

MORGANTOWN PLANNING COMMISSION

Minutes

6:30 PM

August 11, 2011

Council Chambers

MEMBERS PRESENT: Peter DeMasters, Sam Loretta, Ken Martis, Bill Petros, Michael Shuman, Jennifer Selin, Carol Pyles, Tim Stranko

MEMBERS ABSENT: William Wyant

STAFF: Christopher Fletcher, AICP

I. CALL TO ORDER/ROLL CALL: DeMasters called the meeting to order at 6:30 PM

II. GENERAL PUBLIC COMMENTS: None

III. MATTERS OF BUSINESS:

A. Approval of July 14, 2011 meeting minutes: Stranko made a motion to approve the minutes as presented; seconded by Loretta. Motion carried unanimously.

IV. OLD BUSINESS: None

V. NEW BUSINESS:

A. S11-16-III / Glenmark Holding, LLC /Sterling Drive: Request by Glenmark Holding, LLC for a Development of Significant Impact Site Plan approval for the construction of an 84-86 room, four-story hotel located on Sterling Drive behind the J.D. Byrider establishment in Sabraton; B-5, Shopping Center District; Tax Map 31, part of former Parcel 107.

Stranko stated that he would abstain from deliberations on New Business Agenda Items "A" and "B" due to the fact that he works for a law firm that has a business relationship with the petitioners. He then excused himself from the Council Chambers.

Fletcher read the staff report, stating that The petitioner seeks to develop a hotel on the empty lot behind the *J.D. Byrider* establishment in Sabraton. Addendum A of this report illustrates the location subject site.

The petitioner's proposed development program details include:

- A four-story *Suburban Extended Stay Hotel* franchise hotel designed to serve the accommodation needs for longer staying visitors.
- The hotel will include 84 to 86 hotel rooms that will include single and double beds and efficiency kitchens; the number of rooms is dependent upon whether or not exercise and/or laundry facilities will be included.

- Food service provisions, continental breakfast, banquet, or rentable general meeting room facilities are not included as hotel amenities or designed space.
- Access to the hotel will come from Earl Core Road through Sterling Drive and around the *J.D. Byrider* establishment; no access will be created to Sabraton Avenue.
- The rendering submitted with the site plan application is very preliminary but the developer has stated that some stone or brick or related veneer will be incorporated in the cladding schedule.
- The dumpster location illustrated on the site plan may be relocated to the northeast corner of the parking lot, pending review and approval by the solid waste vendor, so that the enclosure and retaining wall system can be integrated to provide improved screening.
- The estimated project development costs are \$3.6 million.
- Construction could begin as early as September or October 2011 and should be completed in seven months.

Setbacks

West Virginia State Code Section 8A-5-12 "Vested Property Right" provides that:

- (a) A vested property right is a right to undertake and complete the land development. The right is established when the land development plan and plat is approved by the planning commission and is only applicable under the terms and conditions of the approved land development plan and plat.
- (d) Without limiting the time when rights might otherwise vest, a landowner's rights vest in a land use or development plan and cannot be affected by a subsequent amendment to a zoning ordinance or action by the planning commission when the landowner:
 - (1) Obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project;
 - (2) Relies in good faith on the significant affirmative governmental act; and
 - (3) Incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

On July 8, 2010, the Planning Commission approved the petitioner's minor subdivision of Parcel 107 of Tax Map 31 from one (1) parcel into three (3) parcels. The zoning classification for the subject realty at the time of said subdivision plat approval was the B-2 District.

On September 7, 2010, City Council, at the request of the petitioner, enacted a zoning map amendment changing the zoning classification of the subject realty from the B-2 District to the B-5 District.

Section 8A-5-12 (c) provides that the vesting period for an approved land development plan and plat which creates the vested property right is five years from the approval of the land development plan and plat by the planning commission.

It is the opinion of the Planning Division that the petitioner is the beneficiary of a vested property right specific to the lot and building envelope standards (setbacks and building height) provided for in the B-2 District at the time of the July 8, 2010 subdivision plat approval. However, because the subdivision plat approval did not include a development or site plan nor identified land uses, all remaining B-5 District land development and land use standards must be observed or variance relief granted by the Board of Zoning Appeals.

To preserve the natural topographic buffer of the site from the adjoining single-family neighborhood along Sabraton Avenue and to incorporate the functional orientation of the proposed development, the site's front has been determined to be toward the rear of the *J.D. Byrider* establishment while the site's rear is along Sabraton Avenue. As such, the proposed site plan complies with the B-2 District setback standards set forth in Article 1347.04 based on the Planning Division's understanding and observance of the vested property right described above.

Building Height

The elevation drawings submitted by the petitioner illustrate that the proposed structure is in compliance with the maximum building height standard of 72 feet as set forth in Article 1347.05 for the B-2 District (see vested property right narrative above).

Parking

The minimum parking standard for a "Hotel" use is:

"One (1) space per room or suite plus one (1) space per three (3) employees plus one (1) space per three (3) persons to the maximum capacity of the largest banquet or meeting room."

Based on the proposed development program, which does not include banquet or meeting room facilities and anticipates five (5) employees present during the largest shift, the minimum parking requirement is:

86 spaces (number of rooms) + 2 spaces (employees) = **88 spaces**

The site plan illustrates 92 parking spaces, which meets the minimum and maximum parking standards set forth in Article 1365.

Final parking design and layout, related landscape planning, and lighting planning are dependent upon fire truck access and maneuvering modeling that will be completed prior to building permit application.

Loading

Article 1365.10 provides that, "...loading spaces shall not be required for uses which do not receive or transmit goods or wares by truck delivery."

The proposed hotel will not include food service, continental breakfast service, or banquet facilities and linens will be laundered onsite. As such, deliveries for other provisions appear incidental and infrequent; should be accommodated at curbside within the parking area; and, should not necessitate the development of a loading berth. As such, it is the opinion of the Planning Division that a loading berth and designated loading area should not be necessary.

Final parking design and layout, related landscape planning, and lighting planning are dependent upon fire truck access and maneuvering modeling that will be completed prior to building permit application

DeMasters recognized the petitioner, Mike Saab, 322 West Run Road, Morgantown, who stated that the reason for the room change was because they eliminated the hospitality amenity (will not be providing banquet service, continental breakfast, etc.) which allowed them space for 4 more rooms. They were also able to provide for more parking adjacent to the building, with a capacity of 99, if needed.

Petros asked about access to the hotel. Saab stated that access will be from Earl Core Road. Signage will be on a tower on the building, and they will go through the signage approval process.

Loretta asked Saab to explain the stone or brick on the bottom. Saab stated that they are hoping to use simulated stone on the bottom/first floor area, with concrete masonry stone above that. He feels it will give it a rich look, but it all depends on the pricing, which they are in the process of obtaining.

Selin asked about the extended stay feature. Saab stated that it is designed for persons who need a place for one or two weeks for business-related reasons, etc. Rooms are equipped with refrigerators, electric stove top and sink.

Selin stated she liked the landscape plan and hopes they can maintain as much green space as possible.

There being no further questions by the Commission, DeMasters opened the public hearing portion of the meeting asking if anyone was present to speak in favor of the request. There being no comments in favor, he then asked if anyone was present to speak in opposition to the request. There being no comments in opposition, DeMasters declared the public hearing closed and asked for Staff's recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That, to mitigate adverse impacts of traffic congestion from the subject development site onto the street network of the adjoining residential neighborhood, vehicular access to and from said site may not connect to Sabraton Avenue.
2. That the petitioner shall incorporate, to the satisfaction of the Planning Division, all reasonable Technical Review Team recommendations in plans submitted with related building permit applications.
3. The development shall meet all applicable federal Fair Housing and Americans with Disabilities Act standards as determined by the City's Chief Building Code Official.
4. That the dumpster shall be enclosed with masonry materials, preferably by incorporating the facility into the retaining wall system, at least six (6) feet in height and include an opaque gate, standard concrete access apron, and concrete bollards at the rear of the enclosure to protect same from damage.
5. That the final Landscaping Plan and Lighting Plan must be submitted and approved as a part of the building permit review process and comply with related standards in Article 1367 and Article 1371 respectively unless variance relief is granted by the Board of Zoning Appeals.
6. That regulated signage must comply with related standards provided in Article 1369 "Signs" unless variance relief is granted by the Board of Zoning Appeals.

Loretta asked if the surrounding properties were notified that there would be a public hearing. Fletcher said yes, and he only received one email asking if the PC would be reviewing and studying or approving this tonight. He responded back and has not heard anything since.

Petros asked about the elevation of the hotel in relation to the street. Saab answered that the elevation is 57 ft. to the bottom of the tower. It may be about 20 ft. above Sabraton Ave.

Selin asked when the building materials being used and landscaping plans will be reviewed. Fletcher stated that those will be during the building permit process and technical review.

Martis stated he feels this is a good addition to the community and Sabraton area. Saab reiterated that this is a different type of hotel in that it is designed for longer stays.

Martis made a motion to approve S11-16-III with Staff recommended conditions; seconded by Petros. Motion carried unanimously, with Stranko abstaining from the vote.

- B. S11-18-III/Bruceton Farm Service, Inc./Hunter Way:** Request by Howard Goodstein, on behalf of Bruceton Farm Service, Inc. for a Southern States store on the former Sterling Faucet site in Sabraton; B-2, Service Business District; Tax Map 44A, Pa

Fletcher read the staff report, stating that the petitioner seeks to relocate the *Southern States* retail store from its present location along 1591 Earl Core Road to the former Sterling Faucet site in Sabraton. Addendum A of this report illustrates the location of the subject site.

