



MORGANTOWN BOARD OF ZONING APPEALS

November 16, 2016
6:30 PM
City Council Chambers

STAFF REPORT

Board Members:

Bill Burton,
Chair

George Papandreas,
Vice-Chair

Linda Herbst

Jim Shaffer

Colin Wattleworth

CASE NOS: V16-39 / Research Park Shoppes, LLC / 51 Donahue Drive

REQUEST and LOCATION:

Request by Jason Donahue, on behalf of Research Park Shoppes, LLC, for variance relief from Article 1365 concerning maximum parking requirements.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 4, Parcels 18.5, 19, 20; B-5, Shopping Center District.

SURROUNDING ZONING:

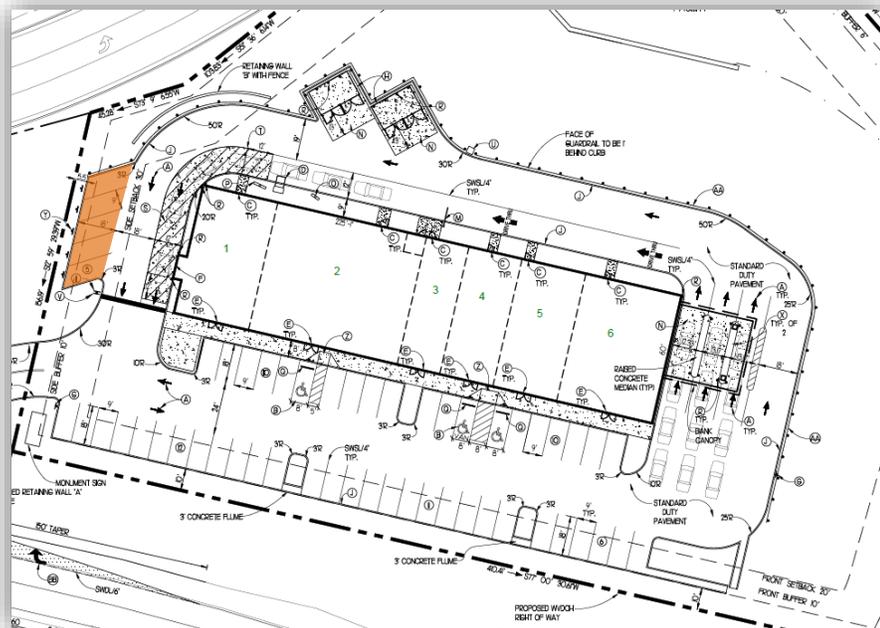
B-5, Shopping Center District

BACKGROUND and ANALYSIS:

The petitioner obtained Type III Development of Significant Impact Site Plan approval from the Planning Commission on 11 DEC 2015 under Case No. S15-11-III. Addendum A of this report illustrates the location of the subject site. Site preparation and utility relocation for the *Research Park Shoppes* development is underway.

The following graphic is clipped from the Planning Commission's approved site plan illustrating the maximum number of parking stalls (54) planned for the shopping center.

Figure 1



Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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Since obtaining Site Plan approval, the petitioner’s tenant commitment mix has changed to include more restaurant uses rather than the initially contemplated retail-type uses. The petitioner is concerned the change in tenant mix will result in higher peak parking demand during shorter intervals by the similar restaurant uses warranting additional parking stalls.

The petitioner seeks variance relief to develop 13 additional parking spaces above the maximum parking standard set forth in Article 1365.04(I) [115% of minimum parking requirement.]. The additional parking stalls that will exceed the maximum standard are highlighted below in the graphic clipped from the petitioner’s modified site plan.

Figure 2



Variance relief will bring the total number of parking stalls to 142.6% of the minimum parking required for the shopping center use.

It should be noted minimum and maximum parking standards for shopping center uses anticipate a shared parking demand with steady parking stall turnover throughout the day. Specifically, shared parking areas serving shopping centers offering heterogeneous commercial uses are more osmotic in meeting varying peak demand intervals throughout the day. However, restaurants have unique peak parking demand periods around normal lunch and dinner times. A shopping center offering more homogenous commercial use types (e.g., concentrations of restaurant establishments) will arguably experience higher parking demand peaks with less frequent parking stall turnover during critical periods.

As such, the petitioner is concerned the maximum parking standard may hinder the subject site’s ability to sustain the anticipated, less heterogeneous, restaurant tenant mix.

