



**BALTIMORE CITY COUNCIL  
ECONOMIC AND COMMUNITY DEVELOPMENT  
COMMITTEE**

*Mission Statement*

*On behalf of the Citizens of Baltimore City*, the Committee on Economic and Community Development (ECD) is responsible for supporting strong thriving communities. ECD will review proposed zoning and land use changes, tackle issues related to economic development, oversee housing policy, and promote equitable economic opportunity for all Baltimore residents.

**The Honorable Sharon Green Middleton**

**PUBLIC HEARING**

**February 6, 2024**

**2:01 PM**

**CLARENCE "DU" BURNS COUNCIL CHAMBERS**

**22-0297**

**Rezoning - 2101 Washington Boulevard**

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**BILL SYNOPSIS**

**Committee: Economic and Community Development**

**Bill: 22-0297**

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**Rezoning 2101 Washington Boulevard**

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**Sponsor:** Councilmember Porter

**Introduced:** November 7<sup>th</sup>, 2022

**Purpose:**

FOR the purpose of changing the zoning for the property known as 2101 Washington Boulevard (Block 0770, Lot 006) , as outlined in red on the accompanying plat, from the C-2 Zoning District to the I-1 Zoning District.

BY amending  
 Article - Zoning  
 Zoning District Maps  
 Sheets 64  
 Baltimore City Revised Code  
 (Edition 2000)

**Effective:** The 30<sup>th</sup> day after date it is enacted

**Agency Reports**

City Solicitor	Approve for form and sufficiency pending amendment
Dept of Housing & Community Development	
BMZA	
Planning Commission	Support pending amendment
BCD	
Dept of Transportation	No Opposition
Parking Authority	No opposition

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## Analysis

### Current Law

Article 32 – Zoning, Zoning District Map Sheet 64; Baltimore City Revised Code (Edition 2000). Under § 5-508(b)(1) of Article 32 – Zoning, and the State Land Use Article, the City Council may approve a rezoning based on 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.

### Bill Summary

If enacted this bill would change the zoning of the property known as 2101 Washington Boulevard from C-2 Zoning (small to medium scale commercial use) to I-1 Zoning (Light industrial and manufacturing, use)

The Law dept has noted a typological error in the bill and has added an amendment to its report to correct the error. The Planning Department staff noted the same error in the bill.

The Planning Commission has asked that an additional property also be rezoned. It is a City-owned lot that is currently unimproved - but the law department has noted in their report that this needs a separate bill in order to meet the notice requirements.

The Planning Department in their report finds the property is mistakenly zoned and rezoning the property is the most reasonable solution.

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## Additional Information

**Fiscal Note:** Not Available

**Information Source(s):** 22-0297 1<sup>st</sup> Reader, Agency Reports, Zoning Code

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

Analysis Date:        January 24, 2024

**CITY OF BALTIMORE  
COUNCIL BILL 22-0297  
(First Reader)**

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Introduced by: Councilmember Porter

At the request of: J.R. Woolman, LLC o/b/o Washington Boulevard Business Trust

Address: 145 West Ostend St., Suite 600, Baltimore, MD 21230

Telephone: (612) 389-0659

Assigned to: Economic and Community Development Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and Community Development, Board of Municipal and Zoning Appeals, Planning Commission, Baltimore Development Corporation, Department of Transportation, Parking Authority of Baltimore City

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Rezoning – 2101 Washington Boulevard**

3 FOR the purpose of changing the zoning for the property known as 2101 Washington Boulevard  
4 (Block 0770, Lot 006) , as outlined in red on the accompanying plat, from the C-2 Zoning  
5 District to the I-1 Zoning District.

6 BY amending

7 Article - Zoning

8 Zoning District Maps

9 Sheets 64

10 Baltimore City Revised Code

11 (Edition 2000)

12 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That  
13 Sheet 64 of the Zoning District Maps is amended by changing from the C-2 Zoning District to  
14 the I-2 Zoning District the property known as 2101 Washington Boulevard (Block 0770,  
15 Lot 006), as outlined in red on the plat accompanying this Ordinance.

16 **SECTION 2. AND BE IT FURTHER ORDAINED,** That as evidence of the authenticity of the  
17 accompanying plat and in order to give notice to the agencies that administer the City Zoning  
18 Ordinance: (i) when the City Council passes this Ordinance, the President of the City Council  
19 shall sign the plat; (ii) when the Mayor approves this Ordinance, the Mayor shall sign the plat;  
20 and (iii) the Director of Finance then shall transmit a copy of this Ordinance and the plat to the  
21 Board of Municipal and Zoning Appeals, the Planning Commission, the Commissioner of  
22 Housing and Community Development, the Supervisor of Assessments for Baltimore City, and  
23 the Zoning Administrator.

