

MORGANTOWN PLANNING COMMISSION

MINUTES

6:30 PM

July 11, 2013

Council Chambers

MEMBERS PRESENT: Peter DeMasters, Sam Loretta, Tim Stranko, Michael Shuman, Bill Petros, Ken Martis, William Wyant, Bill Kawecki

MEMBERS ABSENT: Carol Pyles

STAFF: Christopher Fletcher, AICP

I. **CALL TO ORDER/ROLL CALL:** DeMasters called the meeting to order at 6:30 PM and read the standard explanation of the how the Planning Commission conducts business and rules for public comments.

II. **GENERAL PUBLIC COMMENTS:** None

III. **MATTERS OF BUSINESS:**

A. Approval of the April 25, 2013 meeting minutes: **POSTPONED**

B. Approval of the June 13, 2013 meeting minutes: **POSTPONED**

IV. **OLD BUSINESS:** None.

V. **NEW BUSINESS:**

A. **MNS13-15 / Gerard Mallon / Ridgley Road:** Request by Gerard Mallon, for minor subdivision approval of property located on Ridgley Road; Tax Map 14, Parcel 429; R-1A, Single Family Residential District.

Fletcher read the Staff Report stating the petitioner seeks to subdivide Parcel 429 of Tax Map 14 into two (2) new parcels. Addendum A of this report illustrates the location of the subject site.

Parcel 429 is approximately 8,028 square feet in area and has approximately 112 feet of frontage along Ridgley Road and approximately 141 feet of frontage along Junction Street. The proposed subdivision will result in two (2) of the parcels having an approximate area of 4,014 square feet each, which will exceed the minimum lot area standard of 3,500 square feet in the R-1A District.

Fletcher stated the petitioner had requested Staff to represent the minor subdivision request.

Fletcher explained the property is in a shape of a pie and the petitioner seeks to construct two single-family houses on the two newly created parcels.

There being no comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That each of the parcels must have an area of at least 3,500 square feet and have lot frontages of at least 30 feet;
2. That the final plat illustrate minimum R-1A setback building envelopes for each of the parcels;
3. That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature;
4. That the final plat may not be recorded until all existing structures are razed and removed; and,
5. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the conditions set forth above.

Stranko moved to approve minor subdivision petition MNS13-15 as requested with Staff recommended conditions; seconded by Martis. Motion carried unanimously.

- B. RZ13-02 / Fred L. Jordan / 3100 University Avenue:** Request by Wendy G. Adkins and Heather J. Gentile, on behalf of Fred L. Jordan, for a Zoning Map Amendment from B-1, Neighborhood Business District to B-2, Service Business District for property located at 3100 University Avenue; Tax Map 7, Parcel 260.

Fletcher read the Staff Report stating the petitioner seeks approval to reclassify the subject property from B-1 to B-2. Addendum A of this report illustrates the location of the subject property.

Because the subject realty adjoins the B-2 District at the site's eastern side, the proposed zoning map amendment is considered a zoning district boundary adjustment and not "spot zoning" as the following image illustrates [see staff report for illustration].

The existing use of the subject property is a "Gasoline Service Station", which is not permitted by-right or by conditional use approval in the B-1 District. The use is therefore considered to be grandfathered and may continue until or unless modified or terminated for twelve (12) consecutive months. Grandfathered uses may be sold, inherited, or otherwise transferred, provided the use, land, and structure (if any) remain the same.

Further, Article 1373.01(A) provides that, "No legal, pre-existing nonconforming use may be enlarged, moved or otherwise changed, except that such use may be changed to a permitted use."

As such, facility improvements, expansions, and/or redevelopment of the establishment's existing facilities into a higher performing, more modern, attractive, and contributing "Gasoline Service Station" use is extremely limited and a change in use to a "Gas Station Mini-Mart" is prohibited given the current B-1 zoning classification.

“Gasoline Service Station” and “Gas Station Mini-Mart” uses are permitted by-right in the B-2 District.

According to Article 1345.01 of the Planning and Zoning Code, the purpose of the B-1 District is to:

“...provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods.”

