

# Town of Lovettsville

## Town Council

### Minutes of Public Hearing and Regular Meeting December 8, 2011

#### Welcomes and Introductions

Mayor Walker opened the public hearings at 7:32 PM on Thursday, December 8, 2011 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180. She welcomed the citizens attending the meeting and introduced Council Members Tiffaney Carder, Charlotte Coleman, Tim Sparbanie, and Shaun Staley. Vice Mayor Zoldos arrived at 7:56 PM.

#### Absent:

Council Member Michael Senate

#### PUBLIC HEARINGS

##### HOME OCCUPATIONS

The Lovettsville Town Council Public Hearing on LVZA 2011-0003 Home Occupation Regulations was called to order by Mayor Elaine Walker at 7:33 PM.

#### Explanation of Procedures and Opening of the Hearing

Mayor Walker read the public notice of these hearings as they appeared in the *Purcellville Gazette* (Attachment I).

#### Presentation

Zoning Administrator McGregor made a presentation on this item, including a summary of the discussion and conclusions of the Planning Commission (Attachment II: Staff Report: LVZA 2011-0003 Home Occupation Regulations).

#### Public Speakers

Councilman Staley read the Rules and Procedures for public hearings. Mayor Walker introduced each speaker in the order in which they had signed up to speak (Attachment II: Sign up Sheet).

- 1 Wendy Fitt (Applicant)
  - a) Mrs. Fitt thanked the Council for hearing her again. She stated that she has been very impressed with the thoughtfulness and thoroughness of the Planning Commission. She has met with her neighbors and they have all signed a petition stating their agreement with her proposal.

#### Closing Comments

Mayor Walker again asked if there were any more speakers and there were none.

#### Declaration to close the Public Hearing

Mayor Walker declared this Public Hearing closed at 7:42 P.M.

#### RETIREMENT COMMUNITY

The Lovettsville Town Council Public Hearing on LVZA 2011-0002: Retirement Community R-C Zoning District Amendment was called to order by Mayor Elaine Walker at 7:42 PM.

#### Presentation

Zoning Administrator McGregor made a brief presentation. (Attachment IV: Staff Report: LVZA 2011-0002: Retirement Community R-C Zoning District Amendment).

#### Public Speakers

Mayor Walker introduced each speaker in the order in which they had signed up to speak.

- 1 Kimberlee Welch Cummings
  - a) Ms. Cummings thanked staff for all the time and effort that went into reformatting this document. She is available to answer any questions

the Council may have.

Councilman Sparbanie asked Ms. Cummings if Lennar is satisfied with the changes. She said that they were. *{Vice Mayor Zoldos arrived during these discussions at 7:56 PM}*

#### **Closing Comments**

Mayor Walker again asked if there were any more speakers and there were none.

#### **Declaration to close the Public Hearing**

Mayor Walker declared this Public Hearing closed at 7:57 PM

#### **REGULAR MEETING**

Mayor Elaine Walker called the regular meeting of the Lovettsville Town Council to order at 7:58 PM on Thursday, December 8, 2011.

#### **Present at Meeting**

- Mayor Elaine Walker
- Vice Mayor Robert Zoldos II
- Council Members Tiffaney Carder, Charlotte Coleman, Tim Sparbanie, Shaun Staley
- Town Manager Keith Markel
- Zoning Administrator Steve McGregor
- Town Clerk Judy L. Kromholz
- Planning Commission Vice Chairman Jack Burden
- Treasurer Lance Gladstone *{arrived at 8:33 PM}*
- Attorney Elizabeth Whiting *{arrived at 8:38 PM}*

#### **Absent**

- Councilman Michael Senate

#### **Special Presentation: Recognition of Oktoberfest Committee Volunteers**

Mayor Walker presented certificates of appreciation to each member of the Oktoberfest committee including Tim Sparbanie, Scott Dockum, Michael Zapf, Elaine Walker, Elizabeth Bracey, John Broman, Stephanie Burget, Charlotte Coleman, Angela Van Eck, Lee Crosby, Jim Crunk, Dave Kirk, Debralee Mahzoun, Chuck Blough and Irene Randles.

A special award was presented to Cheryl Miller for her dedication to Oktoberfest over many years.

#### **Call to Order/Welcome/Pledge of Allegiance/Invocation**

Mayor Walker led the assembled in the Pledge of Allegiance.

The Mayor and Council then took a brief break to congratulate the Oktoberfest committee members at 8:15 PM. The Council reconvened at 8:24 PM.

#### **Comments from the Public**

There were no comments from the public.

#### **Community Presentations**

##### **A. Lovettsville Community Center**

Elizabeth Bracey discussed upcoming events at the Community Center.

##### **B. Loudoun County Sheriff's Office**

Loudoun County Deputy Sheriff Wacker reviewed the status of current issues in Town *{Treasurer Gladstone (8:33 PM) and Attorney Whiting (8:38 PM) both arrived during this discussion}*. Deputy Wacker explained the resolution of the recent burglary incidents. Vice Mayor Zoldos stated that he was speaking for everyone when he expressed appreciation for Deputy Wacker's effectiveness in resolving these matters. He stated that the feeling around Town is very different.

Mayor Walker reported that she had attended a number of meetings concerning this issue. She thanked Deputy Wacker for 'getting our town back to us'.

**C. Lovettsville Planning Commission**

Vice Chairman Burden reported on the activities of the Planning Commission. He stated for the record that the Planning Commission wanted to again express their appreciation of Administrator McGregor's hard work for the town of Lovettsville. They had a wonderful working relationship with him and are sorry to see him leave.

**D. Economic Development Advisory Committee**

Councilman Staley reported on EDAC's most recent meeting, saying that they had a really good turnout from the public and a productive discussion of their plans. Their next meeting is scheduled for January 5, 2012.

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

Manager Markel added an action item to appoint an Acting Zoning Administrator.

**Approval of Town Council Minutes**

**A. Town Council Meeting – July 14, 2011**

**Motion:** To approve the minutes of the July 14, 2011 Town Council Meeting as presented at this meeting.  
**By:** Council Member Carder  
**Second:** Council Member Coleman  
**Aye:** Council Members Carder, Sparbanie, Staley, Zoldos  
**Nay:** None  
**Abstain:** Council Member Coleman  
**Absent:** Council Member Senate

**B. Town Council Meeting – August 11, 2011**

**Motion:** To approve the minutes of the August 11, 2011 Town Council Meeting as presented at this meeting.  
**By:** Council Member Carder  
**Second:** Council Member Coleman  
**Aye:** Council Members Carder, Coleman, Staley, Zoldos  
**Nay:** None  
**Abstain:** Council Member Sparbanie  
**Absent:** Council Member Senate

**C. Town Council Meeting – August 25, 2011**

**Motion:** To approve the minutes of the August 25, 2011 Town Council Meeting as presented at this meeting.  
**By:** Council Member Carder  
**Second:** Council Member Coleman  
**Aye:** Council Members Carder, Sparbanie, Staley  
**Nay:** None  
**Abstain:** Council Members Coleman, Zoldos  
**Absent:** Council Member Senate

**Report from the Treasurer**

**A. Financial Report – September 2011**

Treasurer Gladstone presented his report for September 2011. There were no questions from the Mayor and Council.

**Motion:** To approve the September 2011 Treasurer's report as presented.  
**By:** Council Member Sparbanie  
**Second:** Council Member Staley  
**Aye:** Council Members Carder, Coleman, Sparbanie, Staley, Zoldos  
**Nay:** None  
**Abstain:** None

**Absent:** Council Member Senate

**Staff Reports**

**A. Report from the Zoning Administrator**

Administrator McGregor presented his written report for November 2011. Additionally, he reported that he has approved the Conditional Use Permit for the Montessori school at 4A S. Church Street. The adjacent property owner has asked that plantings not be done at this time and the applicant understands they may be required in the future. Additionally, he reported that the Board of Zoning Appeals had ruled in favor of Administrator McGregor's interpretation. Councilman Sparbanie asked if they had appealed and Administrator McGregor said they had not as of this moment.

**B. Report from the Town Attorney**

The Town Attorney had no formal report.

**C. Report from the Town Manager**

Manager Markel distributed his written report.

**Action/Discussion Items**

**A. LVZA 2011-0003 Home Occupation Regulations**

Administrator McGregor reiterated that the Planning Commission had recommended passage of this text.

**Motion:** I move that the Town Council approve of the proposed Zoning Ordinance text recommended by the staff and Planning Commission, as shown in the staff report, dated December 8, 2011, for item LVZA 2011-0003 Home Occupation Regulations." (Attachment V: Ordinance 2011-012-001)

**By:** Council Member Sparbanie

**Second:** Council Member Carder

Mayor Walker called for discussion. Vice Mayor Zoldos asked why the Planning Commission had not recommended requiring additional parking. Administrator McGregor explained that the Commission had considered the matter and decided against it.