24 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day  
25 after the date it is enacted.


EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

# **Economic and Community Development Committee**

## **Agency Reports**

**22-0297**

**Rezoning – 2101 Washington Boulevard**

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #22-0297 – REZONING – 2101 WASHINGTON BOULEVARD		

TO

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

DATE: December 1, 2023

At its regular meeting of November 30, 2023, the Planning Commission considered City Council Bill #22-0297, for the purpose of changing the zoning for the property known as 2101 Washington Boulevard, from the C-2 Zoning District to the I-1 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #22-0297 and adopted the following resolution, with nine members being present (nine in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, adopts the findings and equity analysis outlined in the staff report, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #22-0297 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 Eric Costello, Council Rep. to Planning Commission  
Mr. Colin Tarbert, BDC  
Ms. Rebecca Witt, BMZA  
Mr. Geoffrey Veale, Zoning Administration  
Ms. Stephanie Murdock, DHCD  
Ms. Elena DiPietro, Law Dept.  
Mr. Francis Burnszynski, PABC  
Mr. Liam Davis, DOT  
Ms. Natawna Austin, Council Services  
Mr. Joe Woolman, Esq.



Brandon M. Scott  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chair; Eric Stephenson, Vice Chair

### STAFF REPORT



Chris Ryer  
Director

November 30, 2023

**REQUEST:** City Council Bill #22-0297/ Rezoning – 2101 Washington Boulevard:

For the purpose of changing the zoning for the property known as 2101 Washington Boulevard (Block 0770, Lot 006) , as outlined in red on the accompanying plat, from the C-2 Zoning District to the I-1 Zoning District.

**RECOMMENDATION:** Amend, adopt findings, and approve, with the following amendments:

- On Page 1, in Line 14, strike I-2 and replace with I-1; and
- Rezone the adjacent unimproved City-owned lot known as Block 0770, Lot 007 from the C-2 Zoning District to the I-1 Zoning District.

**STAFF:** Eric Tiso

**PETITIONER:** J.R. Woolman, LLC o/b/o Washington Boulevard Business Trust

**OWNER:** Washington Boulevard Business Trust

### **SITE/GENERAL AREA**

Site Conditions: This site is located on the southeastern side of the street, between I-95 and Western Avenue. The property is approximately triangular in shape, containing 1.504± acres of land, and is improved with a one-story office and industrial building and surface parking lot.

General Area: This property is located in the southwestern corner of the Carroll-Camden Industrial Area, at the intersection with three other neighborhoods. The Carroll Park Neighborhood is located across Washington Boulevard to the northwest on the north side of I-95, the tip of the Saint Paul neighborhood is located across I-95 to the south on the eastern side of Washington Boulevard, and the Morrell Park neighborhood is on the south side of I-95 west of Washington Boulevard, and extending east below the Saint Paul neighborhood.

### **HISTORY**

- This property was previously zoned M-2-2 under the prior Zoning Code, but was rezoned as part of the comprehensive rezoning of the City in 2017 to C-2 Commercial zoning.
- Ord. #20-440 repealed and replaced the Carroll-Camden Urban Renewal Plan (URP).



## 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

This property is located at the intersection of four neighborhood areas, adjacent to an interstate highway, between two parks, and is otherwise surrounded by industrial zoning. At the time of the Comprehensive Rezoning, the owners of the property were considering changing the use of the building to include more commercial uses, and petitioned to have their property rezoned. Since it was part of the City-wide Comprehensive Rezoning effort, it was not necessary at the time to meet the factors required for rezoning of land, as the Commission must do when considering properties by themselves. For that reason, it wasn’t remarkable that this was a stand-alone property with C-2 zoning. Staff understands that in recent years, the owners have changed their minds, and would like to return the property to industrial zoning.

### **Required Findings:**

Per §5-508(b)(1) of Article 32 – *Zoning*, and 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. The applicant has submitted a memorandum in support of the rezoning with rationale to support a finding of a mistake.

### **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 Code, Land Use § 10-305 (2023)). In reviewing this request, the staff finds that:

- 1. The Plan:** This site is located within the Carroll-Camden (URP) area, which designated the land uses within the plan area according to the zoning of the parcels. This proposal will not conflict with the intent of the URP update, though it should be reflected by an amendment to the land use plan in the URP.
- 2. The needs of Baltimore City:** Industrial zoning has been reducing in recent years, and there is benefit to the City as a whole by protecting and retaining industrial zoning in areas where the properties are conducive to industrial use and nodes of compatible zoning.
- 3. The needs of the particular neighborhood:** This site is located at the intersection of several neighborhoods, but more realistically, is surrounded by industrial uses, a couple of parks, and I-95. Preserving industrial in this location makes sense based on the context, and that there is low likelihood of negative impacts to any nearby residents.

