

**PLANNING COMMISSION  
CITY OF MARTINSBURG  
232 N. QUEEN STREET  
Regular Meeting Minutes  
February 4, 2015  
J. Oakley Seibert Council Chambers**

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With a quorum present, President Jim Rodgers called the regular meeting of the Martinsburg Planning Commission to order at 6:00p.m. The following Commissioners were present: Scott Hamilton, Jeff Molenda (arrived at 6:27), George Reichard, Reenie Raines, Yvonne Jenkins, Mark Palmer, Jim Rodgers and ex-officio member Councilman Greg Wachtel. Not present were: Chris Ross and Matt Coffey. Also in attendance were Legal Counsel Kin Sayre, City Engineer/Planning Director Mike Covell, City Planner Tracy Smith and Planning Secretary Holly Hartman.

**ROLL CALL (and microphone check)**

**APPROVAL OF January 7, 2015 MEETING MINUTES**

Commissioner Hamilton made the motion to approve the January minutes as submitted. Commissioner Raines seconded the motion that was followed by a unanimous vote of “aye”. Motion carried.

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

1. **CASE # SP14-044. 927 Foxcroft Avenue.** Site Plan application requesting review of an approximate 12,667 square foot structure, associated parking and rights-of-way. 927 Foxcroft, LLC, applicant.

Ron Mislowsky with Pennoni Associates, Inc. introduced himself and Arik Jakob, representing the property owner. Mr. Mislowsky gave an overview of the site plan, explaining the location and how after much research they determined it was cheaper to construct a new building rather than to renovate the existing one. He stated that they are essentially using the existing footprint and that the parking lot will not be altered except to reconfigure some of the curb, gutter, and install pavers for storm water management. He went on to say that one of the biggest changes is the “drive-thru” proposed along the north side of the site. The original submittal in December received comments in regards to the “drive-thru” and the access to the north side of the site at the “drive-thru” exit. Mr. Mislowsky stated that the property lines are very close to the building and the driveways are situated in easements; on the South side of the site is a dedicated right-of-way and on the North side there is a thirty-foot access easement that is centered on the property line. He went on to explain that part of the “drive-thru” was going to make use of the access easement, although they have made sure to keep all of the improvements off the access easement so that the other property owner has full use of his fifteen-feet. He noted that there are concerns about the cars turning from the “drive-thru” into

the easement so the building has been reconfigured, a concrete median has been added along a portion of the “drive-thru” and signage added to control vehicles turning into the easement. He and the owner feel these adjustments have made it safer. Mr. Mislowsky stated that the property owner has been in contact with the adjoining property owner, Mr. Broadwater, and stated that Mr. Broadwater had no objections with the plans, subsequently an email was received just prior to the start of this meeting from Mr. Broadwater’s attorney stating safety concerns. Mr. Mislowsky made it known that they would like to work out whatever issues have come up.

Mike Covell, City Engineer/Planning Director, informed the commission that he had spoken with Mr. Broadwater this morning. He mentioned that Mr. Broadwater is part of a company that owns the property that Ryan’s is located upon and this morning during their conversation made it known that Ryan’s did not have anything to protest, he saw it was a unique situation but wasn’t against it. Mr. Covell went on to say that he received a phone call at five o’clock from Mr. Broadwater and Mr. Nashanian, his attorney, where numerous concerns were voiced. Mr. Nashanian admitted that he had not had much time to review the plans or the nature of the easement. Mr. Covell stated that he had reviewed the easement thoroughly and it is specifically called a “non-exclusive, ingress/egress, access easement right-of-way”. He advised Mr. Nashanian and Mr. Broadwater that the Planning Commission does not have regulations for “drive-thru” configurations and explained what the regulations do contain. Mr. Covell then informed Mr. Broadwater that he would update the commissioners on the concerns and would hope to have a statement that he could copy to keep on record. Mr. Covell explained that the turn will be controlled and that drivers will be advised by signage; which all seem to be responsible elements of the design. In looking at the plan, Mr. Covell could see no reason to disapprove it, but it is worth discussion to be sure the design is harmonious. Mr. Covell also mentioned that the plans included our new storm water management requirements.

Chairman Rodgers noted that there is nothing in the regulations to prevent the Commission from approving the site plan and that the eleventh-hour email from the adjacent property owner seemed insufficient.

Mr. Covell stated that an enforceable stop sign would be a good idea to control the traffic, and that places fault on the reckless driver rather than the property owner. Chairman Rodgers asked if the applicant was agreeable with the stop sign suggestion and Mr. Mislowsky answered yes.

Commissioner Palmer asked if the thirty-foot easement is centered on the property line. Mr. Covell confirmed. Commissioner Palmer voiced concerns of a vehicle not being able to make the turn and stay in the easement. Mr. Covell stated that the easement is a two-way corridor and that the vehicle would stay to the right just as you would on a traditional road. He further stated that the agreement for this easement was well documented and planned to allow vehicles access to the easement.

Commissioner Palmer asked how traffic will be regulated to stay on the easement after the turn is made, will there be lines or arrows on the pavement. Chairman Rodgers remarked that the situation was similar to all other large parking lots where you have aisles and there are no direction indicators. Mr. Mislowsky responded that Ryan’s customers currently use the Texas

Steakhouse easement when they back out of their parking spots. He went on to say that normal parking lot protocol will be followed, and in addition to this, a front easement is accessible to provide for cross traffic.

Commissioner Palmer asked if there were any existing markings on the pavement. Mr. Mislowsky replied that they would be willing to mark the parking lot if this would alleviate the concern.

Chairman Rodgers asked that the signage, road striping and additions be noted.

Commissioner Reichard made the motion to approve this request including the noted improvements. Commissioner Jenkins seconded the motion that was followed by a unanimous vote of "aye". Motion carried.

#### **DISCUSSION ITEMS:**

- Continuation of review for guiding criteria to regulate shipping containers used for storage

Mr. Covell provided an explanation of the proposed changes to the design regulations.

Chairperson Rodgers asked if these were currently part of the ordinance. Mr. Covell explained that the black texts are a current part and that the red texts are the new proposed text. Mr. Covell recommended that everyone read the regulations and send their comments by email. Legal counsel, Kin Sayre reminded the Commission of the open meetings law. Mr. Covell suggested not to have a string of emails, but to have separate emails with the individual Commissioner's comments.

Chairperson Rodgers asked about the word "less" on page two, if it was an error. Tracy Smith, City Planner, responded that it was from the original ordinance and the text had to be left like that but it can be changed with the text amendment.

#### **OTHER BUSINESS:**

- Next regular meeting scheduled for March 4, 2015 at 6:00 pm

#### **ADJOURNMENT**

Motion to adjourn by Commissioner Jenkins, seconded by Commissioner Raines, at 6:42 pm and approved by unanimous consent. Motion carried.

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Jim Rodgers, President

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Holly Hartman, Planning Secretary