


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 #20-0595 / REZONING – 1103-1109 NORTH WASHINGTON STREET		

TO

DATE: September 11, 2020

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

At its regular meeting of September 11, 2020, the Planning Commission considered City Council Bill #20-0595, for the purpose of changing the zoning for the property known as 1103-1109 North Washington Street (Block 1551, Lot 001), as outlined in red on the accompanying plat, from the R-8 Zoning District to the IMU-1 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #20-0595 and adopted the following resolution; nine members being present (nine in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #20-0595 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: Mr. Nicholas Blendy, Mayor's Office
Mr. Matthew Stegman, Mayor's Office
Ms. Nina Themelis, Mayor's Office
The Honorable Edward Reisinger, Council Rep. to Planning Commission
Mr. Colin Tarbert, BDC
Ms. Livhu Ndou, 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



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

September 10, 2020

REQUEST: City Council Bill #20-0595/ Rezoning – 1103-1109 N. Washington Street:

For the purpose of changing the zoning for the property known as 1103-1109 North Washington Street (Block 1551, Lot 001), as outlined in red on the accompanying plat, from the R-8 Zoning District to the IMU-1 Zoning District.

RECOMMENDATION: Adopt Findings and Approve

STAFF: Matthew DeSantis, AICP

PETITIONERS: Councilmember Sneed, at the request of Jeffrey Levy

OWNER: 1103 N. Washington Street, LLC c/o Jeffrey and Vikki Levy

SITE/GENERAL AREA

Site Conditions: 1103-1109 N. Washington comprises a total of .275 acres, and is found in the triangle of land bounded by N. Washington Street to the west, E. Chase Street to the south, and the Northeast Corridor railroad tracks to the northeast. The property is partly improved with a historic three-story brick industrial building along the southern portion of the site, and fenced, grassy/gravel are north of the building.

General Area: The subject property is located within the Middle East neighborhood (also now known as the Eager Park neighborhood). The surrounding zoning designations are R-8 and R-10 to the south and west, and the adjacent railroad corridor is zoned I-2. Currently, parcels to the immediate south and west are either vacant land or vacant structures, but both of these sites are subject to pending residential development. The site is also within the East Baltimore Development Inc. (EBDI) redevelopment area.

HISTORY

Sanborn fire insurance maps indicate the industrial use of the property dating back to at least 1901, during which time it was used as the Gieske & Niemann Tobacco Warehouse. The 1951 fire insurance map indicates that the building was used for upholstery, and the current owner of the property attests that the building is still in use as a furniture repair/refinishing and wood shop.

CONFORMITY TO PLANS

There are several adopted plans that encompass this property:

1) The proposed action would be consistent with the following Goals and Objectives of LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore City:

- Live Goal 2, Objective 4: Protect and Enhance the Preservation of Baltimore's Historic Buildings and Neighborhoods

2) The property is within the Middle East Urban Renewal Plan area. The land use section of this URP currently designates the subject property with an industrial designation. However, CCB #20-0564 has been introduced to make certain amendments to this URP, one of which is to revise the land use plan to match the current zoning. Therefore, should this proposed rezoning to IMU-1 proceed, the land use designation in the URP should remain industrial for this property.

3) While the 2018 East Baltimore Revitalization Plan's main focus is the Broadway East neighborhood to the north of this subject property, it does include Middle East / Eager Park in it's broader analysis. This proposed rezoning would not be in conflict with this adopted plan.

4) This property is also within the East Baltimore Development Inc. Area. The most recent master plan indicates renovated residential uses for this property. The proposed IMU-1 zoning would make the existing light industrial use conforming as well as preserve the possibility of residential uses that the current R-8 zoning permits.

ANALYSIS

According to the property owner, this building has been in use for light industrial purposes continuously since 1875. The owner additionally purports in the Statement of Intent submitted for this bill that the City mistakenly rezoned this property to the R-8 district even though it's long history has been dedicated to industrial uses.

Prior to the adoption of the Transform Baltimore comprehensive rezoning the subject parcel had a zoning designation of M-1-2, which was similar to today's I-1 zoning district. This zoning designation was shared by the majority of properties adjacent to the railroad right-of-way beginning from this property and heading towards the east. For some reason, the majority of these nearby properties with similar industrial histories along the railroad right-of-way corridor were rezoned to the IMU-1 district during Transform Baltimore, but this subject property was not.

