

# Town of Lovettsville

## Minutes of the Planning Commission Regular Meeting and Public Hearing February 4, 2015

### Call to Order/Welcome

Chairman Joseph Mueller called the Regular Meeting of the Lovettsville Planning Commission to order at 7:30 p.m. on February 4, 2015 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### Present at Meeting

- Chairman Joseph Mueller
- Vice Chair Robert Gentile
- Commissioner Thomas Ciolkosz
- Commissioner Frank McDonough
- Commissioner Dorri O'Brien (arrived at 7:43 p.m.)
- Commissioner Anthony Quintana
- Commissioner Buchanan Smith

### Staff Present

- Zoning Administrator Joshua Bateman
- Town Manager Laszlo Palko
- Town Clerk Harriet West

### Public Comment

Chairman Mueller called for comments from the public. There were none at this time.

### Additions/Deletions/Modifications to the Agenda

Chairman Mueller added an item to the agenda regarding the approach for the Comprehensive Plan review.

### Approval of Planning Commission Minutes

No minutes were presented.

### Staff Reports

Zoning Administrator Bateman referenced his staff report for January 2015. He noted that he met with the engineer for the 7-Eleven to discuss the zoning requirements and setbacks. Mr. Bateman pointed out that the Town's definition of convenience store does not include fuel pumps and that his recommendation is for the 7-Eleven to address this gap in the ordinance.

### Action/Discussion Item

A. LVCU 2015-0001: Conditional Use Permit for Veterinary Hospital at 2 East Pennsylvania Avenue  
Chairman Mueller opened the public hearing at 7:39 p.m. He read the Notice of Public Hearing aloud and then called for comments from the public.

**Fred George**, owner of 2 East Pennsylvania Avenue, came forward to speak. Mr. George said he tried to get a veterinarian to come to Town at another property several years ago but it didn't work out. He said this is an opportunity to bring a professional service to Lovettsville if they can get the Conditional Use Permit. He is working with the Zoning Administrator on improvements to the property and would like to find a good use for the old house.

In response to questions from the Commissioners, Mr. George stated that:

- The practice is primarily for small animals.
- The gun store that is currently occupying the property would most likely be relocated to space near Bonnie's Restaurant.

**John Ebersold**, the practice manager for House Paws, said they would really like to get this approved. He said it would be a good thing for Lovettsville because it will bring people here. They have a big mobile practice now and cover a very wide territory. Not only will they be serving people in Lovettsville but they will be bringing clients in from other locations.

In response to questions from the Commissioners, Mr. Ebersol stated that:

- They would like to open as soon as possible.
- They will have a small surgery suite and they will be seeing appointments as well.
- It will be a regular veterinary hospital in all regards.
- They look forward to staying here for a long time.
- They are not hiring any additional staff right now but he expects they will be.
- They currently have a mobile veterinary practice now – House Paws In-Home Veterinary Care. Part of the motivation is they need a place to do procedures that require anesthesia, such as surgeries and dentals, and to see appointments.

Zoning Administrator Bateman reviewed his staff report and the recommended conditions, which are intended to protect adjacent residential uses and adjoining properties from the potential effects of the use being considered.

Staff recommends that the Planning Commission forward Case No. LVRZ 2015-0001 to the Town Council with a recommendation for approval, subject to the following conditions, which the Commission deems necessary for the protection of the general welfare and to ensure compliance with the intent and objectives of the zoning ordinance:

1. The veterinary hospital shall be permitted to occupy the primary building only. Upon issuance of this permit, any expansion of the floor area of any building(s) to be occupied by the use shall require approval of the new and/or expanded use of the property through issuance of a new conditional use permit in accordance with the procedures set forth in Section 42-33 of the Zoning Ordinance;
2. If the veterinary hospital use on the subject parcel is discontinued for a period of one hundred and eighty (180) consecutive days, this conditional use permit shall be considered void and no veterinary hospital or similar use shall occupy the property unless the owner has applied for and been issued a new and separate conditional use permit by the Town;
3. Prior to occupancy, the applicants or proprietor of the veterinary hospital shall furnish to the Zoning Administrator a complete copy of the approved permit from the Virginia Board of Veterinary Medicine authorizing operation of a veterinary hospital on the subject parcel;
4. The hours of operation of the veterinary hospital shall be Monday through Friday: 7 a.m. through 7 p.m., Saturday: 8 a.m. through 4 p.m., and Sunday: 10 a.m. through 2 p.m., provided that this requirement shall not apply to emergency services rendered to pets and animals on the site after hours by the proprietor of the veterinary hospital, or to pets and animals kept overnight for observation by, and/or which have received legitimate medical/surgical treatment or services from, the proprietor of the veterinary hospital use;