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 Code, Land Use § 10-304 (2023)). The findings of fact include:

- 1. Population changes;** This site is located in the Carroll-Camden neighborhood statistical area, which is nearly devoid of residents. Between 2010 and 2020, population dropped from 64 to 28, which while appears significant in percentage terms, is perhaps less important as a consideration with so few people. In any case, the trend indicates that additional industrial use would not likely be detrimental to any nearby residents.
- 2. The availability of public facilities;** This area is well served by City infrastructure, which is not expected to change. As the building on the site is to be retained, there will be no change to that infrastructure, or for the provision of adequate services.
- 3. Present and future transportation patterns;** As the property has not practically changed in its use, there are no expected impacts.
- 4. Compatibility with existing and proposed development for the area;** The property is surrounded by either industrial uses, an interstate highway, or two nearby parks. As no change is proposed for the actual use of the property, there are no expected changes in compatibility.
- 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 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.** There are no relevant specific plans for this area that would affect the consideration of this bill.

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;** This property is located adjacent to industrially zoned parcels on either side of Washington Boulevard north of the site. Directly across the street is the entry drive to the Carroll Park Golf Course. South of the property is the I-95 right-of-way, with the Maisel Street park and industrial uses beyond the highway to the south.
- (ii) **the zoning classification of other property within the general area of the property in question;** This property is adjacent to an IMU-1 zone to the north, I-2 industrial zone to the east, OS across the street to the west (Carroll Park Golf Course), and addition OS (Maisel Street Park) and I-1 zoning across the highway to the south.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** As the use of the property will not change, it will continue to be suitable for continued industrial use.
- (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.** There have been no significant changes from development in the immediate area of this property. Zoning designations for the area remained fairly consistent from the prior zoning code, with the exception of the subject property, and with the OS zoning that was created in the current zoning code that didn't have an equivalent classification under the old code.

Below is the staff's review of the required considerations of §5-508(b)(3) of Article 32 – *Zoning*, where staff finds that this change is in the public's interest, in that it will retain industrial zoning in a compact node of industrial uses, essentially undoing the mistake made in the Comprehensive Rezoning process.

**Amendments:** Staff has two recommended amendments – one will correct a typographical error Changing a reference to I-2 to the correct I-1 on Page 1, in Line 14. The other amendment is to also rezone the adjacent City-owned parcel from C-2 to I-1 as well. That parcel is a relatively narrow strip of land that is undeveloped, and serves as a buffer between the subject property and the I-95 right-of-way. There is no purpose to retaining C-2 zoning for that parcel, as any future possibility of sale and redevelopment of this parcel is unlikely, due to its odd shape and configuration.

**Background:** Staff understands that the owner of this parcel had some ideas that there might be possibilities of commercial use, and so made requests as part of the Comprehensive Rezoning of the City for, at first, IMU (as it was initially proposed as only one district), and later in the process as C-2, which was what was eventually adopted as part of the official zoning map. Over the years since the 2017 effective date of the current zoning code, no commercial redevelopment opportunities have been realized, and it has become apparent that this commercial zoning was a

mistaken venture. Restoring the industrial designation for this property is the most reasonable option, ensuring that its use does not remain nonconforming (as an industrial building in a commercial zone). A summary of the changes is attached below.

Equity:

Staff does not believe that the change in zoning for this parcel restoring industrial designation will have any particular impact on the surrounding properties, nor on any area residents, as the practical use of the parcel has not changed. Staff does not anticipate any impact on staff time or resources as a result from this action.

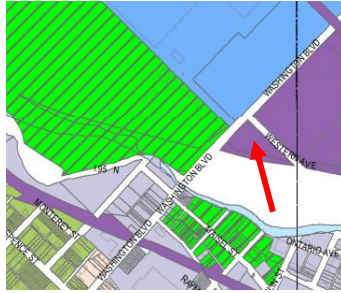
Notification: The Baltimore Industrial Group (BIG) has been notified of this action, and a letter of support has been provided for the Commission's consideration.



