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TO: City Planning Commission

FROM: Christopher J. Gulock, AICP, Staff

RE: **Request of the City Planning Commission staff to rezone several blocks/properties on Zoning Map No. 52 near I-75/Fisher Freeway and Pleasant Street in the 48217 zip code/Boynton Area (RECOMMEND APPROVAL)**

DATE: April 26, 2019

RECOMMENDATION

The City Planning Commission (CPC) staff recommends **APPROVAL** of the request to rezone several blocks/properties on Zoning Map No. 52 near I-75/Fisher Freeway and Pleasant Street as. Please see Attachment A for a map of the proposed rezonings and Attachment B for a table listing the subject addresses to be rezoned.

BACKGROUND AND PROPOSAL

In 2010, then Council Member Kwame Kenyatta spearheaded a Southwest Community Task Force to look at various issues impacting Southwest Detroit. At these Task Force meetings, community members expressed concerns about the large number of industrial uses in their community, especially ones with air emissions. In response, the Detroit City Council requested that the CPC staff review areas in Southwest Detroit that could be rezoned, beginning with properties within the 48217 zip code to reflect the Master Plan of Policies. In February 2013, the CPC held a public hearing and voted to rezone numerous parcels, however, with the City operations disrupted by the bankruptcy proceedings, the subject down zoning was never forwarded to City Council for consideration.

In late 2017, Council Member Castaneda-Lopez asked the CPC staff to revisit the past 48217 downzoning initiative. Council Member Castaneda-Lopez's office hosted, in the past 2 years, 4 community meetings in the 48217 area to analyze and discuss potential rezonings.

CPC staff researched the previous 2013 request, studied existing land use patterns, and processed feedback from the community meetings. Based on this analysis, CPC staff is proposing to downzone 16 addresses north of Pleasant Street and 49 addresses (7 blocks or parts thereof) south of Pleasant Street (listed on Attachment B). In general, the proposed amendments would:

- Rezone the industrial land bounded by the rail corridors on the north, Detroit City limits on the east, Pleasant Street on the south, and South Fort Street on the west from a M4 (Intensive Industrial District) zoning classification to a M2 (Restricted Industrial) zoning classification; and
- Rezone land on the south side of Pleasant Street from the Fisher Freeway to just east of South Liddesdale Street and from South Beatrice Street to South Ethel Street from a B4 (General Business District) zoning classification to a R2 (Two-Family Residential) zoning classification.

The change in zoning is being requested in order to make the area's zoning more consistent with the City's Master Plan of Policies and to limit the influence of intensive industrial uses on nearby residential uses.

PUBLIC HEARING RESULTS

On February 21, 2019, the City Planning Commission held a public hearing on the subject rezoning request. CPC staff provided an overview of the proposal and summarized the material in its preliminary report dated February 18, 2019. CPC staff indicated it received 1 letter of support from area resident, Theresa Landrum, 1 email of support from area resident, D. Leonard, and 1 memorandum in opposition from Corrigan Oil Company. The Commission had several comments and questions regarding the proposed rezoning. For public comment, 2 representatives of Corrigan Oil, 2 representatives of Goch and Sons Towing, and 1 representative of Industrial Fence Co. spoke in opposition. Three area residents spoke in support. For a summary of the comments made at the hearing, please see Attachment C.

PUBLIC HEARING FOLLOW-UP

Corrigan Oil submitted a petition to City Council (petition #719) opposing the proposed rezoning and requesting City Council be required to pass the rezoning by a minimum of $\frac{3}{4}$ of the City Council. Goch & Sons submitted a letter to the CPC, after the hearing, reiterating its opposition to the rezoning.

Below are responses to some of the questions posed at the public hearing.

The Commission asked, beyond the required notifications, was there any one-on-one communication with property owners to determine their position?

In the past 2 years, Council Member Castaneda-Lopez's office held at least 4 community meetings in the 48217 area to analyze and discuss the potential downzonings. CPC staff understands that primarily area residents were invited to these meetings; however, some of these meetings were attended by area businesses. The attendants at these meetings were supportive of the proposed rezoning.

