AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
September 4, 2018
7:00 p.m.

1. CALL TO ORDER:

2. ROLL CALL:

3. PLEDGE TO THE FLAG:

4. APPROVAL OF MINUTES: August 7th, 2018 Regular Meeting minutes, August 21st, 2018 Regular Meeting minutes, and August 28th, 2018 Special Meeting minutes.  (Page 3, 18, and 24)

5. CORRESPONDENCE:

6. PUBLIC HEARINGS:

7. UNFINISHED BUSINESS:
   A. BOARDS & COMMISSIONS:

8. PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION:

9. SPECIAL COMMITTEE REPORTS:

10. CONSENT AGENDA:
    A. WVU Alumni Beer Floor Plan Extension  (Page 26)

11. NEW BUSINESS:
    A. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE (1) PARCEL OF REAL ESTATE IN THE FIFTH WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-4 GENERAL BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HERIN  (Page 36)

    B. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING THE CITY’S PLANNING AND ZONING CODE, SECTION 1329.02 AND TABLES 1331.05.01 AND 1365.04.01 AS THE SAME APPLY TO MEDICAL CANNABIS RELATED USES  (Page 60)

12. CITY MANAGER’S REPORT:  (Page 72)

   New Business:
1. Blue Zone
2. Urban Deer Archery Hunt (Page 74)

13. REPORT FROM CITY CLERK:

14. REPORT FROM CITY ATTORNEY:

15. REPORT FROM COUNCIL MEMBERS:

16. ADJOURNMENT:

*If you need an accommodation contact us at (304) 284-7439*
REGULAR MEETING: August 7, 2018: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, August 7, 2018 at 7:00 p.m.

PRESENT: City Manager Paul Brake, Executive Secretary Carol Allen, City Attorney Ryan Simonton, Mayor William Kawecki, and Council Members: Ryan Wallace, Ron Dulaney, and Barry Wendell. City Clerk Linda Tucker, Rachel Fetty, Deputy Mayor Mark Brazaitis was absent.

The meeting was called to order by Mayor Kawecki.

APPROVAL OF MINUTES: July 24, 2018 Special and Regular Meeting minutes was approved by acclamation.

CORRESPONDENCE: Councilor Dulaney read an email from Jenny and Nathan Wilson 5th Ward resident that are in support of the Land Reuse Agency. Ex. A

PUBLIC HEARING: AN ORDINANCE AMENDING SECTIONS 1329.02, 1333.07, 1337.07, 1339.07, AND 1363.2 OF THE ZONING CODE AS IT RELATES TO RESIDENTIAL SETBACKS IN DEVELOPED BLOCKS AND RESIDENTIAL LIGHTING:

Mayor Kawecki declared the Public Hearing open. There being no appearances, Mayor Kawecki declared the Public Hearing closed.

PUBLIC HEARING: AN ORDINANCE ESTABLISHING A LAND REUSE/PRESERVATION AGENCY FOR THE CITY OF MORGANTOWN:

Mayor Kawecki declared the Public Hearing open.

Danielle Trumble, 1141 Charles Avenue, stated that she is for the Land Reuse Agency and had some concerns about how many council members can be on the board and thinks there should be a limitation.

Adam Roesky, 640 White Avenue, talks about the Land Reuse Ordinance fearing it is overly broad. Council needs to revisit and look at Councilor Fetty’s amendments to narrow down some of the capabilities and create an oversight of an elected organization so that the Land Reuse Agency does not go out willingly contracting as they do under the existing Ordinance.

Evelyn Ryan, 225 Dewey Street, she is concerned about the idea of the board that does not have a majority of non-elected officials on it. Having non-elected officials on this board will at least allow a counter opinion to come forth.

Michael Clifford, 145 S Hight Street, stated that he echo’s some of the previous opinions said tonight and thinks that Councilor Fetty’s amendment to illuminate the number of council members on the board is a good idea, he suggests it should be zero or one council member, which is reasonable to get the council representation on the board. He also stated about the power to contract, that was mentioned earlier by Adam Roesky, it only takes two people of the board to sign a contract. He feels that the Ordinance needs to be looked at again before it is passed.

Jonell Strough, 608 Hess Street, is in support of the Land Reuse Preservation Agency Ordinance.

There being no more appearances, Mayor Kawecki declared the Public Hearing closed.


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UNFINISHED BUSINESS:

AN ORDINANCE AMENDING SECTIONS 1329.02, 1333.07, 1337.07, 1339.07, AND 1363.2 AS IT RELATES TO RESIDENTIAL SETBACKS IN DEVELOPED BLOCKS AND RESIDENTIAL LIGHTING: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING SECTIONS 1329.02, 1333.07, 1337.07, 1339.07, AND 1363.2 OF THE ZONING CODE AS IT RELATES TO RESIDENTIAL SETBACKS IN DEVELOPED BLOCKS AND RESIDENTIAL LIGHTING:

City Manager explained, Council suspended the rules to have Chris Fletcher explain and answer questions. motion by Wallace, second by Dulaney, to approve the above entitled Ordinance. Motion carried 4-0.

AN ORDINANCE ESTABLISHING A LAND REUSE/PRESERVATION AGENCY: The below entitled Ordinance was presented for second reading.

AN ORDINANCE ESTABLISHING A LAND REUSE/PRESERVATION AGENCY FOR THE CITY OF MORGANTOWN:

City Manager explained and deferred to the City Attorney Ryan Simonton to explain and answer any questions. After discussion, motion by Wallace, second by Wendell, to approve the above entitled Ordinance. Motion carried 4-0.

BOARDS AND COMMISSIONS: Mayor Kawecki asked members of Council if they wished to schedule a Special Meeting another day other than a City Council Meeting night, to interview candidates for Boards and Commissions. After discussion, by consensus to schedule a Special Meeting a day or two to interview for positions that are open. Mayor Kawecki also mentioned those who volunteer already and wish to continue to serve, if no other volunteer has applied to go ahead and appoint them. After discussion, by consensus, to move the volunteer(s) forward for those who are serving now but term has expired.

PUBLIC PORTION:

Mayor Kawecki declared the Public Portion open.

Adam Rosefsky, 640 White Avenue, mentions the consent agenda and the School Resource Officer Resolutions that are passed through City Council. He feels that the Board of Education should pay the salary to have officers placed in the schools. He stated that the Resolutions should be placed on the agenda for discussion and not under the consent agenda.

Danielle Trumble, 1141 Charles Avenue, questioned if the City has thought about buying tablets for City Council instead of giving Council a stipend. She also mentions Brenda Shinkovich, WVDAR, and stated that she has contacted Mayor Kawecki and the Urban Landscape Commission regarding a Gold Star Mother’s Plaque be places and feels that it is worthwhile effort, she encouraged Council to work with her in a proper location to place.

Michael Clifford, 145 S. High Street, complimented the Deputy Mayor on a presentation on the Blue Zone Agency that was not on the agenda. He mentioned that he sent an email to all council members regarding annexation in certain areas on the edge of the City and he only received from 3 council members. He stated that he wants to wish the Deputy Mayor a speedy recovery and stated that the issues with him does not inoculate him from his past actions. He hopes that Council will look at his past actions and takes appropriate remedy of that.

Debra Gordin, 52 Dustin Lane, is here this evening to ask City Council if they would consider naming the Walnut Street bridge after the late Frank Fidazzo, Former Morgantown Police Officer.

Travis Christie, 740 Courtney Avenue, JoNell Strough spoke in favor of Travis who was not able to be there tonight but wanted to let Council know the he is in favor of Haymaker Forest.

JoNell Strough, 608 Hess Street, she mentions that she is for the Blue Zone and feels it would be a great thing for the City. She stated that it is expensive and if there is a way that Morgantown can figure out how to do it, it would be exactly what
this community needs. She mentioned to Council that it has been a little over a year through your term, and you were elected to do things throughout the City that was promised, and she stated that she has not seen a lot and wants to see some action.

Evelyn Ryan, 225 Dewey Street, mentions the Boards and Commissions List no longer has a Charter Board, and stated that she feels there should be one, so it can be investigated to see what may need to be revised. She mentions about the SRO Officers in the schools and how she feels that it is a good to have them in the schools.

Elizabeth Sneathen, 179 Bluegrass Village, she would like City Council to encourage civil disclosure to those public speakers at council meeting. She stated that everyone who speaks should speak civil. Young children watch at home and are even in attendance and feels that it will teach our children for the future.

Tony Christini, 931 Southpoint Circle, agreed with Elizabeth as to her comments about speaking in public places. He mentions Deputy Mayor Mark Brazaitis being the strong leader of Council. He stated that he has been since day one and he would like for other Council members to catch up with what Deputy Mayor has done so far. He mentions annexation and Mylan about being 3 feet out the door with them having different offices in 30 countries. He would like them to be annexed into the City which would give the City more money from the B & O taxes. He feels that Morgantown’s main thing is collecting the B & O Taxes and there is a lot of unpaid taxes. He believes that this would give the City more revenue. He encourages Council to get moving and catch up to Deputy Mayor’s leadership and to move forward strongly.

There being no one else wishing to speak, Mayor Kawecki declared the Public Portion closed.

SPECIAL COMMITTEE REPORTS: Councilor Wallace mentioned the Health & Wellness meeting and stated there is a lot to do on the Blue Zone Project. WVU has initially agreed to fit the bill for the five-month assessment period study of the University and Community that they will need in order to proceed. The total bill that WVU will be paying is $250,000 and the City stands to benefit from the Assessment Study, should they proceed in collaboration with WVU to work on forming the 1st Blue Zone in the state of West Virginia. He felt that this will get WV on the map. He mentions that if anyone has any questions about it to contact the Health and Wellness Chair Colleen Harshbarger, the Staff at WVU that will be working with the Blue Zone Personnel. There is a Planning Session coming up this Friday for the Health & Wellness, which will help guide the goals of the commission and identify key projects that can be addressed. Councilor Dulaney mentioned the Morgantown History Museum Fundraiser that took place last Thursday evening. It was a near sell out and that it was a great success. He wanted to thank all of those who helped and participated to support the Museum and said that they all helped it be a success.

CONSENT AGENDA:

AN ORDINANCE AMENDING THE FY 2018-2019 ANNUAL BUDGET REVISED GENERAL BUDGET: The above entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE FY 2018-2019 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND:

Motion by Wallace, second by Wendell, to approve the above entitled Ordinance. Motion carried 4-0.

AN ORDINANCE AMENDING THE FY 2018-2019 ANNUAL BUDGET REVISED COAL SEVERANCE FUND: The above entitled Ordinance was present for second reading.


City Manager explained, motion by Wallace, second by Wendell, to approve the above entitled Ordinance. Motion carried 4-0.

A RESOLUTION APPROVING AGREEMENT WITH THE MONONGALIA COUNTY BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT MOUNTAINEER MIDDLE SCHOOL: The above entitled Resolution was presented for first reading.
City Manager explained, motion by Wallace, second by Wendell, to approve the above entitled Resolution. Motion carried 4-0.

**A RESOLUTION APPROVING AGREEMENT WITH THE MONONGALIA COUNTY BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT SUNCREST MIDDLE SCHOOL:** The above entitled Resolution was presented for first reading.

City Manager explained, motion by Wallace, second by Wendell, to approve the above entitled Resolution. Motion carried 4-0.

**A RESOLUTION APPROVING AGREEMENT WITH THE MONONGALIA COUNTY BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT SOUTH MIDDLE SCHOOL:** The above entitled Resolution was presented for first reading.

City Manager explained, motion by Wallace, second by Wendell, to approve the above entitled Resolution. Motion carried 4-0.

**A RESOLUTION APPROVING AGREEMENT WITH THE MONONGALIA COUNTY BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT MORGANTOWN HIGH SCHOOL:** The above entitled Resolution was presented for first reading.

City Manager explained, motion by Wallace, second by Wendell, to approve the above entitled Resolution. Motion carried 4-0.

**WVU FAN FARE FLOOR PLAN EXTERIOR REQUEST:**

City Manager explained, motion by Wallace, second by Wendell, to approve the request of a letter of endorsement to the WV Alcohol Beverage Control Administration (ABCA) for the Erickson Alumni Center to allow them to sell alcohol on all the home football games. Motion carried 4-0.

**MOUNTAINEER TAP HOUSE FLOOR PLAN EXTENSION REQUEST:**

City Manager explained, motion by Wallace, second by Wendell, to approve the request of a letter of endorsement to the WV Alcohol Beverage Control Administration (ABCA) for the Mountaineer Tap House Restaurant to allow them to sell alcohol on all the home football games. Motion carried 4-0.

**A RESOLUTION TO APPROVE AGREEMENT WITH MONONGALIA COUNTY ANIMAL CONTROL:** The above entitled Resolution was presented for first reading.

