



Office of the City Clerk

The City of Morgantown

Linda L. Little, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
cityclerk@morgantown.com

AGENDA
MORGANTOWN CITY COUNCIL
COMMITTEE OF THE WHOLE
November 29, 2011
7:00 p.m.

NOTE: Committee of the Whole Meetings of the Morgantown City Council are intended to provide an opportunity for the Council to receive information, ask questions, and identify policy options in an informal setting. No official action is taken at these meetings. At this Committee of the Whole Meeting the following matters are scheduled:

PRESENTATIONS:

- Partners In Education-Certificates-Woodburn Elementary.
- Public Portion.
- Neighborhood Coordinating Council Update – Suncrest Neighborhood Association
- Main Street Morgantown Sidewalk Cleaning Equipment

ITEMS FOR DISCUSSION:

1. Street Vendor Regulations
2. Consolidation of Morgantown and Fairmont Housing Authorities
3. Procedure for Amendment of City Zoning Ordinance to Include Drilling and Wells
4. Sabraton Stormwater Bond Ordinance
5. Whispering Woods Water Bond Ordinance
6. MUB Board Composition Ordinance
7. Review of Current Engine and Compression Brake (Jake Brake) Regulations
8. Rezoning Ordinance: Habitat for Humanity Jerome Park PUD
9. Neighborhood Association Recognition Program

If you need an accommodation contact us at 284-7439

361.09 PARKING TO DISPLAY OR SELL MERCHANDISE.

No vehicle shall be parked in the business or congested district of the City for the purpose of displaying or selling therefrom any produce or merchandise of any kind, except between the hours of 11:00 p.m. and 6:00 a.m.

(Ord. 04-20. Passed 6-15-04.)

751.16 HAWKERS AND PEDDLERS.

No person without a City license therefor shall act as a hawker or peddler within the City; but bona-fide farmers vending farm products shall not be required to have such license.

On every license to act as hawker or peddler, if the person licensed travels without a vehicle, the annual license fee shall be ten dollars (\$10.00); if he travels with a vehicle of not more than one-half ton capacity, fifteen dollars (\$15.00); if he travels with a vehicle of not more than one ton capacity, twenty-five dollars (\$25.00); if he travels with a vehicle of more than one ton capacity, but not exceeding two tons capacity, seventy-five dollars (\$75.00); if he travels with a vehicle of more than two tons capacity, but not exceeding three tons capacity, one hundred dollars (\$100.00); and if he travels with a vehicle of more than three tons capacity, two hundred fifty dollars (\$250.00), plus one hundred dollars (\$100.00) for each additional ton or fraction thereof over four tons capacity; and the person so licensed shall pay at the same rates for each vehicle. Such person shall carry his license in some conspicuous place in his vehicle or about his pack.

All persons who shall carry goods, wares or merchandise from place to place, either in person or by agent or employee, and offer to sell or barter, or actually sell or barter, and at the same time deliver, any of such goods, wares or merchandise to any purchaser, at wholesale or retail, shall be deemed a hawker or peddler under this section; except, that nothing in this section shall be construed as levying a license tax on an agent or traveling salesman of a manufacturer or wholesaler who may directly supply articles manufactured or handled by such manufacturer or wholesaler to customers engaged in merchandising at retail at bona-fide, fixed and stationary places of business.

All persons who do have and keep a regular place of business in this State with a stock of goods, wares or merchandise thereat for sale, and whether or not such place is open at all times during the usual business hours for business, who shall, elsewhere than at such regular place of business, personally, or through their agents, offer for sale or sell, and at the same time of such offering for sale, deliver goods, wares and merchandise within the City, shall also be deemed hawkers or peddlers as aforesaid; and all persons who do not have and keep a regular place of business in this State as aforesaid and who in person or by agent offer for sale or sell, and at the same time of such sale have for delivery, and deliver, goods, wares or merchandise within the City, shall also be deemed hawkers or peddlers as aforesaid; but nothing contained in this section shall apply to those who sell or offer for sale, in person or by their employees, petroleum products, ice, wood, meats, milk, bread, cakes, pies or other bakery products, butter, eggs, poultry, vegetables, fruits or other family or farm supplies, grown or produced by them, and not purchased by them for sale. Nothing in this section shall be construed as requiring a license of persons engaged in the business or calling of agriculture, horticulture or grazing, to sell or offer to sell individually or collectively, one or more for the other or others, the products derived from their business or calling aforesaid; nor of a person engaged in the business of operating a retail merchandise store in a rural community to exchange goods from such store for agricultural products acquired by such store in the due course of business of barter or sale; nor as requiring a license of a wholesaler or jobber engaged in the sale of soft drinks, ice cream or nonintoxicating beer duly licensed under other provisions of the City Code or other ordinances relating thereto; nor of a mechanic or others to sell or offer to sell articles of his own production.

Each farmer or other person exempt from license as herein provided shall obtain from the Director of Finance a license receipt, without cost, showing that he is so exempt, which shall be for the period of one year as other licenses hereunder; but to obtain such license receipt he shall make an affidavit as to the facts entitling him to such exemption on a form to be prescribed by the Director .

Such licenses under this section shall be for the period of one year, beginning on July 1 and ending on June 30 of the year following. If any part of the license year has expired when application for license is made, the license fee shall be reduced on a quarterly basis accordingly.

(1967 Code Sec. 19-18.)

MEMORANDUM

TO: City Council
Terrence Moore, City Manager

FROM: Timothy L. Ball, General Manager, MUB

DATE: November 21, 2011

SUBJECT: **VARIOUS ORDINANCES**
COUNCIL COMMITTEE OF THE WHOLE MEETING INFORMATION
November 29, 2011

This will serve as a read ahead to help you prepare for the meeting. If you have any questions please contact me prior to the meeting on Tuesday evening.

The agenda for November 29 includes 3 new items relating to MUB. A short discussion of each is provided as follows:

Bond Ordinance – Sabraton Stormwater Project

As we have recently discussed, the Sabraton Stormwater Project will address flooding of the Hartman Run stream at / near the intersection of Hartman Run Road and Rt 7. The estimated project cost is \$2.6 million. The maximum bond amount allowed by the Ordinance is \$3.5 million. That larger number is used to provide a safety cushion in the event that construction bids exceed the project budget. The proposed stormwater rates (approved on 1st reading on Nov 15) are based on the \$2.6 million project budget.

Bond Ordinance – Quarry Run / Whispering Woods Water Project

Council approved a Bond Ordinance for this project in July 2011. Since that time, however, this project has experienced the loss of a \$1.1 million grant, and the replacement of that loss with acquisition of a new combination of low interest loans and grants from other agencies (see attached summary). The net result of this new funding is that the project budget and resulting user rates are unchanged. But, because of the change in funding sources, a new Bond Ordinance is required.

Please recall that the debt service for this bond will be paid entirely by the new customers being served. That will be accomplished by way of a \$40 per month surcharge added to their water bill. That surcharge was also approved by Council in July 2011, with no further action being necessary in that regard.

Ordinance Amending Article 169 (MUB Board)

MUB notes that approximately half of its customers reside outside of the City limits of Morgantown. Under current rules, these “non-resident” customers are not eligible for membership on the MUB Board. MUB proposes a minor change in the criteria for eligibility for appointment to membership on the Board, so that such customers may be eligible to serve.

The proposed change would keep the total number of members at 5, but would allow that no more than 2 of the members may reside outside of the City. All 5 members would have to be residential customers of MUB. The change would not mandate that any of the members be non-residents, but would simply allow such members within the limits described. All appointees would continue to be selected and appointed by City Council. Current members of the Board would continue to serve their respective terms.

Please feel free to contact me by phone or email if you have any questions.

I will attend the Council meeting on November 29, and will be able to address any additional questions at that time.

Morgantown Utility Board

Project Funding REVISED

Oct 26-2011

Source	Original	Revised
DEP AML Grant	1,129,385	0
Monongalia County Commission Grant	92,000	92,000
MUB contribution per PSC Rule 5.5	30,728	30,728
IJDC Loan 40 yrs, 1%	723,013	0
IJDC Grant	300,000	1,137,563
DHHR Loan 30 yrs, 0.5% int, 0.5% admin fee	0	570,000
DHHR Loan, repayment forgiven	<u>0</u>	<u>444,835</u>
Total	2,275,126	2,275,126

AN ORDINANCE AMENDING ARTICLE 169, SECTION 169.01, OF THE MORGANTOWN CITY CODE, AS THE SAME APPLIES TO MORGANTOWN UTILITY BOARD MEMBERS.

The City of Morgantown hereby ordains that Section 169.01 of its Administrative code is amended as follows:

169.01 CREATION; MEMBERS; COMPENSATION.

- (a) Upon the issuance of the combined waterworks and sewerage system refunding revenue bonds, the management, control and operation of the waterworks system and the sewerage system of the City shall be vested in the Morgantown Utility Board (the "Board"), created, appointed and functioning as hereinafter provided.
- (b) The management, control and operation of the stormwater drainage and sewer system of the City shall be vested in the Morgantown Utility Board.
- (c) The Board shall consist of five persons, each of whom shall be ~~citizens and residents of the City~~ residential customers of the Morgantown Utility Board, shall be persons of outstanding reputation, ability and integrity, and shall be appointed by Council. No more than two of the appointees may be citizens of Monongalia County, residing outside of the corporate limits of the City; all remaining appointees shall be citizens and residents of the City. The City Manager shall notify all appointees of their appointment. The terms of such Board members first appointed shall be for one, two, three, four and five years, respectively, from the first day of the month in which appointed. In the event of a vacancy and also within thirty days after the expiration of the term of office of any Board member, a successor shall be appointed by Council. All vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of five years, to commence on the date following the scheduled expiration date of the previous term. The Board shall adopt rules of procedure for the time and place of its meetings and the conduct thereof. Any Board member shall be eligible for reappointment upon expiration of his term. The Board members shall each receive compensation for their services at the rate established by ordinance of Council and in addition, shall be reimbursed for any and all expenses incurred in the performance of their duties under order of the Board. Each Board member shall be subject to removal for just cause by Council by the recorded vote of a majority of Council after a public hearing thereon. The decision of Council as to such removal shall be final and not subject to review by any court, arbitrator or other body, and each Board member accepting such appointment shall acknowledge the finality of such decision.

This Ordinance shall be effective December 21, 2011.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

527.03 LOUD AND UNNECESSARY NOISES PROHIBITED.

No person shall make, continue or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the City.
(Ord. 93-33. Passed 11-16-93.)

527.04 CERTAIN LOUD AND DISTURBING NOISES ENUMERATED.

The following acts are declared to be loud, disturbing and unnecessary noises in violation of Section 527.03, but such enumeration shall not be deemed to be exclusive, namely:

- (a) Animals and Birds. The keeping of any animal or bird by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- (b) Defect in Vehicle or Load. The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (c) Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snowblower, small power equipment, or similar device used outdoors in residential areas between the hours of 9:00 p.m. and 8:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (d) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (e) Engine Repair and Testing. It shall be unlawful for any person to repair, rebuild or test any engine so as to create a noise disturbance.
- (f) Exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (g) Horns or Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any signaling device when traffic is for any reason held up.
- (h) Loudspeakers/Public Address System.
 - (1) Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device between the hours of 10:00 p.m. and 8:00 a.m. the following day, such that the sound therefrom creates as noise disturbance across a residential real property boundary or within a noise sensitive zone.
 - (2) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device:

- A. Such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or
 - B. Between the hours of 8:00 p.m. and 10:00 a.m. the following day on a public right-of-way or public space.
- (i) Radios, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:
- (1) Between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone (except for activities open to the public and for which a permit has been issued by "appropriate authority" according to criteria set forth in Article 315 of the Morgantown City Code);
 - (2) In such a manner as to create a noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters; or,
 - (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier.
- (j) Yelling and Shouting. Yelling, shouting, whistling, hooting, or generally creating a racket on public rights of way or public spaces between the hours of 8:00 p.m. and 10:00 a.m. the following day so as to annoy or disturb the quiet, comfort or repose of persons in any business or residence, or of any person in the vicinity.
- (k) Engine Brakes and Compression Brakes. The use of any engine brake, compression brake or mechanical brake which is activated or operated by the compression of a motor vehicle is prohibited within the City limits. Emergency response vehicles shall be exempted from the foregoing prohibition.
(Ord. 01-40. Passed 11-20-01.)

527.05 MEASUREMENT AND CONTROL OF NOISE.

(a) Noise Prohibited. No person shall make, continue or cause to be made or continued any noise in excess of the noise levels set forth herein unless such noise be reasonably necessary to the preservation of life, health, safety or property.

(b) Measurement and Control. It shall be unlawful for any person to cause a sound from a stationary source which exceeds any sound level as set forth in the applicable column in the following table titled "Maximum Permissible Sound Levels" when measured at any point within any other property affected by the sound. Measurement shall be made by a duly authorized individual who is knowledgeable in the proper use of the measurement equipment. Measurement shall be made in slow response, A-weighting, except in the case of impulsive sound which shall be measured with an impulsive sound level meter, ANSI S1.4-1971. Octave band measurements, where noted, shall be made with an octave band analyzer.



Development Services
389 Spruce Street
Morgantown, WV 26505
304.284.7431

MEMORANDUM

Date: Thursday, November 16, 2011
To: Terrence Moore, City Manager
Linda Little, City Clerk
RE: November 29, 2011 Council Committee of the Whole Agenda
RZ09-02 "Habitat for Humanity Jerome Park PUD" – Expiration of Approval

During its November 10, 2011 hearing, the Planning Commission voted unanimously to forward a recommendation to City Council to initiate action amending the Official Zoning Map so as to rescind the above referenced Planned Unit Development designation and reclassify the subject realty to its previous R-1A, Single-family Residential District designation.

Attached herewith are the related ordinance and supplemental information provided to the Planning Commission at its November 10, 2011 hearing.

The following dates will keep to standard Planning and Zoning Code Official Zoning Map Amendment protocol:

- Committee of the Whole..... Tuesday, November 29, 2011 at 7:00 PM
City Council Chambers
- First Reading:..... Tuesday, December 6, 2011 at 7:30 PM
City Council Chambers
- Public Hearing and Second Reading: Tuesday, January 3, 2012 at 7:30 PM
City Council Chambers

Please include the attached ordinance on the City Council meeting agendas noted above and include this communication and attached supplemental information in the meeting packet for the November 29th Committee of the Whole meeting.

Thank you.



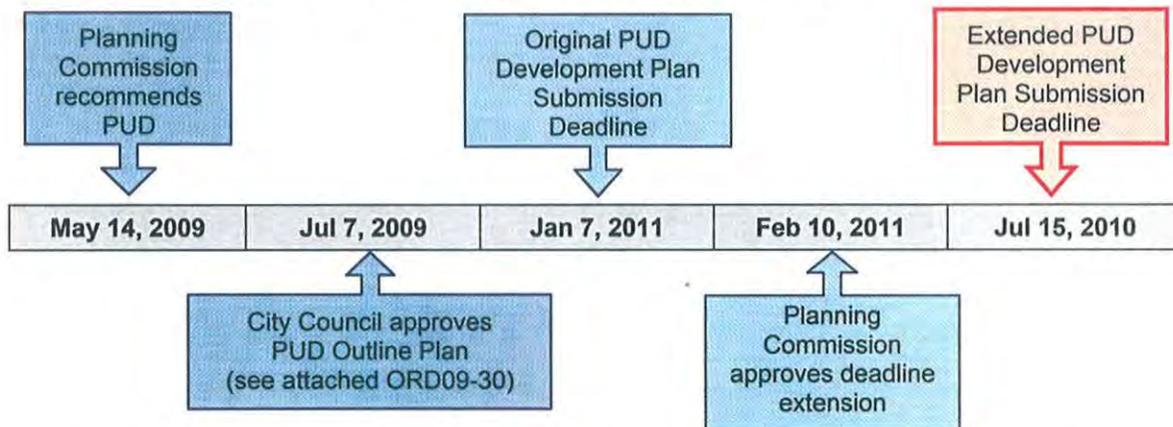
Development Services
389 Spruce Street
Morgantown, WV 26505
304.284.7431

MEMORANDUM

Date: November 4, 2011
To: Planning Commission
RE: RZ09-02 "Monongalia County Habitat for Humanity PUD"
Expiration of Approval

Article 1357.03 "Procedure for Approval of Planned Unit Development" of the Planning and Zoning Code provides that a PUD Development Plan must be submitted to the City no later than eighteen (18) months following City Council approval of the PUD Outline Plan.

The following timeline illustrates the related approvals and deadlines for the submission of the "Monongalia County Habitat for Humanity" PUD Development Plan.



Staff met with the Habitat for Humanity's Executive Committee on Tuesday, May 17, 2011 at 2:00 PM at the "ReStore" location to discuss the status of submitting the Phase 1 Development Plan, which provided for the construction of five single-family dwellings along Jersey Avenue.

Issues discussed included fund raising efforts and challenges; development costs associated with extending water and sanitary sewer infrastructure to the site for Phase 1; and, the possible request of an additional deadline extension.

The Executive Committee concluded that if additional funding could be secured prior to the July 15, 2011 deadline, then the project would proceed. However, if additional funding could not be secured accordingly, a request for an additional deadline extension would not be pursued and the vested property right under the approved PUD Outline Plan would be abandoned.



Development Services
389 Spruce Street
Morgantown, WV 26505
304.284.7431

MEMORANDUM

Article 1357.03 (D) (4) (c) requires the Planning Division to report to the Planning Commission on Planned Unit Developments with time limits that have expired and notify the original applicants of same.

By the attached letter dated June 27, 2011, Staff notified the petitioner of the pending expiration. The petitioner was also advised that a written extension request, detailing the merits and just cause for same, could be submitted to the Planning Division by July 8, 2011, so that it could be included on the Planning Commission's August 11, 2011 agenda.

Staff has not, to date, been contacted by the petitioner concerning the "Monongalia County Habitat for Humanity PUD" nor received a written extension request.

It is the opinion of the Planning Division that the Planning Commission must:

1. Determine whether to consider extending the deadline for good cause, consistent with the purposes of the Zoning Ordinance; OR,
2. Initiate action to amend the Zoning Map so as to rescind the Planned Unit Development designation and reclassify the subject realty to its previous designation R-1A Single-family Residential District.

Should the Planning Commission choose to extend the deadline, than it is obligated to state the basis for which it is to be granted and identify a specific period for same.

Should the Planning Commission choose to initiate action to rescind the PUD designation, than it must submit a recommendation to City Council to, by ordinance, reclassify the subject realty from a PUD District to R-1A Single-family Residential District.

Under either scenario, Staff recommends that the Planning Commission hear comments under its standard public hearing procedure before entertaining a motion.

Attachments: City Council Ordinance 09-30

February 11, 2011 letter to Mr. Michael Neely, Gannett Fleming, Inc.

30 June 27, 2011 letter to Mr. Tom Laurita, Habitat for Humanity Executive Cmte.

cc: Tom Laurita, Monongalia County Habitat for Humanity via email

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF REALTY IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM (R-1A) SINGLE-FAMILY RESIDENTIAL DISTRICT TO (PUD) PLANNED UNIT DEVELOPMENT DISTRICT BY AMENDING ARTICLE 1331.02 OF THE PLANNING & ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH THEREIN.

Property included in this consideration is identified in the 2006 Assessor's records as Parcel 41 of County Tax Map 24, Morgantown Corporation, District 1.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification for Parcel 41 of County Tax Map 24, Morgantown Corporation, District 1 of the 2006 tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is hereby reclassified from (R-1A) Single-family Residential District to (PUD) Planned Unit Development District.
2. That development within said (PUD) Planned Unit Development District shall be consistent with the regulations set forth in Article 1357 "PUD, Planned Unit Development District" of the City of Morgantown's Planning and Zoning Code and the "Jerome Park Subdivision Planned Unit Development Outline Plan," the later of which was reviewed by the City of Morgantown Planning Commission on May 14, 2009 and recommended for approval by City Council.
3. That the Official Zoning Map for the City of Morgantown be accordingly changed to show said zoning classification amendment.

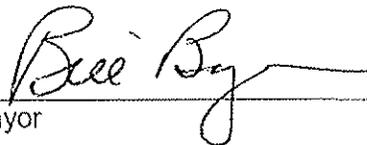
This Ordinance shall be effective from date of adoption.

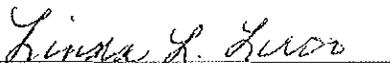
FIRST READING: 6/2/2009

ADOPTED: 7/7/2009

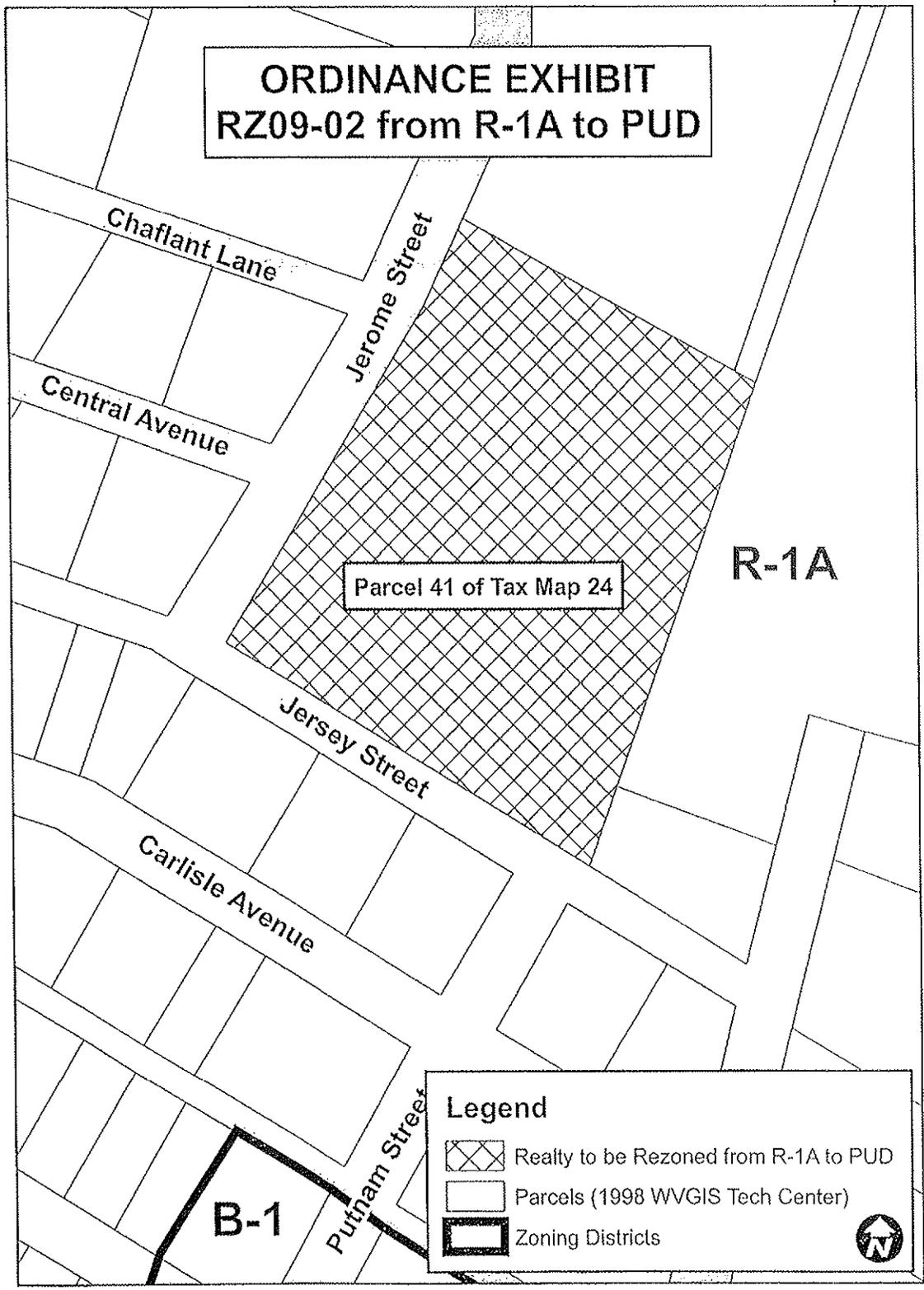
FILED: 7/8/2009

RECORDED: 7/8/2009


Mayor


City Clerk

**ORDINANCE EXHIBIT
RZ09-02 from R-1A to PUD**



Parcel 41 of Tax Map 24

R-1A

B-1

Legend

-  Realty to be Rezoned from R-1A to PUD
-  Parcels (1998 WVGIS Tech Center)
-  Zoning Districts





The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7431 TDD (304) 284-7512
FAX (304) 284-7534 www.morgantown.com

February 11, 2011

Michael Neely
Gannett Fleming, Inc.
11 Commerce Drive, Suite 200
Morgantown, WV 26501

**RE: RZ09-02 / Monongalia County Habitat for Humanity / Jerome St. and Jersey Ave.
Tax Map #24 Parcel #41
PUD Outline Plan Amendment #1**

Dear Mr. Neely:

At their monthly meeting on Thursday, February 10, 2011, the Morgantown Planning Commission approved Amendment #1 to the "Habitat for Humanity – Jerome Park Subdivision" PUD Outline Plan so that the PUD Development Plan submission deadline is extended from January 7, 2011 to July 15, 2011 as requested.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Planning Commission during this thirty-day period is at the sole financial risk of the petitioner.

Should you have any questions or require further clarification, please contact the undersigned.

Respectfully,

Christopher M. Fletcher, AICP
Planning Director
cfletcher@cityofmorgantown.org



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7431 TDD (304) 284-7512
FAX (304) 284-7534 www.morgantown.com

June 27, 2011

Monongalia County Habitat for Humanity
c/o Tom Laurita
209 Greenbag Road
Morgantown, WV 26501

**RE: "Habitat for Humanity" Planned Unit Development (PUD)
Pending Expiration of Approval**

Mr. Laurita:

Article 1357.03 "Procedure for Approval of Planned Unit Development" of the Planning and Zoning Code provides that a PUD Development Plan must be submitted to this Office no later than eighteen (18) months following City Council approval of the Outline Plan. City Council approved the "Habitat for Humanity" PUD Outline Plan on July 7, 2009, which established an expiration deadline of January 7, 2011.

As you know, the Planning Commission approved on February 10, 2011 an extension of said expiration date from January 7, 2011 to July 15, 2011.

Article 1357.03 (D) (4) (c) requires this Office to report to the Planning Commission on Planned Unit Developments with time limits that have expired and notify the original applicants of same. The Morgantown Planning Commission may extend the PUD Development Plan submission deadline for good cause, consistent with the purposes of the Zoning Ordinance.

By this letter, you are hereby notified that this Office will report the subject expiration to the Planning Commission with a recommendation to determine whether to consider extending the deadline or initiate action to amend the Official Zoning Map so as to rescind the Planned Unit Development designation.

You are also advised that should you seek to pursue an additional PUD Development Plan submission deadline extension, a letter detailing the merits and just cause for same must be submitted to this Office no later than July 8, 2011 so that it may be advertised and considered by the Planning Commission at its August 11, 2011 hearing.

Please contact the undersigned with any questions or clarification.

Respectfully,

Christopher M. Fletcher, AICP
Director of Development Services
cfletcher@cityofmorgantown.org

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF REALTY IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM (PUD) PLANNED UNIT DEVELOPMENT TO (R-1A) SINGLE-FAMILY RESIDENTIAL DISTRICT THEREBY RESCINDING THE "HABITAT FOR HUMANITY JEROME PARK PLANNED UNIT DEVELOPMENT" BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

WHEREAS, the City of Morgantown adopted Ordinance 09-30 on July 7, 2009 to amend the Official Zoning Map of the City of Morgantown for the "Habitat for Humanity Jerome Park Planned Unit Development Outline Plan".

WHEREAS, Ordinance 09-30 provided for the zoning reclassification of Parcel 41 of Monongalia County Tax Map 24 (2006 tax assessment), Morgantown Corporation District from (R-1A) Single-family Residential District to (PUD) Planned Unit Development District.

WHEREAS, Article 1357.03 (D) of the City's Planning and Zoning Code provides that a PUD Development Plan must be submitted to the Planning Division not more than eighteen (18) months following City Council approval of the PUD Outline Plan. Said Article provides that the Planning Commission may extend the time for application for approval of the PUD Development Plan for good cause, consistent with the purposes of the Zoning Ordinance OR initiate action to amend the Official Zoning Map so as to rescind the Planned Unit Development designation.

WHEREAS, on February 10, 2011, the Planning Commission extended the original PUD Development Plan application deadline from January 7, 2011 to July 15, 2011.

WHEREAS, the Planning Division duly notified the "Habitat for Humanity Jerome Park" developer by means of a letter dated June 27, 2011 that:

1. Article 1357.03 "Procedure for Approval of Planned Unit Development" of the Planning and Zoning Code provides that a PUD Development Plan must be submitted to the Planning Division no later than eighteen (18) months following City Council approval of the Outline Plan. City Council approved the "Habitat for Humanity Jerome Park" PUD Outline Plan on July 7, 2009, which established an expiration deadline of January 7, 2011.
2. The Planning Commission approved on February 10, 2011 an extension of said expiration deadline from January 7, 2011 to July 15, 2011.
3. Article 1357.03 (D) (4) (c) requires the Planning Division to report to the Planning Commission on Planned Unit Developments with time limits that have expired and notify the original applicants of same and that the Morgantown Planning Commission may extend the PUD Development Plan submission deadline for good cause, consistent with the purposes of the Zoning Ordinance.

4. The Planning Division is to report the subject expiration to the Planning Commission with a recommendation to determine whether to consider extending the deadline or initiate action to amend the Official Zoning Map so as to rescind the Planned Unit Development designation.
5. Should the "Habitat for Humanity Jerome Park" developer seek to pursue an additional PUD Development Plan submission deadline extension, a letter detailing the merits and just cause for same must be submitted to the Planning Division no later than July 8, 2011 so that it may be advertised and considered by the Planning Commission at its August 11, 2011 hearing.

WHEREAS, the Planning Division did not receive a PUD Development Plan submission deadline extension request from the "Habitat for Humanity Jerome Park" developer.

WHEREAS, the Morgantown Planning Commission held a public hearing on November 10, 2011 and voted unanimously to initiate action to amend the Official Zoning Map so as to rescind the "Habitat for Humanity Jerome Park PUD Outline Plan" designation.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF MORGANTOWN:

1. That the zoning reclassification provided in Ordinance 09-30 is hereby rescinded;
2. That Parcel 41 of Monongalia County Tax Map 24 (2006 tax assessment), Morgantown Corporation District as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is reclassified from (PUD) Planned Unit Development to (R-1A) Single-family Residential District; and,
3. That the Official Zoning Map be accordingly changed to show said zoning reclassification.

This Ordinance shall be effective from date of adoption.

FIRST READING:

Mayor

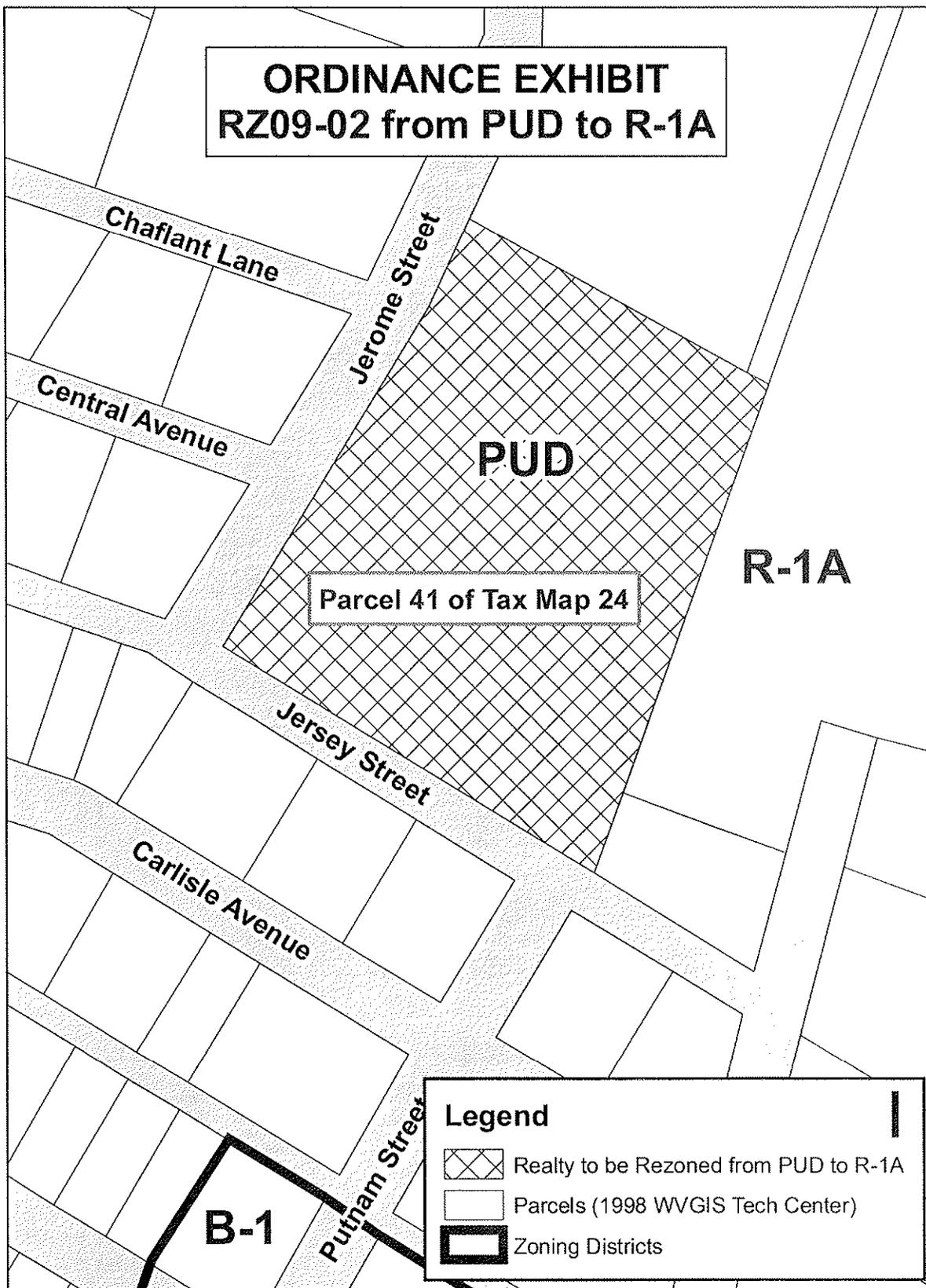
ADOPTED:

FILED:

RECORDED:

City Clerk

**ORDINANCE EXHIBIT
RZ09-02 from PUD to R-1A**



Map prepared by the Morgantown Planning Division (11/16/2011)

Neighborhood Association Recognition Program

The purpose of this resolution is to establish a neighborhood association recognition program that provides a standardized City recognition policy for Morgantown neighborhood associations and sets forth the responsibilities and benefits accruing thereto.

B. The City Council finds, determines and declares that a standardized recognition policy will improve communication between neighborhoods, their residents, the private sector, and city government on civic matters affecting the livability and character of their neighborhoods. It is the finding of the City Council that the neighborhood association recognition program will establish a means whereby early identification and resolution of potential conflicts involving neighborhoods, their residents, and the private sector can be achieved.

Criteria for Recognition of a Neighborhood Association

A. In order to obtain City designation as a recognized neighborhood association, a neighborhood must satisfy the following criteria and standards at the time of application filing:

1. Membership. The membership of the neighborhood association shall be open to all residents, business owners or owners' representatives, non-profit organizations' representatives, property owners or tenants who reside, own, or occupy property or maintain a business within the boundary of the neighborhood association. The membership of the neighborhood association must be comprised of at least 15 members. The membership of the neighborhood association shall not be limited by race, creed, color, sex, age, heritage, national origin, sexual orientation, mobility, or income. The neighborhood association shall use its best faith good efforts to have its membership evenly distributed throughout its boundary.

2. Boundary. The boundary of a neighborhood association shall be drawn by the association membership. The boundary shall be reasonable and representative of physical and social characteristics of the neighborhood; represent a geographic area that is no smaller than four square blocks; have parameters that correspond with street center lines and property parcel lines.

3. By-laws or rules and regulations. The neighborhood association must have adopted written by-laws or rules and regulations that contain provisions that address the following subject matters:

- a. Statement of organizational purpose(s);
- b. Method of election of officers on a regular schedule, at least biennially;
- c. Description of officer terms and term limits;
- d. Establishment of a quorum number for voting purposes;
- e. Stated duties and responsibilities of officers;
- f. Definition of membership;
- g. Provide a system of financial accountability of its funds and records including maintenance of meeting sign-in sheets;
- h. Rules of Order;
- i. Statement of Non-Discrimination;
- j. Grievance Procedure; and
- k. Current boundary map.

Responsibilities of Recognized Neighborhood Associations

Recognized Neighborhood Associations shall:

- A. Provide its membership with timely and effective written notifications received by the City. Written notice to its membership may be provided by U.S. regular mail, electronic mail, or delivered handbills within the boundary.
- B. Organize and undertake activities, projects or programs which foster a sense of community with the neighborhood.
- C. Each recognized neighborhood association shall hold at least one general membership meeting per year for which it makes a reasonable attempt to give prior written notice to every residence and place of business within the boundary regardless of membership status. Written notice may be provided by U.S. regular mail, electronic mail, or delivered handbills within the boundary.
- D. Abide by the conflict of interest provision where an officer of a recognized neighborhood association may not serve concurrently as an officer of another recognized neighborhood association. This provision, however, shall not prohibit an officer of any neighborhood association from serving as an officer of a civic association that for purposes of this chapter has registered as a recognized neighborhood association.
- E. Comply with its by-laws or rules and regulations. The recognized neighborhood association will provide to the City Manager's office a copy of any updates or amendments of the bylaws and rules and regulations.
- F. Establish and utilize an orderly and democratic process for making representative decisions. The rules of order adopted by the recognized neighborhood association shall address conduct and proper decorum during meetings.
- G. Establish and follow a clear method for reporting to the City actions which accurately reflect the recognized neighborhood association's position on a matter that is the subject of a pending City Council agenda item. When the recognized neighborhood association presents its official position on the issue to the City, it shall identify whether the decision was reached by the board, a survey of the general membership, or by a vote at a general membership meeting, and the vote for and against the position. Dissenting views on any issue considered by a recognized neighborhood association shall be recorded and transmitted along with any recommendations made by the recognized neighborhood association.
- H. Provide notice to the City Manager's office within thirty (30) days of updated or revised contact information for the officers, and for official representative(s) of the recognized neighborhood association for purposes of receiving notices.
- I. Notify the City Manager's office and the applicable City Council district representative of its general membership meeting at least two weeks in advance or promptly without delay if notification of the meeting was provided to members less than two weeks prior to the meeting.
- J. Provide City Council an annual report summarizing the Neighborhoods activities of the previous year.
- K. Make recommendations for and coordinate various beautification, safety, and other initiatives deemed beneficial to the neighborhood.

Services Available to Recognized Neighborhood Associations

The City will provide the following services and benefits to recognized neighborhood associations:

- A. Upon request, supply a current listing of city departments, respective department heads, and corresponding telephone numbers.
- B. A Neighborhood Newsletter to be created and disseminated on at least a quarterly basis, the purpose of which being to provide pertinent information related to local government and civic affairs and to increase communication between recognized neighborhood associations and the City. The department designated by the city manager will provide the Neighborhood Newsletter. The Neighborhood Newsletter will be made available to members of the general public through the City's official internet website.
- C. To the extent practicable, provide the following support services to recognized neighborhood associations - electronic distribution of general communications which promote civic engagement, serve a public purpose, and do not directly or indirectly involve fundraising or political activity; and copy meeting agendas prior to the Neighborhood Association's membership meetings.
- D. Written notice to the official representative(s) of a recognized neighborhood association regarding any land use application submitted to the City, which contains property lying partially or wholly within the boundary of the particular recognized neighborhood association. The notice shall be sent on the final day of submission for the next Planning Commission meeting and at a minimum will contain a general description of the location of property subject to the land use change, the date, time and place of the applicable public hearings, if known, and other opportunities for public input on the application. Notifications by email to the official representative(s) of the recognized neighborhood association and documents posted to the City's web page shall be deemed to satisfy the provision of written notice.
- E. Written notice regarding City sales, bids, or leases of land within the City of Morgantown inventory to a recognized neighborhood association when all or a portion of the area proposed for sale is within the boundary of the recognized neighborhood association. The department or agency designated by the city manager will provide the notice.
- F. Written notice to the official representative(s) of the recognized neighborhood association by electronic mail, of each upcoming City Planning Commission and Board of Zoning Appeals agenda that contains land development applications. The department designated by the city manager will provide the required notice. The notice will include a map of the location for each such application.