

# MORGANTOWN PLANNING COMMISSION

## Minutes

6:30 PM

October 13, 2011

Council Chambers

**MEMBERS PRESENT:** Carol Pyles, Sam Loretta, Tim Stranko, William Wyant, Bill Petros, Michael Shuman, Jennifer Selin

**MEMBERS ABSENT:** Peter DeMasters, Ken Martis

**STAFF:** Christopher Fletcher, AICP, Heather Dingman, AICP

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

**II. GENERAL PUBLIC COMMENTS:** None

**III. MATTERS OF BUSINESS:** Approval of August 11, 2011 meeting minutes.

Pyles requested a correction to the August 11, 2011 to reflect that she was present. Stranko moved to approve the minutes with this correction; seconded by Petros. Motion carried unanimously.

**IV. OLD BUSINESS:**

**A. RZ08-05 / Westminster House PUD:** Request by First Presbyterian Church of Morgantown for a Planned Unit Development (PUD) Outline Plan Amendment No. 3 as it relates to extending the Development Plan submission deadline 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 No. 1 to the "Westminster House" PUD Outline Plan (see related approval letter attached hereto as Addendum B).

On February 10, 2011, the First Presbyterian Church of Morgantown requested and the Planning Commission approved Amendment No. 2 to the "Westminster House" PUD Outline Plan (see related approval letter attached hereto as Addendum C).

The First Presbyterian Church of Morgantown now seeks approval for Amendment No. 3 to the "Westminster House" PUD Outline Plan (see petitioner's letter dated September 16, 2011 attached hereto as Addendum D), which would provide for the:

- Extension of the PUD Development Plan submission deadline from October 31, 2011 to December 31, 2011.

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 No. 3 alters the concept, intent, and development schedule of the originally approved PUD Outline Plan and Amendments No. 1 and N. 2 to the extent that Planning Commission approval is warranted.

It should be noted that the contemplated development program narrative provided in the petitioner's September 16, 2011 letter is not a part of the present PUD Outline Plan Amendment No. 3. 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 fourth PUD Outline Plan amendment.

Pyles recognized the petitioner Chet Parsons who stated that he had nothing to add to the Staff Report, but that he would appreciate approval of his request.

There being no questions by the Commission, Pyles opened the public hearing portion of the meeting asking if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Pyles declared the public hearing closed and asked for Staff's recommendation.

Fletcher stated that the petitioner has remained in regular contact with the Planning Division concerning the project's planning progress and the owner's determination to identify investors and development partners. It is the opinion of the Planning Division that the petitioner continues

to make every effort in advancing the project and fulfilling their commitment under the approved PUD Outline Plan.

As noted by Staff in previous reports concerning Outline Plan Amendment requests for the subject PUD, investment complexities do not appear to be unique to the petitioner as the current state of financial markets has tempered investment in complex development financing. Staff maintains that patience and prudence should influence expectations and decisions concerning well-planned development.

As such, Staff recommends that the proposed Outline Plan Amendment No. 3 be approved with the following considerations and conditions:

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 approved heretofore, 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 be extended from October 31, 2011 to December 31, 2011.
5. That the deadline of December 31, 2011 for the two (2) temporary parking lot uses, which was established by the Planning Commission in its approval of Outline Plan Amendment No. 2, remains in effect.

Stranko and Selin both stated their support of this project.

Stranko made a motion to approve granted the extension as requested with Staff recommended conditions; seconded by Selin. Motion carried 6-1 with Loretta voting nay.

## **V. NEW BUSINESS:**

- A. RZ11-03 / Benton Financiers, Inc. / 221 Willey Street:** Request by Scott Batt, on behalf of Benton Financiers, Inc., for a zoning map amendment for property located at 221 Willey Street from the B-1, Neighborhood District to the B-4, General Business District; Tax Map 26, Parcel 118.

Shuman announced that he was excusing himself from discussions and decisions concerning the present agenda item due to his conflict of interest as an adjoining property owner. Shuman left Council Chambers.

Fletcher read the Staff Report stating that the petitioner seeks Zoning Map Amendment or zoning reclassification approval for parcel 118 of Tax Map 26. The proposed reclassification is from the B-1, Neighborhood Business District to the B-4, General District. Addendum A of this report illustrates the location of the subject realty.

**ANALYSIS:**

Because the subject area adjoins the B-4 District at the site's southern and western sides, the proposed zoning map amendment is considered a zoning district boundary adjustment.

