

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 #19-0367/ REZONING - 129 AND 131 SOUTH SCHROEDER STREET		

DATE:

TO

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

May 17, 2019

At its regular meeting of May 9, 2019, the Planning Commission considered City Council Bill #19-0367, for the purpose of changing the zoning for the property known as 129 and 131 South Schroeder Street (Block 0252, Lot 052 and 051), as outlined in red on the accompanying plat, from the R-8 Zoning District to the C-2 Zoning District.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #19-0367, and adopted the following resolution with eight members being present (eight 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 #19-0367 should be amended and passed by the City Council, with the following amendments:

- That 934 West Pratt Street is added to the bill, and
- That these properties are instead rezoned to the C-1 District.

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



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

May 9, 2019

REQUEST: City Council Bill #19-0367/ Rezoning – 129 and 131 South Schroeder Street:
For the properties known as 129 and 131 South Schroeder Street (Block 0252, Lots 052 and 051), as outlined in red on the accompanying plat, from the R-8 Zoning District to the C-2 Zoning District.

RECOMMENDATION: Disapproval

STAFF: Eric Tiso, AICP

PETITIONER: The Back Yard X, LLC

OWNER: BKC Properties, LLC, c/o Brian Cavanagh

SITE/GENERAL AREA

Site Conditions: 129 and 131 South Schroeder Street are located on the northeastern corner of the intersection with West Pratt Street, immediately north of the B&O Railroad Museum roundhouse, and are currently zoned R-8 for residential use. 129 South Schroeder Street was previously authorized for use as a single-family dwelling, and 131 South Schroeder Street was authorized for use as a single-family dwelling and a tavern without live entertainment.

General Area: These properties are located along the southern edge of the Hollins Market neighborhood, sharing a border with the Washington Village Pigtown neighborhood across West Pratt Street to the south. Additionally, this area lies within the Poppleton Urban Renewal Plan (URP) area. The Hollins Market Neighborhood is largely residential in nature, with occasional commercial or institutional uses such as the Hollins Market two blocks to the west and two blocks north. The James McHenry Elementary School is two blocks to the north, and the University of Maryland Biopark is three blocks north of this site.

HISTORY

- The Poppleton Urban Renewal Plan (URP) was established by Ordinance #75-837, dated June 30, 1975.
- Amendment #13, the latest amendment to the Poppleton URP, was enacted by Ordinance #14-299, dated June 2, 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).

This rezoning will support a proposed expansion of an existing tavern in 131 South Schroeder Street (the corner property), and allow for the expansion of the business into the adjacent 129 South Schroeder Street property. Additional seating for patrons will be added, as well improvements to meet egress requirements for safety. Use of the property as a tavern without live entertainment in this residential district makes it a nonconforming use under the current (TransForm Baltimore) Zoning Code. The current Zoning Code designated the zoning of these properties as R-8 residential. The prior zoning designations had 129 and 131 South Schroeder Street residentially zoned in the R-8 and R-9 districts respectively. This proposed rezoning will have the practical effect of extending the operation of a tavern at this location as a permitted use by right in the C-2 district, as well as allowing for its expansion. It would thereby also conflict to a certain extent 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 tavern to a food store or other retail goods establishment with no alcohol sales would not be encouraged.

ANALYSIS

This property continued to be zoned R-8 effective June 5, 2017, reflecting the residential character of the majority of the surrounding area. The commercially-zoned land on the south side of West Pratt Street, opposite of these properties, including the B&O Museum and the Mount Clare Shopping Center (also a Planned Unit Development) have remained. Some reduction in extent of commercially zoned land along the West Baltimore corridor to the west of the University of Maryland Biopark has occurred following the comprehensive rezoning of the City in 2017, all of which is two blocks to the north of these properties.

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 make these corner residential mixed-use structures usable in their 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 these properties were placed in their 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 existing pattern of residential use in this neighborhood. The commercial use in 131 South Schroeder Street became nonconforming in 1971 and has continued to be nonconforming since that time.

These properties were zoned R-8 and R-9 under the prior zoning code. The R-8 zoning that became effective June 5, 2017 allows residential use, but does not allow the tavern because taverns are not even among the uses allowed in Neighborhood Commercial Establishments, even 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. During the last two years, the Southwest Partnership developed a comprehensive redevelopment strategy for each of its six member neighborhoods. In order for some of these initiatives to be implemented, changes in zoning will be recommended. This is especially true along West Pratt and

West Baltimore Streets and some of the adjacent properties. The Southwest Partnership believes that this zoning change being contemplated by the Planning Commission is an important component of its overall redevelopment investment strategy.

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 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 not be compatible with the existing zoning of this block or surrounding blocks, and would be contrary to the confirmation of residential zoning that was approved for this neighborhood as part of the Citywide rezoning effort in 2017.
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 this 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.** As continuation of the R-8 zoning that became effective June 5, 2017 is consistent with the City's Comprehensive Master Plan and zoning map, which the Planning Commission previously recommended and the Mayor and City Council adopted, this action is contrary to 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 this neighborhood is residential in nature on the north side of West Pratt Street. The B&O Museum and the Mount Clare Shopping Center on the south side of West Pratt Street have not changed, and will remain commercially zoned.
- (ii) **the zoning classification of other property within the general area of the property in question;** This site is located in a R-8 residential district, which covers the area to the west, north, and east. This is a well-defined residential area, separated from the commercial district to the south.

(iii)the suitability of the property in question for the uses permitted under its existing zoning classification; and As described above, this property is suitable for uses permitted under the R-8 zoning classification, including Neighborhood Commercial Establishment uses, in accordance with the terms of the current Zoning Code.

(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(b)(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: Southwest Partnership and Poppleton NOW have been notified of this action.



Chris Ryer
Director