

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 / 32-36 East Cross Street		

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

DATE: October 4, 2010

REQUEST

The Department of Planning has received Cecil Offut's Board of Municipal and Zoning Appeals (BMZA) application to use a portion of the sidewalk in front of the existing restaurant for accessory outdoor table service. (The hand-written original application refers to having outdoor table service "on [an] enclosed street-facing patio" but there is no site plan or drawing to indicate where this "patio" is located on the property.) We understand that this appeal is scheduled for hearing on October 12, 2010.

SITE

32-36 East Cross Street is located on the north side of the street, approximately 15' west of the intersection with Marshall Street. This property measures approximately 42'9" along Cross Street by 70' and is currently improved with a three-story attached building covering nearly the entire lot. This site is zoned B-2-3 and is located within the South Baltimore Business Urban Renewal Plan area and the Federal Hill National Register Historic District.

ANALYSIS

Conditional Use: In this zoning district, restaurants – including accessory outdoor table service, 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 South Baltimore Business Urban Renewal Plan, which does allow this use in this district.

Land Use and Urban Design: Due to the fact that the sidewalk on the south side of Cross Street is narrow, forcing most pedestrians passing between Charles Street and Light Street to use only the sidewalk in front of this building on the north side of Cross Street, the applicant should not be permitted to enclose any part of the public right-of-way for purposes of creating an "enclosed street-facing patio" or equivalent.

RECOMMENDATION

The Department of Planning recommends approval of the appeal, subject to these 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 3 tables and 6 patrons;
- The tables will be limited to those that can seat 2 patrons, 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: Cecil Offut, Appellant