

COUNCIL OF THE CITY OF ABERDEEN
Resolution No. 17-R-03

Introduced By: Councilman Melvin T. Taylor and Councilman Timothy W. Lindecamp

Date Introduced: May 8, 2017

Sponsored By:

Amendments Adopted:

Date Adopted: May 8, 2017

Date Effective: May 8, 2017

1 **A RESOLUTION** concerning

2
3 **Rezoning - 727 and 811 Old Philadelphia Road**

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5 **FOR** the purpose of granting the application of 727 Old Philadelphia Road LLC and 811 Old
6 Philadelphia Road LLC for the reclassification of properties located at 727 Old
7 Philadelphia Road and 811 Old Philadelphia Road.

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9 **EXPLANATORY STATEMENT:** 727 Old Philadelphia Road LLC and 811 Old
10 Philadelphia Road LLC are the owners, respectively, of the properties located at 727 Old
11 Philadelphia Road and 811 Old Philadelphia Road (collectively “properties”). The properties are
12 depicted as Parcels 2569 and 2570 on Harford County Tax Map 209. Parcel 2569 consists of
13 33.59 acres and Parcel 2570 consists of 4.92 acres. Both properties are classified B-3 Highway
14 Commercial on the City of Aberdeen zoning map.

15
16 The application seeks a reclassification based upon a mistake allegedly made by the City
17 Council when it reclassified the properties as B-3 in 2009. The application makes no assertion
18 that there has been a change in the character of the neighborhood in which the properties are
19 located since the reclassification in 2009.

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21 On September 27, 2016, 727 Old Philadelphia Road LLC and 811 Old Philadelphia Road
22 LLC filed a joint application with the City for the reclassification of Parcels 2569 and 2570 to
23 the City’s M-1 Light Industrial zoning district. The City of Aberdeen Planning Commission
24 conducted a review of the joint application on November 28, 2016. During the review the
25 Planning Commission heard and received evidence from City staff and the applicants. The
26 Planning Commission recommended that the joint application for reclassification be granted.

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28 On February 27, 2017, the City Council conducted a duly advertised public hearing on
29 the joint applications. At the public hearing the City Council received a presentation and report
30 from the Director of Planning and Community Development and received testimony and

evidence from the City's Planning Commission, the applicants and a member of the public. At the conclusion of the public hearing the City Council held the record open for post-hearing submittals by interested parties.

The City Council makes the following findings based upon the record made at the public hearing and post-hearing submittals:

1. The applicants obtained title to their respective properties in 2007.
2. The properties are located along the east side of Old Philadelphia Road (Route 7), a two lane road, at its intersection with Route 715 near Aberdeen Proving Ground ("APG"), south of US 40. The back of the properties lie adjacent to an Amtrak rail line to their east. Access to the properties and nearby industrial uses is via Route 7.
3. Although a Wal-Mart store is located immediately west of the properties between Route 7 and US 40, and APG is located east of the properties across Route 7, as demonstrated by Applicants' Exhibit 2 and testimony from applicants' experts, most of the land uses in the vicinity of the properties are industrial or warehousing in nature. Development of warehousing on the properties would be consistent with existing land uses. M-1 is the predominant zoning classification in the area, followed by pockets of B-3 zoned land.
4. The properties are served by public water and sewer and other utilities, all of which are adequate to serve development of the properties.
5. According to the property owners' traffic expert, the trip generation for an M-1 warehouse use is substantially less than retail or office park uses that would be permissible under the B-3 classification. Recent interchange improvements to Route 715 and westbound US 40 will help increase capacity and flow of traffic in that area and would improve traffic flow from the properties. Any potential adverse traffic impacts that would result from the development of the properties would be identified as part of a traffic impact study that would be undertaken at the time of development, and such adverse traffic impacts would need to be mitigated as part of the development process.
6. The properties were rezoned to B-3 on August 24, 2009, from their prior M-2 Heavy Industrial classification. The 2009 reclassification was part of a comprehensive review of land uses of 15 properties to address changes occurring at APG. In particular, government and business leaders believed that Base Realignment and Closure ("BRAC") activities would create a strong demand for Class A office space and other B-3 related uses in the area.
7. This belief was based in large part upon findings and conclusions contained in a September, 2007, report prepared by Sage Policy Group, Inc., entitled "Aberdeen Proving Ground BRAC Impacts on Seven Jurisdictions" ("Report") and submitted to the APG Regional BRAC Office Chesapeake Science and Security Corridor (CSSC) Consortium of which the City of Aberdeen was a participant.

75 8. The Report projected that BRAC at APG would generate a substantial demand
76 for new retail space in Harford County. The Report suggested that by 2017 BRAC would
77 generate demand in Harford County for between 1,123,000 and 1,246,000 square feet of new
78 retail space, both significantly increased from a baseline estimate of 721,000 square feet.
79

80 9. The Report projected that BRAC at APG would generate a substantial demand for
81 new office space in Harford County, exclusive of any office space for on-base workers at APG.
82 The Report suggested that by 2017 BRAC would generate demand in Harford County for
83 between 1,559,000 and 2,395,000 square feet of new office space, and a total of approximately
84 3,600,000 square feet of new office space in the region. It was reasonable to assume the growth
85 of the Harford County office inventory approximating 2,000,000 square feet was a realistic
86 response to the projected BRAC demand.
87

88 10. The anticipated demand for office and retail space projected by the Report failed
89 to materialize. Several factors contributing to the failure of the need for the projected office and
90 retail space were the creation of an Enhanced Use Lease by the federal government for private
91 development on APG and the effects of "sequestration" by which federal budget cutbacks
92 reduced the extent of additional BRAC-related military activity at APG. The Enhanced Use
93 Lease provided for private development activity on the grounds of APG that had been expected
94 to occur in Harford County off the APG grounds. Neither of these factors was anticipated in the
95 Report.
96

97 11. The Report projected that in Harford County BRAC would generate 19,237 new
98 jobs, 7,059 new households and 19,059 new residents, being 70% of the total new employment
99 and 42.3% of the total residential growth attributable to APG BRAC. Because of the dramatic
100 reduction in the scope of APG BRAC from that projected by the Report, it is reasonable to
101 conclude that these increases in jobs, households and residents did not materialize.
102

103 12. The City Council was aware of the Report, and the Report was a foundation upon
104 which the City Council reclassified the properties from M-2 to B-2.
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106 13. Extensive office development, approximately 2/3rds of the total Aberdeen office
107 supply, occurred in the City in anticipation of the expected demand from BRAC. There
108 currently is a glut of Class A office space in Aberdeen that is sitting vacant or underutilized
109 because the market demand forecasted by the Report did not materialize. In particular, extensive
110 vacant office space exists at North Gate Business Park, Aberdeen Corporate Park, Fieldside
111 Commons and the Stewart property. Aberdeen office properties have a vacancy rate of
112 approximately 57%, compared with overall Harford County vacancy rates of 16.6% and
113 Baltimore Region vacancy rates of 10.3%. Vacancy rates in the six Aberdeen office properties
114 constructed between 2010 and 2012 are approximately 82%, and approximately 96% of office
115 vacancies in the Aberdeen submarket are located in those properties.
116

117 14. In the view of the Applicant's expert, the properties are not viable as a retail site.
118 The retail markets in the Aberdeen area are undergoing stress with a shrinking number of users,
119 particularly with the retail industry adjusting to the effects of e-commerce. Successful retail

development will take place along Route 40 and Route 22 because of their visibility and road access. The properties' frontage along Route 7 does not share these visibility and access characteristics. Furthermore, the properties' proximity to the Amtrak railroad tracks is not conducive to retail uses.

15. There is little demand for B-3 zoned land to support the BRAC process. Efforts for several years to market the properties as B-3 have not been successful.

16. The Aberdeen area has 56 warehouse industrial properties that have a vacancy rate of 7.3%, better than Harford County overall. According to Applicants' expert, the demand for warehouse-distribution space will continue to increase.

17. Property owners' expert concludes that the City Council would not have zoned the properties B-3 in 2009 if the Council had prognosticated the change in the real estate market that subsequently occurred, and that it would make sense to reclassify the properties to M-1 because of the low vacancy rate for industrial properties in Aberdeen. Proximity to the Amtrak railroad tracks will not be a deterrent to developing the properties for M-1 industrial uses.

18. The proposed reclassification of the properties to M-1 would be consistent with the City's 2011 Comprehensive Plan. Among other things, the property is more suitable for M-1 uses than highway commercial uses as specified in the Comprehensive Plan. Furthermore, development of the properties under the M-1 classification would further the Comprehensive Plan's goals and objectives of providing expanded employment and economic development opportunities for the City's residents, and expansion of existing businesses and location of new businesses in the City.

