

**REGULAR MEETING OF THE
LURAY PLANNING COMMISSION
AUGUST 12, 2009**

The Luray Planning Commission met on Wednesday, August 12, 2009 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 presided and opened the meeting.

Commissioners Present:

Tom Potts
Peyton Baughan
Clifton Campbell
Larry Hakel
Sam McNeely
John Meaney
Mary Menefee

Others Present:

Ligon Webb, Town Planner
Jason Spitler, Town Attorney

Chairman Tom 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 OF REGULAR MEETING ON JULY 15, 2009

A motion was made by Commissioner Campbell and seconded by Commissioner Hakel that the minutes be accepted as presented. The vote was as follows: YEA: Commissioners Potts, Campbell, Baughan, Hakel, Meaney, Menefee and McNeely. **APPROVED: 7-0**

ADDITIONS TO AGENDA

None

PUBLIC HEARING

- **SUP09-4: The applicant, Mable Frye, is requesting a special use permit to operate a childcare facility in a single-family home located at 502 West Main Street**

Mr. Webb stated that Ms. Frye currently has a day care in her home and she provides for five or fewer children. She wants to expand that to allow her to have up to twelve. The applicant is seeking to provide childcare to more than five children and she has applied for licensing through Virginia's Department of Social Services in order to provide childcare for between six and twelve children. The Department of Social Services has

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specific regulations and twice a year they are subject to unannounced inspections. Mr. Webb sent letters out to adjoining property owners and he hasn't had any response.

Commissioner Meaney asked Ms. Frye how long she had been in business and she replied she started last month. Commissioner McNeely asked if there was an outdoor play area for the children and Mr. Webb stated it is behind her house. Commissioner Hakel asked if the play area was fenced in. She replied not at the present. Commissioner Campbell stated there is no fence in front to keep the children out of the street and for safety reasons you should have one. Mr. Webb stated she would need to put a gate across the front porch. Commissioner Potts stated his concern for safety reasons is having twelve children in the house or in the yard playing without a fence. Can we recommend approval contingent on saying you can't reach that higher number until there is a fenced play area provided behind the house. Commissioner McNeely asked what are the hours of operation. Ms. Frye replied they are from 6:00 A.M. until 5:30 P.M.

Commissioner Campbell asked Mr. Spitler if there was a required space based on the number of children. Mr. Spitler stated he was not aware of any provision in the State Code that requires this.

Commissioner Campbell made a motion that the Planning Commission recommend approval of the special use application for a childcare facility in B-1 zoning district provided that an appropriate fence of at least 42" in height be provided surrounding an adequate space for up to twelve children. The motion was seconded by Commissioner Hakel with the vote as follows: YEA: Commissioners Hakel, Baughan, Campbell, Potts, Meaney, Menefee, and McNeely. **Approved: 7-0**

NEW BUSINESS

- **Proposed Ordinance Amendment: Defining and adding a "Tattoo Parlor" as a special use in the B-1 zoning district**

Mr. Webb stated that the proposed definition to be added to Appendix A (Zoning), Article II (Definitions), Section 202 (Specific Terms) is as follows:

Tattoo Parlor: An establishment whose principal business activity is the practice of placing designs, letters, figures, or other marks upon the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of use of needles or other instruments designed to contact or puncture the skin. The proprietor of such an establishment shall be licensed by the Virginia Board of Professional and Occupational Regulations. It is proposed that the term "tattoo parlor" be added as a use permitted by special permit in the B-1 zoning district.

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Mr. Webb stated he will advertise this for the next meeting as an ordinance amendment. Council wanted us to put this in the Code as a special use.

OLD BUSINESS

- **Review: Official Zoning Map**

Mr. Webb stated the only one that changed in color was the Fairview Store. He stated he talked with hospital personnel regarding their plans, He recommended to them that they rezone their property to B-1. They want to do a master plan but build in phases. He told them that instead of coming back each time for a special use permit, they might be better off giving us their master plan and rezoning it and as they add on, get an administrative review.

A motion was made by Commissioner Baughan that we recommend to Town Council that they adopt this as the official zoning map. Motion was seconded by Commissioner Menefee and motion was unanimously carried.

- **Review: Winery definition**

Mr. Webb stated that we are looking for a definition to place in our Code where we would establish a winery and also supplemental regulations that would guide the development of a winery.

The proposed definition is: **Winery:** An establishment where all, or some, of the processes associated with the cultivation, processing, marketing and consumption of wine takes place. Wineries can cultivate vines and grapes provided the site contains a minimum of 60,000 square feet of land area; the processing and marketing of grapes grown off-site is allowable provided the operation does not produce in excess of 50,000 gallons of wine in any given day. Wineries are subject to all regulations as administered by the Virginia Department of Alcoholic Beverage Control.