According to Article 1347.01, the purpose of the B-2 District is to:

“...provide areas that are appropriate for most kinds of businesses and services, particularly large space users such as department stores. Typically B-2 districts are located along major thoroughfares.”

According to the MMMPO, the annual average daily traffic (AADT) count at the subject site was 9,780 vehicles in 2012. Although this area of University Avenue and Collins Ferry Road may not be considered major thoroughfares (e.g., Van Voorhis Road, Patteson Drive, etc.), these roadways are considered sub-arterial streets carrying traffic from multiple collector and neighborhood/local streets to major arterial routes.

Given the subject site’s triangular shape and extensive road frontage along University Avenue and Collins Ferry Road, redevelopment and/or reuse of the site to a non-auto related service is highly unlikely.

Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioners’ development intentions are extraneous and the Commission should consider the request on its merits as a land-use decision.

In conducting such an analysis, the Commission should determine if the B-2, Service Business District is the appropriate zoning classification for the subject realty, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1347 “B-2, Service Business District” and Table 1331.05.01 “Permitted Land Uses”.

It should be noted that the petitioner, at Staff’s encouragement, contacted neighboring property owners and the Suncrest Neighborhood Association leadership to discuss their zoning map amendment proposal. As of 03-Jun-2013, the Planning Division has not received related comments of concern or opposition.

As recommended in the Chapter 9 “Implementation” of the 2013 Comprehensive Plan Update, Addendum B of this report identifies how the proposed development program is aligned and concurs with the land management intent, location, and pattern and character principles of the current Comprehensive Plan.

DeMasters recognized the petitioner’s representative, Wendy Adkins of Jackson Kelly Law Firm, who stated that Kroger approached the petitioner, Fred L. Jordan, to acquire the property. Adkins explained that residents within a 200 foot buffer were called on the phone and there were no oppositions to the proposed request. In addition, Kroger contacted the Suncrest

Neighborhood Association to notify them of the interest in property and no oppositions were given.

Adkins obtained a title search and discovered a gasoline station has existed since the 1940's and believes the gas station on the property has become a permanent residence which services the area businesses and adjacent neighborhoods.

There being no comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition.

DeMasters recognized Marlene Robinson of 635 Willow Place, who stated she didn't have a problem with the petition but has concerns with the related traffic. She noted that traffic was heavy in the area when students are in town and asked the Board members to give consideration to the situation when reviewing the case.

DeMasters recognized Matthew Cross of 524 Milford Street, who stated the town is changing and with that comes the need for adapting and shifting. He noted the traffic situation and stated that school buses on Baldwin Street have a difficult time making turns and would like to see the DOH reconfigure the intersection in the future. Cross asked the Board members to address the lighting situation with the proposed gas station as the area is the gateway to the Suncrest neighborhood.

DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff advises the Commission to forward a recommendation to City Council to approve the requested zoning map amendment so that Parcel 260 of Tax Map 7 is reclassified from B-1, Neighborhood Business District to B-2, Service Business District.

Kawecki expressed concerns with the increased traffic in the area and the possibility of increased usage of the Huntington Bank parking lot as a means of cutting through. He also suggested sidewalks be included where appropriate as there is pedestrian traffic in that area.

Stranko asked Fletcher to explain the difference between the B-1 District and the B-2 District as it applies to the proposed business.

Fletcher explained that changing the zoning would allow the property to be changed into anything that is permitted in the B-2 District and referred to the Staff Report stating the likelihood of B-2 development patterns and uses at that location is highly unlikely. The property is oddly shaped and there is very little buildable area. Fletcher stated that he did not believe a residential use of the property as permitted in the B-2 District would be marketable.

Stranko asked Fletcher if changing the zoning to a B-2 district would better facilitate the location of the property. Fletcher confirmed.

Fletcher noted the B-1, Neighborhood Business District, has been in effect since 2006.

Petros inquired as to why the zoning had not been changed when implementing the old Comprehensive Plan. Fletcher explained the area was considered for rezoning to the B-2 District when the zoning ordinance went through a major modernization in 2005, however, a member of Council at the time successfully advocated to keep the subject location as a B-1 District.

