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**BALTIMORE CITY COUNCIL
WAYS AND MEANS
COMMITTEE**

Mission Statement

The Committee on Ways and Means (WM) is responsible for ensuring taxpayer dollars are expended prudently and equitably. WM will exercise regular oversight of the City's budget, expenditures, loans, and other financial matters. The committee's areas of jurisdiction include: budget & appropriations, taxation, financial services, consumer protection, audits, and the Comptroller's Office.

**The Honorable Eric T. Costello
Chairman**

PUBLIC HEARING

**TUESDAY, JULY 23, 2024
10:09 AM**

COUNCIL CHAMBERS

Council Bill #24-0499

Rezoning – 2101 Gould Street

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BILL SYNOPSIS

Committee: Ways and Means

Bill 24-0499

Rezoning – 2101 Gould Street

Sponsor: Councilmember Costello at the request of Baltimore Urban Revitalization LLC

Introduced: February 26, 2024

Purpose:

For the purpose of changing the zoning for the property known as 2101 Gould Street (Block 1053, Lot 005A), as outlined in red on the accompanying plat, from the I-2 Zoning District to the PC-2 Zoning District.

Effective: On the 30th day after the date it is enacted.

Agency Reports

Law Department	Favorable/Comments
Department of Housing & Community Development	None as of this writing
Planning Commission	Favorable
Board of Municipal & Zoning Appeals	None as of this writing
Department of Transportation	None as of this writing
Baltimore Development Corporation	None as of this writing
Parking Authority of Baltimore City	None as of this writing

Analysis

Current Law

Article 32 – Zoning, Zoning District Map Sheet 76

Under §5-508(b)(1) of Article 32 – Zoning, and the State Land Use Article, the City Council may approve a rezoning based on a finding that there was either:

1. A substantial change in the character of the neighborhood where the property is located,
or
2. A mistake in the existing zoning classification.

Background

This bill if enacted, would amend the zoning classification for the property listed from a I-2 Zoning District to a PC-2 Zoning District.

The property has been vacant for approximately five (5) years; previously the Gould Street Generating Station by Exelon, an operation which ended in June of 2019. Per the Planning Commission, this zoning would continue the existing PC-2 designation on sites to the west.

Current Zoning

I-2 – General Industrial Zoning. Manufacturing, fabricating, processing, wholesale distribution and warehousing. Commercial uses and open storage allowed.

Proposed Zoning

PC-2 – Is intended for a large variety of uses, including residential, commercial, office, open-space, recreation, and entertainment amenities, waterfront, and light industrial

Additional Information

Fiscal Note: None

Information Source(s): City Code, Bill 24-0499 and all agency reports, and correspondence received as of this writing.

Analysis by:  Marguerite M. Currin
Analysis Date: July 19, 2024

Direct Inquiries to: (443) 984-3485

**CITY OF BALTIMORE
COUNCIL BILL 24-0499
(First Reader)**

Introduced by: Councilmember Costello
At the request of: Baltimore Urban Revitalization LLC
Address: c/o Alyssa Domzal, Esq., Ballard Spahr LLP
111 S. Calvert Street, 27th Floor
Baltimore, Maryland 21202
Telephone: (410) 528-5510

Introduced and read first time: February 26, 2024

Assigned to: Economic and Community Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and Community Development, Planning Commission, Board of Municipal and Zoning Appeals, Department of Transportation, Baltimore Development Corporation, Parking Authority of Baltimore City

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Rezoning – 2101 Gould Street**

3 FOR the purpose of changing the zoning for the property known as 2101 Gould Street
4 (Block 1053, Lot 005A), as outlined in red on the accompanying plat, from the I-2 Zoning
5 District to the PC-2 Zoning District.

6 BY amending
7 Article - Zoning
8 Zoning District Maps
9 Sheet 76
10 Baltimore City Revised Code
11 (Edition 2000)

12 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That
13 Sheet 72 of the Zoning District Maps is amended by changing from I-2 Zoning District to the
14 PC-2 Zoning District the property known as 2101 Gould Street (Block 1053, Lot 005A), as
15 outlined in red on the plat accompanying this Ordinance.

16 **SECTION 2. AND BE IT FURTHER ORDAINED,** That as evidence of the authenticity of the
17 accompanying plat and in order to give notice to the agencies that administer the City Zoning
18 Ordinance: (i) when the City Council passes this Ordinance, the President of the City Council
19 shall sign the plat; (ii) when the Mayor approves this Ordinance, the Mayor shall sign the plat;
20 and (iii) the Director of Finance then shall transmit a copy of this Ordinance and the plat to the
21 Board of Municipal and Zoning Appeals, the Planning Commission, the Commissioner of
22 Housing and Community Development, the Supervisor of Assessments for Baltimore City, and
23 the Zoning Administrator.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 24-0499

1 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
2 after the date it is enacted.

Council Bill 24-0499

AGENCY REPORTS

See attached

CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
EBONY M. THOMPSON,
CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

July 15, 2024

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 24-0499 - Rezoning – 2101 Gould Street

Dear President and City Council Members:

The Law Department reviewed City Council Bill 24-0499 for form and legal sufficiency. The bill changes the zoning for the property known as 2101 Gould Street (Block 1053, Lot 005A) from the I-2 Zoning District to the PC-2 Zoning District. The bill would take effect on the 30th day after its enactment.

The I-2 zoning classification is for general industrial zoning, including manufacturing, fabricating, processing, wholesale distributing, and warehousing. The PC-2 zoning classification is related to the Port Covington area. See Art. 32, § 12-1301(2). The subject property is not covered by the Port Covington Master Plan but is in the Port Covington area. The property falls under the South Baltimore Gateway Master Plan which recommended the property be included as a site for mixed-use development along with the surrounding Port Covington properties. The PC-2 zoning classification encompasses a wide mix of uses including residential, commercial, office, and light industrial. On the Zoning Statement of Intent, the owner states that the intended uses of the property are light industrial and commercial.

The Mayor and City Council may permit a piecemeal rezoning *only if* it finds facts sufficient to show either a mistake in the existing zoning classification or a substantial change in the character of the neighborhood. MD Land Use Art., § 10-304(b)(2); Baltimore City Code, Art. 32, §§ 5-508(a) and (b)(1).

The “change-mistake” rule is a rule of the either/or type. The “change” half of the “change-mistake” rule requires that, in order for a piecemeal Euclidean zoning change to be approved, there must be a satisfactory showing that there has been significant and unanticipated change in a relatively well-defined area (the “neighborhood”) surrounding the property in question since its original or last comprehensive rezoning, whichever occurred most recently. The “mistake” option of the rule requires a showing that the

underlying assumptions or premises relied upon by the legislative body during the immediately preceding original or comprehensive rezoning were incorrect. In other words, there must be a showing of a mistake of fact. Mistake in this context does not refer to a mistake in judgment.

Mayor and Council of Rockville v. Rylyns Enterprises, Inc., 372 Md. 517, 538 (2002).

Legal Standard for Change

“It is unquestioned that the City Council has the power to amend its City Zoning Ordinance whenever there has been **such a change in the character and use of a district** since the original enactment that the **public health, safety, morals, or general welfare would be promoted** by a change in the regulations.” *Cassel v. Mayor and City Council of Baltimore*, 195 Md. 348, 354 (1950) (emphasis added). The Mayor and City Council must find facts of a substantial change in the character and the use of the district since the comprehensive rezoning of the property on June 5, 2017, and that the rezoning will promote the “public health, safety, morals, or general welfare” and not merely advantage the property owner. *Id.* at 358.

