

Town of Lovettsville

STAFF REPORT

TOWN COUNCIL

PUBLIC HEARING	
ITEM IDENTIFICATION	LVCU 2010-0002 Dykstra /Wheeler
TYPE OF ITEM	Conditional Use Permit
DATE OF HEARING	October 28, 2010
APPLICANT	Wheeler & Wheeler, Inc. with representative, Alan Dykstra

APPLICANT PROPOSAL:

Property owner, Wheeler and Wheeler, Inc., and Alan Dykstra, their representative, want to obtain a conditional use permit that would allow Mr. Dykstra to operate a lawn mowing, snow removal, and light excavation business with an ancillary office at 19 East Broad Way, zoned C-1. The subject property is identified in the Loudoun County land records as PIN 333155813 and 333154704. (See attached plat showing the front lot as lot 1 and the rear lot as lot 2). The outdoor equipment storage would be located on lot 2, the rear lot. The office would be located in the existing garage on lot 1, the front lot, which would also be used for minor repairs and storage of related materials. No structures would be built to accommodate this business.

The applicants are proposing to store a variety of pieces of equipment, including pickup trucks with attached snow plows, skid steer loaders, equipment trailers, mowers, and snow blowers. Other related equipment would also be stored on-site. (See attached proposal list).

The applicant is proposing to have a maximum two on-site employees and ten employees that park on the site but work off-site. These employees will be entering and leaving the site 7AM-9AM and 4PM-8:30PM during the work week and Saturday; and for an unspecified, minimal amount of time on Sunday.

The applicant wants to have the landscaped buffer yard requirements waived. He feels that the townhouse development adjacent to the east and north boundaries of the subject property has a permanent buffer area to protect the residential living environment from the equipment use he is proposing. He also states that he cannot place all the equipment on the site that he needs for his business if buffer yards are provided. In addition, the applicant is committing to:

1. Replace existing fence with a 6-foot board-on-board type fence to make it continuous around the area used for storage equipment and parking.
2. Add a locking gate for area.
3. Landscape portion of east buffer yard to a width of 42 inches.
4. Add landscaping in front of new fence on west side of garage to a width of two feet.
5. Clean storm drain (rear, east side)
6. Remove old fence, posts, gate (rear)
7. Paint garage.
8. Install lighting on rear of garage (10-15 feet from ground) facing downward.

Mr. Dykstra has permission from the property owner to have access through lot 1 to the area that is proposed to be used for equipment storage and parking.

ZONING ORDINANCE REGULATIONS:

The subject site is zoned C-1 Community Commercial. The following Zoning Ordinance regulations apply to the evaluation of the applicant's proposal:

The district allows "retail sales and/or service with outdoor storage" use, conditionally permitted in Section 3-12 (c) of the Zoning Ordinance.

The C-1 district, as stated in Section 3-12 (a), is:

"...designed to accommodate general commercial business to which the public requires direct and frequent access, but which is not characterized by constant heavy trucking...The Town intends that existing residential buildings be converted to commercial use rather than have new buildings constructed...."

Article 6 Landscaping, Buffering, and Screening, Section 6-10 (a), the Zoning Ordinance indicates that:

"The Council recognizes that the landscaping, buffering and screening requirements...cannot address every situation because of the wide variety of potential developments and the relationships between them. Subject to the recommendation of the Zoning Administrator, the Planning Commission may approve alternate proposals that deviate from the requirements...whenever it concludes that the proposal meets or exceeds the standards of this article."

TOWN PLAN POLICIES:

The following Town Plan policies are relevant to the consideration of this proposal:

Land Use Chapter VII states under Goals:

"Diversify commercial land uses to promote a wider variety of employment opportunities within the Town." (page 53, 4th bullet)

Land Use Chapter VII states under Objectives:

“Consolidate existing commercial and employment areas along East Broad way and integrate these areas with the new Town Center project to create a cohesive downtown core.” (Page 53, 2nd bullet)

Land Use Chapter VII states under Policies:

“Encourage employment uses, which are well designed, adequately landscaped and buffered from adjoining, less intensive uses.” (Page 53, 6th bullet)

Business Development Chapter V states under the Goal section:

“An adequate variety and high-quality of local-serving businesses that target the needs of the...community within a traditional downtown environment and that promote[s] a stable tax base...” (page 36)

Business Development Chapter V states under Objectives:

“Encourage the development of town-scale commercial and employment uses consistent with the existing character of Lovettsville. (page 36, 3rd bullet)

Business Development Chapter V states under Policies:

“Discourage the spread of commercial development in a way that distracts from existing downtown business...or intrudes into existing residential neighborhoods.” (Page 36, 3rd bullet)

ANALYSIS:

The proposed use can be considered retail sales with outdoor storage use, as stated in the Zoning Ordinance as a conditionally permitted use in the C-1 district. The proposed use complies with the district purpose of a business with frequent access to the public (although business done with the public is with telephone or internet in this case) that does not have constant heavy truck traffic.

A synthesis of the Town Plan policies that apply to this proposal suggests that the Town wishes to encourage such a business in the old downtown in the western portion of the E. Broad Way corridor where there are a number of businesses and many lots with commercial zoning. The proposed use provides for the needs of the community, as the Plan states. It is reasonable to assume that many residents in the Town and surrounding area have a need for lawn mowing and snow removal.

The issues related to this proposal primarily involve potential impact on residential use, which is adjacent to the site on three sides. The Lake View townhouse development is adjacent to the site on the north and part of the eastern boundary for a total of 222 feet. A single family detached dwelling is located adjacent to a portion (28 feet) of the western boundary, primarily next to the front lot on the site, which is used for a real estate office.

The buffering requirements shown in Table 6-1 of the Zoning Ordinance would require the proposed use to install and maintain a Type C buffer area adjacent to residential use. This buffer area requires a 35-foot buffer yard planted with 1 per 1,000 square feet canopy trees; 1 per 500 square feet understory trees; 1 per 500 square feet evergreen trees and 1 per 100 square feet shrubs. A six-foot high opaque fence can be substituted for one-third of the width of the buffer yard with plant reductions accordingly. With a one-third reduction in the buffer yard width the total square feet of buffer yard required would be 2,068. This would require two canopy trees (2.5 inch diameter at planting), four understory trees (6-foot height at planting), four evergreen trees (6-foot height at planting), and twenty shrubs (18 inch height at planting).

The Town Plan states a policy for businesses to be attractive in the eye of the public. This would imply a need for on-site landscaping in this case, as there would be no new construction, and a need for the business to be attractive from off-site.

For this proposal to be viable from Mr. Dykstra's perspective, according to the applicant, some relief from the buffer yard and related landscaping would have to be provided by the Town. One possible justification for an alternative buffer yard on this site is that the Lake View townhouses development has a strip of open space that is about twenty feet wide that provides some separation from the subject site off-site. If the applicant were to provide an eight-foot fence around his storage yard (lot 2), for example, it would help screen the equipment storage from the townhouses to a limited extent at ground level. The townhouses have privacy fences around their back yards that face the subject site so the outdoor living space is already protected visually from the subject site. The planted areas offered by the applicant also help make the site more attractive from adjacent development to the limited extent that people off-site can see onto the site itself.

The applicant's proposal includes outdoor lighting on the area where the equipment would be stored. The lighting fixtures are proposed to be mounted 10-15 feet above grade. This is a reasonable security feature, even with a locked yard. However, such lighting would have to be designed and located such that it would not spill over and cause off-site glare on adjacent residential property.

In a letter dated October 19, 2010, the Virginia Department of Transportation has informed the Town that they have no objection to the applicant using the existing entrance to the site for the proposed use.

The Sunday hours of operation are only listed as minimal. Certain hours of operation would allow neighbors to know when to expect activity on the site.

The value of the proposed use to the community is strong enough to give it positive consideration if certain conditions are met as it meets most of the relevant Town Plan policies and complies with the applicable Zoning Ordinance regulations.

