

# BALTIMORE CITY COUNCIL LAND USE & TRANSPORTATION COMMITTEE

**Mission Statement** 

On behalf of the Citizens of Baltimore City, The Land Use & Transportation Committee is committed to shaping a reliable, equitable, and sustainable future for Baltimore's land use and transportation systems. Through operational oversight and legislative action, the committee aims to develop and support lasting solutions grounded in principles of good governance.

# The Honorable Ryan Dorsey Chairperson

**PUBLIC HEARING** 

Thursday, April 24, 2025 10:00 AM CLARENCE "DU" BURNS COUNCIL CHAMBERS

25-0017 Rezoning 3439-3549 Keswick Road Odd Side

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#### CITY OF BALTIMORE

#### BRANDON SCOTT - MAYOR ZEKE COHEN - COUNCIL PRESIDENT



OFFICE OF COUNCIL SERVICES
NANCY MEAD - DIRECTOR
100 N. HOLIDAY STREET
BALTIMORE MD, 21202

#### **BILL SYNOPSIS**

**Committee: Land Use & Transportation Committee** 

Bill: 25-0017

#### Rezoning – 3439-3549 Keswick Road – Odd Side

**Sponsor:** Councilmember Ramos **Introduced:** January 27, 2025

#### **Purpose:**

FOR the purpose of changing the zoning for the properties known as 3430-3549 on the odd side of Keswick Road (Block and Lot numbers listed below), as outlined in red on the accompanying plat, from the C-1 Zoning District to the R-7 Zoning District; and providing for a special effective date.

BY amending Article- Zoning Zoning District Maps Sheet 25 Baltimore City Code (Edition 2000)

#### **Agency Reports**

City Solicitor	Approved for form and legal sufficiency/But		
	Unfavorable		
Dept. of Housing & Community Development	Favorable		
Dept of Planning/ Planning Commission	Favorable with Amendments		
Dept of Finance	Defers to Planning		

#### **Analysis**

#### **Current Law**

Section 5-508(b) of Article 32 (Zoning) of the City Code addresses the standards that need to be met when the City Council passes legislation that amends the zoning map in the City. The Law

department and Planning department in their reports on this bill summarized the requirements for a comprehensive rezoning as:

- 1. Initiated by City government to modify the zoning classifications of multiple properties.
- 2. Based on considerations concerning the common needs of a substantial geographic area, involving a considerable number of properties.
- 3. Designed to control and direct the use of land and structures according to present and planned future conditions.
- 4. The product of both:
  - a. Careful consideration and extensive study by the Planning Department.
  - b. Review by the Planning Commission.

#### **Bill Summary**

In October of 2024, the odd side of the 3400 block of Keswick Road in the Hampden community experienced a multi-alarm fire. The fire killed two residents and destroyed or damaged properties along the block.

This bill, if enacted, would change the zoning of the odd side of the 3400 block of Keswick Road from the C-1 zoning district to the R-7 zoning district. According to the Planning department staff report the change would help keep the current mix of uses along the block that would have the change. The section of the block is currently zoned C-1 and would allow row homes would be built by right in the district.

The area around this block is a mix of zoning districts. The block itself is split into several zoning districts. There is:

- a. C-1 on the eastern side to the north, with the intersection of 36<sup>th</sup> street to the midpoint of the block. There is also a small portion of the western side of the block zoned C-1.
- b. R-6 on the southern portion of both sides of the block.
- c. R-7 for a portion of the western side of the block.
- d. R-7-R-MU for a portion of the block along the northwest edge with 36<sup>th</sup> Street.

The Law Department, in their report, noted that they do not believe that this bill could be considered as being the result of the careful planning requirement or applied to a substantial geographic zone, requirements noted by both Law & Planning. However, the Planning Department, with the concurrence of the Planning Commission, believes that this bill does meet those requirements and constitutes a comprehensive rezoning.

#### **Amendments**

In their report, the Planning Department has proposed an amendment to exclude all property owned by the 1<sup>st</sup> Free ME Church at 3439 Keswick Road. In the staff report, the department

noted that this would match the adopted Land Use Plan, which is part of the 2024 Comprehensive Master Plan.

#### **Additional Information**

#### **Fiscal Note:**

The Department of Finance notes that they do not believe that this variance will have a material impact on property tax revenue.

**Information Source(s):** 25-0017 1<sup>st</sup> Reader, Agency Reports, Zoning Code, report submitted by applicant

Analysis by: Tony Leva Direct Inquiries to: 410-396-1091

Analysis Date: April 15, 2025

## **Baltimore City Council**



# Land Use & Transportation Committee

25-0017

Rezoning -3439-3549 Keswick Road Odd Side

**Agency Reports** 

#### **CITY OF BALTIMORE**

#### BRANDON M. SCOTT, Mayor



# DEPARTMENT OF LAW EBONY M. THOMPSON, CITY SOLICITOR 100 N. HOLLIDAY STREET SUITE 101, CITY HALL BALTIMORE, MD 21202

March 28, 2025

The Honorable President and Members of the Baltimore City Council Room 409, City Hall, 100 N. Holliday Street Baltimore, Maryland 21202

Re: City Council Bill 25-0017 – Rezoning – 3439-3549 Keswick Road – Odd Side

Dear President and Members of the Council:

The Law Department reviewed City Council Bill 25-0017 for form and legal sufficiency. The bill seeks to change the zoning for the properties known as 3439-3549 on the odd side of Keswick Road (Block and Lot numbers as identified in the bill) from the C-1 Zoning District to the R-7 Zoning District. The Statement of Intent filed by the bill sponsor states that the bill constitutes a comprehensive rezoning. The bill would take effect on the 30<sup>th</sup> day after enactment.

The C-1 zoning classification is for "[c]ommercial clusters or pedestrian-oriented corridors of commercial uses that serve the immediate neighborhood." Baltimore City Code, Art. 32, § 10-201(a). Rowhouses are permitted in C-1. Baltimore City Code, Art. 32, Table 10-301. The R-7 zoning classification has mixed residential zoning "including detached and semi-detached dwellings, rowhouse developments, and multi-family developments." Baltimore City Code, Art. 32, § 9-203. Non-residential uses are limited. Baltimore City Code, Art. 32, Table 9-301.

The properties are at the edge of the Hampden and Wyman Park neighborhoods and are largely residential except for the First Free M.E. Church, whose primary address is 3439 Keswick Road. The full address for this property encompasses 3439-3441 Keswick Road. Many of the homes in the southern portion of the blocks to be rezoned were destroyed by fire in October 2024. The First Free M.E. Church and the homes in the northern part of the area were not damaged. The Planning Staff Report recommends that all of the properties identified by the bill be rezoned to R-7 with the exception of the church properties which would remain C-1. Planning notes that rezoning the church to R-7 would make the church property nonconforming with respect to required front yard, both interior side yards, and required parking spaces. Places of worship are permitted uses in both C-1 and R-7.

Council Bill 25-0017 is focused on a number of properties on a two-block stretch in what appears from the City website to be the Wyman Park neighborhood, but which the Planning Staff Report refers to as the Hampden neighborhood. The Planning Staff Report refers to the subject properties as a "small assemblage of property."

The Staff Report identifies the requested rezoning as a map amendment and sets out the standards to be satisfied in Section 5-508(b) of Article 32 of the City Code). The Report goes on to state that the rezoning of these properties constitutes a comprehensive rezoning under the definition in Section 1-304(m) of Article 32 of the City Code so that meeting the change or mistake standard noted in Section 5-508(b)(1) is not required.

#### Comprehensive Rezoning Standards

#### A comprehensive rezoning

means an ordinance that is:

- (1) initiated by City government to modify the zoning classifications of multiple properties;
- (2) based on considerations concerning the common needs of a substantial geographic area, involving a considerable number of properties;
- (3) designed to control and direct the use of land and structures according to present and planned future conditions; and
- (4) the product of:
- (i) careful consideration and extensive study by the Planning Department; and
- (ii) review by the Planning Commission.

Baltimore City Code, Art. 32, § 1-304(m). The term "comprehensive rezoning" appears in the Section 3-203(b) of Article 32 of the City Code, which sets out the powers and duties of the Planning Commission. One of these duties is "to begin the next comprehensive rezoning process by January 1, 2024, and submit a bill by June 30, 2025, and to repeat the process every 10 years[.]" Baltimore City Code Art. 32, § 3-203(b)(7).

While Council Bill 25-0017 arguably meets the first and third requirements for a comprehensive rezoning set forth in Section 1-304 of Article 32 of the City Code, it does not appear to meet the second and fourth requirements. The Maryland Supreme Court (formerly the Court of Appeals) described the criteria for comprehensive rezoning as:

The indicia of "comprehensiveness" in zoning are well established. A comprehensive zoning or rezoning must be well thought out, the product of careful consideration and extensive study, and based upon considerations concerning the common needs of the particular area. It must be designed to control and direct the use of land and buildings according to present and planned future conditions, to accomplish as far as possible the most appropriate uses of land consistent with the public interest and the safeguarding of the interests of the individual property owners. Other characteristics of comprehensiveness may be found in the fact that the zoning or rezoning applies to or covers a substantial or wide geographical area, that it regulates all uses, and that it covers all of the usual factors of land utilization: height, area and use. The fact that few changes in zoning are made does not affect the comprehensive nature of the zoning or rezoning.

Cardon Investments v. Town of New Market, 302 Md. 77, 88 (1984) (quoting Mraz v. County Comm'rs, 291 Md. 81, 88-89 (1981) (citations omitted.)).

The Maryland Supreme Court described the function of the courts in reviewing comprehensive rezoning legislation:

Zoning is a legislative function, and when reviewing the acts of zoning authorities, the duty of the courts is to decide whether such action was arbitrary, discriminatory or illegal...When a comprehensive map designed to cover a substantial area is adopted, it is entitled to the same presumption of correctness as an original zoning. Thus, persons attacking the correctness of the map's classifications have a heavy burden of overcoming the presumption of their validity. This burden is heavier in the case of comprehensive zoning than in the case of a piecemeal reclassification.

Ark Readi-Mix Concrete Corp. v. Smith, 251 Md. 1, 4 (1968) (citations omitted); see also Montgomery County v. Horman, 46 Md.App. 491, 494-496 (1980). Moreover,

Comprehensive rezoning is a vital legislative function, and in making zoning decisions during the comprehensive rezoning process, a County Council is exercising what has been described as its 'plenary' legislative power. The power is broad and is limited only by the constitutional restriction that the Council's action 'bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare...'

*Id.*, at 495-496 (quoting Norbeck Village Joint Venture v. Montgomery County Council, 254 Md. 59, 66 (1969)).

The Maryland Supreme Court set forth the standard of review for a zoning reclassification as follows:

While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced.

People's Counsel for Baltimore County v. Beachwood I Ltd. Partnership, 107 Md.App. 627, 640 (1995) (quoting Stratakis v. Beauchamp, 268 Md. 643, 652-653 (1973) (citations omitted)).

The Mayor and City Council may permit a piecemeal rezoning *only if* it finds facts sufficient to show either a mistake in the existing zoning classification or a substantial change in the character of the neighborhood. Md. Code, Land Use, § 10-304(b)(2); Baltimore City Code, Art. 32, §§ 5-508(a) and (b)(l).

