



MORGANTOWN PLANNING COMMISSION

December 11, 2014
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Blosser, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kawecky, City Council

STAFF REPORT

CASE NO: RZ03-02/ Administrative / Square at Falling Run Planned Unit Development (PUD)

REQUEST and LOCATION:

Administrative recommendation to the Planning Commission to rescind a portion of the Square at Falling Run Planned Unit Development (PUD) District classification and return certain properties to the previous R-2, Single- and Two-Family Residential District zoning classification; Tax Map 20, Parcels 231, 232, 233, and 237.

BACKGROUND:

On 13 MAR 2003, the Planning Commission sent a recommendation to City Council to approve the Square at Falling Run Planned Unit Development (SFR PUD). City Council agreed and amended to the Zoning Map to create the City's first Planned Unit Development. Attached hereto are the following related exhibits.

- Exhibit 1 – A portion of the Zoning Map in affect in March 2003.
- Exhibit 2 – Staff Report presented to the Planning Commission on 13 MAR 2003.
- Exhibit 3 – City Council Ordinance 03-19

The SFR PUD comprised approximately 30 acres that included 101 parcels of real estate. Some of the statements included in the Exhibit 2 Staff Report included:

"This project represents the first proposal in the State of West Virginia to incorporate a variety of Smart Growth / New Urbanist principles."

"If you place the SFR into its proper context, it can be fairly stated that it represents the most significant urban revitalization project ever proposed in the State of West Virginia."

"The vision is both bold and audacious, qualities that may be admired, not feared. If implemented, it can serve as an important catalyst in the renaissance of the Sunnyside neighborhood."

Over the years that followed SFR PUD Outline Plan approval, the developer, the City, and West Virginia University met with a number of investors to bring the developer's vision into reality. A Tax Increment Financing District was created; a number of dilapidated structures within the old "Stadium Loop" were razed and removed; underground infrastructure was improved and capacity expanded; roadway realignment and widening completed; and, a significantly modified Phase I "The Augusta" constructed.

The national recession started in late 2007, which impeded access to residential development capital across the country. The SFR developers filed bankruptcy in 2009 and creditors initiated legal action in 2010 for nonpayment of 2006 construction loan. West Virginia University purchased "The Augusta" portion of the SFR PUD in 2011 out of

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bankruptcy proceedings and renamed the two buildings “Vandalia Apartments.” In 2012, the University acquired the remaining privately owned land within the SFR PUD out of bankruptcy proceedings and the City transferred its property within the old “Stadium Loop” back to the University, which was acquired through West Virginia economic development funding.

ANALYSIS:

Article 1357.02(A) of the Planning and Zoning Code requires an area to be designated as a Planned Unit Development Districts to be land under single ownership or control. The ownership of the land that comprises SFR PUD has since changed.

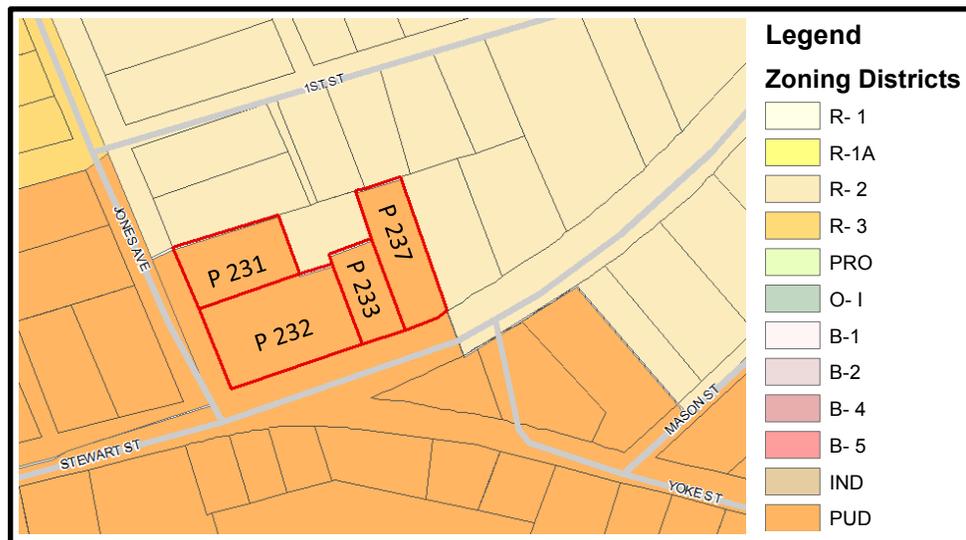
Article 1357.03(D)(4)(c) provides the Planning Commission shall initiate action to amend the Zoning Map so as to rescind the Planning Unit Development designation when the time limit for approval of a development plan expires.

