



MORGANTOWN BOARD OF ZONING APPEALS

February 17, 2016
6:30 PM
City Council Chambers

Board Members:

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

STAFF REPORT

CASE NO: V16-02 / Uclub Sunnyside / 2188 University Avenue

REQUEST and LOCATION:

Request by Jeremy Roberts, on behalf of ACC OP (Uclub Sunnyside), LLC, for variance relief from Article 1369 as it relates to signage at 2188 University Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 20, Parcel 187; R-3, Multi-Family Residential District

SURROUNDING ZONING:

South and West: R-3, Multi-Family Residential District

North and East: R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to erect two (2) signs for the *Uclub Sunnyside* development currently under construction. The first sign is a 48 square foot, three-dimensional wall sign near the main pedestrian entrance. The second sign is a 15 square foot sign that will be affixed to a proposed retaining wall, both located at 2188 University Avenue. Addendum A of this report illustrates the location of the subject site.

Article 1369.09(B) provides that signs for multi-family residential uses in all zoning districts are limited to advertising project names only, which the proposed signs appear to observe.

The maximum area standard for all such signs is six (6) square feet of sign area plus 0.1 square feet per dwelling unit, up to a maximum of 24 square feet. The subject development will include 134 dwelling units, which provides a maximum area standard of 19.4 square feet [6 sq. ft. + (134 x 0.1)]. Variance relief of 43.6 square feet is required for the signs as proposed.

The sign proposed for the retaining wall does not fall within any of the sign types defined and regulated or prohibited by the Planning and Zoning Code. The following definitions are provided to demonstrate this sign type perplexity (emphasis supplied).

SIGN, FREESTANDING – A sign that is attached to, erected on, or supported by some **structure** (such as a post, mast, frame, or other **structure**) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than support.

STRUCTURE – Anything constructed, erected, or situated by man that requires location on the ground or being attached to something having location on the ground; **but not including** vehicles, recreational vehicles, campers, tents less than thirty-six square feet in area, **retaining walls**, fences not over eight feet in height, yard and play equipment, utility lines and underground facilities.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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SIGN, WALL – Any sign painted on or attached to and extending not more than six (6) inches from an **exterior wall** in a parallel manner.

WALL, EXTERIOR – A vertical, structural component of a **building which encloses habitable or usable space**; a parapet extending not more than twelve inches above a flat roof shall be considered part of the exterior wall for purposes of determining signage.

The Planning Division respectfully requests an interpretation by the Board concerning the sign type for the proposed 15 square foot sign. Specifically, Staff recommends that, only for the purposes of establishing sign type classification, a retaining wall be considered a structure so that signs affixed to a retaining wall fall under the freestanding sign type classification.

The Planning Division received an email dated 28 JAN 2016 from David Kelly, Kelly Rental Management, LLC stating, "...I have no objections to the installation" (see attached).

STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the 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 variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides Staff recommended revisions to the petitioner's "Findings of Fact" responses and serve only to remove narrative that is clearly inapplicable. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses (deleted matter struck through; new matter underlined).

As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether or not variance relief should be granted.

However, the Planning Division requests the Board to interpret the Planning and Zoning Code by determining that, only for the purposes of establishing sign type classification, a retaining wall be considered a structure so that signs affixed to a retaining wall fall under the freestanding sign type classification.

Enclosures: Application and accompanying exhibits

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Director

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389 Spruce Street
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STAFF REPORT ADDENDUM A
V16-02 / Uclub Sunnyside / 2188 University Avenue



STAFF REPORT ADDENDUM B

V16-02 / Uclub Sunnyside / 2188 University Avenue

Staff recommended revisions to the petitioner's Findings of Fact responses provided herein serve only to remove narrative that is clearly inapplicable. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses (deleted matter struck through; new matter underlined).

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:

~~This sign is a~~ The subject signs appear to be secure, flush mount, non-lit style ~~wall signs~~. ~~It is~~ They appear to be engineered and attached with multiple steel and aluminum bolts using concealed clip mounts. ~~Sign is~~ The signs are within property boundaries and is will not overhanging ~~and~~ walkways, nor ~~is obstructing any~~ adjacent views.

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 location of the property, with existing hillside trees and curvature of the road, appears to prohibit adequate time to recognize the property for residents, guests and emergency vehicles. Additionally, the length of the property appears to necessitate signs communicating to pedestrians at the principle building entrance and vehicles at the driveway entrance.

