



MORGANTOWN BOARD OF ZONING APPEALS

May 7, 2015
6:30 PM
Council Chambers

Board Members:

Leanne Cardoso, Chair
Bill Burton, Vice-Chair
Linda Herbst
George Papandreas
Jim Shaffer

COMBINED STAFF REPORT

CASE NO: BA15-01 / Central Place, LLC / 494 Spruce Street
BA15-02 / Central Place, LLC / 494 Spruce Street

REQUEST and LOCATION:

Requests by Attorney Bryan Edwards, on behalf of Central Place, LLC, for two (2) Administrative Appeals related to Case No. S15-03-III that was presented to the Planning Commission on March 12, 2015.

AUTHORITY

Article 1383.01 "Authority" of the City's Planning and Zoning Code states the following:

1383.01 AUTHORITY.

The Board of Zoning Appeals shall hear and determine appeals from any order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of this Zoning Ordinance.

When reviewing and approving or denying Type III Site Plan applications, the Planning Commission is the administrative board charged with the enforcement of the City's Zoning Ordinance as provided under Article 1385.04 and Article 1385.05(B) [see Addendum A, Exhibit 1].

As such, the information provided to the Planning Commission in the Staff Report for S15-03-III was not a decision by the body charged with enforcement of the Zoning Ordinance. The enforcement decision was made by the Planning Commission when it approved the site plan. The Staff Report is not a determination that can be appealed to the Board of Zoning Appeals.

If the Board agrees and determines that its authority in the present matter is limited to the Planning Commission's approval of the Type III Site Plan for a Major Development of Significant Impact, then the petitioner's five (5) allegations in the Administrative Appeal Application under Case No. BA15-01 should not be considered and no further action taken by the Board. Specifically, the Board can move forward in considering the petitioner's second and separate Administrative Appeal Application under Case No. BA15-02. The same five (5) allegations are identically reproduced in the Administrative Appeal filed in Case No. BA15-02, and two (2) additional allegations are added in that case.

Should the Board disagree with Staff's recommendation and determine that it has authority to review the petitioner's Administrative Appeal Application under Case No. BA15-01, then Staff submits the following answers to the petitioner's first five (5) allegations.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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BA15-01 ALLEGATIONS

Staff submits the following answers to the petitioner's five (5) allegations filed under Case No. BA15-01.

RESPONSE TO ALLEGATION No. A:

Required Number of Parking Spaces

The Planning Division denies the petitioner's allegation that the application for the proposed development does not have the required number of parking spaces. The petitioner erroneously argues that Table 1365.04.01 of the Zoning Ordinance is the only standard that regulates minimum parking for the subject development.

In the B-4 District where the site is located, parking standards are modified by Article 1349.08. Specifically, Article 1349.08 supersedes Article 1365.04(J) and Table 1365.04.01 "Minimum Off-Street Parking Requirements" when determining minimum off-street parking requirements within the B-4 District [see Addendum A, Exhibit 2]. Additionally, Article 1349.08 categorizes off-street parking requirements into residential, nonresidential, and movie theater land use components.

The subject development will include 331 occupants (residential use). The correct minimum parking calculation for the residential component of the development, as set forth under Article 1349.08(A)(1), is $[(331 - 22) * 0.5] = 155$ parking spaces.

Because the nonresidential component of the development is less than the nonresidential use criteria of a Development of Significant Impact or a Major Development of Significant Impact, parking is not required for the 7,649 square feet of nonresidential space; 3,435 square feet of which is leasable commercial/retail space.

Therefore, the total number of required off-street parking for the subject development is 155 parking stalls. The plans reviewed and approved by the Planning Commission on 12 MAR 2015 include 157 parking stalls.

Staff recommends that the Board, based on the findings of fact and conclusions of law presented herein, uphold the Planning Division's interpretation outlined in the Staff Report that was presented to the Planning Commission on 12 MAR 2015 and the Planning Commission's 12 MAR 2015 approval of the subject site plan as the same relate to the subject development's minimum parking requirement.

RESPONSE TO ALLEGATION No. B:

Distance of driveway curb cut on Willey Street to another driveway curb cut

The Planning Division denies the petitioner's allegation that the separation between the proposed Willey Street driveway curb cut and another driveway curb cut is closer than the minimum related standard.

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Article 1351.01(D), in part, establishes minimum distances between new driveway curb cuts and adjoining driveway curb cuts [see Addendum A, Exhibit 3].

The relevant Zoning Ordinance section is 1351.01(D) [emphasis added]:

“No part of a driveway **leading from** a public street shall be nearer than thirty-five (35) feet to the street right-of-way line of any intersecting street, nor nearer than thirty (30) feet to the end of a curb radius at an intersecting street, nor shall the driveway be nearer than thirty (30) feet to any other part of another driveway **entering a public street.**”

Planning Staff and the Planning Commission are required to rely on the plans submitted for review in the site plan review process to determine required measurements.

The distance of the proposed Willey Street driveway curb cut from the driveway curb cut for the Central Place, LLC development is approximately thirty-eight (38) feet as shown on Sheet 3B of the plans submitted and reviewed by the Planning Commission, which exceeds the required separation of thirty (30) feet.

The Board should note that the required separation is measured from the portion of driveways that enter onto (or lead from) a public street, which are the tangents of the respective curb cut flares and the curb line. Other portions of a driveway within a property are not regulated by this Zoning Ordinance section. Separation between driveway curb cuts onto the street promotes the traffic flow and safety this Zoning Ordinance section intends to preserve.

Staff recommends that the Board, based on the findings of fact and conclusions of law presented herein, uphold the Planning Division’s interpretation outlined in the Staff Report that was presented to the Planning Commission on 12 MAR 2015 and the Planning Commission’s 12 MAR 2015 approval of the subject site plan as the same relate to the distance between the proposed Willey Street driveway curb cut and the driveway curb cut for the Central Place, LLC development.

RESPONSE TO ALLEGATION No. C:

Distance of driveway curb cut on Spruce Street to an intersecting street

The Planning Division denies the petitioner’s allegation that the separation between the proposed Spruce Street driveway curb cut and an intersecting street is closer than minimum related standards.

Article 1351.01(D), in part, establishes minimum distances between new driveway curb cuts and the right-of-way line and the curb radius of an intersecting street [see Addendum A, Exhibit 3].

Again, the relevant Zoning Ordinance section is 1351.01(D) [emphasis added]:

“No part of a driveway **leading from** a public street shall be nearer than thirty-five (35) feet to the street right-of-way line of any intersecting street, nor nearer than thirty (30) feet to the end of a curb radius at an intersecting street, nor shall the driveway be nearer than thirty (30) feet to any other part of another driveway **entering a public street.**”

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Planning Staff and the Planning Commission are required to rely on the plans submitted for review in the site plan review process to determine required measurements.

The distance of the proposed Spruce Street driveway curb cut from the right-of-way line of Willey Street is approximately sixty-one (61) feet as shown on Sheet 3B of the plans submitted and reviewed by the Planning Commission, which exceeds the required separation of thirty-five (35) feet. This distance is measured from the tangent of the Spruce Street driveway curb cut flare and curb line to the extension of the Willey Street right-of-way line.

The distance of the proposed Spruce Street driveway curb cut from the radius of the intersecting Willey Street is thirty (30) feet as shown on Sheet 3B of the plans submitted and reviewed by the Planning Commission, which meets the required separation of thirty (30) feet. This distance is measured from the tangent of the Spruce Street driveway curb cut flare and curb line to the tangent of the curb radius of the intersecting Willey Street.

The distance of the proposed driveway shown on the plans submitted from any other potential or existing driveway meets or exceeds the required separation from curb radii and street rights-of-way.

The Board should note that separation between a driveway curb cut onto the street and an intersecting street promotes the traffic flow and safety this Zoning Ordinance section intends to preserve.

Staff recommends that the Board, based on the findings of fact and conclusions of law presented herein, uphold the Planning Division's interpretation outlined in the Staff Report that was presented to the Planning Commission on 12 MAR 2015 and the Planning Commission's 12 MAR 2015 approval of the subject site plan as the same relate to the distance between the proposed Spruce Street driveway curb cut and an intersecting street.

RESPONSE TO ALLEGATION No. D:

Traffic Study

The Planning Division denies the petitioner's allegation that the subject site plan application should have been rejected based on the absence of a new traffic impact study.

A traffic impact study is only submitted in the discretion of City Administration (based on the opinion of the City Engineer) under Article 1385.08(A)(2), for plan review of either Developments of Significant Impact or Major Developments of Significant Impact [see Addendum A, Exhibit 4]. Any decision to deny or modify a site plan based on the traffic impact study is permissive in the Commission. However, the Commission is never required to consider a traffic impact study or deny a proposed development based on a traffic impact study.

Article 1385.08(A)(2)(a) provides that if a 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

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Level of Service (LOS) of any dedicated City street directly serving the use, such finding *may* be considered sufficient grounds for denial of the site plan or improvements made or the development reduced in size and scope. Key considerations for the Board to note are:

1. The subject Traffic Impact Study prepared by Gannett Fleming in May 2014 and updated in August 2014 concluded that there would be no degradation of LOS as a result of anticipated traffic from the subject development compared to the no-build condition.
2. Even if the subject study indicated that a Level of Service decline of two (2) full letter grades would result from the use, the Planning Commission would not have been compelled to deny the site plan.

The Planning Division denies the petitioner's allegation that the traffic impact study did not correctly account for all the development's trip-generating uses.

The subject Traffic Impact Study prepared by Gannett Fleming in May 2014 and then updated in August 2014 corresponds to the trip-generating space in the site plan. The CA Living MDSI application illustrates 3,435 square feet of trip-generating leasable retail/commercial space. The subject study and update accounted for 3,500 square feet of trip generating retail/commercial space.

The West Virginia Department of Transportation, Division of Highways, and Morgantown's City Engineer, determined the traffic impact study was appropriate for use in this site plan review, and those determinations were provided to the Planning Commission [see Addendum A, Exhibit 5].

The petitioner fails to distinguish retail/commercial space that will generate traffic from nonresidential space that will be used for resident common areas and administrative activity.

Staff recommends that the Board, based on the findings of fact and conclusions of law presented herein, uphold the Planning Division's interpretation outlined in the Staff Report that was presented to the Planning Commission on 12 MAR 2015 and the Planning Commission's 12 MAR 2015 approval of the subject site plan as the same relate to the subject traffic impact study.

RESPONSE TO ALLEGATION No. E:

Construction staging or storage

The Planning Division denies the petitioner's allegation that the subject site plan application should have been rejected based on whether or not the availability of space exists for construction staging and storage.

The availability of space for construction staging and storage is not one of the criteria evaluated by the Planning Commission in site plan reviews, and the Commission is not authorized to deny a development application because it believes there is inadequate room for construction.

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Any street closure for construction is outside the scope of the Commission's site plan review.

In this instance and because Spruce Street and Willey Street are a part of the State Highway System, temporary closure and/or temporary use of the public right-of-way would only be permitted with the approval of the West Virginia Division of Highways (WVDOH).

Further, the issuance of a building permit for the subject development would be conditioned upon an approved agreement or permit from WVDOH for access, use, impact, and improvements to Spruce Street and/or Willey Street.

The Planning Commission has the right and the duty to approve site plans that meet the established review criteria – without regard to hypothetical construction issues. The West Virginia State Code provision cited by the Administrative Appeal is inapplicable to site plan review and approval. The Commission's approval of the site plan does not purport to grant authority to illegally enter upon or construct works in a state road.

Staff recommends that the Board, based on the findings of fact and conclusions of law presented herein, determines that the petitioner's allegations concerning the availability of space for construction staging and storage is without merit and that the Planning Division and the Planning Commission do not have the authority to deny a site plan as purported and alleged by the petitioner.

BA15-02 ALLEGATIONS

Staff submits the following answers to the petitioner's two (2) additional allegations filed under Case No. BA15-02.

RESPONSE TO ALLEGATION No. F:

Building height and the Comprehensive Plan

The Planning Division denies the petitioner's allegation that building height provisions contained within the 2013 Comprehensive Plan are mandatory and reminds the Board that it has already considered and rejected this allegation by the same petitioner for the same site design in its 15 OCT 2014 decision under Case No. BA14-03 [see Addendum A, Exhibit 6].

The purpose of a comprehensive plan is clearly stated in West Virginia State Code §8A-3-1, which reads as follows (*emphasis added*):

- (a) The general purpose of a comprehensive plan is to **guide** a governing body to accomplish a coordinated and compatible development of land and improvements within its territorial jurisdiction, in accordance with present and future needs and resources.
- (b) A comprehensive plan is a process through which citizen participation and thorough analysis are used to develop a set of strategies that establish as clearly and practically as possible the best and most appropriate future development of the area under the jurisdiction of the planning commission. A comprehensive plan **aids the planning**

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commission in designing and recommending to the governing body ordinances that result in preserving and enhancing the unique quality of life and culture in that community and in adapting to future changes of use of an economic, physical or social nature. A comprehensive plan **guides** the planning commission in the performance of its duties to help achieve sound planning.

West Virginia State Code Chapter 8A "Land Use Planning Act" makes the distinction between the operative terms "adopt" and "enact" by their use throughout the Act. Specifically, §8A-3-8 provides for the "adoption of the comprehensive plan by governing body"; §8A-1-1(b)(8)(D) provides, "Based upon a comprehensive plan, governing bodies may...enact a zoning ordinance"; and, §8A-7-5 provides for the "enactment of zoning ordinance."

As the petitioner notes, the contents of the Downtown Strategic Plan are recommendations. The recommendations for this area also include, "[a]dditional mixed-use infill at the north end of Spruce Street."

These recommendations for future action in the Downtown Strategic Plan and/or the Comprehensive Plan do not prevail over the specific building height provisions of the zoning ordinance. Further, if the recommendation is not enacted by amending the City's zoning ordinance, then it has no force or effect of law.

The definition of the term "shall" in Article 1329.01 is explicitly made in reference to the text of the zoning ordinance, not the policies of the Downtown Strategic Plan or the Comprehensive Plan.

Article 1363.01 "Height, Bulk, Area and Density Provisions" of the zoning ordinance clearly sets forth the operation of standards within the zoning ordinance, which reads as follows:

- (A) Except as providing in this ordinance, no building or structure shall be erected, enlarged, altered, changed or otherwise modified, on a lot unless such building, structure or modification conforms to the height, bulk, area and density regulations of the zone [zoning district] in which it is located.
- (B) The conditions, standards, requirements and notes set forth in each district and otherwise prescribed by this ordinance are established as the basic height, bulk, area and density regulations for the City.

Therefore, the maximum building height standard for the B-4 District is not the four (4) stories or 50 feet recommendation provided in Section 6.3.1.4 of the 2010 Downtown Strategic Plan Update alleged by the petitioner but is set forth in Article 1349.05(B) of the zoning ordinance, which states:

"The maximum height of a principal structure...shall not exceed 120 feet, except as provided in Section 1363.02(A), Height Exceptions."

The subject site plan includes a building height within the allowable limits prescribed by the zoning ordinance for the B-4 District.

Staff recommends that the Board, based on the findings of fact and conclusions of law presented herein, uphold the Planning Division's interpretation outlined in the Staff Report

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that was presented to the Planning Commission on 12 MAR 2015 and the Planning Commission's 12 MAR 2015 approval of the subject site plan as the same relate to Article 1349.05(B) establishing the maximum building height in the B-4 District and not Section 6.3.1.4 of the 2010 Downtown Strategic Plan Update.

RESPONSE TO ALLEGATION No. G:

"Canyon effect"

The Planning Division denies the petitioner's allegation that the subject development would generate an impermissible "canyon effect."

The Board should note that Article 1351.01(l) does not prohibit "canyon effects" in the B-4 District – which would preclude exactly the type of development characteristic of the district – but requires developments to minimize related impacts through design features.

The Planning Division correctly interpreted and the Planning Commission correctly determined that the subject site plan included design elements minimizing canyon effects as required by Article 1351.01(l) of zoning ordinance [see Addendum A, Exhibit 7].

The petitioner erroneously claims that, "there are no plans to incorporate any recesses or 'steps' on the sides of the building facing Spruce Street or Willey Street." The site plan, in fact, included desired recesses [see Addendum A, Exhibit 8].

The Board should also note that it determined on 17 SEP 2014 under Case No. V14-24, that, based on the wind flow analysis and sunlight distribution report that was also provided to the Planning Commission, no further design elements were required of the subject development to preserve adequate light and airflow [see Addendum A, Exhibit 9].

Staff recommends that the Board, based on the findings of fact and conclusions of law presented herein, uphold the Planning Division's interpretation outlined in the Staff Report that was presented to the Planning Commission on 12 MAR 2015 and the Planning Commission's 12 MAR 2015 approval of the subject site plan as the same relate to minimizing "canyon effects" under Article 1351.01(l) and that no additional or further design elements were required to preserve adequate light and airflow to public spaces (i.e. streets and sidewalks) around the subject site.

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STAFF REPORT ADDENDUM A

BA15-01 / Central Place, LLC / 494 Spruce Street

BA15-02 / Central Place, LLC / 494 Spruce Street

EXHIBIT 1

The following illustrations are clipped from the 2014 Replacement of the City's Planning and Zoning Code.

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

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

(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.

EXHIBIT 2

The following illustration is clipped from the 2014 Replacement of the City's Planning and Zoning Code.

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.** (Ord. 11-03. Passed 3-1-11.)
- (2) Nonresidential: Parking shall not be required for permitted nonresidential development 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 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 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 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. (Ord. 08-06. Passed 3-4-08.)

EXHIBIT 3

The following illustrations are clipped from the 2014 Replacement of the City's Planning and Zoning Code.

ARTICLE 1351
Performance Standards for Buildings in the
General Business (B-4) District

1351.01 STANDARDS.

(D) **Curb Cuts.** No part of a driveway leading from a public street shall be nearer than thirty-five (35) feet to the street right-of-way line of any intersecting street, nor nearer than thirty (30) feet to the end of a curb radius at an intersecting street, nor shall the driveway be nearer than thirty (30) feet to any other part of another driveway entering a public street. The maximum width of any driveway leading from a public street shall not exceed twenty-six (26) feet at the curb line or twenty-two (22) feet at the street right-of-way line. Driveways that cross pedestrian walks shall be designated to allow for barrier free pedestrian travel.

EXHIBIT 4

The following illustrations are clipped from the 2014 Replacement of the City's Planning and Zoning Code.

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 impact. Such impacts would typically involve the transportation network, environmental features such as parks or stream corridor, and local schools.

(2) 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) 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.

EXHIBIT 5

The following illustrations are clipped from the 12 MAR 2015 Staff Report presented to the Planning Commission and made a part of the Commission's hearing record.



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways
1900 Kanawha Boulevard East • Building Five • Room 110
Charleston, West Virginia 25305-0430 • (304) 558-3505

Earl Ray Tomblin
Governor

Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

August 8, 2014

Mr. Dan Hrankowsky
Director of Design
CA Student Living
161 N Clark
Suite 2050
Chicago, Illinois 60601

Dear Mr. Hrankowsky:

In June 2014, the West Virginia Division of Highways (WVDOH) issued approval of a Traffic Impact Study (TIS) regarding the proposed 494 Spruce Development to be located adjacent to US 119 in Morgantown, Monongalia County. You recently notified the WVDOH that certain revisions to the scope of the project are proposed, and the WVDOH has reviewed the revised information presented to us.

The results of our review indicate that based on the information provided, the WVDOH sees no need for you to provide the WVDOH with any updates to the previously approved TIS, as the revisions are relatively negligible and no increase in trip generation is proposed. The previously approved TIS still would be in effect for WVDOH permitting purposes with no revisions necessary and the TIS would be finalized after you have addressed appropriately any comments/concerns you may receive from the City of Morgantown and/or the Greater Morgantown Metropolitan Planning Organization. As noted previously, you would need to provide the WVDOH with three printed versions and two electronic versions of the full, final, approved TIS.

The access location along US 119 (Willey Street) appears to be the same as previously proposed and the WVDOH still is agreeable to that location, provided it has the same restriction (no left turn onto Willey Street from the site) as previously agreed. The information provided to the WVDOH also appears to indicate that the US 119 Northbound (Spruce Street) access now is proposed to be egress only from the site; the WVDOH has no objection to that but we are also still agreeable to a right-in/right-out access at Spruce Street as previously proposed. Also, please provide additional information concerning your proposed Option 1. Our understanding previously was that the bottom level of parking within the site was to be accessible only from Spruce Street. If the Spruce Street access is to be egress only, will the lower level of parking remain and if so, will it now be accessible from Willey Street?

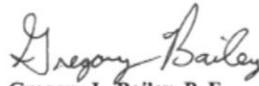
E. E. O. AFFIRMATIVE ACTION EMPLOYER

Mr. Dan Hrankowsky
August 8, 2014
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The recommendations and conclusions of the TIS, once finalized, are to be incorporated into the Plans. When desired, you may submit to the WVDOH four sets of the Project Plans and any associated drainage calculations for review by WVDOH as part of our Plan approval/permitting process.

Thank you for your assistance with this matter. Should you require additional information, please contact Mr. David E. Cramer, P. E., of our Commissioner's Office of Economic Development, at (304) 558-9211.

Very truly yours,



Gregory L. Bailey, P. E.
State Highway Engineer

GLB:Cb

cc: Mr. Damien Davis, City of Morgantown
Mr. Chris Fletcher, City of Morgantown



Excellence Delivered **As Promised**

August 7, 2014

Mr. Dan Hrankowsky
Director of Design
CA Student Living
161 N Clark Street, Suite 2050
Chicago, IL 60601

Re: **Proposed 494 Spruce
Residential/Commercial Development**

Dear Mr. Hrankowsky:

Gannett Fleming, Inc. recently completed a Traffic Impact Study for the above-captioned project dated May 28, 2014. At the time, the report addressed a mixed-use development containing 368 bedrooms and 3,500 square feet of commercial space. Since that time, the development proposal has been modified to include 331 bedroom with the same amount of commercial space.

As indicated in the study, the anticipated trip generation for the residential portion of the development was based on research conducted at similar facilities. This research included the development of rates based on the number of apartment units, number of bedrooms, and number of parking spaces. The rates utilizing the number of bedrooms as the independent variable yielded the most conservative results and were therefore utilized for the analysis. This trip generation methodology was accepted by the West Virginia Division of Highways.

Considering the proposed change in residential intensity, the following tables outline a comparison of the anticipated trip generation for the original proposal versus the revised proposal.

Land Use	Original Trip Generation Estimates								
	AM Peak Hour			PM Peak Hour			Daily		
	In	Out	Total	In	Out	Total	In	Out	Total
368 Bedrooms	11	15	26	25	23	48	261	262	523
3,500 SF Retail	12	12	24	10	8	18	78	77	155
Total	23	27	50	35	31	66	339	339	678

P.O. Box 67100 • Harrisburg, PA 17106-7100 | 207 Senate Avenue • Camp Hill, PA 17011-2316
t: 717.763.7211 • f: 717.763.8150
www.gannettfleming.com

Gannett Fleming

Proposed 494 Spruce

Residential/Commercial Development

Page 2 of 2

Revised Trip Generation Estimates

Land Use	AM Peak Hour			PM Peak Hour			Daily		
	In	Out	Total	In	Out	Total	In	Out	Total
331 Bedrooms	10	13	23	23	20	43	235	235	470
3,500 SF Retail	12	12	24	10	8	18	78	77	155
Total	22	25	47	33	28	61	313	312	625

As can be seen by comparing the tables, there is an 11 to 13 percent reduction in the number of trips for the residential portion of the development based on the revised development proposal.

The Traffic Impact Study summarized that the proposed development would have a minor impact on the adjacent roadway system, and as such no roadway, traffic signal, or other system improvements were recommended. It is our determination based on the above information that the revised proposal will have less of an impact to the adjacent roadway system as compared to the original proposal, and therefore the study outcome has not changed.

If you have any questions regarding this information, please do not hesitate to contact me.

Very truly yours,

Gannett Fleming, Inc.



Mark Metil, P.E., PTOE

Director of Transportation Operations and Planning



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 110
Charleston, West Virginia 25305-0430 • (304) 558-3505

Earl Ray Tomblin
Governor

Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

June 6, 2014

Mr. Stephen G. Bus
Senior Vice President –
Acquisitions & Development
CA Student Living - CA Ventures
161 N Clark
Suite 2050
Chicago, Illinois 60601

Dear Mr. Bus:

The West Virginia Division of Highways (WVDOH) has completed its review of the Traffic Impact Study (TIS) received electronically on May 28, 2014, regarding the proposed 494 Spruce Development to be located adjacent to US 119 in Morgantown (City), Monongalia County.

The results of our review indicate that the TIS can be approved by the WVDOH as submitted, although we stipulate that the TIS should be finalized only after you have addressed appropriately any comments/concerns you may receive from the City and/or the MPO. If the TIS is revised in any manner to reflect additional comments from other, then provide the WVDOH with three printed versions and two electronic versions of the full, final, approved TIS. The recommendations and conclusions of the TIS, once finalized, are to be incorporated into the plans. When desired, you may submit to the WVDOH four sets of the project plans and any associated drainage calculations.

Thank you for your assistance with this matter. Should you require additional information, please contact Mr. David E. Cramer, P. E., of our Commissioner's Office of Economic Development, at (304) 558-9211.

Very truly yours,

Original Signed By:
GREGORY L. BAILEY

Gregory L. Bailey, P. E.
Acting State Highway Engineer

GLB:Cm

cc: Ms. Terry Hough
City of Morgantown

E.E.O./AFFIRMATIVE ACTION EMPLOYER

Memo

City of Morgantown Department of Public Works and Engineering

To: Chris Fletcher, Director of Development Services

From: Terry Hough, Director

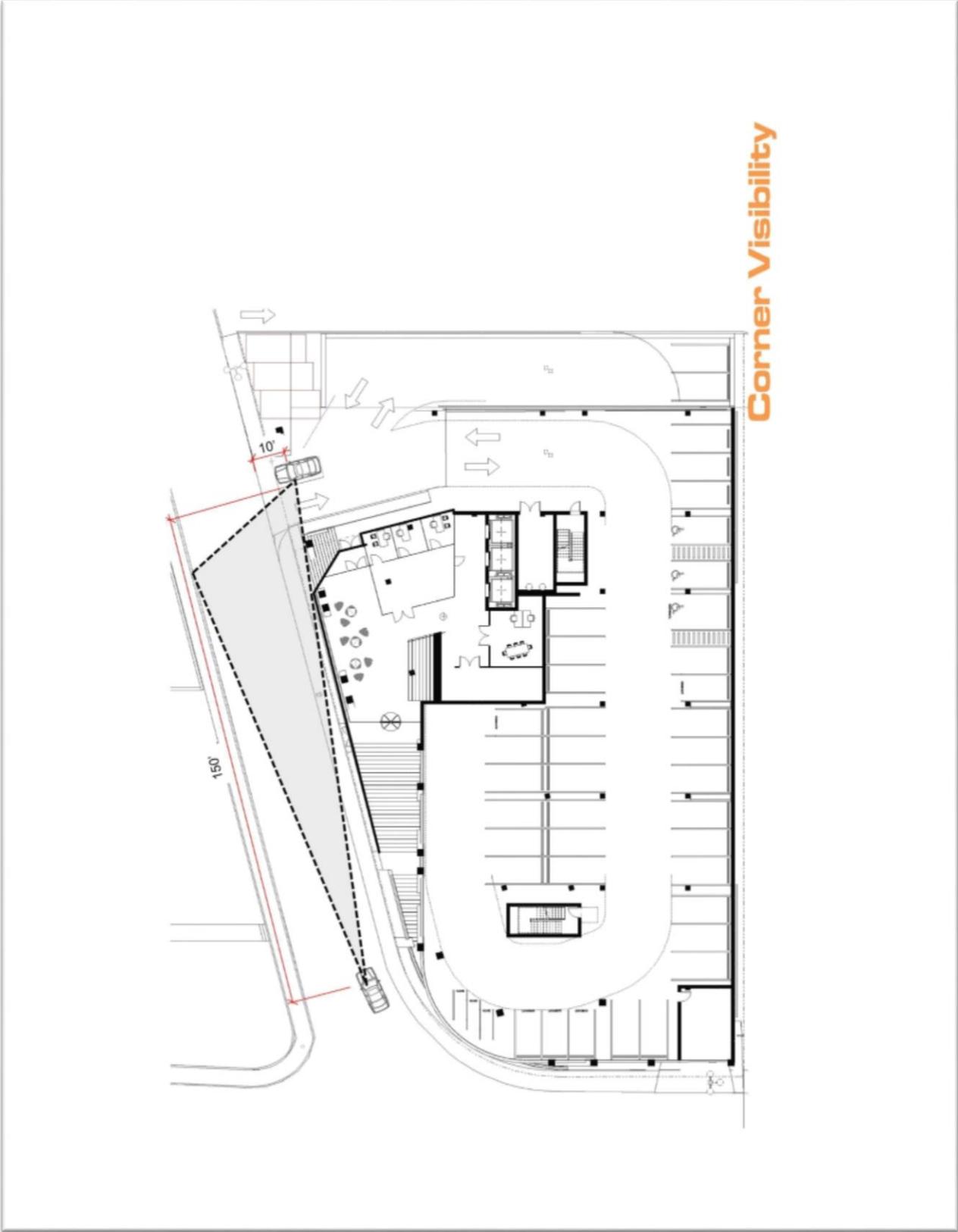
Subject: 494 Spruce Street Traffic Impact Study/Sight Distance.

Date: June 10, 2014

The final Traffic Impact Study (TIS) was submitted to this office regarding the proposed development located at 494 Spruce Street. After reviewing the study, along with discussions with the West Virginia Division of Highways, it is the conclusion of this office that the proposed increase in the vehicular volumes due to this development will have a minor impact on the Level of Service (LOS) of the adjoining roadway system. Given this, there are no roadway system improvements recommended.

This office did have concerns regarding the sight distance for vehicles exiting the development onto Willey Street. A subsequent plan has been submitted showing changes to the site development which eliminates the sight distance concerns. The submitted plans are included with this memo.

Given the above, this office approves the submitted TIS for this project. If you have any questions or need any additional information, please do not hesitate to contact me.



Traffic Impact Study Proposed Mixed-Use Residential Commercial Development at 494 Spruce Street

City of Morgantown, West Virginia

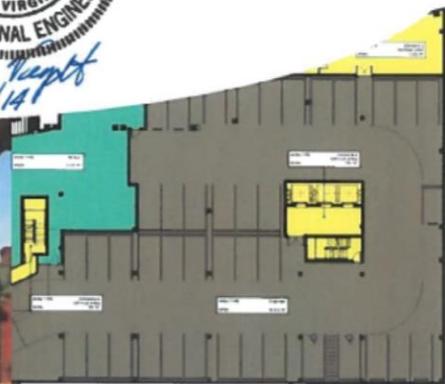
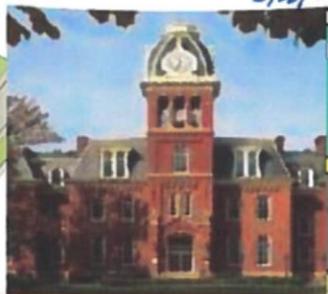
Prepared for: Campus Acquisitions Holdings, LLC
CA Student Living, LLC
Chicago, IL



Prepared by:  **Gannett Fleming**
D. Eric Veydt, P.E.
Mark Metil, P.E., PTOE



D. Eric Veydt
5/28/14



May 28, 2014

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1.0 EXECUTIVE SUMMARY

Gannett Fleming has completed a Traffic Impact Study (TIS) for the proposed 494 Spruce residential/commercial development to be located in Morgantown, WV. This study was performed in accordance with West Virginia Division of Highways (DOH) Traffic Engineering Directive (TED) 106-2.

The purpose of the study was to determine if the 494 Spruce residential/commercial development would adversely affect the surrounding roadway network. Study findings included the following:

- The study area included the following intersections:
 - Willey Street and High Street (US Route 119 Southbound)
 - Willey Street and Spruce Street (US Route 119 Northbound)
 - Willey Street and Price Street
 - Willey Street and Proposed Access Driveway
 - Spruce Street and Proposed Access Driveway.
- The proposed development is projected to generate 50 total trips during the AM Peak Hour, 66 total trips during the PM Peak Hour, and 678 total daily trips.
- The addition of site generated traffic from the proposed development results in only a 2-3% increase in traffic volume at the study intersections.
- The results of the operational analysis indicate that there will be no degradation of LOS as a result of anticipated traffic from the 494 Spruce development compared to the no-build condition.
- The results of the queue analysis indicate that the addition of site generated traffic from the proposed development will not result in exceeding the available storage length for intersection movements with adequate storage capacity.

Considering the findings of the study as summarized above and detailed in the body of this report, the proposed development will have a minor impact on the adjacent roadway system, and as such no roadway, traffic signal, or other system improvements are recommended.

EXHIBIT 6

The following illustration is the Board of Zoning Appeals' 15 OCT 2014 decision under Case No. BA14-03.



The City of Morgantown

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

October 16, 2014

CERTIFIED MAIL

7010 0780 0002 0687 8361

Central Place, LLC
c/o J. Bryan Edwards, Esq.
1200 Dorsey Avenue, Suite II
Morgantown, WV 26501

RE: BA14-03 / Central Place, LLC / 494 Spruce Street

Dear Mr. Edwards:

This letter is to notify you of the decisions made by the Morgantown Board of Zoning Appeals concerning the above referenced petition for Administrative Appeal under Article 1383 related to information provided in the Staff Report by the Planning Division for site plan Case No. S14-07-III that was presented to the Morgantown Planning Commission on September 11, 2014.

The decisions are as follows:

Board of Zoning Appeals, October 15, 2014:

1. The Board decided that the Petitioner, Central Place, LLC, established standing as an aggrieved person and therefore may initiate the subject administrative appeal petition filed under Case No. BZ14-03.
2. Concerning Petitioner's Allegation No. 1, the Board decided that the development of the VFW Post 548 site at the corner of Spruce Street and Willey Street by CA Student Living under Case No. S14-07-III is a "Major Development of Significant Impact" as provided under Article 1329.02 of the City's Planning and Zoning Code and not a "Development of Significant Impact" as determined by the Planning Division.
3. Concerning Petitioner's Allegation No. 2, the Board decided, based on the findings of fact and conclusions of law presented by the Planning Division, to uphold the Planning Division's administrative determination that the area and location of requisite nonresidential use provided in Case No. S14-07-III is consistent with the related standards set forth under Article 1331.06(26)(a) and Article 1351.01(J)(2)(b) of the Planning and Zoning Code.
4. Concerning Petitioner's Allegation No. 3, the Board decided that Case No. S14-07-III should not have been presented to the Planning Commission for consideration prior to West Virginia Division of Highways (WVDOT) issuance of access permits onto Spruce Street and Willey Street as provided under Article 1385.08(A)(1)(g) of the City's Planning and Zoning Code.

Page 1 of 2

5. Concerning Petitioner's Allegation No. 4, the Board decided, based on the findings of fact and conclusions of law presented by the Planning Division, to uphold the Planning Division's administrative determination that Article 1349.05(B) establishes the maximum building height in the B-4 District as it relates to Case No. S14-07-III and not Section 6.3.1.4 of the 2010 Downtown Strategic Plan Update.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days.

Please note that a copy of this letter will be sent to Mr. Dan Hrankowsky, CA Student Living as a courtesy given the relationship of the Board's decisions with his organization's related development.

Respectfully,


Christopher M. Fletcher, AICP
Director of Development Services

cc: Dan Hrankowsky, CA Student Living

EXHIBIT 7

The following illustrations are clipped from the 2014 Replacement of the City's Planning and Zoning Code.