**Aye:** Council Members Carder, Coleman, Sparbanie, Staley, Zoldos

**Nay:** None

**Abstain:** None

**Absent:** Council Member Senate

**B. LVZA 2011-0002 Retirement Community R-C Zoning District Amendment**

Administrator McGregor had nothing to add to his earlier presentation.

**Motion:** I move that the Town Council approve of the proposed text recommended by the staff and Planning Commission, as shown in the staff report for item LVZA 2011-0002 Retirement Community R-C Zoning District, dated December 8, 2011 (Attachment VI: Ordinance 2011-12-002).

**By:** Council Member Sparbanie

**Second:** Council Member Coleman

Mayor Walker called for discussion. Councilman Staley asked for clarification of the Parking Table included in the proposed text and Administrator McGregor explained that it is the complete parking table used for all uses in the Zoning Ordinance, not just parking for the Retirement Community.

**Aye:** Council Members Carder, Coleman, Sparbanie, Staley, Zoldos

**Nay:** None

**Abstain:** None

**Absent:** Council Member Senate

**C. Facebook Account for Town Government**

Councilwoman Carder presented this item.

**Motion:** I move that the Town Council finalize a social media policy based on text adopted by Loudoun County and move forward with launching the Town Facebook page, to be managed by Council Members Carder and Sparbanie, with administration rights shared with the Town Clerk.

**By:** Council Member Staley

**Second:** Council Member Sparbanie

Mayor Walker called for discussion. The Council had reviewed Loudoun County's Social Media standards and discussed how to enforce them on the Town's Facebook page.

**Friendly Amendment:** I move that the Loudoun County Social Media Standards Policy be adopted by the Town until the Town develops its own standards.  
**By:** Council Member Sparbanie  
**Accepted by:** Council Member Staley

Mayor Walker asked Attorney Whiting if she had read and approved of the County's standards, and Attorney Whiting said that she had. There being no further discussion, Mayor Walker called for the vote.

**Aye:** Council Members Carder, Sparbanie, Staley, Zoldos  
**Nay:** Council Member Coleman  
**Abstain:** None  
**Absent:** Council Member Senate

D. Adjacent Property Owner Notification for Home Occupations/Change of Use

Manager Markel presented this item. Council is being asked to consider modifying the Town's notification policy regarding Home Occupations and Changes of Use. After a recent discussion regarding home occupations with the Mayor, she suggested that the Town should consider notifying adjacent property owners when a neighboring property is issued a home occupation or change of use permit to make sure they are aware of the new activity. Currently, the Town follows the Code of Virginia's notification requirements as spelled out in 15.2-2204. This includes notifying adjacent property owners when a property applies for things such as a change in zoning, conditional use permit, or certain board of zoning appeal actions. These notifications are provided so that interested neighbors are made aware of the required public hearing that the Town holds for such items. There is currently no requirement to notify adjacent property owners when a neighbor applies for a home occupation permit or change of use as these are actions that are administratively approved by the Zoning Administrator.

As a courtesy, the Town may want to consider notifying adjacent property owners of the changes in use that are taking place on neighboring properties. If such notice is given, it must be made clear that these new uses are permitted by right and the adjacent property owners cannot contest the use if it has been properly permitted by the Town.

Manager Markel stated that Staff does not have any objection to modifying the current notification policy to include notifying adjacent property owners after a neighbor has been issued a home occupation or change of use permit once the property owner has been granted the permit from the Town. This notification requirement would be administered by the Town Clerk at the direction of the Zoning Administrator. The Town would incur the additional expense of staff time along with material and postage costs for each mailing. It is estimated that each mailing would require approximately 30 minutes of staff time and \$4.00 in materials and postage.

Mayor Walker pointed out that there are properties that are residential that are zoned commercial and may change use without their neighbors knowing.

**Motion:** I move that Town Council modify its notification policy to provide notifications to all adjacent property owners if a neighboring home is granted a home occupation permit or if a property is issued a change of use.  
**By:** Councilwoman Carder  
**Second:** Councilwoman Coleman

Mayor Walker called for discussion. Councilman Staley suggested increasing the permit fees to cover the additional costs. Councilman Sparbanie stated that he felt this would be an unnecessary use of staff time and money given that the Town already does all notifications required by law.

Vice Mayor Zoldos stated that good neighbors would be informing their neighbors of their intentions and that the Town cannot legislate good neighbors. He also noted that the Town plans to post this information as part of its updated website, which would serve as notification. He moved to table this item until the Town has updated its website.

**Motion:** I move to table this item until the Town website has been updated.  
**By:** Vice Mayor Zoldos  
**Second:** Council Member Carder  
**Aye:** Council Members Carder, Coleman, Staley, Zoldos

**Nay:** Council Member Sparbanie  
**Abstain:** None  
**Absent:** Council Member Senate

E. Museum Building Landscaping

This item was presented by Manager Markel. Council is being asked to decide if the landscaping should be returned to its present state around the Museum after the sill repairs are completed. The Town has selected Bulls Eye Restoration to complete sill repairs on the Museum. The contractor has identified that the bushes will have to be moved to complete the repairs and has asked if the Town will want the bushes and other landscape returned after the repairs are completed. The Lovettsville Historical Society has been maintaining the bushes so that they do not grow out into the driveway, etc. The tall tree in the front was bent over during a winter storm and has not been able to fully recover. The small Christmas tree is in a pot and will not be affected. Vice Mayor Zoldos asked if there was a cost difference and Manager Markel reported that reinstalling the planting is included in the price. Vice Mayor Zoldos asked that the Lovettsville Historical Society be consulted as to their preference in this matter.

**Motion:** I move that Town Council direct that the existing landscaping be removed shortly before the work is started and returned after the work is completed if the Lovettsville Historical Society so prefers.

**By:** Vice Mayor Zoldos

**Second:** Council Member Staley

Mayor Walker called for discussion. Councilwoman Coleman pointed out that some of the existing bushes are dangerous to sight lines. Councilwoman Carder noted that the half dead tree does nothing for the appearance of the Museum. Councilman Staley asked if the Town has budget resources to do new landscaping around the museum. Manager Markel replied that they had budgeted for museum repairs and this is likely to be a small expenditure

**Aye:** Council Members Sparbanie, Staley, Zoldos

**Nay:** Council Members Carder, Coleman

**Abstain:** None

**Absent:** Council Member Senate

F. Appointment of Acting Zoning Administrator

Manager Markel presented this item. Upon Steve McGregor's notification that he would be terminating his contract as Zoning Administrator with the Town he began the process to find his replacement. The Town has received nine applications by the deadline for the first review of applicants and staff is in the process of setting up interviews and hopes to have the position filled by early January. The Town will need to appoint an acting Zoning Administrator to fulfill the responsibilities of that position until a permanent replacement is hired.

**Motion:** I move to appoint the Town Manager as acting Zoning Administrator for the Town of Lovettsville until the position is filled.

**By:** Vice Mayor Zoldos

**Second:** Councilwoman Coleman

Mayor Walker called for discussion. Councilman Staley asked if a time limit should be included and Vice Mayor Zoldos said that by appointing Manager Markel to the temporary position, Manager Markel will be sufficiently incentivized to fill the position in a timely manner. There being no further discussion, Mayor Walker called for the vote.

**Aye:** Council Members Carder, Coleman, Sparbanie, Staley, Zoldos

**Nay:** None

**Abstain:** None

**Absent:** Council Member Senate

Discussion Item

A. Email Addresses for Economic Development Advisory Committee Members

Councilman Staley reported that the committee members would prefer to have Town email addresses for their work on the committee. Councilman Sparbanie suggested they explore using Google or Yahoo group mail. Manager Markel stated that there is no cap on the number of Town email addresses and Council agreed that the members could have town email addresses.

**Information Items**

There were no information items on the agenda.

**Comments from the Mayor and Town Council**

Councilwoman Coleman reported that she had missed the tree lighting but had received a lot of positive feedback about the event.

Councilwoman Carder reported that she had attended and greatly enjoyed the tree lighting. She also reported that the MayFest Committee had held their first organizational meeting and there was lots of excitement. The next meeting will be on December 12<sup>th</sup>.

Councilman Staley also reported that he had attended and enjoyed the tree lighting ceremony. He thanked Administrator McGregor for all his hard work for the Town. He thanked Councilman Sparbanie and Mr. Scott Dockum for meeting with the MayFest Committee and sharing Oktoberfest expertise.

Councilman Sparbanie thanked the Lovettsville Elementary School chorus and the Lovettsville Business Association for their contributions to the three lighting event. He personally thanked the Oktoberfest Committee members, particularly thanking Cheryl Miller who continues to do Oktoberfest Committee work year round.

