



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 #20-0614 / REZONING 4015 FOSTER AVENUE; 4000 HUDSON STREET; 801 S. HAVEN STREET		

DATE:

TO

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

October 9, 2020

At its regular meeting of October 8, 2020, the Planning Commission considered City Council Bill #20-0614, for the purpose of changing the zoning for the properties known as 4015 Foster Avenue and 4000 Hudson Street, from the I-1 Zoning District to the IMU-2 Zoning District, and also for 801 S. Haven Street from the I-2 Zoning District to the IMU-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #20-0614 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, adopts the findings outlined in the staff report, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #20-0614 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
Ms. Livhu Ndou, 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
Mr. Jason Watts



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

October 8, 2020

REQUEST: City Council Bill #20-0614/ Rezoning – 4015 Foster Avenue; 4000 Hudson Street; 801 S. Haven Street:

For the purpose of changing the zoning for the properties known as 4015 Foster Avenue (Block 6447 Lot 021) and 4000 Hudson Street (Block 6457, Lot 018), as outlined in red on the accompanying plat, from the I-1 Zoning District to the IMU-2 Zoning District; and changing the zoning for the property known as 801 South Haven Street (Block 6458, Lot 003), from the I-2 Zoning District to the IMU-2 Zoning District

RECOMMENDATION: Adopt Findings and Approve

STAFF: Matthew DeSantis, AICP

PETITIONERS: Councilmember Zeke Cohen, at the request of GLW Partners

OWNERS: Multiple

SITE/GENERAL AREA

Site Conditions: There are three subject properties included in this bill. 4015 Foster Avenue comprises 0.635 acres and is almost entirely covered by a one-story industrial warehouse building. 4000 Hudson Street is directly to the south, almost exactly the same dimensions, and partially improved with a one-story industrial warehouse building. 801 South Haven is on the east side of South Haven Street, is approximately 0.74 acres, and is unimproved while used for outdoor storage.

General Area: This site is located in the Brewer's Hill neighborhood, which is comprised of a mixture of medium-density attached residential dwellings, neighborhood-scale commercial establishments along the Eastern Avenue corridor, a combination of renovated and new construction mixed-use buildings clustered just north of Boston Street, and light industrial uses. South Haven Street is a very active truck route that connects many east Baltimore industrial areas to the Port of Baltimore.

BACKGROUND

The subject properties are currently zoned a mix of I-1 (Light Industrial) and I-2 (Heavy Industrial) and has had this zoning designation since the effective date of Transform Baltimore in 2017. Prior to this, 4015 Foster and 4000 Hudson were zoned M-2-2, and 801 South Haven was zoned M-3 – zoning designations roughly analogous to their current state.

The owners of 4015 Foster Avenue originally approached the Brewer's Hill Neighbors association, Councilman Cohen, and the Department of Planning for support in rezoning just their property from I-1 to IMU-2. The reason for the rezoning was to allow for the expansion of their office use within the building, which is prohibited by the current I-1 zoning designation. The building is currently used by the owner as the office and storage facility of their business, UrbanBuilt contracting. The building has three other tenants: a real estate office, a personal fitness facility, and Mobtown Brewing. Since the property is zoned I-1, in order for these non-industrial uses to be permitted, they must be accessory to an industrial use. The Zoning Administrator has found that since UrbanBuilt uses the majority of their space at 4015 Foster Avenue for storage of their building supplies, this enables the other uses at the property to lawfully exist. Due to the success of UrbanBuilt contracting and their need to expand their office space to 100% of their portion of the building, the extermination of the industrial warehousing use would result in none of the other extant office/retail/commercial uses from being permitted to operate in this I-1 zoned property. Additionally, Mobtown Brewing has recently sought approval to permit outdoor dining. This use, however, is not permitted in the I-1 zoning district, and so this request is not able to be approved. Outdoor dining is permitted via Conditional Use by the BMZA in the IMU-2 district, however, and therefore such an application could be considered if this rezoning was successful.

The South Haven street corridor has seen tremendous changes over the past decade. This corridor is a vital trucking route that provides the only direct connection between many industrial properties in East and Southeast Baltimore to the Port of Baltimore. And yet, residential development pressure from the waterfront moving northward has resulted in increased residential uses within close proximity and even directly fronting on this trucking route. Most significantly, several large parcels fronting South Haven Street were rezoned during the Transform Baltimore comprehensive rezoning by the previous First District Councilperson to permit residential development. Two of these parcels that flank the subject properties in this proposed rezoning are either under development (half of the 36 new townhomes on the property formerly known as 4001 Hudson Street have already been completed) or approved for development (601 South Haven will have over 70 new townhomes, 22 of which will have front doors directly on South Haven Street).

Given the recent history of zoning changes and recently established land uses along the South Haven Street corridor that are incompatible with its nature as a major truck route, the Department of Planning suggested that the scope of a rezoning bill be expanded beyond only 4015 Foster Avenue. Instead of another site-specific rezoning bill, an attempt has been made to make a more comprehensive analysis of the area that would better guide future land use patterns into the future. The Department of Planning and Councilman Cohen's office therefore worked together to engage with surrounding property owners and community stakeholders to arrive at the introduction of this comprehensive rezoning bill.

The main intention behind a rezoning of these several properties to IMU-2 is that this new zoning designation acknowledges the changes that have been happening along the corridor and allows for additional of office, commercial, and retail uses while at the same time continuing to prohibit any additional residential development directly on South Haven Street. This prohibition of additional residential development along South Haven Street is of importance to not just the

Department of Planning, but also to the Brewer’s Hill Neighbors community association, as they have expressed an openness to additional office or retail uses along the corridor but do not want any additional residential development.

While this bill includes three properties, both the Department of Planning and Councilman Cohen’s office contacted a fourth property, 4015 Fleet Street, to discuss the suitability of this property also being included in a comprehensive rezoning. The property is currently zoned I-1 and is improved with a one-story automotive repair facility, owned and operated by Best Battery. A rezoning of this property to IMU-2 would continue to permit the current use of the property by right and would allow for additional retail/office/commercial uses should the current or future owner wish to establish them. The current ownership, however, wished to not be subject to this comprehensive rezoning and as a result, this rezoning bill has been drafted to not include this parcel.

CONFORMITY TO PLANS

The proposed action would be consistent with the following aspects of LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore City:

- Earn Goal 1: Strengthen Identified Growth Sectors,
 - Objective 1: Retain and Attract Businesses in all Growth Sectors
 - Objective 5: Retain and Attract Businesses in Construction

Additionally, the proposed action would be consistent with the following aspects of the Baltimore City Sustainability Plan:

- Neighborhoods Strategy #2: Support programs and policies to increase investments in neighborhoods

ANALYSIS

4015 Foster and 4000 Hudson were rezoned from M-2-2 to I-1, and 801 South Haven was rezoned from M-3 to I-2 during the Transform Baltimore comprehensive rezoning process in 2017. Transform Baltimore also established a new zoning district, known as IMU (Industrial Mixed Use). The purpose of this new zoning category was to encourage the reuse of older industrial buildings for light industrial uses, as well as a variety of non-industrial uses. CCB #18-0277 (enacted via Ordinance 19-244 on April 29, 2019) was a comprehensive zoning bill introduced in effort to further modify the IMU zoning district by splitting it into an IMU-1 and IMU-2 districts, the latter with the express intention of not permitting residential uses.

Impact of Rezoning on Established Uses:

- 4015 Foster Avenue: All of the established uses would be permitted by-right under an IMU-2 designation. Additionally, UrbanBuilt would be able to replace their warehousing use on the property with expanded office use, and this would not force all of the other commercial uses on the parcel to relocate.

- 4000 Hudson Street: This parcel has a legally-established “Contractor Storage Yard” use. This use is permitted Conditionally by the BMZA in IMU-2. Therefore, upon the rezoning of the parcel this use would automatically be an approved use and not a legal nonconformity.
- 801 South Haven Street: This parcel is currently approved as a parking lot. This use is permitted Conditionally by the BMZA in IMU-2. Therefore, upon the rezoning of the parcel this use would automatically be an approved use and not a legal nonconformity.

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 where staff finds that this change is in the public’s interest, in that it will provide for the continued use and future reuse of the properties in a way compatible with the surrounding neighborhood context.

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 support goals contained in the Comprehensive Master Plan for Baltimore City, *Earn Goal 1: Strengthen Identified Growth Sectors, Objective 1: Retain and Attract Businesses in all Growth Sectors and Objective 5: Retain and Attract Businesses in Construction*. It would also support Neighborhoods Strategy #2 from the Baltimore Sustainability Plan: *Support programs and policies to increase investments in neighborhoods*.
2. **The needs of Baltimore City:** In addition to the permitted light industrial uses, the IMU-2 zoning district will enable a wider variety of commercial and retail uses. This wider allowance of uses will help to generate employment and investment, while at the same time, the continued prohibition on residential development will serve to buffer nearby existing industrial areas from residential encroachment. The IMU-2 zoning designation will allow the thriving businesses currently operating at 4015 Foster to grow and expand without leaving Baltimore City.
3. **The needs of the particular neighborhood:** The zoning change will support the growing population within the Brewer’s Hill community by allowing for additional retail and commercial uses on the properties. The continued prohibition of residential uses will also support the community by continuing to ensure a residential buffer away from Haven Street, which has been and will continue to be an important commercial trucking route.

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 been significant population changes in the immediate vicinity of this comprehensive rezoning between the passage of the last comprehensive rezoning in 2016 and the present time due to the construction of new townhomes at 4001 Hudson Street. Additionally, more than 70 new townhomes are pending construction adjacent to the subject area, as well several hundred more that are under construction a few blocks to the south within the Brewer’s Hill PUD and the new Collective at Canton mixed-use development.
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 effect upon present or future transportation patterns in the area as a result of adoption of this bill. The continued prohibition of additional residential uses along the South Haven Street corridor is important.
4. **Compatibility with existing and proposed development for the area;** The proposed zoning district is compatible with the existing and proposed development for the area, as there has been and will continue to be additional residential and commercial development within the area for at least the next several years.

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 these properties to the IMU-2 zoning district 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;** IMU-2 zoning would serve as an appropriate buffer between the R-8 and C-2 zoning to the immediate west and south, both of which feature residential dwellings, and the S. Haven Street corridor.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and,** All of the subject parcels are currently in use and functional under their current zoning designation. The expanded uses permitted by the proposed zoning designation, however, would enable some of the current businesses in the subject area to continue to grow without being forced to relocate, and will better reflect the changing market demands along the Haven Street corridor.
- (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 recent and proposed developments in close proximity to this site, including the two large townhome developments cited earlier in this report. These development trends represent a significant change in the neighborhood, and have happened since the time of the last comprehensive rezoning.

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. Planning staff consider the developments that have taken place nearby as constituting a significant change in the character of the neighborhood.

Notification: Brewer's Hill Neighbors, Maryland Port Authority, and Baltimore Industrial Group have been notified of this action. Additionally, the area has been posted in compliance with Planning Commission requirements.

A handwritten signature in blue ink, appearing to read 'Chris Ryer', with a long horizontal stroke extending to the right.

Chris Ryer
Director