

Town of Lovettsville

Planning Commission Minutes of Regular Meeting, October 19, 2011

Chairwoman Bushway called the Regular Monthly Meeting of the Lovettsville Planning Commission to order at 7:30 PM on October 19, 2011.

Present at Meeting

- Mayor Elaine Walker
- Chairwoman Mari Bushway
- Commissioners Lorraine Bauer, Jack Burden, Elaine Fischer, Rodney Gray, Aaron Kahn, Deborah Summitt
- Town Manager Keith Markel
- Zoning Administrator Steve McGregor
- Town Clerk Judy L. Kromholz

Absent

None

Present In the Audience

Council members Sparbanie and Coleman were present.

Public Comment

Chairwoman Bushway stated that she would postpone Public Comment on the Waiver of Landscaping, Buffering and Screening Regulations for a Montessori School at 4A South Church Street until after the presentation on that topic was made. There was no public comment on any other item.

Additions/Deletions/Modifications to the Agenda

Chairwoman Bushway called for changes to the agenda. Administrator McGregor requested that the items related to Lovettsville Town Center be handled first and the Commission agreed.

Approval of Planning Commission Minutes

Planning Commission Meeting – August 3, 2011

Motion: To approve the minutes of the August 3, 2011 Planning Commission Meeting as presented.

By: Chairwoman Bushway

Second: Commissioner Kahn

Aye: Commissioners Bauer, Bushway, Fischer, Gray, Kahn

Nay: None

Abstain: Commissioners Burden, Summitt

Absent: None

Staff Reports

Administrator McGregor presented his written report for September 2011. There were no questions.

Action Items

A. Lovettsville Town Center, Section 4 (residential) – Construction Drawings

Administrator McGregor presented this item. Bowman Consulting, engineering firm for the applicant, Town Center Lovettsville, LC, submitted construction drawings for Section 4 of the Lovettsville Town Center, dated November 1, 2010. The application was submitted for review to Loudoun Water, Virginia Department of Transportation, the Loudoun County Department of Building and Development, Erosion and Siltation section, the Loudoun County Department of Fire, Rescue and Emergency Management, and

Christopher Consultants, the Town Engineer, as required in Section 2.8.3 of the Subdivision Ordinance. The application went through a process of three submissions before all the issues raised by reviewing agencies and entities, including the Town, were resolved. He reported that this application has no outstanding issues as a result of the revisions provided by the applicant in response to the agency and other entity review.

- Motion:** I move that the Planning Commission approve the Lovettsville Town Center Section 4 Construction Drawings, dated November 1, 2010, and revised September 21, 2011, as presented by Elm Street Development, Inc. and their representative, Bowman Consulting.
- By:** Commissioner Gray
- Second:** Chairwoman Bushway
- Aye:** Commissioners Bauer, Burden, Bushway, Fischer, Gray, Summitt
- Nay:** None
- Abstain:** Commissioner Kahn
- Absent:** None

B. Lovettsville Town Center, Section 3 – Record Plat

Administrator McGregor presented this item. He explained that Bowman Consulting, engineering firm for the applicant, Town Center Lovettsville, LC, submitted construction drawings for Section 3 of the Lovettsville Town Center, dated November 23 2010. The application was submitted for review to the Virginia Department of Transportation, Christopher Consultants, the Town Engineer; and the Town Attorney. This application has no outstanding issues as a result of the revisions provided by the applicant in response to the reviewing entities. The deed associated with this plat will have to be approved by the Town Attorney and signed by the Mayor before it can be recorded.

- Motion:** I move that the Planning Commission approve the Lovettsville Town Center Section 3 record plat, dated November 23, 2010, revised June 13, 2011, as presented by Elm Street Development, Inc. and their representative, Bowman Consulting.
- By:** Vice Chairman Burden
- Second:** Commissioner Bauer
- Aye:** Commissioners Bauer, Burden, Bushway, Fischer, Gray, Summitt
- Nay:** None
- Abstain:** Commissioner Kahn
- Absent:** None

C. 4A S. Church Street – Waiver of Landscaping, Buffering and Screening Regulations for a Montessori School

Administrator McGregor presented this item. The Commission is being asked to take action on a request for waiving certain landscaping, buffering and screening regulations for a conversion of use permit. He explained that the owner of the property at 4A S. Church Street, Irfan Idrees, and his prospective tenant for a Montessori School, Allison Harteis, is requesting a conversion of use permit to allow a Montessori School to operate out of the existing house at the rear of the lot near Woodbriar Drive. The project area excludes some of the lot fronting on South Church Street where there is a vacant dwelling unit and garage. The lot is zoned C-1 for commercial use and the school is permitted by right. The proposed use, although a commercial enterprise, is not retail or similar type of commercial activity but an institutional use. Under the conversion of use regulations in Section 10-5 (d) the applicants are required to comply with the provisions of the Zoning Ordinance, which includes the landscaping, buffering and screening regulations in Article 6. The applicants wish to have some of the regulations waived as they feel these are not necessary to protect adjacent residential neighborhoods from activities associated with the school. The Zoning Ordinance in Section 6-10 states that the Planning Commission may approve alternative proposals that deviate from the requirements of Article 6, Landscaping, Buffering and Screening; whenever it concludes that the proposal meets or exceeds the standards of this section.

The existing structure that will be used for the school is 30 feet from the rear of the lot and about 270 feet from South Church Street. The applicants feel that the entire length of their project area does not need to comply entirely with the required landscaping, buffering and screening regulations. The existing driveway and structure are within the required 25 foot buffer yard on the southern boundary of the project

area. This prevents planting the entire buffer yard. They proposed to plant all of the area within 25 feet of the boundary exclusive of the driveway. They are proposing that a portion of the play area be located within the 25 foot buffer yard along the northern boundary of the project area. The plantings they propose are less than required.

The applicants propose that no plantings or screenings be provided in the front yard adjacent to Woodbriar Drive on the basis that the front entrance to the structure is not oriented in that direction but to South Church Street and no activities will take place in that yard and it will remain the same visually from the adjacent neighborhood. Essentially, it functions as a rear yard. The applicants do not feel the parking area needs to comply with the parking lot landscaping regulations in Section 6-4 because of the distance between the parking lot and the project area boundary. They feel the buffer yard landscaping along the southern project area boundary would provide sufficient screening from adjacent residential neighborhoods.

Administrator McGregor explained that if the Planning Commission chooses to approve the waiver of the landscaping, buffering and screening regulations requested by the applicants for their conversion of use permit, the Zoning Administrator will approve the permit. If these waivers are granted they will not be in effect under a new conversion of use permit (for a use other than a school for small children) or a conditional use permit.

Chairwoman Bushway recognized the applicant, Allison Harteis to further explain her proposal. She stated that her hours of operation will be 8:30 AM – 2:00PM. Administrator McGregor explained that the primary reason for narrowing the buffer width is to allow use of the existing driveway, noting that the applicant will be installing a 30' improved entrance as required by VDOT.

Administrator McGregor reiterated that this is a by-right improvement, except for the buffering exception the applicant is requesting. He also noted that she is asking to be allowed to do the planting in the spring, the next planting season and that date will be included in the Conditional Use Permit.

Commissioner Summit asked if the playground will have equipment or open space, Ms. Harteis stated that there will be some equipment which will be limited in height by State requirements for this age group.

Administrator McGregor explained that, because the houses on this property have been vacant for more than two years, they cannot be re-occupied as residential without rezoning. Therefore the other part of the lot can only be used for commercial application as well.

Chairwoman Bushway called for public comment on this item at this time (Attachment I: Speaker Signup Sheet).

1	Councilwoman Charlotte Coleman	Her driveway is directly across the road from this property. She stated that the front house on the property had been occupied up until about a month ago. She is concerned about the increased traffic during drop off and pick up and asked if a traffic impact study has been done.
2	Councilman Tim Sparbanie	Expressed concern about the possibility of dumpsters being located on the property and where they would be located. He noted that he lives behind the rear of this property and asked if there would be additional traffic coming from the rear of the property. He stated that the surrounding neighbors are concerned about the plantings.
3	David Fawley	Stated that this use will generate about 60 car trips per day about 25 feet from his front door. He had no problem when he thought this would be a doctor's office, but this application will generate much more traffic. He stated that the buffer plantings are necessary.
4	Lorrain Leckliter	Ms. Leckliter is very concerned with the additional traffic. Asked why neighbors were not notified sooner and why this property is zoned commercial when it is surrounded by residential zoning. She stated that neighbors should be better informed.
5	Kristen Huggler	Ms. Huggler lives on the property to the right of the subject property. She

		has recently found out that the property used to be a junkyard and is concerned about the environmental impact on a school. She has heard that the owner has plans for the front portion of the property which would generate even more traffic. While the school may be an ideal application, she definitely feels the buffering and screening are required.
6	Dennis O'Keefe	Mr. O'Keefe stated that he echoed the concerns of his neighbors. He stated that when he wanted to extend his deck beyond the end of his house he was summarily denied; this is a similar request to waive zoning requirements. He does not agree that a school is an ideal application, noting that it would generate 60 round trips a day. He feels there should be as much buffering as possible. Ms. Harteis stated that she is not requesting a waiver on the sides of the lot and that she will plant the required amount of buffering, just placing it in the narrower area she is requesting. Mr. O'Keefe also asked why they are limited to a three foot fence in the front yard, noting that most of the schools he has seen have much higher fences. He also expressed concern about headlights shining into his property. Ms. Harteis noted that her school will be operated only during daylight hours. She stated that she wants to be a good neighbor and will do whatever she can to alleviate her neighbors' concerns. Mr. O'Keefe stated that it is just really a lot of additional traffic.

Commissioner Bushway noted that everyone who had signed up to speak had done so. She asked if anyone else in the audience wished to speak and they did not. She then called for comments from the Commissioners.

Commissioner Gray stated that he lives in the area and he believes headlights would be pointed straight up when coming in the driveway.

Commissioner Kahn stated that he is hearing a lot of concerns that are not involved with the buffering issue and noted that this is a commercial property and has been for many years. Any commercial application will involve increased traffic. He stated that the Planning Commission cannot take away the landowners right to use his property. Commissioner Kahn noted that this application will only involve two sets of trips each day; another application might generate traffic at all hours. He stated that he believes a school is better than a lot of other by-right uses that might have been proposed.

Mr. O'Keefe stated that the neighbors are concerned about the waiver for screening stating that a school needs more buffering than most other businesses.

Chairwoman Bushway confirmed that all of the required buffering would be installed; the waiver would only grant that it be installed in a compressed area.

Commissioner Bauer asked if the driveway could be angled away from the adjacent property thereby allowing a bigger buffer area and angling headlights away from adjacent houses. Commissioner Gray agreed that moving the driveway entrance would improve the situation.

Mr. O'Keefe asked what would be required to get the zoning changed from commercial to residential. Administrator McGregor stated that this could constitute a "taking" from the property owner and it would be very expensive and it would probably go to court. Commissioner Kahn stated that this would be easy if the property owner requests the change but if the Town tried to do it the courts almost universally say it is a taking.

Chairwoman Bushway asked what procedures were in place for notifying the public of these hearings. Manager Markel stated that there is no legal requirement to hold a public hearing or to notify adjoining or adjacent properties because it is a by-right use. This application is simply a request for a waiver on the required buffering. He noted that if the Planning Commission takes action on this item tonight, this would be the final action on the matter.

Commissioner Gray asked if the buffer could be partially waived noting that the existing paved driveway is in the required buffer area and pavement cannot be landscaped.

Commissioner Summitt stated for the record that the landowner of this property is her personal physician.

Commissioner Fischer stated that she is torn as to what would be the fair thing for both the neighbors and the applicant. She stated that she cannot think of a happier sound than children playing. She shares the resident's concern about the impact on traffic, but noted that is not why they are discussing this application. She stated that she would like to see the driveway moved because it would give the neighbors more of a buffer.

Chairwoman Bushway asked Mrs. Harteis how feasible it would be to move the driveway and Mrs. Harteis stated that she has not investigated that possibility. Chairwoman Bushway stated that she would like to see the driveway moved, but does not want to negatively impact the arrival of a new business in the Town. Manager Markel stated that the Commission could table this item and ask Mrs. Harteis to return with accurate measurements for the buffer, without requiring tearing up the driveway.

Commissioner Burden stated that he does not perceive enough gain from moving the driveway, given that there would be the same amount of planting and it would be a major endeavor. He noted that the property owner is also his personal physician. Commissioner Burden also stated that he recognized the limited scope of this application as explained by Commissioner Kahn and given that the Zoning Administrator has agreed to work with the applicant to adjust the plantings in the buffer to maximize its effect.

Motion: "I move that the Planning Commission approve the waivers requested for landscaping, buffering and screening associated with a conversion of use permit application by Irfan Idrees and Allison Harteis for a Montessori School.

By: Vice Chairman Burden

Second: Commissioner Kahn

Chairwoman Bushway called for further discussion. Commissioner Gray stated that as a neighbor he is pleased that this is the proposed use for the property; however, the fact is that this is a main entrance to a facility and he wants to see that the entrance to the property meets the existing zoning requirements. He is willing to compromise further back on the property, but believes that the entrance should meet the requirements and should not be that close to another residence.

Commissioner Bauer agreed with Commissioner Gray, noting that a few feet can make a large difference. She does favor the Montessori school use of the property. Commissioner Kahn stated that 25 feet is an artificial number and the concerns of the neighbors are traffic and light pollution which the Planning Commission cannot do anything about. He suggested that a 6' opaque fence will take care of a lot of the light pollution but the neighbor has stated that he does not like that solution either.

There being no further discussion, Chairwoman Bushway called for the vote.

Aye: Commissioners Burden, Bushway, Fischer, Kahn, Summitt

Nay: Commissioner Gray

Abstain: Commissioner Bauer

Absent: None

Discussion Items

There were no Discussion Items on the agenda.

Information Items

There were no Information Items on the agenda.

Comments from the Commissioners

Chairwoman Bushway called for comments from the Commissioners.

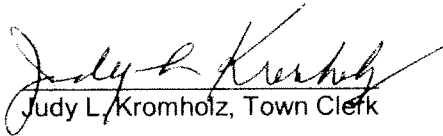
Chairwoman Bushway welcomed Commissioner Summitt and thanked her for volunteering her service to the Town.

Adjournment/Recess

Motion: To adjourn the Planning Commission meeting of October 19, 2011
By: Chairwoman Bushway
Second: Commissioner Fischer
Aye: Commissioners Bauer, Burden, Bushway, Fischer, Gray, Kahn, Summitt
Nay: None
Abstain: None
Absent: None

The Meeting was adjourned at 9:00 P.M.

Respectfully submitted,



Judy L. Kromholz, Town Clerk

Date Approved: January 4, 2012

Attachments:

- I. Speaker Sign Up Sheet
- Written Submissions to Commission: None

Town of Southfield

Speaker Sign - Up Sheet

Planning Commission Regular Meeting - October 19, 2011

Please Print.

Name and Association	Address	Topic - Please Indicate Public Hearing or Other
Marjorie Coleman	19 S. Berlin Pike	44 S. Hurrott Montessori
Jim Sparbaria	1 Oakfield Drive	4 A S. Church
DAVID FAULEY	6 SOUTH CHURCH ST.	4 A S. CHURCH
LORRAINE LEKITER	9 S. CHURCH ST	4 A S. CHURCH ST.
Kirstin Hugobor	2A S. Church St.	4A. S. Church St.
DENNIS O'KEEFE	7 BETHLEHEM Cn.	''

Each speaker will be limited to no more than three (3) minutes.