



# MORGANTOWN BOARD OF ZONING APPEALS

September 16, 2015  
6:30 PM  
City Council Chambers

**Board Members:**

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

## **COMBINED STAFF REPORT**

**CASE NOS:** CU15-10 / V15-53, V15-57 thru V15-60  
M & J Property Holdings, LLC / 453 Oakland Street

**REQUEST and LOCATION:**

Request by Mark J. Nesselroad, on behalf of M & J Property Holdings, LLC, for the following approvals related to a proposed nonresidential development at 453 Oakland Street.

- CU15-10 ..... Condition use approval concerning off-site parking facilities.
- V15-58 ..... Variance relief as it relates to proposed location of parking spaces.
- V15-53 ..... Variance relief from requisite setback standards.
- V15-60 ..... Variance relief from landscape buffer (parking) standards.
- V15-59 ..... Variance relief from dumpster enclosure location standard.
- V15-57 ..... Variance relief from cladding and window materials and fenestration ratio standards.

**TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 11, Parcel 83; B-1, Neighborhood Business District

**SURROUNDING ZONING:**

North: B-2, Service Business District  
South: R-3, Multi-Family Residential District  
East: R-1, Single-Family Residential District  
West: B-1, Neighborhood Business District

**BACKGROUND and ANALYSIS:**

The petitioner seeks to construct a nonresidential two-story building with a building footprint area of 4,838 square feet and a total gross floor area (GFA) of 9,676 square feet. Addendum A of this report illustrates the location of the subject site.

Staff understands the developer is considering a combination of some of the following land uses, based on market interest, within the proposed nonresidential building:

- Neighborhood Convenience Store
- Personal Services Establishment
- Snack Bar / Snack Shop
- Barber Shop / Beauty Salon
- Retail Sales Establishment
- Restaurant

**Planning Department**

Christopher Fletcher, AICP  
Planning Director  
389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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The developer's design professional noted during the 08 SEP 2015 Technical Review Team meeting that the proposed building and its design are intended to be consistent with the architectural style of the neighboring University Park Apartments complex.

Minimum parking calculations can only be estimated until specific land uses are determined.

The following list summarizes requisite conditional use and variance approvals for the petitioner's development as proposed.

### **Case No. CU15-10** Off-Site Parking Facilities

Article 1365.07 provides that conditional use approval is required for "Off-Site Parking Facilities." The proposed site plan provides for the development and/or use of approximately 28 parking spaces on adjoining realty owned by West Virginia University with access to additional spaces within the existing WVU parking lot should additional spaces be needed once specific nonresidential occupants are identified and minimum parking requirements determined.

The petitioner has submitted two (2) letters of intent from Narvel G. Weese, Vice President for Administration and Finance, West Virginia University affirming the University's commitment to grant an encumbrance to M & J Property Holdings, LLC, by easement or similar agreement, for the purpose of establishing parking and other accessory uses for the anticipated life of the proposed building.

### **Case No. V15-58** Proposed location of parking spaces

Article 1345.06(C) provides that no parking spaces within the B-1 District may be permitted between the front façade of a building and any street right-of-way. The proposed site plan illustrates parking spaces between the proposed building and the City's public right-of-way for Oakland Street and the private street named University Park Drive. The location of the proposed parking spaces requires variance relief.

### **Case No. V15-53** Setbacks

The following table identifies the setback standards, proposed setbacks, and requisite variance relief for the development as proposed.

Setback Provision	Standard	Proposed	Requisite Variance
Article 1345.04(A)(2) Max. Front	12 ft.	46' – 3 1/8"	34' – 3 1/8"
Article 1345.04(A)(5) Min. Rear	20 ft.	0 ft.	20 ft.
Article 1367.07 Bufferyard	10 ft.	0 ft.	10 ft.

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### **Case No. V15-60** Landscape Buffer (parking)

Article 1367.08(C)(1) provides that a ten-foot wide buffer be developed the length of any parking area abutting the street when parking is provided between the building and street. The proposed site plan illustrates a landscape buffer width of six (6) feet, which requires variance relief. Additionally, variance relief is required from the minimum plant material standards so that the majority of the planned landscape buffer can also serve as a bioswale stormwater facility to remove silt and pollution from runoff water as a Morgantown Utility Board preferred stormwater management practice. Specifically, the approved street tree and shrub list provided in Table 1367.11.01 does not include an extension list of plant materials tolerant of moist soils characteristic of bioswale facilities.

Variance relief is also required from Article 1367.07(A), which requires a ten (10) foot wide planted area buffering the proposed nonresidential use from the adjoining *Pierpont Apartments* residential use.

### **Case No. V15-59** Location of dumpster enclosure

Article 1367.06(E) provides minimum screening standards for trash dumpsters. Because the proposed dumpster enclosure is located on the adjoining realty owned by West Virginia University and not on the petitioner's development site, variance relief appears necessary.

### **Case No. V15-57** Cladding and window materials and fenestration ratio standards

Article 1345.07(C)(1) requires walls to be clad in any combination of stone, brick, stucco, marble, or wood. The petitioner seeks to use cementitious and brick and/or stone veneer materials, which requires variance relief.

Article 1345.07(D)(1) requires the heavier wall material to not extend above the first floor when two wall materials are combined horizontally on one façade. The petitioner's proposed architectural design requires variance relief.

Article 1345.07(D)(3) prohibits street level windows from being tinted. The petitioner seeks variance relief so that energy efficient windows, which normally include some level of tinting, can be used.

Article 1345.07(D)(5) provides a minimum front façade fenestration ratio of at least sixty (60) percent. It appears the proposed fenestration ratio for the front façade, illustrated as the East elevation on Sheet 3b, is approximately 44%, which requires variance relief.

Staff recommends that the Board, without objection from members of the Board, the petitioner, or the public, combine the public hearings for the one (1) conditional use petition and five (5) variance petitions addressed herein. However, each respective petition must be considered and acted upon by the Board separately.

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## **STAFF RECOMMENDATION:**

The Board of Zoning Appeals must determine whether the proposed requests meet the standard criteria for a conditional use and variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant. Again, each respective conditional use and variance petition must be considered and acted upon by the Board separately.

Staff offers no recommended revisions to the petitioner's findings of fact provided for each of the subject petitions.

### **Case No. CU15-10** Off-Site Parking Facilities

Staff recommends the following conditions be included in approving the conditional off-site parking facility under Case No. CU15-10.

1. That, prior to building permit issuance for the construction, the off-site parking facilities shall be encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the off-site 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 with the Planning Division and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia. Additionally, the number of off-site parking spaces encumbered may not be less than the minimum number of spaces required for the use(s) that occupy the proposed two-story nonresidential building as set forth under Article 1345.06(A) of the Planning and Zoning Code.
2. With the exception of related landscaping and screening requirements, all requisite on-site and off-site parking spaces shall be designed, improved, paved, and striped in accordance with Article 1365.09 "Parking Development Standards" and lighting facilities developed in accordance with Article 1371.

### **Case No. V15-58** Proposed location of parking spaces

Staff offers no recommended conditions for Case No. V15-58.

### **Case No. V15-53** Setbacks

Staff offers no recommended conditions for Case No. V15-53.

### **Case No. V15-60** Landscape Buffer (parking)

Staff recommends the following conditions be included in granting variance relief under Case No. V15-60.

1. That, prior to building permit issuance for the construction, the proposed landscape buffer area shall be encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the landscape buffer is located is encumbered by the landscape use. Said instrument shall specify and bind the time period to the anticipated life of the

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building or use to which the landscape buffer area is accessory. Said instrument shall be filed with the Planning Division and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia.

2. The petitioner shall work with the Planning Division and the Morgantown Utility Board in planning the most appropriate plant materials within the requisite landscape buffer area considering above and below ground utilities that may be present and the best bioswale design practices.

### **Case No. V15-59** Location of dumpster enclosure

Staff recommends the following conditions be included in granting variance relief under Case No. V15-59.

1. That, prior to building permit issuance for the construction, the proposed trash enclosure facility location shall be encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the trash enclosure is located is encumbered by the trash enclosure use. Said instrument shall specify and bind the time period to the anticipated life of the building or use to which the trash enclosure is accessory. Said instrument shall be filed with the Planning Division and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia.
2. That the trash enclosure shall be constructed with masonry materials to a height of no less than six (6) feet and design so that it integrates with and compliments the architectural vocabulary of the West Virginia University Erickson Alumni Center building. Additionally, the masonry enclosure must include an opaque access gate(s).

### **Case No. V15-57** Cladding and window materials and fenestration ratio standards

Staff offers no recommended conditions for Case No. V15-53.

