



MORGANTOWN BOARD OF ZONING APPEALS

September 21, 2016
6:30 PM
City Council Chambers

Board Members:

- Bill Burton,
Chair
- George Papandreas,
Vice-Chair
- Linda Herbst
- Jim Shaffer
- Colin Wattleworth

COMBINED STAFF REPORT

CASE NOS: CU16-09 & V16-32 / Mylan Pharmaceuticals / 781 Chestnut Ridge Road

REQUEST and LOCATION:

Requests for conditional use and variance relief by John Sausen of Omni Associates, on behalf of Mylan Pharmaceuticals, for the following petitions:

- CU16-09 Conditional "Light Industry" use in the B-2 District.
- V16-32 Variance relief from minimum parking requirements.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26, Parcel 4.1; B-2, Service Business District.

SURROUNDING ZONING:

- South: R-1, Single-Family Residential District (West Virginia University)
- West: B-2, Service Business District
- North and East: Unincorporated Monongalia County (outside the City of Morgantown)

BACKGROUND and ANALYSIS:

According to the petitioner, Mylan Pharmaceuticals has occupied the subject building addressed as 781 Chestnut Ridge Road since September 1989. Addendum A of this report illustrates the location of the subject site.

During Mylan's recent due diligence in the planning and design of an additional partial story construction and significant interior renovations, it was discovered that conditional "Light Industry" use in the B-2 District has not been granted nor has the lack of on-site parking been addressed.

CU16-09 – Conditional Use

Section 1329.02 of the Planning and Zoning Code provides the following definition for "Light Industry" uses

INDUSTRY, LIGHT – Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

According to the petitioner, Mylan Pharmaceuticals' use of the subject building has been for "in process storage" where packaging materials, equipment, and products in part or in completed state were moved in and out in connection with the main plant's manufacturing processes. The proposed renovations to the subject building will support new "in-process

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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testing” tasks where samples from the entire manufacturing process, from raw materials to finished products, will be taken out of the manufacturing line and sent to the subject building for quality control testing to meet Food and Drug Administration (FDA) requirements.

Staff concurs that Mylan’s existing and proposed uses of the subject building meet the definition of a “Light Industry” use. Table 1331.05.01 “Permitted Land Uses” provides that “Light Industry” uses require conditional use approval in the B-2 District.

V16-32 – Minimum Parking Requirements

It appears the parcel on which the subject building is located does not include on-site parking. Specifically, the subject building covers nearly the entire parcel. According to the petitioner, parking for employees working at the subject building since 1989 has been provided on Mylan’s adjacent campus located outside the City’s corporate boundaries. Although the petitioner has submitted a copy of an agreement stipulating Mylan will provide dedicated parking for the use of the subject building for the term of Mylan’s lease of the subject building, variance relief is required as on-site parking cannot be provided given the geometry of the parcel boundary, the footprint of the subject building, and the existing built environment within the immediate area.

Table 1365.04.01 “Minimum Off-Street Parking Requirements” sets forth the following minimum parking requirement for “Light Industry” uses:

- 1 space per employee plus 1 space per vehicle used in the operation of the industry plus
- 5 customer/visitor spaces

According to the petitioner, the proposed renovations to the building will accommodate 35 employees. The minimum parking required for the subject “Light Industry” use is therefore 40 stalls. The petitioner therefore requests variance relief of 40 parking stalls.

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

STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to determine whether the proposed requests meet the standard criteria for a conditional use or variance, respectively, by reaching a positive determination for *each* of the “Findings of Fact” submitted by the petitioner. If the Board disagrees with the petitioner’s “Findings of Fact” and determines the proposed request does not meet the standard criteria for a conditional use or variance, respectively, then the Board must state findings of fact and conclusions of law on which it bases its decision(s) to deny the subject petitions. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Again, each respective conditional use and variance petition must be considered and acted upon by the Board separately. Addendum B of this report provides Staff recommended revisions to the petitioner’s findings of fact responses for each petition. Staff submits the following recommendations for each petition addressed herein.

