


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 2201 Gough Street		

TO

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

DATE:

May 30, 2014

**REQUEST**

The Department of Planning has received Mark Dayton's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a restaurant with accessory outdoor table service. The Zoning Administrator has determined that this is a nonconforming use in a R-8 District. We understand that this appeal is scheduled for hearing on June 3, 2014.

**SITE**

2201 Gough Street is located on the southeast corner of the intersection with Collington Avenue. This property measures approximately 18' by 90' and is currently improved with a three-story semi-detached residential mixed-use building covering the entire lot. This site is zoned R-8 and is located within the Upper Fells Point National Register Historic District.

**ANALYSIS**

Use: In this zoning district, restaurants are not listed as a permitted or conditional use, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a tavern, which is a nonconforming use in this R-8 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). Restaurants – including accessory outdoor table service, are listed as a conditional use in the B-1 District, and so the proposed restaurant is eligible for a change in nonconforming use (§6-206).

Definition: "Outdoor table service", as an accessory to a restaurant, means an outdoor service area at which patrons are seated at tables for service of food and drinks (§1-168.1). The application included a perspective rendering of the proposed first floor use of the premises showing a total of five round-top pole-mounted tables placed on the sidewalk along the (unlabeled but evidently) Collington Avenue side of the existing building. No seats were shown and no dimensions of any part of the rendering were given. The applicant should be requested to provide a dimensioned sidewalk site plan for the proposed outdoor seating area, which clearly indicates both the area to be used as the accessory outdoor table service area and the width of unimpeded pedestrian passage on the sidewalk.

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 7-D) in which Neighborhood Commercial Establishments would be conditional uses but Outdoor Dining (a separate use) would be prohibited (Table 9-301).

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Historic District: The property is located in a designated historic district, and so may be eligible for historic tax credits for restoration and renovation. The appellant is encouraged to contact the Baltimore Commission for Historical and Architectural Preservation before proceeding with any improvements which may be authorized as a result of this appeal.

**RECOMMENDATION**

The Department of Planning recommends deferral of a complete hearing of this appeal to allow the applicant to provide a dimensioned sidewalk site plan for the accessory outdoor table service area.

TJS/wya/mf

cc: Mark Dayton, Appellant