

Town of Lovettsville

Planning Commission

Minutes of Public Hearing and Regular Meeting, November 2, 2011

The Public Hearings of the Lovettsville Planning Commission on LVZA 2011-0003 Home Occupation Regulations and LVZA 2011-0002 Retirement Community R-C Zoning District Amendment were called to order by Chairwoman Mari Bushway on Wednesday, November 2, 2011 at 7:32 P.M. at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180.

Welcomes and Introductions

Chairwoman Bushway welcomed the citizens attending the meeting and thanked them for coming. She introduced Mayor Walker and Planning Commissioners Lorraine Bauer, Jack Burden, Elaine Fischer, Rodney Gray, Aaron Kahn and Deborah Summitt. She also introduced Town Manager Keith Markel, Zoning Administrator Steve McGregor and Town Clerk Judy Kromholz.

Absent

None

Explanation of Procedures and Opening of Hearings

Chairwoman Bushway read the Public Notice of this Public Hearings as it appeared in the *Purcellville Gazette* on October 2, 2011 and October 15, 2011 (Attachment I: Public Notice).

Presentation

Administrator McGregor explained the background of LVZA 2011-0003 Home Occupation Regulations (Attachment II: Staff Report). He noted that it should be section 3-1, not 3-5 that is to be modified in the staff report.

Public Speakers

Vice Chairman Burden read the rules for public comment. Chairwoman Bushway introduced the speakers in the order in which they had signed up to speak.

- 1 Bing Lam Mr. Lam spoke regarding LVZA 2011-0003. He stated that where he lives the streets are narrow and there are existing parking problems. He is not opposed to having people work in their homes, but if there is an employee there is another car on the street. He stated that his neighbor works in his garage and parks two cars on the street. Mr. Lam stated that if the streets are made 26' wide, then the Town could allow an additional car. He would like to see a modification to the requirement to have a parking space on site.
- 2 Mrs. Fitt (applicant) Mrs. Fitt stated that she recognizes that her home occupation proposal would present challenges to the entire community and does not just involve her proposed business. However, she reminded the Commission that her business will remain a small family business and they have no intentions of expanding beyond their immediate family.

Chairwoman Bushway asked if the Commissioners had any questions for the speakers. Vice Chairman Burden asked Mr. Lam if he was objecting to allowing one additional car to be parked on the street. Mr. Lam stated that he is objecting to adding any cars on the street in his development because of the narrowness of the street. If his neighbor's business is allowed to grow and add an employee, that employee may add yet another car to the street.

Chairwoman Bushway confirmed that no other members of the audience wished to speak. There being no further speakers, Chairwoman Bushway declared the hearing closed at 7:44 PM.

Chairwoman Bushway called the Regular Meeting of the Lovettsville Planning Commission to order at 7:47 PM.

Changes in Present at Meeting

None

Public Comment

Chairwoman Bushway called on the public for comment on any other issues. There were no additional speakers.

Additions/Deletions/Modifications to the Agenda

Chairwoman Bushway called for changes to the agenda. There were none.

Approval of Planning Commission Minutes

No minutes were presented.

Staff Reports

No staff report was presented.

Action Items

A. LVZA 2011-0003 Home Occupation Regulations

Chairwoman Bushway called for discussion.

Administrator McGregor noted that when the streets in Lovettsville Town Center go into the State maintenance system, parking will only be allowed on one side of the street.

Commissioner Fischer stated that the Town cannot dictate how many cars one house can have and that trying to enforce such an ordinance would be problematic. She also stated that it would be unfair to allow an employee and require a parking space based on what street the applicant lived on.

Vice Chairman Burden noted that there are existing regulations that do not allow a homeowner to expand their parking for an employee. Commissioner Kahn agreed that it would be impractical to enforce any regulations governing the number of vehicles allowed.

Motion: I move that the Planning Commission recommend modification of Section 3-1 (b)(v) Home Occupations, (A), to read:
"~~No employees other than the Residents of the dwelling and one non-resident employee~~, shall be permitted to be engaged in a home occupation business such employment."

By: Vice Chairman Burden

Second: Commissioner Fischer

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

Nay: Commissioner Summitt

Abstain: Commissioner Kahn

Absent: None

Manager Markel stated that this will before Council on December 8, 2011.

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

Administrator McGregor noted that the definition of elderly person on page 11 of his Staff Report should be corrected to say 55 years of age.

Chairwoman Bushway called for comments from the Commissioners. There were none.

Motion: I move that the Planning Commission recommend approval of the draft text presented in item LVZA 2011-0002 Retirement Community R-C Zoning District as presented in the November 2, 2011 staff report with the modification noted by Administrator McGregor.

By: Chairwoman Bushway
Second: Commissioner Bauer
Aye: Commissioners Bauer, Bushway, Burden, Fischer, Gray, Kahn, Summitt
Nay: None
Abstain: None
Absent: None

Manager Markel stated that this will also go to Town Council on December 8, 2011.

Discussion Items

There were no discussion items on the agenda.

Information Items

Manager Markel informed the Commission that the Town Council has approved their work plan as discussed.

Commissioner Fischer asked about the progress of the Veterans Memorial. Manager Markel informed the Commission that construction is on schedule and the dedication ceremony will take place as planned on November 11th.

Comments from the Mayor and Commissioners

Chairwoman Bushway called for comments from the Mayor and Commissioners.

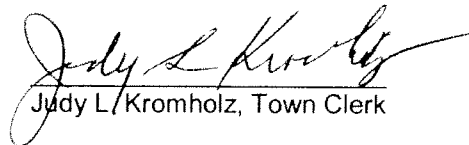
Mayor Walker invited all the Commissioners to the dedication ceremony of the Veterans Memorial in the Town Square on Veterans Day and told them that a wonderful program is being planned. She reported that the Parks Committee is moving along to planning the improvements for the Town Green. Mayor Walker thanked the Commission for approving Mrs. Fitts' application, stating that this will encourage economic development in the Town.

Adjournment/Recess

Motion: To adjourn the Planning Commission meeting of November 11, 2011
By: Chairwoman Bushway
Second: Commissioner Fischer
Aye: Commissioners Bauer, Bushway, Burden, Fischer, Gray, Kahn, Summitt
Nay: None
Abstain: None
Absent: None

The Meeting was adjourned at 8:09 PM.

Respectfully submitted,



Judy L. Kromholz, Town Clerk

Date Approved: January 4, 2012

Attachments:

- I: *Purcellville Gazette* Notice
- II: Staff Report: LVZA 2011-0003 Home Occupation Regulations
- III: Speaker signup sheet
- IV: Staff Report LVZA 2011-0002 Retirement Community R-C Zoning District Amendment

Written Submissions to Commission: None

Public Hearing/Legal Notices

PUBLIC HEARING NOTICE TOWN OF PURCELLVILLE

The Purcellville Town Council will hold a public hearing in the Council Chambers located at 130 East Main Street, Purcellville, Virginia on Tuesday, November 8, 2011 at 7:00 PM for the purpose of receiving comments on the following:

- 1) **A Proposed Change to the Town of Purcellville Charter** - Chapter 6 Section 6.20. Board of Architectural Review (BAR). The purpose would be to allow the Town Council more flexibility in determining the Board of Architectural Review's scope of review. This proposal would allow the Town Council to initiate, approve and/or adopt all design standards and guidelines to be administered by the BAR.

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

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 Helbert, Town Clerk at 540-751-2333 three days in advance of the meeting.

Robert W. Lazaro, Jr., Mayor

PUBLIC HEARING NOTICE TOWN OF PURCELLVILLE

The Purcellville Town Council and Purcellville Planning Commission will hold a joint public hearing in the Council Chambers located at 130 East Main Street, Purcellville, Virginia on Tuesday, November 8, 2011 at 7:00 PM for the purpose of receiving comments on the following:

1. **Proposed Zoning Ordinance Text Amendment** - The Town of Purcellville is considering a proposal to amend the R-3 [Duplex] Residential District to allow Veterinary Clinics and Hospitals for small animals as a use permitted by a special use permit.

This proposed Zoning Ordinance Text Amendment is authorized by Code of Virginia Section 15.2-2285.

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.

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 Helbert, Town Clerk at 540-751-2333 three days in advance of the meeting.

Robert W. Lazaro, Jr., Mayor
Dennis Beese, Planning Commission Chair

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Public Hearing Notice Lovettsville Planning Commission

The Lovettsville Planning Commission will hold a public hearing at 7:30 PM Wednesday, November 2, 2011, to hear comments from any person on the following:

LVZA 2011-0002 Retirement Community R-C Zoning District:

To amend the Town of Lovettsville Zoning Ordinance Article 3, Section 3-6; and Article 4, Table 4-1; and ADD to Article 13, Section 13-2, DEFINITION OF CERTAIN TERMS, definitions for Accessory Community Use, Institutional Use, Nursing Home or Extended Care Facility; and Public Use.

LVZA 2011-0003 Home Occupation Regulations:

To amend the Town of Lovettsville Zoning Ordinance, Article 3, Section 3-1 (b)(v) Home Occupation, so that one non-resident may participate in a home occupation.

The hearing will take place at the Town Office, 6 E. Pennsylvania Avenue, Lovettsville, Virginia 20180. The text under consideration is available for review on the Town's website (www.lovettsvilleva.gov) and at the Town Office between the hours of 9AM and 3PM weekdays or by special appointment. Call 540-822-5788 for more information.

Notice of Public Hearing Town of Lovettsville Board of Zoning Appeals

Appeal of Oliver and Patsy Frye
The Lovettsville Board of Zoning Appeals will hear an appeal by Oliver and Patsy Frye, of a notice of violation and correction order issued by the Zoning Administrator dated August 30, 2011, regarding construction to enclose the entry porch on their home located at 31 East Broad Way, (PIN 334-45-7168-000), on November 15, 2011, at 5:30PM at the Lovettsville Town Hall, 6 East Pennsylvania Avenue. Interested members of the public are invited to address the Board during the public hearing regarding the appeal.

The papers comprising the appeal are available at the Town Office between the hours of 9AM and 3PM weekdays or by special appointment, holidays excepted. Call 540-822-5788 for more information.

TOWN OF PURCELLVILLE COMMISSION, BOARD AND COMMITTEE POSITIONS

The Purcellville Town Council will be reviewing applications for current and upcoming vacancies on the:

- Tree and Beautification Commission

Any citizens interested in being considered for membership on the above Commission should obtain an application form from the Town Hall during normal work hours or visit our website <http://www.purcellvilleva.gov> in order to download an application. Please attach a letter of interest or resume outlining your qualifications for consideration by the Town Council. If you have any questions concerning the vacant positions or the appointment process, please do not hesitate to contact Jennifer Helbert, Town Clerk at (540) 751-2333.

Kids

Continued from page 19

vendors raised \$400 that they donated to the Kenneth Culbert Elementary playground fund in October of last year.

KIDS also cleaned the grounds of the Loudoun Valley Community Center in April of this year. They also held a beautification project where kids planted flowers in neighborhoods and they also volunteered to water the flowers. This beautification project ran from May-September.

Right now, KIDS is working on a Recycle Responsibly project that started in June. This project prevents recyclables from being blown from the bins and causing litter to lie around Purcellville. American Disposal Services Inc. has provided the group with a recycling seminar. KIDS is now educating and "motivating" children and their families to recycle responsibly," said Neumann.

KIDS has put together a Public Service Announcement so that people will become aware that recycling that has become windblown litter the neighborhood. <http://www.youtube.com/> See **KIDS** on page 21

Town of Lovettsville

STAFF REPORT

PLANNING COMMISSION

PUBLIC HEARING	
ITEM IDENTIFICATION	LVZA 2011-0003 Home Occupation Regulations
TYPE OF ITEM	Zoning Ordinance Amendment
DATE OF HEARING	November 2, 2011
APPLICANT	Wendy Fitt

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

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

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

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

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

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

RECOMMENDATION: The Planning Commission and staff recommend a public hearing of this item with the following proposed text that would amend the Zoning Ordinance:

MODIFY: Section 3-5 (b)(v) Home Occupations, (A), to read:

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

DRAFT MOTION:

"I move that the Planning Commission recommend approval of the proposed text in the staff report for item LVZA 2011-0003 Home Occupation Regulations, dated November 2, 2011."

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

September 26, 2011

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

To Whom It May Concern:

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

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

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

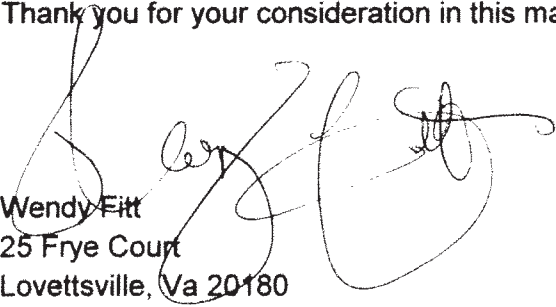
"Members of the family residing on the premises are permitted to be engaged in such occupation."

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


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

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

Thank you for your consideration in this matter.



Wendy Fitt
25 Frye Court
Lovettsville, Va 20180
240.678.5609
wendyfitt2btied@yahoo.com



SEP 28 2011



Loudoun County, Virginia

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

Engineering Hotline:
703-777-0116

**Erosion & Sediment Control
Issues:**
703-777-0116

Zoning Questions:
703-777-0118

Related Links
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[Business Taxes](#)
[County Directory](#)

A Guide for Home Occupation Permits

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

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

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

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

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

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

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

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

Application for a permit also can be made at the:

Building and Development Front Counter
Loudoun County Government Center

Town of Scottsville

Speaker Sign - Up Sheet

Planning Commission Public Hearings & Regular Meeting - November 2, 2011

Please Print.

[illegible]

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

Town of Lovettsville

STAFF REPORT

PLANNING COMMISSION

PUBLIC HEARING	
ITEM IDENTIFICATION	LVZA 2011-0002 Retirement Community R-C Zoning District
TYPE OF ITEM	Zoning Ordinance Amendment
DATE OF HEARING	November 2, 2011
APPLICANT	Town of Lovettsville

BACKGROUND: This proposal would be the second amendment to the Retirement Community R-C zoning district in 2011. On March 10, 2011 the Town approved LVZA 2011-0001 which amended the Retirement Community R-C Zoning District so that it would comply with federal and state age requirements (see Section 3-6 (a) PURPOSE in the proposed text, below). On April 28, 2011 the Town approved LVRZ 2010-0002 under the R-C zoning district. The Lovettsville Retirement Village was originally approved under a combination or rezoning from CR-1 to R-1 and a conditional use permit. The residential portion of the development, which has been under construction for a number of years, is known as Heritage Highlands. Part of the reason for the April 2011 rezoning was to allow Lennar, the developer of Heritage Highlands, to market larger units with two car garages and allow a greater age range of residents in the retirement community as is allowed under federal and state statutes for age-restricted communities. Lennar proffered the revised zoning concept plan, which included the original twelve 4,500 square feet lots for single-family detached units. It was recognized at the time of this rezoning that the Retirement Community R-C Zoning District would have to be amended to allow single-family detached units with a minimum lot size of 4,500 square feet. At the time of the April 2011 rezoning the R-C zoning district allowed (and still allows until this amendment is enacted) a 6,000 square foot minimum lot size for single-family detached units.

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

The Planning Commission has discussed this item at the October 5, 2011 meeting and authorized a public hearing on the proposed text found under the Recommendations section, below.

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

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

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

There is a requirement in the current Retirement Community R-C zoning district that one-half of the land area be reserved for open space. The staff and Commission agree that this is

excessive. Also, it does not seem necessary to state different open space requirements than those that are contained for all development in Article 5 Open Space and Recreation Space.

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

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

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

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

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

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

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

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

The Town Attorney concludes this “protection” language should not be included in the Zoning Ordinance but in the enacting ordinance when it is adopted by the Town Council.

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

1. Accessory uses.
2. Institutional uses.
3. Nursing Home, or extended care facilities.
4. Public uses.
5. Elderly persons.

These are terms that are appropriate for definition in the Zoning Ordinance given the elements usually included in age-restricted communities. They also have utility throughout the Zoning Ordinance and in other zoning districts. They have been derived partly from usage in other jurisdictions and in the Comprehensive Plan.

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

RECOMMENDATION: According to the conclusions of the staff and the Planning Commission, the Retirement Community R-C zoning district should be amended for a number of reasons:

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

The following text amending the entirety of Section 3-6 is proposed for public hearing:

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

(a) PURPOSE:

The purpose of the Retirement Community District is to provide housing and related professional office, commercial uses; and facilities and amenities for elderly persons in accordance with the provisions of the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) or the Virginia Fair Housing Law (Va. Code Section 36-96.1 et seq.) (the “Act” and “Law”, respectively), as well as non-residential uses, as permitted by the provisions of this section.

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

(b) PERMITTED USES:

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

(c) CONDITIONALLY PERMITTED USES:

- (i) Professional office. Such use shall be permitted only within projects with land area of ten (10) acres or more.

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

(d) CONCEPT PLAN

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

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

(e) PHASING:

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

- (i) Commercial space shall not be occupied until 50 percent of the total residential units are occupied.

- (ii) Fifty (50) percent of commercial space must be occupied before more than 85 percent of the total residential units may be occupied.

(f) DISTRICT REQUIREMENTS:

- (i) Minimum district size (acres): 5
- (ii) Housing mix: shall include at least two (2) housing types (e.g. single-family detached and multifamily).
- (iii) Maximum Building height:
 - (a) single family detached, semi-detached, and attached residential dwelling units: 35 feet
 - (b) office, commercial, nursing homes, congregate housing, institutional, and multifamily residential structures: 40 feet
- (iv) Parking and access: See table 4-1.
- (v) Visitor parking: sufficient visitor parking shall be provided for all residential units in convenient locations that can be provided on public or private streets or in separate parking areas.
- (vi) Open space:
 - (a) A minimum of twenty-five percent (25%) of the net (excluding street ROW and flood plain) acreage of the entire development shall be provided as usable open space.
 - (b) Open space shall comply with applicable regulations in Article 5 Open Space and Recreation Space.
- (vii) Management and maintenance: the operation and maintenance of facilities, open space and amenities that are not conveyed in fee simple to residents or to commercial owners of non-residential facilities, shall be the responsibility of one or more Homeowners or Commercial Owners Associations. When more than one such Association is charged with the obligations of this section, the organizational documents for each such association shall address the allocation of responsibilities among them in order to assure that the duties and the party responsible for

discharging them are clearly assigned. Every declaration of covenants, organizational charter or similar document addressing any aspect of the obligations imposed by this section, or amendment of such document, shall be submitted for advance review and comment by the Town Attorney before such document may be executed and recorded.

- (viii) Utility requirement: All public utilities located within the R-C zoning district shall be located underground and shall be designed per the Subdivision Ordinance Article V Required Installation of Public Improvements, Section 5.3 Public Utilities Installation Standards.
- (ix) Accessory community use is required.
- (x) Use ratio: land area of the total non-residential use(s) (includes nursing home or extended care facility; commercial; and professional office use) may not exceed ten (10) percent of the gross acreage of the project.
- (xi) Miscellaneous: Fifty (50) percent of residential units must have occupancy permits before non-residential (see (x), above) occupancy permits may be issued.

(g) LOT REQUIREMENTS:

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

- (3) rear yard: 8
- (b) Semi-detached dwelling unit:
 - (1) front yard: 20
 - (2) side yards: 8, or 0 if attached
 - (3) rear yard: 8, or 0 if attached
- (c) Attached dwelling unit:
 - (1) front yard: 20
 - (2) side yards: 25, or 0 if attached
 - (3) rear yard: 25
- (d) Multiple dwelling structure and congregate housing:
 - (1) front yard: 30
 - (2) side yards: 30. 15 if adjacent to common open space
 - (3) rear yard: 30. 15 if adjacent to common open space.
- (e) Professional office, commercial:
 - (1) front yard: 20
 - (2) side yards: 25, or 0 if attached
 - (3) rear yard: 25
- (f) Nursing home or extended care:
 - (1) Front yard: 30
 - (2) Side yards: 30. 15 if adjacent to common open space
 - (3) Rear yard: 30. 15 if adjacent to common open space

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

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

Sales and rental of goods, merchandise and equipment	1 per 400 SF of GFA, including outdoor display or storage area, if any.
Self-storage facility	2 for the office plus 1 per 20 storage units
Social, fraternal clubs and lodges	1 per 400 SF of GFA.
Warehouse	1 per 1,000 SF of GFA or 1 per employee, whichever is greater.

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

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

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

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

PUBLIC USE: Any use that is established exclusively for public purposes by any department or branch of government and that serves a public need, such as schools, libraries, parks, museums, post offices, government administration, public meeting and services; police, fire and rescue; and governmentally-owned utilities, including sewer and water.

ELDERLY PERSONS. An elderly person is a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy. (taken from Department of Housing and Urban Development).

DRAFT MOTION: “I move that the Planning Commission recommend approval of the draft text presented in item LVZA 2011-0002 Retirement Community R-C Zoning District as presented in the November 2, 2011 staff report [with the modifications agreed upon].”