



# MORGANTOWN PLANNING COMMISSION

December 11, 2014  
6:30 PM  
City Council Chambers

**President:**

Peter DeMasters, 6<sup>th</sup> Ward

**Vice-President:**

Carol Pyles, 7<sup>th</sup> Ward

**Planning Commissioners:**

Sam Loretta, 1<sup>st</sup> Ward

Tim Stranko, 2<sup>nd</sup> Ward

William Wyant, 3<sup>rd</sup> Ward

Bill Petros, 4<sup>th</sup> Ward

Mike Shuman, 5<sup>th</sup> Ward

Ken Martis, Admin.

Bill Kawecki, City Council

## **STAFF REPORT**

**CASE NO:** TX15-01 / Administrative / Article 1385 Site Plan Review

**REQUEST:**

Administratively requested Zoning Text Amendment to Article 1385 of the Planning and Zoning Code as it relates to Site Plan Review.

**BACKGROUND and ANALYSIS:**

Prior to February 2004, the Planning Commission reviewed site plans for all developments, with the exception of one- and two-family dwellings. After several months of deliberation between City Administration, the Planning Commission, and City Council, Ordinance 04-04 was enacted creating a new threshold between site plans reviewed administratively and those reviewed by the Planning Commission.

Planning Commission reviewed “Developments of Significant Impact (DSI)” were established with the following thresholds:

- A. General commercial and/or office uses containing 15,000 square feet or more of gross floor area.
- B. Multi-family residential project containing 12 or more dwelling units.
- C. Industrial project of any size.

The related Staff Report dated 07 NOV 2003 (Exhibit 1) and Ordinance 04-04 (Exhibit 2) are attached hereto for historical context purposes.

With the major rewrite of the City’s zoning regulations in 2006, developments requiring Planning Commission review became “Type III Site Plans” and included new two tiered application submission requirements.

Article 1329.02 provides the following definitions and threshold table that distinguishes the two tiers – “Developments of Significant Impact (DSI)” and “Major Developments of Significant Impact (MDSI).” These provisions are restated in Article 1385.

**DEVELOPMENT OF SIGNIFICANT IMPACT and MAJOR DEVELOPMENT OF SIGNIFICANT IMPACT** – Any proposed development whose characteristics warrant a more in-depth review by the Planning Commission in order to mitigate the negative impact these characteristics may have on surrounding land uses in particular and on the surrounding neighborhood in general.

Developments of Significant Impact are those that have a neighborhood or citywide impact. Such impacts would involve the transportation network, environmental features such as parks or corridor streams, and local schools.

Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers and large-scale residential developments.

**Development Services**

Christopher Fletcher, AICP  
Director

**Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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Any proposed residential or non-residential development which meets or exceeds any of the following criteria shall be determined to be a Development of Significant Impact and will require a complete development plan to be submitted and reviewed by planning staff and the Planning Commission:

Land Use Category	Development of Significant Impact	Major Development of Significant Impact
Residential	12 to 99 dwelling units	100 or more dwelling units
Commercial	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Office/Institutional	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Industrial	0 to 99,999 square feet of gross floor area	100,000 or more square feet of gross floor area
Mixed Use	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area

*Issue 1*

When carefully studying and comparing Article 1385.08(A) and Article 1385.08(B), one sees that the only difference between DSI and MDSI site plan submission requirements are the very prescriptive MDSI standards for preparing and presenting site plan drawings. Further, there is no significant distinction in what type of information must be submitted nor are there any variations in the Planning Commission's DSI or MDSI review in terms of decision making aided standards, measures, or procedures. In other words, the two (2) Type III Site Plan tiers do not appear to bring value or consequence to the application or review process.

The 2013 Comprehensive Plan provides the following objective and strategies under Land Management (see Page 53 of the Plan):

Objective 7. Monitor and improve the effectiveness of the development regulation and the development process.

Strategy LM 7.4. Simplify the development review and minor subdivision and approval process.

If there is no apparent distinction between a DSI or MDSI, save the subjective scale of development between the two tiers, than enhancing simplification and effectiveness of the application process is not only justified but desired under the Comprehensive Plan.

*Issue 2*

The 2006 standards introduced a new "Mixed Use" land use category based on gross floor area. However, Article 1329.02 defines "Mixed-Use Development" as:

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A single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas, but not a mixed use dwelling as defined in this Ordinance."

The administrative interpretation of the definition of "mixed-use development" and its operation in determining site plan review thresholds under the "mixed-use" land use category provided in the table above was a matter of a recent administrative appeal before the Board of Zoning Appeals. After a long and careful deliberation, the Board decided that the "mixed-use" land use category must include developments that are one building containing "mixed-use dwellings."

The zoning regulations should be amended to reflect the Board's decision and provide clarity in determining site plan review thresholds in the future.

### *Issue 3*

Several recent developments within the downtown have raised concerns in the community that the Planning Commission's review of site plans in the B-4 District should be expanded to ensure public notification, awareness, and participation in the decision making process. The Planning Commission held a workshop in March 2014 and discussed several public policy alternatives. It appears prudent that this issue be folded into zoning text amendments that address the two (2) issues above.

### **STAFF RECOMMENDATION:**

For the purposes of simplifying and enhancing the effectiveness of and providing more clarity in the development review process as desired by the 2013 Comprehensive Plan and to increase value-added public awareness and engagement of development in the downtown, Staff respectfully advises the Planning Commission to forward a favorable recommendation to City Council to amend the Planning and Zoning Code as presented in Addendum A of this report.

### **Development Services**

Christopher Fletcher, AICP  
Director

### **Planning Division**

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## Memorandum

EXHIBIT

1

exhibitstracker.com

**To:** Planning Commission  
**From:** James Wood, AICP, Planning Director  
**Date:** November 7, 2003  
**RE:** Site Plan Review Procedures

**Changes since October meeting: - added a requirement that DSI's be advertised in the same manner as zoning changes.**

Attached is a proposed ordinance amendment that streamlines the development review process of the city.

As you are aware, the Planning Commission reviews all site plans for any residential development larger than a duplex, and for commercial developments of any size. This review procedure has several consequences for development within the city, including:

1. Significant review delays. For larger projects, it is not unusual for it to take several months to issue building permits.
2. Lengthy Commission meetings with workloads being exclusively devoted to reviewing and approving site plans, while little attention is being paid to long term planning goals and policies. We seem to have time only to "react" instead of "plan."
3. High percentage of staff time and resources dedicated to preparing formal agenda packets and staff reports for each case. Limited staff resources could, in my opinion, be better spent on long range planning.
4. The frustration expressed by Commission members over the inability to effectively bring about quality design because of the limitations on discretion in the review process. Many members have publicly expressed dismay over the lack of power to turn down projects that meet the technical criteria set forth in the ordinance; which has led to questions over why projects are reviewed in the first place.

The proposed ordinance does a few things. First, it establishes a definition of what we call a "development of significant impact" (DSI). Such developments are defined as projects that have the potential to significantly impact surrounding neighborhoods in terms of utility provision, infrastructure, traffic, appearance, etc. We have placed thresholds in the ordinance as follows:

- Multifamily residential projects that contain 20 or more units.

- Commercial and office uses that contain 15,000 or more square feet of floor area.
- Industrial projects of any size.

The ordinance then changes the site plan review procedures to state that all DSI's are still reviewed by the planning commission, with notice given to surrounding property owners and to the neighborhood association. Smaller projects would then be reviewed in house, by our professionally trained staff.

