

AUGUST 30, 2004
WAYNESBORO, PA 17268
SPECIAL MEETING RE: RUTTERS LAND
DEVELOPMENT PLAN

Council President Charles McCammon called the special meeting of the Waynesboro Borough Council to order at 7:30 p.m., with the following in attendance:

Borough Council Members – Richard George, John Cook, Charles McCammon, Ardie Winters and Andrew Benchoff (Jahnathan Cain was absent)

Mayor Louis M. Barlup, Jr.

Borough Staff – Lloyd R. Hamberger, II, Borough Manager
D. Lloyd Reichard, II, Borough Solicitor
Kevin Grubbs, Assistant Director of Engineering

PLEDGE OF ALLEGIANCE: Mayor Barlup led those present in the Pledge of Allegiance.

PUBLIC COMMENT - ITEMS ON AGENDA: Kim Tartaglia, 8 W. Third Street. Ms. Tartaglia presented a statement addressed to the Rutters family and their employees (a copy of which is included in these minutes).

Judy Kline, 139 S. Potomac Street. Ms. Kline thanked Council for the opportunity to have a reason to attend a Borough Council meeting. She stated that she lives next to the proposed Rutters store. She currently utilizes a handicapped parking space in front of her residence, and was told by the Planning Commission that the Potomac Street entrance/exit to the Rutters store would not create a problem for her when utilizing her parking space. They suggested waiting until after the exit to put on her turn signal; but the PA Drivers' Manual suggests utilizing a turn signal 100' prior to turning if traveling less than 35 mph. In addition, Councilman George recently suggested that Philadelphia Avenue be made one-way north; and she recommended that the alley from Philadelphia Avenue to Potomac Street also be made one-way. She urged Council members to ensure that all issues are addressed before casting their vote on the matter.

Willard Rahn, 141 Snider Avenue. Mr. Rahn noted that he lives just one block away from the proposed Rutters, and is opposed to the location. The *Record Herald* recently reported that the intersection at Potomac/Third Streets is the most dangerous in Waynesboro, and he questioned if another location has been considered for the Rutters store to be built.

Mr. Hamberger read a letter from Deborah Hoff, a member of the Planning Commission whose business is located at 154 S. Potomac Street, across from the proposed Rutters

store. (A copy of Ms. Hoff's correspondence is also included as a part of these minutes.)

Paul Engelstad, 129 E. Second Street. Mr. Engelstad noted that discussions were held at Council's last meeting, and he was left under the impression that Council would discuss the citizens' concerns with Rutters to see if they would reconsider the look of the proposed store. He noted that theirs is a historic neighborhood, and they simply want the same consideration as was given to a neighboring town (Gettysburg) with regard to aesthetics.

Charlotte Winters, 119 Garfield Street. Ms. Winters reminded Council members that there is a church located within a block of the proposed Rutters store. She indicated that the noise and traffic created by patrons at the gas pumps during church services could be a problem. She stated that this location is "not the place for it", adding that there are many issues which should be carefully considered prior to approval.

Margery Benson, 2 W. Third Street. Ms. Benson requested that Council members state their names and addresses for the public's information. She asked if they are aware of plans for a larger Sheetz in Waynesboro, and if Council had any questions/comments to statements presented by the public on this matter. Ms. Benson also questioned how Council will conduct their deliberations on the matter, what action has been taken with reference to follow-up, and the criteria by which the deliberations will be conducted. In addition, Planning Commission Chairman Jon Fleagle was present during the meeting, and Ms. Benson asked if a proxy was given to the Commission member who was absent from the meeting when Rutters was voted on -- Mr. Fleagle replied that a proxy was not given. Ms. Benson added that everyone (including Council) is aware of the serious traffic safety issues at the proposed Rutters location. She stated that there is no way that Council cannot be held responsible for the authority they will exercise in this decision.

Merle Biser, 313 Northfield Avenue. Mr. Biser owns a business situated in the Rotary parking lot. He noted concern regarding the suggestion to make Philadelphia Avenue one-way north, as he receives deliveries at his establishment via 40-50' trailers. If the street is made one-way, how will they exit?

Margery Benson again inquired when Council plans to respond to the citizens' questions posed. There was some discussion regarding the appropriate time to respond to questions, but no replies were given.

Janis Krouss, 160 S. Church Street. Ms. Krouss stated that the citizens have been permitted to ask questions, but most of those questions have gone unanswered. She asked what the point is in allowing the public to question if no answers are forthcoming? She also commented that the church Mrs. Winters spoke of is a very active church, with many youth groups and activities occurring throughout the week.

Girish Patel, owner of the gas station/convenience store on S. Potomac Street. Mr.

Patel stated that he purchased his business five months ago, unaware of the fact that a Rutters store was being proposed nearby. He noted his concern, not only that he will lose customers, but for safety issues at this dangerous intersection. He added that even though jobs are being created when new businesses are established, jobs are also being lost if existing businesses must close.

