


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	BMZA / 24 East Madison Street		

TO

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

DATE:

August 22, 2014

REQUEST

The Department of Planning has received Keith Gentile's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of CK Enterprises LLC, to use the portion of the premises known as 800 Saint Paul Street as a tobacco shop and gift shop. The Zoning Administrator has determined that this is a prohibited use in a O-R Zoning District. We understand that this appeal is scheduled for hearing on September 9, 2014.

SITE

24 East Madison Street is located on the northwest corner of the intersection with Saint Paul Street. This property measures approximately 23'8" by 127' and is currently improved with a three-story end-of-row residential building measuring approximately 23'8" by 95'. The basement of this building has been converted to a commercial walk-in space, and behind this building is a one-story commercial building extending to the rear alley. These two commercial spaces have been known in the past as 800 Saint Paul Street and 802 Saint Paul Street, respectively. This site is zoned O-R-3 and is located within the Mount Vernon Urban Renewal Plan area and the Mount Vernon Historic District.

ANALYSIS

Use: In this zoning district, tobacco shops and gift shops are not listed as a permitted or conditional use, and so are not allowed (§5-201 to §5-204). In this case, the property was last authorized for use as a multiple-family dwelling, a permitted use, and a dry cleaning shop, which is a nonconforming use in this O-R Office-Residence District.

Determination of nonconformity or noncompliance: (a) Whether a nonconforming use, noncomplying density or other form of nonconformity exists is a question of fact that, except as specified in subsection (b) of this section, must be decided by the Board after public notice and hearing in accordance with the rules of the Board (§13-107). The applicant should demonstrate that nonconforming use of the portion of the property intended for use as a tobacco shop and gift shop has not been discontinued or abandoned.

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). Tobacco shops and gift shops are listed as a permitted use in the B-1 District, and so are eligible for a change in nonconforming use (§6-206).

Urban Renewal Plan: This property is located in the Mount Vernon Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district.

Historical and Architectural Preservation: The Historical and Architectural Preservation Division of the Department of Planning has reviewed the application and determined that the proposed location is:

- On a Baltimore City Landmark property list or within a Baltimore City Historical and Architectural Preservation District
- A property, or within a district, listed on the Maryland Inventory of Historic Properties
- A property, or within a district, listed on the National Register of Historic Places.

All exterior changes, including additions, demolitions, alterations, and replacement signage, are subject to review and approval by the Commission for Historical and Architectural Preservation (CHAP). It is recommended that the applicant contact CHAP to determine the review process applicable to their project if this application is approved.

TransForm Baltimore: This property would become part of the OR-2 District (Proposed Zoning Map Area 7-C) in which Neighborhood Commercial Establishments would be conditional uses (Table 12-301). "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" (§1-301 (I)).

RECOMMENDATION

The Department of Planning recommends that approval of this appeal, if granted, be subject to the condition that the applicant obtains a Notice To Proceed from the Commission for Historical and Architectural Preservation for any exterior changes that may be occasioned by the proposed use of the nonconforming portion of this property.

TJS/wya/mf

cc: Keith Gentile, Appellant