

**PLANNING COMMISSION
MINUTES
AUGUST 5, 2008
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Tuesday, August 5, 2008, at 6:00 p.m. with Madame Chair Janet Stockton presiding.

The following members were present: Madame Chair Janet Stockton; Planning Commission Members Derwin Hall, John Tiggle, A. Milton Arrington, Ina Clements, and Jerry W. Greer, Sr. Staff members present included: Town Manager C. James Ervin, Town Attorney John Boitnott, Planning and Zoning Administrator (PZA) Paul D. Stockwell, and Deputy Clerk Stacey B. Sink. Let the record show that Vice Chair John Speidel was not present.

APPROVAL OF AGENDA

- Motion was made by Planning Commission Member Tiggle to approve the agenda as presented, with motion on the floor being seconded by Planning Commission Member Clements. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

APPROVAL OF MINUTES

Prior to the meeting, the Planning Commission members received the following draft minutes for review and consideration of approval:

- July 1, 2008
- Motion was made by Planning Commission Member Clements to approve the draft minutes as presented, with the motion on the floor being seconded by Planning Commission Member Arrington. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

PUBLIC HEARING

Madame Chair Stockton recessed the regular meeting to hold the first of six public hearings:

- A) Request of Faron and Lavon Frye for a Waiver from the Town of Rocky Mount Subdivision Ordinance Article 8-3(L) Requiring CG-6 Curb and Gutter

After being duly advertised, Faron and Lavon Frye requested a waiver from the Town of Rocky Mount Subdivision Ordinance Article 8-3(L) requiring CG-6 curb and gutter for Franklin County Tax Map and Parcel Number 2070029200.

Madame Chair Stockton opened the floor to anyone wishing to speak in favor of the request.

(Faron) Lee Frye, of 125 Windsor Drive, came forward, stating that the lot goes from Windsor Drive down to Anderson Street and he wants to divide the lot in half to create another building lot. The ordinance requires curb and gutter and he doesn't see the purpose of curb and gutter in the middle of Anderson Street. He would like to have this waived.

No one from the public came forward to speak against the request.

The PZA advised the Planning Commission that this request is to waive the requirement for curb and gutter along Anderson Street. The curb and gutter would channel the runoff from Anderson Street through stormwater pipes to adequate receiving channels. If the curb and gutter were waived, stormwater from the road will flow into a natural drainage ditch. The curb and gutter would not connect to any existing curb and gutter along Anderson Street. If a waiver is approved, it may be worthwhile to require that a statement on the plat indicate that the property owner is responsible for a pro rata share of the costs of curb and gutter according to the property's street frontage whenever the Town of Rocky Mount decides to extend curb and gutter along Anderson Street.

Lee Frye addressed the Commission again, stating that he does not understand why the pro rata share clause would be necessary because it would put an undue burden on whomever buys the property when it is sold, and he feels that it shouldn't be in the request. No other neighboring lots would have the same burden.

Madame Chair Stockton opened the floor to questions by the Planning Commission members. There were none.

Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion:

- Motion was made by Planning Commission Member Tiggie to recommend to Town Council the approval of the waiver request of Faron Lee Frye from the Town of Rocky Mount Subdivision Ordinance Article 8-3(L) (3) requiring CG-6 curb and gutter along Anderson Street, for Franklin County Tax Map and Parcel Number 2070029200, with motion on the floor being seconded by Planning Commission

Member Hall. There being no discussion, a roll call vote was taken. Let the record show that the motion on the floor passed unanimously by those present.

Madame Chair Stockton recessed the meeting to hold the next public hearing:

B) Request of Faron and Lavon Frye for a Waiver from the Town of Rocky Mount Subdivision Ordinance Article 8-4(B) Requiring Sidewalks

After being duly advertised, Faron and Lavon Frye requested a waiver from the Town of Rocky Mount Subdivision Ordinance Article 8-4(B) requiring sidewalks for Franklin County Tax Map and Parcel Number 2070029200.

Lee Frye came forward again stating that he is requesting the waiver for the same property and for the same reasons as previously stated.

Let the record show that no one else from the public came forward to speak in regards to Mr. Frye's request.

