing a B-1 and B-2 district. Town staff may possibly bring something to the Commission next month on developing a B-2 district that might have different

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landscaping and setback requirements. It would essentially cover any business zoning other than adjacent to Main Street.

Commissioner McNeely asked how this would impact the new County office building. Mr. Chrisman stated that according to the site plan he has looked at so far, it wouldn't make any impact at all. Commissioner Campbell stated that this has been discussed but no one ever pursued it, and he thinks it's a good idea. Mr. Chrisman stated Council thought so too, so they asked Ligon to put something together and get it in front of the Commission at the February meeting.

Mr. Chrisman stated this is basically a point of clarification to the Planning Commission. Recently there was an article in the newspaper that had a comment about some statements that came out from the Town Council and after further discussion with the Council members, he got some clarification on that issue and he wanted to provide it to the Commissioners. The primary issue is one of information exchange. This is an issue of town staff not doing our job probably as we should have been doing. Staff recognize that now, and are going to alter those procedures to ensure clarity and consistency. What staff would like to do is that any topic that comes up through the Planning Commission (that is not an application or administrative action), the Council would be advised of the issue through Mr. Webb's staff report prior to that item being advertised for public hearing. In this way, Council and Commission are both informed and can research and discuss the issues prior to an issue being advertised.

Essentially, Mr. Webb's report to the Council at the Work Session, and probably also at the Council meeting, will outline (a) what the issue is, (b) that the issue is on the table and being discussed at the Planning Commission level and (c) that this is an issue that has been initiated by the Planning Commission or Town Staff (such as an item within the Comprehensive Plan that needs to be addressed). In this way it allows the Council members to be aware of the issue, and to be aware of the reason behind why the issue is on the table and being discussed. That gives information to the Council members so that they are not "blind sided" with an issue out in public, or in a public forum, that they really don't have any knowledge about.

Mr. Chrisman thought the gist of this recent issue was that a public hearing was advertised for an issue, and there were some members of the Council that felt that they had not received any (or adequate) information.

Commissioner Campbell stated that he, and several others of the Commission, felt that the comments implied that they had not done a proper job. He stated that the

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Commission does not operate on their opinions, but rather tries to address legitimate issues from a planning perspective and put their best ideas before the Council.

Mr. Chrisman stated he has seen Mr. Webb's recent reports to Council, and he acknowledged that they do mention the noted issues. He emphasized that the one thing that staff wanted to do, especially if we have an issue that is not coming to the Town in the form of an application, citizen complaint or citizen request, is adequately inform Council prior to putting it up for public hearing. Some of the most important issues to be handled by the Commission are simply items that the group is finally able to get to, such as components of the Comprehensive Plan. He apologized for any inconvenience that the Commission suffered as a result of that publication in the newspaper, but assured the Commission that town staff are going to try to do a better job of managing the information-exchange process between the two groups. Commissioner Campbell stated that the Commission appreciated the honesty and accepted the apology.

Discussion was held regarding the short-term rental issue. Commissioner Campbell stated since Council asks the Commission for certain things, could the Commission ask them to take another look at the possibility of adding the definition of a short-term rental to the Code? Mr. Chrisman stated that this topic will be addressed with Council. The issue of defining the practice, establishing it within the Code, and classifying it as a business use of a parcel/dwelling, had garnered some interest among most of the Council during their recent discussions.

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

The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Bryan T. Chrisman  
Assistant Zoning Administrator

ATTEST:

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