To constitute a substantial change, courts in Maryland want to see facts of a “significant and unanticipated change in a relatively well-defined area.” *Rylyns Enterprises*, 372 Md. at 538. The “‘neighborhood’ must be the immediate neighborhood of the subject property, not some area miles away; and the changes must occur in that immediate neighborhood of such a nature as to have affected its character.” *Clayman v. Prince George’s County*, 266 Md. 409, 418 (1972). The changes are required to be physical. *Anne Arundel County v. Bell*, 442 Md. 539, 555 (2015) (citing *Montgomery County v. Woodward & Lothrop*, 280 Md. 686, 712–13 (1977)). However, those physical changes cannot be infrastructure such as sewer or water extension or road widening. *Clayman*, 266 Md. at 419. And the physical changes must be shown to be unforeseen at the time of the last rezoning. *County Council of Prince George’s County v. Zimmer Development Co.*, 444 Md. 490 (2015). Contemplated growth and density are not sufficient. *Clayman*, 266 Md. at 419.

In determining whether the change benefits only the property owner, courts look, in part, to see if a similar use exists nearby of which the community could easily take advantage. *Cassel*, 195 Md. at 358 (three other similar uses only a few blocks away lead to conclusion that zoning change was only for private owner’s gain).

Legal Standard for Mistake

To sustain a piecemeal change on the basis of a mistake in the last comprehensive rezoning, there must be substantial evidence that “the Council failed to take into account then existing facts ... so that the Council’s action was premised on a misapprehension.” *White v. Spring*, 109 Md. App. 692, 698 (1996) (citation omitted). In other words, “[a] conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing.” *Id.*

“Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council’s action was premised initially on a

misapprehension[,]” [and] “...by showing that events occurring subsequent to the comprehensive zoning have proven that the Council’s initial premises were incorrect.” *Boyce v. Sembly*, 25 Md. App. 43, 51 (1975) (citations omitted). “Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not ‘fairly debatable.’” *Id.* at 52.

The Supreme Court of Maryland (formerly the Court of Appeals of Maryland) has said it is not sufficient to merely show that the new zoning would make more logical sense. *Greenblatt v. Toney Schloss Properties Corp.*, 235 Md. 9, 13-14 (1964). Nor are courts persuaded that the fact that a more profitable use of the property could be made if rezoned is evidence of a mistake in its current zoning. *Shadynook Imp. Ass’n v. Molloy*, 232 Md. 265, 272 (1963). Courts have also been skeptical of finding a mistake when there is evidence of careful consideration of the area during the past comprehensive rezoning. *Stratakis v. Beauchamp*, 268 Md. 643, 653-54 (1973).

A finding of mistake, however, absent a regulatory taking, merely permits the further consideration of rezoning, it does not mandate a rezoning. *White*, 109 Md. App. at 708. Rather, a second inquiry “regarding whether, and if so, how, the property is reclassified,” is required. *Id.* at 709. This second conclusion is due great deference. *Id.*

Spot Zoning

The City must find sufficient facts for a change or mistake because “[z]oning is permissible only as an exercise of the police power of the State. When this power is exercised by a city, it is confined by the limitations fixed in the grant by the State and to the accomplishment of the purposes for which the State authorized the city to zone.” *Cassel*, 195 Md. at 353.

In piecemeal rezoning bills if there is not a factual basis to support the change or the mistake, then rezoning is considered illegal spot zoning. *Id.* at 355. Spot zoning “has appeared in many cities in America as the result of pressure put upon councilmen to pass amendments to zoning ordinances solely for the benefit of private interests.” *Id.* It is the “arbitrary and unreasonable devotion of a small area within a zoning district to a use which is inconsistent with the use to which the rest of the district is restricted.” *Id.* It is “therefore, universally held that a ‘spot zoning’ ordinance, which singles out a parcel of land within the limits of a use district and marks it off into a separate district for the benefit of the owner, thereby permitting a use of that parcel inconsistent with the use permitted in the rest of the district, is invalid if it is not in accordance with the comprehensive zoning plan and is merely for private gain.” *Id.*

However, “a use permitted in a small area, which is not inconsistent with the use to which the larger surrounding area is restricted, although it may be different from that use, is not ‘spot zoning’ when it does not conflict with the comprehensive plan but is in harmony with an orderly growth of a new use for property in the locality.” *Id.* The example given was “small districts within a residential district for use of grocery stores, drug stores and barber shops, and even gasoline filling stations, for the accommodation and convenience of the residents of the residential district.” *Id.* at 355-356.

Therefore, the Mayor and City Council must show how the contemplated use is consistent with the character of the neighborhood. See, e.g., *Tennison v. Shomette*, 38 Md. App. 1, 8 (1977) (cited

with approval in *Rylins*, 372 Md. at 546-47; accord *Mayor and City Council of Baltimore v. Byrd*, 191 Md. 632, 640 (1948)).

Findings of Fact

The City Council is required to make the following findings of fact in determining whether to permit rezoning based on mistake or change in the character of the neighborhood:

- (i) population change;
- (ii) the availability of public facilities;
- (iii) the present and future transportation patterns;
- (iv) compatibility with existing and proposed development;
- (v) the recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals; and
- (vi) the relationship of the proposed amendment to the City's plan.

Md. Code, Land Use, § 10-304(b)(1); Baltimore City Code, Art. 32, § 5-508(b)(2).

Article 32 of the City Code requires the Council to consider the following additional factors:

- (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.

Baltimore City Code, Art. 32, § 5-508(b)(3).

The Mayor and City Council's decision regarding a piecemeal rezoning is reviewed under the substantial evidence test and should be upheld "if reasoning minds could reasonably reach the conclusion from facts in the record." *City Council of Prince George's Cty. v. Zimmer Dev. Co.*, 444 Md. 490, 510 (2015) (*quoting Cremins v. Cnty. Comm'rs of Washington Cnty.*, 164 Md. App. 426, 438 (2005)); *see also White v. Spring*, 109 Md. App. 692, 699, *cert. denied*, 343 Md. 680 (1996) ("the courts may not substitute their judgment for that of the legislative agency if the issue is rendered fairly debatable"); *accord Floyd v. County Council of Prince George's County*, 55 Md. App. 246, 258 (1983) ("substantial evidence" means a little more than a "scintilla of evidence.").

Planning Commission Recommendation

The Planning Department Staff Report recommended approval of this rezoning and the Planning Commission concurred adopting the findings and equity analysis of the Staff Report. The justification for the change in zoning of the subject property is based on a change in the character of the neighborhood since the last comprehensive rezoning in 2017. The Staff Report states "[i]n this instance the relocation of the electric facility, vacancy of the building, and ongoing development at Baltimore Peninsula demonstrates a substantial change in the character of the

neighborhood.” The property is the site of the former Gould Street Generating Station which ceased operating in 2019. BGE has built a new generating station on a different site.

The Staff Report made the following findings:

- The requested zoning change would continue the existing PC-2 designation on properties to the west;
- Although Baltimore City needs to maintain its industrial zoned land, this site is not ideal for industrial uses due in part to its inability to house a pier and as evidenced by its vacancy for the past five years;
- Changing the zoning of this property to PC-2 allows it to act as buffer between development to the west and industrial areas to the east.

With respect to the findings of fact required to be made by the City Council the Staff Report noted the following:

- Population changes. Continuing development at Baltimore Peninsula (formerly Port Covington) and the former Locke Insulator site will bring additional changes to the population which are not yet captured in survey data.
- Availability of public facilities. The area is well served by public facilities, and this trend is likely to continue as the Baltimore Peninsula is further developed and infrastructure continues to be built and refined.
- Present and future transportation patterns. The proposed rezoning could increase density and therefore transportation needs in the future, but increased transportation needs are already anticipated due to ongoing development of the Baltimore Peninsula.
- Compatibility with existing and proposed development for the area. The rezoning of the site is consistent with the ongoing development of Baltimore Peninsula.
- The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals (BMZA). The Planning Commission recommended approval and the BMZA has not yet commented on this bill.
- The relation of the proposed amendment to the City's plan. The 2015 South Baltimore Gateway Master Plan is applicable to this site and includes the site in its recommendation to seek mixed-use development at Port Covington.

The Planning Staff Report also found that existing property around the subject property supports a wide variety of uses including a marina, restaurant, office, cruise terminal and various industrial uses. Zoning on adjacent properties is PC-2, MI (maritime industrial) and I-2 on the site of the BGE replacement generating station. The Staff Report noted that the property while appropriate for industrial uses, is also suitable for other mixed uses. The Report also noted that the property to the west of the subject property has undergone substantial change due to the development of the Baltimore Peninsula since the subject property was last zoned. That development trend is expected to continue. As part of its equity analysis, the Planning Staff found that rezoning would “allow for an adaptive reuse of the existing building which is no longer suitable for industrial use.”

Process

The City Council is required to hold a quasi-judicial public hearing with regard to the bill where it will hear and weigh the evidence as presented in: (1) the Planning Report and other agency reports; (2) testimony from the Planning Department and other City agency representatives; and (3) testimony from members of the public and interested persons. After weighing the evidence presented and submitted into the record before it, the Council is required to make findings of fact

for each property about the factors in §§ 10-304 and 10-305 of the Land Use Article of the Maryland Code and § 5-508 of Article 32 of the Baltimore City Code. If, after its investigation of the facts, the Committee makes findings which support: (1) a mistake in the comprehensive zoning or a change in the character of the surrounding neighborhood; and (2) a new zoning classification for the property, it may adopt these findings and the legal requirements for granting the rezoning would be met.

Additionally, certain procedural requirements apply to this bill beyond those discussed above because a change in the zoning classification of a property is deemed a “legislative authorization.” Baltimore City Code, Art. 32, § 5-501(2)(iii). Specifically, notice of the City Council hearing must be given by publication in a newspaper of general circulation in the City, by posting in a conspicuous place on the property and by first-class mail, on forms provided by the Zoning Administrator, to each person who appears on the tax records of the City as an owner of the property to be rezoned. Baltimore City Code, Art. 32, § 5-601(b). The notice of the City Council hearing must include the date, time, place and purpose of the hearing, as well as the address of the property or description of the boundaries of the area affected by the proposed rezoning, and the name of the applicant. Baltimore City Code, Art. 32, § 5-601(c). The posted notices must be at least 3 feet by 4 feet in size, placed at a prominent location near the sidewalk or right-of-way for pedestrians and motorists to view, and at least one sign must be visible from each of the property’s street frontages. Window mounted signs must be posted inside the window glass. City Code, Art., § 5-601(d). The published and mailed notices must be given at least 15 days before the hearing; the posted notice must be at least 30 days before the public hearing. Baltimore City Code, Art. 32, § 5-601(e), (f). See also Land Use Article, § 10-303 (procedural requirements).


Council Bill 24-0499 is the appropriate method for the City Council to review the facts and determine whether the legal standard for rezoning has been met. If the required findings are made at the hearing and that all procedural requirements are satisfied, the Law Department approves the bill for form and legal sufficiency.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Michele M. Toth", written in a cursive style.

Michele M. Toth
Assistant Solicitor

cc: Stephen Salsbury
Nina Themelis
Tiffany Maclin
Elena DiPietro
Hilary Ruley
Ashlea Brown

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 #24-0499 / REZONING – 2101 GOULD STREET		

TO

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

DATE:

May 10, 2024

At its regular meeting of May 9, 2024, the Planning Commission considered City Council Bill #24-0499, for the purpose of changing the zoning for the property known as 2101 Gould Street (Block 1053, Lot 005A), as outlined in red on the accompanying plat, from the I-2 Zoning District to the PC-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #24-0499 and adopted the following resolution, with eight members being present (eight 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 #24-0499 be **approved** 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: Ms. Nina Themelis, 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



Brandon M. Scott
Mayor

PLANNING COMMISSION

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

STAFF REPORT



Chris Ryer
Director

May 9, 2024

REQUEST: City Council Bill #24-0499/ Rezoning – 2101 Gould Street (Eleventh District):
For the purpose of changing the zoning for the property known as 2101 Gould Street (Block 1053, Lot 005A), as outlined in red on the accompanying plat, from the I-2 Zoning District to the PC-2 Zoning District.

RECOMMENDATION: Adopt findings and Approve

STAFF: Caitlin Audette

PETITIONER: Baltimore Urban Revitalization LLC, c/o Alyssa Domzal

OWNER: Baltimore Urban Revitalization LLC

SITE/GENERAL AREA

Site Conditions: The subject property is located in South Baltimore adjacent to the Baltimore Peninsula (Port Covington) development to the west, and to the Locust Point Industrial Area to the east. The property has been vacant for roughly five years, following the end of operation of the Gould Street Generating Station by Exelon, which ended in June of 2019.

General Area: The property is adjacent to Interstate 95 which continues along the north of the site as an elevated highway. The property is not within the Port Covington Master Plan area, though it is directly adjacent to it.

HISTORY

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

CONFORMITY TO PLANS

The property is within the South Baltimore Gateway Master Plan which dates to 2015. In this plan the site is identified as Maritime Industrial, though recommendations include it with the rest of Port Covington as potential site for mixed-use development. The rezoning of the site from I-2 to PC-2, is in line with this recommendation.

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

The purpose of the proposed rezoning is to allow the building to be adaptively reused following its vacancy in 2019. The property is currently and has historically been industrial, reflecting its use as a power plant. Baltimore Gas and Electric has recently built a new facility on adjacent land, and no longer, resulting in the vacancy of the historic building following the comprehensive rezoning process which was finalized in 2017. Further despite its deepwater frontage, the site is at a pinch point between the Marina piers and cruise terminal piers, meaning it could not support a new pier. This greatly reduces the establishment of new industrial uses at the site. The site is adjacent to PC-2 zoning, where the Baltimore Peninsula development has already materialized and will continue to grow.

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. In this instance the relocation of the electric facility, vacancy of the building, and ongoing development at Baltimore Peninsula demonstrates a substantial change in the character of the neighborhood.

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 PC-2 zoning district is intended for a large variety of uses, including residential, commercial, office, open-space, recreation, and entertainment amenities, waterfront, and light industrial. This zoning would continue the existing PC-2 designation on sites to the west.
2. **The needs of Baltimore City:** While Baltimore City needs to maintain industrially zoned land to maintain and attract industrial uses and jobs, this site is not ideal for industrial uses and its reuse as demonstrated by its vacancy over the past five years. Additionally, PC-2 Zoning will allow for a mixed use development that can allow light industrial.
3. **The needs of the particular neighborhood:** The immediate community largely consists of developers to the west and industry to the east. This site acts as the border between the two. With its inability to house a pier, the large historic building on site, and its proximity to the new development the rezoning will allow it to meet the needs of the community.

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;** As the development at Baltimore Peninsula and the former Locke Insulator site continues and is occupied there will be continued changes to the population which are not yet captured in survey data.
2. **The availability of public facilities;** The area is well served by public facilities and this is not anticipated to change, except that as Baltimore Peninsula continues to develop infrastructure will continue to be built and refined.
3. **Present and future transportation patterns;** This rezoning could increase density and therefore transportation needs in the future, however, that is already anticipated with the ongoing development of Baltimore Peninsula.
4. **Compatibility with existing and proposed development for the area;** The rezoning and potential redevelopment of the site is consistent with the ongoing development at Baltimore Peninsula.
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.** The 2015 South Baltimore Gateway Master Plan is the only plan for this site, it includes the site in its recommendation to seek mixed-use development at Port Covington.

There are additional standards under Article 32 – *Zoning* §5-508(b)(3) that must be considered for map amendments. These include:

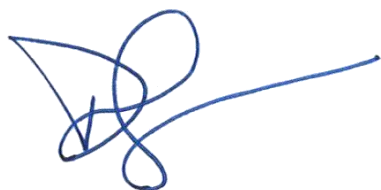
- (i) **existing uses of property within the general area of the property in question;** The general area includes a wide variety of uses including a marina, restaurant, office, cruise terminal and industrial uses.
- (ii) **the zoning classification of other property within the general area of the property in question;** The site is adjacent to PC-2, MI, and I-2 uses. The I-2 uses are the recently completed BGE replacement facility.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** The property is suitable for industrial uses as well as a variety of other mixed uses.
- (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.** The area to the west has undergone a substantial change due to the development of Baltimore Peninsula. This trend is anticipated to continue.

Above 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 allow for the redevelopment of the site.

Equity:

- **Impact:** As the property is vacant the proposed rezoning will have limited impact in the short term. However, in the long term it will allow for an adaptive reuse of the existing building which is no longer suitable for industrial use.
- **Engagement:** The industrial community was consulted regarding this change and had no opposition, as the site is not suitable to maritime industry.
- **Internal Operations:** Staff does not anticipate any change in internal operations stemming from this alteration.

Notification: A variety of stakeholders were notified of the request.

A handwritten signature in blue ink, consisting of a stylized, cursive 'C' followed by a horizontal line extending to the right.

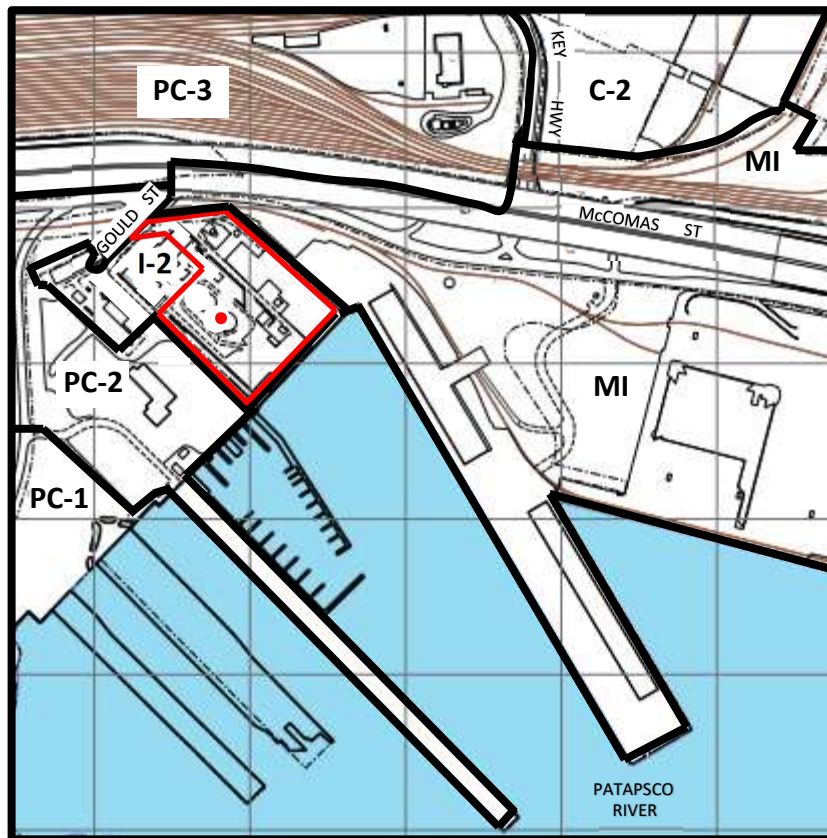
Chris Ryer
Director

Council Bill 24-0500

ADDITIONAL DOCUMENTS

See attached

**SHEET NO. 76 OF THE ZONING MAP OF
THE ZONING CODE OF BALTIMORE CITY**



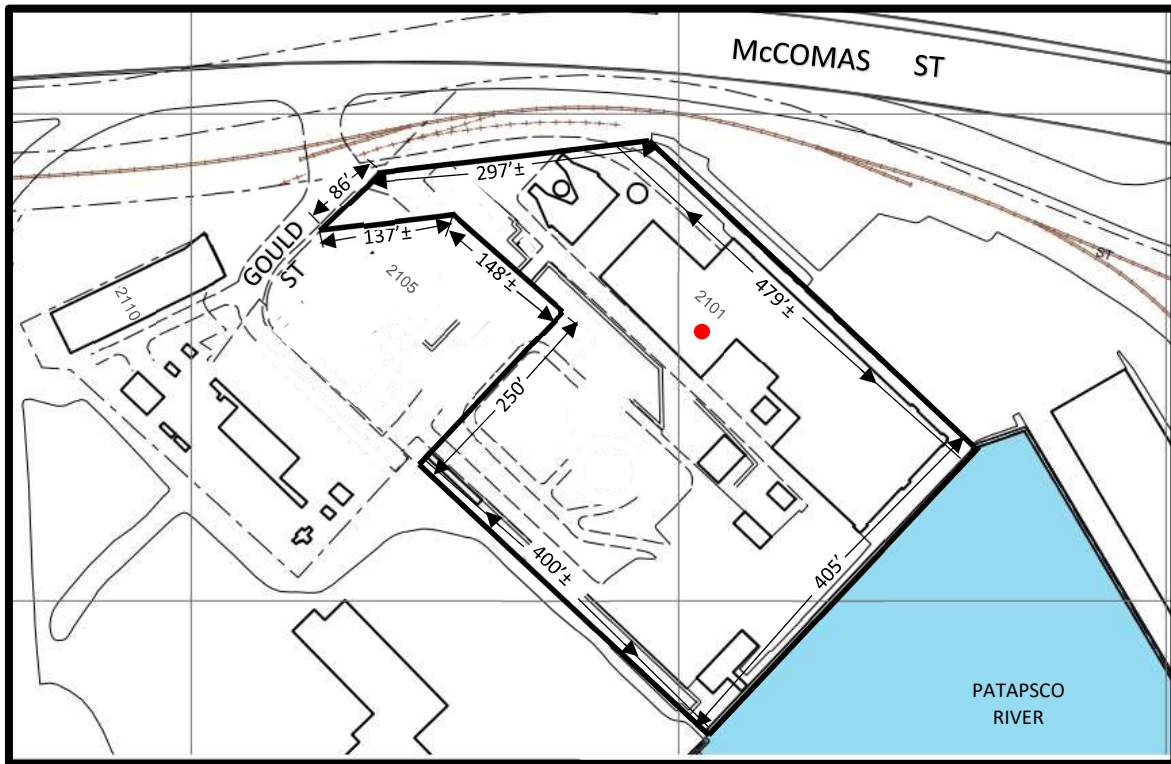
Scale: 1" = 600'

In Connection With The Property Known
As No. 2101 GOULD STREET. The
Applicant Wishes To Request The
Rezoning Of The Aforementioned Property
From I-2 Zoning District to PC-2 Zoning
District, As Outlined In Red Above.

WARD 24 SECTION 6
BLOCK 1053 LOT 5A

MAYOR

PRESIDENT CITY COUNCIL



Scale: 1" = 20'

2101 GOULD STREET

Sheet #2

ZONING ORDINANCE REQUEST

STATEMENT OF INTENT

FOR

{Property Address; Block ____, Lot ____}

1. Applicant's Contact Information:

Name:

Mailing Address:

Telephone Number:

Email Address:

2. All Proposed Zoning Changes for the Property:

3. All Intended Uses of the Property:

4. Current Owner's Contact Information:

Name:

Mailing Address:

Telephone Number:

Email Address:

5. Property Acquisition:

The property was acquired by the current owner on _____ by deed recorded in the
Land Records of Baltimore City in Liber _____ Folio _____.

6. Contract Contingency:

(a) There is _____ is not _____ a contract contingent on the requested legislative authorization.

(b) If there is a contract contingent on the requested legislative authorization:

(i) The names and addresses of all parties to the contract are as follows *{use additional sheet if necessary}*:

(ii) The purpose, nature, and effect of the contract are:

7. Agency:

(a) The applicant is is not acting as an agent for another.

(b) If the applicant is acting as an agent for another, the names of all principals on whose behalf the applicant is acting, including the names of the majority owners of any corporate entity are as follows {use additional sheet if necessary}:

AFFIDAVIT

I, _____, solemnly affirm under the penalties of perjury that the information given in this Statement of Intent is true and complete to the best of my knowledge, information, and belief.



Applicant's signature

Date