

MORGANTOWN PLANNING COMMISSION

Minutes

6:30 PM

February 10, 2011

Council Chambers

MEMBERS PRESENT: Peter DeMasters, Ken Martis, Bill Petros, Carol Pyles, Jennifer Selin, Michael Shuman, Tim Stranko, William Wyant

MEMBERS ABSENT: Sam Loretta

STAFF: Christopher M. Fletcher, AICP

I. CALL TO ORDER / ROLL CALL: DeMasters called the meeting to order at 6:30 PM.

II. GENERAL PUBLIC COMMENT: DeMasters opened the public comment portion of the meeting for matters not on the agenda.

Wes Nugent, 126 Willowdale Road stated that the Planning Commission minutes for the July 2009 were not posted online. He suggested that PUD applicants should be required to state why the PUD presents a better result and enhances its surroundings more than would otherwise be accomplished with the existing zoning.

There being no further comments offered, DeMasters closed the general public comment portion of the meeting.

III. MATTERS OF BUSINESS:

A. Approval of the January 13, 2011 meeting minutes – Stranko moved to approve the minutes as submitted; seconded by Petros. The motion passed unanimously with Martis abstaining due to his absence.

IV. OLD BUSINESS:

A. RZ08-05: Request by First Presbyterian Church of Morgantown for a Planned Unit Development (PUD) Outline Plan Amendment #2 as it relates to extending the temporary parking lot use and Development Plan submission deadlines for property along Spruce Street and Forest Avenue and the old Central School site along Baird Street and Willey Street. Tax Map #26 Parcels #247, 248, 249, 260, 262, 263, and 270; PUD District.

Fletcher read the Staff Report stating that in December 2008, City Council approved the "Westminster House" PUD Outline Plan establishing a Development Plan submission deadline of June 2010. Ordinance 08-48 and its exhibit illustrating the subject PUD area is attached hereto as Addendum A.

Article 1357.03 (D) (4) (b) provides that:

“The Development Plan shall be submitted to the Planning Department no more than eighteen (18) months following City Council approval of the Outline Plan...The Municipal Planning Commission may extend the time for application for approval of Development Plan for good cause, consistent with the purposes of the Zoning Ordinance.”

On November 12, 2009, the First Presbyterian Church of Morgantown requested and the Planning Commission approved Amendment #1 to the “Westminster House” PUD Outline Plan, which provided (see attached approval letter as Addendum B):

1. That the “Westminster House” PUD Outline Plan document be supplemented by the Staff Report dated November 12, 2009 and related addenda as the convention to be used in evaluating the petitioner’s Development Plan.
2. That review and approval of the project’s Development Plan will continue to be waived by the Planning Commission and conducted at the staff level. However, should the Development Plan substantially differ from the approved Outline Plan and related Amendment 1, then the petitioner must submit a subsequent Outline Plan Amendment to the Planning Commission for approval.
3. That the applicant obtain minor subdivision approval to reconfigure the existing parcel boundaries in a manner that best meets the overall ownership, development, and management objectives set forth in the “Westminster House” Outline Plan.
4. That the Development Plan deadline is extended by six (6) months from June 3, 2010 to December 3, 2010.
5. That the two (2) proposed temporary commercial parking lots, as illustrated on the site plan attached as Addendum C to the Staff Report dated November 12, 2009, is approved and that said temporary use shall end on or before December 31, 2010. The design, construction, temporary access, management, and maintenance of same shall comply with all reasonable performance standards required by the Planning Director, City Engineering, and Morgantown Utility Board.

The First Presbyterian Church of Morgantown now seeks approval for Amendment #2 to the “Westminster House” PUD Outline Plan (see petitioner’s letter dated December 22, 2010 attached hereto as Addendum C), which would provide for the:

- Extension of the PUD Development Plan submission deadline from December 3, 2010 to October 31, 2011; and,
- Extension of the two (2) temporary parking lot uses established under Outline Plan Amendment #1 from December 31, 2010 to the start of construction or December 31, 2011, whichever comes first.

Article 1357.06 “CHANGES IN THE APPROVED PLANNED UNIT DEVELOPMENT” of the Planning & Zoning Code provides that:

- (A) Changes Requiring Outline Plan Approval. Changes which alter the concept or intent of the Planned Unit Development including but not limited to:
 - (1) Significant increases in density;
 - (2) Significant changes in the proportion or allocation of land uses;
 - (3) Change in the list of approved uses;
 - (4) Changes in the locations of uses;

- (5) Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or
- (6) Changes in the final governing agreements where such changes conflict with the approved Outline Plan.

It is the opinion of the Planning Department that the petitioner's proposed PUD Outline Plan Amendment #2 alters the concept, intent, and development schedule of the originally approved PUD Outline Plan and Amendment #1 to the extent that Planning Commission approval is warranted.

It should be noted that the contemplated development program narrative provided in the petitioner's December 22, 2010 letter is not a part of the present PUD Outline Plan Amendment #2. It is intended only to brief the Planning Commission on the petitioner's progress and project planning status. Specific revisions to the development program will be presented to the Planning Commission for approval in the coming months as a third PUD Outline Plan amendment.

DeMasters recognized Mr. Chet Parsons, First Presbyterian Church of Morgantown, who stated that the PUD has been challenged with securing the right financial and developer commitments during these financial times. The fundamental development goals and objectives stated in the approved PUD Outline Plan have not changed. Although he is not at liberty to provide details, the development program is expected to change so that the scale and density of the development is less than that approved by the City. More information concerning program development changes will come before the Planning Commission in the near future as an Outline Plan Amendment #3. They are simply asking for an extension of the PUD Development Plan submission and temporary parking use deadlines so they can finalize financial and developer commitments.