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It should also be noted the Planning Commission included a condition in its 11 DEC 2015 site plan approval under Case No. S15-11-III that the angled parking stalls on the west side of the development site be restricted to "Employee Parking Only" to reduce turnover frequency thereby furthering public safety and welfare given adjacent drive-thru facilities and bypass lane. The west side angled parking stalls are highlighted in orange in Figure 1 above. A similar condition is recommended below for the proposed angled parking stalls on the east side of the development site.

STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to determine whether the proposed requests meet 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(s) to deny the subject petitions. [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 for each petition (deleted matter struck-through, new matter underlined). Staff recommends the Board grant variance relief from the maximum parking requirement for Case No. V16-39 as requested with the following conditions:

1. That, to the satisfaction of the Planning Division, the four (4) angle parking spaces at the east side of the development site [highlighted in blue in Figure 2 of the Staff Report] be restricted to "Employee Parking Only" and signed accordingly (vertical signage and/or pavement markings) to reduce turnover frequency of said parking spaces thereby furthering public safety and welfare.
2. That any additional parking spaces for the *Research Park Shoppes* development will require Board of Zoning Appeals approval.

Attachments: Application and accompanying exhibits

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
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304.284.7431

STAFF REPORT ADDENDUM A

V16-39 / Research Park Shoppes, LLC / 51 Donahue Drive



STAFF REPORT ADDENDUM B

V16-39 / Research Park Shoppes, LLC / 51 Donahue Drive

Staff recommends the following revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined). Recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's "Findings of Fact" responses.

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 granting of the requested variance will ensure public health, safety, and welfare by providing adequate off-street parking areas for the anticipated, less heterogeneous, restaurant tenant mix and intensity of use of the shopping center thereby alleviating and/or preventing congestion on the property and surrounding roadways, ~~property owners or residents.~~

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:

Market conditions beyond the control of the developer significantly influenced the tenant mix in the shopping center on the property, and the current tenant mix of the shopping center represents an anticipated increase in parking stalls needed to sustain demand during peak intervals ~~the number of parking facilities on the property per the City of Morgantown Planning and Zoning Code.~~

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

The acreage of the property can accommodate additional parking facilities that will allow the shopping center to adequately service higher intensity restaurant uses with similar parking demand peaks. Parking stall turnover during shared peak parking demand intervals appears to necessitate additional parking stalls in excess of the maximum parking standard thereby sustaining the anticipated, predominantly restaurant, tenant mix of the shopping center use. The additional parking facilities will decrease the potential for pedestrian and automobile congestion. Preventing congestion increases safety for the public.

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

The variance will allow the shopping center to safely provide adequate parking for the type and intensity of uses present on the property. The variance will allow the property to achieve its highest and best intensity of use in an efficient, safe manner with no impact on adjacent roadways, property owners, or residents.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V116-39
RECEIVED:	07 OCT 16

OK 1007

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Research Park Shoppes, LLC	
Mailing Address:	645 Southview Street		Phone:	304-599-4929
	Street	Morgantown, WV 26505	Mobile:	304-376-9025
	City	State	Zip	Email: jason@feohrealty.com
II. PROPERTY		Street Address:	51 Donahue Drive	
Owner:	Research Park Shoppes, LLC		Zoning:	B-5
Mailing Address:	645 Southview Street		Tax Map No:	4
	Street	Morgantown, WV 26505	Parcel No:	18.5, 19, 20
	City	State	Zip	Phone: 304-599-4929
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
1365.04(I) - request variance relief to increase the allowable amount of offstreet parking. A total of 67 parking spaces are requested.				
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.				
Jason Donahue				10/7/16
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date

PAID BY: OCT 07 2016

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.	V116-39
RECEIVED:	07 OCT 14

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: 1 Gross floor area of each building: 13,500 sf +/- (one story)

Estimated number of employees: TBD No. of dwelling units: N/A No. of bedrooms: N/A

Additional structure-related details:

Additional Information (as required by Staff):

Site Plan is provided by the applicant.

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.	V112-39
RECEIVED:	07 OCT 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 granting of the requested variance will ensure public health, safety, and welfare by providing adequate offstreet parking areas for the anticipated tenant mix and intensity of use of the shopping center thereby alleviating and/or preventing congestion on the property and surrounding roadways. Parking can be accommodated onsite and will not impact adjacent public roadways, property owners or residents.

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:

market conditions beyond the control of the Developer significantly influenced the tenant mix in the shopping center on the property, and the current tenant mix of the shopping center represents an increase in the intensity of use of the property. The increase in the intensity of use requires an increase in the number parking facilities on the property per the City of Morgantown Planning and Zoning Code.



City of Morgantown, West Virginia

**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V116-39
RECEIVED:	07 OCT 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>the acreage of the property can accommodate additional parking facilities that will allow the shopping center to adequately service higher intensity uses. The additional parking facilities will decrease the potential for pedestrian and automobile congestion. Preventing congestion increases safety for the public.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>the variance will allow the shopping center to safely provide adequate parking for the type and intensity of uses present on the property. The variance will allow the property to achieve its highest and best intensity of use in an efficient, safe manner with no impact on adjacent roadways, property owners, or residents.</p>	

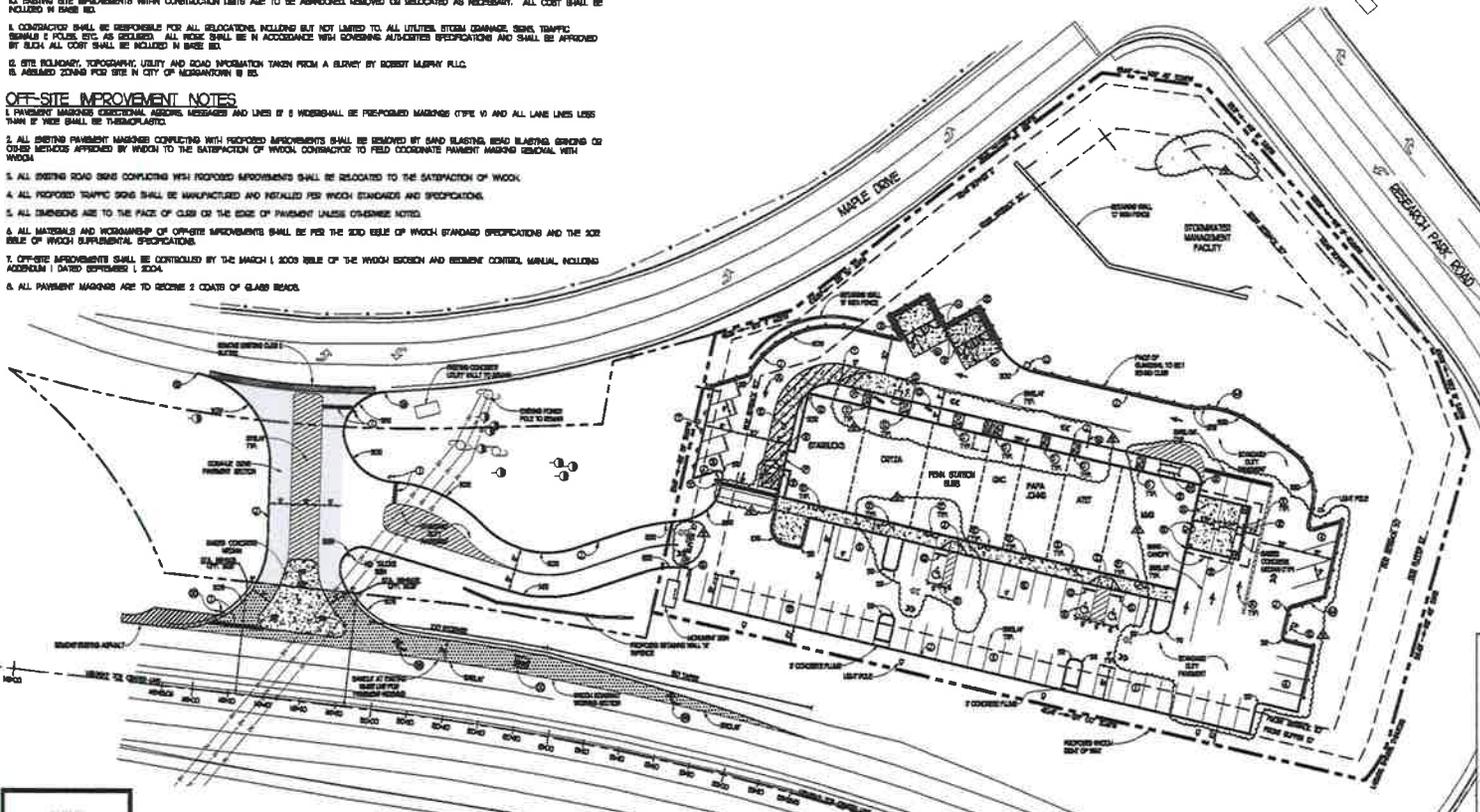
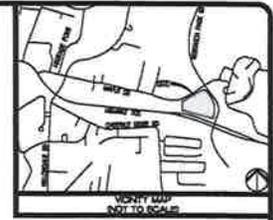
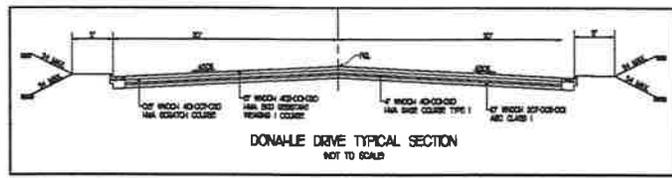
V110-39

SITE PLAN NOTES

1. CONTRACTOR SHALL REFER TO THE ARCHITECTURAL PLANS FOR EXACT BUILDING DIMENSIONS AND FOR THE EXACT LOCATION OF UTILITY ENTRANCES, SCOP LANSERS, EXIT DOORS, EXIT STAIRS, ETC.
2. ALL DIMENSIONS ARE TO BUILDING FACE, FACE OF CURB OR EDGE OF SIDEWALK UNLESS NOTED OTHERWISE.
3. CONTRACTOR SHALL PROVIDE ALL LABOR AND MATERIALS FOR THE INSTALLATION OF TRAFFIC SIGNAGE AND PAVEMENT MARKINGS AS SHOWN ON THE CONSTRUCTION PLANS.
4. ALL NONLANDSCAPED ISLANDS SHALL BE PAINTED WITH STRIPES 4" WIDE AT 4' AND 1' FEET OC.
5. ALL STRIPES SHALL BE WHITE, 4" WIDE UNLESS NOTED OTHERWISE.
6. CONTRACTOR SHALL COORDINATE FINAL LOCATION OF THE Pylon SIGN WITH OWNER.
7. CONTRACTOR SHALL REFER TO OTHER PLANS WITHIN THIS CONSTRUCTION SET FOR OTHER SIGN INFORMATION.
8. ALL WORK AND MATERIALS SHALL COMPLY WITH ALL CITY OF MORGANTOWN REGULATIONS AND CODES AND OSHA STANDARDS.
9. ALL DISTURBED AREAS ARE TO RECEIVE FOUR INCHES OF TOPSOIL, SEED, MULCH AND WATER UNTIL A HEALTHY STAND OF GRASS IS ESTABLISHED UNLESS NOTED OTHERWISE.
10. EXISTING SITE IMPROVEMENTS WITHIN CONSTRUCTION LIMITS ARE TO BE ABANDONED, REMOVED OR RELOCATED AS NECESSARY. ALL COST SHALL BE INCLUDED IN BASE BID.
11. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL RELOCATIONS INCLUDING BUT NOT LIMITED TO, ALL UTILITIES, STORM DRAINAGE, SIGNS, TRAFFIC SIGNALS & POLES, ETC. AS REQUIRED. ALL WORK SHALL BE IN ACCORDANCE WITH CONVENING AUTHORIZED SPECIFICATIONS AND SHALL BE APPROVED BY SUCH. ALL COST SHALL BE INCLUDED IN BASE BID.
12. SITE BOUNDARY, TOPOGRAPHY, UTILITY AND ROAD INFORMATION TAKEN FROM A SURVEY BY ROBERT MURPHY PLLC.
13. ASSEMBLED ZONING FOR SITE IN CITY OF MORGANTOWN IS B3.

OFF-SITE IMPROVEMENT NOTES

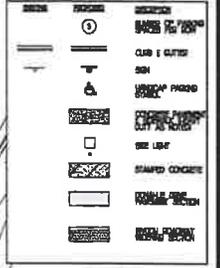
1. PAVEMENT MARKINGS, DIRECTIONAL SIGNS, MESSAGE SIGNS AND LINES IF A WORD SHALL BE PERFORMED MARKING TYPE IV AND ALL LANE LINES LESS THAN 4" WIDE SHALL BE THERMOPLASTIC.
2. ALL EXISTING PAVEMENT MARKINGS CONFLICTING WITH PROPOSED IMPROVEMENTS SHALL BE REMOVED BY SAND BLASTING, ROAD BLASTING, GRINDING OR OTHER METHODS APPROVED BY WPOVA. CONTRACTOR TO FIELD COORDINATE PAVEMENT MARKING WITH WPOVA.
3. ALL EXISTING ROAD SIGNS CONFLICTING WITH PROPOSED IMPROVEMENTS SHALL BE RELOCATED TO THE SATISFACTION OF WPOVA.
4. ALL PROPOSED TRAFFIC SIGNS SHALL BE MANUFACTURED AND INSTALLED PER WPOVA STANDARDS AND SPECIFICATIONS.
5. ALL DIMENSIONS ARE TO THE FACE OF CURB OR THE EDGE OF PAVEMENT UNLESS OTHERWISE NOTED.
6. ALL MATERIALS AND WORKMANSHIP OF OFF-SITE IMPROVEMENTS SHALL BE PER THE 2003 EDITION OF WPOVA STANDARD SPECIFICATIONS AND THE 2002 EDITION OF WPOVA SUPPLEMENTAL SPECIFICATIONS.
7. OFF-SITE IMPROVEMENTS SHALL BE CONTROLLED BY THE MARCH 1, 2009 EDITION OF THE WPOVA DESIGN AND RECORDING CONTROL MANUAL, INCLUDING ADDENDUM 1 DATED SEPTEMBER 1, 2004.
8. ALL PAVEMENT MARKINGS ARE TO RECEIVE 2 COATS OF GLASS BEADS.



