

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE PARCEL OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Property included in this consideration is identified in the Monongalia County Assessor's records as Parcel 260 of County Tax Map 7; Morgantown Corporation District along with a portion of the adjoining University Avenue public right-of-way.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification for Parcel 260 of County Tax Map 7 of the Monongalia County tax assessment along with a portion of the adjoining University Avenue public right-of-way as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is reclassified from B-1, Neighborhood Business District to B-2, Service Business District.
2. That the Official Zoning Map be accordingly changed to show said zoning reclassification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

Mayor

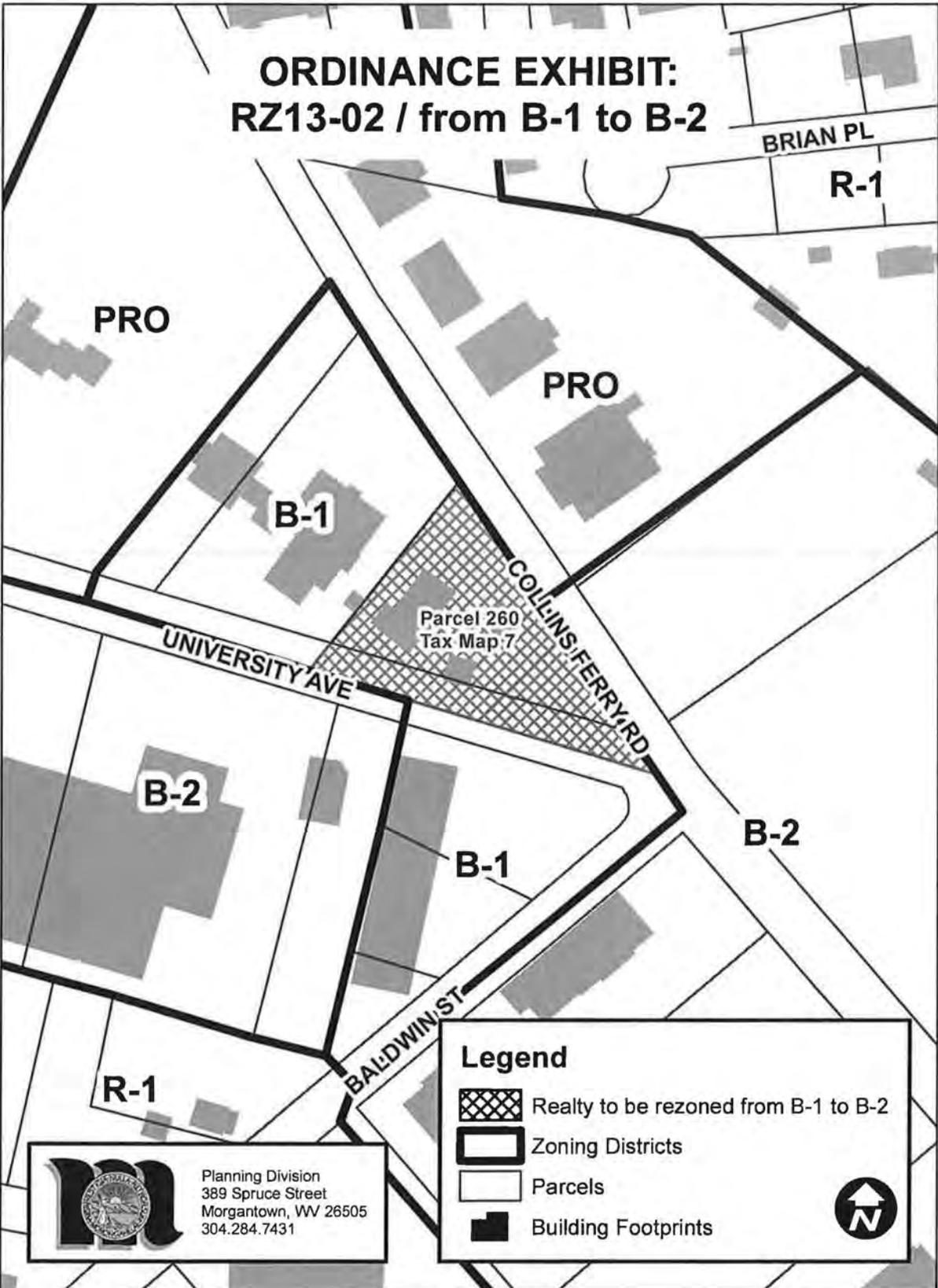
ADOPTED:

