



MORGANTOWN BOARD OF ZONING APPEALS

March 20, 2013
6:30 PM
City Council Chambers

Board Members:

Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
George Papandreas
Tom Shamberger
Jim Shaffer

STAFF REPORT

CASE NO: CU13-05 / Mutt's Place, Inc. / 263 Beechurst Avenue

REQUEST and LOCATION:

Request by George Vrooman, on behalf of Mutt's Place, Inc., for conditional use approval of a "Private Club" use located at 263 Beechurst Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 19, Parcel 22.1; B-2, Service Business District

SURROUNDING ZONING:

B-2, Service Business District and PUD, Planned Unit Development (Beechview Place)

BACKGROUND and ANALYSIS:

According to the West Virginia Alcohol Beverage Control Administration (WVABCA) website, a WVABCA private club license for "Mutt's Place" at 2129 University Avenue was first issued in February 1982. According to the West Virginia Secretary of State (WVSOS), the current ownership of the establishment is Mutt's Place, Inc., for which Mr. George Vrooman is listed as secretary and owner.

The property on which "Mutt's Place" is currently located was included in the recent real estate acquisition by West Virginia University, which is bound by University Avenue, Third Street, Grant Avenue, and Houston Drive. This newly assembled site will be redeveloped by WVU's public-private partnership's mixed-use "University Place".

The petitioner seeks to relocate the Mutt's Place establishment by converting the use of the commercial storefront at 263 Beechurst Avenue from an "Art Gallery" use to a "Private Club" so that the establishment can obtain a new private club liquor license from WVABC. "Private Club" uses require conditional use approval by the Board of Zoning Appeals. Addendum A of this report illustrates the location of the subject site.

According to the petitioner, the existing 2129 University Avenue location of Mutt's Place is 880 square feet. The proposed 263 Beechurst Avenue location would be 1,134 square feet, which would be an increase in area of 254 square feet for the establishment.

Located on the second and third stories above the commercial storefront at 263 Beechurst Avenue are four one-bedroom mixed-use apartments.

The minimum parking requirement for the subject building, including the four one-bedroom mixed-use dwellings and the proposed private club, would be 16 to 18 parking stalls.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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The existing building appears to cover nearly the entire, if not all, the subject property and no on-site parking spaces are available.

Although the petitioner states in his application exhibits that most of his customers at the 2129 University Avenue location were walk-ins from residents of the Sunnyside Neighborhood, the proposed 263 Beechurst Avenue location is situated on the opposite side of Beechurst Avenue from the heart of the neighborhood. Additionally, there does not appear to be any formal public parking spaces on the west side of Beechurst Avenue for several blocks in either direction. Therefore, access for the majority of the establishment's long and well-established patron base will be crossing Beechurst Avenue, which serves as a primary and heavily traveled north-south corridor.

The current dumpster location appears to be situated along the side and rear of the building, which may be encroaching into the right-of-way and/or onto the adjoining property to the rear of 263 Beechurst Avenue (see illustration below).



Even if the dumpster is not encroaching as the illustration below indicates, a sufficient location or adequate area does not appear to exist where a formal dumpster enclosure can be developed to properly screen and manage what will become a heavily utilized facility. Specifically, the proposed change in land use will significantly increase the amount of refuse generated by the establishment (i.e., bottles, cardboard, food related waste, etc.).

A letter of opposition from Mr. Don Corwin is included with this Staff Report.

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STAFF RECOMMENDATION:

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 petitioner.

Staff recommends that the Board deny Case No. CU13-05 based on Staff's recommended revisions to the petitioner's findings of fact as submitted in Addendum B of this report (deleted matter struck through; new matter underlined).

Should the Board disagree with Staff's recommendation and approve Case No. CU13-05, then the Board should include at least the following conditions:

1. That the conditional use granted herein is conditioned upon the Board's approval of variance relief from the minimum parking requirements AND/OR the approval of a conditional use petition for off-premise parking. Said variance relief and/or conditional off-premise parking use must be granted before any certificate of occupancy can be issued.
2. That the beneficiary of the conditional use granted herein is specific to Mutt's Place, Inc. and may not be transferred without prior approval of the Board of Zoning Appeals.

Attachments: Application and submitted exhibits.

Development Services

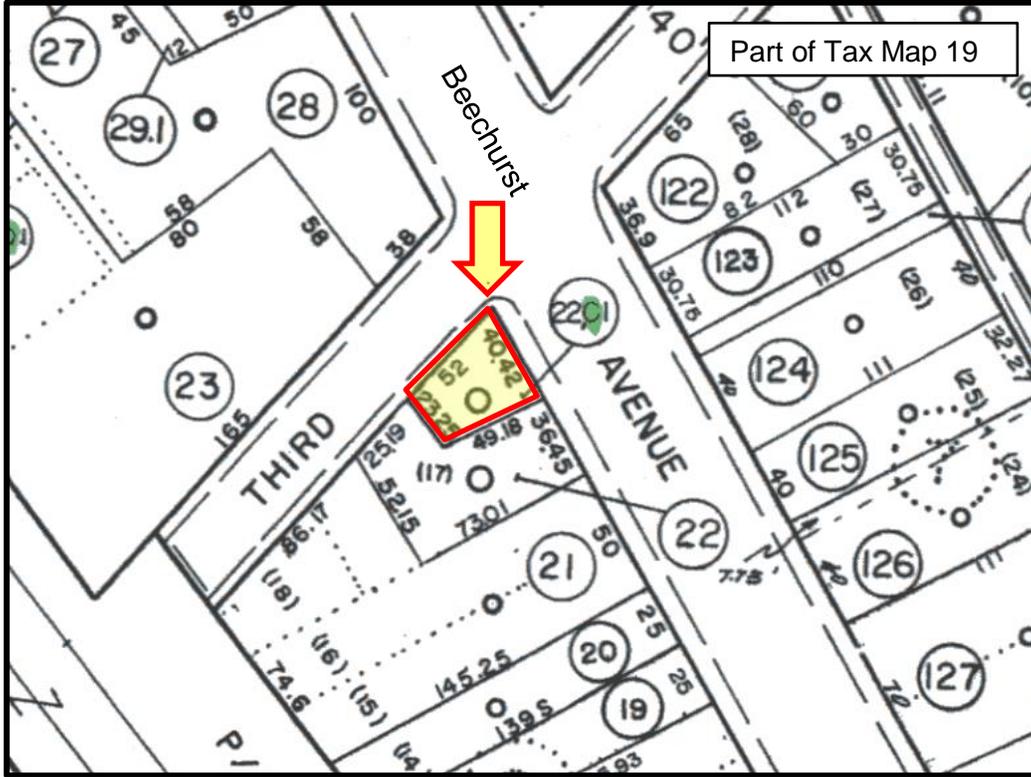
Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

CU13-05 / G. Vrooman – Mutts Place / 263 Beechurst Avenue





STAFF REPORT ADDENDUM B

CU13-05 / Mutt's Place, Inc. / 263 Beechurst Avenue

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined)

Finding of Fact No. 1 – Congestion in the streets is ~~not~~ **WILL BE** increased, in that:

~~The main street is more than 15 feet from building so in the event of a small line at capacity, guests would be off of public side walk and controlled by a trained staff. The proposed 263 Beechurst Avenue location does not provide on-site parking. There does not appear to be formal public parking on the west side of Beechurst Avenue for several blocks in either direction. Based on the petitioner's application, it appears that the majority of the establishment's patron base is located within the Sunnyside Neighborhood, which requires the majority of patrons to cross the heavily traveled and primary north-south corridor of Beechurst Avenue. The lack of on-site parking and apparent dependence of Beechurst Avenue pedestrian crossings by patrons will create roadway congestion within the immediate area and increase vehicular and pedestrian conflicts.~~

Finding of Fact No. 2 – Safety from fire, panic, and other danger is ~~not~~ **WILL BE** jeopardized, in that:

~~If there was a fire, electric disruption, etc. there is ample space for a trained evacuation for guests to go outside and back of property. Although the establishment will be required to meet current building and fire code standards on the inside of the building, there is a serious concern of potential danger created by the increase in frequency and intensity of pedestrians crossing Beechurst Avenue to approach the establishment.~~

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

~~Current lighting is dark in front and side and would be improved by upgrading. Air would not be disturbed due to no outside music area. The proposed "Private Club" use does not appear to require or result in modifications or additions to the building that would alter existing sunlight distribution or air flow patterns that exist within the immediate area.~~

Finding of Fact No. 4 – Overcrowding of land does ~~not~~ **WILL** result, in that:

~~No overcrowding, but an increase in foot traffic but controllable. The proposed "Private Club" use will significantly increase the scale, scope, and frequency of patrons visiting the subject site, which will exacerbate efforts to control and manage private parking spaces within the immediate area by neighboring property owners. Additionally, the existing solid waste containment and management facility on the site does not appear to support the significant increase in waste that will be generated by a "Private Club" use.~~

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

Population would stay as 4 people living in 4 apartments.

Finding of Fact No. 6 – Granting this request **WILL** not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

~~No it will not. The proposed location does not include on-site parking, which will create congestion along public roadways. Additionally, the lack of sufficient on-site solid waste containment and management facilities may unnecessary contribute to increased litter and debris within the public right-of-way.~~

Finding of Fact No. 7 – Value of buildings will **NOT** be conserved, in that:

~~Value will be increased and improved. Although mixed-uses with commercial storefronts along Beechurst Avenue is the desired development pattern set forth in the City’s Planning and Zoning Code, it appears that a “Private Club” use at the proposed location may have a more deleterious impact on existing and planned commercial uses within the immediate area fronting Beechurst Avenue. Specifically, it appears that the existing and planned commercial uses within the immediate area enjoy on-site parking. However, there does not appear to be enough private parking within the immediate area that would serve well as shared parking facilities. The lack of public parking and on-site parking and the undersupply of private parking may very well result in unnecessary pressures on neighboring property owners to control, manage, and maintain their respective properties. Excessive pressures on parking may adversely impact the vitality and sustainability of existing and planned businesses thereby adversely impacting the market value of commercial lease rates and market value of neighboring buildings. Additionally, the lack of solid waste management facilities to serve the proposed “Private Club” will similarly result in excessive pressures on neighboring waste containment facilities, contribute to increased litter and debris on neighboring properties thereby adversely impacting the quality, character, and consequential market value of commercial lease rates and market value of neighboring buildings.~~

Finding of Fact No. 8 – The most appropriate use of land is **NOT** encouraged, in that:

~~Property will continue to be apartment rental and first floor commercial business rental. Although mixed-uses with commercial storefronts along Beechurst Avenue is the desired development pattern set forth in the City’s Planning and Zoning Code, it appears that a “Private Club” use at the proposed location creates parking and traffic congestion, vehicle and pedestrian conflicts, and solid waste containment and management challenges that may unreasonably and unjustifiably disturb the quality, character, viability, attractiveness, and sustainability of existing and planned uses and the public realm within the immediate area that would otherwise not be a generated by a commercial use in the subject storefront that would rely less on the scale, scope, frequency, and peak commercial periods anticipated by the proposed “Private Club” use.~~

mail to:

Betty Ireland
Secretary of State
State Capitol
1900 Kanawha Blvd. East
Charleston, WV 25305
Hrs. 8:30 am - 5:00 pm



FILED

JUN 15 2006 gm

IN THE OFFICE OF
SECRETARY OF STATE
WEST VIRGINIA

Vicki Haught, Manager
Process/UCC Division
Tel: (304)558-6000
Toll Free: (866)767-8683
Fax: (304) 558-8381
email: process@wvsos.com
web: www.wvsos.com

Fee: \$15 per application

FILE ONE ORIGINAL (Send two originals if you want a filed copy returned to you)

**APPLICATION TO APPOINT OR CHANGE
AGENT FOR PROCESS, OFFICERS, and/or OFFICE ADDRESSES**

1. The company filing this change is registered as a:

- Corporation
- Limited Liability Company
- Limited Liability Partnership
- Limited Partnership
- Voluntary Association
- Business Trust

2. The change is filed for:
(Note: Enter information as previously filed. No change can be accepted without this information.)

Company name MUTT'S PLACE INC

Access current company record at www.wvsos.com

Principal Office Address 2129 UNIVERSITY AVE
MORGANTOWN WV, 26505
As Listed _____

Home State: WV WV Formation Date 8-25-2000

3. Change of Address (use appropriate lines for the type of address to be changed):

Address Type _____ New Address _____

a. Principal Office 2129 UNIVERSITY AVE
MORGANTOWN WV, 26505

b. Local Office (WV) _____

c. Designated Office (LLC) _____
(must be physical address) _____

4. Change of Agent for Service of Process:

New Agent Name and Address

The agent named here has given consent to appointment as agent to accept service of process on behalf of this company.

New Agent Signature

5. Complete the Change of Officers or Other Persons in Authority:

Officer Type
(check one for each new officer.)

New Officer Name

New Officer Address

- a. President (Corp. VA)
- Manager (LLC)
- General Partner (LP, LLP)
- Trustee (Bus. Trust)
- Other _____

Remove _____
(Previous officer name, if any.)

- b. Vice-President (Corp. VA)
- Manager (LLC)
- General Partner (LP, LLP)
- Trustee (Bus. Trust)
- Other _____

Remove _____
(Previous officer name, if any.)

- c. Secretary (Corp. VA)
- Member (LLC)
- Limited Partner (LP)
- General Partner (LLP)
- Trustee (Bus. Trust)
- Other _____

Remove DOUG WOODWARD
(Previous officer name, if any.)

GEORGE VROOMAN 2129 UNIVERSITY AVE
MORGANTOWN WV 26505

- d. Treasurer (Corp. VA)
- Member (LLC)
- Limited Partner (LP)
- General Partner (LLP)
- Trustee (Bus. Trust)
- Other _____

Remove _____
(Previous officer name, if any.)

- e. Director (Corp. VA)
- Member (LLC)
- Limited Partner (LP)
- General Partner (LLP)
- Trustee (Bus. Trust)
- Other _____

Remove _____
(Previous officer name, if any.)

GEORGE VROOMAN
Name (please print)

OWNER
Title

George Vrooman
Signature

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT made this 17th day of February, 2006, by and between **DOUG WOODWARD**, d/b/a Mutt's Place Bar, hereinafter referred to as **SELLER**, and **George Vrooman**, or his assigns, hereinafter referred to as **PURCHASER**.

Doug Woodward relinquishes all liabilities to debtors, written obligations, and written commitments as owner of Mutt's Place Bar. Seller does transfer any and all claims and interest seller holds in any and all corporation entities. Purchaser shall continue to pay all loans held by Seller in reference to Mutt's Place Bar. Both parties acknowledge that all negotiations relative to this agreement have been carried out by them directly.

The undersigned Seller hereby accepts the offer and conditions of this agreement, this 17th day of February, 2006.

SELLER:

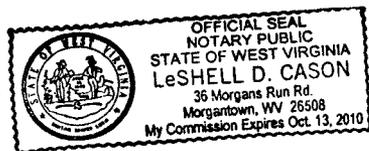
Doug Woodward 2/17/06 **DOUG WOODWARD**

PURCHASER:

George Vrooman 2/17/06 **GEORGE VROOMAN**

WITNESS:

Leshell D. Cason 2-17-06





City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN - CONDITIONAL USE

OFFICE USE	
CASE NO.	CU13-05
RECEIVED:	2/8/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT

Name:	GEORGE VROOMAN (mutts Place)	Phone:	304.685.9550
Mailing Address:	PO Box 865	Mobile:	
	Street: MORGANTOWN WV 26507-0865	Email:	gvrooman13@yahoo.com
	City State Zip		

II. AGENT / CONTACT INFORMATION

Name:	SAME AS ABOVE	Phone:	
Mailing Address:	Street	Mobile:	
	City State Zip	Email:	

Mailings - Send all correspondence to (check one): Applicant OR Agent/Contact

III. PROPERTY

Owner:		Phone:	
Mailing Address:	263 Beechwest Ave	Mobile:	
	Street: MORGANTOWN WV 26505	Email:	
	City State Zip		

IV. SITE

Street Address (if assigned):		Tax Map #:	19	Parcel #:	22.1
Zoning:	B2				
Lot Dimensions:	Width:	Ft.	Depth:	Ft.	Square Footage: ft. ²
Shape of Lot:	<input checked="" type="checkbox"/> Corner <input type="checkbox"/> Interior <input type="checkbox"/> Through <input type="checkbox"/> Flag <input type="checkbox"/> Irregular <input type="checkbox"/> Non-conforming				
Existing Use of Structure or Land:	4 Apartments 1 COMMERCIAL USE - MAIN FLOOR - ART STORE				
Proposed Use of Structure of Land:	4 Apartments 1 - COMMERCIAL USE - MAIN FLOOR - PRIVATE CLUB				

Finance Office Morgantown, WV 26505 (304) 284-7408



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU13-05
RECEIVED:	
COMPLETE:	

V. STRUCTURE

Proposed Setbacks: Front: _____ ft. Rear: _____ ft. Side A: _____ ft. Side B: _____ ft.

Proposed Height of Structure: _____ No. of Proposed Off-Street Parking Spaces: _____

No. of Dwelling Units (if applicable): 4 No. of Bedrooms: 4 No. of Employees: 4

Square Footage of all Proposed Structures (please explain): MAIN FLOOR = 42' x 27' = 1134 SF
The Basement AND 2 FLOORS OF APARTMENTS ARE THE SAME SIZE
With respect to Adding divider WALLS AND DOORS.

VI. SITE PLAN

A Site Plan (8 copies), drawn to scale, that includes the following elements must accompany the application if not provided above in Sections IV and V:

- (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia.
- (b) The exact sizes and locations on the lot of existing structures, if any;
- (c) The location, square footage, and dimensions of the proposed structure or alteration;
- (d) The location of the lot with respect to adjacent rights-of-way;
- (e) The existing and proposed uses of the structure and land;
- (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
- (g) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (h) Height of structure;
- (i) Setbacks;
- (j) Buffer yard and screening, if applicable;
- (k) Location of garbage collection area and screening;
- (l) Location of existing and/or proposed signs, if applicable;
- (m) Roadway typical detail for internal roadways, if applicable;
- (n) Location and size of stormwater management facilities; and,
- (o) Utility lines and easements, if applicable.



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COMPLETE:	_____

VII. SUPPLEMENTAL PLANS AND EXHIBITS

Applicants **MUST** also submit the following plans and exhibits, unless waived by the Planning Director:

- (a) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer licensed by the State of West Virginia, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets.
- (b) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer licensed by the State of West Virginia that meet the requirements of the City Zoning Ordinance, the City Stormwater Management Ordinance, and all other applicable local, state and federal regulations.
- (c) Parking and Landscaping Plan
- (d) Sign Plan
- (e) Approved WV Division of Highways Access Permit, if applicable
- (f) Sediment and erosion control plan as approved by the West Virginia Department of Environment Protection and the City of Morgantown
- (g) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable
- (h) A traffic impact study, if required by the City Engineer
- (i) The Planning Director may require the applicant to submit additional information concerning the lot or neighboring lots to determine conformance with, and provide for the enforcement of, the City Zoning Ordinance.
- (j) The Planning Director may require the applicant to submit, in the case of accessory structures or minor additions, dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey prepared a registered design professional licensed by the State of West Virginia.

Applicants submitting a conditional use application in accordance with Article 313.05 "Building Height and Use" within the B-4 General Business District **MUST** also submit the following analyses:

- (a) An air flow analysis conducted by a licensed architect or profession engineer, describing the estimated impact of the proposed building on existing patterns of air flow in the general vicinity; and how those impacts may affect existing properties with a 300 foot radius of the site.
- (b) An analysis of the impacts of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.
- (c) An analysis of the potential of "stepping back" upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize the canyon effect of non-recess tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.
- (d) An infrastructure and traffic analysis predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city. Such analysis shall be conducted by a licensed architect or professional engineer.



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COMPLETE:	_____

VIII. FINDINGS OF FACT

The Board of Zoning Appeals may grant the request only if each of the Conditional Use Findings of Fact Criteria is determined to be in the positive. Applicants must give their own responses to the criteria statements provided below.

This Conditional Use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because,

1. Congestion in the streets is not increased, in that:

THE MAIN STREET IS MORE THAN 15 FEET FROM BUILDING SO IN THE EVENT OF A SMALL LINE AT CAPACITY, GUESTS WOULD BE OFF OF PUBLIC SIDE WALK AND CONTROLLED BY A TRAINED STAFF.

2. Safety from fire, panic, and other danger is not jeopardized, in that:

IF THERE WAS A FIRE, ELECTRIC DISRUPTION, ETC. THERE IS AMPLE SPACE FOR A TRAINED EVACUATION FOR GUESTS TO GO OUT SIDE AND BACK OF PROPERTY

3. Provision of adequate light and air is not disturbed, in that:

CURRENT LIGHTING IS DARK IN FRONT AND SIDE AND WOULD BE IMPROVED BY UPGRADING. AIR WOULD NOT BE DISTURBED DUE TO NO OUTSIDE MUSIC AREA.

4. Overcrowding of land does not result, in that:

NO OVERCROWDING, BUT AN INCREASE IN FOOT TRAFFIC BUT CONTROLLABLE.

5. Undue congestion of population is not created, in that:

POPULATION WOULD STAY AS 4 PEOPLE LIVING IN 4 APARTMENTS.



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

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VIII. FINDINGS OF FACT (cont.)

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

NO IT WILL NOT.

7. Value of buildings will be conserved, in that:

VALUE WILL BE INCREASED AND IMPROVED

8. The most appropriate use of land is encouraged, in that:

PROPERTY WILL CONTINUE TO BE APARTMENT RENTAL AND FIRST FLOOR COMMERCIAL BUSINESS RENTAL.

IX. ATTEST

I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.

GEORGE VROOMAN

George Vrooman

Feb. 27, 2013

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

- Conditional Use Petition Fee of \$75 must accompany application

CW13-05

- THE SQUARE FOOTAGE OF 263 BEECHURST.
- Ⓐ MAIN FLOOR MEASURES $42' \times 27' = 1134 \text{ sq. ft.}$
- Ⓑ THE BASEMENT, THE SECOND FLOOR, AND THE THIRD FLOOR WOULD BE IN THE AREA OF 4540 sq. ft. TOTAL FOR THE ENTIRE BUILDING.

THE SECOND AND THIRD FLOORS CONTAIN 4 APARTMENTS. EACH APARTMENT HAS ONE BEDROOM. A TOTAL OF 4 PEOPLE WOULD BE LIVING IN THIS RESIDENCE.

THE FIRE CODE FOR MULTISPACE ON UNIVERSITY AVE WAS 88 ppl INCLUDING EMPLOYEES. THE SQ. FOOTAGE OF PREVIOUS ADDRESS WAS: 880 sq. ft. WHICH IS 250 sq. ft. LESS THAN 263 BEECHURST.

THE TOTAL NUMBER OF EMPLOYEES PRESENT DURING BUSIEST SHIFT WOULD BE FIVE (5). WHICH WOULD MAKE CAPACITY 83.

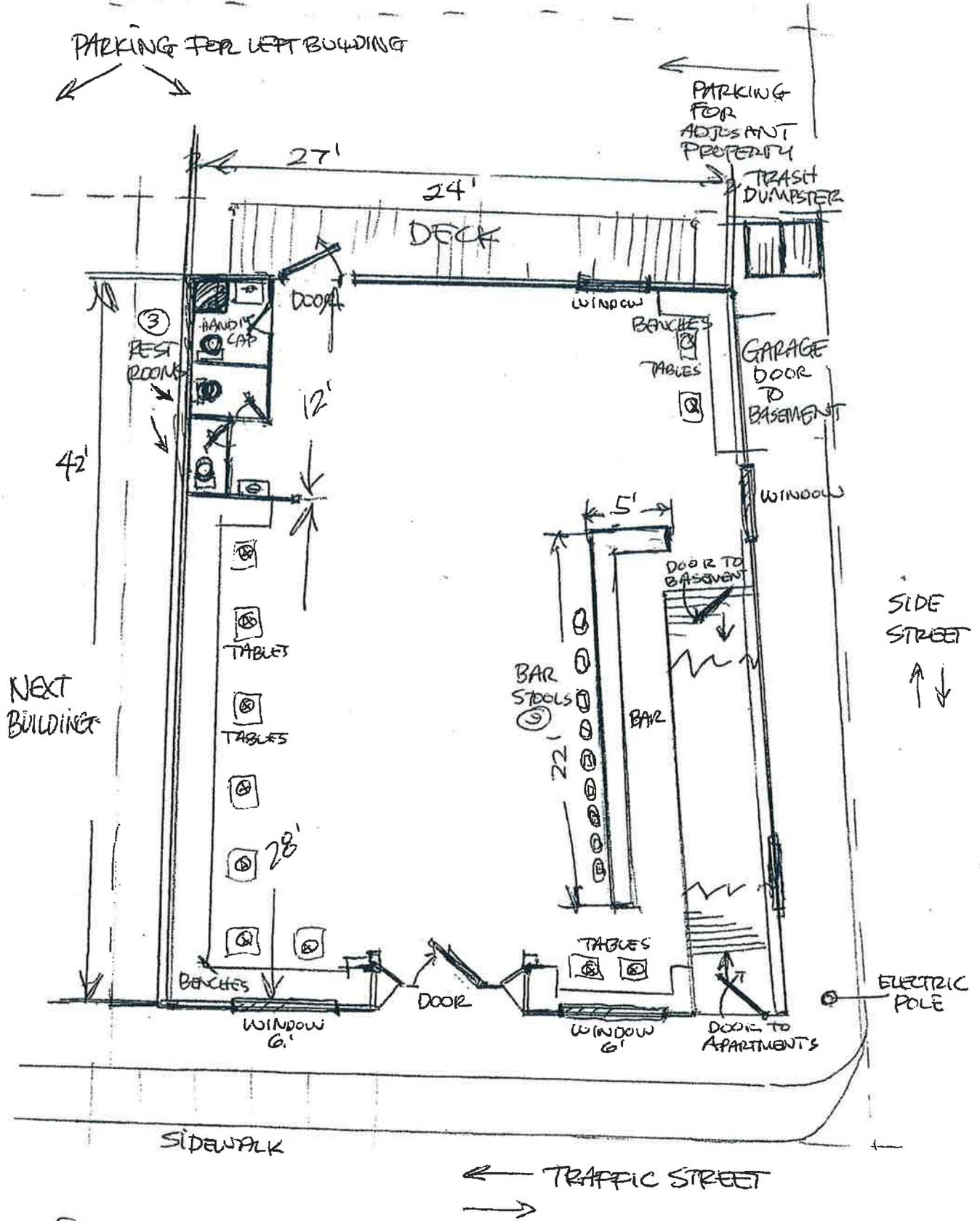
THE DUMPSTER FOR TRASH IS LOCATED AT THE RIGHT CORNER OF THE BUILDING. THE SIDE STREET PROVIDES AMPLE SPACE FOR TRUCK TO LOAD AND UNLOAD TRASH.

263 BEECHURST AVE

CU13-05

THE PARKING:

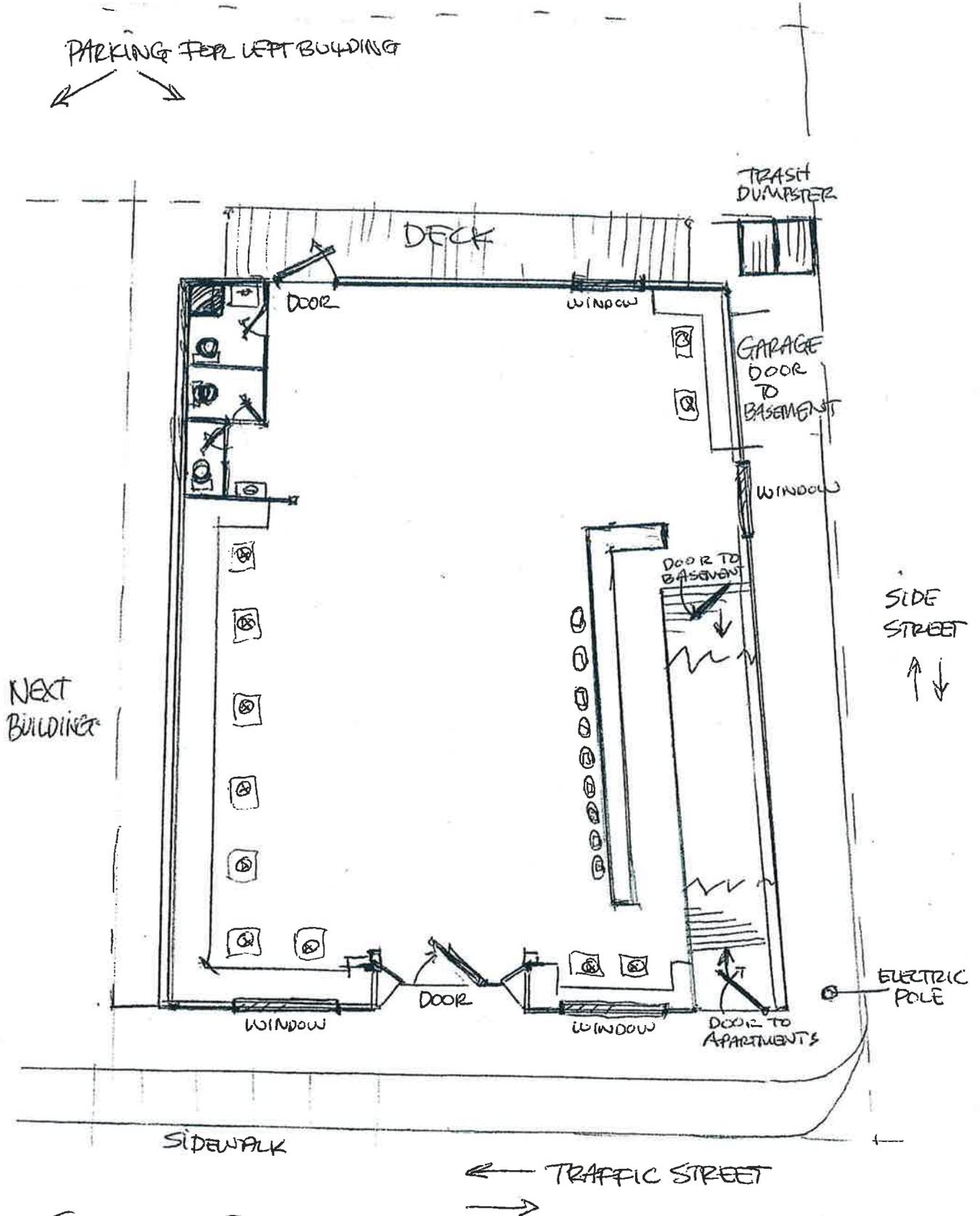
THERE IS FREE PARKING ACROSS STREET GOING UP 3RD STREET. TWO BLOCKS UP ON UNIVERSITY IS THE PAID PARKING LOT THAT ALSO ALLOWS FREE PARKING FROM 7pm FRIDAY TO 7AM MONDAY. MURKIN PLACE USED THIS LOT AS WELL AS TWO SPOTS LOCATED BEHIND BUILDING. THERE ARE TWO SPOTS LOCATED ON SIDE STREET OF BUILDING FACING RIGHT SIDE. THERE ARE TEN SPOTS BEHIND BUILDING UNDER P.R.T SYSTEM WITH NO SIGNAGE OF TOWING. MOST OF OUR CUSTOMERS WERE WALK-INS FROM RESIDENTS OF THE SUNNYSIDE AREA.



[8FT = 1 INCH]

263 BEECHURST AVE

CUB-05



[8FT = 1INCH.]

263 BEECHURST AVE

CU13-05

Subject: Conditional Use Application
From: Christopher Fletcher (cfletcher@cityofmorgantown.org)
To: gvrooman13@yahoo.com;
Date: Tuesday, October 23, 2012 11:08 AM

Mr. Vrooman:

To follow up on our telephone conversation this morning, I have attached a conditional use application. Conditional Use petitions are reviewed and approved by the BZA. Based on our discussion, I understand that you are actively pursuing another location for Mutt's Place currently located at 2129 University Avenue. As discussed, the specific location of the contemplated new site will dictate the type of approvals that may be required. The next available BZA hearing is Wednesday, December 19, 2012. The deadline to submit a complete conditional use application, required exhibits, and fee for the December 19th hearing is November 9, 2012.

The conditional use application will need to be accompanied by a scaled drawing of the new site's interior layout including table/seating arrangement; number of occupants (Fire Department will be able to assist in determining occupant load); menu (if applicable); site plan showing number of available/proposed parking spaces; square footage of patron area and number of employees present during busiest shift. I may need additional information once I have reviewed your application.

The "Findings of Fact" can be the most challenging element of the conditional use application. When preparing your responses, please write in third person as if the BZA is responding to the findings.

Please review the attachment carefully and contact me with any additional questions or further clarification. We look forward to serving your planning and development approval needs.

Respectfully,

Christopher M. Fletcher, AICP
Director of Development Services
389 Spruce Street
Morgantown, WV 26505
(o) 304-284-7413
(f) 304-284-7534
(c) 304-906-7843
cfletcher@cityofmorgantown.org

Chris, I apologize for the handwritten pages no excuse: Laptop problems. Please call with any questions

GEORGE VROOMAN - 304.685.9550

Zimbra

cfletcher@cityofmorgantown.org

CU13-05/263 Beechurst Avenue "Mutts Place"

From : decorwin@aol.com

Fri, Mar 08, 2013 01:35 PM

Subject : CU13-05/263 Beechurst Avenue "Mutts Place" 1 attachment**To** : cfletcher@cityofmorgantown.org

Chris,

Please see my write up in response to the Conditional Use application. To date, I have contacted two adjacent property owners, Mr Vincent Bartling (owns 257 building right next door) and Mr John Rice (owns 256 Beechurst Ave immediately across the street). They have reviewed this document and are in support of this position.

There are some inaccurate statements in the application that was submitted to you by the applicant . I have addressed these in my write up. A site visit may be appropriate if you have time. Let me know if you need further information.

Have a good weekend.

Don
Don E. Corwin
General Manager
WinCor Properties LLC
wincorproperties.com
304-292-0400

 **265_Mutts_Place.docx**
17 KB

March 8, 2013

Mr Chris Fletcher
City of Morgantown
Planning Manager

Re: CU13-05 "Mutts Place"- 265 Beechurst Avenue - Application for Conditional Use

Mr. Fletcher,

Adjacent property owners believe that the Board of Zoning Appeals must deny the request for Conditional Use "Private Club" made by the applicant at 263 Beechurst Avenue. The granting of this request will create serious traffic/parking/congestion issues and the location of a "bar" in this location is wholly inconsistent with the character and ongoing development of this neighborhood.

Discussion: The applicant wishes to relocate "Mutts Place" from its previous location on University Avenue to a location in an existing building on Beechurst Avenue. Mutts was a longstanding club (bar) with origins back to the days when Sunnyside had a vibrant bar and restaurant scene. The purchase of this property by WVU and subsequent development plans has necessitated that Mutts close down at that location.

The proposed new location is at the corner of 3rd Street and Beechurst Avenue in a B2 zone. Many of the older homes and buildings in this area have been razed to make room for new development. Others have been rehabilitated or are in the process of being upgraded. This area has undergone a dramatic transformation in recent years with major construction and revitalization. These include Beechview Project, Wiser Development (Ashebrook and apartments) among others. WinCor Properties is also heavily vested in this area with the relocation of their office location to 251 Beechurst. Higher density and better quality housing continue to improve the neighborhood. Allowing Mutts Place to relocate a bar to this location is not consistent with the growth and character of this area.

The issue of parking is the most important as this location has zero parking lots/spaces associated with the property. The building is bordered by Beechurst Avenue, Third Street, and an apartment building with parking lot on the rear and south. The nearest on-street parking is on 3rd street, across Beechurst Avenue, a main transportation artery which has a high volume of traffic. The 3rd street spots are small in number, less than 5 up to McLane, and used by Residents of the area. They are rarely open for visitor use. More importantly, all surrounding businesses are required to provide parking for their patrons. It would be inevitable for patrons of Mutts to attempt to use spaces designated for other businesses. This will certainly impact those businesses and increase the volume of towing and associated problems.

To our knowledge, Applicant has made no request to the BZA for an Off Site Parking Variance. On this basis alone, the application should lack significant merit.

This B2 zone is not the most suitable for locating a bar which serves alcoholic beverages. This type of establishment is much more suited in B4 zone, such as the High Street area, adjacent to similar establishments. This would also permit greater oversight and management of the inevitable problems and crimes associated with such businesses as Police and other public safety officials more closely patrol, inspect, and monitor these areas.

The Board should also consider the suitability of the building when considering this request. Historically, the building has served the neighborhood as a small grocery store, appliance store in addition to the apartment units upstairs. In recent years, the building has not been maintained to the standard of other buildings in the area. One must consider how allowing such a "private club" would enhance and improve the character of this building and be consistent with the major capital improvements of adjacent buildings.

Application for Type IV Site Plan- Findings of Fact

1. Congestion: Congestion in the area would be significantly increased as this building/location provides no parking. Additional burden would be placed on very limited off street parking spaces in the surrounding area. Surrounding parking lots will be forced to more aggressively monitor and tow from their parking lots.
2. Safety: This building has no means of egress to the rear. In the event of fire or other emergency that blocks the front egress point, patrons would be forced to exit the rear and jump approximately 10 ft to the ground below. This issue would be better addressed by Code Enforcement and the Fire Marshall.
 - 2a. Pedestrians attempting to access this location from any on-street parking location will be forced to cross Beechurst Avenue at an unmarked intersection. This intersection does not have high quality lighting and traffic passes through at high rates of speed. Patrons safety would be at risk, especially at night and where said patrons would be impaired.
3. Provision of adequate light and air: Limited lighting exists on the streets and sidewalks. As this will be a no-smoking establishment by County Ordinance, smoking patrons will be forced to go outside and smoke on public or private property. Adjacent buildings will be subjected to secondary cigarette smoke.
4. Overcrowding of Land: The location has no associated parking lots. Patrons will be forced to limited on-street parking spaces which will limit their use by Residents of the area. When on-street spaces are not available, patrons will park in adjacent lots reserved for customers of other establishments. Aggressive towing will be necessary and the problems associated with these actions will be significant. .
5. Undue congestion of population: Congestion of patrons and vehicles will be significant in a building/area not designed for this use. The space is relatively small and is adjacent to Residential

apartment buildings. Inebriated patrons and their inevitable actions can impact the quality of life of adjacent Residents. Crowding of sidewalk is a serious concern as there is less than 15 ft to Beechurst Avenue and the condition of the sidewalk is very poor.

6. Inadequate provision of transportation, water, sewage, schools, parks: Granting this request would be in effect, the granting of a parking variance. This is in direct contrast to all surrounding establishments in the B2 zone. Every other surrounding business is currently providing parking to their patrons. This establishment would not provide parking. Other applicants would then look to this precedent to establish similar businesses under the same requirements.
7. Value of Buildings: Allowing a bar to operate in the neighborhood will certainly not enhance property values and some decrease may actually occur.
8. The most appropriate use of land: The building and property was never intended to be used for this purpose and the site is not designed to handle parking for such a high impact business. With the surrounding development, there are certainly substantially better uses for this space that will have a positive, not negative, impact on the community.

Notes from Application – Site Plan

The following are some inaccurate statements contained in the notes attached to the application:

Applicant states there is *“free parking across the street”*. There are approximately 6 on-street parking spaces between Beechurst and McLane Avenues. These are primarily used by Residents and are rarely, if ever accessible for customers of area businesses.

Applicant states there is a *“paid parking lot two blocks up on University Avenue”*. This is not correct. There is no paid parking lot on University Avenue to our knowledge. The nearest paid/metered parking spaces are on Grant Avenue in front of Summit Hall, approximately 1500 ft from the location.

Applicant states that there are *“two spots behind the building”*. This is not correct. There are no spaces behind or adjacent to the building. The spaces behind the building are assigned to the Tenants living at 257 Beechurst which is not connected or owned by the same party. There is no available space next to the building for parking.

Applicant states there are *“ten spots under the PRT”*. This area is an unpaved, dirt lot that is often used for parking, however it is a part of the *“Rails to Trails”* property leased to the RTT Authority from the Baltimore and Ohio Railroad and is not a parking area regulated or maintained by the Morgantown Parking Authority.

Applicant states *“most of our customers are walk-ins”*, but fails to quantify how many would walk and how many would drive. A canvas of adjacent businesses including the Lavender Café and Papa Johns

indicate less than 5% of their business is walk up. This is not a neighborhood that supports significant volume of "walk up" business.