It is important to note that we are not required to, nor have we traditionally notified surrounding property owners in site plan review cases, so the requirement to do so in this ordinance is meant to actively foster public input on significant projects.

Other key elements in this proposal are as follows:

1. It preserves the Commission's and BZA's role in reviewing conditional use permits, regardless of project size.
2. It clarifies the powers of the commission to approve or deny projects based on absolute requirements versus suggested standards.
3. It specifies when a traffic study shall be considered warranted, and requires the developer to pay for it. This will eliminate the ambiguity surrounding the language in the current ordinance.

From a philosophical standpoint, staff supports this change for the following reasons:

1. In most other states, routine site plan review is a charge of the professional staff persons in the planning department, and not a matter of commission concern. Remember that even in Morgantown, we have not always had a professional staff person serving as the planning director, thus the role of site plan review had, by necessity, been reserved for the commission in the past.
2. Underpinning the larger national movement toward professional review are two concerns: first, that planning commissions have been bogged down with technical reviews of projects, at the expense of doing "real" planning. The second concern has been the growing acceptance of the idea that if a project meets all the requirements of an ordinance, the property owner has an inherent right to develop it without undue harassment. Professionalization of the review process also largely eliminates the temptation to let personalities influence the review process.

Indeed, the theory goes that it is the community's role to ensure the establishment of a good zoning ordinance and a rational zoning district allocation (as expressed by the official zoning map) on the *front* end, so that developers know what is expected of them and can operate in an environment of reduced uncertainty. But the key point is that once those

expectations are established by the community (through a collaborative process of citizen involvement), the community needs to uphold its end of the bargain by approving projects that meet the expectations, without undue delay.

3. The changes would lay the groundwork for increased cooperation between the city and the development community in the search for higher development standards. One fair objection to “raising the bar” has been the fear that it would cause even *more* delay in the review process. By streamlining our review processes up front, we are making a good faith effort to demonstrate our sensitivity to the legitimate concerns of the development community, while putting them on notice that the bar is about to be raised in our new zoning ordinance. We’re giving them something they want, and getting something in return.

These philosophical points can and most likely will be fairly debated, especially by those who lean toward the idea that the public has an inherent right to give their blessing to any development in the city, no matter how significant or insignificant.

Staff understands and is sympathetic to such concerns, but urges those who are so inclined to be mindful of two things:

1. There are very harmful consequences associated with NIMBY-ism, both from a social and legalistic perspective. Most such opinions are based on an unhealthy and unrealistic desire to forever preserve the status quo in a neighborhood by reflexively resisting all change, no matter how benign.
2. Understand that there are strong, countervailing beliefs taking hold across the country that proscribe against such micro-management of development.

Staff respectfully requests that the Commission forward this ordinance on to City Council with a recommendation for APPROVAL.

**AN ORDINANCE AMENDING SECTION 5, OF THE ZONING ORDINANCE OF THE CITY OF MORGANTOWN BY ADDING A NEW SUBSECTION 17.11 DEFINING A "DEVELOPMENT OF SIGNIFICANT IMPACT"; AND AMENDING SECTION 21(b), AS THE SAME APPLIES TO THE SITE PLAN REVIEW PROCEDURES OF THE CITY.**

The City of Morgantown hereby ordains that Section 5 of its zoning ordinance is amended by adding a new subsection 17.11, which reads as follows: (New matter underlined)

17.11 Development of Significant Impact (DSI) A large development that has the potential to significantly impact surrounding neighborhoods, traffic patterns, and/or provision of utilities and other infrastructure. In order to qualify as a DSI, the following size thresholds are established:

- A. General commercial and/or office uses containing 15,000 square feet or more of gross floor area.
- B. Multifamily residential projects containing 12 or more dwelling units.
- C. Industrial projects of any size.

The City of Morgantown further ordains that Section 21(B of its zoning ordinance is amended as follows (New matter underlined, deleted matter struck through.):

**Section 21(B). Site Development Plans Review**

This section establishes the Plans Review Procedure and development guidelines which will enable the City to review proposed improvements of property so as to assure orderly, harmonious development.

**1. Plans Review Required**

Plans Review is required prior to obtaining a permit for grading, excavation, building construction, or open-use occupancy of a site. The purpose is to certify that the site plan conforms to applicable city zoning regulations, and other codes and regulations, prior to issuance of permits. Plans for Developments of Significant Impact (DSI) one and two-family dwellings shall be reviewed by the Planning Commission. City staff shall review all other types of plans. This shall not apply for Conditional Uses. In such cases, review of the site plan shall be considered an integral part of the review process for a conditional use permit, regardless of the size of the project, but no fee for review will be charged. For Developments of Significant Impact, the City shall send written notification about the project to all property owners within 200 feet of the boundaries of the site to be developed, not later than 5 days prior to the meeting at which the development will be considered. The City shall also notify any active neighborhood organizations or associations in the ward in which the project will be located; and shall advertise the case in the same manner

factors include setbacks, security, signs, walls, refuse collection areas, noise impacts, external lights, building entry, pedestrian circulation, privacy, fire access, open space, outside storage, topography, utility locations, landscaping, loading and service bays, emergency access, traffic impact, parking, and driveway locations.

2. Exterior

The exterior appearance should be harmonious with the existing character or theme of the area, enhance the surrounding vicinity, be compatible with adjacent uses, and maintain a high quality and standard of development. Primary factors include exterior materials, relief, height, mechanical equipment screening, and compatibility with nearby land uses.

3. Landscaping

When different types of uses are adjacent to each other, landscaping is a method of minimizing the impact, maintaining a gradual transition, and securing a consistent relationship among uses. Plant materials absorb sound, act as a filter to the air, curtail erosion, provide shade, and maintain privacy. A landscape plan shall be submitted with the overall site plan, and at a minimum shall depict the areas to be landscaped, the plant types, and any non-living materials to be utilized. Secondary factors include buffering, drainage, and maintenance.

4. Parking

The major concern when designing a parking lot is not necessarily fitting all the required parking on-site. Other important considerations include providing ample stall and aisle widths, having a useful pedestrian circulation system, providing adequate turning radii, having an efficient traffic movement pattern, maintaining a pleasant appearance, designing convenient parking locations, and integrating the parking with the character of the development. Primary factors include maneuvering areas, driveway locations, screening along R.O.W.'s, proximity to buildings, amount of parking, lighting, headlight intrusion, arrangement, and security.

D. Other Codes/Regulations

In the review process several City departments and outside agencies may have substantive comments on a development plan, based on lawful jurisdiction other than municipal zoning. To the extent that such comments affect the City's review of the development plan, they shall be incorporated in the City's review either directly or by reference.

E. Required Data: Site development plans shall be drawn to scale of one inch (1")

equals fifty feet (50') or larger. City staff shall indicate, after pre-application consultation, which of the basic data (below) is needed on the plan.

- Data of preparation, north point, and scale
- Legal description
- Applicant/owner name and address
- Existing and proposed zoning
- Existing and proposed contours, at an interval of at least two feet (2')
- A certified site survey with the dimensions and bearings accurately delineated.
- Total number and type of buildings/units proposed, gross floor area of each building, bedrooms per dwelling unit (for residential development), estimated number of employees (where applicable), and other information necessary to determine off-street parking and loading spaces requirements
- Location, shape, exterior dimensions, and number of stories of each building on the site
- Standard yard setbacks required in the zoning district
- Location, grade, and dimensions of paved surfaces, and of all abutting streets
- 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 screening required
- Soil tests and similar information if deemed necessary by the City Engineer to determine the feasibility of the proposed development
- Application for a grading permit from the City Engineer, if the proposed development disturbs an area of more than 150 sq. ft. of the site, or disturbs more than 5 cu. yds. Of materials displacement
- Retaining walls anticipated to exceed 4 ft. in height
- Walls, fences, or screening anticipated

F. The Review Criteria

1. Setbacks

How far or how close a building is placed to the street and to adjacent property can affect the appearance of the development.

