



MORGANTOWN BOARD OF ZONING APPEALS

December 16, 2015
6:30 PM
City Council Chambers

Board Members:

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

COMBINED STAFF REPORT

CASE NO: V15-65 thru V15-71
Standard at Morgantown, LLC / 1303 University Avenue

REQUEST and LOCATION:

Request by J. Wesley Rogers, on behalf of Standard at Morgantown, LLC, for approval of the following variance petitions related to a proposed development project at 1303 University Avenue.

- V15-65 Maximum front setback standards.
- V15-66 Minimum rear setback standard.
- V15-67 Canyon effects.
- V15-68 Maximum curb cut width standards on University Avenue.
- V15-69 Maximum curb cut width standards on Walnut Street.
- V15-70 Maximum number of parking spaces standard.
- V15-71 Minimum transparency standard.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcels 6 thru 15; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND:

The petitioner seeks to redevelop several sites along the west or river side of University Avenue beginning at Walnut Street and extending north approximately 340 feet. Addendum A of this report illustrates the location of the subject site.

Proposed Development Program

The following generally summarizes the proposed development program illustrated in the petitioner’s development plans.

- The development site is currently occupied by “McClafferty’s Irish Pub,” “Vic’s Towing and Garage,” the former “Golds Gym” building that has been converted into apartments, and the “Shell” gas station mini-mart. The development site includes the public right-of-way of Wall Street, which requires annulment approval by City Council.
- The development site is identified by CTL Engineering as 1.95 acres (84,942 square feet), which includes 82,155 square feet (1.88 acres) for Parcels 6 thru and including 15 of Tax Map 26A and the Wall Street right-of-way.
- The development program includes 276 dwelling units with a total of 866 occupants.
- A total of 692 parking spaces are proposed in 12 parking deck levels that are wrapped by the nonresidential and residential portions of the building.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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- The following restates the square footages of programmed spaces provided in submitted plans.
 - Commercial 13,351 sf
 - Retail..... 8,486 sf
 - Parking 225,554 sf (692 parking spaces)
 - Housing 419,947 sf
 - TOTAL 667,338 sf
 - Total less parking 441,784 sf
- One (1) right-in-right-out-only driveway entrance is proposed on University Avenue between Wall Street and Fayette Street to access the parking decks. One (1) driveway entrance is proposed on Walnut Street to access the parking decks, dumpster area, and loading area.
- All above ground utilities will be relocated to below ground across the University Avenue frontage of the site to ensure fire department access.

Required Planning and Zoning Code Approvals

Attached hereto is a detailed Planning and Zoning Code Conformity Report dated 06 NOV 2015. The following approvals are required for the development program as proposed.

1. City Council approval:
 - a. Right-of-way annulment of Wall Street between University Avenue and the CSX right-of-way.

An annulment application has been submitted and the City Engineer is awaiting requisite letters from public/private utilities.
2. Planning Commission approvals:
 - a. S15-09-III..... Type III Site Plan Development of Significant Impact (DSI).

During its 10 DEC 2015 hearing, the Planning Commission tabled the petitioner’s Type III Site Plan petition so the Commission could review objections submitted by Mr. James Giuliani at the hearing, review Staff’s response to said objections, and receive additional information concerning, among others, pedestrian traffic generated by the proposed development. Mr. Giuliani’s objections and Staff’s initial response are attached hereto so they can be reviewed by the Board in advance of the hearing.
 - b. Minor Subdivision to combine the ten (10) parcels and the Wall Street right-of-way that compose the development site.

A minor subdivision application must be submitted for Planning Commission review following site plan and annulment approvals by the Planning Commission and City Council respectively.

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3. BZA approvals:

a. V15-65.....Maximum front setback.

Article 1349.04(A)(2) provides a maximum front setback standard for the principal building as the average depth of the nearest two lots on either side or 10 feet, whichever is less. The petitioner’s plans illustrate front setbacks varying from 4.62 feet to 8.87 feet, which exceed the 0.26 foot front setback for the *Mode Roman* building and requires variance relief.

It should be noted the petitioner’s proposed front setbacks increase the functional width of the existing narrow sidewalk along University Avenue and should be viewed as a significant improvement to pedestrian safety.

b. V15-66.....Minimum rear setback.

