

MORGANTOWN PLANNING COMMISSION

MINUTES

6:30 p.m.

September 8, 2016

Council Chambers

COMMISSIONERS PRESENT: Peter DeMasters, Bill Petros, William Blosser, Sam Loretta, Bill Kawecki, Tim Stranko, and Carol Pyles

COMMISSIONERS ABSENT: Michael Shuman

STAFF PRESENT: Christopher Fletcher, AICP

- I. **CALL TO ORDER/ROLL CALL:** DeMasters called the meeting to order at 6:30 p.m. 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 August 11, 2016 meeting minutes: Stranko moved to approve as presented; seconded by Kawecki. Motion carried unanimously with Pyles abstaining due to her absence.
- IV. **UNFINISHED BUSINESS:**
 - A. **RZ16-05 / South Baptist Convention – Home Mission Board of Trustees / 519 Burroughs Street:** Request by Joseph V. Schaeffer, Esq., on behalf of South Baptist Convention – Home Mission Board of Trustees, for a Zoning Map Amendment to reclassify a portion of Parcel 33 of Tax Map 55 from R-1, Single-Family Residential District to B-1, Neighborhood Business District or B-2, Service Business District. This petition was continued at the Planning Commission's August 11, 2016 hearing.

Fletcher read the memo for Case No. RZ16-05 that was included in the meeting packet which stated the following:

During the Planning Commission's 11 AUG 2016 hearing, the motion to send a favorable recommendation to City Council concerning Zoning Map Amendment Petition No. RZ16-05 failed to obtain a majority with a vote of 3-3. The petition was therefore continued.

The Planning Commission raised concerns with ensuring an adequate buffer is provided at the edge of the proposed zoning map amendment and the adjoining single-family residences along French Quarter Drive. The Planning Commission directed Staff to discuss zoning district boundary and related subdivision alternatives with the petitioner. The alternate generally described during the hearing was to adjust the zoning district boundary and related subdivision twenty (20) feet from rear parcel boundary shared with

French Quarter Drive fronting parcels so that twenty-foot "strip" would remain with the larger parcel on which the Calvary Baptist Church is situated.

Staff met with the petitioner's representative Joseph Schaeffer, Esq. of Spilman Thomas & Battle on TUE, 30 AUG 2016 to discuss potential alternatives. Consultation with the City Attorney concerning potential alternatives will occur prior to the Planning Commission's 08 SEP hearing and will be reported to the Commission accordingly.

Attached hereto are three (3) opposition communications submitted following the Planning Commission's 11 AUG hearing from:

- Mikylah McTeer
- Vinod Kulathumani
- Sven and Lisa Verlinden
- Jessica Tuel
- Myla Bowman

It should be restated Staff advised Mr. Schaeffer to discuss the proposal with residents living within 200 feet of subject site along with the leadership of the Suncrest Neighborhood Association and contact information was accordingly provided. It should also be noted all related advance public notification tasks (e.g., published legal advertisement, letters to owners of properties within 200 feet, posting of sign, etc.) were completed for both the 11 AUG and 08 SEP Planning Commission hearings.

Concerning the related Minor Subdivision Petition No. MNS16-07, the matter was tabled during the Planning Commission's 11 AUG hearing and will require a motion to remove it from the table prior to discussion.

Fletcher explained the alternatives that were discussed with the petitioner's attorney which include subdividing the property and require a conservation easement, along with a zoning boundary adjustment to maintain the 20 feet in the rear and to remain R-1. Fletcher noted that this alternative would amount to illegal contract zoning. Fletcher stated the only two viable alternates are to look at the request as it is or to modify the petitioner's request to maintain the 20 foot depth strip in the back by modifying the subdivision in the rear and alter the recommendation to City Council to maintain the rear portion as R-1.

DeMasters recognized Joseph Schaeffer on behalf of South Baptist Convention who referred to the Staff Report to further explain the area to be rezoned. Schaeffer explained that the alternate is to add a 20-foot buffer in the rear that would remain zoned as R-1 and stated the client is agreeable to that. Schaeffer explained the reason for the map amendment is due to potential revenue that is much needed for Calvary Baptist Church which will allow for much needed improvements to the sanctuary. Schaeffer noted the parcel could be developed as it is right now consistent with the Planning and Zoning Code but stated the issue is whether reclassifying the zoning to B-2 is appropriate. Schaeffer stated the location of the parcel is located around commercial developments and noted the character of the land includes a slope in the rear of the property that creates a natural shield to the residential property.

Petros referred to Addendum A and inquired if moving the parking lot directly beside the church had been considered. Schaeffer did not know the answer but stated the 80 feet of frontage on Burroughs is similar to a valley and expressed his opinion to rotate horizontally would create a slope in the parking lot.

There being no further comments or questions by the Commission, DeMasters asked if anyone was present to speak in favor of or in opposition to petition.

DeMasters recognized Ronald Gillis of 1207 Douglas Avenue who explained past developments of the church and noted the church does not have the attendance and membership to complete the sanctuary. Gillis stated the property is worthless and the process of the sale would allow completion of the sanctuary and increase members of the church. Gillis noted the map amendment was not done in secret and apologized that more communication was not done.

DeMasters recognized Mikylah McTeer of 9 French Quarters Drive who stated there is a lot of commercial development surrounding the neighborhood and noted the area proposed is in a green space located in a marshy area which collects rain water and could play a part in the drainage system. McTeer stated she is against the and noted that the site is located in a limited grow area and expressed that neighborhood conservation is in risk.

DeMasters recognized Lixin Shen of 17 French Quarters Drive who stated that rezoning would allow for a dramatic increase of commercial area which is a big change for a small community and there has been a lack of neighborhood engagement and transparency. Shen stated the construction will have an impact to the neighborhood and expressed concerns with privacy, safety and noise. Shen stated that if the property is rezoned then it could be used for other commercial purposes and would decrease the property values of the surrounding homes.

DeMasters recognized Vinod Kulathumani of 13 French Quarters Drive who expressed concerns with safety, privacy and increased flooding with the development of a parking lot and noted his property is located directly behind the area to be developed.

DeMasters recognized Betty Ameri of 5 French Quarters Drive who agreed with the opposition expressed by other neighbors and stated she is against any changes in zoning in the area.

DeMasters recognized Lisa Verlinden of 1 French Quarters Drive who explained that her house flooded in 2008 and 2010 and expressed concerns with increased run off from the hillside with further development. Verlinden noted they filed a lawsuit after the flooding and stated she is against rezoning and wants to maintain the integrity to the residential area.

There being no further comments, DeMasters declared the public hearing closed and offered the petitioner a chance for rebuttal.

Shaeffer referred to Addendum A of the Staff Report to further explain that the area is in a basin and stated there would be no impervious space or development occurring on top of the hill which would eliminate any chance for run off. Schaeffer noted the church is willing to provide a visual buffer and stated the duty of the Planning Commission is to decide if rezoning the property to B-2 is appropriate and not the desires of what can be built on the property. Schaeffer expressed that rezoning the area to B-2 is appropriate and would keep with the character of the neighborhood.

DeMasters asked for Staff recommendations.

Fletcher explained that Staff recommendations were read at the last hearing and read the last paragraph of those recommendations. Fletcher also explained a condition should be added if the Planning Commission decides to keep the 20-foot depth in the back of the property classified as R-1.

DeMasters asked if the 20-foot depth in the back of the property would be zoned R-1. Fletcher confirmed and added it to the condition.

Petros expressed that an R-1 lot size should act as a buffer rather than the 20 feet proposed.

DeMasters noted that buffers are usually what the setbacks are for that zoning district. Petros understood and expressed that an empty lot zoned R-1 is more appealing than abutting something that is zoned as commercial.

Petros noted he is not thinking about the property as a parking lot, but rather what can be built there 10 years from now.

Stranko expressed concerns with the claims regarding transparency and stated that notice was given based on what is required in the zoning ordinance and asked Staff to determine if more needs to be done in getting announcements to the public.

