

MORGANTOWN PLANNING COMMISSION

MINUTES

6:30 PM

December 13, 2012

Council Chambers

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

MEMBERS ABSENT: Sam Loretta, Carol Pyles, Tim Stranko,

STAFF: Christopher Fletcher, AICP

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

DeMasters read the standard explanation of the how the Planning Commission conducts business and rules for public comments.

II. GENERAL PUBLIC COMMENTS: None

III. MATTERS OF BUSINESS:

A. Approval of the November 8, 2012 meeting minutes. Due to lack of quorum of those members present at the November 8, 2012 hearing, the meeting minutes were postponed to the January agenda for approval.

IV. OLD BUSINESS: None.

V. NEW BUSINESS:

A. S12-10-III / Metro Towers, LLC / University Avenue: Request by Lisa Mardis of Project Management Services, on behalf of Metro Towers, LLC, for a Development of Significant Impact Site Plan approval for property located along University Avenue. Tax Map 14, Parcels 16, 17, 18, 20 and 21; O-I, Office and Institutional District.

Fletcher read the Staff report, stating that the petitioner seeks to raze four (4) structures along University Avenue to develop a mixed-use structure as a part of the continued Metro Towers "campus" development. The addresses of the structures to be razed are 2575, 2577, 2585, and 2587 University Avenue. The proposed structure is referred to as the "Metro Towers North 2 Building". Addendum A of this report illustrates the location of the subject development site.

The petitioner's proposed development program details include:

- One structure that will contain:
 - 32 two-bedroom apartments

- 2,000 square foot office space and related file room. Staff understands that the office will be utilized by the property manager responsible for the Metro Towers “campus”.
- 1,000 square foot workout/exercise facility with access and use limited to residents of the Metro Towers “campus”.
- 4,488 square feet of storage space with access and use limited to residents of the Metro Towers “campus”.
- The structure will be five stories; four of which will include the 32 apartments (eight units on each story) and the lowest or basement level will include the office space, workout/exercise facility, and storage space. The three upper stories will be at or above the grade of University Avenue.
- The proposed building will be nearly identical to the architectural style of the structure that is currently under construction and visible from University Avenue, southwest of the subject development site. Said building currently under construction is known as “Metro Towers East Building”.

Minimum Building Envelope

Setbacks: The following table identifies O-I District setback requirements along with the petitioner’s corresponding proposed setbacks. It should be noted that the petitioner’s proposed site plan delineates the minimum building envelope in grey dashed lines, which demonstrates that any development on each or all of the subject parcels would require some level of variance relief from the O-I District setback standards.

Setback Standard	Requirement	Proposed
Maximum Front	25 feet	6 feet <i>from roof of northern most front stairs</i>
Minimum Front	15 feet	
Minimum Side	30 feet	15.2 feet
Minimum Rear	40 feet	2.2 feet

Lot Coverage: The maximum lot coverage standard within the O-I District is 60 percent. The petitioner’s development site, which includes the combination of the five subject parcels, is approximately 15,226 square feet. The proposed building footprint is 8,820 square feet, which results in a lot coverage of 57.9%.

Building Height: The maximum building height standard within the O-I District is 72 feet. The proposed height of the structure is approximately 55 feet from grade to the mean height between eaves and ridges of the gable roof design.

Parking

The Metro Towers “campus” contains 308 on-site parking spaces. These spaces do not include the seven (7) parallel parking spaces along Sixth Street, which cannot be counted toward minimum parking requirements because they are within the public right-of-way and available to the general public.

The total number of multi-family dwelling units (existing, under construction, and proposed) within the Metro Towers “campus” is 125 one-bedroom units and 96 two-bedroom units. The minimum parking requirement, based on the number of units and respective bedroom composition, for the entire “campus” is 269 spaces, which leaves a surplus of 39 on-site parking spaces.

