



**PATRICK J. SULLIVAN**  
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*City of New Bedford*  
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July 18, 2018

Councilor Hugh Dunn, Chairman  
Committee on Ordinances  
133 William Street  
New Bedford, MA 02740

RE: PROPOSED REZONING REQUEST  
CASE #18-33 DARTMOUTH STREET BLOCK

438 Dartmouth Street (Map: 18, Lot: 1)  
105 Rockdale Avenue (Map: 18, Lot: 69)  
110 Jenkins Street (Map: 18, Lot: 74)  
WS Hemlock Street (Map: 18, Lot: 84)  
WS Hemlock Street (Map: 18 Lot: 102)  
470 Dartmouth Street (Map: 18 Lot: 103)  
137-141 Rockdale Avenue (Map: 18 Lot: 105)

446 Dartmouth Street (Map: 18 Lot: 107)  
119 Rockdale Avenue (Map: 18, Lot: 108)  
117 Rockdale Avenue (Map: 18, Lot: 109)  
109 Rockdale Avenue (Map: 18, Lot: 112)  
123 Rockdale Avenue (Map: 18, Lot: 113)  
404 Dartmouth Street (Map: 18, Lot: 115)

Dear Chairman Dunn:

This is to advise you that the Planning Board met on Wednesday, July 11, 2018 to discuss the proposed request for the rezoning of the above-captioned lots from the Industrial B (IB) zone to a Mixed Use Business (MUB) zone. The Planning Board sends a favorable recommendation for this proposal.

Councilor Lopes represented the proposed zoning request before the Planning Board and emphasized that none of the properties in the subject area are currently operating in a manner consistent with the industrial zoning. Councilor Lopes indicated that the City Master Plan 2020 called for the rezoning of the subject area, and stated that all existing properties in the area would be in conformance in the proposed Mixed Use Business zoned district.

As it does with all rezoning requests, the Planning Board's review included consideration of the following specific criteria so as to ensure its action is consistent with existing case law: uniformity, consistency, surroundings, fiscal impact and discriminating benefit.

It was noted in the course of the public hearing that removing the subject area from an industrial zoning designation could be seen as an effort to remove these parcels from being considered as a viable location that would qualify under a pending ordinance related to marijuana that prohibits such use within an MUB zone. However, it was clarified that in light of the Master Plan's identification of the subject area as being appropriate to rezone as MUB, the change from IB to MUB was part of the city's expressed vision for this gateway into the city.

In addition to its consideration of the Master Plan, the Board's finding that integrating mixed-use in the subject area would promote sustainable development in the area supported their ultimate recommendation for endorsement.

Although no one was present from the public speaking in favor of the rezoning, a letter of support from Attorney Christopher Saunders on behalf of Saunders and Saunders, LLC., was read into the record by the Chair. Mr. Jeff Pepi of 170 Elm Street New Bedford, MA spoke in opposition to the rezoning, asking the board to consider the "potential areas... that are actually available for dispensaries or marijuana establishments."

After closing the public hearing and deliberating the requested rezoning, a motion was made to recommend that the City Council approve the rezoning of the Dartmouth Street lots, changing the zoning of the entire block as noted from an IB zone to an MUB zone, as the request was deemed consistent with the city's master plan, would generate an economic benefit to the city, and would create no known detriment. Said motion passed unanimously on a vote of 5-0.

Sincerely,



Kirsten Bryan  
Acting City Planner

encl. Staff Report

cc. John Mitchell, Mayor  
Danny Romanowicz, Building Commissioner

Mickaela McDermott, City Solicitor  
Dennis Farias, City Clerk



## City of New Bedford

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**PATRICK J. SULLIVAN**  
DIRECTOR

## STAFF REPORT

**REPORT DATE**  
June 29, 2018

**PLANNING BOARD MEETING**  
July 11, 2018

**Case # 18-33: REZONING**

Dartmouth Street,  
Jenkins Street,  
Hemlock Street,  
Rockdale Ave Block

**Petitioner:**

City Councilor  
Joseph P. Lopes  
(Ward 6)  
133 William Street,  
Room 215  
New Bedford, MA



**Overview of Request:**

The Planning Board reviews rezoning petitions as standard practice and provides a recommendation based on their findings to the City Council Committee on Ordinances.

This case requests the rezoning of an area comprised of thirteen (13) parcels of land largely constituting one city block from its existing designation as an Industrial B (IB) zoning district to a Mixed-Use Business (MUB) zoning district. The request has been put forth by New Bedford City Councilor Joseph P. Lopes.

**Background:**

In March 2016, Councilor Lopes requested the rezoning of one lot within the existing block perimeter (458 Dartmouth Street, Map 18, Lot 106) from Industrial B (IB) to Mixed Use Business (MUB). The Planning Board reviewed the case and, having weighed its merits, recommended that City Council approve the rezoning of 458 Dartmouth Street, "as the request was deemed consistent with the city's master plan, would generate an economic benefit to the city and would create no known detriment." It was noted at the time of this 2016 review that the Planning Board would, in fact, like to see the entirety of the block changed from industrial to mixed use business zoning to reflect the Master Plan.

Subsequent to that favorable recommendation, the rezoning request was eventually approved by the New Bedford City Council in April 2016 and signed into law by the Mayor the following month on May 19, 2016. As a result, the parcel at 458 Dartmouth Street is the sole parcel on the city block that is already zoned MUB, while the remaining parcels are all zoned IB.



Councilor Lopes is now returning with a request for rezoning the entirety of the noted city block in order to provide greater compatibility between existing uses and allowed uses under the city’s zoning ordinance and to ensure greater consistency with the city’s Master Plan 2020.

**Existing Conditions:** The subject area contains roughly 12.5± acres and is comprised of thirteen parcels, bounded by Dartmouth Street to the west, Jenkins Street to the north, Hemlock Street to the east, and Rockdale Avenue to the south.

Of the fourteen (14) parcels which comprise the entire city block, thirteen (13) are zoned Industrial B (IB) while the remaining parcel, 458 Dartmouth Street (Map 18 Lot 106), was rezoned from IB to MUB in 2016 as noted in the previous section. The parcels proposed for rezoning are provided in Table 1.

With the exception of one multi-family dwelling, the remaining uses currently present within the subject area largely reflect those uses one would expect within a mixed use zone. Those existing uses include:

- Restaurant
- Retail plaza
- Auto repair
- Auto parts store
- Medical offices
- Auto sales and service
- Commercial warehouse
- Supermarket
- Gas station
- Fraternal organization

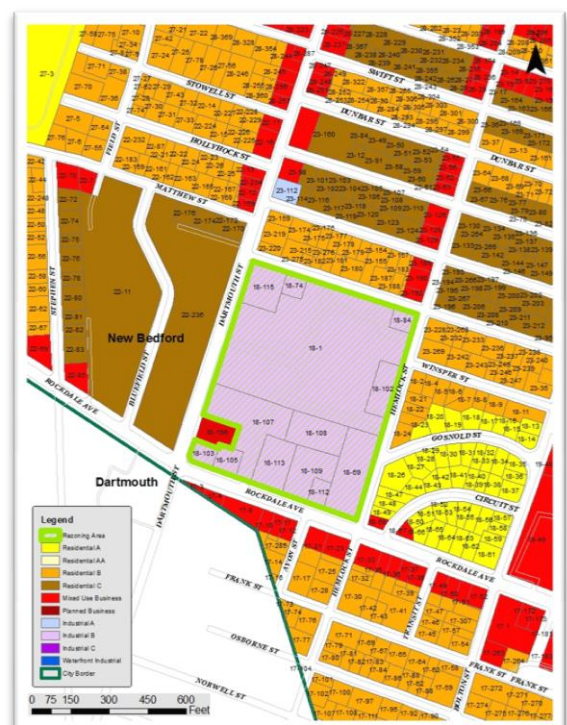
These uses often share unmarked/indiscernible property boundaries between themselves. Circulation of both vehicle and pedestrians are sometimes challenging throughout the multiple lots given both traffic volumes and the challenge of multiple curb cuts with which to access these parcels off of the four perimeter roadways.

The entirety of this city block is a prominent commercial hub that directly abuts other commercial entities to the south and a surrounding neighborhood which is densely populated on three sides—west, north and south. Directly west across Dartmouth Street is Blue Meadows, a 150-unit New Bedford Housing Authority Property and a mixture of residential properties (single-, two-, and multi-family dwellings) are located north across Jenkins Street and east across Hemlock Street. The heavily traveled Rockdale Avenue corridor, itself, includes a mixture of business and residential properties. Abutting and nearby commercial properties include a convenience store with gas station, an auto-center, fast food restaurants, restaurants, and professional offices. The Southeastern Regional Transit Authority (SRTA) provides bus service to the area.

As articulated in the Master Plan 2020, the Dartmouth Street corridor that serves as the subject site’s westernmost

ADDRESS	MAP/LOT
438 Dartmouth Street	Map 18, Lot 1
105 Rockdale Avenue	Map 18, Lot 69
110 Jenkins Street	Map 18, Lot 74
WS Hemlock Street	Map 18, Lot 84
WS Hemlock Street	Map 18, Lot 102
470 Dartmouth Street	Map 18, Lot 103
137 - 141 Rockdale Avenue	Map 18, Lot 105
446 Dartmouth Street	Map 18, Lot 107
119 Rockdale Avenue	Map 18, Lot 108
117 Rockdale Avenue	Map 18, Lot 109
109 Rockdale Avenue	Map 18, Lot 112
123 Rockdale Avenue	Map 18, Lot 113
404 Dartmouth Street	Map 18, Lot 115

Table 1. Individual Parcel Listing

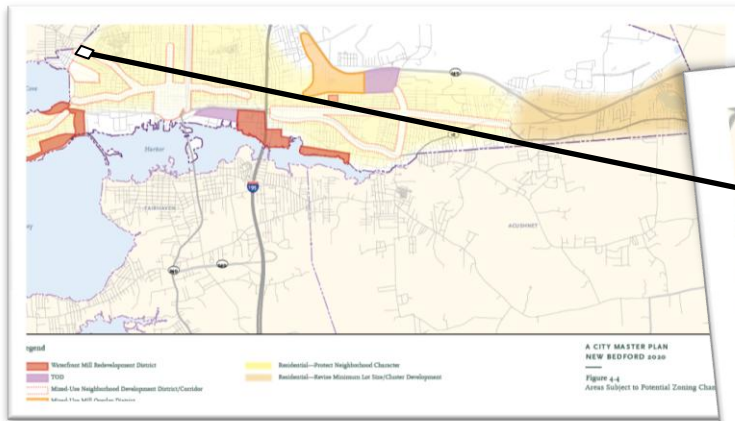


boundary serves as an important gateway into the city from the Town of Dartmouth to the south. Uses permitted by-right in each of those zones are, according to the city's zoning ordinance, (Appendix A-Table of Principal Use Regulations), as follows:

<b>EXISTING:</b>	
<b>INDUSTRIAL BUSINESS DISTRICT</b>	
Group residence	BA
Assisted/Independent living facility	BA
Nursing or convalescent home	BA
Nonexempt agricultural use	BA
Nonexempt educational use	BA
Animal clinic /hospital/ancillary animal boarding	BA
Adult entertainment establishment	CC
Motel, hotel or inn	Y
Retail stores and services not elsewhere set forth	Y
Motor vehicle sales/rental	CC
Motor vehicle general repairs	CC
Motor vehicle body repairs	CC
Motor vehicle light service	CC
Wireless Communications Facilities	
Convention centers	
Manufacturing	Y
Light manufacturing	Y
Research, devt or testing laboratories/facilities	Y
Biotechnology Facilities	Y
Medical Devices Manufacturing	Y
Wholesale/ warehouse/self-storage/distrib facil.	Y
Transportation terminal	Y
Business engaged in sale/distribution/storage of grain, petroleum products, building materials/industrial machinery	CC
Contractor's yard	Y
Batch and asphalt concrete plants	CC

<b>PROPOSED<sup>1</sup>:</b>	
<b>MIXED USE BUSINESS DISTRICT</b>	
Single family dwelling	Y
Two family dwelling	Y
Multi family dwelling	Y
Boarding house	BA
Group residence	BA
Assisted/Independent living facility	BA
Nursing or convalescent home	BA
Animals or head of poultry.	Y
Cemeteries	Y
Hospital	Y
Nonexempt agricultural use	BA
Nonexempt educational use	Y
Animal clinic / hospital/ancillary animal boarding	SP
Adult day care	BA
Family day care	BA
Large family day care	BA
Club/lodge, nonprofit	CC
Funeral home	BA
Adult entertainment establishment	CC
Bed & Breakfast	BA
Motel/hotel/inn	Y
Retail stores/services not set forth elsewhere	Y
Motor vehicle sales/rental	CC
Motor vehicle general repairs	CC
Motor vehicle light service	CC
Restaurant	Y
Restaurant, fast food	BA
Business or professional office	Y
Medical offices, center or clinic	BA
Bank, financial agency	Y
Indoor commercial recreation	Y
Outdoor commercial recreation	BA
Wireless Communications Facilities	PB
Theaters and auditoriums	PB
Convention centers	PB
Research, devt or testing laboratories/facilities	Y

<sup>1</sup> Highlighted uses would be newly permitted if the proposed rezoning were to be adopted.



### Master Plan.2020

The Master Plan, produced in 2010, called for the immediate update and re-codification of the city's zoning code to reflect the city's vision as articulated in that plan. As a part of that plan, the Master Plan.2020 includes a figure<sup>2</sup> depicting areas subject to potential zoning changes (shown above). It is interesting to note that the area specific to this requested zoning change is identified in that map as being, "Mixed-Use Neighborhood Development District/Corridor," effectively serving as the gateway to this Dartmouth Street corridor.

Unfortunately, no such wholesale updates to the city's zoning map nor zoning code have been made since the release of the master plan. Had they been done, today's zoning map may have shown the subject area entirely located in a mixed use business zone, as is the intent with this pending application.

The Planning Board may wish to recall that its own recommendation related to the 2016 rezoning request of 458 Dartmouth Street (Map 18 Lot 106) from IB to MUB was favorable and seen as a precursor to such broader zoning changes for the entire city block in order to bring greater flexibility of use and enhanced consistency with the master plan.

In light of this vision, the extent to which commercial uses largely occupy the subject area where once stood industrial uses, the stated intent of the city's master plan and the Planning Board's own review of a portion of the city block in 2016, the proposal to rezone the area is consistent with the master plan's goal of establishing a sound foundation for further growth that expands workforce opportunities, improves the pedestrian walkability of the neighborhood, and communicates a positive message for small business development.

### Input from Other City Departments:

The rezoning request was distributed to City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department. Although no comments have been received as of the production date of these Planning Staff Comments, any such comments subsequently received will be provided at the Planning Board's public hearing.

<sup>2</sup> A City Master Plan: New Bedford 2020 Figure 4.4 Page 50

### For Board Member Consideration<sup>3</sup>:

#### MERITS

This particular request seeks to rezone the subject area from Industrial B (IB) to Mixed Use Business (MUB). Despite its industrial zoning, the entire city block and corridor of Rockdale Avenue is predominantly retail and commercial uses. By contrasting the existing zoning designation with what is actually happening in the zone, it is readily apparent that a significant shift has occurred over the years that have effectively *transformed* the once industrialized area to now one which is a neighborhood retail hub.

Unfortunately in the course of this shift, the City of New Bedford has not yet moved to rezone the entire block—until now. As a result, nonconformities abound and existing retail and other MUB-consistent uses are left to constantly struggle against the backdrop of use, dimensional and/or parking requirements that are incongruent with the very nature of their businesses.

Any business (or the residential property) looking to sell within this city block will be faced with having to try and convince a potential buyer that the underlying industrial zoning will not impair or negatively affect their future use. However, because of the existing zoning, the subject building/site are non-conforming in use and cannot, according to the Zoning Enforcement Officer, be “expanded, extended, or remodeled to an extent which triggers a violation of Chapter 9 Comprehensive Zoning Section 2200 Use Regulations.” Changing the zone would broaden the possibilities for this block and the individual sites that constitute the subject area, bringing them in line with the kind of neighborhood business uses reflective of what exists and what is envisioned by the master plan.

#### CONCERNS

If the rezoning was to be adopted, seven land uses that are currently allowed in IB zoning districts [manufacturing; light manufacturing; biotech facilities; medical device manufacturing; whole sale, warehouse, self-storage; transportation terminal; and motor vehicle body repairs] would be prohibited under a new MUB zoning district.

This, in and of itself, is not necessarily a bad thing but it does present changes in the kinds of uses that would be allowed by right within this city block.

#### Standards for Evaluating Rezoning Requests

The Planning Board has previously relied on the following criteria in its evaluation of other rezoning requests so as to ensure its action is consistent with case law:

- Uniformity: the extent to which the zoning change would resemble the surrounding zoning;
- Consistency: whether or not the parcel is being singled out for a zoning change;
- Surroundings: how the proposal would change the neighborhood;
- Fiscal Impact: what impact on local/city economic development the rezoning would have; and
- Discriminating Benefit: an assessment of whether the reclassification of a single parcel that allows a use beneficial to the property owner is made to the detriment of the neighbors or community-at-large.

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#### Attachments:

1. Written Motion by City Councilor (Ward 6) Joseph P. Lopes
2. Subject Area Property Listing

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<sup>3</sup> NOTE: The U-Haul self-storage facility at 105 Rockdale Avenue (Map 18 Lot 69) would become a grandfathered, existing non-conforming use in the zoning district as a result of the proposed zoning change. Dartmouth Tire at 404 Dartmouth Street (Map 18 Lot 115) would still remain conforming as is categorized as motor vehicle general repairs and motor vehicle light repairs, both allowed uses in MUB.

Planning Board

**ATTACHMENT #1**  
Written Motion for City Council



**CITY OF NEW BEDFORD**

**CITY COUNCIL**

June 14, 2018

**WRITTEN MOTION**

Requesting that the Committee on Ordinances and the Planning Board consider rezoning the following lots:

Map 18 Lot 1 – 438 Dartmouth Street  
Map 18 Lot 69 - 105 Rockdale Avenue  
Map 18 Lot 74 - 110 Jenkins Street  
Map 18 Lot 84 - WS Hemlock Street  
Map 18 Lot 102 - WS Hemlock Street  
Map 18 Lot 103 - 470 Dartmouth Street  
Map 18 Lot 105 - 137 – 141 Rockdale Avenue  
Map 18 Lot 107 – 446 Dartmouth Street  
Map 18 Lot 108 – 119 Rockdale Avenue  
Map 18 Lot 109 – 117 Rockdale Avenue  
Map 18 Lot 112 – 109 Rockdale Avenue  
Map 18 Lot 113 – 123 Rockdale Avenue  
Map 18 Lot 115 – 404 Dartmouth Street

From Industrial B to MIXED – USE BUSINESS. All lots described fall within a single city block predominantly populated by retail establishments. The block is bounded by Dartmouth Street (to the west), Jenkins Street (to the north), Hemlock Street (to the East), and Rockdale Avenue (to the south.)

This request would bring this block into compliance with the City of New Bedford's Master Plan 2020. (To be referred to the Committee on Ordinances and the Planning Board)

Joseph P. Lopes, Councillor Ward Six

**IN CITY COUNCIL, June 14, 2018**

Referred to the Committee on Ordinances and the Planning Board.

Dennis W. Farias, City Clerk

a true copy attest:

City Clerk



**ATTACHMENT #2**  
Subject Area Property Listing



**446 Dartmouth Street**

Retail plaza: Jay's wine & Spirits,  
Rent-a-Center, Bush Cleaners

Map 18, Lot 107

Yale New Bedford Trust  
Paprin Yale I



**119 Rockdale Avenue**

**Moose Lodge**

Map 18, Lot 108

Loyal Order of the Moose Inc. New  
Bedford Lodge No 914



**117 Rockdale Avenue**

**Auto Zone**

Map 18, Lot 109

Auto Zone Inc. #3229

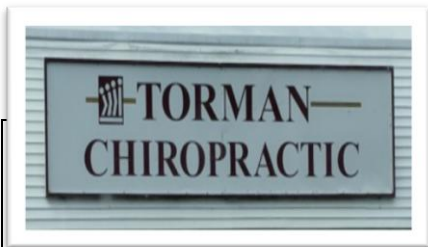


**109 Rockdale Avenue**

**Domino's Pizza**

Map 18, Lot 112

109 Rockdale Realty Trust  
Nelson Hockert Lotz, Trustee



**123 Rockdale Avenue**

**Torman Chiropractic**

Map 18, Lot 113

Torman Family Realty LLC



**404 Dartmouth Street**

**Dartmouth Tire**

Map 18, Lot 115

404 Dartmouth Street Realty LLC



**438 Dartmouth Street**

**Stop & Shop**

Map 18, Lot 1

Yale New Bedford Trust  
Paprin Yale I



**105 Rockdale Avenue**

**U-Haul Storage**

Map 18, Lot 69

AREC 21 LLC



**110 Jenkins Street**

**NO PHOTO  
REAR OF BUILDING**

**WS Hemlock Street (2 lots)**



**470 Dartmouth Street**



**137 – 141 Rockdale Ave**

Three Family Dwelling	<b>Rear of Stop &amp; Shop</b>	JN Phillips Glass)	Felicio Franco Hair and P&K Nails
Map 18, Lot 74	Map 18, Lot 84 Map 18, Lot 102	Map 18, Lot 103	Map 18, Lot 105
Gary J. Sarmento	Yale New Bedford Trust Paprin Yale I	470 Dartmouth Street LLC	Felicio Franco