

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #17-0079 / REZONING – 2300 EDMONDSON AVENUE		

TO

DATE:

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

September 8, 2017

At its regular meeting of September 7, 2017, the Planning Commission considered City Council Bill #17-0079, for the purpose of changing the zoning for the property known as 2300 Edmondson Avenue, as outlined in red on the accompanying plat, from the R-7 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 #17-0079. Upon a motion to recommend disapproval of the bill, three members voted in favor of approving the bill, and five voted against the bill. Pursuant to the Charter of Baltimore City § 72(l), the Planning Commission “may report and submit to the City Council amendments to the Baltimore City Zoning Ordinance. Any such amendment shall be submitted only by resolution, adopted by the affirmative vote of two-thirds of the entire membership of the Commission.” As the Planning Commission did not have six votes in the affirmative, they are unable to make a recommendation to the Council.

If you have any questions, please contact Mr. Wolde Ararsa, Division Chief, Land Use and Urban Design Division at 410-396-4488.

TJS/WA

Attachment

cc: Mr. Pete Hammen, Chief Operating Officer
Mr. Jim Smith, Chief of Strategic Alliances
Ms. Karen Stokes, Mayor’s Office
Mr. Colin Tarbert, Mayor’s Office
Mr. Kyron Banks, Mayor’s Office
The Honorable Edward Reisinger, Council Rep. to Planning Commission
Mr. David Tanner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Sharon Daboin, DHCD
Mr. Patrick Fleming, DOT
Ms. Elena DiPietro, Law Dept.
Ms. Natawna Austin, Council Services
Mr. Paul Plymouth, Council President’s Office
Mr. Francis Burnszynski, PABC
Mr. William Pak



*Catherine E. Pugh
Mayor*

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



*Thomas J. Stosur
Director*

September 7, 2017

REQUEST: City Council Bill #17-0079/ Rezoning – 2300 Edmondson Avenue

For the purpose of changing the zoning for the property known as 2300 Edmondson Avenue, as outlined in red on the accompanying plat, from the R-7 Zoning District to the C-1 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Martin French

PETITIONERS: Councilmember Bullock, at the request of Preparation, Inc. c/o William Pak

OWNERS: Hong Taepyo and Hong Young Sun

SITE/GENERAL AREA

Site Conditions: This property is located at the northwest corner of the intersection of Edmondson Avenue and Bentalou Street, measures approximately 18' by 95', and is currently improved with a two-story porch-front end-of-row residential mixed-use building covering the entire lot. This structure was built in 1925 as a single-family dwelling; by the time of the Police Survey of 1931 it was being used as a drug store and one dwelling unit. In January of 1936 the Board of Zoning Appeals approved construction of the rear addition to the store and dwelling that resulted in the complete lot coverage that now exists. In February of 1969 the drug store was converted to a liquor store. Entrance to the liquor store is on the eastern side of the building, from Bentalou Street.

General Area: This property is at the southeastern edge of a residential area now known as Rosemont Homeowners/ Tenants that is comprised primarily of two-story attached dwellings with some non-residential uses such as churches, small retail establishments, and other commercial properties present, of which the subject property is an example. Across Bentalou Street to the east of this site is the Amtrak Main Line railway connecting Baltimore and Washington, D.C. Along the western side of the railroad is a strip of older commercial and industrial uses which serve to buffer the residential community from the passenger and freight train traffic. This strip is within the Rosemont Urban Renewal Area, which uses Bentalou Street as part of its southwestern border where it crosses Edmondson Avenue.

HISTORY

There are no previous legislative or Planning Commission actions specifically regarding this site. However, it was subject to rezoning during the TransForm Baltimore process (see below).

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). In this regard, the structure of which this property is a part is a group of houses, and in a community defined by its row-housing and residents as residential, for which the R-7 zoning is appropriate. Use of the property in part as a liquor store makes it a site of an “alcohol outlet” which in turn means nonconforming status under the new TransForm Baltimore zoning code which rezoned the property into the R-7 Zoning District. One of the goals of the comprehensive rezoning process was reduction of nonconforming alcohol outlets, particularly those in Residential zoning districts. It appears that, in the context of a rezoning which could have the practical effect of extending operation of a liquor store at this location, the proposed action would prevent implementation of the requirement that nonconforming retail goods establishments stop selling liquor (alcoholic beverages) within two years of the June 5, 2017 effective date of the new zoning code. 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 rezoned from B-3-2 to R-7 effective June 5, 2017, reflecting the residential character of the row of houses to which this property is the row’s east end and of the housing on both sides of the 2300 block (and 2400 block) of Edmondson Avenue. Across the 10’ wide alley behind this property the zoning changes from R-7 to R-6, reflective of the single-family attached dwellings that predominate in this community. The Planning Commission, in developing the map for the new TransForm Baltimore zoning code, carefully studied the existing conditions of this area and concluded that this combination of R-7 zoning along Edmondson Avenue and R-6 zoning to its immediate north should remain, with the 10’ wide alley continuing to define the east-to-west boundary between the two Residential Districts.

The Planning Commission further studied the non-residential areas across Bentalou Street from this property, and proposed rezoning them to I-MU (Industrial Mixed-Use) north of the above-mentioned 10’ wide alley east of Bentalou Street, and C-1 (Commercial) south of that alley on both sides of Edmondson Avenue east of Bentalou Street. As C-1 is a community-oriented level of commercial zoning, it should encourage redevelopment of that immediate area with community-oriented enterprises in a way that could advance the Comprehensive Master Plan’s LIVE Goal 2, Objective 3, Strategy 4 of ensuring residents have better access to quality grocery stores and neighborhood services, cited above under “Conformity to Plans”. The Mayor and City Council concurred with the Planning Commission’s recommendations in adopting the new Zoning Code and its map which became effective on June 5, 2017.

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(3) of Article 32 – *Zoning*, where staff finds that this proposed change is not in the public's interest, in that it would make the end-of-row dwelling structure and its current first floor level liquor store usable in its entirety as a commercial establishment physically attached to a row of dwellings. There would be no public street or alley to separate the non-residential use from its residential neighbor, which is part of a row of dwellings.

It has only been three months since the property was placed in its present zoning classification. There had been no significant change in this general area since the previous version of the Zoning Code was adopted in 1971, other than standard turn-over in commercial enterprises in the non-residential properties east of Bentalou Street. Residential use of this block and nearby residentially-developed blocks has remained firm. The new zoning of the subject property (R-7) that took effect on June 5, 2017 is reflective of its principal use as residential property (as also shown on State assessment records) as well as of its physical attachment to a row of dwellings.

All other parts of the row to which this end-of-row structure is attached are used residentially. Properties both north and south of this property are used residentially. The properties across Bentalou Street (east of this property) are non-residential in use, which is reflected in their C-1 zoning that became effective June 5, 2017.

Properties to the west of the subject property are zoned R-7; properties across the 10' wide alley behind the subject property are zoned R-6. Properties across Edmondson Avenue to the south of the subject property are zoned R-7. Properties to the east of Bentalou Street, on both sides of Edmondson Avenue, were just rezoned from B-3-2 to C-1 to account for the fact that the east side of the intersection of Edmondson Avenue and Bentalou Street is not appropriate for automobile-oriented commercial use, but is appropriate for community-oriented commercial use.

The R-7 zoning that became effective June 5, 2017 allows residential use, but does not allow the liquor store because liquor stores are not among the Neighborhood Commercial Establishments allowed as conditional uses under the TransForm Baltimore zoning code. Because the liquor store remained in place after June 5, 2017, it is now classified as a nonconforming use by the new Zoning Code. The structure in which it is located is suitable for residential use, like the row of dwellings to which it is attached.

Maryland Land Use Code – Requirements for Rezoning:

The Maryland Land Use Code requires the Planning Commission to study the proposed change 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 change (*cf.* Md. LAND USE Code Ann. 2012, §10-305). In reviewing this request, Planning 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 the southern portion of the larger Rosemont – Evergreen Lawn – Bridgeview neighborhood, the southern part of which has been determined to be in a “food desert”.

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 is not likely to be a noticeable population change between June 5, 2017 and the effective date of this proposed action.*
2. **The availability of public facilities;** *Public facilities are expected to remain unchanged.*
3. **Present and future transportation patterns;** *These are expected to remain unchanged.*
4. **Compatibility with existing and proposed development for the area;** *The proposed action would be incompatible with existing development in the area, as elaborated upon previously. There are no proposed development plans for the area that would call for this action.*
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 the rezoning to R-7 that became effective June 5, 2017 is consistent with the City's Comprehensive Master Plan, which the Planning Commission previously determined in recommending the new zoning districts map to the Mayor and City Council, there is no obvious relationship of this proposed amendment to the City's plan.*

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. There is not likely to be substantial change in neighborhood character between June 5, 2017 and the effective date of the proposed amending ordinance. The current zoning classification of R-7 was based upon the physical characteristics of the existing structure (an end-of-row dwelling with a nonconforming commercial use of one level) and of the dwellings to which it is attached, as well as the residential character of the community west of Bentalou Street. As such, there was no mistake in classifying the subject property as R-7, even though the change has made continuation of the existing liquor store use on the street level of the premises nonconforming.

Notification: The Alliance of Rosemont Community Organizations (ARCO), Rosemont Homeowners and Tenants Association, Midtown-Edmondson Avenue Improvement Association, Evergreen Protective Association, Rosemont Community Homeowners and Tenants Association, and West Baltimore Coalition have been notified of this action.



Thomas J. Stosur
Director