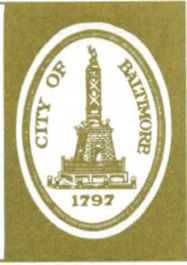


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET
	SUBJECT	CITY COUNCIL BILL #16-0689 / REZONING 300 NORTH WARWICK AVENUE

CITY of
BALTIMORE
MEMO



DATE:

TO

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

August 29, 2016

At its regular meeting of August 25, 2016, the Planning Commission reconsidered City Council Bill #16-0689, for the purpose of changing the zoning for the property known as 300 North Warwick Avenue from the M-2-1 Zoning District to the B-3-3 Zoning District.

In its reconsideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #16-0689 and adopted the following resolution, eight members being present (six in favor, two opposed):

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #16-0689 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: Ms. Kaliopé Parthemos, Chief of Staff
 Mr. Colin Tarbert, Deputy Mayor for Economic and Neighborhood Development
 Mr. Leon Pinkett, Assistant Deputy Mayor for Economic and Neighborhood Development
 Ms. Angela Gibson, Mayor's Office
 The Honorable Rochelle "Rikki" Spector, Council Rep. to Planning Commission
 Mr. David Tanner, BMZA
 Mr. Geoffrey Veale, Zoning Administration
 Ms. Sharon Daboin, DHCD
 Mr. Patrick Fleming, DOT
 Ms. Elena DiPietro, Law Dept.
 Ms. Melissa Krafchik, PABC
 Ms. Natawna Austin, Council Services
 Mr. Nnamdi Iwuoha, petitioner and owner



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

August 25, 2016

REQUEST: City Council Bill #16-0689/ Rezoning – 300 North Warwick Avenue

For the purpose of changing the zoning for the property known as 300 North Warwick Avenue, as outlined in red on the accompanying plat, from the M-2-1 Zoning District to the B-3-3 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Martin French

PETITIONER: Councilman Welch, at the request of Nnamdi Iwuoha

OWNER: Nnamdi Iwuoha

SITE/GENERAL AREA

Site Conditions: 300 North Warwick Avenue is located on the west side of the street, approximately 380' south of the intersection with Franklin Street. This property measures approximately 144'1" by 344'8" and contains approximately 1.256 acres, and is currently improved with a combination one- and two-story detached commercial building covering most of the lot. This site is zoned M-2-1 and is located within the West Baltimore MARC Station Master Plan area.

General Area: This is a predominantly commercial area in which most properties are used by small industrial concerns and commercial wholesalers and, on the corner with Franklin Street, street-level retail business. Approximately 70' south of this property the Amtrak Main Line, providing frequent high-speed passenger rail service on the New York City to Washington, DC corridor, and the MARC Penn Line, providing 6-days per week commuter rail service between Baltimore and Washington, runs on the right-of-way of the Philadelphia, Baltimore, & Washington Railroad. This rail line is also used for some rail freight service (its originally predominant use) and at this point is elevated approximately 25' above the street level of this property.

HISTORY

This property is located in the western portion of the West Baltimore MARC Station Master Plan area. This Master Plan was adopted by the Planning Commission in November 2008.

CONFORMITY TO PLANS

The proposed rezoning is not needed to further the Comprehensive Master Plan objective “strategically redevelop vacant properties throughout the City” (LIVE EARN PLAY LEARN Live Goal 1, Objective 2) as this property could be used under its existing zoning as a manufacturing facility with many uses by right, and as offices, business and professional, upon conditional use approval by the Board of Municipal and Zoning Appeals, which could be consistent with the Comprehensive Master Plan. The West Baltimore MARC Station Master Plan designates the roughly triangular area bounded by Franklin Street, the Gwynns Falls, and the Amtrak Main Line as the “Southwest Industrial Area” (Plan, p. 6), and includes it in its Phase III (2038 and beyond) of the area Plan (“... the [Southwest Industrial] Area should transition from primarily industrial use to more mixed-use character, with high intensity uses closest to the station.” Plan, pp. 6-7). No rezoning is mandated in the Plan. It is unclear what advantage would be gained from beginning a possible Phase III project before the first two phases, which focus first on the immediate area surrounding the existing MARC Station serving West Baltimore, and second on the area northward and eastward of that station, would be substantially completed.

ANALYSIS

From review of the required considerations of §16-305 of the Zoning Code, staff finds that this proposed zoning change is not clearly in the public’s interest, in that its purpose is to allow the owner to use the fact that Business zoning also authorizes dwellings as a basis for seeking approval to raze the existing commercial building and construct a multiple-family mid-rise building containing up to 80 apartments at an inappropriate location. The Zoning Code requires review of these considerations under its §16-305(c):

(c) The Board and the Planning Commission must also consider the following matters:

- (1) existing uses of property within the general area of the property in question;*
- (2) the zoning classification of other property within the general area of the property in question;*
- (3) the suitability of the property in question for the uses permitted under its existing zoning classification; and*
- (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.*

- (1) and (2) The existing use of most properties within this general area is either industrial, with a zoning classification of M-2-1, or nearest the intersection of Warwick Avenue and Franklin Street north of this property, business or commercial with a zoning classification of B-3-2. There is little change anticipated in this pattern, as reflected in the proposed conversion of the M-2 zoning to I-1 zoning under the proposed new zoning code known as TransForm Baltimore. Both existing and proposed (TransForm Baltimore) zoning categories applied to this property do not allow residential uses.
- (3) As noted above, this property has a one- and two-story commercial structure that could be suitable for use as a professional or business office, a use permitted, subject to BMZA approval, by the current M-2 zoning.

- (4) There have been no recent significant development or redevelopment trends in the area around this property that would justify rezoning this property only. The hoped-for stimulus for possible Transit-Oriented Development that would have come from the proposed “Red Line” mass transit route was prevented by State cancellation of the Red Line project earlier this year.

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 is not proposed in the Comprehensive Master Plan, and there are other actions which could accomplish the Plan’s goals and objectives without requiring rezoning of this property alone.
- 2. The needs of Baltimore City:** The proposed action is not required to respond to the needs of the City. In the context of possible use of this property for an apartment house, dwellings at this location would be subject to adverse environmental conditions occasioned by the noise and vibrations caused by passing trains that would be at the window level of the second or third floors of the proposed new residential structure. While Baltimore would welcome high-quality newly-constructed apartments, this is not an optimal site for such development.
- 3. The needs of the particular neighborhood:** The neighborhood is already predominantly light and mixed industrial in character, with a small cluster of highway-oriented commercial uses at the north end of the area, along Franklin Street. The area is not in need of residential units, of which there is an ample supply north of Franklin Street that are zoned R-7 at present.

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;** The immediate area around this property has not undergone significant population change in relation to the remainder of Baltimore City; it has remained, since 1970, a mixed commercial and industrial area.
- 2. The availability of public facilities;** Public facilities are and remain available to support currently-authorized uses of this property.
- 3. Present and future transportation patterns;** There are no anticipated changes to present transportation patterns along this portion of Warwick Avenue, patterns that support continuing industrial use of the property.
- 4. Compatibility with existing and proposed development for the area;** While a commercial office use of the street level of the structure on this property would be not be incompatible with existing development of the area, the fact that this property is below the grade of the rail line immediately south of it makes residential use of a new building’s

upper levels problematic at this location. The Maryland Department of Planning, in reviewing this proposed residential development, noted on August 19, 2016:

“There are significant concerns regarding existing and potential health, safety and air, noise and soil environmental hazards of the site impacting a new residential use in an area zoned industrial and surrounded by industrial uses, an active freight rail line, and nearby hazardous and toxic waste sites. The area in general is not well served by transit or walkable pedestrian facilities.”

There is no other proposed development in this area that would justify the proposed action.

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 will comment separately on this bill.
6. **The relation of the proposed amendment to the City's plan.** There is no obvious relation of the proposed rezoning of this one property to the City's Comprehensive Master Plan.

The City Council may grant the amendment to change the zoning classification based on a finding that there was: (i) a substantial change in the character of the neighborhood where the property is located; or (ii) a mistake in the existing zoning classification. There is no record to indicate that a mistake was made in zoning this property M-2-1 as part of a larger M-2-1 zoning district covering much of the commercial-industrial area of which it is a part. There has been no substantial change in the character of the neighborhood where this property is located that would justify rezoning this one property.

For the reasons stated above, Planning staff recommends disapproval of this bill.

Notification: Staff notified the Rosemont Homeowners' and Tenants' Association and Councilman Welch of this action.



Thomas J. Stosur
Director