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

The variance for ~~a~~ larger signs will eliminate the unnecessary hardship of residents, guests and emergency vehicles not being able to identify the property. The inability to locate the residence could cause traffic accidents or delays in emergency to the property.

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

The increased size of the signs will be an effective means to communicate with the pedestrian and motorize public at relevant locations. ~~It will~~ should improve traffic safety ~~and serve as an enhancement to the look of the city. The sign will be attractive to new residents and visitors and will promote and high quality image.~~



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-02
RECEIVED:	05 JAN 16

OK 103306

Fee: \$75

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT		Name:	Merritt Lawn & Ignacia Garcia		
Mailing Address:	4913 weeping willow	Phone:	713-957-2324		
	Street Houston TX 77092	Mobile:	281-748-6525		
	City State Zip	Email:			

II. PROPERTY		Street Address:	12700 Hill Country blvd. #T-200		
Owner:	ACC OP (Uclub Sunnyside) LLC		Zoning:	R-3	
Mailing Address:	12700 Hill Country blvd. #T-200		Tax Map No:	20	
	Street Austin TX 78738	Parcel No:	187		
	City State Zip	Phone:	512-732-1000		

2188 University

III. NARRATIVE	Please describe the nature and extent of your variance request(s).
Asking for variance for identity wall sign at new construction student housing to be larger than maximum allowable square footage.	

PAID PAID PAID
JAN 05 2016

V. 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. 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.	
Jeremy Roberts		12/28/2015
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 table with Case No. V116-02 and Received: 05 JAN 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

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



City of Morgantown, West Virginia

**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V16-02
RECEIVED:	05 JAN 16

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:

This sign is a secure, flush mount, non-lit style wall sign. It is engineered and attached with multiple steel and aluminum bolts using concealed clip mounts. Sign is within property boundaries and is not over hanging and walkways, nor is obstructing any adjacent views.

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 location of the property with existing hillside trees and curvature of the road, prohibit adequate time to recognize the property for residents, guests and emergency vehicles.



City of Morgantown, West Virginia

**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V116-02
RECEIVED:	05 JAN 16

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>A variance for a larger sign will eliminate the unnecessary, hardship of residents, guests and emergency vehicles not being able to identify the property. The inability to locate the residence could cause traffic accidents or delays in emergency to the property.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>The increased size of the sign will be an effective means to communicate with the public. It will improve traffic safety and serve as an enhancement to the look of the city. The sign will be attractive to new residents and visitors and will promote a high quality image.</p>	

CLIENT



PROJECT



MORGANTOWN, WV

CREATED: 12-21-2015 | PROJECT NUMBER: 2152097

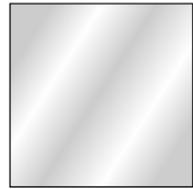


HARDMANSIGNS
ARCHITECTURAL SIGNAGE & GRAPHICS

REP: MERRITT LAWN | DESIGNER: STEVE SIMS

PALETTE/MATERIALS

PAINT COLORS:



P1

MATTHEWS
BRUSHED
ALUMINUM



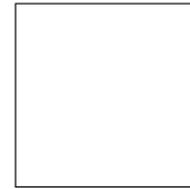
P2

BLUE PMS 295C



P3

BLACK



P4

WHITE

TYPEFACES

DINPRO-COND:

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz

1234567890!@#\$%^&*()

DINPRO-CONDBOLD:

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz

1234567890!@#\$%^&*()

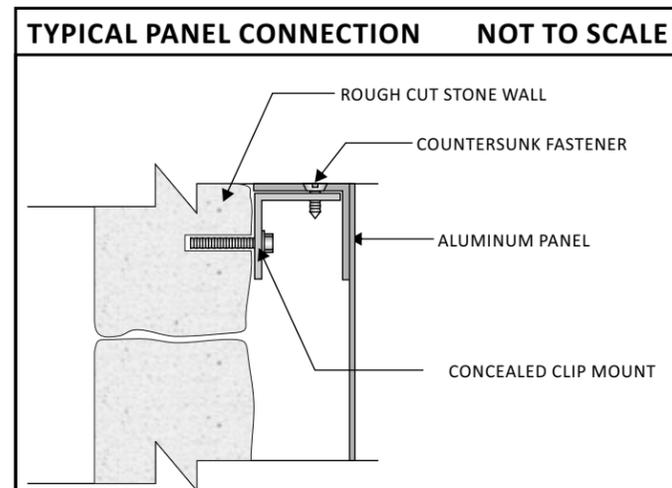
PROJECT FILENAME: U CLUB SUNNYSIDE 2152097

