

FROM

NAME & TITLE	CHRIS RYER, DIRECTOR
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET
SUBJECT	CITY COUNCIL BILL #19-0390 / REZONING 1617 BROENING HIGHWAY

CITY of
BALTIMORE
MEMO



DATE:

TO

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

July 22, 2019

At its regular meeting of July 11, 2019, the Planning Commission considered City Council Bill #19-0390, for the purpose of changing the zoning for the property known as 1617 Broening Highway (Block 6810, Lot 001), as outlined in red on the accompanying plat, from the C-4 Zoning District to the C-3 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #19-0390 and adopted the following resolution eight 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 #19-0390 not 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. Jeff Amoros, 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
Mr. Bob Pipik, DHCD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Frank Murphy, DOT
Ms. Natawna Austin, Council Services



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



*Chris Ryer
Director*

July 11, 2019

REQUEST: City Council Bill #19-0390/ Rezoning – 1617 Broening Highway:

For the purpose of changing the zoning for the property known as 1617 Broening Highway (Block 6810, Lot 001), as outlined in red on the accompanying plat, from the C-4 Zoning District to the C-3 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Matthew DeSantis, AICP

PETITIONER: Poverni Ventures, LLC c/o Al Barry, AB Associates

OWNER: End Properties, LLC

SITE/GENERAL AREA

Site Conditions: 1617 Broening Highway is located near the northwestern corner of the intersection of Broening Highway with Holabird Avenue, and encompasses roughly 2.5 acres of irregularly shaped land. This property is currently zoned C-4 and is used for outdoor storage of trucks and vehicles.

General Area: This property is located in the Broening Manor neighborhood, which is mix of heavy commercial uses along its periphery fronting on Holabird Avenue and Broening Highway and low to medium density residential in the interior.

HISTORY

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

CONFORMITY TO PLANS

The proposed rezoning action does not support the following goals, objectives and strategies contained in the Comprehensive Master Plan for the City of Baltimore:

EARN Goal 1: Strengthen Identified Growth Sectors; Objective 5: Retain and Attract Port-Related Services

Additionally, from the Baltimore City Sustainability Plan:

Local Economy - Strategy 2: Build the capacity of local manufacturers and entrepreneurs through access to resources, technical, and financial assistance, and a supportive policy and investment environment.

Action 1: Provide support services to grow businesses, help develop new market channels, improve access to affordable and safe production spaces, and enhance retail and sales opportunities. Support and encourage minority business ownership in sectors with economic strength.

Action 2: Build the capacity of Made in Baltimore and other entrepreneurial support organizations to create supportive networks and prosperous business environments for emerging entrepreneurs while increasing neighborhood-based small manufacturing businesses.

This rezoning is intended to allow for the development of a multi-family residential apartment project to be developed on the site. The C-3 zoning district allows multi-family dwellings by right, whereas the C-4 district allows multi-family dwellings that are above non-residential ground floors with conditional approval from the BMZA. The conceptual plans presented by the applicant depict ground floor residential dwellings. Zoning designations, however, are not subject to specific development projects but rather run with the land. They therefore grant land entitlement rights to any current or future property owner for any conforming use/structure. Should this property be rezoned to C-4, there is no obligation for the currently proposed development to be implemented.

The majority of commercial uses permitted in C-3 are also permitted in C-4. The following uses, however, are permitted either by right or with conditional approval in the C-3 zoning district that are not permitted in the C-4 district:

Day Care Home: Adult or Child

Dwelling: Rowhouse

Residential-Care Facility

Rooming House

Additionally, the following permitted uses in the C-4 zoning district are not permitted in the C-3 district:

Industrial: Light

Motor Vehicle Operations Facility

Movie Studio

It is specifically the elimination of the light industrial use as a permitted use that is contrary to the City's adopted Plan. The Comprehensive Master Plan encourages the retention and attraction of port-related activities. This property is located less than 1 mile from the Port of Baltimore and its current C-4 zoning designation permits a variety of heavy commercial and industrial uses that would support the continued growth of the port. In addition to its close proximity to the port, its location on Broening Highway and close proximity to Holabird Avenue, two vital trucking routes in the City, suggest that it is a suitable location for heavy commercial or industrial uses.

The Baltimore Sustainability Plan states:

A local economy is a catalyst for attracting new residents and retaining longtime residents, for fostering job creation and entrepreneurship, and for stimulating new investment. Producing and selling local goods and services strengthens local employment and builds community wealth by ensuring that money spent in a city stays in the city.

The Plan recognizes the importance of maintaining production spaces in order to support and grow the local economy. Residential development has been eroding industrially-zoned land, especially in Southeast Baltimore, for the past two decades. The rezoning of this property from C-4 to C-3 will serve to further erode the industrial base and limit the amount of land in the City that can be utilized for industrial uses.

ANALYSIS

This property was designated C-4 commercial effective June 5, 2017, continuing its heavy commercial designation. Given the heavy industrial (I-2) zoning to the west and the residential (R-5) zoning to the east, a heavy commercial zoning designation is a way to transition between these two areas. In addition, the property's location on a trucking corridor further supports a heavy commercial zoning.

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 is not in the public's interest, in that it will serve to further erode the City's industrial base and potential.

It has been just over two years since this property was placed in its present zoning classification, which was a continuation of its former classification. There have been no significant changes in this general area in the span of that time, with the possible exception of additional industrial uses being established across Broening Highway to the west. These recent changes, however, only serve to further establish the appropriateness of the current C-4 zoning district and do not support the proposed change to C-3.

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:** This action does not advance the goals, objectives, or strategies contained in the Comprehensive Master Plan also known as LIVE EARN PLAY LEARN, nor does it advance the Strategies and Actions of the Baltimore Sustainability Plan.
2. **The needs of Baltimore City:** This action is not needed to serve either a comprehensive redevelopment strategy or a Mayoral initiative. The City is better served by the preservation of existing zoning that supports heavy commercial and industrial uses.
3. **The needs of the particular neighborhood:** This action does not help to meet the needs of this neighborhood, or those immediately nearby. The C-4 zoning serves as a buffer between the I-2 zoning to the west and the R-5 zoning to the east. The property is located on a trucking route and in close proximity to the Port of Baltimore. As such, the property should continue to permit heavy commercial and industrial uses.

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 has not been a significant change in population since the establishment of the current Zoning Code.
2. **The availability of public facilities;** This site is served by existing utilities and public facilities, which will not be affected by the proposed change in zoning for this property.
3. **Present and future transportation patterns;** This site is accessible by City streets, in the established grid of this neighborhood, which are not proposed to be changed or impacted by this proposed action.

4. **Compatibility with existing and proposed development for the area;** The proposed action will not be compatible with the existing C-4 zoning designation to the immediate north and south, and would be contrary to the confirmation of the current heavy commercial zoning that was approved for this area as part of the Citywide rezoning effort in 2017.
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 has not yet commented on this bill.
6. **The relation of the proposed amendment to the City's plan.** As described above, this action is contrary to elements of the City's Comprehensive Master Plan and Sustainability Plan.

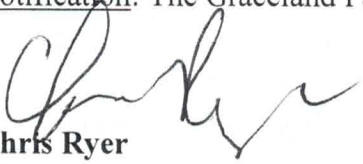
There are additional standards under §5-508(b)(3) that must be considered for map amendments. These include:

- (i) **existing uses of property within the general area of the property in question;** The predominant use of the properties along Broening Highway in the general area of the property in question are either industrial or heavy commercial.
- (ii) **the zoning classification of other property within the general area of the property in question;** The properties to the immediate north and south are also currently zoned C-4, whereas the properties immediately to the west are zoned I-2. The properties to the rear of the subject property (i.e. to the east) are zoned R-5 residential.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** Given both its intrinsic properties (size, shape, etc.) and its location along a truck route and in close proximity to the Port of Baltimore, the property in question is suitable for the uses permitted under its existing zoning classification.
- (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.** Recent industrial development to the immediate west of the subject property only solidifies the appropriateness of the current C-4 zoning, which also permits heavy commercial and light industrial uses.

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.

Since the comprehensive rezoning of the City in 2017, there hasn't been a significant change in the neighborhood that would invalidate the current C-4 zoning. If anything, the recent changes in the area only support the current zoning. The choice of C-4 zoning is appropriate for this area given its location on and near truck routes as well as its proximity to the Port of Baltimore.

Notification: The Graceland Park Improvement Association has been notified of this action.

A handwritten signature in black ink, appearing to read "Chris Ryer". The signature is fluid and cursive, with a large initial "C" and "R".

Chris Ryer
Director