

TJS

FROM

NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET
SUBJECT	CITY COUNCIL BILL #17-0047 / REZONING – 2300 EDMONDSON AVENUE

CITY of
BALTIMORE
MEMO



TO

DATE:

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

May 5, 2017

At its regular meeting of May 4, 2017, the Planning Commission considered City Council Bill #17-0047, 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 #17-0047. Upon a motion to instead support the bill, three members voted in favor of approving the bill, one voted against the bill, and two abstained. 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. Francis Burnszynski, PABC
Mr. William Pak



Catherine E. Pugh
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

May 4, 2017

REQUEST: City Council Bill #17-0047/ 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 – Evergreen Lawn – Bridgeview 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 the community is defined by its row-housing and residents as residential, for which the R-7 zoning is appropriate. The use of the property in part as a liquor store makes it a site of an “alcohol outlet” which would mean nonconforming use status under the current Zoning Code, if the property was already zoned Residential, and nonconforming status under the new TransForm Baltimore zoning code which will rezone 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 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 be discouraged.

ANALYSIS

As of this moment, and for 31 more days, this property is zoned B-3-2, an automobile-oriented business zone which was appropriate for the properties and uses that extend along the western side of the railroad right-of-way from Edmondson Avenue southward toward the West Baltimore MARC passenger rail station platform at the west end of the Franklin-Mulberry corridor, but inappropriate for the R-7 zoned residential block to which this building is attached. Across the 10’ wide alley behind this property the zoning now 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 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 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 would 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 will be effective on and after June 5, 2017.

Introduction to the rationale for rezoning. Following is the staff’s review of the required considerations of §16-305 of the Zoning Code, on the basis of which staff finds that this change

is not in the public's interest, in that it will 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.

Under §16-305(c) of the Zoning Code, the Planning Commission must consider the following matters:

(1) existing uses of property within the general area of the property in question;

All of the row to which this end-of-row structure is attached is 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 the C-1 zoning that will become effective June 5, 2017.

(2) the zoning classification of other property within the general area of the property in question;

Properties to the west of the subject property are zoned R-7 and will remain R-7; properties across the 10' wide alley behind the subject property are zoned R-6 and will remain R-6. Properties across Edmondson Avenue to the south of the subject property are zoned R-7 and will remain R-7. Properties to the east of Bentalou Street, on both sides of Edmondson Avenue, are being 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.

(3) the suitability of the property in question for the uses permitted under its existing zoning classification;

Current zoning of this property permits both dwellings and a wide range of automobile-oriented commercial uses, including the liquor store now contained in the first floor level of the existing structure known as 2300 Edmondson Avenue. The R-7 zoning that is scheduled to become effective June 5, 2017 would continue to allow residential use, but would not allow the liquor store by right because liquor stores are not among the Neighborhood Commercial Establishments allowed as conditional uses under the TransForm Baltimore zoning code. If the liquor store remained in place after June 5, 2017, it would be classified as a nonconforming use by the new Zoning Code.

(4) 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.

There has been no significant change in this general area since the now-current (soon-to-expire) 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 takes 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.

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 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 scheduled to become 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.*

The City Council may grant the amendment to change the zoning classification based on a finding that there was: (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 zoning classification of R-7 was based upon the physical characteristics of the existing structure (an end-of-row dwelling with a 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 will make continuation of the existing liquor store use on the street level of the premises nonconforming.

Notification: Planning staff notified the Alliance of Rosemont Community Organizations (ARCO), Edmondson Community Organizations, Inc., West Baltimore Coalition, and West Baltimore Strategic Alliance of this action.



Thomas J. Stosur
Director