ZONING RECLASSIFICATION APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

Case No. 116

Date Filed 5/30/06

Hearing Date

Pre-Conf.

Receipt

Fee $800.00

Shaded Area For Office Use Only

Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

Petitioner

Mailing address P.O. Box 272 Forest Hill Md 21050

Name Kenneth Neubeck - Kirk Neubeck Phone Number (410) 838-2658

Address 1711 Conowingo Road Bel Air Md. 21014
Street Number *Street* *State* *Zip Code*

Property Owner Kenneth Neubeck - Kirk Neubeck Phone Number (410) 838-2658

Address 1711 Conowingo Road Bel Air Md 21014
Street Number *Street* *State* *Zip Code*

Contract Purchaser N/A Phone Number

Address
Street Number *Street* *State* *Zip Code*

Attorney/Representative N/A Phone Number

Address
Street Number *Street* *State* *Zip Code*

Land Description

Address and Location of Property (with nearest intersecting road) 711 Conewingo Road
Route 23 and Business Route 2 / Jarrettsville Rd.

Subdivision N/A Lot Number N/A Acreage/Lot Size 1.03 Election District 03-19

Existing Zoning R-2 Proposed Zoning C-1 Acreage to be Rezoned 1.03

Tax Map No. 41 Grid No. 1A Parcel 201 Deed Reference 4353/0336

Critical Area Designation N/A Land Use Plan Designation Industrial / Employment High Intensity

Present Use and ALL improvements: Residential / My home
+ Small Storage Structure

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development. Example: Conventional, Conventional with Open Space, Planned Residential Development) C-1

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

No If yes, describe:

Estimated Time Requested to Present Case: 1 hour or 2 hours

Required Information To Be Attached

(Submit three (3) copies of each):

(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

(b) A statement of the grounds for the application including:

(1) ~~A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.~~ No mistake

(2) A statement as to whether there is an allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

1711 Conowingo Road
Bel Air, MD 21014

The above referenced property cannot be used as residential for the following reasons:

BFI trash trucks and dumpters are located in the vicinity of our bedroom windows and they come several times a week to unload at 6 am in the morning.

Tractor trailers pull right in every morning approximately 25 feet from the property line and they load and unload supplies for the dealership. The hydraulic lifts make loud noises each time. In addition, they block our driveway as they are backing in.

Six nights a week football games are played for four straight months from 7 am until 11 pm and the loud speakers and field lights are going the entire time.

Baseball games come in the spring and the noise is loud.

Verizon has a major terminal right on the property and they are constantly using it.

In the adjacent parking lot to the County ballfields, people set up grills and tailgate during all games and they are loud.

Trash blows over from the ballfields and the trash trucks and we are always picking up trash.

The increase of traffic on Conowingo Road is a major problem even after the By-Pass went through, the traffic did not decrease.

The church across the street has five different sermons or masses on Sunday and the traffic is conjested and sometimes it is impossible to pull out of the driveway. We are always forced to go North bound even when we don't want to. In addition, the lights coming from the church exit driveway, shine right in our windows.

Traffic is constantly turning around in our driveway non stop because they miss the driveway they want to go to either the BMW or ballfield.

Many times during the games held at the County ballfields, people are urinating at the edge of our property, slamming doors, yelling and making it impossible to relax in a residential setting. This is due to 70 cars or more coming and going, dropping kids off, etc. This happens even though it was designed for 35 spaces.

We have had to call the Sheriff's office on several occasions to get people from throwing baseballs, etc. on the parking lot and in the back of our yard to retrieve.

People who come to the ballfields, let their dogs run loose on occasions.

The Park Gate at the County ballfield, is left open and people are constantly pulling back in there and using this as a Lover's Lane and playing boom boxes loudly.

The County took down the trees that were blocking the extreme bank of lights and served as some sort of a barrier so that now we are exposed to the bright lights, search lights and ballfields.

This residential property is lit up 24/7 with all the lights from the ballfields and 3 acre BMW dealership.

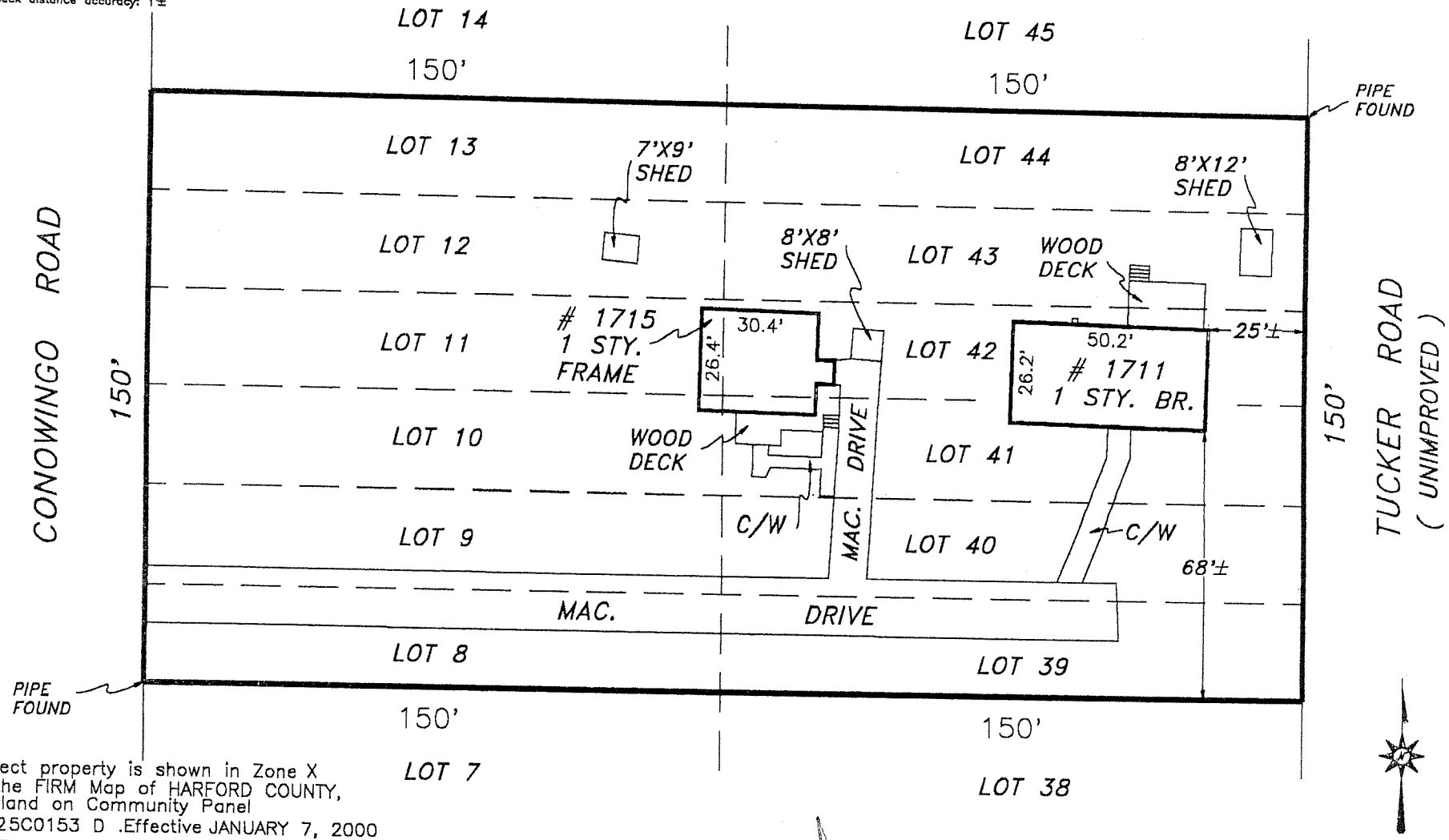
We have been told by real estate experts that there is no market for our property as a residence. No one in their right mind would purchase this property and be subjected to all of the above.

Issue No.	Name Location	Property				Zoning		Recommendations		
		Map	Parcel	Acreage of Parcel	Acreage to Rezone	Existing	Requested	P & Z	PAB	C.C
E009	Neubeck, Kenneth & Kirk 1711 Conowingo Road	41	201	1.03	1.03	R2	CI	CI	CI	C-1

- The property contains a small single-family home and a small storage structure.
- The Master Plan designates the area Industrial / Employment.
- The property is no longer suited for residential use. It fronts on Conowingo Road which is an arterial highway with heavy traffic. It is an island of residential surrounded by Commercial and Industrial uses. It is located next to the new BMW dealership and across the street from St. Ignatius Church, Hickory International, Black Bear Structures and Hickory Veterinary.
- The requested rezoning is consistent with several other pending requests in the surrounding neighborhood.
- The proposed rezoning is consistent with the Commercial / Industrial neighborhood.

NOTES:

1) B.R.L. information, if shown, was obtained from existing record plat or local agencies and is not guaranteed by NTT, Inc.
2) Building line and/or Flood Zone information is subject to the interpretation of the originator.
3) NTT, Inc. does not certify to unshown or unrecorded encroachments or overlaps.
4) Property markers NOT found, or guaranteed by this location.
5) Setback distance accuracy: 1'±



Subject property is shown in Zone X on the FIRM Map of HARFORD COUNTY, Maryland on Community Panel 24025C0153 D .Effective JANUARY 7, 2000

This is to certify that I have surveyed the property shown hereon, being known as LOTS 8-13 AND 39-44 BLOCK A GREEN-HICKORY SUBDIVISION and recorded among the land records of HARFORD County, Maryland in Plat 189 ,folio 420 for the purpose of locating the improvements thereon.

* This plat is of benefit to the consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing, or refinancing purposes.
* This plat is not to be relied upon for the establishment of location of fences, garages, buildings, or other existing or future structures.
* This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or for securing financing or refinancing.

STATE OF MARYLAND
JAMES C. HUDGINS
No. 96
REGISTERED
PROPERTY LINE SURVEYOR

J. Carl Hudgins PLS #96

LOCATION DRAWING
1711-1715 CONOWINGO ROAD
3rd ELECTION DISTRICT
HARFORD COUNTY, MD.

NTT Associates, Inc.
16205 Old Frederick Road
Mt. Airy, Maryland 21771
Ph. (410)442-2031
Fax No. (410)442-1315

Scale:	1"= 40 '
Date:	17DEC02
Field By:	RIK
Drawn By:	RIK
Drawing #	11004PCR

HARFORD COUNTY, MARYLAND
Department of Planning and Zoning
220 South Main Street
Bel Air, Maryland 21014 / (410) 638-3103

2005 Comprehensive Zoning Assessment Report

Issue Number: *E009*

Tax Account Number: *03144968*

1. OWNER INFORMATION

Please include additional property owners in an appendix.

Property Owner 1: *Kenneth M. Neubeck*

Address:

Property Owner 2: *Kirk J. Neubeck*

Address:

[redacted]

[redacted]

2. DESCRIPTION OF PROPERTY

Site Address: *1711 Conowingo Road, Bel Air MD 21014*

Election District: *03-19* Councilmanic District: *E*

Tax Map: *41* Parcel: *201* Block: *1A* Section: Lot: *n/a*

Total Acreage of Parcel: *1.03* Area to be Rezoned: *1.03*

Current Zoning: *R2* Requested Zoning: *CI*

3. SITE INSPECTION / POSTING DATES

Site Inspection Date: *4/11/05* Departmental Posting Date: *7/25/2005*

Inspection Done By: *MK/WD* Required Posting Date:

C. **Land Preservation, Recreation and Open Space Plan**

This zoning request will not have an adverse impact on active open space facilities.

D. **Critical Area Program**

The subject property is not located within the designated Chesapeake Bay Critical Area and is therefore not subject to the requirements of this program.

E. **Water and Sewer Master Plan**

The subject property is located inside the Development Envelope and is consistent with the general policies of the Master Water and Sewer Plan. This property is in the existing service area for water and the 6-10 year service area for sewer.

5. **INFRASTRUCTURE**

A. **TRANSPORTATION**

Existing conditions

Business US 1, south of Jarrettsville Road has an ADT of 12,030 vehicles and the intersection of Business US 1 and Jarrettsville Road operates at a LOS B. Business US 1 travel lanes are 12' wide with 10' wide shoulders. This zoning request may have a minimal impact to the surrounding roadway.

Existing and committed capital improvements

Johnson Mill Road Bridge over Stout Bottle Branch is funded for construction in FY09.

B. **WATER & SEWER**

Existing conditions

Within the Harford County water and sewer service area.

Existing and committed capital improvements

The FY 2006-07 Capital Improvement Plan identifies the following capacity enhancement projects for water and sewer: Abingdon Water Treatment Plant, Lower Bynum Run.

C. **PUBLIC SCHOOLS**

Existing conditions

The requested zoning has no direct impact to the public school system.

Existing and committed capital improvements

Not relevant to this requested zoning change.

6. ENVIRONMENTAL

No environmental constraints were identified on the property that might affect the use of the property. The Health Department has identified soils on-site with severe constraints for sewage disposal. The Health Department has noted that there are on-site septic problems in the neighboring communities.

7. HISTORIC / LAND PRESERVATION ISSUES:

This property is not in a historic district; no preservation easements impact the property. The subject property is adjacent to two inventoried historic sites (HA 41 -42) St. Ignatius Church and St. Ignatius Parish House.

8. ASSESSMENT SUMMARY:

The requested zoning is consistent with the intent and policies of the Land Use Plan.

9. RECOMMENDATIONS

Department of Planning and Zoning Recommendation: *CI*

Planning Advisory Board Recommendation: *CI*

10. APPENDIX

See attachments for maps and all comments from public meetings, Advisory Boards and other sources

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION

C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

RECEIVED
SEP - 6 2006
HARFORD COUNTY COUNCIL

September 5, 2006

STAFF REPORT

BOARD OF APPEALS CASE NO. 116

APPLICANT/OWNER:	Kenneth Neubeck – Kirk Neubeck 1711 Conowingo Road, Bel Air, Maryland 21014
REPRESENTATIVE:	Applicants
LOCATION:	1711 Conowingo Road Tax Map: 41 / Grid: 1A / Parcel: 201 Election District: Three (3)
ACREAGE:	1.03 acres
ACREAGE TO BE REZONED:	1.03 acres
EXISTING ZONING:	R2/Urban Residential District
PROPOSED ZONING:	CI/Commercial Industrial
DATE FILED:	May 30, 2006
HEARING DATE:	September 18, 2006

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

The Applicants are requesting to rezone 1.03 acres from R2/Urban Residential to CI/Commercial Industrial.

Justification:

See ATTACHMENT 1.

LAND USE AND ZONING ANALYSIS:

Location and Description of Neighborhood:

The Applicants' property is located north of Bel Air in the community of Hickory. The parcel is situated on the east side of Business Route 1 just north of Route 23. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 2 and 3).

The Department defines the neighborhood as the area bordered by the properties fronting along Business Route 1 to the west, the Route 1 Bypass to the southeast and Route 543 to the east. Enclosed is a copy of a map showing the above referenced neighborhood (Attachment 4).

Land Use – Master Plan:

The subject property is located on the east side of Conowingo Road (Business Route 1) north of the Route 23 intersection. The property borders the north side of the BMW dealership. The area contains a mix of Land Use designations including Medium and High Intensities and Industrial/Employment. The Natural Features Map reflects stream systems. The subject property is designated as High Intensity which is defined by the 2004 Master Plan as:

> ***High Intensity*** *– Areas within the Development Envelope where residential development occurs at a density greater than 7.0 dwelling units per acre. Major retail commercial centers and highway-related businesses, such as automobile dealerships and home improvement centers, are examples of some of the most intensive uses associated with this designation.*

Enclosed with the report are copies of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses generally conform to the intent of the Master Plan. The area contains residential, commercial and institutional uses. The topography within the area ranges from level to rolling. Enclosed with the report are a copy of the topography map and the aerial photograph (Attachments 7 and 8)

The subject property is rectangular in shape and approximately 1.03 acres in size. It is bordered on the north and east side by a large area of dense woodland. To the south is the BMW car dealership and parking for the Parks and Recreational facility (Tucker Fields). Improvements consist of a stone 1-story rancher, a detached one car garage and a driveway. The improvements

are situated to the rear of the lot. Enclosed with the report is an enlargement of the aerial photograph and photographs of the area (Attachments 9 and 10).

Zoning and Zoning History:

Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning includes R2 and R3/Urban Residential Districts. Adjoining the subject property on the north side is an area of RO/Residential Office. Commercial zoning includes B3/General Business and CI/Commercial Industrial District. Along the west side of Route 543 is an area of GI/General Industrial. The subject property is zoned R2/Urban Residential District as shown on the enclosed copy of the Zoning Map (Attachment 11)

Zoning History:

1957 Comprehensive Zoning Review: In 1957 the subject property was zoned R2/Urban Residential District (Attachment 12).

1982 Comprehensive Zoning Review: During the 1982 Comprehensive Zoning Review there was very little change in the subject area and the Applicants property remained R2/Urban Residential District (Attachment 13).

1989 Comprehensive Zoning Review: In 1989 the Applicants property remained R2/Urban Residential District (Attachment 14).

1997 Comprehensive Zoning Review: There was no request to change the zoning on the subject site in 1997 and the zoning remained R2/Urban Residential District.

2005 Comprehensive Zoning Review: The Applicants requested that the property be rezoned to CI/Commercial Industrial during the 2005 review. The County Council voted to change the property to CI. However, the County Executive vetoed the Legislation and the County Council did not override the veto. Therefore, the zoning assigned to the property in 1997 remains in effect. Attached is a copy of the 2005 zoning log (Attachment 15).

BASIS FOR INDIVIDUAL REZONING REQUEST:

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted that the Courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

Substantial Change Argument:

The Applicants argue that the referenced property can no longer be used for a residential use. The applicants state that "BFI trash trucks and dumpsters are located in the vicinity of our bedroom windows and they come several times a week to unload at 6 am in the morning. Tractor trailers pull right in every morning approximately 25 feet from the property line and they load and unload supplies for the dealership. The hydraulic lifts make loud noises each time. In addition, they block our driveway as they are backing in. Six nights a week football games are played for four straight months from 7 am until 11 pm and the loud speakers and field lights are going the entire time. Baseball games come in the spring and the noise is loud. Verizon has a major terminal right on the property and they are constantly using it. In the adjacent parking lot to the County ball fields, people set up grills and tailgate during all games and they are loud. Trash blows over from the ball fields and the trash trucks and we are always picking up trash. The increase of traffic on Conowingo Road is a major problem even after the By-Pass went through, the traffic did not decrease. The church across the street has five different sermons or masses on Sunday and the traffic is congested and sometimes it is impossible to pull out of the driveway. We are always forced to go north bound even when we don't want to. In addition, the lights coming from the church exit driveway shine right in our windows. Traffic is constantly turning around in our driveway nonstop because they miss the driveway they want to go to either the BMW or ball field. Many times during the games held at the County ball fields, people are urinating at the edge of our property, slamming doors, yelling and making it impossible to relax in a residential setting. This is due to 70 cars or more coming and going, dropping kids off, etc. This happens even though it was designed for 35 spaces. We have had to call the Sheriff's office on several occasions to get people from throwing baseballs, etc. on the parking lot and in the back of our yard to retrieve. People who come to the ball fields let their dogs run loose on occasions. The park gate at the County ball fields is left open and people are constantly pulling back in there and using this as a Lover's Lane and playing boom boxes loudly. The County took down trees that were blocking the extreme bank of lights and served as some sort of a barrier so that now we are exposed to bright lights, search lights and ball fields. This residential property is lit up 24/7 with all the lights from the ball fields and 3 acre BMW dealership. We have been told by real estate experts that there is no market for our property as a residence. No one in their right mind would purchase this property and be subjected to all of the above."

The Department finds that there has not been a substantial change in the neighborhood. The development which has occurred in the area is consistent with the existing zoning and Land Use Plan. The BMW dealership was developed on property zoned CI/Commercial Industrial. Tucker Field is a County Parks and Recreation facility. This use is permitted in all zoning districts except the CI and GI Districts.

Mistake:

On July 24, 2006 the Applicants altered their original application to say that there was a mistake argument. However, they offered no justification for their statement (Attachment 16).

The Department finds that there is not sufficient justification that a mistake has occurred in the existing zoning.

ANALYSIS OF INDIVIDUAL ZONING REQUEST:

Comformance with the Master Plan and Land Use Element Plan:

The proposed rezoning is in conformance with the intent of the 2004 Master Plan. The Land Use Plan shows the area designated as High Intensity.

Impact on the neighborhood:

The requested rezoning would not adversely impact the neighborhood.

COMMENTS FROM ADVISORY GROUPS:

History Preservation Commission:

This property is not in a historic district and no preservation easements impact the property. The subject property is adjacent to two inventoried historic sites (HA 41 and 42) St. Ignatius Church and St. Ignatius Parish House. The Historic Preservation Commission recommends denial due to the potential impact on the historic property.

Planning Advisory Board:

The Planning Advisory Board (PAB) reviewed the request at their meeting on August 9, 2006. The PAB voted 4-0 to recommend that the requested change in zoning be denied (Attachment 17).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested rezoning be denied.

Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review

Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf