

City of Moundsville Study and Report on Zoning



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Section 1: Introduction

Legal Requirements for Study and Report on Zoning

W. Va. Code § 8A-7-4 requires that the Moundsville Planning Commission and City Council:

- (a) After adoption of a comprehensive plan and before enacting a zoning ordinance . . . study the land within [their] jurisdiction. The study may include:
 - (1) Evaluating the existing conditions, the character of the buildings, the most desirable use for the land and the conservation of property values in relation to the adopted comprehensive plan; and*
 - (2) Holding public hearings and meetings with notice to receive public input.**

- (b) The planning commission must use the information from the study and the comprehensive plan and prepare a report on zoning. The report shall include the proposed zoning ordinance, with explanatory maps showing the recommended boundaries of each district, and the rules, regulations and restrictions for each district.*

- (c) No zoning ordinance may be enacted without a study and report.*

The City of Moundsville City Council and the Planning Commission have studied the land within their jurisdiction and prepared a report that is based off both a study of the land and the City's comprehensive plan, which was adopted in 2014.

It is the intent of City Council, based off of this *Study and Report on Zoning*, pursuant to W. Va. Code § 8A-7-4 to repeal the current zoning ordinance and adopt a new zoning ordinance.

Enactment of the Zoning Ordinance

The West Virginia Legislature has provided the City of Moundsville the authority to enact a zoning ordinance through W. Va. Code § 8A-7-1 which states, "the governing body of the municipality . . . may regulate land uses within its jurisdiction by: (2) working with the planning commission and the public to develop and zoning ordinance; and (3) enacting a zoning ordinance." W. Va. Code § 8A-7-2 provides a list of requirements and optional considerations for the City of Moundsville to include when enacting a zoning ordinance.

After completing this *Study and Report on Zoning*, the City Council must hold at least two public hearings and give public notice before enacting the proposed zoning ordinance. At least one public hearing must be held during the day, and at least one public hearing must be held during the evening. W. Va. Code § 8A-7-5. After proper notice and public hearings are held, the City Council may enact the zoning ordinance or hold an election to have the qualified voters residing in the affected area approve the zoning ordinance. After the enactment of the zoning ordinance, the City Council must file the enacted zoning ordinance in the Office of the Marshall County Clerk. W. Va. Code § 8A-7-6.

Section 2: Study of the Land

Evaluating the Existing Conditions

The existing conditions in Moundsville have been studied, analyzed, and discussed extensively by the City Council, the Planning Commission, and interested citizens during the drafting processes for the comprehensive plan and proposed zoning ordinance.

The West Virginia University's Public Administration Team, led by Professor Margaret Stout and supported by her students, began assisting the City with the development of a comprehensive plan in 2011. Prior to this process, the City had not updated its comprehensive plan since the 1970s. As part of the process of drafting a new comprehensive plan, folks from West Virginia University and the City identified current conditions regarding housing, transportation, infrastructure, recreation, public services, governance, and several other components of the community. In 2013, the Land Use and Sustainable Development Law Clinic at West Virginia University College of Law was retained by the City to help ensure that the draft comprehensive plan was legally compliant.

In June 2013, during the comprehensive plan process, the Planning Commission held an open house to receive input from the public regarding its findings. The open house was a good opportunity to identify issues that concerned citizens, make sure the City studied the right issues, and come up with reasonable recommendations. These recommendations included updating the City's zoning ordinance.

The current Moundsville Zoning Ordinance was adopted in 1972. While it has been amended, the ordinance has remained largely intact since that time. The current zoning ordinance was reviewed as part of the comprehensive plan drafting process, but it was determined that a more extensive review and analysis would be necessary after the adoption of the comprehensive plan.

Since 1972 there have been significant changes to not only the state enabling statutes, but best practices for zoning and land use development. In order to be consistent with the newly adopted comprehensive plan and with state statutes, the City Council and Planning Commission again decided to work with the Land Use and Sustainable Development Law Clinic beginning in summer 2014 to identify areas of the zoning ordinance that need to be updated or amended. The studies of the land performed during the recent comprehensive plan process spanning from 2011 to 2014 were carefully reviewed and utilized in creating a proposed zoning ordinance for the City of Moundsville, a process that began in summer 2014 shortly after adoption of the 2014 Comprehensive Plan.

