


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 / 3610-3622 South Hanover Street		

TO

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

DATE: January 18, 2012

REQUEST

The Department of Planning has received Paul Gardner's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of D2, Inc., to use the premises as a tavern with live entertainment and dancing. We understand that this appeal is scheduled for hearing on January 24, 2012.

SITE

3610-3622 South Hanover Street is located on the west side of the street, approximately 70'4" south of the intersection with Patapsco Avenue. This property measures approximately 109'8" by 134'8" and is currently improved with a one- and two-story combination attached commercial building covering the entire lot. This site is zoned B-2-2 and is located within the Brooklyn – Curtis Bay Business Area Urban Renewal Plan area.

ANALYSIS

Conditional Use: In this zoning district, taverns – including live entertainment and dancing, are a conditional use, requiring approval by the Board (§6-308). This property was most recently authorized for use as a restaurant, but is currently vacant.

Urban Renewal Plan: This property is located in the Brooklyn – Curtis Bay Business Area Urban Renewal Area, for which the Urban Renewal Plan was amended on December 5, 2011. This application was made on December 21, 2011 and thus is subject to the amended Plan. The amendment, approved by the Mayor and City Council after almost two years of meetings with local community and business organisations and City agencies, adds "Dance hall and Night club" to the list of uses prohibited in B-2 and B-3 Zoning Districts in the Urban Renewal Area. The intent of the amendment was to restrict live entertainment in taverns to smaller-scale venues. A tavern with dancing and a disc jockey or musical acts for 1,500 patrons is the level and type of use that the amended Plan now prohibits.

Zoning: As noted above, this site is zoned B-2-2; the portion of South Hanover Street immediately south of this property was rezoned from B-3 to B-2 in late 2011 also. This was done with the intent of supporting redevelopment of this officially-designated Main Street as a desirable area for pedestrian shopping. A tavern with live entertainment and dancing for 1,500 persons is not consistent with the City's vision of a Main Street locale.

Live entertainment is proposed here as accessory to principal use as a tavern, but a tavern can not exist without a liquor license, which the applicant does not possess. The principal use to which the accessory use would be attached has not been established by the applicant.

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 proposed tavern with live entertainment and dancing would be open for business from 5:00 p.m. to 2:00 a.m. from Thursday evenings through Sunday evenings. The application states that the authorized occupant load for the establishment is 300 persons in the basement, 900 persons on the 1st floor, and 300 persons on the 2nd floor (which extends across the rear portion of the property), but only includes floor plans for the 1st and 2nd floors. The application does not provide details about where off-street parking for up to 1,500 patrons is located, nor how it would be managed in the context of this proposed use. There are references to "a Security Team and a Dispersal Team" but no description of the qualifications of members of those teams or the number of each. There are no details on the number of live entertainers in musical acts, and adding a single spotlight may not be adequate lighting for an audience of 1,500 persons. The applicant has not offered any description of any exterior improvements, particularly those that would improve the façade appearance in a manner compatible with Main Street guidelines. The applicant should be requested to provide additional information, including detailed descriptions of these items.

Comprehensive Planning: Churches and residences are across the street from and adjacent to this property to its south. It is unlikely that a traffic and parking management plan or an outdoor security plan could compensate for the impact of up to 1,500 persons parking in the several blocks of the neighborhood surrounding this property. For this reason, the applicant must identify one or more off-street parking resources that meet Zoning Code requirements and tailor the traffic and parking management and outdoor security plans to address safe and secure passage by patrons between the proposed establishment and their off-street parking.

Because groups in the immediate area such as Concerned Citizens for a Better Brooklyn, Community of Curtis Bay, South Baltimore Business Alliance, and Brooklyn Main Street voted to prohibit the type of use proposed in this application and supported the recently-enacted Urban Renewal Plan amendment, it is apparent that this proposed use does not meet a "public need and desire". These groups have indicated that no attempt was made by the applicant to meet with them, even though they are able to articulate public needs and desires of the Brooklyn and Curtis Bay area.

Due to the large number of patrons anticipated by the applicant, it is important that the applicant's off-street parking resources meet the Zoning Code requirement of "a lot possessed by the record title holder of the lot occupied by the structure or use to be served by the parking facilities.... Possession of the facilities for purposes of this section may be (A) by deed; or (B) by long-term lease, the term of which must be equal to or greater than the useful economic and physical life of the structure served" (§10-304.b.1.ii.) and be approved by the Zoning Administrator (§10-304.b.2.) and recorded in the Land Records of Baltimore City (§10-304.b.3.). The applicant has not provided documentation that the proposed use meets or would meet these requirements.

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal, because the proposed use and its intensity are inconsistent with the desired character of the Brooklyn Main Street project and are directly prohibited by the Brooklyn – Curtis Bay Business Area Urban Renewal Plan.

If an amended application is made to the Board, the applicant must provide:

- A floor plan for all three levels proposed for use for a tavern and dancing and live entertainment;
- An approvable traffic and parking management plan, including long-term leases as required by the Zoning Code; and,
- A detailed approvable indoor and outdoor security plan; both of which minimize impacts on surrounding residential areas and on other businesses in the area.

If that amended application is given consideration by the Board, any approval should be conditional upon these requirements, in addition to any that 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: Paul Gardner, for D2, Inc., Appellant

Due to the large number of patrons anticipated by the applicant, it is important that the applicant's off street parking resources meet the Zoning Code requirement of 24 for possessed by the record title holder at the lot located by the applicant or to be served by the parking facilities. Possession of the facilities for purposes of this section may be (A) by deed; or (B) by long-term lease, the term of which must be equal to or greater than the useful economic and physical life of the structure served" (S 10-304.6.1.ii) and be approved by the Zoning Administrator (S 10-304.6.2) and recorded in the Land Records of Baltimore City (S 10-304.6.3). The applicant has not provided documentation that the proposed use meets or would meet these requirements.

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Respectfully,