



# MORGANTOWN PLANNING COMMISSION

August 14, 2014  
6:30 PM  
City Council Chambers

**President:**

Peter DeMasters, 6<sup>th</sup> Ward

**Vice-President:**

Carol Pyles, 7<sup>th</sup> Ward

**Planning Commissioners:**

Sam Loretta, 1<sup>st</sup> Ward

Tim Stranko, 2<sup>nd</sup> Ward

William Blosser, 3<sup>rd</sup> Ward

Bill Petros, 4<sup>th</sup> Ward

Mike Shuman, 5<sup>th</sup> Ward

Ken Martis, Admin.

Bill Kawecky, City Council

## **STAFF REPORT**

**CASE NO:** RZ14-04 / Barbara Snyder / 604 McLane Avenue

**REQUEST and LOCATION:**

Request by Barbara Snyder for a Zoning Map Amendment from R-2, Single- and Two-Family Residential District to B-1, Neighborhood Business District for property located at 604 McLane Avenue.

**TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 15, Parcel 135; R-2, Single- and Two-Family Residential District

**SURROUNDING ZONING:**

North and West: R-2, Single- and Two-Family Residential District

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

**BACKGROUND:**

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

The principal structure at 604 McLane Avenue is considered a "Single-Family Dwelling" use, which is permitted by-right in the R-2 District. The subject property has been registered with the City as a residential rental unit since 08 JUL 2013.

Staff understands that the petitioner seeks to open a consignment store at the subject site, which would be considered a "Retail Sales Establishment" use. Table 1331.05.01 "Permitted Land Uses" provides that "Retail Sales Establishment" uses are not permitted in the R-2 District but permitted by-right in the B-1 District. As such, the petitioner seeks to reclassify the subject realty to enable the development of a consignment store.

**ANALYSIS:**

According to Article 1337.01 of the Planning and Zoning Code, the purpose of the R-2 District is to:

- (A) Provide for two-family housing development and customary accessory uses at a density slightly higher than in single family neighborhoods, and
- (B) Preserve the desirable character of existing medium density family neighborhoods, and
- (C) Protect the medium density residential areas from change and intrusion that may cause deterioration, and
- (D) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

**Development Services  
Department**

Christopher Fletcher, AICP  
Director

**Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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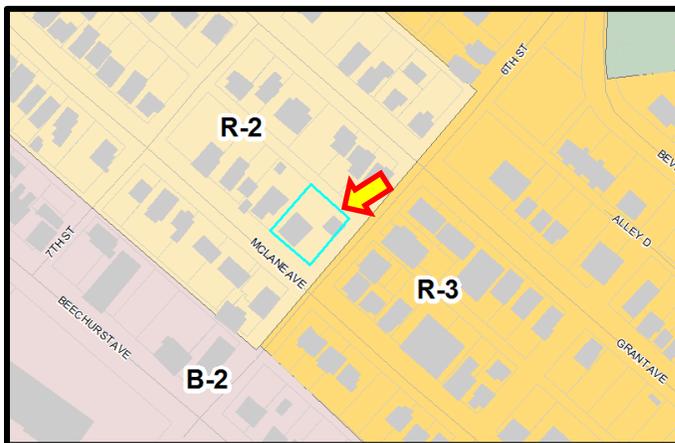
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According to Article 1345.01, the purpose of the B-1 District is to:

“...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.”

The following graphic illustrates the location of the subject site in relation to surrounding zoning districts. It should be noted that the subject realty does not adjoin an existing B-1 District.



*Comprehensive Plan Concurrence*

Addendum B of this Report provides Staff’s concurrence analysis of the petitioner’s request with the 2013 Comprehensive Plan Update and the 2004 Sunnyside Revitalization Plan.

The Chapter 3 “Land Management” of the 2013 Comprehensive Plan Update provides that it will be consulted for any development proposal based on the following steps (see Page 33 of the Comprehensive Plan).

1. Intent. Development proposal will reflect the spirit and values expressed in the principles (statements of intent) on Pages 34-37.
2. Location. Development proposals will be consistent with the Land Management Map (Page 39). 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 with Areas of Opportunity (Pages 44-48). 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.
3. Pattern and Character. Development proposal in growth areas will be consistent with the preferred development types described on Pages 39-41. Development in areas where growth is not intended should be compatible with the relevant Character Area description (Pages 26-32) and expectation for how those areas should evolve in the future.

