

**REGULAR MEETING OF
LURAY PLANNING COMMISSION
MAY 13, 2015**

The Luray Planning Commission met on Wednesday, May 13, 2015 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 at which time there were present the following:

Commissioners Present:

Ronald Good
Mark Malone
Brian Sours
Grace Nowak
William Fisher
John Shaffer

Absent: Traci Dickson

Others Present:

Charlie Hoke, Town Manager
Ligon Webb, Town Planner
Leroy Lancaster, Town Council Rep.
Jason Spitler, Town Attorney

The meeting was called to order by Chairman, Ronald Good, at 7:00 p.m. and everyone joined in the Pledge of Allegiance to the flag.

Commissioner Good welcomed the new Planning Commission member, Bill Fisher.

APPROVAL OF MINUTES:

One correction was made to the minutes of April 15, 2015. On page 2, sixth row from the bottom the word "billing" should be "Dillon". A motion was made by Commissioner Shaffer that the minutes of the April 15, 2015 Regular Meeting be approved as corrected and motion was seconded by Commissioner Sours, with the vote as follows: YEA: Commissioners Good, Malone, Sours, Nowak, Fisher and Shaffer. **Approved 6-0**

DISCUSSION: FORMULATING OFFICIAL POLICY REGARDING "AIR BnB"

Commissioner Good stated this is just a discussion. This is the first time we have had this item come before us. It's a learning time and a time of discussion.

Mr. Webb stated this is something that has been discussed the last few weeks and I think it was the early 90's when we adopted an ordinance for Bed & Breakfasts. When it was first adopted they were mostly on Court Street. Since then it was opened up a little more to other areas of

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town. Bed and breakfasts are always by special use permit. We have five residential zoning districts in town; one through 5. I think back in 2013 we added R-2 as a special use permit for bed and breakfasts. Right now you can have a bed and breakfast by special use permit in R-2, R-3 and R-4 but not in R-1. The concept of Air BnB is probably as far as land use and zoning, it is the main issue right now with code enforcements and zoning ordinances in small and large cities. As far as in the town, we have six operators of Air BnB's; three of them appear to be existing bed and breakfasts or inns and those are really no issue; they are just using that platform to get people to come in to augment their ability to book. The issue has been brought to our attention that we have at least two and maybe a third one that are operating, aren't in business or they don't have a special use permit and that's where we have to decide how we are going to move forward. In the case of Mrs. Weir; she is in R-1 so even if she wanted to apply for a special use permit, it is not available in R-1. As far as the way the bed and breakfast code is written in the zoning ordinance, Mr. Webb doesn't see a need to change the definition or even add an air BnB. The question is, is it appropriate for R-1. This is the future of tourism. We would like to square this with the code somehow but following the same rules. We see it as positive, and would like to hear the opinions of the Planning Commissioners and maybe how you would see us tackling this issue.

This is a very big topic in the lodging industry and as you mentioned it is usually Portland and San Francisco that are tackling the problem but the Virginia Hospitality and Travel Association in their statements say it's unfair to the lodging industry. There needs to be a fair playing field. They need to pay their taxes and transient occupancy taxes; they need property inspection and insurance just like a B&B or hotel. It's truly a competition issue. Currently American Hotel & Lodging Association says that 2% of lodging in the country is coming from Air BnB now. Mr. Webb stated when you enroll, you have an insurance policy through them.

Mr. Webb stated one conversation we had a few years ago was the short-term rental issue. We made a decision in the town policy that if you want to rent a home on a short term basis, meaning less than 30 days, all we require is a business license and when you get your business license the building official is going to sign off that the use is OK. They look at parking and as long as you have your business license and pay your transient occupancy tax, then you can rent a whole house in town, but anything less than 30 days. In theory, if anyone was operating an air BnB, if they rented a room out and if they weren't in the house and had a business license and the building official had signed off on it, you would be Ok with that. If they stayed in the house, then you become an operation and fall into a bed and breakfast. We have maybe 10 short term rentals in town. All of them have business licenses and have gone through the building official and we have never gotten a complaint on any of them.

Mr. Webb stated just add the current definition we have for a bed and breakfast. The current rules we have are very standard. The question is do you want to add B&B as a special use in R-1. You can do it in R-2, R-3, R-4 and B-1. You can't do it in R-5 but we have very little R-5.

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The only district you can't do it in right now as a special use is R-1. The question would be would the Planning Commission consider adding it as a special use, as it is defined in the code in R-1.

For Mrs. Weir, I would think what she would need to do is cease to operate and apply for a special use permit but only after we have added it; if we were to add it to R-1. To amend it, you are looking at probably 5 or 6 months down the road by the time you have a hearing, add it and it comes back. That's the only way to rectify it to square it with the code. We consider the issue and make a recommendation but as far as having the authority to say Mrs. Weir has to shut down and can't operate, we don't do that.

