Introduced by: Councilmember Dorsey

At the request of: Property Consulting, Inc.
Address: c/o Caroline L. Hecker, Esquire, Rosenberg | Martin | Greenberg, LLP, 25 South Charles Street, 21st Floor, Baltimore, Maryland 21201
Telephone: 410-727-6600

Prepared by: Department of Legislative Reference **Date:** May 26, 2017

Referred to: LAND USE AND TRANSPORTATION Committee

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 17-0081

A BILL ENTITLED

AN ORDINANCE concerning

Rezoning – 5717 and 5723 Harford Road

FOR the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

BY amending
Article 32 - Zoning
Zoning Map
Sheets 18 and 19
Baltimore City Revised Code
(Edition 2000)

Ryan Dorsey

****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

Agencies

_____ Baltimore City Public School System

✓ Baltimore Development Corporation

✓ City Solicitor

_____ Comptroller's Office

_____ Department of Audits

_____ Department of Finance

_____ Department of General Services

✓ Department of Housing and Community Development

_____ Department of Human Resources

_____ Department of Planning

_____ Other:_____

_____ Other:_____

_____ Other:_____

_____ Department of Public Works

_____ Department of Real Estate

_____ Department of Recreation and Parks

✓ Department of Transportation

_____ Fire Department

_____ Health Department

_____ Mayor's Office of Employment Development

_____ Mayor's Office of Human Services

_____ Mayor's Office of Information Technology

_____ Office of the Mayor

_____ Police Department

_____ Other:_____

_____ Other:_____

_____ Other:_____

Boards and Commissions

_____ Board of Estimates

_____ Board of Ethics

✓ Board of Municipal and Zoning Appeals

_____ Comm. for Historical and Architectural Preservation

_____ Commission on Sustainability

_____ Employees' Retirement System

_____ Other:_____

_____ Other:_____

_____ Other:_____

_____ Environmental Control Board

_____ Fire & Police Employees' Retirement System

_____ Labor Commissioner

_____ Parking Authority Board

✓ Planning Commission

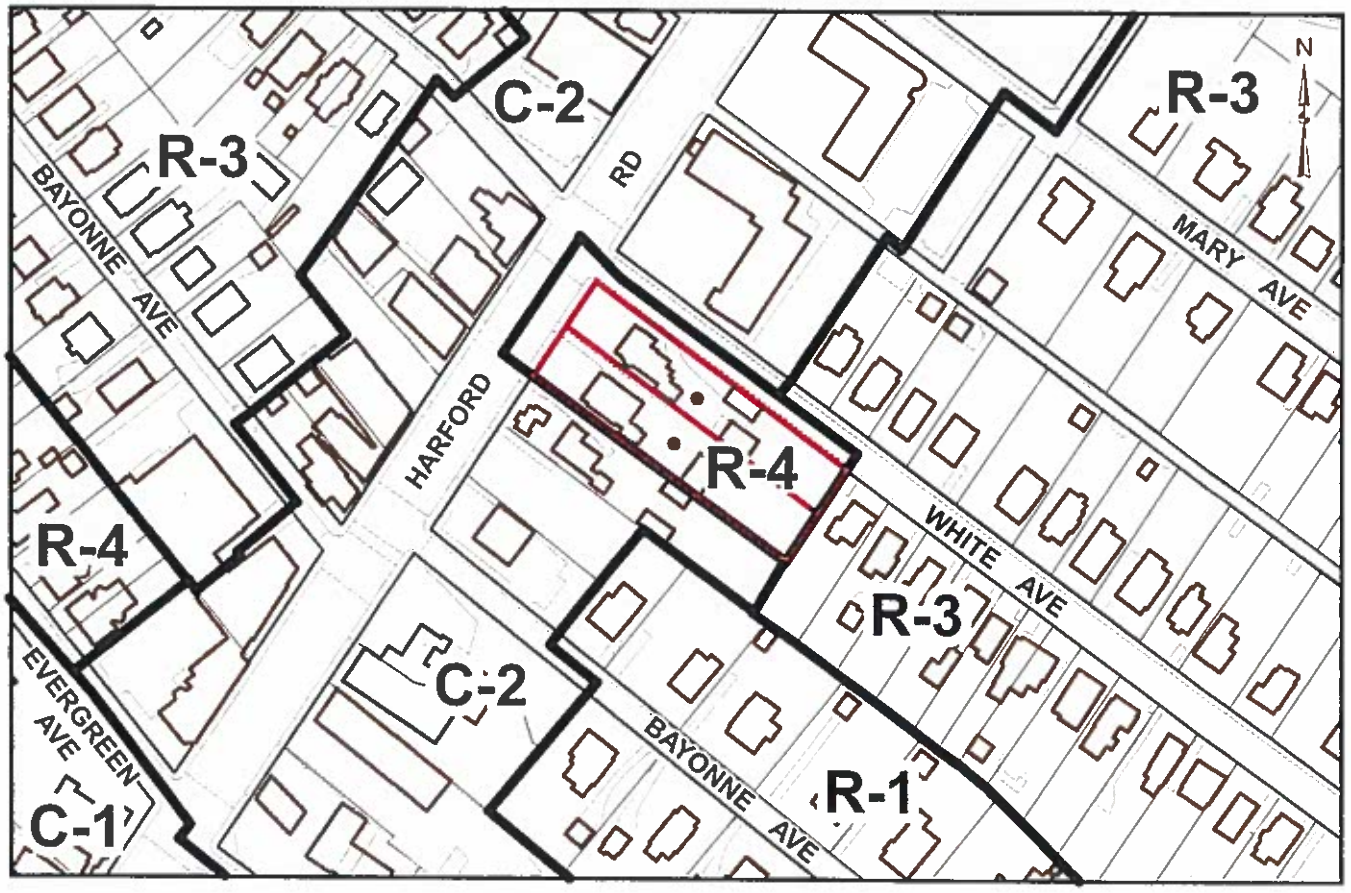
_____ Wage Commission

_____ Other:_____

_____ Other:_____

_____ Other:_____

SHEET NO. 18 & 19 OF THE ZONING DISTRICT MAP OF THE BALTIMORE CITY ZONING CODE



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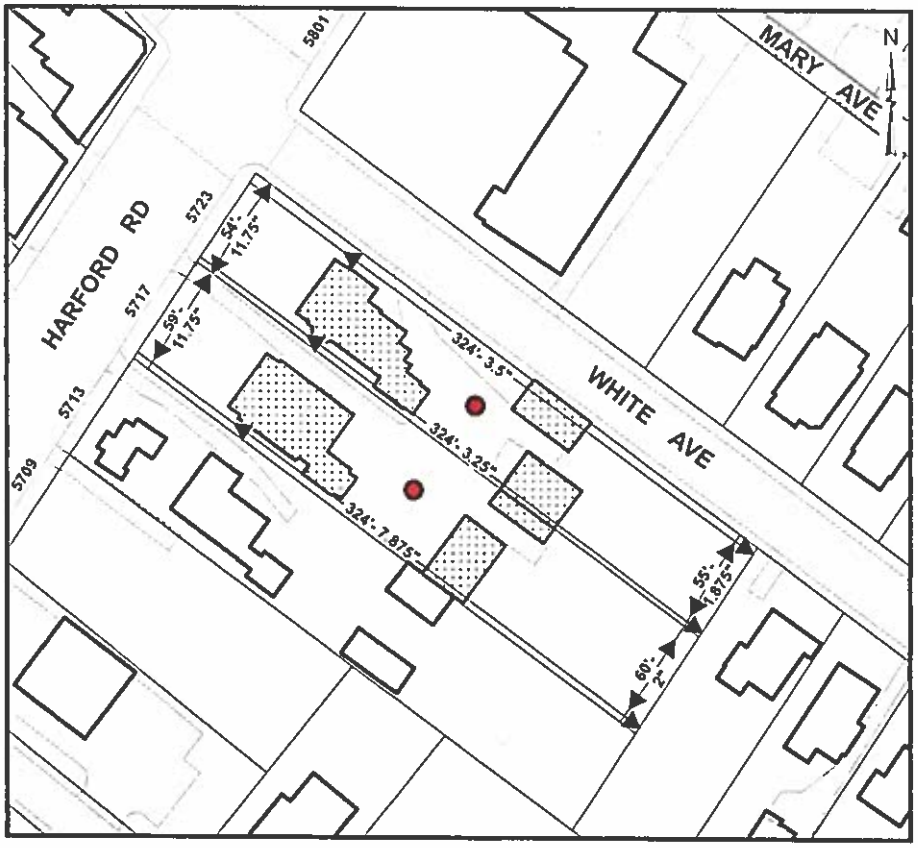

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Note:

In Connection With Properties Known As No. 5717 HARFORD ROAD And 5723 HARFORD ROAD. The Applicant Wishes To Request The Rezoning Of The Aforementioned Properties From R-4 Zoning to C-2 Zoning, As Outlined In Red Above.

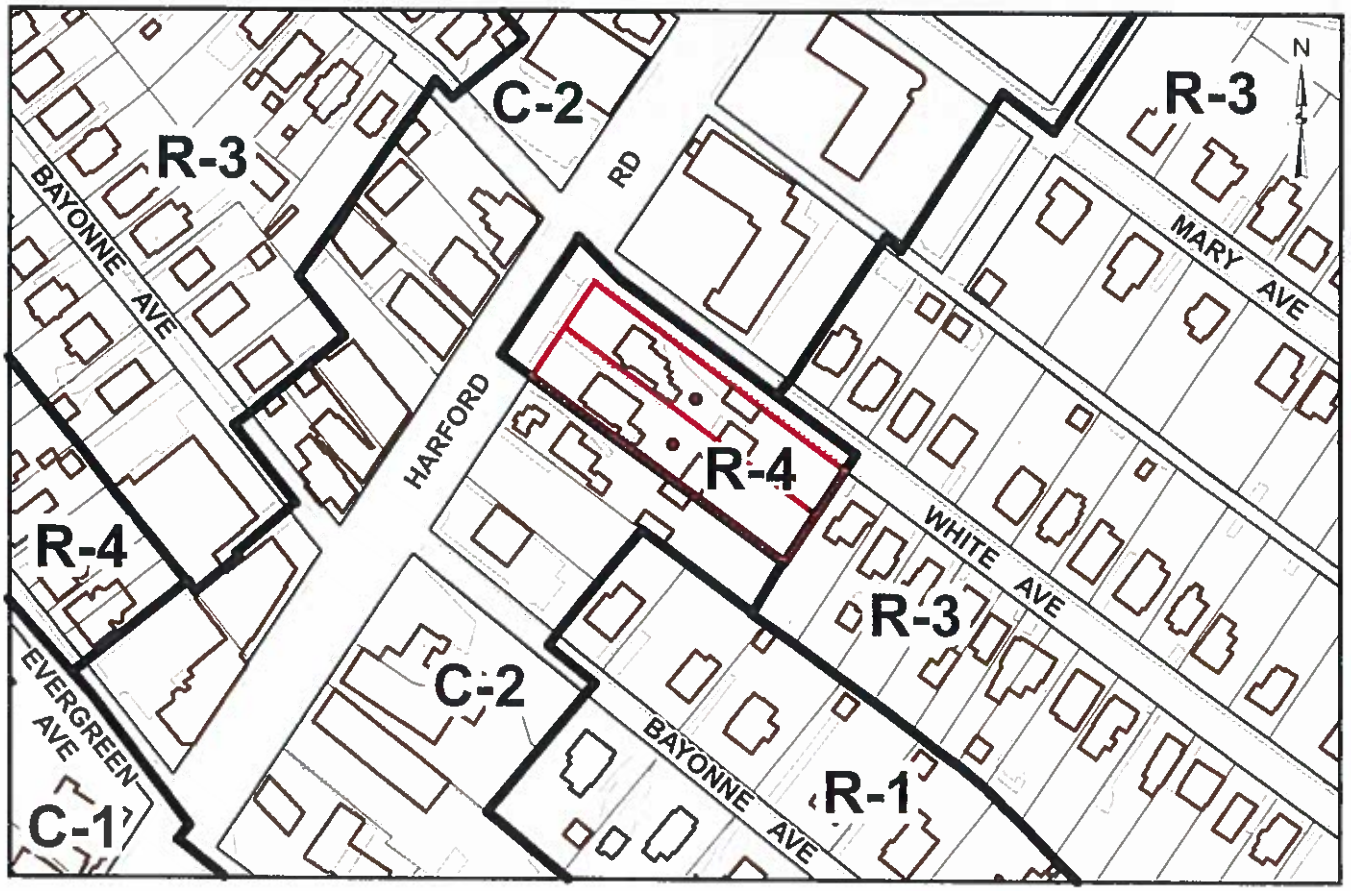
WARD	27	SECTION	3
BLOCK	5765	LOTS	1 & 2

MAYOR

PRESIDENT CITY COUNCIL

RPE 2-6-17

SHEET NO. 18 & 19 OF THE ZONING DISTRICT MAP OF THE BALTIMORE CITY ZONING CODE



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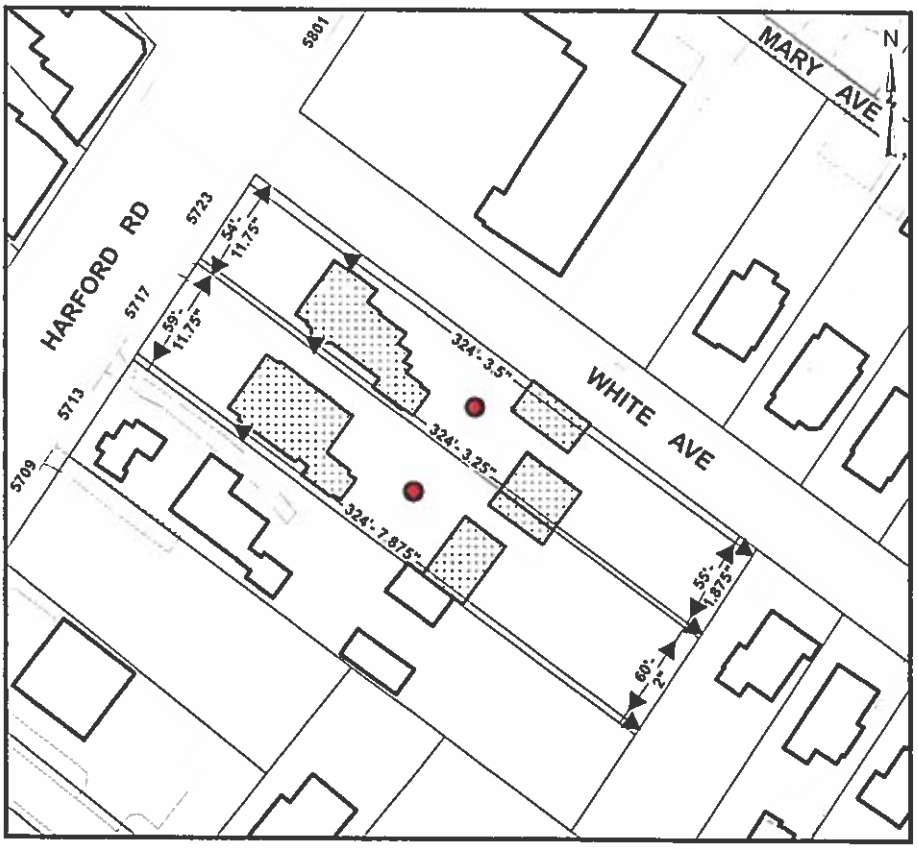

