

IN THE MATTER OF * BEFORE THE
CORRIDOR SQUARE, LLC * HOWARD COUNTY
 Petitioner * ZONING BOARD
 * ZB-1130M

* * * * * * * * * * * *

EXCEPTIONS TO HEARING EXAMINER’S REPORT

Protestant Shahid Mahmood (“Protestant”), by his counsel Grant Amadeus Giel, files this Exception to the Hearing Examiner’s report in ZB-1130M pursuant to Section 16.203A(d), and for reasons states the following exceptions.

1. The Hearing Examiner accepted materially incorrect measurements for parcel distance.

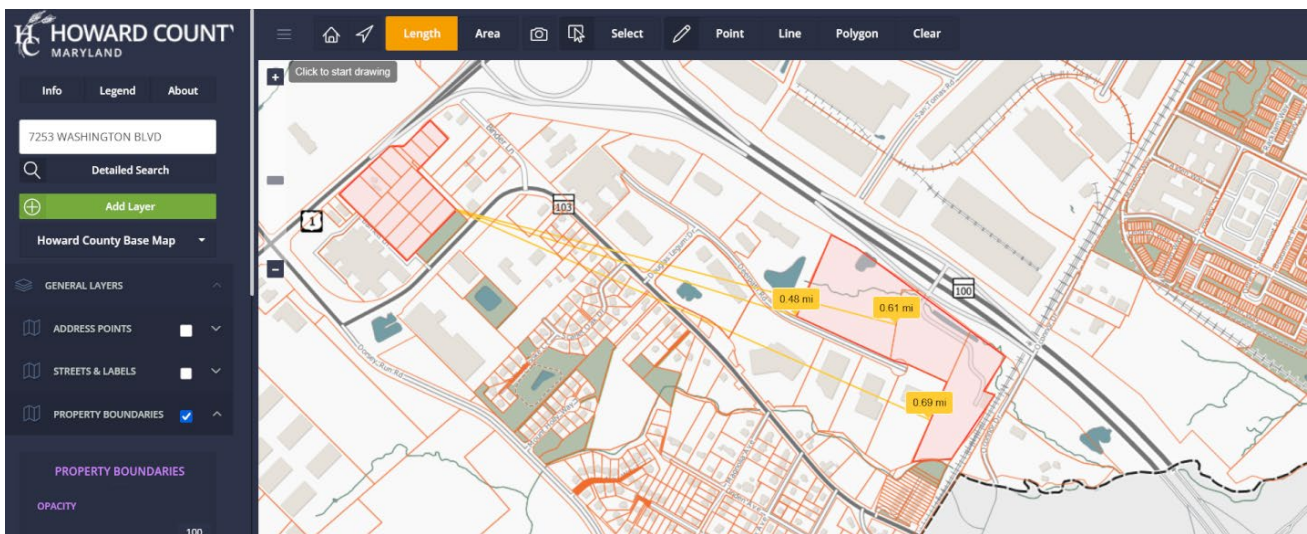
This case largely turns on the distance between the Subject Property and the MARC-Dorsey Station to the east. Counsel for Mr. Mahmood was not present at the hearing before the Hearing Examiner and thus could not have had the opportunity to cross-examine statements made by the Petitioner’s agents or by DPZ, but a cursory review of the Howard County GIS Map and Google Maps shows that accepted measurements of “1.4 miles” and “greater than 3,500 feet from the Marc Station” are *obviously* incorrect, as will be shown *infra*.

