

TJS

<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of <b>BALTIMORE</b> <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #12-0080 / REZONING – 3224-3226 WASHINGTON BOULEVARD		

TO

DATE: November 2, 2012

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

At its regular meeting of November 1, 2012, the Planning Commission considered City Council Bill #12-0080, for the purpose of changing the zoning for the property known as 3224 -3226 Washington Boulevard, from the M-2-1 Zoning District to the B-2-4 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment and approval of City Council Bill #12-0080 and adopted the following resolution, eight members being present (eight in favor).

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #12-0800 be amended and passed by the City Council.

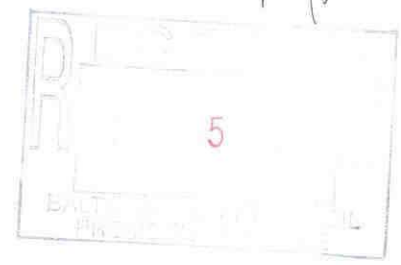
If you have any questions, please contact Mr. Wolde Ararsa, Division Chief, Land Use and Urban Design Division at 410-396-4488.

TJS/WA

Attachment

- cc: Ms. Kaliopé Parthemos, Deputy Chief for Economic and Neighborhood Development
- Mr. Alex Sanchez, Chief of Staff
- Ms. Angela Gibson, Mayor's Office
- The Honorable Rochelle "Rikki" Spector, Council Rep. to Planning Commission
- Mr. David Tanner, BMZA
- Mr. Geoffrey Veale, Zoning Administration
- Mr. Nicholas Blendy, DHCD
- Ms. Barbara Zektick, DOT
- Ms. Elena DiPietro, Law Dept.
- Ms. Karen Randle, Council Services
- Ms. Kimberly Clark, BDC
- Mr. David Gildea, esq. for 7-Eleven, Inc.

F/A





Stephanie Rawlings-Blake  
Mayor

## PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

### STAFF REPORT



Thomas J. Stosur  
Director

November 1, 2012

**REQUESTS:** City Council Bill 12-0147/ Urban Renewal – Caton/ 95 – Amendment

For the purpose of amending the Urban Renewal Plan for Caton/ 95 to amend certain exhibits to reflect the change of zoning, upon approval by separate ordinance, for the property known as 3224-3226 Washington Boulevard; waiving certain content and procedural requirements; making the provisions of this Ordinance severable; providing for the application of this Ordinance in conjunction with certain other ordinances; and providing for a special effective date.

City Council Bill 12-0080/ Rezoning – 3224-3226 Washington Boulevard

For the purpose of changing the zoning for the property known as 3224-3226 Washington Boulevard, as outlined in red on the accompanying plat, from the M-1-2 Zoning District to the B-2-4 Zoning District.

**RECOMMENDATIONS:**

City Council Bill 12-0147: Approval

City Council Bill 12-0080: Amendment and Approval

Amendment: Replace “B-2-4” wherever it may appear in the bill with “B-2-1”

**STAFF:** Martin French

**PETITIONERS:** 7-Eleven, Inc. for both Bills, by Smith, Gildea, & Schmidt, LLC

**OWNER:** Baltimore Associates

**SITE/ GENERAL AREA**

Site Conditions: 3224-3226 Washington Boulevard is located at the southwestern Baltimore City limits, and occupies approximately three-quarters of the triangle formed by intersections of Washington Boulevard, Caton Avenue, and Patapsco Avenue. This property contains approximately 14,446 square feet, and is currently improved with a one-story kiosk at the center of a canopy over gasoline pumps. This site is zoned M-2-1 and is located within the Caton/ 95 Urban Renewal Plan area. The property was last authorized for use as a gasoline service station, which is a conditional use in this M-2 Industrial District.

General Area: This is a mixed commercial and light or general industrial area of southwestern Baltimore City southwest of the residential community of Morrell Park. Washington Boulevard, which bisects Morrell Park to the north, is a major street in this area; its intersection with Caton Avenue gives direct access to Interstate Highway 95 less than a mile to the northwest, while intersection with Patapsco Avenue gives direct access to the maritime industrial areas of Brooklyn and Fairfield five miles east of the property. The predominant zoning in the area is a mix of M-2-1 (Industrial) and B-2-1 (Community Business). The southwestern portion of the City limits runs northwest to southeast through this area, actually crossing Washington Boulevard approximately 10' north of the Washington Boulevard – Caton Avenue intersection that forms the southern corner of the triangular property that is the subject of the original City Council Bill 12-0080.

## **HISTORY**

- Included in the Caton/ 95 Urban Renewal Plan approved by the Mayor and City Council by Ordinance no. 399 dated July 2, 1981.
- Amendment No. 4 dated April 8, 1998, approved by the Mayor and City Council by Ordinance no. 98-336 dated June 24, 1998 included revisions to the Plan's Land Use Plan map and Zoning Districts map.

## **CONFORMITY TO PLANS**

The proposed actions are consistent with LIVE EARN PLAY LEARN, The Comprehensive Master Plan for Baltimore, Earn Goal 1, Objective 1: Retain and Attract Businesses in all Growth Sectors. The 7-Eleven company is expanding the number of its stores in the Baltimore metropolitan area, and this site at 3224-3226 Washington Boulevard is one of three sites recently brought by it before the Site Plan Review Committee for consideration. The proposed actions are also consistent with the Caton/ 95 Urban Renewal Plan's Objectives and Reasons for Various Provisions of [that] Plan, specifically:

- To establish a positive and identifiable image for the project to encourage private investment for business activity {Plan, A.2.c}
- To identify parcels of land which are available for redevelopment and to provide standards and controls for their redevelopment {Plan, A.2.f}.

## **ANALYSIS**

### City Council Bill 12-0147

The Caton/ 95 Business Area Urban Renewal Plan ("the Plan") was enacted in 1981 to provide a framework for managing development and redevelopment of the designated Urban Renewal Area following completion of the Interstate Highway 95 section that is inside the City limits. The Plan designated all parts of its Urban Renewal Area as either community business, light industrial, or general industrial. The community business areas corresponded to B-2 zoning; the light industrial areas corresponded to M-1 zoning; and the general industrial areas corresponded to M-2 zoning (Plan, Land Use Plan, sections B.1.a, b., and c.). The Plan also contains a section B.1.e. titled "Non-Complying" which prohibits any land use that does not comply with the land use designations made in the Plan from being changed to any other land use that does not comply with those same land use designations. That provision when applied to the properties that are subject to Bill 12-0147 raises an essential question: Are these properties likely to be redevelopable with general industrial uses? Judging from the past 30 years' experience with the Plan, this appears unlikely.

Because the Land Use Plan map contained in the Plan as its Exhibit 1 includes land on the west side of Washington Boulevard from Salco Avenue southward to Caton Avenue in the larger area that it designates as “General Industrial”, the Plan has essentially frozen the land use of several properties, including 3224-3226 Washington Boulevard, which are not suitable for conversion to general industrial use. The Baltimore Development Corporation (BDC), which administers day-to-day actions to implement the Plan, has recognized the need to revise both Exhibit 1, the Land Use Plan map, and the corresponding Exhibit 4, the Zoning Districts map, to remove this impediment to productive re-use of the properties bounded by Washington Boulevard, Salco Avenue, James Street, and Caton Avenue, and has prepared revised maps for these Exhibits to the Plan. Planning staff have worked with BDC staff to develop these proposed revised maps for these two Exhibits which are cited in the body of Bill 12-0147’s Section 1. Adoption of these revised Exhibits would enable more productive re-use of 3224-3226 Washington Boulevard and three adjoining properties.

City Council Bill 12-0080

The proposed rezoning, by removing the property from the M-2 Industrial District and placing it in the B-2 Community Business District, would allow redevelopment of the site by the petitioner. The general area has remained a mix of commercial and industrial uses for over 40 years, and the proposed use as a combination grocery, carry-out food shop, and variety store would be consistent with that trend. The size and shape of this specific parcel is not conducive to its use for manufacturing or warehousing or similar industrial purposes, as evidenced by its not being used for any of the uses listed under the M-2 zoning category other than a gasoline service station, a conditional use that is more retail-oriented commercial than industrial. Two properties on the opposite (north) side of Patapsco Avenue but on the same side of Washington Boulevard as this property are already zoned B-2 and have been so since 1971.

The bill as introduced does propose rezoning the property to B-2-4 from M-2-1, however. This would allow a floor area ratio of 7.0 (Zoning Code, §6-313.e.), which far exceeds both the prevailing floor area ratio of the current M-2-1 zoned properties in the area, 2.0 (Zoning Code, §7-313.b.), and the floor area ratio of the B-2-1 properties along Washington Boulevard nearby, 0.8 (Zoning Code, §6-313.b.). Given that the typical 7-Eleven store is a one-story building served by a necessary amount of on-site parking, there is no justification for B-2-4 zoning of the property, since a store built here would need to allow a portion of the property to be used for off-street parking by its patrons, as was evidenced by the site plan recently presented to the Site Plan Review Committee. The 0.8 floor area ratio that would be allowed by rezoning this property B-2-1, making it part of the zoning district that currently exists across the street from this property, would be more than adequate. For this reason, this bill should be amended to change the proposed zoning of the property from M-2-1 to B-2-1.

Provided that the bill is amended as recommended, staff has determined this request to be a permissible rezoning, given that the request for a zoning change meets the standards of Article 66B of the Maryland Annotated Code and those of the Baltimore City Zoning Code. Detailed analysis follows:

**Article 66B Requirements for Rezoning:**

Article 66B of the Maryland 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. In reviewing this bill, Planning staff find that:

**1. The Plan**

While there is nothing in the Comprehensive Plan that specifically calls for rezoning this parcel, its rezoning (to B-2-1) would be consistent with goals enunciated in the Plan.

**2. The needs of Baltimore City**

The City needs large, contiguous industrial parcels that are competitive for industrial development. This is a small property, disadvantageously located for industrial purposes in a triangle formed by three major traffic routes that separate it from other parcels and limit redevelopment options for it.

**3. The needs of the particular neighborhood**

Business zoning would allow better uses of this property than current zoning does.

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

**1. Population changes**

During the last four decades there has been little change in the population of this area, as it has remained primarily non-residential in character.

**2. The availability of public facilities**

Adequate public facilities are available for a variety of uses.

**3. Present and future transportation patterns**

There are no significant changes proposed in transportation facilities or routes in this area.

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

The subject site is zoned M-2-1, while the surrounding properties are a mix of industrial (M-2-1) and commercial (B-2-1) zoning.

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

To be determined, though Department of Planning staff recommends approval of the rezoning request if it is amended to B-2-1.

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

There are no elements of Baltimore City's Comprehensive Master Plan that address the specific question of rezoning the subject property. Upon enactment of City Council Bill 12-0147, the Caton/ 95 Business Area Urban Renewal Plan would call for rezoning this property and nearby properties.

**Change/ Mistake**

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. The property known as 3224-3226 Washington Boulevard was, according to Baltimore City permit records, a gasoline service station as of September 1930, predating the Police Survey of 1931 that established the basis for much zoning classification in Baltimore. The gasoline service station has remained in continuous use since that date, with successive owners obtaining permits to reconstruct it in 1952 and 1974. Thus, it has never been used as an industrial property for over 80 years. The likely reason is that typical market conditions for manufacturing and distribution

favor larger size industrial lots with direct highway or rail access. This property has no rail access and, though accessible from Interstate Highway 95 via Caton Avenue, is too small for most modern industrial uses, hence zoning it M-2 in 1971 was a mistake.

**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 will benefit the property owner, adjoining properties and the surrounding community. Additionally, the Commission must consider:

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

There is a predominance of commercial and light industrial uses in this area.

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

B-2-1 is the prevalent zoning category in the immediate area, with M-2-1 zoning surrounding it on larger-lot properties. Thus, if Bill 12-0080 is amended to rezone the property to B-2-1, the proposed rezoning could then be consistent with zoning classification of other property in the general area.

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

While the property is a gasoline service station now, it has no unique features other than site lay-out constraints and would be more attractive for industrial use if it was larger in size with truck loading docks and better highway or rail access. As there is no chance of this occurring for the present (and has not been since Patapsco Avenue was condemned and opened in the early 1950s), the property remains unsuited for manufacturing use, and its highest and best use would be as a commercial property.

**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**

There has been no substantial change in the balance of industrial and commercial uses in the area, but where industrial uses have ceased to operate those properties have been reused for commercial purposes.

Staff notified the Morrell Park Community Association, Baltimore Associates, Mercantile Safe Deposit and Trust Company, and Councilman Reisinger of this action. The petitioner separately notified at least nine individuals and entities with interests in properties that would be affected by the proposed changes to be made by these Bills of the filing of the Bills, with a request for comment to the petitioner or to Planning staff. Planning staff have received no comments as of this date.



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