

**MINUTES
LURAY PLANNING COMMISSION
JUNE 14, 2006**

The Luray Planning Commission met on June 14, 2006, 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 presided over the meeting.

Commissioners Present:

Clifton Campbell, Chair
Peyton Baughan
Bob Borgie
Terry Dodson
Sam McNeely
Tom Potts
Judy Suddith

Others Present:

Rick Black, Assistant Town Manager, Assistant Zoning Administrator
Ligon Webb, Town Planner
Jason Spittler, Town Attorney

Chairman Campbell called the meeting to order at 7:00 p.m. and welcomed everyone. We're glad to have visitors with us and hope you can always feel welcome to come to our meetings.

Mr. McNeely commented that today being Flag Day, I recommend that we pledge allegiance to the flag. The Pledge to the Flag was then given.

Approval of the Minutes of the May 10 Regular Planning Commission Meeting

Mr. Campbell stated he found one correction to the minutes pertaining to the public hearing rezoning from **R-3 to R-2**. It's rezoning from **R-3 to B-1**. There being no other corrections, they stand approved as corrected.

Approval of Minutes of May 25 Joint Meeting with Luray Town Council

Mr. Campbell asked if there were any additions or corrections to those minutes. Hearing none, they stand approved as presented.

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Public Hearings:

Mr. Webb welcomed everyone and thanked them for attending. Mr. Campbell asked that the condominium section we are adding be handled before the request for special use permit. Mr. Webb stated that under **Townhouse and Apartment Residential District (R-5)**, it appears when the Ordinance was re-published that somehow **Townhouse** was omitted as a by right use in the R-5 district. We want to add that back to the district, and it would still be the definition that's in Article II, Section 202. The definition will not change, just add it as a by right use. There's no ordinance amendment we can find that suggests it was deleted. It seems it was something in the re-write of the ordinance that was left out. **Condominiums** – We would add the term Condominium to Article II, Section 202 under definitions.

Mr. Spitler commented that the definition of a townhouse does appear in Section 202, it's just that the Code doesn't go on to tell us what we do with that definition in order to apply. Mr. Potts stated that the action tonight is not definition; it is institution of townhouse construction by right in the R-5 district. Mr. Webb commented that was correct.

Mr. Baughan stated that the ordinance as it is now written, contemplated originally that there would be townhouse and garden type apartments. They would be permitted by right. There is a great deal of conditions placed upon them. You may want to go back and re-visit this, not only the total area but whether you should expand or contract it. Townhouse apartments somewhere got dropped out and that's a problem and my concern is that it ought to be back in there. I think you have a whole section of your ordinance that still says what you have to do with a townhouse apartment, but yet it is not listed as a permitted use, so you have a gap there. Mr. Baughan stated that tonight we are trying to correct what has been dropped out. The section that has the list of permitted uses in R-5, used to include the townhouse apartments. The ordinance still has the definition and still tells you what you have to do if you build a townhouse, but it was dropped out of that section.

Mr. Potts asked Mr. Webb to review what the issue is and the proposal. Mr. Webb stated just to add townhouse as a by right use to the R-5 district where it once was and then we will add condominium under Article II, Section 202, strictly as a definition.

Mr. Campbell asked if anyone had any input as far as amending our ordinance and special use permit to a townhouse in an apartment residential district R-5. The addition of townhouse as defined in Article II, Section 202, as a use permitted by right in Section 405.1 in accordance with Section 510 of the Town's Code.

There were no comments received from the public concerning these amendments to the Code.

Mr. Potts made a motion that we add uses permitted by right in the R-5 district construction of townhouses. Motion was seconded by Mr. Baughan. Mr. Campbell stated he had a motion properly supported. The motion was passed by a 7-0 unanimous vote.

Mr. Webb stated

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Mr. Campbell stated that the next item of business is condominiums. Mr. Webb commented we are just adding the definition to Section II, Section 202. If you read the definition that I have proposed, I think it covers it pretty well.

There were comments received from the public.

Mr. McNeely moved that we accept the addition of the term condominium to Article II, Section 202 of the Town Code as presented to us by the Town Planner. Motion was seconded by Mr. Dodson. Mr. Campbell stated he had a motion properly supported. All in favor of the motion to add condominium definition to our Code, signify by saying aye. Motion carried 7-0 in favor.

Special Use Permit

Mr. Webb asked if anyone had any questions regarding his report on the Luray, LLC Special Use Permit. A question was asked about the surrounding properties – the hospital and rescue squad. Mr. Webb stated it was in the Site Plan. The applicant addressed the items that were required for the Site Plan and it was brought to our attention that the property of the Hospital, Rescue Squad, and the house at 155 S. Court Street is R-1. Mr. Webb stated that when this does go to Council, he will be sure to make those changes. If you have any questions regarding the voluntary conditions, you see my comments as far as conversations with VDOT, I have not heard back from them with regard to the issues. We did meet with Mr. Fox and discussed apartment houses. The engineering portion was completed by the applicant's engineer and is presently being reviewed by the Town's engineer at the applicant's expense. Mr. Baughan stated the report speaks for itself. The applicant is here and he will make a presentation. You may ask questions during the presentation.