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CU16-09 – Conditional Use. Staff recommends the Board grant conditional use approval as requested 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 – Minimum Parking Requirements. Staff recommends the Board grant 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.

Development Services

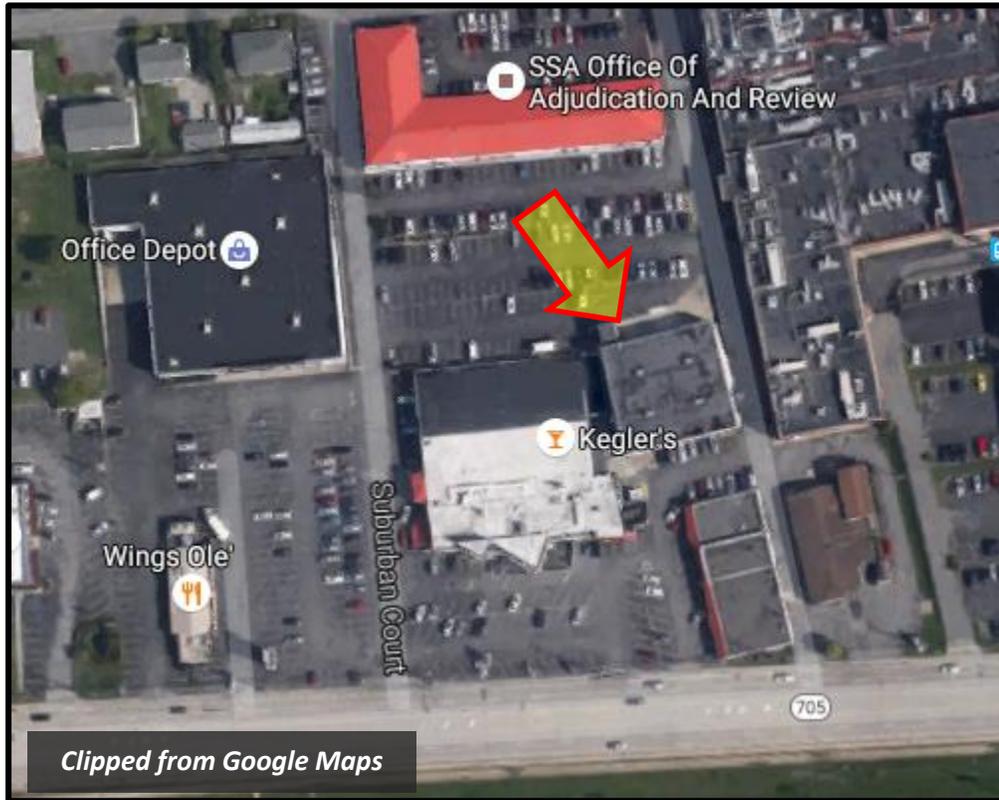
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