QTY. 1 SINGLE FACE



END VIEW
SCALE: 1.5"=1'0"

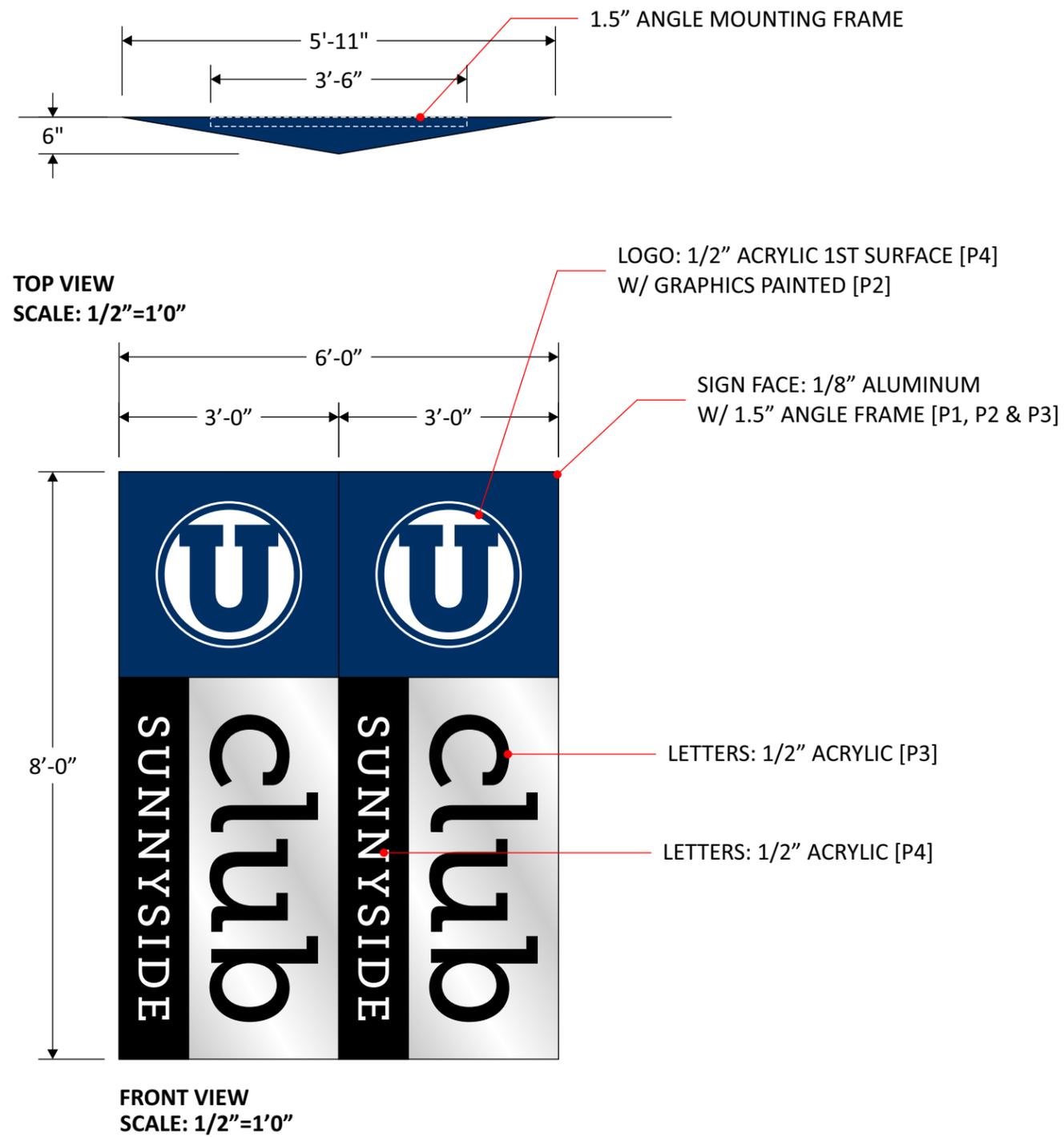
FRONT VIEW
SCALE: 1.5"=1'0"