If a site is adjacent to an undesirable condition, then an increased setback can be maintained to protect the users of the project. All setbacks shall be taken from the property line.

The setbacks and any undeveloped right-of-way area is to be landscaped,

except for drives and pedestrian walkways.

In addition to the side and rear yard setback requirements, special consideration may be needed when the site is adjacent to residential uses; i.e. multi-story structures with windows above the first floor facing single family residence uses.

2. Security

Physical and psychological barriers can create a secure project for both the site and its occupants.

Buildings and windows should be located to maximize the possibility of surveillance of entryways, pathways, parking lots, bike paths, recreation and laundry areas. Children's play areas should be sited to allow for clear parental monitoring.

All areas should be provided with adequate lighting throughout the development.

Landscaping should not block surveillance abilities.

3. Signage

The placement and design of signage for a development should be compatible with the proposed project and with the surrounding area.

4. Walls

The physical separation between different projects and uses can minimize the impact of unattractive or noisy areas, and act as a buffer between properties.

Patio enclosures fronting on a public street should match the architectural character of the project.

Walls within a front yard setback are limited to a height of 4 feet, and must comply with corner clear vision requirements for driveways, alleys, and street intersections.

5. Refuse Storage Areas

Areas which generate noise and odors should be located where they will not disturb adjacent uses or the residents within the project.

All refuse collection shall be screened with a wood or masonry wall, and should be finished to match the architectural character of the project.

Refuse collection areas shall should be accessible by trucks, yet not be the visual focal point of a driveway or parking area.

Refuse collection areas shall be at least ten feet from residential uses or property lines, and shall not be located within the front yard setback or street frontages of corner lots.

6. Noise Impact

Site design should prevent any noise emitted from the proposed development interfering with any adjacent property.

The occupants of a project should be protected from noise outside and within the site, through screening, setbacks, and building materials.

Common areas and recreational facilities should to be located to minimize noise problems.

Noise generating equipment and recreational facilities should be located where the impact on adjacent uses can be minimized.

7. External Lighting

Lighting locations should provide security and visual interest, yet shall not unduly impact adjacent properties.

The exterior lighting of a development should provide for the illumination of the building and its grounds for safety purposes, but in an aesthetic manner. Lighting shall be shielded above the horizontal plane, and placed and screened to reflect the light away from adjoining properties and the street.

8. Building Entry

An entrance should be easily identifiable and be a transition between the outside and the inside area.

Building entries should also provide adequate lighting for security, but not impact adjacent properties.

Where dwelling units face each other, the entry doors should be staggered.

Entryways should be defined for easy identification.

9. Pedestrian Circulation

A network of convenient and safe pedestrian paths should be provided to connect the development to areas within the project, and to adjacent land uses.

The location and number of points of access to the site, the interior circulation patterns, and the separation between pedestrians and vehicles should be designed to maximize safety and convenience, and should be harmonious with proposed and neighboring buildings.

Walkways should be well lit to provide visibility and a pleasant environment.

10. Privacy

Site design and/or floor plan layout should be organized to provide privacy for the proposed project and surrounding uses.

The privacy of surrounding uses and the tenants/residents within the project should be maintained.

Private outdoor spaces of surrounding residences should not be visible from the proposed development. Window and door placement, and patio/balcony areas should not overlook adjacent uses.

The occupants should be protected from visual and auditory intrusion from within and outside the project.

Stairways should not project into required front or side yards, in order to insure the privacy of both residents of the development and the surrounding area.

11. Fire and Emergency Access

All development shall meet on-site fire hydrant and on-site emergency access standards regulated by the State Fire Code.

At least two driveways should be provided for circulation, where possible. The minimum width for a fire lane is twenty feet. The width of circulation drives will vary with the design of the parking area.

12. Open Space

Used meaningfully, open space can reduce the perceived crowdedness, density, and tightness of a project.

Open space can also be used as a buffer to and from adjacent properties; it should be meaningful, not small leftover pieces.

Passive and active recreation and outdoor activity areas should be provided, in consideration of the type and size of the development. Any courtyard areas should be designed to be usable space.

Open space should flow through a development connecting recreational facilities with the dwellings through the use of continuous common areas.

The use of private open space such as patios and balconies is encouraged, and should be a minimum of sixty square feet in area and a minimum narrow dimension of six feet.

13. Outside Storage

All outside storage areas should be screened from public view, and in residential, office, and commercial districts or uses by at least a five-foot wall or dense vegetation.

Additional landscape strip widths and trees may be required when storage areas are adjacent to residential uses.

No storage of materials, trash, mechanical equipment, vehicles, or other similar items should be visible from adjoining streets or properties.

14. Topography

The natural features of the land such as hillsides, views, or other features should be utilized when designing the site.

Awareness of existing conditions can help avoid site design problems associated with flood plains, steep slopes, drainage ways, or other features.

15. Utility Locations

All new and existing projects are encouraged to install the utilities underground.

16. Commercial Pad Buildings

Freestanding pads in commercial centers should blend and be compatible with overall development.

The visibility of the tenants in the main center should not be disrupted by the placement of pad buildings.

The architectural character of the pad buildings should relate to the entire center, and all parking, circulation, driveways, and setbacks should be integrated with the entire project and complement the overall development theme.

Drive-thru windows should not face onto a public street, and waiting/stacking lanes shall be screened from the street.

The pad building elevations should be attractively designed on all four sides.

17. Loading/Service Bays

Service and loading areas should be screened from the view from a public street.

Landscaped areas and walls should be used to decrease noise levels. These areas should be separated from customer parking.

Service activity areas (automotive, service, tire, etc.) shall be oriented away from existing residences and screened from the public street.

Loading and delivery facilities or docks should be screened from the public street.

18. Traffic Impact

For uses which, in the opinion of the City Engineer, may create excessive negative traffic impacts on dedicated city streets in the immediate vicinity that serve the use, an increase in traffic, the City may require an analysis of the proposed development's impact on current and future traffic flows, at the developer's expense, prepared by a qualified professional engineer. If the study indicates that the projected traffic impact of the use would result in a two full letter grade decline in the existing Level of Service (ex. going from a Level of Service B to a Level of Service D) of any dedicated city street directly serving the use, such finding may be considered sufficient grounds for denial of the project, or a requirement that the project size and scope be reduced to the point where no such severe degradation of Level of Service results. (Level of Service refers to the traffic grading system described in the Highway Capacity Manual, published by the Transportation Research Board).

19. Driveway Locations

Driveways within a project should provide a good circulation pattern

which is convenient and safe.

Pedestrian traffic should be incorporated into the project design.

Entrances and exits should not be located near street intersections, and should not create a hazardous condition for pedestrian or auto traffic. The number of drives should correspond to the intensity of the proposed use.

20. Landscaping

A landscaping plan shall be submitted for approval, and at a minimum shall depict the areas to be landscaped, the plant types, plant size at time of planting, and any non-living materials to be utilized.

All required perimeter landscaping shall be installed with the first phase of construction when adjacent to residential uses.

