

Town of Lovettsville

Planning Commission Minutes of Regular Meeting, June 3, 2009

Chairman Zachritz called the Regular Monthly Meeting of the Lovettsville Planning Commission to order at 7:35 P.M. on Wednesday, June 3, 2009.

Present at Meeting

- Mayor Elaine Walker
- Chairman Robert Zachritz
- Commissioners Jack Burden, Lorraine Bauer, Mari Bushway, Elaine Fischer, Rodney Gray
- Town Manager Keith Markel
- Zoning Administrator Steve McGregor
- Town Clerk Judy L. Kromholz

Absent

- Commissioner Joanne Cooper

Present In the Audience

Among those present in the audience were Tracey Senate (*Brunswick Citizen*), Councilwoman Charlotte Coleman, Dennis O'Keefe, Jeff Ertman, Tiffany Carder, and Ed Spannaus.

Public Comment

Chairman Zachritz asked for public comment.

Dennis O'Keefe (7 Black Forrest Lane) read excerpts from the Town Zoning Code referencing pedestrian accessibility and asked if this Code applied to Lovettsville Town Center. He stated that new construction should be compatible with existing structures. He noted that he has "a genuine question" concerning how one applies to the Board of Zoning Appeals and asked if that process applies to the concerns of the current Lovettsville Town Center residents.

Chairman Zachritz called for additional public comments and there were none at this time.

Additions/Deletions/Modifications to the Agenda

Chairman Zachritz called for changes to the agenda. He stated that he will allow questions during the discussion item and asked for Commission approval. The Commission agreed.

Approval of Planning Commission Minutes

A. Planning Commission Regular Monthly Meeting – January 7, 2009

- Motion:** To approve the minutes of the January 7, 2009 Planning Commission Meeting as presented.
By: Commissioner Gray
Second: Commissioner Fischer
Aye: Commissioners Burden, Bushway, Fischer, Gray, Zachritz
Nay: None
Abstain: Commissioner Bauer
Absent: Commissioner Cooper

Action Items

A. LVZA 2009-0005 Wireless Communications Equipment

Administrator McGregor presented this item. Chairman Zachritz called for discussion and there was none.

- Motion:** I move that a public hearing be scheduled before the Planning Commission on July 1, 2009 for Item LVZA 2009-0005 Wireless Communications Equipment.
By: Commissioner Zachritz
Second: Commissioner Burden
Aye: Commissioners Bauer, Burden, Bushway, Fischer, Gray, Zachritz
Nay: None
Abstain: None
Absent: Commissioner Cooper

Discussion Items

A. Lovettsville Town Center Development History – Staff Presentation

Manager Markel made a presentation on the development and proffer history of Lovettsville Town Center (Attachment I)

It was asked if the expanded commercial parking would handle all of the commercial parking needs. Manager Markel stated that the plan had always relied on on-street parking to supplement the commercial section parking. No substantive changes have been made to this original concept.

An audience member asked about the other proffers made by Elm Street stating that there were all sorts of other things, including the Town Square and the Town Park. Chairman Zachritz asked if the commercial proffer has changed and Manager Markel stated that the configuration had changed over time, increasing the commercial segment. Administrator McGregor noted that there are approved site plans in effect for Commercial Buildings A and B.

Manager Markel noted that there had never been any requirement to build rear loading garages for the homes currently being developed. Jeff Ertman (2D South Church Street) stated that his builder told him that his porch was required by the Town and that certain other specifications, such as rear loading lots, were also required by the Town. Manager Markel explained that the documents Mr. Ertman had been shown were internal to the developer and builder and were not controlled by or reviewed by the Town. In discussion with Mr. Ertman, Manager Markel explained that the Town does not have any residential architectural controls, only zoning controls.

Commissioner Burden asked why Elm Street Development had asked for the change in alleys and was told that the Town does not know their motivation in requesting the change, although it was assumed that they did not want the expense of constructing the alleys if they did not intend to construct garages on the rear of the residential lots. Commissioner Bushway stated that she was also under the impression that it was a cost saving issue but that she was also under the impression that, before the last change, all houses built on the alleyways had to be rear loading. Commissioner Burden stated that he believed Elm Street had given the Commission the impression that Elm Street needed this change to build front loading lots.

Manager Markel displayed the map of Lovettsville Town Center to show which lots have been proffered as rear loading. Commissioner Bauer asked if Ryan Homes offers a rear loading model for lots that are not proffered as rear loading but have rear alleyways. Manager Markel said that it is his understanding that rear loading models are being offered. Mr. O'Keefe stated that he is under the impression that Ryan Homes is no longer offering front porches.

Chairman Zachritz returned to Mr. O'Keefe's question about the Board of Zoning Appeals. Manager Markel explained that the Commonwealth specifies what issues go before any Board of Zoning Appeals. Administrator McGregor explained that they are discussing challenging legislative action, not a zoning decision, and that appeal of legislative action must go to the Circuit Court.

Chairman Zachritz also explained the meaning of by-right development, stating that frequently the Home Owners Association covenants are more restrictive than a town's Zoning Ordinance.

Mrs. Senate stated that both the County Fire and Rescue department and the Lovettsville Fire and Rescue Company reviewed the plans and made recommendations to the Zoning Administrator. Mayor Walker stated that she believes that all such comments received for Lovettsville Town Center were accepted.

Concern was expressed about the width of Hammond Drive and the expectation of commercial parking on residential streets in Lovettsville Town Center. Administrator McGregor explained that the purpose of this design was to avoid a sea of concrete around the commercial district and to bring the residential areas within walking distance of the commercial district.

He confirmed that architectural detail on the commercial district is binding and cannot be changed and noted that it has been submitted but has never been approved or been through the approval process because the ordinance states that review must be done within one month of development.