The PZA advised the Planning Commission that this request is to waive the requirement for a sidewalk along Anderson Street. The sidewalk would not connect to any existing sidewalk. If a waiver is approved, it may be worthwhile to require that a statement on the plat indicate that the property owner is responsible for a pro rata share of the costs of a sidewalk according to the property's street frontage whenever the Town of Rocky Mount decides to extend a sidewalk along Anderson Street.

Madame Chair Stockton asked the PZA if the Town had any plans to extend a sidewalk along Anderson anytime soon, with the PZA advising there were no plans in the near future.

Madame Chair Stockton opened the floor to questions and comments by the Planning Commission members. There were none.

Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion:

- Motion was made by Planning Commission Member Clements to recommend to Town Council the approval of the waiver request of Faron Lee Frye from the Town of Rocky Mount Subdivision Ordinance Article 8-4(B) requiring a sidewalk along Anderson Street for Franklin County Tax Map and Parcel Number 2070029200, with motion on the floor being seconded by Planning Commission Tiggle. There being no discussion, a roll call vote was taken. Let the record show that the motion on the floor passed unanimously by those present.

Madame Chair Stockton recessed the meeting to hold the next public hearing:

C) Request of Morningstar Partners, LLC for a waiver from the Town of Rocky Mount Subdivision Ordinance Article 8-3(L) Requiring CG-6 Curb and Gutter

After being duly advertised, Morningstar Partners, LLC requested a waiver from the Town of Rocky Mount Subdivision Ordinance, Article 8-3(L) requiring CG-6 curb and gutter for Franklin County Tax Map and Parcel Number 2010009300.

Madame Chair Stockton indicated that three people have signed up to speak regarding this request. The first is Jim Gilbert, who is the attorney for the applicant.

Jim Gilbert came forward to speak, stating that he is an attorney here in Franklin County, and he represents Morningstar Partners, LLC, which owns a tract of land in the Town of Rocky Mount, consisting of a little over sixteen acres. The property is located near Bernard and Cornell Roads and near the Franklin Heights subdivision. His client is proposing a division of this property into seventeen lots. Sixteen of the lots will be for single-family homes, and the largest lot, which consists of a little over seven acres, is proposed to be donated to the Town for use as a neighborhood park and also for potential extension of sewer lines. The approval of this request ends up as a win-win for both the Town and his client. His client will be able to move forward with the development of the property and this waiver will make it more economically feasible for them to do so. Curb and gutter is expensive and the next request for sidewalks is expensive also. This will allow his client to move forward with the division of the property and to be able to donate land to the Town. The Town benefits because it will get a seven acre parcel that can be used for a park and walking trails. It will also allow for the construction of sixteen single-family homes, with an anticipated value of \$150,000 to \$200,000. This will increase the tax basis in Rocky Mount by somewhere between \$2.5 and \$3 million. This will also allow for the extension of sewer lines throughout the Town of Rocky Mount. In essence, they are requesting three waivers and he understands that this hearing is regarding the curb and gutter so he will limit his comments to this. He wants to note that he questions the need for obtaining the waiver. His interpretation of the ordinance is a little different from that of the PZA and as a courtesy to the Town they have agreed to come to the Planning Commission to request the waiver. He would like to tell the Commission nifty things, but feels like the PZA's report has stolen his thunder. The report touches on the reason why curb and gutter don't need to be used for drainage purposes. He has brought Mr. Dean Stone, an engineer, to answer any technical questions regarding drainage and water runoff issues. The PZA's report summed up what the Commission needs to know regarding curb and gutter, which is that the curb and gutter is not necessary for water runoff. It can be handled as it is, and if there is any additional, the seven acres can be used to capture the runoff.

Madame Chair Stockton opened the floor to questions by the Planning Commission members. There were none. She also questioned if Mr. Stone wished to speak, with Mr. Stone confirming he would be glad to answer any questions that the Commission may have, but he had no additional comments.

No one else came forward to speak in favor of the request.

Madame Chair Stockton asked the next person on the list, Frances Parker, to come to the podium to speak.