Acceptable landscaping Landscaping materials shall include rock, crushed rock, timbers, and living plants; i.e. grass, shrubs, and trees. Vegetative ground cover should will constitute a minimum of 50% by area. The landscape design should use low maintenance plants when possible.

A landscaped area may be required adjacent to all property lines to mark a transition between uses. Plant materials are a method of buffering and screening outside storage, mechanical equipment, loading and service bays, and any other situation which could impact on-site or surrounding residents.

Required setbacks shall be landscaped contiguous to all interior property lines separating adjacent land uses, except where such yard area is used for vehicular access. Where building foundations are visible from the public street or from adjacent uses, foundation landscaping is encouraged. Landscaping this area should complement the building elevations, connect the building to the site, and increase privacy.

Storm water retention areas should not detract from the quality of the landscape design. When landscaping retention areas, the plant material should be regulated.

Landscaping shall be maintained in good condition free of refuse and debris, and provide a healthy, neat and orderly appearance, and dead vegetation shall be promptly replaced with healthy, living plants.

Landscaping areas that are susceptible to injury by pedestrian or auto traffic should be protected by appropriate curbs, tree guards, or other devices.

21. Parking

All maneuvering requirements should be accomplished entirely on-site. The maneuvering area design should not be complex, and should be easy to identify and navigate.

Parking regulations in Section 12 of this ordinance shall be applied to all plans.

All parking areas should be screened with a wall, berm, or a combination of the two so that headlights do not shine into oncoming traffic, and the appearance of the parking lot is improved.

Pedestrian drop-off locations should be designed to blend, and incorporate with overall circulation patterns. These areas should be convenient and safe for pedestrian and auto traffic.

22. Buildings

The quality of a new development should not adversely affect the value of surrounding properties. New projects should use building materials similar (or higher quality) to those used on adjacent projects. Excessive repetition of plain building elevations in multiple building projects is discouraged.

Color schemes should be harmonious and accent colors should be compatible with the main color theme.

All equipment should be screened from view with material similar with the architectural design of the project. The screening method should not have a tacked-on appearance and should be an integral part of the elevations.

A development should be designed to enhance, harmonize, and be appropriate with the adjacent land uses, so as to minimize negative impacts on surrounding uses. A gradual transition between the project and adjacent uses can be achieved through setbacks, building height, walls and landscaping, and window and door placement.

This Ordinance shall be effective upon date of adoption.

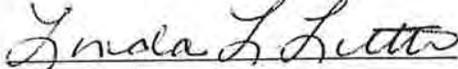
First Reading: December 2, 2003

Adopted: February 17, 2004

Filed: February 18, 2004

Recorded: February 18, 2004

  
Mayor

  
City Clerk

# STAFF REPORT ADDENDUM A

## TX15-01 / Administrative / Article 1385 Site Plan Review

Staff respectfully submits the following zoning text amendments (deleted matter struck through and new matter underlined).

### ARTICLE 1385 Site Plan Review

- 1385.01 Site plan review required.
- 1385.02 Application.
- 1385.03 Design and improvements requirements.
- 1385.04 Site plan review.
- 1385.05 Review thresholds.
- 1385.06 Type I: Administrative review of simple site plans.
- 1385.07 Type II: Administrative review of detailed site plans.
- 1385.08 Type III: Planning Commission review of developments of significant impact ~~and major developments of significant impact.~~
- 1385.09 Type IV: BZA review of conditional use permits.
- 1385.10 Other required submittals.
- 1385.11 Resubmittal of plans.
- 1385.12 Rejection statement.
- 1385.13 Deviation from the approved site plan and additions to existing structures.
- 1385.14 Record drawings and certificate of completion and compliance.
- 1385.15 Expiration deadlines.

#### 1385.01 SITE PLAN REVIEW REQUIRED.

No land within the jurisdiction of the City of Morgantown shall be developed or altered for the purpose of constructing buildings or establishing uses without first having received site plan approval from either the Planning Department staff, or the Morgantown Planning Commission or the Morgantown Board of Zoning Appeals. It shall be the duty of the Planning Director, or his/her designee, in conjunction with other appropriate departments and agencies, to perform complete and thorough review of all plans submitted to the Planning Department.

#### 1385.02 APPLICATION.

- (A) All applications for site plan review shall be made on application forms prescribed by the Planning Department and follow established submittal deadlines.
- (B) Major development projects often become issues of significant contention between applicants and residents living adjacent to and in the vicinity of the property to be

rezoned. Too often this results in difficult and argumentative public hearings before the Municipal Planning Commission and City Council. In most cases, opposition to a rezoning request is based on legitimate concerns over the well-being and preservation of a neighborhood, but sometimes opposition results from a simple lack of communication and understanding between the applicant and the neighborhood residents. The City, therefore, strongly advises any person that is considering applying for a DSI or a Major DSI to discuss the proposal with residents living within 200 feet of the property to be rezoned and with the leadership of any organized neighborhood organizations that represent the area before making application to the Planning Department. The Department can assist by providing contact information for individuals who should be consulted.

- (C) All site plans for development in the B-4 district also shall be submitted to the Downtown Design Review Committee for review and recommendations prior to any formal public hearing or final approval.

#### 1385.03 DESIGN AND IMPROVEMENTS REQUIREMENTS.

- (A) Requirements, standards and specifications for engineering design for construction of improvements for site plans shall be equal to or greater than the minimum requirements, standards, and specifications established for design and improvements by the City Engineer. In addition to the plan sheets specified below, the applicant shall submit a complete drainage report, including calculations and justifications. The City Engineer may approve and/or require other engineering designs or practices when deemed necessary.
- (B) The proper management of storm water runoff is essential in the land development process. The City has adopted a separate storm water management ordinance that considers criteria related to total disturbed area, total/modified impervious area, sedimentation and erosion control and other criteria. Development plans are reviewed for, and must demonstrate compliance with this article.

#### 1385.04 SITE PLAN REVIEW.

There are four types of site plan reviews which have different application requirements and approval procedures. Types 2, 3 and 4 shall be reviewed by an internal technical review team, whose membership shall include the City Manager or his designee, the Chief Code Enforcement Officer, the City Engineer, a representative from the Morgantown Utility Board, and the City's Fire Department. The types of review are:

- Type I        Administrative Review, by the Planning Director, of Simple Site Plans
- Type II        Administrative Review, by the Planning Director, of Detailed Site Plans
- Type III       Planning Commission Review of Developments of Significant Impact
- Type IV        Board of Zoning Appeals Review of Conditional Uses

#### 1385.05 REVIEW THRESHOLDS.

In order to determine what type of review a project receives, the following standards have been established and noted for specific land uses in the land use table of this article.

- (A) ~~Developments of Significant Impact may include but are not limited to:~~  
~~Residential Projects: 12 to 99 dwelling units~~  
~~Commercial Projects: 15,000 square feet of gross floor area~~  
~~Office / Institutional Projects: 15,000 square feet of gross floor area~~  
~~Industrial Projects: 0 square feet to 99,999 square feet of gross floor area~~  
~~Mixed Use Projects: 15,000 square feet of gross floor area~~
- (B) ~~Major Developments of Significant Impact may include but are not limited:~~  
~~Residential Projects: 100 or more dwelling units~~  
~~Commercial Projects: 100,000 or more square feet of gross floor area~~  
~~Office / Institutional Projects: 100,000 or more square feet of gross floor area~~  
~~Industrial Projects: 100,000 or more square feet of gross floor area~~  
~~Mixed Use Projects: 100,000 or more square feet of gross floor area~~
- (A) Type I Site Plan Review: Single-family and two-family residential primary and secondary structures.
- (B) Type II Site Plan Review: Non-residential, multi-family structures, and temporary uses that do not constitute a Development of Significant Impact.
- (C) Type III Site Plan Review: The following thresholds constitute Developments of Significant Impact.