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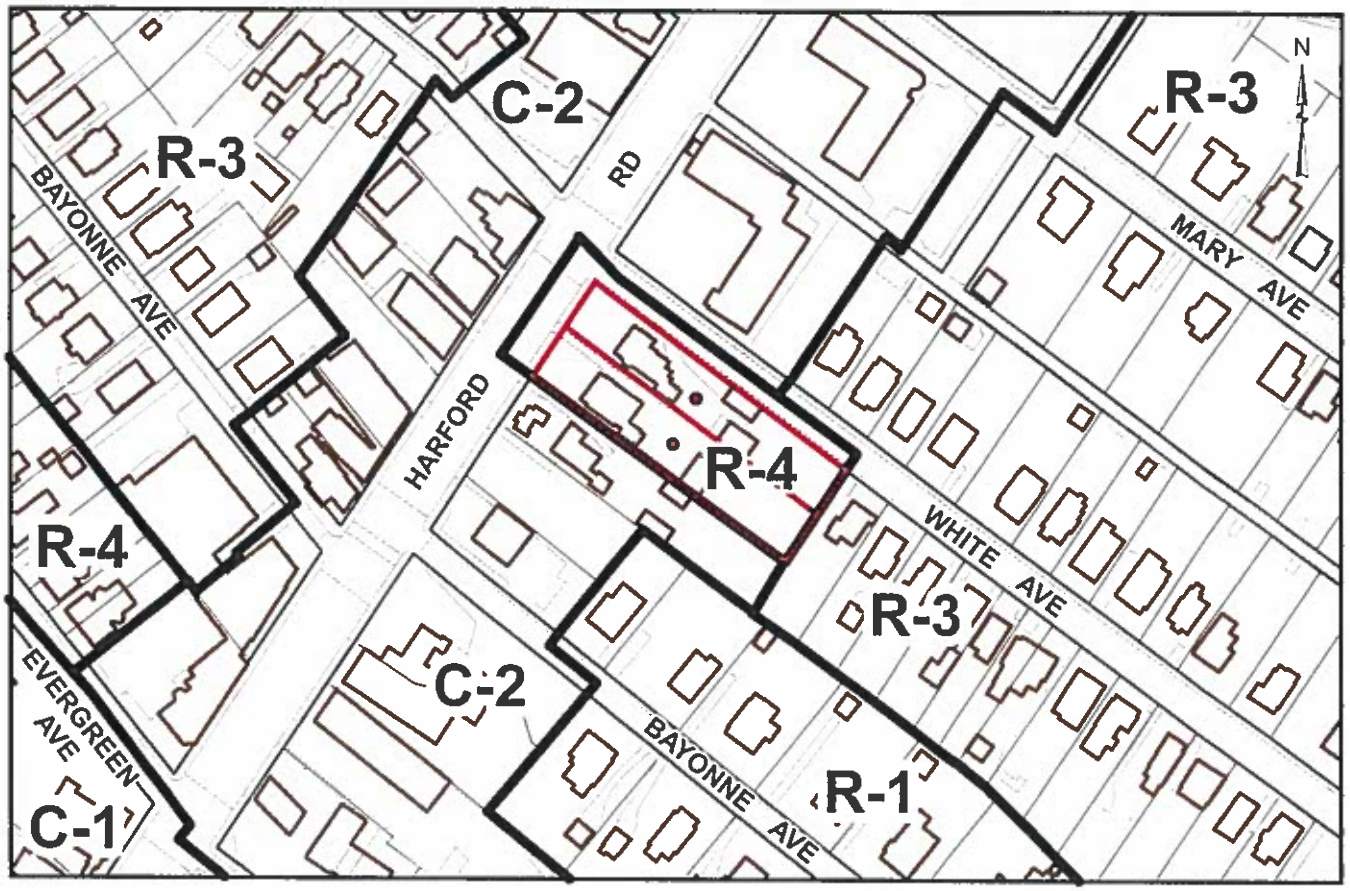

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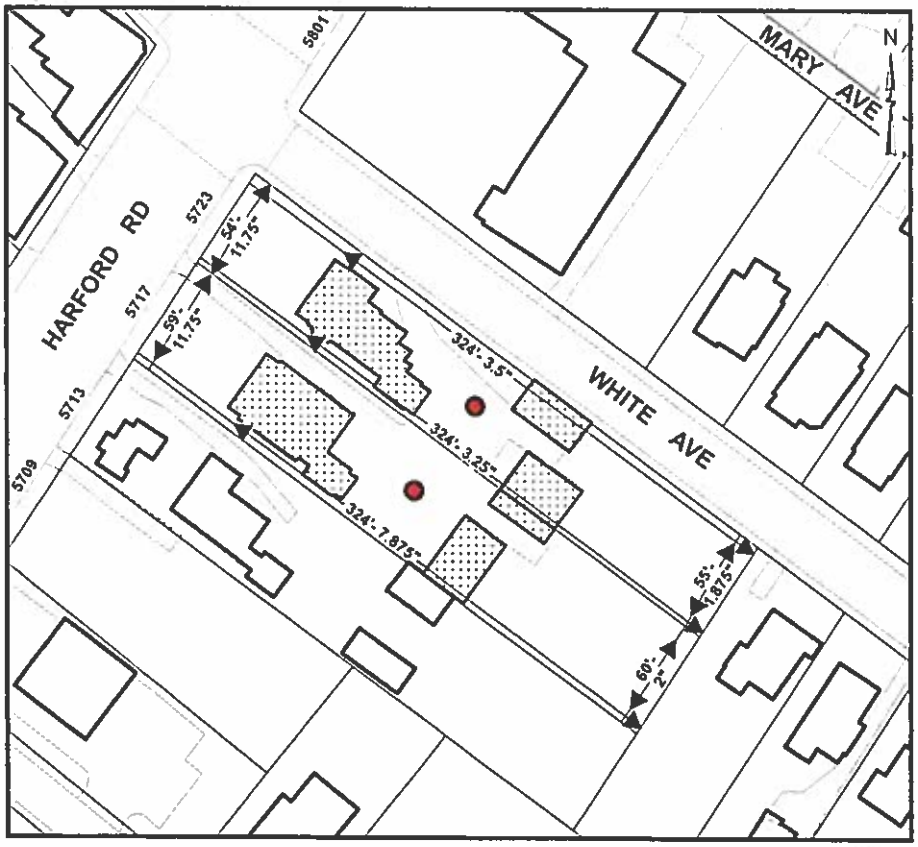

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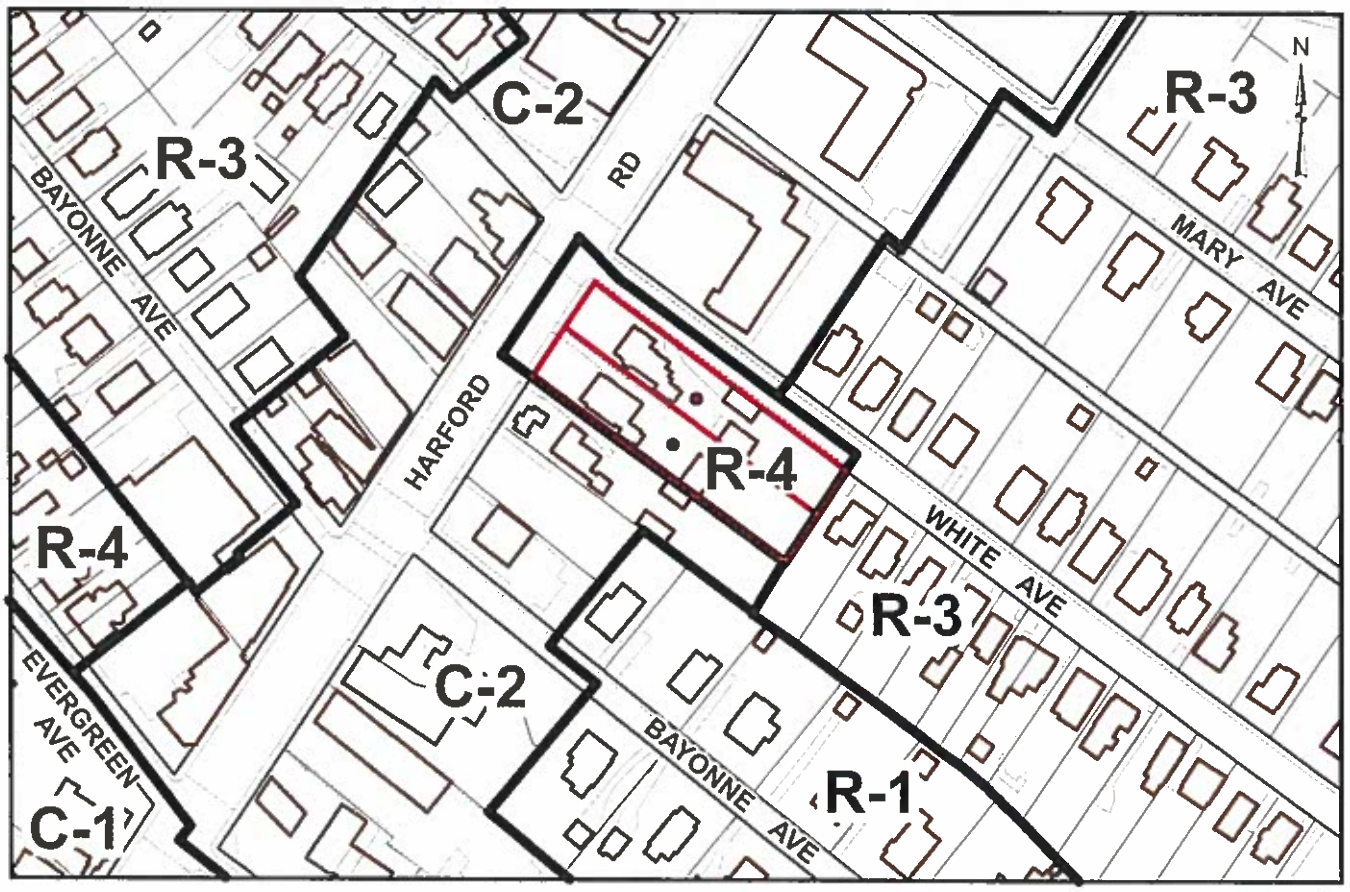

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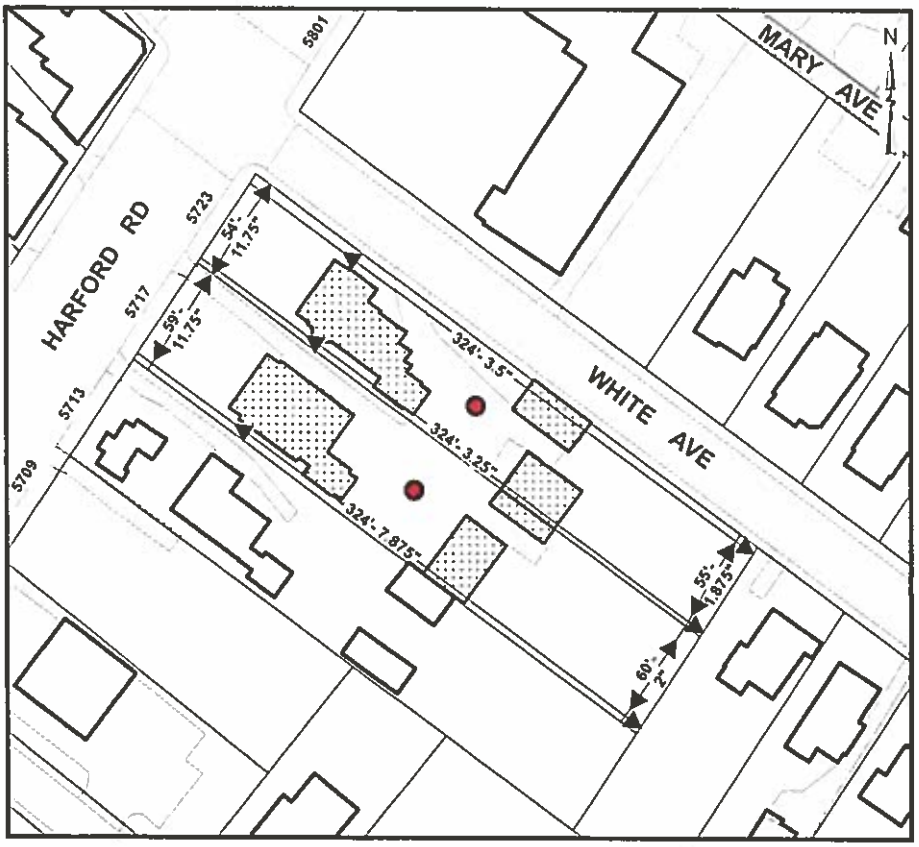

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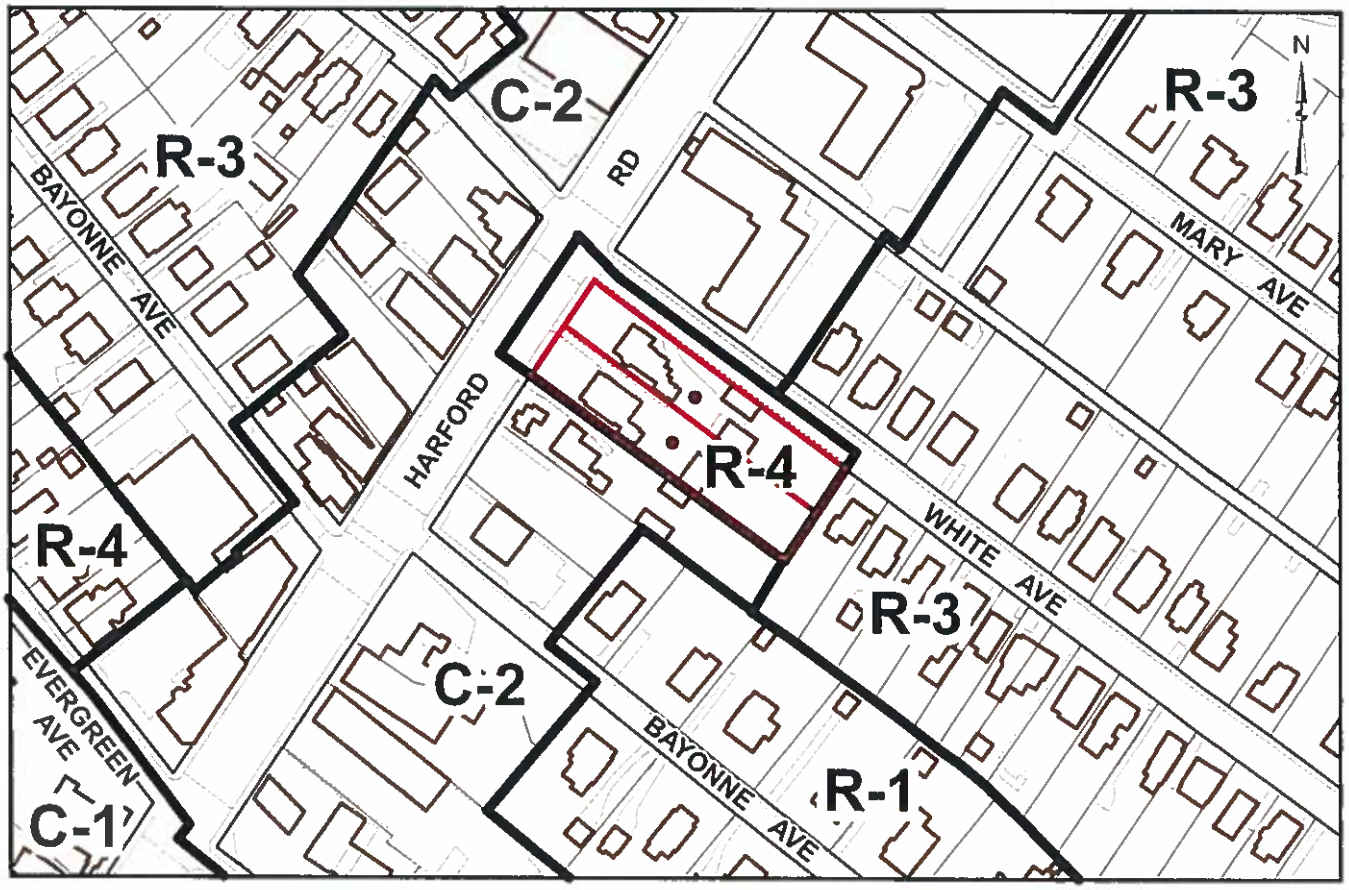

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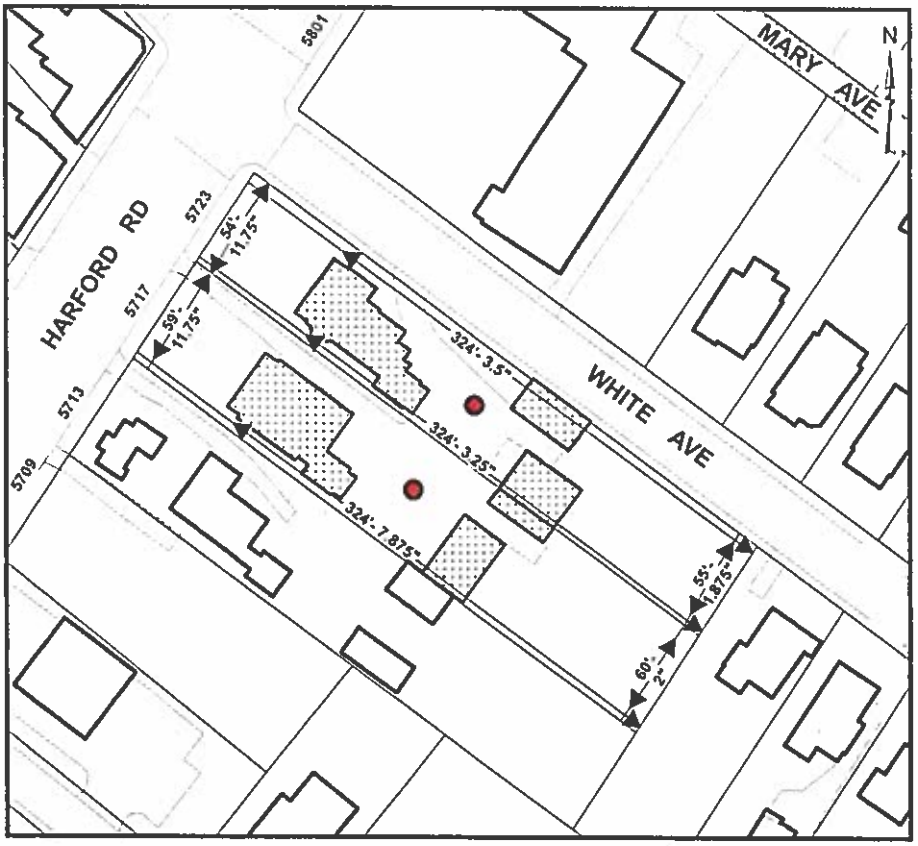

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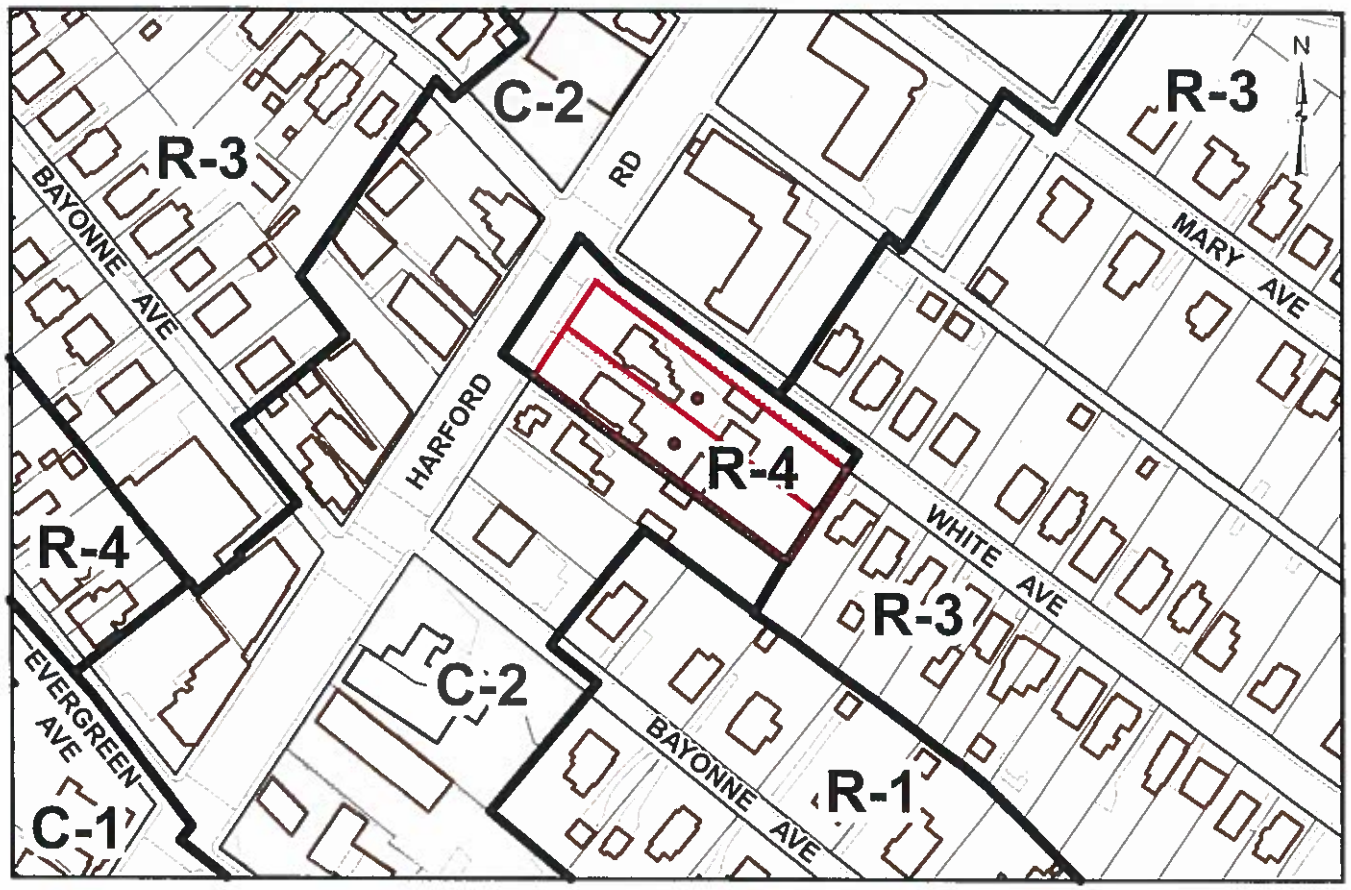

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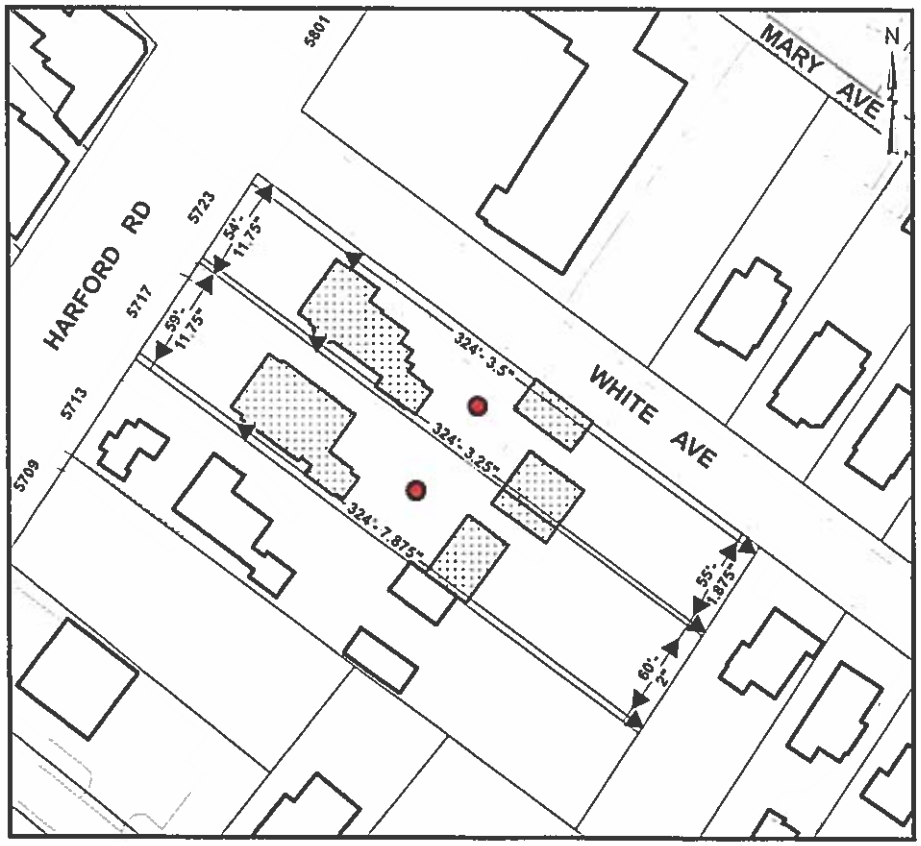

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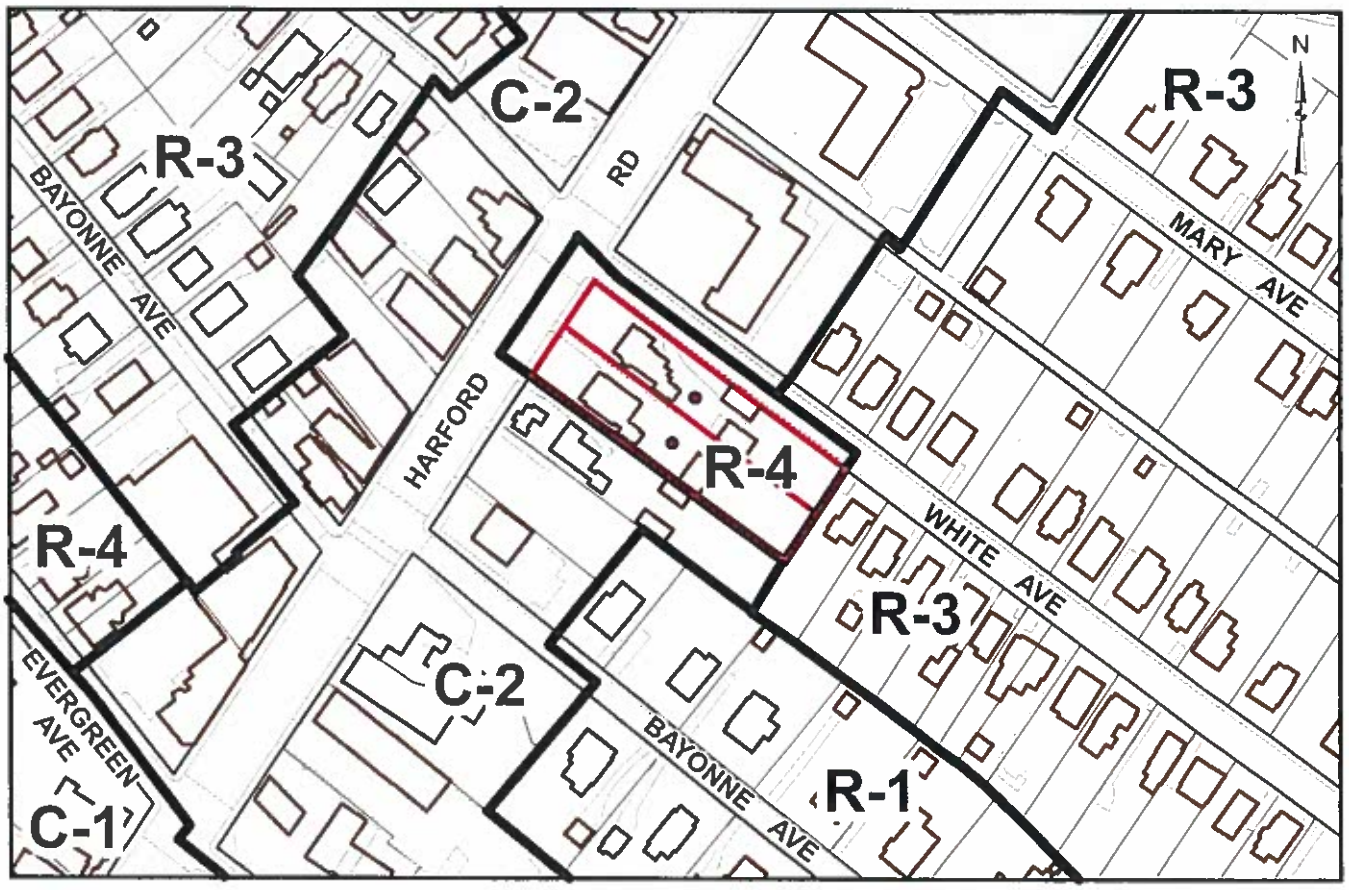

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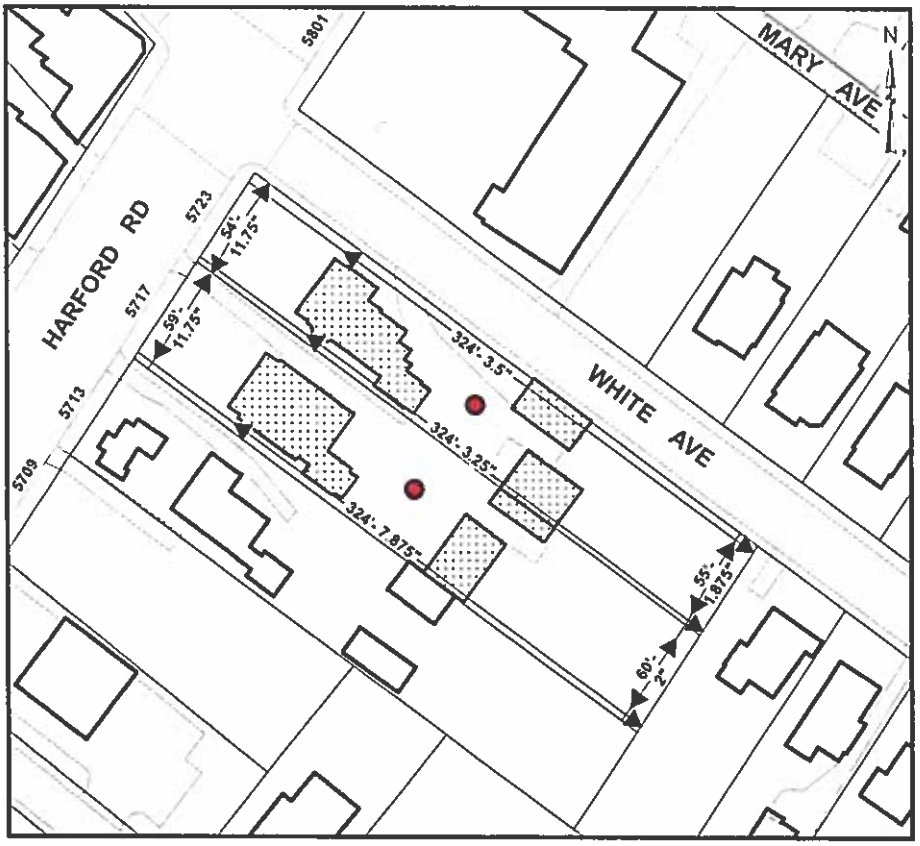