Selin asked Parsons if the new development program would be coming back to the City and that they are simply asking for an additional time by way of extending the timelines and deadlines. Parsons stated that is correct. Parsons stated that the PUD regulations stated that if they want to make any significant change in the PUD approvals that were given that they would have to come back to the Planning Commission with those changes.

There being no further comments or questions by the Planning Commission, DeMasters opened the public hearing portion. There being no public comments, DeMasters closed the public hearing portion and asked for Staff's recommendation.

Fletcher read the Staff Report stating that the petitioner has remained in regular contact with the Planning Department concerning the project's planning progress and determination to identify investors and development partners. It is the opinion of the Planning Department that the petitioner is making every effort to advance the project and fulfill their commitment under the approved PUD Outline Plan.

Staff concurs with the Planning Commission's apprehension expressed during its November 12, 2009 hearing concerning the temporary nature of the parking lots and the present underutilization of the subject realty. However, the petitioner's investment complexities do not appear to be unique as the current state of financial markets has tempered investment in even conventional development projects. It appears that patience and prudence should influence expectations and decisions concerning well-planned development.

As such, Staff recommends that the proposed Outline Plan Amendment #2 be approved with the following conditions/considerations:

1. That the "Westminster House" PUD Outline Plan document be supplemented by this Staff Report and related addenda as the convention to be used in evaluating the petitioner's Development Plan.
2. That review and approval of the project's Development Plan continue to be waived by the Planning Commission and conducted at the Staff level. However, should the Development Plan substantially differ from the approved Outline Plan and Amendments #1 and #2, then the petitioner must submit a subsequent Outline Plan amendment to the Planning Commission for approval.
3. That the petitioner obtains minor subdivision approval to reconfigure the existing parcel boundaries in a manner that best meets the overall ownership, development, and management objectives set forth in the "Westminster House" Outline Plan.
4. That the Development Plan deadline is extended from December 3, 2010 to October 31, 2011.
5. That the two (2) temporary parking lot uses established under Outline Plan Amendment #1 is extended from December 31, 2010 to the start of construction or December 31, 2011, whichever comes first.

Wyant asked if there were any problems with extending a temporary use; is there any damage that could occur by simply extending the current temporary use for parking. Fletcher stated that he does not believe so. The developer has made all necessary improvements for a temporary use with the exception of permanent surfacing, which was not required because of the temporary nature it.

Stranko stated he would encourage and congratulate Westminster and the Church with surviving through a tough market and point out to his fellow Commissioners that the contemplated program recited in the letter appears to move, as Mr. Parsons stated, the project to a less dense development. This was a concern by some, not him, as the Commission was discussing this project in 2009. He supports the extension and thinks it is important to continue to support this important development.

Petros asked if there have ever been any problems with the temporary parking lots as they currently exist as far as runoff, dust, etc. Fletcher stated that he has no working knowledge of any complaints relating to dust. The stormwater management improvements had to be made before they were permitted to use the lots nine months ago. There is a drainage ditch that goes into the existing system that they had to improve. There was a culvert that was required at the driveway entrance to the lots as well as a concrete driveway apron. All these improvements were required before the temporary use was permitted.

Stranko asked for clarification concerning the approvals in that the City Engineer and the Morgantown Utility Board were involved in the design and approvals of the temporary parking lots. Fletcher stated that is correct. The City Engineer and Morgantown Utility Board identified specific measures that had to be made, building permits were issued, and both entities signed off on the building and occupancy permits.

Stranko moved to approve the petitioner's request with Staff recommended conditions; seconded by Selin. The motion passed unanimously.

- B. RZ09-02:** Request by Monongalia County Habitat for Humanity for a Planned Unit Development (PUD) Outline Plan Amendment #1 as it relates to extending the Development Plan submission deadline for property located on Jerome Street and Jersey Avenue. Tax Map #24, Parcel #41; PUD District.

Fletcher read the Staff Report stating that in July 2009, City Council approved the petitioner's "Jerome Park Subdivision" Planned Unit Development (PUD). Ordinance 09-30 and its exhibit illustrating the subject PUD area is attached hereto as Addendum A.

Article 1357.03 (D) (4) (b) provides that:

"The Development Plan shall be submitted to the Planning Department no more than eighteen (18) months following City Council approval of the Outline Plan...The Municipal Planning Commission may extend the time for application for approval of Development Plan for good cause, consistent with the purposes of the Zoning Ordinance."

Accordingly, the petitioner's PUD Development Plan submission deadline is January 7, 2011. Monongalia County Habitat for Humanity seeks approval for Amendment #1 to its "Jerome Park Subdivision" PUD Outline Plan, which would provide for a six-month PUD Development Plan submission extension (see petitioner's letter dated December 7, 2010 attached hereto as Addendum B).

DeMasters recognized Michael Neely, Gannett Fleming, Inc., who stated that he did not prepare a formal statement but noted that the main reason Habitat is seeking the extension to try to secure funding. Habitat has submitted grant applications over the course of the last eighteen months have not been successful in obtaining grant funding. Habitat is continuing its efforts to pursue grants and just submitted another one recently to build the required infrastructure. He and Tom Laurita, Habitat Board member, are present to answer any questions the Planning Commission may have.