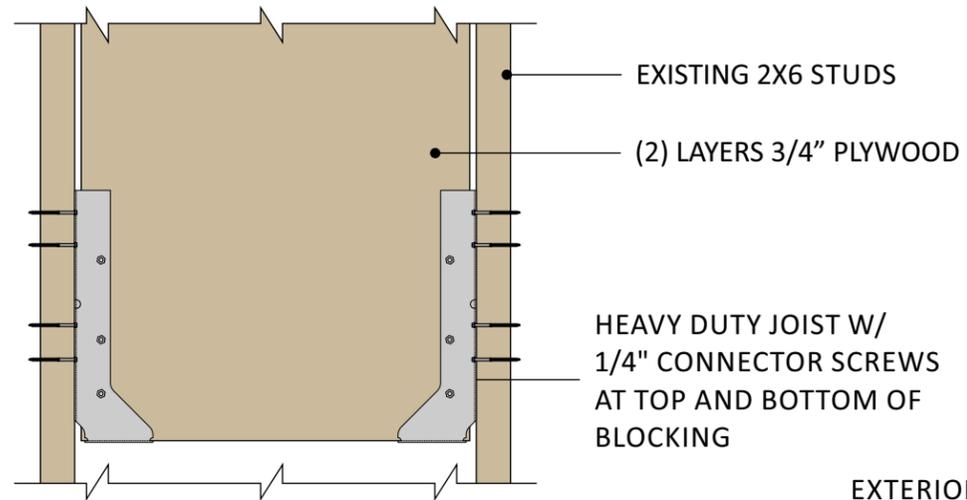
RETAINING WALL
SCALE: 1/2"=1'0"

