

<b>FROM</b>	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 / 2324-2328 Boston Street		

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

DATE: August 10, 2010

### REQUEST

The Department of Planning has received Richard Kraus' Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Mara Maru LLC, to use the entire premises as a tavern and restaurant including live entertainment and dancing. We understand that this appeal was scheduled for hearing on August 17, 2010, but has been postponed to August 31, 2010.

### SITE

2324-2328 Boston Street is located on the northeast corner of the intersection with Wagner Street. This property measures approximately 105'2" along Boston Street by 91'5" along Wagner Street and contains approximately 0.244 acre, and is currently improved with a two-story commercial building measuring approximately 105' by 65'. This site is zoned B-2-2 and is located within the Canton Waterfront Urban Renewal Plan area and the Canton National Register Historic District.

### ANALYSIS

Conditional Use: In this zoning district, taverns – including live entertainment and dancing, are a conditional use, requiring approval by the Board (§6-308).

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 Waterfront Urban Renewal Plan, which does allow this 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)

Planning staff note that although the application does not propose accessory outdoor table service, the application as filed does not provide any information relative to several of the other seven criteria contained in §14-309. Of concern, given the anticipated patronage level of 700 persons stated in the application, is the need for a traffic and parking management plan, and an indoor and outdoor security plan. The undated letter concerning obtaining parking spaces at the Safeway parking lot can only be considered an exploratory document, not a valid agreement by a parking lot owner to provide off-street parking to support this proposed use. Similarly, there is an unaccepted proposal to measure or establish noise levels on or near the premises in late 2008, but no commitment by the applicant to limit noise levels to specific amounts, at specific times of day.

#### **RECOMMENDATION**

The Department of Planning recommends disapproval of the appeal, because the applicant has not provided information detailing how the proposed use would satisfy the conditions of the required findings specified in the Zoning Code.

TJS/wya/mf

cc: Richard Kraus, Appellant