Frances Parker, of 650 Bernard Road, came forward stating that she doesn't think it is fair that they are back again this year when this request was turned down last year. She was not aware that it could be appealed, and she doesn't think it is fair to be going through this again. She doesn't think that her tax dollars should be spent helping this gentleman. She owns 27 acres that face this property and no one helped her to put in water and sewer. They had to pay \$1,200 to get the water hook-up and they had to pay plumbers to come and run pipes to the street. They didn't get any help, they had to have it hooked up by a certain time, and they got no help. She has been given no proof that sidewalks and curbing will not help. She thinks that it probably will help. There is standing water. She also wants to know why a sign was not posted for this public hearing. It had to be done last year. A sign was not posted so that the neighborhood knew, and not everyone gets a newspaper. Mr. Stockwell was asked about the sign by someone else. Since they have been annexed she and everyone else (in Franklin Heights) are paying double taxes and double water bills. Her water bill was the same for two months that it is now for one month. She has standing water and there is a sign on Bernard Road that says "heavy rain" because Bernard Road floods, and Cornell Drive floods. There is standing water in her front yard and when it rains, all of the debris runs down under the storm drains in her driveway. The Town doesn't clean it up. The people in the subdivision clean them out. The Town has known for years that there is a water problem. When it rains, it floods at the train trestle and residents can't get out of the subdivision. She thinks that her tax dollars should be spent to fix the existing problems. She has spoken with the PZA and he indicated that a community park could be put on the property. Another community park is not needed. There is already money in the budget for community parks. A park will bring undesirable people to the neighborhood. In addition, if a park is created, it needs to be handicapped accessible. She needs to be able to roll her husband, who is terminally ill and in a wheelchair, to the park and she can't do that on gravel, dirt, and mulch. Will there be a crosswalk? Nothing is in writing to show what the houses will be built out of. This was an issue last year. First they were going to be brick, then brick and siding, then all siding, and then outside they were mad and said it would be trailers. She is not against anyone building houses, as that is not the issue. The issue is the water runoff and the existing problems. She has been living in Franklin Heights since 1980 and the problems still have not been addressed. Maybe a sidewalk would help. Why should the developer get special preferences? They did not. The developer needs to pay for the water and sewer

as well. She gave access to the Town to allow sewer manholes and she got nothing for it. It's only fair that Planning Commission take into consideration the feelings of the residents of Franklin Heights. Again, she wants to know why a sign was not put up. She feels that this meeting should stop now because the public was not aware of this meeting. Mr. Boyd walked around the neighborhood to tell people about this meeting. A lot of people do not buy the newspaper and were not aware of the meeting, but would have called the number on the sign if the signs were put up. Again, she reiterated her concerns about safety, handicap accessibility, the manner in which her tax dollars are spent, the water problem in Franklin Heights, and the fact that no one has proven that sidewalks and curb and gutter would not benefit the area.

Madame Chair Stockton thanked Mrs. Parker for her comments and reminded the audience that the purpose of this public hearing is to discuss curb and gutter. She then called the next person on the list, Mr. Warren Boyd, to the podium.

Warren Boyd, of 20 Mountain View Drive in Franklin Heights, came forward to speak, stating that he is also a Class A contractor and has built in many different areas. He has always met the standards and wants to know why we make rules and then deviate from them. He also wants to know why a sign wasn't posted. He further stated that he called to see why a sign had not been posted and was told that signs were not posted due to vandalism and that it costs too much to put them up. He feels the signs should have been up because a lot of residents knew nothing about it. He spent three days walking through Franklin Heights showing people what this hearing was all about. He got 118 names on a petition and stated that he could have gotten more but some residents were out of town.

Madame Chair Stockton confirmed with Mr. Boyd that the document she has in front of her, and which all members of the Commission received a copy of, was the petition of names he had collected. She also confirmed that it would be entered into the record. (See copy attached.)

Mr. Boyd continued his comments, stating that the area does need curbs, not only for the water issues, but also for the mailboxes. There are some mailboxes that have been replaced five times, and maybe if there were curbs, the cars would hit the curbs instead of the mailboxes. If curbs and gutters are not needed, then why are they in Town? There are storm drains that can be used to deviate the water. He doesn't think that a donated swamp is needed, and questioned how much money would be required to build up the area to a usable tract of land. He stated that previously, when he asked who would look after the park, he was advised that the Town would put it in but the people in the area would be required to look after it. He is concerned about people congregating at a park at night and doesn't think it should be the responsibility of the people of Franklin Heights to report suspicious activity. All that he wants is for the developer to do the right thing for the people of Franklin Heights and to help them with the water problem. The builder doesn't need a waiver. He needs to install curb and gutter. Hopefully, later down the road,

