

Town of Lovettsville

Town Council

Minutes of Public Hearing and Regular Meeting October 28, 2010

PUBLIC HEARING

The Lovettsville Town Council Public Hearing for LVCU 2010-0002: Dykstra/Wheeler Application for 19 East Broad Way was called to order by Mayor Elaine Walker at 8:02 PM at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180.

Welcomes and Introductions

Mayor Walker welcomed the citizens attending the meeting. The Mayor introduced Council Members Tiffany Carder, Charlotte Coleman, Shaun Staley and Michael Senate. The Mayor also introduced the Town Staff, including Town Manager Keith Markel, Zoning Administrator Steve McGregor, and Town Clerk Judy Kromholz. Vice Mayor Robert Zoldos II arrived at 8:30 PM, during the first speaker.

Absent: Council Member Scott Dockum

Explanation of Procedures and Opening of the Hearing

Mayor Walker read the public notice of this Public Hearing as it appeared in the *Purcellville Gazette* as shown in Attachment I.

Presentation

Zoning Administrator McGregor made a presentation on LVCU 2010-0002: Dykstra/Wheeler Application for 19 East Broad Way (Attachment II).

Public Speakers

Alan Dykstra was offered the opportunity to speak, but declined, stating that Administrator McGregor had explained his request adequately. Councilman Staley read the rules of the public hearing into the record. Mayor Walker introduced each speaker in the order in which they had signed up to speak (Attachment III: Sign in Sheet).

- 1 Howard Williamson
 - a) Stated that he is glad to see Mr. Dykstra bringing business to the Town.
 - b) This will provide local employment opportunities.
 - c) This will clean up a vacant lot that has been unsightly.
 - d) This will bring a needed service to Town.
 - e) Noted that he needed similar buffering waivers when he started his business in the old part of Town.
- 2 Rob Miller
Lakeview Village
HOA
 - a) Stated that he has nothing against the business itself, just the location of the business.
 - b) The noise and reduction in property values in adjacent homes will not be mitigated by the fence.
 - c) Currently it is all new equipment, but it will all turn to rust eventually and they will have to look out their windows at it.
 - d) The noise of commercial lawn equipment is quite loud and unsuitable so close to a residential neighborhood. Most of the homes have bedrooms in back right next to the proposed business location.
 - e) Snow removal operations will go on at all hours of the night.
 - f) For a number of reasons he is asking Council to reduce number of working hours.
- Amanda Staley
New Town Meadows
 - a) Stated she is in favor of bringing business to Town but against this type of use so close to residential development.
 - b) She thinks this is a light industrial use and belongs in that zoning district.
 - c) Asks Council to consider true impact of this business on its potential neighbors.
- Marsha Fuqua
South Loudoun Street
 - a) She stated that she thinks this is a good location for a landscape business.

- b) She has had 25 years experience in the business and is familiar with landscape businesses located in residential communities.
 - c) Snow removal is a 24 hour operation but the noise is no worse than the cars and trucks she hears going up and down her street at 5:30 AM. She noted that cars are starting up all over the area every morning.
 - d) It would be a benefit to the community to have the space occupied instead of attracting young kids at all hours of the night.
- David Earle
Lakeview Village
- a) Stated that he is in favor of granting this CUP.
 - b) A small landscaping company will be minimal damage compared to what else could be put in that location.
 - c) As far as noise of plowing – the equipment will be out pushing snow, not in the lot.
 - d) Kids already cause noise in that location at all hours.
 - e) Snow muffles existing noise anyway.
 - f) Thinks that the 5 minute limit on idling is too short in cold weather
- Tracey Senate
South Loudoun Street
- a) She has watched the deterioration of this vacant lot for about 8 years.
 - b) In favor of a commercial business at this location for variety of reasons.
 - c) The business will assume some of the tax burden and will put that vacant lot to good use so that it will no longer attract illicit or illegal activities.
 - d) Noted that she is speaking as a Town resident not as the Rescue Chief.
- Gail Fletcher
Lakeview Village
- a) She has lived at this location for over 20 years and knows that the vacant lot has been an issue.
 - b) This business will be good for Lovettsville and will provide some local employment.

Mayor Walker again asked Mr. Dykstra if he wished to speak. He introduced himself and described his expertise in this and related businesses. He wanted to assure Council that he understands the concerns about noise and plans to mitigate as much as possible. He plans to continue being a good citizen of the Town and becoming a good neighbor to Lakeview Village. He stated that there has to be some trust someplace. He has received a lot of interest in the services he is proposing, including from some of the local home owners associations. This is a service that the Town needs and wants. He also reported that many local people have asked him for work.

Mayor Walker asked the Council if they had any questions for Mr. Dykstra.

Vice Mayor Zoldos apologized for being late and asked Mr. Dykstra for a guarantee that he would properly maintain the fence in the future, noting the dilapidated state of the current fence. Mr. Dykstra stated that the fence should be installed during the dry season – he would like to commit to dates in the spring to start and complete the fence. He noted that the current fence had not been installed correctly and had not been maintained. Manager Markel noted that the Conditional Use Permit required that the fence must be built before business can be conducted and Vice Mayor Zoldos agreed.

Councilman Staley asked Administrator McGregor to explain the particulars of the required plantings. Administrator McGregor and Mr. Dykstra explained exactly where the planting are proposed.