The 2013 Comprehensive Plan Update provides the following regulatory Land Management Strategy relating to the zoning classification of West Virginia University realty.

LM 7.1 – Develop a new zoning district to be applied to property owned by WVU and considered a part of WVU’s main campuses to provide a more fair and predictable regulation of university-related development.

The Planning Division will be initiating Land Management Strategy 7.1 in early 2015. However, it has come to the attention of Staff that a small portion of the SFR PUD has been sold by the University to a private land owner. As such, it appears necessary to rescind that portion of the SFR PUD to its previous R-2 Single- and Two-Family Residential District in the near term.

The following map illustrates Parcels 231, 232, 233, and 237 of Tax Map 20 that are privately owned (not owned by WVU) within the SFR PUD District.



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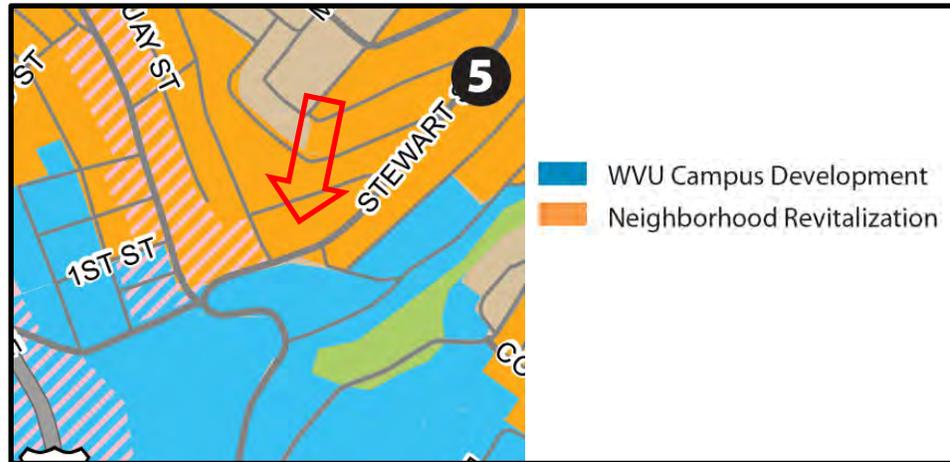
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The following graphic is clipped from the Land Management Map of the 2013 Comprehensive Plan Update (Page 39), which identifies the subject property as "Neighborhood Revitalization."



The "Neighborhood Revitalization" designation provide for areas within which stabilization and reinvestment in existing neighborhoods are envisioned that includes improvements to public and private buildings and infrastructure, and support for infill development , adaptive reuse and redevelopment that offers a mix of residential types and supporting uses.

STAFF RECOMMENDATION:

Staff advises the Planning Commission to submit a recommendation to City Council to rescind the Planned Unit Development District designation for Parcels 231, 232, 233, and 237 of Tax Map 20 and reclassify said realty to its former R-2, Single- and Two-Family Residential District designation.