there will be curb and gutter and sidewalks throughout the community, and he intends for this to be his next petition. He too is concerned that signs were not posted. He understands that the only people who were notified of the request were the people with properties adjoining or adjacent to the proposed subdivision. He thinks this is wrong and that everyone in the subdivision should have been notified, not necessarily by registered letter, but a letter should have been sent. He thinks that the developer is trying to mess their neighborhood up. He is proud of his neighborhood and of all 118 names on the list. He asks the Planning Commission to take all of this into consideration. They need curb and gutter, they don't need a swamp for a park, and he is concerned about people who walk by his home.

Madame Chair Stockton read for the record the wording on the petition referenced by Mr. Boyd, which states:

We the undersigned concerned homeowners and taxpayers of Franklin Heights Subdivision ARE NOT in favor of the Planning Commission or Rocky Mount Town Council giving Morningstar Partners, LLC the three waivers they are requesting.

The petition lists the three waivers being requested and is signed by 118 names in opposition to the request.

Madame Chair Stockton noted that Mr. Gilbert wished to speak again but asked him to wait for questions by the Planning Commission and for the PZA to give his staff report. She also asked if anyone else from the audience wished to speak, with no one coming forward.

The Town Attorney addressed the Planning Commission, stating that notice requirements for a waiver request for a subdivision are set forth in the Town code and the State Code. The requirement is that it be advertised in the newspaper for two consecutive weeks within a certain number of days from the public hearing. It also requires the mailing of a notice to adjoining property owners. There is no legal requirement for signage on the parcel. If Planning Commission considers the question raised by the speakers here tonight, then arrangements can be made to post signage before the matter comes before Council on August 11th; however, there is no legal requirement that this be accomplished. Secondly, the discussion about the gift of a seven acre parcel of property to the Town is not material to Planning Commission's consideration of the waiver requests. This involves a completely separate discussion with Town Council as to the acceptance of property. Planning Commission is not making a recommendation to Town Council as to whether or not the dedication of real estate should be accepted as part of this process.

The PZA delivered his staff report, stating that curb and gutter catches and directs storm water into flows that are subsequently directed into adequate natural or man-made channels. The waiver of curb and gutter would reduce the

infrastructure costs to the developer by approximately \$55,000 (including two drop inlets). The developer is proposing to dedicate land to the Town of Rocky Mount, which could be used for additional storm water management; however, as the Town Attorney said, the acceptance of land is not pertinent to the waiver request but could have an effect on the storm water flowing into the parcel. Lot seventeen could be used as a storm water retention area for the proposed subdivision and to help the storm water situation in Franklin Heights as well. As most of the Franklin Heights residents know, there is a storm water problem that flows from the top of the Franklin Woods area, down the creek toward the rail trestle, where it backs up. If any additional stormwater is retained upstream, this would help the stormwater and flooding situation downstream. A natural attenuation of stormwater would decrease the time of concentration, which is the infiltration rate, and would allow storm flows to naturally absorb over a larger area. The residual parcel could aid in capturing and absorbing the natural runoff of the development, therefore increasing the infiltration rate of storm flows. Development of this parcel could disrupt the environmentally sensitive area and defeat the purpose for having it as an area to naturally absorb storm flows. The developer could also, without disturbing too much of the wetland area which is protected by federal wetland regulations, clear cut the property, destroying the trees, which could be a negative side impact for the development if lot 17 is developed. Development of the parcel would also increase the impervious surface area, thus increasing run-off and increasing the storm flow time of concentration (decreasing its infiltration rate) into the wetland area. Making the approval of the waiver of curb and gutter conditional upon the developer permanently leaving the 7.17 acre parcel undeveloped, which doesn't mean that the developer has to dedicate it to the Town, as this is another matter for Town Council's deliberation, but could be left undeveloped with a conservation easement, would allow storm flows to absorb at a slower rate over a larger area.

There were no questions for the PZA by the Planning Commission.

Mr. Boyd requested to come to the podium again. He stated that the Town Attorney had said that it is irrelevant to discuss the parcel of land as it pertains to curb and gutter, yet the PZA is stating his opinion regarding the parcel. If they are not allowed to express their opinions about Lot 17, then it should not be brought up at all. Madame Chair Stockton advised Mr. Boyd that she did not understand the Town Attorney's comments in the same manner as Mr. Boyd.

Mr. Gilbert returned to the podium, stating that he is baffled as to how to start. He has not been before the Rocky Mount Planning Commission before, but has been before the Franklin County Board of Supervisors several times. Generally, when there is an issue of public concern, it seems like the issues of undesirables, handicapped accessibility, and trailers are always brought up. Putting all of those frustrations and emotions aside, he asked the Planning Commission to look at logic. He pointed out that there are no curb and gutters anywhere near this property, and there is nothing to connect to. He is aware of the problem at the

trestle. He has seen it. Without worrying about the nicety of the neighborhood park, there is a tract of land that can be used by the Town for the runoff that causes the water problems at the train trestle. This is a start. There is no curb and gutter now and the PZA says that it will not help the storm water problems that exist currently. There is also an engineer here that says the same thing. Putting emotions and sympathies aside, reason and logic show that curb and gutter is not needed. The question, then, is why deviate from the rule? The reason that deviation is needed in this circumstance is the same reason that Planning Commission and Town Council has deviated in other circumstances: because the curb and gutter will not help in this circumstance and there is none to tie into now. He asks for the Planning Commission to approve the waiver as requested.

Madame Chair Stockton opened the floor to additional comments by anyone in the audience.

Mrs. Parker returned to the podium stating that she takes offense at Mr. Gilbert's comments regarding handicap accessibility. This issue was voted down last year and she does not understand why they are back again. Mr. Gilbert did not need to make that comment. She has a terminally ill husband at home and the only reason she brought up the issue of the park is that Mr. Stockwell mentioned it, and she feels that if her tax dollars are going to build it, then her husband should be able to use it. Her tax dollars pay for it regardless if it is put into a park or drain fields. There are a lot of ill and elderly people in this community that could benefit from sidewalks. They may not have them now, but they hope to have them in the future.

Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion:

- Motion was made by Planning Commission Member Greer to recommend to Town Council the denial of the waiver request of Morningstar Partners, LLC from the Town of Rocky Mount Subdivision Ordinance Article 8-3(L) requiring CG-6 curb and gutter for Franklin County Tax Map and Parcel Number 2010009300, with motion on the floor being seconded by Planning Commission Member Hall. There being no discussion, a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Arrington, Clements, Greer, and Madame Chair Stockton. Voting in opposition to the motion on the floor were Planning Commission Members Hall and Tiggle. Let the record show that the motion on the floor passed with a vote of four to two.

Madame Chair Stockton recessed the meeting to hold the next public hearing:

- D) Request of Morningstar Partners, LLC for a waiver from the Town of Rocky Mount Subdivision Ordinance Article 8-4(B) Requiring Sidewalks

After being duly advertised, Morningstar Partners, LLC requested a waiver from the Town of Rocky Mount Subdivision Ordinance, Article 8-4(b) requiring sidewalks for Franklin County Tax Map and Parcel Number 2010009300.

Madame Chair Stockton noted that the only person who had signed up to speak for this request was Mr. Gilbert.

Mr. Gilbert returned to the podium. He opened his comments by apologizing to Mrs. Parker for any offense that was taken due to his comments regarding handicap accessibility. He further stated that what he meant by his comment, is that if a park is to be built, the issue of handicap accessibility will be addressed by the Town, not Morningstar Partners, LLC. Again, he apologized if his comments were misinterpreted. In regards to sidewalks, Mr. Gilbert stated that based upon his interpretation of the ordinance, he does not believe that the waiver is necessary. However, out of courtesy to the Town and the PZA, his client has applied for the waiver. He feels that all of the issues were previously addressed with the curb and gutter waiver request. He pointed out that there are no sidewalks near or adjoining the property that Morningstar Partners, LLC wishes to divide, and there is nothing to hook into.

Madame Chair Stockton asked if anyone else would like to speak in regard to the request.

Mr. Warren Boyd returned to the podium. He thinks that sidewalks are needed along with the curb and gutter. The residents of Franklin Heights want sidewalks, even though they don't have them now. In the future, he plans to petition the Town for sidewalks and if Morningstar Partners, LLC has already put these sidewalks in, then less tax money will be required to provide them. 118 people have signed indicating that they want sidewalks. The people of Franklin Heights would especially like a sidewalk along Bernard Road. Mr. Boyd also expressed his concern regarding the volume and speed of traffic from motorists using Bernard Road as a shortcut to the Kroger/Wal-Mart area.

