



MORGANTOWN PLANNING COMMISSION

July 12, 2012
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.

Jennifer Selin, City Councilor

STAFF REPORT

CASE NO: RZ12-02 / Rice Rentals / 502 Stewart Street

REQUEST and LOCATION:

Request by John Rice, on behalf of Rice Rentals, Inc., for a Zoning Map Amendment from R-2, Single- and Two-Family Dwelling District to B-1, Neighborhood Business District for property at 502 Stewart Street

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 14, Parcels 450 and 451; R-2, Single- and Two-Family Residential District

SURROUNDING ZONING:

North and West: R-1A, Single-family Residential District

South and East: R-2, Single and Two-Family Residential District

BACKGROUND:

The petitioner seeks to reclassify Parcels 450 and 451 of Tax Map 14 from R-2, Two-Family Residential District to B-1, Neighborhood Business District. Addendum A of this report illustrates the location of the subject realty.

ANALYSIS:

According to the Finance Department, the subject property has a long history of mixed commercial and residential uses and has been occupied as a restaurant and neighborhood convenience store for the past fifteen to twenty years. Some of the names of these establishments include *Anthony's Pizza*, *Mountaineer Pizza*, *Colasante's Carryout*, *Market Place*, and *Express Mart*. Additionally, there is a one registered overstore dwelling unit on the second floor.

Because the B-1 Neighborhood Business District does not currently exist within the immediate vicinity of the petitioner's property, the proposed zoning map amendment is not considered a zoning district boundary adjustment.

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

"Provide areas for convenient business uses, which tend to meet the daily shopping and service needs of 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."

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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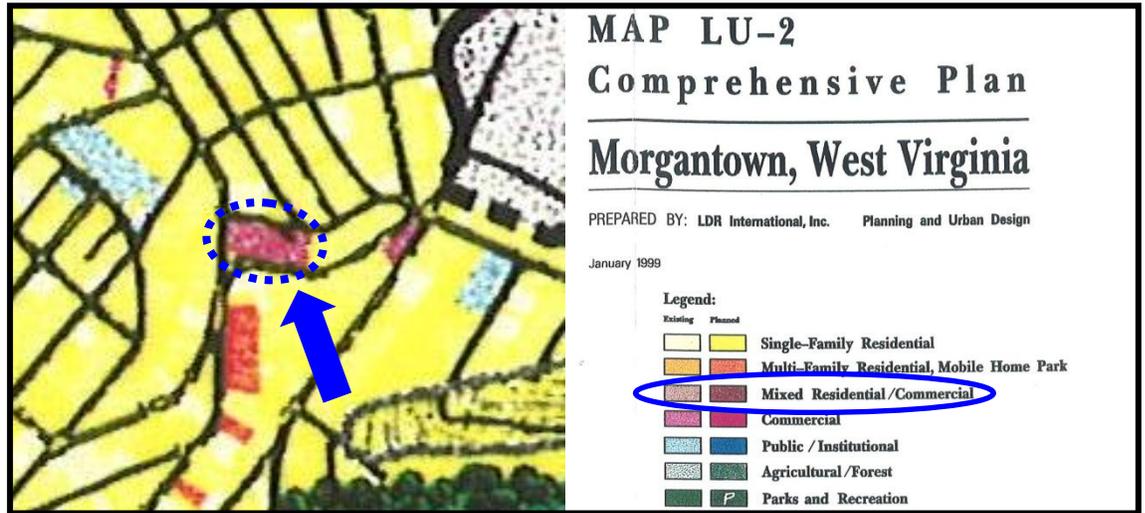
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The following figure is a portion of Map LU-2 of the 1999 Comprehensive Plan and illustrates that the planned use for the subject property was “Mixed Residential/Commercial.”



A *Planners Dictionary* provides the following definition for “spot zoning” (Planning Advisory Service Report Number 521/522; by the American Planning Association; April 2004; page 384):

“An arbitrary zoning or rezoning of a small tract of land, usually surrounded by other uses or zoning categories that are of a markedly or substantially different intensity, that is not consistent with the comprehensive land use plan, and that primarily promotes the private interest of the owner rather than the general welfare.”