PROJECT FILENAME: U CLUB SUNNYSIDE 2152097

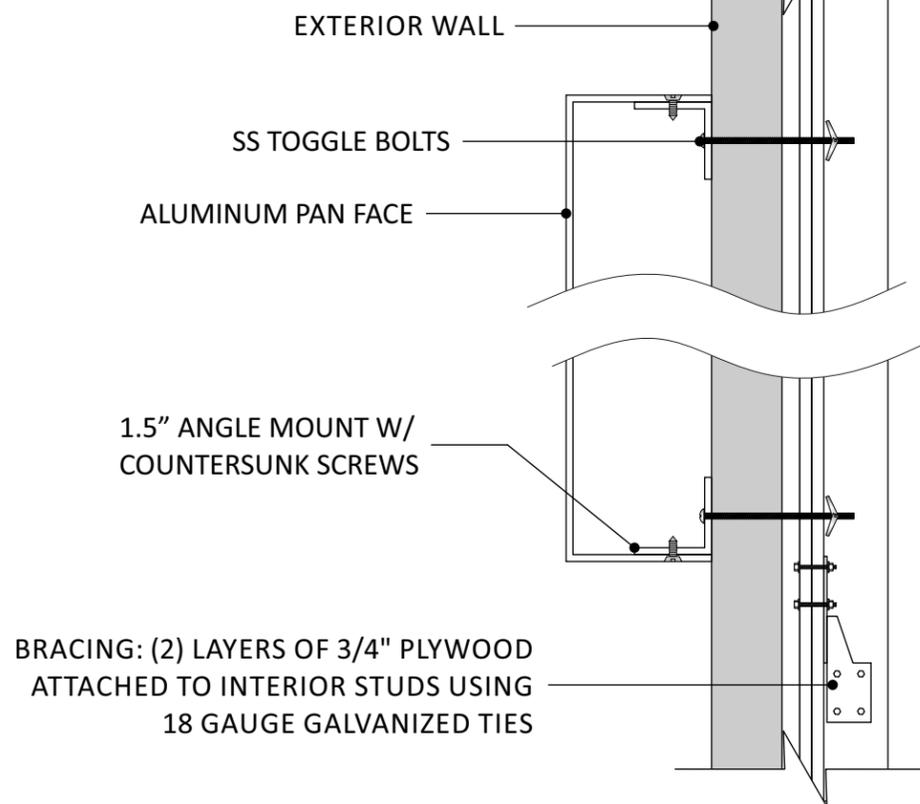
QTY. 1 SINGLE FACE



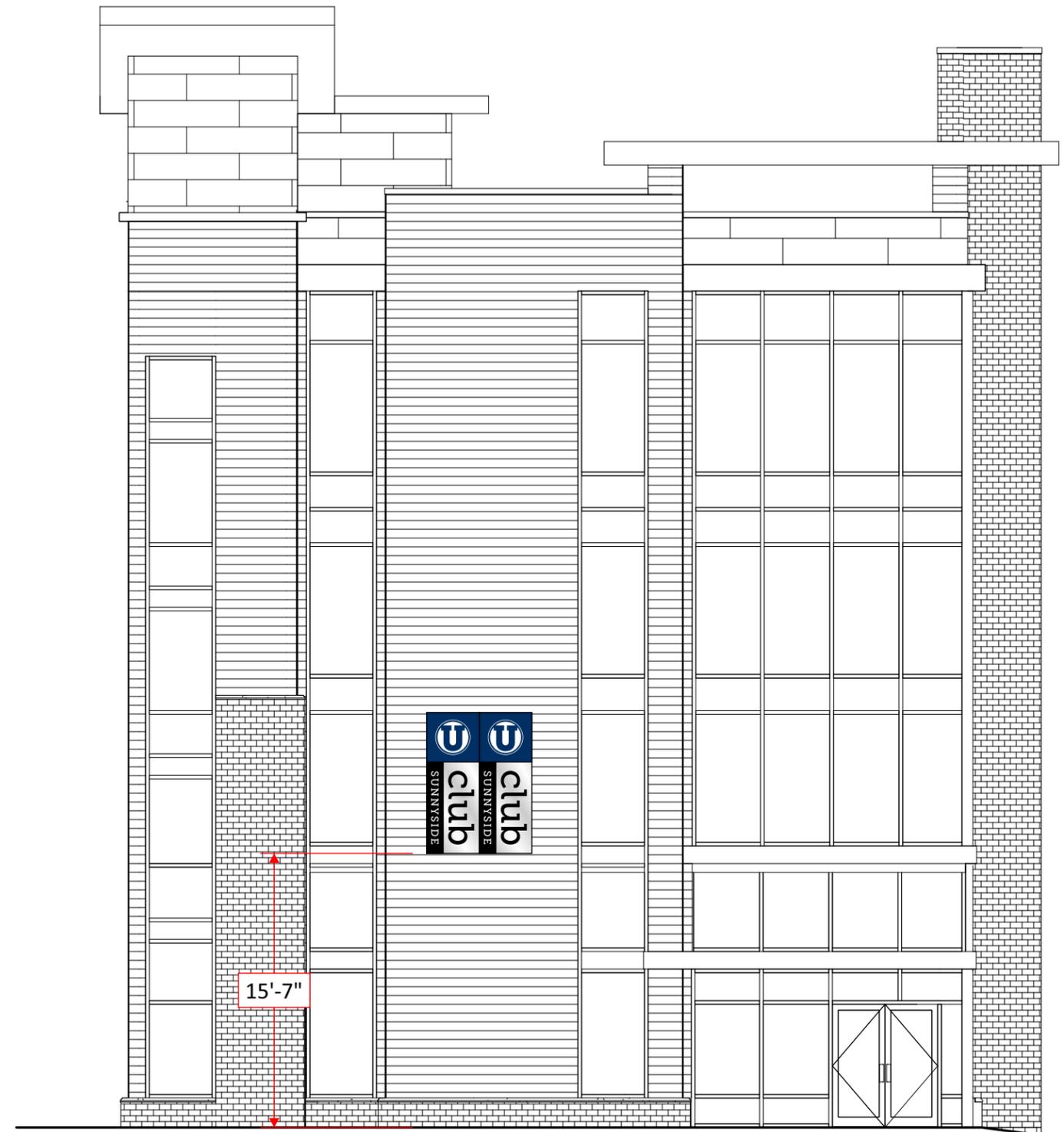
SIGN PLACEMENT



**BLOCKING DETAIL
NOT TO SCALE**



**ATTACHMENT DETAIL
NOT TO SCALE**



**PARTIAL SOUTH ELEVATION
SCALE: 1/8"=1'0"**

Stacy Hollar

From: Kelly Rental <kellyrental@comcast.net>
Sent: Thursday, January 28, 2016 2:56 PM
To: Stacy Hollar
Subject: Re: Sign Variance for ACC OP (UClub Sunnyside)

Stacy:

After getting the specifications from your office about size, placement and lighting on the subject sign that requires a variance for its placement on the building along University Avenue I have no objections to the installation.

David Kelly

Kelly Rental Management, LLC
100A Seventh St.
Morgantown, WV 26505
www.kellyrentalwv.com
kellyrental@comcast.net
304.291.5100