



# MORGANTOWN BOARD OF ZONING APPEALS

December 14, 2016  
6:30 PM  
City Council Chambers

## **Board Members:**

Bill Burton,  
Chair  
  
George Papandreas,  
Vice Chair  
  
Linda Herbst  
  
Jim Shaffer  
  
Colin Wattleworth

## **STAFF REPORT**

**CASE NO:** CU16-14 / First Presbyterian Church / 324 Forest Avenue

### **REQUEST and LOCATION:**

Request by Rev. Monica Styron on behalf of First Presbyterian Church, for conditional use approval, for a Two-Family Dwelling 324 Forest Avenue.

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

Tax Map 26, Parcel 260; B-4, General Business District

### **SURROUNDING ZONING:**

B-4, General Business District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to change the use of the first level of the building at 324 Forrest Avenue from a nonresidential use to a dwelling unit, which changes the land use classification of the building to a "Two-Family Dwelling" use. Addendum A of this report illustrates the location of the subject site.

Table 1331.05.01 "Permitted Land Uses" provides that "Two-Family Dwelling" uses are permitted in the B-4 District with conditional use approval. The petitioner provided supplemental information ("Attachment A") with the application concerning the building's previous mixed-use occupancy in the past.

Table 1365.04.01 "Minimum Off-Street Parking Requirements" provides the minimum standard for "Two-Family Dwelling" uses of 1.5 parking spaces per dwelling unit or a total minimum requirement of three (3) on-site parking spaces. There appears to be sufficient area at the rear of the subject property to provide five (5) 90-degree parking stalls.

Attached hereto is an email string originated by Mr. Don Corwin with concerns over Fire Code implications associated with the petitioner's proposed residential use of the first level of the subject building. In response, Staff advised Mr. Corwin in the email string,

"...the matter before the BZA is simply whether or not a 'Two-family Dwelling' use is appropriate for the subject property. If approved by the BZA, the property owner will be required to meet all applicable Building Code and Fire Code requirements prior to occupancy."

### **STAFF RECOMMENDATION:**

It is the duty of the Board of Zoning Appeals to 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. If the Board disagrees with the petitioner's "Findings of Fact" and determines the proposed request does not meet the

## **Development Services**

Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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standard criteria for a conditional use, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject conditional use petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides Staff recommended revisions to the Findings of Fact responses submitted by the petitioner (deleted matter struck through; new matter underlined). Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses.

Staff recommends the Board grant conditional use approval under Case No. CU16-14 for a "Two-Family Dwelling" use at 324 Forrest Avenue as requested without conditions.