There is a need to ameliorate some of the potential visual impact of the equipment on residential development. There is no way to visually screen equipment on the site from the

second story windows of the Lake View townhouses. The ground floor level of these units is already screened as part of the design of the development. If fencing were added to the subject site by the applicants it would provide a double sight barrier. Outdoor lighting needs to be designed so there is little or no glare off-site onto residential development. Hours of operation on Sunday should be specified.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on this item, October 6. There were a number of speakers. Forest White, an attorney, who represented the Lake View townhouse homeowners association, said the proposed use does not fit the Zoning Ordinance category being used by the staff to justify the proposal. He said that lawn mowing and snow removal is not a retail use where people need direct access to the property. He said it is more of an industrial use. He said it would have a negative impact on the Lake View community and would in all likelihood be a twenty-four hour business during major snow events. He said the landscaping and buffering requirements were established to protect citizens from such incompatible land uses. The president of the Lake View, Robert Miller, said he feels the business would have a negative impact on their community both visually and in terms of noise. He said there are other landscaping businesses serving the Townspeople. He is not against the use, as the Town needs new businesses, but it should be in an industrial area. Other residents and nearby residents of Lake View echoed the remarks of Mr. White and Mr. Miller. Lisa Niblock of Lake View said the small children in the community would be awakened too early in the morning by traffic in and out of the site. Commissioner Fisher said she feels the use would have too negative an impact on the community. Commissioner Bauer wanted to have the applicant put some tall trees in to screen the use from Lake View even if the buffer yard area were to be reduced. Howard Williamson and Kathryn Buck, nearby commercial property owners both supported the business proposal.

The Commission recommended that the business be established under the conditions provided by staff, with one addition. However, they asked staff to contact the Town Attorney and find out if she supports the contention of Mr. White that the use does not fit the definition of retail service with outdoor storage as shown in the Zoning Ordinance under the C-1 district. When contacted by the staff the Town Attorney was not entirely comfortable with the Zoning Administrator's interpretation of the meaning of retail service use but there was some room for the interpretation. The Commission was also concerned about how to define what a valid complaint, which is proposed condition #12. They did not want the concept to be used by citizens who are now opposed to the use and want to use the condition to try to remove the use. The Planning Commission recommendation for this item is the following:

"It is recommended that the proposed conditional use permit be approved with the following conditions.

1. The subject property (PIN 333155813 and part of PIN 333154704) be used for a lawn mowing, snow removal and light excavation business.
2. Hours of operation shall only be 7AM-8:30PM, Monday-Saturday; and 1PM-5PM, Sunday.

3. An eight-foot opaque fence shall be installed around the perimeter of lot 2, the rear lot to enclose the equipment stored outdoors. A two-foot clearance shall be maintained between the fence and the property boundary for maintenance purposes.
4. Rail ties shall be placed around the perimeter of lot 2, the rear lot, at a distance of at least five feet from the fence, to prevent vehicles from being too close to the fence.
5. The fenced area in which the equipment is stored outdoors shall be locked when the site is unattended or the business is closed.
6. There shall be a minimum of twelve parking spaces for employees that shall be marked by wheel stops or rail ties. These wheel stops or ties shall not be closer to the fence than five feet.
7. Buffer yard and landscaping requirements of the Zoning Ordinance are waived.
8. The garage will house office space ancillary to the business and some storage space for related equipment.
9. Lighting for the outdoor storage of equipment shall be mounted on the rear of the existing garage. It will be designed so that it is directed downward and does not create spillage off-site and it will have a low level of brightness.
10. All delivery trucks will load and unload on-site.
11. This conditional use permit is not transferable to any other type of business.
12. This conditional use permit is subject to review if valid complaints about the operation of the business are made to the Town.
13. The equipment stored outdoors on the site shall be limited to two tractor loaders with backhoe and miscellaneous attachments; two skid loaders with miscellaneous attachments; five pickup trucks with snow blades; three company vehicles (one is a debris-hauling truck); two equipment trailers; one hay wagon; one hay ride wagon; five landscape trailers; six riding mowers; seven walk-behind mowers; ten snow blowers; miscellaneous tools to include snow shovels, weed eaters, blowers, rakes, pruning equipment, edgers, pressure washers and other related small equipment.”

DRAFT MOTION: “I move that the Town Council recommend approval of the draft ordinance presented in the staff report for Conditional Use Permit item LVCU 2010-0002 Dykstra/Wheeler as conditioned, dated October 28, 2010.”

ATTACHMENTS: 1) Detailed business proposal, Dykstra, supplement to application, September 24, 2010
2) Plat of subject property (two lots), submitted with application, Dykstra, August 20, 2010