


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	BMZA / 24 East Madison Street (800 Saint Paul Street)		

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

DATE: May 29, 2015

REQUEST

The Department of Planning has received Andre' Mazelin's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the portion of the premises known as 800 Saint Paul Street as a coffee shop and food store, and to add within that portion of the premises sales of beer and wine. The Zoning Administrator has determined that this is a prohibited use in an O-R Zoning District. We understand that this appeal is scheduled for hearing on June 2, 2015.

SITE

24 East Madison Street is located on the northwest corner of the intersection with Saint Paul Street. This property measures approximately 23'8" by 127' and is currently improved with a three-story end-of-row residential building measuring approximately 23'8" by 95'. The basement of this building has been converted to a commercial walk-in space, and behind this building is a one-story commercial building extending to the rear alley. These two commercial spaces have been known in the past as 800 Saint Paul Street and 802 Saint Paul Street, respectively. This site is zoned O-R-3 and is located within the Mount Vernon Urban Renewal Plan area and the Mount Vernon Historic District.

ANALYSIS

Use: In this zoning district, coffee shops and food stores are not listed as permitted or conditional uses, and so are not allowed (§5-201 to §5-204). In this case, the property was last authorized for use as a multiple-family dwelling, a permitted use, and for miscellaneous retail sales, which are nonconforming uses in this O-R Office-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 applicant should demonstrate that nonconforming use of the portion of the property intended for the proposed use has not been discontinued or abandoned.

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 liquor store: package goods, is not listed as a permitted use in the B-1 District, and so is not eligible for a change in nonconforming use; food stores and delicatessens are listed as a permitted use in the B-1 District, and so are eligible for a change in nonconforming use (§6-206).

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

Historical and Architectural Preservation: The Historical and Architectural Preservation Division of the Department of Planning has reviewed the application and determined that the proposed location is:

- On a Baltimore City Landmark property list or within a Baltimore City Historical and Architectural Preservation District
- A property, or within a district, listed on the Maryland Inventory of Historic Properties
- A property, or within a district, listed on the National Register of Historic Places.

All exterior changes, including additions, demolitions, alterations, and replacement signage, are subject to review and approval by the Commission for Historical and Architectural Preservation (CHAP). It is recommended that the applicant contact CHAP to determine the review process applicable to their project if this application is approved.

TransForm Baltimore: This property would become part of the OR-2 District (Proposed Zoning Map Area 7-C) in which Neighborhood Commercial Establishments would be conditional uses (Table 12-301). "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 the portion of this appeal relating to sales of beer and wine, because the only category of use covering that activity in the Zoning Code, liquor stores: package goods, is not a use to which a change of existing nonconforming use may be authorized by the Board.

The Department of Planning recommends that approval of the portion of this appeal relating to a coffee shop and food store or delicatessen, if granted, be subject to the condition that the applicant obtains a Notice To Proceed from the Commission for Historical and Architectural Preservation for any exterior changes that may be occasioned by the proposed use of the nonconforming portion of this property.

TJS/wya/mf

cc: Andre' Mazelin, Appellant