West Virginia State Code §8A-7-8 provides that if a zoning amendment is inconsistent with the adopted Comprehensive Plan, then City Council, with the advice of the Planning Commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and that those changes have substantially altered the basic characteristics of the area.

It is the opinion of the Planning Division that the petitioner’s proposed zoning map amendment should not be considered spot zoning and appears to be consistent with the adopted Comprehensive Plan based on the following points:

1. The 1999 Comprehensive Plan recommended land uses (see Map LU-2) for the subject realty was mixed residential/commercial.
2. Staff has no working knowledge as to why the zoning classification for the subject realty has remained R-2. However, the major zoning ordinance amendment of 2006 significantly modified the legislative intent, permitted land uses, and desired development density and scope of the B-1 District resulting in a business district that better reflects the character of Morgantown’s neighborhoods and its neighborhood commercial experience.

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3. The structure on the subject property appears to have been constructed for the purpose of commercial occupancy. According to the petitioner, the original portion of the structure was built in the 1930s and served as a gas station for many years; and, an addition was constructed to the building in the 1960s and that portion of the building served as a neighborhood grocery and meat deli.
4. The structure on the subject property appears to have been occupied by a convenience store and fast-food or family restaurant serving the shopping and service needs of the immediate neighborhood for at least the past 15 to 20 years.
5. The existing commercial uses occupying the structure are permitted by-right in the B-1 District but only by conditional use approval in the R-2 District.
6. Mixed-use and overstore dwelling types are not permitted in the R-2 District but are permitted by-right in the B-1 District. Therefore, the existing apartment on the second story of the existing structure is considered a nonconforming use within the current R-2 District classification.

Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioner's development intentions are extraneous and the Commission should consider the request on its merits as a land-use decision. In conducting such an analysis, the Commission should determine if the B-1, Neighborhood 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 1345 "B-1, Neighborhood Business District" and Table 1331.05.01 "Permitted Land Uses".

STAFF RECOMMENDATION:

The Planning Division advises the Planning Commission to determine that:

- The subject property appears to have been developed and used for many years by neighborhood-scaled commercial establishments serving the shopping and service needs of residents within the immediate neighborhood.
- The proposed zoning map amendment appears to be consistent with the 1999 Comprehensive Plan's recommended mixed residential/commercial planned land uses; the purpose for which appears to recognize the site's past, present, and continued function.
- The proposed zoning map amendment should not be considered an enactment of spot zoning as it does not appear to arbitrarily nor solely benefit the private interest of the owner. The proposed reclassification appears to correspondingly promote the interest and convenience of the immediate vicinity by recognizing the B-1 District as more appropriate given the property's historical function and service as a neighborhood-scaled commercial site.

Therefore, the Planning Division advises the Planning Commission to forward a recommendation to City Council to approve the requested zoning map amendment so that Parcels 450 and 451 of Tax Map 14 are reclassified from R-2, Single- and Two-Family Residential District to B-1, Neighborhood Business District.

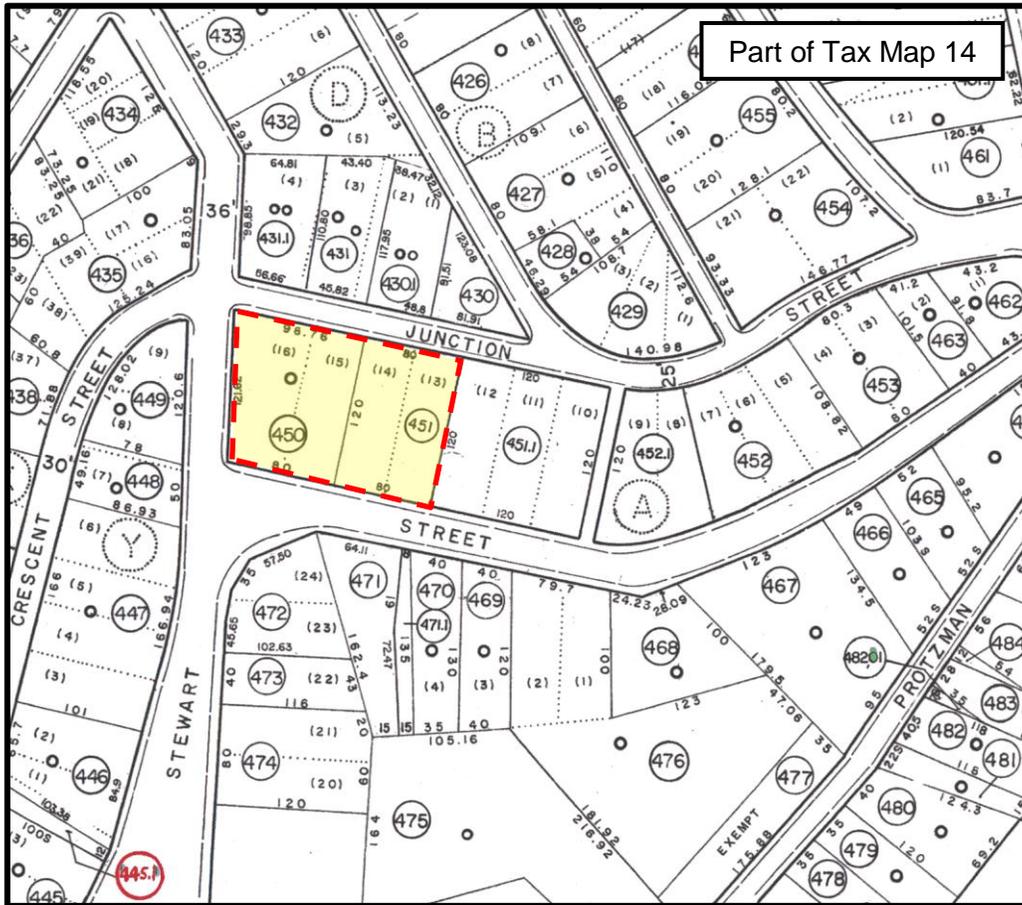
Development Services

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Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
RZ12-02 / Rice Rentals / 502 Stewart Street





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

OFFICE USE	
CASE NO.	<u>RZ12-02</u>
RECEIVED:	<u>06/05/12</u>
COMPLETE:	_____

Zoning Map Amendment Process – See Addendum A of this Application

(PLEASE TYPE OR PRINT IN BLACK INK)

I. OWNER / APPLICANT			
Name:	Rice Rentals, Inc.	Phone:	(304)598-7368
Mailing Address:	966 Valleyview Ave.	Mobile:	(304)288-6393
	Street Morgantown	W.V.	26505
	City	State	Zip
Email:	ricerentals@aol.com		
II. AGENT / CONTACT INFORMATION			
Name:	John Rice	Phone:	
Mailing Address:	966 Valleyview	Mobile:	(304)288-6393
	Street Morgantown	W.V.	26505
	City	State	Zip
Email:	ourjr3322@yahoo.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):	502 Stewart St.		
Tax Map(s) #:	14	Parcel(s) #:	450&451
Size (sq. ft. or acres):	20000sq.ft.approx.		
Current Zoning Classification:	R-2	Proposed Zoning Classification:	<u>B-1</u>
Current Land Use:	business / <u>RESIDENTIAL</u>	Proposed Land Use*:	business / <u>RESIDENTIAL</u>
<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.			
Rice Rentals Inc./ John Rice	<u>Rice Rentals Inc. John Rice</u>	06/05/2012	
Type/Print Name of Applicant/Agent	Type/Print Name of Applicant/Agent	Date	

Zoning Map Amendment Fee - \$75

Finance Office
Morgantown, WV 26505
(304) 284-7408



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

OFFICE USE	
CASE NO.	RZ 12-02
RECEIVED:	06/05/12
COMPLETE:	

ADDENDUM A - Zoning Map Amendment Process