Charlotte Winters stated that she has viewed pictures of Rutters stores from various other towns, and commented that they have been compatible with other homes in the district. Aesthetics aside, she noted that doesn't take away the "unwanted noise of 10 gas pumps and cars backing in and out". She feels the Rutters will be a "horrible nuisance" to people who reside and attend church in the area.

Dr. Sharon March, 203 S. Potomac Street. Dr. March reported that another major accident occurred at the intersection of S. Potomac/Third Streets over the lunch hour today. As this was only the first day of school, she can only see that the safety of the children will be continually threatened. She added the need for school safety patrols not only at that intersection, but at Philadelphia Avenue/Third Street also.

Ernst Brockmann, 9104 Meadowbrook Avenue. Mr. Brockmann owns two properties in the downtown area. He stated that the Borough's current zoning regulations have allowed this situation to occur. He suggested that Council and the Borough's citizens need to be pro-active to ensure there are zoning ordinances which would prohibit "what we don't want". He stated the community "should look like something we planned, not something that happened". He also asked Council to consider adopting an ordinance to deal with loitering, etc. in the downtown area.

Janis Krouss again asked if Council was planning to answer any questions raised. Councilman George stated that he can only speak for correspondence written to him in regard to questions on the alley abandonment at this location. A letter has been presented to the citizens' group with responses to the questions posed on that matter.

Tony Tartaglia, 8 W. Third Street. Mr. Tartaglia acknowledged that answers on the alley abandonment were received from the Street Committee, however other questions regarding zoning have not been answered. The group was told that Council would be talking to Rutters about alternate sites and making the store more compatible to the neighborhood, but no replies to those inquiries have been presented.

Council members noted the need to discuss legal matters with the Solicitor in an executive session.

As a courtesy, Margery Benson asked for Council members' names and addresses -- those were presented. It was also mentioned that the information can be obtained from the Borough Manager's office and is posted on the Borough's web site at www.waynesboropa.org. Ms. Benson asked if the executive session will be recorded and if transcripts will be made available. Solicitor Reichard replied that discussions during the executive session are limited to the specific purpose stated and are not

recorded. An executive session is not an official session, and all deliberations/decisions take place in the open Council meeting.

Councilman George noted that he is requesting an executive session to obtain legal advice from the Solicitor on the matter at hand.

Paul Engelstad asked when Council received copies of the final plans, as it was his understanding that they needed to be available 10 days prior to their vote. Kevin Grubbs reported that the final plans, which included revisions as requested by the Planning Commission, were received by the Borough on Friday, August 27th. He clarified, however, that these were the same plans they have been working with, excepting the required revisions.

UNFINISHED BUSINESS

RUTTERS DEVELOPMENT PLAN: Kevin Grubbs stated that he received final copies of the development plans, which included revisions requested by the Planning Commission as follows:

1. Engineer's certification, seal and signature on traffic study. (COMPLETED)
2. Indicate areas of parking along W. Third Street and Philadelphia Avenue. (COMPLETED)
3. Request to remove parking along sections of Philadelphia Avenue and along South Potomac Street submitted to the Street Committee. (COMPLETED)
4. Indicate low-level plantings along W. Third Street over the storm sewer right-of-way. (COMPLETED)
5. Indicate that fence along the buffer strip is to be a PVC privacy fence. (COMPLETED)
6. Indicate which inlets will have inlet protection. (COMPLETED)
7. Change Note #9 on cover sheet to read "Adjoining Properties" instead of "Residential District". (COMPLETED)
8. Include cross-sections and profile drawing of new 60" reinforced concrete pipe storm sewer to be installed at Rutters' expense. (COMPLETED)
9. Detailed sign package, which is not a part of the Land Development Plan. (FORTHCOMING - WILL BE SUBMITTED PRIOR TO ANY ZONING PERMITS BEING ISSUED)

All revisions requested by the Planning Commission have been completed. Mr. Grubbs explained the parking revision, which was intended to help aid in traffic flow. That will not affect the existing handicapped parking space utilized by Judy Kline.

Mr. Grubbs also explained that the Planning Commission had required a structural analysis report be prepared by a certified engineer. Rutters' engineering firm, as well as the Borough's Engineering Department, reviewed and inspected the storm sewer -- Council received a copy of their report. With the findings of the report, it was decided by Rutters that the section of pipe on their site needed to be replaced with a 60"

reinforced concrete pipe. The Planning Commission required that they submit a cross-section and profile plan, which has been included as a part of the Land Development Plan (Page LD-7). Since Rutters decided to replace that pipe and move their building, there is no longer an encroachment over the storm sewer and no agreement will be required.

Councilman George questioned if there would be increased risk for other sections of the pipe to be damaged, since that one section is being replaced. Mr. Grubbs noted that he discussed that possibility with Rutters' Project Manager, Neil Metzger. They have reviewed the replacement procedure extensively and are in agreement that there should be no resultant damage. Page LD-2 of the Land Development Plan refers to this matter, and notes "the owner/developer will be responsible for any damage done to the Borough's storm sewer system due to construction when work encroaches within the Borough's drainage right-of-way." He clarified that, should any damage occur due to the construction, all repair costs will be the responsibility of the owner. Mr. Grubbs concurred.