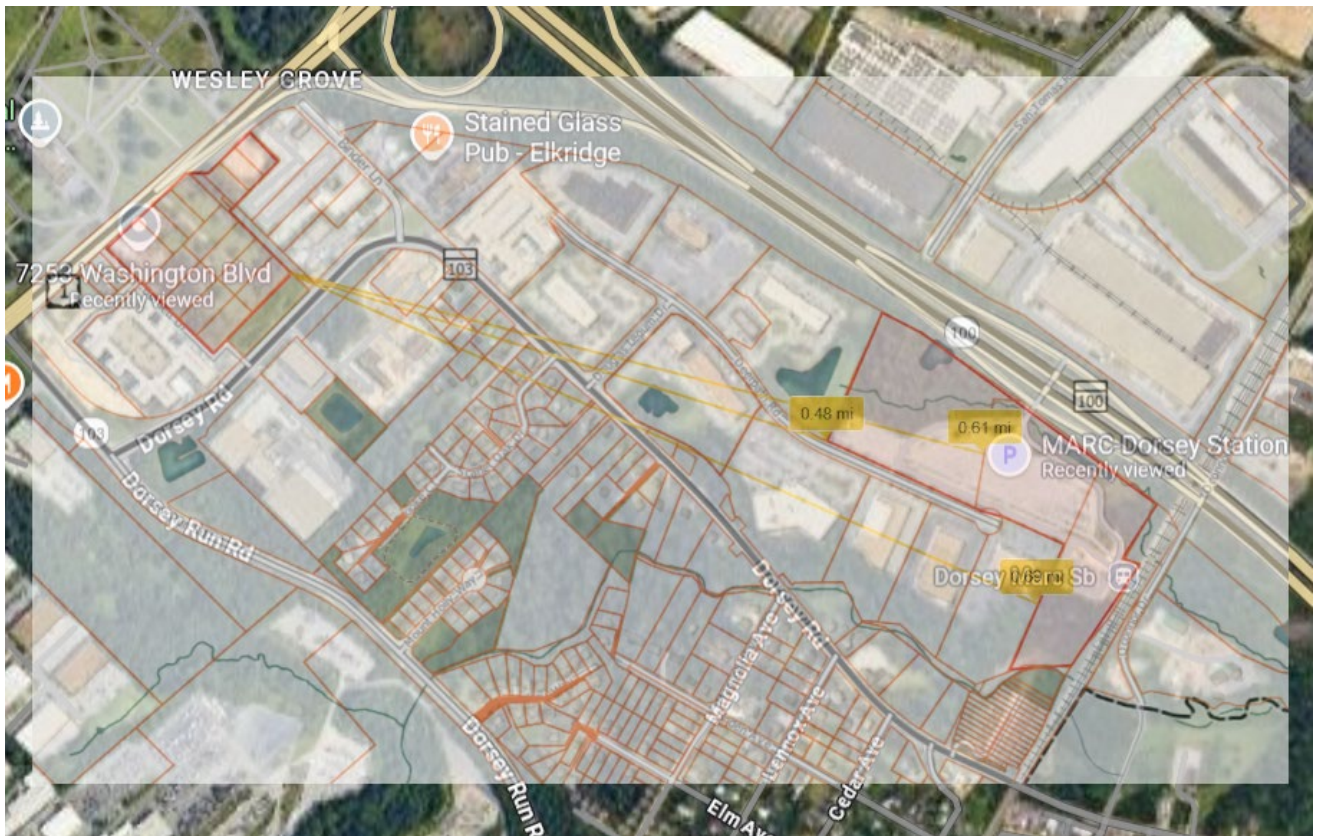
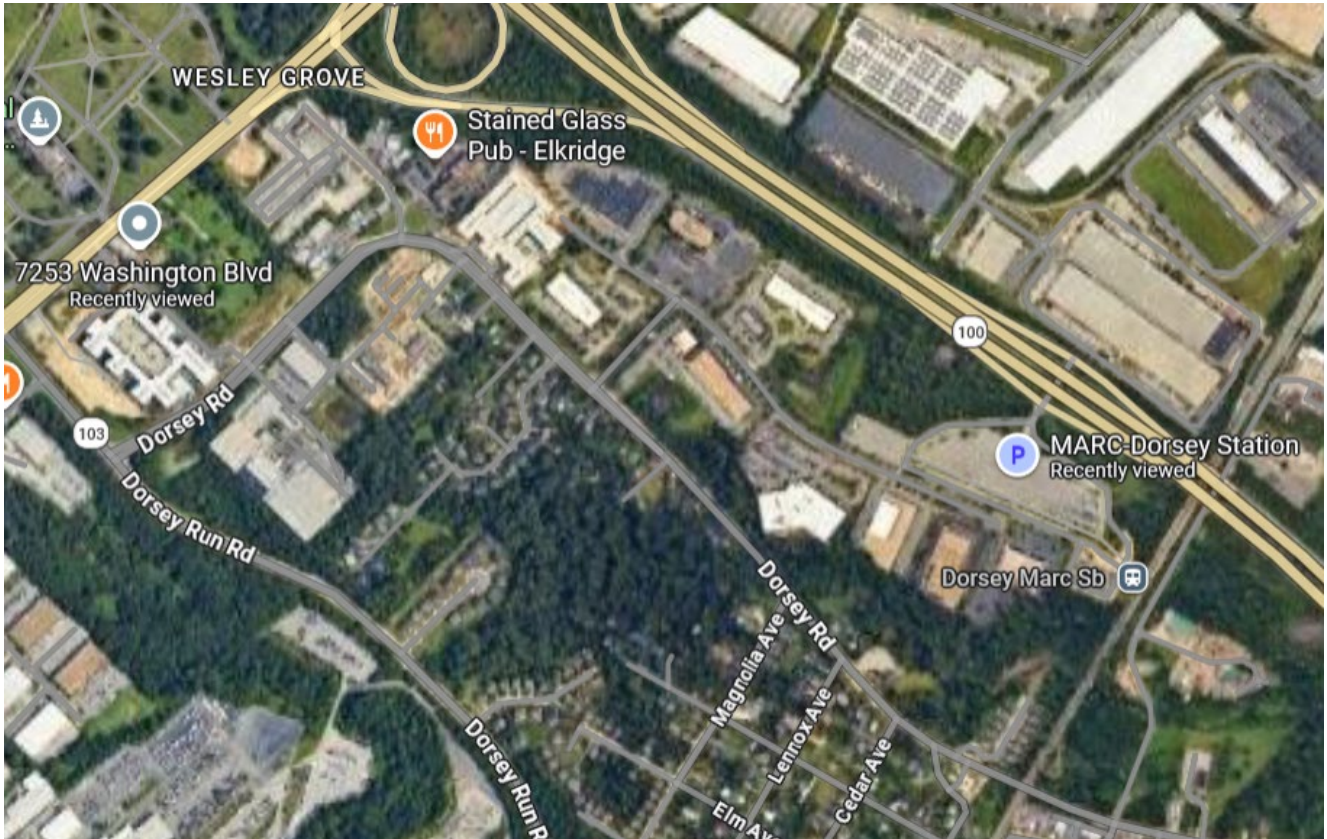
The reason for the dispute in distance, and why it is material for this case, is that the Petitioner has hinged their rezoning request on the “change or mistake” rule, and specifically asserted that there was a mistake in zoning when the Subject Property was categorized as TOD. As stated in Section 127.4 of the HCZR, “[t]he TOD District provides

for the development and redevelopment of key parcels of land within 3,500 feet of a MARC Station.” This language was initially rejected by the Planning Board as a basis for arguing legislative mistake, when the Planning Board voted 5-0 to recommend denial of rezoning on the basis that nothing in the legislative history suggested that the County Council had accidentally zoned the Subject Property the wrong way. Conversely, the Hearing Examiner accepted this measurement—and testimony suggesting that the distance between the nearby MARC Station and the Subject Property was greater than 3,500 feet—as dispositive black letter evidence of mistake, citing *Boyce v. Sembly*, 25 Md. App. 43, 51 (1975) for the proposition that there was “probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid.” What neither body apparently did, however (or DPZ, or the Petitioner), was actually measure between the parcels *as the crow flies*, which is the standard common law measurement of distance when discussing land use matters such as setbacks, parcel distances, or even zoning aggrievement standards. Instead, testimony and exhibits adduced sought to measure the purported walking distance as measured by pedestrian adherence to identified roadways. There is nothing in the HCZR indicating that this is the method by which one must measure 3,500 feet, nor is there any indication in the language of the HCZR that one is supposed to measure from building to building. Instead it directs for development of *parcels* within a certain distance of a “MARC Station,” which would rationally include developed land on the MARC-Dorsey Station parcel including parking lot areas.

Set forth below are a series of three images showing the distance between the lot lines of the Subject Property parcel and the MARC-Dorsey Station lots, first with a Google

Maps image, second with a Howard County GIS measurement to the lot lines of all three lots comprising the MARC-Dorsey Station parcel, and third overlaying the two images. Protestant has also attached these images as an appendix to this document for more visual acuity. It is abundantly clear, when using measurements generated by the County's own GIS system, that even using the most charitable assumption of measuring only to the lot containing specifically the MARC Station building furthest to the east of the MARC parcel, the distance between that lot and the Subject Property is approximately ~0.69 miles, or just about ~3,500 feet. If instead measuring to the second of the three-lot parcel's lots, the distance is ~0.61 miles, or approximately ~3,200 feet. If instead measuring to the corner of the third lot (where the parking lot servicing the MARC-Dorsey Station and associated infrastructure terminates), the distance is ~0.48 miles, or ~2,500 feet. The only way a person could possibly find a distance greater than this would be—as the Petitioner seemingly did—to measure walking distance along roadways identified in online mapping tools and then baldly assert that that was the correct way to measure despite no support in black letter law or in historical legislative deliberation.





The exhibits and testimony presented to the Hearing Examiner were, to repeat, categorically incorrect in their measurements, and based largely on secondary commentary on pedestrian infrastructure between the Subject Property and the MARC Station, expected routes of pedestrian movement, and/or what constitutes “walking distance” (a term never identified in Section 127.4). None of these three matters has any relevance whatsoever to the language of the HCZR, which only specifies a straight-line measurement of 3,500 feet between *parcels* and says that it is “intended to encourage the development of multi-use centers combining office and high-density residential development that are located and designed for safe and convenient pedestrian access by commuters using the MARC Trains and other public transit links.” It is an astounding leap in logic to redefine “convenient pedestrian access” as “walking distance” and then place an arbitrary distance threshold on the *second term* (which never appears in the HCZR) as being “between a quarter of a mile to a half mile.” *See* HE Report at 32. If such a measurement were relevant to the County Council, it would have defined that term accordingly in the HCZR. Instead, it established a measurement that is substantially in excess of a half mile (which equates to 2640 feet), which means at the very least that what the County Council considered to be “pedestrian access” in conjunction with a 3,500-foot measuring radius was different than what the testimony of Mr. Cornelius claimed was “walking distance.”

Speaking briefly to the memorandum of law filed by the Zoning Counsel—which recognized the roughly 2,800-foot distance from the edge of the parking area but argued instead that the measurement “should be measured from the train platform, not the boundaries of the train station property,” reasoning that the platform is “the defining feature

of the TOD District”—Protestant believes that the memorandum inserted unsupported canons of legislative interpretation that are simply not present in the law as written. *See* Zoning Counsel Mem. at 7. The MARC-Dorsey Station is the entire *development* of the Station, and the notion that the platform is a “defining feature” from which other parcels must be measured has no support in the HCZR. If this *were* how such measurements were to be calculated, then multiple other parcels would also be excluded from the TOD including the parcels to the east of the Saint Margarets Boulevard and Coca Cola Drive intersection. The portions of deliberation cited by Zoning Counsel from 2013 only evinced a further expectation from the then-County Council that the “Station” constitutes the full development apparatus including parking lots, not specifically a certain building thereupon.

For this single and obvious reason, this Board should not lend credence to the Hearing Examiner’s report, which was materially flawed in its analysis and based on an analysis of “legislative mistake” that does not exist, because the Subject Property *is* within 3,500 feet of the nearest MARC Station exactly as it was zoned to be.

2. A B-2 zone at this site is incompatible with the General Plan/Route 1 Corridor Plan and with adjacent properties that are zoned TOD.

The Hearing Examiner’s report suggests that the proposed rezoning (and consequent development) is consistent with the General Plan Policy No. 5.1, quotes as “allow[ing] redevelopment in activity centers through the Zoning Regulations to make a wide range of uses economically viable. Require active center development to provide convenience retail and other local serving amenities at a neighborhood level.” *See* HE Report at 43. The report

also suggests that there is general harmony with the Route 1 Corridor Plan’s Revitalization Strategy to encourage “private property reinvestment” and “[f]oster revitalization in the Route 1 Corridor,” among some other generalized statements about increasing flexibility/opportunity in development. *See id.*

Protestant contests these findings. The proposed development contemplates a mega gas station/convenience store, car wash, and an urgent care center. None of these facilities are “local serving amenities” as described in the General Plan, and the gas station in particular is highway-oriented for service of commuters with upwards of 5,000,000 gallons of annual gas-pumping. There are already 12 gas stations within a two-mile radius of the Subject Property, so there is no local need for additional gas along the Route 1 Corridor in this area. The Route 1 Corridor Plan—which notably upheld and clearly identified and embraced the TOD zone at the Subject Property as part of its Future Land Use Map—discourages this type of zoning category and limits it at a 2% incidence rate across the corner. It calls specifically in the Redevelopment Vision to “provide amenities for bordering residential developments,” “create opportunities to improve environmental health with ‘green’ development,” and focus on encouraging “[f]ood trucks and small-scale, convenience-oriented commercial development.” Corridor Plan at 84. It also regularly calls to “[s]upport efforts to expand service and improve the reliability of the Maryland Area Rail Commuter (MARC) Camden Commuter Rail Line,” which is materially undermined by stripping away one of the few TOD parcels in the region. *Id.* at 56. Parcels that, for pointed emphasis, are specifically designed to facilitate transit activity in the vicinity of MARC Stations.

The Activity Centers are to “become important ‘destinations’ in the Corridor with a sense of character that is compatible with the industrial uses that surround them,” and they should “expand the vitality and sustainability of the area, the efficiency of the transportation system serving the location, and the sense of community experienced by residents, business owners, and visitors.” *Id.* at 61. To the extent that TODs have commercial uses, they should be “traditional office and retail developments” that are “intended to create a critical mass of residents, visitors, and employees that are necessary to support these uses,” and development should be more preferentially focused on residential developments and particularly provide “opportunities for missing middle housing types.” *Id.* at 68. Specific implementing actions of “redevelopment of activity centers in the Route 1 Corridor” pointedly include “[a]ttract[ing] convenience commercial (including commercial pad sites) and *eliminat[ing] auto-related uses on properties that front Route 1 in activity centers,*” alongside various methods of encouraging local residential development for “convenience retail and neighborhood-serving amenities.” *Id.* (emphasis added).

Lastly, the rezoning would conflict with various Implementing Actions of the RTE 1-27 Policy Statement designed for the Dorsey Station District. The rezoning does not “protect and support viable existing industrial and flex uses” as much as it displaces them; it is antithetical to the “[d]evelop[ment of] a new industrial mixed-use zone (or combination of zones) that allows for a mix of residential, light industrial, and commercial uses” because the B-2 zone was functionally phased out decades ago; it does not “[m]aintain the mix of current employment uses and focus residential and mixed uses around the Dorsey MARC

Station”; and it does not “enliven the area” due to the transient-focused nature of proposed uses. *Id.* at 87.

It can scarcely be fathomed how much a rezoning (1) of one of the few TOD areas in the Corridor; (2) to an ill-favored commercial category; (3) for the purpose of providing gasoline to a transient vehicular class of persons who are emphatically *not* using the MARC Stations; (4) that necessarily increases auto-related uses on a property fronting Route 1; and (5) without providing any local residential uses or commercial, neighborhood-serving amenities could be any *less* oriented with the Corridor Plan. It is almost directly antithetical to the Corridor Plan to *strip* an area of its existing zoning and replace it with something that has an entirely different intended character that in no way enmeshes with either MARC Station usage or pedestrian activity generally. Even if there *were* a technical mistake in measuring the distance between the Subject Property and the MARC-Dorsey Station, the practical detriment of removing a substantial chunk of TOD zoning from a specialized area would be massive and directly contrary to the planning documents that were carefully crafted to facilitate uniform development in the County. To this end, Protestant concurs in part with Zoning Council that the proper zoning for the Subject Property is not B-2, though he does not adopt the subsequent argument that the proper district should be CE-CLI/CR because he does not believe rezoning should occur at all.

3. The surrounding land is not compatible with B-2 zoning.

The B-2 zone is the highest intensity commercial zoning district in Howard County, and the uses proposed in conjunction with this rezoning application are among the most intense options within that zone. The TOD zone is intended to focus on multi-use

development focused on high-density residential *local* activity. Notably, the previous DPZ Director Amy Gowan wrote in the staff report for a similar change or mistake zoning request, ZB-1123, that the B-2 Zoning District is not aligned with objectives of the General Plan and the Route 1 Manual. Director Gowan specifically wrote,

The B-2 (Business - General) District “is established to provide for commercial sales and services that directly serve the general public” and allows several single-story auto-oriented commercial uses such as motor vehicle fueling facilities, motor vehicle sales/repair, fast food restaurants, and shopping centers. This zoning district is generally not aligned with the goals and objectives of PlanHoward 2030 and the Route 1 Manual, which encourage retention of employment and industrial properties along the corridor and seek to maximize greenfield development of high visibility employment areas.

See ZB-1123 at 7 (attached in the Appendix). This request was withdrawn based in part on this finding.

Even if there were a hypothetical mistake in the TOD zoning, the Petitioner’s request to rezone to B-2—and to focus on development of a mega-gas station and regional market—would be inappropriate for the area in accordance with the *desired* legislative intent that was evident in zoning the Subject Property as TOD. That is to say, even if the 3,500-foot measurement was wrong (and it clearly was not), the *desire* to focus on mixed-use commercial/residential development was not, and it is inappropriate to upzone the Subject Property to drastically change the scope of proposed activity in the manner desired by the Petitioner. The fact that the Petitioner owns the nearby apartment complex undermines their analysis that this desired development would not negatively affect local residential use, and the Hearing Examiner’s report similarly glosses over these details and focuses instead on the purported legislative mistake and the notion that the “development

will provide much needed improvements to the Route 1 frontage that will unify Route 1 between Route 103 and Route 100.”

Protestant asserts that many such developments would be able to provide similar improvements without the need to upzone all the way to B-2, and that the Hearing Examiner presented no meaningful pushback to the alteration in scale that would occur from this specific rezoning request even if the Zoning Board accepted, *arguendo*, that *some* sort of rezoning would be appropriate in lieu of the existing TOD zone.

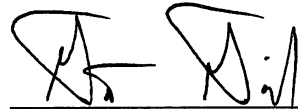
4. There is no sufficient evidence supporting the claim that environmental integrity would be improved with rezoning.

The Hearing Examiner focused on claims that environmental integrity at the Subject Property would be improved by the location of the proposed underground fuel tanks on Parcel 279 (the “Exxon parcel”) and nominal stormwater management. It disregards that the site as it currently exists is already 80+% unimproved woodland and minimally improved parkland, and that there is no *need* for the implementation of stormwater management in the first place if there is no current plan for development in the absence of the rezoning request. Further, the identified tanks on the old Exxon parcel, Facility ID #3913, were removed in November of 2003 alongside a Phase 2 environmental survey, and the parcel is therefore already clean, so there is no new net environmental benefit from placing new tanks there if none currently exist to be replaced. Without any particularized protection of environmental integrity at the Subject Property and adjoining areas, and with only general platitudes as to “improvements” that were already remediated decades ago or never needed improvements in the first place on account of being undeveloped green space.

CONCLUSION

The Hearing Examiner's analysis regarding environmental and neighboring land compatibility was insufficient to justify rezoning the Subject Property to B-2, and the Route 1 Corridor Plan consistently and thoroughly repudiates the notion of such rezoning. Moreover, the whole basis upon which the rezoning was filed—that there was a mistake in original classification as TOD—is materially false as shown by a simple measurement of distances between the Subject Property's parcel lines and the various parcel/lot lines at the MARC-Dorsey Station. Any recent lack of development by the Petitioner on the basis that it is the "wrong zone" rings hollow, given that the Petitioner owns developed TOD land adjacent to the Subject Property. The Zoning Board should reject ZB-1130M because there is no mistake in the original zoning, and because even if there were a hypothetical mistake, B-2 is not an appropriate zone to recategorize in conjunction with directives of the Route 1 Corridor Plan and existing neighboring uses.

Respectfully Submitted,



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Attorney for Protestant

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 27th day of April, 2026, a copy of the foregoing Exceptions to the Zoning Board was served via electronic mail and first-class mail, postage prepaid, to the following:

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Grant Amadeus Giel

7253 WASHINGTON BLVD

🔍 Detailed Search

⊕ Add Layer

Howard County Base Map ▾

GENERAL LAYERS

ADDRESS POINTS

STREETS & LABELS

PROPERTY BOUNDARIES

PROPERTY BOUNDARIES

OPACITY

100



WESLEY GROVE



Stained Glass
Pub - Elkridge



7253 Washington Blvd
Recently viewed

103

Dorsey Rd

Dorsey Run Rd

100



MARC-Dorsey Station
Recently viewed

Dorsey Marc Sb



Dorsey Rd

Magnolia Ave

Lennox Ave

Elm Ave

Cedar Ave

Dorsey Run R

WESLEY GROVE

Stained Glass Pub - Elkridge

7253 Washington Blvd
Recently viewed

0.48 mi

0.61 mi

MARC Dorsey Station
Recently viewed

Dorsey Metro Sb

Dorsey Run Rd

Elm Ave

Cedar Ave

Magnolia Ave
Lemoyne Ave

Dorsey Rd

Dorsey Rd
Dorsey Run Rd

103

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HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Voice/Relay

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April 1, 2021

TECHNICAL STAFF REPORT

Planning Board Meeting of April 15, 2020

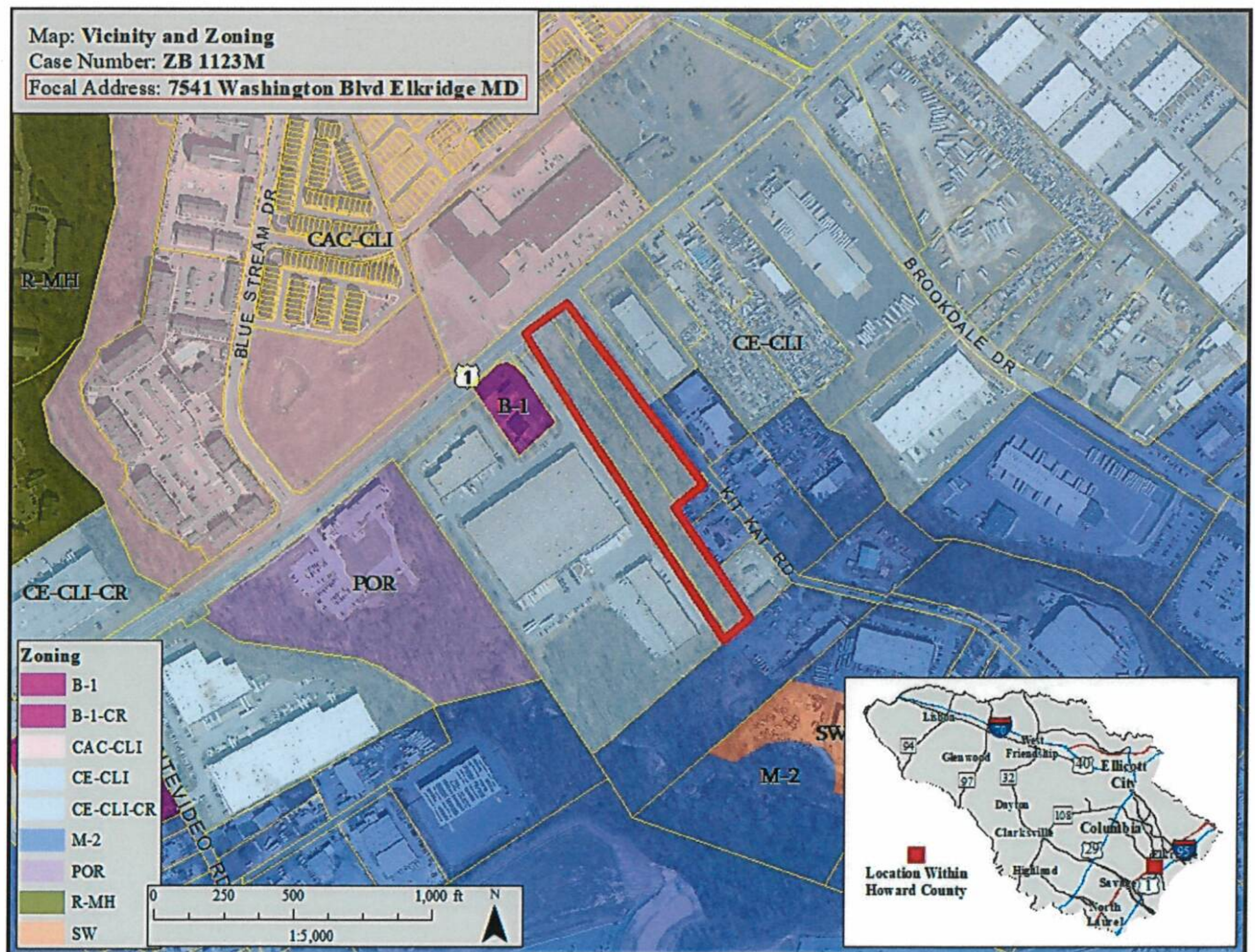
Case No./Petitioner: ZB-1123M – Shri Sad Guru Krupa, LLC

Location: 7525 & 7541 Washington Boulevard, Elkridge, MD 21075
Tax Map 43, Grid 4, Parcel 428 & 37

Area of Site: 5.10 acres

Current Zoning: CE-CLI

Proposed Zoning: B-2 with a Documented Site Plan



I. DESCRIPTION OF PROPOSAL

The Petitioner requests a Zoning Map Amendment to rezone the Property from CE-CLI (Corridor Employment – Continuing Light Industrial) to the B-2 (Business - General) with a Documented Site Plan (DSP) for a motor vehicle fueling facility, convenience store, fast food restaurant, and retail shopping center.

The Petitioner asserts that the proposed Zoning Map Amendment is justified based on a mistake in zoning (“Mistake”) made during the 2013 Comprehensive Zoning Plan.

Documented Site Plan (Sec. 100.G.2)

Section 100.G.2 of the zoning regulations state that *“a site plan zoning petition is a petition for an amendment to the zoning district boundaries that includes documentation specifying the proposed development and use of the property.”*

The Documented Site Plan (DSP) submitted by the Petitioner depicts a 4,000 square foot convenience store, a motor vehicle fueling facility, a car wash, a 2,600 square foot fast food restaurant, and a 13,300 square foot shopping center. The Petitioner’s proposal requires 128 parking spaces and 134 parking spaces (including 3 handicap spaces) are proposed, as outlined in the chart below.

A motor vehicle fueling facility is a Conditional Use in B-2 zoning district. Pursuant to Sec. 100.0.G.2.g, a Conditional Use may be permitted as a matter of right through the site plan zoning process and therefore is not subject to the Conditional Use criteria in Sec. 131.0.

Section 100.0.G.2.g.:

A site plan zoning petition approved by the Zoning Board may include a use allowed as a Conditional Use in the zoning district to which the property is rezoned and a use or structure which would otherwise require a variance to the bulk regulations. If this occurs, the Conditional Use shall be permitted as a matter of right and the use or structure shall be permitted in the approved location, in accordance with the site plan approved by the Zoning Board, and shall not require approval by the Hearing Authority.

Parking Requirements		
	Required	Provided
Motor Vehicle Fueling Facility with Carwash	4 spaces	4 spaces
Convenience Store (4,000 square feet) 5 spaces per 1,000 square feet	20 spaces	24 spaces
Fast Food Restaurant (2,600 square feet) 14 spaces per 1,000 square feet	37 spaces	37 spaces
Retail, General (13,300 square feet) 5 spaces per 1,000 square feet	67 spaces	67 spaces
Totals:	128 spaces	134 spaces (including 3 handicap spaces)

The DSP indicates that the maximum number of employees will be as follows:

Number of Employees	
Convenience Store, Gas Station, and Car Wash	2 employees
Fast Food Restaurant	8 employees
Retail, General	12 employees

The hours of operations will be:

Hours of Operation	
Convenience Store, Gas Station, and Car Wash	24 hours
Fast Food Restaurant	5:00am – 12:00pm
Retail, General	8:00am – 10:00pm

II. ZONING HISTORY

The Property was zoned Commercial “B” in 1951 and was rezoned to an M-2 (Manufacturing Heavy) zoning designation in 1954. The zoning of the property remained M-2 until 2004 when it was rezoned to the current CE-CLI (Corridor Employment – Continuing Light Industrial) zoning district.

III. BACKGROUND INFORMATION

A. Site Description

The Property is undeveloped, wooded, and relatively flat with an elevation between 210 and 214 feet.

