


<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 / 447 South Bentalou Street		

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

DATE: April 29, 2015

### REQUEST

The Department of Planning has received Sukhwinder Singh's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a convenience store. The Zoning Administrator has determined that this is a prohibited use in a R-8 Zoning District. We understand that this appeal is scheduled for hearing on May 5, 2015.

### SITE

447 South Bentalou Street is located on the northeast corner of the intersection with Ashton Street. This triangular property measures approximately 34'2" along Bentalou Street by 75' and is currently improved with a combination one- and two-story semi-detached building measuring approximately 34' by 55'. 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 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 single-family attached dwelling, which is a permitted 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 application states that there is a "vacant store" on the premises but does not indicate how long that vacancy has existed.

Discontinuance of Use: Whenever the active and continuous operation of any Class III nonconforming use, or any part of that use, has been discontinued for 12 consecutive months: (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use... (§13-407.a.1). The applicant would need to provide the Board information about recent use of the premises, as the most recent Use & Occupancy permit for this property is for a single-family dwelling only.

TransForm Baltimore: This property would remain part of the R-8 District (Proposed Zoning Map Area 6-C) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). "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" (§1-310 (I)).

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**RECOMMENDATION**

The Department of Planning recommends disapproval of this appeal unless the applicant demonstrates to the Board that nonconforming use of the premises has not been discontinued or abandoned. Should the applicant provide evidence of continuing nonconforming use, the Department would have no objection to approval of a change of nonconforming use to a food store and a variety store.

TJS/wya/mf

cc: Sukhwinder Singh, Appellant