



<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 #21-0056 / URBAN RENEWAL – CANTON INDUSTRIAL AREA – AMENDMENT ____		

**TO**

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

DATE: April 23, 2021

At its regular meeting of April 22, 2021, the Planning Commission considered City Council Bill #21-0056, the purpose of amending the Urban Renewal Plan for the Canton Industrial Area to revise the boundary of the Plan to remove a certain property; replacing certain exhibits to reflect the change; waiving certain content and procedural requirements; making the provisions of this Ordinance severable; providing for the application of this Ordinance in conjunction with certain other ordinances; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended disapproval of City Council Bill #21-0056 and adopted the following resolutions; nine members being present (nine in favor):

RESOLVED, That the Planning Commission does not concur with the recommendation of its departmental staff, and recommends that City Council Bill #21-0056 instead 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: Ms. Natasha Mehu, Mayor's Office  
Ms. Nina Themelis, Mayor's Office  
The Honorable Eric Costello, Council Rep. to Planning Commission  
Mr. Matthew Stegman, City Council President's Office  
Ms. Nikki Thompson, City Council President's Office  
Mr. Colin Tarbert, BDC  
Ms. Kathleen Byrne, 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, Esq.



Brandon M. Scott  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chairman

### STAFF REPORT



Chris Ryer  
Director

April 22, 2021

**REQUESTS:** City Council Bill #21-0051/ Rezoning – 4900 Boston Street:

For the purpose of changing the zoning for the property known as 4900 Boston Street (Block 6820, Lot 55), as outlined in red on the accompanying plat, from the I-2 Zoning District to the IMU-2 Zoning District; and providing for a special effective date.

City Council Bill #21-0056/ Urban Renewal – Canton Industrial Area – Amendment:

For the purpose of amending the Urban Renewal Plan for the Canton Industrial Area to revise the boundary of the Plan to remove a certain property; replacing certain exhibits to reflect the change; waiving certain content and procedural requirements; making the provisions of this Ordinance severable; providing for the application of this Ordinance in conjunction with certain other ordinances; and providing for a special effective date.

**RECOMMENDATION:** Adopt findings and Disapprove both bills

**STAFF:** Matthew DeSantis, AICP

**PETITIONER:** Introduced by Councilman Cohen at the request of Canton Dev, LLC c/o Caroline Hecker, Esq. – Rosenberg, Martin, Greenberg, LLP

**OWNER:** Canton Dev, LLC

### **SITE/GENERAL AREA**

Site Conditions: The property is approximately 0.6 acres in area and is located at the northeast corner of the intersection of Boston Street and Ponca Street. It is currently improved with a small one-story building covering approximately 5% of the site, with the rest dedicated to surface parking as the property is used as a car rental facility.

General Area: The property is located within the Canton Industrial Area. It abuts I-895 to the east and fronts Baltimore City designated through truck routes on two sides (Boston and Ponca Street). In close proximity are two gas filling stations, heavy industrial uses, and auto-oriented commercial.

### **HISTORY**

1929 Sanborn Fire Insurance maps show the northeast corner of Boston and Ponca being improved with 5 two-story rowhomes. Aerial images show that these homes, along with an industrial building on the northwest corner of the property itself, were demolished at some point in the 1970s as a part of the widening of Boston Street as it fed into the newly-constructed I-95.

The site was then apparently used as unimproved surface storage until it was paved in 2009, and then improved with the building between 2012 and 2014.

**(Canton Industrial URP History):**

- Ordinance #90-637, approved June 20, 1990, established the Canton Industrial Urban Renewal Plan.
- Ordinance #00-129, approved the first amendment to the Canton Industrial Urban Renewal Plan, dated October 25, 2000.
- Ordinance #01-234, approved the second amendment to the Canton Industrial Urban Renewal Plan, dated August 13, 2001.
- Ordinance #07-390, approved the third amendment to the Canton Industrial Urban Renewal Plan, dated February 15, 2007.
- Ordinance #11-548, approved the fourth amendment to the Canton Industrial Urban Renewal Plan, dated November 22, 2011.
- On May 9, 2019, the Planning Commission considered CCB#19-0373 – the fifth amendment to the Canton Industrial Urban Renewal Plan (Ordinance #19-282).

**CONFORMITY TO PLANS**

The proposed rezoning from I-2 to IMU-2 would not be consistent with the following Goal/Objective of the City’s Comprehensive Master Plan:

- EARN Goal 1: Strengthen Identified Growth Sectors / Objective 8: Retain and Attract Port-Related Services

The rezoning is also not consistent with the Canton Industrial Urban Renewal Plan (hence the need for the proposed companion bill seeking to amend the URP).

**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 applicant is requesting the rezoning of 4900 Boston Street in order to facilitate the future development of a fast-food restaurant with a drive-through as the current I-2 use does not permit drive-through facilities. The IMU-2 zoning district permits drive-through facilities subject to Conditional Use approval from the Board of Municipal and Zoning Appeals (BMZA). In addition to this rezoning and BMZA approval for a drive-through, a fast-food restaurant would also need to obtain a variance from the BMZA to eliminate the requirement of having a minimum of 50% of the ground-floor space dedicated to an industrial use.

