


<b>FROM</b>	<b>NAME &amp; TITLE</b>	CHRIS RYER, DIRECTOR	CITY of <b>BALTIMORE</b> <b>MEMO</b>	
	<b>AGENCY NAME &amp; ADDRESS</b>	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	<b>SUBJECT</b>	CITY COUNCIL BILL #19-0369/ REZONING -- 2908 BELMONT AVENUE		

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 #19-0369, for the purpose of changing the zoning for the property known as 2908 Belmont Avenue (Block 2332D, Lot 038), as outlined in red on the accompanying plat, from the R-6 Zoning District to the C-1 Zoning District.

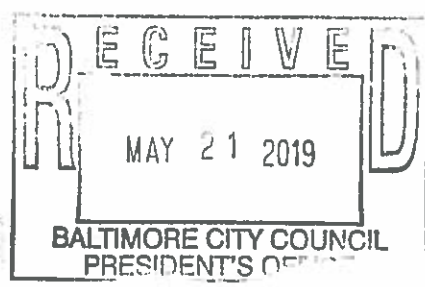
In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #19-0369, and adopted the following resolution with eight members being present (seven in favor):

RESOLVED, That the Planning Commission does not concur with the recommendations of its departmental staff, instead adopts the findings offered by the applicant, and therefore recommends that City Council Bill #19-0369 be passed 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, DIICD  
 Mr. Tyrell Dixon, DIICD  
 Mr. Liam Davis, DOT  
 Ms. Elena DiPietro, Law Dept.  
 Mr. Francis Burnszynski, PABC  
 Ms. Natawna Austin, Council Services  
 Mr. Ervin Bishop, Council Services  
 Ms. Caroline Hecker, Esq.



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Bernard C. "Jack" Young  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chairman

### STAFF REPORT



Chris Ryer  
Director

May 9, 2019

**REQUEST:** City Council Bill #19-0369/ Rezoning – 2908 Belmont Avenue:

For the purpose of changing the zoning for the property known as 2908 Belmont Avenue (Block 2332D, Lot 038), as outlined in red on the accompanying plat, from the R-6 Zoning District to the C-1 Zoning District.

**RECOMMENDATION:** Disapproval

**STAFF:** Matthew DeSantis, AICP

**PETITIONER:** Ms. Myong Sim Lee, c/o Caroline L. Hecker, Esq.

**OWNER:** Ms. Myong Sim Lee

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

**Site Conditions:** 2908 Belmont Avenue is located on the northwestern corner of the intersection with Bloomingdale Road and is zoned R-6. This property measures approximately 27.5' along the front lot line, narrowing to 7' along the rear lot line, and running for approximately 82.5' in depth. It is currently improved with a two-story end-of-row building that has been used as a liquor store. All of the windows on the front, side, and rear, have been either bricked or sealed with wood.

**General Area:** This property is located within the Rosemont neighborhood, which is predominantly residential in character. Most of the neighborhood is comprised of attached residential dwellings. There are several auto-oriented businesses to the north of the subject property. The property is also in close proximity to the Northwest Community Action and Winchester neighborhoods.

#### **HISTORY**

There are no previous legislative or Planning Commission actions regarding this site.

#### **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). This structure is located within a residential area, attached to two-story rowhomes, and predominantly surrounded by residential development for which the current R-6 zoning is appropriate.

## ANALYSIS

Use of this property as a liquor store makes it a site of an “alcohol outlet” which now exists as a nonconforming use under the current Zoning Code. This property, along with the parcels across the street to the south (2921 Belmont and 1320 Bloomingdale), were rezoned from B-2-2 to their current R-6 designations during the comprehensive rezoning process. This change in zoning designation was a deliberate action meant to reflect the building typology of both this parcel and 2921 Belmont as end-unit attached rowhouses. Both this block of Belmont Avenue as well as the block of Belmont Avenue on the east side of Bloomingdale Road are uniformly comprised of rowhouse dwellings. This typology closely conforms to the current R-6 zoning classification.

