

**MEMORANDUM**

To: Baltimore City Council Land Use Committee  
From: Caroline L. Hecker  
Justin A. Williams  
Cc: Suah Lee  
Date: August 20, 2020  
Re: **CCB # 20-0572 – Rezoning – 1301 N. Fulton Avenue  
Proposed Findings Of Fact**

This firm represents Ms. Suah Lee, the operator of the existing corner store located at 1301 N. Fulton Avenue (the “Property”). The Property has operated as a package goods store since 1934. The Property, which is improved with a three-story structure with ground floor retail space, was zoned R-8 under the 1971 Zoning Code. During the Transform Baltimore process, the City Council elected to keep the Property’s R-8 zoning classification, despite the Property’s 80+ year history of use for nonresidential purposes. Under Transform Baltimore, however, the Property became subject to the mandatory termination provisions governing the sale of alcoholic beverages in residential zoning districts. Baltimore City Code, Article 32 § 18-701.

Ms. Lee has a stellar reputation in the neighborhood thanks to her continued commitment to community engagement. She consistently participates in events such as weekly soup kitchens, monthly produce distributions, and the annual Back to School Community Health Festival. Additionally, Ms. Lee takes pride in her store, keeping both the interior and the exterior tidy and discouraging loitering on and around the premises.

When the City Council zoned the Property R-8, it committed an error which would lead to the shuttering of a long-standing retail goods establishment operated by a community member who is dedicated to the health and safety of her neighborhood. Ms. Lee requests that the City Council correct its mistake and reclassify the Property from the R-8 Zoning District to the C-1 Zoning District.

The City Council has the authority to change the zoning classification of a property as part of a comprehensive rezoning process or upon a finding that there was ... a **mistake** in the existing zoning classification. MD. CODE ANN., Land Use § 10-304(b)(2); Baltimore City Code, Article 32 – Zoning § 5-508(b)(1). Because the City Council failed to take into account the Property’s 80+ year history for nonres-

idential uses along with its existing use as an alcoholic beverage sales establishment, the Council committed an error meriting the Property's rezoning to the C-1 Zoning District—a more appropriate classification.

In addition to making the determination that there was a mistake in the existing zoning classification, both Section 5-508(b) of the Zoning Code and Section 10-304 of the State Land Use Article require the City Council to make findings of fact that address:

*(i) Population Change*

In 2020, the census tract that includes the Property (Census Tract 1502) had a population of approximately 2,699. According to the U.S. Census Bureau's American Community Survey the population has held relatively steady and now sits at approximately 2,750. With little population movement, there is no need to eliminate occupied commercial space in favor of residential uses. In addition, there is not an over-proliferation of alcoholic beverages outlets within this census tract or in the surrounding area. **Exhibit 1.**

*(ii) The availability of public facilities;*

The area is well-served by public utilities and services, and will remain so for the foreseeable future. The proposed rezoning will have no impact on the availability of public facilities.

*(iii) Present and future transportation patterns;*

The rezoning of the Property will not adversely impact present or future transportation patterns. There is only one MTA bus route within a three-block-radius and no metro stop within a ten-minute walk. As the neighborhood is poorly served by public transit, local corner stores such as this one provide important services to the surrounding community.

*(iv) Compatibility with existing and proposed development for the area;*

The proposed C-1 zoning is consistent with the Property's longstanding existing use for the sale of packaged goods with alcoholic beverage sales. No major development is proposed in the area, reinforcing the need for small, neighborhood-scale commercial businesses to maintain activity in a depressed residential area. The Fulton Community Association supports the proposed rezoning as reflected in the attached letter of support. **Exhibit 2.**

*(v) The recommendations of the Baltimore City Planning Commission and the Board of Municipal and Zoning Appeals;*

For the above reasons, the Planning Commission is requested to favorably recommend the rezoning request. The BMZA will comment separately on the legislation.

*(vi) The proposed amendment's consistency with the City's Comprehensive Master Plan.*

The proposed rezoning is consistent with the City's LiveEarnPlayLearn Master Plan by creating opportunities for commercial services to continue near residential communities, fostering amenities for City residents.

**D. Required Considerations for Map Amendments**

Section 5-508(b)(3) of the Zoning Code also mandates that the standards listed below be considered for map amendments. A review of these considerations clearly supports a finding that the present zoning classification of the Property is a mistake that should be corrected by rezoning the Property to the C-1 Zoning District.

*(i) Existing uses of property within the general area of the property in question;*

The existing use of the Property is a retail goods establishment with alcoholic beverage sales. The Property received permit approval for the existing use in 2005 and again in November of 2017, after the enactment of the new Transform Baltimore Zoning Code. *See Ex. 1.* When the City Council zoned the property to the R-8 Zoning District, it did not consider the specific qualities of the individual existing business.

*(ii) The zoning classification of other property within the general area of the property in question;*

The Property is located at the corner of N. Fulton Avenue and Laurens Street. Several lots on the other side of Laurens Street are commercially zoned, which is compatible with the Property's proposed C-1 zoning classification. **Exhibit 3.**

*(iii) The suitability of the property in question for the uses permitted under its existing zoning classification; and*

The Property is not suited for the uses permitted under its current R-8 zoning, which would require the existing package goods store to terminate its operations under Title 18, Subtitle 7 of the Baltimore City Zoning Code. The fact that a package goods store has operated on the Property since 1934 indicates that it is

compatible with the surrounding area, regardless of its conformity to the erroneous underlying zoning.

*(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.*

Baltimore City's Econview website shows that no development has taken place or is proposed in the vicinity of this site. The City Council clearly erred in designating this Property as R-8, as this action would have resulted in the closing of one of the few operating businesses on the block to close, which will force it to go vacant, creating blight in the neighborhood.

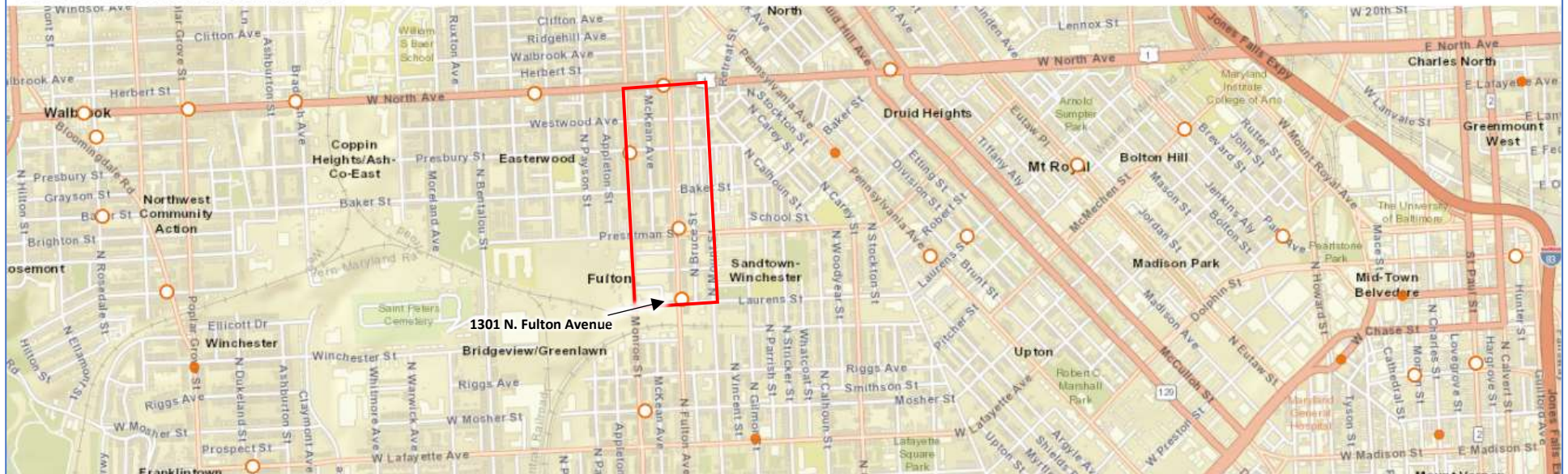
***Conclusion***

For all of these reasons, we respectfully request that the Planning Commission recommend approval of CCB# 20-0572 to rezone 1301 N. Fulton Ave. to the C-1 Zoning District.

# **EXHIBIT 1**

# Licensed Off-Premise Alcohol Outlets

As of 2017 - Census Tract 1502 Outlined in Red



# **EXHIBIT 2**



August 13, 2020

Mrs. Suah Lee

Fox's Cut Rate

1301 N. Fulton Avenue

Baltimore, Maryland 21217

Dear Mrs. Lee:

We are writing this letter in support of your request for the rezoning of 1301 N. Fulton Ave from a R-8 to a C-1 Zoning District. The Fulton Community Association supports this request because your business has not been problematic. There is no loitering inside or outside of the establishment, and cleanliness is maintained internally and externally. You have also been incredibly involved and supportive of this community; helping and volunteering.

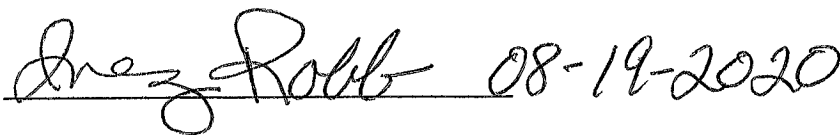
We will continue to support the business remaining as retail goods establishment with alcoholic beverage sales if you are the owner of the establishment and continue to abide by these listed requirements:

1. Be engaged and supportive of the community
2. Continue to maintain cleanliness internally and externally of the building
3. Not allow loitering inside or outside of establishment

We are asking that you sign and return this letter if you agree with the requirements listed above. We will also sign and return a copy to you for your records.


Sincerely yours,

Inez Robb, Fulton Community Association, President

 08-19-2020

Suah Lee, Fox's Cut Rate

1301 N. Fulton Avenue





August 19, 2020

Attachment:

To: Eric W. Tiso, AICP

Division Chief, Land Use & Urban Design Division

Chairman, Site Plan Review Committee

Baltimore City Department of Planning

FAX 410-244-7358

Phone 410-396-8358

The Fulton Community Association will oppose this (CCB#20-0572) zoning issue if the attached agreement is not excepted and carried out.

FULTON COMMUNITY ASSOCIATION

918 N. Fulton Avenue

Baltimore, Maryland 21217

(Boundaries include North Avenue to Lafayette Avenue and Monroe Street to Mount Street)

February 14, 2020

Councilman Leon F. Pinkett, III

100 Holliday Street

Suite 500

Baltimore, Maryland 21202

Dear Councilman Pinkett,

On Behalf of the Fulton Community Association, please accept this letter in support of the rezoning of the business at 1301 N. Fulton Avenue to the C-1 Zoning District. The existing business at 1301 N. Fulton Avenue is very supportive and engaging to our association located in the Sandtown-Winchester neighborhood. They have been very instrumental with community engagement for years. They always support our community outreach activities, such as helping to feed the needy, monthly produce distributions at the church, weekly soup kitchens and our annual Back to School and Community Health Festival. This is one of the businesses that we have not encountered any problems with. Unlike other establishments, it is not a hangout and it is always kept clean inside and outside. We believe that the current residential zoning of this property is a mistake and should be reconsidered, for this business to stay in place. Thank you for your consideration on this matter.

Sincerely Yours,

*Inez Robb*

Inez Robb – President (410-728-2726)

*Roxane Prettyman*

Roxane Prettyman – Vice-President (443-398-4092)

# **EXHIBIT 3**

1301 N. Fulton Ave.

Zoning Map