Mr. O'Keefe referred to Section 3-1a of the Lovettsville Zoning Ordinance and Chairman Zachritz explained that this section is applicable to districts zoned residential (R1, R2, and R3) but Lovettsville Town Center has its own distinct zoning district and does not fall under this section. Commissioner Fischer asked why Town Center has its own zoning district and Administrator McGregor said that he presumed it was done because a developer at that time had a distinct concept that the Town liked. He gave the reduced setbacks as one example of the differences in this zoning district. A general conversation ensued among the audience and the Commission concerning the difference between the Town Center (planned unit) type of Zoning District and the typical suburban residential district exemplified by the Town's R1, R2 and R3 zoning districts.

Commissioner Burden asked if Elm Street could build whatever style house they chose on lots with alleys, except for the lots specifically proffered as rear loading. He stated that he believes Elm Street did a very poor job of informing the Commission and left the Commissioners confused as to what they were approving. Commissioner Bushway agreed with Commissioner Burden, but noted that it might not have changed her vote. She stated that she had based her decision on the idea that rear loaded lots were required where there were alleys. She reiterated that she might not have changed her vote and that she was concerned about the cost of building and the cost of the HOA maintaining the alleyways. Commissioner Burden reiterated that he feels that Elm Street deliberately misled the Commission concerning what was required in terms of front and rear loading lots.

Mr. O'Keefe asked if there is anything that the Town can do to ensure that the new homes look like the existing homes. Chairman Zachritz explained that as long as the builder conforms to by-right zoning requirements there is nothing the Town can do. He explained that the Town only has leverage when the developer applies for zoning district changes and Manager Markel confirmed this.

Commissioner Bauer asked if there was a written concept plan for Lovettsville Town Center and Manager Markel stated that there was not; the requirements were embedded in the proffers plus the map.

Commissioner Bushway asked for confirmation that the only changes that had been allowed was to remove four alleyways and to rezone one residential lot to commercial. Manager Markel noted that the new proffers also list the lots that must have rear or side loaded garages around the Town Green and along West Broad Way. The change also increased the maximum setback for corner lots from 25 to 35 feet and required a fence around the neighborhood park area.)

Chairman Zachritz stated that the Commission had mainly discussed removal of the alleys and any safety concerns that raised. He confirmed that there were never any proffers offered at the time of Planning Commission review that would have required rear loading garages onto the alleys, that proffer was offered to the Town Council at a later meeting.

Mr. Ed Spannaus stated that he had attended the January 15th and January 22nd Town Council public hearing and meeting and recalled the developer stating that the project was 'dead in the water' and that the only way it would get going again is if these design changes were granted. His understanding of tonight's conversation is that the developer never had to come to the Town to make these changes. Administrator McGregor stated that the developer came to the Town to try to save money by not building the alleys. Chairman Zachritz stated that the developer did have to come before the Town to eliminate the alleyways and that he wanted to see a builder come forward for the project to continue. Commissioner Gray stated that he had also made the assumption that all lots on an alley would unload into that alley.

Mr. O'Keefe stated that April pending home sales had the biggest monthly jump since 2001 and that negated the builders comment that the project was 'dead in the water'.

Manager Markel reiterated that the Town had no control over which homebuilder the developer used and that they could have brought Ryan Homes in at any time. Mr. Ertman asked about the original proposal

for town homes in Lovettsville Town Center and it was confirmed that the Town did not allow the developer to make that change to the Town Center Zoning District.

Mayor Walker noted that the promotional video brought in by Mr. O'Keefe said that 'town center shall include neotraditional homes'. Commissioner Bushway stated that when the video was produced it reflected Elm Street's intention at that time, but they were forced to revisit the concept when it did not sell. She stated that she does not believe that there was some sort of underhanded motivation or malice here, but the Elm Street was trying to revitalize a dead project.

Ms. Tiffany Carder asked for an explanation of the park fence that had been proffered. It was explained that the fence would be around the neighborhood park, not the Town Park.

Mayor Walker stated that our goal is to see the development of the commercial space at Lovettsville Town Center. She stated that the Town has been told by many, many people that this will not happen until there are more residential rooftops in Lovettsville Town Center. She noted that she is also concerned about the Lennar community that has totally stopped building and she stated that it would be wonderful if someone stepped in tomorrow to take that project over.

Chairman Zachritz thanked everyone for attending the meeting and for participating in a reasonable discussion. He stated that he appreciates that the people attending the meeting care about the Town.

Information Items

None

Comments from the Commissioners

Chairman Zachritz called for comments from the Commissioners.

Commissioner Gray reported that he had received an email from a local Scout leader concerning a dirt bike accident involving a local Scout member. He stated that there is a website to make donations for the injured Scout's care and that there will be a pancake breakfast at the Lovettsville Fire and Rescue Company this coming Sunday to raise funds for the boy's family.

Chairman Zachritz thanked Administrator McGregor and Manager Markel for their participation in this meeting.

Public Comment

Commission Chair Zachritz called for comments from the public.

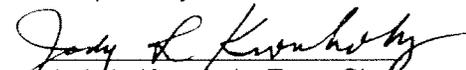
Mr. Ertman asked if there were any plans for the commercial property next to his home and was informed that no plans had been submitted to the Town.

Adjournment

Motion: To adjourn the Planning Commission meeting of June 3, 2009
By: Commissioner Bushway
Second: Commissioner Fischer
Aye: Commissioners Bauer, Burden, Bushway, Fischer, Gray, Zachritz
Nay: None
Abstain: None
Absent: Commissioner Cooper

The meeting was adjourned at 9:25 P.M.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: October 7, 2009

Attachment I: History of Lovettsville Town Center Development