

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 / 1501 South Clinton Street		

TO

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

DATE:

March 26, 2010

**REQUEST**

The Department of Planning has received Anthony Della Rose's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the premises for a restaurant, including live entertainment, and to add accessory outdoor table service. We understand that this appeal is scheduled for hearing on March 30, 2010.

**SITE**

1501 South Clinton Street is located on the east side of the street, approximately 500' south of the intersection with Boston Street. This property measures approximately 650' along South Clinton Street and is currently improved with a 17-story office building. This site is zoned M-3 and is located within the Canton Industrial Area Urban Renewal Plan area and the Canton Crossing Planned Unit Development (PUD).

**ANALYSIS**

Conditional Use: In this zoning district, restaurants – including live entertainment and dancing – but only if located at least 500 feet from a residence district, are a conditional use, requiring approval by the Board (§7-307 and 7-407). This premises is located at least 500' distant from the nearest residence district.

Required Findings - Live Entertainment or Dancing: For a restaurant or tavern operating with live entertainment or dancing as an accessory use, the Board must consider imposing conditions, as appropriate, concerning:

- (1) days and hours of operation;
- (2) use of amplification, noise levels, and need for noise proofing;
- (3) limits on the size of the establishment or on the size, location, or configuration of the entertainment or dancing venue within the establishment;
- (4) number of live entertainers;
- (5) number of seats proposed for outdoor table service;
- (6) exterior lighting;
- (7) whether to limit the accessory use to live entertainment only or dancing only; and
- (8) the establishment and maintenance of:
  - (i) a traffic and parking management plan; and
  - (ii) an indoor and outdoor security plan. (§14-309)

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. Additionally, the ordinance prohibits the approval of a conditional use or a variance if that conditional use or variance is precluded by an applicable renewal plan or master plan.

Required Findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that: ... (2) the use is not in any way precluded by any other law, including an applicable urban renewal plan; (§14-204). For this reason, the Board must consider the requirements of the Canton Industrial Area Urban Renewal Plan, which does allow the restaurant with live entertainment and dancing use in this district by way of stating that the PUD Standards and Controls affecting use, access, aesthetic controls, and other standards and controls, are controlling. The restaurant use, including the conditional use of live entertainment and dancing, and related outdoor seating areas for accessory table service is provided for by the Canton Crossing PUD ordinance:

“In general, in each parcel throughout this Industrial Planned Unit Development, uses as allowed in the M-3 Zoning District are allowed....”

-- {Ordinance 01-192, effective July 21, 2001}.

## **RECOMMENDATION**

The Department of Planning recommends approval of the appeal for accessory outdoor table service, subject to these conditions:

- A minimum of ten feet of the sidewalks, which have widths of 20’ or more, must remain clear and unobstructed for pedestrian use;
- The capacity of the outdoor seating area will not be more than that designated for the restaurant portion of the Planned Unit Development by the applicable PUD ordinance;
- The tables will be limited to those that can seat four patrons, and are to be kept against or near to the wall of the building;
- There will be no outdoor bar;
- There will be no outdoor music, a jukebox, or other form of entertainment; and
- All patrons must be seated for dining, and served by wait staff.

The Department of Planning recommends approval of the appeal for live entertainment, subject to the applicant complying with conditions imposed by the Board pursuant to the required findings provided in §14-309 of the Zoning Code.

TJS/ewt/mf

cc: Anthony Della Rose, Appellant