

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 #20-0512 / REZONING 1301 EAST FORT AVENUE		

DATE:

TO

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

May 7, 2020

At its regular meeting of May 7, 2020, the Planning Commission considered City Council Bill #20-0512, for the purpose of changing the zoning for the property known as 1301 East Fort Avenue, from the I-1 Zoning District to the R-8 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #20-0512 and adopted the following resolution nine members being present (nine in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #20-0512 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
 Ms. Caroline Hecker, Rosenberg Martin Greenberg



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

May 7, 2020

REQUEST: City Council Bill #20-0512/ Rezoning – 1301 East Fort Avenue:

For the purpose of changing the zoning for the property known as 1301 East Fort Avenue (Block 2034A, Lot 001), from the I-1 Zoning District to the R-8 Zoning District.

RECOMMENDATION: Approval

STAFF: Tamara Woods

PETITIONERS: Councilmember Costello, at the request of 1301 East Fort Avenue LLC

OWNER: PQ Corporation

SITE/GENERAL AREA

Site Conditions: 1301 East Fort Avenue is in the Locust Point neighborhood in South Baltimore. This property is 5.173 acres and is improved with multiple industrial buildings. It is bounded by Fort Avenue to the north, Decatur Avenue to the east, and private parcels to the west and active CSX rail to the south. The property is currently improved with a recently closed heavy industrial user PQ Corporation, which specializes in chemical products and services that support fuels and emissions control services, consumer products, highway safety and construction, packaging and engineering plastics, industrial and process chemicals and natural resources. The company has been in operation for over 200 years and operates globally with other locations in Connecticut and Pennsylvania.

General Area: This property is located in the Locust Point neighborhood of South Baltimore. It is in an area of Fort Avenue that is characterized by a mixture of uses. The property is directly adjacent to the Francis Scott Key Middle School and the west side of Latrobe Park. To the north is a mostly rowhouse residential portion of Locust Point with some small scale neighborhood commercial. To the west is McHenry Row a large mixed-use redevelopment project.

CONFORMITY TO PLANS

This proposed rezoning is consistent with the Comprehensive Master Plan's LIVE section, Goal One: Build human capital by strengthening Neighborhoods, Objective One: Expand housing choices for all residents. That being said the proposed rezoning is not in alignment with the 2004 Locust Point master plan that calls for this property to retain its industrial zoning.

ANALYSIS

The rezoning request has been prompted by proposed reuse of the existing industrial site for a rowhouse redevelopment for approximately 111 rowhomes at the request of 1301 East Fort Avenue LLC. Though briefly introduced to the project, planning staff has reviewed details nor evaluated this proposed project. This analysis of the proposed rezoning is based on the request for a residential zoning category and not based on any approvals or development review of a specific project, but on the merits of the site, location and provisions of each zoning category and their suitability for the Locust Point neighborhood.

The existing I-1 zoning category is a light industrial zoning district that provides for light industry, manufacturing, fabricating, processing, wholesale distributing and warehouse uses. The proposed R-8 zoning category is a dense rowhouse neighborhood zone that allows for not only rowhomes, but multi-family residential as well as, a variety of neighborhood institutional uses, such as schools and religious institutions. Though briefly introduced to the project, planning staff has not reviewed details nor evaluated this proposed project. This analysis of the proposed rezoning is based on the request for a residential zoning category and not based on any development review of a specific project.

In the course of reviewing this request and studying the area, including the existing Locust Point Master Plan and development trends, the analysis revealed that the site is actually suitable for a variety of zoning categories, including the existing industrial zoning as well as the requested R-8 zoning category. The analysis was couched in weighing the many seemingly competing needs of Baltimore City industrial land retention with residential growth. Staff noted the particular uniqueness of this site as an industrial site unlike many in the City, in particular, the uniqueness of this property for its size (just over 5 acres) and its direct rail spur to CSX and adjacency to other rail and highway access.

Retention of industrial land is important to provide land for many different types of good paying work options for a variety of populations at all educational attainment levels, in this case in a neighborhood that has traditionally been mixed use with industry. Also, importantly, requests for rezoning have not trended towards requesting to acquire industrial zoning. The industrially zoned land that exists in Baltimore is typically what was applied during TransForm Baltimore, enacted in June 2017. Therefore, retention of industrially zoned land is critical. In the case of Locust Point, it has always been mixed use with heavy industry.

However, this property is directly adjacent to a neighborhood park, school and homes within walking distance and a R-8 zone. The depressed rail separation to the west, separates this site from the density of McHenry Row and acts as a natural buffer to what becomes a less dense more residential portion of the neighborhood, the very same depressed rail that buffers the industrial use. But given the redevelopment of industrial sites along Fort Avenue to mixed use with multi-family with retail and office, the zoning request to R-8 for this site is plausible as an extension of the existing zoning and thus an extension of the existing mostly residential portion of Locust Point. The request is in line with the direction of growth and change that Locust Point has experienced over the past 10 years.

In completing its analysis, the Department of Planning Staff not only analyzed the City's broader needs and neighborhood development trends, but analyzed the request based on the Maryland Land Use Article, but also the character of the site. 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*:

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 Baltimore City Comprehensive Master Plan is not so specific as to recommend land use and/or zoning changes for the properties in question. But as stated previously, this request is in-line with the goals and objectives of LIVE EARN PLAY LEARN Plan's LIVE section, Goal One: Build human capital by strengthening Neighborhoods, Objective One: Expand housing choices for all residents.
2. **The needs of Baltimore City:** The proposed R-8 zoning district supports the City's master plan goal to strengthen neighborhoods and strategically redevelop vacant properties throughout the City. While this property had an active industrial use on the property, the business unfortunately had a fire that necessitated the closure of the plant.
3. **The needs of the particular neighborhood:** The proposed action would not help meet the needs of the surrounding communities, and there is a larger area immediately

northeast of this I-1 property that is in the R-8 zoning district, where the proposed use could be allowed as of right. The proposed R-8 zoning district also supports the specific neighborhood needs to provide additional housing choice for existing residents as well as potential new residents by furthering the neighborhood change to a more mixed-use neighborhood that no-longer includes large industry at the level that it once did. The R-8 zoning district allows people to live, work and play in the same neighborhood. The current zoning allows for heavy industry that has increasingly been leaving the Locust Point neighborhood over the last decade. Allowing for the zoning change to R-8 will tie into this portion of the neighborhood by connecting to the adjacent school and park. The neighborhood would continue to be a mixed use walkable neighborhood and corridor. The proposed rezoning to R-8 allows for residential density that exists in the neighborhood, but at a lower, yet appropriate scale of the original now legal non-conforming rowhouses in the neighborhood. , but a lower breadth of uses that is more conducive to neighborhood retail and walkable communities.

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 in this area since June 5, 2017, when the current Zoning Code and map became effective.
2. **The availability of public facilities;** All public facilities necessary to support use of this property consistent with its current I-1 zoning are available and expected to remain available.
3. **Present and future transportation patterns;** There is no change anticipated in transportation patterns, which are sufficient to support the R-8 use of this property.
4. **Compatibility with existing and proposed development for the area;** The proposed action would allow a use that is compatible with permitted existing or other proposed uses or development in the neighborhood. Directly adjacent to the site is the Francis Scott Key Middle School and Latrobe Park. In addition, R-8 zoning exists directly to the east and to the north.
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, but will comment separately.
6. **The relation of the proposed amendment to the City's plan.** Replacement of the existing I-1 zoning district with the R-8 zoning district is consistent with the City's Master Plan goal of providing increasing housing opportunities. It is not, however, not consistent with the Locust Point Master Plan from 2004, which outlined keeping this site and others industrially zoned. Through enactment of the new zoning code in June 2017, this site was an active industrial site until very recently, while other industrially zoned sites now have different zoning and 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;** There is no predominant use throughout this section of Fort Avenue. Traditionally, Locust Point has been a mixed use neighborhood and Fort Avenue and the surrounding uses reflect that mix. Directly to the west, is a CSX rail spur that directly feeds Domino Sugar. It is zoned I-2. Adjacent to the rail spur to the west is the higher density mixed –use development McHenry Row. Along Fort Avenue within a few blocks length to this site are also homes, a school, park, and office/retail uses.
- (ii) **the zoning classification of other property within the general area of the property in question;** This property is part of the I-1 zoning district. The only adjacent industrial zoning remaining is the CSX rail, which is zoned I-2. McHenry Row is zoned C-2 and there is a mix of Open-Space (OS), residential (R-8) and Rowhouse Mixed Use Overlay (RMU) in the immediate vicinity.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification;** and The existing zoning is I-1. The property in question is particularly suited as an industrial property because of size (just over 5 acres), direct access to CSX rail with its own spur to the rear of the site (which does not impact the residential uses), close highway access to I-95 within a few minutes' drive, depressed rail separation from Mc Henry Row to the west and minimal street frontage on Fort Avenue.
- (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 been no significant changes to the general area around 1301 East Fort Avenue since June of 2017, when the current I-1 zoning classification became effective.

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. There is no evidence at hand that there was a mistake in placing this property in the I-1 zoning district, as the property was zoned industrial prior to June 2017 and had the existing business not suffered a fire necessitating its closure, it may still be active. Also, while there has been no substantial change in the character of the neighborhood where this property is located in the less than three years since the property was placed in the I-1 it is evident in the development trend and neighborhood evolution of Locust Point in the last decade that there has been substantial change, that though still a mixed-use neighborhood, heavy industrial uses are no longer a large part of the mixture of uses, especially along Fort Avenue.

ADDITIONAL COMMENT

Notification: The Locust Point Community Association, Baltimore Industrial Group, American Sugar Refinery, MDOT Maryland Port Authority and Councilmember Eric Costello, have been notified of this action. Due to the closure of non-essential businesses by the Governor of

Maryland in response to the current CoViD-19 pandemic, the site was not posted per normal Planning Commission requirements. Staff requests that the Commission waive its applicable posting requirements in recognition of the present emergency situation.

A handwritten signature in blue ink, appearing to read "Chris Ryer", written over the printed name.

Chris Ryer
Director