


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 / 851 West 36 <sup>th</sup> Street		

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

DATE: February 28, 2012

### REQUEST

The Department of Planning has received Jay Caragay's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the first floor of the premises as a coffee shop and include accessory outdoor table service. We understand that this appeal is scheduled for hearing on March 6, 2012.

### SITE

851 West 36<sup>th</sup> Street is located on the south side of the street, approximately 97'9" east of the intersection with Elm Street. This property measures approximately 13'4" by 80' and is currently improved with a two-story attached building measuring approximately 13'4" by 56'. This site is zoned B-1-2 and is located within the Hampden Business Area Urban Renewal Plan area.

### ANALYSIS

Use: In this zoning district, coffee shops are not listed *per se* as a permitted or a conditional use, and so are allowed as a combination of bakery, delicatessen, and restaurant (§6-206 to §6-208). In this case, the property was last authorized for use as a retail coffee shop by Use Permit no. 2009-02973.

Conditional Use: In this zoning district, restaurants – including accessory outdoor table service, are a conditional use, requiring approval by the Board (§6-208). Bakeries and delicatessens are permitted uses (§6-206).

Urban Renewal Plan: This property is located in the Hampden Business Area Urban Renewal Area, where the Urban Renewal Plan (URP) does not prohibit or further restrict the proposed use in this district. In the Neighborhood Business area designated by the Land Use Plan Map (Exhibit 1 of the URP), unenclosed display of merchandise for sale to the public is allowed upon receipt of a Minor Privilege Permit and maintenance of 6 feet of clear width on the sidewalk in order to maintain continuous pedestrian access and accessibility by disabled persons. Precedent for use of the sidewalk by businesses thus exists in the vicinity of this applicant's coffee shop, which is in that designated Neighborhood Business area.

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 width of the applicant's premises, combined with the need to maintain clear and unobstructed access to the coffee shop's front door and the need to maintain clear and unobstructed use of the sidewalk, restrict the available area for outdoor tables and seating to a width of 10 feet in front of the premises, or a capacity of one "four-top" table with 4 seats, or two "two-top" tables with 4 seats total.

**RECOMMENDATION**

The Department of Planning recommends approval of the appeal, subject to these conditions:

- A minimum of six feet of the sidewalk must remain clear and unobstructed for pedestrian use;
- The capacity of the outdoor seating area will not be more than 2 tables and 4 patrons;
- The tables will be limited to those that can seat 2 patrons, or to a single table for 4 patrons, and are/ is to be kept against the wall of the building;
- There will be no outdoor bar;
- There will be no outdoor music, a jukebox, or other form of entertainment; and
- All patrons must be seated for dining, and served by wait staff.

TJS/wya/mf

cc: Jay Caragay, Appellant