



# MORGANTOWN BOARD OF ZONING APPEALS

March 18, 2015  
6:30 PM  
City Council Chambers

## **Board Members:**

Leanne Cardoso, Chair  
Bill Burton, Vice-Chair  
Linda Herbst  
George Papandreas  
Jim Shaffer

## **STAFF REPORT**

**CASE NO:** COMBINED REPORT – CU15-03 and V15-11 thru V15-19  
American Campus Communities / University Avenue and Jones Avenue

### **REQUEST and LOCATION:**

Requests by Lisa Mardis of Project Management Services, on behalf of American Campus Communities, for approval the of one (1) conditional use and nine (9) variance applications relating to the proposed redevelopment of the *Sunnyside Commons* site along University Avenue and Jones Avenue.

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

Tax Map 14A, Parcels 1 thru and including 10.2 and Tax Map 20, Parcels 201 thru and including 208; R-3, Multi-Family Residential District

### **SURROUNDING ZONING:**

North and East: R-1A, Single-Family Residential District  
South and West: R-3, Multi-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to construct three (3) buildings that will include a total of 134 multi-family dwelling units with 536 beds. Addendum A of this report illustrates the location of the subject site.

#### *Proposed Development Program*

The following generally summarizes the proposed development program illustrated in the petitioner's application documents.

- The principle development site is comprised of Parcels 1 thru and including 10.2 of Tax Map 14A and is approximately 5.5 acres. The off-site parking site is comprised of Parcels 200 thru and including 208 of Tax Map 20 and is approximately 0.5 acres.
- The zoning classification for both sites is R-3, Multi-Family Residential District. The majority of the principle development site is located within the Sunnyside Central Overlay District while a small portion is located within the Sunnyside South Overlay District. The off-site parking site is located within the Sunnyside Central Overlay District.
- The redevelopment program provides for razing and removing all existing structures, which currently includes 170 beds within the existing *Sunnyside Commons* development.
- The proposed development includes three stand-alone buildings. Building "A" has staggered four (4) and five (5) stories, is adjacent to University Avenue, and

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Christopher Fletcher, AICP  
Director

## **Planning Division**

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has an attached four (4) story community center near the University Avenue and 3<sup>rd</sup> Street intersection. Building “B” is also adjacent to University Avenue, though further towards Evansdale, and has four (4) floors. Building “C” is located between Building “A” and Jones Avenue and has four (4) floors. Also proposed is a detached accessory maintenance structure.

- The three (3) buildings will include a total of 134 multi-family dwelling units with 536 beds.
- Parking will be primarily on-site with 227 spaces and an additional 41 parking spaces off-site on property that will be transferred to the petitioner from West Virginia University.

*Required Planning and Zoning Code Approvals*

The following approvals are required for the development program as proposed with modifications noted in the attached Planning and Zoning Code Conformity Report. Each case number is followed with a brief description.

Planning Commission – The following cases are scheduled before the Commission’s 12 MAR 2015 hearing.

Case Nos.	Code Issues
S15-04-III	The proposed residential development includes more than 100 dwelling units, which requires MDSI Site Plan approval by the Planning Commission.
MNS15-03	The proposed development requires the assembly of parcels for the principle development site and for the off-premise parking site, which requires minor subdivision approval by the Planning Commission.

Board of Zoning Appeals – The following cases are ordered in the manner in which they appear on the Board’s agenda with development critical petitions appearing first.

Case Nos.	Code Issues
V15-16	Variance relief to permit the development of a surface parking lot at the intersections of Jones Avenue / Highview Place, Jones Avenue / Overhill Street, and Overhill Street / Quay Street [Article 1361.03(Q)(4)].
CU15-03	“Private Parking Lot” uses require conditional use approval in the R-3 District [Article 1331.05]. Utilizing an off-site parking facility within 300 feet of the development site to meet minimum parking standards requires conditional use approval.
V15-19	Variance relief from dedicating at least sixty (60) percent of the ground floor space along University Avenue for commercial use [Article 1361.03(Q)(1)].
V15-13	Variance relief to exceed the maximum building height requirement in number of stories for portions of Building “A” [Article 1339.06(A)].
V15-14	Variance relief to permit Building “C” to be oriented toward the parking area [Article 1361.03(C)].
V15-18	Variance relief to permit access to parking areas from the primary street of University Avenue [Article 1361.03(Q)(7)].

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Case Nos.	Code Issues
V15-12	Variance relief from constructing any sidewalk (6-foot minimum width) along the site's Highview Place frontage [Article 1339.07(F)]. Variance relief from constructing a sidewalk the length of the principle site's University Avenue frontage and to permit a portion of the sidewalk (pedestrian way) along the front of Building "B" to be used as a fire lane [Article 1361.03(L)].
V15-11	Variance relief to permit the planting of trees along University Avenue with less than ten (10) to fifteen (15) feet tree trunk clearance from structures, building overhangs, walls, etc. [Article 1367.06(C)]. Variance relief from reserving at least five (5) percent of the parking areas (upper parking area, parking area between Buildings "A" and "C", or the off-site parking facility) for landscaping [Article 1367.08(B)(2)]. Variance relief from providing one (1) terminal landscape island between Quay Street and an adjoining parallel parking space [Article 1367.08(D)(2)]. Variance relief from providing landscaped islands of at least 130 square feet every ten (10) parking spaces for residential development [Article 1367.08(D)(3)].
V15-15	Variance relief from natural material standards and ratios [Article 1361.03(P)(1)] and to permit the use of cement fiber paneling and lap siding and brick/stone veneer [Article 1361.03(P)(2)].
V15-17	Variance relief from meeting minimum ground floor transparency [Article 1361.03(E)]; from minimum fenestration ratio standards for front façade and ground floor [Article 1361.03(O)(1)]; and, from recessing windows 4-8 inches [Article 1361.03(O)(6)].

**ANALYSIS:**

*Comprehensive Plan Concurrence*

As recommended in Chapter 9 "Implementation" of the 2013 Comprehensive Plan Update, Addendum B of this report identifies how the proposed development program relates to the land management intent, location, and pattern and character principles of the current Comprehensive Plan. Staff encourages the Board to review the Comprehensive Plan for guidance as Addendum B is not intended to represent a complete comparative assessment.

It should be noted that "shall" statements within the Comprehensive Plan must be understood as desired objectives and strategies that do not have the force or effect of law unless incorporated into the City's Planning and Zoning Code.

The subject site is located within Comprehensive Plan concept areas characterized as "Encouraged Growth," "Neighborhood Revitalization," and "Corridor Enhancement."

It is the opinion of the Planning Division, as expounded in Addendum B, that the proposed development program appears to be in concurrence with the Plan's principles for land management and desired development pattern and character.

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*Traffic Impact Analysis*

Attached hereto is an email from the City Engineer concerning his review of the petitioner’s Transportation Impact Study prepared by French Engineering, LLC dated OCT 2014. Mr. Damien Davis, P.E., concurs with the report’s key findings and recommendations.

Staff recommends that the Board, without objection from members of the Board, the petitioner, or the public, combine the public hearings for the one (1) conditional use and nine (9) variance petitions presented herein. However, each respective conditional use and variance petition must be considered and acted upon by the Board separately.

**STAFF RECOMMENDATION:**

The Board of Zoning Appeals must determine whether the proposed requests meet the standard criteria for a variance and conditional use respectively by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant. Addendum C of this report provides Staff recommended revisions to the petitioner’s findings of fact (deleted matter struck through; new matter underlined).

Again, each respective conditional use and variance petition must be considered and acted upon by the Board separately.

Staff submits the following and related conditions for each petition.

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V15-16	Variance relief to permit the development of a surface parking lot at the intersections of Jones Avenue / Highview Place, Jones Avenue / Overhill Street, and Overhill Street / Quay Street [Article 1361.03(Q)(4)]. <i>Staff recommends that variance relief be granted as requested without conditions.</i>
CU15-03	“Private Parking Lot” uses require conditional use approval in the R-3 District [Article 1331.05]. Utilizing an off-site parking facility within 300 feet of the development site to meet minimum parking standards requires conditional use approval [Article 1365.07]. <i>Staff recommends that conditional use be granted as requested with the condition that all related provisions set forth in Article 1365.07(C), (D), and (E) be observed. SEE ARTICLE 1365.07 INSET AT END OF THIS REPORT</i>
V15-19	Variance relief from dedicating at least sixty (60) percent of the ground floor space along University Avenue for commercial use [Article 1361.03(Q)(1)]. <i>Staff recommends that variance relief be granted as requested without conditions.</i>
V15-13	Variance relief to exceed the maximum building height requirement in number of stories for portions of Building “A” [Article 1339.06(A)]. <i>Staff recommends that variance relief be granted as requested without conditions.</i>

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Case Nos.	Code Issues
V15-14	Variance relief to permit Building "C" to be oriented toward the parking area [Article 1361.03(C)]. <i>Staff recommends that variance relief be granted as requested without conditions.</i>
V15-18	Variance relief to permit access to parking areas from the primary street of University Avenue [Article 1361.03(Q)(7)]. <i>Staff recommends that variance relief be granted as requested without conditions.</i>
V15-12	Variance relief from constructing any sidewalk (6-foot minimum width) along the site's Highview Place frontage [Article 1339.07(F)]. Variance relief from constructing a sidewalk the length of the principle site's University Avenue frontage and to permit a portion of the sidewalk (pedestrian way) along the front of Building "B" to be used as a fire lane [Article 1361.03(L)]. <i>Staff recommends that variance relief be granted as requested with the condition that the petitioner continue to work with City Administration during building permit application concerning the planning, design, and siting of street trees along University Avenue; the planning, design, and construction of the shared pedestrian way and fire lane; and, coordination with planned University Avenue roadway improvements to ensure best public safety and urban landscape practices.</i>
V15-11	Variance relief to permit the planting of trees along University Avenue with less than ten (10) to fifteen (15) feet tree trunk clearance from structures, building overhangs, walls, etc. [Article 1367.06(C)]. Variance relief from reserving at least five (5) percent of the parking areas (upper parking area, parking area between Buildings "A" and "C", or the off-site parking facility) for landscaping [Article 1367.08(B)(2)]. Variance relief from providing one (1) terminal landscape island between Quay Street and an adjoining parallel parking space [Article 1367.08(D)(2)]. Variance relief from providing landscaped islands of at least 130 square feet every ten (10) parking spaces for residential development [Article 1367.08(D)(3)]. <i>With the exception of the request for relief from developing a terminal landscape island between Quay Street and an adjoining parallel parking space, Staff recommends that variance relief be granted as requested with the following conditions: 1.) That a terminal island, which may be less than 130 square feet, must be developed between Quay Street and an adjoining parallel parking space; and, 2.) That the petitioner continue to work with City Administration during building permit application concerning the planning, design, and siting of street trees along University Avenue to ensure best urban landscape practices and coordination with planned University Avenue roadway improvements, which may include reducing the number of street trees along University Avenue to ensure clear sight lines at the University Avenue driveway entrance.</i>
V15-15	Variance relief from natural material standards and ratios [Article 1361.03(P)(1)] and to permit the use of cement fiber paneling and lap siding and brick/stone veneer [Article 1361.03(P)(2)]. <i>Staff recommends that variance relief be granted as requested without conditions.</i>

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Case Nos.	Code Issues
V15-17	Variance relief from meeting minimum ground floor transparency [Article 1361.03(E)]; from minimum fenestration ratio standards for front façade and ground floor [Article 1361.03(O)(1)]; and, from recessing windows 4-8 inches [Article 1361.03(O)(6)].
	<i>Staff recommends that variance relief be granted as requested without conditions.</i>

### ARTICLE 1365.07 INSET

(C) Offsite parking facilities shall be encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the off-site parking facility is located is encumbered by the parking use. Said instrument shall specify and bind the time period to the anticipated life of the building or use to which the parking facilities are accessory. Said instrument shall be filed in the applicable Building Permit files of the Department of Planning, and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, WV.

(D) It is the responsibility of the business owner to maintain current and valid parking as required by this Ordinance. Evidence of such parking is required prior to approval and proof of current leases shall be made available at the request of the Planning Director. Each leased space shall have a sign noting the business for which the space is reserved. Signs shall be 12 inches wide by 18 inches tall and shall be mounted between three feet and five feet above the finish surface of the parking stall. The text on the sign shall state "This space is reserved for patrons of [name of the business] only, per City Code 1365.07(D)." All leased stalls shall be paved and striped. No unimproved stalls shall be used for commercial parking. Leasing of stalls shall not reduce the available parking below the minimum requirement for uses sharing the lot, except in conditions of shared parking as described in Section 1365.04(B) of the City Code.

(E) Offsite parking facilities shall be developed in accordance with the provisions of the Parking Development Standards section. Further, said facilities shall be developed under such conditions imposed by the Board of Zoning Appeals as to protect residential districts and maintain at a minimum the disturbance to nearby residential uses.

Attachments: Application and accompanying exhibits

**Development Services**

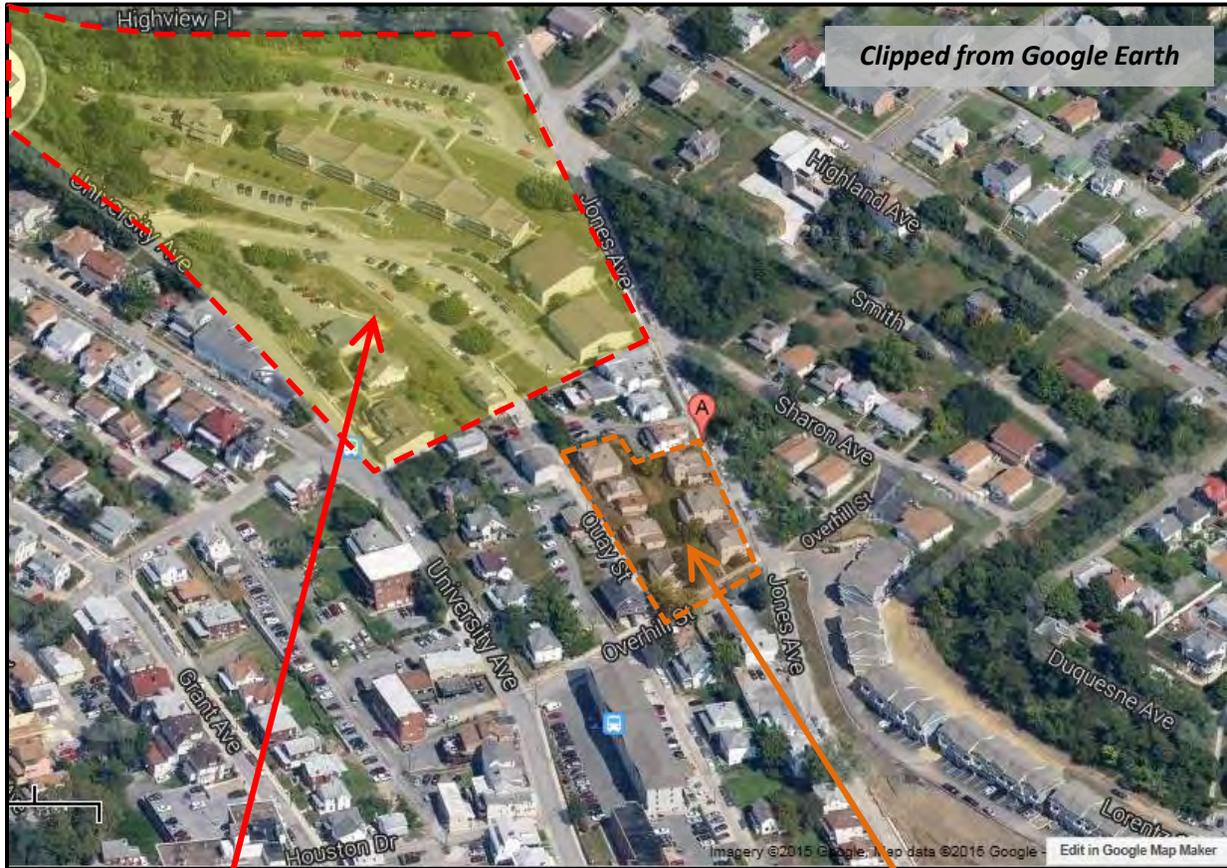
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# STAFF REPORT ADDENDUM A

