


<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Mk</i>	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 2510 Robb Street		

**TO** Mr. David Tanner, Executive Director  
Board of Municipal and Zoning Appeals  
417 East Fayette Street, 14<sup>th</sup> Floor

DATE: March 31, 2015

### REQUEST

The Department of Planning has received Kasheilia Richardson's Board of Municipal and Zoning Appeals (BMZA) application to use the rear portion of the basement of the premises as a beauty salon. The Zoning Administrator has determined that this is a prohibited use in a R-7 Zoning District. We understand that this appeal is scheduled for hearing on April 7, 2015.

### SITE

2510 Robb Street is located on the northwest corner of the intersection with Exeter Hall Avenue. This property measures approximately 16' by 75' and is currently improved with a two-story end-of-row building and its one-story commercial rear addition covering the entire lot. This site is zoned R-7 and is located within the Coldstream – Homestead – Montebello Urban Renewal Plan area.

### ANALYSIS

Use: In this zoning district, beauty shops are not listed as a permitted or conditional use, and so are not allowed (§4-1001 to §4-1004). In this case, the property was last authorized for use as a delicatessen and a carry-out food shop, which are nonconforming uses in this R-7 General Residence District.

Change in Nonconforming Use: In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this title, the Board may authorize a Class III nonconforming use in a Residence or Office-Residence District to be changed to a use permitted in a B-1 District (§13-405.b). A beauty shop is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206). In this instance, the applicant is proposing to use the vacant rear portion of the basement for a "solo beauty salon and retail only". This would be approvable if the proposed use would not increase the amount of nonconforming use of the premises by more than 25%.

Required Findings: The Board must consider the requirements of the Coldstream – Homestead – Montebello Urban Renewal Plan, which does not allow this use in this district. The Urban Renewal Plan states, in its part B, Land Use Plan, 1. Permitted Uses, i. Non-Complying Uses:

"In addition, a non-complying use – when such term is used herein – is any lawfully existing use of a building or other structure, or of land, which does not comply with the land use regulations of this Plan. These non-complying uses shall be permitted to continue for an indefinite period of time, except that:

(1) Any non-complying land use which is discontinued for a period exceeding 12 months shall not be re-established.

....

(3) No non-complying land use shall be changed to any other non-complying land use.”

The Urban Renewal Plan, in its subsections B.1.i (1) and (3) cited above, prohibits changing of any remaining nonconforming use of this property to any use other than one which conforms to the requirements of the Residence zoning district in which the property is located.

TransForm Baltimore: This property would become part of the R-8 District (Proposed Zoning Map Area 7-B) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). “Neighborhood commercial establishment” means “a commercial use that is within a residential neighborhood, but in a structure that is non-residential in its construction and original use” (§1-310 (I)).

#### **RECOMMENDATION**

The Department of Planning recommends disapproval of this appeal, because the Coldstream – Homestead – Montebello Urban Renewal Plan which prescribes permitted land uses in the Coldstream – Homestead – Montebello Urban Renewal Area, of which this property is a part, does not allow changing of (part of) the existing nonconforming use to the proposed nonconforming use (beauty shop).

Conflicting Provisions: *Most restrictive provision governs*. If any condition or requirement imposed by a provision of this article is either more or less restrictive than a comparable condition or requirement imposed by any other provision of this article or of any other law, rule, or regulation of any kind, including an applicable urban renewal plan, the condition or requirement that is the more restrictive governs (§1-206.b). As stated above, the Board must disapprove this request, as the provision of the Coldstream – Homestead – Montebello Urban Renewal Plan is the more restrictive.

TJS/wya/mf

cc: Kasheilia Richardson, Appellant