Mr. Webb stated the winery, as he proposed, would be by-right in B-1 and special use in M-1.

Commissioner Baughan stated he had a problem with 50,000 gallons a day. That is more appropriate to a manufacturing area. Where in town would you look and say who would accommodate that in this area. The only thing he can think of is the M-1 district around the old Tannery property. Other than the Tannery property, he has a hard time figuring out where to put a winery in town. If someone wants to go on Main Street and sell wines

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they produced off site, they may want a small operation there to demonstrate to people how wine is made. They are not actually making enough wine there to be commercially viable, but it is something where people can come and see how wine is made, learn the history of wine, wine tasting and buy the product which is made in the county or somewhere else. That's a viable situation. If you want to get into a microbrewery in your business district, you are going to have some odors, wastewater treatment issues, etc. He can see some smaller operations that will fit in but that is the reason he would like to see a special use permit so you can keep a handle on it. If you want a mini operation in a business district that produces actually 100 gallons a week but sells 10,000 gallons a day then he doesn't care; that's a retail business operation and not a manufacturing operation.

Commissioner Baughan stated he had a problem with by-right. When you get into the manufacturing of wine, whether its 100 gallons per week or 50,000 gallons per day, he sees it as a special use permit.

Mr. Spitler stated he has a couple of thoughts on the idea of eliminating the amount of production comment. If you are going to make it a special use permit, there may be no need to specify that in the definition, you can specify it in the permit.

Commissioner Menefee stated this focuses on winery. Didn't Bryan say when he was relaying what the Council asked for that they wanted some consideration or definition of a microbrewery/winery. Commissioner Potts stated they are two different items. Microbrewery is one and a winery is separate.

Mr. Spitler stated you should be careful with "cultivation of" because you are eliminating off site. Commissioner Potts stated we have already eliminated everything in the town limits.

Commissioner Baughan stated he thinks you can say "most of the processes associated", to distinguish a winery from a retail wine business and put it on the basis of a special use permit as far as the minimum land area. Mr. Hakel stated why not change the "all, or some," to "most" and let it go at that. Mr. Spitler stated that in his mind the only process that is listed that really makes it a winery is the processing itself; it's not the cultivation, marketing, or the consumption. We might want to clarify that as well. He agrees with Mr. Baughan that the more rigid standards we create, the more we are simply tying your hands when the first applicant comes in here and asks for a special use permit.

Commissioner Potts stated the entire objective of doing this was to try to find a way to induce people to come to downtown Luray. He was looking for a way of defining something that will put a winery in Luray that would put Luray on the maps. After the meeting last time, he asked Bryan to find out who at the state level could come here and

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tell us about where Page County residents are spending their money. The answer is it's not in Page County. He is hoping what we can do is begin to focus on what it is that will draw people here. He's trying to look for something on Main Street, on 340, within the Town of Luray to get people here.

Mr. Spitler gave the definition of a winery from the State Code. "Winery means an establishment located in the Commonwealth with a producing vineyard or similar growing area and the facilities for fermenting and bottling wine on the premises for the owner or lessee's manufacture of wine that contains not more than 14% alcohol by-product." Commissioner Potts stated we have to find out whether that's a required minimum because it does say "fermentation". Mr. Spitler stated wine is defined as "any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar, including honey or milk, either with or without additional sugar, one-half of one percent or more of alcohol by volume and no product of distillation. The term includes any wine for which wine spirits have been added to make products commonly known as fortified wine which cannot exceed an alcohol content of 21%.

Commissioner Potts stated let's work on our definition and see what we can come up with so that we can look at how to turn that around as a definition of a pub or microbrewery.

Commissioner Baughan suggested that the definition read:

Winery: An establishment where most of the processes associated with the cultivation, processing, marketing and consumption of wine takes place. Wineries may cultivate vines and grapes provided the site contains a minimum of 60,000 square feet of land area; the processing and marketing of grapes grown off-site is allowable. Wineries are subject to all regulations as administered by the Virginia Department of Alcoholic Beverage Control and all applicable jurisdictions." A winery would be permitted in the B1 zoning district and M-1 (Industrial) zoning district by special use permit. Mr. Spitler stated you might think about substituting the terminology from the State Code definition for the word "processing", talking about the fermentation, the bottling, etc.

Mr. Webb stated he would bring back a definition for a winery and also a microbrewery to the next meeting.

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- **Review: Recommended changes to the Town's sign ordinance**

Mr. Webb went over the sign ordinance and some deletions and corrections were made. He will take this ordinance to the Council Work Session next week and once approved by Council, it will be advertised.

There being no further business to come before the meeting, a motion to adjourn was made by Commissioner Baughan and seconded by Commissioner Hakel. Motion carried. Meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Bryan T. Chrisman
Assistant Town Manager

ATTEST:
