

STAFF REPORT

Town of Lovettsville

TOWN COUNCIL PUBLIC HEARING

NOVEMBER 12, 2009

Proposed Zoning Ordinance Amendment

**LVZA 2009-0006 Model Home; Construction and/or Sales
Trailer**

Applicant: Town of Lovettsville

Location of Hearing: Town Office at 6 E. Pennsylvania Avenue

Time of Hearing: 7:30PM

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Town Office Hours: 9AM-3:00PM (except holidays)

PURPOSE: To provide a rationale for adding the Model Home use that includes a model home with office use to all zoning districts with a residential component; to provide standards and a definition for the use; for adding Construction and/or Sales Trailer use to zoning districts where it is not already a permitted use; for amending the related standards for the use and adding a definition for the use. The staff report discusses the issues related to the two uses and provides a proposal to amend the Zoning Ordinance text to address the issues.

BACKGROUND: After it came to the attention of the staff and Zoning Administrator that the Ordinance does not provide for a model homes and model homes with sales office use for residential development. The issue also involves the Construction and/or Sales Trailer use, which is permitted in residential ("R") zoning districts but not other zoning districts where such use would be needed as part of the construction and sales process. The issue was brought to the Town Council and discussed. On September 17 the Council directed the Planning Commission, staff and Zoning Administrator to develop a staff report with recommended text changes and schedule a public hearing before the Planning Commission. The Planning Commission held a public hearing on the item, October 7 and made a positive recommendation with one modification to the proposed text, which would give the Zoning Administrator authority to make decisions about the location of the model home or construction and/or sales office trailer in the development and about how best to protect adjacent residential areas from any negative impacts from the use in terms of traffic or visual quality of the development.

DISCUSSION: In recent discussions with Elm Street Development about establishing a model home with sales office in the Lovettsville Town Center for the residential portion of the development, staff and the Zoning Administrator observed that there is no temporary office use in a model home for sales of the development, or model homes or construction and/or sales trailers permitted in the Town Center Planned Development T-C zoning district, for the specific Town Core, Residential Areas or the Fringe Areas. This is a basic necessity for any developer when a residential project is approved by the Town and the sales and building processes start. It is a use that is most efficient for the developer when it is on-site. This is the case throughout the region and the country. It appears that the use was overlooked in the establishment of the permitted uses in the current ordinance.

Some of the residential zoning districts permit the temporary construction and/or sales trailer use: CR-1, R-1, R-2 and R-3 districts. The use is not permitted in the other zoning districts, however, which is not equitable, since development on land controlled by the other districts also need the use in order to sell the project.

It is typical for developer/builders to use a one or more model home on the residential project site to sell the project. This has been done in the most recent residential projects but without the use permitted, specifically. There is often a variety of models available in a project and examples need to be available for showing to the potential customer and each builder may need an office for sales in a model unit. It is reasonable in terms of the Town's economic development to permit this use in all zoning districts with a residential component.

A definition for both the model home use and the construction and/or sales trailer use needs to be established in the ordinance. There is no definition of construction and/or sales trailer in the ordinance even though there is a set of standards for the use. Standards need to be established for the model home with sales office use, just as there are standards for the construction and/or sales trailer use. Parking for a model home with a sales office needs to be controlled so there is not excessive parking on residential streets because of the sales activity taking place. This is not an easy thing to control as the incidence and location of units changes in a residential subdivision under construction. Landscaping is needed even for the temporary model home with sales office and the construction or sales trailer. These uses may linger on the landscape if development slows or stops temporarily so their attractiveness is a community interest.

Given these issues and assumptions, standards for the model home with sales office need to be established so that they are located in a recorded subdivision; all other applicable ordinance regulations are adhered to; the timeframe for the temporary use is linked to approval of the last occupancy permit; the Town has the authority to require a bond to ensure that any features used to establish the use are brought into conformance with the permanent use; off-street parking and handicapped parking is regulated.

Given these issues and assumptions, the standards for the construction and/or sales trailer use in Article 3 Section (b)(vii) that should be updated to:

- remove the regulation requiring the need for renewal of the permit and link the timeframe of the temporary permit to the last approved occupancy permit in the project;
- indicate that a permit has to be approved no less than ten days of the installation of a trailer and a copy of the County building permit has to be filed with the Town;
- allow a setback of 20 feet, not 35 feet to conform to the minimum in any one district;
- ensure that the use is located on land that is part of a recorded subdivision, or a lot with an approved site plan;

- ensure that required parking spaces are located on-site; include handicapped parking and indicate that parking spaces may be gravel;
- fully indicate that if the use is not a minor improvement by ordinance standards, then it is a major improvement and must adhere to the applicable standards

Another update of the existing standards would make it so there is no limit for the number of the uses on a project. The Zoning Administrator would not determine the need for landscaping or what the site plan should be, or what features should be required to protect adjacent residential neighborhoods. The reasoning behind this change is that temporary uses, such as these, would not have a sufficient impact on adjacent development to warrant strong regulation.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission held a public hearing on the item, October 7, 2009. There was one speaker, Bing Lam, who supported the addition of sales offices on project sites but requested that the Town exercise more control of site design features that could impact adjacent neighbors, such as a need to require landscaping or fencing. He said the Town should control the location of these uses so they are not located in the midst of existing residential development. He was concerned about the parking associated with sales offices or construction/sales trailers that might spill-over onto residential streets.

The Commission shared the concerns of Mr. Lam and passed a recommendation for approval of text revisions that re-instates language currently included in the standards for construction and/or sales trailers use requiring the Zoning Administrator to exercise more control of site design and location of these uses for neighborhood protection purposes. The Commission added this text to the new standards proposed for the model home use.

CONCLUSION: Staff accepts the Planning Commission recommended text amendment as reasonable. The amended text recommended by the Commission will allow developers to have sales outlets and construction trailers on projects under construction while the Town will better control of the location and site design of these temporary uses. Staff recommends that standard (A) in the revised standards for Article 3, District Regulations, Sec. (b) (vii), CONSTRUCTION AND/OR SALES TRAILERS, be expanded to include a requirement that this use can only be located on a lot with an approved building location zoning permit. This is automatically required under Section 10-4 Zoning Permits, (f) for major improvements. Staff feels it should be reiterated in standard (A) for the sake of clarity.

RECOMMENDATION: It is recommended that the Town Council consider the Planning Commission recommendation to approve the Zoning Ordinance text

regarding the addition of the model home use, which includes model homes with sales offices, to all zoning districts that permit residential use; the addition of the construction and/or sales trailer use to all zoning districts where it is not now permitted; and standards are established for the model home use and the existing standards for the construction and/or sales trailer use are amended to provide a number of regulatory improvements, as discussed above. Also, consider a staff editorial improvement making it clear in the standards for construction and/or sales trailers that a building location zoning permit is required for these temporary uses. Therefore, it is recommended by the Planning Commission and the staff that the Town Council approve the following proposed Zoning Ordinance text amendment:

- ADD:** To Article 3, District Regulations, Sec. 3-2 (b), CR-1 district, (b) Permitted Uses, a new sub-paragraph (xix),
To Article 3, District Regulations, Sec. 3-3 (b), R-1 district, (b) Permitted Uses, a new sub-paragraph (vi),
To Article 3, District Regulations, Sec. 3-4 (b), R-2 district, (b) Permitted Uses, a new sub-paragraph (vi),
To Article 3, District Regulations, Sec. 3-5 (b), R-3 district, (b) Permitted Uses, a new sub-paragraph (vi),
To Article 3, District Regulations, Sec. 3-6, Retirement Community R-C district, a new sub-paragraph (r),
To Article 3, District Regulations, Sec. 3-7, Town Center Planned Development T-C district, (i “eye”), Permitted Uses, Town Center; Town Center Residential Area, (i) (ii), a new sub-paragraph (E),
To Article 3, District Regulations, Sec. 3-8, Planned Infill Development district, (f), Permitted Uses, a new sub-paragraph (vi),

all of the above to read:

“Model Home.”

- ADD:** To Article 3, District Regulations, Sec. 3-6, Retirement Community R-C district, a new sub-paragraph (s),
To Article 3, District Regulations, Sec. 3-7 (i “eye”) (ii “two”), Town Center Planned Development T-C district, Permitted Uses, Town Center, Town Center Core, (i) (i) a new sub-paragraph (G); Town Center Residential Area, (i) (ii) a new sub-paragraph (F); Town Center Fringe, (i) (iii), a new sub-paragraph (E),
To Article 3, District Regulations, Sec. 3-8 (f), Planned Infill Development district, Permitted Uses, a new sub-paragraph (vii),
To Article 3, District Regulations, Sec. 3-12, Community Commercial C-1 district, (b) Permitted Uses, a new sub-paragraph (xxxii) [xxxii becomes xxxiii Retail Sales, etc.]
To Article 3, District Regulations, Sec. 3-13, Mixed Use Business district C-2, (b) Permitted Uses, a new sub-paragraph (xxxii) [xxxii becomes xxxiii Retail Sales, etc.]

To Article 3, District Regulations, Sec. 3-14, Light Industrial district I-1, (f)
Permitted Uses, a new sub-paragraph (xviii).

all of the above to read:

“Construction and/or Sales Trailer.”