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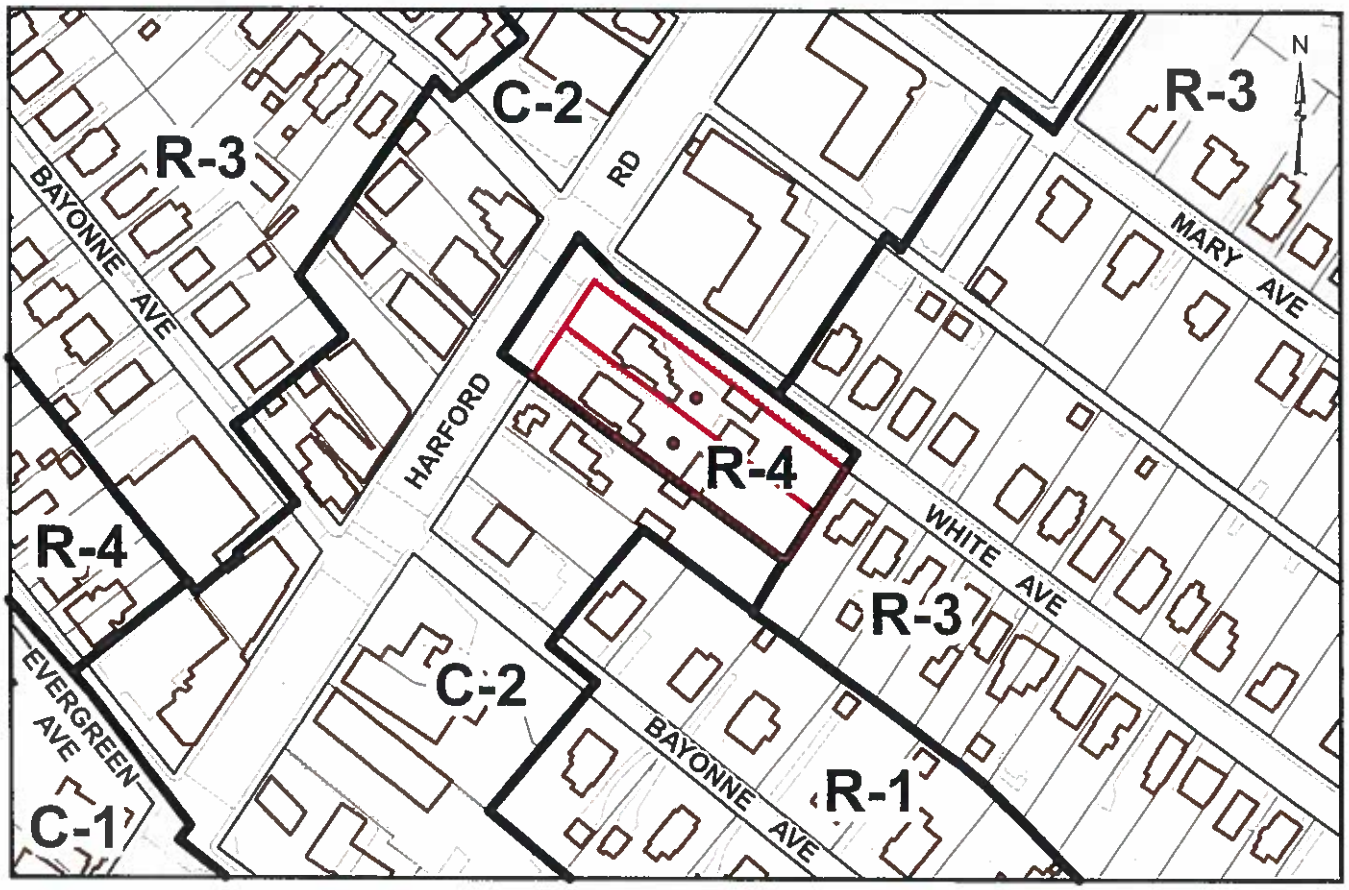

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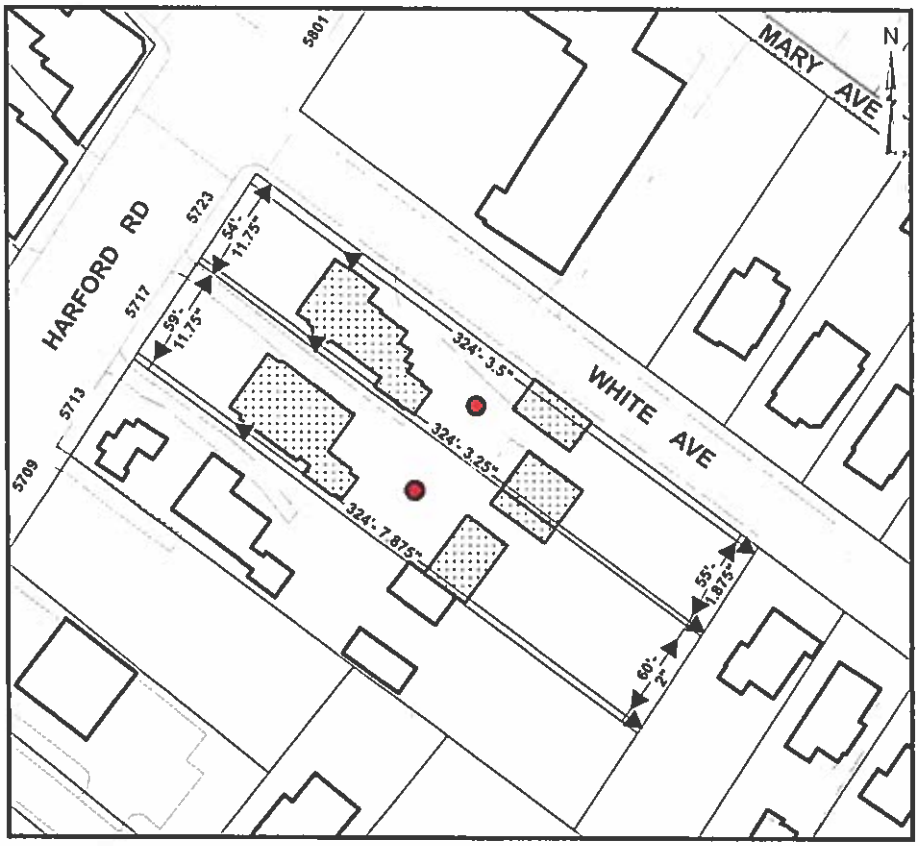

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MAYOR

PRESIDENT CITY COUNCIL

RPE 2-6-17

CITY OF BALTIMORE
ORDINANCE 17-052
Council Bill 17-0081

Introduced by: Councilmember Dorsey
At the request of: Property Consulting, Inc.
Address: c/o Caroline L. Hecker, Esquire, Rosenberg | Martin | Greenberg, LLP, 25 South Charles Street, 21st Floor, Baltimore, Maryland 21201
Telephone: 410-727-6600
Introduced and read first time: June 5, 2017
Assigned to: Land Use and Transportation Committee
Committee Report: Favorable
Council action: Adopted
Read second time: July 17, 2017

AN ORDINANCE CONCERNING

Rezoning – 5717 and 5723 Harford Road

FOR the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

BY amending
Article 32 - Zoning
Zoning Map
Sheets 18 and 19
Baltimore City Revised Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That Sheets 18 and 19 of the Zoning Map are amended by changing from the R-4 Zoning District to the C-2 Zoning District the properties known as 5717 and 5723 Harford Road, as outlined in red on the plat accompanying this Ordinance.

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

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

dlr17-0263~3rd/13Jul17
rezone/cb17-0081~3rd/nbr

Council Bill 17-0081

Certified as duly passed this _____ day of AUG 14 2017, 20___

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this _____ day of AUG 14 2017, 20___

Chief Clerk

Approved this 23 day of August, 20 17

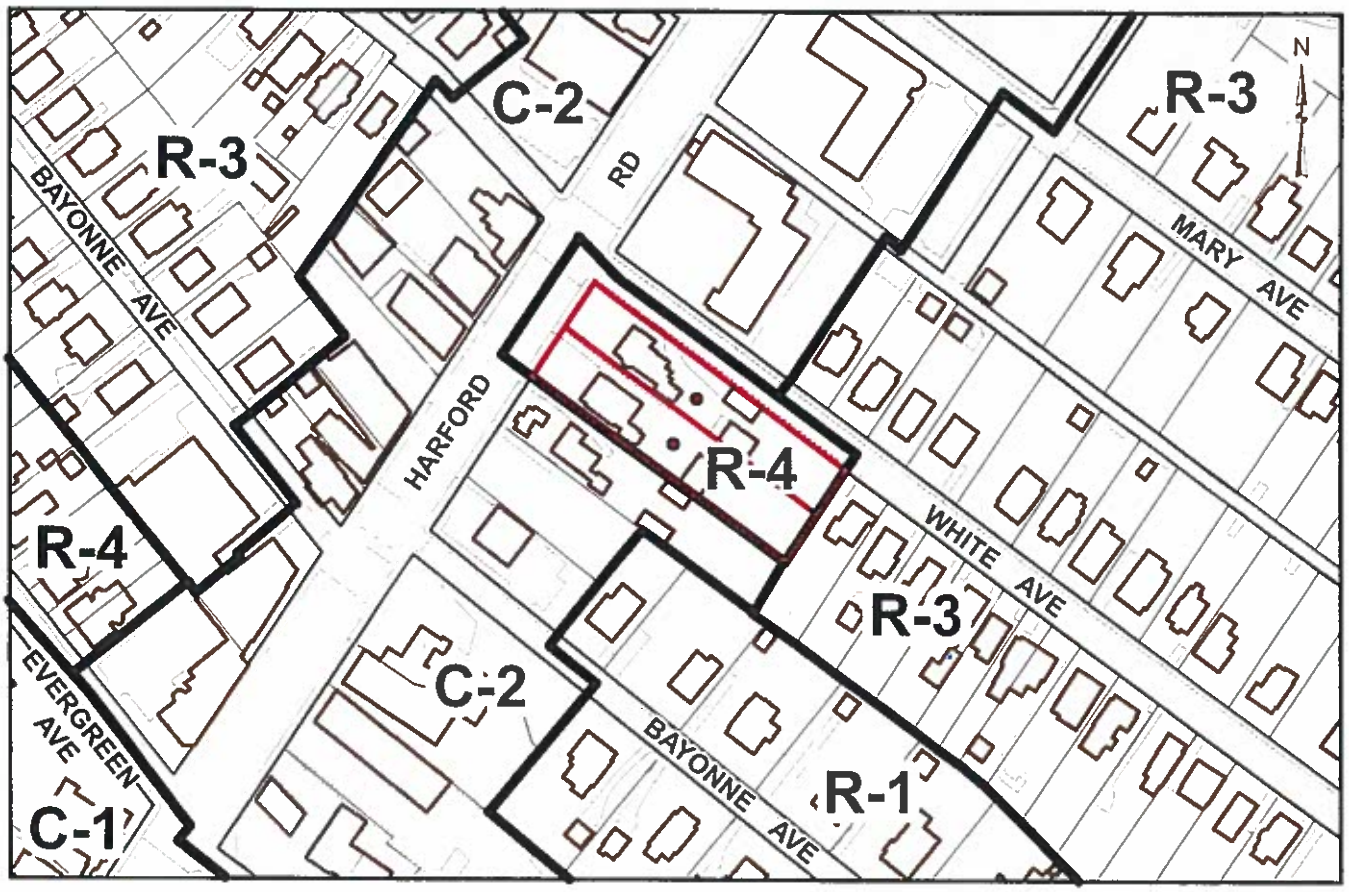
Mayor, Baltimore City

Approved For Form and Legal Sufficiency
This 13th Day of August 2017

Chief Solicitor

dir17-0263-3rd/13Jul17
rezone/cb17-0081-3rd/nbr

SHEET NO. 3 & 19 OF THE ZONING DISTRICT MAP OF THE BALTIMORE CITY ZONING CODE



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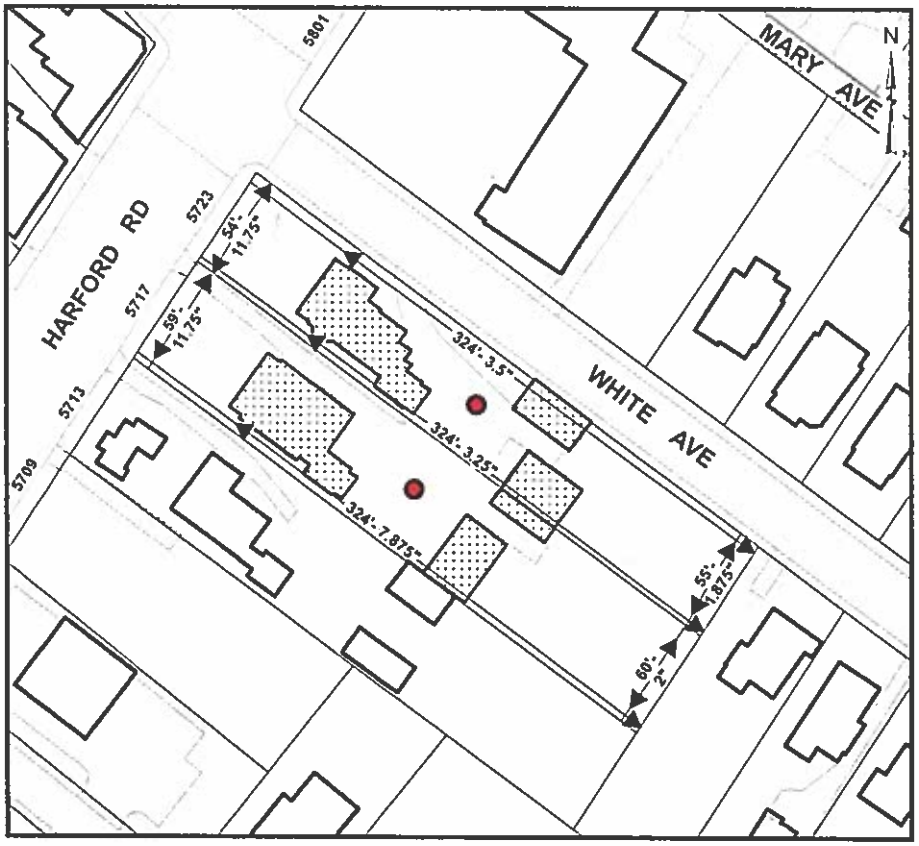

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BLOCK	5765	LOTS	1 & 2

MAYOR

PRESIDENT CITY COUNCIL

RPE 2-6-17

LAND USE AND TRANSPORTATION COMMITTEE

FINDINGS OF FACT

MOTION OF THE CHAIR OF THE LAND USE AND PLANNING COMMITTEE: THE CITY COUNCIL ADOPTS THESE FINDINGS OF FACT CONCERNING THE REZONING OF

City Council Bill No. 17-0081

Rezoning – 5717 and 5723 Harford Road

1. **Boundaries of the Neighborhood:**
   Glenham-Belhar neighborhood is situated in the Northeast section of the city, between two business corridors: Belair Road and Harford Road.

2. **Population Change:**
   The American Community Survey produced by the Census Bureau estimates that the population for the Census tract containing these properties has decreased since the 2010 census from 3,299 to 3,166 people.

   The proposed commercial rezoning of the properties will support population growth by allowing for dense mixed-use development along a major corridor.