Enclosures: Application and accompanying exhibits

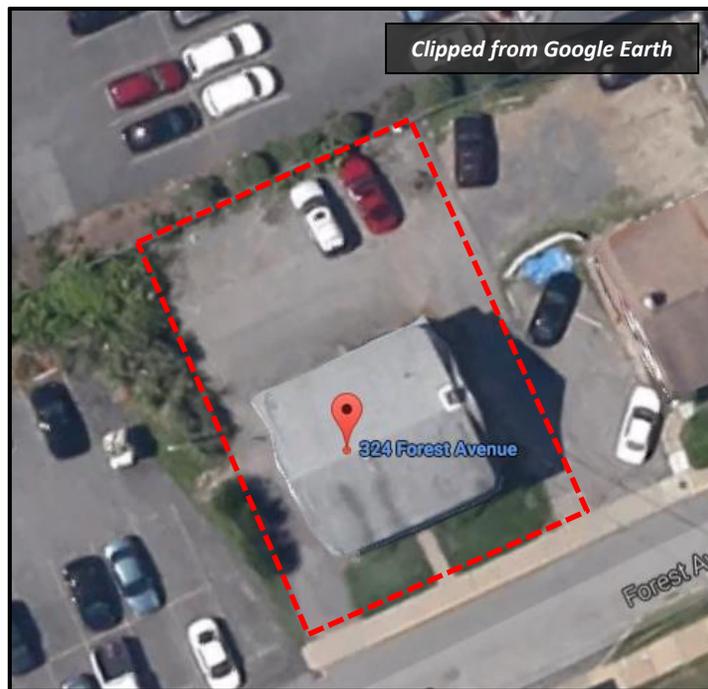
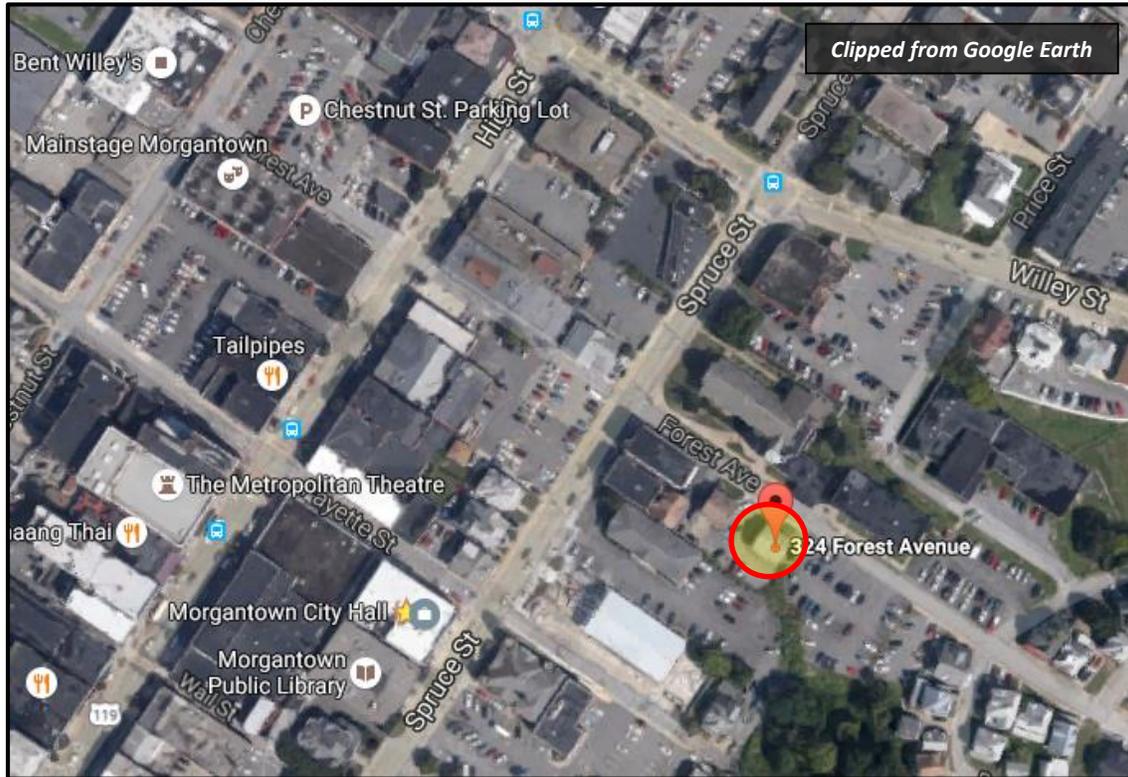
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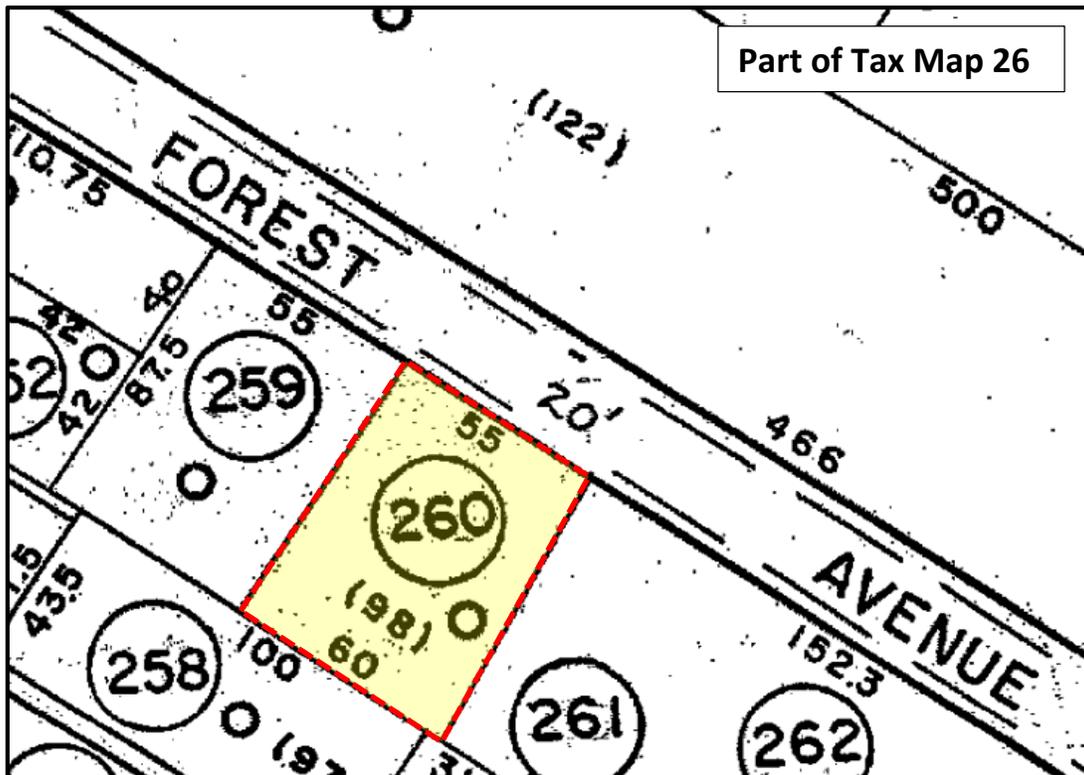
389 Spruce Street  
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**STAFF REPORT ADDENDUM A**  
**CU16-14 / First Presbyterian Church / 324 Forest Avenue**



# STAFF REPORT ADDENDUM A

CU16-14 / First Presbyterian Church / 324 Forest Avenue



## STAFF REPORT ADDENDUM B

### CU16-14 / First Presbyterian Church / 324 Forest Avenue

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Staff recommends the following revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined). Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses.

#### CU16-14 "Two-Family Dwelling" Use

**Finding of Fact No. 1** – Congestion in the streets is not increased, in that:

‡ ~~The proposed conditional use~~ will only allow for a few occupants who may or may not need parking. If they do need automobile parking, there is onsite parking spaces.

**Finding of Fact No. 2** – Safety from fire, panic, and other danger is not jeopardized, in that:

~~It would remodel to~~ The structure will be required to meet applicable fire and safety codes.

**Finding of Fact No. 3** – Provision of adequate light and air is not disturbed, in that:

‡ ~~The proposed conditional use~~ would not increase the footprint or height of the building. Therefore, existing sunlight distribution and airflow condition would not be changed.

**Finding of Fact No. 4** – Overcrowding of land does not result, in that:

No increase of the footprint or height is proposed by the conditional use that would result in an overcapacity of the subject site. ~~The unit has been occupied by owners and tenants.~~

**Finding of Fact No. 5** – Undue congestion of population is not created, in that:

The property has had tenants, owners, and been used by church members, which does not appear to have resulted in an appreciable congestion of population.

**Finding of Fact No. 6** – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The property ~~has~~ appears to have sufficient utilities and services, with separate meters, and, ~~the public infrastructure, which does not appear to need improving~~ improvement or expanding expansion to serve the proposed conditional use.

**Finding of Fact No. 7** – Value of buildings will be conserved, in that:

‡ There will only be internal changes to one floor/unit. No ~~outside~~ changes will be made to the exterior of the structure. Given lack of interest in the unit by commercial users it will be improved. Thus, the value will be increased as described in Attachment A of the petitioner's application. (See attachment A)

**Finding of Fact No. 8** – The most appropriate use of land is encouraged, in that:

The land stays the same. The first floor with added bedroom and shower will provide for a ~~make it a more useable unit,~~ unified duplex with a basement for storage. ‡ The structure has had 2 units registered as apartments since November 9, 1979.