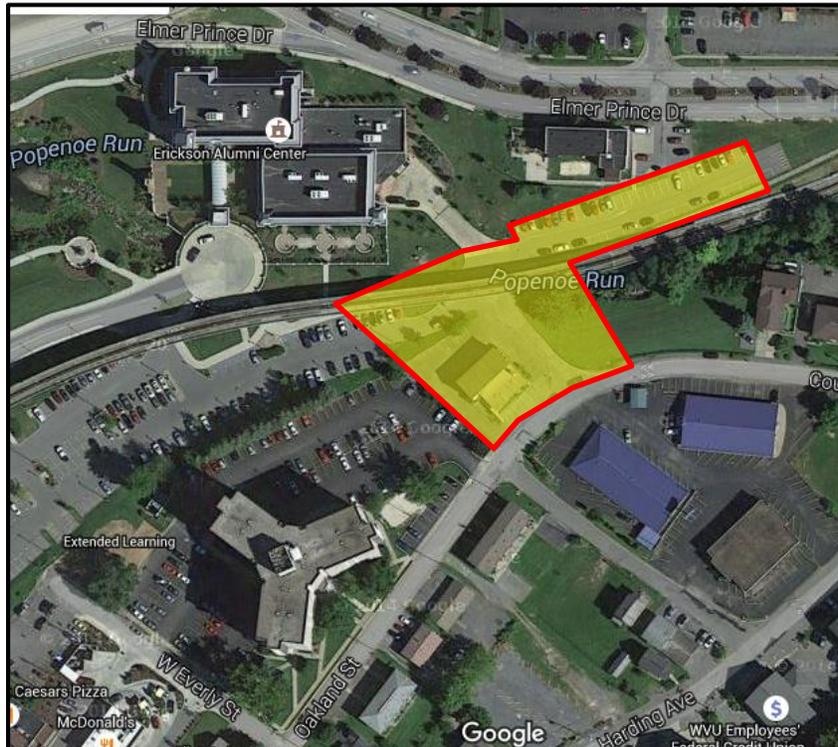
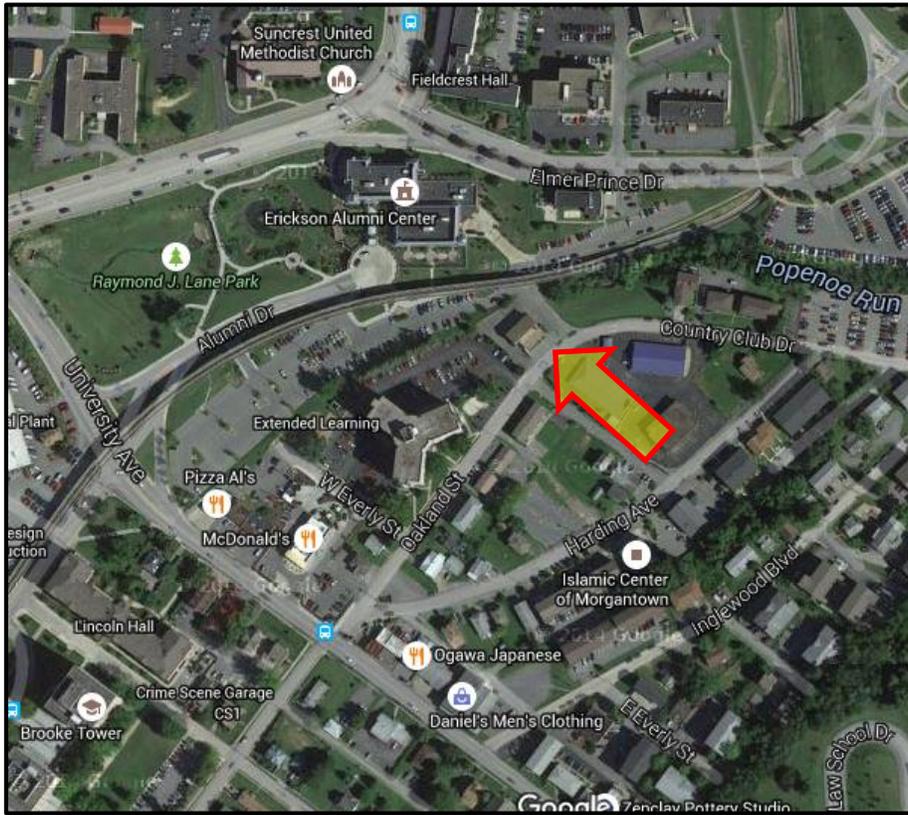
Attachments: Applications, drawings, and enclosures noted above.

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# STAFF REPORT ADDENDUM A

CU15-10, V15-53 & V15-57 thru V15-60 / M & J Property Holdings, LLC / Oakland Street







City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN - CONDITIONAL USE

CLC 1132  
75.00

OFFICE USE	
CASE NO.	CU15-10
RECEIVED:	
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

PAID BY: AUG 27 2015

I. APPLICANT

Name:	M&J Property Holdings, LLC	Phone:	304-599-3369
Mailing Address:	6 Canyon Road, Suite 300	Mobile:	
	Morgantown, WV 26508	Email:	mjnesselroade@glennmarkholdings.com
	City State Zip		

II. AGENT / CONTACT INFORMATION

Name:	M&J Property Holdings, LLC	Phone:	304-599-3369
Mailing Address:	6 Canyon Road, Suite 300	Mobile:	
	Morgantown WV 26508	Email:	mjnesselroade@glennmarkholding.com
	City State Zip		

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

III. PROPERTY

Owner:	M&J Property Holdings, LLC (lessee) WVU (Lessor)	Phone:	304-599-3369
Mailing Address:	6 Canyon Road, Suite 300	Mobile:	
	Morgantown WV 26508	Email:	mjnesselroade@glennmarkholding.com
	City State Zip		

IV. SITE

Street Address (if assigned):		Tax Map #:	11	Parcel #:	part of 74	
Zoning:	B-2					
Lot Dimensions:	Width:	Ft.	Depth:	Ft.	Square Footage:	ft. <sup>2</sup>
Shape of Lot:	<input checked="" type="checkbox"/> Corner	<input type="checkbox"/> Interior	<input checked="" type="checkbox"/> Through	<input type="checkbox"/> Flag	<input checked="" type="checkbox"/> Irregular	<input type="checkbox"/> Non-conforming
Existing Use of Structure or Land:	Parking					
Proposed Use of Structure of Land:	13 on-site adjacent pkg spaces, 31 existing pkg spaces, 15 new pkg spaces in existing lot For the benefit of 453 Oakland Street					



APPLICATION FOR TYPE IV SITE PLAN - CONDITIONAL USE

OFFICE USE
CASE NO. CU15-10
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COMPLETE:

V. STRUCTURE

Proposed Setbacks: Front: 46'3" ft. Rear: 0'0" ft. Side A: 0'0" ft. Side B: 21'4"-22' ft.

Proposed Height of Structure: 37'4" No. of Proposed Off-Street Parking Spaces: 59

No. of Dwelling Units (if applicable): 0 No. of Bedrooms: 0 No. of Employees: ~3 convenience

Square Footage of all Proposed Structures (please explain): ~12 restaurant

Level 1: 4,838 gross SF (includes 4,158.4 SF tenant space)

Level 2: 5,141 gross SF (includes 4,184 SF tenant space + 359.5 SF balcony) (dining area estimate is 2271.75 SF)

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.

SF Convenience (4158.4/1000) x 3 = 12.5
3 employees x 1 = 3
SF Dining (2271.75/100) = 22.7
12 employees = 12
Required Parking = 50
Actual Parking = 65



**APPLICATION FOR  
TYPE IV SITE PLAN – CONDITIONAL USE**

<b>OFFICE USE</b>	
CASE NO.	<u>CU15-10</u>
RECEIVED:	_____
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.



**APPLICATION FOR  
TYPE IV SITE PLAN – CONDITIONAL USE**

OFFICE USE

CASE NO. CU15-10  
RECEIVED: \_\_\_\_\_  
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:**

Much of the parking already exists and does not create congestion. Much of the parking is an expansion of an already-existing parking lot. The parking is laid out appropriately with drive lanes, sidewalks, and landscaping. It will allow cars not to be parked in the street.

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

It is open air parking and allows for efficient traffic/pedestrian flow.

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

Occupants and customers of the adjacent 453 Oakland St building will utilize the parking.

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

The parking is laid out to include 13 spaces adjacent to the on-site parking, 31 already-existing spaces, and 15 spaces added to an existing parking lot.

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

The parking is efficiently laid out to connect w/ on-site parking, an expanded lot, and already-existing spaces in conjunction w/ drive lanes and sidewalks.



APPLICATION FOR TYPE IV SITE PLAN - CONDITIONAL USE

OFFICE USE	
CASE NO.	CW15-10
RECEIVED:	
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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:

It will provide sufficient parking to the businesses at 453 Oakland St.

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

The parking will be paved, and striped, connecting w/ sidewalks and landscaping, similar to parking areas on adjacent parcels.

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

It will provide parking for the businesses at 453 Oakland St., and much of it already exists or is an expansion of existing parking.

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.

M&S Property Holdings, LLC

Mark S. Nesselroad

[Handwritten Signature]

8/7/15

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

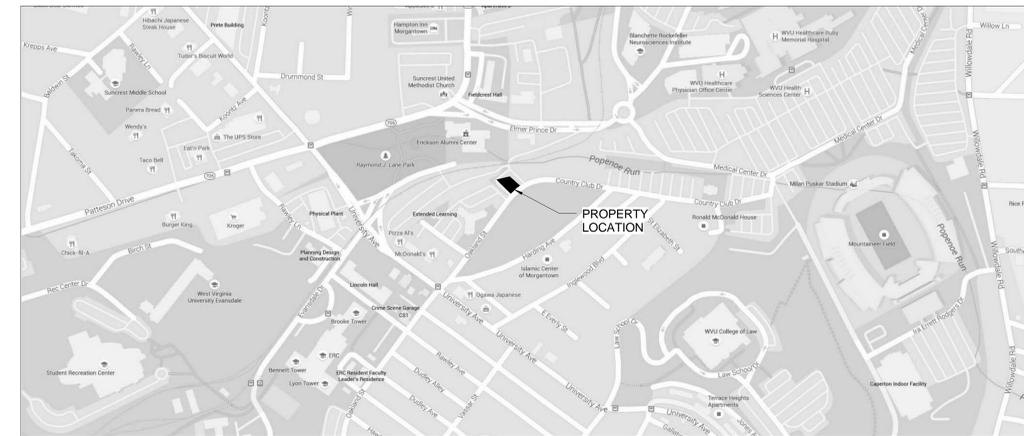
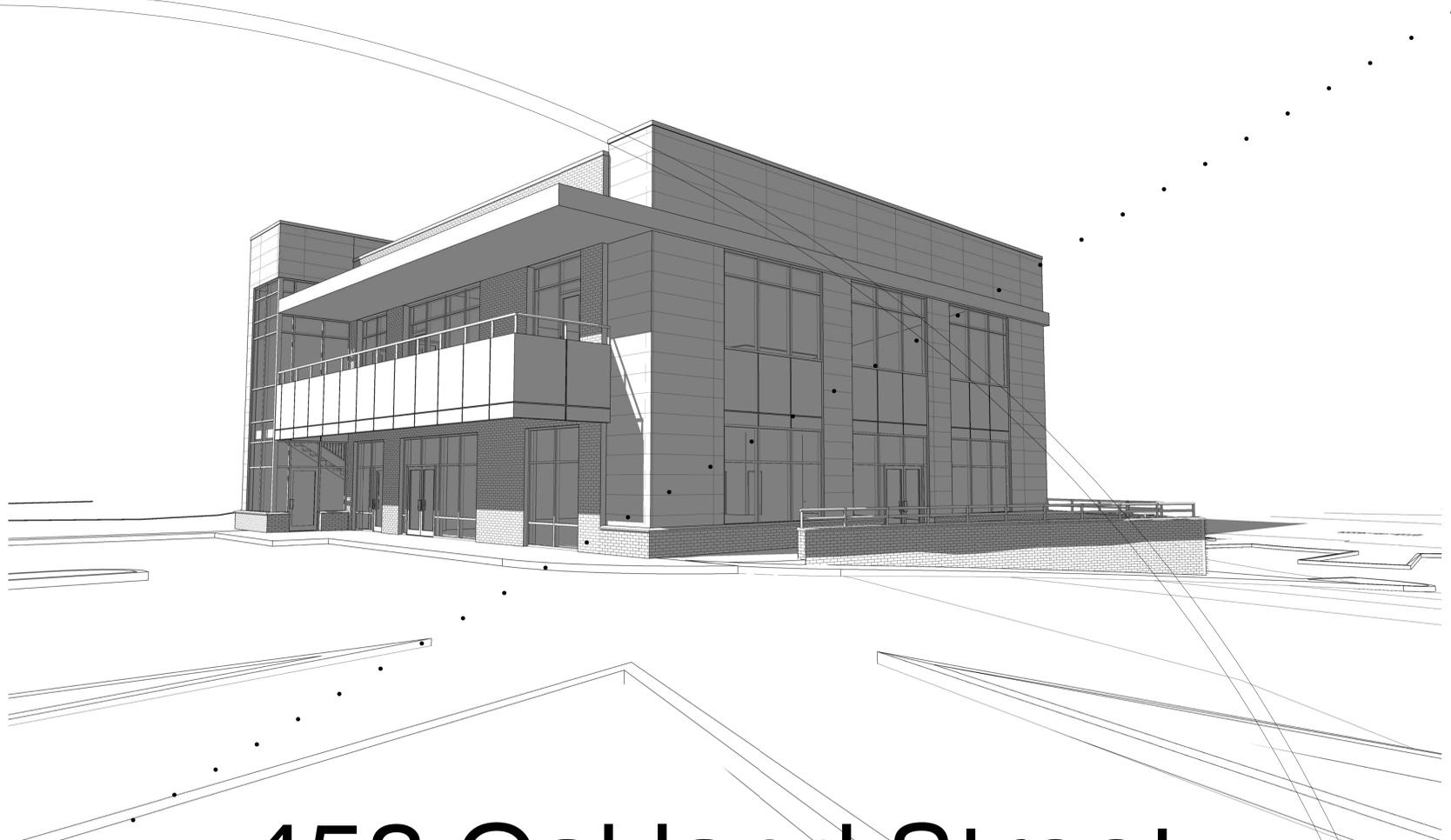
Date

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

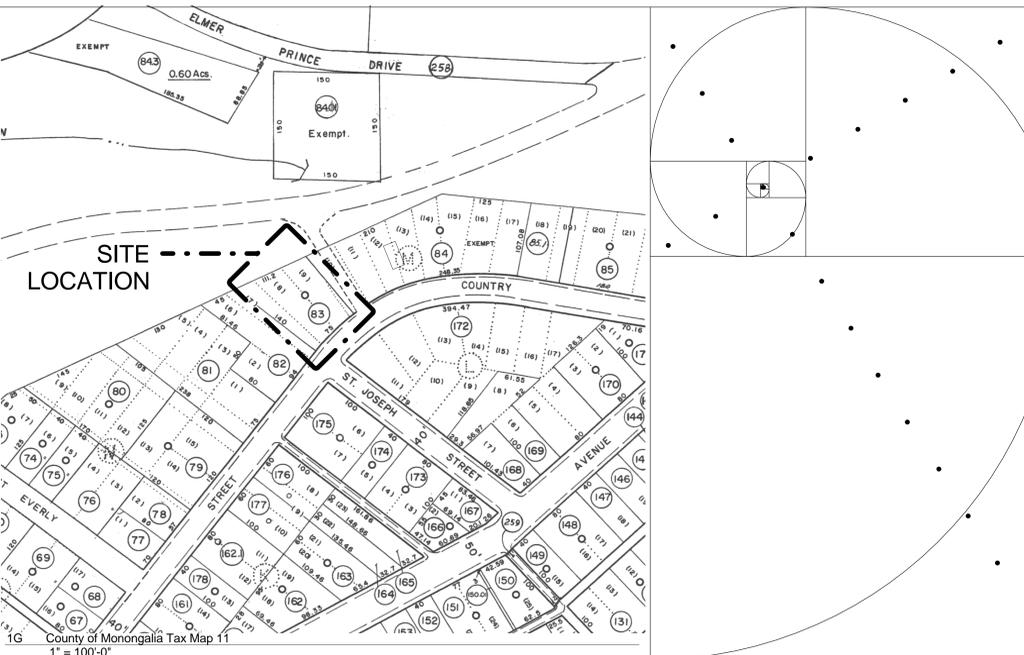
**Sheet Index**

Sheet No.	Sheet Name
SHT 1	Title Sheet
SHT 2	Existing Site Conditions (Property Survey)
SHT 3a	Proposed Site Information
SHT 3b	Proposed Building Information
SHT 5	Landscaping Plan

PROJECT INFORMATION	
<b>OWNER &amp; DEVELOPER:</b>	
M&J Property Holdings, LLC Contact: Mark J. Nesselroad 6 Canyon Road Suite 300 Morgantown, WV 26508 Tele: 304.599.3369	
<b>PREPARED BY:</b>	
The design professionals listed at the bottom of this sheet.	
<b>PROPERTY INFO:</b>	
Total Project Square Footage:	
Principle Property:	10,299.65 SF
<b>ZONING INFO:</b>	
References: Official Zoning Map: Morgantown Code 1331.01 (A) and 1361: B-1, Neighborhood Business District	
<b>PROPOSED PROPERTY USAGE:</b>	
One (1) 2-story nonresidential building with stairs and elevator access to each level.	
<b>BUILDING INFORMATION:</b>	
Existing building is a 2-story wood frame structure to be completely demolished. Existing structure size is approx. 2,450 SF.	New building will be a 2-story steel and metal stud structure. Proposed structure Gross Floor Area is as follows: 1st floor: 4,838 SF 2nd floor (inc. balcony): 5,141 SF Total Building GFA: 9,979 SF
<b>PROPOSED PROJECT DURATION:</b>	
Start Date:	October 2015
Completion Date:	July 2016



1D Vicinity Map  
1" = 400'-0"



1G County of Monongalia Tax Map 11  
1" = 100'-0"

# 453 Oakland Street

Morgantown, WV

## Planning & Zoning Submittal

Job Number: 1504

Date: AUG 7.2015



set no.

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PARADIGM ARCHITECTURE

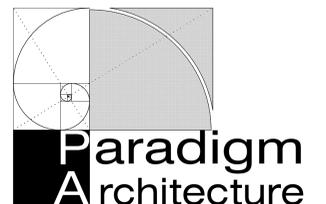
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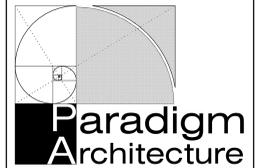
**ARCHITECT**  
**PARADIGM ARCHITECTURE**

2450 Valleydale Road · Suite 150  
Birmingham, AL 35244  
Tele 205-403-2742 205-403-2743 Fax

**CIVIL ENGINEER**  
**CTL ENGINEERING INC.**

733 Fairmont Road  
Morgantown, WV 26508  
Tele 304-284-5015 304-284-5014 Fax





2223 Cheat Road - Suite 300  
Morgantown, WV 26506  
tele 304-284-5015 904-284-5014 fax

2450 Valleydale Road - Suite 150  
Birmingham, AL 35244  
tele 205-403-2742 205-403-2743 fax



**GTL Engineering of West Virginia, Inc.**  
810 C Street  
Morgantown, WV 26505  
Phone: 304-284-1180  
Fax: 304-284-1180

CTEL & SITE PLANNING \* SURVEYING & MAPPING \* ENVIRONMENTAL ENGINEERING \* CONSTRUCTION OBSERVATION \* LABORATORY

**M & J PROPERTY HOLDINGS LLC**  
UNIVERSITY PARK ADDITION  
MORGANTOWN CORP. SEVENTH WARD, TAX MAP II, PARCEL B3  
**EXISTING CONDITIONS SURVEY**  
MONONGALIA COUNTY, MORGANTOWN, WEST VIRGINIA



Planning & Zoning  
Submittal

revisions:

REVISIONS	Date	Description	Approved

Drawn By: DB5
Approved By: PEG
Date: 01/06/2015
Scale: 1"=10'
Project No. 13100039MOR
Drawing Name PARCEL B3 TOPO.dwg
Sheet No. 1 of 1

453 Oakland Street  
Morgantown, WV

job number: 1504  
date: AUG 7.2015

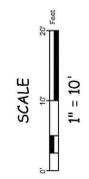
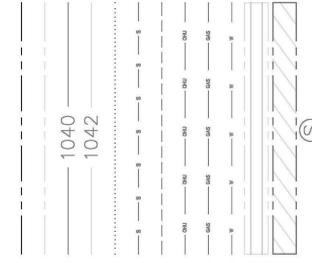
sheet title:  
Existing Site Conditions  
(Property Survey)

sheet number:  
**SHT 2**

drawn by: AEW  
checked by: PAW

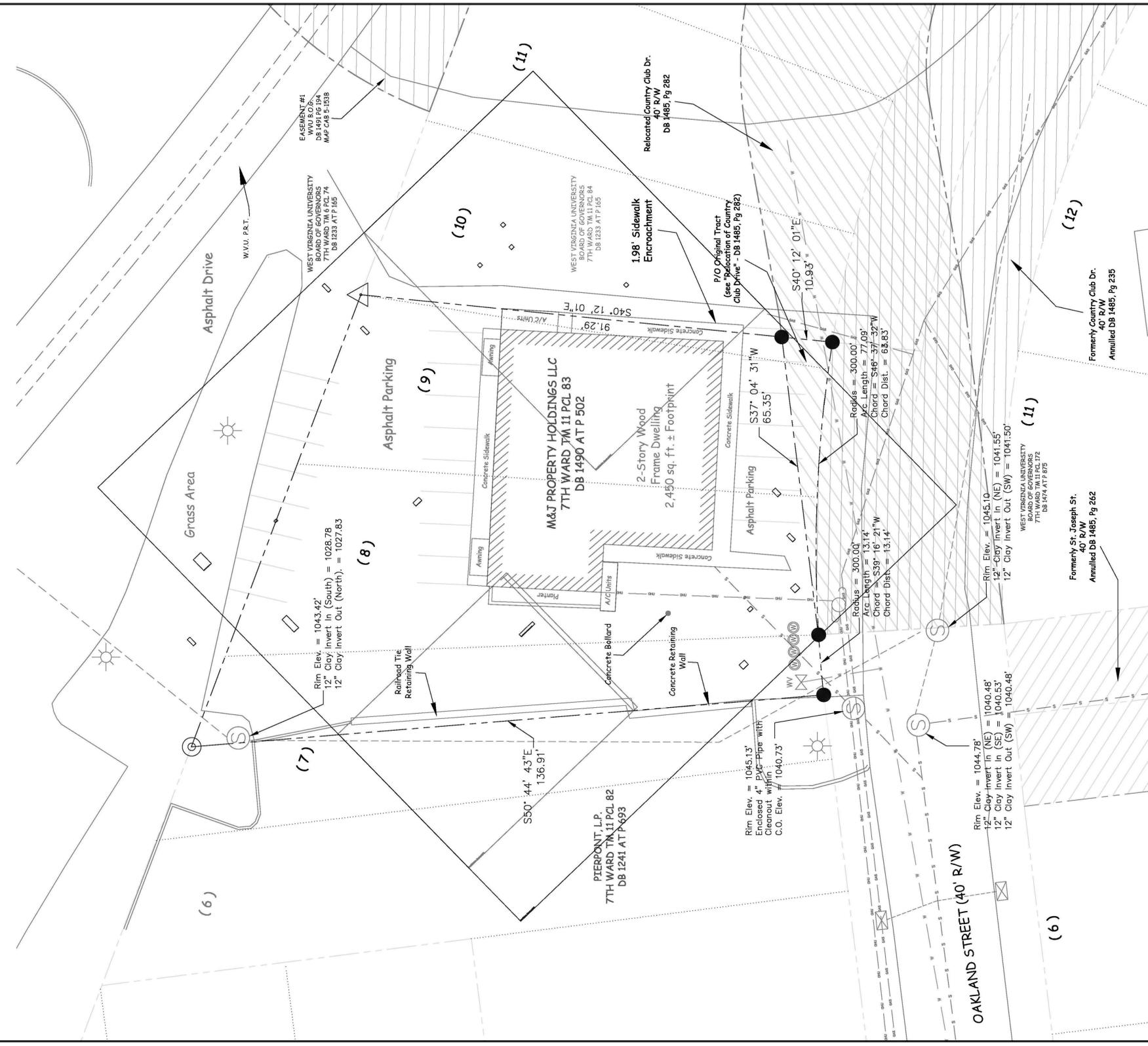
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Paradigm Architecture

- LEGEND**
- SUBJECT PROPERTY LINE
  - ADJACENT PROPERTY LINE
  - MAJOR CONTOUR LINE
  - MINOR CONTOUR LINE
  - SUBDIVISION LOT LINE
  - SANITARY SEWER LINE
  - STORM LINE
  - OVERHEAD UTILITY LINE
  - GAS LINE
  - WATER LINE
  - ANNULMENT OF COUNTRY CLUB DR.
  - RELOCATION OF COUNTRY CLUB DR.
  - SANITARY MANHOLE
  - POWER POLE
  - LIGHT POLE
  - WATER VALVE
  - WATER METER
  - MAGNETIC NAIL FOUND
  - 5/8" REBAR FOUND
  - POINT

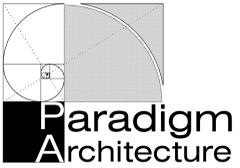


NOTE: Above ground utility lines and appurtenances are shown as located in the field and/or as reported by Morgantown Utility Board Mapping. Underground utilities and appurtenances are approximate only. Their location derived from surface location and information from Morgantown Utility Board Mapping. Call Miss Utility prior to any construction.

And being part of the same real estate conveyed to West Virginia University Board of Governors on behalf of West Virginia University, an agency and higher education institution of the State of West Virginia, by deed dated February 21, 2013, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1474, at Page 875.



13H  
Property Survey  
1" = 10'-0"



2223 Cheat Road - Suite 300  
Morgantown, WV 26508  
tele 304-284-5015 304-284-5014 fax

2450 Valleydale Road - Suite 150  
Birmingham, AL 35244  
tele 205-403-2742 205-403-2743 fax



Planning & Zoning  
Submittal

revisions:

453 Oakland  
Street  
Morgantown, WV

job number: 1504  
date: AUG 7, 2015

sheet title:

Proposed Site  
Information

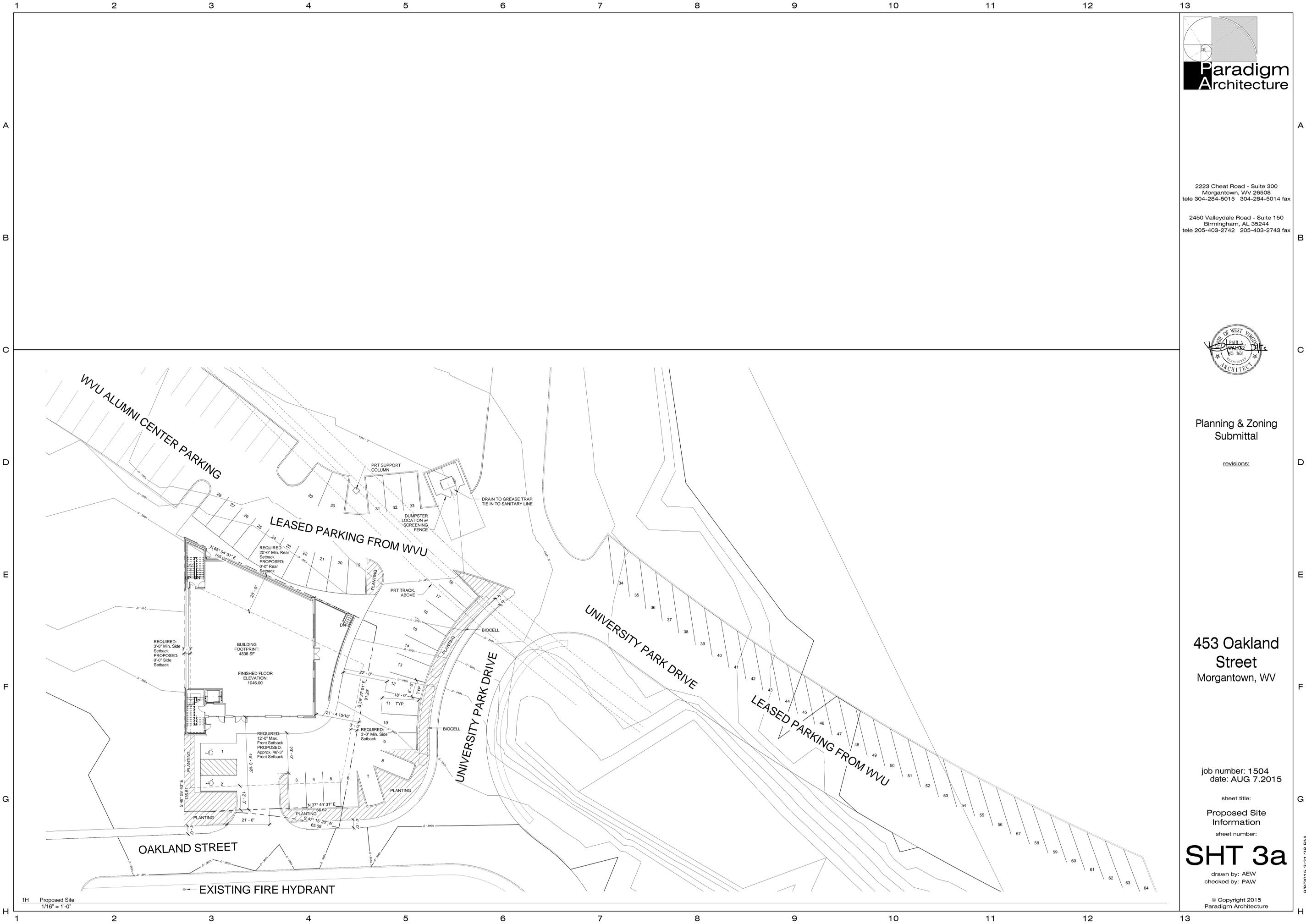
sheet number:

**SHT 3a**

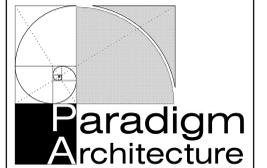
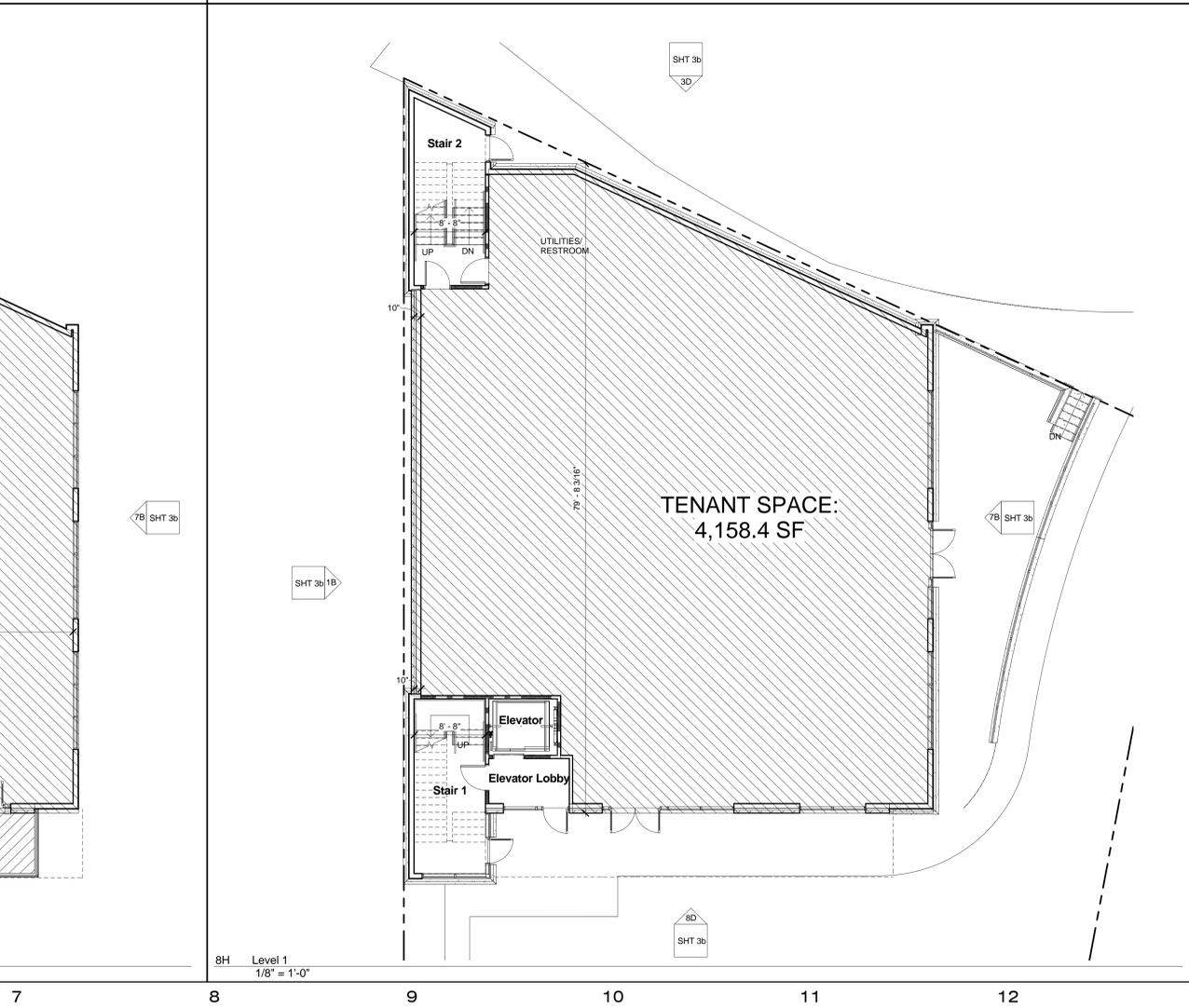
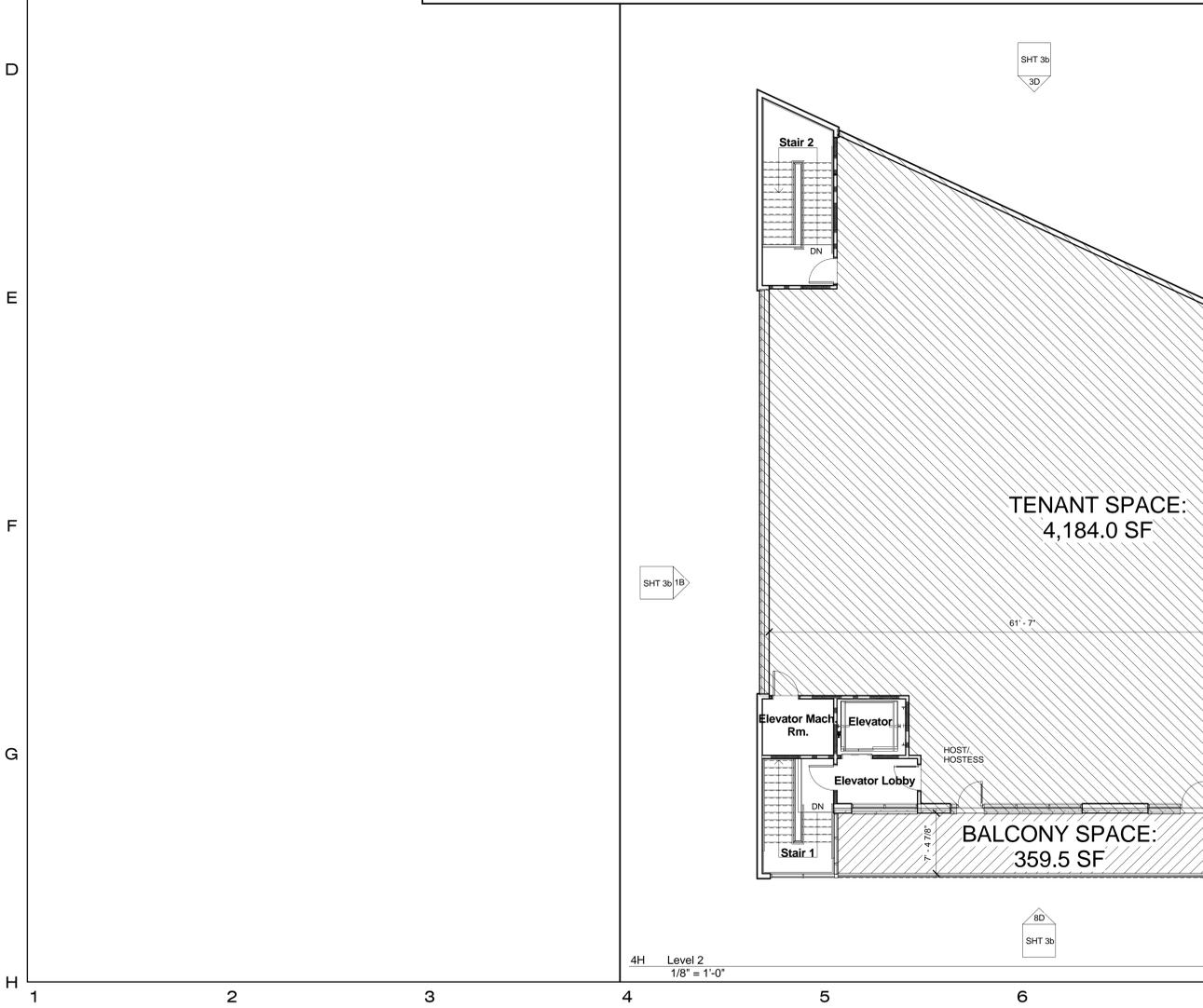
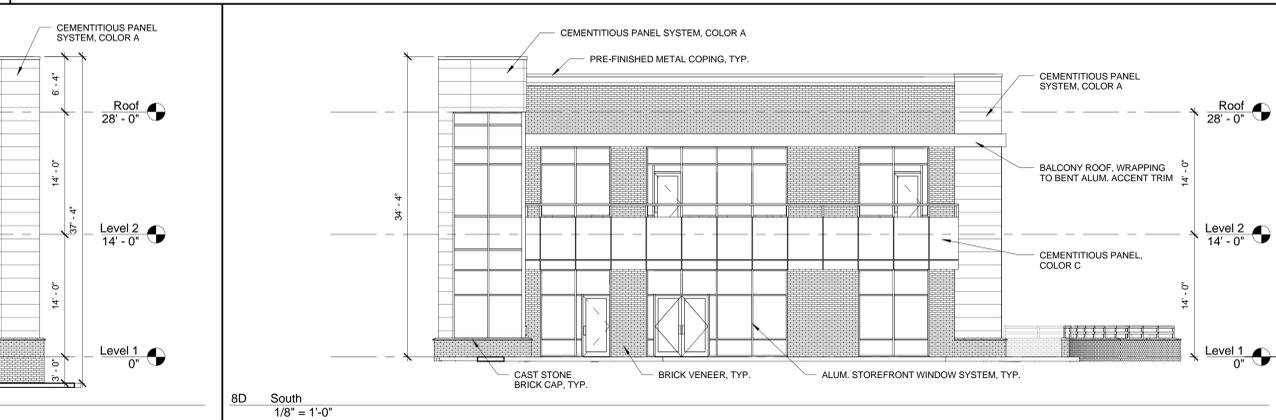
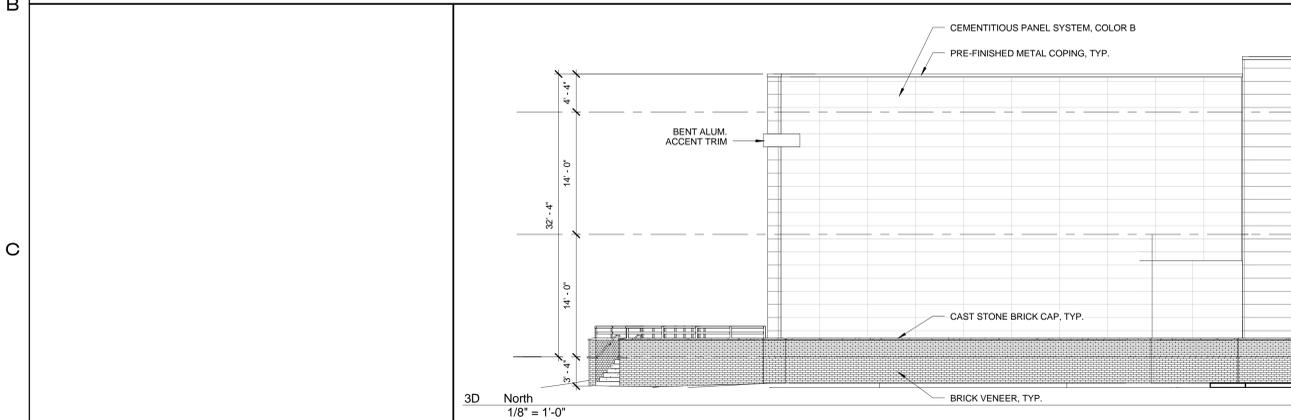
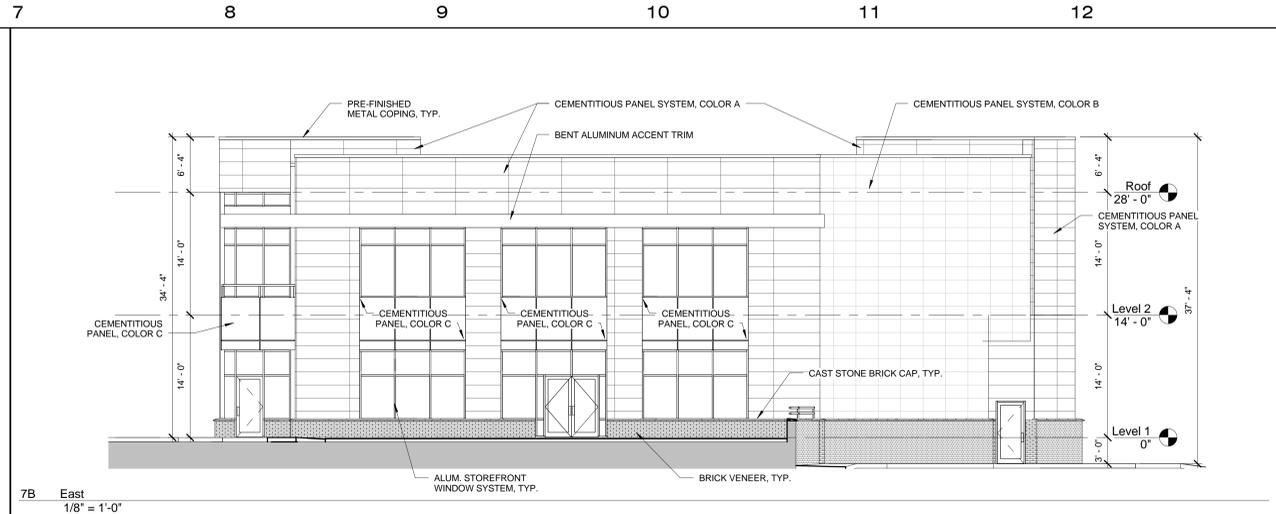
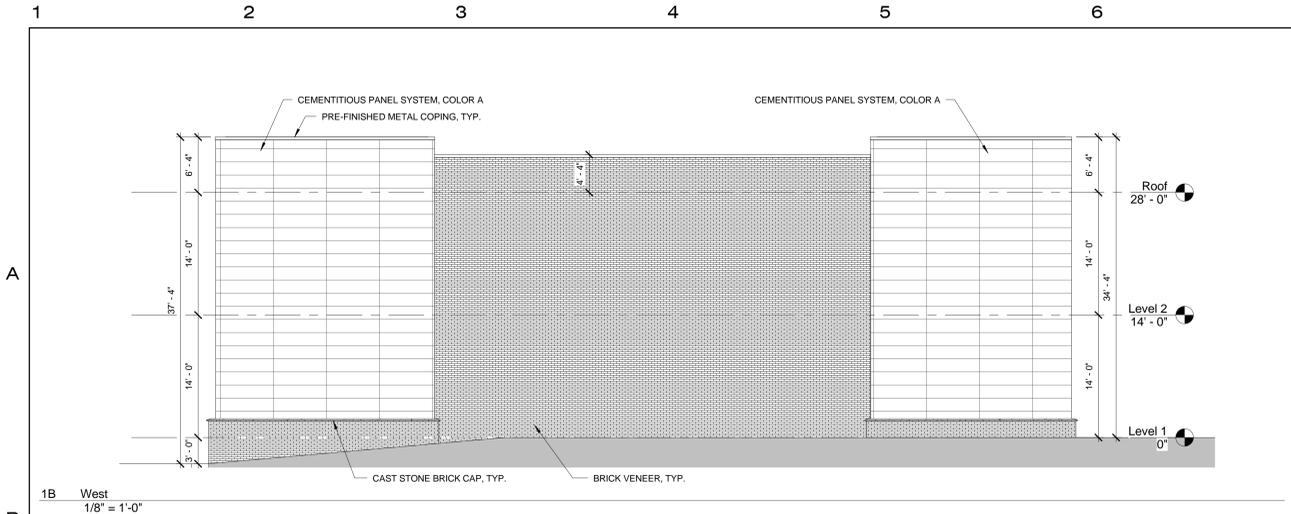
drawn by: AEW  
checked by: PAW

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Paradigm Architecture

9/8/2015 3:21:28 PM



1H Proposed Site  
1/16" = 1'-0"



2223 Cheat Road - Suite 300  
Morgantown, WV 26508  
tele 304-284-5015 904-284-5014 fax

2450 Valleydale Road - Suite 150  
Birmingham, AL 35244  
tele 205-403-2742 205-403-2743 fax



Planning & Zoning  
Submittal

revisions:

453 Oakland  
Street  
Morgantown, WV

job number: 1504  
date: AUG 7, 2015

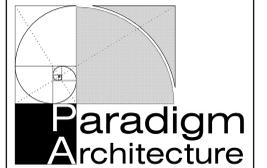
sheet title:  
Proposed Building  
Information  
sheet number:

**SHT 3b**

drawn by: AEW  
checked by: PAW

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Paradigm Architecture

9/8/2015 3:21:34 PM



2223 Cheat Road - Suite 300  
Morgantown, WV 26506  
tele 304-284-5015 304-284-5014 fax  
2450 Valleydale Road - Suite 150  
Birmingham, AL 35244  
tele 205-403-2742 205-403-2743 fax



Planning & Zoning  
Submittal

revisions:

453 Oakland  
Street  
Morgantown, WV

job number: 1504  
date: AUG 7.2015

sheet title:

Landscaping Plan

sheet number:

**SHT 5**

drawn by: AEW  
checked by: PAW

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Paradigm Architecture

9/8/2015 3:21:40 PM

**NOTES:**  
PROVIDED ON THIS PLAN:

- LANDSCAPE AS REQUIRED BY MORGANTOWN CITY ORDINANCE 1367. LANDSCAPE AREAS AS SHOWN TO BE GRASS WITH ADDITIONAL ORNAMENTAL PLANTING BEDS.
- GRAPHICAL REPRESENTATION OF STREET SIDEWALK.
- LOCATION OF SITE LIGHTING.

TREE - As approved by the City  
LARGE SHRUB - As approved by the City  
STREET LIGHT (Double Head) - To Match University Park Standard





VICE PRESIDENT FOR ADMINISTRATION AND FINANCE

August 7, 2015

To Whom It May Concern:

The purpose of this letter is to affirm that West Virginia University ("WVU") intends to grant to M & J Property Holdings, LLC ("M&J") the following:

1. An easement and right-of-way as to University Park Drive to benefit 453 Oakland Street; and
2. A long-term lease for the area identified on the attached preliminary site plan, identified as Exhibit A, for purposes of drive lanes, sidewalks, lighting, landscaping, signage, a dumpster enclosure, and parking by Lessee, its successors, assigns, tenants, subtenants, or occupants of 453 Oakland Street.

Should you have any questions regarding this LOU or wish to discuss any point further, do not hesitate to call.

Sincerely,

A handwritten signature in blue ink that reads 'Narvel G. Weese, Jr.' with a stylized flourish at the end.

Narvel G. Weese, Jr.  
Vice President for  
Administration and Finance

August 27, 2015

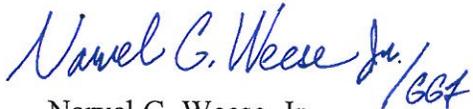
To Whom It May Concern:

The purpose of this letter is to follow up that certain letter dated August 7, 2015, from West Virginia University ("WVU") regarding 453 Oakland Street and WVU's intention to grant an easement and a long-term lease to M & J Property Holdings, LLC.

WVU reasserts its commitment outlined in the letter dated August 7, 2015. Further, WVU supports encumbrance, by easement or similar agreement, the affected realty by the parking and other uses for the anticipated life of the building or use to which the parking facilities are accessory. Additionally, said encumbrance will address and preserve: (a) the connection of the onsite drive aisle (Parcel 81, Tax Map 11) to WVU's Parcel 74 of Tax Map 6; (b) the proposed off-site location of the dumpster pad and coral; and (c) any and all landscape buffers provided on WVU's realty.

The commitments stated above are subject to the negotiation of final terms and conditions. That said, should you have any questions regarding this letter, the previous letter dated August 7, or wish to discuss any point further, do not hesitate to call.

Sincerely,



Narvel G. Weese, Jr.  
Vice President for  
Administration and Finance



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-58
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

OK 1132 Fee: \$75

<b>I. APPLICANT</b>		Name: M & J Property Holdings, LLC	
Mailing Address:	6 Canyon Road, Suite 300		Phone: 304-599-3369
	Street	Morgantown WV 26508	Mobile:
	City	State Zip	Email: mjnesselroad@glenmarkholding.com
<b>II. PROPERTY</b>		Street Address: 453 Oakland Street	
Owner:	M & J Property Holdings, LLC		Zoning: B-1
Mailing Address:	6 Canyon Road, Suite 300		Tax Map No: 11
	Street	Morgantown WV 26508	Parcel No: 83
	City	State Zip	Phone: 304-599-3369
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief as it relates to the proposed location of parking spaces between the front building facade and Oakland Street.</p> <p><i>Article 1345.06 (B)</i></p> <p><b>PAID</b> AUG 27 2015 <b>PAID</b></p>			
<b>V. ATTEST</b>			
<p>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. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. 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. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
<i>M &amp; J Property Holdings, LLC</i>			
By <i>Mark J. Nesselroad</i>		<i>[Signature]</i>	
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date <i>8/7/15</i>	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



# APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-58
RECEIVED:	

## VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. *Staff will check the appropriate boxes below that must be addressed.*

**Land Use Characteristics** (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling  
 Two-Family Dwelling       Multi-Family Dwelling  
 Non-Residential or Mixed (*please explain*)

**Structure Characteristics** (complete only those that apply)

Total number of buildings: \_\_\_\_\_ Gross floor area of each building: \_\_\_\_\_

Estimated number of employees: \_\_\_\_\_ No. of dwelling units: \_\_\_\_\_ No. of bedrooms: \_\_\_\_\_

Additional structure-related details:

**Additional Information** (as required by Staff):

**Site Plan.** A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-58
RECEIVED:	

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p>The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.</p>	
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>The proposed parking spaces are in character with, and allow for aesthetically-pleasing visibility of, surrounding properties.</p>	
<p><b>2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:</b></p> <p>The relatively small, angled, corner, sloping lot appears to restrict the development of adequate parking, landscaping, and internal driveway width without adding parking between the front facade and street. Most of the surrounding parcels are larger and regularly-shaped to accommodate B-2, R-3, and WVU developments, facilities, and amenities. This property is unique in that it is zoned B-1 and on a relatively small and angled corner parcel but, at the same time, can provide a positive amenity for the surrounding properties.</p>	



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-58
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p><b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b></p> <p>The proposed parking is consistent with surrounding properties and will permit use of a relatively small, angled, corner, sloping lot that is zoned B-1 to provide a positive amenity for the surrounding R-3, B-2, and WVU uses.</p>	
<p><b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b></p> <p>The proposed parking is consistent with surrounding properties and will permit a relatively small, angled, sloping, corner lot that is zoned B-1 to include additional parking and also sufficient drive lanes, landscaping, visibility, sidewalk, and similar positive attributes.</p>	



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-53
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

OK 1130

Fee: \$75

<b>I. APPLICANT</b>		Name: M & J Property Holdings, LLC	
Mailing Address:	6 Canyon Road, Suite 300		Phone: 304-599-3339
	Street	Morgantown WV 26508	Mobile:
	City	State Zip	Email: mjnesselroad@glenmarkholding.com
<b>II. PROPERTY</b>		Street Address: 453 Oakland Street, Morgantown, WV 26505	
Owner:	M & J Property Holdings, LLC		Zoning: B-1
Mailing Address:	6 Canyon Road, Suite 300		Tax Map No: 11
	Street	Morgantown WV 26508	Parcel No: 83
	City	State Zip	Phone: 304-599-3369
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Proposed front setback 46'3"  Proposed side (west) setback 0'0"  Proposed rear setback 0'0"</p> <p><b>PAID</b>  AUG 27 2015  BY: _____</p> <p>- TO EXCEED THE MAX. FRONT SETBACK STANDARD OF TWELVE (12) FEET [ARTICLE 1345.04(A)(2)].  - TO ENCRUCH INTO THE MIN. REAR SETBACK STANDARD OF TWENTY (20) FEET [ARTICLE 1345.04(A)(5)].  - TO ENCRUCH INTO THE MIN. TEN (10) FOOT TRANSITIONAL BUFFER [ARTICLE 1367.07(A)].</p> <p style="text-align: right;">(CN) 8/24/15</p>			
<b>V. ATTEST</b>			
<p>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. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. 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. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
M&J Property Holdings, LLC Mark S. Nesselroad		 8/17/15	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	
		Date	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



# APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-53
RECEIVED:	

## VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. *Staff will check the appropriate boxes below that must be addressed.*

**Land Use Characteristics** (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling  
 Two-Family Dwelling       Multi-Family Dwelling  
 Non-Residential or Mixed *(please explain)*

**Structure Characteristics** (complete only those that apply)

Total number of buildings: \_\_\_\_\_ Gross floor area of each building: \_\_\_\_\_

Estimated number of employees: \_\_\_\_\_ No. of dwelling units: \_\_\_\_\_ No. of bedrooms: \_\_\_\_\_

Additional structure-related details: \_\_\_\_\_

**Additional Information** (as required by Staff):

**Site Plan.** A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-53
RECEIVED:	

**VII. FINDINGS OF FACT**

**COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.**

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

The proposed setback distances are in character with, and allow for aesthetically-pleasing visibility of, surrounding properties.

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The small, angled, corner lot appears to restrict the development of adequate parking depth, landscaping, and internal driveway width without encroaching reasonably into the side and rear setbacks and efficiently utilizing an increased front setback. Most of the surrounding parcels are larger and regularly-shaped to accommodate R-3 multi-family developments and associated facilities and amenities. This property is unique in that it is zoned B-1 and on a relatively small and angled corner parcel but, at the same time, can provide a positive amenity for the surrounding properties.



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-53
RECEIVED:	

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b></p> <p>The proposed setback distances are consistent with surrounding properties and will permit use of a small, angled, corner lot that is zoned B-1 to provide a positive amenity for the surrounding R-3 uses.</p>	
<p><b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b></p> <p>The proposed setback distances are consistent with surrounding properties and will permit a small, angled, corner lot that is zoned B-1 to include parking, drive lane, landscaping, visibility, and similar positive attributes.</p>	



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-60
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

OK  
1132 Fee: \$75

<b>I. APPLICANT</b>		Name: M & J Property Holdings, LLC	
Mailing Address:	6 Canyon Road, Suite 300		Phone: 304-599-3369
	Street	Morgantown WV 26508	Mobile:
	City	State Zip	Email: mjnesselroad@glenmarkholding.com
<b>II. PROPERTY</b>		Street Address: 453 Oakland Street	
Owner:	M & J Property Holdings, LLC		Zoning: B-1
Mailing Address:	6 Canyon Road, Suite 300		Tax Map No: 11
	Street	Morgantown WV 26508	Parcel No: 83
	City	State Zip	Phone: 304-599-3369
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief to provide less than a ten-foot wide buffer along Oakland Street; to provide portions of the proposed buffer within the public right-of-way; and, to provide less than a six-foot wide buffer between parking stalls No. 1 through 3 and the adjoining parking lot serving Pierpont Apartments.</p> <p><i>Article 1367.08(c)</i></p> <p style="text-align: right;"><b>REPAIRED</b> AUG 27 2015 BY: _____</p>			
<b>V. ATTEST</b>			
<p>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. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. 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. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
<i>M&amp;J Property Holdings, LLC</i>			
By <i>Mark J. Nesselroad</i>		<i>[Signature]</i>	
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



# APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-60
RECEIVED:	

## VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. *Staff will check the appropriate boxes below that must be addressed.*

**Land Use Characteristics** (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling  
 Two-Family Dwelling       Multi-Family Dwelling  
 Non-Residential or Mixed (*please explain*)

**Structure Characteristics** (complete only those that apply)

Total number of buildings: \_\_\_\_\_ Gross floor area of each building: \_\_\_\_\_

Estimated number of employees: \_\_\_\_\_ No. of dwelling units: \_\_\_\_\_ No. of bedrooms: \_\_\_\_\_

Additional structure-related details:

**Additional Information** (as required by Staff):

**Site Plan.** A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-60
RECEIVED:	

**VII. FINDINGS OF FACT**      **COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.**

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

The proposed buffer is in character with, and allows for aesthetically-pleasing visibility of, surrounding properties.

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The relatively small, angled, corner, sloping lot restricts the development of adequate parking depth, landscaping, sidewalk, and internal drive lane width without reducing the buffer and efficiently utilizing the front setback. Most of the surrounding parcels are larger and regularly-shaped to accommodate B-2, R-3, and WVU developments, facilities, and amenities. This property is unique in that it is zoned B-1 and on a relatively small and angled corner lot but, at the same time, can provide a positive amenity for surrounding parcels.



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-60
RECEIVED:	

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b></p> <p>The proposed buffer is consistent with surrounding properties and will permit use of a relatively small, angled, sloping, corner lot that is zoned B-1 to provide a positive amenity for the surrounding B-2, R-3, and WVU uses.</p>	
<p><b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b></p> <p>The proposed buffer is consistent with surrounding properties and will permit a relatively small, angled, sloping, corner lot that is zoned B-1 to include additional parking, a sufficient drive lane, landscaping, visibility, sidewalk, and similar positive attributes.</p>	



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-59
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

CK 1132

Fee: \$75

<b>I. APPLICANT</b>		Name: M & J Property Holdings, LLC	
Mailing Address:	6 Canyon Road, Suite 300		Phone: 304-599-3369
	Street	Morgantown WV 26508	Mobile:
	City	State Zip	Email: mjnesselroad@glenmarkholding.com
<b>II. PROPERTY</b>		Street Address: 453 Oakland Street	
Owner:	M & J Property Holdings, LLC		Zoning: B-1
Mailing Address:	6 Canyon Road, Suite 300		Tax Map No: 11
	Street	Morgantown WV 26508	Parcel No: 83
	City	State Zip	Phone: 304-599-3369
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief from dumpster enclosure location standard to develop dumpster coral on adjoining realty.</p> <p><i>Article 1367.06 (E)</i></p>			
<b>V. ATTEST</b>			
<p>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. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. 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. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
<i>M&amp;J Property Holdings, LLC</i>			
<i>By Mark S. Nesselroad</i>		<i>[Signature]</i>	
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date <i>8/27/15</i>	

PAID BY: AUG 27 2015

You or a representative MUST be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



# APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-59
RECEIVED:	

## VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. *Staff will check the appropriate boxes below that must be addressed.*

**Land Use Characteristics** (complete only those that apply)

- Residential       Single-Family Dwelling       Townhouse Dwelling  
 Two-Family Dwelling       Multi-Family Dwelling  
 Non-Residential or Mixed (*please explain*)

**Structure Characteristics** (complete only those that apply)

Total number of buildings: \_\_\_\_\_ Gross floor area of each building: \_\_\_\_\_

Estimated number of employees: \_\_\_\_\_ No. of dwelling units: \_\_\_\_\_ No. of bedrooms: \_\_\_\_\_

Additional structure-related details:

**Additional Information** (as required by Staff):

**Site Plan.** A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-59
RECEIVED:	

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
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The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

The proposed dumpster location is in character with, and allows for aesthetically-pleasing visibility of, surrounding properties.

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The relatively small, angled, corner, sloping lot appears to restrict the development of adequate parking depth, landscaping, and internal driveway width without locating the dumpster to the immediately adjoining parcel at the rear of the building. Most of the surrounding parcels are larger and regularly shaped to accommodate B-2, R-3, and WVU developments, facilities, and amenities. This property is unique in that it is zoned B-1 and on a relatively small and angled corner parcel but, at the same time, can provide a positive amenity for the surrounding properties.



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-59
RECEIVED:	

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b></p> <p>The proposed dumpster location is consistent with surrounding properties, being at the rear of a building and parcel, and it will permit use of a relatively small, angled, corner, sloping lot that is zoned B-1 to provide a positive amenity for the surrounding B-2, R-3, and WVU uses.</p>	
<p><b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b></p> <p>The proposed dumpster location is consistent with surrounding properties, being at the rear of a building and parcel, and it will permit a relatively small, angled, corner, sloping lot that is zoned B-1 to include parking, drive lane, landscaping, visibility, sidewalk, and similar positive attributes.</p>	



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	115-57
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

CK 1132

Fee: \$75

<b>I. APPLICANT</b>		Name: M & J Property Holdings, LLC	
Mailing Address:	6 Canyon Road, Suite 300		Phone: 304-599-3369
	Street	Morgantown WV 26508	Mobile:
	City	State Zip	Email: mjnesselroad@gjenmarkholding.com
<b>II. PROPERTY</b>		Street Address: 453 Oakland Street	
Owner:	M & J Property Holdings, LLC		Zoning: B-1
Mailing Address:	6 Canyon Road, Suite 300		Tax Map No: 11
	Street	Morgantown WV 26508	Parcel No: 83
	City	State Zip	Phone: 304-599-3369
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief from the requisite cladding and configuration standard to permit the proposed use of cementitious product and/or brick or stone veneer. Variance relief to permit the tinting of windows and if the fenestration ratio on the front facade is less than 60%.</p> <p>Article 1345.07(c)(1) (d)(1) (d)(3) (d)(5)</p>			
<b>V. ATTEST</b>			
<p>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. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. 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. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
M&J Property Holdings, LLC By Mark S Nesselroad		 Date: 8/7/15	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	

DUPLICATE PAID BY: AUG 27 2015

You or a representative MUST be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-57
RECEIVED:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

Land Use Characteristics (complete only those that apply)

- Residential
  - Single-Family Dwelling
  - Two-Family Dwelling
- Townhouse Dwelling
- Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

Structure Characteristics (complete only those that apply)

Total number of buildings: \_\_\_\_\_ Gross floor area of each building: \_\_\_\_\_

Estimated number of employees: \_\_\_\_\_ No. of dwelling units: \_\_\_\_\_ No. of bedrooms: \_\_\_\_\_

Additional structure-related details:

Additional Information (as required by Staff):

Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-57
RECEIVED:	

**VII. FINDINGS OF FACT**      **COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.**

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

**1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

The proposed cladding, window materials, and fenestration ratio standards are in character with, and allow for aesthetically pleasing use of materials similar to, surrounding properties.

**2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:**

The relatively small, angled, corner, sloping lot limits development to certain types of structures but allows for quality design and use of materials. Many of the surrounding properties include buildings with similar uses/applications of materials. Most of the surrounding parcels are larger and regularly-shaped to accommodate B-2, R-3, and WVU developments, facilities, and amenities. This property is unique in that it is zoned B-1 and on a relatively small and angled corner lot but, at the same time, can provide a positive amenity for surrounding properties.



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-57
RECEIVED:	

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

**3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

The proposed cladding, window materials, and fenestration ratio standards are consistent with surrounding properties and will permit use of a relatively small, angled, corner, sloping lot that is zone B-1 to provide a positive amenity for the surrounding R-3, B-2, and WVU uses.

**4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

The proposed cladding, window materials, and fenestration ratio standards are consistent with surrounding properties and will permit the use of high quality durable materials in an efficient and aesthetically pleasing manner on a relatively small, angled, sloping, corner lot that is zoned B-1.