City Manager explained, motion by Wallace, second by Wendell to approve the above entitled Resolution. Motion carried 4-0.

**SUPPORT MUB’S HOUSEHOLD HAZARDOUS WASTE COLLECTION DAY:**

City Manager explained, motion by Wallace, second by Wendell to approve co-sponsorship in support of the Morgantown Utility Board’s Household Hazardous Waste Collection day in the amount of $5,000. Motion carried 4-0.

**NEW BUSINESS:** None

**CITY MANAGER’S REPORT:**

New Business:

1. Ratify Recommendations from Traffic Commission
2. The City Engineer has brought to my attention that the Traffic Commission had recommended changes back in 2016. These include, but not limited to, changing parking, stop sign installations, painting double lines, removing a no right turn sign and painting a parking space. The recommendation also includes a trail period of creating one-way on Ashland Avenue and Tremont Street. Such an initiative will not be implemented without providing ample notice.

Please see attached memorandum dated July 20, 2018. Also, you find a copy of City Code 305.1 and 305.5 pertaining to posting stops signs and implementing one-way designations. The proposed recommendations are presented for your consideration.

City Manager explained, Council suspended the rules to have Damien Davis, City Engineer, to explain and answer any questions. Ex. B

3. Tablets for City Council Meetings
At the July 31st Committee of the Whole, we discussed the possibility of providing a stipend for city councilors to use tablets in lieu of City Clerk’s Office continuing to provide hard copy packets. Although the expense of providing new technology appears to be costly, the current paper method far exceeds the proposed method.

Let me show you the annualized expense of providing hard copy packets. I have calculated out an average 250-page document that is produced for 34 to 35 meetings a year (for 11 people). On average, a hard-copy packet costs approximately $10. This is the breakdown (these are approximate estimates):

<table>
<thead>
<tr>
<th>Cost</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of ink, toner and copying machine</td>
<td>$3,300.00</td>
</tr>
<tr>
<td>Paper</td>
<td>575.00</td>
</tr>
<tr>
<td>Delivery of packet through the Police Dept</td>
<td>1,300.00</td>
</tr>
<tr>
<td>Mileage / expense of the use of vehicle</td>
<td>275.00</td>
</tr>
<tr>
<td>Total</td>
<td>$5,450.00</td>
</tr>
</tbody>
</table>

I am proposing a stipend to be provided every four years. This would be a reimbursement in the amount of up to $400.00 per council member, city manager, assistant city manager and city attorney. The dollar amount was taken of an average of tablets ranging from a basic Android model (priced at $220) to Microsoft Surface Pro (at the high end of $1,299).

Those declining the reimbursement could seek a reimbursement at a later time. No stipend reimbursement would occur again sooner than four years after the first stipend.

Should the City Council approve this proposal, we will no longer provide delivered hard-copy packets, starting with the first meeting in September.

City Manager explained, approval was passed by consensus. Motion carried 4-0.

4. Blue Zone Project
At Tuesday’s meeting, I will be providing follow up information on the Blue Zone Project presentation heard at Tuesday’s Committee of the Whole. This include staff time and certain expectations of deliverables.

City Manager explained, no action taken at this time.

REPORT FROM CITY CLERK: City Clerk, Linda Tucker was absent due to her being at the West Virginia Municipal League Conference and Heather Carl, Deputy Clerk was absent due to being on vacation.

REPORT FROM CITY ATTORNEY: No Report

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REPORT FROM COUNCIL MEMBERS:

Councilor Fett: Councilor Fett Absent

Councilor Wallace: Councilor Wallace mentions that there is an obligation to raise an issue to be placed on a future agenda. He requested to Deputy Mayor Brazaitis to resign as the Deputy Mayor. He feels that ends do not justify the means. He is concerned that it has become common to refer to him as the “voice” of City Council. He stated that Council operates under Roberts Rule and is a non-partisan body. He requested from the City Manager an annexation plan and stated that he is very intrigued to see County Commission sign on to WVU open checkbook, which is a way to increase transparency.

Councilor Selin: Councilor Selin Absent

Councilor Dulaney: To see Councilor Dulaney’s report reference attached Ex. C

Deputy Mayor Brazaitis: Deputy Mayor Brazaitis Absent

Councilor Wendell: To see Councilor Wendell’s report reference attached Ex. D

Mayor Kawecki: Mayor Kawecki addressed concerns about folks perceiving things that are not being done. He mentions that Council has done many things and feels that they are making progress. He also mentions issues with the status of Deputy Mayor Brazaitis needs to be moved to the agenda to discuss. Announcements: 8/9/2018 Jazz Concert at Jack Roberts Park; 8/9/2018 Morgantown Public Library – Read Baby Read; 8/8/2018 Work Day Wednesday at the WVU Core Arboretum; 8/10/2018 Morning Yoga in the Garden at the WV Botanic Gardens.

ADJOURNMENT: There being no further business, motion to adjourn by consensus at 8:55 p.m.

City Clerk

Mayor

*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS ARE AVAILABLE ON DVD IN THE CITY CLERK'S OFFICE*
Council Correspondence

Jenny <jentomusic@yahoo.com>
Tue 8/7/2018 11:55 AM

To: Ronald Dulaney <rdulaney@morgantownwv.gov>

Dear Members of the City Council,
Jenny and Nathan Wilson of 5th Ward support the Land ReUse Agency so that our neighborhoods can be rid of the blight of abandoned and neglected properties. Thank you.
Jenny and Nathan Wilson
Woodburn
Memoranda

To: Paul Brake, City Manager

From: Damien Davis, City Engineer

Date: July 20, 2018

Subject: January 2016, March 2016, June 2016, July 2016, September 2016 and October 2016 Actions of Traffic Commission

The following actions were taken at the January 6, 2016 Traffic Commission Meeting.

1.) Paul Steel moved to approve the recommendation of Matt Watson, Christina Hunt, and Brian Rickets as members of the Bicycle Board. Dave McKain seconded the motion. Motion passed unanimously.

No actions were taken at the March 2, 2016 Traffic Commission Meeting.

The following actions were taken at the June 1, 2016 Traffic Commission Meeting.

1.) Paul Steel moved to change the parking to the other side of Callen Avenue between Lawnwood and Mississippi. Martin Dombrowski seconded the motion. Motion passed unanimously.

2.) Matt Cross moved to recommend the changes to the Bicycle Storage for Developments of significant impact to the Planning Commission and to City Council. Paul Steel seconded the motion. Motion passed unanimously.

The following actions were taken at the July 2016 Traffic Commission Meeting.

1. Jay Redmond moved to recommend that the stop sign be installed on Colmar Street at Richwood Avenue. Matthew Cross seconded the motion. Motion passed unanimously.

2. Matt Cross moved to recommend making Ashland Avenue one way heading west and Tremont Street one way heading east for 90 days as a trial period. William Blosser seconded the motion. Motion passed unanimously.

3. Jay Redmond moved to recommend that a double yellow line be installed on Buckhannon Avenue near the intersection of Jackson Avenue. Paul Steel seconded the motion. Motion passed unanimously.

4. Matthew Cross moved to recommend the removal of the “No Right Turn” sign at the intersection of Buckhannon Avenue and Jackson Avenue. William Blosser seconded the motion. Motion passed with a 4 to 1 vote.
5. Paul Steel moved to recommend the installation of a “stop” sign on Michelle Street at Doris Road; and a stop sign on Doris Road at Theresa Drive. Matthew Cross seconded the motion. Motion passed unanimously.

The following actions were taken at the September 2016 Traffic Commission Meeting.

1. David McKain moved to approve the nominees to the Pedestrian Board. Paul Steel seconded the motion. Motion passed unanimously.

The following actions were taken at the October 2016 Traffic Commission Meeting.

1. Kyle Haugh moved to approve the request to paint one parking space yellow on Downs Avenue after 820 Richwood Avenue. Jay Redmond seconded the motion. Motion passed unanimously.
2. Matt Cross moved to place stop sign on Lagan Street at Grand Street. Martin Dombrowski seconded the motion. Motion passed unanimously.
305.04 ONE-WAY STREETS DESIGNATED.

(a) The following streets or portions thereof are hereby designated as and declared to be one-way streets and vehicular traffic on such streets shall move only in the direction specified in this section:

Brockway Avenue, from Walnut Street to Maryland Avenue.
Carson Street, from University Avenue to Grant Avenue.
Chesnut Street, from Kirk Street to Willey Street.
Clark Street, from Cherry Street to Kingwood Street.
Clay Street, from Wharf Street to Hurley Street.
Court Street, from Spruce Street to University Avenue.
Decker Avenue, from Spruce Street to Elk Street.
Edgewood Street, from Cobun Avenue to Wilson Avenue.
Elmina Street from Dewey Street to Lyndhurst Street.
Fayette Street, from University Avenue to Spruce Street.
First Street, from Grant Avenue to University Avenue.
Forest Avenue, from High Street to Spruce Street.
Forest Avenue, from High Street to Chestnut Street.
Fortney Street, from Charles Avenue to Richwood Avenue.
Gem Street, from Locust Avenue to Richwood Avenue.
High Street, from Prospect Street to Kirk Street.
Hough Street, from University Avenue to Beechurst Avenue.
Jones Avenue, from Stewart Street to Overhill Street.
Kirk Street, from High Street to Spruce Street.
Manville Street, from Winsley Avenue to Winsley Avenue in an easterly direction.
Maryland Avenue, from Brockway Avenue to Cobun Avenue.
McClain Avenue, from Third Street to Eighth Street.
Moore Street, from University Avenue to B. & O. Railroad Station.
Moreland Street, from Spruce Street to University Avenue.
Pearl Avenue, from Richwood Avenue to Cass Street. Parking on the east side of Pearl Avenue only.
Pleasant Street, between Spruce Street and Cobun Avenue.
Pleasant Street, from University Avenue to Spruce Street.
Prairie Avenue, from Wilson Avenue to Wagner Road.
Prospect Street, from Willey Street to University Avenue.
Reid Street, from Chestnut Street to University Avenue.
Rotary Street, from Collins Ferry Road to Rebecca Street.
Spruce Street, from Kirk Street to Prospect Street.
Walnut Street, from Spruce Street to University Avenue.
Walnut Street, between Cobun Avenue and Spruce Street.
Wharf Street, from Hurley Street to Clay Street.
Winsley Street, from Overdale Street to Green Street.
(Ord. 05-30. Passed 9-20-05.)

(b) Prior to the adoption of an ordinance designating any street within the City as a one-way street, Council may permit, on a trial basis not to exceed ninety days, such street to be used as a one-way street. At any time during such trial period, Council may request the City Attorney to prepare and present an ordinance thereon.

(1967 Code Sec. 20-8.1)
305.01 MANAGER'S POWERS GENERALLY.

The City Manager shall place and maintain traffic control signs, signals and devices as required under the provisions of this Traffic Code and other traffic ordinances of the City to make effective such provisions of this Traffic Code and other traffic ordinances, and may place and maintain such additional traffic control devices as Council may from time to time direct or as required for management of cleaning, repair, or emergencies on public ways pursuant to City Code Section 305.03.

(Ord. 15-38. Passed 6-16-15.)
Dulaney's Councilor Report – 08.07.2018:

Deputy Mayor Office
I agree with and support Councilor Wallace’s request made during his Councilor Report that consideration of the Deputy Mayor appointment be placed on the agenda for the 08/21 regular City Council Meeting. I will keep my comments on this matter brief because I have already made my position clear through statements made during previous meetings.

Affordable Housing
On Fri 07/21 I (as well as Councilor Fett and Mayor Kawecki) attended an event hosted by the FHLBank Pittsburgh’s Public Policy Network to recognize the great work of Morgantown area housing providers. Thank you to the Fairmont-Morgantown Housing Authority, Mon County Habitat for Humanity, and the Northern WV Center for Independent Living for supporting access to homeownership through rehab and purchase programs. All were recognized during this event.

MHM's Best Chef Cook-off
The Best Chef 2018 fundraiser for the Morgantown History Museum took place on 08.02 and was a tremendous success. Thank you to all who supported the event and the museum by purchasing tickets, providing silent auction items, and contributing, in the case of our restaurants, wonderful cuisine. Our participating restaurants were:

  Bourbon Prime
  Hill & Hollow
  The Lakehouse
  Lakeview Resort & Spa
  Morgantown Flour & Feed
  Table 9

The Jenny Wilson Trio’s music was excellent, and we appreciate Aristotle Jones’ great work as our Master of Ceremony.

I’d also like to thank Mayor Kawecki for attending and showing his support for the museum.
Hi, Heather-

I'm sorry I couldn't get this to you Friday afternoon. Can we still add it to the minutes?