The petitioner's proposed development program details include:

- The development site is approximately 4.6 acres.
- The proposed one-story "Retail Sales Establishment" use will include approximately 13,968 square feet of store, office, and warehouse space; approximately 3,456 square feet of open air garden center space; and, approximately 1,728 square feet of greenhouse space.
- The site will also include outdoor laydown and bulk storage space; bulk mulch bins; and, six (6) above ground bulk fuel oil facility tanks, which requires conditional use approval by the Board of Zoning Appeals for an "Outdoor Storage" use in the B-2 District.
- The final locations of the above ground bulk fuel oil facility tanks and mulch bins are dependent upon City Fire Marshal review and approval.
- Phase 1 will include the development of the bulk fuel oil facility; Phase 2 will include all remaining elements.
- Construction of Phase 1 could begin as early as September or October 2011; the anticipated construction schedule of Phase 2 is four months after commencement.

Setbacks

The proposed site plan complies with all setback standards set forth Article 1347.04 for the B-2 District.

Building Height

The proposed structure is less than the maximum building height standard of 72 feet as set forth in Article 1347.05 for the B-2 District.

Parking

The minimum parking standard for a "Retail Sales Establishment, not otherwise specified" use is three (3) spaces per 1,000 square feet of gross floor area.

Based on the proposed development program, the minimum parking requirement is:

$$[(13,968 + 3,456 + 1,728) / 1,000] \times 3 = \mathbf{57 \text{ spaces}}$$

The site plan illustrates 61 parking spaces, which meets the minimum and maximum parking standards set forth in Article 1365. There also appears to be ample space for additional parking stalls that may be required for the conditional "Outdoor Storage" use as determined by the Board of Zoning Appeals.

Final parking design and layout, related landscape planning, and lighting planning are dependent upon stormwater management plan review and approval by the Morgantown Utility Board (MUB).

Loading

Table 1365.10.01 "Required Loading Spaces" provides that at least one (1) loading space or loading berth. The proposed site plan illustrates three (3) loading berths at the south end of the structure.

Fletcher added that the site is currently paved in asphalt to encapsulate the soil contamination from the former Sterling Faucet operations. The asphalt has to remain, but it is hopeful that green space can be increased; however selected vegetation will have to withstand the heat from the asphalt left below the landscaping.

DeMasters recognized Howard Goodstein of Bruceton Farm Services, Inc. Mr. Goodstein stated that the current *Southern States* store will be relocated to the new site with the addition of the aboveground bulk fuel storage.

Martis asked if this was part of the [inaudible] property. Goodstein stated that this is the back acreage of that property, which is being purchased from the current owner.

Petros asked if this property is in the floodplain. Goodstein stated that it is above the base flood elevation.

There being no further questions by the Commission, DeMasters opened the public hearing portion, asking if anyone was present to speak in favor of the request. There being no comments in favor of the request, he then asked if anyone was present to speak in opposition to the request. There being no comments in opposition, DeMasters declared the public hearing closed and asked for Staff's recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That the petitioner shall incorporate, to the satisfaction of the Planning Division, all reasonable Technical Review Team recommendations in plans submitted with related building permit applications.
2. The development shall meet all applicable federal Americans with Disabilities Act standards as determined by the City's Chief Building Code Official.
3. That the final Landscaping Plan and Lighting Plan must be submitted and approved as a part of the building permit review process and comply with related standards in Article 1367 and Article 1371 respectively unless variance relief is granted by the Board of Zoning Appeals.

4. That regulated signage must comply with related standards provided in Article 1369 "Signs" unless variance relief is granted by the Board of Zoning Appeals.

Selin asked if there are any plans to provide space to view Decker's Creek. Goodstein stated that there were no plans, at this point.

Petros made a motion to approve S11-18-III with Staff's recommended conditions; seconded by Shuman. Motion carried unanimously with Stranko abstaining.

NOTE: Stranko returned to Council Chambers.

- C. **MNS11-11/Knowles/730 Werner Street:** Request by Kris Knowles for minor subdivision approval for property located at 730 Werner Street.

Fletcher read the Staff report, stating that The petitioner seeks to subdivide ten (10) feet in width along Werner Street by fifty-six (56) feet in depth from Parcel 344 of Tax Map 25 and add said 560 square feet of realty to Parcel 345 of Tax Map 25. The purpose of the subdivision is to accommodate a proposed development on Parcel 345, which currently contains a garage structure. Addendum A of this report illustrates the location of the subject property.

Parcel 345 is owned by Knowles Enterprises, LLC. The Planning Division received a letter dated June 26, 2011 from said owner authorizing the petitioner to: "...seek any and all approvals he may need to develop this property." Parcel 344 is owned by KMK Properties at Brockway and Kingwood, LLC, which the petitioner is the managing member.