Mr. Gary Modjeska and his partner Bob Allman of Luray, LLC were present. Mr. Modjeska stated we are here tonight seeking your recommendation of approval of our application for a special use permit for the apartment houses in the B-1 zone on the 4.8 acre property we own adjacent to the Mimslyn on Main Street. One of the requirements to obtain a special use permit is to present to the Town a detailed site plan for the proposed units. What we have drafted is a plan showing three apartment house type structures that would meet the requirements of the Code. We intend to sell them as condominiums but for the Code they are defined by use and we have created each one of the buildings to have a similar, but not to exceed the scale of the Mimslyn. He plans to construct three apartment buildings housing 25 condominium units each. The units will vary in size between 1,000 to 3,000 square feet with two to three bedrooms. Each unit will also be equipped with indoor and out door garage parking.

Mr. Campbell raised concern about the maintenance of storm water run-off from the property. Mr. Modjeska stated he planned to construct a detention pond on the property that releases storm water into the town sewer system sporadically to prevent overflow. Mr. Modjeska stated that the storm water detention area that we create with the development of the property, the quantity and rate of flow, etc. of storm water off the property cannot exceed the predevelopment condition and they have engineered the site to meet or exceed that requirement.

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Mr. Modjeska stated they have met with VDOT and it is their recommendation that the intersection of Memorial Drive and Main Street be improved to accommodate the increase in traffic. Mr. Modjeska has offered to build a left and right turn lane on Memorial Drive to improve traffic flow and avoid congestion. Mr. McNeely asked that in your conversations with VDOT, did they give any indication that a traffic signal may be required at that intersection based on the density. Mr. Webb commented that regarding his communications with VDOT officials, the projected impact of the project does not warrant the need for a traffic signal at this time. If there is a request in the future, I think it is extremely appropriate to address signalization of that intersection.

Mr. Borgie asked if there had been consideration to a street side pedestrian walk. Mr. Modjeska stated they have proposed a sidewalk that runs from the development, down Memorial and then along the entire frontage of Main Street. It is detailed on the engineering drawing as a concrete sidewalk.

Mr. Baughan asked if the Town of Luray wanted to reserve to yourselves as a condition of the special use permit some degree of final approval over his plans before he is permitted to go ahead. Mr. Modjeska stated he had no problem with the detailed site plan being a condition of the special use permit.

The meeting was then opened to public comments.

Mr. Christoph Wilhelm of Shenandoah asked why would you want to build condominiums there up to four stories high when it will totally take away from the Mimslyn? There are other places in town that this would be better suited. It was pointed out that Mr. Modjeska is working with the new owners of the Mimslyn in planning the housing project. Eventually Mr. Modjeska hopes to reach an agreement with the hotel that will allow residents in the condominiums to use certain facilities at the Mimslyn.

Mrs. Inge Hunter of Shenandoah asked Mr. Modjeska about the elevations. He answered that all three buildings are all approximately 10 feet stepping down the property from the building on the left to the middle and to the building on the right. The highest building on the left has an elevation that is about 10 feet below the Mimslyn. Mrs. Hunter stated she hopes the housing project will fit in architecturally and aesthetically with the character of the town. She also stated that she would like to see that it somewhat fits in with the Mimslyn so we don't have an eyesore there for the town.

Mr. Paul Quigg who lives at 661 Bealle Avenue in Luray also spoke. Mr. Quigg stated that he is an architect and planner and has been so enthralled with this project. As one of the elderly in our community, it's been discouraging that there is no place for the elderly to move to in Page County. With the proximity of the airport, the hospital, rescue squad, and the nursing home next door, the Mimslyn with its facilities would be an excellent and perfect mix for keeping some of our elderly residents in the area. In my discussion with Mr. Modjeska I have been impressed

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Mr. Paul Quigg who lives at 661 Bealle Avenue in Luray also spoke. Mr. Quigg stated that he is an architect and planner and has been so enthralled with this project. As one of the elderly in our community, it's been discouraging that there is no place for the elderly to move to in Page County. With the proximity of the airport, the hospital, rescue squad, and the nursing home next door, the Mimslyn with its facilities would be an excellent and perfect mix for keeping some of our elderly residents in the area. In my discussion with Mr. Modjeska I have been impressed with his concern with the compatibility with the Mimslyn in putting the lawn in front and continuing the slope and I have no concerns that he will be very sympathetic with the architecture of the Mimslyn in making sure his buildings are compatible.

