



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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September 22, 2016

Mylan Pharmaceuticals
c/o Jason Porter
781 Chestnut Ridge Road
Morgantown, WV 26505

**RE: CU16-09 & V16-32 / Mylan Pharmaceuticals / 781 Chestnut Ridge Road
Tax Map 56, Parcel 4.1**

Dear Mr. Porter:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the proposed development at 781 Chestnut Ridge Road. The decisions are as follows:

Board of Zoning Appeals, September 21, 2016:

CU16-09 – Conditional “Light Industry” use in the B-2 District

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. CU16-09 with the following conditions:
 1. That the use of the subject building may not liken to a “Heavy Industry” use engaged in the basic processing and manufacturing of materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.
 2. That offsite parking facilities for at least 40 parking stalls shall be encumbered by a duly executed and acknowledged agreement by and between Mylan Pharmaceuticals and the owner of Parcel 4.1 of Tax Map 26 specifying and binding the time period to the anticipated use of the subject building by Mylan Pharmaceuticals. Said agreement shall be placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia and a certified recorded copy of said agreement filed with the Development Services Department.
 3. That conditional “Light Industry” use approval granted herein is specific to Mylan Pharmaceuticals and may not be transferred without prior approval by the Board of Zoning Appeals.

V16-32 – Variance relief from minimum parking requirements.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.

- B. The Board granted variance relief from the minimum parking requirement as requested with the following conditions.
1. That conditional "Light Industry" use must be granted under Case No. CU16-09 and conditions set forth therein observed.
 2. That offsite parking facilities for at least 40 parking stalls shall be encumbered by a duly executed and acknowledged agreement by and between Mylan Pharmaceuticals and the owner of Parcel 4.1 of Tax Map 26 specifying and binding the time period to the anticipated use of the subject building by Mylan Pharmaceuticals. Said agreement shall be placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia and a certified recorded copy of said agreement filed with the Development Services Department.
 3. That said agreement shall be modified to accommodate additional parking stalls should the number of Mylan employees located within the subject building increase beyond the 35 employees anticipated by the petitioner.
 4. That variance relief granted herein is specific to Mylan Pharmaceuticals under the circumstances presented by the petitioner and may not be transferred.

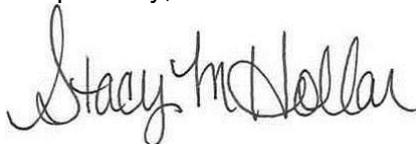
These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

A handwritten signature in black ink, appearing to read "Stacy Hollar". The signature is written in a cursive, flowing style.

Stacy Hollar
Executive Secretary

ADDENDUM A

Approved Findings of Fact

CU16-09 Light Industry Use

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

The site is located on the Suburban Lanes commercial area and the subject building has been in use by Mylan since 1989 according to the petitioner. The occupancy is not changing and the street access is from Hay Lane which is not changing. There is not an increase in occupancy rate of the building and an increase the vehicular trip generation is not anticipated.

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

According to the petitioner, the safety of the building will be improved with the introduction of the new fire exit stairs internal to the building, the building will be fully sprinklered and a complete fire alarm system will be expanded for the renovation.

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

The majority of the building is existing and the third floor partial addition is limited to the north side of the building which also sets back 21' from the property line.

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

The building footprint will remain essentially the same with the loading dock being extended for better access to the interior of the building. The Hay Lane side and the north side entrances have landscaping beds to the face of the building to provide a buffer to the street across.

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

The occupancy of the building will be employees of Mylan that are currently working across the street in the main plant and will be relocated into this renovation for quality control testing. The projected occupancy total is 35 persons. A residential component is not included in the building currently nor in the proposed renovations.

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:

The building is already in use for Mylan and the proposed use is simply another function of the manufacturing process. The building already has utility connections that are to remain, the building "hardscape" for storm water drainage will remain the same.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The existing building was constructed in 1989 and the current renovation will improve its appearance with new insulated metal panels, windows and entrances. The energy efficiency of the HVAC systems is much improved from original equipment, according to the petitioner. The demolition and waste of the building will be minimal thus rehabilitating a building that is not currently up to building code standards for light, air, energy and accessibility.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The building is continuing its Light Industry use as it has for many decades with the improvement of the building components as noted above.

V16-32 Minimum Parking

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The existing site has been in constant use since 1989 by Mylan Pharmaceutical whom leases the building and site from Suburban Lanes, Inc. for Light Industry occupancy. The site is restricted on the edge of the City of Morgantown corporate limits and all adjacent properties within the City limits are also owned by the same property owner. The parking requirements will be provided on adjacent property owned by Mylan outside of the corporate limits of Morgantown, as it has for several years without appreciable impact to the surrounding built environment or uses. The proposed use of Light Industry will remain the same, therefore no public safety issues will be revised and as noted the Suburban Lanes, Inc. owns all other adjacent parcels and is in agreement with the proposed 3rd floor addition and interior renovation of the building.

Finding of Fact No. 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 building on the site has existed since 1989. Due to the narrow and shallow features of this interior lot there is not enough area around the building to provide the required minimum parking for the B-2 permitted Conditional Use of Light Industry. The variance relief allows for minimum parking requirements to be met on adjacent property owned by Mylan, as has been provided for several years, while not taking parking from adjacent lots which are needed for their respective uses.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Mylan Pharmaceutical and Suburban Lanes, Inc. will enter into a parking agreement wherein the employees of Mylan shall utilize dedicated parking on an adjacent property owned by Mylan north of the site on Hay Lane to satisfy the required parking for Mylan's use of the subject building. The agreement is included with the petition along with a site plan indicating that the parking lot is within 500' of this building and within the secure boundary of Mylan. As the building is on edge of the City boundary, the proposed parking is outside of the City limits, but is dedicated for the use of this property for the term of the property lease between Mylan Pharmaceutical and Suburban Lanes, Inc.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The Planning and Zoning Code, Section 1365.04 would require 40 spaces (35 employees + 5 visitors) that are not available within the City limits but will be encumbered and dedicated for the use of the subject property that is within the City limits and will not encourage improper parking on adjacent properties.