

Town of Lovettsville

Minutes of the Planning Commission Regular Meeting and Public Hearing December 3, 2014

Call to Order/Welcome

Chairman Joseph Mueller called the Regular Meeting of the Lovettsville Planning Commission to order at 7:31p.m. on December 3, 2014 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

Present at Meeting

- Chairman Joseph Mueller
- Commissioner Thomas Ciolkosz
- Commissioner Frank McDonough
- Commissioner Dorri O'Brien
- Commissioner Anthony Quintana

Absent

- Vice Chair Robert Gentile
- Commissioner Buchanan Smith

Staff Present

- Zoning Administrator Joshua Bateman
- Town Clerk Harriet West

Public Comment

Chairman Mueller called for comments from the public. He noted that the Planning Commission will be accepting comments on the R-3 Residential Zoning during the public hearing. He explained that now would be the time for public comments regarding the Town Center Commercial agenda item

Bing Lam, 2 Eisentown Drive, came forward to speak. He said that parking has been an issue for the Town Center for what seems like forever. When he looks back at the hearings, the Town Council at that time recognized that parking was going to be a problem and they approved what was going to go on, but planned to resolve the parking problem at a later date. The developer made it sound like they would be doing the Town a big favor by adding additional parking. Since they are going to have a continuing parking problem with the shopping center maybe they should amend the ordinance so they don't have to keep going over and over the parking situation.

Sam Kroiz, George's Mill Road, said there is not enough parking as it is now. He said they should use common sense rather than doing a study. He said it is not a bad building. The parking is in the back but you enter in the front. How will that work out? He'd like to see more space in front of the breezeway.

Matt Samaha, 13 Cooper Run, said there is a design issue with extending the alley into the parking lot. He said that maybe the developer can lose one house out of the eight or nine he's going to have.

Chris Hornbaker, 15 Black Forest Lane, said he is the proud sponsor of two proffers in Lovettsville, being a home owner in each of those. As he sees it, it was originally three buildings, two stories and now it's one building, one story. He directed his comment to Mayor Zoldos and said that 100% of nothing versus 18% of very little probably is something he does not support. He said the Town is ready for

commercial, but in its current form, this is nothing short of a bait-and-switch. He added that there is no guaranteeing that they still won't wait three to four years to build this until house prices increase.

Mayor Zoldos explained that his job is to get the developer to submit a proposal and to go through this process. He said he does not support this project and it is disappointing that people think he supports it when his job as Mayor is to bring people to the Town.

Additions/Deletions/Modifications to the Agenda

There were no changes to the agenda.

Approval of Planning Commission Minutes

A. April 23, 2014 – Public Hearing

Motion: I move to approve the minutes of the April 23, 2014 Planning Commission meeting.
By: Commissioner McDonough
Second: Commissioner Quintana
Aye: Commissioners Ciolkosz, McDonough, Mueller, O'Brien, and Quintana
Nay: None
Abstain: None
Absent: Vice Chair Gentile and Commissioner Smith

Staff Reports

There was no staff report.

Action

A. LVZA 2014-0003, R-3 Residential Dwelling Types – Public Hearing

Chairman Mueller opened the public hearing at 7:46 p.m. Zoning Administrator Bateman presented this item. The Planning Commission is being asked to consider potential amendments to Section 42-236 of Article VI of the Zoning Ordinance to allow additional dwelling types in the R-3 Residential Zoning District by Conditional Use Permit (Attachment 1). Zoning Administrator Bateman discussed the background on the development of the proposed amendments. Chairman Mueller discussed the genesis of these changes which would give the Town the option to allow for multi-family dwellings. Zoning Administrator Bateman clarified that theoretically the proposed changes would allow this type of use by Conditional Use Permit. The developer would have to apply to the Town for a Conditional Use Permit. The Town Council can approve a project, with reasonable conditions, or they can deny the application if they feel it is not a good proposal. There are few properties in Town that are zoned R-3 that could reasonably accommodate any such development because most of those properties are very small.

Chairman Mueller called for comments from the public and reviewed the rules for public comment.

Ashley Ross, 22 Black Forest Lane, said her concern is with the zoning. She watched a lot of social media about this meeting. People need to handle themselves better with attitudes and when people have questions, not to get so snarky. She said the whole point of most people moving out to Lovettsville is to get away from the multi-family and duplex situation. It becomes too congested. They already have traffic problems in the area. If we are zoning for this, are we taking into account widening the streets and working with VDOT? This will change the face of the Town and it will not change it for the better. The crime rate may go up and it may draw in the wrong things to the Town. They should leave their land alone and bring in the Town Center, probably not a two-story building.

Brenda Stanley, 28 Stocks Street, said that like many people in this room she is a hypocrite, because she moved onto a property that was once farmland. Her concern with having more dense population is two things. One, traffic not only on 287 but also through the Kingsridge neighborhood, because currently Cooper Run is a drag race strip. Two, the number of people that you will bring to the Town in the new area is going to dramatically increase the class size at the elementary school. This is a huge concern to her because she does not see any developers contributing to increase the school size. Although she loves this Town, the school is crowded.

Renee Edmonston, 10 Cooper Run Street, said that personally she is glad they have social media, otherwise she would not be here tonight. She appreciates everyone who made them aware of this situation. She has a couple of concerns. One of her concerns is that it's on a two-acre parcel that they would be considering the minimum to change the zoning. That makes her even more concerned. At first she thought it was maybe seven acres or a larger minimum. Even though they may not have R-3 areas, Lovettsville is not big but there could be more areas than what she's thinking about. What she's thinking about is the area right behind Kingsridge, the Lemp properties. When she moved here, those obviously were Mr. Lemp's. Now they have one area that they are developing houses on, which is no big deal because they are houses that are like our own community. But there is a big swath of land back where the water tower is. You have to think about what areas this could affect. Her concern is that if you wait and deal with it when it becomes a conditional use issue will they know about it in order to have input to it. That is her big concern. She does not know the process and she's not going to act like she does, because she doesn't understand public processes or community processes. She does not know if they will make an announcement so they can come say, no we don't want this; or if that's even required. She does not know what the law requires for Conditional Use Permits or if it goes straight to the Council. Chairman Mueller said there would be a public hearing and public notification. He advised reading the Friday newsletter and the newspaper. Ms. Edmonston said that they all have the same concerns and they all came here for the same reason. They did not come here so that they could live in Ashburn or any of the higher populated communities. Whenever you increase density you have many issues you have to consider such as the ability to provide water, schooling, and traffic conditions. She lives on Cooper Run and it stinks. They have stop signs and they pulled them out after she bought her house. There are probably 50 kids on Cooper Run Street and people blow down there like it's nothing. For her, any more density is a bad choice for Lovettsville. It's not why she came here. She's not looking to live in the city and doesn't want it to be like a Purcellville or anything else.

Eric McDowell, 17 Tilgham Place, said like many others here, he has concerns about population density and all of the associated infrastructure improvements that would be needed for it. He is amazed at the incredible shrinking Town Center and well here it is shrinking yet again. Not exactly what was advertised by developers and builders when he moved here. What was advertised was a lovely Town Center, no houses back there, and a great zoning ordinance that did not allow townhouses or duplexes. His property values has been cut in half through no fault of his own, the economy went down and the entire area is down. If they build a three or four bedroom condo, that can now be a comparable for the price of his house. His house, which he bought for \$531,000 and is now worth \$360,000, can now be compared to a \$200,000 duplex. Isn't that great. It doesn't matter where it is, it would still be a comparable. That would be his competition if he was willing to sell. Currently there are five or six houses for sale in Kingsridge – some are due to foreclosures or divorce and various other issues. He asked Renee how many people looked at her house when she had it on the market. Ms. Edmonston said five people looked at it in three months. His next door neighbor has had his house up for sale so he can buy a house down the road outside of town. He has had zero people look at it in two months. He has dropped the price twice now by \$10,000 each. His property value is going down and our taxes are going up. One final thought, he is never obviously going to move because he can never afford it, but he asked the Commissioners to think about this sensibly.

Clinton Chapman, 102 17th Avenue, Bradenton, Florida, said he is here speaking on behalf of a Lovettsville land owner who would like some direction from the Town because if you look in the Comprehensive Plan that was adopted in February 2011, it states in the housing section that 87% of the residential land in use is in single family detached housing. There are a total of 44 attached single family units and 32 duplex units in the Town. Nowhere in the Zoning Ordinance does he see where if one of those duplexes burned down that the property owner would be able to rebuild because it's not in the Zoning Ordinance. There has to be some type of amendment to allow those people to do that. After talking with the Zoning Administrator, it was suggested that this outlet would be the best opportunity as doing an amendment to the R-3. The only difference between R-1, R-2, and R-3 is the lot size. For someone to try and develop a piece of land in the Town, the only option they have is single family. In the housing section it says, "If it is desirable for the Town to create a stronger mixture of housing types to serve different income levels, then more medium and higher density residential land use should be

planned for some of the undeveloped land in Town.” He added that the State Code states that communities should make attempts to provide for a wide array of housing costs. Attached housing and apartments generally provided lower cost housing than single family detached housing. This conditional permit use will allow someone to do that. If you come into Lovettsville right now, the only option you have is a single family home.

Kelly Samaha, 13 Cooper Run Street, asked the Commissioners to make the amendment for the existing properties that are townhomes, duplexes, and apartment buildings, but not to bring any new multi-family development in because they cannot support it. She said that having 28-29 first and second grade students in a classroom is ridiculous. She had a daughter who struggled in class because the teachers cannot control the classroom with too many students. She would rather take kids to sports in Leesburg than sit in that traffic at Rt. 287 and Rt. 9. There is nothing here to bring more development and multi-family structures and more people in here. Come out of Town Center and try to make that left on 287, you can't see. Cut through Kingsridge – people drive 50 miles per hour through there. You can't even get out of your car. She has just about been hit three times trying to get out of there. It's crazy. You want to bring more people in, bring them in and you will have a mass exodus. The people who brought the creativity and down-home feel to this Town are all going to leave if you bring in this multi-family. You can't take the kids to the pool because it's too crowded. You will lose the down-home feel that we all love here.

Matt Samaha, 13 Cooper Run Street, said he thought that everyone's concern is that there is not much of an infrastructure to support high density housing. They are getting a new community center that is not much bigger than what we have now and it can't handle what people here are trying to use. Bringing in high density housing and not having a community center to support it, and one that's going to be new so the County's not going to be interested in doing anything for years on that. The school is obviously full and traffic coming through Town and neighborhoods is bad. Those are his concerns. He does not see how we can handle it.

Lisa Tobias, 3 S. Loudoun Street, said she has lived here for 12 years. She grew up in Reston and came here to get away from what they came from. She has watched enormous growth through Leesburg and what use to be Ashburn. She is also a big open space advocate. There is a reason to have it. There is a sense of community when you can see fields and hilltops. There is a reason people come and say they love this Town. If you bring in high density housing, and you obviously don't have the infrastructure to handle it, you increase the crime because you're going to increase the kid's population. These kids don't have anything to do as it is. She knows from personal experience and from talking to police officers they say it's just going to get worse as the Town grows. They have had heroin and all kinds of issues. The Town is on the drug run with Brunswick. It happens and that's what is going on. There is a point at which you have to decide should things grow. It's like the Lorax. Is it necessary for a Town to remain vibrant without having to take it to that limit that it's no longer my community, this is no longer the feeling where you can get to know people and you don't turn it into little pockets of crime. When she first moved here they asked for speed bumps on S. Loudoun Street because they all had three or four kids a piece who all wanted to play in that area because there wasn't any else place to go. They were told no, they couldn't have speed bumps there. But people speed down a 25 mile an hour zone going 40 miles an hour. You're going to have more of that. You have already heard that from people in Kingsridge. It's dangerous. It's not welcoming. They have had people's home values go through the bottom. The gentleman who said his comparable is going to be a two or three bedroom condo at \$200,000. It's going to be a lot more expensive than that according to her friends in real estate but you're not going to come out any better. You've seen it happen. They have felt the change and shift away from what they all came for. She bought a house that was existing. She's not putting anyone down who didn't, but she bought a house that was existing because she wanted to keep the integrity and she hopes that others feel the same way.

Chris Hornbaker, 15 Black Forest Lane, thanked the Planning Commission for allowing him three more minutes to talk on this subject. He wanted to know what the difference was between a semi-independent dwelling unit, which sounds like a duplex to him, versus a semi-detached dwelling. Instead of saying this

is every scenario of what might be in Lovettsville x-number of years from now, let's look at what is acceptable today and then define the zoning requirements for what is already acceptable in the culture of the Town. As he said, he has been part of two proffers and two of the three major expansions here and upgrading the water infrastructure exponentially. His question is, what is the proffer that is going to be promised to support the infrastructure that they already have? In 2010 when Mayor Walker retired there was talk of sending water out of Lovettsville and there was a major team that said we don't want to do that, we want to make sure we have the infrastructure to support Lovettsville in its current form. The person who wasn't elected was chastised for wanting to actually utilize infrastructure that is already here for something that could expand. If he had two acres and he's a commercial Town Center and he wants to build nine house but it's going to be more economically feasible to put a row of townhomes behind my one building, he may come back to request a change to a proffer that's there. Again, Mr. Hornbaker said he's for the new community center, he supports everything they are doing, but not these two matters presented tonight.

Sam Kroiz, Georges Mill, said it doesn't seem like a good idea. He's not even sure we are all here if there's not a project that needs some approval. He doesn't see what the reason is to make this change. It's good that it will have to be only by conditional use. He said, "If it ain't broke don't fix it." Just consider these things as projects come up.

John Flannary said he lives outside of Town and that's why he is pretty concerned about traffic and the quality of life that we have here. Are we trying to homogenize ourselves and become like every other second or third rate community that we escaped to come here in the first place? Someone asked earlier if this was hypothetical or not. There is a lawyer here from Florida who represents someone locally and he won't tell us who it is or where the property is. This is not hypothetical, this is real. They should be considering this question like it's really going to happen. Somebody is going to come in here and say that's the law, I want to enforce it, I want this development, and I want apartment units. That will be the degradation of this community. It's not why anyone came to this community. They should not accept this amendment under any circumstances.

The Town Clerk read the notice of public hearing that was advertised in the Purcellville Gazette.

Chairman Mueller closed the public hearing at 8:26 p.m. The Commissioners discussed the proposed changes and issues raised by members of the public including school overcrowding, traffic, property values, infrastructure, and crime. The Commissioners asked the Zoning Administrator to do an analysis of the current acreage zoned R-3 and report back to them. Chairman Mueller suggested that the Planning Commission consider the comments received tonight and see if they can improve on the proposed changes to R-3 residential dwelling types. He noted that the Comprehensive Plan will be coming up for review and that these changes will provide guidance and greater flexibility to property owners. Zoning Administrator Bateman discussed the need to address non-conforming use provisions in the ordinance for existing townhouses and apartments as part of this process.

Commissioner Quintana made a motion to deny approval of the proposed amendment to Section 42-236, R-3 Residential District, Case No. LVZA 2014-0003 and to further review before presenting to the Town Council. There was no second to the motion. Following discussion, Commissioner O'Brien made the following motion and Commissioner Quintana withdrew his original motion.

Motion: I move to table the proposed amendment to Section 42-236, R-3 Residential District, Case No. LVZA 2014-0003, until the first meeting of the Planning Commission in January.
By: Commissioner O'Brien
Second: Commissioner Quintana
Aye: Commissioners Ciolkosz, McDonough, Mueller, O'Brien, and Quintana
Nay: None
Abstain: None
Absent: Vice Chair Gentile and Commissioner Smith

Discussion Item

A. Town Center Commercial

Zoning Administrator Bateman said that earlier today he received a draft revision to the previously submitted proffer statement. He said that it adds 16 parking spaces to the commercial property to be located across Town Center Drive. It includes a double-loaded parking bay separate by a drive aisle and is proposed to be made of asphalt with white striping. His biggest concern is that this will take away from parking availability at future Town Center commercial development. To address this, he suggested that 14 of the 16 proposed spaces be exclusively designated for Building B or that a shared parking arrangement be established in the future between the two separate commercial uses.

Zoning Administrator Bateman distributed copies of the proposed proffer amendment (Attachment 2) and possible motions for the Commissioners to consider. He introduced Mr. Judd Bostian from NVRetail, the developer for Town Center. Mr. Bostian discussed the proposed changes, which would add 16 paved parking spaces. He said this would be used for overflow parking and employee parking and that future parking requirements would be addressed based on market demand for the additional commercial buildings. The Commissioners discussed possible modifications to the landscaped buffer area. Following further discussion about the proposed parking area, history of the project, and parking enforcement, Chairman Mueller called for a motion.

Motion: I move that the Planning Commission recommend approval of Case No. LVRZ 2014-0001 to the Town Council provided the following additional changes are made to the application as presented on December 3, 2014:

- a. Fourteen (14) off-site spaces to be located on PIN 369102939000 shall remain designated for the commercial use on PIN 369204273000 at such time as buildings or permanent parking spaces are developed on the former property, or at such time as the temporary lot is configured. Such parking spaces may be designated exclusively for the commercial use on PIN 369204273000, or may be designated for shared parking by commercial use occupying either of the two commercial properties, provided a shared parking agreement acceptable to the Town is executed by and between the owner(s) of the subject parcels.
- b. The landscaped buffer area between the proposed parking lot serving the commercial area and the residential parcels adjacent to the parking lot shall be no less than seven feet in width inclusive of the six-foot opaque fence with masonry columns depicted on the Concept Grading Plan (Sheet 7 of 7).

By: Commissioner McDonough

Second: Commissioner O'Brien

Following discussion, Commissioner McDonough amended paragraph a by replacing the word "may" with "shall" and then he read the modified section of the motion aloud:

- a. Fourteen (14) off-site spaces to be located on PIN 369102939000 shall remain designated for the commercial use on PIN 369204273000 at such time as buildings or permanent parking spaces are developed on the former property, or at such time as the temporary lot is configured. Such parking spaces shall be designated exclusively for the commercial use on PIN 369204273000, or shall be designated for shared parking by commercial use occupying either of the two commercial properties, provided a shared parking agreement acceptable to the Town is executed by and between the owner(s) of the subject parcels.

Commissioner O'Brien accepted the amendment. Hearing no further discussion, Chairman Mueller called for the vote.

Aye: Commissioners Ciolkosz, O'Brien, McDonough, and Mueller

Nay: Commissioner Quintana
Abstain: None
Absent: Vice Chair Gentile and Commissioner Smith

Information Items

There were none.

Comments from the Mayor and Commissioners

Mayor Zoldos thanked everyone for coming out tonight. He asked residents to please notify the Sheriff's Office if there is a problem with speeding in their neighborhoods. He said that he had already emailed Deputy LoPreto about Cooper Run Street and he will bring this up at the Town Council meeting. The County just completed a speed study on S. Loudoun Street, but the Town has not received the results yet. Mayor Zoldos said he has asked for increased enforcement or speed signs on Cooper Run Street.

The Mayor gave updates on recent and upcoming events, the new Town Manager Laszlo Palko, the Lovettsville Cooperative Market, Lovettsville Volunteer Fire & Rescue's new ambulance, the new Branch Manager at the Lovettsville Library, and the We're In Committee.

Adjournment

There being no further business before the Planning Commission, the meeting was adjourned at 9:46 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: March 18, 2015

Attachments:

1. Propose Amendments to Sec. 42-236. R-3 Residential District
2. Lovettsville Town Center, Town Center Core, Application of Lovettsville Square, LLC Proffer Amendment Application LVRZ 2014-0001

Sec. 42-236. R-3 Residential District.

- (a) *Scope and purpose.* The provisions of this section apply to the R-3 Residential District. This district is composed of various ~~certain higher~~ medium density residential and related non-residential uses. The ~~regulations for this district~~ regulations are designed to ~~stabilize and protect the essentially residential characteristics of the district, and to~~ permit certain commercial uses of a character unlikely to ~~develop a general~~ develop a concentration of traffic, ~~crowds of customers,~~ and outdoor advertising. ~~To this end, retail activity is restricted and this district is protected against encroachment of general commercial or industrial uses.~~
- (b) *Permitted uses.*
- (1) Detached ~~S~~single-family dwelling, ~~detached~~.
 - (2) Public or private playgrounds or neighborhood parks.
 - (3) Child care home, subject to section 42-197.
 - (4) Home occupations, subject to section 42-199.
 - (5) Construction and/or sales trailers, subject to section 42-201.
 - (6) Model home, subject to section 42-204.
- (c) *Conditionally permitted uses.*
- (1) Attached (townhouse) dwelling.
 - (2) Semi-detached dwelling.
 - (3) Multiple dwelling.
 - (4) Private clubs and organizations.
 - (25) Professional offices.
 - (36) Accessory apartment ~~or semi-independent dwelling unit~~, subject to section 42-195.
 - (47) Schools, including colleges and universities.
 - (58) Churches.
 - (69) Child care center, subject to section 42-197.
 - (710) Libraries.
 - (811) Wireless communications equipment.

(d) Lot requirements.

(1) Minimum Zoning District Size*:

| <u>Building Type</u> | <u>Minimum District Area (acres)</u> |
|-------------------------------|--------------------------------------|
| <u>Single Family Dwelling</u> | <u>None</u> |
| <u>Attached Dwelling</u> | <u>2</u> |
| <u>Semi-detached Dwelling</u> | <u>2</u> |
| <u>Multiple Dwelling</u> | <u>2</u> |
| <u>Accessory Dwelling</u> | <u>None</u> |

* The minimum zoning district size shall represent the minimum aggregate area of all parcels which are the subject of any request, made pursuant to Sec. 42-34(e) of this Chapter, to change the zoning classification of any property to R-3 Residential.

(2) Lot Size:

| <u>Building Type</u> | <u>Minimum Size (square feet)*</u> | <u>Minimum Width (feet)</u> |
|----------------------------------|------------------------------------|-----------------------------|
| <u>Single Family Dwelling***</u> | <u>6,000</u> | <u>50**</u> |
| <u>Attached Dwelling</u> | <u>2,000</u> | <u>20</u> |
| <u>Semi-detached Dwelling</u> | <u>5,000</u> | <u>40</u> |
| <u>-Multiple Dwelling</u> | <u>20,000</u> | <u>75</u> |
| <u>Accessory Apartment</u> | <u>See Sec. 42-195</u> | <u>See Sec. 42-195</u> |

* Exclusive of floodplains and wetlands

** Measured at the front setback line

*** Maximum length/width ratio of the lot shall be 3:1

(1) Size: 6,000 square feet, minimum, exclusive of floodplains and wetlands.

(2) Width: The minimum lot width measured at the front setback line shall be 50 feet.

(3) Required Yards:

| <u>Building Type</u> | <u>Front Yard</u> | <u>Side Yard</u> | <u>Rear Yard</u> |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <u>Single Family Dwelling</u> | <u>Not less than 20 feet and not more than 40 feet from any street right-of-way. Detached garages shall be set back at least 20 feet from the front line of the main structure.</u> | <u>Minimum total width of the side yards for the main structure shall be 18 feet, with a minimum side setback of eight (8) feet.</u> | <u>Main structures shall have a minimum rear setback of 25 feet.</u> |
| <u>Attached Dwelling</u> | <u>15 feet</u> | <u>10 feet (end units)</u> | <u>25 feet</u> |
| <u>Semi-detached Dwelling</u> | <u>20 feet</u> | <u>10 feet (for side of building not adjoining the adjacent dwelling)</u> | <u>25 feet</u> |
| <u>Multiple Dwelling</u> | <u>35 feet from the street right-of-way line</u> | <u>25 feet</u> | <u>25 feet</u> |
| <u>Accessory Dwelling</u> | <u>Same as the principle structure</u> | <u>Structures not exceeding ten feet in height shall be located not less than five (5) feet from a side or rear property line</u> | <u>Structures not exceeding ten feet in height shall be located not less than five (5) feet from a side or rear property line</u> |

(3) — Front yard: Structures shall be located not less than 20 feet nor more than 40 feet from any street right-of-way. Garages shall be setback at least 20 feet from the front line of the main structure.

(4) — Side yards: The minimum total width of the side yards for the main structure shall be 18 feet, with a minimum side setback of eight feet. Accessory structures not exceeding ten feet in height may be located not less than five feet from a side or rear property line.

(5) — Rear yard: Main structures shall have a minimum rear setback of 25 feet. Accessory structures not exceeding ten feet in height may be located not less than five feet from a side or rear property line.

(4) Lot Coverage, Building Height, Minimum Number of Units, Maximum Density:

| <u>Building Type</u> | <u>Lot Coverage Maximum (percent)</u> | <u>Building Height (feet)</u> | <u>Maximum Number of Units in a Building</u> | <u>Maximum Density*</u> |
|-------------------------------|---------------------------------------|-------------------------------------------|----------------------------------------------|-------------------------|
| <u>Single Family Dwelling</u> | <u>50</u> | <u>30</u> | <u>N/A</u> | <u>N/A</u> |
| <u>Attached Dwelling</u> | <u>60</u> | <u>35</u> | <u>8</u> | <u>8</u> |
| <u>Semi-detached Dwelling</u> | <u>50</u> | <u>35</u> | <u>2</u> | <u>8</u> |
| <u>Multiple Dwelling</u> | <u>40</u> | <u>35</u> | <u>12</u> | <u>15</u> |
| <u>Accessory Dwelling</u> | <u>N/A</u> | <u>No higher than principle structure</u> | <u>N/A</u> | <u>N/A</u> |

* Measured in dwelling units per acre

~~(6) — Length/width ratio: 3.0:1 maximum.~~

~~(7) — Building height: 30 feet maximum. No accessory structure shall exceed the height of the principal structure.~~

~~(85) Minimum open space area: A minimum of 25 percent of the net site area shall be provided as open space for all development projects creating more than 20 lots. For the purpose of open space calculations, net site area shall be determined as the total site area exclusive of public road dedications, private access easements and alleyways, floodplains, slopes in excess of 25 percent, and wetlands. Open space and recreation space shall meet all other applicable requirements of Article IX of this Chapter.~~

~~(9) — Lot coverage: The aggregate lot coverage of all buildings shall not exceed 75 percent of the lot area or 2,000 square feet, whichever is less. (106)~~

~~Modification of minimum lot size, width, and required yards: The lot size, lot width and required yards standards may be reduced by the town council in conjunction with approval of a conditional use permit for the development. Such application shall specifically outline the lot size, lot width and yard standards and define the need for the requested reduction. Permitted uses, conditionally permitted uses and unit density may not be modified by this provision.~~

~~(7) All multi-family buildings shall be separated by a minimum horizontal distance of twenty-five (25) feet. All townhouse buildings shall be separated by a minimum horizontal distance of twenty (20) feet.~~

- (e) Utility requirements. All public utilities located within the R-3 zoning district shall be located underground and shall be designed ~~per the~~ in accordance with Section 30-157 of article VI of Chapter 30, Subdivisions, required installation of public improvements, section 30-157, public utilities installation standards of the Town Code.
- (f) Streets and alleys. Streets and alleys shall be designed and constructed in accordance with Article V of Chapter 30, Subdivisions, of the Town Code, as applicable.
- (g) Private access easements. Private access easements shall comply with the applicable requirements of Article V of Chapter 30, Subdivisions, of the Town Code.
- (h) Parking. Off-street parking shall be provided in accordance with the applicable requirements of Article VIII of this Chapter, provided that any common parking courts servicing single-family attached (townhouse) dwellings shall provide parking spaces and be designed in accordance with the requirements of Section 30-125 of Chapter 30, Subdivisions, of the Town Code. All parking lots shall be paved with durable, dust-free hard surfacing designed and constructed in accordance with the applicable pavement design standards of the Virginia Department of Transportation Pavement Design Guide for Subdivisions and Secondary Roads in Virginia, latest edition, as determined by the Town Council in conjunction with approval of the conditional use permit for the development. Any parking space(s) located within an attached or detached garage serving an individual townhouse unit shall not count towards meeting the minimum parking requirements associated with said unit, regardless of whether such spaces comply with the minimum dimensional standards of this Chapter.
- (i) Pedestrian access and circulation. All parking lots and access courts shall provide permanent pedestrian and vehicular access between the lots created and a public street.
- (j) Landscaping, Buffering and Screening. Landscaping, buffering and screening shall be provided for development projects requiring preparation of a landscaping plan in accordance with Article X of this chapter. Front yard areas and common areas shall be planted with lawn and/or appropriate trees and shrubs except on areas designated for walks and driveways.
- (k) Site Plan. Development site plans shall be provided for developments within the District as required by Article IV of Chapter 30, Subdivisions, of the Town Code. Any

detached single-family dwellings included as part of the development shall be shown on the overall plan of the development.

(l) Maintenance of common areas.

1. Maintenance of areas to be held in common ownership by property owners within a development shall be ensured through the creation of a property owners' association established pursuant to the Property Owner's Association Act, Chapter 26 of Title 55 (§55-508 et al) of the Code of Virginia, and through the execution of appropriate agreements, deed restrictions and/or covenants ensuring the perpetuation and maintenance of such common areas in accordance with Sec. 42-328 of this chapter.
2. In accordance with Section 42-238 (5) of this chapter, the Town Council may require that an escrow account be established, as part of the approval of a conditional use permit for the development, providing for the maintenance of parking courts and alleyways held in common by property owners therein. The amount of this escrow account shall be based on a percentage of the projected cost of maintaining the streets over a ten-year period as determined by the Town Council at the time of approval of the conditional use permit.

(m) Common green. A common green area may be provided within townhouse developments in lieu of a part of the minimum lot area, subject to the following provisions:

1. When a common green area is provided, the minimum lot area may be reduced below 2,000 square feet where the planning commission and town council find that such reduction results in adequate space for a usable common green and/or the usable common open space for active recreational facilities such as swimming pools, tot lots, multipurpose courts or playing fields. In no event, however, shall the minimum lot area be reduced below 1,600 square feet, nor shall the maximum density be increased above ten (10) units per gross acre.
2. The common green area may be utilized for lawn, trees, plantings, ornamental pools, and similar features. No part of the common green area may be utilized for automobile driveways or parking areas, for sidewalks or paved play areas, or for other similar paved areas.
3. In connection with approval of the conditional use permit for townhouse developments, provisions satisfactory to the town council shall be met by the developer to assure that nonpublic common green areas for use and enjoyment of occupants shall be properly maintained without expense to the Town.

(n) Architectural variation for townhouses. Within townhouse developments, architectural treatment shall avoid massive, monolithic and repetitive building types, facades, roof lines and setbacks. No more than two abutting townhouse dwellings shall have the same front yard setback. Building setback variations as required shall be at least three (3) feet. No more than two abutting townhouses shall have a common roof line. Townhouse dwellings abutting each other shall have complementary but not identical facades. Building elevations and architectural details sufficient to show compliance with this provision shall be submitted for approval.

(o) Screening of refuse/recycling bins. Common refuse bins, recycling bins and dumpster pads shall be completely screened from view by means of an opaque fence or wall, and an appropriately designed gate which can be latched open and closed.

(Ord. of 9-21-2006, § 3-5; Ord. of 11-20-2008; Ord. of 9-10-2009; Ord. No. 2009-11-001, 11-19-2011; Ord. of 6-27-2013(01), § 3-5)

Lovettsville Town Center
Town Center Core
Application of Lovettsville Square, LLC
Proffer Amendment Application
LVRZ 2014-0001

November 17, 2014

Revised November 26, 2014

Pursuant to Sections 15.2-2299 through 15.2-2303 et seq., the Code of Virginia (1950), as amended, and Section 42-238 (previously Section 3-7 of the Zoning Ordinance, Town of Lovettsville, Virginia, Lovettsville Square, LLC, a Virginia limited liability company, (hereinafter, the "Applicant") is seeking approval by the Town of Lovettsville of a Proffer Amendment application of a proffered Zoning Map Amendment and Concept Plan approved on August 22, 2002, a Concept Plan Amendment approved on February 10, 2005, and a Zoning Map Amendment and Concept Plan Amendment approved on December 14, 2006, and Concept Plan Amendment (LVRZ 2008-0002 & LVZM 2008-0001) approved on January 22, 2009. The Applicant is also seeking approval by the Town to change the Town Center Core designations of the following properties also owned by the Applicant and described as: Loudoun County Tax Map and Parcel Number 9A210-126 (MCPI #369-20-2773), a portion of Loudoun County Tax Map and Parcel Number 9A211-1 (MCPI #369-20-4273) and Loudoun County Tax Map and Parcel Number 9A211-5 (MCPI #369-20-2899). The Applicant is also seeking approval to accommodate parking on the property owned by the Applicant and described as Loudoun County Tax Map and Parcel Number 9A211-3 (MCPI #369-10-2939).

The Applicant does hereby submit the following voluntary proffers which are contingent upon approval by the Lovettsville Town Council of the Proffer Amendment application (LVRZ 2014-0001). In the event the Lovettsville Town Council approves the Proffer Amendment application (LVRZ 2014-0001) these proffers will supersede and replace and consolidate all previously approved proffers dated January 22, 2009, and approved on January 22, 2009; November 20, 2006, and approved on December 14, 2006; proffers dated October 28, 2004, and approved February 10, 2005; and Zoning Map Amendment and Concept Plan Amendment approved August 22, 2002 ("Previously Approved Proffers"), for the Subject Property and not for the property that is not subject to these proffers. The properties listed in Exhibit C, shall remain subject to the Previously Approved Proffers and not subject to the Proffers for LVRZ 2008-0002, LVZM 2008-0001 & LVRZ 2014-0001. Thereafter, these proffers shall govern and shall be the only ones applicable to the properties listed in Exhibit D.

1. Subject to final design to accommodate engineering, the Subject Property will be developed to be in substantial conformance with the plans titled "Lovettsville Town Center Concept Plan (LVRZ 2014-0001) for Town Center Planned Development District" consisting of Sheets 1, 3 through 7 of 7, dated May, 2014, and revised through ~~July 29~~ November, 2014, and prepared by Bowman Consulting Group, Ltd., which are attached and made part of these Proffers, as Exhibit A. The Applicant reserves the right and shall be permitted to adjust the location of the lot lines, street

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alignments, improvements and landscaping depicted on the Concept Development Plan, Landscape Plan and Building B Parking Details Area Exhibit as may be required to accommodate and meet the requirements of the Virginia Department of Transportation, the United States Army Corps of Engineers, Environmental Protection Agency, and Virginia Department of Environmental Quality wetlands permitting processes, and final engineering considerations as determined during site plan or subdivision review.

2. The Applicant shall provide public sanitary sewer lines and public water lines for the Subject Property, as required by the Town's Subdivision Ordinance.
3. At time of the issuance of individual Zoning Permits for the dwelling units to be constructed on the Subject Property, the Applicant shall contribute to the Lovettsville Volunteer Fire & Rescue Company a cash sum of Three Hundred and Twenty Dollars (\$320.00) per residential unit.
4. As a bonded improvement to be constructed during its first development phase, the Applicant shall construct the Town Square and the site infrastructure supporting the commercial development adjacent to the Town Square on the Subject Property in substantial conformance with the Concept Development Plan.
5. The Applicant shall establish, prior to approval of the first record plat for the residential area of the Subject Property, a Homeowners' Association ("HOA"). The Applicant shall include all the single family dwelling units on the Subject Property in the HOA. Documents to form an HOA shall be submitted to and approved by the Town prior to approval of the first record plat for the Residential area of the Subject Property. The Applicant shall include in the HOA documents the creation and establishment of public access easements over and across all parks within the Subject

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Property. At the time of subdivision, including these parks, public access easements will be granted and conveyed over and across these parks in the documents creating the subdivision.

6. The Applicant shall establish, prior to approval of the first site plan for the commercial area of the Subject Property, a Commercial Owner's Association ("COA"). The Applicant shall include all the commercial and retail units on the Subject Property in the COA. Documents to form a COA shall be submitted to and approved by the Town prior to approval of the first site plan for the commercial area of the Subject Property.
7. The HOA and/or the COA shall own and maintain common areas, including the neighborhood parks, all common areas and stormwater management facilities on the Subject Property, and any special pedestrian walkways or paving enhancements located in the VDOT rights-of way that VDOT is unable to maintain pursuant to its established policies. The COA shall also be responsible for trash pickup services within the Town Center Core.
8. At the request of the Town, the Applicant will convey the Town Park and the Town Square to the Town. The Town will also have the option to request additional neighborhood park areas within the Subject Property to be conveyed by the Applicant or the HOA for use as public parks.
9. The commercial areas and the Town Square shall be developed in conformance with the general character of the "Conceptual Drawing of Town Square", which is attached as Exhibit B. Buildings in the Town Center Core shall be fully designed on all elevations to provide attractive building facades from all directions. Street lighting shall be consistent with the Town of Lovettsville's selection of "The Exton LED

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Luminaire on Meterie Cross Arm; and the Madison Ductile/Steel Posts” manufactured by Spring City Electrical Mfg. Co. of Spring City, Pennsylvania (Exhibit B-1).

- A. Building B in the Town Center Core shall be developed in substantial conformance with the character, massing, scale, materials and colors on the exhibit titled "Lovettsville Square Building "B" Town of Lovettsville Loudoun County, Virginia Project Number: 2012011.11", dated October 10, 2014, including the Front Elevation and Rear Elevation, prepared by Rounds VanDuzer Architects, which is attached as Exhibit B-2. Building B shall be designed to complement Lovettsville’s Germanic heritage.

The building materials on the front and side elevation walls, at the pedestrian level shall be predominantly faced with brick, stone veneer, E.I.F.S., precast concrete and/or fiber cement siding, with the exception of the windows and doors. Storefront windows will be incorporated in building elevations adjacent to pedestrian breezeways. Building elevations shall include trellises and planters and awnings over windows and doors where appropriate.

The roof will be articulated with backlit dormers to break up long expanses of the roof and the roof pitch and parapet walls will be designed to screen the rooftop mechanicals from the streets and adjacent properties.

Within 3 months of approval of this Proffer Amendment application (LVRZ 2014-0001), the Applicant shall file a site plan for construction of Building B. Within 180 days of approval of the site plan, and issuance of required zoning and building permits, the Applicant shall commence construction of Building B and shall diligently pursue completion thereafter. Notwithstanding the foregoing, these performance deadlines shall be extended due to Force

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Majeure, or other factors outside of the Applicant's control that impede or prohibit the fulfillment of these performance deadlines. However, the Applicant shall not be required to commence construction during the months of November through February of any given year. Completion of construction of Building B shall be deemed constructed when the Certificate of Occupancy has been issued for the shell building; but not individual tenants.

10. Prior to the application for each building permit for the commercial buildings, the Applicant will submit to the Zoning Administrator for review, all building elevations and/or streetscape elevations, which shall include: sample building and roofing materials, colors, trellises, planters, lighting fixtures, sign lighting fixtures, awnings, street lights, and street furniture, such as outdoor seating and tables, benches, planters, trash receptacles and landscaping. The Zoning Administrator shall review the submitted elevations and materials for substantial conformance with Exhibit B-2 within a reasonable length of time (fifteen days) and upon determination by the Zoning Administrator that the building elevations and/or streetscape elevations and materials are in substantial conformance Exhibit B-2 shall make a recommendation to the Town and/or County to approve the issuance of the Zoning Permit(s).
 - A. The Applicant shall construct the clock tower at its own expense to accommodate up to a three faced clock and a glockenspiel mechanism which shall be installed by others. The clock tower shall be designed and constructed to support the necessary equipment. Access to the upper portions of the clock tower shall be provided to allow efficient access for routine maintenance.
 - B. The Applicant shall provide and install signage and removable bollards at the end of Kestrel Alley in the commercial parking lot to prevent vehicular access with the exception of emergency and maintenance vehicles. The location of

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the signs and removable bollards shall be coordinated with the Zoning Administrator, prior to the issuance of the first Certificate of Occupancy for the commercial building.

C. Prior to issuance of the first Certificate of Occupancy for the commercial building, the Applicant shall construct and stripe a temporary parking lot to accommodate up to 16 parking spaces which shall be located on the property described as Loudoun County Tax Map and Parcel Number 9A211-3 (MCPI #369-10-2939) (the "Temporary Parking Lot"). The Temporary Parking lot shall be for the purpose of providing parking for the commercial development in the Town Center Core, until such time this property (Parcel Number 9A211-3 (MCPI #369-10-2939) is developed with building(s) and the parking lot may be reconfigured for commercial uses as permitted in the Town Center Core.

11. The Greenbelt area as identified on the Concept Development Plan shall remain natural and undisturbed with the exception of the installation of plant materials and utilities and minor grading during construction.
12. As determined by the Town during site plan review for the commercial components of Lovettsville Town Center, a reduction in parking may be allowed to enhance pedestrian movements through the Subject Property and reduce impervious area.
13. Pedestrian Trails shall be provided to allow for access to the common open space areas owned by the COA or the HOA and to any Town-owned parks within the Subject Property as shown in the Lovettsville Town Center, Concept Development Plan.

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14. A public street connection to Woodbriar Drive from the Subject Property, as shown on the Concept Development Plan, shall be made unless the Applicant is directed to the contrary by the Town prior to approval of the first preliminary subdivision plan. The public street connection from the Subject Property to Church Street, as shown on the Concept Development Plan, may be deleted if deemed infeasible by the Applicant or the Town at time of preliminary subdivision plan review.
15. The Applicant shall provide the following recreational facilities within the Neighborhood Park 4 as shown on the Landscape Plan, Sheet 4 of 7: One (1) children's play area with playground equipment. At the time of construction of these recreational facilities, the Applicant shall provide a fence around the Neighborhood Park 4 to keep children safe from vehicular traffic.
16. The following lots as shown on the Concept Development Plan, Sheet 3 of 7 shall be constructed with rear loaded garages off of the alley: Lots 1 through 13, 18 through 20, 40 through 43, 54 through 56; and 208 through 212. The following lot as shown on the Concept Development Plan, Sheet 3 of 7 shall be constructed with a side loaded garage off of Town Center Drive: Lot 39.
17. No Zoning Permits shall be issued for residential Lots 207 through 212, until such time as the first Occupancy Permit has been issued for Building B.

The undersigned owners of the Subject Property do hereby voluntarily proffer the conditions stated above which conditions shall be binding on the Subject Property which is subject to the Proffer Amendment application and shall have the affect specified in Section 15.2-2297, et seq. of the Code of Virginia (1950), as amended. These proffers shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the Applicant. The undersigned hereby warrants that all of the owners of a legal interest in the Subject Property have signed the Proffer Statement, that he/she has full authority to bind the Subject Property to these conditions and that the Proffers are entered into voluntarily. The undersigned is the authorized signature of the Applicant and owners of the Subject Property, which are the subject of this Proffer Amendment application.

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EXHIBITS A, B, B-1, B-2, C & D ATTACHED HERETO

[SIGNATURE PAGES FOLLOWS THIS PAGE]

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LOVETTSVILLE SQUARE, LLC, a Virginia
limited liability company

By: _____
Name: _____
Title: Manager & Authorized Agent

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that _____ as _____, of Lovettsville Square, LLC, as set forth above, whose name is signed to the foregoing Proffers, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____, 2014.

Notary Public

My Commission expires: _____
Notary Registration number: _____