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If a development proposal, in this case a zoning map amendment petition, is not consistent with the recommendations of any one of these steps, then the proponent (petitioner) should re-evaluate and make adjustments and/or provide justification for deviation prior to submission. The only justification provided by the petitioner is a desire to open a consignment store.

“Spot Zoning” is generally understood as arbitrary changes in zoning classifications or zoning district boundaries in a way that violates sound principles of zoning and is generally characterized by:

- Individuals seeking to have property rezoned for their private use.
- Usually the amount of land involved is small and limited to one or two ownerships.
- The proposed zoning reclassification would give privileges not generally extended to property similarly located in the area.
- Applications usually show little or no evidence of, or interest in, consideration of the general welfare of the public, the effect on surrounding property, whether all uses permitted in the classification sought are appropriate in the location proposed, or conformity to the comprehensive plan or to comprehensive plan principles (including alterations to the population density patterns and increase of load on utilities, schools, and traffic).

Unfortunately, the line between what is arguably arbitrary “Spot Zoning” and what is arguably furthering general public interest is not always clear and, at times, highly debatable.

As presented in Addendum B of this Report, the petitioner’s subject property is located in the 2013 Comprehensive Plan Update’s “Future Study Area 6” and the 2004 Sunnyside Revitalization Plan’s “Planning Area H.”

The 2004 Sunnyside Revitalization Plan does not appear to provide for non-residential (retail, commercial, etc.), mixed-use dwellings, and higher residential densities as a desired development pattern within “Planning Area H.”

Further, it is the opinion of the Planning Division that there is an expectation directed by the 2013 Comprehensive Plan Update to conduct a formal land use and development planning process for each of the “Future Study” areas for the purpose of effecting zoning map amendments and/or zoning text amendments. Specifically, the Comprehensive Plan is wide-ranging but identifies areas that necessitate further study to capture critical opportunities of making informed choices about how and where growth and development should occur within a “Future Study” area now and in the future.

Advancing zoning map and/or zoning text amendments within a “Future Study” area prior to completing the formal planning process would be arguably haphazard, arbitrary, and capricious without the manifestation of general public benefit, interest and/or opportunity of protecting and/or furthering the health, safety, and welfare of the community; particularly in the manner and direction requested by the petitioner that significantly deviates from the desired development pattern provided in the 2004 Sunnyside Revitalization Plan.

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**STAFF RECOMMENDATION:**

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.

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 advises the Commission to forward a recommendation to City Council to deny the requested zoning map amendment so that Parcel 135 of Tax Map 15 remains R-2, Single- and Two-Family Residential District based on the following findings and conclusions:

1. Article 1301.05 of the City's Planning and Zoning Code provides that "...the general design of neighborhoods...the use of land...the location of sites for...shopping centers...shall conform to the principles, policies and provisions of the Comprehensive Plan."
2. The 2013 Comprehensive Plan Update provides that legislative approvals of amendments to the zoning ordinance and zoning map should be a central means of implementing the Comprehensive Plan. Further, decisions by the Planning Commission and City Council should reference relevant Comprehensive Plan recommendations and policies [see Page 101 of the 2014 Comprehensive Plan Update].
3. The 2013 Comprehensive Plan Update identifies the Sunnyside Neighborhood as an "Area of Opportunity" where revitalization is intended to progress as recommended in the 2004 Sunnyside Revitalization Plan including a diversity of housing types, increased residential densities, and mixed-use development.
4. The 2004 Sunnyside Revitalization Plan provides that the petitioner's subject property is located within "Planning Area H" where housing products such as duplexes, townhouses, garden apartments and strategically located pockets of single-family homes are desired.
5. The 2004 Sunnyside Revitalization Plan does not appear to provide for non-residential (retail, commercial, etc.), mixed-use dwellings, and higher residential densities as desired development patterns within "Planning Area H."
6. The 2004 Sunnyside Revitalization Plan appears to provide for non-residential (retail, commercial, etc.), mixed-use dwellings, and higher residential densities development patterns within other "Planning Areas" of the Sunnyside Neighborhood.