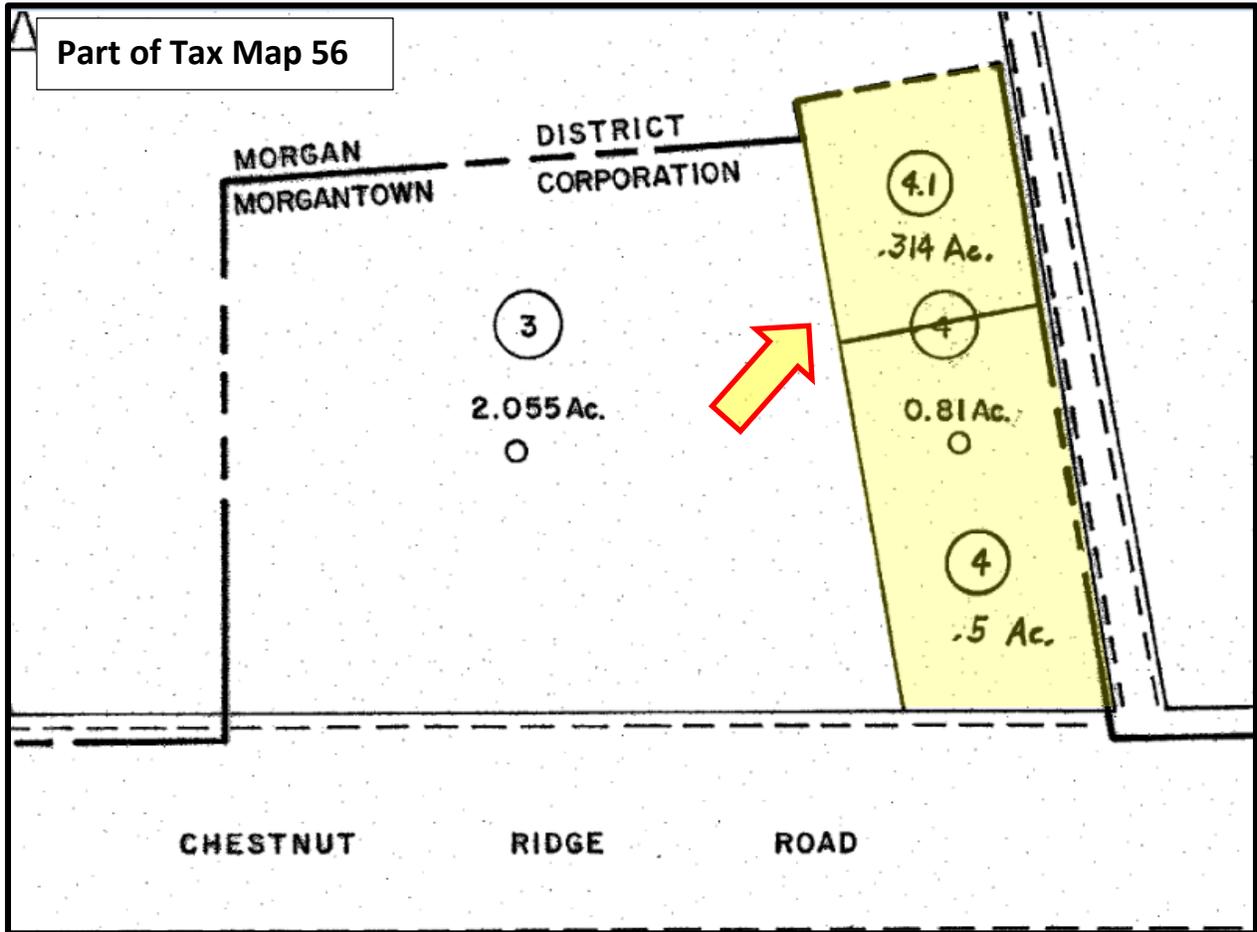
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Attachments: Application and accompanying exhibits

STAFF REPORT ADDENDUM A
CU16-09 & V16-32/ Mylan Pharmaceuticals /
781 Chestnut Ridge Road



STAFF REPORT ADDENDUM A
CU16-09 & V16-32/ Mylan Pharmaceuticals /
781 Chestnut Ridge Road



STAFF REPORT ADDENDUM B

CU16-09 & V16-32 / Mylan Pharmaceuticals / 781 Chestnut Ridge Road

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

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 ~~this~~ 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 variance is requested to provide Mylan relief from the minimum parking requirements for the building use.~~ 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 ~~whereas~~ 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 ~~this parcel~~ Mylan's use of the subject building. The agreement is ~~attached~~ 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 ~~ordinance~~ 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 ~~this~~ the subject property that is within the City limits and will not encourage improper parking on adjacent properties.