Madame Chair Stockton opened the floor to discussion by the Planning Commission Members.

Planning Commission Member Greer commented that right now the Town has applied to put sidewalks on Scuffling Hill and Circle Drive, and has mentioned trying to add a sidewalk each year. He hears more from the Franklin Heights community, than any other community in Town, that a sidewalk is needed, and he thinks that a sidewalk will become a reality in Franklin Heights within the next three or four years.

The PZA delivered his staff report, stating that sidewalks provide for additional pedestrian mobility, especially along roads that may contain a significant amount of

traffic. Pedestrian mobility, walking, and exercise are important to all populations. Franklin Heights currently does not have sidewalks; therefore, the provision of sidewalks in this development would serve as the beginning of a potential sidewalk system in the Franklin Heights neighborhood. The provision of sidewalks for the Franklin Woods development would make sense if the Town sees the potential for furthering the provision of sidewalks in the Franklin Heights neighborhood in the future. However, if the furtherance of a sidewalk system in Franklin Heights in the future may not seem feasible, and a permanent trail system on the residual parcel was developed, sidewalks may not be necessary for this development to increase the mobility and recreation of Franklin Heights' residents. A waiver of sidewalks would reduce the infrastructure costs to the developer by approximately \$65,000. If the developer physically establishes a trail at least five feet in width, with material such as gravel or limestone dust on the residual parcel, approximately the length of what the required sidewalk would be, which is around 2000 feet, and dedicate the trail along with a minimum 20 feet trail easement to the Town, the development cost could be significantly less for the developer, while also providing for additional pedestrian mobility and recreation for the residents of the Franklin Heights neighborhood. The trail should be accessible to the public at three locations: on Cornell Road between lots 1 and 2, at Bernard Road and Mountain View between lots 12 and 13, and on the Town's parcel on Bernard Road. The developer has proposed to construct such a trail system with the development.

No one else from the public came forward to speak.

Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion:

- Motion was made by Planning Commission Member Greer to recommend to Town Council the denial of the waiver request of Morningstar Partners, LLC from the Town of Rocky Mount Subdivision Ordinance Article 8-4(B) requiring sidewalks for Franklin County Tax Map and Parcel Number 2010009300, with motion on the floor being seconded by Planning Commission Member Clements. There being no discussion, a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Arrington, Clements, and Greer. Voting in opposition to the motion on the floor were Planning Commission Members Hall, Tiggle, and Madame Chair Stockton. Let the record show that the motion on the floor resulted in a tie vote of three to three and there, and no recommendation was made to Town Council.

- E) Request of Morningstar Partners, LLC for a waiver from the Town of Rocky Mount Subdivision Ordinance Article 8-1(C) Requiring the Subdivider to Pay a Proportionate Share of the Cost for the Extension of Water and Sewer Service.

After being duly advertised, Morningstar Partners, LLC requested a waiver from the Town of Rocky Mount Subdivision Ordinance, Article 8-1(C) requiring the subdivider to pay a proportionate share of the cost of the extension of water and sewer service to the property being developed, for Franklin County Tax Map and Parcel Number 2010009300.

Again, Madame Chair Stockton noted that Mr. Gilbert was the only person who requested to speak, and she called him to the podium.

Mr. Gilbert pointed out to the Planning Commission that historically the Town has extended sewer lines to the boundaries of properties being developed, and as indicated in Mr. Stockwell's staff report, the cost to the Town to do the extension will be \$21,000, with an expected return of \$124,867 including hook-ups and increased tax revenue. The extension will pay for itself.

Planning Commission Greer questioned if he understands the purpose of this request to mean that the Town would be charging someone to get water to his property line, with the PZA confirming he is correct. Planning Commission Member Greer then questioned when the Town started doing this, as he thought that the Town has always carried water and sewer to the property line. The PZA addressed his question, stating that there has always been a cost share between the Town and the developer; however, if the Town, on its own accord, decides to extend water and sewer to the property line, then the Town has the ability to do this to promote the public health, safety, and welfare of the general Town. The Town Attorney added that under the current subdivision ordinance, a subdivider cannot come to the Town and say approve my plat and build the sewer line to my property. They have to pay to get it there, or if the water line is going to serve other properties, then they have to pay their proportionate share. Or, the Town can waive the requirement as part of the subdivision approval process. In the past, there has been an unwritten rule of thumb to do a ten-year return-on-investment (ROI) analysis to determine if it is cost effective for the Town to extend its utilities to a property line upon request.

The PZA confirmed to Planning Commission Member Greer that in the case of Morningstar Partners, LLC, there would be two extensions: one of approximately 200 feet, and another of approximately 270 feet.

Planning Commission Member Greer expressed concern over this issue because the Town runs extensions everyday, with the Town Attorney stating that the Town is not required to. Planning Commission Member Greer then questioned if this requirement to pay is because this is a developer, with the Town Attorney stating that the Town of Rocky Mount is not required to provide water and sewer to any property owner in the Town. If the line is not there, then the Town is not required to put a line there because the property owner wants it. Planning Commission Member Greer stated that the water and sewer is already beside this property and he doesn't feel that the developer should have to pay for this waiver. The

developer should have access to Town water and sewer to the end of his lot. He is paying taxes on his property in the Town of Rocky Mount and the Town should be required to extend it to any property owner's line that is in the Town of Rocky Mount. He feels that if this is the rule, then it needs to be changed.

The Town Manager advised that a possible change to the ordinance could be brought before Council.

The Town Attorney added that the current subdivision ordinance requires the property owner to pay for the extension of utilities to the property, otherwise, a waiver must be granted. He also added that the developer is requesting to go beyond his property line to a property corner, with the PZA commenting that the request to go beyond the property line is actually going before the Public Utilities Committee. Mr. Gilbert also confirmed that the request that is before Planning Commission tonight is to extend water and sewer to the property line only.

The Town Attorney commented that when the Town of Rocky Mount extended sewer lines to the Plateau at Landmark, Mr. Arrington (the developer) entered into a contract with the Town of Rocky Mount to pay a proportionate share of the cost of extending the sewer to the outside property line over a period of time. Planning Commission Member Greer stated that he feels like this request is different because at that time the Plateau property was not in the Town. The Town had to take it in so that speed limits could be established for roads to be put in.

Madame Chair Stockton stated that it appears to her that this will be a winning situation for the Town.

Planning Commission Member Greer added that he thinks water should be run to the property line but not onto the property. Planning Commission Member Hall stated that he agrees with Planning Commission Member Greer that water should be run to the property line; however, he does not feel that the ROI calculation should be used as the reason for approving it because the ROI doesn't include expenses.

There being no further discussion by Planning Commission, Madame Chair Stockton reconvened the meeting back into regular session and entertained a motion:

- Motion was made by Planning Commission Member Tiggle to recommend to Town Council the approval of the waiver request of Morningstar Partners, LLC from the Town of Rocky Mount Subdivision Ordinance Article 8-1(C) requiring the developer to pay a proportionate share of the cost of the off-site sewer improvements, including both proposed extensions, for Franklin County Tax Map and Parcel Number 2010009300, with motion on the floor being seconded by Planning Commission Member Greer. Realizing that the public had not been

invited to speak regarding this request, Madame Chair Stockton asked Planning Commission Member Tiggie to withdraw the motion. The motion was withdrawn.

Madame Chair Stockton recessed the meeting again and asked if anyone from the public wished to speak regarding the request.

Mr. Warren Boyd returned to the podium. He stated that in regards to paying taxes, the money that would be spent in order to extend water and sewer for this property could appropriately be used somewhere else. They all pay taxes and this tax money could be used now. If he has to wait ten years, he is not sure he will be around. If this were an individual it would be different, but this is a subdivision and the developer will be making money. The developer should have the cost of the extension figured into the development and if he doesn't, then he doesn't feel he is a very good business man. He is trying to see a way to make more money from his property and these homes. He disagrees with this request because this money could be used for something else now.

Mr. Gilbert returned to the podium to remind Planning Commission that his client is a tax payer also. His client owns real estate in Rocky Mount, he pays taxes, and as Mr. Greer pointed out, he should have the right to water and sewer.