Petro asked if the City would have control over the access ways before property is developed and prior to rezoning. Fletcher stated the Division of Highways would make the final decision but explained a good working relationship exists with the District Office to coordinate these types of accesses and that the City Engineering and the District Office jointly reviewing the subject site.

Stranko noted that Kroger is a sophisticated company with a long history of sensitivity to community needs and the traffic flow in the area.

DeMaster referred to Addendum B of the Staff report and felt the rezoning would comply with the new Comprehensive Plan.

Stranko moved to forward map amendment RZ13-02 to Council as recommended by Staff; seconded by Martis. Motion carried unanimously.

- C. S13-05-III / Central Place, LLC / 475 Baird Street:** Request by Lisa Mardis of Project Management Services, on behalf of Central Place, LLC, for a Major Development of Significant Impact site plan approval of a “Multi-Family Dwelling” development at 475 Baird Street (former Central School site); Tax Map 26, Parcels 263 and 270; R-2, Single and Two-Family Residential District and B-2, Service Business District.

Fletcher read the Staff Report stating the petitioner seeks to redevelop the former Central School site by razing all existing structures and constructing a multi-family apartment building. Addendum A of this report illustrates the location of the subject development site.

As the Planning Commission will recall, the redevelopment of the subject site was once a part of the “Westminster House” Planned Unit Development (PUD). Addendum B of this report provides a brief history of the related PUD.

The petitioner’s proposed development program details include:

- One six-story building.
- 114 two-bedroom units and 6 one-bedroom units for a total of 120 dwelling units with 234 occupants.
- 86 on-site parking spaces and 37 off-site parking spaces.
- Conversion of the parking lot to the north of the First Presbyterian Church and fronting Spruce Street into an approximate 10,500 square foot recreational open space area for the benefit of the Presbyterian Child Development Center.
- The petitioner will describe the development’s proposed ownership, property management, and leasing agent roles and responsibilities between the builder, owner, and First Presbyterian Church affiliation.
- In addition to the site plan, elevation, and floor plan drawings submitted with the application, the petitioner will present a 3D simulation of the proposed structure within the surrounding built environment.

The following Planning and Zoning Code related approvals are required for the development program as proposed. Each case number is followed with a related description.

Planning Commission

Case No. S13-05-III Major Development of Significant Impact Site Plan.

Article 1329.02 and Article 1385 provide that developments with 100 or more dwelling units are considered "Major Developments of Significant Impact" (MDSI) which are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. MDSI Site Plans are reviewed and approved by the Planning Commission.

Case No. MNS13-16 - Minor subdivision to combine Parcels 263 and 270 of Tax Map 26

A minor subdivision is required to combine the development site's two parcels so that the proposed structure and related parking are situated on one parcel.

Board of Zoning Appeals

Case No. CU13-13 -"Multi-family Dwelling" uses require conditional use approval by the Board of Zoning Appeals.

"Multi-family dwelling" uses are permitted by-right in the B-2 District and by conditional use in the R-2 District. Because a portion of the development site is situated within the R-2 District, the petitioner must obtain related conditional use approval.

Case No. CU13-14 -"Off-Site Parking Facilities" requires conditional use approval by the Board of Zoning Appeals.

The minimum on-site parking requirement for the proposed development is 177 parking stalls. The site plan illustrates 86 on-site and 37 off-site parking stalls. The petitioner must obtain conditional use approval to provide the 37 off-site parking stalls as proposed.

Case No. V13-30 - Variance relief from minimum and maximum setback standards.

The subject development site's lot frontage is along Baird Street. The petitioner's proposed front and rear setbacks are ten (10) feet respectively, which do not observe the minimum rear setback requirements in the R-2 District (20 feet) or B-2 District (40 feet) and do not observe the minimum front setback in the B-2 District (15 feet). As such, variance relief is required.

Case No. V13-31 - Variance relief to exceed maximum building height standards.

The proposed height of the building is six-stories and approximately 65 feet. The maximum building height standard in the R-2 District is 2 ½ stories or thirty-five (35) feet, whichever is less. The maximum building height standards in the B-2 District is seventy-two (72) feet. Because a portion of the development site is situated within the R-2 District, the petitioner must obtain variance relief from the related maximum building height standard.

