

<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #16-0714 /REZONING – 5501 PULASKI HIGHWAY		

DATE: August 26, 2016

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

At its regular meeting of August 25, 2016, the Planning Commission considered City Council Bill #16-0714, for the purpose of changing the zoning for the property known as 5501 Pulaski Highway from the M-2-1 Zoning District to the B-3 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #16-0714 and adopted the following resolution, eight members being present (six in favor, two opposed):

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #16-0714 not be 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, Chief of Staff  
 Mr. Colin Tarbert, Deputy Mayor for Economic and Neighborhood Development  
 Mr. Leon Pinkett, Assistant Deputy Mayor for Economic and Neighborhood Development  
 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  
 Ms. Sharon Daboin, DHCD  
 Mr. Patrick Fleming, DOT  
 Ms. Elena DiPietro, Law Dept.  
 Ms. Natawna Austin, Council Services  
 Ms. Melissa Krafchik, PABC  
 Ms. Caroline Hecker, Rosenberg Martin Greenberg, LLP



Stephanie Rawlings-Blake  
Mayor

## PLANNING COMMISSION

*Wilbur E. "Bill" Cunningham, Chairman*

### STAFF REPORT



Thomas J. Stosur  
Director

August 25, 2016

**REQUEST:** City Council Bill #16-0714/ Rezoning – 5501 Pulaski Highway:

For the purpose of changing the zoning for the property known as 5501 Pulaski Highway, as outlined in red on the accompanying plat, from the M-2-1 Zoning District to the B-3 Zoning District.

**RECOMMENDATION:** Disapproval

**STAFF:** Matthew DeSantis, AICP

**PETITIONER:** David Penner

**OWNER:** 5501 Pulaski, LLC

#### **SITE/GENERAL AREA**

Site Conditions: The site is located on the south side of Pulaski Highway just west of Erdman Avenue. The property is currently is used for an automobile wholesaler and a vending machine repair operation.

General Area: The subject property is located within the Kresson neighborhood. Kresson is bounded roughly by Pulaski Highway to the north, Erdman Avenue, I-895, and CSX railroad tracks to the east, Haven Street to the east, and Lombard and Pratt Streets to the south. The zoning of adjacent properties to the north, east, and west are M-2-1 (which matches the current zoning designation of the subject property), while the properties to the south are zoned M-3. The surrounding properties' usage consists of transportation (railroad and highway) as well as light and heavy industry.

#### **HISTORY**

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

#### **ANALYSIS**

Below is the staff's review of the required considerations of §16-305 of the Zoning Code. Staff does not find that this change is in the public's interest, in that the proposed change in zoning for this sole parcel is not in conformity to the zoning regulations of surrounding properties and would in effect constitute a spot zoning.

**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 subject property is currently proposed to be rezoned to the I-1 district under TransForm Baltimore, the comprehensive rezoning project that is now under review by the City Council. As currently drafted, the I-1 zoning district is intended to serve as a light industrial zoning designation. As such, the proposed zoning under TransForm Baltimore is roughly a continuation of the existing M-2 zoning.
2. **The needs of Baltimore City:** It is both desirable and necessary that the zoning of properties in the City be in an orderly, planned, and thoughtful fashion. This proposed rezoning of the subject property does not satisfy these factors.
3. **The needs of the particular neighborhood:** The Kresson neighborhood is overwhelmingly industrially zoned and is home to many heavy industrial uses. There is no need within the neighborhood as a whole to rezone this property to a B-3 zoning designation. In fact, this proposed rezoning to a commercial designation may serve to erode the utilization of this area for industrial uses, which would not serve the interests of the neighborhood.

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;** As the Kresson neighborhood is overwhelmingly industrial, there has been no significant residential population within the area surrounding the subject property.
2. **The availability of public facilities;** This area is well served by public utilities and services, and will remain so for the foreseeable future.
3. **Present and future transportation patterns;** This property is served by the existing City street grid, and will remain in that configuration.
4. **Compatibility with existing and proposed development for the area;** The proposed commercial zoning would allow for a multitude of commercial uses that surrounding properties do not enjoy. As such, this change would not be compatible with existing and proposed development for the area.
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, but will do so separately.

**6. The relation of the proposed amendment to the City's plan.** The subject property is currently proposed to be rezoned to the I-1 district under TransForm Baltimore. As currently drafted, the I-1 zoning district is intended to serve as a light industrial zoning designation. As such, the proposed zoning under TransForm Baltimore is roughly a continuation of the existing M-2 zoning. The applicant's proposed rezoning to B-3 therefore is not congruent with the proposed zoning as put forth by TransForm Baltimore.

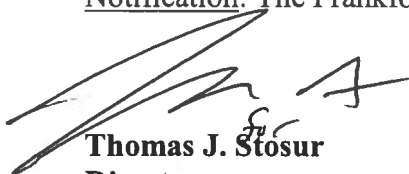
The City Council may grant the amendment to change the zoning classification based on a finding that there was: (i) a substantial change in the character of the neighborhood where the property is located; or (ii) a mistake in the existing zoning classification.

It is Staff's analysis that the neighborhood in which the subject property is located has not undergone a substantial change in character, nor is there is a mistake in the existing zoning classification as the property has been zoned M-2-1 since adoption of the 1971 zoning code.

**Background:** The proposed rezoning flows from the property owner's intention to utilize the property for motor vehicle sales. This rezoning would not be due to a substantial change in the character of the neighborhood but rather would be merely in order to enable a specific use that the current zoning designation does not allow for.

NOTE: §6-402 {*Subdistricts*} of the Zoning Code indicates that the B-3 district is divided into 3 subdistricts for purposes of bulk regulations. This rezoning request as brought forth by the applicant does not include a proposed bulk subdistrict. Staff would comment that should a rezoning to the B-3 district be considered, the most appropriate subdistrict would be B-3-1.

Notification: The Frankford Improvement Association has been notified of this action.



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