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FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 <sup>th</sup> FLOOR		
	SUBJECT	CITY COUNCIL BILL #10-0570/REZONING – 801 WEST 33 <sup>RD</sup> STREET		

TO

DATE:  
August 6, 2010

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

At its regular meeting of August 5, 2010 the Planning Commission considered City Council Bill #10-0570, for the purpose of changing the zoning for the property known as 801 West 33<sup>rd</sup> Street from the R-7 Zoning District to the O-R-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #10-0570 and adopted the following resolution, nine members being present (eight in favor, one abstention):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #10-0570 be disapproved by the City Council.

It should be noted that, while the current request does not meet the legal requirements for a rezoning, the Department of Planning's work in rewriting Baltimore City's zoning code seeks to remedy cases such as these in the future. Specifically, the draft version of the code defines a new use. The *neighborhood commercial establishment* will be a commercial use that is established within a residential neighborhood, but in a structure that is non-residential in its construction and original use. This new use will be conditional to the Board of Municipal and Zoning Appeals in the R-5 through R-10 districts and will enable an applicant to establish any of a number of uses. This change to the zoning code is intended to allow greater opportunities for adaptive reuse of non-residential properties in residentially zoned areas.

If you have questions, please contact Mr. Wolde Ararsa, Division Chief of Land Use and Urban Design, at 410-396-4488.

TJS/WYA/ttl

Attachments

- cc: Ms. Kaliop Parthemos, Deputy Mayor
- Ms. Sophie Dagenais, Chief of Staff
- Ms. Angela Gibson, Mayor's Office
- The Honorable Bill Henry, City Council Planning Commission Representative
- Mr. Geoffrey Veale, Zoning Administrator
- Mr. David Tanner, BMZA
- Ms. Nikol Nabors-Jackson, DHCD
- Ms. Karen Randle, Council Services



*Stephanie Rawlings-Blake*  
Mayor

## PLANNING COMMISSION

*Wilbur E. "Bill" Cunningham, Chairman*

## STAFF REPORT



*Thomas J. Stosur*  
Director

**August 5, 2010**

**REQUEST:** City Council Bill #10-0570/Rezoning – 801 West 33<sup>rd</sup> Street

For the purpose of changing to zoning for the property known as 801 West 33<sup>rd</sup> Street from the R-7 Zoning District to the O-R-2 Zoning District

**RECOMMENDATION:** Disapproval

**STAFF:** Natasha Becker

**PETITIONER:** Chesapeake Systems, represented by Mr. Mark Dent

**OWNER:** Same

### **SITE/GENERAL AREA**

**Site Conditions:** 801 W. 33<sup>rd</sup> Street is a 16,000 square foot site at the southwest corner of W. 33<sup>rd</sup> Street and Chestnut Avenue in the Hampden neighborhood. The property is improved with an approximately 5,000 square foot 2-story stone church building that was, until recently, the home of the Mt. Vernon United Methodist Church in Hampden. The structure was damaged by fire in 2008, at which point the congregation moved in order to allow restoration of the building. While the exterior of the building has largely been restored, interior work has not begun. The congregation found project costs to be too high and instead merged with another church in the same vicinity, so the structure is at this time vacant. It should be noted that the subject site lies within a National Register Historic District, and the structure itself is notable for being constructed in 1878.

**General Area:** Hampden is an area that enjoys great highway access, is close to light rail, and has strong commercial and industrial activity along 36<sup>th</sup> Street and in the Jones Falls Valley corridor adjacent to I-83. Housing stock is predominantly a mix of 2- and 3-story row homes and semi-detached units. Much of the area is covered by a National Register Historic District.

### **HISTORY**

There have been no previous Planning Commission actions relating to the subject site.

### **CONFORMITY TO PLANS**

The requested rezoning does not meet the required standards for a rezoning found in the Annotated Code of Maryland and the Baltimore City Zoning Code.

## **ANALYSIS**

City Council Bill #10-0570 seeks to rezone the property known as 801 West 33<sup>rd</sup> Street (Lot 7 of Block 3504) from its current R-7 zoning designation to the O-R-2 category. The applicant has entered into a contract to purchase the property, pending outcome of this rezoning request. Chesapeake Systems is a small technology firm that sells, installs, and services Macintosh computers and related hardware and software, with a concentration on those used by design professionals. The company is currently located at 3000 Chestnut Avenue and has 22 employees.

Staff has determined this request to be an impermissible spot rezoning, given that the request for a zoning change does not meet the standards of Article 66B of the Maryland Annotated Code, nor those of the Baltimore City Zoning Code. Detailed analysis is as follows:

### **Article 66B**

The Mayor and City Council may periodically amend or reclassify the zoning of a particular property, after making specific findings of fact and determining that there has either been a change in the character of the neighborhood where the property is located or a mistake in the existing zoning classification.

Detailed **Findings of Fact** are as follows:

#### **1. Population changes**

801 W. 33<sup>rd</sup> Street is located within Baltimore City Census Tract 1306, which had a relatively stable population from 2000 to 2008 (the most recent year for which data is available). The total population in 2008 was 4,104, which represented a 5% increase over its 2000 total population of 3,910. The total number of housing units saw a minimal increase over the same eight-year period: 1924 total housing units in 2000, compared to 1935 in 2008. The percentage of owner-occupied housing units has declined from approximately 60% in 2000 to 50% in 2008. Median household income has not seen appreciable gains: the figure was \$38,094 in 2000 and \$39,727 in 2008.

#### **2. The availability of public facilities**

Adequate public facilities are available for a variety of uses.

#### **3. Present and future transportation patterns**

The property is near the Falls Road corridor, and enjoys quick access to I-83 and I-695, in addition to being served by numerous local bus lines. The nearest MTA light rail stop is at Falls Road and Railroad Avenue.

#### **4. Compatibility with existing and proposed development for the area**

The subject site is zoned R-7, which is consistent with the zoning of much of the surrounding area. The closest community business district (zoned B-2-2) is on 36<sup>th</sup> Street. South of that are some isolated pockets of neighborhood business zoning (B-1-2), including one on the opposite street corner to the subject site. Along the I-83 corridor are areas with industrial zoning, and one with a PUD overlay to allow for residential and business uses. There are no instances of O-R zoning in the immediate area. Other than individual property improvements requiring nothing more than a building permit, no major developments have been proposed for the area to the City.

#### **5. The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals**

To be determined

**6. The relation of the proposed amendment to the City's plan**

There are no elements of Baltimore City's Comprehensive Master Plan that speak to the specific question of a rezoning of the subject property. Moreover, there is no small area plan that speaks to land uses in this area.

Informed by the findings of fact, the City Council may grant a rezoning based on the finding that there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the original classification. No such change or mistake has been shown.

**Section 16-305 of the Baltimore City Zoning Code**

The Planning Commission must first find the change to be in the public interest and not solely for the interest of the applicant. In this case, the request is solely for the purpose of facilitating a business transaction.

Additionally, the Commission must consider:

**1. Existing uses of property within the general area of the property in question**

There is a predominance of residential uses surrounding the subject site – both row homes and semi-detached units. There are isolated pockets of commercial zoning, with one instance on the opposite street corner as the subject site and several instances along Keswick Road. Three blocks to the north is a commercial corridor on 36<sup>th</sup> Street. Industrial zoning is predominant south and west of the site along the I-83 corridor.

**2. The zoning classification of other property within the general area of the property in question**

As previously stated, the prevailing zoning category is R-7, with isolated pockets of B-1-2 and B-2-2, as well as some M-1 and M-2 areas. There are no instances of O-R zoning in the surrounding area, though offices uses are permitted in the commercial zones.

**3. The suitability of the property in question for the uses permitted under its existing zoning classification**

The residentially zoned property is improved with an approximately 5,000 square foot church building. Though the existing owner does not have the financial means to pursue restoration of the building, another church could find the property suitable for its use. Alternatively, the structure could be adapted for residential use under the current zoning.

**4. 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**

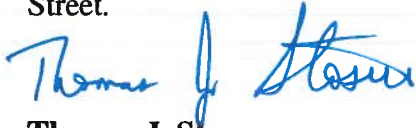
Since enactment of the 1971 zoning code, a number of trends in development have helped shaped the area, most notably the emergence of several shopping centers and commercial nodes, as well as the adaptive reuse of an industrial site. However, no trend toward the conversion of church structures into office use can be evidenced.

**TransFORM Baltimore Zoning Code Rewrite**

It is always unfortunate when a property's owner finds economic constraints so great that they must let a building go vacant. Staff is similarly constrained in that any request for rezoning must meet specific legal requirements as set forth in Maryland State Code and the Baltimore City Zoning Code. While the current request does not meet those requirements, staff's work in

rewriting Baltimore City's zoning code seeks to remedy cases such as these in the future. Specifically, the draft version of our code defines a new use. The *neighborhood commercial establishment* will be a commercial use that is established within a residential neighborhood, but in a structure that is non-residential in its construction and original use. This new use will be conditional to the Board of Municipal and Zoning Appeals in the R-5 through R-10 districts and will enable an applicant to establish any of the following uses: art gallery, arts studio, day care center (adult or child), office, personal services establishment, restaurant, or retail goods establishment (no alcohol sales). This change to the zoning code is intended to allow greater opportunities for adaptive reuse of non-residential properties in residentially zoned areas.

The Hampden Community Council has been notified of the rezoning request for 801 W. 33<sup>rd</sup> Street.



**Thomas J. Stosur**  
**Director**