


<b>FROM</b>	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #19-0464 / REZONING – A PORTION OF 619 NORTH MILTON AVENUE (aka 617 NORTH MILTON AVENUE)		

DATE:

**TO**

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

December 13, 2019

At its regular meeting of December 12, 2019, the Planning Commission considered City Council Bill #19-0464, for the purpose of changing the zoning for a portion of the property known as 619 North Milton Avenue (Block 1641, Lot 053, as outlined in red on the accompanying plat, from the C-1 Zoning District to the C-3 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended disapproval of City Council Bill #19-063, and adopted the following resolution, eight members being present (eight in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #19-0463 not be passed 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. Nicholas Blendy, Mayor's Office  
Mr. Matthew Stegman, Mayor's Office  
Ms. Nina Themelis, 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  
Ms. Stephanie Murdock, DHCD  
Ms. Elena DiPietro, Law Dept.  
Mr. Francis Burnszynski, PABC  
Mr. Liam Davis, DOT  
Ms. Natawna Austin, Council Services





Bernard C. "Jack" Young  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chairman

### STAFF REPORT



Chris Ryer  
Director

December 12, 2019

**REQUEST:** City Council Bill #19-0464/ Rezoning – A Portion of 619 North Milton Avenue (aka 617 North Milton Avenue):

For the purpose of changing the zoning for a portion of the property known as 619 North Milton Avenue (aka 617 North Milton Avenue) (Block 1641, Lot 053), as outlined in red on the accompanying plat, from the C-1 Zoning District to the C-3 Zoning District.

**RECOMMENDATION:** Disapproval

**STAFF:** Martin French

**PETITIONERS:** Councilmember Sneed, at the request of Jose' Serrano Perez, for Master Auto Glass LLC

**OWNER:** Semisa Management Inc./ Swung Il Jang

#### **SITE/GENERAL AREA**

**Site Conditions:** 619 North Milton is on the east side of the street, approximately 127'2" south of the intersection with Monument Street. This property measures approximately 147' by 76'5" and is currently improved in its northern half with a one-story semi-detached commercial building constructed in 1950 with approximately 61' of frontage directly on Milton Avenue, and with an addition measuring approximately 23' by 50' that is set back approximately 25' from Milton Avenue and referred to in the proposed legislation as 617 North Milton Avenue. The remainder of the property is paved and usable as off-street parking. The rear walls of this combined structure are attached to the side wall of a larger commercial structure fronting on Monument Street.

**General Area:** This property is located in the central part of the East Monument National Register Historic District, and is separated from the eastern end of the East Monument Street Business Area that is included in the Middle East Urban Renewal Area by Milton Street. While bordered on three sides of its southern and vacant portion by the R-8 zoning district, this property is part of the C-1 zoning district that extends eastward from the Johns Hopkins Medical Institutions campus on Washington Street along both sides of Monument Street for a total of 15 blocks. To either side of this commercial corridor centered on Monument Street the predominant land use is attached residential dwellings, most two-story row-houses.

#### **HISTORY**

The East Monument District was certified to the National Register of Historic Places on December 8, 2009. This property and adjacent properties were rezoned from B-2-2



(Community Business) to C-1 (Neighborhood Business) during the comprehensive rezoning mapping process associated with the effective date of the current Zoning Code on June 5, 2017.

### CONFORMITY TO PLANS

The proposed rezoning does not support goals, objectives and strategies contained in the Comprehensive Master Plan for Baltimore City. Specifically, the proposed action would contradict one important objective of creating a new zoning code, “**consistency of zoning with existing land use** [*emphasis added*], community character, City plans and projects, and City economic development goals” (Master Plan, p. 15).

### ANALYSIS

Prior to 2017, this property and much of the East Monument Street commercial corridor of which it is functionally a part were zoned B-2, zoning that allowed, as a conditional use, “garages, other than accessory, for storage, repair, and servicing of motor vehicles not over 1½ tons capacity – **but not including body repair, painting, or engine rebuilding**” [*emphasis added*] (§6-308 (12) of the Baltimore City Revised Code, as amended through 2009). This characterization did not allow the level of service and repair now included in the current Zoning Code definition of “Motor vehicle service and repair: Major”, which is:

“Motor vehicle service and repair: Major” means an establishment that is engaged in major repair to motor vehicles, such as:

- (i) engine rebuilding;
- (ii) ...
- (iii) ...
- (iv) collision services, including body, frame, or fender repair or straightening; or
- (v) painting. (§1-310 (e))

The proposed rezoning is thus expressly for the purpose of allowing, where not previously allowed, use of a property for major motor vehicle service and repair functions (body repair, painting, and engine rebuilding, etc.) that since 1971 have been considered inconsistent with neighboring commercial uses, and incompatible, at such short distance as directly across Milton Avenue, with neighboring residential uses.

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 would create an islet of intense commercial use within a single building on a predominantly residential north-south street in East Baltimore, near to a long-established community/ neighborhood business corridor along both sides of Monument Street which intersects Milton Avenue immediately north of the subject property. Additionally, the proposed rezoning would create a split-zoned lot (the property known as 619 North Milton Avenue) and thus juxtapose low-intensity commercial use of the remainder of 619 North Milton Avenue with higher-intensity commercial use of its portion known as 617 North Milton Avenue, an unfortunate result which could be characterized by some as "spot zoning", a form of land use regulation that courts have invalidated.

**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 would not support goals, objectives, and strategies in LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore City.
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:** The proposed action would not help meet the needs of the surrounding communities, and there is a large area 15 blocks east of this site that is in the I-1 and I-2 Industrial zoning districts, which could allow the proposed use as a conditional use.

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 in this area since June 5, 2017, when the current Zoning Code and map became effective.



2. **The availability of public facilities;** All public facilities necessary to support use of this property consistent with its current C-1 zoning are available and expected to remain available.
3. **Present and future transportation patterns;** There is no change anticipated in transportation patterns, which are sufficient to support C-1 (Neighborhood Business) use of this property.
4. **Compatibility with existing and proposed development for the area;** The proposed action would allow a use not compatible with existing or other proposed use or development of the East Monument Street commercial corridor or the McElderry Park community.
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, but will comment separately.
6. **The relation of the proposed amendment to the City's plan.** Replacement of the former B-2 zoning district with a smaller C-1 zoning district was consistent with the City's Master Plan goal of strengthening neighborhoods. The proposed action would not be in harmony with this previous initiative.

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 commercial uses along East Monument Street, around the corner from this property, are retail goods and personal services establishments, including the adjoining property improved with the building to which the structure on 619 North Milton Avenue is attached. Outside of the Monument Street commercial corridor, including directly across the street from this property, the predominant use is residential.
- (ii) **the zoning classification of other property within the general area of the property in question;** This property is part of the C-1 zoning district covering the East Monument Street business corridor. Surrounding this C-1 district to its north, south, and east is the R-8 residential zoning district. (The western end of the C-1 zoning district touches the Hospital Campus zoning district occupied by the Johns Hopkins Hospital.)
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** As noted above, the property is suited for the low-intensity commercial uses allowed by the C-1 zoning district in which it is located.
- (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.** There have been no significant changes to the general area around 619 North Milton Avenue since June of 2017, when the current C-1 zoning classification became effective.

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 no evidence that there was any mistake in placing the property in the C-1 zoning district, and there has been no substantial change in the character of the neighborhood where this property is located in the less than three years since the property was placed in the C-1 district. The C-1 zoning is appropriate for the property as it is currently improved, and appropriate for a commercial property facing residential properties across Milton Avenue.

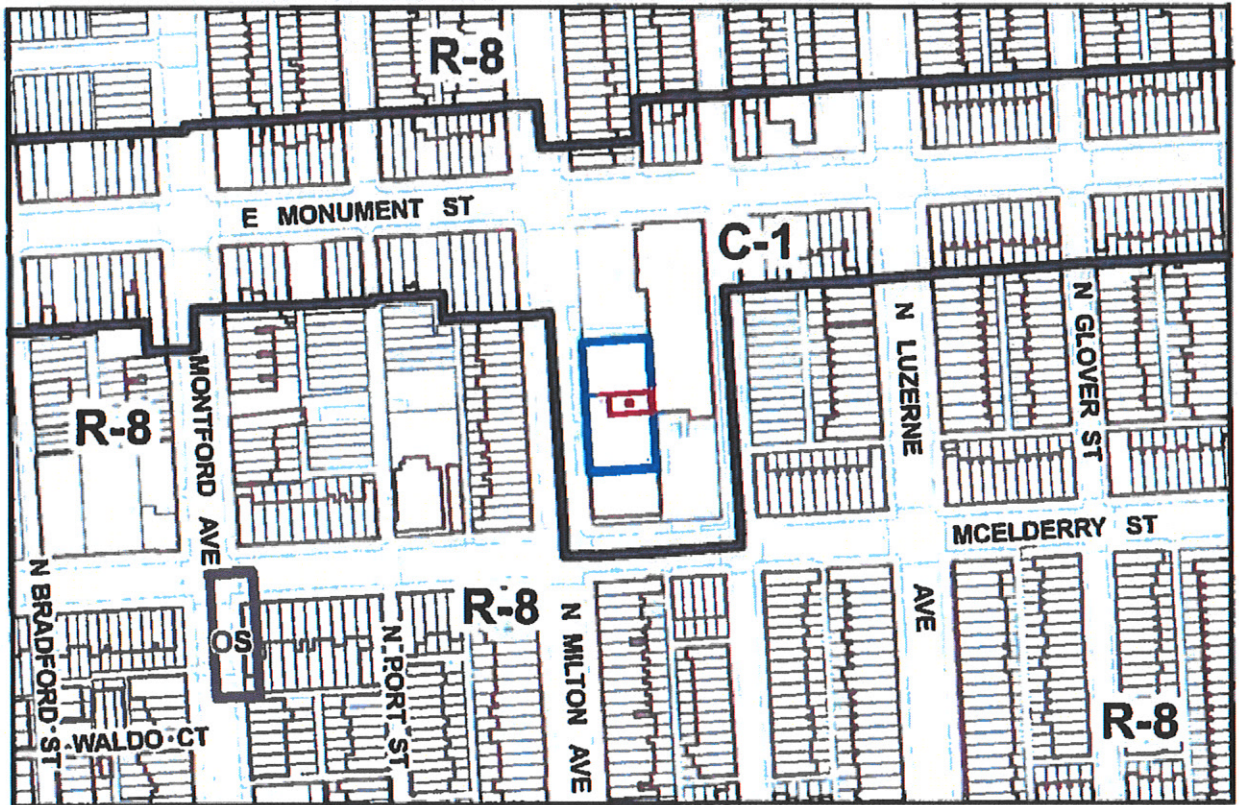
Notification: The McElderry Park Community Association and Historic East Baltimore Community Action Coalition (HEBCAC) have been notified of this action.



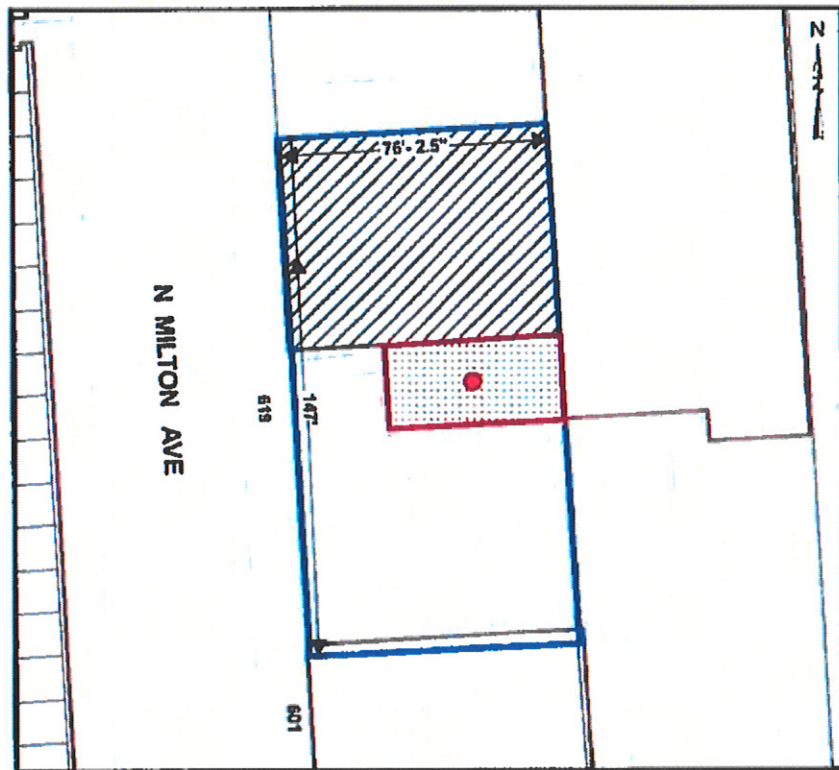
**Chris Ryer**  
**Director**



**SHEET NO. 47 OF THE ZONING MAP OF  
THE ZONING CODE OF BALTIMORE CITY**



Scale: 1" = 200'



**Note:**

In Connection With The Property Known As No. 619 NORTH MILTON AVENUE. The Applicant Wishes To Request The Rezoning Of "A Portion of 619 NORTH MILTON AVENUE, That Portion Being Known As 617 NORTH MILTON AVENUE", And That The Portion Of The Property To Be Rezoned Is Going From The C-1 Zoning District To The C-3 Zoning District, As Outlined In Red Above.

WARD 7                      SECTION 16  
BLOCK 1641                      LOT 53

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MAYOR

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PRESIDENT CITY COUNCIL

464