Councilman Senate asked Mr. Dykstra if he is planning to build sheds or other utility buildings in the future. Mr. Dykstra said that was likely and Councilman Senate suggested that this be included in the permit. Manager Markel stated that existing Town Zoning Ordinances would apply.

Councilwoman Coleman asked how long it takes to warm up the engines. Mr. Dykstra said that the diesels might require more than the proposed 5 minutes in extremely cold weather. He also stated that prior to a snow event the equipment would be positioned off the lot. Mr. Earl said that in his experience the driver takes the plow home when a snow event is predicted.

Mayor Walker asked if there were any further speakers. There were none.

Declaration to close the Public Hearing

Mayor Walker stated that this issue would be open for comments for an additional ten days and declared this Public Hearing closed at 8:55 P.M. A short recess was called.

REGULAR MEETING

Mayor Elaine Walker called the regular meeting of the Lovettsville Town Council to order at 9:02 PM

Present at Meeting

- Mayor Elaine Walker
- Vice Mayor Robert Zoldos II
- Council Members Tiffany Carder, Charlotte Coleman, Michael Senate, Shaun Staley
- Town Manager Keith Markel
- Town Treasurer Lance Gladstone
- Project Manager Karin Fellers *{arrived at 9:06 PM}*
- Zoning Administrator Steve McGregor
- Town Clerk Judy L. Kromholz

Absent

- Councilman Scott Dockum

Audience

Many of the speakers remained in the audience.

Call to Order/Welcome/Pledge of Allegiance/Invocation

Mayor Walker led the assembled in the Pledge of Allegiance.

Comments from the Public

There were no speakers signed up for the general meeting. Mayor Walker recognized Lance Corporal Carl Christianson of the Shenandoah Young Marines. He explained Red Ribbon Week is the Nation's oldest and largest drug prevention program reaching millions of Americans during the last week of October every year. By wearing red ribbons and participating in community anti-drug events, young people pledge to live a drug-free life and pay tribute to DEA Special Agent Enrique "Kiki" Camarena. Mayor Walker presented a proclamation to Corporal Christianson approved by the Council. *{Lakeview Village HOA President Miller left at 9:06 PM}*

Community Presentations

A. Lovettsville Volunteer Fire and Rescue Company

Rescue Chief Tracey Senate gave the company report. She reported that Mr. Dykstra has been offering hayrides on Friday evenings between 6:00 PM and 9:00 PM as a fundraiser for the LVFR. Hayrides will also be offered on Halloween.

Additions/Deletions/Modifications to the Agenda

There were no changes to the agenda.

Approval of Town Council Minutes

No minutes were presented.

Report from the Treasurer

A. Financial Report – August 2010

Treasurer Gladstone presented his written report for August 2010. The mayor and Council had no questions concerning the General Fund. Councilman Senate asked if the I&I work paid for from the Utility Fund give the Town any measurable improvements. Manager Markel stated that the benefits have not been quantified but there is a very noticeable improvement in the duration and intensity of surges. Additional analysis is being done to quantify the results.

Motion: To approve the August 2010 Treasurer's report as presented.

By: Council Member Senate

Second: Council Member Coleman

Aye: Council Members Carder, Coleman, Staley, Senate, Zoldos

Nay: None
Abstain: None
Absent: Council Member Dockum

Staff Reports

A. Report from the Project Manager

The Mayor and Council had no questions concerning Project Manager Fellers report dated October 21, 2010.

Consent Agenda

There were no items on the Consent Agenda.

Action/Discussion Items

A. LVCU 2010-0002 Dykstra / Wheeler

Manager McGregor had presented this item during the public hearing. Mr. Dykstra requested that completion dates be added for each of the improvements he is to make. Councilman Senate stated that the fence must be installed before any operations could commence. He also suggested extending the maximum idling time to 10 minutes for diesel vehicles. Councilman Staley asked that the security lighting be put on a motion detector to minimize light pollution. He also stated that he would like landscaping in the two foot buffer outside the fence towards the townhouses. Administrator McGregor noted that the Planning Commission had discussed this option and rejected it, primarily because members of the community stated that they do not use the common area and they would not see plantings in this area. Administrator McGregor also noted that this landscaping might be more expensive than the new business could afford.

Councilman Senate stated that it is likely that as soon as the business starts making some money it would be in the owners' best interest to put the equipment under cover and sheds would be built.

Motion: I move that the Town Council recommend approval of the draft ordinance(will be 2010-10-02) presented in the staff report for Conditional Use Permit item LVCU 2010-0002 Dykstra/Wheeler as conditioned, dated October 28, 2010. Attachment IV.

By: Council Member Senate

Second: Council Member Carder

Mayor Walker called for additional discussion. Vice Mayor Zoldos stated that he is struggling with defining this as a C-1 use. He thinks this is a good business and is happy with the requirements but believes it is a stretch to define it as a retail use. He stated that it is a good use for the land and would remove the attractive nuisance that currently exists. Councilman Staley agreed except that he found that as he re-read the ordinances the light industrial ordinance does not really allow this application either. He stated that it comes down to the vision the Town has for Broad Way and deciding if this is the appropriate place for this business. Vice Mayor Zoldos stated that the one thing that makes it feasible is that this is an infill business and is behind another business. As a result, this location will never attract a true retail establishment.

Administrator McGregor stated that the Town Attorney is not entirely in agreement with him either, but his reading of the ordinances suggests that this use is not allowed in any zoning district and would require a conditional use permit anywhere in Town. Councilman Staley said that there is demand in Town for this type of business and there is no place else in Town where this business could be realistically located. He expressed concern that, if the permit is granted, there will be citizens looking for valid complaints and reporting them, especially during snow removal. Administrator McGregor suggested that there could be a condition that at some future point the equipment does have to be covered. Councilman Senate pointed out that the mechanical contracting company that was previously on this site stored sheet metal and equipment on the lot and moved it around 24 hours a day. This business is similar to the former business at this location. He thinks this business is appropriate to the location and that the empty lot is a real detriment to the local community.

Vice Mayor Zoldos asked how the Town would define a 'valid complaint'. Manager Markel explained that this is consistent with the procedure currently in place for other complaints and is one of the jobs of the Zoning Administrator. Vice Mayor Zoldos felt this could be a scary situation for the business owner.

Vice Mayor Zoldos noted that the Zoning Ordinance does allow outside storage. He also stated that he will only agree to move on this application if the applicant agrees to the condition that says that this conditional use permit is subject to review if valid complaints about the operation of the business are made to the Town. Administrator McGregor pointed out that complaints would come to him in any case, in his role as Zoning Administrator. Councilman Staley expressed concern about setting a precedent.

Motion: I move that the Town Council table this item in order to discuss it when the Town Attorney is available.
By: Vice Mayor Zoldos
Second: Council Member Staley
Aye: Council Members Staley, Zoldos
Nay: Council Members Carder, Coleman, Senate
Abstain: None
Absent: Council Member Dockum

Motion to table failed.

There being no further discussion, Mayor Walker called for a vote on the original motion.

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

Mayor Walker welcomed Mr. Dykstra to the Town if he chooses to open his business here. She reminded everyone present about last year's snowstorms and stated that she cannot believe anyone would file a complaint under those conditions. She also noted that people came and went at all hours when the mechanical business was in that location and there were no complaints. She stated that the storage facility is a conditional use and is a neighbor to that lot and is accessed around the clock. She stated that it is terribly difficult in the old part of Town to impose all the conditions in the Ordinance. She told Mr. Dykstra that she really appreciates what he is trying to do for the Town.

B. LVZA 2010-0003 Swimming Pools, Hot Tubs and Spas

Administrator McGregor presented this item. He explained that at the October 14th Council meeting the Town Council held a Public Hearing on this item, which is designed to amend the regulations for swimming pools, hot tubs and spas. In their discussion the Council found paragraph (b) confusing and asked staff to rewrite it so that the intent is clear. The revised staff report (Attachment IV: Staff Report on LVZA 2010-0003: Outdoor Swimming Pools, Hot Tubs and Spas – Zoning Ordinance Amendment) provides the revised text so the Town Council may take action on this item.

Motion: I move that the Town Council pass Ordinance No. 2010-10-03:
Approve LVZA 2010-0003 Amending Lovettsville Zoning Ordinance Section 4-8
(Outdoor Swimming Pools, Hot Tubs And Spas)

By: Council Member Carder
Second: Council Member Coleman

Mayor Walker called for discussion. Councilman Staley asked why these installations are allowed in the front yards in commercial districts. Manager Markel gave an example of a hotel moving into the commercial district that might want the pool in front. There being no further discussion, Mayor Walker called for the vote.

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

C. Water System Modification

Project Manager Fellers presented this item. Councilman Staley and Councilwoman Coleman thought Council had already discussed this item. Project Manager Fellers explained that the original discussion centered on whether or not to fund this study. The study itself has surfaced more options and the Council now needs to discuss more long range requirements of the system. She explained that she does not have enough information for the Council to make an informed long term decision for the system. As all of the options available to address the operations issues identified have a substantial price tag and offer different levels of benefit and longevity, staff recommends that Town Council authorize the expenditure of up to \$4,000 for Waste Water Management (WWM) to evaluate the cost and benefit of the other possible

options. A cost benefit analysis will provide valuable information to Town Council in order to make an educated decision and ensure the most cost effective solution is chosen for both short term and long term needs. Compared to the cost of the options being evaluated, the cost to obtain the information in order to determine the best long term solution for the operations of the water system is very low and would be a worthwhile investment.

Motion: I move that the Town Council authorize the Mayor or Town Manager to sign the appropriate paperwork with WWM to complete the Cost Benefit Analysis of options for addressing water system operational issues for a cost of not to exceed \$4,000.

By: Council Member Senate

Second: Council Member Staley

Aye: Council Members Carder, Coleman, Staley, Senate, Zoldos

Nay: None

Abstain: None

Absent: Council Member Dockum

D. Town Museum Repairs

Manager Markel presented this item. He reported that Town Council has identified a desire to complete some sill repairs to the Museum Building to extend the life of the building. The sill is very low to the ground and therefore has become quick rotten. A visual inspection of the museum building several years ago revealed damage to the structure's sill and lower framing. It was concluded that repairs would be necessary to prevent further degradation. Staff put together a simple Request for Bids and sent it to three local contractors that specialize in this type of work. The Town received two bids for the museum project. It should be noted that there is the possibility of additional change order work. Any time you work on an older structure there is the possibility that additional items are found that requires attention, however, some of the siding was pulled off to reveal the sill about a year ago in order to determine the extent of work needed and it is hoped that the remainder of the building will be similar and will not offer any surprises. Items that could cause an increase in price include lead paint or asbestos mitigation or additional repairs that are identified as needing to be completed once the project is underway and the structure of the building is revealed. Identification of additional work caused by these items or others not defined in the RFP could result in change orders to the project. The current operational repair budget for the Museum and the Town Office building is \$28,000. All but \$3,744 in this fund is currently undesignated. Additional funds will need to be allocated from reserves to cover any additional expenses and to allow for contingency during the repair process.

Staff is asking for direction from Town Council as to whether this work should be completed at this time. It should be noted that if it is the desire of Town Council to preserve this building and continue to use it for a Museum, work will need to be done at some point. It was noted by one of the contractors that the fact that the building withstood the large snow storms last winter without ill effects reflects that structurally it is still quite strong. However, known problem areas of rotting wood, etc. will only continue to degrade over time and could eventually lead to a building failure. Unfortunately, there is no way to predict if or when a failure might occur but most often the cost for repairs to older buildings like the museum increase if repairs are deferred.

Mayor Walker stated that she is concerned about the unknown and the possible change orders. Councilwoman Coleman asked about roof repairs and Project Manager Fellers stated that this estimate does not include any roof repair. Mayor Walker asked if the contractors carried liability insurance and Project Manager Fellers reported that the RFP issued by the Town required that the contractor provide their own insurance. Councilman Staley asked how old the building is and Manager Markel estimated that it was built in the 1880s.

Council continued to debate whether the Town should invest in the structure at all and Mayor Walker asked if the building would be of any use or interest if the Historical Society moved to other quarters.

Vice Mayor Zoldos said that he is concerned because a member of the historical society brought this to the Town for consideration and then bid on the project. He is afraid that this building could become the Town money pit to no real avail. He requested a comprehensive study of the entire project before making a decision and asked staff to find out what such a study would cost. Councilman Staley stated that the

Council needs to decide what they wish to use the building for over the next 30 years before asking staff to invest more time in seeking solutions.

Council agreed to put this item on their retreat discussion list and asked staff to find out what it would cost to do the more extensive study.

Information Items

No information items were presented.

Comments from the Mayor and Town Council

Councilman Staley stated that even though he voted against the application he is very excited to see Mr. Dykstra bring his business to the Town. He stated that he was just uncomfortable about the location.

Councilman Senate encouraged everyone to come out for last couple of hayrides at the fire station. He stated that he was pleased with the Council's ability to have a civil disagreement.

Councilwoman Coleman reported that poppies are being distributed for Veterans Day.

Vice Mayor Zoldos expressed agreement with Councilmen Staley and Senate concerning the Dykstra application. He is glad that the Town will have this new business.


Mayor Walker reported on the following:

1. She is very happy with the results of the Dykstra vote and welcomes his business to Town
2. She attended a very good meeting with the New Town Meadows Home Owners Association.
3. She continues to receive information concerning PATH, and will keep Council informed. Public Hearings will start in February.
4. She attended a reception at the Leesburg Airport and noted how that has encouraged business growth in Leesburg.
5. She noted that after all the hard work by so many people only one business person attended the community information meeting on the proposed Sign Ordinance and the Lovettsville Business Association did not attend. She expressed great disappointment in the local business community.
6. She attended the Comprehensive Plan Advisory Committee meeting last night and reported that a community information meeting on the proposed Comprehensive Plan is scheduled for November 22nd at the Lovettsville Community Center.
7. The Town Veterans Day ceremony will be held on November 11th at 11:00 AM at the flagpole in the Town Square.
8. She reminded the Council that they had all agreed to attend a special closed session with the Loudoun County Board of Supervisors and the Loudoun County School Board on November 11th at 7:00 PM.
9. The Community Thanksgiving Church service will be on November 23rd. The time and place to be announced.

Adjournment

There being no further business before the Council, Mayor Walker adjourned the meeting at 11:40 PM.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: January 13, 2011

Attachments:

- I. *Purcellville Gazette* Public Hearing Notice
- II. Staff Report on LVCU 2010-0002: Dykstra/Wheeler Application for 19 East Broad Way
- III. Speaker Sign In Sheet

Lovettsville Town Council

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- IV. Ordinance 2010-10-02: Approve CUP for 19 East Broad Way
- V. Staff Report on LVZA 2010-0003: Outdoor Swimming Pools, Hot Tubs And Spas – Zoning Ordinance Amendment
- VI. Ordinance No. 2010-10-03: Approve LVZA 2010-0003 Amending Lovettsville Zoning Ordinance Section 4-8 (Outdoor Swimming Pools, Hot Tubs And Spas)

**PUBLIC HEARING NOTICE
TOWN OF PURCELLVILLE**

The Purcellville Town Council will hold public hearings in the Council Chambers located at 130 East Main Street, Purcellville, Virginia on Tuesday, November 9, 2010 at 7:00 PM for the purpose of receiving comments on the following:

1. **FY 2010/2011 Legislative Agenda** - The Town of Purcellville has recommended the following Legislative Agenda which will be forwarded to our elected officials in Richmond:

a. **Amendment to Bar** - The Town of Purcellville has recommended that our Board of Architectural Review be expanded to seven members with maximum flexibility to include our business community and additional out of Town professionals and business owners. This will allow the Town Council to have maximum flexibility on setting the number of members and composition of the Board in the future.

b. **Distribution of Gas Taxes And Transportation Funding** - The Town has requested equitable distribution of transportation funding specifically the gas taxes which are collected within specific jurisdictions and returned to the State only to be redistributed to the Counties and Cities without the Towns receiving any share of this distribution. It is the desire of the Town to ask the General Assembly to implement modifications to this taxing process to insure that Towns that maintain their own street systems receive a fair share based on the sales that occur within the community and potential needed capital projects.

c. **Additional Street Maintenance Funding** - When Towns reach 3,500 residents under the Code of Virginia, they are required to take over mandatory maintenance of their secondary road system. There are no opt out clauses in this current legislation and many communities were forced to accept substandard roads or bridge systems that resulted in substantial capital costs above and beyond the normal maintenance fees that are allocated to a community based on lane miles. Legislation should be introduced to require the Commonwealth of Virginia to reimburse communities who have to complete significant capital projects in order to bring up the transportation infrastructure system to an acceptable minimum level. This should result in additional maintenance payments or credits given to localities.

d. **Enhanced Pedestrian Crosswalk Laws** - The Town of Purcellville supports the Northern Virginia initiative to strengthen the laws to make it mandatory that all vehicles stop for pedestrians in the crosswalk.

2. **Proposed Town Code Ordinance Chapter 78, Article VI, Traffic Emergency Routes, Sections 300-301** - The Town of Purcellville hereby gives notice of its intent to adopt Chapter 78, Article VI, Traffic Emergency Routes, Sections 300 thru 301 to the Purcellville Town Code. This action is authorized by Code of Virginia of 1950, as amended, §46.2-1302 authorizing a locality to adopt an ordinance to regulate the operation of vehicles in the event of snow, sleet, hail, freezing rain, ice, water, flood, high wind, storm or the threat thereof.

3. **Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (Safe-T-FLEX)** - Review of an application to the Virginia Department of Transportation for additional funding for improvements to North 21st Street and North 23rd Street identified as Phases 1 and 2 of the Downtown Streetscapes Master Plan. The grant application requests additional funding for traffic and pedestrian safety improvements and landscaping enhancements. This project is a multi-phased plan to enhance the safety and design of the historic downtown business district in the Town of Purcellville bounded by North 23rd, North 21st and West Main Streets.

Copies of documents related to the above are available for inspection and copying at the Purcellville Town Hall during the hours of 8:00 AM to 5:00 PM, Monday through Friday, holidays excepted.

At this hearing, all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations are requested to contact Jennifer Heiber, Town Clerk at 540-751-2333 three days in advance of the meeting.

Robert W. Luzzaro, Jr., Mayor October 22 & 29, 2010

**TOWN OF PURCELLVILLE
REQUEST FOR SEALED BIDS
DISPOSAL OF SURPLUS PROPERTY**

The Town of Purcellville has deemed the following property as surplus and is offering approximately 175 lots of office equipment and furniture, public works equipment, computer monitors and printers, Maas Cathedral chairs, bicycles and three vehicles for sale to the public by sealed bid. The three surplus vehicles for sale include a 1996 Ford F150 XLT truck (manual), 1999 Ford Crown Victoria and a 2002 Ford Dodge Intrepid (police packages). An inventory list, bid specifications and related forms may be picked up at the Town Office or downloaded from the Town website at www.purcellvilleva.gov. Public inspection of vehicles will occur on Monday October 25th, 2010, rain or shine, from 1:00 PM to 4:00 PM, at the old Town Shop, 785 South 20th Street, Purcellville, Virginia. All potential bidders are strongly encouraged to attend the property viewing prior to submission of a bid. All Sealed bids must be submitted no later than 12:00 PM on Tuesday October 26th, 2010 at the Purcellville Town Office, 130 E. Main Street, Purcellville, Virginia. Please note that the Town reserves the right to refuse any and all bids or to remove a lot from the sale at any time. Payment must be by cash, money order, certified or cashier's check only. No personal checks or credit cards accepted. For further information please contact Scott Miller at 540-751-2349 or Marty Klobeden at 540-751-2345 or email smiller5@purcellvilleva.gov. All potential bidders please note that all property is sold on a strictly "as is, where is" basis with no warranty or guarantee of any kind, whatsoever, expressed or implied. There will be no refunds. All purchased property and vehicles must be removed from Town property by 2:00 PM Thursday, October 28th, 2010. Purchased property and vehicles that are not removed on time may be sold to any interested party thereafter or otherwise disposed of by the Town.

**PUBLIC HEARING NOTICE
TOWN OF PURCELLVILLE**

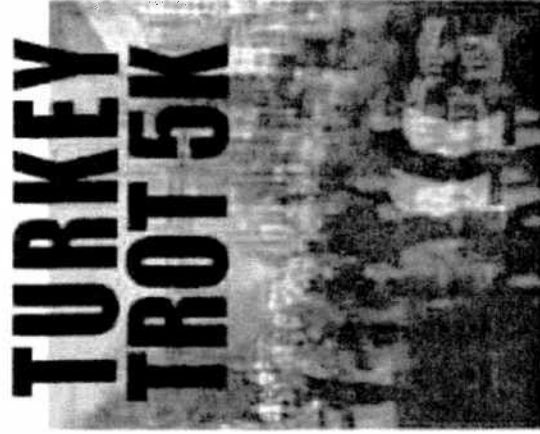
The Purcellville Planning Commission will hold a public hearing in the Council Chambers at 130 East Main Street, Purcellville, Virginia on Thursday, November 4, 2010 at 7:00PM for the purpose of receiving comments on the following application:

1. **CP10-02, Temporary Classroom Trailers Loudoun Valley High School** - The Planning Commission is considering an application by Loudoun County Public Schools for a Commission Permit to maintain use of ten existing temporary classroom trailers at Loudoun Valley High School, 340 N. Maple Avenue. The trailers are proposed to continue in use at their current locations as temporary classrooms until the summer after the 2011 graduation.

Additional information regarding this application is available for review at the Town Hall, 130 East Main Street, Purcellville, Virginia from 8:00 AM to 5:00 PM, Monday-Friday, holidays excepted.

Hearing assistance is available for meetings in the Town Council Chambers. If you require any type of reasonable accommodation, as a result of a physical, sensory or mental disability, to participate in this meeting, contact the Town Clerk at 540-338-7421. Please provide three days notice.

Dennis Beeve, Chairman October 22 & 29, 2010



PURCELLVILLE
LOUDOUN VALLEY COMMUNITY CENTER
SUN NOV 7 AT 8AM

www.signmeup.com

**Notice of Public Hearing
Lovettsville Town Council**

The Lovettsville Town Council will hold public hearings on the following item at their meeting on October 28, 2010 at 8:00pm at the Lovettsville Town Hall, 6 East Pennsylvania Avenue.

LYCJ: 2010-0002: Consider a request by Wheeler & Wheeler Inc. with owner's representative Alan Dykstra, for a Conditional Use Permit per Section 3-12(c)(viii) of the Zoning Ordinance to operate a lawn care, light excavation and snow removal facility with outdoor storage on the property located at 19 East Broad Way East Broad Way and identified as Loudoun County PIN 333154704 & 333155813.

The application being considered is available for review at the Town Hall between the hours of 9AM and 3PM weekdays or by special appointment, holidays excepted. Call 540-822-5788 for more information or visit www.lovettsvilleva.gov.

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Town of Lovettsville

STAFF REPORT

TOWN COUNCIL

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

APPLICANT PROPOSAL:

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

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

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

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

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

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

ZONING ORDINANCE REGULATIONS:

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

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

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

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

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

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

TOWN PLAN POLICIES:

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

Land Use Chapter VII states under Goals:

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

Land Use Chapter VII states under Objectives:

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

Land Use Chapter VII states under Policies:

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

Business Development Chapter V states under the Goal section:

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

Business Development Chapter V states under Objectives:

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

Business Development Chapter V states under Policies:

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

ANALYSIS:

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

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

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

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

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

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

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

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

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

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

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

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

PLANNING COMMISSION RECOMMENDATION:

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

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

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

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

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

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

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

Town of Lovettsville

Speaker Sign - Up Sheet

Town Council Public Hearings and Regular Meeting - October 28, 2010

Please Print.

Name and Association	Address	Topic	Email Address (Optional) ¹
✓ Howard Williams	12609 LUTHERAN OH. RD	DYKSTRA / CUFFELER	
Sharon CARL CHRISTENSEN SHENANDOAH VALLEY YOUNG MARRIAGES	39206 TILDAHOUSE RD, LOVETTSVILLE	RED RIBBON WEEK	kenlehrrs@aol.com
✓ Rob Miller	5 Park Place VA Lovettsville VA	Dykstra	
✓ Amanda Staley	28 Triton Place	Dykstra	amsstaley@ieee.org
✓ Marcia Fugart	10. S. Loudon St		veruv333@cal.com
✓ David Sisk	12 Park Pl.	Dykstra	
✓ Tracey Sente	8 S. Loudon St.	Dykstra/Wheler	tracey10712@msn.com
✓ Paul Fletcher	13 Park Place	Dykstra/Wheler	gfletcher@ccn.net

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.

¹ If you provide your email address, you will be added to the Town Council & Planning Commission Meetings Notification List.

Town of Southville

Speaker Sign - Up Sheet

Town Council Public Hearings and Regular Meeting - October 28, 2010

Please Print.

Name and Association	Address	Topic	Email Address (Optional)?

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.

² If you provide your email address, you will be added to the Town Council & Planning Commission Meetings Notification List.

Town of Lovettsville

**Ordinance 2010-10-02: APPROVING CONDITIONAL USE PERMIT LVCU 2010-0002
FOR LAWN MOWING, SNOW REMOVAL AND LIGHT EXCAVATION
WHEELER & WHEELER, INC. AT 19 EAST BROAD WAY**

MOTION: Senate
SECOND: Carder

WHEREAS, Wheeler & Wheeler, Inc. by Alan Dykstra submitted a Conditional Use Permit application seeking approval of a lawn mowing, snow removal and light excavation business to be located on property identified as 19 East Broad Way, Parcel Identification Numbers 333155813 and 333154704 located within the C-1 Commercial Zoning District which authorizes retail sales and/or service with outdoor storage with approval of a conditional use permit; and

WHEREAS, the Lovettsville Planning Commission held a public hearing on the said application on October 6, 2010, pursuant to notice duly advertised in accordance with the provisions of *Va. Code* § 15.2-2204, and recommended approval of the application, subject to certain conditions; and

WHEREAS, the Lovettsville Town Council conducted a public hearing on the application October 28, 2010, pursuant to notice in accordance with the provisions of *Va. Code* section 15.2-2204; and

WHEREAS, Town Council finds that approval of the Conditional Use Permit, appropriately conditioned, is consistent with the objectives of the C-1 District, and will promote the public health, safety and welfare of the Town and its citizens; and is consistent with good zoning practice.

NOW, THEREFORE, BE IT ORDAINED by the Lovettsville Town Council that the Conditional Use Permit application LVCU 2010-0002 by Wheeler & Wheeler, Inc. for establishing a lawn mowing, snow removal and light excavation business on the property identified above, be approved, subject however to the following conditions:

1. The subject property (PIN 333155813 and part of PIN 333154704) be used for a lawn mowing, snow removal and light excavation business.
2. Hours of operation shall only be 7AM-8:30PM, Monday-Saturday; and 1PM-5PM, Sunday.
3. An eight-foot opaque fence shall be installed and maintained around the perimeter of lot 2, the rear lot to enclose the equipment stored outdoors. A two-foot clearance shall be maintained between the fence and the property boundary for maintenance purposes.
4. Rail ties shall be placed around the perimeter of lot 2, the rear lot, at a distance of at least five feet from the fence, to prevent vehicles from being too close to the fence.
5. The fenced area in which the equipment is stored outdoors shall be locked when the site is unattended or the business is closed.
6. There shall be a minimum of twelve parking spaces for employees that shall be marked by wheel stops or rail ties. These wheel stops or ties shall not be closer to the fence than five feet.

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7. Buffer yard and landscaping requirements of the Zoning Ordinance are waived, except for establishing and maintaining landscaped areas consisting of boxwoods and lirioppe (i) on west property line where existing railroad ties already exist approximately 42" from existing fence and (ii) approximately 48", in front of new fence on west side of new fence on west side of garage.
8. Prior to issuance of any zoning or occupancy permit, the applicant shall clean out, and thereafter maintain, the storm drain located on the rear of the east side of the property.
9. The garage will house office space ancillary to the business and some storage space for related equipment.
10. Lighting for the outdoor storage of equipment shall be mounted on the rear of the existing garage. It will be designed so that it is directed downward and does not create spillage off-site and it will have a low level of brightness.
11. All delivery trucks will load and unload on-site.
12. This conditional use permit is not transferable to any other type of business.
13. This conditional use permit is subject to review if valid complaints about the operation of the business are made to the Town.
14. The equipment stored outdoors on the site shall be limited to two tractor loaders with backhoe and miscellaneous attachments; two skid loaders with miscellaneous attachments; five pickup trucks with snow blades; three company vehicles (one is a debris-hauling truck); two equipment trailers; one hay wagon; one hay ride wagon; five landscape trailers; six riding mowers; seven walk-behind mowers; ten snow blowers; miscellaneous tools to include snow shovels, weed eaters, blowers, rakes, pruning equipment, edgers, pressure washers and other related small equipment.
15. Vehicle engines shall not be allowed to idle for more than ten (10) minutes while on site.
16. All improvements required in these conditions shall be maintained in good condition.

VOTE:

AYES: Carder, Coleman, Senate


NAYS: Staley, Zoldos

ABSTENTIONS: None

ABSENT FOR VOTE: Dockum

Adopted this 28th day of October, 2010.


ELAINE WALKER, MAYOR


JUDY L. KROMHOLZ, TOWN CLERK

Town of Lovettsville

MEMORANDUM

TO: Mayor and Town Council

FROM: Stephen E. McGregor, Zoning Administrator

DATE of MEETING: October 28, 2010

SUBJECT: **LVZA 2010-0003 Outdoor Swimming Pools, Hot Tubs
And Spas – Zoning Ordinance Amendment**

PURPOSE: To provide revised text for one of the proposed regulations for swimming pools, hot tubs and spas so the Town Council may take action on this item.

BACKGROUND: On October 14 the Town Council held a public hearing on this item, which is designed to amend the regulations for swimming pools, hot tubs and spas. In their discussion the Council found paragraph (b) confusing and asked staff to rewrite it so that the intent is clear.

RECOMMENDATION: The following complete proposed text is recommended to show that paragraph (b) is revised and a new paragraph (c) is created:

4-8 ~~PRIVATE~~ OUTDOOR SWIMMING POOLS, HOT TUBS AND SPAS

A zoning permit shall be required and granted for the installation or construction of a temporary, permanent, public or private, in-ground or above ground outdoor swimming pool, hot tub or spa with a water depth of two (2) feet or more in any zoning district, subject to the following conditions:

- (a) In residential districts and the residential portions of districts that allow residential use an outdoor swimming pool, hot tub or spa shall only be located in a ~~may be erected on the required rear yard but not in the required side or front yard.~~ A swimming pool, hot tub or spa is permitted in a front yard on a through lot only if it is located in the front yard opposite the front entrance of the principle structure on the lot.
- (b) An outdoor swimming pool, hot tub or spa that is not located on a deck in a residential district, or in the residential portion of districts that allow residential use, shall ~~not be set back at least~~ located nearer than ten (10) feet to from a property boundary.

