


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 / 3508-3510 Eastern Avenue		

TO

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

DATE: June 18, 2012

**REQUEST**

The Department of Planning has received Carlos Sorto-Cruz and Ivan Brown's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as a restaurant with live entertainment and dancing and with accessory outdoor table service. We understand that this appeal is scheduled for hearing on June 26, 2012.

**SITE**

3508-3510 Eastern Avenue is located on the north side of the street, approximately 92'7" west of the intersection with Conkling Street. This property measures approximately 34'8" by 142' and is currently improved with a two-story attached commercial building covering the entire lot. This site is zoned B-2-3 and is located within the Highlandtown Business District Urban Renewal Plan area and the Patterson Park – Highlandtown National Register Historic District.

**ANALYSIS**

Conditional Use: In this zoning district, restaurants, including live entertainment and dancing, and including accessory outdoor table service, are a conditional use, requiring approval by the Board (§6-308). The applicant has provided floor plans showing use of the basement of the structure as primarily a dance floor, although a separate stage or dais for performers is not shown. The applicant is proposing musical acts, karaoke, and dancing daily from 7 p.m. to 1:30 a.m. The application does not include a parking management plan or an inside and outside security plan.

Urban Renewal Plan: This property is located in the Highlandtown Business Area Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this 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)

The application indicates that the premises has a rated capacity of 160 persons on the first floor (currently used for a restaurant and tavern) and 111 persons in the basement (where the proposed dancing area would be); and that there is “plenty of space – local traffic only” in regards to parking. Given the substantial proportional increase in patronage that approval of live entertainment and dancing could bring to this business, the applicant should be required to provide some off-street parking through arrangements with other property owners in the immediate area. As Eastern Avenue is a relatively well-trafficked street, the applicant should also provide a security plan for protection of patrons leaving the establishment en route to their vehicles.

**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). The applicant is proposing to use a portion of the sidewalk in front of the premises for placement of four “high-top” tables with seating for three persons each. The sidewalk site plan provides adequate unimpeded pedestrian passage in front of the premises and at its entrance.

**RECOMMENDATION**

The Department of Planning recommends approval of the appeal subject to these conditions in addition to any conditions or requirements that the Board may establish:

**FOR LIVE ENTERTAINMENT:**

- The applicant provides the Board with an approvable traffic and parking management plan, and an approvable security plan, relating to the live entertainment and dancing;
- A copy of the use and occupancy permit for the premises must be kept on the premises and available for inspection by representatives of Baltimore City at all times;
- A copy of the written approval by the Board of Municipal and Zoning Appeals of the live entertainment provided on the premises, including details of any restrictions or limitations on the live entertainment provided, must be kept on the premises and available for inspection by representatives of Baltimore City at all times;
- A copy of all other permits and licenses required pursuant to the written approval of the Board of Municipal and Zoning Appeals must be kept on the premises and available for inspection by representatives of Baltimore City at all times.

**FOR OUTDOOR TABLE SERVICE – CONDITIONS:**

- A minimum of six feet of the sidewalk must remain clear and unobstructed for pedestrian use;
- The capacity of the outdoor seating area will not be more than 4 tables and 12 patrons;
- The tables will be limited to those that can seat 4 patrons, and are to be kept against 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.

TJS/wya/mf

cc: Carlos Sorto-Cruz and Ivan Brown, Appellants  
Eastern