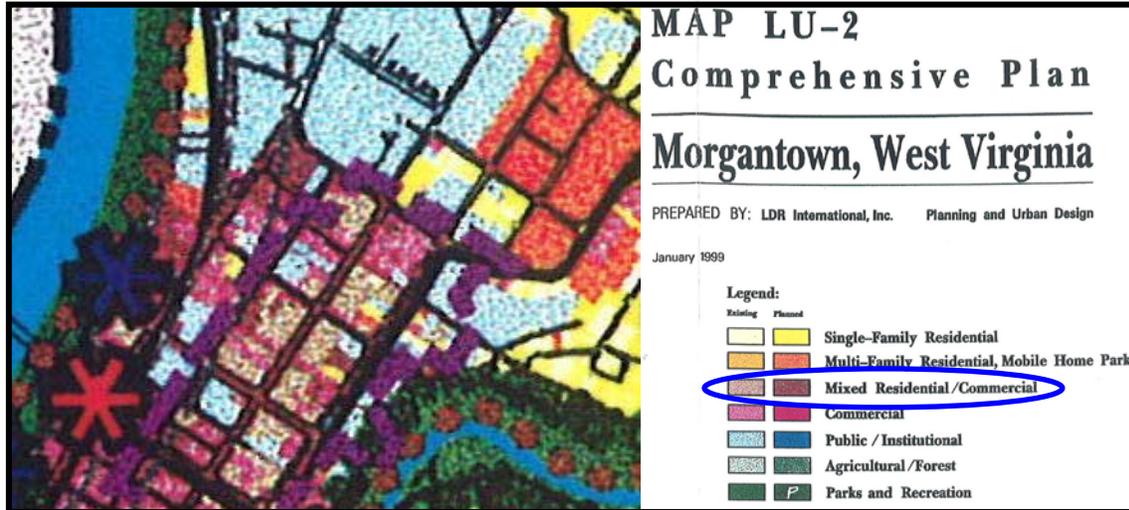
According to Article 1345.01 of the Planning and Zoning Code, the purpose of the B-1 District is to:

"Provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods."

According to Article 1349.01 of the Planning and Zoning Code, the purposes of the B-4 District are to:

- (A) Promote development of a compact, pedestrian-oriented central business district consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas, and residential living environments that provide a broad range of housing types for an array of housing needs;
- (B) Promote a diverse mix of residential, business, commercial, office, institutional, education, and cultural and entertainment activities for workers, visitors, and residents;
- (C) Encourage pedestrian-oriented development within walking distance of public transit opportunities at densities and intensities that will help to support transit usage and businesses;
- (D) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
- (E) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and,
- (F) Enhance the community's character and historical significance through the promotion of high-quality urban design.

The following figure is a portion of Map LU-2 of the 1999 Comprehensive Plan and illustrates that the planned use for the subject realty is "Mixed Residential / Commercial."



It appears that the proposed change in zoning classification from B-1 to B-4 is consistent with the site's planned mixed residential and commercial use illustrated in the 1999 Comprehensive Plan. Additionally, the major Planning and Zoning Code amendment enacted in January 2006 significantly reformed the legislative intent, desired character, and permitted development patterns and land uses within the B-1, Neighborhood Business District.

Further, it appears that the subject realty is situated where present and future development and land uses may better reflect the Planning and Zoning Code's stated purpose for the B-4 District rather than that of the B-1 District.

Substantial differences between the B-1 and B-4 Districts in terms of allowable scale, scope, density, and parking should be carefully considered along with the site's proximity to central business district type public transit, public parking, and pedestrian volumes not available to and enjoyed by the majority of other B-1 District areas within the community.

Pyles recognized the petitioner Scott Batt of Benton Financiers, who stated that the building is currently a mixed-use which houses his office and three residential student rentals. Two attorneys have recently vacated the building and relocated. Presently, the first floor is vacant, and there are 11 rented parking spaces behind the building. He feels that the uses for the building are much broader under the B-4 zoning and that is why he is requesting the change.

There being no questions by the Commission, Pyles opened the public hearing portion of the meeting asking if anyone was present to speak in favor of the request.

Pyles recognized Nick Seremetis who stated that he owns property on Prospect and North High Street. He stated that he supports the request but feels that the Commission should consider the entire block instead of just one property.

