

BOARD OF ZONING APPEALS

Minutes

6:30 PM

June 16, 2010

City Council Chambers

MEMBERS PRESENT: Bernie Bossio, Leanne Cardoso, George Papandreas, Tom Shamberger

MEMBERS ABSENT: Jim Shaffer

STAFF: Christopher Fletcher, AICP

I. CALL TO ORDER and ROLL CALL: Bossio called the meeting to order at 6:30 PM

II. MATTERS OF BUSINESS:

A. Approval of Minutes for the May 19, 2010 meeting – Papandreas moved for approval of the May 19, 2010 minutes as submitted; seconded by Shamberger. Motion passed unanimously.

III. OLD BUSINESS – None

IV. NEW BUSINESS

A. CU10-03 / McDonald's USA, LLC / 2932 University Avenue: Request by McIlvried, DiDiano & Mox, LLC, on behalf of McDonald's USA, LLC, for conditional use approval from the Planning and Zoning Code, Table 1331.05.01 "Permitted Land Uses" and Article 1331.06 (22) & (25), Supplemental Regulations Pertaining to Permitted Land Uses Table for property located at 2932 University Avenue. Tax Map #11 Parcels #66, 69 & 70; a B-1, Neighborhood Business District.

Fletcher read the staff report stating that McDonald's USA, LLC seeks to re-develop their existing fast food restaurant at the subject University Avenue location. General development program details include:

- The current fast food restaurant contains approximately 5,090 square feet; the proposed structure contains approximately 4,320 square feet.
- Thirty-three (33) surface parking spaces are proposed, including two accessible spaces.
- Approximately 10-12 employees may be present during the largest shift.
- The applicant has agreed to the placement of a bus shelter at the intersection of Oakland Street and University Avenue.
- Outdoor dining area will be developed in front of the building facing University Avenue.
- The drive-through facility will be relocated and reorganized to allow two ordering lanes rather than one.

He stated that Addendum A of the staff report illustrates the site's location and existing conditions.

Table 1331.05.01 provides that a "Restaurant, Fast Food" use is a conditional use in the B-1 District. However, Article 1331.06 "Supplemental Regulations Pertaining to Permitted Land Uses Table" provides that:

- (22) FAST FOOD RESTAURANTS shall comply with the following:
 - (a) No drive-through facilities shall be permitted in the B-1 Districts.
- (25) DRIVE-THROUGH FACILITIES in association with a restaurant shall not be allowed in the B-1 District. In all other districts they shall be considered an accessory use in those districts where it is permitted.

Although the McDonald's Restaurant and drive-through facility have been at the current location for a number of years, Article 1373.01 "Nonconforming Uses" provides that:

- (A) No legal, pre-existing nonconforming use may be enlarged, moved or otherwise changed, except that such use may be changed to a permitted use.
- (B) A legal, pre-existing nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, provided that no structural alterations are made within the building in order to allow the use to expand, except those that may be required by the Building Inspections Department. However, no such expansion shall be permitted in any parts of such building that were not so arranged or designed or any land outside such building.

Article 1373.02 "Nonconforming Structures" provides that:

- (C) When a nonconforming use exists within a structure, status applies to the structure, and removal or destruction of the structure shall eliminate the nonconforming status of the land.

Article 1329.02 "Definition of Terms" defines "Drive-Through Facility" as:

"Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions."

He stated that it is the opinion of the Planning Department that:

- The provision of a drive-through facility at the subject McDonald's Restaurant is a grandfathered use.
- Drive-through facilities in other permitted districts are considered accessory uses.
- The non-conforming use and structure provisions of the Planning and Zoning Code appear to, in this instance, better address principal uses.
- Article 1345.04 "Setbacks and Encroachments" in the B-1 District establishes a maximum front setback of 12 or 18 feet depending on whether or not outdoor seating is provided in association with a restaurant. Relocating the building closer to University Avenue to better meet the desired design objective set forth in the B-1 District by maximum setback standards appears to conflict with the subject site's ability to maintain the grandfathered drive-through accessory use and alleviate congestion onto public streets.

- Although the drive-through facility will be moved with the relocated building, it does not appear to be expanded. Rather, the two ordering lanes appear to maintain existing drive-through stacking capacity thereby alleviating potential congestion onto public streets.

Fletcher continued that although there are many McDonald's Restaurants across the country that successfully operate without drive-through facilities, these locations are in highly urbanized downtown areas where pedestrian traffic is significantly higher than vehicular volumes. It is reasonable to conclude that the subject University Avenue site benefits from and serves to a greater extent vehicular traffic within the corridor than the limited pedestrian traffic that may exist.

Mark Mox, of Mcllvried, DiDiano & Mox, LLC, stated that the proposed building will actually be the third restaurant for this property. He explained that two drive-thru windows allow for faster service, therefore relieving congestion. He referenced the new McDonald's location at the Suncrest Town Center that utilizes the dual ordering system. Mox stated that a more centralized placement of the proposed building permits improved access for fire trucks and other emergency vehicular. He added that the McDonald's cooperation does constant evaluations on the conditions of their restaurants in order to keep the restaurants compliant with newer ADA laws and utilities up to date. Mox insisted that for this particular location, McDonald's prefers to rebuild the existing restaurant rather than relocate to another site because of the proximity to clientele. He added that this project is a long term decision and a very expensive venture to stay within the community. Mox explained when the initial restaurant was oriented toward the front of the lot, drive-thrus were very rare and that the second restaurant was oriented towards the back of the lot and the drive-thru was utilized even more than the old restaurant. He added that currently, sixty to seventy percent of customers utilize the drive-thru and the increase was the basis for having the dual ordering system. Mox emphasized that the new drive-thru system will actually minimize congestion and improves the flow of traffic in and out of the site. He explained that the proposed plan will eliminate one of the two driveways on University Avenue but the entrances on West Everly Avenue and Oakland Avenue will remain. He stated the proposed building will be smaller than what currently exists on the site today. He explained that the proposed building will be better at conserving energy due to the new HVAC units, new cooking equipments and new plumbing fixtures.

Bossio asked if the developers came up with something better than the 1.6 liters per flush toilets that currently exist in the building. Mox replied that the toilets currently on the existing buildings were not the original fixtures that were there when the restaurant was constructed.

There being no further comments or questions by the Board, Bossio opened the public hearing. There being no public comment in favor or in opposition, the public portion was closed and staff read the recommendation.

Fletcher stated that the Board must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant. He stated that Staff recommends the following revisions to the petitioner's Findings of Fact (deleted matter struck through; new matter underlined).

Finding of Fact #1 – Congestion in the streets is not increased, in that:

The proposed redevelopment will incorporate a dual ordering stations to minimize the impact of drive thru stacking on public streets. The proposed redevelopment will also eliminate one of the existing driveways onto University Avenue in an effort to reduce traffic

congestion in the area and promote improved access management within the corridor. The relocated and reconfigured drive-through facility does not appear to expand existing stacking capacity.

Finding of Fact #2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The proposed ~~building~~ reconstructed building will include a fire suppression system throughout the entire building. Traffic flow for emergency vehicles is improved by incorporating improved vehicular access around the perimeter of the building. The new building will be required to conform to current fire safety and building standards. The dual ordering stations are intended to alleviate traffic congestion onto public streets. The proposed drive-through stacking lane appears to be safer than existing conditions where site constraints limit turning radii and access and the current drive-through lane exit conflicts with an internal four-way intersection lacking traffic signage control or optimal visibility.

Finding of Fact #3 – Provision of adequate light and air is not disturbed, in that:

The proposed structure will occupy less area than the current building and proposed gross floor area will be less ~~then~~ than the maximum 5,000 sq. ft. for a ~~one-story~~ non-residential building in the B-1 District. The proposed dual ordering stations do not appear to expand the existing grandfathered drive-through stacking capacity and therefore should not alter present light or air conditions.

Finding of Fact #4 – Overcrowding of land does not result, in that:

The proposed structure will occupy less area ~~then~~ than the current building and proposed gross floor area will be less than the maximum 5,000 sq. ft. for a ~~one-story~~ non-residential building in the B-1 District maximum. The proposed dual ordering stations do not appear to expand the existing grandfathered drive-through stacking capacity.

Finding of Fact #5 – Undue congestion of population is not created, in that:

The proposed drive-thru will ~~have no impact on~~ not increase the existing population within the area. The trade area and customer base will remain the same for the new building that currently exists for the existing building.

Finding of Fact #6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed development will have a positive impact in that the new building will conserve utility consumption and reduce the current water and sewage usage. The proposed development will include a new bus shelter and handicap accessible sidewalks that will benefit transportation, ~~schools~~ bus stops and parks access in the area. The relocated and reconfigured drive-through facility will not increase the demand for public services or infrastructure required to meet existing development within area.

Finding of Fact #7 – Value of buildings will be conserved, in that:

The proposed development will require ~~that~~ a large amount of money be reinvested to improve the area. These improvements will benefit not only the McDonald's development but also ~~the~~ adjoining properties ~~will benefit~~ from the public and private improvements that McDonald's will provide. The principal and accessory land uses will not change with the redevelopment, relocation, and reconfiguration of the grandfathered drive-through facility.

