

Town of Lovettsville

Minutes of the Planning Commission Regular Meeting and Public Hearings October 7, 2015

Call to Order/Pledge of Allegiance

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

Pledge of Allegiance

Chairman McDonough led those present in the Pledge of Allegiance.

Present at Meeting

- Chairman Frank McDonough
- Vice Chair Robert Gentile (arrived at 7:48 p.m.)
- Commissioner Thomas Ciolkosz
- Commissioner Joseph Mueller
- Commissioner Nate Fontaine
- Commissioner Buchanan Smith

Commissioners Absent

- Commissioner Anthony Quintana

Staff Present

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

Public Comment

Chairman McDonough called for comments from the public. There were none.

Additions/Deletions/Modifications to the Agenda

Chairman McDonough stated that the Planning Commission would switch consideration of Items A. and D. as listed on the agenda.

Approval of Planning Commission Minutes

A. February 18, 2015 Regular Meeting

- Motion:** I move to accept the minutes from the February 18, 2015 meeting as submitted.
By: Commissioner Mueller
Second: Commissioner Smith
Aye: Commissioners Ciolkosz, Gentile, McDonough, Mueller, and Smith
Nay: None
Abstain: Commissioner Fontaine
Absent: Commissioner Quintana

B. March 18, 2015 Regular Meeting

Motion: I move that we accept the minutes of the March 18, 2015 meeting as submitted.
By: Commissioner Mueller
Second: Commissioner Smith
Aye: Commissioners Fontaine, Gentile, McDonough, Mueller, and Smith
Nay: None
Abstain: Commissioner Ciolkosz
Absent: Commissioner Quintana

Staff Reports

There was no staff report.

Discussion Items

A. Public Hearing: Keena Rezoning Concept Plan and Proffer Amendment (LVRZ 2015-0001)

Chairman McDonough recessed the regular meeting 7:38 p.m. to open the public hearing for LVRZ 2015-0001, Keena Rezoning Concept Plan and Proffer Amendment. Commissioner Smith read the notice for public hearing. Commissioner Mueller read the rules for public comments.

Mr. Bateman delivered the PowerPoint presentation explaining the history of the project since 2002 including a summary of changes requested by the applicant to the concept plan and proffer statement approved for the Keena Subdivision in 2007 and preliminary subdivision plat in 2012. He stated that the concept plan and preliminary plat depicted lots that were served entirely by alleys to allow for rear driveway access to minimize driveway entrances on Locust Street and Frye Court, and that the proposed concept plan eliminates the internal alleys altogether, replaces the eight duplex lots with five single-family detached lots, proposes sidewalks on only one side of the street on Stone Jail Street and East Pennsylvania Avenue, and eliminates one lot at the rear of the property in favor of a stormwater management pond. He summarized the existing conditions and proffers approved by the Town as well as recommendations made by Town staff to compel the applicant to upgrade the sanitary sewer pump station on Frye Court. Mr. Bateman discussed the features of the revised concept plan as proposed by the applicant and read staff's recommendations for changes to the concept plan and proffers as written in the staff report.

Mr. Smith asked about elimination of alleys in the subdivision and potential impact on traffic. Mr. Bateman indicated that the driveway entrances would be directly on Locust Street, and that residents of these lots would have to back up into the street to exit their property.

Mr. Mueller asked about what is being proffered with respect to sidewalks. Mr. Bateman replied that sidewalks were being proposed on one side of the street on Stone Jail Street, Locust Street, and Pennsylvania Avenue, and that the sidewalks located on both sides of Frye Court will be repaired.

Mr. Gentile asked about the location where staff is recommending dedicated parking for the brewpub, and Mr. Bateman replied that the best candidates were Lots 2 and 6. He clarified that he is not asking for a separate lot for parking, but rather adequate, dedicated space for employee parking on one of the proposed lots in accordance with the conditions approved previously for the brewpub.

Mr. Ciolkosz asked staff about Lots 1, 2, 3, 4, 5, 38, 40 and 42 and whether these represent new lots for new houses or lots for existing buildings only. Mr. Bateman replied that Lot 2 was the only new lot for new construction.

