

<b>FROM</b>	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of <b>BALTIMORE</b> <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #20-0508 / REZONING 5401 Pulaski Highway		

DATE:

**TO**

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

April 21, 2020

At its regular meeting of April 16, 2020, the Planning Commission considered City Council Bill #20-0508, for the purpose of changing the zoning for the property known as 5401 Pulaski Highway, from the I-1 Zoning District to the C-4 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #20-0508 and adopted the following resolution eight members being present (eight in favor):

RESOLVED, That the Planning Commission does not concur with the recommendation of its departmental staff, and recommends that City Council Bill #20-0508 be passed by the City Council.

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

CR/ewt

attachment

cc: Mr. Nicholas Blendy, Mayor's Office  
 Mr. Matthew Stegman, Mayor's Office  
 Ms. Nina Themelis, Mayor's Office  
 The Honorable Edward Reisinger, Council Rep. to Planning Commission  
 Mr. Colin Tarbert, BDC  
 Mr. Derek Baumgardner, BMZA  
 Mr. Geoffrey Veale, Zoning Administration  
 Ms. Stephanie Murdock, DHCD  
 Ms. Elena DiPietro, Law Dept.  
 Mr. Francis Burnszynski, PABC  
 Mr. Liam Davis, DOT  
 Ms. Natawna Austin, Council Services  
 Mr. Dominic McAlily, Council Services  
 The Honorable Danielle McCray, 2<sup>nd</sup> Councilmatic District  
 Mr. Christopher DeCarlo, Esq.





Bernard C. "Jack" Young  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chairman

### STAFF REPORT



Chris Ryer  
Director

April 16, 2020

**REQUEST:** City Council Bill #20-0508/ Rezoning – 5401 Pulaski Highway:

For the purpose of changing the zoning for the property known as 5401 Pulaski Highway (Block 6242C, Lot 003), as outlined in red on the accompanying plat, from the I-1 Zoning District to the C-4 Zoning District.

**RECOMMENDATION:** Disapproval

**STAFF:** Matthew DeSantis, AICP

**PETITIONERS:** Councilmember McCray, at the request of CBK Realty, Inc.

**OWNER:** CBK Realty, Inc.

#### **SITE/GENERAL AREA**

Site Conditions: 5401 Pulaski Highway is located on the south side of the street, east of the intersection with East Monument Street, located between the railroad line and the Rt. 40 cloverleaf. This property contains 1.13± acres and is currently improved with a one-story industrial building.

General Area: The subject property is located within the Kresson neighborhood. Kresson is bounded roughly by Pulaski Highway to the north, Erdman Avenue, I-895, and CSX railroad tracks to the east, Haven Street to the east, and Lombard and Pratt Streets to the south. The zoning of adjacent parcels to the north and east is I-1, while the area to the west and south are zoned I-2. The surrounding properties' usage consists of transportation (railroad and highway), and light and heavy industry. There is also a legally non-conforming motor vehicle sales use at the abutting property, 5501 Pulaski Highway.

#### **HISTORY**

The site is currently zoned I-1 (Light Industrial), a designation shared by the other parcels to the east, and has had this zoning designation since the effective date of Transform Baltimore in 2017. Prior to this, the property was zoned M-2-1 along with the majority of parcels to the north and east. The exception was 5501 Pulaski Highway, which was rezoned to the B-3-2 district via Ordinance 16-573 on 11/18/2016 (that rezoning bill was heard by the Planning Commission on August 23, 2016 which recommended, in concurrence with Planning staff, against passage of the bill). While 5501 Pulaski was rezoned to the M-2-1 district at the time, the passage of the Transform Baltimore comprehensive rezoning bill rezoned this property once again back to an industrial zone, categorizing it I-1 on June 5, 2017.

The subject property obtained approval from the BMZA on March 21, 2016 to conduct accessory motor vehicle sales, subject to certain conditions, namely that such sales be accessory to the principal use of motor vehicle service and repair.