**Chris Ryer**  
**Director**

**Summary of changes under CCB #12-0152 - TransForm Baltimore – Zoning:**

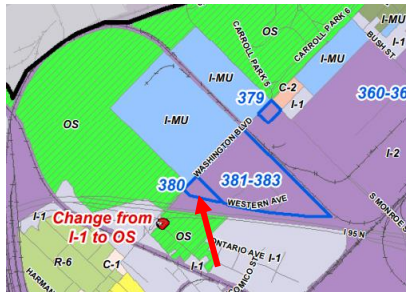
Excerpt from First Reader Map, sheet 10-A: (dark purple color indicates I-2)



**District 10 - TransForm Baltimore Map Amendment List – Aug 2016:**

M431	431	Joseph R. Wollman III on behalf of J.R. Woolman, LLC	2101	Washington Blvd	10	M-2-2	I-2	I-MU	I-MU will provide necessary flexibility to accommodate growth
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Excerpt from District 10 - TransForm Baltimore Map Amendments – 31 Aug 2016:



Excerpt from 10th District Proposed Map Amendments – 5 Oct 2016:

Transform Baltimore - Map Amendments 10th Council District 10/5/2016

id	no	Amendment Offered by	Street Number	Street Address	Block and Lot Number	Council District	Current Zoning	Transform Zoning Designation	Proposed Zoning	Notes
M380	380	Joseph R. Wollman III on behalf of J.R. Woolman, LLC	2101	Washington Blvd		10	M-2-2	I-2	C-2	Notes for the building include:

Land Use & Transportation Committee – Adopted Map Amendments – 24 Oct 2016:

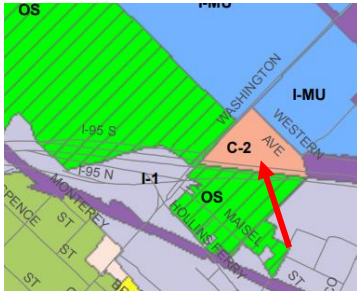
**Amendment No. 17 {M380}**

For the following property, the Comprehensive Zoning Map accompanying Council Bill 12-0152 is amended by changing the zoning from proposed Zoning District I-2 to Zoning District C-2:

2101 Washington Boulevard

(Block 0770, Lot 006)

Excerpt from Third Reader Map, sheet 10-A:





## MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council  
c/o Natawna Austin, Executive Secretary

From: Alice Kennedy, Housing Commissioner

Date: February 6<sup>th</sup>, 2024

**Re: City Council Bill 22-0297 Rezoning - 2101 Washington Boulevard**

### Introduction

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 22-0297 Rezoning - 2101 Washington Boulevard for the purpose of changing the zoning for the property known as 2101 Washington Boulevard (Block 0770, Lot 006), as outlined in red on the accompanying plat, from the C-2 Zoning District to the I-1 Zoning District.

If enacted, City Council Bill 22-0297 would allow for the rezoning of 2101 Washington Boulevard (Block 0770, Lot 006) from its current C-2 Zoning District to the I-1 Zoning District. The applicant intends to use the property for light industrial purposes to include outdoor storage, warehouse and accessory office.

### DHCD Analysis

At its regular meeting of November 30th, 2023, the Planning Commission concurred with the recommendation of its Departmental staff and recommended the Bill be amended and approved by the City Council. Planning staff noted in their report that the rezoning of the subject property is in the public's interest by protecting and retaining Baltimore City's industrial zoning in areas where the properties are conducive to industrial use and nodes of compatible zoning.

As this site is currently surrounded by industrial uses, two parks, and I-95, this location is a good candidate for the preservation of industrial use and is unlikely to negatively impact nearby residents. The subject property is not located within any of DHCD's Impact Investment Areas, Community Development Zones, or Streamlined Code Enforcement Areas. The Bill does not have an operational or fiscal impact on DHCD and the rezoning would not endanger public health, safety or welfare. This rezoning may support the productive use of this property and expand industrial redevelopment opportunities for the Carrol-Camden Industrial Area and surrounding communities.

## Conclusion

We respectfully request a **favorable** report with amendments on City Council Bill 22-0297.

*AK/jw*

*cc: Ms. Nina Themelis, Mayor's Office of Government Relations*



# TRANSMITTAL MEMO

TO: Council President Nick J. Mosby  
FROM: Peter Little, Executive Director  
Date: December 5, 2022  
RE: City Council Bill 22-0297



I am herein reporting on City Council Bill 22-0297 introduced by Councilmember Porter at the request of J.R. Woolman, LLC. o/b/o Washington Boulevard Business Trust.

The purpose of this bill is to change the zoning for the property known as 2101 Washington Boulevard (Block 0770, Lot 006), from the Community Commercial (C-2) to the Light Industrial (I-1) Zoning District.

The Parking Authority of Baltimore City (PABC) has reviewed the proposed legislation. The legislation requests for the selected properties to be rezoned and does not reference parking. Parking requirements for the site will be based on the underlying zoning and the standards in the Zoning Code. When building plans and uses are submitted, PABC will be involved through the Site Plan Review Committee (SPRC) to ensure that the design guidelines for parking and loading demands are adequately addressed and that negative effects of parking and loading are mitigated.

Based on the comments above, the PABC does not oppose the passage of City Council Bill 22-0297.

200 W. LOMBARD STREET • SUITE B • BALTIMORE MD • 21201 • P:443.573.2800 • F:410.685.1557

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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



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

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January 3, 2024

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

Re: City Council Bill 22-0297 – Rezoning – 2101 Washington Boulevard

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0297 for form and legal sufficiency. The bill would change the zoning for 2101 Washington Boulevard from the C-2 Zoning District to the I-1 Zoning District.

Even if the Mayor and City Council believes now that the selection of the C-2 Zoning District for this parcel was wrong, second guessing is not allowed in piecemeal rezoning. While any number of zoning designations are open for properties in a comprehensive rezoning, there is not the same flexibility in piecemeal rezoning. *Mayor and City Council of Rockville v. Rylyns Enterprises*, 372 Md. 514, 535-536 (2002).

Although “the impact of this presumption often has been felt to be unduly harsh to the landowner who finds that planned uses of a property are no longer allowed under the zoning classification into which the land has been placed,” Maryland’s highest Court has explained that the greater good to the landowner and society at large is the reason for the rigidity in zoning. *Id.* at 536. The “requirement of uniformity serves to protect the landowner from favoritism towards certain landowners within a zone by the grant of less onerous restrictions than are applied to others within the same zone elsewhere in the district, and also serves to prevent the use of zoning as a form of leverage by the local government seeking land concession, transfers, or other consideration in return for more favorable zoning treatment.” *Id.*

Therefore, 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)(1).

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.

*Rylyns Enterprises*, 372 Md. at 538-539.

It is critical to understand that in “Maryland, the change-mistake rule applies to all piecemeal zoning applications involving Euclidian zones, including those involving conditional zoning. The change-mistake rule does not apply, in any event, to changes in zoning made in a comprehensive rezoning, or the piecemeal grant of a floating zone.” *Id.* at 539. This is why a change or a mistake must be found for rezoning and NOT for comprehensive map changes or Planned Unit Developments, which is a type of floating zone.

#### Legal Standard for Change in the Character of the Neighborhood

“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 last comprehensive rezoning of the property and that this rezoning will promote the “public health, safety, morals, or general welfare” and not merely advantage the property owner. *Id.*

As to the 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) (citations omitted). However, those physical changes cannot be infrastructure such as sewer or water extension or road widening. *Clayman*, 266 Md. at 419. In addition, the physical changes have to be shown to be unforeseen at the time of the last rezoning. *Rylyns Enterprises*, 372 Md. at 538. Contemplated growth and density are not sufficient. *Clayman*, 266 Md. at 419.

As to whether the change benefits solely the property owner, Courts look, in part, to see if a similar use is nearby such that the community could easily take advantage of the use elsewhere. *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) (citation omitted). In other words, “[a] conclusion based upon 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.

A court has NOT considered it enough 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 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 v. Beauchamp*, 268 Md. 643, 653-54 (1973).

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.*

### Findings of Fact

In determining whether to rezone based on mistake or change in the character of the neighborhood, the Mayor and City Council is required to make findings of fact on the following matters:

- (i) population change;
- (ii) the availability of public facilities;
- (iii) the present and future transportation patterns;
- (iv) compatibility with existing and proposed development for the area;
- (v) the recommendations of the Baltimore City Planning Commission and the Board [of Municipal and Zoning Appeals]; and

- (vi) the relationship of the proposed amendment to Baltimore City’s plan.

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

The Mayor and City Council must also consider:

- (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.” *City Council of Prince George’s Cty. v. Zimmer Dev. Co.*, 444 Md. 490, 510 (2015) (citation omitted); *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.’”).

### 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, like this one, 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.

Thus, to avoiding spot zoning, 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 (1977) (cited with approval in *Ryllys*, 372 Md. at 545-46).

### Planning Commission Recommendation

The Planning Department Report ("Report") notes that the applicant believes that the comprehensive rezoning of this property during the last update to the City's Zoning Code ("Transform Baltimore") was a mistake. There are no facts in the Report to support this finding so the City Council must elicit facts at the hearing on this bill to support the concept of a prior mistake. As noted, a mere change in the desired use of the property is not sufficient.

Next, the Report suggests that an additional property also be rezoned. This must be done in a separate bill because the requisite advertising and posting for that rezoning must occur before both the Planning Commission hearing and the City Council hearing. Baltimore City Code, Art. 32, §§ 5-506; 5-601; 5-604; 5-606.

### Process

The City Council is required to hold a quasi-judicial public hearing with regard to the bill wherein 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. After weighing the evidence presented and submitted into the record before it, the Council is required to make findings of fact about the factors in Section 10-304 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 neighborhood; and (2) a new zoning classification for the properties, 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 or description of the property 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. City Code, Art., § 5-601(d). 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).

The bill is the appropriate method for the City Council to elicit the facts and make the determination as to whether the legal standard for rezoning has been met. However, there is a typographical error in line 14 on page 1 of the bill that inadvertently references the I-2 zoning district. An amendment to fix this error is attached to this report.

Assuming this amendment is adopted, the required findings are made at the hearing and all procedural requirements are satisfied, the Law Department can approve this bill for form and legal sufficiency. A separate bill would be needed to rezone any other properties so that the requisite notice and posting requirements for the additional properties can be satisfied.

Very truly yours,



Hilary Ruley  
Chief Solicitor

cc: Ebony M. Thompson, Acting City Solicitor  
Nina Themelis, Mayor's Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Ashlea Brown, Chief Solicitor  
Jeffery Hochstetler, Chief Solicitor  
Teresa Cummings, Assistant Solicitor  
Michelle Toth, Assistant Solicitor




**AMENDMENTS TO COUNCIL BILL 22-0297**  
(1<sup>st</sup> Reader Copy)

Proposed by: Law Dep't

**Amendment No. 1: Correct typographical error**

On page 1, in line 14, delete "I-2" and substitute "I-1".

<b>F R O M</b>	NAME & TITLE	Corren Johnson, Director	<b>CITY of BALTIMORE  M E M O</b>	
	AGENCY NAME & ADDRESS	Dept. of Transportation (DOT) 417 E Fayette Street, Room 527		
	SUBJECT	City Council Bill 22-0297		

DATE: 2/1/2024

TO: Mayor Brandon Scott  
TO: Economic and Community Development Committee  
FROM: Department of Transportation  
POSITION: **No Objection**  
SUBJECT: Council Bill 22- 0297

**INTRODUCTION** - Rezoning - 2101 Washington Boulevard

**PURPOSE:** For the purpose of changing the zoning for the property known as 2101 Washington Boulevard (Block 0770, Lot 006), as outlined in red on the accompanying plat, from the C-2 Zoning District to the I-1 Zoning District.

**COMMENTS:** Council Bill 22-0297 seeks to rezone 2101 Washington Blvd from a C-2 to a I-1 Zoning. The C-2 zoning district allows for small to medium commercial uses, whereas the I-1 Zoning District allows for light industrial uses such as manufacturing, processing, etc. The statement of intent notes that the owners would like to use this property for storage, light industrial use, and as a warehouse. Traffic impacts will be assessed and mitigated as needed as part of the site development or re-development process.

**AGENCY POSTION:** The advancement of Council Bill 22-0297 will have no effect on DOT fiscally or operationally. For that reason, DOT holds a position of **no objection** to CB 22-0297.

If you have any questions, please do not hesitate to contact Liam Davis at [LiamF.Davis@baltimorecity.gov](mailto:LiamF.Davis@baltimorecity.gov) or at 410-545-3207.

Sincerely,

Corren Johnson,  
Director

**ECONOMIC AND COMMUNITY  
DEVELOPMENT COMMITTEE**

**22-0297**

**ADDITIONAL DOCUMENTS**

**ZONING ORDINANCE REQUEST**

**STATEMENT OF INTENT**

**FOR**

*{Property Address; Block \_\_\_\_, Lot \_\_\_\_}*

**1. Applicant's Contact Information:**

Name:

Mailing Address:

Telephone Number:

Email Address:

**2. All Proposed Zoning Changes for the Property:**

**3. All Intended Uses of the Property:**

**4. Current Owner's Contact Information:**

Name:

Mailing Address:

Telephone Number:

Email Address:

**5. Property Acquisition:**

The property was acquired by the current owner on \_\_\_\_\_ by deed recorded in the  
Land Records of Baltimore City in Liber \_\_\_\_\_ Folio \_\_\_\_\_ .

**6. Contract Contingency:**

(a) There is \_\_\_\_\_ is not \_\_\_\_\_ a contract contingent on the requested legislative authorization.

(b) If there is a contract contingent on the requested legislative authorization:

(i) The names and addresses of all parties to the contract are as follows *{use additional sheet if necessary}*:

(ii) The purpose, nature, and effect of the contract are:


**7. Agency:**

(a) The applicant is            is not            acting as an agent for another.

(b) If the applicant is acting as an agent for another, the names of all principals on whose behalf the applicant is acting, including the names of the majority owners of any corporate entity are as follows {use additional sheet if necessary}:

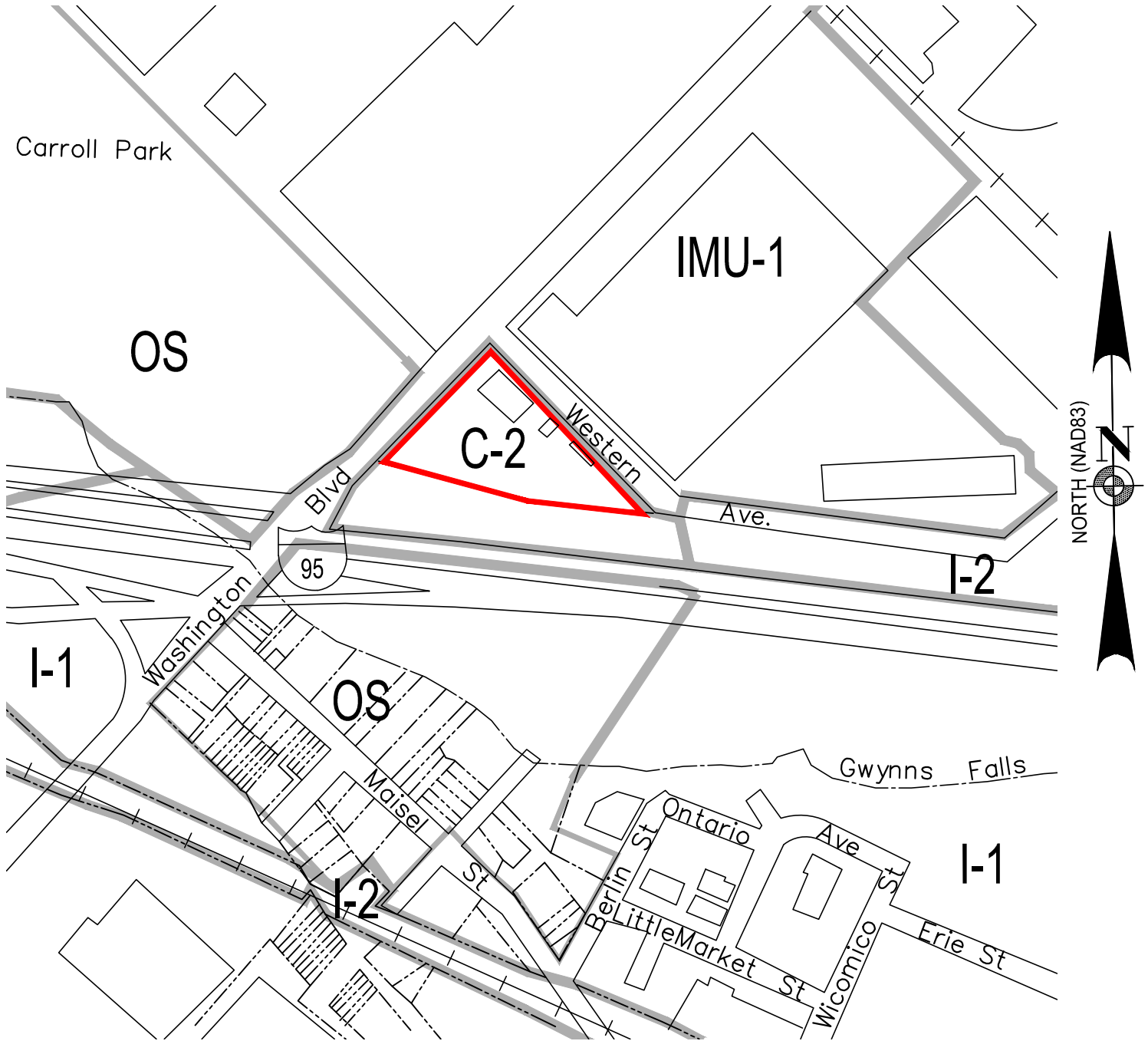
**AFFIDAVIT**

I, \_\_\_\_\_, solemnly affirm under the penalties of perjury that the information given in this Statement of Intent is true and complete to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date

SHEET NO. 64 OF THE ZONING DISTRICT MAP OF BALTIMORE CITY ZONING CODE



MAYOR

PRESIDENT CITY COUNCIL

**NOTE:**

IN CONNECTION WITH THE PROPERTY KNOWN AS 2101 WASHINGTON BLVD. THIS APPLICANT WISHES TO REQUEST THE REZONING OF THE AFOREMENTIONED PROPERTY FROM C-2 ZONING TO I-1 AS OUTLINED IN RED ABOVE.

**CMS** Associates LLC



4925 Ellis Lane  
 Ellicott City, Maryland 21043  
 Tel. (410) 988-2436  
 Contact: Geoffrey L. Ciniero, PE  
 www.cms-engineering.net

2101 WASHINGTON BLVD.  
 LOT 6

WARD 21 SECTION 05 BLOCK 770  
 BALTIMORE CITY, MARYLAND

SCALE: 1"=300'

DATE: 10/07/2022

DRAWN BY: GLC

DESIGN BY: GLC

REVIEW BY: MAC

JOB NO: 22-058

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**CERTIFICATE OF MAILING**  
**WRITTEN NOTICE TO PROPERTY OWNER(S)**  
**City Council Bill Number: 22-0297**

I HEREBY CERTIFY, under penalty of perjury, that the attached\* document was mailed to the following:

A. Property Owner: Washington Boulevard Business Trust c/o Brett Plano

B. Property Address: 2101 Washington Boulevard

or

C. \_\_\_\_\_ List of Property Owners  
*(Place a Check Mark Above & Attach A List of Property Owners with Addresses)*

On the following date:

---

**Mailed By:**

---

**Applicant's Name:** Joseph R Woolman III

**Applicant's Organization:** Silverman Thompson, Slutkin and White

**Applicant's Title:** Partner

**Applicant's Address:** 400 East Pratt Street, Suite 900, Balt., MD 21202

**Applicant's Telephone Number:** 410-385-2225

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

January 19, 2024

Brett Plano  
Washington Boulevard Business Trust  
2101 Washington Boulevard

**Re: City Council Bill 22-0297**

Dear Brett,

Please see the notice below regarding the rezoning of your property:

**BALTIMORE CITY COUNCIL  
PUBLIC HEARING ON BILL NO. 22-0297**

The Economic and Community Development Committee of the Baltimore City Council will conduct a public hearing on City Council Bill No. 22-0297 on February 6, 2024, at 2:00 p.m. in the Clarence "Du" Burns Chamber, City Hall, 100 N. Holliday Street, 4th Floor, Baltimore, MD 21202. Information on how the public can participate in the hearing virtually, via Webex, will be available at <https://baltimore.legistar.com/Calendar.aspx>.

**Rezoning – 2101 Washington Boulevard**

FOR the purpose of changing the zoning for the property known as 2101 Washington Boulevard (Block 0770, Lot 006) , as outlined in red on the accompanying plat, from the C-2 Zoning District to the I-1 Zoning District.

BY amending  
Article - Zoning  
Zoning District Maps  
Sheets 64  
Baltimore City Revised Code  
(Edition 2000)

Applicant: Joseph R. Woolman III  
For more information, contact Committee Staff at (410) 396-1091.  
NOTE: This bill is subject to amendment by the Baltimore City Council.

SHARON GREEN MIDDLETON  
Chair

Very Truly Yours,

  
Joseph R. Woolman, III

JRWIII: jts



**Baltimore City Council  
Certificate of Posting - Public Hearing Notice**

*Today's Date: January 10, 2024*

**City Council Bill No.: 22-0297**



I HEREBY CERTIFY, under penalty of perjury, that a sign was posted at:  
**Address: 2101 Washington Boulevard (1 of 2)**

**Date Posted: January 7, 2024**

---

**Name: Joseph R. Woolman III**

**Address: 145 West Ostend Street; Suite 600**

**Baltimore, Md. 21230**

**Telephone: 612-389-0659**

- Email to: [Natawnab.Austin@baltimorecity.gov](mailto:Natawnab.Austin@baltimorecity.gov)
- Mail to: Baltimore City Council; c/o Natawna B. Austin; Room 409, City Hall; 100 N. Holliday Street; Baltimore, MD 21202

**Baltimore City Council  
Certificate of Posting - Public Hearing Notice**

*Today's Date: January 10, 2024*

**City Council Bill No.: 22-0297**



I HEREBY CERTIFY, under penalty of perjury, that a sign was posted at:

**Address: 2101 Washington Boulevard – Western Avenue side (2 of 2)**

**Date Posted: January 7, 2024**

---

**Name: Joseph R. Woolman III**

**Address: 145 West Ostend Street; Suite 600**

**Baltimore, Md. 21230**

**Telephone: 612-389-0659**

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- Email to: [Natawnab.Austin@baltimorecity.gov](mailto:Natawnab.Austin@baltimorecity.gov)
- Mail to: Baltimore City Council; c/o Natawna B. Austin; Room 409, City Hall; 100 N. Holliday Street; Baltimore, MD 21202