

Town of Lovettsville

Minutes of the Planning Commission Meeting April 5, 2017

Call to Order/Pledge of Allegiance

Vice Chairman Nate Fontaine called the meeting of the Lovettsville Planning Commission to order at 7:30 p.m. on April 5, 2017 at the Lovettsville Town Hall 6 East Pennsylvania Avenue, Lovettsville, Virginia.

Present at Meeting

- Vice Chairman Nate Fontaine
- Commissioner Joseph Mueller
- Commissioner Christopher Hornbaker
- Commissioner Shiva Schilling
- Commissioner Stephanie Wolf
- Commissioner Thomas Ciolkosz

Absent

- Chairman Frank McDonough

Pledge of Allegiance

Vice Chairman Fontaine led those present in the Pledge of Allegiance.

Staff Present

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

Public Comment

Vice Chairman Fontaine called for comments from the public. There were none.

Additions/Deletions/Modifications to the Agenda

There were none.

Planning Commission Minutes

There were none.

Zoning Administrator Monthly Activity Report

Mr. Bateman noted that the written report distributed in the meeting packet was for February 2017 and that the March report will follow and be distributed at the next meeting. Mr. Ciolkosz inquired about the construction fencing at the new 7-Eleven and Mr. Bateman replied that the fencing was a Loudoun County Building Code requirement. Mr. Ciolkosz said five or six sections have fallen over or are no longer standing, and Mr. Bateman said he could reach out to the County Building Department or contractor to determine what has happened. Ms. Wolf asked about the concrete building on the Engle Tract and whether this property is zoned industrial, and Mr. Bateman replied in the affirmative. Mr. Hornbaker asked whether anything would be coming from the Joint Land Use Management Area (JLMA) initiative, and Mr. Palko said he would be briefing the Town Council about the JLMA policy on April 20th. Mr. Hornbaker said that the staff report indicated that Town staff met with counterparts at Round Hill regarding the JLMA, and Mr. Palko stated that future discussions about JLMA will take place here at Town Hall rather than the fire station. He indicated that the meeting regarding the fire station zoning amendment will be held at the Town Hall as well.

Action/Discussion Items

A. LVZA 2017-0003: Zoning Ordinance Amendment for Child Care Homes

Vice Chairman Fontaine introduced this item and asked Mr. Bateman to present on what has changed since the last meeting. Mr. Bateman said the final two paragraphs on Page 6 of the staff memorandum explain what has changed regarding the zoning ordinance amendment since the meeting on March 15th. Mr. Bateman explained that the zoning ordinance amendment considered on that date has changed to address concerns that Commissioners expressed at the last meeting. He said that Commissioners should be certain that they are comfortable with these changes and expressed his willingness to answer any questions Commissioners have.

Mrs. Schilling said that the first recommendation on Page 5 is not formatted correctly and pointed out several grammatical errors in the staff memorandum.

Motion: I move to recommend that the Town Council adopt the attached amendment to Section 42-2 (b), Section 42-197 and Section 42-199 with the following additional changes to address any grammatical errors that Mrs. Schilling mentioned.

By: Commissioner Ciolkosz

Second: Commissioner Wolf

Discussion: Mr. Mueller pointed out that the changes Mrs. Schilling noted were to the staff recommendation in the staff memorandum, not to the recommended motion itself. Mr. Bateman expressed appreciation to Mrs. Schilling for pointing out edits in the staff memorandum before it goes to the Council for consideration

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

Nay: None

Abstain: None

Absent: Chairman McDonough

B. LVZA 2016-0004: Public Hearing on Proposed Amendment to Article XI (Sign Regulations) to Comply with *Reed v. Town of Gilbert*

Mr. Bateman said that, rather than summarizing the entire amendment, he would prefer to highlight two last-minute amendments to the amendment distributed in the Commission packet. He stated that if the Commission feels that these amendments are in order, the Commission can add them to the version they forward to the Council. The first, he explained, involves the definition of government signs. He asked whether this was intended to include signs attached to citizens' mailboxes, which he said seems trivial but is needed to ensure efficient mail delivery. He read the proposed amendment and explained the purpose of adding language differentiating signs on private mailboxes from government signs. Mr. Mueller asked whether such signs are only permitted for the purpose of delivering mail, and Mr. Bateman replied yes and noted that signs listing the last names of occupants of the property would not be included.

Mr. Bateman stated that the other issue involves flags and that he is recommending that the last sentence under the definition of flag and pendants include the following specific wording: “, provided that any flag of any state or sovereign nation including but not limited to the flag of the United States of America shall not be considered a flag subject to the regulations of this article.” He explained that all state and national flags would be considered exempt. He indicated he was open to additional changes.

Mr. Ciolkosz stated he was not at the meeting during which this was discussed. He said he has two concerns, one of which involves grandfathering of existing signs at the fire hall, namely the blinking sign. Mr. Bateman referred him to Section 42-408(d) on Pages 16 and 17. Mr. Bateman explained that this provision makes such signs subject to provisions on nonconforming structures generally as amended by the Town Council and Planning Commission in 2015. Mr. Ciolkosz said his other question is about private citizens. Mr. Hornbaker said his only question is about flags not subject to the regulations and why that does not include Town and County flags. Mr. Bateman said there is a term that he is forgetting that would cover such local flags. He said he believes the term is “political subdivisions of the

Commonwealth.” He said the amendment would need to add “or flags of political subdivisions of any state including towns and counties” to the exemption for government flags in the definition of flag. Mr. Ciolkosz said his other point pertains to signs on property advertised for sale and whether they are limited to six feet in height if attached to a post. Mr. Bateman said he assumes Mr. Ciolkosz is referring to Section 42-407(e)(1) and added that these signs formerly referred to as real estate signs are indeed limited to six feet. He said that the provision addressing such commercial signs in paragraph (f) likewise limits such signs to six feet in height.

Mrs. Schilling asked, on a similar topic, whether Section 42-403(7) says that no such shall be attached to a public street sign. Mr. Bateman confirmed that this is correct.

Mr. Ciolkosz asked about other temporary signs, and Mr. Bateman stated that they would have to be covered by one of the other paragraphs in Section 42-407. Mr. Ciolkosz asked whether businesses in town could put up any type of temporary sign with anything on it, even one will large, purple lettering. Mr. Bateman replied in the affirmative. Mr. Ciolkosz asked whether there was any way to regulate this, and Ms. Wolf stated that the Commission is not able to regulate content. A discussion ensued about what content-based means in practice. Mr. Bateman said that the point is valid since someone could use the fact that a property is listed for sale to display a sign containing any message, and added that the Town could not legally prevent that person from doing so. Mr. Ciolkosz asked whether the Town should make such signs smaller. Mr. Bateman said the size limit is 15 square feet in commercial districts and 6 square feet in residential districts. Mr. Ciolkosz said that there is no reason we have to allow signs that are 6 feet tall and that the Town can allow only smaller, metal ones. He said that if the time constraint is 60 days, someone could display a sign and take it down on the 59th day and simply put up another one. Mr. Bateman replied that the time constraints to which Mr. Ciolkosz is referring do not apply to such real estate signs. He said such signs can be displayed until the home is sold and taken off the market. Mr. Ciolkosz reiterated that someone owning a home or business could display any sign that is three feet by five feet containing any message. He said that if that can happen, such signs should be smaller, such as the small metal ones that are two feet by three feet. Mr. Ciolkosz said that this is not a content issue, but if someone wants to put up a sign that is that three feet by five feet, that is too big.

Mr. Mueller clarified that the maximum size of for sale signs is 6 feet in residential areas and 15 feet in commercial areas. Mr. Bateman said that, with respect to the height of such signs, there is no distinction, and that signs in both areas can be no more than six feet in height. He asked whether the Commission had a problem with this, and a discussion ensued regarding the types, heights and areas of signs in residential and commercial zoning districts. Mr. Ciolkosz reiterated his belief that the allowable height of such signs is too permissive given that a business can put up a sign that is as offensive as the owner wants it to be. He said that all the owner would have to do is take it down in 59 days and put up another one. Mr. Bateman stated that this is incorrect and that the ordinance limits the display of most temporary sign types to 60 days during any calendar year. The discussion continued about the maximum height and area of temporary signs. Mr. Ciolkosz clarified that he is most concerned about the potential for someone to display offensive content on a sign. He said that he does not have as much of an objection given they can only be displayed once a year.

Vice Chairman Fontaine asked whether there was any additional discussion. Mr. Hornbaker asked whether there was an exclusion for Town-sponsored signage, and Mr. Bateman responded that such signs are considered government signs and are exempt. A discussion followed regarding Town event signage, and Mr. Bateman read the definition of government sign and stated his belief that such signs are exempted from the requirements of the sign regulations.

Vice Chairman Fontaine opened the public hearing at 8:00 p.m. and called for comments from the public. Commissioner Hornbaker read the notice of public hearing. There were no public comments. Vice Chairman Fontaine closed the public hearing at 8:02 p.m.

Motion: I move to recommend approval of LVZA 2016-0004 to the Town Council as amended by the Planning Commission on April 5, 2017.

By: Commissioner Mueller
Second: Commissioner Hornbaker
Discussion: Ms. Wolf stated that the Commission discussed safety signs at gas stations during the previous meeting and asked Mr. Bateman to confirm that provisions were added to address this issue. Mr. Bateman replied that he conducted research and drafted language regarding security and warning signs to Section 42-404(b)(6) on Page 11. He read the amendment to this subsection and explained his reasoning for making this change. Mr. Hornbaker asked whether there exists any Town ordinance regulating security and warning signs. Mr. Mueller said that Mr. Hornbaker is suggesting that a general reference to local ordinances regarding security and warning signs be added to this section prior to the reference to the state code. Mr. Bateman asked whether this was agreeable to the Commission. There was no objection to this change.

Mr. Fontaine asked Mr. Bateman whether the Town Attorney has opined on the latest draft of the proposed zoning ordinance amendment. Mr. Bateman explained that the Town Attorney could propose further changes until the date of the public hearing and final action by the Town Council. Mr. Bateman stated that the latest amendments reflect recent correspondence between he and Mrs. Whiting. He noted that her insights and contributions have made the amendment better and more legally defensible.

Aye: Commissioners Mueller, Schilling, Ciolkosz, Fontaine, Wolf, and Hornbaker
Nay: None
Abstain: None
Absent: Chairman McDonough

C. LVZA 2017-0002: Schedule Public Hearing on Zoning Ordinance Amendment Requiring a Traffic Impact Analysis (TIA) for Certain Development Applications

Mr. Bateman briefly explained the background and purpose of the proposed zoning amendment. He stated that final sentence of paragraph (a) of the amendment needs to allow an applicant to submit a transportation impact analysis directly to the VDOT Northern Virginia District Office and highlighted a recent example to justify why applicants should be allowed to do so. He said that such studies do not necessarily go through the locality as they did in the past. Mr. Bateman explained that applicants, if authorized to submit transportation studies per VDOT's policies and procedures directly to VDOT, should be allowed to do so to reduce the time it takes VDOT to review them. He asked whether there were any questions.

Mr. Mueller stated his view that Mr. Bateman should be directed to make the additional amendment prior to advertising the final amendment for public hearing.

Motion: I move to schedule a public hearing on LVZA 2017-0002 on May 3, 2017 as amended this evening on April 5, 2017 in order to require that applicants for certain rezoning and conditional use permit applications prepare a Traffic Impact Analysis and the Town submit the same to VDOT for review and comment.

By: Commissioner Hornbaker
Second: Commissioner Mueller
Aye: Commissioners Mueller, Schilling, Ciolkosz, Fontaine, Wolf, and Hornbaker
Nay: None
Abstain: None
Absent: Chairman McDonough

D. LVZA 2017-0004: Initiate Amendment to Zoning Ordinance (Article II, Division 1) Clarifying and Differentiating the Requirements for Zoning Permit, Zoning Certificates and Certificates of Occupancy

Mr. Bateman briefly explained the need to initiate a zoning ordinance amendment to clarify and distinguish the administrative and procedural requirements for zoning permits and certificates. He explained the differences between zoning permits, certificates and occupancy permits generally and what each approval is meant to authorize.

Mr. Mueller noted that the case number identified on the agenda is incorrect, and Mr. Bateman confirmed this.

Motion: I move to initiate Zoning Ordinance Amendment LVZA 2017-0004 in order to clarify and differentiate the regulations and requirements for zoning permits, zoning certificates and certificates of occupancy and request that staff draft an amendment for review and discussion by the Planning Commission on May 3, 2017.

By: Commissioner Hornbaker

Second: Commissioner Wolf

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

Nay: None

Abstain: None

Absent: Chairman McDonough

Information Items

Mr. Mueller announced that he has sold his house and is moving out of the state. He said his last meeting will be in May and that he will be submitting a formal notice in this regard.

Mr. Bateman announced that the Town Council accepted his list of zoning ordinance amendments for Fiscal Year 2018. He stated his intention to distribute the list to the Planning Commission via email and that the next amendment on the list is the amendment to the C-1, C-2 and I-1 Districts as discussed during previous meetings.

Vice Chairman Fontaine reported that he and Chairman McDonough attended the recent COLT meeting and that the chairpersons from Purcellville and Middleburg attended as well. He said the next meeting is on April 10th and that he hoped to bring commissioners from Round Hill and other jurisdictions to discuss JLMAs and coordination with the County. He said the meeting was a productive one and that meetings are typically scheduled every two months or so.

Next Meeting – May 3, 2017

Vice Chairman Fontaine announced that the next meeting is scheduled for May 3rd. Mr. Ciolkosz indicated that he will be unable to attend the meeting.

Committee Reports

Vice Chairman Fontaine reported on recent and upcoming activities involving the Love America committee. Ms. Wolf reported on Love Summer activities including upcoming movies and concerts on the Town Green. Vice Chairman Fontaine reported on activities involving the Business and Tourism Committee. Commissioner Hornbaker reported on activities involving the Information Flow Committee. Mr. Bateman reported that he uploaded images and content to the new website during the past month.

Comments from the Mayor and Commissioners

Mayor Zoldos thanked Mr. Mueller for his years of service on the Planning Commission. He reported on the failure of a proposed state law which would have required candidates for public office to register by party affiliation. He reported further on activities, events and happenings involving the Town Council and occurring in Lovettsville.

Mayor Zoldos added that he has heard inquiries regarding the backlog of uncompleted Planning Commission minutes and that there are few different things that have been proposed, which include deploying the AV Capture system and doing action minutes going forward since all meetings would be

recorded. He said that it represents an easier and quicker way to do the minutes and will address the backlog in minutes.

Ms. Wolf asked when the branding materials would be completed, and Mr. Palko explained the schedule for producing deliverables for Town Council review. Mayor Zoldos said that branding is about attracting tourists for business development, not about residential growth or attracting permanent residents. Mr. Hornbaker said that there have been conversations as part of the Envision Loudoun process about changing the County's transition area. He asked Mayor Zoldos whether there would be a chance for the Town to opine on that, and Mr. Palko discussed the development of a resolution by COLT that would be adopted by all towns in western Loudoun to express a unified position on various issues raised as part of Loudoun County's comprehensive planning process. Mayor Zoldos announced that the Board of Supervisors will be coming to visit Lovettsville on Friday, June 16th and that he will be driving supervisors around town to enhance their awareness of Lovettsville.

Mr. Ciolkosz said that since 54,000 people attend Oktoberfest, it may be desirable to learn more from attendees using a survey to ascertain where people are coming from and why they are coming here. A discussion followed about the best way to attract various members of the Board of Supervisors to visit Lovettsville and the importance of advocating Lovettsville's interests to the Board.

Adjournment

There being no additional business to come before the Planning Commission, the meeting adjourned at 8:47 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: June 20, 2018

Attachments:
None