A typical short term rental is an unoccupied house unless someone is there. I don't think any of the people who do it short term are actually in the house. Mr. Spitler stated the first step would be for this body to choose whether they wish to address it and assume the answer is yes. Once you make that determination, the next step is you need to define it; what is it; how do we know where it is, what does it look like, etc. The next step beyond that is in terms of any relative district, are you going to prohibit it, are you going to allow it by a special use permit or are you going to allow it by right.

Mr. Webb stated my question now to the Planning Commission is would you consider it as a special use in R-1. It's something you need to think about, investigate and come back and talk about it next month but is it something you would consider by special use permit on a case-by-case basis. We would not have a public hearing until it was taken to Town Council and had some sort of indication from Council that they would also be willing to amend the code. Based on what you have heard tonight, at least your first impression, would you recommend considering it or just say forget it. I would bring it up to Town Council at the next work session much like we are doing right now, and see if there is a no go at that level, then we know the answer. If they have the same opinion that you guys have, maybe we will study it a little more, see what other towns are doing then we can come back in June. For the time being, the operation will cease until we can figure this out. I will bring this before the Town Council and have a discussion like we did tonight; if there's some interest there to at least move forward on this, we will come back and talk about it in June. In the meantime, it is pretty obvious that the Planning Commission feels this operation needs to cease.

FORTHCOMING REZONING REQUEST BY THE MIMSLYN INN

The Mimslyn just acquired this front 2.3 acre property. There are four existing cabins back there now. About 7 or 8 years ago the Falters got a special use permit for this. In reading the special use permit, the Mimslyn basically is inheriting that permit as long as they abide by the same ground rules. Basically, it's a double occupancy. These are rental cabins. They are going to fix up these rental cabins but not rent them anytime soon. There is also an existing house. They are

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potentially going back and forth between making that an auxiliary reception area or just renting the whole house. They could also rent individual rooms and maybe put bathrooms in each room. They are going through their budget right now but what they are doing; they are going to ask to rezone this whole area to B-1. Normally when we rezone things to B-1 what we do is sort of recommend that they add a list of conditions on it. You can rezone it to B-1 but we would probably encourage you to give us some sort of a proffer letter or something that eliminates uses that are impractical for the property. They are going to limit the property to cabins lodging and special event hall. They have this pea gravel road and they have a current connection to Court Street. If they are going to use this right here as an entrance, then they are going to have to follow some VDOT guidelines as far as widening the entrance, making it a proper commercial entrance. We felt like instead of having to do that, some of the neighbors in this community might have some issue with the fact that this could be a commercial entrance there. The best bet would be to put a gate right here; block off access right there except for employees so people could not enter or exit down there unless they are staff people. The traffic will go up; you will park and then go back down. The code still requires that there is some turnaround ability. At each end of the six cabins there is what we call a hammerhead turnaround. If someone goes up and goes to the wrong side, they can turn around and go back down. One of the cabins will be required to be handicap accessible. You would have a ramp for the parking area. The parking issues will be addressed Friday morning with Mr. Sims. We are going to look at more parking. Everyone who is accessing this site would come through the rear of the Mimslyn; only the staff would have a key here. They want to eliminate any access for the renters to Court Street. Only Mimslyn staff would be using that. Mr. Webb's real concern is the road, the connections, the site layout particulars, and maintaining that the site is limited to only a few uses. If the Mimslyn is sold, someone can't decide that they are going to come and put a commercial use that's not an inn, a cabin or something like that. It is a significant investment and it's going to give them at least another ten rental rooms counting the house.

About seven years ago the Falters received a special use permit to rent those four cabins. We know they want to rent those cabins and it's going to be short term rental. It would be the existing four which they are getting ready to do some work to, and then an additional six; making ten cabins. The special use permit is talking about the four that are already there. That's why they want to rezone. Mr. Webb stated he would encourage them to go to B-1 and limit it to a couple of uses inside B-1 which is inn and cabin type situations. Just limit it to that. Maybe they are going to use the house as an event area. It will be in the paper and we'll bring it back in June.

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**POTENTIAL ORDINANCE AMENDMENT: AMENDING TOWN CODE TO
REQUIRING NEW COMMERCIAL & MULTI-FAMILY SITE PLANS BE REVIEWED
BY PLANNING COMMISSION AND TOWN COUNCIL**

Mr. Webb stated this is something we can put on the agenda maybe in August to talk about it more. If this particular site was zoned B-1 for instance, they would have no requirement that you guys review this. It would just go to staff. They might bring it in as a courtesy like the folks over at Luray Meadows but it would be hard to amend our code that new commercial site plans and multi-family residential site plans are opposed that those site plans need to be reviewed by the Planning Commission and Town Council for approval. For example, if this property was zoned B-1, then they would have no requirement that this be reviewed by the Planning Commission or Council. If not zoned B-1; they would have to rezone it so we are going to get a chance to review it. Mr. Webb would like to change the code that if someone is going to build something new; a new commercial, that it has to come to the Planning Commission for initial review recommendations and then to Town Council for approval. Due to our size and we don't get a lot, it makes sense that you guys get a chance to review it.

There being no further business, the meeting adjourned at 8:37 P.M.

Ligon Webb
Town Planner

ATTEST:
