Morgantown Board of Zoning Appeals

MEETING PACKET

Wednesday, April 17, 2019
6:30 p.m.
City Council Chambers

Board Members:
Harrison Case, Chair
Kevin Meehan, Vice Chair
Chris Benison
Heidi Cook
Garrett Tomblin

Development Services Department
Christopher M. Fletcher, AICP, Director
John Whitmore, AICP, Planner III
BZA Pre-Meeting Announcement read by the Chairperson

Good evening and welcome to the regular/special meeting of the City of Morgantown Board of Zoning Appeals. Please turn off all cell phones or other devices that may disrupt these proceedings. It is the duty of this Board to consider requests for relief from the requirements of the City’s zoning regulations; to consider conditional use permit requests; and, to hear administrative appeals.

The Board conducts business in the following order:

- Review, amend, and approve minutes of a previous meeting.
- Unfinished Business
- New Business
- Announcements from Staff

Each request is heard in the order that it appears on the agenda. For each Conditional Use and Variance request, the following is done:

- I will introduce the agenda item and the Planning Division will present a Staff Report, which may or may not offer a recommendation.

- The applicant/agent will be asked to present their justification for their request, which may include questions by members of the Board.

- I will then open a PUBLIC HEARING to hear testimony in support of, or in opposition to, the request. Rules regarding public testimony are as follows:
  - Anyone wishing to testify during the public hearing may do so once recognized by me or may, in lieu of oral testimony, submit written testimony to the Chair. All recognized speakers must approach the podium, state their name and address for the record, and speak clearly into the microphone.
  - All comments must be addressed to the Board, should be relevant to the application, and may not be of a personal nature or personal attacks.
  - All speakers will be limited to FIVE (5) MINUTES. If members of the Board have any questions of the speaker, that time will not be counted toward his/her five (5) minutes.
  - If there is a large number of speakers, including many who are part of groups or organizations, I may, to avoid repetitive comments, elect to ask for a representative to speak on behalf of the group or organization.
- Speakers are notified that irrelevant comments or comments of a personal nature or personal attacks may result in the speaker forfeiting his/her opportunity to participate in the public hearing.

- I may elect to recognize the applicant/agent at the end of the public hearing to provide rebuttal or additional comments, which will be limited to five (5) minutes. If members of the Board have any questions of the applicant/agent, that time will not be counted toward his/her five (5) minutes.

- After all testimony is heard, I will declare the **PUBLIC HEARING CLOSED** and no further public comment will be permitted.

- Uncivil, unruly, and/or disruptive behavior at any time during this meeting is prohibited and will result in removal from this public meeting.

- State law requires the Board to consider findings of fact for each conditional use and variance request. The request cannot be granted unless a majority of the quorum present finds in the positive of **ALL** of the findings of fact. The Board may elect to continue the hearing to another date if it needs additional information.

- Applicants and requesting parties will be notified in writing by the Planning Division of the Board’s findings and conclusions. Regardless of whether a request is approved or denied, decisions of the Board can be appealed to the Circuit Court of Monongalia County within thirty (30) days upon receipt of the written notification. Any work done relating to decisions rendered by this Board during this thirty-day period is at the sole financial risk of the applicant.

Thank you for your consideration and respect for these proceedings and the opinions of all meeting participants.
MORGANTOWN BOARD OF ZONING APPEALS
April 17, 2019
6:30 p.m.
Council Chambers

AGENDA

I. CALL TO ORDER AND ROLL CALL

II. MATTERS OF BUSINESS:
   A. Minutes for the March 20, 2019 hearing

III. UNFINISHED BUSINESS: None.

IV. NEW BUSINESS:
   A. CU19-02 / Mundy’s Place / 669 Madigan Avenue: Request by Julana Enterprises, LLC, on behalf of Mundy’s Place, for approval of a conditional “Restaurant, Private Club” use; Tax Map 40, Parcel 88; B-1, Neighborhood Business District.

V. ANNOUNCEMENTS

VI. ADJOURNMENT

Morgantown Board of Zoning Appeals Chair Harrison Case has, in accordance with the BZA’s Bylaws, duly called a workshop to be held immediately following the regularly scheduled meeting that begins at 6:30 p.m. on Wednesday, April 17, 2019. The workshop will be held in the Planning Office, City Hall, 389 Spruce Street, Morgantown, WV. The purpose of this workshop will be to provide training for members of the Board of Zoning Appeals to include duties and responsibilities, ethical issues, preparing for and conducting meetings, decision making, findings of fact, etc. Workshops are not considered regular or special meetings and may not include the formal conduct of business, the rendering of decisions, or taking action for which the Board is charged. Workshops are open to the public and are intended to serve as training, study, public education, etc.
Intentional
Blank
Page
BOARD OF ZONING APPEALS

MINUTES

6:30 p.m. March 20, 2019 Council Chambers

MEMBERS PRESENT: Harrison Case, Kevin Meehan, Chris Benison, and Heidi Cook

MEMBERS ABSENT: Garrett Tomblin

STAFF: John Whitmore, AICP

I. CALL TO ORDER AND ROLL CALL: Case called the meeting to order and read the standard explanation of the how the Board conducts business and rules for public comments.

II. MATTERS OF BUSINESS:

A. Minutes for the February 20, 2019 hearing. No corrections noted, and minutes approved as presented.

III. UNFINISHED BUSINESS: None.

IV. NEW BUSINESS:

A. V19-11 / Qdoba / 386 Patteson Drive: Request by Kenny Weeks of Discount Signs and Awnings, on behalf of Qdoba Eats Mexican, for variance relief from Article 1369 concerning signage; Tax Map 11, Parcels 6 and 9; B-2, Service Business District.

Whitmore presented the Staff Report.

Case recognized Kenny Weeks of Discount Signs, on behalf of Qdoba, who concurred with the Staff report and stated the store is remodeling and modernizing their establishment.

There being no questions or comments by the Board, Case asked if anyone would like to speak in favor of or in opposition to the variance petition. There being none, Case declared the public hearing closed and asked for Staff recommendations, which were read by Whitmore.

Benison noted the proposed sign will be smaller than the existing sign. Whitmore confirmed and referred to the Staff report to provide further explanation on the measurements of the proposed sign.

Cook made a motion to find in the affirmative for all of the Finding of Facts for V19-11 as presented; seconded by Benison. Motion carried unanimously.

NOTE: The following findings were included in the motion.

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 size of the wall sign appears to be in keeping with neighboring business wall signage and is functionally smaller than the wall sign to be replaced, which does not appear to have adversely impact the public realm or property rights.

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 Qdoba establishment has historically functioned with signage in excess of current maximum sign area standards and appears to be in keeping with other business establishments within the Patteson Drive commercial corridor.

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

The new sign, although smaller than the existing sign to be replaced, appears prudent to message to vehicular passersby within the five-lane Patteson Drive corridor.

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

The proposed sign is less in area than the wall sign it will replace thereby modestly decreasing visual clutter within the Patteson Drive commercial corridor.

Cook moved to grant variance relief for Case No. V19-11 without conditions; seconded by Meehan. Motion carried unanimously.

Case reminded Mr. Weeks that the Board’s decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board’s decisions during this period would be at the sole financial risk of the petitioner.

B. V19-12 / Wincor Properties, LLC / 263 Grant Avenue: Request by Don F. Corwin for variance relief from Section 1361.03 related to building materials; Tax Map 20, Parcel 33; R-3, Multi-Family Residential.

Whitmore presented the combined Staff Report for Case Nos. V19-12, V19-13 and V19-14.

Whitmore noted that Staff received a letter in favor of the petitions from Jaime Craig after the meeting packets were distributed.

Case recognized Don Corwin of 251 Beechurst Avenue, on behalf of Wincor Properties, LLC, who provided further explanation of the project. Corwin stated there have been many upgrades made to the existing house to improve the quality and safety of the structure.

Corwin stated that using a brick material would be hard to match as the existing brick is over a hundred years old. He expressed that using an earth tone hardi-siding with matching trim is attractive for this property and therefore they are requesting variance relief on materials.

Corwin stated it is necessary to change the pitch of the roof in order to improve the quality of house and increase safety to the space. He noted that by changing the roof pitch this created the massing issue which he was not aware existed. Corwin noted there are many surrounding buildings in the Sunnyside area that are bigger in height with increased massing and expressed his house is consistent with the character of the neighborhood.
Corwin stated the porch was dilapidated and therefore they renovated and enclosed part of the front porch to provide a kitchen space. He noted they built the porch based on a line of sight comparison with other porches surrounding the house but then determined with the City Engineer that a survey was necessary which later revealed the porch extended slightly on the right-of-way. Corwin stated they are willing to remove some of the structure out of the City right-of-way to a zero-foot setback pending variance approval.

Case noted a site survey was completed after the meeting packets were distributed. Corwin confirmed.

Corwin handed out additional information on the survey plat to further explain the setback and noted there will be a buffer of grass.

Case asked for further explanation on the proposed materials. Corwin explained the hardi-siding would be more durable and only applied to the top and bottom of the house with the existing brick remaining in the middle. Whitmore referred to pictures in the Staff Report to provide further explanation.

Benison noted that the height of the building is three stories and still below the 55 maximum height requirement.

Case referred to the side setback and noted the wall of the house is not encroaching farther into the setback but rather the wall is longer. Corwin confirmed and stated the existing porch was already nonconforming but since they are enclosing the porch a variance is necessary.

Benison referred to the survey and expressed the results should not impact the Boards deliberations. Whitmore explained the survey shows where the parcel boundaries are located.

Case asked if there were any objections to combining the public hearing for V19-12, V19-13 and V19-14. There being none, Case asked if anyone would like to speak in favor of or in opposition to the variance petitions.

Case referred to the letter received by Staff from Jim and Jaime Craig which expressed favor in the project and asked the letter be entered in to the record.

There being no comments, Case declared the public hearing closed and asked for Staff recommendations, which were read by Whitmore.

Case stated the Board should consider and discuss each case separately.

Board members expressed favor in the proposed materials.

Meehan made a motion to find in the affirmative for all of the Finding of Facts for V19-12 as revised by Staff seconded by Benison. Motion carried unanimously.

NOTE: The following findings were included in the motion.

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:

Cementitious fiberboard product widely used in building applications. This type of cladding, under several related variance approvals within the Sunnyside Overlay Districts, appears to have proven to be a higher performing material in this predominantly student housing neighborhood without adverse
impact to the public or the rights of adjoining property owners. Specifically, cementitious siding has proven effective against denting, splitting, vandalism, graffiti, fire, etc. compared to wood or vinyl products.

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 use of other “natural materials” such as stone or wood siding would not be compatible with aesthetic of this property. Use of brick does not appear practical as the existing brick is understood to be over 100 years old, have weathered/developed a patina and cannot be matched or duplicated. Cementitious cladding in charcoal gray color should result in an improved aesthetic and match other portions of the house. The special conditions of the exterior, along with the desire to use a higher performing cladding material in a predominantly student housing neighborhood, necessitate this variance and were not created by the owner.

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

Attempting to match the existing brick appears impractical and would detract from the building aesthetic. Other natural products would also be in contrast. The cementitious siding is a high-quality exterior finishing material which is wholly consistent with adjacent buildings. This variance will eliminate any contrast in façade through attempts to match existing material and is reasonable usage relative to adjacent structure construction.

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

Use of cementitious siding, slate gray, appears to be an attractive option for the building, is wholly compatible with surrounding architecture, and will match the other portion of the house. This variance supports the purpose and intent of zoning ordinances(s) that ensure attractive, high quality façade doing substantial justice to the neighborhood, community, and City.

Cook moved to grant variance relief for Case No. V19-12 with Staff the recommended condition that cementitious material must be used and not vinyl material; seconded by Meehan. Motion carried unanimously.

C. V19-13 / Wincor Properties, LLC / 263 Grant Avenue: Request by Don F. Corwin for variance relief from Section 1339.07 related to performance standards; Tax Map 20, Parcel 33; R-3, Multi-Family Residential.

Meehan made a motion to find in the affirmative for all of the Finding of Facts for V19-13 as revised by Staff; seconded by Benison. Motion carried unanimously.

NOTE: The following findings were included in the motion.

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:

Remodeling of top floor bedrooms has resulted in additional “massing” due to addition of exterior walls and lower roof pitch. Performing this work has improved the quality, safety, and living condition of the property. Previous attic rooms were cramped with minimal window space. The replacement of the old, dilapidated roof and addition of knee walls plus new windows results in improved egress. Roof and wall insulation results in more comfortable space. Buildings on both sides, owned by Wincor Properties, do not appear to be significantly impacted as both are also 3 stories in height. Directly across Grant Avenue is WVU’s three-story townhouses, behind which is WVU’s a 12-story University Place building. Directly behind the 263 Grant Avenue building are two recently constructed properties including 146 and 152 3rd Street properties which were constructed in very similar massing of the top
floor. The work on the 263 Grant property improves the health, safety, welfare and is appears to be wholly consistent and compatible with other adjacent structures.

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 house is approximately 100 years old and has been a rental property for over 45 years. Attic bedrooms are undesirable due to low ceilings, cramped spaces, and poor quality/unsightly construction. The existing roof required replacement due to rotting wood and roofing materials. Installing a new roof, truss system, and insulation while systematically installing new exterior walls will preserve the house while improving the quality of the living space. Variance is sought due to constraints of remodeling and improving an existing structure.

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

The two-family dwelling is located in Sunnyside R-3 neighborhood where residents are predominantly WVU students. Improvement in quality and safety of rental space is necessary due to changing rental market and stricter safety standards. Replacement/remodeling of the attic bedrooms allows the house to be marketed to a wider, higher quality group of residents. Preserving the two-family dwelling while improving the space is reasonable and desirable in this neighborhood as the results are high quality, affordable housing for students. Eliminating the unnecessary hardship of renting a distressed and unsafe living space is effective and reasonable use of the existing land and building.

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

The remodeled two-family dwelling will result in preserving much of the character of the property, be a significant improvement to the neighborhood, result in improved quality and safety for residents, and is consistent with adjacent structures. The results appear to be aligned with purpose and intent of higher densities in the Sunnyside Overlay Districts and the end product appears to ensure substantial justice to the neighborhood, community, and City.

Meehan moved to grant variance relief to permit the conversion of the half-story attic to a full third-story, which results in the massing of 263 Grant Avenue not substantially conforming to and being greater than the existing massing of 255 Grant Avenue without conditions for Case No. V19-13; seconded by Benison. Motion carried unanimously.

D. V19-14 / Wincor Properties, LLC / 263 Grant Avenue: Request by Don F. Corwin for variance relief from Section 1339.04 related to setbacks; Tax Map 20, Parcel 33; R-3, Multi-Family Residential.

Case noted the applicant is willing to remove part of the porch in order to back it up to a 0-foot front setback and there will still be a buffer area.

Board members noted most houses in that area are non-conforming and expressed favor with having the buffer area.

Whitmore suggested the Board not consider the buffer area when determining a decision for the setback variance, as the current use of the public right-of-way cannot be guaranteed in the future.

Case asked if anything could be built on the public right-of-way in the future. Whitmore stated private improvements could be done to the land in the right-of-way with an abandonment process and noted the zoning district preference for a plaza space in the future.
Case asked if any examples could be provided of surrounding non-conforming houses with extended porches. Whitmore referred to a 267 Grant Avenue and noted the porch extends to the right-of-way.

Meehan noted a lot of properties would be affected if a streetscape project were to occur in the future. Whitmore confirmed.

Corwin noted the Grant Avenue sidewalks were previously extended at least 18 inches with the streetscape improvements.

Case suggested considering surrounding non-conforming properties rather than the buffer area when making a decision. Whitmore referred to the Staff Report to show examples of surrounding non-conforming properties.

Case asked if the newly constructed addition will be farther out than the previous porch. Corwin stated the new addition will be of a similar footprint as the previous porch, but larger.

Cook asked for further explanation on the right-of-way. Whitmore provided further explanation and noted that a right-of-way is for public use of space and pedestrians are baring specific regulation, allowed to occupy the grass area.

Benison expressed they would not be increasing the degree of nonconformity with granting the variance. Board members agreed.

Meehan referred to Finding of Fact 4 and suggested including the zero-foot setback on Grant Avenue. Benison agreed and suggested to reference the condition as well.

Case made a motion to find in the affirmative for all of the Finding of Facts for V19-14 as amended by the Board members; seconded by Benison. Motion carried unanimously.

NOTE: The following findings were included in the motion.

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:

Remodeling of the first floor included the addition of an adequate kitchen for the building. The unit previously had limited kitchen facilities located in the corner of the living room. Installation of a property equipped kitchen space of 80 sq ft will improve the quality of the property for residents. The health, safety, and welfare of the residents will be enhanced by this work. Rights of adjacent property owners will not be impacted. This work on the 263 Grant property improves the health, safety and welfare and is wholly consistent and compatible with other adjacent structures.

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 house is approximately 100 years old and has been a rental property for over 45 years. Limited space is available on the ground floor to accommodate a full kitchen. Expanding the kitchen into the front is necessary to improve the quality and living condition of residents. This addition will preserve a front porch area of 150 sq ft. Many structures on Grant avenue have completely enclosed porches. A 5ft strip of grass will continue to be maintained between the porch and sidewalk providing green space and landscape buffer. This variance is necessary due to the special property conditions and will make the best use of the available space which is limited due to the age and configuration of the property.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:
The house is located in Sunnyside R-3 neighborhood which WVU Student Rental. Improvement in quality and safety of rental space is necessary due to changing rental market and the desire for upgraded living spaces. This request will permit effective use of existing space while preserving the appearance and quality of the structure. The conditions and configuration of the existing property make it unattractive as a rental unit. Addition of the kitchen is reasonable usage of limited existing space.

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

The addition of the kitchen and remodeled front porch will preserve much of the character of the property while providing quality, safe, and affordable housing. The porch remains, green space is preserved, and the final result will be wholly consistent with adjacent structures in the Sunnyside neighborhood. The results, including the zero foot setback on the Grant Avenue parcel boundary with the condition that no portion of the structure encroach into the public right-of-way, are fully aligned with purpose and intent of zoning ordinance(s) and the end product does substantial justice to the neighborhood, community and City.

Case moved to grant variance relief from Sections 1361.03(M) [five-foot front setback encroachment] or 1339.04(A)(3) [extending the nonconforming side setback] for the partial enclosure of the front porch expansion relating to the interior kitchen improvement with the condition that any and all encroachments, including eaves and gutters, into the Grant Avenue public right-of-way must be removed. for Case No. V19-14; seconded by Meehan. Motion carried unanimously.

Case reminded Mr. Corwin that the Board’s decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board’s decisions during this period would be at the sole financial risk of the petitioner.

V. ANNOUNCEMENTS:

A. Whitmore stated they will be scheduling the remainder of the training workshop at some point in April and Staff would be in contact with the Board members on finalizing a date.

B. Whitmore stated there is a conditional use application for Mundy’s scheduled for next month’s agenda and Staff would be scheduling a site visit.

VI. ADJOURNMENT: 7:50 p.m.

MINUTES APPROVED: _____________________________

BOARD SECRETARY: _____________________________

Christopher M. Fletcher, AICP
Intentional Blank Page
CASE NO:  CU19-02/ Julana Enterprises LLC / 669 Madigan Avenue

REQUEST and LOCATION:
Request by Messer’s Keith Summers and Mark Thalman, on behalf of Julana Enterprises, LLC, for conditional use approval of a “Restaurant, Private Club” at 669 Madigan Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Tax Map 40, Parcel 88; B-1, Neighborhood Business District

SURROUNDING ZONING:
North, East, and South:  B-1, Neighborhood Business District
West:  R-1A, Single-Family Residential

BACKGROUND and ANALYSIS:
Representatives of Julana Enterprises LLC, owners of Mundy’s Place, a current “Restaurant, Private Wine” use, seek conditional use approval for a “Restaurant, Private Club.” Addendum A of this report illustrates the location of the subject establishment.

The sale of liquor in the B-1 District requires conditional “Restaurant, Private Club” use approval by the Board. Addendum B of this report contains excerpts from Article 1331.06(27) of the Planning and Zoning Code pertaining to “Restaurant, Private Club” uses in the B-1 District.

Bona Fide Restaurant
Article 1331.06(27)(c) prohibits applicants from seeking conditional “Restaurant, Private Club” use approval in the B-1 District unless the establishment has been in operation for at least one (1) year as a bona fide restaurant.

Per the conditional use application and the West Virginia Secretary of State’s business entity database, Julana Enterprises LLC has been doing business as Mundy’s Place since 14 NOV 2017, serving beer and wine along with food but not liquor. Staff research indicates that this establishment has been operational since 1949.

As the establishment with current ownership has been operational as a restaurant for over one year, this provision appears to have been met.

Seating
Section 1331.06(27)(f) requires “Restaurant, Private Club” uses in the B-1 District to provide seating capacity for at least 50 persons and that seats at a bar may not be counted as meeting the minimum seating capacity. Staff observed on 25 MAR 2019 a total of 40 non-bar seats with the following seating configurations at Mundy’s Place:
• 14 bar stool seats (not counted toward minimum seating requirement);
• 1 high top table providing 2 seats;
• 6 tables providing 26 seats;
• 2 tables with booth seating providing 8 seats; and,
• 1 table with booth and chairs providing 4 seats.

Staff observed a slightly raised stage/performance area that is also used to provide tables for at least 10 additional seats to meet patron demand.

Should the Board grant approval as requested by the petitioner, Staff recommends a condition be included to address minimum table seating to ensure that the spirit and intent of the zoning ordinance is observed, and substantial justice done.

Previously, the Board permitted an establishment seeking a “Restaurant, Private Club” use in the B-4 District to provide less than the minimum seating requirement. Specifically, Case No. CU14-11 / Tin 202 / 202 High Street was conditionally approved allowing for less than 50 seats based on physical constraints of the tenant space. Addendum C of this report provides information related to Case No. CU14-11. It should be noted that the petitioner has the duty to establish why the minimum seating requirement cannot be provided.

Parking

Per section 1365.04.01 Minimum Off-Street Parking Requirements, the current “Restaurant, Private Wine” use and proposed “Restaurant, Private Club” use share the minimum parking requirement, as shown below:

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Off-Street Parking Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant, Private Club/Wine</td>
<td>1 space per 100 sq. ft. of eating area plus 1 space per employee</td>
</tr>
</tbody>
</table>

The parcel is occupied by roughly 79% of the establishment’s building and there does not appear to be any feasible on-site parking development option availability. Patron parking is provided by a legal, pre-existing nonconforming off-premise parking lot on Parcel 86.1 of Tax Map 40 located across Mississippi Street from Mundy’s Place.

Section 1365.03(D)(2) provides that for the change of use, off-street parking requirements are the number of additional off-street parking spaces required for the new use, minus the number of off-street parking spaces that should have been established to meet the minimum off-street parking requirement. As both uses have the same minimum off-street parking requirement, the applicant is therefore not required to provide additional off-street parking requirements under the current site conditions for the proposed change in land use classification.
Under the current Planning and Zoning Code provisions, the use may not expand unless additional parking spaces are provided in conformance with the related zoning regulations.

**STAFF RECOMMENDATION:**

Addendum D of this report restates the petitioner’s “Findings of Fact” provided in the related conditional use application. No revisions are recommended by Staff.

Staff recommends conditional “Restaurant, Private Club” use approval be granted under Case No. CU19-02 for *Mundy’s Place* as requested with the following conditions.

1. That the petitioner must maintain compliance with all supplemental regulations set forth in Section 1331.06(27) of the Planning and Zoning Code.

2. That the petitioner must maintain permitting from the Monongalia County Health Department as a “restaurant” under the Monongalia County Clean Indoor Air Regulations.

3. That, to sustain the establishment’s obligation to remain a bona fide restaurant, *Mundy’s Place* must be open no later than 11:00 a.m. at least (5) days a week for the purpose of serving lunch.

4. That *Mundy’s Place* maintain a seating capacity of at least 40 persons and that seats at a bar may not be counted as meeting the minimum seating capacity.

5. That the petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a “Restaurant, Private Club” use to ensure compliance with Article 1331.06 (27) (e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

6. That the beneficiary of this conditional use approval is specific to Julana Enterprises LLC (DBA *Mundy’s Place*). Said beneficiary may not be transferred without prior approval of the Board of Zoning Appeals.

Attachments: Application and exhibits
Article 1331.06 (27) of the Planning and Zoning Code, Supplemental Regulation Pertaining to Permitted Land Use Table provides the following applicable performance standards:

(a) Such private club shall have as its principal purpose the business of serving meals on its premises to its patrons and to members of such club and their quests. For the purposes of this section, the term “meal” shall be consistent with that of the State of West Virginia as defined in its Legislative Rules and Regulations pertaining to Private Club License and shall not include packaged potato chips and similar products; packaged crackers; packaged nuts; packages desserts (fruit pies, cakes, cookies, etc.); and bar sausages and similar products.

(b) Such private club with a bar shall post a sign not smaller than three (3) square feet in a prominent location near the bar that states the following: “It is a violation of City Ordinance to serve wine or liquor beverages after 1:00 a.m.” (Amended by Ord. 06-14, Passed 06-06-2006.)

(c) No such applicant may be licensed as a private club under this conditional use that has not been in operation for at least one year as a bona fide restaurant before making application for a license under this conditional use. However, when an applicant owns another bona fide restaurant the same as the one being proposed, the Board of Zoning Appeals may consider the proposed restaurant application on the basis of the existing restaurant which has been in operation for at least one year. In the B-4 district the Board of Zoning Appeals may waive the requirement, to be in business for one year as a bona fide restaurant, when the applicant’s written description of the business operations, plus floor plans, demonstrate clearly that the establishment will meet the criteria in this subsection.

(d) NOT APPLICABLE

(e) Food and non-alcoholic beverages shall comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

(f) Such private club shall provide a seating capacity for at least fifty (50) persons, at a table or counter maintained for the principal purpose of serving meals. Seats at a bar, which is primarily for the serving of alcoholic beverages, shall not be counted as meeting the minimum seating capacity of the establishment. Liquor or wine may be served either at seats intended primarily for dining, or at any bar area within the restaurant, with or without an accompanying meal.

(g) Liquor or wine shall not be served later than 1:00 a.m., except on New Year's Eve.

(h) The private club shall, at the time of each sale or at the time of payment, record the amount of revenue derived from the sale of liquor and wine beverages separately from the amount of revenue derived from the sale of food and non-alcoholic beverages.

(i) During each calendar month, the private club shall maintain and preserve accurate and adequate records including those required by paragraphs (e) and (h) above, to prove compliance to the City's Finance Director, and shall make all such records available for review and audit promptly upon request by the Finance Director. The records for each month shall be preserved for not less than twenty-four (24) months next following.

(j) Quarterly, the private club shall send to the City Finance Director summaries showing the amount of revenue derived from liquor and wine beverages versus the amount derived from the sale of food and non-alcoholic beverages.

(k) NOT APPLICABLE
## Table of Contents

<table>
<thead>
<tr>
<th>CU14-11 Staff Report</th>
<th>Page 2 of 23</th>
</tr>
</thead>
<tbody>
<tr>
<td>CU14-11 Staff Report Addendum A</td>
<td>Page 5 of 23</td>
</tr>
<tr>
<td>CU14-11 Staff Report Addendum B</td>
<td>Page 7 of 23</td>
</tr>
<tr>
<td>CU14-11 Staff Report Addendum C</td>
<td>Page 8 of 23</td>
</tr>
<tr>
<td>CU14-11 Application</td>
<td>Page 10 of 23</td>
</tr>
<tr>
<td>CU14-11 Additional Material</td>
<td>Page 15 of 23</td>
</tr>
<tr>
<td>November 19, 2014 Board of Zoning Appeals Minutes</td>
<td>Page 19 of 23</td>
</tr>
<tr>
<td>CU14-11 Approval letter</td>
<td>Page 21 of 23</td>
</tr>
</tbody>
</table>
MORGANTOWN BOARD OF ZONING APPEALS
November 19, 2014
6:30 PM
City Council Chambers

STAFF REPORT

CASE NO: CU14-11 / Tin 202 / 202 High Street

REQUEST and LOCATION:
Request by Christopher Evans, on behalf of Schneevans, LLC, for conditional use approval of a “Restaurant, Private Club” use located 202 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Tax Map 26A, Parcel 142; B-4, General Business District

SURROUNDING ZONING:
B-4, General Business District

BACKGROUND and ANALYSIS:
The petitioner seeks to establish a restaurant at the former Great Wall Chinese Restaurant location at 202 High Street. The petitioner also seeks to obtain a license from the West Virginia Alcohol Beverage Control Administration to sell beer, wine, and liquor. Because the sale of liquor is proposed, the land use classification is a “Restaurant, Private Club.” Addendum A of this report illustrates the location of the subject site.

Table 1331.05.01 “Permitted Land Uses” of the Planning and Zoning Code provides that the development of “Restaurant, Private Club” uses in the B-4 District requires conditional use approval by the Board of Zoning Appeals.

According to the petitioner’s application and exhibits, the proposed restaurant will be called Tin 202. The petitioner’s exhibits include a preliminary lunch menu, floor plan, and professional experience and background for Chris Evans and Sam Schneider.

The proposed establishment will be open for lunch and dinner. The proposed hours of operation are Monday through Thursday from 11:00 AM to 12:00 AM and Friday and Saturday from 11:00 AM to 1:00 AM and closed on Sunday.

Addendum B of this report contains excerpts from Article 1331.06(27) of the Planning and Zoning Code pertaining to “Restaurant, Private Club” uses in the B-4 District.

Board members Bossio and Papandreas, along with Staff, toured the location with Mr. Evans and Mr. Schneider on 12 NOV 2014 at 5:00 PM to view the dining, kitchen, refrigerator/freezer, and storage areas.

It should be noted that the maximum capacity established by the City Fire Marshal of the very small tenant space occupied by Tin 202 is 51 persons. Article 1331.06(27)(f) requires that “Restaurant, Private Club” uses provide seating capacity for at least 50
MORGANTOWN BOARD OF ZONING APPEALS
November 19, 2014
6:30 PM
City Council Chambers

persons and that seats at a bar may not be counted as meeting the minimum seating capacity of the establishment.

Staff observed during the Board’s site visit that there are five (5) four-top tables and four (4) two-top tables for a total of 28 non-bar seats. It is the opinion of the Planning Division that the petitioner has provided as many table or non-bar seats as practicable in the very small tenant space. Additionally, no space has been programmed or reserved in a manner to circumvent the minimum seating capacity requirement (e.g., stage, entertainer area, etc.). Simply stated, the area of the petitioner’s tenant space is what it is and the petitioner appears to have maximized the utilization of the eating area without diminishing customer dining comforts and expectations.

Should the Board grant approval as requested by the petitioner, Staff recommends that it include a minimum table seating condition to ensure that the spirit and intent of the zoning ordinance is observed and substantial justice done.

STAFF RECOMMENDATION:
The Board of Zoning Appeals must first determine whether or not it will waive the one-year “bona fide restaurant” requirement [Article 1331.06(27)(c)] prior to the petitioner obtaining a liquor license from the West Virginia Alcohol Beverage Control Administration.

Should the Board decide to waive said one-year “bona fide restaurant” requirement, it must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for each of the “Findings of Fact” submitted by the petitioner.

Addendum C of this report provides Staff recommended revisions to the petitioner’s Findings of Fact (deleted matter struck through; new matter underlined).

Should the Board waive the one-year “bona fide restaurant” requirement and grant approval of the subject conditional use petition to Schnevans, LLC., Staff recommends that the following conditions be included:

1. That the petitioner must maintain compliance with all supplemental regulations set forth in Article 1331.06(27) of the Planning and Zoning Code.

2. That the petitioner must obtain permitting as a “restaurant” from the Monongalia County Health Department under the Monongalia County Clean Indoor Air Regulations.

3. To ensure that the petitioner’s business description and plans are executed as described and considered in granting the one-year “bona fide restaurant” waiver, the subject “Restaurant, Private Club” use must:
   a. Be open no later than 11:00 AM Monday through Friday for the purpose of serving lunch as described in the menu submitted with the petitioner’s conditional use application.
b. That the petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a “Restaurant, Private Club” use to ensure compliance with Article 1331.06 (27) (e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

4. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

5. That table seating, or non-bar seating, may not be reduced below 28 seats.

6. That the beneficiary of this conditional use approval is Schnevans, LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

Attachments: Application and exhibits
Article 1331.06 (27) of the Planning and Zoning Code, Supplemental Regulation Pertaining to Permitted Land Use Table provides the following applicable performance standards:

(a) Such private club shall have as its principal purpose the business of serving meals on its premises to its patrons and to members of such club and their guests. For the purposes of this section, the term "meal" shall be consistent with that of the State of West Virginia as defined in its Legislative Rules and Regulations pertaining to Private Club License and shall not include packaged potato chips and similar products; packaged crackers; packaged nuts; packages desserts (fruit pies, cakes, cookies, etc.); and bar sausages and similar products.

(b) Such private club with a bar shall post a sign not smaller than three (3) square feet in a prominent location near the bar that states the following: "It is a violation of City Ordinance to serve wine or liquor beverages after 1:00 a.m." (Amended by Ord. 06-14, Passed 06-06-2006.)

(c) No such applicant may be licensed as a private club under this conditional use that has not been in operation for at least one year as a bona fide restaurant before making application for a license under this conditional use. However when an applicant owns another bona fide restaurant the same as the one being proposed, the Board of Zoning Appeals may consider the proposed restaurant application on the basis of the existing restaurant which has been in operation for at least one year. In the B-4 district the Board of Zoning Appeals may waive the requirement, to be in business for one year as a bona fide restaurant, when the applicant's written description of the business operations, plus floor plans, demonstrate clearly that the establishment will meet the criteria in this subsection of the ordinance.

(d) NOT APPLICABLE

(e) Food and non-alcoholic beverages shall comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

(f) Such private club shall provide a seating capacity for at least fifty (50) persons, at a table or counter maintained for the principal purpose of serving meals. Seats at a bar, which is primarily for the serving of alcoholic beverages, shall not be counted as meeting the minimum seating capacity of the establishment. Liquor or wine may be served either at seats intended primarily for dining, or at any bar area within the restaurant, with or without an accompanying meal.

(g) Liquor or wine shall not be served later than 1:00 a.m., except on New Year's Eve.

(h) The private club shall, at the time of each sale or at the time of payment, record the amount of revenue derived from the sale of liquor and wine beverages separately from the amount of revenue derived from the sale of food and non-alcoholic beverages.

(i) During each calendar month, the private club shall maintain and preserve accurate and adequate records including those required by paragraphs (e) and (h) above, to prove compliance to the City's Finance Director, and shall make all such records available for review and audit promptly upon request by the Finance Director. The records for each month shall be preserved for not less than twenty-four (24) months next following.

(j) Quarterly, the private club shall send to the City Finance Director summaries showing the amount of revenue derived from liquor and wine beverages versus the amount derived from the sale of food and non-alcoholic beverages.

(k) NOT APPLICABLE
Staff recommended revisions to the petitioner’s submitted Findings of Fact responses (deleted matter struck-through; new matter underlined).

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

The establishment and tenant space are small. Street parking (at meters) and after hours at the banks. On-street metered and public parking lots within the immediate area allow for parking. There is no parking directly in front that would lead to congestion—(meaning people can't step directly in front of the establishment).

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

An Ansul fire suppression system has been installed in the kitchen and all safety precautions have been addressed in accordance to restaurant standards and guidelines. Further, the proper steps to meet all city and state fire code laws have been followed.

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

The building was not changed or added to on the outside. The structure was not disturbed and remains the same as it has been. Adequate light and air remain unchanged.

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

The building/structure was not changed on the outside so nothing in regards to overcrowding has occurred.

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

The establishment is small and the focus demographic is 25 years of age and up. The proposed development does not include a residential use. No outside activities, wild promotions or big ‘to do’s’. Small classy affair with targeting market not causing undue congestion.

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 establishment is small with low demands in regards to water and sewage without targeted demo (25+) grad students, young professions etc whom generally walk or use public transportation. Schools and parks will remain status quo as the place doesn't remotely affect them. Further public requirements remain as it is meaning “unchanged” as the grant is for a small classy establishment bringing back an historical site and adding value, respect and beauty to the city. The use should not burden existing public services or facilities that are currently available that serve the immediate area.
Finding of Fact No. 7 – Value of buildings will be conserved, in that:

Not only has the front façade been brought back to its original luster and beauty, the inside ceiling has been restored to its original “Tin” look. The back of the building has been brought up to code. Prior business had basically “low standards” and only contributed to this location being an eye sore to the city. So the value is more than conserved. It’s gone way-up. The subject tenant space has remained vacant for a couple of years and the petitioner’s refurbishment of the exterior and interior of the subject tenant space should contribute to economic activity and positively influence the value of leasable commercial tenant spaces within the immediate area.

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

The location was a landmark well known in the history of Morgantown. Prior to Tin 202 it was a Chinese delivery which destroyed what was once a well respectful establishment for the pharmacies and various stores that occupied the space. Tin 202 brought the space back to beauty and respectability albeit a different venue. The appropriate use is definitely encouraged and is/has The petitioner’s refurbishment of the exterior and interior of the subject space appears to have brought this building and land back to life and made High Street look better. The subject tenant space is at a high traffic and very visible intersection in the downtown and the petitioner’s restaurant use should contribute to eatery and hospitality offerings, particularly given the increase in pedestrian circulation within the southern portion of the central business district anticipated from Monongalia County’s efforts to renovate and occupy the former Harley O. Staggers Federal Building in the near term.
# Application for Type IV Site Plan – Conditional Use

## I. Applicant

<table>
<thead>
<tr>
<th>Name:</th>
<th>Christopher Cruz</th>
<th>Phone:</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>779 Spring Branch Rd.</td>
<td>Mobile:</td>
<td>(304) 376-0043</td>
</tr>
<tr>
<td>City:</td>
<td>Morgantown</td>
<td>State:</td>
<td>WV</td>
</tr>
<tr>
<td>Zip:</td>
<td>26505</td>
<td>Email:</td>
<td><a href="mailto:cropped@email.com">cropped@email.com</a></td>
</tr>
</tbody>
</table>

## II. Agent / Contact Information

<table>
<thead>
<tr>
<th>Name:</th>
<th>LegalZoom.com, Inc.</th>
<th>Phone:</th>
<th>877-818-6787</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>101 N. Brand Blvd, 10th Floor</td>
<td>Mobile:</td>
<td>800-773-0888</td>
</tr>
<tr>
<td>City:</td>
<td>Glendale</td>
<td>State:</td>
<td>CA</td>
</tr>
<tr>
<td>Zip:</td>
<td>91203</td>
<td>Email:</td>
<td><a href="mailto:cropped@email.com">cropped@email.com</a></td>
</tr>
<tr>
<td>Mailings:</td>
<td>Send all correspondence to (check one):</td>
<td>X: Applicant</td>
<td>OR</td>
</tr>
</tbody>
</table>

## III. Property

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Gary Rich</th>
<th>Phone:</th>
<th>304-376-2730</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>Pringle Property Management, LLC</td>
<td>Mobile:</td>
<td>304-413-4000</td>
</tr>
<tr>
<td>City:</td>
<td>Morgantown</td>
<td>State:</td>
<td>WV</td>
</tr>
<tr>
<td>Zip:</td>
<td>26508</td>
<td>Email:</td>
<td><a href="mailto:cropped@email.com">cropped@email.com</a></td>
</tr>
</tbody>
</table>

## IV. Site

<table>
<thead>
<tr>
<th>Street Address (if assigned):</th>
<th>202 High St.</th>
<th>Tax Map #:</th>
<th>Parcel #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot Dimensions:</td>
<td>Width:</td>
<td>Depth:</td>
<td>Square Footage:</td>
</tr>
<tr>
<td>Shape of Lot:</td>
<td>X: Corner</td>
<td>Interior</td>
<td>Through</td>
</tr>
<tr>
<td>Existing Use of Structure or Land:</td>
<td>WAS VACANT</td>
<td>Proposed Use of Structure of Land:</td>
<td>RESTAURANT</td>
</tr>
</tbody>
</table>

PAID

SEP 17 2014

Page 1 of 5

Form Rev: 01.03.06
City of Morgantown, West Virginia

APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

V. STRUCTURE

Proposed Setbacks:

Proposed Height of Structure: __________ ft.
No. of Proposed Off-Street Parking Spaces: __________
No. of Dwelling Units (if applicable): __________
No. of Bedrooms: __________
No. of Employees: __________

Square Footage of all Proposed Structures (please explain):

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.
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 establishment is small. Parking is available in lots, street parking (at meters) and after hours, the buildings allow for parking. There is no parking directly in front that would lead to congestion (meaning people can't stop directly in front of the establishment).

2. Safety from fire, panic, and other danger is not jeopardized, in that: we have a fire alarm system and know how to have a business. An alarm system has been installed and all safety precautions have been addressed in accordance with restaurant standards and guidelines. Further the fire systems to meet all city, state, fire code laws have been followed.

3. Provision of adequate light and air is not disturbed, in that: the building wasn't changed or added to in the outside. The structure wasn’t disturbed and remains the same as if it has been adequate light and air remain unchanged.

4. Overcrowding of land does not result, in that: The building/structure wasn't changed on the outside so nothing in regards to overcrowding has occurred.

5. Undue congestion of population is not created, in that: The establishment is small, and the focus demographic is 25 and up. No outside activities, wild promotions or big go-dos. Small classy affair with targeted market not causing undue congestion.
### VI. 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 meets 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.
City of Morgantown, West Virginia

APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

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 establishment is small in terms of the number of people served. The demand for a small establishment, such as the one being proposed, is not great. The business is well known in the community, and its presence will not hinder the operations of other businesses.

7. Value of buildings will be conserved, in that: Not only has the present building been returned to its original state of beauty and utility, but it has been maintained in good condition.

8. The most appropriate use of land is encouraged, in that: The location was a historic landmark and has been preserved. The property is zoned for this type of use and is located within the appropriate zoning district.

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.

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

* Conditional Use Petition Fee of $75 must accompany application

Planning Department • 389 Spruce Street, Morgantown, WV 26505
304.284.7431 • 304.284.7534 (f)
About one year ago we (Chris Evans and Sam Schneider) decided to try and open a restaurant in the Morgantown area. When we looked at the property available at the corner of High St. and Pleasant St., in the old Brock, Reed, and Wade building, we moved quickly to secure the location. Our first goal was to restore the original tin ceiling, which after restoration at the Aull Center, appears to have been constructed around 1895. The building has Romanesque revival and late Victorian accents, and we decided to design our restaurant with architectural and design features from the late 1800’s. We hired Mills group (a local architectural firm) to help with the design and we feel we’ve succeeded in maintaining and, in fact, enhancing the historical value of this beautiful building. We just began adding more accents from the time period with artwork from Degas, Manet, and Monet which add to the “old-fashioned” environment.

We plan to be open for lunch and dinner with a diverse menu ranging from in-house-made soups and gourmet salads to ceviche and filet mignon, the restaurant will have the feel of a metropolitan cafe during the day and a tapas style restaurant in the evening featuring a wide array of global cuisine.

I, Chris Evans, am a lifelong resident of Morgantown. I have several years of experience in the restaurant/hotel business and many other years of experience in positions related to customer service and event coordination. My love for serving began when I worked at the exclusive Hotel Jerome in Aspen, CO. In 1997, as a bellman, server, and ski concierge and learned the highest standards in the service industry. I returned to Morgantown the following year to finish my degree and after completion, began working as an admissions counselor at WVU. I held the position of admissions counselor and then senior admissions counselor from 2002-2004. During 2004 I was asked to serve as public relations manager and interim parent advocate in the office of the president of WVU under the supervision of David Hardesty, President, and Margie Phillips, Chief of Staff. In 2005 I accepted a position to serve as the assistant director of development for the Eberly College of Art and Sciences. In 2008, I decided to get back to my original love, the service industry.

In 2008, I took a position as an assistant manager with Ruby Tuesday restaurants. In 2009/2010 I was promoted to general manager and I served the Morgantown Ruby Tuesday as general manager from 2009 until beginning the process of opening Tin 202. During my time at Ruby Tuesday, I managed a stuff of 60, and run a business with over $2.5 million in gross sales annually. Furthermore, the liquor license was in my name throughout this time and as a company, alcohol awareness and safety were of the highest priority. My goal when transitioning from a career at WVU into the private sector was to gain the knowledge to eventually be a successful small business owner/operator and I am thankful to have the opportunity to make that goal a reality. I love Morgantown and understand the “town and gown” relationship. Sam and I hope to bring a classy, historic, restaurant with great cuisine to the downtown area with the goal of attracting a professional, mature client base who have a love for gourmet food and first-class service.