<u>Land Use Category / District</u>	<u>Development of Significant Impact</u>
<u>Residential Development</u>	<u>12 or more dwelling units</u>
<u>Commercial Development</u>	<u>15,000 square feet or more of gross floor area</u>
<u>Office/Institutional Development</u>	<u>15,000 square feet or more of gross floor area</u>
<u>Mixed-Use Development</u>	<u>15,000 square feet or more of gross floor area</u>
<u>Industrial Development</u>	<u>All industrial development regardless gross floor or land area</u>
<u>Development in the B-4 District</u>	<u>12 or more dwelling units; and/or</u> <u>New construction of a principal structure, regardless of land use category or gross floor area; and/or</u> <u>Addition of 2,000 square feet or more of gross floor area to an existing principal structure, regardless of land use category; and/or,</u> <u>Change in land use category within an existing principal structure consisting of 8,000 square feet or more of gross floor area.</u>

- (D) Type IV Site Plan Review: All applications for a Conditional Use Permit.

1385.06 TYPE I: ADMINISTRATIVE REVIEW OF SIMPLE SITE PLANS.

- (A) All applications for permits for single-family residential and two-family residential primary and secondary structures shall be accompanied by the following:
- (1) A site plan drawn to scale, that includes the following for the use of the Planning Director:
    - (a) The actual dimensions, size, square footage, and shape of the lot to be built upon;
    - (b) The exact sizes and locations on the lot of existing structures, if any;
    - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);
    - (d) The location of the lot with respect to adjacent rights-of-way and easements;
    - (e) The existing and proposed uses of the structure(s) and land;
    - (f) The location and dimensions of off-street parking and means of ingress and egress for such space;
    - (g) Height of all structures;
    - (h) Setbacks;
    - (i) Grading plan;
    - (j) Stormwater management plan;
    - (k) Erosion and sediment control plan; and,
    - (l) Signature of applicant.

1385.07 TYPE II: ADMINISTRATIVE REVIEW OF DETAILED SITE PLANS.

- (A) All applications for permits for non-residential, multi-family structures, and temporary uses that do not constitute a Development of Significant Impact, shall be accompanied by the following:
- (1) A site plan (3 copies), drawn to scale, that includes the following for the use of the Planning Director:
    - (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 and as authorized by West Virginia State law, said survey to be provided by the applicant;
    - (b) The exact sizes and locations on the lot of existing structures, if any;
    - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);
    - (d) The location of the lot with respect to adjacent rights-of-way;
    - (e) The existing and proposed uses of the structure(s) 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 all structures;
  - (i) The clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flagpole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height;
  - (j) Setbacks;
  - (k) Buffer yard and screening, if applicable;
  - (l) Location of garbage collection area and screening;
  - (m) Location of existing and/or proposed signage;
  - (n) Layout of all internal roadways;
  - (o) Location and size of stormwater management facilities;
  - (p) Utility lines and easements;
  - (q) Grading plan;
  - (r) Erosion and sediment control plan; and,
  - (s) Signature of applicant.
- (2) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets;
  - (3) If applicable, design of stormwater management facility and drainage calculations that bear the name, address, and seal of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law and that meet the requirements of this article, the City's stormwater management ordinance and all other applicable local, state and federal regulations;
  - (4) Parking and landscaping plan;
  - (5) Sign plan;
  - (6) Approved WV Division of Highways Access Permit, if applicable;
  - (7) Sediment and erosion control plan as approved by the West Virginia Department of Environmental Protection, the City of Morgantown, and the Morgantown Utility Board;
- (B) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
  - (C) Site plans shall be reviewed by an AICP certified planner, and such reviews may include other agencies that the City believes to have a direct or indirect interest in the development site.
  - (D) ~~At least five (5) days prior to planning staff conducting its review, the Planning Director shall notify the planning commissioner representing the ward in which the project is proposed that the plan will be reviewed.~~ RESERVED.

- (E) Site plans approved by the Planning Director authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit by the City based upon site plans given approval by the Planning Director shall not prevent the City from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.
- (F) One copy of the site plan submitted for a permit as required in subsection (C) above for the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

1385.08 TYPE III: PLANNING COMMISSION REVIEW OF DEVELOPMENTS OF SIGNIFICANT IMPACT ~~AND MAJOR DEVELOPMENTS OF SIGNIFICANT IMPACT.~~

- (A) Developments of Significant Impact are those that have a Citywide or regional impact. Such impacts ~~would typically~~ could involve the transportation network, environmental features such as parks or stream corridor, ~~and~~ local schools, large-scale residential developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.
- (B) All applications for a Development of Significant Impact shall be accompanied by site and development plan drawings submitted under the seal and signature of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the City Engineer. Eight (8) copies of the site plans shall be submitted for review and shall observe the following format:
  - (1) Sheet One (Title Sheet). The following information shall be submitted as part of Sheet One:
    - (a) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references;
    - (b) Name of the project;
    - (c) Name and address of the owner, developer, and person who prepared the plans;
    - (d) Total acreage within the project and the number of residential dwelling units and/or the gross square footage of non-residential buildings whichever is applicable;
    - (e) Existing zoning of the subject land and all adjacent lands;
    - (f) Boundary lines of adjacent tracts of land, showing owners of record;
    - (g) A key or vicinity map at a scale of one inch equals four hundred feet or less,

showing the boundaries of the proposed project and covering the general area within which it is to be located;

- (h) A statement of the proposed uses, stating the type and size of residential and non-residential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population;
- (i) Any existing or proposed covenants and restrictions affecting property owners and/or homeowners associations; and
- (j) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.

(2) Sheet Two (Existing Site Conditions). The following information shall be submitted as part of Sheet Two:

- (a) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the approved regional transportation plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development;
- (b) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;
- (c) Existing contours based in U.S.G.S. datum with intervals of not more than two (2) feet. Elevations shall be based on sea level datum; and
- (d) The water elevation at the date of the survey of rivers, lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such rivers, lakes, streams, or designated wetlands. The plan shall also show the boundary line of the regulatory 100-year flood. The plan shall also show the base flood elevation of the regulatory 100-year flood at any building location along with the elevation of the lowest finished floor. All elevations shall be based on sea level datum;

(3) Sheet Three (Proposed Site Conditions). The following information shall be submitted as part of Sheet Three:

- (a) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development;
- (b) Existing and proposed water mains, fire hydrants, storm sewers, sanitary

sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;

- (c) Water Supply Plan. For development that involves the use of water at higher volumes than customarily associated with nonindustrial-type development, the City may require, in coordination with the Morgantown Utility Board, a water supply plan. A water supply plan must include at least the identification of the water source(s); the development and use of freshwater impoundments, if applicable; when and where water withdrawals will occur; necessary operational water volumes; potential competing water users; and, cumulative impact of the development's water consumption to the public water system, watersheds and/or groundwater.
  - (d) Building setback lines, showing dimensions;
  - (e) Grading plans and drainage plans and calculations are not required for Planning Commission site plan review, but shall be required prior to issuance of any building permits. Such plans shall be prepared by a registered design professional licensed by the State of West Virginia, and as authorized by West Virginia State law; and shall also meet the City's stormwater management ordinance and all applicable local, state and federal regulations.
  - (f) Internal and perimeter sidewalk system/pedestrian circulation plan; and
  - (g) Proposed contours with intervals of not more than two (2) feet. The plan shall also show the contour line for the floodway fringe boundary.
  - (h) Location and detail plans for all trash dumpsters.
  - (i) Location and detail plans for ground utility and mechanical equipment.
  - (j) The number of employees, families, housekeeping units, bedrooms, or rental units the structure(s) is designed to accommodate.
  - (k) If applicable, the clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag pole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height.
- (4) Sheet Four (Erosion Control Plan). The following information shall be submitted as part of Sheet Four and shall be reviewed prior to issuance of a building permit:
- (a) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project;
  - (b) Proposed contours with intervals of not more than two (2) feet.
  - (c) Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, and springs, and the total acreage of land that will be disturbed.

