



MORGANTOWN BOARD OF ZONING APPEALS

December 16, 2015
6:30 PM
City Council Chambers

Board Members:

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

COMBINED STAFF REPORT

CASE NOS: V15-77 thru V15-81 / Feoh Realty, LLC / Donahue Drive

REQUEST and LOCATION:

Request by Ryan Hess, on behalf of Feoh Realty, LLC, for the following variance petitions related to a development along Maple Drive, Research Park Road, and State Route 705.

- V15-77 Variance relief from Article 1365.10(N) from developing a loading space.
- V15-78 Variance relief from Article 1365.09(B)(2) from the minimum distance of a driveway entrance to the intersection of two streets.
- V15-79 Variance relief from Article 1365.05 from providing the minimum number of stacking spaces for vehicles before each bank/ATM window.
- V15-80 Variance relief from Article 1353.07(E) from developing a sidewalk along the Maple Drive frontage street.
- V15-81 Variance relief from Article 1353.05(A) to construct a principal building less than the minimum building height standard of 25 feet.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Morgan District, Tax Map 4, Parcels 18.5, 19 & 20; B-5, Shopping Center District

SURROUNDING ZONING:

B-5, Shopping Center District

BACKGROUND:

The petitioner seeks to develop a “Medium-Scale Shopping Center” with access from a proposed street connecting Maple Drive and State Route 705. MECCA 911 has established a name for the proposed driveway of “Donahue Drive.” Addendum A of this report illustrates the location of the subject site. Attached hereto is a detailed Planning and Zoning Code Conformity Report dated 24 NOV 2015.

Proposed Development Program

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

- The development site is approximately 2.66 acres and is currently vacant. A portion of the site is within West Virginia Division of Highway’s (WVDOH) right-of-way and a portion of the site is owned by West Virginia University. The undersigned understands the developer is in the process of securing ownership of the right-of-way portion and securing a long-term lease for the WVU portion.
- The development site was a part of an annexation by petition approved by City Council on 20 OCT 2015 (Ordinance 15-66) and entered by the County Commission on 18 NOV 2015. On 01 DEC 2015, City Council established the zoning classification of B-5, Shopping Center District for the subject site by Ordinance 15-72.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

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- The proposed development program includes one (1) principal building with 13,500 gross square feet (GFA). The “Medium Scale Shopping Center” will include six (6) commercial tenant spaces.
- A total of 54 surface parking spaces are proposed. Two (2) tenant spaces include accessory drive-through facilities.
- Access to the development site is proposed by way of a new road connecting Maple Drive and Route 705, which will require WVDOH approval.

Required Planning and Zoning Code Approvals

The following approvals are required for the development program as proposed.

- Required Planning Commission approvals:
 - Type III Site Plan Development of Significant Impact (DSI). Site Plan approval by Planning Commission is required for Developments of Significant Impact (DSI) that are either 15,000 square feet or more of gross floor area OR a site of 2 acres or more of “net acreage” [non B-4 sites]. According to the development’s design professionals, the development site is ± 2.66 net acres with a “net acreage” of more than 2 acres. On 10 DEC 2015, the Planning Commission approved the petitioner’s Type III Site Plan petition under Case No. S15-11-III. A copy of the Planning Commission’s action letter is attached hereto.
 - Minor Subdivision. A plat assembling the development site into one (1) parcel, if not recorded prior to annexation, must be approved by the Planning Commission as a minor subdivision. The Planning Commission included a related condition in its approval of the petitioner’s Type III Site Plan petitioner under Case No. S15-11-III.
- Required BZA approvals:
 - Variances:
 - V15-77.....Loading space.

Article 1365.10 provides that at least one (1) loading space be developed, the size of which may not be less than that required for the type of delivery vehicle serving the site. Given the contemplated commercial tenants, a 14 feet by 60 feet loading space should be provided to access the tenants’ respective man-doors. A dedicated loading space is not provided, which requires variance relief.
 - V15-78.....Location of driveway entrance.

Article 1365.09(B)(2) requires driveway entrances to be at least 30 feet from the nearest point of the intersection of two streets. The proposed driveway entrance is located closer than 30 feet from the intersection of State Route 705 and the proposed connector roadway and the

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intersection of Maple Drive and the proposed connector roadway, which requires variance relief.

- V15-79..... Stacking spaces.

Table 1365.05.01 requires six (6) stacking spaces before each bank or ATM bay. Only three (3) stacking spaces are provided before each of the three (3) proposed bank/ATM bays, which requires variance relief.

- V15-80..... Sidewalk.

Article 1353.07(E) provides in the B-5 District, "Sidewalks shall be constructed along the frontage (where feasible) of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the Street." Based on the shortest frontage, Maple Avenue is considered the front of the site along which a sidewalk is required. Because a sidewalk along Maple Avenue is not proposed, variance relief is required.

- V15-81..... Minimum building height.

Article 1353.05(A) provides a minimum height of 25 feet for the principal structure in the B-5 District. Building height in feet is determined by measuring from grade to the roofline of the proposed flat roof building but excluding projections similar to spires, parapets, mechanical penthouses, etc. The proposed building height is 13' – 4", which requires variance relief of 11' – 8".

ANALYSIS:

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 Planning Commission 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.

It is the opinion of the Planning Division, as explicated in Addendum B, that the proposed development program appears to be in general concurrence with the Plan's principles for land management given the suburban development pattern and character of the surrounding built environment located outside the City's corporate boundary.

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STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the petitioner. If the Board disagrees with the petitioner’s “Findings of Fact” and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum C of this report provides Staff recommended revisions to the petitioner’s “Findings of Fact” responses and serve only to remove narrative that is clearly inapplicable. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner’s responses (deleted matter struck through; new matter underlined).

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

Staff submits the following recommendations for each petition:

Case Nos.	Code Provisions / Recommendation
V15-77	<p>Variance relief from Article 1365.10(N) as it relates to loading for a site along Maple Drive, Research Park Road, and State Route 705; Morgan District.</p> <p><i>Staff recommends the Board explore with the petitioner a more definitive affirmative response to Finding of Fact No. 3. Staff recommends the following condition be included should variance relief be granted as requested:</i></p> <p><i>That, to the satisfaction of the City Fire Marshal, the drive aisle between the building and Maple Drive be designed and constructed to ensure unimpeded access for emergency vehicles with consideration given for loading and drive-thru stacking functions.</i></p>
V15-78	<p>Variance relief from Article 1365.09(B)(2) as it relates to proximity of a driveway to the intersection of two streets for a site along Maple Drive, Research Park Road, and State Route 705; Morgan District.</p> <p><i>Minor Findings of Fact revision recommendations are provided in Addendum C. Staff recommends the following condition be included should variance relief be granted as requested:</i></p> <p><i>That all requisite WVDOH access permits/agreements be obtained by the petitioner prior to building permit issuance.</i></p>

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Case Nos.	Code Provisions / Recommendation
V15-79	Variance relief to 1365.05 as it relates to minimum number of stacking spaces for a site along Maple Drive, Research Park Road, and State Route 705
	<i>No Staff recommendations are submitted concerning the petitioner's Findings of Facts or whether variance relief should be granted as requested.</i>
V15-80	Variance relief to 1353.07(E) as it relates to sidewalks for a site along Maple Drive, Research Park Road, and State Route 705.
	<i>Minor Findings of Fact revision recommendations are provided in Addendum C. No Staff recommendation is submitted concerning whether variance relief should be granted as requested.</i>
V15-81	Variance relief from Article 1353.05(A) as it relates to minimum building height
	<i>Minor Findings of Fact revision recommendations are provided in Addendum C. No Staff recommendation is submitted concerning whether variance relief should be granted as requested.</i>

Attachments: Applications, drawings, and enclosures noted above.

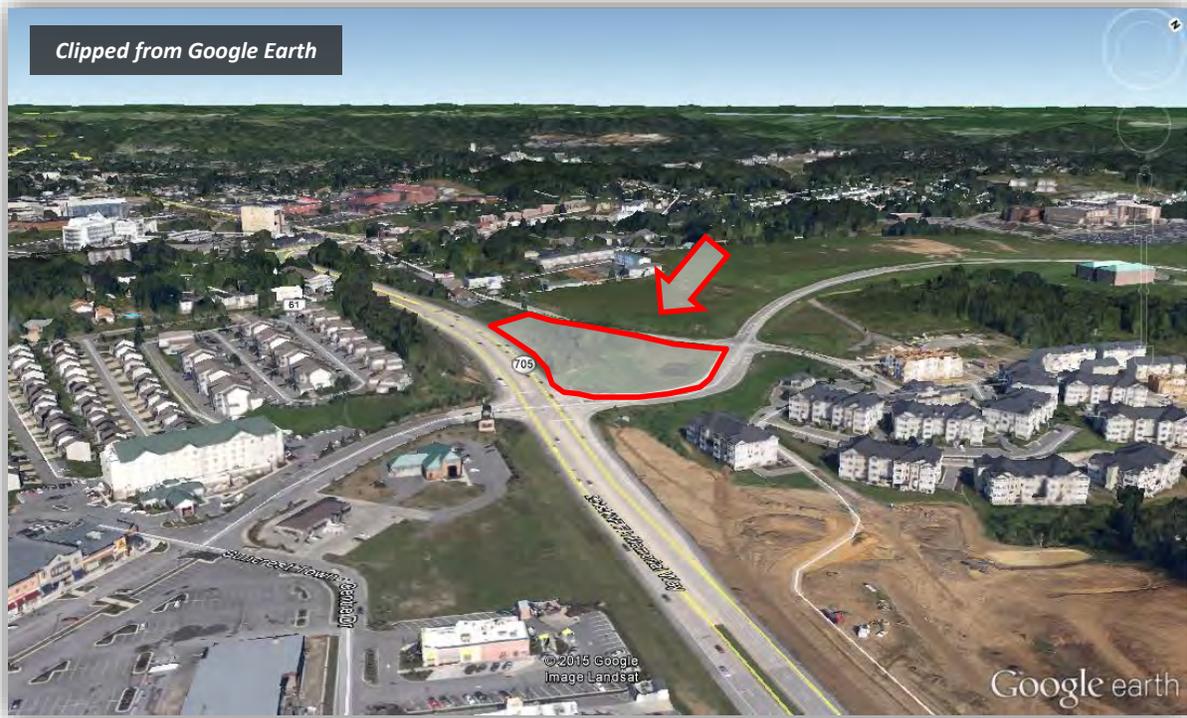
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STAFF REPORT ADDENDUM A
V15-77 thru V15-81 / Feoh Realty, LLC / Donahue Drive



STAFF REPORT ADDENDUM B

V15-77 thru V15-81 / Feoh Realty, LLC / Donahue Drive

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.

INTENT	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
	<p><i>Although the subject site is currently undeveloped in terms of land use, it should not be considered a "green field" as it contains significant above and below ground utilities and a stormwater management facility serving the surrounding built environment. The proposed development should be considered infill as it is surrounded by suburban type development located outside the City's corporate boundaries but within the "Conceptual Urban Growth Boundary" illustrated in Appendix A of the 2013 Comprehensive Plan. Additionally, the site is situated at the entrance of West Virginia University's planned research park, which is identified in the Plan as an area of opportunity for continued economic development.</i></p>	
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
	<p><i>The subject site was recently annexed into the City. The proposed development should be considered contiguous infill development surrounded by suburban type development located outside the City's corporate boundaries.</i></p>	
Principal 3	Downtown, adjacent neighborhoods and the riverfront will be the primary focus for revitalizations efforts.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
	<p><i>The subject site is not located within the downtown, adjacent neighborhoods, or near the riverfront. However, it is located along a corridor with one of the highest average daily traffic (ADT) counts in the urbanized area containing regional employment centers and shopping centers and multi-family residential developments.</i></p>	
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
	<p><i>The site is not located within or adjacent to a "Neighborhood Conservation" area.</i></p>	

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"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<i>The majority of B-5 District mandatory and desired site design and architectural elements appear to be included in the proposed development program.</i>		
Principal 6	Development that integrates mixed-uses (residential, commercial, institutional, civic, etc.) and connects with the existing urban fabric is encouraged.	<input type="checkbox"/> Concurrence <input checked="" type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<i>The proposed development program does not include a residential component. However, the proposed development resembles the suburban pattern and character of the immediate built environment where uses are disconnected from adjacent areas of largely homogenous pods of development [see Neighborhood 4 description].</i>		
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 type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<i>The built environment within the immediate area of the subject site, located outside the City's corporate boundaries, has evolved over the past decade into an auto-oriented, heavily auto-dependent suburbanized corridor. State Route 705 is a limited access state "highway" bisecting adjoining commercial uses/districts and neighborhoods and hindering pedestrian connections. Mountain Line Transit does not appear to serve the subject site or the immediate area as an alternate mode of transport.</i>		
Principal 8	A broad range of housing types, price levels and occupancy types will provide desirable living options for a diverse population.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<i>The proposed development program does not include a residential component. Zoning ordinance dictates and/or guidelines concerning desired affordability and workforce housing opportunities have not been developed or enacted.</i>		
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 type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<i>The proposed development program does not include a residential component. Although there appears to be a diverse mix of single-family, townhouse, apartments, and condominiums within the immediate area, open public spaces, pedestrian connections, and transportation alternatives have not been integrated in the developments located outside the City's corporate boundary. State Route 705 is a limited access state "highway" bisecting adjoining commercial uses/districts and neighborhoods and hindering desired "complete neighborhood" and "pedestrian-scaled" development patterns.</i>		

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

Parkland, functional open space, and/or recreational facilities are not included in the proposed development program.

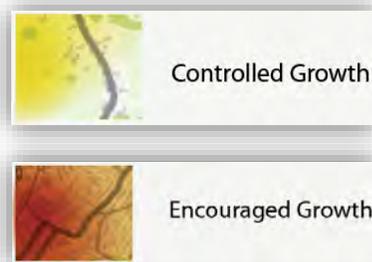
Principal 11 Environmentally sensitive and sustainable practices will be encouraged in future developments. Concurrence
 Inconsistent
 Other

Stormwater management best practices will be required for the development. The developer's goals and objectives concerning sustainable 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 “**Controlled Growth**” area and adjacent to the “**Encouraged Growth**” area that includes “**Area of Opportunity No. 11 – University Research Park.**”



Controlled Growth – Developing areas, or currently undeveloped land where more growth is likely due to proximity to existing thoroughfares, infrastructure and adjacency to recent development. Growth in these areas generally expands the footprint of the urban area and should be controlled to minimize negative impacts.

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 4**” pattern and character area and adjoins the “Commercial Corridor”, “Urban Corridor”, and “Commercial Node” pattern and character areas.

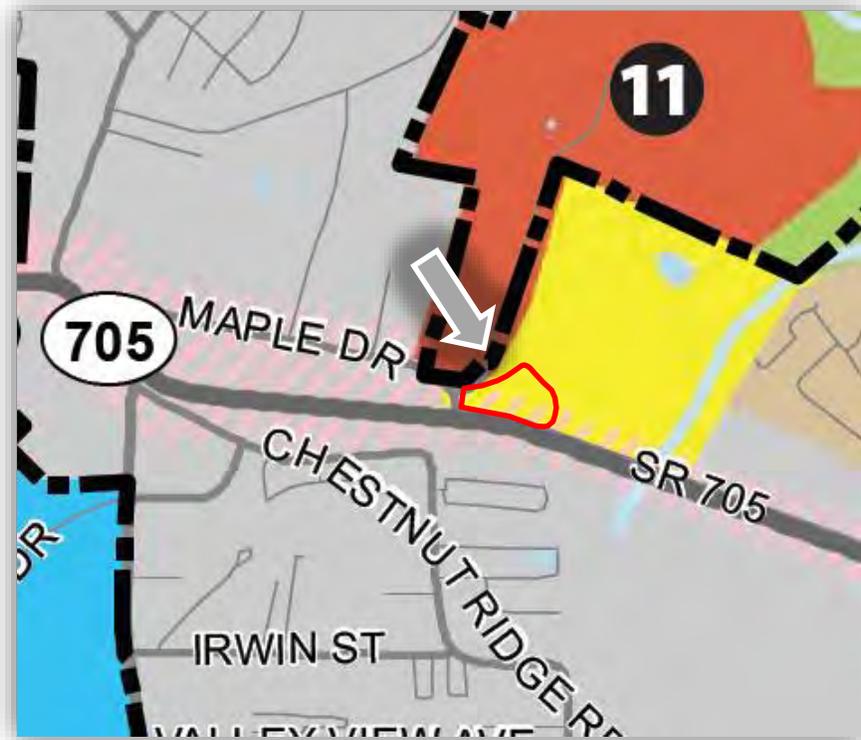


- Neighborhood 4
- Commercial Node
- Commercial Corridor
- Urban Corridor

Neighborhood 4. Neighborhood 4 is the most suburban with single-type residential developments that are disconnected from the fabric of adjacent areas. Residential density varies but each development typically has one type of housing product such as large-scale apartment complexes, semi-detached condos, mobile home parks and single-family developments where the homes are similar in size and amenities. These homogenous pods of development are primarily located at the city's edge and in unincorporated areas such as the County's West Run Planning District.



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 “**Controlled Growth**” concept area and adjacent to the “Encouraged Growth” concept area that includes “Area of Opportunity No. 11 – University Research Park.”



 **Encouraged growth:** Areas where new growth is encouraged primarily for economic development. These areas may be special districts or mixed-use areas.

 **Controlled growth / Traditional Neighborhood Area*:** Areas where growth is not strongly encouraged but where mixed-use development could be supported because of proximity to planned or existing roadways and utilities. Appropriate development may include a traditional neighborhood pattern (walkable with a distinct center and edge), an open space development pattern, or special use districts. Care should be taken to ensure that new development is compatible with existing development patterns in the area.

 **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.

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 graphics are clipped from Pages 41 through 43 of the 2013 Comprehensive Plan Update and identify the development types desired within the “Controlled Growth” concept area.

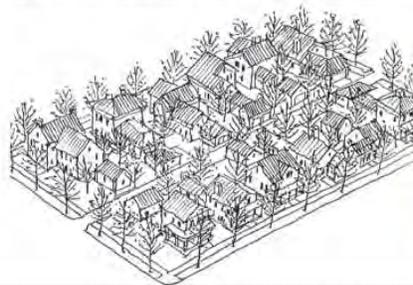
CONCEPT AREA	Appropriate Development Types											
	SF	TF	MF	C	NX	UC	CC	O	I	CD	OS	
 Controlled Growth	•	•	•	•	•				•	•	•	•

DEVELOPMENT TYPE DESCRIPTIONS

PATTERN AND CHARACTER EXAMPLES

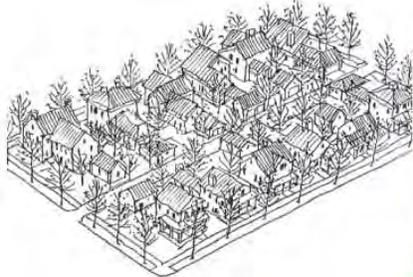
SF Single Family Residential

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



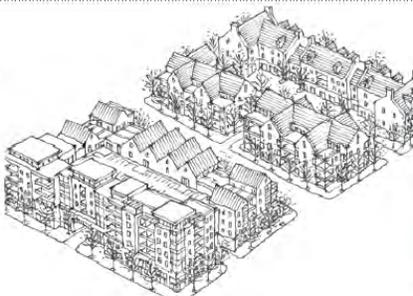
TF Two Family Residential

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.



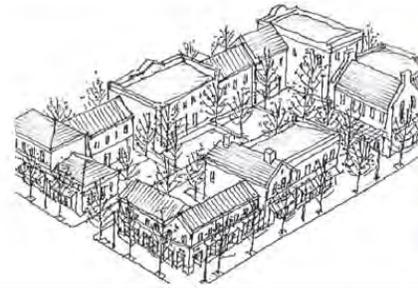
C Civic and Institutional

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.



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.



I Limited Industrial

Typically 1-2 story large footprint buildings intended for light industrial development, clean manufacturing or warehousing activities.



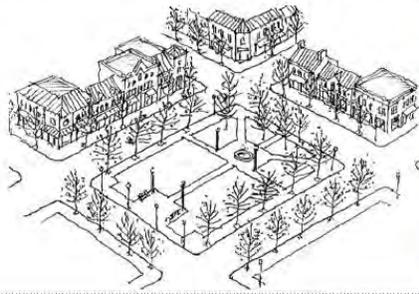
CD Cluster Development

Primarily residential development on large sites (typically at least 40 acres) where relatively small lots are arranged in a clustered pattern, rather than larger lots spread over the entire site. This type of development leaves a significant area of a site undeveloped (often 50%) to preserve significant natural areas such as steep slopes, stream corridors and areas of mature trees.



OS **Greenspace**

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



**OBJECTIVES
AND
STRATEGIES**

Land Management

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.

**OBJECTIVES
AND
STRATEGIES**

Economic Development

Objective 5. Provide desirable locations for business expansion.

ED 5.7 Pursue zoning map amendments where appropriate to address potential zoning conflicts and promote non-residential infill and redevelopment in appropriate areas (See Areas for Future Study in Appendix A).

Objective 6. Strive for a balanced approach to economic development that considers the fiscal impacts of growth.

ED 6.2 Consider the fiscal impact on city and county governments of any proposed major development or annexation.

ED 6.3 Use incentives and zoning to promote development in areas with existing infrastructure capacity, in order to reduce the need for infrastructure extensions, and to concentrate infrastructure improvements reducing short-term and long-term operating costs.

STAFF REPORT ADDENDUM C

V15-77 thru V15-81 / FEOH Realty, LLC / Donahue Drive

Staff recommended revisions to the petitioner's Findings of Fact responses provided herein serve only to remove narrative that is clearly inapplicable. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses (deleted matter struck through; new matter underlined).

Case No. V15-77 Loading space for a site along Maple Drive

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:

This variance request consists only of relief from a loading space and shall not adversely affect the public health, safety, or welfare, or the rights of adjacent property owners or residents. An adequate drive aisle is being proposed along the Maple Drive side of the building such that if a truck is parking, making deliveries, and the coffee shop drive-thru is stacked, a vehicle will still be able to pass.

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:

Deliveries shall take place during off-peak hours. The project is within confines of a constrained site due to property boundaries and topography, thus presenting a challenge for oversized site elements such as a large loading space. ~~See section 1 above.~~ In the current grading plan, a 2:1 slope is in both the front and back of the site, limiting the amount of surface area for building footprint, parking spaces, and drive aisles.

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

~~See section 1 above.~~

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

A dedicated "loading space" will not be placed "in front" of the building, as the City of Morgantown has deemed the front on the Maple Drive side of the building. Not placing a dedicated loading space will eliminate need for unnecessary site grading and construction. Therefore, an oversized drive aisle, proposed for 19' wide, will be adequate to serve loading and traffic.

Case No. V15-78 Proximity of a driveway to the intersection of two streets

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:

Pedestrian or vehicular traffic will not be impacted. Not enough land exists between Rt State Route 705 and Maple Drive to meet this project requirement.

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 lot is situated on two public streets, Rt State Route 705 and Maple Drive. As discussed, this drive will be located on what is now WVDOH owned property and it is the current intent that it will remain WVDOH property. Therefore, private acquisition is not feasible. The site is constrained with by boundary and developable grade (as well as existing surface stormwater pond) thus creating a challenging lot shape. Additionally, the building footprint has been located as such to optimally position all other site elements to provide adequate space.

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

Land disturbance will be minimized on Maple Drive ~~R.O.W~~ right-of-way. The site, building, and circulation will maintain sightlines to and from both Rt State Route 705 and Maple Drive, and will remain visitable from both as well.

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

The public road between Rt State Route 705 and Maple Drive will access a driveway that has been sensitively designed and planned to meet industry traffic standards.

Case No. V15-79 Minimum number of stacking spaces

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:

It is not anticipated that pedestrian or vehicular traffic will be impacted.

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 site is constrained with by boundary and developable grade (as well as existing surface stormwater pond) thus creating a challenging lot shape. Desired drive stacking/queue by City of Morgantown cannot be met once minimum parking counts are provided on site. Stacking is still provided, however less than required; the drive through has been placed at the rear of the building to allow for stacking that does not interfere with general traffic flow of the site. Additionally, the building footprint has been placed as far back and to the corner of the site as possible.

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

Unnecessary hardship will be eliminated because land disturbance will be limited on the site.

The site is constrained by both topography and boundaries, a larger paving surface/parking lot will stretch the limits of grading on the site.

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

Stacking/queue spaces at the bank drive through will still be provided. Due to the prevalence of online banking and technology employed by the bank, it is anticipated that a reduced number of stacking spaces at the bank drive through will be sufficient.

Case No. V15-80 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:

Pedestrian or vehicular traffic will not be impacted. Neither polluting light nor emissions will affect public health, safety or welfare, or rights of adjacent owners. ~~Rt~~ State Route 705 currently does not have a sidewalk and it is not a pedestrian corridor.

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 lot is situated on two public streets, ~~Rt~~ State Route 705 and Maple Drive; the façade has frontage on ~~Rt~~ State Route 705, however is minimal due to the significant grade difference of ~~Rt~~ State Route 705 and the finish floor elevation (FFE) of the building. Additionally, the façade is separated from ~~Rt~~ State Route 705 with a large seeded buffer and parking lot. Therefore, the site layout is not conducive to a sidewalk. At the rear of the site, current grading runs at a steep slope right to the existing curb of Maple Drive, thus making sidewalk construction costly and invasive to the existing slope, requiring a 2-3' tall retaining wall and drainage mechanism. With a new entry West of the site off both Maple and ~~Rt~~ State Route 705, 226 linear feet of sidewalk would need installed. The existing slope of Maple Drive is steep and exceeds current standards for ADA pathways. Additionally, an existing "guy" power pole is situated in the middle of where a required sidewalk would interfere, thus creating need for relocation of such pole.

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

Constructing sidewalks along the frontage is very problematic. A. The existing slope on our side of the road is 2:1, basically directly from the back of curb. It would require installation of an approximate 2' – 3' tall retaining wall for the vast majority of the sidewalk length along Maple Drive. B. There is an existing "guy" power pole that would be in the way and would need to be relocated. C. The existing slope of Maple Drive is steep and exceeds the current standards for ADA pathways. D. It is ~~our understanding~~ understood that sidewalks are not ~~being extended to our~~ planned for extension to the petition's site as part of the Maple Drive improvements occurring from ~~our~~ the subject site to the West. Land disturbance will be minimized on the Maple Drive ~~R.O.W~~ right-of-way. Without a sidewalk, and therefore no retaining wall, will eliminate need for excavation and drainage requirements.

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 building and circulation will maintain sightlines to and from both State Route 705 and Maple Drive, and will remain visitable from both as well. ~~To the best of the design team's knowledge, there are no known sidewalks extended to the site.~~ This is a vehicular corridor and the design preserves the site as such.

Case No. V15-81 Minimum 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:

A smaller structure minimizes views being blocked or violating land or air rights of adjacent owners; a lower structure will be less intrusive to viewsheds of future developed properties by adjacent landowners. The architectural team feels the proposed design is a contextual design given the nearby structures and adjacent topography.

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 lot is situated on two public streets, ~~Rt~~ State Route 705 and Maple Drive; the façade has frontage on ~~Rt~~ State Route 705, however is minimal due to the significant grade difference of ~~Rt~~ State Route 705 and the finish floor elevation (FFE) of the building. Additionally, the façade is separated from ~~Rt~~ State Route 705 with a large seeded buffer and parking lot. The site is constrained by boundary and developable grade (as well as existing surface stormwater pond) thus creating a challenging lot shape. A one-story building is being proposed due to these site constraints limiting the amount of parking, therefore a two-story structure meeting the 25' minimum height is not feasible on entire façade. A two-story structure cannot be placed on the site due to minimum parking restrictions and inadequate building area on site and topography. However, the intent of the 25' minimum height is being met at the corners of the façade with the proposed architectural design. The general parapet height remains consistent at 20'-0" along the façade, with signage areas exceeding the height.

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

~~Unnecessary costs will be avoided by not constructing a "false" façade to meet the 25' minimum height requirement.~~ The current architectural design preserves the contextual storefront portions that are found at the nearby Suncrest Towne Centre commercial developments.

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

Parts of the structure do meet the intent of the 25' minimum building height with the corner highlighted architectural features.



PLANNING AND ZONING CODE CONFORMITY REPORT FOR PLANS DATED 06 NOV 2015

Planning Division

Research Park Shops (Feoh, LLC) – Maple Drive, Research Park Road, Route 705

The following information identifies Planning and Zoning (P&Z) Code provisions related to the above referenced development. Plans reviewed herein were prepared by the Freeland and Kauffman, Inc. and Mills Group, on behalf of Feoh Realty, LLC. Also identified is whether or not the subject development meets P&Z requirements; whether additional information is required; and, whether variance(s) and/or conditional use approval(s) are necessary.

PROPOSED DEVELOPMENT PROGRAM

- The development site is approximately 2.66 acres and is currently vacant. A portion of the site is within West Virginia Division of Highway's (WVDOH) right-of-way and a portion of the site is owned by West Virginia University. The undersigned understands the developer is in the process of securing ownership of the right-of-way portion and securing a long-term lease for the WVU portion.
- The development site was a part of an annexation by petition approved by City Council on 20 OCT 2015 (Ordinance 15-66) and entered by the County Commission on 18 NOV 2015. The Second Reading and Public Hearing of the ordinance establishing B-5 zoning classification for the development site is scheduled before City Council on 01 DEC 2015.
- The development program includes one (1) principal building with 13,500 gross square feet (GFA). The building is considered a "Medium Scale Shopping Center" with six (6) commercial tenant spaces.
- A total of 54 surface parking spaces are proposed. Two (2) tenant spaces include accessory drive-through facilities.
- Access to the development site is proposed by way of a new road connecting Maple Drive and Route 705, which will require WVDOH approval.

SUMMARY OF CONFORMITY OBSERVATIONS

Planning and Zoning Code Reference	
Conformity (Y, N, TBD)	Conformity review observations; required approvals noted in bold highlighted (yellow) font .

1353.02 Permitted and Conditional Uses	
Y	"Medium Scale Shopping Center" uses are permitted by-right in the B-5 District. Additionally, contemplated commercial tenants, including "Restaurant, Fast Food," "Furniture Sales Establishment," "Retail Sales Establishment," "Financial Services Establishment," and "Drive-Through Facility," are permitted by-right in the B-5 District as principal or accessory uses.



PLANNING AND ZONING CODE CONFORMITY REPORT FOR PLANS DATED 06 NOV 2015

Planning Division

1353.03 Lot Provisions	
Y	(A) Minimum lot size – 0.5 acre. <i>Plans reviewed herein identify the development site to be ± 2.66 acres</i>
Y	(B) Minimum lot frontage – 60 ft. <i>The site has frontage on Maple Drive (± 510 ft), Research Park Drive (± 530 ft), and Route 705 (± 590 ft).</i>
Y	(C) Minimum lot depth – 100 ft. <i>The lot depth varies from ± 110 ft to 380 ft.</i>
Y	(D) Maximum lot coverage – 60%. <i>13,500 sq. ft. (building) / 115,870 square feet (site) = 11.7%</i>

1353.04 Setbacks and Encroachments			
	Provision	Requirement	Proposed
Y	(A)(1) Minimum Front	20 ft	± 45 ft
Y	(A)(2) Minimum Side	30 ft	± 112 ft (E) and ± 131 ft. (W)
Y	(A)(3) Minimum Rear	30 ft	± 97 ft
N/A	(B) Minimum setback for accessory structures – 5 ft from side & rear <i>No accessory structure is proposed.</i>		
Y	(C) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line. <i>As the shortest frontage, Maple Avenue is considered the front of the site.</i>		

1353.05 Building Height			
	Provision	Requirement	Proposed
N V15-81	(A) Minimum Height	25 ft	13' – 4"
Y	(A) Maximum Height	75 ft	10 ft
N/A	(B) Maximum Height (accessory structure) – 25 ft <i>No accessory structure is proposed.</i>		

1353.06 Parking and Loading Standards	
	<i>See comments below under Article 1365.</i>