Article 1349.04(A)(5) provides a minimum rear setback standard of 10% of the lot depth or 10 feet, whichever is greater. The petitioner’s plans illustrate encroachments for a portion of the building, which requires variance relief.

c. V15-67.....Canyon effects.

Article 1351.01(I) provides that 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, increase 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 an Air Flow Analysis and a Sunlight Distribution Analysis. The petitioner asserts that the Air Flow Analysis and Sunlight Distribution Analysis performed for the proposed development illustrate adequate light and airflow are preserved to public spaces.

The Board must either, 1.) Determine that the proposed building sufficiently incorporates design elements that preserve adequate light and airflow to public spaces including streets and sidewalks; or, 2.) Approve or deny variance relief from incorporating design elements that preserve adequate light and airflow to public spaces including streets and sidewalks.

d. V15-68.....Maximum driveway curb cut width at the curb line and at the right-of-way line – University Avenue.

Article 1351.01(D) provides maximum driveway curb cut width standards at the curb line of 26 feet and at the right-of-way line of 22 feet. The proposed University Avenue driveway curb cut width at the curb line is 55.77 feet, which requires variance relief of 29.77 feet. The proposed width at the right-of-way line is 27 feet, which requires variance relief of 5 feet.

It should be noted WVDOH is the authority having jurisdiction to access its road system including driveway entrance location and design.

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- e. V15-69.....Maximum driveway curb cut width at the curb line and at the right-of-way line – Walnut Street.

Article 1351.01(D) provides maximum driveway curb cut width standards at the curb line of 26 feet and at the right-of-way line of 22 feet. The proposed Walnut Street driveway curb cut width at the curb line is 104.39 feet, which requires variance relief of 78.39 feet. The proposed width at the right-of-way line is 58.75 feet, which requires variance relief of 36.75 feet.

It should be noted the proposed curb cut on Walnut Street serves three (3) separate functions: 1.) Access to a loading bay; 2.) Access to the parking garage; and, 3.) Access to internal garbage containment facilities.

- f. V15-70.....Maximum parking.

Article 1365.04(l) provides a maximum parking requirement of 115 percent of the minimum parking requirement. As presenting in the attached Conformity Report, the petitioner seeks to develop 692 parking spaces, which exceeds the maximum parking and loading space standard of 193 spaces requiring variance relief.

It should be noted some of the principle purposes of maximum parking standards are to mitigate land consumption demands by big-box and suburban retail development from overbuilding surface parking, which reduces green space, damages valuable ecological resources, and undermines best stormwater management practices. Although not afforded in the City of the Morgantown’s Planning and Zoning Code, some communities exempt structured parking from maximum parking requirements [see American Planning Association, Planner’s Advisory Service, Essential Information Packet 24 (PAS EIP-24) September 2009, Page 19].

- g. V15-71.....Transparency

Article 1351.01(K) provides a minimum transparency standard of 60% of the street-facing building façade between three (3) feet and eight (8) feet in height, which must be comprised of clear windows that allow views of indoor nonresidential space or produce display areas. The petitioner’s plans illustrate transparencies of 52% along University Avenue and 11% along Walnut Street, which require variance relief of 8% and 49% respectively.

ANALYSIS:

Comprehensive Plan Concurrence

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 and the 2010 Downtown Strategic Plan Update. Staff encourages the Board to review these Plans for guidance as Addendum B is not intended to represent a complete comparative assessment.

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It should be noted that “shall” statements within the said Plans 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.

It is the opinion of the Planning Division, as explicated in Addendum B, that the proposed development program appears to be in concurrence with the Plans’ principles for land management and desired development pattern and character.

STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed requests meet the standard criteria for a variance 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(s) do not meet the standard criteria for a variance, than the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition(s). [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Each respective variance petition must be considered and acted upon by the Board separately.

Addendum C of this report provides Staff recommended revisions to the petitioner’s “Findings of Fact” responses and serve only to remove narrative that is clearly inapplicable. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner’s responses (deleted matter struck through; new matter underlined).

Staff recommends that each variance petition, if granted, include the following conditions:

1. That Type III Site Plan approval for the Development of Significant Impact must be granted by the Planning Commission and related conditions observed.
2. That annulment of the Wall Street right-of-way must be approved by City Council.
3. That minor subdivision petition approval must be granted by the Planning Commission combining Parcels 6 thru 15 of Map 26A and the annulled portion of the Wall Street right-of-way and final plat recorded prior to building permit issuance.

Staff submits the following recommendations for each petition:

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Case Nos.	Code Provisions / Recommendation
V15-65	<p>Variance relief from Article 1349.04(A)(2) to exceed the maximum front setback standard.</p> <p><i>No Staff recommendations are submitted concerning the petitioner's Findings of Facts. Because the petitioner's proposed setbacks increase the functional width of the existing narrow sidewalk along University Avenue, Staff recommends variance relief be granted as requested without conditions.</i></p>
V15-66	<p>Variance relief from Article 1349.04(A)(5) to encroach into the minimum rear setback standard for the principal building.</p> <p><i>Minor Findings of Fact revision recommendations are provided in Addendum C. No Staff recommendation is submitted concerning whether variance relief should be granted as requested.</i></p>
V15-67	<p>Article 1351.01(I) "Canyon Effects." The Board must either, 1.) Determine that the proposed building sufficiently incorporates design elements that preserve adequate light and airflow to public spaces including streets and sidewalks; or, 2.) Approve or deny variance relief from incorporating design elements that preserve adequate light and airflow to public spaces including streets and sidewalks.</p> <p><i>Minor Findings of Fact revision recommendations are provided in Addendum C. However, Staff recommends the Board determine that, based on the Wind Flow Analysis and Sunlight Distribution Analysis submitted by the petitioner, no additional or further design elements are required to preserve adequate light and airflow to public spaces including streets and sidewalks.</i></p>
V15-68	<p>Variance relief from Article 1351.01(D) to exceed the maximum driveway curb cut width at the curb line and at the right-of-way line for the proposed driveway entrance on University Avenue.</p> <p><i>Minor Findings of Fact revision recommendations are provided in Addendum C. Because WVDOH is the authority having jurisdiction to access its road system, Staff recommends variance relief be granted as requested with the following conditions:</i></p> <ol style="list-style-type: none"> <i>1. That all requisite WVDOH access permits/agreements be obtained by the petitioner prior to building permit issuance.</i> <i>2. That the final width of the driveway curb cut at the curb line and at the right-of-way line shall be determined by WVDOH's access permits/agreements.</i> <i>3. That the sidewalk along site's University Avenue frontage shall be reconstructed to the satisfaction of the City Engineer and, where practicable, incorporate design elements utilized for the High Street Streetscape Improvement Projects.</i>

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Case Nos.	Code Provisions / Recommendation
V15-69	<p>Variance relief from Article 1351.01(D) to exceed the maximum driveway curb cut width at the curb line and at the right-of-way line for the proposed driveway entrance on Walnut Street.</p> <p><i>Minor Findings of Fact revision recommendations are provided in Addendum C. Because the proposed driveway curb cut on steep sloping Walnut Street serves three (3) access functions and because the affected block of Walnut Street is a dead-end street with limited utilization, Staff recommends variance relief be granted as requested with the following conditions:</i></p> <ol style="list-style-type: none"> 1. <i>That the final width of the driveway curb cut at the curb line and at the right-of-way line shall be determined by the City Engineer based on best practice assessment of construction documents submitted at building permit application.</i> 2. <i>That the sidewalk along site's Walnut Street frontage shall be reconstructed to the satisfaction of the City Engineer and, where practicable, incorporate design elements utilized for the High Street Streetscape Improvement Projects.</i>
V15-70	<p>Variance relief from Article 1365.04(I) to exceed the maximum number of parking spaces in the non-residential district.</p> <p><i>Minor Findings of Fact revision recommendations are provided in Addendum C. No Staff recommendation is submitted concerning whether variance relief should be granted as requested.</i></p>
V15-71	<p>Variance relief from the minimum transparency requirement set forth in Article 1351.01(K).</p> <p><i>Minor Findings of Fact revision recommendations are provided in Addendum C. No Staff recommendation is submitted concerning whether variance relief should be granted as requested.</i></p>

Attachments: Applications, drawings, and enclosures noted above.

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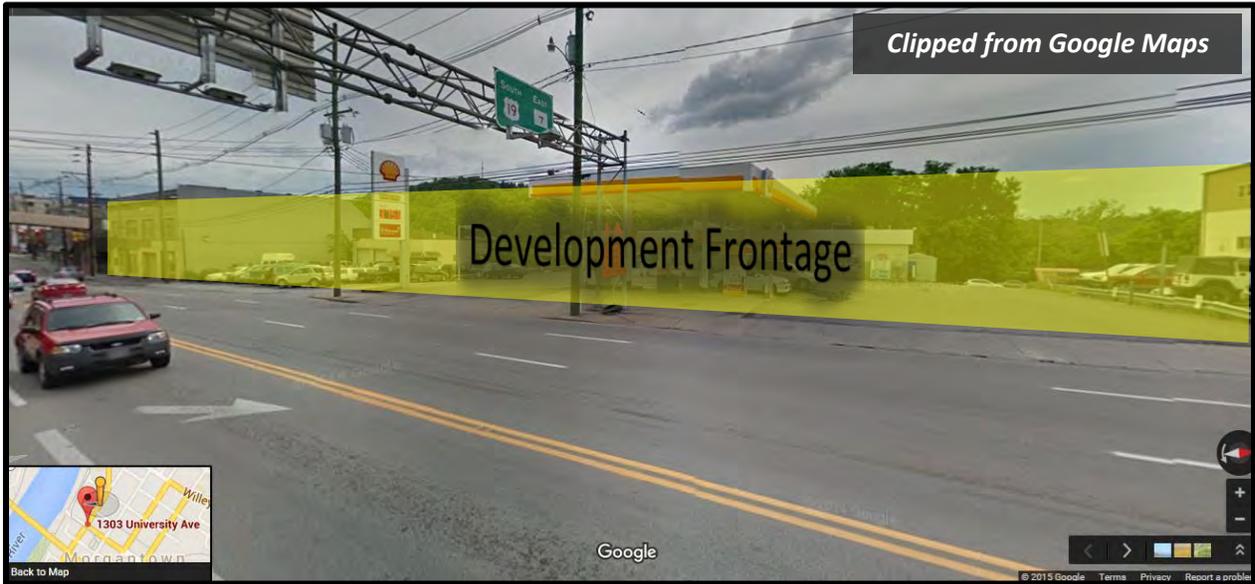
STAFF REPORT ADDENDUM A

V15-65 thru V15-71 / Standard at Morgantown, LLC / 1303 University Avenue



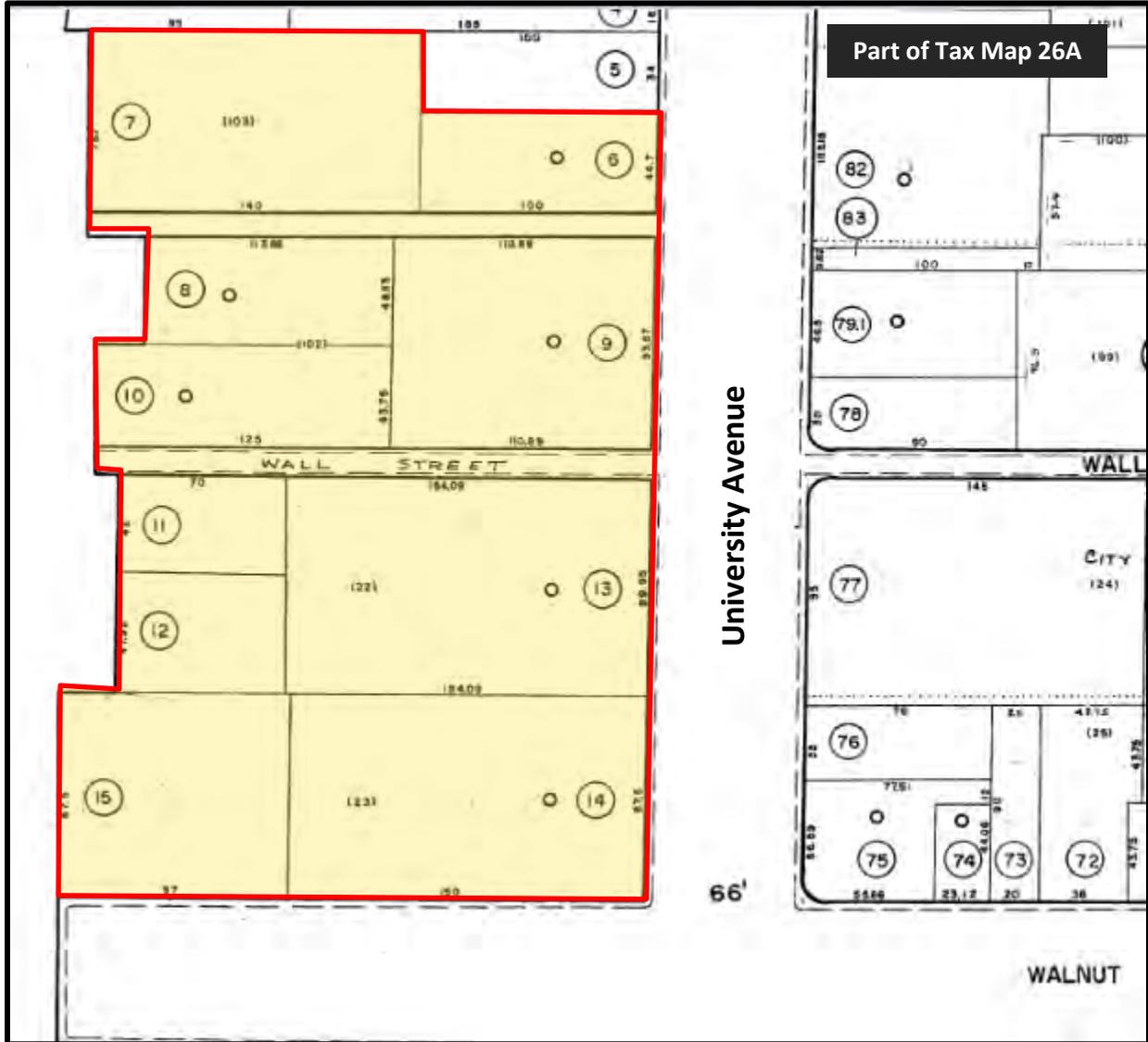
STAFF REPORT ADDENDUM A

V15-65 thru V15-71 / Standard at Morgantown, LLC / 1303 University Avenue



STAFF REPORT ADDENDUM A

V15-65 thru V15-71 / Standard at Morgantown, LLC / 1303 University Avenue



STAFF REPORT ADDENDUM B

V15-65 thru V15-71 / Standard at Morgantown, LLC / 1303 University Avenue

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.
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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 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 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 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 site is not located within or adjacent to a "Neighborhood Conservation" area.</i>	

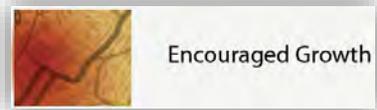
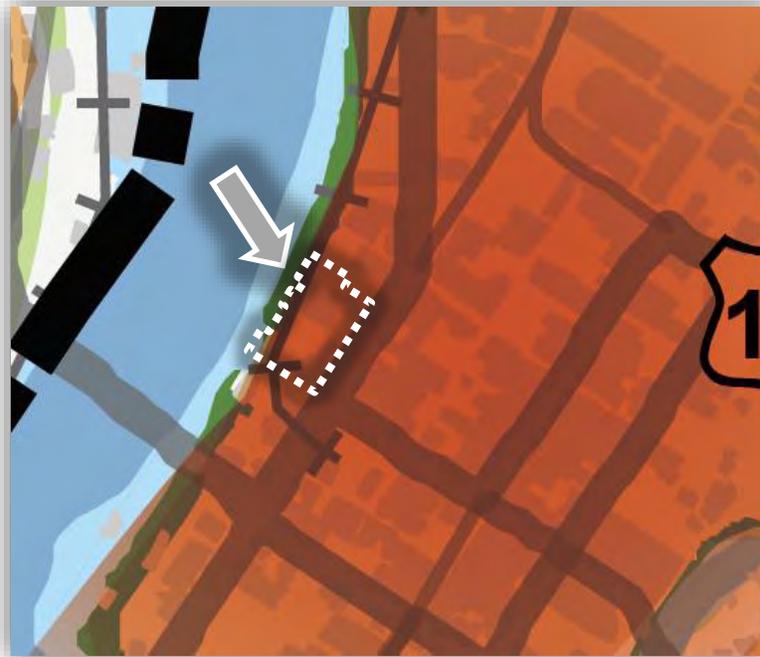
Principal 5	Quality design is emphasized for all uses to create an attractive, distinctive public and private realm and promote positive perceptions of the region.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The developer's professional design team consulted with the Downtown Design Review Committee (DRC) and incorporated several modifications that appear to address the Committee's comments and concerns in terms of architectural style and articulation, cladding material and color, elimination of a majority of balconies, etc.</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"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The proposed development includes street-level nonresidential use components and residential components. The urban fabric within the immediate built environment is heterogeneous given the various development pattern and character types, scales and densities, forms and functions, land uses, 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"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The site is well served by public transit and within walking and biking distance of the University campus, downtown PRT station, the downtown central business district, and the Caperton Trail. Redevelopment of the site to a higher mixed-use density links residents and retail customers 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.</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"/> Concurrency <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. Proposed bedroom composition ranges from efficient units to six-bedroom units. Zoning ordinance dictates and/or guidelines concerning desired affordability and workforce housing 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.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The site is within the B-4, General Business District and located within a ¼ mile walking distance of basic retail goods and services, civic, institutional, and public spaces located within the central downtown business district and University's downtown campus.</i></p>		
Principal 10	Parks, open space, and recreational areas are incorporated as part of future development.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>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. A new pedestrian way will be developed to significantly improve access to the Caperton Trail.</i></p>		
Principal 11	Environmentally sensitive and sustainable practices will be encouraged in future developments.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<p><i>Stormwater management best practices will be required for a large site currently lacking such measures. Environmental remediation work will be completed to remove and/or encapsulate contamination of current and previous uses. The developer's goals and objectives concerning sustainable construction techniques and industry accepted best practices have not been fully developed.</i></p>		

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.



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.



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.

Corridor Enhancement:** Improving development along corridors with a mix of uses, increased intensity at major nodes or intersections and roadway improvements to improve traffic flow, pedestrian and biking experience.

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.

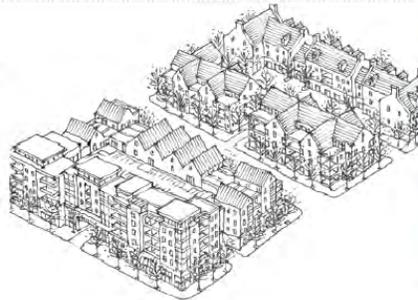
The following graphics are clipped from Pages 41 through 43 of the 2013 Comprehensive Plan Update and identify the development types desired within the “Core Enhancement” concept area.

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.



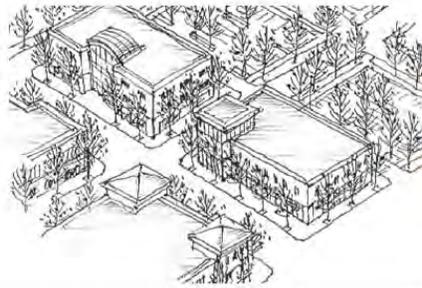
NX Neighborhood Center Mixed-Use

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.

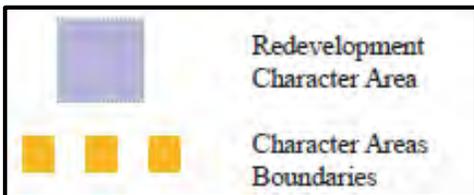
Objective 4. Promote the development of a broad range of housing types and prices.

➔ 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 [Page 69].



- ➔
- C1 : Waterfront
 - C2: University Avenue
 - C3: Chestnut Street
 - C4: Forest Avenue
 - C5: Pleasant Avenue
 - C6: Foundry Street
 - C7: South High Street
 - C8: Cobun Avenue
 - C9: Decker's Creek
 - C10: Downtown Core