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU116-14
RECEIVED:	02 NOV 16
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

75.00 CK 1980

<b>I. APPLICANT</b>						
Name:	First Presbyterian Church	Phone:	304-296-8236			
Mailing Address:	456 Spruce Street	Mobile:				
	Morgantown WV 26505	Email:	fp@morgantown@gmail.com			
<b>II. AGENT / CONTACT INFORMATION</b>						
Name:	Rev. Monica Styron, Interim	Phone:	304-296-8236			
Mailing Address:	456 Spruce Street	Mobile:	305-815-4749			
	Morgantown WV 26505	Email:	mstyron2015@gmail.com			
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact					
<b>III. PROPERTY</b>						
Owner:		Phone:				
Mailing Address:	Street	Mobile:				
	City State Zip	Email:				
<b>IV. SITE</b>						
Street Address (if assigned):	324 Forest Ave, Mt. Town	Tax Map #:	26	Parcel #:	260	
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:	<div style="display: flex; justify-content: space-between;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg); font-weight: bold; font-size: 2em;">PAID</div> <div style="text-align: center;"> <p style="font-size: 1.5em; font-weight: bold;">PAID</p> <p>NOV 02 2016</p> <p style="font-size: 1.5em; font-weight: bold;">PAID</p> </div> <div style="writing-mode: vertical-rl; transform: rotate(180deg); font-weight: bold; font-size: 2em;">PAID</div> </div>					
Proposed Use of Structure of Land:						



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

OFFICE USE	
CASE NO.	<u>Cu16-04</u>
RECEIVED:	<u>02 NOV 16</u>
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: \_\_\_\_\_  
No. of Dwelling Units (if applicable): \_\_\_\_\_ No. of Bedrooms: \_\_\_\_\_ No. of Employees: \_\_\_\_\_  
Square Footage of all Proposed Structures (please explain): \_\_\_\_\_

**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.	C416-14
RECEIVED:	02 NOV 16
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

OFFICE USE	
CASE NO.	Cu16-14
RECEIVED:	02 NOV 16
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:

It will only allow for a few occupants who may or may not need parking if they do there is onsite parking spaces

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

It would remodel to meet fire and safety codes.

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

It would not increase the footprint or height of the building, therefore light and air would not be changed.

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

NO INCREASE OF THE FOOTPRINT OR HEIGHT THE UNIT HAS BEEN OCCUPIED BY OWNERS AND TENANTS.

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

The property has had tenants, owners, and been used by church members.



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU 16-14
RECEIVED:	02 NOV 16
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:

the property has sufficient utilities and services with separate meters; and, the public infrastructure which does not need improving or expanding.

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

It will only be internal changes to one floor/unit. No outside changes will be made. Given lack of interest in the unit by commercial users it will be improved. Thus, the value will be increased. (SEE ATTACHMENT -A)

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

The land stays the same. The first floor with added bedroom and shower will make it a more useable unit, unified duplex with a basement for storage. It has had 2 units registered as apartments since Nov. 9, 1979.

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.

<u>REV MONICA STYRON</u>	<u>R. Monica Styron</u>	<u>11-2-16</u>
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

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

TYPE IV SITE PLAN- CONDITIONAL USE REQUEST  
FIRST PRESBYTERIAN CHURCH, MORGANTOWN WV 26505  
Continued...

A. History: There are three units

1. A basement (Unit B), which was originally registered as an apartment in 1979 but no longer qualifies as such. It will now to be used as storage space for the other two units
2. First floor (Main unit)- was registered as an office unit.
3. Second Floor (Apartment A) presently rented to and occupied by a graduate student.