In addition to the property being zoned I-2, all of the surrounding properties share this same zoning designation. Prior to the passage of Transform Baltimore’s comprehensive zoning update, the site (and surrounding properties) were zoned M-3 – a substantially similar heavy industrial zoning category.

Staff concludes that the proposed IMU-2 zoning designation is not appropriate for the site. § 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 building in order to redevelop the site in whole.

The companion URP amendment bill to the rezoning bill seeks to remove this property from the Canton Industrial Area Urban Renewal Plan. The property is currently designated as “Heavy Industrial” by the URP, which requires that uses be limited to heavy industrial and that certain uses, including restaurants, are explicitly prohibited. In general, staff does not feel that the Canton Industrial URP, first established in 1990, is strictly necessary any longer due to the creation of the MI (Maritime Industrial) zoning district as a part of the Transform Baltimore comprehensive rezoning process. At the same time, it’s reasonable to question the overall utility and integrity of the URP if redevelopment proposals that are not permitted by the ordinance simply seek to continually amend the URP to remove themselves from it. This happened most recently in 2019 with the removal of the 1200 South Haven Street parcel from the URP in order to facilitate the Collective at Canton redevelopment (and additional rezonings and URP amendments to facilitate additional development in the area are on the horizon). While staff does not propose that the existence of the subject site being within the Canton Industrial URP is an integral factor in why the rezoning should be denied, it also is clear that this is yet another reason why the proposed rezoning is not consistent with the City’s Plan.

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, in that it would constitute a “spot zoning” as there has been no apparent mistake in the current zoning district applied and no substantial change in the neighborhood that would support this site-specific rezoning.

## **REQUIRED FINDINGS**

### **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 § 10-305 (2019)). In reviewing this request, the staff finds that:

- 1. The Plan:** The proposed rezoning would not support the following aspect of the Comprehensive Plan: EARN Goal 1: Strengthen Identified Growth Sectors / Objective 8: Retain and Attract Port-Related Services as a rezoning to IMU-2 to facilitate a drive-through restaurant would remove a heavy-industrially zoned parcel from near the Port. It could also be used as a stepping stone for future rezonings that would lead to additional deterioration of property zoned I-2. It is also not consistent with the Canton Industrial URP to which it pertains.
- 2. The needs of Baltimore City:** The City should seek to preserve its heavy-industrially zoned areas, especially those in proximity of the Port and highway access. The City's industrial areas provide an important economic base and source of accessible employment. Once properties are removed from industrial use, they typically do not tend to return to industrial use.
- 3. The needs of the particular neighborhood:** The property is located in an industrial area that has no particular need for a fast-food restaurant with a drive-through facility. In fact, additional development that is entirely focused and dependent on automobile use is contrary to environmental and urban design goals that the City has established.

Similarly, the Land Use article requires the City Council to make findings of fact (MD Land Use Code § 10-304 (2019)). The findings of fact include:

- 1. Population changes;** There have been no significant population changes in the immediate area as it is industrial in nature.
- 2. The availability of public facilities;** Adequate public facilities exist at the site and should continue to exist into the future.
- 3. Present and future transportation patterns;** The site is surrounded by designated truck routes and highway access that support the existing I-2 zoning designation.
- 4. Compatibility with existing and proposed development for the area;** The IMU-2 zoning district is meant primarily for the adaptive reuse of old industrial buildings for light industrial uses, not as a backdoor way to maintain an “industrial” zoning designation but permit fast-food restaurants with drive-through facilities. Such a zoning is therefore not compatible.

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 disapproval 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 proposed rezoning is not consistent with the City's Comprehensive 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;** The surrounding properties are used as such: to the north is heavy industrial; the west is a gasoline filling station; the southwest is heavy industrial; the south is another gasoline filling station; and to the east is I-895.
- (ii) **the zoning classification of other property within the general area of the property in question;** All of the surrounding properties are also zoned I-2 like the subject property.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** The site is located in the middle of an industrial area, surrounded by designated truck routes and direct access to the Port and interstate highways. While the subject property itself is relatively small, it is contiguous with other I-2 zoned properties that extend north along the east side of Ponca Street, so it is conceivable that it could be combined with these parcels in the future for the expansion or establishment of heavy industrial 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 gasoline filling station directly across Boston Street was established in 2020.

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 does not find either a substantial change in the character of the neighborhood, nor mistake in the current zoning classification. As described above, this appears to be a “spot zoning” for this particular property in order to facilitate a particular development that is not permitted by the current I-2 zoning regulations.

Equity Considerations: There do not appear to be any clear equity considerations for these particular bills as there are no historically marginalized groups that would be directly impacted negatively by this legislation. The Commission might, however, evaluate as a part of their considerations how the auto dependent nature of the proposed development behind the rezoning and URP amendment has environmental equity impacts, in that fossil fuel infrastructure does have negative local impacts via air pollution and global impacts via Climate Change.

Notification: The Greater Greektown Neighborhood Association and Canton Community Association have been notified of this action, and the site has been properly posted in accordance with Planning Commission guidelines. Additionally, the Baltimore Industrial Group has been made aware of this action and proposed development.



**Chris Ryer**  
**Director**