Case No. V13-32 - Variance relief from minimum on-site parking requirements.

As noted above, minimum parking requirement for the proposed development is 177 parking stalls. The site plan illustrates 86 on-site and 37 off-site parking stalls, which, in addition to the conditional use approval for the off-site parking facility, requires variance relief from having to develop or secure 54 additional spaces.

Case No. V13-33 - Variance relief to develop parking between front façade and street and relief from minimum landscaping standards.

The development of parking spaces is prohibited between the front façade of a building and any street right-of-way within the B-2 District. The proposed parking lot, internal driveway, and driveway entrances have been designed and located to accommodate access by emergency responders and larger delivery vehicles. As such, variance relief is required. Additionally, the petitioner will be seeking variance relief from the minimum ten-foot wide landscape buffer along Baird Street (five-foot proposed); relief from developing landscape islands with concrete curbing every ten spaces for multi-family residential development (none proposed); and, relief from developing terminal islands for all rows of parking (terminal island not provided for one of the rows of parking).

Case No. V13-34 - Variance relief to develop an alternate sidewalk design.

Sidewalks must be developed along the frontage of a lot upon which a use is constructed. The minimum width for new sidewalks is five (5) feet in the R-2 District and six (6) feet in the B-2 District. Because the subject site's frontage is along the dead-end Baird Street and pedestrian linkages to Willey Street and Spruce Street appear to be more practical, the petitioner seeks relief from developing sidewalks along Baird Street and instead developing a five-foot sidewalk around the entire building connecting the site to the sidewalk running along Willey Street.

The following graphic illustrates that the subject development site is situated in two zoning districts – R-2 and B-2 [see staff report for illustration]. Although not considered a required approval for the proposed development program, the petitioner is also requesting, separately, to amend the zoning classification for the subject realty from R-2 and B-2 to B-4, General Business District. Because the subject site adjoins the B-4 District, the reclassifying the property as requested would be considered a minor zoning district boundary adjustment.

As a required element in the review of the "Westminster House" Planned Unit Development (PUD) Outline Plan, a traffic impact study dated 01-Oct-2008 was prepared by Gannett Fleming. The study noted that the AM and PM peak period levels of service for the three intersections studied did not change as a result of the proposed development and that no mitigation actions were recommended. The City Engineer concurred with the study's methodology, findings, and recommendations.

The City Engineer has reviewed the petitioner's present development program along with the "Westminster House" traffic impact study. Given that the number of residents included in the "Central Place" development program is approximately half that proposed in the "Westminster House" development program and the fact that no mixed-uses are proposed now as before, the City Engineer has determined that a new or amended traffic impact analysis is not warranted at this time.

As recommended in the Chapter 9 "Implementation" of the 2013 Comprehensive Plan Update, Addendum C of this report identifies how the proposed development program is aligned and concurs with the land management intent, location, and pattern and character principles of the current Comprehensive Plan.

Fletcher noted that updated Site Plans were submitted to the Planning Department after packets were assembled. Updated plans were distributed to Board members for review.

DeMasters recognized the petitioner, David Biafora of Central Place, LLC, who stated the property is an odd shape and redevelopment is a challenge that will need variances to make the project viable. The project will be a faith based project and the church will share in the profits.

Loretta asked Biafora if he will be the owner and if so, would taxes be paid on the property. Biafora confirmed and stated that taxes will be paid.