### **CONFORMITY TO PLANS**

The proposed action would be inconsistent with the following aspects of LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore City:

- Earn Goal 1: Strengthen Identified Growth Sectors, Objective 8: Retain and Attract Port-Related Services
- Earn Goal 3: Improve Access to Jobs and Transportation Linkages between Businesses, Objective 2: Promote Economic Development Through the City by Improving Business-to-Business Connectivity via Transportation Linkages

### **ANALYSIS**

The subject property was zoned M-2-1 before it was rezoned to its current I-1 designation during the Transform Baltimore comprehensive rezoning in June of 2017. The property is at the intersection of the Kresson, Orangeville, and Pulaski industrial areas, all of which are primarily heavy industrial in use. The site is located on a designated truck route, with several more intersecting truck routes in close proximity, and features excellent direct access to the Interstate Highway system. Lastly, the site is abutting a CSX industrial railroad right-of-way that would provide a direct rail connection. All of these aspects are why this site has previously been, continues to be, and should remain zoned for industrial use.

The current property owner intends to utilize the property as a used car dealership, which is not a permitted use in the I-1 district. A rezoning to the requested C-4 zoning district would permit this use by right, including the outdoor display of vehicles.

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 these required considerations, where staff finds that this change is not in the public's interest:

**(1) Required Findings**

Per §5-508(b)(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. Planning staff does not find a substantial change in the character of the neighborhood, nor does staff consider the current I-1 zoning of the property to be reflective of a mistake in zoning classification. Therefore, staff must recommend disapproval of CCB #20-0508.

**(2) Required Findings of Fact**

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 not been significant population changes in the area in the interval between the effective date of Transform Baltimore in June 2017 and the present time.
2. **The availability of public facilities;** This site is well-served by public services and utilities and should continue to be so.
3. **Present and future transportation patterns;** The site is surrounded by truck routes, highways, and industrial railroads which support the existing industrial zoning designation.
4. **Compatibility with existing and proposed development for the area;** The proposed zoning district is incompatible with existing and proposed development for the area, as the area is currently industrial in nature and will continue to be so into the future.
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 disapproval of the rezoning request to the Planning Commission. The BMZA will comment separately on this bill.
6. **The relation of the proposed amendment to the City's plan.** As noted, rezoning of this property from the I-1 to the C-4 zoning district would not be consistent with the City's plan.

### **(3) Additional Standards - General**

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;**  
Existing uses of property within the general area of this site are a mix of transportation, light and heavy industrial, and commercial
- (ii) the zoning classification of other property within the general area of the property in question;** The subject property is entirely surrounded by either I-1 or I-2 zoned properties.
- (iii) the suitability of the property in question for the uses permitted under its existing zoning classification; and,** The current I-1 zoning designation is suitable for the property, given the surrounding industrial land uses and direct access to transportation systems.
- (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 overall development changes in this area. It has been and continues to be primarily industrial in nature.

#### **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:** The proposed action would not support goals contained in the Comprehensive Master Plan for Baltimore City, specifically Earn Goal 1: Strengthen Identified Growth Sectors, Objective 8: Retain and Attract Port-Related Services as well as Earn Goal 3: Improve Access to Jobs and Transportation Linkages between Businesses, Objective 2: Promote Economic Development Through the City by Improving Business-to-Business Connectivity via Transportation Linkages. It is important that the City retain its existing industrially-zoned areas, especially those with direct access to the Port of Baltimore via highway and rail.
- 2. The needs of Baltimore City:** The City should retain its industrially-zoned properties, recognizing that there are only so many properties uniquely sited to take advantage of transportation and trade opportunities. The City's industrial areas provide an important economic base and source of accessible employment.
- 3. The needs of the particular neighborhood:** The property is located in an industrial area. There is no particular need for the property to be rezoned C-4 so as to allow for a used-car dealership.

Summary: Given all of these factors, staff finds that this proposed rezoning does not relate to either 1) a change in the character of the neighborhood, nor 2) a mistake in the current zoning designation. Therefore, staff recommends disapproval of CCB #20-0508.

Notification: The Baltimore Industrial Group has been notified of this action. Due to the closure of non-essential businesses by the Governor in response to the current COVID-19 pandemic, the site was not posted per normal Planning Commission requirements. Staff requests that the Commission waive the typical posting requirements.



**Chris Ryer**  
**Director**