There being no further comments in favor of the petition, Pyles asked if anyone was present to speak in opposition to the petition.

Pyles recognized Robert Justice who stated that he lived in the South Park area and was present to represent the adjacent Trinity Episcopal Church property. He stated that he is not necessarily against the request, but would like to have more information and a better understanding of the proposed use of the building and property will be. His specific concern in changing the zoning from B-1 to B-4 is with the height and density allowances. The church wishes to protect the historical significance of their building and has concerns about a possible multi-story building being built at some point in the future.

Pyles recognized Pastor Michael Hadaway, Trinity Episcopal Church, who stated that he is not necessarily against the rezoning, but he shares Mr. Justice's concerns as well as Church's parking spaces adjacent to the building that are currently leased to the City until 2012. He stated that there is no guarantee the Church will renew the lease with the City, which may limit the parking available to the petitioner's property.

Pyles recognized Vanessa Pyles, 536 Harvard Avenue, who stated that her concerns are for the potential loss of a historical building and the impact of losing historical buildings with the historical district.

Pyles recognized Rodney Pyles, 536 Harvard Avenue, who stated that he is a member of the City's Historic Landmarks Commission and is also concerned about the plans for the building as it relates to the historic district designation. He stated that the more options that B-4 zoning gives the property owner may lead to the possible demolition of the present building and a larger building being put in its place.

There being no further public comments, Pyles declared the public hearing closed and asked for Staff's recommendations.

Fletcher read the Staff Report stating that zoning map amendment requests should be evaluated on their land-use merits alone. The applicant's development intentions are extraneous and the Commission should consider the request on its merits as a land-use decision.

In conducting such an analysis, the Commission should determine if the B-4, General Business District is the appropriate zoning classification for the subject realty, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code (please refer to Table 1331.05.01 "Permitted Land Uses").

Staff advises the Commission to forward a recommendation to City Council to approve the requested zoning map amendment so that Parcel 118 of Tax Map 26 is reclassified from B-1, Neighborhood Business District to B-5, General Business District.

Stranko reminded the Commission members to think long-term and not just what the current owner may have in mind. With that taken into consideration, he feels that the zoning should be left as is.

Petros stated that since the purpose of the B-1 District is to, "Provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood", that the B-1 zoning classification appears appropriate given the high density of student housing within the immediate area.

Stranko agreed that Petros made some good points, but feels strongly about protecting the existing character of the block.

Selin stated that she, too, is interested in protecting the historical nature of the block and would like to see the zoning remain as is.

Selin made a motion to forward a recommendation to City Council to deny the RZ11-03 request for rezoning; seconded by Stranko. Motion carried 5-1, with Loretta voting against the recommendation and Shuman abstaining due to his conflict of interest.

Shuman returned to Council Chambers.

- B. S11-21-III / Metro Towers, LLC / 2567 University Avenue:** Request by Metro Towers, LLC for Development of Significant Impact Site Plan Review approval of two multi-family structures for property located at 2567 University Avenue; Tax Map 15, Parcels 230.2, 231, 232, 233, 233.1, and 273; O-I, Office and Institutional District.

Fletcher read the Staff Report stating that on November 11, 2010, the Planning Commission approved the petitioner's Major Development of Significant Impact Site Plan (Case No. S10-09-III) to convert the previous office building use of the two (2) existing structures within the former "Grand Central Station" development into 125 one-bedroom units.

The petitioner now seeks to develop two (2) additional multi-family structures on the subject site, the location of which is illustrated in Addendum A of this report. The two proposed buildings will have 32 two-bedroom units per building for a total of 64 units with 128 bedrooms.

Addendum B of this report provides a Planning and Zoning Code compliance review for the proposed development.

As noted in the Staff Report for Case No. S10-09-III dated November 11, 2010, the City Engineer determined that a traffic impact analysis would be necessary in the event the petitioner proposed additional development within the Metro Towers development.

Attached hereto as Addendum C is a letter dated October 11, 2011 from Mr. Steven Buchanan, PE of Alpha Associates, Inc. summarizing his traffic impact analysis. Mr. Buchanan compared the traffic generation of the previous office building use and the proposed multi-family residential use including all 189 apartments.

The City Engineer concurs with Mr. Buchanan's conclusion that:

"...if the adjoining streets can accommodate the traffic generated under the existing condition (100,000 SF of general office space), the adjoining streets should be able to accommodate traffic generated under the proposed condition (apartments) with little or no impact to the traffic on those adjoining streets."

