


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>TJS</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #17-0151 / REZONING – 3310 RIDGEWOOD AVENUE		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

December 22, 2017

At its regular meeting of December 21, 2017, the Planning Commission considered City Council Bill #17-0151, for the purpose of changing the zoning for the property known as 3310 Ridgewood Avenue (Block 3193A, Lot 71), as outlined in red on the accompanying plat, from the TOD-2 Zoning District to the I-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #17-0151 and adopted the following resolution, eight members being present (eight in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #17-0151 not be passed by the City Council.

If you have any questions, please contact Mr. Wolde Ararsa, Division Chief, Land Use and Urban Design Division at 410-396-4488.

TJS/WA

Attachment

cc: Mr. Pete Hammen, Chief Operating Officer
Mr. Jim Smith, Chief of Strategic Alliances
Ms. Karen Stokes, Mayor's Office
Mr. Colin Tarbert, Mayor's Office
Mr. Kyron Banks, Mayor's Office
The Honorable Edward Reisinger, Council Rep. to Planning Commission
Mr. William H. Cole IV, BDC
Mr. David Tanner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Sharon Daboin, DHCD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Frank Murphy, DOT
Ms. Natawna Austin, Council Services
Mr. Paul Plymouth, Council Services
Mr. Peter Ligon, Ligon & Ligon



Catherine E. Pugh
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Thomas J. Stosur
Director

December 21, 2017

REQUEST: City Council Bill #17-0151/ Rezoning – 3310 Ridgewood Avenue:

For the purpose of changing the zoning for the property known as 3310 Ridgewood Avenue (Block 3193A, Lot 071), as outlined in red on the accompanying plat *, from the TOD-2 Zoning District to the I-2 zoning District.

RECOMMENDATION: Disapproval

STAFF: Martin French and Christina Hartsfield

PETITIONERS: Councilwoman Middleton, at the request of Ligon & Ligon, Inc.

OWNERS: Ligon & Ligon, Inc. for 3310 Ridgewood Avenue and 3308 Ridgewood Avenue, and Pless B. Jones, for 3306 Ridgewood Avenue and for Block 3193A, Lot 029

SITE/GENERAL AREA

Site Conditions: 3310 Ridgewood Avenue and 3308 Ridgewood Avenue, under common ownership of Ligon & Ligon, Inc., contractors, are used as a contractor's warehouse and contractor's shop and yard. Heavy equipment is stored in the yard. * The adjoining properties under common ownership of Pless B. Jones, which are not referred to in the bill's text or caption, are used as a contractor's yard with small storage sheds on each. Both owners use their properties as entreties. These industrial conditions have existed for decades.

General Area: This site is on the western border of the Park Heights area, and exists as an industrial area along the east side the Western Maryland Railroad, a major freight carrier serving the Port of Baltimore. North and east of this site nearby development is predominantly residential, and is predominantly row-housing built in the 1920s and 1930s, with some institutional uses and scattered commercial uses mixed in. South of this site is the Cold Spring Lane Metro Station, for which there is a separate urban renewal plan area separated from the Park Heights Urban Renewal Plan area and this site by the Western Maryland Railroad tracks.

HISTORY

The Planning Commission recommended that this site be made part of a high-density residential area during the TransForm Baltimore zoning code re-write process. This was consistent with the Park Heights Urban Renewal Plan, originally approved by the Mayor and City Council by Ordinance no. 08-93 on December 11, 2008, and last amended by Amendment no. 3 dated June 2, 2014, approved by the Mayor and City Council by Ordinance no. 14-297 on October 1, 2014. These actions took notice of the fact that these properties are within a short distance of the Cold Spring Lane Metro Station, and thus appropriate for re-use as Transit-Oriented Development.

CONFORMITY TO PLANS

The proposed action is consistent with LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore, Earn Goal 1, Objective 5: Retain and Attract Business in Construction. The proposed action is inconsistent with the Master Plan's Live Goal 1, Objective 3: Promote Transit Oriented Development (TOD) and Mixed-use Development to Reinforce Neighborhood Centers and Main Streets, because it would reduce the area now designated for TOD in the Park Heights community at the first Metro Station above ground as one moves northwest out of downtown Baltimore.

The proposed action is inconsistent with the Park Heights Urban Renewal Plan, which designates this site as part of a High Density Residential area (Plan, Land Use Plan maps, Exhibits 1 and 1F). The Plan states that High Density Residential areas should contain uses permitted under the appropriate residential zoning category, and includes a map showing recommended zoning of this site to be R-10 (Plan, Zoning Districts maps, Exhibits 4 and 4F).

ANALYSIS

As suggested by the paragraph immediately above, the purpose of this bill is to remove the site from nonconforming use status under the new Zoning Code and return it to conforming use status. Planning staff note that nonconforming use of a property, when the nonconformity is created by enactment of a new zoning code or application of an existing zoning code to a property in a way that creates nonconformity, such as by a map amendment or a text amendment, may continue indefinitely regardless of the ownership of the property. There is thus no need to rezone this site if the reason for rezoning is to remove nonconforming status from it.

The new Zoning Code states in part:

“Nonconforming use” means a lawfully existing use of a structure or of land that, as of the effective date of this Code (June 5, 2017) or the effective date of an amendment to this Code, does not conform to the use regulations applicable to the district in which it is located.

Except as otherwise specified in this title, any use, structure, or lot that ... has been made nonconforming because of the terms of this Code or any subsequent amendment to this Code, may continue subject to the provisions of this title so long as it remains otherwise lawful.

(-- Article 32 (Zoning Code), subsections 18-201 and 18-202)

Below are the approval standards under §5-508(b) of Article 32 – *Zoning* for proposed zoning map amendments:

(b) *Map amendments.*

(1) *Required findings.*

As required by the State Land Use Article, the City Council may approve the legislative authorization based on a finding that there was either:

- (i) a substantial change in the character of the neighborhood where the property is located; or
- (ii) a mistake in the existing zoning classification.

(2) *Required findings of fact.*

In making the determination required by subsection (b)(1) of this section, the City Council must also make findings of fact that address:

- (i) population changes;
 - (ii) the availability of public facilities;
 - (iii) present and future transportation patterns;
 - (iv) compatibility with existing and proposed development for the area;
 - (v) the recommendations of the City agencies and officials; and
 - (vi) the proposed amendment's consistency with the City's Comprehensive Master Plan.
- (3) *Additional standards – General*
 Additional standards that must be considered for map amendments are:
- (i) existing uses of property within the general area of the property in question;
 - (ii) the zoning classification of other property within the general area of the property in question;
 - (iii) the suitability of the property in question for the uses permitted under its existing zoning classification; and
 - (iv) the trend of development, if any, in the general area of the property in question, including changes, if any, that have taken place since the property in question was placed in its present zoning classification.

Below is the staff's review of the required considerations of §5-508(b)(3) of Article 32 – *Zoning*, where staff finds that this change is not in the public's interest, in that it will reduce the land area designated for revival between the central Park Heights business area now being redeveloped and the Cold Spring Lane Transit Station that is a natural focus for transit-oriented development.

Maryland Land Use Code – Requirements for Rezoning:

The Maryland Land Use Code requires the Planning Commission to study the proposed changes in relation to: 1. The plan; 2. The needs of Baltimore City; and 3. The needs of the particular neighborhood in the vicinity of the proposed changes (*cf.* Md. LAND USE Code Ann. 2012, §10-305). In reviewing this request, the staff finds that:

1. **The Plan:** The proposed action would be inconsistent with encouraging transit-oriented development (TOD) and mixed-use development to reinforce neighborhood centers such as the one being developed now in central Park Heights.
2. **The needs of Baltimore City:** Baltimore City and Park Heights in particular would benefit from redevelopment of this site and its surrounding area. Diminishing the area designated for TOD, and diminishing a portion of the TOD-zoned area nearest the actual transit station, would lessen potential positive impacts from such redevelopment.
3. **The needs of the particular neighborhood:** Although the Park Heights community benefits from any employment base that either exists or is attracted to the area, TOD offers a greater array of possible land uses, and thus of employment opportunities, than does contracting, which can be cyclical depending upon the amount of land development and redevelopment in the metropolitan area. Furthermore, creating a new General Industrial (I-2) zone in close proximity to the existing R-6 Rowhouse and Multi-family Residential zone would expose that part of Park Heights to what is recognized in the definition of "Industrial: General" in the Zoning Code: *processing, manufacturing, or compounding of materials, products, or energy, having impacts on the environment or significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards* (Article 32 (Zoning Code),

subsection 1-308 (a)(1)). The Code adds: "*Industrial: General*" includes: (i) the storage of large volumes of toxic or highly flammable matter or explosives; and (ii) outdoor operations as part of the processing, manufacturing, or compounding process (Article 32 (Zoning Code), subsection 1-308 (a)(2)). It is noted that rezoning this site therefore could result in substantially incompatible use of it, from the viewpoint of the neighborhood and greater Park Heights community, because there is no guarantee that current contractor's storage and yard use would continue indefinitely, and re-use of the site within the context of I-2 zoning could generate significant negative influence on that neighborhood, and possibly also on other parts of Park Heights.

Similarly, the Land Use article requires the City Council to make findings of fact (*cf.* Md. LAND USE Code Ann. 2012, §10-304). The findings of fact include:

1. **Population changes;** *There has been no significant population change in the area since adoption of the new Zoning Code and TOD designation of this site as of June 5, 2017.*
2. **The availability of public facilities;** *Public facilities are expected to remain adequate. When TOD redevelopment of the area where this site is located actually occurs, there may be additional public facilities created to support that redevelopment.*
3. **Present and future transportation patterns;** *Present and future transportation patterns are not expected to change between the proposed effective date of this bill and June 5, 2017.*
4. **Compatibility with existing and proposed development for the area;** *The proposed action would be inconsistent with proposed development for the area. It could be consistent with existing development of the site only, as described previously, if, and only to the extent that, existing use of the site remained unchanged.*
5. **The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA);** *For the above reasons, the Planning Department will recommend disapproval of the rezoning request to the Planning Commission. The BMZA has not yet commented on this bill.*
6. **The relation of the proposed amendment to the City's plan.** *The proposed amendment is inconsistent with one part of the City's plan (promoting TOD development) but could be considered consistent with another part (retain business in construction) if the property owners could commit to remaining indefinitely at this site without any change in the characteristics of their business operation. Planning staff consider this a commitment that is unrealistic to request or expect to be honored, given one's inability to predict future economic and other factors that would influence a business decision to remain or to move or to cease the current types of operations entirely.*