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN - CONDITIONAL USE

OFFICE USE	
CASE NO.	CU16-09
RECEIVED:	8/18/16
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

75.00 CK16043

I. APPLICANT			
Name:	Mylan Pharmaceuticals (Jason Porter)	Phone:	304-599-2595
Mailing Address:	781 Chestnut Ridge Road	Mobile:	
	Street Morgantown WV 26505	Email:	
	City State Zip		
II. AGENT / CONTACT INFORMATION:			
Name:	Omni Associates	Phone:	304-367-1417
Mailing Address:	207 Jefferson Street	Mobile:	304-288-5607
	Street Fairmont WV 26554	Email:	jrsomni@aol.com
	City State Zip		
Mailings -	Send all correspondence to (check one): <input checked="" type="checkbox"/> Applicant OR <input type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	Suburban Lanes, Inc.	Phone:	
Mailing Address:	735A Chestnut Ridge Road	Mobile:	
	Street Morgantown WV 26505	Email:	
	City State Zip		
IV. SITE			
Street Address (if assigned):	735 Chestnut Ridge Road	Tax Map #:	56
		Parcel #:	4.1
Zoning:	B2		
Lot Dimensions:	Width: 110 Ft.	Depth: 124.30 Ft.	Square Footage: 13673 ft. ²
Shape of Lot:	<input 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:	Light Industry		
Proposed Use of Structure of Land:	Light Industry		

PAID AUG 18 2016



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU 16-09
RECEIVED:	5/18/16
COMPLETE:	

V. STRUCTURE

Proposed Setbacks: Front: 21 ft. Rear: 2 ft. Side A: 4 ft. Side B: 5 ft.

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

No. of Dwelling Units (if applicable): No. of Bedrooms: No. of Employees: 35

Square Footage of all Proposed Structures (please explain):

The existing building is a two story structure containing, 19,081 sq. ft. The proposed project adds a third floor over 5,991 sq. ft. of the existing footprint. Total square footage post project will be 25,072.

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.



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

OFFICE USE	
CASE NO.	CU16-09
RECEIVED:	8/18/16
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.	Cu16-09
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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 site is located on the Suburban Lanes commercial area and this building has been in use by Mylan since 1989. 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.

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

The safety of the building will be improved with the introduction of 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.

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

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

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 access.

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.



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	C416-09
RECEIVED:	8/18/16
COMPLETE:	

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:

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.

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 are much improved from original equipment. 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.

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.

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.

John R. Sausen

08/17/2016

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

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



04 August 2016

Christopher Fletcher, AICP, Director
City of Morgantown
Development Services
389 Spruce Street
Morgantown, WV 26505

Re: 735 Chestnut Ridge Road
Suburban Properties/Mylan Renovation

Dear Mr. Fletcher,

This building is zoned B2 and has a Conditional Use of Light Industrial which has been utilized as such under the current lease since 2010. The building has been used as part of the overall manufacturing of Mylan since it has acquired access to this site.

The definitions of the City ordinance 1329.02 states:

INDUSTRY, LIGHT – Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi- finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