Fletcher then read from the Addendum B of the Staff Report stating that Metro Properties, LLC is the owner and developer of the subject site and will be referred to herein as the "petitioner". The subject realty was formerly known as the "Grand Central Station" development and now understood to be the "Metro Towers" development.

On November 11, 2010, the Planning Commission approved the petitioner's Major Development of Significant Impact Site Plan (Case No. S10-09-III) to convert the previous office building use of the two (2) existing structures within the former "Grand Central Station" site into 125 one-bedroom units.

On April 14, 2011, the Planning Commission approved the resubdivision (Case No. MNS11-06) of nine parcels of the former "Grand Central Station" development into three parcels as a part of Metro Towers, LLC acquisition of the subject realty and the Planning Commission's approval of Case No. S10-09-III.

The petitioner has completed the interior build-out of the "North Building" with occupancy permitting issued in August 2011. Interior build-out of the "South Building" and site work is currently under construction.

The tracts of land included in the currently proposed development are former Parcels 230.2, 231, 232, 233, 233.1, and 273 of Tax Map 15. The zoning classification for the subject realty is O-I, Office and Institutional District.

The proposed development program under consideration includes two (2) four-story structures that will include 32 two-bedroom multi-family dwelling units within each structure for a total of 64 dwelling units and 128 bedrooms.

Article 1329.02 provides that a Development of Significant Impact (DSI) includes the development of 12 to 99 dwelling units. As such, the Planning Commission must review the site plan for the proposed development. <sup>1</sup>

The proposed structure closest to University Avenue will be referred to herein as the "East Building". The proposed structure closest to the unopened right-of-way of Ensign Avenue will be referred to herein as the "West Building".

The types of Planning and Zoning Code related approvals required by the proposed development are footnoted and related narrative provided at the end of this Addendum.

**Article 1343.02 Permitted and Conditional Uses:**

Table 1331.05.01 provides that "Multi-family Dwellings" are permitted in the O-I District with conditional use approval. Related Case No. CU11-11 is scheduled for review by the BZA on October 19, 2011. The Planning Commission's approval of the subject DSI Site Plan should be conditioned upon the BZA's approval of said conditional use petition. <sup>2</sup>

**Article 1343.03 Lot Provisions:**

The parcels created with the Planning Commission's approval of Case No. MNS11-06 exceed the minimum lot size (6,000 sq. ft.), minimum lot frontage (60 ft.), and minimum lot depth (100) standards for the O-I District.

However, a new plat must be approved by the Planning Commission at a later date to realign the unopened Ensign Avenue 30-foot right-of-way as directed by the City Engineer so that parking spaces for the entire development do not encroach within said right-of-way. <sup>3</sup>

**Article 1343.04 Setbacks and Encroachments:**

The following table identifies the setback standards for the O-I District along with the proposed setbacks and variance requirements, if applicable.

Setback Type	Required Setback	Proposed Setback	Required Variance
<b>“East Building”</b> (fronting University Avenue)			
Minimum Front	15 feet	60.1 feet	35.1-foot variance <sup>4</sup>
Maximum Front	25 feet		
Minimum Side (south)	30 feet	15 feet	15-foot variance <sup>4</sup>
Minimum Side (north)	30 feet	218 feet	N/A
Minimum Rear	40 feet	17.8 feet	22.2-foot variance <sup>4</sup>
<b>“West Building”</b> (fronting unopened Ensign Avenue 30-foot right-of-way)			
Minimum Front	15 feet	25 feet	N/A
Maximum Front	25 feet		
Minimum Side (south)	30 feet	10 feet	20-foot variance <sup>4</sup>
Minimum Side (north)	30 feet	245 feet	N/A
Minimum Rear	40 feet	24 feet	16-foot setback <sup>4</sup>

Related Case Nos. V11-39 and V11-40 are scheduled for review by the BZA on October 19, 2011. The Planning Commission’s approval of the subject DSI Site Plan should be conditioned upon the BZA’s approval of said variance petitions. <sup>4</sup>

**Article 1343.05 Building Height:**

Because the proposed development program is limited to residential construction, Article 1343.07 (F) supersedes Article 1343.05 directing compliance for building height to be determined based on the standards set forth in Article 1339.06 for the R-3, Multi-family Residential District. As such, the maximum height for the proposed structures is four (4) stories or fifty-five (55), whichever is less. The proposed four-story structures appear to comply with said standard.

