



The City of Morgantown

389 Spruce Street
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
www.morgantownwv.gov

Office of the City Clerk

AMENDED AGENDA **MORGANTOWN CITY COUNCIL** **COMMITTEE OF THE WHOLE**

City buildings remain closed to the public to protect public health during the COVID-19 pandemic. Personal attendance at the meeting will not be permitted. The public may participate in the public hearings and public portion by videoconference at the following link: <https://zoom.us/j/660030233> with meeting ID 660 030 233 or calling in to 646-558-8656 with meeting ID **660 030 233**.

All members of the public may view the meeting on Channel 15 and by streaming hosted on the City's website at www.morgantownwv.gov. If you do not wish to speak at the meeting, please view it by these methods to conserve capacity on the videoconference.

Any person who wishes to speak at the meeting may complete the form at <https://www.morgantownwv.gov/FormCenter/Public-Comment-Sign-Up-Sheet-March-24-20-14/Public-Comment-Committee-of-the-Whole-fo-57> or provide their name, phone number they will use to participate, and the topic on which they would like to speak by texting 304-288-0847 or calling 304-288-7072. You may sign up to speak at any time until the meeting begins. Additionally, the public may submit written comments for the public portion of the meeting by sending written comments via email to the City Clerk at cwade@morgantownwv.gov. In the email, please use the subject line "Public Comment 3/31/20" and indicate in the body of the email if you would like your comment read aloud during the meeting.

Tuesday, March 31, 2020
7:00 p.m.

NOTE: Committee of the Whole Meetings of the Morgantown City Council are intended to provide an opportunity for the Council to receive information, ask questions, and identify policy options in an informal setting. No official action is taken at these meetings. At this Committee of the Whole Meeting the following matters are scheduled:

PRESENTATIONS:

PUBLIC PORTION:

ITEMS FOR DISCUSSION:

1. Zoning amendment – Ronald McDonald House
2. COVID-19 Pandemic – response update
3. Ordinance regulating properties used for criminal activity as a public nuisance and providing for abatement of public nuisances
4. Ordinance authorizing receiverships for unsafe structures
5. Ordinance amending city code section 1713.99 providing penalties for violation of the building code

IF YOU NEED AN ACCOMMODATION CONTACT US AT 304-284-7439



MEMORANDUM

Date: 26 MAR 2020

To: Paul Brake, City Manager *via email*
 Emily Muzzarelli, Assistant City Manager *via email*
 Ryan Simonton, City Attorney *via email*
 Christine Wade, City Clerk *via email*

RE: City Council Agenda – 07 APR 2020
 RZ20-02 / Ronald McDonald House / Zoning Map Amendment

During its 12 MAR 2020 hearing, the Planning Commission voted unanimously to forward a recommendation to City Council to approve the above referenced zoning map amendment petition.

Appended hereto are the related Staff Report presented to the Planning Commission and the draft ordinance. Given the cancelation of the March Committee of the Whole meeting, the following dates will keep to remaining standard Planning and Zoning Code Map Amendment protocol:

City Council Meetings

1st Reading: TUE, 07 APR 2020

Public Hearing and 2nd Reading: TUE, 05 MAY 2020

Please include these items on the City Council meeting agendas noted above, assuming an affirmative action by City Council at each step.

Thank you.

STAFF REPORT

RZ20-02

Ronald McDonald House

From R-1 and R-3 to B-2



MORGANTOWN PLANNING COMMISSION

March 12, 2020
6:30 p.m.
Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Blosser, 3rd Ward

Bill Petros, 4th Ward

Michael Shuman, 5th Ward

Ronald Dulaney, City Council

AJ Hammond, City Admin.

STAFF REPORT

CASE NO: RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

REQUEST and LOCATION:

Request by Paul Cali of DRS Architects on behalf of Ronald McDonald House Charities of Morgantown, Inc. for a Zoning Map Amendment to reclassify property addressed as 841 Country Club Drive from R-1, Single-Family Residential District and R-3, Multi-Family Residential District to B-2, Service Business District.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax District 15, Tax Map 11, Parcels 90 and 91, R-3, Multi-Family Residential District; Part of Tax Map 12, Parcel 1.1, R-1, Single-Family Residential District

SURROUNDING ZONING:

North: B-2, Service Business District and R-3, Multi-Family Residential District

East and South: R-1, Single-Family Residential District (WVU) and R-3, Multi-Family Residential District

West: R-3, Multi-Family Residential District

BACKGROUND:

The petitioner seeks to amend the zoning map by changing the zoning classification for the subject premises from R-3 and R-1 to B-2. This zoning map amendment would permit Ronald McDonald House Charities to pursue a significant addition and expansion of parking to their existing facility. Addendum A of this report identifies the location of the subject site and illustrates the existing and proposed zoning and property ownership for the subject premises and immediate area.

The land use classification for the Ronald McDonald House is "Hotel," which is not permitted in either the R-1 or R-3 zoning districts (see image below). Accordingly, this "Hotel" use is considered nonconforming and may continue until abandoned. However, nonconforming uses are not permitted to be expanded under Section 1373.05(C) of the City's Planning and Zoning Code.

Development Services Department

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

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Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Hotel							P	P	P	P		

The premises included in the proposed zoning reclassification includes realty owned by Ronald McDonald House Charities and WVU. The zoning classification for the petitioner's realty is R-3 while the zoning classifications for the WVU realty is R-3 and R-1. Staff has confirmed with WVU that Ronald McDonald House Charities has a long-term land lease for that portion of the development site situated on WVU realty.



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According to the Ronald McDonald House’s website [<https://rmhcpgh-mgtn.org/family-services/morgantown-house/>], the facility opened in 1990, provides 16 single-family sleeping rooms, and serves 450 families who stay at the facility each year and many more through their day guest services.

WVU’s Rosenbaum Family House is situated next to the Ronald McDonald House facility and similarly provides housing services for patients receiving local medical care and their families and caregivers.

Staff believes the proposed zoning map amendment would be considered a permitted map amendment and not “spot zoning” because the subject area adjoins the B-2 zoning district. Accordingly, the proposed zoning map amendment would be a boundary adjustment of the B-2 zoning district.

ANALYSIS:

The subject premises are situated at the end of County Club Drive and is nearly surrounded by WVU’s medical and law school campuses and Milan Puskar Stadium. The residential neighborhood to the west and southwest accessed from University Avenue by Oakland Street, Harding Avenue, and Inglewood Boulevard is predominantly rental housing ranging from a few converted single-family homes to several townhouse, garden apartment, and low-mid apartment buildings. As illustrated in Addendum A, there is also a significant amount of surface parking along and at the end of Oakland Street.

The following image illustrates the two principal buildings at the end of Oakland Street. The Ronald McDonald House is located on the right and the garden apartment building (842 Country Club Drive) on the left is owned by JDLMP, LLC (Prete Rental).



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As Addendum A illustrates, the petitioner’s proposed zoning map amendment would leave the two (2) parcels that compose the 842 Country Club Drive garden apartment site as the only R-3 classified property between Inglewood Boulevard and the end of Country Club Drive. It appears prudent to include Parcels 88 and 89 of Tax Map 11 in Tax District 15 in the area that would be reclassified to B-2.

Staff has been in contact with Robert Morgano, primary representative of JDLMP, LLC and received confirmation that they are in support of including the 842 Country Club Drive



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parcels with the Ronald McDonald House request to change the zoning classification to B-2 [see letter of supported dated 02 MAR 2020 following petitioner’s application].

