

# Town of Lovettsville

## Minutes of the November 19, 2014 Planning Commission and Town Council Joint Public Hearing

### Call to Order – Town Council Special Meeting

Mayor Robert Zoldos II called the Special Meeting of the Lovettsville Town Council to order at 7:30 p.m. on November 19, 2014 at the Lovettsville Volunteer Fire and Rescue Company, 12837 Berlin Turnpike, Lovettsville, VA.

### Council Members Present

- Mayor Robert Zoldos II
- Vice Mayor Michael Senate
- Council Member Kimberly Allar
- Council Member Tiffany Carder
- Council Member Rodney Gray
- Council Member Jennifer Jones
- Council Member James McIntyre

### Staff Present

- Interim Town Manager Samuel Finz
- Zoning Administrator Joshua Bateman
- Town Attorney Elizabeth Whiting
- Town Clerk Harriet West

### Call to Order – Planning Commission Regular Meeting

Chairman Joseph Mueller called the Regular Meeting of the Lovettsville Planning Commission to order at 7:32 p.m. on November 19, 2014 at the Lovettsville Volunteer Fire and Rescue Company, 12837 Berlin Turnpike, Lovettsville, VA.

### Planning Commissioners Present

Chairman Joseph Mueller  
Vice Chair Robert Gentile  
Commissioner Tom Ciolkosz  
Commissioner Frank McDonough  
Commissioner Tony Quintana  
Commissioner Dorri O'Brien  
Commissioner Buck Smith

### Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

### Joint Public Hearing

#### A. LVRZ 2014-0001 Lovettsville Town Center Proffer and Concept Plan Amendment

Vice Mayor Senate read the Notice of Joint Public Hearing for LVRZ 2014-0001, Lovettsville Town Center Proffer and Concept Plan Amendment.

Planning Commission Chairman Mueller opened the Planning Commission public hearing for LVRZ 2014-0001 at 7:39 p.m. and Mayor Zoldos opened the Town Council public hearing for LVRZ 2014-0001 at 7:40 p.m. Mayor Zoldos then explained the process for the joint public hearing and encouraged those in attendance to come forward to speak on this issue. Vice Mayor Senate read the rules for public comment.

Zoning Administrator Bateman gave a presentation on the proposed proffer and concept plan amendment and noted the following changes:

- Reduction in total land designated for Town Center Core “commercial area” from 7.73 acres to 6.23 acres.
- Reduction in Section 5 commercial area from 2.03 to 1.55 acres.
- Increase in residentially designated land (six additional single family building lots).
- Amendments to proffered conditions #1, #9, #10 as noted below:

*Proffer #1:* The proposed amendment changes the reference to the most recent version of the concept plan submitted by the applicant. The Town Center Core Area that is the subject of the request will now be developed in substantial conformance with Sheets 1 and 3 through 7 (of 7) of the plan updated through July 29, 2014 (all sheets except the Existing Conditions Plan). This proffer has been updated to include plan sheets and illustrations that were not included in the previously-approved proffers. Specifically, the Illustrative Plan and Concept Grading Plan were not proffered in 2009.

*Proffer #9:* This proffer was previously identified as Proffer #10 in the proffers approved in 2009. The proposed amendment adds language so that the commercial building (Building B) proposed in the 6.23-acre commercial area must be developed in substantial conformance with the new building elevations prepared by Rounds VanDuzer Architects. The applicant has proffered the use of specific building materials and design details in the construction of the building as well as streetlights to be used on the site (the same street lights used on the East Broad Way Streetscape Improvements Project). The proffer further states that the applicant shall file a site plan for construction of the building within 3 months of approval of the proffer amendment, and shall begin construction of the building within 180 days of approval of the site plan, except during the months of November through February.

*Proffer #10:* This proffer was previously identified as Proffer #9 in the proffers approved in 2009. The proffer has been revised to include additional features of the development that are subject to review by the Zoning Administrator and by adding timeframes for approval of these features by the Town. In addition, the Applicant proposes to construct a clock tower to accommodate (up to) a three-faced clock designed and constructed to support a glockenspiel mechanism, which the Town has proposed to install at a later date.

- Adds Proffer #17 as follows:

*Proffer #17:* This new proffer states that no Zoning Permits shall be issued for the six (6) new residential lots (Lots 207 through 212) until such time as the first Occupancy Permit has been issued for the proposed commercial building (Building B). Thus, the commercial building must be constructed before the Town will authorize construction of the single-family homes on Lots 207 through 212.

Zoning Administrator Bateman reviewed the concept grading plan and changes to Building B. The proposed one-story building is designed to incorporate a Germanic architectural theme to reflect the Town’s German heritage. He noted that building elevations previously submitted by the developer in 2007 showed a two-story building; however this was never proffered.

The Zoning Administrator discussed his concerns regarding the following:

- Landscaping, Buffering, and Screening – Appears to be consistent with zoning requirements except proposed buffering.
- Transportation – Proffered signage is insufficient for the purposes of restricting use of the alleyway as a “cut through.”
- Parking – 88 parking spaces would be required per the Town’s Zoning Ordinance. The current proposal includes 74 spaces, including 66 off-street spaces. On-street parking adjacent to the commercial area is limited.

Zoning Administrator Bateman concluded his presentation by reviewing the following staff recommendations:

1. Removable bollards shall be installed at the end of Kestrel Alley where the alleyway ties into the parking lot for the proposed commercial development in order to prevent all but emergency and authorized maintenance vehicles from accessing the commercial development via the residential alleyway.
2. The landscaped buffer area between the proposed parking lot serving the commercial area and the residential parcels adjacent to the parking lot shall be no less than ten feet in width and shall include a six-foot opaque fence with masonry columns as depicted on the Concept Grading Plan.
3. Proposed residential Lot 207 would remain in Town Center Core designation until the Town determines if the proposed parking will be sufficient.

The Mayor, Council Members, and Planning Commissioners had a lengthy discussion with the Zoning Administrator about the parking issues and the alleyway.

Kimberlee Welsh Hise, representing the applicant Lovettsville Square LLC, said they submitted the affidavit for public notice to adjacent property owners. She then introduced Judd Bostian who responded to staff's recommendations. Mr. Bostian said they had already proffered the bollards. He asked Ben Rose to speak to the landscaping recommendation. Mr. Rose, with Bowman Consulting, discussed the proposed landscaping plans and said the five-foot buffer is pretty common and would include a hedge with canopy trees. He said this plan has been approved for six to eight years. Mr. Bostian then discussed the parking issue and what is currently proffered based on the original square footage. He said there are 141 spaces onsite for 67,000 square feet. The proffered plan that the Town approved is woefully under parked. He described the history behind the plan and said the idea was to have a town center feel with some of the surrounding residential streets to accommodate some of the overflow parking for what would have been a huge development in comparison with what they are talking about today. He said there is precedent that the project is woefully under parked at 2.2 spaces per 1,000 square feet and this is what has been approved. What they are proposing today is 17,500 square feet with 66 spaces to the rear and eight additional spaces. Mr. Bostian said this is nearly double the parking ratio at 4.2 spaces per 1,000 square feet. He said they have improved the parking situation drastically on the new plan. He said incorporating Lot 207 is not on the table for the applicant at this time. What they would like to do is to suggest a solution for overflow parking to get to the 88 spaces.

Mayor Zoldos called for comments from the public.

**Kelly Kahn**, 8 Spring Farm Drive, said she is less than enamored with the idea of using the alleyway as a throughway for commercial development. She said she believed their HOA fees cover the maintenance of the alleyway and it was never designed or constructed to support commercial traffic. It is used for residential purposes for residents to access their homes. She has zero confidence that a sign saying "no throughway traffic" will work. She likes Mr. Bateman's idea of installing the bollards. She cannot fathom any situation where they would have a large scale vehicle coming down the alleyway because you cannot turn around. She also likes the idea of restricting parking in the development. She said they have problems with parking now during Town events like Mayfest, Oktoberfest, and Movies on the Green.

**Brian Bacon**, 15 W. Broad Way, said he uses the alleyway every day to access his driveway. He agrees with his neighbor's comments and the recommendation to install physical barriers. He said they don't need people going in and out there to get to the retail space. He supports the recommendation for the residential lot to be held.

**Bernadette DaCruz**, 20 Town Center Drive, said she has sat through multiple briefings on this proffer. She said they are losing two buildings previously planned for commercial and the second level of retail space. They are giving up 50,000 square feet of retail space, conceding 22 parking spaces, and adding six more houses. Extending the alleyway and allowing it to be open to the parking lot is a safety concern and putting up signs is never going to do anything to change people's habits. Two years ago the developer came here with basically the same offer – give up 50,000 square feet of retail space. What the

developer did this time is make the building prettier. They are adding six more houses and giving up a lot in exchange for a glockenspiel, which she understands the Town is paying for. Some of the proposed commercial uses were a library and post office which would have provided additional parking in the evening. Parking is a huge concern and Lot 207 should be used for parking.

**Bing Lam**, 2 Eisentown Drive, said in 2011 there were four elected members who are on the Town Council now, the Mayor and the three other gentlemen, who all stated that they would oppose a one-story strip mall. Mr. Lam said it happened during the debate that he attended. Nothing has changed since then that would make them change their mind. Economic conditions have improved. The families that are coming here have small children and they are going to be spending their money somewhere. If we scale this project back, they are going to spending their money somewhere else. He said they are giving up 50,000 square feet, giving the developer six more residential lots, and then adding a couple of hundred thousand dollars for a glockenspiel.

**Sam Kroiz**, 11801 Georges Mill Road, said he agrees with most of the other speakers and that the Town should not accept these other proffers as they are. He said that obviously they are not going to get what was originally proposed. He and others want new stuff in Town. The building looks alright. There are some issues, like the parking. He is concerned about traffic in the area. Some major changes would make this more acceptable. He encouraged the Council and Commissioners to think longer term. He said that this plan eliminates a lot of possibilities. He encouraged the developer to keep working on it because they'd like to have more commercial property in Town.

**William Staff**, 12113 Timothy Hay Circle, said he just move to this area. Lovettsville has a perfect balance of community and he does not want to lose the small town atmosphere. That is why he moved here.

**Shaun Staley**, 28 Tritapoe Place, said that he does not recommend proceeding forward with this. They have waited 10 years for this and they should wait a little bit longer to get what they have asked for. He likes how the developer has improved the look of the building but he has concerns. He suggested starting with one building and letting it grow organically. He is concerned about the cost per square foot and the ability to attract tenants. He would love to see the commercial space because the Town is losing businesses that are going to Brunswick, but at the same time the Council has to do what is in the best interest of the Town.

**Victor LoPreto**, 1205 Barksdale Drive in Leesburg, said he has been a policeman for 33 years, including 20 years doing community policing and dealing with quality of life issues in towns. He said Zoning Administrator Bateman is exactly right – they need to think about the parking; otherwise, they will affect the quality of life of everyone who lives around the shopping center. The Town does not have a police force and the County Sheriff's Office cannot enforce parking within the Town. The Town will either have to work out an agreement with the Sheriff's Office or hire its own police officers. The decision they make around the square will affect the Town deeply.

**Cathy Turner**, 24 Daniel Keys, said that Deputy LoPreto's statement about parking is the most important thing they have heard. They really need to think about parking enforcement on the street. She asked if it was more important to have commercial than residential. Mayor Zoldos said the Town needs a mix of commercial and residential and that there is no commercial for the most part. She said if they are already losing the second story of commercial space why would they want to give up the other commercial land as well.

**Nate Fontaine**, 101 Eisentown Drive, said that the parking that was previously proffered is not ideal. He asked if there was any mechanism that could rectify the situation. Mayor Zoldos said that the project was initially sold based on different uses that would create demands for parking at different times of the day. Mr. Fontaine asked if a traffic study had been done for the West Broad Way entrance. Zoning Administrator Bateman said a traffic impact study was done in 2005 and the developer has to comply with VDOT standards. Mr. Fontaine said he is in favor of more commercial space rather than more residential.

**Harold Baker**, 101 Eisentown Drive, said he is concerned about the parking, especially handicapped spaces which are required by law. Zoning Administrator Bateman said this is covered in his staff report

and the concept grading plan which is subject to International Building Code requirements. Mr. Baker said he is also concerned about the commercial space the Town is giving up and will never get back.

Mayor Zoldos called for additional comments from the public. Hearing none, Chairman Mueller closed the Planning Commission public hearing at 8:54 p.m. and Mayor Zoldos then closed the Town Council public hearing. Mayor Zoldos turned the meeting over to the Planning Commission for deliberation. Chairman Mueller said his preference would be to not take any action tonight but he would like to discuss what had been presented. The Commissioners expressed their concerns about on-street parking, the use of the alleyway, and the further reduction in commercial space.

Mayor Zoldos stated that the Town Council cannot take official action without a recommendation from the Planning Commission but he did want to offer all of the Council Members the opportunity to speak. The Council Members expressed their views about a number of issues including the landscaping buffer, quality of life, traffic, economic impact, aesthetics, parking, loss of commercial space, and the alleyway. Councilwoman Carder clarified that the idea for the glockenspiel came from the We're In Economic Development and Tourism Committee and the intent is to pay for it with private donations. Mayor Zoldos said there are some new ideas that have been presented that the Town will be asking the developer to consider before any action is taken. Mayor Zoldos asked each member of both bodies to consider what is best for the Town in the immediate future and over the next 20-25 years.

Chairman Mueller announced that the next meeting of the Planning Commission will be held on December 3, 2014 and that this item will be on the agenda. He invited all of those present to attend that meeting. There being no further business before the Planning Commission, the meeting was adjourned at 9:33 p.m.

**Information Items**

There were none.

**Comments from the Mayor and Town Council**

Mayor Zoldos said the next Town Council meeting will be held on November 20, 2014 at the Lovettsville Elementary School in recognition of American Education Week. The Mayor and Town Council will be introducing the new Town Manager at that meeting.

Mayor Zoldos clarified that his role was to get NVRetail to come back with a proposal that the Town could then consider.

**Closed Session**

There was no closed session.

**Adjournment**

There being no further business before the Council, the meeting was adjourned at 9:35 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: June 3, 2015

Attachments:  
None