

# ECONOMIC AND COMMUNITY DEVELOPMENT COMMITTEE

## FINDINGS OF FACT

### City Council Bill No: 21-0045

MOTION OF THE CHAIR OF THE ECONOMIC AND COMMUNITY DEVELOPMENT COMMITTEE, AFTER A PUBLIC HEARING AT WHICH AGENCY REPORTS AND PUBLIC TESTIMONY WERE CONSIDERED, AND PURSUANT TO SECTIONS 10-304 AND 10-305 OF THE MARYLAND LAND USE ARTICLE AND SECTION 5-508 OF THE BALTIMORE CITY CODE, THE CITY COUNCIL ADOPTS THESE FINDINGS OF FACT CONCERNING THE REZONING OF:

#### **Rezoning - Block 4053, Lot 013, Ward 09, Section 020**

Upon finding as follows with regard to:

(1) Population changes;

There have been no significant population changes in this neighborhood.

(2) The availability of public facilities;

This neighborhood is well served by public utilities, which will not be impacted by the proposed rezoning of this property.

(3) Present and future transportation patterns;

Residential zoning for this property will not have a significant impact on transportation patterns in the immediate neighborhood.

(4) Compatibility with existing and proposed development for the area;

The R-7 District proposed for this property matches the other properties in the 600-block of East 33<sup>rd</sup> Street, and will not impair development potential in the area, nor will it create a negative impact in that block..

- (5) The recommendations of the City agencies and officials, including the Baltimore City Planning Commission and the Board of Municipal and Zoning Appeals;

The Planning Commission voted unanimously to recommend passage of the bill. The Board of Municipal Zoning Appeals defers to the Planning Commission. The City agencies to which the bill was referred made the following recommendations:

|   |                             |
|---|-----------------------------|
| Planning Commission                             | Favorable                   |
| Board of Municipal and Zoning Appeals           | Defers to Planning          |
| Department of Transportation                    | No Objection                |
| City Solicitor                                  | Favorable                   |
| Department of Housing and Community Development | Does Not Object             |
| Baltimore Development Corporation               | Favorable                   |
| Department of Finance                           | Defers to BMZA and Planning |

- (6) The proposed amendment's relationship to and consistency with the City's Comprehensive Master Plan.

This block is not located in an Urban Renewal Plan (URP) area, it is not a locally-designated historic district, and it is not within any other recognized planning area or effort.

- (7) Existing uses of property within the general area of the property in question;

The north side of the 600-block on East 33rd Street is residential in character, with a place of worship on the eastern end of the block on Frisby Street. The Giant grocery store is located on the south side of East 33rd Street in this block, and there are two gas stations across Greenmount Avenue to the west. The subject property is unimproved.

- (8) The zoning classification of other property within the general area of the property in question;

Aside from the OS zoning, the other properties in this block are zoned R-7 residential, which joins R-5, R-6, and R-7 zoning to the north and east. The grocery store is C-3 to the south, and the properties west of Greenmount Avenue are either C-1 or C-2 (the gas stations).

- (9) The suitability of the property in question for the uses permitted under its existing zoning classification;

The property is currently unimproved, and has trees on it, which nominally seems to support its use as OS zoned land. However, it is privately owned, and was not intended for use as park space, even in a passive sense, without the permission of the owner to do so.

- (10) 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 classification;

There has not been any significant development in the immediate area that would affect the proposed zoning in this bill.

- (11) For a rezoning based on a SUBSTANTIAL CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD, the following facts establish the substantial change since the time of the last comprehensive rezoning:

- (12) For a rezoning based on a MISTAKE in the existing zoning classification, the following facts establish that at the time of the last comprehensive zoning the Council failed to consider then existing facts, or projects or trends which were reasonably foreseeable and/or that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect:

The Planning Commission concurred with the recommendation of its departmental staff, adopted the findings outlined in the staff report, with consideration for testimony and facts presented at a meeting on March 11, 2021, and recommended that City Council Bill #21-0045 be passed by the City Council.

Department of Planning staff recommended that the Planning Commission find that there has been a mistake in the existing zoning classification that would support the requested rezoning.

Staff believes that this property (Block 4053, Lot 013) was rezoned OS in error, and offers the following timeline for consideration:

- Prior to the Comprehensive Rezoning of the City in 2012, this property was zoned R-6 under the previous zoning code, as was the surrounding properties in the same block.
- At the time of the first introduction of the Comprehensive Rezoning bill (CCB #12-0152), this property was proposed to be zoned R-7, the same as the surrounding lots (see 1st Reader Maps Sheet 3-C).

- In September 2015, in the first round of map amendments for the 14th Councilmanic District, the property immediately to the north of the subject property (k/a Block 4053, Lot 095) along Venable Avenue was proposed to be rezoned R-1-C instead of the initial recommendation of R-7 (see 14th District Map Amendments - September 2015).
- By August of 2016, the proposed revision by the prior Councilmember was that lot 095 instead be rezoned OS (see TransForm Baltimore Map Amendment List - August 2016 - Excel Sheet, on the District 14 tab, at line item M678). Staff notes that the property was identified by the block and lot number since it didn't have an address as an unimproved property, but the text in the "Notes" field describes it as "Greenspace extending from 600 block E 33rd Street to 600 block Venable" mistakenly including reference to the adjacent parcel in Block 4053, Lot 013 (also unimproved), and a portion of the paper alley between the two lots. The District 14 map accompanying that list of proposed changes did not show Lot 013 highlighted for any changes, and instead showed the adjacent Lot 095 identified as proposed Map Amendment 626, which doesn't appear to line up with any 14th District map amendment in the list, though it will match to the 2nd Reader map amendments (see below).
- There was a subsequent round of map amendments October 5, 2016, but none were offered for the 14th District. There was also a "Map Amendment Errata Sheet 10.17.16" for individual properties around the City, but none affected Block 4053.
- In preparation for the 2nd Reader set of Maps, a subsequent list of map changes was put together (see 2nd Reader Map Amendments - Districts 1, 9, 11 Supplemental, 12-14). In this list, Map Change M626 (matching up with the map above) describes Ward 9, Section 2, Block 4053, Lot 095 and Ward 9, Section 2, Block 4053, Lot 013 as being rezoned to OS, with the same Notes field as in the earlier list, with "Greenspace extending from 600 block E 33rd Street to 600 block Venable" in that line. Staff believes that there was an administrative error in an attempt to rectify the block and lot reference to the Notes description, where the actual correction should've gone the other way (i.e. correcting the notes field, and leaving the block and lot reference as it was, so that it matched the accompanying map exhibit). We also note that to compound the confusion in this list, Map Amendment M678 that was requested by the Guilford Association, references an unrelated change to a property in the 400-block of East 39th Street. The final version of that list was adopted by Council on October 24, 2016, with hand-edits to a couple of pages in District 14, though not affecting Block 4053.
- For that reason, the 3rd Reader Map showed Block 4053, Lot 013 zoned OS in error, and was ultimately adopted into law as the final zoning map.

SOURCE OF FINDINGS (apply): Check all that

[X] Planning Report – Planning Commission’s report, dated March 23, 2021, which included the Department of Planning Staff Report, dated March 11, 2021.

[X] Testimony presented at the Committee hearing

Oral – Witness:

- Eric Tiso, Planning Department
- Victor Tervala, Law Department
- Nina Themelis, Office of the Mayor, Testifying for the Board of Municipal Zoning Appeals
- Liam Davis, Department of Transportation
- Stephanie Murdock, Department of Housing and Community Development
- Christina Moore, Baltimore Development Corporation

Written:

- Planning Commission, Agency Report – Dated March 23, 2021
- Department of Planning, Agency Report – Dated March 11, 2021
- Board of Municipal and Zoning Appeals, Agency Report – Dated May 6, 2021
- Department of Transportation, Agency Report – Dated May 6, 2021
- Law Department, Agency Report – Dated May 3, 2021
- Department of Housing and Community Development, Agency Report – Dated May 4, 2021
- Baltimore Development Corporation, Agency Report – Dated March 25, 2021

#### **COMMITTEE MEMBERS VOTING IN FAVOR**

Sharon Green Middleton, Chair  
John Bullock  
Mark Conway  
Ryan Dorsey  
Antonio Glover  
Odette Ramos  
Robert Stokes