



# MORGANTOWN BOARD OF ZONING APPEALS

February 20, 2013  
6:30 PM  
City Council Chambers

## **Board Members:**

Bernie Bossio, Chair  
Leanne Cardoso, Vice-Chair  
George Papandreas  
Tom Shamberger  
Jim Shaffer

## **STAFF REPORT**

**CASE NO:** CU13-04 / Mundell & Associates, LLC / 22 Walnut Street

### **REQUEST and LOCATION:**

Request by Robert M. Mundell, of Mundell & Associates, LLC, for conditional use approval for "Multi-family Dwelling" use located at 22 Walnut Street

### **TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 26A, Parcel 16; B-4, General Business District

### **SURROUNDING ZONING:**

B-4, General Business District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to convert the last remaining nonresidential use within the existing mixed-use building at 22 Walnut Street to an apartment. Addendum A of this report illustrates the location of the subject site.

According to the petitioner's application, the building currently contains six apartment units and a vacant commercial space, which was most recently occupied by a "Barber Shop / Beauty Salon" use call *Portfolio, LLC*. In speaking with the petitioner, Staff understands that efforts have been made to maintain the building as mixed-use. However, demand and market interest in the building has increased for apartment units.

Because the building contained nonresidential uses, the apartments were considered "Mixed-Use Dwelling" uses, which are permitted by-right in the B-4 District. With the elimination of the nonresidential use with the building, the seven (7) apartments will be considered "Multi-Family Dwelling" uses, which requires conditional use approval by the Board of Zoning Appeals. (see Article 1329.02 and Table 1331.05.01 of the *Planning and Zoning Code*)

### **STAFF RECOMMENDATION:**

The Board must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner. Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined).

Staff recommends approval of Case No. CU13-04 as requested without conditions.

Attachments: Application and submitted exhibits.

## **Development Services**

Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

**STAFF REPORT ADDENDUM A**  
**CU13-04 / Mundell & Associates, LLC / 22 Walnut Street**



## STAFF REPORT ADDENDUM B

### CU13-04 / Mundell & Associates, LLC / 22 Walnut Street

---

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined)

**Finding of Fact #1** – Congestion in the streets is not increased, in that:

~~No change from current.~~ The change in use of the subject space within the petitioner's building from a "Barber Shop / Beauty Salon", "Personal Services Establishment," or "Professional Services Establishment" use to a "Multi-Family Dwelling" use should not result in a measurable change in traffic generated from the subject site.

**Finding of Fact #2** – Safety from fire, panic, and other danger is not jeopardized, in that:

~~No change from approved space.~~ The building will meet all related building and fire codes.

**Finding of Fact #3** – Provision of adequate light and air is not disturbed, in that:

~~No change.~~ The granting of the conditional use will not result in an addition to the existing footprint or height of the building and therefore not affect existing light distribution and air flow patterns.

**Finding of Fact #4** – Overcrowding of land does not result, in that:

~~No change.~~ The petitioner seeks to repurpose existing space within the subject building and therefore not affect the existing density or intensity of the site.

**Finding of Fact #5** – Undue congestion of population is not created, in that:

The area should will be less congested if the current commercial use area is converted into an apartment. The building occupancy will be similar to that of other buildings in the area that have experienced similar reuses of former commercial spaces into apartments as a demand for student housing in the downtown increases.

**Finding of Fact #6** – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

~~No change.~~ The proposed request should not require public infrastructure, utilities, or service beyond that which is currently available.

**Finding of Fact #7** – Value of buildings will be conserved, in that:

~~No change.~~ The change in use of the subject space within the petitioner's building is similar to that of other buildings in the area that have experienced similar reuses of former commercial spaces into apartments to meet present market demands and related values.

**Finding of Fact #8** – The most appropriate use of land is encouraged, in that:

N/A Market interest in the subject property has shifted from mixed-use to apartments, which appears to be attributed, in part, to the subject property's location, access, and limited visibility that are customarily desired by nonresidential tenants.



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU13-04
RECEIVED:	1/28/2013
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

<b>I. APPLICANT</b>						
Name:		Phone:				
Mailing Address:	Street	Mobile:				
	City	State	Zip			
	Email:					
<b>II. AGENT / CONTACT INFORMATION</b>						
Name:		Phone:				
Mailing Address:	Street	Mobile:				
	City	State	Zip			
	Email:					
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input type="checkbox"/> Agent/Contact					
<b>III. PROPERTY</b>						
Owner:	Mundell + Associates LLC - Robert M. Mundell	Phone:	304-288-1214			
Mailing Address:	604 Grand Street	Mobile:				
	Morgantown WV	State	26507			
	City	State	Zip			
Email: Rob@MundellFinancialGroup.com						
<b>IV. SITE</b>						
Street Address (if assigned):	22 Walnut St.	Tax Map #:	21eA			
		Parcel #:	16			
Zoning:						
Lot Dimensions:	Width:	Ft.	Depth:	Ft.	Square Footage:	ft. <sup>2</sup>
Shape of Lot:	<input type="checkbox"/> Corner <input type="checkbox"/> Interior <input type="checkbox"/> Through <input type="checkbox"/> Flag <input type="checkbox"/> Irregular <input type="checkbox"/> Non-conforming					
Existing Use of Structure or Land:	Currently empty commercial space. Portfolio LLC. was most recent tenant.					
Proposed Use of Structure of Land:	Convert to apartment. There are six other apartments currently in the building.					

