

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #19-0350/ REZONING -- 1432 NORTH CHESTER STREET		

DATE: May 17, 2019

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

At its regular meeting of May 9, 2019, the Planning Commission considered City Council Bill #19-0350, for the purpose of changing the zoning for the property known as 1432 North Chester Street (Block 1498, Lot 011), as outlined in red on the accompanying plat, from the R-8 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 #19-0350, and adopted the following resolution with eight members being present (eight in favor):

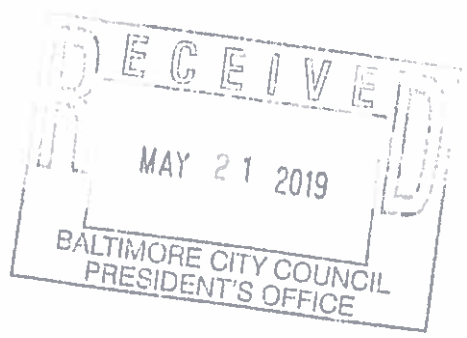
RESOLVED, That the Planning Commission concurs with the recommendations of its departmental staff and recommends that City Council Bill #19-0350 be disapproved by the City Council.

If you have any questions, please contact 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 the Planning Commission
 Mr. William H. Cole, IV, BDC
 Mr. Derek Baumgartner, BMZA
 Mr. Geoff Veale, Zoning Administrator
 Ms. Sharon Daboin, DHCD
 Mr. Tyrell Dixon, DHCD
 Mr. Liam Davis, DOT
 Ms. Elena DiPietro, Law Dept.
 Mr. Francis Burnszynski, PABC
 Ms. Natawna Austin, Council Services
 Mr. Ervin Bishop, Council Services

UF





Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

May 9, 2019

REQUEST: City Council Bill #19-0350/ Rezoning – 1432 North Chester Street

For the purpose of changing the zoning for the property known as 1432 North Chester Street (Block 1498, Lot 011), as outlined in red on the accompanying plat, from the R-8 Zoning District to the C-1 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Eric Tiso

PETITIONER: Kimberly Wilkens-Mitchell

OWNER: Kimberly Wilkens-Mitchell

SITE/GENERAL AREA

Site Conditions: 1432 North Chester Street is located on the southwestern corner of the intersection with East Oliver Street, measures approximately 13'6" by 70', and is currently improved with a three-story end-of-row building in this R-8 residentially zoned district. This property was last authorized for use as a tavern without live entertainment and one dwelling unit.

General Area: This property is located in the Broadway East neighborhood, and the Broadway East Urban Renewal Plan (URP) area. This neighborhood is largely residential in nature, with some commercial and institutional uses scattered throughout. The Collington Square Elementary School is located one block to the east, and the Collington Square Park is located one block to the south.

HISTORY

- The Broadway East Urban Renewal Plan (URP) was established by Ordinance #88-156, dated July 6, 1988.
- Amendment #5 to the Broadway East URP was enacted by Ordinance #14-302, dated October 1, 2014.

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).

- (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 the corner residential mixed-use structure and its current first floor level tavern 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 attached dwellings.

It has been less than two years 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. Residential use of this block and nearby residentially-developed blocks has remained consistent. The zoning of the subject property (R-8) that continued with the adoption of the current Zoning Code on June 5, 2017 is reflective of the greater trend in increased residential use of properties in this area. This trend was further advanced by changing nearby industrially and commercially zoned properties to residential zoning. The property's commercial use became nonconforming in 1971 and has continued to be nonconforming for the past 48 years.

The R-8 zoning that was re-affirmed effective June 5, 2017 allows residential use, but does not allow the tavern because taverns are not even among the Neighborhood Commercial Establishments allowed as conditional uses under the current Zoning Code. That flexible use category was created to recognize that certain buildings would be more difficult to convert for solely residential use. Because the tavern remained in place after June 5, 2017, it is classified as a nonconforming use by the new Zoning Code. The structure in which it is located is suitable for residential use, like the residential dwellings to which it is attached, and its street level commercial space is suitable for use as a Neighborhood Commercial Establishment such as a restaurant, retail goods establishment, personal services establishment, or offices.

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.

(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. In the blocks to the north, Planning staff have reviewed development proposals for an apartment building with about 90 units (Southern View), and a mixed use building with a day care center, gym, offices, and a health care clinic (Southern Streams Health & Wellness). These proposed developments are allowable under the existing zoning for this area.

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, and for the surrounding blocks. The choice of R-8 zoning is appropriate for this area, and reflects the physical form of the neighborhood.

Notification: The following organizations have been notified of this action: The New Broadway East Community Association, the Collington Square Association, and the Historic East Baltimore Community Action Coalition, Inc. (HEBCAC).



Chris Ryer
Director