

TJS

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET
	SUBJECT	CITY COUNCIL BILL #16-0751 / REZONING – 300 SOUTH PATTERSON PARK AVENUE

CITY of
BALTIMORE
MEMO



TO

DATE:

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

September 19, 2016

At its regular meeting of September 15, 2016, the Planning Commission considered City Council Bill #16-0751, for the purpose of changing the zoning for the property known as 300 South Patterson Park Avenue, from the R-8 Zoning District to the O-R-1 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #16-0751 and adopted the following resolution eight members being present (six in favor, two opposed).

RESOLVED, That the Planning Commission does not concur with the recommendation of its departmental staff, and recommends that City Council Bill #16-0751 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 Parthemós, 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. Mark Shapiro



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

September 15, 2016

REQUEST: City Council Bill #16-0751/ Rezoning – 300 South Patterson Park Avenue:
For the purpose of changing the zoning for the property known as 300 South Patterson Park Avenue, as outlined in red on the accompanying plat, from the R-8 Zoning District to the O-R-1 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Matthew DeSantis, AICP

PETITIONER(S): Mark Shapiro

OWNER: 300 S. Patterson Park, LLC

SITE/GENERAL AREA

Site Conditions: The site is located at the southwest corner of South Patterson Park Avenue and Gough Street. The existing structure on the property is a vacant church building.

General Area: The subject property is located within the Upper Fells Point neighborhood. Upper Fells Point is bounded roughly by Lombard and Pratt Streets to the north, Patterson Park Avenue to the east, Eastern Avenue to the south, and Register Street to the west. With the exception of the majority of properties fronting Eastern Avenue, the rest of the neighborhood is zoned R-8. The subject property is two long blocks from the nearest business, non-residential zoning district.

HISTORY

- The property received conditional use conversion approval via BMZ Appeal No. 2015-0468 on December 15th, 2015 in order to use the premises as six (6) dwelling units and two (2) efficiency units. The approval included variances to minimum lot area and lot coverage.

ANALYSIS

Below is the staff's review of the required considerations of §16-305 of the Zoning Code. Staff does not find that this change is in the public's interest, in that the proposed change in zoning for this sole parcel is not in conformity to the zoning regulations of surrounding properties and would in effect constitute a spot zoning. 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) The existing uses of properties within the general area of the subject property are predominantly single-family attached and multi-family attached dwellings (these being buildings formerly used as single-family dwellings that have been converted to house several apartments). To the north across the street, however, is an early learning center. It should be noted, however, that this educational use is permitted by the R-8 Zoning District.
 - (2) The entirety of the general area surrounding the subject property is zoned R-8. The nearest area zoned differently is comprised of properties fronting Eastern Avenue, which is a significant commercial corridor.
 - (3) The existing zoning classification of the subject property allows for church and residential uses, both of which would be suitable uses.
 - (4) The Upper Fells Point neighborhood has seen a trend of rehabilitation of residential dwellings. This would indicate that the current R-8 zoning designation of the subject property is appropriate.

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 subject property is currently proposed to remain as an R-8 district under Transform Baltimore, the comprehensive rezoning project that is now under review by the City Council.
2. **The needs of Baltimore City:** It is both desirable and necessary that the zoning of properties in the City be in an orderly, planned, and thoughtful fashion. This proposed rezoning of the subject property does not satisfy these factors.
3. **The needs of the particular neighborhood:** The rezoning of this particular property does not serve the interests of the neighborhood, as it will result in a property with zoning regulations not in context with any surrounding properties. This rezoning would in fact constitute a special conference of rights to the subject property in relation to the rights of surrounding property owners.

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;** Between the 2000 and 2010 decennial Censuses, the number of households in the Upper Fells Point area decreased by roughly 8%, indicating a trend towards a decreasing residential population.
2. **The availability of public facilities;** This area is well served by public utilities and services, and will remain so for the foreseeable future.
3. **Present and future transportation patterns;** This property is served by the existing City street grid, and will remain in that configuration.
4. **Compatibility with existing and proposed development for the area;** The proposed office - residential zoning for this property will permit the existing building to be used for office uses. All existing development in the area is medium-density residential.
5. **The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA);** For the above reasons, the Planning Department will recommend disapproval of the rezoning request to the Planning Commission. The BMZA has not yet commented on this bill, but will do so separately.
6. **The relation of the proposed amendment to the City's plan.** TransForm Baltimore proposes for this property to remain zoned R-8.

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.

Staff does not find that this proposed rezoning is due to a substantial change in the character of the neighborhood or due to a mistake in the existing classification. Rather, this request is solely in order to enable a specific development project that the current zoning designation does not permit.

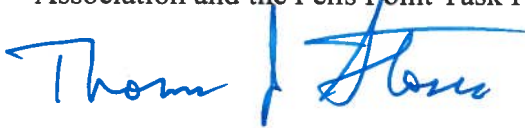
Background: The development proposal for this property is to renovate the vacant church building for a mix of residential and office uses. Originally, the plans for the property were for a conversion to exclusively residential usage. However, as an office component is now desired, this rezoning request has been introduced

Note on TransForm and it's relation to this request:

It is unfortunate when a building is forced to be left vacant due to economic constraints. Staff is similarly constrained in that any request for rezoning must meet specific legal requirements as set forth in Maryland State Code and the Baltimore City Zoning Code. While the current request does not meet those requirements, Staff's work in rewriting Baltimore City's zoning code has sought to remedy cases such as these in the future. Specifically, the draft version of TransForm Baltimore proposes the "*Neighborhood Commercial Establishment*". This will be a commercial use that is established within a residential neighborhood, but in a structure that is non-residential in its construction and original use. This new use will be conditional to the Board of Municipal and Zoning Appeals in the R-5 through R-10 districts and will enable an applicant to establish any of the following uses: art gallery, arts studio, day care center (adult

or child), office, personal services establishment, restaurant, or retail goods establishment (no alcohol sales). This change to the zoning code is intended to allow greater opportunities for adaptive reuse of non-residential properties in residentially zoned areas.

Notification: Abutting property owners as well as the Upper Fells Point Improvement Association and the Fells Point Task Force have been notified of this action.



Thomas J. Stosur
Director