

# Town of Lovettsville

## Planning Commission Minutes Regular Meeting and Public Hearings May 15, 2013

### Call to Order/Welcome

Chairwoman Summitt called the Regular Meeting of the Lovettsville Planning Commission to order at 7:30 p.m. on Wednesday, May 15, 2013 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### Commissioners Present

- Chairwoman Deborah Summitt
- Vice Chair Joseph Mueller
- Commissioner Anthony Quintana
- Commissioner Lorraine Bauer
- Commissioner Robert Gentile
- Commissioner Jennifer Jones

### Staff Present

- Town Manager Keith Markel
- Zoning Administrator Melissa Hynes

### Present In the Audience

- Mayor Robert Zoldos II
- Former Mayor Elaine Walker and Mr. Walker

### Explanation of Procedures and Opening of Public Hearings

Chairwoman Summitt suspended the Regular Meeting at 7:30 p.m. and opened the Public Hearing for LVZA 2013-0003 at 7:30 p.m. She read the notice of public hearing for LVZA 2013-0003 and LVZA 2013-0004 as they appeared in the *Purcellville Gazette* (Attachment 1) and explained the procedures for speaking at a public hearing.

### Public Hearing – LVZA-2013-0003 – Open Space Requirements

Zoning Administrator Hynes presented this item. The Planning Commission is being asked to consider a text amendment to Section 3-3 (d) (viii), 3-4 (d) (viii), 3-5 (d) (viii) and 5-2 (b).

Currently, all subdivisions created within the R-1, R-2 or R-3 zoning districts are required to create an open space area of 25% to 35% of the total area (depending on the residential zoning district). Staff finds this requirement ambiguous when it comes to small subdivisions of land and it is very restrictive for landowners wishing to subdivide only a small number of lots. Staff also finds that this requirement creates an unnecessary financial burden on future residents who will have to maintain the open space through the creation of a homeowners association.

Staff used four justifications to support their findings: the amount of available developable land, the use of lot size/density, the creation of a homeowner's association and the amount of useable open space.

Zoning Administrator Hynes used the example of a three acre lot in the R-1 Zoning District, and said that in order to meet the 35% Open Space Requirement, a property owner would have to lose almost an acre of developable land. In terms of lot size and density, the R-1, R-2, and R-3 zoning districts only permit single-family detached homes; which create neighborhoods with homes that have a fair amount of personal usable open space in each private yard. Large open space requirements are typically designed for higher density neighborhoods with small lot size requirements, which limit the size of a backyard or for large developments developing community useable open space for a large neighborhood.

Another Staff concern about the open space requirement was the creation of a homeowners association (HOA). Maintenance of open space is a challenge for a small development or a single land owner. The administrative burden of creating a separate organization and providing the needed oversight of an HOA is expensive and time consuming. For an HOA with less than 20 members, trying to fund the maintenance of 1 acre to 4 acres of open space can be difficult. Small neighborhoods would benefit from private individuals maintaining their own yards.

Finally, the fourth justification for removing the open space requirement for small neighborhoods is that Section 5-1 (b) states "a minimum of fifty percent (50%) of the required open space shall be usable open space." This includes such amenities as active recreation fields, picnic areas and pedestrian trails which would require a homeowners association to maintain.

Zoning Administrator Hynes said the next text amendment under consideration was the removal of the line from the R-1, R-2 and R-3 zoning districts that set a limit on gross density. For example, in the R-1 Zoning District, the text reads:

*"The gross density of one (1) lot per twelve thousand (12,000) square feet shall not be exceeded based on the overall parcel area excluding floodplain, public roads dedications and private access and alleyway easements, steep slopes and wetlands."*

She said that the Staff found this requirement to be ambiguous and hard to interpret. This requirement is not applicable to Lovettsville. The Town Attorney said it was included in the Ordinance following the reduction of the minimum lot size as a tool for managing density. However, if Staff is unable to use this "tool," it is unnecessary to keep it in the Ordinance.

Another section of the minimum open space text under review for an amendment is the "open space easement alternative." The current requirement under Section 3-3 (d) states *"Open space shall be preserved by means of a permanent open space easement or other ownership mechanism acceptable to the Town Council."* An open space easement would be considered open space on someone's private property, which would not be allowed to be developed and would count towards the total open space requirement. In that situation, the homeowner would not be allowed to use the space for improvements such as a garage or playground equipment.

