



Agenda
Huntington Planning Commission
Monday, February 1, 2021 – 5:30pm

1. Preliminaries
2. Call to Order
3. Roll Call
4. Election of Chair and Vice Chair
5. Annual Report 2020
6. Approval of the July 2020 Minutes
7. Approval of the November 2020 Minutes
8. Old Business
 - a. Draft of the Planning Commission Rules and Procedures
9. New Business
10. Other Business or Announcements
11. Adjournment

2020 Annual Report of the Huntington Planning Commission



Huntington, West Virginia

Prepared by:
Mayor's Office of Planning and Development
Breanna Shell, Planning Director
Patricia Usher, Zoning Officer
January 2021

Introduction

In 2020, the COVID-19 pandemic brought a particular set of challenges for the city to transition to a digital, work-from-home format. The Planning Division endeavored to continue to better our administrative processes, strengthened targeted community development efforts, and make progress on the implementation of Plan2025 while creating procedures to create a safe environment for the public and staff. In addition to our day-to-day permitting process, the Planning Division also oversaw 15 public hearings between the Board of Zoning Appeals and the Planning Commission. The Planning Division has experienced the loss and gain of staff throughout the year, and with the most recent loss of the city's Planner, 2021 will bring with its own gains in staff.

Please see in this report a summary of the past years accomplishments in community projects and in attending to the work of the Board of Zoning Appeals and Planning Commission.

Love your Block West Huntington

Love Your Block is a series of community projects determined by the residents and business owners in West Huntington. Our program provides funding for mini-grant projects and ideas developed by community members to improve their neighborhoods and blocks through low cost, high impact change.



Love Your Block volunteers believe their efforts increase public safety and community ownership of private and public spaces. Past projects include turning vacant lots into public gardens, painting over graffiti with colorful murals, removing trash from playgrounds, and helping neighbors with simple home repairs. Community volunteers are making their neighborhoods better places to live, work, and play.

The Love Your Block program in Huntington, West Virginia began when the city was chosen as one of ten cities awarded \$25,000 to be used for funding that supports volunteer-fueled solutions developed by the community for the community. In addition, two AmeriCorps VISTA members serve in each winning city's city hall to build capacity and raise awareness. The program is made possible with support from Cities of Service, Bloomberg Philanthropies, and the Corporation for National and Community Service (CNCS).

Currently the Love your Block program has been able to continue with support of the City of Huntington and a partnership with the Preservation Alliance of WV and the WV state AmeriCorps program.

Over the last two years the mission of Love Your Block West Huntington has been to provide the community with an opportunity to work with local government and revitalize their neighborhood. LYB has worked to empower residents to make the changes they want in their community. Over the past two years, with residents help LYB has:

- awarded 12 mini-grants (7 small home repairs and 5 neighborhood improvement projects),
- attended 42 meetings, trainings, and events, and
- removed 2,872 pounds of trash.
- There have been a total of 1,838 volunteer hours tracked, translating to an estimated \$18,380 in labor!

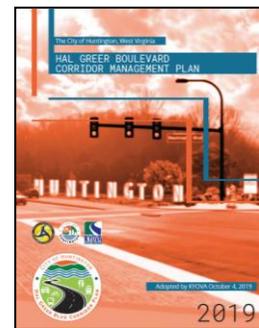
Fairfield Alliance

The Fairfield Alliance is a collaboration of community stakeholders in the Fairfield neighborhood including AD Lewis Community Center, Cabell Huntington Hospital, the Black Pastors association, Marshall University, Huntington Housing Authority, residents, City of Huntington, Coalfield Development Corporation, Unlimited Future and more. In 2019 one of the main projects of the Fairfield Alliance was creating the Fairfield Innovation Plan which was funded through the HUD Choice Planning grant. This plan was completed in February of 2020. Since that time the Fairfield Alliance also created a new community development corporation and hired an executive director. Although the Alliance took a break during the middle of 2020 due to trying to focus on other projects and capacity to work in an online environment, the Alliance met just recently in January of 2021 and there were lots of projects to report and share.



Hal Greer Boulevard Complete Streets Plan

Towards the end of 2019 was the completion of the Hal Greer Boulevard Complete Streets Plan which showcased years of hard work and collaboration to completely redesign Hal Greer Boulevard with safety and functionality at the forefront. With the help of the leadership of the City of Huntington, Marshall University, Cabell Huntington-Hospital and the Neighborhood leadership we were able to get the support of the WV Division of Highways to fast-track the design and construction of Hal Greer Boulevard in line with the Corridor Management Plan. This past year has really accelerated that project and is on track to create final construction level plans for the Fall of 2021 to be able to construct improvements to the route from 3rd Avenue to Washington Boulevard.



Highlawn Brownfields Plan

2017 saw the completion of a robust plan of development for the Highlawn and Marshall University neighborhoods with the final Highlawn Brownfields Plan. This plan highlights research into potential brownfield properties and reuse opportunities including a proposed future land use plan and market study. The Huntington Municipal Development Authority is taking the lead on moving this plan forward and negotiating with existing property owners and finding funding to implement. Work continued on this goal with the HMDA taking ownership over one of the properties and further refining the Highlawn Brownfields Plan as new information came to fruition. One of the major projects was the determination of Marshall University to purchase some of the property for the creation of the MU Baseball stadium. As this continues to develop the Planning staff, HMDA, MU and the residents/business owners of Highlawn will continue to work together to improve and implement the plan.



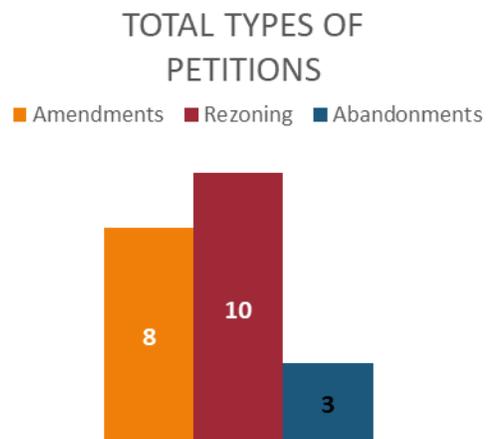
Zoning Ordinance Update

This past year saw major revisions to the Zoning Ordinance and the Zoning Map. In the coming year, the Planning Division looks forward to further strengthening the goals in Plan2025 the Future of Huntington by targeted revisions of the zoning ordinance. This revision will focus on the neighborhoods of Fairfield, West Huntington, and the core of Downtown. The hope is to create a more place-based neighborhood specific code within areas that are seeking economic development opportunities.

Overall, we hope to continue partnerships with other departments and community members to better educate citizenry about the vision behind the regulations and work to be proactive to improve the system to create a stronger City of Huntington.

Planning Commission

In 2020, the Planning Commission heard twenty-one (21) petitions over the course of seven (7) meetings. Of the twenty-one petitions, there were eight (8) Amendments to the Zoning Ordinance, ten (10) Rezoning, and three (3) Abandonments. Of the twenty-one petitions, nineteen (19) were moved forward to Council with favorable recommendations; two (2) were withdrawn.



Amendments to the Zoning Ordinance

There were eight (8) changes to the Zoning Ordinance in 2020. Combined with the seven (7) that were made in 2019, the Zoning Ordinance is well on its way to being a reflection of Plan2025. Considerable changes were made throughout the year to reorganize and clarify regulations in order to produce a document that will improve ease of use and therefore overall customer service.

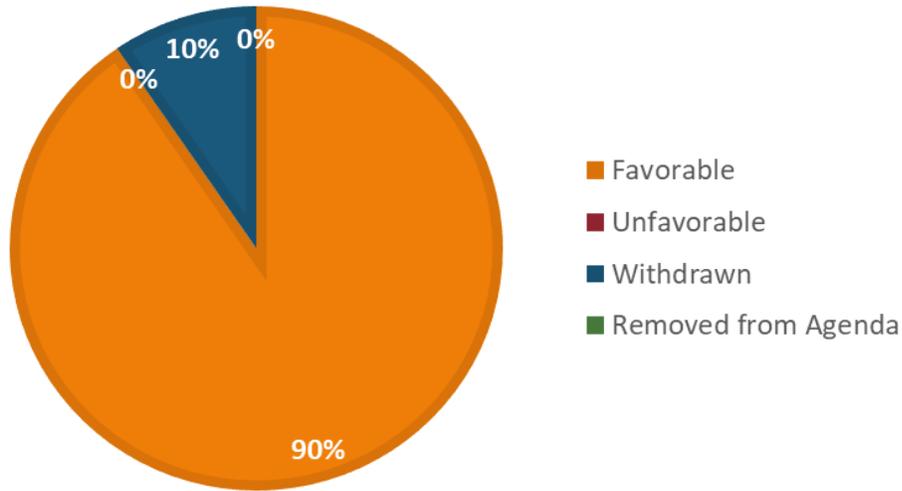
The biggest change made to the Zoning Ordinance and Zoning Map was the split of the General Industrial District into Light Industrial and Heavy Industrial. This was achieved through large scale rezonings of the industrial areas of the city and the defining of the two new districts, especially in regards to the distribution and regulation of uses and the physical design of new construction.

Petition	Amendment Changes
PC 19-05	Amendments to the City of Huntington Zoning Ordinance creating Article 1334 I-2 Heavy Industrial in the City of Huntington Zoning Ordinance and amendments to Article 1333 I-1 General Industrial to add newly defined permitted uses and special permitted uses, change the district name to Light Industrial and Commercial, add development standards, adjust the area and setback standards, and bring it into alignment with the Comprehensive Plan update, Plan 2025.
PC 19-12	Amendments to the City of Huntington Zoning Ordinance creating Article 1334 I-2 Heavy Industrial in the City of Huntington Zoning Ordinance and amendments to Article 1333 I-1 General Industrial to add newly defined permitted uses and special permitted uses, change the district name to Light Industrial and Commercial, add development standards, adjust the area and setback standards, and bring it into alignment with the Comprehensive Plan update, Plan 2025.
PC 19-16	A petition to rezone from I-1 General Industrial District to the proposed I-2 Heavy Industrial District, property located at 208 Hal Greer Blvd, 1604-1606 Commerce Ave, and 217 17th St. Cabell County Tax Map 8, Parcels 7, 8, and 9; Map 9, Parcels 13 and 126.
PC 20-01	A petition to rezone a parcel from R-1 Residential District to C-1 Neighborhood Commercial District, the property is located at 1510 Norway Ave, Cabell County Tax District 05, Map 47, Parcel 141.
PC 20-02	A petition to abandon a portion of 24th Street between 4th Ave and 5th Ave. The petitioned abandonment is situated between Cabell County Tax District 05, Map 20, Parcels 43 and 45.
PC 20-03	A petition to rezone from R-4 Residential District to C-1 Neighborhood Commercial District, property located at 1522 9th Avenue. Cabell County Tax District 5, Map 31, Parcel 132.

PC 20-04	Amendments to the City of Huntington Zoning Ordinance Article 1327 C-1, Neighborhood Commercial District to add Tattoo Parlors as a Special Permitted Use and Article 1329 C-2, Highway Commercial District to add Tattoo Parlors as a Permitted Use.
PC 20-05	A petition to abandon 15 feet of the easterly portion of 15th Street between Columbia Avenue and Charleston Avenue. The portion to be abandoned is adjacent to Cabell County Tax Map District 05, Map 46, Parcels 175, 176, 177, 178, 180, 181, 182, 183, 184, 185, 186, and 187.
PC 20-06	A petition to create Article 1320 – Permitted Uses; Amend Article 1315 Definitions to create new definitions, amend existing definitions, and add a new measurements section; Amend Articles 1321, 1323, 1325, 1327, 1329, and 1331 to remove permitted uses, special permitted uses, and bulk and area requirements, and add development requirement charts and amend supplementary regulations; Amend Article 1337 Special Zoning Districts to add a permitted use chart; Amend Article 1341 General Regulations for clarification, reorganization, and adjust additional regulations for various uses; Amend Article 1343 Off Street Parking by amending Table 1343.A Parking Requirements, automobile parking design principles, bike parking standards, location and design of driveways, handicapped parking to include additional ADA standards, and reorganizing various sections; Amend Article 1351 Site Plan Review to add additional requirements related to other amendments and adjust review time requirements; Amend Article 1355 to reflect definition changes and add legal nonconforming structures; Amend Article 1359 Special Permit to change Special Permit to Conditional Use; Amend Article 1367 to reflect WV state code. These amendments will bring the city’s zoning ordinance further into alignment with the Comprehensive Plan update, Plan 2025.
PC 20-07	A petition to abandon a portion of 24 th Street at the intersection of 4 th Ave. The petitioned abandonment is situated between Cabell County Tax District 05, Map 20, Parcels 43 and 45.
PC 20-08	A petition to rezone from R-4 Residential District to C-1 Neighborhood Commercial District, property located at 1942, 1944, and 1946 9th Avenue. Cabell County Tax District 5, Map 31, Parcels 357, 358, and 359.
PC 20-09	A petition to rezone from R-4 Residential District to C-1 Neighborhood Commercial District, property located at 1942, 1944, and 1946 9th Avenue. Cabell County Tax District 5, Map 31, Parcels 357, 358, and 359.
PC 20-10	A petition to rezone property to C-1 Neighborhood Commercial District from R-2 Residential District, the property is located at 312, 314, 316, and 324 18th Street W, Cabell County Tax District 7, Map 40, Parcels 121, 122, 123, and 124.
PC 20-11	A petition to rezone properties to C-1 Neighborhood Commercial District from R-5 Residential District, the properties are located between 5th Avenue and 6th Avenue north to south and 5th Street and 4th Street east to west.

PC 20-12	A petition to rezone properties to C-1 Neighborhood Commercial District from R-5 Residential District, the properties are located between 5th Avenue and 6th Avenue north to south and 4th Street and 3rd Street east to west.
PC 20-13	A petition to amend Article 1341 General Regulations regarding Home Occupations and Article 1357 Filing Fees.
PC 20-14	A petition to amend Article 1313 of the Zoning Ordinance to promote fair housing.
PC 20-15	A petition to rezone parcels located generally between the Downtown and Highlawn district as follows: Location 1: all parcels from Commerce Avenue to the Ohio River between 13th Street and 17th Street, excluding land owned by the United States of America north of the flood wall, commonly known as Harris Riverfront Park; and all parcels from 2nd Avenue to the Ohio River between 17th Street and the centerline of 21st Street when continued to the Ohio River; and the +/- 31.6 acre parcel owned by CSX Transportation Inc. along the Ohio River between 15th Street and 22nd Street. Current zoning for Loc. 1: General Industrial District proposed zoning for Loc. 1: Heavy Industrial District Location 2: the properties located between Commerce Avenue and 2nd Avenue between 19th Street and 19 1/2 Alley, and two parcels located at the corner of 2nd Avenue and 20th Street more specifically Cabell County Tax District 5, Map 9, Parcels 60 and 61. Current zoning for Loc. 2: Highway Commercial District Proposed zoning for Loc. 2: Light Industrial District
PC 20-16	A petition to amend Article 1345 Sign Regulations and Site Lighting to adjust regulations for free-standing signs, wall signs, and changeable copy signs.
PC 20-17	A petition to amend Article 1315 Definitions and Measurements, Article 1317 Establishment of Districts and Zoning Map, Article 1320 Permitted Uses (including chart), Article 1333 Light Industrial and Commercial District, and Article 1334 Heavy Industrial District
PC 20-18	A petition to amend the Residential Districts Article 1321, Article 1323, and Article 1325, to adjust the Development Requirements and Supplementary Regulations for the districts

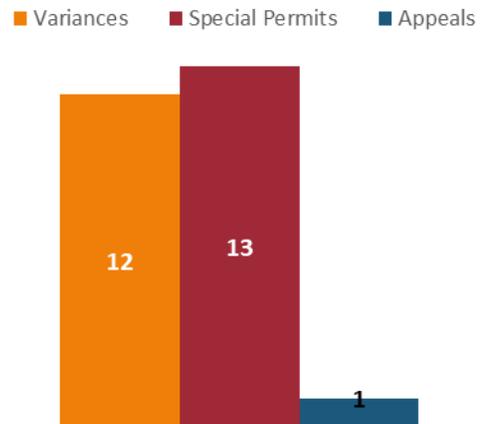
DECISIONS FOR ALL PC PETITIONS



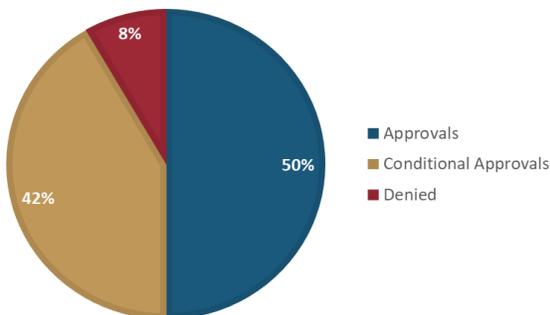
Board of Zoning Appeals

In 2020, the Board of Zoning Appeals had twenty-six (26) petitions over the course of seven (7) meetings. It is a decrease for the Board from 2019, which had seven (7) meetings and forty-two (42) petitions. Of the twenty-six (26) petitions, eleven (11) petitions were requests for Variances, thirteen (13) were requests for Special Permits, and one (1) was an Appeal of the decision of the Planner. Out of the total petitions that were heard, twenty-two (22) were approved, one (1) was denied, three (3) were withdrawn.

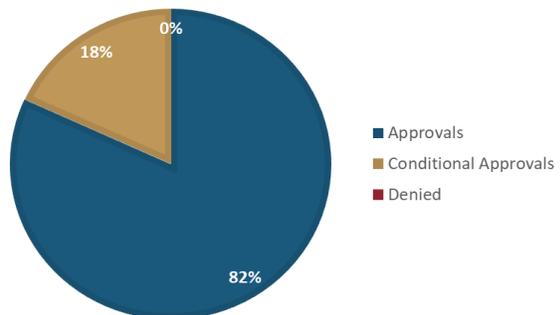
TOTAL TYPES OF PETITIONS



DECISIONS FOR VARIANCES



DECISIONS FOR SPECIAL PERMITS



This year the BZA membership grew and really excelled in their roles, taking each petition very seriously and exercising their ability to put conditions on their approvals so that the intent of the zoning ordinance was implemented.

Attendance for the BZA was consistent with most members only missing one or two meetings over the course of the year, and the alternates stepping in when needed ensured we had sufficient quorum at all meetings.

Conclusion

Overall, 2020 proved to be another dynamic year in planning in the City of Huntington even under the unusual circumstances brought on by the pandemic. New businesses were started - especially Home Occupations - existing businesses expanded, and the comprehensive plan update was advanced in the creation of several new elements within the zoning ordinance.

The future of Huntington looks bright, and 2021 is sure to be another critical year in continuing the positive momentum as we move forward to update our zoning ordinance in line with Plan2025.

Minutes
City of Huntington Planning Commission
July 6th, 2020

A meeting of the City of Huntington Planning Commission was held on July 6th, 2020 at 5:30 p.m. in the City Hall Council Chambers. *Ms. Wheeler* called the meeting to order.

Members Present: Stephanie Vlahos Bryant, Sean Hornbuckle, Jennifer Wheeler, Bob Adkins, Sarah Walling, and Mayor Steve Williams

Members Absent: Gerry Holley and Brian Gallagher

Staff Present: Shae Strait, City Planner
Ericka Hernandez, Assistant City Attorney
Penlyn Crawford, Planning Technician

Ms. Walling moved to approve the minutes of the May meeting. All were in favor, and the minutes of said meeting were approved.

PC 19-16

A petition to rezone from I-1 General Industrial District to the proposed I-2 Heavy Industrial District, property located at 208 Hal Greer Blvd, 1604-1606 Commerce Ave, and 217 17th St. Cabell County Tax Map 8, Parcels 7, 8, and 9; Map 9, Parcels 13 and 126.

Owner/Petitioner: Steel of West Virginia, 217 17th St, Huntington, WV.

Mayor Williams moved to lay over the petition until the next meeting. All were in favor.

PC 20-09

Issue: A petition to rezone property to C-2 Highway Commercial District from R-4 Residential District, the property is located at 204 and 206 28th Street, 2805, 2807, 2809, 2811, and 2823 Collis Avenue.

Petitioners: Pyramid Properties LLC, 9 Pyramid Drive, Huntington, WV 25705; and Whirlwind Commercial LLC, 630 8th Avenue, Huntington, WV 25701.

Mr. Strait presented a summary of the petition and information concerning its previous approval. The item was reheard due to an error in the legal ad.

David Shiels, 124 Brady Rd, Barboursville, present the petition via conference call. He stated this is a surface parking lot and not a parking garage, a misconception made by some of the public. The parking lot will have two access points, one on 28th St and one on the alley to the west that is unnamed. The project will meet all codes, replace sidewalks, manage stormwater, and maintain trees on the public right-of-way. St. Mary's Medical Center has been expanding and needs

additional parking. He also addressed flyers that were handed out stating SMMC was going to take homes in the neighborhood and that it was untrue.

There were no questions for Mr. Shiels.

David Coughenour, 8 Oakwood Rd, also presented. As the owner of the property he wanted to address the residents' concerns. His company, Pyramid Properties, has roughly 600 apartments and will assist tenants in relocation free of charge into another unit owned by the company. He stated that the proposed lighting would not be tall pole lights similar to a Wal-Mart parking lot, but rather low scaled lighting that would be better suited for the residential neighborhood. He believes this will help spur redevelopment of the adjacent vacant gas station and other commercial property along 3rd Ave.

Mr. Coughenour asked if he could take questions from his tenants who were in the audience.

Mr. Strait explained that questions are directed to the Commissioners, not other participants.

Mr. Hornbuckle asked for elaboration on the lighting issue.

Mr. Coughenour handed out a graphic to show the type of lighting he had previously described and then elaborated on the design. He also stated the project will not include the apartment building located at 2823 Collis Ave.

Mr. Strait asked if anyone wanted to speak in favor. No one came forward.

Mr. Strait asked if anyone wanted to speak in opposition.

Melissa Pruitt, 2811 Collis Ave, stated she doesn't know Mr. Coughenour and that he wasn't the landlord. The landlord acts as if he doesn't know what is happening or answer phone calls. She is concerned how she is going to pay rent, rent a new location, and get back her damage deposit, plus last month's rent payment as well. She stated Mr. Coughenour was wrong and that the street is already adequately lit and not dark. There are other empty or vacant commercial properties that could be developed first, but instead they have chosen to remove the existing residential buildings instead. The Sunoco has been empty for a long time and should be redeveloped first.

Charlotte Riestenberg, 215 5th Ave, Apt 10, is not a resident of the neighborhood but has a friend who lives at 2823 Collis Ave. She agrees with Ms. Pruitt it is well lit. The parking will take away from the integrity of the residential area. She had just moved to Huntington and trying to find housing in a good area was difficult. She is concerned the city will lose more tax revenue because of this parking lot project eliminating the apartments. They are taking people's homes away by demolishing them. She believes the apartments owned by Whirlwind are good apartments and would be a loss to the quality housing available in the city. The pandemic will make the move financially harder for the residents. The hospital's buildings take up just as much land as their parking. She understands they are expanding but they should pursue the vacant property instead.

T. Pierce, 204 28th St, a tenant of one of the apartments, is concerned with money. They live check by check. She wonders if they will have to pay rent up until they have to leave while also having to find another place to live. They don't have the extra money for these costs.

Mr. Coughenhour was allowed to respond to the concerns of his tenants. He stated he is not the day to day person they speak to at the property, but he is the owner. He guaranteed the tenants they will get their damage deposits back and get them into equal or better apartments than what they have now. This is not the first time they have moved tenants and will assist them with trucks, man power, or whatever they need. He has been doing it for 5 years and believes they have a good reputation as being a rental company.

Mr. Strait stated three letters were submitted for the public comment portion as well. Two are in support and one in opposition. They were included in the packet.

Ms. Wheeler read the two letters in support. One was from Solam Anderson at 2804 Collis Ave. The other letter was from Rev. Dana W. Sutton of the Highlawn Presbyterian Church at 2814 Collis Ave.

Mr. Strait read the letter in opposition. The letter was from Mr. and Mrs. Brumfield of 2806 Collis Ave.

Ms. Wheeler then closed the public comment portion of the meeting and opened the discussion up for the commissioners.

Mr. Hornbuckle asked what the situation was with the vacant Sunoco and adjacent commercial property along 3rd Ave.

Mr. Shiels offered to answer.

Ms. Wheeler asked for a waiver of the rules on public comment to allow Mr. Shiels to speak.

Ms. Walling moved to waive the rules for public comment. *Mr. Hornbuckle* seconded the motion. All were in favor.

Mr. Shiels said they have had an interest in the adjacent vacant properties on 3rd Ave and were close to purchasing them at one point. The deal had fallen through because of a higher offer from someone else to the owner. That was 8 or 9 years ago. He believes the owner lives in Louisa, KY and wants a fortune for the property, approximately 1.5 million dollars. The owner has had the property since 1986, but is unwilling to work with SMMC on a deal.

Mr. Hornbuckle asked if the price for the vacant Sunoco was much higher than the price of the property being rezoned tonight.

Mr. Shiels confirmed it was.

Mr. Hornbuckle asked if there had been an economus done to evaluate the land values after the proposed rezoning and project has gone through.

Mr. Shiels said they have never done that nor believes that the property around them has ever been impacted by their growth in the last 25 years.

Ms. Wheeler asked if the commissioners had any further questions.

Mr. Hornbuckle asked if Mr. Coughenhour had given any thought to financially compensating the residents who would be displaced, calling it a pandemic stipend.

Mr. Coughenhour said there is a lot of housing supply and low demand due to the pandemic, and can move them in twenty-four hours free of charge.

Mr. Hornbuckle stated there is a lot of uncertainty in the world currently but wondered if he'd consider giving them a stipend to help with other unanticipated needs.

Mr. Coughenhour said he'd be happy to sit down with tenants and consider it based on their context.

Mr. Hornbuckle said he appreciates Mr. Coughenhour taking that effort.

Ms. Wheeler closed public comment once again.

Ms. Wheeler stated the new information before them this time hearing the item shows the willingness of the petitioner to help with resident relocations and that the petitioners are people of integrity.

Mr. Adkins made a motion to move PC 20-09 forward to city council with a favorable recommendation, and it *Mayor Williams* seconded the motion.

Roll Call for PC 20-09

Ms. Bryant, Yes; Mr. Hornbuckle, Yes; Mr. Adkins, Yes; Ms. Walling, Yes; Mr. Williams, Yes; Ms. Wheeler, Yes.

Motion was approved by a vote of 6 Yes to 0 No.

PC 20-07

Issue: A petition to rezone property to C-1 Neighborhood Commercial District from R-2 Residential District, the property is located at 312, 314, 316, and 324 18th Street W, Cabell County Tax District 7, Map 40, Parcels 121, 122, 123, and 124.

Petitioner: City of Huntington, 800 5th Ave, Huntington, WV 25701

Mr. Strait presented the petition on behalf of the city. The petition was done at the request of the owner of the NAPA Store at 324 18th St W to make the building and business conforming, help promote investment of the two adjacent vacant lots, and protect the single-family home included in the rezoning as well. The NAPA had been zoned B-1 when it was constructed but was zoned to R-2 in the last 20 years making it non-conforming. This petition would rezone half of the block to C-1 Neighborhood Commercial to allow for commercial use that is compatible with the residential neighborhood therefore protecting the current housing around this area.

No commissioners had any questions for Mr. Strait.

Ms. Wheeler asked if anyone from the public wanted to speak in support.

Lynn Samworth, owner of the NAPA Store at 324 18th St W, said he was unsure why it was ever rezoned to R-2. They built the new building in 1993 when it was zoned B-1. The building is 5,000 square feet. They never received notice of rezoning when it was switched to R-2. Another citizen wants to buy the property but only if it is zoned appropriately for the business.

Four other citizens raised their hands to show support but chose not to speak.

Ms. Wheeler asked for those opposed to come forward to speak.

Frazier Eskew, 101 2nd St, South Point, OH, wanted to know why the city wanted to rezone his single-family home at 312 18th St W and if the rezoning would impact his taxes.

Mr. Strait explained that rezoning and taxes were unrelated.

Ms. Hernandez explained we cannot assume the changes to taxes because those are accessed by the county.

Mr. Eskew asked if there is a different tax rate for commercial properties.

Ms. Hernandez said yes but not based on the city's zoning, but rather how the county viewed commercial and residential uses. The county would have to make that decision.

Ms. Wheeler stated the accessor's office places a value on the property and then accesses the taxes based on owner or non-owner occupied for classification.

Ralph Robert, 14 Windsor Dr, also wondered about axes and why the city wanted to rezone his vacant lot. He says there has been a lot of surveying nearby and didn't know the intent of it. Stated he was not for the rezoning.

Mr. Strait responded the city doesn't petition to rezone single parcels but instead half or whole city blocks, and therefore to make the business may struggle because of the restrictions. C-1 was chosen to help protect the homes and still allow for residential development of nearly the same pattern as R-2 but with less restrictions.

Mr. Robert asked what happens if he agrees to this now and then changes his mind.

Ms. Hernandez said he would have a right to petition for that change but that the commission has to abide by the rules that there has to be substantial change to consider another rezoning and within such a short time span that most likely will not have occurred.

Mr. Strait said there is a large amount of vacancy nearby to include Virginia Ave and was hoping this small step would help drive redevelopment to occur on the vacant land.

Mr. Eskew thought his property was worth a lot because of its location.

There was no further opposition and public comment was closed by Ms. Wheeler.

Ms. Wheeler opened the discussion among the commissioners. There was no questions or comments.

Mayor Williams made a motion to move PC 20-09 forward to city council with a favorable recommendation, and it *Mr. Adkins* seconded the motion.

Roll Call for PC 20-10

Mr. Hornbuckle, Yes; Mr. Adkins, Yes; Ms. Walling, Yes; Mr. Williams, Yes; Ms. Bryant, Yes; Ms. Wheeler, Yes.

Motion was approved by a vote of 6 Yes to 0 No.

PC 20-11

Issue: A petition to rezone properties to C-1 Neighborhood Commercial District from R-5 Residential District, the properties are located between 5th Avenue and 6th Avenue north to south and 5th Street and 4th Street east to west.

Petitioner: City of Huntington, 800 5th Ave, Huntington, WV 25701

Mr. Strait presented the petition on behalf of the city. A citizen several months back, Ted Taylor, began working to gather signatures needed for a rezoning petition. After roughly ninety percent of the signatures needed were obtained by Mr. Taylor and seeing it was in line with the comprehensive plan, Plan2025, the city pursued rezoning the properties. The C-1 district, although not the Downtown Transition District proposed in the comprehensive plan, is similar in nature and will meet the requirements of the comprehensive plan and protect the historic character of this neighborhood. This is one of two rezoning being presented for this neighborhood tonight.

There were no questions or comments from the commissioners.

Ms. Wheeler asked for those in favor to come forward and speak.

William Heaberlin, 423 6th Ave, has owned the property for over 30 years now. 30 years ago, the city commissioned Ridenour Engineering out of Pittsburgh to do a planning and zoning study, head by Gary Bunn within the city. They recommended all of 6th Ave be zone commercial. The block is already commercial in nature. Dr. Adkins had his office on the corner, two houses over was an engineering firm (where Mr. Taylor resides now), next house over is Prunty Law Firm, 2 group homes, a church, and a recovery facility as well which was described as selling more drugs than CVS. The proposed new business at the former engineering office will be a positive business, akin to Huntington Hall of Frames. These are tax paying businesses and demonstrate reasonable and calculated growth. Mr. Heaberlin heavily supports the rezoning.

Mary South, 515 5th St, absolutely supports this petition and see nothing but positive benefits from this.

Ted Taylor, 412 6th Ave, stated he had initiated this petition by reaching out to the zoning office to inquire about rezoning. His house is a former engineering firm. He has had to endure hookers, drug addicts, and police there constantly. He has since day one moving here from Florida tried to better the neighborhood, tried to assist the elderly, pick up trash, and better the neighborhood. He has seen others purchase and renovate homes on his block, and even good renters improving their housing. He wants to open his first floor as an art studio. He finds this change a no brainer. He knows many neighborhoods need help and he just wants to do his part to help his own neighborhood. Mr. Taylor also gave thanks to Shae Strait and the Zoning Office for their assistance with this petition.

No more spoke in favor. Ms. Wheeler asked for those in opposition to come forward.

Kathline Elderbrand, 614 Trenton Pl, stated that her issue isn't the suggestion for 6th Ave, but is concerned this will increase the issue with rehab housing. She states rehab houses have increased pests and vermin because of their trash which is put out in very large quantities. She has great concerns about parking, speeding, overcrowding, but has no problem with the proposed art gallery. She is also concerned with the underutilized vacant commercial properties such as Food Fair and abandoned apartment buildings. She overall has great concerns with the proposed change.

Ed Lawless, 516-518 4th St, asked if this will increase drug rehab housing. Seems like these are doing in everywhere without notice and causing overcrowding.

Ms. Hernandez explained it would not change the regulations for rehab housing since per the Supreme Court we cannot control them via zoning.

Mr. Lawless says he likes to see improvements but the city is letting slum lords do whatever they want and aren't investigating these issues. And he was punished by the tax office for improving his property while slum lords benefit from it.

Greg Falvo, 431 5th Ave, asked where the rezoning is located. He was confused because he received multiple letters.

Mr. Strait explained the location of both petitions being heard tonight.

Mr. Falvo wanted to know if 612 5th St is also being rezoned.

Mr. Strait said no.

Mr. Falvo asked if a gas station could go in and how citizens understand what can be allowed in a district. He is also concerned the language isn't clear, that properties aren't selling well, and they don't get free internet the way downtown does.

Ted Taylor spoke again. He said he understands the concerns about the sober living homes. He has one two doors down and has never had an issue with them. They are often helpful and take care of their property. One of 4th St though was not kept up and created problems. He thinks some sober living homes are making money and operating like a business. They should be taxed and regulated like other businesses. The city needs to regulate or inform about the businesses to include disclosing the usage of their funds.

Ms. Wheeler permitted Mr. Lawless to speak again for 1 minute. He asked who started the petition and what the C-1 district was.

Mr. Strait stated Mr. Taylor started the rezoning effort. He also elaborated on the nature of the C-1 district and an abbreviated list of the uses ideal for the district. He also told citizens more information can be found on the Planning and Zoning webpage.

Ms. Wheeler closed the public comment.

Mr. Hornbuckle thinks everyone in the room is on the same page. There is an issue with the environment and that everyone wanted to make sure this didn't contribute to more negative activity in the area. He knows Mr. Taylor has good intent.

Mr. Hornbuckle made a motion to lay over PC 20-11 and PC 20-12. There was no second and the motion did not carry.

Mayor Williams says the issues that have been brought up cannot be addressed by zoning. These are issues that can only be addressed by code enforcement and are not the purview of the Planning Commission. The city is bringing forward a series of recommendation to council to act on this. Council has previously taken action on the issue but as legal counsel has advised us, zoning cannot regulate sober living facilities. This is why Mayor Williams did not second Mr. Hornbuckles motion.

Mayor Williams made a motion to move PC 20-11 forward to city council with a favorable recommendation, and *Mr. Adkins* seconded the motion.

Roll Call for PC 20-11

Mr. Hornbuckle, Abstain; Mr. Adkins, Yes; Ms. Walling, Yes; Mr. Williams, Yes; Ms. Bryant, Yes; Ms. Wheeler, Yes.

Motion was approved by a vote of 5 Yes, 0 No, and 1 Abstaining.

PC 20-12

Issue: A petition to rezone properties to C-1 Neighborhood Commercial District from R-5 Residential District, the properties are located between 5th Avenue and 6th Avenue north to south and 4th Street and 3rd Street east to west.

Petitioner: City of Huntington, 800 5th Ave, Huntington, WV 25701

Mr. Strait presented the petition on behalf of the city. It was a similar petition to the previous one heard rezoning the adjacent city block. This block has several existing commercial businesses already. It was separated out into its own petition so they could be evaluated on their own context and merit. He mentioned this may help drive development along adjacent CSX right-of-way where many buildings are under maintained and underutilized.

Ms. Wheeler asked for the public to try to limit their comments to new information.

No one came forward to speak in favor. Ms. Wheeler then asked for those opposed to come forward.

Kathleen Hilderbrand, 616 Trenton Pl, stated the roadway along 3rd St is very chopped and narrow and overflow parking will be an issue. Flooding is also an issue in the area and the overflow parking from 5th Ave come up to 6th Ave already. She believes this will increase these problems. She asked where the new store was going to be located.

Mr. Strait explained it would be on the 400 block of 6th Ave, third house in on the block adjacent to Prunty Law Office.

Ms. Hilderbrand is concerned with overcrowding and increase in rodents from garbage.

Darrell Nickels, 530 3rd St, says there is no parking and if retail occur it will give more people for the hooker and junkies to bum off of. He can't even smoke on his own front porch without being bothered. CSX needs to reduce their property and maintain their grass. There is also over 30 cats in the neighborhood.

There was no further comment from the public. Ms. Wheeler closed the public comment portion.

Ms. Wheeler said often when there is rezoning of a commercial area it offers an opportunity for businesses to create parking. Businesses will tear down dilapidated buildings for parking.

There was no further comment from the commissioners.

Mayor Williams made a motion to move PC 20-11 forward to city council with a favorable recommendation, and *Ms. Walling* seconded the motion.

Roll Call for PC 20-12

Mr. Adkins, Yes; Ms. Walling, Yes; Mr. Williams, Yes; Ms. Bryant, Yes; Mr. Hornbuckle, Abstain; Ms. Wheeler, Yes.

Motion was approved by a vote of 5 Yes, 0 No, and 1 Abstaining.

PC 20-13

Issue: A petition to amend Article 1341 General Regulations regarding Home Occupations and Article 1357 Filing Fees.

Petitioner: City of Huntington, 800 5th Ave, Huntington, WV 25701

Ms. Wheeler said this is a change born out of the previous meeting over concerns about some home occupations going in residential areas without going in front of the Board of Zoning Appeals. Mr. Gallagher, Ms. Hernandez, Ms. Shell, Mr. Strait, and herself met and drafted these proposed changes in compromise to Ms. Wheeler's recommendations last meeting, and have

brought these forward tonight to begin a healthy dialog about the proposed changes and the potential issue. It does not have to be voted on tonight.

Mr. Strait then elaborated on the draft ordinance. The draft contains many beneficial changes such as clarified list of uses and nuisances, parking requirements, and parking exemptions. There are a couple of areas that staff and some commissioners have questions about that may be part of the discussion tonight. Three of those points are a new type of use being created just for Home Occupations called Special Notice Permitted Use. These are uses that could be a nuisance in a neighborhood, although there is also strong anti-nuisance language in the draft as well. Two of the potential problem uses that fall under this new category are Day Cares and Home Occupations with 1 part time employee who does not reside as the residence. These applicant will have to pay an additional \$40 for a notice that is mailed to everyone within 250 feet of the property to inform them that someone has been approved for the home occupation. Zoning would also require a \$160 check to be held in the event a stakeholder file an appeal to the approved home occupation. In this ordinance, the home occupation owner is responsible for this \$160 making this the only appeal paid for by the business owner rather than the person filing an appeal. The third part is that the fee for a Special Notice Permitted Use will be \$40 in addition to all other city fees. This could raise the cost of opening a home occupation by \$200. The list of the impacted uses are listed in the chart in the proposed ordinance, which also includes Personal Services.

Ms. Wheeler says this came about based on the possibility that if a home occupation was taking place next door to you or on your block that was impactful, that you as a neighbor deserve to have a voice to speak for or against someone opening that home occupation. This includes uses that could increase parking or nuisances in the neighborhood. Her and Mr. Gallagher wanted to have a discussion with the other commissioners about this based upon concerns brought up at the prior meeting.

Mr. Adkins believes they addressed it at the last meeting and there was a great deal of discussion and even a motion made that didn't pass. He asked if this was just putting another burden on someone who wanted to open a business, which was the concern last meeting.

Ms. Wheeler said at the last meeting one of the issues was there was a proposed amendment that failed and several of the concerns regarding that is that it would cause everyone who wanted to do a home occupation to be more burdened and the staff would be more burdened. It would not be friendly to business if they had to go through a rigorous process to open a business. In this new proposal, I would limit this burden to day cares, personal services, and businesses with part-time employees. The existing businesses would be able to continue as they currently do, but new businesses seen as potentially impactful would have to go before the Board of Zoning Appeals so that the neighbors who has concerns about that activity had a voice in it. So this is a compromise to what was previously proposed.

Mr. Adkins said under Table 1341.22.A, the home occupation permitted use chart proposed, the last item is "all other uses not listed in this chart," which covers everything else.

Mr. Strait informed Ms. Wheeler there was a citizen who asked to speak. However, the citizen then clarified they were there to listen.

Ms. Wheeler closed the public comment portion.

Ms. Wheeler said Mr. Gallagher also wanted to participate in the dialog and suggested laying the item over until the next meeting.

Mayor Williams made a motion to layover PC 20-13 until the next meeting, and *Ms. Walling* seconded the motion. Mr. Adkins opposed the motion.

Roll Call for PC 20-13

Ms. Walling, Yes; Mr. Williams, Yes; Ms. Mr. Hornbuckle, Yes; Mr. Adkins, No; Ms. Wheeler, Yes. Ms. Bryant was no longer in attendance.

Motion was approved by a vote of 4 Yes to 1 No.

PC 20-14

Issue: A petition to amend Article 1313 of the Zoning Ordinance to promote fair housing.

Petitioner: City of Huntington, 800 5th Ave, Huntington, WV 25701

Ms. Wheeler stated the item needed further discussion with the legal department and asked for a motion to table the item.

Ms. Walling made a motion to table PC 20-14, and *Mayor Williams* seconded the motion.

All were in favor.

Ms. Wheeler asked if there were any announcements or additional business.

Ms. Crawford, Planning Technician, announced this was her last meeting. She is departing the department to pursue a Masters degree in sustainability. She encouraged everyone to keep fighting the good fight for the betterment of Huntington.

There was no further business.

Mayor Williams moved to adjourn.

The meeting concluded at 7:30 pm.

Prepared by: _____
Shae Strait, Planner

Date

Chairperson: _____
Brian Gallagher, Chair

Date

Minutes
Huntington Planning Commission
November 2, 2020

A meeting of the City of Huntington Planning Commission was held on November 2, 2020 at 5:30 p.m. in the City Hall Council Chambers. *Mr. Gallagher* called the meeting to order.

Members Present: Jennifer Wheeler, Sharon Pell, Stephanie Vlahos Bryant, Sean Hornbuckle, Bob Adkins, Gerry Holley, Sarah Walling, Brian Gallagher.

Members Absent: None

Staff Present: Shae Strait, Planner
Ericka Hernandez, Assistant City Attorney
Patricia Usher, Zoning Officer

Minor spelling errors in the names of two members were pointed out in the August Minutes. *Ms. Wheeler* made a motion to approval the Minutes as amended; *Ms. Walling* seconded the motion. The Minutes were approved as amended.

PC 20-17

A petition to amend Article 1315 Definitions and Measurements, Article 1317 Establishment of Districts and Zoning Map, Article 1320 Permitted Uses (including chart), Article 1333 Light Industrial and Commercial District, and Article 1334 Heavy Industrial District.

Petitioner: City of Huntington, 800 5th Ave, Huntington, WV 25701

Staff presented the petition. The purpose of the amendments is to bring the Industrial sections of the Ordinance up to date with the rest of the Ordinance; definitions are being amended, modifications to the Establishment of Districts article to properly label the new districts, the permitted use chart is being updated to reflect industrial uses, and updating the district articles to reflect the current format. Additions are shown highlighted in grey, yellow highlights in the permitted use chart are amendments and not additions.

Ms. Wheeler – Other than fitting industrial uses into the permitted use chart, could staff please clarify any structural changes that are being made?

Staff specified changes made to the definitions section and the permitted use chart, and clarified that the changes made to the industrial articles are minor and deal with organization and labeling.

Ms. Wheeler – Is Penal or Correctional Institution being added to I-2 as a Conditional Use?

Staff stated that this use was previously allowed in the General Industrial District as a Conditional Use. This amendment does not change the method in which this use is permitted in this district.

Mr. Hornbuckle made a motion to favorably recommend the petition to City Council; *Ms. Pell* seconded the motion. Motion passed by a vote of 8 Yes to 0 No.

PC 20-18

A petition to amend the Residential Districts Article 1321, Article 1323, and Article 1325, to adjust the Development Requirements and Supplementary Regulations for the districts.

Petitioner: City of Huntington, 800 5th Ave, Huntington, WV 25701

Staff presented the petition, explaining that the amendment would be codifying parking regulations for the residential districts that are in line with the Comprehensive Plan.

Mr. Hornbuckle made a motion to favorably recommend the petition to City Council; *Ms. Pell* seconded the motion. Motion passed by a vote of 8 Yes to 0 No.

Draft of the Planning Commission Rule and Procedures

Staff provided the Commissioners with a draft of rules and procedures that are to be reviewed, adjusted, and potentially adopted. The draft was put together by planning staff and the City’s Assistant Attorney, using the rules and procedures of other boards and committees within the city and in other West Virginia cities as references for the first draft.

Ms. Wheeler – Will these procedures have to go to City Council to be approved or can they be adopted solely by this board?

The Rules and Procedures that this Board agrees upon must be approved by City Council for adoption.

Mr. Gallagher presented several comments on the first draft, which have been included with this month’s Minutes and the November file.

The meeting adjourned at 6:16 p.m.

Prepared by: _____
Patricia Usher, Zoning Officer

Date

Chairperson: _____
Brian Gallagher, Chair

Date

**THE CITY OF HUNTINGTON,
CABELL AND WAYNE COUNTIES, WEST VIRGINIA
PLANNING COMMISSION
ADOPTED (DATE)**

RULES OF PROCEDURE

RULE 1. PURPOSE AND AUTHORITY:

The purpose of these rules is to provide the City of Huntington Planning Commission (hereinafter “Commission”) with such written procedures necessary for the orderly disposition of the business as required by West Virginia Code §8A-2-11, the City of Huntington Charter §8.4, and the Zoning Ordinances of the City of Huntington, West Virginia, (hereinafter “City Code”) by codifying the means by which that business is to be transacted. These rules shall, where applicable, clarify ambiguous language of the Commission’s enabling laws as well as specify the procedure in situations not addressed in the West Virginia Code or the Zoning Ordinances.

RULE 2. ORGANIZATION:

A. OFFICERS.

1. The Officers of the Commission shall consist of a Chairperson and a Vice-Chairperson. The Chairperson shall preside at the hearings and meetings, shall decide all points of order, shall see that proper procedure is followed, and shall sign the Minutes of the Commission. In the absence of the Chair, the Vice-Chairperson shall assume all duties of the Chair. If necessary, an acting-Chair may be designated by the Chair.
2. Duties of Officers. The duties and powers of the officers of the Planning Commission are as follows:
 - a. Chair:
 1. To preside at all meetings of the Planning Commission;
 2. To call meetings of the Planning Commission;
 3. To set the agenda; and
 4. To sign documents of the Planning Commission.
 - b. Vice Chair: During the absence, disability, or disqualification of the Chair, or upon the request of the Chair, the Vice Chair shall exercise all the duties and be subject to all the responsibilities of the Chair. The Vice Chair shall also maintain any other responsibilities that are assigned to him/her by the Chair.
 - c. The Chair and Vice Chair and other officers shall be elected by a majority vote of the Planning Commission at the first regular meeting of the calendar year, and may be reelected.

- d. Temporary Chair: If both the Chair and Vice Chair are absent from a meeting, the Planning Commission shall, by a majority vote of those members present, elect a temporary Chair for that meeting.
- e. Chairing the Meetings

The person chairing the meeting shall make every effort to facilitate the orderly discussion of the Planning Commission and to guide the Commission in providing direction to staff and making recommendations to the City Council.

- B. **CONTACT INFORMATION.** The Office of the Commission is the Planning and Zoning Office, Room 2, City Hall, 800 Fifth Avenue, Huntington, West Virginia, 25701 and shall be open for the transaction of business from 8:30 a.m. to 4:30 p.m. each weekday. All communications to the Commission shall be addressed to the Planning Commission. Electronic mail may be sent to the City Planner whose contact information is available on the City website.

RULE 3. ATTENDANCE

Per Article 14.17 of the City Code, should a Commissioner fail to attend sixty (60) percent of the regularly scheduled meetings of the Commission within a calendar year, that office may be declared vacant and a new Commissioner may be appointed by the Mayor and affirmed by the Huntington City Council. *(The word “may” is used because it is challenging to fill Planning Commission appointments.)*

RULE 4. COMMENCEMENT OF ACTION

- A. **APPLICATION.** Any person who wishes to bring an item before the Planning Commission under the provisions of West Virginia and/or City Code must do so, in writing, on a form provided by the Office of Planning and Zoning. Such application shall be filed in the Office of Planning and Zoning Office with the City Planner and be accompanied by the appropriate filing fee and required documentation. All applications must be submitted at least six weeks prior to the meeting at which the petition is to be heard. Application forms are available from the Planning and Zoning Office. *(“apply to” has been changed to “bring an item before”)*
- B. **FILING FEE.** The filing fee shall be in compliance with City Code § 1357. All filing fees and costs shall be paid by the Petitioner before the matter will be noticed. The filing fee is nonrefundable.
- C. **SITE PLANS.** For Minor Development(s) and Major Development(s), in addition to the application(s), a detailed site plan drawn to scale with the direction of North clearly indicated on the drawing must be submitted by the Petitioner. Major Development(s) site plan submission shall also be subject to the rules of the Development Ordinance within City Code.
- D. **AGENDA.** Each petition that is properly filed with the required information and filing fee, and accepted by the planner, shall be numbered serially for placement on the agenda and placed upon the calendar of the Commission by the City Planner for the appropriate meeting date. Once the file is complete, the City Planner or designee shall assign a number to the petition. *(“bearing within thirty days” changed to “the appropriate meeting date”)*

Matters shall not be placed on the agenda unless all required information, prerequisites, and filing fee are provided. A checklist will be provided by the staff to aid in the submittal process. (*“prerequisites” added to last paragraph*)

(*“Good and Welfare” suggested to allow citizens the opportunity to speak with commissioners without a petition, see #6 under ORDER OF BUSINESS.*)

RULE 5. MEETINGS

A. TIME AND PLACE.

1. Regular Meetings

Regularly scheduled meetings will commence on the first Monday of each month at 5:30 p.m. in City Council Chambers unless modified by a majority of the Commission Members in accordance with §8A-8-5 of the West Virginia Code. Meetings shall be held not less than once every other month, Charter §8.4. (*shall - the ‘good and welfare’ agenda item could give a reason to meet when there are no petitions to be presented*)

2. Special Meetings

The Planning Commission shall meet for special meetings at the call of the Chair or a majority of the Planning Commission. Notice for a special meeting must be in writing, include the date, time and place of the special meeting, and be sent to all members at least two days before the special meeting. Written notice of a special meeting is not required if the date, time and place of the special meeting were set in a regular meeting.

3. Open and Televised Meetings

The meetings shall be conducted in accordance with the Televised Meetings Ordinance, City of Huntington Ordinance §535.

B. QUORUM. The Planning Commission must have a quorum to conduct business. A quorum is a majority of the members including vacant positions. At the designated time for the meeting the Chair or Vice-Chair shall call the meeting to order. If a quorum of members is not seated at that time, the Chair will declare a recess for up to fifteen (15) minutes. At the end of this period the Chair will call the meeting to order and have the City Planner, or designee, make a roll call of all the members’ names and make record of those present. If a quorum is not present at this time, the Chair will announce when the scheduled agenda shall be heard and declare the meeting adjourned until the next regularly scheduled meeting or until an agreed upon time by the Commission and Petitioner(s). Special Call Meetings will be held in accordance with § 8A-2-7. (b) or (c) of the West Virginia Code.

C. NOTICE.

1. The City Planner, or designee, shall be responsible for providing notice of all petitions before the Commission.

2. Notice shall state the date, time and place of the hearing, the names and addresses of all Petitioners, and the matters to be considered by the Commission at the hearing. *(unnecessary language removed)*
3. Notice of all hearings before the Commission shall be published in accordance with W.V. State Code in a newspaper of general circulation. *(notice determined by petition type)*
4. Notwithstanding any other notice requirements, the City Planner shall cause written notice to be to be served as follows:
 - a. Zoning Ordinance Text Amendments: Written notice shall be served via first class mail to all interested parties.
 - b. Rezoning, Major Development Site Plan Reviews, Appeal of the Planner's Decision on a Major Development Site Plan Requirements, or Abandonments: Written notice shall be served via first class mail on all property owners and all residents, if they be different from the property owners, within a 400-foot radius of the subject property.
 - c. Annexation or adoption of Right-of-way: Written notice shall be served via first class mail on all property owners and all residents, if they be different from the property owners, within a 400-foot radius of the subject property.
5. The City Planner, or designee, will provide informal notice to the best of their ability via first class mail, electronic mail, or hand delivery to the City of Huntington City Council, the Huntington Police Department, the Huntington Fire Department, and any neighborhood associations known to exist in the affected district. Notice also may be published on the City of Huntington website and any social media sites where the City of Huntington maintains an official presence. *(“shall make every effort to” changed to “will”)*

D. ORDER OF BUSINESS.

The Order of Business at regular meetings shall be substantially as follows:

1. Call to order.
2. Roll call.
3. Minutes.
4. Hearing of Unfinished Business.
5. Hearing of New Petitions. *(motion options deleted)*
6. *Good and Welfare (do we want this?)*
7. Announcements and/or discussion.
8. Adjournment.

All applications and appeals shall be heard in the order noticed unless otherwise ordered by the Commission.

E. SPEAKING ORDER. After the chair announces a case, the testimony shall be made in the following order:

- Applicant or his/her agent
- Staff Report
- Other Persons in Favor
- Persons in Opposition
- Rebuttal by the Applicant
- Closing of Public Comment and Open Discussion by Commission

Except for a spokesperson that is coordinating presentations, no one may speak a second time until all other persons wishing to speak have been heard. Once the applicant, staff and all persons in favor of and in opposition to the application have been heard, the Chair shall close the case for public comment. The Commission may then hold discussion on the application. Following the discussion, the Chair shall ask for a motion, second on the motion and a hand count.

F. APPLICANT AND STAFF RESPONSIBILITIES. It shall be the applicant's responsibility to prepare and present their case to the commission. Staff shall not be expected to present or influence an application for either side, but shall be expected to exercise independent and professional judgment when presenting the staff report.

G. TIME LIMITS. There shall be a three (3) minute time limit for all parties that address the commission as either the applicant or parties speaking in favor or opposition to a case. The commission may, at their discretion and upon a majority vote of the members present, modify time limit.

H. ADDRESSING THE COMMISSION. Formal rules of evidence do not apply at the commission meetings. Anyone may appear and speak at a hearing. However, no person may speak until recognized by the chair of the hearing.

I. MANNER OF ADDRESSING THE COMMISSIONS. Each person addressing the commission shall speak clearly into the microphone located at the lectern and give his/her name and address for the record. All testimony shall be addressed to the commission or president of the hearing.

J. PERSONAL AND SLANDEROUS REMARKS. The chair may declare out of order and terminate testimony that is repetitious, irrelevant, abusive or not within the commission's jurisdiction.

K. EVIDENCE. After a hearing is completed, no further public comment or other evidence shall be received, unless (a) the evidence is specifically requested by the commission; or (b) the hearing is re-opened by the commission and opportunity is provided to other persons to respond.

L. SUBMITTING EVIDENCE. Persons wishing to submit reports or studies relating to a matter before the commission should submit sufficient copies to staff for public inspection and distribution to commission members at least two weeks prior to the hearing to allow time for the study or report to be distributed to the commissioners for their review. However, the

commission will not allow the late filing of material to be used as a delay tactic that infringes upon the rights of people on the opposite side of an issue.

M. ABSENCE OF A RULE. When an issue arises that is not specifically covered by the West Virginia Code, City Code, or these rules, the Commission will be governed by the edition of ROBERT'S RULES OF ORDER currently used by the City of Huntington City Council.

N. WITHDRAW OR FAILURE TO APPEAR. Prior to relevant notices being printed by the Planning and Zoning Office, a petition may be withdrawn by the Petitioner/Appellant without penalty. After notice has issued, a petition may only be withdrawn after the matter is called for hearing by request to the Commission, upon motion of a Commission Member, and filing fee will be forfeited.

Upon request of the Petitioner and motion by a Commission member, a petition's hearing may be moved to a different date after the case is called. However, no initial petition hearing may be laid over longer than 110 days after advertised notice.

Alternatively, upon the will of a majority of the Commissioners, an item may be taken up by the Commission without the Petitioner present.

O. METHOD OF VOTING.

A rolling roll call vote shall be used at each Commission meeting where a roll call vote is required to be used under these rules. A rolling roll call vote shall mean that at the first roll call vote of the meeting, the City Planner, or designee, shall call the roll in alphabetical order except that the Chairperson's name is called last. Upon each subsequent roll call vote taken at the same meeting, the City Planner, or designee, will then begin the roll call with the next person's name in alphabetical order, so that the same person shall not be required to vote first on all issues: Provided, that the Chairperson shall always vote last.

Items requiring a roll call vote include assessment of quorum, final decision on petitions, upon request of the chair, upon successful motion of a Commission member, or any time the results of a voice vote is unclear. A voice vote or consensus vote may be used for all other matters.

P. PUBLIC COMMENT. The Planning Commission will enter into the public record all public comments, and any attachments or other supporting materials, including any business or personal information that is provided. All parts of the public record are subject to disclosure under the West Virginia Freedom of Information Act.

The Planning Commission shall receive public comment in two ways: either by in-person attendance of the public meeting or by written comment submitted prior to the meeting.

1. Oral comments. The Chair shall permit any person to make a brief oral presentation at the meeting. Comments are limited to three (3) minutes per speaker unless otherwise authorized by the Chair. The speaker shall give his/her name, address, and indicate if he/she is representing an organization. All comments and questions shall be directed to the Chair. The Planning Commission members may question a speaker on any matter related to his/her comments.
2. Written comments. Any person wishing to comment on an item may do so by submitting his/her written comments to the Planning Office before the meeting or to the Chair during the meeting. *(Alt: to the Planning Office by 2 p.m. the day of the meeting, exceptions granted)*

by the chair) These comments will become part of the official record and shall be considered by the Planning Commission in its action.

Q. MINUTES AND RECORDS. The City Planner, or designee, shall cause written minutes of each petition heard by the Commission to be created. The City Planner, or designee, shall maintain a permanent written record of all Commission determinations that shall be available to the public upon request. The Commission shall review and approve of said meeting by vote. All hearings shall be recorded and that record shall be retained for a minimum of six (6) years.

R. CONFLICT OF INTEREST. No Commission member shall take any official action as a member of the Commission, including participating in and voting upon, any matter in which the Commission member, or a member of his or her immediate family, or an organization with which the Commission member is associated, has a substantial financial or personal interest. Any Commission member who may have an interest in the issues in a given case shall publicly state that fact on the record at the commencement of the public hearing so that the Petitioner or a Commission member may object to their further participation in the case. Notwithstanding this rule, if a Commission member steps down from participating in a case due to an actual or apparent conflict of interest, said member retains all his/her rights as a citizen of the City of Huntington to address the Commission at the podium as a member of the public. Said Commission member shall not make reference to his/her status as a member of the Commission or make reference to any previous decisions or other current petitions.

S. EX PARTE CONTACT. It is the policy of this Commission that no member shall discuss the merits of any pending petition with any person having an interest in the case prior to the public hearing. Any interested party wishing to provide information to the Commission prior to the public hearing must do so in writing (including electronic mail) prior to the public hearing by providing such information to the Planning and Zoning Office where it will be included in the public record. In the event a Commission member is spoken to by a citizen about an impending case, the Commission member shall first inform the citizen that he/she may not discuss the case, inform the citizen of his/her right to appear before the Commission or submit a written statement, and disclose the information to the whole Commission at the time of the hearing. Notwithstanding, all written statements shall be subject to §D of these Rules.

T. SITE VISITS. The Commission will base its decisions only on information presented in the public hearing and in the record. Notwithstanding this, a Commission member, at their option, may visit a site that is the subject of an appeal to gather information and perspective on the case. If any information is gathered that is not included in the evidence presented at the hearing, yet pertinent to the decision, the same shall be disclosed to the whole Commission at the hearing. Said visit shall be disclosed in the public hearing and any information learned shall be entered into the record by the Commission member. In no case shall two or more members visit the site together. Commission members shall make reasonable effort to refrain from speaking to anyone on-site at the time of the visit about the pending case.

RULE 6. SUSPENSION OF RULES

The Commission may suspend these Rules by a majority vote of its members present.

RULE 7. RULES TO BE KEPT ON FILE

A true and correct copy of these Rules shall be kept and maintained in the Planning and Zoning Office and shall be available to the public for inspection or copy during normal working hours.

RULE 8. INTERPRETATION OF THE COMMISSION'S RULES

The Commission is the final authority as to the meaning of these Rules. The Commission may, from time to time, make an exception in these rules for extraordinary cases, setting out the reasons therefor. *(Exceptions to the rules require extraordinary circumstances)*

RULE 9. AMENDMENTS

These rules of procedure and policy may be amended or altered by a majority vote of the Commission and affirmed by the Huntington City Council.

RULE 10. EFFECTIVE DATE

These Rules shall take effect immediately upon their passage by their approval by the City of Huntington City Council and shall remain in full force and effect until further action by the Commission.

RULE 11. REPEAL OF PREVIOUS RULES OF PROCEDURE

Any other Rules of Procedure previously adopted are hereby repealed.

