


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 / 291 South Pulaski Street		

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

DATE: April 11, 2014

### REQUEST

The Department of Planning has received Shawn Harby's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Norino Properties LLC, to continue to use the first floor as a tavern, with accessory storage in the basement. The Zoning Administrator has determined that this is a nonconforming use in a R-8 District. We understand that this appeal is scheduled for hearing on April 22, 2014.

### SITE

291 South Pulaski Street is located on the southeast corner of the intersection with McHenry Street. This property measures approximately 14' by 74' and is currently improved with a two-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, taverns 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 liquor store, 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).

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). A tavern is not listed as a permitted use in a B-1 District, and so is not eligible for a change in nonconforming use (§6-206).

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 6-C) in which taverns would be prohibited uses, while 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)).

### RECOMMENDATION

The Department of Planning recommends disapproval of this appeal, because a tavern is not included in the list of uses permitted in a B-1 District to which an existing nonconforming use in a Residential District may be changed.

TJS/wya/mf

cc: Shawn Harby, Appellant