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|------|-----------------------|--|---|---|
| FROM | NAME & TITLE          | THOMAS J. STOSUR, DIRECTOR <i>Stosur for T.J.S.</i>                      | CITY of<br>BALTIMORE<br><br><b>MEMO</b> |  |
|      | AGENCY NAME & ADDRESS | DEPARTMENT OF PLANNING<br>417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR |   |   |
|      | SUBJECT               | BMZA / 1841 East Lombard Street  |   |   |

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

DATE: June 14, 2010

### REQUEST

The Department of Planning has received Lombard Rocket, LLC's Board of Municipal and Zoning Appeals (BMZA) application to use the entire first floor of the premises for a coffee shop with accessory outdoor table seating. We understand that this appeal is scheduled for hearing on June 22, 2010.

### SITE

1841 East Lombard Street is located on the southwest corner of the intersection with Wolfe Street. This property measures approximately 16' by 76'6" and is currently improved with a three-story end-of-row type building covering the entire lot. This site is zoned R-8.

### ANALYSIS

Use: In this zoning district, coffee shops 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 carry-out food shop, which is a nonconforming use in this R-8 General Residence District.

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). Food stores, bakeries, and delicatessens are listed as a permitted use in the B-1 District, and so would be eligible for a change in nonconforming use (§6-206) if the proposed coffee shop is classified as one of these.

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). This definition does not readily admit to allowing outdoor table service as an accessory use to a non-restaurant principal use such as a food store, bakery or delicatessen. Accessory outdoor table seating, as distinguished from accessory outdoor table service as it is defined in the Zoning Code, is not authorized by the Zoning Code for a commercial establishment.

### RECOMMENDATION

The Department of Planning recommends approval of the appeal for changing the nonconforming use from a carry-out food shop to a food store, bakery, or delicatessen, whichever nomenclature the Board may determine best describes the proposed use, and disapproval of the appeal for accessory outdoor table seating.

TJS/wya/mf

cc: Lombard Rocket, LLC, Appellant

Southeast