19. Rezoning of the properties to M-1 would be appropriate infill to the area, considering the surrounding land uses, including the heavy industrial Ferrell Fuel site immediately to the north of the properties and numerous other industrial type uses in the vicinity of the properties. Reclassification and development as an M-1 use are expected to have no adverse impact on the public health, safety and welfare. Reclassification to M-1 would be more likely to yield greater employment and tax revenues sooner than leaving the properties undeveloped in their B-3 zoning designation.

20. The City's Planning Commission recommended approval of reclassification of the properties from B-3 to M-1.

Based upon the foregoing findings, the City Council makes the following conclusions of law:

1. Section 235-13 of the City Code regulates the reclassification of land. Section 235-13.G requires that in order to grant a reclassification the City Council must find that either there has been a substantial change in the character of the neighborhood since the last comprehensive zoning of the property for which a reclassification is sought, or that the City Council erred when it last comprehensively zoned the property. A reclassification of land is

discretionary even if the City Council determines that a change has occurred in the character of the neighborhood or that a mistake occurred in the last comprehensive zoning.

2. Section 235-13.F also requires that the Council make findings of fact in each specific case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission and the relationship of the proposed rezoning to the Comprehensive Plan.

3. The City Council concludes that it made an error as a matter of law in 2009 when it reclassified the properties from M-2 to B-3 based upon assumptions and projections regarding the impact of APG BRAC on the need for more office and retail zoned land to accommodate BRAC related growth. As discussed above in the findings of fact, the assumptions relied upon by the City Council proved, over the passage of time, to have been erroneous. The Council in 2009 could not reasonably have predicted that BRAC, and the impacts and demands from BRAC, would not occur as projected.

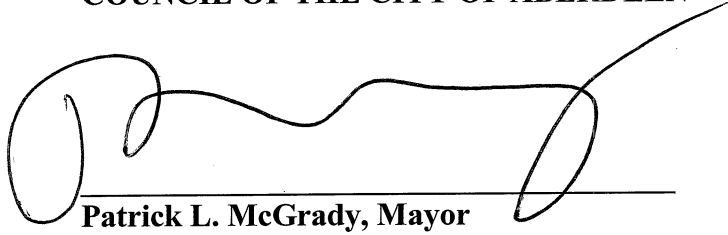
4. Reclassification of the properties is warranted because efforts over a period of several years to market the properties for development in the B-3 classification have proven unsuccessful and the properties remain unproductive, devoid of employment opportunities, and generating substantially less tax revenues than if developed.

5. Reclassification of the properties to M-1 is appropriate based upon low industrial vacancy rates in the City, the demand for M-1 zoned land, significant industrial land uses surrounding and in the vicinity of the properties, the proximity of the properties to the Amtrak railroad tracks and to Route 7, both of which render the site undesirable for retail use, the absence of demand for use of the properties for office use, the City's Comprehensive Plan that supports the reclassification to M-1 as implementing the Plan's economic development and employment goals, and the Planning Commission's endorsement of the reclassification.

NOW, THEREFORE, based upon the foregoing findings and conclusions of law,

SECTION 1. BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ABERDEEN that the applications of 727 Old Philadelphia Road LLC and 811 Old Philadelphia Road LLC for the reclassification of the properties known as 727 Old Philadelphia Road and 811 Old Philadelphia Road from the B-3 Highway Commercial to the M-1 Light Industrial zoning classifications are granted and the City's zoning map shall be modified to reflect the zoning classification of the properties as M-1.

COUNCIL OF THE CITY OF ABERDEEN



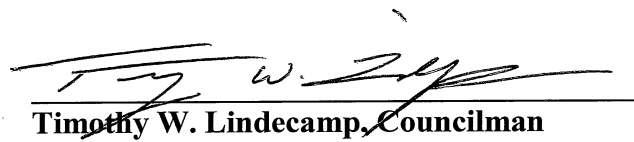
Patrick L. McGrady, Mayor



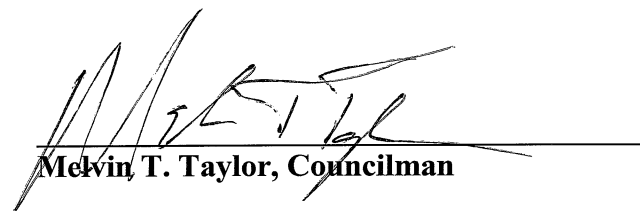
Steven E. Goodin, Councilman



Sandra J. Landbeck, Councilwoman



Timothy W. Lindecamp, Councilman



Melvin T. Taylor, Councilman

ATTEST:

SEAL:



Monica A. Correll, City Clerk

Date May 8, 2017