

Town of Lovettsville

Minutes of the Planning Commission Regular Meeting and Public Hearing November 18, 2015

Call to Order/Pledge of Allegiance

Chairman Frank McDonough called the Regular Meeting of the Lovettsville Planning Commission to order at 7:31 p.m. on November 18, 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 8:36 p.m.)
- Commissioner Thomas Ciolkosz
- Commissioner Nate Fontaine
- Commissioner Joseph Mueller
- Commissioner Buchanan Smith

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

Mr. Bateman asked whether the Chairman wanted to reappoint a replacement Chairperson for the Transportation Advisory Committee since Mr. Quintana has recently resigned. Chairman McDonough stated he wanted to wait until the end of the meeting.

Approval of Planning Commission Minutes

There were none.

Staff Reports

Mr. Bateman reported on the amendment to the lot coverage requirements and indicated that the Town Council approved the amendment at their last meeting. He reported that the Council conducted a public hearing on the Keena Subdivision and discussed the project but took no official action. Mr. Bateman reported that he and Mr. Palko recently met with a prospective buyer of the Lemp Tract and reviewed a concept plan for a by-right residential subdivision on those properties. Mr. McDonough inquired whether the Lovettsville Glen project was designed with a cul-de-sac at the end of the subdivision street, and Mr. Bateman explained yes but that the right-of-way for that street continues to the property line. He further noted that staff desired both subdivisions to be done as one project; however, the lots in Lovettsville Glen are too narrow and therefore inconsistent with what the prospective developer of the Lemp Tract wants to build. Mr. Bateman reported on the community input meeting last Monday evening on the proposed 7-Eleven convenience store and stated that the Town received a significant amount of very good input.

Action/Discussion Items

A. LVZA 2015-0004: Zoning Ordinance Amendment to Clarify Zoning Requirements Applicable to Convenience Stores in C-2 District

Mr. Bateman presented this item. The Planning Commission is being asked to conduct a public hearing on a zoning ordinance amendment requested by 7-Eleven, Inc. to add a definition for the term “convenience store” and to clarify the process for authorizing convenience stores, both with and without fuel sales, in the C-2 Mixed Use Business District. He explained that currently convenience stores are permitted as a conditional use in that district, but there is no definition in the zoning ordinance and so no way to know whether convenience stores that include fuel sales are permitted or not under that term.

Mr. Bateman explained that the amendment drafted by the applicant:

1. Adds a definition for “convenience store” to Section 42-2 to define it as “a commercial establishment designed and intended to serve daily or frequent trade needs of the surrounding population, characterized by the retail sale of food and other household products. If the retail sale of fuels is included with the convenience store, approval of a conditional use permit is required.”
2. Adds “Convenience stores without fuel sales” to the end of list of uses permitted in the C-2 District by-right per Section 42-259 (b)(31).
3. Adds the phrase “with fuel sales” to the end of the term “Convenience stores” in Section 42-259(c) so that convenience stores which include retail fuel sales would be a conditional use in the C-2 District.

Mr. Bateman stated that, in the opinion of staff, the existing definition is too specific because it includes the conditional use permit requirement in the definition. He recommended deleting the requirement in the definition. Mr. Bateman further stated that the proposed definition is too broad by including activities that would not normally be associated with a convenience store. He proposed the following amendment:

1. Add the phrase “small-scale” before commercial establishment in the first sentence.
2. Delete the phrase “food and other household products” and replace it with “a limited line of groceries and household items generally purchased in small quantities and intended for the convenience of shoppers, including pre-packaged food products, tobacco, periodicals, medicines, cosmetics, and limited beer and wine items. Such stores may have on-site service of food or drink for immediate consumption and may include the dispensing of fuel for retail sale on the premises, subject to any additional requirements which may be applicable to such uses or activities in the zoning district where located.”

Mr. Bateman explained that the term “limited line” was intended to prevent a specialty beverage store from claiming to be a convenience store. He stated that convenience stores without fuel sales would be a by-right use in the C-2 District even though all types of convenience stores would remain a conditional use in the C-1 District.