3. **Availability of public facilities:**
   There are adequate public facilities to serve the properties. To the extent that additional utilities are required, the developer will install such facilities as part of the redevelopment of the site.

4. **Present and future transportation pattern:**
   The project is located along one of northeast Baltimore's major radial roadways, and is capable of carrying significant levels of traffic. The proposed rezoning and redevelopment of these lots should not negatively impact the transportation patterns of the area. The proximity to a major roadway makes it appropriate for increased density and ability to provide for commercial uses on the properties.

5. **Compatibility with existing and proposed development for the area:**
   The properties are located along a commercial corridor. A commercial rezoning of the properties is compatible with existing uses and other nodes of C-2 zoning along the Harford Road corridor.

6. **Recommendations of the Planning Commission:**

   Approval ☒

   Disapproval ☐

ADOPTED

7. **Recommendation of the BMZA:**

Approval ☒

Disapproval ☐

8. **Relation of the proposal to the City's Master Plan:**

Conforms ☒

Does not conform ☐

9. **Changes in the character of the neighborhood:**
n/a

10. **A mistake in the existing zoning classification**
There was a mistake in the 2017 rezoning of the Property as R-4, in that the City Council did not consider the dense, mixed-use commercial redevelopment projects occurring along the Harford Road corridor, nor did it consider broader trends in development that recognize robust commercial corridors with mixed-use development better serve the retail and services needs of the surrounding residential neighborhood than do corridors that have zoning designations that only permit small-scale residential development. This mistake should be corrected by rezoning the properties to C-2.

LAND USE COMMITTEE:

Chairman

Member

Member

Member

Member

Member

Member

BALTIMORE CITY COUNCIL
LAND USE AND TRANSPORTATION COMMITTEE
VOTING RECORD

DATE: July 12, 2017

BILL NUMBER: 17-0081

BILL TITLE: REZONING – 5717 AND 5723 HARFORD ROAD

MOTION BY: Dorsey **SECONDED BY:** Middleton

☑ **FAVORABLE** ☐ **FAVORABLE WITH AMENDMENTS**

☐ **UNFAVORABLE** ☐ **WITHOUT RECOMMENDATION**

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Reisinger, Edward - Chairman	✓			
Middleton, Sharon -Vice Chair	✓			
Clarke, Mary Pat	✓			
Costello, Eric	✓			
Dorsey, Ryan	✓			
Pinkett, Leon	✓			
Stokes, Robert	✓			
TOTALS	7			

CHAIRPERSON: Edward L. Reisinger

COMMITTEE STAFF: Marshall C. Bell **Initials:** MB

LAND USE AND TRANSPORTATION COMMITTEE

FINDINGS OF FACT

MOTION OF THE CHAIR OF THE LAND USE AND PLANNING COMMITTEE: THE CITY COUNCIL ADOPTS THESE FINDINGS OF FACT CONCERNING THE REZONING OF

City Council Bill No. 17-0081

Rezoning – 5717 and 5723 Harford Road

1. **Boundaries of the Neighborhood:**
   Glenham-Belhar neighborhood is situated in the Northeast section of the city, between two business corridors: Belair Road and Harford Road.

2. **Population Change:**
   The population has increased between 2000 and 2010.

3. **Availability of public facilities:**
   The property is well served by streets, utilities, police, fire and schools.

4. **Present and future transportation pattern:**
   The project is located along one or northeast Baltimore's major radial roadways, and is capable of carrying significant levels of traffic. Proposed rezoning and redevelopment of these lots should not negatively impact the transportation patterns of the area.

5. **Compatibility with existing and proposed development:**
   The proposed zoning change is consistent with the prior conversion of industrial properties to commercial zoning that permits mixed use developments, and better responds to the adjacency with the existing community.

6. **Recommendations of the Planning Commission:**

   Approval ☒

   Disapproval ☐

   ~~ADOPTED~~
   Reconsidered August 14th, 2017

7. **Recommendation of the BMZA:**

   Approval ☒

   Disapproval ☐

8. **Relation of the proposal to the City's Master Plan:**

Conforms ☒

Does not conform ☐

9. **Changes in the character of the neighborhood:**
n/a

10. **A mistake in the existing zoning classification:**
Yes

LAND USE COMMITTEE:

Chairman	**Member**
Member	**Member**
Member	**Member**
Member	**Member**

FROM			CITY of BALTIMORE MEMO
	NAME & TITLE	Michelle L. Pourciau, Director	
	AGENCY NAME & ADDRESS	Department of Transportation (DOT) 417 East Fayette Street, Room 527	
	SUBJECT	City Council Bill 17-0081	

TO The Honorable President and
Members of the City Council
c/o Natawna Austin
Room 400 City Hall

July 6, 2017

I am herein reporting on City Council Bill 17-0081 for the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road from the R-4 Zoning District to the C-2 Zoning District.

The proposed bill would rezone the above mentioned properties to be consistent with the Harford Rd. corridor. The redevelopment of these properties would be subject to a Traffic Impact Study, which would determine the associated transportation related projects needed to permit construction.

The Department of Transportation (DOT) has no objection to the rezoning of these properties.

Thank you for this opportunity to comment.

Respectfully,

Michelle L. Pourciau
Director

MP/PAF

Cc: Karen Stokes, Mayor's Office
Kyron Banks, Mayor's Office

NO
OBJ

RECEIVED
JUL 12 2017
BALTIMORE CITY COUNCIL
PRESIDENT'S OFFICE

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor

BOARD OF MUNICIPAL AND ZONING APPEALS

DAVID C. TANNER, Executive Director
417 E. Fayette Street, Room 1432
Baltimore, Maryland 21202

July 3, 2017

The Honorable President and
Members of the City Council
City Hall
100 N. Holliday Street
Baltimore, MD 21202

Re: City Council Bill No. 17-0081: Rezoning – 5717 and 5723 Harford Road

Ladies and Gentlemen:

City Council Bill No. 17-0081 has been referred by your Honorable Body to the Board of Municipal and Zoning Appeals for study and report.

The purpose of City Council Bill No. 17-0081 is to change the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

The BMZA has reviewed the legislation and recommends approval to the passage of Bill Number 17-0081.

Sincerely,

David C. Tanner

David C. Tanner
Executive Director

DCT/rdh

CC: Mayors Office of Council Relations
Legislative Reference

F

BALTIMORE
HOUSING

CATHERINE E. PUGH
Mayor

PAUL T. GRAZIANO
Executive Director, HABC
Commissioner, HCD

MEMORANDUM

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

From: Michael Braverman, Acting Commissioner MEB

Date: June 26, 2017

Re: **City Council Bill 17-0081 - Rezoning – 5717 and 5723 Harford Road**

The Department of Housing and Community Development (HCD) has reviewed City Council Bill 17-0081, for the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road from the R-4 Zoning District to the C-2 Zoning District.

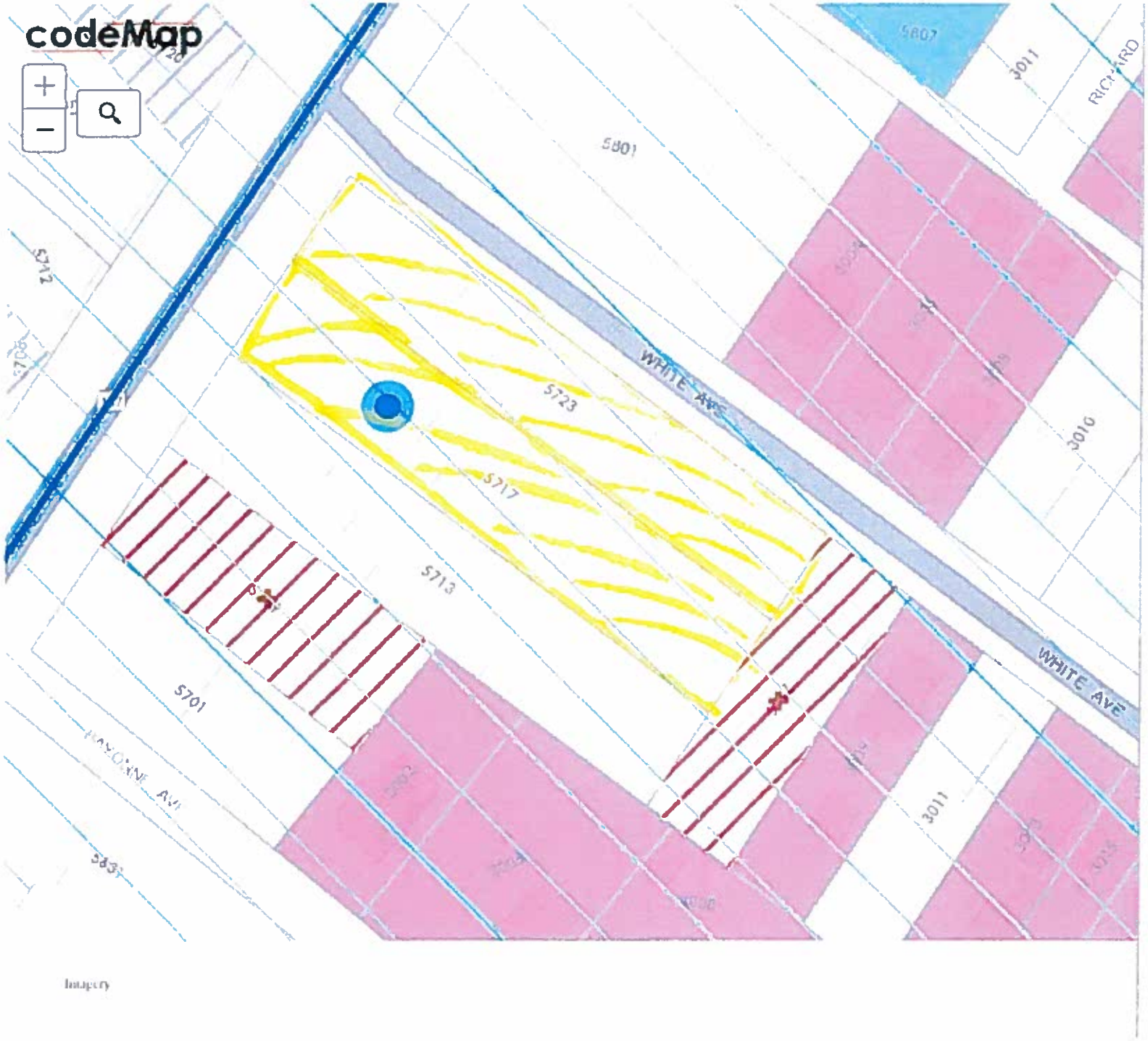
If enacted, this bill, introduced by Councilman Dorsey, would change the zoning for two lots in the Flenham-Belhar neighborhood, which is across Harford Road from the Hamilton Hills neighborhood, from the R-4 to the C-2 zoning District. The change is zoning district would be compatible with the commercial corridor and accommodate a proposed multi-family development with ground-floor commercial use on the properties.

The Department of Housing and Community Development has no objection to the passage of City Council Bill 17-0081.

MB:sd

cc: Ms. Karen Stokes, *Mayor's Office of Government Relations*
Mr. Kyron Banks, *Mayor's Office of Government Relations*

no obj



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  - Funded Dei
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  - ✔ Major Red
  - ✔ Streamline
- ✔ CE Internal
  - ✔ Planning De
    - ✔ Project C
      - ✔ Proje
        - FY16
        - FY17/1
        - Propo
      - Proje
    - ✔ Non-Proj
      - ✔ Non-
      - Non-
    - Potentia
  - Green Netv
  - EOG Result
  - Demo Work
  - BRNI, CL, C
  - Demolition
  - Likely Unoc
  - BPD
  - HABC Scatt
  - HO Incentiv

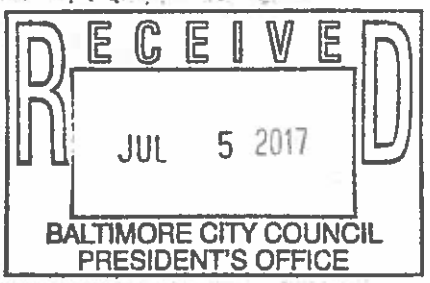
CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor

DEPARTMENT OF LAW

101 City Hall
Baltimore, Maryland 21202

July 5, 2017



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

Attn: Natawna B. Austin
Executive Secretary

Re: City Council Bill 17-0081 – Rezoning – 5717 and 5723 Harford Road

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0081 for form and legal sufficiency. The bill would change the zoning for 5717 and 5723 Harford Road from the R-4 Zoning District to the C-2 Zoning District.

These rezonings were originally introduced under Council Bill 17-0032. Due to procedural issues, Council did not proceed with 17-0032 and the bill was reintroduced as 17-0081. The Planning Department issued a Staff Report ("Report") regarding the two properties proposed to be rezoned by the current bill and attached for reference its Staff Report for 17-0032. *See* Report at 2. The Report explains that, prior to TransForm Baltimore, the properties were split-zoned, with B-2-2 commercial zoning in the front, and R-4 residential zoning in the rear. *See* Report at 1. The properties were rezoned R-4 in their entirely when TransForm became effective on June 5, 2017. *See* Report at 1. As noted above, this bill seeks to rezone the properties from R-4 to C-2.

The City Council may approve a proposed map amendment based on a finding that there was a "mistake in the existing zoning classification." Md. Land Use Code Ann., §10-304(b)(2); Baltimore City Code, (BCC) Art. 32, § 5-508(b)(1)(ii). In determining whether to rezone on the basis of mistake, the City Council is required to make findings of fact, for each property, on the following matters: (1) population change; (2) the availability of public facilities; (3) the present and future transportation patterns; (4) compatibility with existing and proposed development; (5) the recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals; and (6) the relationship of the proposed amendment to the City's plan. Md. Land Use Code Ann., §10-304(b)(1). *See also*, BCC, Art. 32, § 5-508(b)(2) (citing same factors with (v) being "the recommendations of the City agencies and officials," and (vi) being "the proposed amendment's consistency with the City's Comprehensive Master Plan."). Article 32 of the City Code also requires Council to 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." § 5-508(b)(3).

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." *Cty. Council of Prince George's Cty. v. Zimmer Dev. Co.*, 444 Md. 490, 510 (2015), *quoting*, *Cremins v. Cnty. Comm'rs of Washington Cnty.*, 164 Md.App. 426, 438 (2005). *See also*, *White v. Spring*, 109 Md. App. 692, 699, *cert. denied*, 343 Md. 680 (1996) ("the courts may not substitute their judgment for that of the legislative agency if the issue is rendered fairly debatable"); *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.'").

With regard to rezoning on the basis of mistake, it is "firmly established that there is a strong presumption of the correctness of original zoning and of comprehensive rezoning." *People's Counsel v. Beachwood I Ltd. Partnership*, 107 Md. App. 627, 641 (1995), *quoting*, *Wells v. Pierpont*, 253 Md. 554, 557 (1969). To sustain a piecemeal change, 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. at 698, *quoting*, *People's Counsel*, 107 Md. App. at 645. 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." 109 Md. App. at 698. "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.

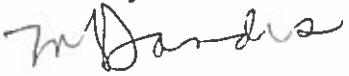
A finding of mistake, however, absent a regulatory taking, merely permits the further consideration of rezoning, it does not mandate a rezoning. *White*, 109 Md. App. at 708. Rather, a second inquiry "regarding whether, and if so, how, the property is reclassified," is required. *Id.* at 709. This second conclusion is due great deference. *Id.* (after a prior mistake has been established and accepted as fact by a legislative zoning entity, that entity's decision as to whether to rezone, and if so, how to reclassify, is due the same deference the prior comprehensive rezoning was due).