5. No boarding or grooming of pets or animals shall be permitted on the subject property, provided that the following activities shall be considered incidental to the approved use and shall not be considered boarding or grooming for the purpose of administering this requirement:
  - a. The overnight hospitalization of pets and animals by the proprietor of the veterinary hospital, or the keeping of animals overnight for observation which have received medical and/or surgical treatment from the proprietor of the veterinary hospital, provided that, for the purpose of controlling noise, not more than three (3) dogs shall be kept at the site at any one time, and no single dog shall be kept on the site for more than forty-eight (48) hours; and
  - b. The preparation of pets and animals for medical or surgical treatment(s) at the facility;
6. No animal weighing more than fifty (50) pounds shall be treated at the site, provided this requirement shall not apply to dogs.
7. Animals being treated at the subject property shall not be left outside unattended, and dogs shall be kept on a leash at all times while outside of a building, by the proprietor of the use or any employees;
8. The applicants or proprietor of the veterinary hospital use shall install at least one (1) pet waste bag dispenser and disposal station in the side yard where dogs will be walked adjacent to the parking lot. All pet waste shall be picked up and disposed of properly in the disposal station, and shall be finally disposed of in a trash container covered with a properly-fitting and sealed lid at all times.
9. The applicants shall remove the concrete wheel stop located closest to East Pennsylvania Avenue;
10. Prior to occupancy by the veterinary hospital, the applicants shall install striping, pavement markings, and/or signage meeting all applicable requirements of the International Building Code (IBC) and Americans with Disabilities Act (ADA) on the existing concrete pad in order to ensure that any handicapped parking spaces remain designated for use by persons with disabilities only; and
11. The existing concrete sidewalk oriented parallel and located adjacent to East Pennsylvania Avenue along the frontage of the subject parcel shall be removed by the applicants within three (3) months of issuance of the conditional use permit, provided that such removal can be accomplished without causing damage to existing trees, including root systems, located on the subject property or the adjoining public street right(s)-of-way.

Zoning Administrator Bateman said he spoke with Dr. Knode about her concerns regarding Condition 1, 5a, and 6. Mr. Bateman said his intention for Condition 1 is based on expanding the size of the existing building, not occupying existing space in the building that is currently being rented by another business, the hair salon. He offered the following alternative wording to address this concern:

*The veterinary hospital shall be permitted to occupy the primary building only. Upon issuance of this permit, any expansion of the floor area of the building for purposes of expanding the conditional use shall require approval of a new conditional use permit in accordance with the procedures set forth in Section 42-33 of the Zoning Ordinance;*

Mr. Bateman said Condition 5a, which includes restrictions on the total number of dogs that can be kept and/or the duration of time that they can be kept, are reasonable ways of ensuring that this does not become a pet boarding facility. He said Dr. Knode's concern is with the limitation on how long an animal may remain at the facility because she cannot anticipate how long a dog may require treatment.

Mr. Bateman said the time frame could be adjusted so it does not become a "deal breaker" for Dr. Knode; however, the Commissioners must still take the existing residential uses into consideration because noise from barking dogs can travel. He noted that one alternative may be to require soundproofing, but that is expensive.

