

LAND USE COMMITTEE

FINDINGS OF FACT

City Council Bill No: 20-0572

MOTION OF THE CHAIR OF THE LAND USE COMMITTEE, AFTER A PUBLIC HEARING AT WHICH AGENCY REPORTS AND PUBLIC TESTIMONY WERE CONSIDERED, AND PURSUANT TO SECTIONS 10-304 AND 10-305 OF THE MARYLAND LAND USE ARTICLE AND SECTION 5-508 OF THE BALTIMORE CITY CODE, THE CITY COUNCIL ADOPTS THESE FINDINGS OF FACT CONCERNING THE REZONING OF:

Rezoning - 1301 North Fulton Avenue

Upon finding as follows with regard to:

(1) Population changes;

According to the U.S. Census Bureau's American Community Survey the population in the census tract that includes the Property has held relatively steady and now sits at approximately 2,750. With little population movement, there is no need to eliminate occupied commercial space in favor of residential uses. In addition, there is not an over-proliferation of alcoholic beverages outlets within this census tract or in the surrounding area.

(2) The availability of public facilities;

The area is well-served by public utilities and services and will remain so for the foreseeable future. The proposed rezoning will have no impact on the availability of public facilities.

(3) Present and future transportation patterns;

The rezoning of the Property will not adversely impact present or future transportation patterns. There is only one MTA bus route within a three-block radius and no metro stop within a ten-minute walk. As the neighborhood is poorly served by public transit, local corner stores such as this one provide important services to the surrounding community.

(4) Compatibility with existing and proposed development for the area;

The proposed C-1 zoning is consistent with the Property's longstanding existing

use for the sale of packaged goods with alcoholic beverage sales. No major development is proposed in the area, reinforcing the need for small, neighborhood-scale commercial businesses to maintain activity in a depressed residential area. The Fulton Community Association supports the proposed rezoning.

- (5) The recommendations of the City agencies and officials, including the Baltimore City Planning Commission and the Board of Municipal and Zoning Appeals;

The City agencies to which the bill was referred made the following recommendations:

Planning Commission	Unfavorable
Board of Municipal and Zoning Appeals	No Objection
Department of Transportation	No Objection
City Solicitor	Not Approved
Department of Housing and Community Development	Unfavorable
Baltimore Development Corporation	Unfavorable

- (6) The proposed amendment's relationship to and consistency with the City's Comprehensive Master Plan.

The proposed rezoning is consistent with the City's LiveEarnPlayLearn Master Plan by creating opportunities for commercial services to continue near residential communities, fostering amenities for City residents.

- (7) Existing uses of property within the general area of the property in question;

The existing use of the Property is a retail goods establishment with alcoholic beverage sales. The Property received permit approval for the existing use in 2005 and again in November of 2017, after the enactment of the new Transform Baltimore Zoning Code. When the City Council zoned the property to the R-8 Zoning District, it did not consider the specific qualities of the individual existing business.

- (8) The zoning classification of other property within the general area of the property in question;

The Property is located at the corner of N. Fulton Avenue and Laurens Street. Several lots on the other side of Laurens Street are commercially zoned, which is compatible with the Property's proposed C-1 zoning classification.

- (9) The suitability of the property in question for the uses permitted under its existing zoning classification;

The Property is not suited for the uses permitted under its current R-8 zoning, which would require the existing package goods store to terminate its operations under Title 18, Subtitle 7 of the Baltimore City Zoning Code. The fact that a package goods store has operated on the Property since 1934 indicates that it is compatible with the surrounding area, regardless of its conformity to the erroneous underlying zoning.

- (10) 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 classification;

Baltimore City's Econview website shows that no development has taken place recently or is proposed in the vicinity of this site.

- (11) For a rezoning based on a SUBSTANTIAL CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD, the following facts establish the substantial change since the time of the last comprehensive rezoning:

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- (12) For a rezoning based on a MISTAKE in the existing zoning classification, the following facts establish that at the time of the last comprehensive zoning the Council failed to consider then existing facts, or projects or trends which were reasonably foreseeable and/or that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect:

The existing R-8 zoning classification is inconsistent with the property's long history as a retail goods establishment with alcoholic beverage sales. The Property's current R-8 zoning would result in the closing of one of the few operating businesses on the block, likely leaving the Property vacant and creating blight in the neighborhood.

SOURCE OF FINDINGS (Check all that apply):

[X] Planning Report – Planning Commission’s report, dated August 21, 2020, which included the Department of Planning Staff Report, dated August 20, 2020.

[X] Testimony presented at the Committee hearing

Oral – Witness:

- Eric Tiso, Planning Department
- Livhu Ndou, Board of Municipal and Zoning Appeals
- Hilary Ruley, Law Department
- Caroline Hecker, Esquire, Representative for the Applicant

Written:

- Department of Transportation, Agency Report – Dated November 8, 2020
- Board of Municipal and Zoning Appeals, Agency Report – Dated November 5, 2020
- Law Department, Agency Report – Dated October 23, 2020
- Department of Housing and Community Development, Agency Report – Dated October 30, 2020
- Baltimore Development Corporation, Agency Report – Dated November 10, 2020
- Caroline Hecker, Esquire, Memorandum and Accompanying Exhibits – Dated August 20, 2020

COMMITTEE MEMBERS VOTING IN FAVOR

Edward Reisinger, Chair
Shannon Sneed, Vice Chair
Mary Pat Clarke
Eric Costello
Sharon Green Middleton
Leon Pinkett
Robert Stokes