The minimum lot size standard in the B-1 District is 3,000 square feet and the minimum lot depth standard is 100 feet. The proposed area of the reconfigured parcel will be 2,800 square feet, which is less than the minimum standard. However, the Commission should consider the proposed subdivision as a reduction in the extent of its existing lot size nonconformity. The lot depth of the existing parcel is 56 feet and is considered a pre-existing nonconforming grandfathered parcel.

DeMasters wanted clarification that this is a non-conforming parcel, and with approval of this request, it would still remain a non-conforming parcel. Fletcher stated that his statement was correct.

Fletcher explained the layout of the adjoining parcels, stating that there does not appear to be a way to make this non-conforming parcel conforming due to setback encroachments that would be created by structures on the neighboring properties. He further stated that the Planning Commission can approve subdivisions that are less than minimum area in depth when property is increased. He also stated that the petitioner is concurrently seeking variance approval by the Board of Zoning Appeals during its August 17, 2011 hearing concerning encroachment into the minimum rear setback requirement.

Selin asked Fletcher if he was comfortable that, by approving this request, it would be making an improvement to what is existing. Fletcher answered in the affirmative, and that it was simply moving a line over 10 feet.

There being no further questions by the Commission, DeMasters opened the public hearing portion, asking if anyone was present to speak in favor of the request. There being no comments in favor, he then asked if anyone was present to speak in opposition to the request.

There being no comments in opposition, DeMasters declared the public hearing closed and asked for Staff's recommendations.

Fletcher read Staff's recommendation, stating that Staff recommends approval with the following conditions:

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

Stranko made a motion to approve MNS11-11 with Staff's recommended conditions; seconded by Shuman. Motion carried unanimously.

- D. MNS11-14 / Jeffrey & Renee Carpenter / 889 Fairfax Drive:** Request by Jeffrey and Renee Carpenter, on behalf of Kenneth Linch, for minor subdivision approval for property located at 889 Fairfax Drive, Tax Map 15, Parcel 17 and 228; R-1, Single-Family Residential District.

Fletcher read the Staff report, stating that the petitioner seeks to subdivide Parcel 17 of Tax Map 15 into two separate parcels. Addendum A of this report illustrates the location of the subject site.

Details of the proposed subdivision include:

- Parcel "A" illustrated on the submitted preliminary plat will contain approximately 9,946 square feet and does not contain a structure.
- Parcel "B" illustrated on the submitted preliminary plat will contain approximately 11,649 square feet and contains an existing single-family structure.

The proposed subdivision exceeds the R-1 District minimum lot area standard of 7,200 square feet and minimum lot frontage standard of 70 feet. No setback encroachments will be created by the proposed subdivision.

Fletcher stated that he received an email from the petitioner asking for Staff to represent the petition.

DeMasters asked if Mr. Linch was planning to just sell the property to the Carpenters. Fletcher answered yes, and stated that they built a new home on a neighboring property and have negotiated the acquisition of Parcel "A" illustrated on the preliminary plat from Mr. Linch and Mr. Linch will maintain ownership of Parcel "B".

Martis stated that no property can be in the alleyway. Fletcher explained that the alleyway no longer exists as it was annulled several years ago.

Martis also stated that he was glad there is another suitable lot in the City to build a new single-family home.

There being no further questions by the Commission, DeMasters opened the public hearing portion of the meeting, asking if anyone was present to speak in favor of the request. There

being no comments in favor, he then asked if anyone was present to speak in opposition to the request. There being no comments in opposition, DeMasters declared the public hearing closed and asked for Staff's recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

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

Martis made a motion to approve MNS11-14 with Staff recommended conditions; seconded by Petros. Motion carried unanimously.

VI. OTHER BUSINESS:

A. Committee Reports:

- Traffic Commission: Martis stated that there was not report to offer this month.
- Green Team: Stranko stated that there was no report to offer this month.

B. Staff Comments:

Fletcher stated that the Bicycle Board has been assembling ordinances and policies from communities around the country to begin crafting recommendations pertaining to minimum bicycle storage requirements that were generally discussed during the Planning Commission's workshop last month.

Regarding the Comprehensive Plan, the scope of work is 90% completed. The Technical Advisory Committee for the MPO recently authorized Bill Austin to ask the MPO Policy Board to enter into a contract with the consulting team. Assuming this process continues to move forward as expected, Fletcher stated that he will be asking the Planning Commission to schedule a workshop to be in September. He asked the consulting team not to initiate public meetings until after the Planning Commission has been briefed in September of the scope of work, project direction, and project timelines.

VII. ADJOURNMENT: 7:25 PM

MINUTES APPROVED:

September 8, 2011

COMMISSION SECRETARY:

Christopher M. Fletcher, AICP