

THA

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 / 908-912 West 36 th Street		

TO

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

DATE: September 26, 2013

REQUEST

The Department of Planning has received Geoffrey Danek's Board of Municipal and Zoning Appeals (BMZA) conditional use application to use the premises as a restaurant – including live entertainment, and including accessory outdoor table service. 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 October 1, 2013.

SITE

908-912 West 36th Street is located on the north side of the street, approximately 110' east of the intersection with Roland Avenue. This property measures approximately 52'4" by 106' and is currently improved with a two-story attached commercial building measuring approximately 52' by 88'. This site is zoned B-2-2 and is located within the Hampden Business Area Urban Renewal Plan area and the Hampden 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 (§). In this case, the property was last authorized for use as a carry-out food shop, which is a permitted use in this B-2 Community Business District. The application indicates that the current use of the premises is a restaurant, also a permitted use.

Urban Renewal Plan: This property is located in the Hampden 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 a variety of musical acts would provide live entertainment, with sound levels not to exceed 115 decibels at 10' distant from the property. The Department of Planning recommends that the maximum sound level be 80 decibels at that distance, consistent with approvals given to other venues with live entertainment in the area. The application indicates that restaurant patrons currently park on the street, as the property has no ability to provide off-street parking. A drawing attached to the application indicates that there would be 3 tables and 9 seats on the sidewalk in front of the building, but does not indicate placement of them. As the sidewalk has several impediments to pedestrian use, such as light poles, sign poles, and trees, a dimensioned sidewalk site plan should be provided by the applicant for review.

Off-Street Parking: ... whenever the existing use of a structure is changed to a new use, off-street parking facilities must be provided, as required by this title, for that new use (§10-203.a). If the structure was lawfully erected before April 20, 1971, additional off-street parking facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use (§10-203.b). In this zoning district, restaurants require one off-street parking space per 400 square feet of floor area (§10-405.21.i). As the existing use of the property as a carry-out food shop has the same requirement, the proposed use can be credited with the spaces provided for the carry-out.

TransForm Baltimore: This property would become part of the C-1 District (Proposed Zoning Map Area 2-D) in which live entertainment secondary to a restaurant or tavern would be a conditional use and restaurants and outdoor dining would be permitted uses (Table 10-301). The XX-# Districts would have off-street parking requirements of 1 space per 100 square feet of indoor public seating area (Table 16-406A).

Historic District: The property is located in a designated historic district, and so may be eligible for historic tax credits for restoration and renovation. The appellant is encouraged to contact the Baltimore Commission for Historical and Architectural Preservation before proceeding with any improvements which may be authorized as a result of this appeal.

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:

FOR LIVE ENTERTAINMENT:

- Sound will be limited to 80 decibels at 10' distance from the property;
- 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 an amount determined from a sidewalk seating plan approved by the Planning Department;
- The tables will be limited to those in the outdoor table service site plan approved by the Planning Department, 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: Geoffrey Danek, Appellant

