



PLANNING BOARD REPORT PORTLAND, MAINE

Rezone from IL Zone to B2 Zone
1006 Congress Street and Vicinity (1000, 1002/1004, 1020 Congress Street)
Level III -Zoning Map Amendment
2017-277
Jen and David Packard on behalf of Richard Packard, Applicant

Submitted to: Portland Planning Board Public Hearing Date: June 26, 2018	Prepared by: Shukria Wiar, Planner Date: June 22, 2018
-----------------------------------------------------------------------------	-----------------------------------------------------------

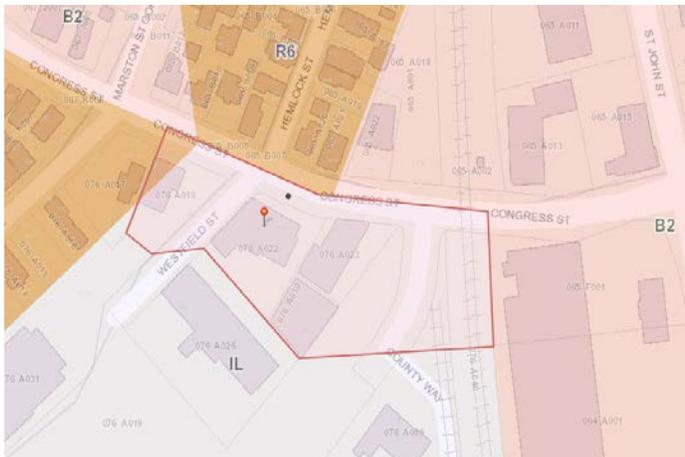
I. INTRODUCTION

The applicant, 1006 Congress LLC, has requested a zoning map amendment for an approximately 19,800 sq. ft. property at 1006 Congress Street that is located at the corner of Congress and Westfield Streets. The parcel is in the Industrial- Low Impact IL zone. The requested map amendment relates to the area outlined in yellow line and is a proposal to change from IL to Business Community B-2 zone. The site is surrounded by I-L to the south, Residential R-6 to the west and north and B-2 on the eastern side. The majority of the buildings in the R-6 zone are multifamily buildings.



At the workshop on May 17, 2018, the Planning Board considered the request and expanded the area to be advertised and considered for a zone change. The expanded area includes

other adjacent parcels that may be appropriate for a similar rezoning (surrounding properties at 1000, 1002/1004, and 1020 Congress Street). The Planning Board identified the extended area (see map below). The Planning Division staff advertised the larger geographic area for the purposes of holding a public hearing.



The Applicants submitted narrative ([Attachment A](#)) indicates that the objective is to allow for the development of a mixed-use development comprising commercial and retail uses (a possible café) on the lowest floor and business office above this, as the IL zone does not allow retail or office uses other than back office that are accessory to a permitted use. The rezoning to the B-2 zone would allow this development but would also allow a wide range of uses not allowed in the IL zone, such as retail, restaurants, neighborhood center and general businesses and professional offices. The applicant’s narrative analysis concludes that the size and

historic structure would limit industrial uses and it is more suitable for a mixed-use development that includes retail and offices.



A legal ad for the Board public hearing was posted on the city’s web page and appeared in the *Portland Press Herald* on June 18th and 19th, 2018. Notices were also sent to 160 property owners within 1000 feet of the site and to the interested citizen list. A neighborhood meeting was held on June 19th, 20018 with seven abutters in attendance.

At the time this report was prepared, the Planning Division has received two public comments in favor of the

rezone. The property owner of Fitzgerald Tile at 16 Westfield Street, John Fitzgerald, requested that his property be added to the map amendment, however this request was received after the area was advertised for noticing. The legal use of the property is warehouse, showroom, and office, which is allowed in the I-L and B-2 zones.

Owner
Consultants
Agent/ Representative
Engineer

Jennifer and David Packard, SA

Architect
Surveyor

Katherine Detmer, Archetype, PA
 Matthew J. Miller, P.E. of M2 Structural Engineering, P.C.
 Katherine Detmer, Archetype, PA
 Ellen Brewer, Owen Haskell Inc

II. PROPOSED MAP AMENDMENT

Current Zoning: Industrial- Low Impact IL
 Proposed Zoning: Business Community B-2
 Current Uses: Place of Assembly
 Proposed Uses: As allowed in B-2 zone; narrative suggests with mixed use including café and offices
 Parcel Area: Approximately 19,800 SF

III. APPLICANT’S SITE BACKGROUND

The parcel has ninety-nine feet of frontage along Congress Street and 123 feet along Westfield Street. The site has an existing building and two driveways, one off of each street. The existing building is a Captain’s House and barn built in the late 1800s, complete with a turreted roof and a large addition that was added in the 1970’s. The applicant would like to keep the existing structure and believes that it “*would be the sustainable approach*”. According to the applicant’s cover letter, “*the interior spaces are smaller and want to remain so due to the nature of the masonry structure therefore being ill-suited to any industrial use*”.



Industrial development abuts the parcel to the south and the west.

IV. PROPOSED MAP AMENDMENT

The applicant is requesting a map amendment for their property of 1006 Congress Street. At the workshop on May 17, 2018, the Planning Board considered the request for a map amendment and felt that the surrounding area may be appropriate candidates for a similar rezoning and recommended that it be

zone. The I-L zone is designed to act as a buffer between neighboring residential zones and I-M or I-H zones allowing for uses that are low intensity in nature and therefore compatible with neighboring residences. Across the street is a Residential R-6 zone and northeast of the site is the B-2 zone.

The parcel abuts developed industrial uses on two sides, which are part of this industrial area that is increasingly providing sites for breweries and other artisan uses that are allowed in the I-L zone, but not in the B-2 zone.



Purpose Statements

The purpose statements for both zones are included in the table below. The IL aims to provide for low impact industrial uses, while the B-2 is more focused on the integration of small scale commercial uses with residential.

Table 1: Purpose Statements	
Industrial- Low Impact IL	Business Community B-2
<p>The low impact industrial zone is intended to provide areas in which low impact industrial uses and limited other uses serving employees and residents of the surrounding neighborhood will be compatible with adjacent residential uses, will provide a buffer between residential neighborhoods and the I-M or I-H industrial zones, or will stand alone as a smaller scale industrial district. The I-L zone is located adjacent to residential neighborhoods, business uses and other industrial uses where the low intensity nature of the uses, as well as their strict performance standards, will ensure the compatibility of the uses with other adjacent industrial and nonindustrial uses. Performance standards for uses in the I-L zone are designed to maintain compatibility between low impact industrial uses and neighboring nonindustrial and industrial uses. Performance standards include full enclosure of uses and requirements for buffers and screening from adjacent properties.</p>	<p>The purpose of the B-2 community business zone is:</p> <ol style="list-style-type: none"> 1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. 2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. 3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. 4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

Permitted Uses & Potential Impacts

The existing IL zone emphasizes, in addition to employment-creating industrial uses, a wide range of uses that are smaller in scale (with some exceptions such as indoor amusement and recreation centers, plant and tree nurseries, marinas and lumber yards). It also includes uses that support the surrounding neighborhood such as day care

facilities, makers markets, artists' studios, and neighborhood centers. This zone does not allow retail uses or office uses other than back office that are accessory to a permitted use.

The proposed B-2 zoning designation allows a range of residential uses on upper floors. It also allows bed and breakfast and hostels on upper floors. The zone permits restaurants, day care facilities, neighborhood centers and a wide range of commercial and institutional uses, including retail establishments, offices, personal services, business services, places of assembly, clinics, municipal uses, and schools. Both zones allow day care facilities, neighborhood centers, and studios for artists, photographers and craftspeople. Below is chart of comparing the uses in the two zones.

USES PERMITTED	IL	B-2
Low impact industrial uses, including, but not limited to, bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, musical instruments, precision instruments, watchmakers, toys and sporting goods, wood products, jewelry, assembly of electrical components, tool and die shops and the packaging of food.	✓	✓
<ul style="list-style-type: none"> ○ Indoor amusement and recreation centers. ○ Plant and tree nurseries, including associated recycling activities. ○ Lumber yards. 	✓	
<ul style="list-style-type: none"> ○ Commercial kitchens or other food preparation, provided that the food is not prepared for service on the premises. ○ Repair services, including all types of automotive repair. 	✓	✓
Building contractors and outside storage of related construction equipment, provided that there shall be no outside storage of materials and supplies.	✓	
Day care facilities	✓	✓
<ul style="list-style-type: none"> ○ Dairies. ○ Dog training services, including but not limited to obedience, guide, and service training, but not including boarding or kennel services. ○ Intermodal transportation facilities. ○ Marinas. ○ Back office uses. 	✓	
<ul style="list-style-type: none"> ○ Distribution centers, warehouses and wholesale businesses under ten thousand (10,000) square feet in total building area, with no outside storage permitted. 	✓	✓
Expansion of existing dairies	✓	✓
Utility substations	✓	✓
Accessory Uses	✓	✓
Registered medical marijuana cultivation facilities.	✓	
Neighborhood centers	✓	✓
Places of religious assembly, limited to facilities of 10,000 sf or less.	✓	✓
Wind energy systems	✓	✓
Street Vendors	✓	✓
Studios for artists and craftspeople, less than 4,000 net sf. per space	✓	✓
Day Cares	✓	✓
Residential		
Residential		✓
Professional, business and general offices		✓
Personal Services		✓
General Retail establishments		✓
Pharmacies with retail sales		✓
Restaurants		✓
Municipal offices		✓
Drinking establishments, as defined in section 14-47		✓
Billiard parlors		✓
Funeral homes		✓
Lodging house		✓

Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding. A bed and breakfast may include a meeting facility if for weddings, seminars, receptions, business meetings and the like and if the facility is less than 4,000 net sf.		✓
Hotels, Motels and Inns		✓
Bakeries, breweries, distilleries, commercial kitchens and similar uses with a retail component and with a total floor area of 10,000 net sf. or greater		✓

VI. POLICY ANALYSIS OF PROPOSED MAP AMENDMENT

Staff suggest that there are several other factors that are relevant to a map amendment for this parcel:

- Comprehensive Plan: The City’s ordinance states that any rezoning must be consistent with the City’s Comprehensive Plan. In forming its recommendation to the City Council, the Board will need to make a finding on whether the proposal is consistent with the Comprehensive Plan. The applicant has included an analysis of how the proposed rezone to B-2 zone is consistent with Portland’s Comprehensive Plan. In addition to the applicant’s assessment, staff have identified below a number of the specific Comprehensive Plan goals and policies which are suggested as being relevant to the proposed conditional rezoning.

The central vision of Portland’s Plan 2030 is represented by the venn diagram demonstrating the integral interrelation of the community’s core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. The vision conveys the message of the City’s need to balance many competing needs to assure the advance of the vision as a unified concept. In this instance, that the City’s goals for job growth and transforming Portland through orderly growth and development be balanced with needs for connectivity of the street grid, sustainability of infrastructure and the ability to maintain that infrastructure, and security in the sense of public safety.



A VIBRANT CITY

5. TARGET AREAS FOR JOB GROWTH

- Ensure that new employment can be accommodated in priority growth areas across the City.
- Evaluate zoning and the condition of existing infrastructure in priority areas - downtown, in identified neighborhood nodes, and along transit corridors – to ensure that employment and housing growth can be supported.
- Expand possibilities for live/work spaces – residential living space with integrated creative work space.
- Modify ordinances and make strategic investments to better promote business development and job creation in priority areas.

FUTURE LAND USE

Portland’s plan for Future Land Use places emphasis on areas most important to its growth over the next ten years. It includes three maps: a map depicting current dominant land use patterns, a map showing a connected network of trails and open spaces, and a map of corridors and nodes that are poised to accommodate additional growth. These maps are best understood in the context of the plan’s principles for future growth. The Libbytown area is one of the priority growing nodes identified in the plan as an area for the transformation.

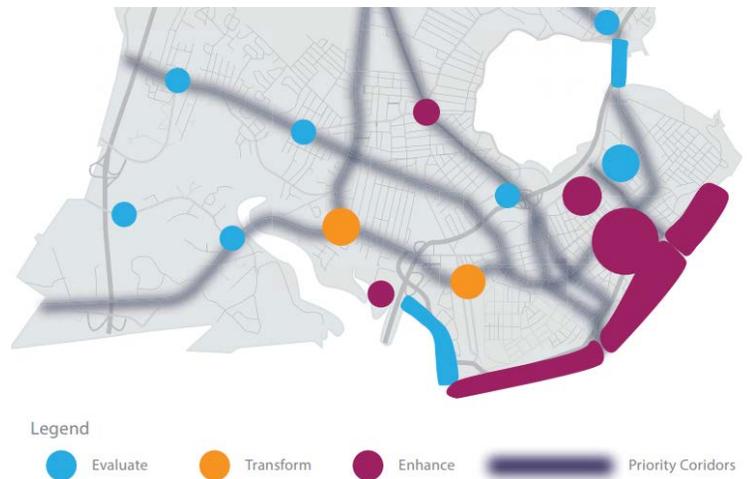
Priority growth areas include the following elements:

1. Priority nodes Nodes are areas with concentrated mixed-use activity, which can occur at varying scales

and serve varying catchment areas - Portland's downtown supports a large successful node, for example, but nodes can also be found at smaller convergences and intersections throughout the City. As mapped, nodes are not meant to sharply delineate boundaries, but to indicate general areas in need of further planning or investment. The nodes identified by the map may have seen disinvestment, grown in sprawling patterns, or simply have the potential to serve as focal points for change in density or, height, streetscape, or uses to better serve neighborhood needs. These nodes are placed into three broad categories that correspond with their respective stage of planning or investigation at the present time.

- Evaluate: Areas as diverse as East Bayside and Allen's Corner, where the City recognizes the need to review existing conditions and develop a strategy for future change. These nodes should be assessed for their ability to address neighborhood needs and serve as centers for complete neighborhoods;
- Transform: Areas such as Morrill's Corner, which have been previously recognized as areas of significant potential transformation, but which need comprehensive revisioning; and
- Enhance: Areas such as Woodford's Corner, or the Eastern, Central and Western Waterfronts, which have been studied and are awaiting or in the midst of plan implementation.

2. Priority corridors The Priority Nodes & Corridors Map identifies key corridors - those that connect major nodes and neighborhoods and therefore serve as major commuter routes - as areas for additional planning and investment. Priority corridors are major arterials that often see heavy vehicular traffic, but also have the capacity to improve mobility by capitalizing on their potential for increased walking, bicycling, and transit use. Priority corridors can also serve as areas of additional mixed-use, higher density growth to take advantage of the transit benefits and services that well-designed, diverse corridors can offer. The Congress Street Corridor in Libbytown is one of Portland's priority corridor.



- Loss of IL zoned land: Discussions with the Economic Development Department reinforce that the absorption rate for industrial properties is slow in Portland, that the existing building stock is in need of upgrade investment to bring it to modern standards. The recommendation of the Economic Development Department is in support of the map amendment proposal. Greg Mitchell, Economic Development has reviewed this request for zone change and offers the following, see [Attachment 3](#) for the complete:

The purpose of this memo is to discuss the importance of retaining industrial-zoned property in the City of Portland. This resource is finite as the majority of developable real estate in the City has been built out, and it will be very difficult to rezone property to expand Portland's industrial base.

Over time, Portland has seen its industrial property reduced. Pressure from market forces and societal needs have driven the decrease and rezoning of industrial space primarily to business zones in order to accommodate mixed use neighborhoods. Admittedly, these neighborhoods are filling a vital need, providing increased housing as well as businesses that serve the City's residents and its burgeoning tourism market.

Over the past few years, the City's Economic Development Department has been receiving increasing requests from companies seeking vacant industrial space or undeveloped industrial acreage for new construction. Some of these requests simply cannot be accommodated given the City's finite industrial property and its extremely low vacancy rate. When the expansion needs of existing Portland-based industrial companies cannot be accommodated locally and/or new industrial opportunities cannot be accommodated, this represents a loss to Portland's tax base and associated employment.

To summarize, Portland's industrial space is very limited and should be preserved to the maximum extent possible. Regarding the request from the owners of 1006 Congress Street to rezone their property from IL to B-2, this seems to represent a unique set of circumstances that will not be displacing industrial uses. However, allowing for this use should be addressed in a site-specific fashion.

The vulnerability of urban industrial land to conversion by higher value uses and the need to balance land use policy to purposely reserve appropriate industrial land for future enterprises is based on the economic development priorities and plans for the community. Portland's Comprehensive Plan states

Major Employment Centers The vast majority of jobs in Portland are centralized in or near the downtown area, where both major and small employers cluster. Off the peninsula, the next major concentration of jobs occurs in industrial areas accessed by major arterials, such as Outer Congress Street, outer Forest Avenue, and outer Washington Avenue.

The City's industrial zones allow uses ranging from low-impact industrial, such as research & development facilities, breweries, and lumber yards, to high-impact industrial uses, such as metal recycling and solid waste disposal facilities. The low-impact industrial zones on the peninsula have served as incubator space for the City's expanding food economy and arts-related industries. These formerly underutilized areas are now vibrant hubs of industry and activity. Similar reuse and innovation has occurred in the off-peninsula industrial areas, particularly for the breweries off Riverside Street. Industrial zones in Portland are primarily clustered along the Interstate 95 corridor with some industrial zones also located on Warren Avenue near Morrill's Corner, East Deering along Presumpscot Street, Canco Road, and near Tukey's Bridge. The Low Impact Industrial zone is primarily located on the peninsula in East Bayside and Libbytown.

The existing IL zone highlights, in addition to employment-creating industrial uses, a wide range of uses that are smaller in scale. It also includes uses that support and sustain the surrounding neighborhood such as day care facilities, makers markets, artists' studios, and neighborhood centers. Therefore, staff recommends retaining the industrial area off of Westfield Street.

- B2 zone is extensive: Even though the site is a good location for IL industrial uses that have low impacts e.g. breweries, distilleries, repair services, the existing B2 zone along the corner of Congress and St. John Streets offers many opportunities for mixed use development that includes residential. This is because of its location at outer Congress Street where it is buffered along most of the property boundaries by other industrial uses and MDOT land associated with I-295.

VII. STAFF RECOMMENDATION

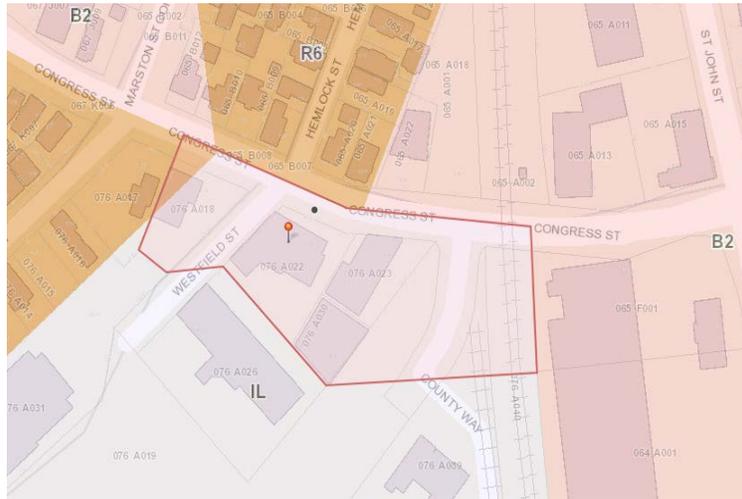
Staff is recommending to the Planning Board a positive recommendation to City Council to adopt the map amendment as presented.

VIII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant, the City of Portland Zoning Code, Portland's Comprehensive Plan, public comment, the information provided in public hearing on June 26, 2018 for the project #2017-277 (1006 Congress Street), and/or other findings as follows:

1. The Planning Board finds that the proposed rezoning to the Business Community B-2 zone for the property located at 1000, 1002/1004, 1006, and 1020 Congress Street. as shown on the map below **[is or is not]** consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board **[recommends or does not recommend]** to the City Council adoption of the zoning map amendment for 1006 Congress Street from Industrial- Low Impact I-L zone to the Business Community B-2 zone for the area shown on the map below.



ATTACHMENTS

PLANNING BOARD MEMO ATTACHMENTS

1. Economic Development (Greg Mitchell)
2. Public Comment
 - PC1 Brett Gabor 3-27-18
 - PC2 Nikki Anderson 4-12-18
 - PC3 Jack McInerny 06-06-2018
 - PC4 John Fitzgerald 06-06-2018

APPLICANT'S SUBMITTALS

- A. Zoning Application
- B. Cover Letter - 1006 Congress Street Zoning Amendment Application
- C. 1006 Congress Quitclaim Deed
- D. Response to Staff Cover Letter
- E. Neighborhood Meeting Certificate and Minutes

PLANS

- | | |
|--------|-----------------------------------|
| Plan 1 | 1006 Congress Site Plan |
| Plan 2 | Proposed Zoning Map |
| Plan 3 | Vicinity map 1006 Congress Street |