In sum, the Land Use and Transportation Committee (the "Committee") 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 Committee is required to make findings of fact for each property with regard to the factors in §§10-304 and 10-305 of the Land Use Article and § 5-508 of Article 32. If, after its investigation of the facts, the Committee makes findings which support: (1) a mistake in the comprehensive zoning; 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. **The Law Department notes that the Report does not supply facts to support each of the findings required by law; therefore, Council must base its findings on other testimony presented at the hearing.**

Finally, 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." BCC 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. 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 of the property and the name of the applicant. Art. 32, §5-601(c). The posted notices must be at least 3 feet by 4 feet in size, placed at a prominent location, and at least one sign must be visible from each of the property's street frontages. Art. 32, §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. Art. 32, §5-601(e),(f).

The bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standard for rezoning has been met. Assuming the required findings are made at the hearing and that all procedural requirements are satisfied, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis

cc: David Ralph, Interim City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Victor K. Tervala, Chief Solicitor

Baltimore
Development Corporation

MEMORANDUM

TO: Honorable President and Members of the City Council
Attention: Natawna Austin, Executive Secretary

FROM: William H. Cole, President and CEO

DATE: June 23, 2017

SUBJECT: City Council Bill No. 17-0081
Rezoning – 5717 and 5723 Harford Road

The Baltimore Development Corporation (BDC) has been asked to comment on City Council Bill #17-0081, which seeks to rezone 5717 and 5723 Harford Road from the R-4 Zoning District to the C-2 Zoning District.

The proposed improvement of these properties will provide a mixed-use development which will help to continue the community revitalization efforts along Harford Road adding commercial space and additional residential units.

The BDC supports this resolution and respectfully requests that favorable consideration be given by the City Council for Bill No. 17-0081.

cc: Kyron Banks

36 S. Charles St. Suite 2100 Baltimore, MD 21201 410.837.9305 O 410.837.6363 F BaltimoreDevelopment.com

HAMILTON-LAURAVILLE MAIN STREET
REVITALIZATION PROGRAM
5500 Harford Road, Suite 201 • Baltimore MD • 21214

Regina Lansinger, Director
Regina@HamiltonLauravilleMainStreet.org
410-319-7150 * 410-319-7151 (fax)

June 12, 2017

William Cunningham, Chairman
Land Use & Transportation Committee
417 E. Fayette Street, 8th Floor
Baltimore, MD 21202

Council Bill #17-0081
Rezoning - 5717 and 5723 Harford Road

Dear Mr. Cunningham:

As Executive Director of Hamilton-Lauraville Main Street, I am writing in regard to the proposed zoning change for the properties located at 5717 and 5723 Harford Road, currently zoned as B-2 in the front parcel, and R-4 in the back.

Samuel Polakoff, Property Consulting, is the developer of the property located at 4801 Harford Road. The transformation of that long-neglected property has provided an opportunity for our business district to improve. Not only is the new mixed use development good for the corner of Harford Road and Southern Avenue, but it has already spawned additional growth in the 4700 block of Harford Road in advance of the completion of the project known as SoHa Union. Mr. Polakoff is now known in the community. He has addressed community and business associations to advance this development in Lauraville.

If the properties at 5717 and 5723 Harford Road are rezoned to C-2, this will allow for a similar mixed-use development to occur in Hamilton. The property has not been in use for many years. Additional density generated from 50 new apartments will bring more foot traffic to the businesses on Harford Road. On behalf of Hamilton-Lauraville Main Street, I ask that you support this change.

Thank you,

Regina Lansinger

Regina Lansinger

Hamilton – Lauraville Main Street program is made possible by the generous support from the Baltimore Main Streets project and from the National Trust for Historic Preservation

HAMILTON HILLS
NEIGHBORHOOD ASSOCIATION

from Mr. Gavin Schmitt
President, Hamilton Hills Neighborhood Association
PresidentHHNA@gmail.com
410.905.1560

June 12, 2017

to Mr. Bill Cunningham
Chairman, Planning Commission
417 East Fayette St., 8th Floor Baltimore, MD 21202

IN SUPPORT OF: CCB #17-0081

Dear Mr. Cunningham:

I am writing to you concerning City Council Bill #17-0081 in which a zoning change from R-4 to C-2 is sought for 5717 and 5723 Harford Road. This location is within the community of Glenham-Belhar, which is directly adjacent to Hamilton Hills where I serve as association president.

Mr. Sam Polakoff wishes to create a mixed-use development at this location to include approximately 50 market-rate apartments and 2,500 square feet of Harford Road-facing retail space. Mr. Polakoff has met with representatives of our association as well as with the members of Glenham-Belhar, voted to approve his proposal.

We ask that you support this zoning change. Our community association voted in favor of the proposal and in support of Glenham-Belhar at our meeting in April 2017. We recognize that for the Hamilton business district to be more successful, we need a greater density of people who live within walking distance of our main street businesses. Mr. Polakoff has been very responsive to community questions and concerns. In the past, we have had other developers interested in these properties and their only concerns were serving the commuter population, not the local neighborhood. We believe we are in good hands with Mr. Polakoff and that his vision for that corner is the best option for our region.

Thank you in advance for your assistance in this matter.

warm regards,
Gavin Schmitt

Glenham-Belhar
Community Association

June 12, 2017

Mr. Bill Cunningham
Chairman
Planning Commission
417 East Fayette St., 8th Floor
Baltimore, MD 21202

IN SUPPORT OF:
CCB #17-0081
Scheduled to be heard 6/15/2017

Dear Mr. Cunningham:

I am writing to you concerning City Council Bill #17-0081 in which a zoning change from R-4 to C-2 is sought for 5717 and 5723 Harford Road. This location is within the community of Glenham-Belhar, where I currently serve as the association president.

Mr. Sam Polakoff wishes to create a mixed-use development at this location to include approximately 50 market-rate apartments and 2,500 square feet of Harford Road-facing retail space. Mr. Polakoff has met with our association on two occasions as well as with the people whose homes adjoin this planned development.

We ask that you support this zoning change. The members of our community association voted at our April 2017 meeting to support this development effort. We recognize that for the Hamilton business district to be more successful, we need a greater density of people who live within walking distance of our main street businesses. Mr. Polakoff has been very responsive to community questions and concerns. In the past, we have had other developers interested in these properties and their only concerns were serving the commuter population, not the local neighborhood. We believe we are in good hands with Mr. Polakoff and that his vision for that corner is our best option at this point (certainly better than the houses and barns that are decaying on the properties right now).

Thank you in advance for your assistance in this matter.

Respectfully,
Anne Yastremski
Anne Yastremski
President
Glenham-Belhar Community Association

HARBEL Community Organization, Inc.
5807 Harford Road
Baltimore, Maryland 21214
fax 410-426-1140
Email: info@harbel.org
Website: www.harbel.org

410-444-2100

June 9, 2017

Mr. Wilbur Cunningham
Chairman, Baltimore City Planning Commission
C/o Department of Planning
417 E. Fayette Street, 8th floor
Baltimore, Maryland 21202

Re: City Council Bill 17-0081, for the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, from the R-4 Zoning District to the C-2 Zoning District

Dear Mr. Cunningham:

As the Community Relations Director of the HARBEL Community Organization, Inc., a non-profit organization serving the needs of over 80 member organizations and communities in Northeast Baltimore, I am writing you concerning City Council Bill 17-0081 for the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, from the R-4 Zoning District to the C-2 Zoning District.

The location in question is within the boundaries of the Glenham-Belhar Community Association. The developer, Samuel Polakoff of Cormony Development, has presented his plans for a mixed use development of this property that would involve retail establishments facing the Harford Road portion of the property and residential rental units on the remainder of the parcel. The Community Association is in support of this proposed development.

HARBEL supports the Glenham-Belhar Community Association's position pertaining to this City Council Bill. We note the two properties are currently unoccupied deteriorating residential properties, which have been in this state for at least 14 years. They have been a detriment to the ongoing revitalization of Harford Road. The proposed development will revitalize these properties and result in a vibrant and significant asset to the corridor and its surrounding neighborhoods. We applaud Mr. Polakoff's plan, and we would ask the Commission favorably recommend this bill to the City Council for enactment

Thank you in advance for your assistance in this matter, and please know the efforts of the Baltimore City Planning Commission to maintain and improve this city's neighborhoods have been greatly appreciated by HARBEL and its members.

Sincerely,

Michael H. Hilliard
Director, Community Relations

"1970-2017, HARBEL's 47th Anniversary of Serving Northeast Baltimore"

Rosenberg
Martin
Greenberg LLP

Caroline L. Hecker
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
P: (410) 727-6600/F: (410) 727-1115
checker@rosenbergmartin.com

MEMORANDUM

TO: LAND USE & TRANSPORTATION COMMITTEE, BALTIMORE CITY COUNCIL

FROM: CAROLINE L. HECKER
JUSTIN A. WILLIAMS

CC: PROPERTY CONSULTING, INC.

RE: CCB # 17-0081 - REZONING 5717 AND 5723 HARFORD ROAD: PROPOSED FINDINGS OF FACT

DATE: JULY 7, 2017

The City Council has the authority to change the zoning classification of a property as part of a comprehensive rezoning process or upon 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. MD. CODE ANN., Land Use § 10-304(b)(2); Baltimore City Code, Article 32 – Zoning § 5-508(b)(1). Here, there was a mistake in the 2017 rezoning of the Property as R-4 in that the City Council did not consider the dense mixed-use commercial redevelopment projects occurring along the Harford Road corridor, nor did it consider broader trends in development that recognize robust commercial corridors with mixed-use development better serve the retail and services needs of the surrounding residential neighborhood than do corridors that have zoning designations that only permit small-scale residential development. This mistake should be corrected by rezoning the properties to C-2.

In connection with the finding that there was a mistake in the existing zoning classification, both Section 5-508(b) of the Zoning Code and Section 10-304 of the Maryland Land Use Article require the City Council to make findings of fact that address:

(i) Population Change

- The American Community Survey produced by the Census Bureau estimates that the population for the Census tract containing these properties has decreased since the 2010 census from 3,299 to 3,166 people.

- The proposed commercial rezoning of the properties will support population growth by allowing for dense mixed-use development along a major corridor.

(ii) The availability of public facilities;

- There are adequate public facilities to serve the properties. To the extent that additional utilities are required, the developer will install such facilities as part of the redevelopment of the site.

(iii) Present and future transportation patterns;

- The project is located along one of northeast Baltimore's major radial roadways and is capable of carrying significant levels of traffic. The proposed rezoning and redevelopment of the properties should not negatively impact the transportation patterns of the area. The proximity to a major roadway makes it appropriate for increased density and ability to provide for commercial uses on the properties.

(iv) Compatibility with existing and proposed development for the area;

- The properties are located along a commercial corridor. A commercial rezoning of the properties is compatible with existing uses and other nodes of C-2 zoning along the Harford Road corridor.

(v) The recommendations of the Baltimore City Planning Commission and the Board of Municipal and Zoning Appeals;

- On June 15, 2017, the Planning Commission concurred with the recommendation of its departmental staff and recommended that the properties be rezoned. The Board of Municipal and Zoning Appeals has recommended approval of the passage of the rezoning legislation.

(vi) The proposed amendment's consistency with the City's Comprehensive Master Plan.

- The City's LiveEarnPlayLearn Master Plan specifically recommends that business districts such as the proposed C-2 should be used to "encourage the development of commercial nodes that meet the needs of our business and residential users." Comprehensive Master Plan, Recommendations, p. 164.
    - The proposed rezoning of the properties to C-2 will meet this goal by nurturing the continued development of a commercial main street that will serve and support the future redevelopment of the Harford Road corridor with mixed-uses.
- Moreover, the Zoning Code itself defines the C-2 Zoning District as a "Community Commercial District," which "is intended for areas of small to medium-scale commercial use, typically located along urban corridors...." § 10-204(a).
    - This type of zoning is appropriate on a major roadway such as Harford Road, which is designed to not only accommodate pedestrians from the nearby neighborhood, but also, automobiles.

Section 5-508(b)(3) of the Zoning Code also mandates that additional standards be considered for map amendments:

(i) Existing uses of property within the general area of the property in question;

- As stated above, the properties are located along a busy commercial corridor and the uses located thereon are commercial in nature with restaurant, car repair, animal grooming, and a dialysis center in close proximity. The properties back up to a residential neighborhood, making it appropriate to permit the mixed-uses available in the C-2 zoning district on the properties.

(ii) the zoning classification of other property within the general area of the property in question;

- The residential neighborhood behind the properties is primarily zoned R-3. The properties along Harford Road are commercially zoned (C-1 and C-2) for over 1,000 feet in either direction.

(iii) The suitability of the property in question for the uses permitted under its existing zoning classification; and

- The properties are currently zoned R-4, which "is intended for neighborhoods that accommodate detached and semi-detached dwellings located on lots of at least 3,000 square feet." § 8-210. The properties, which are located along the busy Harford Road corridor, are not well-suited for detached and semi-detached dwellings.

(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.

- The properties were only placed in their present zoning classification when Transform Baltimore became effective on June 5, 2017. The general trend of development in the vicinity and along the Harford Road corridor has been with commercial and mixed-use development. The properties are located within an Enterprise Zone, which is designation is intended to promoted commercial development. Accordingly, the commercial classification of the properties is appropriate.

4844-3506-1579, v. 1

CITY OF BALTIMORE
CATHERINE E. PUGH, Mayor

OFFICE OF COUNCIL SERVICES
LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

HEARING NOTES

Bill: 17-0081

Rezoning – 5717 and 5723 Harford Road

Committee: Land Use and Transportation
Chaired By: Councilmember Edward Reisinger

Hearing Date: July 12, 2017
Time (Beginning): 1:50 pm
Time (Ending): 2:00 pm
Location: Clarence "Du" Burns Chamber
Total Attendance: 25
Committee Members in Attendance:

Edward Reisinger	Leon Pinkett	Mary Pat Clarke
Sharon Green Middleton	Ryan Dorsey	Eric Costello
Robert Stokes		

Bill Synopsis in the file?	☒ yes	☐ no	☐ n/a
Attendance sheet in the file?	☒ yes	☐ no	☐ n/a
Agency reports read?	☒ yes	☐ no	☐ n/a
Hearing televised or audio-digitally recorded?	☒ yes	☐ no	☐ n/a
Certification of advertising/posting notices in the file?	☒ yes	☐ no	☐ n/a
Evidence of notification to property owners?	☒ yes	☐ no	☐ n/a
Final vote taken at this hearing?	☒ yes	☐ no	☐ n/a

Motioned by: **Councilmember** Dorsey
Seconded by: **Councilmember** Middleton
Final Vote: **Favorable**

Major Speakers

(This is not an attendance record.)

- Eric Tiso, Department of Planning
- Caroline Hecker, Partner at Rosenberg Martin Greenberg, LLP

Major Issues Discussed

1. Planning Department briefly testified in support of the ordinance, describing the unique zoning history of the property which was previously split zoned. He explained that split zoning is discouraged, however, because of the unusually lengthy depth of the property, planners in the past had made an exception in this case, allowing for a business zoning for the front of the house, and residential units in the back and upper floors. The property has been vacant for many years, and the new developers plan to create a multi-unit apartment building, and desire a uniform, residential zoning for the entire property.
2. All other departments and agencies stood by their submitted written reports.
3. The attorney for the developer submitted two letters of support from neighborhood community associations, and recited the required findings of fact for the committee's consideration.

Further Study

Was further study requested? ☐ **Yes** ☒ **No**

If yes, describe.