Kevin Grubbs also noted that the plans submitted conform to all stormwater management regulations.

Councilman George asked if there are any environmental concerns in this area, as the site was utilized as a garage in the past. Mr. Grubbs noted that the property owner will be required to submit a demolition permit application to DEP, and inspections will be required.

Employee parking was mentioned. Mr. Grubbs noted that that will be on-site, but is not designated on the plans.

Council President McCammon noted that there are numerous water and sewer connections at this site. He questioned if Potomac Street and/or Philadelphia Avenue will need to be torn up to provide service. Mr. Grubbs noted that those lines are pre-existing; and most likely, the taps can be made without digging up the street. It was noted, however, that street excavation will be required for the gas service. It was noted that no sprinkler system is included in the building plans for the store.

Councilman George mentioned discussions held regarding the exit at the alley leading to Second Street being made wider to facilitate larger vehicles. Mr. Grubbs noted that the exit has been widened to 15', and he feels that this is sufficient (Page LD-3).

With regard to stormwater management regulations included on Page LD-4, Councilman George asked what Item #3 applies to. Mr. Grubbs stated that the Stormwater Management Plan requires that silt fencing and construction entrances be erected during construction. If a heavy rainfall causes washout and the fencing fails in its purpose, the owner would be responsible for clean-up.

President McCammon suggested that the setbacks for the lot facing Philadelphia

Avenue on the north side of the proposed Rutters property are wrong. Mr. Grubbs noted that they are shown as more than required, adding that the blacktop will be removed and grass will be planted at this location. Mr. McCammon questioned if that lot has been reserved for Ronnie Martin? Mr. Martin, who currently resides at 114 Barnett Avenue and will be residing in the near future at 66 State Road, was present and responded in the negative -- that lot goes with Rutters.

Gavin Markey of York, PA, attorney representing Rutters, was present. He noted that their civil and traffic engineers are present to respond to any inquiries. He mentioned that much scrutiny has been given to this project by the Borough's staff, engineers, solicitors and consultants. As a result of that scrutiny and the close contact they have had with Borough representatives, they are confident that they completely comply with all municipal ordinances (including the Zoning Ordinance, Subdivision/Land Development Ordinance, and stormwater management regulations.) Accordingly, they believe it would be appropriate to approve the plan. Any outstanding conditions could be noted and would be proper, but the plan is compliant and available for approval this evening.

Mr. Hamberger requested that their traffic engineer review the planned traffic flow to and from the site. Dan Thornton, Transportation Resource Group Inc., of York, PA, described the traffic flow as follows: the driveway off of S. Potomac Street is proposed as "full movements" (lefts in, rights in, lefts out and rights out); the driveway off of Third Street is proposed as going right in and right out; and the driveway off of Philadelphia Avenue is proposed as full movement (lefts in, rights in, lefts out and rights out). He added that the proposed signage is indicated on Page LD-3 of the Land Development Plan.

Paul Engelstad asked representatives of Rutters what architect was utilized to make this plan as appealing as possible to the citizens? Rutters Attorney Gavin Markey noted that the plan presented is completely compliant with all regulations of this municipality -- that is their obligation as a developer and that is what they've done. They requested no variances, and there were no variations from the provisions of the ordinances. They could have asked for variances and/or special exceptions to intensify the use on this site, but they did not.

Council President McCammon closed the public comment period. Council adjourned to executive session at 8:31 p.m. for the purpose of receiving legal advice from their Solicitor. Council returned to regular session at 8:49 p.m. and reconvened the meeting.

Councilman George asked Planning Commission Chairman Jon Fleagle (who was present in the audience) to confirm that the Planning Commission has recommended approval of this plan. Mr. Fleagle responded in the affirmative. Mr. George asked if all outstanding items have been taken care of, and Mr. Fleagle confirmed that they have (to the best of his belief).

Mr. George asked Kevin Grubbs if everything is in order, according to the Engineering

Department's review. Mr. Grubbs stated that the plan meets all regulations of the Zoning Ordinance and Subdivision/Land Development Ordinance.

Mr. George asked for any comments from the Borough Solicitor. Lloyd Reichard commented that, with regard to any Land Development Plan, if it meets the applicable ordinances of the Borough (most importantly, the Zoning Ordinance and the Subdivision/Land Development Ordinance), there is no valid reason for rejecting the plan. It is his understanding from statements made by the Engineering Department that, based on their review and the various other "outside" professionals who have reviewed the plan, it does conform to all the applicable ordinances.

Councilman George then made a motion to approve the Rutters Land Development Plan. Councilman Cook seconded; the motion 4-0, with Councilman Benchoff abstaining.

PUBLIC IN ATTENDANCE - NON-AGENDA ITEMS: Dr. Sharon March noted her displeasure with approval of the plan, by commenting that Borough Council should be congratulated – they now have a Super Station within two blocks of downtown and a storage shed/Super Station on one of the main arteries into town.

FOR INFORMATION ONLY: None.

Having no further business to discuss, the meeting adjourned at 8:53 p.m.

Respectfully Submitted,

Melinda S. Knott
Administrative Assistant