

TJA

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET
	SUBJECT	CITY COUNCIL BILL #16-0688 /REZONING – 320 SOUTH HIGHLAND AVENUE

CITY of
BALTIMORE
MEMO



DATE: August 5, 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 4, 2016, the Planning Commission considered City Council Bill #16-0688, for the purpose of changing the zoning for the property known as 320 South Highland Avenue, as outlined in red on the accompanying plat, from the B-2-2 Zoning District to the B-2-3 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended disapproval of City Council Bill #16-0688. Upon a motion to instead support the bill, three members voted in favor of approving the bill and three voted against the bill. Pursuant to the Charter of Baltimore City § 72(l), the Planning Commission “may report and submit to the City Council amendments to the Baltimore City Zoning Ordinance. Any such amendment shall be submitted only by resolution, adopted by the affirmative vote of two-thirds of the entire membership of the Commission.” As the Planning Commission did not have six votes in the affirmative, they are unable to make a recommendation to the 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. Kaliop 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
- Mr. Al Barry, AB Associates



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

August 4, 2016

REQUEST: City Council Bill #16-0688/ Rezoning – 320 South Highland Avenue:
For the purpose of changing the zoning for the property known as 320 South Highland, as outlined in red on the accompanying plat, from the B-2-2 Zoning District to the B-2-3 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Matthew DeSantis, AICP

PETITIONER(S): 3211 Noble St., LLC c/o Alfred W. Barry III

OWNER: 3211 Noble St., LLC

SITE/GENERAL AREA

Site Conditions: The site is located on South Highland Avenue between Gough and Bank Streets. The existing structure on the property is currently being renovated to house four (4) residential dwelling units.

General Area: The subject property is located within the Highlandtown neighborhood. Highlandtown is bounded by Pratt Street to the north, Haven Street to the east, Eastern Avenue to the south, and Ellwood Avenue to the west. The zoning of adjacent properties to the north, east, and south are B-2-2 (which matches the current zoning designation of the subject property). The zoning designation of the adjacent properties to the west is R-8. The surrounding properties consist of both low scale, medium density (single-family attached) residential and light commercial uses.

HISTORY

- The property received approval via BMZ Appeal No. 2015-0433 on December 16th, 2015 in order to remove, replace, and expand side and rear additions, construct new first floor side addition, new rooftop deck, and house four (4) dwelling units with five (5) off-street parking spaces on the premises.

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 C-1 district under Transform Baltimore, the comprehensive rezoning project that is now under review by the City Council. As currently drafted, the C-1 zoning district would permit the same number of residential dwelling units for the property as the proposed B-2-3 zoning. The difference between the two scenarios, however, is that the rezone to C-1 under Transform will also comprehensively adjust the zoning regulations of surrounding properties whereas the specific rezoning of solely this property to B-2-3 will result in a spot zoning that is out of context with the surrounding properties.
- 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 rezoning of this particular property to increase allowable density does not serve the interests of the neighborhood, as it will result in a property with zoning regulations not in context with any surrounding properties. This rezoning would in fact constitute a special conference of rights to the subject property in relation to the rights of surrounding property owners.

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;** Between the 2000 and 2010 decennial Censuses, the number of households in the Highlandtown area increased by roughly 4.6%, indicating a trend towards an increasing residential population.
- 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 for this property will permit a much higher density than the existing development in the surrounding area, and as such, is not compatible.

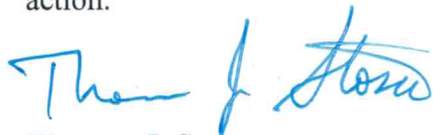
5. **The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA);** For the above reasons, the Planning Department will recommend disapproval of the rezoning request to the Planning Commission. The BMZA has not yet commented on this bill, but will do so separately.
6. **The relation of the proposed amendment to the City's plan.** The bulk regulations of the proposed B-2-3 zoning is similar in nature to the Transform-proposed C-1. However, this proposed rezoning is different in that it would not be a part of a comprehensive rezoning of surrounding properties but rather limited to a single parcel. This would have the effect of a spot zoning instead of being part of a larger comprehensive rezoning of the entire area.

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.

Background: This proposed rezoning would increase the density to allow eight (8) dwelling units on the property. The property is currently under construction to house four (4) dwelling units. The applicant intends to construct an additional six (6) dwelling units on the property, which would result in a total of ten (10) dwelling units. Thus, the applicant intends to return to the BMZA in order to obtain approval for two (2) additional dwelling units even after an approved rezoning to B-2-3.

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 development project that the current zoning designation does not allow for.

Notification: The Banner Neighborhoods Community Corporation, Highlandtown Arts and Entertainment District, and Highlandtown Community Association have been notified of this action.



Thomas J. Stosur
Director