



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

May 10, 2012

REQUESTS:

- CCB #12-0024/ Rezoning – a portion of 1201-1207 Dundalk Avenue, to be known as 1201 Dundalk Avenue
For the purpose of changing the zoning for a portion of the properties known as 1201-1207 Dundalk Avenue (to be known as 1201 Dundalk Avenue), as outlined in red on the accompanying plat, from the R-3 Zoning District to the B-2-2 Zoning District.
- CCB #12-0025/ Zoning – Conditional Use Parking, Open Off-Street Area – 1201-1207 Dundalk Avenue, to be known as 1201 Dundalk Avenue
For the purpose of permitting, subject to certain conditions, the establishment, maintenance, and operation of a parking, open off-street area on the properties known as 1201-1207 Dundalk Avenue (to be known as 1201 Dundalk Avenue), as outlined in red on the accompanying plat.

RECOMMENDATIONS:

- CCB #12-0024: Disapproval
- CCB #12-0025: Amendment and Approval, with the following amendments:
 - That the parking lot design remains configured as approved by the Site Plan Review Committee.
 - That the future consolidation of 1201 and 1207 Dundalk Avenue does not constitute a change in conditional use.

STAFF: Eric Tiso

PETITIONER(S): K Group Limited Partnership, c/o Fred Lauer

OWNER: K Group Limited Partnership

SITE/GENERAL AREA

Site Conditions: 1201 Dundalk Avenue is located on the southeast corner of the intersection with German Hill Road, and is improved with a funeral home and parking lot. 1207 Dundalk Avenue is a former home site that has been acquired by the applicant, and cleared. The intent is to combine the properties and to provide additional parking.

General Area: The site is located in the Graceland Park community, a principally residential neighborhood, with a commercial corridor on Dundalk Avenue.

HISTORY

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

CONFORMITY TO PLANS

There are no calls for rezoning this property through the Comprehensive Master Plan, an area plan, an Urban Renewal Plan (URP), or any other similar plan.

ANALYSIS

CCB #12-0024 – Rezoning Request:

The existing funeral home lies on a portion of 1201 Dundalk Avenue that is currently zoned B-2-2, the balance is zoned R-3, as is the adjacent 1207 Dundalk Avenue. Staff’s rationale for not supporting the rezoning is based on the mechanics of rezoning properties as required by Article 66B, which governs how and when we can rezone land.

Article 66B Requirements for Rezoning:

Article 66B of the Maryland Code requires the Planning Commission study the proposed change 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 request, the staff finds that:

1. **The Plan:** There is nothing in the comprehensive plan, area plans, or any URP that calls for rezoning for this parcel. As for TransForm Baltimore, the draft land use maps show this parcel retaining its existing zoning configuration.
2. **The needs of Baltimore City:** These properties are not particularly unique, and the land use is now active and available to the City. Rezoning does not further any other need of the City.
3. **The needs of the particular neighborhood:** The proposed change does not serve any further need for the neighborhood. The existing funeral home is able to continue operation. We are not aware of any need for expansion of commercially zoned properties in this particular neighborhood.

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

1. **Population changes;** There have been no significant changes in population in this area causing the need for expansion of commercially zoned properties in this area.
2. **The availability of public facilities;** Adequate public facilities exist in this area for a wide range of uses.
3. **Present and future transportation patterns;** There are no anticipated changes or additional demands on the transportation patterns in this area.

4. **Compatibility with existing and proposed development for the area;** The existing funeral home business lies on the B-2-2 commercially zoned portion of the property, which is appropriate. A majority of the existing parking lot is on the portion of the property that is R-3 residentially zoned, which is acceptable, as accessory parking is permitted in residentially zoned areas. The expanded parking lot on 1207 Dundalk Avenue is allowed either as a conditional use through an Ordinance under its existing R-3 residential zoning classification, if left unconsolidated (hence the request of CCB #12-0025). It would also be allowed to be consolidated with 1201 Dundalk Avenue and used for accessory parking (not requiring any additional approvals) under its existing R-3 zoning. The existing and proposed uses of the property are therefore allowed and compatible as-is, and do not require the requested rezoning.
5. **The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA);** For these reason outlined in this report, the Planning Department will recommend disapproval of the rezoning request to the Planning Commission. The BMZA may comment separately on this bill.
6. **The relation of the proposed amendment to the City's plan.** There are no calls for rezoning this property through the Comprehensive Master Plan, an area plan, an Urban Renewal Plan (URP), or any other similar plan.

Following such findings, The City Council may grant the amendment 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. Staff does not see any significant change in the character of the neighborhood that would require such a rezoning, and as illustrated above, there does not appear to be a mistake in the existing zoning classification. We recommended to the applicant that they should consolidate the properties, which would allow for the expansion of the parking lot without need of either bill. Failing that, approval of the conditional use bill would be acceptable. Without first exhausting other available options, the motivation to request this rezoning appears to only create an increased property value through expanded commercial zoning, without any comprehensive reason or broader City gain. That then qualifies the request as spot-zoning, which should not be permitted.

CCB #12-0025 – Conditional Use Parking Lot: The Mayor and City Council may approve a conditional use parking lot through an Ordinance. Through this process, certain required findings and considerations must be made. Staff has studied this request, and offers the following:

§14-204. Required findings.

- (1) **the establishment, location, construction, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, security, general welfare, or morals;** The design of the expanded parking lot is appropriate, and was approved by the Site Plan Review Committee (SPRC) on April 17, 2011.
- (2) **the use is not in any way precluded by any other law, including an applicable Urban Renewal Plan;** Staff is not aware of any known prohibitions for the expansion of parking on this property.

- (3) **the authorization is not otherwise in any way contrary to the public interest;** Expansion of the parking lot will reduce the need for parking on the street, and is therefore in the best interest of the surrounding neighborhood.
- (4) **the authorization is in harmony with the purpose and intent of this article.** Staff believes that this use meets the requirements of this district, and the Code.

§14-205. Required considerations.

- (1) **the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;** The arrangement of parking spaces as approved by the SPRC is functional and appropriate.
- (2) **the resulting traffic patterns and adequacy of proposed off-street parking and loading;** Expansion of parking will reduce the impact on local streets.
- (3) **the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;** Approval of expanded parking will not negatively impact surrounding properties.
- (4) **the proximity of dwellings, churches, schools, public structures, and other places of public gathering;** No known impact.
- (5) **accessibility of the premises for fire and police protection;** Access to fire and police protection is available, and will not be changed.
- (6) **accessibility of light and air to the premises and to the property in the vicinity;** No known impact.
- (7) **the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;** Access to utilities is available, and will not be changed.
- (8) **the preservation of cultural and historic landmarks;** None in the area, no known impact.
- (9) **the provisions of the City Master Plan;** The use is compatible.
- (10) **the provisions of any applicable Urban Renewal Plan;** This properties does not lie within any Urban Renewal Plan area.
- (11) **all applicable standards and requirements of this article;** Complies.
- (12) **the intent and purpose stated in § 1-401 {"Purposes of article"} of this article; and**
- (13) **any other matters considered to be in the interest of the general welfare.** No known impact.

For these reasons, staff recommends amendment and approval of CCB #12-0025.

Community Input: The Graceland Park Improvement Association has been notified of this action.

Thomas J. Stosur
Director