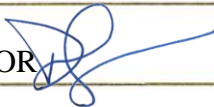



FROM	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #21-0063 / REZONING – 1201 DUNDALK AVENUE		

TO

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

DATE: May 13, 2021

At its regular meeting of May 13, 2021, the Planning Commission considered City Council Bill #21-0063, for the purpose of changing the zoning for the property known as 1201 Dundalk Avenue (Block 6738, Lot 036), as outlined in red on the accompanying plat, from the R-3 Zoning District to the C-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #21-0063 and adopted the following resolution seven members being present (seven in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, adopts the findings outlined in the staff report, with consideration for testimony and facts presented in the meeting, adopts the equity analysis, and recommends that City Council Bill #21-0063 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: Ms. Natasha Mehu, Mayor's Office
Ms. Nina Themelis, Mayor's Office
The Honorable Eric Costello, Council Rep. to Planning Commission
Mr. Matthew Stegman, City Council President's Office
Ms. Nikki Thompson, City Council President's Office
Mr. Colin Tarbert, BDC
Ms. Kathleen Byrne, 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



Brandon M. Scott
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

May 13, 2021

REQUEST: City Council Bill #20-0063/ Rezoning – 1201 Dundalk Avenue

For the purpose of changing the zoning for the property known as 1201 Dundalk Avenue (Block 6738, Lot 036), as outlined in red on the accompanying plat, from the R-3 Zoning District to the C-2 Zoning District.

RECOMMENDATION: Approval

STAFF: Matthew DeSantis, AICP

PETITIONERS: Councilmember Cohen, at the request of K-Group Limited Partnership

OWNER: K-Group Limited Partnership

SITE/GENERAL AREA

Site Conditions: The subject property is approximately 40,000 square feet in size, and is currently improved with a two-story funeral home that covers about 25% of the site while a surface parking lot covers the remainder.

General Area: The subject property is located within the Graceland Park neighborhood, which straddles the City/County line at the far eastern edge of the City. The properties along the eastern side of Dundalk Avenue to the north are primarily commercial in nature; there are attached dwellings along the west side of Dundalk Avenue to the west of the subject property; single-family detached dwellings comprise the majority of properties to the southeast, east, and northeast.

HISTORY

- The 1936 and 1953 Sanborn Fire Insurance maps indicate that the building was in use as a movie theater. Additionally, aerial images show the existing funeral home building and rear parking lot dating back to at least 1957, while the side parking lot addition along Dundalk Avenue was constructed in the mid-2010s.
- CCB #12-0024 (Ordinance #12-57, dated September 28, 2012) rezoned a portion of the subject property from the R-3 district to the B-2-2 district. The funeral home had acquired abutting properties (now the side parking lot) and requested the rezoning to expand their parking area. The Planning Commission heard this bill on May 10, 2012 and concurred with Planning staff, recommending disapproval.

CONFORMITY TO PLANS

The proposed action would not be inconsistent with any Goal or Objective of LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore City.

The site is within the bounds of the O'Donnell Heights Revitalization Plan that was adopted by the Planning Commission in 2020. The proposed action is neither directly supported by the plan nor is it in conflict with any plan recommendations.

In addition, the Planning Commission adopted the SEND (Southeastern Neighborhoods Development) Plan in 2005, of which this subject property is within the bounds. The plan speaks generally about supporting commercial uses along the area's major corridors and the importance of enhancing the pedestrian experience/connections on these streets.

ANALYSIS

This property was initially developed in 1948 as the Carlton Theater and was used a movie theater until 1988. In 1992 it was purchased by the Kaczorowski Funeral Home which continues operation there to this day.

Prior to the Transform Baltimore comprehensive rezoning, this property was zoned B-2-2 along with the other commercial use properties along Dundalk Avenue to the north. During Transform, however, it was rezoned to the R-3 district with the surrounding residential areas to the northeast, east, and southeast.

In 2012, what is now the parking lot was rezoned from the R-3 to the B-2-2 zoning district to allow for its improvement/expansion. While staff argued that the specific rezoning to expand the B-2-2 district was not justified based on the rezoning criteria, staff did also find that the B-2-2 zoning of the funeral home building itself was "appropriate". Once the rezoning became effective all of the parcels were consolidated. It appears that during the Transform comprehensive rezoning process, for some reason the entirety of 1201 Dundalk Avenue was rezoned back to the R-3 zoning district. Based on staff's earlier position that the former commercial zoning of the building itself was suitable, it appears that the rezoning of the entire site to R-3 was a mistake as it has made both the use and the bulk/yard conditions non-conforming.

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.

Below is the staff's review of the required considerations of §5-508(b)(3) of Article 32 – *Zoning*, where staff finds that this change is not in the public's interest.

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 not be in conflict to any of the goals contained in the Comprehensive Master Plan for Baltimore City, nor would it be in conflict with either of the area plans adopted for this part of the City.
- 2. The needs of Baltimore City:** A rezoning to the C-2 district would return the existing funeral home to a legally conforming status, and would better correspond to the historic use of the property.
- 3. The needs of the particular neighborhood:** The zoning change wouldn't have any direct impact on the Graceland Park neighborhood, since the funeral home has operated at this location for many years and proposes to continue to operate at this location.

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;** There have not been significant population changes in the Graceland Park neighborhood 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 and will continue to be so for the foreseeable future.

3. **Present and future transportation patterns;** There would be no positive or negative effect upon present or future transportation patterns in the area as a result of adoption of this bill as the existing use of the property is not expected to change as a result.
4. **Compatibility with existing and proposed development for the area;** The proposed C-2 zoning district is compatible with the existing and proposed development for the area along the Dundalk Avenue corridor as it would match the C-2 zoning of abutting commercial use properties.
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 C-2 zoning district as recommended by staff would not be in conflict 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 low-density residential and commercial.
- (ii) **the zoning classification of other property within the general area of the property in question;** the proposed C-2 would be consistent with the abutting C-2 zoned commercial properties along Dundalk Avenue.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and,** The current R-3 zoning designation has actually made the current funeral home non-conforming to the zoning code, and so a rezoning to the C-2 district would be more suitable.
- (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 not been significant changes to the immediate area of the subject property since it was placed in its current zoning classification.

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-3 zoning classification for the subject property and that the C-2 district would be more appropriate.

Equity Impact Assessment

Short / long-term impact on surrounding community: As the proposed rezoning is seeking to correct a mistake in the zoning for the continued operation of the existing funeral home, there is no clear short or long-term impact that this will have on the surrounding community.

Impact on Baltimore's existing patterns of inequity: Staff is unable to identify how this rezoning would heal or deepen any persistent patterns of equity.

Has the community been meaningfully engaged?: Staff is unaware to what extent the applicant has engaged with the surrounding community but has provided notice to the Graceland Park Improvement Association that this bill is scheduled for consideration and has responded to several questions from association leadership about the request.

How are residents who have been historically excluded from planning processes being authentically included in the planning of the proposed policy or project?: It is unclear how applicable this consideration is in this instance, since the intent of the rezoning bill is to correct a mistake in the zoning of one particular property.

Impact on internal operations: There has not been, nor is there expected to be, any substantive impact to internal operations as a consequence of this bill.

Notification: The Graceland Park Improvement Association has been notified of this action. Additionally, the site has been posted in compliance with Planning Commission guidelines.



Chris Ryer
Director