Addendum B of this report provides Article 1347 “B-2, Service Business District” and Table 1331.05.01 “Permitted Land Uses” of the Planning and Zoning Code. It is included as a resource to understand the density, intensity, and land uses permitted in the B-2 District.

Comprehensive Plan Concurrence

As recommended in Chapter 9 “Implementation” of the 2013 Comprehensive Plan Update, Addendum C of this report identifies how the proposed zoning map amendment relates to the Comp Plan’s land management intent, location, and pattern and character principles.

It should be noted that “shall” statements within the Comp Plan must be understood as desired objectives and strategies that do not have the force or effect of law unless incorporated into the City’s Planning and Zoning Code.

The Ronald McDonald House premises and the 842 Country Club Drive garden apartment site are located within the “Infill and Redevelopment” growth framework and land management concept areas. The following image provides the description of this land management concept area.

Infill and Redevelopment*: Existing developed sites or districts that are underutilized or functionally obsolete, where infill development or redevelopment that is consistent with the surrounding context is appropriate.

Although extraneous to the land use and land development considerations by the Planning Commission for this zoning map amendment, the petitioner’s desire to pursue a significant addition to the existing building and provide additional on-site parking demonstrates a desire to increase utilization of the subject premises. Additionally, including the 842 Country Club Drive site in this zoning map amendment to B-2 provides greater flexibility for the existing building and the site to be utilized differently or redeveloped if the property owner determines doing so would be advantageous.

It appears the requested zoning classification change for the Ronald McDonald House premises and the inclusion of the 842 Country Club Drive garden apartment site from R-1 and R-3, to B-2 is in concurrence with the Comp Plan’s principals for infill and redevelopment land management objectives and furthers the following plan implementation strategies:

- LM 2.1 Identify and prioritize sites for infill and redevelopment.
- LM 4.3 Revise zoning regulations to permit mixed-use development at appropriate scales in various zoning districts.
- LM 5.2 Permit higher density development in areas that are well-supported by existing or planned transportation infrastructure or transit services.

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- NH 1.2 Pursue zoning map amendments where appropriate to address potential zoning conflicts in residential areas both to preserve existing residential areas where appropriate or promote infill and redevelopment.
- NH1.3 Evaluate zoning to ensure that it promotes rehabilitation or adaptive reuse of existing buildings, and context-sensitive construction of dwelling units on infill lots. [842 Country Club Drive parcels]
- ED 5.7 Pursue zoning map amendments where appropriate to address potential zoning conflicts and promote non-residential infill and redevelopment in appropriate areas.

Staff encourages the Planning Commission to review the Comp Plan for guidance as Addendum C is not intended to represent a complete comparative assessment.

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-2, Service Business District is the appropriate zoning classification for the petitioner’s development premises, 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 is the opinion of the Planning Division that the petitioner’s request to reclassify the Ronald McDonald House premises, which includes realty owned by the petitioner and WVU, to B-2, Service Business District as well as including the 842 Country Club Drive parcels in this zoning map amendment is supported by the intent, location, pattern and character goals and land management objectives set forth in the 2013 Comprehensive Plan Update.

As such, Staff respectfully advises the Planning Commission to forward a recommendation to City Council as follows:

1. Reclassify Parcel 91, Tax Map 11, Tax District 15, which is owned by Ronald McDonald House Charities of Morgantown, Inc., from R-3 to B-2;
2. Reclassify Parcel 90, Tax Map 11, Tax District 15, which is owned by West Virginia Board of Governors, from R-3 to B-2;
3. Reclassify that portion of Parcel 1.1, Tax Map 12, Tax District 12, which is owned by West Virginia Board of Governors, from R-1 to B-2 as generally illustrated in the image below; and,
4. Reclassify Parcels 88 and 89, Tax Map 11, Tax District 15, which is owned by JDLMP, LLC, from R-3 to B-2.

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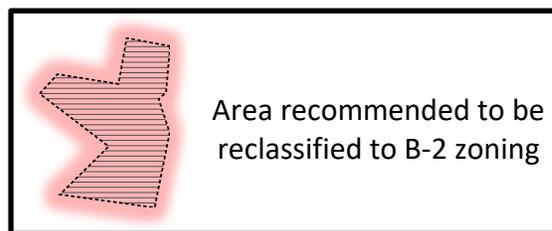
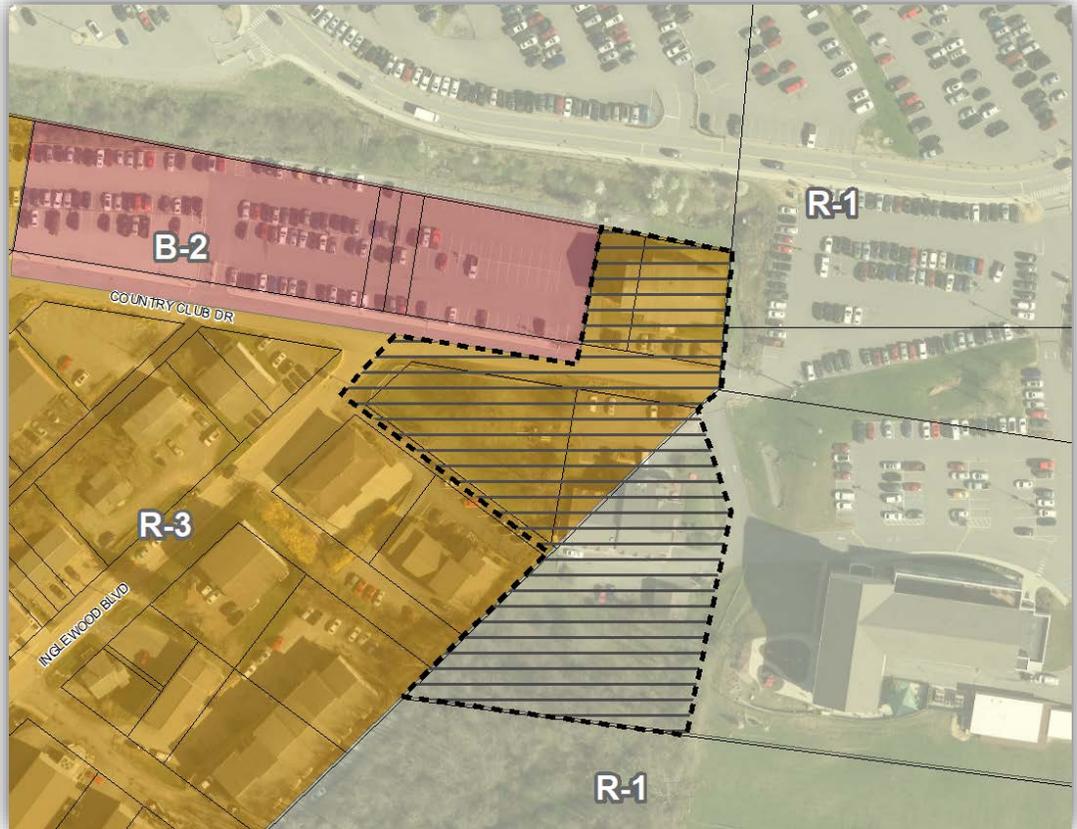
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The following image illustrates this recommendation.