Stranko suggested to table the petition and for the church leaders to meet with the neighbors on the property to discuss and resolve matters.

Kawecki expressed that he likes green space but stated the church has property rights and should be able to choose what they want to do with their property. Kawecki agreed that discussion should happen between the two parties and that a buffer could help prevent future conflict with future developers.

DeMasters agreed and stated the church could pave that area to the property line as it is their right.

Loretta expressed concerns on whether rezoning to B-2 could be considered spot zoning and noted the lot is located in an area of limited grow and neighborhood conservation.

Stranko stated he did not feel it was spot zoning but agreed that is something to be discussed.

Loretta expressed concerns with rezoning to B-2 and the possibility that commercial tenants could build on the lot in the future which would put pressure on the neighborhood.

Pyles expressed she was surprised to hear people speak in opposition that lived across the street from Burroughs and stated rezoning would allow the opportunity for more development which would change the nature of the neighborhood.

Stranko moved to table RZ16-05; seconded by Kawecki. Motion carried 5-2 with DeMasters and Loretta voting nay.

- B. MNS16-07 / South Baptist Convention – Home Mission Board of Trustees / 519 Burroughs Street: Request by Joseph V. Schaeffer, Esq., on behalf of South Baptist Convention – Home Mission Board of Trustees, for minor subdivision approval of property located at 519 Burroughs Street; Tax Map 55, Parcel 33; R-1, Single-Family Residential District. This petition was tabled at the Planning Commission's August 11, 2016 hearing.**

Fletcher confirmed the petitioner was willing for MNS16-07 to remain on the table for the October 13, 2016 Planning Commission hearing.

NEW BUSINESS:

- C. MNS16-10 / Mylan Pharmaceuticals / 781 Chestnut Ridge Road:** Request by John Sausen of Omni Associates, on behalf of Mylan Pharmaceuticals, for minor subdivision approval of property located at 781 Chestnut Ridge Road; Tax Map 56, Parcel 4.1; B-2, Service Business District.

Fletcher presented the Staff Report.

DeMasters recognized the petitioner's representative John Sausen of Omni Associates, who explained that a subdivision was filed at the County Courthouse but never approved by the Planning Commission and that Mylan has been using the building on the lot since 1989. Sausen noted that Mylan has a formal lease agreement with the property owner for parking and stated that all parcels are owned by the same person.

There being no comments or questions by the Commission, DeMasters asked if anyone was present to speak in favor of or in opposition to petition. There being none, DeMasters declared the public hearing closed and asked for Staff recommendations.

Fletcher read the Staff recommendations and noted the plat has already been recorded so only two (2) original copies are necessary that will be kept by Staff and then the petitioner.

Stranko moved to approve Case No. MNS16-10 with Staff recommendations; seconded by Blosser. Motion carried unanimously.

V. OTHER BUSINESS

A. Committee Reports

- Traffic Commission: Blosser stated the Traffic Commission discussed the possibility of installing flashing red and yellow lights on high volume intersections on off peak hours and the item will be brought before the Planning Commission for consideration in the future.
- Green Team: No report.

B. Staff Comments:

- Fletcher announced that there will be a Planning Commission workshop concerning zoning ordinance complaints and will be held at 6:30 p.m. on Thursday, September 29th in the Public Safety Training room
- Fletcher stated the Downtown Designs Steering Committee will meet in October and the date will be determined in the following weeks.
- Fletcher stated the Sign Regulations Steering Committee met on August 30th at 3:00 p.m. to identify concerns, experiences, and objectives for re-writing sign regulations.

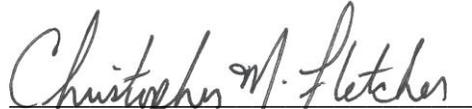
VI. FOR THE GOOD OF THE COMMISSION: None.

VIII. ADJOURNMENT: 7:37 PM

MINUTES APPROVED:

November 10, 2016

COMMISSION SECRETARY:



Christopher M. Fletcher, AICP