


FROM	NAME & TITLE	CHRIS RYER, DIRECTOR <i>MR R</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #19-0384 / REZONING – 3302 EDGEWOOD STREET (aka 3500 WEST FOREST PARK AVENUE)		

TO

DATE:

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

June 21, 2019

At its regular meeting of June 20, 2019, the Planning Commission considered City Council Bill #19-0384, for the purpose of changing the zoning for the property known as 3302 Edgewood Street (aka 3500 West Forest Park Avenue) (Block 2911, Lot 023), as outlined in red on the accompanying plat, from the R-1 Zoning District to the C-1 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #19-0384 and adopted the following resolution nine members being present (eight in favor and one opposed):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #19-0384 be disapproved 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. Jeff Amoros, 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
Mr. Bob Pipik, DCHD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Michael Castagnola, DOT
Ms. Natawna Austin, Council Services
Mr. Justin Williams, Esq.



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

June 20, 2019

REQUEST: City Council Bill #19-0384/ Rezoning – 3302 Edgewood Street (aka 3500 West Forest Park Avenue):

For the purpose of changing the zoning for the property known as 3302 Edgewood Street (aka 3500 West Forest Park Avenue) (Block 2911, Lot 023), as outlined in red on the accompanying plat, from the R-1 Zoning District to the C-1 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Eric Tiso

PETITIONER: Mr. Hyun Do Shin, c/o Ms. Caroline Hecker, Esq.

OWNER: Mr. Hyun Do Shin

SITE/GENERAL AREA

Site Conditions: 3500 West Forest Park Avenue is located on the northwestern corner of the intersection with North Edgewood Street, and measures 57' by 138'. This property is currently zoned R-1 and is improved with a 1 ½ story home fronting on West Forest Park Avenue. The rear portion of the property, a part of the same lot of record, has a one-story detached structure known as 3302 Edgewood Street, which has been used for nonconforming commercial use as a liquor store. This rear portion of the property is the intended subject of this rezoning, though this action would affect the property in its entirety. That secondary structure is one of a few around the intersection of the mid-block alley and North Edgewood Street, each of which is also a secondary structure on a lot with another primary residence.

General Area: This property is located in the Forest Park neighborhood, which is predominantly residential in character, with a mix of detached homes, some attached homes, and a few multi-family dwellings. Lake Ashburton is located two blocks to the west.

HISTORY

There are no previous legislative or Planning Commission actions regarding this site.

CONFORMITY TO PLANS

The proposed rezoning action does not support the goals, objectives and strategies contained in the Comprehensive Master Plan for the City of Baltimore. One of the objectives expressed in the Master Plan for the new zoning code was consistency of zoning with existing land use, community character, City plans and projects, and City economic development goals (Master Plan, p.15).

This rezoning is intended to allow the existing nonconforming liquor store, known under this zoning code as Retail Goods Establishment (With Alcoholic Beverages Sales), in the rear portion of the property to remain. The current Zoning Code designated this property as R-1 residential. The prior zoning designated this property as R-2 residential. This rezoning will have the practical effect of extending the operation of this liquor store since they are allowed in the C-1 as a Conditional Use by Ordinance (CO), and the use may then continue as a conditional use. It would thereby also conflict to a certain extent with LIVE Goal 2, Objective 3, Strategy 4; Ensure all residents are within 1.5 miles of quality groceries and neighborhood services, in that possible conversion of this liquor store to a food store or other retail goods establishment with no alcohol sales would not be encouraged.

ANALYSIS

This property was designated R-1 residential effective June 5, 2017, reflecting the residential character of the neighborhood. The bulk requirements of the current R-1 district match those of the prior R-2 district under the former zoning code, meaning that as a practical matter, the level of permissible development has remained unchanged.

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, in that it will make this property

usable in its entirety (*i.e.* both the existing home as well as the rear building) for commercial use, without providing any buffer or separation from the existing homes surrounding this property.

It has been less than two years since this property was placed in its present zoning classification, which was a continuation of its former residential zoning classification. There have been no significant change in this general area since the previous version of the Zoning Code was adopted in 1971. Residential use of the surrounding blocks have remained consistent throughout this time, with the only exceptions of the secondary structures around the intersection of North Edgewood Street and the mid-block alley.

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:** This action does not advance the goals, objectives, or strategies contained in the Comprehensive Master Plan also known as LIVE EARN PLAY LEARN.
2. **The needs of Baltimore City:** This action is not needed to serve either a comprehensive redevelopment strategy or a Mayoral initiative.
3. **The needs of the particular neighborhood:** This action does not help to meet the needs of this neighborhood, or those immediately nearby. The approval of commercial zoning for this property does not only affect the secondary building on the rear of the lot, but also expands commercial use to the primary residential building fronting on West Forest Park Avenue. This creates an additional opportunity for commercial use beyond what has existed on this lot.

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 since the establishment of the current Zoning Code.
2. **The availability of public facilities;** This site is served by existing utilities and public facilities, which will not be affected by the proposed change in zoning for this property.
3. **Present and future transportation patterns;** This site is accessible by City streets, in the established grid of this neighborhood, which are not proposed to be changed or impacted by this proposed action.
4. **Compatibility with existing and proposed development for the area;** The proposed action will not be compatible with the existing residential zoning of this block, or the surrounding neighborhood, and would be contrary to the confirmation of residential zoning that was approved for this neighborhood as part of the Citywide rezoning effort in 2017.

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 continuation of the R-1 zoning that became effective June 5, 2017 is consistent with the City's Comprehensive Master Plan and zoning map, which the Planning Commission previously recommended and the Mayor and City Council adopted, this action is contrary to the City's plan.

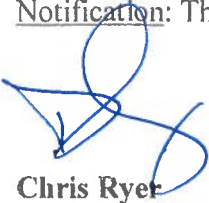
There are additional standards under §5-508(b)(3) that must be considered for map amendments. These include:

- (i) **existing uses of property within the general area of the property in question;** The predominant use of the properties in the Forest Park neighborhood is residential in nature, which has not functionally changed under the current Zoning Code.
- (ii) **the zoning classification of other property within the general area of the property in question;** This site is located in a R-1 residential district. The Forest Park neighborhood is residentially zoned, including R-1-E, R-1, R-5, R-6, and R-8 districts, according to their building types. There is a C-2 commercial node at the intersection of Liberty Heights and Garrison Boulevard, three blocks to the west, and one small C-1 node four blocks to the south at Garrison Boulevard and Edgewood Street.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** The secondary building on the rear of this property could be renovated for use as a residential unit, or could be converted to a garage, either of which would conform to the requirements of this residential district.
- (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.** This neighborhood has remained stable in its development patterns, even after the Citywide rezoning in 2017. No significant development or change in the area has occurred that would invalidate the appropriateness of the residential zoning for these properties.

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.

Since the comprehensive rezoning of the City, there hasn't been a significant change in the neighborhood that would invalidate the residential zoning that has been continued for this property specifically, and for the neighborhood in general. The choice of R-1 zoning is appropriate for this area, it reflects the physical form of the neighborhood, and continues the bulk standards as previously required under the former R-2 classification under the prior Zoning Code.

Notification: The Forest Park Association has been notified of this action.



Chris Ryer
Director