ARTICLE 1351
Performance Standards for Buildings in the
General Business (B-4) District

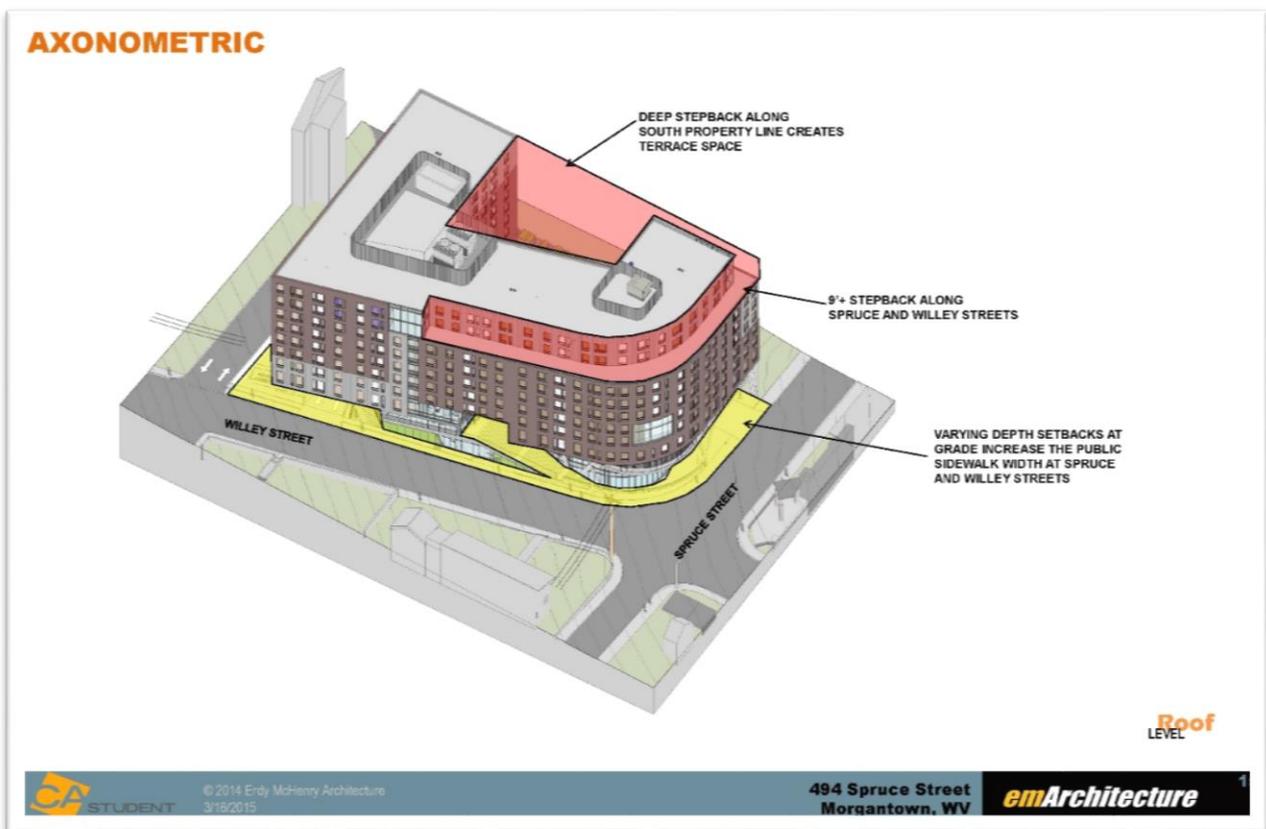
1351.01 STANDARDS.

(I) To minimize canyon effects created by tall structures, buildings taller than three (3) stories shall incorporate design elements that preserve adequate light and airflow to public spaces including streets and sidewalks. Desired design elements include, but are not limited to, one or a combination of recessing or "stepping back" upper floors, increased front and/or street side setbacks while incorporating measures to preserve the continuity of the predominant street wall, etc. Site plan applications for buildings taller than three (3) stories must include the following:

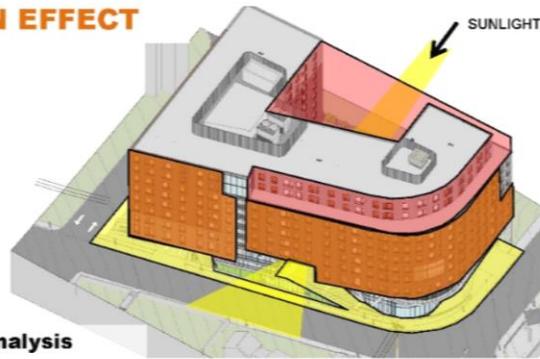
- (1) An air flow analysis conducted by a licensed architect or professional engineer, describing and illustrating the estimated impact of the proposed building on existing patterns of air flow in the general vicinity; and how those impacts may affect existing properties within a 300 foot radius of the site.
- (2) A sunlight distribution analysis conducted by a licensed architect or professional engineer, describing and illustrating the impact of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties within a 300 foot radius of the site.

EXHIBIT 8

The following illustrations are clipped from the developer's presentation to the Planning Commission on 12 MAR 2015.



MITIGATING CANYON EFFECT



Building Design Supportive Analysis

- **"Setbacks"** have been incorporated along all property lines where the building meets grade to enhance the public spaces along the streets and sidewalks
- **"Stepbacks"** along the top two stories of the building designed to preserve light and airflow to the streets and sidewalks as well as reduce the overall building mass and appearance.
- **"Predominant street walls"** have been preserved to give scale and definition to adjacent streets and public spaces.
- The building transparency between the exterior terrace and interior monumental stair allow the morning sun to pass through the building to illuminate the public areas along Willey Street providing **street level increase of light and airflow**
- **Air Flow Analysis** for this building shows an overall **reduction in average wind speed** at the street level
- **Sunlight Distribution Analysis** shows shadow distribution throughout the year

1351.01 (I) Summary:

To minimize canyon effects created by tall structures, buildings taller than three (3) stories shall incorporate design elements that preserve adequate light and airflow to public spaces including streets and sidewalks.

Desired design elements include, but are not limited to, one or a combination of recessing or **"stepping back"** upper floors, increased front and/or street side setbacks while incorporating measures to preserve the continuity of the predominant street wall, etc.

Must include the following:

- (1) An **air flow analysis** conducted by a licensed architect or professional engineer, describing and illustrating the estimated impact of the proposed building on existing patterns of air flow in the general vicinity, and how those impacts may affect existing properties within a 300 foot radius of the site.
- (2) A **sunlight distribution analysis** conducted by a licensed architect or professional engineer, describing and illustrating the impact of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and casting onto all properties within a 300 foot radius of the site.



© 2014 Erdy McHenry Architecture
3/18/2015

494 Spruce Street
Morgantown, WV

emArchitecture

1

EXHIBIT 9

The following illustration is the Board of Zoning Appeals' 17 SEP 2014 decision under Case No. V14-24.

 DEVELOPMENT SERVICES DEPARTMENT	The City of Morgantown 389 SPRUCE STREET MORGANTOWN, WEST VIRGINIA 26505 (304) 284-7431 TDD (304) 284-7512 FAX (304) 284-7534 www.morgantownwv.gov
---	---

September 18, 2014

CA Student Living
c/o Lisa Mardis
Project Management Services
160 Fayette Street
Morgantown, WV 26501

**RE: V14-24 / CA Student Living / 494 Spruce Street
Tax Map 26, Parcels 245 and 246**

Dear Ms. Mardis,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petition for variance relief from Article 1351.01(l) as it relates to canyon effects at 494 Spruce Street.

The decision is as follows:

Board of Zoning Appeals, September 17, 2014:

1. The Board determined that, based on the Wind Flow Analysis and Sunlight Distribution Report, no additional or further design elements were required to preserve adequate light and airflow to public spaces (i.e. streets and sidewalks) around the subject site. Therefore, variance relief from Article 1351.01(l) is not required.

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

The above referenced approval is set to expire in twelve (12) months unless you can demonstrate that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board. Please note that a building permit must be obtained prior to the commencement of work for which variance relief was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and permitting needs.

Respectfully,

Stacy Hollar
Executive Secretary
Development Services Department
shollar@cityofmorgantownwv.gov

Page 1 of 1

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Page**



City of Morgantown, West Virginia

APPLICATION FOR ADMINISTRATIVE APPEAL

PAID
MAR 11 2015
PAID

OFFICE USE	
CASE NO.	BAS-01
RECEIVED:	3/11/15
COMPLETE:	

Article 1383 "Administrative Appeals" of the City's Planning & Zoning Code (attached hereto as Addendum A) provides that the Board of Zoning Appeals hears and determines appeals from any order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of the City's Zoning Ordinance.

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$35

CC
1624

I. APPLICANT			
Name:	Central Place, LLC	Phone:	(304) 276-5102
Mailing Address:	6200 Mid-Atlantic Drive	Mobile:	
	Street Morgantown, WV 26508	Email:	
	City State Zip		
II. AGENT / CONTACT INFORMATION			
Name:	J. Bryan Edwards, Esq.	Phone:	(304) 296-3500
Mailing Address:	1200 Dorsey Ave., Suite II	Mobile:	
	Street Morgantown, WV 26501	Email:	jbryanedwards@comcast.net
	City State Zip		
Mailings -	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	CA Student Living	Phone:	
Mailing Address:	161 N Clark, Suite 2050	Mobile:	
	Street Chicago, IL 60601	Email:	
	City State Zip		
IV. ATTEST			
I hereby certify that the information which I have provided, that all answers to the questions in this request, and all other supplementary matter attached to and made a part of this administrative appeal request are honest and true to the best of my knowledge and belief.			
J. Bryan Edwards			3-10-15
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent		Date

- V. Please attach a narrative describing in detail the nature of your administrative appeal.
- VI. Please attach a copy of the Zoning Official's determination which has resulted in your appeal.
- VII. You or a representative **MUST** be present at the scheduled hearing to present the appeal and answer questions. Failure to appear at the hearing will result in your appeal being tabled.

**ADMINISTRATIVE APPEAL BEFORE THE MORGANTOWN
BOARD OF ZONING APPEALS**

CASE NO: S15-03-III / CA Student Living / 494 Spruce Street

APPEAL OF: Central Place, LLC

Central Place, LLC (“Central Place”) hereby appeals the determinations made in the Staff Report for Case No. S15-03-III to the Morgantown Board Of Zoning Appeals.

1. Introduction and procedural history.

In 2014, CA Student Living filed a Type III Development of Significant Impact site-plan application for a proposed development at the VFW Post 548 site at the corner of Spruce Street and Willey Street (the Proposed Development”) An appeal was taken of that decision to the Board of Zoning Appeals by Central Place. On September 11, 2014, the Board of Zoning Appeals upheld the appeal and held that the Proposed Development was properly considered a Major Development of Significant Impact and should have been applied for as such. CA Student Living re-filed for approval of the Planning Commission and now seeks site-plan approval for a Major Development of Significant Impact. The City of Morgantown Planner has issued a Staff Report recommending the approval of CA Student Living’s revised application for the Proposed Development. Central Place is appealing multiple erroneous determinations made in the Staff Report.

2. Standing and jurisdiction.

Central Place has standing to appeal because it is an adjoining property owner to the Proposed Development. This appeal is brought under City Code § 1383.01, which provides that “[t]he Board of Zoning Appeals shall hear and determine appeals from any

order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of this Zoning Ordinance.”

3. Grounds for appeal.

A. Violation of City Code § 1365.04 – The application for the Proposed Development does not have the required number of parking spaces for a Mixed-Use Dwelling.

The Staff Report erroneously concluded that the Proposed Development includes the requisite number of parking spaces. The Proposed Development includes 89 dwelling units with 331 bedrooms, plus 7,500 sq. ft. square feet in commercial space. The application proposes 157 off-street parking spaces and says that the minimum number of “Required Residential Parking” spaces is 155, which is seemingly based off a calculation of 0.5 spaces per occupant for residential uses, with the first 22 occupants disregarded in that calculation.¹ This calculation is incorrect, and the Staff Report erred in determining that the Proposed Development has enough parking.

The application submitted by CA Student Living is for a building that includes both residential housing and commercial uses. It thus must comply not with the City Code’s residential standards, but rather with the parking requirements for a “Dwelling, Mixed Use,” which under City Code § 1329.02 refers to a building containing primarily residential uses with a subordinate amount of commercial and/or office uses on the ground floor. Under City Code Table 1365.04.01, the required number of parking spaces for a Mixed-Use Dwelling is “1 space per dwelling unit or 0.75 spaces per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City, whichever is greater, plus required spaces for the commercial use(s).” Thus, even assuming that CA Student Living may again disregard the first 22 residents for

¹ $(331 - 22) \times 0.5 = 155$ spaces.

parking purposes, the minimum number of parking spaces is $(331 - 22) \times 0.75 = 232$ spaces, and that is not counting the additional off-street parking spaces required for the 7,500 sq. ft. of commercial space included in the Proposed Development. The Proposed Development is short of parking by no less than 77 spaces.

The Staff Report erred in concluding that the application of the Proposed Development includes the requisite number of parking spaces. To the contrary, the number of parking spaces in CA Student Living's application is grossly insufficient under City Code § 1365.04. The Staff Report should have recommended the rejection of CA Student Living's application due to insufficient parking.

B. Violation of City Code § 1351(D) – The Proposed Development's parking entrance on Willey Street is closer than 30 ft. to another building's driveway.

Under City Code § 1351(D), which applies to buildings in the General Business (B-4) District, “[n]o part of a driveway leading from a public street shall ... be nearer than thirty (30) feet to any other part of another driveway entering a public street.” The parking entrance on Willey Street for the Proposed Development is closer than 30 ft. to the existing driveway leading to a building owned by Central Place. The placement of the Willey Street driveway thus violates City Code § 1351(D).

The Willey Street driveway is too close to another driveway under City Code § 1351(D). The Staff Report should have recommended the rejection of CA Student Living's application due to this code violation.

C. Violation of City Code § 1351(D) – The Proposed Development's parking entrance on Spruce Street is closer than 30 ft. to the end of a curb radius at an intersecting street.

Also under City Code § 1351(D) no part of a driveway leading from a public street may be “nearer than thirty (30) feet to the end of a curb radius at an intersecting street.” In addition, the same section prohibits a driveway from being nearer than thirty-five (35)

feet to the street right-of-way line of any intersecting street.” The parking entrance on Spruce Street for the Proposed Development appears to be closer than 30 ft. to the end of the curb radius for the intersection of Spruce and Willey Streets and closer than 35 feet to the right-of-way for Willey Street. The placement of the Spruce Street driveway thus violates City Code § 1351(D).

The Spruce Street driveway is too close to the end of the curb radius for the Spruce–Willey intersection and too close to the right-of-way for Willey Street, and consequently it violates City Code § 1351(D). The Staff Report should have recommended the rejection of CA Student Living’s application due to this code violation.

D. CA Student Living’s application relies upon an out-of-date traffic study.

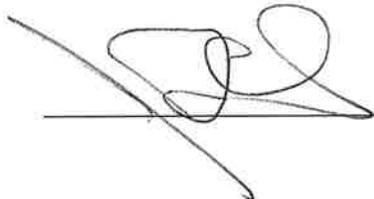
CA Student Living’s application for the Proposed Development relies upon a traffic study created for its original application, which was before the Board of Zoning Appeals held that the Proposed Development must be re-filed as a Major Development of Significant Impact. Since the first application, however, CA Student Living has *increased* the proposed amount of commercial space from approximately 3,500 sq. ft. to 7,500 sq. ft., which is more than double the amount of commercial space. The Staff Report should have recommended the rejection of CA Student Living’s application in the absence of a new traffic report based on the new amount of commercial space.

E. There is no room for construction staging or storage.

In addition to the foregoing code violations, the Staff Report should also have recommended the rejection of CA Student Living’s application due to the complete lack of space for construction staging and storage. The Proposed Development will cover virtually the entirety of the lot in question with only the required set-backs not occupied by the structure. This leaves no space whatsoever for the storage and staging space that would be required during construction of a project of this size. There is no possible way

CA Student Living could construct this massive building on this lot without extended closures or blockages of Wiley or Spruce Streets or both, which would cause irreparable harm to neighboring properties like the one owned by Central Place. Moreover, the City nor its staff has the right to allow a project to go forward if the result is that a State Road would need to be closed or partially obstructed for any period of time without first obtaining approval of the State. Closing a major State Road as is at issue in this matter for any period of time creates serious health and safety issues for the community at large. These health and safety issues are ignored by CA Living and in the Staff Report. The Staff Report should have recommended the rejection of the CA Student Living's application due to the harm it would cause to the entire neighborhood and greater community.

Respectfully submitted,



March 10, 2015

J. Bryan Edwards
W.Va. ID 6886
jbryanedwards@comcast.net
CRANSTON & EDWARDS, PLLC
1200 Dorsey Ave., Suite II
Morgantown, WV 26501
Phone: (304) 296-3500

Samuel H. Simon
W.Va. ID 9244
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Matthew J. Lautman
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lautmanmj@hh-law.com
HOUSTON HARBAUGH, P.C.
Three Gateway Center
401 Liberty Avenue, 22nd Floor
Pittsburgh, PA 15222
(412) 281-5060



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 Blosser, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Jennifer Selin, City Councilor

STAFF REPORT

CASE NO: S15-03-III / CA Student Living / 494 Spruce Street

REQUEST and LOCATION:

Request by Lisa Mardis of Project Management Services, on behalf of CA Student Living, for approval of a Type III Major Development of Significant Impact (MDSI) Site Plan approval at 494 Spruce Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26, Parcels 245 and 246; B-4, General Business District.

SURROUNDING ZONING:

South and West: B-4, General Business District

North and East: B-1, Neighborhood Business District

BACKGROUND:

The petitioner seeks to redevelop the VFW Post 548 site at the corner of Spruce Street and Willey Street. Addendum A of this report illustrates the location of the subject site.

The following generally summarizes the proposed development program illustrated in the petitioner's application documents.