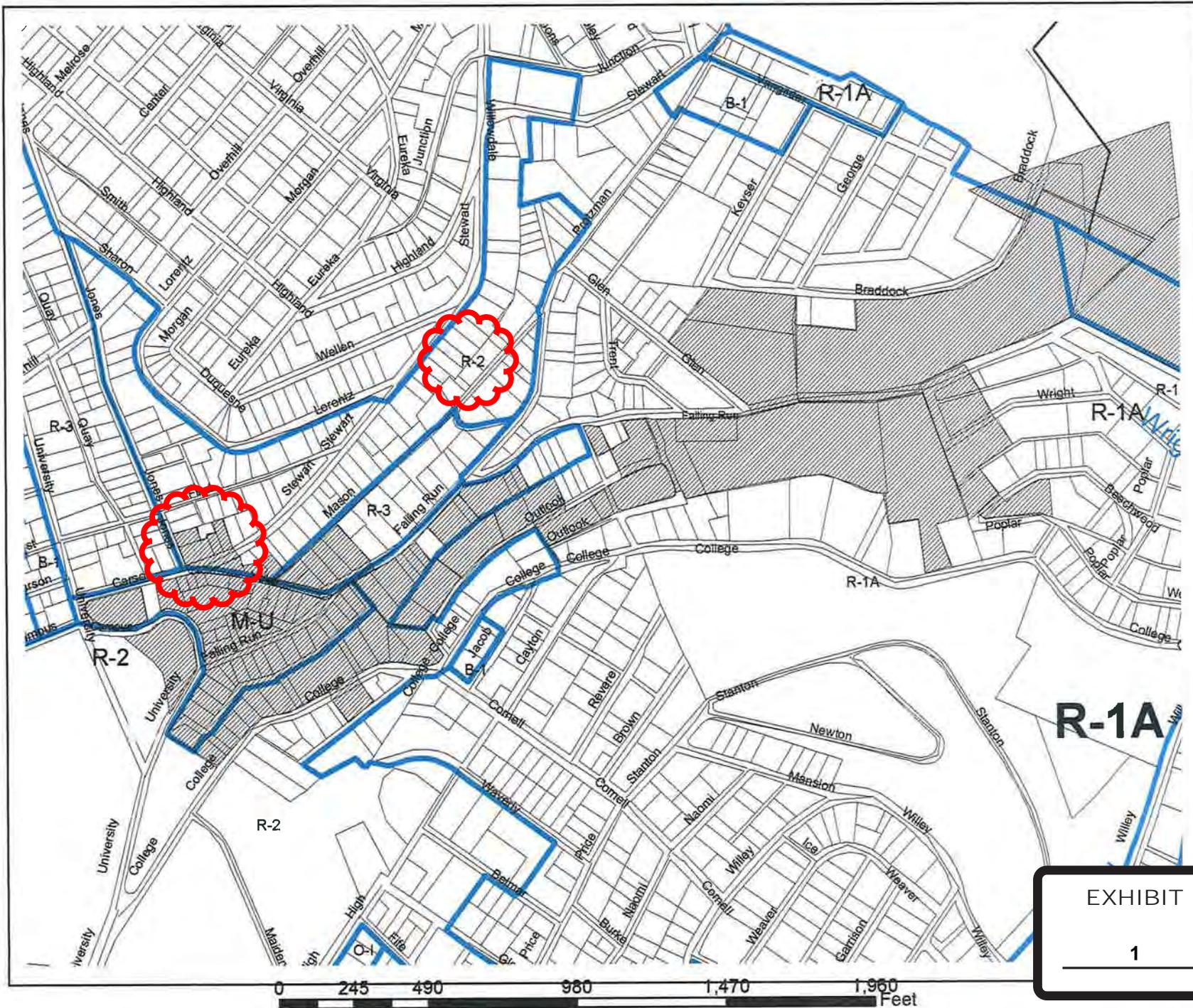
**Development Services
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RZ03-02 / The Square at Falling Run



Legend

- Street name line
- Zoning.shp
- Parcels.shp
- Corpline.shp
- Planned Unit Development Proposed rezoning

EXHIBIT
1



20

STAFF REPORT

Planning Commission

March 13, 2003

City Council

Date to be announced

EXHIBIT

2

exhibitsicker.com

RZ03-02 / Warner /Square at Falling Run

REQUEST and LOCATION:

Request by Mac Warner to rezone approximately 30 acres of land more or less bounded by Stewart Street, Braddock Street and Mason Street on the North, College Avenue and Falling Run Road on the South, University Avenue on the West, and Monroe Avenue on the East, from R-1A, Single Family Residential District; R-2, Single and Two Family Residential District; R-3, multi-family residential district, and MU, Mixed Use district, to Planned Unit Development (PUD) district.

TAX MAP NUMBER (s) and ZONING DESCRIPTION:

The properties encompass multiple parcels, with R-1A, R-2, R-3 and M-U zoning classifications.

SURROUNDING ZONING:

North: R-2, R-3, and R-1A

South and East: R-2, R-1A

West: R-2

BACKGROUND and ANALYSIS:

Mac Warner and John Stainback have made an application for a zoning map amendment to rezone approximately 30 acres of land in the Falling Run Road area from a variety of existing zoning classifications to Planned Unit Development (PUD).

This project represents the first proposal in the state of West Virginia that incorporates a variety of Smart Growth / New Urbanist principles. Those principles include:

1. Neighborhoods should have a discernible center (the town square in this case).
2. Most of the dwellings are within a five-minute walk of the center.
3. There is a variety of housing types.
4. There are recreational amenities within easy walking distance of every dwelling.
5. Streets within the neighborhood form a connected network, with few or no dead end streets.
6. Streets are designed to accommodate, but not be dominated by, the automobile.
7. Buildings in the neighborhood center are placed close to the street to provide enclosure.
8. Land uses are mixed.
9. Parking lots and garage doors rarely enfront streets.
10. Vistas are often terminated with important buildings or civic features.

The proposed PUD is divided into three phases, as follows:

Phase I:

The first phase of the project involves construction of a 15-story apartment building (named *The Augusta*) containing a total of 176 dwelling units of various sizes, from 1 to 4 bedrooms each. The building is proposed to be constructed at the corner of Yoke street and Falling Run Road. The architectural renderings in your

packets show what the building is proposed to look like. Keep in mind that with a Planned Unit Development, the city can require buildings to be constructed as shown in the master plan submission.

The applicant proposes to provide temporary parking for the building in a series of surface lots to be constructed on the sites of rental homes that will be demolished in association with the project. This temporary parking will be kept in place until such time as the parking garage proposed for Phase II is completed. If Phase II does not proceed, the developer will have to upgrade the temporary lots into permanent parking spaces, in the amount of 305 stalls, with landscaping and paving.

It is expected that several existing rental units will be demolished in association with this phase. They include all units that are currently sitting on the actual site where the Augusta will be constructed, some units in the staging area where construction equipment and materials will be stored during construction, and some units where there will be temporary parking for construction workers. Approximately three months before the building is scheduled for completion, any existing unit sitting on land where the temporary surface parking lots are to be created will also be removed.

Phase II:

This phase represents the actual and symbolic heart of the project, the town square. Several things are slated to happen in this phase. There is proposed to be 100,000 square feet of retail and restaurant space in buildings that are flanking the square, in addition to 275,000 square feet of office space. There will also be 142 apartment units over top of the storefronts, a church, and an additional residential building with 190 midrise apartments. There is also proposed to be a five-screen Cineplex at the back of this phase. Finally, an underground parking garage will be constructed beneath the plaza, holding approximately 1686 cars. There will be 40 surface parking stalls in the plaza itself, for a total parking program of 1726 stalls for phases I and II.

The vast majority of the road improvements will occur during this phase. See the section about road / intersection improvements for further analysis of this aspect of the development.

Phase III.

Extending up the Falling Run valley, Phase III is conceived as a residential neighborhood containing predominantly detached single-family, for-sale houses. This phase will interface with some existing single-family neighborhoods, so it is important to establish the character of the homes.

It is anticipated that this phase will contain approximately 392 for-sale units. About 109 of these may be in the form of townhouses placed at the lower end of the phase, where it interfaces with Phase II. The neighborhoods surrounding this lower part are not predominantly single-family. The remaining 283 units are scheduled to be single-family detached homes designed to attract faculty, staff and young professionals.

It should be noted that Phase III is several years away, and my experience with other Planned Unit Developments in other states has been that later phases are almost *always* redesigned, sometimes 3 or 4 times, as market conditions change and uncertainties present themselves or work themselves out. So we have to be prepared to accept a certain level of ambiguity in terms of the design of phase III. What is reasonable to expect is that we set forth some conceptual guidelines that will adhere to the phase and direct any future redesigns. This expectation has been met as follows:

1. The phase will consist of for sale single-family homes and townhouses.
2. The total unit count will be approximately 400, plus or minus.
3. Design guidelines for the single-family portion have been submitted that will insure functional, harmonious, and architecturally pleasing residential blocks. These are detailed in Section 9 of the three-ring binder.

character and human scale. The street improvements that are recommended do in fact attempt to strike that balance. They are not as intensive as they could have been if the only goal was to move huge volumes of cars. But they should be sufficient to at least preserve, and in many cases, improve, existing levels of service.