- (c) A hot tub or spa that is located on a deck in a residential district, or in the residential portion of districts that allow residential use, shall have the same setback as that allowed for the deck.
- (d) In commercial districts and the light industrial district a swimming pool, hot tub or spa is permitted to be located in a front, side and rear yard. Such facilities shall be set back at least fifty (50) feet from an adjacent residential district or from any district that allows residential use by right. Such facilities shall be set back at least ten (10) feet from any adjacent non-residential district.
- ~~(c) Any pool with a surface of one hundred fifty (150) square feet or more or a depth in excess of two (2) feet shall be completely surrounded by a fence or wall six (6) feet in height designed to prevent access thereto by small children and animals.~~
- ~~(d) All gates or doors opening through said fence shall be erected, maintained and provided with a self-closing, self-latching gate to prevent unauthorized use of the pool.~~
- ~~(e) All electrical wiring used in conjunction with such pool shall be installed below the ground or in a conduit to the nearest point of use. All wiring shall be waterproof. All connections shall be waterproof. All electric motors, lights, pumps, and like items shall be properly grounded.~~

DRAFT MOTION: "I move that the Town Council pass the draft ordinance as presented amending the Zoning Ordinance as shown in item LVZA 2010-0003 Swimming Pools, Hot Tubs and Spas, dated October 28, 2010."

Town of Lovettsville

Ordinance No. 2010-10-03:

APPROVE LVZA 2010-0003 AMENDING LOVETTSVILLE ZONING ORDINANCE SECTION 4-8 OUTDOOR SWIMMING POOLS, HOT TUBS AND SPAS)

MOTION: CARDER
SECOND: COLEMAN

WHEREAS, on June 24, 2010, the Town Council re-referred a request by the Zoning Administrator for a zoning text amendment to section 4-8 of the Lovettsville Zoning Ordinance to update regulations pertaining to outdoor swimming pools to the Planning Commission for its review and recommendation in order to reconcile the provisions with pending text amendments addressing deck setbacks and to address outdoor hot tubs and spas as well as swimming pools; and

WHEREAS, the Lovettsville Planning Commission conducted a public hearing on the proposed amendments September 1, 2010, 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 text amendments section 4-8, including its caption in order to accomplish the said goals; and

WHEREAS, following a public hearing on October 14, 2010, advertised in accordance with the aforesaid code provision, 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.

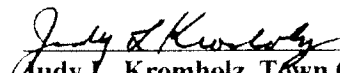
NOW, THEREFORE, BE IT ORDAINED by the Lovettsville Town Council that section 4-8 of the Zoning Ordinance be repealed and reenacted as set forth in the text attached hereto, dated October 28, 2010.

VOTE:

Ayes: CARDER, COLEMAN, SENATE, STALEY, ZOLDOS
Nays: NONE
Abstentions: NONE
Absent for vote: DOCKUM

APPROVED October 28, 2010


Elaine Walker, Mayor


Judy L. Kromholz, Town Clerk

The German Settlement

4-8 PRIVATE OUTDOOR SWIMMING POOLS, HOT TUBS AND SPAS

A zoning permit shall be required and granted for the installation or construction of a temporary, permanent, public or private, in-ground or above ground outdoor swimming pool, hot tub or spa with a water depth of two (2) feet or more in any zoning district, subject to the following conditions:

- (a) In residential districts and the residential portions of districts that allow residential use an outdoor swimming pool, hot tub or spa shall only be located in a ~~may be erected on the required rear yard but not in the required side or front yard.~~ A swimming pool, hot tub or spa is permitted in a front yard on a through lot only if it is located in the front yard opposite the front entrance of the building on the lot.
- (b) An outdoor swimming pool, hot tub or spa located in a residential district or in the residential portion of districts that allow residential use shall ~~not be set back at least located nearer than ten (10) feet to from a property boundary.~~ If a hot tub or spa is located on a deck its setback may be the same as that allowed for the deck from any property boundary or the same as the primary building if it is not located on a deck.
- (c) In commercial districts and the light industrial district a swimming pool, hot tub or spa is permitted to be located in a front, side and rear yard. Such facilities shall be set back at least fifty (50) feet from an adjacent residential district or from any district that allows residential use by right.
- (d) ~~(e) Any pool with a surface of one hundred fifty (150) square feet or more or a depth in excess of two (2) feet shall be completely surrounded by a fence or wall six (6) feet in height designed to prevent access thereto by small children and animals.~~
- (d) ~~All gates or doors opening through said fence shall be erected, maintained and provided with a self-closing, self-latching gate to prevent unauthorized use of the pool.~~
- (e) ~~All electrical wiring used in conjunction with such pool shall be installed below the ground or in a conduit to the nearest point of use. All wiring shall be waterproof. All connections shall be waterproof. All electric motors, lights, pumps, and like items shall be properly grounded.~~