The final open space text amendment under review is found under Section 5-2 Open Space of the Zoning Ordinance, which reads as follows: *"each development shall satisfy its active recreation requirement by installing the types of recreational facilities most likely to be suited to and used by the residents in that development. At least fifteen percent (15%) of the active recreation space shall consist of tot lots, unless it appears that less than five percent (5%) of the residents of a development are likely to be children under twelve (12)."* The Planning Commission found this age requirement too ambiguous and hard to enforce. The Commissioners recommended to Staff to remove this line from the Zoning Ordinance.

Vice Chair Mueller questioned the original intention of the 35% or 25% open space requirement because it appears odd to him for the larger lots to have a larger percentage requirement for open space. Zoning Administrator Hynes was unsure and reminded the Commission that Staff believes that the open space requirements in their entirety, including Section 5, should be reviewed in-depth within the next year to address some of the inconsistencies.

There was no one signed up to speak (Attachment 1).

Chairwoman Summitt closed the public hearing for LVZA-2013-0003 at 7:48 p.m.

#### **Public Hearing – LVZA-2013-0004 – Hours of Operation Requirements**

Chairwoman Summitt opened the public hearing for LVZA-2013-0004 at 7:48 p.m.

Zoning Administrator Hynes presented this item. The Planning Commission is being asked to consider a text amendment to Section 3-11 (c) and 13-2.

The Zoning Administrator reviewed the current zoning requirement which states:

*"Any business located within one hundred (100) feet of the nearest property line of a residential use, located within a residential district, shall close to the public not later than 11:00 p.m. each day and shall not reopen earlier than 7:00 a.m. All businesses within the Town limits shall close to the public not later than 12:00 midnight and shall not reopen earlier than 6:00 a.m."*

At the February 28, 2013 meeting, the Lovettsville Town Council authorized the Planning Commission and Staff to review the current hours of operation requirements in Section 3-11 of the Zoning Ordinance and to prepare any amendments to the Ordinance that the Commission feels would be beneficial to the Town for final review and possible adoption by Town Council.

Upon review of this requirement, Staff believes it is outdated and does not reflect modern business practices. After reviewing the text with the Planning Commission, Staff concluded that the requirement of the "open and closed to public" line means that all businesses must follow the hours of operation requirement for when they are open and closed to the public. However, business activities that do not involve the public, such as stocking shelves, preparing food, cleaning offices or making phone calls, are not limited by the hours of operation requirement.

The "open or closed to public" determination raised some concerns among the Commissioners with regard to construction, noise generated by business activities, outdoor business activities, trash collection, and deliveries. These are business activities that may not involve the public, but could cause a nuisance if conducted late at night or early in the morning. While the Planning Commission agreed that there are many businesses that could benefit from public business hours outside of the requirements, they had concerns that each business is unique and would require a different set of conditions. The Commissioners determined that a conditional use permit process would be the best format to address these individual concerns.

Zoning Administrator Hynes explained to the Commission that the text amendment before them states that *"Hours of Operation may be extended by the Town Council with a Conditional Use Permit. Such application shall specifically define the need for the modification."* Furthermore, the text amendment adds new hours of operation standards for all uses within the Commercial and Light Industrial districts. All businesses and commercial uses must meet the following requirements:

1. All deliveries shall only occur between permitted public business hours.
2. All outdoor business related activities shall only occur between permitted public business hours.
3. All business activity that is audible at the property line shall only occur between permitted public business hours.
4. Refuse and dumpster collection shall only occur between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 7:00 p.m. Saturday and Sunday.
5. Construction shall only occur between 7:00 a.m. and 7:00 p.m. Mondays through Fridays, construction shall only occur between 9:00 a.m. and 7:00 p.m. on Saturdays. No construction shall occur on Sundays.

The text amendment also includes adding the following definition to Section 13-2: *"Construction: Any site preparation, assembly, erection, substantial repair, alteration, demolition, or similar action."* The definition of construction will be necessary in order to enforce the hours of operation requirement for construction.

Vice Chair Mueller asked if a business received a conditional use permit to be open until 5:00 a.m., would that be considered the new permitted public business hours for the collection of trash? Manager Markel said that scenario could be addressed by an additional requirement within the conditional use permit limiting trash collection to the hours of 7:00 a.m. to 7:00 p.m.

There was no one signed up to speak (Attachment 1). Chairwoman Summitt called for comments from the public. Elaine Walker said that Mr. Mueller's questions were very important.

Chairwoman Summitt closed the public hearing for LVZA-2013-0004 at 8:00 p.m. and reopened the Regular Meeting at 8:00 p.m.

**Changes in Those Present at Meeting**

None

**Public Comment**

Chairwoman Summitt called for comments from the public. There were none.

**Additions/Deletions/Modifications to the Agenda**

Chairwoman Summitt called for changes to the agenda. There were none.

**Planning Commission Minutes**

None

**Staff Reports**

The Zoning Administrator presented her report for April 2013. She noted that the Town Council approved the rezoning application for 5 North Berlin on April 25, 2013. Staff briefly reviewed the revised proffers and noted that the Town Council also approved the landscape modifications for 5 North Berlin.

Vice Chair Mueller presented the Old Town District Study to the Town Council at the meeting on April 11, 2013. The Council endorsed the report.

The public hearing for the Old Town Zoning District Text Amendment was canceled because Staff needs more time to address the boundary line of the proposed zoning district.

She gave updates on the Town Seal Challenge, Arbor Day events, the new business directory, and the upcoming small business forum.

There were no questions from the Commissioners.

**Action/Discussion Items**

A. LVZA 2013-0003 Open Space Requirements

Vice Chair Mueller made the following motion.

**Motion:** I move that the Lovettsville Planning Commission recommend approval of the draft text amendments to the Open Space Requirements, within Section 3-3 (d) (viii), Section 3-4 (d) (viii), Section 3-5 (d) (viii) and 5-2 (b) of the Zoning Ordinance, as attached, to the Town Council with no further changes.

**By:** Vice Chair Mueller

**Second:** Commissioner Quintana

Chairwoman Summitt called for discussion. Hearing none, she called for the vote.

**Aye:** Commissioners Bauer, Gentile, Jones, Mueller, Quintana, and Summitt

**Nay:** None

**Abstain:** None

**Absent:** None

B. LVZA 2013-0004 Hours of Operation Requirements

Commissioner Quintana made the following motion.

**Motion:** I move that the Lovettsville Planning Commission recommend approval of the draft text amendments to the Hours of Operation Requirements, within Section 3-11 (c) of the Zoning Ordinance, as attached, to the Town Council with no further changes.

**By:** Commissioner Quintana  
**Second:** Commissioner Jones

Chairwoman Summitt called for discussion. Hearing none, she called for the vote.

**Aye:** Commissioners Bauer, Gentile, Jones, Mueller, Quintana, and Summitt  
**Nay:** None  
**Abstain:** None  
**Absent:** None

Manager Markel noted that the motion did not include the definition for "construction" under Section 13-2. Commissioner Quintana modified his previous motion as follows:

**Motion:** To add the definition for Construction: Any site preparation, assembly, erection, substantial repair, alteration, demolition, or similar action be added to the prior motion.  
**By:** Commissioner Quintana  
**Second:** Commissioner Gentile  
**Aye:** Commissioners Bauer, Gentile, Jones, Mueller, Quintana, and Summitt  
**Nay:** None  
**Abstain:** None  
**Absent:** None

#### **Information Items**

The Zoning Administrator referenced the reduced Planning Commission schedule memorandum. The Planning Commission will meet on the third Wednesday of the month from June to November 2013.

#### **Comments from the Mayor and Commissioners**

Chairwoman Summitt called for comments from the Mayor and Commissioners.

Mayor Zoldos gave updates on Arbor Day, the Civil War Trails Sign dedication, recent Town Center and Heritage Highlands homeowners association meetings, grants for sidewalk projects, Lovettsville Fire and Rescue's Annual Mud Run, the Walker Pavilion dedication, the Quarter Branch Park Facility, the Town Seal Challenge, the small business forum, proposed increases to the water/sewer rates, the sewer line clean-out project, and Mayfest.