The "change-mistake" rule is a rule of the either/or type. The "change" half of the "change-mistake" rule requires that, in order for a piecemeal Euclidean zoning change to be approved, there must be a satisfactory showing that there has been significant and unanticipated change in a relatively well-defined area (the "neighborhood") surrounding the property in question since its original or last comprehensive rezoning, whichever occurred most recently. The "mistake" option of the rule requires a showing that the underlying assumptions or premises relied upon by the legislative body during the immediately preceding original or comprehensive rezoning were incorrect. In other words,

there must be a showing of a mistake of fact. Mistake in this context does not refer to a mistake in judgment.

Mayor and Council of Rockville v. Rylyns Enterprises, Inc., 372 Md. 517, 538 (2002). A piecemeal rezoning in which the City Council is acting in a quasi-judicial manner can involve a single property or an assemblage of properties. Maryland Overpak Corp. v. Mayor and City Council of Baltimore, 395 Md. 16, 35-36 (2006). "The principal characteristic of a quasi-judicial proceeding is that of fact-finding by the undertaking body, even if the relevant facts are undisputed." Id. at 37 (citations omitted.). "A quasi-judicial proceeding in the zoning context is found where, at a minimum, there is a fact-finding process that entails the holding of a hearing, the receipt of factual and opinion testimony and/or forms of documentary evidence, and a particularized conclusion, based upon delineated statutory standards, for the unique development proposal for the specific parcel or assemblage of land in question." Id. at 53.

#### Legal Standard for Change

"It is unquestioned that the City Council has the power to amend its City Zoning Ordinance whenever there has been **such a change in the character and use of a district** since the original enactment that the **public health, safety, morals, or general welfare would be promoted** by a change in the regulations." *Cassel v. Mayor and City Council of Baltimore*, 195 Md. 348, 354 (1950) (emphasis added). The Mayor and City Council must find facts of a substantial change in the character and the use of the district since the comprehensive rezoning of the property on June 5, 2017, and that the rezoning will promote the "public health, safety, morals, or general welfare" and not merely advantage the property owner. *Id.* at 354.

To constitute a substantial change, courts in Maryland want to see facts of a "significant and unanticipated change in a relatively well-defined area." *Rylyns Enterprises*, 372 Md. at 538. The "neighborhood' must be the immediate neighborhood of the subject property, not some area miles away; and the changes must occur in that immediate neighborhood of such a nature as to have affected its character." *Clayman v. Prince George's County*, 266 Md. 409, 418 (1972). The changes are required to be physical. *Anne Arundel County v. Bell*, 442 Md. 539, 555 (2015) (*citing Montgomery County v. Woodward & Lothrop*, 280 Md. 686, 712–13 (1977)). However, those physical changes cannot be infrastructure such as sewer or water extension or road widening. *Clayman*, 266 Md. at 419. And the physical changes must be shown to be unforeseen at the time of the last rezoning. *County Council of Prince George's County v. Zimmer Development Co.*, 444 Md. 490, 512 (2015). Contemplated growth and density are not sufficient. *Clayman*, 266 Md. at 419.

In determining whether the change benefits only the property owner, courts look, in part, to see if a similar use exists nearby of which the community could easily take advantage. *Cassel*, 195 Md. at 358 (three other similar uses only a few blocks away lead to conclusion that zoning change was only for private owner's gain).

#### Legal Standard for Mistake

To sustain a piecemeal change on the basis of a mistake in the last comprehensive rezoning, there must be substantial evidence that "the Council failed to take into account then existing facts ... so that the Council's action was premised on a misapprehension." *White v. Spring*, 109 Md.

App. 692, 698 (1996), *cert. denied*, 343 Md. 680 (1996) (citation omitted). In other words, "[a] conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing." *Id*.

"Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension[,]" [and] "...by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect." *Boyce v. Sembly*, 25 Md. App. 43, 51 (1975) (citations omitted). "Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not 'fairly debatable." *Id.* at 52.

The Supreme Court of Maryland (formerly the Court of Appeals of Maryland) has said it is not sufficient to merely show that the new zoning would make more logical sense. *Greenblatt v. Toney Schloss Properties Corp.*, 235 Md. 9, 13-14 (1964). Nor are courts persuaded that the fact that a more profitable use of the property could be made if rezoned is evidence of a mistake in its current zoning. *Shadynook Imp. Ass'n v. Molloy*, 232 Md. 265, 272 (1963). Courts have also been skeptical of finding a mistake when there is evidence of careful consideration of the area during the past comprehensive rezoning. *Stratakis*, 268 Md. at 653-54.

A finding of mistake, however, absent a regulatory taking, merely permits the further consideration of rezoning, it does not mandate a rezoning. *White*, 109 Md. App. at 708. Rather, a second inquiry "regarding whether, and if so, how, the property is reclassified," is required. *Id.* at 709. This second conclusion is due great deference. *Id.* 

#### **Spot Zoning**

The City must find sufficient facts for a change or mistake because "[z]oning is permissible only as an exercise of the police power of the State. When this power is exercised by a city, it is confined by the limitations fixed in the grant by the State and to the accomplishment of the purposes for which the State authorized the city to zone." *Cassel*, 195 Md. at 353.

In piecemeal rezoning bills if there is not a factual basis to support the change or the mistake, then rezoning is considered illegal spot zoning. *Id.* at 355. Spot zoning "has appeared in many cities in America as the result of pressure put upon councilmen to pass amendments to zoning ordinances solely for the benefit of private interests." *Id.* It is the "arbitrary and unreasonable devotion of a small area within a zoning district to a use which is inconsistent with the use to which the rest of the district is restricted." *Id.* It is "therefore, universally held that a 'spot zoning' ordinance, which singles out a parcel of land within the limits of a use district and marks it off into a separate district for the benefit of the owner, thereby permitting a use of that parcel inconsistent with the use permitted in the rest of the district, is invalid if it is not in accordance with the comprehensive zoning plan and is merely for private gain." *Id.* 

However, "a use permitted in a small area, which is not inconsistent with the use to which the larger surrounding area is restricted, although it may be different from that use, is not 'spot zoning'

when it does not conflict with the comprehensive plan but is in harmony with an orderly growth of a new use for property in the locality." *Id*. The example given was "small districts within a residential district for use of grocery stores, drug stores and barber shops, and even gasoline filling stations, for the accommodation and convenience of the residents of the residential district." *Id*. at 355-356.

Therefore, the Mayor and City Council must show how the contemplated use is consistent with the character of the neighborhood. *See, e.g., Tennison v. Shomette*, 38 Md. App. 1, 8-9 (1977) (cited with approval in Rylyns, 372 Md. at 546-47; accord Mayor and City Council of Baltimore v. Byrd, 191 Md. 632, 640 (1948)).

#### Findings of Fact

The City Council is required to make the following findings of fact in determining whether to permit rezoning based on mistake or change in the character of the neighborhood:

- (i) population change;
- (ii) the availability of public facilities;
- (iii) the present and future transportation patterns;
- (iv) compatibility with existing and proposed development;
- (v) the recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals; and
- (vi) the relationship of the proposed amendment to the City's plan.

Md. Code, Land Use, § 10-304(b)(1); Baltimore City Code, Art. 32, § 5-508(b)(2).

Article 32 of the City Code requires the Council to consider the following additional factors:

- (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.

Baltimore City Code, Art. 32, § 5-508(b)(3).

The Mayor and City Council's decision regarding a piecemeal rezoning is reviewed under the substantial evidence test and should be upheld "if reasoning minds could reasonably reach the conclusion from facts in the record." *Zimmer Dev. Co.*, 444 Md. at 510 (*quoting Cremins v. Cnty. Comm'rs of Washington Cnty.*, 164 Md. App. 426, 438 (2005)); *see also White*, 109 Md. App. at 699, ("the courts may not substitute their judgment for that of the legislative agency if the issue is rendered fairly debatable"); *accord Floyd v. County Council of Prince George's County*, 55 Md. App. 246, 258 (1983) ("substantial evidence' means a little more than a 'scintilla of evidence.").

#### Planning Commission Recommendation

The Planning Commission concurred with the Planning Staff Report that recommended amendment and approval of the bill as amended. The Staff Report notes that the proposed rezoning is for a grouping of properties along most of a block range. The bill sponsor has stated that this is a comprehensive rezoning. The Staff Report states that if the rezoning qualifies as a comprehensive rezoning satisfying the change or mistake rule for piecemeal rezonings is not required. After stating the definition of comprehensive rezoning from the City Zoning Code, the Planning Staff Report states that Staff believes that the requirements for a comprehensive rezoning are met. There is no evidence in the Report that the proposed rezoning is the product of careful consideration and extensive study. Nor does the proposed rezoning apply to or cover a substantial or wide geographical area. See e.g., Mraz. 291 Md. at 89 ("Here all of the criteria of comprehensiveness are present. The amended zoning map was given careful consideration and adopted only after extensive study and public participation. It was adopted in accordance with a comprehensive plan and was designed to provide an adequate potential for orderly growth in the future. The area to be rezoned included all of the unincorporated areas of Cecil County. The amended zoning map reflects extensive changes occurring over a wide area and takes into account future public needs and purposes."). The Staff Report did not analyze Council Bill 25-0017 with respect to whether the proposed map amendment is required as result of either a mistake in the most recent comprehensive rezoning or a change in the character of the neighborhood.

#### Process for Piecemeal Rezoning

For a piecemeal rezoning, the City Council must hold a quasi-judicial public hearing with regard to the bill where it will hear and weigh the evidence as presented in: (1) the Planning Report and other agency reports; (2) testimony from the Planning Department and other City agency representatives; and (3) testimony from members of the public and interested persons. Baltimore City Code, Art. 32, Title 5, Subtitle 5. After weighing the evidence presented and submitted into the record before it, the Council is required to make findings of fact for each property about the factors in Sections 10-304 and 10-305 of the Land Use Article of the Maryland Code and Section 5-508 of Article 32 of the Baltimore City Code. If, after its investigation of the facts, the Committee makes findings which support: (1) a mistake in the comprehensive zoning or a change in the character of the surrounding neighborhood; and (2) a new zoning classification for the property, it may adopt these findings and the legal requirements for granting the rezoning would be met.

Additionally, certain procedural requirements apply to this bill beyond those discussed above because a change in the zoning classification of a property is deemed a "legislative authorization." Baltimore City Code, Art. 32, § 5-501(2)(iii). Specifically, notice of the City Council hearing must be given by publication in a newspaper of general circulation in the City, by posting in a conspicuous place on the property and by first-class mail, on forms provided by the Zoning Administrator, to each person who appears on the tax records of the City as an owner of the property to be rezoned. Baltimore City Code, Art. 32, § 5-601(b). The notice of the City Council hearing must include the date, time, place and purpose of the hearing, as well as the address of the property or description of the boundaries of the area affected by the proposed rezoning, and the name of the applicant. Baltimore City Code, Art. 32, § 5-601(c). The posted notices must be at least 3 feet by 4 feet in size, placed at a prominent location near the sidewalk or right-of-way for pedestrians and motorists to view, and at least one sign must be visible from each of the property's street frontages. Baltimore City Code, Art., § 5-601(d)(1)(i). Window mounted signs must be posted inside the window glass. Baltimore City Code, Art., § 5-601(d)(1)(iv). The published and mailed notices must be given at least 15 days before the hearing; the posted notice must be at least

30 days before the public hearing. Baltimore City Code, Art. 32, § 5-601(e), (f); see also Md. Code, Land Use, § 10-303 (procedural requirements).

For the reasons noted in this report, Council Bill 25-0017 may not meet the comprehensive rezoning standard. Accordingly, the Council should find facts to support the change-mistake standard for piecemeal rezoning and comply with the required notice and hearing procedures. Alternatively, the proposed rezoning of these properties could be included in a future comprehensive rezoning effort and the proposed change in Council Bill 25-0017 included as part of that process.

The Law Department can approve the bill for form and sufficiency as drafted. However, the City Council should analyze the bill in accordance with the standards for piecemeal rezoning in the event that it is found not to meet the requirements for a comprehensive rezoning.

Sincerely yours,

Michele M. Toth Assistant Solicitor

Mulsale Ith

cc: Ebony Thompson
Ethan Hasiuk
Ty'lor Schnella
Shamoyia Gardiner
Hilary Ruley
Jeff Hochstetler
Ashlea Brown
Desiree Luckey
Ahleah Knapp



### CITY OF BALTIMORE MAYOR BRANDON M. SCOTT

TO	The Honorable President and Members of the Baltimore City Council	
FROM	Laura Larsen, Budget Director	
DATE	April 9th, 2025	
SUBJECT	City Council Bill 25-0017 Rezoning – 3439-3549 Keswick Road – Odd Side	

#### **Position: Defers to Planning**

The Department of Finance is herein reporting on City Council Bill 25-0017, Rezoning – 3439-3549 Keswick Road – Odd Side, the purpose of which is changing the zoning for the properties known as 3430-3549 on the odd side of Keswick Road (Block and Lot numbers listed below), as outlined in red on the accompanying plat, from the C-1 Zoning District to the R-7 Zoning District; and providing for a special effective date.

#### **Background**

City Council Bill 25-0017 changes the zoning of 32 properties from a commercial district (C-1) to residential (R-7). This analysis compares these two zoning categories, which serve different purposes and have distinct regulations. The table below summarizes major changes between these zoning categories.

	C-1 (Commercial District)	R-7 (Residential District)
Purpose & Usage	Neighborhood-scale commercial development; commonly small businesses, offices, & retail stores.	Medium to high-density residential development; includes multi-family dwellings, apartments, & townhomes.
Building Density Regulations	Allows for mixed-use development (businesses on ground floor with residential units above).	Primarily residential with limits on commercial activities.
Height & Setback Requirements	Permits taller buildings & reduced setback requirements.	Stricter height & setback restrictions to limit density.
Permitted Uses	Retail stores, offices, restaurants, & service-based businesses	Single-family homes, duplexes, apartments, & small community facilities.

The proposed change aims to develop additional residential units. This change is not anticipated to have a significant impact on property tax revenues.

#### Conclusion

For the reasons stated above, the Department of Finance defers to the Planning Department for City Council Bill 25-0017.

cc: Michael Mocksten Nina Themelis



### CITY OF BALTIMORE MAYOR BRANDON M. SCOTT

TO	The Honorable President and Members of the Baltimore City Council
FROM	Alice Kennedy, Commissioner, Housing and Community Development
CC	Mayor's Office of Government Relations
DATE	March 5th, 2025
SUBJECT	25-0017 Rezoning – 3439-3549 Keswick Road – Odd Side

**Position: Favorable** 

#### **BILL SYNOPSIS**



The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 25-0017 Rezoning – 3439-3549 Keswick Road – Odd Side for the purpose of changing the zoning for the properties known as 3439-3549 on the odd side of Keswick Road (Block and Lot numbers listed below), as outlined in red on the accompanying plat, from the C-1 Zoning District to the R-7 Zoning District; and providing for a special effective date.

If enacted, City Council Bill 25-0017 would rezone the properties known as 3439-3549 Keswick Road (further specified within the text of the Bill) from the C-1 Zoning District to the R-7 Zoning District. If approved, this Bill will take effect on the 30th day following its enactment.

#### SUMMARY OF POSITION

At its regular meeting of February 27, 2025, the Planning Commission concurred with the recommendations of its Departmental staff and recommended that the Bill be amended and approved by the City Council. In their report, the Commission noted that the existing uses in the area generally align with the proposed change from C-1 to R-7. Their report also noted that rezoning most of these properties would better align the area with the broader zoning code and the recently adopted land use map, while having little impact on the City as a whole. The Commission's only exception pertained to the property located at 3439 Keswick Road, currently developed as a church, which they felt should remain zoned C-1.

The properties in reference are not located within any of DHCD's Streamlined Code Enforcement Areas, Community Development Zones, or Impact Investment Areas. This rezoning may help retain the character of the Hampden community while a portion of the referenced properties are redeveloped following the fire of October 2024.

#### FISCAL IMPACT

As drafted, this Bill would have minimal fiscal or administrative impact on DHCD.

#### **AMENDMENTS**

DHCD agrees with the suggested amendment from the Planning Commission to exclude all property owned by First Free M E Church (primary address 3439 Keswick Road) from this rezoning effort.

5	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of	
0 2	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET	BALTIMORE	CITY O,
L	SUBJECT	CITY COUNCIL BILL #25-0017 / REZONING – 3439-3549 KESWICK ROAD – ODD SIDE	IVI E IVI U	1797

TO

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

February 28, 2025

At its regular meeting of February 27, 2025, the Planning Commission considered City Council Bill #25-0017, for the purpose of changing the zoning for the properties known as 3439-3549 on the odd side of Keswick Road (Block and Lot numbers listed below), as outlined in red on the accompanying plat, from the C-1 Zoning District to the R-7 Zoning District; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended amendment and approval of City Council Bill #25-0017 and adopted the following resolution, with six members being present (five in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #25-0017 be **amended and approved** by the City Council.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

#### CR/ewt

#### attachment

cc: Ms. Nina Themelis, Mayor's Office

The Honorable John Bullock, Council Rep. to Planning Commission

Ms. Rebecca Witt, BMZA

Mr. Geoffrey Veale, Zoning Administration

Ms. Stephanie Murdock, DHCD

Ms. Hilary Ruley, Law Dept.

Mr. Francis Burnszynski, PABC

Mr. Luciano Diaz, DOT

Ms. Nancy Mead, Council Services



#### PLANNING COMMISSION

Jon Laria, Chair; Eric Stephenson, Vice Chair

#### STAFF REPORT



February 27, 2025

**REQUEST:** City Council Bill #25-0017/ Rezoning – 3439-3539 Keswick Road – Odd Side: For the purpose of changing the zoning for the properties known as 3439-3549 on the odd side of Keswick Road (Block and Lot numbers listed below), as outlined in red on the accompanying plat, from the C-1 Zoning District to the R-7 Zoning District; and providing for a special effective date.

**RECOMMENDATION:** Adopt findings and approve with the following amendment:

• That the rezoning language exclude all property owned by First Free M E Church, primary address 3439 Keswick Road.

**STAFF:** Brandon Kanoy

**PETITIONER:** Councilmember Odette Ramos

**OWNER:** Various

#### SITE/GENERAL AREA

<u>Site Conditions</u>: These properties are located on the east side of Keswick Road, generally located between the intersection with Bunnecke Avenue on the south, and to within 35'4" of the intersection with West 36th Street on the north. The block is predominantly developed as residential uses with two-story rowhouses. Most structures in this block were constructed before 1910, before this area was within the corporate limits of Baltimore City. Many of the homes in the southern portion of the area to be rezoned were damaged or destroyed by a fire in October 2024. Both the church and the northern homes were generally undamaged by this event.

<u>General Area</u>: The properties together contain approximately 70,500 sqft of land, located generally west of Johns Hopkins University and Wyman Park. Many of the structures in the surrounding area were constructed before this area was annexed by the City. It is well connected to nearby parks such as Wyman Park and Druid Hill Park. I-83 is the nearest interstate connection, and the property is well-served by the existing transportation network. The current neighborhood supports a vibrant mix of pedestrian-scale residential and commercial development.

#### **HISTORY**

There are no previous legislative or Planning Commission actions regarding this site.

#### **ZONING CODE REQUIREMENTS**

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.

#### **ANALYSIS**

**Background:** Many of the houses in this block caught fire in October. While Rowhouses are permitted by-right in the existing zoning, a change of zoning district will allow the neighborhood to better preserve the existing mix of uses in the area. The surrounding area includes pedestrian-scale residential and commercial developments. This change of zoning district will better allow the neighborhood to maintain the current scale of uses.

**Approval Standards:** Article 32 – *Zoning*, § 5-508 {Approval standards} reflects provisions of the MD Land Use Code §§ 10-304 and 10-305. The findings required of the Mayor and City Council for piecemeal rezonings are detailed in § 10-304 *Zoning Regulations* – *Amendment*, *Repeal*, *and Reclassification*. The required findings of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA or Board) for general changes are found in § 10-305 *Changes to Boundaries of Districts or Zones*.

Since most of the rezonings considered by the Mayor and City Council have been in the form of piecemeal rezoning requests, § 5-508(b)(1) requires findings frequently referred to as "the substantial change or mistake" rule. That local zoning code provision maps to MD Land Use Code § 10-304 (2024) for piecemeal rezoning.

In this case, since the proposed rezoning is for a grouping of properties along most of a block range, it qualifies as a comprehensive rezoning, provided it can meet the definition for comprehensive rezoning in which case the substantial change or mistake rule of piecemeal rezonings is not required.

Article 32 – *Zoning* defines Comprehensive rezoning as follows:

§ 1-304. "Chimney" to "Day-care center: Child".

...

- (m) Comprehensive rezoning.
  - "Comprehensive rezoning" means an ordinance that is:
  - (1) initiated by City government to modify the zoning classifications of multiple properties;
  - (2) based on considerations concerning the common needs of a substantial geographic area, involving a considerable number of properties;
  - (3) designed to control and direct the use of land and structures according to present and planned future conditions; and
  - (4) the product of:
    - (i) careful consideration and extensive study by the Planning Department; and
    - (ii) review by the Planning Commission.

Staff believes that this proposal meets these requirements, and that the Planning Commission can find that this is a comprehensive rezoning.

#### Maryland Land Use Code – Requirements for Rezoning:

The Land Use Article of the Maryland Code requires the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA) 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 § 10-305 (2024)). In reviewing this request, the staff finds that:

- **1. The Plan:** The 2024 Comprehensive Master Plan for the City of Baltimore includes an adopted Land Use Plan categorizes almost all of these properties as *Residential: Medium Density*, which aligns with the requested R-7 zoning. 3429 Keswick Road is categorized as *Mixed-Use: Predominantly Pedestrian-Oriented Commercial*, which aligns with the existing C-1 zoning.
- **2.** The needs of Baltimore City: This small assemblage of property is expected to remain largely as-is, and so will not have any significant impact to the City as a whole.
- **3.** The needs of the particular neighborhood: The rezoning of most of these properties will better align the area with the zoning code, as well as the recently adopted land use map.

Similarly, the Land Use article, also adopted by Article 32 – *Zoning* §5-508(b)(2), requires the City Council to make findings of fact (MD Land Use Code § 10-304 (2024)). The findings of fact include:

- **1. Population changes;** Between the 2010 Census (3,586 residents) and the 2020 Census (3,770), the neighborhood statistical area (Census Tract 1306) gained approximately 184 residents (Source 2010 and 2020 DEC Redistricting Data (PL 94-171)).
- **2.** The availability of public facilities; The area is well served by public facilities and infrastructure, which will not be impacted by the proposed rezoning.
- **3. Present and future transportation patterns;** The rezoning of these properties will not be significant enough to impact local traffic or overall transportation patterns.
- **4.** Compatibility with existing and proposed development for the area; A change in zoning district will bring the existing uses into alignment with the zoning for other residential uses in the area.
- 5. The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA); For the above reasons, the Planning Department recommends amendment and approval 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. This change will align the area with the adopted Land Use Plan.

There are additional standards under Article 32 - Zoning §5-508(b)(3) that must be considered for map amendments. These include:

- (i) existing uses of property within the general area of the property in question; The general area of the property in question is largely developed for residential use.
- (ii) the zoning classification of other property within the general area of the property in question; The subject properties are currently zoned C-1, though almost all residential properties in the area are currently zoned R-6 or R-7.
- (iii) the suitability of the property in question for the uses permitted under its existing zoning classification; and Staff notes that Places of Worship are permitted by-right in both C-1 and R-7 zoning. However, given that Places of Worship generally require unique building layouts and site considerations, we find it prudent to maintain more flexible options for the future, as they are not easily converted to purely residential use. The existing C-1 zoning for the church provides flexibility in future use, and C-1 does not require off-street parking. The church building appears to generally comply with the bulk standards of the C-1 zone. Rezoning to R-7 would make this property nonconforming with regard to bulk requirements (required front yard, both interior side yards) as well as required parking.
- (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. Planning is not aware of any significant change in the development patterns in the immediate area.

**Recommendation:** The existing uses in the area generally align with the proposed change from C-1 to R-7. Planning Staff is supportive of the proposal, with the one exception that the property located at 3439 Keswick Road, currently developed as a church, that should remain zoned C-1. Rezoning all but this property would match the recently adopted Land Use Plan as part of The 2024 Comprehensive Master Plan for the City of Baltimore.

#### **Equity**:

This project will bring the existing structures into conformance with the adopted Land Use Plan, and therefore remove barriers for residents to continue to use their neighborhood as designed. A change of zoning designation from C-1 to R-7 does still allow property owners to conduct home occupations at an appropriate scale for the surrounding area.

<u>Notification</u>: The Hampden Community Council, and the current property owners, have been notified of this action.

Chris Ryer Director <u>PC I 03Mar25</u>

## AMENDMENTS TO COUNCIL BILL 25-0017 (1st Reader Copy)

By: Planning Commission {To be offered to the Land Use and Transportation Committee}

#### Amendment No. 1

On page 1, in line 2, strike "3439-3549" and substitute "3447-3549"; and, on that same page, in line 3, strike "3430-3549" and substitute "3447-3549"; and, on that same page, in line 15, strike "3439-3549" and substitute "3447-3549"; and, on that same page, strike line 17 in its entirety.

## **Baltimore City Council**



# Land Use & Transportation Committee

25-0017

Rezoning -3439-3549 Keswick Road Odd Side

## **Additional Materials**



#### **Odette Ramos**

## Baltimore City Councilwoman District 14

(410) 396 - 4814

odette.ramos@baltimorecity.gov 100 N. Holliday Street, Room 553 Baltimore MD 21202

April 23, 2025

#### Testimony 25-0017 Rezoning 3439-3549 Keswick Road Odd Side SUPPORT

Chair Dorsey and Members of the Land Use and Transportation Committee:

I am writing to ask your support for 25-0017 - Rezoning 3439-3549 Odd Side of Keswick Road from C-1 to R-7.

The 3400 and 3500 blocks of Keswick Road were the site of the tragic fire that took place on October 15 and another on December 5<sup>th</sup>. Both fires damaged over 13 homes on the east side of the block. Two lives were lost during the October 15<sup>th</sup> fire, and all told six homes were demolished.

In the process of assisting our affected residents, we discovered that only this east side of the block were zoned C-1. In looking at the zoning maps, the area across the street with the same type of home are R-7, and the blocks above, below, and behind at block are also R-7. Looking historically, the designation never changed. The homes also have not changed. All of these homes were built over 100 years ago.

So, I introduced this legislation to allow for the east side of the block to be consistent with the rest of the neighborhood. This change is consistent with the land use plan that was passed last year, and consistent with the community's goals. Moreover, it provides guidance to the residents who want to rebuild their homes.

I believe it was a mistake not to have these home and neighbors' homes zoned residential when the City Council took on comprehensive rezoning prior to my becoming your Councilwoman. However, on advice from the Law Department, this initiative meets the standards for comprehensive rezoning, and does not need to meet the threshold of mistake or change in the neighborhood as spot rezoning would.

Thank you for your support.

Please contact me on 410-396-4814 or odette.ramos@baltimorecity.gov if you have any questions or concerns.

In Service.

Odette Ramos

Baltimore City Councilwoman, District 14



#### Proudly Serving the Hampden Community Since 1976

April 23, 2025

The Honorable Ryan Dorsey
Chair, Land Use and Transportation Committee
Baltimore City Council
City Hall
100 Holliday Street
Room 521
Baltimore, Maryland 21202

Re: City Council Bill 25-0017 – Rezoning 3439-3549 Keswick Road – Odd Side

Chair Dorsey,

I write today on behalf on the Hampden Community Council ("HCC") in support of City Council Bill 25-0017, which would change the zoning for the properties known as 3439 – 3549 on the odd side of Keswick Road ("Properties") from the C-1 Zoning District to the R-7 Zoning District, with the caveat that it be amended to ensure that the Pathway Fellowship FMC Multicultural Church property located at 3439 Keswick Road remain in a C-1 Zoning District.

On October 14, 2024, shortly before 6:00 am, a fire ripped through the 3400 and 3500 blocks of Keswick Road destroying 10 homes and claiming the lives of two Hampden residents. In response the HCC, along with several local non-profits, private citizens and businesses, and elected officials, organized efforts to support those impacted by this tragedy. Through our collective efforts we provided direct financial relief to victims and their families. To this day, the HCC remains committed to supporting these individuals in any way that we can to help these families and our community pick up the pieces and move forward.

In the aftermath of the fire, the HCC learned that the properties located at 3439-3549 on the odd side of Keswick Road were all within a C-1 Zoning District. To the community this seemed like the City made a when it performed its comprehensive rezoning a few years ago; the properties are bookended by single family row homes that run throughout the entirety of the 3400 and the 3500 block (save for the 33<sup>rd</sup> and Keswick Road service station) and are within a R-7 Zoning District.

The HCC moved quickly to address this matter before a developer could purchase the lots and construct a large apartment building, thereby undermining Hampden's ability to better allow it to maintain the current scale of uses within the community. Accordingly, the HCC contacted Councilman Odette Ramos and urged her to introduce legislation to amend the zoning of the properties in question. City Council Bill



25-0017 is the direct result of that advocacy, and we fully support it with the adoption of the Baltimore City Planning Department's amendments.

The Planning Department's Amendments are reasonable, fair, and proper. Their amendments seek to exclude the Pathway Fellowship FMC Multicultural Church property located at 3439 Keswick Road from being rezoned. If rezoned to a R-7 Zoning District, the church would cease its operations. That was never the intent of the Hampden community. As such, we would request and ask that the City Council Bill 25-0017 be amended to reflect our desire that the Pathway Fellowship FMC Multicultural Church property located at 3439 Keswick remain zoned within a C-1 Zoning District.

In closing, the HCC reiterates its support of City Council Bill 25-0017, provided that the Planning Department's Amendments are included in the final draft of the legislation.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me directly.

Thanks.

Thomas R. Akras

President

Hampden Community Council Hccpresident@gmail.com

TO: Baltimore City Council Land Use and Transportation Committee Members

RE: Council Bill 25-0017 - Rezoning - 3439-3549 Keswick Road - Odd Side

Please accept my written testimony in support of Council Bill 25-0017, sponsored by Councilwoman Odett Ramos, to change zoning for 3439-3549 odd side of Keswick Road from C-1 to R-7.R-7 zoning is consistent with most blocks in the Hampden community. My neighbors across the street have R-7 zoning.

The only commercial use on my side of Keswick Rd is the auto shop on the corner of 36th st, which I understand is not included in this proposed change.

Especially in light of the loss of multiple homes just south of my own to fire last fall, I certainly would not want to see commercial development replace these residential properties.

Councilwoman Ramos believes that my home and those of my neighbors should have been zoned residential when the City Council addressed residential rezoning prior to her taking office, and I fully support her efforts to correct this situation.

Sincerely,

Lara Boeck 3545 Keswick Rd Baltimore, MD 21211 (301)455-0553

#### Leva, Anthony F (City Council)

**From:** Ramos, Odette (City Council) **Sent:** Monday, March 24, 2025 6:30 PM

**To:** 'Hampden Community Council'; Leva, Anthony F (City Council)

**Subject:** 25-0017 Baltimore Sun printed ad

Thank you!

Tony, please advise if you need anything else to prove the newspaper ad. I don't see a certification document in the list of documents you sent to us about this.

Thanks

#### **Odette Ramos**

Baltimore City Councilwoman District 14

Office: 410-396-4814 Mobile: 443-801-8137

Odette.ramos@baltimorecity.gov

www.odetteramos.com

From: Hampden Community Council <a href="mailto:hccpresident@gmail.com">hccpresident@gmail.com</a>

Sent: Monday, March 24, 2025 4:37 PM

To: Ramos, Odette (City Council) <Odette.Ramos@baltimorecity.gov>; Leva, Anthony F (City Council)

<anthony.leva@baltimorecity.gov>

Subject: Fwd: Payment Transaction Success for Order 7788912

**CAUTION:** This email originated from outside of Baltimore City IT Network Systems.

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Please see the forwarded email for the receipt from the Baltimore Sun. HCC paid for public notice for the Keswick rezoning bill, and the ad will run in tomorrow's paper.

Tim Cervi President Hampden Community Council

----- Forwarded message -----

From: Chris Guinnup < <a href="mailto:christopher.guinnup@gmail.com">christopher.guinnup@gmail.com</a>>

Date: Mon, Mar 24, 2025 at 1:38 PM

Subject: Fwd: Payment Transaction Success for Order 7788912

To: < hccpresident@gmail.com >

#### Payment receipt

----- Forwarded message ------

From: Tribune Adit < No Reply@tribpub.com >

Date: Mon, Mar 24, 2025 at 1:36 PM

Subject: Payment Transaction Success for Order 7788912

To: < <a href="mailto:com">christopher.guinnup@gmail.com">christopher.guinnup@gmail.com</a>>

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# CERTIFICATE OF MAILING WRITTEN NOTICE TO PROPERTY OWNER(S)

City	Council	Bill	Number:	25-0017
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I HEREBY CERTIFY, under penalty of perjury, that the attached\* document was mailed to the following:

- A. Property Owner:
- **B. Property Address:**

or

C. \_\_X\_\_ List of Property Owners

(Place a Check Mark Above & Attach A List of Property Owners with Addresses)

On the following date: March 21, 2025

#### Mailed By:

**Applicant's Name:** Baltimore City Councilwoman Odette Ramos

**Applicant's Organization:** Baltimore City Council

**Applicant's Title:** Baltimore City Councilwoman

Applicant's Address: 100 N Holliday Street, Suite 553, Baltimore MD 21202

**Applicant's Telephone Number:** 410-396-4814

<u>Applicant or Representative Signature:</u>

\*Note: Please attach a copy of the document that was mailed to the property owner(s).

Email to: Anthony.Leva@BaltimoreCity.Gov