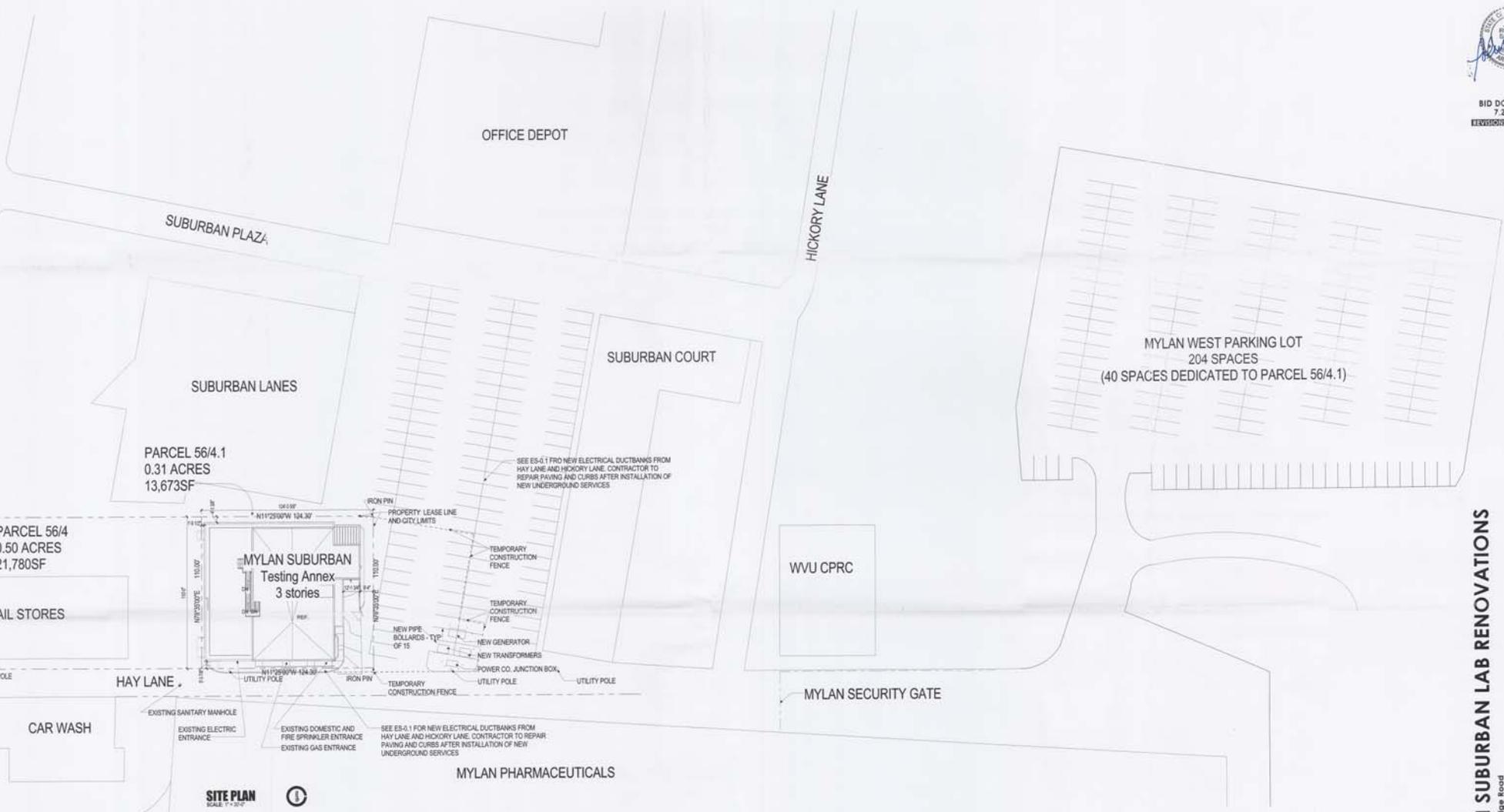
Mylan Pharmaceuticals manufactures finished and packaged pharmaceuticals and in this process the building in question across Hay Lane has been used for “in process” storage” where packaging materials, equipment, and products in part or completed state were moved in and out of this annex in connection with the main plant. The current renovation will renovate this building to another “in process testing” use which is where samples from the entire manufacturing process from raw materials to finished goods are taken out of the line and sent to be tested for quality control. This is part of the FDA requirements to ensure that the product process is maintained to proper requirements. The lab equipment is for that testing purposes of the manufacturing process.

This process meets the definition of light manufacturing and if you have any further questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "John R. Sausen AIA". The signature is written in a cursive, flowing style.

