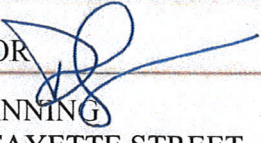



FROM	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #21-0116 / REZONING – BLOCK 3518A, LOT 001		

DATE:

TO

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

September 17, 2021

At its regular meeting of September 16, 2021, the Planning Commission considered City Council Bill #21-0116, for the purpose of changing the zoning for the property known as Block 3518A, Lot 001, as outlined in red on the accompanying plat, from the TOD-2 Zoning District to the IMU-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #21-0116, and adopted the following resolution, nine members being present (nine in favor):

RESOLVED, That the Planning Commission finds that a mistake was made during the comprehensive rezoning that became effective on June 5, 2017, in placing the subject property in the TOD-2 Zoning District. In its deliberation, the Planning Commission noted that the City Council has already found that a new zoning code classification needed to be created because the last comprehensive zoning map didn't account for certain difficult circumstances. The IMU-2 district was created on that basis, and the IMU-2 district works perfectly in this unique circumstance based on the change to the floodplain map for this property, and the issues created by that floodplain. The Planning Commission determined that a mistake occurred, and that the Planning Commission could apply the IMU-2 zoning classification to this property. The Planning Commission adopted findings of fact, including that the IMU-2 district was not a district at the time of the Comprehensive Rezoning and therefore a mistake was made, and that the IMU-2 district is perfectly situated for this property based on the floodplain. The Planning Commission therefore recommends that City Council Bill #21-0116 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
Mr. Ted Carter, 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
Mr. Avery Aisenstark, Legislative Reference
Mr. Al Barry for Eutaw Property Enterprise LLC



Brandon M. Scott
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

September 16, 2021

REQUEST: City Council Bill #21-0116/ Rezoning – Block 3518A, Lot 001:

For the purpose of changing the zoning for the property known as Block 3518A, Lot 001, as outlined in red on the accompanying plat, from the TOD-2 Zoning District to the IMU-2 Zoning District.

RECOMMENDATION: Adopt findings and Approve

STAFF: Martin French

PETITIONER: Eutaw Property Enterprise LLC

OWNER: Eutaw Property Enterprise LLC

SITE/GENERAL AREA

Site Conditions: This property is located on the west bank of the Jones Falls immediately south of the Union Avenue bridge over the Falls, and extends southward from that bridge on Jones Falls valley bottom land between the Northern Central Railroad right-of-way on its west and the Jones Falls Expressway (Interstate Highway 83) on its east. This property contains approximately 6.458 acres and is improved with a combination two-, three-, and four-level former industrial building now converted for commercial uses, including a 185-seat restaurant with an outdoor dining area. Also on this property is a 65' high double-faced V-shaped 14' by 48' digital screen general advertising sign approved by the Board of Municipal and Zoning Appeals on April 26, 2019 (appeal no. 2017-237).

General Area: The Jones Falls Valley, of which this property is a part, extends from the northern Baltimore City limits to the Inner Harbor. It was first developed in the late 18th and entire 19th Centuries as an industrial area, of which this site's use for manufacturing cotton duck (sail canvas) was typical. Factory workers came from both Hampden to its east and Brick Hill and Woodberry to its west. In the 20th Century, with de-industrialization and other economic effects occurring, some industrial properties were converted or redeveloped as commercial, residential, or mixed-use properties. This property's progression from use as the Meadow Mill to its present-day mixed commercial and light industrial use typifies that change. Because it is next to the Jones Falls, this property and some of its neighbors, north and south, are also in what is now the regulated floodplain of the Jones Falls.

HISTORY

There are no previous legislative or Planning Commission actions regarding this specific site. Hampden, Brick Hill, and Woodberry are all National Register Historic Districts near to this property, but none include it. This property was rezoned from M-2-1 (Manufacturing) to TOD-2 (Transit-Oriented Development) during the comprehensive rezoning mapping process associated with the effective date of the current Zoning Code on June 5, 2017.

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:

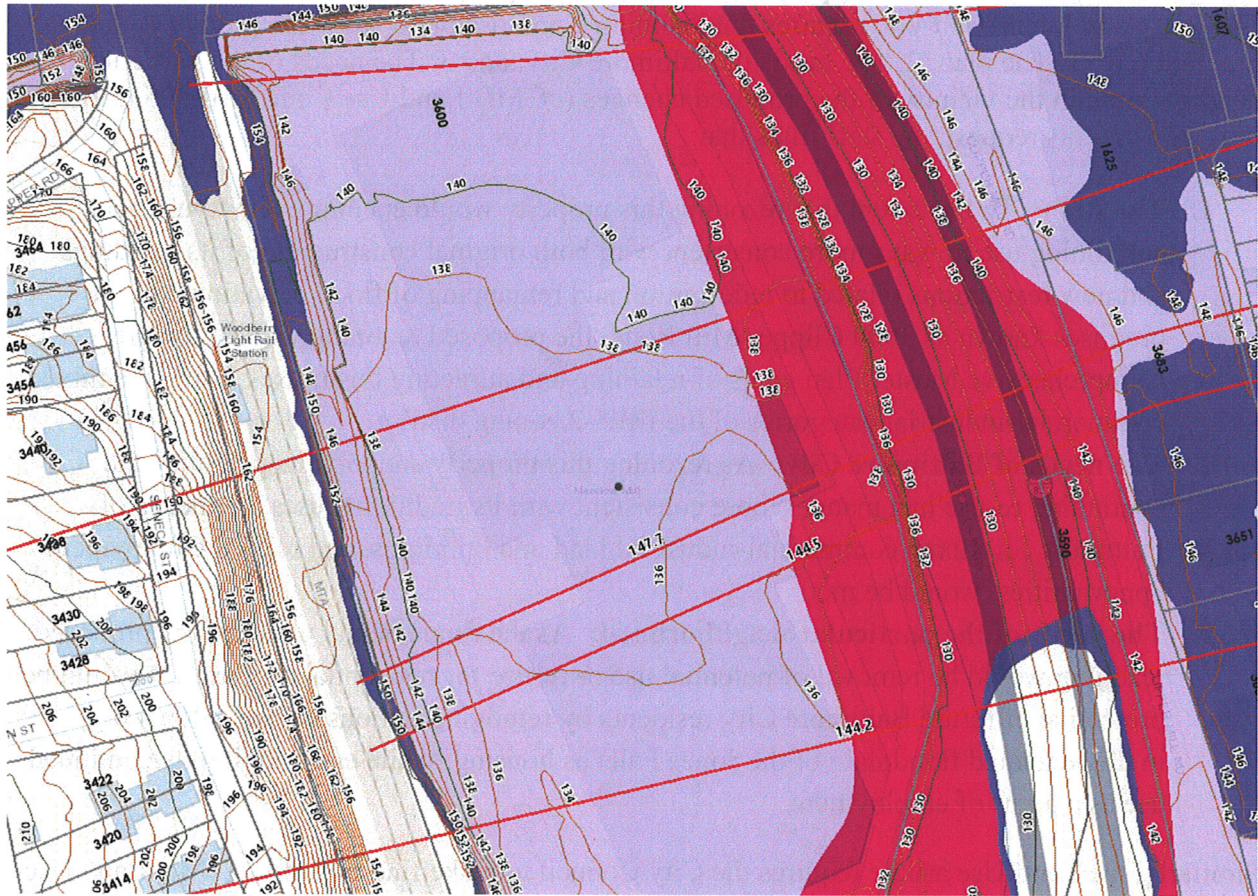
- (i) existing uses of property within the general area of the property in question;
- (ii) the zoning classification of other property within the general area of the property in question;
- (iii) the suitability of the property in question for the uses permitted under its existing zoning classification; 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

Planning staff recommend finding that there has been a substantial change in the character of the neighborhood where this property is located. This change is not one of the more usual gain or loss of population, or gain or loss of specific economic sectors, but rather is one of designation of flood hazard as it relates to this site and its immediate upstream and downstream environs.

The Jones Falls valley bottom has been recognized for over two centuries as a place where heavy rainstorms could bring catastrophic flooding – the “freshet of 1868” was long remembered until Tropical Storm Agnes came in 1972 and outdid it, courtesy in part of urban development since 1868 using the Jones Falls and its tributaries as an open storm sewer. Today it is commonly

accepted that rainstorms and other storms are increasing in both frequency and intensity, causing heightened interest in more effectively managing use and re-use of lands in floodplains. As the June 2021 map segment below shows, this is a particular concern for the property that is the subject of this bill.



The central part of the existing Meadow Mill structure is traversed by the flood elevation cross-section labelled as 147.7 (feet), while the ground elevation at that same place ranges from 136 (feet) to 138 (feet). This means that flood waters could be predicted to reach a height of approximately ten feet above grade on this property during a major rainstorm event. For obvious safety reasons, it would be imprudent to allow use of this property for residential purposes, which its current zoning does allow. As a corollary, residential use of a site not directly served by public transit would generate a large number of vehicles parked on both a long-term and an overnight basis, and a large volume of floodwaters would carry them downstream while, as floating debris, those vehicles could cause additional damages to other properties.

The zoning of this property as TOD-2 was made at a time when there were lesser levels of risk associated with using it for residential purposes. However, the 2021 flood risk maps have clearly established valid cause for reconsideration of that zoning.

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 restrict a property

vulnerable to urban flooding from being residentially used, while expanding the choice of commercial, light industrial, and general industrial uses that can be made of the property.

REQUIRED FINDINGS

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:** To the extent that rezoning this property would encourage its re-use and continuing use in ways more consistent with both original construction of its buildings and new restrictions related to redefinition and remapping of flood elevations for the premises known as 3600 Clipper Mill Road, the proposed rezoning would support Comprehensive Master Plan goals of retaining and attracting businesses fitting the mixed commercial-industrial categories of the IMU-2 zoning district.
- 2. The needs of Baltimore City:** As rezoning this property supports its potential and continuing re-use in a manner more consistent with its traditional uses, the needs of Baltimore for mixed commercial-industrial land and buildings, and related employment opportunities, would be met.
- 3. The needs of the particular neighborhood:** As the fundamental effect of the proposed rezoning would be removal of potential use or re-use for residential purposes, it would be protective of future Baltimore City residents by removing options to redevelop a property in the regulated floodplain of the Jones Falls as housing, while encouraging its continued use as a locus of employment.

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 has not been a significant population change in this area since June 5, 2017, when the current Zoning Code and map became effective. Although Census 2020 results show a 6.4% decline in Baltimore’s population, this portion of the City has not been equally affected, as its 2010 – 2020 population declined only 2%.
- 2. The availability of public facilities;** There are adequate public facilities available in the area where this property is located, and there are no plans to reduce or remove any of these facilities.
- 3. Present and future transportation patterns;** There are no changes anticipated in present or future transportation patterns in this portion of the Jones Falls Valley.
- 4. Compatibility with existing and proposed development for the area;** Uses that would be authorized by rezoning this property to IMU-2 would be generally compatible with historic use of the property and with nearby non-residential uses.
- 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 will comment separately on this bill.

6. **The relation of the proposed amendment to the City's plan.** Changing the zoning of the subject property to IMU-2 would make it part of the continuous chain of industrial mixed-use and industrial zoning that has been applied to the Jones Falls Valley floor from the northern City limits to Howard Street, thus helping to meet the Comprehensive Master Plan objective of retaining and attracting businesses in growth sectors of the economy.

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 Jones Falls Valley floor has been, and continues to be, dominated by industrial and commercial uses of various types, while the upper slopes of the Jones Falls Valley have been and continue to be dominated by residential and retail commercial uses. Across the Northern Central Railroad right-of-way is the northeastern portion of Druid Hill Park, Baltimore's largest single urban park.
- (ii) **the zoning classification of other property within the general area of the property in question;** Upstream and downstream of this property, Jones Falls Valley properties are zoned IMU (industrial mixed-use) or industrial (either I-1 or I-2), while properties on the upper slopes of the Jones Falls Valley, in Hampden, Brick Hill, and Woodberry, are largely zoned Residential, reflecting their original development as mill worker housing.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** While this property is suitable for the non-residential uses permitted under its existing zoning classification, it is not equally suitable for the residential uses permitted under that zoning classification.
- (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 not been major changes in land use in this general area since 2017. The area is fully developed, with the exception of a few pockets of underutilized land, and floodplain regulations restrict redevelopment in a way that, combined with the natural topography of the Jones Falls Valley, make assembly of properties for a large or major redevelopment a distant possibility.

Equity considerations:

- o The subject property is within a part of Baltimore City that has relatively stable mid-range real estate values and a proportion of non-white residents that is lower than the City-wide average. There may be changes to employment prospects of minority group members that would result from the proposed action, as a result of allowing a greater diversity of commercial and industrial uses than are allowed by the current zoning.

- The community groups associated with Hampden, Brick Hill, and Woodberry have a long-standing record of activism when land use matters relating directly to their communities have been placed in a public forum.
- Approval of the proposed action would not affect resources of the Planning Department.

Notifications: The Hampden Community Council, Hampden Community Zoning and Land Use Committee, Woodberry Community Association, Millrace Council of Unit Owners, Homeowners Association of Clipper Mill, Mill Valley Community Coalition, and Councilman Torrence have been notified of this action.



Chris Ryer
Director