


<b>FROM</b>	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #20-0539 / REZONING 555 DUNDALK AVE. and BLOCK 6694, LOT 14		

**TO**

DATE:

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

July 13, 2020

At its regular meeting of July 9, 2020, the Planning Commission considered City Council Bill #20-0539, for the purpose of changing the zoning for the property known as 555 Dundalk Avenue and Block 6694, Lot 14, from the I-1 Zoning District to the IMU-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment of the proposed zoning district from proposed IMU-2 zoning district to C-4 zoning district and approval of City Council Bill #20-0539 and adopted the following resolution eight members being present (eight in favor):

RESOLVED, That the Planning Commission, adopting the findings of fact as submitted in the staff report and emphasizing that the current I-1 zoning designation was made in error due to the former commercial zoning of the site, its historic use as a commercial property, and its relatively small size making it non-viable for industrial use, concurs with the recommendation of its departmental staff, and recommends that City Council Bill #20-0539 be amended and 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

**July 8, 2020**

**REQUEST:** City Council Bill #20-0539/ Rezoning – 555 Dundalk Avenue and Block 6694, Lot 14:

For the purpose of changing the zoning for the properties known as 555 Dundalk Avenue (Block 6694, Lot 141) and Block 6694, Lot 142, as outlined in blue on the accompanying plat, from the I-1 Zoning District to the IMU-2 Zoning District; and providing for a special effective date.

**RECOMMENDATION:** Amend and Approve, with alternate designation of C-4

**STAFF:** Matthew DeSantis, AICP

**PETITIONERS:** Councilmember Cohen, at the request of Strato Holdings, LLC

**OWNER:** 555 Dundalk, LLC.

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

Site Conditions: 555 Dundalk and the accompanying unaddressed parcel to the north comprise approximately 25,900 square feet or .572 acres, and are found at the NW corner of Dundalk Avenue and Gusryan Street. The last approved use for the site was as a used car dealership, but this use has been discontinued recently and the property is currently vacant.

General Area: The subject property is located within the Pulaski Industrial Area, which is an irregularly shaped area comprised of primarily industrial areas near the I-95 corridor at the eastern City/County line. The zoning of the adjacent parcel to the north and west is also I-1; the zoning to the east across Gusryan Street is I-2; the zoning to the south across Dundalk Avenue is C-4; several properties nearby to the east are zoned C-2. The nearest residential neighborhood is Bayview to the north of Eastern Avenue.

#### **HISTORY**

The subject property is the site of the former Circle Drive-In, a fast food restaurant that first opened in 1947 and was in operation for more than 50 years. The building was known locally as an example of Art Deco style architecture, and featured a service window which allowed customers to order from outside the building and take food back to their cars – an architectural aspect uncommon for its day.

#### **CONFORMITY TO PLANS**

The proposed action would not be inconsistent with any Goal or Objectives of LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore City.

In 2005, the Planning Commission adopted the SEND (Southeastern Neighborhoods Development) Plan, of which this subject property is within the bounds. The plan speaks generally about supporting commercial uses along the area's major corridors and the importance of enhancing the pedestrian experience/connections on these streets. It also speaks specifically to the importance of increasing the variety of neighborhood retail uses, including "to identify parcels for redevelopment or infill commercial development." The plan also encourages "businesses along the major thoroughfares to improve site and make more attractive spaces." The proposed rezoning (as staff will recommend it be amended) would support these identified goals and objectives.

## **ANALYSIS**

This property was initially developed in 1947 as the Circle Drive-in Restaurant. Customers would park their vehicles on site, order food from the take out window, and then eat in their cars. This use existed on the site until at least the late 1990s. In 2000, the property obtained a Use and Occupancy permit to operate as an ice cream parlor, and in 2003 obtained an approval to additionally operate as a carry-out restaurant. In 2008, the property obtained a permit to operate as a used car dealership with outdoor display, and operated as such until the discontinuation of this use recently.

Prior to the adoption of the Transform Baltimore comprehensive rezoning, the subject parcels, along with the majority of properties fronting on Eastern Avenue and Dundalk Avenue in the vicinity, were zoned B-2-3. During the rezoning process, these two properties along with the abutting parcel, known as 6223 Eastern Avenue, were rezoned to the new I-1 zoning district. This neighboring property is owned and operated by the federal government for use as a post office, and so is exempt from any local zoning ordinances. It is not immediately clear why the I-1 zoning category was elected, but it likely relates to the fact that the parcels immediately to the east of Gusryan Street are zoned I-2, and the selection of I-1 was meant to serve as a transition between this heavy industrial category and the commercial districts mapped just to the west of the subject site.

The fact that the subject site has had a documented history dating back to least 1947 of commercial use, coupled with the additional fact that before its current I-1 zoning it had a commercial B-2-3 zoning designation, suggest that the current I-1 zoning district was selected in error. While zoning designations are not required to always be descriptive but rather may proscriptive (especially in the case of a comprehensive rezoning), either as an attempt to reflect changing trends in an area or as way to encourage certain kinds of reuse, it is difficult to imagine how a proscriptive rezoning of these parcels to the I-1 district would be successful in attracting a new industrial use. Given the large number of commercial properties surrounding this site along Dundalk Avenue and Eastern Avenue, along with the relatively small size of the property, it does not seem likely that an industrial use would be a viable utilization of this land.

While the applicant is requesting a rezoning to the IMU-2 zoning district, staff concludes that this zoning designation is not appropriate for the site and for the potential reuse of the property. § 11-203(a)(1) *IMU Industrial Mixed Use Districts* states that the first intent of these districts are to "encourage the reuse of older industrial buildings for light industrial use, as well as a variety



of non-industrial uses.” The applicant, however, intends to demolish the existing small circular building in order to redevelop the site in whole. In a larger sense however, it is difficult to imagine how any owner could reasonably develop this site in a way that would reuse the existing building since it is such a small portion of the overall site – the vast majority of the property is an asphalt parking lot.

For this reason, staff recommends amendment of the bill to rezone the property from the I-1 zoning district not to IMU-2, but rather to the C-4 zoning district. This would 1) be consistent with the current zoning of properties directly across Dundalk Avenue, 2) better respond to the history of the site’s use and former zoning designation, and 3) be more appropriate for a viable reuse of the site. It is important to note also that the C-4 zoning district still would permit a number of light industrial uses for the site, which would continue to be appropriate given the proximity to industrial zoning/uses.

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.

**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 be in conflict to any of the goals contained in the Comprehensive Master Plan for Baltimore City. Additionally, it would support several identified goals and objectives in the SEND (Southeastern Neighborhoods Development) Plan as described above.
2. **The needs of Baltimore City:** A rezoning to the C-4 district would better correspond to the surrounding zoning and land uses, and provide for the reasonable reuse of the property.
3. **The needs of the particular neighborhood:** The zoning change would support aspects listed in the SEND Plan that were identified by area residents, including better supporting the commercial corridors in the area.

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 have not been significant population changes in immediate vicinity of the Pulaski Industrial Area in the interval between the adoption of the last comprehensive rezoning (2016) and the present time.
2. **The availability of public facilities;** This site is well-served by public services and utilities, which can also support redevelopment or reuse of this site.
3. **Present and future transportation patterns;** There would be no negative effect upon present or future transportation patterns in the area as a result of adoption of this bill. A commercial zoning designation would support eventual redevelopment of the subject parcel, which would likely require upgrades to the adjacent right-of-way which would enhance the pedestrian experience (i.e. potential cross upgrades and new street trees).
4. **Compatibility with existing and proposed development for the area;** The proposed zoning district as amended is compatible with the existing and proposed development for the area. The site is surrounded by commercial zoning and land uses, and this change would be compatible with these conditions.
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 will comment separately on this bill.
6. **The relation of the proposed amendment to the City's plan.** As noted previously, rezoning of this property to the C-4 zoning district as recommended by staff would be consistent with the City's plan.

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

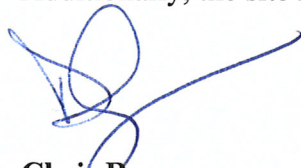
- (i) existing uses of property within the general area of the property in question;**  
Existing uses of property within the general area of this site are a mix of residential, light industrial, and commercial.
- (ii) the zoning classification of other property within the general area of the property in question;** C-4 zoning as recommended by staff would match the C-4 zoning found across Dundalk Avenue, and would serve as an appropriate buffer between the I-2 zoning immediately to the east and the C-2 zoning found to the west.
- (iii) the suitability of the property in question for the uses permitted under its existing zoning classification; and,** The current I-1 zoning designation limits the property to being primarily used for industrial uses. Given the small land area of the site and its lack of history being used for industrial purposes, it is difficult to see how the current zoning is appropriate.
- (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 significant changes to the immediate area of the subject property since it was placed in its current zoning classification.

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. For the reasons described above, Planning staff consider that there was a mistake in selecting the current I-1 zoning classification for the subject properties.

### **Recommendation**

Staff recommends that the bill be amended to rezone the property from the I-1 zoning district to the C-4 zoning district and be recommended for approval by the Planning Commission to the City Commission.

Notification: The Bayview Community Association, the City on a Hill Improvement Association, and the Graceland Park Improvement Association have been notified of this action. Additionally, the site has been posted in compliance with Planning Commission guidelines.



**Chris Ryer**  
**Director**