FILED:

RECORDED:

City Clerk

ORDINANCE EXHIBIT: RZ13-02 / from B-1 to B-2



 Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Legend

-  Realty to be rezoned from B-1 to B-2
-  Zoning Districts
-  Parcels
-  Building Footprints





**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7431 TDD (304) 284-7512
www.morgantownwv.gov

July 12, 2013

Fred L. Jordan
c/o Wendy G. Adkins
Jackson Kelly PLLC
150 Clay Street, Suite 500
Morgantown, WV 26501

**RE: RZ13-02 / Fred L. Jordan / 3100 University Avenue
Zoning Map Amendment from B-1 to B-2
Tax Map 7, Parcel 260**

Dear Ms. Adkins:

This is to notify you that the Morgantown Planning Commission voted on July 11, 2013 to submit a recommendation of approval to City Council for the zoning map amendment petition referenced above.

Please note the following dates when City Council will consider the ordinance related to the subject petition. These dates are dependent up City Council's favorable action at each step of the approval process.

City Council Meetings

- Committee of the Whole..... Tuesday, July 30, 2013; 7:00 PM
City Council Chambers
- 1st Reading:..... Tuesday, August 6, 2013; 7:00 PM
City Council Chambers
- Public Hearing and 2nd Reading:..... Tuesday, September 3, 2013; 7:00 PM
City Council Chambers

Please note that attendance at these meetings is not mandatory.

Do not hesitate to contact me should you have any questions or require further clarification.

Respectfully,

Christopher M. Fletcher, AICP
Director of Development Services

Copied via email to: Jeff Mikorski, City Manager
Linda Little, City Clerk



MORGANTOWN PLANNING COMMISSION

July 11, 2013
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kawecki, City Council

STAFF REPORT

CASE NO: RZ13-02 / Fred L. Jordan / 3100 University Avenue

REQUEST and LOCATION:

Request by Wendy G. Adkins and Heather J. Gentile, on behalf of Fred L. Jordan, for a Zoning Map Amendment from B-1, Neighborhood Business District to B-2, Service Business District for property located at 3100 University Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 7, Parcel 260; B-1, Neighborhood Business District

SURROUNDING ZONING:

North: PRO, Professional, Residential and Office District

East: B-2, Service Business District

South and West: B-1, Neighborhood Business District

BACKGROUND:

The petitioner seeks approval to reclassify the subject property from B-1 to B-2. Addendum A of this report illustrates the location of the subject property.

Because the subject realty adjoins the B-2 District at the site's eastern side, the proposed zoning map amendment is considered a zoning district boundary adjustment and not "spot zoning" as the following image illustrates.



**Development Services
Department**

Christopher Fletcher, AICP
Director

Planning Division

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Morgantown, WV 26505
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July 11, 2013
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Ken Martis, Admin.

Bill Kawecky, City Council

The existing use of the subject property is a "Gasoline Service Station", which is not permitted by-right or by conditional use approval in the B-1 District. The use is therefore considered to be grandfathered and may continue until or unless modified or terminated for twelve (12) consecutive months. Grandfathered uses may be sold, inherited, or otherwise transferred, provided the use, land, and structure (if any) remain the same.

Further, Article 1373.01(A) provides that, "No legal, pre-existing nonconforming use may be enlarged, moved or otherwise changed, except that such use may be changed to a permitted use."

As such, facility improvements, expansions, and/or redevelopment of the establishment's existing facilities into a higher performing, more modern, attractive, and contributing "Gasoline Service Station" use is extremely limited and a change in use to a "Gas Station Mini-Mart" is prohibited given the current B-1 zoning classification.

"Gasoline Service Station" and "Gas Station Mini-Mart" uses are permitted by-right in the B-2 District.

ANALYSIS:

According to Article 1345.01 of the Planning and Zoning Code, the purpose of the B-1 District is to:

"...provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods."

According to Article 1347.01, the purpose of the B-2 District is to:

"...provide areas that are appropriate for most kinds of businesses and services, particularly large space users such as department stores. Typically B-2 districts are located along major thoroughfares."

According to the MMMPO, the annual average daily traffic (AADT) count at the subject site was 9,780 vehicles in 2012. Although this area of University Avenue and Collins Ferry Road may not be considered major thoroughfares (e.g., Van Voorhis Road, Patteson Drive, etc.), these roadways are considered sub-arterial streets carrying traffic from multiple collector and neighborhood/local streets to major arterial routes.

Given the subject site's triangular shape and extensive road frontage along University Avenue and Collins Ferry Road, redevelopment and/or reuse of the site to a non-auto related service is highly unlikely.

Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioners' development intentions are extraneous and the Commission should consider the request on its merits as a land-use decision.

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In conducting such an analysis, the Commission should determine if the B-2, Service Business District is the appropriate zoning classification for the subject realty, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1347 "B-2, Service Business District" and Table 1331.05.01 "Permitted Land Uses".

It should be noted that the petitioner, at Staff's encouragement, contacted neighboring property owners and the Suncrest Neighborhood Association leadership to discuss their zoning map amendment proposal. As of 03-Jun-2013, the Planning Division has not received related comments of concern or opposition.

Comprehensive Plan Concurrence

As recommended in the Chapter 9 "Implementation" of the 2013 Comprehensive Plan Update, Addendum B of this report identifies how the proposed development program is aligned and concurs with the land management intent, location, and pattern and character principles of the current Comprehensive Plan.

STAFF RECOMMENDATION:

Staff advises the Commission to forward a recommendation to City Council to approve the requested zoning map amendment so that Parcel 260 of Tax Map 7 is reclassified from B-1, Neighborhood Business District to B-2, Service Business District.

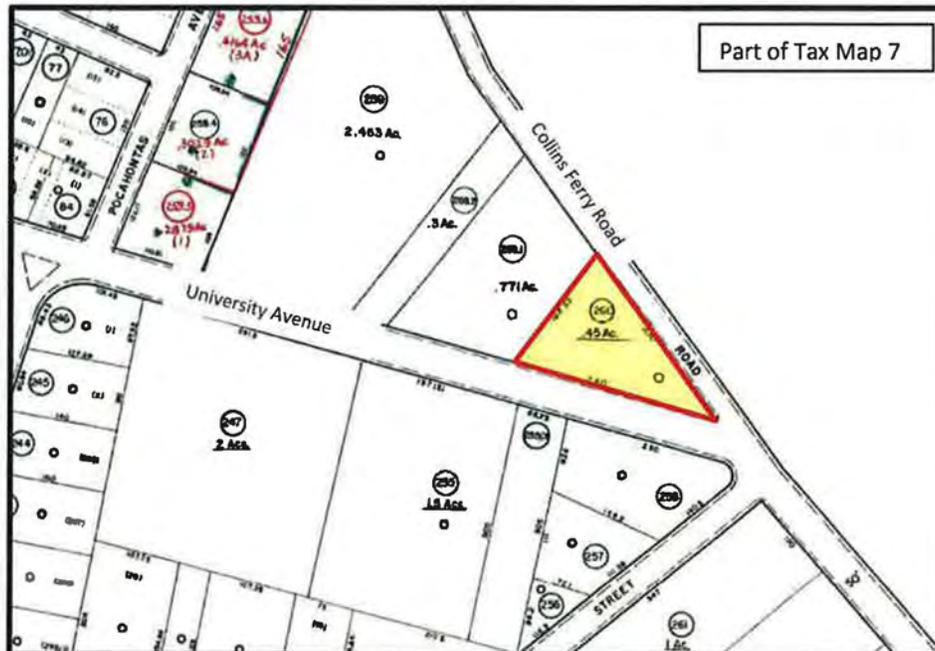
**Development Services
Department**

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STAFF REPORT ADDENDUM A
RZ13-02 / Jordan / University Avenue



STAFF REPORT ADDENDUM B

RZ13-02 / Jordan / University Avenue

Concurrence with the 2013 Comprehensive Plan Update

The following narrative identifies where, in the opinion of the Planning Division, the proposed zoning map amendment proposal or development of significant impact proposal is in concurrence and/or is inconsistent with the 2013 Comprehensive Plan Update.

INTENT	Development proposals will reflect the spirit and values expressed in the Plan's principals.
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Principles for Land Management

Principal 1	Infill development and redevelopment of underutilized and/or deteriorating sites takes priority over development in green field locations at the city's edge.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
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The reclassification of the subject property from B-1 to B-2, given its buildable area limitations and history of automobile service related uses, appears prudent to stimulate market interest and opportunity in delivering a higher performing and contributing development pattern otherwise permitted in the B-2 District; particularly encouraging facility improvements and/or expansions to a more modern, attractive, and contributing "Gasoline Service Station" or "Gas Station Mini-Mart" use.

Principal 2	Expansion of the urban area will occur in a contiguous pattern that favors areas already served by existing infrastructure.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
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The subject site is located within commercial node surrounded by B-2 zoning classifications and B-2 scaled uses and development patterns. Reclassifying the property to B-2 will not result in or facilitate "greenfield development." The site appears to be supported by existing transportation and utility infrastructure capacity.

Principal 3	Downtown, adjacent neighborhoods and the riverfront will be the primary focus for revitalizations efforts.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
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The subject site is not located within or near the central downtown business district. It is however within an existing neighborhood commercial node.

Principal 4	Existing neighborhoods throughout the city will be maintained and/or enhanced.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
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The subject site is not within and does not border a neighborhood conservation concept area. However, the subject site has been occupied by an automobile service related use supported by the Suncrest Neighborhood for decades.

Principal 5	Quality design is emphasized for all uses to create an attractive, distinctive public and private realm and promote positive perceptions of the region.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<i>Site layout and architectural design alternatives and solutions are functions specific to the review and approval of development plans. However, the B-4 District does include a broader extent of required and desired site and structure design standards.</i>		
Principal 6	Development that integrates mixed-uses (residential, commercial, institutional, civic, etc.) and connects with the existing urban fabric is encouraged.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
<i>Reclassifying the subject property from B-1 to B-2, given its buildable area limitations and history of automobile service related uses, appears prudent to stimulate market interest and opportunity in delivering a higher performing and contributing development pattern. The B-2 classification will encourage facility improvements and/or expansions to a more modern, attractive "Gasoline Service Station" or "Gas Station Mini-Mart" use, which should serve to enhance its contribution to the neighborhood commercial node.</i>		
Principal 7	Places will be better connected to improve the function of the street network and create more opportunities to walk, bike and access public transportation throughout the region.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<i>Given the site's buildable area limitations, history of automobile service related uses, and desired improvements thereto, multi-modal transportation utilization to and from the site is unlikely. However, a B-2 classification may stimulate interest in converting the grandfathered "Gasoline Service Station" use to a "Gas Station Mini-Mart" use retailing convenience offerings attractive to pedestrian and bicycling passersby. Additionally, there is a fixed transit stop/shelter within 250 feet of the subject site.</i>		
Principal 8	A broad range of housing types, price levels and occupancy types will provide desirable living options for a diverse population.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<i>Given the site's buildable area limitations, history of automobile service related uses, traffic volume on University Avenue and Collins Ferry Road, and neighboring non-residential uses and related intensities, the development of residential uses, whether B-1 or B-2, is unlikely.</i>		

Principal 9	Residential development will support the formation of complete neighborhoods with diverse housing, pedestrian-scaled complete streets, integrated public spaces, connection to adjacent neighborhoods, and access to transportation alternative and basic retail needs.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<p><i>Given the site's buildable area limitations, history of automobile service related uses, traffic volume on University Avenue and Collins Ferry Road, and neighboring non-residential uses and related intensities, the development of residential uses, whether B-1 or B-2, is unlikely. It should be noted that the petitioner met with Planning Division Staff and a regional WVDOH representative to discuss MMMPO supported operations analysis of the University Avenue and Collins Ferry Road intersection in terms of alternate intersection alignment and traffic control enhancements to improve maneuvering, convenience, and safety.</i></p>		
Principal 10	Parks, open space, and recreational areas are incorporated as part of future development.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<p><i>Given the site's buildable area limitations, history of automobile service related uses, traffic volume on University Avenue and Collins Ferry Road, neighboring non-residential uses and related intensities, and relative isolation, the development and/or incorporation of recreational, active, or passive open space, whether B-1 or B-2, is unlikely.</i></p>		
Principal 11	Environmentally sensitive and sustainable practices will be encouraged in future developments.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> Other
<p><i>Development design and construction methods in relation to environmentally sensitive sustainable best practices are functions specific to the review and approval of development plans.</i></p>		

LOCATION Development proposals will be consistent with the Land Management Map. If the proposal applies to an area intended for growth, infill, revitalization, or redevelopment, then it should be compatible with that intent and with any specific expectations within Areas of Opportunity. If the proposal applies to an area of conservation or preservation, it should be compatible with and work to enhance the existing character of the immediate surroundings.

The following graphic is clipped from the **Land Management Map** included in the 2013 Comprehensive Plan Update. The subject site is located within the “**Corridor Enhancement**” concept area within which improving development and increased intensity are desired.

The reclassification of the subject property from B-1 to B-2, given its buildable area limitations and history of automobile service related uses, appears prudent to stimulate market interest and opportunity in delivering a higher performing and contributing development pattern otherwise permitted in the B-2 District but denied the site under the current B-1 classification.

Additionally, a change in use from a “Gasoline Service Station” to a “Gas Station Mini-Mart” as a result of the requested zoning map amendment may increase convenience retail offerings for the benefit of motoring passersby and immediate Suncrest Neighborhood area.

 **Corridor Enhancement**:** Improving development along corridors with a mix of uses, increased intensity at major nodes or intersections and roadway improvements to improve traffic flow, pedestrian and biking experience.

 **Neighborhood Conservation*:** Preservation of existing neighborhood character and continued maintenance of buildings and infrastructure.



PATTERN AND CHARACTER

Development proposals in growth areas will be consistent with preferred development types. Development in areas where growth is not intended should be compatible with the relevant Character Areas description and expectations for how those areas should evolve in the future.

Reclassifying the subject realty from B-1 to B-2 furthers the following development types that are identified in the 2013 Comprehensive Plan Update as desired in the “**Corridor Enhancement**” concept area.

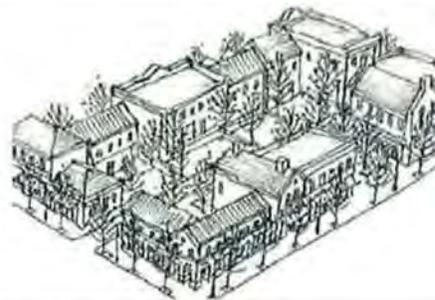
C Civic and Institutional

These sites include both public uses (government buildings, libraries, community recreation centers, police and fire stations, and schools) and semi-public or private uses (universities, churches, hospital campuses). Public uses should be strategically located and integrated with surrounding development. Civic and Institutional sites may be distinctive from surrounding buildings in their architecture or relationship to the street.



NX Neighborhood Center Mixed-Use

A mix of housing, office, commercial, and civic uses adjacent to one another or contained within the same structure (such as offices or apartments above ground-floor retail). Such uses should be compatible with and primarily serve nearby neighborhoods (within 1/2 mile). Parking should be located behind or to the side of buildings and may be shared between multiple uses.





City of Morgantown, West Virginia
APPLICATION FOR
FOR ZONING MAP AMENDMENT

OFFICE USE	
CASE NO.	RZ13-02
RECEIVED:	6/5/13
COMPLETE:	

Zoning Map Amendment Process – See Addendum A of this Application

(PLEASE TYPE OR PRINT IN BLACK INK)

I. OWNER / APPLICANT			
Name:	Fred L. Jordan	Phone:	(304) 598-0567
Mailing Address:	202 Walnut Street	Mobile:	
	Street Pt. Marion	PA	15474
	City	State	Zip
Email:			
II. AGENT / CONTACT INFORMATION			
Name:	Wendy G. Adkins and Heather J. Gentile	Phone:	(304) 284-4100
Mailing Address:	150 Clay Street, Suite 500	Mobile:	
	Street Morgantown	WV	26501
	City	State	Zip
Email:		wgadkins@jacksonkelly.com; hgentile@jacksonkelly.com	
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
IV. PROPERTY			
Street Address (if assigned):	3100 University Avenue, Morgantown WV		
Tax Map(s) #:	7	Parcel(s) #:	260
		Size (sq. ft. or acres):	.46
Current Zoning Classification:	B-1	Proposed Zoning Classification:	B-2
Current Land Use:	Gasoline Service Station	Proposed Land Use*:	Gasoline Service Station
<i>*The Planning Commission does not take proposed use into consideration. The question is asked merely for staff to determine if the proposed district allows the intended use.</i>			
V. ATTEST			
I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction, whether specified herein or not. I certify that I have read and examined this document and know the same to be true and correct. 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.			
Wendy G. Adkins			06/05/2013
Type/Print Name of Applicant/Agent	Type/Print Name of Applicant/Agent	Date	

Zoning Map Amendment Fee - \$75

Finance Office
Morgantown, WV 26505
(304) 284-7400



City of Morgantown, West Virginia
APPLICATION FOR
FOR ZONING MAP AMENDMENT

OFFICE USE	
CASE NO.	<u>R213-02</u>
RECEIVED:	_____
COMPLETE:	_____

ADDENDUM A - Zoning Map Amendment Process