Mr. Bateman said the last concern had to do with the size of the animals that could be treated on the site. He said the intent of this condition is to limit trailers coming onto the site due to access issues. He said this could be addressed by increasing the weight limit to 60-80 pounds and/or including the following language:

*Vehicles towing trailers shall not use the parking lot located on the site for parking and/or loading/unloading; nor shall such vehicles visiting the property be allowed to park on any property in the vicinity of the subject parcel, unless the proprietor of the veterinary hospital first obtains written permission from said property owner.*

Dr. Knode thanked Zoning Administrator Bateman and said he has been very helpful. She then discussed her concerns with the three conditions:

- Condition 1. Dr. Knode said her concern is that if the other 350 square feet becomes available, she would like to be able to lease it and turn it into another exam room without having to go through another permit process for a structure that is already there. She said the alternative language suggested by the Zoning Administrator addresses this concern.
- Condition 5. Dr. Knode said the issue with this condition is that she gets a lot of dogs with kidney failure and they require hospitalization for longer than 48 hours. She cannot do her job if she has to send her clients away or send them to a more expensive emergency care facility, which the owner may not be able to afford. She would need the ability to provide "medical boarding" for certain animals that require treatment while the owners are away and to provide care to truly sick animals. She said she has no interest in becoming a boarding facility and would only care for animals that are patients of House Paws. Dr. Knode said this condition is really restrictive with regard to the number of days and number of pets.

The Commissioners discussed alternatives for meeting the intent of Condition 5 without being too restrictive. In response to questions from the Commissioners, Dr. Knode explained that:

- The Virginia Veterinary Disclosure Act requires all veterinary hospitals that are not a 24-hour facility to provide a statement for pet owners to sign acknowledging that the clinic is not a monitored, overnight facility.
- House Paws patients that need 24-hour care are sent to TLC in Leesburg.
- The purpose of the overnight stay is for animals that don't need 24-hour care.
- All routine surgeries would go home the same night.
- It would be an extraordinarily rare occasion that a patient needs to stay overnight.

In response to questions from the Commissioners, the Zoning Administrator stated that there is no noise ordinance in Loudoun County or in the Town.

Chairman Mueller said he understands Dr. Knode's intentions but the Commissioners need to make sure the conditions offer sufficient protection in the event someone else ends up running the practice.

Commissioner McDonough said he reviewed Virginia's regulations for veterinary establishments and they are quite extensive. Regarding the noise issue, he said his father-in-law is a veterinarian and lives right next door to the practice he built but no longer owns. In the dozens and dozens of times he has been there, Commissioner McDonough said he has never heard an animal barking that was not either on its way to or from the owner's car.

Chairman Mueller said he has two dogs that bark a lot but you cannot really hear them from outside.

In response to a question from Commissioner Quintana, Dr. Knode confirmed that most patients that would be staying overnight would be on some type of pain medication.

Dr. Knode addressed Condition 6, the 50 pound weight limit. She said that doesn't work because they are in a rural area. Most people transport their sheep and goats in the back of their SUVs. She said a more reasonable weight limit is 500 pounds. Dr. Knode said she will continue to be mobile. She would not encourage anybody to come to the clinic with a trailer but she could never guarantee 100% somebody wouldn't see a vet office and show up with a trailer, and then what would she do? The facility is not built for horses and other large animals. Anyone who had a trailer would not try to park there because they'd realize they wouldn't be able to turn around.

Commissioner Mueller said his fear is that someone would pull up on Church Street, which is not that big to begin with. Dr. Knode said in no way would they encourage that or tell anybody that they would see them in that capacity, but she could never say someone wouldn't do that on their own.

Commissioner O'Brien said the pound limit is not conducive to Dr. Knode doing business. Following further discussion, the Commissioners agreed to strike Condition 6.

Town Manager Palko asked Dr. Knode if she will be able to provide 24-hour response if there are any issues at the facility. Dr. Knode said she will be available to the Town after hours.

Chairman Mueller reviewed the following changes to Condition 1, 5a, and 6.

- Condition 1 was changed to read: *The veterinary hospital shall be permitted to occupy the primary building only. Upon issuance of this permit, any expansion of the floor area of the building for purposes of expanding the conditional use shall require approval of a new conditional use permit in accordance with the procedures set forth in Section 42-33 of the Zoning Ordinance;*
- Condition 5a was changed to read: *The overnight hospitalization of pets and animals by the proprietor of the veterinary hospital, or the keeping of animals overnight for observation which have received medical and/or surgical treatment from the proprietor of the veterinary hospital;*
- Condition 6 was deleted.

Hearing no further discussion, Chairman Mueller closed the public hearing at 8:28 p.m. and opened the regular meeting.