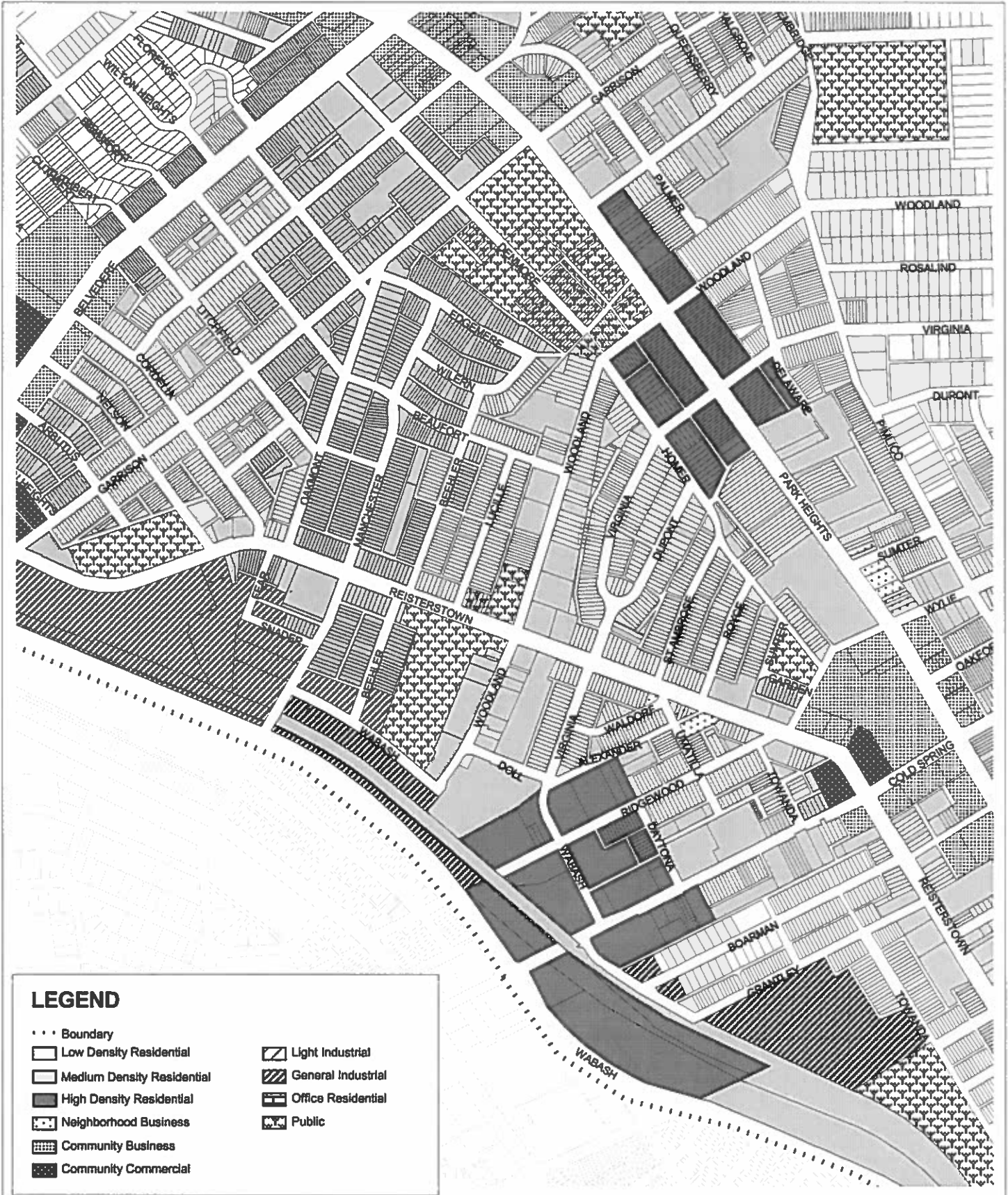
Per §5-508(1) of Article 32 – *Zoning*, and as required by the State Land Use Article, the City Council may approve the legislative authorization based on a finding that there was either: (i) a substantial change in the character of the neighborhood where the property is located; or (ii) a mistake in the existing zoning classification. As described previously, Planning staff cannot

detect a substantial change in the character of the neighborhood, as less than a year has elapsed since adoption of the current zoning classification of this site. Because of the extensive and multi-year process that led the Planning Commission to recommend, and the Mayor and City Council to adopt, the current zoning classification of TOD-2 for this site and its environs, and the consistency of that classification with the earlier-established Park Heights Urban Renewal Plan, Planning staff are unable to detect a mistake in the zoning classification.

Notification: The Lucille-Beaufort-Beehler-Manchester Seekers Association, Towanda Neighborhood Association, and Park Heights Renaissance have been notified of this action. Pless B. Jones, owner of adjoining properties known as 3306 Ridgewood Avenue and as Block 3193A, Lot 29/34 which were included in the area designated on the plat accompanying the bill, was also notified.



Thomas J. Stosur
Director



LEGEND

- • • Boundary
- Low Density Residential
- Medium Density Residential
- High Density Residential
- ▨ Neighborhood Business
- ▩ Community Business
- Community Commercial
- ▧ Light Industrial
- ▨ General Industrial
- ▩ Office Residential
- Public

PARK HEIGHTS



LAND USE PLAN

Date: 07/21/08
Revised:

Exhibit:

1F

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