

1 **ERIC BERS** \* **BEFORE THE**  
 2 **THE HOWARD RESEARCH AND** \* **PLANNING BOARD OF**  
 3 **DEVELOPMENT COPORATION** \* **HOWARD COUNTY, MARYLAND**  
 4 **PETITIONER** \*  
 5 **ZB-1133M**

7 \* \* \* \* \*

8 **MOTION: To recommend approval of the petition, ZB-1133M, to rezone 11.01 acres from**  
 9 **B-2 to M-1.**

10 **ACTION: *Vote 4-0***

11 \* \* \* \* \*

12 **RECOMMENDATION**

13 On February 5, 2026, the Planning Board of Howard County, Maryland, considered the petition of The  
 14 Howard Research and Development Corporation., (the “Petitioner”), to amend the Zoning Map to rezone 9121  
 15 and 9131 Commerce Center Drive, (the Property); approximately 11.01 acres in size when combined, from the  
 16 Business: General (B-2) district to the Manufacturing: Light (M-1) district. The Property is located along the  
 17 east side of Commerce Center Drive. The Petitioner owns both impacted parcels. The petition is not a Site Plan  
 18 rezoning; thus, no documented site plan was submitted; however, the Petitioner has indicated that the Property  
 19 would be developed with industrial/warehouse uses if approved.

20 The Planning Board considered the petition and the Department of Planning and Zoning’s (DPZ)  
 21 Technical Staff Report (TSR).

22 **TESTIMONY**

23 Mr. Justin Tyler, DPZ staff member, presented the proposed Zoning Map Amendment (ZMA). Mr.  
 24 Tyler explained the zoning history of the Property and how the zoning maps have changed over time. Mr. Tyler  
 25 explained the Petitioner’s “mistake” argument followed up with examples of the historic zoning maps. He then  
 26 discussed the appropriateness of the B-2 and M-1 districts and the reasoning behind the creation of both districts.

27 Following DPZ’s presentation of the proposed amendment, Mr. Tom Coale, Petitioner’s  
 28 Representative, presented testimony on behalf of the Petitioner. Mr. Coale gave a brief overview of the parcels  
 29 and discussed their location. He asserted that these parcels have been vacant due to an error in the zoning map.  
 30 Mr. Coale stated that the surrounding parcels are zoned M-1 and that rezoning the Property from B-2 to M-1  
 31 would bring the parcels into uniformity with adjacent warehouse and industrial uses. Mr. Coale further asserted  
 32 that the M-1 designation is in line with the Gateway Master Plan. He stated that the Master Plan indicates that  
 33 these areas should be zoned to be utilized for industrial and low residential areas. Although this is not a

1 documented site plan rezoning, Mr. Coale stated if approved the parcels would be developed with a light  
2 industrial or warehouse use. Mr. Coale explained that in 2003 a petition to rezone the parcels back to the M-1  
3 designation was submitted but never carried through the process. In closing, Mr. Coale testified that the M-1  
4 adjacent parcels are succeeding and are providing jobs and that the rezoning of these parcels can add to the  
5 success of the area. He clarified that if approved, the parcels would be developed with industrial and warehouse  
6 uses.

#### 7 BOARD DISCUSSION AND RECOMMENDATION

8 Planning Board member, Ms. Barabara Mosier, inquired about what a mistake in the zoning map  
9 process was. Mr. David Moore, Howard County Office of Law, clarified that a mistake in map amendments is  
10 based upon a mistake of fact and not a mistake in judgement. Mr. Coale explained that the Zoning Board relied  
11 on the facts from the property owner when they requested a retail zoning designation, and it was reasonable for  
12 the Zoning Board to presume retail would work based on that testimony. He argued that with the passage of  
13 time, it was proven that the parcel was not suitable for retail and a mistake of fact was made due to the market  
14 not being able to support the related uses. Planning Board Chair, Mr. James Cecil, discussed the Gateway  
15 Master Plan and how the Property stuck out of the B-2 adjacent parcels into the surrounding M-1 zoned parcels.  
16 Planning Board Vice Chair, Mr. Mason Godsey, asked if the Planning Board was supposed to take into  
17 consideration the mistake argument when providing a recommendation. Mr. Moore explained that if the Board  
18 has a view on whether a mistake is present it should be included in the recommendation. Mr. Godsey further  
19 inquired whether the County makes judgment calls on zoning districts after passage of time and stated that if a  
20 parcel was underutilized or not fruitful, would that be considered a mistake. Mr. Moore explained that the  
21 mistake argument is based upon when the zoning decision was made for the latest zoning map adoption. Mr.  
22 Coale added that the allegation of mistake is a presumption of the viability of facts at the time the property was  
23 zoned. Mr. Godsey stated that the Property could use a change in zoning but not fully on board with the mistake  
24 argument. Mr. Cecil stated that the mistake is that the B-2 district was viable at the time based on the restrictions  
25 at the time. Ms. Mosier indicated that if this was comprehensive zoning she believed M-1 would be the most  
26 appropriate zoning designation. She did not necessarily agree that the mistake argument proves a mistake in  
27 fact, but more a mistake in judgement. Mr. Coale argued that the Zoning Board knew this parcel had been  
28 vacant from when it was rezoned to B-2 in 2003 until 2013 and the mistake was not rezoning a parcel during  
29 comprehensive zoning.. Ms. Mosier asked Mr. Coale if he had any documentation that the Zoning Board knew  
30 about the viability of the parcels. Mr. Coale explained that they were relying on the property owner's request  
31 and testimony. Mr. Cecil explained his rationale on analyzing the mistake argument. Mr. Godsey asked why  
32 retail did not work for the parcels. Mr. Cecil explained that access to the parcels is limited, which makes it  
33 hidden and not as easy to advertise to the public. Ms. Mosier said she believed it could have been more viable  
34 if the B-2 zones were developed comprehensively. Mr. Cecil asserted that he believed the mistake was made

1 during 2003. Planning Board member, Mr. William Tilburg, asked if the mistake was based on the prior 2004  
2 determination or the 2013 zoning maps. Ms. Eisenberg, AICP, Planning Director clarified that the mistake  
3 argument would need to be based on the 2013 maps and not prior decisions made by the Zoning Board. Mr.  
4 Tilburg indicated that he had a difficult time interpreting the mistake based on the 2004 decision, and that during  
5 the 2013 map adoption, the B-2 designation with no development of the parcels was a mistake to retain the B-  
6 2 designation. Mr. Godsey motioned to recommend to rezone the parcels from B-2 to M-1. Mr. Tilburg  
7 seconded the motion. The motion passed 4-0.

8 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 4th day  
9 of March, 2026, recommends that ZB-1133M, as described above, be **APPROVED**.

11 HOWARD COUNTY PLANNING BOARD

Signed by:

James Cecil

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14 Mr. James Cecil, Chair

DocuSigned by:

Mason Godsey

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17 Mr. Mason Godsey, Vice-chair

Signed by:

William Tilburg

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20 Mr. William Tilburg

Signed by:

Barbara Mosier

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23 Ms. Barbara Mosier

26 Ms. Lynn Moore (absent)

27 ATTEST:

DocuSigned by:

Lynda Eisenberg

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30 Lynda Eisenberg, AICP, Executive Secretary