



Office of the City Clerk

The City of Morgantown

Linda L. Tucker, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
llittle@cityofmorgantown.org

AGENDA
MORGANTOWN CITY COUNCIL
COMMITTEE OF THE WHOLE
April 29, 2015
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:

1. City Recycling update
2. University Avenue TIGER Grant application process

PUBLIC PORTION:

ITEMS FOR DISCUSSION:

1. Ordinance providing fees and procedures for public records
2. Recommendation to Council to approve Zoning Text Amendments relating to Removing Adjacent on Street Parking
3. DSI/MDSI Site Plan Review Zoning Text Amendments

If you need an accommodation contact us at 284-7439

City of Morgantown
 Residential Recycling Recap in Tons

12-Jan	12-Feb	12-Mar	12-Apr	12-May	21-Jun	12-Jul	12-Aug	12-Sep	12-Oct	12-Nov	12-Dec	Total
11.54	13.87	21.56	5.8	9.62	9.13	9.97	9.53	15.73	31.3	34.82	25.42	198.29
13-Jan	13-Feb	13-Mar	13-Apr	13-May	13-Jun	13-Jul	13-Aug	13-Sep	13-Oct	13-Nov	13-Dec	Total
58.44	74.85	46.26	72.64	93.55	27.4	72.83	76.47	77.83	78.74	73.26	94.25	846.52
14-Jan	14-Feb	14-Mar	14-Apr	14-May	14-Jun	14-Jul	14-Aug	14-Sep	14-Oct	14-Nov	14-Dec	Total
66.13	68.07	73.45	63.89	78.5	70.72	70.72	73.55	85.1	78.19	77.29	92.31	897.92
15-Jan	15-Feb	15-Mar										Total
95.97	72.9	82.75										251.62



TIGER FACT SHEET

 [TIGER Fact Sheet 2015.pdf](#)

TIGER Grants Overview

TIGER (Transportation Investment Generating Economic Recovery) Grants provide a unique opportunity for the DOT to invest in road, rail, transit, bicycle/pedestrian, port, and multi-modal projects that achieve critical national objectives. Since 2009, Congress has dedicated more than \$4.6 billion for seven rounds to fund competitive projects that have a significant impact on the Nation, a region, or a metropolitan area. Through the TIGER program, DOT has awarded grants to 342 projects in all 50 States, the District of Columbia, and Puerto Rico.

What makes the TIGER program unique?

Flexibility

TIGER can provide capital funding directly to any public entity, including municipalities, counties, port authorities, tribal governments, MPOs, or others in contrast to traditional Federal transportation programs that provide funding to limited groups of applicants (mostly State DOTs and transit agencies). This flexibility allows our traditional partners at the state and local level to work directly with a host of entities that own, operate, and maintain much of our transportation infrastructure, but otherwise have limited ways to receive Federal support.

Innovative Funding

TIGER's competitive structure and broad eligibility allow project sponsors to develop multi-modal, multi-jurisdictional projects that may not be eligible for funding through traditional DOT programs. For example, in 2009, the TIGER program partnered with the State of California (Caltrans) and the San Diego Association of Governments (SANDAG)—the regional planning agency that represents 18 cities and county government to award \$20.2 million to the Otay Mesa Port-of-Entry project— the largest freight border crossing between California and Mexico – to provide a direct six-lane highway link and reduce Interstate congestion.

Leveraging Resources

TIGER projects have historically achieved, on average, co-investment of 3.5 dollars (including other Federal, State, local, private and philanthropic funds) for every TIGER dollar invested. The Razorback Regional Greenway TIGER 2010 project successfully leveraged \$15 million from the Walton Family Foundation to support development of this 36-mile bicycle and pedestrian network

in Northwest Arkansas.

Encouraging Partnership

The TIGER program encourages States and localities to work together to bring more innovative, cross-modal proposals to the table. Priority is given to transportation projects that demonstrate strong collaboration among a broad range of participants, integration of transportation with other public service efforts, and/or projects that are the product of a robust planning process. For example, the Miami Trail/Everglades Restoration project, awarded \$20 million in TIGER 2014, has extensive stakeholder collaboration and support including the National Park Service, the US Army Corps of Engineers, State and local agencies, and numerous conservation advocacy organizations.

Rural Investments

The TIGER program enables DOT to use a rigorous process to select projects with exceptional benefits, explore ways to deliver projects faster and save on construction costs, and make investments in our Nation's infrastructure that make communities more livable and sustainable, including in rural areas. Since 2009, the TIGER program has provided over \$790 million to 117 projects in rural areas across the United States.

TIGER Project Spotlight

Memorial Bridge

The Memorial Bridge on US Route 1 is the only bicycle and pedestrian connection between NH and ME and is located in the heart of downtown Portsmouth. Before a 201X TIGER grant, the bridge had a sufficiency rating of 6 out of 100, safety concerns that resulted restricted bridge traffic to no more than three tons. A \$20 million TIGER grant enabled this bridge to resume normal operations and it was reopened in August 2013.

CREATE

The Chicago Region Environmental and Transportation Efficiency Program, (CREATE) partners U.S. DOT, the State of Illinois, the City of Chicago, Metra (the region's commuter rail agency), Amtrak, and the Nation's largest freight railroads in an approximately \$1.5 billion program that includes 70 intermodal projects that restructure, modernize, and expand existing rail facilities to improve freight and passenger mobility in and through Chicago while reducing negative environmental and social impacts. The CREATE \$100 million TIGER grant leveraged \$14 million in State and local funding and \$48 million in funding from the private railroads. CREATE adds capacity and reduces delays for trains and motorists using at-grade crossings, and improves roadways and sidewalks.

Atlanta Streetcar

Born from a relationship between the city, local businesses, and MARTA (the local transit authority), the Atlanta Streetcar project received a \$47.6 million TIGER grant to construct a new east-west streetcar line connecting many of the residential, cultural, educational and historic centers downtown, improving Atlanta's quality of life and providing enhanced transit options. The

**AN ORDINANCE PROVIDING FEES AND PROCEDURES APPLICABLE TO
REQUESTS FOR PUBLIC RECORDS**

WHEREAS, the City of Morgantown previously adopted Ordinance 12-42 establishing fees to be charged for production of records pursuant to requests, including requests governed by the West Virginia Freedom of Information Act (the "Act"); and

WHEREAS, the West Virginia Code governing production of documents governed by the Act was amended by House Bill 2636, effective June 12, 2015; and

WHEREAS, the amendments to the Act require revisions to the City's process for producing requested public records; and

WHEREAS, the City intends to promote open access to public records and ensure that reasonable regulations govern the actions of public employees in responding to records requests;

NOW THEREFORE, the City of Morgantown hereby ordains as follows:

- (1) That the charges provided on the attached exhibit, made a part of this Ordinance, are hereby established and shall be charged for the production of public records under the West Virginia Freedom of Information Act; and
- (2) That the City Manager is authorized and directed to make reasonable rules and regulations necessary for the protection of public records and to prevent interference with the regular discharge of the duties of City employees involved in providing access to public records.

This ordinance shall be effective June 12, 2015.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

EXHIBIT

Copies

8 1/2 x 11 to 11 x 17 Black & White or Color	\$ 0.25/page
24 x 36 to 36 x 42 Black & White	\$ 0.75/page
36" Wide Plotter/map B&W or Color	\$ 1.50/page

CD/DVD/Digital Media Duplication

Police/Fire InCar tape duplication	\$ 25.00
Public Meeting Videos, Documents, Other not specified in this Exhibit	\$ 1.00
Photographs (on photo paper)	\$ 3.00

Special Reports

Airport, Fire and Police Incident Report	\$ 5.00
Police Arrest Report	\$ 5.00
Fire and Police Motor Vehicle Crash Report	\$ 10.00

Other

1. If the City determines a non-employee vendor or contractor will assist in the production of records, the vendor or contractor services will be charged at cost.
2. Postage/Shipping/Special Handling will be charged at cost.
3. All fees must be paid prior to receiving requested material.

FOIASoftware

FOIA and Open Records Information

[Home](#)[State Laws](#)[Software Solutions](#)[The Latest](#)[Free Request Generator](#)

West Virginia HB 2636

[Home](#) » [West Virginia Freedom of Information Act](#) » [West Virginia HB 2636](#)

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2636

(By Delegates Folk, R. Phillips, Faircloth, McGeehan, J. Nelson,

Householder, Butler, Marcum, Frich, H. White and Shott)

[Passed March 14, 2015; in effect ninety days from passage.]

[February 28, 2015]

AN ACT to amend and reenact §29B-1-2 and §29B-1-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §29B-1-3a; to amend and reenact §29B-1-4 of said code; and to amend and reenact §61-7-4 of said code, all relating to the Freedom of Information Act; redefining the term "public record"; defining and exempting certain fees and costs for reproduction of records; directing the Secretary of State to establish a database of Freedom of Information requests and publication on the Secretary of State's website; directing public bodies to report Freedom of Information request information to the Secretary of State; authorizing emergency and legislative rulemaking authority to the Secretary of State; establishing a presumption of public accessibility to public records; exempting information contained in a concealed weapon permit application from the Freedom of Information Act; authorizing disclosure of exempt information to law enforcement agency;

protecting the confidentiality of information collected in an application for a concealed weapon permit; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §29B-1-2 and §29B-1-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto one new section, designated §29B-1-3a; that §29B-1-4 of said code be amended and reenacted, and that §61-7-4 of said code be amended and reenacted, all to read as follows:

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-2. Definitions.

As used in this article:

(1) "Custodian" means the elected or appointed official charged with administering a public body.

(2) "Person" includes any natural person, corporation, partnership, firm or association.

(3) "Public body" means every state officer, agency, department, including the executive, legislative and judicial departments, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission council or agency thereof; and any other body which is created by state or local authority or which is primarily funded by the state or local authority.

(4) "Public record" includes any writing containing information prepared or received by a public body, the content or context of which, judged either by content or context, relates to the conduct of the public's business.

(5) "Writing" includes any books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics.

§29B-1-3. Inspection and copying of public record; requests of Freedom of Information Act requests registry.

(a) Every person has a right to inspect or copy any public record of a public body in this state, except as otherwise expressly provided by section four of this article.

(b) A request to inspect or copy any public record of a public body shall be made directly to the custodian of such public record.

(c) The custodian of any public records, unless otherwise expressly provided by statute, shall furnish proper and reasonable opportunities for inspection and examination of the records in his or her office and reasonable facilities for making memoranda or abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them. The custodian of the records may make reasonable rules and regulations necessary for the protection of the records and to prevent interference with the regular discharge of his or her duties. If the records requested exist in magnetic, electronic or computer form, the custodian of the records shall make copies available on magnetic or electronic media, if so requested.

(d) All requests for information must state with reasonable specificity the information sought. The custodian, upon demand for records made under this statute, shall as soon as is practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays:

(1) Furnish copies of the requested information;

(2) Advise the person making the request of the time and place at which he or she may inspect and copy the materials; or

(3) Deny the request stating in writing the reasons for such denial. A denial shall indicate that the responsibility of the custodian of any public records or public body to produce the requested records or documents is at an end, and shall afford the person requesting them the opportunity to institute proceedings for injunctive or declaratory relief in the circuit court in the county where the public record is kept.

(e) The public body may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of records. A public body may not charge a search or retrieval fee or otherwise seek reimbursement based on a man-hour basis as part of costs associated with making reproduction of records.

(f) The Secretary of State shall maintain an electronic data base of notices of requests as required by section three-a of this article. The database shall be made available to the public via the Internet and shall list each freedom of information request received and the outcome of the request. The Secretary of State shall provide on the website a form for use by a public body to report the results of the freedom of information request, providing the nature of the request and the public body's response thereto, whether the request was granted, and if not, the exemption asserted under section four of this article to deny the request.

§29B-1-3a. Reports to Secretary of State by public bodies.

(a) Beginning January 1, 2016, each public body that is in receipt of a freedom of information request shall provide information to the Secretary of State relating to, at a minimum, the nature of the request, the nature of the public body's response, the time-frame that was necessary to comply in full with the request; and the amount of reimbursement charged to the requester for the freedom of information request: *Provided*, That the public body shall not provide to the Secretary of State the public records that were the subject of the FOIA request.

(b) Pursuant to article three, chapter twenty-nine-a of this code, the Secretary of State shall propose rules and emergency rules for legislative approval relating to the creation and maintenance of a publically accessible database available on the Secretary of State's website; the establishment of forms and procedures for submission of information to the Secretary of State by the public body; and for other procedures and policies consistent with this section.

§29B-1-4. Exemptions.

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under the provisions of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

(4) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body.

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications and network security records, passwords, security codes or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests or the results of those tests,

(15) Architectural or infrastructure designs, maps or other records that show the location or layout of the facilities where computing, telecommunications or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers and individual customers, consistent with 47 U.S.C. §222; and

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility, or to cause injury to another inmate, resident or to facility personnel.

(20) Information related to applications under section four, article seven, chapter sixty-one of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided:* That information in the aggregate that does not identify any

permit holder other than by county or municipality is not exempted: *Provided, however,* That information or other records exempted under this subdivision may be disclosed to a law enforcement agency or officer: (i) to determine the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term "terrorist act" means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in subsection (h) of this section, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons permits may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. § 922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older: *Provided*, That any individual who is less than twenty-one years of age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty-one years of age: *Provided, however*, That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty-one years of age, then the individual issued the license is no longer eligible and must return his or her license to the issuing sheriff;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subsection (7) of this section in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. § 921(a)(33), or a misdemeanor offense of assault or battery either under the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n).

(c) Sixty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun. The successful completion of any of the following courses fulfills this training requirement:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States Military, Reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States Military, Reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under the provisions of section two, article five, chapter sixty-one of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty-five days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within thirty days of receipt. The license is valid for five years throughout the state, unless sooner revoked.

(h) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section.

(i) The Superintendent of the West Virginia State Police shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed handgun license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed deadly weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5. *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding the provisions of subsection (a) of this section, with respect to application by a former law-enforcement officer honorably retired from agencies governed by article fourteen, chapter seven of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this code; and article seven, chapter twenty of this code, an honorably retired officer is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this shall be applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit, is confidential: *Provided:* That such information may be disclosed to a law enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(r) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon permit issued in accordance with the provisions of this section authorizes the holder of the permit to carry a concealed pistol or revolver on the lands or waters of this state.

[Home](#) [State Laws](#) [Free Request Generator](#) [FOIAView](#) [Public Reading Room](#) [Citizen Self Reporting](#) [The Latest](#) [Contact Us](#)

Copyright Text

Invert Theme by SketchThemes



Development Services
389 Spruce Street
Morgantown, WV 26505
304.284.7431

MEMORANDUM

Date: 20 APR 2015
To: Jeff Mikorski, City Manager *via email*
RE: 29 APR 2015 Committee of the Whole Agenda
TX15-03 / Administrative / On-Street Parking

During its 09 APR 2015 hearing, the Planning Commission voted to forward a recommendation to City Council to approve the above referenced administratively requested Zoning Text Amendment petition that eliminates the ability to count adjacent on-street parking stalls towards meeting minimum off-street parking requirements.

Attached herewith are the related ordinances (4) and Staff Report presented to the Planning Commission, which provides background, Staff analysis, and recommendations.

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

- City Council Committee of the Whole WED, 29 APR 2015
- City Council First Reading TUE, 05 MAY 2015
- City Council Public Hearing and Second Reading TUE, 02 JUN 2015

Please include these ordinances on the City Council meeting agendas noted above and include this communication and attachments in the 28 APR Committee of the Whole meeting packet. Only the ordinances should be included in the 05 MAY and 02 JUN meeting packets.

Thank you.

Digitally signed by Christopher M. Fletcher, AICP
Date: 2015.04.20 15:13:13 -04'00'

AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY OF PERMITTED NON-RESIDENTIAL USES WITHIN THE R-1, R-1A, R-2, AND R-3 DISTRICTS TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.

The Morgantown City Council hereby ordains that Article 1331.06 “Supplemental Regulations Pertaining To Permitted Land Uses Table” of the City’s Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE.

- (29) In the R-1, R-1A, R-2 and R-3 districts, the following regulations shall apply to permitted non-residential uses:
 - (a) Buildings shall be required to be two stories.
 - (b) Gross building size shall not exceed 2,000 square feet with not more than half (1,000 square feet) being devoted to non-residential use; and any café or food service area shall be limited to 500 square feet of customer seating area.
 - (c) May have residential or office uses on second floor, but no residential use shall be permitted on ground floor.
 - (d) All building facades visible from a public street shall be faced with masonry, stone, wood siding, or stucco-covered block. No vinyl, metal, or exposed concrete block walls.
 - (e) Shall have a minimum front setback of three (3) feet and a maximum of six (6) feet.
 - (f) All parking lots shall be screened along the street frontage by a decorative masonry wall (not concrete block) between three and one-half (3.5) and five (5) feet in height, and by dense landscaping along property lines not adjoining a public street.
 - (g) If residential units are placed above storefront, no extra parking shall be required for them.
 - ~~(h) Any existing on-street parking stalls immediately adjacent to the property shall be counted toward fulfilling parking requirement.~~
 - (+) (h) Front façade of the building shall have a fenestration ratio of at least forty

(40) percent.

- ~~(j)~~ (i) A canvas awning not less than 6 feet in width shall be placed over the entry, and may extend to partially cover the sidewalk, provided that the leading edge of the awning extends no closer than two (2) feet to the curb line of the street.
- ~~(k)~~ (j) If no sidewalk exists, the property owner shall be required to construct one in front of the building's primary façade according to Engineering Department standards.
- ~~(l)~~ (k) Signage for such structures shall be limited to a total of four (4) square feet and all signs shall be either wall or suspended signs. No other sign types shall be permitted. Signs shall not be internally illuminated.
- ~~(m)~~ (l) No security bars, screens or gates shall be permitted to be attached to the primary façade.
- ~~(n)~~ (m) No alcoholic beverages may be sold or consumed on any premises permitted in this conditional use.
- ~~(o)~~ (n) No drive-through lanes or windows shall be permitted for any use.
- ~~(p)~~ (o) Hours of operation shall be limited to 9:00 a.m. to 8:00 p.m. daily.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLE 1345.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.

The Morgantown City Council hereby ordains that Article 1345.06 "Parking and Loading Standards" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

ARTICLE 1345

B-1, Neighborhood Business District

1345.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall provide not less than seventy-five (75) percent of the required parking as set forth in Article 1365, Parking, Loading and Internal Roadways.

~~(B) Any on-street parking located immediately in front of a building or on a corner lot, may be counted towards the parking requirements of this Ordinance.~~

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLE 1361.03 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE SUNNYSIDE OVERLAY DISTRICTS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.

The Morgantown City Council hereby ordains that Article 1361.03 “Design and Performance Standards Common To All Sunnyside Overlay Districts” of the City’s Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

1361.03 DESIGN AND PERFORMANCE STANDARDS COMMON TO ALL SUNNYSIDE OVERLAY DISTRICTS.

The following design and performance standards are held in common and shall apply to the SCOD, SSOD, and BCOD overlay districts.

(Q) Street Hierarchies and Land Use:

- (1) Except for single and two family dwellings, buildings constructed along primary streets shall have sixty (60) percent or more of their ground floor space dedicated to retail, restaurant, office or personal service uses. Residential uses shall be permitted on the ground floor in the remaining space, but shall not enfront the primary street.
- ~~(2)~~ ~~On-street parking spaces immediately adjacent to a land use shall be counted toward fulfilling parking requirements for the use.~~
- ~~(3)~~ (2) The minimum number of off-street parking spaces for multi-family dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City. The minimum number of off-street parking spaces for mixed-use and over-store dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City plus required spaces for commercial use(s).
- ~~(4)~~ (3) Surface parking lots between buildings shall be designed as interior landscaped courtyards where cars are screened from the right-of-way; surface lots shall not be constructed where two (2) public rights-of-way intersect.
- ~~(5)~~ (4) Parking structures abutting open spaces or fronting on primary streets shall be designed with building-like facades.
- ~~(6)~~ (5) Parking garages three (3) stories or higher shall provide ground floor retail or service uses in an amount not less than thirty-five (35) percent of the ground floor area, located along the frontage of the garage.

- (7) (6) Private parking areas shall be accessed from secondary streets and/or alleys. Access from primary streets shall only be utilized when other options are not available.
- (8) (7) To minimize curb cuts along primary and secondary streets, residential garages or car ports or driveways shall be located at the rear of the property and accessed from an alley, when available.
- (9) (8) Parking areas and properties containing multifamily or commercial buildings shall provide linkages of similar design and quality to adjacent off-site pedestrian amenities such as sidewalks, bike paths, etc.
- (10) (9) Parking areas containing ten (10) or more stalls shall be lighted to create safe, attractive nighttime environments. Such lighting shall not be designed or situated in such a manner as to cause spillover glare onto adjoining properties. Building entrances and significant architectural or landscape features should be illuminated with low-intensity, indirect lighting sources directed toward the feature.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING TABLE 1365.04.01 "MINIMUM OFF-STREET PARKING REQUIREMENTS OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY FOR BED AND BREAKFAST INN USES TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.

The Morgantown City Council hereby ordains that Table 1365.04.01 "Minimum Off-Street Parking Requirements" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

Table 1365.04.01: Minimum Off-Street Parking Requirements

Use	Minimum Off-Street Parking Requirement
Bed and Breakfast Inn	1 space per guest room plus 2 for the resident owner; on-street parking spaces directly in front of the inn may count towards the parking requirement except in residential parking permit required areas

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk



MORGANTOWN PLANNING COMMISSION

April 9, 2015
6:30 PM
City Council Chambers

STAFF REPORT

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kaweck, City Council

CASE NO: TX15-03 / Administrative / On-Street Parking

REQUEST:

Administratively requested Zoning Text Amendments to Article 1331.06(29)(h), Article 1345.06(B), Article 1361.03(Q)(2), and Table 1365.04.01 as they relate to removing adjacent on-street parking from meeting minimum parking requirements.

BACKGROUND and ANALYSIS:

The growing interest nationwide in approaching parking regulations in new ways is linked to the rise of smart growth land use policies intended to further more livable, less auto-dependent communities.

Conventional parking policies generally focus on setting a minimum number of parking spaces for various land uses. They assume that all trips to a location are made by automobile which can result in an oversupply of parking in urban settings and other locations where alternatives to driving exist and are used for many trips. Conventional parking policies often fail to recognize that different contexts may require different amounts of parking and fail to account for unique economic activity, population and other characteristics.

Within the City's 2006 major amendment of its zoning regulations, several smart growth and New Urbanism land use tenets were incorporated. Addendum A identifies several popular and effective parking management techniques, which are provided here simply for context purposes. Some of the noted strategies or variants have been incorporated into Morgantown's Planning and Zoning Code while others are in various stages of analysis and existing conditions monitoring.

One strategy included in the 2006 major amendment was allowing on-street parking to be counted toward meeting minimum off-street parking requirements for new development in some areas and for some land uses. The following related provisions have been in place since 2006:

- Article 1331.06(29)(h) allows permitted non-residential uses within the R-1, R-1A, R-2, and R-3 Districts to count existing on-street parking stall immediately adjacent to the property towards fulfilling minimum parking requirements.
- Within the B-1, Neighborhood Business District, Article 1345.06(B) allows on-street parking located immediately in front of a building or on a corner lot to be counted towards minimum parking requirements.
- Within the Sunnyside Overlay Districts, Article 1363.03(Q)(2) allows on-street parking spaces immediately adjacent to a land use to be counted toward fulfilling minimum parking requirements.
- Table 1365.04.01 "Minimum Off-Street Parking Requirements" allows "Bed and Breakfast Inn" uses to count on-street parking spaces directly in front of the use towards minimum parking requirements except in residential parking permit districts.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

April 9, 2015
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kawecki, City Council

Allowing on-street parking to count towards minimum parking requirements is intended to, in part, impede the overdevelopment of off-street parking and mitigate deleterious impacts including, but not limited to, large footprints of impervious services; underutilization of real estate; over consumption of land; inharmonious built environments; decrease in greenspace; overburdening stormwater management systems; degrading water quality; air emissions resulting from concentrated vehicles; heat island effect; urban sprawl; and, overdependence on a single mode of transport.

Additionally, on-street parking can serve as a traffic calming strategy that helps reduce the speed of cars resulting from the narrowing of the street width and encouraging slower, more attentive driving.

However, a parking policy that incorporates the flexibility of counting on-street parking assumes the following supporting conditions are in place to ensure success:

- On-street parking is shared by different uses that clearly have different peak hours of use.
- There is more than sufficient on-street parking for current demand and demand from the proposed use during all hours of the day and week.
- On-street parking serves high turnover demand (visitors, customers, etc.) rather than storage demand associated with predominantly residential uses.

If these conditions do not exist, then an undersupply of on-street parking stalls contributes to traffic congestion as vehicles circle an area looking for available on-street parking spaces.

Parking remains a heavily discussed and debated issue in Morgantown. Several residential parking districts have existed for a number of years to manage supply and demand. The parking district program was recently expanded to include the Wiles Hill Neighborhood with efforts currently underway to establish the newest district in the Sunnyside Neighborhood.

Although the parking policy intent of allowing on-street parking stalls to count towards minimum parking is meritorious, its function in Morgantown over nearly a decade does not appear to have realized similar successes achieved in other communities.

In listening to and working with Morgantown Parking Authority Director Tom Arnold, the Morgantown Parking Authority Board of Directors, the Campus Neighborhoods Revitalization Corporation Board of Directors, and engaged Sunnyside Neighborhood property owners/managers, it appears prudent to remove from the City's Planning and Zoning Code all provisions that allow on-street parking stalls to be counted toward meeting minimum parking requirements based on the following findings:

- Demand appears much greater than supply where present allowances exist to count on-street parking towards minimum parking requirements.
- Increased density and intensity realized through new development, particularly within areas where on-street parking can be counted toward minimum parking requirements, only serves to exacerbate limited on-street parking supply.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

April 9, 2015
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kawecki, City Council

- An undersupply of on-street parking can adversely impact the market attractiveness, visitability, and quality of life of areas where on-street parking can be counted toward minimum parking requirements.
- An undersupply of on-street parking contributes to crowded public rights-of-way and traffic congestion near and within areas where on-street parking can be counted toward minimum parking requirements.
- The success and growth of the City's residential parking district program conflicts with present zoning regulation allowances to count on-street parking towards meeting minimum parking requirements.
- The City continues to enhance its management of improved public rights-of-way to serve increasing needs including public safety, emergency access, and fire lanes, which, in some cases, has resulted in a reduction in the supply of on-street parking stalls.

STAFF RECOMMENDATION:

Staff respectfully advises the Planning Commission to forward a favorable recommendation to City Council to amend the Planning and Zoning Code as presented in Addendum B of this report based on the information and findings presented herein.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

TX15-03 / Administrative / On-Street Parking

The following information was extracted from the "Parking Management Strategies" report to the Lancaster County, Pennsylvania Planning Commission in 2012, which can be accessed on the internet at <http://www.lancastercountyplanning.org/DocumentCenter/Home/View/158>. This information is provided here simply for context purposes. Several of these strategies and variants have been incorporated into Morgantown's Planning and Zoning Code.

Parking demand is the outcome of supply, price and available travel choices. As cities and municipalities build more transit-oriented and mixed-use developments, they can adopt a variety of parking management strategies, including modifications to the traditional ITE parking standards in their zoning ordinances, to help support the vitality and attraction of alternative modes in those areas. Some popular and effective parking management techniques include the following:

- **Reduce Parking Requirements:** Municipalities can reduce zoning requirements for parking from the ITE recommended standards, in certain areas, such as within a certain distance of a transit station, or in/near a mixed use development where nonmotorized infrastructure enable trips to be made by driving alternatives. Parking can also be reduced for certain uses such as low-income and elderly housing units whose residents own fewer cars and depend more on alternative modes like transit and walking.
- **Reserve Parking:** Rather than build all the parking at once to meet future demand, reserve parking allows a developer to "bank" some land or maintain a landscaped area on the property that can be converted in the future to parking spaces if demand requires it.
- **Unbundled Parking:** Most apartment buildings and condominium complexes include the price of parking in the rent or purchase price of the unit, a practice known as bundled parking. This practice assumes that all residents have the same demand for parking and they all bear the cost through their rent or purchase. This practice fails to reward those who do not own a car and who provide social benefits by their non-auto travel choice. When parking is unbundled, the price of the parking space(s) is separated from the rent or purchase price and allows residents to pay only for the amount of parking that they need.
- **Context-Sensitive Standards:** Under this innovative parking policy, parking standards are set to fit into the context of a specific neighborhood or development. This concept is still in its early implementation. The challenge for planners is how to inject flexibility into the zoning codes while still providing developers with the certainty that they need.
- **Parking Freezes or Setting Parking Maximums:** A parking freeze sets the total amount of parking that is allowed in a particular district. It works best in urban areas with well-developed transit systems. Some communities reverse the traditional practice of setting a parking minimum and set a parking maximum in their zoning ordinance, particularly for downtown or commercial areas.
- **Installation of Bicycle and Pedestrian Facilities:** One low-cost method of reducing parking demand is to provide bicycle and pedestrian facilities (secure bike parking, bike lanes, trails, sidewalks) to make non-motorized modes attractive and safe. An interconnected sidewalk network also makes it easier to allow for shared parking in an off-site garage or lot near the site.

- Employer Commuter Benefits: Employer commuter benefits such as subsidized transit passes or subsidies to those who carpool or vanpool and preferential parking for carpools/vanpools are also strategies that reduce parking demand.
- In-Lieu Parking Fees: As an alternative to providing on-site parking, a developer pays the municipality a set fee that is then used by the city or municipality to finance an off-site parking facility (municipal lot or garage) that can be used by the patrons and employees of the business or use.
- Parking Pricing: Probably the simplest way to reduce parking demand is to charge users directly for the cost of parking since a large supply of free parking encourages driving. Cost-based parking set to recover the cost of a parking space in a garage (or municipal lot) typically reduces demand by 10-30 percent. A 2000 survey of San Francisco commuters found that for commuters with free parking, only 4.8% use transit while among those without free parking, 42% commute by transit in the Bay Area.

STAFF REPORT ADDENDUM B

TX15-03 / Administrative / On-Street Parking

Staff recommended Zoning Text Amendments relating to removing the ability to count adjacent on-street parking stall towards meeting minimum off-street parking requirements (deleted matter struck-through; new matter underlined).

ORDINANCE 1

1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE.

(29) In the R-1, R-1A, R-2 and R-3 districts, the following regulations shall apply to permitted non-residential uses:

- (a) Buildings shall be required to be two stories.
- (b) Gross building size shall not exceed 2,000 square feet with not more than half (1,000 square feet) being devoted to non-residential use; and any café or food service area shall be limited to 500 square feet of customer seating area.
- (c) May have residential or office uses on second floor, but no residential use shall be permitted on ground floor.
- (d) All building facades visible from a public street shall be faced with masonry, stone, wood siding, or stucco-covered block. No vinyl, metal, or exposed concrete block walls.
- (e) Shall have a minimum front setback of three (3) feet and a maximum of six (6) feet.
- (f) All parking lots shall be screened along the street frontage by a decorative masonry wall (not concrete block) between three and one-half (3.5) and five (5) feet in height, and by dense landscaping along property lines not adjoining a public street.
- (g) If residential units are placed above storefront, no extra parking shall be required for them.
- (h) ~~Any existing on-street parking stalls immediately adjacent to the property shall be counted toward fulfilling parking requirement.~~
- (i) (h) Front façade of the building shall have a fenestration ratio of at least forty (40) percent.
- (j) (i) A canvas awning not less than 6 feet in width shall be placed over the entry, and may extend to partially cover the sidewalk, provided that the leading edge of the awning extends no closer than two (2) feet to the curb line of the street.
- (k) (j) If no sidewalk exists, the property owner shall be required to construct one in front of the building's primary façade according to Engineering Department standards.
- (l) (k) Signage for such structures shall be limited to a total of four (4) square feet and all signs shall be either wall or suspended signs. No other sign types shall be permitted. Signs shall not be internally illuminated.
- (m) (l) No security bars, screens or gates shall be permitted to be attached to the primary façade.
- (n) (m) No alcoholic beverages may be sold or consumed on any premises permitted in this conditional use.

- ~~(e)~~ (n) No drive-through lanes or windows shall be permitted for any use.
- ~~(p)~~ (o) Hours of operation shall be limited to 9:00 a.m. to 8:00 p.m. daily.

ORDINANCE 2

1345 B-1, Neighborhood Business District
 1345.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall provide not less than seventy-five (75) percent of the required parking as set forth in Article 1365, Parking, Loading and Internal Roadways.

~~(B) Any on-street parking located immediately in front of a building or on a corner lot, may be counted towards the parking requirements of this Ordinance.~~

~~(C)~~ (B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

ORDINANCE 3

1363.03 DESIGN AND PERFORMANCE STANDARDS COMMON TO ALL SUNNYSIDE OVERLAY DISTRICTS.

The following design and performance standards are held in common and shall apply to the SCOD, SSOD, and BCOD overlay districts.

(Q) Street Hierarchies and Land Use:

- (1) Except for single and two family dwellings, buildings constructed along primary streets shall have sixty (60) percent or more of their ground floor space dedicated to retail, restaurant, office or personal service uses. Residential uses shall be permitted on the ground floor in the remaining space, but shall not enfront the primary street.
- ~~(2) On-street parking spaces immediately adjacent to a land use shall be counted toward fulfilling parking requirements for the use.~~
- ~~(3)~~ (2) The minimum number of off-street parking spaces for multi-family dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City. The minimum number of off-street parking spaces for mixed-use and over-store dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City plus required spaces for commercial use(s).
- ~~(4)~~ (3) Surface parking lots between buildings shall be designed as interior landscaped courtyards where cars are screened from the right-of-way; surface lots shall not be constructed where two (2) public rights-of-way intersect.
- ~~(5)~~ (4) Parking structures abutting open spaces or fronting on primary streets shall be designed with building-like facades.
- ~~(6)~~ (5) Parking garages three (3) stories or higher shall provide ground floor retail or service uses in an amount not less than thirty-five (35) percent of the ground floor area, located along the frontage of the garage.
- ~~(7)~~ (6) Private parking areas shall be accessed from secondary streets and/or alleys. Access from primary streets shall only be utilized when other options are not available.
- ~~(8)~~ (7) To minimize curb cuts along primary and secondary streets, residential garages or

car ports or driveways shall be located at the rear of the property and accessed from an alley, when available.

- (9) (8) Parking areas and properties containing multifamily or commercial buildings shall provide linkages of similar design and quality to adjacent off-site pedestrian amenities such as sidewalks, bike paths, etc.
- (10) (9) Parking areas containing ten (10) or more stalls shall be lighted to create safe, attractive nighttime environments. Such lighting shall not be designed or situated in such a manner as to cause spillover glare onto adjoining properties. Building entrances and significant architectural or landscape features should be illuminated with low-intensity, indirect lighting sources directed toward the feature.

ORDINANCE 4

Table 1365.04.01: Minimum Off-Street Parking Requirements

Use	Minimum Off-Street Parking Requirement
Bed and Breakfast Inn	1 space per guest room plus 2 for the resident owner; on-street parking spaces directly in front of the inn may count towards the parking requirement except in residential parking permit required areas



MEMORANDUM

Date: 22 APR 2015
To: Jeff Mikorski, City Manager *via email*
RE: 28 APR 2015 Committee of the Whole Agenda
TX15-01 / Administrative / Site Plan Review

After deliberating and tabling the above referenced administrative text amendment petition at its 12 FEB 2015 hearing and holding a workshop on 25 FEB 2015 to study policy direction, the Planning Commission voted on 12 MAR 2015 to forward a recommendation to City Council to approve the restructuring of the Planning and Zoning Code's site plan application and review standards.

The recommendation provides for five (5) ordinances that address the following critical issues.

Issue 1 – DSI and MDSI Site Plan Applications

Currently, Type III Site Plan applications reviewed by the Planning Commission are categorized in two (2) tiers – Developments of Significant Impact (DSI) and Major Developments of Significant Impact (MDSI). With the exception of very prescriptive site plan drawing and organization standards for MDSI applications, the Planning and Zoning Code provides no significant distinction between the two (2) tiers. There is no difference in the type of information that must be submitted nor are there any variations in the Planning Commission's review of DSI or MDSI site plans in terms of standards, measures, or procedures that aid or support decision making. As such, the two (2) Type III Site Plan tiers do not bring value or consequence to the application or review process.

Further, the Land Management element of the 2013 Comprehensive Plan provides under Objective 7 that the City, "Monitor and improve the effectiveness of the development regulation and the development process." Additionally, Land Management Strategy LM 7.4 provides that the City, "Simplify the development review and...approval process."

The Planning Commission agreed with Staff in determining that if there is no apparent distinction between a DSI or MDSI application and review process, save the subjective scale of development between the two (2) tiers, then enhancing simplification and effectiveness of the application process by eliminating the MDSI tier is not only justified but desired under the 2013 Comprehensive Plan.



MEMORANDUM

Issue 2 – Site Plan Review for Downtown Developments

Recent development approvals within the downtown have raised concerns in the community that the Planning Commission’s review of site plans in the B-4 District should be expanded to ensure public notification, awareness, and participation in the decision making process. The Planning Commission provided direction on adjusting site plan review thresholds for development within the B-4 District.

Issue 3 – Mixed-Use Development

Currently, the Planning and Zoning Code defines “mixed-use development” as a single development of more than one building and use, but does not include single buildings that contain mixed-use dwellings. However, the Board of Zoning Appeals determined in a 15 OCT 2015 administrative appeal decision that “mixed-use development” must also include developments that are one building containing “mixed-use dwellings.” This decision effectively changed how to classify a development as “mixed-use.” The Planning Commission agreed with Staff that related zoning regulations should be amended to reflect the Board’s decision and provide clarity in determining site plan review thresholds now and in the future.

Attached herewith are the related ordinances (5) and the two (2) Staff Reports presented to the Planning Commission, which provide related background and Staff analysis. The exhibits to each of the two (2) subject reports have been omitted here for succinctness.

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

- City Council Committee of the Whole WED, 29 APR 2015
- City Council First Reading TUE, 05 MAY 2015
- City Council Public Hearing and Second Reading TUE, 02 JUN 2015

Please include these ordinances on the City Council meeting agendas noted above and include this communication and attachments in the 28 APR Committee of the Whole meeting packet. Only the ordinances should be included in the 05 MAY and 02 JUN meeting packets.

Thank you.

Digitally signed by Christopher M. Fletcher, AICP
Date: 2015.04.22 15:08:41 -04'00'

AN ORDINANCE AMENDING ARTICLE 1385 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SITE PLAN REVIEW.

The City of Morgantown hereby ordains that Article 1385 "Site Plan Review" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

ARTICLE 1385

Site Plan Review

- 1385.01 Site plan review required.
- 1385.02 Application.
- 1385.03 Design and improvements requirements.
- 1385.04 Site plan review.
- 1385.05 Review thresholds.
- 1385.06 Type I: Administrative review of simple site plans.
- 1385.07 Type II: Administrative review of detailed site plans.
- 1385.08 Type III: Planning Commission review of developments of significant impact ~~and major developments of significant impact.~~
- 1385.09 Type IV: BZA review of conditional use permits.
- 1385.10 Other required submittals.
- 1385.11 Resubmittal of plans.
- 1385.12 Rejection statement.
- 1385.13 Deviation from the approved site plan and additions to existing structures.
- 1385.14 Record drawings and certificate of completion and compliance.
- 1385.15 Expiration deadlines.

1385.01 SITE PLAN REVIEW REQUIRED.

No land within the jurisdiction of the City of Morgantown shall be developed or altered for the purpose of constructing buildings or establishing uses without first having received site plan approval from either the Planning Department staff, or the Morgantown Planning Commission or the Morgantown Board of Zoning Appeals. It shall be the duty of the Planning Director, or his/her designee, in conjunction with other appropriate departments and agencies, to perform complete and thorough review of all plans submitted to the Planning Department.

1385.02 APPLICATION.

- (A) All applications for site plan review shall be made on application forms prescribed by the Planning Department and follow established submittal deadlines.
- (B) Major development projects often become issues of significant contention between applicants and residents living adjacent to and in the vicinity of the property to be rezoned. Too often this results in difficult and argumentative public hearings before the Municipal Planning Commission and City Council. In most cases, opposition to a rezoning request is based on legitimate concerns over the well-being and preservation of a neighborhood, but sometimes opposition results from a simple lack of communication and understanding between the applicant and the neighborhood residents. The City, therefore, strongly advises any person that is considering applying for a Development of Significant Impact (DSI) ~~or a Major DSI~~ to discuss the proposal with residents living within 200 feet of the property to be rezoned and with the leadership of any organized neighborhood organizations that represent the area before making application to the Planning Department. The Department can assist by providing contact information for individuals who should be consulted.
- (C) All Development of Significant Impact site plans for development in the B-4 District also shall be submitted to the Downtown Design Review Committee for review and recommendations prior to any formal public hearing or final approval.

1385.03 DESIGN AND IMPROVEMENTS REQUIREMENTS.

- (A) Requirements, standards and specifications for engineering design for construction of improvements for site plans shall be equal to or greater than the minimum requirements, standards, and specifications established for design and improvements by the City Engineer. In addition to the plan sheets specified below, the applicant shall submit a complete drainage report, including calculations and justifications. The City Engineer may approve and/or require other engineering designs or practices when deemed necessary.
- (B) The proper management of storm water runoff is essential in the land development process. The City has adopted a separate storm water management ordinance that considers criteria related to total disturbed area, total/modified impervious area, sedimentation and erosion control and other criteria. Development plans are reviewed for, and must demonstrate compliance with this article.

1385.04 SITE PLAN REVIEW.

There are four types of site plan reviews which have different application requirements and approval procedures. Types 2, 3 and 4 shall be reviewed by an internal technical review team, whose membership shall include the City Manager or his designee, the Chief Code Enforcement Officer, the City Engineer, a representative from the Morgantown Utility Board, and the City's Fire Department. The types of review are:

Type I	Administrative Review, by the Planning Director, of Simple Site Plans
Type II	Administrative Review, by the Planning Director, of Detailed Site Plans
Type III	Planning Commission Review of Developments of Significant Impact
Type IV	Board of Zoning Appeals Review of Conditional Uses

1385.05 REVIEW THRESHOLDS.

In order to determine what type of review a project receives, the following standards have been established and noted for specific land uses in the land use table of this article.

- (A) ~~Developments of Significant Impact may include but are not limited to:~~
 - ~~Residential Projects: 12 to 99 dwelling units~~
 - ~~Commercial Projects: 15,000 square feet of gross floor area~~
 - ~~Office / Institutional Projects: 15,000 square feet of gross floor area~~
 - ~~Industrial Projects: 0 square feet to 99,999 square feet of gross floor area~~
 - ~~Mixed Use Projects: 15,000 square feet of gross floor area~~
- (B) ~~Major Developments of Significant Impact may include but are not limited:~~
 - ~~Residential Projects: 100 or more dwelling units~~
 - ~~Commercial Projects: 100,000 or more square feet of gross floor area~~
 - ~~Office / Institutional Projects: 100,000 or more square feet of gross floor area~~
 - ~~Industrial Projects: 100,000 or more square feet of gross floor area~~
 - ~~Mixed Use Projects: 100,000 or more square feet of gross floor area~~
- (A) Type I Site Plan Review: Single-family and two-family residential primary and secondary structures that do not constitute a Development of Significant Impact.
- (B) Type II Site Plan Review: Non-residential, multi-family structures, and temporary uses that do not constitute a Development of Significant Impact.
- (C) Type III Site Plan Review: The following thresholds constitute Developments of Significant Impact.

<u>Land Use Category / District</u>	<u>Development of Significant Impact</u>
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 15,000 square feet or more of gross floor area or a site of 2 acres or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 15,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, 2 acres or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>
<u>Development in the B-4 District:</u>	
<u>All Land Use Categories</u>	<u>New construction of a principal structure, regardless of land use category or net acreage of the site.</u>
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 10,000 square feet or more of gross floor area or a site of one-half (1/2) acre or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 10,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, one-half (1/2) acre or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>

(D) Type IV Site Plan Review: All applications for a Conditional Use Permit.

1385.06 TYPE I: ADMINISTRATIVE REVIEW OF SIMPLE SITE PLANS.

- (A) All applications for permits for single-family residential and two-family residential primary and secondary structures shall be accompanied by the following:
- (1) A site plan drawn to scale, that includes the following for the use of the Planning Director:
 - (a) The actual dimensions, size, square footage, and shape of the lot to be built upon;
 - (b) The exact sizes and locations on the lot of existing structures, if any;
 - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);
 - (d) The location of the lot with respect to adjacent rights-of-way and easements;
 - (e) The existing and proposed uses of the structure(s) and land;

- (f) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (g) Height of all structures;
- (h) Setbacks;
- (i) Grading plan;
- (j) Stormwater management plan;
- (k) Erosion and sediment control plan; and,
- (l) Signature of applicant.

1385.07 TYPE II: ADMINISTRATIVE REVIEW OF DETAILED SITE PLANS.

- (A) All applications for permits for non-residential, multi-family structures, and temporary uses that do not constitute a Development of Significant Impact (DSI), shall be accompanied by the following:
 - (1) A site plan (3 copies), drawn to scale, that includes the following for the use of the Planning Director:
 - (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant;
 - (b) The exact sizes and locations on the lot of existing structures, if any;
 - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);
 - (d) The location of the lot with respect to adjacent rights-of-way;
 - (e) The existing and proposed uses of the structure(s) and land;
 - (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
 - (g) The location and dimensions of off-street parking and means of ingress and egress for such space;
 - (h) Height of all structures;
 - (i) The clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flagpole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height;
 - (j) Setbacks;
 - (k) Buffer yard and screening, if applicable;
 - (l) Location of garbage collection area and screening;

- (m) Location of existing and/or proposed signage;
 - (n) Layout of all internal roadways;
 - (o) Location and size of stormwater management facilities;
 - (p) Utility lines and easements;
 - (q) Grading plan;
 - (r) Erosion and sediment control plan; and,
 - (s) Signature of applicant.
- (2) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets;
 - (3) If applicable, design of stormwater management facility and drainage calculations that bear the name, address, and seal of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law and that meet the requirements of this article, the City's stormwater management ordinance and all other applicable local, state and federal regulations;
 - (4) Parking and landscaping plan;
 - (5) Sign plan;
 - (6) Approved WV Division of Highways Access Permit, if applicable;
 - (7) Sediment and erosion control plan as approved by the West Virginia Department of Environmental Protection, the City of Morgantown, and the Morgantown Utility Board;
- (B) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
 - (C) Site plans shall be reviewed by an AICP certified planner, and such reviews may include other agencies that the City believes to have a direct or indirect interest in the development site.
 - ~~(D) At least five (5) days prior to planning staff conducting its review, the Planning Director shall notify the planning commissioner representing the ward in which the project is proposed that the plan will be reviewed.~~
 - ~~(E)~~ (D) Site plans approved by the Planning Director authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit by the City based upon site plans given approval by the Planning Director shall not prevent the City from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements

established by local, state and federal regulations.

- (F) (E) One copy of the site plan submitted for a permit as required in subsection (C) above for the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

1385.08 TYPE III: PLANNING COMMISSION REVIEW OF DEVELOPMENTS OF SIGNIFICANT IMPACT AND MAJOR DEVELOPMENTS OF SIGNIFICANT IMPACT.

- (A) Developments of Significant Impact are those that have a Citywide or regional impact. Such impacts ~~would typically~~ could involve the transportation network, environmental features such as parks or stream corridor, ~~and~~ local schools, etc. Such developments could include large-scale residential, commercial or mixed-use developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.
- (B) All applications for a Development of Significant Impact shall be accompanied by site and development plan drawings submitted under the seal and signature of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the City Engineer. Three (3) full-scale sets of the site plan drawings shall be submitted for review, along with one (1) exact digital file as required by the Planning Director, and shall observe the following format:
- (1) Sheet One (Title Sheet). The following information shall be submitted as part of Sheet One:
- (a) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references.
 - (b) Name of the project.
 - (c) Name and address of the owner, developer, and person who prepared the plans.
 - (d) Total acreage within the project and the number of residential dwelling units and/or the gross square footage of non-residential buildings whichever is applicable.
 - (e) Existing zoning of the subject land and all adjacent lands.
 - (f) Boundary lines of adjacent tracts of land, showing owners of record.
 - (g) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located.

- (h) A statement of the proposed uses, stating the type and size of residential and non-residential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population.
 - (i) Any existing or proposed covenants and restrictions affecting property owners and/or homeowners associations.
 - (j) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.
- (2) Sheet(s) Two (Existing Site Conditions). The following information shall be submitted as part of Sheet Two:
- (a) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the approved regional transportation plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development.
 - (b) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records.
 - (c) Existing contours based in U.S.G.S. datum with intervals of not more than two (2) feet. Elevations shall be based on sea level datum.
 - (d) The water elevation at the date of the survey of rivers, lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such rivers, lakes, streams, or designated wetlands. The plan shall also show the boundary line of the regulatory 100-year flood. The plan shall also show the base flood elevation of the regulatory 100-year flood at any building location along with the elevation of the lowest finished floor. All elevations shall be based on sea level datum.
- (3) Sheet(s) Three (Proposed Site Conditions). The following information shall be submitted as part of Sheet Three:
- (a) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land,

- and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development.
- (b) Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records.
 - (c) Water Supply Plan. For development that involves the use of water at higher volumes than customarily associated with nonindustrial-type development, the City may require, in coordination with the Morgantown Utility Board, a water supply plan. A water supply plan must include at least the identification of the water source(s); the development and use of freshwater impoundments, if applicable; when and where water withdrawals will occur; necessary operational water volumes; potential competing water users; and, cumulative impact of the development's water consumption to the public water system, watersheds and/or groundwater.
 - (d) Building setback lines, showing dimensions.
 - (e) Internal and perimeter sidewalk system/pedestrian circulation plan.
 - (f) Proposed contours with intervals of not more than two (2) feet. The plan shall also show the contour line for the floodway fringe boundary. Grading plans and drainage plans and calculations are not required for Planning Commission site plan review, but shall be required prior to issuance of any building permits. Such plans shall be prepared by a registered design professional licensed by the State of West Virginia, and as authorized by West Virginia State law; and shall also meet the City's stormwater management ordinance and all applicable local, state and federal regulations.
 - (g) Location and detail plans for all trash dumpsters.
 - (h) Location and detail plans for utility and mechanical equipment placed on the ground (e.g. pad-mounted transformers, HVAC units, etc.).
 - (i) The number of employees, families, housekeeping units, bedrooms, or rental units the structure(s) is designed to accommodate.
 - (j) If applicable, the clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag pole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height.
- (4) Sheet(s) Four (Preliminary Landscape Plan and Preliminary Site Lighting Plan). A preliminary landscape plan prepared to the standards specified in this zoning ordinance. A preliminary site lighting plan that includes exterior light fixture details and photometric plans in footcandles.
 - (5) Sheet Five (Plat-like dedication sheet, if necessary). The following information

shall be submitted as part of Sheet Five if a plat-like dedication document for easements and rights-of-way is deemed necessary by the Planning Commission or its authorized designee:

- (a) Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;
 - (b) Radii, internal angles, points of curvature; tangent bearings and lengths of all arcs, chord, and chord bearings; and
 - (c) Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.
- (6) Sheet(s) Six (Floor Plans). Floors plans must illustrate and identify internal and external dimensions, uses, gross floor areas, and include a summary table of residential unit types and/or nonresidential use gross floor areas and any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.
- (7) Sheet(s) Seven (Building Elevations). Elevations of all facades illustrating height of building; top of adjoining finish grade elevation; exterior building components (roof, walls, foundation, etc.); exterior finishes and materials; roof slope or pitch; window types; exterior stairs, landings, guardrails, and handrails; and, any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.
- (8) Sheet(s) Eight (Parking Layout Plan). Parking layout plan must identify ingress and egress driveway entrance(s) and distances of same from neighboring property boundaries, existing driveway entrances, and intersections; layout of internal roadway; parking stall types, and dimension details for parking stalls and drive aisles; pedestrian circulation plan (if required); and, any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.
- (9) All sheets shall contain the following information:
- (a) All dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.
 - (b) The proposed name by which the project shall be legally and commonly known.
 - (c) Date of survey, scale, and north point.
 - (d) All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes.

- (e) Private parks, common areas, or excluded parcels shall be designated as such and clearly labeled on the plans.
- (f) All necessary reference points tying the subject property to the appropriate section corners.
- (g) Each sheet shall be sealed and signed by the professional preparing the drawings.
- (h) All sheets shall be tied to state plane coordinates for horizontal and vertical controls.
- (i) Such other information as may be deemed necessary for proper review of the site plan by the Planning Director, City Engineer, or Planning Commission to determine conformance with and provide for the enforcement of these zoning regulations.

(C) All applications for a Development of Significant Impact shall be accompanied by:

- (1) A list of the property owners' names and addresses located within 200 feet of the site, including the subject property, as of record in the office of the Monongalia County Assessor. The applicant must also submit the tax map and parcel numbers for the list of properties.
- (2) The applicant must also submit a stamped and addressed envelope for each of the names and addresses of the property owners within 200 feet of the site. Return address is not required.

(1) ~~All applications for a Development of Significant Impact shall be accompanied by the following:~~

- (a) ~~A site plan (14 copies), drawn to scale, that includes the following for the use of the Planning Director:~~
 - (i) ~~The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant;~~
 - (ii) ~~The exact sizes and locations on the lot of existing structures, if any;~~
 - (iii) ~~The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);~~
 - (iv) ~~The location of the lot with respect to adjacent rights-of-way;~~
 - (v) ~~The existing and proposed uses of the structure(s) and land;~~
 - (vi) ~~The number of employees, families, housekeeping units, bedrooms, or rental units the structure(s) is designed to accommodate;~~
 - (vii) ~~The location and dimensions of off-street parking and means of~~

- ingress and egress for such space;
- (viii) Height of all structure(s);
- (ix) ~~The clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag pole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height;~~
- (x) Setbacks;
- (xi) ~~Buffer yard and screening, if applicable;~~
- (xii) ~~Location of garbage collection area and screening;~~
- (xiii) ~~Location of sign existing and/or proposed signage;~~
- (xiv) ~~Layout of all internal roadways;~~
- (xv) ~~Location of stormwater management facilities;~~
- (xvi) ~~Utility lines and easements; and~~
- (xvii) ~~Signature of applicant.~~
- (b) ~~Grading plans and drainage plans and calculations are not required for Planning Commission site plan review, but shall be required prior to issuance of any building permits. Such plans shall be prepared by a registered design professional licensed by the State of West Virginia, and as authorized by West Virginia State law; and shall also meet all applicable local, state and federal regulations.~~
- (c) ~~A complete list of the names and addresses of all property owners for parcels that are, in whole or in part, within 200 feet of any property line of the lot(s) to be developed. Such information shall be obtained from the Monongalia County Assessor's Office.~~
- (d) ~~Parking plan.~~
- (e) ~~Landscaping plan.~~
- (f) ~~Sign plan.~~
- (g) ~~Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Planning Commission site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Planning Commission by the applicant prior to site plan approval.~~
- (h) ~~Any other such information concerning the lot or neighboring lots as may be required by the Planning Director to determine conformance with, and provide for the enforcement of, this article; where deemed necessary, the~~

~~Planning Director may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.~~

(2) (D) For development which, in the opinion of the City Engineer, may create excessive negative impacts on traffic and/or dedicated City roadways, rights-of-way, or improvements in the immediate vicinity that serve the use, the City may require an analysis of the proposed development's impact on current or future traffic flows and/or dedicated City roadways, rights-of-way, or improvements, at the developer's expense, prepared by a qualified professional engineer. The Planning Commission may also table consideration of a development and refer such development to the City Engineer to ask his or her opinion as to whether a traffic impact study, transportation route plan, and/or transportation route protection agreement may be warranted.

(a) (1) Traffic Impact Study. If the traffic impact study indicates that the projected traffic impact of the use would result in a two (2) full letter grade decline in the existing Level of Service (e.g., going from a Level of Service B to a Level of Service D) of any dedicated City street directly serving the use, such finding may be considered sufficient grounds for denial of the project, or a requirement that sufficient improvements be made to said streets, at the developer's expense, or that the project be reduced in size and scope to the point where no such negative impact on the Level of Service results. Level of Service refers to the traffic grading system described in the latest edition of the Highway Capacity Manual, published by the Transportation Research Board.

(2) Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Planning Commission site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Planning Commission by the applicant prior to DSI site plan approval.

(b) (3) Transportation Route Plan. A transportation route plan shall include a map of routes and roads for equipment, supplies, chemicals or waste products used or produced by the development. The plan shall include a list of the length of all public roads that will be used for site ingress and egress to Morgantown corporate limits. The map shall also show the location of any areas within the City along the transportation route proposed for truck staging or storage related to the development's operations. The City may restrict the hours of operation of vehicles when the proposed transportation route passes through a designated school zone, heavily used roadways or

intersections, or along local residential streets. In the event of construction detours, roadway closure or roadway deterioration along an approved transportation route, the City Engineer may amend the approved transportation route plan.

(e) (4) Transportation Route Protection Agreement. For development which, in the opinion of the City Engineer may damage or create excessive deterioration to dedicated City roadways, rights-of-way, or improvements, the City may require a transportation route protection agreement. The agreement shall stipulate that the City roadways, rights-of-way, and improvements shall be maintained equal to or better than the original condition; stipulate any required major improvements and restrictions; stipulate the manner in which dirt, dust, mud and debris is to be controlled from leaving the development site; and, required bond.

(i) (a) For the purpose of this article, "Required Major Improvements" are those modifications to City roadways, rights-of-way, or improvements that are necessitated by the high volumes of heavy traffic anticipated for the development and may include but are not limited to sight distance improvements, signage, signalization, road widening, construction of new roadways, and acquisition of rights-of-way.

(ii) (b) For the purpose of this article, "Restrictions" are requirements directed at the protection of the vehicular and pedestrian traveling public, including but not limited to routing, pilot vehicles, hours of operation, etc.

(iii) (c) For the purpose of this article, "Anticipated Damage" is the added potential stress placed on City roadways, rights-of-way, or improvements due to increased continuous use by heavy vehicles.

(iv) (d) The approved route(s) shall be filmed before commencement of development.

(v) (e) The person in charge of the development site shall provide a 24 hour point-of-contact for use by the City Engineer.

(vi) (f) Bond. A bond or similar surety acceptable to the City shall be based on the degree of anticipated damage to City roadways, rights-of-way, or improvements up to the following maximum amounts:

\$100,000	Paved Mile
\$ 35,000	Tar and Chipped Mile
\$ 25,000	Graveled Mile

(3) (E) Emergency Action Response Plan. For development that involves the use and/or storage of large volumes of highly flammable, toxic matter, or explosive materials, the City may require an emergency action response plan. A emergency action response plan shall, at a minimum:

- ~~(a)~~ (1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.
- ~~(b)~~ (2) Establish written procedures to minimize any hazard resulting from highly flammable, toxic matter, or explosive materials.
- ~~(c)~~ (3) Identify and describe specific measures of how existing best practices will be managed and maintained regarding protection of the public and how practices are consistent with applicable federal, state, and local laws and regulations.
- ~~(d)~~ (4) Be kept current with any additions, modifications, and/or amendments concerning all related activities including construction, facility upgrades, and processes and production associated with the use of highly flammable, toxic matter or explosive materials. Updated plans shall be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency within five (5) business days after any additions, modifications, and/or amendments to said plan.
- ~~(e)~~ (5) Be kept on site, including updated plans.
- ~~(f)~~ (6) Provide for:
 - ~~(i)~~ (a) Prompt and effective response by the person in charge of the development site to emergencies regarding leaks or releases that can affect public health, safety, and welfare; fire or explosions; and natural disasters and severe weather.
 - ~~(ii)~~ (b) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency.
 - ~~(iii)~~ (c) The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency.
 - ~~(iv)~~ (d) Measures to be taken to reduce public exposure to injury.
 - ~~(v)~~ (e) Emergency shutdown of highly flammable, toxic matter or explosive materials and related site.
 - ~~(vi)~~ (f) The safe restoration of service and operations following an emergency or incident.
 - ~~(vii)~~ (g) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
 - ~~(viii)~~ (h) An emergency notifications page that indicates all emergencies must be reported to MECCA 9-1-1.
 - ~~(ix)~~ (i) Drive-to-maps from public rights-of-way to the development site.

- (4) (F) Hazardous Materials Management Plan. For development that involves the use, storage, or generation of hazardous materials and wastes, the City may require a hazardous materials management plan. A hazardous materials management plan shall, at a minimum:
- (a) (1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.
 - (b) (2) Include contact information for the owner, onsite manager, property manager, environmental manager, and tenants.
 - (c) (3) Include operations information that includes but is not limited to the total number of employees and hours of operation for each day of the week; public access and whether it restricted or unrestricted; and, hazardous-waste generator.
 - (d) (4) Include a site and facilities plan that includes but is not limited to floor layout with uses; hazardous materials storage areas and containers with methods of secondary containment; interior (floor drain) and exterior (stormwater) drainage systems with locations of connections to public sanitary and stormwater systems.
 - (e) (5) Include and maintain an inventory of all hazardous materials and wastes used, stored, or generated by the development.
 - (f) (6) Identify and describe specific measures of how existing best practices will be managed and maintained for the proper use, storage, disposal of hazardous materials and wastes; prevent pollution; reduce the risk of spills; how practices are consistent with applicable federal, state, and local laws and regulations.
 - (g) (7) Include a spill contingency plan responding to spills of hazardous materials and/or wastes that includes but is not limited to emergency contacts; spill response procedures including cleanup protocol, supplies, equipment disposal; and employee training.
- (5) (G) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
- (6) (H) The Planning Department shall send written notification to property owners within 200 feet of any property line of the development of the time, date and location of the Planning Commission meeting at which the project will be considered.
- (7) (I) The Planning Director may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Planning Director, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to ensure that a structure is placed on his property according to his approved site plan (zoning review) and as required by any applicable City

ordinance.

~~(8)~~ (J) Site plans approved by the Planning Commission authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit based upon site plans given approval by the Planning Commission shall not prevent the Planning Director from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

~~(9)~~ (K) One copy of the site plan submitted for a permit to the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his/her signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

~~(10)~~ (L) Electronic Submittal of Final Plans and Other Documents. Final plans or other documents required to be submitted under the Type III Site Plan review that will be archived must be submitted in an electronic format specified by the Planning Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The Planning Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary for archiving purposes.

~~(B)~~ Planning Commission Review of Major Developments of Significant Impact of a Regional Scale. The review process shall be identical to that for Developments of Significant Impact, except as otherwise noted in the plan submission requirements listed below.

~~Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers, large scale residential developments, heavy industry, heavy manufacturing, and extractive industry. All applications for a Major Development of Significant Impact shall be accompanied by a site plan submitted under the seal and signature of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the City Engineer. Eighteen (18) copies of the site plans shall be submitted for review and shall observe the following format:~~

~~(1) Sheet One (Title Sheet). The following information shall be submitted as part of Sheet One:~~

- (a) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references;
 - (b) Name of the project;
 - (c) Name and address of the owner, developer, and person who prepared the plans;
 - (d) Total acreage within the project and the number of residential dwelling units or the gross square footage of non-residential buildings whichever is applicable;
 - (e) Existing zoning of the subject land and all adjacent lands;
 - (f) Boundary lines of adjacent tracts of land, showing owners of record;
 - (g) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located;
 - (h) A statement of the proposed uses, stating the type and size of residential and non-residential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population;
 - (i) Any existing or proposed covenants and restrictions affecting property owners and/or homeowners associations; and
 - (j) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.
- (2) **Sheet Two (Existing Site Conditions).** The following information shall be submitted as part of Sheet Two:
- (a) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the approved regional transportation plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development;
 - (b) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;
 - (c) Existing contours based in U.S.G.S. datum with intervals of not more than two (2) feet. Elevations shall be based on sea level datum; and

- (d) ~~The water elevation at the date of the survey of rivers, lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such rivers, lakes, streams, or designated wetlands. The plan shall also show the boundary line of the regulatory 100-year flood. The plan shall also show the base flood elevation of the regulatory 100-year flood at any building location along with the elevation of the lowest finished floor. All elevations shall be based on sea level datum;~~
- (3) ~~Sheet Three (Proposed Site Conditions). The following information shall be submitted as part of Sheet Three:~~
- (a) ~~Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights of way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty five (625) feet for extractive industry development;~~
 - (b) ~~Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;~~
 - (c) ~~Water Supply Plan. For development that involves the use of water at higher volumes than customarily associated with nonindustrial-type development, the City may require, in coordination with the Morgantown Utility Board, a water supply plan. A water supply plan must include at least the identification of the water source(s); the development and use of freshwater impoundments, if applicable; when and where water withdrawals will occur; necessary operational water volumes; potential competing water users; and, cumulative impact of the development's water consumption to the public water system, watersheds and/or groundwater.~~
 - (d) ~~Building setback lines, showing dimensions;~~
 - (e) ~~Full description and details, including engineering calculations, for provision of storm water drainage plans and facilities, as required by the City's stormwater management ordinance;~~
 - (f) ~~Internal and perimeter sidewalk system/pedestrian circulation plan; and~~
 - (g) ~~Proposed contours with intervals of not more than two (2) feet. The plan shall also show the contour line for the floodway fringe boundary.~~
 - (h) ~~Show the location and detail plans for all trash dumpsters.~~
- (4) ~~Sheet Four (Erosion Control Plan). The following information shall be submitted as~~

part of Sheet Four and shall be reviewed prior to issuance of a building permit:

- (a) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project;
- (b) Proposed contours with intervals of not more than two (2) feet.
- (c) Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, and springs, and the total acreage of land that will be disturbed.
- (d) The direction of drainage flow and the approximate grade of all existing or proposed streets.
- (e) Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains.
- (f) A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site.
- (g) Measures for soil erosion and sediment control which must meet or exceed the methods and standards adopted by the City of Morgantown, the Morgantown Utility Board, and by the West Virginia Department of Natural Resources (as set forth in the West Virginia Handbook For Erosion Control in Developing Areas) and which must comply with the design principles, performance standards, and requirements set forth in this chapter.
- (h) A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be disturbed during each stage, the anticipated starting and completion dates, and a schedule for the maintenance of such measures.
- (i) Include the following notes on the sheet:
 - (i) "All erosion control practices shall be in accordance with the WVDNR "West Virginia Handbook For Erosion Control In Developing Areas" dated October 1992 and the SCS "Field Office Technical Guide."
 - (ii) "The City Engineer has the right to require additional erosion control

measures in the field as conditions warrant."

- (j) Copies of the letter of intent and response from the Monongalia County Soil and Water Conservation District office for compliance, when required.
 - (k) Any other information reasonably required by the Planning Commission or Planning Director to properly evaluate the plan.
- (5) ~~Sheet Five (Landscape Plan). A landscape plan prepared to the standards specified in this zoning ordinance.~~
- (6) ~~Sheet Six (Plat-like dedication sheet, if necessary). The following information shall be submitted as part of Sheet Five if a plat-like dedication document for easements and rights-of-way is deemed necessary by the Planning Commission or its authorized designee:~~
- (a) ~~Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;~~
 - (b) ~~Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs, chord, and chord bearings; and~~
 - (c) ~~Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.~~
- (7) ~~All sheets shall contain the following information:~~
- (a) ~~The proposed name by which the project shall be legally and commonly known;~~
 - (b) ~~Date of survey, scale, and north point;~~
 - (c) ~~All lots or outlets intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes;~~
 - (d) ~~Private parks, common areas, or excluded parcels shall be designated as such and clearly labeled on the plans;~~
 - (e) ~~A traffic impact study, if required by the City Engineer;~~
 - (f) ~~Such other information as may be deemed necessary for proper review of the site plan by the Planning Director, City Engineer, or Planning Commission;~~
 - (g) ~~All necessary reference points tying the subject property to the appropriate section corners;~~
 - (h) ~~Each sheet shall be sealed and signed by the professional preparing the drawings;~~
 - (i) ~~All sheets shall be tied to state plane coordinates for horizontal and vertical controls;~~

- ~~(j) Names and addresses of the parties within 200 feet of the property; and,~~
- ~~(k) The applicant must provide self-addressed stamped envelopes in sufficient quantities to provide notification to the parties identified in the item above. Return address is not required.~~

1385.09 TYPE IV: BZA REVIEW OF CONDITIONAL USE PERMITS.

(A) All applications for a Conditional Use Permit shall be accompanied by the following:

- (1) A site plan (~~8~~ 3 copies), drawn to scale, that includes the following:
 - (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.
 - (b) The exact sizes and locations on the lot of existing structures, if any.
 - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) or and/or alteration(s).
 - (d) The location of the lot with respect to adjacent rights-of-way.
 - (e) The existing and proposed uses of the structure(s) and land.
 - (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate.
 - (g) The location and dimensions of off-street parking and means of ingress and egress for such space.
 - (h) Height of all structure(s).
 - (i) Setbacks.
 - (j) Buffer yard and screening, if applicable.
 - (k) Location of garbage collection area and screening.
 - (l) Location of existing and/or proposed signage.
 - (m) Roadway typical detail for internal roadways, if applicable.
 - ~~(n) Location and size of stormwater management facilities.~~
 - ~~(o) Utility lines and easements.~~
 - ~~(p) Grading Plan.~~
 - ~~(q) Erosion and Sediment Control Plan.~~
- ~~(r) (n) Signature of applicant.~~
- ~~(2) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer, with floodplain zones clearly denoted, and design details of all drainage facilities.~~

- ~~(3)~~ If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law and that meet the requirements of this article and the City's stormwater management ordinance and all other applicable local, state and federal regulations.
 - (4) (2) Parking plan, if applicable.
 - ~~(5)~~ (3) Preliminary Landscaping plan, if applicable.
 - ~~(6)~~ Sign plan.
 - ~~(7)~~ (4) ~~Approved WV Division of Highways Access Permit, if applicable.~~ Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Board of Zoning Appeals conditional use site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Board of Zoning Appeals by the applicant prior to conditional use site plan approval.
 - ~~(8)~~ Approved State of West Virginia NPDES General Permit for Stormwater Associated with Industrial (Construction) Activity, if applicable.
 - ~~(9)~~ (5) A traffic impact study, if required by the City Engineer.
 - ~~(10)~~ (6) Any other such information concerning the lot or neighboring lots as may be required by the Planning Director to determine conformance with, and provide for the enforcement of, this article; where deemed necessary, the Planning Director may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.
- (B) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
- (C) The Planning Director may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Planning Director, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to ensure that a structure is placed on his property according to his approved site plan (zoning review) and as required by any applicable City ordinance.
- (D) Site plans approved by the Board of Zoning Appeals may authorize the use, arrangement, and construction set forth in such approved site plans. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the

provisions of this article. The issuance of a building permit based upon site plans given approval by the Board of Zoning Appeals shall not prevent the Planning Director from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

- (E) One copy of the site plan submitted for a permit as required in subsection (C) above for the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

1385.10 OTHER REQUIRED SUBMITTALS.

The Applicant shall be required to submit written documentation of the following, when applicable and/or required:

- (A) Utility encroachment approvals;;
- (B) Other local, state, and federal approvals, including other City boards, commissions, or departments;;
- (C) Inspection and testing agreements with the Engineering Department;;
- (D) Outside reviews as required by the City;;
- (E) Easements and rights-of-ways not on a plat-like document shall be submitted in the form prescribed by the Engineering Department and include both a full legal description and a drawing exhibit; and;
- (F) Traffic impact study.
- (G) Erosion and Sediment Control Plan. Prior to the issuance of any permit authorizing any work relating to grading, grubbing, stripping, etc. as defined and regulated by City Code Article 1741 "Grading Requirements" and/or City Code Article 929 "Stormwater Management and Surface Water Discharge Control," an Erosion and Sediment (E&S) Control Plan must be submitted, reviewed, and approved by the City Engineer and the Morgantown Utility Board (MUB). All control plan documents and design details and all measures for soil erosion and sediment control and sequencing of installation must meet or exceed current methods and standards adopted by the City of Morgantown, the Morgantown Utility Board (MUB), and the West Virginia Department of Natural Resources (WVDNR). The City Engineer and/or the Morgantown Utility Board (MUB) has the right to require additional erosion control measures in the field as conditions warrant.

1385.11 RESUBMITTAL OF PLANS.

Submit ~~five (5)~~ three (3) complete full-scale sets of the final, revised plans showing conditions required by the Board of Zoning Appeals and/or the Planning Commission.

1385.12 REJECTION STATEMENT.

- (A) The Planning Director may reject any submittal for the following reasons:
 - (1) Incomplete application;
 - (2) The drawing set or supporting documents not complete; or
 - (3) Poor legibility.
- (B) After the review of an approved submittal, the Planning Director shall render a decision in writing, which decision shall consist of either:
 - (1) Approval of the site plan based upon the determination that the proposed plan complies with the general, design and performance standards set forth in this article;
 - (2) Disapproval of the site plan based upon the determination that the proposed project does not meet the general, design and performance standards set forth in this article;
 - (3) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Planning Director which will ensure that the project meets the general, design and performance standards set forth in this article.

1385.13 DEVIATION FROM THE APPROVED SITE PLAN AND ADDITIONS TO EXISTING STRUCTURES.

- (A) If the installation of the elements on the site plan materially deviate from the approved site plan (as determined by the Planning Director or City Engineer), the site plan shall be resubmitted to the Commission or Board for a new site plan approval in accordance with the procedures and requirements for site plan approval. For purposes of this section, material deviation is one that:
 - (1) Adds, removes, or reconfigures an internal street or relocates an access point;
 - (2) Affects a condition of site plan approval that was established by the Commission or Board during the site plan approval stage;
 - (3) Reduces the area devoted to open spaces or buffer landscaping;
 - (4) Involves the enlargement of a nonresidential building footprint on the site due to future additions that are more than ten percent (10%) of the gross floor area or 5,000 square feet, whichever is less.
- (B) Minor changes that do not constitute material deviation shall be reviewed and approved by the City Planning and Engineering staff.

1385.14 RECORD DRAWINGS AND CERTIFICATE OF COMPLETION AND COMPLIANCE.

Where applicable, the developer or owner shall cause record drawings to be prepared and submitted to the Planning Director for all streets, drainage ditches and facilities, utility pipes and structures, and finished grade elevations for the project. Said record drawings shall be filed with the Planning Director prior to the release of any performance assurances. Record drawings,

including the approved final plat shall be submitted in electronic format and in paper format, in a manner prescribed by the City Engineer.

- (A) General Requirements: Plans are to contain a certification statement that the improvements have been installed in reasonable compliance with the original design plans with respect to horizontal locations and grades and any deviations of locations, grade or material used are shown in these record drawings. Said certification is to be sealed and signed.
- (B) Specific Requirements:
 - (1) Grading or Development Plan(s)
 - Grades:
 - (a) Major drainage swales and percents of slope;
 - (b) Pad grades;
 - (c) Street grades;
 - (i) Centerline and curb if street is bituminous pavement with concrete curb. Centerline only if streets are concrete and placed with electronic control. (Maximum 50 ft. spacing)
 - (ii) All sag and crest points.
 - (d) Paved swales, if any, at 50 ft. intervals;
 - (e) Lake or pond if applicable;
 - (f) Locations of sidewalk ramps.
 - (2) Plan and Profiles.
 - (a) Sanitary Sewers:
 - (i) Invert elevations and percents of slope;
 - (ii) Top of casting elevations;
 - (iii) Lateral locations based on distances along main from manholes;
 - (iv) Locations of each manhole or structure (to make sure they are sufficiently within designated easements to permit future excavation to system if needed);
 - (v) Designate any material change from design plans; where plans show any alternatives, indicate alternative actually used.
 - (b) Storm Sewers:
 - (i) Invert elevations and percents of slope;
 - (ii) Top of casting elevations;
 - (iii) Location of pipe and structures (to make sure they are within designated easements);

- (iv) Designate any material change from design plans; where plans show any alternatives, indicate alternate actually used.
- (c) Streets:
 - (i) Grades;
 - (ii) All low and high points;
 - (iii) All percents of slope;
 - (iv) Any deviation of alignment;
 - (v) Grades and dimensions on acceleration and deceleration lanes if applicable.

1385.15 EXPIRATION DEADLINES.

- (A) Approval of site plans shall expire two years from the date of approval if the project has not been completed. The Planning Commission or the Board of Zoning Appeals, at its discretion, may grant extensions for a period up to two years.
- (B) Bonded improvements must be completed within two years of issuance of land alteration permit.
- (C) Request for extension must be submitted in writing stating the justification for the extension.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLE 1329.02 OF THE PLANNING AND ZONING CODE AS IT RELATES TO THE DEFINITIONS OF TERMS THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."

The City of Morgantown hereby ordains that Article 1329.02 "Definition of Terms" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

Article 1329

Definitions

1329.02 DEFINITION OF TERMS.

For the purpose of this ordinance, the following words and phrases shall have the meaning respectively prescribed to them by this section. If not defined herein, or within other sections of this ordinance, terms used in this ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director.

~~DEVELOPMENT OF SIGNIFICANT IMPACT and MAJOR DEVELOPMENT OF SIGNIFICANT IMPACT~~ – Any proposed development whose characteristics warrant a more in-depth review by the Planning Commission in order to mitigate the negative impact these characteristics may have on surrounding land uses in particular and on the surrounding neighborhood in general. Developments of Significant Impact (DSI) are those that have a Citywide or regional impact. Such impacts could involve the transportation network, environmental features such as parks or stream corridor, local schools, etc. Such developments could include large-scale residential, commercial, or mixed-use developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.

~~Developments of Significant Impact are those that have a neighborhood or citywide impact. Such impacts would involve the transportation network, environmental features such as parks or corridor streams, and local schools.~~

~~Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers and large-scale residential developments.~~

Any proposed residential or non-residential development which meets or exceeds any of the following criteria shall be determined to be a Development of Significant Impact (DSI) and will require a complete development plan to be submitted and reviewed by planning staff and the Planning Commission:

Land Use Category	Development of Significant Impact	Major Development of Significant Impact
Residential	12 to 99 dwelling units	100 or more dwelling units
Commercial	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Office/Institutional	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Industrial	0 to 99,999 square feet of gross floor area	100,000 or more square feet of gross floor area
Mixed Use	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area

Land Use Category / District	Development of Significant Impact
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 15,000 square feet or more of gross floor area or a site of 2 acres or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 15,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, 2 acres or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>
<u>Development in the B-4 District:</u>	
<u>All Land Use Categories</u>	<u>New construction of a principal structure, regardless of land use category or net acreage of the site.</u>
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 10,000 square feet or more of gross floor area or a site of one-half (1/2) acre or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 10,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, one-half (1/2) acre or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>

~~MIXED-USE DEVELOPMENT – A single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas, but not a mixed use dwelling as defined in this Ordinance. Specifically, the development or use of a tract of land or building(s) or structure(s) containing both residential and non-residential uses. Generally, mixed-use development patterns are planned as a unified complementary whole, that are functionally integrated, and encourage a diversity of compatible land uses.~~

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."

The City of Morgantown hereby ordains that Article 1331.06(32) "Supplemental Regulations Pertaining to Permitted Land Uses Table" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE

(32) HEAVY INDUSTRY and HEAVY MANUFACTURING uses are considered Major Developments of Significant Impact, regardless of gross floor or land area, of a Regional Scale for the purpose of site plan review and approval.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLE 1349.08 OF THE PLANNING AND ZONING CODE AS IT RELATES TO PARKING AND LOADING STANDARDS IN THE B-4, GENERAL BUSINESS DISTRICT THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."

The City of Morgantown hereby ordains that Article 1349.08 "Parking and Loading Standards" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

1349.08 PARKING AND LOADING STANDARDS.

(A) Off-street parking shall be provided in accordance with Article 1365, Parking, Loading and Internal Roadways for all Developments of Significant Impact ~~and Major Developments of Significant Impact~~ within this district, unless otherwise restricted by Article 1362 B-4NPOD, B-4 Neighborhood Preservation Overlay District, except as follows:

- (1) Residential: Parking shall not be required for the first twenty-two (22) occupants, as determined by the West Virginia State Building Code and adopted and implemented by the City, within permitted residential development. With the exception of the first twenty-two (22) occupants, the minimum number of parking spaces for permitted residential uses shall be one-half a space (0.5) per occupant, as determined by the West Virginia State Building Code and adopted and implemented by the City.
- (2) Nonresidential: Parking shall not be required for permitted nonresidential uses and development with a gross floor area of less than 15,000 square feet ~~which does not meet or exceed the criteria of a Development of Significant Impact or a Major Development of Significant Impact~~. The minimum number of parking spaces for permitted nonresidential uses shall be provided in accordance with Table 1365.04.01 "Minimum Off-Street Parking Requirements" for that gross floor area that exceeds of 15,000 square feet and greater the criteria of a Development of Significant Impact or a Major Development of Significant Impact.
- (3) Movie Theaters, as defined in this Zoning Ordinance.
- (4) Reduction in Minimum Required Parking – The B-4 zoning district is characterized by businesses and mixed-uses that are well connected to pedestrian and public transit routes and are in close proximity to publicly provided parking facilities. In addition, the uses in the B-4 ~~d~~District are characterized by a mixture of primarily daytime and nighttime uses. For these reasons, the minimum parking requirements may be reduced somewhat in the B-4 ~~d~~District, as a conditional use, as provided in Section 1365.04 "Determining the Number of Spaces Required."
- (5) Fee In-Lieu-of Parking – RESERVED

(6) The Board of Zoning Appeals, with the recommendation of the Planning Commission, may permit as a conditional use alternate strategies (i.e. remote parking, etc.) to meet minimum off-street parking requirements provided the intent of this Ordinance is observed and substantial justice done.

(B) All on-site surface parking must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

(C) Bicycle Storage – For all Developments of Significant Impact and ~~Major Developments of Significant Impact~~ in this district, the following minimum bicycle storage amenities must be provided:

- (1) One (1) indoor, secured, sheltered bicycle storage space per dwelling unit.
- (2) Each space shall be a minimum of 3-feet X 6-feet X 4 feet.
- (3) Each bicycle shall be individually secured with a lock to a permanent structure.
- (4) There should be sufficient space for easy access to each bicycle.

(D) Loading – Residential uses containing thirty (30) or more dwelling units shall conform to the loading requirements set forth in Section 1365.10 as a “Type II Use” (see Table 1365.10.01).

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 1379.01 OF THE PLANNING AND ZONING CODE AS IT RELATES TO GENERAL PROVISIONS FOR CONDITIONAL USES THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."

The City of Morgantown hereby ordains that Article 1379.01(D) "General Provisions" of the City's Planning and Zoning Code concerning conditional uses is amended as follows (deleted matter struck through; new matter underlined):

Article 1379

Conditional Uses

1379.01 GENERAL PROVISIONS.

(D) Review. If a conditional use permit is required for any new use, the Planning Director and Board of Zoning Appeals will review the site plan in order to determine if the conditional use permit is warranted. If a conditional use permit meets the thresholds for a Development of Significant Impact (DSI) ~~or major DSI~~ as set forth in Section 1385.05, the reviewing authority will then be the Planning Commission and Board of Zoning Appeals.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk



MORGANTOWN PLANNING COMMISSION

March 12, 2015
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kaweck, City Council

STAFF REPORT SUPPLEMENT

CASE NO: TX15-01 / Administrative / Article 1385 Site Plan Review

REQUEST:

Administratively requested Zoning Text Amendment to Article 1385 of the Planning and Zoning Code as it relates to Site Plan Review.

BACKGROUND and ANALYSIS:

During the Planning Commission's 12 FEB 2015 hearing, Case No. TX15-01 was tabled so that a workshop could be scheduled to further study the proposed text amendments.

A workshop was duly called by Commission President DeMasters, noticed, and then held on 25 FEB 2015 at 5:30 PM in Council Chambers. In attendance were Commissioner's DeMasters, Pyles, Blosser, Kaweck, Loretta, Petros, and Shuman. Staff provided clarification for recommended text amendments and discussed alternate policy approaches to establishing thresholds for Planning Commission's review of development within the B-4 District.

Addendum A REVISED of this Staff Report Supplement represents modifications addressing Staff's understanding of comments, questions, and concerns raised by the Commissioner's attending the workshop.

To ensure the Planning Commission's record is complete, the Staff Report presented at the 12 FEB 2015 hearing is also attached.

STAFF RECOMMENDATION:

For the purposes of simplifying and enhancing the effectiveness of and providing more clarity in the development review process as desired by the 2013 Comprehensive Plan and to increase value-added public awareness and engagement of development in the downtown, Staff respectfully advises the Planning Commission to forward a favorable recommendation to City Council to amend the *Planning and Zoning Code* as presented in Addendum A REVISED of this report.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

December 11, 2014
6:30 PM
City Council Chambers

STAFF REPORT

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kawecky, City Council

CASE NO: TX15-01 / Administrative / Article 1385 Site Plan Review

REQUEST:

Administratively requested Zoning Text Amendment to Article 1385 of the Planning and Zoning Code as it relates to Site Plan Review.

BACKGROUND and ANALYSIS:

Prior to February 2004, the Planning Commission reviewed site plans for all developments, with the exception of one- and two-family dwellings. After several months of deliberation between City Administration, the Planning Commission, and City Council, Ordinance 04-04 was enacted creating a new threshold between site plans reviewed administratively and those reviewed by the Planning Commission.

Planning Commission reviewed "Developments of Significant Impact (DSI)" were established with the following thresholds:

- A. General commercial and/or office uses containing 15,000 square feet or more of gross floor area.
- B. Multi-family residential project containing 12 or more dwelling units.
- C. Industrial project of any size.

The related Staff Report dated 07 NOV 2003 (Exhibit 1) and Ordinance 04-04 (Exhibit 2) are attached hereto for historical context purposes.

With the major rewrite of the City's zoning regulations in 2006, developments requiring Planning Commission review became "Type III Site Plans" and included new two tiered application submission requirements.

Article 1329.02 provides the following definitions and threshold table that distinguishes the two tiers – "Developments of Significant Impact (DSI)" and "Major Developments of Significant Impact (MDSI)." These provisions are restated in Article 1385.

DEVELOPMENT OF SIGNIFICANT IMPACT and MAJOR DEVELOPMENT OF SIGNIFICANT IMPACT – Any proposed development whose characteristics warrant a more in-depth review by the Planning Commission in order to mitigate the negative impact these characteristics may have on surrounding land uses in particular and on the surrounding neighborhood in general.

Developments of Significant Impact are those that have a neighborhood or citywide impact. Such impacts would involve the transportation network, environmental features such as parks or corridor streams, and local schools.

Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers and large-scale residential developments.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

December 11, 2014
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kaweckki, City Council

Any proposed residential or non-residential development which meets or exceeds any of the following criteria shall be determined to be a Development of Significant Impact and will require a complete development plan to be submitted and reviewed by planning staff and the Planning Commission:

Land Use Category	Development of Significant Impact	Major Development of Significant Impact
Residential	12 to 99 dwelling units	100 or more dwelling units
Commercial	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Office/Institutional	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Industrial	0 to 99,999 square feet of gross floor area	100,000 or more square feet of gross floor area
Mixed Use	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area

Issue 1

When carefully studying and comparing Article 1385.08(A) and Article 1385.08(B), one sees that the only difference between DSI and MDSI site plan submission requirements are the very prescriptive MDSI standards for preparing and presenting site plan drawings. Further, there is no significant distinction in what type of information must be submitted nor are there any variations in the Planning Commission's DSI or MDSI review in terms of decision making aided standards, measures, or procedures. In other words, the two (2) Type III Site Plan tiers do not appear to bring value or consequence to the application or review process.

The 2013 Comprehensive Plan provides the following objective and strategies under Land Management (see Page 53 of the Plan):

Objective 7. Monitor and improve the effectiveness of the development regulation and the development process.

Strategy LM 7.4. Simplify the development review and minor subdivision and approval process.

If there is no apparent distinction between a DSI or MDSI, save the subjective scale of development between the two tiers, than enhancing simplification and effectiveness of the application process is not only justified but desired under the Comprehensive Plan.

Issue 2

The 2006 standards introduced a new "Mixed Use" land use category based on gross floor area. However, Article 1329.02 defines "Mixed-Use Development" as:

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

December 11, 2014
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kaweckı, City Council

A single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas, but not a mixed use dwelling as defined in this Ordinance."

The administrative interpretation of the definition of "mixed-use development" and its operation in determining site plan review thresholds under the "mixed-use" land use category provided in the table above was a matter of a recent administrative appeal before the Board of Zoning Appeals. After a long and careful deliberation, the Board decided that the "mixed-use" land use category must include developments that are one building containing "mixed-use dwellings."

The zoning regulations should be amended to reflect the Board's decision and provide clarity in determining site plan review thresholds in the future.

Issue 3

Several recent developments within the downtown have raised concerns in the community that the Planning Commission's review of site plans in the B-4 District should be expanded to ensure public notification, awareness, and participation in the decision making process. The Planning Commission held a workshop in March 2014 and discussed several public policy alternatives. It appears prudent that this issue be folded into zoning text amendments that address the two (2) issues above.

STAFF RECOMMENDATION:

For the purposes of simplifying and enhancing the effectiveness of and providing more clarity in the development review process as desired by the 2013 Comprehensive Plan and to increase value-added public awareness and engagement of development in the downtown, Staff respectfully advises the Planning Commission to forward a favorable recommendation to City Council to amend the Planning and Zoning Code as presented in Addendum A of this report.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