- (d) The direction of drainage flow and the approximate grade of all existing or proposed streets.
  - (e) Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains.
  - (f) A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site.
  - (g) Measures for soil erosion and sediment control which must meet or exceed the methods and standards adopted by the City of Morgantown, the Morgantown Utility Board, and by the West Virginia Department of Natural Resources (as set forth in the West Virginia Handbook For Erosion Control in Developing Areas) and which must comply with the design principles, performance standards, and requirements set forth in this chapter.
  - (h) A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be disturbed during each stage, the anticipated starting and completion dates, and a schedule for the maintenance of such measures.
  - (i) Include the following notes on the sheet:
    - (i) "All erosion control practices shall be in accordance with the WVDNR "West Virginia Handbook For Erosion Control In Developing Areas" dated October 1992 and the SCS "Field Office Technical Guide."
    - (ii) "The City Engineer has the right to require additional erosion control measures in the field as conditions warrant."
  - (j) Copies of the letter of intent and response from the Monongalia County Soil and Water Conservation District office for compliance, when required.
  - (k) Any other information reasonably required by the Planning Commission or Planning Director to properly evaluate the plan.
- (5) Sheet Five (Landscape Plan and Site Lighting Plan). A landscape plan prepared to the standards specified in this zoning ordinance. A site lighting plan that includes exterior light fixture details and photometric plans in footcandles.
- (6) Sheet Six (Plat-like dedication sheet, if necessary). The following information shall be submitted as part of Sheet Five if a plat-like dedication document for easements and rights-of-way is deemed necessary by the Planning Commission or its authorized designee:
- (a) Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans:



- (1) All applications for a Development of Significant Impact shall be accompanied by the following:
- (a) A site plan (14 copies), drawn to scale, that includes the following for the use of the Planning Director:
    - (i) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant;
    - (ii) The exact sizes and locations on the lot of existing structures, if any;
    - (iii) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);
    - (iv) The location of the lot with respect to adjacent rights-of-way;
    - (v) The existing and proposed uses of the structure(s) and land;
    - (vi) The number of employees, families, housekeeping units, bedrooms, or rental units the structure(s) is designed to accommodate;
    - (vii) The location and dimensions of off-street parking and means of ingress and egress for such space;
    - (viii) Height of all structure(s);
    - (ix) The clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag pole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height;
    - (x) Setbacks;
    - (xi) Buffer yard and screening, if applicable;
    - (xii) Location of garbage collection area and screening;
    - (xiii) Location of sign existing and/or proposed signage;
    - (xiv) Layout of all internal roadways;
    - (xv) Location of stormwater management facilities;
    - (xvi) Utility lines and easements; and
    - (xvii) Signature of applicant.
  - (b) Grading plans and drainage plans and calculations are not required for Planning Commission site plan review, but shall be required prior to issuance of any building permits. Such plans shall be prepared by a registered design professional licensed by the State of West Virginia, and as authorized by West Virginia State law; and shall also meet all applicable local, state and federal regulations.
  - (c) A complete list of the names and addresses of all property owners for parcels that are, in whole or in part, within 200 feet of any property line of

~~the lot(s) to be developed. Such information shall be obtained from the Monongalia County Assessor's Office.~~

- ~~(d) Parking plan.~~
- ~~(e) Landscaping plan.~~
- ~~(f) Sign plan.~~
- ~~(g) Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Planning Commission site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Planning Commission by the applicant prior to site plan approval.~~
- ~~(h) Any other such information concerning the lot or neighboring lots as may be required by the Planning Director to determine conformance with, and provide for the enforcement of, this article; where deemed necessary, the Planning Director may require that in the case of accessory structures or minor additions, all 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 by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.~~

~~(2)(D)~~ For development which, in the opinion of the City Engineer, may create excessive negative impacts on traffic and/or dedicated City roadways, rights-of-way, or improvements in the immediate vicinity that serve the use, the City may require an analysis of the proposed development's impact on current or future traffic flows and/or dedicated City roadways, rights-of-way, or improvements, at the developer's expense, prepared by a qualified professional engineer. The Planning Commission may also table consideration of a development and refer such development to the City Engineer to ask his or her opinion as to whether a traffic impact study, transportation route plan, and/or transportation route protection agreement may be warranted.

~~(a)(1)~~ Traffic Impact Study. If the traffic impact study indicates that the projected traffic impact of the use would result in a two (2) full letter grade decline in the existing Level of Service (e.g., going from a Level of Service B to a Level of Service D) of any dedicated City street directly serving the use, such finding may be considered sufficient grounds for denial of the project, or a requirement that sufficient improvements be made to said streets, at the developer's expense, or that the project be reduced in size and scope to the point where no such negative impact on the Level of Service results. Level of Service refers to the traffic grading system described in the latest edition of the Highway Capacity Manual, published by the Transportation Research Board.

~~(b)(2)~~ Transportation Route Plan. A transportation route plan shall include a map of routes and roads for equipment, supplies, chemicals or waste products used or produced by the development. The plan shall include a list of the length of all public roads that will be used for site ingress and egress to Morgantown corporate limits. The map shall also show the location of any

areas within the City along the transportation route proposed for truck staging or storage related to the development's operations. The City may restrict the hours of operation of vehicles when the proposed transportation route passes through a designated school zone, heavily used roadways or intersections, or along local residential streets. In the event of construction detours, roadway closure or roadway deterioration along an approved transportation route, the City Engineer may amend the approved transportation route plan.

~~(e)~~(3) Transportation Route Protection Agreement. For development which, in the opinion of the City Engineer may damage or create excessive deterioration to dedicated City roadways, rights-of-way, or improvements, the City may require a transportation route protection agreement. The agreement shall stipulate that the City roadways, rights-of-way, and improvements shall be maintained equal to or better than the original condition; stipulate any required major improvements and restrictions; stipulate the manner in which dirt, dust, mud and debris is to be controlled from leaving the development site; and, required bond.

~~(i)~~(a) For the purpose of this article, "Required Major Improvements" are those modifications to City roadways, rights-of-way, or improvements that are necessitated by the high volumes of heavy traffic anticipated for the development and may include but are not limited to sight distance improvements, signage, signalization, road widening, construction of new roadways, and acquisition of rights-of-way.

~~(ii)~~(b) For the purpose of this article, "Restrictions" are requirements directed at the protection of the vehicular and pedestrian traveling public, including but not limited to routing, pilot vehicles, hours of operation, etc.

~~(iii)~~(c) For the purpose of this article, "Anticipated Damage" is the added potential stress placed on City roadways, rights-of-way, or improvements due to increased continuous use by heavy vehicles.

~~(iv)~~(d) The approved route(s) shall be filmed before commencement of development.

~~(v)~~(e) The person in charge of the development site shall provide a 24 hour point-of-contact for use by the City Engineer.