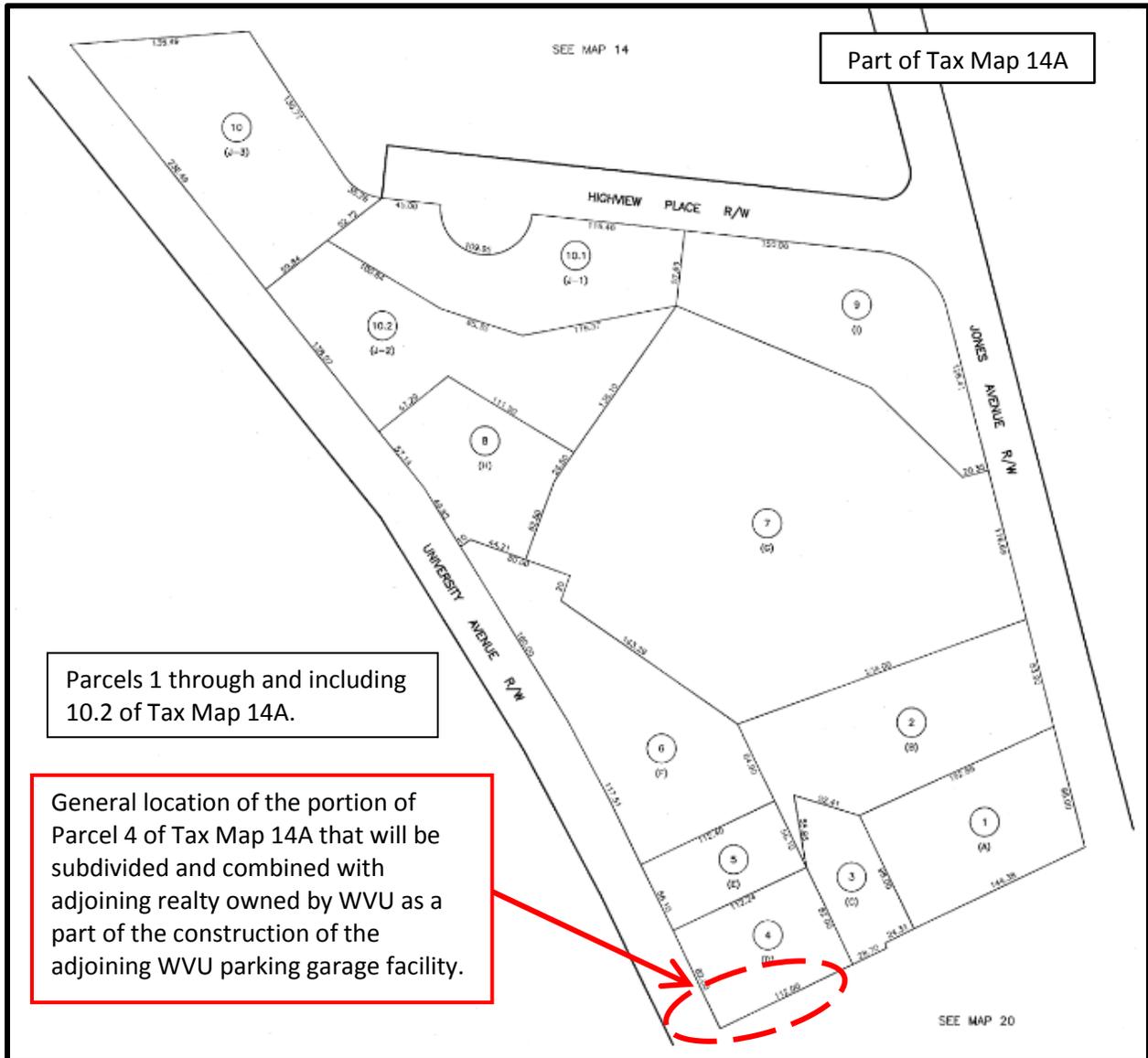
CU15-03, V15-11 thru V15-19 / American Campus Communities /  
University Avenue and Jones Avenue



Main Development Site

Off-Site Parking

# Main Development Site





## STAFF REPORT ADDENDUM B

### CU15-03, V15-11 thru V15-19 / American Campus Communities / University Avenue and Jones Avenue

#### Concurrence with the 2013 Comprehensive Plan Update

The following narrative identifies where, in the opinion of the Planning Division, the subject development of significant impact is in concurrence and/or is inconsistent with the 2013 Comprehensive Plan Update.

<b>INTENT</b>	Development proposals will reflect the spirit and values expressed in the Plan's principals.
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#### Principles for Land Management

Principal 1	Infill development and redevelopment of underutilized and/or deteriorating sites takes priority over development in green field locations at the city's edge.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
	<i>The existing multi-family dwelling structures on the principle development site will be razed and removed. The single-family dwelling structures that were converted into multiple units on the off-premise parking site have already been razed and removed. The proposed development will yield a net gain of approximately 366 beds.</i>	
Principal 2	Expansion of the urban area will occur in a contiguous pattern that favors areas already served by existing infrastructure.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
	<i>The proposed development does not represent an expansion of the urban area but rather an increase in density within the urban core and appears to be well served by existing public and utility infrastructure.</i>	
Principal 3	Downtown, adjacent neighborhoods and the riverfront will be the primary focus for revitalizations efforts.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
	<i>The site is strategically situated along the University Avenue corridor between WVU's Downtown and Evansdale campuses and adjoins a large student housing stock located to the west and south of the site.</i>	
Principal 4	Existing neighborhoods throughout the city will be maintained and/or enhanced.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
	<i>The project consists of the redevelopment of an existing multi-family development known as "Sunnyside Commons." Existing driveway entrances from the site to Jones Avenue will be eliminated thereby increasing the functional buffer between the site and the adjoining Wiles Hill Neighborhood located to the north and east of the site.</i>	

Principal 5	Quality design is emphasized for all uses to create an attractive, distinctive public and private realm and promote positive perceptions of the region.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The proposed development increases the site's massing and density along the University Avenue corridor in a similar manner as WVU's University Place and related parking garage which should serve to create a strong sense of place. Additionally, the development provides for new sidewalks and street trees along the east side of University Avenue.</i></p>		
Principal 6	Development that integrates mixed-uses (residential, commercial, institutional, civic, etc.) and connects with the existing urban fabric is encouraged.	<input type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<p><i>Although the proposed development program does not include nonresidential uses, its increase in residential density within the Sunnyside area of the University Avenue corridor should serve to bolster a critical mass of potential pedestrian customers to existing and developing commercial uses between the subject site and WVU's Downtown Campus.</i></p>		
Principal 7	Places will be better connected to improve the function of the street network and create more opportunities to walk, bike and access public transportation throughout the region.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The proposed development will provide for sidewalks along the east side of University Avenue where none currently exist. There appears to be a strong network of on-site sidewalks linking buildings, parking areas, and the sidewalk network within the immediate area. A fixed transit stop is proposed at the of the development site along University Avenue which should serve to promote transit ridership.</i></p>		
Principal 8	A broad range of housing types, price levels and occupancy types will provide desirable living options for a diverse population.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>Four-bedroom dwelling units including some double-occupancy units are proposed, which should serve to diversify the housing stock within the immediate area that currently includes a mix of single-family, two-family, lodging or rooming house, and one- and two-bedroom multi-family dwelling types. According to the petitioner, the proposed double-occupancy units are intended to diversify rent price levels within the proposed development.</i></p>		
Principal 9	Residential development will support the formation of complete neighborhoods with diverse housing, pedestrian-scaled complete streets, integrated public spaces, connection to adjacent neighborhoods, and access to transportation alternative and basic retail needs.	<input checked="" type="checkbox"/> Concurrency <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<p><i>The proposed development will provide a community center amenity for residents; new sidewalks and street trees along University Avenue where none currently exist; a new fixed transit stop; and, on-site sidewalk networking linking buildings, parking areas, and the sidewalk network within the immediate area.</i></p>		

Principal 10 Parks, open space, and recreational areas are incorporated as part of future development.  Concurrence  
 Inconsistent  
 Other

*A community center is included as an amenity for the development's residents, which will include meetings, study, and gathering spaces, fitness facilities, and an outdoor swimming pool.*

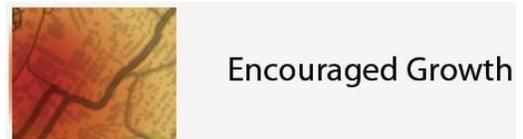
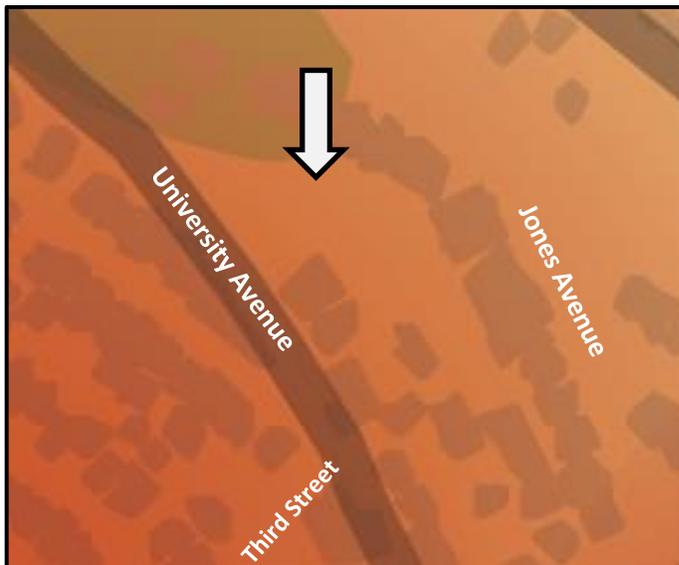
Principal 11 Environmentally sensitive and sustainable practices will be encouraged in future developments.  Concurrence  
 Inconsistent  
 Other

*The developer's goals and objectives concerning sustainable design and construction techniques and industry accepted best practices have not been fully developed.*

**LOCATION**

Development proposals will be consistent with the Land Management Map. If the proposal applies to an area intended for growth, infill, revitalization, or redevelopment, then it should be compatible with that intent and with any specific expectations within Areas of Opportunity. If the proposal applies to an area of conservation or preservation, it should be compatible with and work to enhance the existing character of the immediate surroundings.

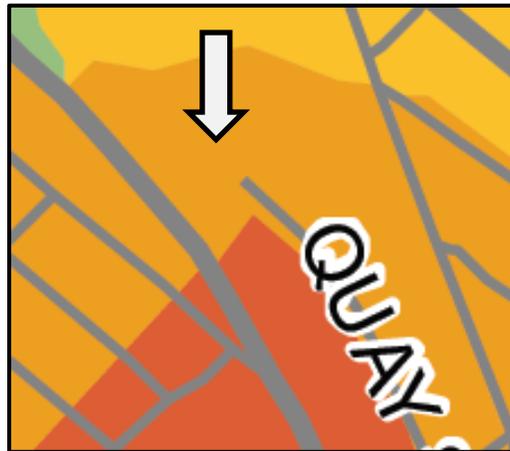
The following graphic is clipped from the **Conceptual Growth Framework Map** included on Page 19 of the 2013 Comprehensive Plan Update. The subject development site is located within the **"Encouraged Growth"** area.



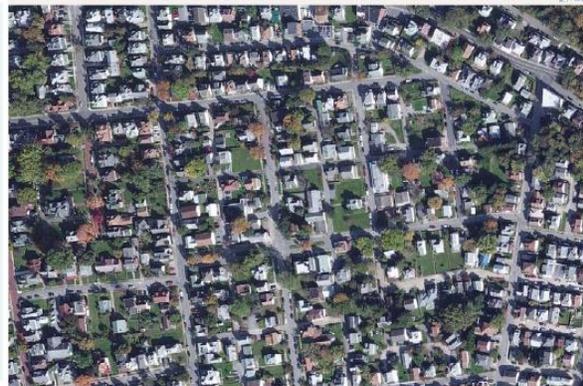
**PATTERN  
AND  
CHARACTER**

Development proposals in growth areas will be consistent with preferred development types. Development in areas where growth is not intended should be compatible with the relevant Character Areas description and expectations for how those areas should evolve in the future.

The following graphic is clipped from **Map 3 – Pattern and Character** included on Page 27 of the 2013 Comprehensive Plan Update. The subject development site is located within the “**Neighborhood 1**” and “**Neighborhood Corridor**” pattern and character areas.



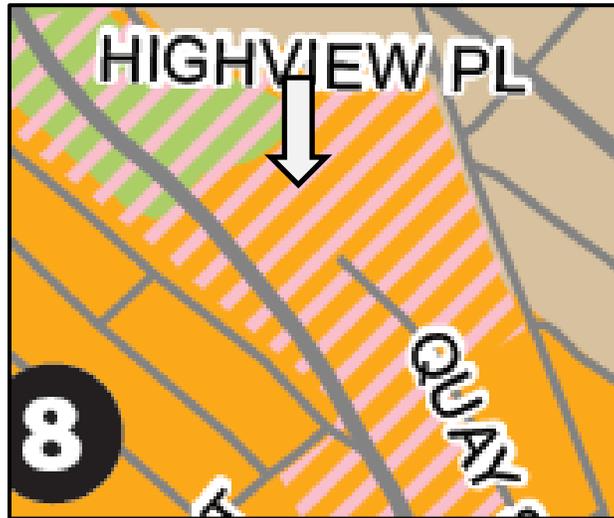
**Neighborhood 1.** Neighborhood 1 includes the oldest residential areas in the city surrounding Downtown and WVU's campus. It encompasses most of the city's historic neighborhoods as well as areas dominated by student renters. This neighborhood type has the highest density of buildings on the smallest lots. The district contains a mix of housing types ranging from older single family homes to four-six unit apartment buildings to newly constructed multi-story apartment buildings – often with multiple housing types in the same block. Small-scale commercial or civic uses are also integrated into the neighborhood fabric. The blocks are small and generally follow a grid street pattern. This is the most walkable neighborhood area.



**Neighborhood Corridor.** Neighborhood Corridors are transitional areas between neighborhoods and more intensely developed commercial or urban corridors. The development pattern reflects the lot sizes and block structure of the surrounding neighborhood, but includes a mix of building types such as small residential buildings along the street and suburban-style buildings set back behind a surface parking lot. Uses also vary and include commercial, office, and multi-family residential. Since they share a neighborhood block structure, these corridors are more walkable than a Commercial Corridor. Due to the high levels of traffic, these areas will continue to face redevelopment pressure.



The following graphic is clipped from **Map 4 – Land Management** included on Page 39 of the the 2013 Comprehensive Plan Update. The subject development site is located within the “**Neighborhood Revitalization**” and “**Corridor Enhancement**” concept areas.



**Neighborhood Revitalization:** Stabilization and reinvestment in existing neighborhoods 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.

**Corridor Enhancement\*\*:** Improving development along corridors with a mix of uses, increased intensity at major nodes or intersections and roadway improvements to improve traffic flow, pedestrian and biking experience.

The following graphics are clipped from Pages 41 through 43 of the 2013 Comprehensive Plan Update and identify the development types desired within the “**Core Enhancement**” concept area.

