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MEMORANDUM

To: Baltimore City Council Committee on Economic and
Community Development
From: Caroline L. Hecker
Justin A. Williams
CC: Victoria Campbell
Date: June 14, 2021
Re: **City Council Bill #21-0053**
Request for Zoning Map Amendment
4207-4209 Menlo Drive

This firm represents Victoria Campbell, (the "Applicant"), the contract purchaser of the subject property located at 4207-4209 Menlo Drive (the "Property"). On behalf of the Applicant, counsel submits the following memorandum in support of City Council Bill # 21-0053, which proposes to rezone the Property from the I-1 Zoning District to the OIC Zoning District. The basis of the request is that there has been a substantial change in the character of the neighborhood since the Property was zoned I-1 under the Transform Baltimore Zoning Code in 2017.

1. Background

The Property is located in the Reisterstown Station neighborhood of Baltimore in the 5th Councilmanic District and is improved with a vacant structure. City zoning records indicate that the first permit issued for this Property was in 1953 for use for the assembly and sale of Formica and steel. The Property was zoned M-1-1 under the 1971 Zoning Code and was rezoned to the I-1 Zoning District with the enactment of Transform Baltimore. While the Property was issued a permit for use as "4 separate car repair garages" in 2004, it has been vacant for some time.

2. The Committee Should Approve The Proposed Rezoning Because There Has Been A Substantial Change In The Character Of The Neighborhood Since The Property Was Zoned I-1 In 2017.

2.1 A Liberal Standard is Applied to Support a Change from One Zoning Subcategory to Another.

When seeking a rezoning on the basis of a mistake, "there is a strong presumption of correctness of the original zoning and of comprehensive zoning." *People's Counsel v. Beachwood I Ltd. Partnership*, 107 Md. App. 627, 641 (1995). However, Maryland courts have held that "[i]n

considering whether this presumption [of correctness] has been overcome a more liberal standard is applied when the property is being reclassified from one commercial subcategory to another than is applied when the reclassification involves a change from one use category to another.” *Tennison v. Shomette*, 38 Md. App. 1, 5 (1977) (citing *Chapman v. Montgomery County Council*, 259 Md. 641 (1970); *Missouri Realty, Inc. v. Ramer*, 216 Md. 442 (1958)). Here, the rezoning proposed for the Property is to reclassify it from one industrial sub-district to another, so a more liberal standard should be applied to overcome the presumption of correctness in the Property’s existing I-1 zoning map designation.

2.2 Changes in the Character of the Neighborhood Since The 2017 Comprehensive Rezoning Support The Proposed Rezoning.

The City Council has the authority to change the zoning classification of a property as part of a comprehensive rezoning process or upon a finding that there was either 1) a substantial change in the character of the neighborhood where the property is located, or 2) a mistake in the existing zoning classification. MD. CODE ANN., Land Use § 10-304(b)(2); Baltimore City Code, Article 32 – Zoning § 5-508(b)(1). As detailed below, there has been a substantial change in character of the neighborhood where the Property is located since the 2017 enactment of Transform Baltimore. The proposed rezoning is appropriate to reflect the neighborhood’s change in character.

In *Mayor and Council of Rockville v. Rylyns Enterprises, Inc.*, the Court of Appeals held that in order to rise to the level of a substantial change in character permitting a rezoning, 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” *Mayor and Council of Rockville v. Rylyns Enterprises, Inc.*, 372 Md. 514, 538, 814 A.2d 469, 483.

While the Reisterstown Station neighborhood has strong industrial roots, in recent years it has grown into a mixed-use area. The Reisterstown Plaza Station transportation hub has fostered the development of office and commercial spaces in the surrounding area and, in September 2019, the Maryland Department of Transportation announced plans to re-develop 26 acres of land within one mile of the Property. Development proposals for the project include elderly housing, retail, and commercial uses, which will transition away from the traditionally industrial character of this area.

The Reisterstown Station neighborhood therefore is no longer a purely industrial area, but has instead evolved into a mixed-use, transit-oriented hub. The neighborhood’s changing character is not only evidenced by the fact that the proposed 26-acre redevelopment does not propose any industrial uses, and also by the fact that the Property has long been vacant—were the industrial characterization still appropriate, the Property would not have stood vacant so long. The proposed OIC zoning classification is a more appropriate transitional zoning classification which will allow for the area to develop in support of the Reisterstown Station transit hub and the upcoming 26-acre redevelopment. Exhibit A.

The Applicant wishes to re-purpose the vacant structure for use as an adult daycare. While the proposed use is not necessarily relevant to the Committee's consideration of a proposed rezoning, the proposed use is consistent with the changes that have occurred and are occurring in this area. Our client's business model is unique in that daycare participants are provided transportation to and from the facility and upon arrival they have access not only to supervised care, but also to various medical professionals including doctors, dentists, and physical therapists. The Applicant seeks to provide a service which will allow elderly clients to maintain independence and stay in their homes. The proposed MDOT development paints a picture of a neighborhood to which an innovative adult daycare facility would contribute mightily.

