


FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #23-0350 / REZONING 420 N. HAVEN STREET		

TO

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

DATE: May 19, 2023

At its regular meeting of May 18, 2023, the Planning Commission considered City Council Bill #23-0350, for the purpose of changing the zoning for the property known as 420 N. Haven Street, from the I-2 Zoning District to the C-3 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 #23-0350 and adopted the following resolution, with six members being present (six in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, adopts the findings and equity analysis outlined in the staff report, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #23-0000 be **amended** to include the 11 additional parcels as identified in the staff report and **approved** by the City Council, conditioned that adequate notice either by additional site posting or certified mail be provided to property ownership of all other parcels to be included.

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: Ms. Nina Themelis, Mayor's Office
Mr. Ethan Cohen, Mayor's Office
The Honorable Eric Costello, Council Rep. to Planning Commission
Mr. Colin Tarbert, BDC
Ms. Rebecca Witt, 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. Melvin Kodenski, Esq.



Brandon M. Scott
Mayor

PLANNING COMMISSION

Sean D. Davis, Chair; Eric Stephenson, Vice Chair

STAFF REPORT



Chris Ryer
Director

May 18, 2023

REQUEST: City Council Bill #23-0350/ Rezoning – 420 N. Haven Street:

For the purpose of changing the zoning for the property known as 420 North Haven Street (Block 6265A, Lot 011), as outlined in red on the accompanying plat, from the I-2 Zoning District to the C-3 Zoning District.

RECOMMENDATION: Adopt findings; Amend and Approve

STAFF: Matt DeSantis, AICP

PETITIONER: Councilmember McCray on behalf of Bang Bang Investments, LLC

OWNER: Bang Bang Investments, LLC

SITE/GENERAL AREA

Site Conditions: The subject property is the consolidation of three former attached dwellings at the SW corner of N. Haven Street and Pulaski Highway. The property was operated for commercial use until becoming vacant several years ago. The parcel is approximately 2,100 square feet, and improved with three, two-story rowhomes that cover nearly the entire parcel.

General Area: The property is located at the NW corner of the Baltimore Highlands neighborhood, which is comprised principally of small attached dwellings with scattered commercial uses. The Orangeville and Kresson neighborhoods are to the immediate north and east, and are principally industrial in nature.

HISTORY

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

CONFORMITY TO PLANS

This proposed rezoning is supported by the following aspects of the Baltimore Highlands Community Plan, which was formally accepted by the Planning Commission in January of this year:

- Strategy 2.5: Promote continued growth of neighbor-owned and neighborhood-serving retail
- Strategy 3.1: Promote access to homeownership for low- and middle-income residents
- Strategy 3.5: Promote rehabilitation and reuse of vacant buildings

ZONING CODE REQUIREMENTS

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.

ANALYSIS

This rezoning bill has been introduced by Councilmember McCray on behalf of the owner to restore a commercial zoning designation to the property, matching the C-3 zoning that is found directly across Pulaski Highway. Prior to Transform, the entire node on all corners of the Pulaski/Haven intersection had a commercial B-3-1 designation. Through Transform, however, the parcels on the northern side of Pulaski retained a commercial designation as C-3 while the parcels to the south of Pulaski were designated I-2, a heavy industrial designation. This was done even though the existing uses and built form of these parcels were rendered non-conforming and with virtually no reasonable utility for industrial use. The property owner of 420 N. Haven has requested the rezoning to C-3 so that a commercial use may be re-established for the property.

Amendment to Expand Scope of Rezoning:

Planning staff is recommending favorably on the rezoning of 420 N. Haven from I-2 to C-3, and is further recommending that additional adjacent properties also be rezoned similarly as they also appear to have been mistakenly given an I-2 designation. Below is an overview of the additional properties, their ownership, current use, and implications should they be rezoned to the C-3 district:

Address	Owner	Current Use per CCE	Result if rezoned C-3?
414 N. Haven St.	Charles Thrasher	Dwelling: Rowhouse	Becomes Permitted - No longer non-conforming
412 N. Haven St.	Deera, LLC	Dwelling: Rowhouse	Becomes Permitted - No longer non-conforming
410 N. Haven St.	Charles Thrasher	Dwelling: Rowhouse	Becomes Permitted - No longer non-conforming
408 N. Haven St.	Charles Thrasher	Dwelling: Rowhouse	Becomes Permitted - No longer non-conforming
406 N. Haven St.	Charles Thrasher	Dwelling: Rowhouse	Becomes Permitted - No longer non-conforming
404 N. Haven St.	Charles Thrasher	Dwelling: Rowhouse	Becomes Permitted - No longer non-conforming
402 N. Haven St.	Charles Thrasher	Dwelling: Rowhouse	Becomes Permitted - No longer non-conforming
400 N. Haven St.	Charles Thrasher	Tavern	Remains Permitted
	Charles Thrasher	Adult Use	Currently legally-non-conforming and would remain so
4023 Pulaski Hwy	Jesus Ortega Lagunes	Educational Facility: Commercial-Vocational	Remains Permitted
4101 Pulaski Hwy	DG Strategic II, LLC	Nursery (*This clearly appears to be a mistake - should be Retail Goods Establishment*)	Remains Permitted - No longer non-conforming (assuming proper use category is Retail Goods Establishment - No Alcohol)
4024 Orleans St.	Charles Thrasher	Vacant Lot	Subject to C-3 uses if redeveloped

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. Staff analysis concludes that the current I-2 zoning, which was applied during the Transform Baltimore comprehensive rezoning, is a mistake in that it makes commercial uses that had historically been conducted at the site non-conforming. Given the small size of the parcels and the existing buildings/uses thereon, there is no reasonable heavy industrial uses for these parcels. The consequence of the current zoning is that it makes the reuse of 420 N. Haven very unlikely, and renders the other existing uses (rowhouse dwellings and the

Retail Goods Establishment in the Dollar General) non-conforming. The non-conforming status of these properties will likely make continued future investment more onerous, as access to needed financing may be withheld due to this condition.

Maryland Land Use Code – Requirements for Rezoning:

The Land Use Article of the Maryland Code requires the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA) 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 Code, Land Use § 10-305 (2023)). In reviewing this request, the staff finds that:

1. **The Plan:** The above-listed portions of the Baltimore Highlands Community Plan support the proposed rezoning from I-2 to C-3.
2. **The needs of Baltimore City:** The properties in question do not serve a direct public purpose (i.e. they are not park or public open spaces), and rezoning them will not remove any sort of public asset. In the same way, the properties do not serve any City need with its current zoning designation. Generally speaking, preservation of industrially-zoned land is a priority of the Department of Planning. However, these parcels proposed to be rezoned never have and likely never will serve any actual industrial purpose.
3. **The needs of the particular neighborhood:** The neighborhood has no need for the properties to have their current I-2 zoning, as it makes them either virtually unfit for rehabilitation or non-conforming. In fact, the formally-accepted neighborhood plan has expressed a need for additional retail to serve it, and this rezoning would potentially facilitate that.

Similarly, the Land Use article, also adopted by Article 32 – *Zoning* §5-508(b)(2), requires the City Council to make findings of fact (MD Code, Land Use § 10-304 (2023)). The findings of fact include:

1. **Population changes;** The Baltimore Highlands neighborhood saw a 16% increase in population between the 2010 Census and 2020 Census, growing from 2,703 to 3,142 residents. In relation to the City at-large, this increased population is striking and has predominantly come from the influx of new Mexican and Central American residents.
2. **The availability of public facilities;** There will be no impact to provision of facilities as a result of this rezoning. The area is well served by public utilities, as well as fire and police protection.
3. **Present and future transportation patterns;** There will be no impact to the traffic patterns of this area as a result of the rezoning alone. Future development is unlikely to have a negative impact. Haven Street and Pulaski Highway (to the east of the intersection with N. Haven Street) are designated Truck Routes, but this rezoning will not have any direct impact. Implementation of the Baltimore Greenway Trail to the immediate east of the area will likely change transportation patterns, as pedestrians and cyclists will have safe infrastructure to pass through the area. This also would support the rezoning from an

industrial to commercial designation for these particular properties, especially given their lack of past industrial use and slim chances for such future use.

4. **Compatibility with existing and proposed development for the area;** As previously stated, the current I-2 zoning renders many of the surrounding parcels non-conforming and a rezoning to the C-3 district would correct for this.
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 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.** As described above, the rezoning would support elements of the Baltimore Highlands Community Plan.

There are additional standards under Article 32 – *Zoning* §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;** To the immediate north of Pulaski Highway are drive-through food retail establishments; to the south and east is a BGE substation; to the southeast is an industrial warehouse facility.
- (ii) **the zoning classification of other property within the general area of the property in question;** The properties to the north of Pulaski are zoned C-3, and the other parcels to the immediate south along N. Haven Street are zoned I-2.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** The subject parcels are not suited whatsoever to their existing I-2 zoning classification, as they either currently house non-conforming uses or are vacant due in part to the impositions of the current zoning.
- (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.** Development has increased to the south along the South Haven Street corridor in the Brewer's Hill neighborhood, and has been shifting northward in the direction of this area. Implementation of the Baltimore Greenway Trail also will potentially impact development in this immediate area, as residential and/or commercial spaces would likely be in even higher demand as a response to this new recreational and transportation infrastructure.

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 in the public's interest, in that it will be consistent with existing uses in both the subject properties as well as surrounding development. As described above, the current I-2 zoning that was designated to these parcels south of Pulaski Highway via Transform must have been a mistake in that these parcels neither had any history of industrial use, were not at the time nor now used for industrial use, nor had any reasonable likelihood of future industrial use.

Equity:

- Impact:
 - In the short-term, this rezoning will make a number of existing uses conforming, including the several rowhouse dwellings and the retail store. In the longer-term, this rezoning will likely make the vacant storefront at 420 N. Haven more suitable for a productive use that may serve the neighborhood.
 - It is unclear how this rezoning will impact existing patterns of inequity. Making the existing rowhouse dwellings permitted, however, is the opposite of the historically racist practice by which less-resourced neighborhoods and neighborhoods with majority non-white residents were intentionally designated with industrial zoning. In this regard, this rezoning would seem to further racial and economic equity.

- Engagement:
 - The Highlandtown Community Association has been notified of this bill, but it is unclear to what extent the property-owner that the bill has been introduced for has engaged with surrounding community members. Planning staff has discussed the Department's recommended amendment to expand the bill with some of the directly-impacted property owners, who have expressed support to have their properties included.

- Internal Operations:
 - There will not be any additional staff time dedicated to this bill than otherwise incurred in the routine legislative process. We do not expect any follow-on impacts to operations.

Notification: The Highlandtown Community Association has been notified of this action. Additionally, the site has been posted per Planning Commission requirements.



Chris Ryer
Director