



# MORGANTOWN PLANNING COMMISSION

August 9, 2012  
6:30 PM  
City Council Chambers

## STAFF REPORT

### President:

Peter DeMasters, 6<sup>th</sup> Ward

### Vice-President:

Carol Pyles, 7<sup>th</sup> Ward

### Planning Commissioners:

Sam Loretta, 1<sup>st</sup> Ward

Tim Stranko, 2<sup>nd</sup> Ward

William Wyant, 3<sup>rd</sup> Ward

Bill Petros, 4<sup>th</sup> Ward

Mike Shuman, 5<sup>th</sup> Ward

Ken Martis, Admin.

Jennifer Selin, City Council

**CASE NO:** MNS12-13 / The Chapter House Association of Phi Sigma Kappa  
672 North High Street

### **REQUEST and LOCATION:**

Request by Jeffrey Bailey, on behalf of The Chapter House Association of Phi Sigma Kappa, for a minor subdivision approval of property located at 672 North High Street.

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

Tax Map 26, Parcel 155; O-I, Office and Institutional District

### **SURROUNDING ZONING:**

North and South: O-I, Office and Institutional District

East: R-3, Multi-Family Residential District

West: R-2, Single- and Two-Family Residential District (West Virginia University)

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to subdivide one parcel into two parcels to accommodate a sale to West Virginia University of the parking lot area at the rear of the existing fraternity house. Addendum A of this report illustrates the location of the subject property.

The petitioner's proposed subdivision details include:

- The "Rear Parcel" will be 0.11 acres or approximately 4,792 square feet and have 100 feet of frontage on a public alley.
- The "Front Parcel" will be 0.36 acres or approximately or approximately 15,682 square feet and have 100 feet of frontage on North High Street.

The proposed rear parcel is less than the minimum area standard of 6,000 square feet and minimum lot depth standard of 100 feet in the O-I District. Additionally, the proposed subdivision boundary separating the "Rear Parcel" and the "Front Parcel", which follows the footprint of an existing retaining wall, creates a rear setback encroachment into the O-I District minimum 40 feet rear setback standard for the existing fraternity house structure on the proposed "Front Parcel". Furthermore, the "Rear Parcel" will contain the existing parking spaces used by the occupants of the fraternity house located on the "Front Parcel", which creates off-premise parking.

Article 1314.07 of the Planning and Zoning Code provides the following guidance concerning variances and modifications of the Subdivision Regulations:

"Where the subdivider can show that a provision of these Subdivision Regulations would cause unnecessary hardship if strictly adhered to and where, in the opinion of the Planning Commission, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of such provision, the Commission

### **Development Services**

Christopher Fletcher, AICP  
Director

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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may authorize a variance. In granting variances and modifications the Commission may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so varied or modified. Any variance or modification thus authorized is required to be entered in writing in the minutes of the Commission and the reasoning on which the departure was justified shall be set forth."

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission find:

1. That the circumstances of the proposed subdivision and sale of the related "Rear Parcel" to West Virginia University, a state agency, appear to be peculiar to the site given its proximity to the University's campus and the University's real estate acquisitions and institutional relationships with associated fraternity and sorority organizations.
2. That once real estate is purchased by West Virginia University, a state agency, compliance with the City of Morgantown's Subdivision Regulations is no longer required.
3. That the Planning Commission has the authority to include reasonable conditions with its minor subdivision approval that substantially secure the objectives of the standards and requirements so varied or modified.
4. That, although West Virginia University may purchase the "Front Parcel" of the proposed subdivision at a future date, the Planning Commission can and should not attempt to include a condition compelling such real estate conveyance or transfer of ownership.

Staff recommends that the Planning Commission grant variance relief as requested and approve the minor subdivision with the following conditions:

1. That for planning and zoning purposes, the "Rear Parcel" shall be considered as part and parcel of the "Front Parcel" and shall not be considered to be a separate parcel of real estate for land use, development, conveyance, or transfer of ownership until conveyance or transfer of ownership of the "Rear Parcel" is to West Virginia University.
2. That the petitioner shall, to the satisfaction of the Planning Division, execute an access easement covenant with West Virginia University, running with both tracts of subject realty, ensuring the perpetual right of the owner, residents, visitors, and employees of the "Front Parcel" to use and enjoy the existing parking facilities located on the "Rear Parcel".
3. That the petitioner submit three (3) original final plat documents, including the above access easement covenant condition, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
4. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the conditions set forth above.

**Development Services**

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Director

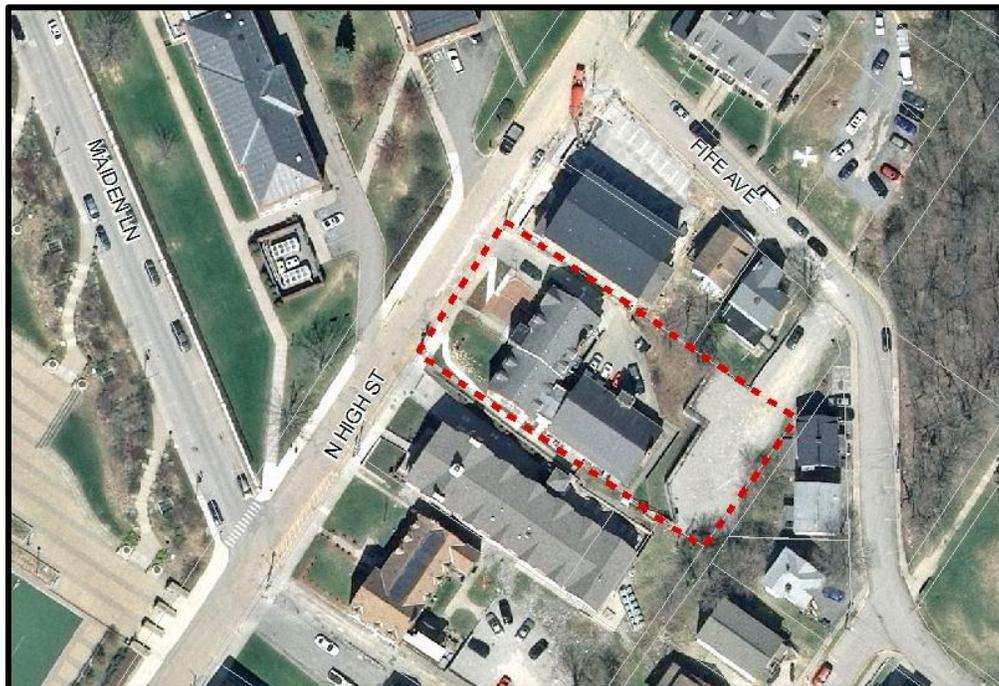
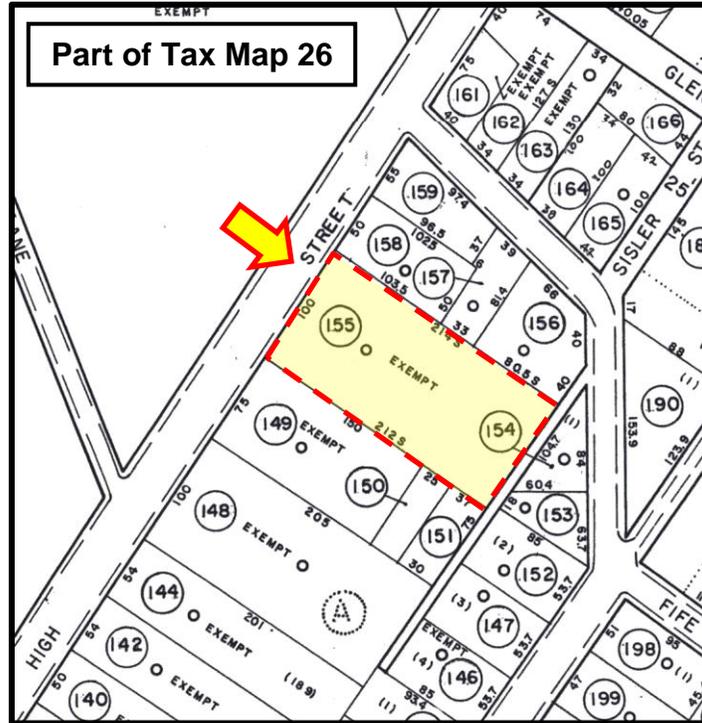
**Planning Division**

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Morgantown, WV 26505  
304.284.7431

Enclosure: Application and accompanying exhibits

# STAFF REPORT ADDENDUM A

MNS12-13 / The Chapter House Association of Phi Sigma Kappa  
672 North High Street





**APPLICATION FOR  
MINOR SUBDIVISION**

<b>OFFICE USE</b>	
CASE NO.	MWS/2-13
RECEIVED:	07/30/12
COMPLETE:	

A Minor Subdivision of property includes the creation of up to three (3) parcels or the combination of existing parcels, but does not involve the extension of off-site facilities (streets, etc.) or the dedication of a portion of the site for public use.

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT			
Name:	The Chapter House Association Of Phi Sigma Kappa	Phone:	3043879900
Mailing Address:	P O Box 672	Mobile:	304 552 2359
	Street 672 N High St	Email:	WVJBAILEY@comcast.net
	City State Zip		
II. AGENT / CONTACT INFORMATION			
Name:	Jeffrey A Bailey	Phone:	304 594 2232
Mailing Address:	2062 Anna Furnace Circle	Mobile:	304 552 2359
	Street	Email:	wvjabaily@comcast.net
	City State Zip		
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	The Chapter House Association of Phi Sigma Kappa	Phone:	304 552 2359
Mailing Address:	P O Box 672	Mobile:	
	Street Morgantown WV 26505	Email:	wvjabaily@comcast.net
	City State Zip		
IV. SITE			
Street Address (if assigned):	672 N High St	Tax Map #(s):	26-155
Zoning:		Parcel #(s):	DB 160/223
Square Footage of Parcel(s):	20500 ft. <sup>2</sup>	15740 ft. <sup>2</sup>	4760 ft. <sup>2</sup>
Subdivision Description:	Parcel the rear parking lot that enters from Fife St. So it can be sold to WVU This parcel is 4760 SF		
Are there any Variances from the Subdivision Regulations anticipated:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, to what extent is a variance necessary?	The parcel is less than 6000 Sf The set back are only 16 feet because the building is there since 1997 PAID 35.00		



APPLICATION FOR MINOR SUBDIVISION

OFFICE USE	
CASE NO.	MMS/2-13
RECEIVED:	07/30/12
COMPLETE:	

V. PLAT

Preliminary Plat submission – A Minor Subdivision Application must also include one (1) preliminary plat illustrating:

- (a) Existing and proposed property boundaries, property boundary dimensions, and square footage.
- (b) A letter of service availability and approval from the Morgantown Utility Board.

Final Plat submission – Upon approval by the Planning Commission, three (3) sealed Final Plat surveys must be submitted to the Planning Office and meet the following standards:

- (a) Drawn to a scale of one inch (1") equals fifty feet (50') or larger;
- (b) Date of preparation, north arrow, and scale;
- (c) Legal description;
- (d) Applicant/owner name and address;
- (e) Existing zoning;
- (f) Legend;
- (g) Vicinity map;
- (h) Existing and proposed utility lines and easements;
- (i) Certification by a registered land surveyor, licensed in the State of West Virginia, that the dimension and bearings are accurately delineated with a seal and signature;
- (j) Location, shape, exterior dimensions of each existing building on the site(s);
- (k) Location and dimensions of paved surfaces including sidewalks and curb cuts, and of all abutting streets;
- (l) Location of springs, streams, other water bodies, and areas subject to flooding;
- (m) Floodplain designation making reference to pertinent FEMA Firm Community Panel Number;
- (n) Approval signature block allowing space for President of Morgantown Planning Commission;
- (o) Other items as deemed necessary by Planner Director or City Engineer.

Please note that all approved minor subdivision plats must be filed with the Monongalia County Tax Office within thirty (30) days of approval. Plats not filed within thirty (30) days will be considered invalid by the City of Morgantown and will require reapproval.

VIII. ATTEST

I hereby certify that I have read and examined this document and know the same to be true and correct. All provisions of laws and ordinance governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction.

Jeffrey A Bailey

07/24/2012

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

• Minor Subdivision Application Fee – \$35

MNS12-13

The Chapter House Association of Phi Sigma Kappa

PO Box 672

Morgantown WV 26507

Christopher M. Fletcher

Director of Development Services

389 Spruce St

Morgantown WV 26505

Dear Mr. Fletcher

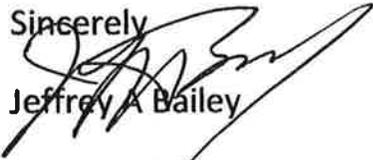
Please find attached a copy of An Application for a Minor Subdivison and a copy of a Plat prepared by Greenleaf Surveying. The Chapter house association has entered into an agreement with West Virginia University to purchase the entire parcel at 672 N. High Street. Due to extenuating circumstances this will be a phased purchase.

We are asking that your Planning Commission allow us to Subdivide the parcel to accommodate a sale of the parking lot at this time to WVU. They have a better ability to manage this property as a part of their overall Parking Services than our organization.

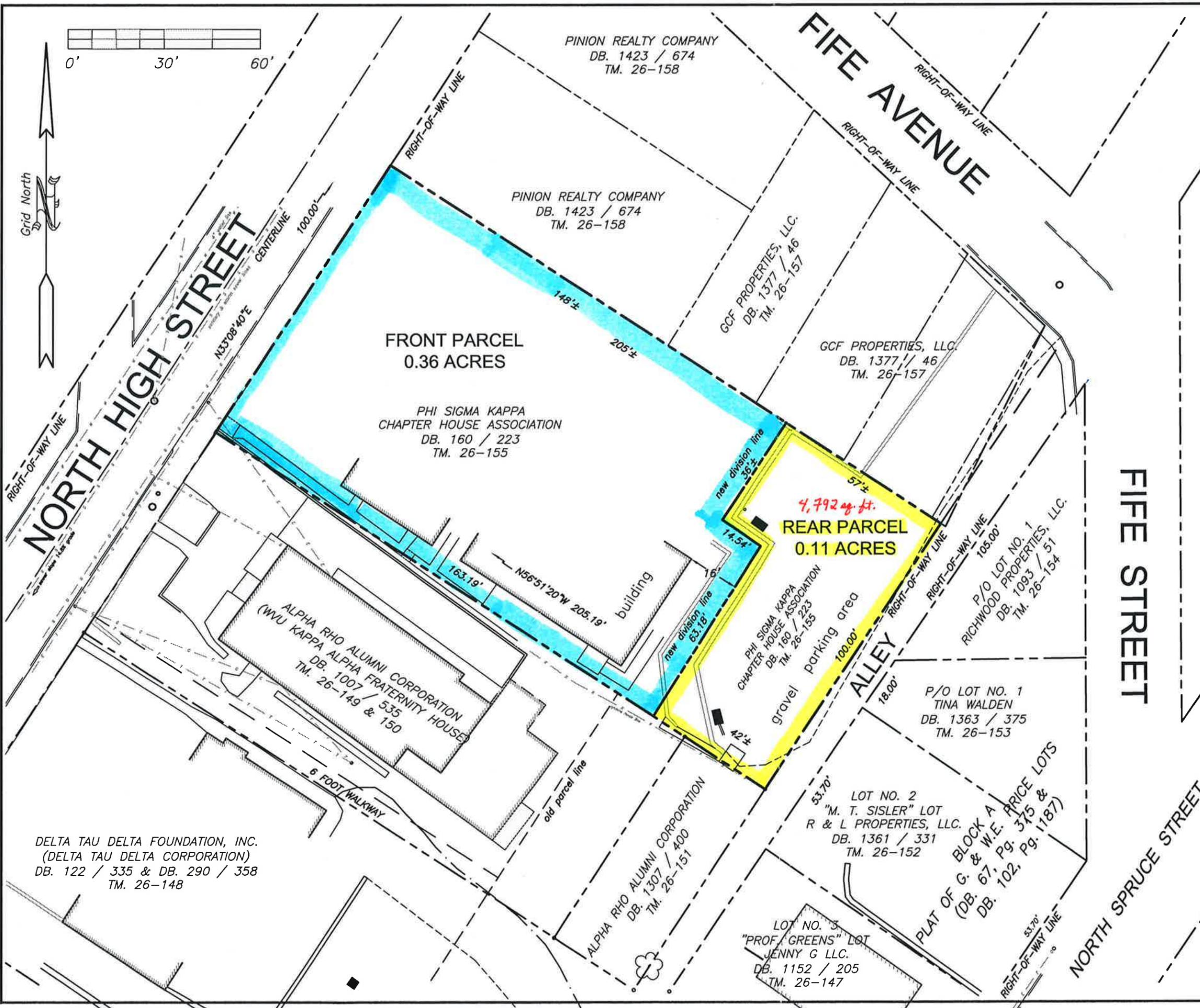
WVU will in exchange enter into a long term contractual arrangement to allow our organization to use these spaces for parking as long as we own the property.

Our Ultimate goal will be for the University to manage the entire property and maintain theses parcel jointly. We appreciate your attention to this matter and look forward to your meeting

Sincerely

  
Jeffrey A Bailey

Board of Director



NOTES:  
 1) Location of underground utilities not shown.  
 2) Survey was conducted without benefit of lawyer's title report and may not reflect all exceptions, rights-of-way, easements or restrictions.

MNS12-13 EXHIBIT

**PRELIMINARY PLAN OF SUBDIVISION FOR THE PHI SIGMA KAPPA CHAPTER HOUSE ASSOCIATION**

Description: A parcel situate along North High Street

Title: THE PHI SIGMA KAPPA CHAPTER HOUSE ASSOCIATION  
 DB. 160 , at Page 223  
 Tax Map No. 26 , Parcel 155  
 Area: sq.ft., or 0.47 acres  
 Fifth Ward of Morgantown Corporation  
 Morgan District of Monongalia County,  
 West Virginia.

Address: North High Street, Morgantown, WV.  
 Scale 1" = 30' Date: July 12, 2012



GREENLEAF SURVEYING COMPANY  
 1215 GREENBAG ROAD  
 MORGANTOWN, WEST VIRGINIA 26508  
 304 / 291-1264

ALLAN J. WITSCHI, P.S. NO. 587

file number 051-12