SITE LEGEND

- 1. PARKING DIMENSIONS, SEE TYPICAL SEE DETAILS
- 2. ACCESSIBLE PARKING SPACE, TYPICAL, SEE DETAIL, SEE LIST FOR ACCESSIBLE SPACINGS AND DIMS.
- 3. DRIVE AISLE DIMENSIONS
- 4. SIDEWALK DIMENSIONS
- 5. SIDEWALK CURB HEIGHT
- 6. SIDEWALK FINISH
- 7. DRIVE TYPING
- 8. SIDEWALK DIMENSIONS, SEE FOR DRIVE TYPING
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- 50. SIDEWALK DIMENSIONS, SEE FOR DRIVE TYPING

SITE LEGEND



OFF-SITE TRAFFIC CONTROL NOTES

1. ALL TRAFFIC CONTROL MEASURES AND SIGNS SHALL BE PROVIDED, INSTALLED AND MAINTAINED BY THE CONTRACTOR FOR THE DURATION OF THIS PROJECT TO THE SATISFACTION OF WPOVA AS PER CASES AP 4 & B2.
2. ALL TRAFFIC CONTROL MEASURES AND SIGNS SHALL BE MANUFACTURED, INSTALLED AND MAINTAINED BY THE CONTRACTOR IN ACCORDANCE WITH THE LATEST EDITION OF THE MUTCD AND/OR SUPPLEMENTS THERE-TO TO THE SATISFACTION OF WPOVA.
3. FIELD CONDITIONS MAY REQUIRE TRAFFIC CONTROL MEASURES IN ADDITION TO MEASURES INDICATED ON THIS DRAWING. CONTRACTOR IS REQUIRED, ON SHEET'S EXHAUST, TO COORDINATE ALL TRAFFIC CONTROL MEASURES WITH WPOVA.
4. CONTRACTOR IS REQUIRED TO ENSURE THAT, AT A MINIMUM, ALL EXISTING TRAFFIC PATTERNS ARE KEPT OPEN AND OPERATIONAL DURING THE CONSTRUCTION PHASE OF THE PROJECT. CONTRACTOR TO COORDINATE WITH WPOVA.
5. CONTRACTOR TO INCLUDE ALL COSTS FOR TRAFFIC CONTROL IN BASE BID.
6. ALL LAND CLOSURES ON UNIVERSITY AVENUE SHOULD BE PERFORMED DURING OFF-PEAK HOURS AND COORDINATED WITH WPOVA. CONTACT A TRAFFIC AT 304-254-2444.

CONTRACTOR TO FURNISH & INSTALL MENU BOARDS, DIRECTIONAL SIGNAGE, HEIGHT RESTRICTION BAR, ETC. IN ACCORDANCE WITH STARBUCKS CRITERIA. COORDINATE WITH OWNER & STARBUCKS.

PARKING SUMMARY

TOTAL	BLAZED	REQUIRED PARKING	REQUIRED PARKING	TOTAL PARKING	STANDARD PARKING SPACES	COMPACT PARKING SPACES	TOTAL PARKING SPACES
PROPOSED TOTAL	1000 SP.	548 / 000	4	48 / 000	0	0	4

SITE ACREAGE: 2.69 ACRES

SITE PLAN



REVISIONS	BY
04-29-16	URS
06-07-16	URS
07-08-16	URS
07-27-16	URS
09-29-16	URS

FREELAND and KALFFMAN, INC.
 Engineers • Landscape Architects
 200 West Stone Avenue
 Greensboro, North Carolina 27609
 Tel: 864-332-0790
 Fax: 864-332-0795
 NC LICENSE NO. C-1832



PROPOSED RETAIL MORGANTOWN, WV
 FREELAND & KALFFMAN, LLC
 3250 UNIVERSITY AVENUE
 MORGANTOWN, WV 26505
 304-599-4629

DATE	SCALE
06/20/26	SCALE

DATE: 06/20/26
 SCALE: SCALE

10