Ms. Nancy Hershberger Waldo also spoke. She stated that she too is getting older and can see some use for condos. When I saw the plan and looked at the Mimslyn next to it, this is certainly going to overwhelm it. I think they should give some consideration to scaling back. You can do that on a special use permit, I believe.

Mr. Campbell asked if the Commission wanted to vote on this tonight. Mr. Baughan moved that it be recommended to the Town Council with the special use provisions outlined in Mr. Modjeska's letter, and the understanding that Memorial Drive will meet VDOT standards and specifications and the understanding that the Town will have the final approval of the drawings. This motion was seconded by Mr. Borgie.

Mr. Campbell stated that I have a motion properly supported that this request for a special use permit be passed to Council. Are there any other discussion on the motion? If not, all in favor signify by saying aye. The vote was 7-0 in favor of the motion. The recommendation to Council will be to accept the special use permit.

NEW BUSINESS:

Mr. Webb recognized and congratulated Mr. Potts for completing the Virginia Citizens Planning Education Association's Certified Planning Commissioners program. Mr. Potts encouraged all commissioners to attend.

Mr. Webb introduced Jessica Weakley, a student from Lord Fairfax Community College. She is interning with the Town this summer and is helping us on some planning projects. We're happy to have her for the summer and she'll return to school in August.

Mr. Webb brought up an item of new business that was brought up at Monday's Town Council meeting. Some questions have come up regarding off premise signs. A business is not allowed an off premise sign, it has to be on the premise. There are quite a few off premise signs in Town. Mr. Campbell commented that directional off premise signs are the only ones that are permitted. Mr. Webb stated we do have a lot of off premise signs and it was brought to our attention that it was a Code violation. This is something we will try to look at for the next Planning Commission meeting and I'll get something out to you.

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OLD BUSINESS:

Mr. Webb stated that we had discussed at the last meeting the Town policy regarding special use permits. A simple summary of the policy regarding special use permits could be described as “running with the individual” as opposed to “running with the land”. The policy regarding special use permits has been a long standing policy of the Town. The Town Code makes no mention of this policy, and the State Code offers little guidance. It is recommended that the use for which the applicant desires the special use permit be a factor in determining if the permit “runs with the individual” or “runs with the land”. It is recommended that special use permits be issued to individuals (therefore “running with the individual”) when the use requires a permit for business or industrial uses, and “run with the land” when the special use permit is issued for residential purposes. Since this policy is not formally articulated in the Town Code, it is recommended that this policy be clearly defined in Article II, Section 202 of the Town Code. The recommended definition is as follows:

Special Use Permit: A permit authorizing a special use that is not a permitted by-right in a particular zoning district. Any Special Use Permit issued relating to a Business or Industrial use shall be subject to an automatic review upon a change in ownership of the property, a change in possession of the property, or a change in the operation or management of the property, or transfer of majority control of the business entity which has ownership of the property. After notice and a public hearing is held the governing body may review the permit. The permit may be amended, revoked, or renewed. **Any Special Use Permit issued relating to residential uses shall transfer with the title of the property.**

Mr. Webb stated that if we agree with the definition, we can propose it as an ordinance amendment and add it as a definition at the next meeting.

Mr. Baughan stated that he did not agree. I don’t mind if, as a condition of a Special Use Permit, make it run with an individual, but I think the general rule should be that Special Use Permit runs with the land.

After a lengthy discussion, Mr. Campbell stated he is not sure we are ready to act on this and need a little more study as to which direction we should take. I think we should definitely look at this as Mr. Webb has presented to us and form an opinion by the next meeting. If any of us have recommendations or lines we would like to put in or take out, we should go to Mr. Webb and he can then take it to Mr. Spitler if there are drastic changes. He would like to carry this to the next meeting.

Mr. Webb stated he will be in touch with the Commissioners and we’ll talk about putting it on the agenda to discuss next time.

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Mr. Webb stated that the next item under Old Business was the correspondence he had with regard to overlay districts and I think it's pretty clear if we wanted to set up an overlay district. Maybe you could follow the boundary of our current historic district which I think is recognized by the Department of Interior or we could potentially expand it. I can do some more study on this and maybe present something a little more formal at the next meeting or maybe in August.

Mr. Borgie stated he had one item of business. His term as a Commissioner will expire on July 1, 2006, and he will not accept another term on this Planning Commission. Mr. Campbell thanked him for his service to the Commission and the Town.

Judy Suddith moved that we adjourn.

Mr. Campbell thanked everyone who had come tonight and participated in this meeting. It has been very educational and appreciate your input.

Mr. Webb stated he will be out of the office next week.

There being no further business to come before the Commission, the meeting adjourned at 9:30 pm.

Respectfully submitted,

Richard M. Black
Assistant Zoning Administrator