


FROM	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 #23-0443 / REZONING – 3500 WEST FOREST PARK AVENUE		

TO

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

DATE: December 11, 2023

At its regular meeting of November 30, 2023, the Planning Commission considered City Council Bill #23-0443, for the purpose of changing the zoning for the property known as 3500 West Forest Park Avenue (Block 2911, Lot 023), as outlined in red on the accompanying plat, from the C-1 Zoning District to the R-1 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended amendment and approval of City Council Bill #23-0443 and adopted the following resolutions, with eight members being present (eight in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, adopts the findings and equity analysis outlined in the staff report, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #23-0443 be **amended and approved** 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: Ms. Nina Themelis, Mayor's Office  
The Honorable Eric Costello, Council Rep. to Planning Commission  
Mr. Colin Tarbert, BDC  
Ms. Rebecca Witt, 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



Brandon M. Scott  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chairman; Eric Stephenson, Vice Chair

### STAFF REPORT



Chris Ryer  
Director

**November 30, 2023**

**REQUEST:** City Council Bill #23-0443/ Rezoning – 3500 West Forest Park Avenue:  
FOR the purpose of changing the zoning for the property known as 3500 West Forest Park Avenue (Block 2911, Lot 023), as outlined in red on the accompanying plat, from the C-1 Zoning District to the R-1 Zoning District.

**RECOMMENDATION:** Amend and Approval

**STAFF:** Matthew DeSantis, AICP

**PETITIONER:** Councilman James Torrence, on behalf of Mr. Hyun Shin

**OWNER:** Mr. Hyun Shin

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

Site Conditions: 3500 West Forest Park Avenue is located on the northwestern corner of the intersection with North Edgewood Street, and measures 57' by 138'. This property is currently zoned C-1 and is improved with a 1 ½ story home fronting on West Forest Park Avenue. The rear portion of the property, a part of the same lot of record, has a one-story detached structure known as 3302 Edgewood Street, which has been used as a liquor store. The front portion of the property is the intended subject of this rezoning, though this action as currently drafted would affect the property in its entirety. That secondary structure is one of a few around the intersection of the mid-block alley and North Edgewood Street, each of which is also a secondary structure on a lot with another primary residence.

General Area: This property is located in the Forest Park neighborhood, which is predominantly residential in character, with a mix of detached homes, some attached homes, and a few multi-family dwellings. Lake Ashburton is located two blocks to the west.

#### **HISTORY**

On June 20, 2019, the Planning Commission considered CCB #19-0384, which was for the rezoning of this property from the R-1 district to the C-1 district. The Commission concurred with the recommendation of Planning Staff for disapproval of the bill.

#### **ANALYSIS**

Original Rezoning Bill and Mistake: CCB #19-0384 intended to rezone only the rear portion of the property, known as 3302 Edgewood Street, from the R-1 to the C-1 district in order to enable the continued operation of the liquor store located at this site. While Planning staff and the

Commission recommended against this rezoning, the Land Use Committee of the City Council recommended favorably of the bill, with the explicit amendments to clarify that the rezoning action would *only* impact the portion of the property known as 3302 Edgewood. A revised plat was also apparently introduced to clearly demarcate which portion of the property would be rezoned to C-1 and which would stay R-1.

However, that's not what occurred. It appears that for whatever administrative reason, that revised plat was never incorporated into the final 3<sup>rd</sup> reader of the bill. As a consequence, the entirety of the 3500 W. Forest Park parcel was mistakenly rezoned from the R-1 to the C-1 zoning district. This bill seeks to correct this mistake.

Subdivision Application Submitted: In November 2021, a land subdivision application was submitted to split the liquor store portion of the parcel from the residential portion of the parcel. It was at this time that Planning staff became aware of the mistake that had been made. Staff informed the applicant that the zoning issue needed to be resolved before it would be able to recommend favorably on a land subdivision application. It was the intention of the property owner to split the parcel so as to sell the residential portion and maintain the liquor store, enabling someone with an interest in renovating the vacant residential building to do so. However, "Dwelling: Detached" is not a permitted use in the C-1 district, rendering the renovation of the building back into a single-family home impossible. The Law Department was consulted, and their determination was that even though it seemed apparent that a mistake had been made with the prior rezoning bill that a new legislative authorization would be needed in order to correct the error. This has led to the introduction of the current rezoning bill.

Amendment Needed: While this bill is seeking to correct the mistake rezone the front portion of the property back to the R-1 district, the bill was inadvertently mis drafted. As introduced, CCB #23-0443 would make the same mistake that the original rezoning bill made, but in complete reverse: it would rezone the entirety of the parcel back to the R-1 district. Planning staff has discussed this apparent error with both the property owner and Councilman Torrence, the bill sponsor, who have both confirmed that this is an error and not the intent of the legislation. As such, Planning staff recommends that the bill be amended to clarify that only the front portion of the parcel be rezoned to the R-1 district and that the rear portion known as 3302 Edgewood remain in the C-1 district.

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 in the public's interest, in that it will correct a clearly apparent mistake in the application of zoning districts, namely the mistaken rezoning of the residential portion of the property from R-1 to C-1.

**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 is not contrary to 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 contrary to the needs of the City and will in effect correct an administrative mistake made by the City.
- 3. The needs of the particular neighborhood:** The rezoning of the residential building back to the R-1 district will help facilitate its sale and renovation. It is Planning staff's understanding that the building is vacant, and the property owner wishes to sell it so that it may be renovated for residential use. Its rezoning back to the R-1 district will facilitate this outcome.

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 since the establishment of the current Zoning Code.
- 2. The availability of public facilities;** This site is served by existing utilities and public facilities, which will not be affected by the proposed change in zoning for this property.

3. **Present and future transportation patterns;** This site is accessible by City streets, in the established grid of this neighborhood, which are not proposed to be changed or impacted by this proposed action.
4. **Compatibility with existing and proposed development for the area;** The proposed action will be compatible with the existing residential zoning of this block, or the surrounding neighborhood, as the surrounding properties are zoned R-1.
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 amendment and approval 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.** This bill will revert the residential property back to the R-1 district, facilitating its residential renovation and reuse. This will support the housing component of the City's plan.

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 use of the properties in the Forest Park neighborhood is residential in nature, which has not functionally changed under the current Zoning Code.
- (ii) **the zoning classification of other property within the general area of the property in question;** This site is surrounded by R-1 and R-6 residential districts. The Forest Park neighborhood is residentially zoned, including R-1-E, R-1, R-5, R-6, and R-8 districts, according to their building types. There is a C-2 commercial node at the intersection of Liberty Heights and Garrison Boulevard, three blocks to the west, and one small C-1 node four blocks to the south at Garrison Boulevard and Edgewood Street.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** A detached residential dwelling is not permitted in the C-1 district, which makes the renovation of the existing vacant home illegal. This rezoning bill would correct that mistake.
- (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.** This neighborhood has remained stable in its development patterns, even after the Citywide rezoning in 2017. No significant development or change in the area has occurred that would invalidate the appropriateness of the residential zoning for these properties.

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.

As described above, there was a clear mistake in the administrative handling of CCB #19-0384 and as a consequence the entirety of the property was mistakenly rezoned to the C-1 district. As

such, Planning staff recommends that this bill be amended to clarify that the rezoning would be limited to the residential portion of the property so as to correct this mistake.

Notification: The Forest Park Association has been notified of this action.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

**Chris Ryer**  
**Director**