

<b>FROM</b>	<b>NAME &amp; TITLE</b>	DOUGLAS B. MCCOACH, III, DIRECTOR <i>DBM/GWC</i>
	<b>AGENCY NAME &amp; ADDRESS</b>	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 <sup>th</sup> FLOOR
	<b>SUBJECT</b>	CITY COUNCIL BILL #08-0018/MARITIME INDUSTRIAL ZONING OVERLAY DISTRICT-EXTENDING "SUNSET"- OWNER OPT OUT

CITY of  
**BALTIMORE**

MEMO



**TO**

DATE:

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

June 16, 2008

At its regular meeting of June 12, 2008 the Planning Commission considered City Council Bill #08-0018 for the purpose of the extension of the sunset provision until 2024.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendments to and approval of City Council Bill #08-0018. Additionally, the Commission added an amendment to Section 2.(a); which added a second sentence and the wording is as follows: "THIS ADHOC COMMITTEE SHALL SERVE AT THE PLEASURE OF THE MAYOR". Thus, the Commission recommended the aforementioned amendments to and approval of CCB #08-0018 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, and its amendment and recommends that City Council Bill #08-0018 be amended and passed by the City Council.

If you have questions, please contact Mr. Gary W. Cole, Deputy Director at 410-396-8337 or Seema Iyer, Division Chief for Research and Strategic Planning at 410-396-7272.

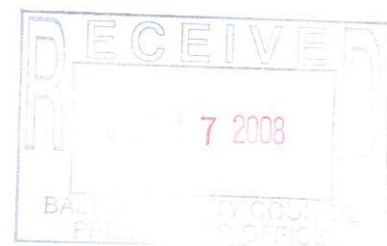
DBM/GWC/ttl

Attachments

cc:

- Mr. Andrew Frank, Deputy Mayor
- Ms. Angela Gibson, Mayor's Office
- Mr. Demuane Milliard, Mayor's Office
- The Honorable Rochelle "Rikki" Spector, Council Rep. for Planning Commission
- Mr. David Tanner, BMZA
- Mr. Donald Small, DHCD
- Ms. Nikol Nabors-Jackson, DHCD
- Ms. Jennifer Coates, Councilmanic Services
- Ms. Deepa Bhattacharyya, Law Department

*F/A*



# PLANNING COMMISSION

## STAFF REPORT

June 12, 2008

**REQUEST:** City Council Bill #08-0018: Maritime Industrial Overlay District- Extending "Sunset"—Owner Opt-Out

For the purpose of extending the automatic termination of the Maritime Industrial (Zoning) Overlay District; providing for the ability of property owners to apply for removal of their properties from the District; clarifying certain language; providing for the creation of a committee to study and report on the District; and general relating to the Maritime Industrial Overlay District.

**RECOMMENDATION:** Approval with amendments

**STAFF:** Seema Iyer

**PETITIONER:** The Administration (on behalf of the Department of Planning)

**OWNERS:** Various property owners

**SITE/GENERAL AREA:** The Maritime Industrial Overlay District, which is located in existing industrial areas zoned M-3 (heavy industrial) in Canton, Fairfield, Curtis Bay, Hawkins Point, and Locust Point.

### ANALYSIS:

**Background:** The Maritime Industrial Zoning Overlay District (MIZOD) was enacted in 2004 as part of the early stage of the City's Comprehensive Rezoning project and was included in the 2006 adoption of LIVE EARN PLAY LEARN, the city's Comprehensive Master Plan. The MIZOD was created in effort to reduce conflicts between mixed-use development and maritime areas by demarcating deep water parcels within heavy industrial zones and protecting them from conversions to residential and/or tourism/entertainment uses. The district protects maritime uses in deep-water areas with rail and road access for intermodal freight movement and reserves them for industrial use. Included in the MIZOD are existing waterfront and adjacent industrial areas zoned M-3 (heavy industrial) in Canton, Fairfield, Curtis Bay, Hawkins Point, and Locust Point. These areas are intended for maritime industrial use and are protected by prohibiting the following uses in the overlay area:

- Planned Unit Development. PUD's are currently the principal method of accomplishing conversion from industrial to mixed use. PUD's in industrial zones may include any use allowed in business zones, including office, residential, etc.)
- Offices, business and professional, other than accessory.
- Hotels and motels.

- Restaurants, other than accessory.
- Live entertainment or dancing in accessory restaurants.
- Taverns.

Underlying zoning remains M-3 in the overlay area. Any waterfront area not in the overlay would be available for mixed-use development, by means of PUD, BMZA approval of office as a conditional use, or otherwise.

MIZOD protection allows companies and their lenders to confidently finance significant capital investment because the investment is most cost effective when port terminal sites are clustered together and not intermingled with potentially incompatible uses for which deep water access is not necessary.

As prescribed in the 2004 legislation, the Department of Planning and the Baltimore Development Corporation must submit an annual report to the Mayor and City Council tracking the effectiveness of the MIZOD in retaining the City's viable maritime industrial areas. In the first MIZOD annual report (2006), case studies on five firms in the district were conducted; all five companies substantiated the need for MIZOD to protect their current and planned for capital investment. For example, CSX stated that they are planning to spend approximately \$19 million on pier repairs, shop improvements, and new equipment. MAPS is looking for proximate land/facilities to expand manufacturing capacity. Domino recently brought NY and LA operations to Baltimore and installed a new \$1.5 million product line. MPA spent \$26.4 million since the start of the MIZOD building the cruise ship terminal in South Locust Point and finishing the North American Paper Terminal Shed. Rukert is building a state of the art 1000 ft pier for \$25 million.

However, the MIZOD protection is only guaranteed until 2014 when it is set for renewal. There is potential loss for not extending MIZOD which includes:

- Capital investment projects. The City, State and Federal governments have invested and continue to invest in dredging and water channelization, bulkhead and pier maintenance and other water-based infrastructure improvements that allow large shipping vessels to enter and dock in the Port of Baltimore. In 2004, the capital investment by companies in the MIZOD totaled \$17,739,608. Based on a typical amortization, a capital investment takes 20<sup>1</sup> years before profit is realized; therefore, there is a risk that companies in the MIZOD will be deterred from making capital investments or will not be able to secure loans because of risk their investment won't be maximized with non-industrial use nearby.
- Demand for Port operations in Baltimore. In 2002, The Port Land Use Development Zone Master Plan (PLUDAC) background analysis identified potential need for 412 acres of public and private port-related demand by 2011. Companies that expressed interest in the Baltimore Port cite that they watch encroachment and land conversion trends very closely in evaluating potential locations for port operations.
- Revenue from property taxes. On average from 2001 to 2006, the annual revenue from property taxes (taxes less credits) from private companies in the MIZOD was \$5,406,383.

<sup>1</sup> Industrial Land Use Analysis, City of Baltimore, Maryland, prepared for Baltimore Development Corporation by Bay Area Economics, November 26, 2002, page 22.

Maryland Department of Transportation PILOT payments budgeted in the amount of \$823,000 in fiscal 2006, \$819,000 in fiscal 2007, and \$1.0 million budgeted for fiscal 2008 and fiscal 2009.

- Non-revenue related benefits. The production and freight movement activities in the MIZOD support direct and indirect jobs in the port and in surrounding areas, several sectors of industry that rely on the products entering the port, and the availability of goods directly to consumers in the local, nation and international markets.

Provisions of CCB 08-0018:

We believe that a sunset provision is critical. The sunset ensures that the current industrial uses are protected in the short- to medium-term but also provides existing property owners who do not wish to retain their industrial uses a means of rezoning in the long-term. This bill includes the following 3 provisions:

- Extension of the sunset provision until 2024: The purpose of the MIZOD is to create long term protection of a natural resource (deep-water access) and strategically balance it with the more immediate benefits of land development. The duration of the sunset must strongly encourage maritime-related development rather than allow property owners to have a 'wait and see' attitude about future development. Given the lifespan of the majority of fixed capital improvements for port-related industrial uses, we believe that 10 years is not sufficient time to allow companies to plan for, finance and profit from these expenditures. We would recommend extending the sunset provision for 10 years beyond the current provision of 10 years; thus the MIZOD would be in effect until 2024.
- Allow individual property owners to petition for exclusion during a 1-year period from September 12, 2014 until September 11, 2015: In recognition of the fact that land uses may change in the future, individual property owners should have the opportunity to petition for exclusion from the MIZOD beginning 2014, which was the sunset renewal date of the 2004 legislation. The petition process should be subject to public review at both the Planning Commission for consistency with the latest adopted Comprehensive Master Plan and general integrity of the district itself as well as the Baltimore City Council that approves zoning changes.
- Form a representative ad hoc committee in 2010 to review annual reports and recommend revisions and/or strategies for industrial retention: Per the provisions of the 2004 MIZOD legislation, annual reports are to be submitted to the Mayor and City Council tracking key indicators that assess the health of the maritime industrial properties in the district. The current legislation proposes to set up a broad, representative committee to review these reports and other information that can be used to recommend strategies for maritime industrial retention in Baltimore.

Notification:

- March 28, 2008: Letters were sent to 60 interested parties that consisting of port related industries, a coalition of private property owners, and community organizations in the area.
- May 30, 2008: Planning Commission notification letters were sent to 160 community organizations businesses, City and State agencies and/or property owners in the MIZOD.

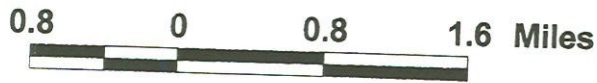
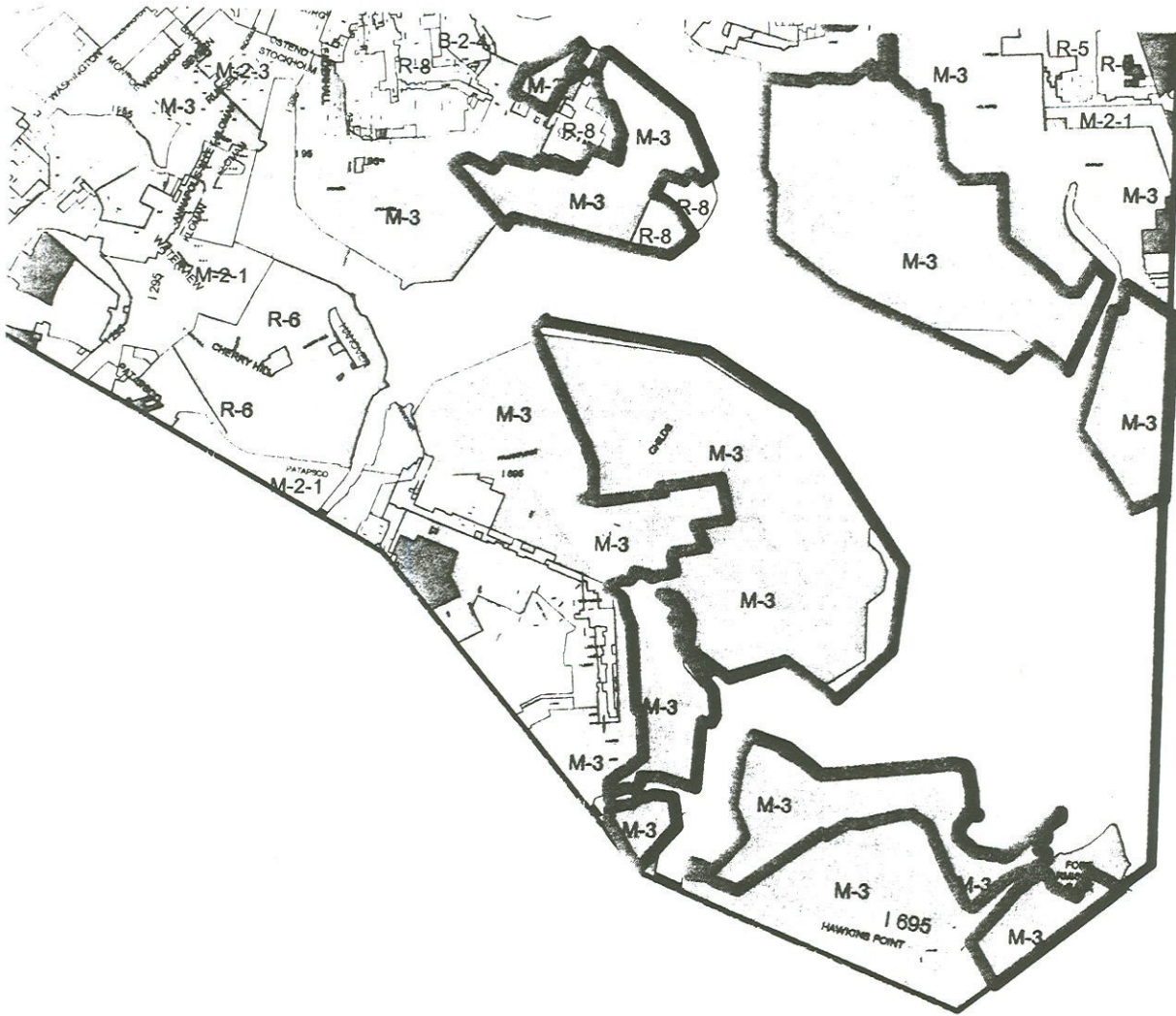
Reaction has been generally positive to the proposed bill. A few property owners have been concerned about the effect on development plans on individual properties.

**Recommendation:** Amendment and Approval. The amendments are as follows:

- Page 1, line 3, replace "Opt-Out" with "Petition Exclusion"
- Page 2, line 7, replace "January 1" with "September 12"
- Page 2, line 7, add "until September 11, 2015" after "2014"
- Page 2, line 19, replace "consider" with "find", delete "in relation to"
- Page 2, line 21, replace "the Master Plan" with "is consistent with the most current Baltimore City Comprehensive Master Plan"
- Page 2, line 22, replace "the need to ensure" with "ensures"
- Page 2, line 24, replace "the need to protect" with "protects"
- Page 2, line 22, insert "(2) sustains or enhances transportation access into and out of the Port" change the old (2) to "(3)"
- Page 2, line 23, insert "industrial" after maritime
- Page 2, line 24, change (3) to (4) and insert "industrial land" after "maritime"
- Page 2, after line 24, insert the following three new provisions
  - (5) sustains or enhances the current and future maritime industrial economic development growth in the district
  - (6) ensures development is designed to adequately separate non-industrial land uses from maritime industrial uses
  - (7) adheres with federal and state laws regarding Homeland Security, generally, and port safety, specifically
- Page 2, line 31, replace "comprise a wide-range of relevant interests, including representatives of" with "consist of 12 members, representing:"
- The list of representatives should read as follows:
  - (1) Maritime-related industries operating in the district (2 members)
  - (2) Port-related manufacturers in Baltimore City (1 member)
  - (3) Owners of property in the district (1 member)
  - (4) Private developers (1 member)
  - (5) the Maryland Port Administration (1 member)
  - (6) the Maryland Department of Business and Economic Development (1 member)
  - (7) Financial service providers operating in the City (1 member)
  - (8) the Baltimore Development Corporation (1 member)
  - (9) the Baltimore City Department of Planning (1 member)
  - (10) the Baltimore City Council (1 member)
  - (11) the Mayor or the Mayor's designee
- Page 3, line 11, insert new (d) "the Mayor shall appoint a chair for the committee"
- Page 3, line 16, insert "consistent with the criteria specified in Zoning Code § 8-411(c)." after "otherwise"

*Douglas B. McCoach, III*

**Douglas B. McCoach, III**  
Director



City Council Bill #08-0018  
 Maritime Industrial Zoning Overlay District

Planning Commission  
 June 12, 2008