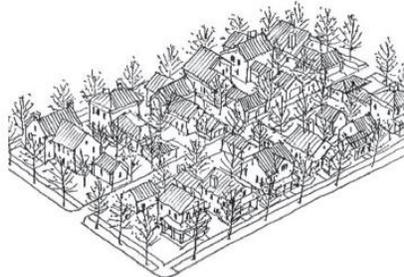
CONCEPT AREA	Appropriate Development Types											
	SF	TF	MF	C	NX	UC	CC	O	I	CD	OS	
 Neighborhood Revitalization	•	•	•	•	•							•
 Corridor Enhancement*			•	•	•		•	•				•

**DEVELOPMENT TYPE DESCRIPTIONS**

**PATTERN AND CHARACTER EXAMPLES**

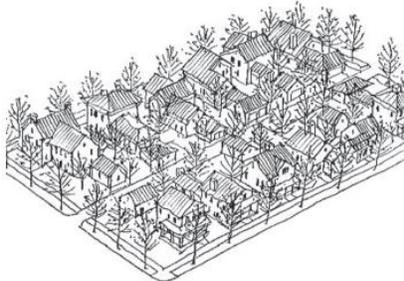
**SF Single Family Residential**

Detached 1-2.5 story residential structures each intended for one family. Densities range from six to twelve units per acre.



**TF Two Family Residential**

Detached structures that each contain two separate residential dwellings and townhouse dwelling types. May be built in a similar pattern as single-family structures and integrated in neighborhoods with other single-family structures and/or at the edge of single-family neighborhoods. Densities range from six to twenty units per acre.



**MF Multi-family Residential**

Includes various forms such as apartment buildings where three or more separate residential dwelling units are contained with a structure and townhouse dwelling types. They vary considerably in form and density depending on the context – from four-story or larger buildings set close to the street in and at the edge of the downtown core and along major corridors, to smaller two- to four-story buildings with greater street setbacks in areas between the downtown core and single-family neighborhoods.



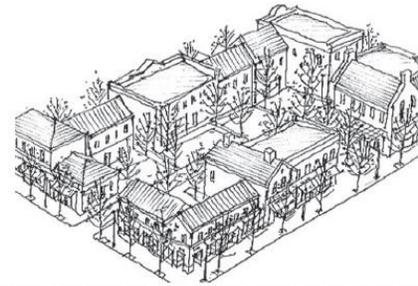
**C Civic and Institutional**

These sites include both public uses (government buildings, libraries, community recreation centers, police and fire stations, and schools) and semi-public or private uses (universities, churches, hospital campuses). Public uses should be strategically located and integrated with surrounding development. Civic and Institutional sites may be distinctive from surrounding buildings in their architecture or relationship to the street.



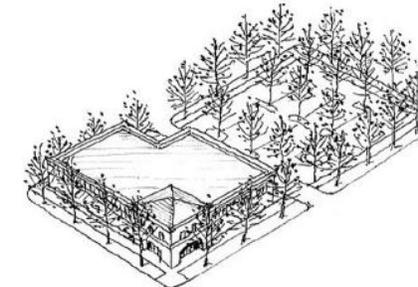
**NX Neighborhood Center Mixed-Use**

A mix of housing, office, commercial, and civic uses adjacent to one another or contained within the same structure (such as offices or apartments above ground-floor retail). Such uses should be compatible with and primarily serve nearby neighborhoods (within 1/2 mile). Parking should be located behind or to the side of buildings and may be shared between multiple uses.



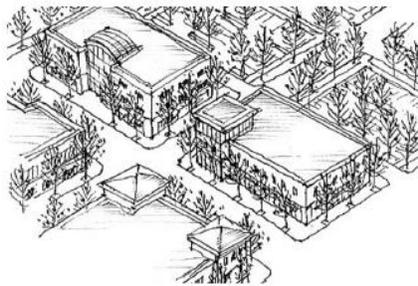
**CC Community Commercial**

Larger scale, primarily retail, restaurant and accommodation uses that serve the broader community. Buildings should be located close to the street with parking to the rear or side and should be well-connected to surrounding development and pedestrian infrastructure.



**O Office / Research**

Larger-scale 2-6 story buildings generally housing professional offices or research/development activities with single or multiple tenants. May involve multiple large-scale buildings in a campus setting, but buildings should be in a walkable configuration with shared parking typically behind or to the side. Supportive retail establishments may occupy the lower levels of a multistory building. Supportive retail uses include coffee shops, delicatessens, barbers, and bookstores among others.



**OS Greenspace**

Includes formal parks, recreation areas, trails, and natural open space.



***A. Goal***

Efficient and attractive use of land resources that strengthens the quality, character, and upkeep of the built environment while balancing redevelopment and strategic expansion with open space preservation.

***Objective 2. Promote strategic infill and redevelopment of underutilized or functionally obsolete areas.***

LM 2.1 Identify and prioritize sites for infill and redevelopment.

LM 2.3 Develop incentives to encourage the consolidation of parcels for redevelopment.

LM 2.6 Prioritize capital improvements near infill or redevelopment sites to encourage private investment.

***Objective 3. Facilitate the creation of residential areas with strong neighborhood qualities.***

LM 3.1 Update development standards to require high-quality pedestrian-scaled complete streets with sidewalks, street trees, adequate lighting, and tree lawns in newly developed residential areas.

LM 3.2 Require major residential subdivisions to create a master plan that incorporates the principles of traditional neighborhood design.

LM 3.4 Require street or multi-use path connections between new residential neighborhoods and existing developed areas wherever practical.

LM 5.2 Permit higher density development in areas that are well-supported by existing or planned transportation infrastructure or transit services.

***Objective 6. Improve community appearance, particularly at city gateways.***

- LM 6.1 Strengthen design standards (architectural appearance, building materials, landscaping, signage) and their enforcement in the zoning code.
- LM 6.5 Encourage major redevelopment projects to relocate utilities from view of primary corridors, arterials, and collectors with emphasis on underground placement.

**OBJECTIVES AND STRATEGIES**      **Neighborhoods and Housing**

***A. Goal***

Attractive, well-maintained neighborhoods that offer a broad mix of desirable housing options and convenient access to services and amenities.

***Objective 3. Improve the safety and appearance of all neighborhoods.***

- NH 3.1 Require adequate and attractive street lighting to be incorporated as part of all new multi-family residential development, major subdivisions created for residential and/or mixed-use developments, and planned unit developments.

***Objective 4. Promote the development of a broad range of housing types and prices.***

- NH 4.1 Provide incentives to developers to encourage development of alternative housing types (i.e. higher density, live-work, mixed-use) in designated growth areas.

## STAFF REPORT ADDENDUM C

### CU15-03, V15-11 thru V15-19 / American Campus Communities / University Avenue and Jones Avenue

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined).

#### Case No. V15-16 Surface Parking Lot

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Continued efforts to increase residential density in the downtown area, within walking distance of primary residential destination points, and within a well-served transit corridor should serve to aid in relieving housing development demand in outlying areas of Monongalia County that contribute to traffic congestion within the City of Morgantown. The current Sunnyside Commons development is bordered by Jones Avenue, University Avenue, and Highview Place. The off-site parking area is bordered by Jones Avenue, Overhill Street, and Quay Street. Given the public right-of-ways and the steep topography, surface parking lots appear to be the best parking plan for this realty.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The design professionals have worked diligently to ensure that all on-site parking areas have been utilized to the fullest and meet the Planning and Zoning Code not to exceed a 10% grade. However, due to the steep terrain and the Fire Department requirement for hammerhead turn-arounds to be located in the uppermost surface parking lot in conjunction with the emergency access to/from Jones Avenue, the only alternate was to obtain ownership of an off-site parking facility. The off-site surface parking facility will be constructed by West Virginia University and transferred to ACC post construction. The redevelopment of the Sunnyside Commons site as proposed represents a unique opportunity to provide desired residential densities. The proposed redevelopment reflects minimum parking obligations within the adjoining zoning districts, which furthers smart growth principals including compact building design and walkability and will promote regular use of alternative modes of transportation which include increasing public transit ridership.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The subject realty, located at the fringe of the Sunnyside Overlay District, is bordered by University Avenue, Jones Avenue, and Highview Avenue, limiting adequate redevelopment area for off-street parking not located at an intersection. The topography of the site further appears to limit vehicular storage. The design professionals have worked diligently to assure compliance with all parking regulations. The off-site parking area at the intersection of Overhill Street, Jones Avenue, and Quay Street will be located behind the West Virginia University garage that is currently under construction. The surface parking area, which will also be constructed by West Virginia University and transferred to ACC will contain approximately forty-one (41) spaces and will be accessible from Quay Street.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

By granting this variance, the developer will be able to redevelop an aging and underutilized multi-family development with requisite parking. The realty is located on the fringe of the Sunnyside Overlay Districts, has steep terrain, and is bordered by public numerous right-of-ways. The redevelopment of the Sunnyside Commons site as proposed represents a unique opportunity to

provide desired residential densities. The proposed redevelopment reflects minimum parking obligations within the adjoining zoning districts, which furthers smart growth principals including compact building design and walkability and will promote regular use of alternative modes of transportation which include increasing public transit ridership.

### **Case No. CU15-03 Off-Site Parking Facilities**

#### **Finding of Fact No. 1** – Congestion in the streets is not increased, in that:

The proposed surface parking lot located at the intersection of Quay and Overhill Streets is currently being constructed by West Virginia University and will be transferred to American Campus Communities (ACC) after completion. The surface parking lot will be utilized by the proposed development to fulfill the parking requirement and supports student housing at the edge of campus(es) thereby reducing commute trips from housing located outside of the City and resultant congestion. The applicant is proposing to utilize approximately forty-one (41) parking spaces. The surface lot is approximately eighty-eight (88) feet from the proposed development site. In conjunction with eliminating access into the Wiles Hill Neighborhood, this surface lot will remove any student parking on Jones Avenue that has been associated with Sunnyside Commons. Alternate modes of transportation are readily available within the University Avenue corridor where increased multi-family residential is a desired development pattern in the Sunnyside-Up Neighborhood Revitalization Plan and the City's Comprehensive Plan. The proposed site plan identifies the parcel configuration and setbacks for the subject development site, which illustrate that limited buildable area appears to remain for any type of development given the geometry of the parcel, required building envelope, and the topography of the site.

#### **Finding of Fact No. 2** – Safety from fire, panic, and other danger is not jeopardized, in that:

The proposed off-site parking facility will be constructed prior to ownership. However, the surface lot will meet minimum aisle width and parking stall size, therefore not jeopardizing life safety requirements. The parking facility will be well lit for safety.

#### **Finding of Fact No. 3** – Provision of adequate light and air is not disturbed, in that:

The proposed off-site surface parking facility will be constructed prior to ownership and is located below the grade of Jones Avenue and should not adversely impact existing light distribution or air flow patterns.

#### **Finding of Fact No. 4** – Overcrowding of land does not result, in that:

The Planning and Zoning provides the opportunity of dedicating off-site parking to mitigate overcrowding of development patterns. No new parking structure, facility, or use is proposed as the location of the off-site parking facility is will be an existing parking lot once the realty is transferred from WVU to the developer.

#### **Finding of Fact No. 5** – Undue congestion of population is not created, in that:

The Planning and Zoning code provides the opportunity of dedicating off-site parking to mitigate population congestion. Additionally, increased multi-family residential density along University Avenue Corridor is a desired development pattern in the Sunnyside-Up Neighborhood Revitalization Plan and city's Comprehensive Plan. The petitioner affirms that most of the current ~~Seneca~~ Sunnyside Commons inhabitants walk to the campus or utilize the University's or public transportation. The location of the project site supports student housing at the edge of campus thereby reducing commute trips from housing outside the city and resultant congestion.

#### **Finding of Fact No. 6** – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed off-site surface parking facility will be constructed prior to ownership by ACC and is located below the grade of Jones Avenue. The parking facility will act as a deterrent to any Sunnyside Commons resident attempting to park on Jones Avenue. The petitioner affirms that most of their other tenants in the area walk to campus or utilize the University's or public transportation. The location of the project site supports student housing at the edge of campus thereby reducing commute trips from housing outside the city and resultant congestion. The conditional use request ~~will~~ should neither increase nor decrease demand for said public infrastructure ~~as it is existence and already serves as a rental parking area~~. The proposed development and off-premise parking does not appear to require public facilities or services beyond those existing conditions.

**Finding of Fact No. 7** – Value of buildings will be conserved, in that:

The proposed off-site parking lot appears necessary to continue private sector efforts of increased residential density in the Sunnyside area thereby adding value and incentive for continued redevelopment and property maintenance. New construction should further existing market value and interest in continued development. The off-site parking facility should also serve as a deterrent of students taking on-street parking away from the residents of the Wiles Hill Neighborhood. The proposed conditional off-premise parking use will be located within an existing vicinity parking area and will contain the required signage associated with other off-site parking approvals.

**Finding of Fact No. 8** – The most appropriate use of land is encouraged, in that:

The redevelopment of Sunnyside Commons creates an opportunity to increase residential density in the Sunnyside area, on the fringe of campus(es). The proposed off-site parking facility will be constructed WVU prior to ownership transfer of the realty to the petitioner.

**Case No. 15-19      Ground Floor Space**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The redevelopment of this property without the non-residential component will not harm this or surrounding properties in the vicinity as there currently are no non-residential uses located on this realty. The potential to increase desirable student housing could actually improve the area by inspiring further development and the removal of blighted properties. The physical constraints, such as the steep grade, make market absorption of commercial space along this section of a University Avenue challenging and uncertain.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

While the Planning and Zoning Code states that University Avenue is a "Primary Street," lack of pedestrian traffic and terrain that does not permit for the required parking that would be needed for commercial use dictates otherwise. Further, the Code does not recognize site constraints associated with the east side of University Avenue, specifically the steep terrain this far north from the small re-emerging business area on University Avenue. Overbuilding commercial space could result in absorption rates that do not meet conventional development financing standards. High commercial space vacancy rates in ~~these areas do not meet market needs in terms of location and square footage resulting from overbuilding commercial space long this corridor could undermine long-term commercial use viability~~. ~~As WVU continues to increase enrollment, it can be anticipated that more and more students will be looking for affordable housing in the Sunnyside area. Allowing residential use on the first floor would actually encourage development and provide a more reliable source of income than the potentially vacant storefronts required by the Planning and Zoning Code.~~

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable

use of the land, because:

The City's Planning and Zoning Code, relative to the Sunnyside Overlay Districts, does not appear to reflect realistic opportunities and terrain and market viability constraints. The requirement of providing commercial space along the entire length of University Avenue in the Sunnyside Overlay District attempts to create retail activity rather than preserve or expand existing uses. Currently, there are no mixed-use or commercial uses located this far north on University Avenue. Historically within the area, mixed-use and commercial uses have been limited to University Avenue ~~around the vicinity of University Place south of Third Street~~. Other development that has received a similar variance includes 116 Third Street, 152 Third Street, 146 Third Street, Glenlock North, 507 Beechurst Avenue among others.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

~~Overbuilding commercial space could result in absorption rates that do not meet conventional development financing standards. High commercial space vacancy rates in these areas do not meet market needs in terms of location and square footage resulting from overbuilding commercial space along this corridor could undermine long-term commercial use viability. As WVU continues to increase enrollment, it can be anticipated that more and more students will be looking for affordable housing in the Sunnyside area. Allowing residential use on the first floor would actually encourage development and provide a more reliable source of income than the potentially vacant storefronts required by the Planning and Zoning Code.~~

### **Case No. V15-13      Maximum Building Height**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Building A, predominant structure along University Avenue appears to be 4-5 stories, with stepped heights as the building proceeds north on University Avenue with a maximum height of 55'9". The proposed design of the development site will cluster the majority of living space in Building A and Building B along University Avenue, a primary street as defined in Article 1361.02. This design will relegate most resident and pedestrian activities to the University Avenue corridor and vicinity, thus funneling any potentially adverse impacts away from existing single and two-family structures on Jones Avenue and Highview Place. The variance sought here – to extend the height of portions of Building A to 5 stories – would permit the realization of a development design that increases density of living space along a primary street that is well-lit, well-served, and on public transit routes. The height difference and architectural design on Building A, community center, will create a sense of place and a focal point on a primary street.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