3. The Committee Should Adopt The Following Findings Of Fact Required to Be Made In Connection With A Map Amendment.

In making the determination that there was a mistake in the existing zoning classification, both Section 5-508(b) of the Zoning Code and Section 10-304 of the State Land Use Article require the City Council to make findings of fact that address certain items. The Committee is urged to adopt the findings of fact listed below:

- 3.1 Population Changes:** While the 2020 Census data is still being compiled, the 2018 ACS 5-Year Estimates projected an approximate population growth of 400 people, up from 3,421 in the 2010 census. The proposed OIC zoning designation will provide a necessary service for the neighborhood's growing population.
- 3.2 The availability of public facilities:** The area is well-served by public utilities and services and no negative impacts are expected as a result of rezoning the Property.
- 3.3 Present and future transportation patterns:** The Reisterstown Station neighborhood is a transit hub with a major metro stop and an abundance of bus routes. The rezoning of the Property from I-1 to OIC would not impact the area's transportation patterns.
- 3.4 Compatibility with existing and proposed development for the area:** The proposed rezoning is consistent with the existing character of the neighborhood and the upcoming 26-acre redevelopment. A photo of the property is attached as Exhibit B, which reflects the fact that the existing structure is of a type that could be used for other uses than strictly industrial uses, and the proposed rezoning would allow other appropriate uses in this area.
- 3.5 The recommendations of the Baltimore City Planning Commission and the Board of Municipal and Zoning Appeals:** The Planning Commission has recommended disapproval. The BMZA will comment separately on the legislation.
- 3.6 The proposed amendment's consistency with the City's Comprehensive Master Plan:** The proposed rezoning will support the Comprehensive Plan by supporting its goal of retaining and attracting businesses in growth sectors by permitting the

Property to provide a service which will support surrounding residents and employees.

4. The Committee Should Adopt the Following Required Considerations for Map Amendments.

Section 5-508(b)(3) of the Zoning Code also mandates that the standards listed below be considered for map amendments. A review of these considerations clearly supports a finding that significant changes have occurred since the 2017 comprehensive zoning that justify the rezoning of the Property to the OIC Zoning District. The Committee is urged to adopt the findings listed below:

- 4.1 Existing uses of property within the general area of the property in question:** While there are some industrial uses in close proximity the Property, there are also a number of religious institutions, carry-out food facilities, and there is a large office complex. The varied surrounding uses including the office complex make the Property more compatible with the transitional the OIC zoning designation.
- 4.2 The zoning classification of other property within the general area of the property in question:** The Property is located within one-block of commercially zoned properties, within three-blocks of residentially zoned properties, and within three-blocks of both OIC and TOD zoned properties. The diversity of the surrounding zoning classifications exemplifies the Property's need for transitional zoning.
- 4.3 The suitability of the property in question for the uses permitted under its existing zoning classification:** The Property is not suited for the uses permitted under its existing I-1 zoning, which severely restricts the number and type of uses that could be authorized at this site. As a result, the Property has been vacant for some time.
- 4.4 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:** The Property has been vacant for years. As noted above, MDOT has announced a plan to redevelop 26-acres in the neighborhood for both commercial and residential uses. The OIC Zoning District designation will be ideal to promote complimentary uses for the upcoming development.

5. Required Items for Consideration Under the Land Use Article.

Finally, Section 10-305 of the State Land Use Article 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.

- 5.1 **The Plan:** the proposed rezoning will support the Plan's goal of retaining and attracting businesses in growth sectors by expanding the permitted uses on the Property.
- 5.2 **The needs of Baltimore City:** Rezoning the Property to OIC allows a wider variety of uses, which in turn will help support the upcoming nearby development. This will result in the attraction of both residents and businesses.
- 5.3 **The needs of the particular neighborhood:** As noted above, the Property is located in an area with diverse uses and diverse zoning classifications. The OIC zoning designation would fulfill the needs of the neighborhood by providing the opportunity for a broad array of uses in support of the surrounding industrial, office, and residential properties.

6. Equity Impact Assessment

- 6.1 **Short / long-term impact on surrounding community:** As noted above, the proposed rezoning will have a positive long-term impact on the surrounding community in two ways. First, it will enable the fruitful use of a presently vacant building, and second, it will allow a unique business to open in the rapidly growing residential area.
- 6.2 **Impact on Baltimore's existing patterns of inequity:** The OIC zoning classification will allow the property to be made use of in a manner that is compatible with MDOT's proposed mixed-use development. The intention of the large-scale upcoming multi-use project is to revitalize the surrounding community. The MDOT project, and peripherally this rezoning, will have a substantial positive impact on the surrounding community, 92.3% of which is African American.
- 6.3 **Has the community been meaningfully engaged?:** The Applicant has engaged meaningfully with the community and the Glen Neighborhood Improvement Association has provided a letter of support for the Property's rezoning. Exhibit C.
- 6.4 **How are residents who have been historically excluded from planning processes being authentically included in the planning of the proposed policy or project?:** The Applicant has engaged in substantial community outreach and received overwhelming support for the project.
- 6.5 **Impact on internal operations:** This bill will not have any substantial impact on internal operations.
- 6.6 **Notification:** The Glen Neighborhood Improvement Association has been notified. Additionally, the site has been posted in compliance with City Council Rules.

EXHIBIT A

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From the Baltimore Business Journal:

<https://www.bizjournals.com/baltimore/news/2019/09/16/developers-sought-for-26-acre-transit-oriented.html>

Developers sought for 26-acre transit-oriented project at Reisterstown Plaza

Sep 16, 2019, 12:11pm EDT **Updated: Sep 16, 2019, 3:20pm EDT**

The Maryland Department of Transportation is looking for companies to complete a second redevelopment phase of the area around the Reisterstown Plaza Metro Station in northwest Baltimore.

Potential developers for the project are asked to respond to the state's Request for Expressions of Interest. The state-owned 26-acre site is located at 6300 Wabash Ave. and is adjacent to an office complex occupied by the Social Security Administration. The Department of Transportation considers the site to be one of its prime transit-oriented development opportunities.

The state's request gauges the interest of developers and marks the first step in a long process. After the state receives responses from developers, it will put out a Request for Proposals or a Request for Qualifications seeking more formal offers. Responses to the current request are due by noon on Oct. 31.

If all goes smoothly, construction could begin three or four years after the project is awarded, according to the Department of Transportation.



MDOT

The Maryland Department of Transportation is looking to complete redevelopment of the Reisterstown Plaza Metro Station similar to Metro Centre at Owings Mills.

"We believe there's real potential here, and we expect this Request for Expressions of Interest will field some ideas for possible mixed-use development that could complement the transit opportunities of the Reisterstown Plaza Metro Station," Nimisha Sharma, director of the Department of Transportation's Office of Real Estate and Economic Development, said in a statement.

The property is currently made up of two large parking lots and 12 acres of unimproved land. The development is adjacent to the Seton Business Park which houses more than 40 businesses and nonprofit organizations including Comcast, Polk Audio, American Red Cross and the Hearing and Speech Agency. Within walking distance of the site is Reisterstown Plaza Shopping Center, where tenants include a Giant grocery store, Home Depot, Burlington, Petco and Marshalls.

The project will be the second phase of redevelopment of the station around the metro station. JBG Smith Properties completed the first portion on behalf of the U.S. Department of General Services with the development of the Social Security Administration building on 11.3 acres of former state-owned property.

CoreCivic Inc., a Nashville, Tennessee-based real estate investment trust bought the two-building, 540,566-square-foot development for \$242 million last year. The complex houses about 2,000 employees.

The selected developer for phase two will be responsible for working with the Maryland Transit Administration on negotiating vehicular and pedestrian access agreements with CoreCivic. The developer will also need to provide public facility and infrastructure improvements for the nearby station which could include painting and new lighting, benches and pylon signage.

Parking requirements are also included in the state's request. The current lots include 670 commuter parking spaces. The development will require the replacement of at least 523 spaces and at least 397 temporary spaces must be maintained during construction.

State documents inform companies that there will be no reliance on any state capital funding for public facilities or private development. They also note the Department of Transportation's preference is a long-term ground lease instead of a sale of the property.

The state compares the opportunity to the Metro Centre at Owings Mills, a massive redevelopment being completed by David S. Brown Enterprises Ltd. The transit-oriented development located next to the Owings Mills subway station will have a total of 1.2 million square feet of office space, 1,700 apartment units and 300,000 square feet of retail when completed. The project also has a campus of the Community College of Baltimore County and a multi-story Baltimore County Public Library branch.

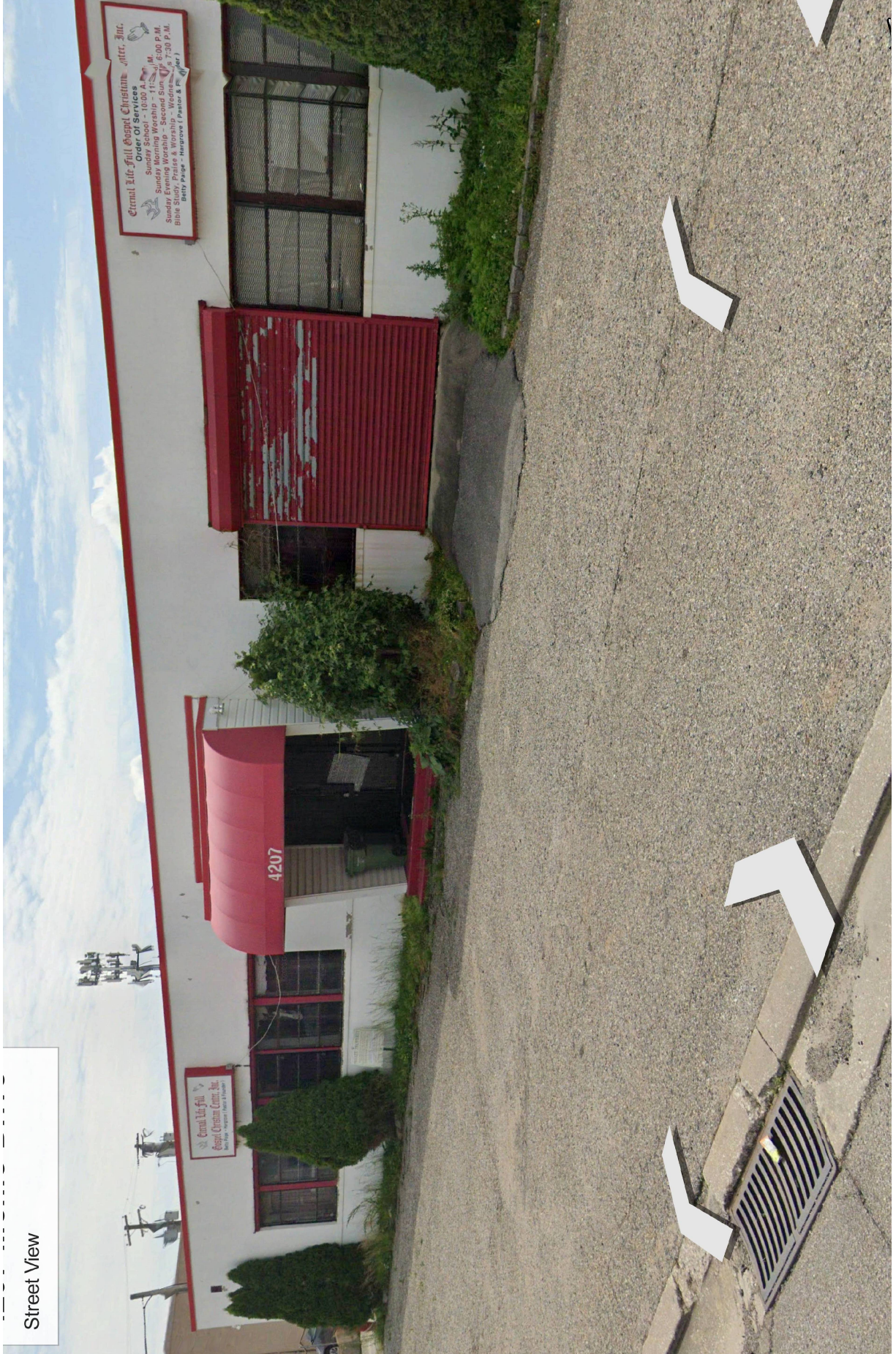
The Reisterstown Plaza station was one of 14 transit hubs tapped by former Gov. Martin O'Malley as focuses for the state's development plans in 2010.

Holden Wilen

Reporter

Baltimore Business Journal

EXHIBIT B



Street View

Eternal Life Full Gospel Christian Center, Inc.
Order Of Services
Sunday School - 9:00 A.M.
Sunday Worship - 11:00 A.M.
Sunday Worship - Second Sunday - 6:00 P.M.
Sunday Study, Praise & Worship - Wednesdays - 7:30 P.M.
Bible Study - Thursdays - 7:00 P.M.
Betty Paige - Harpists / Pastor & Pianist

Eternal Life Full Gospel Christian Center, Inc.
1818 Highway 101, Suite 101
Bismarck, ND 58501

4207

EXHIBIT C



5809 Park Heights Avenue, Baltimore, MD 21215
<http://myglen.org/>

August 4, 2020

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Hon. Issac Schleifer
Baltimore City Council, 5th District
100 Holliday Street
Suite 500
Baltimore, Maryland 21202
<mailto:Isaac.Schleifer@baltimorecity.gov>

Dear Council Member Issac Schleifer,

I am writing this letter to inform you that the GNIA Housing and Zoning Committee reached a unanimous decision to endorse Victoria Campbell's medical service project at 4207 Menlo Avenue. We based our decision on the incredible value the project would pose to the senior citizens that reside in the Glen community.

Please let me know if you have any questions or concerns.

All the best,

Judith Krumbein
GNIA Housing and Zoning Chair