John R. Sausen AIA



SITE PLAN
SCALE: 1" = 20'

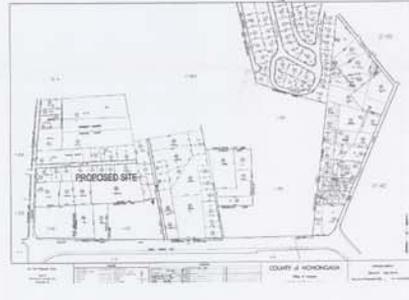


EXISTING OF MYLAN SUBURBAN CHESTNUT RIDGE PROPERTY & ADJACENT PROPERTY



PROPOSED SITE

COUNTY OF MONROGIAH



PROPOSED SITE

COUNTY OF MONROGIAH

MYLAN SUBURBAN LAB RENOVATIONS

759 Chestnut Ridge Road
Morgantown, WV 24504

SITE PLAN

omni
associates
architects

1612 EASTBROOK AVENUE
FARMINGTON, WV 26030
TEL: (304) 361-1411
omni411.com

SP-1.1



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	Vllc-32
RECEIVED:	8/18/16

(PLEASE TYPE OR PRINT IN BLACK INK)

CL 16044

Fee: \$75

I. APPLICANT		Name:	Mylan Pharmaceuticals (Omni Associates - Agent)	
Mailing Address:	781 Chestnut Ridge Road		Phone:	304-367-1417
	Street	Morgantown WV 26505	Mobile:	
	City	State	Zip	Email: jrsomni@aol.com
II. PROPERTY		Street Address:	735 Chestnut Ridge Road	
Owner:	Suburban Lanes, Inc.		Zoning:	B2
Mailing Address:	735A Chestnut Ridge Road		Tax Map No:	56
	Street	Morgantown WV 26505	Parcel No:	4.1
	City	State	Zip	Phone:
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
<p>Mylan Pharmaceutical is requesting variance relief (in whole) from the minimum parking requirements for the "Light Industrial" use of the building located on TM56/4.1. The building has been occupied by Mylan Pharmaceutical since September 1989. The minimum parking requirement for the use is provided for on adjacent property owned by Mylan Pharmaceutical that is located outside of the corporate limits of the City of Morgantown. Mylan Pharmaceutical and Suburban Lanes, Inc.,(property owner) have entered into an agreement (attached to this application) whereby Mylan agrees to provide dedicated parking for the use for the term of the lease of the building.</p>				
V. ATTEST				
<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>				
John R. Sausen/Omni Assoc.				08/17/2016
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.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	
RECEIVED:	8/18/16

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)

Light Industry

Structure Characteristics (complete only those that apply)

Total number of buildings: 1 Gross floor area of each building: 25072

Estimated number of employees: 35 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



City of Morgantown, West Virginia

APPLICATION FOR
VARIANCE PETITION

OFFICE USE	
CASE NO.	
RECEIVED:	8/18/16

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
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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 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 variance is requested to provide Mylan relief from the minimum parking requirements for the building use. The parking requirements will be provided on adjacent property owned by Mylan outside of the corporate limits of Morgantown. 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 agreement with the proposed 3rd floor addition and interior renovation of the building.

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 B2 permitted Conditional Use of Light Industry. The variance relief allows for the minimum parking requirements to be met on adjacent property owned by Mylan while not taking parking from adjacent lots which are needed for their respective uses.



City of Morgantown, West Virginia

**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
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VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p>	<p>Mylan Pharmaceutical and Suburban Lanes, Inc. will enter into a parking agreement whereas 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 this parcel. The agreement is attached 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 the 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.</p>
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p>	<p>The Planning and Zoning ordinance 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 this property that is within the City limits and will not encourage improper parking on adjacent properties.</p>

LETTER AGREEMENT

This Letter Agreement ("Agreement") is entered into as of this 17th day of August, 2016, by and between **SUBURBAN LANES, INC.**, a West Virginia corporation ("Lessor") and **MYLAN PHARMACEUTICALS INC.**, a West Virginia corporation ("Lessee").

WHEREAS, the parties entered into that certain Lease Agreement as to the Property effective as of the 27st day of July, 2015 (the "Lease");

WHEREAS, the Property leased to Lessee, with an address of 735 Chestnut Ridge Road, Morgantown, West Virginia, 26505, has boundaries encompassed by the City of Morgantown Corporate limits and the subdivision line of parcel 56/4 (DB 685, Page 550 TM 56/4) (subject plat attached hereto as, "Exhibit A");

WHEREAS, the Property is zoned B2 and has a Conditional Use of Light Industrial Occupancy which requires one (1) parking space per employee and five (5) visitor spaces, pursuant to the City of Morgantown Planning and Zoning Code 1365.04 ("Ordinance");

WHEREAS, the parties acknowledge that the Property, as leased, does not have the required on-site parking required by the Ordinance; and

WHEREAS, the parties desire to dedicate offsite parking to comply with the Ordinance.

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. All capitalized terms used in this Letter Agreement and not otherwise defined herein shall have the meanings given to them in the Lease Agreement.
2. The Parties agree that all additional required parking for the Property pursuant to the Ordinance shall be dedicated on adjacent property owned by Lessee
3. The location of the dedicated parking is within the secure perimeter of Lessee's property located at 781 Chestnut Ridge Road, Morgantown, West Virginia, 26505.
4. Such off-site parking shall be available for the Lessee at all times during the Lease while the Property is subject to the Ordinance, or any similar parking requirement.
5. Except as set forth herein, all other terms and conditions of the Lease are in full force and effect.

[Remainder of page left blank, signature lines to follow.]

IN WITNESS of the agreement to the terms and conditions contained herein, the parties have caused the following signatures to be affixed hereto:

MYLAN PHARMACEUTICALS INC.

BY: 

PRINT NAME: Scott W. Chervenick

TITLE: Head of OSD Quality - Morgantown

DATE: August 18, 2016

SUBURBAN LANES, INC.

BY: 

PRINT NAME: Jerry Lorene

TITLE: Director

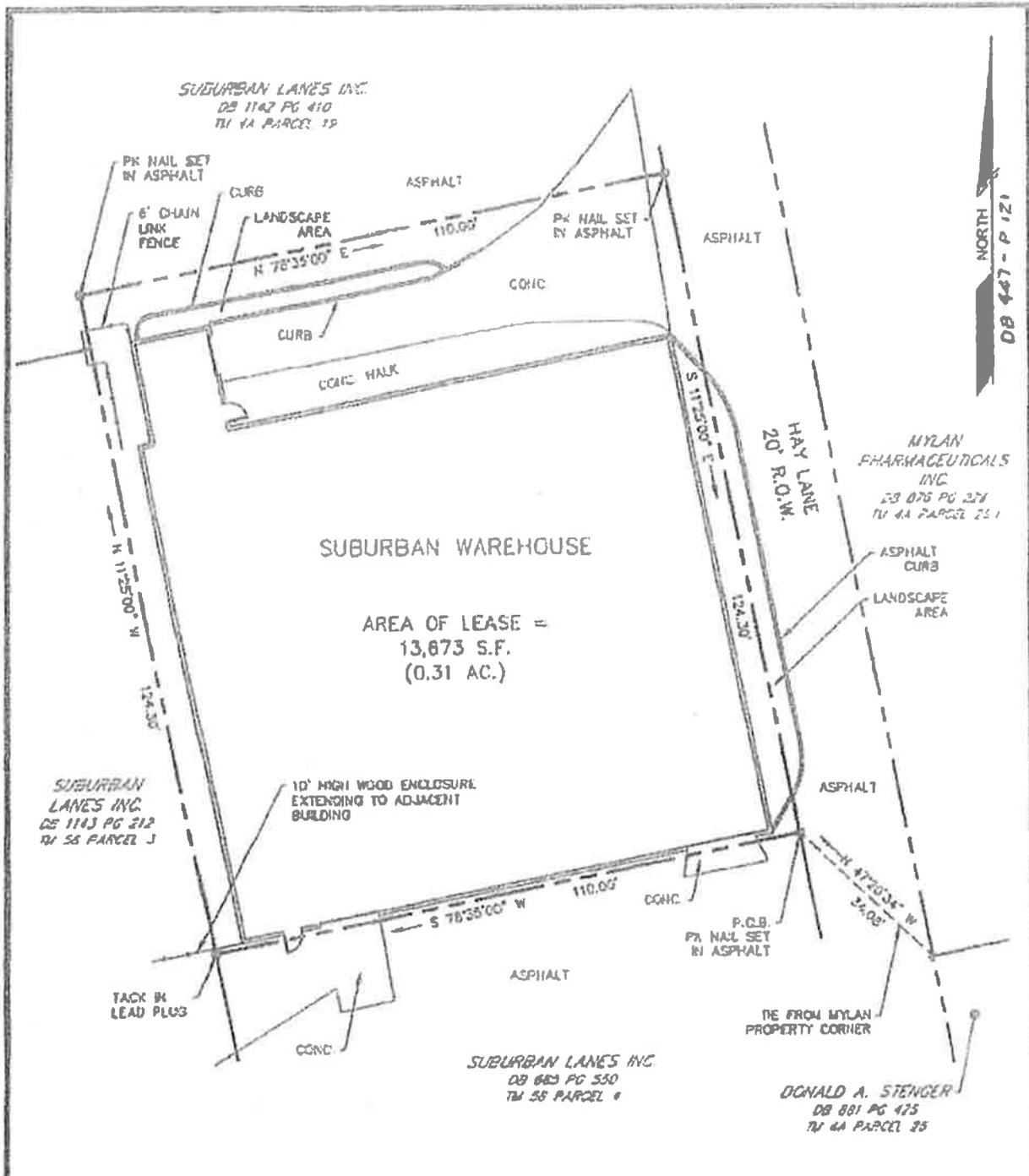
DATE: 8/18/2016

APPROVED - MYLAN LEGAL DEPT.

DATE: 8/17/2016

BY: M. Condra

LCM#: US41022



NORTH
DB 447 - P 121

SUBURBAN WAREHOUSE

AREA OF LEASE =
13,873 S.F.
(0.31 AC.)

SUBURBAN LANES INC.
DB 1142 PG 410
TM 4A PARCEL 3D

MYLAN PHARMACEUTICALS INC.
DB 076 PG 274
TM 4A PARCEL 24.1

SUBURBAN LANES INC.
DB 1143 PG 212
TM 56 PARCEL J

SUBURBAN LANES INC.
DB 685 PG 550
TM 56 PARCEL 4

DONALD A. STENGER
DB 801 PG 475
TM 4A PARCEL 25

- NOTES: 1.) THIS EXHIBIT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
2.) THIS PROPERTY IS NOT LOCATED IN THE 100-YEAR FLOODPLAIN PANEL 540139-0064C, ZONE X.

TITLE:
SUBURBAN LANES, INC.
DEED REFERENCE:
DB 685 PG 550
MAP REFERENCE:
TM 56, PARCEL 4

PLAT OF SURVEY FOR:
MYLAN PHARMACEUTICALS INC.
CITY OF MORGANTOWN
MONONGALIA COUNTY, WEST VIRGINIA

SURVEYED BY:
CEBRAM L.L.C.
LAND SURVEYORS
1208 MACOMB STREET
MORGANTOWN, WV 26501
(304) 296-2706

DATE SURVEYED:
OCTOBER 28, 2011



LEGEND:

DB	DEED BOOK
PG	PAGE
TM	TAX MAP
O	PROPERTY CORNER
AC	ACRES
R.O.W.	RIGHT OF WAY
S.F.	SQUARE FEET
CONC.	CONCRETE
P.E.B.	POINT OF BEGINNING