The minimum parking requirement for the proposed “North 2 Building” is 50 spaces; 48 spaces for the residential use and 2 spaces for the employees of the property management office use. Because the “North 2 Building” development site is separated from the main Metro Towers “campus” by the Sixth Street right-of-way, conditional use approval is required to dedicate at least 50 off-site parking spaces on the main “campus” parcels.

Required Planning and Zoning Code Approvals

The following Planning and Zoning Code related approvals are required for the development program as proposed:

Planning Commission:

- Case No. S12-10-IIIDevelopment of Significant Impact Site Plan.
- Minor Subdivision combining the five subject parcels (petition not submitted yet).

Board of Zoning Appeals (12/19/2012 hearing date):

- Case No. CU12-20 Conditional use approval for a “Multi-family Dwelling” use in the O-I District.
- Case No. CU12-21Conditional use approval to provide “off-site parking”.
- Case No. V12-38.....Variance relief from Article 1343.04 as it relates to setbacks and encroachments on University Avenue.

DeMasters recognized the petitioner, David Biafora of Metro Towers, LLC. Biafora explained that Metro Towers had planned to buy all five houses that are located in the desired location along University Avenue, however a deal could not be reached. He then acknowledged the list of complaints from the adjacent property owners, and explained that all concerns have already been addressed, including fire truck access and traffic concerns along University Avenue.

DeMasters asked how the additional traffic flow would be controlled onto University Avenue. Biafora stated that he will ask his tenants to use the Sixth Street connection to University Avenue or the Sixth Street connection to the south of the development when traveling. In addition, Biafora stated that the structure will be mostly populated with students and there is

little demand for parking as approximately 50 percent of his tenants bring vehicles to the Metro Towers buildings. Martis asked how the percentage was determined and Biafora stated that Metro Towers issues parking permits for all tenants that have a vehicle. The permits are free and are included with the rental rates.

DeMasters asked if the conditional use petition for "off -site" parking pertains to a different location off campus. Biafora explained that the off-site parking will be positioned in an area that is adjacent to the property and within the Metro Towers campus.

Martis asked about future plans for the storage of bicycles and if racks would be offered. Biafora stated that the building would have storage underneath the structure to include a total of four bays. Two bays will be used for the office and one bay for a workout facility, and the remaining bay will be designated for storage. Biafora proposed individual locked storage areas that would be designated for tenants to store their bicycles or for other personal uses.

Martis asked Fletcher if requirements for bicycle parking storage existed in the O-I district and Fletcher explained that only the B-4 District has requirements that pertain to bicycle storage.

Martis encouraged Biafora to offer a storage area for bicycles and feels that the property would be more attractive and marketable.

Martis asked Biafora to describe what the structure will look like when facing University Ave. Biafora referred to the site plan that was provided and explained that between two to three stories will be visible from University Avenue along with a green steel guard rail and new six-foot sidewalks.

Petros asked if the back of the proposed structure will be flat or sloping. Biafora explained that there is an approximate thirty-foot drop from the front of the property to the rear of the property. Fletcher explained that there will be a (50) fifty right-of- way from Sixth Street and that the developer has not had his civil engineer to prepare a grading plan as he understands that the developer's purchase agreements with the property owners are contingent upon related Planning Commission and BZA approvals.

Petros asked for the possibility of the City to push back the proposed structure into the right-of-way and the developer could reciprocate with the offer of free parking on their property. Biafora said he was willing to move the building back if needed. Fletcher explained that right-of-way annulment or realignment is a matter for City Council to consider and should not be considered as a prescriptive condition of the present site plan petition.

Selin asked Biafora to describe each floor of the proposed building. Biafora explained that the bottom level would be the aforementioned bay areas, and then the remaining three floors would include the 900 square foot two-bedroom apartments.

Selin asked how tenants would enter the building. Biafora stated that tenants can enter from two locations, including the front door on University Avenue and a door from the back of the building.

There being no further comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of the petition. There being none, DeMasters asked if anyone was present to speak in opposition of the petition.