Marshall C. Bell, Committee Staff MB Date: July 14, 2017

cc: Bill File
OCS Chrono File

OF BALTIMORE
RING ATTENDANCE RECORD

	CHAIRPERSON: THE HONORABLE ED REISINGER
PLACE: Clarence "Du" Burns Chambers	
	CC BILL NUMBER: 17-0081

RINT			WHAT IS YOUR POSITION ON THIS BILL?		(*) LOBBYIST: ARE YOU REGISTERED IN THE CITY	
Y PLEASE CHECK HERE						
ORGANIZATION NAME	ZIP	EMAIL ADDRESS	FOR or	AGAINST	YES or	NO
rles Street	21202	Johndoenbmore@yahoo.com	✓	✓	✓	✓
						✓
onsulting			✓			✓
		cneeker@rosenbergmartin.com	✓		✓	
		jwilliams@rosenbergmartin.com	✓		✓	
		mcardin@rosenbergmartin.com	✓		✓	
		mfetz@baltimoredevelopment.com	✓			

required by law to register with the City Ethics Board. Registration is a simple process. For information and
GISLATIVE REFERENCE, 626 City Hall, Baltimore, MD 21202. Tel: 410-396-4730: Fax: 410-396-8483

BALTIMORE CITY COUNCIL
LAND USE AND TRANSPORTATION COMMITTEE

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the Land Use and Transportation Committee is to review and support responsible development and zoning initiatives to ensure compatibility with the aim of improving the quality of life for the diverse population of Baltimore City.

The Honorable Edward L. Reisinger
Chairman

PUBLIC HEARING

WEDNESDAY, JULY 12, 2017
1:30 PM
CLARENCE "DU" BURNS COUNCIL CHAMBERS

City Council Bill #17-0081

Rezoning – 5717 and 5723 Harford Road

CITY COUNCIL COMMITTEES

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Leon Pinkett – Vice Chair
Bill Henry
Sharon Green Middleton
Brandon M. Scott
Isaac "Yitzy" Schleifer
Shannon Sneed
Staff: Marguerite Murray

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Leon Pinkett – Vice Chair
Eric Costello
Edward Reisinger
Robert Stokes
Staff: Jennifer Coates
- *Larry Greene* ***(pension only)***

Rev. 1/3/17

CITY OF BALTIMORE
CATHERINE E. PUGH, Mayor

OFFICE OF COUNCIL SERVICES
LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

BILL SYNOPSIS

Committee: Land Use and Transportation

Bill 17-0081

Rezoning – 5717 And 5723 Harford Road

Sponsor: *Councilmember Dorsey*
Introduced: *June 5, 2017*

Purpose:

FOR the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

Effective: 30th Day after Enactment

Hearing Date/Time/Location: Wednesday, July 12, 2017/1:30 PM/Clarence "Du" Burns Chambers

Agency Reports

Planning Commission	Favorable
Department of Law	Favorable/Comments
Department of Housing and Community Development	No Objection
Board of Municipal and Zoning Appeals	Favorable
Baltimore Development Corporation	Favorable
Department of Transportation	

Analysis

Current Law

Article 32 – Zoning: Zoning Map; Sheet 18 and 19; Baltimore City Revised Code (Edition 2000)

Background

CC Bill 17-0080, if approved, would change the zoning for the properties known as 5717 and 5723 Harford Road, from the R-4 Zoning District to the C-2 Zoning District. These properties are located on the southern corner of the intersection with White Avenue, on the western edge of the Glenham-Belhar neighborhood; with the Hamilton Hills neighborhood located to the west across Harford Road. This neighborhood is primarily residential in nature, mostly consisting of single-family detached homes, aside from the commercial corridor of Harford Road.

Prior to Transform Baltimore, these properties were split zoned with B-2-2 for the first approximately 150' and R-4 for the remainder of the property. They are now zoned R-4 under Transform Baltimore. The requested C-2 district will accommodate a proposal for a multi-family building on this property, with ground-floor commercial use.

The Maryland Code allows for the City Council to approve the legislative authorization based on a finding that there was either a substantial change in the character of the neighborhood where the property is located, or a mistake was made in the existing zoning classification. It has been determined that changing the proposed zoning for this property to entirely R-4 in isolation was a mistake, in that it did not serve the interests of the commercial corridor, nor did it take into account for the potential for future development that would be compatible with the existing residential neighborhood..

It should be noted that the Law Department in its submitted written report, raised concerns regarding basing the change on a mistake, pointing out that the Planning Department did not supply adequate facts to support each of the findings as required by law, therefore, it concluded that the Council must base its findings on other testimony presented at the hearing.

Additional Information

Fiscal Note: Not Available

Information Source(s): Planning Department staff report, Law Department report

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Analysis by: Marshall Bell MB
Analysis Date: July 10, 2017

Direct Inquiries to: 410-396-1091

CITY OF BALTIMORE
COUNCIL BILL 17-0081
(First Reader)

Introduced by: Councilmember Dorsey
At the request of: Property Consulting, Inc.
Address: c/o Caroline L. Hecker, Esquire, Rosenberg | Martin | Greenberg, LLP, 25 South Charles Street, 21st Floor, Baltimore, Maryland 21201
Telephone: 410-727-6600
Introduced and read first time: June 5, 2017
Assigned to: Land Use and Transportation Committee

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

A BILL ENTITLED

AN ORDINANCE concerning

Rezoning – 5717 and 5723 Harford Road

FOR the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

BY amending
Article 32 - Zoning
Zoning Map
Sheets 18 and 19
Baltimore City Revised Code
(Edition 2000)

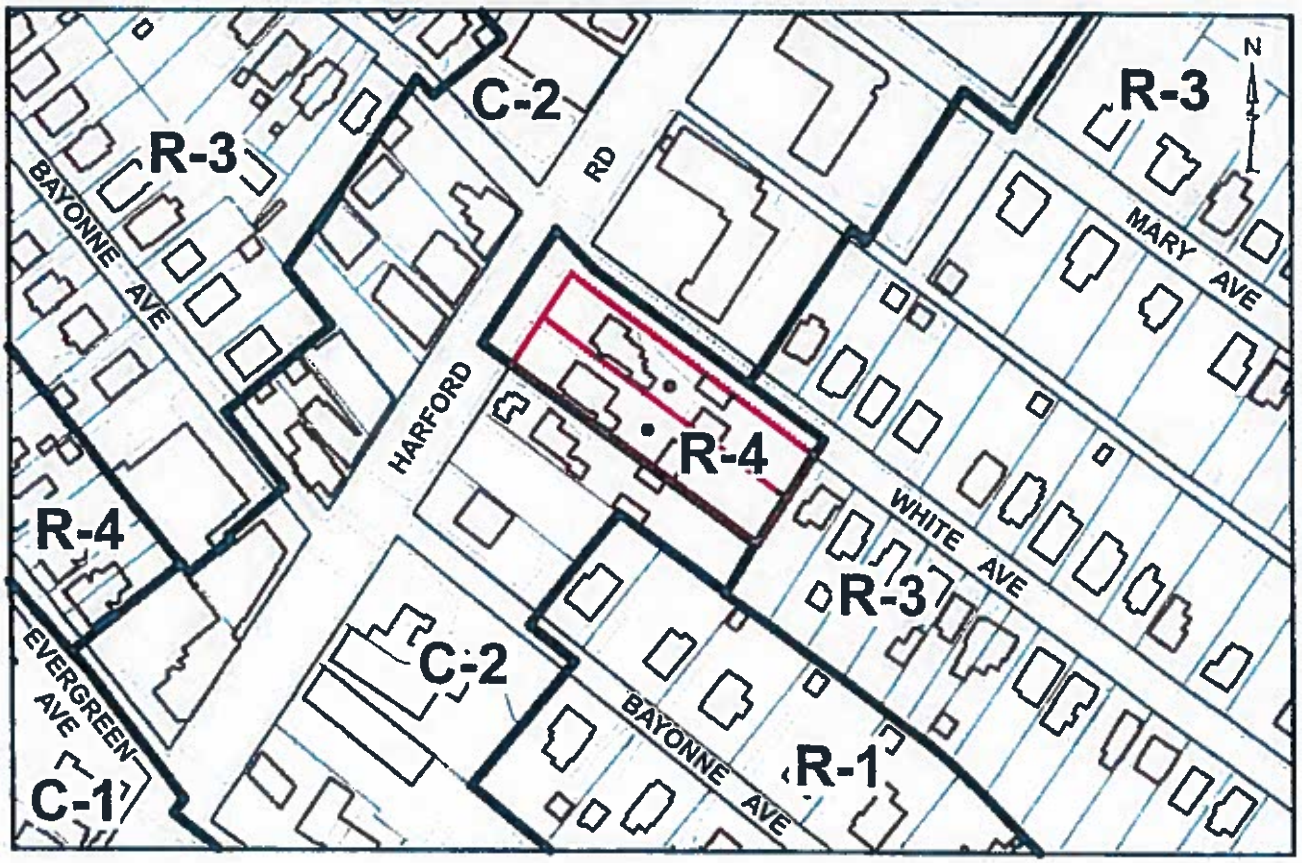
SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That Sheets 18 and 19 of the Zoning Map are amended by changing from the R-4 Zoning District to the C-2 Zoning District the properties known as 5717 and 5723 Harford Road, as outlined in red on the plat accompanying this Ordinance.

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

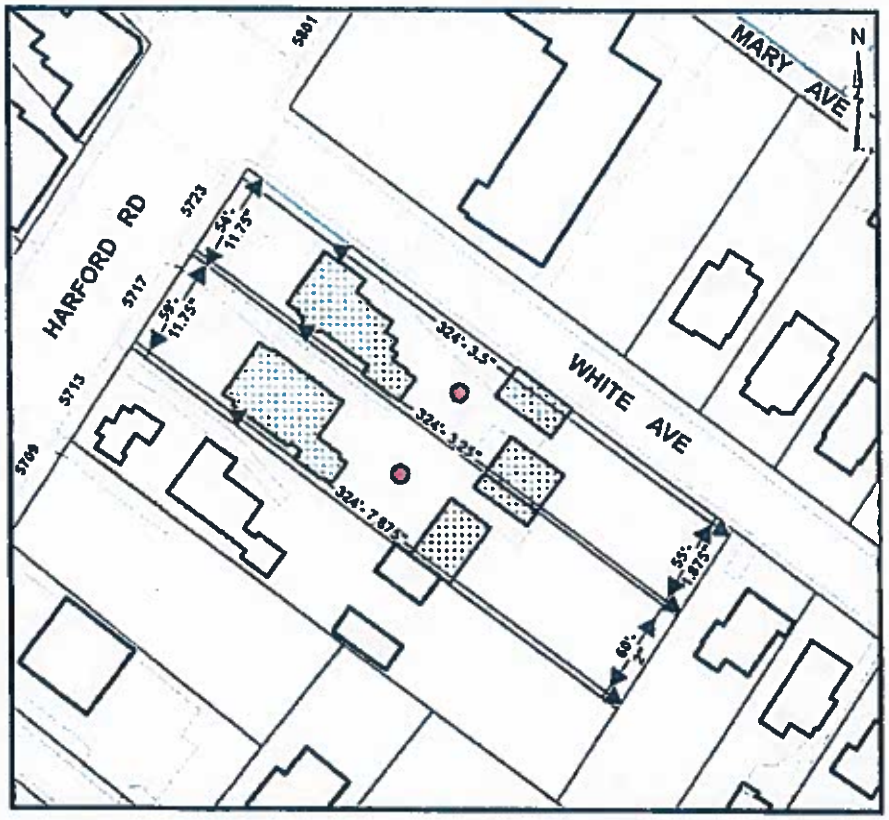
SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

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

SHEET NO. 18 & 19 OF THE ZONING DISTRICT MAP OF THE BALTIMORE CITY ZONING CODE



Scale: 1" = 200'



Scale: 1" = 100'

Note:

In Connection With Properties Known As No. 5717 HARFORD ROAD And 5723 HARFORD ROAD. The Applicant Wishes To Request The Rezoning Of The Aforementioned Properties From R-4 Zoning to C-2 Zoning, As Outlined In Red Above.

WARD 27 SECTION 3

BLOCK 5765 LOTS 1 & 2

MAYOR

PRESIDENT CITY COUNCIL

RPE 2-6-17

LAND USE AND TRANSPORTATION COMMITTEE

CC#: 17-0081

AGENCY REPORTS

FROM			CITY of BALTIMORE MEMO
	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8TH FLOOR, 417 EAST FAYETTE STREET	
	SUBJECT	CITY COUNCIL BILL #17-0081 / REZONING 5717 AND 5723 HARFORD ROAD	

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

DATE: June 16, 2017

At its regular meeting of June 15, 2017, the Planning Commission considered City Council Bill #17-0081, for the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #17-0081 and adopted the following resolution seven members being present (seven in favor):

> RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #17-0081 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: Mr. Pete Hammen, Chief Operating Officer
Mr. Jim Smith, Chief of Strategic Alliances
Ms. Karen Stokes, Mayor's Office
Mr. Colin Tarbert, Mayor's Office
Mr. Kyron Banks, Mayor's Office
The Honorable Edward Reisinger, 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. Natawna Austin, Council Services
Mr. Francis Burnszynski, PABC
Ms. Caroline L. Hecker, Esq.

Catherine E. Pugh
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT

Thomas J. Stosur
Director

June 15, 2017

REQUEST: City Council Bill #17-0081/ Rezoning – 5717 and 5723 Harford Road:
For the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

RECOMMENDATION: Approval

STAFF: Eric Tiso

PETITIONER: Property Consulting, Inc., c/o Caroline L. Hecker, Esq.

OWNERS: Linda Chatfield and Ralph Murray

SITE/GENERAL AREA
Site Conditions: 5717 and 5723 Harford Road are located on the southern corner of the intersection with White Avenue. 5717 Harford Road measures approximately 324'3 ½" in depth, by 54'11 ¾" in width. 5723 Harford Road measures approximately 324'3 ¼" in depth, by 59'11 ¾" in width. Both lots are currently improved with single-family detached homes. These lots were split-zoned under the former zoning code, with B-2-2 commercial zoning in the front, to include the homes, and were R-4 residentially zoned in the rear, to include detached garages. They are now zoned R-4 under TransForm Baltimore.

General Area: These properties are located on the western edge of the Glenham-Belhar neighborhood, with the Hamilton Hills neighborhood located to the west across Harford Road. The Glenham-Belhar neighborhood is principally residential in nature, mostly consisting of single-family detached homes, aside from the commercial corridor of Harford Road.

HISTORY
- These properties were zoned R-4 residential by TransForm Baltimore, in the comprehensive rezoning of the City that become effective on June 5, 2017.
- CCB #17-0032 – Rezoning – 5717 and 5723 Harford Road was reviewed by the Planning Commission on April 13, 2017, which recommended that the bill be passed.

ANALYSIS
Background: Prior to TransForm Baltimore these properties were split zoned with B-2-2 for the first approximately 150' and R-4 for the remainder of the property. One of the goals of the new code was to reduce the number of split zone properties where possible, this rezoning will keep a unified district for these properties.

In the April 13, 2017 meeting for CCB #17-0032, the Planning Commission found that the proposed change from R-4 to C-2 for these properties would not harm the public's interest, that it would be compatible with the commercial corridor, and therefore recommended the bill favorably. The requested C-2 district will permit a maximum of 165 dwelling units in density, and a height of up to 60' by right, with the potential for 100' in height approvable by conditional use. This change will accommodate a proposal for a multi-family building on this property, with ground-floor commercial use. The previous staff report is attached for reference.

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.

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). 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;** Population for the Census tract containing these properties have increased since the 2010 Census.
2. **The availability of public facilities;** This area is presently served by City services, and will not be negatively impacted by future development.

3. **Present and future transportation patterns;** This project is located along one of northeast Baltimore's major radial roadways, and is capable of carrying significant levels of traffic. Proposed rezoning and redevelopment of these lots should not negatively impact the transportation patterns of the area.
4. **Compatibility with existing and proposed development for the area;** This property is located along a commercial corridor, though it extends into a residential neighborhood in the rear. The Planning Commission previously found in its review of CCB #17-0032 that the proposed rezoning to C-2 will not be a significant impact to that neighborhood.
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 this bill. The BMZA has not yet commented on this bill, and will do so separately.
6. **The relation of the proposed amendment to the City's plan.** The Planning Commission previously found in its review of CCB #17-0032 that the proposed rezoning is compatible with the commercial corridor in this area.

Per §5-508(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 Planning Commission determined that changing the proposed zoning for this property to entirely R-4 in isolation was a mistake, in that it did not serve the interests of the commercial corridor, nor did it provide the potential for development that would be completely compatible with the existing residential neighborhood, and that would be reasonable for properties of that size, and therefore supported the rezoning of the entirety of both lots to the C-2 district.

Notification: The Glenham-Belhar Community Association, the Hamilton Hills Neighborhood Association, the HARBEL Community Organization, and the Hamilton Lauraville Main Street have been notified of this action.

Thomas J. Stosur
Director

CITY OF BALTIMORE
CATHERINE E. PUGH, Mayor

DEPARTMENT OF LAW
101 City Hall
Baltimore, Maryland 21202

July 5, 2017

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

Attn: Natawna B. Austin
Executive Secretary

Re: City Council Bill 17-0081 – Rezoning – 5717 and 5723 Harford Road

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0081 for form and legal sufficiency. The bill would change the zoning for 5717 and 5723 Harford Road from the R-4 Zoning District to the C-2 Zoning District.

These rezonings were originally introduced under Council Bill 17-0032. Due to procedural issues, Council did not proceed with 17-0032 and the bill was reintroduced as 17-0081. The Planning Department issued a Staff Report ("Report") regarding the two properties proposed to be rezoned by the current bill and attached for reference its Staff Report for 17-0032. *See* Report at 2. The Report explains that, prior to TransForm Baltimore, the properties were split-zoned, with B-2-2 commercial zoning in the front, and R-4 residential zoning in the rear. *See* Report at 1. The properties were rezoned R-4 in their entirely when TransForm became effective on June 5, 2017. *See* Report at 1. As noted above, this bill seeks to rezone the properties from R-4 to C-2.

The City Council may approve a proposed map amendment based on a finding that there was a "mistake in the existing zoning classification." Md. Land Use Code Ann., §10-304(b)(2); Baltimore City Code, (BCC) Art. 32, § 5-508(b)(1)(ii). In determining whether to rezone on the basis of mistake, the City Council is required to make findings of fact, for each property, on the following matters: (1) population change; (2) the availability of public facilities; (3) the present and future transportation patterns; (4) compatibility with existing and proposed development; (5) the recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals; and (6) the relationship of the proposed amendment to the City's plan. Md. Land Use Code Ann., §10-304(b)(1). *See also*, BCC, Art. 32, § 5-508(b)(2) (citing same factors with (v) being "the recommendations of the City agencies and officials," and (vi) being "the proposed amendment's consistency with the City's Comprehensive Master Plan."). Article 32 of the City Code also requires Council to 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." § 5-508(b)(3).

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." *Cty. Council of Prince George's Cty. v. Zimmer Dev. Co.*, 444 Md. 490, 510 (2015), *quoting*, *Cremins v. Cnty. Comm'rs of Washington Cnty.*, 164 Md.App. 426, 438 (2005). *See also*, *White v. Spring*, 109 Md. App. 692, 699, *cert. denied*, 343 Md. 680 (1996) ("the courts may not substitute their judgment for that of the legislative agency if the issue is rendered fairly debatable"); *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.'").

With regard to rezoning on the basis of mistake, it is "firmly established that there is a strong presumption of the correctness of original zoning and of comprehensive rezoning." *People's Counsel v. Beachwood I Ltd. Partnership*, 107 Md. App. 627, 641 (1995), *quoting*, *Wells v. Pierpont*, 253 Md. 554, 557 (1969). To sustain a piecemeal change, 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. at 698, *quoting*, *People's Counsel*, 107 Md. App. at 645. 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." 109 Md. App. at 698. "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.

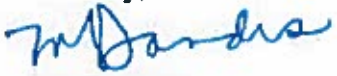
A finding of mistake, however, absent a regulatory taking, merely permits the further consideration of rezoning, it does not mandate a rezoning. *White*, 109 Md. App. at 708. Rather, a second inquiry "regarding whether, and if so, how, the property is reclassified," is required. *Id.* at 709. This second conclusion is due great deference. *Id.* (after a prior mistake has been established and accepted as fact by a legislative zoning entity, that entity's decision as to whether to rezone, and if so, how to reclassify, is due the same deference the prior comprehensive rezoning was due).

In sum, the Land Use and Transportation Committee (the "Committee") 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 Committee is required to make findings of fact for each property with regard to the factors in §§10-304 and 10-305 of the Land Use Article and § 5-508 of Article 32. If, after its investigation of the facts, the Committee makes findings which support: (1) a mistake in the comprehensive zoning; 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. **The Law Department notes that the Report does not supply facts to support each of the findings required by law; therefore, Council must base its findings on other testimony presented at the hearing.**

Finally, 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." BCC 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. 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 of the property and the name of the applicant. Art. 32, §5-601(c). The posted notices must be at least 3 feet by 4 feet in size, placed at a prominent location, and at least one sign must be visible from each of the property's street frontages. Art. 32, §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. Art. 32, §5-601(e),(f).

The bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standard for rezoning has been met. Assuming the required findings are made at the hearing and that all procedural requirements are satisfied, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis

cc: David Ralph, Interim City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Victor K. Tervala, Chief Solicitor

BALTIMORE HOUSING

CATHERINE E. PUGH
Mayor

PAUL T. GRAZIANO
Executive Director, HABC
Commissioner, HCD

MEMORANDUM

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

From: Michael Braverman, Acting Commissioner

Date: June 26, 2017

Re: **City Council Bill 17-0081 - Rezoning – 5717 and 5723 Harford Road**

The Department of Housing and Community Development (HCD) has reviewed City Council Bill 17-0081, for the purpose of changing the zoning for the properties known as 5717 and 5723 Harford Road from the R-4 Zoning District to the C-2 Zoning District.

If enacted, this bill, introduced by Councilman Dorsey, would change the zoning for two lots in the Flenham-Belhar neighborhood, which is across Harford Road from the Hamilton Hills neighborhood, from the R-4 to the C-2 zoning District. The change is zoning district would be compatible with the commercial corridor and accommodate a proposed multi-family development with ground-floor commercial use on the properties.

The Department of Housing and Community Development has no objection to the passage of City Council Bill 17-0081.

MB:sd

cc: Ms. Karen Stokes, *Mayor's Office of Government Relations*
Mr. Kyron Banks, *Mayor's Office of Government Relations*

Contents

- [x] Focus Areas
  - [x] Funded De
  - [ ] Funded Der
  - [x] Comm De
  - [x] Major Red
  - [x] Streamline
- [x] CE Internal
  - [x] Planning De
    - [x] Project C
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        - FY16
        - FY17/1
        - Propo
      - [ ] Proje
    - [x] Non-Proj
      - [x] Non-
      - [ ] Non-
    - [ ] Potentia
- [ ] Green Netv
- [ ] EOG Result
- [ ] Demo Work
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- [ ] HABC Scatt
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Baltimore
Development Corporation

MEMORANDUM

TO: Honorable President and Members of the City Council
Attention: Natawna Austin, Executive Secretary

FROM: William H. Cole, President and CEO

DATE: June 23, 2017

SUBJECT: City Council Bill No. 17-0081
Rezoning – 5717 and 5723 Harford Road

The Baltimore Development Corporation (BDC) has been asked to comment on City Council Bill #17-0081, which seeks to rezone 5717 and 5723 Harford Road from the R-4 Zoning District to the C-2 Zoning District.

The proposed improvement of these properties will provide a mixed-use development which will help to continue the community revitalization efforts along Harford Road adding commercial space and additional residential units.

The BDC supports this resolution and respectfully requests that favorable consideration be given by the City Council for Bill No. 17-0081.

cc: Kyron Banks

36 S. Charles St. Suite 2100 Baltimore, MD 21201 410.837.9305 O 410.837.6363 F BaltimoreDevelopment.com

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor

BOARD OF MUNICIPAL AND ZONING APPEALS

DAVID C. TANNER, Executive Director
417 E. Fayette Street, Room 1432
Baltimore, Maryland 21202

July 3, 2017

The Honorable President and
Members of the City Council
City Hall
100 N. Holliday Street
Baltimore, MD 21202

Re: City Council Bill No. 17-0081: Rezoning – 5717 and 5723 Harford Road

Ladies and Gentlemen:

City Council Bill No. 17-0081 has been referred by your Honorable Body to the Board of Municipal and Zoning Appeals for study and report.

The purpose of City Council Bill No. 17-0081 is to change the zoning for the properties known as 5717 and 5723 Harford Road, as outlined in red on the accompanying plat, from the R-4 Zoning District to the C-2 Zoning District.

The BMZA has reviewed the legislation and recommends approval to the passage of Bill Number 17-0081.

Sincerely,

David C. Tanner

David C. Tanner
Executive Director

DCT:rdh

CC: Mayors Office of Council Relations
Legislative Reference

CERTIFICATE OF POSTING

RE: Case No. CCB 17-0081

Date of Hearing 7/12/17

Baltimore City Council

c/o Natawna B. Austin

Room 409 – City Hall

100 N. Holliday Street

Baltimore, Md. 21202

This letter is to certify that the necessary sign(s) were posted conspicuously on the property located at

5717 Harford Road

on 6/12/17

Sincerely,

6/12/17

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

(443) 243-7360

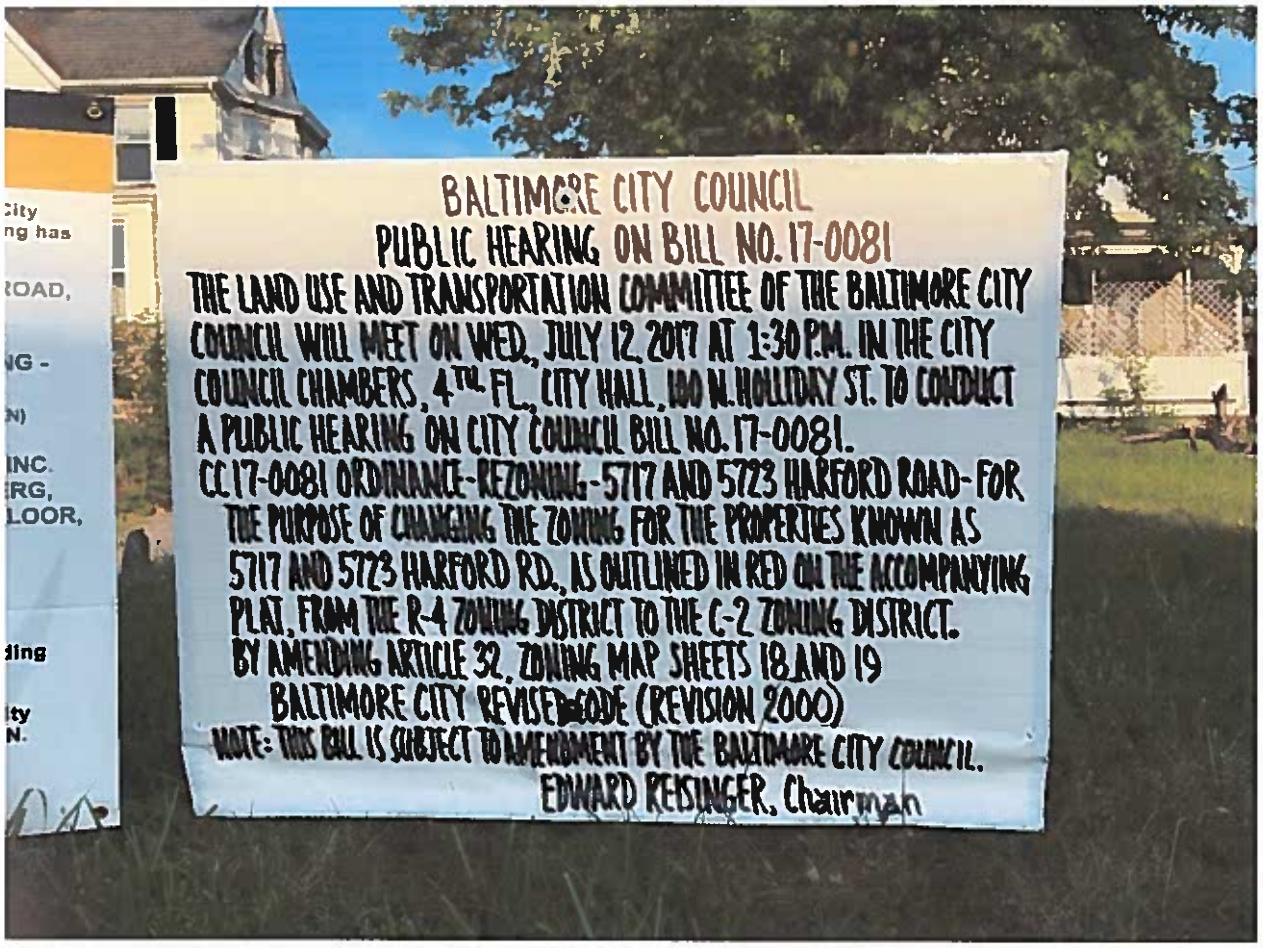
RECEIVED
JUN 15 2017
BALTIMORE CITY COUNCIL
PRESIDENT'S OFFICE

Certificate of Posting

Baltimore City Council

Land Use and Transportation Committee

City Council Bill No. 17-0081



5717 Harford Road

Posted 6/12/17

6/12/17

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

443-243-7360

TO: Caroline L. Hecher, Esq., Rosenberg, Martin, Greenberg LLP

FROM: Natawna B. Austin, Executive Secretary, Baltimore City Council

DATE: June 8, 2017

RE: INSTRUCTIONS FOR ADVERTISING A PUBLIC HEARING FOR MAP AND TEXT AMENDMENTS; PUDs

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The Land Use and Transportation Committee has scheduled the following City Council Bill for public hearing:

Bill: **City Council Bill No. 17-0081**

Date: **Wednesday, July 12, 2017**

Time: **1:30 P.M**

Place: **City Council Chambers, 4th floor of City Hall, 100 N. Holliday Street.**

At the expense of the applicant, notice of this public hearing must be provided in accordance with **Article 32. Zoning § 5-601:**

1) **Notice must be published in one (1) newspaper of general circulation, 15 days prior to the date of the hearing.**
2) **Notice of map amendments and PUD's must be posted on the property or properties involved 30 days prior to date of hearing. The posted notice must be at least 4 feet by 3 feet in size and be posted at a prominent location.**
3) **Notice of map amendments and PUD's must be provide to any owner of the property whose property is identified on the tax records of Baltimore City must be sent a written notice on forms provided by the zoning administrator. The owner must receive the notice 15 days prior to the hearing date.**

Please note that ALL of these requirement MUST be met in order for your hearing to proceed as scheduled.

Newspaper Advertisement

You may choose any of the following newspapers for advertising purposes: The Daily Record, The Sun, or the Afro-American.

Wording for Sign and Newspaper Advertisement

The information that must be advertised and appears between the double lines on the attached page; the deadline date is indicated at the top of the page.

Certification of Postings

Certification of the sign posting on the property and publication of the newspaper advertisements, in duplicate, must be sent to the Executive Secretary, four (4) days prior to the hearing.

If the required certifications are not received as specified above, the public hearing will be cancelled without notice to the applicant.