B. Vicinal Properties

Direction	Zoning	Land Use
North	CE-CLI	Self-storage warehouse
South	B-1 (Business: Local) / CE-CLI	Industrial/Warehouses/Office
East	M-2 (Manufacturing: Heavy)/ CE-CLI	Warehouses
West	CAC (Corridor Activity Center)- CLI	Discount food center

C. Roads

East of the property is Kit Kat Road, which has approximately 30 feet of paving within a 60-foot right-of-way.

There is no traffic volume data for this section of Kit Kat Road.

North of the property is US Route 1, which has approximately 80 feet of paving within a variable width right-of-way.

The annual average daily traffic volume for this section of US Route 1 is approximately 28,890.

D. Water and Sewer Service

The Property is in the Metropolitan District and the Planned Service Area.

E. General Plan

The Property is designated as a Growth and Revitalization place type on the *PlanHoward 2030* maps.

Kit Kat Road is a Local Road and US Route 1 is an Intermediate Arterial Road.

F. Subdivision Review Committee

As required by Section 100.0.G.2.c. of the Zoning Regulations, this site plan was evaluated by the Subdivision Review Committee ("SRC") on March 11, 2021. The Department of Planning and Zoning, Division of Land Development indicates that the development shown on the proposed site plan has the potential to comply with all technical requirements of the reviewing agencies in subsequent subdivision and site development plan stages of review, subject to the attached comments from review agencies. Of note, the Department of Planning and Zoning, Development Engineering Division's comments dated March 11, 2021 identify traffic and stormwater management considerations that will need to occur at the Site Development Plan stage. These considerations could require site design changes at that time.

IV. EVALUATIONS

A. Relation to the General Plan and the Zoning Regulations

The Petitioner requests to rezone approximately 5.10 acres from CE-CLI (Corridor Employment-Continuing Light Industrial) District to B-2 (Business General) District for a motor vehicle fueling station, convenience store, and retail uses. The wooded, unimproved site fronts Route 1 and is surrounded by CE-CLI District and M-2 (Manufacturing-Heavy) District zoning. Its current CE zoning is intended for new office, flex, and light industrial uses, while reducing the spread of strip commercial development in the Route 1 Corridor. The requirements in the District, along with the Route 1 Manual, require vehicular and pedestrian improvements that will result in the improved appearance of Route 1 (streetscape).

Robert Charles Lesser & Company (RCLCO), a market research and real estate advisory firm, evaluated Route 1 commercial and industrial market conditions in 2011. RCLCO reported that the Route 1 Corridor is a "vital economic asset" and comprises only 8% of Howard County's land area but is home to 30% of the County's jobs (page 57). To maximize the economic opportunities along the Route 1 Corridor, *PlanHoward 2030* provided recommendations that are aimed at facilitating new development and redevelopment projects that catalyze economic growth, protect existing employment areas, and enhance existing communities.

Policy 5.4 on page 58 in *PlanHoward 2030* seeks to enhance "the Route 1 Corridor revitalization strategy to recognize the distinct character and market potential of diverse corridor segments, and the potential at various intersections, crossings, and nodes for additional retail, restaurant, and employment development as identified in the 2011 Route 1 Market Analysis.

Policy 5.4 has a goal of enhancing the Route 1 Corridor with a revitalization strategy to achieve its market potential with an implementing action to "[f]ocus on planning efforts to maximize development potential in four types of land-use opportunity areas: redevelopment of highly-visibility employment areas; greenfield development of high-visibility employment areas; major industrial park development, and mixed-use opportunity sites". The request to rezone this "greenfield" CE-CLI zoned site from an area identified as a high-visibility employment area to B-2 is not fully supported by this policy.

Implementing action b states "Evaluate the efficacy of existing Route 1 zoning districts (CE, CAC, TOD); consider more flexibility, especially regarding commercial uses. Reduce strip commercial development along Route 1 frontage by directing retail uses to retail centers and mixed-use developments and by directing truck-oriented uses, uses that require outdoor storage, and most auto-oriented retail uses such as gasoline service stations, automobile repair facilities and similar uses to parts of the corridor not fronting on Route 1 and not near residential areas. Revise zoning as needed to ensure County vision is achieved. The rezoning request proposes a motor vehicle fueling facility along the Route 1 frontage which would not be consistent with this action.

The proposed re-zoning restricts the future use of a highly visible greenfield employment area to an auto-oriented and strip commercial use, resulting in the loss of employment land. The proposed site plan rezoning, therefore, does not appear to be consistent with *PlanHoward 2030*. It should be noted that the Route 1 corridor is currently being comprehensively reviewed in the General Plan update, *HoCo By Design*, which will develop recommendations on revitalization strategies for targeted areas along Route 1.

B. Evaluation of the Petition Concerning the Change Rule

To substantiate a change in character of the neighborhood, the petitioner must establish the “neighborhood” boundary and specify the changes that occurred after the comprehensive zoning that altered the character of the “neighborhood”.

The Petitioner did not allege substantial change in the character of the neighborhood in their Petition, so DPZ did not evaluate the petition regarding the Change Rule.

C. Evaluation of the Petition Concerning the Mistake Rule

To substantiate a mistake in zoning, evidence must show that the Zoning Authority erred when it adopted the comprehensive zoning map.

Since the last Comprehensive Zoning in 2013, a traffic signal and road improvements have been completed at the intersection of US Route 1 and Kit Kat Road. The Petitioner asserts that “properties at hard corners of signalized intersections are more commonly put to more commercially intense uses . . . (and) had the Zoning Authority known that the Property would be located at a hard corner, they would have evaluated this Property for . . . retail and auto-oriented uses such as those available under the B-2 zone as opposed to those office uses intended under the CE zone.”

