

<b>FROM</b>	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 / 2128 McCulloh Street & other properties		

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

DATE: February 1, 2013

**REQUEST**

The Department of Planning has received Kelly Little's Board of Municipal and Zoning Appeals (BMZA) nonconforming use application, on behalf of the Druid Heights Community Development Corporation, to consolidate lots known as 2140, 2138, 2136, 2134, and 2128 McCulloh Street and use the property now known as 2128 McCulloh Street for offices, an expansion of the existing Druid Heights CDC's main office at 2140 McCulloh Street. We understand that this appeal is scheduled for hearing on February 5, 2013.

**SITE**

2128 McCulloh Street is located on the west side of the street, approximately 74' south of the intersection with Gold Street. This property measures approximately 15' by 120' and is currently improved with a three-story attached building measuring approximately 15' by 44'. 2134, 2136, and 2138 McCulloh Street each measure approximately 12'6" by 120' and each is currently unimproved. 2140 McCulloh Street measures approximately 36'8" by 120' and is currently improved with a two-story detached office building covering the entire lot. This site is zoned R-9 and is located within the Druid Heights Urban Renewal Plan area and the Old West Baltimore National Register Historic District.

**ANALYSIS**

Use: In this zoning district, offices are not listed as a permitted or conditional use, and so are not allowed (§4-1201 to §4-1204). In this case, the property at 2128 McCulloh Street was last authorized for use as a single-family attached dwelling, which is a permitted use in this R-9 General Residence District. Consolidation of the lots listed in this application is required in order to expand the existing nonconforming office use at 2140 McCulloh Street to include the property now known as 2128 McCulloh Street.

Extension or moving of Class I, II, or III Nonconforming Use: The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health, safety, or general welfare of the community will be no worse than the existing or last use; (4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714).

The applicant did not provide floor plans for the existing office structure at 2140 McCulloh Street or the existing structure at 2128 McCulloh Street. From the size of the structures on each existing lot, it could be estimated that 2140 McCulloh Street currently has approximately 8,600 square feet of floor area and 2128 McCulloh Street currently has approximately 2,000 square feet of floor area. ~~Allowing office use of the structure now at 2128 McCulloh Street as~~ an extension of the office use of the structure now at 2140 McCulloh Street (as a result of consolidating lots) thus would create an approximately 24% increase in the floor area of the nonconforming office use.

Number of Principal Structures on a Residential Lot: No more than one principal detached structure may be located on: (i) any residential lot ... (§3-301.a). Notwithstanding subsection (a) of this section, the Zoning Administrator must approve construction of more than one principal detached structure or other free-standing structure on a residential lot ... if, in a specific case: (1) the development otherwise would conform to the requirements of this article; and (2) the Planning Commission approves the design of the development (§3-301.b). In this case, more than one structure is proposed for this site after consolidation of the lots, and so Planning Commission approval is required for this development.

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

#### **RECOMMENDATION**

The Department of Planning recommends approval of this appeal subject to the condition that the applicant will seek and obtain Planning Commission approval for multiple structures on a residential lot, resulting from consolidation of the properties covered by this application, in order for 2128 McCulloh Street to be usable as an extension of the nonconforming office use now located at 2140 McCulloh Street.

TJS/wya/mf

cc: Kelly Little, Appellant