~~Building "A" is the predominant structure on University Avenue and is shown as 4 and 5 stories, with stepped heights as the building proceeds along University Avenue. The maximum height labeled on the plans is 55'-9". Article 1329.02 provides that building height in feet is the vertical distance measured from the lot ground level to the highest point of the flat roof. On lots with topographical elevation changes, the lot ground level shall be constructed to mean the halfway point between the highest and lowest elevations of the building footprint. Building height calculation shall not include chimneys, spires, elevator and mechanical penthouses, water tanks, radio antennas, and similar projections. Although the maximum height is labeled on Sheet A5.00 as 55'-9", the correct means of calculating the building height in feet must include the lowest elevation, which would be located along the rear of Building "A". The floor plans demonstrate that the front of the building has one more level than the rear of the building varying from 4 (front) and 3 (rear) levels to 5 (front) and 4 (rear) levels. Assuming that the halfway point between the highest and lowest elevations of Building~~

~~“A” is 55 feet or less, variance relief is not required in relation to building height in feet. Variance relief is required for those portions of the building that contain 5 stories along the front elevation. Specifically, the lowest level along the 5-story portion of Building “A” cannot be considered a basement, as defined in Article 1329.02, because said space does not have one-half or more of its floor-to-ceiling height below the average level of the adjoining grade. The immense topographical elevation changes exhibited by the development site prohibit the construction of horizontally expansive structures. In order to build in such a way that maximizes permitted densities and satisfies open space requirements within the development site, construction must expand vertically upon the small amount of low-slope land available. The grade of University Avenue, the proximity of Building “A” to University Avenue, and the steep slope of the development site rising away from University Avenue appears to contribute to portions of Building “A” having a fifth story while still observing the maximum building height standard as measured and calculated in feet.~~

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Variance approval will permit a portion of Building A to encroach into the height requirement. This approval would eliminate the challenges presented by steep grades at the development site. Further, the variance would permit the realization of a development design that increases the density of infill residential structures along a primary street that is well-lit, well-serviced, and proximal to the main university campus. The topographical elevation challenges exhibited by the development site prohibit the construction of horizontally expansive structures. In order to build in such a way that maximizes permitted densities and satisfies open space requirements within the development site, construction must expand vertically upon the small amount of low-slope land available. The proposed redevelopment is contained in the R-3, Multi-family Residential District, the South Sunnyside Overlay District, and the Central Sunny side Overlay District. According to Article 1339.06 Building Height in the R-3 District is (A) The permitted maximum height shall be four (4) stories or fifty-five (55) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions. A conditional use permit shall be required for buildings in excess of fifty-five (55) feet but less than eighty (80) feet. Concurrently, Article 1361.04 states that in the Sunnyside South Overlay District: (1) Buildings that contain non-residential uses on the ground floor may have a maximum height of eighty-eight (88) feet, provided all other requirements of the zoning ordinance are met. (2) Buildings taller than fifty-five (55) feet shall not require a conditional use permit. The South Sunnyside Overlay District does not address the issue of building height in stories measured from the front. Therefore it appears that the legislative intent of permitting a by-right height bonus of up to eighty (80) feet, based on elementary design and construction common sense, is to permit, by-right, buildings taller than four (4) stories measured from the front. Otherwise, you would have four (4) 20-foot stories.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed redevelopment is contained in the R-3, Multi-family Residential District, the South Sunnyside Overlay District, and the Central Sunny side Overlay District. According to Article 1339.06 Building Height in the R-3 District is (A) The permitted maximum height shall be four (4) stories or fifty-five (55) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions. A conditional use permit shall be required for buildings in excess of fifty-five (55) feet but less than eighty (80) feet. Concurrently, Article 1361.04 states that in the Sunnyside South Overlay District: (1) Buildings that contain non-residential uses on the ground floor may have a maximum height of eighty-eight (88) feet, provided all other requirements of the zoning ordinance are met. (2) Buildings taller than fifty-five (55) feet shall not require a conditional use permit. The South Sunnyside Overlay District does not address the issue of building height in stories measured from the front. Therefore it appears that the legislative intent of permitting a by-right height bonus of up to eighty (80) feet, based on elementary design and construction common sense, is to permit, by-right, buildings taller than four (4) stories measured from the front. Otherwise, you would have four (4) 20-foot stories.

## **Case Nos. V15-14 Building Orientation**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Building C of the proposed development is oriented onto a private street that contains requisite parking. Due to the terrain and placement of Building A, it appears Building C will not be visible for the most part from University Avenue and frontage not visible from Jones Avenue.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Recent code changes permit the placement of more than one principal multi-family residential structures on a single realty. Due to the topography of the site, design professionals diligently situated buildings as to not interfere with the Wiles Hill Neighborhood by locating them closest to the primary street, which is University Avenue. Building C of the proposed development is oriented onto a private street that contains requisite parking. Due to the terrain and placement of Building A, it appears Building C will not be visible for the most part from University Avenue and frontage not visible from Jones Avenue.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Due to the steep topography and to eliminate disturbance with the Wiles Hill Neighborhood, the buildings were pushed west on the property near University Avenue. Variance relief will permit a reasonable use of the property and permit Building C to front a private ~~right-of-way~~ roadway and parking leading to Quay Street.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

In 2013, the Planning and Zoning Code was altered to permit more than one principal structure in the R-3 District. Given the steep terrain and the developer's promise to the Wiles Hill Neighborhood to severe access on to Jones Avenue, building placement was pushed west. Therefore, Building C does not face Jones Avenue but a private ~~right-of-way~~ roadway with requisite parking. Approving this variance still meets the spirit and intent of the Planning and Zoning Code since it will front a private street.

## **Case Nos. V15-18 Access to Parking Areas**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The current Sunnyside Commons development consists of entry points on Jones Avenue with a main entrance on University Avenue. The design professionals worked diligently to ensure that the access from Jones Avenue would be vacated to further protect the single-family neighborhood east of the development. The main access for the redevelopment will remain on University Avenue with a connector street to the parking areas, which is necessary for fire department access. There will also be a gated ingress/egress on Jones Avenue for emergency vehicles only. The point of egress onto Quay Street is not conducive for a main entrance point due to right-of-way width and fire truck access.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The current Sunnyside Commons development consists of entry points on Jones Avenue with a main entrance on University Avenue. The design professionals worked diligently to ensure best access

management practices due to the topography of the realty in relation with University Avenue. The access from Jones Avenue will be vacated to further protect the single-family neighborhood east of the development. The main access for the redevelopment will remain University Avenue which is necessary for fire department access. There will be a gated ingress/egress on Jones Avenue for emergency vehicles only. The Quay Street egress is not conducive for a main entrance point due to road width and fire truck access.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The current Sunnyside Commons development consists of entry points on Jones Avenue with a main entrance on University Avenue. With support from the Wiles Hill Neighborhood Association, the access point on Jones Avenue will be eliminated to thru traffic and only utilized by emergency vehicles with breakaway bollards. The design professionals worked diligently to ensure best access management practices by retaining the main access point for the redevelopment on University Avenue. This is necessary for fire department access. There will also be a point of egress onto Quay Street but is not conducive for a main entrance point due to right-of-way width and fire truck access. ~~Since University Avenue is a West Virginia State Route, a Department of Highway Access permit will be obtained.~~

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Article 1361.03(Q)(7) provides “Private parking areas shall be accessed from secondary streets and/or alleys. Access from primary streets shall only be utilized when other options are not available.” With the Wiles Hill Neighborhood Association supporting the removal of the Jones Street access point to thru traffic, the redevelopment will maintain the current main access point on University Avenue with an egress on to Quay Street. Due to the topography, the design professionals worked diligently to ensure best access management practices on University Avenue. This is necessary for fire department access.

## **Case No. V15-12 Sidewalks**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

~~The proposed site plan appears to significantly improve public safety by eliminating the existing curb cut on Jones Avenue and not including a sidewalk on Highview Place. The design professionals worked diligently to eliminate any access into the Wiles Hill Neighborhood by Sunnyside Common residents while still creating pedestrian access to the proposed Mountain Line bus stop to be located north of building B and leading south to the main campus. The redevelopment includes eight (8) foot sidewalks the length of property on University Avenue, in front of Building A and B with requisite landscaping. Due to the required fire truck pull off area in front of Building B, the sidewalk in this area dumps into the raised fire lane on both ends of the building but only extends from road entrance to the upper end of Building B. The sidewalks along University Avenue will comply with ADA regulations. A sidewalk does not currently exist on Highview Place and developing one would only serve three (3) houses on a dead-end street that is a little more than 400 feet in length. Extending the sidewalk further north may encourage pedestrians to cross illegally at the northern most point of the development site at the inside of the roadway curve and where site distance is limited by steep slopes on the east side of University Avenue.~~

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

~~The development site is bound on three sides by public rights-of-way including Jones Avenue, Highview Place, and University Avenue. Additionally, it appears that from the intersection of Jones~~

~~Avenue and Highview Place to the intersection of University Avenue and Quay Street really drops approximately 100 feet. The design professionals used all available area on University Avenue while attempting not to have massive retaining walls for the required sidewalks. Additionally, all parking areas offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. It appears that the construction of a sidewalk and associated retaining wall adjacent to Highview Place would prohibit the use of parking areas as a logical amenity for residents, and may promote access to the single family neighborhood. The proposed eight-foot wide sidewalk extends north only to the northern stairs of Building "B" leaving approximately 65 feet of University Avenue frontage without a sidewalk. Said portion of University Avenue frontage where a sidewalk is not proposed leads to very steep slopes along the east side of University Avenue where continued development of sidewalks to the north on the east side is unlikely due to significant retaining walls that would be required. Further, approximately 1,000 feet of sidewalk and retaining walls would be required to connect the petitioner's proposed sidewalk to at least Warrick Street on the east side of University Avenue. Developing a sidewalk along Highview Place may require retaining walls to support the sidewalk, may narrow the existing roadway width, and may result in the removal of on-street parking that currently benefits two (2) of the three (3) houses on Highview Place.~~

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

~~This proposed multi-family development contributes to positive urban infill due to the placement within a walkable community. The current Sunnyside Commons development is not pedestrian friendly in that there are not currently sidewalks on this side of University Avenue and no safe crossing area to the opposite side of the street where non-conforming sidewalks currently exist. An eight (8) foot sidewalk will be incorporated along University Avenue in front of Building A for pedestrian access to a proposed bus stop on site and also for access to the community center and points south. While the sidewalk width becomes constricted in front of Building B due to the required fire truck access/pull off area, the sidewalk will be compliant with ADA regulations. Additionally, all parking areas offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. It appears that the construction of a sidewalk and associated retaining wall adjacent to Highview Place would prohibit the use of parking areas as a logical amenity for residents, and may promote access to the single family neighborhood. The site is bordered by three public rights-of-way and has significant elevation changes. The proposed redevelopment plan significantly improves public safety by separating pedestrian and vehicular flow, and incorporating best access management practices. The proposed development appears to have been designed to channel pedestrian traffic away from Highview Place and Jones Avenue towards University Avenue. The proposed development should not increase pedestrian traffic demand on Highview Place. Steep slopes and the roadway curve on the east side of University Avenue between the development site and Warrick Street appears to leave continued sidewalk development on the east side of University Avenue unlikely given significant costs associated with reasonable anticipated hillside stabilization and retaining walls.~~

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

~~The site has been designed to maximize best access management practices while maintaining the spirit and intent of the Planning and Zoning Code. A pedestrian-friendly environment is desirable throughout the City, but it is especially important in residential areas, around commercial centers and near community facilities. Each of these destinations needs to be accessible by commonly used routes which are pedestrian-transit-bicycle friendly. The parking areas located in the vicinity of Jones Avenue and Highview Place offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. Additionally, all parking areas offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. It appears that the construction of a sidewalk and associated retaining wall adjacent to Highview Place would prohibit the use of parking areas as a logical amenity for residents, and may promote access to the single family neighborhood. The proposed development significantly increases pedestrian amenities and connectivity along University Avenue, a transit shelter pad, and commendable internal sidewalk network connecting~~

buildings to on-site and off-site parking areas.

## **Case No. V15-11      Landscaping and Screening**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

~~The design professionals worked diligently to maximize related parking for the development on a topographical challenging piece of realty. Planning and Zoning Code states that parking cannot be on a grade greater than 10%, therefore limited area was available for such. Fire truck access and turn around and the emergency egress area decreased the number of available parking spaces. To better serve the single family residential neighborhood by having on street parking available for their use, internal areas on the Sunnyside Common site would best serve related parking demands while incorporating increased landscape/buffering areas on the perimeter. The nature of the variance relief granted by the Board herein should have no impact, positive or adverse, to public interest or adjacent property rights.~~

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

~~The topography on this site is challenging with over a 100' drop from Jones Avenue to University Avenue. It appears that the design professionals utilized all available realty to fulfill the related parking requirement. Fire truck access, turn around area, and emergency egress area on Jones Avenue has decreased the number of available parking space area. The Planning and Zoning Code states that parking cannot be on a grade greater than 10%, thereby further limiting available area without the need for massive retaining walls. To be a good neighbor and better serve the single family residential neighborhood, internal areas would best serve parking demands with increased landscape on the perimeter. The emerging urban context of the University Avenue corridor, site development challenges resulting from steep slopes, and by-right front setback standards appears to require flexibility in planning, design, and constructing street trees along University Avenue, which will include tree pits and grates that must be designed with attention for pedestrians. The site's steep terrain requires significant retaining walls to "bench" the site, limits developable area, and increases per parking space development costs. The proposed development plan appears to maximize landscape areas at the periphery to buffer the site from the adjoining neighborhood and within the site's steepest slopes.~~

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The current Sunnyside Development is outdated and underutilized. This variance will permit the maximum on-site parking spaces while increasing perimeter landscape/buffering. The steep terrain, fire truck access, fire truck turn around, and emergency egress area on Jones Avenue ~~has~~ have decreased the available parking space areas. The developer met with the Wiles Hill Neighborhood Association prior to submission and wants to be good neighbor by ensuring that resident parking does not encroach into the adjoining neighborhood ~~s of the development park on site(s)~~. By utilizing all available area for parking, the design professionals have increased the landscape/buffer on the perimeters and within the site's steepest slopes.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

There appears to be a number of multi-family developments within the immediate area where landscape screening, buffer, and interior landscaping were not required prior to present related standards. There also appears to be limited space to provide requisite landscaping and meeting minimum parking requirements and parking design. Variance relief granted herein will ensure that

landscaping is provided across the site's frontage on University Avenue as well as adequately buffering parking areas to preserve the enjoyment and quality of life of the adjoining residential property and within the site's steepest slopes.

## **Case No. V15-15      Building Materials**

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Incorporating hardiplank, brick, and other materials in the proposed project will not be harmful to the public welfare or other improvements in the vicinity. The more durable products will last longer and need less maintenance than natural materials. The proposed development will improve the vicinity and hopefully spark future redevelopment in a somewhat blighted area on a primary street. Cladding will be similar/same as other multi-family projects in the Sunnyside Overlay District and vicinity.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Structures in the vicinity and district have dictated exterior design and proposed cladding materials, such as hardiplank or cementitious siding. The Design Professionals have actively attempted to incorporate architectural designs that are fitting with the character of the area and are durable in a predominantly student-rental environment. All facades shall consist of brick, fiber cement siding and fiber cement panel. Cladding will be similar/same as other multi-family projects in the Sunnyside Overlay District and vicinity.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

It appears that the predominant architectural designs of the previously constructed developments located within the Sunnyside Overlay Districts and vicinity include the use of cementitious siding for a more durable cladding. Previous developments in the vicinity that have received the similar variance include, but are not limited to, 507 Beechurst Avenue, 146 Third Street, 152 Third Street, 103 Third Street, Glenlock North on University Avenue, and 300 Beechurst Avenue.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed building materials appear to be within the fitting character of the University Avenue corridor. Market values of adjacent properties should increase with the proposed redevelopment and perhaps spark additional redevelopment and infill development in the area. The nature of the variance relief requested meets the spirit and intent of the zoning ordinance in that the cladding will be similar/same as other multi-family development in the Sunnyside Overlay District and vicinity.