The CE zoning district was established during the 2004 Comprehensive Zoning, along with the CAC and TOD zoning districts, to implement Route 1 Corridor Revitalization Study recommendations which emphasized multistory mixed-use development along the corridor to use scarce land more efficiently. The CE and CAC zoning district are located along most of the corridor with TOD zoning at the Dorsey, Elkridge, and Laurel Park MARC Stations. B-1, B-2, M-1, and M-2 were retained on viable commercial properties to prevent them from becoming nonconforming uses. Underutilized/undeveloped land was rezoned to one of three new zoning districts. Single story auto-oriented uses, like those proposed by the Petitioner, including motor vehicle fueling facilities, fast food restaurants, and strip commercial development were prohibited in CAC, CE, and TOD since they are not consistent with the design recommendations and are less efficient use of scarce land along the corridor. The CE zoning district allows several commercial uses in multistory building including standard and fast food restaurants, personal services, banks, gyms, and hotels.

During the 2013 Comprehensive Zoning, there were four requests to rezone properties from CE-CLI to B-2 and all were denied. Furthermore, as shown in Attachment A, there are four signalized intersections between Route 100 and Route 175, excluding the intersection at Kit Kat Road, three have CE-CLI zoning at “hard corners” and none of the properties are zoned B-2.

The Maryland Court has issued decisions related to piecemeal rezoning requests that assert mistake or change based on public road improvements subsequent to adoption of Comprehensive Zoning. DPZ defers to the Zoning Counsel regarding the application of these cases to the Petitioner’s request.

D. Evaluation of Site Plan Documentation Factors in Section 100.G.2.d.

1. *The compatibility of the proposed development with the existing and potential land uses of the surrounding areas.*

The properties located to the south and east/southeast of the Property are zoned M-2 and appear to be developed with an impound/salvage yard, a plumbing, heating, and electrical business, warehouse uses, and a light manufacturing use. All other surrounding properties are zoned CE-CLI and appear to be developed with mini-storage warehouse and storage warehouse uses. Therefore, the proposed convenience store, motor vehicle fueling facility, car wash, foot fast food restaurant, and retail store uses are generally compatible with existing uses of the surrounding area. However, single story motor vehicle fueling facilities, fast food restaurants, and shopping center are not consistent with the land use goals of the Route 1 Manual and the intent of the CAC, CE, and TOD zoning districts.

2. *Protection of the environmental integrity of the subject property and adjoining areas in the location and design of site improvements.*

There does not appear to be any significant environmental resources, such as streams, wetlands, floodplain, or steep slopes on the Property or adjacent properties. Therefore, the proposed site design, as shown on the DSP, is unlikely to adversely impact the environmental integrity of the Property.

3. *The availability of safe road access for the proposed development.*

Kit Kat Road is a Local Road, which may not be an appropriate classification for the type and number of vehicles associated with a proposed 4,000 square foot convenience store, motor vehicle fueling facility, car wash, 2,600 square foot fast food restaurant, and 13,300 square foot retail store. The Petitioner is proposing five access points off of Kit Kat Road. The Development Engineering Division reviewed the Documented Site Plan and provided the following comments:

- Driveway spacing should be evaluated to be in conformance with Design Manual Volume III. Based on the number of access points and the limited spacing shown between access locations, consolidation of entrances should be considered.
- Parking spaces should be located to allow a car to back of the space without hindering ingress from KitKat Road. This may cause some parking space locations to be reevaluated.
- Adequate Public Facilities for roads will be required with the submission of the Site plan. This may require offsite road improvements based on the outcome of this study.
- Stacking length along KitKat Road should be evaluated to verify that the first entrance is not located within that distance that cars are waiting at the signal.

The State Highway Administration has no objection to the proposal as shown on the DSP for the Property. However, any request to develop the property must be reviewed by MDOT SHA through the local site plan development process. In addition, any traffic study required via the County APFO must be reviewed and approved by MDOT SHA. Any work required within the MDOT SHA right-of-way will require an access permit from MDOT SHA.

4. *Compatibility of the proposed development with the policies and objectives of the Howard County General Plan.*

This criterion is evaluated in Section A- Relation to the General Plan and the Zoning Regulations.

E. Appropriateness of Zoning District

CE-CLI (Corridor Employment – Continuing Light Industrial)

The CE (Corridor Employment) District “is intended to encourage the development and redevelopment of employment land near U.S. Route 1. Development in the CE District should provide for new office, flex, and light industrial uses, while reducing the spread of strip commercial development and encouraging consolidation of fragmented parcels. The requirements of this district, in conjunction with the Route 1 Manual and required vehicular and pedestrian improvements, will result in development that improves the appearance of the Route 1 streetscape, enhances traffic safety and better accommodates public transit and pedestrian travel.”

The CE zoning district was established during the 2004 Comprehensive Zoning, along with the CAC and TOD zoning districts, to implement Route 1 Corridor Revitalization Study recommendations which emphasized multistory mixed-use development along the corridor to use scarce land more efficiently. Therefore, it is an appropriate zoning district for the Property.

B-2 (Business - General)

The B-2 (Business - General) District “is established to provide for commercial sales and services that directly serve the general public” and allows several single-story auto-oriented commercial uses such as motor vehicle fueling facilities, motor vehicle sales/repair, fast food restaurants, and shopping centers. This zoning district is generally not aligned with the goals and objectives of PlanHoward 2030 and the Route 1 Manual, which encourage retention of employment and industrial properties along the corridor and seek to maximize greenfield development of high visibility employment areas.

Approved by:



Amy Gowar, Director

4/1/21

Date

Attachment A

Signalized Intersections and Zoning Districts Route 1