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7. The petitioner's proposed zoning map amendment for the subject realty appears to significantly deviate from the desired development patterns provided in the 2004 Sunnyside Revitalization Plan.
8. Appendix A of the 2013 Comprehensive Plan Update provides that the petitioner's subject property is also located within "Future Study Area 6."
9. Said Appendix A provides that the Planning Commission should conduct further land use and development study within the "Future Study Areas" for the purposes of recommending zoning map amendments and/or zoning text amendments to City Council that will advance the goals, objectives, strategies, and consistency principals of the 2013 Comprehensive Plan Update.
10. Given the desired development pattern expressed in the 2004 Sunnyside Revitalization Plan for "Planning Area H" and absent a further land use and development study of the 2013 Comprehensive Plan Appendix A "Future Study Area 6", the petitioner's request to reclassify the subject property from R-2 to B-1 appears to serve more of a private interest than that of the general public benefit, interest, and/or opportunity of protecting and/or furthering the health, safety, and welfare of the community.

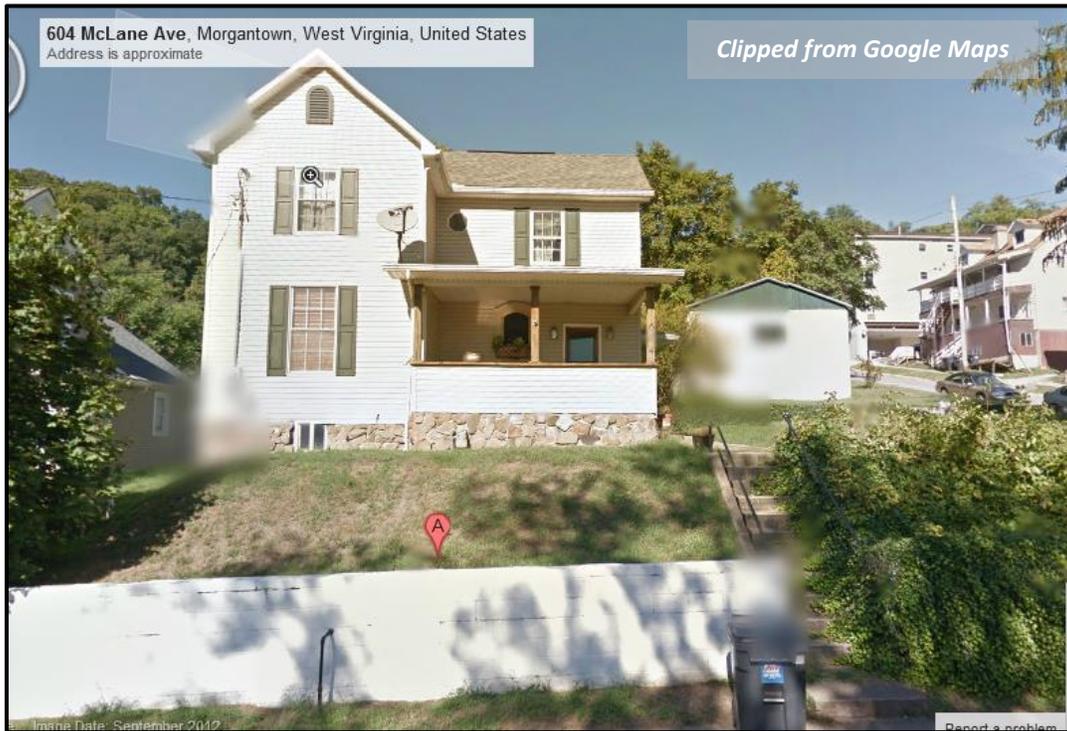
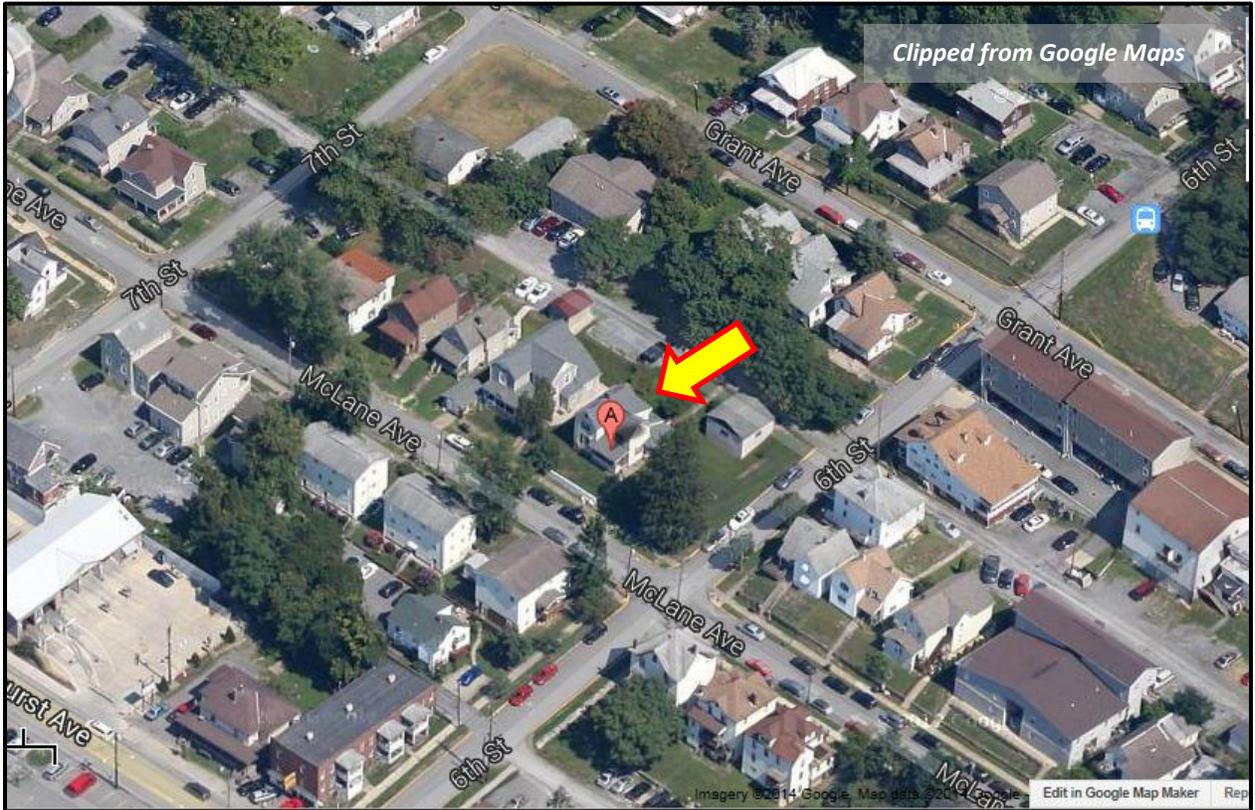
**Development Services  
Department**

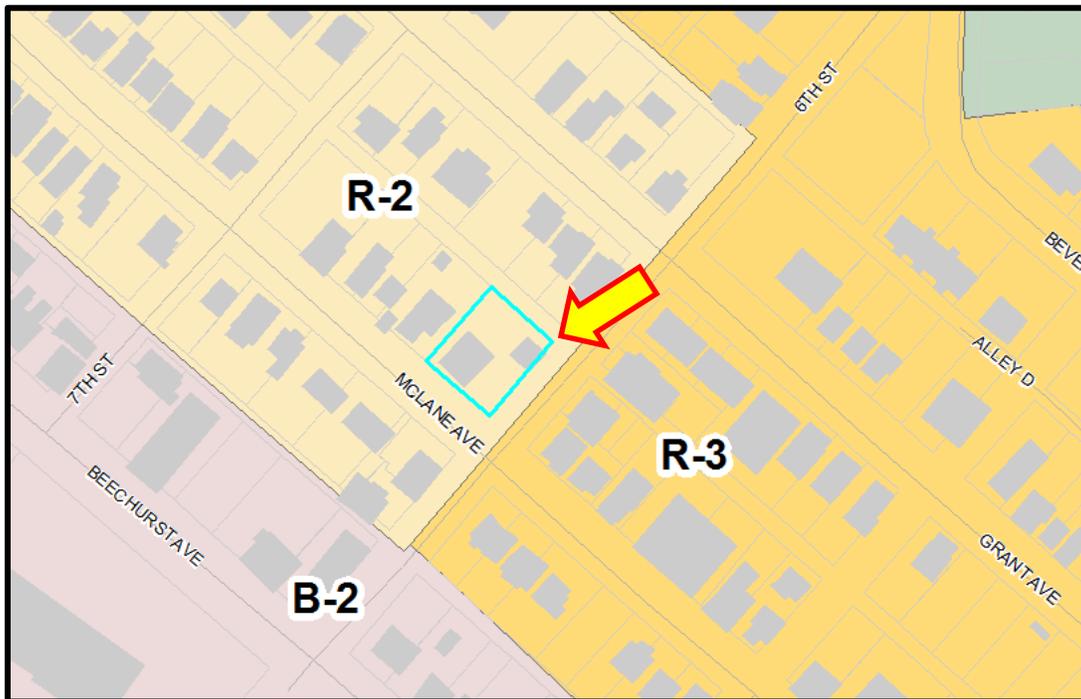
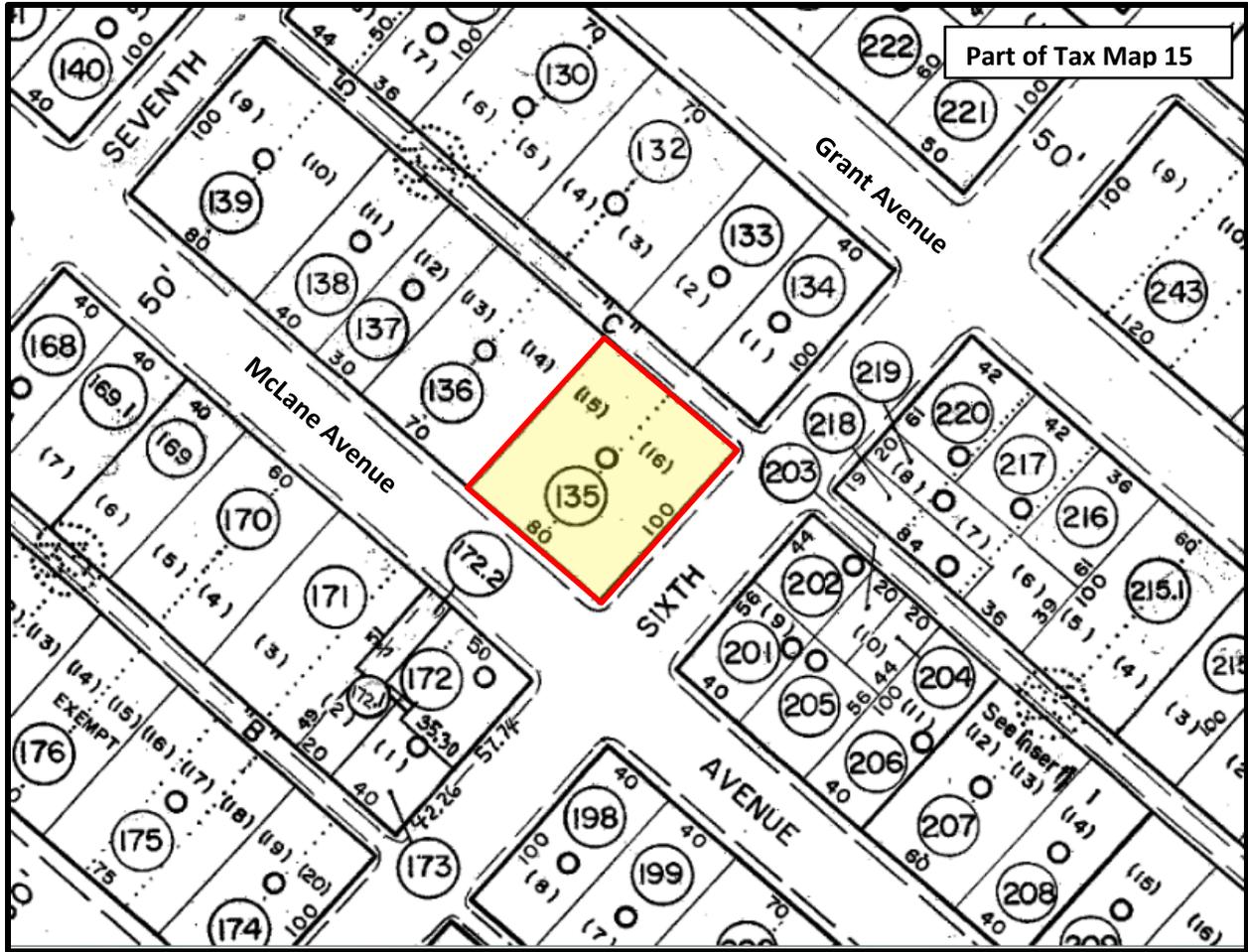
Christopher Fletcher, AICP  
Director

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**STAFF REPORT ADDENDUM A**  
**RZ14-04 / Barbara Snyder / 604 McLane Avenue**





# STAFF REPORT ADDENDUM B

## RZ14-04 / Barbara Snyder / 604 McLane Avenue

### Concurrence with the 2013 Comprehensive Plan Update

The following graphics were clipped from the 2013 Comprehensive Plan and from Appendix A of the 2013 Comprehensive Plan.

# Appendix A

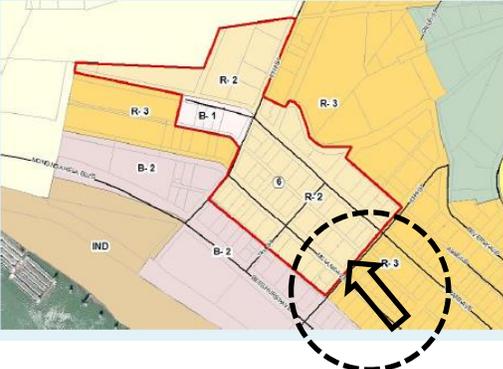
## Resource Documents

### 1. Areas for Future Study

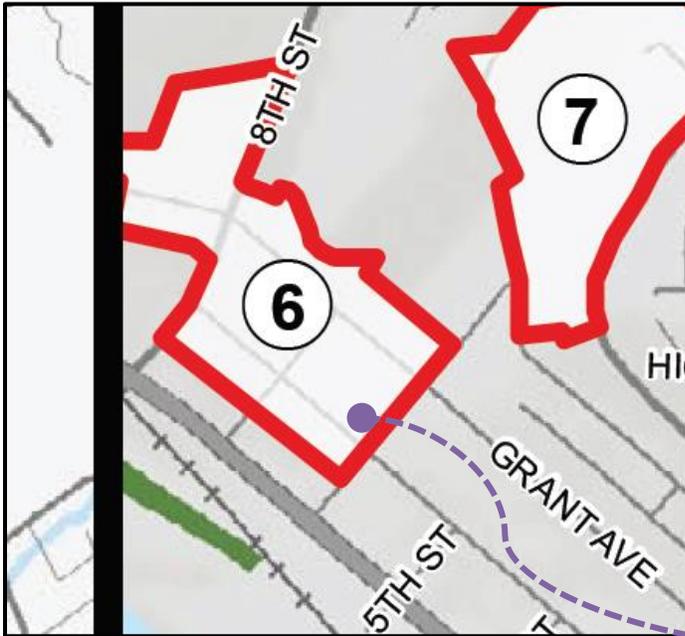
The following table and accompanying map identify areas for future study throughout the City of Morgantown. These areas are places where the existing zoning does not align with the existing land uses or the existing pattern of development. It may also be an area where the existing zoning is not compatible with, or does not fully support the desired future of the area as indicated in the Comprehensive Plan's Land Management Map. These areas require further land use and development study by the Planning Commission to enable zoning map amendment and/or zoning text amendment recommendations to City Council that will advance the goals, objectives, strategies, and consistency principles of this Comprehensive Plan Update.

Clipped from Page 1 of Comp Plan Appendix A

MAP NUMBER	CURRENT ZONING	GENERAL DESCRIPTION	OBSERVATIONS
6	R-2	Sunnyside Neighborhood between R-3 District, Eighth Street, and the Evansdale Neighborhood's R-1 District.	<p><b>Current single and two-family residential zoning does not reflect existing uses or future potential.</b></p> <p>Considerations for future study:</p> <ul style="list-style-type: none"> <li>Permitting higher density residential patterns</li> </ul>

Clipped from Page 4 of Comp Plan Appendix A (locational labeling added)



**AREAS FOR FUTURE STUDY**

-  Roads
-  Water Bodies
-  Parks
-  Morgantown Boundary
-  Study Area
-  Area for Future Study

Clipped from Page 9 of Comp Plan Appendix A

604 McLane Avenue

Clipped from Page 9 of Comp Plan Appendix A



**MAP 4 a  
LAND MANAGEMENT  
(with Areas for Future Study)**

Clipped from Page 11 of Comp Plan Appendix A

-  **Neighborhood Revitalization:** Stabilization and reinvestment in existing neighborhoods that includes improvements to public and private buildings and infrastructure, and support for infill development, adaptive reuse and redevelopment that offers a mix of residential types and supporting uses.

Clipped from Page 38 of Comp Plan

Clipped from Page 11 of Comp Plan Appendix A

## **AREAS OF OPPORTUNITY**

The Land Management Map identifies a series of locations where specific development intent beyond the general concept applies. These locations are:

Clipped from Page 44 of Comp Plan

### **8. Sunnyside**

**Location:** Sunnyside neighborhood generally described as north of WVU's downtown campus between the Wiles Hill Neighborhood and the Monongalia River north to Eighth Street.

**Context:** Neighborhood 1

**Concept Area:** Neighborhood Revitalization; Corridor Enhancement; Infill and Redevelopment

**Intent:** Revitalization as recommended in the Sunnyside Up plan with a diversity of housing types, increased residential densities, mixed-use development, infrastructure improvements and civic amenities including parks and open space.

- A strategic balance of development intensities, infrastructure improvements, and civic amenities. The Sunnyside Up vision encourages the blending of residential, employment and recreational opportunities for students, young professionals, University staff and families.
- Improvements to pedestrian and vehicular infrastructure will need to run in parallel with a growth in the neighborhoods population.
- Capacity issues for the neighborhood's utility systems must be evaluated prior to redevelopment.
- Civic amenities should be a highlight of redevelopment efforts in the neighborhood and include riverfront connections, plazas, pedestrian green spaces, "pocket" parks, recreational facilities and open space amenities, and pedestrian connections.

Clipped from Page 47 of Comp Plan (emphasis added)

## Concurrence with the 2004 Sunnyside Revitalization Plan

The following graphics were clipped from the 2004 Sunnyside Revitalization Plan.



Clipped from Page 9 of the Sunnyside Revitalization Plan (locational labeling added)

### Planning Area G and H – Seneca Park and Seneca Heights

Seneca Park is the central gathering space for the northern portion of Sunnyside. The Park is surrounded by office tenants and residents. Improvements such as pedestrian-scale lighting and extended sewer service to the Park's Visitors' Center will provide safety features and conveniences to visitors and residents.

Wrapping along Sunnyside's northwestern edge, Seneca Heights is primarily residential in nature. Its existing character is a mixture of single- and multi-family units. New lower and moderate intensity residential development in this area will be enhanced by proximity to Seneca Park and the Grand Central Station Areas, as well as by bikeways along Grant and University Avenues. Housing products such as duplexes, townhouses, garden apartments and strategically located pockets of single-family homes are suitable for this Area.

Clipped from Page 21 of the Sunnyside Revitalization Plan (emphasis added)



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

<b>OFFICE USE</b>	
CASE NO.	R214-04
RECEIVED:	
COMPLETE:	

Zoning Map Amendment Process – See Addendum A of this Application

75 MC

(PLEASE TYPE OR PRINT IN BLACK INK)

I. OWNER / APPLICANT			
Name:	BARBARA SNYDER	Phone:	304-598-7851
Mailing Address:	1336 WILSON CIRCLE	Mobile:	
	Street MORGANTOWN WV 26505	Email:	
	City State Zip		
II. AGENT / CONTACT INFORMATION			
Name:	BARBARA SNYDER	Phone:	304-598-7851
Mailing Address:	1336 WILSON CIRCLE	Mobile:	
	Street	Email:	
	City State Zip MORGANTOWN WV 26505		
Mailings --	Send all correspondence to (check one): <input checked="" type="checkbox"/> Applicant OR <input type="checkbox"/> Agent/Contact		
IV. PROPERTY			
Street Address (if assigned):	664 MCLANE AVE		
Tax Map(s) #:	15	Parcel(s) #:	135
Current Zoning Classification:	R-2	Proposed Zoning Classification:	
Current Land Use:	RENTAL	Proposed Land Use*:	Consignement shop
*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.			
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.			
		BARBARA SNYDER	
Type/Print Name of Applicant/Agent	Type/Print Name of Applicant/Agent	Date	

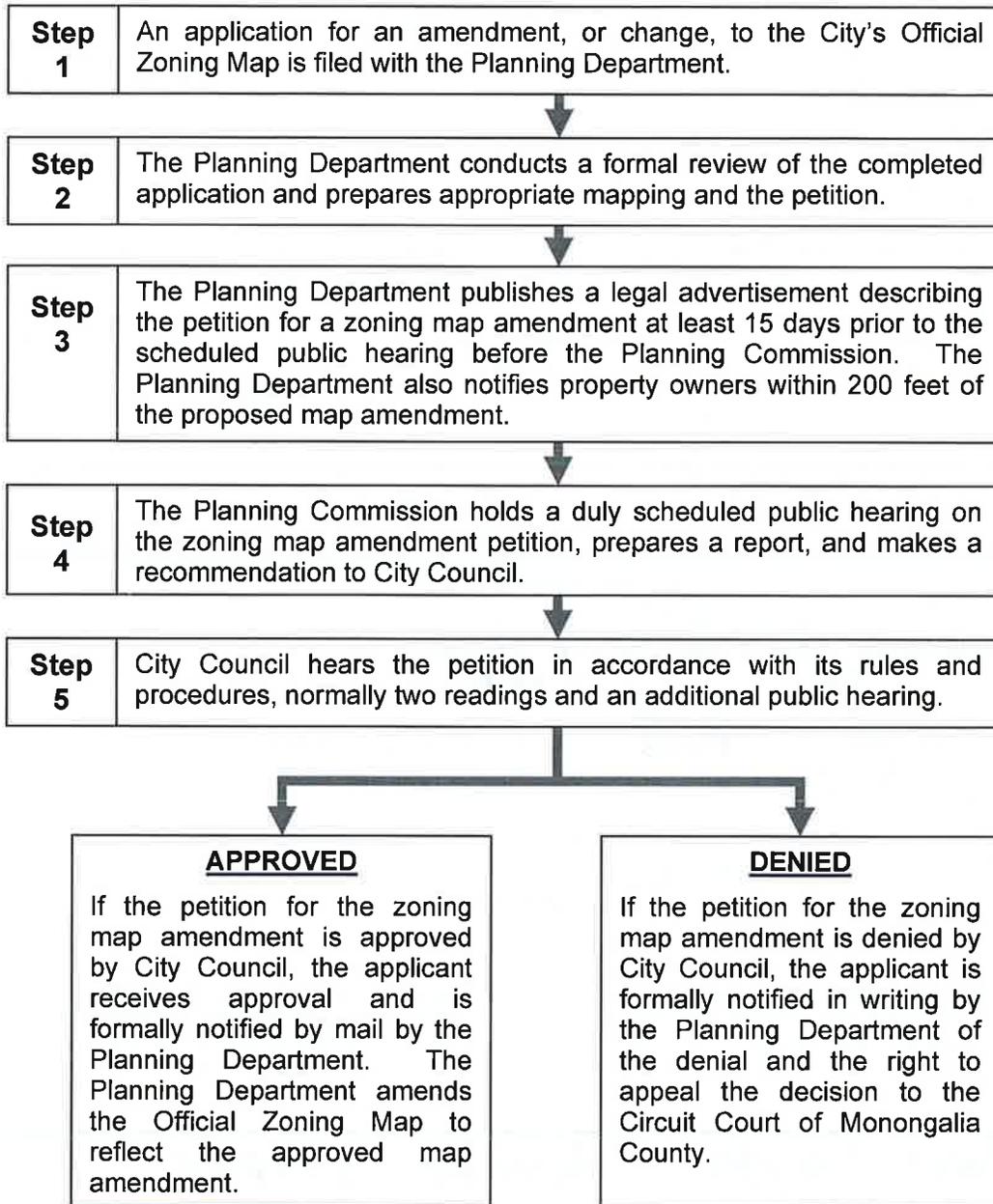
Zoning Map Amendment Fee - \$75



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

<b>OFFICE USE</b>	
CASE NO.	R 214-04
RECEIVED:	_____
COMPLETE:	_____

**ADDENDUM A - Zoning Map Amendment Process**



Zimbra

shollar@cityofmorgantown.org

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**Zoning map amendment-Snyder-604 McLane Avenue**

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**From** : Kelly Rental <kellyrental@comcast.net>

Thu, Aug 07, 2014 01:39 PM

**Subject** : Zoning map amendment-Snyder-604 McLane Avenue**To** : shollar@cityofmorgantown.org

Dear Stacy:

Please forward my concerns to the City Planner and the Planning Commission as follows.

I am opposed to the proposed amendment of the zoning for the applicant for the property at 604 McLane for several reasons:

First, I feel this neighborhood is adequately served by the business locations situated on the Beechurst Avenue and there is no need to put commercial entities in the residential area. When the University is in fall and spring sessions there is no parking available on the street in this area and the property only has a two car garage which probably won't be available to customers.

Secondly, this is certainly a request for "spot zoning" which is usually not a good approach to planning and fair zoning regulation.

This property has one of the nicest residential structures in the neighborhood and its use should continue to residential.

David Kelly

Kelly Rental Management, LLC  
100A Seventh St.  
Morgantown, WV 26505  
[www.kellyrentalwv.com](http://www.kellyrentalwv.com)  
kellyrental@comcast.net  
304.291.5100

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