**Article 1343.06 Parking and Loading Standards:**

Because the Metro Towers development will function as one development site, or “campus”, for all four structures given shared vehicular and pedestrian circulation routes, solid waste and property management, mail delivery, etc., a shared parking analysis appears to be the most practicable approach to determining compliance with minimum parking requirements.

Article 1365.04 (B) provides that shared parking facilities is permitted with conditional use approval. However, because the parking lots throughout the entire development have been in existence as shared facilities for a number of years serving the previous uses for at least the two existing structures, it does not appear necessary to require the petitioner to pursue shared

parking facility conditional use approval for a use that already exists and appears to have functioned well.

Table 1365.04.01 "Minimum Off-street Parking Requirements" provides that the development of multi-family dwellings must include one (1) parking space for each one-bedroom dwelling unit and 0.75 parking spaces per occupant of units that contain two or more bedrooms.

The aggregate number of dwelling units and related bedroom composition for the entire Metro Towers development is 125 one bedroom units and 64 two bedroom units. As such, the minimum number of parking spaces that must be provided for the entire development is 221 spaces. The proposed site plan illustrates the parking plan for the entire development, which includes 316 spaces; 95 more parking spaces than required.

Article 1365.04 (I) provides that:

"In all non-residential districts, the maximum number of [parking] spaces shall not exceed 115 percent of the minimum parking requirement, except for research and development centers, where there shall be no maximum".

The maximum number of parking spaces for the entire Metro Towers development would therefore be 254 spaces. Because the existing parking lots were developed prior to the 2006 adoption of said maximum parking standard and the fact that limited non-residential uses will be developed within the two existing buildings thereby requiring additional parking that cannot be presently calculated, it does not appear necessary to require the petitioner to pursue variance relief from Article 1365.04 (I).

Article 1364.04 (N) provides that:

"Any land use which requires a minimum of 50 parking spaces shall be required to provide a pedestrian circulation plan for the proposed site".

The Metro Towers development site is in close proximity to the sidewalk networks and Mountain Line Bus routes along University Avenue and within the Sunnyside Neighborhood by way of Sixth Street to Beverly Avenue and Sixth Street to Grant Avenue. As such, pedestrian and bicycle circulation connections to said facilities and services should be highly desirable by the petitioner, residents and visitors of the Metro Towers development, and the community.

Additional commentary and recommended conditions concerning pedestrian circulation and the provision of sidewalks are addressed below.

#### **Article 1343.07 Performance Standards:**

Because the proposed development program is limited to residential construction, Article 1343.07 (F) supersedes Article 1343.07 directing compliance for performance standards to be determined based on those set forth in Article 1339.06 for the R-3, Multi-family Residential District.

With the exception of Article 1339.07 (F) concerning sidewalks, the proposed development appears to comply with mandated performance standards.

Article 1339.07 (F) provides that:

“Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street”.

This provision of sidewalks along with the pedestrian circulation plan set forth in Article 1364.04 (N) discussed previously appears to require unique planning given the unusual nature of the Metro Towers “campus” relative to parcel frontages, right-of-way alignments, vehicular ingress and egress points, and significant elevation changes throughout the site.

It appears that to comply with the legislative intent of requiring adequate sidewalks and pedestrian circulation, connections should be made to existing networks at the edges of the development and an interior pedestrian way established through the development rather than focusing on development “frontage”.

The Planning Division and the Engineering Department submit the following recommendations to achieve desired pedestrian ways that best serve the petitioner, residents and businesses of the Metro Towers development, and the community.

Pedestrian Connection 1: The recommended pedestrian connection to the south of the Metro Towers development is a six (6) foot sidewalk along the site’s Sixth Street entrance as illustrated below (see Page 5 of 7).

Pedestrian Connection 2: The recommended pedestrian connection to the north of the Metro Towers development is a six (6) foot sidewalk along the site’s Ensign Avenue entrance and thence on to University Avenue as illustrated below (see Page 6 of 7).

Pedestrian Connection 3: The recommended pedestrian connection through the Metro Towers development is a six (6) foot sidewalk along Sixth Street and a portion of the private road to the location of the proposed “East Building” and thence, by a pedestrian way through the development, to the Pedestrian Connection 1 noted above and illustrated below (see Page 7 of 7). The “pedestrian way” link in this recommendation must be further developed between the Planning Division, the Engineering Department, and the petitioner’s design professionals as final grades for the proposed “East Building” and site elevation challenges must be carefully evaluated.

**Required Planning and Zoning Code Approvals:**

As footnoted above, the following Planning and Zoning Code approvals must be granted for the subject development.

1. Planning Commission – Development of Significant Impact Site Plan
2. Board of Zoning Appeals – Conditional Use for multi-family development in the O-I District.
3. Planning Commission – Minor Subdivision for the realignment of the unopened Ensign Avenue 30-foot right-of-way.
4. Board of Zoning Appeals – Variances for proposed encroachments in the required setbacks.

### **Recommended Conditions:**

Staff submits the following recommended conditions that should be included in the Planning Commission's approval of Case No. S11-21-III.

1. That Conditional Use Petition CU11-11 must be approved by the Board of Zoning Appeals prior to any building permit issuance.
2. That Variance Petitions V11-39 and V11-40 must be approved by the Board of Zoning Appeals prior to any building permit issuance.
3. That a Minor Subdivision Petition realigning the 30-foot right-of-way of the unopened portion of Ensign Avenue, to the satisfaction of the City Engineer, must be approved by the Planning Commission and the related final plat be recorded at the Monongalia County Courthouse prior to the issuance of a permanent Certificate of Occupancy for either of the two proposed multi-family structures.
4. That six (6) foot wide sidewalks must be constructed as described in Addendum B of the Staff Report for Case No. S11-21-III dated October 13, 2011 prior to the issuance of a permanent Certificate of Occupancy for either of the two proposed multi-family structures.
5. That the petitioner must submit a Pedestrian Circulation Plan addressing the "pedestrian way" through the Metro Towers development as generally described in Addendum B of the Staff Report for Case No. S11-21-III dated October 13, 2011. Said Pedestrian Circulation Plan must be included as a part of the building permit application submission and be approved by the Planning Division and the Engineering Department prior to building permit issuance.
6. The development shall meet all applicable federal Fair Housing and Americans with Disabilities Act standards as determined by the City's Chief Building Code Official.
7. That all shared dumpsters within and serving the Metro Towers development shall be enclosed with masonry materials at least six (6) feet in height and include opaque gates
8. That no parking spaces may remain, if applicable, or be developed within a public right-of-way.
9. That fire lanes must be provided for each building to the satisfaction of the City's Fire Marshall.
10. That the petitioner work with Mountain Line Transit to develop a shelter facility on or near the project site to improve access and utilization of public transit by residents of an near the Metro Towers development.

Selin expressed concerns about the pedestrian ways and areas where sidewalks did not continue or connect.

Pyles recognized the petitioner David Biafora who stated that they had a meeting that morning with Jim Hunt and Reed Tanner [Sunnyside Up] and came up with some better ideas. The east building is on University Avenue and there will be a walkway right out onto the University Avenue sidewalk. He stated that Dille Street access was a challenge due to the topography. He said that with some fill they could make it accessible. The one existing building that was converted into housing is 100% full, but only 50% of the tenants have cars, which was surprising. He stated there is no way to keep cars from driving through the lots, but he plans to install a speed hump to slow cars down. He stressed that he will be having more meetings to fine-tune the details.

Wyant expressed concern about traffic on North Street. He also said that, while he agrees that there may be less traffic because of it being residential rather than business, he feels the weekend traffic will make up for it due to the increase in the number of occupants. He also expressed concern about Sixth Street.

Fletcher stated that he believes the Sixth Street right-of-way width is 50 feet. Selin said that perhaps that needs to be recognized and some improvements made to accommodate the increase in traffic.

There being no questions by the Commission, Pyles opened the public hearing portion of the meeting asking if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Pyles declared the public hearing closed and asked for Staff's recommendation.

Fletcher read the Staff Report stating that it is the opinion of the Planning Division that the proposed development represents a unique opportunity to increase residential density at a site that is strategically situated between West Virginia University's campuses. Because the site is well served by public transit and is within walking and biking distance of primary destinations, the development appears to link residents to alternate modes of transportation thereby reducing auto dependency of residents and mitigating increased traffic congestion.

As such, Staff recommends approval of Case No. S11-21-III with the conditions provided in Addendum B of the Staff Report.

Stranko asked if the Commission would be locked into the six foot sidewalk widths and the suggested locations or can that be opened up and left at the discretion of the Planning and Engineering Staff as discussions with Sunnyside Up continue.

Fletcher that the recommended conditions could be revised to provide flexibility in integrating alignment planning, design, and agreements between Mr. Biafora and Sunnyside Up.

Biafora stated that he would prefer flexibility and that any changes be left to the City Staff.

Selin stated that she wanted to make sure that the width of sidewalks along public rights-of-way complies with the six foot width requirement.

Fletcher stated that, based on the Commission's discussion, Staff the following amended recommendations concerning approval conditions:

1. That Conditional Use Petition CU11-11 must be approved by the Board of Zoning Appeals prior to any building permit issuance.

2. That Variance Petitions V11-39 and V11-40 must be approved by the Board of Zoning Appeals prior to any building permit issuance.
3. That a Minor Subdivision Petition realigning the 30-foot right-of-way of the unopened portion of Ensign Avenue, to the satisfaction of the City Engineer, must be approved by the Planning Commission and the related final plat be recorded at the Monongalia County Courthouse prior to the issuance of a permanent Certificate of Occupancy for either of the two proposed multi-family structures.
4. That the petitioner must submit a Pedestrian Circulation Plan addressing the six-foot sidewalk networks and “pedestrian way” through the Metro Towers development as generally described in Addendum B of the Staff Report for Case No. S11-21-III dated October 13, 2011. Said Pedestrian Circulation Plan must be included as a part of the building permit application submission and be approved by the Planning Division and the Engineering Department prior to building permit issuance.
5. The development shall meet all applicable federal Fair Housing and Americans with Disabilities Act standards as determined by the City’s Chief Building Code Official.
6. That all shared dumpsters within and serving the Metro Towers development shall be enclosed with masonry materials at least six (6) feet in height and include opaque gates.
7. That no parking spaces may remain, if applicable, or be developed within a public right-of-way.
8. That fire lanes must be provided for each building to the satisfaction of the City’s Fire Marshall.
9. That the petitioner work with Mountain Line Transit to develop a shelter facility on or near the project site to improve access and utilization of public transit by residents of and near the Metro Towers development.

Stranko made a motion to approve S11-21-III, with the conditions amended by Staff; seconded by Petros. Motion carried unanimously.

- C. MNS11-18 / Scott Properties, LLC / 10 Golden Blue Lane:** Request by Gregg Metheny, on behalf of Scott Properties, LLC, for minor subdivision approval for property along Golden Blue Lane; Tax Map 20, Parcels 269, 270, 271, 272, and part of Parcels 267 and 268; R-2, One and Two-Family Residential District.

Fletcher read the Staff Report, stating that the petitioner seeks to combine all or portions of six (6) existing parcels to create three parcels as a part of the townhouse development currently under construction. The townhouse development includes one building with three townhouse units and two buildings with four townhouse units.

The subject tracts of realty front Jones Avenue, Lorentz Avenue, and an unopened portion of Overhill Street. The access road from the intersection of Jones Avenue and Overhill Street into the development is Golden Blue Lane, the naming of which was required by the City Engineer and MECCA 911. Addendum A of this report illustrates the location of the subject realty.

The proposed subdivision exceeds the minimum lot area standard of 5,000 square feet and minimum lot frontage standard of 40 feet within the R-2 District as set forth in Article 1337.03 of the Planning and Zoning Code. No building setback encroachments will be created by the proposed subdivision.

There being no questions by the Commission, Pyles opened the public hearing portion of the meeting, asking if anyone was present to speak in favor of the request. There being no comments in favor, she asked if anyone was present to speak in opposition to the request. There being no comments in opposition, 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) original final plat documents signed and sealed by a surveyor licensed in the State of West Virginia 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 made a motion to approve MNS11-18 with Staff recommended conditions; seconded by Shuman. Motion carried unanimously.

- D. MNS11-19 / Glenmark Holding, LLC / Sterling Dr. and Sabraton Ave:**  
Request by Mike Saab, on behalf of Glenmark Holding, LLC, for minor subdivision approval for property located between Sterling Drive and Sabraton Avenue; Tax Map 31, Parcels 82 and 99.2; R-1A, Single-Family Residential District and B-5, Shopping Center District.

Stranko announced that he was excusing himself from discussions and decisions concerning the present agenda item due to his conflict of interest created by the fact that his employer has a business relationship with the petitioner. Stranko left Council Chambers.

Fletcher stated that the petitioner requested that Staff represent them. He read the Staff Report, stating that the petitioner seeks to reconfigure the boundaries of the subject parcels for the purpose of exchanging land between adjoining property owners. The purpose of the subdivision is to accommodate the development of a hotel, which was approved by the Planning Commission on August 11, 2011 (Case No. S11-16-III). Addendum A of this report illustrates the location of the subject site.

According to the petitioner's application and preliminary plat, proposed "Parcel 4" is 12,906 square feet and will be conveyed from TVW Properties to Glenmark Holding, LLC. Proposed "Parcel 7" is 14,971 square feet and will be conveyed from Glenmark Holding, LLC to TVW Properties.

Both proposed parcels exceed the minimum lot standards set forth in the R-1A District and B-5 Districts provided proposed "Parcels 3, 4, and 6" illustrated on the petitioner's preliminary plat are combined into one parcel.

There being no questions by the Commission, Pyles opened the public hearing portion of the meeting asking if anyone was present to speak in favor of the petition. There being no comments in favor, she asked if anyone was present to speak in opposition to the petition. There being no comments in opposition, Pyles declared the public hearing closed and asked for Staff recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That "Parcels 3, 4, and 6" illustrated on the petitioner's preliminary plat be combined into one parcel on the final plat so that the hotel development and related parking areas approved under Case No. S11-16-III be contained within the same parcel;
2. That the petitioner submit three (3) original final plat documents signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
3. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the conditions set forth above.

Selin made a motion to approve MNS11-19 with Staff recommended conditions; seconded by Petros. Motion carried unanimously.

- E. MNS11-20 / Jason Turak / Lorentz Avenue:** Request by Jason Turak, on behalf of Morgantown Kiosk, LLC, for minor subdivision approval for property located along Lorentz Avenue; Tax Map 20, Parcels 313, 314, and 315; R-1A, Single-Family Residential District.

Fletcher stated that the petitioner requested that Staff represent them. Fletcher read the Staff report stating that the petitioner seeks to subdivide three (3) existing parcels into two (2) parcels. The proposed subdivision will eliminate Parcel 314 and split said realty into Parcels 313 and 315. Addendum A of this report illustrates the location of the subject site.

The area for each of the existing parcels is less than the minimum lot size standard of 3,500 square feet in the R-1A District as set forth in Article 1335.03 of the Planning and Zoning Code. The area for each of the two new parcels will be 4,098 square feet (Parcel 313) and 3,724 square feet (Parcel 315). Additionally, the proposed parcels will exceed the minimum lot frontage standard of 30 feet. Because the subject realty is currently undeveloped, no setback encroachments will be created by the proposed subdivision.

There being no questions by the Commission, Pyles opened the public hearing portion of the meeting asking if anyone was present to speak in favor of the petition. There being no comments in favor, she asked if anyone was present to speak in opposition to the petition. There being no comments in opposition, Pyles declared the public hearing closed and asked for Staff recommendations.

Fletcher stated that Staff recommends approval with the following conditions:

1. That the petitioner submit three (3) original final plat documents signed and sealed by a surveyor licensed in the State of West Virginia 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 conditions set forth above.

Selin made a motion to approve petition MNS11-20 with Staff recommended conditions; seconded by Stranko. Motion carried unanimously.

**VI. OTHER BUSINESS:**

**A. Committee Reports:**

- Traffic Commission - None
- Green Team – Stranko said the Green Team met last week and is doing good work evaluating the City’s fleet inventory.

**B. Staff Comments:**

Fletcher announced that Planning Commission President Peter DeMasters has, in accordance with the Planning Commission’s Bylaws, duly called a workshop that will immediately follow the Commission’s business meeting. The purpose of the workshop will be study the scope of services and schedule of the Comprehensive Plan Update project. Workshops are not considered regular or special meetings and may not include the formal conduct of business, the rendering of decisions, or taking action for which the Commission is charged. Workshops are open to the public and are intended to serve as training, study, public education, etc.

**VII. FOR THE GOOD OF THE COMMISSION**

**VIII. ADJOURNMENT: 8:20 PM**

MINUTES APPROVED: November 10, 2011

COMMISSION SECRETARY: \_\_\_\_\_  
Christopher M. Fletcher, AICP