Mr. Fontaine asked whether the plan for the new streets provided enough space for residential parking, and Mr. Bateman replied that the parking situation would be similar to Town Center where off-street parking is provided in the driveway with additional parking on the street. Mr. Smith asked whether the proposed concept plan included a crosswalk on Locust Street and East Broad Way, and Mr. Bateman responded that it did.

Tim Keena, the applicant, elected to hold off on presenting until after the public hearing.

Chairman McDonough requested comments from the public.

Barbara Bramhall of 27 Frye Court inquired as to whether residents of Frye Court would lose parking during the construction, and Mr. Bateman noted that some parking would be lost during construction.

Chairman McDonough noted that some parking on the west side of Frye Court would be replaced by driveway pull-ins and so that did seem to be an issue. Mr. Bateman noted that most of the parking on street currently takes place on the east side of the street.

Chris Hornbaker of 15 Black Forest Lane noted that streetscape projects planned in the Town are currently paid with taxpayer funds, and that future services and fees would need to be increased to pay for the East Broad Way and South Loudoun Street projects. He further stated that he does not ever want to see three-way stop intersections in Town.

Tim Kenna, the applicant, summarized the project's history and noted that he had a preliminary plat approved in 2007 before the Town asked for something else. He noted that builders were disinterested in constructing duplexes and that the alleyways increased the estimated cost of the project. He indicated that he intended to construct neotraditional homes on Loudoun Street but not on Locust Street. Mr. Keena stated that the lift station needs to be upgraded and repairs made to Frye Court to bring the street up to VDOT standards, and so the cash proffer money previously earmarked for a sidewalk on East Broad Way will now be applied to upgrading the lift station in addition to making the Frye Court repairs as before.

Mark Jeffries, consulting engineer for Mr. Keena, indicated his desire to make this project a reality. He stated that the applicant had worked with the previous Mayor to ensure that this infill development would look like the surrounding neighborhood. He reiterated Mr. Keena's claim that builders have limited or no interest in buying lots for duplexes or rear-loaded lots, and that he and the applicant are here to propose a project the Town can support and Mr. Keena can sell. He identified the improvements proposed to the Town's sanitary sewer and stormwater management systems. He noted that the subdivision proposes the creation of 29 lots, 6 of which will have existing houses. He stated that sidewalks proposed reflect the desires of previous Planning Commissions and Town Councils to provide adequate public access while keeping the project consistent with the surrounding neighborhoods, and that increasing the width of the streets to accommodate additional sidewalks would result in the loss of building lots and require additional engineering. He expounded on the benefits to the Town in terms of revenue generated from water and sewer connections. Mr. Jeffries stated that he and Mr. Keena would prefer not to use Lot 2 for dedicated off-site parking for the brewpub, but have proposed on-street parking on one side of Pennsylvania Avenue for use by up to ten cars via the construction that new street, which also complies with the conditional use permit for the brewpub. He stated that building a sidewalk on East Pennsylvania Avenue would make the owner non-compliant with the minimum lot size imposed by the conditional use permit approved previously for one of the lots on East Broad Way. Mr. Jeffries stated that, with respect to staff's recommendation for a timetable controlling the timing of development, the state code already imposes adequate time requirements for plat and plan approvals. He referenced Mr. Bateman's recommendation for side-loaded garages in the staff report before stating that the market should control whether a side-loaded garage is built on a corner lot, and that this proposed requirement should be optional instead.

Mr. Fontaine noted that the parking on Pennsylvania Avenue would be used by residents and would not be designated for parking by brewpub employees. Mr. Jeffries stated that since Mr. Kenna owns adjacent properties on East Broad Way, one option would be to simply designate five employee parking spaces on one of those lots within 500 feet of the brewpub.

Mr. Smith stated that he wanted to help the residents and owners already in the Town, and was thinking of ways to help the brewpub. He stated that he would be willing to forego sidewalks on both sides of the subdivision's internal streets and possibly even side-loaded garages on the corner lots in exchange for Lot 2 being used for dedicated parking for the brewpub. He stated that this would be a good tradeoff, to which Mr. Keena responded that it was not a good tradeoff from his perspective. Mr. Bateman restated his recommendation for a sidewalk on the north side of Pennsylvania Avenue to convey patrons of the brewpub from their vehicles to the building entrance. Mr. Keena interjected by stating that he could put in five staff parking spaces on one of the adjacent building lots, and that with the eight spaces in the brewpub's parking lot along with the ten spaces on Pennsylvania Avenue, that would provide up to 23 spaces overall.

A female employee of the brewpub who did not state her name indicated that the brewpub has eighteen parking spaces including the gravel area behind the paved parking lot, and that on some nights they have to turn people away due to a lack of parking. She said that parking for the brewery is a major concern and may be the deciding factor as to whether the owners decide to remain in Lovettsville. Mr. Bateman stated that the reason parking is such an issue is that because the zoning ordinance typically requires one space per four occupants based on the maximum occupancy, and that the maximum occupancy of the building is 110 according to the business owner. If true, that would yield a minimum of 28 spaces, whereas the conditional use permit requires only 13. He stated that one of the easiest ways to kill a business is to provide inadequate parking, and the best thing the applicant can do to support the brewpub is to provide adequate parking.

Mr. Ciolkosz asked whether the conditional use permit approved for the project could be utilized, and Mr. Bateman replied that the permit approved in 2002 varied lot widths and setback requirements. Mr. Ciolkosz inquired about staff's rationale for requiring a timeline, and Mr. Bateman said that he intentionally left it open ended but wanted to provide predictability to the Town in the future as to when plats and plans will be submitted for approval. In response to a question from Chairman McDonough about the length of time for which preliminary plats remain valid, Mr. Bateman stated that preliminary plats remain valid for five years under state law, so the previously approved plat will be valid until 2017. Mr. Ciolkosz stated that the Town has parking issues and cited Andy's Restaurant as an example of how restaurants require considerable parking. He stated he was willing to be flexible with the issue of side- and rear-loaded parking for the residences, but that parking is essential to attracting and retaining businesses. Mr. Ciolkosz asked the applicant whether he has performed an estimate of the costs of improvements to Frye Court. Mr. Jeffries responded that he utilized the per unit cost figures in the Loudoun County Bond Estimate Form to estimate the cost of improvements to Frye Court and upgrades to the pump station. He estimated that the costs associated with upgrades to the pump station as per the proposed new proffer were \$75,000, which represents a significant contribution to the Town. Mr. Ciolkosz stated that he concurred with Mr. Fontaine that requiring parking on Lot 2 could represent a compromise, and that requiring a sidewalk on both sides of Pennsylvania Avenue would make it more difficult to provide on-street parking.

Mr. Bateman stated that he has spoken with the owners of the brewpub and they are looking to expand, but that 5 additional spaces is simply not enough and that 10 to 12 spaces would be better. That would provide 20 spaces along with the on-street parking, and that Lot 2 would be best location for a double-loaded parking bay containing these additional spaces. In response to a question from Mr. Smith as to what Mr. Bateman meant by a double-loaded parking bay, Mr. Bateman drew an example on the white board. Mr. Keena stated that there were perhaps 4 or 5 parking spaces created on East Broad Way as part of the streetscape project, to which Mr. Palko responded that residents living on the street already utilize those spaces, so that those spaces cannot be counted as dedicated parking for a particular business.

Chairman McDonough said that he wanted to further discuss parking and asked whether 8 to 10 spaces were going to be provided on Pennsylvania Avenue, and Mr. Bateman replied that 8 to 10 spaces assumes driveways 12 feet in width and adequate space for the radii of the apron. Mr. Jeffries explained

how he arrived at 10 spaces. Chairman McDonough inquired as to whether parking for Lot 6 could be provided on Locust Street, and whether that would create an additional area for off-street parking. Mr. Jeffries stated that the plan contains no provision for parking on Locust Street or on the side of Pennsylvania Avenue adjacent to Lot 6.

Mr. Gentile stated that, since the applicant does not have a builder yet, he cannot provide a timetable for starting or completing construction at this time. Mr. Gentile asked, since the applicant is also the owner of the property where the brewpub is located as well as the adjacent properties, doesn't it make sense to provide ample parking for that use on one of the adjacent properties. Mr. Keena replied that although he is the owner of the brewpub property, he owns the other properties together with his brothers, and stated that he would be able to provide 4 or 5 additional parking spaces on one or more of the other lots they collectively own. Chairman McDonough stated that if you add that to the 8 spaces on the brewpub lot and 10 spaces to be provided on Pennsylvania Avenue, that gets you to 23. Mr. Bateman stated that the 10 spaces on Pennsylvania Avenue should not all be counted towards the brewpub, since half will be used by and should be designated for the adjacent residences. Mr. Keena stated that if only 5 are counted towards the brewpub, that yields 18 spaces total, and Mr. Bateman indicated that by applying that same formula to the 5 spaces on Broad Way near the brewpub, that would yield perhaps 2 more spaces.

Mr. Mueller stated that he is unconcerned about whether the residential garages are front-loaded or side-loaded, but inquired about the style of the homes envisioned for the project. Mr. Keena stated that the homes would be similar to the ones in Town Center. Mr. Mueller indicated that he was concerned about public safety when people are walking from the brewpub back to their cars, and that a sidewalk would improve pedestrian safety. He noted that residents were concerned during the public hearing on the Town Center about patrons of the commercial area parking on the street in front of their homes. He said that he feels that it is important to provide a solution to the parking issues identified this evening. Mr. Keena stated that if he provides too much parking on lots intended for residential development to the point where he loses another lot, the numbers may no longer work. Mr. Fontaine said he would like to see something added to the proffers requiring the pump station to be upgraded before any of the 14 houses connecting to it are constructed, and Mr. Keena responded that the Town would not issue building permits before those upgrades are completed. Mr. Jeffries listed the remaining steps in the subdivision process, and stated that the final step cannot be approved until that happens; therefore, Town staff has the final word. Chairman McDonough asked whether there were any other questions from the Commission. There being none, Chairman McDonough closed the public hearing at 9:11 p.m.

Mayor Zoldos asked the chairman for an opportunity to speak to the Commission, and Chairman McDonough agreed. Mayor Zoldos stated that he does not normally share his feelings since the Town Council will consider this case later, but he wanted to set the stage for how the Commission deliberates on this case. After encouraging residents to speak to the Town Council during their public hearing, he indicated that although he likes Mr. Keena, the Town does not own the pump station but rather the residents of Frye Court own it. The Town created a tax district so the Town would take over responsibility for it and maintain it to ease the burden on the residents of Frye Court, but it is not a Town-owned facility. Mayor Zoldos stated that the Commission is not here to make it easier for the developer, and that the developer can build in accordance with the currently-approved plan immediately, but wants to develop a product that is more appropriate for today's needs and market. He stated that the modifications needed to the concept plan do not need to be fast-tracked, and that mistakes on subdivisions can last generations. He asked the Planning Commission to do what is right for the residents, the brewpub, and the Town.

Chairman McDonough thanked the Mayor for his comments.

B. Public Hearing: Zoning Amendment to Modify Lot Coverage Requirements and Garage Setbacks in Residential Zoning Districts (LVZA 2015-0003)

Chairman McDonough opened public hearing at 9:15 p.m. Mr. Smith read the notice of public hearing. Mr. Mueller read the rules for public comment.

The Planning Commission is being asked to consider a zoning ordinance amendment eliminating the alternative absolute maximum lot coverage requirements in the CR-1, R-1, R-2, R-3 and PIDD zoning districts; reduce the maximum lot coverage requirement in those districts and increase the maximum lot coverage requirement in the T-C District; and clarify the front setback requirement for private garages in the CR-1, R-1, R-2, and R-3 districts. Mr. Bateman noted that he included the wrong memo and draft ordinance amendment in the Commission's package, but that the public hearing notice contained the correct percentages agreed to at the previous meeting, so the Commission is free to move forward with this item. He stated that the amendment is more restrictive than is the case currently in terms of the maximum lot coverage as a percentage of the lot area, but more permissive by eliminating the alternative absolute maximum requirement altogether.

Chairman McDonough stated that Mr. Bateman has addressed all of the Commission's previous comments. Mr. Ciolkosz stated that he was looking to get the lot coverage requirement reduced below 40 percent for the Town Center District, and Mr. Bateman indicated that 40 percent is what was advertised. Chairman McDonough asked Mr. Bateman to summarize this item, and Mr. Bateman explained that the amendment reduces the maximum lot coverage in the residential zoning districts described in the notice, but eliminates the absolute requirement in those districts. He said that the amendment increases the maximum lot coverage in the T-C District to address concerns that he brought to the Commission's attention at previous meetings. Chairman McDonough asked whether anyone in the gallery had any questions on the proposed amendment.

Chris Hornbaker of 15 Black Forest stated that, in his opinion, less regulation is better for the Town Center. He said that if he wants to install a storage shed, he has to go through the homeowners' association's covenants committee and that the amendment should reference this procedural requirement. Mr. Bateman stated that the zoning ordinance and zoning administrator do not have the authority to enforce restrictive covenants, and that the separate process required by the homeowners association would remain in effect.

Mr. Mueller explained that the Commission was trying to eliminate a hodge-podge of requirements and make the approach for regulating lot coverage consistent in all zoning districts, even if the lot coverage requirement differs depending on the sizes of the lots. Mr. Hornbaker asked whether, once the 41 percent requirement is reached, the homeowners association would become involved, to which Mr. Mueller responded that once that threshold is reached, the Town would prevent that person from building.

Chairman McDonough called for the motion.

Motion: I move to recommend approval of Case No. LVZA 2015-0003 to the Town Council as presented by staff.

By: Commissioner Gentile

Second: Commissioner Fontaine

Mr. Ciolkosz said that he felt the 40 percent requirement for the Town Center is too high, and that as builders construct larger houses, the result will be larger houses on small lots.

Chairman McDonough asked whether there was any additional discussion. There being none, Chairman McDonough called for a vote.

Aye: Commissioners Fontaine, Gentile, McDonough, Mueller, and Smith

Nay: Commissioner Ciolkosz

Abstain: None
Absent: Commissioner Quintana

Chairman McDonough closed the public hearing at 9:29 p.m.

Chairman McDonough asked whether there was a motion regarding the Keena project. Mr. Ciolkosz stated that he would be willing to make a motion with certain additional requirements. Mr. Smith asked what the next step was, and Chairman McDonough stated that the item will be continued until the next regular meeting. Mr. Ciolkosz identified several issues about which he felt there was agreement among the Commissioners, and reiterated his concern for additional parking for the brewpub. Mr. Keena asked, assuming he decides to convert Lot 2 into a parking lot, what happens in the future if the brewpub goes out of business and how will the vacant property be taxed. Mr. Bateman replied that he could record a parking license agreement for Lot 2 that would require the lot be used for parking until the brewpub use is discontinued. Mr. Keena discussed the market for housing generally in Lovettsville.

Chairman McDonough stated that he would like to direct staff to work with the applicant on some of these issues and bring the case back to the Commission at the next regular meeting. Mr. Keena said that he would be willing to create a parking lot on Lot 2 for the brewpub, which would revert to a residential building lot should the brewpub be discontinued. Mr. Bateman asked for clarification on the issue of sidewalks and what the Commission's opinion was on that, and Chairman McDonough stated that a sidewalk was not needed on both sides of the street. A discussion ensued about the case and parking on Lot 2, and Mr. Bateman asked whether the Commission was directing him to work with the applicant and bring the issue back to the Commission at the next meeting, to which Chairman McDonough responded in the affirmative.

Information Items

Mr. Mueller stated that the Rules and Procedures Committee recently had a meeting, and the next meeting would be on October 26th at 7:00 p.m. Mr. Mueller asked staff to distribute the proposed changes to the group before the meeting, and staff agreed to do so.

Next Meeting

The next meeting on the comprehensive plan will be a work session on October 21, 2015. The next regular meeting is scheduled for November 4, 2015.

Comments from the Mayor and Commissioners

The Mayor reported on important issues, happenings, and events taking place and coming up in the Town of Lovettsville, including issues currently before the Town Council.

Adjournment

There being no further business before the Planning Commission the meeting was adjourned at 9:58 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: October 4, 2017

Attachments:

None