Chairman Mueller called for discussion. Hearing none, he called for a motion.

**Motion:** I move to recommend approval of the application from property owners Fred L. George III and Anne D. George for a Conditional Use Permit (CUP) to allow the establishment of a veterinary clinic/hospital on their property at 2 East Pennsylvania Avenue, subject to the conditions listed in the staff report dated February 4, 2015, and incorporating those changes that were made during the public hearing, which the Commission deems necessary for the protection of the general welfare and individual property rights, and to ensure compliance with the intent and objectives of the zoning ordinance.

**By:** Commissioner Smith  
**Second:** Vice Chair Gentile  
**Aye:** Commissioners Ciolkosz, Gentile, McDonough, Mueller, O'Brien, Quintana, and Smith  
**Nay:** None  
**Abstain:** None  
**Absent:** None

Zoning Administrator Bateman said the Planning Commission's action is a recommendation to the Town Council and the final public hearing on the conditional use permit will be held on February 26, 2015.

**B. Fiscal Impact Analysis for Certain Development Projects**

Zoning Administrator Bateman presented this item. The Planning Commission is being asked to prepare an amendment to the Zoning Ordinance to require that applicants for a zoning map amendment (i.e. rezoning) and/or conditional use permit for new construction greater than a given size prepare and submit a fiscal impact analysis to the Town for consideration.

Zoning Administrator Bateman said the Town Council has initiated the amendment process by adopting Resolution 2015-01-001 (Attachment 1) and has referred the matter to the Planning Commission for the Commission to prepare a draft amendment.

Staff has conducted preliminary research of such requirements in other jurisdictions and identified several examples that could be used for a potential draft zoning text amendment. Mr. Bateman said his review of these examples raises the following questions which the Commission should resolve prior to directing staff to prepare a draft amendment:

1. Should the applicants be required to develop their own fiscal impact analysis (FIA) in a format acceptable to the Town, or should the Town develop its own spreadsheet(s) or other format for use by applicants?
2. Should a FIA be required for all rezonings, rezonings with proffers (conditional zoning cases), or only certain types of proffered rezonings, for example, those involving the proposed development of more than 20 dwelling units, the construction of more than 5,000 square feet of floor area for non-residential use(s), or the rezoning of more than five (5) acres of land for higher-density or higher-intensity use(s)?
3. Should a FIA be required for certain types of conditional use permits (CUP) involving new construction?

The Commissioners discussed options for having the FIA prepared either by the Town or the applicant. Zoning Administrator Bateman requested guidance from the Planning Commission on the size and threshold for the FIA. Following further discussion, the Commissioners agreed to have the Zoning Administrator look for models that other small towns or municipal associations have developed.

The Commissioners discussed that this could be a potential disincentive for commercial developers. Commissioner O'Brien said the County never asks for a FIA for commercial development because the result is always net positive. She questioned the reason for requiring a FIA for commercial projects. Mayor Zoldos said the underlying reason is to better understand the impact on the Town. Following further discussion, Mayor Zoldos said he would get clarification on what the Council's intent was and report back to the Planning Commission.

**C. Comprehensive Plan Review**

Chairman Mueller said he recently updated the Town Council on the Town Center project and proposed amendments to the R-3 Zoning District. At that meeting, Mayor Zoldos recommended that the Planning Commission address this as part of an overall review and update of the Comprehensive Plan. Chairman Mueller said he agreed that was a good idea and suggest forming a Citizen Advisory Committee to meet with the Planning Commission once a month. He said this approach worked well for developing the 2011 Comprehensive Plan. The committee included representatives from the business community, the Lovettsville Historical Society, local landowners, and citizens.

Mayor Zoldos said the Town Council saw the need to revisit the Comprehensive Plan as a whole. He also discussed some of the priorities from the Town Council retreat including developing an annexation policy and architectural standards, and aligning the zoning ordinance with the Comprehensive Plan.

Zoning Administrator Bateman suggested developing a process for the Comprehensive Plan review at the next Planning Commission meeting. The Commissioners discussed the process for getting participants to serve on the Citizen Advisory Committee, identifying priorities, and creating a schedule.

**Information Items**

There were none.

**Comments from the Mayor and Commissioners**

Mayor Zoldos reported on the following:

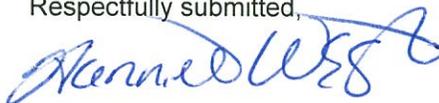
- He suggested the Planning Commission look to the Virginia Municipal League (VML) for models that could be used for the fiscal impact analysis. As a member of VML, the Town pays for this service.
- He thanked the Commissioners for being so consistent with attending the Town Council meetings.
- The Town Council held a retreat on January 31, 2015 and identified 10 priorities for the coming year which will become part of the new Town Manager's work plan. The list includes improving fiscal outlook, reforming accounting procedures, maximizing organizational structure and staffing, developing management strategies/standard operating procedures, analyzing the costs/benefits of operating the waste water treatment plant and negotiating an agreement on the third module, developing a 10-year capital improvement plan (rather than a 5-year plan), developing an economic development plan, providing better coordination and management of multiple special events, improving information flow, and developing a social media policy strategy.
- The Potomac Partnership met this past week. The purpose of the Town's partnership with the City of Brunswick is to explore developing a national retailer profile, coordinating events calendars, and possibly sharing capital equipment.
- The Town Charter should be approved by the Virginia General Assembly later this month.
- The Lovettsville Town Center Proffer Amendment and Concept Plan was approved by the Town Council and passed unanimously.
- He discussed upcoming meetings with the Loudoun County Sheriff's Office on Friday, the Cub Scouts Pinewood Derby contest on Saturday, and the Lovettsville Historical Society lecture on Sunday.

Commissioner Ciolkosz said there is always water on 287 before Hammond Drive as you approach the 7-Eleven. The Town Manager said he would look into this. Commissioner Ciolkosz suggested reaching out to the Purcellville Business Association. Mayor Zoldos said this is something the We're In Committee discussing at their meeting earlier this evening.

**Adjournment**

There being no further business before the Planning Commission the meeting was adjourned at 9:56 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: August 5, 2015

Attachments:

1. Resolution 2015-01-0001: Initiate Amendment to the Zoning Ordinance to Require a Fiscal Impact Analysis for Certain Development Applications

**Resolution: 2015-01-001: INITIATE AMENDMENT TO THE ZONING  
ORDINANCE TO REQUIRE A FISCAL IMPACT ANALYSIS FOR CERTAIN  
DEVELOPMENT APPLICATIONS**

**MOTION:**

**SECOND:**

**WHEREAS**, the Town Council has determined that the public necessity, convenience, general welfare and good zoning practices require amendment to the Zoning Ordinance (hereinafter referred to as “the Ordinance”); and

**WHEREAS**, Section 42-34 of the Ordinance authorizes the Town Council, by resolution, to initiate an amendment to the Ordinance and refer such a proposed amendment to the Planning Commission for its recommendation prior to the Town Council rendering a final decision on the amendment; and

**WHEREAS**, the Town Council desires that applicants for certain land uses or developments which may have a significant impact on the Town’s fiscal health prepare and submit a fiscal impact analysis detailing the anticipated effects of the development on the Town’s revenues and expenditures; and

**WHEREAS**, the Town Council anticipates that such land use applications may include zoning map amendments, conditional zonings and conditional use permits involving the construction of improvements and/or establishment of uses greater than a certain size or area.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council hereby initiates amendment to the Zoning Ordinance of the Town of Lovettsville in order to require a fiscal impact analysis for such developments, and requests that the Planning Commission, with the assistance of Town staff, develop a draft amendment and forward the same together with the Planning Commission’s recommendation to the Town Council. The Town Council further instructs the Planning Commission to develop provisions regarding the submission of a fiscal impact analysis by an applicant, including but not limited to the types and sizes of development applications requiring submission of the same, and any other reasonable requirements and conditions pertaining thereto that the Planning Commission may elect to recommend to the Town Council.

**VOTE:**

**Ayes:**

**Nays:**

**Abstentions:**

**Absent for Vote:**

**APPROVED:**

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**Robert Zoldos II, Mayor**

**CERTIFIED:**

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**Harriet West, Town Clerk**