The fact that the subject site has had a documented history dating back to least 1901 (and according to the owner, to 1875) to the current day of continuous industrial use, coupled with the additional fact that before its current R-8 zoning it had an industrial M-1-2 zoning designation, suggest that the current R-8 zoning district was selected in error. Zoning designations are not required to always be descriptive but rather may be proscriptive (especially in the case of a comprehensive rezoning), either as an attempt to reflect changing trends in an area or as way to encourage certain kinds of reuse. While the area around this site has seen and will continue to see a large amount of residential and commercial redevelopment, it is difficult to see how a proscriptive rezoning of this parcels to the R-8 district is appropriate given that it renders the long-existing light industrial use non-conforming and would pose challenges to any future reuse of the extant historic building. In fact, the IMU-1 zoning district was created for a site with just these characteristics, in that it would continue to permit by-right light industrial uses and

encourage/enable additional neighborhood-appropriate uses such as dwellings or limited commercial/retail uses.

It is possible that during the analysis period of Transform Baltimore it was not apparent that the building was still in use, but mistakenly assumed that the structure was vacant. This might have lead to a conclusion that including this site in the larger surrounding R-8 district would be an appropriate way to foster future redevelopment of the area.

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). In reviewing this request, the staff finds that:

- 1. The Plan:** The proposed action would be consistent with the goals contained in the Comprehensive Master Plan for Baltimore City as listed above. Additionally, it is not in conflict with any other area plans that pertain to this property.

2. **The needs of Baltimore City:** A rezoning to the IMU-1 district would better correspond to extant use and historic structure on the property, and would provide for additional uses that would be appropriate for the area.
3. **The needs of the particular neighborhood:** The zoning change would eliminate a non-conformity that was created during Transform, and would help ensure the preservation of the historic urban fabric that is important to the City's neighborhood's.

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;** While anecdotally there have been a significant number of new residential units and renovated homes completed in the Middle East / Eager Park neighborhood over the past several years, it is unclear if there is data as of yet that indicates a significant population change in the interval between the adoption of the last comprehensive rezoning (2016) and the present time.
2. **The availability of public facilities;** This site is well-served by public services and utilities, which can support the continued use or redevelopment of this site.
3. **Present and future transportation patterns;** There would be no negative effect upon present or future transportation patterns in the area as a result of adoption of this bill.
4. **Compatibility with existing and proposed development for the area;** The proposed zoning district is compatible with the existing and proposed development for the area, as it will support the current light industrial use on site and additional neighborhood-appropriate uses such as dwellings and retail.
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.** As noted previously, rezoning of this property to the IMU-1 zoning district as recommended by staff would be consistent with the City's plan.

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;** Existing uses of property within the general area of this site are a mix of residential, institutional, and commercial.
- (ii) **the zoning classification of other property within the general area of the property in question;** IMU-1 zoning would be compatible with the adjacent R-8, R-10, and I-2 zoning designations. Additionally, there are extant IMU-1 zoning districts just to the east and south of the subject property.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and,** The current R-8 zoning designation has made the long-

existing light industrial use of the property non-conforming. It would also make redevelopment of the site that preserves the historic building more challenging. These facts suggest that the current zoning is not appropriate.

(iv) the trend of development, if any, in the general area of the property in question, including changes, if any, that have taken place since the property in question was placed in its present zoning classification. There have been significant changes to the immediate area of the subject property since it was rezoned to R-8 in 2016 that have added additional residents to the area. Additional residential and commercial development is currently proposed for the area. The IMU-1 zoning designation is appropriate in that it attempts to blend buildings with historic industrial uses into contemporary residential neighborhoods.

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. For the reasons described above, Planning staff consider that there was a mistake in selecting the current R-8 zoning classification for the subject properties.

Recommendation

Staff recommends that the Commission adopt the findings as outlined in this report and recommended approval of CCB #2020-0959 to the City Commission.

Notification: EBDI, the CARE Community Association, Monument Street Merchants Association, 800 Block N. Washington Beautification, Milton-Montfort Improvement Association, HEBACAC, McElderry Park Community Association, Reclaiming Our Community, and the Eager Park Neighborhood Association have been notified of this action. Additionally, the site has been posted in compliance with Planning Commission guidelines.



Chris Ryer
Director