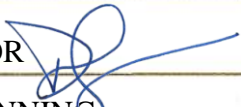



FROM	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #21-0045 / REZONING – BLOCK 4053, LOT 013, WARD 09, SECTION 020		

TO

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

DATE: March 23, 2021

At its regular meeting of March 11, 2021, the Planning Commission considered City Council Bill #21-0045, for the purpose of changing the zoning for the property at Block 4053, Lot 013, Ward 09, and Section 020, as outlined in red on the accompanying plat, from the O-S 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 approval of City Council Bill #21-0045 and adopted the following resolution nine members being present (nine in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, adopts the findings outlined in the staff report, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #21-0045 be passed 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. Natasha Mehu, Mayor's Office
Ms. Nina Themelis, Mayor's Office
The Honorable Eric Costello, Council Rep. to Planning Commission
Mr. Matthew Stegman, City Council President's Office
Ms. Nikki Thompson, City Council President's Office
Mr. Colin Tarbert, BDC
Ms. Kathleen Byrne, 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. Dominic McAlily, Council Services



Brandon M. Scott
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

March 11, 2021

REQUEST: City Council Bill #21-0045/ Rezoning – Block 4053, Lot 013, Ward 09, Section 020:

For the purpose of changing the zoning for the property at Block 4053, Lot 013, Ward 09, and Section 020, as outlined in red on the accompanying plat, from the O-S Zoning District to the R-7 Zoning District; and providing for a special effective date.

RECOMMENDATION: Adopt findings and Approve

STAFF: Eric Tiso

INTRODUCED BY: Councilmember Ramos at the request of Robert Edwards

OWNER: Robert Edwards

SITE/GENERAL AREA

Site Conditions: This property is located on the north side of the street, in the middle of the 600-block of East 33rd Street. The lot is currently zoned OS (Open Space), measures approximately 106' wide by 85' deep, and is currently unimproved.

General Area: This property is located on the southern edge of the Waverly neighborhood, which is predominantly residential in character, with a large portion of the housing stock comprised of row homes, with occasional groupings of semi-detached and detached homes. Commercial and institutional buildings and uses are found along the larger peripheral streets. The Better Waverly neighborhood is located to the south of East 33rd Street.

HISTORY

- This property was zoned OS (Open Space) as part of the Comprehensive Rezoning of the City in 2017. The property was previously zoned R-6 residential.

ANALYSIS

This property was rezoned OS as part of the Comprehensive Rezoning of the City in error. Staff will outline the history of the City-wide rezoning process, and will show where an administrative mistake led to that outcome.

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.

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 correct an administrative error, and will provide for the continuity of residential use on the northern side of the 600-block of East 33rd Street.

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 § 10-305 (2019)). In reviewing this request, the staff finds that:

- 1. The Plan:** This property contains approximately 9,010 sqft of land, and was designated OS (Open-Space) at the end of the Comprehensive Rezoning process for the City. However, staff will show how this designation was done in error.
- 2. The needs of Baltimore City:** This property’s small size will not satisfy any City-wide need for open space. Matching the adjacent residential zoning would be appropriate.
- 3. The needs of the particular neighborhood:** There is no neighborhood need for this property to be designated as OS, while it remains in private ownership.

Similarly, the Land Use article requires the City Council to make findings of fact (MD Land Use Code § 10-304 (2019)). The findings of fact include:

1. **Population changes;** There have been no significant population changes in this neighborhood.
2. **The availability of public facilities;** This neighborhood is well served by public utilities, which will not be impacted by the proposed rezoning of this property.
3. **Present and future transportation patterns;** Residential zoning for this property will not have a significant impact on transportation patterns in the immediate neighborhood.
4. **Compatibility with existing and proposed development for the area;** The R-7 District proposed for this property matches the other properties in the 600-block of East 33rd Street, and will not impair development potential in the area, nor will it create a negative impact in that block.
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.** This block is not located in an Urban Renewal Plan (URP) area, it is not a locally-designated historic district, and it is not within any other recognized planning area or effort.

There are additional standards under §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 north side of the 600-block on East 33rd Street is residential in character, with a place of worship on the eastern end of the block on Frisby Street. The Giant grocery store is located on the south side of East 33rd Street in this block, and there are two gas stations across Greenmount Avenue to the west. The subject property is unimproved.
- (ii) **the zoning classification of other property within the general area of the property in question;** Aside from the OS zoning, the other properties in this block are zoned R-7 residential, which joins R-5, R-6, and R-7 zoning to the north and east. The grocery store is C-3 to the south, and the properties west of Greenmount Avenue are either C-1 or C-2 (the gas stations).
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** The property is currently unimproved, and has trees on it, which nominally seems to support its use as OS zoned land. However, it is privately owned, and was not intended for use as park space, even in a passive sense, without the permission of the owner to do so.
- (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 has not been any significant development in the immediate area that would affect the proposed zoning in this bill.