DeMasters recognized Vincent Lafata, who stated that he is the co-owner of the adjacent property addressed as 2589 University Avenue. Lafata stated that his property includes three apartments. Lafata explained that his property is the only house that Metro chose not to purchase due to an offer that he feels was inadequate. Mr. Lafata's concerns involve the setback variance, the possibility of disturbing the existing retaining wall and grade of the land which could result with water in the lower level apartments, the loss of parking spaces, increased difficulty in visibility when backing onto University Avenue, and the possibility of a lower market value of the property. In addition, Mr. Lafata feels that his tenants' living conditions could be compromised by the possible disruption in utilities and air quality. Mr. Lafata proposed that a less intrusive structure be built on the desired property and asked if current public parking spots could remain available.

DeMasters recognized Helene Lafata, co-owner of 2589 University Avenue. Mrs. Lafata's concerns include inadequate parking, the possibility of decreased market value for her property, traffic congestion and hazardous conditions on Ensign and University, and the possible impact that this will have on her tenants. In addition, Mrs. Lafata feels that the proposed structure will lead to a greater encroachment on the other neighborhoods and asked if the development will consider onsite parking or garages under the buildings in addition to scaling down the structure. Mrs. Lafata believes that an analysis of future traffic flow should be completed prior to the approval of the proposed structure as the accessibility from Ensign to University is a safety concern. Mrs. Lafata proposed that the access onto Sixth Street be widened and that the proposed structure be scaled down.

Fletcher stated that Staff had received one written form of communication and a verbal response in opposition of the proposed structure.

Fletcher read an email that was sent from Becky, David and Zachary Griffith stating that they request their property be reclassified to a rental property in the future if the proposed structure is approved. The Griffith's feel that the approval would create more congestion in the streets and a higher population with more noise and less privacy for the neighborhood. Fletcher stated that a meeting with the Griffith's will take place after the new year to discuss their concerns.

Fletcher stated that Helene Skalecki of 2604 University Avenue called to express concern over congestion and speed on University Avenue if the proposed structure is approved.

There being no further public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval with the following conditions: 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 created by commuting traffic from outside the City of Morgantown.

As such, Staff recommends approval of Case No. S12-10-III with the following conditions:

1. That the conditional use petitions CU12-20 and CU12-21 and the variance petition V12-38 be approved by the Board of Zoning Appeals prior to the issuance of any building permit relating to construction (excludes demolition).
2. That a minor subdivision petition combining Parcels 16, 17, 18, 20, and 21 of Tax Map 14 be approved and final plat recorded prior to the issuance of any certificate of occupancy.
3. That the developer and/or project design professionals must meet again with the Technical Review Team prior to building permit application and incorporate all reasonable Technical Review Team recommendations in plans submitted with related building permit applications.
4. That a Landscape Plan and a Lighting Plan be submitted with the building permit application for review and approval by the Planning Division. Variance approval must be obtained should said plans not conform to the related performance standards set forth in the City Planning and Zoning Code.
5. That, prior to the issuance of a permanent certificate of occupancy, the sidewalk running along University Avenue and fronting the subject development site must be reconstructed, to the satisfaction of the City Engineer, a width of no less than six (6) feet beginning at the property boundary dividing Parcels 21 and 22 of Tax Map 14 thence to the private road driveway entrance on University Avenue; said private road driveway entrance is that which specifically connects same to the Sixth Street right-of-way.
6. That the development must 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 must be enclosed with masonry materials at least six (6) feet in height and include opaque gates.
8. That fire lanes, if applicable, must be provided 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 "campus".

DeMasters asked if a traffic study had been conducted for the proposed location. Fletcher stated that the merits of requiring one was discussed, however the fact that there are only 317 beds, the City Engineer determined that a traffic study was necessary for this location.

Martis asked if the actual property is located within the Sunnyside Overlay Districts. Fletcher stated that he believes the subject location is within the "Sunnyside Up" TIF but it is not located within the overlay districts.

Selin asked if anything could be done as a preventative safety measure to the Ensign and University Avenue intersection. Fletcher stated that improvements to the area have been evaluated in the past and that property acquisition would have to occur in order to either align the Ensign Avenue and North Street intersection or to relocated the Ensign Avenue intersection further from the North Street intersection with University Avenue.

Selin asked if the proposed structure would meet requirements for the ADA (Americans with Disabilities Act). Fletcher stated that the structure will have to obtain a building permit and at that time, Staff would review the site to ensure that ADA requirements are met.

Selin asked how Lafata's property would be affected with a large structure located adjacent to their property. Fletcher stated that prior to razing the structure that shares the retaining wall, design, demolition, and construction logistics will be reviewed during the building permitting process. In addition, Fletcher stated that the specifics of the site and grading design will be addressed during the building permitting process.

Biafora asked to be recognized to answer the question. DeMasters, without objection by the Commission, recognized Biafora. Biafora stated that the roof line would not be much higher than a story or maybe 1.5 stories of adjacent property since the building will be inset to the ground.

Selin asked if the off-street parking would still be available to the Lafata's tenants. Fletcher referred to the site plan stating that there is off-street parking behind the structure. The parking spaces within the Sixth Street right-of-way were privately constructed by the owners of the properties that are to be demolished. These spaces will no longer be available as this area will serve as the entrance areas for the office, workout, and storage spaces. Fletcher stated that six to seven public parking spaces on the opposite side of the Sixth Street right-of-way will remain and will be available to anyone on a first-come-first-serve basis.

Selin asked if anything could be done to improve the situation for the Lafata's. Fletcher stated that in terms of potential damage to property, there are design solutions that can be developed and considered during the building permitting process. As far as marketability or market value of the Lafata's property, Fletcher noted that the market will respond to the petitioner's development as the market does.

Petros suggested that the building be moved back from University Avenue prior to construction.

Fletcher suggested an additional condition be included in the Planning Commission's approval that to address this interest:

"That the petitioner work with the City to study the feasibility and practicality of reducing the width of the Sixth Street right-of-way for the purpose of increasing the building's front setback along University Avenue."

Selin moved to approve site plan petition S12-10-III with Staff recommended conditions including the tenth condition read by Fletcher; seconded by Shuman. Motion carried unanimously.

DeMasters reminded the petitioner that the decision of the Planning Commission could be appealed to Circuit Court within thirty days and that any work done in relation to this decision during this period would be at the petitioner's sole financial risk.

- B. MNS12-22 / Madison / 825 Madison Avenue:** Request by Kathryn Madison for a minor subdivision approval of property at 825 Madison Avenue; Tax Map 48, Parcels 31 and 31.1; R-1A, Single-Family Residential District.

Fletcher read the Staff Report, stating that the petitioner seeks to adjust the location of the side parcel boundary separating Parcels 31 and 31.1 of Tax Map 48. Addendum A of this report illustrates the location of the subject site.

Parcel 31 is approximately 3,600 square feet in area, has a frontage along Madison Avenue of approximately 40 feet, and contains a principal single-family dwelling structure and related accessory structures. Parcel 31.1 is approximately 5,400 square feet, has a frontage along Madison Avenue of approximately 60 feet, and is currently undeveloped. The proposed adjustment will result in each of the parcels having approximately 50 feet of frontage along Madison Avenue, which will increase the area of Parcel 31 and likewise reduce the area of Parcel 31.1.

The area for each of the reconfigured parcels will be approximately 4,500 square feet or more, which exceeds the minimum lot area standard of 3,500 square feet in the R-1A District.

DeMasters recognized the petitioner, Kathryn Madison. Ms. Madison stated that there is a possibility that a survey could not be completed within the (30) thirty day deadline and asked for an extension if needed. Fletcher stated that the Commission allows for more time as he has found a large demand within the greater Morgantown area for surveyors.

There being no questions or comments by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being none, DeMasters 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, including all access/utility easements if applicable, 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

Martis moved to approve minor subdivision petition MNS12-22 with Staff recommended conditions; seconded by Petros. Motion carried unanimously

- C. TX12-03 / Administrative / ISOD, Interstate Sign Overlay District:** Administratively requested text amendments to Article 1359 "ISOD, Interstate Sign Overlay District" as they relate to regulations for pole or pylons within the subject overlay district as well as the overlay district boundaries delineated on the City of Morgantown's Official Zoning Map.

Fletcher stated that a presentation would be provided to the Planning Commission to serve as an informational and educational session prior to having the Planning Commission vote for approval and that no action was being asked of the Commission at this time. Based on the Commission's discussion, a final proposal would be submitted to the Commission in January.

DeMasters advised the Commission that his firm represented outdoor advertising companies and that he would have to recuse himself from the presentation and future considerations due to conflict of interest. DeMasters exited Council Chambers.

Fletcher stated that billboards and off-premise signs are not permitted in the City with the exception of the ISOD, Interstate Sign Overlay District. Fletcher provided aerial photographs to display the overlay district and surrounding geography. Fletcher stated that the zoning text provides that off-premise and pole or pylon signs are permitted within 500 feet of the interstate right-of-way; however, the zoning map illustrates the boundaries of the ISOD Overlay District to be 500 feet from the centerline of I-68. This area delineated on the zoning map as the overlay district is completely within the I-68 right-of-way, within which signs are not permitted by the West Virginia Division of Highways (WVDOH). Because the zoning ordinance provides that where a conflict exists within the ordinance, the more stringent standard applies. In this case, the zoning map is more stringent but results in an area where these types of signs may not be erected due to WVDOH requirements. As such, the City of Morgantown has enacted restrictions that makes compliance impossible and therefore creates a conflict that must be addressed to avoid potential litigation.

Fletcher stated that Morgantown needs to find a place for signs to be permitted and changes are essential for signs to be permissible. The City Attorney maintains that in West Virginia, all land uses must be allowed somewhere within a community that has enacted land use and land development regulations.

Fletcher explained that it appears to be the communities intention to significant reduce the extent to which billboards and off-premise signage may be permitted. But the manner in which this was accomplished left no opportunity for any off-premise signage to be developed.

After several questions requesting clarification, Fletcher advised the Commission that at one time the City allowed billboards to be erected, which is why a number of them exist throughout the community. The 2006 major zoning ordinance amendment significantly restricted future development of billboard and off-premise signs. But in doing so, there still must be an area within the City where billboards can be developed under the new restrictions. Once this area is properly created, the market responds accordingly, and reasonable restriction limit future development based on buffering and related requirements, the City has fulfilled its obligation to allow billboard type signs to be developed under the new more restrictive regulations.

Fletcher then provided a detailed explanation of the exhibits provided in the meeting packet.

There being no further comments or questions by the Commission, Fletcher concluded his presentation and DeMasters returned to Council Chambers to run the meeting.

VI. OTHER BUSINESS:

A. Committee Reports

- Traffic Commission: No report.
- Green Team: No report.

B. Staff Comments:

- Fletcher stated that the Comprehensive Plan Public Open House will take place on Monday, January 14th, 2013 from 7:00 PM to 9:00 PM at the Morgantown Public Library. Displays will be available for two weeks after the meeting to allow for the public to provide comments and feedback and the draft document will be placed on the City's website.
- Fletcher reminded the Commission that the election of leadership for 2013 will be included on the Commission's January agenda as required by State Code.

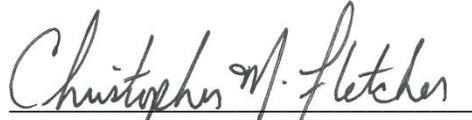
VII. FOR THE GOOD OF THE COMMISSION: None.

VIII. ADJOURNMENT: 8:45 PM

MINUTES APPROVED:

February 14, 2013

COMMISSION SECRETARY:


Christopher M. Fletcher, AICP