The Commission asked if M2 gave the most amount of protection that could be given to the community and why it couldn't be taken to M1.

In the staff report for the hearing, CPC staff reported it appeared the proposed downzoning would not render any current legal land uses as nonconforming. In particular, truck terminals (Corrigan Oil) and contractor yards (Industrial Fence) are by-right in both M4 and M2; tow yards (Goch & Sons) are conditional in both M4 and M2. In M1, contractor yards are also by-right and tow yards are also conditional, however, truck terminals become conditional in M1.

Additionally, CPC staff conducted a more thorough analysis of the differences between M1, M2, and M4. Staff found (either by-right or conditional) that M1 allows 189 specific types of uses, M2 allows 198 types of uses, and M4 allows 341 types of uses.

CPC staff also created a table (see Attachment D) highlighting only the land use “differences” between M1, M2, and M4. Some highlights from this table include:

- The table shows the over 100 uses that are not allowed in M1 or M2, but allowed as conditional or by-right in M4. Many of these are the intensive industrial uses that are not allowed in either M2 or M1;
- There are 58 uses, such as confection manufacture and low impact manufacturing that are by-right in M2 and M4, but conditional in M1.
- There are 5 uses, such as machine and welding shops that are by-right in M4, conditional in M2, and not allowed in M1.

In summary, the M zones, as designed, have a hierarchy of uses based on intensity and impact on adjacent uses. There are many more intensive uses allowed in M4 that are not allowed in M2 or M1. There are not many differences between M2 and M1, but there are some. Truck terminals are by-right in M4 and M2, but conditional in M1; CPC staff would be hesitant to make Corrigan’s use conditional rather than by-right.

The Commission asked additional questions about the former residential area west of the DWSD CSO Control Facility & Pump station.

From 2008-2013, the Detroit Water and Sewerage Department (DWSD) constructed a new Combined Sewage Overflow (CSO) Control Facility and Pump Station at 12082 Pleasant Street which is also proposed to be rezoned from M4 to M2. Some of the goals of building this facility included addressing capacity issues, treating water before discharging into the Rouge River, and providing increased pumping capacity.

The area west of the DWSD CSO facility includes two residential streets (Liddesdale and Liebold Avenues) which used to have over 100 lots, primarily with residential houses and some businesses. This area is presently zoned R1 and not part of the subject rezoning. Of the 57 lots on or near Liebold, 2 are still privately held, 14 are controlled by the Detroit Land Bank Authority, and the remaining 41 are owned by DWSD. Of the 46 lots on or near Liebold Avenue, 7 are privately held and the remaining 39 are held by Marathon Oil.

CPC staff contacted DWSD, and it appears from records that in 2009, DWSD purchased the majority of houses on Liddesdale. Each house sold in general between \$30,000 and \$50,000 depending on the condition. CPC staff assumes both Marathon and DWSD purchased many of these lots to create a buffer zone from their operations.

The Commission asked whether industrial or residential was developed first in the area.

Records show in 1922 Detroit annexed the subject 48217 zip code area, Oakwood Heights/Oakwood Village. Sanborn maps from the 1920’s, prior to the construction of I-75, show the outline of long strips of ribbon farms leading from the Rouge River. There also existed several rail lines leading to the Detroit River or southwest Detroit. At the time, most of the ribbon farms (located in Detroit) were already platted with residential lots, but those in surrounding cities were still undeveloped or agricultural. Besides the railroads, the area shows little industry, but there was some, including the Salt Mine and Detroit Edison. It appears, many of the houses built in the area north and south of Pleasant Street were built in the 1920’s. The

industrial areas of Corrigan Oil and Goch Towing appear to still be vacant ribbon farms. In summary, most of the land in the 1920's was residential adjacent to rail corridors and rural land. The Marathon refinery was not established until 1930 by the then Aurora Gasoline Company.

The Commission had concerns about the problems of truck traffic in the area.

CPC staff reported at the hearing, it appeared that Pleasant Street was used by a number of trucks exiting I-75 at Schaefer and then proceeding to South Fort Street to Pleasant Street. It appears from State, Wayne County, and City truck maps that, in the subject area, I-75, Fort Street and Schaefer Avenue (traveling to West Jefferson Avenue) are the primary designated truck routes - although trucks could use Pleasant Street as a bypass to access West Jefferson Avenue.

North of Pleasant Street and the Corrigan and Goch facilities is a large industrial area; it is primarily developed with Buckeye Terminal, which distributes liquid petroleum products. North of this terminal are 3 large parcels which border the Rouge River which are owned by an excavating company, Buckeye Terminal and Morton Salt Co. The primary access to this terminal is from South Deacon Street via Pleasant Street.

The Commission raised concerns about the air quality and water quality in the area, asked about feedback from the MDEQ, and wondered if the subject rezoning would cause the air quality get worse or better.

The MDEQ was recently renamed the Michigan Department of Environment, Great Lakes, and Energy (EGLE). As noted in the City's Master Plan of Policies, the Boynton area's economy and quality of life is tied to that of the adjacent communities; its residential areas are surrounded by heavy industrial facilities. Boynton is surrounded by River Rouge, Ecorse, Lincoln Park, Melvindale, and Dearborn, all of which have significant industrial facilities.

The 48217 area has been reported in the past one of (or the most) polluted zip codes in Michigan. Within a 3 mile radius of the 48217 zip code are some large industries, including the Marathon Refinery, Detroit Wastewater Treatment Plant, US Steel on Zug Island, DTE EES Coke, DTE River Rouge power station, etc.

CPC staff has spoken with several MDEQ/EGLE staff members about air quality issues and trends in southwest Detroit. They did indicate the subject area and downriver are a nonattainment area for sulfur dioxide (those that have concentrations over the National Ambient Air Quality Standards) and Ozone. EGLE staff indicate in the past few years it has partnered with community residents in the 48217 area to better monitor air quality issues and to provide better enforcement.

STAFF ANALYSIS

Surrounding Zoning and Land Use

The zoning classification and land uses surrounding the subject area are as follows:

- North: M4; the area north of the rail corridor is developed with intensive industrial uses, including indoor scrap metal processing and outdoor bulk petroleum storage
- East: Industrial uses within the City of River Rouge
- South: R1 (Single-Family Residential) and R2; developed with a residential neighborhood
- West: M4 and R2 (across South Fort Street); developed with rail lines, Marathon Oil properties, Detroit Salt Mine, and largely vacant Oakwood Heights neighborhood

Proposed & Existing Zoning Districts

B4 currently exists on the south side of Pleasant Street with R2 beyond. The B4 District, in general, provides for business and commercial uses of a thoroughfare-oriented nature. The R2 designation is designed to protect and enhance those areas developed or likely to develop with single- or two-family dwellings; the district regulations are designed to promote a suitable environment for homes and for activities connected with family life. Presently, the Master Plan of Policies does not designate Pleasant Street as a secondary or major street. The south side of Pleasant Street is primarily vacant and has very little commercial development.

M4 currently exists on the north side of Pleasant Street. The M4 district, in general, permits uses which are usually objectionable and, therefore, the district is rarely, if ever, located adjacent to residential districts; a broad range of uses is permitted in this district. The M2 district is designed for a wide range of industrial and related uses which can function with a minimum of undesirable effects; industrial establishments of this type provide a buffer between residential districts and intensive industrial districts. The M1 district, as mentioned at the public hearing, is used primarily along major and secondary thoroughfares in blocks which contain older, vacant structures, mixed land uses, or other deficiencies, and where the Master Plan indicates industrial development to be the desirable ultimate use; the purpose of the district is to permit these vacant structures to be used for necessary economic activities, and to encourage the transition of the area to warehousing, wholesaling, and light industrial uses.

Impact on Existing Land Uses

Within each zoning district, various land uses are designated as either a “by-right” or “conditional”, and those uses not listed are deemed, in general, not allowed. When land is rezoned, sometimes the land use’s permissibility is changed. The attached spreadsheet (please see Attachment E.) lists each of the addresses that are part of the subject rezoning, including permit info, proposed zoning change, and any land use impacts from the proposed rezoning. There are a few properties that appear to have zoning violations – they do not have permits to use the land as currently zoned. From this research, it appears, the proposed rezoning would not render any current legal land uses as nonconforming. In particular, truck terminals (Corrigan Oil) and contractor yards (Industrial Fence) are by-right in both M4 and M2; tow yards (Goch & Sons) are conditional in both M4 and M2. Therefore, these land existing land uses are treated the same from their current to proposed zoning.

Corrigan Oil, in its letter opposing the rezoning (page 10), states (footnotes not included):

“By contrast, the residents to the south also purchased their properties on notice of the industrial uses to the north, as well as the M4 zoning attendant to those uses. In their case, however, they seek to realize a windfall. They, too, purchased their residential property at a market price reflecting the realities of location, in their case proximity to heavy industrial zoning, and likely paid a reduced price for their property accordingly. In requesting the present restrictions, the residents have followed the similar path well-trodden by those who move to a nuisance – moving in with full knowledge of their neighbors and then objecting to them. As preserving the present zoning protects the investment backed expectations of the industrial owners, and only denies the owners of the residential properties a windfall . . .”

Based on the statements above, CPC staff objects to the notion that the residents to the south seek to realize a windfall from the proposed rezoning; CPC staff disagrees with the

notion that the residents moved with full-knowledge to neighborhood near heavy industry, etc.; this argument simplifies the possible dynamics of this residential neighborhood, particularly in light of many Detroit neighborhoods dealing with the effects of segregation, environmental injustice, and redlining.

Zoning Ordinance Criteria

Section 61-3-80 of the Detroit Zoning Ordinance lists eight approval criteria on which zoning map amendments must be based. CPC staff has found that the present request meets the criteria for the following reasons:

1. *Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend or fact;*

There is no error in the current zoning map which the proposed amendment would correct. However, it does meet the challenge of a changing condition or trend for the south side of Pleasant Street. Over the years, most of the buildings on the south side Pleasant Street have been removed and the land is primarily vacant.

2. *Whether the proposed amendment is consistent with the Master Plan and the stated purposes of this Zoning Ordinance;*

The subject site is located within the Boynton Area of the Neighborhood Cluster 5 of the Detroit Master Plan of Policies. The Future Land Use map shows Low Density Residential for all of the property on the south side of Pleasant Street and Light Industrial for all of the property on the north side of Pleasant Street and south of the rail line. The Planning & Development Department (P&DD) submitted a memo dated February 19, 2019 concluding the proposed rezoning conforms to the Master Plan of Policies.

Within the Master Plan, there are listed specific Issues, Goals, and Policies for the Boynton (page 150). A copy of this section of the Master Plan is attached for reference (please see Attachment F). This section includes the following 5 Goals for Boynton:

- GOAL 1: Reinforce sound neighborhoods
- GOAL 2: Increase the vitality of neighborhood commercial thoroughfares
- GOAL 3: Increase the vitality of neighborhood commercial areas
- GOAL 4: Reduce conflicts between industrial and residential areas
- GOAL 5: Increase open space and recreational opportunities

For Goal 1 to “Reinforce sound neighborhoods,” CPC staff maintains the proposed rezoning would limit the impact of thoroughfare-oriented business and intensive industry on the adjacent residential area. For Goal 4, Policy 4.2 states, “Buffer the negative impacts of industrial land uses upon residential areas in the northeast”. CPC staff maintains the proposed rezoning would reduce conflicts between industrial and residential areas by limiting intensive industrial uses that could develop.

A larger Goal of the overall Master Plan, under Environment and Energy (page 26), Goal 2 states, “Ensure environmentally healthy neighborhoods,” with Policy 2.3 stating, “Examine “down-zoning areas” (less intensive zoning designation) where there are land use conflicts and/or are in transition from industrial to residential uses to protect residential areas from more intensive uses”. CPC staff maintains downzoning the subject M4 and B4 areas would

help lesson conflicts between residential uses and intensive industrial and general business uses.

A larger Goal of the overall Master Plan, under Industrial Centers (page 36), Goal 3 states, “Minimize conflicts between industrial centers and residential areas”. CPC staff maintains reducing potential high intensity industrial uses so close to a residential area would be beneficial.

Corrigan Oil in its letter points out, within the Master Plan, under Industrial Center (page 36), Goal 1 is to “Enhance the economic potential of industrial centers,” with Policy 1.1 to “Develop a coordinated method to clear title, assemble land, and sell industrial parcels”, and Policy 1.3 to “Support the demolition of obsolete industrial structures”. Corrigan maintains that the policy of downzoning conflicts with the Master Plan’s goal of encouraging reinvestment and cleanup of industrial land. CPC staff notes that this subject overall goal is one of the many goals listed in the Master Plan; CPC staff appreciates Corrigan’s redevelopment of an abandoned parcel to meet its business needs. However, CPC staff doesn’t think downzoning land from Intensive Industrial (M4) to Restricted Industrial (M2) inherently conflicts with this Goal of encouraging industrial reinvestment.

Within the Master Plan, under Boynton (page 150), under Industrial Centers, it states, “Issues. Industrial disinvestment is prevalent in the north and northeast areas. In some cases industrial uses encroach upon adjacent residential areas”. Corrigan maintains that this disinvestment may have been the case previously, it is certainly the case no longer with the investment of Marathon, Corrigan, Goch, etc. CPC staff acknowledges there has been some investment by some industries in the Boynton area, but disinvestment remains. Furthermore, the investment by some industries, does not negate the need to buffer the negative impacts of industrial land uses upon residential areas.

3. *Whether the proposed amendment will protect the health, safety, and general welfare of the public;*
It is CPC staff’s determination that the proposed amendment will protect the health, safety, and general welfare of the public. Downzoning the subject area to R2 and M2 would limit the impacts of potential future general business and intensive industrial uses in close proximity to residential areas.
4. *Whether the City and other service providers will be able to provide adequate public facilities and services to the subject property, while maintaining adequate levels of service to existing development;*
Not applicable.
5. *Whether the proposed rezoning will have significant adverse impacts on the natural environment, including air, water, soil, wildlife, and vegetation and with respect to anticipated changes in noise and regarding stormwater management;*
It is not anticipated the proposed rezoning will have significant adverse impacts on the natural environment.
6. *Whether the proposed amendment will have significant adverse impacts on other property that is in the vicinity of the subject tract;*

The proposed amendment will not have significant adverse impacts on property in the vicinity of the subject tract. Land to the north is developed with rail lines and industrial uses; land to the east is developed with a rail line and industrial uses; land to the south is developed with residential uses; land to the west is developed with I-75 and industrial uses.

7. *The suitability of the subject property for the existing zoning classification and proposed zoning classification; and*

The land on the south side of Pleasant Street, while currently zoned B4, is primarily vacant. The Master Plan calls for this land to be redeveloped as low-density residential. The land north of Pleasant Street (of the subject rezoning), while zoned M4, is developed with current and uses that are allowed in M2. The Master Plan calls for this area to be designated Light Industrial.

8. *Whether the proposed rezoning will create an illegal “spot zone.”*

The proposed rezoning will not create an illegal spot zone, because there exists industrial land to the north and residential land to the south.

SUMMARY AND CONCLUSION

The Boynton area of Detroit (the 48217 zip code) is the southernmost part of the City with a mix of residential neighborhoods, commercial areas, and large and small industry, surrounded by downriver communities on 3 sides. The Detroit Master Plan of Policies recommends the area, between Fort Street and the City limits with River Rouge, on the south side of Pleasant Street be developed as low density residential and the north side of Pleasant Street be developed as light industrial. The proposed rezoning makes the area’s zoning more consistent with the Master Plan and seeks to limit the potential impact of intensive industrial and commercial uses on nearby residential areas. The proposed rezoning does not render any of the legally existing uses as nonconforming.

In conclusion, based on the above analysis and consistent with the approval criteria of Sec. 61-3-80 of the Zoning Ordinance, CPC staff recommends **APPROVAL** of the proposed rezoning request.

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