**Case No. V15-17**      Ground Floor Transparency

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Multi-family residential structures containing the required 60% of ground floor transparency does not exist within the area. Therefore, the proposed structure will have transparency more fitting with the architectural design of the surrounding buildings and those in the vicinity. The proposed transparency will not be harmful to surrounding property or improvements in the vicinity as building A & B will be situated above grade on University Avenue and Building C not visible from the primary street. It appears that the window recession on the brick façade will be four (4) inches and the remaining windows recessed appropriately for the building façade material to ensure desired shadowing and architectural uniqueness. This variance will not affect public health, safety, or rights of adjacent property owners in that the intent of this requirement is for commercial or mixed-use structures. The proposed building will improve the vicinity and possibly spark future redevelopment in a perceivably blighted area on a primary street. The proposed structure will have similar window recession as the surrounding buildings on University Avenue and in the vicinity.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The Design Professionals diligently worked to incorporate the required design concepts and vertical windows on the front façade facing University Avenue. It appears that this area of University Avenue is not currently conducive to commercial uses. The existing architectural style prevalent in the area does not permit the use of the required transparency of the ground floor façade located adjacent to University Avenue. Variance relief has been granted by the Board of Zoning Appeals for fenestration ratio and window recessing standards within the Sunnyside Overlay Districts. The proposed transparency matches or exceeds the built environment in the vicinity as building A & B will be situated above grade on University Avenue and Building C not visible from the primary street.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The proposed ground floor transparency appears to match or exceed the existing buildings and surrounding properties. It appears that most other structures within the vicinity and Sunnyside Overlay Districts do not meet the required 60% ground floor transparency for the front façade, recessed windows, or primary street frontage fenestration set forth in the Zoning Code. Previous redevelopment, such as Metro Properties, LLC, Glenlock North, and Moser Investment, on Beechurst Avenue, have received the same variances being proposed. It appears that the proposed building will have similar window recession as is dominant in the architectural style of Sunnyside area. The design professionals worked diligently to incorporate window recession on the brick façade, four (4) inches, as well as recessing the remaining windows appropriately for the building façade material. This unique design will ensure the desired shadowing and sense of place that is lack on University Avenue. The following is a table outlines fenestration along the primary façade of University Avenue:

<b>Building</b>	<b>Primary Façade Fenestration</b>	<b>Ground Floor Fenestration</b>
Community Center	42%	45%
Building A	18%	18%
Building B	16%	19%

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The Design Professionals have incorporated the required design concepts and vertical windows on the front façade, along with window recession on the brick façade. It appears that the remaining windows

have been recessed appropriately for the building façade material to ensure desired shadowing. In this instance, it does not appear that the lack of recessed window openings add to or detract from aesthetics and would not be noticeable on the steep terrain and heavily traveled corridor of University Avenue. Although variance relief to the minimum window/fenestration standards in the Sunnyside Overlay Districts has been approved by the Board, the circumstances of the site in terms of topography and use appears unique warranting relief. The spirit and intent of the Sunnyside Overlay Districts' design and performance standards are observed and substantial justice done thereby mitigating adverse impacts to the immediate built environment. Multi-family residential structures containing the required 60% of ground floor transparency does not exist within the area. Therefore, the proposed structure will have transparency more fitting with the architectural design of the surrounding buildings and those in the vicinity. The proposed transparency will not be harmful to surrounding property or improvements in the vicinity as building A & B will be situated above grade on University Avenue and Building C not visible from the primary street.

Zimbra

cfletcher@cityofmorgantown.org

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**ACC Traffic Impact Study**

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**From** : Damien Davis <ddavis@cityofmorgantown.org>

Thu, Mar 12, 2015 05:01 AM

**Subject** : ACC Traffic Impact Study**To** : Christopher Fletcher <cfletcher@cityofmorgantown.org>**Reply To** : ddavis@cityofmorgantown.org

Mr. Fletcher,

I have reviewed the Traffic Impact Study for the proposed redevelopment of the Sunnyside Commons property submitted by French Engineering dated Oct. 13, 2014. French Engineering worked with my office to prepare the scope and identify intersections and corridors likely to be impacted by this development. I concur with French Engineering's key findings and recommendations.

The primary traffic concern in the study area is the long queue extending back University Ave from the Stewart St/College Ave intersection. This queue is an existing condition and is beyond the scope of this study. However CNRC is currently undertaking a project to improve the intersection of University, 3rd and Beverly Ave. Also the MPO is working with CRNC, the City of Morgantown and the State Division of Highways to conduct a study along the entire University Ave corridor that will evaluate and recommend projects to improve traffic throughout.

**J. Damien Davis, PE, CFM****Interim Director of Public Works and Engineering**

City of Morgantown

389 Spruce Street

Morgantown, WV26505

Office: 304.284.7398

Fax: 304.284.7409

[www.MorgantownWV.gov](http://www.MorgantownWV.gov)

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Zimbra

shollar@cityofmorgantown.org

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**American Campus Redevelopment at Sunny Side Commons**

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**From** : richard dumas <ridu54@gmail.com>

Wed, Mar 11, 2015 09:41 AM

**Subject** : American Campus Redevelopment at Sunny Side Commons**To** : shollar@cityofmorgantown.org

Stacy:

I am sending this message to be part of the record for the Planning Commission and BZA meetings for the American Campus redevelopment of the Sunnyside Commons sight. I am in support of this project as it moves the development away from the residential neighborhood and creates a natural buffer. In addition I feel this development will reduce traffic flow through the Wiles Hill neighborhood.

I would like to thank both the Planning Commission and BZA for their work and their consideration in this matter.

Sincerely,

Richard Dumas  
444 Overhill St  
Morgantown, WV  
304-276-1105

"The world is my country, all mankind are my brethren, and to do good is my religion."

Thomas Paine, Patriot

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Planning Commission Members,

Please accept these written comments in response to application S15-04-III, which is scheduled to be presented by a representative of American Campus Communities at the Thursday, March 12, 2015 Planning Commission meeting, and is to be considered under the standard assigned to Major Development of Significant Impact Site Plans.

My name is L. Zane Shuck, Ph.D., P.E. My physical address is 401 Highview Place, Morgantown, WV 26505. As a property owner within two hundred feet of the planned development, I received notification regarding the land use decisions pending before the Planning Commission. At this time, **I must urge the Planning Commission to not approve S15-04-III for the reasons detailed below.**

As an initial point of reference, I am the owner of multiple parcels of property that could be significantly impacted by a litany of factors not appropriately accounted for within the Site Plans for this project. Using Tax Map 14, or “Planning and Zoning Submittal Sheet 2b” as a guide, I am the owner of Parcel Nos. 43, 45, 46, 48, 49, 50, 51, 52, 56, 193.1, 194.4, and 193.5. To simplify, I am the sole owner of the majority of property located directly north of the planned development.

My concerns, however, are not limited to those of the private landowner. I am concerned for my neighbors, my community, and my city as a whole. If the scope and breadth of this project are not properly considered, I have legitimate fears that its impact could be catastrophic for all of Morgantown. For this reason, I ask that my comments be made part of the record of the March 12, 2015, proceedings. I also strongly urge the Planning Commission, City Manager, and City Engineer, to consider my points of concern, and consider delaying any and all aspects of this project until such a time that you can be certain that this project will not negatively affect the lives of the citizens who make this area our home.

In what is perhaps the biggest area of critical concern, **the Site Plans do not adequately address the unique geographical layout of the location in which the developer plans to conduct significant heavy construction.** In addition to this critical threshold issue, and despite the early nature of these plans, the following items must be properly considered and calculated before a project of this size should move forward:

**1. Insufficient details have been provided regarding the cuts, slips, and grading related to this project.** As stated previously, my property—as well as that of my neighbors and their families—lies atop of the area assuredly subject to significant excavation. With my own personal experience as a Registered Profession Engineer, with expertise in rock mechanics, I can assure the Commission that there are **huge risks involved with the present plan.** Specifically, the lack of detail regarding the cuts, slips, and grading are alarming. Even at this early juncture in the project’s development, when the property to be developed possesses such a high risk such as this location, an overabundance of caution would absolutely be justified.

**2. Insufficient details regarding the volumes of earth moved during excavation have been provided.** In reviewing the lengthy Site Plans, I could not determine the scope of the planned excavation for this area. Our City Code may require such information be provided at a different time and manner; however, my sincere alarm and fears should not be ignored, even during this early step. It has to be understood by all involved in the approval of this project that even a **small perturbation can trigger a huge event.** As I brought to the attention of the Assessor, Mark Musick, in my January 21, 2015 correspondence (attached as an Exhibit to these comments), “the proposed excavation there is grossly ill-advised and **could potentially result in slips that could block University Avenue if the right natural fracture system joints are lubricated.**” These issues are absolutely primary matters that must be properly calculated and planned before undertaking any construction in the area. Not only do they represent a safety risk for the community at large, they are a severe liability risk, which sound planning should account for.

**3. Insufficient information could cause unnecessary harm to many.** With the location and scope of the project being what it is, it is absolutely prudent to gain as much information at this early juncture as is possible. Without providing **information such as the slopes of the bedding plains in the immediate area**, the further development of this project needlessly puts many city residents at risk. Our area has been subject to small tremors in the past. If this project is properly performed, my property, my neighborhood, the five hundred students living in the facility, and countless city residents could be victims of a catastrophic land slide that could easily be prevented by educated and careful planning.

**4. Past history shows there is a high risk of triggering a catastrophic condition.** As many on the Commission are likely aware, our City has seen significant slippage and landslides in recent history. **Knowingly approving a plan that creates similar conditions needlessly puts citizens at risk.** For perspective, the downward slope from my driveway toward the planned Building B **is at an approximate fifty or sixty degree angle.** Any undercutting in this area could easily trigger an event that would undermine the entire hillside, ultimately denying me ingress or egress to my home, as well as jeopardizing my home and the newly developed buildings below. Should a tremor or other natural event occur after the work is performed, the damage likely to accompany the event could not be seen as an act of God. Rather, this will be an issue that proper planning could have prevented.

**5. Pedestrian traffic will negatively impact the community.** By these preliminary plans, it appears that pedestrian traffic onto Jones Avenue and Highview Place has not been adequately accounted for. As it stands, over five hundred student residents will have access to a parking lot on the northeastern portion of the development. This location makes pedestrian access to Jones Avenue very attractive to anyone wishing to walk to Mylan Puskar Stadium. **Without further fencing and other preventative measures**, I fear that my community will **face increased issues regarding the ingress and egress of students to the development**, including trespassing,

property damage, and littering throughout the neighborhood. This is a problem already affecting my community, and it will only multiply with the influx of new student residents.

**6. Insufficient Parking will spill over into the community.** While the Jones Avenue entrance to the property will be eliminated, the lack of parking for the facility as a whole will increase parking concerns in the area surrounding the facility. Even when calculating the forty-one off-site parking spaces, common sense dictates that as much as fifty percent of the population of this facility will be without a parking space. Directly adjacent to the parking lot, residents will obviously look to Jones Avenue and Highview Place. These areas are not equipped to handle this volume of parked vehicles any more than they are equipped to handle the traffic the Site Plan attempts to address. **The plans should consider the negative impact that inadequate parking will have on the adjacent community.**

**7. Privacy and the quiet enjoyment of my property are being eliminated.** The natural slope and location of my neighborhood has provided copious amounts of green space and privacy. This is now to be replaced with a multiple-storied apartment complex. The Site Plan has provided no reassurances that the space will take the quiet enjoyment of my property into account. **Privacy fencing, roof color, noise controls, etc.,** are all valid concerns that the Commission should consider when drastically altering the neighborhood of its fellow citizens.

**8. The Site Plans are insufficient to provide interested landowners the proper tools to voice their concerns.** Many aspects of the plans are simply insufficient to properly address all potential concerns over this proposed project. For example, **the full dimensions and specifications of the proposed retaining wall are crucial to understanding its ability to properly prevent catastrophic damage.** As currently provided, the setback reference points of the retaining wall north of Building "B" do not seem to properly address the load that this portion of the property (hillside) will be facing. Further, **the specifications and plans in general are not to a degree of specificity that should be required in a unique location such as this.** As an adjacent landowner with the types of concerns provided for above, **I request that full plans and specifications be provided to me, with a proper scale.**

**9. Adequate assurances should be provided to neighboring landowners.** The "Neighborhood Corridor" concepts and recommendations fail to provide any assurances to adjacent landowners that their way of living will be protected by this project. **As provided, it appears as though a quiet residential neighborhood will soon be wedged against one of the largest apartment complexes in the city.** While the Commission must understandably account for the city as whole, these considerations should not come at the absolute expense of those unlucky enough to be living adjacent to this development. Assurances should be given to adjacent landowners providing that manner in which their neighborhood will be protected against the planned construction, variances, and increased population growth. **Future assurances that the requested variances will not affect future developments in the area, for example, would be a good start.**

**10. The Plans downplay the significant impact on traffic flow through University Avenue.**

By way of my home's physical location and my time spent on the Morgantown Traffic Commission, I know that congestion already facing University Avenue. During peak hours throughout the day, traffic is essentially at a standstill. Adding five hundred more residents, in addition to the increase from the residents of university Place, will negatively affect every individual who travels by way of University Avenue in the future. As a logical effect of the increased traffic flow and residential additions, pedestrian traffic will increase as well. **One of the main roadways connecting major portions of our city will be impassable.**

**11. The Planning Commission needs to address the line of demarcation between residential areas and development.** It must be understood by the Commission that the developments in this area are not viewed as positive additions by the entirety of the community. **Assurances should be offered to residents that the City and the Planning Commission have their best interest in mind.** A clear statement addressing a distinct line of demarcation between residential areas and development should be provided.

### CONCLUSION

The proposal before the commission presents a bleak proposition for me, a long-time resident, taxpayer, and contributor to this community. Truthfully, from my perspective, there is not a single positive to be gained from this project. In the immediate future, I will be surrounded by heavy construction. This construction threatens to have a catastrophic impact on the stability of my land. Once completed, the increased population stacked below me will cause logistical and liability concerns. This not only affects my way of life in regards to the quiet enjoyment of my property, but I will have to spend time, money, and resources to protect myself from these concerns.

For these reasons, **I do object to S15-04-III.** I request that the Planning Commission deny the plan as proposed, or in the alternative, postpone its decision until such a time that these concerns can be properly evaluated. Should the Commission move forward, I would request that:

- **Open discourse be provided to the neighborhood concerning the development of the project.**
- **Complete plans be shared with myself and any other concerned citizen.**
- **An overabundance of caution be used when planning and preparing any and all excavation in this area.**
- **Consideration regarding the impact on the adjacent community be placed at the forefront of this project, as well as others like it.**

Ignoring the risks involved in excavating and building a project at this sensitive location is not sound city planning. My fear is that the less time and attention given to these preliminary

matters will undoubtedly lead to more mistakes down the road; especially when less scrutiny is placed on the developer's operations. Progress and development can be great for our community, but not at the expense of our livelihoods. Requiring more sufficient preliminary information will only help the city and the developer. Pushing these concerns aside for progress's sake helps no one.

