


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 / 4910-4912 Curtis Avenue		

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

DATE: September 9, 2009

REQUEST

The Department of Planning has received Ronald Duffett's Board of Municipal and Zoning Appeals (BMZA) application to use the premises for auto repair, auto mechanic and auto body repair shop, painting and engine rebuilding. We understand that this appeal is scheduled for hearing on September 15, 2009.

SITE

4910-4912 Curtis Avenue is located on the west side of the street, approximately 20' north of the intersection with Cereal Street. This property measures approximately 28' by 87' and is currently improved with a one-story commercial building measuring approximately 28' by 87'. This site is zoned B-2-2 and is located within the Brooklyn and Curtis Bay Business Area Urban Renewal Plan area.

ANALYSIS

Use: In this zoning district, auto mechanic and auto body repair shops, painting and engine rebuilding are not listed as a permitted or conditional use, and so are not allowed (§6-306 to §6-308). In this zoning district, garages, other than accessory, for storage, repair, and servicing of motor vehicles not over 1-1/2 tons capacity – but not including body repair, painting, or engine rebuilding, are conditional uses which may be approved by the Board. In this case, the only portion of the appeal that the Board could consider approving would be for use of the premises for auto repair (but see Renewal Plans – Required Findings, below).

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirement 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 Brooklyn and Curtis Bay Business Area Urban Renewal Plan, originally approved in 1982 and most recently amended in 2004, which does not allow this proposed combination of uses in this district. The Land Use Plan contained in the Urban Renewal Plan designates the premises and adjoining sections of Curtis Avenue as Community Business, and states:

“In the areas designated as Community Business under the Land Use Plan, uses are limited to those permitted under the B-2 category of the Zoning Code of Baltimore City. However, the following B-2 uses are prohibited in this Renewal Plan:

Automotive accessory stores – but not including repair or installation services....

Additionally, the following B-2 uses that are conditional uses in the Zoning Code are prohibited in this Plan:

Automobile accessory stores – including related repair and installation services ...

Garages, other than accessory, for storage, repair, and servicing of motor vehicles, not over 1-1/2 tons capacity – but not including body repair, painting, or engine rebuilding....”

-- Land Use Plan, 2. Land Use Provisions and Standards

Conflicting Provisions: *Most restrictive provision governs*. If any condition or requirement imposed by a provision of this article is either more or less restrictive than a comparable condition or requirement imposed by any other provision of this article or of any other law, rule, or regulation of any kind, including an applicable urban renewal plan, the condition or requirement that is the more restrictive governs (§1-206.b). As stated above, the Board must disapprove this request, as the provisions of the Brooklyn and Curtis Bay Business Area Urban Renewal Plan are the more restrictive.

RECOMMENDATION

The Department of Planning recommends disapproval of the appeal. Pursuant to the Urban Renewal Plan, the Department of Planning will be unable to approve an application for a use and occupancy permit for the uses proposed by the appellant.

TJS/ewt/mf

cc: Ronald Duffett, Appellant