Councilor Report
August 7, 2018
Barry Lee Wendell
Seventh Ward Councilor

I did not have police officers in my high school, but I graduated in 1967, and times have changed. I worked in Los Angeles' schools for eighteen and a half years, and they did have police in the schools. Whether they were helpful depended on the school and the individual police officers. Generally, it was good for them to be there. People don't think Morgantown is as rough as Los Angeles, but if you were to speak to students, they would tell you there are serious problems. And, as the retired officer (Debra Hornage, I think) who spoke tonight pointed out, should there be a shooting incident, and we have to consider that possibility, an officer might be able to save lives.

Last Saturday, Mayor Kaveccka, Deputy Mayor Brazaitis and I met up at the Jerome Park-Norwood picnic, where we enjoyed hanging out with the neighbors. We adjourned to the Mon County Fair, which was fun for us.

Tomorrow to Friday is the West Virginia Municipal League Conference at the Waterfront Marriott. I am on the Urban Landscape Commission, and I will leave the conference tomorrow to scout out Paul Preserve in Jerome Park and Jack Roberts Park in First Ward to brainstorm a plan for new landscaping in those areas with the Commission and neighborhood groups.

My sister Robin, who lives in Greenbelt, Maryland, offered to take me and Joe to Cleveland for an art exhibit she wanted to see, and a visit to the Rock and Roll Hall of Fame. I told her we could do it the week of July 22 because there was no Council meeting. I also told her that Southern Airways has a $29 flight now from Baltimore-Washington to Morgantown, and she was able to book that. Council voted to change the schedule for July, but since we had all our plans done before that, we went ahead. The planes are tiny, eight people total, but my sister reported that it was a good experience, and that I now have no excuse not to visit her.

Tonight, Tony Christini and JoNell Strough expressed the opinion that the Council is not as
progressive as they had hoped it would be. I believe we are, and that we all share similar goals. Deputy Mayor Brazaitis is more confrontational in his approach than the rest of us, but I think that is more a question of tactics, not ultimate goals.

I've been told that we should be "non-partisan" as we were not elected as members of a political party. I don't ask people who call about a street paving, snow removal or garbage pick up problem what political party they belong to. Instead, I try to get the problem fixed by calling the City Manager and asking what we can do and how long it will take. I don't see open space, bike routes, clean air and water as partisan issues either. However, Melody Potter, the head of the Republican Party in West Virginia, has stated that only Christians should be allowed to hold elected office, and that same-gender marriage should be banned in West Virginia. I would think anyone who appreciates the United States Constitution would oppose her, but as a friend used to say "as a Jew and a homosexual" I find this intolerable. Coupled with the actions of the current national administration, I admit to not having any use for the Republican Party. I'm "bipartisan" in that I have voted with the Mountain Party, as well as with the Democrats.

Finally, the same day that The Dominion-Post called for the ouster of Deputy Mayor Brazaitis, there was a headline article about WVU starting a fundraiser for a hundred million dollars to upgrade facilities for student athletes. Morgantown's residents and students who are not on teams will get nothing. Maybe WVU can raise an extra ten million to buy Haymaker Forest and rebuild the ice rink in White Park. Or perhaps Morgantown should start its own fundraising campaign to encourage wealthy people and corporations to help our city. I think the Deputy Mayor has been right all along about what is important to powerful people in our town.
REGULAR MEETING August 21, 2018: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, August 21, 2018 at 7:00 p.m.

PRESENT: Assistant City Manager Emily Muzzarelli, Deputy Clerk Heather Carl, City Attorney Ryan Simonton, Mayor William Kawecki, and Council Members: Rachel Fetty, Ryan Wallace, Jenny Selin, Ron Dulaney, Deputy Mayor Mark Brazaitis, and Barry Wendell.

The meeting was called to order by Mayor Kawecki.

APPROVAL OF MINUTES: 7/31/2018 Committee of the Whole Meeting minutes and 8/16/2018 Special Meeting minutes was approved by consensus.

CORRESPONDENCE: Chief Preston and Captain McCabe from the Morgantown Police Department recognized citizens Michael Allam, Matthew Cross, Pamela Kaehler, Daniel Langdon, Leah Myers, and Austin Porter as the first graduating class of the Morgantown Police Departments Citizen Police Academy.

PUBLIC HEARING: None

UNFINISHED BUSINESS: None

BOARDS AND COMMISSIONS: Mayor Kawecki announced that there was a considerable number of applicants for BOPARC Commission and that there will be interviews next week.

PUBLIC PORTION:

Mayor Kawecki declared the Public Portion open.

Michael Clifford, 145 S. High Street, voiced his concerns about the professionalism of council and the recent actions of Councilors Fetty and Brazaitis.

Alvin King, 1405 Greenbag Road, spoke to council about his ideas for new codes and regulations for business signage in industrial and residential areas.

Adam Rosefsky, 640 White Avenue, voiced his concerns about business signage laws in Morgantown, as well as his concerns regarding Councilor Brazaitis’ position on council.

Elizabeth Sneethen, 179 Bluegrass Village, praised Councilor Brazaitis for his recent action as and his service to the City of Morgantown.

JoNell Strough, 608 Hess Street, responded to a comment made by a precious speaker regarding Councilor Brazaitis, and claimed that the statements were inaccurate.

Katie Ryan and Anthony “Tony” Christini, 931 Southpoint Circle, spoke in support of Councilor Brazaitis, urging council to keep him in as the Deputy mayor.

There being no one else wishing to speak, Mayor Kawecki declared the Public Portion closed.

SPECIAL COMMITTEE REPORTS: Deputy Mayor Brazaitis reported that the Metropolitan Theatre Commission is in the process of revitalizing and improving the theatre and its program. Councilor Fetty shared a presentation given to BOPARC about options from the Mills Group to improve the Morgantown ice Arena. Mayor Kawecki reported that the Sister Cities Commission hosted the Chinese Delegation from Xuzhou, China in collaboration with West Virginia University on Tuesday, August 21, 2018. Councilor Dulaney mentioned the Parking Authority Director Dana McKenzie, to see if he can be put on the Committee of the Whole agenda to come and do a presentation to explain the process of parking tickets.

CONSENT AGENDA: None

NEW BUSINESS:

A RESOLUTION AUTHORIZING CITY MANAGER, PAUL BRAKE TO ACT ON ITS BEHALF TO ENTER

1
A CONTRACTUAL AGREEMENT WITH THE DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, TO RECEIVE AND ADMINISTER GRANT FUNDS FROM THE 2018 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR SAFETY EQUIPMENT UPGRADES: The above entitled Resolution was presented for first reading.

Assistant City Manager Emily Muzzarelli explained, motion by Wallace, second by Selin, to approve the above entitled Resolution. Motion carried 7-0.

A RESOLUTION APPROVING A GRANT APPLICATION TO FEDERAL AVIATION ADMINISTRATION: The above entitled Resolution was presented for first reading.

Assistant City Manager Emily Muzzarelli explained, motion by Wallace, second by Deputy Mayor Brazaitis, to approve the above entitled Resolution. Motion carried 7-0.

A RESOLUTION AUTHORIZING CITY MANAGER, PAUL BRAKE, TO ACT ON ITS BEHALF TO ENTER INTO AN AGREEMENT WITH THE WEST VIRGINIA DIVISION OF MOTOR VEHICLES TO APPLY, RECEIVE, AND ADMINISTER GRANT FUNDS PURSUANT TO PROVISIONS OF THE WEST VIRGINIA GOVERNOR'S HIGHWAY SAFETY PROGRAM: The above entitled Resolution was presented for first reading

Assistant City Manager Emily Muzzarelli explained, after discussion, motion by Wallace, second by Fetty, to approve the above entitled Resolution. Motion carried 7-0.

DEPUTY MAYOR DESIGNATION:

Mayor Kawecki explained, motion by Wendell, second by Deputy Mayor Brazaitis to approve the Deputy Mayor’s designation is currently being executed in a manner that you approve. After discussion, question was called and failed 5-2 (Brazaitis and Wendell voting yes) to remove Mark Brazaitis as being the Deputy Mayor who was upholding his duties, as well as deciding if he is representing his seat and council appropriately.

Councilor Brazaitis would like to nominate himself for Deputy Mayor.

Councilor Dulaney would like to nominate Councilor Selin.

Councilor Wendell would like to nominate Councilor Wallace. Councilor Wallace spoke to decline the nomination due to conflict of interest.

Motion by Wendell, second by Brazaitis, to nominate Councilor Brazaitis for Deputy Mayor. Motion failed 6-1, Brazaitis voting Yes.

Motion by Dulaney, second by Brazaitis, to nominate Jenny Selin for Deputy Mayor, Motion carried 6-1. Brazaitis voting No.

ASSISTANT CITY MANAGER’S REPORT:

New Business:

1. Award Bid for 2018 Plumbing Project (Bid Call No. 2018-12)
   The Project consists of constructing the replacement & modification of sanitary and storm piping at City Hall. The City’s Engineering Department has solicited two estimates for the proposed work.

   Attached, you will find a memorandum from City Engineer, Damien Davis, PE, detailing the responding contractor and tabulation of the bids. The Department is recommending Lytle Construction Corporation in the bid amount of $269,700.00. Mr. Davis recommends that Lytle Construction Corporation be awarded the contract. Although the bids received were higher than anticipated, the bid amount is still within the funds currently set aside in the Capitol Escrow budget (no budget amendments are needed).
Council action is needed in awarding the bid to the recommended contractor.

Assistant City Manager Emily Muzzarelli explained, motion by Brazaitis, second by Wallace, to approve the award Bid to Lytle Construction Corporation in the amount of $269,7000.00.

2. Sabraton Station Floor Plan Extension Request
Sabraton Station has requested a floor plan extension for an event, Fall Fest, scheduled on October 13, 2018. The event will include outdoor entertainment, live music, and games. Sabraton Station is requesting an approval letter from the City of Morgantown to use with their application to ABCA for a permit.

Council action is needed in providing the approval letter.

Assistant City Manager Emily Muzzarelli explained, motion by Brazaitis, second by Dulaney, to provide an approval letter for the Sabraton Station to allow them to sell alcohol during home football games outside.

REPORT FROM CITY CLERK: No Report

REPORT FROM CITY ATTORNEY: No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Fetty: Councilor Fetty announced the 1st Ward Neighborhood Association is having their last picnic of the month on 8/28/18 at 6:30 p.m. She mentioned mental illness and how more people out there have it. She would like for this topic of discussion be part of the Health and Wellness. She is grateful for Mark Brazaitis, his willingness to sacrifice his privacy and of his family. She wants to personally note that if anyone in this town, needs assistance, if you are alone, if you have to sit in the hospital, Chestnut Ridge or the Emergency Department, please call her, she will do whatever it takes to help you get the help that you need or if you just need a friend.

Councilor Wallace: Councilor Wallace wants to announce the return of the BOPARC Morgantown tradition that was a success the “Sprint/Splash/Spin Triathlon at Marilla Park on Friday for the kids, and Saturday for the adults. He wanted to thank BOPARC for their sponsorship, and Morgantown Multi Sport Club for organizing it, he was thrilled to be able to participate as well. He mentioned that during this event he was keenly reminded of the dilapidated state of some of the portions of the Rail-Trail. The Rail-Trail is a key part of the City’s identity and thinks it is a great thing that was inherited from the railroad that use to run through here and is a key feature for Health and Wellness and all members of the Community. He stated that it cannot be neglected so for the upcoming budget, he would like to ask the City Staff to keep that in mind and see what can be done to allocate some funds to the maintenance of the Rail-Trail. He would like to call for Civility in our Community, he has been concerned of the tone of what has happened on City Council here recently and would appeal the people of the City and Greater Morgantown Area to be as much as possible to be the better person, especially for elected officials, City Personnel, and anyone in a position of responsibility. He stated that we are public servants and it is the duty to serve the public in the best way that can be done, and he asks the public to bear in mind that everyone is human and that everyone can achieve much more civilly than we can when we are civil.

Councilor Selin: Councilor Selin recognized the Evansdale neighborhood received a beautiful wooden sign and was put up by Troop #44 on Rawley and Riverview. She noted that the City helped pay for it and the neighborhood did a lot of the coordination. She stated that she would like to have one in the Suncrest
Neighborhood. She was at an artist showcase this evening for the meeting at Slight Indulgence. Sonya Bierce was the artist, she had done some amazing landscape and still life paintings that were beautiful and mentions that they will be on display at Slight Indulgence for the next month. She would like to encourage other businesses to put on more events and showcase local artists. She mentioned the importance of today and City Council moving forward. She also mentioned a fundraiser she attended at the Botanical Gardens and enjoys seeing all the different creativity involved with the fundraiser. She appreciates those who come to speak regarding issues within the City and does not attack but asks questions and works together.

Councilor Dulaney: To see Councilor Dulaney’s report reference attached Ex. A

Councilor Brazaitis: Councilor Brazaitis recommended items to goonto the Committee of the Whole Meeting, such as: 1% Tax, Early bar closing times, Truck traffic, Bus Depot location, and a Presentation about paid sick leave. He would like to thank all the people in the Community who has been pouring out their support for the Ice Rink that is coupled with some of the pictures of the old Ice Rink and has heard from others how this can be an economic generator to our community. He wanted to thank Caroline Leadman, WVU Figure Skating President, who spoke with him in front of the County Commission. He mentioned Devan Tight, and Terezia Galikova from the Figure Skating Club have been supportive and outstanding. He mentioned that while he is not in the classroom he has had time to read and revisit Sherlock Holmes “A Scandal in Bohemia” and he recommends it to everyone because of the conversation about mental illness. He stated that as his role at WVU he invited Camille Rankin, a terrific African American poet to read October 1, 2018.

Councilor Wendell: To see Councilor Wendell’s report reference attached Ex. B

Mayor Kawecki: Mayor Kawecki mentioned the naming of the new bridge, and a citizen who is a retired Morgantown Police Officer Debra Gordey, who came in front of Council on Tuesday, August 7th during the public portion to request and consider naming the new bridge in honor of Frank Fidazzo. He has respect for all Police, Firefighters, Civil Servants and are all an excellent group of people. He noted that the people he represents in the 2nd Ward Greenmont/Southpark area had been working on this project for a considerable amount of time (5 years or more). They have named the bridge Currents Crossing, and he does not feel that Council should have a say in naming the bridge when the people in the 2nd Ward have worked so long and hard to come up with a name. He has announcements: Arts Collaborative Meeting at Arts Mon Gallery 201 Hight St. at 5:30 p.m. on August 23rd, Southpark Neighborhood Association of Neighborhoods Meeting August 22nd at the First Christian Church 6:30 p.m.

ADJOURNMENT: There being no further business, motion by Brazaitis, second by Wallace to adjourn at 8:37 p.m.

City Clerk Mayor

*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS ARE AVAILABLE ON DVD IN THE CITY CLERKS OFFICE*
Ron's Notes – 08/21/2018

July 24th we passed a motion, by a vote of 5:1, to endorse the recommendations of the City Manager regarding how to proceed with BOPARC funding.

"Rushing to placing a levy on the November ballot lacks sound solid justification and due diligence in the attempt in gaining voter approval."

"The motion to reconsider may be made only by a member who voted on the prevailing side in the original vote." P 315

This issue is not on the agenda. “The only circumstance under which a governing body may amend an agenda during a meeting is if a true emergency arises.” “any matter requiring the governing body to take official action must be listed on the agenda.” [Open Governmental Meetings Act]

08/21/208 – Dulaney’s Councilor Report

A public forum was held on 08/20 to discuss Area Study 16 (bound by Route 7/Powell Ave and Woodrow St)

Woodburn School Redevelopment Commission meets Thu August 30th at 6PM at the Boys and Girls Club entry at the school.

Bicycle Lanes on University Avenue and Richwood – achieved via striping modifications to achieve bike climbing lanes. Thanks to city administration and engineering department.

Downtown Parking Zone 2 hour limit per day with warning, $20, and $100 tickets; Would appreciate an invitation to Parking Authority Director to present and discuss at a Committee of the Whole meeting this policy and its enforcement as a matter of public education.

During the last meeting, Ms. Debora Gordet shared the memory of Morgantown Police Private First Class Frank Fidazzo. She requested that the new pedestrian bridge in Greenmont be name after him in his honor. My understanding is that the bridge may have already been named at the time of her request. Could this be confirmed and if it has not been made, consideration given to sharing the name of the bridge with Officer Fidazzo?
I attended the West Virginia Municipal League conference in Morgantown August 8-10. I had the honor of meeting Jan Rader, the Fire Chief in Huntington, and the heroine of the movie "Heroin(e)." Our former City Clerk, Linda Tucker, worked on this conference, which went smoothly. I wish her well on her retirement.

Last week, I visited Clarke County, Virginia, near Winchester. The county seat and largest city is Berryville. Although it is sixty miles from Washington, it is on US 50 and Virginia Route 7, making it now, with housing prices too high for most Federal workers in Washington and the inner suburbs, a commuter suburb. The county has a zoning plan to preserve the Blue Ridge Mountains, on the eastern edge of the county, and much of the farmland and large estates in the county. New development is mostly restricted to the area around the two cities in the county, Berryville and Boyce. It would be great if our county could target areas for growth, while leaving most of the landscape as rural or in scenic easements.

Congratulations to Mark Brazaitis on a new book coming out, and on his daughter being recognized in The Dominion-Post as one of the top graduating seniors at Morgantown High.

The newspaper had an article about WVU starting a fund-raising campaign to raise a hundred million dollars for facilities for student athletes. Perhaps Morgantown could have a fund-raising campaign, possibly through a foundation, to raise money for recreational facilities that would benefit all of our residents.

This weekend, I will be in Naples, Florida with my sister Robin, for a ninety-fifth birthday celebration for my late mother's best friend, my "Aunt" Shirley. Her three sons, who will be there, were my best friends when we were children, and I still keep in touch with them.
SPECIAL MEETING August 28, 2018:

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, August 28, 2018 at 5:35 p.m.

PRESENT: Heather Carl Deputy Clerk, Mayor Bill Kawecki, Council Members, Rachel Fetty, Ron Dulaney, Mark Brazaitis, and Barry Wendell. Councilor Ryan Wallace, and Deputy Mayor Jenny Selin was absent.

The meeting was called to order by the Mayor.

EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Dulaney, second by Brazaitis, to go into Executive Session to discuss personnel matters in considering new appointments for the Board of Park and Recreation Center (BOPARC) Board. Motion carried by acclamation. Mayor, Council Members and Deputy Clerk present. Time: 5:36 p.m.

INTERVIEWS FOR BOARD OF PARKS AND RECREATION:

<table>
<thead>
<tr>
<th>Time</th>
<th>Name</th>
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<tbody>
<tr>
<td>5:30 p.m.</td>
<td>Oleg Smirnov</td>
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<td>5:45 p.m.</td>
<td>JoNell Strough</td>
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<td>6:00 p.m.</td>
<td>Rick Landenberger</td>
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<td>6:15 p.m.</td>
<td>Tony Barill</td>
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<td>6:30 p.m.</td>
<td>Christina Byrne-Hoffman</td>
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<td>6:45 p.m.</td>
<td>Penny Kostka</td>
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<td>7:00 p.m.</td>
<td>Ralene DeBord</td>
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<td>7:15 p.m.</td>
<td>Brian Dean</td>
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<td>7:30 p.m.</td>
<td>BREAK</td>
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<td>7:45 p.m.</td>
<td>Melanie Kinder</td>
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<td>8:00 p.m.</td>
<td>Danielle Trumble</td>
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<tr>
<td>8:15 p.m.</td>
<td>Richard Viglianco</td>
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Richard Viglianco did not show up for his scheduled interview time. He was confirmed the day before.

SPECIAL MEETING: Council motioned by acclamation to go back into the Special Meeting at 8:24 p.m. Motion by Brazaitis to choose the members for the 3 open seats tonight, there was no second, motion failed 4-1. Motion by Fetty, second by Brazaitis to have another Special Meeting before the Regular City Council Meeting on Tuesday, September 4th at 6:00 p.m. for the two other candidates. Motion carried 5-0.

ADJOURNMENT:

There being no further business, motion by Fetty, second by Dulaney, to adjourn the Special Meeting at 8:26 p.m.

City Clerk

Mayor
MEMORANDUM

TO: Mayor and City Council

FROM: Paul J. Brake, ICMA-CM, CECd
City Manager

DATE: August 29, 2018

RE: WVU Alumni Beer Floor Plan Extension Request

The City has received a request from the University’s Alumni Association to secure an additional nonintoxicating beer floor plan to serve on a Friday night event (September 21st) for the annual Marmaduke Dent Benefit. Council will recall of a similar request at the August 7th Regular City Council meeting for a request as tailgate events before five (5) home WVU football games. Same as the Saturday events, the programming activity includes continuing the expanded services to include the circle in front of the Erickson Alumni Center.

One of the requirements is to apply to the West Virginia Alcohol Beverage Control Administration (ABCA) with a letter of endorsement to be attached to the application (as submitted by the Alumni Association).

Attached you will find a copy of the letter making the request and background materials. Staff recommends approval and City Council motion to approve the required letter.

A recommended motion is prepared for your consideration (if this is removed from the Consent Calendar portion of the agenda).


Attach.
August 24, 2018

Ms. Emily Muzzarelli
Assistant City Manager
City of Morgantown
389 Spruce St.
Morgantown, WV 26505
dmuzzarelli@morgantownwv.gov

Dear Ms. Muzzarelli:

Thank you for your assistance in helping the WVU Alumni Association secure a nonintoxicating beer floor plan extension to the Erickson Alumni Center’s ABCA license on football Saturday’s this fall. Please accept my apology that we did not have all the event details in place at the time so that this could be submitted along with our July 17, 2018, request.

Named after the University’s first graduate, the Association will host our annual Marmaduke Dent Benefit on Friday, September 21, 2018. The charitable event is held to raise money in support of programs and services designed to help the Association achieve its noble mission. It is our hope that the city would endorse this application as well.

Thank you for your consideration of our request.

Sincerely,

Kevin Berry
Associate Director
WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

REQUEST FOR NONINTOXICATING BEER FLOOR PLAN EXTENSION

CONSUMPTION "ON PREMISE"

Name of Establishment (DBA): WVU ALUMNI ASSOCIATION INC. ERICKSON ALUMNI CENTER

County: MONONGAHELA COUNTY Phone No.: 304-293-4731

License Number: 31-A-113-001862

1. Name of Event:

MARMADUKE DENT SOCIETY BENEFIT

2. Dates of Event (month/day/year) Start: 09/21/2018 End: 09/21/2018

3. Distance to nearest residence 1050 ft Distance to nearest church 200 ft

Operation days and times must be listed below. Please provide details and information regarding the event.

09/21/2018 6-10pm MARMADUKE DENT SOCIETY BENEFIT IS A FUNDRAISER TO SUPPORT PROGRAMS AND SERVICES OFFERED BY THE ASSOCIATION. THE EVENT WILL INCLUDE FOOD, BEVERAGES, AND ENTERTAINMENT.

4. Licensed Area To Be Extended

List complete information in the form of a diagram (on the second page), giving measured dimensions of the proposed area for extension and a description of how the area is to be designated as a containment area (fenced area) for patrons of the establishment. Please provide details and information regarding the event.

5. County and/or Municipal Consent:

Licensees must obtain a letter of endorsement on official letterhead for the "Nonintoxicating Beer Floor Plan Extension" from one of the following:

a. If held outside of a municipality, the letter must be signed by at least one County Commissioner.

b. If held within a municipality, the letter must be signed by the Mayor or City Manager.

6. Special Rules: (See attached "Nonintoxicating Beer Floor Plan Extension" Requirements)

I, KEVIN BERRY, have received a copy of Rules & Requirements for the "Nonintoxicating Beer Floor Plan Extension"

* Must submit plan detailing the addition of staff/security for each event.

ABCA-192FP.EXT
NONINTOXICATING BEER FLOOR PLAN EXTENSION

Floor plan extension must show the exact area and measurements of the "Nonintoxicating Beer Floor Plan Extension" area in relationship to the licensed establishment.

Keep one (1) copy at the licensed premises. (Provide Dimensions)

THE AREA FOR THE REQUESTED EXTENSION IS IN RED. WE WILL CONTACT WITH RASPA AND ASSOCIATES TO PROVIDE SECURITY FOR THE AREA. THE AREA WILL BE FENCED WITH SNOW FENCING. THE AREA IS DIRECTLY OUTSIDE OF THE ALUMNI CENTER COURTYARD. THERE WILL BE TWO ENTRANCES AND EXITS. BOTH WILL BE MONITORED BY SECURITY. THE DISTANCES FROM THE NEAREST CHURCH AND RESIDENCE WERE CALCULATED WITH GOOGLE MAPS INSIDE THE EXTENSION. WE PLAN TO HAVE FOOD, BEVERAGES, AND ENTERTAINMENT. THE EVENT IS A FUNDRAISER TO SUPPORT PROGRAMS AND SERVICES PROVIDED BY THE ASSOCIATION. ALUMNI ARE THE TARGET AUDIENCE.

I, [Signature], have received and read the requirements and attest to the fact that all preceding information is true and accurate and that all individuals and/or controlling members listed on the license are aware of the Request for Nonintoxicating Beer Floor Plan.

Signature: [Signature] Date: 08/24/2018
Title: [Title]

MAIL COMPLETED FORM TO:

West Virginia Alcohol Beverage Control Administration
ATTN: Licensing Department
900 Pennsylvania Ave., 4th Floor
Charleston, West Virginia 25302

ABCA-192FP.EXT
WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

INSTRUCTIONS FOR COMPLETING NONINTOXICATING BEER FLOOR PLAN EXTENSION

Please read all instructions carefully.

INSTRUCTIONS

Nonintoxicating Beer Floor Plan Extension Requirements:

1. All requests for a “Nonintoxicating Beer Floor Plan Extension” must be made on the ABCA form (ABCA-192FP.EXT).

2. Licensees must fill out a detailed floor plan on the “Nonintoxicating Beer Floor Plan Extension” form (ABCA-192FP.EXT) including: descriptions, measurements, promotional area and any other pertinent information.

3. Licensees must provide a detailed description of additional staff/security that will be responsible for the patrons in the “Nonintoxicating Beer Floor Plan Extension” area.

4. Licensees shall obtain a letter of endorsement on official letterhead for the “Nonintoxicating Beer Floor Plan Extension” from one of the following:
   (a) If held outside of a municipality, the letter must be signed by at least one County Commissioner.
   (b) If held within a municipality, the letter must be signed by the Mayor or City Manager.

   NOTE: If the Municipality has an “open container ordinance” it must indicate in the endorsement letter that the ordinance has been waived in the “Nonintoxicating Beer Floor Plan Extension” area.

5. Nonintoxicating beer and nonintoxicating craft beer are the only beverages containing alcohol that may be served in the “Nonintoxicating Beer Floor Plan Extension” area. No liquor or wine may be sold, served or consumed in the area.

6. Patrons may not carry nonintoxicating beer, nonintoxicating craft beer or non-alcoholic drinks off the licensed premises or the “Nonintoxicating Beer Floor Plan Extension” area.

7. The “Nonintoxicating Beer Floor Plan Extension” area must be cordoned off by some type of temporary fencing or barrier. The fencing must be approved by the ABCA. The fencing must impede ingress and egress of the patrons and any persons outside of the “Nonintoxicating Beer Floor Plan Extension” area.

8. The “Nonintoxicating Beer Floor Plan Extension” may not in any way detrimentally affect the peace or quietude of the surrounding community or residents.

(See reverse side)
(9) Beer Distributors may provide beer delivery trucks for additional stock of nonintoxicating beer. Nonintoxicating beer may not be sold out of the truck which is to be used for cold storage. All sales must be made within the licensed establishment or "Nonintoxicating Beer Floor Plan Extension" area. Beer Distributors' delivery trucks must be parked in an area where deliveries normally would be made and may not be used as an advertisement or promotional piece.

(10) Any violations of State Statutes or Legislative Rules may result in sanctions, including but not limited to: monetary penalties, suspension, the revocation of the "Nonintoxicating Beer Floor Plan Extension" and/or may result in the denial of any future requests.

(11) All activities held within the "Nonintoxicating Beer Floor Plan Extension" must cease at 11:00 p.m. Any municipal ordinance requiring the cessation of noise or activities prior to 11:00 p.m. must be observed.

NOTE: The ABCA will conduct an independent investigation of the licensee submitting a "Nonintoxicating Beer Floor Plan Extension". The prior history of operations and/or any violations will be considered in addition to this request. Further, the "Nonintoxicating Beer Floor Plan Extension" is a privilege and as such the ABCA will determine if licensees warrant this privilege.
WEST VIRGINIA ALCOHOL BEVERAGE CONTROL
ADMINISTRATION

Nonintoxicating Beer Floor Plan Extension

I. Purpose: To establish uniform guidelines for the review of "Nonintoxicating Beer Floor Plan Extension" requests and to ensure that ABCA Licensees are operating within these guidelines.

II. Definitions: Floor Plan Extension: A temporary extension of the licensed area of an ABCA licensed establishment that may encompass a deck, parking lot, or other adjoining exterior area.

III. Policy:

A. Administration

1. The Commissioner or designee will review each request for a "Nonintoxicating Beer Floor Plan Extension".

2. The Commissioner or designee will require that a letter of endorsement for the event be provided with the "Nonintoxicating Beer Floor Plan Extension" request. A letter of endorsement must be obtained on official letterhead by the licensee and must come from one of the following:
   a. If held outside of a municipality, the letter must be signed by at least one County Commissioner.
   b. If held within a municipality, the letter must be signed by the Mayor or City Manager.

3. The Commissioner or designee will retain the right to cancel any "Nonintoxicating Beer Floor Plan Extension" if the licensed establishment fails to provide oversight, security and safety at the event or based upon any complaints and/or violations.

4. The Commissioner or designee will retain the right to deny any future "Nonintoxicating Beer Floor Plan Extension" requests if any violations of State Statutes or Legislative Rules have occurred at previously granted events.

5. The Enforcement Director and Regional Supervisors will schedule enforcement staff to conduct routine inspections or compliance checks at locations granted a "Nonintoxicating Beer Floor Plan Extension."
WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

Nonintoxicating Beer Floor Plan Extension

B. Licensing:

1. The Licensing Department will as soon as possible provide the Commissioner or designee with all complete requests for a "Nonintoxicating Beer Floor Plan Extension".

2. The Licensing Department will ensure that the license of any licensee requesting a "Nonintoxicating Beer Floor Plan Extension" is in good standing with other State agencies.

3. It shall be the responsibility of the Licensing Department to issue or deny the "Nonintoxicating Beer Floor Plan Extension" request by mail upon the determination and directive of the Commissioner or designee.

4. The Licensing Department will provide an electronic copy of the "approved or denied" "Nonintoxicating Beer Floor Plan Extension" to the Enforcement Supervisor and Enforcement staff via email or fax.

C. Employees

1. Agents and/or Inspectors will ensure that licensees are holding a "Nonintoxicating Beer Floor Plan Extension" only in areas on their submitted floor plan.

2. Agents and/or Inspectors will ensure that licensees have the "Nonintoxicating Beer Floor Plan Extension" area adequately cordoned off and secured.

3. Agents and/or Inspectors will ensure that licensees have adequate staff at the location to provide oversight, security and safety at the event.

D. "Nonintoxicating Beer Floor Plan Extension" Requirements:

1. All requests for a "Nonintoxicating Beer Floor Plan Extension" must be made on form (ABCA-192FP.EXT).

2. Licensees must fill out a detailed floor plan on the "Nonintoxicating Beer Floor Plan Extension" form (ABCA-192FP.EXT).

3. Licensees must provide a detailed description of additional staff/security that will be responsible for the crowds in the "Nonintoxicating Beer Floor Plan Extension"
WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

Nonintoxicating Beer Floor Plan Extension

4. Licensees must obtain a letter of endorsement on official letterhead for the “Nonintoxicating Beer Floor Plan Extension” from one of the following:
   a. If held outside of a municipality, the letter must be signed by at least one County Commissioner.
   b. If held within a municipality, the letter must be signed by the Mayor or City Manager.

NOTE: If the Municipality has an "open container ordinance" it must indicate in the endorsement letter that the ordinance has been waived for the “Nonintoxicating Beer Floor Plan Extension” area.

5. Nonintoxicating beer and nonintoxicating craft beer are the only beverages containing alcohol that may be served in the “Nonintoxicating Beer Floor Plan Extension” area. No liquor or wine may be sold, served or consumed in the area.

6. Patrons may not carry nonintoxicating beer, nonintoxicating craft beer or non-alcoholic drinks off the licensed premises or the “Nonintoxicating Beer Floor Plan Extension” area.

7. The “Nonintoxicating Beer Floor Plan Extension” area must be cordoned off by some type of temporary fencing or barrier. The fencing must be approved by the ABCA. The fencing must impede ingress and egress of the crowd and any patrons outside the “Nonintoxicating Beer Floor Plan Extension” area.

8. The “Nonintoxicating Beer Floor Plan Extension” may not in any way detrimentally affect the peace or quietude of the surrounding community or residents.

9. Beer Distributors may provide beer delivery trucks for additional stock of nonintoxicating beer. Nonintoxicating beer may not be sold out of the truck which is only to be used for cold storage. All sales must be made within the licensed establishment or “Nonintoxicating Beer Floor Plan Extension” area. Beer Distributors' delivery trucks may not be used as an advertisement or promotional piece.

10. All activities held within the “Nonintoxicating Beer Floor Plan Extension” must cease at 11:00 p.m. Any municipal ordinance requiring the cessation of noise or activities prior to 11:00 p.m. must be observed.
WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

Nonintoxicating Beer Floor Plan Extension

11. Any violations of State Statutes or Legislative Rules may result in sanctions, including but not limited to: monetary penalties, suspension, revocation of the "Nonintoxicating Beer Floor Plan Extension" and/or may result in the denial of any future requests.

12. The ABCA will conduct an independent investigation of the licensee submitting a "Nonintoxicating Beer Floor Plan Extension". When reviewing a request, the prior history of operations and/or any violations will be considered.

IV. Effective Date: June 13, 2011

V. Policy Number: E-134
From: Chris Fletcher  
Sent: Monday, August 20, 2018 1:27 PM  
To: Emily Muzzarelli  
Cc: Paul Brake; Carol Allen; Heather Carl; Ryan Simonton; Beth Judy  
Subject: AUG COW Agenda | 2 Zoning Items  
Attachments: 20180820_memo2-EMuzzarelli_AUG-COW-Agenda_RZ18-02.pdf; 20180820_memo2-EMuzzarelli_AUG-COW-Agenda_TX18-04.pdf  

Importance: High

Emily:

As you advised this past Friday, I understand the AUG COW meeting is a go. Accordingly, the Planning Commission voted at its 09 AUG hearing to forward two (2) recommendations to City Council as follows.

- **RZ18-02 | Chabad of Morgantown, Inc. | 221 Willey Street.** The PC voted unanimously to send a recommendation to *deny* this zoning *map* amendment petition.

- **TX18-04 | Administrative | Medical Cannabis.** The PC voted unanimously to send a recommendation to *approve* this zoning *text* amendment.

Appended are the respective memorandums with related Staff Reports and draft ordinances. Please include these matters on City Council’s AUG COW agenda. Also, please include the color versions of the appended documents in the Council meeting packet.

I will be in attendance to present the items and answer any questions Council may have.

Thank you.

Christopher M. Fletcher, AICP  
Director of Development Services
MEMORANDUM

Date: 20 AUG 2018
To: Emily Muzzarelli, Assistant City Manager ................................. via email
cc: Paul Brake, City Manager .......................................................... via email
     Heather Carl, City Clerk Secretary ........................................ via email
RE: City Council Committee of the Whole Agenda – 28 AUG 2018
     RZ18-02 | Chabad of Morgantown, Inc. | 221 Willey Street

During its 09 AUG 2018 hearing, the Planning Commission voted unanimously to forward a recommendation to City Council to deny the above referenced zoning map amendment petition, which would provide for the reclassification of the subject parcel from B-1 to B-4. The Planning Commission based its recommendations on the following findings and conclusions.

1. There are other zoning approval options (e.g., conditional use, variance, etc.) available to achieve the petitioner’s desired development objectives (place of worship, parking, etc.) for the subject realty that have not been fully explored.

2. The B-1, Neighborhood Business District zoning classification is more conducive to advancing the 2013 Comprehensive Plan Update’s Land Management Objective No. 8 “Encourage preservation of historic properties and adaptive reuse of existing buildings” for the subject realty, than the B-4, General Business District zoning classification.

3. The “Walters Residence” building is included in the National Register of Historic Places and listed as a contributed building to the Downtown Morgantown Historic District. The B-1, Neighborhood Business District zoning classification is more conducive to protecting and preserving the “Walters Residence” building and ensuring revitalization opportunities through continued adaptive reuse, than the B-4, General Business District zoning classification.

Attached herewith are the Staff Report presented to the Planning Commission and the draft ordinance. The following dates will keep to standard P&Z Code Zoning Map Amendment protocol:

City Council Meetings
Committee of the Whole ......................................................... TUE, 28 AUG 2018
First Reading: ................................................................. TUE, 04 SEP 2018
Public Hearing and Second Reading: ..................................... TUE, 02 OCT 2018

Please include this item on the City Council meeting agendas noted above and include this communication and attachments, in color, in the 28 AUG Committee of the Whole meeting packet. Only the ordinance should be included in the 04 SEP and 02 OCT meeting packets.

Thank you.

Digitally signed by C. M. Fletcher, AICP
Date: 2018.08.20 12:56:27 -04'00'

From the Desk of:
Christopher M. Fletcher, AICP
Director of Development Services
STAFF REPORT

RZ18-02

Chabad of Morgantown, Inc.
221 Willey Street
From B-1 to B-2
MORGANTOWN PLANNING COMMISSION
August 9, 2018
6:30 p.m.
City Council Chambers

STAFF REPORT

CASE NO.: RZ18-02 / Chabad of Morgantown, Inc. | 221 Willey Street

REQUEST and LOCATION:
Request by Shneur Z. Gurevitz, on behalf of Chabad of Morgantown, Inc., for a Zoning Map Amendment to reclassify Parcel 118 of Tax Map 26 from B-1, Neighborhood Business District to B-4, General Business District.

SURROUNDING ZONING:
North and East: B-1, Neighborhood Business District
South and West: B-4, General Business District

BACKGROUND:
The petitioner seeks to amend the zoning map by reclassifying Parcel 118 from B-1, Neighborhood Business District to B-4, General Business District. Addendum A of this report illustrates the location of the subject site.

The subject site is currently occupied by Chabad of Morgantown, which was determined in August 2014, under the Certificate of Occupancy process, to be a “Charitable, Fraternal or Social Organization” use. Section 1329.02 provides the following related definition.

CHARITABLE, FRATERNAL, or SOCIAL ORGANIZATION - A facility for administrative, meeting, or social purposes for a private or nonprofit organization, primarily for use by administrative personnel, members and guests. Examples include, but are not limited to: Lions Club, Veterans of Foreign Wars, etc.

Table 1331.05.01 provides that “Charitable, Fraternal, or Social Organization” uses are permitted by-right in the B-1 and B-4 Districts.

Staff understands Rabbi Gurevitz and the Rohr Chabad Jewish Center are considering offering worship services, in addition to presenting administrative and social programming. “Churches, Places of Worship”, the definition for which is provided below, are permitted with conditional use approval in the B-1 District and by-right in the B-4 District.

CHURCH or PLACE OF WORSHIP - A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities. Customary accessory uses include a caretakers residence, a meeting or activity hall, a gymnasium, a playground, the sale of items associated with the practice of religion, etc., but not a medical clinic, homeless shelter, rehabilitation center, etc.
Staff understands the petitioner also seeks for the site to benefit from the reduced minimum parking requirements provided in the B-4 District over the B-1 District.

It should be noted the previous owner of the parcel sought the same zoning map amendment in 2011 under Case No. RZ11-03. Under that petition, the Planning Commission recommended against the requested zoning reclassification, which was accordingly denied by City Council on 06 DEC 2011. Appendix B of this report provides information related to Case No. RZ11-03.

ANALYSIS:

Zoning Districts' Purposes

According to Article 1345.01 of the P&Z Code the purpose of the B-1 Districts is to:

"...provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods."

According to Article 1349.01, the purposes of the B-4 District are to:

(A) Promote development of a compact, pedestrian-oriented central business district consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas, and residential living environments that provide a broad range of housing types for an array of housing needs;

(B) Promote a diverse mix of residential, business, commercial, office, institutional, education, and cultural and entertainment activities for workers, visitors, and residents;

(C) Encourage pedestrian-oriented development within walking distance of public transit opportunities at densities and intensities that will help to support transit usage and businesses;

(D) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;

(E) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and,

(F) Enhance the community’s character and historical significance through the promotion of high-quality urban design.

Because the subject area adjoins the B-4 District at the site’s western and southern sides, the proposed zoning map amendment would be considered a zoning district boundary adjustment and not "spot zoning."

Surrounding Development

The predominant development pattern within the immediate area is in keeping with Morgantown’s central business district, where development has occurred across many decades with various architectural forms and styles. Newer development is mixed with
MORGANTOWN PLANNING COMMISSION
August 9, 2018
6:30 p.m.
City Council Chambers

President:
Peter DeMasters, 6th Ward

Vice-President:
Carol Pyles, 7th Ward

Planning Commissioners:
Sam Loretta, 1st Ward
Tim Stranko, 2nd Ward
William Blosser, 3rd Ward
Bill Petros, 4th Ward
Mike Shuman, 5th Ward
Ronald Dulany, City Council
Julie Robison, City Admin.

historic buildings that preserve the character of the downtown’s heterogenous built environment.

The existing building at 221 Willey Street, historically known as the “Walters Residence”, was nominated by the WV State Historic Preservation Officer in July 1983 for inclusion in the National Register of Historic Places. The building is also located within the Downtown Morgantown Historic District and listed as a contributing building (No. 151) in the district’s registration nomination in March 1996. The following image is clipped from the district’s registration form.

151. 221 Willey Street. The Walters Home. Built, circa 1900, this National Register property designed in the Queen Anne Revival style by Elmer Jacobs features red brick construction, towers, and stained glass stairwell windows. Multi-pane glazing is a later addition. C.

The building to the west of the petitioner’s site, historically known as “The Masonic Lodge” is listed as a contributing building (No. 150) as is the “Trinity Episcopal Church” building to the east (No. 152).

Newer developments within the immediate area include the Panera Bread and BB&T/CVS buildings. Newer B-4 performance standards have encouraged building designs that are in keeping with traditional urban development.

The fundamental concern raised during the Planning Commission’s 13 OCT 2011 hearing for the RZ11-03 case was the potential impact a change in zoning classification of the subject realty from B-1 to B-4 could have on the preservation of the historic “Masonic Lodge” and “Walters Residence” buildings. Specifically, the Panera Bread building had not been developed at that time and concern was presented that reclassifying the petitioner’s site could make ready site assembly, the razing and removal of the two (2) historic buildings, and redevelopment of the three (3) parcels.

It should also be noted that the RZ11-03 case was decided prior to the adoption of the 2013 Comprehensive Plan Update (2013 Comp Plan).
Comprehensive Plan Concurrence

As recommended in Chapter 9 “Implementation” of the 2013 Comp Plan, Addendum C of this report identifies how the proposed zoning map amendment relates to the land management intent, location, and pattern and character principles of the current Comp Plan.

It should be noted that “shall” statements within the 2013 Comp 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. Staff encourages the Planning Commission to review the 2013 Comp Plan for guidance as Addendum C is not intended to represent a complete comparative assessment.

The 2013 Comp Plan identifies the subject site as being situated in the following concept areas:

- Conceptual Growth Framework – “Encouraged Growth”
  “Encouraged Growth – Areas where growth should be strongly encouraged for economic development interests and revitalizing neighborhoods and districts. Such growth includes new development and redevelopment within existing areas” [2013 Comp Plan, Page 18]

- Land Management Concept Area – “Downtown Enhancement”
  “Continued infill and redevelopment in the Downtown core with a mix of employment, civic, commercial and residential users as described in the 2010 Downtown Strategic Plan Update.” [2013 Comp Plan, Page 38]

Reclassifying the subject realty from B-1 to B-4 will certainly remove present barriers to advancing desired mixed-use development and redevelopment at encouraged growth densities and intensities, as espoused under these concept areas and their corresponding 2013 Comp Plan implementation strategies. Moreover, the 2010 Downtown Strategic Plan identified “character areas”, within which more thorough exploration of desired development patterns was conducted, did not include the subject site or tracts on the north side of Willey Street.

However, adaptive reuse of existing historic buildings is a unique revitalization means unto itself. Specifically, Land Management Objective No. 8 provides the following historic preservation implementation strategies, which might diverge from broader “Encouraged Growth” objectives [2013 Comp Plan, Page 106].

![Image of Table]

<table>
<thead>
<tr>
<th>Objective 8. Encourage preservation of historic properties and adaptive reuse of existing buildings.</th>
</tr>
</thead>
<tbody>
<tr>
<td>LM 8.1 Update Morgantown's National Register of Historic Places historic district listing, to ensure that all contributing properties are included and therefore eligible for historic rehabilitation tax credits and other applicable incentives.</td>
</tr>
<tr>
<td>LM 8.2 Provide incentives to encourage the adaptive reuse of historic buildings.</td>
</tr>
<tr>
<td>LM 8.3 Integrate regional historic preservation expertise into downtown decision-making, particularly with regard to property design development and site interpretation.</td>
</tr>
<tr>
<td>LM 8.4 Form a development subsidiary of Main Street Morgantown to provide property owners with historic rehabilitation and New Markets tax credit technical assistance.</td>
</tr>
</tbody>
</table>
This potential dichotomy in land use planning objectives was at the center of the discussion for the RZ11-03 case. However, the 2013 Comp Plan appears to make clear the identified areas within the City were more urban-scaled development can and should be properly and appropriately positioned.

Underlying, base, or traditional zoning districts are primarily focused on expressing the purpose and desired development and land use patterns based on compatibility. Compatibility is demarcated by establishing minimum and/or maximum criteria for uses, setbacks, heights, bulk, area, densities, etc.

Historic preservation planning, programming, and regulation are not generally a function of underlying or base zoning districts, because historic features and buildings are often subareas of a base zoning district. Historic preservation objectives are best addressed through design overlay districts and/or form-based zoning.

Design overlay zones are most appropriately applied to compact, distinct nodes with a cohesive character the community strongly wishes to protect through traditional zoning actions. Because they act as zoning districts, design overlay zones are applicable to smaller geographical areas properly providing the extra protection from inappropriate alterations and unsympathetic new construction. Overlay zoning districts are also often supported with design review, architectural review, or similar boards comprised of persons with knowledge of historic preservation.

Form-based zoning establishes strict controls on urban form, or how the built environment looks, rather than land uses. Form-based zoning is intended to support mixed-use, pedestrian friendly development because it grants developers wide latitude in the types of uses permitted on a site, and creates very specific standards for building, site and street design, which rely heavily on graphics and other illustrations. Because form-based codes rely on a regulating plan, as opposed to a zoning map, it is not specifically designed to protect historic resources; however, the regulations could be established to respect historical development patterns and architectural features.

The matter presently at hand is determining the most appropriate base zoning classification for Parcel 118 of Tax Map 26. Specifically, which zoning classification between B-1 and B-4 is most aligned with the goals, objectives, and implementation strategies of the 2013 Comp Plan.

**STAFF RECOMMENDATION:**
Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioners’ development intentions are extraneous and the Commission should consider the requests on their merits as a land-use decision.

In conducting such an analysis, the Planning Commission should determine if the B-4, General Business District is the most appropriate zoning classification for the subject realty, weighing all possible permitted future development and land use scenarios with the 2013 Comp Plan’s conceptual growth and land management designations for the subject site and surrounding area [see Article 1349 “B-4, General Business District” and Table 1331.05.01 “Permitted Land Uses”].
MORGANTOWN PLANNING COMMISSION
August 9, 2018
6:30 p.m.
City Council Chambers

Staff maintains the following professional observations presented in the RZ11-03 case:

Further, it appears that the subject realty is situated where present and future development and land uses may better reflect the Planning and Zoning Code’s stated purpose for the B-4 District rather than that of the B-1 District.

Substantial differences between the B-1 and B-4 Districts in terms of allowable scale, scope, density, and parking should be carefully considered along with the site’s proximity to central business district type public transit, public parking, and pedestrian volumes not available to and enjoyed by the majority of other B-1 District areas within the community.

Further, it is the opinion of the Planning Division that the 2013 Comp Plan manifestly stated the long-range planning and development objectives for the subject site and the immediate area in the following manner:

- The petitioner’s realty is designated as a “Encouraged Growth” concept area in the 2013 Comp Plan, within which urban development patterns are desired. Reclassifying the subject realty from B-1 to B-4 could allow for increased intensity, given the more liberal development standards and permitted land uses afforded in a B-4 District.

- The petitioner’s realty is designated as a “Downtown Enhancement” land management concept area in the 2013 Comp Plan, within which infill and redevelopment with a mix of uses is encouraged in the 2010 Downtown Strategic Plan Update.

- The petitioner’s realty was not included in one of the ten (10) character areas identified in the 2010 Downtown Strategic Plan Update, where more thorough limits to development densities and intensities were envisioned.

Additionally, Staff maintains that the underlying or base zoning classification of a property is not a proper land use policy instrument to effect desired historic preservation objectives. However, in the absence of more suitable historic preservation tools, the City must determine how best to operate within the current zoning regulations, guided by the 2013 Comp Plan, when considering the present zoning map amendment petition.

Accordingly, the question presently before the Planning Commission is how best to strike a balance between making way for community desired urban-scaled development and protecting and preserving historical assets and resources. Careful deliberation is prudent and necessary to ensure urban-scaled redevelopment is not realized at the possible expense of historic character. Further, the preservation and adaptive reuse of historic buildings is an economic revitalization strategy unto itself.

Staff respectfully advises the Planning Commission, as it formulates a recommendation to City Council, to reconcile Staff’s stated observations provided under Land Management Principals 1 and 3 in Addendum C of this report.
MORGANTOWN PLANNING COMMISSION
August 9, 2018
6:30 p.m.
City Council Chambers

President:
Peter DeMasters, 6th Ward

Vice-President:
Carol Pyles, 7th Ward

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Tim Stranko, 2nd Ward
William Blosser, 3rd Ward
Bill Petros, 4th Ward
Mike Shuman, 5th Ward
Ronald Dulane, City Council
Julie Robison, City Admin.

Specifically, if the Planning Commission seeks to submit a recommendation to amend the zoning map as requested, then the Planning Commission should make clear that, for the present case, Land Management Objective 8 is subordinate to the "Encouraged Growth" and "Downtown Enhancement" principals, objectives and implementation strategies intended to advance urban-scaled development within the downtown core.

Conversely, if the Planning Commission seeks to submit a recommendation to deny the zoning map request, then the Planning Commission should make clear that, for the present case, Land Management Objective 8 is an imperative and peremptory long-range planning objective supported by stated implementation strategies to protect and preserve registered historical assets, like the "Walters Residence" building, and ensure revitalization opportunities through continued adaptive reuse.

Enclosures: Application and accompanying exhibits

Development Services Department
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431
STAFF REPORT ADDENDUM A
RZ18-02 / Chabad of Morgantown, Inc. / 221 Willey Street

Clipped from Google Maps

Clipped from Google Maps
STAFF REPORT ADDENDUM C
RZ18-02 / Chabad of Morgantown, Inc. / 221 Willey Street

Concurrence with the 2013 Comprehensive Plan Update

The following narrative identifies where, in the opinion of the Planning Division, the subject zoning map amendment petition is in concurrence, is inconsistent, or is not applicable or inconclusive with the 2013 Comprehensive Plan Update.

<table>
<thead>
<tr>
<th>INTENT</th>
<th>Development proposals will reflect the spirit and values expressed in the Plan’s principals.</th>
</tr>
</thead>
</table>

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.

The proposed zoning reclassification could incentivize redevelopment within the urban downtown core where growth is desired and encouraged, rather than promoting urban sprawl. However, Land Management Objective No. 8 encourages preservation of historic properties and adaptive reuse of existing buildings, which could be in conflict with the proposed zoning reclassification.

Principal 2  Expansion of the urban area will occur in a contiguous pattern that favors areas already served by existing infrastructure.

The subject site is located in the urban downtown core, where infrastructure is readily available to accommodate more intense development and growth patterns permitted in the B-4 District, and desired in the encouraged growth concept area.

Principal 3  Downtown, adjacent neighborhoods and the waterfront will be the primary focus for revitalizations efforts.

The proposed zoning reclassification could incentivize revitalization within the urban downtown core where growth is desired and encouraged, rather than promoting urban sprawl. However, Land Management Objective No. 8 encourages preservation of historic properties through the adaptive reuse of existing buildings, which is a revitalization means unto itself.

Principal 4  Existing neighborhoods throughout the city will be maintained and/or enhanced.

The proposed zoning reclassification should serve to permit urbanized development patterns while requiring stringent performance standards for physical development. Encouraging urban-scaled development and growth within the core aids in reducing pressures to increase development intensities within otherwise homogeneous residential neighborhoods.
| 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. | ☑ Concurrency | ☑ Inconsistent | ☑ N/A or Inconclusive |
| Principal 6 | Development that integrates mixed-uses (residential, commercial, institutional, civic, etc.) and connects with the existing urban fabric is encouraged. \[B-4 zoning enables mixed-use development patterns at more intense scales as envisioned and encouraged for the downtown urban core.\] | ☑ Concurrency | ☑ Inconsistent | ☑ N/A or Inconclusive |
| 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. \[Transportation enhancements were not reviewed and therefore not applicable.\] | ☑ Concurrency | ☑ Inconsistent | ☑ N/A or Inconclusive |
| Principal 8 | A broad range of housing types, price levels and occupancy types will provide desirable living options for a diverse population. \[The B-4 District permits a broader spectrum of permitted dwelling unit types than the B-1 District, which could serve to promote more housing diversity.\] | ☑ Concurrency | ☑ Inconsistent | ☑ N/A or Inconclusive |
| 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. \[The proposed zoning map amendment could incentivize mixed-use dwelling development at a higher intensity, thereby advancing encouraged growth within the downtown core where urban amenities increase the vibrancy of the area.\] | ☑ Concurrency | ☑ Inconsistent | ☑ N/A or Inconclusive |
| Principal 10 | Parks, open space, and recreational areas are incorporated as part of future development. \[Parks, open space, and recreational area opportunities were not reviewed. Therefore, this principal is not applicable.\] | ☑ Concurrency | ☑ Inconsistent | ☑ N/A or Inconclusive |
| Principal 11 | Environmentally sensitive and sustainable practices will be encouraged in future developments. \[Design and construction practices are not taken into consideration for zoning map amendment requests. Therefore, this principal is not applicable.\] | ☑ Concurrency | ☑ Inconsistent | ☑ N/A or Inconclusive |
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 “Infill and Redevelopment Growth” concept area.

**Encouraged Growth** – Areas where growth should be strongly encouraged for economic development interests and revitalizing neighborhoods and districts. Such growth includes new development and redevelopment within existing areas.
Development proposals in growth areas will be consistent with preferred development types. Development in areas where growth is not intended should be compatible with the relevant Character Areas description and expectations for how those areas should evolve in the future.

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

---

**Core**. The Core is the zone of densest development and is generally defined as Downtown Morgantown. The area has the highest level of connectivity with a grid street pattern with short walkable block lengths. Buildings range from two to twelve stories and are located close to each other and to the street. A mixed-use district, the core contains a range of retail, office, institutional and residential activities, with many buildings containing multiple uses within them. The street, network, building density and mix of uses support a high degree of pedestrian mobility.
The following graphic is clipped from **Map 4 – Land Management** included on Page 39 of the 2013 Comprehensive Plan Update. The subject development site is located within the “**Downtown Enhancement or Core Enhancement**” concept area.

**Downtown Enhancement**: Continued infill and redevelopment in the Downtown core with a mix of employment, civic, commercial and residential uses as described in the 2010 Downtown Strategic Plan Update.
The following graphics are clipped from Pages 41 through 43 of the 2013 Comprehensive Plan Update and identify the development types desired within the "Downtown Enhancement or Core Enhancement" concept area.

<table>
<thead>
<tr>
<th>CONCEPT AREA</th>
<th>SF</th>
<th>TF</th>
<th>MF</th>
<th>C</th>
<th>NX</th>
<th>UC</th>
<th>CC</th>
<th>O</th>
<th>I</th>
<th>CD</th>
<th>OS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core Enhancement</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>‑</td>
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</table>

**DEVELOPMENT TYPE DESCRIPTIONS**

**MF Multi-family Residential**
Includes various forms such as apartment buildings, where each dwelling unit is contained within a structure and townhouse in three or more separate residential dwelling units. 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 0.5 mile). Parking should be located behind or to the side of buildings and may be shared between multiple uses.

**UC Urban Center Mixed-Use**
A mix of housing, office, commercial, and civic uses located adjacent to one another or sharing the same building. Buildings are generally larger in scale than neighborhood mixed-use and contain more employment and commercial uses that serve the broader community. Buildings should be located near the street with parking provided on-street or in shared parking configurations behind or between buildings.
DEVELOPMENT TYPE DESCRIPTIONS

<table>
<thead>
<tr>
<th>OS Greenspace</th>
</tr>
</thead>
<tbody>
<tr>
<td>Includes formal parks, recreation areas, trails, and natural open space.</td>
</tr>
</tbody>
</table>
City of Morgantown, West Virginia  
APPLICATION FOR  
FOR ZONING MAP AMENDMENT

Zoning Map Amendment Process – See Addendum A of this Application

(PLEASE TYPE OR PRINT IN BLACK INK)

<table>
<thead>
<tr>
<th>I. OWNER / APPLICANT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Chabad of Morgantown, Inc.</td>
</tr>
<tr>
<td>Mailing Address: 221 Wille St. Morgantown WV 26505</td>
</tr>
<tr>
<td>Email: <a href="mailto:rabbi@jewishwv.org">rabbi@jewishwv.org</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II. AGENT / CONTACT INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Shneur Gurevitz</td>
</tr>
<tr>
<td>Mailing Address: 221 Wille St. Morgantown WV 26505</td>
</tr>
<tr>
<td>Email: <a href="mailto:Rabbi@jewishwv.org">Rabbi@jewishwv.org</a></td>
</tr>
<tr>
<td>Mailings – Send all correspondence to (check one): [ ] Applicant OR [ ] Agent/Contact</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>IV. PROPERTY</th>
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</thead>
<tbody>
<tr>
<td>Street Address (if assigned): 221 Wille street</td>
</tr>
<tr>
<td>Tax Map(s) #: 26</td>
</tr>
<tr>
<td>Size (sq. ft. or acres):</td>
</tr>
<tr>
<td>Current Zoning Classification: b1</td>
</tr>
<tr>
<td>Current Land Use: Housing and religious activities</td>
</tr>
</tbody>
</table>

*The Planning Commission does not take proposed use into consideration. The question is asked merely for staff to determine if the proposed district allows the intended use.

<table>
<thead>
<tr>
<th>V. ATTEST</th>
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<tbody>
<tr>
<td>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record, and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction, whether specified herein or not. I certify that I have read and examined this document and know the same to be true and correct. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.</td>
</tr>
</tbody>
</table>

Shneur Z Gurevitz  
Type/Print Name of Applicant/Agent  
[Signature]  
Date: 9/19/18

Zoning Map Amendment Fee - $75
DRAFT ORDINANCE

RZ18-02

Chabad of Morgantown, Inc.

221 Willey Street

From B-1 to B-2
ORDINANCE NO.

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE (1) PARCEL OF REAL ESTATE IN THE FIFTH WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-4 GENERAL BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN.

Property included in this ordinance is identified as Parcel 118, County Tax Map 26, Fifth Ward District, Morgantown Corporation.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for Parcel 118, County Tax Map 26, Fifth Ward District, Morgantown Corporation of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same were fully set forth herein is reclassified from B-1, Neighborhood Business District to B-4, General Business District.

2. That the Official Zoning Map be accordingly changed to show said zoning classification.

This Ordinance shall be effective from the date of adoption.

FIRST READING: ________________________________
Mayor

ADOPTED: ________________________________

FILED: ________________________________

RECORDED: ________________________________
City Clerk
MEMORANDUM

Date: 20 AUG 2018
To: Emily Muzzarelli, Assistant City Manager ........................................... via email
cc: Paul Brake, City Manager ................................................................. via email
     Heather Carl, City Clerk Secretary ................................................. via email
RE: City Council Committee of the Whole Agenda – 28 AUG 2018
     TX18-04 | Administrative | Medical Cannabis

During its 09 AUG 2018 hearing, the Planning Commission voted unanimously to forward a recommendation to City Council to approve the above referenced zoning text amendment, which would provide for new land uses created by the West Virginia Medical Cannabis Act (2017).

Attached herewith are the Staff Report presented to the Planning Commission and the draft ordinance. The following dates will keep to standard P&Z Code Zoning Text Amendment protocol:

City Council Meetings
Committee of the Whole ................................................................. TUE, 28 AUG 2018
First Reading: ................................................................. TUE, 04 SEP 2018
Public Hearing and Second Reading: ......................................... TUE, 02 OCT 2018

Please include this item on the City Council meeting agendas noted above and include this communication and attachments in the 28 AUG Committee of the Whole meeting packet. Only the ordinance should be included in the 04 SEP and 02 OCT meeting packets.

Thank you.

Digitally signed by C. M. Fletcher, AICP
Date: 2018.08.20 13:23:36 -04'00'

From the Desk of:
Christopher M. Fletcher, AICP
Director of Development Services
STAFF REPORT

TX18-04

Administrative

Medical Cannabis
CASE NO: TX18-04 / Administrative / Medical Cannabis Regulations

REQUEST:
Administratively requested Zoning Text Amendments to Section 1329.02 and Tables 1331.05.01 and 1365.04.01 of the City’s Planning and Zoning Code as the same apply to medical cannabis related uses.

BACKGROUND:
The *Creating West Virginia Medical Cannabis Act*, Senate Bill 386, was introduced on February 21, 2017. After the amendment process, The *West Virginia Medical Cannabis Act* was signed into law on April 19, 2017, by Governor Jim Justice with an effective date of July 5, 2017. To date, no further State legislative action has occurred regarding medical cannabis.

