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|------|-----------------------|--|---|---|
| FROM | NAME & TITLE          | THOMAS J. STOSUR, DIRECTOR   | 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 / 4229 Pimlico Road   |   |   |

TO

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

DATE:

July 9, 2015

**REQUEST**

The Department of Planning has received Woon Yi's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a grocery store. The Zoning Administrator has determined that this is a prohibited use in a R-6 zoning district. We understand that this appeal is scheduled for hearing on July 14, 2015.

**SITE**

4229 Pimlico Road is located on the southeast corner of the intersection with Loyola Northway. This property measures approximately 39' by 90' and is currently improved with a two-story end-of-row building measuring approximately 24' by 50'. This site is zoned R-6 and is located within the Park Heights Urban Renewal Plan area.

**ANALYSIS**

Use: In this zoning district, grocery stores are not listed as a permitted or conditional use, and so are not allowed (§4-901 to §4-904). In this case, the property was last authorized for use as a grocery store, which is a nonconforming use in this R-6 General Residence District.

Urban Renewal Plan: This property is located in the Park Heights Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this 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 this property is currently vacant, but does not indicate for how long this condition has continued.

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). Records cited by the Zoning Administrator suggest that this property may have discontinued grocery store use in or prior to 2013.

TransForm Baltimore: This property would remain part of the R-6 District (Proposed Zoning Map Area 2-C) in which Neighborhood Commercial Establishments would be conditional uses (Table X-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 that nonconforming use of the premises as a grocery store has not previously been discontinued or abandoned.

TJS/wya/mf

cc: Woon Yi, Appellant