Martis asked if the multi-family buildings were a part of City Council specific PUD approval. Fletcher stated that it was a part of the approval. Martis asked if that was Mr. Neely's impression as well. Neely stated yes and that the third phase that includes the multi-family buildings would have to come to the Planning Commission for approval of those units because the actual building plans have not been decided yet.

Martis asked if Habitat could begin building single-family homes without the Planning Commission's approval but they cannot begin building the multi-family buildings. Fletcher stated that is correct. Fletcher stated that the background of the project is that there are three phases. The first phase was the first five single-family houses along Jersey Avenue. The second phase included the construction of the road entering the site and the sixth through tenth single-family houses. The Planning Commission delegated the review and approval of PUD Development Plan for Phases 1 and 2 to Staff. Because Tracy Thorne, who was representing Habitat at the time, discussed the potential development of townhouse dwelling types rather than multi-family dwelling types, the development program details were yet specific enough. As such, the Planning Department recommended and the Planning Commission agreed to retain its authority of reviewing the PUD Development Plan. Fletcher reminded the Planning Commission that it, although not unanimous, recommended approval of the PUD Outline Plan to City Council

and City Council enacted the zoning map amendment. This approval included ten single-family dwelling units and up to twelve multi-family dwellings.

Martis stated that the development of the multi-family units could not commence until it was reviewed and approved by the Planning Commission. Fletcher stated that is correct.

Stranko stated that one bit of confusion is the main reasons for the multi-family unit housing was that the project would not cash flow without it. But there is really not a financial plan in place so the Commission does not know that for sure. He thinks that is another reason for the second review so it makes sense that it comes back to the Planning Commission again. The second reason was that multi-family housing was desirable in this area.

Martis asked Neely that a part of the Habitat philosophy is that new owners help build the dwelling; how does this happen with a multi-unit building. Neely stated this issue is one of the reasons the multi-family component has not been finalized yet. Habitat is working through those issues and how to effectively use volunteer labor. Neely stated that he knows it has been done in other areas of the country, but this particular Habitat organization has not built any multi-family units as of yet.

Shuman asked Neely if the townhouses would be rented or sold. Neely stated sold. Fletcher added that ownership was an element of the approved PUD Outline Plan that all the units had to be owner-occupied. Shuman asked for clarification on how townhouses can be owned. Fletcher stated that the ownership of townhouses in Morgantown is a condominium arrangement with a homeowners association created to provide for access and perpetual care and maintenance of common areas. Fletcher stated that in other communities, townhouse developments provide for parcel subdivision or plats to reflect the boundaries of the townhouse units themselves. This subdivision design scheme is not permitted in Morgantown.

Selin asked if the Planning Commission is simply being asked to extend the deadlines and not changing any other feature of the PUD. Fletcher stated that is correct. Selin asked if Habitat was anticipating any changes in the development program. Neely stated that the request is simply to extend the deadline.

There being no further comments or questions by the Planning Commission, DeMasters opened the public hearing portion asking for comments in favor of the petition.

DeMasters recognized Tom Laurita, Habitat for Humanity board member, who stated that it is going to take a great deal of money to put into the infrastructure from sewer, water, utilities, etc. With the Morgantown Utility Board, developers have to front a good deal of money to get anything started. Habitat has not been able to raise that money. With economy the way it is, they just need a little more time.

There being no further comments in favor of the petition, DeMasters asked for comments in opposition of the petition.

DeMaster recognized Andrea Soccorsi, 1259 Richwood Avenue, who stated that she is the president of the Jerome Park Neighborhood Association. She distributed photos of the area showing damage to a nearby property as a result of cars leaving the roadway and going into the yard of the homeowner. She stated that the neighborhood has a number of concerns with the PUD not the least of which is the precedent it will set with other neighborhoods. She is not crusading against Habitat for Humanity. Habitat for Humanity has built approximately fifteen or

sixteen homes to date in Jerome Park. This has never been about their mission or their goal to provide fully affordable integrated housing into our neighborhood. This is about the PUD and the zoning changes that have been proposed. They are concerned with density and the potential traffic problems, which is already a problem in the neighborhood. The distributed photos are of Norma Taylor's home on Jersey Avenue and her backyard. One photo shows a van that plowed into her yard in January 2010. The second photo is of the recent snow storm this year. Norma is an elderly woman and does not drive, never has. She has had repeated problems of property damage because of the narrowness of Jerome and Jersey Street. The Neighborhood Association and Norma herself have requested a guard rail to be placed along her property to protect it somewhat. They have been told that a guardrail does not conform to state regulations in that area. However, the City has agreed to put a guard rail there. They are concerned that that may not be enough. You can see that Jerome and Jersey are very narrow streets. So they are concerned that the scale of the development will affect the quality of life for residents in the neighborhood. Jerome Park is already facing a horrendous traffic problem. She realizes this is not unique to Jerome Park but in a recent traffic study done by the City, 6,700 cars travel down Hampton Avenue to Darst to Mineral Avenue and then on to WV Route 7. Carlisle Avenue and Carlisle Alley are already experiencing increased volume and the scale of this PUD is not going to elevate this problem. They are also concerned that PUDs in R-1A neighborhoods will adversely impact the neighborhoods and create a potential slippery slope whereby no neighborhood is safe from development of this scale. The City is often quick to point out that if it is not this development by this developer than someone else will build here and that is precisely the issue. The City created this threat to residential zoning when it reduced the required PUD acreage from ten acres down to two acres. How much further will the acreage reduce to maximize density? The neighborhood believes that it has compromised on the first two phases of the development of this PUD. But they believe the last phase should be rejected and ask that space reserved for the third phase be kept as green space.

