

CITY OF BETHLEHEM

Inter-Office Memorandum

SUBJECT: Zoning Text Amendment Petition
Morning Star Partners LLC

TO: Darlene L. Heller, Director of Planning and Zoning

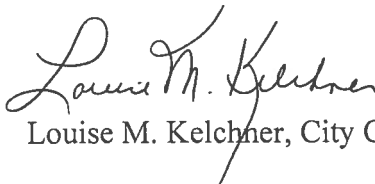
FROM: Louise M. Kelchner, City Clerk

DATE: October 15, 2018

Attached is a copy of a correspondence from Attorney James F. Preston representing Morning Star Partners, LLC together with a petition and a proposed Zoning Text Amendment to amend Article 1304, Section 1304.04 – Reuse of Corner Commercial Uses Allowed in the RT and RG Districts. The communication was read into record at the October 2, 2018 City Council meeting. A Public Hearing has been scheduled for November 20, 2018.

Would you please have the Planning Commission review the proposed Zoning Text Amendment petition and provide comments by November 13?

Thank you for your attention to this matter.


Louise M. Kelchner, City Clerk

Attachments

cc: Members of Council
J. Spirk, Jr., Esq.
Mayor Donchez
A. Karner
T. Samuelson
S. Borzak
E. Healy, Esq.
W. Leeson, Esq.

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September 27, 2018

Adam R. Waldron, Council President
City of Bethlehem Council
10 E. Church Street
Bethlehem, PA 18018

Re: Petition of Morning Star Partners, LLC for Zoning Text Amendment

Dear Mr. Waldron:

Enclosed please find the Petition of Morning Star Partners, LLC for a text amendment to the RT Zoning District provisions of the City's Zoning Ordinance.

If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,



James F. Preston, Esq.

PETITION TO THE CITY COUNCIL OF THE CITY OF BETHLEHEM
FOR AMENDMENT TO THE CITY'S ZONING ORDINANCE

AN NOW comes Morning Star Partners, LLC, to Petition City Council for a revision to the text of the City's Zoning Ordinance as more particularly set forth herein:

1. Petitioner, Morning Star Partners, LLC ("Morning Star"), is a limited liability company with a business address of 2705 Bridle Path Place, Bethlehem, PA 18017-3803.
2. Morning Star owns real property in the City of Bethlehem more particularly described by Deed dated May 9, 2014 recorded at Northampton County Deed Book 2014-1, Page 77550 ("Subject Property").
3. The Subject Property, containing a single-family dwelling, two apartments units, and various retail uses - all on the same lot - is further identified by the street addresses of 511 New Street (retail use), 513 New Street (retail use), 515 New Street (retail use), and 2 West Market Street (residential use).
4. The retail uses at the Subject Property are contained in a building with historical significance that once housed the Moravian Brass Foundry.
5. The single-family dwelling at the Subject Property is wholly contained in a separate freestanding building.
6. The structures at the Subject Property are architecturally significant in that they are recognized features at the corner of New and Market streets compatible with the historic ambiance of the neighborhood.
7. The Subject Property is zoned RT (high density residential).
8. The single-family dwelling at the Subject Property is permitted in the RT District; however, its location on the same lot as other retail uses is not permitted.

9. The retail uses at the Subject Property are not permitted in the RT Zoning District.
10. The mixed retail/residential use is not permitted at the Subject Property.
11. Morning Star would like to preserve the buildings in their current historic context; however, it is not possible to do so under the current zoning classification.
12. The zoning amendment proposed by Morning Star revises the text of Z.O. § 1304.04.
13. Z.O. § 1304.04 currently allows the use of certain corner properties as retail uses.
14. Attached hereto as Exhibit “A” is the current version of Z.O. § 1304.04 marked to show the revisions proposed by Morning Star.
15. Attached hereto as Exhibit “B” is the final version of the amended § 1304 that incorporates the revisions identified in Exhibit “A”, and sets forth the requested zoning amendment.
16. The proposed amendment closely follows the existing text of Z.O. § 1304.04, thereby incorporating the rationale of the existing § 1304.04.
17. The proposed amendment will allow Morning Star to operate the retail uses as permitted special exception uses, and to use the existing dwelling unit as a permitted financial services office, all while preserving the existing character of the Subject Property.
18. The proposed zoning amendment provides additional protections for existing neighborhoods in that any proposed use will be subject to zoning hearing board review and approval as a special exception.

Wherefore, Petitioner respectfully requests that City Council revise the City’s Zoning Ordinance by amending the text of Zoning Ordinance § 1304.04 as indicated on Exhibit “B” attached hereto.

Morning Star Partners, LLC

Date: September 27, 2018

By:

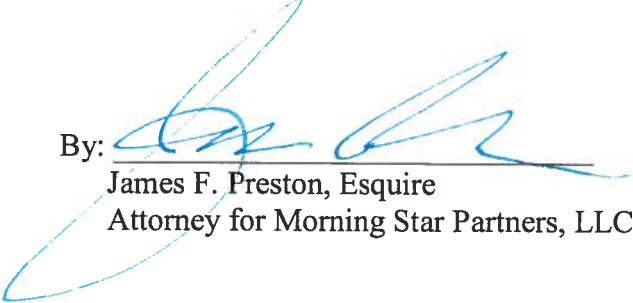

James F. Preston, Esquire
Attorney for Morning Star Partners, LLC

Exhibit "A"

1304.04. Reuse of Certain Corner Commercial Uses- Lots Allowed in the RT and RG Districts. The following uses shall be allowed in addition to uses allowed under Section 1304.01:

(a) As a special exception, uses that are small in scale, such as but not limited to a professional office, barber/beauty shop, retail store, nail salon, coffee shop, retail bakery, art gallery, real estate office, photography studio, green grocer, cafe, or antique store may be approved by the Zoning Hearing Board ("the Board") provided all of the following requirements are met:

(1) The lot shall be at the corner of 2 streets. The primary building shall have an existing storefront character. This shall include such features as large first floor commercial window(s) and a main entrance at the corner or along one of the street facades abutting the commercial windows.

(2) At least a portion of the proposed business space shall have been occupied at one time by a principal lawful business use. This subsection 2 may allow a business use to be established even when a nonconforming use has been considered to have been abandoned. This provision recognizes that some building space may have otherwise lost its right to be occupied by a nonconforming use. The new business use shall not necessarily be limited to the floor area that previously was occupied by a business use. The business use shall be limited to within the existing building, and may not involve building expansions for the use, other than as may be necessary for fire safety or handicapped access.

(3) In considering whether to approve the special exception use, the Board shall consider whether the total impact upon the neighborhood and parking needed for all uses on the lot after the new use would be in operation would exceed the total impact of all uses on the lot that existed prior to the application. For example, this decision may consider whether the applicant proposes to reduce the number of dwelling units on the lot.

(4) The Board shall have the authority to place reasonable conditions upon the singular use, such as but not limited to: 1) limits on hours of operation, 2) limits on the maximum floor area occupied by the use, 3) requirements that the operator of the use regularly collect litter on the sidewalk and gutters at edge of street adjacent to the lot, and 4) conditions that preserve and enhance the residential character of the neighborhood.

(5) As part of the special exception, the Board shall have the authority to modify off-street parking requirements, considering the total impact of the new uses of the lot versus the previous uses, and considering whether a percentage of customers are likely to arrive by public transit and/or walking. The Board may also approve a reduction in the required parking as part of the special exception approval if the applicant proves that there is an excess of on-street parking spaces during hours when the business will be in operation.

(6) Signs shall need approval as part of the special exception process. The Board may approve a total sign area of up to 20 square feet, which shall be limited to projecting, wall and/or window signs. No new sign shall be internally illuminated. Any lighting of signs shall be limited to hours when the use is open to the public. All signs must comply with any applicable Historical Architectural Review Board (HARB) and Historic Conservation Commission (HCC) regulations and any other applicable laws and regulations.

(7) A barber shop, beauty shop, or hairstyling/haircutting use, or nail salon use shall have a licensed barber, cosmetologist, or nail technician on-site during all hours when the use is open. The number of styling chairs shall be limited to two (2).

(8) The use shall not meet the definition of an Adult-Oriented Establishment or the definition of a B.Y.O.B. Club.

(9) There shall be no on site frying of foods.

(10) Alcohol sales shall not be permitted.

(11) Tattoo parlors and pawn shops shall not be permitted.

(12) All uses must strictly comply with Historical Architectural Review Board (HARB) and/or Historic Conservation Commission (HCC) regulations, if applicable, in such residential districts.

(Entire Article 1304.04 Amended 12-24-12, Ord. 2012-44)

(b) As a special exception, the conversion of a single family dwelling to an office use may be approved by the Zoning Hearing Board ("the Board") provided all of the following requirements are met:

(1) The lot shall be at the corner of 2 streets and shall contain some form of a nonconforming retail or commercial use in combination with a single family dwelling.

(2) This subsection 2 may allow an office use to be established in the single family dwelling even while the nonconforming commercial or retail use on the same lot continues. The office use shall be limited to within the existing single family dwelling, and may not involve building expansions for the use, other than as may be necessary for fire safety or handicapped access.

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(7) The office uses to be permitted under this section shall be limited to those of medicine, law, architecture, engineering, art, religion, music, insurance, real estate, psychology, accounting, and financial services.

Exhibit "B"

1304.04. Reuse of Certain Corner Lots Allowed in the RT and RG Districts. The following uses shall be allowed in addition to uses allowed under Section 1304.01:

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