#### **Adjournment**

**Motion:** To adjourn the Planning Commission meeting of May 15, 2013.  
**By:** Chairwoman Summitt  
**Second:** Vice Chair Mueller  
**Aye:** Commissioners Bauer, Gentile, Jones, Mueller, Quintana, and Summitt  
**Nay:** None  
**Abstain:** None  
**Absent:** None

The meeting was adjourned at 8:27 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: August 21, 2013

#### Attachments:

1. Notice of Public Hearing
2. Speaker Sign Up Sheet

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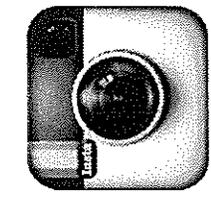
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**Public Hearing/Legal Notices**

**Town of Lovettsville Proposed Rate and Fee Changes for Fiscal Year 2014**

A Public Hearing on the proposed rates and fees for Fiscal Year 2014 will be held at the Town Hall, 6 East Pennsylvania Avenue, on Thursday, May 23, 2013 at 7:30 p.m. at which time all interested persons will be heard. A full version of the rate and fee schedule along with the proposed changes below are available for review on the Town's website at www.lovettsvilleva.gov or at the Town Hall between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, holidays excepted.

PROPOSED NEW/ADJUSTED RATES AND FEES (NOT TO EXCEED)
<b>General Fund:</b>
All rates and fees associated with the General Fund remain unchanged from FY 2013. These rates and fees are authorized by Code of Virginia Sections 15.2-2241 and 15.2-2286
<b>Utility Fund:</b>
Minimum Water and Sewer Bill: \$97.57 for up to 6,000 gallons per quarter (\$94.73 for FY 2013 - increase of 3%)
Water User Rate: \$6.50 per thousand gallons (\$6.31 in FY 2013 - increase of 3%)
Sewer User Rate: \$10.04 per thousand gallons (\$9.47 in FY 2013 - increase of 6%)
Sewer Only Customers: Fixed rate of \$83.61 (\$78.88 in FY 2013 - increase of 6%)
All other utility rates and fees remain unchanged from FY 2013
<i>These rates and charges are authorized by the Code of Virginia Sections 15.2-2111, 15.2-2143 (Water) and Sections 15.2-2111, 15.2-2119 (Sewer)</i>



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**Notice of Public Hearing  
Town of Lovettsville Planning Commission**

The Lovettsville Planning Commission will hold a public hearing on the following items at their meeting on Wednesday, May 15, 2013 at 7:30pm at the Lovettsville Town Hall, 6 East Pennsylvania Avenue:

**LVZA-2013-0003 Open Space Requirements:** To amend the open space requirements of the Zoning Ordinance under the following related sections of the Zoning Ordinance: 3-3 (d) (viii), 3-4 (d) (viii), 3-5 (d) (viii) and 5-2 (b).

**LVZA-2013-0004 Hours of Operation Requirements:** To amend the hours of operation requirements of the Zoning Ordinance under the following section: 3-11 (c).

**LVZA-2013-0005 Old Town District:** To amend the Zoning Ordinance to allow for the creation of a new mixed use zoning district "Old Town District" under Section 3-15; and to amend the following related sections of the Zoning Ordinance for the "Old Town District" zoning requirements: 3-1 (b) (i) Accessory Apartments; 3-1 (b) (ii) Bed and Breakfasts; Section 4 Parking; Section 5 Open Space and Recreation Space; Section 6 Landscaping, Buffering and Screening; Section 13 Definitions. The purpose of the "Old Town District" is to adopt flexible regulations designed to promote mixed use development within the historic downtown, as designated in the Lovettsville Historic District as it is listed on the National Register District of Historic Places, in accordance with the recommendations of the Comprehensive Plan. If the "Old Town District" is adopted by the Town Council, an application to rezone into this District would be a voluntary action by property owners.

The draft text amendments being considered are available for review at the Town Hall between the hours of 8:30am and 4:30pm weekdays or by special appointment, holidays excepted. Call 540-822-5788 for more information or visit www.lovettsvilleva.gov.