3. **Widening of Yoke Street.** This street is very narrow and insufficient to carry any significant traffic. This will be widened to a width acceptable to our Engineering and Fire Departments, to be decided in the Development Plan phase of the PUD.
4. Turning and stacking lanes at the University Avenue / Stewart Street intersection.
5. Multi-modal options including extension of the Rail Trail through the project, bicycle lanes, a bus stop for Mountain Line, etc. This, combined with the close proximity of differing land uses, will enable folks to choose other transportation options besides a car.

In terms of the traffic study, the city has contracted Dr. Ron Eck and Dr. Jim French of West Virginia University to review the study. They each have extensive experience in producing and reviewing traffic analyses. The review has led to several questions and suggestions by Dr. French relating to intersection design, traffic counts, trip generation percentages, and other highly technical issues. These concerns have been relayed to Greenhorne and O'Mara's engineers. We have asked them to be fully prepared to respond to all the concerns before the PUD is considered by City Council. It is fair to say that Drs. Eck and French are cautiously optimistic that these issues can be resolved with further analysis, but they will withhold their final recommendation to Council until that happens. If Drs. Eck and French are ultimately *not* satisfied with the methodological validity and conclusions of the traffic study, that should stand as an obstacle to favorable consideration of the entire project.

A significant portion of the infrastructure for this project, including road and intersection improvements, construction of the parking garage, etc. is proposed to be financed using tax increment financing (TIF) bonds. In rudimentary terms, a TIF works by comparing the current property tax receipts for the land versus estimated future tax receipts after the project is finished, and then selling bonds in the amount of the difference, to help construct the project. The money can be used in a variety of ways, and can fund public or private improvements.

PUD Process:

Some commentary about the PUD process is in order... A project of this size and magnitude obviously requires a lot of very expensive analysis by professionals in a variety of disciplines, including structural engineering, civil engineering, architecture, landscape architecture, traffic engineering, etc. It would not be uncommon for these services to cost hundreds of thousands of dollars for a project of this scope.

The PUD process is conceived, much like other cities, to consist of three parts. The first part is the preliminary consultations with staff. The second part is called the concept plan phase, which is what we are currently undergoing. In this phase the developer sets forth a grand "vision" or master plan for how the project will evolve. A significant amount of planning is necessary during this phase, so that we can get a feel for the overall character of the development, how it interfaces with its spatial context, the types of and intensities of land uses, the amenities being offered, how the project will affect transportation patterns in the area, and some general rules for how the buildings will look and how they will be arranged.

Equally important is what is NOT required during this phase... Such things as detailed engineering studies of storm water control, utility services, detailed engineering drawings of road improvements, detailed building plans, etc. are NOT required at this stage of the process. It is simply unreasonable to expect anyone to spend the enormous sums of money it would take to dot every "i" and cross every "t" at this point, on the *hope* that Council will rezone the property to allow the development to proceed. During the concept plan phase, Council should simply decide if they buy into the "vision" being presented, based on the reasonable levels of supporting data required. If the answer is yes, then Council at this stage is merely rezoning the property to PUD, in order for the detailed analysis to go forward. All that has happened is the property zoning has changed.

4. Due to the smaller lot sizes in this phase, it should be possible to offer these units at a lower cost than other market-rate single-family detached housing in the region. This has the potential to address affordability within the project.

Finally, it is important to note that this phase has already been reconceived a couple of times, based on the developer's willingness to accommodate the expressed concerns of the public. It is to their credit that they attempted to address these concerns on the front end... Early iterations of drawings indicated a significant number of apartment and townhouse units, with no detached single-family homes. Based on the comments of concerned residents and some City Council members, this phase has been dramatically reconfigured to entirely eliminate apartment buildings, reduce the number of townhouses, and introduce a large single-family detached housing component. Consequently, the overall unit numbers have been reduced from approximately 544 to 392 units.

Even at this late date, your packet shows an earlier generation conceptual drawing of phase III, still showing some multi-family apartments. This is true because as late as last week, the developer was revising the concept to eliminate the apartments and to address other concerns, at the behest of the city. This request was accommodated, but there was insufficient time to produce a replacement drawing for your packets. That will be produced before the case comes to City Council. The developer should not be penalized for late revisions requested by the City.

This fact has affected the projects' underlying financial model, to the extent that the developer would like to make up the loss of *some* of these units (51 total) by adding them back into phase II. We are inclined to grant this concession, but it is too late at this stage of the process to redesign phase II to show *how* those units would be added. We would need to know how adding these units would affect parking, green space, the architectural character of the phase, etc. Without a clear design, we can only simply *note* that we may be receptive to increasing the unit count in phase II, subject to a later master plan amendment detailing exactly how this will be done. Note that all such significant master plan amendments require additional public hearings in front of both the Planning Commission and City Council.

Transportation Systems:

There are several important things to note about the existing transportation system and how this project will integrate with it:

First, the PUD ordinance requires a traffic impact study to be submitted in the master plan phase. The developers used Greenhorne and O'Mara, Inc., a professional consulting firm with a regional office in Fairmont. The study examined the existing traffic situation and then tried to model how SFR would affect traffic. From the study it became clear that several road and/or intersection improvements would be necessary in order to mitigate potential traffic impacts. They include, but may not necessarily be limited to, the following:

1. Extension of Falling Run Road from its current termination point, out to the Mileground. The road will cross property owned by WVU (the ag. farm). This improvement is critical, in order to provide a back way in and out of the project. It is proposed that an extension of the Rail Trail will follow this road for its entire length, giving residents of phase III and surrounding neighborhoods bicycle and pedestrian access into the Town Square and WVU's downtown campus.
2. Straightening of University Avenue at the old stadium loop. This, like the previous improvement, is contingent on some land transactions with WVU. The negotiations for those transactions are ongoing, and acceptable progress is being made to those ends. The roadbed will also be elevated to allow the construction of the two-level parking garage underneath the square. Turning lanes will be added at key intersections to help traffic flow more efficiently through and within the system. It is important to note that the whole perspective of new urbanist thinking is to find a reasonable compromise between the competing goals of moving large numbers of cars quickly through a street system, and the goal of having a pedestrian friendly street network that preserves neighborhood

Now we get to stage 3, the *development plan* phase. In this phase, the developer has the confidence to go forward with detailed analysis of the project, knowing that the zoning is in place. Here is where construction plans are produced, drainage calculations are provided, detailed engineering analyses of infrastructure improvements are done, etc. In essence, we are telling the developer – “We have bought into the vision set forth in the *concept plan* stage, so now you get to PROVE to us that it is implementable.”

Staff will compare the development plans to be sure they are in accord with the concept plan, in terms of densities, architectural styles, land uses, etc. If the development plans substantially comply with the master plan, then building permits may be issued at the end of the review. If however the plans are substantially *different* from what was proposed in the concept plan, then the City has the power to require that the developer first seek an amendment to the concept plan, a process that is fully vetted by the Planning Commission and City Council, with the usual opportunities for public participation. We would be very surprised if a project of this magnitude, stretched out over a number of years, did not require at least a couple of concept plan amendments. If the concept plan ultimately does not work and cannot be satisfactorily amended, then the city will simply initiate a rezoning of the property back to its original designation.

The PUD ordinance gives the Planning Commission the discretion to review (or not to review) the development plans for any phase of the project. Because phase 1 consists of only a single building, the Commission is inclined to allow development plan review for this phase to occur at staff level. However, the Commission has made it clear they reserve the right to review phases 2 and 3 when the time comes.

- The reason we are going into such detail about the PUD process is because of some misconceptions about it that have come to our attention. You may hear many legitimate questions about whether certain aspects of the development can be implemented. In a large majority of these cases the answers are, *by design*, unknowable in the concept plan stage. Rather, they will have to be worked out during the *development plan* phase. You may very well be asked to reject this *concept plan* based on questions that should be properly resolved in the *next* phase of the process. Staff believes you should resist the temptation to do so. It would be unfair to judge the concept plan on questions that can only be answered during the development plan stage. To do so would run contrary to the process established by Council for PUD submittals.