Mr. Mueller asked whether convenience stores with fuel sales were specifically called out in any of the other commercial zoning districts. Mr. Bateman responded that the use was not specifically called out in the C-1 District, but by listing “convenience stores” as a conditional use in that district and adding a definition that states that such uses may or may not include fuel sales, that stores with and without fuel sales are covered in the regulation. Mr. Mueller asked whether the proposed definition precludes drive-through windows, and Mr. Bateman said he feels it would since drive-throughs are a separate and distinct use.

Mr. Ciolkosz asked whether the reference to fuel sales includes the sale of fuels to commercial purchasers, and Mr. Bateman replied that the definition includes the retail sale of fuels to consumers.

Chairman McDonough opened the public hearing at 7:46 p.m. Commissioner Fontaine read the Notice of Public Hearing. Commissioner Mueller read the rules for public comment.

Chairman McDonough called for comments from the public.

Kimberly Welsh Hise from Walsh, Colucci and Associates introduced herself and spoke on behalf of the applicant, 7-Eleven, Inc. She stated that she is supportive of amending the definition as recommended by staff. She said she is willing to answer any questions the Commissioners may have, but is asking for the Commission to forward a recommendation to the Town Council on the proposed zoning amendment.

Chairman McDonough asked whether there were any questions from the Commissioners. Hearing none, Chairman McDonough closed the public hearing at 7:52 p.m. and reconvened the regular meeting.

Chairman McDonough requested a motion on the proposed zoning amendment.

Motion: I move to recommend approval of Case No. LVZA 2015-0004 to the Town Council with the following modifications recommended by staff:

1. The last sentence of the proposed definition of convenience store shall be deleted; and
2. The proposed definition of convenience store shall be further modified as recommended by staff in Item #2 under "Discussion" in the staff memorandum to the Planning Commission dated November 18, 2015.

By: Commissioner Ciolkosz

Second: Commissioner Mueller

Mr. Gentile asked about whether the fuel canopy is considered an accessory structure and whether the building height requirement in Section 42-259(c)(2)(e) for accessory structures would apply to the canopy. Mr. Bateman asked the applicant what the height of the fuel canopy would be, and Ms. Hise replied that it would be 17 feet. Mr. Bateman asked whether the height Ms. Hise indicated was the height to the top of the flat roof or top of the mansard roof. Mr. Bateman identified that the requirement in the zoning ordinance for the maximum height of accessory structures is 15 feet. A discussion followed on the correct way to measure the height of the canopy based on the definition of building height in the zoning ordinance and whether the fuel canopy constitutes a structure. Chairman McDonough asked Mr. Bateman whether staff believes that the canopy is not an accessory structure, and Mr. Bateman replied that, although a canopy is not a building in the strictest sense, he believes it is a structure, but will nevertheless confer with the Town Attorney and report back on this question.

A discussion followed on the whether the height of the canopy is measured to the top or midpoint of the mansard roof. Chairman McDonough said that the discussion is not germane to the public hearing item, and Mr. Bateman replied that it is part of the larger discussion on fuel sales. Mr. Bateman asked the applicant whether it was possible to reduce the height of the canopy by one foot on average, and a brief discussion ensued about whether to address this issue now or later when the applicant applies for a permit for the canopy. Mr. Bateman noted that Mr. Gentile has raised an important question and he will research the issue and report back to the Commission.

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

Nay: None

Abstain: None

Absent: None

Information Items

Chairman McDonough asked the Planning Commission to designate Mr. Mueller as the Chairman of the Transportation Advisory Committee.

Motion: I move to appoint Commissioner Mueller to Chair the Transportation Advisory Committee.
By: Commissioner Gentile
Second: Commissioner Ciolkosz
Aye: Commissioners Ciolkosz, Fontaine, Gentile, McDonough, Mueller, and Smith
Nay: None
Abstain: None
Absent: None

Next Meeting

Chairman McDonough indicated that the next meeting would be held on December 2, 2015.

Comments from the Mayor and Commissioners

Mr. Gentile asked commissioners to remind their friends and neighbors to turn in their comprehensive planning surveys.

Adjournment

There being no further business before the Planning Commission the meeting was adjourned at 8:07 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: December 20, 2017

Attachments:
None