

DRAFT
MINUTES
LURAY PLANNING COMMISSION
OCTOBER 11, 2006

The Luray Planning Commission met on October 11, 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
Terry Dodson
Larry Hakel
Sam McNeely
Tom Potts
Judy Suddith

Others Present:

Jerry Schiro, Town Manager
Rick Black, Assistant Town Manager, Assistant Zoning Administrator
Ligon Webb, Town Planner
Jason Spittler, Town Attorney
Page News & Courier
Mayor Ralph Dean
Lonnie Arrington
William Menefee
Barry Presgraves
Earl "Rock" Racer
Nancy Shifflett

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

Approval of the Minutes of the September 13, 2006 Regular Planning Commission Meeting

There being no additions or corrections to the minutes, they stand approved as presented.

Joint Session of the Planning Commission and Town Council
- Final Plat Submission: Luray Landing Business Park

Ligon Webb stated that process-wise, this is the final plat that has been submitted by Luray Landing, Business Park. The Planning Commission will review it and take action on it. After that action is taken, it will then be forwarded to the Town Council. The Town Council will have a session and will make the final resolution and vote on this final plat. This plat is fairly complex and is essentially the culmination of about five months of work with the Town Staff, VDOT, and the developer. When each lot is conveyed to someone else, they will still have to come into the office and submit a site plan that will show the layout of the building, the landscaping, etc.

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After questions and discussion, Jason Spitler commented that if you want to change the Declaration and Plat, you need to do it now.

Chairman Campbell asked if the Commission was ready to make a recommendation to Council. A motion was made by Commissioner Dodson that we accept the Declaration and Plat and send it to Council as is. Motion was seconded by Commissioner Hakel. Chairman Campbell stated he has a motion properly supported that we recommend to Council that this be accepted. The vote was 7-0.

Mr. Webb stated we have the Town Council here. Council member Lonnie Arrington made a motion to accept the plat. Motion was seconded by Councilman Menefee. A vote was taken as follows: YEA: Council Members Shifflett, Arrington, Racer, Presgraves and Menefee. Councilman Lancaster was absent. The vote was 5-0 to accept the plat.

Jason Spitler stated we have a Deed of Gift from Luray Liberty, LLC for approximately 8,000 square feet that Mr. Reed mentioned as providing part of the roadway between businesses now located next to the subject property and adjoining Cave Hill Road. Because this is not part of the subdivision, The Town will need to formally accept the deed.

Mayor Dean asked if there was a motion to accept the Deed. A motion was made by Councilwoman Shifflett to accept the Deed and the motion was seconded by Councilman Presgraves. A vote was taken as follows: YEA: Council Members Shifflett, Arrington, Menefee, Racer and Presgraves. The vote was 5-0 to accept the deed.

Jason Spitler stated that the bond amount is \$524,165.27 and our engineers have recommended a 15% to 20% overage in the event the cost would be more than anticipated. I would suggest, and I think the rest of the staff would recommend, that you use the 20% figure. The bond needs to specifically include guarantees of performance of not only what is contained in the Declaration and Plat, but as well as the construction and dedication of public use which is contained in the deed that you just accepted. In order to be in compliance with our own Code, we need to make sure that is taken care of within 60 days and I'm sure that Mr. Reed and his clients want to get that done as quickly as possible. I would ask that the Council consider a motion directing the Town Attorney to draft a bond in the amount of \$524,165.57 plus 20%. This would guarantee the performance not only to proffers that are contained in the Declaration and Plat, but as well as the intended use which is laid out in the deed for the Luray Liberty LLC property and require that it be posted within 60 days and that the Town withhold the approved final plat until such time that is done.

Councilwoman Shifflett made a motion that Jason prepare a bond. Motion was seconded by Councilman Presgraves and a vote was taken as follows: YEA: Council Members Shifflett, Arrington, Menefee, Racer and Presgraves. The vote was 5-0.

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Public Hearing, Rezoning
- RZ06-4, Page County School Board

Mr. Webb stated this is a request of the Page County School Board to rezone approximately 0.75 acres from B-1 (Business) to R-1-C (Low Density Residential with Conditions). Yesterday he received a voluntary proffer letter which limits the parcel's by-right use in R-1. The language from the proffer says the school will agree to eliminate those by-right uses in the R-1 district which are not being germane to the school use. This is a piece of property they own and would bring it all into one zoning district to be consistent with property located in the County. The applicant is presently meeting with representatives from the Town, County and VDOT to analyze and determine necessary road improvements and upgrades. Also points of ingress and egress to the site have not been determined at this time. A portion of Leakesville Road lies within the corporate limits of the Town of Luray. The staff recommendation is that this rezoning be approved.

Mr. Campbell stated he still had a problem with proffers in general. As far as I know the Town of Luray has not officially accepted either for or against proffers. My understanding is that this is something that has to be approved through the State. Mr. Webb stated in the Code of Virginia we can accept voluntary proffers. Mr. Campbell stated it was his understanding it didn't matter what kind of proffers there were, cash or otherwise. Mr. Campbell stated my question is has the Town of Luray acted in order to accept proffers. Mr. Webb stated we don't have to for voluntary proffers. This is a voluntary proffer. Mr. Baughan stated Virginia's conditional zoning statutes state that a locality is empowered to enact a zoning ordinance that may include and provide for voluntary proffers. He thinks Clifton's question is while we are allowed under state law to do that, has the Town actually acted on it. Mr. Campbell stated they have not. Mr. Baughan stated that his interpretation is that it seems to allow for the community to enact in rezoning the right to accept proffers. The question on the floor is "Has the Town taken the steps and formally done that?"

Mr. Potts stated he thinks we are on firm ground and have set the precedent on our own activities as far as accepting proffers are concerned. I have no problem with going forward with action on the School Board's request with the understanding that when it is presented to the Council it is going to be clarified and then specify what's being included or what's being proffered out of the deed.

Mr. Campbell asked if there was any discussion from the public on the School Board's request. Mr. Mark Reed, representing Page County School Board, stated the plat of the land shows 0.75 acres. The main purpose of having this rezoning is to keep the 88 acre tract and this tract together in the same zone. The County rezoned the 88 acre tract two weeks ago to residential to allow for construction and use on the County portion of the property. The 0.75 acre, the property discussed, was something brought to our attention by Ligon. You will notice there are two caves on the property and in reality, the use of that property is going to be very restrictive. We would ask you to rezone it to residential R-1 to allow for use of the school.

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Mr. Campbell stated he was ready for a motion.

Mr. Baughan stated he would like to make a comment. I pose the question of whether the Town and the Planning Commission had ever taken action on proffers. That was the question on the floor. I believe we have. I think the Planning Commission has recommended in the past that proffers be accepted and the Council has acted on it. I think that is *prima facie* and that action has been taken by both bodies. Any other non-school related use of the property would require the approval of the Town of Luray. I therefore make a motion that this be accepted as worded and recommended to the Town Council. Motion was seconded by Judy Suddith. Mr. Campbell stated he had a motion properly supported that this recommendation be sent to the Town Council for approval. All in favor of this motion signify by saying aye. The vote was 6 to 1 in favor of sending to Council for approval with Mr. Potts voting no.

Jason Spitler asked if it would be the Commission's pleasure for staff to look into the ordinance that is being incorporated by authority from the Virginia Code into our own Town Code.

Mr. Potts stated it would be very useful and necessary. We would have a written process; something Ligon can do in a handout to give to people who are asking about it. There are several other municipalities around the State that have them.

NEW BUSINESS

Presentation of Neighborhood Concept Plan, Luray Heights, LLC

In the PND, the process would be the presentation of a Concept Plan. Once approved, it is forwarded to the Town Council for their consideration. After approval by the Town Council, the applicant would then come back with the developer's Master Land Use Plan to the Planning Commission. At that stage we will have a public hearing.

Mr. Modjeska stated over the last many months we have been putting together a Concept Plan and I have with me tonight Craig Stoner and Mark Wendland from EDSA. Mark will walk you through what his views are and highlights of the plan.

Mr. Wendland then gave a detailed presentation on Luray Landing. At this point we have 136.5 acres, zoned R-1, R-2 and R-5 and a small piece in B-1 on the Main Street connection. The allowed density is 504 units. This plan shows under the Planned Neighborhood Development design 531 residential units. The open space required is 25% of the site. This plan shows one-third or 33% of the site as being open space. It shows 531 home sites, of which 358 will be attached town home villas. Large units will be 24 x 36 that are attached. These are much wider than the typical town homes. These will have floor plans that have a master bedroom downstairs. There are 173 single family detached homes. There are front and rear loading units. There will be three distinct neighborhoods. A lot of open space will be left in open woodlands. There will be numerous trail systems. This plan follows the principles set forth in the PND zoning ordinance as well as the Comprehensive Plan of the Town of Luray.

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Several questions were asked by the Commissioners and adjacent land owners and Mr. Wendland and Mr. Modjeska answered them.

Mr. Campbell asked for the consensus of the Commission members as far as acting on this tonight or study until the next meeting. Mr. Potts stated he was prepared to make a motion to forward this. Mr. Hakel stated he was ready to make a decision. Mr. Baughan stated as a Concept Plan he was ready to make a decision tonight. Judy Suddith desired to study it. Mr. Dodson stated he was prepared to go ahead tonight and Mr. McNeely desired to study it.

Mr. Baughan made a motion that we forward it as approved as a Concept Plan. Motion was seconded by Mr. Potts. Mr. Campbell stated he had a motion properly supported that the Concept Plan move forward to Town Council. All in favor of motion signify by saying aye. Four Commissioners were in favor of the motion. Commissioners not in favor of the motion were Mr. Campbell, Mr. McNeely and Mrs. Suddith. The vote was 4-3 to forward the approved Concept Plan to the Town Council.

Ownership of Two-Family Dwellings in the R-3, R-4 & R-5 Zoning Districts

Mr. Webb stated two-family dwellings, often referred to as “duplex units” are a by- right use in the R-3, R-4, and R-5 zoning districts. In the R-3 and R-5 districts two-family dwellings are required to have larger lots and cannot be further divided into separate parcels. After discussion, the consensus was that if a proposed plan is brought before the commission then we can examine it in more detail.

Policies Related to Voluntary Proffers

Mr. Webb stated that the State Code does allow for localities to accept proffers on a voluntary basis. Mr. Spittler will examine the State Code and report back at the next meeting.

Policies Related to Construction in a Floodplain District

Our ordinance appears to have some ambiguous/conflicting language regarding construction in an identified floodplain area. The first reference in our ordinance states “Land within a 100-year flood plain or known to be subject to flooding, etc. shall not be platted for residential occupancy.” Article IV, Section 401.2 states “Land subject to hazards to life, health, or property, such as may arise from fire, floods, etc. shall not be subdivided for building purposes unless such hazards have been eliminated or unless the subdivision plat shall show adequate safeguards against them. Such safeguards shall be approved by the appropriate regulatory agencies”. These contradictions could be interpreted in several ways. This issue is relevant with regard to Collins Avenue project, part of which is located in a fringe area and we want to get some interpretation. The Code of Virginia does allow for residential structures to be built in an identified floodplain provided the structure is built in a fringe area (not the floodway) and constructed in accordance with appropriate flood proofing measures.

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Mr. Baughan stated in the 60's we were told not to encourage subdivision in the floodplains. Subsequently the State of Virginia came along, had some court cases, and it came out that yes you can build in a floodplain in the fringe areas, not in the floodway under certain conditions. I think the other language in there is an attempt to comply with that. No one went back and knocked out the other language. It probably should have been dropped when the other was added. I agree with you, we can't pass zoning laws that say you can't build in a floodplain. I think it is a matter of dropping the language.

Mr. Campbell stated that this is not updated to the 100 year floodplain. Mr. Baughan stated it is incorrect where it says you can't build in a flood zone. That was the original language. Mr. Potts asked are we proposing to the staff an amendment to the Code and asking them to bring it as a business item. Mr. Baughan stated we ought to decide on what language we are going to use. I think we should adopt the State Code that says, you can build in a floodplain under certain conditions. You then have to advertise the fact that you are going to take that up as an issue. Then we are going to recommend a change to the ordinance so it complies with the State rules and get rid of the conflict because it says in one place in our ordinance that you can't do it and the other says you can under certain circumstances.

Mr. Webb said he would bring a proposal which says "shall not be approved for residential occupancy unless appropriate floodplain measures are in compliance with safety ordinances". For purposes of Collins Avenue, is it your opinion that they may now proceed. The consensus of the commission was that they could proceed provided they can comply with the State Code.

OLD BUSINESS:

Definition of Usable Open Space

Mr. Webb stated with regard to this topic, the intent last time was that we were comfortable with the PND definition of usable open space and the Commission would like to adopt that definition in our ordinance. A proposed definition will be presented at the next meeting. Mr. Webb stated he will look at the PND ordinance and see what parts of it, based on the last meeting, we want to use in Sections 510 and 511. In between now and then, you can give me some guidance as to whether you want to reduce the 3 acres to 2 acres or just saying across the board. Maybe we will study it a little more and get some examples.

Mr. Potts stated he doesn't think you get value added at less than 3 acres. The effect is not there nor is the density. Our objective was to insure we had recreational or public areas in larger density and so we say that line is crossed when you get into 3 acres or more. Mr. Webb stated he will bring something back to the next meeting.

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Review Amendments to the Sign Ordinance

Mr. Webb stated he had submitted this to the Town Council. Essentially we want to turn some of the approval process of temporary signs to the Zoning Administrator so the Town Council doesn't have to worry about it and people can come to us and get their approval instead of getting on the Town Council's agenda.

Mr. Webb stated that the amendments I am proposing will be on the first page and this will be the public hearing next month. The proposed amendment at the bottom of the page and the change I have made is "approved by the Zoning Administrator". The second amendment is on the second page. I would add the definition of sandwich board signs and then the third amendment would be to articulate the approval process and actually have a permit. A Sign Permit Application and a Zoning Permit Application and fee would be required each year.

Mr. Campbell stated these articles will be brought up for public hearing at the next meeting.

Review of Recommended By Laws for Planning Commission

Mr. Webb stated Mr. Baughan, Mr. Potts and I sat down and added some language we thought was particularly relevant to the Town of Luray. Is there anything I missed or did not add?

Mr. Spitler stated that there are several corrections that need to be made throughout the document. Mr. Webb stated we can meet and then I can get back to you with the changes and have it ready for you by the next meeting.

There being no further business to come before the Commission, the meeting adjourned. The next regular meeting will be on November 15, 2006 at 7:00 p.m.

Respectfully submitted,

Richard M. Black
Assistant Zoning Administrator