

Town of Lovettsville

Minutes of the Planning Commission Meeting January 18, 2017

Call to Order/Pledge of Allegiance

Chairman Frank McDonough called the Meeting of the Lovettsville Planning Commission to order at 7:30pm on January 18, 2017 at the Lovettsville Town Hall 6 E Pennsylvania Ave, Lovettsville, VA.

Pledge of Allegiance

Chairman McDonough led those present in the Pledge of Allegiance.

Present at Meeting

- Chairman Frank McDonough
- Commissioner Christopher Hornbaker
- Commissioner Joseph Mueller
- Commissioner Shiva Schilling
- Commissioner Stephanie Wolf
- Commissioner Thomas Ciolkosz

Absent

- Vice-Chairman Nate Fontaine

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

There were none.

Planning Commission Minutes

There were no minutes for approval.

Zoning Administrator Monthly Activity Report – December 2016

Mr. Bateman discussed the written report he distributed prior to the meeting. Chairman McDonough stated that he noticed that basements have been constructed on the five lots where you turn to enter Kingsridge on Cooper Run Street. He asked whether Ryan Homes is building those houses, and Mr. Bateman replied yes. Chairman McDonough stated that he saw that the houses located across from the pavilion are under construction and asked whether if those have been sold or not. Mr. Bateman said he has issued zoning permits for all four lots, and Mr. Hornbaker stated that all four lots have been sold.

Mr. Ciolkosz stated that he has heard there are challenges with the alley serving those four lots and asked Mr. Bateman to confirm whether this is a Town issue and whether the lots will ultimately have sufficient access, and Mr. Bateman said he believes the lots will have access and that the issue is between the developer and HOA and does not involve the Town. He explained that the nature of the issue is whether the lots have access from Town Center Drive or Hammond Drive and that VDOT requires adequate separation between the alley's entrance and the entrance to the Town Center commercial area on Town Center Drive. Because of this, the developer wishes to construct the entrance

to Hammond Drive but needs an easement across property owned by NVRetail as well as acceptance by the homeowners' association for long-term maintenance purposes.

Mr. Ciolkosz asked about the timeline for constructing the new 7-Eleven convenience store. Mr. Bateman explained that he, Mr. Palko and several onlookers witnessed the demolition of the building and explained that an issue regarding the sidewalk connection needs to be resolved by the Town Council before the Town can issue the zoning permit for the new building. Mr. Ciolkosz asked about the completion date, and Mr. Bateman said he has not heard anything specific but would be shocked if it is much past May.

Action/Discussion Items

A. LVZA 2016-0005: Public Hearing on an Amendment to Clarify Zoning and Requirements Related to Potential Boundary Line Adjustment of the LVFRC Properties.

Chairman McDonough convened the public hearing at 7:36 pm. Mr. Bateman briefed the Commission on the amendment by explaining that the Loudoun County Fire Department is planning to build a new fire station on one or more of the three properties owned by the Lovettsville Volunteer Fire and Rescue Company immediately south of Town on Berlin Turnpike. He explained that the fire company desires to retain the existing bingo hall and establish the Lovettsville Cooperative Market in the front section of the station where the vehicle bays and living quarters are currently located. The zoning amendment is intended to accommodate all of the existing and proposed uses in the zoning district that allows the least intensive uses of the property, which is the I-1 District. Mr. Bateman explained that towns typically have a transitional zoning district that requires any proposal for higher-intensity use to undergo a rezoning. That way, localities can obtain proffers to ensure proper development and that any effects are addressed. He said that the amendment will give the Town Council more flexibility to determine the future uses of the property compared to what the CR-1 District currently allows, which includes three-quarter acre residential lots.

Mr. Ciolkosz asked whether the Commission can obtain clarification regarding what the other zoning districts allow, and Chairman McDonough replied that the Commission should discuss this once the public hearing has been concluded and a motion has been made regarding this topic. Mr. Bateman said there was no zoning district that perfectly accommodates what the fire company is trying to do, and Mr. Ciolkosz said he understands this and that is why he would like clarification on what some of the other districts allow. Mr. Bateman explained that the other commercial districts allow many more uses and that the light industrial district allows relatively few uses and most of the more intensive ones by conditional use permit. He said that the objective is to allow the assembly hall, co-op and fire station as by-right uses, and although the fire station could be constructed in the County by-right currently, the Town wants to be able to provide spaces for commercial services that residents have been indicating they want and need.

Chairman McDonough read the notice for public hearing. Commissioner Mueller read the rules for public comments.

Sean Staley of 28 Tritapoe Place thanked the Commission and said he wanted to speak out about the boundary line adjustment. He said that one of his concerns is that he does not understand the need to bring these properties into the Town. He said that once the sign ordinance is once again enforceable he would hope that it would be applied in full so that the existing signs on the site will not be grandfathered in. He said that the zoning change will allow drive-through facilities and that one does not typically see such uses in an industrial zoning district. He said there is a 32-acre property in the middle of Town and a drive-through would be allowed there as well if the zoning amendment were approved. He said that he has heard that the Town has lost businesses due to its prohibition on drive-throughs, but that this claim is nonsense and that the inability to have a drive-through is not a driving factor. Mr. Staley stated his concern that what is being proposed does not match the Comprehensive Plan, and that he and Mr. Mueller spent a considerable amount of time working on the Comprehensive Plan. He stated that there is a policy in the plan stating that development of properties outside of the Town through boundary line adjustment should be considered after properties in the Town are developed. He said that he wants to keep the assembly hall, but that the plan contains policies calling for the creation of a walkable

community and that drive-throughs are inconsistent with these policies. He encouraged the Commission to review the comprehensive plan because there are about a half-dozen things in the plan which conflict with the proposed zoning amendment.

John Desaix of 41630 Lovettsville Road said that he has one question and one comment. He asked whether the I-1 District allows the food co-op to have a restaurant in the store. Mr. Bateman replied that restaurants without drive-throughs are permitted by-right and that the restaurant use could include take-out. Mr. Desaix said that a drive-through and a restaurant are two very different things and the way the public hearing notice was presented, it sounded like those two things were being hung together. He said that the co-op is looking for some type of restaurant in the store because most shoppers will want to buy something and take it home, but that it has no desire for any type of drive-through that would detract from the community. He indicated that he was a member of the co-op board but is speaking tonight for himself.

There being no further comments, Chairman McDonough asked whether there was a motion.

Motion: I move to recommend approval of LVZA 2016-0005 to the Town Council as presented.

By: Commissioner Mueller

Second: The motion was not seconded.

Chairman McDonough announced that the motion fails for lack of a second. Ms. Wolf asked whether the Commission should move to deny, and Chairman McDonough said no because there was no such motion.

Mayor Zoldos asked the Chairman for permission to address the Planning Commission and said questions have been asked about how we got to where we are currently on this and he would like to explain this to the Commission. He said the volunteer fire company came to him and the Town Council almost a year ago to ask for help in saving the bingo hall. Mayor Zoldos said that the Loudoun County Fire and Rescue was planning to rebuild the fire station such that the volunteer company would lose the ability to hold bingo and assemblies in the fire hall for fundraising. The company asked him to attend a meeting to discuss options for retaining the bingo hall, which he did. The fire company discussed the various options including the adoption of a resolution by Town Council calling for the assembly hall to be retained. In meetings with the Town Manager and Zoning Administrator, one of the things the company wanted, once the fire and rescue operations move into a new facility, was to convert the front of the existing station into a small assembly use or rent it to a small retailer. The Mayor explained that the problem with this latter suggestion is the Loudoun County zoning, which is problematic. So he put the Lovettsville Cooperative Market in touch with President Karen Deli of the Lovettsville Fire and Rescue Company. In June, the VFD got in touch with Mr. Bateman and said that they liked the idea and asked how we could work together to move this forward. He said this issue is about how to keep the assembly hall because the County Fire Department wants to demolish it and build a new fire and rescue station, which makes sense from their perspective but not from the perspective of a community-based volunteer company. He said he just wants the Commission to know the path regarding how this issue came before the Planning Commission tonight.

Ms. Wolf asked whether the Chairman could open the public hearing again, and Chairman McDonough replied that the motion is dead. Mr. Ciolkosz said he is looking through the C-1 District and that it supports what the Mayor is talking about, including a fraternal club, lodge, and community building for a non-profit. Mr. Hornbaker asked Mr. Ciolkosz to clarify the district to which he is referring, and Mr. Ciolkosz said the C-1 Community Commercial District lists many of these uses including a retail food store, bakery, delicatessen, pharmacy and more. He said looking at the zoning ordinance, it would make more sense to use this designation. Chairman McDonough stated that the zoning may very well end up being that, but that the transitional zoning should not be C-1. Ms. Wolf said that, right now, the property would be automatically zoned CR-1. Mr. Ciolkosz asked again why not use the C-1 District. Mr. Bateman said that the amendment allows the Council to zone the property to that, and Mr. Ciolkosz

said that it specifies the zoning will be I-1. Mr. Bateman pointed to the provision in Section 42-150(b) allowing the Town Council to establish the zoning of the property in the resolution approving the annexation and listed the potential zoning designations of the property under that provision. Mr. Ciolkosz said that the amendment came before the Commission so that they can issue a recommendation, but that the amendment contains so many options he does not know how the Commission can recommend it. Mr. Bateman said that Mr. Ciolkosz is right in saying that the Town Council does have options regarding how property brought into the Town through annexation is ultimately zoned. He said that localities have sole authority regarding how lands within its boundaries are planned and zoned, and that the Commission has a right to weigh in on that. The amendment shortens the process somewhat, but the Commission can recommend a zoning designation with which the Council disagrees and the zoning of property ultimately falls within the Council's authority. Mr. Bateman explained that the Town Council can establish whatever zoning it wants regardless of the Commission's recommendation, either during or subsequent to the annexation of land into the Town limits. He reiterated that the purpose of the amendment is to ensure that the property is not zoned CR-1 Residential upon annexation, which would allow by-right, three-quarter acre residential lots.

Mr. Ciolkosz asked why the Town can't zone annexed property C-1 Commercial, and Mr. Bateman replied that the Commission can do so if it desires. Ms. Wolf asked, since the CR-1 District is insufficient as a holding designation for annexed properties, would it not be better for the Town to alter the CR-1 District rather than the light industrial district. Mr. Bateman replied that this is one possibility, and Ms. Wolf said, since this is the sole purpose of the CR-1 District, why not alter that rather than a different district. Mr. Bateman said the Town has the right to automatically allow annexed property to be zoned CR-1 under the annexation policy. He said that the land use plan includes land outside of town that the Town may potentially annex for residential development, and that the zoning ordinance needs to include some zoning designation that does not allow the property to be subdivided into 8,000 square-foot lots by-right upon annexation.

Mr. Ciolkosz asked what the downside would be of zoning annexed property C-1, and Mr. Bateman replied that there are a lot of uses permitted in the C-1. Mr. Ciolkosz responded that there are a lot of other uses permitted in the industrial zone. Mr. Ciolkosz listed repair shops with outdoor storage as one such use, including shops that repair 18-wheelers and would allow outdoor storage of such vehicles. He said that blacksmith shops are permitted and he has not seen one of those in about one hundred years. Mr. Bateman said the I-1 District is the least permissive non-residential district, and Mr. Ciolkosz stated that permanent indoor and outdoor facilities with related equipment is listed, which could be a million things, as well as wireless communication equipment. Ms. Wolf called for the order of the day and said the public hearing has already been opened and closed so the Chairman needs to move on to Item B on the agenda. Chairman McDonough stated that he has verified that this is proper procedure and stated the Commission is moving on to the next agenda item.

- B. LVZA 2017-0001: Initiate Amendment to Article XII (Floodplains) of the Zoning Ordinance to Comply with National Flood Insurance Program (NFIP) Regulations Mr. Bateman summarized the nature and purpose of amending the Town floodplain regulations. Mr. Bateman stated the Town needs to amend its floodplain regulations to comply with recent changes by FEMA to the National Flood Insurance Program regulations and Flood Insurance Rate Maps, and that there are about four or five flood insurance policies as well as several vacant parcels in the Town of Lovettsville that will be affected by this change. He recommended that the Commission initiate an amendment and authorize a public hearing on the enclosed amendment so that the Town's program will be up-to-date by February 17, 2017. In response to a question from Chairman McDonough about whether this affects homeowners having flood insurance policies in the Town, Mr. Bateman said that if the Town fails to act by February 17, 2017, the Town's participation in the program would be suspended and those policies could not be renewed until the Town returns to good standing. He said that although he is not a major fan of the federal program, local participation in the program does benefit Town residents owning property within the 100-year floodplain.

Chairman McDonough asked whether there was a motion regarding the presentation.

Motion: I move to initiate the enclosed amendment to Article XII (Floodplains) of the Zoning Ordinance, and further authorize staff to coordinate with the Town Council to schedule a joint public hearing on the same in February, including any amendment to the Official Zoning Map to add the SFHAs identified on the FIRM scheduled to go into effect on February 17, 2017 as a zoning overlay district, as necessary.

By: Commissioner Ciolkosz

Second: Commissioner Hornbaker

Aye: Commissioners Ciolkosz, Hornbaker, Mueller, McDonough, Wolf, and Schilling

Nay: None

Abstain: None

Absent: Vice-Chairman Fontaine

C. Adopt Planning Commission Annual Report

Chairman McDonough introduced this item and asked whether everyone had an opportunity to look over the Commission's list of accomplishments from last year.

Motion: To forward the Planning Commission's annual report to the Town Council so that it can be included in the Town Council's annual report.

By: Chairman McDonough

Second: Commissioner Ciolkosz

Aye: Commissioners Ciolkosz, Hornbaker, Mueller, McDonough, Wolf, and Schilling

Nay: None

Abstain: None

Absent: Vice-Chairman Fontaine

Information Items

There were no information items.

Next Meeting

Mr. Bateman indicated that staff has no business to discuss with the Planning Commission for the meeting scheduled on February 1st provided the joint public hearing on February 9th takes place as scheduled.

Mr. Ciolkosz asked whether the Commission can go back to Item A. under the Action and Discussion Items. Mr. Hornbaker said there would have to be a motion to reconsider that would have to be properly seconded. Mayor Zoldos said the motion was never considered and so could not be reconsidered because the motion never happened, so the Planning Commission's choice is merely whether to do it or not. He apologized for interjecting, and Mr. Hornbaker stated that the motion to reconsider would be to consider that action item again, and a motion to amend would be necessary if action had been taken and the motion had passed. Mr. Ciolkosz said but it did not pass, and Mr. Hornbaker said that Mr. Ciolkosz is correct so the motion to reconsider that item is necessary in this instance. Chairman McDonough said that he is waiting for a ruling from the Parliamentarian, and Ms. Wolf said she would like to take up a matter previously tabled. Mr. Ciolkosz said that Ms. Wolf cannot take the issue back up because it never happened. Mr. Hornbaker stated that an item came before the Commission that was not acted upon, and if the Commission would like to reconsider that item at the same meeting, a motion to reconsider must be made and it must be seconded. Mr. Ciolkosz said the Commission should go with Mr. Hornbaker's suggestion while the Chairman and Ms. Wolf think about it. Ms. Wolf said it should be treated like new business.

Chairman McDonough asked for a motion. Mr. Ciolkosz moved to reconsider the Commission's action relative to the Commission's motion to recommend approval of LVZA 2016-0005 to the Town Council with the following modifications:

1. To change the zoning from I-1 Light Industrial to C-1 Community Commercial District.
2. Remove drive-through facilities from the list of conditional uses.
3. To replace language within Section [incomplete].

Mr. Hornbaker interrupted Mr. Ciolkosz by calling a point of order and said that motion to reconsider is to call the action as presented before the Commission and not to change or modify that original action. However, he said that he wished to educate the Commission that any discussion for this motion should not discuss any matters of the action or inaction or the specifics of the item coming back before the Commission, only whether to reconsider the item that was originally discussed. Mr. Ciolkosz said that cannot be correct because the original action never happened and that the motion was never seconded. Chairman McDonough and Ms. Wolf agreed that changes to the original motion should be discussed only after the motion to reconsider has been approved.

Mr. Ciolkosz moved to reconsider the Planning Commission's action relative to LVZA 2016-0005. The motion was seconded by Ms. Wolf. There was no discussion. The Commission voted unanimously to approve the motion to reconsider LVZA 2016-0005.

Mr. Ciolkosz moved to recommend approval of LVZA 2016-0005 to the Town Council with the following modifications:

1. Replace the language as it relates to zoning to the I-1 Light Industrial District with the C-1 Community Commercial District;
2. Remove language as it relates to drive-through facilities from the list of conditional uses in the I-1 District;
3. To change language under Section 42-2 incorporating I-1 Light Industrial District to C-1 Commercial District; and
4. To modify or rectify the Town Council resolution to reflect the appropriate changes.

Mr. Bateman asked to speak and said that the situation is not quite that simple since the amendment was predicated on the notion that the property in question would be zoned I-1, so the proposed change being discussed is substantive and would require a significant amendment of the C-1 District as opposed to the I-1 District. He recommended a future work session to draft the amendment and a second public hearing on the new draft amendment since what Mr. Ciolkosz has proposed is substantially different than the amendment as presented this evening.

The Commission discussed Mr. Bateman's proposed action, and Mr. Bateman reiterated his recommendation that the Commission conduct a work session on the proposed amendment and amend the C-1 District if desired. Mr. Ciolkosz withdrew his motion. Mr. Hornbaker moved to table the item definitely until the Commission conducts a work session later on this issue. Mr. Ciolkosz seconded the motion. Chairman McDonough called for the vote, and the Commission approved the motion unanimously.

Chairman McDonough asked whether any members were unable to attend the meeting on February 1st, and since no member indicated this, the Chairman announced that the meeting scheduled for February 1st would be held as scheduled.

Committee Reports

Chairman McDonough said that the representative for the Love America Committee is not here and proceeded to give an update on the upcoming MayFest event as the representative for Love Spring. Ms. Wolf gave an update on Love Summer and said a survey has been distributed to select this year's movies being shown for the Movies on the Green. She said the committee is also making progress on concerts. Mr. Ciolkosz said the Oktoberfest Committee will be coming together next week to kick off planning for this year's event. Mrs. Schilling confirmed that the Love Winter activities have concluded for the year, and Ms. Wolf said that the Parks and Beautification Committee has been meeting regarding fixes needed to the Town Center clocks. Chairman McDonough said that he likes that the word

“transparency” and clock tower were used in the same sentence. Mr. Mueller said the Infrastructure Committee has not rescheduled a meeting that was cancelled. Mr. Hornbaker said that the Information Flow Committee would meet for the first time on January 31st.

Comments from the Commissioners

Mayor Zoldos informed the Commission about Town activities and issues being considered and those coming before the Town Council, including the issue of high water bills and purchase of a bucket truck by the Town utilities department.

Adjournment

Mr. Hornbaker made a motion to adjourn the meeting.

Mr. Ciolkosz asked whether it would be possible for the working session on February 1st to have people from the Town Council, the Mayor, or someone from the fire company or Loudoun County to attend the meeting. Mr. Bateman stated his confusion and said that the issue involves consideration of a zoning amendment, not an annexation application. Mr. Ciolkosz clarified that he was not referring to anyone specifically. Mr. Bateman said the Council initiated the amendment by resolution, that the amendment was not initiated by any other individual or applicant, and that its purpose is to accommodate something that is likely to happen in the future. He said that he would be disinclined to go to those entities until an application has been received. Chairman McDonough stated that the Commission won't be able to vote on it at the next meeting and he will ensure that a motion comes forward that is something with which the Commission can work.

Chairman McDonough asked whether there was a second on the motion to adjourn. Mrs. Schilling seconded the motion. Chairman McDonough called the vote. The vote was unanimous to adjourn the meeting at 8:28 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: May 10, 2018

Attachments:

None