I, Sam Schneider, recently moved to Morgantown with my family from Virginia. My wife Shannon grew up in Morgantown and had a desire to raise our family in a small town and to be close to her parents. Prior to moving to Morgantown I worked in the Real Estate Development industry. I worked for two fortune 500 companies as a Leasing Specialist/Property Management. My professional career in this particular industry lasted 15 years. I worked directly with Major retailers all the way down to the “mom and pops,” smaller retail businesses. However, upon
hearing my wife’s thoughts on moving to Morgantown I thought it over and decided I could definitely find the same work in West Virginia but just on a smaller scale and perhaps pursue my other interests as I come from a family with a strong entrepreneurial history and spirit. My wife and I decided to just do what we had to do and sold our house and got on our way to Morgantown. We didn’t have jobs lined up so once we arrived and got adjusted the job hunt started.

Thankfully my wife had a lot of friends that were still around Morgantown so it was easy to get good contacts and help from friends to get leads on jobs. We had several social situations where she and I were able to discuss our careers and ambitions etc. It was at one of these social situations that she saw her old friend Chris Evans. He was currently exploring his career options and trying to find a direction to go in similar to myself. So it was then we discussed small businesses that would be a good fit for us and Morgantown. With his restaurant experience and my real estate background / property management experience it seemed a good fit to look into the bar/restaurant industry. We did a lot of research, brainstormed about what type of restaurant we thought was “cool.” One day while walking down High Street and chatting about this we stumbled on a great location which was 202 High Street. It was the perfect spot.

Once we did our research on the space and were able to see the inside we were hooked. It was an old building and had an old tin ceiling inside plus it had historical significance. We were able to sign the Lease soon after and pursue our dream, to open a classy, clean, comfortable spot for people to enjoy gourmet food, creative cocktails complimented with occasional live jazz, blues and salsa music.

We think Tin 202 will be a great addition to the Morgantown business community and look forward to being part of the community for decades to come.

Chris Evans and Sam Schneider
Tin 202
Shenwars LLC.

Sent from Windows Mail

http://127.0.0.1:49717/zimbra/h/printmessage?id=9961064b-221b-4b42-...
E. CU14-11 / Tin 202 / 202 High Street: Request by Christopher Evans for conditional use approval of a "Restaurant, Private Club" use located at 202 High Street; Tax Map 26A, Parcel 142; B-4, General Business District.

Fletcher read the Staff Report.

Bossio recognized the petitioner's Christopher Evans and Sam Schneider, both of 202 High Street. Evans stated the intent is to bring a nice establishment to the downtown area that will attack a professional crowd.

Bossio noted the Board conducted a site visit and expressed favor in the intentions of the restaurant. Papandreas agreed.

Bossio noted the garbage is in a contained area and is sufficient for the size of the restaurant.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Bossio declared the public hearing closed and asked for Staff's recommendation.

Fletcher read the Staff recommendations.

Papandreas made a motion to grant the one-year bona-fide restaurant for CU14-11; seconded by Burton. Motion carried unanimously.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for CU14-11 as revised by Staff; seconded by Burton. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

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

The establishment and tenant space are small. On-street metered and public parking lots within the immediate area allow for parking.

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

An Ansul fire suppression system has been installed in the kitchen and all safety precautions have been addressed in accordance to restaurant standards and guidelines. Further, the proper steps to meet all city and state fire code laws have been followed.

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

The building was not changed or added to on the outside. The structure was not disturbed and remains the same as it has been. Adequate light and air remain unchanged.

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

The building/structure was not changed on the outside so nothing in regards to overcrowding has occurred.

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

The establishment is small and the focus demographic is 25 years of age and up. The proposed development does not include a residential use.

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 use should not burden existing public services or facilities that are currently available that serve
the immediate area.

Papandreou moved to approve CU14-11 with the following conditions:

1. That the petitioner must maintain compliance with all supplemental regulations
   set forth in Article 1331.06(27) of the Planning and Zoning Code.
2. That the petitioner must obtain permitting as a “restaurant” from the Monongalia County
   Health Department under the Monongalia County Clean Indoor Air Regulations.
3. To ensure that the petitioner’s business description and plans are executed as
   described and considered in granting the one-year “bona fide restaurant” waiver,
   the subject “Restaurant, Private Club” use must:
   a. Be open no later than 11:00 AM Monday through Friday for the purpose of
      serving lunch as described in the menu submitted with the petitioner’s
      conditional use application.
   b. That the petitioner shall voluntarily submit all necessary financial
      information to the City for the subject establishment following its first
      twelve (12) months of operation as a “Restaurant, Private Club” use to
      ensure compliance with Article 1331.06 (27) (e) provisions, which requires
      the sale of food and non-alcoholic beverages to comprise a minimum of
      60 percent of total gross sales of all food and drink items in each calendar
      month.
4. That any regulated signage shall be reviewed and approved by the Downtown Design
   Review Committee and the Planning Division prior to building permit issuance for same.
5. That table seating, or non-bar seating, may not be reduced below 28 seats.
6. That the beneficiary of this conditional use approval is Schnefrans, LLC, which may not
   be transferred without prior approval of the Board of Zoning Appeals.

Motion was seconded by Burton and carried unanimously.

Bossio reminded Mr. Evans that the Board’s decision can be appealed to Circuit Court within
thirty days of receiving written notification from the Planning Division and that any work related
to the Board’s decisions during this period would be at the sole financial risk of the petitioner.

F. CU14-12 / Dos Bros, LLC / 350 High Street: Request by Mark Tampoya, on
behalf of Dos Bros, LLC, for conditional use approval of a “Restaurant, Private
Club” use located at 350 High Street; Tax Map 26A, Parcel 110; B-4, General
Business District.

Fletcher read the Staff Report.

Bossio recognized the petitioner Mark Tampoya of 108 Willowick Drive who concurred with the
Staff report.

Bossio asked if both Tampoya and Ahmad Abulaban are on the LLC. Fletcher confirmed.
November 20, 2014

Schnevans, LLC (d.b.a. Tin 202)
c/o Christopher Evans
202 High Street
Morgantown, WV 26505

RE: CU14-11 / Tin 202 / 202 High Street
Tax Map 26A, Parcel 142

Dear Mr. Evans:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced conditional use petition for "Restaurant, Private Club" use at 202 High Street. The decision is as follows:

Board of Zoning Appeals, November 19, 2014:

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

2. The Board granted a waiver from the one-year "bona fide restaurant" standard of Article 1331.06(27)(c) and approved the conditional "Restaurant, Private Club" under Case No. CU14-11 with the following conditions:

   A. That the petitioner must maintain compliance with all supplemental regulations set forth in Article 1331.06(27) of the Planning and Zoning Code.

   B. That the petitioner must obtain permitting as a "restaurant" from the Monongalia County Health Department under the *Monongalia County Clean Indoor Air Regulations*.

   C. To ensure that the petitioner's business description and plans are executed as described and considered in granting the one-year "bona fide restaurant" waiver, the subject "Restaurant, Private Club" use must:

      1. Be open no later than 11:00 AM Monday through Friday for the purpose of serving lunch as described in the menu submitted with the petitioner's conditional use application.

      2. That the petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a "Restaurant, Private Club" use to ensure compliance with Article 1331.06 (27) (e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.
D. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

E. That table seating, or non-bar seating, may not be reduced below 28 seats.

F. That the beneficiary of this conditional use approval is Schneavans, LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

The approval of this conditional use is set to expire in twelve (12) months unless you can demonstrate that it has been acted upon 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.

This decision 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 applicant.

Please note that requisite building permits must be obtained prior to the commencement of any work for which approval was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and approval needs.

Respectfully,

Stacy Hollar
Executive Secretary
Development Services Department
shollar@cityofmorgantown.org
ADDENDUM A – Approved Findings of Fact
CU14-11 / Tin 202 / 202 High Street

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:
The establishment and tenant space are small. On-street metered and public parking lots within the immediate area allow for parking.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:
An Ansul fire suppression system has been installed in the kitchen and all safety precautions have been addressed in accordance to restaurant standards and guidelines. Further, the proper steps to meet all city and state fire code laws have been followed.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:
The building was not changed or added to on the outside. The structure was not disturbed and remains the same as it has been. Adequate light and air remain unchanged.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:
The building/structure was not changed on the outside so nothing in regards to overcrowding has occurred.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:
The establishment is small and the focus demographic is 25 years of age and up. The proposed development does not include a residential use.

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 use should not burden existing public services or facilities that are currently available that serve the immediate area.
The following restates the petitioner’s Findings of Fact response. No revisions are suggested by Staff.

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

Off street parking is provided; furthermore the business has been in operation for several years and has operated at occupancy capacity on several occasion with no negative effects. As a neighborhood pub located in a mainly residential area many patrons arrive on foot by utilizing public sidewalks.

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

This building meets or exceeds all current local and state required safety standards and has the approval of the local and state fire marshals.

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

The existing building does not change any light or air flow patterns and no modifications are being requested.

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

The existing building has occupied the plat of land prior to 1949 and no further modifications are being requested.

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

The majority of the occupants or patrons live within the neighborhood known as First Ward therefore further population congestion is not a factor.

**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 current business, although under different ownership has operated at this location since 1949 as the existing neighborhood developed around it. In no way should any of the items listed above be negatively impacted or caused to become inadequate.

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

The existing building was constructed using construction methods of the 1940’s and no request to devalue or modify the existing structure is being requested.

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

The existing use of the land as a neighborhood restaurant/pub is the most appropriate use of the land and has been since 1949. Further, the current use adds for a vibrant, neighborly environment that many residents in the area frequently patronize.
Field Notes

Purpose: Restaurant, Private Club in B-1 District

Date: 4/09/2019 Time: 5:45 PM-6:30 PM Weather: N/A (indoors) 60 degrees Fahrenheit outside

General: Mundy’s Place / 669 Madigan Avenue

Staff (John Whitmore) arrived at 5:45 PM

Messer’s Benison, Tomblin, and Meehan were in attendance. Mr. Case and Ms. Cook were absent.

Notes:

Mr. Keith Summers, showed the property to Board of Zoning Appeals members who were present. Mr. Summers indicated that Mr. Case had stopped in the week prior. A tour of an older bar/used basement space was provided and serving area on the ground floor. It was explained that the basement space had previously been occupied as Tavern space, with bar stool seating and top still present. In addition, cooler facilities were present in the previous serving space, as shown in the image to the right.

According to plans submitted, and observational data, the space provides capacity for up to fifty (50) persons, minus additional bar stool seating. There is a stage on site that is indicated to be utilized as seating when necessary.

The current management team has been operating Mundy’s Place since November of 2017, with food purchase receipts indicating upwards of $6,000 monthly food purchase orders. Mr. Summers indicated that he was aware of the 60-percent non-alcoholic beverage and food sales revenue requirement, and that current beer and wine sales did were below 30-percent of current revenue ($3,500.00 +/- beer and wine revenue compared to $12,000 +/- food and non-alcoholic beverage revenue).
# Business Entity Details

## Main

<table>
<thead>
<tr>
<th>Name</th>
<th>JULANA ENTERPRISES LLC.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type</td>
<td>LLC</td>
</tr>
<tr>
<td>Sec Type</td>
<td></td>
</tr>
<tr>
<td>City</td>
<td>MORGANTOWN</td>
</tr>
<tr>
<td>Class</td>
<td>P</td>
</tr>
<tr>
<td>Ch Type</td>
<td>D</td>
</tr>
<tr>
<td>Eff Date</td>
<td>11/14/2017</td>
</tr>
<tr>
<td>Fil Date</td>
<td>11/14/2017</td>
</tr>
<tr>
<td>Term Date</td>
<td></td>
</tr>
<tr>
<td>Term Reason</td>
<td>AW/Term: A</td>
</tr>
<tr>
<td>CH County</td>
<td>Monongalia</td>
</tr>
<tr>
<td>Ch State</td>
<td>WV</td>
</tr>
<tr>
<td>Bus Purp</td>
<td>7224</td>
</tr>
<tr>
<td>Ex Acres</td>
<td></td>
</tr>
<tr>
<td>Term Yrs</td>
<td></td>
</tr>
<tr>
<td>Auth Shrs</td>
<td></td>
</tr>
<tr>
<td>Cap Stck</td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Active</td>
</tr>
<tr>
<td>Par Val</td>
<td>MGMT: MBR</td>
</tr>
</tbody>
</table>

## Addresses

<table>
<thead>
<tr>
<th>Principal Office Address</th>
<th>Name:</th>
<th>Addr1: 1402 BRADFORD LANE</th>
<th>Addr2:</th>
<th>City: MORGANTOWN</th>
<th>State: WV</th>
<th>Zip: 26508</th>
</tr>
</thead>
<tbody>
<tr>
<td>Designated Office Address</td>
<td>Name:</td>
<td>Addr1: 1402 BRADFORD LANE</td>
<td>Addr2:</td>
<td>City: MORGANTOWN</td>
<td>State: WV</td>
<td>Zip: 26508</td>
</tr>
<tr>
<td>Mailing Address</td>
<td>Name:</td>
<td>Addr1: 1402 BRADFORD LANE</td>
<td>Addr2:</td>
<td>City: MORGANTOWN</td>
<td>State: WV</td>
<td>Zip: 26508</td>
</tr>
</tbody>
</table>

## Officers

<table>
<thead>
<tr>
<th>Organizer</th>
<th>Name: KEITH SUMMERS</th>
<th>Addr1: 1402 BRADFORD LANE</th>
<th>Addr2:</th>
<th>City: MORGANTOWN</th>
<th>State: WV</th>
<th>Zip: 26508</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizer</td>
<td>Name: MARK THALMAN</td>
<td>Addr1: 110 JEWEL DRIVE</td>
<td>Addr2:</td>
<td>City: MORGANTOWN</td>
<td>State: WV</td>
<td>Zip: 26508</td>
</tr>
<tr>
<td>Member</td>
<td>Name: MARK THALMAN</td>
<td>Addr1: 110 JEWEL DRIVE</td>
<td>Addr2:</td>
<td>City: MORGANTOWN</td>
<td>State: WV</td>
<td>Zip: 26508</td>
</tr>
<tr>
<td>Member</td>
<td>Name: KEITH SUMMERS</td>
<td>Addr1: 1402 BRADFORD LANE</td>
<td>Addr2:</td>
<td>City: MORGANTOWN</td>
<td>State: WV</td>
<td>Zip: 26508</td>
</tr>
</tbody>
</table>

## DBAs
With this information, you can...

Purchase Certificate of Existence

If you would like to purchase a Certificate of Existence for this business entity, select the button to the left to add the certificate to your shopping cart. You will be assessed a $10.00 fee for each certificate. Click the Shopping Cart link in the upper right corner to complete your order.
I. APPLICANT/AGENT

Name: Julana Enterprises LLC. dba Mundys Place  
110 Jewel Drive  
Mailing Address: Morgantown  WV  26508  
Phone: 304-241-4569  
Mobile: 304-216-9874  
Email: mundysplacewv@gmail.com

II. PROPERTY

Owner: Ergia Wright Liberatore  
717 Madigan Avenue  
Mailing Address: Morgantown  WV  26501  
Phone:  
Mobile: 304-319-0388

III. CONDITIONAL USE DESCRIPTION

Street Address (if assigned): 669 Madigan Avenue Morgantown, WV 26501  
Zoning:  
Tax Map #: 40  
Parcel #: 88  
Parcel Area: sq. ft.

Existing Use of the Site, including total building area per building on site:  
The existing site is currently fully operational as a private wine restaurant and has been for several years. No plans or requests are being made to change the existing site.

Proposed Use of the Site, including total building area per building on site:  
The proposal is to use the current facility to offer liquor in compliance with the regulations set forth in 1331.06(27). Currently the site operates as a full service restaurant that serves non-intoxicating beer and wine.
IV. CONDITIONAL USE DESCRIPTION (cont.)

<table>
<thead>
<tr>
<th>On-Site Parking Spaces</th>
<th>Existing:</th>
<th>26</th>
<th>Proposed:</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>IF RESIDENTIAL</td>
<td>Total No. of Dwelling Units:</td>
<td>Total Gross Floor Area: sq. ft.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bedroom Composition:</td>
<td>No. of 1BD:</td>
<td>No. of 2BD:</td>
<td>No. of 3BD:</td>
<td>No. of 4+BD:</td>
</tr>
<tr>
<td>IF NONRESIDENTIAL</td>
<td>Location within the building:</td>
<td>Main Floor; Street level</td>
<td>GFA to be occupied: sq. ft.</td>
<td></td>
</tr>
<tr>
<td>Projected days and hours of business operation:</td>
<td>Monday Through Saturday 11am-12am</td>
<td>Sunday 1pm-10pm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Projected number of clients per day:</td>
<td>75</td>
<td>Projected number of employees present during busiest shift:</td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

- This application may be supplemented by submitted additional information deemed helpful by the applicant to explain the nature of the proposed conditional use.
- Likewise, the Planning Division, if it determines necessary, may require additional information.

V. PHYSICAL CHANGE INFORMATION

For conditional use applications providing for physical change including, but not limited to, construction, reconstruction or alteration, and/or site modification or improvements, the following information must be attached.

1. Vicinity map showing all adjacent properties and nearby streets within a 300-foot radius around the project site, drawn at an appropriate scale.

2. Site Plan. A site plan (3 copies) drawn to scale at a minimum 1" = 50' and a maximum of 1" = 10' and include the following:
   a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.
   b) The exact sizes and locations on the lot of existing structures, if any.
   c) The location(s), square footage(s), and dimensions of all proposed principal, accessory and/or temporary structure(s), and/or alteration(s).
   d) The location of the lot with respect to adjacent rights-of-way.
   e) Parking Plan. The location and dimensions of off-street parking and means of ingress and egress for such space.
   f) Required and proposed setbacks.
(g) Buffer yard location and landscaping and screening plan, if applicable. Landscaping Plan should be a separate drawing based on the site plan.

(h) Location of garbage collection area and screening.

(i) Location of existing and/or proposed signage, if applicable.

(j) Roadway typical detail for internal roadways, if applicable.

(3) **Building Elevations.** All preliminary building elevations shall be drawn at a scale of 1/8" = 1'0" or larger and identify:

(a) Height of all principal buildings and/or accessory structures. If applicable, measured in feet as provided in the definition of "BUILDING HEIGHT IN FEET" provided in Section 1329.02.

(b) All exterior materials and colors to be used including roofing, cladding, and windows.

(c) Show any improvements made to the property that have been approved but not yet constructed and label the area as such.

(d) Photographic or similar representation showing the building height in relationship to surrounding buildings.

(4) **Floor Plans.** All preliminary floor plans shall be drawn to a scale of 1/8" = 1'-0" or larger and identify:

(a) Both existing and proposed floor layouts with square footage indicated.

(b) Label the use of all rooms on the plans, with the dimensions of the room(s) and the overall dimensions of the building.

(c) Show any improvements made to the property that have been approved but not yet constructed and label the area as such.

(d) Photographic or similar representation showing the practice of the use, to include but not be limited to, seating arrangements, appliance/equipment layout, time-series analysis, etc.

(5) **Traffic Impact Study.** A traffic impact study shall be submitted, if required by the City Engineer. Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Board of Zoning Appeals conditional use review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Board of Zoning Appeals by the applicant prior to conditional use permit approval.
VI. 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 will not be increased, in that:
   Off street parking is provided; furthermore the business has been in operation for several years and has operated at occupancy capacity on several occasion with no negative effects. As a neighborhood pub located in a mainly residential area many patrons arrive on foot by utilizing public sidewalks.

2. Safety from fire, panic, and other danger will not be jeopardized, in that:
   This building meets or exceeds all current local and state required safety standards and has the approval of the local and state fire marshals.

3. Provision of adequate light and air will not be disturbed, in that:
   The existing building does not change any light or air flow patterns and no modifications are being requested.

4. Overcrowding of land will not result, in that:
   The existing building has occupied the plat of land prior to 1949 and no further modifications are being requested.

5. Undue congestion of population will not be created, in that:
   The majority of the occupants or patrons live within the neighborhood known as the First Ward therefore further population congestion is not a factor.
VI. 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 current business, although under different ownership has operated at this location since 1949 as the existing neighborhood developed around it. In no way should any of the items listed above be negatively impacted or caused to become inadequate.

7. Value of buildings will be conserved, in that:
The existing building was constructed using construction methods of the 1940’s and no request to devalue or modify the existing structure is being requested.

8. The most appropriate use of land is encouraged, in that:
The existing use of the land as a neighborhood restaurant/pub is the most appropriate use of the land and has been since 1949. Further, the current use adds for a vibrant, neighborly environment that many residents in the area frequently patronize.

VII. CONDITIONAL USE APPROVAL OBJECTIVES

Section 1379.03 of the Planning and Zoning Code provides that the Board of Zoning Appeals should consider the following when evaluating each conditional use application. Applicants are encouraged to attach a supplemental narrative addressing the following evaluation objectives and/or be prepared to address these objectives during the Board of Zoning Appeals’ hearing.

1. The proposed conditional use is compatible with the goals of the adopted comprehensive plan.

2. The proposed conditional use is compatible with the appropriate and orderly development of the district, taking into consideration the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use, and the location of the site with respect to streets giving access to the site.

3. The proposed site development, if applicable, is such that the proposed conditional use will not hinder nor discourage the appropriate development and use of adjacent land and buildings, taking into consideration the location, nature and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site.
# APPLICATION FOR CONDITIONAL USE

4. Neighborhood character and surrounding property values are reasonably safeguarded.

5. Operations in connection with the proposed conditional use are not offensive, dangerous, destructive of property values and basic environmental characteristics, or detrimental to the public interest of the community. The proposed conditional use is not more objectionable to nearby properties by reason of fumes, noise, vibration, flashing of or glare from lights, and similar nuisance conditions than the operations of any permitted use not requiring a conditional use permit in the district.

6. The character and appearance of the proposed conditional use, buildings, structures, and/or outdoor signs should be in general harmony or better, with the character and appearance of the surrounding neighborhood.

### VIII. 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.

Keith M. Summers/ Mark E. Thalman  
[Signature]

**Type/Print Name of Applicant/Agent**  **Signature of Applicant/Agent**  **Date**

3/5/19
Over 12 Beers on Tap
Draught Beer by the Pint

Chestnut Brew Works
Ha'Beck Pale Ale
Morgantown, WV

Seasonal Crafts and
a Variety of Local and
West Virginia Crafts

"Make It A Re"e Eye "
We Have
Tomato Juice

Try any of the above beers:
in Uncle Steve's Legendary
Short Glass.

Cold Beverages
Coke, Diet Coke, Sprite,
Ginger Ale in Cans
and Bottled Water

The Old Standbys
In Bottles and Cans

Wine
Merlot, White Zinfandel,
Pinot Grigio, and Pink Moscato
By the Glass

Miller Lite
Papst Blue Ribbon

Check us out on Facebook
"Don't forget to Roll the Dice"

Mundy's Gift Cards Available

Mundy Liberatore
Founder
1949

Your Place for
Live Local Music

Mountaineer Sports

Open
Monday thru Saturday
11am to Midnight
Sundays 1pm to 10pm
Kitchen closes at 10:00pm

Daily Specials
Happy Hour
Monday - Friday
3:00pm - 6:00pm

PH. 304-241-4569
We Accept
Visa
MasterCard
American Express
Diners Club

Locally Owned and Operated
House Made Chips
Served with choice of dipping sauce
Small 3.25 / Large 5.95
(Add shredded cheese and bacon for 1.75)

Fried Pierogi
Served with garlic butter sauce
5.95

Warm Soft Pretzel Sticks
Served with nacho cheese
5.95

Tortilla Chips with
Salsa or Nacho Cheese
4.95

Fried Provolone Sticks
Served with marinara sauce
5.95

Loaded Nachos
Nacho cheese, jalapeno, dice onion, and diced tomato served with salsa and sour cream 7.95
(Add chili for 1.50)

Fresh Cut Fries
Served with choice of dipping sauce
Small 3.25 / Large 5.95
(Add shredded cheese and bacon for 1.75)

Famous Chili Dogs
100% beef frank topped with homemade chili. Add other topings of your choice.
3.00

***Available dipping sauces include ketchup, ranch, blue cheese, honey mustard, salsa, sour cream, garlic butter, nacho cheese, and all of our in house wing sauces***

Chicken Wings
Mild, Honey BBQ, Spicy Ranch, Sweet Asian Zing, Honey Sriracha, Spicy Honey, or Carolina Reaper
Small (8) 8.50 / Large (14) 12.75
Side of celery 75

Boneless Chicken Wings
Plain or tossed in one of our wing flavors and served with a dipping sauce of your choice.
7.95

First Ward's Reuben
Corned beef, sauerkraut, and Swiss cheese with Thousand Island dressing on grilled marble rye 8.95

Neighborhood Steak Hoagie
Fresh sirloin steak grilled topped with lettuce, tomato, mayo, grilled onions, peppers and mozzarella and provolone cheese. Served with potato chips. 9.95

Chicken Sandwich
Grilled chicken breast topped with your choice of cheese, lettuce, tomato and mayo. Served on a toasted brioche bun with potato chips 8.95
(Add bacon for 1.00)

Mundy's House Burger
1/4 pound burger topped with your choice of cheese, lettuce, tomato, grilled onions, mayo, ketchup, or mustard served on a toasted brioche bun 8.95
(Add bacon or fried egg for 1.00)

Giovanni
Ground beef patty topped with Oliverio peppers, smothered in American cheese on grilled Texas toast 9.95

House Salad
Fresh tomatoes, carrots, cucumbers, green peppers, blended cheese, croutons, and your choice of dressing. 6.95
Add grilled / fried chicken or steak (2.00) and / or fries (1.00)

Cheese Quesadilla
Cheese blend with jalapenos, onions, and tomatoes. Salsa and sour cream served on the side, 7.95
Add grilled chicken or grilled sirloin steak 2.00

Chicken Tenders
Order of 5 tenders served with your choice of dipping sauce. 7.95

That's a Wrap
Fresh, made-to-order wrap with lettuce, jalapenos, green peppers, onions and your choice of cheese and dressing. Served with potato chips. 7.95 add grilled or fried chicken or grilled sirloin steak for 2.00

***All sandwiches and wraps served with potato chips. Substitute house made chips or house cut fries for $1.50***

*All items available for carry out*