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.

Staff believes that this property (Block 4053, Lot 013) was rezoned OS in error, and offers the following timeline for consideration:

- Prior to the Comprehensive Rezoning of the City in 2012, this property was zoned R-6 under the previous zoning code, as was the surrounding properties in the same block.
- At the time of the first introduction of the Comprehensive Rezoning bill (CCB #12-0152), this property was proposed to be zoned R-7, the same as the surrounding lots (see 1st Reader Maps Sheet 3-C).
- In September 2015, in the first round of map amendments for the 14th Councilmanic District, the property immediately to the north of the subject property (k/a Block 4053, Lot 095) along Venable Avenue was proposed to be rezoned R-1-C instead of the initial recommendation of R-7 (see 14th District Map Amendments - September 2015).
- By August of 2016, the proposed revision by the prior Councilmember was that lot 095 instead be rezoned OS (see TransForm Baltimore Map Amendment List - August 2016 - Excel Sheet, on the District 14 tab, at line item M678). Staff notes that the property was identified by the block and lot number since it didn't have an address as an unimproved property, but the text in the "Notes" field describes it as "Greenspace extending from 600 block E 33rd Street to 600 block Venable" mistakenly including reference to the adjacent parcel in Block 4053, Lot 013 (also unimproved), and a portion of the paper alley between the two lots. The District 14 map accompanying that list of proposed changes did not show Lot 013 highlighted for any changes, and instead showed the adjacent Lot 095 identified as proposed Map Amendment 626, which doesn't appear to line up with any 14th District map amendment in the list, though it will match to the 2nd Reader map amendments (see below).
- There was a subsequent round of map amendments October 5, 2016, but none were offered for the 14th District. There was also a "Map Amendment Errata Sheet 10.17.16" for individual properties around the City, but none affected Block 4053.
- In preparation for the 2nd Reader set of Maps, a subsequent list of map changes was put together (see 2nd Reader Map Amendments - Districts 1, 9, 11 Supplemental, 12-14). In this list, Map Change M626 (matching up with the map above) describes Ward 9, Section 2, Block 4053, Lot 095 and Ward 9, Section 2, Block 4053, Lot 013 as being rezoned to OS, with the same Notes field as in the earlier list, with "Greenspace extending from 600 block E 33rd Street to 600 block Venable" in that line. Staff believes that there was an administrative error in an attempt to rectify the block and lot reference to the Notes description, where the actual correction should've gone the other way (i.e. correcting the notes field, and leaving the block and lot reference as it was, so that it matched the accompanying map exhibit). We also note that to compound the confusion in this list, Map Amendment M678 that was requested by the Guilford Association, references an unrelated change to a property in the 400-block of East 39th Street. The final version of that list was adopted by Council on October 24, 2016, with hand-edits to a couple of pages in District 14, though not affecting Block 4053.

- For that reason, the 3rd Reader Map showed Block 4053, Lot 013 zoned OS in error, and was ultimately adopted into law as the final zoning map.