B. Rationale: Since First Presbyterian can no longer rent the basement unit because of a window and low ceilings it has lost the value of the property with only one unit rentable. There is virtually no interest in the main floor office space. Thus, the property is not of the same value as previous with two apartments available to rent or use as dwellings.

The church is seeking a permanent pastor and may need to use the First Floor/Main unit as a rental to said pastor. At present the church is unable to do so if it remains office space.

C. First Presbyterian Plan for First floor/Main Unit is:

- A. To convert it to a two-bedroom apartment, adding space for a shower in the bathroom, and utilizing dead space for kitchen appliances.
- B. This will bring the house back to a duplex, improve the unit itself and provide better use of the house.

## Chris Fletcher

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**From:** Chris Fletcher  
**Sent:** Wednesday, November 30, 2016 8:39 AM  
**To:** Don Corwin  
**Cc:** Stacy Hollar  
**Subject:** FW: Morgantown Monthly Planning and Zoning Neighbor Notifications - December 2016

Mr. Corwin:

Good morning. Thank you for contacting us concerning conditional use Case No. CU16-14 / First Presbyterian Church / 324 Forest Avenue included on the Board of Zoning Appeals' 14 DEC 2016 agenda.

Please know the matter before the BZA is simply whether or not a "Two-family Dwelling" use is appropriate for the subject property. If approved by the BZA, the property owner will be required to meet all applicable Building Code and Fire Code requirements prior to occupancy.

We will include your comments in the BZA's 14 DEC 2016 meeting packet.

Respectfully,

**Christopher M. Fletcher, AICP**  
Director of Development Services

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**From:** Stacy Hollar  
**Sent:** Wednesday, November 30, 2016 8:27 AM  
**To:** Chris Fletcher <cfletcher@morgantownwv.gov>  
**Subject:** FW: Morgantown Monthly Planning and Zoning Neighbor Notifications - December 2016

**From:** [decorwin@aol.com](mailto:decorwin@aol.com) [<mailto:decorwin@aol.com>]  
**Sent:** Tuesday, November 29, 2016 5:18 PM  
**To:** Stacy Hollar <[shollar@morgantownwv.gov](mailto:shollar@morgantownwv.gov)>  
**Subject:** Re: Morgantown Monthly Planning and Zoning Neighbor Notifications - December 2016

Hello Stacy,

Regarding the submission of the Presbyterian Church for 324 Forest Avenue (CU16-14), it appears that this application is not consistent with Fire Code and needs to be amended.

Specifically, changing the ground floor of the unit to a rental will place this unit in the "Lodging and Rooming" category as mandated by the Fire Code. We know this to be fact as our adjacent property at 316 Forest Avenue went through the same process and the Fire Marshall made the ultimate determination. For consistency, the same standard must be applied to this structure. Compliance with the Lodging and Rooming will require installation of fire separation between floors, fire doors with self closer's on all bedrooms, and a full house fire alarm. In addition, the structure will be subject to the inspection process as dictated by the City Code Enforcement Office and Fire Marshall.

I suggest you consult with the Fire Marshall on this matter to ensure full code compliance.

Regards  
Don

Don E. Corwin  
General Manager  
WinCor Properties LLC  
[wincorproperties.com](http://wincorproperties.com)  
304-292-0400

-----Original Message-----

From: Stacy Hollar <[shollar@morgantownwv.gov](mailto:shollar@morgantownwv.gov)>

To: Stacy Hollar <[shollar@morgantownwv.gov](mailto:shollar@morgantownwv.gov)>

Sent: Fri, Nov 18, 2016 8:44 am

Subject: Morgantown Monthly Planning and Zoning Neighbor Notifications - December 2016

Good morning.

The following web link has been updated for the agenda items included on the respective **December 2016** Planning Commission and BZA hearings that require notification of neighboring property owners:

<http://www.morgantownwv.gov/residents/eservices/neighborhood-zoning-notifications/>

Please forward this email to your respective constituencies at your earliest convenience. Thank you for your assistance.

*Stacy Hollar*  
*Executive Secretary*  
*Development Services Department*  
*304-284-7431*