Sincerely,

/s/ L. Zane Shuck, Ph.D.,  
Registered Professional Engineer, OH & WV.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-16
RECEIVED:	2/16/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

OK 10314

<b>I. APPLICANT</b>		Name: American Campus Communities	
Mailing Address:	12700 Hill Country Blvd Suite T-200		Phone: 512-732-1000
	Street	Austin Texas 78738	Mobile:
	City	State Zip	Email: jdelacruz@americancampus.com
<b>II. PROPERTY</b>		Street Address: 235 Jones Avenue	
Owner:	Same	Zoning:	R-3 / CSOD / SSOD
Mailing Address:	Same		Tax Map No: 20/14
	Street		Parcel No: 184, 184.1, 185, 186, 187/193
	City	State Zip	Phone: Same
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief to permit the development of a surface parking lot at the intersections of Jones Avenue/Highview Place, Jones Avenue/Overhill Street, and Overhill Street/Quay Street [Article 1361.03(Q)(4)]</p>			
<b>V. ATTEST</b>			
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
Lisa K Mardis			02/02/2015
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date

PAID PAID PAID  
 FEB 06 2015  
 BY: DB

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	115-16
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- [X] Residential      [ ] Single-Family Dwelling      [ ] Townhouse Dwelling
- [ ] Two-Family Dwelling      [X] Multi-Family Dwelling
- [ ] Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

Building A: 25,332 SF      Community Center: 3,228 SF  
 Building B: 11,276 SF      Maintenance Building: 910 SF  
 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-16
RECEIVED:	

**VII. FINDINGS OF FACT** | COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Attached

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Attached



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-16
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>Attached</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>Attached</p>	

## STAFF REPORT ADDENDUM B

### ACC / University Avenue

VIS-16

Article 1361.03(Q)(4) as it relates to surface parking lots at the intersection of two public right-of-ways

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**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Continued efforts to increase residential density in the downtown area, within walking distance of primary residential destination points, and within a well-served transit corridor should serve to aid in relieving housing development demand in outlying areas of Monongalia County that contribute to traffic congestion within the City of Morgantown. The current Sunnyside Commons development is bordered by Jones Avenue, University Avenue, and Highview Place. The off-site parking area is bordered by Jones Avenue, Overhill Street, and Quay Street. Given the public right-of-ways and the steep topography, surface parking lots appear to be the best parking plan for this realty.

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The design professionals have worked diligently to ensure that all on-site parking areas have been utilized to the fullest and meet the Planning and Zoning Code not to exceed a 10% grade. However, due to the steep terrain and the Fire Department requirement for hammerhead turn-arounds to be located in the uppermost surface parking lot in conjunction with the emergency access to/from Jones Avenue, the only alternate was to obtain ownership of an off-site parking facility. The off-site surface parking facility will be constructed by West Virginia University and transferred to ACC post construction.

The redevelopment of the Sunnyside Commons site as proposed represents a unique opportunity to provide desired residential densities. The proposed redevelopment reflects minimum parking obligations within the adjoining zoning districts, which furthers smart growth principals including compact building design and walkability and will promote regular use of alternative modes of transportation which include increasing public transit ridership.

VIS-14

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

The subject realty, located at the fringe of the Sunnyside Overlay District, is bordered by University Avenue, Jones Avenue, and Highview Avenue, limiting adequate redevelopment area for off-street parking not located at an intersection. The topography of the site further appears to limit vehicular storage. The design professionals have worked diligently to assure compliance with all parking regulations. The off-site parking area at the intersection of Overhill Street, Jones Avenue, and Quay Street will be located behind the West Virginia University garage that is currently under construction. The surface parking area, which will also be constructed by West Virginia University and transferred to ACC will contain approximately forty-one (41) spaces and will be accessible from Quay Street.

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

By granting this variance, the developer will be able to redevelop an aging and underutilized multi-family development with requisite parking. The realty is located on the fringe of the Sunnyside Overlay Districts, has steep terrain, and is bordered by public numerous right-of-ways.

The redevelopment of the Sunnyside Commons site as proposed represents a unique opportunity to provide desired residential densities. The proposed redevelopment reflects minimum parking obligations within the adjoining zoning districts, which furthers smart growth principals including compact building design and walkability and will promote regular use of alternative modes of transportation which include increasing public transit ridership.



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN - CONDITIONAL USE

cf 10314

OFFICE USE	
CASE NO.	CU15-03
RECEIVED:	2/16/15
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT			
Name:	American Campus Communities	Phone:	512-732-1000
Mailing Address:	12700 Hill Country Blvd, Suite T-200	Mobile:	
	Street Austin TX 78738	Email:	jdelacruz@americancampus.com
	City State Zip		
II. AGENT / CONTACT INFORMATION			
Name:	Project Management Services	Phone:	304-212-5256
Mailing Address:	160 Fayette Street Ste 101	Mobile:	304-692-7116
	Street Morgantown WV 26505	Email:	pms160@comcast.net
	City State Zip		
Mailings -	Send all correspondence to (check one): <input checked="" type="checkbox"/> Applicant OR <input type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	American Campus Communities	Phone:	512-732-1000
Mailing Address:	12700 Hill Country Blvd, Ste T-200	Mobile:	
	Street Austin TX 78738	Email:	jdelacruz@americancampus.com
	City State Zip		
IV. SITE			
Street Address (if assigned):	235 Jones Ave	Tax Map #:	20/14
		Parcel #:	184, 184.01, 185, 186, 187/193
Zoning:	R-3/SSOD/CSOD		
Lot Dimensions:	Width: 120 Ft.	Depth: 165 Ft.	Square Footage: 23,239 ft. <sup>2</sup>
Shape of Lot:	<input checked="" type="checkbox"/> Corner <input type="checkbox"/> Interior <input type="checkbox"/> Through <input type="checkbox"/> Flag <input type="checkbox"/> Irregular <input type="checkbox"/> Non-conforming		
Existing Use of Structure or Land:	Parking area is currently under construction		
Proposed Use of Structure of Land:	parking		

"PRIVATE PARKING LOT" USE ARTICLE 1331.05  
"OFF-SITE PARKING FACILITY" ARTICLE 1365.07

DB



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU15-03
RECEIVED:	2/6/15
COMPLETE:	

V. STRUCTURE

Proposed Setbacks: Front: — ft. Rear: — ft. Side A: — ft. Side B: — ft.  
 Proposed Height of Structure: N/A No. of Proposed Off-Street Parking Spaces: 41  
 No. of Dwelling Units (if applicable): N/A No. of Bedrooms: N/A No. of Employees: N/A  
 Square Footage of all Proposed Structures (please explain):

VI. SITE PLAN

A Site Plan (8 copies), drawn to scale, that includes the following elements must accompany the application if not provided above in Sections IV and V:

- (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia.
- (b) The exact sizes and locations on the lot of existing structures, if any;
- (c) The location, square footage, and dimensions of the proposed structure or alteration;
- (d) The location of the lot with respect to adjacent rights-of-way;
- (e) The existing and proposed uses of the structure and land;
- (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
- (g) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (h) Height of structure;
- (i) Setbacks;
- (j) Buffer yard and screening, if applicable;
- (k) Location of garbage collection area and screening;
- (l) Location of existing and/or proposed signs, if applicable;
- (m) Roadway typical detail for internal roadways, if applicable;
- (n) Location and size of stormwater management facilities; and,
- (o) Utility lines and easements, if applicable.



**APPLICATION FOR  
TYPE IV SITE PLAN – CONDITIONAL USE**

OFFICE USE	
CASE NO.	CU15-03
RECEIVED:	
COMPLETE:	

**VII. SUPPLEMENTAL PLANS AND EXHIBITS**

Applicants **MUST** also submit the following plans and exhibits, unless waived by the Planning Director:

- (a) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer licensed by the State of West Virginia, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets.
- (b) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer licensed by the State of West Virginia that meet the requirements of the City Zoning Ordinance, the City Stormwater Management Ordinance, and all other applicable local, state and federal regulations.
- (c) Parking and Landscaping Plan
- (d) Sign Plan
- (e) Approved WV Division of Highways Access Permit, if applicable
- (f) Sediment and erosion control plan as approved by the West Virginia Department of Environment Protection and the City of Morgantown
- (g) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable
- (h) A traffic impact study, if required by the City Engineer
- (i) The Planning Director may require the applicant to submit additional information concerning the lot or neighboring lots to determine conformance with, and provide for the enforcement of, the City Zoning Ordinance.
- (j) The Planning Director may require the applicant to submit, in the case of accessory structures or minor additions, dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey prepared a registered design professional licensed by the State of West Virginia.

Applicants submitting a conditional use application in accordance with Article 313.05 "Building Height and Use" within the B-4 General Business District **MUST** also submit the following analyses:

- (a) An air flow analysis conducted by a licensed architect or profession engineer, describing the estimated impact of the proposed building on existing patterns of air flow in the general vicinity; and how those impacts may affect existing properties with a 300 foot radius of the site.
- (b) An analysis of the impacts of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.
- (c) An analysis of the potential of "stepping back" upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize the canyon effect of non-recess tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.
- (d) An infrastructure and traffic analysis predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city. Such analysis shall be conducted by a licensed architect or professional engineer.



**APPLICATION FOR  
TYPE IV SITE PLAN – CONDITIONAL USE**

<b>OFFICE USE</b>	
CASE NO.	<b>CU15-03</b>
RECEIVED:	_____
COMPLETE:	_____

**VIII. FINDINGS OF FACT**

The Board of Zoning Appeals may grant the request only if each of the Conditional Use Findings of Fact Criteria is determined to be in the positive. Applicants must give their own responses to the criteria statements provided below.

**This Conditional Use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because,**

1. Congestion in the streets is not increased, in that:

2. Safety from fire, panic, and other danger is not jeopardized, in that:

3. Provision of adequate light and air is not disturbed, in that:

*attached  
jmm*

4. Overcrowding of land does not result, in that:

5. Undue congestion of population is not created, in that:



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CW15-03
RECEIVED:	_____
COMPLETE:	_____

<b>VIII. FINDINGS OF FACT (cont.)</b>		
6. Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:		
7. Value of buildings will be conserved, in that:		
8. The most appropriate use of land is encouraged, in that:		
<b>IX. ATTEST</b>		
I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.		
<u>Lisa Mandis</u>	<u>Lisa K Mandis</u>	<u>2/5/15</u>
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

- Conditional Use Petition Fee of \$75 must accompany application

**ACC / University Avenue / CU**  
**Article 1331.05 as it relates to off-site**  
**parking**

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**Finding of Fact No. 1** – Congestion in the streets is not increased, in that:

The proposed surface parking lot located at the intersection of Quay and Overhill Streets is currently being constructed by West Virginia University and will be transferred to American Campus Communities (ACC) after completion. The surface parking lot will be utilized by the proposed development to fulfill the parking requirement and supports student housing at the edge of campus(es) thereby reducing commute trips from housing located outside of the City and resultant congestion. The applicant is proposing to utilize approximately forty-one (41) parking spaces. The surface lot is approximately eighty-eight (88) feet from the proposed development site. In conjunction with eliminating access into the Wiles Hill Neighborhood, this surface lot will remove any student parking on Jones Avenue that has been associated with Sunnyside Commons.

Alternate modes of transportation are readily available within the University Avenue corridor where increased multi-family residential is a desired development pattern in the Sunnyside-Up Neighborhood Revitalization Plan and the City's Comprehensive Plan.

The proposed site plan identifies the parcel configuration and setbacks for the subject development site, which illustrate that limited buildable area appears to remain for any type of development given the geometry of the parcel, required building envelope, and the topography of the site.

**Finding of Fact No. 2** – Safety from fire, panic, and other danger is not jeopardized, in that:

The proposed off-site parking facility will be constructed prior to ownership. However, the surface lot will meet minimum aisle width and parking stall size, therefore not jeopardizing life safety requirements. The parking facility will be well lit for safety.

**Finding of Fact No. 3** – Provision of adequate light and air is not disturbed, in that:

The proposed off-site surface parking facility will be constructed prior to ownership and is located below the grade of Jones Avenue and should not adversely impact existing light distribution or air flow patterns.

**Finding of Fact No. 4** – Overcrowding of land does not result, in that:

The Planning and Zoning Code provides the opportunity of dedicating off-site parking facilities to mitigate overcrowding of development patterns. No new structures are proposed to provide the off-site parking; it will be located and dedicated in an existing surface parking area.

CUI5-03

**Finding of Fact No. 5** – Undue congestion of population is not created, in that:

The Planning and Zoning code provides the opportunity of dedicating off-site parking to mitigate population congestion. Additionally, increased multi-family residential density along University Avenue Corridor is a desired development pattern in the Sunnyside-Up Neighborhood Revitalization Plan and city's Comprehensive Plan.

The petitioner affirms that most of the current Seneca Commons inhabitants walk to the campus or utilize the University's or public transportation. The location of the project site supports student housing at the edge of campus thereby reducing commute trips from housing outside the city and resultant congestion.

**Finding of Fact No. 6** – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed off-site surface parking facility will be constructed prior to ownership by ACC and is located below the grade of Jones Avenue. The parking facility will act as a deterrent to any Sunnyside Common resident attempting to park on Jones Avenue.

The petitioner affirms that most of their other tenants in the area walk to campus or utilize the University's or public transportation. The location of the project site supports student housing at the edge of campus thereby reducing commute trips from housing outside the city and resultant congestion.

The conditional use request will neither increase nor decrease demand for said public infrastructure as it is existence and already serves as a rental parking area. The proposed development and off-premise parking does not appear to require public facilities or services beyond those existing conditions.

CW15-03

**Finding of Fact No. 7** – Value of buildings will be conserved, in that:

The proposed off-site parking lot appears necessary to continue private sector efforts of increased residential density in the Sunnyside area thereby adding value and incentive for continued redevelopment and property maintenance.

New construction should further existing market value and interest in continued development. The off-site parking facility should also serve as a deterrent of students taking on-street parking away from the residents of the Wiles Hill Neighborhood.

The proposed conditional off-premise parking use will be located within an existing vicinity parking area and will contain the required signage associated with other off-site parking approvals.

**Finding of Fact No. 8** – The most appropriate use of land is encouraged, in that:

The redevelopment of Sunnyside Commons creates an opportunity to increase residential density in the Sunnyside area, on the fringe of campus(es). The proposed off-site parking facility will be constructed prior to ownership.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-19
RECEIVED:	2/6/15

OK 10314

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name: American Campus Communities	
Mailing Address:	12700 Hill Country Blvd Suite T-200		Phone: 512-732-1000
	Street	Austin Texas 78738	Mobile:
	City	State Zip	Email: jdelacruz@americancampus.com
<b>II. PROPERTY</b>		Street Address: 235 Jones Avenue	
Owner:	Same		Zoning: R-3/SSOD/CSUD
Mailing Address:	Same		Tax Map No: 20/14
	Street		Parcel No: 184, 184.1, 185, 186, 187/193
	City	State Zip	Phone: Same
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief from dedicating at least sixty (60) percent of the ground floor space along University Avenue for commercial use [Article 1361.03(Q)(1)]</p> <p style="text-align: center;">PAID FEB 06 2015 BY: DB</p>			
<b>V. ATTEST</b>			
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
Lisa K Mardis			02/02/2015
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-19
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- [X] Residential      [ ] Single-Family Dwelling      [ ] Townhouse Dwelling
- [ ] Two-Family Dwelling      [X] Multi-Family Dwelling
- [ ] Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

Building A: 25,332 SF      Community Center: 3,228 SF  
 Building B: 11,276 SF      Maintenance Building: 910 SF  
 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-19
RECEIVED:	

**VII. FINDINGS OF FACT** COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Attached

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Attached



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-19
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>Attached</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>Attached</p>	

## STAFF REPORT ADDENDUM B

### ACC / University Avenue

V15-19

Article 1361.03(Q)(1) as it relates to commercial on ground floor on primary street

Staff recommended revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined).

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The redevelopment of this property without the non-residential component will not harm this or surrounding properties in the vicinity as there currently are no non-residential uses located on this realty. The potential to increase desirable student housing could actually improve the area by inspiring further development and the removal of blighted properties. The physical constraints, such as the steep grade, make market absorption of commercial space along this section of a University Avenue challenging and uncertain.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

While the Planning and Zoning Code states that University Avenue is a "Primary Street," lack of pedestrian traffic and terrain that does not permit for the required parking that would be needed for commercial use dictates otherwise. Further, the Code does not recognize site constraints associated with the east side of University Avenue, specifically the steep terrain this far north from the small business area on University Avenue.