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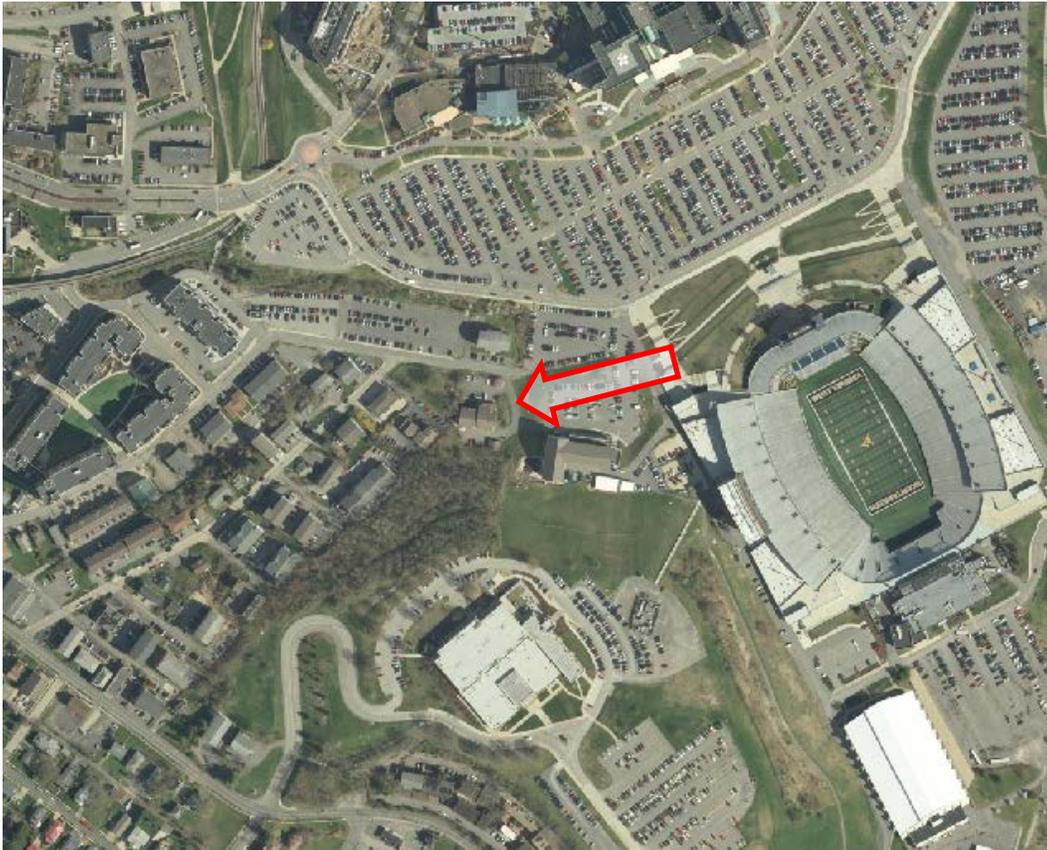
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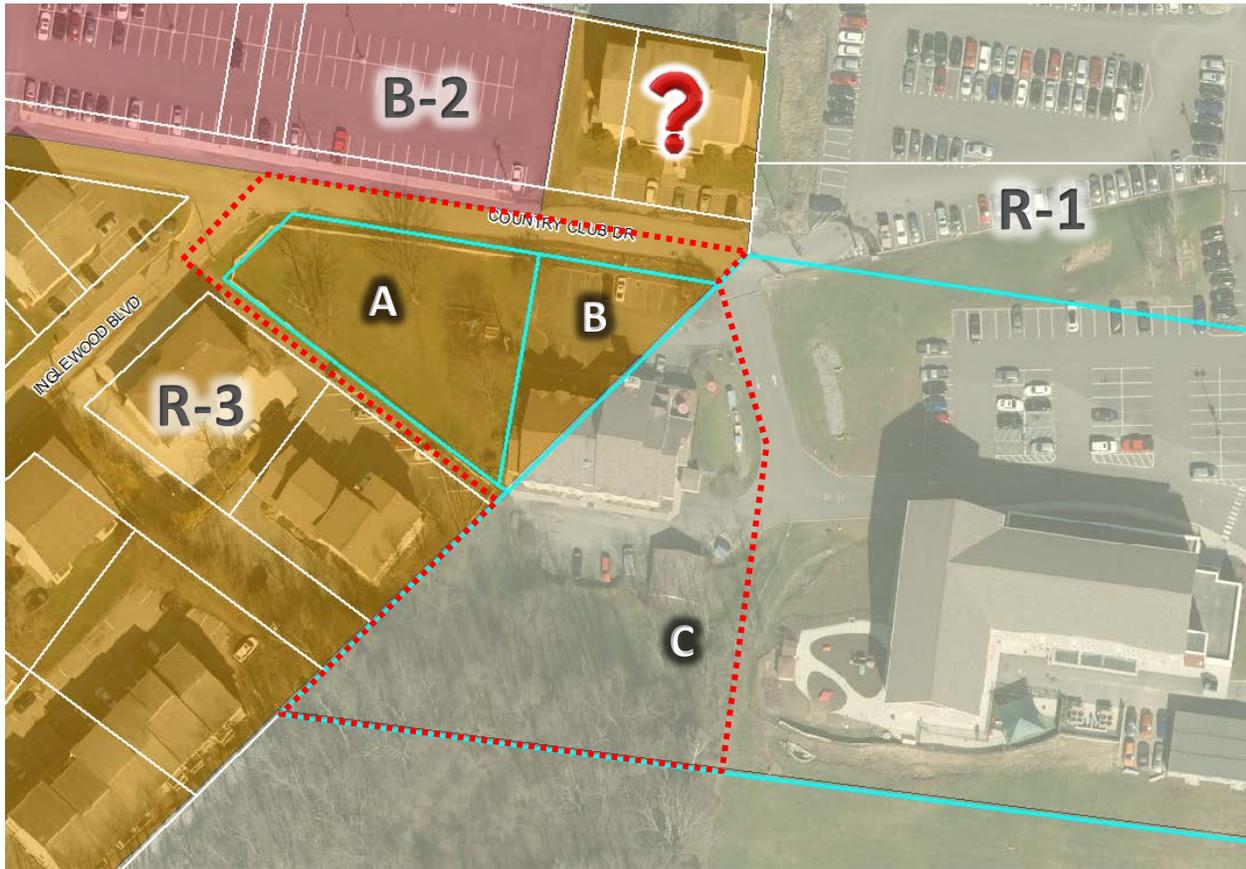
STAFF REPORT ADDENDUM A

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

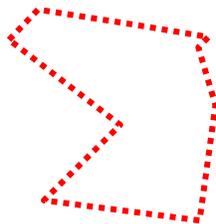


STAFF REPORT ADDENDUM A

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive



Parcel Label	Parcel ID	Owner of Record
A	Tax District 15 Tax Map 11 Parcel 91	Ronald McDonald House Charities of Morgantown, Inc.
B	Tax District 15 Tax Map 11 Parcel 90	WVU Board of Governors
C	Tax District 12 Tax Map 12 Parcel 1.1	WVU Board of Governors



Generally, the area where a zoning map amendment request from R-1 and R-3 to B-2 is requested.



Parcels 88 and 89, Tax Map 11, Tax District 15 owned by JDLMP, LLC. Including these parcels as a part of the requested zoning map amendment appears prudent.

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

159

ARTICLE 1347 B-2, Service Business District

1347.01	Purpose.	1347.05	Building height, use and size.
1347.02	Permitted and conditional uses.	1347.06	Parking and loading standards.
1347.03	Lot provisions.	1347.07	Performance standards.
1347.04	Setbacks and encroachments.	1347.08	Landscaping.

CROSS REFERENCES

Group residential facility - see W. Va. Code 8A-11-2
Outdoor kennels - see P. & Z. 1331.06(7), (24)
Daycare facility - see P. & Z. 1331.06(19)

1347.01 PURPOSE.

The purpose of the Service Business (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.

1347.02 PERMITTED AND CONDITIONAL USES.

See the Permitted Land Use Table 1331.05.01.

1347.03 LOT PROVISIONS.

- (A) The minimum lot size shall be 6,000 feet.
- (B) The minimum lot frontage shall be 60 feet.
- (C) The minimum lot depth shall be 100 feet.
- (D) Maximum lot coverage shall be 60 percent.

1347.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space

Exceptions:

- (1) Minimum Front setback:..... 15 feet
- (2) Maximum Front setback:..... 30 feet
- (3) Minimum Side setback:..... 5 feet on one side and 20 feet on the side where any access drives are located.
- (4) Minimum Rear setback: 40 feet.

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

1347.05

PLANNING AND ZONING CODE

160

(B) The minimum setback for accessory structures on a lot shall be ten (10) feet from the rear property line and ten (10) feet from each side property line. No accessory structures are permitted within the front setback.

(C) On a corner lot, the front lot line is the one having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side yard setback requirements.

1347.05 BUILDING HEIGHT, USE AND SIZE.

(A) The maximum height of a principal structure shall not exceed seventy-two (72) feet, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed twenty (20) feet. (Ord. 06-40. Passed 11-21-06.)

1347.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

1347.07 PERFORMANCE STANDARDS.

(A) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(B) Metal paneling may be used for wall surfaces but the area of the metal paneling should not exceed twenty (20) percent of any one wall face.

(C) Materials:

- (1) Walls should be clad in stone, brick, marble, stucco, approved metal paneling, and/or cast concrete.
- (2) Roofs should be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.
- (3) The orders, if provided, should be made of wood or cast concrete.

(D) Techniques:

- (1) Windows should be set to the inside of the building face wall.
- (2) All primary entrance exterior doors should have rectangular recessed panels or glass.
- (3) All rooftop equipment that is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

161

B-2. Service Business District

1347.08

(E) Playground equipment, if provided, shall be located entirely behind the principal structure and shall meet required setbacks.

(F) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

1347.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

107

Establishment of Zoning Districts and Zoning Map

1331.05

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Administrative Office				C	P	C	P	P	P	P	P	29
Agricultural Activity	P										P	
Airport											C	
Amphitheater							P	P				
Animal Grooming Service		C	C	C	C	P	P	P		P		28, 29
Animal Shelter							C			C	P	
Apparel Shop						P	P	P		P	P	28
Appliance Repair Establishment		C	C	C		P	P	P		P	P	4, 28, 29
Appliance Sales Establishment							P	P		P		
Art Gallery		C	C	C		P	P	P	P	P		28, 29
Artist Studio		C	C	C	P	P	C	P	P	C		28, 29
Assembly Hall						P	P	P		P		28
Assisted Living Facility				C		C	C					
Athletic Field	C	C	C	C		C	P	P		P		
Automotive Paint Shop							P				P	4, 9, 10
Automotive Rentals							C			C		
Automotive Sales							C			C		
Automotive Supply							C			P	P	
Automotive Tire Repair/Sales							P			P	P	4, 9, 10
Automotive/Boat Repair Shop							P				P	4, 9, 10
Automobile Repair Shop, Incidental							C	C		C	P	4, 9, 10
Bakery, Retail		C	C	C		P	P	P		P		28, 29
Bakery, Wholesale							P			P	P	
Barber Shop / Beauty Salon		C	C	C	P	P	P	P		P		28, 29
Bed and Breakfast Inn			C	C		P	P	P				5, 28
Brew Pub						C	P	P		P		18
Building Materials Supplier							P			P	P	9, 10
Car Wash/Detailing							P			P	P	
Caretaker's Residence	C	C	C	C			C		C	C	P	
Cemetery	P	P	P	P			P	P				
Charitable, Fraternal or Social Organization						P	P	P	P	P		28

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

1331.05

PLANNING AND ZONING CODE

108

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Churches, Places of Worship	C	C	C	C	C	C	P	P	C	P	C	12
Clinic, Medical				C		P	P	P	P	P	P	28, 29
Club or Lodge						P	P	P				28, 29
Coin-operated Cleaning/Laundry Service			A	C		P	P	P		P		28, 29
Communications Equipment Building	C	C	C	C		P	P	C	P	P	P	28
Community Center	C	C	P	P	P	P	P	P	C			28
Community Gardens	P	P	P	P		P						28
Composting Operation										P	P	3
Conference Center							P	P		P		
Consumer Fireworks Retail Sales							C			P	P	33
Consumer Fireworks Retail Sales Establishment							C			P	P	33
Consumer Fireworks Wholesale Establishment											P	34
Convenience Store, Neighborhood		C	C	C		P	P	P				28, 29
Dance or Social Club, Youth						C	P			P		
Day Care Facility, Class 1	P	P	P	P	P	P	P	P	P	P		
Day Care Facility, Class 2	C	C	C	P	P	P	P	P	P	P		19
Day Care Facility, Class 3				C	P	P	P	P	P	P		19
Department Store							P	P		P		
Distribution Center											P	
Dog Run							C			C	C	24
Dormitory				P			P	P				
Drive-in Theatre/Outdoor							P				P	
Drive-through Facility						A	A	A	A	A		25
Driving Range, Golf							C				C	
Drug Store		C	C	C		P	P	P		P		28
Dry Cleaning and Laundry Pick-up				P		P	P	P		P		28, 29
Dry Cleaning and Laundry Service						C	P	P		P		
Dwelling, Mixed Use			C	P		P	P	P	P	P		20, 26, 28
Dwelling, Multi-family			C	P			P	C	C			35
Dwelling, Single family	P	P	P	P	P							16

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

109

Establishment of Zoning Districts and Zoning Map

1331.05

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Dwelling, Townhouse			P	P	P		P	P				
Dwelling, Two-family			P	P	P			C				
Electrical Repair Shop						P	P	P		P		4, 28
Emergency Shelter				C		C	C	P				
Equipment or Furniture Rental Establishment							P	P		P	P	9, 10
Essential Services and Equipment	P	P	P	P	P	P	P	P	P	P	P	28
Extractive Industry											P	31
Fairgrounds											P	
Farmer's Market						C	C	P				
Financial Services Establishment					P	P	P	P	P	P		28
Florist Shop		C	C	C		P	P	P		P		28, 29
Fraternity or Sorority House			C	P			P	C				
Funeral Home				P		P	P	P				28
Furniture Sales Establishment (Antique, New or Used)							P	P		P		4
Garden Center							P			P		
Gas Station Mini-Mart							P	P		P	P	8
Gasoline Service Station							P	P		P	P	8
Golf Course	C	C	C	P		P	P	P		P	P	28
Government Facility	P	P	P	P		P	P	P	P	P	P	28
Greenhouse, Non-Commercial	A	A	A	A							P	
Greenhouse, Commercial							P				P	
Grocery Store							P	P		P	P	
Group Residential Facility	P	P	P	P		P	P	P				28
Group Residential Home	P	P	P	P		P	P	P				28
Guest House			C	C								
Half-way House			C	C		C	C					
Hardware Store						C	P	P		P	P	
Health/Sports Club			C	C		P	P	P	P	P	P	28, 29
Heavy Machinery Sales										P	P	4, 9, 10
Helipad or Helipad								C		C	C	
Home Improvement Center							P	C		P		
Home Occupation, Class 1	A	A	A	A	A	A	A	A	A	A	A	2
Home Occupation, Class 2	C	C	C	C	C	C	C	C	C	C	C	2

