


FROM	NAME & TITLE	LAURIE FEINBERG, ACTING DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #18-0301 / REZONING – 6435 PULASKI HIGHWAY		

TO

DATE:

The Honorable President and
 Members of the City Council
 City Hall, Room 400
 100 North Holliday Street

November 30, 2018

At its regular meeting of November 29, 2018, the Planning Commission considered City Council Bill #18-0301, for the purpose of changing the zoning for the property known as 6435 Pulaski Highway (Block 6242E, Lot 050), as outlined in blue on the accompanying plat, from the I-2 Zoning District to the C-4 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment and approval of City Council Bill #18-0301 and adopted the following resolution seven members being present (seven in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #18-0301 be amended and passed by the City Council, with the following amendment:

- That the properties at 6425 Pulaski Highway, 6501 Pulaski Highway, and 840 North Point Road are included in the proposed rezoning from the I-2 Zoning District to the C-4 Zoning District.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

LF/ewt

attachment

cc: Mr. Pete Hammen, Chief Operating Officer
 Mr. Jim Smith, Chief of Strategic Alliances
 Ms. Karen Stokes, Mayor's Office
 Mr. Colin Tarbert, Mayor's Office
 Mr. Kyron Banks, Mayor's Office
 The Honorable Edward Reisinger, Council Rep. to Planning Commission
 Mr. William H. Cole IV, BDC
 Mr. Derek Baumgardner, BMZA
 Mr. Geoffrey Veale, Zoning Administration
 Ms. Sharon Daboin, DHCD
 Mr. Tyrell Dixon, DCHD
 Ms. Elena DiPietro, Law Dept.
 Mr. Francis Burnszynski, PABC
 Mr. Josh Taylor, DOT
 Ms. Natawna Austin, Council Services
 Mr. Ervin Bishop, Council Services
 Ms. Caroline Hecker, Attorney for Applicant



Catherine E. Pugh
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Laurie Feinberg
Acting Director

November 29, 2018

REQUEST: City Council Bill #18-0301/ Rezoning – 6435 Pulaski Highway:

For the purpose of changing the zoning for the property known as 6435 Pulaski Highway (Block 6242E, Lot 050), as outlined in blue on the accompanying plat, from the I-2 Zoning District to the C-4 Zoning District. (Second District)

RECOMMENDATION: Amendment and Approval, with the following amendment:

- That the properties at 6425 Pulaski Highway, 6501 Pulaski Highway, and 840 North Point Road are included in the proposed rezoning from the I-2 Zoning District to the C-4 Zoning District.

STAFF: Eric Tiso, AICP

PETITIONER: Durga Enterprises, LLC, c/o Caroline L. Hecker, Esq.

OWNER: Sixty-Four Thirty-Five Pulaski Highway, LLC

SITE/GENERAL AREA

Site Conditions: 6435 Pulaski Highway is located on the southwestern corner of the intersection with N. North Point Road, and measures approximately 150' by 125' (0.43± acres), and the lot is currently improved by a former Royal Farms store that is now vacant.

General Area: This property is located in the Pulaski Industrial Area, which covers a large area roughly described as the area within the wedge of I-95 and I-895 southward to East Lombard Street, and continuing southward along the I-95 and I-895 corridors around, but not including, the Johns Hopkins Bayview Campus, down to the Mount Carmel Cemetery. This area is largely industrial in nature, with some smaller commercial uses along the Pulaski Highway corridor. The Baltimore City Abandoned Vehicles lot is on the north side of Pulaski Highway, two blocks to the east of this site.

HISTORY

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

ANALYSIS

Background: Durga Enterprises, LLC has approached the property owner of 6435 Pulaski Highway, with the intent to lease the property, where he will renovate and open a Dunkin Donuts shop. Upon discovering that while the existing I-2 zoning for this area allows restaurants as a conditional use, it does not allow for drive-through facilities, the applicant requested a

predevelopment meeting to discuss the proposal with Planning Staff. While discussing potential solutions, Staff saw that this property, when considered together with adjacent properties, could be more appropriately zoned C-4 Heavy Commercial Zoning District which "... is intended for areas of more intense commercial use that are generally not appropriate for lower intensity commercial districts, including uses related to motor vehicles and those that might require outdoor storage." (*cf.* Art. 32 – *Zoning*, §10-206(a)). Conversely, while the subject property and those immediately adjacent sit in the center of a large industrial zone, they are each too small to be profitably used for heavy industrial uses as would be expected in an I-2 General Industrial zone.

Below are the approval standards under §5-508(b) of Article 32 – *Zoning* for proposed zoning map amendments:

(b) *Map amendments.*

(1) *Required findings.*

As required by the State Land Use Article, the City Council may approve the legislative authorization based on a finding that there was either:

- (i) a substantial change in the character of the neighborhood where the property is located; or
- (ii) a mistake in the existing zoning classification.

(2) *Required findings of fact.*

In making the determination required by subsection (b)(1) of this section, the City Council must also make findings of fact that address:

- (i) population changes;
- (ii) the availability of public facilities;
- (iii) present and future transportation patterns;
- (iv) compatibility with existing and proposed development for the area;
- (v) the recommendations of the City agencies and officials; and
- (vi) the proposed amendment's consistency with the City's Comprehensive Master Plan.

(3) *Additional standards – General*

Additional standards that must be considered for map amendments are:

- (i) existing uses of property within the general area of the property in question;
- (ii) the zoning classification of other property within the general area of the property in question;
- (iii) the suitability of the property in question for the uses permitted under its existing zoning classification; and
- (iv) the trend of development, if any, in the general area of the property in question, including changes, if any, that have taken place since the property in question was placed in its present zoning classification.

Below is the staff's review of the required considerations of §5-508(b)(3) of Article 32 – *Zoning*, where staff finds that this change, with the proposed inclusion of adjacent parcels is in the public's interest, in that it will create a small commercial node, appropriate to the sizes of the included parcels, and their context within the surrounding I-2 General Industrial zone.

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:** Prior to the comprehensive rezoning of the City in 2017, this area was zoned M-2-1 for industrial use. The zoning for this area was therefore designated I-2 industrial, which was the closest zoning category under the current zoning code. As a general policy, we are concerned about intrusion from commercial and residential uses into our industrial areas, especially a large cohesive area as this one. Staff believes that a limited application of C-4 to these small properties will continue the commercial use of these properties, and will not create any negative impacts on the greater industrial area.
2. **The needs of Baltimore City:** Supporting redevelopment of a vacant parcel as well as the existing businesses on these properties will lead to a stronger commercial corridor, and will not negatively impact any surrounding properties.
3. **The needs of the particular neighborhood:** The integrity of the industrial area will not be harmed with the proposed rezoning and our proposed amendment. The designation of these properties will recognize the existing commercial uses of these properties, and will provide zoning that is compatible with the greater industrial zone.

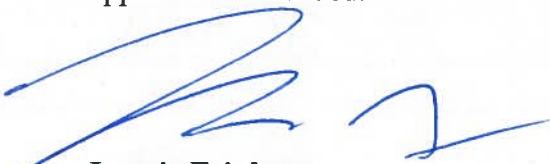
Similarly, the Land Use article requires the City Council to make findings of fact (*cf.* Md. LAND USE Code Ann. 2012, §10-304). The findings of fact include:

1. **Population changes;** There have been no significant changes in population in the immediate area, though the U.S. Route 40/Pulaski Highway corridor is appropriate for highway-oriented commercial uses, and the proposed change will support drive-through facilities that intend to capitalize on that high daily volume of vehicle traffic.
2. **The availability of public facilities;** This site is well served by existing utilities and facilities along the Pulaski Highway corridor, which will not be affected by this proposed rezoning.
3. **Present and future transportation patterns;** These properties are located on U.S. Route 40/Pulaski Highway, which is sufficient to support any level of development on this site, as well as to provide for adequate emergency services and police protection.
4. **Compatibility with existing and proposed development for the area;** The proposed rezoning to C-4 recognizes the existing development pattern of these small properties, and will be compatible with the larger I-2 industrial area. These properties range in size from about a quarter acre, to nearly one acre in size, which is not large enough to support most heavy industrial uses.
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 amendment and approval of the rezoning request to the Planning Commission. The BMZA has not yet commented on this bill.
6. **The relation of the proposed amendment to the City's plan.** This rezoning is compatible with the general policy of supporting industrial areas, and preventing intrusion by commercial and residential uses.

There are additional standards under §5-508(b)(3) that must be considered for map amendments. These include:

- (i) **existing uses of property within the general area of the property in question;** The existing uses of the properties are for commercial uses along the Pulaski Highway corridor, with heavier industrial uses on the larger properties surrounding these sites. The only anomaly is the existing motel use at 6401 Pulaski Highway, which is an existing nonconforming use.
- (ii) **the zoning classification of other property within the general area of the property in question;** This site is set in the center of a large I-2 industrial zone in the center of the Pulaski Industrial Area.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** The prior use of the property was for a retail goods establishment use, with a gas station. The adjacent properties proposed for inclusion are a liquor store (Pulaski Liquor Emporium) to the west, an auto repair service center (Fastenal) to the east, and Frankford Towing to the rear. All of these are heavy commercial uses that are compatible with the surrounding industrial area, and benefit from being located on Pulaski Highway, away from less intense uses and zones. Under the C-4 designation, the liquor store is no longer a nonconforming use, and the auto repair business and towing business go from a conditional use to being permitted by right.
- (iv) **the trend of development, if any, in the general area of the property in question, including changes, if any, that have taken place since the property in question was placed in its present zoning classification.** There have not been any recent developments in this portion of the Rt 40 corridor that would affect the proposed rezoning.

Per §5-508(1) of Article 32 – *Zoning*, and as required by the State Land Use Article, the City Council may approve the legislative authorization based on a finding that there was either: (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 believes that this rezoning could be classified as a mistake as these relatively small parcels, are not suitable for most heavy industrial uses, and that the existing development on these parcels more closely matches the proposed C-4 district. For those reasons, staff is recommending amendment to include three additional parcels, and approval as amended.



Laurie Feinberg
Acting Director