


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, side yard		

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

DATE: September 22, 2015

REQUEST

The Department of Planning has received Jackson Gentile's Board of Municipal and Zoning Appeals (BMZA) application to use the paved side yard of the property, measuring approximately 7' by 50', as an outdoor market for arts and crafts, foods and prepared food, and general retail sales. The Zoning Administrator has determined that this is a prohibited use in an O-R zoning district. We understand that this appeal was scheduled for hearing on September 22, 2015, but has been postponed.

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. In its approval of appeal number 2015-163, the Board recently authorized use of the portion known as 800 Saint Paul Street as a coffee shop and food store. This application would concern the side yard outside the portion of the premises sometimes referred to as 802 Saint Paul Street. This side yard is presently paved with concrete, and has been so for decades.

ANALYSIS

Use: In this zoning district, arts and crafts sales, foods and prepared food sales, and general retail sales 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 a coffee shop and food store in the portion of the premises known as 800 Saint Paul Street, which is a nonconforming use in this O-R Office-Residence District.

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. However, the Plan does not authorize outdoor display of merchandise.

Uses to be enclosed; exceptions: (1) In general. Except as specified in paragraph (2) of this subsection, business, servicing, processing, and storage uses must be located within enclosed structures. (2) Exceptions. This subsection does not apply to: (i) off-street parking and loading; (ii) outdoor table service that is accessory to a restaurant use and has been approved by the Board; and (iii) to the extent expressly authorized by an applicable Urban Renewal Plan, the display of merchandise for sale to the public (§6-205.d.). As noted above, there is no authorization for the proposed use in the applicable Urban Renewal Plan.

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 prepare a site plan and a concept plan for the portable or moveable structures for outdoor display of merchandise, and then contact CHAP to begin the review process applicable to their project if this application would be approved in some form.

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 this appeal, because the Zoning Code does not authorize outdoor display and sale of merchandise in Business zoning districts unless there is an explicit Urban Renewal Plan authorization for it, which there is not in this case; and, because this property's zoning places the proposed retail use in nonconforming status, the proposed 350 square feet of retail area could exceed the 25% limit on expansion of nonconforming use of the portion of the premises known as 802 Saint Paul Street.

TJS/wya/mf

cc: Jackson Gentile, Appellant