Mrs. Frances Parker returned to the podium to clarify her understanding of the matter. Planning Commission Member Greer confirmed to Mrs. Parker that the request is to extend water and sewer service to the property line, and then when the water is hooked up to the homes, the developer will have to pay a \$1200 hook-up fee for each house, just as the residents in Franklin Heights had to do.

There being no further discussion, Madame Chair Stockton reconvened the meeting and entertained a motion:

- Planning Commission Member Tiggie stated that he would like to make the same motion as previously stated (to recommend to Town Council the approval of the waiver request of Morningstar Partners, LLC from the Town of Rocky Mount Subdivision Ordinance Article 8-1(C) requiring the developer to pay a proportionate share of the cost of the off-site sewer improvements, including both proposed extensions, for Franklin County Tax Map and Parcel Number 2010009300), with motion on the floor being seconded by Planning Commission Member Greer. There being no further discussion, a roll call vote was taken. Let the record show that the motion on the floor passed unanimously by those present.

F) Preliminary Plat Review of the Franklin Woods Subdivision

After being duly advertised, the Planning Commission reviewed the Morningstar Partners, LLC's preliminary plat for the Franklin Woods Subdivision, to be located on Franklin County Tax Map and Parcel Number 2010009300, off of Cornell Road.

The PZA advised the Planning Commission that the submitted preliminary plat meets all the subdivision ordinance requirements for approval. The only thing that needs to be added is the proposed 15 feet walking trail easement which should be added to the owner's certificate of notarization on the front of the plat.

A question was raised about the curb and gutter requirement not being shown on the plat. The PZA advised the Planning Commission that this is just a preliminary review and the curb and gutter does not have to be shown on the plat. However, there needs to be a motion to approve the preliminary plat.

Madame Chair Stockton questioned if anyone from the audience wished to speak in regards to the preliminary plat approval.

Again, Mr. Warren Boyd returned to the podium, stating he would like to see the plat, and possibly have one to take home, with staff confirming that he would be supplied with a copy of the plat.

There being no further discussion, Madame Chair Stockton reconvened the meeting back into regular session and entertained a motion:

- Motion was made by Planning Commission Tiggler to recommend the approval of the preliminary plat review for the Franklin Woods Subdivision, with motion on the floor being seconded by Planning Commission Member Clements. Discussion ensued. The PZA advised that the Planning Commission is actually approving the preliminary plat, not recommending approval, as the final plat will be approved administratively. Planning Commission Member Tiggler corrected his motion to state that the Planning Commission approves the preliminary plat for the Franklin Woods Subdivision, with the corrected motion being seconded by Planning Commission Member Clements. Discussion continued. Planning Commission Member Greer questioned why lot 17 indicates "to be conveyed to the Town," with the PZA confirming that this is just a proposal, and the disposition of lot 17 will be determined in the future. The preliminary plat will not be recorded. Planning Commission Member Greer stated that he hopes the Town does not accept lot 17 for the purpose of a park, as the Town has a lot of parks, and he thinks that a sidewalk is needed over a park. There was agreement among several Planning Commission members regarding this statement. In regards to using lot 17 for stormwater retention, the PZA confirmed that the developer is required to retain stormwater on-site so that runoff would not be increased for a ten-year storm event. Engineer Dean Stone confirmed to Planning Commission

that ponds will be needed; however, they have not determined where they will be. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

OLD/NEW BUSINESS

A) Old Business

1. Discussion of Strategic Planning Retreat Agenda Items

- Planning Commission Members Tiggle and Hall stated that they would like to discuss waivers for sidewalks, curb and gutter.
- Planning Commission Member Greer advised the PZA that he is aware of why signs are no longer put up, but he feels that the Town needs to go back to putting them up.
- Central Business District Parking should be discussed at the retreat.
- Changing the Planning Commission meeting structure was also tabled at a previous meeting until the retreat.
- Any other recommended agenda items can be forwarded to the Deputy Clerk or the PZA after the meeting.
- The retreat will be held on August 14, 2008, at 5:30 p.m., at the Franklin Center.

ADJOURNMENT

There being no further business to discuss, motion was made by Planning Commission Member Clements to adjourn at 7:28 p.m., seconded by Planning Commission Member Arrington, and carried unanimously by those present.

Janet Stockton, Chair

ATTEST:

Stacey B. Sink, Deputy Clerk

/sbs