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

1331.05

PLANNING AND ZONING CODE

110

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Hospital	C	C	C	C		C	P	C		P	C	
Hotel							P	P	P	P		
Hotel, Full-service							P	P	P	P		1
Hypermarket							P			P		
Industrial Equipment Repair Establishment											P	
Industrial Park											P	
Industrial Supplies Establishment											P	
Industry, Heavy											C	32
Industry, Light							C			C	P	9, 10
Instructional Studio		C	C	C		P	P	P		P		28, 29
Junkyard											C	17
Kennel, Commercial						C	P					7
Laboratories									P	P	P	9, 10
Laundromat			C	C		P	P	P		P		28, 29
Liquor Store							P	P		P		
Lodging or Rooming House			C	P			P					
Manufactured Homes	P	P	P	P	P							16
Manufactured Housing Sales											P	
Manufacturing, Heavy											P	32
Marina, Commercial							C	C		C	C	14
Marina, Private							C	C		C	C	14
Medical Cannabis Dispensary							P			P		
Medical Cannabis Growing Facility											P	
Medical Cannabis Processing Facility										P	P	
Marine Supplies Establishment							P			P	P	9, 10
Mixed Use Building			C	P		P	P	P	P	P		20, 26, 28
Motel							P	P		P		
Motorcycle Sales Establishment							P			P		
Movie Theater, Large							P	C		P		
Movie Theater, Small						P	P	P		P		28
Multi-Use Nonresidential Building					C	C		C	P		P	29

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

111 Establishment of Zoning Districts and Zoning Map 1331.05

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Newsstand		C	C	C		P	P	P	P	P		29
Nursery, Plant							P	C		C		
Nursing Home				P			P		P			
Office Building					P	C	P	P	P	P	P	
Office Equipment Repair Establishment							P	P		P	P	4, 9, 10
Office, Medical					P		P	P	P	P		
Office Park									C	P	P	
Office Supplies Establishment						P	P	P	P	P		28
Oil Change Facility							P	P		P	P	
Outdoor Flea Market						C	C	C		C		
Outdoor Storage							C			C	P	
Outdoor Storage, Seasonal							P			P	P	
Park and Recreational Services	C	C	C	P		P	P	P	P			11, 28
Parking Lot, Principal Use				C		P	P	C		P	P	
Parking Structure, Principal Use				C		P	P	C		P	P	28
Passenger Station, Motor Bus, Railroad						C	P	P		P	P	
Pawnshop						P	P	P		P		28
Penal/Correctional Institution											C	
Personal Services Establishment				C	P	P	P	P	C	P		28, 29
Personal Storage Facility							C			C	C	15
Private Club							C			P	P	18
Professional Services Establishment			C	C	P	P	P	P		P		28, 29
Recreation Facility, Commercial, Outdoor						C	P			P		11
Recreational Facility, Commercial, Indoor						C	P			P		11
Recyclable Collection Center/ Solid Waste Transfer Station											P	6
Recycling Center										P	P	
Repair, Small Engine and Motor Shop							P	P		P	P	4, 9, 10

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

1331.05

PLANNING AND ZONING CODE

112

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Research and Development Center									C	P	P	
Restaurant				P		P	P	P	P	P		27, 28, 29
Restaurant with Drive-in							P	P	P	P		
Restaurant, Family			C	P		C	P	P	P	P		28, 29
Restaurant, Fast Food						C	P	P	P	P		22, 25, 27
Restaurant, Private Club						C	P	C		P	P	18, 27
Restaurant, Private Wine						P	P	P		P	P	
Retail Sales Establishment						P	P	P		P		28
Re-use of Closed/Vacant School or Church	C	C	C	C		C	C	C				
Salvage Yard												C
School (K-12), Private	C	C	C	C		C	P	P		P		
Sexually Oriented Business												C
Shooting Range, Indoor							C			C	P	
Shopping Center, Large Scale							P			P		
Shopping Center, Medium Scale							P			P		
Shopping Center, Small Scale							P			P		
Snack Bar/Snack Shop				C		P	P	P	A	P		28, 29
Sporting Goods Establishment						C	P	P		P		
Tavern						P	P	P		P	P	21, 28
Taxicab Service							P			P	P	23
Telecommunications Class I	P	P	P	P	P	P	P	P	P	P	P	30

2019 Replacement

STAFF REPORT ADDENDUM B

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

113

Establishment of Zoning Districts and Zoning Map

1331.05

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Telecommunications Class II			P	P		P	P	P	P	P	P	30
Telecommunications Class III						C	C	C		C	C	30
Transient Amusement Enterprise							P			P	P	
Terminal, Truck or Motor Freight											P	
University or College, Private							C	P		P		
Upholstery / Interior Decorating Service							P	P		P		4
Video Gaming / Lottery Establishment											P	13
Veterinary Clinic					C	P	P	P		P		7, 28
Warehousing / Distribution									P		P	21
Wellness Center			C	C	P	C	P	P	P	P		29
Wholesale Establishment									P	P	P	
Wrecker Service							C				P	

(Ord. 06-37. Passed 11-8-06; Ord. 06-48. Passed 12-5-06; Ord. 07-17. Passed 6-5-07; Ord. 07-19. Passed 6-5-07; Ord. 07-20. Passed 6-5-07; Ord. 07-53. Passed 11-6-07; Ord. 09-08. Passed 3-3-09; Ord. 09-16. Passed 5-5-09; Ord. 09-29. Passed 7-7-09; Ord. 11-44. Passed 11-1-11; Ord. 12-27. Passed 7-3-12; Ord. 13-32. Passed 7-2-13; Ord. 16-38. Passed 8-2-16; Ord. 16-43. Passed 9-6-16; Ord. 16-48. Passed 10-4-16; Ord. 17-27. Passed 7-5-17; Ord. 18-14. Passed 4-3-18; Ord. 18-23. Passed 7-10-18; Ord. 18-24. Passed 6-5-18; Ord. 18-29. Passed 10-16-18.)

2019 Replacement

STAFF REPORT ADDENDUM C

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

Concurrence with the 2013 Comprehensive Plan Update

The following narrative identifies where, in the opinion of the Planning Division, the subject zoning map amendment petitions are in concurrence and/or are inconsistent with the 2013 Comprehensive Plan Update.

INTENT	Development proposals will reflect the spirit and values expressed in the Plan's principals.
---------------	----------------------------------------------------------------------------------------------

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
	<i>The subject premises are located within the Land Management Concept Area "Infill and Redevelopment." More intense residential, nonresidential, and/or mixed-use development of the subject premises appears to be consistent with the surrounding multi-family, institutional, and major athletic facility development patterns. Although extraneous, the zoning amendment would address a longstanding nonconforming "hotel" use and permit its expansion to accommodate an increase in clients anticipated with the expansion of WVU Children's Hospital. The proposed addition to the Ronald McDonald House would permit a greater utilization of the premises, which is partially owned by WVU and partially owned by Ronald McDonald House.</i>	
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"/> N/A or Inconclusive
	<i>The subject premises are within the urban area, at the edge of WVU's hospital campus and football stadium and appears to be well-served by existing utility and roadway infrastructure.</i>	
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"/> N/A or Inconclusive
	<i>Although the subject premises are not located within or adjacent to the central business district, it is situated adjacent to and harmonious with the medical facilities it supports.</i>	
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"/> N/A or Inconclusive
	<i>The zoning reclassification of the subject premises to B-2 will not adversely impact or present incompatible uses or development densities and intensities to residential neighborhoods.</i>	

STAFF REPORT ADDENDUM C

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

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"/> N/A or Inconclusive
<i>Site and building design are extraneous to the petitioner's zoning map amendment request.</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"/> N/A or Inconclusive
<i>Mixed-use development patterns are permitted in the B-2 District. The opportunity of more intense residential, nonresidential, and/or mixed-use development of the subject premises appears to be consistent with the surrounding multi-family, institutional, and major athletic facility development patterns.</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"/> N/A or Inconclusive
<i>The map amendment would not result in any immediate street or pedestrian network improvements.</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"/> N/A or Inconclusive
<i>The reclassification of that portion of the premises currently zoned R-3 to B-2 does not appear to advance more diverse housing types. Specifically, single-family and two-family dwellings would no longer be a permitted residential development. However, B-2 permitted residential development is more diverse than single- and two-family residential districts. That portion of the premises zoned R-1, which is owned by WVU, would, if privately owned, include more diverse residential development patterns under the B-2 zoning classification.</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"/> N/A or Inconclusive
<i>Site design is extraneous to the petitioner's zoning map amendment request.</i>		
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"/> N/A or Inconclusive
<i>Site design is extraneous to the petitioner's zoning map amendment request.</i>		

STAFF REPORT ADDENDUM C

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

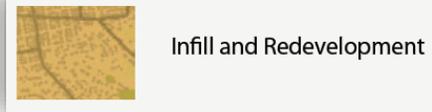
Principal 11	Environmentally sensitive and sustainable practices will be encouraged in future developments.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
--------------	------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------

Site design is extraneous to the petitioner's zoning map amendment request.

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 **Conceptual Growth Framework Map** included on Page 19 of the 2013 Comprehensive Plan Update. The Ronald McDonald House premises is located within an **"Infill and Redevelopment"** concept area.



STAFF REPORT ADDENDUM C

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

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.

The graphic to the right is clipped from **Map 3 – Pattern and Character** included on Page 27 of the 2013 Comprehensive Plan Update. The Ronald McDonald House premises is located within the “**University**” and “**Neighborhood Corridor**” pattern and character areas.

Neighborhood Corridor. Neighborhood Corridors are transitional areas between neighborhoods and more intensely developed commercial or urban corridors. The development pattern reflects the lot sizes and block structure of the surrounding neighborhood, but includes a mix of building types such as small residential buildings along the street and suburban-style buildings set back behind a surface parking lot. Uses also vary and include commercial, office, and multi-family residential. Since they share a neighborhood block structure, these corridors are more walkable than a Commercial Corridor. Due to the high levels of traffic, these areas will continue to face redevelopment pressure.

University. This district contains the campuses of West Virginia University, including Downtown, Evansdale, Law School, Health Sciences Campus, and Athletic Department Campuses. Building size and their relationships to each other and to streets vary but the districts are generally walkable. This district does not include the University’s agricultural campuses (which are considered rural in character).



The graphic to the right is clipped from **Map 4 – Land Management** included on Page 39 of the 2013 Comprehensive Plan Update. The Ronald McDonald House premises is located within the “**Infill and Redevelopment**” and “**WVU Campus Development**” concept areas.

Infill and Redevelopment*: Existing developed sites or districts that are underutilized or functionally obsolete, where infill development or redevelopment that is consistent with the surrounding context is appropriate.

*See Map 3. Pattern and Character for existing context.

WVU Campus Development: Growth within WVU’s campus areas that supports the University’s functions. Development may include a mix of institutional, residential, civic and commercial uses.



STAFF REPORT ADDENDUM C

RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

The following graphics are clipped from Pages 41 through 43 of the 2013 Comprehensive Plan Update and identify the development types desired within the “Infill and Redevelopment” and/or “WVU Campus Development” concept areas. Not all development types are permitted in both concept areas.

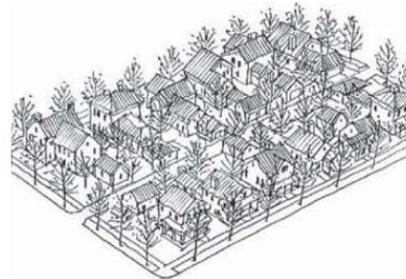
CONCEPT AREA	Appropriate Development Types											
	SF	TF	MF	C	NX	UC	CC	O	I	CD	OS	
Core Enhancement			•	•	•	•						•
Corridor Enhancement*			•	•	•		•	•				•
WVU Campus Development		•	•	•	•	•			•	•		•
Neighborhood Revitalization	•	•	•	•	•							•
Infill and Redevelopment*			•	•	•	•			•			•
Encouraged Growth			•	•	•	•			•	•		•
Controlled Growth	•	•	•	•	•				•	•	•	•
Neighborhood Conservation*	•	○	○	•								•
Limited Growth	•			•							•	•
Preserve												•
Reserve												•

DEVELOPMENT TYPE DESCRIPTIONS

PATTERN AND CHARACTER EXAMPLES

TF Two Family Residential

Detached structures that each contain two separate residential dwellings and townhouse dwelling types. May be built in a similar pattern as single-family structures and integrated in neighborhoods with other single-family structures and/or at the edge of single-family neighborhoods. Densities range from six to twenty units per acre.



MF Multi-family Residential

Includes various forms such as apartment buildings where three or more separate residential dwelling units are contained within a structure and townhouse dwelling types. They vary considerably in form and density depending on the context – from four-story or larger buildings set close to the street and at the edge of the downtown core and along major corridors, to smaller two- to four-story buildings with greater street setbacks in areas between the downtown core and single-family neighborhoods.



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.



STAFF REPORT ADDENDUM C

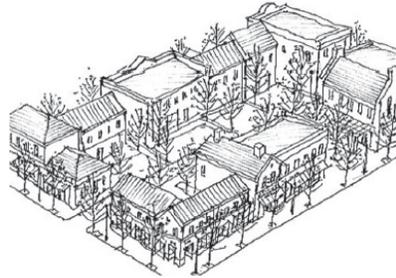
RZ20-02 / Ronald McDonald House Charities / 841 Country Club Drive

DEVELOPMENT TYPE DESCRIPTIONS

PATTERN AND CHARACTER EXAMPLES

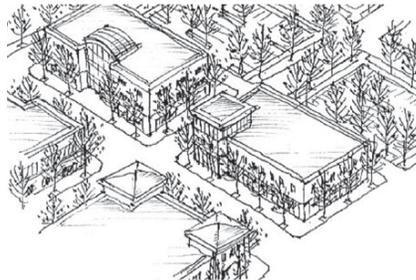
NX Neighborhood Center Mixed-Use

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.



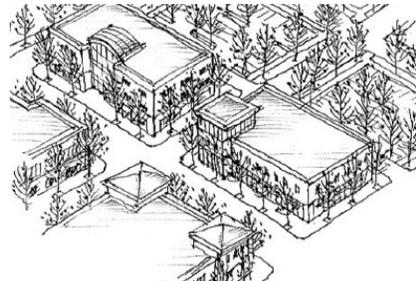
UC Urban Center Mixed-Use

A mix of housing, office, commercial, and civic uses located adjacent to one another or sharing the same building. Buildings are generally larger in scale than neighborhood mixed-use and contain more employment and commercial uses that serve the broader community. Buildings should be located near the street with parking provided on-street or in shared parking configurations behind or between buildings.



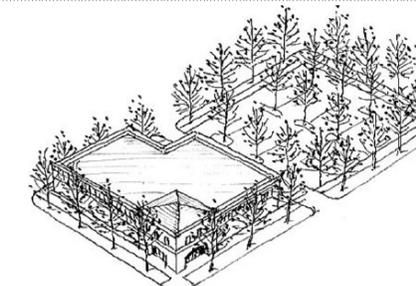
O Office / Research

Larger-scale 2-6 story buildings generally housing professional offices or research/development activities with single or multiple tenants. May involve multiple large-scale buildings in a campus setting, but buildings should be in a walkable configuration with shared parking typically behind or to the side. Supportive retail establishments may occupy the lower levels of a multistory building. Supportive retail uses include coffee shops, delicatessens, barbers, and bookstores among others.



I Limited Industrial

Typically 1-2 story large footprint buildings intended for light industrial development, clean manufacturing or warehousing activities.



OS Greenspace

Includes formal parks, recreation areas, trails, and natural open space.





APPLICATION FOR ZONING MAP AMENDMENT

Fee: Less than one acre = \$250.00 One acre or greater = \$500.00 [Z-RZ]

(PLEASE TYPE OR PRINT IN INK) CH# 21919

I. OWNER / APPLICANT						
Name:	ELEANOR REIGEL			Phone:	412-246-1106	
Mailing Address:	451 44 TH ST - PENTHOUSE FLOOR			Mobile:		
	Street	PITTSBURGH PA		City	State	Zip
			15201	Email: <u>eleanor@cmhcpgm-rgtn.org</u>		
II. AGENT / CONTACT INFORMATION						
Name:	PAUL CALI (DRS ARCHITECTS)			Phone:	412-391-4850	
Mailing Address:	ONE GATEWAY CENTER, 17 TH FLOOR			Mobile:		
	Street	PITTSBURGH PA		City	State	Zip
			15222	Email: <u>pcali@drcarchitects.com</u>		
Mailings:	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact					
III. PROPERTY						
Street Address (if assigned):	641 COUNTRY CLUB DRIVE, MORGANTOWN, WV 26505					
Tax Map(s) #:	11/12	Parcel(s) #:	90,91/1.1	Size (sq. ft. or acres):	41,000 SQFT	
Current Zoning Classification:	Z-1,3		Proposed Zoning Classification:	B-2		
Current Land Use:	"HOTEL"		Proposed Land Use*:	"HOTEL"		
*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.						
IV. 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.						
PAUL CALI				2-4-2020		
Type/Print Name of Applicant/Agent		Type/Print Name of Applicant/Agent		Date		

Finance Rowd
 2020-0023272
 2/5/20 2:54 PM
 KTM MORGANTOWN
 CITY OF MORGANTOWN
 \$250.00
 Z-RZ

JDLMP LLC
PO BOX 4205
Morgantown, WV 26505

March 2, 2020

Chris Fletcher
Director of Development Services
389 Spruce Street, Room 12
Morgantown, WV 26505

Mr. Fletcher,

This email is to inform you that we are in support of changing the zoning classification of the two parcels of land we own located on Tax Map 110, district 15 parcels 88&89 associated with 842 Country Club Drive from R-3 to B-2.

Please let us know if you require anything else for us to make this happen.

Sincerely,
Robert Morgano
JDLMP LLC

DRAFT ORDINANCE

RZ20-02

Ronald McDonald House

From R-1 and R-3 to B-2

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE FOURTH AND SEVENTH WARDS OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT AND R-3, MULTI-FAMILY RESIDENTIAL 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 WERE FULLY SET FORTH HEREIN.

Properties included in this ordinance are identified as Morgantown Fourth Ward Tax District, Tax Map 12, part of Parcel 1.1 and Morgantown Seventh Ward Tax District, Tax Map 11, Parcels 88, 89, 90, and 91.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for that portion of Parcel 1.1 of County Tax Map 12 in the Morgantown Fourth Ward Tax District of the Monongalia County tax assessment 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 were fully set forth herein is reclassified from R-1, Single-Family Residential District to B-2, Service Business District.
2. That the zoning designation for Parcels 88, 89, 90, and 91 of County Tax Map 11 in the Morgantown Seventh Ward Tax District of the Monongalia County tax assessment 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 were fully set forth herein are reclassified from R-3, Multi-Family Residential District to B-2, Service Business District.
3. That the Official Zoning Map be accordingly changed to show said zoning classifications.

This Ordinance shall be effective from the date of adoption and the Official Zoning Map shall be duly noted with the effective date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

B-2

**Parcels 88 & 89
Tax Map 11
District 15**

**Parcel 91
Tax Map 11
District 15**

**Parcel 90
Tax Map 11
District 15**

**Part of:
Parcel 1.1
Tax Map 12
District 12**

R-3

R-1

**ORDINANCE EXHIBIT
Case No. RZ20-02**



THE CITY OF
MORGANTOWN
WEST VIRGINIA

Legend

-  Area to be Rezoned to B-2
-  Zoning
-  Parcels



**AN ORDINANCE REGULATING PROPERTIES USED FOR CRIMINAL ACTIVITY
AS A PUBLIC NUISANCE AND PROVIDING FOR ABATEMENT OF PUBLIC
NUISANCES**

The City of Morgantown hereby ordains that Article 528 of the City Code is amended as follows:

528.03. Premises used for Certain Criminal Offenses.

(a) Any premises used for

(i) the illegal distribution or trafficking in controlled substances, or

(ii) theft of personal property or storage of the proceeds of such theft, or

(iii) illegal occupancy in violation of Article 108 of the International Property Maintenance Code, as adopted and incorporated by reference in the Article 1713 of the City Code

is declared to be a public nuisance; provided that no public nuisance or violation of this section shall be deemed to exist unless:

(1) The property is used for two or more such offenses or incidents within any twelve month period as evidenced by (A) a criminal charge filed by a law enforcement agency of the State or a political subdivision, or (B) a conviction in a court of competent jurisdiction; or

(2) The offense for which the property is used is punishable by imprisonment for one year or more as evidenced by (A) a criminal charge filed by a law enforcement agency of the State or a political subdivision, or (B) a conviction in a court of competent jurisdiction

(b) Any person who owns, manages, or controls any premises and who:

(1) Encourages or permits an illegal activity described in subsection (a) to occur or continue on such premises; or

(2) Fails to implement reasonable and warranted abatement measures identified in the notice issued pursuant to Section 528.05, or subsequently agreed to, or other abatement measures which successfully abate the nuisance within the 30-day period following the notice, or within any other agreed upon period, shall be a separate offense and shall be subject to a fine according to the schedule set forth in Section 528.99 .

528.05. Order of Abatement.

(a) The Chief of Police of the City may bring an action to abate a public nuisance described by Section 528.03 in Morgantown Municipal Court. The designation of a public nuisance pursuant to Section 528.03 by City Council establishes the defined premises as a public nuisance, and no

proceeding under Article 1149 of the City Code shall be necessary to establish such premises as a public nuisance.

(b) The Chief of Police of the City shall issue an order of abatement upon a finding of liability under this section.

(c) The order of abatement shall require the defendant to take measures reasonably calculated to prevent the recurrence of the illegal activity forming the basis for the declaration of a public nuisance. The order of abatement shall require abatement as follows:

(i) The person(s) subject of the abatement order shall, within 30 days from the date of the order, improve or repair the premises to comply with the Building Code and Fire Code, register the building under the Vacant Structures Code if applicable and pay all associated fees, secure the property against illegal occupancy if required in accordance with the Building Code or other applicable law, and take all other measures necessary to prevent illegal activity at the premises; provided, however, that neither the order nor this Section 528.05 shall furnish an independent basis to evict any tenant lawfully occupying the premises in addition to those procedures provided by West Virginia Code Chapter 55, Article 3A, or other provision of state law;

(ii) Should the person(s) subject of the abatement order fail to make such abatement, the City may, in addition to any other remedy, appoint a qualified receiver to take charge of such property, take any measures necessary to abate the nuisance, and collect any monies owed for use or occupancy of the property, together with the right to market the property for lease or occupancy, collect any associated rents, and pay such rents or other income associated with the property to the City to repay the costs associated with appointment and retention of the receiver and any improvements or repairs made to the property, and shall have such other powers and authorities as granted to special receivers in accordance with Chapter 53, Article 6 of the West Virginia Code; Chapter 8, Article 12, Section 16, Paragraph (g) of the West Virginia Code; and Article 1719 of the City Code regulating Unsafe Structures;

(iii) In lieu of or in addition to the appointment of a receiver under subdivision (ii) of this Paragraph (c), failure to comply with the order shall subject the person(s) subject of the order to the penalties and fines described by Section 528.99(c) and (d). The City shall have a lien on the premises subject of the order in the amount of any costs and fees associated with the abatement of the nuisance.

528.99. Penalty.

(a) Whoever violates Section 528.01(a) of this Article shall be subject to a fine of no less than two hundred dollars (\$200.00) but no more than five hundred dollars (\$500.00).

(b) Whoever refuses to obey the order to disperse of a police officer given pursuant to Section 528.01(c) of this Article may be charged with obstructing an officer pursuant to Section 501.02 of the Morgantown City Code.

(c) Each day that a violation of this article continues shall be considered a separate and distinct offense.

(d) Upon a finding of liability under Section 528.03 of this article, the defendant shall be fined: two hundred fifty dollars (\$250.00) for a first offense, five hundred dollars (\$500.00) for a second offense, and for each subsequent offense the fine shall be one thousand dollars (\$1,000.00); provided, that if a defendant has not committed a second violation within twelve (12) months from the first violation, then the violation shall be considered a first offense for purposes of assessing a fine.

FIRST READING:

Mayor

SECOND READING:

ADOPTED:

City Clerk

FILED:

AN ORDINANCE AUTHORIZING RECEIVERSHIPS FOR UNSAFE STRUCTURES

WHEREAS, the West Virginia legislature adopted House Bill 4797, effective June 5, 2020, authorizing municipalities to adopt an ordinance authorizing the placement of certain unsafe structures into receivership; and

WHEREAS, the City of Morgantown desires to amend its Unsafe Structures Code to add this legislative authority;

NOW, THEREFORE, The City of Morgantown hereby ordains that Section 1719.07 of the City Code is amended as follows:

1719.07 OWNER RESPONSIBILITY FOR COSTS.

(a) The owner of any dwelling or building under determination of the State Fire Marshal, as provided in West Virginia Code Section 29-3-12, or under order of the Code Enforcement Agency of the City, shall be required to pay for the costs of repairing, altering, or improving, or of vacating and closing, removing or demolishing any dwelling or building.

(b) The municipal court may, upon application by a Code Enforcement Agency Official, place a structure, dwelling, or building into receivership when the following circumstances are present:

(A) The owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section or if the owner refuses entry,

(B) The code enforcement agency has obtained an administrative search warrant from either the municipal court or the magistrate court located in the jurisdiction of the municipality or county where the structure, dwelling, or building is located;

(C) Upon entry, the code enforcement agency has determined that the structure, dwelling, or building is salvageable and does not require immediate demolition; and

(D) The code enforcement agency has proffered to the court that the structure, dwelling or building will require demolition or presents a substantial threat to nearby structures, property, or residents due to risk of fire, structural instability, or attractive nuisance if it is not repaired, altered, or improved in the near future.

If all of these circumstances are present, the municipal court may place the structure, dwelling, or building into receivership with the municipality or another entity that is capable of making the necessary repairs, alterations, and improvements to the structure, dwelling, or building. Any owner of the structure, dwelling, or building may petition the municipal court to terminate the receivership at any time and, upon showing that the owner will either demolish the structure, dwelling, or building or make the necessary repairs, alterations, and improvements to the satisfaction of the code enforcement agency, the municipal court may terminate the receivership.

~~(b)~~ (c) In addition to any other rights provided by law, the City may file a lien against the real property in question for an amount that reflects all costs incurred by the City for repairing, altering, or improving, or of vacating and closing, removing or demolishing any dwelling or building.

This ordinance shall be effective June 5, 2020.

FIRST READING:

Mayor

SECOND READING:

ADOPTED:

Clerk

FILED:

AN ORDINANCE AMENDING CITY CODE SECTION 1713.99 PROVIDING PENALTIES FOR VIOLATION OF THE BUILDING CODE

WHEREAS, The City has adopted the State Building Code as authorized pursuant to West Virginia Code Section 8-12-14 and Title 87, Series 4 of the West Virginia Code of State Rules; and

WHEREAS, the state legislative rules implementing the Building Code provide that certain portions of the technical code are optional and may be adopted by ordinance of a municipality; and

WHEREAS, one optional provision provided at Title 84, Series 4, Section 7.4 of the West Virginia Code of State Rules is establishing a penalty of imprisonment, which is provided as a penalty in the technical codes published by the International Code Council and adopted by the West Virginia State Fire Commission;

NOW, THEREFORE, The City of Morgantown hereby ordains that Section 1713.99 of the City Code is amended as follows:

1713.99. PENALTY.

(a) Any person who shall violate a provision of the State Building Code, as adopted by the City of Morgantown, or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter, or repair a building or structure in violation of an approved plan or directive of the Code Official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment for no more than thirty (30) days, or both. Each day that a violation continues shall be deemed a separate offense.

(b) Each person guilty of a second offense in violation of this article based on the same conditions as an initial violation shall be fined a minimum of two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00) or imprisoned for no more than thirty (30) days, or both.

(c) Each person guilty of a third offense in violation of this article based on the same conditions as an initial and second violation shall be fined a minimum of five hundred dollars (\$500.00) or imprisoned for no more than thirty (30) days, or both.

FIRST READING:

Mayor

SECOND READING:

ADOPTED:

City Clerk

FILED: