


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 / 2201 West Patapsco Avenue		

TO

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

DATE: July 16, 2013

### REQUEST

The Department of Planning has received Jose Ruiz's Board of Municipal and Zoning Appeals (BMZA) conditional use application, on behalf of Mi Tierra LLC, to use the premises as a restaurant – including live entertainment and dancing. The Zoning Administrator has determined that this is a conditional use in a B-2 District. We understand that this appeal is scheduled for hearing on July 23, 2013.

### SITE

2201 West Patapsco Avenue is located on the south side of the street, approximately 508'6" east of the intersection with Hollins Ferry Road. This property measures approximately 235'8" by 235' and contains approximately 1.40 acre, and is currently improved with a one-story detached commercial building measuring approximately 54' by 100'. This site is zoned B-2-1 and is located within the Westport – Mount Winans – Lakeland Area Master Plan area.

### ANALYSIS

Conditional Use: In this zoning district, restaurants – including live entertainment and dancing, are a conditional use, requiring approval by the Board (§6-308). In this case, the property was last authorized for use as a restaurant, which is a permitted use in this B-2 Community Business 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 live entertainment would consist of live musical acts, karaoke, and disc jockeys, occurring during all hours that the restaurant would be open for business, with sound levels within 80 decibels measured at 10' from the premises (building). As the building is surrounded by parking spaces, sound attenuation would make live entertainment virtually inaudible at the property lines if the building's doors and windows were closed.

Off-Street Parking: In this zoning district, restaurants require one off-street parking space per 400 square feet of floor area (§10-405.21.i). The gross floor area of the premises is approximately 5,400 square feet, yielding a requirement of 135 spaces. The property has no direct access to a public street, all vehicles entering its parking area being required to traverse, on existing pavement, the property known as 2101 West Patapsco Avenue which adjoins this property; but the approximately 160 parking spaces on this property are part of a larger parking lot shared by this property and several adjoining properties not subject to this appeal. As the rated capacity of the premises is 160 people according to the application, this applicant is providing an amount of off-street parking adequate to service the demands to be created by live entertainment and dancing.

TransForm Baltimore: This property would become part of a C-4 District (Proposed Zoning Map Area 10-C) in which indoor entertainment, live entertainment (stand-alone establishment), and live entertainment – secondary to a restaurant or tavern, would be permitted uses (Table 10-301). “Live entertainment or dancing” includes additional application requirements, and authorizes the Board to limit the types of live entertainment or dancing allowed, and impose conditions as appropriate (§14-319). These requirements and conditions are proposed to be the same as those now in effect under the current Zoning Code.

## **RECOMMENDATION**

The Department of Planning recommends that approval of this appeal, if granted, be subject to these conditions in addition to any conditions which the Board may establish:

- 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.

TJS/wya/mf

cc: Jose Ruiz, Appellant