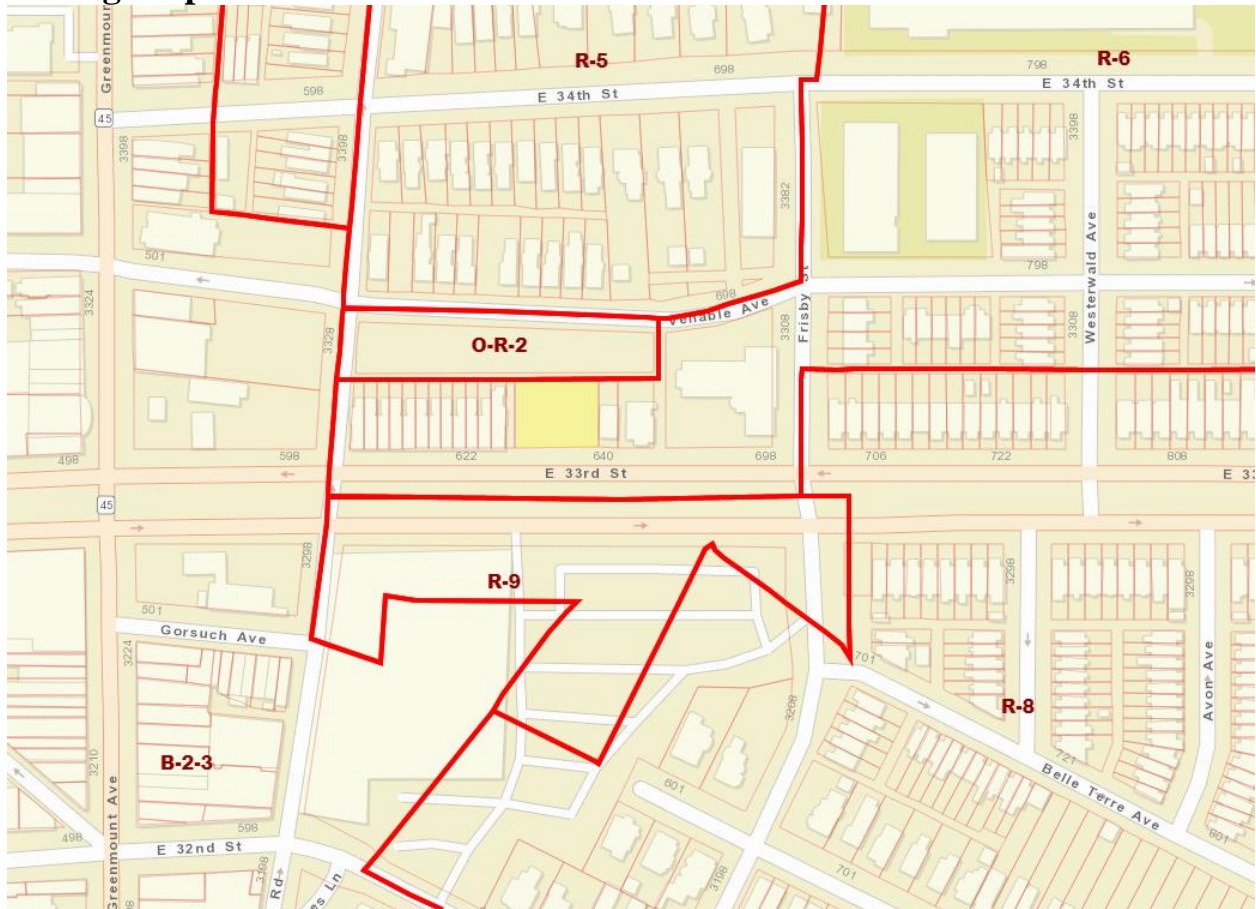
Notification: The Waverly Improvement Association has been notified of this action.



Chris Ryer
Director

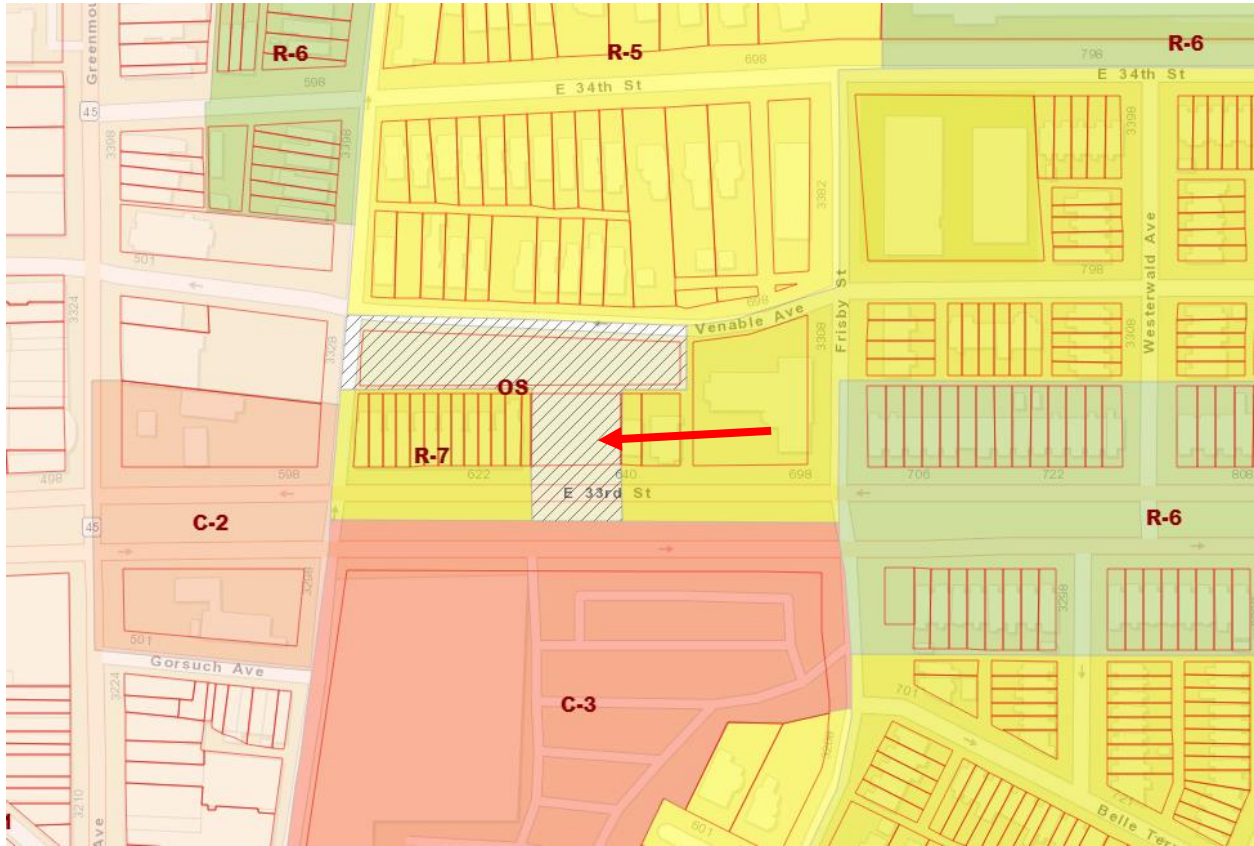
Planning Commission Exhibit for CCB #21-0045

Zoning Map – Before 2017



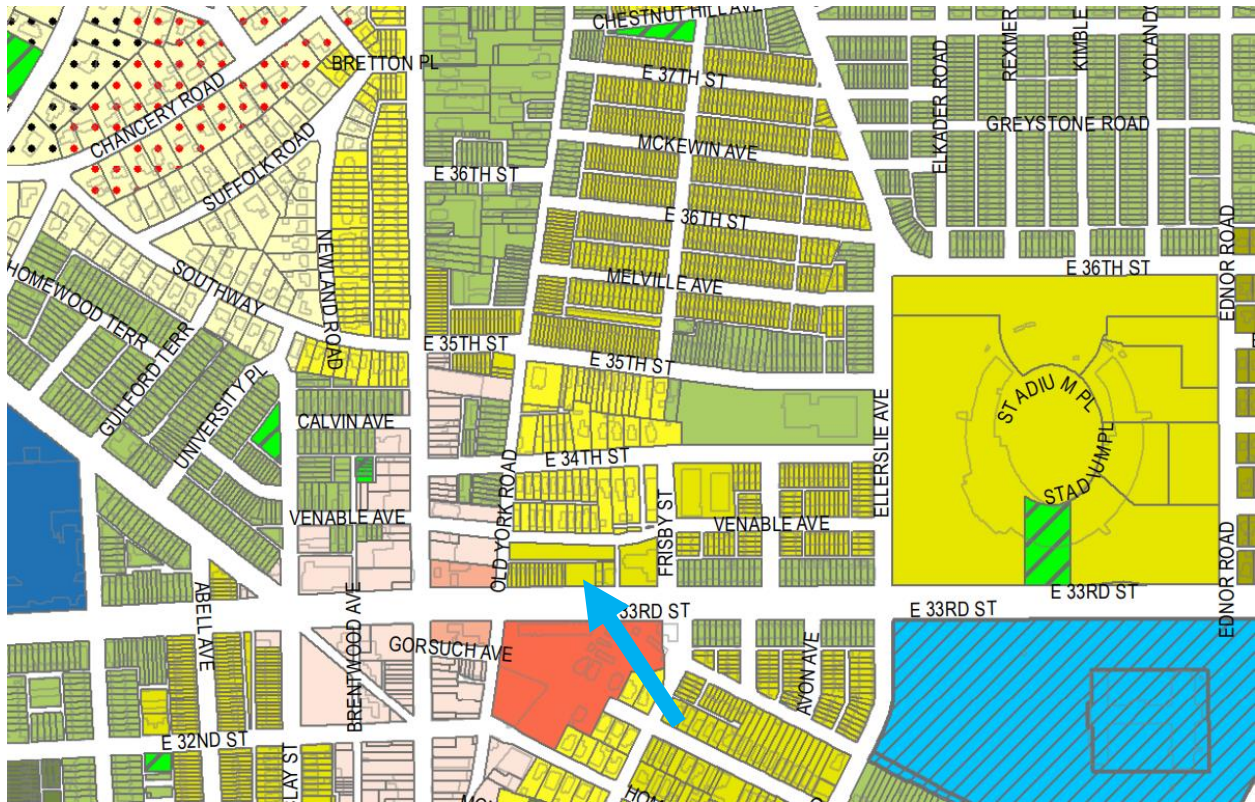
This is a portion of the zoning map that existed prior to the Comprehensive Rezoning of the City in 2016, which took effect mid-2017. The subject parcel was zoned R-6 residential (highlighted in yellow above).

Zoning Map – Current



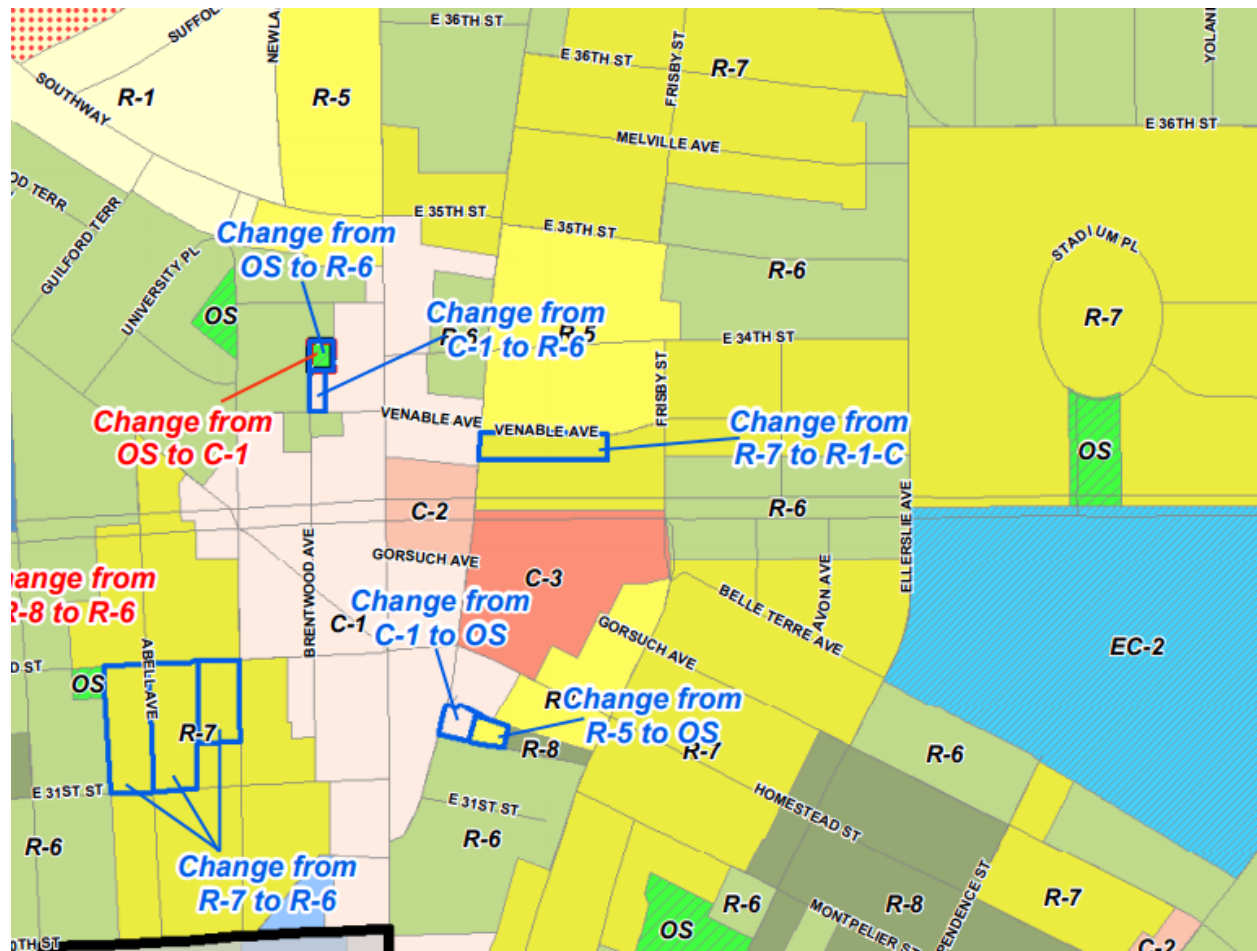
This is a portion of the existing zoning map that is in effect today, showing the subject property with OS (Open Space) Zoning.

Analysis – Start of Comprehensive Rezoning – 2012



At the time of the first introduction of the Comprehensive Rezoning bill (CCB #12-0152), this property was proposed to be zoned R-7, the same as the surrounding lots (see 1st Reader Maps Sheet 3-C).

Analysis – Sept. 2015, 1st Round Map Amendments



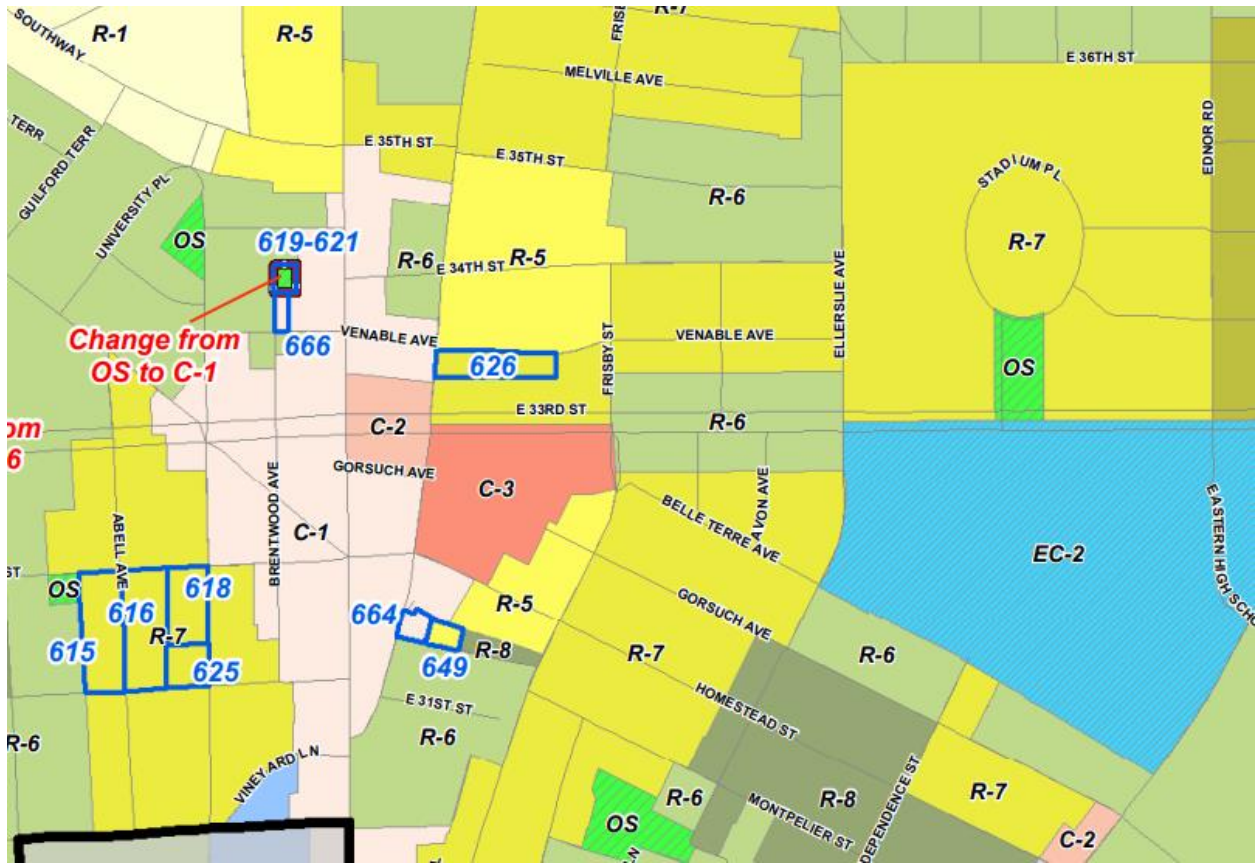
In September 2015, in the first round of map amendments for the 14th Councilmanic District, the property immediately to the north of the subject property (k/a Block 4053, Lot 095) along Venable Avenue was proposed to be rezoned R-1-C instead of the initial recommendation of R-7 (see 14th District Map Amendments - September 2015).

Analysis – Map Amendment List – August 2016

Unique ID	#	Amendment Offered by	Street Number	Street Address	Block and Lot Number	Council District	Current Zoning	TransForm Zoning Designation	Proposed Zoning	Notes
M674	673	Mark Counselman on behalf of Oakenshawe Improvement Association	3407-3415	Brentwood Ave	Block 3884 Lots 037, 038, 039, 040 (the southernmost property)	14	OS	R-6	C-1	
M675	674	Councilwoman Clarke	3400 block	Brentwood Ave (eastside)		14	OS		R-6	
M676	675	Douglas Armstrong	2807	Cresmont Ave		14	B-3	R-10	R-7	
M677	676	Councilwoman Clarke	386-398	E 31st Street		14	R-7		R-6	
M678	677	Councilwoman Clarke	600 Block	E 33rd Street to Venable Ave	Ward 9, Section 2, Block 4053, Lot 095	14	R-7		OS	Greenspace extending from 600 block E 33rd Street to 600 block Venable
		Guilford			Ward 12, Section 18,					

By August of 2016, the proposed revision by the prior Councilmember was that lot 095 instead be rezoned OS (see [TransForm Baltimore Map Amendment List - August 2016 - Excel Sheet](#), on the District 14 tab, at line item M678). Staff notes that the property was identified by the block and lot number since it didn't have an address as an unimproved property, but the text in the "Notes" field describes it as "Greenspace extending from 600 block E 33rd Street to 600 block Venable" mistakenly including reference to the adjacent parcel in Block 4053, Lot 013 (also unimproved), and a portion of the paper alley between the two lots. The [District 14 map](#) accompanying that list of proposed changes did not show Lot 013 highlighted for any changes, and instead showed the adjacent Lot 095 identified as proposed Map Amendment 626, which doesn't appear to line up with any 14th District map amendment in the list, though it will match to the 2nd Reader map amendments (see below).

Analysis – 2nd Reader Map Amendments



There was a subsequent round of map amendments October 5, 2016, but none were offered for the 14th District. There was also a “Map Amendment Errata Sheet 10.17.16” for individual properties around the City, but none affected Block 4053.

Analysis – 2nd Reader Map Amendments

Transform Baltimore - Map Amendments		14th 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
A615	615	Councilwoman Clarke	3100-3144 (even)	Abell Avenue		14	R-6	R-7	R-6	
A616	616	Councilwoman Clarke	3101-3145 (odd)	Abell Avenue		14	R-6	R-7	R-6	
A618	618	Councilwoman Clarke	3100-3120 (even)	Bardley Street		14	R-6	R-7	R-6	
A624	624	Douglas Armstrong	2807	Cresmont Ave		14	B-3	R-10	R-7	
A625	625	Councilwoman Clarke	386-398	E 31st Street		14	R-6	R-7	R-6	
A626	626	Councilwoman Clarke	600 Block	E 33rd Street to Venable Ave	Ward 9, Section 2, Block 4053, Lot 095 Ward 9, Section 2, Block 4053, Lot 013	14	OR/R-6	R-7	OS	Greenspace extending from 600 block E 33rd Street to 600 block Venable
A627	627	Guilford Association, Inc.	2	E University Pkwy	Ward 12, Section 18, Block 3730, Lot 001	14	R-9	R-9	R-1-E	
A628	628	Councilwoman Clarke	201-205	East 30th Street		14	R-7	R-6	C-1	
A629	629	Councilwoman Clarke	3416	Elm Ave		14	R-7	R-8	OS	
A630	630	Councilwoman Clarke	4100-4200	Evans Chapel Road		14	R-6	R-7	R-6	
A631	631	Councilwoman Clarke	4100 - 4110 (even) 4200 - 4242 (even) 1000 - 1022 (even) 1001 - 1015 (odd)	Evans Chapel Road Evans Chapel Road W 42nd Street W 42nd Street		14	R-6	R-7	R-6	
A632	632	Caroline L. Hecker on behalf of Rosenberg Martin Greenberg, LLP	3100 and 3300	Falls Cliff Road	Block 3504B, Lot 001; Block 3511D, Lot 002; Block 3511D, Lot 001; Block 3511D, Lot 003	14	R-4/M-2	R-8/I-1	I-MU	Permits the proposed residential use and the retention of some small, light-industrial tenants.
A635	635	Councilwoman Clarke	2812-2822 (even)	Fox St		14	R-8	R-8	OS	
A636	636	Councilwoman Clarke	1749-1757	Gorsuch Ave		14	R-6	R-6	I-MU	
A638	638	Councilwoman Clarke	2301-2337 (odd)	Harford Road		14	B-3-2/R-8	C-1	OS	
A641	641	Councilwoman Clarke	1446	Homestead Street		14	R-6	R-6	OS	
A642	642	Councilwoman Clarke	1448	Homestead Street		14	R-6	R-6	OS	
A643	643	Councilwoman Clarke	1450	Homestead Street		14	R-6	R-6	OS	
A645	645	Amendment since Planning Commission Approval	3526	KESWICK ROAD		14	B-1-2	C-1	R-7	
A646	646	Councilwoman Clarke	3318, 3324, 3333-3341	Keswick Road		14	B-3-2	C-1	C-3	
A647	647	Amendment since Planning Commission Approval	2624	MATHEWS ST		14	M-1-2	I-1	R-8	
A649	649	Councilwoman Clarke	500	Montpelier Street	Ward 9, Section 03, Block 4075, Lot 15	14	R-8	R-5	OS	
A650	650	Councilwoman Clarke	3200-3212 (even)	N Calvert Street		14	R-6	R-8	R-6	
A651	651	Jean Floyd of Remington Neighborhood Alliance		NE Corner of Remington Avenue and 242 W 29th Street		14	B-3	I-MU	EC-1	
A652	652	Councilwoman Clarke	1601-1615	Normal Ave		14	Residential and commercial	C-1	OS	22 contiguous vacant lots - 1601 to 1615 Normal Ave and eastside of 2300 block of Harford Road

In preparation for the 2nd Reader set of Maps, a subsequent list of map changes was put together (see 2nd Reader Map Amendments - Districts 1, 9, 11 Supplemental, 12-14). In this list, Map Change M626 (matching up with the map above) describes Ward 9, Section 2, Block 4053, Lot 095 and Ward 9, Section 2, Block 4053, Lot 013 as being rezoned to OS, with the same Notes field as in the earlier list, with “Greenspace extending from 600 block E 33rd Street to 600 block Venable” in that line. Staff believes that there was an administrative error in an attempt to rectify the block and lot reference to the Notes description, where the actual correction should’ve gone the other way (i.e. correcting the notes field, and leaving the block and lot reference as it was, so that it matched the accompanying map exhibit). We also note that to compound the confusion in this list, Map Amendment M678 that was requested by the Guilford Association, references an unrelated change to a property in the 400-block of East 39th Street. The final version of that list was adopted by Council on October 24, 2016, with hand-edits to a couple of pages in District 14, though not affecting Block 4053.

Analysis – 2nd Reader Map Amendments (Zoomed in)

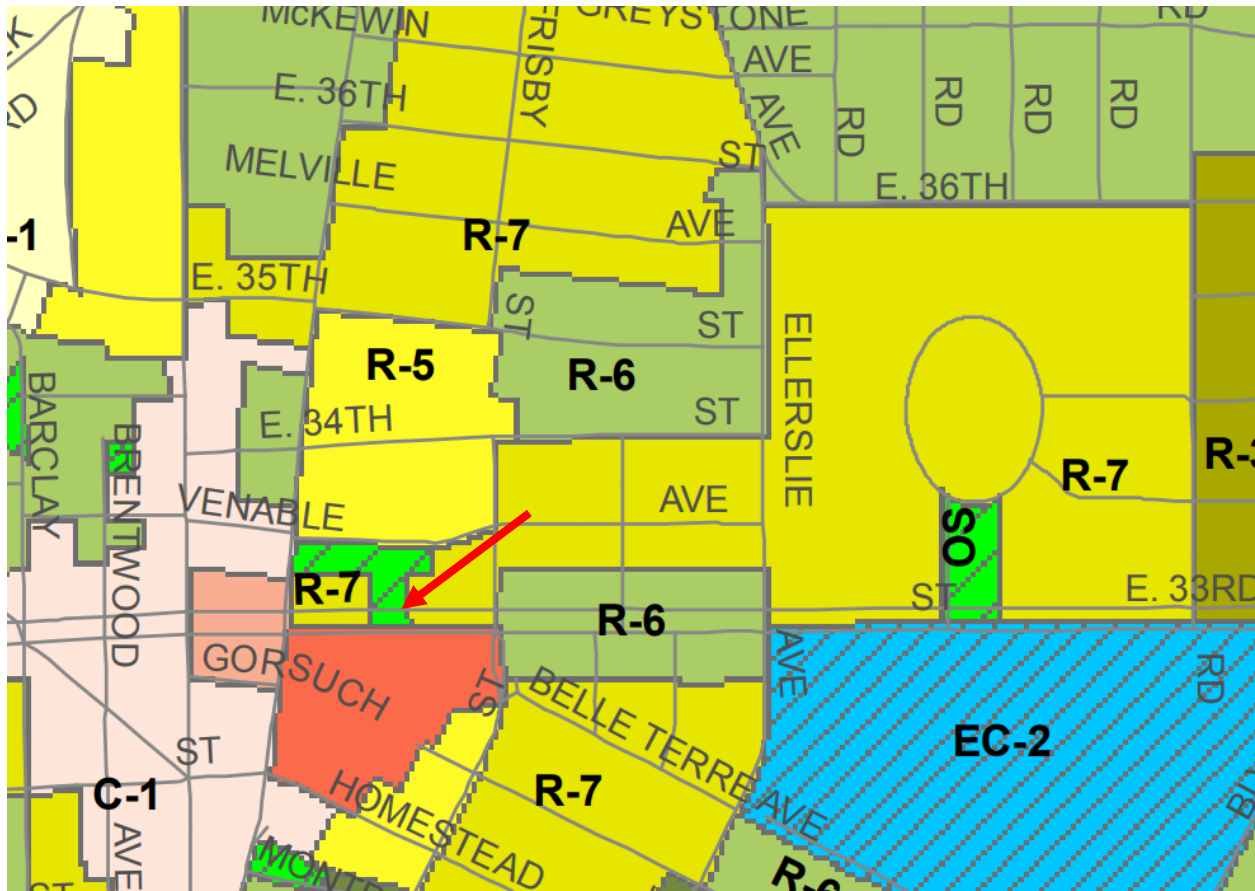
14th Council District

10/5/2016

Block and Lot Number	Council District	Current Zoning	TransForm Zoning Designation	Proposed Zoning	Notes
	14	R-6	R-7	R-6	
	14	R-6	R-7	R-6	
	14	R-6	R-7	R-6	
	14	B-3	R-10	R-7	
	14	R-6	R-7	R-6	
Ward 9, Section 2, Block 4053, Lot 095 Ward 9, Section 2, Block 4053, Lot 013	14	OR/R-6	R-7	OS	Greenspace extending from 600 block E 33rd Street to 600 block Venable
Ward 12, Section 18, Block 3730, Lot 001	14	R-9	R-9	R-1-E	
	14	R-7	R-6	C-1	
	14	R-7	R-8	OS	
	14	R-6	R-7	R-6	

As in the page above, but enlarged for legibility.

Analysis – 3rd Reader Map



For that reason, the 3rd Reader Map showed Block 4053, Lot 013 zoned OS in error, and was ultimately adopted into law as the final zoning map.