PAID  
Finance Office  
Morgantown, WV 26505  
304-284-7488



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU3-04
RECEIVED:	
COMPLETE:	

V. STRUCTURE

Proposed Setbacks: Front: \_\_\_\_\_ ft. Rear: \_\_\_\_\_ ft. Side A: \_\_\_\_\_ ft. Side B: \_\_\_\_\_ ft.

Proposed Height of Structure: \_\_\_\_\_ No. of Proposed Off-Street Parking Spaces: 2

No. of Dwelling Units (if applicable): 1 No. of Bedrooms: 2 No. of Employees: -

Square Footage of all Proposed Structures (please explain):

Roughly 2500 sq. ft.

VI. SITE PLAN

A Site Plan (8 copies), drawn to scale, that includes the following elements must accompany the application if not provided above in Sections IV and V:

- (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia.
- (b) The exact sizes and locations on the lot of existing structures, if any;
- (c) The location, square footage, and dimensions of the proposed structure or alteration;
- (d) The location of the lot with respect to adjacent rights-of-way;
- (e) The existing and proposed uses of the structure and land;
- (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
- (g) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (h) Height of structure;
- (i) Setbacks;
- (j) Buffer yard and screening, if applicable;
- (k) Location of garbage collection area and screening;
- (l) Location of existing and/or proposed signs, if applicable;
- (m) Roadway typical detail for internal roadways, if applicable;
- (n) Location and size of stormwater management facilities; and,
- (o) Utility lines and easements, if applicable.



City of Morgantown, West Virginia

APPLICATION FOR  
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU13-04
RECEIVED:	
COMPLETE:	

VII. SUPPLEMENTAL PLANS AND EXHIBITS

Applicants **MUST** also submit the following plans and exhibits, unless waived by the Planning Director:

- (a) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer licensed by the State of West Virginia, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets.
- (b) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer licensed by the State of West Virginia that meet the requirements of the City Zoning Ordinance, the City Stormwater Management Ordinance, and all other applicable local, state and federal regulations.
- (c) Parking and Landscaping Plan
- (d) Sign Plan
- (e) Approved WV Division of Highways Access Permit, if applicable
- (f) Sediment and erosion control plan as approved by the West Virginia Department of Environment Protection and the City of Morgantown
- (g) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable
- (h) A traffic impact study, if required by the City Engineer
- (i) The Planning Director may require the applicant to submit additional information concerning the lot or neighboring lots to determine conformance with, and provide for the enforcement of, the City Zoning Ordinance.
- (j) The Planning Director may require the applicant to submit, in the case of accessory structures or minor additions, 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 prepared a registered design professional licensed by the State of West Virginia.

Applicants submitting a conditional use application in accordance with Article 313.05 "Building Height and Use" within the B-4 General Business District **MUST** also submit the following analyses:

- (a) An air flow analysis conducted by a licensed architect or profession engineer, describing 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 with a 300 foot radius of the site.
- (b) An analysis of the impacts of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.
- (c) An analysis of the potential of "stepping back" upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize the canyon effect of non-recess tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.
- (d) An infrastructure and traffic analysis predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city. Such analysis shall be conducted by a licensed architect or professional engineer.



**APPLICATION FOR  
TYPE IV SITE PLAN – CONDITIONAL USE**

<b>OFFICE USE</b>	
CASE NO.	CW13-01
RECEIVED:	
COMPLETE:	

**VIII. FINDINGS OF FACT**

The Board of Zoning Appeals may grant the request only if each of the Conditional Use Findings of Fact Criteria is determined to be in the positive. Applicants must give their own responses to the criteria statements provided below.

This Conditional Use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, *because,*

1. Congestion in the streets is not increased, in that:

No change from current.

2. Safety from fire, panic, and other danger is not jeopardized, in that:

No change from approved space

3. Provision of adequate light and air is not disturbed, in that:

No change

4. Overcrowding of land does not result, in that:

No change

5. Undue congestion of population is not created, in that:

Will be less congestion if made apartment



APPLICATION FOR  
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CW13-04
RECEIVED:	
COMPLETE:	

VIII. FINDINGS OF FACT (cont.)

6. Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

No change

7. Value of buildings will be conserved, in that:

No change

8. The most appropriate use of land is encouraged, in that:

N/A

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.

1-24-13

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

- Conditional Use Petition Fee of \$75 must accompany application