STAFF RECOMMENDATION:

Daniel Burnham, recognized as the “father” of City Planning, once said “*Make no little plans, for they have no magic to stir men’s blood.*” If you place the Square at Falling Run into its proper context, it can be fairly stated that it represents the most significant urban revitalization project ever proposed in the state of West Virginia. The vision is both bold and audacious, qualities that may be admired, not feared. If implemented, it can serve as an important catalyst in the renaissance of the Sunnyside neighborhood. Earlier iterations of this vision were less sensitive to the neighborhood and were thus vastly inferior. It is to the developer’s credit that he was willing to abandon those earlier visions for this superior one.

City Council should evaluate the Square at Falling Run project on the quality of its overall vision. Again, the city is simply being asked to rezone property at this stage, based on this vision. If the property is rezoned, the developer can proceed with the development plan stage of the process, where it may be argued that the hard work only just begins.

Staff congratulates the developer for engaging in a very “open” planning process over the past several months. As should be the case, there have been numerous opportunities for public involvement in developing the vision for this site. There have been several changes to the concept plan that were based on that input. No other rezoning case in the city has provided such opportunities for public involvement and such accommodation to expressed concerns.

The Planning Commission, by a unanimous vote, recommends approval of the *concept plan*, subject to the following conditions:

1. All property transfers currently under negotiation with WVU come to fruition before the *development plan* is submitted for any phase where such properties are integral to the plan.
2. Drs. Eck and French's questions and concerns with the traffic impact study are resolved prior to Council adoption of the rezoning.
3. It is understood that Phase III will not be approved in the current form shown on the conceptual site drawings, but rather that it will be modified according to the principles set forth on pages 2 and 3 of this report, and that such modifications will be submitted either prior to Council consideration of the rezoning, or in the form of a concept plan amendment at a later time.
4. All utilities serving the project be underground, wherever technically feasible.

AN ORDINANCE PROVIDING FOR THE REZONING OF 101 PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS OF THE CITY OF MORGANTOWN FROM (R-1A) SINGLE FAMILY RESIDENTIAL DISTRICT, (R-2) SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT, (R-3) MULTIFAMILY RESIDENTIAL DISTRICT, AND (MU) MIXED USE DISTRICT TO (PUD) PLANNED UNIT DEVELOPMENT DISTRICT BY AMENDING SECTION 13 OF THE ZONING ORDINANCE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH THEREIN.

Properties included in this consideration are identified in the 2000 Assessors records as Parcels # 231, 232, 233, 237, the southern parts of 391 and 392 (resubdivided at March 2003 Planning Commission meeting), 393, 394, 395, 396, 397, 398, 400, 402, 403, 404, 404.1, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 423, 424, 425, 426.1, 462, 462.1, 490, 491, 492, 501, 506, 507, 508, 509, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537.01, 538, 539, 540, 541, 542, 543, 544, 545, 545.1, 545.02, 546, 547, 548, 549, 555, 556, 557, 558, 559, 578, of County Tax Map 20.

Other properties included in this consideration are identified in the 2000 Assessors records as Parcels # 12, 16, 23, 24, 38, 39, 56, 57 of County Tax Map 21.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the parcels listed above on County Tax Maps 20 and 21 of the 2000 tax assessment as described herein and on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein are rezoned from (R-1A) Single Family Residential District, R-2 Single and Two Family Residential District, R-3 Multi Family Residential District, and MU Mixed Use District to (PUD) Planned Unit Development District Classification.
2. That the zoning map be accordingly changed to show said zoning.

This ordinance shall be effective from date of adoption.

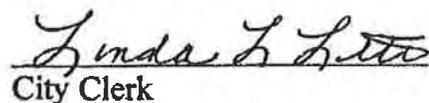
FIRST READING: April 1, 2003

ADOPTED: May 6, 2003

FILED: May 7, 2003

RECORDED: May 7, 2003


Mayor


City Clerk