The *WV Medical Cannabis Act* created Chapter 16A of West Virginia State Code. This Chapter provides for the West Virginia Department of Health and Human Resource’s Bureau for Public Health, Medical Cannabis Advisory Board to prepare and provide rules and establish conduct for health care medical cannabis organizations, including:

- Vertically integrating health delivery systems.
- The establishment of medical conditions and ailments necessitating the medical use of cannabis as a patient.
- The establishment of a system for physician practitioners who may prescribe medical cannabis.
- Forms of cannabis that can be prescribed to a patient.
- Locations of where medical cannabis organizations can exist and operate.
- Research activities related to medical cannabis, methods to control and tax medical cannabis in the State of West Virginia.
- Criminal penalties associated with misuse of medical marijuana.

The *WV Medical Cannabis Act* provides access to medical cannabis by West Virginia citizens with one or more of the following fourteen (14) serious medical conditions:

1. Cancer
2. Positive status for HIV or AIDS
3. Amyotrophic lateral sclerosis
4. Multiple sclerosis;
5. Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity
6. Epilepsy
7. Neuropathies (nerve damage)
8. Huntington's disease
9. Crohn's disease
10. Post-traumatic stress disorder
11. Intractable seizures
12. Sickle cell anemia
13. Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain
14. Patients with a terminal illness

Patients receiving physician certified treatment for the above conditions who seek medical cannabis as a form of treatment, or registered caregivers for said patients, are required to obtain identification cards issued by the WV Bureau of Public Health to have access to medical cannabis from a licensed dispensary. These identification cards will not be available for issuance until July 1, 2019.

The Medical Cannabis Advisory Board is currently promulgating rules for the availability of medical cannabis to patients and valid caregivers in the following forms:

- Pill
- Oil
- Topical gels, creams, or ointments
- A form allowing for vaporization or nebulization
- Tincture (A mixture of alcohol and cannabis)
- Liquid
- Dermal patch

Current legislation allows the WV Bureau for Public Health to permit dry leaf or plant, if it so determines the form to be acceptable under further rule making. Edible forms of cannabis are not permitted to be sold to the patient.

**ANALYSIS:**

Senate Bill 386 (2017) provides for three (3) levels or functional types of medical cannabis organizations: growers, processors, and dispensaries. These State created establishments are not currently included in the City's P&Z Code in terms of land use definitions, permitted land uses, minimum parking requirements, etc.

Growers constitute the physical cannabis plant growth operation, from seed to adult plant. Processors utilize the adult plant in the manufacture and rendering of the medical cannabis products described above. Dispensaries provide for the sale of the final rendered medical cannabis product, to the patient or patient's caregiver. Each of the described three (3) operations are separate from one another and must adhere to specific compliance standards established by State Code and the WV Bureau for Public Health.
West Virginia State code §16A-6-3(d) provides that the WV Bureau for Public Health must establish a minimum of three regions within the State to provide for geographic diversity when granting State issued permits for each of the three (3) medical cannabis establishment types.

The image to the right illustrates the six regions established to date. Morgantown is located in Region II — Northeast, which includes Monongalia, Marion, Harrison, Lewis, Taylor, Barbour, Upshur, Preston, Tucker, and Randolph counties.

Senate Bill 386 (2017) established limitations on total operational capacity inscribed in WV State Code §16A-6-13, as follows.

- **Growers.** The total number of medical cannabis grower firms within the State is limited (10). However, each firm is allowed two (2) individual medical cannabis grower locations, providing for a maximum of twenty (20) medical cannabis growing facilities in the State.

- **Processors.** The total number of medical cannabis processor firms within the State is limited to ten (10).

- **Dispensaries.** The total number of medical cannabis dispensaries within the State is limited to thirty (30). However, each region will be permitted to have no more than five (5) medical cannabis dispensaries.

The following table establishes the maximum number of organizations that could, theoretically, be physically permitted by the State to be located within the City of Morgantown.

<table>
<thead>
<tr>
<th>Type of Medical Cannabis Organization or Medical Cannabis Land Use</th>
<th>Number of Medical Cannabis Land Uses Permitted</th>
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<tbody>
<tr>
<td>Grower</td>
<td>20</td>
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<tr>
<td>Processor</td>
<td>10</td>
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<tr>
<td>Dispensary</td>
<td>5</td>
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Staff has monitored the WV Bureau for Public Health, Medical Cannabis Advisory Board rulemaking process over the past year. Although this process is still underway and additional revisions to WV State Code Chapter 16A have been discussed for the purpose of stabilizing this impending industry, staff believes now is the appropriate time to move forward with local land use regulations, based on the following observations.
First, most, if not all, municipalities across the State did not properly track, plan, or prepare for the State’s implementation of the 2001 legalization of video lottery (LVLs) establishments. As LVLs opened, municipalities reacted by adjusting their zoning regulations to accommodate these new uses to areas within their communities found to be acceptable. This regulatory response created a number of legal, pre-existing nonconforming uses, which may continue until abandoned. This nonconforming use protection is well established in West Virginia State Code §8A-1-2.

Second, inquiries have been made by potential dispensary establishments seeking zoning guidance. Specifically, contemplated ventures appear to have initiated market analysis and due diligence, including the securing of site control or tenant space.

Accordingly, Staff seeks to proactively amend the P&Z Code to address uses created by the West Virginia Medical Cannabis Act prior to related State implementation and permitting.

Addendum A of this report provides Staff recommended text amendments pertaining to the three (3) medical cannabis uses created by the West Virginia Medical Cannabis Act.

In preparing its recommendation, staff compared the existing land use and minimum parking standards in relation to “Drug Store,” “Research and Development,” and “Industrial” uses provided in the P&Z Code. This exploration also recognized State mandated regional constraints and anticipated automotive access demands.

Additionally, State mandates related to indoor growing operations, including extensive screening and security requirements, lends the medical cannabis grower facilities to operate at a more industrial scale and physical presence than that generally attributed to a traditional agriculture use. Accordingly, a “Medical Cannabis Growing Facility” is not recommended in the R-1 District, where “Agricultural Activity” uses are currently permitted by-right.

**STAFF RECOMMENDATION:**

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 (new matter underlined) based on the information and findings presented herein.
STAFF REPORT ADDENDUM A
TX18-04 / Administrative / Medical Cannabis Regulations

Staff recommended revisions to the Planning and Zoning Code as the same apply to medical cannabis related uses (new matter underlined).

1329.02 DEFINITION OF TERMS.

For the purpose of this ordinance, the following words and phrases shall have the meaning respectively prescribed to them by this section. If not defined herein, or within other sections of this ordinance, terms used in this ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director.

DRUG STORE – An establishment engaged in the retail sale of prescription drugs and patient medicines and which may carry a number of related product lines, such as cosmetics, toiletries, tobacco and novelty merchandise, and which may also operate a soda fountain or lunch counter. Drug Store shall not include or be construed to be a Medical Cannabis Dispensary.

HYPERMARKET – A large-scale (minimum of 100,000 square feet) self-service retail store selling food, drugs, household merchandise, clothing, and a variety of other retail goods. The store may, in some cases, include limited, ancillary commercial tenants within the main building, such as medical offices, postage stores, snack counters, coffee shops, hair salons, etc. Hypermarket shall not include or be construed to be a Medical Cannabis Dispensary.

MEDICAL CANNABIS DISPENSARY – A place where processed medical cannabis products are permitted to be sold to qualifying consumers, as provided for in the Code of the State of West Virginia, Chapter 16A, as amended.

MEDICIAL CANNABIS GROWING FACILITY – A place where medical cannabis is permitted to be grown, as provided for in the Code of the State of West Virginia, Chapter 16A, as amended.

MEDICAL CANNABIS PROCESSING FACILITY – A place where medical cannabis is permitted to be processed, refined, or otherwise converted into a legally permitted state, as provided for in the Code of the State of West Virginia, Chapter 16A, as amended.

1331.05 PERMITTED LAND USES.

Table 1331.05.01 Permitted Land Uses

<table>
<thead>
<tr>
<th>Uses</th>
<th>R-1</th>
<th>R-1A</th>
<th>R-2</th>
<th>R-3</th>
<th>PRO</th>
<th>B-1</th>
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<th>B-4</th>
<th>OI</th>
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1365.04  DETERMINING THE NUMBER OF SPACES REQUIRED.

Table 1365.04.01: Minimum Off-Street Parking Requirements

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<th>Use</th>
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<tbody>
<tr>
<td>Medical Cannabis Dispensary</td>
<td>2.5 spaces per 1,000 sq. ft. of GFA plus 1 space per employee</td>
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DRAFT ORDINANCE

TX18-04

Administrative
Medical Cannabis
ORDINANCE NO. __________

AN ORDINANCE AMENDING THE CITY’S PLANNING AND ZONING CODE, SECTION 1329.02 AND TABLES 1331.05.01 AND 1365.04.01 AS THE SAME APPLY TO MEDICAL CANNABIS RELATED USES.

The City of Morgantown hereby ordains that the City’s Planning and Zoning Code is amended as follows (new matter underlined):

1329.02 DEFINITION OF TERMS.

For the purpose of this ordinance, the following words and phrases shall have the meaning respectively prescribed to them by this section. If not defined herein, or within other sections of this ordinance, terms used in this ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director.

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This ordinance shall be effective upon date of adoption.

FIRST READING: ____________________________  Mayor

ADOPTED: ____________________________

FILED: ____________________________

RECORDED: ____________________________  City Clerk
Office of the City Manager

City Manager's Report for City Council Meeting on September 4, 2018

New Business:

1. **Blue Zone – Proposed Consulting Services**
   The City of Morgantown’s Health & Wellness Commission is actively collaborating with the Blue Zone Project Team and WVU on a 4-month assessment to determine the readiness and fit for Morgantown to become an accredited Blue Zone Community. As outlined previously, the overall goal of this project is to improve quality of life and well-being for the Morgantown community. The Blue Zone approach includes a socio-ecological model that addresses people, policy, and places. To effectively achieve this goal, the Health & Wellness Commission will need to recruit a sizeable majority of stakeholders from the City, County and WVU to engage in this assessment process.

I have recently met with Colleen Harshbarger about the staff needs and logistics to accomplish the goals listed above. Although we have the capacity to provide some assistance with many elements, we do not have the ability to oversee the initiative. I am recommending the City enter into an agreement with Wellbeing Solutions for consulting service to achieve a best possible scenario for the Blue Zone Assessment process. Ms. Harshbarger is the owner of this firm and is uniquely qualified to take on this initiative. In my opinion, the tasks needed are administrative/operational and are well beyond the expectations of a member of a volunteer commission.

The estimated time for the project assistance is 15-20 hours per week during September and October and 10-15 hours per week in November. In addition to the project tasks needed to carry this out, Ms. Harshbarger could be instrumental in assisting with a potential grant application before the Robert Wood Johnson Foundation. The proposed fee for Wellbeing Solutions consulting services is $4,000 per month for September, October, and November 2018. The recommended amount is to not to exceed $12,000. A motion is recommended authorizing the City Manager to enter into an agreement with Wellbeing Solutions for the scope of services and fee as detailed above.
2. **Urban Deer Archery Hunt**

   Included in the packet is information about the rules and regulations pertaining to
   the City's urban deer archery hunt. This is long standing program that provides a
   venison donation program to deliver processed deer to City food kitchens and
   organizations to help those in need. According to the hunt organizers, there have
   been no safety accidents or issues coming from the program. No action is need;
   the rules and guidelines are provided for information purposes.

   Paul J. Brake, ICMA-CM, CEcD
   City Manager, Morgantown, WV
2018 City of Morgantown Urban Archery Deer Hunt Fact Sheet
Presented to the City Manager and City Council September 4, 2018

Season Dates

- Saturday, September 8 through Monday, December 31, 2018
- Monday, January 14 through Thursday, January 31, 2019

Contact Information

- Volunteer Coordinator: Paul Crumrine, (304) 216-3040, pecrumrine@gmail.com
- Immediate Past Coordinator: Rick Bebout, (304) 290-7205, bebout.rick@gmail.com

Hunters

63 hunters are participating this season, the City’s eighth year conducting the project.

Properties

32 properties are being hunted this season:

- 18 private
- 14 public

Hunter/property assignments are provided to the City Manager, Morgantown Chief of Police and WVU Chief of Police.

Sunday Hunting

Per legislation passed by the State of West Virginia the last two years, Sunday hunting is now legal on both private and public property. Individual participating landowners/land managers maintain the ability to set days of the week and times hunting is permitted.

History

Since its inception in 2011, the City of Morgantown’s urban archery deer hunt has provided a safe and effective manner to control the deer population within the city limits. In the first seven years, hunters participating in this volunteer-centered program have harvested 712 deer and donated 6,778 pounds of ground venison to help those in need in our community. All of this has been done in a discreet, safe manner, with an accident-free safety record.