


TJA

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #10-0632 / REZONING- 2525 KIRK AVENUE		

TO

DATE:

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

August 5, 2011

At its regular meeting of August 4, 2011, the Planning Commission considered City Council Bill #10-0632, for the purpose of changing the zoning for the property known as 2525 Kirk Avenue, from the M-1-2 Zoning District to the B-3-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #10-0632 and adopted the following resolution eight members being present (six in favor).

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #10-0632 be disapproved by the City Council.

Additionally, the Commission asked the Mayor's Office representative to facilitate a meeting between BDC officials and the applicant for the purpose of assisting the applicant in finding tenants for his industrial properties.

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: Ms. Kaliopé Parthemos, Deputy Mayor
Mr. Peter O'Malley, Chief of Staff
Ms. Angela Gibson, Mayor's Office
The Honorable Bill Henry, Council Rep. to Planning Commission
Mr. David Tanner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Nikol Nabors-Jackson, DHCD
Ms. Barbara Zektick, DOT
Ms. Elena DiPietro, Law Dept.
Ms. Karen Randle, Council Services
Mr. Johnathan Melnick, Applicant



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

August 4, 2011

REQUEST: City Council Bill #10-0632/Rezoning – 2525 Kirk Avenue

For the purpose of changing the zoning for the property known as 2525 Kirk Avenue, as outlined in red on the accompanying plat, from the M-1-2 zoning district to the B-3-2 zoning district.

RECOMMENDATION: Disapproval

STAFF: Eric Tiso

PETITIONER: Jonathan Melnick

OWNER: Exeter-Kirk Limited Liability Company

SITE/GENERAL AREA

Site Conditions: 2525 Kirk Avenue is located on the southern corner of the intersection with Exeter Hall Avenue. The property is improved with a brick building known as the "Coca-Cola Building" that was originally built in 1939, and has one-, two- and three-story portions. The site is currently zoned M-1-2 Industrial.

General Area: This property is located in the Coldstream/Homestead/Montebello community. The core of this community area is residential in nature, with the predominant housing stock comprised of row houses. The southern edge of the community is industrially zoned, including the Cloverland Greenspring Dairy facility. Baltimore City College is located four blocks to the north.

HISTORY

There are no previous legislative or Planning Commission actions regarding this site.

CONFORMITY TO PLANS

There are no calls for rezoning this property through the Comprehensive Master Plan, an area plan, an Urban Renewal Plan (URP), or any other similar plan.

ANALYSIS

Rezoning Request:

This is a request for rezoning, brought from a potential lease of some vacant space in the building (part of the three-story portion) for use as a charter school, a use that isn't allowed under the existing M-1-2 zoning. The requested B-3-2 zoning would provide for the school use, but simultaneously is a cause for concern. Staff's rationale for not supporting the rezoning is based on two principal concepts: 1) the mechanics of rezoning properties as required by Article 66B, which governs how and when we can rezone land, and 2) the general goal to preserve industrially zoned land.

Article 66B Requirements for Rezoning:

Article 66B of the Maryland Code requires the Planning Commission 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. In reviewing this request, the staff finds that:

- 1. The Plan:** There is nothing in the comprehensive plan, area plans, or any URP that calls for rezoning for this parcel. As for Transform Baltimore, the draft land use maps show this parcel retaining its industrial zoning.
- 2. The needs of Baltimore City:** The City needs large, contiguous industrial parcels in order to be competitive for industrial development.
- 3. The needs of the particular neighborhood:** Staff does not see a great demand for commercial zoning for this particular neighborhood, considering ample availability of commercial property in the nearby commercial corridor on East 25th Street.

Similarly, Article 66B requires the City Council to make findings of fact. The findings of fact shall include:

- 1. Population changes;** There have been no significant changes in population in this area causing the need for additional commercially zoned properties in this area.
- 2. The availability of public facilities;** Adequate public facilities exist in this area for a wide range of uses.
- 3. Present and future transportation patterns;** There are no anticipated changes or additional demands on the transportation patterns in this area.
- 4. Compatibility with existing and proposed development for the area;** The requested higher-intensity B-3-2 commercial zoning adjacent to the existing M-1-2, R-6 and R-7 neighborhoods is not compatible. Historically, in areas where there are heavier commercial or industrial areas near residential neighborhoods, M-1 zoning has been used as a buffer to provide a transition between these areas. The stated purpose of the M-1 Districts is to provide areas suitable for industrial and related activities that require, deserve, and promote a relatively nuisance-free environment compatible with, and not detrimental to, an adjoining Business or Residence District (§7-201). In this case, the existing M-1-2 zoning provides that transition buffer between the rail line and the heavier

B-3-2 commercial areas to the south of the property, and the residential neighborhoods to the north, indicating that the original zoning of this property was appropriate.

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 disapproval of the rezoning request to the Planning Commission. The BMZA has not yet commented on this bill.
6. **The relation of the proposed amendment to the City's plan.** There are no calls for rezoning this property through the Comprehensive Master Plan, an area plan, an Urban Renewal Plan (URP), or any other similar plan.

Following such findings, The City Council may grant the amendment based on a finding that there was: (i) A substantial change in the character of the neighborhood where the property is located; or (ii) A mistake in the existing zoning classification. Staff does not see any significant change in the character of the neighborhood that would require such a rezoning, and as illustrated above, there does not appear to be a mistake in the existing zoning classification. Thus, staff views this request as spot-zoning, which should not be permitted.

Preservation of Industrially Zoned Land:

Only a portion of this building will be used for the charter school. However, there are other uses within the balance of the building that could be impacted, in that some could become nonconforming uses if their operations are not allowed in the B-3 list of uses. Classification as a nonconforming use could create problems in the future for those businesses, should they want to expand or relocate within the building. In a worst-case scenario, should the charter school not eventually come to fruition, the property would be rezoned (with the potential for such collateral damage to existing users). Staff believes that the proposed change in zoning, does not seem to make sense in the larger context.

Alternative Option:

Following a meeting with the applicant last fall, staff recommended that if a change was absolutely needed, that a Planned Unit Development (PUD) would be a potential tool that could achieve the owner's immediate goals while complying with development regulations and simultaneously protecting the adjacent residential neighborhood. Through a PUD, the desired school use could be allowed, with appropriate land use controls to prevent undesirable or non-compatible land uses from locating in this property. At the same time, existing uses in the building would be allowed to continue as permitted uses, avoiding potential problems of classification as nonconforming uses through rezoning. Staff continues to encourage the applicant to explore this PUD option.

Community Input:

The Coldstream/Homestead/Montebello Community Corporation, Inc. (CHMCC) has been notified of this action:

A handwritten signature in cursive script that reads "Thomas J. Stosur". The signature is written in black ink and is positioned above the printed name and title.

Thomas J. Stosur
Director