This requested rezoning from R-6 to C-1 will have the practical effect of preventing the mandatory termination of the alcohol sales at this location, as determined by the comprehensive rezoning of the City, not later than June 4, 2019 (*i.e.* two years after the effective date of the 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 without alcohol sales would not be encouraged.

The zoning code provides an opportunity for this property to possibly be approved as a Neighborhood Commercial Establishment (NCE), subject to the requirements of §14-328, through a conditional use process. Approval of a NCE would allow for a variety of uses, including art gallery (without live entertainment), art studios, day care centers, offices, personal services establishments, restaurants (without live entertainment), and retail goods establishments (without alcoholic beverage sales). This provision allows for reasonable reuse of the building for a limited palette of commercial 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 will perpetuate the existing use of this property for a liquor store, and leaves open the opportunity for a variety other incompatible commercial uses.

It has been less than two years since this property was placed in its present zoning classification, and the residential use of this block and nearby residentially-developed blocks has remained constant. The zoning of this property (R-6) that went into effect on June 5, 2017 is reflective of its setting in a residential neighborhood, and its 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:** The adoption of Zoning Code (more formally, Article 32 – *Zoning*) included a new provision for the mandatory termination of retail goods establishments with alcoholic beverage sales (*cf.* §18-701), not later than June 4, 2019. This proposed rezoning would circumvent the mandatory termination of the liquor store on this property.
2. **The needs of Baltimore City:** There was sufficient notice for alcohol outlets that would become or remain nonconforming uses, so that their interests could be considered. During the comprehensive rezoning process, there was an opportunity for this property to be zoned to any other district other than the R-6 residential category.
3. **The needs of the particular neighborhood:** The purpose of the mandatory termination of alcohol outlets was to support improvements in health throughout Baltimore's neighborhoods. Zoning this property to C-1 would perpetuate this alcohol outlet, the opposite of the City's intended policy goal.

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 a significant population change between June 5, 2017 and the effective date of this proposed action.
2. **The availability of public facilities;** This area is adequately served by municipal utilities, which will not be impacted by this proposed zoning change.

3. **Present and future transportation patterns;** This area is served by the City's street network, which will not be impacted by this proposed zoning change.
4. **Compatibility with existing and proposed development for the area;** This property is located in a residential neighborhood. The building typology of the property as improved, a rowhouse, corresponds to the R-6 zoning district. This proposed rezoning will result in an incompatibility with the surrounding neighborhood. While there are several C-2 zoned properties to the north of the subject property, the uses on these lots are all auto-oriented (i.e auto repair, car wash) and are improved with auto-oriented buildings. As such, these existing buildings on these lots are designed to support auto-oriented businesses and would not be easily used for other uses.
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.** The R-6 zoning that became effective June 5, 2017 is consistent with the City's Comprehensive Master Plan. The Planning Commission previously supported the residential zoning on the new zoning district maps as part of that legislative process. This proposal does not support the City's plan to reduce the impact of alcohol outlets on residential areas.

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;** This property is predominantly surrounded by rowhomes.
- (ii) **the zoning classification of other property within the general area of the property in question;** Most properties within a two-block radius are residentially zoned (R-6). There is a railroad right-of-way to the south that is zoned I-2 as well as several specifically auto-oriented parcels (i.e. auto repair, car wash) that are zoned C-2.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** This building could either be renovated for residential use, or the owner may wish to apply for a Neighborhood Commercial Establishment use.
- (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 appreciable changes to the general area of the property since the time of the comprehensive rezoning in 2017.

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 established residential zoning. The choice of R-6 zoning is appropriate for this area, and reflects the physical form of the neighborhood.

Notification: The Rosemont Neighborhood Improvement Association and the Alliance of Rosemont Community Organizations have been notified of this action.



**Chris Ryer**  
**Director**