Vice Mayor Zoldos reported on the activities surrounding development of the Lovettsville Community Park. He stated that it is important to get more diverse groups with a stake in the park's development involved in the Parks Committee and with aggressively pursuing funding from the County. He thanked Administrator McGregor for his service to the Town.

Mayor Walker reported on the following:

- She thanked all of the people involved with making the tree lighting event happen.
- The Lovettsville-Waterford Ruritan Club stated that they are very pleased with the Memorial and proud of their part in making it happen.
- She reported that Project Hope will probably be holding an event in January.
- The Inova Medical Office is ready to go and will probably be opened sometime after the first of the year.
- Chriskindlemart was very well attended and she is grateful to the Loudoun German Society for taking over sponsorship of the event.
- She attended the Excellence in Education banquet last weekend.
- She congratulated Mrs. Fitt and said that it has been a pleasure to go through the whole ordinance amendment process with her.
- She thanked Administrator McGregor for everything he has done for the Town. She wished him the best of luck and said that it has been a pleasure working with him. He brought a lot of experience to the position and has been an asset to the Town.

**Closed Session**

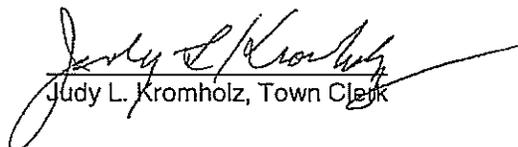
The Council went into closed session at 10:54 PM (Attachment VII: Closed Session Motions)

The Council came out of closed session at 11:25 PM. All council members certified that only public business matters lawfully exempt from the open meeting requirements under the Virginia Freedom of Information Act were discussed.

Let the record reflect that no vote was taken following the Closed Session.

The meeting was adjourned at 11:26 PM.

Respectfully submitted,

  
Judy L. Kromholz, Town Clerk

Date Approved: February 9, 2012

Attachments:

- I. Public Hearing Notice from *Purcellville Gazette*
- II. Staff Report: LVZA 2011-0003 Home Occupation Regulations
- III. Speaker Signup sheet
- IV. Staff Report: LVZA 2011-0002: Retirement Community R-C Zoning District Amendment
- V. Ordinance 2011-12-001: Home Occupation Regulations
- VI. Ordinance 2011-12-002: Retirement District Amendment
- VII. Closed session motions.

Written Submissions to Council: None



# Town of Lovettsville

## STAFF REPORT

### TOWN COUNCIL

| PUBLIC HEARING      |  |
|---------------------|--|
| ITEM IDENTIFICATION | LVZA 2011-0003 Home Occupation Regulations |
| TYPE OF ITEM        | Zoning Ordinance Amendment                 |
| DATE OF HEARING     | December 8, 2011                           |
| APPLICANT           | Wendy Fitt                                 |

**APPLICANT PROPOSAL:** Wendy Fitt, residing at 25 Frye Court, is requesting an amendment to Section 3-1 (b)(v) Home Occupations (A) that would allow one non-resident to participate in a home occupation. Ms. Fitt requests that the Town change the current regulation in Section 3-1 (b)(v) Home Occupations (A), to read:

"No employees other than the Residents of the dwelling and one employee (one full-time equivalent), other than family residing on premises, shall be permitted to be engaged in such employment."

Ms. Fitt's text reflects the Loudoun County home occupation regulation language that allows a non-resident to participate in a home occupation, except that she feels the Town regulation should not require an additional off-street parking space as the County regulation requires.

**DISCUSSION:** The wording of the Town's regulation is designed to prevent anyone except residents to undertake a home occupation. One of the reasons for this prohibition is to keep additional traffic out of residential areas that is related to commercial activity. The Town of Round Hill has home occupation regulations that are the same as Loudoun County regarding the residency of those engaged in home occupation. The Town of Middleburg has no restriction on who may engage in a home occupation. The home occupation regulations for the Towns of Purcellville and Hamilton require that those engaged in home occupation businesses be residents of the dwelling, as does Lovettsville.

While the Town's Comprehensive Plan policies suggest that residential neighborhoods be protected from negative traffic impact there are also Plan policies to encourage economic development. The current regulation is going to constrain some types of home occupations, such as the business Ms. Fitt would like to establish. Changing the home occupation regulations to allow a non-resident employee seems reasonable since it involves only one additional vehicle per day. It could be, however, that many such home occupations could arise close to each other, which could cause more traffic impact.

Staff concluded that it is reasonable to allow one non-resident to participate in a home occupation if an off-street parking space were provided. This would mean that such a dwelling would have to provide three off-street parking spaces. The Planning Commission discussed this issue and concluded that allowing a non-resident to participate in a home occupation with the resulting impact of an additional vehicle in the residential neighborhood was offset by the economic benefit to the resident and the Town. The Commission did not agree with staff that an additional off-street parking space should be required. The Commission also found the County language about an employee or "full time equivalent" added unnecessary complexity to the situation. The staff supports this change as it applies to the proposed text.

On November 2, 2011 the Planning Commission held a public hearing on this item. There were no speakers in opposition to the proposed Ordinance amendment text.

**RECOMMENDATION:** The Commission recommended that the Town Council approve the Zoning Ordinance text shown below:

**MODIFY:** Section 3-5 (b)(v) Home Occupations, (A), to read:  
"~~No employees other than the~~ Residents of the dwelling and one non-resident employee, shall be permitted to be engaged in a home occupation business such employment."

**DRAFT MOTION:** "I move that the Town Council approve of the proposed Zoning Ordinance text recommended by the staff and Planning Commission, as shown in the staff report, dated December 8, 2011, for item LVZA 2011-0003 Home Occupation Regulations [with the modifications agreed upon at this meeting]."

**ATTACHMENT:** Application letter by Wendy Fitt, September 26, 2011, with her attached copy of part of the Loudoun County Home Occupation regulations.

September 26, 2011

Re: Proposal for a change to the Lovettsville Home Occupation Requirements

To Whom It May Concern:

At this time I am making a formal request that a change be made to the requirements for a Home Occupation permit. The article currently reads on page 3-5 section (v) (A):

"Home Occupation: Home occupations may be conducted in a residence provided:  
No employees other than residents of the dwelling shall be permitted to be engaged in such employment."

The Zoning ordinance for Loudoun County allows in "a Guide for Home Occupation Permits" item 1 & 2:

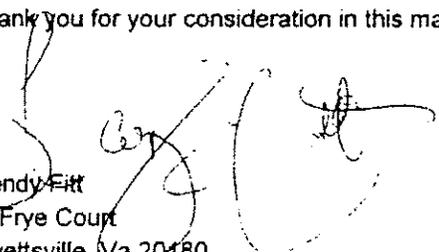
"Members of the family residing on the premises are permitted to be engaged in such occupation."

"One employee (one full-time equivalent), other than members of the family residing on premises, shall be permitted . . .

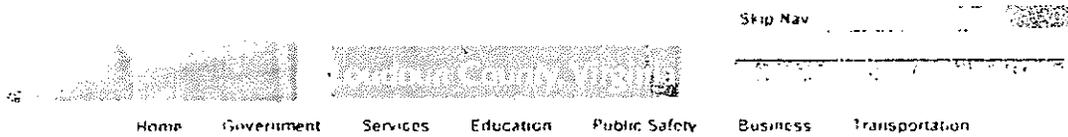
We would like to respectfully ask that the article be changed to read similar to Loudoun County requirements for Home Occupation Permits:

Home Occupation: "Residents of the dwelling and one employee (one full-time equivalent), other than family residing on premises, shall be permitted to be engaged in such employment."

Thank you for your consideration in this matter.



Wendy Fitt  
25 Frye Court  
Lovettsville, Va 20180  
240.678.5809  
wendyfit2btied@yahoo.com



**Department of Building & Development**  
 1 Harrison Street, S E  
 Mailstop #60  
 Leesburg, VA 20175  
 Directions  
 Phone: 703-777-0220  
 bad@loudoun.gov

**Engineering Hotline**  
 703-777-0118

**Erosion & Sediment Control Issues**  
 703-777-0118

**Zoning Questions**  
 703-777-0118

**Related Links**  
 Building & Development  
 Business Taxes  
 County Directory

## A Guide for Home Occupation Permits

The Loudoun County Zoning Ordinance allows certain businesses and occupations to be conducted in a dwelling unit provided they comply with certain restrictions. A Home Occupation Permit is issued by the Department of Building and Development Zoning Division and there is a \$165 (one-hundred-sixty-five dollar) fee associated with this permit.

Permit issuance is contingent upon the application being completely filled out, signed by the property owner and meeting the restrictions as set forth below.

\*Applicant's signature and property owner's signature are required if applicant and property owner are not one and the same.