~~(vi)~~(f) Bond. A bond or similar surety acceptable to the City shall be based on the degree of anticipated damage to City roadways, rights-of-way, or improvements up to the following maximum amounts:

\$100,000	Paved Mile
\$ 35,000	Tar and Chipped Mile
\$ 25,000	Graveled Mile

~~(3)~~(E) Emergency Action Response Plan. For development that involves the use and/or storage of large volumes of highly flammable, toxic matter, or explosive materials, the City may require an emergency action response plan. A emergency action response plan shall, at a minimum:

- ~~(a)~~(1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.
- ~~(b)~~(2) Establish written procedures to minimize any hazard resulting from highly flammable, toxic matter, or explosive materials.
- ~~(c)~~(3) Identify and describe specific measures of how existing best practices will be managed and maintained regarding protection of the public and how practices are consistent with applicable federal, state, and local laws and regulations.
- ~~(d)~~(4) Be kept current with any additions, modifications, and/or amendments concerning all related activities including construction, facility upgrades, and processes and production associated with the use of highly flammable, toxic matter or explosive materials. Updated plans shall be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency within five (5) business days after any additions, modifications, and/or amendments to said plan.
- ~~(e)~~(5) Be kept on site, including updated plans.
- ~~(f)~~(6) Provide for:
  - ~~(i)~~(a) Prompt and effective response by the person in charge of the development site to emergencies regarding leaks or releases that can affect public health, safety, and welfare; fire or explosions; and natural disasters and severe weather.
  - ~~(ii)~~(b) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency.
  - ~~(iii)~~(c) The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency.
  - ~~(iv)~~(d) Measures to be taken to reduce public exposure to injury.
  - ~~(v)~~(e) Emergency shutdown of highly flammable, toxic matter or explosive materials and related site.
  - ~~(vi)~~(f) The safe restoration of service and operations following an emergency or incident.
  - ~~(vii)~~(g) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
  - ~~(viii)~~(h) An emergency notifications page that indicates all emergencies must be reported to MECCA 9-1-1.
  - ~~(ix)~~(i) Drive-to-maps from public rights-of-way to the development site.

~~(4)~~(E) Hazardous Materials Management Plan. For development that involves the use, storage, or generation of hazardous materials and wastes, the City may require a hazardous materials management plan. A hazardous materials management plan shall, at a minimum:

- ~~(a)~~(1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.
- ~~(b)~~(2) Include contact information for the owner, onsite manager, property manager, environmental manager, and tenants.
- ~~(c)~~(3) Include operations information that includes but is not limited to the total number of employees and hours of operation for each day of the week; public access and whether it restricted or unrestricted; and, hazardous-waste generator.
- ~~(d)~~(4) Include a site and facilities plan that includes but is not limited to floor layout with uses; hazardous materials storage areas and containers with methods of secondary containment; interior (floor drain) and exterior (stormwater) drainage systems with locations of connections to public sanitary and stormwater systems.
- ~~(e)~~(5) Include and maintain an inventory of all hazardous materials and wastes used, stored, or generated by the development.
- ~~(f)~~(6) Identify and describe specific measures of how existing best practices will be managed and maintained for the proper use, storage, disposal of hazardous materials and wastes; prevent pollution; reduce the risk of spills; how practices are consistent with applicable federal, state, and local laws and regulations.
- ~~(g)~~(7) Include a spill contingency plan responding to spills of hazardous materials and/or wastes that includes but is not limited to emergency contacts; spill response procedures including cleanup protocol, supplies, equipment disposal; and employee training.
- ~~(5)~~(G) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
- ~~(6)~~(H) The Planning Department shall send written notification to property owners within 200 feet of any property line of the development of the time, date and location of the Planning Commission meeting at which the project will be considered.
- ~~(7)~~(I) The Planning Director may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Planning Director, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to ensure that a structure is placed on his property according to his approved site plan (zoning review) and as required by any applicable City ordinance.
- ~~(8)~~(J) Site plans approved by the Planning Commission authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit based upon site plans given approval by the Planning Commission shall not prevent the Planning Director from thereafter requiring the correction of errors in said site plans or from preventing operations

from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

~~(9)~~(K) One copy of the site plan submitted for a permit to the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his/her signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

~~(10)~~(L) Electronic Submittal of Final Plans and Other Documents. Final plans or other documents required to be submitted under the Type III Site Plan review that will be archived must be submitted in an electronic format specified by the Planning Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The Planning Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary for archiving purposes.

~~(B) Planning Commission Review of Major Developments of Significant Impact of a Regional Scale. The review process shall be identical to that for Developments of Significant Impact, except as otherwise noted in the plan submission requirements listed below.~~

~~Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers, large scale residential developments, heavy industry, heavy manufacturing, and extractive industry. All applications for a Major Development of Significant Impact shall be accompanied by a site plan submitted under the seal and signature of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the City Engineer. Eighteen (18) copies of the site plans shall be submitted for review and shall observe the following format:~~

~~(1) Sheet One (Title Sheet). The following information shall be submitted as part of Sheet One:~~

~~(a) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references;~~

~~(b) Name of the project;~~

~~(c) Name and address of the owner, developer, and person who prepared the plans;~~

~~(d) Total acreage within the project and the number of residential dwelling units or the gross square footage of non-residential buildings whichever is applicable;~~

~~(e) Existing zoning of the subject land and all adjacent lands;~~

~~(f) Boundary lines of adjacent tracts of land, showing owners of record;~~

- ~~(g) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located;~~
  - ~~(h) A statement of the proposed uses, stating the type and size of residential and non-residential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population;~~
  - ~~(i) Any existing or proposed covenants and restrictions affecting property owners and/or homeowners associations; and~~
  - ~~(j) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.~~
- ~~(2) Sheet Two (Existing Site Conditions). The following information shall be submitted as part of Sheet Two:~~
- ~~(a) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the approved regional transportation plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty five (625) feet for extractive industry development;~~
  - ~~(b) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;~~
  - ~~(c) Existing contours based in U.S.G.S. datum with intervals of not more than two (2) feet. Elevations shall be based on sea level datum; and~~
  - ~~(d) The water elevation at the date of the survey of rivers, lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such rivers, lakes, streams, or designated wetlands. The plan shall also show the boundary line of the regulatory 100-year flood. The plan shall also show the base flood elevation of the regulatory 100-year flood at any building location along with the elevation of the lowest finished floor. All elevations shall be based on sea level datum;~~
- ~~(3) Sheet Three (Proposed Site Conditions). The following information shall be submitted as part of Sheet Three:~~
- ~~(a) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty five (625) feet for extractive industry development;~~

- ~~(b) Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;~~
- ~~(c) Water Supply Plan. For development that involves the use of water at higher volumes than customarily associated with nonindustrial type development, the City may require, in coordination with the Morgantown Utility Board, a water supply plan. A water supply plan must include at least the identification of the water source(s); the development and use of freshwater impoundments, if applicable; when and where water withdrawals will occur; necessary operational water volumes; potential competing water users; and, cumulative impact of the development's water consumption to the public water system, watersheds and/or groundwater.~~
- ~~(d) Building setback lines, showing dimensions;~~
- ~~(e) Full description and details, including engineering calculations, for provision of storm water drainage plans and facilities, as required by the City's stormwater management ordinance;~~
- ~~(f) Internal and perimeter sidewalk system/pedestrian circulation plan; and~~
- ~~(g) Proposed contours with intervals of not more than two (2) feet. The plan shall also show the contour line for the floodway fringe boundary.~~
- ~~(h) Show the location and detail plans for all trash dumpsters.~~
- ~~(4) Sheet Four (Erosion Control Plan). The following information shall be submitted as part of Sheet Four and shall be reviewed prior to issuance of a building permit:~~
  - ~~(a) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project;~~
  - ~~(b) Proposed contours with intervals of not more than two (2) feet.~~
  - ~~(c) Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, and springs, and the total acreage of land that will be disturbed.~~
  - ~~(d) The direction of drainage flow and the approximate grade of all existing or proposed streets.~~
  - ~~(e) Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains.~~
  - ~~(f) A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the~~

~~disposal site.~~

- ~~(g) Measures for soil erosion and sediment control which must meet or exceed the methods and standards adopted by the City of Morgantown, the Morgantown Utility Board, and by the West Virginia Department of Natural Resources (as set forth in the West Virginia Handbook For Erosion Control in Developing Areas) and which must comply with the design principles, performance standards, and requirements set forth in this chapter.~~
- ~~(h) A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be disturbed during each stage, the anticipated starting and completion dates, and a schedule for the maintenance of such measures.~~
- ~~(i) Include the following notes on the sheet:~~
  - ~~(i) "All erosion control practices shall be in accordance with the WVDNR "West Virginia Handbook For Erosion Control In Developing Areas" dated October 1992 and the SCS "Field Office Technical Guide."~~
  - ~~(ii) "The City Engineer has the right to require additional erosion control measures in the field as conditions warrant."~~
  - ~~(j) Copies of the letter of intent and response from the Monongalia County Soil and Water Conservation District office for compliance, when required.~~
  - ~~(k) Any other information reasonably required by the Planning Commission or Planning Director to properly evaluate the plan.~~
- ~~(5) Sheet Five (Landscape Plan). A landscape plan prepared to the standards specified in this zoning ordinance.~~
- ~~(6) Sheet Six (Plat like dedication sheet, if necessary). The following information shall be submitted as part of Sheet Five if a plat like dedication document for easements and rights of way is deemed necessary by the Planning Commission or its authorized designee:~~
  - ~~(a) Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;~~
  - ~~(b) Radii, internal angles, points of curvature; tangent bearings and lengths of all arcs, chord, and chord bearings; and~~
  - ~~(c) Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.~~
- ~~(7) All sheets shall contain the following information:~~
  - ~~(a) The proposed name by which the project shall be legally and commonly known;~~
  - ~~(b) Date of survey, scale, and north point;~~
  - ~~(c) All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes;~~
  - ~~(d) Private parks, common areas, or excluded parcels shall be designated as~~

~~such and clearly labeled on the plans;~~

- ~~(e) A traffic impact study, if required by the City Engineer;~~
- ~~(f) Such other information as may be deemed necessary for proper review of the site plan by the Planning Director, City Engineer, or Planning Commission;~~
- ~~(g) All necessary reference points tying the subject property to the appropriate section corners;~~
- ~~(h) Each sheet shall be sealed and signed by the professional preparing the drawings;~~
- ~~(i) All sheets shall be tied to state plane coordinates for horizontal and vertical controls;~~
- ~~(j) Names and addresses of the parties within 200 feet of the property; and,~~
- ~~(k) The applicant must provide self-addressed stamped envelopes in sufficient quantities to provide notification to the parties identified in the item above. Return address is not required.~~

## **ARTICLE 1329.02**

### **Definition of Terms**

~~DEVELOPMENT OF SIGNIFICANT IMPACT and MAJOR DEVELOPMENT OF SIGNIFICANT IMPACT – Any proposed development whose characteristics warrant a more in-depth review by the Planning Commission in order to mitigate the negative impact these characteristics may have on surrounding land uses in particular and on the surrounding neighborhood in general. Developments of Significant Impact are those that have a Citywide or regional impact. Such impacts could involve the transportation network, environmental features such as parks or stream corridor, local schools, large-scale residential developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.~~

~~Developments of Significant Impact are those that have a neighborhood or citywide impact. Such impacts would involve the transportation network, environmental features such as parks or corridor streams, and local schools.~~

~~Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers and large-scale residential developments.~~

Any proposed residential or non-residential development which meets or exceeds any of the following criteria shall be determined to be a Development of Significant Impact and will require a complete development plan to be submitted and reviewed by planning staff and the Planning Commission:

Land Use Category	Development of Significant Impact	Major Development of Significant Impact
Residential	12 to 99 dwelling units	100 or more dwelling units
Commercial	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Office/Institutional	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Industrial	0 to 99,999 square feet of gross floor area	100,000 or more square feet of gross floor area
Mixed Use	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area

Land Use Category / District	Development of Significant Impact
<u>Residential Development</u>	<u>12 or more dwelling units</u>
<u>Commercial Development</u>	<u>15,000 square feet or more of gross floor area</u>
<u>Office/Institutional Development</u>	<u>15,000 square feet or more of gross floor area</u>
<u>Mixed-Use Development</u>	<u>15,000 square feet or more of gross floor area</u>
<u>Industrial Development</u>	<u>All industrial development regardless gross floor or land area</u>
<u>Development in the B-4 District</u>	<u>12 or more dwelling units; and/or</u> <u>New construction of a principal structure, regardless of land use category or gross floor area; and/or</u> <u>Addition of 2,000 square feet or more of gross floor area to an existing principal structure, regardless of land use category; and/or,</u> <u>Change in land use category within an existing principal structure consisting of 8,000 square feet or more of gross floor area.</u>

MIXED-USE DEVELOPMENT – A single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas, but not a mixed use dwelling as defined in this Ordinance. Specifically, the development or use of a tract of land or building(s) or structure(s) containing residential in addition to non-residential uses. Mixed-use development patterns are generally planned as a unified complementary whole, that are functionally integrated, and encourage a diversity of compatible land uses.

**ARTICLE 1379**  
**Conditional Uses**

1379.01 GENERAL PROVISIONS.

(A) Purpose. It is the purpose of this article to recognize that there may be cases where community and Comprehensive Plan goals are met by a flexible and individual regulation of land uses within a zoning district. The establishment of a conditional use permit procedure provides Morgantown with such flexibility to provide for certain uses which shall be permitted only if adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this ordinance and the Comprehensive Plan. The conditional use permit procedure shall provide for some measure of individualized judgment and the imposing of conditions on certain uses, in order to make them compatible with uses in the surrounding area. It is further intended that the conditional use permit, through a site plan review process, shall provide a method whereby it can be determined whether or not a use would cause any damage, hazard, nuisance, or other detriment to persons or property in the vicinity.

(B) Standards and Requirements. All such uses are declared to possess characteristics of such unique and special form that each specific use must be considered as an individual case. Consideration by the Board of Zoning Appeals shall be based on adopted standards and requirements. These considerations shall be both general, applying to all conditional uses, and specific, applying to individual types of conditional uses. The standards and requirements stipulated in this article shall be made a condition of approval. In addition, the Board of Zoning Appeals may impose additional, reasonable conditions to fit the particular use and site under review.

(C) Limits of Authorization. A conditional use permit shall be deemed to authorize only the particular use specified in the permit.

(D) Review. If a conditional use permit is required for any new use, the Planning Director and Board of Zoning Appeals will review the site plan in order to determine if the conditional use permit is warranted. If a conditional use permit meets the thresholds for a DSI or ~~major DSI~~ as set forth in Section 1385.05, the reviewing authority will then be the Planning Commission and Board of Zoning Appeals.