Overbuilding commercial space could result in absorption rates that do not meet conventional development financing standards. High vacancy rates in these areas do not meet market needs in terms of location and square footage.

As WVU continues to increase enrollment, it can be anticipated that more and more students will be looking for affordable housing in the Sunnyside area. Allowing residential use on the first floor would actually encourage development and provide a more reliable source of income than the potentially vacant storefronts required by the Planning and Zoning Code.

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

The City's Planning and Zoning Code, relative to the Sunnyside Overlay Districts, does not reflect realistic opportunities and constraints. The requirement of providing commercial space along the entire length of University Avenue in the Sunnyside Overlay District attempts to create retail activity rather than preserve or expand existing uses.

Currently, there are no mixed-use or commercial uses located this far north on University Avenue. Historically within the area, mixed-use and commercial uses have been limited to University Avenue around the vicinity of University Place.

Other development that has received a similar variance includes 116 Third Street, 152 Third Street, 146 Third Street, Glenlock North, 507 Beechurst Avenue among others.

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

Overbuilding commercial space could result in absorption rates that do not meet conventional development financing standards. High vacancy rates in these areas do not meet market needs in terms of location and square footage.

As WVU continues to increase enrollment, it can be anticipated that more and more students will be looking for affordable housing in the Sunnyside area. Allowing residential use on the first floor would actually encourage development and provide a more reliable source of income than the potentially vacant storefronts required by the Planning and Zoning Code.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-13
RECEIVED:	2/6/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

OK 10314

<b>I. APPLICANT</b>		Name:	American Campus Communities		
Mailing Address:	12700 Hill Country Blvd Suite T-200		Phone:	512-732-1000	
	Street	Austin Texas 78738	Mobile:		
	City	State Zip	Email:	jdelacruz@americancampus.com	
<b>II. PROPERTY</b>		Street Address:	235 Jones Avenue		
Owner:	Same		Zoning:	R-3/CSOD/SSOD	
Mailing Address:	Same		Tax Map No:	20/14	
	Street		Parcel No:	184, 184.1, 185, 186, 187/193	
	City	State Zip	Phone:	Same	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).			
<p>Variance relief to exceed the maximum building height requirement in stories for Building A [Article1339.06(A)]</p> <div style="text-align: center;"> </div>					
<b>V. ATTEST</b>		I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.			
Lisa K Mardis				02/02/2015	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-13
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling
- Two-Family Dwelling       Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

Building A: 25,332 SF      Community Center: 3,228 SF  
 Building B: 11,276 SF      Maintenance Building: 910 SF  
 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-13
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Attached

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Attached



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V1513
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>Attached</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>Attached</p>	

## STAFF REPORT ADDENDUM B

### ACC / University Avenue

Article 1339.06(A) as it relates to maximum  
building height – Building A

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V15-13

**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Building A, predominant structure along University Avenue appears to be 4-5 stories, with stepped heights as the building proceeds north on University Avenue with a maximum height of 55'9".

The proposed design of the development site will cluster the majority of living space in Building A and Building B along University Avenue, a primary street as defined in Article 1361.02. This design will relegate most resident and pedestrian activities to the University Avenue corridor and vicinity, thus funneling any potentially adverse impacts away from existing single and two-family structures on Jones Avenue and Highview Place. The variance sought here – to extend the height of portions of Building A to 5 stories – would permit the realization of a development design that increases density of living space along a primary street that is well-lit, well-served, and on public transit routes.

The height difference and architectural design on Building A, community center, will create a sense of place and a focal point on a primary street.

V15-13

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Building "A" is the predominant structure on University Avenue and is shown as 4 and 5 stories, with stepped heights as the building proceeds along University Avenue. The maximum height labeled on the plans is 55'-9".

Article 1329.02 provides that building height in feet is the vertical distance measured from the lot ground level to the highest point of the flat roof. On lots with topographical elevation changes, the lot ground level shall be constructed to mean the halfway point between the highest and lowest elevations of the building footprint. Building height calculation shall not include chimneys, spires, elevator and mechanical penthouses, water tanks, radio antennas, and similar projections. Although the maximum height is labeled on Sheet A5.00 as 55'-9", the correct means of calculating the building height in feet must include the lowest elevation, which would be located along the rear of Building "A".

The floor plans demonstrate that the front of the building has one more level than the rear of the building varying from 4 (front) and 3 (rear) levels to 5 (front) and 4 (rear) levels. Assuming that the halfway point between the highest and lowest elevations of Building "A" is 55 feet or less, variance relief is not required in relation to building height in feet.

Variance relief is required for those portions of the building that contain 5 stories along the front elevation. Specifically, the lowest level along the 5-story portion of Building "A" cannot be considered a basement, as defined in Article 1329.02, because said space does not have one-half or more of its floor-to-ceiling height below the average level of the adjoining grade.

The immense topographical elevation changes exhibited by the development site prohibit the construction of horizontally expansive structures. In order to build in such a way that maximizes permitted densities and satisfies open space requirements within the development site, construction must expand vertically upon the small amount of low-slope land available.

V15-13

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

Variance approval will permit a portion of Building A to encroach into the height requirement. This approval would eliminate the challenges presented by steep grades at the development site. Further, the variance would permit the realization of a development design that increases the density of infill residential structures along a primary street that is well-lit, well-serviced, and proximal to the main university campus.

The topographical elevation challenges exhibited by the development site prohibit the construction of horizontally expansive structures. In order to build in such a way that maximizes permitted densities and satisfies open space requirements within the development site, construction must expand vertically upon the small amount of low-slope land available.

The proposed redevelopment is contained in the R-3, Multi-family Residential District, the South Sunnyside Overlay District, and the Central Sunny side Overlay District. According to Article 1339.06 Building Height in the R-3 District is (A) The permitted maximum height shall be four (4) stories or fifty-five (55) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions. A conditional use permit shall be required for buildings in excess of fifty-five (55) feet but less than eighty (80) feet. Concurrently, Article 1361.04 states that in the Sunnyside South Overlay District: (1) Buildings that contain non-residential uses on the ground floor may have a maximum height of eighty-eight (88) feet, provided all other requirements of the zoning ordinance are met. (2) Buildings taller than fifty-five (55) feet shall not require a conditional use permit.

The South Sunnyside Overlay District does not address the issue of building height in stories measured from the front. Therefore it appears that the legislative intent of permitting a by-right height bonus of up to eighty (80) feet, based on elementary design and construction common sense, is to permit, by-right, buildings taller than four (4) stories measured from the front. Otherwise, you would have four (4) 20-foot stories.

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

The proposed redevelopment is contained in the R-3, Multi-family Residential District, the South Sunnyside Overlay District, and the Central Sunny side Overlay District. According to Article 1339.06 Building Height in the R-3 District is (A) The permitted maximum height shall be four (4) stories or fifty-five (55) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions. A conditional use permit shall be required for buildings in excess of fifty-five (55) feet but less than eighty (80) feet. Concurrently, Article 1361.04 states that in the Sunnyside South Overlay District: (1) Buildings that contain non-residential uses on the ground floor may have a maximum height of eighty-eight (88) feet, provided all other requirements of the zoning ordinance are met. (2) Buildings taller than fifty-five (55) feet shall not require a conditional use permit.

The South Sunnyside Overlay District does not address the issue of building height in stories measured from the front. Therefore it appears that the legislative intent of permitting a by-right height bonus of up to eighty (80) feet, based on elementary design and construction common sense, is to permit, by-right, buildings taller than four (4) stories measured from the front. Otherwise, you would have four (4) 20-foot stories.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-14
RECEIVED:	2/16/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

OK 10314

<b>I. APPLICANT</b>	Name:	American Campus Communities
---------------------	-------	-----------------------------

Mailing Address:	12700 Hill Country Blvd Suite T-200	Phone:	512-732-1000
	Street Austin Texas 78738	Mobile:	
	City State Zip	Email:	jdelacruz@americancampus.com

<b>II. PROPERTY</b>	Street Address:	235 Jones Avenue
---------------------	-----------------	------------------

Owner:	Same	Zoning:	R-3/CSOD/SSOD
Mailing Address:	Same	Tax Map No:	20/14
	Street	Parcel No:	184, 184.1, 185, 186, 187/193
	City State Zip	Phone:	Same

<b>III. NARRATIVE</b>	Please describe the nature and extent of your variance request(s).
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Variance relief to permit Building "C" to be oriented toward the parking area [Article 1361.03 (C)]

PAID PAID PAID  
FEB 06 2015  
BY: DB

<b>V. ATTEST</b>
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I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.

Lisa K Mardis		02/02/2015
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



APPLICATION FOR VARIANCE PETITION

OFFICE USE table with CASE NO. V15-14 and RECEIVED:

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

Land Use Characteristics (complete only those that apply)

- Residential, Single-Family Dwelling, Townhouse Dwelling, Two-Family Dwelling, Multi-Family Dwelling, Non-Residential or Mixed

Structure Characteristics (complete only those that apply)

Total number of buildings: 3, Gross floor area of each building: listed below, Estimated number of employees: TBD, No. of dwelling units: 134, No. of bedrooms: 536

Additional Information (as required by Staff):

Building A: 25,332 SF, Community Center: 3,228 SF, Building B: 11,276 SF, Maintenance Building: 910 SF, Building C: 14,139 SF, Total: 54,885SF

Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site. Standard yard setbacks for the applicable zoning district. Location, grade, and dimensions of paved surfaces, and all abutting streets. Existing and proposed contours, at an interval of at least two (2) feet. Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements. Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required.



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-14
RECEIVED:	

**VII. FINDINGS OF FACT** COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Attached

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Attached



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-14
RECEIVED:	

**VII. FINDINGS OF FACT** COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

**3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

Attached

**4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

Attached

# STAFF REPORT ADDENDUM B

## ACC / University Avenue

V15-14

Article 1361.03(C) as it relates to building orientation for building C

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**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Building C of the proposed development is oriented onto a private street that contains requisite parking. Due to the terrain and placement of Building A, it appears Building C will not be visible for the most part from University Avenue and frontage not visible from Jones Avenue.

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Recent code changes permit the placement of more than one principal multi-family residential structures on a single realty. Due to the topography of the site, design professionals diligently situated buildings as to not interfere with the Wiles Hill Neighborhood by locating them closest to the primary street, which is University Avenue. Building C of the proposed development is oriented onto a private street that contains requisite parking. Due to the terrain and placement of Building A, it appears Building C will not be visible for the most part from University Avenue and frontage not visible from Jones Avenue.

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

Due to the steep topography and to eliminate disturbance with the Wiles Hill Neighborhood, the buildings were pushed west on the property near University Avenue. Variance relief will permit a reasonable use of the property and permit Building C to front a private right-of-way leading to Quay Street.

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

In 2013, the Planning and Zoning Code was altered to permit more than one principal structure in the R-3 District. Given the steep terrain and the developer's promise to the Wiles Hill Neighborhood to severe access on to Jones Avenue, building placement was pushed west. Therefore, building C does not face Jones Avenue but a private right-of-way with requisite parking. Approving this variance still meets the spirit and intent of the Planning and Zoning Code since it will front a private street.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-18
RECEIVED:	2/16/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

OK 10314

<b>I. APPLICANT</b>		Name: American Campus Communities	
Mailing Address:	12700 Hill Country Blvd Suite T-200		Phone: 512-732-1000
	Street	Austin Texas 78738	Mobile:
	City	State Zip	Email: jdelacruz@americancampus.com
<b>II. PROPERTY</b>		Street Address: 235 Jones Avenue	
Owner:	Same		Zoning: R-3/CSOD/SSOD
Mailing Address:	Same		Tax Map No: 20/14
	Street		Parcel No: 184, 184.1, 185, 186, 187/193
	City	State Zip	Phone: Same
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief to access parking areas from the primary street (University Avenue) [Article 1361.03(Q)(7)]</p> <p style="text-align: right;">PAID FEB 06 2015 BY: <i>DB</i></p>			
<b>V. ATTEST</b>			
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
Lisa K Mardis		<i>Lisa K Mardis</i>	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	
		Date	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-18
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- [X] Residential      [ ] Single-Family Dwelling      [ ] Townhouse Dwelling
- [ ] Two-Family Dwelling      [X] Multi-Family Dwelling
- [ ] Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

Building A: 25,332 SF      Community Center: 3,228 SF  
 Building B: 11,276 SF      Maintenance Building: 910 SF  
 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-18
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Attached

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Attached



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-18
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

**3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

Attached

**4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

Attached

## STAFF REPORT ADDENDUM B

### ACC / University Avenue

V15-18

Article 1361.03(Q)(7) as it relates to parking area access  
from a primary street

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**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

The current Sunnyside Commons development consists of entry points on Jones Avenue with a main entrance on University Avenue. The design professionals worked diligently to ensure that the access from Jones Avenue would be vacated to further protect the single-family neighborhood east of the development. The main access for the redevelopment will remain on University Avenue with a connector street to the parking areas, which is necessary for fire department access. There will also be a gated ingress/egress on Jones Avenue for emergency vehicles only. The point of egress onto Quay Street is not conducive for a main entrance point due to right-of-way width and fire truck access.

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The current Sunnyside Commons development consists of entry points on Jones Avenue with a main entrance on University Avenue. The design professionals worked diligently to ensure best access management practices due to the topography of the realty in relation with University Avenue. The access from Jones Avenue will be vacated to further protect the single-family neighborhood east of the development. The main access for the redevelopment will remain University Avenue which is necessary for fire department access. There will be a gated ingress/egress on Jones Avenue for emergency vehicles only. The Quay Street egress is not conducive for a main entrance point due to road width and fire truck access.

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

The current Sunnyside Commons development consists of entry points on Jones Avenue with a main entrance on University Avenue. With support from the Wiles Hill Neighborhood Association, the access point on Jones Avenue will be eliminated to thru traffic and only utilized by emergency vehicles with breakaway bollards.

The design professionals worked diligently to ensure best access management practices by retaining the main access point for the redevelopment on University Avenue. This is necessary for fire department access. There will also be a point of egress onto Quay Street but is not conducive for a main entrance point due to right-of-way width and fire truck access.

Since University Avenue is a West Virginia State Route, a Department of Highway Access permit will be obtained.

V15-18

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

Article 1361.03(Q)(7) provides "Private parking areas shall be accessed from secondary streets and/or alleys. Access from primary streets shall only be utilized when other options are not available." With the Wiles Hill Neighborhood Association supporting the removal of the Jones Street access point to thru traffic, the redevelopment will maintain the current main access point on University Avenue with an egress on to Quay Street. Due to the topography, the design professionals worked diligently to ensure best access management practices on University Avenue. This is necessary for fire department access.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-12
RECEIVED:	2/6/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

OK 10314

<b>I. APPLICANT</b>		Name:	American Campus Communities		
Mailing Address:	12700 Hill Country Blvd Suite T-200			Phone:	512-732-1000
	Street	Austin	Texas	78738	Mobile:
	City	State		Zip	Email: jdelacruz@americancampus.com
<b>II. PROPERTY</b>		Street Address:	235 Jones Avenue		
Owner:	Same			Zoning:	R-3/CSOD/SSOD
Mailing Address:	Same			Tax Map No:	20/14
	Street			Parcel No:	184, 184.1, 185, 186, 187/193
	City	State		Zip	Phone: Same
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).			
<p>Variance relief from constructing a sidewalk along the site's Highview Place frontage [Article 1339.07(F)]</p> <p>Variance relief to construct a six-foot sidewalk along the primary street (University Avenue) - a 2-foot variance request [Article 1361.03(L)]</p> <p><i>RELIEF FROM CONSTRUCTING AN EIGHT (8) FOOT SIDEWALK TO THE NORTHERN MOST POINT OF PROPERTY ALONG UNIVERSITY AVE. AND INCORPORATING A FORE LANE IN FRONT OF BUILDING B.</i></p>					
<b>V. ATTEST</b>		BY: _____			
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>					
Lisa K Mardis					02/02/2015
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent			Date

PAID  
 PAID FEB 06 2015  
 PAID  
 BY: \_\_\_\_\_

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-12
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling
- Two-Family Dwelling       Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

Building A: 25,332 SF      Community Center: 3,228 SF  
 Building B: 11,276 SF      Maintenance Building: 910 SF  
 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-12
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Attached

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Attached



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V13-12
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>Attached</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>Attached</p>	

## STAFF REPORT ADDENDUM B

V15-12

### ACC / University Avenue

Article 1339.07(F) & 1361.03(L) as it relates to  
sidewalks

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**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

The proposed site plan appears to significantly improve public safety by eliminating the existing curb cut on Jones Avenue and not including a sidewalk on Highview Place. The design professionals worked diligently to eliminate any access into the Wiles Hill Neighborhood by Sunnyside Common residents while still creating pedestrian access to the proposed Mountain Line bus stop to be located north of building B and leading south to the main campus.

The redevelopment includes eight (8) foot sidewalks the length of property on University Avenue, in front of Building A and B with requisite landscaping. Due to the required fire truck pull off area in front of Building B, the sidewalk in this area dumps into the raised fire lane on both ends of the building but only extends from road entrance to the upper end of Building B. The sidewalks along University Avenue will comply with ADA regulations.

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The development site is bound on three sides by public rights-of-way including Jones Avenue, Highview Place, and University Avenue. Additionally, it appears that from the intersection of Jones Avenue and Highview Place to the intersection of University Avenue and Quay Street realty drops approximately 100 feet.

The design professionals used all available area on University Avenue while attempting not to have massive retaining walls for the required sidewalks. Additionally, all parking areas offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. It appears that the construction of a sidewalk and associated retaining wall adjacent to Highview Place would prohibit the use of parking areas as a logical amenity for residents, and may promote access to the single family neighborhood.

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

This proposed multi-family development contributes to positive urban infill due to the placement within a walkable community. The current Sunnyside Commons development is not pedestrian friendly in that there are not currently sidewalks on this side of University Avenue and no safe crossing area to the opposite side of the street where non-conforming sidewalks currently exist.

An eight (8) foot sidewalk will be incorporated along University Avenue in front of Building A for pedestrian access to a proposed bus stop on site and also for access to the community center and points south. While the sidewalk width becomes constricted in front of Building B due to the required fire truck access/pull off area, the side walk will be compliant with ADA regulations.

Additionally, all parking areas offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. It appears that the construction of a sidewalk and associated retaining wall adjacent to Highview Place would prohibit the use of parking areas as a logical amenity for residents, and may promote access to the single family neighborhood.

The site is bordered by three public rights-of-way and has significant elevation changes. The proposed redevelopment plan significantly improves public safety by separating pedestrian and vehicular flow, and incorporating best access management practices.

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

The site has been designed to maximize best access management practices while maintaining the spirit and intent of the Planning and Zoning Code. A pedestrian-friendly environment is desirable throughout the City, but it is especially important in residential areas, around commercial centers and near community facilities. Each of these destinations needs to be accessible by commonly used routes which are pedestrian-transit-bicycle friendly.

The parking areas located in the vicinity of Jones Avenue and Highview Place offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. Additionally, all parking areas offer direct and easy access for pedestrians from the car to building, as well as coherent circulation routes. It appears that the construction of a sidewalk and associated retaining wall adjacent to Highview Place would prohibit the use of parking areas as a logical amenity for residents, and may promote access to the single family neighborhood.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-11
RECEIVED:	2/16/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

10314

<b>I. APPLICANT</b>		Name: American Campus Communities	
Mailing Address:	12700 Hill Country Blvd Suite T-200		Phone: 512-732-1000
	Street	Austin Texas 78738	Mobile:
	City	State Zip	Email: jdelacruz@americancampus.com
<b>II. PROPERTY</b>		Street Address: 235 Jones Avenue	
Owner:	Same	Zoning:	R-3/CSOP/SSOD
Mailing Address:	Same		Tax Map No: 20/14
	Street		Parcel No: 184, 184.1, 185, 186, 187/193
	City	State Zip	Phone: Same
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief to permit the planting of trees along University Avenue less than ten (10) to fifteen (15) feet trunk clearance from structures, building overhangs, walls, etc [Article 1367.06(C)]</p> <p>Variance relief from providing shrubs between tree intervals along Jones Avenue &amp; Highview Place &amp; upper parking lot parallel with adjoining boundary [Article 1367.08 (B)(1)] <i>NO LONGER REQ'D AS LANDSCAPE PLAN ILLUSTRATES CONFORMITY.</i></p> <p>Variance relief from reserving at least five (5) percent of the parking areas for landscaping.</p> <p>Variance relief from providing landscaped islands of at least 130 SF every ten (10) spaces</p>			
<b>V. ATTEST</b>		PAID FEB 06 2015	
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
Lisa K Mardis		<i>Lisa K Mardis</i>	02/02/2015
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-11
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling
- Two-Family Dwelling       Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

Building A: 25,332 SF      Community Center: 3,228 SF  
 Building B: 11,276 SF      Maintenance Building: 910 SF  
 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-11
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.</p>	
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p>	
<p>Attached</p>	
<p><b>2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:</b></p>	
<p>Attached</p>	



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-1
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>Attached</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>Attached</p>	

## STAFF REPORT ADDENDUM B

V15-11

### ACC / University Avenue

Article 1367.06(C)/1367.08(B)(1) as it relates to  
landscaping

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**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

The design professionals worked diligently to maximize related parking for the development on a topographical challenging piece of realty. Planning and Zoning Code states that parking cannot be on a grade greater than 10%, therefore limited area was available for such. Fire truck access and turn around and the emergency egress area decreased the number of available parking spaces. To better serve the single-family residential neighborhood by having on-street parking available for their use, internal areas on the Sunnyside Common site would best serve related parking demands while incorporating increased landscape/buffering areas on the perimeter.

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The topography on this site is challenging with over a 100' drop from Jones Avenue to University Avenue. It appears that the design professionals utilized all available realty to fulfill the related parking requirement. Fire truck access, turn around area, and emergency egress area on Jones Avenue has decreased the number of available parking space area. The Planning and Zoning Code states that parking cannot be on a grade greater than 10%, thereby further limiting available area without the need for massive retaining walls.

To be a good neighbor and better serve the single-family residential neighborhood, internal areas would best serve parking demands with increased landscape on the perimeter.

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

The current Sunnyside Development is outdated and underutilized. This variance will permit the maximum on-site parking spaces while increasing perimeter landscape/buffering. The steep terrain, fire truck access, fire truck turn around, and emergency egress area on Jones Avenue has decreased the available parking space areas.

The developer met with the Wiles Hill Neighborhood Association prior to submission and wants to be good neighbor by ensuring that residents of the development park on site(s). By utilizing all available area for parking, the design professionals have increased the landscape/buffer on the perimeters.

V15-11

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

There appears to be a number of multi-family developments within the immediate area where landscape screening, buffer, and interior landscaping were not required prior to present related standards. There also appears to be limited space to provide requisite landscaping and meeting minimum parking requirements and parking design.

Variance relief granted herein will ensure that landscaping is provided across the site's frontage on University Avenue as well as adequately buffering parking areas to preserve the enjoyment and quality of life of the adjoining residential property.



City of Morgantown, West Virginia

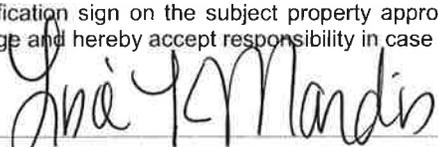
APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-15
RECEIVED:	2/4/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

OK 10/3/14

<b>I. APPLICANT</b>		Name:	American Campus Communities		
Mailing Address:	12700 Hill Country Blvd Suite T-200		Phone:	512-732-1000	
	Street	Austin Texas 78738	Mobile:		
	City	State Zip	Email:	jdelacruz@americancampus.com	
<b>II. PROPERTY</b>		Street Address:	235 Jones Avenue		
Owner:	Same		Zoning:	R-3/CSOD/SSOD	
Mailing Address:	Same		Tax Map No:	20/14	
	Street		Parcel No:	184, 184.1, 185, 186, 187/193	
	City	State Zip	Phone:	Same	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).			
<p>Variance relief from natural material standards and ratios [Article 1361.03(P)(1)]</p> <p>Variance relief to use cement fiber paneling and lap siding and brick/stone veneer [Article 1361.03(P)(2)]</p>					
<b>V. ATTEST</b>		<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
Lisa K Mardis				02/02/2015	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date	

PAID  
PAID FEB 06 2015 PAID  
BY: DB

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-15
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling
- Two-Family Dwelling       Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

Building A: 25,332 SF      Community Center: 3,228 SF  
 Building B: 11,276 SF      Maintenance Building: 910 SF  
 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-15
RECEIVED:	

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p>The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.</p>	
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>Attached</p>	
<p><b>2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:</b></p> <p>Attached</p>	



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-15
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

**3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

Attached

**4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

Attached

# STAFF REPORT ADDENDUM B

## ACC / University Avenue

Article 1361.03(P)(1) & 1361.03(P)(2) as it relates to  
building material

V15-15

**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Incorporating hardiplank, brick, and other materials in the proposed project will not be harmful to the public welfare or other improvements in the vicinity. The more durable products will last longer and need less maintenance than natural materials. The proposed development will improve the vicinity and hopefully spark future redevelopment in a somewhat blighted area on a primary street. Cladding will be similar/same as other multi-family projects in the Sunnyside Overlay District and vicinity.

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Structures in the vicinity and district have dictated exterior design and proposed cladding materials, such as hardiplank or cementitious siding. The Design Professionals have actively attempted to incorporate architectural designs that are fitting with the character of the area and are durable in a predominantly student-rental environment. All facades shall consist of brick, fiber cement siding and fiber cement panel. Cladding will be similar/same as other multi-family projects in the Sunnyside Overlay District and vicinity.

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

It appears that the predominant architectural designs of the previously constructed developments located within the Sunnyside Overlay Districts and vicinity include the use of cementitious siding for a more durable cladding. Previous developments in the vicinity that have received the similar variance include, but are not limited to, 507 Beechurst Avenue, 146 Third Street, 152 Third Street, 103 Third Street, Glenlock North on University Avenue, and 300 Beechurst Avenue.

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

The proposed building materials appear to be within the fitting character of the University Avenue corridor. Market values of adjacent properties should increase with the proposed redevelopment and perhaps spark additional redevelopment and infill development in the area. The nature of the variance relief requested meets the spirit and intent of the zoning ordinance in that the cladding will be similar/same as other multi-family development in the Sunnyside Overlay District and vicinity.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-17
RECEIVED:	2/6/15

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

OK 10314

<b>I. APPLICANT</b>		Name: American Campus Communities	
Mailing Address:	12700 Hill Country Blvd Suite T-200		Phone: 512-732-1000
	Street	Austin Texas 78738	Mobile:
	City	State Zip	Email: jdelacruz@americancampus.com
<b>II. PROPERTY</b>		Street Address: 235 Jones Avenue	
Owner:	Same		Zoning: R-3/CSOD/SSOD
Mailing Address:	Same		Tax Map No: 20/14
	Street		Parcel No: 184, 184.1, 185, 186, 187/193
	City	State Zip	Phone: Same
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief from meeting ground floor transparency [Article 1361.03(E)]</p> <p>Variance relief from meeting fenestration ratio standards for front facade and ground floor [Article 1361.03(O)(1)]</p> <p>Variance relief from recessing windows 4-8 inches [Article 1361.03(O)(6)]</p>			
<b>V. ATTEST</b>		PAID FEB 06 2015	
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
Lisa K Mardis		OB	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	
		Date	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-17
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- [X] Residential      [ ] Single-Family Dwelling      [ ] Townhouse Dwelling
- [ ] Two-Family Dwelling      [X] Multi-Family Dwelling
- [ ] Non-Residential or Mixed (please explain)

[ ] Structure Characteristics (complete only those that apply)

Total number of buildings: 3      Gross floor area of each building: listed below

Estimated number of employees: TBD      No. of dwelling units: 134      No. of bedrooms: 536

Additional structure-related details:

[ ] Additional Information (as required by Staff):

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 Building C: 14,139 SF      Total: 54,885SF

[ ] Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-17
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Attached

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

Attached



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-17
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

**3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

Attached

**4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

Attached

## STAFF REPORT ADDENDUM B

V15-17

### ACC / University Avenue

Article 1361.03(E) / 1361.03(O)(1) / 1361.03(O)(6) as it relates to transparency/fenestration/recessed windows

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**Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Multi-family residential structures containing the required 60% of ground floor transparency does not exist within the area. Therefore, the proposed structure will have transparency more fitting with the architectural design of the surrounding buildings and those in the vicinity. The proposed transparency will not be harmful to surrounding property or improvements in the vicinity as building A & B will be situated above grade on University Avenue and Building C not visible from the primary street.

It appears that the window recession on the brick façade will be four (4) inches and the remaining windows recessed appropriately for the building façade material to ensure desired shadowing and architectural uniqueness.

This variance will not affect public health, safety, or rights of adjacent property owners in that the intent of this requirement is for commercial or mixed-use structures. The proposed building will improve the vicinity and possibly spark future redevelopment in a perceivably blighted area on a primary street. The proposed structure will have similar window recession as the surrounding buildings on University Avenue and in the vicinity.

**Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The Design Professionals diligently worked to incorporate the required design concepts and vertical windows on the front façade facing University Avenue. It appears that this area of University Avenue is not currently conducive to commercial uses. The existing architectural style prevalent in the area does not permit the use of the required transparency of the ground floor façade located adjacent to University Avenue. Variance relief has been granted by the Board of Zoning Appeals for fenestration ratio and window recessing standards within the Sunnyside Overlay Districts.

The proposed transparency matches or exceeds the built environment in the vicinity as building A & B will be situated above grade on University Avenue and Building C not visible from the primary street.

V15-17

**Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

The proposed ground floor transparency appears to match or exceed the existing buildings and surrounding properties. It appears that most other structures within the vicinity and Sunnyside Overlay Districts do not meet the required 60% ground floor transparency for the front façade, recessed windows, or primary street frontage fenestration set forth in the Zoning Code. Previous redevelopment, such as Metro Properties, LLC, Glenlock North, and Moser Investment, on Beechurst Avenue, have received the same variances being proposed.

It appears that the proposed building will have similar window recession as is dominant in the architectural style of Sunnyside area. The design professionals worked diligently to incorporate window recession on the brick façade, four (4) inches, as well as recessing the remaining windows appropriately for the building façade material. This unique design will ensure the desired shadowing and sense of place that is lack on University Avenue.

The following is a table outlines fenestration along the primary façade of University Avenue:

Building	Primary Façade Fenestration	Ground Floor Fenestration
Community Center	42%	45%
Building A	18%	18%
Building B	16%	19%

**Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

The Design Professionals have incorporated the required design concepts and vertical windows on the front façade, along with window recession on the brick façade. It appears that the remaining windows have been recessed appropriately for the building façade material to ensure desired shadowing. In this instance, it does not appear that the lack of recessed window openings add to or detract from aesthetics and would not be noticeable on the steep terrain and heavily traveled corridor of University Avenue.

Although variance relief to the minimum window/fenestration standards in the Sunnyside Overlay Districts has been approved by the Board, the circumstances of the site in terms of topography and use appears unique warranting relief. The spirit and intent of the Sunnyside Overlay Districts' design and performance standards are observed and substantial justice done thereby mitigating adverse impacts to the immediate built environment.

Multi-family residential structures containing the required 60% of ground floor transparency does not exist within the area. Therefore, the proposed structure will have transparency more fitting with the architectural design of the surrounding buildings and those in the vicinity. The proposed transparency will not be harmful to surrounding property or improvements in the vicinity as building A & B will be situated above grade on University Avenue and Building C not visible from the primary street.