- Members of the family residing on the premises are permitted to be engaged in such occupation.
- One employee (one full-time equivalent), other than members of the family residing on premises, shall be permitted given one additional off-street parking space is provided. Such parking space shall not be located in the required front yard, unless located on an existing driveway.
- The use of the dwelling for the home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. Not more than 25 percent of the gross floor area of the dwelling unit nor 25 percent of said gross floor area if conducted in an accessory structure, shall be used in the conduct of the home occupation.
- There shall be no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated.
- There shall be no retail sales, other than items handcrafted on the premises, in connection with such home occupation.
- No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met by off-street parking and other than in a required front yard.
- No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

There are two ways to obtain a Home Occupation Permit, either apply in person or mail your completed application, accompanied by a check in the amount of \$165 (one-hundred-sixty-five dollars) payable to "County of Loudoun."

- [View or download the Home Occupation Permit application form](#)

Application for operation of a Child Care Home requires 1) completion of a Home Occupation application, 2) a signed copy of the Child Care Home Attachment form and 3) a schematic plat of the property. The Child Care Home Attachment is online:

- [Child Care Home Attachment Form](#)
- [Get Adobe Reader \(free\)](#)

Application for a permit also can be made at the:

**Building and Development Front Counter**  
 Loudoun County Government Center

# Town of Southville

## Speaker Sign - Up Sheet

Town Council Public Hearings & Regular Meeting - December 8, 2011

Please Print.

| Name and Association                                 | Address  | Topic                                       | Email Address (Optional)   |
|--|--|---|--|
| Wendy Fitt<br>KIMBERLY WISSE<br>Kummulas Development | 25 Frye Ct. Southville<br>LEASBORG VA<br>1 EAST MARKET ST. | Home Occupation Permit<br>R.C. Zoning Dist. | wendyfitt@statedevelopment.com<br>kummulas@kummulasdevelopment.com |
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Each speaker will be limited to no more than three (3) minutes at the beginning of the meeting, or no more than five (5) minutes at the end of the meeting.

If you provide your email address, you will be added to the Town Council & Planning Commission Meetings Notification List

# Town of Lovettsville

## STAFF REPORT

### TOWN COUNCIL

| PUBLIC HEARING      |   |
|---------------------|---|
| ITEM IDENTIFICATION | LVZA 2011-0002 Retirement Community R-C Zoning District |
| TYPE OF ITEM        | Zoning Ordinance Amendment                              |
| DATE OF HEARING     | December 8, 2011  |
| APPLICANT           | Town of Lovettsville                                    |

**BACKGROUND:** This proposal, if approved, would be the second amendment to the Retirement Community R-C zoning district in 2011. On March 10, 2011 the Town approved LVZA 2011-0001 which amended the Retirement Community R-C Zoning District so that it would comply with federal and state age requirements (see Section 3-6 (a) PURPOSE in the proposed text below. On April 28, 2011 the Town approved LVRZ 2010-0002 amending the original rezoning (which rezoned the land from CR-1 to R-1) to the R-C zoning district for the Lovettsville Retirement Village, now known as Heritage Highlands. Part of the reason for the April rezoning was to allow Lennar, the developer, to market larger units with two car garages and allow a greater age range of residents in the retirement community as is allowed under federal and state statutes for age-restricted communities. Lennar proffered the revised zoning concept plan, which included the original twelve 4,500 square feet lots for single-family detached units. It was recognized at the time of this rezoning that the Retirement Community R-C Zoning District would have to be amended to allow single-family detached lots of not less than 4,500 square feet. At the time the R-C zoning district allowed (and still allows until this amendment is enacted) only a 6,000 square foot minimum lot size for single-family detached dwellings. The R-C district was created after the Lovettsville Retirement Village was rezoned under R-1 zoning and the project was never under R-C zoning until April, 2011.

On March 10, 2011 the Town adopted a revised Comprehensive Plan that contained some policies for retirement communities that have not been reflected in the Retirement Community R-C zoning district. The revised Plan includes policies that would define zoning requirements in more detail. For example, the policies state that retirement community zoning should include minimum size for any R-C zoning district and establish parameters for the proportion of non-residential use and residential use.

The Planning Commission discussed this item at the October 5, 2011 and held a public hearing, November 2, 2011.

**DISCUSSION:** The current regulations for the R-C Zoning District by and large are modeled after the specific elements approved for the Lovettsville Retirement Community, which includes Lennar's Heritage Highlands development. Therefore, in addition to reducing the minimum lot size for single-family detached units in the Heritage Highlands retirement development, future such developments need more specificity and some requirements for uses, use proportions, and phasing. Future retirement communities should include minimum R-C zoning district size, additional housing types, building setbacks and visitor parking. The current regulations leave much of these elements at the developer option. Through the new Comprehensive Plan the Town now has a more precise vision of what a retirement community should be.

A mixture of residential building types is allowed but not required. In order to implement a mixed housing type of age-restricted development the R-C Zoning District regulations should require at least two different types of housing to provide for different income levels. Multifamily residential use is not currently allowed in the R-C Zoning District, which limits the opportunities for all income levels. This type of use should be allowed. Accessory uses are not included in the list of permitted uses and these uses need to be defined, specifically as they can be a significant aspect of a retirement community. These include swimming pools, community centers and active recreation areas. At the October 5, 2011 meeting the Planning Commission discussed the staff recommendation that accessory community uses should be required. The Commission agreed that such use should be required but did not want to state a specific amount of space because retirement community developments could vary greatly in size. The Commission also disagreed with the specifics of the staff proposal for phasing the residential and non-residential uses. Rather than require all planned commercial space have occupancy permits before 75 percent of residential have occupancy permits, the Commission concluded that 50 percent of planned commercial space needs to have occupancy permits before 85 percent of the residential units may have occupancy permits.

Staff recommended and the Commission agreed that parking requirements need to be updated and simplified, so parking requirements are proposed to be in the parking table that pertains to all development. The table is proposed to list uses by housing type instead of including a section for retirement community. Parking for nursing home or extended care facility and congregate housing has been added to the table and developed from parking requirements in other local jurisdictions. Staff is also proposing that parking requirements for professional office use, which is allowed in the R-C district, be shown in the parking table under the office category. Visitor parking should be required by the R-C Zoning District so that there is sufficient parking for the needs of residents. Visitor parking is not required in the current R-C Zoning District. This can cause inconveniences for residents of retirement communities.

There is a requirement in the current Retirement Community R-C zoning district that one-half of the land area be reserved for open space. The staff and Commission agree that this is excessive amount of land for any retirement community to provide. Also, it does not seem

necessary to state different open space requirements than those that apply for all development as stated in Article 5 Open Space and Recreation Space.

The setback requirements for buildings, as stated in the current Zoning Ordinance regulations for the R-C zoning district, is given in terms of yards (front, rear and side). Side yard setbacks are stated in all the zoning districts as a minimum total side yard width and a minimum setback. The setback requirements can and should be simplified by stating them as setbacks and not yards and establish a single number of feet for a minimum setback.

The Comprehensive Plan policies for age-restricted housing indicate that the Zoning Ordinance should establish more restrictions for age-restricted use than are contained in the current Retirement Community R-C Zoning District. The related age-restricted community use policies in the recently revised Comprehensive Plan are summarized as follows from the Land Use Chapter, policies 28 and 29:

- The minimum zoning district size should be 5 acres.
- Half the residential units should be occupied before non-residential use is occupied.
- Non-residential use should not exceed one-third of the total land area
- Nursing home (and extended care) use should not exceed two acres
- Development of residential and non-residential uses should be designed as an interrelated unit
- Access should be one per public street frontage
- Architectural elevations should be provided in the development process

The Town Attorney suggests that the R-C Zoning District regulations should include a requirement that a developer provide a homeowner and non-residential owner association to manage and maintain common areas and infrastructure. The exact responsibilities for these management associations should be required as part of the rezoning process.

Upon further review of the Comprehensive Plan policy recommending that no more than one-third of a retirement community should be non-residential use, staff concludes that is too high a percentage to create an appropriate proportion of residential and non-residential use. A more appropriate proportion of non-residential use in a retirement community is 10 percent in staff's opinion. The lesser amount makes it clear that non-residential use in such a community is ancillary and that the great majority of land in a retirement community should be devoted to residential use. The other land use policies in the Comprehensive Plan that apply to age-restricted housing should be incorporated in revised Zoning Ordinance regulations.

The Lennar Corporation has requested that the following language be added to the Retirement Community R-C zoning district to protect their development as approved:

1. Any lawfully existing subdivisions that do not comply with the regulations of this Ordinance shall be deemed to be in conformance with this Ordinance.

2. Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designated use of any structure for a lawfully approved final site plan or subdivision plat approved prior to the effective date of this Ordinance, or any amendment thereof.

The Town Attorney concludes this "protection" language is not appropriate in the Zoning Ordinance but is appropriate in the enacting ordinance at such time as it is adopted by the Town Council.

Some new definitions for the Zoning Ordinance are proposed based on terminology developed to create regulations for age-restricted housing communities:

1. Accessory uses.
2. Institutional uses.
3. Nursing Home, or extended care facilities.

These are terms that are appropriate for definition in the Zoning Ordinance given the elements usually included in age-restricted communities. They also have utility throughout the Zoning Ordinance and in other zoning districts.

Minimum district size, minimum lot sizes, lot widths and setbacks have been added or adjusted if needed. A requirement for phasing is needed, particularly if non-residential uses are to be incorporated into an age-restricted community. The definition of open space has been streamlined in the R-C district proposal because an adequate definition exists in Article 5 Open Space and Recreation Space. The concept plan requirement makes specific reference to incorporating nursing home, or extended care facilities, and congregate housing into the design of an age-restricted community.

Kimberly Welch-Cummings, representing Lennar and Heritage Highlands, made some text editorial suggestions after the Planning Commission public hearing and discussion of the proposed amendment. These are the suggested edits to the text:

#### Sec. 3-6 (a) PURPOSE

The purpose of the Retirement Community District is to provide housing and related professional office, commercial uses; and facilities and amenities for ~~elderly~~ older persons (55 years of age or older) in accordance with the provisions of the ~~Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) or the Virginia Fair Housing Law (Va. Code Ann. Section 36-96.4~~ 36-96.7, as amended et seq.) (the "Act" and "Law", respectively), as well as non-residential uses, as permitted by the provisions of this section.

The residential portions of any retirement community shall be subject to restrictions recorded in a declaration of covenants and restrictions recorded among the land records of Loudoun County, limiting occupancy consistent with the requirements of the Act ~~and the Law~~.

Ms. Welch-Cummings also suggests that the proposed definition of Elderly Persons be omitted as the applicable State law refers to "older" people and the term is defined in her edits of the Purpose statement, above.

The Town Attorney concurred that the suggestion by Ms. Welch-Cummings clarifies and simplifies the PURPOSE statement and because of her edits there is no need to add a separate definition of older persons in Article 13 DEFINITIONS. The Attorney also counsels that the Town needs to study the Town's needs more extensively in order to develop a definition of public use. Therefore, staff feels that Public use should not be inserted into the R-C district provisions until such a study is complete and insertion of the use is considered comprehensively in other zoning districts, as well as the R-C Zoning District.

**RECOMMENDATION:** According to the conclusions of the staff and the Planning Commission, the Retirement Community R-C zoning district is recommended for text amendments for a number of reasons:

- 1) to accommodate the need to reduce the size of single-family detached lots to accommodate the lot sizes for such lots earlier in the year approved for the Lovettsville Retirement Village/Heritage Highlands rezoning;
- 2) incorporate the age-restricted housing policies in the recently adopted Comprehensive Plan with some modifications;
- 3) reformat the R-C zoning district so that it more closely resembles the other zoning districts;
- 4) add a requirement to commit to establishing a homeowners and business owners association that will manage and maintain the age-restricted community;
- 5) do not add language to protect previously approved development
- 6) add definitions for certain terms related age-restricted housing.

The Town Council should consider approving the following amendment to the Zoning Ordinance based on the Planning Commission recommendation and the Town Attorney's comments on editorial improvements to the proposed text:

**REPLACE:** Section 3-6 [entire] RETIREMENT COMMUNITY R-C, with the following:

(a) **PURPOSE:**

The purpose of the Retirement Community District is to provide housing and related professional office, commercial uses; and facilities and amenities for older persons (55 years of age or older) in accordance with the provisions of the Virginia Fair Housing Law (Va. Code Ann. Section 36-96.7, as amended--the "Act".); as well as non-residential uses, as permitted by the provisions of this section.

The residential portions of any retirement community shall be subject to restrictions recorded in a declaration of covenants and restrictions

recorded among the land records of Loudoun County, limiting occupancy consistent with the requirements of the Act.

(b) PERMITTED USES:

- (i) Single family detached dwelling. (residential)
- (ii) Semi-detached dwelling. (residential)
- (iii) Attached dwelling. (residential)
- (iv) Multiple dwelling. (residential)
- (v) Congregate housing. (residential)
- (vi) Nursing home, or extended care facility.
- (vii) Model home, subject to Section 3-1.
- (viii) Construction and/or sales trailer, subject to Section 3-1.
- (ix) Home Occupation, subject to Section 3-1
- (x) Accessory Community use, subject to district requirements in this section.

(c) CONDITIONALLY PERMITTED USES:

- (i) Professional office. Such use shall be permitted only within projects with land area of ten (10) acres or more.
- (ii) Commercial. Personal services, food sales, lodging, medical and health services. Such use shall be permitted only within projects with a land area of ten (10) acres or more.
- (iii) Wireless communications equipment.
- (iv) Institutional.

(d) CONCEPT PLAN

A concept plan for the entire development shall be provided that identifies the following:

- (i) Separate facilities for congregate housing and nursing home uses may be incorporated into a concept plan with residential use, as permitted by the provisions of this section.

- (ii) Lot configuration for all uses in all phases of the project.
- (iii) Location(s) and description of all uses;
- (iv) Configuration of streets, sidewalks and trails.
- (v) Location and acreage of usable open space.
- (vi) Maximum building height.
- (vii) Maximum lot area, depth and width requirements;
- (viii) A construction phasing plan.
- (ix) Major stormwater management facilities.
- (x) Architectural elevations of all sides of all primary structures.
- (xi) 100-year flood plain (indicate location of any alteration).
- (xii) Visitor parking spaces.

(e) PHASING:

Describe the timing of residential and non-residential development using the following criteria:

- (i) Commercial space shall not be occupied until 50 percent of the total residential units are occupied.
- (ii) Fifty (50) percent of commercial space must be occupied before more than 85 percent of the total residential units may be occupied.

(f) DISTRICT REQUIREMENTS:

- (i) Minimum district size (acres): 5
- (ii) Housing mix: shall include at least two (2) housing types (e.g. single-family detached and multifamily).
- (iii) Maximum Building height:
  - (a) single family detached, semi-detached, and attached residential dwelling units: 35 feet

- (b) office, commercial, nursing homes, congregate housing, institutional, and multifamily residential structures: 40 feet
- (iv) Parking and access: See table 4-1.
- (v) Visitor parking: sufficient visitor parking shall be provided for all residential units in convenient locations that can be provided on public or private streets or in separate parking areas.
- (vi) Open space:
  - (a) A minimum of twenty-five percent (25%) of the net (excluding street ROW and flood plain) acreage of the entire development shall be provided as usable open space.
  - (b) Open space shall comply with applicable regulations in Article 5 Open Space and Recreation Space.
- (vii) Management and maintenance: the operation and maintenance of facilities, open space and amenities that are not conveyed in fee simple to residents or to commercial owners of non-residential facilities, shall be the responsibility of one or more Homeowners or Commercial Owners Associations. When more than one such Association is charged with the obligations of this section, the organizational documents for each such association shall address the allocation of responsibilities among them in order to assure that the duties and the party responsible for discharging them are clearly assigned. Every declaration of covenants, organizational charter or similar document addressing any aspect of the obligations imposed by this section, or amendment of such document, shall be submitted for advance review and comment by the Town Attorney before such document may be executed and recorded.
- (viii) Utility requirement: All public utilities located within the R-C zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.
- (ix) Accessory community use is required.

- (x) Use ratio: land area of the total non-residential use(s) (includes nursing home or extended care facility; commercial; and professional office use) may not exceed ten (10) percent of the gross acreage of the project.

(g) LOT REQUIREMENTS:

- (i) Minimum lot size (square feet):
  - a) Single family dwelling unit: 4,500
  - b) Semi-detached dwelling unit: 3,000
  - c) Attached dwelling unit: 2,000
  - d) Multiple dwelling: 8,000
- (ii) Minimum lot width (feet):
  - a) Single family dwelling unit: 50
  - b) Semi-detached dwelling: 40
  - c) Attached dwelling: 30
  - d) Multiple dwelling: 80
- (iii) Setbacks (feet).
  - (a) Single family detached dwelling unit:
    - (1) front yard: 20
    - (2) side yards: 8
    - (3) rear yard: 8
  - (b) Semi-detached dwelling unit:
    - (1) front yard: 20
    - (2) side yards: 8, or 0 if attached
    - (3) rear yard: 8, or 0 if attached
  - (c) Attached dwelling unit:
    - (1) front yard: 20
    - (2) side yards: 25, or 0 if attached
    - (3) rear yard: 25
  - (d) Multiple dwelling structure and congregate housing:
    - (1) front yard: 30
    - (2) side yards: 30. 15 if adjacent to common open space
    - (3) rear yard: 30. 15 if adjacent to common open space.
  - (e) Professional office, commercial:
    - (1) front yard: 20

- (2) side yards: 25, or 0 if attached
- (3) rear yard: 25

(f) Nursing home or extended care:

- (1) Front yard: 30
- (2) Side yards: 30. 15 if adjacent to common open space
- (3) Rear yard: 30. 15 if adjacent to common open space

**MODIFY:** Article 4, Section 4-1, Table 4-1 to read:

| <b>Table 4-1 Off-Street Parking Space Requirements</b>   |   |
|--|---|
| <b>Use</b>   | <b>Parking Spaces Required</b>  |
| <b>SINGLE FAMILY DWELLINGS</b>   |   |
| Single Family Detached, Semi-Detached and Attached dwelling units  | 2   |
| <b>MULTIPLE DWELLINGS</b>  |   |
| Efficiency and one bedroom units   | 1.5   |
| Two bedroom units  | 2   |
| Units with more than two bedrooms  | 2.5   |
| Congregate housing   | 1 per 4 units plus 1 per employee for day shift.  |
| <b>OTHER USES</b>  |   |
| Animal Hospital  | 1 per 500 SF of GFA   |
| Auditorium   | 1 per 4 seats   |
| Automobile repair garage   | 1 per 200 SF of GFA   |
| Automobile service station   | 2 per service bay plus 1 space per employee plus additional spaces for auxiliary uses.  |
| Bed & Breakfast  | 2 plus 1 space per guest room   |
| College or University  | 1 per 3 students  |
| Commercial Greenhouse  | 1 per 400 SF of GFA   |
| Country Inn  | 1 per guest room plus one space per employee plus such spaces as are required for restaurant facilities                                 |
| Conference Center/<br>Corporate Retreat  | 1 per lodging room plus one per employee plus such spaces as are required for affiliation facilities, as determined by the Town Council |
| Dry Cleaning   | 1 per 400 SF of GFA   |
| Elementary School  | 1.75 per classroom  |
| Financial Institution  | 1 per 300 SF of GFA   |
| Funeral Home   | 1 per 200 SF of GFA   |
| Library  | 1 per 300 SF of GFA   |
| Manufacturing, processing, creating, repairing, cleaning, assembling of goods, merchandise and equipment | 1 per 400 SF of GFA   |
| Medical or Dental Office   | 1 per 300 SF of GFA   |
| Motor Vehicle Sales  | 1 per 400 SF of GFA   |

|  |   |
|--|---|
| Nursery School/Day Care                              | 1 per employee plus 1 per 200 SF of GFA   |
| Nursing Home, or extended care facility              | 1 per 4 beds. 1 per attending employee(s).  |
| Office (professional, general, ancillary)            | 4 per 1,000 square feet of GFA up to 30,000 Square feet; 3 per 1,000 square feet of GFA Above 30,000 GFA  |
| Open air markets and horticultural sales             | 1 per 500 SF of area used for storage, display or sales.  |
| Personal Services                                    | 1 per 400 SF of GFA   |
| Place of Worship                                     | 1 per four seats for the portion used for services, plus required spaces for residential use in accordance with the residential parking requirements set forth above; plus 1 per 200 SF of GFA of area not used for services or residential purposes. |
| Restaurant   | 7.5 spaces per 1,000 SF of GFA  |
| Sales and rental of goods, merchandise and equipment | 1 per 400 SF of GFA, including outdoor display or storage area, if any.   |
| Self-storage facility                                | 2 for the office plus 1 per 20 storage units  |
| Social, fraternal clubs and lodges                   | 1 per 400 SF of GFA.  |
| Warehouse  | 1 per 1,000 SF of GFA or 1 per employee, whichever is greater.  |

**ADD:** to Section 13-2 DEFINITIONS (in correct alphabetical order):

**ACCESSORY COMMUNITY USE:** Ancillary to residential use and includes such uses as swimming pools, clubhouses, community rooms, fitness centers, flower and sitting gardens.

**INSTITUTIONAL.** Including churches, hospitals, access health care, private trade or higher education schools, and conference facilities.

**NURSING HOME or EXTENDED CARE FACILITY.** A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities or injuries not requiring extensive and/or intensive care that is normally provide in a general hospital or other specialized hospital.

**DRAFT MOTION:** "I move that the Town Council approve of the proposed text recommended by the staff and Planning Commission, as shown in the staff report for item LVZA 2011-0002 Retirement Community R-C Zoning District, dated December 8, 2011."

# Town of Lovettsville

Ordinance No. 2011-012-001

APPROVE LVZA 2011-0003, AMENDING SECTION 3-1(b)(v), HOME OCCUPATIONS

MOTION: Sparbanie

SECOND: Carder

WHEREAS, Wendy Fitt, residing at 25 Frye Court, asked the Planning Commission and Town Council to consider amendments to the zoning ordinance that would permit non-resident employees to be engaged in a home occupation; and

WHEREAS, the Town Council referred the matter to the Planning Commission for its recommendations; and

WHEREAS, the Lovettsville Town Council and Lovettsville Planning Commission conducted public hearings on the proposed amendments December 8, 2011 and November 2, 2011, respectively, pursuant to notice given in accordance with the requirements of Va. Code section 15.2-2204; and

WHEREAS, the Planning Commission recommended approval of the amendments November 2, 2011; and

WHEREAS, the Town Council has determined that the proposed amendments are consistent with good zoning practice and that the health, safety and welfare of the Town and its citizens will be promoted by adoption of the text revisions.

NOW, THEREFORE, BE IT ORDAINED by the Lovettsville Town Council that section 3-1(b)(v) of the Zoning Ordinance be repealed and reenacted as set forth in the text attached hereto.

VOTE:

|                  |  |
|------------------|--|
| Ayes:            | Carder, Coleman, Sparbanie, Staley, Zoldos |
| Nays:            | None                                       |
| Abstentions:     | None                                       |
| Absent for vote: | Senate                                     |

APPROVED December 8, 2011

  
ELAINE WALKER, MAYOR

  
JUDY KROMHOLZ, TOWN CLERK

*The German Settlement*

Section 3-1 RESIDENTIAL ZONING DISTRICTS-GENERAL

\* \* \*

(b) GENERAL STANDARDS FOR CERTAIN USES

The following identified uses wherever permitted in a residential district shall conform to the standards set forth in this section, unless otherwise specifically modified in the provisions authorizing such use in a district:

\* \* \*

(v) HOME OCCUPATION: Home occupations may be conducted in a residence provided:

- (A) ~~No employees other than residents~~ Residents of the dwelling and one non-resident employee shall be permitted to be engaged in ~~such employment~~ a home occupation business.

\* \* \*

*Ewd*

# Town of Lovettsville

Ordinance No. 2011-12-002

APPROVE LVZA 2011-0002, AMENDING SECTIONS 3-6, R-C RETIREMENT DISTRICT AND 13-2, DEFINITIONS OF CERTAIN TERMS; GRANDFATHERING CERTAIN SUBDIVISION AND CONSTRUCTION PLANS

**MOTION:** Sparbanie

**SECOND:** Coleman

**WHEREAS**, the Lovettsville Zoning Administrator and Lennar Homes, d/b/a. U S. Home Corporation, developer of a project known as Heritage Highlands noted discrepancy between certain requirements of the zoning ordinance provisions pertaining to housing for elderly persons in the R-C Retirement District and certain definitions in the ordinance; and

**WHEREAS**, the Town Council referred the matter to the Planning Commission for its recommendations; and

**WHEREAS**, the Lovettsville Town Council and Lovettsville Planning Commission conducted public hearings on the proposed amendments December 8, 2011 and November 2, 2011, respectively, pursuant to notice given in accordance with the requirements of Va. Code Section 15.2-2204; and

**WHEREAS**, the Planning Commission recommended approval of the amendments November 2, 2011; and

**WHEREAS**, the Town Council has determined that the proposed amendments are consistent with good zoning practice and that the health, safety and welfare of the Town and its citizens will be promoted by adoption of the text revisions.

**NOW, THEREFORE, BE IT ORDAINED** by the Lovettsville Town Council that Sections 3-6 and 13-2 of the Zoning Ordinance be repealed and reenacted as set forth in the text attached hereto.

**BE IT FURTHER ORDAINED** that all subdivisions and construction plans heretofore approved for the Heritage Highlands independent living project that meet or exceed the minimum requirements of the zoning ordinance as amended this day are hereby grandfathered and are not deemed to be non-conforming. No further submission of subdivision or construction plans is required solely by operation of the said ordinance amendments.

**VOTE:**

|                  |  |
|------------------|--|
| Ayes:            | Carder, Coleman, Sparbanie, Staley, Zoldos |
| Nays:            | None                                       |
| Abstentions:     | None                                       |
| Absent for vote: | Senate                                     |

APPROVED December 8, 2011

  
JUDY KROMHOLZ, TOWN CLERK

  
ELAINE WALKER, MAYOR

*The German Settlement*

Section 3-6 RETIREMENT COMMUNITY R-C

- (a) PURPOSE. The purpose of the Retirement Community District is to provide housing and related professional office, commercial uses; and facilities and amenities for elderly older persons (55 years of age or older) in accordance with the provisions of the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) ~~or the Virginia Fair Housing Law (Va. Code Ann. Section 36-96.4 36-96.7, as amended et seq.)~~ (the "Act" and "Law", respectively), as well as non-residential uses, as permitted by the provisions of this section.

The residential portions of any retirement community shall be subject to restrictions recorded in a declaration of covenants and restrictions recorded among the land records of Loudoun County, limiting occupancy consistent with the requirements of the Act and the Law.

- (b) ~~The residential portions of any retirement community shall be subject to restrictions recorded in a declaration of covenants and restrictions recorded among the land records of Loudoun County, limiting occupancy consistent with the requirements of the Act and the Law.~~

PERMITTED USES.

- (i) Single family detached dwelling. (residential)
- (ii) Semi-detached dwelling. (residential)
- (iii) Attached dwelling. (residential)
- (iv) Multiple dwelling. (residential)
- (v) Congregate housing. (residential)
- (vi) Nursing home, or extended care facility.
- (vii) Model home, subject to Section 3-1.
- (viii) Construction and/or sales trailer, subject to Section 3-1.
- (ix) Home Occupation, subject to Section 3-1
- (x) Accessory Community use, subject to district requirements I in this section.

- (c) ~~The community shall have facilities and/or services specifically designed to meet the physical or social needs of the elderly person.~~

CONDITIONALLY PERMITTED USES.

- (i) Professional office. Such use shall be permitted only within projects with land area of ten (10) acres or more.
  - (ii) Commercial. Personal services, food sales, lodging, medical and health services. Such use shall be permitted only within projects with a land area of ten (10) acres or more.
  - (iii) Wireless communications equipment.
  - (iv) Institutional.
- (d) ~~The retirement community may consist of any or all of the following living arrangements: independent living, congregate care/assisted living; convalescent care and nursing home. A mix of living arrangements is encouraged within the community.~~

#### CONCEPT PLAN

A concept plan for the entire development shall be provided that identifies the following:

- (i) Separate facilities for congregate housing and nursing home uses may be incorporated into a concept plan with residential use, as permitted by the provisions of this section.
- (ii) Lot configuration for all uses in all phases of the project.
- (iii) Location(s) and description of all uses;
- (iv) Configuration of streets, sidewalks and trails.
- (v) Location and acreage of usable open space.
- (vi) Maximum building height.
- (vii) Maximum lot area, depth and width requirements;
- (viii) A construction phasing plan.
- (ix) Major stormwater management facilities.
- (x) Architectural elevations of all sides of all primary structures.
- (xi) 100-year flood plain (indicate location of any alteration).
- (xii) Visitor parking spaces.

*Em*

- (e) ~~Any or all of the following housing types shall be permitted within the retirement community: single family detached, duplex, quadplex or multi-family dwelling units. The provision of more than one (1) housing type is encouraged.~~

### PHASING

Describe the timing of residential and non-residential development using the following criteria:

- (i) Commercial space shall not be occupied until 50 percent of the total residential units are occupied.
- (ii) Fifty (50) percent of commercial space must be occupied before more than 85 percent of the total residential units may be occupied.
- (f) ~~A professional building may be permitted within the retirement community. The following uses shall be permitted with the building: medical office including emergency medical treatment facility, dental office, pharmacy, accountant, lawyer, insurance agent, financial services, hairdresser, a commissary providing basic food and supplies, and other associated medical services. Ancillary uses which may be permitted within the community include: a clubhouse, solely for the residents, employees and their guests, including meeting rooms, auditorium, business office, recreational facilities and other uses related to adult community living, swimming pool, health or fitness center solely for the residents, employees and their guests, accessory apartment or semi-independent dwelling unit for the use of transient guests of residents of the retirement community and active recreation space.~~

### DISTRICT REQUIREMENTS

- (i) Minimum district size (acres): 5
- (ii) Housing mix: shall include at least two (2) housing types (e.g. single-family detached and multifamily).
- (iii) Maximum Building height:
- (a) single family detached, semi-detached, and attached residential dwelling units: 35 feet

*EW*

- (b) office, commercial, nursing homes, congregate housing, institutional, and multifamily residential structures: 40 feet
- (iv) Parking and access: See table 4-1.
- (v) Visitor parking: sufficient visitor parking shall be provided for all residential units in convenient locations that can be provided on public or private streets or in separate parking areas.
- (vi) Open space:
  - (a) A minimum of twenty-five percent (25%) of the net (excluding street ROW and flood plain) acreage of the entire development shall be provided as usable open space.
  - (b) Open space shall comply with applicable regulations in Article 5 Open Space and Recreation Space.
- (vii) Management and maintenance: the operation and maintenance of facilities, open space and amenities that are not conveyed in fee simple to residents or to commercial owners of non-residential facilities, shall be the responsibility of one or more Homeowners or Commercial Owners Associations. When more than one such Association is charged with the obligations of this section, the organizational documents for each such association shall address the allocation of responsibilities among them in order to assure that the duties and the party responsible for discharging them are clearly assigned. Every declaration of covenants, organizational charter or similar document addressing any aspect of the obligations imposed by this section, or amendment of such document, shall be submitted for advance review and comment by the Town Attorney before such document may be executed and recorded.
- (viii) Utility requirement: All public utilities located within the R-C zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.
- (ix) Accessory community use is required.
- (x) Use ratio: land area of the total non-residential use(s) (includes nursing home or extended care

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facility; commercial; and professional office use) may not exceed ten (10) percent of the gross acreage of the project.

- (g) ~~Off-street parking shall be provided at the rate of two (2) parking spaces per single family dwelling. Congregate housing parking shall be provided at the rate of one (1) parking space for each dwelling unit plus one (1) parking space for each five (5) beds not included in a dwelling unit, plus one (1) space for each employee. Parking for a nursing care facility shall be provided at the rate of one (1) space for every ten (10) beds, plus one (1) space for each employee. Professional office building parking shall be provided at the rate of four (4) spaces per one thousand (1,000) square feet.~~

#### LOT REQUIREMENTS

- (i) Minimum lot size (square feet):  
a) Single family dwelling unit: 4,500  
(b) Semi-detached dwelling unit: 3,000  
(c) Attached dwelling unit: 2,000  
(d) Multiple dwelling: 8,000
- (ii) Minimum lot width (feet):  
(a) Single family dwelling unit: 50  
(b) Semi-detached dwelling: 40  
(c) Attached dwelling: 30  
(d) Multiple dwelling: 80
- (iii) Setbacks (feet).  
(a) Single family detached dwelling unit:  
(1) front yard: 20  
(2) side yards: 8  
(3) rear yard: 8  
(b) Semi-detached dwelling unit:  
(1) front yard: 20  
(2) side yards: 8, or 0 if attached  
(3) rear yard: 8, or 0 if attached  
(c) Attached dwelling unit:  
(1) front yard: 20  
(2) side yards: 25, or 0 if attached  
(3) rear yard: 25  
(d) Multiple dwelling structure and congregate housing:

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- (1) front yard: 30
- (2) side yards: 30. 15 if adjacent to common open space
- (3) rear yard: 30. 15 if adjacent to common open space.

(e) Professional office, commercial:

- (1) front yard: 20
- (2) side yards: 25, or 0 if attached
- (3) rear yard: 25

(f) Nursing home or extended care:

- (1) Front yard: 30
- (2) Side yards: 30. 15 if adjacent to common open space
- (3) Rear yard: 30. 15 if adjacent to common open space

~~(h) — A minimum of fifty percent (50%) of the gross site area shall be provided as open space in accordance with the requirements of 5-1(c). Open space shall be preserved by means of a permanent open space easement or other ownership mechanism acceptable to the Town Council.~~

~~(j) — Concept Plan Required. — An applicant for a Retirement Community shall prepare a Concept Plan as part of the zoning application that shall include the following:~~

- ~~(i) — Locations and general character of all uses;~~
- ~~(ii) — Maximum number and types of dwellings;~~
- ~~(iii) — Layout of the road network;~~
- ~~(iv) — General plan for pedestrian circulation, paths, bikeways and trails;~~
- ~~(v) — Location and size of private open space and public open space, as applicable;~~
- ~~(vi) — Maximum building height limitations;~~
- ~~(vii) — Maximum lot area, depth and width requirements;~~
- ~~(viii) — A construction phasing plan, if applicable;~~
- ~~(ix) — Locations and types of drainage improvements;~~
- ~~(x) — The location of existing utilities and easements that are within or immediately adjacent to the subject property;~~

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- (xi) ~~Preliminary architectural standards for all proposed structures proposed to be constructed by the applicant.~~
- (k) ~~At the applicant's option, a preliminary subdivision plan meeting the requirements of the Lovettsville Subdivision Ordinance 2000 (as amended) may be submitted as a proffered Concept Plan and processed concurrently with the rezoning application. Depending upon the type of development planned, either a Preliminary Subdivision Plat or a Preliminary Site Plan may be required.~~
- (l) ~~Adoption of Concept Plan. A Concept Plan for a Retirement Community in a Retirement Community District shall be submitted as a condition for approval of a Zoning Map Amendment. Such Concept Plan shall govern the general layout, housing mix, intensity, architectural design, timing and nature of permitted uses.~~
- (m) ~~Minimum lot sizes within the retirement community are established as follows: The retirement Community density will follow the density provisions for the specific use shown in Table 3-1.~~

| <b>Table 3-1 Minimum Lot Sizes (RC)</b> |          |
|---|----------|
| Single family detached dwelling         | 6,000 SF |
| Duplex dwelling                         | 3,000 SF |
| Quadplex dwelling                       | 2,200 SF |
| Multi-family structure                  | 8,000 SF |

- (n) ~~Minimum lot widths within the retirement community are established as follows:~~

| <b>Table 3-2 Minimum Lot Widths (RC)</b> |       |
|--|-------|
| Single family detached dwelling          | 50 SF |
| Duplex dwelling                          | 40 SF |
| Quadplex dwelling                        | 35 SF |
| Multi-family structured                  | 80 SF |

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(o) Each lot shall provide the following yards:

|                                 | FRONT  | SIDE                                | REAR  |
|---------------------------------|--|-------------------------------------|-------|
| Single family detached dwelling | 20 FT minimum, not more than 40 FT   | 18 FT Total, with a minimum of 8 FT | 25 FT |
| Duplex dwelling                 | 20 FT minimum, not more than 40 FT   | 8 FT minimum                        | 25 FT |
| Quadplex dwelling               | 20 FT minimum, not more than 40 FT   | 8 FT minimum                        |       |
| Multi-family structure          | Each multi-family structure shall be setback a minimum of one hundred (100) feet from any lot not located within the retirement community and seventy (75) feet from public rights-of-way. |                                     |       |

(p) ~~Minimum Open Space Area: A minimum of twenty five percent (25%) of the net site area shall be provided as open space. For the purpose of open space calculations, net site area shall be determined as the total site area exclusive of public road dedications, private access easements and alleyways, floodplain, steep slopes and wetlands. The gross density of one (1) lot per eight thousand (8,000) 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. Open space shall be preserved by means of a permanent open space easement or other ownership mechanism acceptable to the Town Council.~~

~~(q) Utility Requirements: All public utilities located within the R-C zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.~~

~~(r) Model home, subject to Section 3-1(b)(x).~~

~~(s) Construction and/or sales trailer, subject to Section 3-1(b)(vii).~~

#### Section 4-3 MINIMUM OFF-STREET PARKING

\* \* \*

**Table 4-1 Table of Off-Street Parking Space Requirements**

| Use   | Parking Spaces Required   |
|---|---|
| <b>SINGLE FAMILY DWELLINGS</b>  |   |
| Single Family Detached,<br>Townhouse (Single Family Attached)<br>Semi-Detached and Attached<br>dwelling units | 2   |
| <b>MULTIPLE DWELLINGS</b>   |   |
| Efficiency/ and one bedroom units   | 1.5   |
| Two bedroom units   | 2   |
| Units with more than two three bedrooms   | 2.5   |
| <b>RETIREMENT COMMUNITY</b><br>Single family dwelling, duplex or quad<br>Congregate housing                   | 2 spaces per unit<br><br>1 space per dwelling unit plus 1 space per each five beds not included in a dwelling unit plus one space per each employee<br>1 per 4 units plus 1 per employee for day shift.   |
| <b>OTHER USES</b>   |   |
| Animal Hospital   | 1 space per 500 SF of GFA   |
| Auditorium  | 1 space per 4 seats   |
| Automobile repair garage  | 1 space per 200 SF of GFA   |
| Automobile service station  | 2 spaces per service bay plus 1 space per employee plus additional spaces for auxiliary uses.   |
| Bed & Breakfast   | 2 spaces plus 1 space per guest room  |
| College or University   | 1 space per 3 students  |
| Commercial Greenhouse   | 1 space per 400 SF of GFA   |
| Country Inn   | 1 space per guest room plus one space per employee plus such spaces as are required for restaurant facilities   |
| Conference Center/<br>Corporate Retreat   | 1 space per lodging room plus one per employee plus such spaces as are required for affiliation facilities, as determined by the Town Council   |
| Dry Cleaning  | 1 space per 400 SF of GFA   |
| Elementary School   | 1.75 spaces per classroom   |
| Financial Institution   | 1 space per 300 SF of GFA   |
| Funeral Home  | 1 space per 200 SF of GFA   |
| Library   | 1 space per 300 SF of GFA   |
| Manufacturing, processing, creating, repairing, cleaning,<br>assembling of goods, merchandise and equipment   | 1 space per 400 SF of GFA   |
| Medical or Dental Office  | 1 space per 300 SF of GFA   |
| Motor Vehicle Sales   | 1 space per 400 SF of GFA   |
| Nursery School/Day Care   | 1 space per employee plus 1 space per 200 SF of GFA   |
| Nursing Home, or extended care facility   | 1 per 4 beds. 1 per attending employee(s).  |
| Office (professional, general, ancillary)   | 4 per 1,000 square feet of GFA up to 30,000<br>Square feet; 3 per 1,000 square feet of GFA<br>Above 30,000 GFA  |
| Open air markets and<br>horticultural sales   | 1 space per 500 SF of area used for storage, display or sales.  |
| Personal Services   | 1 space per 400 SF of GFA   |
| Place of Worship Religious Facilities   | 1 space per four seats for the portion used for services, plus required spaces for residential use in accordance with the residential parking requirements set forth above; plus 1 space per 200 SF of GFA of area not used for services or residential purposes. |
| Restaurant  | 7.5 spaces per 1,000 SF of GFA  |
| Sales and rental of goods,<br>merchandise and equipment   | 1 space per 400 SF of GFA, including outdoor display or storage area, if any.   |

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|                                    |  |
|------------------------------------|--|
| Self-storage facility              | 2 spaces for the office plus 1 space per 20 storage units                  |
| Social, fraternal clubs and lodges | 1 space per 400 SF of GFA.   |
| Warehouse                          | 1 space per 1,000 SF of GFA or 1 space per employee, whichever is greater. |

### 13-2 DEFINITION OF CERTAIN TERMS

For the purposes of this ordinance, certain words and terms are herein defined as follows:

\* \* \*

ACCESSORY COMMUNITY USE: Ancillary to residential use and includes such uses as swimming pools, clubhouses, community rooms, fitness centers, flower and sitting gardens.

INSTITUTIONAL. Including churches, hospitals, access health care, private trade or higher education schools, and conference facilities.

NURSING HOME or EXTENDED CARE FACILITY. A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities or injuries not requiring extensive and/or intensive care that is normally provide in a general hospital or other specialized hospital.

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# Town of Lovettsville

## VIRGINIA FREEDOM OF INFORMATION ACT Resolution: AUTHORIZE CLOSED SESSION

Date: 12/8/11

Time: 10:55 PM

MOTION BY: Bob Zoller

I move that the Lovettsville Town Council convene in closed session pursuant to Va. Code section 2.2-3711 A

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals.
3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.
4. The protection of the privacy of individuals in personal matters not related to public business.
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; or consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel [For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter].
19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure,

# Town of Lovettsville

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6,

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6 [Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected],

with regard to [person, issue or property subject of discussion]

And thereafter reconvene in open session for action as appropriate.

SECOND:

VOTE:

Ayes:

Nays:

Abstentions:

Absent for vote:

*Shawn Staley*

*B. Zeldos, T. Sparshane, S. Staley, T. Carter,*

*none*

*none*

*M. Senate*

*C. Coleman*

Roll-call poll by presiding official:

"Do you certify to the best of your knowledge that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Lovettsville Town Council?"

When polled as to whether (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting, the following members stated "Aye:"

12/8, 2011 at 11:27 PM

Certified:

*Shawn Staley*  
*Mayor*