- Twelve (12) levels with portions of the lowest three (3) levels below the adjoining grade.
- 89 "Mixed-Use Dwelling" units for a total of 331 bedrooms.
- A total of 7,649 square feet of non-residential space on three (3) at-grade levels with approximately 3,435 square feet of commercial/retail space on the lowest at-grade level (Level P1) facing Spruce Street.
- A total of 157 vehicle parking spaces on four (4) parking deck levels, one (1) truck loading space, and four (4) standard vehicle loading spaces. Only one (1) point of ingress from Willey Street will be provided for all four (4) parking deck levels. Egress for all four (4) parking deck levels will be provided at two (2) locations; one (1) on Willey Street and one (1) on Spruce Street. Additionally, 94 bicycle storage spaces are proposed in one common facility on Level P2 with access from Willey Street.
- Above ground utility facilities along the development site's Spruce Street and Willey Street frontages are planned for relocation to below ground utility service trenches or vaults.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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 Blosser, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Jennifer Selin, City Councilor

The petitioner met with the Design Review Committee on 12 AUG 2014. No exterior design elements in the petitioner's Major Development of Significant Impact plans presently before the Planning Commission have been modified from those plans examined by the Design Review Committee on 12 AUG 2014.

The Planning Commission approved a Type III Development of Significant Impact (DSI) Site Plan application by the petitioner's for the subject site on 11 SEP 2014 under Case No. S14-07-III. However, the Board of Zoning Appeals decided on 16 OCT 2014 that:

"...the development of the VFW Post 548 site at the corner of Spruce Street and Willey Street by CA Student Living under Case No. S14-07-III is a 'Major Development of Significant Impact' as provided under Article 1329.02 of the City's Planning and Zoning Code and not a 'Development of Significant Impact' as determined by the Planning Division."

As such, the petitioner is now before the Planning Commission seeking site plan approval for a Major Development of Significant Impact (MDSI).

Minor subdivision approval to combine Parcels 245 and 246 of Tax Map 26 was granted to the petitioner by the Planning Commission on 11 SEP 2015 under Case No. MNS14-05.

Additionally, the petitioner has, in observance of Article 1351.01(I), incorporated design elements that preserve adequate light and airflow to public spaces including streets and sidewalks as demonstrated by the petitioner's air flow and sunlight distribution analyses and confirmed by the Board of Zoning Appeals on 17 SEP 2014.

ANALYSIS:

As recommended in Chapter 9 "Implementation" of the 2013 Comprehensive Plan Update, Addendum B of this report identifies how the proposed development program relates to the land management intent, location, and pattern and character principles of the current Comprehensive Plan. Additionally, Addendum B includes sections of the 2010 Downtown Strategic Plan Update.

Staff encourages the Planning Commission to review both Plans for guidance as Addendum B is not intended to represent a complete comparative assessment.

It should be noted that "shall" statements within the Comprehensive Plan or the Downtown Strategic Plan must be understood as desired objectives and strategies that do not have the force or effect of law unless incorporated into the City's Planning and Zoning Code.

The VFW Post 548 site represents a unique opportunity to strategically locate higher residential density in close proximity to West Virginia University's downtown campus. Because the site is well served by public transit and is within walking and biking distance of primary destinations, residents can access alternate modes of transportation thereby reducing auto dependency and mitigating increased traffic congestion created by

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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 Blosser, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Jennifer Selin, City Councilor

commuting traffic from higher density residential development outside the City of Morgantown.

To this point, Land Management Objective LM 5.2 of the 2013 Comprehensive Plan Update provides, "Permit higher density development in areas that are well-supported by existing or planned transportation infrastructure or transit services."

STAFF RECOMMENDATION:

Staff recommends approval of Case No. S15-03-III with the following conditions:

1. That the developer shall continue to consult with the Downtown Design Review Committee and accordingly address the Committee's comments and concerns where practicable.
2. That the development must meet all applicable federal Fair Housing and Americans with Disabilities Act standards as determined by the City's Chief Building Code Official.
3. That public sidewalks along the development site's Spruce Street and Willey Street frontages shall be reconstructed to the satisfaction of the City Engineer and, where practicable, incorporate design elements utilized in the High Street streetscape improvement projects and the planned Walnut Street streetscape improvement project.
4. That, as proposed by the petitioner, above ground utility facilities along the development site's Spruce Street and Willey Street frontages must be relocated underground; provided all affected utilities, the West Virginia Division of Highways, and the City Engineer approve development plans for same.
5. That the developer shall consult with the City Engineer in providing public trash receptacle(s) and bench(es) near retail entrance(s) that match existing facilities within the downtown; provided said street furniture does not reduce the width or obstruct public sidewalks.

Attachments: Addenda and Exhibits noted above.

Major Development of Significant Impact Site Plan application, plans/drawings, and accompanying documents submitted by the applicant.

Development Services

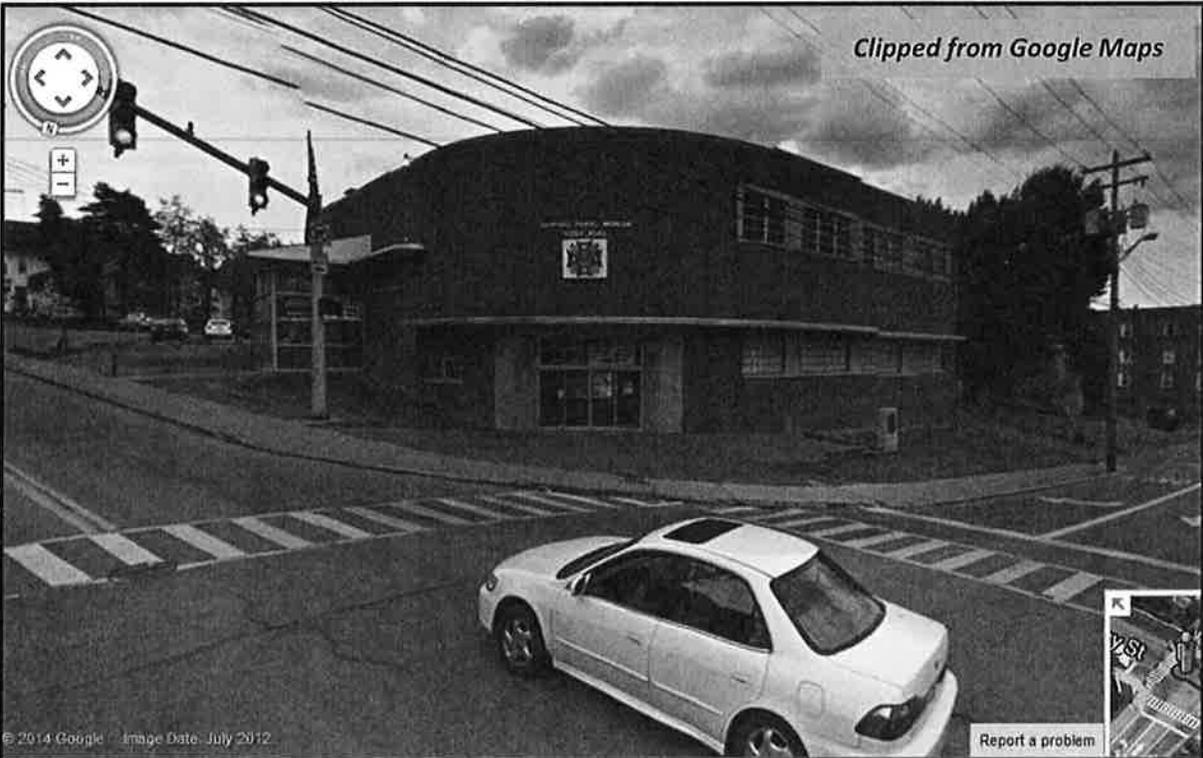
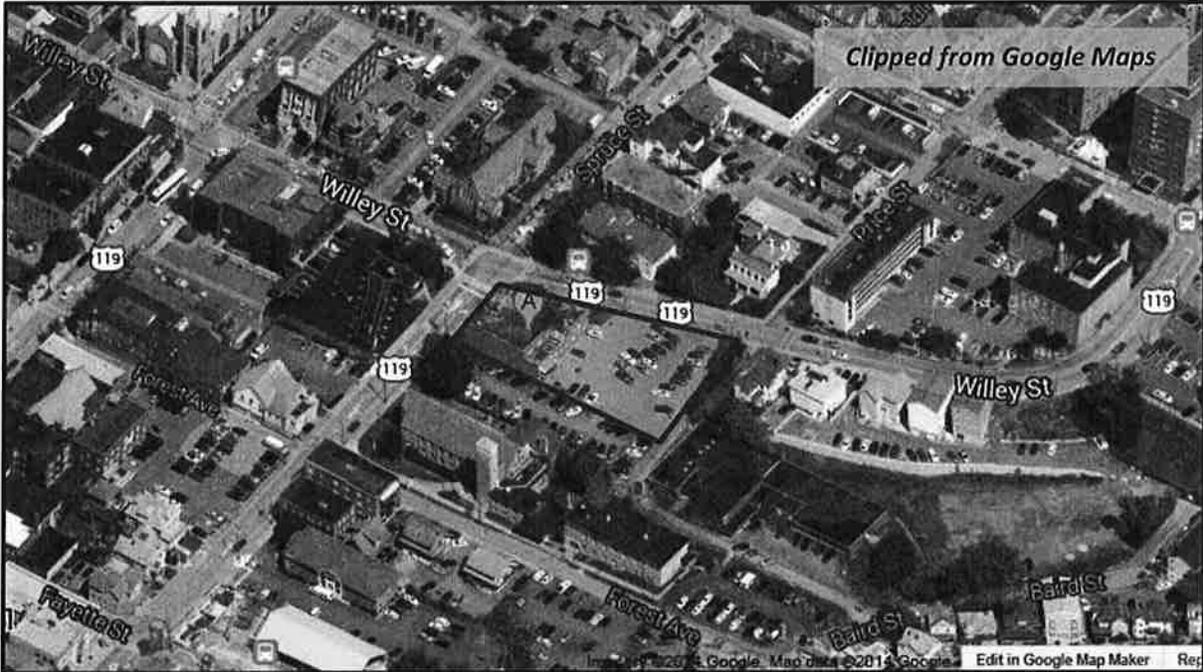
Christopher Fletcher, AICP
Director

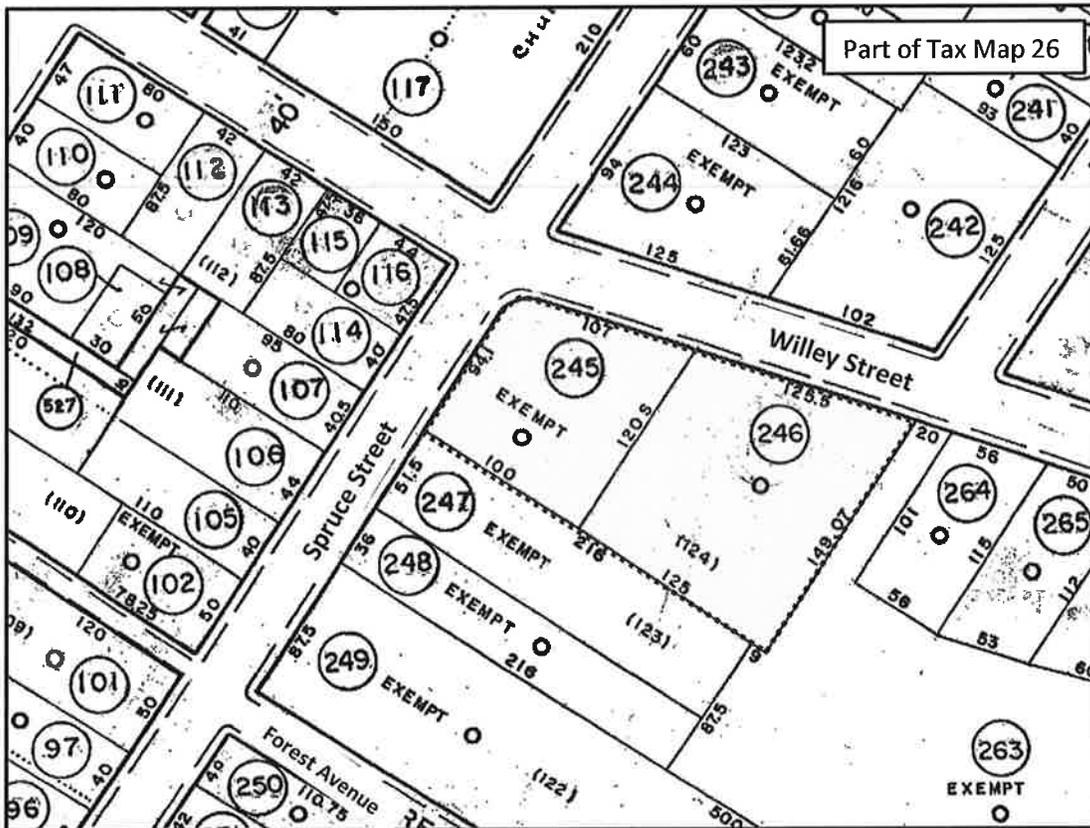
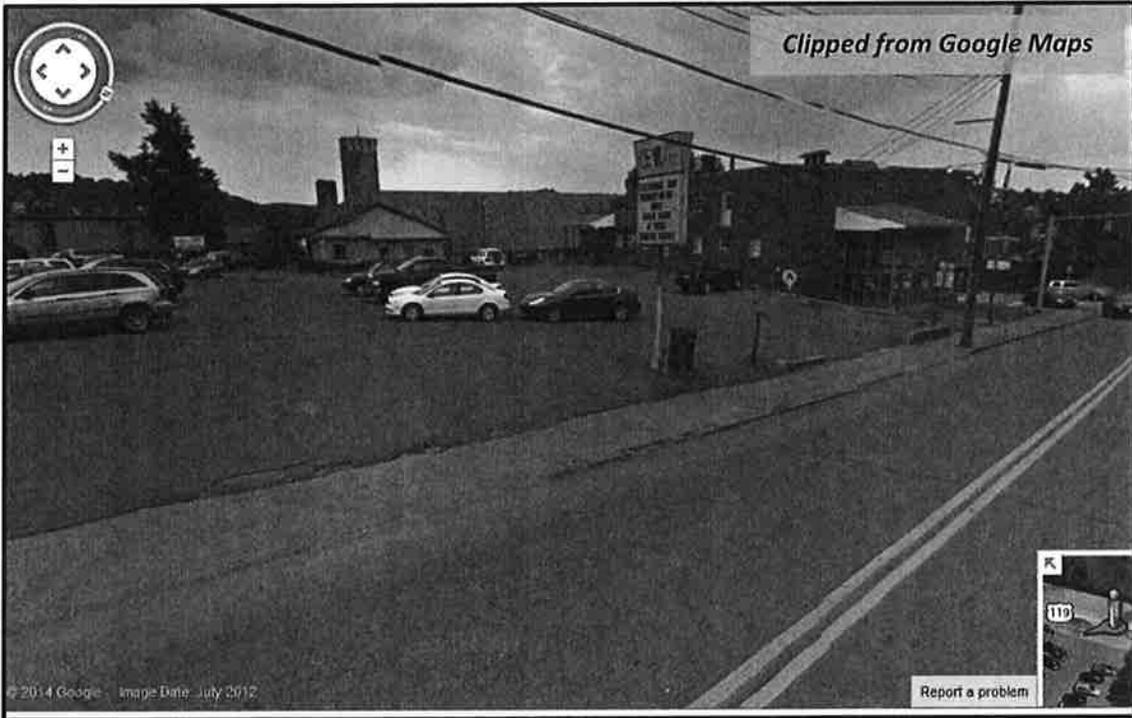
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STAFF REPORT ADDENDUM A
S15-03-III / CA Student Living / 494 Spruce Street





STAFF REPORT ADDENDUM B

S15-03-III / CA Student Living / 494 Spruce Street

Concurrence with the 2013 Comprehensive Plan Update

The following narrative identifies where, in the opinion of the Planning Division, the subject development of significant impact is in concurrence and/or is inconsistent with the 2013 Comprehensive Plan Update.

INTENT	Development proposals will reflect the spirit and values expressed in the Plan's principals.
---------------	---

Principles for Land Management

Principal 1	Infill development and redevelopment of underutilized and/or deteriorating sites takes priority over development in green field locations at the city's edge.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<i>The VFW Post 548 site is located within the "Encouraged Growth" area, the "Core" pattern and character area, and the "Downtown Enhancement" area and is not located within a green field location at the city's edge.</i>		
Principal 2	Expansion of the urban area will occur in a contiguous pattern that favors areas already served by existing infrastructure.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<i>The VFW Post 548 site is located within the central urban core and appears to be supported by existing multi-modal transportation options and adequate utility infrastructure capacity.</i>		
Principal 3	Downtown, adjacent neighborhoods and the riverfront will be the primary focus for revitalizations efforts.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<i>The VFW Post 548 site is located within the B-4 District and appears to leverage its proximity with the University's downtown campus, which should further desired strengthening of the city's urban core in terms of walkability, customer-base, and proximity to residents' primary destinations.</i>		
Principal 4	Existing neighborhoods throughout the city will be maintained and/or enhanced.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<i>The VFW Post 548 site is not located within or adjacent to a "Neighborhood Conservation" area.</i>		

Principal 5	Quality design is emphasized for all uses to create an attractive, distinctive public and private realm and promote positive perceptions of the region.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The developer's professional design team consulted with the Downtown Design Review Committee (DRC) and incorporated modifications that appear to address the Committee's comments and concerns in terms of architectural style, cladding material and color, window rhythm, upper floor setback, increased at-grade setback, etc. The DRC noted during its 12 AUG 2014 meeting that significant improvements were made from the proposal reviewed by the Planning Commission on 12 JUN 2014.</i></p>		
Principal 6	Development that integrates mixed-uses (residential, commercial, institutional, civic, etc.) and connects with the existing urban fabric is encouraged.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The proposed development includes residential and street-level nonresidential uses. The urban fabric within the immediate built environment is heterogeneous given the various development pattern and character types, scales and densities, forms and functions, and construction periods.</i></p>		
Principal 7	Places will be better connected to improve the function of the street network and create more opportunities to walk, bike and access public transportation throughout the region.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The VFW Post 548 site is well served by public transit along Spruce Street and Willey Street and is within walking and biking distance of the University campus, downtown PRT station, the downtown central business district. Redevelopment of the site to a higher residential density links residents to alternate modes of transportation thereby reducing auto dependency within the City and mitigating increased traffic congestion created by commuting traffic from outside the City. The proposed at-grade setbacks appear to functionally widen adjoining public sidewalks. Significant bicycle storage is provided.</i></p>		
Principal 8	A broad range of housing types, price levels and occupancy types will provide desirable living options for a diverse population.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The proposed development program increases housing choice and diversity in the context of the immediate residential area, which includes the Courtyard East and Courtyard West multi-family developments (four and five stories respectively); the ten-story, multi-family high-rise, age-restricted Unity Manor building; the six-story Central Place multi-family development under construction; various duplex and triplex configurations; and, converted single-family residential units. Zoning ordinance dictates and/or guidelines concerning desired affordability and workforce opportunities have not been developed or enacted.</i></p>		

Principal 9 Residential development will support the formation of complete neighborhoods with diverse housing, pedestrian-scaled complete streets, integrated public spaces, connection to adjacent neighborhoods, and access to transportation alternative and basic retail needs. Concurrence
 Inconsistent
 Other

The VFW Post 548 site is within the B-4, General Business District and located within a two to five minute relatively flat walk to basic retail goods and services, civic, institutional, and public spaces located within the central downtown business district and University's downtown campus. Semi-public indoor and outdoor spaces have been incorporated to further quality of life, convenience, and enjoyment of the development's residents. Special design care appears to have been given to further the at-grade pedestrian level experience including materiality and orientation.

Principal 10 Parks, open space, and recreational areas are incorporated as part of future development. Concurrence
 Inconsistent
 Other

Semi-public indoor and outdoor spaces have been incorporated to further quality of life, convenience, and enjoyment of the development's residents. The proposed at-grade setbacks appear to functionally widen adjoining public sidewalks. Green-wall landscaping treatments along Willey Street and on the side wall adjoining the child development center should serve to soften the relationship between the public sidewalk realm and the building's at-grade edge. Additionally, physical barriers are planned to buffer the above-grade outdoor recreation space from the building edge.

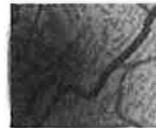
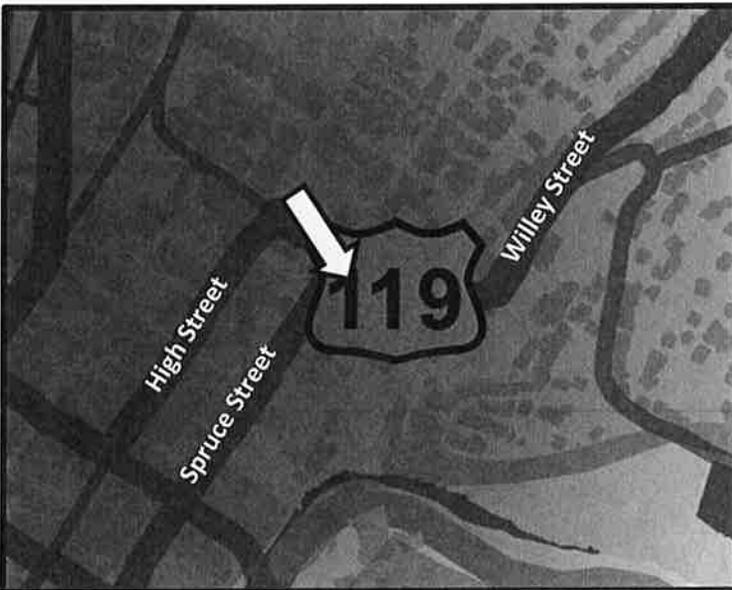
Principal 11 Environmentally sensitive and sustainable practices will be encouraged in future developments. Concurrence
 Inconsistent
 Other

Stormwater management best practices will be required for a large site currently lacking such measures. The developer's goals and objectives concerning sustainable construction techniques and industry accepted best practices have not been fully developed.

LOCATION

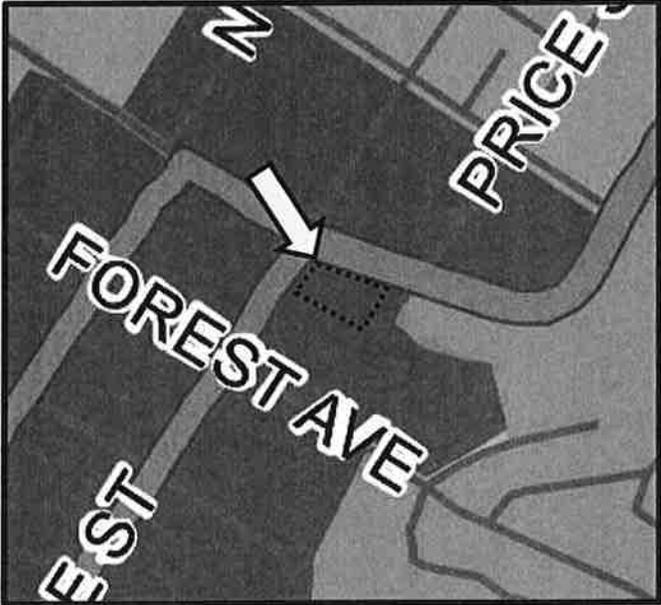
Development proposals will be consistent with the Land Management Map. If the proposal applies to an area intended for growth, infill, revitalization, or redevelopment, then it should be compatible with that intent and with any specific expectations within Areas of Opportunity. If the proposal applies to an area of conservation or preservation, it should be compatible with and work to enhance the existing character of the immediate surroundings.

The following graphic is clipped from the **Conceptual Growth Framework Map** included on Page 19 of the 2013 Comprehensive Plan Update. The subject development site is located within the “**Encouraged Growth**” area.



Encouraged Growth

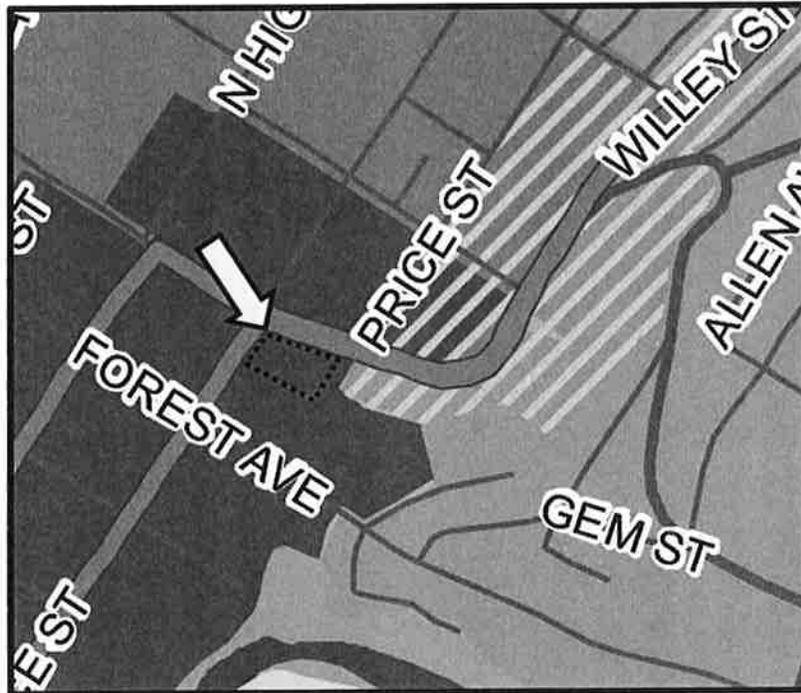
The following graphic is clipped from **Map 3 – Pattern and Character** included on Page 27 of the 2013 Comprehensive Plan Update. The subject development site is located within the “**Core**” pattern and character area.



Core. The Core is the zone of densest development and is generally defined as Downtown Morgantown. The area has the highest level of connectivity with a grid street pattern with short walkable block lengths. Buildings range from two to twelve stories and are located close to each other and to the street. A mixed-use district, the core contains a range of retail, office, institutional and residential activities, with many buildings containing multiple uses within them. The street, network, building density and mix of uses support a high degree of pedestrian mobility.



The following graphic is clipped from **Map 4 – Land Management** included on Page 39 of the the 2013 Comprehensive Plan Update. The subject development site is located within the “**Downtown Enhancement**” concept area.



Downtown Enhancement: Continued infill and redevelopment in the Downtown core with a mix of employment, civic, commercial and residential uses as described in the 2010 Downtown Strategic Plan Update.

PATTERN AND CHARACTER

Development proposals in growth areas will be consistent with preferred development types. Development in areas where growth is not intended should be compatible with the relevant Character Areas description and expectations for how those areas should evolve in the future.

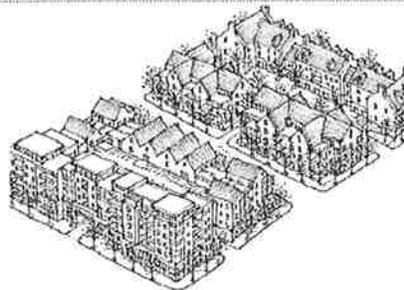
The following graphics are clipped from Pages 41 through 43 of the 2013 Comprehensive Plan Update and identify the development types desired within the “Core Enhancement” concept area.

Appropriate Development Types

CONCEPT AREA	SF	TF	MF	C	NX	UC	CC	O	I	CD	OS
Core Enhancement			•	•	•	•					•

MF Multi-family Residential

Includes various forms such as apartment buildings where three or more separate residential dwelling units are contained with a structure and townhouse dwelling types. They vary considerably in form and density depending on the context – from four-story or larger buildings set close to the street in and at the edge of the downtown core and along major corridors, to smaller two- to four-story buildings with greater street setbacks in areas between the downtown core and single-family neighborhoods.



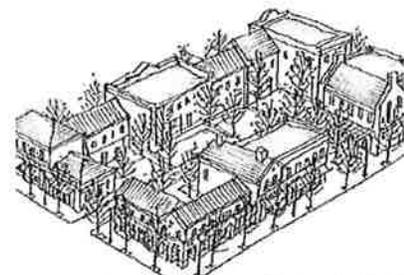
C Civic and Institutional

These sites include both public uses (government buildings, libraries, community recreation centers, police and fire stations, and schools) and semi-public or private uses (universities, churches, hospital campuses). Public uses should be strategically located and integrated with surrounding development. Civic and Institutional sites may be distinctive from surrounding buildings in their architecture or relationship to the street.



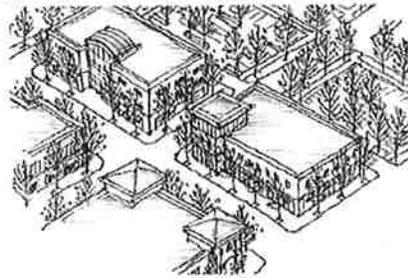
NX Neighborhood Center Mixed-Use

A mix of housing, office, commercial, and civic uses adjacent to one another or contained within the same structure (such as offices or apartments above ground-floor retail). Such uses should be compatible with and primarily serve nearby neighborhoods (within 1/2 mile). Parking should be located behind or to the side of buildings and may be shared between multiple uses.



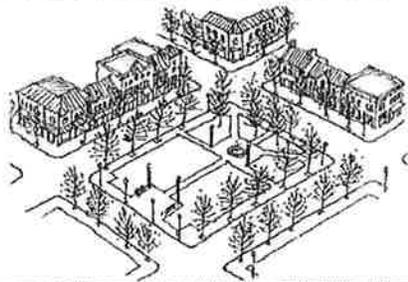
UC Urban Center Mixed-Use

A mix of housing, office, commercial, and civic uses located adjacent to one another or sharing the same building. Buildings are generally larger in scale than neighborhood mixed-use and contain more employment and commercial uses that serve the broader community. Buildings should be located near the street with parking provided on-street or in shared parking configurations behind or between buildings.



OS Greenspace

Includes formal parks, recreation areas, trails, and natural open space.



OBJECTIVES AND STRATEGIES **Land Management**

A. Goal

Efficient and attractive use of land resources that strengthens the quality, character, and upkeep of the built environment while balancing redevelopment and strategic expansion with open space preservation.

Objective 1. Strengthen Downtown.

- ➔ LM 1.5 Create incentives for developers to build residential units downtown that will serve a broad age and socioeconomic range.

Objective 5. Encourage land use patterns that support improved transportation choice and efficiency.

- ➔ LM 5.2 Permit higher density development in areas that are well-supported by existing or planned transportation infrastructure or transit services.

Objective 6. Improve community appearance, particularly at city gateways.

- ➔ LM 6.5 Encourage major redevelopment projects to relocate utilities from view of primary corridors, arterials, and collectors with emphasis on underground placement.

**OBJECTIVES
AND
STRATEGIES**

Neighborhoods and Housing

A. Goal

Attractive, well-maintained neighborhoods that offer a broad mix of desirable housing options and convenient access to services and amenities.

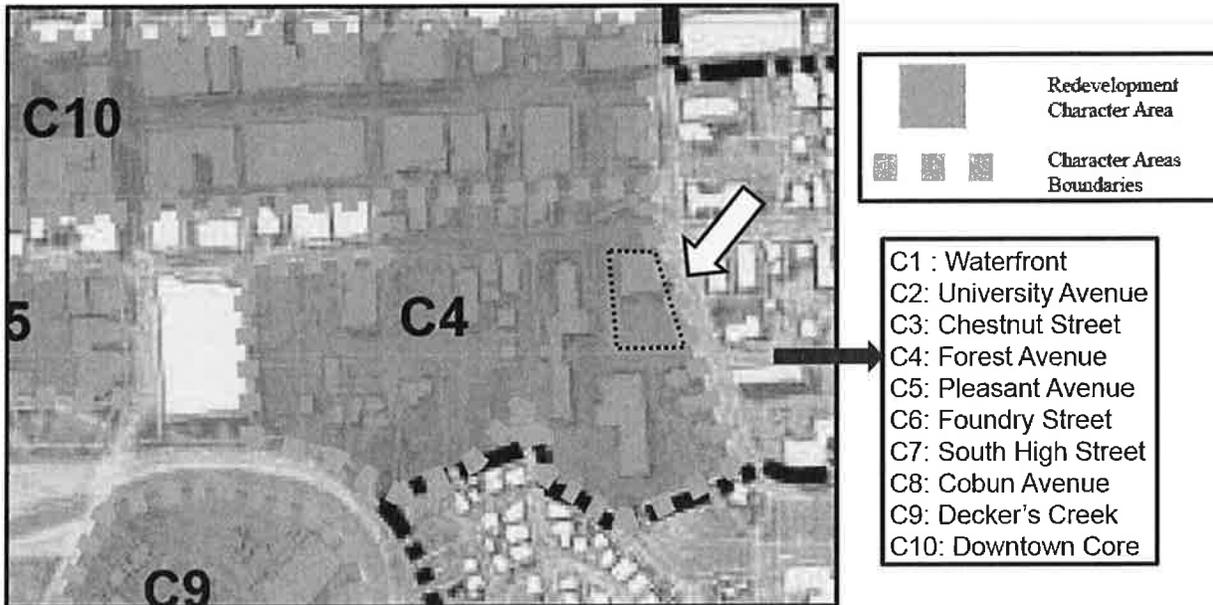
Objective 4. Promote the development of a broad range of housing types and prices.

- ➔ NH 4.1 Provide incentives to developers to encourage development of alternative housing types (i.e. higher density, live-work, mixed-use) in designated growth areas.

2010 Downtown Strategic Plan

Concurrence with the 2010 Downtown Strategic Plan

The following graphics have been clipped from the 2010 Downtown Strategic Plan.



Clipped from Page 89

6.0 Downtown Strategies

6.3.1.4 Character Area C4 – Forest Avenue

<p>STRENGTHS</p> <ul style="list-style-type: none"> • Farmer's Market. • Immediately adjacent to WVU campus. • Proximity to High Street retail. • Gateway and downtown access point both to and from Woodburn residential neighborhood. • Various historic architecture, churches, and homes provide scale and interest. • Access to Whitmore Park and trails with access to downtown and Sabraton. • Plans are currently underway for the redevelopment of the old Central School site. 	<p>CHALLENGES</p> <ul style="list-style-type: none"> • Some areas of steep topography. • Poorly designed, planned and managed student housing. • Minimal lighting and sidewalks are in disrepair. • Underutilized existing properties and original street grid has been disrupted in some places. • Insufficient supply of off-street parking.
<p>OPPORTUNITIES</p> <ul style="list-style-type: none"> • New mixed-use student housing village with live-work units for young professionals. • Additional mixed-use infill at the north end of Spruce Street. • Entertainment or cultural facilities. • Direct access to Deckers Creek and Deckers Creek Trail. • A cohesive sense of place in this area through urban design streetscapes, signage, lighting, art and landscaping. • Enhance the setting for the Farmer's Market. • Promote the redevelopment of derelict student housing into new attractive student housing near campus. 	

VISION / DEVELOPMENT THEME

A neighborhood with mixed-use live-work opportunities interspersed throughout, that is directly adjacent to downtown and the Farmer's Market. This area will also incorporate townhouses along Deckers Creek and some high quality student/young professional housing sprinkled throughout the area.

ACTIONS

- 6.3.1.4a Create a more permanent structure for the Farmer's Market while still retaining the site's principal parking use (i.e. covered parking stalls); study the feasibility of allowing evening parking for performances at the Metropolitan Theatre.



6.0 Downtown Strategies

6.3.1.4b Offer incentives to enable consolidation of parcels and consistency in development theme and pattern. These lot consolidation incentives options are;

- Offer an increased floor area ratio (FAR) bonus to properties requesting lot consolidation. The bonus incentives would apply to the gross square footage of a single parcel following consolidation.

- Offer residential density bonus incentives. The density bonus incentives would apply to the gross square footage of a single parcel following consolidation.

- At the discretion of the city, fee assistance and other financial incentives could be made available to encourage lot consolidation activities, subject to available resources. Financial incentives may include, but not limited to:

- i. Permit fee assistance (waivers, reduced fees, etc.)
- ii. Reductions in approval procedure timeline.
- iii. Others as deemed appropriate by the Planning Commission

6.3.1.4c Create more green space around new residential development in order to manage and clean stormwater before it enters Deckers Creek and travels into the Monongahela River.

6.3.1.4d Expand the government service needs of Morgantown into this area, which is adjacent to the existing government core.

6.3.1.4e Adopt and enforce Main Street Morgantown Urban Design Guidelines and Design Guidelines for Public Projects.

6.3.1.4f Create specific design guidelines for the "Forest Avenue Character Area".

DESIGN GUIDELINES CONSIDERATIONS:

General Intent / Goals

Dense pedestrian friendly village with buildings that are organized on an urban street pattern and along open space connections to Deckers Creek.

Planning Requirements

➔ Reinforce the urban quality by increasing the mass, density, and mixed-use quality buildings that front on well designed pedestrian streets.

➔ Maximize residential opportunities to take advantage of the location near WVU campus.

- Create north-south pedestrian and bicycle access to the River at regular intervals at the ends of the alleys that extend to downtown.

➔ Create balance and harmony in the vertical and horizontal massing of buildings.

- Create a consistent architectural style and palette of materials.

➔ Areas characterized as "New Mixed-Use Development" in Figure 17 will offer retail/commercial on the ground floor and either office or residential on the upper floors.

Building Height

➔ New buildings shall be a maximum height of four (4) stories or 50' or a minimum of three (3) stories or 30' in height to promote a mix of uses and a continuous urban edge.

This is a guideline that does not have the force or effect of law unless codified in the City's Planning and Zoning Code.

6.0 Downtown Strategies

Setbacks

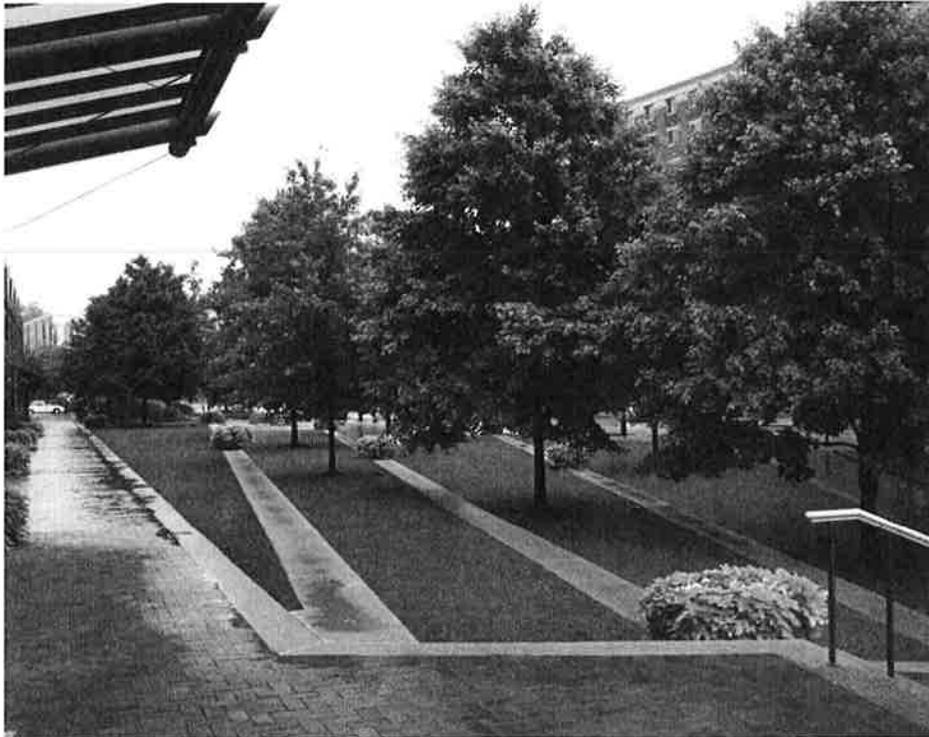
As described in B-4 zoning district.

Parking and Access

As described in the B-4 standards with the addition of the City offering an option for reduced required parking amounts for downtown residential developers as described under Transportation Section 6.4.2.

Building Placement

- ➔ Buildings should be oriented toward streets and open spaces along an established "build to line" so that an urban edge is created with the buildings.
- ➔ Buildings should exhibit continuity in the design of their facades.
- ➔ Buildings that front streets and open spaces should have a well designed and scaled first floor with human scaled elements, doors, windows, awnings, and stoops.
- Buildings should consider pedestrian scaled rhythms along the street and open space network and provide architectural breaks or interest every 30 - 50 feet of horizontal distance.



Inspirational imagery for Action 6.3.1.4c taken from Bloomington, Indiana depicting a pocket park located between two condominium buildings.



6.0 Downtown Strategies

Materials

Materials should conform to existing B-4 standards and be consistent with the materials chosen for the existing historic buildings within the "Forest Avenue Character Area". Materials, methods, treatment, and type for private projects should adhere to the Design Guidelines found under Section N of the Main Street Morgantown Urban Design Document. Materials, methods, treatments, and types for public projects should adhere to Main Street Morgantown's Design Guidelines for Public Projects found in Sections II to V. Select materials and finishes for proposed new buildings that are compatible with historic materials and finishes found in the surrounding buildings that contribute to the special character of the historic district in terms of composition, scale, module, pattern, detail, texture, finish, color, and sheen.

Colors Palette

Warm and earth-toned colors will be encouraged predominantly. Brighter colors will be allowed but in limited accent areas.

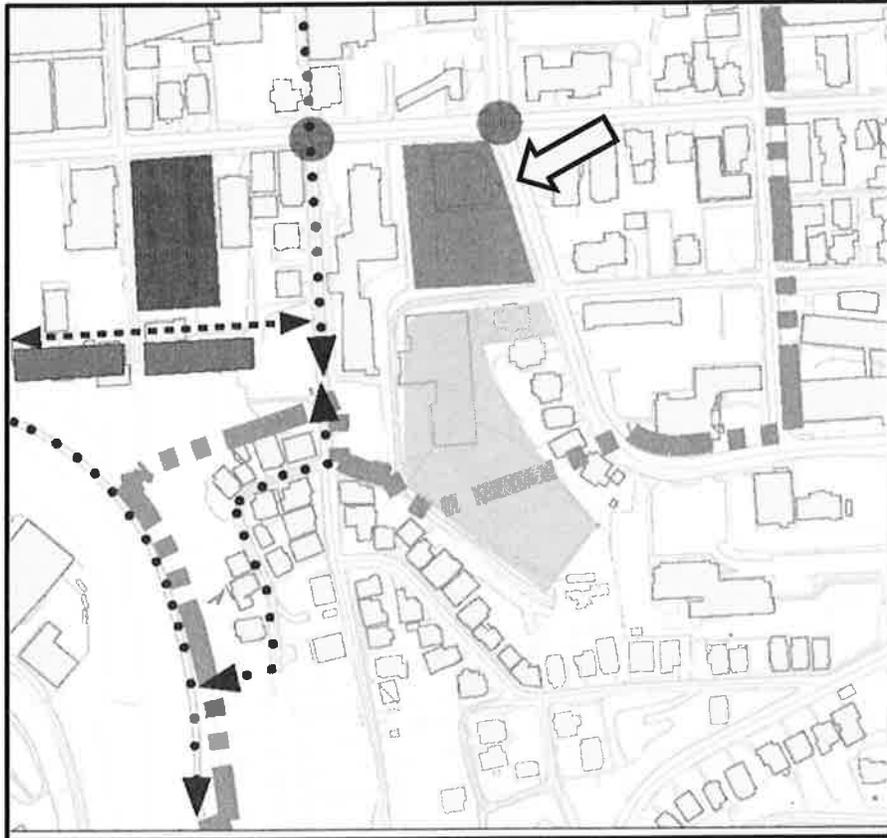
Architectural Style

Encourage an architectural reference for the "Forest Avenue Character Area" that draws inspiration from the many historic buildings that are part of the downtown core as described within the Main Street Morgantown Urban and Public Projects Design Guidelines. Existing building renovations, rehabilitations, and adaptive reuses will follow the Main Street Morgantown Urban and Public Projects Design Guidelines.



Inspirational imagery for Action 6.3.1.4a taken from Bloomington, Indiana depicting a Farmer's Market space that also serves as a parking lot during the weekdays. They have built a set of permanent overhead structures that serve as shading devices for the various users of this space throughout the week.





Clipped from Page 90

	New Mixed Use Development		Existing Planned Development
	New Residential Development		New Street Access
	Enhanced Streetscape and setbacks		Lane or Alley Access
	Enhanced Public Space or Park		Pedestrian Bridge
	Pedestrian Street (limited auto)		Enhanced Alley or multipurpose trail
	Future Government Services Expansion		Enhanced crosswalk

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6.0 Downtown Strategies

6.6 Housing and Redevelopment

Goal: Redevelop vacant and underperforming properties throughout the downtown and promote a variety of mixed-use housing in order to increase density and diversify the demographics of downtown residents.

Objectives:

- ➔ • Increase the supply, diversity, range, and affordability of housing opportunities within the downtown.
- Increase the utilization of various tax credit programs that support the revitalization of existing buildings.
- Pursue the development of mixed-use and residential development along the Riverfront and Deckers Creek.
- Redevelop underutilized upper-floor spaces throughout the downtown to create 100-200 new housing units.

Actions:

- ➔ 6.6.1 Grow the downtown resident population by creating more, and a broader range of, housing opportunities. The following downtown and community-wide benefits are expected from the increase in housing:
 - Boost the captive market for community-serving retail goods and services downtown that will support new downtown residents and the residents of nearby neighborhoods.
 - Increase occupancy and mixed-uses of underutilized downtown buildings.
 - 24/7/365 living, activity, commerce, and energy will create a safer downtown.
- 6.6.2 Encourage the reuse and conversion of underutilized upper floors for new residential uses.

One of the functions of the recommended development subsidiary of Main Street Morgantown will be to provide property owners with historic rehabilitation and New Markets tax credit technical assistance that can cover a portion of rehabilitation costs. Technical assistance could be in the form of raising awareness of and participation in these and other similar financing tools; involving several property owners in aggregating their properties to make tax credit financing more efficient; identifying potential local tax credit investors; and, providing pro bono rehabilitation financing assistance.
- 6.6.3 Stimulate infill development of mixed-use buildings on vacant lots throughout the downtown.
- 6.6.4 Redevelop the areas along the Monongahela River in order to attract revitalization and infill projects in the downtown.
- 6.6.5 New housing should support and integrate a diversity of age groups and income levels.
- 6.6.6 Use development of new housing to better connect surrounding neighborhoods to the downtown.

Residents and workers in the surrounding neighborhoods pass through many of the downtown "Character Areas" when traveling to work, visiting businesses, and accessing recreational sites.

Developing housing along the Creek and the River will make these areas livelier and, in turn, will make the connections between the downtown and adjacent neighborhoods safer.

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City of Morgantown, West Virginia

APPLICATION FOR
TYPE III SITE PLAN REVIEW

OFFICE USE	
CASE NO.	515-03-III
RECEIVED:	05 DEC 14
COMPLETE:	06 FEB 15

The Morgantown Planning Commission is responsible for approving Type III Site Plan Review Applications. There are two categories of Type III Site Plans Review Applications, 1) Developments of Significant Impact and 2) Major Developments of Significant Impact. Please check the category that best describes your proposed development:

- Developments of Significant Impact (DSI):**
 - Residential Projects:..... 12 to 99 dwelling units
 - Commercial Projects: 15,000 square feet of gross floor area
 - Office / Institution 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
- Major Developments of Significant Impact (Major DSI):**
 - Residential Projects:..... 100 or dwelling units
 - Commercial Projects: 100,000 or more square feet of gross floor area
 - Office / Institution 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

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT			
Name:	CA Student Living	Phone:	304-994-1871
Mailing Address:	161 N. Clark Suite 4900	Mobile:	773-454-5780
	Street Chicago IL 60601	Email:	dhrankowsky@ca-studentliving.c
	City State Zip		
II. AGENT / CONTACT INFORMATION			
Name:	Project Management Services	Phone:	304-212-5256
Mailing Address:	160 Fayett Street, Suite 101	Mobile:	304-692-7116
	Street Morgantown WV 26505	Email:	pms160@comcast.net
	City State Zip		
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	VFW Post #548	Phone:	304-292-3927
Mailing Address:	494 Spruce Street	Mobile:	304-685-9463
	Street Morgantown WV 26505	Email:	jeremywvu@gmail.com
	City State Zip		



City of Morgantown, West Virginia

APPLICATION FOR TYPE III SITE PLAN REVIEW

OFFICE USE	
CASE NO.	515-03-III
RECEIVED:	05 DEC 14
COMPLETE:	06 FEB 15

IV. SITE			
Street Address (if assigned):	494 Spruce Street	Zoning:	B-4
Tax Map(s) #:	26	Parcel(s) #:	245 / 246
Existing Use of Structure or Land:	Fraternal Organization		
Proposed Use of Structure of Land:	Mixed-use		

V. STRUCTURE			
Proposed Setbacks: Front:	ft.	Rear:	ft.
Side A:	ft.	Side B:	ft.
Proposed Height of Structure:	110'	No. of Proposed Off-Street Parking Spaces:	158 / 157
No. of Dwelling Units (if applicable):	89	No. of Bedrooms:	331
No. of Employees:	TBD		
Square Footage of all Proposed Structures (please explain):			
Far:	5.81	Lot Coverage:	84.8%
Bicycle storage:	97	Transparency, street frontage b/t 6'-8':	64% of
Total Gross Area:	224,119 SF	Total Gross excluding parking:	159,828 SF

VI. SITE PLAN REQUIREMENTS	
All applications for Type III Site Plan Review must be accompanied by complete and accurate site plan exhibits that meet the requirements set forth in Article 510.08 of the Zoning Ordinance and provided herein as:	
Addendum A.....	Developments of Significant Impact
Addendum B.....	Major Developments of Significant Impact

IX. ATTEST		
I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.		
Lisa K Mardis		12/05/2014
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

- Applicants will be advised of the Technical Review Committee meeting date/time.
- Site Plan Review Fee – \$75 for first \$200,000 in construction costs; \$10 for each additional \$100,000



City of Morgantown, West Virginia
TYPE III SITE PLAN REVIEW ADDENDUM A
DEVELOPMENTS OF SIGNIFICANT IMPACT

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

- (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, square footage, and dimensions of the proposed structure or alteration.
 - (iv) The location of the lot with respect to adjacent rights-of-way.
 - (v) The existing and proposed uses of the structure and land.
 - (vi) The number of employees, families, housekeeping units, bedrooms, or rental units the structure 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 structure;
 - (ix) Setbacks;
 - (x) Buffer yard and screening, if applicable;
 - (xi) Location of garbage collection area and screening;
 - (xii) Location of sign;
 - (xiii) Layout of all internal roadways;
 - (xiv) Location of stormwater management facilities;
 - (xv) Utility lines and easements; and
 - (xvi) 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) Parking plan
 - (d) Landscaping plan
 - (e) Sign plan
 - (f) Approved WV Division of Highways Access Permit, if applicable
 - (g) 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 ordinance; where deemed necessary, the Planning Director may require that in



City of Morgantown, West Virginia

**TYPE III SITE PLAN REVIEW ADDENDUM A
DEVELOPMENTS OF SIGNIFICANT IMPACT**

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.

- (3) The Planning Director may require that the lot and location of the building(s) thereon shall be staked out on the ground before construction.
- (4) For uses which, in the opinion of the City Engineer, may create excessive negative traffic impacts on dedicated City streets 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, 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 study may be warranted. If the 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.
- (5) 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 ordinance. 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 ordinance. 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.
- (6) 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 ordinance and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

I hereby certify that I have read the site plan submission requirements provided herein and understand that failure to submit said exhibits constitutes an incomplete application which will result in application review delays.

Lisa K Mardis

12/05/2014

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date



City of Morgantown, West Virginia
TYPE III SITE PLAN REVIEW ADDENDUM B
MAJOR DEVELOPMENTS OF SIGNIFICANT IMPACT

The review process for all **Major Developments of Significant Impact** 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 and large scale residential developments. **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



City of Morgantown, West Virginia

**TYPE III SITE PLAN REVIEW ADDENDUM B
MAJOR DEVELOPMENTS OF SIGNIFICANT IMPACT**

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) 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;
- (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) Building setback lines, showing dimensions;
- (d) 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;
- (e) Internal and perimeter sidewalk system/pedestrian circulation plan; and
- (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.
- (g) Show the location and detail plans for all trash dumpsters.



City of Morgantown, West Virginia
TYPE III SITE PLAN REVIEW ADDENDUM B
MAJOR DEVELOPMENTS OF SIGNIFICANT IMPACT

(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 West Virginia Department of Natural Resources and/or 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.



City of Morgantown, West Virginia
TYPE III SITE PLAN REVIEW ADDENDUM B
MAJOR DEVELOPMENTS OF SIGNIFICANT IMPACT

(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;
 - (i) Radii, internal angles, points of curvature; tangent bearings and lengths of all arcs, chord, and chord bearings; and
 - (ii) 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 outlots 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.

I hereby certify that I have read the site plan submission requirements provided herein and understand that failure to submit said exhibits constitutes an incomplete application which will result in application review delays.

Lisa K Mardis

12/05/2014

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

494 SPRUCE STREET
FOR
CAMPUS ACQUISITIONS HOLDINGS, LLC
MORGANTOWN, WEST VIRGINIA



PROJ. NO. 131012E.00	DATE: 05/20/2014	
SHEET NO. 1		
REVISIONS		
NO.	DATE	DESCRIPTION



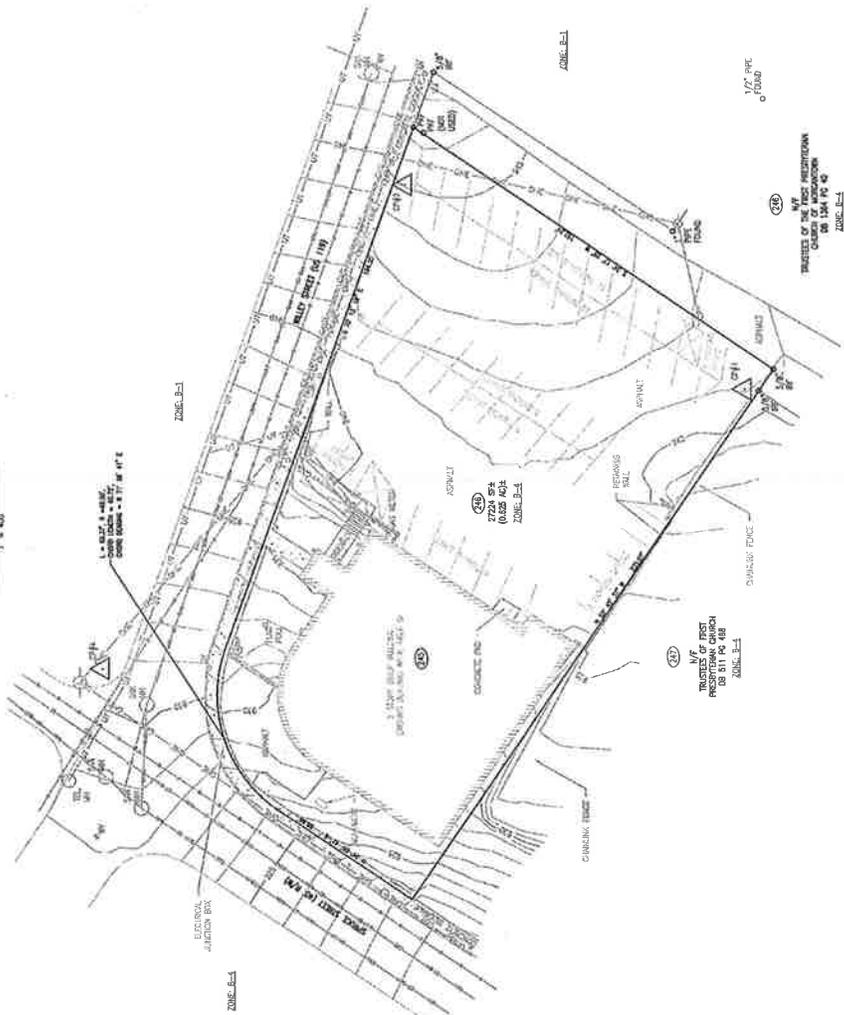
TITLE SHEET

SCALE: 0" = 20'

- NOTES**
- OWNER-DEVELOPER: CAMPUS ACQUISITIONS HOLDINGS, LLC
181 N. CANAL STREET, SUITE 2050
MORGANTOWN, WV 26501
 - NUMBER OF BUILDING UNITS: 88 UNITS
ALL RES.
 - NUMBER OF OCCUPANTS: 7,310 SQUARE FEET
UNITS-RESIDENTIAL, 3,000 SQUARE FEET
UNITS-RETAIL
 - PROPOSED USES: RESIDENTIAL AND RETAIL
 - PROPOSED COMPLETION DATE: MAY 15, 2014

DESCRIPTION OF ADJACENT LAND TITLE SURVEY

THIRD WARD, CITY OF MORGANTOWN, MORGANTOWN COUNTY, WEST VIRGINIA
THE MAP 24, PARCELS 240 AND 241
ALL OF THE PARCELS OF LAND DESCRIBED IN THE SURVEY ARE IN THE THIRD WARD OF THE CITY OF MORGANTOWN, MORGANTOWN COUNTY, WEST VIRGINIA, AND ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A 5/8" NAIL FOUND IN THE SOUTHERN RIGHT-OF-WAY LINE OF WALLEY STREET, BEING THE CORNER NORTHERN CORNER OF THE FIRST PRESBYTERIAN CHURCH OF MORGANTOWN (DEED BOOK 13364 AT PAGE 42 AND DEED BOOK 517 AT PAGE 149); THENCE WITH SAID CHURCH FOR TWO (2) LINES
S 34.17 26' W, 152.24 FEET TO A 5/8" NAIL FOUND IN THE EASTERN RIGHT-OF-WAY LINE OF WALLEY STREET;
N 55.44 37' W, 41.80 FEET BESSING A 1/2" NAIL FOUND IN THE EASTERN RIGHT-OF-WAY LINE OF SPRUCE STREET; THENCE WITH SAID EASTERN RIGHT-OF-WAY FOR TWO (2) LINES
N 24.06 41' E, 56.96 FEET TO A 3/4" NAIL FOUND IN THE EASTERN RIGHT-OF-WAY LINE OF SPRUCE STREET; THENCE WITH SAID EASTERN RIGHT-OF-WAY FOR TWO (2) LINES
N 70.13 13' E, 194.33 FEET TO THE PLACE OF BEGINNING AND CONTAINING 27,659 SQUARE FEET (0.630 ACRES), MORE OR LESS, AS SURVEYED IN OCTOBER 2012 BY ALPHA ASSOCIATES, INCORPORATED, MORGANTOWN, WEST VIRGINIA.
THE PARCEL OF LAND REFERRED TO AS THE SAME REAL ESTATE CONVEYED INTO GENERAL DANIEL MORGAN AND HIS WIFE, JENNIFER MORGAN, BY DEED DATED JULY 14, 1949, AND RECORDED IN THE COUNTY COMMISSIONER'S OFFICE OF MORGANTOWN COUNTY, WEST VIRGINIA, IN DEED BOOK 390 AT PAGE 409, SUBJECT TO THE OIL-GAS CONVEYANCE TO THE STATE OF WEST VIRGINIA BY WILLS OF THE UNITED STATES, WAS BY DEED DATED JULY 14, 1949 OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSIONER OF MORGANTOWN COUNTY, WEST VIRGINIA, IN DEED BOOK 437 AT PAGE 101.



CONTROL POINTS

BENCHMARK	NORTHING	EASTING	ELEVATION	DESCRIPTION
CP1	412153.1	141024.0	341.06	78 W.V.
CP2	412424.4	141122.3	343.05	78 W.V.
CP3	412424.7	141072.1	321.84	78 W.V.
CP4	412523.5	141052.4	333.21	78 W.V.

VERTICAL DATUM: NAVD 83
HORIZONTAL DATUM: NAD 83

- SYMBOLS**
- ⊙ INDEXED T.M. WP 28 PARCEL NUMBER
 - ⊙ WP OR FORECAST
 - ⊙ IF INDICATES NOT FOUND SEE AS
 - ⊙ HORIZONTAL
 - ⊙ PNE INDICATES P.N. NAIL FOUND
 - ⊙ BPF INDICATES 1/2" DRILL HOLE IN CONCRETE
 - ⊙ JPS INDICATES 3/4" DRILL HOLE IN CONCRETE
 - ⊙ BS INDICATES 3/4" BORE HOLE WITH GRADE
 - ⊙ DWP INDICATES 3/4" BORE HOLE WITH GRADE
 - ⊙ CONVEY SET THIS SURVEY
 - ⊙ EXISTING UTILITY POLE
 - ⊙ EXISTING LIGHT POLE
 - ⊙ EXISTING TRAFFIC SIGNAL POLE
 - ⊙ EXISTING TELEPHONE MANHOLE
 - ⊙ EXISTING EMERGENCY MANHOLE
 - ⊙ EXISTING GAS VALVE
 - ⊙ EXISTING WATER VALVE
 - ⊙ EXISTING WATER METER
 - ⊙ EXISTING UNDERGROUND TELEPHONE
 - ⊙ EXISTING UNDERGROUND ELECTRIC
 - ⊙ EXISTING GAS LINE
 - ⊙ EXISTING CHECK VALVE
 - ⊙ EXISTING STORM SPYER
 - ⊙ EXISTING SUMP PUMP

Drawing Name	Date
01 - SITE PLAN	08/14/13
02 - FLOOR PLANS	08/14/13
03 - SECTION	08/14/13
04 - ELEVATIONS	08/14/13
05 - MECHANICAL	08/14/13
06 - ELECTRICAL	08/14/13
07 - PLUMBING	08/14/13
08 - FINISHES	08/14/13
09 - EXTERIOR	08/14/13
10 - INTERIOR	08/14/13
11 - DETAILS	08/14/13
12 - CONSTRUCTION	08/14/13

64 Spruce Street
Philadelphia, PA

Clients:
STUDENT LIVING
University City Properties
Chicago, IL 60607
2014-01-01

Architects:
Eagan McHenry Architects, LLC
815 North Orange Street
Philadelphia, Pennsylvania 19123
Phone: 215.562.7000
Fax: 215.562.7001
www.eaganmhenry.com

MEP/FP/IT Engineers:
The McGraw-Hill Companies
One Penn Plaza
New York, NY 10119
Philadelphia, PA 19102

Structural Engineers:
O'Donnell & McCann
115 S. Independence Mall East
Philadelphia, PA 19106

Civil Engineer:
Algoz Associates, Inc.
1000 Walnut Street
Philadelphia, PA 19106

Architect:
SCOTT A. LEVY, AIA
DAVID S. MCKENNEY, AIA

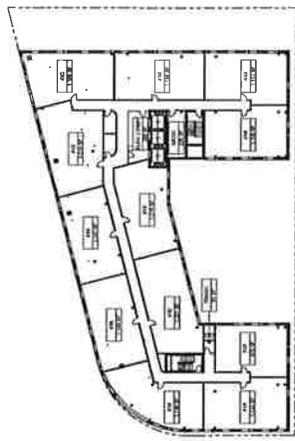
DAVID MCKENNEY, AIA, LECA # 04-0415
SCOTT A. LEVY, AIA, LECA # 04-0415
WEST VIRGINIA

Eagan McHenry Architects, LLC
815 North Orange Street
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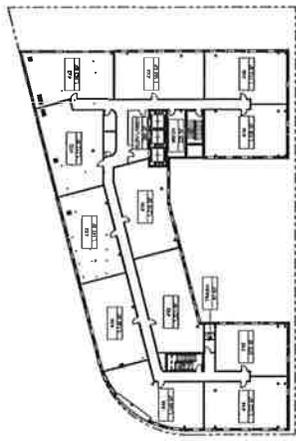
Residential Floor Plans - Levels 02-09

Sheet	PT. NAME	DATE	REVISION
20.03	RESIDENTIAL FLOOR PLANS	08/14/13	11/08/13

20.03
PHILADELPHIA UNIVERSITY
64 SPRUCE STREET, PHILADELPHIA, PA



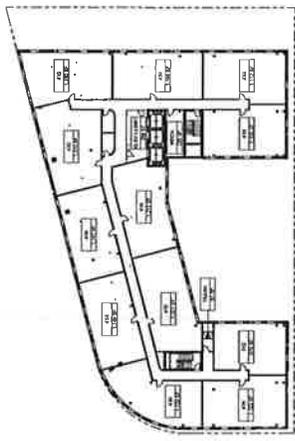
3 Level 02 Floor Plan
Scale: 1" = 30'-0"



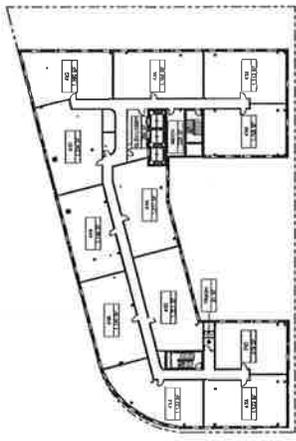
2 Level 03 Floor Plan
Scale: 1" = 30'-0"



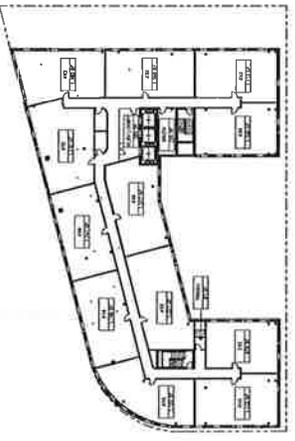
1 Level 04 Floor Plan
Scale: 1" = 30'-0"



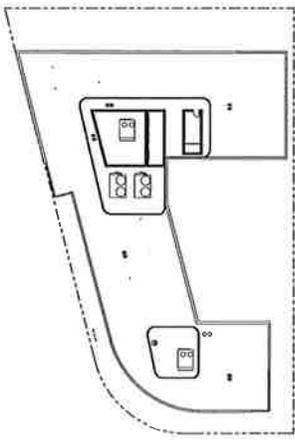
6 Level 05 Floor Plan
Scale: 1" = 30'-0"



5 Level 06 Floor Plan
Scale: 1" = 30'-0"



4 Level 07 Floor Plan
Scale: 1" = 30'-0"



9 Level 08 Floor Plan
Scale: 1" = 30'-0"



8 Level 09 Floor Plan
Scale: 1" = 30'-0"



7 Level 09 Floor Plan
Scale: 1" = 30'-0"

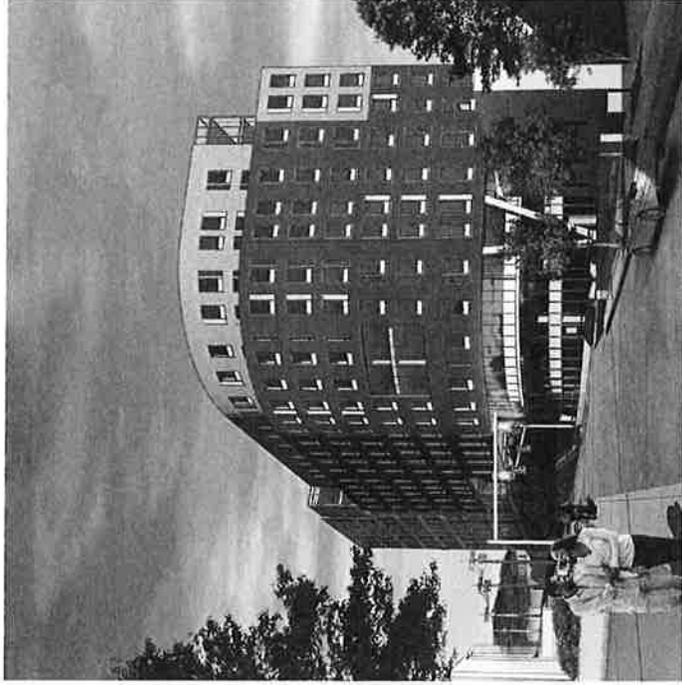
NOT FOR CONSTRUCTION



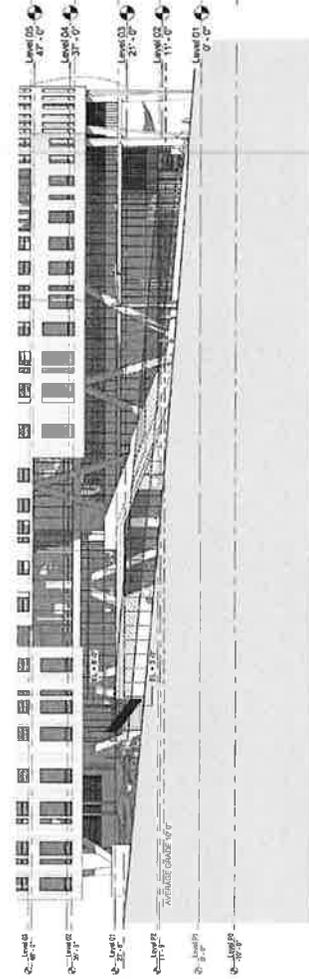
4 Birdseye BW
NTS

Total Building Facade 1282 SF
 Non Transparent Building Facade 458 SF
 Transparent Building Facade 824 SF

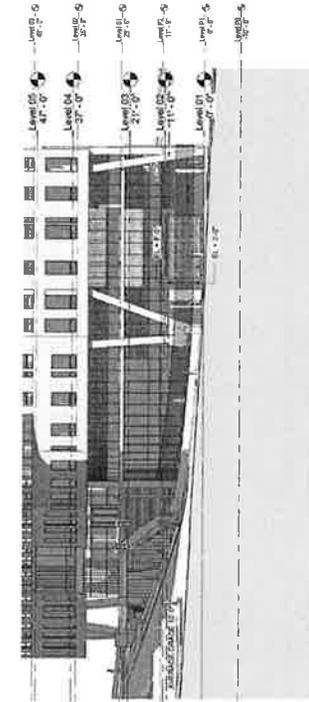
Transparency: of the street-facing building facade between 3'-0" and 8'-0" is 64%



3 Perspective NW
NTS



2 North Elevation - Transparency Study
NTS



1 West Elevation - Transparency Study
NTS

Checking Issues	Date
SCHEMATIC DEVELOPMENT	11/14/2014
PERMIT APPLICATION	11/14/2014
PERMIT EXPIRATION	01/15/2015

454 Spruce Street

Client:

STUDENT LIVING
 157 E. Chestnut Street, Suite 200
 Philadelphia, PA 19102
 215.525.1515

Architect:
 157 E. Chestnut Street, Suite 200
 Philadelphia, PA 19102
 215.525.1515

MEP/FP/IT Engineer:
 224 N. 15th Street
 Philadelphia, PA 19103

Engineer:
 400 Chestnut Street, Suite 200
 Philadelphia, PA 19106

Structural Engineer:
 157 E. Chestnut Street, Suite 200
 Philadelphia, PA 19102

Civil Engineer:
 157 E. Chestnut Street, Suite 200
 Philadelphia, PA 19102

Architect:
 157 E. Chestnut Street, Suite 200
 Philadelphia, PA 19102
 215.525.1515

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Client	City of Philadelphia
Project Name	194 Spring Street
Project Location	194 Spring Street, Philadelphia, PA
Project Number	194-001
Project Date	2012-03-28
Project Status	Final
Project Type	Commercial
Project Size	100,000 sq ft
Project Cost	\$10,000,000
Project Lead	David McKinley
Project Manager	David McKinley
Project Designer	David McKinley
Project Architect	David McKinley
Project Engineer	David McKinley
Project Landscape Architect	David McKinley
Project Structural Engineer	David McKinley
Project Mechanical Engineer	David McKinley
Project Electrical Engineer	David McKinley
Project Civil Engineer	David McKinley
Project Environmental Engineer	David McKinley
Project Historic Architect	David McKinley
Project Planning Consultant	David McKinley
Project Urban Designer	David McKinley
Project Interior Designer	David McKinley
Project Furniture Designer	David McKinley
Project Lighting Designer	David McKinley
Project Acoustic Designer	David McKinley
Project Security Consultant	David McKinley
Project Fire Alarm Designer	David McKinley
Project Life Safety Designer	David McKinley
Project Accessibility Designer	David McKinley
Project Sustainability Consultant	David McKinley
Project Energy Auditor	David McKinley
Project Commissioning Agent	David McKinley
Project Construction Manager	David McKinley
Project General Contractor	David McKinley
Project Subcontractors	David McKinley
Project Vendors	David McKinley
Project Suppliers	David McKinley
Project Manufacturers	David McKinley
Project Distributors	David McKinley
Project Retailers	David McKinley
Project Wholesalers	David McKinley
Project Importers	David McKinley
Project Exporters	David McKinley
Project Freight Forwarders	David McKinley
Project Customs Brokers	David McKinley
Project Insurance Brokers	David McKinley
Project Bonding Agents	David McKinley
Project Real Estate Agents	David McKinley
Project Property Managers	David McKinley
Project Facility Managers	David McKinley
Project Maintenance Contractors	David McKinley
Project Cleaning Contractors	David McKinley
Project Security Guards	David McKinley
Project Janitors	David McKinley
Project Landscapers	David McKinley
Project Horticulturists	David McKinley
Project Arborists	David McKinley
Project Irrigation Installers	David McKinley
Project Fertilizer Applicators	David McKinley
Project Pesticide Applicators	David McKinley
Project Lawn Care Services	David McKinley
Project Tree Services	David McKinley
Project Snow Removal Services	David McKinley
Project Waste Management Services	David McKinley
Project Recycling Services	David McKinley
Project Recycling Centers	David McKinley
Project Recycling Programs	David McKinley
Project Recycling Facilities	David McKinley
Project Recycling Plants	David McKinley
Project Recycling Equipment	David McKinley
Project Recycling Technology	David McKinley
Project Recycling Research	David McKinley
Project Recycling Education	David McKinley
Project Recycling Marketing	David McKinley
Project Recycling Promotion	David McKinley
Project Recycling Campaigns	David McKinley
Project Recycling Initiatives	David McKinley
Project Recycling Programs	David McKinley
Project Recycling Facilities	David McKinley
Project Recycling Equipment	David McKinley
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Project Recycling Research	David McKinley
Project Recycling Education	David McKinley
Project Recycling Marketing	David McKinley
Project Recycling Promotion	David McKinley
Project Recycling Campaigns	David McKinley
Project Recycling Initiatives	David McKinley

194 Spring Street
Philadelphia, PA

Client:

STUDENT JIVING
CivicSpace Architecture LLC
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Philadelphia, PA 19106
215.562.1234

Landscape Architect:

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Philadelphia, PA 19107

MES/FP/IT Engineer:

1000 Locust Street, Suite 1000
Philadelphia, PA 19106

Structural Engineer:

111 & Independence Mall East
Philadelphia, PA 19106

Civil Engineer:

Alpha Associates, Inc.
1000 Locust Street, Suite 1000
Philadelphia, PA 19106

Architect:

DAVID MCKINLEY ARCHITECT - STATE OF PHILADELPHIA



3 Sun Study, Spring - 4pm
Scale: 1" = 200'-0"



2 Sun Study, Spring - 12pm
Scale: 1" = 200'-0"



1 Sun Study, Spring - 9am
Scale: 1" = 200'-0"



6 Sun Study, Summer - 4pm
Scale: 1" = 200'-0"



5 Sun Study, Summer - 12pm
Scale: 1" = 200'-0"



4 Sun Study, Summer - 9am
Scale: 1" = 200'-0"



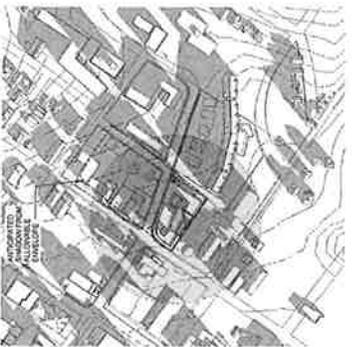
9 Sun Study, Autumn - 4pm
Scale: 1" = 200'-0"



8 Sun Study, Autumn - 12pm
Scale: 1" = 200'-0"



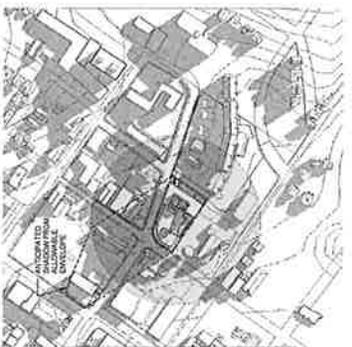
7 Sun Study, Autumn - 9am
Scale: 1" = 200'-0"



12 Sun Study, Winter - 4pm
Scale: 1" = 200'-0"



11 Sun Study, Winter - 12pm
Scale: 1" = 200'-0"



10 Sun Study, Winter - 10am
Scale: 1" = 200'-0"

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City of Morgantown, West Virginia

APPLICATION FOR ADMINISTRATIVE APPEAL

OFFICE USE	
CASE NO.	BA15-02
RECEIVED:	4/10/15
COMPLETE:	

Article 1383 "Administrative Appeals" of the City's Planning & Zoning Code (attached hereto as Addendum A) provides that the Board of Zoning Appeals hears and determines appeals from any order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of the City's Zoning Ordinance.

PAID

OK 13103

(PLEASE TYPE OR PRINT IN BLACK INK)

PAID BY: APR 10 2015 PAID

Fee: \$35

I. APPLICANT			
Name:	Central Place, LLC	BY:	Phone:
Mailing Address:	Mid Atlantic Dr.		Mobile:
	Morgantown WV 26505		Email:
	City State Zip		
II. AGENT / CONTACT INFORMATION			
Name:	J. Bryan Edwards, Esq.	Phone:	304 296-3500
Mailing Address:	1200 Dorsey Ave., Suite	Mobile:	
	Morgantown WV 26501	Email:	jbryanedwards@comcast.net
	City State Zip		
Mailings -	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	VFW / CALiving	Phone:	
Mailing Address:	494 Spruce St.	Mobile:	
	Morgantown WV 26505	Email:	
	City State Zip		
IV. ATTEST			
I hereby certify that the information which I have provided, that all answers to the questions in this request, and all other supplementary matter attached to and made a part of this administrative appeal request are honest and true to the best of my knowledge and belief.			
J. Bryan Edwards			4-10-15
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent		Date

- V. Please attach a narrative describing in detail the nature of your administrative appeal.
- VI. Please attach a copy of the Zoning Official's determination which has resulted in your appeal.
- VII. You or a representative **MUST** be present at the scheduled hearing to present the appeal and answer questions. Failure to appear at the hearing will result in your appeal being tabled.

**ADMINISTRATIVE APPEAL BEFORE THE MORGANTOWN
BOARD OF ZONING APPEALS**

CASE NO:	S15-03-III / CA Student Living / 494 Spruce Street Tax Map 26, Parcels 245 and 246; B-4 General Business District
APPEAL OF:	Central Place, LLC, Petitioner

Central Place, LLC (“Central Place”) hereby appeals the determination made by the Morgantown Planning Commission for Case No. S15-03-III to the Morgantown Board Of Zoning Appeals.

1. Introduction and procedural history.

In 2014, CA Student Living filed a Type III Development of Significant Impact site-plan application for a proposed development at the VFW Post 548 site at the corner of Spruce Street and Willey Street (the Proposed Development”) An appeal was taken of that decision to the Board of Zoning Appeals by Central Place. On September 11, 2014, the Board of Zoning Appeals upheld the appeal and held that the Proposed Development was properly considered a Major Development of Significant Impact and should have been applied for as such. CA Student Living re-filed for approval of the City of Morgantown Planning Commission and sought site-plan approval for a Major Development of Significant Impact. On March 13, 2015 the Planning Commission issued a determination (the “Determination”) which approved the site plan for the Proposed Development with a number of conditions. Central Place is appealing the Determination because the site plan for the Proposed Development violates the Morgantown Planning and Zoning Code in multiple ways.

2. Standing and jurisdiction.

Central Place has standing to appeal because it is an adjoining property owner to the Proposed Development. This appeal is brought under City Code § 1383.01, which provides that “[t]he Board of Zoning Appeals shall hear and determine appeals from any order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of this Zoning Ordinance.”

3. Grounds for appeal.

Under § 1375.02 of the Morgantown Planning and Zoning Code, Part 13 of the City Code of Morgantown, West Virginia, “No commission, board, agency, officer, or employee of the City shall issue, grant, or approve any permit, license, certificate, or any other authorization for any construction, reconstruction, alteration, enlargement, or relocation of any building or structure, or for any use of land or building, that would not be in compliance with the provisions of this ordinance.” City Code § 1375.02. The Planning Commission is created by the Planning and Zoning Code and derives its powers and duties from that ordinance. *See* City Code §§ 1387.01–1387.02. Consequently, the Planning Commission cannot approve a plan that is not in compliance with the Planning and Zoning Code, and it commits reversible legal error if it does so. For the following reasons, the site plan for the Proposed Development violates the Planning and Zoning Code.

A. Violation of City Code § 1365.04 – The application for the Proposed Development does not have the required number of parking spaces for a Mixed-Use Dwelling.

The Planning Commission erred in approving the site plan for the Proposed Development includes because Proposed Development is far short of the number of parking spaces required by the Planning and Zoning Code. The Proposed Development includes 89 dwelling units with 331 bedrooms, plus 7,500 sq. ft. square feet in

commercial space. CA Student Living’s application proposes 157 off-street parking spaces and says that the minimum number of “Required Residential Parking” spaces is 155, which is seemingly based off a calculation of 0.5 spaces per occupant for residential uses, with the first 22 occupants disregarded in that calculation.¹ This calculation is incorrect, and the Planning Commission should have rejected the Proposed Development for grossly insufficient parking.

The application submitted by CA Student Living is for a building that includes both residential housing and commercial uses. It thus must comply not with the Planning and Zoning Code’s residential standards, but rather with the parking requirements for a “Dwelling, Mixed Use,” which under City Code § 1329.02 refers to a building containing primarily residential uses with a subordinate amount of commercial and/or office uses on the ground floor. *See* City Code § 1329.02 (definition of “DWELLING, MIXED USE”). Under City Code Table 1365.04.01, the required number of parking spaces for a Mixed-Use Dwelling is “1 space per dwelling unit or 0.75 spaces per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City, whichever is greater, plus required spaces for the commercial use(s).” City Code § 1365.04, Table 1365.04.01.

Thus, even assuming that CA Student Living may again disregard the first 22 residents for parking purposes, the *minimum* number of parking spaces is $(331 - 22) \times 0.75 = 232$ spaces, and that is not counting the additional off-street parking spaces required for the 7,500 sq. ft. of commercial space included in the Proposed Development. The commercial use would require additional spaces, which under § 1365.04 depends upon the type of business using the space. For example, a neighborhood convenience store would require “3 spaces per 1,000 sq. ft. of GFA of sales area and 1 space per

¹ $(331 - 22) \times 0.5 = 155$ spaces.

employee,” a carry-out/take-out restaurant would require “1 space per 4 seats and 1 space per 2 employees,” and a snack bar/snack shop would require “1 space per 3 seats and 1 space per 2 employees.” City Code § 1365.04, Table 1365.04.01. Thus, for example, if the commercial space in the Proposed Development were occupied by a carry-out fast-food restaurant with 50 seats and 8 employees, the Proposed Development would need 17 parking spaces *plus* the 232 spaces requires for the residential tenants. The Proposed Development is short of parking by *no less* than 77 spaces.

Planning Commission erred in approving the plan for the Proposed Development when it does not include the requisite number of parking spaces. To the contrary, the number of parking spaces in CA Student Living’s application is grossly insufficient under City Code § 1365.04. The Planning Commission should have rejected CA Student Living’s application due to insufficient parking.

B. Violation of City Code § 1351(D) – The Proposed Development’s parking entrance on Willey Street is closer than 30 ft. to another building’s driveway.

Under City Code § 1351(D), which applies to buildings in the General Business (B-4) District, “[n]o part of a driveway leading from a public street shall ... be nearer than thirty (30) feet to any other part of another driveway entering a public street.” The parking entrance on Willey Street for the Proposed Development is closer than 30 ft. to the existing driveway leading to a building owned by Central Place. The placement of the Willey Street driveway thus violates City Code § 1351(D).

The Willey Street driveway is too close to another driveway under City Code § 1351(D). The Planning Commission should have rejected CA Student Living’s application due to this code violation.

C. Violation of City Code § 1351(D) – The Proposed Development’s parking entrance on Spruce Street is closer than 30 ft. to the end of a curb radius at an intersecting street.

Also under City Code § 1351(D) no part of a driveway leading from a public street may be “nearer than thirty (30) feet to the end of a curb radius at an intersecting street.” In addition, the same section prohibits a driveway from being nearer than thirty-five (35) feet to the street right-of-way line of any intersecting street.” The parking entrance on Spruce Street for the Proposed Development appears to be closer than 30 ft. to the end of the curb radius for the intersection of Spruce and Willey Streets and closer than 35 feet to the right-of-way for Willey Street. The placement of the Spruce Street driveway thus violates City Code § 1351(D).

The Spruce Street driveway is too close to the end of the curb radius for the Spruce–Willey intersection and too close to the right-of-way for Willey Street, and consequently it violates City Code § 1351(D). The Planning Commission should have rejected CA Student Living’s application due to this code violation.

D. CA Student Living’s application relies upon an out-of-date traffic study.

CA Student Living’s application for the Proposed Development relies upon a traffic study created for its original application, which was before the Board of Zoning Appeals held that the Proposed Development must be re-filed as a Major Development of Significant Impact. Since the first application, however, CA Student Living has *increased* the proposed amount of commercial space from approximately 3,500 sq. ft. to 7,500 sq. ft., which is more than double the amount of commercial space. The Planning Commission should have rejected CA Student Living’s application in the absence of a new traffic report based on the new amount of commercial space.

E. There is no room for construction staging or storage.

In addition to the foregoing code violations, the Planning Commission should also have rejected CA Student Living's application due to the complete lack of space for construction staging and storage. The Proposed Development will cover virtually the entirety of the lot in question with only the required set-backs not occupied by the structure. This leaves no space whatsoever for the storage and staging space that would be required during construction of a project of this size. There is no possible way CA Student Living could construct this massive building on this lot without extended closures or blockages of Wiley or Spruce Streets or both, which would cause irreparable harm to neighboring properties like the one owned by Central Place. Moreover, neither the City nor its staff has the right to allow a project to go forward if the result is that a State Road would need to be closed or partially obstructed for any period of time without first obtaining approval of the State. Closing a major State Road as is at issue in this matter for any period of time creates serious health and safety issues for the community at large. These health and safety issues are ignored by CA Living and the Planning Commission. The Planning Commission should have rejected CA Student Living's application due to the harm it would cause to the entire neighborhood and greater community.

F. Violation of City Code § 1301.5 – The height of the Proposed Development violates the Comprehensive Plan.

Section 6.3.1.4 of the 2010 Morgantown Downtown Strategic Plan Update recommends that new buildings within the Character Area C4- Forest Avenue "shall be" a maximum height of 4 stories or 50 feet or a minimum of 3 stories or 30 feet in height to promote a mix of uses and a continues urban edge. The Proposed Development is located within the Character Area C4- Forest Avenue.

The Proposed Development is 12 stories high, which is more than three times the maximum height. This excess height violates the Comprehensive Plan, which the

Planning Commission is bound to enforce under the City Code. Specifically, City Code § 1301.5 states: “The layout, the location, extension or widening of thoroughfares; the general design of neighborhoods and their street patterns; the use of land; and the location of sites for schools, parks, recreation and other public uses, shopping centers and community facilities and other recommendations shall conform to the principles, policies and provisions of the Comprehensive Plan.” City Code §1329.01(H) further states: “The word “shall” is always mandatory and not discretionary.” Thus, compliance with the Comprehensive Plan is mandatory because the City Code says that uses “shall” conform to the provisions of the Comprehensive Plan.

The Planning Commission cannot ignore what is set forth in the Comprehensive Plan and approve a building that is three times as tall as what set as the maximum in the Comprehensive Plan. The Planning Commission erred as a matter of law or acted in an arbitrary and capricious manner by approving a development that would be three times the maximum height set by the Comprehensive Plan.

The Planning Commission should have rejected CA Student Living’s application because it dramatically exceeds the maximum building height set by the Comprehensive Plan.

G. Violation of City Code § 1351.01 – The Proposed Development would generate an impermissible “canyon effect.”

Under City Code § 1351.01(I), buildings taller than three stories must be designed as to preserve adequate light and airflow and to prevent a street from looking like the walls of a canyon: “To minimize canyon effects created by tall structures, buildings taller than three (3) stories shall incorporate design elements that preserve adequate light and airflow to public spaces including streets and sidewalks. Desired design elements include, but are not limited to, one or a combination of recessing or “stepping back” upper floors,

increased front and/or street side setbacks while incorporating measures to preserve the continuity of the predominant street wall, etc.”

According to the design documents submitted to the Planning Commission by CA Living, the Proposed Development would cover nearly the entirety of its lot with absolutely minimal setbacks, and there are no plans to incorporate any recesses or “steps” on the sides of the Building facing Spruce Street or Willey Street. This massive 12-story building would thus produce a “canyon effect” on Spruce Street or Willey Street in violation of City Code § 1351.01.

The Planning Commission should have rejected CA Student Living’s application because the Proposed Development dramatically does not incorporate the design elements expressly required by City Code § 1351.01, which are necessary in order to avoid a “canyon effect” on Spruce Street and Willey Street.

WHEREFORE, appellant Central Place, LLC respectfully asks the Board Of Zoning Appeals to reverse the decision of the Morgantown Planning Commission.

Respectfully submitted,



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April 10, 2015

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