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| 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 / 228 South Fulton Avenue | | |

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

DATE: February 28, 2012

REQUEST

The Department of Planning has received Munawar Malik's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises for a convenience store, grocery store, and variety store. We understand that this appeal is scheduled for hearing on March 6, 2012.

SITE

228 South Fulton Avenue is located on the northwest corner of the intersection with McHenry Street. This property measures approximately 15' by 70' and is currently improved with a three-story end-of-row building covering the entire lot. This site is zoned R-8 and is located within the Operation Reach Out Southwest (OROSW) Strategic Neighborhood Action Plan area.

ANALYSIS

Use: In this zoning district, convenience stores, grocery stores, and variety stores are not listed as permitted or conditional uses, 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.

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 has indicated that this property is currently vacant.

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). Grocery stores and variety stores are listed as permitted uses in the B-1 District, and so are eligible for a change in nonconforming use (§6-206).

RECOMMENDATION

The Department of Planning has no objection to approval of this appeal, provided that the applicant demonstrates that the previous nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Munawar Malik, Appellant
Southern