

Town of Lovettsville

Minutes of the Planning Commission
December 7, 2016 Regular Meeting
CIRCULATED FOR VOTE MAY 9, 2018

Call to Order/Pledge of Allegiance

Chairman McDonough called the regular meeting of the Lovettsville Planning Commission to order at 7:31 p.m. on December 7, 2016 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, Virginia.

Pledge of Allegiance

Chairman McDonough led those present in the Pledge of Allegiance.

Present at Meeting

- J Chairman Frank McDonough
- J Vice Chairman Nate Fontaine
- J Commissioner Christopher Hornbaker
- J Commissioner Stephanie Wolf

Absent

- J Commissioner Thomas Ciolkosz
- J Commissioner Joseph Mueller
- J Commissioner Shiva Schilling

Staff Present

- J Zoning Administrator Joshua Bateman
- J 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 suggested skipping the committee reports since several Commissioners were absent. There was no objection.

Planning Commission Minutes

There were no minutes for approval.

Zoning Administrator Monthly Activity Report

Mr. Bateman asked whether there were any questions on the monthly activity report. He stated that the Town recently received the second submission of the construction plans for the Loudoun West Subdivision and that the 7-Eleven has received a zoning permit and is ready to begin construction. Mr. Bateman stated further that he has heard no new information regarding the Lovettsville Community Center or Keena Subdivision.

Ms. Wolf inquired about the status of the Lovettsville Volunteer Fire and Rescue and process for approving annexation for construction of a new fire station. Mr. Bateman replied that the process was described in the Annexation Policy and Procedure adopted by the Town Council and involves a recommendation by the Planning Commission to the Town Council. Prior to that, the Town will need to amend the Zoning Ordinance to change the automatic zoning of annexed properties and add definitions for uses that are desired by the fire company for the existing fire hall once the new fire station is

constructed. He said the Town Manager asked him to prepare a resolution for the Town Council meeting tomorrow evening to initiate such an amendment.

Mr. Fontaine asked Mr. Bateman to describe the policy changes made by the Town Council to the draft Comprehensive Plan amendment. Mr. Bateman replied that the Town Council held a retreat on November 6th and brainstormed topics that they wanted to see covered in the plan before asking staff whether and specifically how those topics are addressed in the draft amendment. The Council identified approximately 15 to 20 topics, perhaps 10 to 15 of which were items not sufficiently addressed in the plan in their view. The Town Manager was directed to make those edits and present them to the Town Council on December 8th. Mr. Bateman gave several examples. Ms. Wolf asked whether any of these changes included amendments to the vision statement, and Mr. Bateman responded no, that the plan's vision will be discussed next week. Mr. Bateman stated that the Council will hold a work session next week to discuss the vision statement, and he encouraged the Commissioners to attend the meeting if possible. Mr. Bateman explained that the Planning Commission only made minor editorial changes to the vision statement and overall goals when it reviewed the plan and opted not to focus on visioning in year five following adoption of the plan. He explained further how visioning works, asked Mr. McDonough to attend the meeting next week, and indicated that the Town Council may decide to make additional minor edits or fundamental changes to the vision statement.

Mr. Fontaine asked whether the annexation policy requires the zoning of the Lovettsville Volunteer Fire and Rescue Company's property to change before it gets annexed to ensure that the Town is not annexing property for potential residential development. Chairman McDonough stated that the adjustment to the default zoning district is needed for this purpose, and Mr. Bateman said that the current CR-1 District allows low-density residential development and certain non-residential uses which are generally not the right fit for the fire company's property. Mr. Bateman stated that the amendment he has in mind would allow property currently being used for non-residential purposes, like the fire company's properties, to be zoned I-1 or in some other category that is more consistent with the property's existing use. He noted that Leesburg has a policy to this effect, and that the I-1 District does not permit public uses such as police stations, fire and rescue stations and government buildings, which means the Town would have to sponsor a zoning amendment to permit the construction of a new Town Office on the Engle Tract if it wanted to do so. He said that such an amendment to the I-1 District would not hurt the Town even if the Council decides for whatever reason not to approve the annexation of the fire station.

Action/Discussion Items

A. Sign Regulations (Article XI) Preliminary Draft Amendment – First Reading

Chairman McDonough stated that the U.S. Supreme Court struck down local sign ordinances last year by ruling that such ordinances cannot be content based. He explained that staff has drafted an amendment to the sign regulations that eliminates content-based definitions and standards and replaces them with content-neutral requirements where possible. Mr. Bateman summarized the organization of the sign regulations in Article XI and how various types of signs are defined and regulated by area, height and location. He explained how he went through the sections in this article one-by-one and either eliminated the definition or standard altogether if it was content-based or changed it so that the definition or standard is now based on the sign's location, materials or some other characteristic. Chairman McDonough suggested that the Commission review each change beginning with Section 42-399 and ask staff any questions they may have. Mr. Bateman explained the nature and purpose of the following changes drafted to each section:

Section 42-399: Mr. Bateman indicated that he added a definition for A-frame signs. Mr. Fontaine noted that construction, model home and sales office signs are named based on their content, and he asked whether they should be identified as temporary signs instead. Mr. Bateman said that construction signs are defined as temporary signs, and Mr. Fontaine reiterated that the changes to the definition are fine but that the title is still content based. Mr. Bateman said that the title does not matter as much as the substantive definition, but that the titles of these signs could be changed if desired by the Commission or Town Attorney. Mr. Bateman said that these signs are identified as construction signs and model home

signs not because of their content, but rather because of where they are located. He noted that eliminating the definitions for most content-based sign types in the ordinance has no real effect because there was no corresponding standard in the sign regulations. Ms. Wolf said that there were no other uses of the term construction signs anywhere else in the ordinance, and Mr. Bateman read the corresponding requirement for model home signs in Section 42-403(b) and temporary construction signs in Section 42-407(b). He noted that a construction sign could contain any message whatsoever but would still be considered a construction sign if located on the site of active construction.

Mr. Hornbaker asked about the requirement for temporary yard or lawn signs that allows them to be displayed for up to 90 days, and Mr. Bateman explained that he picked 90 days arbitrarily and that the Commission can change this to whatever seems appropriate. Mr. Hornbaker asked where real estate signs are addressed in the regulations, and Mr. Bateman read the requirement in Section 42-407 for such signs.

Section 42-400 and 401: Chairman McDonough asked whether there were any questions on changes proposed to this section. Mr. Fontaine stated that he drove past Ridgeway's on his way here tonight and does not know whether the owner needed to obtain an exception for the sign on his site, and he stated that when driving by Bonnie's tonight he noticed that the owner had an internally-lit "Open" sign displayed. He said that Thairverse has such a sign as well, and that the Town may have to get creative to continue to authorize such signs. Mr. Bateman asked Mr. Fontaine to cite the section number to which he is referring, and Mr. Fontaine cited Section 42-403 before stating he would wait until the Commission reaches this section before posing his question.

Section 42-402: Chairman McDonough asked whether there were any questions regarding this section, and Ms. Wolf stated that she had questions on the next section.

Section 42-403: Mr. Fontaine remarked that the Town does not allow any internally-lit signs or even signs that are indoors but visible from the building's exterior. Mr. Bateman read the requirement regarding such signs. Ms. Wolf said that the easiest way to treat window signs is to require that they must be turned off to be considered a temporary window sign. Chairman McDonough remarked that the sign would only be considered a sign if it is turned off. Mr. Bateman stated that the prohibition against LED signs might be interpreted to prohibit such "Open" signs even if located inside the building, and said the ordinance needs to be more clear on that point. Mr. Fontaine noted that the provision he cited earlier states that any sign visible to the public is regulated by the ordinance, and Mr. Bateman explained the purpose for eliminating the separate category pertaining to such "Open" signs. A discussion followed about how to define and regulate such internally-illuminated signs. Mr. Bateman said that he believes the ordinance does allow such signs so long as they are not flashing and read the existing provision pertaining to such signs. He noted that paragraphs (a) and (c) conflict and the Commission should decide which rule they want to preserve.

Mr. Bateman noted that the provisions that are not content-based remain valid, and Chairman McDonough asked whether it was possible to simply strike the parts that are invalid, to which Mr. Bateman and Mr. Fontaine replied in the negative. Mr. Bateman asked Mr. Fontaine whether he wanted to allow LED window signs, and Mr. Fontaine replied in the affirmative and said that he also wanted to allow backlit window signs. A discussion followed regarding how best to regulate such window signs. The Commission agreed to regulate such signs by size, number, window coverage and whether they are programmed to flash. The Commission directed Mr. Bateman to draft additional changes to this section to reflect the Commission's preferred approach.

Ms. Wolf asked what the definition of a sign includes, specifically, whether it includes the sign's structure or just the sign copy. Mr. Bateman said that the sign height should be measured to the top of the sign structure in Section 42-403(a)(1). Ms. Wolf suggested making the definition of sign height more clear to prevent someone from adding something elaborate or fancy to the top of the sign's frame simply to get around the requirement in the ordinance. Mr. Bateman said one should never underestimate the ability of

people to find ways around the ordinance in attempting to express themselves or their displeasure at a local government regulation. The Commission agreed without objection to direct Mr. Bateman to change the definition of sign height such that the maximum sign height is measured to the top of the structure.

Mr. Fontaine asked about fuel canopy signage and whether the prohibition against illumination of canopy signs allows the façade of the canopy to be illuminated. A discussion followed, and Mr. Bateman pledged to think of the best way to ensure that no part of a canopy other than the ceiling can be illuminated.

Section 42-404: Chairman McDonough asked whether there were any questions about the proposed regulations governing signs in residential zoning districts. Mr. Bateman noted that rules for security and warning signs likely need to be deleted. Ms. Wolf and Mr. Hornbaker directed staff to check the laws regarding such signs because warning signs are often required for things like electrical facilities, flood zones and fire hazards. A discussion followed, and Mr. Bateman asked whether certain yard signs might be considered safety signs. Mr. Hornbaker inquired as to why there was currently no maximum area for such signs, and Mr. Bateman asked the Commission to propose a maximum area if it desires one. Chairman McDonough said that if the Town ordinance does not specifically allow such signs, but if the state law requires them, the state law would be controlling. Mr. Bateman agreed to check the state laws regarding security and warning signs, and Mr. Hornbaker said that such rules might also govern the warning sign displayed on the fence at 14 South Loudoun Street. Chairman McDonough said there may also need to be a rule against falsifying such signs, but after a short discussion, no consensus emerged about whether to do so.

Mr. Fontaine asked about paragraph (b)(1) and whether allowing a maximum of three signs on a single property or on a single street frontage should be allowed. He asked whether the Commission is comfortable with the requirement as currently written which allows a maximum of two permanent signs and one portable sign per property. Chairman McDonough asked staff whether he was aware of any problems with this in the past, and a discussion took place on this topic and the rules regarding signs for multiple businesses within a shopping center. No consensus emerged about changing the requirement as currently written.

Section 42-406: Mr. Bateman stated he wants to do more with this and highlighted the Lovettsville Square commercial center as an example of a site utilizing a comprehensive signage plan to encourage the installation of signage that is compatible with the buildings' architecture. He stated that he did not yet make any changes because he has not yet received that direction from the Commission but is open to doing so if the Commission desires.

Section 42-407: Chairman McDonough noted that there were a lot of changes in this section and asked Mr. Bateman to summarize these. Mr. Bateman said that the changes were extensive because this is the appropriate place to regulate many of the temporary sign types that were previously identified by their content. Chairman McDonough stated he is pleased that appropriate restrictions were added for temporary signs. Mr. Bateman said the new types are somewhat cryptic by design and that restrictions on banner signs, construction signs and temporary wall signs are all included.

Section 42-408: Mr. Bateman said that he did not change much in this section except the provisions regarding the vesting and status of nonconforming signs. Chairman McDonough asked Mr. Bateman whether he can think of any enforcement powers or provisions that need to be added to make the regulations more enforceable. Mr. Bateman said he could not think of anything but did explain proposed changes to paragraph (e) for signs destroyed by an act of God. A discussion followed about whether to delete the last sentence requiring such signs to be appraised as to their value, and Mr. Bateman agreed to consult with the Town Attorney regarding this issue but stated his opinion that any nonconforming sign destroyed by an act of God should not be replaced or reconstructed except with one that conforms to the ordinance. The Commission discussed the issue before agreeing to the proposed change without objection.

Chairman McDonough asked whether the Town can add an exception to the sign regulations for signs installed by the Town. The Commission discussed the issue and Mr. Fontaine noted that such signs are already considered exempt in the sign ordinance.

Ms. Wolf asked about how the existing LED sign at the fire station would be regulated or treated once the property is annexed into the Town. Mr. Bateman said that the status of the sign could be specified in the annexation agreement, otherwise the sign would be considered an existing nonconforming sign upon annexation.

Chairman McDonough asked whether there were any additional questions or comments from the Commission regarding the sign ordinance. There were none.

Information Items

Mr. Fontaine stated that he is currently collaborating with Mr. Bateman on developing the Planning Commission's Annual Report and will be presenting that to the Commission next week.

Next Meeting

Chairman McDonough announced that the next meeting will be held on December 21, 2016 and will include presentation of the awards for the Light-up Lovettsville contest at the beginning of the meeting.

Committee Reports

Chairman McDonough stated his intention to dispense with committee reports since several Commissioners were absent.

Comments from the Mayor and Commissioners

Vice Mayor Tiffaney Carder delivered comments and a verbal report on activities and events going on in the Town and those involving partnerships with various community organizations.

Chairman McDonough stated that he was extremely pleased with the participation by Ms. Wolf and Mrs. Schilling in the LUEP classes and said that the expectations for Commissioners in Lovettsville are higher than those from many other jurisdictions

Adjournment

There being no additional business to come before the Planning Commission, the meeting was adjourned at 8:34 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: May 9, 2018

Attachments:
None