



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 #20-0618 / REZONING -1220-1222 WEST NORTH AVENUE		

TO

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

DATE: October 9, 2020

At its regular meeting of October 8, 2020, the Planning Commission considered City Council Bill #20-0618, for the purpose of changing the zoning for the property known as 1220-1222 West North Avenue (Block 3145, Lot 011), as outlined in red on the accompanying plat, from the OR-1 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 #20-0618 and adopted the following resolution, nine members being present (six in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, adopts the findings outlined in the staff report, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #20-0618 be denied 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
 Ms. Livhu Ndou, 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
 Mr. Dominic McAlily, Council Services
 Mr. Frank R. Shaulis, Esq



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

October 8, 2020

REQUEST: City Council Bill #20-0618/ Rezoning – 1220-1222 West North Avenue:

For the purpose of changing the zoning for the property known as 1220-1222 West North Avenue (Block 3145, Lot 011), as outlined in red on the accompanying plat, from the OR-1 Zoning District to the C-1 Zoning District.

RECOMMENDATION: Adopt Findings and Disapprove

STAFF: Kaliel Barmer

PETITIONER: Seon Joo Lee, c/o Frank R. Shaulis, Esq.

OWNER: Seon Joo Lee

SITE/GENERAL AREA

Site Conditions: 1220-1222 West North Avenue is located mid-block on the north side of North Avenue between McCullough Street and Druid Hill Avenue. This property is zoned OR-1/RM-U and measures 30' by 90'. It is improved with a three-story brick building that has been most recently used as a liquor store and retail clothing store on the ground floor and formerly had residential apartments above. 1220 and 1222 W. North Avenue were consolidated in 1980.

General Area: This property is located within the Penn-North neighborhood, which is predominantly residential in nature, with periodic institutional or commercial uses throughout. The North Avenue corridor is primarily commercial with a variety of neighborhood-serving businesses.

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).

ANALYSIS

Use of this property as a liquor store makes it a site of an “alcohol outlet” which now continues to exist as a nonconforming use under the current Zoning Code. However, unlike non-complying liquor stores that have an “R” zoning designation, this property is *not* subject to the forced amortization due to its OR-1/RM-U zoning. Based on the information that the Department has gathered from DHCD’s Code Enforcement Division, the reason that the C-1 zoning would be needed in order to continue to sell alcohol is only if the property owner sought to change their existing BD-7 liquor license to a different liquor license, such as an A-7. In such an instance, the property owner would also need to obtain a Conditional Use Approval from the City Council, as the C-1 zoning district permits “Retail Goods Establishment (With Alcoholic Beverage Sales)” only through a Conditional Use via Ordinance approval process. The applicant’s attorney, however, contends that the C-1 zoning is needed now in order for the liquor sales as is currently operating to continue.

This property has an RM-U (Rowhouse Mixed-Use) Overlay, which is intended to address those areas of rowhouse development where a mixed-use environment is desired, where some rowhouse structures are used for residential uses and others for first-floor commercial uses. These Overlay Districts are tied directly to the underlying rowhouse district in order to maintain the existing character of the development and the neighborhood. Commercial uses are restricted to only those uses that are compatible with residential uses. The following commercial uses are permitted on the ground floor of this property;

- (1) Art gallery.
- (2) Arts studio.
- (3) Day-care center: Adult or child.
- (4) Office.
- (5) Personal services establishment.
- (6) Restaurant.
- (7) Retail goods establishment – no alcoholic beverage sales.

While this block was previously zoned B-2-3 prior to the Transform comprehensive rezoning, the existing rowhouse building typologies with ground-floor retail made it a suitable area to use the newly created RM-U overlay district, as this overlay seeks to preserve historic rowhouse buildings while also allowing for neighborhood-serving 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 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. Staff's analysis leads it to conclude that it cannot be established that the current zoning designation of OR-1/RM-U was a mistake, nor can it be established that substantial change has taken place in the neighborhood since the time of the last comprehensive rezoning became effective in June 2017.

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 proposed rezoning 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:** The proposed rezoning is not needed to serve either a comprehensive redevelopment strategy or a Mayoral initiative.
- 3. The needs of the particular neighborhood:** The proposed rezoning would not satisfy any particular needs of the neighborhood, as the current zoning of the property already allows for neighborhood-focused commercial uses.

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 and mass transit network, which will not be impacted by this proposed zoning change.

4. **Compatibility with existing and proposed development for the area;** The proposed rezoning wouldn't necessarily be incompatible with existing or proposed development for the area, as the south side of North Avenue currently has a C-1 zoning.
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 OR-1/RM-U zoning that became effective June 5, 2017 is consistent with the City's Comprehensive Master 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;** This property is located on the North Avenue corridor, and the other uses in near proximity to this site include another liquor store, a fast-food restaurant, two carry-out restaurants, a pawn shop, and a funeral home.
- (ii) **the zoning classification of other property within the general area of the property in question;** The surrounding properties are zoned a mix of R-8, C-1, C-2, and OR-1/RM-U zoning districts.
- (iii) **the suitability of the property in question for the uses permitted under its existing zoning classification; and** The OR-1/RM-U zoning allows for the neighborhood-focused commercial uses listed above by right on the ground floor, as well as residential dwellings or offices that are accessory to ground floor commercial uses to be on the upper floors.
- (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 in development trends in the immediate area since this property was placed in its present zoning classification in June 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 current zoning district established for this property. The choice of OR-1/RM-U zoning is appropriate for this block by reflecting the physical form of the neighborhood and allowing for neighborhood-serving commercial uses.

Notification: The Penn North Association has been notified of this action. The applicant failed to post the property for the minimum 10 days per Planning Commission guidance, and therefore will be requesting a waiver in order for this bill to be considered by the Commission at this hearing.



Chris Ryer
Director