DeMasters recognized Monica Andis, 1120 Denver Avenue, who stated that she wanted to second what Soccorsi stated. She feels very strongly about the third phase. She has no problem with Habitat for Humanity building single-family homes in her neighborhood which is keeping with the way the neighborhood is. She has major concerns about townhouse dwellings and major concerns about this being different as was raised by one of the Planning Commissioners concerning volunteers building. She is concerned about the traffic.

DeMasters recognized Nancy Ganz, 1276 Colonial Drive, who stated that she is from the Suncrest community but is not speaking for the Suncrest community because their meeting was cancelled. Several people have brought this to her attention. Everyone in Suncrest and probably everyone in the community are in favor of Habitat for Humanity and are very pleased with the housing that has been put up in the Jerome Park neighborhood to date. We are glad about the PUD downtown and so forth. We appreciate the process the planning group goes through. A lot of the people in Suncrest are volunteers like you and we are very appreciative of the amount of time and effort you all spend. But the concern that the neighbors have expressed to me, and she is speaking personally because they did not vote on this, is that we have an extension of something in an R-1A neighborhood that is not in the same character as that neighborhood. We have spaces like that too and the whole City has spaces like that too. The stakeholders in our community as well as in the whole City have been working on master planning and overlays and other capital planning process and our concern is that once we become the stakeholders in the neighborhood and areas convert into multi-family development all of our City is facing dramatic traffic concerns. For example it took her forty-five minutes to get her from Suncrest. So we are all having this density problem. So when is the stakeholder affected. We are all affected when this happens. When she was up there after this came to the

attention of several neighbors who are all big donors of the community to Habitat and they hope this helps to the process of affordable housing. But we are concerned with the character of the neighborhoods, the traffic, and as stakeholders having changes in our backyards. So that is what we are talking about. Now, in Jerome Park, extending the time has become the issue because the neighbors in our area have face where a developer or a builder has postponed a project or not finished it and it has made it unsightly and difficult. So we are extending time for something we are concerned about. We need to look at all the issues that affect the neighbors. Traditionally, Jerome Park is called Jerome Park because of that park that Jerome Park was named after and her understanding is that there is an historic site and old black school there. What we have here in the City according to the Green Team is less green space than in New York City. And so here we have a green space that is named Jerome Park that actually the traditional residents thought that was a park. In fact, she has seen deeds from residents that thought it was a park. So then we are putting multi-family units on it. It seems to her reasonable at this point to just say that the beginning phases were great this third phase we cannot do it in a timely fashion; you are having funding problems; neighbors are having concerns about it; it changes the character of the neighborhood; why not just table it for a while and rethink this and continue to keep green space in Jerome Park because it is a park.

DeMasters recognized Wes Nugent, 126 Willowdale Road, who stated that he is not here on behalf of his neighborhood association, but more as a concerned citizen. He would like to state again that he is not rising in opposition of Habitat for Humanity but rather in support of our neighborhoods. This 2011 the year of the neighborhood here in Morgantown. He appreciates the comments of Commissioner Martis and Commissioner Stranko regarding approval of this project and financing of the project because those are some of the biggest questions that have remained in his own mind. In talking with folks who are legally minded and more so than himself, he wonders if the PUD Outline Plan has been passed in whole with all three phases. Whether that would stand a legal challenge if the Planning Commission would come back at a later date and so no this phase three is inappropriate. Would the developer have an opportunity to seek a legal challenge of that? I wonder because the general outline was passed. In looking at this I tried to go back again and do my research and find out the specifics of what was agreed to by the Commission. However, the minutes he referenced earlier, the July 2009 minutes are missing. So with that said, he would agree with Ms. Ganz in tabling phase three and consider that at a later date because there are a number of questions that remain. Specifically, is the financing. It appears that phase three appears to be holding the financing up. With that said, thank you and appreciate your time.

There being no further public comments, DeMasters declared the public comment portion closed and offered a five-minute rebuttal do the petitioner.

DeMasters recognized Tom Laurita, Habitat for Humanity board member, who stated that they will begin with phase one. The infrastructure money being held up is for phase one, which is what they do not have. Phase three is not an immediate concern of theirs as far as starting it and it will come before the Commission again for suggestions or whatever we need to do to make it work for the community. Please do not dwell on phase three. It is his understanding that we will proceed with phase one, and then phase two, and phase three will come to a stop until we come back to the community.

Stranko commented that you hear some valid concerns from the neighborhood and hope that Mr. Laurita and his colleagues on the board consider that and not bring this back to the Commission but rather amend the plan to address the good points of the neighbors. Stranko understands that there is not a financing plan in place so maybe there is room to move and

cooperate with each other. Mr. Laurita stated that they are listening to their concerns and they do not want to build in a community that does not want us.

DeMasters asked for Staff recommendations.

Fletcher asked to respond to comments made by Mr. Nugent concerning the minutes not being available. He stated that he will look into why the minutes were not posted online but will add that he does not recall Mr. Nugent calling or coming in to request copies of those minutes, which would have easily been provided and that access is available.

Fletcher read the Staff Report stating that the Planning Commission has approved similarly requested PUD Development Plan submission extensions. As such, Staff recommends that the petitioner's PUD Development Plan submission deadline be extended from January 7, 2011 to July 15, 2011.

Stranko stated that the point concerning green space is so important not just in this neighborhood but all over the City. We have areas that are starting to disappear causing water management problems and all kinds of other issues. He wishes the City had a nice big budget to buy up these green spaces or buy permanent green easements but that is not in the budget now. The fact is we have a private owner in Habitat for Humanity who owns this property and wants to use it in this fashion. Fortunately, people like Mr. Laurita are on this Board that are willing to continue to work with the neighborhood to get a development in the shape that everyone can be pleased with and live with. He is optimistic this can happen. With regard to what is in front of us, it is simple an extension. We granted the extension for the other applicant today. It is an equal protection issue at this point. We have no reason to discriminate between this request and the earlier request that he can see.

Petros asked for a clarification that phase three will have to come back to the Planning Commission. Fletcher stated yes and Habitat for Humanity has a vested property right to pursue twelve multi-family units that this Planning Commission, although not unanimously, carried a motion to send a recommendation to City Council to approve the PUD. City Council approved the PUD which established the vested property right. Now the developer has over the course of several meetings and again stated this evening that they are willing to work with the neighborhood to do something different if that is possible. But the driving cost associated with this development is the new road.

Petros stated that his main question is if the Commission approves this extension, is the Commission the whole plan for phase three right now and if that is not the case will they have to come back. Fletcher stated that the plan is approved and the only thing before the Commission now is whether or not to extend the deadline to submit a PUD Development Plan for phase one.

Petros asked what would happen if the Commission did not extend the deadline. Fletcher stated that the if the Commission did not extend the deadline, Staff would bring to the Planning Commission at its March or April meeting a request that the Planning Commission make a recommendation to City Council of rezoning the property from PUD back to R-1A. This would be the next step. The zoning reclassification would require ordinance approval to change the zoning map.

Wyant stated he was not on the Planning Commission when this was originally considered. He asked, as a follow up to one of the public comments, whether a change in the nature of the PUD in regards to a reduction in size and acreage has occurred and whether that change makes a

material difference in a decision previously taken. Fletcher stated that he believes the minimum area required for a planned unit development was ten acres. The minimum standard was decreased to two acres in 2002 or 2003. Sometime after that, it was reduced to a minimum of one acre in Sunnyside when the overlay districts were created in 2005 or 2006. Fletcher stated that he has no working knowledge as to why it went from ten acres down to two acres.

DeMasters stated that the reduction from ten acres to two acres was before this project and had nothing to do with this project. Fletcher stated that the first planned unit development that was approved was the Square at Falling Run in 2002 or 2003 and was significantly more than ten acres. Fletcher stated that there was not a planned unit development approved that met the previous ten acre minimum area standard.

Martis asked if Phase 3 have to come to the Planning Commission. Fletcher stated that the PUD Development Plan for Phase 3 has to come back to the Planning Commission. Martis asked what if the Commission voted no against that. Fletcher stated that it will depend on what is presented to you and why you voted no. Martis stated that he understands that there are conditions the Planning Commission must operate under. Fletcher stated if the question is whether the Planning Commission can vote no because Phase 3 is not single-family, then Staff would advise the Planning Commission that that decision could be challenged in Circuit Court because there is a vested property right to development not more than twelve multi-family units in Phase 3.

Martis stated that he believes if Habitat wants to build multi-family units in Morgantown that it should find a place where multi-family units are appropriate. He thinks it should be taken back to their board; this is inappropriate; and, he wishes he had the minutes to show that he voted against it. It is just so wonderful that they can build single-family homes. The diagram shows that they can put another four or five houses there instead. He knows the economics of this and they explained it very well before. It is just in appropriate for this to happen. He will probably vote against because it is just an inappropriate use of that space.

Shuman asked if the Planning Commission is simply voting for Phase 1. Fletcher stated that the Planning Commission is being asked to extend the deadlines. Fletcher stated that he discussed with Habitat toward the later part of last year the opportunity of simply come in for a building permit for the first house in Phase 1, this extension request would not have been required. However, at that time, the award dates for the grants that they had requested did not come until the end of the calendar year. Shuman asked then the extension request is the same request that was granted for previous agenda item. Fletcher stated that is correct.

Stranko stated that Martis did vote against it because took months to get over the debate we had that night about this project. The fact is a vested property right exists now and that ship has sailed. Stranko stated that Shuman is alluding to the central point that the Planning Commission should treat everybody the same. We gave the Westminster House a much longer extension for a project that was approved. Now here is another project requesting a shorter extension. He is a troubled as Martis is, although they voted differently, about that multi-family piece of this but again would point out to the neighborhood and to Mr. Laurita and his colleagues on their board that there is a meeting of the minds rather than come to government to resolve a difference. Stranko stated that he would prefer it stay green space. Stranko stated that the Planning Commission simply has no grounds to not support the extension request.

DeMasters stated that Westminster House came to the Planning Commission for an extension because they were unable to get funding right now. Habitat is asking for an extension because

they cannot get funding right now. There is no difference and they should not be treated differently. It is the same issue that is before us as we just unanimously voted to approve.

Petros stated that is why he is a little confused on the matter because it almost feels as he is voting as if he was on the Planning Commission when it was approved. Petros stated that the other way he is looking at this is as an opportunity to relook at this and ask whether or not this is right. But if that is not an appropriate approach to the matter at hand today, then maybe the Planning Commission should not look at it this way.

Stranko stated that Petros is exactly right with one caveat or change and that is the Planning Commission cannot change this. Habitat for Humanity and the neighborhood have and additional six or seven months to get a meeting of the minds and try to get everyone happy with moving forward. Stranko stated that the Planning Commission's hands are tied and that is what a vested property right means.

Selin asked if and when the Planning Commission gets to the third phase, it will be looking at how the twelve multi-family units are put together. Fletcher stated that is correct unless they decided to do a townhouse approach, which would require an Outline Plan amendment. Selin asked if they had a vest right to do so. Fletcher stated that the vested property right is two buildings with six multi-family units in each building. Habitat has the right to develop as such. The Planning Commission retained its right to review that Phase 3 PUD Development Plan because there were no elevations showing what those buildings would look like, what the context would be, etc. There was not enough information provided in the PUD Outline Plan for Phase 3. This is why the Planning Commission retained its right, as recommended by Staff, to review the Phase 3 Development Plan. If the developer wanted to change the development program to a townhouse scenario, as an example, they would have to come back to the Planning Commission for an Outline Plan amendment because that would be a different program than was recommended by the Planning Commission and approved by City Council.

Stranko asked if an analogy would be that the Planning Commission would be looking at Phase 3 as if it were a Development of Significant Impact looking at aesthetic and practical matters. Fletcher stated that is correct. Fletcher stated that the fact that each unit must be owner-occupied is already a requirement of the PUD Outline Plan.

Stranko moved to approve the petitioner's request to extend the PUD Development Plan submission deadline from January 7, 2011 to July 15, 2011; seconded by Selin. The motion passed 7 to 1 with Martis voting nay.

V. NEW BUSINESS

- A. S11-01-III:** Request by Joe Panico, on behalf of Manhattan Place, LLC for Development of Significant Impact Site Plan approval for a hotel development on Chestnut Street. Tax Map #26A, Parcels# 79 & 80; B-4, General Business District.

Fletcher read the Staff Report stating that the petitioner seeks to develop a four-story hotel on a lot currently used for parking. The proposed hotel will be attached to the adjacent private parking garage building, of which a portion of is currently occupied by Dragonfly Restaurant. Addendum A of this report illustrates the location and photographs of the subject site.

The petitioner's proposed development program details include:

- Estimated construction cost of \$2 million.
- The proposed hotel will be approximately 30,000 square feet.
- On January 19, 2011, the Board of Zoning Appeals, approved variances to exceed the maximum lot coverage (1.2% variance) and to encroach into the minimum rear setback thirteen (13) feet.
- The hotel facility will have at least two internal connections to the adjoining parking garage facility.
- The partial basement area will include commercial laundry and housekeeping facilities, elevator mechanical facilities, building systems control facilities, and dumpster facilities.
- The building will be served by two stair towers and one elevator.
- There will be approximately 41 quest rooms/suites; two of which will be on the first floor and the 39 rooms/suites on the remaining three stories
- The first floor will include a lobby area, management offices, fitness and business centers, common restrooms, and an approximate 2,000 sq. ft. meeting/assembly room.
- Approximately fifty (50) parking spaces will be dedicated for the hotel use in the adjoining parking garage; valet service will be provided at the entrance of the parking garage; loading facilities for deliveries will be located inside the garage.
- There will be a maximum of four (4) employees present during the largest shift.
- As a part of the hotel development, the petitioner will be refurbishing the exterior of the parking garage by repointing the brick façade, removing windows but leaving grilles to maintain architectural feature, and rehabilitating the marquee awning.

Building Height

Article 1351.01, "Performance Standards for Buildings in the General Business (B-4) District" of the Planning and Zoning Code provides:

- (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.

Because the height of the proposed hotel development appears to be less than one (1) story higher than the adjoining three-story parking garage building, the Planning Department did not require the petitioner to submit air flow or sunlight distribution analyses. The Planning

Commission may however determine these analyses to be essential for the subject development and require same to be prepared and submitted prior to rendering a decision. An alternate solution may be to require the front setback of the proposed hotel development to be equal to or greater than the setback of the adjoining parking garage building.

Minimum Parking

Article 1349.08 "Parking and Loading Standards in the B-4 District" provides:

"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."

Article 1385.05, "Review Thresholds" provides that for commercial projects, the threshold is 15,000 square feet of gross floor area (GFA).

Table 1365.04.01, "Minimum Off-Street Parking Requirements", provides that the minimum parking for a "Hotel/Hotel, Full-service" use is:

"One space per room or suite plus 1 space per 3 employees plus 1 space per 3 persons to the maximum capacity of the largest banquet or meeting room."

Calculating the minimum parking requirement for a "Hotel/Hotel, Full-service" use in the B-4 District is complicated by the fact that the waiver threshold (15,000 sq. ft.) is based on gross floor area while the parking standard is not.

Although the number of required parking spaces can be partially calculated knowing the number of rooms/suites as well as the number of employees present during the largest shift, the maximum capacity of the proposed banquet room will not be known until established by the City Fire Marshall during the building permit and occupancy permit phases.

The petitioner has stated that at least fifty (50) parking spaces within the adjoining parking garage will be dedicated to the hotel use, which exceeds the 42 spaces that would be required based solely on the number of rooms/suites and number of employees. A final minimum parking determination will be made once the maximum banquet room capacity is established and a methodology developed to calculate the gross floor area waiver provided in Article 1349.08.

Should the parking calculation result in a minimum requirement greater than fifty (50) spaces, the petitioner will be required to pursue conditional use approval under Article 1365.04 (P) to reduce said calculation and/or seek variance relief.

B-4 District Design and Performance Standards

Based on the drawings submitted with the application, all related design and performance standards established within the B-4 District appear to have been adequately observed. Solid waste collection and storage will be managed internally.

DeMasters recognized Joe Panico who stated that concerning the parking, he actually has 62 spaces not just 50 spaces. He stated that he would allot 50 spaces for the hotel use. Parking will not be an issue in this structure. He has plenty of room to accommodate parking. He met

with the Downtown Design Review Committee and took all their recommendations. The Committee wanted a contrast in setbacks and wanted the hotel building to have a slightly less front setback than the parking garage building to provide a contrast. The brick will be a contrast as preferred by the Committee. It meets all codes, with the exception of the few variances that have already been granted. He does not see any problem with this. He distributed some additional interior renders to demonstrate the design concept. The height of the building will actually be the same height of the garage building if you count the upper level restaurant partial roofs. The hotel is equal in height to the garage building. There is a parking lot to the north. There is a City parking garage near the site. The sun sets almost directly behind the building. He also razed a two-story building to make room for the hotel. He was approved in 2006 or 2007 for an eight-story building by both the Planning Commission and the BZA. The money dried up and he scaled this project down. It should not have a significant impact on any of his neighbors. It should have a very positive impact on the economy downtown. He is getting a lot of positive feedback from residents and business people. He has three outside management companies bidding on the management of it. It is going to work in conjunction with the rooftop bar/restaurant, the pool, and the 13,000 square feet on the roof of the garage building. The parking requirements will be met inside the parking structure. The garbage will go all the way to the basement and rollout the basement door. He is working with Allied. He has been through the tech review with the City departments and they have been or will be satisfied once we get to their needs are. We hammered out a lot of details with tech review and BZA. This is the final approval. He thinks what we are talking here is how does it fit inside the City of Morgantown. He thinks it totally complies with the Comprehensive Plan and what we should be working toward. It meets all the type of criteria of what we want downtown. It is not large. It is only four stories. It is not overcrowding the land. He sees nothing but positive and he is very excited about it.

Martis stated that this is a very exciting project and asked if the previous development was a condominium project. Panico stated that is correct. Martis stated that Panico has done the market analysis regarding the hotel. He is just curious about the condominium project. Panico stated that he developed a condominium project down Chestnut Street from the hotel site and found it difficult to sell condominiums. The market analysis for the hotel has been completed and the banking industry has already approved this. He has jumped through many hoops in terms of different studies required by the bank. Panico stated that this is the highest and best use for the site. It is better than apartments, better than condos, better than a mixed-use commercial space. This is what is best for this site and its downtown location. Panico stated that believe it or not, the studies show that there is still a need for hotel rooms in this market. The hotels in the area, even the ones on the outskirts, maintain a high occupancy rate. It is not a large hotel. It is small and considered a boutique hotel. It will not have a flagship corporate entity.

Selin stated that she participated in the Downtown Design Review discussion and there have been significant design improvements and looks to be an exciting project. Selin stated that it appears to work with the parking in the garage and the uses on the roof of the garage building could accommodate weddings and other events. Panico stated that the management applicants have been quite surprised with the size of the garage rooftop space. Panico stated that the rooftop will be where a lot of the revenue for this project will be made. Panico stated that the rooftop bar/restaurant will not be a wild and crazy place. It will have to be a controlled environment that meshes with the boutique hotel. He cannot jeopardize the negative impact of a wild and crazy rooftop on the hotel. It will not be another Bent Willey's. Panico stated that there is a 2,000 square foot meeting and conference room on the first floor of the hotel where he can accommodate business meetings and small conferences to make a full-service boutique

hotel. There may be a spa area in the basement. Panico stated that it is just a unique piece of property and it will really be an asset for downtown.

Panico stated that the light and air flow analysis was not completed but he incorporated all the features suggested by the Downtown Design Review Committee, which included the front setback. The recommended condition to move the front setback flush with the garage building would be a significant problem for the project. The Committee liked the offsetting to avoid the tunnel effect created by buildings having the same setback and they thought it was very important and he does not want to lose that.

There being no further questions by the Planning Commission, DeMasters opened the public hearing asking for comments in favor of or in opposition to Petition S11-01-III. There being no comments offered, DeMasters declared the public hearing closed and asked for Staff's recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That the petitioner incorporate, to the satisfaction of the Planning Director, all reasonable Technical Review Team and Design Review Committee recommendations in plans submitted with related building permit applications.
2. That the architectural design and cladding materials of the building's front façade shall be masonry brick or brick veneer and include a cornice treatment to complement the façade of the adjoining parking garage building as illustrated on the elevations submitted with the application.
3. That the first story of the north side façade shall be masonry brick or brick veneer to complement the architectural design and cladding materials of the building's front façade. Said masonry brick or brick veneer components shall extend vertically at the north corner of the building from grade to the roof line a depth of which shall be no less than four (4) feet.
4. That the north side façade, which is not clad in masonry brick or brick veneer, may be clad in exterior insulation finishing, stucco, or similar application provided two (2) contrasting but complementary finished color schemes are used to complement the architectural design of the building's front façade.
5. That all windows above the first story shall include window grills to complement the architectural design of the adjoining parking garage building.
6. That the first, or ground floor, must have a minimum floor-to-ceiling height of eleven (11) feet.
7. That a minimum of sixty percent (60%) of the street-facing building façade between three (3) feet and eight (8) feet in height shall be comprised of clear windows that allow unobstructed views of the hotel's lobby area.
8. That, to the satisfaction of the Planning Director and the City Engineer, the point of conflict between pedestrian and vehicular traffic at the entrance/exit of the adjoining parking garage building shall be clearly identified by a contrast in color and/or texture and/or material.

9. That, to the satisfaction of the City Engineer, the loading area provided within the adjoining parking garage building may not interfere with vehicular maneuvering within said facility.
10. That signage, if erected, must comply with related standards provided in Article 1369 "Signs" unless variance relief is granted by the Board of Zoning Appeals.
11. That Parcels #79 and 80 of Tax Map #26A must be combined prior to applying for a Certificate of Occupancy.

Fletcher noted that the Staff Report included a twelve condition, which stated, "That the front setback of the proposed hotel development be equal to or greater than the setback of the adjoining parking garage building" and that this condition should not be included as it would conflict with the review and recommendations of the Downtown Design Review Committee.

Stranko stated that the site has come a long way from an abandoned electrical parts store and a dilapidated building; congratulations and good luck to you Mr. Panico.

Selin stated that she never realized that there was parking in that building and it is very interesting how you can have something right there and not realize it because of the grills on the windows. The parking garage blends in very well.

Stranko stated that the garage is a beautiful old building and he is exciting that Mr. Panico is going to fix it up with the development of the hotel.

Martis moved to approve Petition S11-01-III as requested with Staff recommendations 1 thru 11 as stated in the Staff Report; seconded by Stranko. The motion passed unanimously.

B. MNS11-01 / Warner / 345 E. Brockway Avenue: Request by Kris Warner for minor subdivision approval for property located at 345 E. Brockway Avenue. Tax Map #35 Parcels #

DeMasters stated that he is going to recuse himself from this matter to avoid a potential conflict or the appearance of an impropriety, leave the room, and turn the Chair over to Pyles.

Fletcher stated that the petitioner requested Staff to represent their request. Fletcher read the Staff Report stating that the petitioner seeks to reconfigure three existing parcels into two parcels and adjust boundary lines of same for realty along Brockway Avenue and Rodgers Street. The purpose of the subdivision is to allow for the development of a proposed "Restaurant, Fast Food" use. Addendum A of this report illustrates the location of the subject site. The following points describe the proposed subdivision:

- Proposed Parcel #1, which is to be developed into the proposed restaurant establishment, will be approximately 0.68 acres and have approximately 220.28 feet of frontage on Rodgers Street and approximately 100.85 feet on East Brockway Avenue.
- Proposed Parcel #2, which will contain a mobile home will be approximately 0.77 acres and have approximately 184.79 feet of frontage on Rodgers Street and approximately 146.16 feet of frontage on Nolan Avenue.

The proposed subdivision exceeds the minimum lot area standard of 6,000 square feet and minimum lot frontage standard of 60 feet within the B-2 District. No encroachments by the existing structures will be created.

There being no further questions by the Planning Commission, Pyles opened the public hearing portion asking if there were any comments in favor of or in opposition to Petition MNS11-01. There being none, Pyles declared the public hearing closed and asked for Staff's recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That the petitioner submit three (3) paper copies, signed and sealed by a surveyor licensed in the State of West Virginia, of the final plat for the Planning Commission President's signature; and,
2. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the condition set forth above.

Stranko moved to approve Petition MNS11-01 as requested with Staff recommended conditions; seconded by Martis. The motion passed unanimously with DeMasters abstaining.

DeMasters returned and resumed the Chair.

- C. RZ11-01 / Barker / 780 Weaver Street:** Request by William and Kathy Barker for zoning map amendment for property located at 780 Weaver Street. Tax Map #25 Parcel #44; an R-1A, Single-Family Residential District.

Fletcher advised the Planning Commission that the petitioner was not in attendance to present the zoning map amendment request and that no action by the Commission was required. The minutes will reflect that the matter was postponed.

VI. OTHER BUSINESS

A. Committee Reports:

1. **Traffic Commission** – Martis stated that the Traffic Commission discussed the merits of requiring bicycle storage to be a part of all multi-family development that is of a scale of Developments of Significant Impact or larger city-wide in addition to the requirements currently provided within the B-4 District. Martis asked Staff to study the issue and provide a report to the Planning Commission in coming months.
2. **Green Team** – Stranko stated that there was not report.

- C. Staff Comments** – Fletcher discussed the 2010 Annual Report to City Council. Fletcher also provided a brief on the upcoming Comprehensive Plan update, which will include a partnership with the MPO and Star City. Granville is also considering joining the planning project. Stranko asked if Westover is considering participating. Fletcher stated that he believes the MPO is working in this regard. Fletcher noted that Westover did not agree to participate as a partner in the federal Sustainable Communities Planning Grant application.

Fletcher stated he believes this was a message of their interest in participating with the rest of the surrounding communities on this type of project.

Fletcher asked for the Planning Commission to authorize him, as the Commission's Secretary, to submit the 2010 Annual Report to City Council.

Selin moved to submit the Planning Commission's 2010 Annual Report to City Council as presented; seconded by Stranko. The motion passed unanimously.

Selin expressed an appreciation for the Planning Departments efforts relative to preparing an annual report. She believes this is very important information for the Planning Commission.

Fletcher provided a brief on the first monthly status report for the implementation of the 2010 Downtown Strategic Plan and noted that Main Street Morgantown will also be providing a similar status report concerning Plan elements assigned to Main Street for execution.

Fletcher also discussed a Comprehensive Plan information pamphlet developed by Staff that will be used as an educational tool.

VII. FOR THE GOOD OF THE COMMISSION – None.

VIII. ADJOURNMENT – Meeting adjourned at 8:10 PM.

MINUTES APPROVED: March 10, 2011

COMMISSION SECRETARY: _____
Christopher M. Fletcher, AICP