Current and Proposed Districting

The City developed an existing land use map for inclusion into the 2014 Comprehensive Plan based off of a study of land use patterns and development over the years. Later in the comprehensive plan process, the City also developed a future land use map to reflect the desires of the community for how development should occur in the future. Both of these land use maps, reflecting a careful and recent study of the land, were frequently referred to and studied by City Council and the Planning Commission in setting new district boundaries for the proposed zoning ordinance.

As the City Council and Planning Commission studied the existing and future land use maps with drafting a proposed zoning ordinance in mind, they noted a need for simplification: Moundsville presently has fifteen (15) zoning districts, and the proposed zoning ordinance contains eight (8) simplified and consolidated districts.

Character of the Buildings and Lots

As part of the comprehensive plan process, both the character and condition of buildings were identified and analyzed. The City looked at the age of housing, the historic district and historic structures, and whether housing was vacant. Housing data gathered and studied during the comprehensive plan process and incorporated this information into various zoning recommendations.

A study of the aforementioned building data proved helpful in instances such as setting district boundaries and establishing lot, yard, and height requirements. Specifically, in an effort to minimize structure and lot nonconformities which might arise from the proposed zoning ordinance, the City studied existing lot, yard, and height requirements in great detail down to the individual lot level when determining the proposed lot, yard, and height requirements for each district. The result is a proposed zoning ordinance that, on the whole, expands potential for development and minimizes structure and lot nonconformities.

Desirable Use for the Land

The existing and future land use maps have proven especially helpful in creating a comprehensive list of uses which may occur in each of the proposed districts. The future land use map shows where development is desired, which areas should be conserved, and where other land uses might be encouraged moving forward. Specifically, the City identified its preferred development areas and sectors for future economic growth.

These maps enabled the City Council and Planning Commission to study and analyze existing uses compared to desired future uses in order to effectively designate uses in the proposed

zoning ordinance in a way that minimizes nonconforming uses and reflects the communities desired pattern of development. The proposed zoning ordinance clearly enumerates a list of permitted and conditional uses per each proposed district that reflects the careful study of the land, expanding potential for development in the City of Moundsville while keeping with desired character.

Section 3: Report on Zoning

Review of the Study of the Land and 2014 Comprehensive Plan

The Planning Commission has prepared this *Study and Report on Zoning* based on its study of the land, as explained in “Section 2: Study of the Land” and the 2014 Comprehensive Plan. In Goal 1: Develop Land Use Strategies to Reflect Any Change in the Community’s Needs, Objective 1: Review and Update the Zoning Ordinance, the 2014 Comprehensive Plan calls for a number of action steps specifically addressing the City’s zoning ordinance: ensure the zoning ordinance is consistent with the new comprehensive plan, is internally consistent, is compliant with Chapter 8A of the West Virginia Code, and contains an updated and clear zoning map. In order to best accomplish these aspects of the 2014 Comprehensive Plan, the City Council and Planning Commission have determined that repealing the current zoning ordinance and replacing it with a new zoning ordinance is necessary and in the best interest of the community.

A review of the 2014 Comprehensive Plan by City Council and the Planning Commission was continually integrated into the drafting process for the proposed zoning ordinance. The City naturally focused on the 2014 Comprehensive Plan Goal 1, Objective 1, as mentioned above. In particular, in the zoning ordinance drafting process, the existing land use map and future land use map were valuable tools, regularly studied for issues such as setting district boundaries or determining permitted and conditional uses per each district. The proposed zoning ordinance has been meticulously reviewed for internal consistency within its text, as well as between the text, the proposed zoning map, the proposed use table, and the rest of the City’s ordinances. Chapter 8A has been carefully reviewed throughout the process of drafting the proposed zoning ordinance. Lastly, a new zoning map has been created as part of the proposed zoning ordinance.

Also part of Goal 1, Objective 3 was considered in zoning the Riverfront Park area as Recreation-Conservation in order to support the objective’s various action steps. Objective 4 of Goal 1 was taken into consideration in the proposed zoning ordinance by incorporating clear processes for potential areas for annexation.

The 2014 Comprehensive Plan sets forth a number of additional goals which have been considered in drafting the proposed zoning ordinance. The City Council and Planning Commission reviewed the 2014 Comprehensive Plan's Goal 3 to encourage economic development in setting district boundaries; increasing the density potential for development in setting lot, yard, and height requirements; and expanding uses generally. One of the plan's objectives within this goal, to encourage revitalization in the City's Commercial Historic District, is enabled through expanded permitted uses in the proposed zoning ordinance's Historic and Neighborhood Commercial district. Another economic development objective, to preserve Route 2 as a commercial corridor, is addressed by the proposed ordinance's establishment of a Commercial Corridor district along Route 2. Similarly, portions of Route 250 are zoned Mixed Use per the comprehensive plan's Action Step 1, under Objective 2 of Goal 3, to develop the area as a mixed-use, multi-modal transportation corridor.

The 2014 Comprehensive Plan's Goal 5, to properly plan for the natural gas industry, was considered in the proposed zoning ordinance to the extent it properly plans for trailer camps by clearly delineating where and how they may be used. Part of Goal 6, to increase recreational amenities is supported in the proposed zoning ordinance by a significant increase in the amount of land designated for recreation purposes, particularly in the expanded Recreation-Conservation district.

Summary of Proposed Zoning Ordinance

The proposed zoning ordinance has been written to be consistent with the 2014 Comprehensive Plan and this *Study and Report on Zoning*. The proposed ordinance is also consistent with current statutory enabling authority, state and federal case law, federal and state regulations, and commonly accepted best practices for land use and zoning.

The proposed zoning ordinance is broken down into several different articles:

- ◆ Article 1331: Purpose and Introduction
- ◆ Article 1333: Definitions
- ◆ Article 1351: Districts Established; Classification of Districts
- ◆ Article 1352-1359: Specific District Requirements
- ◆ Article 1361: Conditional Use Standards
- ◆ Article 1362 Supplemental Regulations
- ◆ Article 1364 Signs
- ◆ Article 1371 Administration; Enforcement
- ◆ Article 1373 Board of Zoning Appeals; Appeals

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A notable update is the expansion of the definitions. Several uses and terms in the current zoning ordinance were not defined. In the proposed zoning ordinance, all uses permitted by right and conditional uses have been defined, as well as key zoning terminology.

Another significant change is the reduction from 15 zoning districts in the current zoning ordinance down to 8 districts in the proposed zoning ordinance. The advantages and disadvantages of simplification have been carefully contemplated, specifically with regard to the potential to create nonconformities. Each proposed zoning district has a complete list of uses permitted by right, conditional uses, as well as updated lot, yard, and height requirements.

Supplemental regulations in the proposed ordinance are more comprehensive and have been updated based on the comprehensive plan and studying the issues that are currently affecting the community. Some supplemental regulations, such as sections on telecommunication facilities, signs, and parking, required further analysis and update to comply with changes in federal law or industry standards.

Conclusion

Both the City Council and Planning Commission's study of land and report on zoning were completed in compliance with W. Va. Code §8A-7-4. The intended result of this *Study and Report on Zoning* is that the City Council will consider it and the proposed zoning ordinance, including any maps, and cause there to be the required public hearings on the proposed zoning ordinance pursuant to W. Va. Code § 8A-7-5.

The City Council can only adopt a new zoning ordinance if a study of the land and report on zoning have been completed and the two public hearings required under W. Va. Code § 8A-7-5 are held, or by vote during an election. If the zoning ordinance is enacted it must be filed with the Office of the Clerk of the Marshall County Commission.

See Appendix A for the Proposed Zoning Ordinance
See Appendix B for the Proposed Zoning map