Finding of Fact #8 – The most appropriate use of land is encouraged, in that:

The proposed use of the land provides a service to the area that compliments the needs of the population by providing an economical choice for food that is both convenient and nutritious. The proposed redevelopment will contain less square footage than the existing restaurant. An entrance onto University Avenue will be eliminated to promote improved access management within the corridor. The relocated and reconfigured drive-through facility appears to better and more safely utilize a site on which a fast food restaurant and drive-through facility has existed for many years.

Fletcher stated that Staff recommends that the following conditions be included in approving the conditional use petition:

1. That all drive-through related communication equipment may not be audible offsite. Adequate testing demonstrating compliance with this performance condition must be completed to the satisfaction of the Planning Director prior to occupancy permitting. Failure to comply with this performance condition after occupancy may result in enforcement action.
2. That new sidewalks with a minimum width of six feet must be provided to the satisfaction of the City Engineer along the site's University Avenue, Oakland Street, and West Everly Street frontages.
3. That, to the satisfaction of the Planning Director, appropriate deciduous trees and evergreen shrubs be planted to buffer the view and noise of the proposed drive-through facility from the two adjoining properties fronting Oakland Avenue.
4. That the "PROPOSED NEW PRIVACY FENCE ON NEIGHBOR'S PROPERTY" illustrated on the Preliminary Site Plan dated May 5, 2010 not be included on final site plans submitted with building permit applications.

Papandreas moved to accept the Findings of Fact for CU10-03 as revised by Staff; seconded by Shamberger. The motion passed unanimously.

Papandreas moved to approve CU10-03 with the conditions put forth by staff; seconded by Shamberger. The motion passed unanimously.

B. CU10-04 / McDonald's USA, LLC / 2932 University Avenue: Request by McIlvried, DiDiano & Mox, LLC, on behalf of McDonald's USA, LLC, for conditional use approval from Article 1345.05 (A) Building Height, Use and Size in the B-1 District for property located at 2932 University Avenue. Tax Map #11 Parcels #66, 69 & 70; a B-1, Neighborhood Business District.

Fletcher read the staff report stating that McDonald's USA, LLC seeks to re-develop their existing fast food restaurant at the subject University Avenue location. General development program details include:

- The current fast food restaurant contains approximately 5,090 square feet; the proposed structure contains approximately 4,320 square feet.
- Thirty-three (33) surface parking spaces are proposed, including two accessible spaces.
- Approximately 10-12 employees may be present during the largest shift.

- The applicant has agreed to the placement of a bus shelter at the intersection of Oakland Street and University Avenue.
- Outdoor dining area will be developed in front of the building facing University Avenue.
- The drive-through facility will be relocated and reorganized to allow two ordering lanes rather than one.

Addendum A of Staff Report CU10-03 illustrates the site's location and existing conditions.

Article 1345.05 "BUILDING HEIGHT, USE AND SIZE" provides that:

- (A) The minimum permitted height of a principal building shall be two (2) stories. If a one-story building is desired, a conditional use permit shall be required regardless of the proposed use of the building.

Fletcher stated that the staff report has renderings for the redevelopment project attached that illustrates a one-story structure with the height of the front elevation, including parapet, of 18'-3" and a yellow architectural roof cap arc element increases the height to 20'-1". He continued that because the proposed development does not include two stories, conditional use approval is required.

Mark Mox, McIvried, DiDiano & Mox, LLC, spoke in reference to the height of the new McDonald's building. He stated that the proposed building is a single story building but after speaking with Staff and the McDonald's cooperation he believes that the two parties may actually come to a compromise for the height of the building. Mox handed out illustrations of revised elevations to the board which is similar to what he discussed with Staff. He added that the total height of the barrel roof is 21 feet 8 inches; which he added, is approximately the same height of a typical two story building. He stated that he is aware of the desire of Staff to have the building be taller than the proposed 21 feet 8 inches but after deliberations with McDonald's LLC architects they decided to keep the height as proposed because of trademark issues if the building wasn't a certain proportion.

Shamberger asked the age of the existing building. Mox answered that the building was built in the late eighties.

Bossio asked if Mox was the architect for McDonald's. Mox replied that his group are the Engineers and Surveyors. Bossio asked how McDonald's adapt to other places that require the restaurant to fit within the character of the area. He referenced other McDonald's in Las Vegas NV and Waynesburg VA that look unlike any other McDonalds anywhere else. Mox replied that McDonald's would still stay within the confinement of their branding. He added that the cooperation has a review board that strictly looks at what is designed for branding purposes and nothing can be built by any of the regional offices without their approval.

Bossio stated that McDonald's has obviously been permitted before to make changes to the buildings that fit within the character of the specific city that their trying to build in. He referenced the McDonald's restaurant at the entrance to the Market Square District in Pittsburgh, Pennsylvania, which is two stories. Bossio asked why the same could not be done in Morgantown. Mox replied that the restaurant Bossio referenced was built in the seventies and the building codes have change significantly since then. He added all construction, by today's standards, would have to adhere to ADA regulations and would require an elevator, different fire walls, and sprinkler systems for every stairwell. Bossio stated that he has a background in construction and wanted Mox to explain what he meant by different sprinkler

systems. Mox replied that the sprinklers are for protecting open stairwells. Bossio wanted to know if it would basically be a standard sprinkler system. Mox insisted that a sprinkler system for a two-story building is over and beyond what would be required for a one story building, which may just have a typical spread of sprinklers through out the building.

There being no further comments or questions by the Board, Bossio opened the public hearing asking if anyone present wished to speak in favor of petition.

Charles Paperak, 1000 Omega Drive Suite 1390, spoke in support of the petition and made reference to the design different design standard for McDonald's restaurants in different parts of the country. He stated that the aforementioned McDonald's restaurants in Pittsburgh and Las Vegas do not have a drive-thru. He stated that the current McDonald's has sixty to seventy percent of its business from the drive thru. He added that most of the square footage in a typical McDonald's restaurant is used for the kitchen, stock room and bathrooms. He explained that having all the amenities on one floor is more feasible and efficient and a second story would only be used for additional seating. He added that the second story seating at other restaurants is generally not being utilized, is uncontrolled, and not very efficient. He stated that the proposed new restaurant will be a standard restaurant with a raised front which gives the illusion of a two story building. He concluded by saying that for the restaurant to be functional and efficient, two story would not work.

Shamberger thanked Paperak for clarifying the pros and cons of a two-story building and asked if the glass behind the McDonald's sign is the area that is going to be lit to give the illusion of a two-story building. Paperak answered in the positive.

Bossio asked for the height of the Mcdonald's restaurant in Suncrest Town Center from grade to top of the arch. Paperak answered that he does not have the plans currently with him. He added that the proposed building will be a number of feet taller than the one located in the Suncrest Town Center. He explained that from speaking with the architects at cooperate headquarters, the building could be raised higher but everything else would have to be raised proportionately higher and wider.

Bossio asked which of the two different pictures passed out earlier actually represents what is going to be built. He added that one picture shows a stone and brick facade and the other masonry and brick. Paperak answered that one of the pictures was handed out to illustrate the glass with the stone arcade. Bossio asked if the proposed restaurant will have stone on the front. Paperak answered in the positive.

Bossio asked if it was capable to construct the restaurant with a little more height. Paperak answered that it is possible but has some concerns that the raised height will compromise some other requests made by Staff. Bossio asked for an explanation. Paperak stated that if the arcade is made taller, the columns between the windows will proportionately have to get wider which will result in less glass in the front of the building. Bossio thanked Paperak for clarifying the issues with increasing the building height.

Fletcher asked if increasing the height of the glazing area by two to three feet will result in an increase in the height of the arcade. Paperak stated that he is not the architect but through the conversations he has had with the architect, the design is trademarked. Fletcher interjected stating that he believes if the glazing would have to be increased, then the scale and massing will have to change to meet the architect's apparent objective to maintain some sort of proportional trade marking. He added that he believes that the issue is not a physical ability but

the architects' desire to maintain trademark. Paparak answered that he believes that this is correct. Fletcher asked if the glazing could not be made higher because of trademark issues and not because of physical, architectural or structural needs of the facade. Paperak answered that partially it is true that if you increase the glass then you would have to increase the arcade. Bossio interjected to state that any design or height changes to the building should not be hindered by any structural or engineering incapability's but because McDonald's wants it that way or what the trademark allows. Paperak stated that he cannot speak for the architects but he was told that it can not be done and by increasing the height it will change some architectural details on the building.

There being no further questions or comments, Bossio asked if anyone present wished to speak in opposition of the petition. There being none, Bossio declared the public hearing closed and asked for Staff's recommendations.

Fletcher stated that the Board must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant.

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

Finding of Fact #1 – Congestion in the streets is not increased, in that:

The proposed single story building will have no impact to the street congestion as it relates to a two-story building. The proposed building will provide necessary area needed to fulfill the day to day tasks without the need to provide a second story or a raised ceiling area. Additional parking would be required to offset the additional gross floor area of a second story, which may not be possible on the site.

Finding of Fact #2 – Safety from fire, panic, and other danger is not jeopardized, in that:

~~The proposed building will include a fire suppression system through out the entire building. Traffic flow for emergency vehicles is improved by incorporating improved vehicular access around the perimeter of the building.~~ A two-story structure does not appear to mitigate or contribute to public safety hazards more or less than a one-story structure as either design would have to meet all current building and fire code standards.

Finding of Fact #3 – Provision of adequate light and air is not disturbed, in that:

The proposed structure will occupy less area then the current building and the proposed gross floor area will be less ~~then~~ than the maximum 5,000 sq. ft. for a one story non-residential building in the B-1 District. The reduced height of the proposed structure will provide more light and air flow than a two story structure would provide.

Finding of Fact #4 – Overcrowding of land does not result, in that:

The proposed structure will occupy less area then the current building and the proposed gross floor area will be less ~~then~~ than the maximum 5,000 sq. ft. for a one story non-residential building in the B-1 District. The use of a one story building provides the area needed without the additional restrooms, elevator and walk aisles needed to construct a two story building. Additional parking would be required to offset the additional gross floor area of a second story, which may not be possible on the site.

Finding of Fact #5 – Undue congestion of population is not created, in that:

The proposed single story building will have no impact to the population congestion since the trade area and customer base will remain the same for the new building as currently exists for the existing building.

Finding of Fact #6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed one-story structure development will have a positive impact in that the new building will conserve utility consumption and reduce the current water and sewage usage. The proposed development will include a new bus shelter and handicap accessible sidewalks that will benefit transportation, schools and parks in the area.

Finding of Fact #7 – Value of buildings will be conserved, in that:

The proposed development will require that a large amount of money be reinvested to improve the area. These improvements will benefit not only the McDonald's development but also the adjoining properties ~~will benefit~~ from the public and private improvements that McDonald's will ~~improve~~ provide.

Finding of Fact #8 – The most appropriate use of land is encouraged, in that:

The proposed use of the land provides a service to the area that compliments the needs of the population by providing an economical choice for food that is ~~both convenient and nutritional~~. The existing fast food restaurant is one-story as is neighboring commercial structures.

Fletcher stated that Staff recommends that the following conditions be included in the conditional use approval:

1. That the area of the façade that is facing University Avenue below the proposed architectural yellow arc roof cap element and above the masonry arcade be glazed to give the appearance of a second floor and allow additional natural light into the dining area.
2. That the height of the glazed façade area noted in Condition #1, which is shown on drawing A2.0 as beginning at elevation 15'-3", which appears to be the top of the arcade blocking, and ending at elevation 18'-3", which appears to be the top of the parapet, be increased by three (3) feet to increase the appearance of a second floor and allow additional natural light into the dining area.

That all rooftop equipment shall be enclosed or screened so that same may not be seen or heard at grade from adjoining properties or public rights-of-way.

Bossio asked if the glazing area has actually increased from the illustrations that were in the packets to the new illustrations that were handed out by the petitioner earlier in the meetings. Mox replied yes because the "french fry" that Staff referred to is an architectural feature and not a roof. He added that the illustrations that were handed out earlier shows the roof.

Fletcher stated that he understood why McDonald's did not want to have a second floor, but believes that an extra 3 feet to the proposed building will not alter the structural integrity of the building. He added that the proportional trademark was something that was new to him and that it would be extremely unfortunate to lose a front window in order for the building to fit into the McDonald's trademark. Fletcher asked the Board if it is their opinion that a three feet increase in building height will result in the removal of one of the front windows. He acknowledged that

McDonald's has many locations around the world and country and that the current McDonald's has been in the area for so long that he is sure people would recognize it is a McDonald's. He reiterated that Staff's recommendation was to find a middle ground.

Shamberger stated that it appears to him the only difference between the two illustrations is just the façade and asked Mox if that was an accurate statement. Mox answered in the positive. Shamberger added that it seems that the building has not been modified at all and that the "french fry" architectural feature appears to be slightly bigger. Mox stated that barrel roof is taller in the new illustrations handed out earlier in the meeting. Bossio thanked Mox for clearing up the issue.

Fletcher commented that the inclusion of the roof on the new illustration does change the characteristics of the front of the building.

Papandreas added that the three windows in front of the building would look better than two and should remain that way.

Shamberger wanted clarification if the proposed restaurant is brick and stone or brick and effice.

Paperak asked to speak. Bossio recognized him. He stated that the building is not actually brick but a product called quick brick. He added that it is the same material used in the new Suncrest Town Center restaurant.

Bossio stated that Morgantown has enjoyed having McDonald's in the community and hopes that McDonald's will remain but is concerned about precedent in the B-1 zoning areas. Shamberger added that the B-1 is typically a transition zone into residential and he understands that idea behind the requirement of a two-story building in order to blend in with residential neighborhoods. He added that if the location of the McDonald's was on the other side of the road it would have a different look but were it is located right now, not to many of the buildings in the area are two-story.

Bossio asked Fletcher if Pizza Al's falls under the B-1 zone. Fletcher replied that he believes it does. He asked if the two-story building requirement was done with the Zoning rewrite in 2006. Fletcher answered in the positive. Bossio asked if the Pizza Al's building built prior to 2006. Fletcher answered in the positive. Bossio requested clarification behind the purpose of the two-story mandate in the B-1 district. Fletcher answered that he would agree with what Shamberger stated earlier but added that another purpose was to encourage mixed use development by having retail uses on ground floor and offices on the second floor. He explained that the B-1 district significantly changed after the rewrite in 2006 where it went from a district that was similar to Sabraton area to a true neighborhood business district where the sizes, scaling, and uses were significantly reduced to have business truly inside the neighborhood.

Shamberger stated that the two-story requirement was probably meant for a different type of business than a fast food restaurant. Fletcher added that if the Board desires to further analyze the plans in the hopes that they satisfy an acceptable middle ground, he would advise conditions 1 and 2 not be added but instead have a condition that would include language similar to "that building permit plans include the building elevation distributed at the June 16 2010 Board of Zoning Appeals Hearing." Fletcher added that the conditions include glazing, that the "french fry" become the roof, and the three windows and the cladding illustrated in the plans handed out at the meeting. Bossio stated that each individual case should be taken on individual merit and currently the surrounding buildings around the restaurant are one-story.

Shamberger added that the restaurant is closer to University Ave. which is more in spirit with the B-1 and will have a facade that is higher and achieve the visual effect of a two-story. Bossio stated that he believes that this building will be better than the currently existing building.

Bossio asked if there were no more questions or comments, would the Board like to go through each findings of fact individually. Shamberger stated that the findings of facts have changed substantially but does agree with Staff's suggestion to modify the conditions to fit the new illustrations that were handed out in the meeting.

Bossio asked how the Board would delineate the proposed plan that was handed out in the packets and the plans that were handed out during the meeting such as a date or a name. He referenced the date from the initial plan that was included in the packet called "standard plan 2008" and referenced the plan handed out at the meeting called "standard plan 2009."

Bossio asked the petitioner if the updated plan was actually modified and what made the proposed plan standard. Mox explained that the referenced title block was placed on the drawing and that the drawing was just completed. He guided the Board to the date of the title block which shows the drawing was completed on March 2009. He then guided the Board to the stamp on the plan that shows the date June 3, 2010, 16:01. Bossio stated that the Board will put into the record the June 3, 2010 date and asked for a motion to accept the findings of fact.

Papandreas moved to accept the Findings of Fact for CU10-04 as revised by Staff; seconded by Cardoso. The motion passed unanimously.

Shamberger moved approve CU10-04 with the modification and drawing of A2-0 dated 6/3/2010 and number three (3) listed in recommendations put forth by staff; seconded by Papandreas. The motion passed unanimously.

C. V10-14 thru V10-16 / McDonald's USA, LLC / 2932 University Avenue: Request by McIlvried, DiDiano & Mox, LLC, on behalf of McDonald's USA, LLC, for variance approval from the Planning and Zoning Code, Article 1367.08 Parking Lot Landscaping Requirements, Article 1345.04 (A) (1) (2) Setbacks and Encroachments, and Article 1345.06 (C) Parking and Loading Standards for property located at 2932 University Avenue. Tax Map #11 Parcels #66, 69 & 70; a B-1, Neighborhood Business District.

Fletcher stated that the staff reports for this case is grouped together and read the report stating that McDonald's USA, LLC request variance relief from the following Planning & Zoning Code requirements for property located at 2932 University Avenue:

- V10-14..... Variance relief from Article 1367.08 (C) of the Planning & Zoning Code as it relates to landscape and development with parking located between building and street.
- V10-15..... Variance relief from Article 1345.04 (A) (2) of the Planning & Zoning Code as it relates to front setback.
- V10-16..... Variance relief 1345.06 (C) of the Planning & Zoning Code as it relates parking between the front façade and a street right-of-way.

V10-14 – Variance relief from Article 1367.08 (C) (1) and (2) of the Planning & Zoning Code as it relates to landscape and development with parking located between building and street.

Article 1367.08 (C) "Development with Parking Located between Building and Street" of the Planning and Zoning Code provides that if any parking is located between the street and the building line, the following shall apply:

- (1) A ten-foot wide buffer shall be provided for the length of any parking area abutting the street. The buffer area shall contain at least one (1) two inch (2") caliper trees for every twenty (20) feet and at least three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees.
- (2) A six (6) foot side and rear yard buffer shall be provided that shall contain at least one two inch (2") caliper tree for every twenty (20) feet and three (3) shrubs of at least three (3) gallons in size clustered between each two(2) trees.

According to the application, the submitted site plan illustrates a front buffer yard width along Oakland Avenue ranging from 7'-4" to 7'-10', which requires a variance of three (3) feet.

The width of the side buffer yard along Oakland Avenue is 4'-9", which requires a variance of two (2) feet.

Staff observations include:

- The width of the front and side buffer yards were increased from the first site plan submission presented to the Technical Review Team.
- The preliminary landscape plan dated 05/05/2010 illustrates plant materials and locations that may obstruct clear site visibility for vehicles exiting the site onto University Avenue.
- The purpose of a preliminary landscape plan at this stage in the review process is to demonstrate to the Board that a reduced buffer yard can meet required screening standards.
- Due to the limited area, Staff suggested a decorative masonry wall along University Avenue as a hardscape approach to meet screening requirements. The intent of this suggestion was to:
 - Recognize landscape design limitations and capture opportunities created by a buffer yard that is less than the minimum ten-foot width.
 - Maximize opportunity costs associated with long-term maintenance of landscaping that is intended to screen the parking area. Specifically, routine maintenance of landscaping will be necessary so that clear visibility is protected for exiting vehicles and functional sidewalk width is maintained. Failure to adequately maintain landscaping may become an enforcement dilemma later.
 - Mitigate landscape growth limitations created by overplanting.
 - Provide a streetscape treatment that would significantly enhance the presence of the restaurant and the quality of the corridor.
 - Provide an opportunity to associate the McDonald's redevelopment with the significant public and private investment that has occurred within the immediate area (i.e., WVU's Lincoln Hall; WVU Alumni Association's new Erickson Alumni Center; WVU's seven-acre Raymond J. Lane Park at the corner of University Avenue and Pattison Road; the private townhouse development across University Avenue from

the McDonald's site; and, intersection improvements planned by WVDOH at University Avenue and Pattison Road).

- A hardscape design solution was not accepted by the petitioner due to concerns of:
 - Potential damage to the wall by vehicles.
 - A desire to avoid wheel stops due to snow plowing challenges.

The petitioner has been advised that extended curbing and/or wheel stops will be required to prevent cars from damaging buffer landscaping. Further, wheel stops will be required for front-to-front parking spaces.

- There should be sufficient width to establish required screening provided careful consideration is given to plant selection and planting locations.

V10-15 – Variance relief from Article 1345.04 (A) (2) of the Planning & Zoning Code as it relates to front setback.

Article 1345.04 "Setbacks and Encroachments" in the B-1 District provides that:

- (2) Maximum Front setback:.....12 feet, unless there is outdoor seating associated with a restaurant, to be located between the building and street, in which case the maximum may be 18 feet.

The site plan illustrates an outdoor seating area between the building and street. The proposed front setback of the building is 63'-10" feet, which requires a variance of 46 feet.

It is the opinion of the Planning Department that:

- An outdoor seating area has been provided as an amenity for patrons, which appears to be the desired design feature for restaurants in the B-1 District.
- Because the development will eliminate one driveway entrance along University Avenue, drive-thru circulation necessitates an increased front setback. Eliminating the driveway entrance is desired to enhance access management within the corridor.
- An increased front setback provides for handicap parking within close proximity to the building's primary entrance. The location and design of the accessible parking spaces creates an opportunity to provide an accessible and safer pedestrian route from the sidewalk along University Avenue to the building's primary entrance.

V10-16 – Variance relief 1345.06 (C) of the Planning & Zoning Code as it relates parking between the front façade and a street right-of-way.

Article 1345.06 "Parking and Loading Standards" provides that:

- (C) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

The proposed site plan illustrates six (6) parking spaces immediately in front of the building and approximately fourteen (14) spaces in the east of the building that are between the proposed building line and University Avenue. Variance approval is required for the parking plan as proposed.

It is the opinion of the Planning Department that:

- The proposed building has been setback to accommodate drive-thru circulation while eliminating one of the existing driveway entrances along University Avenue, which enhances access management within the corridor. The setback for the building line was increased further to provide an outdoor seating amenity, which appears to be the desired design feature for restaurants in the B-1 District. The consequential building line significantly reduces the ability of the development to meet minimum parking requirements.
- Parking immediately in front of the building has been designed to:
 - Meet minimum parking requirements.
 - Buffer pedestrians along the University Avenue sidewalk from real and perceived shy-distance uneasiness that would otherwise be created with vehicles flanking pedestrians on both sides – vehicles traveling University Avenue and utilizing the drive-thru exit lane.
 - Provide accessible parking within close proximity to the building's primary entrance.
 - Create an opportunity to provide an accessible and safer pedestrian route from the sidewalk along University Avenue to the building's primary entrance.
- Parking between the building line and the University Avenue and Oakland Street intersection area has been designed to meet minimum parking requirements.

Mark Mox, thanked staff for working with him to make modification on the plan. He stated that the originally plan called for less landscaping than what is currently on the lot but the new landscaping plan will do a better job at screening the parking lot from University Avenue. He added that he agrees with the recommendations put forth by staff.

Bossio asked Mox to talk about the proposed privacy fence shown on the plan. Fletcher interjected and stated that communications between McDonald's LLC and Staff had gone back at least a year and during this time, the house on the corner of West Everly and Oakland was an owner occupied home. He added that staff communicated the importance of putting a privacy fence which could act as a buffer between the two uses. Fletcher explained that the property has since been sold to a Mr. Heflin, of Heflin Insurance, who also has plans to redevelop the property in the near future. Fletcher stated that through the discussion with McDonald's, staff had expressed that the privacy fence on adjacent properties is not necessary and he expressed that there is no plan by McDonald's to put up a privacy fence on the adjacent neighbors property. Bossio asked what was going to separate the two properties. Mox replied that they propose to provide landscaping such as trees and shrubbery but currently is not in the plans because they would like to meet with staff to make sure that they comply with any landscaping requirement.

Paperak stated that the privacy fence on the current plan was put in after the Technical Review meeting but after submitting the plans he found out through communicating with Staff that the adjacent property had been sold and the owner has plans to redevelop the property, therefore the privacy fence is not needed. Bossio asked if there is an elevation change between McDonald's property and the two adjacent properties. Paperak responded that there is a slight elevation change and they hope to maintain the alley that allows access to one of the adjacent properties.

There being no further questions or comments, Bossio asked for public comment, there being none, Bossio declared the public hearing closed and asked for Staff's recommendations.

Fletcher stated that the Board must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant. Each variance petition must be considered and acted upon by the Board separately.

Fletcher stated that Staff recommends revisions to the petitioner's "Findings of Fact" for each of the three variance requests as provided in Addendum A of the report and that the following conditions be included in the respective variance approvals:

V10-14 – Variance relief from Article 1367.08 (C) (1) and (2) of the Planning & Zoning Code as it relates to landscape and development with parking located between building and street.

1. That a final landscape plan be submitted with the building permit application which, to the satisfaction of the Planning Director, sufficiently screens the view of parking from University Avenue and Oakland Street will preserving safe visibility for exiting vehicles.
2. That all trees planted with the required buffer yard have a minimum caliper of three (3) inches when planted.
3. That shrubs intended to screen parking be evergreen and not deciduous.
4. That the petitioner, with technical assistance of Mountain Line Transit and to the satisfaction of the City Engineer, develop a transit shelter facility at the corner of University Avenue and Oakland Street.

V10-15 – Variance relief from Article 1345.04 (A) (2) of the Planning & Zoning Code as it relates to front setback.

1. That, to the satisfaction of the Planning Director, an outdoor seating area be developed between the proposed building and University Avenue.

V10-16 – Variance relief 1345.06 (C) of the Planning & Zoning Code as it relates parking between the front façade and a street right-of-way.

1. That a final landscape plan be submitted with the building permit application which, to the satisfaction of the Planning Director, sufficiently screens the view of parking from University Avenue and Oakland Street while preserving safe visibility for exiting vehicles.
2. That all trees planted within the required buffer yard have a minimum caliper of three (3) inches when planted.
3. That shrubs intended to screen parking be evergreen and not deciduous.

Shamberger moved to accept the Findings of Fact of V10-14 as revised by Staff; seconded by Papandreas. The motion passed unanimously.

Shamberger moved to approve V10-14 with the conditions and recommendations as stated by Staff; seconded by Papandreas. The motion passed unanimously.

Papandreas moved to accept the Findings of Fact of V10-15 as revised by Staff; seconded by Cardoso. The motion passed unanimously.

Papandreas moved to approve V10-15 with the conditions and recommendations as stated by Staff; seconded by Shamberger. The motion passed unanimously.

Cardoso moved to accept the Findings of Fact of V10-06 as revised by Staff; seconded by Papandreas. The motion passed unanimously.

Cardoso moved to approve V10-16 with the conditions and recommendations as stated by Staff; seconded by Papandreas. The motion passed unanimously.

D. V10-09 to V10-13 / McDonald's USA, LLC / 2932 University Avenue: Request by McIlvried, DiDiano & Mox, LLC, on behalf of McDonald's USA, LLC, for variance approval from the Planning and Zoning Code, Article 1369.07 (I) Wall Sign, Nonresidential and Article 1369.08 Lighting and Design Standards for property located at 2932 University Avenue. Tax Map #11 Parcels #66, 69 & 70; a B-1, Neighborhood Business District.

Fletcher stated that he recommends the Board approach this case as a master sign plan. He added that this is something that has not been done before but because the requests are very similar, it was more efficient to review the case as a master sign plan solution. Fletcher then read the staff report stating that McDonald's USA, LLC seeks to redevelop their existing fast food restaurant at the subject University Avenue location and replace all existing signage.

He stated that in working with the petitioner, Staff organized the several variances into five (5) petitions. Because the merits and approval of each appear to be mutually dependent, it is the opinion of the Planning Department that the Board should, without objection, review and consider variance relief for a "Master Sign Plan" rather than considering each separately.

Fletcher stated that Addendum A of Staff Report CU10-03 illustrates the site's location and existing conditions and that Addendum A of this Report identifies all related Planning and Zoning Code standards.

Mark Mox stated that visibility of the site is very challenging and added that he is aware that McDonald's is going to lose the current road sign with the redevelopment of the property. He stated that as staff recommended, the McDonald's sign on the drive-thru side of the building has been eliminated and that the arch on the rear of the building has also been removed. He explained that the entrance-exit sign will be without the McDonald's arch resulting in a smaller square foot sign as Staff recommended, approximately two square feet. Mox stated that the reader board for the 20 foot high sign has been removed but requests that the height of the sign stay the same. He explained that while driving on University Avenue in the direction towards the Downtown Campus, the road elevation increases and with the addition of the bus shelter, there will be a direct conflict between the two structures. He stated that they prefer that the sign be clear and visible above that bus shelter.

Shamberger asked if the message board is where the "McCafe" is on the sign plan. Mox answered in the positive. Mox stated that he had a new rendering he wanted to hand out to the Board that shows that the middle of the sign would be open. Shamberger stated that the sign is not really needed because everyone knows that McDonald's is located on that lot. Mox stated that McDonald's does depend on the local community but when people come through the

community for the first time they would not know that McDonald's is there. He expressed that signage is very important to the McDonald's business and that the sign requested is significantly smaller than the sign currently on the site.

Cardoso asked if the new McDonald's wall sign was not sufficient. Mox replied that the frontage sign will not be seen at the distance that the roadside is seen. Mox believes that the road sign should be the first sign that people see for the development. Cardoso reiterated that the large sign on the front of the building should be sufficient enough for people to see from the road. Mox replied that the frontage sign will not be seen at a long distance and that the bus shelter will conflict with the sign if it is lower.

Bossio asked the height of the sign that Mrs. Cardoso is referring to. Mox stated that he believes that it's about 18 or 19 feet, which is similar in height to the requested road sign. Mox stated that the building will face University Avenue. Bossio added that he understands that the petitioner wants as much sign as possible in order for people to recognize the business but believes that everyone recognizes McDonald's and the building alone is basically a sign. He added that the Board is trying to provide as much latitude as possible but is obligated to keep the City in a particular manner.

Mox stated that the staff recommended stone columns were a concern since McDonald's expects all sites to maintain a sign protocol; they would also allow moisture to become a problem.

Shamberger asked if the removal of the McDonald's logo on top of the advertising sign was intended to reduce the overall height of the sign. Fletcher answered that graphic reader boards are not permitted in the zoning district and from Staff's perspective; the bus shelter will not obstruct the view of the sign when driving down University Avenue. He added that the suggestion to bring down the sign three feet was to reduce the extent of the variance. Shamberger stated he believes the idea behind the B-1 zoning district is to moderate the signs to be smaller and agrees with Staff's recommendation to reduce the sign to seventeen (17) feet.

Mox added that the height of the bus shelter is twelve (12) and the elevation is four (4) feet higher than the ground level of the sign which is the intended need behind the variance.

Papandreas asked if the proposed sign obstructs the view of the gas station going up University Avenue. Fletcher answered that he does not believe that to be the case.

Bossio asked the height of the current road sign. Mox answered approximately thirty-five (35) feet.

Cardoso stated that she agrees with Shamberger's earlier point of the "McCafe" reader board; that at its proposed location, it would not be visible if the point Mr. Mox is stating is correct.

There being no further questions or comments, Bossio asked for public comment, there being none, Bossio declared the public hearing closed.

Bossio asked Paperak if he had anything to say in regards to the proposed signage. Paperak stated that he would only reiterate what Mox had already stated. He explained that the graphic reader board is used more to put up specials or introduce new menu items and is not required to be visible from a distance. He declared that the road sign will be visible further away and that the majority of McDonald's business is impulse business. He clarified that for the bus shelter an

agreement between the property owner, the bus service and the McDonald's legal team is warranted.

Fletcher added that a bus shelter has been required in the past for various projects and the City has worked with Mountain Lion Transit's legal team to provide all coverage's and protection. Fletcher stated that this location is optimal since it is also a fixed public school bus stop and commends the developer for agreeing to the bus shelter. He continued that he fully trusts that the attorney's could find a way to do it since it has been successfully done in the past. Fletcher stated that he hopes that the bus shelter will not be used as horse trading for variances that were granted by the Board. He added that as far as the recommended masonry around the posts, he has seen them around town and is unaware of any problems with them but does not know of inspection requirements of the McDonald's corporation. He agreed with the point about the elevation of the bus shelter.

Fletcher stated that the Board must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant. He continued that because of the mutually dependent nature of the several variance requests and Staff's suggestion to review and consider variance relief for a Master Sign Plan, the following findings are offered as an alternative to those submitted by the petitioner.

Finding of Fact #1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The proposed project provides for the comprehensive redevelopment of an existing internationally recognized fast food restaurant use that has been at the subject location for many years. It appears prudent to accordingly pursue a comprehensive review of a Master Sign Plan rather than consider each petition separately due to the scale and mutually dependent nature of the several petitions for which the developer seeks variance relief. By evaluating existing signage conditions on the subject site and within the surrounding area and by reviewing a Master Sign Plan, it appears that the extent of existing nonconforming signage and variances presently sought can be reduced so that the intent of the Zoning Ordinance is observed and substantial justice done.

Finding of Fact #2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There appears to be a number of nonconforming signs on the subject site and within the immediate area. A revised Master Sign Plan that complies with the revisions for which conditions are enumerated herein appears to reduce the extent of nonconforming signs on the subject site and improves the fast food restaurant's capacity to observe desired signage design and performance standards in the B-1 District.

Finding of Fact #3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The development of a revised Master Sign Plan, which complies with the revisions for which conditions are enumerated herein, will result in the removal of several functionally obsolete and nonconforming signs. Further, said revised Master Sign Plan should enhance the pleasing look of the neighborhood commercial area and contribute to the

public and private economic investment that has been realized through a number of adjacent developments including WVU's Lincoln Hall; WVU Alumni Association's new Erickson Alumni Center; WVU's seven-acre Raymond J. Lane Park; the private townhouse development across University Avenue from the subject site; and, intersection improvements planned by WVDOH at University Avenue and Patteson Drive.

Finding of Fact #4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The development of a revised Master Sign Plan, which complies with the revisions for which conditions are enumerated herein, should improve the site's capacity to observe desired signage design and performance standards in the B-1 District. The existing land use characteristics of the subject site will remain the same, an internationally recognized fast food restaurant. Variances in relation to the Master Sign Plan cannot contribute to nor mitigate existing traffic volumes on neighboring streets.

Fletcher stated that staff recommends a Master Sign Plan variance approval with the following conditions, which are intended to reduce the extent of requested variances; encourage the effective use of signs as a means of communication; maintain and enhance the pleasing look of the site and its contribution to the surrounding area; and, minimize adverse effects of signs on nearby public and private property:

1. Concerning **V10-09**, that a 66.8 sq. ft. variance from the maximum area for wall signs in the B-1 District be granted, provided:
 - a. The 41.2 sq. ft. (27½" H x 18' W) proposed "McDonald's" wall sign illustrated on the drive-thru elevation is removed from the Master Sign Plan. Said wall sign may be replaced with a 10.9 sq. ft. (36" H x 43½ W) "M" logo wall sign toward the rear of the drive-thru façade if desired by the petitioner; and,
 - b. The proposed "M" logo wall sign illustrated on the rear elevation is removed from the Master Sign Plan.
2. Concerning **V10-09**, that variance relief be granted so that wall sign faces may be opaque plastic with internal LED illumination if desired by the petitioner.
3. Concerning **V10-10**, that an 11' variance from the maximum height for a post and panel sign be granted, provided:
 - a. The three (3) foot "graphic reader board" shown on the proposed post and panel sign rendering is removed from the Master Sign Plan and the overall height of the proposed sign is reduced by at least three (3) feet; and,
 - b. Said post and panel sign may not obstruct, to the satisfaction of the City Engineer, clear sight lines for vehicles exiting onto University Avenue.
4. Concerning **V10-10**, that variance relief be granted so that the post and panel faces may be opaque plastic with internal LED illumination if desired by the petitioner, provided:
 - a. The upright post members of the post and panel sign are constructed of masonry materials so that, to the satisfaction of the Planning Director, said sign integrates with and compliments the architectural vocabulary of the principal structure.

- b. Concerning **V10-11**, that a 165.5 sq. ft. variance from the maximum area of non-wall signs in the B-1 District be granted, provided:
 - c. The three (3) foot “graphic reader board” shown on the proposed post and panel sign rendering is removed from the Master Sign Plan; and,
 - d. The two proposed directional signs along University Avenue are removed from the Master Sign Plan.
5. Concerning **V10-12**, that variance relief be granted so that directional signs may be opaque plastic with internal LED illumination if desired by the petitioner, provided:
 - a. The directional signs do not include the proposed “M” logo or any commercial copy and the remaining portion of each directional sign not exceed four (4) sq. ft.; and,
 - b. The directional sign posts may not exceed two (2) feet in height.
 6. Concerning **V10-13**, that variance relief be granted so that two (2) menu boards may be erected on the property as proposed AND that a variance of 12’ be granted for each of the proposed menu boards. Said menu board signs may be internally LED illumination if desired by the petitioner.
 7. That all existing signage on the subject development site, including the non-conforming pylon sign at the corner of University Avenue and Oakland Street, be removed during the demolition phase of the overall redevelopment project.
 8. That a final Master Sign Plan be submitted with the building permit application and reviewed and approved by the Planning Director to ensure compliance with the conditions set forth above.

Cardoso stated that she understands how the view of the sign could be impeded by the bus shelter if the Board required to lower the sign but believes that the arch logo could still be seen further away from the restaurant.

Bossio stated that the current restaurant can still be seen from University Avenue even though it sits on the back of the property.

Cardoso stated that she does not believe that the sign will increase customer recognition of the restaurant.

Shamberger stated was not aware of the grade difference on the site and given that information he could live with the sign being 20 feet tall.

Papandreas stated that he is concerned that if the sign is lowered to ten (10) feet, it could be subject to vandalism. He asked the petitioner if the “french fry” is internally illuminated. Paperack answered in the negative and added that it would have up lighting. Papandreas wanted to know where on the illustration there is in-ground lighting. Paperack pointed out that there will be lighting on the front corner of the building and at the side arcade plus two or three lights at the front of the building. Papandreas added that he believes that the restaurant will be visible in the location and that the sign cannot be lower than the proposed twenty (20) feet because of the risk of vandalism.

Bossio stated that he could go either way with that argument but he is more concerned about the metal posts and the unwillingness of the petitioner to make the post look more appealing.

Paperak stated that he met with the City Engineer and one of her concerns is visibility exiting the restaurant. He stated that she is concerned about a decrease in visibility when exiting the restaurant if the bottom of the sign was filled with stone.

Fletcher stated a solid bottom has not been suggested but rather to “beef” it up with masonry.

Paperak stated that he does not have an answer tonight but he does believe that he could compromise on that issue. He added that he could use the stone from the building and use it on the posts. Fletcher stated that is exactly what he is suggesting.

Paperak suggested that he could develop a design with a single pole with a lower planter on the bottom. Bossio stated that he would personally prefer a single pole. Fletcher interjected and stated that pole signs are not permitted in the City.

Bossio stated that he has no concerns about the height and aesthetics. He asked the petitioner the dimensions of the poles. Paperak stated that the poles have not been engineered yet and they typically do not generate the poles until the sign has been approved.

Bossio stated that the petitioner could suggest to the engineers that the City wants stone columns. Paperak replied that he could get someone involved that could provide the necessary construction details. He added that he will definitely work with the City to come up with a sign suitable for the Board.

Bossio thanked Paperak.

Shamberger stated that he could live with the twenty (20) feet if the petitioner is willing to compromise and put up a sign that does not look so cold.

Papandreas moved to accept the Findings of Fact for V10-09 to V10-13 as revised by Staff; seconded by Cardoso. The motion passed unanimously.

Bossio asked Paperak if he is willing work with the Board and present a sign that is more aesthetically pleasing. Paperak answered in the positive and added that he would get the renderings to Chris but he would still recommended a single pole. Bossio stated that a single pole will not be approved.

Shamberger motioned to approve V10-09 to V10-13, striking 3a and that 3b become 3a and with the conditions and recommendations as stated by staff; seconded by Cardoso. The motion passed unanimously.

- I. **CU10-05 / JKL Rentals, LLC / 702 Cass Street:** Request by James Giuliani, on behalf of JKL Rentals, LLC, for conditional use approval, Table 1331.05.01, Permitted Land Uses as it relates to “Lodging or Rooming House” for property located at 702 Cass Street. Tax Map #26 Parcel #4; an R-2, Single and Two-Family District.

Fletcher read the staff report stating that the petitioner seeks conditional use approval for a “Lodging or Rooming House” use at 702 Cass Street so that the structure can be occupied by four (4) residents. He continued that currently the structure is registered under the City’s Rental Registration Program as a single-family rental unit.

Article 1329.02 “Definition of Terms”, defines a “Lodging or Rooming House” use as:

“A building or portion thereof that does not qualify as a one or two-family dwelling, that provides sleeping accommodations for no more than 16 people on a transient or

permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants.”

Table 1331.05.01 “Permitted Land Uses” requires conditional use approval in the R-2 District for a change in use from a “Single-Family Dwelling” to “Lodging or Rooming House”.

Table 1365.04.01 of the Planning & Zoning Code provides a minimum off-street parking requirement of “0.5 spaces per bed but not less than two spaces” for “Lodging or Rooming House” uses. As such, two spaces will be required for the change of use. There are currently no on-site parking spaces provided at the subject location. The petitioner is concurrently seeking conditional use approval for off-site parking to meet the minimum off-street parking standard.

Fletcher stated that Addendum A of the staff report illustrates the location and characteristics of the subject sites.

Brian Edwards, 1200 Dorsey Avenue Suite 2, spoke as the representative of Mr. Giuliani and stated that his client owns a four-bedroom house that currently has three residents. He added that the request is for all the bedrooms to be occupied by residents. He stated that he has no objection with the recommendations by staff, as well as the Findings of Facts.

There being no further comments or questions by the Board, Bossio asked for public comment, there being none, the public hearing was closed.

Fletcher read the staff recommendations stating that the Board must determine whether the proposed request meets the standard criteria for conditional use approval by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant.

Fletcher stated that staff recommends the following revisions to the petitioner’s findings of fact (deleted matter struck through; new matter underlined):

Finding of Fact #1 – Congestion in the streets is not increased, in that:

~~Existing structure/parking already exist. Offsite across street as shown on map.~~
Two (2) off-street parking spaces will be developed within the acceptable distance of 300 feet thereby alleviating on-street parking congestion.

Finding of Fact #2 – Safety from fire, panic, and other danger is not jeopardized, in that:

~~No changes. Existing structure.~~ The change in use from a “Single-Family Dwelling” to a “Lodging or Rooming House” will require more stringent safety measures be provided under the Fire Code resulting in a safer rental unit.

Finding of Fact #3 – Provision of adequate light and air is not disturbed, in that:

~~No changes. House and area well lit. Parking lot well lit.~~ No additions or building enlargements are proposed as a part of the change of use request that would alter the quality or extent of light or air that already exists around the subject structure.

Finding of Fact #4 – Overcrowding of land does not result, in that:

~~1 additional tenant. No real change in density.~~ No additions or building enlargements are proposed as a part of the change of use request that would.

Finding of Fact #5 – Undue congestion of population is not created, in that:

~~1 additional tenant. No real change in density.~~ No additions or building enlargements are proposed as a part of the change of use request that would result in more than four individuals residing in the proposed “Lodging or Rooming House”.

Finding of Fact #6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

~~Only change 1 additional tenant from 3 to 4.~~ The proposed change in land use to allow one additional occupant does not appear to require public infrastructure or services beyond that already needed to support the existing “Single-family Dwelling” use.

Finding of Fact #7 – Value of buildings will be conserved, in that:

~~Increased value. Greater density. Closest property to campus and near downtown High Street. Student neighborhood.~~ The change in use to allow one additional occupant does not appear to influence the value or integrity of properties within an area that is predominantly student rental housing.

Finding of Fact #8 – The most appropriate use of land is encouraged, in that:

~~Density is increased — one person in R-2 student neighborhood. It is a 4 bedroom 2 bath house — one bedroom no being used.~~

The change in use to allow one additional occupant does not appear to influence the appropriateness of the type of student housing that dominates the immediate area.

Fletcher stated that staff recommends that the following conditions be included in approving the change in use from “Single-Family Dwelling” to “Lodging or Rooming House”:

1. That the petitioner’s conditional use request to provide no less than two off-site parking spaces under Case Number CU10-06 be approved by the Board of Zoning Appeals and that the terms and conditions set forth therein be met.
2. That the Certificate of Occupancy for the subject “Lodging or Rooming House” shall be contingent upon the execution and continuance of the agreement and encumbrance required by the related conditional use off-site parking approval. Should said agreement and encumbrance be annulled for any reason at any time, said Certificate of Occupancy shall be revoked upon written notification by the Planning Director.
3. That no more than four (4) occupants may reside within the subject “Lodging or Rooming House” unless approved by the Board of Zoning Appeals.
4. That the petitioner shall maintain compliance with all life safety standards, devices, and/or systems required by related Fire Code provisions as outlined in the attached memo from the Morgantown Fire Marshall’s Office.
5. That the conditional use approval granted herein is specific to the petitioner and may not be transferred.

Papandreas moved to accept the Findings of Fact for CU10-05 as revised by Staff; seconded by Shamberger. The motion passed unanimously.

Papandreas moved to approve CU10-05 / JKL Rentals / 702 Cass Street with the conditions as recommended by staff; seconded by Cardoso. The motion passed unanimously.

- J. CU10-06/ JKL Rentals, LLC / 702 Cass Street:** Request by James Giuliani, on behalf of JKL Rentals, LLC for conditional use approval from the Planning and Zoning Code, Article 1365.07 Off-Site Parking Facilities for property located at Tax Map #26 Parcel #452; an R-2, Single and Two-Family Residential District.

Fletcher read the Staff Report stating that the petitioner seeks conditional use approval to provide two (2) off-site parking spaces as a part of a change of land use request under Case Number CU10-05. The petitioner was advised that to change the use of the structure, he would have to provide parking for the new use in accordance with to Article 1365.02 (D) (2):

“For a change in the class or use of a structure or land, the number of additional off-street parking and loading spaces required shall be equal to the number required for the new use, less the number of spaces which would have been required for the previous use if it had been established in conformance with this section; but in no case shall the total number of spaces furnished be required to exceed the minimum required for the new use.”

Table 1365.04.01 provides that the minimum parking requirement for a “Lodging or Rooming House” use is “0.5 spaces per bed but not less than two spaces”. There is currently no off-street parking provided at the 702 Cass Street site. To meet the minimum parking standard, the petitioner seeks conditional use approval to dedicate two (2) spaces within an existing parking lot that he owns. According to the petitioner, the existing parking area contains approximately twenty-one (21) spaces.

Article 1365.07 (C) stipulates that:

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

Fletcher continue that the Board has previously granted off-site parking conditional use approvals [CU08-06 and CU08-08] and deemed three-year lease agreements acceptable as it coincides with the City’s three-year rental registration period.

Bossio recognized Brian Edwards, 1200 Dorsey Ave. suite 2, who spoke on behalf of Mr. Giuliani stating that he has no problems with the Findings of Facts and recommendations set forth by staff.

There being no further comments or questions by the Board, Bossio asked for public comment, there being none he closed the public hearing.

Fletcher read the staff recommendations stating that the Board must determine whether the proposed request meets the standard criteria for conditional use approval by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant.

Fletcher stated staff recommends the following revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined):

Finding of Fact #1 – Congestion in the streets is not increased, in that:

~~No changes. Parking is already. 702 Cass Street. Parcel 452. 2 Spaces. Lot used by 702 Cass as shown on map 16 #17 on Parcel 452.~~ The subject off-street parking area exists, is owned by the petitioner, and is within 300 feet of the proposed "Lodging and Rooming House". Further the site is currently used to meet off-site parking requirements approved under Case Number CU08-06.

Finding of Fact #2 – Safety from fire, panic, and other danger is not jeopardized, in that:

~~No Changes. 2 Parking are needed whether its spaces a house or rooming/ boarding.~~ An existing off-street parking area will be utilized to meet the minimum parking requirements for the proposed "Lodging or Rooming House" at 702 Cass Street.

Finding of Fact #3 – Provision of adequate light and air is not disturbed, in that:

~~Street lights. Parking lots is lighted also houses all well lighted around house and parking.~~ The dedication of two (2) parking spaces within an existing parking area for the proposed "Lodging or Rooming House" at 702 Cass Street cannot contribute to the disturbance of light or air characteristics that already exist.

Finding of Fact #4 – Overcrowding of land does not result, in that:

~~No changes. Parking Exists.~~ The petitioner seeks to utilize an existing parking area within 300 feet of the subject "Lodging or Rooming House".

Finding of Fact #5 – Undue congestion of population is not created, in that:

~~No Changes. Parking exists.~~ The petitioner seeks to utilize an existing parking area within 300 feet of the subject "Lodging or Rooming House".

Finding of Fact #6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

~~No Changes. Parking Already Exists.~~ Off-site parking will neither increase nor decrease demand for public infrastructure and services already needed to serve existing and proposed development within the area.

Finding of Fact #7 – Value of buildings will be conserved, in that:

~~Increased population in students housing next to campus.~~ The proposed off-site parking area currently exists and serves as an amenity not provided for many of the structures within the immediate area.

Finding of Fact #8 – The most appropriate use of land is encouraged, in that:

~~House does not currently have its own parking spaces. And this will legally give 702 Cass Street Parking Spaces.~~ The petitioner seeks to utilize an existing parking area within 300 feet of the subject "Lodging or Rooming House".

Fletcher stated that staff recommends that the following conditions be included in approving the off-site parking conditional use petition:

1. That the off-site parking spaces be encumbered by an easement or similar agreement, to the satisfaction of the Planning Director, which is duly executed and acknowledged and specifies that the land upon which the off-site parking facility is located is encumbered by the parking use of the subject duplex for no less than three (3) spaces. That said instrument shall specify and bind the use for *no less than three-years*. That said instrument must be filed with the Planning Department and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia.
2. That the Certificate of Occupancy for the subject "Lodging or Rooming House" shall be contingent upon the continuance of said agreement and encumbrance. Should said agreement and encumbrance be annulled for any reason at any time, said Certificate of Occupancy shall be revoked upon written notification by the Planning Director.
3. That a valid and current copy of said instrument must be made available at the request of Planning Director.
4. That the three (3) off-site parking spaces shall have signs noting the subject "Lodging or Rooming House" for which the spaces are reserved. That such signage shall be 12 inches wide by 18 inches tall and shall be mounted between three feet and five feet above the finish surface of the parking stalls. That the text on the sign state, "This space is reserved for residents of located at 702 Cass Street only, per City Code 1365.07 (D)."
5. That the conditional use approval granted herein is specific to the petitioner and may not be transferred.

Shamberger moved to accept the Findings of Fact for CU10-06 as revised by Staff; seconded by Papandreas. The motion passed unanimously.

Papandreas moved to approve CU10-06 with the conditions as recommended by Staff; seconded by Cardoso. The motion passed unanimously.

K. CU10-07 / Sellaro / 309 Eighth Street: Request by Sam Sellaro for conditional use approval from the Planning and Zoning Code, Article 1365.07 Off-Site Parking Facilities for property located at 309 Eighth Street. Tax Map #15 Parcel #108; an R-2, Single and Two-Family Residential District.

Bossio recused himself for case number CU10-07 / Sellaro / 309 Eighth Street. Cardoso took over as chair and Bossio left the room.

Fletcher reminded the Board that the petitioner's variance request last month was denied and has exercised his right to appeal that decision and he advised the Board not to comment or discuss the actions of last months meeting.

Fletcher read the staff report stating that the petitioner seeks conditional use approval under Article 1365.07 "Off-Site Parking Facilities" to develop three (3) off-site parking spaces to meet the minimum off-street parking requirement for the petitioner's proposed duplex on Parcel 108 of Tax Map 15.

He continued that at its May 19, 2010 hearing, the Board denied the petitioner's variance relief request from providing off-street parking on Parcel 108 so that on-street parking could be used to satisfy minimum parking requirements.

Fletcher stated that the Board raised concerns with, among others, the safety of parking on Eighth Street and the fact that granting variance relief would perpetuate on-street parking congestion and set an unnecessary precedent of waiving minimum parking requirements. The Board also discussed alternate means of providing off-street parking; one of which included accessing the rear of the proposed duplex from Grant Avenue through an adjoining tract owned by Mr. Mark Sellaro.

Staff met with the petitioner at the site and understands the dilemmas of meeting minimum parking for the proposed duplex development:

- Accessing the rear of the proposed duplex from Grant Avenue through the adjoining tract does not appear practical due to steep grades and significant retaining walls that would be required to maintain the integrity of the hillside.
- Although parking could be developed at grade, backing out onto Eighth Street would create safety hazards due to the volume and speed of vehicles traveling the steep roadway.
- Developing parking at grade with Eighth Street would require partial demolition of a retaining wall that spans the distance of multiple parcels. Said retaining wall appears to be a historically contributing asset constructed in the mid-1930's. According to the petitioner, the wall was constructed under the Federal Emergency Relief Act and the Roosevelt Administration's New Deal Program.

Fletcher stated that Article 1367 provides that the Board of Zoning Appeals may grant conditional use approval to provide required spaces on a site that is within 300 feet of the principal use. He affirmed that the petitioner has identified two potential off-site parking sites. The first site is Parcel 104 of Tax Map 15, which is directly across the street from the proposed duplex. The site is preferred because of its proximity to the proposed duplex. Further, parallel parking can be designed and developed to avoid safety concerns arising from backing out onto Eighth Street. At the time of preparing this Report, the petitioner was negotiating a lease agreement with the estate heirs controlling the realty.

Fletcher continued that the second location is Parcel 228 of Tax map 15, which is owned by Mr. Mark Sellaro and that the petitioner and Mr. Mark Sellaro have submitted a letter of intent demonstrating their willingness to encumber this location.

Fletcher stated that Addendum A of the report illustrates the locations noted above and 300-foot buffer distance.

Article 1365.07 (C) stipulates that:

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

Fletcher stated that the Board has previously granted off-site parking conditional use approvals [CU08-06 and CU08-08] and deemed three-year lease agreements acceptable as it coincides with the City's three-year rental registration period.

Cardoso recognized Sam Sellaro, applicant, who stated that he likes to develop his property to the extent he is legally allowed to. The problem he faces is reaching the 1.5 spaces per bed and he believes that off-premise parking is the best solution for the problem.

Cardoso asked for an update on the lease agreement negotiations with the estate heirs. Sellaro replied that he spoke to the grandfather but is still waiting for confirmation.

There being no further comments or questions by the Board, Bossio opened the public hearing asking for public comment.

Mark Sellaro, 4105 Sunset Lane, stated that at last months meeting the Board recommended that the applicant find off-premise parking and believes that has been accomplished. He is still negotiating with the neighbors across the street but feels confident that they will be able to acquire the property.

Joyce Vacan, 152 Eighth Street, stated that she has no objections to the house being built but has concerns with the on-street parking request. She is also concerned with backing unto Eighth Street. She confirmed that she does not know were the proposed second option is located. Sellaro answered that the second option is located on Grant Avenue, pass the lot next to Mrs. Maroney's. She stated that that parking is a problem in the neighborhood.

There being no further comments Cardoso closed the public hearing and asked for staff recommendations.

Fletcher stated that the Board must determine whether the proposed request meets the standard criteria for conditional use approval by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant.

Fletcher stated that staff concurs with the petitioner's findings of fact and recommends the following conditions be included in the Board's conditional use approval for one or either of the two sites noted above.

1. That a site plan for the three (3) off-site parking spaces shall be submitted and approved by the Planning Director and the City Engineer as a part of building permits for the subject duplex. Said site plan must demonstrate compliance with the parking requirements and standards of the Planning and Zoning Code.
2. That the off-site parking spaces be encumbered by an easement or similar agreement, to the satisfaction of the Planning Director, which is duly executed and acknowledged and specifies that the land upon which the off-site parking facility is located is encumbered by the parking use of the subject duplex for no less than three (3) spaces. That said instrument shall specify and bind the use for *no less than three-years*. That said instrument must be filed with the Planning Department and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia.
3. That the Certificate of Occupancy for the subject duplex shall be contingent upon the continuance of said agreement and encumbrance. Should said agreement and

encumbrance be annulled for any reason at any time, said Certificate of Occupancy shall be revoked upon written notification by the Planning Director.

4. That a valid and current copy of said instrument must be made available at the request of Planning Director.
5. That the three (3) off-site parking spaces shall have signs noting the subject duplex rental units for which the spaces are reserved. That such signage shall be 12 inches wide by 18 inches tall and shall be mounted between three feet and five feet above the finish surface of the parking stalls. That the text on the sign state, "This space is reserved for residents of located at [addressed to be assigned by City Engineer] only, per City Code 1365.07 (D)."
6. That the conditional use approval granted herein is specific to the petitioner and may not be transferred.

Shamberger moved to accept the Findings of Fact for CU10-07as revised by Staff; seconded by Papandreas. The motion passed unanimously.

Shamberger moved to approve CU10-07 with the conditions as recommended by Staff; seconded by Papandreas. The motion passed unanimously.

- L. **V10-17 / Callen – Evanoff / 534 Callen Avenue:** Request by Michael Callen, on behalf of Mike and Joan Evanoff, for variance approval from the Planning and Zoning Code Article 1335.04 Setbacks in the R-1A District for property located at 534 Callen Avenue. Tax Map #40 Parcel #26; an R-1A, Single-Family Residential District.

Cardoso asked the petitioner if they were related to the Callen's of the West Virginia Junior College. Callen answered in the positive. Cardoso stated that she works at the College and asked if the petitioner has any objections to her being on the Board during the request. Callen answered no.

Fletcher read the Staff Report stating that the petitioner seeks to construct a single-family dwelling on Tax Map #40, Parcel #26 but learned that the Morgantown Utility Board (MUB) has an existing storm and sanitary lines approximately ten feet deep running along the southern property boundary. MUB, as stated in the attached letter, is requiring the applicant to maintain a distance of not less than ten (10) feet from the lines for maintenance and or replacement. Therefore, the petitioner is requesting variance relief from Article 1335.04 as it relates to exceeding the maximum front setback and encroaching into the minimum rear setback.

The petitioner's site plan illustrates that the structure will be situated approximately fifty (50) feet from the front property line, which exceeds the permitted maximum setback of twenty (20) feet. As such, a front setback variance of thirty (30) feet is required. Likewise, the proposed structure will encroach into the minimum twenty (20) foot rear setback by ten (10) feet, which requires a rear setback variance of ten (10) feet. Fletcher continued that according to the subject site plan, the proposed structure appears to conform to minimum side and maximum lot coverage standards for the R-1A District.

Fletcher stated that Addendum A of the report illustrates the location and conditions of the subject site.

Michael Callen, 192 Tibbs Road, stated that the original site plan submitted to the City met all setback requirements; however he later found out from MUB that the house would sit 2 feet from the existing sewer line. He explained that MUB requires a minimum of ten (10) feet from the closest corner of the house, therefore was forced to move the house back five feet.

Shamberger asked that if the sewer line did not exist, would the proposed house keep to the lot lines currently on the street. Callen answered in the positive.

There being no further comments or questions by the Board, Bossio asked for public comment, there being none, Bossio closed the public hearing and asked Fletcher to read the staff recommendations.

Fletcher read the staff recommendations stating that The Board must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant. Staff recommends the following revisions to the petitioner's Findings of Fact and that variance relief be granted as requested (deleted matter struck through; new matter underlined) and that.

Finding of Fact #1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

~~There is a sewer~~ are existing storm and sanitary lines running down the corner of the property and Morgantown Utility Board (MUB) needs requires a minimum distance of 10 feet between said lines to build and the proposed single-family structure. Therefore, the proposed ~~so the house needs~~ must be set back approximately fifty (50) feet from the front property line in order to comply with MUB's requirement. ~~achieve the 10 feet.~~

Finding of Fact #2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

~~The front Setback exceeds the maximum allowed for this zone.~~ The storm and sanitary lines make it difficult to build a house of similar size and location of those adjacent to the property or within the immediate vicinity. The developable area for other surrounding properties do not appear to be restricted as a result of storm and sanitary lines running across private property rather than within a public right-of-way.

Finding of Fact #3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

~~It is only a one-story single-family dwelling.~~ The proposed structure is a one-story single-family home and will have a relatively small footprint in a neighborhood of mostly multi-level homes. The rear variance request is the result of moving the structure deeper into the property so that the utility line facilities are not encroached upon.

Finding of Fact #4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

~~The proposed structure~~ It is a one-story single-family dwelling that is will be brand new, so it will only increase The dwelling should increase the land value surrounding it because it is new structure that will be designed to conform with the character of the neighborhood. ~~And the~~

home owners property owners own the two houses to the right of # the proposed structure. This variance cannot improve nor contribute to traffic congestion. This structure will be utilized as a single-family residence, which is a permitted use in the R-1A District. Therefore, no additional traffic or congestion will occur as a result of the variance.

Papandreas moved to accept the Findings of Fact for V10-17 as revised by Staff; seconded by Shamberger. The motion passed unanimously.

Papandreas moved to approve V10-17 with the conditions as recommended by Staff; seconded by Papandreas. The motion passed unanimously.

V. OTHER BUSINESS

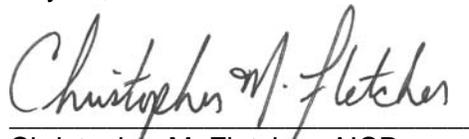
- A. Public Comments** – None
- B. Staff Comments** – None

VI. ADJOURNMENT – The meeting was adjourned at 9:06 PM.

MINUTES APPROVED:

July 21, 2010

BOARD SECRETARY:



Christopher M. Fletcher, AICP