There being no further comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval of Case No. S13-05-III with the following conditions:

1. That all required conditional use and variance petitions be approved by the Board of Zoning Appeals and all related conditions therein observed and/or addressed accordingly.
2. That a minor subdivision petition combining Parcels 263 and 270 of Tax Map 26 be approved and final plat recorded prior to the issuance of any certificate of occupancy.
3. That the Landscape Plan, Erosion Control Plan, and Lighting Plan be submitted with the building permit application for review and approval. Variance approval must be obtained should said plans not conform to the related performance standards set forth in the City Planning and Zoning Code. Additionally,
 - a. Landscape Plan. The use of stone, mulch, or other inert materials throughout the site must be insignificant with the greatest portion of landscaped areas devoted to grass, turf, and/or other plant materials.
 - b. Lighting Plan. The Lighting Plan must include details, heights, and cut-off (shielding) characteristics along with photometric plans illustrating footcandle intensities and distribution for all parking areas and exterior site lighting fixtures.
4. That the development must meet all applicable federal Fair Housing and Americans with Disabilities Act standards as determined by the City's Chief Building Code Official.
5. That internal and connecting concrete sidewalks must be constructed as illustrated on the site plan reviewed and approved herein.
6. That the external solid waste containment facility shall be enclosed with masonry materials and an opaque gate. Said facility must be designed so that it integrates with and compliments the architectural vocabulary of the principal structure. The enclosure must be at least six (6) feet in height and its opaque gate may not swing into the public right-of-way.
7. That fire lanes, if applicable, must be provided to the satisfaction of the City's Fire Marshall.

8. That the following elements and/or site plan modifications be included in final plans submitted with the building permit application:
 - a. Pedestrian Circulation Plan. Additional pedestrian connections must be provided as described and illustrated in Addendum D of this Staff Report and that perpetual access easements be provided where necessary. A separate Pedestrian Circulation Plan must be submitted with the building permit application that illustrates pedestrian circulation and safety improvements required by condition herein.
 - b. Parking Lot Layout Modifications. Minor design modifications must be provided as described and illustrated in Addendum D of this Staff Report.

Wyant noted the current Comprehensive Plan states the population within the City will increase greatly in the future. He commended plans for higher density uses of the land for residential purposes and felt a development of this magnitude should have attention paid to the storm water impact.

Stranko stated City ordinances require review and approval by the Morgantown Utility Board before a building permit is issued. He noted the playground would be utilized by the Child Development Center and asked if the church would remain as part property owner.

Biafora explained the property would be purchased and the exchange would leave the church without a playground. Therefore, an agreement has been decided upon to build a new playground that will be utilized by the Child Development Center in which the church will own and maintain.

Stranko felt the playground would be part of the Site Plan, and therefore the application should involve two owners. Fletcher explained that a clause could be included in the agreement to allow the petitioners present to seek approval for the project.

Biafora explained nothing is changing other than the parking lot is turning into a playground, and the church would own and maintain the playground. He had no interests in the playground, other than building a new one to prevent the closure of the daycare.

DeMasters noted daycares have private licensing with rules and regulations that prevent playground areas be made available to the public and did not believe the project should be included in plans for the redevelopment.

Stranko stated he did not believe the Board had any legal authority to discuss the playground other than to say it is unfortunate to have a playground next to the busiest community in the middle of town, and not available to the public. He expressed the need for more green space in the area.

Loretta asked if an area had been secured for off-site parking. Biafora explained an area exists behind the church adjacent to the property. Additional parking could be provided to tenants by renting from the church.

Stranko noted the development is congruent with the City's parking regulations in decreasing vehicular traffic.

Kawecki asked the width of the sidewalks along Willey Street. Fletcher did not have that information but stated that sidewalks do exist along that street. Kawecki inquired about

sidewalks along Spruce Street. Fletcher noted a sidewalk exists on the east side of Spruce Street and is estimated at 4 feet in width.

Loretta asked if a sidewalk is present from the building to Spruce Street. Fletcher confirmed.

Stranko moved to approve Case No. S13-05-III with Staff recommended conditions; seconded by Petros. Motion carried unanimously.

- D. MNS13-16 / Central Place, LLC / 475 Baird Street:** Request by Lisa Mardis of Project Management Services, on behalf of Central Place, LLC, for minor subdivision approval of property located at 475 Baird Street: Tax Map 26, Parcels 263 and 270; R-2, Single- and Two-Family Residential District and B-2, Service Business District.

Fletcher read the Staff Report stating as a part of the petitioner's proposed redevelopment of the former Central School site, the petitioner seeks to combine Parcels 263 and 270 into one parcel. Addendum A of this report illustrates the location of the subject site.

The approximate area of Parcel 263 is 56,875 and the approximate area of Parcel 270 is 25,100. The combined parcel will have a total area of approximately 81,975 square feet, which exceeds the minimum lot size standards for both the R-2 and B-2 District.

DeMasters recognized the petitioners representative, Lisa Mardis, of Project Management Services, who concurred with the Staff report.

There being no comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature;
2. That the final plat may not be recorded until all existing structures are razed and removed; and,
3. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the conditions set forth above.

Stranko moved to approve minor subdivision petition MNS13-16 as requested with Staff recommended conditions; seconded by Petros. Motion carried unanimously.

- E. **RZ13-04 / Central Place, LLC / 475 Baird Street:** Request by Lisa Mardis of Project Management Services, on behalf of Central Place, LLC, for a Zoning Map Amendment from R-2, Single- and Two-Family Residential District and B-2, Service Business District to B-4, General Business District for property located at 475 Baird Street (former Central School site); Tax Map 26, Parcels 263 and 270.

The petitioner seeks approval to reclassify the subject property from R-2 and B-2 to B-4, General Business District. Addendum A of this report illustrates the location of the subject property.

Because the subject area adjoins the B-4 District at the site's western and southern side, the proposed zoning map amendment is considered a zoning district boundary adjustment and not "spot zoning" as the following image illustrates [see staff report for illustration].

As the Planning Commission will recall, the redevelopment of the subject site was once a part of the "Westminster House" Planned Unit Development (PUD). Addendum B of this report provides a brief history of the related PUD.

According to Article 1337.01 of the Planning and Zoning Code, the purposes of the R-2 District are to:

- (A) Provide for two-family housing development and customary accessory uses at a density slightly higher than in single family neighborhoods, and
- (B) Preserve the desirable character of existing medium density family neighborhoods, and
- (C) Protect the medium density residential areas from change and intrusion that may cause deterioration, and
- (D) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

According to Article 1347.01, the purpose of the B-2 District is to:

"...provide areas that are appropriate for most kinds of businesses and services, particularly large space users such as department stores. Typically B-2 districts are located along major thoroughfares."

According to Article 1349.01, the purposes of the B-4 District are to:

- (A) Promote development of a compact, pedestrian-oriented central business district consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas, and residential living environments that provide a broad range of housing types for an array of housing needs;
- (B) Promote a diverse mix of residential, business, commercial, office, institutional, education, and cultural and entertainment activities for workers, visitors, and residents;
- (C) Encourage pedestrian-oriented development within walking distance of public transit opportunities at densities and intensities that will help to support transit usage and businesses;
- (D) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
- (E) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and,

- (F) Enhance the community's character and historical significance through the promotion of high-quality urban design.

As recommended in the Chapter 9 "Implementation" of the 2013 Comprehensive Plan Update, Addendum C of this report identifies how the proposed development program is aligned and concurs with the land management intent, location, and pattern and character principles of the current Comprehensive Plan.

Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioners' development intentions are extraneous and the Commission should consider the request on its merits as a land-use decision.

In conducting such an analysis, the Commission should determine if the B-4, General Business District is the appropriate zoning classification for the subject realty, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1349 "B-4, General Business District" and Table 1331.05.01 "Permitted Land Uses".

DeMasters recognized the petitioners representative, Lisa Mardis, of Project Management Services, who referred to the Staff report Addendum C and noted the rezoning does fit into the current Comprehensive Plan. The rezoning of this location is a great way to expand the walkable community in the B-4 General Business District.

Petros inquired about the zoning for other major developments that do not have any commercial entities. Fletcher explained that if the proposed development program was in the Sunnyside District, it could be zoned R-3 and B-2 by-right, or B-4 with a conditional use approval.

Loretta asked if variances would be necessary if approved for the B-4 District. Fletcher explained the variances would still be necessary as some of them would still be required. There is a sense of urgency with the development due to financial constraints of the parties involved to move the project sooner, rather than waiting for the B-4 designation to take effect. If Council agrees to rezoning the location as a B-4 District, the classification would not take effect until September 2013. The property is isolated from Willey Street and little pedestrian foot traffic exists throughout the area. Therefore, commercial uses would not fare well in that area and would have to be destination type businesses. Fletcher noted the businesses downtown thrive due to pedestrian traffic and are located in the downtown area for that reason.

There being no further comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff advises the Commission to forward a recommendation to City Council to approve the requested zoning map amendment so that Parcels 263 and 270 of Tax Map 26 are reclassified from R-2, Single- and Two-Family Residential District and B-2, Service Business District to B-4, General Business District.

Wyant asked if this petition is related only to rezoning the area and not directly related to the future plans of Central Place, LLC. Fletcher confirmed.

Stranko moved to forward map amendment RZ13-04 to Council as requested with Staff recommended conditions; seconded by Wyant. Motion carried unanimously.

- F. MNS13-17 / Silver Oak Properties, LLC and Red Bud Run, LLC / 208 Eastland Avenue:** Request by Robert L. Shuman, for minor subdivision approval of property located at 208 Eastland Avenue; Tax Map 14, Parcels 396, 396.1, 396.2, 397, 397.1, and 398; R-1A, Single Family Residential District.

Shuman stated that he had to recuse himself from the deliberations of this petition due to the familial relationship he has with the petitioner's agent and left Council Chambers.

Fletcher read the Staff report stating the petitioners' agent Mr. Robert Shuman contacted Staff concerning the subject realty in early May 2013 regarding a discrepancy he found between deeds he was researching and recorded plats. Addendum A of this report illustrates the location of the subject site.

After reviewing the Planning Commission's related records and approvals, it appears that a minor subdivision was approved on 10-Nov-2000 for Case No. MNS00-08 reconfiguring the parcel boundaries of the subject realty. Since said approval and related recordation of the approved plat, parcel boundaries were reconfigured again by deed, which was not recognized by the County.

The petitioners now seek to rectify the oversight of previous property owners and the County by seeking approval to record a plat that reflects boundary configurations established by deeds. Addendum B of this report compares the plat approved by the Commission in 2000 with the petitioner's requested subdivision plat.

Each of the parcels exceeds the R-1A minimum lot area standard of 3,500 square feet and minimum lot frontage standard of 30 feet.

Fletcher noted that the petitioner and the petitioner's representative were unable to attend the hearing and asked Staff to represent them.

There being no comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature;
2. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the condition set forth above.

Stranko moved to approve minor subdivision petition MNS13-17 as requested with Staff recommended conditions; seconded by Martis. Motion carried unanimously.

Shuman rejoined the Commission and took his seat.

VI. OTHER BUSINESS:

A. Committee Reports

- Traffic Commission: No report.
- Green Team: No report.

B. Staff Comments:

Fletcher asked the Commission for feedback on the Comprehensive Plan concurrence addendum that was presented. Fletcher noted many elements in the Comprehensive Plan exist that could be interpreted a number of ways and asked for suggestions in any changes or modifications to the concurrence addendum format and/or presentation. A Comprehensive Plan Workshop will be scheduled in the future to discuss prioritizing strategies for future discussions with the Planning Commission and the Staff. Copies of the final Comprehensive Plan will be distributed at the next Planning Commission hearing.

VII. FOR THE GOOD OF THE COMMISSION:

Martis suggested providing the public with a phone number to notify the City when problems exist with the audio/visual broadcast of hearings on Channel 15 on public streaming hearings.

Fletcher asked the Board members to secure their cell phones prior to the opening of hearings and to not look them while hearings are occurring as outside influence or the appearance of outside influence on proceedings could occur, which would be inappropriate and undermine open, fair, and equitable deliberations.

Martis inquired about the construction taking place on the corner of High Street and Willey Street. Fletcher explained that North High Street and Willey Street will be a two-story Panera Bread and is planned for completion by October 2013.

Martis asked for the status Beechview Place on Beechurst Avenue. Fletcher that he understands that all commercial space has been leased and four stories of residential units should be ready for occupation by August 1, 2013.

VIII. ADJOURNMENT: 8:00 PM

MINUTES APPROVED:

COMMISSION SECRETARY:


Christopher M. Fletcher, AICP