ADD: To Article 13, Definitions, Sec. 3-2, in alphabetical order, to read:

“MODEL HOME: A building having the physical characteristics of a residential dwelling, which exists for the purpose of display or advertising in connection with the sale of units in a residential development on a temporary basis. It may incorporate an office use that is directly related to the sales function of the building. The ultimate intended use of such a building is as a dwelling.”

ADD: To Article 13, Definitions, Sec. 3-2, in alphabetical order, to read:

“CONSTRUCTION AND/OR SALES TRAILERS: A structure standing on wheels, towed or hauled by another vehicle and used temporarily for sales of the units in the subdivision, or subdivision section, in which the trailer is located; and in which sales and construction of units is planned or underway.”

ADD: To Article 3, District Regulations, Sec. 3-1, a new sub-paragraph (xx), to read:

“MODEL HOME: The use is permitted subject to the following provisions:

- (A) The use may be located in any zoning district that includes a residential use, provided such use is located within the recorded subdivision it serves. It may incorporate a sales office.
- (B) The use must conform with all applicable requirements of the Zoning Ordinance.
- (C) The use is permitted until the issuance of the last occupancy permit within the subdivision it serves.
- (D) The Town may require a bond as appropriate to ensure that the atypical features, including, but not limited to, utilization of the garage for a sales office, will be removed or brought into conformance with residential building code requirements prior to conversion of the unit for residential occupancy.
- (E) Two (2) off-street parking spaces shall be provided on the lot where the use is located for the public and these spaces include the required handicapped space. The use must comply with any requirements that apply for handicapped parking for commercial office use.
- (F) All signs must comply with applicable Zoning Ordinance provisions.

MODIFY: Article 3, District Regulations, Sec. (b) (vii), CONSTRUCTION AND/OR SALES TRAILERS, to read:

~~“CONSTRUCTION AND/OR SALES TRAILERS: The use is Construction and/or sales trailers are permitted subject to the following provisions:~~

- (A) ~~The trailer use shall be located on a lot parcel or site that is within a recorded subdivision or on a lot with an approved site plan or a lot with an approved building location zoning. Its location is subject to any applicable proffers related to the site and its function must be directly related to the primary use established for the subdivision or lot wherein it is located.~~
- (B) ~~The maximum period allowable for the use is permitted until the issuance of the last occupancy permit is approved for the development and until the completion of any bonded public improvements. placement of a temporary construction and/or sale trailer shall be six (6) months or until completion of the project, whichever is shorter. Requests for renewal for a successive six (6) month period may be submitted if additional time is required to complete the project. Renewal requests shall be filed at least thirty (30) days prior to the expiration date of the original permit.~~
- (C) ~~The use Each construction or sales trailer shall have a minimum of provide two (2) off-street parking spaces on the lot or land on which the use is located. These parking spaces shall include the required handicapped space. The use must comply with any requirements that apply for handicapped parking for office use. Parking spaces may have a gravel surface.~~
- (D) A minimum lot area of two thousand (2,000) square feet shall be provided for this use. ~~each temporary trailer space~~
- (E) The use Trailers shall not be located closer than twenty (20) feet from the property line of the lot upon which it is located. ~~within any required front yard or required side or rear yard.~~
- (F) A zoning permit shall be obtained for the use at least ten (10) business days prior to the time it is placed on the property. ~~construction and/or sales trailer.~~
- (G) The use Construction and/or sales trailers shall be considered a minor improvement providing no site grading is required for the placement of the trailer; and if it is considered a major improvement and subject to the applicable regulations for major improvements.
- (H) A building permit is required from the County and a copy has to be filed with the Town within ten (10) business days of the placement of the use on the site.

- (l) ~~The Zoning Administrator shall review and approve or deny applications all requests for temporary construction and/or sales trailer permits. In assessing a request for a temporary trailer permit, The Zoning Administrator shall determine the appropriate number of trailers for the site, the need for and design of landscaping on the trailer site, and any other amenity that they shall deem in the interest of protecting adjacent residential property (zoned, planned or in use). consider the necessity for such a temporary construction and/or sales trailer, its location and its effects on the surrounding neighborhoods and/or adjoining property owners and may require terms and conditions on the location and placement, type and number of trailers, screening and other reasonable conditions~~

DRAFT MOTION: The following draft motion is provided to allow the Town Council to take action on this item after the public hearing is closed.

“I move that the proposed text for amending the Zoning Ordinance contained in the staff report, dated November 12, 2009, for item LVZA 2009-0006 Model Home; Construction and/or Sales Trailer, be adopted by this Council.”